

ANNUAL REPORT 2009

To the Minister for Community, Rural and Gaeltacht Affairs:

In accordance with section 30 of the Official Languages Act 2003, this report for the year 2009 is being presented by An Coimisinéir Teanga.

Seán Ó Cuirreáin
An Coimisinéir Teanga

February 2010

MISSION STATEMENT

“Protecting Language Rights”

To provide an independent quality service whilst fulfilling our statutory obligations to ensure state compliance in relation to language rights.

To ensure fairness for all by dealing in an efficient, professional and impartial manner with complaints regarding difficulties in accessing public services through the medium of Irish.

To provide clear and accurate information:

- to the public in relation to language rights and
- to public bodies in relation to language obligations.

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FOREWORD

The year 2009 was a significant milestone in the life of this Office in that it marked the imminent end of my 6 year term as the first Coimisinéir Teanga.

I accept without question that it was an honour to have been given the opportunity from 2004 onwards to establish and develop this new statutory, independent Office. I would like at this stage to express my thanks to all those who helped in the performance of the functions of the Office during this period.

General

Two positive claims can be made with certainty at the end of this period:

- that many of the state's public bodies have made progress in relation to the quantity and quality of services provided through Irish, and
- that awareness of language rights has increased amongst the public in general and within the public sector.

On the other hand, there are still significant gaps between the level of service provided through Irish in comparison with the same services through English. Ensuring the closure of those gaps will be a long-term project.

The supply of services through Irish is dependent, above all else, on the language capacity of staff in the state sector. Until this fact is addressed in a realistic and measured way, the gaps will not easily be filled.

In addition, until there is strong public confidence that services through Irish are available on an equal footing with services through English, people will feel that there is little choice other than to abandon their language rights and wishes and to concede to compulsory English.

This is the space in which we are operating and these are the matters which need to be addressed.

The whole concept of the state's positive support for its first official language, either as a native language handed down through the generations in the Gaeltacht or as a language taught through the education system nationally, loses validity if that language cannot be used with ease in conducting business with the state itself or its component parts.

If the state supports the acquisition of the language as a native language in the Gaeltacht and if it insists that students nationally are required to study the language, it stands to reason that the same state must facilitate the use of the language by those people, especially in their dealings with state organisations. The state's efforts in this regard may be in vain if the link between language acquisition and usage is not actively encouraged and promoted.

20 Year Strategy for the Irish language

The publication during 2009 of the *20 Year Strategy for the Irish language 2010 – 2030* (draft) by the government was of great significance. One element of the draft was the inclusion of recommendations to ensure that a higher proportion of public service staff is truly capable of functioning in Irish and can deliver services in Irish to customers who seek them. It recommended that this be achieved through the development/strengthening of language awareness and language training programmes. To increase the cohort of public servants who are functioning bilinguals, the Department of Finance and the Public Appointments Service would be required to devise appropriate arrangements, to be put in place over time, recognising the present constraints on public sector recruitment.

Although these recommendations in the draft strategy are to be welcomed, they are neither as strong, clear or positive as those which I had made or which were made by the advisory group of international experts led by Fiontar, Dublin City University as part of the draft strategy's preparation. That group supported my contention that a lack of staff with competence in Irish in the public sector should be dealt with at the recruitment stage. They made the following recommendation:

“Due to the low level of public sector workers with the capacity to deliver public services through Irish, a rebalancing action is required to ensure an adequate number of staff with competence in the Irish language in the public service. Therefore, we recommend the reintroduction of a requirement regarding Irish language skills in the public sector by devising a recruitment policy in favour of competent bilinguals.”

Complaints & Investigations

More complaints were made by members of the public to my Office in 2009 about difficulties or problems accessing state services through Irish than in any other year since the Office was established. A total of 687 complaints were made to the Office which was an increase of 15% on the previous year. The statistics show that the Office dealt with almost 3,000 complaints in total since it was established in 2004. Most of those complaints were dealt with by the provision of advice to the complainant or through informal negotiations with the appropriate public body. I greatly appreciate the cooperation received by the staff of the Office in these matters. I especially wish to thank civil servants and public servants for their help in resolving complaints from the public in this manner. I also recognise the effort made by many of them to ensure that statutory language obligations were complied with.

A total of 17 formal investigations were commenced during 2009 in addition to two which were ongoing from the end of the previous year. 16 of those investigations were completed and two others were discontinued when the public bodies concerned reached satisfactory agreements with my Office. One investigation remained ongoing at year-end.

Complaints which could not be resolved through the informal complaints resolution process led to 11 of the investigations, while the rest were as a result of the monitoring function of the Office acting as a compliance agency. Of the 16 investigations where final reports were issued, findings were made in 13 cases against the public bodies concerned while in the remaining three cases, the public bodies concerned were found not to have breached their statutory language duties.

Three different investigations found the Health Service Executive to have breached statutory language obligations. Findings were made against the Department of Education and Science in two separate investigations while the Department of Foreign Affairs and the Office of the Revenue Commissioners were found to have breached language legislation on one occasion each. Two local authorities, Galway County Council and Fingal County Council, were found in investigations to have failed to comply with statutory duties. The following public bodies were also found to have failed to comply with statutory language obligations: the Arts Council, the National Museum of Ireland, the Office of the Information Commissioner and Iarnród Éireann.

In the interests of clarity, it should be stated that nearly all of the investigations involved very specific issues rather than general commitment to the implementation of statutory language obligations. Consequently, if public bodies failed to comply appropriately with specific language obligations, this should not necessarily be taken to mean that they were generally negligent in relation to their language obligations or in relation to the provisions of the Official Languages Act.

Compliance

Throughout 2009, my Office continued with a detailed audit programme of public bodies to monitor compliance with provisions of the Official Languages Act. These audits focused on specific direct provisions of the Act, on Regulations made under the Act and on statutory language schemes. Audits were also carried out to ensure appropriate compliance with the recommendations of previous investigations. Comprehensive information on this aspect of the Office's work is given in the chapter entitled "Monitoring" in this report.

Advice & Communications

There was a very significant increase during 2009 in the provision by my Office of advice to public bodies in relation to their statutory language duties. Information seminars were organised throughout the country for state sector employees and representatives of 160 public bodies attended these briefings. In addition, individual information sessions were provided for the management teams of 45 public bodies. These campaigns were aimed at increasing awareness of the Regulations which came into effect on 1 March 2009 in relation to the use of Irish on signage, stationery and on other provisions of the legislation.

It is significant that a substantial increase – a 153% increase on the previous year – was recorded in the number of requests received from employees of public bodies for advice in relation to language obligations. A total of 377 requests of that nature were dealt with in 2009 compared to 149 in 2008.

Specific information campaigns were undertaken in relation to the use of Irish in the courts and the use of Irish on road signs.

For the first time since the establishment of the Office, more than one million “hits” were made on our website www.coimisineir.ie in 2009, a 57% increase on the previous year. During the year, nearly 30,000 electronic copies of the bilingual Guidebook to the Official Languages Act 2003, were downloaded from the website. Further information on the advisory and communications work of the Office during 2009 is provided in the chapter entitled “Information and Communication Services” in this report.

Language schemes

I expressed concern in the 2008 annual report at the delay in the confirmation of the second round of language schemes with public bodies. I welcome the confirmation of 8 second round language schemes during 2009. A further 15 first round schemes were also confirmed during the year.

The number of public bodies whose first language schemes had reached “expiration” as outlined in subsection 15(1) of the Act increased, however, during the year to 33. Although such public bodies are required to continue with the provision of services through Irish in accordance with the commitments of their first schemes, no development of these services is required in the absence of new schemes. I believe that the drive to agree and confirm second round schemes needs to be intensified to avoid a vacuum in potential progress.

By the end of 2009, the number of public bodies which had particular language obligations confirmed in language schemes (be they first schemes, second round schemes, or schemes which had reached “expiration”) had increased to 181, less than 30% of the state’s public bodies which come under the remit of the legislation.

Staff & Cooperation

As in much of the state sector, significant staff problems had arisen in the Office by the end of 2009 as a result of the recruitment embargo. While a quota of eight civil servants has been sanctioned for the Office, the number of vacancies had risen to two by year-end. In effect, this left the Office functioning with 25% less than the minimum staff sanctioned at a time when it is clear that the workload of the Office is increasing.

The Department of Community, Rural and Gaeltacht Affairs – which is responsible in association with the Department of Finance for the provision of staff to the Office – indicated at the end of 2009 that it was undertaking a review of staffing within the

Department itself and that some redistribution of staff would be made in early 2010. The Department, however, also has staff shortages of its own.

It must be acknowledged that it would be practically impossible to carry out the statutory obligations placed by the Oireachtas on the Office appropriately without the proper staffing allocation. I would like to take this opportunity to offer my personal thanks to the staff for their enthusiasm and commitment to the work throughout the year. I would also like to thank the Minister for Community, Rural and Gaeltacht Affairs and the staff of his Department.

Indeed my Office also received excellent cooperation from many people during the year and again, I would like to take this opportunity to thank them also. Included here are employees of the civil service and public service in general, representatives of Irish language and Gaeltacht organisations, the media, researchers and academics and many others.

BACKGROUND

The President formally appointed me as Coimisinéir Teanga on 23 February 2004 on the advice of Government following a resolution passed by Dáil Éireann and Seanad Éireann recommending the appointment.

The process of establishing the new Office began soon afterwards and this is the sixth annual report of my Office. A detailed account of the work of the Office to date is provided in the annual reports available on the Office's website www.coimisineir.ie. The relevant financial accounts are also available online.

The Office of An Coimisinéir Teanga is an independent statutory office whose responsibility is to monitor the manner in which the state's public bodies comply with the provisions of the Official Languages Act 2003. The Office takes all necessary measures to ensure that public bodies fulfil their obligations under the Act itself, under the Regulations under the Act and under language schemes where they apply.

The Office investigates complaints from the public in cases where it is believed that public bodies may have failed to fulfil their obligations under the Official Languages Act. The Office also enquires into any valid complaints regarding allegations that a provision of any other enactment relating to the status or use of Irish has been contravened.

My Office provides advice to the public about their language rights and to public bodies about their language obligations under the Act. The primary objective of the Act is to ensure that the services provided through Irish by the civil and public service increase in both quantity and quality over a period of time.

It is expected that the implementation of the Act will create a new space for the language within the public administration system of the country. It is an illustration of one element of the state's Irish language policy which complements other efforts to promote the language in education, in broadcasting, in the arts, in Gaeltacht life and in life generally.

The President signed the Official Languages Act into law on 14 July 2003 and three years later on 14 July 2006, all provisions of the Act not already commenced by Ministerial Order came into effect. That meant that from that date onwards, every provision of the Act had a statutory basis.

On 1 October 2008, the Minister for Community, Rural and Gaeltacht Affairs signed the Official Languages Act 2003 (Section 9) Regulations 2008 (S.I. No. 391 of 2008). The earliest implementation date under the Regulations was 1 March 2009 when specific duties came into effect with regard to the use of Irish on new signage and stationery. No Regulations had been made by the end of 2009 regarding advertisements or live oral announcements.

Under the Regulations, public bodies are obliged to ensure that their stationery, their signage and their recorded oral announcements are provided in Irish only, or in Irish and

English, in accordance with certain provisions set out in the Regulations. My Office provided a significant number of information sessions to public bodies during 2009 to explain the new Regulations.

During 2009, the Minister for Community, Rural and Gaeltacht Affairs confirmed additional language schemes and by the end of 2009, a total of 92 first round schemes and 8 second round schemes, which covered 181 public bodies, had been confirmed under the Official Languages Act.

By the end of 2009, 31 public bodies were preparing draft schemes for the first time and the Minister had directed 48 public bodies to prepare their second draft scheme. This second round of schemes consists of new schemes that will lead to the expansion and development of the services in Irish provided by public bodies as a result of the implementation of their first language schemes. During the year, my Office continued its assessment and audit process of public bodies which had schemes agreed.

INFORMATION & COMMUNICATION SERVICES

During 2009, my Office continued with various campaigns to promote awareness of the Official Languages Act 2003 and the work of the Office itself. In 2009, a strong emphasis was placed on proactively providing information sessions to public bodies regarding the implementation of the Act and the new Regulations under the Act. Both regional and individual information sessions were arranged for public bodies. In addition, my Office undertook information campaigns regarding the use of Irish in the courts and regarding the use of Irish on road signs.

Information Sessions

A strong emphasis was placed in 2009 on the proactive provision of information sessions to public bodies. I recognise that the legislation in relation to the use of Irish can be quite complex and that officials in public bodies could at times be confused in relation to the implementation of language duties under the direct provisions of the Act itself, under the Regulations under the Act and under language schemes, where they exist.

In February and March 2009, my Office organised six regional information sessions for public bodies with regard to the new Regulations, one each in Sligo, Cork, Galway and Monaghan and three in Dublin. The meetings were attended by 304 people from 160 public bodies and my Office answered many questions in relation to the implementation of the Regulations at those meetings and subsequently. In addition, representatives from my Office gave presentations at 45 individual information sessions for management and staff in public bodies throughout the country.

Representatives from my Office also visited third level colleges in 2009 to give presentations in relation to the work of this Office and to provide information about the services that are available through Irish from the state. The aim of this initiative is to inform Irish speaking students attending third level colleges of their right to choose Irish as their language of communication with the state.

Support Network

During 2009, my Office continued to facilitate the organisation of a support network for public bodies which have confirmed language schemes. The support network is divided into three sections: (1) government departments and offices, (2) local authorities and (3) other public bodies.

In 2009, members of the network met twice – in Dublin in June and in Letterkenny, Co. Donegal in November – to discuss issues in relation to the implementation of their schemes and other provisions of the Act. Much discussion at the meetings concerned the challenges involved with implementing the Act in light of current economic circumstances and the moratorium on public sector recruitment. Representatives of the public bodies involved in the support network provided information about the ways in which they are implementing their language schemes.

Various guest speakers gave presentations to the network explaining particular aspects of bilingual service provision, such as how to get value for money when commissioning translations, the importance of the proactive offer in increasing language usage and the support services provided by Foras na Gaeilge to public bodies.

Advice to Public Bodies

It is one of the functions of this Office to provide advice or assistance to public bodies that are under the aegis of the legislation with regard to their obligations under the Official Languages Act.

In 2009, officials from public bodies contacted my Office on 377 separate occasions with specific questions or seeking advice about their language obligations under the Act. Some 220 of these queries related to advice sought in relation to the new Regulations on signage, stationery and recorded oral announcements.

This advice was provided in addition to the replies given at seminars and meetings of the support network. Undoubtedly, the more clear and accurate the advice and information that is provided to public bodies regarding their obligations under the Act, the easier it will be to ensure compliance with the provisions of the Act.

Website

The website www.coimisineir.ie serves as a comprehensive information point with regard to the Office of An Coimisinéir Teanga, the Official Languages Act and the new Regulations in relation to the use of Irish and English on signage, stationery and recorded oral announcements. A copy is available on the website of all language schemes confirmed under the Act, of all Placenames Orders made under the Act and of all material published by my Office including annual reports and summaries of official investigations. In addition, if a member of the public wishes to seek advice or make a complaint, there is an online form available that can be completed and sent electronically to my Office. All pages of the website are, at a minimum, AA accessible.

In the period from the beginning of January 2009 to the end of December 2009, the number of “hits” on the website was 1,002,735, which exceeded that of any previous year since the Office was founded.

A Guidebook to the Official Languages Act is available on the website to provide assistance to the public in relation to their language rights and in particular to provide advice to public bodies in relation to their obligations under the Act. The Guidebook explains the Regulations in relation to the use of Irish on stationery, signage and recorded oral announcements. The 68 page bilingual Guidebook is available primarily in electronic format and can be downloaded from the website at www.coimisineir.ie/guidebook. Since its publication in autumn 2008, approximately 3,000 hard copies of the Guidebook have been distributed to public bodies at information sessions and on demand. During 2009,

almost 30,000 copies of the Guidebook were downloaded from the website, 20,708 from the website in English and 9,281 from the website in Irish.

Media

During 2009, I continued to undertake media interviews in order to provide an insight into the work of the Office, the implementation of the Act and related matters. I would like to thank all the journalists who showed such an interest in the work of the Office during the year and who helped to progress that work through their reports in English and in Irish.

Prizes of An Coimisinéir Teanga

My Office is associated with the MA degree course in Bilingual Practice in Fiontar in Dublin City University, where the Gold Medal of An Coimisinéir Teanga is presented annually to the graduate who receives the highest marks for their postgraduate thesis.

The 2009 Gold Medal was presented to Áine Ní Cheárnaigh for her thesis at the graduation ceremony in Fiontar, Dublin City University on 9 November.

The aim of the MA course in Bilingual Practice – under the stewardship of the Director of Fiontar, Dr. Peadar Ó Flatharta – is to train people who will work in the public and voluntary sectors in the management and delivery of high quality bilingual customer services, in response to the requirements of the Official Languages Act in particular. This course provides participants with the knowledge and skills necessary to ensure that the public is provided with a high quality bilingual service in accordance with international standards.

An award is also presented annually for the best research essay in the sociolinguistics exam for the BA degree in the National University of Ireland, Galway. An Coimisinéir Teanga's prize for the 2009 was presented to Doireann McCombe.

External Relations

During 2009, my Office continued its policy of accepting invitations to speak about language rights and duties at seminars, lectures and other public events, as appropriate.

The Director of the Office attended the Biennial Conference of the British and Irish Ombudsman Association at the University of Warwick in England on 7 May 2009.

On the 22 July 2009, representatives of my Office attended a training day organised by the Welsh Language Board in Cardiff, Wales and gave presentations about investigations and compliance issues. This Office was pleased to have the opportunity to share our experience with the Welsh Language Board and to learn about its approach to such matters.

During the year, my Office continued its positive relationship with the Office of the Official Languages Commissioner in Canada. Both Graham Fraser, the Commissioner of Official Languages in Canada, and I spoke at a half day conference on language rights in Dublin on the 17 August 2009. The conference was held as part of a legal conference organised by the Canadian Bar Association.

The Director of the Office spoke at a meeting of Fulbright students in the National University of Ireland, Maynooth on the 2 October 2009. In the same month, our Investigations Manager attended a training course run by the British and Irish Ombudsman Association in Edinburgh, Scotland.

I spoke at the International Language Conference of ALTE (the Association of Language Testers in Europe) organised by the University of Ireland, Maynooth on 13 November 2009. The conference was attended by representatives from 31 countries, representing 26 languages.

On the 27 November 2009, I gave the keynote address at an Irish language graduation ceremony at the Centre Culturel Irlandais in Paris in France. The event was organised by the University of Ireland, Maynooth in conjunction with the Centre Culturel Irlandais.

IRISH IN THE COURTS

The right of a person to use Irish in any court is confirmed in section 8 of the Official Languages Act and a person may not be disadvantaged or may not incur any inconvenience or additional expense as a result of his/her language choice. I launched an information campaign in 2009 to counteract the perception that English is obligatory in the courts. This campaign was primarily aimed at Irish speaking and Gaeltacht communities.

As part of the campaign, my Office published a leaflet entitled *An Ghaeilge sa Chúirt (Irish in the Courts)* and a poster entitled *Tá sé de cheart agat an Ghaeilge a úsáid in aon chúirt (You have a right to use Irish in any court)*. Copies of the leaflet and the poster were sent by post to courts throughout the country and to Irish language and Gaeltacht organisations, they were made available at Oireachtas na Gaeilge and the leaflet was distributed with local papers in some Gaeltacht areas. The information leaflet and the poster may be downloaded from the website by following the link www.coimisineir.ie/courts.

It appears from media reports that the interpretation service in the court system costs more than €2 million annually. This is a very important service and it would be completely unacceptable if it was not abundantly clear that people were entitled, irrespective of their language ability, to a fair hearing before the courts.

The most recent annual report published by the Courts Service shows that it received more than 10,000 applications for interpreters in 2008. These involved a total of 71 languages and were in the following order with regard to level of demand: Polish, Romanian, Lithuanian, Russian, Mandarin Chinese, Latvian, Portuguese, French, Czech and Arabic.

Irish was not even mentioned in the list of the ten most common languages for which interpreters were required in the courts in 2008. According to figures provided by the Courts Service, there was a cost of €1,933 for Irish language interpretation services in 2006. This cost fell to €1,012 in 2007. Therefore, less than €3,000 out of a budget of more than €4 million was spent on Irish language interpretation over the course of two years.

The portion of the interpretation budget spent on Irish in the courts provides some interesting insights. It appears to me that the Irish speaking public, in the Gaeltacht and throughout the country, often put their language rights and their language choices aside when they are involved in official court business. Since that language right is confirmed in law, it is important that information about the use of Irish in the courts is widely publicised and that is why I initiated this information campaign. If the Irish language is marginalised or completely excluded from court business in this country, this will not benefit the language. If the language achieves a more central role in this sphere, the positive results will be apparent in the years to come.

USE OF IRISH ON TRAFFIC SIGNS

I launched an information campaign in 2009 to deal with mistakes and/or omissions in relation to the use of Irish on traffic signs throughout the country. My Office published an information leaflet entitled *Use of Irish on Traffic Signs* and an accompanying complaint form as part of that campaign.

The use of Irish on the country's traffic signs is the most visible expression of the state's policy in relation to our official languages, Irish and English. The country's road authorities must comply with the duties placed on them in relation to the use of those languages on road signs under the *Traffic Signs Manual*. The authorities in question are the National Roads Authority and the country's local authorities.

The information leaflet entitled *Use of Irish on Traffic Signs* gives a summary of the primary language duties placed on the road authorities with regard to traffic signs. The most important point is that placenames on information signs must be in both Irish and English except:

- Gaeltacht placenames, which must be in Irish only.
- Where the spelling of a placename is similar in both languages, in which case only the Irish form of the placename should be shown.

All Irish text should be in italic print, in lower case lettering, with initial letters in capitals. Irish script should be inclined to the right at an angle of 15 degrees to the vertical. All English text should be in upper case roman letters. The above requirements should also be applied to all other information signs, including warning signs and information plates which may accompany signs.

Until recently, my Office dealt on an informal basis with local authorities and relied on their cooperation and goodwill in order to correct roads signs that were not in compliance with the *Traffic Signs Manual*. It has now been confirmed that my Office has the authority to officially investigate complaints in relation to difficulties with the use of Irish or the lack of Irish on road signs.

Copies of the information leaflet and the complaint form were sent to Irish language and Gaeltacht organisations and to the roads authorities. In addition, copies were made available to the public at our exhibition stand at Oireachtas na Gaeilge in Letterkenny, Co. Donegal.

The information booklet and the complaint form can be downloaded from the website by following the link www.coimisineir.ie/trafficsigns.

MONITORING

Language Schemes

During 2009, it was clear that some public bodies experienced increased difficulties in implementing statutory language schemes to which they had agreed. In general, most of the difficulties related to lack of planning and to lack of appropriate structures and resources being provided to implement commitments given. The audit of language schemes in their third year indicated that only 22% of public bodies had properly implemented their schemes. Agreement had to be reached with the other 78% to ensure that they were in compliance with their language duties.

In line with other years, a standardised process of assessing and auditing public bodies which had confirmed language schemes was continued. An audit plan was implemented which included the audit of language schemes at the end of years 1 and 3. By the end of 2009, the audit process had been completed for 39 language schemes. Some 21 of these related to first year reviews and 18 related to third year audits.

The first year audit related to recognising any implementation risks early in the process and to directing the attention of the management of public bodies to matters which had arisen as a result of the monitoring process.

During 2009, my Office continued to conduct third year audits of language schemes whose implementation period had come to an end. An audit system was followed in which evidence and confirmation were sought that the statutory commitments given in language schemes had been fulfilled in their entirety. In addition, the systems put in place by public bodies were examined in order to ascertain that they could deliver a service in Irish to the public, as promised.

Where it became apparent that specific commitments had not been implemented by public bodies, we sought an explanation, a solution and an appropriate implementation timeframe. It was necessary to adopt this approach in the case of 78% of audits begun during 2009, an increase from 60% in 2008. These implementation plans are being monitored on an ongoing basis. Although we succeeded in reaching a satisfactory agreement with public bodies in most cases, we failed to do so with regard to four public bodies. In those cases, we were obliged to resort to the formal investigative process.

It appears to us that public bodies fail to implement particular aspects of their language schemes satisfactorily unless there is:

- (1) Appropriate analysis of and attention to the requirements and implications, including systems, costs and human resources, of particular commitments given in a language scheme.
- (2) Ownership by the public body's senior management of the language scheme.
- (3) An appropriate implementation and report structure established by the public body.
- (4) An implementation plan with the appropriate resources prepared by the public body.

- (5) Agreement reached on the commitments and the agreement is conveyed to the appropriate staff with responsibility for implementing them.
- (6) An appropriate monitoring system developed by the public body.

It is clear from the monitoring process that the effect and impact of a language scheme is significantly reduced if it is agreed in a vacuum instead of being embedded into the public body's structure and provision of services.

Léirmheas déanta agus tuairiscí eisithe 2009

Reviews completed and reports issued 2009

Ainm an Chomhlachta Phoiblí	Name of Public Body
Údarás Áitiúla Chontae na Gaillimhe	County Galway Local Authorities
Feidhmeannacht na Seirbhíse Sláinte, Limistéar an Iarthair	Health Service Executive, Western Area
Institiúid Teicneolaíochta na Gaillimhe-Maigh Eo	Galway-Mayo Institute of Technology
Oifig na gCoimisinéirí Ioncaim	Office of the Revenue Commissioners
Údarás Áitiúla Dhún na nGall	Donegal Local Authorities
An Roinn Oideachais agus Eolaíochta	Department of Education and Science
An Roinn Airgeadais	Department of Finance
Ollscoil Chathair Bhaile Átha Cliath	Dublin City University
Seirbhís Oideachais Chontae Chiarraí	Kerry Education Service
An Roinn Talmhaíochta agus Bia	Department of Agriculture and Food
Ollscoil Luimnigh	University of Limerick
An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí	Department of Justice, Equality and Law Reform
Comhairle Cathrach Bhaile Átha Cliath	Dublin City Council
Coiste Gairmoideachais Chontae na Gaillimhe	County Galway Vocational Education Committee
Óglaigh na hÉireann	The Defence Forces
Comhairle Cathrach na Gaillimhe	Galway City Council
Údarás Áitiúla Fhine Gall	Fingal Local Authorities
Banc Ceannais & Údarás Seirbhísí Airgeadais na hÉireann	Central Bank and Financial Services Authority of Ireland
Institiúid Teicneolaíochta Leitir Ceanainn	Letterkenny Institute of Technology
Coiste Gairmoideachais Chathair Bhaile Átha Cliath	City of Dublin Vocational Education Committee
Comhairle Cathrach Luimnigh	Limerick City Council
Coláiste Oideachais Eaglais na hÉireann	Church of Ireland College of Education
An Phríomh-Oifig Staidrimh	Central Statistics Office
Údarás Áitiúla Lú	Louth Local Authorities
Teagasc	Teagasc
An Foras Áiseanna Saothair (FÁS)	The Training and Employment Authority (FÁS)
An Crannchur Náisiúnta	The National Lottery
Comhairle Contae Luimnigh	Limerick County Council
Bord Soláthair an Leictreachais	Electricity Supply Board
An tÚdarás um Ard-Oideachas	Higher Education Authority
Údarás Áitiúla Chontae Mhuineacháin	Monaghan Local Authorities
Comhairle Cathrach Phort Láirge	Waterford City Council
Leabharlann Chester Beatty	Chester Beatty Library
Údarás Áitiúla an Longfoirt	Longford Local Authorities
An Bord um Fhaisnéis do Shaoránaigh	Citizens Information Board
Oifig an Stiúrthóra um Fhorfheidhmiú Corparáideach	Office of the Director of Corporate Enforcement
Údarás Áitiúla Chontae Chill Dara	Kildare Local Authorities

Coiste Gairmoideachais Chontae Átha Cliath	County Dublin Vocational Education Committee
Údaráis Áitiúla Cheatharlach	Carlow Local Authorities

Monitoring of the implementation of the recommendations of investigations

Background

After a reasonable time, An Coimisinéir Teanga has the right to provide a report to both Houses of the Oireachtas if he is of the opinion that the recommendations of an investigation are not being implemented by a public body.

The first investigations were begun in 2007 and as part of the 2009 internal business plan for the Office of An Coimisinéir Teanga, it was decided to monitor the way in which public bodies were implementing the recommendations which arose from the various investigations conducted during 2007 and 2008. This was the first year in which the Office undertook this process.

Audit Methodology

The audit was conducted by:

- (1) Examining the investigation files and collating any correspondence and confirmation which followed the investigation.
- (2) Issuing a letter to the head of public body requesting further information, confirmation and evidence as required.
- (3) In particular cases, organising a meeting with the public body to receive further clarification and information.

Results

It is apparent from the table below that most of the public bodies are satisfactorily implementing the recommendations of investigations. In certain cases, it was necessary to reach an agreement regarding a specific timetable in which various recommendations would be implemented. In those cases, a review of the implementation of the matter agreed will be conducted at an appropriate time. At the end of 2009, my Office was still in discussions with two public bodies regarding the manner in which they were implementing the recommendations of investigations relating to them.

Year in which investigations were begun	2007	2008
Number of investigations completed	10	17
No contravention	1	2
Discontinued	1	0
Number of investigations which were audited	<u>8</u>	<u>15</u>
Satisfactory confirmation received	8	10
Agreement reached but monitoring of implementation required	0	3
Ongoing monitoring	0	2
Total	<u>8</u>	<u>15</u>

Investigation Year: 2007

Public body	Legislation	Subject	Status
Department of Justice, Equality & Law Reform	Section 71 – Courts of Justice Act, 1924	Appointment of a judge	Discontinued
State Examinations Commission	Section 7(2)(d) – Education Act, 1998	Marking schemes	Confirmation received
Health Service Executive	Section 18 – Official Languages Act, 2003	School dental service in the Gaeltacht	Confirmation received
An Garda Síochána	Section 9(2) – Official Languages Act, 2003	Fixed Charge Notice	Confirmation received
National Disability Authority	Section 9(3) – Official Languages Act, 2003	Mailshots	Confirmation received
Department of Education & Science	Section 7(2)(d) – Education Act, 1998	Second level syllabuses & other publications	Confirmation received
Bus Éireann	Section 57(2) – Transport Act, 1950	School bus ticket	Confirmation received
Fingal County Council	Section 9(2) – Official Languages Act, 2003	Reply in English to communication in Irish	Confirmation received
Department of Social & Family Affairs	Section 10(a) – Official Languages Act, 2003	Green Paper on Pensions	Confirmation received
Office of the Houses of the Oireachtas	Section 7 – Official Languages Act, 2003	Publication of Oireachtas bills	No contravention

Investigation Year: 2008			
Public body	Legislation	Subject	Status
Heritage Council	Section 18(1) – Heritage Act, 1995	Sufficient staff to provide a service in Irish	Agreed approach & ongoing monitoring
Department of Community, Rural & Gaeltacht Affairs	Section 18 – Official Languages Act, 2003	Interviews & training courses	Confirmation received
Department of Transport	Section 10(a) – Official Languages Act, 2003	Publication of a document <i>2020 Vision – Sustainable Travel and Transport: Public Consultation</i>	Confirmation received
Department of Environment, Heritage & Local Government	Section 18 – Official Languages Act, 2003	Website www.npws.ie	Agreed approach & ongoing monitoring
Department of Environment, Heritage & Local Government	Section 10(a) – Official Languages Act, 2003	Green Paper on Local Government	Confirmation received
Health Service Executive	Section 18 – Official Languages Act, 2003	Preschool inspections	Confirmation received
Irish Research Council for the Humanities & Social Sciences	Section 9(2) – Official Languages Act, 2003	Reply in English to communication in Irish	Confirmation received
Dublin City Council	Section 10(a) – Official Languages Act, 2003	Publication of the document <i>Maximising the City's Potential</i>	No contravention
Iarnród Éireann	Section 57(2) – Transport Act, 1950	Rail ticket	Ongoing discussions
Department of Environment, Heritage & Local Government	Section 10(a) – Official Languages Act, 2003	Publication of the document <i>Resourcing the Planning System</i>	Confirmation received
Equality Authority	Section 10(b) – Official Languages Act, 2003	Annual report not published simultaneously in both official languages	Confirmation received
National Roads Authority	Section 9(3) – Official Languages Act, 2003	eFlow mailshots – toll system	Confirmation received
Department of Justice, Equality & Law Reform	Section 18 – Official Languages Act, 2003	Department's website	Confirmation received
Department of Social & Family Affairs	Section 9(3) – Official Languages Act, 2003	Mailshots regarding information on a laptop	Confirmation received
FBD	Section 108 Insurance Act, 1936	Specific insurance documents in Irish	No contravention
Department of Education & Science	Section 7(2)(d) – Education Act, 1998	Guidelines for teachers	Ongoing discussions
Department of Social & Family Affairs	Section 18 – Official Languages Act, 2003	Capacity of IT system to deal with Irish	Agreed approach & ongoing monitoring

Monitoring of Stationery of Public Bodies

On 1 October 2008, the Minister for Community, Rural and Gaeltacht Affairs signed the Statutory Instrument which implemented subsection 9(1) of the Official Languages Act 2003. Those Regulations (S.I. No. 391 of 2008) provide for the use of Irish on stationery, signage and recorded oral announcements. The requirements imposed on public bodies under the Regulations come into effect incrementally and specific target dates are set for the various categories.

This Office issued a Guidebook during autumn 2008 in which comprehensive information was provided on the Act and the Regulations. In addition, general and individual information sessions about the Regulations were organised for public bodies during 2008 and 2009.

As part of this Office's audit plan for 2009, it was decided to audit the manner in which a particular group of public bodies were implementing the Regulations regarding stationery.

Audit Criteria

Under the Regulations, the Irish language requirements apply to stationery headings under the following stationery categories: notepaper, compliment slips, fax cover sheets, file covers and other folders, labels and envelopes.

Public bodies have a duty to ensure that the headings on the aforementioned stationery items are in accordance with specific criteria under the Regulations. They must also ensure that all stationery which came into their possession since 1 March 2009 complies with the Regulations.

Audit Methodology

The 25 public bodies (government departments and offices) listed under subsection 1(1) of Schedule 1 of the Official Languages Act were asked to provide samples of any notepaper, compliment slips and envelopes which came into their possession since 1 March 2009. Where public bodies had not taken possession of any new stationery since that date, they were asked to confirm that this was the case.

Results

The table below shows the results of the survey.

Details	Number
Public bodies listed in subsection 1(1) of Schedule 1 of the Act	25
Replies received by the end of 2009	21
Number of public bodies which took possession of stationery after 1 March 2009	17
Stationery which is completely in compliance with the Regulations	7

As can be seen from this table, the stationery was in compliance with the Regulations in the case of 41% of those public bodies which provided samples. One must recognise, however, that there were a number of cases where the stationery was generally in compliance with the Regulations except that some of the headings were not completely satisfactory. In general, it was clear that attention had been paid to the Regulations but that this was not always sufficiently thorough to ensure that all aspects of stationery headings were in compliance with the Regulations.

It was clear, however, that there were other omissions which were more serious and which resulted in a reduction in the status of the text in Irish in comparison with the text in English on the stationery headings. These omissions related to:

- (1) The text in Irish not being as prominent, visible and legible as the text in English, in particular with regard to the name of the public body.
- (2) Use being made of separate Irish and English versions of compliment slips.
- (3) The name of the public body being provided in English first.
- (4) Use being made of headings in English only in the case of contact details or the headings being provided in English first.

The various public bodies have been informed of the difficulties and the deficiencies with regard to the samples provided to us. During 2010, progress made by those bodies and by other classes of public bodies, if appropriate, will be monitored to ensure that their stationery is in compliance with the Regulations.

Monitoring of the publication of local authorities' development plans and draft development plans

Background

It is specified in subsections 9(1) and 9(2) of the Planning and Development Act 2000 that each planning authority has a duty to prepare a development plan every 6 years for the operational area under its jurisdiction.

Under subsection 10(a) of the Official Languages Act 2003, it is necessary for all public bodies which are under the aegis of the legislation to publish any document which sets out public policy proposals simultaneously in both official languages. A reference is made in the Commencement Order relating to this section of the Act (S.I. No. 32 of 2004) to the requirement imposed on local authorities publishing documents which set out public policy proposals.

It is clear that draft development plans come under subsection 10(a) of the Official Languages Act as documents which set out public policy proposals. In order to comply with the requirements of the Act, all draft development plans published after 1 May 2004 must be published simultaneously in both official languages.

Monitoring of implementation

As part of the 2009 internal business plan for the Office of An Coimisinéir Teanga, it was decided to monitor the way in which local authorities implement the requirements of the Official Languages Act when publishing development plans and draft development plans. This involved issuing a questionnaire to all local authorities in the country requesting details of the publication methodology used for the publication of their latest county/city draft development plan and development plan. The questionnaire addressed the following issues:

- (1) The publication methods used for the Irish and English versions of the various documents, and
- (2) Whether the various documents had been published simultaneously.

The questionnaire was issued to the country's 33 local authorities and our analysis is based on answers received from 27 of them (82%) by the end of 2009.

Some six local authorities had not published any draft development plan since 1 May 2004. In addition, seven local authorities had published their development plans since 1 May 2004 but their draft development plans had been published prior to that date. The exemption given under the Commencement Order applied to them.

Main Findings

The main finding of the audit to date is that 90% of the local authorities published the development plan in both official languages. Less than 50% of the local authorities published the draft development plan in both official languages. It is also noteworthy that only about 50% of both plans and draft plans which were published in Irish were published simultaneously in both languages.

a. Development Plan

- 89% of local authorities which are obliged to do so under the legislation published an Irish version of their development plan.
- 53% of those local authorities provided the Irish version of the development plan at the same time as the English version.
- The Irish and English versions were made available in the same way in the case of 65% of plans published.
- With regard to counties which contain Gaeltacht areas and which came under the legislation, 80% of them published their development plan simultaneously in both official languages.

b. Draft Development Plan

- 48% of local authorities which are obliged to do so under the legislation published an Irish version of their draft development plan.
- 50% of those local authorities provided the Irish version of the draft plan at the same time as the English version.
- The Irish and English versions were made available in the same way in the case of 80% of draft plans published.
- With regard to counties which contain Gaeltacht areas and which came under the legislation, 50% of them published their draft development plan simultaneously in both official languages.

When this audit process is complete, a note outlining best practice will be circulated to the local authorities.

Monitoring of Annual Reports

All public bodies which come under the remit of the Official Languages Act 2003 have a duty to publish any annual report and any audited accounts or financial statements simultaneously in both official languages. In order to fulfil the requirements of the Act, it is necessary to ensure that any annual report, audited accounts or financial statements relating to 2003 or later are published simultaneously in Irish and in English.

During 2009, the Office of An Coimisinéir Teanga decided to monitor the way in which third level institutions were fulfilling this obligation. A questionnaire was issued to the 31 third level institutions and information was requested about the way in which the latest annual report and the latest audited accounts or financial statements were published. Replies to the questionnaire were received by the end of 2009 from 23 third level institutions, or 74% of those surveyed.

According to the information provided to us, third level institutions are in general adhering to the statutory duties set out for them under section 10 of the Official Languages Act. The table below provides an insight into the results of the audit.

Details	Annual Report	Audited Accounts/ Financial Statements
Number of replies received by the end of 2009	23	23
Institutions which had not published any annual report or audited accounts/ financial statements since 2003	6	7
Confirmation received that the relevant documents had been published bilingually and simultaneously	16	15

LANGUAGE SCHEMES

During 2009, the Minister for Community, Rural and Gaeltacht Affairs confirmed 15 new language schemes covering 26 public bodies. In addition, the Minister confirmed the second language scheme of 8 public bodies. As a result, there were 100 language schemes which covered a total of 181 public bodies confirmed by the end of 2009.

At the end of 2009, there were 79 draft schemes which had still to complete the agreement and confirmation process. Some 31 of these related to public bodies from which a first draft language scheme had been requested and 48 related to requests for the preparation of the second draft scheme.

Bliain inar daingníodh an chéad Scéim Teanga		
Bliain	Scéimeanna	Comhlachtaí Poiblí san Áireamh
2004	01	01
2005	22	35
2006	18	36
2007	29	55
2008	15	28
2009	15	26
Iomlán	100	181

Year in which first Language Scheme was confirmed		
Year	Schemes	Public Bodies Included
2004	01	01
2005	22	35
2006	18	36
2007	29	55
2008	15	28
2009	15	26
Total	100	181

Céad dréachtscéim fós le daingniú		
Bliain	Dréacht-scéimeanna	Comhlachtaí Poiblí san Áireamh
2005	16	25
2006	71	129
2007	42	79
2008	30	54
2009	31	43

First draft scheme to be confirmed		
Year	Draft Schemes	Public Bodies Included
2005	16	25
2006	71	129
2007	42	79
2008	30	54
2009	31	43

Dara dréachtscéim fós le daingniú		
Bliain	Dréacht-scéimeanna	Comhlachtaí Poiblí san Áireamh
2007	20	33
2008	22	35
2009	48	84

Second draft scheme to be confirmed		
Year	Draft Schemes	Public Bodies Included
2007	20	33
2008	22	35
2009	48	84

Léirmheasanna / Iniúchtaí Críochnaithe		
Bliain	Scéimeanna	Comhlachtaí Poiblí san Áireamh
2006	09	16
2007	25	43
2008	42	74
2009	39	73
Iomlán	115	206

Reviews / Audits Completed		
Year	Schemes	Public Bodies Included
2006	09	16
2007	25	43
2008	42	74
2009	39	73
Total	115	206

Scéimeanna daingnithe faoi dheireadh 2009
Schemes confirmed by the end of 2009

Ainm an Chomhlachta Phoiblí	Name of Public Body	Dáta tosaithe na chéad scéime / an dara scéim. Commencement date of first scheme / of second scheme.
An Roinn Gnóthaí Pobail, Tuaithe & Gaeltachta	Department of Community, Rural & Gaeltacht Affairs	22/09/2004 30/06/2009
Oifig an Uachtaráin	Office of the President	28/04/2005
Oifig an Choimisiúin um Cheapacháin Seirbhíse Poiblí	Office of the Commission for Public Service Appointments	30/05/2005 11/05/2009
An Roinn Ealaíon, Spóirt & Turasóireachta	Department of Arts, Sport & Tourism	01/07/2005 07/05/2009
Oifig an Stiúrthóra Ionchúiseamh Poiblí	Office of the Director of Public Prosecutions	01/07/2005
An Chomhairle Ealaíon	The Arts Council	01/07/2005
Oifig an Ombudsman & Oifig an Choimisinéara Faisnéise	Office of the Ombudsman & Office of the Information Commissioner	01/07/2005
Coiste Gairmoideachais Chontae Dhún na nGall	County Donegal Vocational Educational Committee	01/07/2005 22/09/2009
Údarás Áitiúla Chiarraí	Kerry Local Authorities	26/07/2005
An tSeirbhís Chúirteanna	The Courts Service	31/07/2005
Údarás Áitiúla Chontae Phort Láirge	Waterford County Local Authorities	01/08/2005
An Roinn Comhshaoil, Oidhreacht & Rialtais Áitiúil	Department of the Environment, Heritage & Local Government	15/08/2005 20/07/2009
Údarás Áitiúla Chontae na Gaillimhe	County Galway Local Authorities	23/08/2005
Roinn an Taoisigh	Department of the Taoiseach	01/09/2005 21/12/2009
Feidhmeannacht na Seirbhíse Sláinte, Limistéar an Iarthair	Health Service Executive, Western Area	01/09/2005
Ollscoil na hÉireann, Má Nuad	National University of Ireland, Maynooth	19/09/2005
Institiúid Teicneolaíochta na Gaillimhe-Maigh Eo	Galway-Mayo Institute of Technology	28/09/2005
Oifig na gCoimisinéirí Ioncaim	Office of the Revenue Commissioners	01/10/2005
Ollscoil na hÉireann, Gaillimh	National University of Ireland, Galway	01/10/2005
Údarás Áitiúla Dhún na nGall	Donegal Local Authorities	01/10/2005
An tSeirbhís um Cheapacháin Phoiblí	Public Appointments Service	03/10/2005
An Roinn Oideachais & Eolaíochta	Department of Education & Science	01/12/2005
An Roinn Airgeadais	Department of Finance	01/02/2006
Ollscoil Chathair Bhaile Átha Cliath	Dublin City University	03/04/2006
Seirbhís Oideachais Chontae Chiarraí	Kerry Education Service	15/05/2006
An Roinn Talmhaíochta & Bia	Department of Agriculture & Food	01/06/2006
Ollscoil Luimnigh	University of Limerick	01/06/2006 29/12/2009
An Roinn Dlí & Cirt, Comhionannais & Athchóirithe Dlí	Department of Justice, Equality & Law Reform	30/06/2006

Comhairle Cathrach Bhaile Átha Cliath	Dublin City Council	13/07/2006
Coiste Gairmoideachais Chontae na Gaillimhe	County Galway Vocational Education Committee	01/08/2006
Óglaigh na hÉireann	The Defence Forces	01/09/2006
Comhairle Cathrach na Gaillimhe	Galway City Council	01/09/2006 23/12/2009
Údarás Áitiúla na Mí	Meath Local Authorities	01/09/2006
Údarás Áitiúla Fhine Gall	Fingal Local Authorities	01/10/2006
An Roinn Cumarsáide, Fuinnimh & Acmhainní Nádirtha	Department of Communications, Energy & Natural Resources	02/10/2006
An Roinn Gnóthaí Eachtracha	Department of Foreign Affairs	01/12/2006
Banc Ceannais & Údarás Seirbhísí Airgeadais na hÉireann	Central Bank & Financial Services Authority of Ireland	01/12/2006
Coláiste na hOllscoile Corcaigh	University College Cork	01/12/2006
Comhairle Contae Átha Cliath Theas	South Dublin County Council	20/12/2006
Údarás Áitiúla Mhaigh Eo	Mayo Local Authorities	22/12/2006
Comhairle Contae Liatroma	Leitrim County Council	01/01/2007
An Bord Seirbhísí Ríomhaire Rialtais Áitiúil	Local Government Computer Services Board	02/01/2007
An Roinn Cosanta	Department of Defence	26/02/2007
Oifig an Choimisinéara Cosanta Sonraí	Office of the Data Protection Commissioner	01/04/2007
An tÚdarás Clárúcháin Maoine	Property Registration Authority	02/04/2007
An Foras Riaracháin	Institute of Public Administration	10/04/2007
Coimisiún Forbartha an Iarthair	Western Development Commission	10/04/2007
An Bord Seirbhísí Bainistíochta Rialtais Áitiúil	Local Government Management Services Board	23/04/2007
An Roinn Iompair	Department of Transport	30/04/2007
Coiste Gairmoideachais Chathair Chorcaí	Cork City Vocational Education Committee	30/04/2007
Oifig na nOibreacha Poiblí	Office of Public Works	08/05/2007
An Bord um Chúnamh Dlíthiúil	Legal Aid Board	28/05/2007
An Roinn Gnóthaí Sóisialacha & Teaghlaigh	Department of Social & Family Affairs	01/06/2007
Coiste Gairmoideachais Chathair na Gaillimhe	Galway City Vocational Education Committee	01/06/2007
Údarás Áitiúla Thiobraid Árann Thuaidh & Comhchoiste Leabharlann Chontae Thiobraid Árann	North Tipperary Local Authorities & County Tipperary Joint Libraries Committee	01/06/2007
Oifig an Ard-Aighne; Oifig na nDréachtóirí Parlaiminte don Rialtas; Oifig an Phríomh-Aturnae Stáit	Office of the Attorney General; Office of the Parliamentary Counsel to the Government; Chief State Solicitor's Office	20/06/2007
Comhairle Contae Dhún Laoghaire-Ráth an Dúin	Dún Laoghaire-Rathdown County Council	01/07/2007
Údarás Áitiúla an Chláir	Clare Local Authorities	20/08/2007
An Bord Pleanála	An Bord Pleanála	01/09/2007
Institiúid Teicneolaíochta Leitir Ceannainn	Letterkenny Institute of Technology	26/09/2007
Coiste Gairmoideachais Chathair Bhaile Átha Cliath	City of Dublin Vocational Education Committee	01/10/2007
Údarás Áitiúla Chorcaí	Cork Local Authorities	01/10/2007

Comhairle Cathrach Luimnigh	Limerick City Council	01/10/2007
Údarás Áitiúla Ros Comáin	Roscommon Local Authorities	01/10/2007
Údarás Áitiúla na hIarmhí	Westmeath Local Authorities	01/10/2007
Comhairle Cathrach Chorcaí	Cork City Council	31/10/2007
Coláiste Oideachais Eaglais na hÉireann	Church of Ireland College of Education	01/11/2007
An Phríomh-Oifig Staidrimh	Central Statistics Office	05/11/2007
Údarás Áitiúla Lú	Louth Local Authorities	20/11/2007
Teagasc	Teagasc	01/01/2008
An Foras Áiseanna Saothair (FÁS)	The Training and Employment Authority (FÁS)	02/01/2008
An Crannchur Náisiúnta	The National Lottery	02/01/2008
Comhairle Contae Luimnigh	Limerick County Council	01/02/2008
An Coimisiún Reifrinn	The Referendum Commission	06/03/2008
Bord Soláthair an Leictreachais	Electricity Supply Board	17/03/2008
An tÚdarás um Ard-Oideachas	Higher Education Authority	01/06/2008
Údarás Áitiúla Chontae Mhuineacháin	Monaghan Local Authorities	01/06/2008
Comhairle Cathrach Phort Láirge	Waterford City Council	01/06/2008
Leabharlann Chester Beatty	Chester Beatty Library	15/06/2008
Údarás Áitiúla an Longfoirt	Longford Local Authorities	01/07/2008
An Bord um Fhaisnéis do Shaoránaigh	Citizens Information Board	07/07/2008
Oifig an Stiúrthóra um Fhorfheidhmiú Corparáideach	Office of the Director of Corporate Enforcement	14/07/2008
Údarás Áitiúla Chontae Chill Dara	Kildare Local Authorities	08/09/2008
Coiste Gairmoideachais Chontae Átha Cliath	County Dublin Vocational Education Committee	01/10/2008
Údarás Áitiúla Cheatharlach	Carlow Local Authorities	01/10/2008
Oifig an Ard-Reachtaire Cuntas & Ciste	Office of the Comptroller & Auditor General	19/01/2009
Coiste Gairmoideachais Chontae Chorcaí	County Cork Vocational Education Committee	01/02/2009
An Binse Comhionannais	The Equality Tribunal	01/02/2009
Gailearaí Náisiúnta na hÉireann	National Gallery of Ireland	01/03/2009
Bord Scannán na hÉireann	Irish Film Board	27/04/2009
An Garda Síochána	An Garda Síochána	21/05/2009
Údarás Áitiúla Chill Mhantáin	Wicklow Local Authorities	25/05/2009
An Oifig um Chlárú Cuideachtaí & Clárlann na gCara-Chumann	Companies Registration Office & Registry of Friendly Societies	26/05/2009
Coiste Gairmoideachais Chontae an Chláir	County Clare Vocational Education Committee	01/07/2009
Foras na Mara	Marine Institute	06/07/2009
Údarás Áitiúla Chontae an Chabháin	Cavan Local Authorities	20/07/2009
Comhairlí Contae & Cathrach Chill Chainnigh	Kilkenny County & City Councils	10/08/2009
Údarás Áitiúla Chontae Laoise	Laois Local Authorities	01/12/2009
An Roinn Sláinte & Leanaí	Department of Health & Children	15/12/2009
Coláiste na Tríonóide, Baile Átha Cliath	Trinity College Dublin	01/01/2010

Dréachtscéimeanna le daingniú / Draft Schemes to be confirmed

Dara Scéim / Second Scheme

Ainm an Chomhlachta Phoiblí	Name of Public Body	Dáta a d'Éag* Date Expired*	Tréimhse (míonna) ón Dáta Éaga / Period (months) from Date Expired
Oifig an Uachtaráin	Office of the President	27/04/2008	20
Oifig an Stiúrthóra Ionchúiseamh Poiblí	Office of the Director of Public Prosecutions	30/06/2008	18
Oifig an Ombudsman & Oifig an Choimisinéara Faisnéise	Office of the Ombudsman & Office of the Information Commissioner	30/06/2008	18
An Chomhairle Ealaíon	The Arts Council	30/06/2008	18
An tSeirbhís Chúirteanna	The Courts Service	30/08/2008	17
Údarás Áitiúla Chiarraí	Kerry Local Authorities	25/07/2008	17
Údarás Áitiúla Chontae Phort Láirge	Waterford County Local Authorities	31/07/2008	17
Ollscoil na hÉireann, Má Nuad	National University of Ireland, Maynooth	31/08/2008	16
Údarás Áitiúla Chontae na Gaillimhe	County Galway Local Authorities	22/08/2008	16
An tSeirbhís um Cheapacháin Phoiblí	Public Appointments Service	02/10/2008	15
Oifig na gCoimisinéirí Ioncaim	Office of the Revenue Commissioners	30/09/2008	15
Údarás Áitiúla Chontae Dhún na nGall	Donegal Local Authorities	30/09/2008	15
Ollscoil na hÉireann, Gaillimh	National University of Ireland, Galway	30/09/2008	15
Institiúid Teicneolaíochta na Gaillimhe-Maigh Eo	Galway-Mayo Institute of Technology	27/09/2008	15
An Roinn Oideachais & Eolaíochta	Department of Education & Science	30/11/2008	13
An Roinn Airgeadais	Department of Finance	31/01/2009	11
Ollscoil Chathair Bhaile Átha Cliath	Dublin City University	02/04/2009	9
Seirbhís Oideachais Chiarraí	Kerry Education Service	14/05/2009	8
An Roinn Talmhaíochta, Iascaigh & Bia	Department of Agriculture, Fisheries & Food	31/05/2009	7
An Roinn Dlí & Cirt, Comhionannais & Athchóirithe Dlí	Department of Justice, Equality & Law Reform	29/06/2009	6
Comhairle Cathrach Bhaile Átha Cliath	Dublin City Council	12/07/2009	6
Coiste Gairmoideachais Chontae na Gaillimhe	County Galway Vocational Education Committee	31/07/2009	5
Óglaigh na hÉireann	The Defence Forces	31/08/2009	4
Údarás Áitiúla Chontae na Mí	Meath Local Authorities	31/08/2009	4
Údarás Áitiúla Fhine Gall	Fingal Local Authorities	30/09/2009	3

An Roinn Cumarsáide, Fuinnimh & Acmhainní Nádirtha	Department of Communications, Energy & Natural Resources	01/10/2009	3
Banc Ceannais & Údarás Seirbhísí Airgeadais na hÉireann	Central Bank & Financial Services Authority of Ireland	30/11/2009	1
An Roinn Gnóthaí Eachtracha	Department of Foreign Affairs	30/11/2009	1
Ollscoil na hÉireann Corcaigh	University College Cork	30/11/2009	1
Comhairle Contae Bhaile Átha Cliath Theas	South Dublin County Council	19/12/2009	0
Údarás Áitiúla Mhaigh Eo	Mayo Local Authorities	21/12/2009	0
Comhairle Contae Liatroma	Leitrim County Council	31/12/2009	0
An Bord um Chúnamh Dlíthiúil	Legal Aid Board	-	0
Oifig an Ard-Aighne; Oifig na nDréachtóirí Parlaiminte don Rialtas; Oifig an Phríomh-Aturnae Stáit	Office of the Attorney General; Office of the Parliamentary Counsel to the Government; Chief State Solicitor's Office	-	0
Comhairle Contae Dhún Laoghaire-Ráth an Dúin	Dún Laoghaire-Rathdown County Council	-	0
An Bord Seirbhísí Ríomhaire Rialtais Áitiúil	Local Government Computer Services Board	-	0
An Roinn Cosanta	Department of Defence	-	0
Oifig an Choimisinéara Cosanta Sonraí	Office of the Data Protection Commissioner	-	0
An tÚdarás Clárúcháin Maoine	Property Registration Authority	-	0
An Foras Riaracháin	Institute of Public Administration	-	0
Coimisiún Forbartha an Iarthair	Western Development Commission	-	0
An Bord Seirbhísí Bainistíochta Rialtais Áitiúil	Local Government Management Services Board	-	0
An Roinn Iompair	Department of Transport	-	0
Coiste Gairmoideachais Chathair Chorcaí	Cork City Vocational Education Committee	-	0
Oifig na nOibreacha Poiblí	Office of Public Works	-	0
An Roinn Gnóthaí Sóisialacha & Teaghlaigh	Department of Social & Family Affairs	-	0
Coiste Gairmoideachais Chathair na Gaillimhe	Galway City Vocational Education Committee	-	0
Údarás Áitiúla Thiobraid Árann Thuaidh & Comhchoiste Leabharlann Chontae Thiobraid Árann	North Tipperary Local Authorities & County Tipperary Joint Libraries Committee	-	0

* Nuair a théann scéim “in éag” (fo-alt 15(1) d’Acht na dTeangacha Oifigiúla), fanann forálacha na scéime i bhfeidhm go dtí go ndaingnítear scéim nua (fo-alt 14(3) den Acht).

* When a scheme “expires” (subsection 15(1) of the Official Languages Act), the scheme’s provisions remain in force until a new scheme has been confirmed (subsection 14(3) of the Act).

Dréachtscéimeanna le daingniú / Draft Schemes to be confirmed

An Chéad Scéim / First Scheme

Ainm an Chomhlachta Phoiblí	Name of Public Body	Dáta an Fhógra / Date Notice Issued	Tréimhse ó Dháta an Fhógra (míonna) / Period Elapsed from Date of Notice (months)
Údarás Áitiúla Thiobraid Árann Theas	South Tipperary Local Authorities	30/07/2006	41
An Ceoláras Náisiúnta	National Concert Hall	21/09/2006	39
Amharclann na Mainistreach (An Chuideachta Amharclann Náisiúnta Teoranta)	Abbey Theatre (National Theatre Society Ltd.)	21/09/2006	39
An tÚdarás Comhionannais	Equality Authority	21/09/2006	39
Coimisiún na Scrúduithe Stáit	State Examinations Commission	21/09/2006	39
Institiúid Teicneolaíochta Thamhlachta	Institute of Technology, Tallaght	21/09/2006	39
Institiúid Teicneolaíochta Thrá Lí	Institute of Technology, Tralee	21/09/2006	39
Leabharlann Náisiúnta na hÉireann	National Library of Ireland	27/09/2006	39
Ard-Mhúsaem na hÉireann	National Museum of Ireland	27/09/2006	39
Suirbhéireacht Ordanáis Éireann	Ordnance Survey Ireland	27/09/2006	39
An Chomhairle Oidhreachta	Heritage Council	27/09/2006	39
Údarás Áitiúla Shligigh	Sligo Local Authorities	27/09/2006	39
Údarás Áitiúla Chontae Uíbh Fhailí	Offaly Local Authorities	10/06/2007	31
Údarás Áitiúla Loch Garman	Wexford Local Authorities	10/06/2007	31
Feidhmeannacht na Seirbhíse Sláinte	The Health Service Executive	10/06/2007	31
An Roinn Fiontair, Trádála & Fostaíochta	Department of Enterprise, Trade & Employment	10/02/2009	11
An Post	An Post	10/02/2009	11
Coláiste na hOllscoile, Baile Átha Cliath	University College Dublin	10/02/2009	11
Institiúid Teicneolaíochta Chorcaí	Institute of Technology, Cork	10/02/2009	11
Institiúid Teicneolaíochta Bhaile Átha Cliath	Institute of Technology, Dublin	10/02/2009	11
Oifig Thithe an Oireachtais	Office of the Houses of the Oireachtas	11/09/2009	4
Institiúid Teicneolaíochta Shligigh	Institute of Technology, Sligo	05/10/2009	3
Institiúid Teicneolaíochta Bhaile Átha Luain	Institute of Technology, Athlone	05/10/2009	3
Institiúid Teicneolaíochta Dhún Dealgan	Institute of Technology, Dundalk	05/10/2009	3
Institiúid Teicneolaíochta Phort Láirge	Institute of Technology, Waterford	05/10/2009	3
Coiste Gairmoideachais Chontae Chill Dara	County Kildare Vocational Education Committee	05/10/2009	3
Coiste Gairmoideachais Chontae Chill Mhantáin	County Wicklow Vocational Education Committee	05/10/2009	3
Coiste Gairmoideachais Chontae na Mí	County Meath Vocational Education Committee	05/10/2009	3
Coiste Gairmoideachais Chontae Mhaigh Eo	County Mayo Vocational Education Committee	05/10/2009	3
Raidió Teilifís Éireann	Raidió Teilifís Éireann	05/10/2009	3
An tÚdarás um Bóithre Náisiúnta	National Roads Authority	05/10/2009	3

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COMPLAINTS

There was a significant increase during 2009 in the number of new cases brought to my attention, 687 in total, in which members of the public considered they had reason to complain because of difficulties or problems associated with obtaining services through Irish from public bodies. This was the equivalent of an increase of over 15% in the number of complaints from 2008.

As happened in previous years, most of the complaints were resolved through the informal complaints resolution procedure operated by my Office or through providing advice to the complainants. Summaries of cases which were not resolved in this manner are provided in the next chapter of this report, entitled “Investigations”.

It should be noted that not all complaints received during the year referred to breaches of statutory obligations under the Official Languages Act 2003 and, as was the case in previous years, some related to more general difficulties and problems experienced by those attempting to conduct their business through Irish with state organisations.

Most of the issues which formed the basis of complaints (28%) related to the implementation of commitments given by public bodies under statutory language schemes agreed under section 11 of the Act. 18% of the complaints related to the use of Irish on public bodies’ signage and stationery, in accordance with the Regulations under subsection 9(1) of the Act.

There was a small increase in the percentage of complaints regarding problems with the use of Irish names and addresses, from 9% in 2008 to 10% in 2009. These concerned names and addresses which were spelled incorrectly in Irish, or spelled in English, or where computer systems could not handle the síneadh fada. There was a small decrease in complaints with regard to replies in English to correspondence in Irish, from 12% in 2008 to 9% in 2009. There were also a number of complaints with regard to leaflets or circulars in English only (8%) and with regard to the contravention of provisions of other enactments relating to the use or status of the Irish language (9%).

3% of the complaints related to the use of Irish on traffic signs. It should be mentioned that the use of Irish on traffic signs is not included in the Regulations under subsection 9(1) of the Official Languages Act. Other statutory provisions which are set out in the *Traffic Signs Manual* place obligations in relation to the use of Irish on traffic signs on the roads authorities.

It has now been clarified that my Office has the authority to deal with complaints in relation to the use of Irish on road signs under subsection 21(f) of the Act. This subsection deals with provisions of enactments which relates to the status or use of an official language. As a result of this, my Office provided a specific complaint form during the year to deal with complaints in this area.

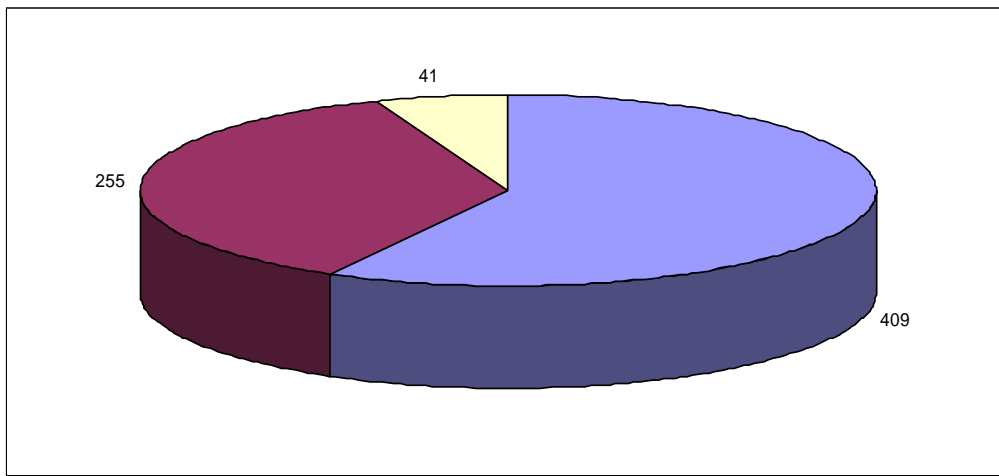
From a geographical perspective, the majority of the complaints came from County Dublin again this year, encompassing 38% of complaints. The second highest number of complaints came from County Galway, i.e. 16% of the complaints. 24% of the complaints came from Gaeltacht areas and 76% came from outside the Gaeltacht.

COMPLAINTS: PROBLEMS AND DIFFICULTIES – STATISTICS

Complaints in 2009

New complaints 2009	687
Complaints brought forward from 2008	18
Total complaints – problems and difficulties	705

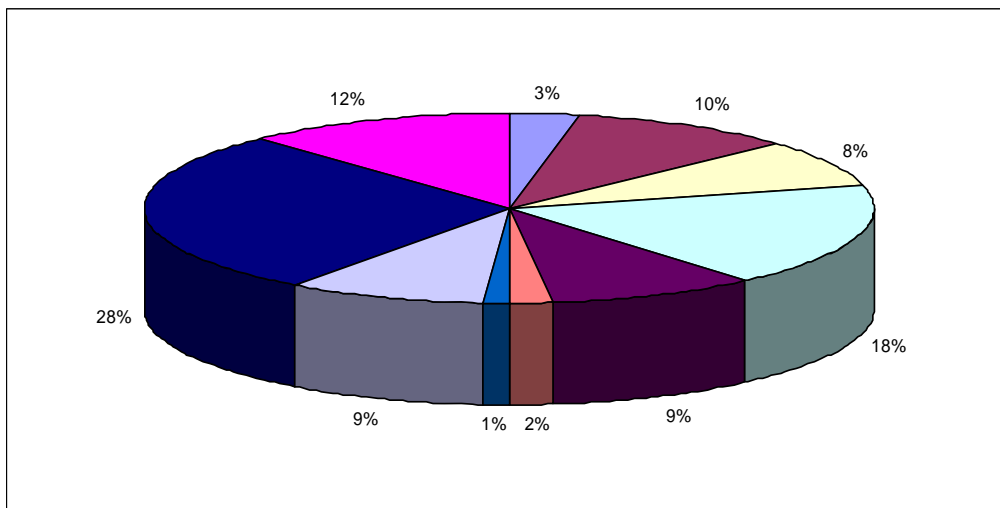
	2007	2008	2009
Advice provided in relation to complaints	282	329	409
Complaints examined and resolved	378	271	255
Complaints open at the year end	<u>22</u>	18	41



An analysis of the various cases is provided in the statistics and illustrations which follow:

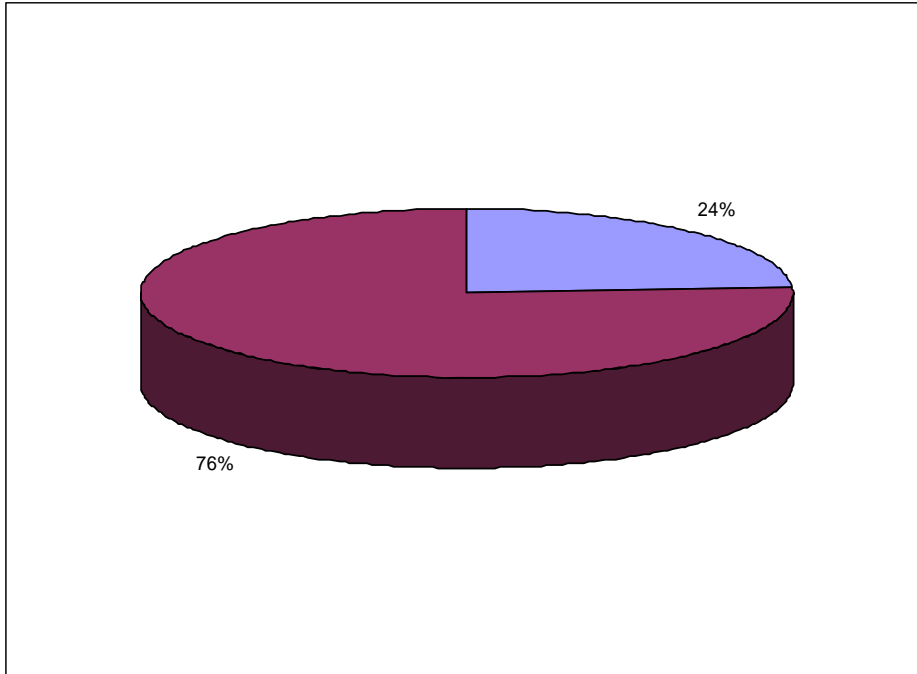
Percentage of complaints by type

	2007	2008	2009
Lack of Irish on road signs	13%	3%	3%
Problem with use of name and/or address in Irish	10%	9%	10%
Leaflets or circulars in English only	10%	10%	8%
Lack of Irish on signage & stationery	9%	18%	18%
Replies in English to correspondence in Irish	8%	12%	9%
Publications in English only	3%	4%	2%
Section 8 – The courts/Administration of justice	-	1%	1%
Other enactments relating to the use or status of Irish	-	4%	9%
Provision of a language scheme (including identity cards, websites and forms)	23%	26%	28%
Other (individual issues)	24%	13%	12%
TOTAL	100%	100%	100%



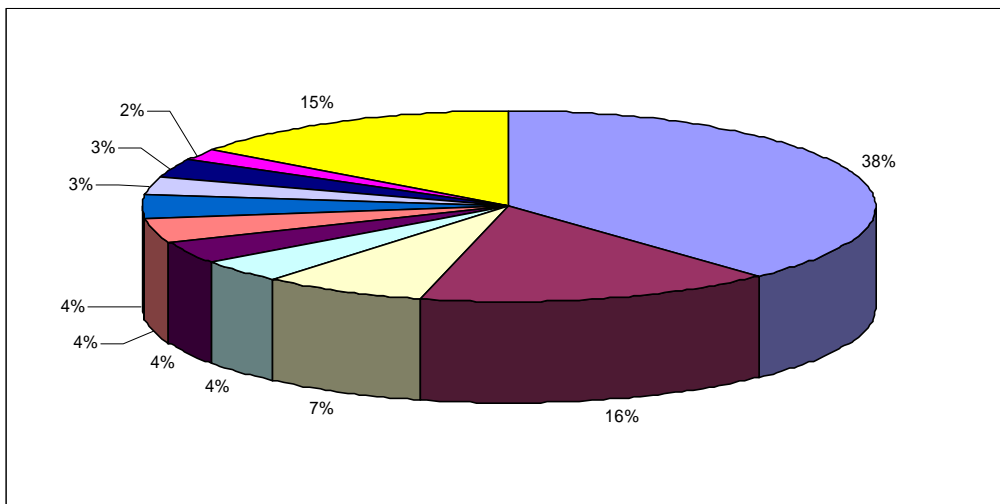
Complaints: Gaeltacht and non-Gaeltacht

	2007	2008	2009
An Ghaeltacht	40%	32%	24%
Non-Gaeltacht	60%	68%	76%
TOTAL	100%	100%	100%



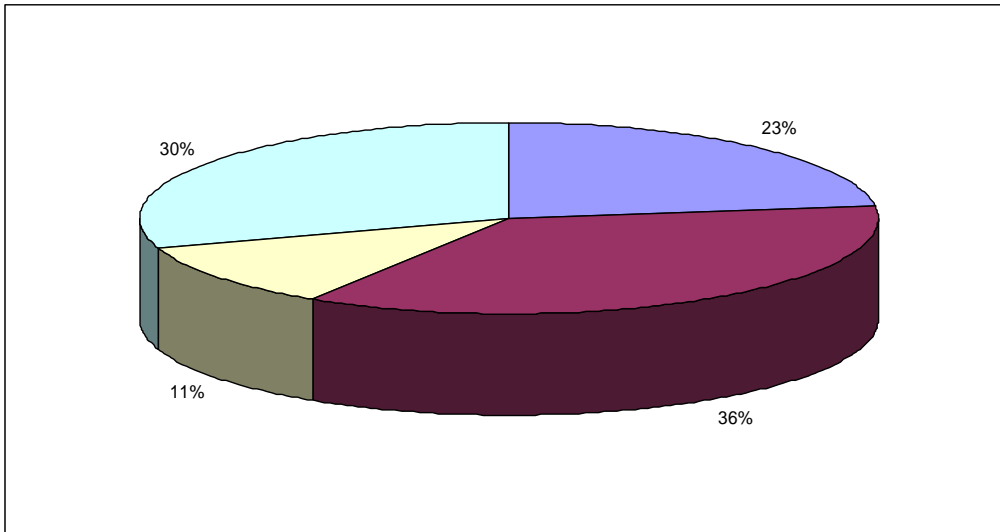
Complaints by county

	2007	2008	2009
Dublin	32%	38%	38%
Galway	24%	22%	16%
Clare	2%	-	7%
Kerry	12%	5%	4%
Donegal	6%	2%	4%
Leitrim	5%	6%	4%
Down	-	-	4%
Cork	2%	-	3%
Kildare	-	2%	3%
Meath	2%	4%	2%
Others	17%	15%	15%
TOTAL	100%	100%	100%



Complaints by type of public body

	2007	2008	2009
Government departments & offices	23%	26%	23%
Local authorities	27%	19%	36%
Health authorities	9%	7%	11%
Other state organisations	41%	48%	30%
TOTAL	100%	100%	100%



INVESTIGATIONS

An investigation is an official enquiry carried out on a formal statutory basis in accordance with the provisions of the Official Languages Act. As Coimisinéir Teanga, I have been given the relevant authority and powers under the Act to carry out investigations, not only in cases where I suspect that public bodies have failed to comply with their statutory obligations under the Act, but also under any other enactments which relate to the status or use of Irish.

An investigation may be conducted based on a complaint from an individual, on the request of the Minister for Community, Rural and Gaeltacht Affairs or on my own initiative.

The investigation process is a formal procedure, the completion of which may require a substantial amount of time and resources from both the public body concerned and my Office. As a result of this, efforts are usually made to resolve the complaint in the first instance through the informal complaints procedure operated by the Office.

Public bodies and individuals who are officials of public bodies have a statutory obligation to cooperate with the investigation and to provide me with information or records they may have which relate to the subject of the investigation. A written report on the matter is usually requested from the public body also. If I require any person to attend before me to provide information orally, such a person is entitled to the same immunities and privileges as a witness before the High Court.

The Act provides for a fine not exceeding €2,000 and/or imprisonment for a term not exceeding 6 months for a person convicted of failing or refusing to cooperate with an investigation or who hinders or obstructs such an investigation.

An investigation may be conducted in cases where it is alleged that a public body failed to comply with its statutory obligations in respect of:

- Direct provisions of the Act,
- Regulations made under the Act,
- A language scheme confirmed under the Act,
- Any provision of any other enactment relating to the status or use of Irish.

An “enactment” is defined as a statute or an instrument made under a power conferred by a statute.

I am statutorily obliged under the Act to issue a report to the relevant parties in cases where I have conducted an investigation. My decision on the complaint and the relevant recommendations are included in that report. An appeal can be made to the High Court on a point of law against the decision within a period of four weeks.

A total of 17 new investigations were launched in 2009. Two uncompleted investigations were carried forward from 2008. Consequently, there were 19 investigations in hand

during 2009 and one of those investigations had not been completed by the end of the year. Therefore, summaries are provided in this report of the 18 investigations.

Number of Investigations	2007	2008	2009
Brought forward from previous year	0	2	2
Investigations launched	<u>12</u>	<u>17</u>	<u>17</u>
Total in hand	12	19	19
Brought forward to next year	<u>2</u>	<u>2</u>	<u>1</u>
Total completed / discontinued	10	17	18

It should be clearly understood that these summaries of investigations are merely condensed accounts of the actual investigations, cases which were at times of a complex and technical nature and which were often based on legal and practical arguments. They are summaries of the official reports issued in accordance with Section 26 of the Act to the relevant parties in Irish as a result of the investigations.

It is in those official reports, and in those reports alone, that the authoritative accounts of investigations can be found.

SUMMARIES OF INVESTIGATIONS 2009

Galway County Council

An investigation found that Galway County Council had contravened statutory language obligations by assigning a council official without sufficient fluency in Irish to duty in a Gaeltacht area. The investigation also showed that a further breach occurred when, in the same case, a written reply in English was issued to communications in Irish.

The investigation arose out of a complaint about a parking incident in An Spidéal in Co. Galway on 16 November 2007 which went to the District Court. The Court dealt with the illegal parking issue and this was not relevant to the matter under investigation. The complaint was made to An Coimisinéir Teanga in January 2009, following the conclusion of the court case. The investigation involved the Irish language ability of the community warden who dealt with the complainant in regard to the parking incident and communication between the Council and the complainant about the parking incident. The community warden gave evidence in court that he dealt solely in English with the complainant.

An Coimisinéir Teanga found on completion of the investigation that the Council's language scheme had been contravened due to the fact that a community warden with insufficient Irish was assigned to duty in a Gaeltacht area. It should be mentioned that it was the Council, rather than the community warden, which was being investigated in this case.

The Council's position was that the community warden did not come within the parameters of the language scheme since no specific mention was made regarding the community warden service in the scheme. However, the investigation showed that the language commitment in the scheme related to *"any position relating to, dealing with or based in a Gaeltacht area"*.

The language scheme came into effect during the period between the establishment of the pilot scheme for community wardens and the Council's decision to advertise permanent positions as community wardens. Therefore, the Council said that it did not have a duty to adhere to the language scheme in this case since the language scheme did not exist when the pilot scheme was established for community wardens. Although this was true in the case of the pilot scheme, An Coimisinéir Teanga found that the Council had a duty to adhere to the language scheme when making appointments to the permanent positions as community wardens, irrespective of the temporary positions in place prior to then.

It was clear from the information provided to the investigation that Irish was not mentioned as a *"desirable"* ability even when the permanent positions were to be filled although that was a condition when the Council advertised the temporary positions for the pilot scheme. An Coimisinéir Teanga did not accept the Council's argument that it could not include a language condition for the permanent positions in case the unions would

oppose such a condition. An Coimisinéir Teanga said that the statutory language scheme had to be given primacy.

An Coimisinéir Teanga referred to the standard of Irish which was set down by the Council in its language scheme for positions in Gaeltacht areas as having “*a fluency/competency in Irish of sufficient standard that would enable the officer to deal and converse comfortably with a native/fluent Irish speaker.*”

It was clear to An Coimisinéir Teanga that the Council had not sought anyone with that standard in Irish during the recruitment process for the permanent positions. Even if it were necessary to appoint someone with little Irish to the position as a community warden in An Spidéal, the investigation showed that there was another commitment in the Council’s language scheme with regard to imposing an employment condition on such a person to learn Irish, another commitment which was not complied with by the Council.

As regards the role of the community warden, it was clear to the investigation that it was envisaged that the warden would be dealing directly with the community in which he/she was based and that the warden would be a link between the community and the Council by providing particular services to that community. It did not appear to An Coimisinéir Teanga that a community warden could satisfactorily fulfil the duties assigned to that role unless he/she could deal with the community in its native language – Irish in the case of a Gaeltacht community as in An Spidéal.

It should be mentioned that the Council initially withheld some documents from the investigation and that information was blacked out on other documents on the basis that it involved personal information relating to the applicants for the recruitment competition. An Coimisinéir Teanga did not accept that legal privilege or confidentiality existed in relation to any of these documents since they related to a statutory investigation. Ultimately, all documents were provided in their entirety to the investigation.

An Coimisinéir Teanga also decided that the Council had contravened the Official Languages Act when it sent two reminders in English to the complainant in this case regarding fixed charge notices as a reply to communication in Irish from her. Although the Council claimed that the automatic reminders issued in English were not specific replies to the communication in Irish, it confirmed that it was making arrangements to ensure that automatic reminders would be issued bilingually in future. An Coimisinéir Teanga welcomed this arrangement and explained that the provisions under the Act did not allow for automatic reminders in English as a response to written communication in Irish.

An Coimisinéir Teanga made a series of recommendations in which he requested that the Council apologise to the complainant and implement the appropriate measures as soon as possible to ensure that a person who was fluent in Irish would operate as a community warden in An Spidéal. It was also stated that the recommendations of the investigation should not be used to terminate or to limit community warden services in the Gaeltacht area referred to here. The Council accepted the recommendations.

Investigation launched: 18 February 2009

Report issued: 8 July 2009

Office of the Revenue Commissioners

An investigation showed that the Office of the Revenue Commissioners had contravened a provision of the Official Languages Act by failing to implement commitments in its language scheme with regard to the publication of 20% of press releases bilingually and with regard to providing a bilingual mirror website.

As a result of an audit by the Office of An Coimisinéir Teanga of the implementation of the language scheme, it emerged that particular commitments had not been implemented by the Office of the Revenue Commissioners.

The commitment given in the language scheme about press releases stated: “20% of all press releases will be produced bilingually.”

The Office of the Revenue Commissioners argued that no commitment had been given regarding the publication of press releases simultaneously in Irish and English. An Coimisinéir Teanga did not agree with this interpretation. Although the word “*simultaneous*” is not used in the commitment *per se*, An Coimisinéir Teanga said that text could not be “*bilingual*” unless it was done “*simultaneously*”.

It appeared to An Coimisinéir Teanga that the Office of the Revenue Commissioners had a particular *modus operandi* with regard to publishing the Irish version of press releases retrospectively. It was clear from the records supplied to the investigation that there was a delay of between four and nine months between the initial publication of press releases in English and the publication of press releases in Irish on the website of the Office of the Revenue Commissioners.

It was apparent to An Coimisinéir Teanga that this practice was unacceptable. Since the aim of the press release is to provide timely information to the media, it could be argued that it is a waste of money and resources to translate press releases retrospectively in bulk after a delay of up to nine months.

Not only did the Office of the Revenue Commissioners engage in a *modus operandi* of publishing press releases in Irish retrospectively, but the investigation showed that it decided to cease publishing press releases in Irish in this manner when it surpassed it had reached its quota of 20%. An Coimisinéir Teanga recommended to the Office of the Revenue Commissioners that it consider the commitment strategically and that it publish 20% of its pre-planned and most important press releases bilingually.

The commitment given in the language scheme about the website of the Office of the Revenue Commissioners stated: “*We will commission a further development of the website to offer a bilingual mirror site*”.

The Office of the Revenue Commissioners had interpreted this commitment to mean that it would “*commission*” the development of the website but that it was not necessary to have this implemented. It was clear to An Coimisinéir Teanga, however, that the

interpretation of this commitment was that a bilingual mirror version of the website would be available by the end of the scheme.

If the argument made by the Office of the Revenue Commissioners had been accepted, i.e. that “*commissioning*” in this instance only meant granting a commission to do particular work, An Coimisinéir Teanga said that there was no doubt that this would be an extremely limited commitment to give over a period of three years and that the public would see no results in terms of the development of services in Irish during that period.

An Coimisinéir Teanga made seven recommendations in the investigation to ensure that the Office of the Revenue Commissioners adhered to its statutory language duties in future regarding its website and regarding the publication of press releases, as provided in its language scheme.

Investigation launched: 7 April 2009

Report issued: 14 August 2009

National Museum of Ireland

An Coimisinéir Teanga made seven recommendations on the basis of his decision that the National Museum of Ireland had contravened statutory language duties under the National Cultural Institutions Act 1997 requiring that organisation having sufficient staff with competence in Irish to provide services in that language as well as in English.

It emerged during the investigation that competence in Irish was not listed as an essential requirement in the case of any of the 103 vacancies which were filled when the National Museum appointed additional staff since the legislation came into effect in May 2005. It was indicated that Irish was “*desirable*” in the case of 17 of the vacancies but no reference was made to ability in the language in the other 86 cases.

The National Museum of Ireland is among a limited number of public bodies for which the Oireachtas has confirmed specific statutory language provisions requiring it to have sufficient staff having competence in Irish to provide services in the two official languages of the State. As a result, An Coimisinéir Teanga said that the National Museum could not be considered in the same manner as other public bodies which did not have those statutory duties.

It was clear from the information provided to the investigation that the National Museum had not taken appropriate account of its language duties when recruiting new staff.

However, it was clear that the National Museum had provided a wide range of services in Irish and in English. The National Museum indicated to the investigation that it was dealing with the development of services through Irish as part of its draft language scheme which had still to be agreed at that time with the Department of Community, Rural and Gaeltacht Affairs.

An Coimisinéir Teanga said that it was a basic principle of law that no provision in a language scheme could mitigate, reduce or amend statutory provisions which had already been confirmed in an Act of the Oireachtas, in this instance under the National Cultural Institutions Act 1997.

The investigation arose as a result of a complaint from a member of the public regarding publicity material – a calendar of events for the National Museum – which was being published in English only.

An Coimisinéir Teanga said that he understood that the National Museum had to operate within the financial resources of its budget and within the recruitment limits which were in place in the current economic climate. Notwithstanding this, he said that there was no limit under the legislation indicating that it was “*in accordance with what is possible under the resources at our disposal*” (translation) that it would be considered what services the National Museum could provide in Irish and in English.

An Coimisinéir Teanga recommended that the National Museum prepare a strategy as soon as possible to ensure that it complied with the duties confirmed in subsections 30(1) and 11(2)(1) of the National Cultural Institutions Act 1997 regarding having sufficient staff with competence in Irish to provide services in Irish as well as in English. It was also recommended that the National Museum accept that it could be essential to appoint staff with Irish at every future recruitment opportunity until a sufficient number of staff with Irish had been appointed in order to fulfil the statutory language duties under the National Cultural Institutions Act 1997.

In the meantime, it was recommended that the National Museum prioritise an action plan to develop the provision of services in Irish by using its existing staff resources or by using contractors or agents on contract, if necessary, or in any other appropriate way.

Investigation launched: 26 January 2009

Report issued: 15 May 2009

Dublin City Council

An investigation showed that Dublin City Council had not contravened its statutory language duty with regard to new signs erected in English only indicating priority for public transport at College Green in Dublin city.

Two complaints were made to the Office of An Coimisinéir Teanga that the Council had erected electronic variable message signs in English only at College Green.

Statutory duties with regard to the use of Irish on new public signage came into effect on 1 March 2009 under Regulations made by the Minister for Community, Rural and Gaeltacht Affairs under subsection 9(1) of the Official Languages Act. There is a derogation from those duties for traffic signs made under the Road Traffic Act 1961. Different language duties apply to those traffic signs which come under the *Traffic Signs Manual*.

The Council did not accept that it had contravened any statutory language duty in this case since there was a derogation given to traffic signs under the Official Languages Act Regulations. In addition, the Council claimed that it had not contravened any statutory language duty under the *Traffic Signs Manual* either.

It appeared to the investigation from information published in the section of the Department of Transport's website relating to road safety that Chapter 8 of the *Traffic Signs Manual* had been amended or updated and that it was issued as a Direction under subsection 95(16) of the Road Traffic Act in November 2006.

The following provision was made in section 8.2.4.5 of the amended Manual with regard to the use of Irish on electronic signs with variable messages or variable message signs (VMS), as they are referred to:

“If a VMS is to be used to show text, each message should consist of either one or two phases, where the first sequence in the phase is in English and the second sequence is in Irish.”

However, it was clear that the Council was referring to another further updated version of the relevant chapter from the *Traffic Signs Manual*, a version which was not available during the investigation in that section of the Department of Transport's website relating to road safety. It appeared that this latest version was uploaded to that section of the Department of Transport's website relating to publications and that this occurred on Christmas Eve 2008.

The Council referred to the change which had been made there to the provision regarding the use of Irish on electronic signs with variable messages or variable message signs (VMS). This was the new section 8.2.4.5:

“If a VMS is to be used to show text, the message should consist of one or two phases – table 8.2.6 shows the minimum recommended text sizes.”

It was clear that the requirement regarding the use of Irish had been removed completely from the current new version of the Order. It appeared interesting to the investigation that a decision had been made by one government department (the Department of Transport) to restrict the use of Irish on particular traffic signage at the same time as another government department (the Department of Community, Rural and Gaeltacht Affairs) was bringing into effect new Regulations to extend the use of Irish on general signage used by public bodies.

An Coimisinéir Teanga said that it was clear that the making of Regulations or Orders under the Road Traffic Act 1961, including language provisions on traffic signs, was a matter for the Minister for Transport alone.

An Coimisinéir Teanga said that it was unclear and that it was not a matter for this investigation to consider why the language provision which had been in place since November 2006 was amended in December 2008. Nonetheless, An Coimisinéir Teanga said that a hint could be deduced from the communication from the City Council that it was a result of *“safety problems which may be caused by bilingual signs”* that language provisions of this nature might be considered for amendment.

An Coimisinéir Teanga said that no one would deny that road safety is of paramount importance and that priority should be given to safety matters. Nonetheless, he said that he was not aware of any case in which bilingual signage had been found to be the cause of an accident.

An Coimisinéir Teanga said that two official languages are used on electronic variable message signs (VMS) in other jurisdictions which have more than one official language, for example in Wales (confirmed by the Welsh Language Board) and in Canada (confirmed by the Office of the Commissioner of Official Languages, Ottawa).

Since the derogation under the Regulations under subsection 9(1) of the Official Languages Act applies to the particular signs in this case and since the Directions in place between November 2006 and December 2008 had been amended, this meant that no statutory language requirement existed. An Coimisinéir Teanga said that he was not in any doubt about the matter: Dublin City Council had not contravened its statutory language duties with regard to new signage erected in English only indicating priority for public transport at College Green in Dublin city.

Investigation launched: 25 August 2009

Report issued: 15 October 2009

Health Service Executive

An investigation showed that the Health Service Executive had contravened the Official Languages Act when communicating with the public with regard to the swine flu epidemic. A significant number of complaints were made to the Office of An Coimisinéir Teanga about this matter.

The Health Service Executive provided signs about swine flu to public bodies to erect at airports, at ports and in hospitals, among other places, and those signs were in English only. In addition, the Executive distributed an information booklet entitled *Influenza A(H1N1)* in English only in May 2009 to the public in general.

The Executive said that it had failed to distribute an Irish version of the information booklet as a result of a national public health emergency and that it thought there was a derogation in exceptional cases from the Official Languages Act. The Executive indicated that it regretted that an Irish version of the information booklet had not been issued and that it would make every effort to ensure that such a contravention would not occur again.

It was indicated that all the material had been translated to Irish and that it was available on the Executive's website since the investigation had been initiated. A copy of the information booklet in Irish was provided to the investigation.

An Coimisinéir Teanga made clear that it did not appear to him that anyone who was concerned about the protection and promotion of Irish would choose to put people's lives at risk for the sake of protecting language rights during a national public health emergency. Without life and health, languages do not exist.

The issue that arose in this investigation was whether there really was a conflict between the enormous health duties imposed on the Health Service Executive during an emergency and its duties with regard to language rights. Could proactive planning measures help to avoid language difficulties? Would a choice be made in other bilingual jurisdictions, where there was more than one official language, to provide important information to the public in general in only one of those languages?

In the case of the language choice of Gaeltacht communities, the investigation was aware of the results of a survey commissioned by the Health Service Executive itself from the company Ipsos Mori in October 2007 in the main Gaeltacht areas which showed that 84% of that community would choose to obtain health services in Irish if those services were available on equal terms and at the same standard as the corresponding services in English. The same research showed that 75% of that Gaeltacht community said that they could better discuss health matters through the medium of Irish than in English.

It appeared to An Coimisinéir Teanga that the communication in this case was distributed solely in English to the public in general as a result of an emergency and a misunderstanding of the provisions of the Act. It was clear, however, that the Executive

had sufficient time to design the information booklet in English and therefore, An Coimisinéir Teanga deemed that it had sufficient time to translate a booklet of 1,132 words into Irish. No material delay would have ensued.

With regard to the signs which were issued solely in English, the Executive said that it thought they were “*posters*” rather than signs and that therefore they didn’t come under the aegis of the Regulations under the Act regarding signage. An Coimisinéir Teanga considered that the “*posters*” in this case were operating as signs since it was clear that they were warning or information signs provided to give a clear message to the public about swine flu at airports, ports, hospitals and other places.

An Coimisinéir Teanga decided that it was too late at this stage to distribute the information booklet in Irish, but he recommended that an Irish version of the signage be provided to the appropriate authorities. However, he said that this approach could not be viewed as a precedent if similar infringements of the Official Languages Act were to happen again. He made a series of recommendations to ensure that the Health Service Executive adhered to its statutory language duties in future.

Investigation launched: 13 May 2009

Report issued: 11 June 2009

Department of Education and Science

An investigation showed that the Department of Education and Science had contravened a provision of the Official Languages Act by failing to implement commitments in its language scheme with regard to the following matters:

- (1) Newly appointed/assigned staff – to prioritise the allocation of staff with a competency in Irish to the administrative sections providing services to primary schools in the Gaeltacht and to all-Irish schools;
- (2) To increase the percentage of Irish material on its website to 30%;
- (3) To publish Irish versions of press releases that announce new schemes or policy changes;
- (4) To provide a dedicated telephone number for queries in Irish.

As part of the audit work conducted by the Office of An Coimisinéir Teanga to ensure that public bodies are complying with their statutory duties under the Official Languages Act, it emerged that there was some doubt about the proper implementation of the Department's language scheme in relation to the above commitments. It should be mentioned that the audit of the implementation of the Department's language scheme showed that it had succeeded in effectively implementing most of the scheme's commitments.

Although the Department indicated to the investigation that it had adopted an ambitious approach, in accordance with the spirit of the Act, when drafting its language scheme, it said that there were two factors which could have a detrimental effect on the implementation of the scheme, i.e. decentralisation and the *moratorium* on recruitment to the public service. The Department acknowledged that it had not succeeded in fully implementing the scheme's commitments for those reasons.

(1) With regard to the scheme's commitment in relation to newly appointed or assigned staff, the Department said that it had not succeeded in achieving this commitment because of staff changes associated with decentralisation. An Coimisinéir Teanga considered that no serious attempt had been made to fulfil this commitment and that the Department had no strategy or policy in place which would ensure a system that would take competence in Irish into account when assigning staff. An Coimisinéir Teanga said that this was a very important commitment since it stood to reason that staff with Irish should be available in sections providing services to primary schools in the Gaeltacht and to all-Irish schools, as provided for in the scheme.

(2) With regard to the scheme's commitment to increase the percentage of Irish material on its website to 30%, it was said that this target was not reached because of the significant increase in the amount of additional material in English which was put on the website. The huge number of school inspection reports (almost 3,000 published to date) which had been put on the website, mainly in English, was specifically mentioned. It was said that a limited number of them had been published in Irish.

Even if the school inspection reports had been omitted, something which had not been done in the language scheme's commitment, it was clear to An Coimisinéir Teanga that the Department had not succeeded in increasing the overall percentage of Irish language material on its website to 30%. The Department reported to the investigation that it had reached a percentage of 21.6%. An Coimisinéir Teanga said that this was a small improvement on the 18% which existed prior to the beginning of the scheme, an increase slightly in excess of 1% per annum. With that rate of development, it was clear that it would be a very long time before the Department would offer a completely bilingual website.

(3) With regard to the scheme's commitment to publish Irish versions of press releases that announce new schemes or policy changes, the Department said that it provided press releases in Irish on demand. An Coimisinéir Teanga said that the Department had no option except to correct this contravention immediately and to ensure that the Irish version of press releases announcing new schemes or policy changes should be issued to the appropriate media who operate through Irish at the same time as the English version is issued to the media who operate through that language.

(4) With regard to the scheme's commitment to provide a dedicated telephone number for queries in Irish, the Department said that it could not provide this service once the Communications Unit was dissolved in 2006 for business reasons. An Coimisinéir Teanga said that the arrangement which was put in place by the Department, i.e. that customers were offered a return call within one working day, was not at all the same thing as had been promised. An Coimisinéir Teanga said that the commitment to provide a dedicated telephone number for queries in Irish was to be in support of that service and not as an alternative to it.

An Coimisinéir Teanga said that the first point of contact by members of the public with the Department was frequently by phone and that in the case of this particular Department, it was certain that it had many stakeholders who wished to do their business with the Department through Irish. Therefore, An Coimisinéir Teanga perceived that this was one of the most important provisions in the Department's language scheme – that a service in Irish would be available by phone at the first point of contact and that in order for this to be so, it was necessary to provide the dedicated number for queries in Irish.

Since An Coimisinéir Teanga had decided that the aforementioned four commitments had been contravened by the Department, he made a series of recommendations to ensure that the Department would establish a high level group immediately to implement these commitments fully and comprehensively within the shortest possible timeframe.

Investigation launched: 3 June 2009

Report issued: 10 September 2009

Department of Foreign Affairs

An investigation showed that the Department of Foreign Affairs had contravened the Official Languages Act in publishing in English only the document entitled *White Paper – The Lisbon Treaty 2009*, which is a document setting out public policy proposals, at a time when the Irish version was not available simultaneously.

As a result of an inquiry made by the Office of An Coimisinéir Teanga, as part of monitoring duties to ensure that public bodies comply with their statutory duties under the Official Languages Act, it emerged that the Irish version of this public consultation document was not available when the document was published in English on 8 July 2009.

Under subsection 10(a) of the Act public bodies, including the Department of Foreign Affairs, have a duty to ensure that any document which sets out public policy proposals is published simultaneously in both official languages, i.e. in Irish and in English.

The investigation was given comprehensive information about the background which led to the publication of the White Paper. The Department's central argument was that it had insufficient time to provide an Irish version due to the urgency associated with the publication of the document.

The investigation was informed that the finishing touches were not put to the English text of the White Paper until 2 July and that it was sent to the printers the following day. It was stated that the English version was presented to the government on 7 July and that it was launched in Government Buildings on 8 July. It was indicated that the Department was “*under huge time pressures*” (translation) to provide copies of the White Paper to TDs and to Senators on the evening of 7 July since the legislation was to be discussed in the Houses of the Oireachtas on 8 and 9 July.

The investigation was informed that the Irish version of the White Paper was published on the website of the Lisbon Treaty on 23 July. It was stated that the print version of the Irish version of the White Paper was available on 30 July and that this was brought to public attention in the *Irish Independent* on 31 July.

It was indicated that the result of negotiations on the White Paper remained open until 19 June and that drafts were being exchanged between various government departments up to 2 July. It was stated that there were 12 chapters in the White Paper and that texts of the chapters were sent to the translator in stages.

Apart from the information provided about the publication of the White Paper, the Department said that it had sent a bilingual postcard to 1.9 million households at the beginning of July and that there was a wide range of material available in Irish on the website of the Lisbon Treaty www.lisbontreaty.ie. It was also indicated that the leaflet which was to be sent to each household in September had been translated and that a fluent Irish speaker was dealing with queries in Irish regarding the Lisbon Treaty.

An Coimisinéir Teanga made clear that this investigation only related to the White Paper and he praised the Department's good work in making other documentation relating to the Lisbon Treaty available bilingually.

It was clear to An Coimisinéir Teanga that the Department had contravened the Official Languages Act when it published the White Paper solely in English at the outset. Although he accepted that the timescale was very short, he said that such problems did not suffice as an excuse to rescind, reduce or amend statutory duties which had been confirmed in law by the Oireachtas.

It appeared to An Coimisinéir Teanga that the final version of the document was not available in print in Irish until 30 July, over three weeks after the official launch of the English version. It was clear to him that only the English version of the document was available at the time when most media attention and debate were focused on it after its launch. In light of this, he said that the Irish speaking community could not be considered to have obtained the same service to the same standard as that received by those for whom English is their official language of choice.

Since the second referendum on the Lisbon Treaty was to be held on 2 October, An Coimisinéir Teanga deemed that it was particularly important that the White Paper be published simultaneously in Irish and in English so that the Irish speaking community would not be disadvantaged while the arguments in favour of and against the Treaty were being discussed before the day of the referendum.

An Coimisinéir Teanga made a series of recommendations to the Department to ensure that such a contravention would not occur again.

Investigation launched: 16 July 2009

Report issued: 2 October 2009

Health Service Executive

An investigation showed that the Health Service Executive had not contravened the Official Languages Act in relation to a specific commitment in its Western Area language scheme. The investigation arose out of a complaint which a community development committee in the Galway Gaeltacht made during 2009 about a new system which was implemented by the Executive in 2008 in order to provide post-operative care for patients in County Galway.

The committee was of the opinion that an injustice was being done to Irish language speakers and to the Gaeltacht community since the committee thought that language circumstances were not taken into account by the Executive when it sought applications in 2008 from private nursing homes in County Galway for the post-operative service. It should be mentioned that the committee did not raise the issue with An Coimisinéir Teanga as a result of any specific complaint from a member of the public or from a patient who had suffered as a result of the Executive's decision.

It was clear to An Coimisinéir Teanga that there were particular provisions in the Executive's language scheme for the Western Area which imposed a duty on it to provide post-operative care through Irish and to take language circumstances into account when preparing new policies. The Executive strenuously denied that it had contravened the provisions of its language scheme.

As background information, the Executive indicated that it had begun some years ago to direct patients of University College Hospital Galway and Merlin Park Hospital in Galway to nursing homes in the community after they had completed their medical treatment, in order to release beds.

After the Executive had recently reviewed this policy, it was decided to instigate home care packages. As an explanation for the new system, the Executive said that the hospitals' budget had been reduced by 15 million Euro during the year and that as a result it was obliged to make reductions in its full range of services.

As a result, the Executive requested that all nursing homes which were registered in Galway city and county tender for approval as a service provider based on standard of care, geographical location and cost.

The Executive said that 5 nursing homes in total were selected as a result of the tender process. It confirmed that two of the nursing homes selected were based in the Gaeltacht, i.e. in Baile Chláir and in Maigh Cuilinn. It said that these two nursing homes were able to provide care to patients who speak Irish and that patients with Irish were attending these nursing homes.

Having investigated the matter, it appeared to An Coimisinéir Teanga that the Executive had not contravened its language scheme in this instance. It was clear that two out of the five homes chosen as a result of the tender process were located in official Gaeltacht

areas in accordance with the boundaries set down under the legislation. Detailed information was provided to the investigation on the numbers of staff in each of the two locations with fluency in Irish.

Although An Coimisinéir Teanga was aware that neither of these two locations (i.e. Baile Chláir and Maigh Cuilinn) were strong Gaeltacht areas, he said that he could not deny that they were currently official Gaeltacht areas and that it was not a matter for him to alter the Gaeltacht boundaries. An Coimisinéir Teanga said that he had to deal with the matter on a statutory basis and act accordingly.

Notwithstanding that fact, it was clear to An Coimisinéir Teanga that the Executive had not formally considered the issue of the Irish language or the Gaeltacht in any request it had made for tenders. Although the Executive said that the nursing homes located in Gaeltacht areas could provide care in Irish, it appeared to An Coimisinéir Teanga that this was as a result of a coincidence rather than as a result of a proactive policy undertaken by the Executive.

It was a matter of concern for An Coimisinéir Teanga that this was the case in light of the provisions of the Executive's language scheme which make clear that "*when new policies and initiatives are being formulated, the linguistic consequences will be assessed.*" An Coimisinéir Teanga said that it was important that the Executive would bear this in mind in a proactive manner in any tender process in future in order to ensure that it was adhering to the provisions of the scheme.

Investigation launched: 23 June 2009

Report issued: 25 September 2009

Office of the Information Commissioner

An investigation showed that the Office of the Information Commissioner had contravened a provision of the Official Languages Act by failing to appropriately implement one commitment in its language scheme with regard to the key decisions of the Information Commissioner being published on the Office's website simultaneously and bilingually.

As part of the monitoring function of the Office of An Coimisinéir Teanga, an audit was conducted of the implementation of the language scheme of the Office of the Ombudsman and the Office of the Information Commissioner. As a result of the audit process, an agreement was reached which ensured that practically all of the commitments in the language scheme were properly implemented apart from a commitment relating to the Information Commissioner's key decisions being published simultaneously in both official languages on the website.

It was confirmed to the Office of An Coimisinéir Teanga in September 2008 that no key decision had been published bilingually and simultaneously to date on the website. The Irish versions were being published retrospectively on the website.

It was indicated at a meeting in August 2009 that the Office of the Information Commissioner had decided to discontinue publishing any Irish version of key decisions from 1 June 2009. At that stage An Coimisinéir Teanga decided to launch an investigation.

For the avoidance of doubt, it should be noted that this investigation only related to one commitment of the language scheme and that no aspersions were being cast by this investigation on the general commitment of the Office of the Information Commissioner (or, indeed, the Office of the Ombudsman) to the provision of services in Irish or to other commitments of the scheme.

Of the key decisions published on the website from January 2006 onwards, it appeared that 14 (out of 32) did not have an Irish version published by 1 September 2008. This indicated that in certain cases, there could be a delay of a year or two with the Irish versions or that they may not have been provided at all in Irish by that date.

The Office of the Information Commissioner said that it was a technical contravention as opposed to a substantive contravention of the language scheme. It clearly indicated that the contravention did not occur as a result of error or negligence. It was stated that a decision was taken to discontinue publishing the decisions bilingually having fully considered the circumstances and having come to the understanding that the commitment given was too ambitious.

It was clear to An Coimisinéir Teanga that the commitment in the scheme was not adhered to fully and properly at any stage during the scheme. He said that there was no statutory basis for the new approach which the Office of the Information Commissioner

adopted from 1 June 2009 in deciding not to publish the Irish version of any key decision on its website.

With regard to the reference made to section 16 of the Act which provides for the amendment of schemes as a result of particular circumstances, An Coimisinéir Teanga said that the confirmation of any amendment of that nature was primarily a matter for the Minister for Community, Rural and Gaeltacht Affairs. An Coimisinéir Teanga made clear that a public body could not decide of its own volition to amend any provision of a language scheme and that he did not have the authority either to amend a language scheme.

The investigation was given a comprehensive insight into the difficulties faced by the Office of the Information Commissioner in implementing this commitment in the scheme, including translation difficulties, technical difficulties, staff time and resources. A reference was made to the lack of demand from the public.

It appeared to An Coimisinéir Teanga that these arguments were not sufficient to amend a statutory provision. He said that it would be equivalent to assuming new powers as An Coimisinéir Teanga, which were not intended by the Oireachtas, if he were to sanction an amendment or to disregard the requirement to comply with the obligation involved. He said that it would create a precedent which could not be defended.

As regards the issue of demand, An Coimisinéir Teanga said that it was difficult to develop the demand for services in Irish or to accurately assess that demand if those services were not available simultaneously and to the same standard as services in English.

It did not appear to An Coimisinéir Teanga that this was a technical contravention. It appeared to him that a technical contravention was synonymous with an unimportant contravention or one of little substance. An Coimisinéir Teanga said that this was an ongoing contravention since the beginning of the scheme and that a conscious decision had been taken at a later stage to withdraw entirely from the provision.

The Office of the Information Commissioner had argued that there was a long delay in agreeing its second draft scheme with the Department of Community, Rural and Gaeltacht Affairs. An Coimisinéir Teanga said that he was on the record regarding his concern about the delay associated with the agreement of second schemes. Nonetheless, he said that he was not aware that a commitment given in a first language scheme had ever been rescinded through agreeing a second scheme.

The Office of the Information Commissioner had recommended to An Coimisinéir Teanga that he adopt a reasonable approach to this investigation rather than a strictly legal one. An Coimisinéir Teanga said that his Office was operating as a compliance agency in this case. He said that there was no question of a penalty; rather that he had to make findings and recommend reasonable actions to ensure that the Office of the

Information Commissioner complied with the commitment in its language scheme in future.

The investigation's finding was not appealed and the Office of the Information Commissioner confirmed that the recommendations of the investigation would be implemented.

Investigation launched: 12 August 2009

Report issued: 5 November 2009

The Arts Council

An Coimisinéir Teanga decided as a result of an investigation that the Arts Council was in contravention of two different statutory provisions regarding the use of Irish when issuing press releases.

One provision involved the Official Languages Act 2003 and the other provision involved the Arts Act 2003.

This investigation related only to the issuing of press releases and did not cast doubt on the general commitment of the Arts Council to providing services in Irish.

There was a commitment given in the Arts Council language scheme that it was “committed to issuing all press releases in Irish and English.” In addition, the Arts Council has a duty under subsection 29(5) of the Arts Act 2003 to ensure that such and such number of members of staff of the Arts Council are sufficiently fluent in both the Irish language and the English language as will enable the Council to perform its functions through the medium of either such language.

It emerged from an audit by the Office of An Coimisinéir Teanga of the implementation of the commitments given in the Arts Council’s language scheme that it was unclear whether press releases were being issued in the same manner in Irish and in English. It appeared that press releases were mainly being issued in English and being published at a later date in Irish on the Arts Council’s website.

The Arts Council claimed that there was no commitment in its language scheme to issue press releases in the two official languages simultaneously. “That would be an entirely different commitment, one which we did not make,” (translation) it said.

It was also denied that subsection 29(5) of the Arts Act was being contravened and it was stated that many of the Arts Council’s permanent staff had good Irish.

If the Arts Council had sufficient staff to fulfil its functions in Irish, it was not clear to An Coimisinéir Teanga why the communications service relating to the issuing of press releases, which is provided in pursuance of and by virtue of its functions, was not being offered equally and simultaneously in Irish and in English.

An Coimisinéir Teanga said that it was clear that there was a particular language duty confirmed in the relevant provision of the Arts Act (subsection 29(5)) and that it was clear that this was a central duty as opposed to a marginal or insignificant duty.

Regarding the commitment given in the Arts Council’s language scheme about issuing press releases, An Coimisinéir Teanga said that the terms “publish” and “issue” were not synonymous and that it was not sufficient to publish the Irish version on the website in order to fulfil the commitment given in this section of the language scheme if, for example, the English version was being issued to the media.

In addition, although the term “*simultaneously*” had not been specifically mentioned in the language scheme’s commitment, An Coimisinéir Teanga found that it was implied by the context. He said that there was no distinction made regarding the time or the manner in which the two versions of the press release were to be issued nor was the commitment qualified in any other way.

An Coimisinéir Teanga decided that it was insufficient to issue press releases in one language in the first instance and to publish them in the other language on a website three days later on average or, indeed, at any later date.

An Coimisinéir Teanga considered that the Arts Council had a double duty regarding this matter under its language scheme and under the Arts Act. He said that there was no conflict between the two statutory duties and that one supported the other.

As a result of the investigation, An Coimisinéir Teanga made six recommendations to ensure that the Arts Council complied with its statutory language duties in future on this specific matter.

Investigation launched: 31 December 2008

Report issued: 5 June 2009

Department of Education and Science

An investigation showed that the Department of Education and Science had contravened the Official Languages Act with regard to responding to communication in the same official language in the case of a reply issued to the chairperson of a board of management of an Irish medium school.

The investigation arose out of a complaint made to the Office of An Coimisinéir Teanga in July 2009 because the Department had issued an acknowledgement in English in reply to a letter in Irish to the Minister for Education and Science.

Prior to this, it appeared that the complainant had sent a bilingual letter four times to the Department between March and May without receiving any reply. As a result, the complainant decided to send a letter in Irish to the Minister for Education and Science in which he specifically requested a reply in Irish from the Minister. He received an acknowledgement in English only from the Minister in June.

Subsection 9(2) of the Official Languages Act imposes a duty on public bodies, including the Department of Education and Science, to ensure that any communication in writing with the public body in Irish is replied to in Irish.

Since a similar issue had been informally raised by the Office of An Coimisinéir Teanga in other instances with the Department, An Coimisinéir Teanga decided that it was necessary to conduct a formal investigation in this case. His decision was informed by the fact that this was not the first time that infringements of this subsection of the Act had been admitted by the Department as part of the informal dispute resolution process used by the Office of An Coimisinéir Teanga.

The Department accepted without reservation that it had contravened the Act in this case with regard to the issuing of an acknowledgement in English to a letter in Irish to the Minister. As background information, the Department indicated that it appeared that there was some confusion since some of the correspondence from the complainant was bilingual and therefore it issued an acknowledgement in English in error. The Department agreed that it should have issued an acknowledgement in Irish in this case.

The Department provided information to the investigation about the procedures used by the Office of the Minister for Education and Science to deal with correspondence in both official languages and said that it had carried out a review of these procedures to ensure that this error would not occur again. It was also stated that it had issued an office notice about the reviewed procedures to all relevant staff.

Since this legislative provision of the Act has been in place for almost five years, An Coimisinéir Teanga said that one would expect that the duty associated with it would be well embedded at this stage in the custom and practice of staff of public bodies including the Department of Education and Science.

An Coimisinéir Teanga said that this was not the first time that an issue had arisen in relation to the awareness of various Departmental staff about the duty to reply to written communication in Irish in that same language. He made a series of recommendations to the Department in the expectation that, as a result of the implementation of the recommendations, information about this statutory duty would become embedded in the work practices of all staff and further complaints about the contravention of this provision by Departmental staff would be reduced or eliminated.

Investigation launched: 7 August 2009

Report issued: 15 September 2009

State Examinations Commission

An investigation showed that the State Examinations Commission had not contravened a provision of the Education Act 1998 with regard to ensuring that examiners and advising examiners of the state examinations chosen to mark papers answered in Irish were competent in that language.

The investigation arose out of a complaint involving a second level student who was compelled to appeal the rechecking of a Leaving Certificate paper which was answered through Irish and his concern that the Irish language competence of the examiner who was marking the paper could have led to the problems which had arisen.

The investigation related to a provision involving the status or use of an official language, i.e. subsection 7(2)(d) of the Education Act, which states that it is a function of the Minister for Education and Science “*to provide support services through Irish to recognised schools...*”.

The position of the State Examinations Commission was that An Coimisinéir Teanga did not have the jurisdiction to conduct this investigation. The Commission said that the state examinations were a support service for students rather than for schools. However, An Coimisinéir Teanga found that he did have the jurisdiction to conduct the investigation since no definition had been given or no limit set regarding state examinations under the Education Act which would show that they were support services for students only. An Coimisinéir Teanga said that the state examinations were very important support services for the entire education system of the country and that it was not possible to consider that schools are not an integral part of that system.

Regarding the substance of the investigation, comprehensive information was provided regarding the process which the State Examinations Commission had in place to protect the integrity of the examinations. The Commission acknowledged that no examination system could be infallible because it was being implemented and administered by people and that people were fallible. Nonetheless, the Commission indicated that a reasonably appropriate system was in place to mark the state examinations and that it was satisfied that examiners appointed had sufficient competence in the appropriate language.

The Commission explained to the investigation the procedures in place to improve the reliability of its work and to reduce errors. The Commission confirmed that an appeal system was in place through which students could view their scripts and request that another examiner and advising examiner remark the script. It was also stated that that result could be appealed to the Independent Appeals Board.

In light of the information given to the investigation, An Coimisinéir Teanga said that the State Examinations Commission had an appropriate system in place to ensure that examiners and advising examiners of the state examinations chosen to mark papers answered in Irish were competent in that language. An Coimisinéir Teanga said that the appeal statistics from 2008 were a clear indication that there was an appropriate system in

place to ensure that scripts in Irish were marked in a fair manner and that that system was functioning as well as could be expected.

Although the State Examinations Commission admitted to the investigation that the Irish language competence of examiners was ascertained by self-assessment rather than by formal testing when they were first appointed, it was indicated that this self-assessment system was in accordance with international practice. Although An Coimisinéir Teanga said that it would be preferable to formally test the Irish language competence of examiners, he accepted that there was no evidence to demonstrate that this would lead to any change in the results of papers answered in Irish.

Investigation launched: 2 March 2009

Report issued: 23 October 2009

Health Service Executive

An investigation showed that the Health Service Executive had contravened a provision of the Official Languages Act regarding particular commitments of its Western Area language scheme. The commitments which were infringed included provisions regarding bilingual versions of forms, commitments regarding recruitment and placements in Gaeltacht areas, patient care being available in hospitals in the language choice of the patient and a dedicated administrative unit with staff who were fluent in Irish being established in the Galway Gaeltacht.

As a result of an audit of the implementation of the language scheme by the Office of An Coimisinéir Teanga, it emerged that particular commitments had not been implemented by the Health Service Executive, Western Area.

The Executive accepted that it had contravened the language scheme. It indicated that this had occurred because the Western Health Board had agreed the language scheme for the Western Area and that the situation had regressed when all the health boards were amalgamated under the Executive. It stated that it was very difficult to impress on the new organisation that the commitments given in the scheme had implications for the whole organisation.

The investigation was informed that many of the projects which had not been achieved were national initiatives and as a result, there was a delay in their implementation. It was also mentioned that the country's economic crisis would impact on the implementation of the language scheme in the future. An Coimisinéir Teanga said that none or even all of those reasons sufficed as an excuse to amend, mitigate, delay or put an end to commitments which had been statutorily confirmed.

The Executive offered to have those commitments which had not been implemented included in the new national language scheme which was being devised for the public body. An Coimisinéir Teanga refused to accept this proposal since there is no statutory basis by which commitments given in a language scheme may be postponed to the next scheme.

It was clear to An Coimisinéir Teanga that the Executive had never accepted responsibility for the scheme despite the statutory duty it had to implement the scheme. The huge body of internal administrative documentation which was provided to the investigation showed that the scheme had not been publicised. This was of major concern to An Coimisinéir Teanga. He said that it was not clear that the Executive had made any attempt to actively inform the public about the provisions of the scheme and that it was difficult to understand how one could consider that a scheme of this nature would succeed when the public which was to benefit from it had not been informed of its existence.

It was clear to An Coimisinéir Teanga that there had been problems from the outset with the implementation of the scheme and that the new organisation, the Health Service

Executive, had not accepted responsibility for, or ownership of, the scheme from the beginning, despite its statutory duty to do so. It appeared that the centralisation of powers in the Health Service Executive created significant difficulties for the implementation of the scheme.

Even when attention was drawn to particular cases through complaints, other investigations, an audit and a report by the Office of An Coimisinéir Teanga of the first year of implementation of the scheme, An Coimisinéir Teanga said that the Executive had failed to properly implement the scheme. It was not clear to him that the Executive had ever approached the initiative with the diligence and zeal required to fully implement the scheme.

An Coimisinéir Teanga decided that the scheme had to be implemented in full and he recommended that a high level group be established by the Executive with the appropriate powers, authority and resources to ensure the full implementation of the scheme within the shortest possible timeframe and within 6 months from the date of this investigation's report at the latest.

Investigation launched: 17 December 2008

Report issued: 9 March 2009

Fingal County Council

An investigation showed that Fingal County Council had contravened the Official Languages Act by distributing an information booklet entitled *Your Fingal – The Future is in Your Hands* to people in the Council’s administrative area in English only. The investigation arose out of a complaint from a member of the public about the distribution of the booklet which related to Fingal’s Development Plan 2011-2017.

The Council indicated to the investigation that the question of the legislation had been raised before the booklet was distributed but that the matter was considered in respect of section 10 of the Act which concerns the publication of designated documents simultaneously in both official languages. The investigation showed that the Council was correct in that section 10 is not relevant here since this particular booklet is not specified among the documents listed under section 10 of the Act. It was clear to the investigation, however, that the Council failed to consider subsection 9(3) of the Act which concerns the issuing of mail shots in Irish only or bilingually.

The Council accepted that it had made a error in overlooking subsection 9(3) of the Act. The Council indicated that it was taking particular measures to ensure that this would not occur again. These measures included appointing a translation coordinator in each Council section and providing an internal booklet about language duties to those coordinators. In addition, information about the Council’s duties under the Act had been provided on the Council’s intranet system along with details of translation companies listed on the Council’s panel.

An Coimisinéir Teanga considered that the booklet was circulated in English only as a result of human error and a misunderstanding of the provisions of the Act. An Coimisinéir Teanga was willing to accept the recommendations of the Council which were forwarded to the investigation to ensure that such contraventions of the Act would not occur again.

Considering all the circumstances of the case, it was clear to An Coimisinéir Teanga that it was too late and that it would not benefit the public or the state system at this stage to distribute an Irish version of the booklet to the class of the public in general in order to remedy or reduce the damage caused by the contravention of statutory duties. However, he indicated that this approach could not be viewed as a precedent should a similar infringement of the provision in subsection 9(3) of the Act occur again.

Investigation launched: 15 May 2009

Report issued: 10 June 2009

Health Service Executive

An investigation showed that the Health Service Executive had contravened the Official Languages Act when it distributed information about mumps in English only in April 2009. The information was distributed to every second level student from Transition Year to Leaving Certificate and to their parents/guardians to provide information about mumps.

Subsection 9(3) of the Official Languages Act places a duty on public bodies, including the Health Service Executive, to ensure that any communication in writing or by email with the public in general or with a class of the public in general is done in Irish or bilingually if the communication is to provide information to the public or to a class of the public.

Since the largest epidemic of mumps in the country since 1988 had broken out, the Executive decided to organise an emergency campaign of MMR Vaccination for 132,000 students in 735 second level schools.

The Executive said that it had contravened the Official Languages Act as a result of time pressure. However, even with this time pressure, the Executive confirmed that it had succeeded in providing an Irish version of the most important material on the website www.mumps.ie and that it had sent the material electronically to the Local Health Officers before the campaign began dealing with the students. It was indicated that the Local Health Officers printed the Irish version of the material as the necessity arose.

The Executive said that it regretted that the Official Languages Act had been contravened and that it would make every effort in future to ensure compliance with its provisions with regard to providing information in both Irish and English.

An Coimisinéir Teanga said that there was no doubt about the vital responsibility of the Executive in urgently implementing the MMR Vaccination campaign in order to control the mumps epidemic.

The issue that arose in the investigation was whether there really was a conflict between the important national duties regarding public health imposed on the Executive during an emergency and its duties regarding language rights. An Coimisinéir Teanga considered that the Executive had three weeks preparation time to take the language factors into consideration along with the other aspects of the communication campaign.

An Coimisinéir Teanga said that it was accepted that advance planning was necessary in order to deal with the challenges associated with an epidemic of this kind. It was clear to him that the same preparation should be made in order to deal with the language factors associated with a communication or information campaign of this kind.

An Coimisinéir Teanga did not accept the Executive's opinion that there is a derogation from the Official Languages Act in exceptional circumstances since no such exemption was confirmed by the Oireachtas under subsection 9(3) of the Act.

An Coimisinéir Teanga said that it was too late and that it would not benefit the public or the state system to distribute the information in Irish at this stage. However, since he had initiated another investigation regarding the distribution of information by the Executive in another case, he said it could not continue to disregard the Official Languages Act.

An Coimisinéir Teanga indicated that the Health Service Executive had to prohibit sections of the Executive from disregarding statutory language duties during communication campaigns to provide information in writing to the public in general or to a class of the public in general.

If a similar contravention of the Official Languages Act occurred again, it was stated that the Executive should accept this investigation as an advance warning that An Coimisinéir Teanga would have no option except to take far more drastic measures. It was indicated that there was no point in continuing to conduct investigations if specific actions were not taken as a result of them.

Investigation launched: 21 May 2009

Report issued: 1 July 2009

Iarnród Éireann

An investigation found that Iarnród Éireann had contravened the Official Languages Act in a case in which it distributed an information leaflet in English only in June 2009 to a class of the public in general with regard to a public meeting which it was organising in Inchicore in Dublin that month. The investigation arose as a result of a complaint from a member of the public.

Under subsection 9(3) of the Act public bodies, including Iarnród Éireann, have a duty to ensure that any communication in writing or by electronic mail with the public in general or with a class of the public in general is provided in Irish or bilingually, if the purpose of that communication is to provide information to the public or to a class of the public.

Iarnród Éireann accepted unreservedly that it had contravened the Act in this case. It explained that the contravention occurred because it thought “*that there was ambiguity in the guidelines for information leaflets of that type and in the bilingual requirements, and it was not clear that the leaflet should be bilingual.*” (translation)

An Coimisinéir Teanga said that the onus lies solely with public bodies to ensure that they are informed and up to date with their statutory legal duties. If Iarnród Éireann was of the opinion that the guidelines were ambiguous, An Coimisinéir Teanga said that it only had to seek clarification about the matter before the leaflet was distributed. He also said that the entire investigation could have been avoided and the matter dealt with informally if Iarnród Éireann had indicated its position in writing during the informal dispute resolution process, something which it had done verbally.

Investigation launched: 2 September 2009

Report issued: 23 October 2009

Office of the Revenue Commissioners

Investigation discontinued

An Coimisinéir Teanga decided to discontinue an investigation in a case relating to the Office of the Revenue Commissioners when specific assurances were given to ensure that the language duty which was a cause for concern in this investigation would be appropriately implemented by that public body.

The investigation related to an information booklet of the Office of the Revenue Commissioners which was sent to the public in general in the same envelope as the tax certificate which was issued after the budget.

Under subsection 9(3) of the Official Languages Act, public bodies have a duty to ensure that mail shots issued to the public in general are in Irish or bilingual.

An Coimisinéir Teanga decided to discontinue the investigation when the Office of the Revenue Commissioners confirmed in writing that its approach to this matter would be as follows in future:

- That any leaflets and/or information booklets issued in bulk to its PAYE customers would be in bilingual form or in Irish in accordance with subsection 9(3) of the Act.
- Where personal written communication (e.g. certificate of tax credits) is sent to customers, that any correspondence of that kind would be in Irish where the customer had indicated that he/she would like to be dealt with in Irish, and that it would be in English where no such indication had been made by the customer.
- Where personal written information and general PAYE information are issued together, that the personal information would be in Irish where the customer had indicated that he/she would like to be dealt with in Irish, or in English where no such indication had been made by the customer, and that the general information would be bilingual or in Irish.

Since this confirmation resolved the matter under investigation, An Coimisinéir Teanga decided to discontinue the investigation. He indicated that he appreciated the cooperation of the Office of the Revenue Commissioners in achieving this outcome and he recognised that Office's assurance that it would adhere to the duty confirmed in subsection 9(3) of the Act in future.

Investigation launched: 24 February 2009

Investigation discontinued: 30 June 2009

Department of Justice, Equality and Law Reform

Investigation discontinued

An Coimisinéir Teanga decided to discontinue an investigation in a case involving the Department of Justice, Equality and Law Reform when a specific assurance was given to ensure that the language duty which was a cause for concern in the investigation would be appropriately implemented by that public body.

The investigation related to the implementation of a commitment in the Department's language scheme regarding the publication of the Department's *Freedom of Information Manuals (Sections 15 & 16)* in Irish and English by the end of year 2 of the scheme.

As part of the audit work of the Office of An Coimisinéir Teanga to ensure that public bodies are fulfilling their statutory language duties, it emerged that there was some doubt about the proper implementation of the Department's language scheme with regard to the *Freedom of Information Manuals*. It should be mentioned that the audit conducted by the Office of An Coimisinéir Teanga of the implementation of the Department's language scheme showed that the implementation of the other commitments in the scheme was not in doubt.

An Coimisinéir Teanga decided to discontinue the investigation when the Department confirmed in writing that its approach to this matter would in future be as follows:

"The Department of Justice, Equality and Law Reform will publish the next edition of the Department's Freedom of Information Manual (Sections 15 & 16) in Irish and English simultaneously.

Those manuals will be published by the end of 2010 at the latest."(translation)

Since this confirmation resolved the matter under investigation, An Coimisinéir Teanga decided to discontinue the investigation. He indicated that he appreciated the cooperation of the Department in achieving this outcome and he recognised the Department's assurance that it would adhere to the duty confirmed in its statutory language scheme in future.

Investigation launched: 4 September 2009

Investigation discontinued: 23 October 2009

FINANCIAL MATTERS

A budget of €60,000 was provided for the Office for the year 2009 but only €64,438 of that money was drawn down. This happened because of staff vacancies and because savings were made in relation to advertising and other expenses in line with state policy during the year.

The accounts of the Office for 2009 have been prepared for audit by the Comptroller and Auditor General in accordance with subsection 8(2) of the Second Schedule of the Official Languages Act 2003.

As soon as possible after the audit, a copy of those accounts, or of such extracts from those accounts as the Minister for Community, Rural and Gaeltacht Affairs may specify, shall be presented to the Minister together with the report of the Comptroller and Auditor General on the accounts.

Copies of those documents shall be laid before the Houses of the Oireachtas. They will also be published on this Office's website.

STAFF

An Coimisinéir Teanga – Seán Ó Cuirreáin
Director – Máire Killoran
Communications Manager – Damhnait Uí Mhaoldúin
Investigations Manager – Órla de Búrca
Compliance Manager – Colm Ó Coisdealbha
Office Administrator – Éamonn Ó Bróithe
Executive Officer – vacancy
Clerical Officer – Deirdre Nic Dhonncha
Clerical Officer – vacancy

CONTACT DETAILS

Contact can be made with this Office by post, fax, email or telephone, at the cost of a local call, as follows:

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The Irish language version is the original text of this report.