



# **DÁIL ÉIREANN**

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**Tuarascáil**

**ón**

**gCoiste um Nós Imeachta agus Pribhléidí**

**ar**

**Chaighdeáin Parlaiminteacha**

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**Report**

**of the**

**Committee on Procedure and Privileges**

**on**

**Parliamentary Standards**

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*Adopted by the Committee on 12th May, 2010.*

## COMMITTEE ON PROCEDURE AND PRIVILEGES (CPP)

### Members:

Seamus Kirk, Ceann Comhairle, (*Chairperson*)

Deputy Seán Ardagh (*FF*)

Deputy Seán Barrett (*FG*)

Deputy Cyprian Brady (*FF*)

Deputy Joe Costello (*Lab*)

Deputy John Cregan (*FF*)

Deputy John Curran (*Minister of State, Dept of Taoiseach and Gov Chief Whip - FF*)

Deputy Noel Grealish (*PD*)

Deputy Tom Hayes (*FG*)

Deputy Paul Kehoe (*FG*)

Deputy Dan Neville (*FG*)

Deputy Seán Ó Feargháil (*FF*)

Deputy Rory O'Hanlon (*FF*)

Deputy Aengus Ó Snodaigh (*SF*)

Deputy Trevor Sargent (*Green*)

Deputy Emmet Stagg (*Lab*)

Deputy David Stanton (*FG*)

Deputy Noel Treacy (*FF*)

# Foreword

1. On 15th December, 2009, the Committee on Procedure and Privileges, in considering the issue of Parliamentary Standards, decided that, in view of the importance and scope of the issues concerned, the following should be given extensive consideration:
  - (1) issues arising from Deputy Gogarty's remarks in the House on Friday 11 December 2009.
  - (2) updating "standards of behaviour" in the Chamber and
  - (3) related issues, specifically the matter of suspended Members refusing to leave the House.
2. The Committee decided to refer these matters to the sub-Committee on Privileges and, in doing so, raised a number of specific issues, viz.:
  - (1) Should the Ceann Comhairle be empowered in the future to deal with an issue retrospectively such as in similar circumstances as the Deputy Gogarty case?
  - (2) Notwithstanding the fact that Deputy Gogarty has withdrawn the offensive remark twice should a Ceann Comhairle in a similar case in the future have the authority and move to have the Deputy suspended retrospectively?
  - (3) Should this increased power of a Ceann Comhairle be restricted in any way and if so in what circumstances?
  - (4) Rules of behaviour in the Dáil Chamber,
  - (5) Should the Ceann Comhairle be given discretion to take a vote claimed immediately when a Member is named with the option to defer as at present?
  - (6) Should the period of suspension be exponentially increased where a suspended Member refuses to leave the Chamber in line with the number of times the sitting has been suspended to get him/her to leave?

I wish to thank the Chairman of the sub-Committee, Deputy Rory O'Hanlon, for the commitment, enthusiasm and energy he put into finalising the Report. I also wish to thank the other members of the sub-Committee - Deputies Seán Barrett, Ciaran Cuffe, Aengus Ó Snodaigh and Pat Rabbitte - for their enormous commitment and hard work in progressing this matter in such a short time frame. In addition, I wish to acknowledge the invaluable contribution of Mr. Tom Malone, Clerk to the sub-Committee.

The Committee hereby adopts as a Report of CPP, the Report of the sub-Committee on Privilege. In adopting the Report of the sub-Committee, CPP wishes to emphasise that all conclusions drawn and recommendations made therein are those of CPP.

CPP commends this Report to Dáil Éireann.

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Seamus Kirk,  
Ceann Comhairle and  
Chairman of the Committee  
on Procedure and Privileges.

12th May, 2010.

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## Report of the Sub-Committee

### Introduction

1. At its meeting of 15 December 2009, the Committee on Procedure and Privileges, in considering the issue of Parliamentary Standards, decided that, in view of the importance and scope of the issues concerned, the following should be given extensive consideration:
  - (1) issues arising from Deputy Gogarty's remarks in the House on Friday 11 December 2009 (Vol. 258, No. 2, page 351) (*see* [Appendix 1](#) for extract from the Official Report of the Debates)
  - (2) updating "standards of behaviour" in the Chamber and
  - (3) related issues, specifically the matter of suspended Members refusing to leave the House.
2. The Committee decided to refer these matters to the sub-Committee on Privileges and, in doing so, raised a number of specific issues, viz.:
  - (7) Should the Ceann Comhairle be empowered in the future to deal with an issue retrospectively such as in similar circumstances as the Deputy Gogarty case?
  - (8) Notwithstanding the fact that Deputy Gogarty has withdrawn the offensive remark twice should a Ceann Comhairle in a similar case in the future have the authority and move to have the Deputy suspended retrospectively?
  - (9) Should this increased power of a Ceann Comhairle be restricted in any way and if so in what circumstances?
  - (10) Rules of behaviour in the Dáil Chamber,
  - (11) Should the Ceann Comhairle be given discretion to take a vote claimed immediately when a Member is named with the option to defer as at present?
  - (6) Should the period of suspension be exponentially increased where a suspended Member refuses to leave the Chamber in line with the number of times the sitting has been suspended to get him/her to leave?
3. The following documents were made available to the Sub-committee in this context:
  - (1) a Memorandum on Decorum in the House circulated to members of the Dáil pursuant to a decision of the Committee on Procedure and Privileges of 27 November 2002 (*see* [Appendix 2](#))
  - (2) a draft document intended to update this Memorandum
  - (3) a draft amendment to Standing Order 62, and
  - (4) a note of the Ceann Comhairle's opening remarks at the meeting of the Committee on Procedure and Privileges in connection with the matters referred to the Sub-committee (*see* [Appendix 3](#)).

**The general position in relation to Disorderly Conduct in the House and misconduct by Members**

4. The Sub-committee notes that
  - (1) Standing Order 60 (maintenance of order in Dáil and committees) provides, inter alia, as follows:

“The Ceann Comhairle is the judge of order in the Dáil and in Committee of the whole Dáil and has authority to suppress disorder and to enforce prompt obedience to his or her ruling”.
  - (2) Standing Order 61 (Disorderly conduct: member to withdraw from Dáil) provides as follows:

“The Ceann Comhairle shall order a member whose conduct is grossly disorderly to withdraw immediately from the Dáil for the remainder of the day’s sitting” but that if ...”on any occasion, the Ceann Comhairle deems that the powers conferred under this Standing order are inadequate to deal with the offence, he or she may ... call upon the Dáil to adjudge upon his or her conduct”<sup>1</sup>
5. It appears to the Sub-committee that the powers to suppress disorder and enforce prompt obedience to rulings of the Chair referred to above should, in the normal course, be exercised by the Ceann Comhairle for those limited purposes only. That is to say, they should be exercised so as to bring about a situation in which order is quickly restored and the House can again proceed to consider business. This should be the primary concern of the Ceann Comhairle.
6. It is the opinion of the Sub-committee that other matters arising can and should be dealt with in a considered way and in a manner that does not cause or prolong interruption of business.
7. The Sub-Committee notes that issues connected with the behaviour or utterances of members only indirectly or not at all connected with the maintenance of order have, in the past, been considered by the Committee on Procedure and Privileges, either by order of the Dáil or at the request of the Ceann Comhairle. Examples of the consideration of such issues by the Committee on Procedure and Privileges are set out in [Appendix 4](#).
8. Submission or requests under Standing Order 59 (privilege: utterances in the nature of being defamatory) have also, on occasion, been referred by the Ceann Comhairle to the Committee on Procedure and Privileges, as provided for in that Standing Order.
9. The Sub-committee considers that the separation of actions immediately necessary in order to restore order from adjudication on the behaviour and utterances of members illustrated by a number of these examples is appropriate and should be continued.
10. In all of this, the Sub-committee recognises that the question of how matters arising in the course of proceedings should be regarded and dealt with is a matter for decision by the Chair in the first instance and wishes to draw attention to the fact that it is fundamental to the proper conduct of business that a ruling of the Chair, once given, must be accepted and can be challenged or set aside only by way of formal motion.
11. The Sub-committee recommends that

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<sup>1</sup> i.e. Call on the Dáil to decide on a motion, that the member in question be suspended from the service of the Dáil.

- (a) a *prima facie* breach of privilege or other misbehaviour by a Member that does not require immediate action in order to restore order should continue to be referred to the Committee on Procedure and Privileges and dealt with by that Committee in a timely fashion,
- (b) to facilitate this, a subcommittee of the Committee on Procedure and Privileges, of which the Ceann Comhairle would be *ex officio* Chairman and to which prima facie breaches of privilege or other misbehaviour by Members referred to the Committee from time to time would automatically stand referred, should be appointed,
- (c) such matters should, as a general rule and unless exceptional circumstances or considerations apply, be considered and reported on by the Sub-committee at the earliest opportunity, each such report being considered and disposed of at the next regular meeting of the Committee on Procedure and Privileges or at a meeting of that Committee specially convened if the circumstances warrant it, and
- (d) The Ceann Comhairle should advise the Party Whips before referring a prima facie breach of privilege or other misbehaviour by a Member to the Committee on Procedure and Privileges

**Issues arising from Deputy Gogarty's remarks in the House on Friday 11 December 2009 (Vol. 258, No. 2, page 351)**

**The Sub-committee's view of proceedings**

- 12. An extract from the Official Report of the debates containing the remarks that have given offence is set out in [Appendix 1](#).
- 13. The Sub-committee notes that Deputy Gogarty did, in fact withdraw the offensive remarks made almost immediately and that the following ruling of the Chair appears relevant in this context:
  - 269. After Member has withdrawn disorderly remark, the matter is closed and cannot be further referred to — 51(653), 60(943), 84(122).
- 14. Accordingly, it appears to the Sub-committee that Deputy Gogarty can be considered to have ceased to be regarded as the source or cause of disorder from the point at which his disorderly remarks had been adjudged by the Chair to have been effectively withdrawn.
- 15. Consistent with the ruling of the Chair just cited, it is the view of the Sub-committee that, from that point onwards, the source or cause of the disorder must be considered to lie elsewhere. A review of the Official Report of the Debates will show that such disorder was quite general in nature and both preceded and followed the offensive remarks.
- 16. Subsequently, Deputy Gogarty sought and was granted permission by the Chair to make a personal explanation<sup>2</sup> and did so in the following terms:

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<sup>2</sup> Standing order 44(1) provides that “the Ceann Comhairle shall have discretion to permit any member to make a personal explanation in the Dáil, following notice given in writing by the member concerned to the Ceann Comhairle



“I wish to apologise to the House and to the Acting Chairman who was presiding earlier. Under the salient rulings of the Chair, No. 428, the terminology I used was not included in the list. However, No. 431 rules that political charges are in order but personal charges will not be made, Members must not be thin-skinned in relation to political remarks. I was thin-skinned and I should not have used unparliamentary language and I apologise profusely to the House.”

17. Standing Order 44(3) provides that “no member shall be permitted to ask questions at the conclusion of a personal explanation nor shall any debate arise thereon.”
18. In the course of a brief exchange (which would have to be considered inconsistent with the provisions of the Standing Order just cited), the Ceann Comhairle, in response to a call that Deputy Gogarty be suspended, responded to the effect that this was a matter for another body.
19. This is entirely consistent with the Sub-committee’s views expressed earlier.

### **The Further Sanction if any, that should be imposed arising from the offensive remarks made by Deputy Gogarty.**

20. The Sub-committee wishes to make it clear at the outset that it deprecates the words used. Notwithstanding the context, it considers them to have been ill-judged, unwarranted, to have reflected extremely badly on the Member in question, to have given rise to further disorder and to have brought the House into disrepute.
21. The Sub-Committee notes that the Committee on Procedure and Privileges, at its meeting of 15 December 2009, decided to write to Deputy Gogarty, “unreservedly condemning his totally unacceptable behaviour in the Dáil” and, as an indication of how serious the Committee regards the issue, to copy the letter to every Member of Dáil Éireann. The Sub-committee understands that this was done.
22. The Sub-committee, in considering what further action should or might be taken, has, however, decided to confine itself to drawing attention to a previous incident considered by the Committee on Procedure and Privileges, to observing that there are or may be considered to be a number of parallels between the incidents and to suggesting that the Committee’s recommendation in that case continues to appear valid and reasonable.
23. This previous incident related to a fracas between two members and was the subject of a report of the Committee on Procedure and privileges dated 1 May, 1947.<sup>3</sup>
24. The salient points are as follows:
  - (1) The Committee found that the issue of the challenge by one Deputy and its acceptance by another was a breach of privilege on the part of both members which, by virtue of the fact that an unseemly incident took place almost within view of the House while in session, was contempt of an aggravated nature.
  - (2) This was the first occasion that the Committee has been directed to deal with a specific occurrence of this nature.

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of his or her desire to make such an explanation and of the content of such proposed explanation.”

<sup>3</sup> The full report may be viewed at [http://193.178.2.84/test/R/1947/REPORT\\_01051947\\_0.html](http://193.178.2.84/test/R/1947/REPORT_01051947_0.html).

- (3) In deciding what action to recommend to the Dáil, the Committee took into account the following:
- (a) both Deputies had communicated to the Ceann Comhairle their desire to express to the Dáil their deep regret for their respective parts in the affair, and
  - (b) the incident occurred at a time when feelings ran high in the House and that it was completely unpremeditated by either of the participants.
- (4) The Committee recommended that the Dáil should accept the apologies of the Deputies involved and regard the incident closed.

### ***Standards of behaviour in the Chamber***

#### **General**

25. It appears to the Sub-committee that the circumstances and events described above surrounding the remarks made by Deputy Gogarty constituted a continuing series of interrelated disorderly incidents; and that such events are not uncommon.

The Sub-committee considers that it would be appropriate in the circumstances to —

- (a) restate, in an effective way, the standards of behaviour expected of Members, and
- (b) seek to identify changes to procedures intended to ensure that, where disorder arises, its impact on the conduct of business is minimised.

#### **A code of Parliamentary Standards**

26. The Sub-committee wishes to stress that a restatement of the standards of behaviour expected of Members would in no way supplant or limit Standing Orders or established practice or how the Chair interprets or applies them. Nor should a restatement be viewed as a consolidation of existing rules and practice.
27. As the Sub-committee sees matters, the purpose of such a restatement should be to provide Members with a set of principles and guidance intended to facilitate in ensuring that
- (a) the business of the House is conducted in an orderly way
  - (b) Members can participate effectively in the business of the House, and
  - (c) that their right to do so, individually and collectively, is protected

while at the same time supporting and protecting the institution of Parliament itself.

28. The Sub-committee has reviewed the material made available to it from this perspective and accordingly recommends that the *draft* Draft Code of Parliamentary Standards set out in [Appendix 5](#) be adopted and circulated to Members generally.

29. The Sub-committee recommends that such Code of Standards should be included as a principal document in material provided to Members on their election or re-election; and be the basis for engagement by the Joint Staff with Members generally in relation to parliamentary standards at that point in time and periodically thereafter.

**Changes to procedures intended to ensure that, where disorder arises, its impact on the conduct of business is minimised**

30. The Sub-committee is of the view that there is a growing tendency to disregard Standing Orders and that compliance should be improved. The sub-committee is of the view that there is a need for Members to better familiarise themselves with Standing Orders in the interests of more effective discipline and compliance with same.
31. In any event, the proposed publication of a Code of Parliamentary Standards affords an opportunity to consider the question of whether existing sanctions are sufficient and effective; or whether they should be strengthened or otherwise modified in some way.
32. At this point, the Sub-committee wishes to draw attention what appears to be a common misconception amongst Members, viz.:

“One of the myths is that a Member is suspended because of the issue s/he raised or tried to raise on the floor. A Member is named for disregarding the authority of the Ceann Comhairle in either not withdrawing offending remark or resuming seat or refusing to leave the House. The Ceann Comhairle can seek to suspend a Member only on this basis and not on the merits or demerits of the issue of the day. To confuse the disciplinary action taken by a Ceann Comhairle with the topical issue raised invariably politicises the actions of the Ceann Comhairle which is wrong.”<sup>4</sup>

33. It is nevertheless likely that at least some Members will, on occasion, persist in being disorderly and in disrupting proceedings. The Sub-committee recognises that this has been a problem on occasion in the past and is likely to remain so in the future.
34. The Sub-committee is of the opinion that procedures should be altered so as to make disorder a less attractive choice for Members and, to the extent that Members nevertheless persist in disorder, to ensure that it can be dealt with in a manner that involves the minimum disruption to business.
35. In this regard, the Sub-committee has considered suggestions made by the Ceann Comhairle, in conjunction with a number of other options. These include:
- (a) Providing that the Ceann Comhairle should have discretion to have any vote claimed on a motion for suspension of a Member taken immediately (instead of, as at present, the next sitting day before the Order of Business.
  - (b) Providing that, where a named Member refuses to leave the House, the period of suspension should be increased each time the Ceann Comhairle is forced to suspend the sitting because of such refusal.
36. The Sub-committee notes that Standing Order 62 was amended on 15 October 1996 to provide for the postponement of divisions on a motion for the suspension of a Member until before the Order of Business on the next sitting day. The Sub-committee understands that

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<sup>4</sup> Note of the Ceann Comhairle's opening remarks at meeting of the Committee on Procedure and Privileges, December 2009.

this was done because the suspension of a Member frequently results in a division, thus interrupting proceedings in the Chamber, meetings of Committees and private meetings or other business of Members.

37. A consequence of the postponement of such divisions is, however, the fact that the disorder cannot be dealt with promptly even if, in the opinion of the Chair, it is necessary to do so in order to suppress disorder and enforce prompt obedience to a ruling.
38. With a view to remedying this and with a view to reducing the likelihood that action by the Chair will result in a division, the Sub-committee recommends that
  - (a) Standing Order 62 be amended to allow the Chair absolute discretion as regards the time for the taking of a division on the motion for suspension of a Member; and (see Appendix 6)
  - (b) Members be reminded that dealing with misbehaviour by Members is a matter of maintaining parliamentary standards. It is a response to a Member's disregarding the authority of the Chair rather than one relating to the merits or demerits of an issue a Member seeks to raise. It is not and should not be regarded as something party political in nature and should only in very exceptional circumstances give rise to a claim for a division.
39. The Sub-committee is of the opinion that, save in exceptional circumstances, the party leaders should ensure that questions on the motion for suspension of a member are not pressed to a division by members of their party so that enforcement of order by the Chair
  - (a) is less likely to be mistakenly seen and represented as partisan action by the Chair, and
  - (b) will result in disruption to business being minimised.
40. The Sub-committee recommends that the impact of its recommendations should be assessed periodically by the Committee on Procedure and Privileges and, if it is found that the initiatives recommended have not, in practice, discouraged continuing disorder, consideration should be then given to the introduction of heavier sanctions, including appropriate adjustment to the expense entitlements of a suspended Member reflecting the period of the Member's suspension.

*Appendix 1: Extract from the Official Report of the Debates containing remarks made by Deputy Gogarty [11 December 2009, Vol. 258, No. 2, page 351]*

**Deputy Paul Gogarty:** It is necessary because of the wrongdoing of others, wrongdoing I bear no responsibility for.

**Deputy Róisín Shortall:** What about the big players? What about the wealthy paying their share? Does Deputy Gogarty not think they should pay their share?

**Acting Chairman (Deputy Michael Kennedy):** I ask Deputy Shortall to please desist.

**Deputy Emmet Stagg:** Bleating and blather.

**Deputy Paul Gogarty:** I respected the Deputy's sincerity and I ask him to respect mine.

**Deputy Emmet Stagg:** The Deputy does not seem very sincere from what he has been saying.

**Acting Chairman:** Deputy Stagg will have his opportunity in a few minutes.

**Deputy Paul Gogarty:** With all due respect, in the most unparliamentary language, fuck you Deputy Stagg. Fuck you.

**Acting Chairman:** Hey. Excuse me, Deputy Gogarty, that is most unparliamentary language.

**Deputy Róisín Shortall:** Excuse me?

**Deputy Paul Gogarty:** I apologise now for my use of unparliamentary language.

**Deputy Róisín Shortall:** How dare he.

**Acting Chairman:** Could the Deputy please withdraw that?

**Deputy Paul Gogarty:** It is most unparliamentary language and I now withdraw it and apologise for it but I am outraged that someone dares question my sincerity on this issue.

Appendix 2: Memorandum on Decorum in the House House circulated to members of the Dáil pursuant to a decision of the Committee on Procedure and Privileges of 27 November 2002

## **Decorum in the House**

1. ***Opening of Proceedings***

Five minutes before the commencement of a sitting the bells are rung and are heard throughout the Leinster House complex. The Ceann Comhairle's entrance in the Chamber is announced by the Clerk of the Dáil; all Members rise and remain standing while the Ceann Comhairle reads the opening prayer.
2. ***Moving About in the Chamber***

Members may move around the Chamber during a sitting, or they may need to enter or leave. If so, they should avoid crossing the floor of the House. When entering or leaving their row of seats, or crossing the middle gangway opposite the Chair, a Member should bow to the Chair. Members must not walk between the Chair and the Member who is addressing the House.
3. ***Dress Code***

Members should dress in a manner that reflects the dignity of the House.
4. ***Reading Newspapers in the House***

As the business of the House is conducted, recorded and televised in a formal manner, it is in a Member's interest to be mindful of the dignity of the House. Members should refrain from reading newspapers, books or other non-parliamentary material in the House during a sitting, unless their reading arises out of the business before the House. Displaying posters, placards, photographs or other exhibits to emphasise a point during debate is not permitted.
5. ***Speaking in the House***

A Member who wishes to speak should rise from his or her seat and wait until called on by the Chair before beginning. All speakers should address the Chair and Members must not speak or applaud from outside the barrier of the House.
6. ***Precedence of Chair***

If the Chair rises during a debate, any Member who is speaking or who is on his or her feet waiting to speak, must resume their seats.
7. ***Mode of Reference***

Members are referred to in the third person, by their names - "Deputy X" - and Ministers and Ministers of State are referred to by their titles. The Chair should be addressed *as* "A Cheann Comhairle", "A Leas-Cheann Comhairle", or "*A Chathaoirleach*" as appropriate. Members should not

use the term “you” when addressing each other - “you” is taken to mean that the Member is addressing the person in the Chair.

8. ***Interruptions***

In the normal course of events, no Member may speak twice on the same motion except for the Member moving the motion, who may close the debate. Although interruptions during debate are disorderly and will not be tolerated by the Chair, there is a procedure for limited interventions. In summary, a Member who has already spoken may seek to intervene in a debate for no more than 30 seconds, in order to comment on or query the speech of the Member in possession of the House (this is subject to the permission of the Member in possession), or to clarify remarks made earlier, in the course of his or her speech (this is subject to the permission of the Chair).

9. ***Reading Speeches***

According to the rulings of the Chair over the years, Members are not entitled to read from scripts but may refer to extended speaking notes. Ministers and Ministers of State are allowed to read important statements of policy or fact and, on this basis, are allowed to circulate a script.

10. ***Expressions of Sympathy***

Expressions of Sympathy may be initiated by the Taoiseach in accordance with arrangements agreed to on the Order of Business.

Expressions of sympathy should be heard on the occasion of the death of each former member of the House and that the Government Whip’s Office (in conjunction with the Whip of the particular party that the deceased person was affiliated to) should be requested to make arrangements for the taking of such expressions of sympathy within an appropriate time frame, not later than two weeks, of the former member’s demise. The family of the deceased person shall be informed that such expressions of sympathy are to take place.

11. ***Electronic Equipment***

In order to protect the sound and recording systems, electronic devices such as pagers, mobile phones, laptop computers, tape recorders and radios, are prohibited. This rule does not apply to computer equipment provided by the Commission for use in the Chambers.

12. ***Wearing of Emblems***

To maintain the decorum of Parliament, only emblems of a non-party political nature shall be allowed to be worn in the precincts of Leinster House, provided that this rule shall not apply to persons attending the Distinguished Visitors Gallery.

13. ***Mobile Phones***

a. The use of mobile phones by all persons (including Members) shall be strictly prohibited and shall be in a *switched off* mode in the following areas:

(i) The Dáil and Seanad chambers,

- (ii) The committee rooms when a committee is sitting therein, and
  - (iii) The Library Reading Room.
- b. The use of mobile phones (other than mobile phones with the facility for taking photographs which are dealt with in paragraphs c and d below) by persons other than Members of the Houses of the Oireachtas shall be strictly prohibited in all areas except those listed below provided that the mobile phone is in a *silent* mode (Note - where special telephone booths are provided, mobile phone users other than Members may make and receive calls from these):
- (i) Private Offices where appropriate and with the permission of the occupant (s),
  - (ii) The Waiting Room off the Main Hall,
  - (iii) The Waiting area near the Members' restaurant, \*
  - (iv) Lobby outside Visitors Bar, \*
  - (v) Leinster Lawn,
  - (vi) Kildare Street Courtyard,
  - (vii) The Lobby to the Visitors Entrance from Kildare Street Courtyard, \*
  - (viii) The Waiting Room at Kildare Street Gate,
  - (ix) Kildare House – Front Hall/Lobby Area,
  - (x) Leinster House 2000 – Reception/Lobby Area, \*
  - (xi) Leinster House 2000 – Committee Room Lobby area. \*

***\* Indicates that a telephone booth is provided.***

- c. The use of mobile phones for the taking of photographs within the buildings of Leinster House shall be strictly prohibited.
- d. The use of mobile phones for the taking of photographs of Members in Leinster Lawn and the Kildare Street Courtyard shall be prohibited unless the approval of the Member(s) concerned is granted in advance.



**Appendix 3: Note of the Ceann Comhairle's opening remarks at the meeting of the Committee on Procedure and Privileges**

I propose to deal with this issue under three headings: (1) Issues arising from Deputy Gogarty's Remarks – what can be done, (2) Updating “Standards of Behaviour” in the Chamber and (3) Related issues – named/suspended Member refusing to leave the House.

To facilitate discussion my remarks are being circulated.

1. **Issues arising from Deputy Gogarty's Remarks – what can be done**

Deputy Gogarty's behaviour itself as such is not the issue this evening as the CPP under Standing Orders considers matters of procedure generally. However, in view of exchanges in the House last Friday arising from Deputy Gogarty's remarks it is important to put the issue in perspective as to what can be done to deal with this behaviour in the future and also to strengthen our disciplinary procedures which appear outdated. [It is time to put our House in order otherwise the standing of our Parliament will be even further diminished.]

A number of important points which clarify the context and dispel a few myths concerning what action could have been taken arising from Deputy Gogarty's remarks.

- Deputy Gogarty when requested by the presiding Temporary Chairman immediately withdrew the offending remark. Therefore he immediately complied with the Chair and no further action could be taken against him under long established rules.
- If the disorder that occurred was not resolved (e.g. Deputy Gogarty had refused to withdraw the remark) by the Presiding Temporary Chair then he could have called upon the Ceann Comhairle who could then deal with the matter and name the Deputy concerned. This is how the disciplinary system has worked up to now and generally has been satisfactory.
- The Ceann Comhairle can only deal with disorder there and then on his own watch i.e. when in Chair or when called by the Leas-Cheann Comhairle or Temporary Chairperson to suspend Member. Despite exhortation from some members last Friday, the Ceann Comhairle is not empowered to deal with any perceived disorder retrospectively and cannot comment/second guess the actions of another Temporary Chair. Disorder is dealt with as it happens. The main purpose of this is that the House must move on with the important business and cannot become embroiled in past arguments.

However, in view of the outcry in the House on Friday subsequently a number of questions arise:-

- Should the Ceann Comhairle be empowered in the future to deal with an issue retrospectively such as in similar circumstances as the Deputy Gogarty case?

- Notwithstanding the fact that Deputy Gogarty has withdrawn the offensive remark twice should a Ceann Comhairle in a similar case in the future have the authority and move to have the Deputy suspended retrospectively?
- Should this increased power of a Ceann Comhairle be restricted in any way and if so in what circumstances?

2. **Updating “Standards of behaviour” in the Chamber**

Clearly there is a need to update our rules and I am circulating two documents (i) which dates from CPP decision 2002 called “Memorandum on Decorum in the House” and (ii) a new document which recommends updating the rules of behaviour. These have been largely drawn up from other Parliaments and the language used is more modern and to the point. It should be noted that the Salient Rulings of the Chair act as a guide to historical past rulings and evolve over time and invariably appear out of date. For example the next edition would include a ban on use of abusive language such as expletives. The draft recommendations are suggestions at this stage and obviously are open to further change based on our discussion this evening.

3. **Related issues – named/suspended Member refusing to leave the House**

The issue of a named Member refusing to leave the Chamber is related to the perceived role of a Ceann Comhairle and must be considered in the context of strengthening our rules, as outdated disciplinary procedure weighed too heavily in favour of a suspended member, diminishes the House. To remedy this in view of the delay and level of disruption that can be caused by the refusal to leave the Chamber in any case of a suspension or naming of a member, the Ceann Comhairle should have discretion to have any vote claimed taken immediately or as at present the next sitting day before the Order of Business. In this way the grounds for a Member suspended refusing to leave Chamber are considerably weakened by the fact the House has spoken.

Where a named Member still refuses to leave, the period of suspension should be doubled everytime the Ceann Comhairle is forced to suspend the sitting because of such a refusal. There was one case in 1998 where the refusal of a named Member to leave the Chamber necessitated the Ceann Comhairle adjourning the sitting for the remainder of the day.

One of the myths is that a Member is suspended because of the issue s/he raised or tried to raise on the floor. A Member is named for disregarding the authority of the Ceann Comhairle in either withdrawing offending remark or resuming seat or refusing to leave the House. The Ceann Comhairle can seek to suspend a Member only on this basis and not on the merits or demerits of the issue of the day. To confuse the disciplinary action taken by a Ceann Comhairle with the topical issue raised invariably politicises the actions of the Ceann Comhairle which is wrong.

**Questions**

- Should the Ceann Comhairle be given discretion to take a vote claimed immediately when a Member is named with the option to defer as at present?
- Should the period of suspension be exponentially increased where a suspended Member refuses to leave the Chamber in line with the number of times the sitting has been suspended to get him/her to leave.

*Appendix 4: Examples of Instances in which Issues connected with the behaviour or utterances of members indirectly or not at all connected with the maintenance of order were considered by the Committee on Procedure and Privileges*

### Disorderly conduct towards the Chair

1928: [Report No. 4 of the Committee on Procedure and Privileges — disorderly Conduct towards the Chair](#) [2 May, 1929]

5 July 1928 — Ordered: “That the Committee on Procedure and Privileges be instructed to draw up for the consideration of the Dáil a Standing Order or Standing Orders, dealing specifically with Deputies who bring the House into contempt by disorderly conduct towards the Chair. [view [Official Report of the Debates](#)]

Committee on Procedure and Privileges reported that

“In the circumstances obtaining since the Order was made, the Committee has decided unanimously to recommend to the Dáil that the Order of the Dáil of 5th July, 1928 (Disorderly conduct towards the Chair) be discharged”,

Report ordered by the Dáil to be printed and circulated. [view [Official Report of the Debates](#)]

### Conduct generally of Members

1945: [Report of Committee on Procedure and Privileges on Rules relating to disorderly conduct in the Dáil](#). [7 February, 1945]

Committee considered matter of its own initiative.

Report was basis for moving from a regime whereby period of suspension was counted in calendar days to a sitting day-based regime.

1947: [Report of Committee on Procedure and Privileges on Fracas between Two Members of the Dáil](#) [1 May, 1947] — recommended that the Dáil should accept the apologies of the Deputies involved and regard the incident closed.

Referred to Committee on Procedure and Privileges by [order of the Dáil of 24 April 1947](#). The challenge was issued and accepted in the course of debate<sup>5</sup>; the fracas occurred outside the Chamber.

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<sup>5</sup> “Mr. Coburn: If you object to me, you can come outside and do so. I will oblige you now. Come outside and object to me now—come on.

Mr. Kennedy: I am ready to go outside.”

[<http://historical-debates.oireachtas.ie/D/0105/D.0105.194704240031.html>]

Committee [reported](#) its finding that that

“the issue of the challenge one Deputy and its acceptance by the other was a breach of privilege on the part of both members [and] ... must be regarded as conduct in contempt of the House. The fact that an unseemly incident took place almost within view of the House while in session constitutes, in the Committee’s opinion, contempt of an aggravated nature.”

but recommended that the Dáil should accept the apologies of the Deputies involved and regard the incident closed, taking account of the following:

“both Deputes have communicated to [the Ceann Comhairle] their desire to express to the Dáil their deep regret for their respective parts in the affair” .

“the incident occurred at a time when feelings ran high in the House and that it was completely unpremeditated by either of the participants”.

#### **Allegations or other Statements reflecting on the Probity of members**

1948: [Report of Committee on Procedure and Privileges on Statements relating to Member made by a Minister in Dáil](#) [17 February, 1949] — Committee recommended to the House that the matter be investigated by a Judicial Tribunal.

Committee considered matter at the request of the Ceann Comhairle

Certain statements made by the Minister for Agriculture during debate on Second Reading of the Agriculture (Amendment) Bill, 1948, on 14th December, 1948 ([Official Report](#), Vol. 113, No. 11, Cols. 1506-1508) implied a reflection on the probity of a Deputy in connection with the acquisition of lime from a Beet Sugar Factory.

Committee [reported](#) (17 February 1949) that it had “rejected by a majority decision a proposal that no further action be taken by the Committee, and decided instead to recommend to the House that the matter referred to them should be investigated by a Judicial Tribunal”.

Report ordered to be laid before the Dáil and report and relevant proceedings of the Committee ordered to be printed on the same day.

1975: [Report of Committee on Procedure and Privileges on Allegations made by two Members against the Minister for Local Government in the Dáil](#) [3 July 1975] — Committee considered itself “unable properly to investigate the matter before it.”.

Committee considered the matter of [allegations and personal explanation](#) at the request of the Ceann Comhairle.

The Committee decided not to recommend to the House that there should be a Garda enquiry into the allegations and to instead investigate the matter itself “ to determine whether either Deputy or both Deputies had been guilty of a breach of privilege”.

Committee [reported](#) itself to be “of the opinion that it is unable properly to investigate the matter before it.”

Following consideration of matter by Tribunal, Committee reported its opinion that Deputies who made the allegations were in grave breach of privilege.

Tribunal appointed on the 4th July, 1975, pursuant to a Resolution passed on the 3rd July, 1975, by Dáil Éireann and on the 4th July, 1975, by Seanad Éireann.

1975 [Report of Committee on Procedure and Privileges on Report of Tribunal \(in relation to Allegations against member of the Government\) made on 31st July, 1975 \[4 December 1975\].](#)

Report of Tribunal referred to the Committee for consideration and report by Resolution of Dáil Éireann of 26th November, 1975

Committee [reported](#) that Deputies who made the allegations were in grave breach of privilege.

1964: [Report of the Committee on Procedure and Privileges on Statement reflecting on members generally reported in the Press to have been made a Deputy at a meeting of the Dublin City Council](#) — Committee recommended that no further action be taken in the matter.

Referred to Committee on Procedure and Privileges by [order of the Dáil of 8 April 1964.](#)

Committee [reported](#) that Deputy had stated that he had not made the allegation as reported and also that he did not think his remarks on the occasion in question were open to the interpretation put upon them. Committee recommended that no further action be taken in the matter.

## Appendix 5: Draft Code of Parliamentary Standards

### **Introduction**

#### *Purpose and Relevance of this Code*

The principles and guidance set out in this Code are not intended to be comprehensive or exhaustive.

They provide the basis for a common set of values intended to ensure that the House and its members operate effectively and well.

Such values are the basis for the Standing Orders of the House and the manner in which they are applied and interpreted by successive occupants of the Chair.

Responsibility for regulation of proceedings and maintenance and enforcement of order is and will continue to be a matter for the Chair. This code should be regarded as another resource, available to the Chair and to members generally, to assist in achieving this end.

This Code will be reviewed periodically and may be adapted or expanded in the light of experience.

#### *Status of this Code*

This Code was approved by the Committee on Procedure and Privileges on [12 May 2010].

It replaces the memorandum on decorum circulated to members of the Dáil pursuant to a decision of the Committee on Procedure and Privileges of 27 November 2002.

### **The Code**

#### *Principles*

1. Members belong to an institution that is a cornerstone of and plays a central part in our democracy. They have a fundamental duty to behave in a manner that supports and reflects this and should endeavour to avoid comment or action that undermines the institution of parliament or how it is perceived.
2. Respect for the rules and Standing Orders is fundamental to the efficient and orderly conduct of business and to how the institution of parliament is perceived.

3. Business can only be conducted efficiently and order can only be maintained on the basis that decisions of the Chair, once given, are accepted and are subject to challenge only by way of formal motion.
4. Subject to Standing Orders and decisions taken by the House from time to time, Members have the right to hear and be heard in debate. It follows that Members should show the respect and consideration for the contributions of their fellow Members that they would expect in relation to their own.
5. The Constitution confers certain privileges and protections on Members, most notably in relation to their utterances in the House. These should not be availed of casually or inappropriately. Members should reflect carefully (and consult with the Chair if they consider it appropriate or necessary) before saying something that might, in another place, be a cause of suit or action.

### **Guidance**

#### **Respect for the Person and Authority of the Chair is fundamental to the orderly and efficient conduct of the business of Dáil Éireann**

1. The Chair should always be given a good hearing.
2. If the Chair rises during a debate, any Members speaking or on their feet waiting to speak must resume their seats.
3. When entering or leaving their row of seats, or crossing the middle gangway opposite the Chair, a Member should bow to the Chair.
4. Members should avoid walking across the floor and should not pass between the Chair and a Member speaking. Members should exercise particular care in this regard when entering via the doors at either side of the Ceann Comhairle's dais.
5. The Chair is the sole judge of order. A ruling of the Chair<sup>6</sup>, once given, must be accepted and may be challenged only by way of substantive motion. It is grossly disorderly to cross-examine the Chair, by way of point of order<sup>7</sup> or otherwise.
6. A Member wishing to raise what he or she considers to be a point of order that does not require immediate decision should give private notice to the Chair of intention to do so. It is a matter for the chair to decide whether a matter sought to be raised is, in fact, a point of order and, if so, how it should be dealt with.

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<sup>6</sup> Rulings are decisions by the Chair on matters not specifically covered by Standing Orders or which apply the Standing Orders in specific circumstances. A ruling of the Chair, when given, may not be altered; A Member who is dissatisfied with a particular Ruling may put down a motion or a private submission may be made to the Chair with a view to the Ruling being reconsidered when the particular point again arises.

<sup>7</sup> A point of order *cannot* relate to a matter on which the Chair has already ruled. It must relate to order in the House or to Standing Orders and be, in essence, a submission of certain facts or considerations to Chair with a view to influencing a decision which has not *yet* been given but which, when given, *will be accepted*.



7. The Chair may, on occasion consult officials and it is part of their duty to give advice, if asked. Whether that advice is accepted or not is solely the concern of the Chair and cannot be subjected to comment in the House.

**Members are expected to recognise the importance of their collective responsibilities and show respect for the institution of parliament and for each other by conducting themselves with decorum.**

8. Members should dress in a manner that reflects the dignity of the House.
9. Members should attend punctually at the opening of each sitting, rising when the Chair is announced and remaining standing while the opening prayer is read. Members who have been delayed should wait until the opening prayer has been read and the Chair has taken his or her seat before entering the Chamber.
10. Interference from mobile phones is a discourtesy to other Members, a distraction from debate and potentially interferes with the recording of proceedings. Accordingly, mobile phones, if brought into the Chamber, should either be switched off or placed so as to avoid any possibility of interference. Members who are speaking and those who are sitting in close proximity to them should ensure that their mobile phones are switched off.
11. Emblems of a party-political nature should not be worn or otherwise displayed within the parliamentary precincts, an exception being made solely in respect of persons attending the Distinguished Visitors Gallery.
12. The use of offensive, provocative or threatening language in the House is strictly forbidden. Personal attacks, insults, obscenities and expletives are not in order.

**Members should make their contributions to debate in an orderly way and in a manner that that does not impinge on the rights of other Members**

13. A Member who wishes to speak should rise from his or her seat and wait until called on by the Chair before commencing.
14. Members should speak to the business before the House and avoid personalising debate.
15. A Member is not to interrupt any Member who is speaking by disorderly expressions, running commentary, other interruptions like clapping or noises in any disorderly manner.
16. Orderly interjections on a *bona fide* point of order are allowed when the Member seeking to raise the point of order has been called on by the Chair. Use of this mechanism as a device for commenting on, criticising or challenging a statement made or opinion expressed by another member in the course of debate is, however, disorderly.

17. Posters, placards, photographs and other exhibits, newspapers and magazines are distractions from and do not contribute to debate. Accordingly, they should not be displayed. (*position in relation to Members not speaking contained in No. 26*).

**A contribution to debate etc. is a contribution for the benefit of the House, not a particular Member. Members should therefore address the Chair, who represents the House for this purpose.**

18. All remarks should be addressed to the Chair.

Members should refer to each other as “Deputy ...”, “Minister for ... “ etc. and should refrain from using the term “you” when addressing each other. “You” is taken to mean that the Member is addressing the person in the Chair.

19. Members should not indulge in personalities; indulgence in personalities leads inevitably to similar retorts and possible scenes and is a distraction from the business of the House.
20. A charge against a Member can only be made by way of formal motion.

**Persons outside the House or their actions should not, in the normal course, be introduced into debate**

21. Except by way of motion made or in accordance with Standing Order 59 (Privilege: utterances in the nature of being defamatory), Members should not make charges against officials or other persons outside the House, either by name or in such a way as to make them identifiable, as they are defenceless against accusations made under the privilege of the House. The fact that Standing Orders provide some remedy where a person outside the House considers themselves to have been adversely affected by an utterance in the nature of being defamatory should not be regarded as a licence for casual criticism.
22. References to the President, to the Seanad and to members of the Judiciary in the course of debate are not in order.
23. Members, while in the Chamber, should not speak to or otherwise interact with persons in the public or press galleries.

**Members not speaking should comport themselves in a way that shows respect for other Members and does not interfere with the business of the House**

24. A conversation that can be heard is disorderly as it is a discourtesy to the Member speaking and to Members generally, a distraction from debate and potentially interferes with the recording of proceedings.
25. Members should avoid walking across the floor and should not pass between the Chair and a Member speaking.

26. Members should refrain from reading non-parliamentary material in the House, except where it may be necessary to quote from articles. (*position in relation to Members speaking contained in No. 17*).

## **Consequences of Breaches of the Code**

In the ordinary course, the remedies available to the Chair in Standing Orders are likely to be sufficient to secure compliance with the Code or to impose sanction for failure to comply with it.

However, where a member has, in the opinion of the Chair, wilfully or persistently breached the Code and the remedies ordinarily available are considered insufficient or inadequate in the circumstances, the Chair has a duty and obligation to refer the question of whether the behaviour of the member in question constitutes a breach or abuse of privilege to the Committee on Procedure and Privileges.

**Appendix 6: Draft Amendment to Standing Order 62**

*Consequence of Amendment – Give the Ceann Comhairle the absolute discretion as regards the time for taking of a division on a motion for suspension of a Member*

Paragraph (1) is hereby amended by the deletion of

“provided, on an exceptional basis, a division may be claimed on the question and, subject to paragraph (3), shall take place immediately before the Order of Business the next sitting day thereafter”

and the substitution therefor

“provided, on an exceptional basis, a division may be claimed on the question and, subject to paragraph (3), shall take place **at the discretion of the Ceann Comhairle, either immediately or** prior to the Order of Business the next sitting day thereafter”  
and