



Dr. Claire McGettrick, Dr. Maeve O'Rourke &
Associate Professor Katherine O'Donnell,
Clann Project.

26th November, 2020

A chairde,

I refer to your letter dated 26th October, 2020, in which you complained that Senator Barry Ward had "abused his privilege in making statements to the Seanad of a defamatory nature".

By way of background, Articles 15.12 and 15.13 of Bunreacht na hÉireann confer privilege on utterances made in either House of the Oireachtas and provide that the members of each House shall not, in respect of any utterance in either House be amenable to any court or any authority other than the House itself. The manner in which members are amenable to Seanad Éireann is prescribed in the Standing Orders of the House. Standing Orders 50 to 53 provide for the maintenance of order in the Seanad. These Standing Orders provide that the Cathaoirleach is the judge of order in the Seanad and that he has authority to suppress disorder and enforce prompt obedience to his ruling. The Standing Orders provide for courses of action which the Cathaoirleach may take in the event that he believes the conduct of a member is disorderly. More generally, the Committee on Procedure and Privileges is empowered to consider and report, as and when requested to do so, as to the privileges attaching to members.

The Standing Orders of the Seanad do not provide for a mechanism whereby a submission made by a person who has been referred to in the House by name, or in such a way as to be readily identifiable, may be considered. Arising from two judgements of the Supreme Court in 2019 in the case of *Kerins v McGuinness and Ors.*, a review of the Standing Orders of both Houses was initiated and the Committee on Procedure and Privileges of Seanad Éireann is, consequently, at present in the process of considering amendments to Standing Orders, including the question of providing for a mechanism of this kind. I must emphasise that this review of Standing Orders is not connected in any way with your correspondence and is mentioned here for your information only.

I have brought your correspondence and related material to the attention of the Committee on Procedure and Privileges which has discussed the matter.

In the course of debate on 23rd October on Report Stage of the Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter, Bill 2020, Senator Ward made reference to a campaign which he said had been conducted in relation to the Bill. Senator Ward did not name or otherwise identify any person. I warned that members be "mindful of their use of language and of making accusations in the House" in order to ensure that the matter did not develop to a point where a breach of order might occur. When it was put to Senator Ward by another member that he had "said that bodies such as the Clann Project orchestrated a campaign" he replied that he did not. Senator Ward has informed me in writing that he "would like it to be very clear that [he] was not targeting [his] criticism against a misinformation campaign around this legislation at any of the victims or their organisations;".

I trust this clarifies the situation.

Is mise, le meas,



Senator Mark Daly,
Cathaoirleach.