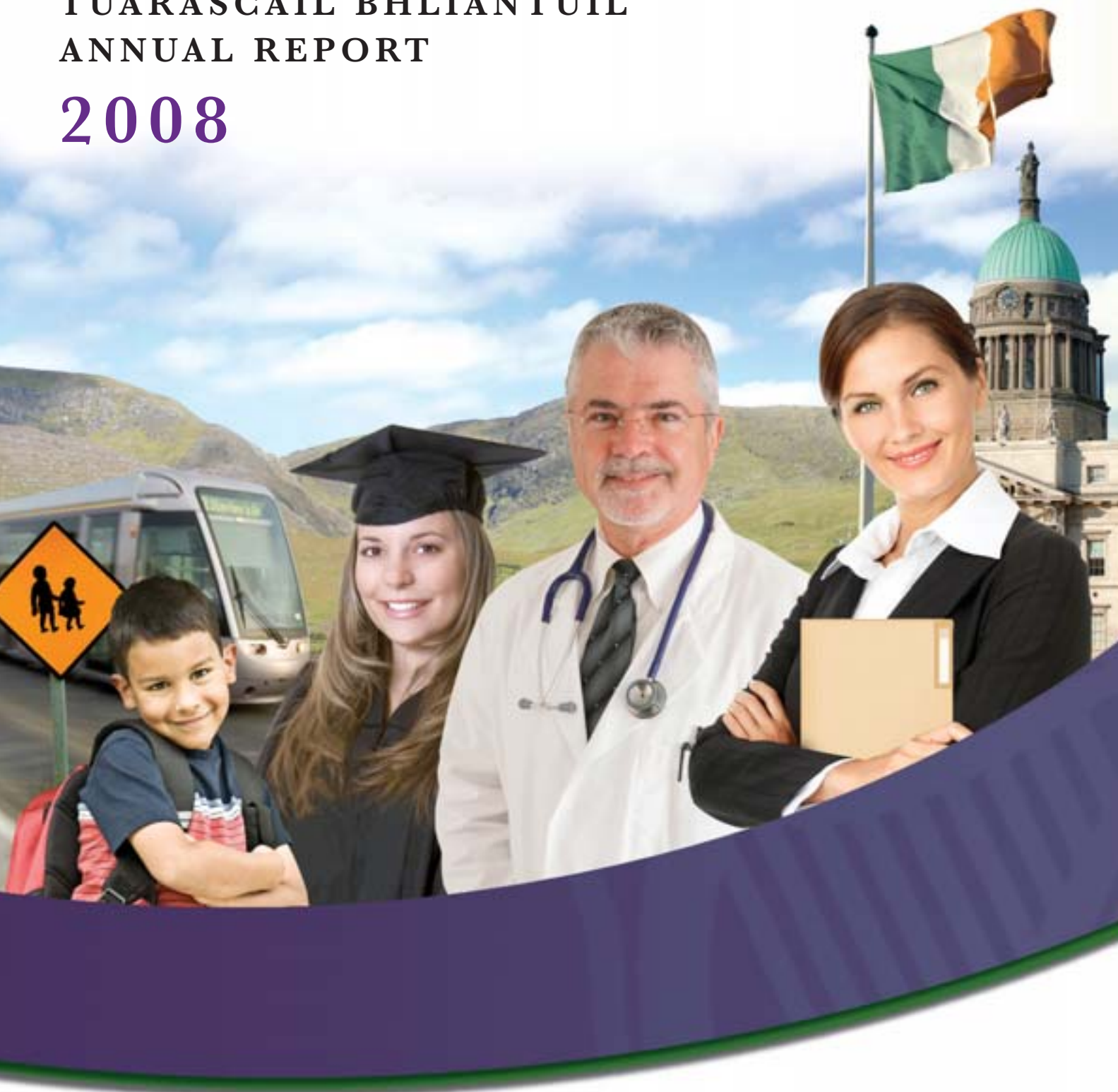


TUARASCÁIL BHLIANTÚIL  
ANNUAL REPORT

2008





# TUARASCÁIL BHLIANTÚIL ANNUAL REPORT 2008



Don Aire Gnóthaí Pobail,  
Tuaithe agus Gaeltachta:

De réir Alt 30 d'Acht na dTeangacha Oifigiúla  
2003 tá an tuarascáil seo don bhliain 2008 á  
cur i láthair ag an gCoimisinéir Teanga.

**Seán Ó Cuirreáin**  
An Coimisinéir Teanga

Feabhra 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 2008  
is being presented by An Coimisinéir Teanga.

**Seán Ó Cuirreáin**  
An Coimisinéir Teanga

February 2009



## CLÁR

<b>Ráiteas Misin</b>	<b>4</b>
<b>Réamhrá</b>	<b>5</b>
<b>Cúlra</b>	<b>10</b>
<b>Seirbhísí Eolais</b>	<b>12</b>
<b>Straitéis Fiche Bliain don Ghaeilge</b>	<b>19</b>
<b>Faireachán</b>	<b>24</b>
<b>Scéimeanna Teanga faoin Acht</b>	<b>27</b>
<b>Gearáin</b>	<b>32</b>
<b>Imscrúduithe</b>	<b>36</b>
<b>Achoimrí ar Imscrúduithe 2008</b>	<b>38</b>
An Roinn Gnóthaí Sóisialacha agus Teaghlaigh	38
An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí	45
An Roinn Oideachais agus Eolaíochta	51
An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil	59
An Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta	63
An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil	70
An Roinn Iompair	74
An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil	78
An Roinn Gnóthaí Sóisialacha agus Teaghlaigh	82
An Chomhairle Oidhreacht	87
An tÚdarás Comhionannais	92
Feidhmeannacht na Seirbhíse Sláinte	95
Comhairle Cathrach Bhaile Átha Cliath	100
An Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta	104
Iarnród Éireann	108
An tÚdarás um Bóithre Náisiúnta	112
Comhlacht Árachais Ainmnithe	116
<b>Cúrsaí Airgeadais</b>	<b>119</b>
<b>Foireann agus Sonraí Teagmhála</b>	<b>120</b>

## CONTENTS

<b>Mission Statement</b>	<b>4</b>
<b>Foreword</b>	<b>5</b>
<b>Background</b>	<b>10</b>
<b>Information Services</b>	<b>12</b>
<b>Twenty Year Strategy for Irish</b>	<b>19</b>
<b>Monitoring</b>	<b>24</b>
<b>Language Schemes under the Act</b>	<b>27</b>
<b>Complaints</b>	<b>32</b>
<b>Investigations</b>	<b>36</b>
<b>Summaries of Investigations 2008</b>	<b>38</b>
Department of Social and Family Affairs	38
Department of Justice, Equality and Law Reform	45
Department of Education and Science	51
Department of the Environment, Heritage and Local Government	59
Department of Community, Rural and Gaeltacht Affairs	63
Department of the Environment, Heritage and Local Government	70
Department of Transport	74
Department of the Environment, Heritage and Local Government	78
Department of Social and Family Affairs	82
Heritage Council	87
Equality Authority	92
Health Service Executive	95
Dublin City Council	100
Irish Research Council for the Humanities and Social Sciences	104
Iarnród Éireann	108
National Roads Authority	112
A Named Insurance Company	116
<b>Financial Matters</b>	<b>119</b>
<b>Staff and Contact Details</b>	<b>120</b>

## RÁITEAS MISIN

### *“Ag cosaint cearta teanga”*

Seirbhís neamhspleách d’ardchaighdeán a chur ar fáil i gcomhlíonadh ár ndualgas reachtúil le cinntiú go ndéanann an státchóras beart de réir a bhriathair maidir le cearta teanga.

Cothrom na féinne a chinntiú do chách trí ghearáin maidir le deacrachtaí teacht ar sheirbhísí poiblí trí Ghaeilge a láimhseáil ar bhealach atá éifeachtach, gairmiúil agus neamhchlaonta.

#### **Eolas soiléir, cruinn a chur ar fáil:**

- don phobal maidir le cearta teanga agus
- do chomhlachtaí poiblí maidir le dualgais teanga.

## 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.

## RÉAMHRÁ

Bliain an-ghnóthach a bhí in 2008 d'Oifig an Choimisinéara Teanga.

Don tríú bliain as a chéile rinneadh beagnach 600 gearán le m'Oifig a bhain le líomhaintí maidir le sárú ar chearta reachtúla teanga.

Ábhar misnigh é go raibh 2008 ar an gcéad bhliain ó bunaíodh an Oifig nár mhéadaigh líon iomlán na ngearán agus fáiltíim roimh an laghdú, más beag féin é (4%), a tháinig ar mhóriomlán na ngearán i gcomparáid leis an mbliain 2007.

Cé nach féidir a bheith lánchinnte ina thaobh fós, bheadh dóchas ann go léireodh aon laghdú ar fhadhbanna an phobail maidir lena ngnóthaí a dhéanamh trí Ghaeilge le heagraíochtaí stáit go raibh líon agus caighdeán na seirbhísí stáit trí Ghaeilge ag méadú chun sástacht an phobail. Is féidir freisin gur chabhraigh na hiarrachtaí atá déanta ag an Oifig seo in imeacht na mblianta le heagraíochtaí stáit chun córais a bhunú agus a fheidhmiú a chinntíonn nach ndéantar sárú rialta ar bhunchearta teanga. Leanadh d'iarrachtaí réamhghníomhacha na hOifige seo le linn 2008 chun a chinntiú go raibh a ndualgais teanga á gcomhlíonadh ag eagraíochtaí stáit le seirbhísí custaiméara níos fearr a sholáthar trí Ghaeilge agus go dtiocfadh laghdú dá réir ar líon na ngearán.

Tháinig athrú ollmhór ar an timpeallacht eacnamaíoch le linn na bliana. Sa chomhthéacs sin, bheinn ar an gcéad duine a chomhairleodh deiseanna stuama a thapú leis an gcostas a bhaineann le soláthar seirbhísí go dátheangach a choinneáil faoi smacht, cé go gcreidim nach ceart agus nach féidir an tacaíocht a theastaíonn ón teanga náisiúnta a áireamh mar ghníomh breise roghnach. Lean an Oifig seo ag comhairliú d'eagraíochtaí stáit maidir le bealaí ina bhféadfaí srian a choinneáil ar chostas agus gan dochar a dhéanamh do sholáthar seirbhísí d'ardchaighdeán trí Ghaeilge. I measc na moltaí a rinne m'Oifig le heagraíochtaí stáit, bhí úsáid níos forleithne a bhaint as seirbhísí ar líne agus seirbhísí bunaithe ar an nGréasán, foilsíú leictreonach seachas clóite ar ábhar dátheangach don phobal, earcú foirne le hinniúlacht i nGaeilge agus i mBéarla seachas daoine le teanga amháin, agus tuilleadh comhoibrithe idir eagraíochtaí gaolmhara maidir le forbairt a gcuid seirbhísí trí Ghaeilge.

## FOREWORD

2008 was a very busy year for the Office of An Coimisinéir Teanga.

For the third successive year, nearly 600 complaints were made to my Office in relation to allegations of breaches of statutory language rights.

It is encouraging that 2008 was the first year since the establishment of the Office in which the overall number of complaints did not increase and I welcome the reduction, though small (4%), in the total number of complaints compared with 2007.

Although not absolutely certain yet, it is hoped that any reduction in the difficulties faced by the public in conducting their business through Irish with state organisations may be as a result of a satisfactory increase in the quantity and quality of state services provided through Irish. It may also be that my Office's efforts over the years may have helped state organisations to establish and implement systems which ensure that basic language rights are not regularly breached. During 2008 this Office continued its proactive efforts to ensure that state organisations complied with language obligations in order to achieve a higher standard of customer service through Irish and a consequent reduction in complaints.

A very significant change occurred in the economic climate during the year. In that context, I would be the first to suggest that all sensible approaches ought be adopted in order to control the cost of providing services bilingually, notwithstanding the fact that I believe that the support required for our national language should not, and can not, be perceived as an optional extra. My Office continued to advise state organisations on methods of controlling costs without reducing the supply of quality services through Irish. Suggestions made by my Office in this regard to state organisations included a more extensive use of online and Web-based services, the publication of bilingual material for the public in electronic rather than printed format, the recruitment of staff with competence in Irish and English rather than the appointment of people competent in one language only, and additional cooperation between related organisations in developing their services through Irish.



## Imscrúduithe

Cúis inní a bhí ann do m'Oifig gur tháinig méadú an-suntasach le linn 2008 ar líon na n-imscrúduithe foirmiúla a seoladh i gcásanna nuair nár éirigh le hiarrachtaí neamhfhoirmiúla cúiseanna gearáin an phobail a réiteach. Seoladh 17 imscrúdú nua le linn na bliana – méadú 70% ar 2007.

Nuair a chuirtear san áireamh go raibh dhá imscrúdú gan chríochnú ón mbliain 2007, d'fhág sin 19 imscrúdú ar fad idir lámha in 2008. Tugadh 17 acu sin chun críche roimh dheireadh na bliana agus, arís, bhí péire acu le tabhairt chun cinn go dtí 2009.

Ciallaíonn na 17 imscrúdú a críochnaíodh le linn 2008 go raibh tuarascáil fhoirmiúil ar imscrúdú faoi Alt 26 d'Acht na dTeangacha Oifigiúla á heisiúint ag m'Oifig, ar an meán, uair gach trí seachtaine i gcaitheamh na bliana ar fad.

As na himscrúduithe sin, tháinig 15 acu ar shárú a rinneadh ar chearta reachtúla teanga agus sa dá chás eile, cinneadh nach raibh sárú ar dhualgais teanga i gceist.

Bhain naoi gcinn de na himscrúduithe – níos mó ná a leath – le 6 cinn de ranna rialtais: an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil, an Roinn Gnóthaí Sóisialacha agus Teaghlaigh, an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta, an Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, an Roinn Oideachais agus Eolaíochta, agus an Roinn Iompair.

Ar na heagraíochtaí stáit eile a sháraigh dualgas reachtúil teanga bhí an Chomhairle Oidhreacht, an tÚdarás Comhionannais, Feidhmeannacht na Seirbhíse Sláinte, Iarnród Éireann, an tÚdarás um Bóithre Náisiúnta agus an Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta.

Den chéad uair riamh, rinne m'Oifig imscrúdú ar chás a bhain le comhlacht nach raibh ina chomhlacht poiblí. Bhain an gearán leis an dualgas a chuireann an tAcht Árachais 1936 ar chomhlachtaí árachais doiciméid árachais a sholáthar trí Ghaeilge do chustaiméirí a líonann foirmeacha tairisceana i nGaeilge amháin. Sa chás áirithe a bhí i gceist, chinn an t-imscrúdú nár sháraigh an comhlacht árachais an fhoráil reachtúil de bharr cúinsí ar leith.

D'fhonn amhras a sheachaint, is ceart a rá gur bhain na himscrúduithe i mbeagnach gach cás le hábhair shonracha ar leith seachas le tiomantas ginearálta maidir le forfheidhmiú dualgais reachtúla teanga. Dá bhrí sin, má theip ar eagraíochtaí stáit dualgais teanga ar leith a chomhlíonadh go cuí, ní hionann sin agus a rá go raibh faillí á déanamh acu i leith dualgais teanga go ginearálta ná go raibh forálacha Acht na dTeangacha Oifigiúla i gcoitinne á sárú acu.

## Investigations

It was a matter of concern to my Office that 2008 saw a substantial increase in the number of formal investigations launched in cases where informal attempts to resolve complaints had failed. A total of 17 new investigations were launched during the year – an increase of 70% on 2007.

When two investigations which had not been completed by the end of 2007 are included, a total of 19 investigations were in hand during 2008. Of these, 17 investigations were completed before the end of the year and, again, two investigations were brought forward to 2009.

The 17 investigations completed during 2008 mean that a formal report of an investigation under Section 26 of the Official Languages Act was issued by my Office on average once every three weeks during the course of the year.

In 15 of those investigations breaches of statutory language rights were found and in the other two cases the findings were that no statutory language obligations had been infringed.

A total of nine investigations – more than half – involved 6 government departments: the Department of the Environment, Heritage and Local Government, the Department of Social and Family Affairs, the Department of Community, Rural and Gaeltacht Affairs, the Department of Justice, Equality and Law Reform, the Department of Education and Science, and the Department of Transport.

Other state agencies that were found to have breached statutory language obligations were the Heritage Council, the Equality Authority, the Health Service Executive, Iarnród Éireann, the National Roads Authority and the Irish Research Council for the Humanities and Social Sciences.

For the first time my Office carried out an investigation into a company which was not a public body. The complaint involved the obligation placed by the Insurance Act 1936 on insurance companies to provide insurance documentation in Irish for customers who fully complete proposal forms in Irish. In this particular case the investigation found that the insurance company had not, due to the specific factors involved, breached the statutory provisions.

In the interests of clarity, it should be stated that nearly all of the investigations involved very specific issues rather than a general commitment to the implementation of statutory language obligations. Consequently, if a state organisation failed to comply appropriately with a specific language obligation, that is not to say that that organisation was negligent in relation to its language obligations or to the provisions of the Official Languages Act in general.



## Faireachán

Le linn na bliana, rinne m'Oifig iniúchadh foirmiúil ar fhorfheidhmiú 42 scéim teanga a bhí daingnithe ag comhlachtaí stáit, ardú de bheagnach 70% ón mbliain 2007.

Bhain 27 de na hiniúchtaí sin le scéimeanna teanga a raibh an chéad agus an dara bliain feidhme tagtha chun críche agus na 15 eile le hiniúchtaí ceann cúrsa tar éis tríú bliain na scéimeanna.

Léirigh na hiniúchtaí críochnúla sin go raibh gach ceann dá ngealltanais teanga curtha i bhfeidhm ina iomláine ag 6 cinn de na comhlachtaí poiblí a bhí i gceist. Rinne m'Oifig comhréiteach i gcás seacht gcinn eile acu agus aontaíodh céimeanna a bhí le cur i bhfeidhm agus amscálaí cuí le go mbeadh gealltanais uile na scéimeanna sin curtha i ngníomh.

Sa dá chás eile, níor éirigh lenár n-iarrachtaí teacht ar chomhréiteach tar éis an phróisis iniúchta agus cuireadh tús le himscrúduithe reachtúla i leith na gcásanna sin.

## Rialacháin agus Cumarsáid

Le linn na bliana ghlac an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta céimeanna tábhachtacha maidir le hinfheictheacht bhreise a chothú don teanga nuair a rinne sé rialacháin nua faoi úsáid na Gaeilge agus an Bhéarla i stáiseanáireacht, i gcomharthaíocht agus i bhfógairtí taifeadta béil na gcomhlachtaí poiblí.

Tiocfaidh an chéad chuid de na rialacháin sin, atá déanta faoi fho-alt 9(1) d'Acht na dTeangacha Oifigiúla, i bhfeidhm go praiticiúil ar an 1 Márta 2009.

Thapaigh m'Oifig an deis na rialacháin nua a chur i láthair na gcomhlachtaí poiblí trí threoirleabhar nua ar Acht na dTeangacha Oifigiúla 2003 a ullmhú agus a fhoilsiú, mar fhoilseachán leictreonach go príomha. B'ábhar sásaimh dúinn gur íoslódáil beagnach 3,500 duine cóipeanna den treoirleabhar nua ó shuíomh gréasáin na hOifige sna seachtainí ón uair a foilsíodh é go deireadh an bliana. Roghnaigh dhá thrían acu sin a rinne íoslódáil ar an treoirleabhar an leagan Béarla agus roghnaigh an trían eile an leagan Gaeilge. Eagraíodh roinnt seimineár freisin le deis a thabhairt do chomhlachtaí poiblí léargas níos cuimsithí a fháil ar na rialacháin nua.

Rinne m'Oifig athchóiriú iomlán le linn na bliana ar ár suíomh gréasáin [www.coimisineir.ie](http://www.coimisineir.ie) le cinntiú go mbeadh an t-eolas air níos insroichte don phobal i gcoitinne. D'ullmhaíomar fógra nua teilifíse leis an bpearsa aitheanta Des Bishop chun an pobal a chur ar an eolas faoina gcearta reachtúla teanga. Mar is gnách, lean m'Oifig le linn na bliana de pháirt ghníomhach a ghlacadh in imeachtaí poiblí cuí – léachtaí, seimineáir agus ócáidí eile – ó cheann ceann na tíre le tuilleadh eolais a scaipeadh faoi chearta agus faoi dhualgaís teanga.

## Monitoring

During the year my Office conducted 42 formal audits of the implementation of the confirmed language schemes of public bodies, an increase of nearly 70% from 2007.

Some 27 of the audits involved language schemes at the conclusion of their first or second year of operation while the 15 others were the final audits of schemes after their full three years of existence.

Those final audits revealed that all of their commitments had been implemented by six of the public bodies concerned. My Office reached agreement with seven other public bodies and agreed measures which were to be implemented and appropriate time scales to ensure all the commitments of those schemes were adhered to.

In the remaining two cases our efforts to achieve agreement after the audit process were not successful and in those cases statutory investigations were commenced.

## Regulations and Communications

During the year the Minister for Community, Rural and Gaeltacht Affairs took important steps in relation to increasing the visibility of the language when he made new regulations concerning the use of Irish and English in the stationery, signage and recorded oral announcements of public bodies.

The first stage of those regulations, made under sub-section 9(1) of the Official Languages Act, will come into effect from 1 March 2009.

In order to inform public bodies of the new regulations, my Office prepared and published a guidebook to the Official Languages Act, primarily as an electronic publication. We were pleased to note that nearly 3,500 copies of the new guidebook were downloaded from the Office's website in the weeks between its publication and the end of the year. Two thirds of those who downloaded the guidebook chose the English language version and the other third chose the Irish language version. A number of seminars were also organised to provide public bodies with a more comprehensive insight into the new regulations.

During the year my Office undertook a complete overhaul of our website [www.coimisineir.ie](http://www.coimisineir.ie) to ensure that the information on it would be more accessible to the public in general. We also prepared a new television advertisement featuring well known personality Des Bishop to inform the public of their statutory language rights. As usual, my Office continued to take an active part during the year in appropriate public events – lectures, seminars and other occasions – throughout the country to provide further information in relation to language rights and obligations.

## Straitéis 20 Bliain don Ghaeilge

Ghlac m'Oifig le cuireadh ón ngrúpa comhairleach a bhí ceaptha le hoibriú ar ullmhú na straitéise 20 bliain don Ghaeilge plépháipéar a chur ina láthair. Chas mé le baill an ghrúpa i mí Mheán Fómhair 2008 lena raibh sa phlépháipéar sin a phlé go mion leo. Tá tuilleadh eolais faoin bplépháipéar sin sa tuarascáil seo. Seasaim leis an tuairim a nocht mé an uair sin go mb'fhéidir go mbeadh ullmhú agus feidhmiú na straitéise sin ar na gníomhartha ba thábhachtaí do thodhchaí na teanga ó bunaíodh an Stát dá leagfaí amach, agus dá leanfaí ansin, léarscáil bhóithre nua, chomhaontaithe a chinnteodh todhchaí do theanga náisiúnta na tíre.

## Imní

Chuir mé in iúl don Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta le linn na bliana 2008 an imní a bhí orm maidir le daingniú an dara babhta de scéimeanna teanga le comhlachtaí poiblí faoin Acht.

Chonacthas dom nach raibh an dara scéim teanga tugtha i bhfeidhm fós i gcás aon chomhlachta phoiblí agus go raibh 22 scéim teanga tar éis dul "in éag", mar a deirtear i bhfo-alt 15(1) den Acht. De réir na reachtaíochta, caithfidh na comhlachtaí poiblí leanúint de sholáthar seirbhísí trí Ghaeilge de réir na ngealltanais a bhí tugtha acu sna chéad scéimeanna ach níl aon dualgas orthu tuilleadh forbartha a dhéanamh ar na seirbhísí sin in éagmais scéim nua.

Chuir mé in iúl go bhfacthas dom nach raibh an folús a bhí cruthaithe ag teacht lena raibh beartaithe faoi fhorálacha an Achta ná faoi na rialacháin reachtúla a bhí déanta faoin Acht.

Léirigh mé freisin gur ábhar imní ar leith a bhí ann dom nach raibh aon scéim nua daingnithe i gcás na Roinne Gnóthaí Pobail, Tuaithe agus Gaeltachta féin cé go ndeachaigh an chéad scéim "in éag" ar an 21 Meán Fómhair 2007.

Dúirt mé gurbh í an imní ba mhó a bhí orm ná go mbeadh baol ann go gcaillfeadh an tionscnamh ina iomláine an móiminteam nó an luas a bhí faoi, rud a d'fhéadfadh a bheith ina bhuille an-mhór ar fad. Thug mé le fios gur mheas mé go gcaillfeadh an pobal agus na comhlachtaí poiblí muinín i gcur i bhfeidhm fhorálacha an Achta go ginearálta dá mbeadh moill mhíchuí i ndaingniú scéimeanna nua, go háirithe an dara babhta scéimeanna agus dara scéim na Roinne féin san áireamh. Dúirt an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta mar fhreagra go raibh sé féin agus a Roinn chomh tiomanta is a bhí riamh maidir le forálacha an Achta a chur i bhfeidhm agus na spriocanna a bhain leis a bhaint amach.

## Twenty Year Strategy for Irish

My Office accepted an invitation to present a discussion document to the advisory group established to help prepare a twenty year strategy for the Irish language. I met the members of the advisory group in September 2008 to consider in detail the discussion document. Further information in relation to that discussion document is available in this report. I am still of the opinion that the preparation and implementation of this strategy could be one of the most important exercises in relation to the future of the Irish language since the foundation of the State if it entails the production and execution of a new agreed roadmap which would ensure the future of the national language of this country.

## Concern

I informed the Department of Community, Rural and Gaeltacht Affairs during 2008 of my concern in relation to the confirmation of the second round of language schemes with public bodies under the Act.

It appeared to me that a second language scheme had not yet been confirmed in the case of any public body and that 22 language schemes had reached "expiration", as it is referred to in sub-section 15(1) of the Act. According to the legislation, public bodies must continue to supply services through Irish in accordance with their commitments in their first schemes but are not obliged to further develop those services in any way in the absence of a new language scheme.

I suggested that it appeared to me that the vacuum being created was not in accordance with the provisions of the Act or the statutory regulations made under the Act.

I also expressed my concern that no new language scheme had been confirmed in the case of the Department of Community, Rural and Gaeltacht Affairs itself although its first scheme had "expired" on 21 September 2007.

I said that I was concerned that there was a danger that the whole project could lose its momentum and speed, something that could potentially be a very serious blow. I also said that in my view the public and public bodies could lose confidence in the implementation of the provisions of the Act in general if there were inappropriate delays in confirming schemes, particularly the second round of schemes, including the Department's own second scheme. In reply the Minister for Community, Rural and Gaeltacht Affairs said that he and his Department were as committed as ever to the implementation of the provisions of the Act and to achieving the objectives associated with it.

Dúirt sé freisin go raibh dréacht dá ndara scéim faighte aige ó fhormhór na gcomhlachtaí poiblí a raibh sin iarrtha orthu agus go raibh plé gníomhach ar siúl ag oifigigh a Roinne leo chun an próiseas maidir le haontú agus le daingniú na ndara scéimeanna sin a thabhairt chun críche a luaithe agus ab fhéidir. Bhí an obair i dtaca le daingniú dara scéim dá Roinn féin “cuid mhaith chun cinn freisin,” a dúirt sé.

## Foireann agus Comhoibriú

Fáiltím roimh cheapadh foireann bhreise don Oifig le linn na bliana 2008. Tá cuóta foirne d’ochtár státseirbhíseach ceadaithe don Oifig agus bhí seacht gcinn de na poist sin líonta faoi dheireadh na bliana 2008. Glacaim leis an deis seo le mo bhuíochas pearsanta a chur in iúl don fhoireann oibre sin as a ndúthracht agus a ndílseacht.

Fuair m’Oifig comhoibriú an-mhaith ar fad ó iliomad daoine le linn na bliana agus ba mhaith liom an deis seo a thapú le buíochas a ghlacadh leosan freisin. San áireamh ansin, bhí fostaithe de chuid na státseirbhíse agus na seirbhíse poiblí i gcoitinne, ionadaithe ó eagraíochtaí Gaeilge agus Gaeltachta, na meáin chumarsáide, lucht taighde agus acadúil agus iliomad daoine eile nach iad.

He also said that he had received drafts of second schemes from most of the public bodies who had been required to prepare such and that there was active discussion between officials of his Department and those public bodies in order to complete the process of agreeing and confirming the second scheme as soon as possible. The work in relation to the confirmation of a second scheme for his own Department had “also progressed considerably,” he said.

## Staff and Cooperation

I welcome the appointment of additional staff to the Office during the year 2008. A quota of eight civil servants has been sanctioned for the Office and seven of those positions were filled by the end of 2008. I take this opportunity to offer my personal thanks to the staff for their enthusiasm and commitment to the work.

My Office also received excellent cooperation from many people during the year and I would like to take this opportunity to thank them also for that. 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 very many others.

## CÚLRA

Cheap an tUachtarán mé mar Choimisinéir Teanga go foirmiúil ar an 23 Feabhra 2004 ar chomhairle an Rialtais tar éis do Thithe an Oireachtais rún a rith ag moladh an cheapacháin.

Cuireadh tús gan mhoill ina dhiaidh sin le bunú na hOifige agus is í seo an cúigiú tuarascáil bhliantúil de chuid m'Oifige. Tá mion-chur síos ar obair na hOifige roimhe seo i dtuarascálacha bliantúla 2004, 2005, 2006 agus 2007 atá ar fáil ón Oifig agus ar shuíomh gréasáin na hOifige. Tá fáil ó na foinsí céanna ar na cuntais airgeadais chuí.

Oifig neamhspleách reachtúil í Oifig an Choimisinéara Teanga a bhfuil sé mar chúram uirthi monatóireacht a dhéanamh ar an gcaoi a bhfuil forálacha Acht na dTeangacha Oifigiúla 2003 á gcomhlíonadh ag comhlachtaí poiblí an Stáit. Déanann an Oifig gach beart riachtanach chun a chinntiú go gcomhlíonfaidh comhlachtaí poiblí a ndualgais faoin Acht.

Fiosraíonn an Oifig gearáin ón bpobal i gcásanna ina gcreidtear go bhfuil teipthe ar chomhlachtaí poiblí a ndualgais a chomhlíonadh faoi Acht na dTeangacha Oifigiúla 2003. Fiosraíonn an Oifig freisin aon ghearán bailí ina líomhnaítear nach bhfuil foráil d'aon achtacháin eile a bhaineann le stádas nó le húsáid na Gaeilge á comhlíonadh.

Cuireann m'Oifig comhairle ar fáil don phobal maidir lena gcearta teanga agus comhairle ar chomhlachtaí poiblí maidir lena ndualgais teanga faoin Acht. Tá sé mar phríomhchuspóir ag Acht na dTeangacha Oifigiúla 2003 a chinntiú go soláthróidh an státseirbhís agus an tseirbhís phoiblí seirbhísí Gaeilge níos líomhaire agus ar chaighdeán níos airde thar thréimhse ama.

Bheadh súil go mbeadh sé mar thoradh ar fheidhmiú an Achta go gcruthófaí spás nua don Ghaeilge i gcóras riaracháin phoiblí na tíre. Is léiriú é ar chuid amháin d'aidhm teanga an Stáit mar thaca leis na hiarrachtaí eile an teanga a chur chun cinn san oideachas, sa chraoltóireacht, sna healaíona, i saol na Gaeltachta agus i gcúrsaí an tsaoil go ginearálta.

Shínigh an tUachtarán Acht na dTeangacha Oifigiúla ina dhlí ar an 14 Iúil 2003, agus trí bliana ina dhiaidh sin, ar an 14 Iúil 2006, tháinig gach foráil den Acht nach raibh tagtha i bhfeidhm le hordú Aire roimhe sin i bhfeidhm go hoifigiúil. Chiallaigh sin go raibh bunús reachtúil ón dáta sin ar aghaidh le gach foráil de chuid an Achta.

## 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 fifth annual report of my Office. A detailed account of the work of the Office to date is in the annual reports for 2004, 2005, 2006 and 2007 which are available from my Office and from our website. The relevant annual accounts are also available from the same sources.

The Office of An Coimisinéir Teanga is an independent statutory office whose responsibility it is to monitor the manner in which the State's public bodies comply with the provisions of the Official Languages Act 2003 and to take all necessary measures to ensure that public bodies fulfil their obligations under the Act.

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 2003. The Office also enquires into complaints regarding allegations that other enactments relating to the status or use of Irish have 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 of the country. It is an expression of one element of the State's language objective, and complements other efforts to promote Irish 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 on, every provision of the Act had a statutory basis.

Le linn na bliana 2008, dhaingnigh an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta tuilleadh scéimeanna teanga agus faoi dheireadh na bliana 2008 bhí 85 scéim a chlúdaigh 155 comhlacht poiblí daingnithe faoi Acht na dTeangacha Oifigiúla. Ag deireadh na bliana freisin, bhí 30 comhlacht poiblí ag ullmhú dréachtscéimeanna den chéad uair agus bhí treoir tugtha ag an Aire do 22 comhlacht poiblí an dara dréachtscéim a ullmhú.

Scéimeanna nua atá i gceist sa dara babhta scéimeanna a leathnóidh agus a fhorbróidh na seirbhísí trí Ghaeilge atá á gcur ar fáil ag comhlachtaí poiblí mar thoradh ar chur i bhfeidhm a gcéad scéimeanna teanga. Ní raibh aon scéim teanga sa dara babhta scéimeanna daingnithe ag deireadh 2008.

De bhreis air sin, níl an chéad scéim teanga daingnithe fós ag go leor comhlachtaí poiblí. Tagann amuigh agus istigh ar 650 comhlacht poiblí faoi scáth na reachtaíochta ach ní raibh dréachtscéim ullmhaithe ag go leor acu ag deireadh 2008. Go deimhin, níor éilíodh ar aon chomhlacht poiblí breise tosú ar a gcéad dréachtscéim a ullmhú le linn 2008. Ní féidir éifeacht iomlán na reachtaíochta a mheas go mbeidh scéimeanna teanga daingnithe i gcás sciar an-suntasach de na comhlachtaí poiblí. Cé nach mbíonn an phráinn chéanna ag baint le scéimeanna a dhaingniú i gcás comhlachtaí poiblí beaga nach bhfuil caidreamh rómhór acu le sciar suntasach den phobal, is léir go bhfuil cuid mhór scéimeanna teanga le comhaontú agus le daingniú go fóill.

Tugadh tús feidhme le linn 2008 do na rialacháin nua maidir le húsáid na Gaeilge agus an Bhéarla i stáiseanóireacht, comharthaíocht agus fógartí taifeadta béil na gcomhlachtaí poiblí. Is ar an 1 Deireadh Fómhair 2008 a shínigh an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta na Rialacháin um Acht na dTeangacha Oifigiúla 2003 (Alt 9) 2008 (I.R. Uimh. 391 de 2008).

Faoi na rialacháin, tá dualgas ar chomhlachtaí poiblí a chinntiú go bhfuil a gcuid stáiseanóireachta, a gcuid comharthaíochta agus a gcuid fógartí taifeadta béil á soláthar i nGaeilge amháin, nó i nGaeilge agus i mBéarla, de réir critéir ar leith atá daingnithe sna rialacháin. Ní raibh aon rialacháin déanta ag deireadh na bliana 2008 maidir le fógráin ná maidir le fógartí béil atá beo, is é sin cinn nach fógartí taifeadta iad.

During 2008 the Minister for Community, Rural and Gaeltacht Affairs confirmed further language schemes under the Act and by the end of 2008, 85 schemes covering 155 public bodies had been confirmed under the Official Languages Act. In addition, at the end of the year 30 public bodies were preparing draft schemes for the first time and the Minister had directed 22 public bodies to prepare their second draft scheme.

This second round of schemes will consist 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. No scheme in the second round of schemes had been confirmed by the end of 2008.

There are, in addition, a large number of public bodies that have not yet had a first scheme confirmed. There are approximately 650 public bodies subject to the legislation and many of these had not prepared a draft scheme by the end of 2008. In fact, no additional public body was required during 2008 to begin preparation of their first draft scheme. The full effect of the legislation cannot be evaluated until language schemes have been confirmed in a very significant number of state organisations. Although the same urgency need not apply to having schemes confirmed in the case of smaller public bodies which may not have many dealings with large sections of the public, it is clear that a significant number of language schemes have yet to be agreed and confirmed.

The new regulations in relation to the use of Irish and English in the stationery, signage and recorded oral announcements of public bodies were brought into effect in 2008. 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).

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 the provisions set out in the regulations. At the end of 2008, no regulations had been made in relation to advertising or in relation to live oral announcements, i.e. announcements that have not been recorded.



## SEIRBHÍSÍ EOLAIS

Le linn na bliana 2008 lean m'Oifig le feachtais éagsúla le heolas a scaipeadh faoi Acht na dTeangacha Oifigiúla 2003 agus faoi obair na hOifige féin. San áireamh anseo bhí foilsiú treoirleabhair maidir le hAcht na dTeangacha Oifigiúla, athnuachan ar ár suíomh gréasáin, coimisiúnú ar fhógra nua teilifíse, feachtas eolais faoi na rialacháin nua, seimineáir agus ócáidí poiblí eile, agallaimh leis na meáin, taispeántais ag ócáidí Gaelacha agus gníomhaíochtaí eile.

### Foilsiú Treoirleabhair

I mí na Samhna 2008, d'fhoilsigh m'Oifig Treoirleabhar d'Acht na dTeangacha Oifigiúla chun cúnamh a sholáthar don phobal maidir lena gcearta teanga agus go háirithe chun comhairle a sholáthar do chomhlachtaí poiblí maidir lena ndualgais faoi Acht na dTeangacha Oifigiúla. Tá an treoirleabhar dátheangach 68 leathanach ar fáil go príomha i bhfoirm leictreonach agus is féidir é a íoslódáil ónár suíomh [www.coimisineir.ie](http://www.coimisineir.ie). Cuireadh cóip amháin ar a laghad den treoirleabhar, mar áis tagartha, chuig gach comhlacht poiblí a thagann faoi scáth na reachtaíochta agus chuig na leabharlanna contae ar fud na tíre. Rinneadh beagnach 3,500 cóip den treoirleabhar a íoslódáil ón suíomh gréasáin sna seachtainí idir dáta a fhoilsithe agus deireadh na bliana.

## INFORMATION SERVICES

During 2008 my Office continued with various campaigns to promote awareness of the Official Languages Act 2003 and the work of the Office itself. This included publication of a Guidebook to the Official Languages Act, upgrading of our website, commissioning of a new television advertisement, an information campaign in relation to the new regulations, participation in seminars and other public events, interviews with the media, exhibitions at Irish language events and other activities.

### Publication of Guidebook

In November 2008 my Office published a Guidebook to the Official Languages Act 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 Official Languages Act. The 68 page bilingual guidebook is available primarily in electronic format and can be downloaded from our website [www.coimisineir.ie](http://www.coimisineir.ie). For reference purposes, at least one copy of the guidebook was sent to every public body that comes under the legislation and to county libraries throughout the country. Almost 3,500 copies of the guidebook were downloaded from the website between the date of publication and the end of the year.



## Suíomh Gréasáin

Rinneadh forbairt mhór ar ár suíomh gréasáin [www.coimisineir.ie](http://www.coimisineir.ie) i rith na bliana le cinntiú go mbeadh an suíomh chomh hinrochtana agus ab fhéidir. De thoradh ar an obair atá déanta, baineann leibhéal inrochtaineachta AA, ar a laghad, le gach leathanach anois. Chomh maith leis sin, fad is a bhí an fhorbairt seo ar siúl, thapaíomar an deis le hathbhreithniú iomlán a dhéanamh ar ábhar léitheoireachta agus ar íomhánna an tsuímh. Feidhmíonn an suíomh gréasáin anois mar ionad eolais do gach a mbaineann le hOifig an Choimisinéara Teanga, le hAcht na dTeangacha Oifigiúla 2003 agus leis na rialacháin nua maidir le húsáid na Gaeilge agus an Bhéarla i gcomharthaíocht, i stáiseanóireacht agus i bhfógairtí taifeadta béil. Tá cóip le fáil ar an suíomh de gach scéim teanga atá daingnithe faoin Acht, de gach ordú logainmneacha atá déanta faoin Acht agus den ábhar atá foilsithe ag m'Oifig idir thuarascálacha bliantúla agus achoimrí ar imscrúduithe oifigiúla. Anuas air seo, más mian le duine comhairle a lorg nó gearán a dhéanamh, is féidir foirm ghearáin ar líne a chomhlánú agus a sheoladh go leictreonach chuig m'Oifig.

Sa tréimhse bliana ó thús Eanáir 2008 go deireadh mhí na Nollag 2008, bhí os cionn 635,000 "buille" ar an suíomh, níos mó ná aon bhliain roimhe sin.

## Website

My Office undertook a major development of our website [www.coimisineir.ie](http://www.coimisineir.ie) during the year to ensure that the site would be as accessible as possible. As a result of this work all pages are, at a minimum, AA accessible. In addition, while undertaking this improvement we took the opportunity to completely renew the text and the images on the website. The website now serves as a central information point in relation to the Office of An Coimisinéir Teanga, the Official Languages Act 2003 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 every language scheme confirmed under the Act, of every Placenames Order made under the Act and of both the annual reports and summaries of official investigations that have been published by my Office. 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.

In the course of the year from the beginning of January to the end of December 2008 the number of "hits" on the website, 635,000, exceeded that of any previous year.





## Rialacháin

Ar an 1 Deireadh Fómhair 2008, shínigh an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta na Rialacháin um Acht na dTeangacha Oifigiúla 2003 (Alt 9) 2008 (I.R. Uimh. 391 de 2008). Tá na rialacháin seo déanta faoi fho-alt 9(1) an Achta.

De réir na rialachán, tá dualgas ar chomhlachtaí poiblí a chinntiú go bhfuil:

- a gcuid stáiseanóireachta (nóta-pháipéar, duillíní dea-mhéine, leatháin chlúdaigh facs, clúdaigh chomhaid agus fillteáin eile, lipéid agus clúdaigh litreach),
- a gcuid comharthaíochta agus
- a gcuid fógairtí taifeadta béil á soláthar i nGaeilge nó go dátheangach faoi dhátaí áirithe atá daingnithe faoi na rialacháin.

D'eagraigh m'Oifig seisiún eolais do chomhlachtaí poiblí i mBaile Átha Cliath ar an 12 Nollaig 2008 maidir leis na rialacháin úra agus gheallamar tuilleadh seisiún réigiúnach sa bhliain nua.

## Seimineáir agus Meáin

Le linn 2008 lean mé den pholasáí glacadh le cuirí le labhairt ag seimineáir, léachtaí agus ócáidí poiblí éagsúla eile ar fud na tíre maidir le cearta agus dualgais teanga. Lean mé freisin d'agallaimh a dhéanamh leis na meáin chumarsáide le linn na bliana le léargas a thabhairt ar obair na hOifige, ar fheidhmiú an Achta agus ar cheisteanna gaolmhara. Ba mhaith liom buíochas a ghabháil leis na hiriseoirí ar fad a chuir an oiread sin suime in obair na hOifige le linn na bliana agus a chabhraigh le cur chun cinn na hoibre sin trína gcuid tuairisceoireachta i mBéarla agus i nGaeilge.

## Taispeántais agus Ócáidí

Bhí seastán eolais ag m'Oifig ag roinnt ócáidí Gaelacha le linn na bliana. San áireamh bhí Scoil Gheimhridh Merriman i gCathair na Mart ar an 1-3 Feabhra 2008, Tóstal na Gaeilge i nGaillimh ar an 22-23 Feabhra 2008, ócáid de chuid Chomhairle Cathrach Bhaile Átha Cliath Theas do Sheachtain na Gaeilge ar an 6 Márta 2008, ócáid de chuid Eagraíocht na Scoileanna Gaeltachta i nGaillimh ar an 12 Aibreán 2008, Ard-Fheis Chonradh na Gaeilge i dTrá Lí ar an 26-27 Meán Fómhair 2008, Comhdháil an Chraoibhín i mBealach an Doirín ar an 17-18 Deireadh Fómhair 2008, Lá Gairme Ollscoil na hÉireann Gaillimh ar an 20 Samhain 2008 agus Oireachtas na Samhna 2008 i gCorcaigh. De bhreis air sin, thug ionadaithe ó m'Oifig cuairt ar choláistí tríú leibhéal le cur i láthair a dhéanamh faoi obair na hOifige seo agus eolas a scaipeadh faoi na seirbhísí atá ar fáil trí Ghaeilge ón státchóras. Tá sé mar aidhm ag an tionscnamh seo mic léinn le Gaeilge atá ag freastal ar na coláistí a chur ar an eolas faoina gcearta an Ghaeilge a roghnú mar theanga chumarsáide leis an státchóras.

## Regulations

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). These regulations are made under Section 9(1) of the Act.

In accordance with the regulations public bodies are obliged to ensure that:

- their stationery (note-paper, compliment slips, fax cover sheets, file covers and other folders, labels and envelopes),
- their signage and
- their recorded oral announcements are provided in Irish or bilingually by certain dates that are set out in the regulations.

My Office organised an information session for public companies in Dublin on 12 December 2008 in relation to the new regulations and promised further regional information sessions in the new year.

## Seminars and Media

In 2008 I continued with the policy of accepting invitations to speak about language rights and duties at seminars, lectures and other public events throughout the country. I also continued to undertake media interviews in order to provide details of 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.

## Exhibitions and Events

My Office had information stands at various Irish language events during the year. These included: the Merriman Summer School in Westport on 1-3 February 2008, Tóstal na Gaeilge in Galway on 22-23 February 2008, an event for Seachtain na Gaeilge organised by South Dublin County Council on 6 March 2008, an event organised by Eagraíocht na Scoileanna Gaeltachta in Galway on 12 April 2008, Ard-Fheis Chonradh na Gaeilge in Tralee on 26-27 September 2008, the Douglas Hyde Conference "Comhdháil an Chraoibhín" in Ballaghaderreen on 17-18 October 2008, "Lá Gairme" – a careers day in the National University of Ireland, Galway on 20 November 2008 and Oireachtas na Gaeilge 2008 in Cork in November. In addition, representatives from my Office visited third level colleges to make presentations about the work of the Office and to deliver information on the services that are available in Irish from the State. The aim of this project is to inform Irish speaking students of their right to choose Irish as their language of communication with the State.

## Fógra Teilifíse

Rinne m'Oifig fógra nua teilifíse a choimisiúnú agus a chraoladh le linn na bliana. An comhlacht léirithe teilifíse agus scannáin ROSG, atá lonnaithe sa Spidéal i gCo. na Gaillimhe, a fuair an conradh don fhógra tar éis an phróisis tairisceana. An phearsa aitheanta, Des Bishop, a bhí mar láithreoir ar an bhfógra agus craoladh é ar sheirbhís teilifíse TG4 agus RTÉ1 le linn nó gar do chláracha Gaeilge. An cuspóir a bhí leis an bhfógraíocht ná an pobal, go háirithe daoine óga, a chur ar an eolas faoi na seirbhísí stáit atá á gcur ar fáil i nGaeilge anois de thoradh Acht na dTeangacha Oifigiúla 2003. Is féidir an fógra féin a fheiceáil ar ár suíomh gréasáin [www.coimisineir.ie](http://www.coimisineir.ie) i rannóg na meán.

## Television Advertisement

My Office commissioned and broadcast a new television advertisement during the year. Following a tender process, the contract for the production of the advertisement went to ROSG, a television and film production company based in An Spidéal in Co. Galway. The well-known personality, Des Bishop, presented the advertisement and it was broadcast on TG4 and RTÉ1 television services during or adjacent to Irish language programmes. The aim of the advertisement was to make the public, and in particular young people, aware of state services that are now available in Irish as a result of the Official Languages Act 2003. The advertisement can be seen in the media section of our website [www.coimisineir.ie](http://www.coimisineir.ie).



## Duaiseanna

Tá ceangal ag m'Oifig leis an gcúrsa céime MA sa Chleachtas Dátheangach in Fiontar, Ollscoil Chathair Bhaile Átha Cliath, áit a mbronntar bonn óir an Choimisinéara Teanga ar an gcéimí a fhaigheann na marcanna is airde sa tráchtas iarchéime.

Ar Cholm de Búrca a bronnadh Bonn Óir na bliana 2008 dá thráchtas ar sheirbhísí taca do pháistí le deacrachtaí foghlama i ngaelscoileanna ag ócáid bhronnadh na gcéimeanna in Fiontar, Ollscoil Chathair Bhaile Átha Cliath, ar an 11 Samhain 2008.

Tá sé mar aidhm ag an gcúrsa MA sa Chleachtas Dátheangach – a bhfuil Stiúrthóir Fiontar, an Dr. Peadar Ó Flatharta, ina cheannas – oiliúint a chur ar fhoireann a bheidh ag obair sna hearnálacha poiblí agus deonacha le seirbhís ardcháilíochta do chustaiméirí a bhainistiú agus a sholáthar go dátheangach, ag freagairt go háirithe do riachtanais Acht na dTeangacha Oifigiúla. Tugtar an t-eolas agus an scil is gá dóibhsean atá páirteach lena chinntiú go soláthrófar seirbhís ardcháilíochta dhátheangach don phobal a bheidh ag teacht le caighdeáin idirnáisiúnta.

Chuir m'Oifig tús in 2008 le duais acadúil eile nuair a bronnadh Duais an Choimisinéara Teanga ar Mick McGee, an mac léinn a scríobh an aiste taighde ab fhearr sa scrúdú sochtheangeolaíochta faoi stiúir an Dr. John Walsh don Chéim BA in Ollscoil na hÉireann, Gaillimh. Ar an 17 Deireadh Fómhair 2008 a bronnadh an duais sin le linn oscailt oifigiúil Chomhdháil Litríocht agus Cultúr na Gaeilge a bhí ar siúl ag Scoil na Gaeilge ansin.



Seán Ó Cuirreáin, An Coimisinéir Teanga ag bronnadh Duais an Choimisinéara Teanga 2008 ar Mick McGee, in Áras na Gaeilge, Ollscoil na hÉireann, Gaillimh.

Seán Ó Cuirreáin, An Coimisinéir Teanga, presenting Duais an Choimisinéara Teanga 2008 to Mick McGee, in Áras na Gaeilge, National University of Ireland, Galway.

## Prizes

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

The 2008 Gold Medal was presented to Colm de Búrca, for his thesis on support services for children with literacy difficulties in gaelscoileanna, at the graduation ceremony in Fiontar, Dublin City University, on 11 November 2008.

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

My Office introduced an additional academic prize in 2008 when I presented An Coimisinéir Teanga's Prize to Mick McGee, the student who wrote the best research essay in Irish in the sociolinguistic examination of the BA course under the direction of Dr. John Walsh in the National University of Ireland, Galway. The prize was presented on 17 October 2008 at the official opening of Comhdháil Litríocht agus Cultúr na Gaeilge (the Conference of Irish Literature and Culture) hosted by Scoil na Gaeilge in the university.



Dr. Peadar Ó Flatharta, Director of Fiontar with Seán Ó Cuirreáin, An Coimisinéir Teanga at the presentation of the 2008 Gold Medal to Colm de Búrca in Dublin City University.

An Dr. Peadar Ó Flatharta, Stiúrthóir Fiontar in éineacht le Seán Ó Cuirreáin, An Coimisinéir Teanga ag bronnadh Bonn Óir na bliana 2008 ar Cholm de Búrca in Ollscoil Chathair Bhaile Átha Cliath.

## Gréasán Tacaíochta

Le linn na bliana 2008 lean m'Oifig i mbun eagraithe ar ghréasán tacaíochta do chomhlachtaí poiblí a bhfuil scéimeanna teanga daingnithe acu. Faoi láthair is ann do thrí chuid sa ghréasán tacaíochta: (1) ranna agus oifigí rialtais, (2) údaráis áitiúla agus (3) comhlachtaí poiblí eile.

Tá na scéimeanna teanga i gcoirílár an Achta agus, lasmuigh d'fhorálacha díreacha agus rialacháin an Achta, is sna scéimeanna teanga sin a dhearbhaíonn comhlachtaí poiblí go reachtúil na céimeanna atá le tógáil acu chun a gcuid seirbhísí trí Ghaeilge a fhorbairt ar bhonn céimnithe. Is plean trí bliana atá i ngach scéim agus déanann m'Oifig faireachán ar chur i bhfeidhm na scéimeanna teanga.

In 2008 chas baill an ghréasáin le chéile faoi thrí – i mBaile Átha Cliath faoi dhó agus i nGaillimh uair amháin – le ceisteanna a bhain le feidhmiú a gcuid scéimeanna teanga agus forálacha eile an Achta a phlé. Rinneadh go leor plé ag na cruinnithe in 2008 ar na rialacháin nua maidir le stáiseanóireacht, comharthaíocht agus fógartí taifeadta béil.

## Comhairle do Chomhlachtaí Poiblí

Ar cheann d'fheidhmeanna na hOifige seo tá comhairle nó cúnamh a sholáthar do chomhlachtaí poiblí a thagann faoi scáth na reachtaíochta maidir lena ndualgais faoi Acht na dTeangacha Oifigiúla 2003.

Le linn na bliana 2008 rinneadh teagmháil thar ceann comhlachtaí poiblí le m'Oifig ar 149 ócáid éagsúil le ceisteanna sonracha nó le léargas cuimsitheach a fháil ar dhualgais teanga faoin Acht. Bhí seo sa bhreis ar theagmhálacha ag seimineáir agus ócáidí de chuid an ghréasáin tacaíochta.

Ar ndóigh, dá mhéad comhairle agus eolas soiléir, cruinn a chuirtear ar fáil do chomhlachtaí poiblí faoina ndualgais faoin Acht, is ea is fearr is féidir a chinntiú go gcloífear le forálacha an Achta.

## Cúrsaí Foirne na hOifige

Ceadaíodh ceapacháin nua ar ghráid shinsearach do m'Oifig in 2007, ach ba le linn na bliana 2008 a líonadh na folúntais sin. Ochtar státseirbhíseach atá ceadaithe mar chuóta foirne don Oifig agus bhí seacht gcinn de na ceapacháin sin líonta faoi dheireadh na bliana 2008. Tá tuilleadh eolais faoi struchtúr reatha foirne na hOifige i ndeireadh na tuarascála seo.

## Support Network

During 2008 my Office continued to facilitate the organisation of a support network for public bodies which had confirmed language schemes. Currently the network is divided into three sections: (1). government department and offices, (2). local authorities, and (3). other public bodies. The language schemes are at the core of the Official Languages Act and, apart from direct provisions and regulations under the Act, it is through language schemes that public bodies outline on a statutory basis the steps which they guarantee to undertake in order to gradually develop their services through Irish. Each scheme is a three year plan and my Office monitors the implementation of the language schemes.

In 2008 members of the network met on three occasions – twice in Dublin and once in Galway – to discuss questions in relation to the implementation of schemes and other provisions of the Act. Much of the discussion in 2008 concerned the new regulations in relation to stationery, signage and recorded oral announcements.

## Advice to Public Bodies

It is one of the functions of this Office to provide advice or other assistance to public bodies that come within the scope of the legislation with regard to their obligations under the Act.

During 2008 my Office was contacted by officials of public bodies on 149 separate occasions with specific questions or seeking comprehensive briefings on their obligations under the Act. This was in addition to information provided at seminars and meetings of the support network.

It is obvious that the more clear, accurate 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.

## Staff Matters

New appointments at senior grades were sanctioned for my Office in 2007, but it was during 2008 that those vacancies were filled. A quota of eight civil servants has been sanctioned for the Office and by the end of 2008, seven of those appointments were filled. Further information on the current structure of the Office is available at the end of this report.

## Cosaint Sonraí

Tá m'Oifig cláraithe le hOifig an Choimisinéara Cosanta Sonraí mar chomhlacht a mbíonn faisnéis faoi dhaoine ina sheilbh ar ríomhairí nó i gcomhaid. Tá m'Oifig tiomanta dá dualgais faoin reachtaíocht um chosaint sonraí a chomhlíonadh.

## Caidreamh Seachtrach

Labhair mé ar an 28 Samhain 2008 ag ócáid a d'eagraigh Fóram Dátheangach Thuaisceart na Breataine Bige maidir le ról agus feidhmiú na hOifige. Tá Oifig Coimisinéara Teanga don Bhreatnais á beartú ansin. Chas mé freisin ag an ócáid chéanna leis an Aire Oidhreachta agus Teanga nuacheaptha ansin, an tUasal Alun Ffred Jones.

Rinne mé agallamh poiblí faoi obair na hOifige ar an 4 Lúnasa 2008 leis an iriseoir aitheanta Póilín Ní Chiaráin. Tharla an t-agallamh os comhair lucht éisteachta sa Chultúrlann i mBéal Feirste mar chuid d'Fhéile an Phobail ansin. An scátheagras Gaeilge, Pobal, a d'eagraigh an ócáid mar chuid dá fheachtas ar son Acht Teanga do Thuaisceart Éireann.

D'fhreastail mé ar Chruinniú Cinn Bhliana Chumann Ombudsman na Breataine agus na hÉireann a tionóladh i nDún Éideann na hAlban ar an 9 Bealtaine 2008.

Lean m'Oifig le linn na bliana dá caidreamh dearfach le hOifig Choimisinéir na dTeangacha Oifigiúla i gCeanada.

## Data Protection

My Office is registered with the Office of the Data Protection Commissioner as a body that holds personal information on computers or in files. My Office is determined to fulfil its obligations under the legislation in relation to data protection.

## External Relations

On 28 November 2008, I spoke about the role and function of my Office at an occasion organised by the North Wales Bilingual Forum. There are plans to establish a Language Commissioner's Office there for the Welsh language. On the same occasion I was pleased to meet with the newly appointed Minister for Heritage and Language, Alun Ffred Jones.

On 4 August 2008, I took part in a public interview with the well-know journalist, Póilín Ní Chiaráin, in relation to the work of my Office. The interview, in front of an audience in An Chultúrlann in Belfast, was organised as part of Féile an Phobail. The event was arranged by Pobal, the Irish language umbrella organisation, as part of its campaign for the introduction of a Language Act in Northern Ireland.

I attended the Annual General Meeting of the British and Irish Ombudsman Association which was convened in Edinburgh on 9 May 2008.

In 2008 my Office continued our positive relationship with the Office of the Official Languages Commissioner of Canada.



## STRAITÉIS 20 BLIAIN DON GHAEILGE

Ghlac m'Oifig i mí Iúil 2008 le cuireadh ón ngrúpa comhairleach a bhí ceaptha le hoibriú ar ullmhú na straitéise 20 bliain don Ghaeilge le plépháipéar a chur ina láthair. Chas mé le baill an ghrúpa i Meán Fómhair 2008 lena raibh sa phlépháipéar sin a phlé go mion leo.

Is iad na daoine seo a leanas a bhí i láthair thar ceann an ghrúpa chomhairligh ag an gcruinniú sin: An Dr. Peadar Ó Flatharta (Cathaoirleach), Fiontar, Ollscoil Chathair Bhaile Átha Cliath, An Dr. Caoilfhionn Nic Pháidín, Fiontar, Ollscoil Chathair Bhaile Átha Cliath, An tOllamh Colin Williams, Ollscoil Caerdydd, An tOllamh Joseph Lo Bianco, Ollscoil Melbourne agus An tOllamh François Grin, Ollscoil na Ginéive.

Dúirt mé leis an ngrúpa gurbh fhéidir go mbeadh ullmhú agus feidhmiú na straitéise a bhí faoina gcúram ar na gníomhartha ba thábhachtaí do thodhchaí na teanga ó bunaíodh an Stát dá leagfaí amach, agus dá leanfaí ansin, léarscáil bhóithre nua, chomhaontaithe a chinnteodh an todhchaí do theanga náisiúnta na tíre.

Seo a leanas achoimre ar chuid de na hargóintí a chuir mé i láthair an ghrúpa sa phlépháipéar agus sa díospóireacht a lean é:

Caithfidh an straitéis teanga dul i ngleic leis an gcineál nua saoil anaithnid atá romhainn agus iarracht a dhéanamh múnú a dhéanamh ar na toisí teanga a bhainfidh leis.

Creidim go bhfuil sé ríthábhachtach go mbeadh an straitéis sin iomlán cuimsitheach agus tras-rannach leis an tionchar is fearr a imirt agus go mbeadh spriocanna sonracha inti a bheadh uailmhianach ach insroichte.

Tá sé riachtanach go mbeadh gníomhartha diongbháilte, stuama agus meáite aitheanta sa straitéis a thabharfadh an teanga ón imeall go háit níos lárnaí sa tsochaí. Is den riachtanas nach mbeadh an straitéis féin righin ná dolúbtha le gurbh fhéidir dul i ngleic le hathruithe a thiocthadh gan choinne nó nach féidir a shamhlú anois.

### Cumas, Cearta, Deiseanna agus Ceannasaíocht

Chuige sin, go ginearálta, creidim gur gá don straitéis beartais a rianú le cumas, cearta, deiseanna agus ceannasaíocht a fhorbairt a chinnteoidh méadú leanúnach ar an bpobal labhartha Gaeilge.

## 20 YEAR STRATEGY FOR IRISH

My Office accepted an invitation in July 2008 to submit a discussion document to the advisory group appointed to assist in the preparation of a 20 year strategy for the Irish language. I met the members of the group to discuss in detail the contents of the discussion document in September 2008.

The following members of the advisory group attended that meeting: Dr. Peadar Ó Flatharta (Chairman), Fiontar, Dublin City University, An Dr. Caoilfhionn Nic Pháidín, Fiontar, Dublin City University, Prof. Colin Williams, Cardiff University, Prof. Joseph Lo Bianco, University of Melbourne and Prof. François Grin, University of Geneva.

I suggested to the group that the preparation and implementation of the strategy could be one of the most important exercises in relation to the future of the Irish language since the foundation of the State if it entailed the production and execution of a new, agreed road map which would ensure the future of the national language of this country.

The following is a summary of some the arguments I offered in the discussion paper and subsequent debate:

The language strategy must engage with the new, as yet unknown, lifestyle which lies ahead and must attempt to shape the language factors associated with it.

I believe that it is of key importance that the strategy is fully comprehensive and cross-departmental so as to have the maximum effect and that it should include specific goals which will be ambitious yet achievable.

It is essential that the strategy identifies determined, prudent and balanced approaches which will bring the language from the margins to the mainstream of society. However, it will be crucial that the strategy is not too rigid or unyielding so as not to prevent adaptation to changes which are at present unexpected or unimaginable.

### Capacity, Rights, Opportunities and Leadership

Therefore, I believe that the strategy should outline policies to develop language capacity, rights, opportunities and leadership to ensure a continuous increase in the Irish speaking community.

Go ginearálta freisin, samhlaím go gcaithfeadh:

- go mbeadh plean gníomhaíochta maidir le feidhmiú na straitéise mar dhlúthchuid den saothar le spriocanna soiléire agus le hamscálaí cuí;
- go mbeadh freagracht as feidhmiú na straitéise dílsithe sa leibhéal is sinsearaí den státchóras, i nGrúpa Ardleibhéil nó a chomhionann ag a mbeadh an t-údarás, an chumhacht agus na hacmhainní a bheadh riachtanach don chúram;
- go ndearfadh an straitéis meicníocht láidir, neamhspleách le monatóireacht a dhéanamh ar fheidhmiú na straitéise agus a sholáthródh tuairiscí rialta ar dhul chun cinn nó eile an phróisis sin;
- nach ligfí d'aon imní faoi na leasuithe reachtúla nó institiúideacha a bheadh riachtanach do cheartfheidhmiú na straitéise srian, treampán ná bac a chur ar ullmhú na straitéise is oiriúnaí don ghnó rithabhachtach seo.

Ba cheart go mbeadh sé i gcroílár na straitéise a chinntiú go mbeadh gach cuid de chóras tacaíochta teanga an Stáit ag feidhmiú le lánéifeacht, go mbeadh torthaí na n-iarrachtaí sin á dtomhas agus á meas go rialta, agus go mbeidís á leasú nuair a chruthófaí gur ghá sin.

Go simplí, samhlaím gur cheart go bhforbrófaí sa straitéis na beartais éagsúla a bheadh riachtanach le cinntiú go mbeadh sé de cheart agus de dheis ag duine an Ghaeilge a shealbhú mar theanga (ó dhúchas sa Ghaeltacht agus/nó tríd an gcóras oideachais) agus go mbeadh sé de cheart ansin an teanga a úsáid sa tsochaí, go háirithe leis an státchóras.

## An Ghaeltacht

Mholfaínn go dtabharfadh an straitéis aghaidh ar na hathruithe córais agus institiúideacha a theastaíonn le hoiread tacaíochta agus ab fhéidir a sholáthar don teanga sna ceantair Ghaeltachta ina bhfuil sí fós ina teanga bheo phobail lena chinntiú:

- go leanfaí ag déanamh na rogha páistí a thógáil le Gaeilge mar theanga dhúchais, go méadófaí ar an líon daoine a dhéanfaidh an rogha sin agus go gcuirfí na tacaíochtaí cuí ar fáil dóibh leis an rogha sin a fheidhmiú;
- go stopfaí meath na teanga mar uirlis chumarsáide i measc an phobail, go háirithe i measc an aosa óig agus go méadófaí arís, de réir a chéile, ar a húsáid mar theanga bheo phobail;

In general, I imagine:

- that an action plan for the implementation of the strategy with clear goals and appropriate timescales ought to be a core element of the project;
- that the responsibility for the implementation of the strategy ought to be vested at the most senior level of the state sector, in a High Level Group or its equivalent with the necessary authority, power and resources for the task;
- that the strategy ought to design a strong, independent mechanism to monitor the implementation of the strategy which would report regularly on the progress or lack thereof of the process;
- that concerns regarding the need for legislative or institutional change to ensure the proper implementation of the strategy should not limit, obstruct or interfere with the preparation of the most appropriate strategy for this matter of particular importance.

It ought to be a core component of the strategy that all elements of the State's language support system should function to full effect, that the results of those efforts ought to be measured and evaluated regularly, and that they ought to be amended when such were proven to be necessary.

Simply put, I believe that policies ought to be developed within the strategy to ensure that individuals would be afforded the right and the opportunity to acquire the language (as native speakers in the Gaeltacht and/or through the education system) and, consequently, to use that acquired language in society, particularly with the state sector.

## An Ghaeltacht

I would propose that the strategy address the systematic and institutional changes required in order to provide the greatest possible element of support for the language in Gaeltacht areas where the language remains a living community language in order to ensure:

- that the choice of raising children with Irish as their native language continues, that the number of people who make this choice increases and that the appropriate support is made available to those people to implement that choice;
- that the decline in the use of Irish as a means of communication within Gaeltacht communities is halted, particularly among young people, and that usage of Irish as a living community language is increased again gradually;



- go ndéileálfaí mar ábhar práinne le ceist na teanga sa chóras oideachais sa Ghaeltacht agus go gcuirfí seirbhísí uile an stáit ar fáil trí Ghaeilge sa Ghaeltacht; agus
- go n-aithneofaí na ceangail idir forbairt phobail, eacnamaíochta agus fostaíochta sna Gaeltachtaí agus a dtionchar sin ar inmharthanacht na teanga.

## Oideachas

Dúirt mé i dtuarascáil bhliantúil m'Oifige don bhliain 2004 gur chreid mé go raibh géarghá le hathbheithniú cuimsitheach, fuarchúiseach ar gach gné d'fhoghlaím agus de mhúineadh na Gaeilge sa chóras oideachais, le cinntiú go mbeadh sé mar thoradh ar mhór-infheistíocht leanúnach an Stáit sa teanga go mbeadh líofacht bhunúsach sa teanga ag daltaí ar fhágáil na scoile dóibh tar éis 13 bliana a chaitheamh ag foghlaim na teanga.

### Dúirt mé freisin:

"Creidim gur gá breathnú go grinn ar gach gné d'fhoghlaím na teanga – oiliúint múinteoirí, an curaclam, téacsleabhair agus áiseanna teagaisc, seirbhísí tacaíochta, an mhúinteoireacht, córais chigireachta agus scrúduithe san áireamh – agus córas comhtháite, forásach a fhorbairt a chinnteoidh go mbeidh líofacht sa teanga mar thoradh ar mhór-infheistíocht an stáit sa réimse seo den oideachas."

Níor tháinig aon athrú intinne orm faoin ábhar seo ó shin.

Creidim nach féidir déileáil leis an gceist rithabhachtach seo i gcomhthéacs na scoileanna sin amháin a mhúineann trí Ghaeilge. Tá straitéisí éagsúla riachtanach do scoileanna a fheidhmíonn trí Ghaeilge (sa Ghaeltacht agus lasmuigh di) agus do scoileanna eile na tíre a fheidhmíonn trí Bhéarla. Is ceart a bheith san airdeall nach bhfaigheann c.93% de pháistí scoile na tíre a gcuid oideachais trí mheán na Gaeilge.

## Deis Úsáide

Má tá sé mar pholasáí ag an Stát tacú leis an teanga trí cheart agus deis sealbhaithe (ó dhúchas sa Ghaeltacht agus/nó tríd an gcóras oideachais) a sholáthar don phobal, leanann sé go nádúrtha as sin gur gá deis úsáide a sholáthar don té a roghnódh an teanga sin i mbun cumarsáide sa tsochaí go ginearálta agus go háirithe leis an stát agus lena bhaill.

- that issues associated with the Irish language in the education system in Gaeltacht areas be dealt with as an urgent priority and that all state services in the Gaeltacht be made available through Irish; and
- that the connections between community, employment and economic development in the Gaeltacht and their influence on language viability be recognised.

## Education

I stated in my Office's 2004 annual report that I believed that there was an urgent need for a comprehensive and impartial review of every aspect of the learning and teaching of Irish in the educational system with a view to ensuring that the continuous and substantial state investment in Irish would mean that students, having spent thirteen years learning the language, would acquire a basic fluency in the language before leaving school.

### I also said:

"I believe that it is necessary to look closely at every aspect of language learning – taking into account such matters as teacher training, the curriculum, textbooks and teaching resources, support services, teaching methods, inspection systems and examinations. The aim should be to develop an integrated and progressive system which will ensure competency in the language in return for the substantial state investment in this area of education."

I have not changed my mind on this issue since then.

I do not believe that this vitally important issue can be addressed by reference only to schools which teach through the medium of Irish. Varying strategies are required for schools which operate through the medium of Irish (in the Gaeltacht and outside it) and for other schools throughout the country which function through the medium of English. We must remain conscious of the fact that c.93% of Irish schoolchildren are not educated through Irish.

## Opportunity to Use

If it is state policy to support the language by providing the public with the right and opportunity to acquire the language (as a native speaker in the Gaeltacht and/or through the education system), it follows naturally therefore that the opportunity to use the language ought to be provided to those who would choose to use the language for communication in society in general and with the state and its organs in particular.

Caithear méadú a chur ar acmhainn nó ar inniúlacht an Stáit i soláthar deiseanna úsáide don teanga.

Creidim go dteastódh gníomh nó córas athchothromaithe leis an líon dóthanach sin d'fhoireann le hinniúlacht sa Ghaeilge a chinntiú sa státseirbhís agus sa tseirbhís phoiblí. Aimsíodh córas le cabhrú le hathchothromaíocht trasphobail a fheabhsú trí idirdhealú dearfach a spreagadh do Sheirbhís Phóilíneachta Thuaisceart Éireann de thoradh ar Thuarascáil Patten. Theastódh iarracht den chineál céanna a fheidhmiú anseo ar bhunús teanga, fiú ar feadh tréimhse shealadach, le tionchar dearfach a bheith aige in athchothromú a dhéanamh ar fhoireann le hinniúlacht sa Ghaeilge agus sa Bhéarla sa státchóras anseo.

## Athbhreithniú ar an Acht

Creidim go mbeadh sé tráthúil athbhreithniú a dhéanamh ar Acht na dTeangacha Oifigiúla sa bhliain 2013 – deich mbliana tar éis a aachtaithe.

## Ceannasaíocht

Samhlaím freisin go gcaithfear beartais nua a cheapadh leis an mbearna a líonadh idir cearta teanga atá ar fáil agus úsáid na teanga go praiticiúil.

Tá gá go n-aithneodh an straitéis a thábhachtaí agus atá ceannasaíocht ó ionadaithe tofa an phobail, go háirithe i dTithe an Oireachtais, agus go leagfaí amach beartais leis an teanga a bhogadh óna hionad imeallach sa dioscúrsa polaitíochta faoi láthair go dtí áit níos lárnaí i ndíospóireachtaí agus in imeachtaí eile i ngóthaí parlaiminteacha.

Creidim go dteastódh mórfeachtas leanúnach maidir le feachtas teanga le tuiscint an phobail a mhéadú ar thábhacht ár dteanga náisiúnta d'fhéiniúlacht na tíre.

Samhlaím gur cheart don straitéis beartais a cheapadh a thógadh ar an múnla atá molta ag an Eagraíocht um Chomhar agus Fhorbairt Eacnamaíochta (OECD) i dtaca le comhtháthú shaothar na gcomhlachtaí poiblí agus go bhfeicfí mar chodanna d'olltionscnamh sainiúil, comhaontaithe amháin gach ceann de na gníomhaíochtaí aonair sin a bhfuil cosaint agus cur chun cinn na teanga ina gcoilár. D'fhéadfaí comhpháirtíochtaí a spreagadh freisin le geallsealbhóirí eile a thacaíonn leis an teanga lasmuigh de scóip an státchórais – Cumann Lúthchleas Gael, Comhaltas Ceoltóirí Éireann agus eagraíochtaí eile ina measc.

The capacity and competence of the State in the provision of opportunities for language use must be increased.

I believe that a “rebalancing” action may be required to ensure an adequate number of staff with competence in Irish in the civil and public services. A system to help achieve cross-community rebalancing through positive discrimination was found for the Police Service of Northern Ireland as a result of the Patten Report. A similar effort would be required here, even temporarily, to have a positive effect in rebalancing staffing levels in the state sector to ensure sufficient staff with competence in Irish and in English.

## Review of Act

I think it would be appropriate that the Official Languages Act be reviewed in 2013 – ten years after its enactment.

## Leadership

I also envisage that new strategies are required to bridge the gap between existing language rights and the practical use of the language.

The strategy needs to stress the importance of leadership from elected members of the public, particularly in the Houses of the Oireachtas, and should identify policies to move the language from its marginal position in public discourse at present to a more central role in debates and other proceedings in parliamentary affairs.

I believe that a major, continuous language awareness campaign is needed to increase the public's awareness of the importance of our national language to our identity.

I think that the strategy should develop policies to build on the principles suggested by the OECD regarding collaboration between public bodies to achieve better results and that each individual action which has language promotion at its heart should be seen as part of an overall, agreed, multi-faceted language project. Partnerships could also be encouraged with other stakeholders who support the language outside the remit of the state sector – including the Gaelic Athletic Association, Comhaltas Ceoltóirí Éireann and other organisations.

Ba láidre seasamh na teanga agus an misneach a bheadh ina todhchaí dá bhfeicfí go gcinnteodh beartais na straitéise 20 bliain go ndéanfaí olliaracht aontaithe náisiúnta amháin as an iliomad beartas aonair, neamhspleách.

Ba cheart go mbeadh sé le tuiscint ón straitéis gur cuid dár n-oidhreacht í an teanga agus nár thug aon náisiún neamhspleách, ceannasach uaidh riamh dá thoil féin gné chomh lárnach sin dá dhúchas.

Maidir le scálaí ama, má fhoilsítear an straitéis am éigin le linn na bliana 2009 samhláim gur cheart go sínfeadh an straitéis féin ó thús na bliana 2010 go dtí 2030, rud a d'fhágfadh roinnt ama le bunsocruithe a dhéanamh lena tabhairt i bhfeidhm. B'inmholta freisin go mbeadh spriocanna sainiúla aitheanta le bheith bainte amach in imeacht tréimhsí 6 bliana:

- 2016 (comóradh céad bliain Éirí Amach na Cásca),
- 2022 (comóradh céad bliain bhunú an Stáit),
- 2028 (comóradh céad bliain chéad teorainn na Gaeltachta).

The language situation, and the public's confidence in its future, would be enhanced if the 20 year strategy ensured that so many single, independent actions were united in one agreed major national effort.

It should be clear from the strategy that the Irish language is part of our national identity and that no independent, sovereign nation has ever, of its own accord, abandoned such a unique and integral tenet of its heritage.

In relation to timescales, I imagine that if the strategy is published at some stage during 2009 that its period of implementation should extend from the beginning of 2010 up to 2030. This would allow some time to prepare for its introduction. It would also be advisable to identify key performance indicators to be achieved over periods of six years:

- 2016 (to coincide with the 100th anniversary of the Easter Rising),
- 2022 (to coincide with the 100th anniversary of the foundation of the State),
- 2028 (to coincide with the 100th anniversary of the first Gaeltacht boundaries).

## FAIREACHÁN

Is cuid lárnach d'Acht na dTeangacha Oifigiúla 2003 iad na scéimeanna teanga mar go dtugtar deis do chomhlachtaí poiblí cur le líon, raon agus caighdeán na seirbhísí a chuirtear ar fáil trí Ghaeilge. Ar an mbealach seo tógann na scéimeanna teanga ar na dualgais dhíreacha atá leagtha ag an Acht ar chomhlachtaí poiblí agus feidhm reachtúil leis an méid a bhíonn aontaithe iontu.

I gcaitheamh na bliana leanadh de phróiseas léirmheasa agus iniúchta do chomhlachtaí poiblí a raibh scéimeanna teanga daingnithe acu. Feidhmíodh plean iniúchta a thóg san áireamh scéimeanna teanga a raibh a gcéad bhliain agus a dtríú bliain feidhme tagtha chun críche. I dteannta na hoibre seo, fillleadh ar dhá chomhlacht poiblí a raibh gealltanais shonracha fós le comhlíonadh acu i ndiaidh léirmheas na bliana 2007.

Fearacht blianta eile bhí sé mar phríomhchuspóir le hiniúchadh na chéad bhliana aon bhaol forfheidhmithe a aithint go luath sa phróiseas agus aird cheannairí na gcomhlachtaí poiblí a dhíriú ar an méid a bhí tagtha chun solais de dheasca an phróisis faireacháin. Ina iomláine cuireadh tús le 28 léirmheas chéad bhliana le linn 2008 agus bhí 25 díobh siúd tugtha chun críche faoi dheireadh na bliana.

Feidhmíodh córas iniúchta níos leithne maidir le comhlachtaí poiblí a raibh tréimhse feidhme trí bliana a scéimeanna teanga tagtha chun críche. I gcaitheamh na bliana seo cuireadh tús le próiseas iniúchta do 21 comhlacht poiblí a d'aontaigh scéim teanga le linn 2005 agus bhí an próiseas tugtha chun críche i leith 15 comhlacht poiblí faoi dheireadh na bliana. Lorgaíodh cruthúnas agus dearbhuithe go raibh na gealltanais reachtúla a bhí tugtha sna scéimeanna teanga curtha i bhfeidhm ina n-iomláine. Chomh maith leis seo fiosraíodh na córais a bhí i bhfeidhm ag comhlachtaí poiblí chun a chinntiú go raibh sé d'acmhainn ag na heagraíochtaí éagsúla seirbhísí trí Ghaeilge mar a bhí geallta a thabhairt don phobal.

Sa chás gur tháinig sé chun solais nach raibh gealltanais áirithe curtha i bhfeidhm ag na comhlachtaí poiblí, lorgaíodh míniú, réiteach agus amscála cuí uathu. Díol suntais é gur ghá é seo a dhéanamh in 11 cás, nó 60%, díobh seo a bhí faoi iniúchadh i rith na bliana. Minic go maith, d'éirigh linn teacht ar réiteach sásúil leis an gcomhlacht poiblí, ach theip orainn an méid sin a dhéanamh in dhá chás agus ní raibh de rogha againn ach dul i muinín próiseas imscrúdaithe.

## MONITORING

The language schemes are core elements of the Official Languages Act in that they provide public bodies with the opportunity to prioritise the development of the number, range and quality of services through Irish. In this way, the language schemes build on the direct provisions placed on public bodies by the Act and place the agreed provisions on a statutory basis.

During the year we continued a process of appraising and auditing the confirmed language schemes of public bodies. An audit plan was implemented which included language schemes at the completion of their first year of operation and a final audit at the end of the three year cycle. In addition to this we returned to two public bodies which had specific unfulfilled commitments outstanding at the end of 2007.

As in previous years the main objective of the first year audit was to identify at an early stage any threat to the implementation of the scheme's provisions and to alert the management of public bodies to what had emerged as a result of the monitoring process. A total of 28 first year audits were begun during 2008 and 25 of those were completed by year end.

A wider audit process was undertaken in the case of public bodies whose three year language schemes had expired. During the course of the year, the audit process was begun in the case of 21 public bodies that had agreed language schemes in 2005 and 15 of those were concluded by year end. Evidence and confirmation were sought that the statutory commitments had been fully implemented. In addition, the systems in place by public bodies to ensure that they had the capacity to provide public services through Irish in accordance with their commitments were examined.

In cases where it came to light that certain commitments were not being implemented, an explanation was sought from the public body in addition to a solution and a timescale for implementation. It is noteworthy that this was necessary in 11 cases, or 60%, of those involved in the 3 year end-of-cycle audits. In most cases a satisfactory outcome was agreed with the public bodies, but we failed to achieve this in two cases and we had no choice except to begin formal investigations in those instances.

Cé go raibh éagsúlacht mhór idir na deacrachtaí a tháinig chun cinn i bhforfheidhmiú scéimeanna teanga éagsúla, bhí sé le tabhairt faoi deara go raibh fadhb choitianta ann maidir le cúrsaí cumarsáide agus go háirithe suíomhanna gréasáin agus preasráitis. Ba dhíol suntais chomh maith gur theip ar roinnt comhlachtaí poiblí córais fheiliúnacha a bhunú nó a fheidhmiú chun a chinntiú go gcomhlíonfaí na gealltanais shonracha a bhí tugtha acu, san áireamh fáil a bheith ag an bpobal ar bhileoga eolais agus foirmeacha iarratais. Nuair a thugann comhlachtaí poiblí gealltanais reachtúla maidir le feabhas a chur ar líon agus ar raon na seirbhísí i nGaeilge, ní mór go gcuirfí córais shásúla i bhfeidhm i dtaca le comhlíonadh na ngealltanais sin. Tháinig sé chun solais i roinnt cásanna, áfach, nach rabhthas airdeallach ar an mbunriachtanas seo.

Téama coitianta eile a tháinig chun cinn le linn ár bhfiosruithe ná an drogall a bhí ar roinnt eagraíochtaí fógraíocht mar ba cheart a dhéanamh ar na seirbhísí a bhí ar fáil trí Ghaeilge. Luíonn sé le réasún nach mbeidh ach toradh teoranta ar fhorbairt seirbhísí trí Ghaeilge mura gcuirtear an pobal ar an eolas maidir le teacht a bheith ar na seirbhísí sin. Pléadh an cás seo le riar maith eagraíochtaí, go háirithe agus deireadh tagtha le tréimhse feidhme na chéad scéime teanga.

Although there were significant differences between the difficulties which arose in the implementation of various language schemes, it was noticeable that there was a common problem regarding communications and especially websites and press releases. It was also noteworthy that some public bodies had failed to establish or apply suitable systems to ensure that they fulfilled the statutory obligations under their language schemes, including public availability of information leaflets and application forms. When public bodies make statutory commitments about improving the quantity and range of services in Irish, it is imperative that satisfactory systems are put in place to ensure the fulfilment of those obligations. However, it emerged in some cases that this basic requirement was not adhered to.

Another common theme which emerged during our enquiries was the reluctance of some organisations to appropriately publicise the services available through Irish. It stands to reason that there will only be a limited demand for services if the public is not informed of the availability of those services. This situation was discussed with a significant number of organisations, particularly at the expiration of their first language scheme.

## Léirmheas déanta agus Tuairiscí eisithe 2008

### Reviews completed and Reports issued 2008

Ainm an Chomhlachta Phoiblí	Name of Public Body
An Roinn Gnóthaí Pobail, Tuaithe & Gaeltachta	Department of Community, Rural & Gaeltacht Affairs
Oifig an Uachtaráin	Office of the President
Oifig an Choimisiúin um Cheapacháin Seirbhíse Poiblí	Office of the Commission for Public Service Appointments
An Roinn Ealaíon, Spóirt agus Turasóireachta	Department of Arts, Sport and Tourism
Oifig an Stiúrthóra Ionchúiseamh Poiblí	Office of the Director of Public Prosecutions
An Chomhairle Ealaíon	The Arts Council
Oifig an Ombudsman agus Oifig an Choimisinéara Faisnéise	Office of the Ombudsman and Office of the Information Commissioner
Coiste Gairmoideachais Chontae Dhún na nGall	County Donegal Vocational Educational Committee
Údarás Áitiúla Chiarraí	Kerry Local Authorities
An tSeirbhís Chúirteanna	The Courts Service
Údarás Áitiúla Chontae Phort Láirge	Waterford County Local Authorities
An Roinn Comhshaoil, Oidhreachta agus Rialtais Áitiúil	Department of the Environment, Heritage and Local Government
Roinn an Taoisigh	Department of the Taoiseach
Ollscoil na hÉireann, Má Nuad	National University of Ireland, Maynooth
Ollscoil na hÉireann, Gaillimh	National University of Ireland, Galway
An tSeirbhís um Cheapacháin Phoiblí	Public Appointments Service
Ollscoil Luimnigh	University of Limerick
Comhairle Cathrach Bhaile Átha Cliath	Dublin City Council
Coláiste na hOllscoile Corcaigh	University College, Cork
Údarás Áitiúla Mhaigh Eo	Mayo Local Authorities
An Bord Seirbhíse Ríomhaire Rialtais Áitiúil	Local Government Computer Services Board
An Roinn Cosanta	Department of Defence
Oifig an Choimisinéara Cosanta Sonraí	Office of the Data Protection Commissioner
An tÚdaráis Clárúcháin Maoine	Property Registration Authority
An Foras Riaracháin	Institute of Public Administration
Coimisiún Forbartha an Iarthair	Western Development Commission
An Bord Seirbhíse Bainistíochta Rialtais Áitiúil	Local Government Management Services Board
An Roinn Iompair	Department of Transport
Coiste Gairmoideachais Chathair Chorcaí	Cork City Vocational Education Committee
Oifig na nOibreacha Poiblí	Office of Public Works
An Bord um Chúnamh Dlíthiúil	Legal Aid Board
An Roinn Gnóthaí Sóisialacha agus Teaghlaigh	Department of Social and Family Affairs
Coiste Gairmoideachais Chathair na Gaillimhe	Galway City Vocational Education Committee
Údarás Áitiúla Thiobraid Árann Thuaidh agus Comhchoiste Leabharlann Chontae Thiobraid Árann	North Tipperary Local Authorities and County Tipperary Joint Libraries Committee
Oifig an Ard-Aighne;	Office of the Attorney General;
Oifig na nDréachtóirí Parlaiminte don Rialtas;	Office of the Parliamentary Counsel to the Government;
Oifig an Phríomh-Aturnae Stáit	Chief State Solicitor's Office
Comhairle Contae Dhún Laoghaire-Ráth an Dúin	Dún Laoghaire-Rathdown County Council
Údarás Áitiúla an Chláir	Clare Local Authorities
An Bord Pleanála	An Bord Pleanála
Údarás Áitiúla Chorcaí	Cork Local Authorities
Údarás Áitiúla Ros Comáin	Roscommon Local Authorities
Údarás Áitiúla na hIarmhí	Westmeath Local Authorities
Comhairle Cathrach Chorcaí	Cork City Council



## SCÉIMEANNA TEANGA FAOIN ACHT

Le linn na bliana 2008, dhaingnigh an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta 15 scéim teanga nua a chuimsigh 28 comhlacht poiblí. D'fhág sin go raibh 85 scéim teanga ar fad daingnithe faoi dheireadh 2008, a chuimsigh mórimlán de 155 comhlacht poiblí ó achtaíodh an reachtaíocht.

Ag deireadh na bliana 2008, bhí 52 dréachtscéim a raibh an próiseas comhaontaithe agus daingnithe fós le críochnú ina leith. Bhain 30 acu seo le hiarratas ar chomhlachtaí poiblí an chéad dréachtscéim teanga a ullmhú agus bhain 22 le hiarratais ar ullmhú an dara dréachtscéim. Is díol suntais é nach raibh scéim teanga nua aontaithe le haon cheann den 22 comhlacht poiblí a raibh a gcéad scéim teanga imithe “as feidhm” ag deireadh na bliana reatha.

Scéimeanna Daingnithe de réir Dáta Feidhme		
Bliain	Scéimeanna	Comhlachtaí Poiblí san Áireamh
2004	01	01
2005	22	35
2006	18	36
2007	29	55
2008	15	28
<b>iomlán</b>	<b>85</b>	<b>155</b>

Céad dréachtscéim fós le daingniú		
Bliain	Dréachtscéimeanna	Comhlachtaí Poiblí san Áireamh
2005	16	25
2006	71	129
2007	42	79
2008	30	54

Dara dréachtscéim fós le daingniú		
Bliain	Dréachtscéimeanna	Comhlachtaí Poiblí san Áireamh
2007	20	33
2008	22	35

Léirmheasanna / Iniúchtaí Críochnaithe		
Bliain	Scéimeanna	Comhlachtaí Poiblí san Áireamh
2006	09	16
2007	25	43
2008	42	74
<b>iomlán</b>	<b>76</b>	<b>133</b>

## LANGUAGE SCHEMES UNDER THE ACT

During 2008, the Minister for Community, Rural and Gaeltacht Affairs confirmed 15 new language schemes covering 28 public bodies. As a result, there were 85 language schemes confirmed by the end of 2008, which covered a total of 155 public bodies since the legislation was enacted.

At the end of 2008, there were 52 draft schemes which had still to complete the confirmation process. 30 of these related to public bodies from which a first draft language scheme had been requested and 22 related to requests for the preparation of the second draft scheme. It is noteworthy that no new language scheme had been agreed with any of the 22 public bodies whose first language scheme had expired at the end of the current year.

Schemes Confirmed by Commencement Date		
Year	Schemes	Public Bodies Included
2004	01	01
2005	22	35
2006	18	36
2007	29	55
2008	15	28
<b>Total</b>	<b>85</b>	<b>155</b>

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

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

Reviews / Audits Completed		
Year	Schemes	Public Bodies Included
2006	09	16
2007	25	43
2008	42	74
<b>Total</b>	<b>76</b>	<b>133</b>



## Scéimeanna daingnithe faoi dheireadh 2008

### Schemes confirmed by the end of 2008

Ainm an Chomhlachta Phoiblí	Name of Public Body	Dáta a thiocfaidh an Scéim i bhfeidhm / Commencement Date of the Scheme
An Roinn Gnóthaí Pobail, Tuaithe & Gaeltachta	Department of Community, Rural & Gaeltacht Affairs	22/09/2004
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
An Roinn Ealaíon, Spóirt agus Turasóireachta	Department of Arts, Sport and Tourism	01/07/2005
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 agus Oifig an Choimisinéara Faisnéise	Office of the Ombudsman and Office of the Information Commissioner	01/07/2005
Coiste Gairmoideachais Chontae Dhún na nGall	County Donegal Vocational Educational Committee	01/07/2005
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 agus Rialtais Áitiúil	Department of the Environment, Heritage and Local Government	15/08/2005
Údarás Áitiúla Chontae na Gaillimhe	County Galway Local Authorities	23/08/2005
Roinn an Taoisigh	Department of the Taoiseach	01/09/2005
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 agus Eolaíochta	Department of Education and 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 Services	15/05/2006
An Roinn Talmhaíochta agus Bia	Department of Agriculture and Food	01/06/2006
Ollscoil Luimnigh	University of Limerick	01/06/2006
An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí	Department of Justice, Equality and 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
Údarás Áitiúla na Mí	Meath Local Authorities	01/09/2006
Údarás Áitiúla Fhine Gall	Fingal Local Authorities	01/10/2006
An Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádurtha	Department of Communications, Energy and 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 and 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

Ainm an Chomhlachta Phoiblí	Name of Public Body	Dáta a thiocfaidh an Scéim i bhfeidhm / Commencement Date of the Scheme
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 agus Teaghlaigh	Department of Social and Family Affairs	01/06/2007
Coiste Gairmoideachais Chathair na Gaillimhe	Galway City Vocational Education Committee	01/06/2007
Údarás Áitiúla Thiobraid Árann Thuaidh agus Comhchoiste Leabharlann Chontae Thiobraid Árann	North Tipperary Local Authorities and 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 Ceanainn	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 Fháisnéis 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

## 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
An Roinn Gnóthaí Pobail, Tuaithe & Gaeltachta	Department of Community, Rural & Gaeltacht Affairs	22/09/2007	15
Oifig an Uachtaráin	Office of the President	28/04/2008	8
Oifig an Choimisiúin um Cheapacháin Seirbhíse Poiblí	Office of the Commission for Public Service Appointments	30/05/2008	7
An Roinn Ealaíon, Spóirt agus Turasóireachta	Department of Arts, Sport and Tourism	01/07/2008	6
Oifig an Stiúrthóra Ionchúiseamh Poiblí	Office of the Director of Public Prosecutions	01/07/2008	6
An Chomhairle Ealaíon	The Arts Council	01/07/2008	6
Oifig an Ombudsman agus Oifig an Choimisinéara Faisnéise	Office of the Ombudsman and Office of the Information Commissioner	01/07/2008	6
Coiste Gairmoideachais Chontae Dhún na nGall	County Donegal Vocational Educational Committee	01/07/2008	6
Údarás Áitiúla Chiarraí	Kerry Local Authorities	26/07/2008	5
An tSeirbhís Chúirteanna	The Courts Service	31/07/2008	5
Údarás Áitiúla Chontae Phort Láirge	Waterford County Local Authorities	01/08/2008	5
An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil	Department of the Environment, Heritage and Local Government	15/08/2008	4
Údarás Áitiúla Chontae na Gaillimhe	County Galway Local Authorities	23/08/2008	4
Roinn an Taoisigh	Department of the Taoiseach	01/09/2008	4
Feidhmeannacht na Seirbhíse Sláinte, Limistéar an Iarthair	Health Service Executive, Western Area	01/09/2008	4
Ollscoil na hÉireann, Má Nuad	National University of Ireland, Maynooth	19/09/2008	3
Institiúid Teicneolaíochta na Gaillimhe-Maigh Eo	Galway-Mayo Institute of Technology	28/09/2008	3
Oifig na gCoimisinéirí Ioncaim	Office of the Revenue Commissioners	01/10/2008	3
Ollscoil na hÉireann, Gaillimh	National University of Ireland, Galway	01/10/2008	3
Údarás Áitiúla Dhún na nGall	Donegal Local Authorities	01/10/2008	3
An tSeirbhís um Cheapacháin Phoiblí	Public Appointments Service	03/10/2008	3
An Roinn Oideachais agus Eolaíochta	Department of Education and Science	01/12/2008	1

\* Nuair a théann scéim "in éag" (alt 15(1) d'Acht na dTeangacha Oifigiúla), fanann forálacha na scéime i bhfeidhm go dtí go ndaingnítear scéim nua (alt 14(3) d'Acht na dTeangacha Oifigiúla).

\* When a scheme "expires" (section 15(1) of the Official Languages Act), the scheme's provisions remain in force until a new scheme has been confirmed (section 14(3) of the Official Languages 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)
Coiste Gairmoideachais Chontae an Chláir	County Clare Vocational Education Committee	30/07/2006	29
Údaráis Áitiúla Thiobraid Árann Theas	South Tipperary Local Authorities	30/07/2006	29
Oifig an Ard-Reachtaire Cuntas agus Ciste	Office of the Comptroller and Auditor General	21/09/2006	27
An Ceoláras Náisiúnta	National Concert Hall	21/09/2006	27
Dánlann Náisiúnta na hÉireann	National Gallery of Ireland	21/09/2006	27
Amharclann na Mainistreach (An Chuideachta Amharclann Náisiúnta Teoranta)	Abbey Theatre (National Theatre Society Ltd.)	21/09/2006	27
An Oifig um Chlárú Cuideachtaí	Companies Registration Office	21/09/2006	27
An tÚdarás Comhionannais	Equality Authority	21/09/2006	27
Oifig Chláraitheoir na gCara-Chumann	Office of the Registrar of Friendly Societies	21/09/2006	27
Coimisiún na Scrúduithe Stáit	State Examinations Commission	21/09/2006	27
An Binse Comhionannais	Equality Tribunal	21/09/2006	27
Institiúid Teicneolaíochta Thamhlachta	Institute of Technology, Tallaght	21/09/2006	27
Institiúid Teicneolaíochta Trá Lí	Institute of Technology, Tralee	21/09/2006	27
Coiste Gairmoideachais Chontae Chorcaí	Cork County Vocational Education Committee	21/09/2006	27
An Roinn Sláinte agus Leanaí	Department of Health and Children	27/09/2006	27
Leabharlann Náisiúnta na hÉireann	National Library of Ireland	27/09/2006	27
Ard-Mhúsaem na hÉireann	National Museum of Ireland	27/09/2006	27
Suirbhéireacht Ordanáis Éireann	Ordnance Survey Ireland	27/09/2006	27
An Chomhairle Oidhreacht	Heritage Council	27/09/2006	27
Údaráis Áitiúla Shligigh	Sligo Local Authorities	27/09/2006	27
Bord Scannán na hÉireann	Irish Film Board	31/03/2007	21
Foras na Mara	Marine Institute	10/06/2007	19
Údaráis Áitiúla Laoise	Laois Local Authorities	10/06/2007	19
Údaráis Áitiúla Uíbh Fhailí	Offaly Local Authorities	10/06/2007	19
Údaráis Áitiúla Loch Garman	Wexford Local Authorities	10/06/2007	19
Údaráis Áitiúla Chill Mhantáin	Wicklow Local Authorities	10/06/2007	19
Feidhmeannacht na Seirbhíse Sláinte	The Health Service Executive	10/06/2007	19
Údaráis Áitiúla an Chabháin	Cavan Local Authorities	17/06/2007	18
Údaráis Áitiúla Chill Chainnigh	Kilkenny Local Authorities	17/06/2007	18
An Garda Síochána	An Garda Síochána	03/10/2007	15



## GEARÁIN

Don tríú bliain as a chéile, cuireadh beagnach 600 cás nua faoi mo bhráid sa bhliain 2008 inar chreid baill den phobal go raibh cúis ghearáin acu de bharr deacrachta nó faidhbe le seirbhís trí Ghaeilge ón státchóras.

Fuarthas comhréiteach ar chuid mhór de na gearáin sin tríd an gcóras neamhfhoirmiúil réitithe gearán a fheidhmíonn m'Oifig. Tá achomre ar na cásanna nár réitíodh ar an mbealach sin sa chéad chaibidil eile den tuarascáil seo (Imscrúduithe).

Is ceart a rá nár bhain na gearáin ar fad chun na hOifige le linn 2008 le sárú ar dhualgais reachtúla faoi Acht na dTeangacha Oifigiúla 2003 agus, mar an gcéanna le blianta eile, gur bhain tuilleadh le deacrachtaí agus fadhbanna níos ginearálta gnó a dhéanamh trí Ghaeilge le heagraíochtaí stáit.

I measc na nithe a ndearnadh gearán fúthu, bhí roinnt mhaith (9%) a bhain le deacrachtaí le hainm agus seoladh i nGaeilge – iad a bheith míchruinn, i mBéarla nó nach raibh córas ríomhaireachta in oiriúint don síneadh fada.

Bhí roinnt eile gearán a bhain le córas idirghníomhach ar líne a bheith ar fáil i mBéarla, agus gan fáil a bheith air i nGaeilge. Is faoi scéim teanga faoin Acht a thagann aon dualgas ar chomhlacht poiblí córas den chineál seo a bheith ar fáil agus mar sin braitheann na dualgais atá ar chomhlacht poiblí ina leith faoin Acht ar a bhfuil daingnithe in aon scéim teanga dá chuid. Agus sin ráite, is bealach an-éifeachtach é córas ar líne le seirbhísí i nGaeilge a chur ar fáil ar bheagán acmhainn foirne.

Bhain 18% de na gearáin le heaspa Gaeilge ar chomharthaíocht nó ar fhógraíocht, 26% le sárú ar fhorálacha i scéimeanna teanga, 12% le freagraí i mBéarla ar chomhfhreagras i nGaeilge agus 3% le heaspa Gaeilge ar chomharthaí bóthair. Bhí méid áirithe gearán chomh maith a bhain le bileoga nó ciorcláin i mBéarla amháin (10%) agus le sárú ar fhorálacha d'achtacháin eile a bhain le stádas nó le húsáid na Gaeilge (4%).

Ní raibh údarás oifigiúil ag m'Oifig dul i ngleic le fadhbanna maidir le húsáid na Gaeilge ar chomharthaíocht, stáiseanóireacht nó fogairtí taifeadta béil toisc nach raibh feidhm phraiticiúil le linn na bliana leis na rialacháin úra sa réimse sin. Tá na rialacháin chuí déanta ag an Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta agus beidh éifeacht phraiticiúil leo ón 1 Márta 2009. Toisc nach bhfuil fógraíocht ná comharthaí bóthair san áireamh faoi na rialacháin, níl aon údarás ag m'Oifig maidir leis na gnóthaí sin.

Ó thaobh na tíreolaíochta de, is ó Chontae Bhaile Átha Cliath is mó a tháinig gearáin. Ón nGaeltacht a tháinig 32% de na gearáin agus tháinig an 68% eile ó lasmuigh den Ghaeltacht.

## COMPLAINTS

For the third year in succession, I received almost 600 new complaints in 2008 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.

Most of the complaints were resolved through the informal complaints resolution procedure operated by my Office. There are summaries of those which were not resolved in this manner in the next chapter of this report (Investigations).

It should be mentioned that not all complaints received during 2008 referred to breaches of statutory obligations under the Official Languages Act 2003, and as was the case in previous years, that some related to more general difficulties and problems experienced by those attempting to transact their business through Irish with state organisations.

A significant number of complaints (9%) related to problems with the use of Irish names and addresses – that they were incorrect, in English or that a computer system could not handle the síneadh fada.

There were a number of other complaints in relation to online interactive systems being available in English but not in Irish. Any obligation to provide or adapt systems of this kind would be covered by a language scheme under the Act, and therefore the obligation on any particular public body would depend on what had been agreed in any such confirmed scheme. However, it should be noted that services in Irish can be provided very effectively through on-line systems using limited staff resources.

18% of the complaints received related to a lack of Irish on signage or advertising, 26% to a breach of a provision of a language scheme, 12% to replies in English to correspondence in Irish and 3% to a lack of Irish on road signs. A certain amount related to leaflets or circulars in English only (10%) and to contravention of provisions of other enactments relating to the use or status of the Irish language (4%).

My Office had no official authority to deal with problems relating to the use of Irish in signage, stationery or recorded oral announcements as the new regulations in this area had no practical effect during the year. The relevant regulations have been made by the Minister for Community, Rural and Gaeltacht Affairs and will have practical effect from 1 March 2009. Since the new regulations do not include provisions in relation to the use of Irish in advertisements or road signs, my Office has no authority to deal with these matters.

From a geographical viewpoint, the majority of the complaints came from County Dublin. 32% of the complaints came from Gaeltacht areas and 68% came from outside the Gaeltacht.

## GEARÁIN: DEACRACHTAÍ AGUS FADHBANNA – STATISTICÍ COMPLAINTS: PROBLEMS AND DIFFICULTIES – STATISTICS

### Gearáin le linn 2008 / Complaints in 2008

Gearáin nua 2008 / New complaints 2008

**596**

Gearáin tugtha ar aghaidh ó 2007 / Complaints brought forward from 2007

**22**

### Móriomlán gearán – fadhbanna agus deacrachtaí / Total complaints – problems and difficulties

**618**

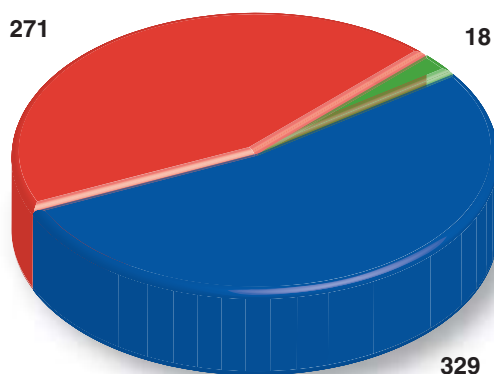
Comhairle tugtha maidir le gearáin / Advice provided in relation to complaints

Gearáin fiosraithe agus críochnaithe / Complaints examined and resolved

Gearáin tugtha ar aghaidh go dtí 2009 / Complaints brought forward to 2009

### IOMLÁN / TOTAL

2006	2007	2008
285	282	<b>329</b>
294	378	<b>271</b>
60	22	<b>18</b>
<b>639</b>	<b>682</b>	<b>618</b>



Tá anailís ar na cásanna éagsúla sna staitisticí agus sna léaráidí seo a leanas:

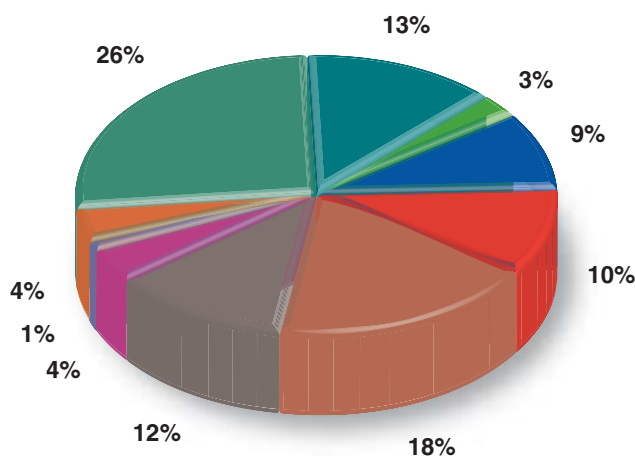
An analysis of the various cases is provided in the statistics and illustrations which follow:

### Céatadán gearán de réir cineáil / Percentage of complaints by type

Easpa Gaeilge ar chomharthaí bóthair / Lack of Irish on road signs	16%	13%	<b>3%</b>
Fadhb le hainm agus/nó seoladh i nGaeilge / Problem with use of name and/or address in Irish	16%	10%	<b>9%</b>
Bileoga nó ciorcláin i mBéarla amháin / Leaflets or circulars in English only	5%	10%	<b>10%</b>
Easpa Gaeilge i gcomharthaíocht/i bhfógraíocht / Lack of Irish on signage/advertisements	6%	9%	<b>18%</b>
Freagraí i mBéarla ar chumarsáid i nGaeilge / Replies in English to correspondence in Irish	14%	8%	<b>12%</b>
Foilseacháin i mBéarla amháin / Publications in English only	3%	3%	<b>4%</b>
Alt 8 – Na Cúirteanna (Riaradh an Cheartais) / Section 8 – The Courts (Administration of Justice)	-	-	<b>1%</b>
Achtacháin eile a bhaineann le stádas nó le húsáid na Gaeilge / Other enactments relating to the status or use of Irish	-	-	<b>4%</b>
Foráil de scéim teanga (san áireamh cártaí aitheantais, suíomhanna gréasáin agus foirmeacha) / Provision of language scheme (including identity cards, websites and forms)	23%	23%	<b>26%</b>
Eile (cúiseanna aonair) / Other (individual issues)	17%	24%	<b>13%</b>

2006	2007	2008
16%	13%	<b>3%</b>
16%	10%	<b>9%</b>
5%	10%	<b>10%</b>
6%	9%	<b>18%</b>
14%	8%	<b>12%</b>
3%	3%	<b>4%</b>
-	-	<b>1%</b>
-	-	<b>4%</b>
23%	23%	<b>26%</b>
17%	24%	<b>13%</b>
<b>100%</b>	<b>100%</b>	<b>100%</b>

### IOMLÁN / TOTAL



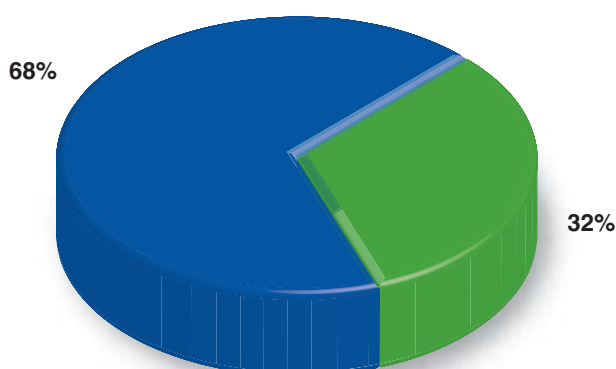
### Gearáin: Gaeltacht agus lasmuigh den Ghaeltacht / Complaints: Gaeltacht and non-Gaeltacht

Gaeltacht / Gaeltacht	30%	40%	<b>32%</b>
Lasmuigh den Ghaeltacht / Non-Gaeltacht	70%	60%	<b>68%</b>

### IOMLÁN

### TOTAL

2006	2007	2008
30%	40%	<b>32%</b>
70%	60%	<b>68%</b>
<b>100%</b>	<b>100%</b>	<b>100%</b>





**Gearáin de réir contae/ Complaints by county**

Baile Átha Cliath / Dublin

Gaillimh / Galway

Ciarraí / Kerry

Dún na nGall / Donegal

Liatroim / Leitrim

Maigh Eo / Mayo

Cill Mhantáin / Wicklow

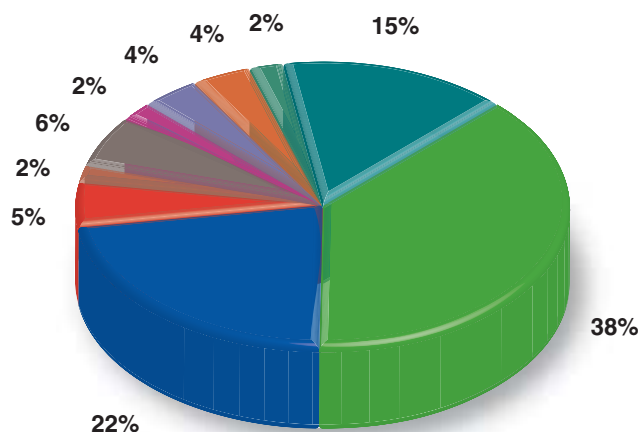
An Mhí / Meath

Cill Dara / Kildare

Eile / Other

**IOMLÁN / TOTAL**

2006	2007	2008
38%	32%	38%
17%	24%	22%
4%	12%	5%
7%	6%	2%
3%	5%	6%
-	-	2%
4%	2%	4%
2%	2%	4%
-	-	2%
25%	17%	15%
100%	100%	100%

**Gearáin de réir cineál Comhlachta Phoiblí / Complaints by type of Public Body**

Ranna &amp; Oifigí Rialtais / Government Departments &amp; Offices

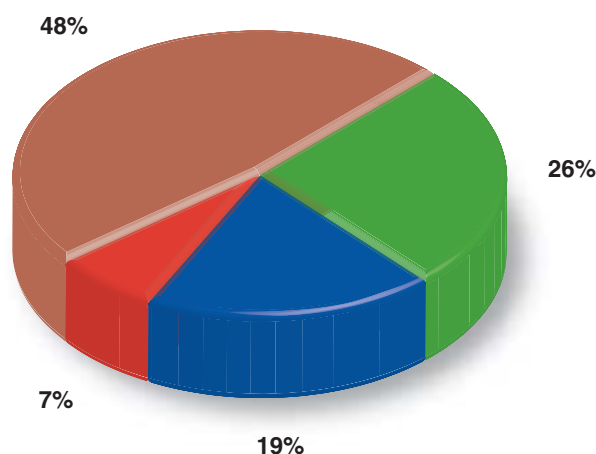
Údaráis Áitiúla / Local Authorities

Údaráis Sláinte / Health Authorities

Eagraíochtaí eile Stáit / Other State Organisations

**IOMLÁN / TOTAL**

2006	2007	2008
27%	23%	26%
28%	27%	19%
6%	9%	7%
39%	41%	48%
100%	100%	100%



## IMSCRÚDUI THE

Is é atá i gceist le himscrúdú ná fiosrúchán oifigiúil atá seolta ar bhonn foirmiúil, reachtúil de réir na bhforálacha san Acht. Tá an t-údarás agus na cumhachtaí cuí chuige seo tugtha dom mar Choimisinéir Teanga faoin Acht, ní hamháin i gcásanna inar dóigh liom gur theip ar chomhlachtaí poiblí a ndualgais reachtúla a chomhlíonadh faoi Acht na dTeangacha Oifigiúla, ach chomh maith leis sin faoi aon achtachán eile a bhaineann le stádas nó le húsáid na Gaeilge.

Is féidir imscrúdú a dhéanamh bunaithe ar ghearán ó aon duine, ar iarratas ón Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta nó ar mo thionscnamh féin.

Próiseas foirmiúil é an córas imscrúdaithe a thógann cuid mhaith ama agus acmhainní ar an gcomhlacht poiblí atá i gceist agus ar m'Oifig. Dá bhrí sin, is iondúil go ndéantar iarracht an gearán a réiteach ar dtús trí chóras neamhfhoirmiúil réitithe gearán na hOifige.

Tá dualgas reachtúil ar chomhlachtaí poiblí agus ar dhaoine ar leith ar oifigigh de chomhlachtaí poiblí iad comhoibriú leis an imscrúdú, agus faisnéis nó taifid dá gcuid a bhaineann le hábhar an imscrúdaithe a thabhairt dom. Is iondúil go n-iarrtar tuairisc i scríbhinn ar an ábhar ar an gcomhlacht poiblí chomh maith. Má iarraim ar aon duine ar leith teacht i mo láthair le faisnéis ó bhéal a thabhairt, bíonn an duine sin i dteideal na ndíolúintí agus na bpríbhleáidí céanna le finné os comhair na hArd-Chúirte.

Forálann an tAcht d'fhineáil nach mó ná €2,000 agus/nó príosúnacht ar feadh téarma nach faide ná 6 mhí a ghearradh ar dhuine a chiontófaí i gcúirt as diúltú a bheith ag comhoibriú le himscrúdú, as loiceadh ina d(h)ualgas comhoibriú le himscrúdú nó as bac a chur le hobair imscrúdaithe.

Is féidir go ndéanfaí imscrúdú i gcásanna ina líomhnaítear gur theip ar chomhlacht a dhualgais reachtúla a chomhlíonadh i dtaca le:

- forálacha díreacha an Aichta
- rialacháin déanta faoin Acht
- scéim teanga atá daingnithe faoin Acht
- aon fhoráil d'aon achtachán eile a bhaineann le stádas nó le húsáid na Gaeilge.

Ciallaíonn “achtachán” reacht nó ionstraim arna déanamh faoi chumhacht a thugtar le reacht.

Tá dualgas reachtúil orm faoin Acht tuarascáil a eisiúint chuig na páirtithe cuí i gcás ina seolaim imscrúdú. Bíonn mo chinneadh i leith an ghearáin agus na moltaí cuí sa tuarascáil sin. Is féidir achomharc a dhéanamh chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh laistigh de cheithre seachtaine.

## INVESTIGATIONS

An investigation is an official enquiry carried out on a formal statutory basis in accordance with the provisions of the Act. As Coimisinéir Teanga, I have been given the relevant authority and powers under the Act, to carry out investigations in cases where a public body may have failed to comply with statutory obligations under the Official Languages Act, or with provisions of any other enactment which relates 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, which requires 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 initially through the informal complaints procedure operated by the Office.

Public bodies and officials of those bodies have a statutory obligation to cooperate with an investigation and to provide my Office with information or records 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, 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 €2000 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 statute.

I am statutorily obliged under the Act to issue a report to the relevant parties in cases where I have conducted an investigation. The 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.

Seoladh 17 imscrúdú nua le linn 2008. Bhí dhá imscrúdú le críochnú ón mbliain 2007. Mar sin, bhí 19 imscrúdú idir lámha le linn na bliana 2008 agus bhí dhá cheann acu sin nach raibh críochnaithe faoi dheireadh na bliana. Dá bhrí sin, tá achoimre ar 17 imscrúdú sa tuarascáil seo.

<b>Líon na n-Imscrúduithe</b>	<b>2007</b>	<b>2008</b>
Tógtha ar aghaidh ón mbliain roimhe	0	2
Imscrúduithe seolta	12	17
Iomlán idir lámha	12	19
Tógtha ar aghaidh go dtí an chéad bhliain eile	2	2
<b>Iomlán críochnaithe</b>	<b>10</b>	<b>17</b>

Is ceart a thuiscint go soiléir nach bhfuil sna hachoirí seo ar na himscrúduithe ach cuntais ghairide ar chásanna a bhí in amanna casta agus teicniúil agus a bhí bunaithe go minic ar argóintí dlíthiúla agus praiticiúla. Achoimrí atá iontu ar na tuarascálacha oifigiúla a eisíodh i nGaeilge faoi réir Alt 26 den Acht chuig na páirtithe cuí de thoradh na n-imscrúduithe.

Is sna tuarascálacha oifigiúla sin, agus iontu sin amháin, atá na tuairiscí údarásacha ar na h-imscrúduithe.

A total of 17 new investigations were launched in 2008. Two uncompleted investigations had been carried forward from 2007. Consequently, there were 19 investigations in hand during 2008 and two of those investigations had not been completed by the end of the year. Therefore, summaries are provided in this report of the 17 investigations completed.

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

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.

## ACHOIMRÍ AR IMSCRÚDUI THE 2008

### An Roinn Gnóthaí Sóisialacha agus Teaghlaigh

#### Ábhar an Imscrúdaithe

An bhfuil an Roinn Gnóthaí Sóisialacha agus Teaghlaigh ag sárú na ndualgas reachtúil teanga atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 maidir le cur i gcrích Scéim Teanga na Roinne fad is a bhaineann sé leis na gealltanais atá sonraithe in Alt 2.5(c) agus Alt 4.9(a) den Scéim sin maidir le cumas chóras ríomhaireachta na Samhla Seachadta Seirbhíse (SSS) dul i ngleic leis an nGaeilge agus ceist rogha teanga a bheith ar fhoirm a eisítear go huathoibríoch de thoradh ar chlárú breith linbh?

#### Cúlra

Rinneadh gearán liom i nDeireadh Fómhair 2008 gur chuir an Roinn Gnóthaí Sóisialacha agus Teaghlaigh in iúl i scríbhinn don ghearánach i Meán Fómhair 2008 nach raibh ar chumas an chórais ionchurtha sonraí le haghaidh liúntais leanaí an síneadh fada a láimhseáil agus, mar sin, nárbh fhéidir ainmneacha a iníne a chlárú mar atá siad ar an teastas breithe (Róise Máire) agus go gcaithfí Roise Maire a úsáid.

Tháinig beirt ghearánach eile chugam go luath ina dhiaidh sin maidir leis an gceist chéanna – síntí fada ar lár ó ainmneacha/sloinnthe a bpáistí nuachláráithe.

Ba léir, chomh maith, ó na cóipeanna d'fhoirmeacha a soláthraíodh dom, nach raibh deis chun rogha teanga a chlárú ar an bhfoirm chlárúcháin a eisíodh go huathoibríoch nuair a saolaíodh na leanaí áirithe seo.

Ba é tuairim na ngearánach gur chóir go mbeadh ar chumas chóras ríomhaireachta na Roinne an síneadh fada a láimhseáil agus ainmneacha/sloinnthe a bpáistí a úsáid mar a bhí siad cláráithe ar a dteastais bhreithe. Mheas an chéad ghearánach go raibh ailt ar leith i Scéim Teanga na Roinne (a tháinig i bhfeidhm ar an 1 Meitheamh 2007) a leag dualgais ar an Roinn ina leith seo – Alt 2.5(c) agus Alt 4.9(a).

Is mar seo a leanas atá an dá mhír sin den Scéim Teanga dhaingnithe:

#### **“2.5 Seachadadh seirbhíse trí mheán na Gaeilge faoi láthair**

*Is tuairisc í seo an méid seo a leanas ar an tseirbhís Gaeilge trí na modhanna éagsúla atá in úsáid faoi láthair:*

##### **(c) Eisiúint uathoibríoch na bhfoirmeacha rogha teanga**

*Tá aistriú leictreonach na sonraí clárúcháin bhreithe ó Oifig*

## SUMMARIES OF INVESTIGATIONS 2008

### Department of Social and Family Affairs

#### Subject of Investigation

Is the Department of Social and Family Affairs contravening the statutory language duties confirmed in Section 18(1) of the Official Languages Act 2003 with regard to the implementation of the Department's Language Scheme in so far as it relates to the commitments specified in Paragraph 2.5(c) and Paragraph 4.9(a) of the Scheme regarding the Service Delivery Model (SDM) computer system's capability to handle the Irish language and the availability of language choice on a form issued automatically arising from the registration of a child's birth?

#### Background

A complaint was made to me in October 2008 that the Department of Social and Family Affairs had informed the complainant in writing that the system for inputting data for the purposes of child benefit payments was unable to deal with the síneadh fada and, as a consequence, his daughter's names could not be registered as shown on her birth certificate (Róise Máire) and that Roise Maire would have to be used.

Two other complainants approached me soon afterwards with the same issue – the síneadh fada having been omitted from their newly registered children's names and surnames.

It was also clear from copies of the forms provided to me that the registration form automatically issued on the birth of these children did not provide an opportunity to register choice of language.

The complainants were of the opinion that the Department's computer system should have the capability to deal with the síneadh fada and to use their children's names/surnames as registered on their birth certificates. The first complainant considered the Department's Language Scheme (which came into effect on 1 June 2007) contained specific paragraphs which imposed duties on the Department with regard to this – Paragraph 2.5(c) and Paragraph 4.9(a).

Those two paragraphs of the confirmed Language Scheme are as follows:

#### **“2.5 Service delivery in Irish at present**

*The following is a description of service in Irish through the various methods in use at present:*

##### **(c) Automatic issue of language-of-choice forms**

*At present electronic transfer of birth registration data from the*

*Chláráitheora Ghinearálta chuig Seirbhísí Aitheantais Chliant na Roinne faoi láthair agus chuig an gcóras Sochair Leanaí ina dhiaidh sin trí mheán na Samhla Seachadadh Seirbhíse (SSS) i mbun oibre. Eisíonn Sochar Leanaí foirm éilimh chuig an éilitheoir, ag baint leasa as sonraí breithe. Áirítear leis an bhfoirm seo ceist um rogha teanga.”*

Agus

*“4.9(a) Córas iarratais arna bhforbairt faoin SSS*

*Táthar ag forbairt na gcóras seo le cumas feabhsaithe um láimhseáil teanga, agus is féidir leo dul i ngleic leis an nGaeilge.”*

Rinne m’Oifig iarracht an cás seo a réiteach ar bhonn neamhfhoirmiúil leis an Roinn ach, in ainneoin chomhoibriú na Roinne, níor éirigh linn comhréiteach a aimsiú. Bheartaigh mé imscrúdú a sheoladh ar an 7 Samhain 2008 ar mo thionscnamh féin ach ba iad na gearáin ó bhaill den phobal a spreag mé chun é seo a dhéanamh.

## Freagra na Roinne

An Córas Ríomhaireachta SSS

Dúirt an Roinn gur mheas sí go raibh an dualgas reachtúil maidir leis an gcóras ríomhaireachta SSS a bheith in ann dul i ngleic leis an nGaeilge agus síntí fada a úsáid á shásamh aici. Mhínigh an Roinn nach i bhfolús a fheidhmíonn an córas SSS:

*“Tá cuid de na sonraí custaiméara ar a n-oibríonn an córas SSS á roinnt i bpáirt le córais agus le fearais arbh é is stair dóibh nár cuireadh in oiriúint go lánchumasach iad maidir le tacair carachtair a thacaíonn le húsáid na síntí fada. Chun gur féidir na sonraí sin a roinnt go comhoiriúnach thar chórais uile na Roinne, tá sé de nós againn faoi láthair síntí fada agus comharthaí idirdhealaitheacha eile a bhaint d’ainmneacha, de sheoltaí agus de shonraí eile a bhíonn á roinnt eadrainn.”*

Maidir le sonraí i nGaeilge a sheoltar chuici ó Oifig an Ard-Chláráitheora dúirt an Roinn:

*“I gcás sonraí a thagann isteach chun na Roinne ó Oifig an Ard-Chláráitheora (GRO), baintear na síntí fada amach sula ndéantar na sonraí a uasdátú chuig príomhbhunachar sonraí custaiméirí na Roinne... Fágann sin gur féidir leis an gcóras comhfhreagras a eisiúint ‘as Gaeilge’, ach gur gan síntí fada a bheidh na sonraí a chuirfear isteach go huathoibríoch sa chomhfhreagras sin maidir le hainm agus le seoladh an chustaiméara...”*

## Deis Roghnaithe Teanga ar Fhoirm

Dhearbhaigh an Roinn nach n-ofráiltear an rogha teanga ar fhoirmeacha ach i gcás an chéad pháiste ag máthair:

*General Registrar’s Office to the Department’s Client Identity Services and subsequently to the Child Benefit system via the Service Delivery Model (SDM) is in operation. Using the birth data, a claim form is issued by Child Benefit to the claimant. This form includes a question on language preference.”*

And

*“4.9(a) Application systems developed under SDM*

*These systems are being developed with enhanced language-handling capability and are capable of handling the Irish language.”*

My Office attempted to resolve this case on an informal basis with the Department but, despite the co-operation received, did not succeed in reaching a compromise. I decided to launch an investigation on 7 November 2008 on my own initiative although complaints from members of the public prompted me to do so.

## Department’s Response

SDM Computer System

The Department stated that it considered it was complying with the statutory duty regarding the SDM computer system’s capability to handle the Irish language and to use the síneadh fada. The Department explained that the SDM system does not operate in a vacuum:

*“Some of the customer details used by the SDM system are shared with systems and equipment which are not fully adapted with regard to character sets supporting the use of the síneadh fada. In order to share the details compatibly across all of the Department’s systems, it is customary for us at present to remove the síneadh fada and other differentiating signs from names, addresses and other shared details.” (translation)*

Regarding details in Irish provided to the Department by the General Registrar’s Office, the Department said:

*“With regard to details received from the General Registrar’s Office, the síneadh fada is removed before the details are updated to the Department’s primary database of customer details... This enables the system to issue correspondence in Irish, but the details regarding customer names and addresses which are inserted automatically in that correspondence do not contain the síneadh fada...” (translation)*

## Opportunity for Language Choice on Forms

The Department confirmed that, except in the case of a mother’s first child, language choice is not offered on forms:

*“Ó 2003 i leith, ar chlárú bhreith linbh, aistrítear sonraí na máthar agus an linbh araon go leictreonach ó Oifig an Ard-Chláraitheora go dtí an Roinn Gnóthaí Sóisialacha agus Teaghlaigh.*

*I gcás nach mbíonn Sochar Linbh i gcomhair linbh eile á fháil ag an máthair, déantar foirm iarratais neamhiomlán a réiteach agus a eisiúint... tá ceist san fhoirm sin maidir le cén teanga in ar rogha leis an iarrthóir cumarsáid a fháil ón Roinn amach anseo, mar atá, Gaeilge nó Béarla.”*

Tá cás iomlán difriúil i gceist má bhí páiste ag an máthair roimhe sin agus má tá sochar linbh á fháil aici cheana féin:

*“I gcás gur custaiméir reatha le Sochar Linbh an mháthar nua, ní gá iarratas ar bith a chur isteach agus ní eisítear foirm iarratais chuici ar an ábhar sin... Eisítear litir mar fhaisnéis chun na máthar, á cur ar an eolas i dtaobh na híocaíochta breise. Eisítear an litir sin as Gaeilge i gcás gur thug an custaiméir le fios don oifig um Shochar Linbh gur fearr léi cumarsáid as Gaeilge.”*

Dúirt an Roinn leis an imscrúdú gur mheas sí go raibh “eisiúint uathoibríoch foirmeacha éilimh do mháithreacha nua nach bhfuair Sochar Linbh roimhe seo ag obair mar a bhíodas ag súil nuair a bhí an córas á cheapadh” agus go “sásaíonn an córas sin na caighdeáin a leagtar síos” faoi Alt 2.5(c) dá Scéim Teanga.

## **Osradharc Ginearálta ar an Imscrúdú**

### **An Córas Ríomhaireachta SSS**

Dhearbhaigh an Roinn nach raibh aon fhadhb ag an gcóras SSS sintí fada na Gaeilge a ionramháil. Dhearbhaigh sí freisin nach raibh aon deacracht ag an gcóras sin sintí fada a ionramháil i bhfaisnéis a bhain le hainmneacha agus le seoltaí.

Ba é croí na hargóna ag an Roinn nach bhféadfaí leas iomlán a bhaint as cumas an chórais SSS ainmneacha agus seoltaí Gaeilge le sintí fada a ionramháil fad is a bhí na sonraí sin á roinnt i gcoitinne le córais eile nach raibh de chumas acu an síneadh fada a láimhseáil.

Maidir le sonraí i nGaeilge le sintí fada a sheoltar chuici ó Oifig an Ard-Chláraitheora ar chlárú breith linbh, dhearbhaigh an Roinn go mbaintear amach na sintí fada go gníomhach sula gcuirtear na sonraí sin i bpríomh-bhunachar sonraí custaiméirí na Roinne.

Mhínigh an Roinn don imscrúdú go mbeadh an cleachtas reatha maidir le sintí fada a bhaint de bhunachair shonraí na Roinne ag imeacht as de réir a chéile, de réir mar a bheadh níos mó córas á n-aistriú go dtí an córas nua SSS agus fearais eile níos nua-aimseartha chlódóireachta agus phróiseála á gceannach.

*“From 2003, on registration of a child’s birth, both the mother’s and child’s details are transferred electronically from the General Registrar’s Office to the Department of Social and Family Affairs.*

*Where the mother is not in receipt of Child Benefit for another child, an incomplete application form is prepared and issued... that form contains a question as to the language in which the applicant wishes to be communicated with by the Department in future, i.e. Irish or English.” (translation)*

The position is completely different if the mother had a child previously and if she is already in receipt of child benefit:

*“If the new mother is a current customer in receipt of Child Benefit, it is not necessary to send in an application and an application form is not issued... An information letter is issued to the mother telling her of the additional payment. That letter is issued in Irish if the customer has indicated to the Child Benefit office that her preference is to be communicated with in Irish.” (translation)*

The Department told the investigation that it considered that “the automatic issuing of claim forms to new mothers not previously in receipt of Child Benefit is working as was expected when the system was created” and that “that system complies with the standards set out” in Paragraph 2.5(c) of its Language Scheme.

## **General Overview of Investigation**

### **SDM Computer System**

The Department confirmed that the SDM system had no problem in handling the síneadh fada. It also confirmed that the system had no difficulty in handling the síneadh fada in information relating to names and addresses.

The Department’s central argument was that full advantage could not be taken of the SDM system’s ability to handle names and addresses containing the síneadh fada while those details were generally shared with other systems not capable of handling the síneadh fada.

With regard to details in Irish containing the síneadh fada forwarded to it by the General Registrar’s Office when a child’s birth is registered, the Department confirmed that the síneadh fada is actively removed before those details are entered into the Department’s main customer database.

The Department explained to the investigation that the current practice of removing the síneadh fada from the Department’s database would be phased out gradually, as more systems were transferred to the new SDM system and as other more modern printing and processing equipment was purchased.



### Forléiriú ar Ghealltanais na Scéime Teanga

Tar éis cás iomlán na Roinne a mheá go cúramach, chonacthas don imscrúdú go raibh cleachtas oibre na Roinne sa ghnó seo ag teacht salach ar an bhforléiriú cruinn ar ghealltanais na Scéime.

Chonacthas don imscrúdú nuair a dúirt an Roinn ina Scéim gurbh fhéidir leis an gcóras SSS *“dul i ngleic leis an nGaeilge”* gur chiallaigh sin gurbh fhéidir an síneadh fada a úsáid sa chóras.

Ní fhacthas don imscrúdú gur shásaigh sé gealltanais na Scéime gurbh i “gcorp” an chomhfhreagrais i nGaeilge amháin a d’fhéadfaí feidhm a bhaint as cumas an chórais SSS an Ghaeilge a ionramháil agus go gcaithfí gach síneadh fada a bhaint as ainmneacha agus seoltaí.

### Ceart ar Ainm

Ní fhacthas don imscrúdú go raibh sé de cheart leasú gan chead a dhéanamh ar ainm i nGaeilge le síneadh fada ar mhaithe le héascaíocht riaracháin nó ríomhaireachta nuair a bheadh clárú le haghaidh liúntas linbh i gceist. Agus ní fhacthas gurbh fhéidir sin a dhéanamh nuair a thug scéim teanga a bhí daingnithe go reachtúil le fios gurbh fhéidir leis an gcóras ríomhaireachta cuí *“dul i ngleic leis an nGaeilge.”*

Is ceart a choinneáil i gcuimhne freisin nach mír bhreise roghnach é síneadh fada na Gaeilge is féidir a chur isteach nó a fhágáil amach go randamach nó nuair a bhuaileann an fonn duine. Is cuid lárnach de struchtúr na teanga é. Is cuid dhilis d’ainm baiste agus de shloinne duine i nGaeilge aon síneadh fada atá riachtanach le haghaidh cheartlitriú na bhfocal sin.

Tá tábhacht ar leith leis an mbealach a chláraítear ainm agus sloinne páiste do liúntas leanaí sa mhéid is go bhfuil an clárú céanna mar bhunchloch le haghaidh gníomhartha eile, eisiúint uimhir phearsanta seirbhíse poiblí san áireamh.

Má bhí brí dáiríre le clárú oifigiúil i dtaisce shibhialta lárnach, chonacthas don imscrúdú nár cheart d’éilimint ar bith den státchóras *“chun a críocha gnó féin”* leasuithe a dhéanamh ar fhaisnéis ar bith gan cead an duine lenar bhain an fhaisnéis sin.

Chonacthas don imscrúdú freisin nach raibh aon eisceacht déanta sa Scéim Teanga a chiallóidh nár ghá don Roinn na córais teicneolaíochta faisnéise sin a ndúradh fúthu gurbh fhéidir leo *“dul i ngleic”* leis an nGaeilge a úsáid. Chomh maith leis sin, bhí sé ríshoiléir nach raibh foráil curtha sa Scéim a dúirt gur le himeacht aimsire a d’úsáidfí an síneadh fada i nGaeilge ar

### Interpretation of Language Scheme’s Commitments

Having considered the Department’s entire case carefully, it appeared to the investigation that the Department’s work practice in this matter was at variance with an accurate interpretation of the Scheme’s commitments.

It appeared to the investigation that the Department’s statement in its Scheme that the SDM system was *“capable of handling the Irish language”* meant that the síneadh fada could be used therein.

It did not appear to the investigation that the Scheme’s commitment was being complied with if the capability of the SDM system to handle Irish could only be utilised in the “body” of the correspondence in Irish and on the removal of the síneadh fada from names and surnames.

### Right to a Name

It did not appear to the investigation that it was right to amend without permission a name in Irish containing a síneadh fada to facilitate an administrative or computer application when registering for children’s allowance. It did not appear to the investigation that this could be done when a statutorily confirmed language scheme indicated that the appropriate computer system could *“handle the Irish language”*.

It should be borne in mind also that the síneadh fada is not merely an optional extra that may be inserted or omitted at random or as one chooses. It is a central component of the structure of the language. A síneadh fada which is necessary to spell the words properly is an integral part of a person’s given name and surname in Irish.

Particular importance attaches to the way in which a child’s name and surname is registered for child benefit purposes because the registration forms the basis for other actions which follow a child throughout his/her life, including the issue of a personal public service number.

It appeared to the investigation that if official registration in a central civil repository meant anything, no element of the state system should amend any information *“for their own business affairs”* (translation) without the permission of the person to whom that information related.

It appeared to the investigation also that the Language Scheme did not make any exception which would mean that the Department was not required to use those information technology systems in respect of which it was stated that they were capable of *“handling”* the Irish language. In addition, it was

ainmneacha, ar shloinnte agus ar shonraí eile a bheadh á n-aistriú chuig an Roinn ó Oifig an Ard-Chláraitheora ar chlárú breith linbh.

### Deis Roghnaithe Teanga ar Fhoirm Maidir le Clárú Breith Linbh

Mhínigh an Roinn go n-eisítear a leithéid d'fhoirm éilimh le ceist faoi rogha teanga an chustaiméara chuig gach máthair nua nuair a aistrítear sonraí maidir le breith linbh nua ó Oifig an Ard-Chláraitheora chuig an Roinn go huathoibríoch.

Ní foirm éilimh a eisítear, áfach, má tá sochar linbh á fháil cheana féin ag an máthair do pháiste nó do pháistí eile, dar leis an Roinn.

Cé gur mhaígh an Roinn gur *“litir mar fhaisnéis”* a bhí sa chumarsáid seo, chonacthas don imscrúdú gur foirm a bhí i gceist. Go deimhin luaitear an focal *“form”* trí huair sa leagan i mBéarla a bhí seolta chuig an imscrúdú ag gearánach: *“Please check the detail... and return this form to us. If the details are correct there is no need to return the form.”* Agus in íochtar na foirme: *“Explanations and terms used in this form are intended...”*

Chonacthas don imscrúdú freisin nach raibh aon teorannú déanta i ngealltanas na Scéime i bhfo-alt 2.5(c) a dúirt gur ar bhreith an chéad pháiste amháin a thairgfí rogha teanga chumarsáide do mháthair i dtaca le gnóthaí sochar linbh de.

Ghlac an t-imscrúdú leis nárbh *“fhoirm éilimh”* den chineál a ndearnadh tagairt dí i bhfoclaíocht fo-alt 2.5(c) den Scéim Teanga a bhí i gceist sa mhéid is nár bhraith an t-éileamh ar an bhfoirm a chomhlánú ná a sheoladh ar ais.

Níor léir don imscrúdú go raibh dualgas reachtúil ar an Roinn, de réir na ngnáthrialacha forléirithe, an bhrí a bhaint as an ngealltanas i bhfo-alt 2.5(c) go gcaithfeadh sí ceist rogha teanga a thairiscint ar an *“bhfoirm”* seo nárbh *“fhoirm éilimh”* í.

very clear that the Scheme did not include a provision stating that the síneadh fada would only be used with the passage of time on names, surnames and other details transferred by the General Registrar's Office to the Department on the registration of a child's birth.

### Opportunity for Language Choice on Forms Relating to the Registration of a Child's Birth

The Department explained that a claim form containing a question with regard to the customer's language choice is issued to each new mother when details relating to the birth of a new child are transferred automatically to the Department from the General Registrar's Office.

However, according to the Department, the form issued is not a claim form if the mother is already in receipt of child benefit for another child or children.

Although the Department contended that this communication constituted *“an information letter”* (translation), it appeared to the investigation to be a form. The word *“form”* is actually mentioned three times in the English version sent to the investigation by a complainant: *“Please check the details... and return this form to us. If the details are correct there is no need to return the form.”* And at the bottom of the form: *“Explanations and terms used in this form are intended...”*

It also appeared to the investigation that the commitment in sub-section 2.5(c) of the Scheme involved no limitation which would mean that language communication choice would be offered to a mother with regard to child benefit matters on the birth of her first child only.

The investigation accepted that a *“claim form”* of the kind referred to in sub-section 2.5(c) of the Language Scheme was not at issue since the claim did not depend on the form being completed or returned.

It was not clear to the investigation that the Department had a statutory duty, under the usual rules of interpretation, to take the commitment in sub-section 2.5(c) to mean that it was required to offer language choice on this *“form”* which was not a *“claim form”*.

Agus cé nach bhfacthas don imscrúdú go raibh an Roinn ag sárú an ghealltanais áirithe seo sa Scéim, ní raibh aon amhras ach go mbeadh sé inmholta don Roinn athmhachnamh a dhéanamh maidir lenar cheart – fiú mura raibh dualgas reachtúil uirthi ina leith – rogha teanga chumarsáide a thairiscint do mháithreacha nuair a sheolfaí foirm faisnéise chucu faoi athrú ar an sochar linbh i gcás páiste nuasholaithe, go háirithe dóibh sin nár tugadh an rogha dóibh roimhe sin faoin gcóras reatha.

### Fionnachtana an Imscrúdaithe

Ba iad seo a leanas fionnachtana an imscrúdaithe:

- Go raibh an Roinn Gnóthaí Sóisialacha agus Teaghlaigh ag sárú an dualgais reachtúil teanga atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 maidir le cur i gcrích Scéim Teanga na Roinne fad is a bhain sé leis an ngealltanas i bhfo-alt 4.9(a) den Scéim Teanga sin maidir le húsáid na Gaeilge i gcóras teicneolaíocht faisnéise na Samhla Seachadta Seirbhíse (SSS).
- Nach raibh an Roinn Gnóthaí Sóisialacha agus Teaghlaigh ag sárú an dualgais reachtúil teanga atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 maidir le cur i gcrích Scéim Teanga na Roinne fad is a bhain sé leis an ngealltanas i bhfo-alt 2.5(c) den Scéim Teanga sin maidir le ceist rogha teanga ar fhoirm éilimh a d'eiseofaí de thoradh ar chlárú breith linbh.

### Moltaí an Imscrúdaithe

Ag féachaint don imscrúdú ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

1. Go dtógfadh an Roinn Gnóthaí Sóisialaigh agus Teaghlaigh na céimeanna cuí láithreach le cinntiú go mbeadh a dualgas reachtúil faoi Acht na dTeangacha Oifigiúla 2003 agus an gealltanas atá sonraithe i bhfo-alt 4.9(a) dá Scéim Ghaeilge á gcomhlíonadh go hiomlán agus go cuí aici.
2. Go leagfadh an Roinn amach plean oibre di féin a chinnteodh gurbh iad na leaganacha cruinne amháin de shonraí clarúcháin bhreithe ó Oifig an Ard-Chláraitheora, le síneadh fada nó síntí fada na Gaeilge san áireamh, a d'úsáidfí do ghnóthaí sochar linbh trí chóras na Samhla Seachadta Seirbhíse (SSS).
3. Go n-aithneodh an Roinn sa phlean oibre a ndéantar tagairt dó ag moladh 2 thuas go bhfuil an cleachtas atá aici faoi láthair maidir le síntí fada a bhaint d'ainmneacha agus sonraí eile a bhaineann leis an bpróiseas d'íocaíochtaí sochar linbh ag sárú cearta teanga.

Although it did not appear to the investigation that the Department was contravening this particular commitment in the Scheme, it would undoubtedly be desirable for the Department to reconsider – even if it was not statutorily bound to do so – if it should offer language choice for communication purposes to mothers when sending an information form to them with regard to a change in child benefit on the birth of a new child, particularly when that choice had not been given to them previously under the current system.

### Findings of the Investigation

These were the investigation's findings:

- That the Department of Social and Family Affairs was contravening the statutory language duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to the implementation of the Department's Language Scheme in so far as it related to the commitment in sub-section 4.9(a) of that Language Scheme regarding the use of Irish in the Service Delivery Model (SDM) information technology system.
- That the Department of Social and Family Affairs was not contravening the statutory language duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to the implementation of the Department's Language Scheme in so far as it related to the commitment in sub-section 2.5(c) of that Language Scheme regarding language choice on a claim form issued as a consequence of the registration of a child's birth.

### Recommendations of the Investigation

Having regard to the Investigation, these are the recommendations which I made as Coimisinéir Teanga:

1. That the Department of Social and Family Affairs take the appropriate steps immediately to ensure that its statutory duty under the Official Languages Act 2003 and the commitment specified in sub-section 4.9(a) of its Irish Language Scheme would be complied with fully and properly.
2. That the Department set out a work plan which would ensure that only the accurate versions of birth registration details from the General Registrar's Office, including the síneadh fada, would be used for child benefit matters under the Service Delivery Model (SDM) system.
3. That the Department acknowledge in its work plan, referred to in recommendation 2 above, that its present practice of removing the síneadh fada from names and other details relating to the child benefit payment process contravenes language rights.

4. Go gcuirfí an t-plean oibre a ndéantar tagairt dó i moladh 2 agus 3 thuas i ngníomh sa tréimhse ama is giorra a bheadh riachtanach chuige sin faoi réir cibé socruithe riaracháin agus ríomhaireachta a mbeadh gá leo.
5. Go gcinnteodh an Roinn go ndéanfaí athchlárú arís láithreach ar shonraí eolais a bhain leis an triúr gearánach sa chás seo le sintí fada san áireamh go cuí.
6. Go ndéanfaidh an Roinn athmhachnamh – as a stuaim féin agus gan dualgas reachtúil a bheith i gceist – maidir lenár cheart di tagairt a dhéanamh do rogha teanga chumarsáide a bheith ar fáil do mháithreacha nuair a sheolfaí foirm faisnéise chucu faoi athrú ar an sochar linbh i gcás páiste nuasholaithe, go háirithe dóibh sin nár tugadh an rogha dóibh roimhe sin faoin gcóras reatha.

#### **Achomhairc chuig an Ard-Chúirt**

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 7 Samhain 2008  
Tuarascáil eisithe: 30 Nollaig 2008

4. That the work plan referred to in recommendations 2 and 3 above be implemented in the shortest possible timeframe required subject to whatever administrative and computer arrangements would be required.
5. That the Department ensure that information details relating to the three complainants in this case would be re-registered immediately with the síneadh fada included correctly.
6. That the Department reconsider – of its own volition and with no statutory duty at issue – if it should refer to the availability of language choice for communication purposes when sending an information form to mothers with regard to a change in child benefit on the birth of a new child, particularly to those who were not given that choice under the current system.

#### **Appeals to the High Court**

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 7 November 2008  
Report issued: 30 December 2008

## An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí

### Ábhar an Imscrúdaithe

An bhfuil sárú déanta nó á dhéanamh ag an Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí ar an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca le gealltanais áirithe de chuid Scéim Teanga na Roinne a bhaineann leis an láithreán gréasáin agus atá sonraithe in Alt 4.12 den Scéim?

### Cúlra

Tá gealltanais reachtúil mar seo a leanas maidir le húsáid na Gaeilge ar láithreán gréasáin na Roinne Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí leagtha amach in Alt 4.12 de Scéim Teanga na Roinne sin a tháinig i bhfeidhm ar an 30 Meitheamh 2006:

#### 4.12 Láithreán Gréasáin

*"Tá láithreán gréasáin na Roinne ag dul faoi phróiseas athdheartha faoi láthair. Cé gur féidir leis an leagan reatha den láithreán gréasáin ábhar Gaeilge a óstáil, tá sé réasúnta tearc in ábhar Gaeilge. Faoi réir aon chuntar a fhéadfaidh a bheith áit eile sa doiciméad seo, tá beartaithe go ndéanfaidh láithreán gréasáin athsheolta na Roinne i bhfad níos mó ábhair dhátheangacha a óstáil."*

Mar chuid de léirmheas ar chéad bhliain feidhme Scéim na Roinne i mí Dheireadh Fómhair 2007, cuireadh in iúl do m'Oifig go raibh an láithreán gréasáin athsheolta agus go raibh na príomh-cheannteidil uile ar na leathanaigh éagsúla i nGaeilge. Dúradh chomh maith go raibh an t-ábhar statach go léir ar an leathanach baile, mar aon leis an bpríomhiontráil ar an leathanach sin, ar fáil go dátheangach agus go rabhthas ar tí níos mó ábhair a chur ar fáil go dátheangach. Cuireadh in iúl go raibh aistritheoir nua á earcú ag an Roinn agus go rabhthas ag súil go mbeadh ar a c(h)umas cur leis an ábhar i nGaeilge ar an suíomh gréasáin.

Ar an 13 Feabhra 2008, rinne duine den phobal gearán liom faoina laghad Gaeilge a bhí ar láithreán gréasáin na Roinne. Rinne m'Oifig teagmháil leis an Roinn faoin ngearán. Tugadh tréimhse 6 seachtaine don Roinn dul chun cinn a léiriú maidir leis an ngnó seo.

## Department of Justice, Equality and Law Reform

### Subject of Investigation

Had the Department of Justice, Equality and Law Reform contravened or is it contravening the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to certain commitments of the Department's Language Scheme relating to the website specified in Paragraph 4.12 of the Scheme?

### Background

Paragraph 4.12 of the Language Scheme of the Department of Justice, Equality and Law Reform, which came into force on 30 June 2006, sets out the following statutory commitment regarding the use of Irish on the Department's website:

#### 4.12 Website

*"The Department's website is currently undergoing a process of redesign. While the current version of the website can host Irish language content it is relatively sparsely populated in that regard. It is proposed that the Department's re-launched website, subject to any qualifications which may appear elsewhere in this document, will host a far greater amount of bilingual content."*

As part of the assessment of the first year's operation of the Department's Scheme in October 2007 my Office was informed that the website had been re-launched and that all the principal headings on the various pages were in Irish. It was stated also that all the static material on the home page, as well as the principal entry on that page, was available bilingually and that more material was about to be provided bilingually. It was indicated that the Department was recruiting a new translator and that it was hoped that he/she would be able to add to the material in Irish on the website.

On 13 February 2008, a member of the public complained to me about the scarcity of material in Irish on the Department's website. My Office contacted the Department about the complaint. The Department was given a six week period to show progress regarding this matter.



I litir dar dáta an 10 Aibreán 2008, chuir an Roinn in iúl do m'Oifig gur samhlaíodh di, tráth seolta a Scéime, *"go mbeadh níos mó ábhair Gaeilge ar ár suíomh gréasáin faoi seo. Chuir cúrsaí nach raibh neart againn orthu isteach ar sin, áfach, agus laghdaíodh ar an ráta dul chun cinn a rabhamar ag súil leis, de dheasca sin."*

Ba do dheacrachtaí na Roinne aistritheoir a earcú a thagair na *"cúrsaí nach raibh neart againn orthu"*. Cuireadh in iúl go raibh an próiseas earcaíochta d'aistritheoir inmheánach nua *"geall le bheith curtha i gcrích"* agus, ar an mbonn sin, beartaíodh go ndéanfaí athbheithniú ar an dul chun cinn arís ar an 14 Iúil 2008. Dúirt an Roinn freisin gurbh í an taithí a bhí aici *"nach leor an soláthar seirbhísí aistriúcháin Gaeilge de chaighdeán inghlactha atá ar fáil do chomhlachtaí poiblí chun freastal ar an éileamh atá cruthaithe ag Acht an dTeangacha Oifigiúla 2003."*

Rinne m'Oifig teagmháil leis an Roinn arís ar an 17 Iúil ag lorg mionsonraí ar an dul chun cinn a bhí déanta idir an dá linn. Níor tugadh aon eolas faoi aon dul chun cinn ó thaobh ábhar statach, sean nó nua, a bheith aistrithe go hincriminteach agus níor léir ón suíomh go raibh aon fhoirm iarratais de chuid na Roinne ar fáil ar an suíomh i nGaeilge. Cuireadh in iúl *"go bhfuil an próiseas chun an dara hAistritheoir intí a earcú ag glacadh níos mó ama ná mar a bhíodhas ag súil leis ar dtús."*

Rinne m'Oifig gach iarracht teacht ar chomhréiteach leis an Roinn trí phróiseas neamhfhoirmiúil ó mhí na Nollag 2007 i leith ach níor éirigh leis na hiarrachtaí sin. Bheartaigh mé nach raibh aon rogha eile agam ach imscrúdú a thionscnamh ar an 18 Lúnasa 2008.

### Freagraí na Roinne

Níor ghlac an Roinn leis ina céad fhreagra ar an imscrúdú go raibh na gealltanais a bhí leagtha amach ina Scéim Ghaeilge maidir leis an láithreán gréasáin sáraithe aici. Dúradh:

*"Is amhlaidh go bhfuil an Roinn tar éis bheith ag gabháil go gníomhach do bheith ag obair chun ár ngealltanais a chomhlíonadh ó thosach feidhme ár scéime."*

Dúirt an Roinn go raibh i gceist aici seirbhísí aistriúcháin lasmuigh den Roinn a úsáid chun cuidiú léi a suíomh gréasáin athsheolta a phobalú i nGaeilge, ach gur *"chuir ar tharla nuair a rinneamar aistritheoirí den sórt sin a fhostú i ndáil le jabanna eile aistriúcháin an oiread sin díomá orainn gur chinneamar ar an dara haistritheoir in-tí a earcú, le cabhair ón tSeirbhís um Cheapacháin Phoiblí, chun cuidiú linn ár ngealltanais maidir leis an suíomh gréasáin a chomhlíonadh."* Bhí lámh ag naonúr ball d'fhoireann na Roinne, ar a laghad, sa phróiseas earcaíochta sin sa tréimhse ó Lúnasa 2007 go dtí gur tháinig deireadh gan rath leis an bpróiseas i Lúnasa 2008 nuair a dhiúltaigh an duine a bhí aimsithe don phost glacadh leis.

In its letter of 10 April 2008, the Department informed my Office that when the Scheme was launched it had envisaged that *"by now our website would have contained more material in Irish. Circumstances beyond our control affected this, however, and the expected rate of progress was curtailed for this reason."* (translation)

The reference to *"circumstances beyond our control"* related to the Department's difficulties in recruiting a translator. My Office was informed that the recruitment process for a new internal translator was *"almost completed"* and, on that basis, it was decided to review progress again on 14 July 2008. The Department also stated that its experience was that *"the provision of Irish translation services of an acceptable standard which is available to public bodies in order to service the demand created by the Official Languages Act 2003 is not sufficient."* (translation)

My Office contacted the Department again on 17 July seeking details of progress made in the intervening period. No information was provided regarding any progress with static material, old or new, being translated incrementally and it was not clear from the website that any of the Department's application forms were available on the website in Irish. It was indicated *"that the process of recruiting a second in-house translator was taking more time than initially expected."* (translation)

My Office made every effort to reach agreement with the Department through an informal process from December 2007 onwards but without success. I decided that I had no other option except to commence an investigation on 18 August 2008.

### Department's Responses

The Department did not accept in its first response to the investigation that the commitments set out in its Language Scheme with regard to its website had been contravened. It said:

*"The Department has, in fact, worked proactively to ensure compliance with the scheme's commitments since its commencement."* (translation)

The Department stated that it had intended to use external translation services to assist it in populating the re-launched website in Irish but that *"our experience in employing such translators for other translation jobs disappointed us so much that we decided to recruit a second in-house translator, with the assistance of the Public Appointments Service, to help us fulfil our commitments regarding the website."* (translation) At least nine members of the Department's staff were involved in that recruitment process in the period from August 2007 until the process came to an unsuccessful end in August 2008 when the person found for the position refused it.



Ina dara freagra ar an imscrúdú, dúirt an Roinn go raibh sí den tuairim go raibh comhlíonadh na ngealltanais a leagadh amach ina Scéim coinníollach ar, agus ag brath ar, na hacmhainní ba ghá chuige sin a bheith ar fáil go tráthúil. D'airigh an Roinn mar acmhainní riachtanacha seirbhísí creidiúnaithe aistriúcháin agus foireann leis na scileanna Gaeilge ba ghá.

Agus dréacht den tuarascáil seo (gan osradharc, fionnachtana ná moltaí) á bhreathnú ag an Roinn d'fhoill earráidí, míthuiscintí nó míchruinnis a leigheas, dúirt an Roinn gur mhór an trua é dá dtuigfeadh léitheoirí na tuarascála go raibh easpa measa ag an Roinn ar na haistritheoirí creidiúnaithe. Dúirt an Roinn freisin go bhfacthas di nach raibh *“an croí-fhíoras go ndearnamar cinneadh an dara haistritheoir in-tí a earcú – infheistíocht a léirigh tiomantas na Roinne dá scéim Ghaeilge – tugtha ar bord agat.”*

Dúirt an Roinn:

*“B’in í an chúis nár roghnaíomar aistritheoirí ó lasmuigh a fháil chun an obair a bhí leagtha amach againn don aistritheoir nua sin a dhéanamh.”*

D'iarr an Roinn go dtabharfaí léiriú níos cothroime sa tuarascáil chríochnaitheach ar *“ár n-iarrachtaí macánta chun córas aistriúcháin buan inmhathana a chur ar bun sa Roinn.”*

### **Osradharc Ginearálta ar an Imscrúdú**

Tá gealltanais ar leith tugtha in Alt 4.12 de Scéim na Roinne maidir le húsáid na Gaeilge ar shuíomh gréasáin na Roinne agus spriocanna ama ar leith luaite leis na gealltanais sin. Athsheoladh an suíomh gréasáin i mBealtaine 2007 agus bheifí ag súil go mbeadh sé á *“phobalú le leagan dátheangach den ábhar statach nua go léir a thaispeánfar ar an láithreán tar éis a athsheolta”* ón uair sin ar aghaidh.

Ba leor féachaint ar an suíomh gréasáin ag tráth seolta an imscrúdaithe agus arís ag tráth ullmhaithe na tuarascála ar an imscrúdú le feiceáil nach raibh éirithe leis an Roinn na gealltanais a bhí tugtha a chur i ngníomh, agus d'admhaigh an Roinn *“nach bhfuil an méid téacs Gaeilge curtha ar ár suíomh gréasáin againn agus a rabhamar ag súil leis nuair a chuireamar tús lenár scéim.”*

Sheán an Roinn gur sárú é sin ar ghealltanais na Scéime. Ba é croí na hargóna ag an Roinn go raibh coinníollacha ag baint leis na gealltanais ina Scéim agus go raibh réamhfhógra chuige sin tugtha in Alt 4.12 nuair a dúradh go raibh na gealltanais maidir le *“i bhfad níos mó ábhair dhátheangaigh”* a óstáil ar an suíomh *“faoi réir aon chuntar a fhéadfaidh a bheith áit eile sa doiciméad seo.”*

In its second reply to the investigation, the Department stated that it was of the opinion that the fulfilment of the commitments in its Scheme was conditional and dependent on the timely availability of the necessary resources. The Department perceived that the essential resources included accredited translation services and staff with the required language skills.

When considering a draft of this report (without the overview, findings or recommendations) with a view to rectifying mistakes, misunderstandings or inaccuracies, the Department stated that it would be most regrettable if the report's readers got the impression that the Department lacked respect for the accredited translators. The Department also stated that it considered that *“the central fact that we made a decision to recruit a second in-house translator – an investment which showed the Department's commitment to its Irish scheme – had not been taken into account by you.”* (translation)

The Department stated:

*“That was the reason we did not choose to obtain external translators to do the work which we had set out for the new translator.”* (translation)

The Department requested that the final report would give a more balanced view of *“our honest endeavours to establish a permanent viable translation system in the Department.”* (translation)

### **General Overview of the Investigation**

Paragraph 4.12 of the Department's Scheme makes specific commitments regarding the use of Irish on the Department's website and explicit time frames are given with those commitments. The website was re-launched in May 2007 and it would be expected that from then onwards it would be *“populated with a bilingual version of all the new static material on the site after re-launch.”*

It was sufficient to look at the website at the time the investigation was launched and again when the report of the investigation was being prepared to see that the Department had not succeeded in fulfilling the commitments, and the Department admitted that *“we have not put as much Irish text on our website as we expected when we started our scheme.”* (translation)

The Department denied that this contravened the Scheme's commitments. The Department's central argument was that the commitments in its Scheme were conditional and that this was envisaged in Paragraph 4.12 where it was stated that the commitments regarding hosting *“a far greater amount of bilingual content”* on the website were *“subject to any qualifications that may appear elsewhere in this document.”*

Ba léir don imscrúdú go raibh coinníollacha áirithe curtha le gealltanais na Scéime agus gurbh fhéidir gur dhualgais neamhiomlána iad. An bhuncheist a tháinig chun cinn, áfach, ná ar chruthaigh an fhaisnéis a sholáthair an Roinn don imscrúdú gur chuir easpa seirbhísí creidiúnaithe aistriúcháin, mar aon le heaspa foirne leis na scileanna riachtanacha Gaeilge a bheith ar fáil go tráthuile, an oiread sin de threampán nó de bhac ar an Roinn nach bhféadfadh sí gealltanais sin na Scéime a chur i ngníomh.

### Seirbhísí Creidiúnaithe Aistriúcháin

Faoi scáth Fhoras na Gaeilge a forbraíodh an córas oifigiúil creidiúnaithe le haghaidh aistritheoirí. Dhearbhaigh Foras na Gaeilge do m'Oifig go raibh 98 duine ar an bpainéal aistritheoirí creidiúnaithe faoi Dheireadh Fómhair 2007 nuair a dhearbhaigh an Roinn do m'Oifig go raibh an suíomh gréasáin athseolta aici.

Mhaígh an Roinn nach raibh sé á rá aici nach raibh aon mhuinín aici as cumas bhaill uile an phainéil chreidiúnaithe aistritheoirí. Thug sí cur síos mion, áfach, ar dheacrachtaí a tháinig i mbealach na foirne ansin seirbhís shásúil aistriúcháin a aimsiú go seachtrach ag tráthanna sular tháinig “*pobalú*” an tsuímh ghréasáin le téacs i nGaeilge i gceist.

Ní raibh aon amhras ann ach go bhfuair an t-imscrúdú teachtaireachtaí measctha ón Roinn maidir lena dearcadh i leith na n-aistritheoirí creidiúnaithe. Ba léir don imscrúdú nach ndearna an Roinn aon iarracht dáiríre duine/daoine ón bpainéal aistritheoirí creidiúnaithe a lorg go gníomhach le haistriúchán a dhéanamh ar théacs don suíomh gréasáin athdheartha.

Fuair mé mar chinneadh fíorais é nár lorg an Roinn duine/daoine ón bpainéal aistritheoirí creidiúnaithe leis an tasc aistriúcháin seo a chomhlíonadh agus, dá réir, nárbh fhéidir gur cuireadh teorainn le cumas na Roinne an gealltanais Scéime seo a chomhlíonadh go cuí de bharr nach raibh seirbhís chreidiúnaithe aistriúcháin ar fáil.

### Foireann leis na Scileanna Riachtanacha Gaeilge

Sa bhreis ar sheirbhísí creidiúnaithe aistriúcháin, luadh “*foireann leis na scileanna riachtanacha Gaeilge*” a bheith ar fáil go tráthuile mar ní a theorannódh cumas na Roinne a gealltanais i dtaca leis an suíomh gréasáin a chomhlíonadh.

Mar mhalairt ar úsáid a bhaint as aistritheoirí ón bpainéal aistritheoirí creidiúnaithe, chinn an Roinn “*ar an dara haistritheoir in-tí a earcú... chun cuidiú linn ár ngealltanais maidir leis an suíomh gréasáin a chomhlíonadh.*”

It was clear to the investigation that certain conditions had been attached to the Scheme's commitments which meant that they may be considered to be qualified commitments. However, the basic question that arose was whether the information provided by the Department to the investigation established that the lack of accredited translation services, in addition to the lack of timely availability of staff with the necessary Irish skills, had so hampered and hindered the Department that it could not fulfil the Scheme's commitments.

### Accredited Translation Services

The official accreditation system for translators was developed under the aegis of Foras na Gaeilge who confirmed to my Office that there were 98 people on the panel of accredited translators by October 2007 when the Department confirmed the re-launch of its website to my Office.

The Department claimed that it was not stating that it had no confidence in the capability of any of the members of the panel of accredited translators. However, it detailed the difficulties its staff had encountered in obtaining a satisfactory external translation service at times prior to “*populating*” the website with text in Irish.

Without any doubt, the investigation received mixed messages from the Department regarding its attitude to the accredited translators. It was clear to the investigation that the Department had not made any serious attempt to actively seek a person/persons from the panel of accredited translators to translate the text for the redesigned website.

I concluded as a matter of fact that the Department had not sought a person/persons from the panel of accredited translators to complete the translation task and, as a consequence, it was not possible that the Department's ability to fulfil the Scheme's commitment properly was limited because there was no accredited translation service available.

### Staff with the Necessary Irish Skills

In addition to accredited translation services, the timely availability of “*staff with the requisite Irish language skills*” was indicated as a constraint on the Department's ability to fulfil its commitments regarding the website.

As an alternative to using translators from the panel of accredited translators, the Department decided “*to recruit a second in-house translator... to assist us in fulfilling our commitments regarding the website.*” (translation)

Chonacthas don imscrúdú nár seoladh an iarracht earcaíochta go dtí Lúnasa 2007. Chiailaigh sin nach bhféadfaí spriocanna ama an ghealltanais seo a chomhlíonadh go cuí trí shaothar an aistritheora inmheánaigh nua. Bhí tús le cur le pobalú an láithreáin ghréasáin le hábhar Gaeilge/dátheangach *“laistigh de 3 mhí ó athsheoladh an láithreáin gréasáin”*, .i. i mí Lúnasa 2007, trí mhí tar éis an athsheolta i mBealtaine 2007. Dá réir sin, d’fhéadfaí a rá go raibh téarmaí an ghealltanais á mbriseadh cheana féin ag an tráth a raibh an iarracht earcaíochta ag tosú.

Níor chuir an Roinn aon chás i láthair an imscrúdaithe a léireodh go raibh sé dodhéanta aistritheoir a earcú. Ba é cás na Roinne gur theip ar an iarracht a rinne sí. Agus dréacht de thuarascáil an imscrúdaithe (gan osradharc, fionnachtana ná moltaí) á bhreathnú aici, dúirt an Roinn, ó tharla go raibh cinneadh déanta aici aistritheoir inmheánach nua a earcú, gur beartaíodh gan aistritheoirí seachtracha a fháil chun an obair ar an láithreán gréasáin a dhéanamh – obair a bhí leagtha amach don aistritheoir nua sin. Ní fhacthas dom gur leor an cinneadh tabhairt faoi phróiseas earcaíochta le haistritheoir nua a cheapadh leis an dualgas a bhí daingnithe in Alt 4.12 den Scéim a leasú, a mhaolú ná a laghdú.

### Aistritheoirí Seachtracha nó Aistritheoirí Inmheánacha

D’admhaigh an Roinn gur fágadh an cúram maidir leis an suíomh gréasáin a phobalú le téacs i nGaeilge/dátheangach ar leataobh ar feadh bliana fad is a bhí an iarracht earcaíochta ar bun agus thug sí míniú ar an gcúis a bhí leis sin, .i. nár cheart aistritheoir seachtrach a lorg don obair fad is a bhí súil aici aistritheoir inmheánach a chur i mbun na hoibre. Ach fiú nuair a theip ar an iarracht sin, níor léir gur cinneadh tabhairt faoin tasc ar aon bhealach eile.

Níor thug an Roinn aon léargas don imscrúdú faoi aon phlean a bheith aici déileáil leis an gceist go dtí go raibh dréacht de thuarascáil an imscrúdaithe á bhreathnú ag an Roinn. Dúradh ag an tráth sin go raibh an Roinn *“ag féachaint as an nua ar conas a chomhlíonfaimid ár ndualgais faoinár scéim Ghaeilge”* ós rud é nár éirigh léi go nuige sin an dara haistritheoir inmheánach a earcú.

Léirigh an fhaisnéis a cuireadh ar fáil don imscrúdú gur chosúil gur laige sa chur chuige maidir le pleanáil éifeachtach agus éifeachtúil an tionscnaimh, seachas ganntanas aistritheoirí creidiúnaithe mar aon le foireann leis na scileanna riachtanacha Gaeilge, ba chúis leis na deacrachtaí i gcomhlíonadh ghealltanais ar leith seo na Scéime.

It appeared to the investigation that the recruitment attempt was not initiated until August 2007. That meant that the deadlines for the proper fulfilment of this commitment could not have been achieved through the work of the new internal translator. The populating of the website with Irish/bilingual material was to begin *“within 3 months of the website’s re-launch”*, i.e. in August 2007, three months after the re-launch in May 2007. Accordingly, it could be said that the terms of the commitment were already being breached when the recruitment attempt began.

The Department did not present any case to the investigation indicating that it was impossible to recruit a translator. The Department’s case was that the attempt it had made had failed. When considering a draft report of the investigation (without the overview, findings or recommendations), the Department stated that, as a decision had been made to recruit a new internal translator, it was decided not to obtain external translators for the work on the website – work which was intended for that new translator. The decision to undertake a recruitment process to appoint a new translator did not appear to me to be sufficient to amend, mitigate or diminish the commitment confirmed in Paragraph 4.12 of the Scheme.

### External or Internal Translators

The Department admitted that the task of populating the website with Irish/bilingual text was set aside for a year while the recruitment attempt was underway and it explained the reason for that, i.e., an external translator should not be sought for the work while it expected to engage an internal translator. But even when that attempt failed, it was not clear that a decision was made to undertake the task in any other way.

The Department did not give any insight to the investigation that it had a plan to deal with the matter until it was given a draft of the report of the investigation for consideration. At that stage the Department stated that it was *“looking afresh at how we will fulfil our duties under our Irish scheme”* as it had not succeeded up to then in recruiting a second internal translator.

The information provided to the investigation showed that the difficulties in fulfilling this particular commitment of the Scheme appeared to be due to a weakness in the approach regarding efficient and effective planning of the project rather than a scarcity of accredited translators and staff with the requisite Irish language skills.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca le gealltanais áirithe de chuid Scéim Teanga na Roinne a bhaineann leis an láithreán gréasáin agus atá sonraithe in Alt 4.12 den Scéim.

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go dtógfadh an Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí na céimeanna cuí láithreach le cinntiú go mbeadh a dualgais reachtúla faoin Acht agus na gealltanais atá sonraithe in Alt 4.12 dá Scéim Ghaeilge á gcomhlíonadh go hiomlán aici.
- Go leagfadh an Roinn amach plean oibre di féin:
  - Le tús a chur lena suíomh gréasáin a phobalú le leaganacha dátheangacha/Gaeilge d'ábhar statach mar atá geallta sa Scéim Teanga;
  - Le foirmeacha a bheadh ceaptha d'úsáid an phobail i gcoitinne a chur ar fáil i nGaeilge air, ar bhonn incriminteach; agus go gcuirfí an plean oibre sin i ngníomh a luaithe agus ab fhéidir.
- Gan dochar do mholadh 2 thuas i dtaca le cur i ngníomh na ngealltanais a luaithe agus ab fhéidir, go gcinnteodh an Roinn go mbeadh na gealltanais sin curtha i bhfeidhm go hiomlán agus go cuí sula rachadh Scéim trí bliana na Roinne in éag i Meitheamh 2009, ar a dhéanaí.
- Go nglacfadh an Roinn leis nach leasódh ná nach laghdódh feidhmiú mholtaí an imscrúdaithe seo aon dualgas reachtúil nó dlíthiúil eile a bheadh ar an Roinn sin i leith na Gaeilge.

## Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 18 Lúnasa 2008  
Tuarascáil eisithe: 9 Nollaig 2008

## Finding of the Investigation

The following was the finding of the investigation:

- That the Department of Justice, Equality and Law Reform had contravened the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to certain commitments of the Department's Language Scheme relating to the website specified in Paragraph 4.12 of the Scheme.

## Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

- That the Department of Justice, Equality and Law Reform take the appropriate measures immediately to ensure that its statutory duties under the Act and the commitments specified in Paragraph 4.12 of its Language Scheme be fully fulfilled.
- That the Department set out a work plan:
  - To start populating its website with bilingual/Irish versions of static material in accordance with the commitments in its Language Scheme;
  - To provide Irish versions of forms intended for use by the general public on the website on an incremental basis; and that the work plan be implemented as soon as possible.
- Without prejudice to recommendation 2 above with regard to implementing the commitments as soon as possible, that the Department ensure that those commitments be fully and properly implemented, at the latest, before the Department's three year Scheme expires in June 2009.
- That the Department accept that the implementation of the recommendations of this investigation would not amend or diminish any other statutory or legal duty it has in relation to Irish.

## Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 18 August 2008  
Report issued: 9 December 2008

## An Roinn Oideachais agus Eolaíochta

### Ábhar an Imscrúdaithe

An amhlaidh go bhfuil nó nach bhfuil forálacha áirithe in Alt 6 agus i bhfo-alt 7(2)(d) den Acht Oideachais 1998 – ar forálacha iad a bhaineann le stádas nó le húsáid teanga oifigiúla – á gcomhlíonadh i dtaca le soláthar foilseachán áirithe (treoracha do mhúinteoirí i leith na n-ábhar iar-bhunscoile) de chuid na Roinne Oideachais agus Eolaíochta do scoileanna aitheanta a chuireann teagasc trí Ghaeilge ar fáil?

### Cúlra

Rinne príomhoide iar-bhunscoile – ar scoil aitheanta í a chuireann teagasc trí Ghaeilge ar fáil – gearán oifigiúil liom nach raibh fáil ar leaganacha Gaeilge de threoirínte do mhúinteoirí de chuid na Roinne Oideachais agus Eolaíochta i leith na n-ábhar iar-bhunscoile. Bhí na foilseacháin seo ar fáil go saoráideach trí Bhéarla i gcás roinnt mhaith ábhar mar sheirbhís taca do scoileanna a d'fheidhmigh trí mheán na teanga sin.

### An Reachtaíocht

Tá forálacha ar leith san Acht Oideachais 1998 ar forálacha iad a bhaineann le stádas nó le húsáid na Gaeilge, mar atá Alt 6(i) agus (k) agus fo-alt 7(2)(d):

Alt 6. “Gach duine a mbeidh baint aige nó aici leis an Acht seo a chur i ngníomh, beidh aird aige nó aici ar na cuspóirí seo a leanas ar dá mbun a d'achtaigh an tOireachtas an tAcht seo:

- (i) Cuidiú le réadú beartas agus cuspóirí náisiúnta i ndáil le leathadh an dátheangachais i sochaí na hÉireann agus go háirithe go mbainfí úsáid níos mó as an nGaeilge ar scoil agus sa phobal;
- (k) Riachtanais teanga agus chultúrtha mac léinn a chur chun cinn ag féachaint do roghanna a dtuismitheoirí...”

Alt 7(2) “Gan dochar do ghinearáltacht fho-alt (1), is feidhm de chuid an Aire gach ceann díobh seo a leanas:

- (d) seirbhísí taca trí Ghaeilge a sholáthar do scoileanna aitheanta a chuireann teagasc trí Ghaeilge ar fáil agus d'aon scoil aitheanta eile a iarrann soláthar den sórt sin.”

## Department of Education and Science

### Subject of Investigation

Are certain provisions in Section 6 and sub-section 7(2)(d) of the Education Act 1998 – being provisions relating to the status or use of an official language – being complied with in relation to the provision of certain Department of Education and Science publications (guidelines for teachers with regard to post-primary subjects) for recognised schools providing teaching through Irish?

### Background

The principal of a recognised post-primary school providing teaching through Irish made an official complaint to me that Irish versions of the Department of Education and Science's guidelines with regard to post-primary subjects were not available. These publications were readily available in English for a considerable number of subjects as a support service for schools operating through the medium of that language.

### Legislation

The Education Act 1998 contains certain provisions with regard to the status or use of Irish, i.e. Section 6(i) and (k) and sub-section 7(2)(d):

Section 6. “Every person concerned in the implementation of this Act shall have regard to the following objects in pursuance of which the Oireachtas has enacted this Act:

- (i) to contribute to the realisation of national policy and objectives in relation to the extension of bi-lingualism in Irish society and in particular the achievement of a greater use of the Irish language at school and in the community;
- (k) to promote the language and cultural needs of students having regard to the choices of their parents...”

Section 7(2). “Without prejudice to the generality of sub-section (1) each of the following shall be a function of the Minister:

- (d) to provide support services through Irish to recognised schools which provide teaching through Irish and to any other recognised school which requests such provision.”



San alt léiriúcháin, Alt 2 den Acht sin, deimhnítear go bhfolaíonn “feidhmeanna” cumhachtaí agus dualgais agus foráiltear mar seo a leanas in Alt 2(3): “Aon tagairt san Acht seo do chomhlíonadh feidhmeanna, folaíonn sí, i leith cumhachtaí agus dualgas, tagairt d’fheidhmiú cumhachtaí agus do chomhall dualgas.”

San alt léiriúcháin, Alt 2 den Acht, tá míniú tugtha freisin ar “seirbhísí taca” mar a leanas: “ciallaíonn ‘seirbhísí taca’ na seirbhísí a chuireann an tAire ar fáil do mhic léinn nó dá dtuismitheoirí, do scoileanna nó do lárionaid oideachais de réir alt 7 agus folóidh sé aon cheann nó gach ceann de na nithe seo a leanas:

- (m) seirbhísí taca curaclaim agus seirbhísí comhairleacha foirne, agus
- (n) cibé seirbhísí eile a shonraítear leis an Acht seo nó is cuí leis an Aire...”

### An timscrúdú

Ba iad seo a leanas na foilseacháin a bhí mar fhócas ag an imscrúdú a seoladh ar an 16 Deireadh Fómhair 2008:

- Cóipeanna crua de na treoirínte do gach ábhar iar-bhunscoile a bhí á mhúineadh trí Ghaeilge, agus
- Cóipeanna leictreonacha ar shuíomh gréasáin na Roinne Oideachais agus Eolaíochta de na treoirínte do gach ábhar iar-bhunscoile a bhí á mhúineadh trí Ghaeilge.

Tharraing m’Oifig an cás seo anuas ar bhonn neamhfhoirmiúil leis an Roinn ach níor éirigh leis an iarracht sin comhréiteach a aimsiú.

### Freagra na Roinne

Ba é seasamh na Roinne nár shárú ar aon fhoráil a bhain le stádas nó le húsáid na Gaeilge san Acht Oideachais 1998 a bhí ann treoirínte do mhúinteoirí a sholáthar i mBéarla amháin.

Dúirt an Roinn freisin nach raibh na treoirínte ar fáil i nGaeilge d’ábhar ar bith (ach amháin an Ghaeilge) i gcóip chrua ná i bhfoirm leictreonach ag an iar-bhunleibhéal.

### Statisticí

Léirigh tábla a chuir an Roinn ar fáil go raibh treoirínte i mBéarla ar fáil do 20 ábhar ag leibhéal na hArdteistiméireachta agus do 14 ábhar ag leibhéal an Teastais Shóisearaigh.

### Costas

Dúirt an Roinn go mbainfeadh costas measta de €250,000 leis na treoirínte a chur ar fáil i nGaeilge.

In the interpretation section, Section 2, of that Act the word “functions” is defined to include powers and duties and Section 2(3) provides as follows: “Any reference in this Act to the performance of functions, includes, in respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.”

In the interpretation section, Section 2 of the Act, “support services” is defined as follows: “support services’ means the services which the Minister provides to students or their parents, schools or centres of education in accordance with Section 7 and shall include any or all of the following:

- (m) curriculum support services and advice services for staff, and
- (n) such other services as are specified in this Act or considered appropriate by the Minister...”

### Investigation

The following publications were the focus of the investigation, which was launched on 16 October 2008:

- Print copies of the guidelines for each post-primary subject taught through Irish, and
- Electronic copies of the guidelines for each post-primary subject taught through Irish available on the Department of Education and Science’s website.

My Office attempted to resolve the matter informally with the Department but did not succeed in reaching a solution.

### Department’s Response

The Department’s position was that providing teacher guidelines in English only did not contravene any provision of the Education Act 1998 with regard to the status or use of Irish.

The Department also stated that the guidelines were not available in Irish for any post-primary subject (except Irish) either in print form or electronically.

### Statistics

A table provided by the Department indicated that guidelines for 20 subjects at Leaving Certificate level and 14 subjects at Junior Certificate level were available in English.

### Cost

The Department stated that it would cost approximately €250,000 to provide the guidelines in Irish.



### Alt 6 den Acht Oideachais 1998

Ba é seasamh na Roinne gur ghnó don Aire Oideachais agus Eolaíochta é a chinneadh céard í an tslí ab fhearr leis na cuspóirí in Alt 6 den Acht a bhaint amach agus go mbeadh ord tosaíochta ag brath ar na hacmhainní a bheadh ar fáil.

Léirigh an Roinn raon beartas a bhí ar bun aici chun tacú leis an nGaeilge agus dúirt sí:

*"I bhfianaise na teorann atá leis an maoiniú foriomlán atá ar fáil don oideachas agus i bhfianaise na dtosaíochtaí iomaitheacha atá ann i gcomhair acmhainní, is den riachtanas é go ndírítear an infheistiú ar an áit ag a mbeidh an uasmhéid tionchair straitéisigh agus sochair d'fhoghlaimoirí aici. Sa chomhthéacs sin, measaimid gur tosaíocht níos mó é tabhairt faoi na seirbhísí atá léirithe thuas (.i. an raon beartas) ná infheistiú in aistriú doiciméad nach bhfuil dírithe ar mhic léinn, ar thuismitheoirí ná ar an bpobal i gcoitinne."*

### Alt 7 den Acht Oideachais 1998

Maidir le hAlt 7 den Acht Oideachais, dúirt an Roinn:

*"Tugann Alt 7(2)(d) den Acht Oideachais cumhacht don Aire seirbhísí taca trí Ghaeilge a sholáthar do scoileanna aitheanta a chuireann teagasc trí Ghaeilge ar fáil agus d'aon scoil aitheanta eile a iarrann soláthar den sórt sin, agus éilíonn Alt 7(4)(a)(i) ar an Aire aird a bheith aige ar na hacmhainní atá le fáil. Éilíonn Alt 7(2)(a) soláthar seirbhísí taca 'de réir mar is cuí leis an Aire agus de réir an Achta seo'. Leagtar amach in Alt 2 den Acht go dtagann seirbhísí taca curaclaim agus seirbhísí comhairleacha foirne laistigh den sainmhíniú 'seirbhísí taca'. Ní ghlacaimid leis, áfach, go leagann sé seo dualgas ar an Aire gach aon seirbhís taca a sholáthar trí mheán na Gaeilge, go háirithe seirbhísí atá dírithe ar mhúinteoirí amháin. Is ceadaithe don Aire teacht ar thuairim réasúnta maidir leis na seirbhísí taca a ba chóir a sholáthar trí Ghaeilge, i bhfianaise forálacha Alt 6 agus 7 den Acht."*

*Is feidhm (seachas dualgas) de chuid an Aire é seirbhísí taca a sholáthar. I dtaca leis sin tarlóidh sé go dosheachanta go mbeidh líon éileamh á ndéanamh ar an Aire agus iad in iomaíocht lena chéile. Is gnó don Aire, agus don Aire amháin é, na héilimh iomaitheacha sin a thabhairt chun réitigh agus a chinneadh céard iad na seirbhísí oideachasúla agus taca a sholáthrófar. Níl aon dul as ag an Aire sa chás seo ach rogha a dhéanamh. Is sa chás go mbeadh an rogha sin dírialla, guagach, neamhréasúnach nó mí-réasúnta, agus sa chás sin amháin, a d'fhéadfaí a rá go mbeadh an tAire ag gníomhú go neamhdhleathach agus (dá réir sin) ag sárú an Ailt."*

### Section 6 of Education Act 1998

The Department's position was that it was a matter for the Minister for Education and Science to decide on the best way of achieving the objectives of Section 6 and that a priority list was dependent on the resources available.

The Department outlined a range of policies it had in place to support Irish and said:

*"Having regard to the overall funding limits available for education and the competing priorities for resources, it is necessary to direct investment to where it will have the maximum strategic effect and benefit for learners. In that context, we consider that attending to the services outlined above (i.e. range of policies) is more of a priority than investing in the translation of documents which are not directed at students, parents or the general public."* (translation)

### Section 7 of Education Act 1998

With regard to Section 7 of the Education Act, the Department stated:

*"Section 7(2)(d) of the Education Act empowers the Minister to provide support services through Irish to recognised schools providing teaching through Irish and to any other recognised school which requests such a provision, and Section 7(4)(a)(i) requires the Minister to have regard to the resources available. Section 7(2)(a) requires the provision of support services 'in accordance as the Minister considers appropriate and in accordance with this Act.' Section 2 of the Act sets out that curriculum support services and services to teachers come within the interpretation of 'support services'. We do not accept, however, that this places a duty on the Minister to provide all support services through Irish, particularly services directed at teachers only. The Minister is permitted to form a reasonable opinion with regard to the services which should be provided through Irish, having regard to the provisions of Section 6 and 7 of the Act."*

*Providing support services is a Ministerial function (rather than a duty). In that regard it is unavoidable that many competing demands will be made on the Minister. It is a matter for the Minister, and for him only, to resolve those competing demands and to decide which educational and support services will be provided. In this case the Minister has no option but to make a choice. It is only if the exercise of that choice is arbitrary, capricious, irrational or unreasonable that the Minister may be said to be acting unlawfully and (by extension) in breach of the Section."* (translation)

## Cinntí agus Fasaigh Chúirte

Thug an Roinn léargas ar chinntí agus ar fhasaigh chúirte a mhaígh sí a thacaigh lena seasamh:

*“Ní féidir a rá go bhfuil an tAlt sáraithe ag an Aire as siocair amháin go ndearna sé a rogha i slí ar leith. Sa mhéid is go bhfuil cinnte ag an Aire tosaíocht a thabhairt do sheirbhísí oideachasúla áirithe (seirbhísí taca ina measc) thar seirbhísí (taca) eile, tá sé tar éis gníomhú go dleathach agus de réir a chumhachtaí agus a fheidhmeanna. Níl bunús leis an tuairim gur sáraíodh an tAlt as siocair amháin gur roghnaigh an tAire gan seirbhísí taca áirithe a sholáthar (i mBéarla nó i nGaeilge).*

Mar a nótáil An Breitheamh Costello (i gcomhthéacs eile) i *Donegal Fuel & Supply Company v The Londonderry Port & Harbour Commissioners* [1994] 1IR 24 ag leathanach 40:

*‘The Harbour Commissioners have a statutory duty to raise income and to supply it in fulfilment, inter alia, of the powers to maintain and repair quays and piers. That income may not be sufficient to repair and maintain every part of their undertaking and the Harbour Commissioners must have a discretion of how its income is to be used’*

D’achomrigh an Ardchúirt an scéal i *CK -v- The Northern Area Health Board* (i gcomhthéacs na nAchtanna Sláinte) áit ar ghlac an Breitheamh Finnegan leis:

*‘The decision as to the services which ought to be provided in any particular case is an administrative one. However, the decision as to the services to be provided must not be capricious or arbitrary... This Court acting on a judicial review application however is not to substitute its decisions for that of the decision maker merely because it considers that it would have made a different decision...’*

## Tairiscint

D’ainneoin a seasaimh nach raibh sí ag sárú aon fhorála d’aon achtacháin a bhain le stádas nó úsáid teanga oifigiúla, rinne an Roinn tairiscint tús a chur le próiseas le leaganacha Gaeilge a sholáthar de na treoirlínte de réir a chéile ach na hacmhainní a bheith ar fáil.

## Osradharc ar an Imscrúdú

An cheist a bhí le freagairt san imscrúdú seo ná seo: ó tharla go raibh sraith de 34 treoirlínte curaclaim trí Bhéarla soláthraithe ag an Roinn, an raibh dualgas reachtúil uirthi faoin Acht Oideachais 1998 na treoirlínte sin a sholáthar trí Ghaeilge mar sheirbhís taca do scoileanna aitheanta a chuir teagasc trí Ghaeilge ar fáil agus d’aon scoil aitheanta eile a d’iarrfadh soláthar den sórt sin?

## Court Decisions and Precedents

The Department outlined court decisions and precedents which, it contended, supported its position:

*“The Minister cannot be said to have contravened the Section only because he chose one particular option. In so far as the Minister has decided to prioritise particular educational services (including support services) over other (support) services, he has acted legally and in accordance with his powers and functions. The view that the Minister had contravened the Section only because he chose not to provide particular support services (in English or in Irish) is without foundation.*

As Judge Costello noted (in another context) in *Donegal Fuel & Supply Company v The Londonderry Port & Harbour Commissioners* [1994] 1IR 24 Page 40:

*‘The Harbour Commissioners have a statutory duty to raise income and to supply it in fulfilment, inter alia, of the powers to maintain and repair quays and piers. That income may not be sufficient to repair and maintain every part of their undertaking and the Harbour Commissioners must have a discretion of how its income is to be used’*

The High Court summarised the position in *CK -v- The Northern Area Health Board* (in the context of the Health Acts) where Judge Finnegan accepted:

*‘The decision as to the services which ought to be provided in any particular case is an administrative one. However, the decision as to the services to be provided must not be capricious or arbitrary... This Court acting on a judicial review application however is not to substitute its decisions for that of the decision maker merely because it considers that it would have made a different decision...’*

## Proposal

Notwithstanding its position that no provision of any enactment relating to the status or use of an official language was being contravened, the Department made a proposal to begin a process of producing Irish versions of the guidelines gradually provided the resources were available.

## Overview of Investigation

The question to be answered in this investigation was the following: as the Department had provided a series of 34 curriculum guidelines through English, had it a statutory duty under the Education Act 1998 to provide those guidelines through Irish as support services to recognised schools providing teaching through Irish and to any other school requesting such provision?

## Seirbhísí Taca

Ó tharla go ndúirt an Roinn leis an imscrúdú go raibh na treoirleirí do mhúinteoirí dírithe go sainiúil ar bhreis cabhrach a thabhairt do mhúinteoirí, agus ar eiseamláirí a thabhairt agus saothrú a dhéanamh ar an gcur chuige a bheadh le húsáid agus an siollabas á chur i bhfeidhm, chonacthas dom nach raibh amhras ar bith ach gur mar “*sheirbhísí taca*” de réir fhorálacha an Achta a cuireadh ar fáil iad.

Ag tagairt do na cuspóirí reachtúla nár mhór don Aire aird a bheith aige orthu, dúirt an Roinn gur ghnó don Aire é a chinneadh céard í an tslí ab fhearr leis na cuspóirí sin a bhaint amach agus céard í an tslí ab fhearr le hacmhainní a chur in ord tosaíochta le súil leis na cuspóirí seo a bhaint amach.

Chonacthas don imscrúdú gur “*feidhm*” de chuid an Aire é seirbhísí taca a sholáthar faoi Alt 7, agus gur fholaigh “*feidhmeanna*” cumhachtaí agus dualgais. Foráiltear i bhfo-alt 2(3): “*Aon tagairt san Acht seo do chomhlíonadh feidhmeanna, folaíonn sí, i leith cumhachtaí agus dualgas, tagairt d’fheidhmiú cumhachtaí agus do chomhall dualgas.*”

Tá an forléiriú sin ag teacht le cinntí agus le fasaigh chúirte.

In *Sinnott v. Minister for Education* [2001] IESC 63 rinne an Príomh-Bhreitheamh Keane, C.J., an tagairt seo a leanas do na cosantóirí (An Roinn Oideachais):

*“They acknowledge that, by virtue of s. 7(1) of the 1998 Act, the Minister is obliged ‘to ensure, subject to the provisions of this Act, that there is made available to each person resident in the State, including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person...’” [Béim curtha leis].*

Sa chás céanna, *Sinnott v. Minister for Education* [2001] IESC 63, tagraíonn Hardiman, J., do roinnt alt éagsúil de chuid an Achta Oideachais 1998, ina measc fo-alt 7(1)(a), agus deir sé: “*It appears that these provisions, together with those of the Equal Status Act, 2000 and the Education (Welfare) Act, 2000 impose duties on public authorities which may be relevant to a person in the position of...*” [Béim curtha leis].

Chonacthas don imscrúdú freisin gur bhain an tagairt i bhfo-alt 7(4)(a)(i) den Acht Oideachais 1998 le haird a bheith ag an Aire ar na hacmhainní a bheadh ar fáil le linn dó a fheidhmeanna a chomhall go ginearálta agus nach raibh sé teoranta do, ná ceangailte ar bhealach ar bith ar leith ná ar bhealach ar bith sainiúil, leis an bhfeidhm a bhain le soláthar “seirbhísí taca” trí Ghaeilge seachas le soláthar seirbhísí taca go ginearálta.

## Support Services

As the Department had informed the investigation that the guidelines were specifically aimed at providing additional assistance for teachers, and at giving examples and cultivating the approach to be used in implementing the syllabus, it appeared to me that no doubt whatsoever existed but that they were provided as “*support services*” under the provisions of the Act.

Referring to the statutory objectives to which the Minister must have regard, the Department said it was a matter for the Minister to decide what the best way was of achieving those objectives and of prioritising resources to that end.

It appeared to the investigation that the provision of support services under Section 7 was a “*function*” of the Minister, and that “*functions*” included powers and duties. The provision in sub-section 2(3) states: “*Any reference in this Act to the performance of functions, includes, in respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.*”

That interpretation is in accordance with court decisions and precedents:

In *Sinnott v. Minister for Education* [2001] IESC 63 Chief Justice Keane, C.J., made the following reference to the defendants (The Department of Education):

*“They acknowledge that, by virtue of s. 7(1) of the 1998 Act, the Minister is obliged ‘to ensure, subject to the provisions of this Act, that there is made available to each person resident in the State, including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person...’” [Emphasis added].*

In the same case, *Sinnott v. Minister for Education* [2001] IESC 63, Hardiman, J., refers to some various sections of the Education Act 1998, including sub-section 7(1)(a), and says: “*It appears that these provisions, together with those of the Equal Status Act, 2000 and the Education (Welfare) Act, 2000 impose duties on public authorities which may be relevant to a person in the position of...*” [Emphasis added].

It appeared to the investigation also that the reference in sub-section 7(4)(a)(i) related to the Minister having regard to the available resources in performing his functions generally and was not limited, or associated in any particular or specific way, to the function of providing “support services” through Irish rather than the provision of support services in general.

Dúirt an Roinn freisin gur éiligh fo-alt 7(2)(a) soláthar seirbhísí taca “de réir mar is cuí leis an Aire agus de réir an Achta seo.”

Thug seo sinn chuig croí na hargóna san imscrúdú seo nuair a dúirt an Roinn: “Ní ghlacaimid leis, áfach, go leagann sé seo dualgas ar an Aire gach aon seirbhís taca a sholáthar trí mheán na Gaeilge, go háirithe seirbhísí atá dírithe ar mhúinteoirí amháin. Is ceadaithe don Aire teacht ar thuairim réasúnta maidir leis na seirbhísí taca a ba chóir a sholáthar trí Ghaeilge, i bhfianaise forálacha Alt 6 agus 7 den Acht.

*Is feidhm (seachas dualgas) de chuid an Aire é seirbhísí taca a sholáthar...*”

Is cinnte go bhfuil discríd ag an Aire maidir le cinntí faoi sholáthar seirbhísí taca go ginearálta faoi fho-alt 7(1)(a) agus fo-alt 7(2)(a) agus de réir na n-acmhainní atá ar fáil (fo-alt 7(4)(a)(i)). Chonacthas don imscrúdú, áfach, dá gcinneadh an tAire seirbhísí taca áirithe a sholáthar faoi na fo-ailt sin, nach mbeadh aon rogha aige ach na seirbhísí taca céanna sin a sholáthar trí Ghaeilge faoi fho-alt 7(2)(d).

Chonacthas don imscrúdú freisin gurbh ag an tráth a ndéanadh sé an cinneadh maidir le soláthar seirbhísí taca go ginearálta a bheadh rogha ag an Aire seirbhísí áirithe a sholáthar nó gan a sholáthar de réir na n-acmhainní a bheadh ar fáil. Saor-rogha a bheadh ansin. Ach a luaithe agus a chinneadh sé seirbhís taca áirithe a sholáthar trí Bhéarla d’fhorálfadh fo-alt 7(2)(d) go gcuirfí an tseirbhís taca sin ar fáil trí Ghaeilge.

Nótáil an t-imscrúdú na fasaigh chúirte ar thagair an Roinn dóibh. Ó tharla go bhfuil, dar le léirmhíniú an imscrúdaithe ar an bhforáil reachtúil, éifeacht shainordaitheach ag fo-alt 7(2)(d) i gcás go bhfuil cinneadh déanta ag an Aire seirbhísí taca áirithe a sholáthar trí Bhéarla, níl saor-rogha ag an Aire ag an bpointe sin. Níl discríd i gceist ná cinneadh riaracháin le déanamh.

Tá an tAire freagrach as riaradh acmhainní a Roinne ach caithfidh sé na hacmhainní sin a riaradh i gcomhréir leis na socruithe reachtúla atá daingnithe san Acht ag an Oireachtas.

Tá tábhacht mhór le treoirlínte do mhúinteoirí i dteanga na scoile a bheith ar fáil do mhúinteoirí fiú leis an téarmaíocht i nGaeilge a bheadh á húsáid sna siollabais agus sna scrúduithe a chur os a gcomhair agus cleachtadh a thabhairt dóibh ar a húsáid.

The Department stated also that sub-section 7(2) required support services to be provided “as considered appropriate by the Minister and in accordance with this Act.”

The following statement provided the Department’s central argument in this investigation: “We do not accept, however, that this confers a duty on the Minister to provide all support services through the medium of Irish, particularly services directed at teachers only. The Minister is permitted to form a reasonable opinion as to the support services which should be provided through Irish, having regard to the provisions of Sections 6 and 7 of the Act.

*The provision of support services is a Ministerial function (rather than a duty)...” (translation)*

Certainly the Minister has discretion with regard to the provision of support services generally under sub-section 7(1)(a) and sub-section 7(2)(a) and subject to the available resources (sub-section 7(4)(a)(i)). However, it appeared to the investigation that if the Minister were to decide to provide particular support services under those sub-sections, he would have no choice but to provide those same support services through Irish under sub-section 7(2)(d).

It appeared to the investigation also that, at the time he would decide to provide support services generally, the Minister would have the option to provide or not to provide such services subject to the resources available. That would be a free choice. However, as soon as he would decide to provide a support service through English, sub-section 7(2)(d) provided that the same support service be made available through Irish.

The investigation noted the court precedents to which the Department referred. When the Minister decides to provide particular support services through English, sub-section 7(2)(d) then has mandatory effect and he does not, according to the investigation’s interpretation of the statutory provision, have free choice at that stage. It is not a matter of discretion nor is an administrative decision to be made.

The Minister is responsible for managing his Department’s resources but he must manage those resources in accordance with the statutory arrangements confirmed in the Act by the Oireachtas.

The availability of guidelines in the language of the school is of major importance to teachers even if the guidelines were only to acquaint them with the Irish terminology used in syllabuses and examinations and to familiarise them with the use of that terminology.

### Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Go raibh agus go bhfuil an fhoráil i bhfo-alt 7(2)(d) den Acht Oideachais 1998 – ar foráil í a bhaineann le stádas nó le húsáid teanga oifigiúla – á sárú ag an Roinn Oideachais agus Eolaíochta i dtaca le soláthar na dtreoirilínte atá i gceist san imscrúdú seo do scoileanna aitheanta a chuireann teagasc trí Ghaeilge ar fáil agus d’aon scoil aitheanta eile a iarrann soláthar den sórt sin.

### Moltaí an Imscrúdaithe

Ag féachaint don imscrúdú ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

1. Go gcinnteodh an Roinn Oideachais agus Eolaíochta go gcloifeadh sí feasta lena feidhmeanna reachtúla faoi fho-alt 7(2)(d) den Acht Oideachais 1998.
2. Go gcinnteodh an Roinn Oideachais agus Eolaíochta go gcuirfí leagan Gaeilge ar fáil de na treoirilínte éagsúla d’ábhair atá á dteagasc trí Ghaeilge agus a bhfuil treoirilínte i mBéarla ar fáil dóibh cheana féin ag an iar-bhunleibhéal.
3. Gan dochar don dualgas iomlán a mheas mé a bheith i gceist, go gcinnteodh an Roinn Oideachais agus Eolaíochta go gcuirfí Moladh 2 (thuas) i bhfeidhm mar a leanas:
  - Go mbeadh leagan Gaeilge de na treoirilínte ar fáil roimh dheireadh na bliana 2009 i gcás ar a laghad an tríú cuid de na hábhair chuí is coitianta a theagascar trí Ghaeilge.
  - Go mbeadh leagan Gaeilge de na treoirilínte ar fáil roimh dheireadh na bliana 2010 i gcás ar a laghad dhá thrian de na hábhair chuí is coitianta a theagascar trí Ghaeilge.
  - Go mbeadh leagan Gaeilge de na treoirilínte ar fáil roimh dheireadh na bliana 2011 i gcás gach ábhair chuí a theagascar trí Ghaeilge.
4. Go gcinnteodh an Roinn Oideachais agus Eolaíochta go gcuirfí leagan Gaeilge ar fáil go comhuaineach gach uair a chuirfí treoirilínte d’aon ábhar breise ar fáil i mBéarla.
5. Go gcinnteodh an Roinn Oideachais agus Eolaíochta gach uair a dhéanfaí nuashonrú nó leasuithe nó athfhoilsiú ar leaganacha nua de na treoirilínte i mBéarla go ndéanfaí amhlaidh ag an am céanna le leaganacha trí Ghaeilge.

### Finding of the Investigation

The following was the finding of the investigation:

- The provision in sub-section 7(2)(d) of the Education Act 1998 – being a provision relating to the status or use of an official language – had been and is being contravened by the Department of Education and Science with regard to the provision of the guidelines at issue in this investigation for recognised schools providing teaching through Irish and any other recognised school requesting such provision.

### Recommendations of the Investigation

Having regard to the Investigation, these were the recommendations I made as Coimisinéir Teanga:

1. That the Department of Education and Science henceforth comply with its statutory functions under sub-section 7(2)(d) of the Education Act 1998.
2. That the Department of Education and Science ensure that an Irish version of the various guidelines for subjects taught through Irish for which guidelines in English are already available at post-primary level be provided.
3. Without prejudice to the overall obligation that I considered to exist, that the Department of Education and Science implement Recommendation 2 (above) as follows:
  - That an Irish version of the guidelines be provided before the end of 2009 for at least one third of the appropriate subjects most commonly taught through Irish.
  - That an Irish version of the guidelines be provided before the end of 2010 for at least two thirds of the appropriate subjects most commonly taught through Irish.
  - That an Irish version of the guidelines be provided before the end of 2011 for each appropriate subject taught through Irish.
4. That the Department of Education and Science ensure that each time guidelines were provided for an additional subject in English, an Irish version be made available simultaneously.
5. That the Department of Education and Science ensure that each time new versions of the guidelines in English were updated, amended or re-published, that the same be done at the same time with the Irish versions.



6. Sa chás is go gcuirfí treoirlínte do mhúinteoirí i mBéarla ar fáil go leictreonach ar shuíomh gréasáin na Roinne Oideachais agus Eolaíochta, nó ar aon suíomh gréasáin eile faoi scáth nó faoi stiúir na Roinne sin, nó go gcuirfí an foilseachán ar fáil i bhformáid eile (mar shampla CD-Rom), go ndéanfaí amhlaidh leis an leagan Gaeilge go comhuaineach i gcás treoirlínte nua-fhoilsithe nó de réir na scálaí ama i Moladh 3 (thuas) i gcás an riaráiste atá le haistriú.
7. Go gcinnteodh an Roinn Oideachais agus Eolaíochta nach n-úsáidfí aon ní i bhfionnachtain ná i moltaí an imscrúdaithe seo le laghdú ná moill a chur ar na bearta chun tacú leis an nGaeilge a liostáil sí ina litir dar dáta 19 Samhain 2008 chuig an imscrúdú.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 16 Deireadh Fómhair 2008  
Tuarascáil eisithe: 30 Nollaig 2008

6. If guidelines in English for teachers were provided electronically on the Department of Education and Science's website, or on any other website under the aegis or control of that Department, or if the publication was made available in another format (for example CD-Rom), that the same be done simultaneously with regard to the Irish version in the case of newly-published guidelines or in accordance with the time scales in Recommendation 3 (above) for the arrears to be translated.
7. That the Department of Education and Science ensure that no finding or recommendation of this investigation would be relied upon to abate or delay the actions to support the Irish language listed in its letter of 19 November 2008 to the investigation.

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 16 October 2008  
Report issued: 30 December 2008



## An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil

### Ábhar an Imscrúdaithe

Ar sháraigh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca le gealltanais áirithe de chuid Scéim Teanga na Roinne sin, mar atá, Alt 2.8 den Scéim a dheimhníonn go bhfuil an láithreán gréasáin ag [www.npws.ie](http://www.npws.ie) ar fáil go dátheangach?

### Cúlra

Tá an gealltanais reachtúil seo a leanas i Scéim Teanga na Roinne Comhshaoil, Oidhreacht agus Rialtais Áitiúil, a tháinig i bhfeidhm ar an 15 Lúnasa 2005:

*"2.8 Páirceanna Náisiúnta agus Fiadhúlra*

*Bainistíonn an tSeirbhís Páirceanna Náisiúnta na freagrachtaí ar Stát na hÉireann faoin dlí Náisiúnta agus Eorpach ó thaobh an dúlra a chaomhnú. Tá an láithreán gréasáin ag [www.npws.ie](http://www.npws.ie) ar fáil ar bhonn dátheangach."*

Tháinig sé chun solais le linn léirmheas m'Oifige ar chéad bhliain feidhme Scéim Teanga na Roinne i mí na Nollag 2006 nach raibh an láithreán gréasáin ar bhonn dátheangach.

Rinne m'Oifig gach iarracht teacht ar chomhréiteach leis an Roinn ar a raibh i gceist anseo trí phróiseas neamhfhoirmiúil idir mí na Nollag 2006 agus mí an Mhárta 2008 ach níor éirigh leis na hiarrachtaí sin a chinntiú go mbeadh an suíomh gréasáin ar bhonn dátheangach.

I mí Eanáir 2008 rinne duine den phobal gearán liom faoin gceist chéanna. Bheartaigh mé ag an bpointe áirithe sin gan tosú ar imscrúdú láithreach toisc gur thug an Roinn le fios go rabhthas ag déileáil leis an gceist. Ar an 31 Márta 2008, áfach, níor léir go raibh aon chuid den láithreán gréasáin ar fáil i nGaeilge. Bheartaigh mé nach raibh aon rogha eile agam ach imscrúdú a sheoladh ar an 31 Márta 2008.

### Freagra na Roinne

Dheimhnigh an Roinn gur suíomh gréasáin aonteangach Béarla a bhí in [www.npws.ie](http://www.npws.ie) nuair a bhí athbhreithniú na chéad bhliana á dhéanamh ar fhorfheidhmiú na Scéime Teanga. Thug an Roinn le fios gur seoladh suíomh gréasáin athfhorbartha na Seirbhíse Páirceanna Náisiúnta agus Fiadhúlra (NPWS) ar an 1 Márta 2007. Ba léir gur mar shuíomh aonteangach Béarla amháin a rinneadh an athfhorbairt ar an suíomh sin.

## Department of the Environment, Heritage and Local Government

### Subject of Investigation

Did the Department of the Environment, Heritage and Local Government contravene the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 in relation to certain commitments of that Department's Language Scheme, as in Paragraph 2.8 of the Scheme which affirms that the website [www.npws.ie](http://www.npws.ie) is available bilingually?

### Background

The following statutory commitment is given in the Language Scheme of the Department of the Environment, Heritage and Local Government which came into effect on 15 August 2005:

*"2.8 National Parks and Wildlife*

*The National Parks & Wildlife Service manages the Irish State's nature conservation responsibilities under National and European law. Its website at [www.npws.ie](http://www.npws.ie) is available on a bilingual basis."*

It came to my attention during my Office's first year assessment of the operation of the Department's Language Scheme in December 2006 that the website was not bilingual.

My Office made every effort between December 2006 and March 2008 to reach an agreement on this matter with the Department through an informal process but these efforts were unsuccessful in ensuring a bilingual website.

In January 2008 a member of the public complained to me about the same matter. I decided at that particular time not to initiate an investigation immediately as the Department indicated that it was dealing with the matter. On 31 March 2008, however, it didn't appear that any part of the website was available in Irish. I decided that I had no other choice but to initiate an investigation on 31 March 2008.

### Department's Response

The Department confirmed that the website [www.npws.ie](http://www.npws.ie) had been a unilingual English website when the first year review of the implementation of the Language Scheme took place. The Department indicated that a redeveloped NPWS website had been launched on 1 March 2007. It was clear that the site had been redeveloped solely as a unilingual English website.

Dúirt an Roinn leis an imscrúdú:

*“Cé go n-aithníonn an Roinn an gá lena chinntiú go mbeidh an láithreán gréasáin á fhorbairt agus a chothabháil go leanúnach chun a cuid tiomantas atá leagtha amach ina Scéim Ghaeilge a chomhlíonadh, bhí brú suntasach oibre ar an NPWS le déanaí agus acmhainní teoranta ar fáil le dul i ngleic le réimse leathan tiomantas i leith dhualgaís chaomhnú dúlra na hÉireann. Mar thoradh air sin, ní i gcónaí a bhí an t-am a theastaigh le dul i ngleic leis na fadhbanna teicniúla a bhain leis an láithreán gréasáin ar fáil. Rinneadh gach iarracht, áfach, leis na hacmhainní teoranta a bhí ar fáil, dul i ngleic leis an gceist seo.”*

Sa bhreis ar an míniú sin thuas, dúirt an Roinn:

1. *“Glacann an Roinn go hiomlán leis an bhfreagracht atá uirthi ábhar Gaeilge a chur ar fáil ar an láithreán gréasáin [www.npws.ie](http://www.npws.ie).*
2. *Ó athsheoladh an [www.npws.ie](http://www.npws.ie) nua i mí an Mhárta 2007, tá go leor déanta le hábhar statach Gaeilge a fhorbairt le haghaidh an láithreáin ghréasáin.*
3. *Tháinig réimse suntasach fadhbanna teicniúla aníos, áfach, agus an láithreán gréasáin á fhorbairt. Mar thoradh air sin, ní raibh an leagan Béarla den láithreán ag feidhmiú go hiomlán agus cuireadh an-mhoill ar an ábhar Gaeilge a bhogadh go dtí an láithreán gréasáin nua.*
4. *Mar a cuireadh in iúl d’oifig an Choimisinéara Teanga an 1 Aibreán 2008, áfach, tá na fadhbanna teicniúla réitithe agus cuireadh tús leis an ábhar aistriithe Gaeilge a uaslódáil go dtí an láithreán ag an bpointe sin.*
5. *Rinneadh athbhreithniú ar an ábhar Gaeilge ar an láithreán gréasáin ag an bpointe sin agus rinneadh cinneadh tuilleadh ábhair a aistriú. Tá coinne leis an ábhar sin a bheith faighte ar ais ón aistritheoir go luath i mí na Bealtaine agus déanfar é an uaslódáil go dtí an láithreán gréasáin go gairid ina dhiaidh sin.”*

### **Osradharc Ginearálta ar an Imscrúdú**

Ba léir gur dhearbhaigh an Roinn go raibh “láithreán gréasáin ag [www.npws.ie](http://www.npws.ie) ar fáil ar bhonn dátheangach” (Alt 2.8 den Scéim). Ba léir gur seoladh leagan úr, nua-aimseartha den suíomh i mBéarla amháin i Márta 2007, beag beann ar an dualgas reachtúil a bhí ar an Roinn faoin Scéim Teanga an suíomh gréasáin a bheith ar fáil ar bhonn dátheangach.

Ba chosúil go mbeadh sé níos tairbhí don Roinn bunús dátheangach a chur faoin suíomh gréasáin úrnua le linn a fhorbartha seachas, mar a tharla, é a sholáthar i mBéarla agus dul i ngleic ansin le fadhbanna a thiocfadh chun cinn lena aistriú go suíomh a bheadh ar bhonn dátheangach.

Fiú nuair a díriodh aird ar an gcás seo, níor léir don imscrúdú gur thug an Roinn faoin tionscnamh leis an dúthracht agus díograis a theastaigh le suíomh gréasáin a sholáthar a bheadh dátheangach go fírinneach. Rinneadh tagairt d’fhadhbanna

The Department informed the investigation:

*“Although the Department recognises the necessity to ensure that the website is developed and maintained continuously in order to fulfil its commitments set out in the Language Scheme, the NPWS was under significant work pressures lately with limited resources available to address a wide range of commitments in regard to Ireland’s nature preservation obligations. As a result, the time needed to address the technical problems relating to the website was not always available. However, every effort was made, with the limited resources available, to address this issue.” (translation)*

In addition to the above explanation, the Department stated:

1. *“The Department fully accepts its responsibility to provide material in Irish on the website [www.npws.ie](http://www.npws.ie).*
2. *Since the new [www.npws.ie](http://www.npws.ie) was launched in March 2007, much has been done to develop static Irish material for the website.*
3. *However, a significant range of technical problems arose while the website was being developed. As a result, the English version of the website was not functioning fully and the transfer of the Irish material to the new website was significantly delayed.*
4. *However, as the Coimisinéir Teanga’s Office was informed on 1 April 2008, the technical problems have been solved and the uploading of the translated Irish material to the website was begun then.*
5. *At that stage the material in Irish on the website was reviewed and it was decided to translate more material. That material is expected back from the translator in early May and it will be uploaded on the website shortly afterwards.” (translation)*

### **General Overview of the Investigation**

It was clear that the Department had confirmed that “its website at [www.npws.ie](http://www.npws.ie) is available on a bilingual basis” (Paragraph 2.8 of the Scheme). It was evident that a new modern version of the website in English only was launched in March 2007, irrespective of the Department’s statutory duty under the Language Scheme to have the website available bilingually.

It appeared that it would have been more beneficial for the Department to establish the brand new website on a bilingual basis during its development rather than, as happened, provide it in English and then address the issues arising from changing it to a bilingual website.

Even when attention was drawn to this matter, it did not appear to the investigation that the Department applied itself to the project with the diligence and fervour needed to provide a truly bilingual website. Reference was made to technical problems

teicniúla le freastalaí, deacrachtaí le huirlis bhainistíochta don suíomh agus d'easpa foirne. Níor leor aon cheann, nó fiú gach ceann acu sin le chéile, mar leithscéal chun dualgas atá daingnithe go reachtúil a leasú, a mhaolú, a mhoilliú ná a chur ar ceal.

Agus an t-imscrúdú ag tosú i dtús mhí Aibreáin 2008, ba léir gur thóg an Roinn céimeanna le roinnt den ábhar ar an suíomh gréasáin a sholáthar go dátheangach. Agus bailchríoch á cur ar an tuarascáil i Meitheamh 2008, ba léir fós nach raibh ach cuid bheag den suíomh á tairiscint ar bhonn dátheangach.

I ndeireadh an lae, tuigeadh don imscrúdú go raibh tús curtha le próiseas chun an suíomh gréasáin a sholáthar ar bhonn dhátheangach ach gur mhór idir a laghad a bhí ar fáil i nGaeilge agus an méid a bhí á sholáthar i mBéarla. Ní fhacthas don imscrúdú go raibh aon chúis nach bhféadfadh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil a dualgas reachtúil a chomhlíonadh go cuí agus suíomh gréasáin a thairiscint ar bhonn dátheangach mar a bhí geallta ina Scéim Teanga.

### Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Go raibh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil ag sárú an dualgais reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 nuair nach raibh an láithreán gréasáin ag [www.npws.ie](http://www.npws.ie) ar fáil go dátheangach mar a bhí geallta in Alt 2.8 de Scéim Teanga na Roinne sin.

### Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go gcinnteodh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil go dtógfadh sí na céimeanna cuí láithreach leis an dualgas reachtúil maidir leis an láithreán gréasáin a sholáthar ar bhonn dátheangach.
- Go leagfadh an Roinn amach plan le spriocanna cinnte ama maidir le forbairt an tsuímh Ghréasáin ar bhonn dátheangach, agus go gcuirfí an plan sin i bhfeidhm sa tréimhse ama ba lú a bhí réasúnta chuige sin.
- Go mbeadh sé mar aidhm ag an Roinn sa tionscnamh seo a chinntiú go mbeadh an leagan Gaeilge den suíomh chomh foirfe, chomh húsáideach agus chomh hiomlán leis an leagan Béarla.

with a server, difficulties with management tools for the website and lack of staff. None of these, nor indeed all of these together, amounted to a sufficient excuse to amend, modify, delay or rescind a statutorily confirmed duty.

At the start of the investigation at the beginning of April 2008, it was clear that the Department took steps to provide some of the material on the website bilingually. While the report of this investigation was being completed in June 2008, it was clear that only a small part of the site was being offered on a bilingual basis.

In the end, it appeared to the investigation that a process had been started to provide the website on a bilingual basis but that the difference between the sparse material provided in Irish and the amount provided in English was significant. It appeared to the investigation that there was no reason why the Department of the Environment, Heritage and Local Government could not fulfil its statutory duty properly and offer the website on a bilingual basis as promised in its Language Scheme.

### Finding of the Investigation

This was the finding of the investigation:

- That the Department of the Environment, Heritage and Local Government was contravening the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 by not making the website at [www.npws.ie](http://www.npws.ie) available bilingually as promised in Paragraph 2.8 of that Department's Language Scheme.

### Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

- That the Department of the Environment, Heritage and Local Government ensure that it took the appropriate steps immediately with regard to the statutory duty to provide the website bilingually.
- That the Department set out a plan with specific deadlines for the development of the website on a bilingual basis, and that that plan be implemented in the shortest reasonable time.
- That the Department's objective with regard to this project would be to ensure that the Irish version of the website would be as complete, useful and comprehensive as the English version.

4. Go nglacfaidh an Roinn leis go mbeadh sé de cheart ag Oifig an Choimisinéara Teanga filleadh uirthi dá mba ghá, in am trátha, le cinntiú go raibh an gealltanas i Scéim Teanga na Roinne á chomhlíonadh maidir leis an suíomh gréasáin a bheith ar fáil ar bhonn dhátheangach.

### **Achomhairc chuig an Ard-Chúirt**

Mheabhraigh mé sa tuarascáil go raibh sé de cheart ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 31 Márta 2008  
Tuarascáil eisithe: 13 Meitheamh 2008

4. That the Department accept the right of the Office of An Coimisinéir Teanga to revert to the matter again in due course, if necessary, to ensure that the commitment in the Department's Language Scheme regarding the website being available on a bilingual basis was being complied with.

### **Appeals to the High Court**

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 31 March 2008  
Report issued: 13 June 2008

## An Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta

### Ábhar an Imscrúdaithe

Ar sháraigh an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca le gealltanais áirithe de chuid Scéim Teanga na Roinne sin (2004-2007), mar atá in Alt 4.2 den Scéim (i gcás agallaimh Roinne trí Ghaeilge nó trí Bhéarla) agus in Alt 4.4 (i gcás seirbhísí agus cúrsaí de chuid an Aonaid Oiliúna trí Ghaeilge agus trí Bhéarla)?

### Cúlra

Seo a leanas na sleachta ábhartha as forálacha Scéim Teanga na Roinne a tháinig i bhfeidhm ar an 22 Meán Fómhair 2004:

*"Beidh agallaimh Roinne trí Ghaeilge nó trí Bhéarla ar fáil don fhoireann, faoi réir ag na daoine sin a bheidh ag dul faoi agallamh fógra a thabhairt roimh ré maidir leis an teanga is rogha leo. Ní bheidh feidhm ag an rogha seo, áfach, i gcás gur ceanglas ar leith í an Ghaeilge don phost a bheidh i gceist."* (Alt 4.2 den Scéim)

*"Go mbeidh gach seirbhís agus cúrsa a sholáthraíonn an tAonad Oiliúna ar fáil trí Ghaeilge agus trí Bhéarla, de réir mar a iarrtar sin."* (Alt 4.4 den Scéim)

D'eisigh an Roinn fógra maidir le comórtas inmheánach d'ardú céime chuig post Príomhoifigigh ar an 9 Samhain 2007. Níor cheanglas ar leith í an Ghaeilge don phost a bhí i gceist. Rinneadh gearán liom ar an 12 Samhain 2007 nach raibh aon tagairt san fhógra sin d'agallaimh trí Ghaeilge nó trí Bhéarla a bheith ar fáil don fhoireann. Ní raibh aon deis tugtha ar an bhfógra ná ar an bhfoirm iarratais don fhoireann eolas a thabhairt maidir lena rogha teanga. Rinne m'Oifig teagmháil neamhfhoirmiúil leis an Roinn ar an lá céanna sin le haird a dhíriú ar an gceist.

Ar an 13 Samhain 2007, d'eisigh an Roinn soiléiriú ar an bhfógra don fhoireann chuí inar dúradh, inter alia, i ríomhphost:

*"...Ba chóir d'iarrthóirí atá ag iarraidh agallamh a dhéanamh trí Ghaeilge teagbháil a dhéanamh leis an Rannán Pearsanra maidir le sonraí na socruithe a bheidh i gceist."*

## Department of Community, Rural and Gaeltacht Affairs

### Subject of Investigation

Did the Department of Community, Rural and Gaeltacht Affairs contravene the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to certain commitments of the Department's Language Scheme (2004-2007), as set out in Paragraph 4.2 of the Scheme (in the case of Departmental interviews through Irish or English) and in Paragraph 4.4 (in the case of the Training Unit's services and courses through Irish and English)?

### Background

The following are the relevant extracts from the provisions of the Department's Language Scheme that came into effect on 22 September 2004:

*"Departmental interviews through Irish or English will be available to staff, subject to advance notice by interviewees of their language choice. This option will not, however, apply where Irish is a particular requirement for the post in question."* (Paragraph 4.2 of the Scheme)

*"Services and courses provided by the Training Unit will be available through Irish and English, as required."* (Paragraph 4.4 of the Scheme)

The Department announced an internal competition for promotion to Principal Officer on 9 November 2007. Irish was not a specific requirement for the position. A complaint was made to me on 12 November 2007 that the notice contained no reference to interviews being available to staff in Irish or English. Neither the notice nor the application form gave staff the opportunity to indicate their language choice. My Office contacted the Department informally on that same day to draw attention to the matter.

On 13 November 2007 the Department clarified the notice by email to the appropriate staff stating, inter alia:

*"...Applicants wishing to have their interview in Irish should contact Personnel Division for details of the arrangements that will apply."*



Bhí an gearánach den bharúil nárbh ionann a raibh thuas sa ríomhphost sin ón Roinn agus gealltanais na Scéime. Chreid an gearánach go raibh oibleagáid bhreise nach raibh ag teacht leis an Scéim á cur ar an té a lorgódh agallamh trí Ghaeilge seachas ar an té a roghnódh agallamh trí Bhéarla agus go raibh tagairt san fhógra maidir le *“sonraí na socruithe a bheidh i gceist”*, rud a thabharfadh le fios nár ghá gurbh ionann ar bhealach éigin an socrú seo agus an socrú don té a roghnódh an t-agallamh trí Bhéarla.

I dtráth an ama chéanna, tháinig sé chun solais dom go raibh foráil i bhfógra eile tamaillín roimhe sin gur trí Bhéarla a bheadh agallaimh áirithe (do phost mar Phríomhoifigeach Cúnta) mura lorgódh iarrthóirí ar leith agallaimh trí Ghaeilge. Tháinig ceist eile chun cinn maidir le cúrsa oiliúna d'iarrthóirí na gcomórtas seo a bheith á thairiscint trí Bhéarla amháin.

Bhí an cheist faoi agallaimh a bheith ar fáil i rogha teanga na n-iarrthóirí tagtha chun solais le linn phróiseas léirmheasa m'Oifige i dtaobh fhorfheidhmiú Scéim Teanga na Roinne. Ó tharla gur chuimsigh an cás seo meascán de ghearán agus d'obair mhonatóireachta na hOifige seo, agus nuair nár éirigh le hiarrachtaí neamhfhoirmiúla an cás a réiteach, bheartaigh mé imscrúdú a sheoladh ar an 30 Samhain 2007.

## **Dearcadh na Roinne**

### **Rogha Teanga d'Agallaimh (Alt 4.2 den Scéim Teanga)**

San fhaisnéis a chuir an Roinn ar fáil don imscrúdú, dúradh:

*“Tar éis dúinn comhairle dlí a fháil sa chás, is é seasamh na Roinne nach féidir sárú a bheith i gceist i ndáil le halt 4.2 den Scéim ach amháin má dhiúltaíonn an Roinn agallamh a chur ar fáil i nGaeilge nó i mBéarla do dhuine a roghnaíonn a leithéid agus a thugann fógra roimhré maidir leis an teanga is rogha léi/leis.*

*Is léir go leagann alt 4.2 de Scéim na Roinne dualgas ar iarrthóirí a rogha teanga a chur in iúl don Roinn. Tá an fhoireann go maith ar an eolas faoin bhforáil sin agus tá bealaí éagsúla chun an rogha sin a chur in iúl.”*

Mhínigh an Roinn gurb é an nós a bhí ann ná agallaimh do phostanna sna Forbacha a réachtáil trí Ghaeilge, áit a raibh an Ghaeilge mar theanga oibre go príomha: I gcás postanna i mBaile Átha Cliath agus i dTobar an Choire, áit a bhfuil an Béarla mar theanga oibre go príomha, *“is é taithí na Roinne go roghnaíonn formhór mór na n-iarrthóirí – iarrthóirí le líofacht Gaeilge san áireamh – dul faoi agallamh i mBéarla”*.

The complainant was of the opinion that the above statement contained in the email from the Department was not the same as the commitment given in the Scheme. The complainant believed that an additional obligation which was not in accordance with the Scheme was being placed on the person seeking an interview through Irish compared to the person choosing an interview through English and that the reference in the notice to *“the details of the arrangements that will apply”* could lead one to believe that this arrangement was not necessarily the same as the arrangement for the person choosing to be interviewed through English.

At the same time, it came to my attention that a provision in another notice a short time previously provided for specific interviews (for a position as Assistant Principal Officer) to be conducted through English unless particular applicants sought to be interviewed through Irish. Another issue also arose regarding the training course for applicants for these competitions being offered through English only.

The issue regarding the availability of interviews in the candidates' language of choice had arisen during my Office's assessment process regarding the implementation of the Department's Language Scheme. Since this case involved both a complaint and the monitoring work of the Office, and when informal efforts did not achieve a solution, I decided to launch an investigation on 30 November 2007.

## **Department's Viewpoint**

### **Language Choice for Interviews (Para. 4.2 of Language Scheme)**

The information provided by the Department for the investigation stated:

*“Having obtained legal advice in the case, the Department's position is that paragraph 4.2 of the Scheme can only be contravened if the Department refuses to provide an interview in Irish or English to a person so choosing who gives prior notice of his/her language choice.*

*It is clear that paragraph 4.2 of the Department's Scheme imposes an obligation on applicants to inform the Department of their language choice. Staff are well aware of that provision and there are various ways for them to indicate their choice.”* (translation)

The Department explained that it was customary to organise interviews through Irish for positions in Na Forbacha, where Irish was predominantly the working language. For positions in Dublin and Tubbercurry, where English is predominantly the working language: *“the Department's experience is that the vast majority of applicants – including those who are fluent in Irish – choose to undergo interviews in English.”* (translation)



*“Meastar go bhfuil sé réasúnta go nglacfaí leis mar bhunús oibre freisin go gcuirfidh baill foirne le líofacht i nGaeilge, a dteastaíonn uathu dul faoi agallamh i nGaeilge do phostanna a bhfuil Béarla mar theanga oibre iontu, an rogha sin in iúl don Roinn le go mbeifear in ann socruithe d’agallamh i nGaeilge a dhéanamh.”*

Dúirt an Roinn freisin:

- Gur eagraíodh comórtas amháin ina raibh sé ráite gur trí Bhéarla a bheadh na hagallaimh mura lorgófaí a mhalairt, .i. an comórtas do Phríomhoifigigh Chúnta do phoist i mBaile Átha Cliath/Tobar an Choire/Baile Chathail, ach nár ghlac an Roinn leis gur sárú a bhí ansin ar an bhforáil sa Scéim;
- Nár lorg aon duine agallamh trí Ghaeilge do chomórtas na bPríomhoifigeach;
- Nár lorg aon duine agallamh trí Ghaeilge do na poist mar Phríomhoifigigh Chúnta i mBaile Átha Cliath/Tobar an Choire/Baile Chathail;
- As na 10 gcomórtas d’arduithe céime inmheánacha a d’eagraigh an Roinn ó tháinig an Scéim Teanga i bhfeidhm, nár léirigh ach duine amháin an rogha chun dul faoi agallamh i nGaeilge agus go ndearnadh socrú dá réir;
- Nach dtiocfadh inniúlacht bord agallaimh sa Ghaeilge agus sa Bhéarla araon i gceist ach amháin dá léireodh ball/baill foirne gur rogha leo dul faoi agallamh i nGaeilge.

Dúirt an Roinn go raibh sé socraithe aici go n-úsáidfí *“foirm iarratais leasaithe amach anseo do chomórtais inmheánacha d’arduithe céime a thabharfaidh deis d’iarrthóirí a rogha teanga a chur in iúl (ach amháin i gcás gur ceanglas ar leith í an Ghaeilge don phost a bheidh i gceist).”* Dúradh go raibh an chéim seo beartaithe *“d’fhonn cabhrú leis an bhfoireann agus an polasaí reatha a shoiléiriú”* seachas mar dhualgas de bhun nó de bhua aon fhorála i Scéim Teanga na Roinne.

#### **Seirbhísí agus Cúrsaí Oiliúna (Alt 4.4 den Scéim Teanga)**

Sa chéad ocht gcomórtas inmheánacha d’arduithe céime a d’eagraigh an Roinn ó tháinig an Scéim Teanga i bhfeidhm, cuireadh na seirbhísí agus cúrsaí ón Aonad Oiliúna ar fáil trí Ghaeilge agus trí Bhéarla. Níor tharla sin i gcás an dá chomórtas deiridh – do Phríomhoifigigh agus Príomhoifigigh Chúnta.

*“It is considered reasonable to accept as a working basis also that staff who are fluent in Irish and who wish to be interviewed though Irish for positions in which English is the working language, should inform the Department of that choice so that arrangements for interviews through Irish may be made.”* (translation)

The Department also stated that:

- One competition was organised where it was stated that the interviews would be in English unless an alternative was sought, i.e. the competition for Assistant Principal positions in Dublin/Tubbercurry/Charlestown, but the Department did not accept that this contravened the provision in the Scheme;
- No one sought to be interviewed in Irish for the Principal Officer competition;
- No one sought to be interviewed in Irish for the Assistant Principal Officer positions in Dublin/Tubbercurry/Charlestown;
- Of the 10 internal promotion competitions organised by the Department since the Language Scheme came into effect, only one person requested to be interviewed in Irish and arrangements were made accordingly;
- The competency of interview boards in both Irish and English would not arise unless a staff member or staff members were to indicate their preference to be interviewed in Irish.

The Department stated that it had decided to use *“an amended application form at a future stage for internal promotion competitions which will enable applicants to indicate their language choice (except where Irish is a specific requirement for the position in question).”* (translation). It was stated that this measure had been decided upon *“in order to assist staff and to clarify the current policy”* rather than as a duty in pursuance of, or by virtue of, any provision of the Department’s Language Scheme.

#### **Services and Training Courses (Paragraph 4.4 of Language Scheme)**

In the first eight internal promotion competitions organised by the Department since the Language Scheme came into effect, the Training Unit’s services and courses were provided in Irish and in English. This did not occur in the last two competitions – for Principal and Assistant Principal Officers.

Ghlac an Roinn leis gur sárú a bhí i soláthar na gcúrsaí seo trí Bhéarla amháin ar an bhforáil in Alt 4.4 den Scéim Teanga. Ba chun leas na foirne é dul chun cinn leis an oiliúint i mBéarla amháin sa chás ar leith seo, a dúirt an Roinn:

*“...chuaigh an Roinn chuig an margadh ar thóir oiliúna trí Ghaeilge agus trí Bhéarla do Phríomhoifigigh Cúnta ach níor éirigh linn ach oiliúint trí Bhéarla a aimsiú. Bhí an oiliúint do Phríomhoifigigh mar leathnú ar sin.”*

Dúirt an Roinn gur “go bunúsach de bharr an amscála gairid a bhí le sásamh ag an Roinn” nach raibh aon chomhlacht ábalta riachtanais i dtaobh na hoiliúna trí Ghaeilge a shásamh. Léirigh eolas ó chomhaid na Roinne go ndearnadh teagmháil le cúig chomhlacht ag lorg tairiscintí oiliúna uathu. Tugadh níos lú ná ceithre lá oibre dóibh chun tairiscint a réiteach. Ní dhearna aon chomhlacht tairiscint an tseirbhís oiliúna a sholáthar cé go ndúirt dhá chomhlacht go mbeadh sé ar a gcumas an tseirbhís a sholáthar trí Ghaeilge ach go raibh an fógra róghearr. Chinn an Roinn an oiliúint a sholáthar i mBéarla amháin.

### **Osradharc Ginearálta ar an Imscrúdú**

Rogha Teanga d’Agallaimh (Alt 4.2 den Scéim Teanga)

Chuir an fhoráil seo tús le réimeas nua i ngnóthaí pearsanra na Roinne sa mhéid is gur chuir sí dualgas reachtúil feasta ar an Roinn a chinntiú go mbeadh “agallaimh Roinne trí Ghaeilge nó trí Bhéarla ar fáil don fhoireann, faoi réir ag na daoine sin a bheidh ag dul faoi agallamh fógra a thabhairt roimh ré maidir leis an teanga is rogha leo.”

Mar thoradh ar chomhairle ó Oifig an Ard-Aighne, dúirt an Roinn:

*“Is é seasamh na Roinne freisin, a bhfuil comhairle dlí ar fáil mar thacaíocht dó, nach féidir sárú a bheith i gceist i ndáil le halt 4.2 ach amháin má dhiúltaíonn an Roinn agallamh a chur ar fáil i nGaeilge do dhuine a iarrann a leithéid...”*

Rinne mé an fhoráil féin sa Scéim Teanga a mheas go cúramach. De réir na ngnáthrialacha forléirithe, bhí sé le tuiscint ar ghnáthbhrí na bhfocal in Alt 4.2 go mbeadh saor-rogha tugtha agallamh a lorg i gceachtar den dá theanga oifigiúla agus go mbeadh an tsaor-rogha sin le sonrú ar fhoirm iarratais i leith an phoist a bheadh i gceist. Ba ghá an tsaor-rogha a bheith ann ó tharla go ndúradh go gcaithfeadh na hiarrthóirí “fógra a thabhairt roimhré” maidir leis an rogha teanga. Conas ab fhéidir leo an fógra sin a thabhairt mura raibh deis chuige sin curtha ar fáil dóibh? Ar an Roinn a thit sé a chinntiú go mbeadh deis chothrom agus chomhionann soláthraithe do na daoine sin a bheadh ag dul faoi agallamh leis an rogha a dhéanamh agus a chur in iúl.

The Department accepted that the provision of these courses through English only contravened the provision in Paragraph 4.4 of the Language Scheme. The Department stated that to proceed with training through English in this particular case was in the interest of staff:

*“...the Department issued a tender for training through Irish and English for Assistant Principal Officers but only succeeded in obtaining training through English. The training for Principal Officers was an extension of this.”* (translation)

The Department stated that it was “basically on account of the short time scale which the Department had to fulfil” that no company was able to meet the training needs through Irish. Information from the Department’s files showed that contact had been made with five companies in order to obtain training tenders from them. They were given less than four working days to prepare a tender. No company tendered to provide the training service although two companies said that they could deliver a service in Irish but that the notice was too short. The Department decided to provide training in English only.

### **Overview of the Investigation**

Language Choice for Interviews (Paragraph 4.2 of Language Scheme)

This provision initiated a new regime in the Department’s personnel affairs in that it placed a statutory duty henceforth on the Department to ensure that “*Departmental interviews through Irish or English will be available for staff, subject to advance notice by interviewees of their language choice.*”

As a result of advice from the Office of the Attorney General, the Department stated:

*“It is also the Department’s position, one supported by legal advice, that it is not possible to contravene paragraph 4.2 except where the Department refuses to provide an interview in Irish to a person who requests such an interview...”* (translation)

I considered the actual provision in the Language Scheme carefully. In accordance with the standard rules of interpretation, it was to be understood from the normal meaning of the words in Paragraph 4.2 that there would be freedom of choice in regard to being interviewed in either of the two official languages and that that freedom of choice would be specified on the application form for the position in question. It was necessary to have freedom of choice since it was stated that the applicants should provide “advance notice” regarding their language choice. How could they give such notice unless an opportunity to do so was given to them? The Department had an obligation to ensure that interview candidates had a fair and equal opportunity to make and to indicate that choice.

Ar an dara dul síos, conas a thuigfeadh an té a bheadh i mbun na hagallaimh a shocrú arbh agallamh i mBéarla nó i nGaeilge a bheadh á éileamh ag duine ar leith mura mbeadh an rogha curtha in iúl ar an bhfoirm iarratais? Níorbh ann dáiríre don tsaor-rogha a thugtar in Alt 4.2 dá gcuirfí dualgas ar leith orthu siúd amháin a bheadh ag lorg agallaimh trí Ghaeilge an rogha sin a chur in iúl nó dá mbeadh sé ráite gur trí Bhéarla a bheadh na hagallaimh mar réamhshocrú mura lorgófaí a mhalairt go gníomhach.

Ní fhacthas dom go gcomhlíonadh cur chuige na Roinne an ceanglas a bhí daingnithe san fhoráil seo. Chonacthas dom go raibh léirmhíniú na Roinne ar na dualgais a chuir Alt 4.2 uirthi róchúng, rótheoranta agus róltriúil. Ní fhacthas dom go raibh doiléire ag baint leis an dualgas a chuir an fhoráil seo ar an Roinn maidir le cothromaíocht agus comhionannas a chinntiú dóibh siúd a roghnódh teanga oifigiúil amháin seachas teanga oifigiúil eile d'agallaimh arduithe céime.

Rinne an Roinn tagairt dá “taithí” “go roghnaíonn formhór mór na n-iarrthóirí – iarrthóirí le líofacht Ghaeilge san áireamh – dul faoi agallamh i mBéarla do phostanna i mBaile Átha Cliath nó i dTobar an Choire...” Ba é an fothéacs a bhraith mé anseo ná sa chás gur ó mhiondream a theastódh agallaimh i nGaeilge gur socrú eisceachtúil dóibhsean a dhéanfaí ach iadsan a n-iarratas eisceachtúil a dhéanamh ar agallamh i nGaeilge. Ghearr an nósmaireacht agus an “taithí” seo trasna ar an mbrí a bhain mé as Alt 4.2 ós rud é gur chuir an fhoráil seo tús le réimeas nua i ngnóthaí pearsanra na Roinne.

### Seirbhísí agus Cúrsaí Oiliúna

(Alt 4.4 den Scéim Teanga)

D'admhaigh an Roinn gur sháraigh sí an fhoráil in Alt 4.4 den Scéim Teanga nuair a soláthraíodh cúrsaí oiliúna trí Bhéarla amháin i gcás an dá chomórtas d'arduithe céime – do Phríomhoifigigh agus do Phríomhoifigigh Chúnta. Dá bhrí sin, sháraigh sí Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003.

Theip ar an Roinn aon tairiscint do sholáthar na hoiliúna a fháil de bharr an amscála ghairid agus chinn an Roinn an oiliúint a sholáthar i mBéarla amháin. Chonacthas don imscrúdú go raibh easpa pleanála mar chroílár na faidhbe anseo. Faoi smacht na Roinne féin amháin a bhí ceist “an amscála gairid” agus an “brú ama” dar thagair an Roinn.

Bhí roghanna eile a d'fhéadfadh an Roinn a dhéanamh le cinntiú nach sáródh sí a dualgas reachtúil faoin Scéim agus faoin Acht, san áireamh an comórtas a chur ar athló go sealadach go dtí go mbeadh sí ábalta a dualgas i leith na hoiliúna trí Ghaeilge agus trí Bhéarla a chomhlíonadh. I ndeireadh an lae, chonacthas don imscrúdú nár leor ar chor ar bith d'aon chomhlacht poiblí “brú ama” a tharla de thoradh easpa pleanála a thairiscint mar bhreithiúnas láncheart chun foráil reachtúil a bheadh daingnithe le dlí a chealú, a mhaolú ná a leasú.

Secondly, how could the person arranging the interviews know if a particular person wanted to be interviewed in English or in Irish if that choice was not indicated on the application form? The freedom of choice given in Paragraph 4.2 did not exist if specific obligations were placed solely on candidates seeking to be interviewed in Irish to indicate that choice or if it was said as a default arrangement that the interviews would be in English unless an alternative was actively sought.

It did not appear to me that the Department's approach would fulfil the requirement confirmed in this provision. It appeared to me that the Department's interpretation of the obligations placed on it by Paragraph 4.2 was too narrow, too limited and too literal. It did not appear to me that the obligation which this provision placed on the Department, to ensure fairness and equality for those choosing one official language rather than the other for a promotion interview, was in any way vague.

The Department referred to its “experience” that “the vast majority of applicants – including applicants who are fluent in Irish – choose to undergo interviews in English for positions in Dublin or in Tubbercurry...” (translation). I perceived that the subtext here was that in the case where a minority group sought to be interviewed in Irish, an exceptional arrangement would be made for them if they made an exceptional application to be interviewed in Irish. This custom and “experience” was in contravention of my interpretation of the commitment in Paragraph 4.2 since this provision initiated a new regime in the Department's personnel affairs.

### Services and Training Courses

(Paragraph 4.4 of the Language Scheme)

The Department admitted that it had contravened the provision in Paragraph 4.4 of the Language Scheme by providing training courses in English only in the case of the two competitions for promotions – for Principal Officers and Assistant Principal Officers. Therefore, it had contravened Section 18(1) of the Official Languages Act 2003.

The Department failed to obtain any tender for the provision of training on account of the short timescale and the Department decided to provide the training solely in English. It appeared clear to the investigation that lack of planning was the central problem here. The “short time scale” and the “time pressure” referred to by the Department were solely under its own control.

The Department could have availed of other options to ensure that it did not contravene its statutory duty under the Scheme and under the Act, including postponing the competition temporarily until it would be in a position to fulfil its obligation regarding training through Irish and English. Ultimately, it appeared clear to the investigation that it was not acceptable for any public body to use the “time pressure” that occurred due to a lack of planning as a justification to rescind, modify or amend a provision confirmed by law.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca le gealltanais áirithe de chuid Scéim na Roinne Gnóthaí Pobail, Tuaithe agus Gaeltachta (2004-2007), mar atá in Alt 4.2 den Scéim (i gcás agallaimh Roinne trí Ghaeilge nó trí Bhéarla) agus in Alt 4.4 (i gcás seirbhísí agus cúrsaí de chuid an Aonaid Oiliúna trí Ghaeilge agus trí Bhéarla).

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go gcloífeadh an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta go cuí feasta leis na dualgais reachtúla atá daingnithe in Alt 4.2 den Scéim:
  - Trína chinntiú go mbeadh deis chothrom agus chomhionann soláthraithe do gach iarrthóir a rogha maidir le teanga oifigiúil d'agallamh arduithe céime a dhéanamh agus a chur in iúl ar fhoirmeacha iarratais i ngach comórtas tar éis dháta na tuarascála ar an imscrúdú;
  - Trína chinntiú nach gcuirfí aon chúram ná aon chiotai bhreise ar dhuine ar mhian leis/léi teanga oifigiúil amháin a roghnú sna gnóthaí seo thar mar a thabhoífaí dá roghnódh sé/sí an teanga oifigiúil eile a úsáid;
  - Trína chinntiú nach bhféadfadh duine ar mhian leis/léi teanga oifigiúil amháin a roghnú d'agallaimh Roinne seachas an teanga eile a bheith faoi mhíbhuntáiste de thoradh na rogha sin nó toisc nár roghnaigh sé/sí an teanga oifigiúil eile;
  - Trína chinntiú i roghnú na mball do bhoird agallaimh go mbeadh aird chuí tugtha ar inniúlacht ar an nGaeilge agus ar an mBéarla le gurbh fhéidir le gach iarratasóir i gcomórtais a bheith lánchinnte go mbeadh cothromaíocht agus comhionannas teanga i gceist agus nach mbeadh sé/sí faoi mhíbhuntáiste de thoradh a rogha teanga oifigiúil ná toisc nár roghnaigh sé/sí an teanga oifigiúil eile.

## Finding of the Investigation

This was the finding of the investigation:

- That the Department of Community, Rural and Gaeltacht Affairs had contravened the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to certain commitments of the Department's Language Scheme (2004-2007), as set out in Paragraph 4.2 of the Scheme (in the case of Departmental interviews in Irish or English) and in Paragraph 4.4 (in the case of the Training Unit's services and courses in Irish or English).

## Recommendations of the Investigation

These were the recommendations which I made as Coimisinéir Teanga:

- That the Department of Community, Rural and Gaeltacht Affairs henceforth properly adhere to the statutory duties confirmed in Paragraph 4.2 of the Scheme:
  - By ensuring that each applicant would be given a fair and equal opportunity to choose either official language for promotion interviews and to express that choice on application forms for all competitions after the date of the report of the investigation;
  - By ensuring that no additional responsibility or inconvenience would be placed on a person wishing to choose one particular official language in these matters other than that occurring if he/she chose the other official language;
  - By ensuring that any candidate wishing to choose one particular official language for Departmental interviews rather than the other language would not be disadvantaged as a result of that choice or because he/she had not chosen the other official language;
  - By ensuring that, in selecting members of interview boards, proper attention would be given to competency in Irish and English so that each applicant in competitions could be fully certain that fairness and equality as regards language would apply and that he/she would not be disadvantaged because of his/her choice of official language or because he/she had not chosen the other official language.

- Go gcloífeadh an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta go cuí feasta leis na dualgais reachtúla atá daingnithe in Alt 4.4 den Scéim trína chinntiú go mbeadh gach seirbhís agus cúrsa a sholáthródh an tAonad Oiliúna ar fáil trí Ghaeilge agus trí Bhéarla, de réir mar a iarrfaí sin, san áireamh gach cúrsa a d'eagrófaí mar thaca le comórtais inmheánacha arduithe céime.
- Go gcinnteodh an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta nach mbeadh duine a d'fhreastalódh ar chúrsa oiliúna d'ardú céime i dteanga oifigiúil amháin faoi aon mhíbhuntáiste toisc nach ar chúrsa sa teanga oifigiúil eile a d'fhreastail sé/sí.
- Go n-eiseodh an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta nóta eolais chuig baill foirne na heagraíochta ar fad a luaithe agus ab fhéidir, ach laistigh de shé seachtaine ó dháta thuarascáil an imscrúdaithe ar a dhéanaí, ag deimhniú go mbeadh, de réir dualgais reachtúla faoin Scéim Teanga, deis tugtha feasta ar gach foirm iarratais d'iarratasóirí a rogha teanga oifigiúil d'agallaimh le haghaidh comórtais arduithe céime a chur in iúl agus go mbeadh gach cúrsa oiliúna mar thaca le comórtais arduithe céime á sholáthar feasta i nGaeilge agus i mBéarla.
- Go nglacfadh an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta leis nach mbainfeadh fionnachtain agus moltaí na tuarascála seo le comórtais do phoist i gcás gur cheanglas ar leith í an Ghaeilge don phost a bheadh i gceist.
- That the Department of Community, Rural and Gaeltacht Affairs henceforth properly adhere to the statutory duties confirmed in Paragraph 4.4 of the Scheme by ensuring that every service and course provided by the Training Unit would be made available through Irish and English, as required, including each course organised in support of internal promotion competitions.
- That the Department of Community, Rural and Gaeltacht Affairs ensure that a person attending a training course for promotion in one official language would not be at any disadvantage because he/she did not attend the training course in the other official language.
- That the Department of Community, Rural and Gaeltacht Affairs issue an information note to all members of the organisation's staff as soon as possible, but within six weeks of the date of the report of the investigation at the latest, affirming, in accordance with statutory duties under the Language Scheme, that the opportunity would henceforth be given on every application form for applicants to indicate their choice of official language in promotion competitions and that all training courses in support of promotion competitions would henceforth be provided through Irish and English.
- That the Department of Community, Rural and Gaeltacht Affairs accept that the findings and recommendations of this investigation would not apply to competitions for positions in which Irish was a specific requirement for the position in question.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Shoiléirigh an Roinn i scríbhinn tar éis an tuarascáil ar an imscrúdú a bheith faighte aici gur le hoifigigh na Roinne amháin a bhain riaradh gnóthaí pearsanra agus nár bhain an cúram seo leis an Aire.

Imscrúdú seolta: 30 Samhain 2007  
Tuarascáil eisithe: 21 Bealtaine 2008

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

The Department clarified in writing after receiving the report on the investigation that the administration of personnel matters was solely a matter for the Department's officials and that the Minister had no responsibility in this matter.

Investigation launched: 30 November 2007  
Report issued: 21 May 2008



## An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil

### Ábhar an Imscrúdaithe

Ar sháraigh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsíú trí Bhéarla a dhéanamh ar an doiciméad ar a dtugtar *Resourcing the Planning System* ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach?

### Cúlra

Rinneadh gearán liom ar an 15 Aibreán 2008 gur fhoilsigh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil páipéar chomhairliúcháin dar teideal *Resourcing the Planning System* i mBéarla amháin. Bhí an gearánach den bharúil gur cheart go mbeadh leagan dátheangach nó cóip i nGaeilge den doiciméad iomlán ar fáil go comhuaineach leis an leagan Béarla de réir fhorálacha Acht na dTeangacha Oifigiúla 2003.

De réir Alt 10(a) den Acht sin, tá dualgas ar chomhlacht poiblí, an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil san áireamh, a chinntiú go bhfoilseofar go comhuaineach i nGaeilge agus i mBéarla aon doiciméad a dhéanann sé nó a dhéantar faoina údarás ina leagtar amach "tograí beartais phoiblí."

Ós rud é nár éirigh le m'Oifig an gearán a réiteach ar bhonn neamhfhoirmiúil leis an Roinn, bheartaigh mé imscrúdú a thionscnamh ar an 16 Meitheamh 2008.

### Cás na Roinne Comhshaoil, Oidhreacht agus Rialtais Áitiúil

Níor ghlac an Roinn leis gur sárú ar Alt 10(a) den Acht ná gur sárú ar Scéim Ghaeilge na Roinne é foilsíú an doiciméid i mBéarla amháin. Tugadh le fios gur foilsíodh an cháipéis chomhairliúcháin phoiblí seo de bharr cinneadh rialtais ar an 7 Márta 2008.

Thug an Roinn an míniú seo a leanas ar an bhfoilseachán:

*"Ba é cuspóir an pháipéir ná chun 'an bonnmhíniú maidir le hathbheithniú agus nuashonrú a dhéanamh ar tháillí iarratas pleanála ar chineálacha éagsúla d'fhorbairt agus d'úsáid talaimh a leagan amach, agus na cineálacha feabhsuithe seirbhíse ar chóir go mbeadh baill an phobail ag súil leo in éiric aon mhéaduithe sna táillí'."*

## Department of the Environment, Heritage and Local Government

### Subject of Investigation

Did the Department of the Environment, Heritage and Local Government contravene the statutory language duty confirmed in Section 10(a) of the Official Languages Act 2003 by publishing in English the document entitled *Resourcing the Planning System* when the Irish version was not simultaneously available?

### Background

A complaint was made to me on 15 April 2008 that the Department of the Environment, Heritage and Local Government had published a consultation paper entitled *Resourcing the Planning System* in English only. The complainant was of the view that a bilingual version or a copy in Irish of the full document should have been simultaneously available with the English version in accordance with the provisions of the Official Languages Act 2003.

According to Section 10(a) of that Act, a public body, including the Department of the Environment, Heritage and Local Government, has a duty to ensure that any document made by it or under its authority setting out "public policy proposals" is published simultaneously in both Irish and English.

Since my Office could not resolve the complaint with the Department on an informal basis, I decided to initiate an investigation on 16 June 2008.

### Department of the Environment, Heritage and Local Government's Case

The Department did not accept that it had contravened Section 10(a) of the Act or the Department's Irish Scheme by publishing the document in English only. It was indicated that this public consultation document was published pursuant to a government decision of 7 March 2008.

The Department explained the publication as follows:

*"The purpose of the paper was to 'set out the rationale for reviewing and updating planning application fees for various classes of development and land use and the types of service improvements that members of the public should expect in return for any increase in fees'."* (translation)



Ba é cás na Roinne ná gur bhain cáipéisí a dtagraítear dóibh faoi Alt 10(a) den Acht le tograí beartais *“oifigiúla m.sh. páipéir Ghlasa/Bhána, seachas páipéir chomhairliúcháin”*.

Bhí an méid seo a leanas le rá ag an Roinn mar mhíniú ar an dearcadh sin:

*“Cé gur féidir le páipéar comhairliúcháin tograí beartais a leagan amach, ní léiríonn sé seasamh beartais phoiblí agus cuirtear ar fáil don phobal é d’fhonn togra beartais a threorú / a fhorbairt a thuilleadh tríd an phróiseas comhairliúcháin.”*

### Osradharc Ginearálta ar an Imscrúdú

Ba léir go raibh roinnt bunriachtanas ann le doiciméad a thabhairt faoi scáth Alt 10(a) den Acht:

- Chaithfeadh doiciméad a bheith i gceist.
- Chaithfeadh an doiciméad sin a bheith foilsithe agus ciallaíonn sin go gcaithfeadh teacht a bheith ag an bpobal air.
- Chaithfeadh gur doiciméad de chuid comhlachta phoiblí faoin Acht é *“a dhéanfaidh sé nó a dhéanfar faoina údarás”*.
- Chaithfeadh *“tograí beartais phoiblí”* a bheith sa doiciméad.

Ba léir gur doiciméad é Resourcing the Planning System agus gur foilsíodh an doiciméad sin. Ba léir, chomh maith, gur faoi údarás comhlachta phoiblí a tháinig faoi scáth an Achta a rinneadh an doiciméad.

Maidir le *“tograí beartais phoiblí”* a bheith sa doiciméad, ní thugtar sainmhíniú ar leith ar na focail sin san Acht. Is cosúil go n-áirítear doiciméid chomhairliúcháin sa mhéid seo, ina measc Páipéir Bhána is Ghlasa agus dréachtphleananna forbartha, ach gan a bheith teoranta dóibh sin, ina gcuirtear tograí maidir le polasaí poiblí i láthair lena meas agus go bhfuil seans ann go gcuirfeadh nó nach gcuirfeadh i bhfeidhm mar pholasaí iad.

Cé go ndearna an Roinn an argóint gur bhain Alt 10(a) den Acht le tograí *“oifigiúla”* beartais phoiblí, níl aon tagairt don fhoclaíocht sin san Acht agus, mar sin, ní fhacthas dom gurbh fhéidir an focal sin a úsáid le linn sainmhíniú a dhéanamh ar an bhforáil san Alt. Sa bhreis air sin, ba dheacair dom a chreidiúint ar aon nós nach nglacfaí leis gur togra *“oifigiúil”* beartais phoiblí a bheadh in aon doiciméad a raibh cinneadh rialtais tógtha ina leith, mar a bhí sa chás seo.

Is féidir an argóint a dhéanamh gur doiciméad a thagann faoi scáth Alt 10(a) den Acht atá i gceist a luaithe agus a fhoilsíonn comhlacht poiblí faoi scáth an Achta doiciméad a bhaineann le beartas poiblí agus nuair atá tograí sa doiciméad sin – is cuma an nglacfar nó an ndiúltofar dóibh i ndeireadh an lae. Bhraith mé, fad is a bhí tograí i leith beartais phoiblí sa doiciméad, gur leor sin lena thabhairt faoi bhrí an Ailt seo den Acht.

The Department made the case that documents referred to under Section 10(a) of the Act related to *“official”* policy proposals, *“for example Green/White papers, rather than consultation documents”*. (translation)

The Department explained this viewpoint as follows:

*“Although a consultation paper may set out policy proposals, it does not indicate a public policy position and it is made available to the public with a view to directing / developing a policy proposal further through the consultation process.”* (translation)

### General Overview of the Investigation

It was clear that a number of basic requirements existed to bring a document under Section 10(a) of the Act:

- A document must exist.
- That document must be published and that means made available to the public.
- The document must be that of a public body under the Act and must be *“made by it or under its authority”*.
- The document must contain *“public policy proposals”*.

It was clear that Resourcing the Planning System was a document and that it was published. It was clear also that the document was made under the authority of a public body under the aegis of the Act.

With regard to the document containing *“public policy proposals”*, these words are not defined in the Act. It appears that they encompass consultation documents in which proposals on public policy, which may or may not be implemented as policy, are presented for consideration, including White and Green Papers and draft development plans, although not limited to these documents.

Although the Department argued that Section 10(a) of the Act referred to *“official”* public policy proposals, there is no reference in the Act to such wording and, consequently, it did not appear to me that this word could be used to define the provision in the Section. In addition, it was difficult for me to believe at any rate that any document in relation to which a government decision had been taken would not be construed as an *“official”* public policy proposal, as was the case in this instance.

When a public body under the Act publishes a document on public policies containing proposals – irrespective of whether the proposals are ultimately accepted or rejected – it can be argued that that document comes under Section 10(a) of the Act. I considered that it was sufficient for the document to contain public policy proposals to accord with the meaning of this Section of the Act.

Tar éis dom grinnstaidéar a dhéanamh ar an doiciméad sa chás seo, ba léir dom gur phlécháipéis é mar chuid de phróiseas comhairliúcháin agus go raibh tograí beartais phoiblí ann. Ní raibh aon cheist ann ach gur beartas poiblí é leibhéal na dtáillí a ghearrfaí sa phróiseas pleanála. Dá bhrí sin, chonacthas dom go raibh na bunriachtanais uile ann le gurbh fhéidir a rá gur tháinig an doiciméad faoi Alt 10(a) den Acht.

### Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsíú trí Bhéarla amháin a dhéanamh ar an doiciméad ar a dtugtar Resourcing the Planning System ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach.

### Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go gcinnteodh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil go gcloífeadh sí feasta lena dualgais reachtúla faoi Acht na dTeangacha Oifigiúla 2003.
- Go gcinnteodh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil sa chás is go mbeadh aon doiciméad ina leagfaí amach tograí beartais phoiblí á fhoilsiú aici nó faoina húdaráis feasta go bhfoilseofaí a leithéid go comhuaineach i ngach ceann de na teangacha oifigiúla, mar atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003, agus nach rachfaí chun cinn ar chúis ar bith le foilsiú doiciméid den chineál atá i gceist anseo murabh fhéidir a bheith lánchinnte go mbeadh an dualgas sin á chomhlíonadh go cuí.
- Go seolfadh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil nóta eolais (i scríbhinn nó leis an bpost leictreonach) laistigh de 6 seachtaine ó dháta na tuarascála seo chuig baill foirne sin na Roinne a d'fhéadfadh a bheith freagrach as doiciméid ina leagfaí amach tograí beartais phoiblí a ullmhú le foilsiú, ina ndeimhneofaí an méid seo:
  - Go raibh fionnachtain déanta ag an imscrúdú seo gur sháraigh an Roinn a dualgas reachtúil faoi Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 sa chás seo;
  - Go raibh sé mar dhualgas ar an Roinn a chinntiú nach ligfí dá leithéid de shárú tarlú arís.

Having closely examined the document in this case, it was clear to me that it was a discussion document as part of a consultation process and that it contained public policy proposals. There was no question but that the level of fees charged in the planning process was public policy. Therefore, I considered that all the requirements were fulfilled in order to bring this document under Section 10(a) of the Act.

### Finding of the Investigation

This was the finding of the investigation:

- That the Department of the Environment, Heritage and Local Government had contravened the statutory language duty confirmed in Section 10(a) of the Official Languages Act 2003 by publishing in English only the document entitled Resourcing the Planning System, at a time when the Irish version was not simultaneously available.

### Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

- That the Department of the Environment, Heritage and Local Government ensure compliance henceforth with its statutory duties under the Official Languages Act 2003.
- That the Department of the Environment, Heritage and Local Government ensure that any document setting out public policy proposals henceforth published by it or under its authority would be published simultaneously in both official languages as confirmed in Section 10(a) of the Official Languages Act 2003, and that publication of the kind of document at issue here would not in any circumstances be proceeded with unless due compliance with this statutory duty were fully satisfied.
- That the Department of the Environment, Heritage and Local Government send an information note (in writing or by electronic mail) within 6 weeks of the date of this report to its staff who could henceforth be responsible for the preparation for publication of documents setting out public policy proposals, affirming that:
  - That this investigation had found that the Department had in this case contravened its statutory duty confirmed in Section 10(a) of the Official Languages Act 2003;
  - That the Department was obliged to ensure that such a contravention would not occur again.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 16 Meitheamh 2008  
Tuarascáil eisithe: 1 Lúnasa 2008

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 16 June 2008  
Report issued: 1 August 2008

## An Roinn Iompair

### Ábhar an Imscrúdaithe

Ar sháraigh an Roinn Iompair an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsíú trí Bhéarla amháin a dhéanamh ar an doiciméad ar a dtugtar 2020 Vision – Sustainable Travel and Transport: Public Consultation, ar doiciméad é ina leagtar amach tograí beartais phoiblí, ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach?

### Cúlra

Tháinig sé chun solais, de bharr fiosrúcháin a rinne m'Oifig mar chuid dá dualgas faireacháin faoi Acht na dTeangacha Oifigiúla, nach raibh fáil ar leagan Gaeilge den doiciméad comhairliúcháin phoiblí ar a dtugtar 2020 Vision – Sustainable Travel and Transport nuair a sheol an tAire Iompair é ar an 25 Feabhra 2008.

De réir Alt 10(a) den Acht, tá dualgas ar chomhlachtaí poiblí, an Roinn Iompair san áireamh, a chinntiú go bhfoilseofar aon doiciméad ina leagtar amach tograí beartais phoiblí go comhuaineach i nGaeilge agus i mBéarla.

Lorg m'Oifig an doiciméad i nGaeilge ar shuíomh gréasáin ar leith a bhí bunaithe don tionscnamh seo [www.sustainabletravel.ie](http://www.sustainabletravel.ie). Ní raibh ar fáil ar an suíomh gréasáin ag an tráth sin ach an leagan Béarla den fhoilseachán agus fógra go mbeadh an leagan Gaeilge “*ag teacht go gairid*.” Bheartaigh mé imscrúdú a sheoladh ar an 28 Feabhra 2008.

### An Chéad Fhreagra ón Roinn

Cé nach raibh an Roinn “*soiléir go cinnte*” go raibh dualgas uirthi faoi Acht na dTeangacha Oifigiúla an doiciméad seo a fhoilsíú go comhuaineach i ngach ceann de na teangacha oifigiúla, dúradh go mbeadh an próiseas dátheangach comhairliúcháin phoiblí le bheith “*i dtiúin le sprid an Achta*”.

Cé gur mhaígh an Roinn nach raibh sí “*soiléir go cinnte*” faoina dualgas faoin Acht, dúradh sa cháipéis a seoladh chuig cuideachtaí éagsúla ar thóir tairiscintí leis an doiciméad a dheardh, a ullmhú agus a chlóbhualadh: “*The Department is bound by the provisions of the Official Languages Act 2003. Under this Act we must publish and print the document simultaneously in Irish and English*”.

## Department of Transport

### Subject of Investigation

Had the Department of Transport contravened the statutory language duty confirmed in Section 10(a) of the Official Languages Act 2003 by publishing in English only the document entitled 2020 Vision – Sustainable Travel and Transport: Public Consultation, being a document setting out public policy proposals, at a time when an Irish version was not simultaneously available?

### Background

It emerged, following an enquiry by my Office as part of its monitoring obligation under the Official Languages Act, that an Irish version of the public consultation document entitled 2020 Vision – Sustainable Travel and Transport was not available when the Minister for Transport launched it on 25 February 2008.

In accordance with Section 10(a) of the Act public bodies, including the Department of Transport, have a duty to ensure that any document setting out public policy proposals is simultaneously published in Irish and English.

My Office searched for the document on the specific website established for this project [www.sustainabletravel.ie](http://www.sustainabletravel.ie). Only the English version of the publication was available on the website at that time with a notice stating that the Irish version would be “*coming shortly*”. I decided to launch an investigation on 28 February 2008.

### Department's First Reply

Although the Department was not “*absolutely certain*” that it had a duty under the Official Languages Act to publish this document simultaneously in both official languages, it stated that the public consultation process was to be bilingual in order to be “*in tune with the spirit of the Act*”. (translation)

Although the Department claimed that it was not “*absolutely certain*” of its duty under the Act, it was stated in the document sent to various companies seeking tenders to design, prepare and print the document that: “*The Department is bound by the provisions of the Official Languages Act 2003. Under this Act we must publish and print the document simultaneously in Irish and English*”.

Ba é croí na hargóna ag an Roinn gur loic an chuideachta thráchtála ar ar bronnadh an conradh an doiciméad a sholáthar go dátheangach agus, faoin tráth ar tháinig sé seo chun solais, go raibh sé *“dodhéanta an imeacht a chur ar ceal agus tugadh an bhreith chun dul ar aghaidh leis an leagan Gaeilge a fháil chomh luath agus is féidir ina dhiaidh sin”*. Bhí sé socraithe gurbh é an tAire Iompair a sheolfadh an próiseas comhairliúcháin phoiblí os comhair grúpa aionna. Shocraigh mé tuilleadh eolais a lorg ón Roinn don imscrúdú.

### Dara Freagra na Roinne

Mhínigh an Roinn ansin gur chun leagan Béarla amháin den doiciméad a sholáthar a rinne gach cuideachta tairiscintí praghsála, cé go raibh foilseachán dátheangach ag teastáil ón Roinn. Tugadh le fios go ndearna an Roinn *“macnamh ar na tairiscintí go léir agus cuireadh san áireamh go láidir an tairiscint ó XXXX mar gur tugadh faoi dearach go raibh siad in ann seirbhísí aistriúcháin a chur ar fáil...”*

Dúirt an Roinn gur cuireadh an leagan Gaeilge ar fáil don phobal ar an 18 Márta 2008 agus go bhfuarthas cead an Aire an sprioc ama le haghaidh aighneachtaí a chur siar trí seachtaine chun tuilleadh ama a thabhairt dóibh siúd a dteastódh uathu aighneachtaí a dhéanamh i nGaeilge. Ba léir go raibh moill de bheagnach trí seachtaine idir foilsiú an leagain Bhéarla agus an leagain Ghaeilge den doiciméad seo.

### Osradharc Ginearálta ar an Imscrúdú

Níl amhras ar bith ann ach gur doiciméad ina leagtar amach tograí beartais phoiblí é Páipéar Glas a d'eiseodh roinn rialtais. Ba léir gur theip ar an Roinn Iompair an dualgas reachtúil a leagtar uirthi faoi Acht na dTeangacha Oifigiúla a chomhlíonadh go cuí sa chás seo.

Maidir le míniú na Roinne gur theip ar an gcuideachta thráchtála ar ar bronnadh an conradh d'ullmhú an doiciméid é a sholáthar i nGaeilge agus i mBéarla, i ndeireadh an lae ba ghnó don Roinn amháin é a chinntiú go gcloífeadh sí lena dualgais reachtúla. Níor leor mar leithscéal fadhbanna, fiú dá mb'fhadhbanna iad a maíodh nach raibh faoi smacht iomlán na Roinne féin, le cealú, laghdú ná leasú a dhéanamh ar dhualgas reachtúil a bheadh daingnithe i ndlí ag an Oireachtas.

Ní raibh leagan críochnúil den doiciméad ar fáil i nGaeilge go dtí an 18 Márta 2008, beagnach trí seachtaine tar éis sheoladh oifigiúil an leagain Bhéarla. Dúirt an Roinn go mbeadh sé *“dodhéanta”* an seoladh a chur ar athló go dtí go mbeadh leaganacha i nGaeilge agus i mBéarla ar fáil.

Gníomh inmholta a bhí i gcinneadh na Roinne go gcuirfí fad trí seachtaine leis an tréimhse ina nglacfaí le haighneachtaí ón bpobal i dtaca leis an bPáipéar Glas. Tuigtear don imscrúdú go ndeachaigh an Roinn i gcostas leis an síneadh ama seo a

The Department's central argument was that the commercial company which was awarded the contract failed to provide the document bilingually and, by the time this emerged, it was *“impossible to cancel the event and the decision was made to proceed with the Irish version as soon as possible thereafter”*. (translation) It had been decided that the Minister for Transport would launch the public consultation process in front of an invited audience. I sought further information from the Department.

### Department's Second Reply

The Department then explained that all the companies had tendered a price to provide an English version only of the document, although the Department required a bilingual publication. The Department indicated that it *“appraised all the tenders and the tender from XXXX was strongly considered as it was noted that it could provide translation services...”* (translation)

The Department stated that the Irish version was made available to the public on 18 March 2008 and that Ministerial approval was obtained to defer the deadline for submissions by three weeks to give further time to those who wished to make submissions in Irish. It was clear that there was a delay of almost three weeks between the publication in English and in Irish of this document.

### General Overview of the Investigation

A Green Paper issued by a government department is most definitely a document setting out public policy proposals. It was clear that in this case the Department of Transport had failed to comply properly with its statutory duty under the Official Languages Act.

Regarding the Department's explanation that the commercial company awarded the contract to supply the document in Irish and English had failed to do so, ultimately it was solely a matter for the Department to ensure compliance with its statutory duty. It was not a sufficient excuse to use difficulties, even those difficulties which were claimed not to be fully under the Department's control, to rescind, reduce or amend a statutory duty confirmed in law by the Oireachtas.

A complete version of the document was not available in Irish until 18 March 2008, almost three weeks after the English version had been officially launched. The Department stated that it would have been *“impossible”* to postpone the launch until the Irish and English versions were available.

The Department's decision to extend by three weeks the period for receipt of submissions from the public in relation to the Green Paper was commendable. The investigation understands that the Department incurred expense in order to publicise this

phoibliú. Ní raibh fáil, áfach, ach ar an leagan Béarla den doiciméad ag an tráth is mó a raibh aird agus díospóireacht air sna meáin chumarsáide tar éis a sheolta agus ina fhianaise sin, ní fhéadfaí a bheith ag brath go gceapfadh pobal na Gaeilge gur cheart dóibh lánmhuinín a bheith acu go mbeadh an aird chéanna ar aighneachtaí i nGaeilge agus a bheadh ar aighneachtaí i mBéarla.

### Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an Roinn Iompair an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsiú trí Bhéarla a dhéanamh ar an doiciméad ar a dtugtar 2020 Vision – Sustainable Travel and Transport: Public Consultation, ar doiciméad é ina leagtar amach tograí beartais phoiblí, ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach.

### Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

1. Go gcinnteodh an Roinn Iompair sa chás is go mbeadh aon doiciméad ina leagfaí amach tograí beartais phoiblí á fhoilsiú aici nó faoina húdarás feasta go bhfoilseofaí a leithéid go comhuaineach i ngach ceann de na teangacha oifigiúla, mar atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla, agus nach rachfaí chun cinn ar chúis ar bith le foilsiú doiciméid den chineál atá i gceist anseo murarbh fhéidir a bheith lánchinnte go mbeadh an dualgas seo á chomhlíonadh go cuí.
2. Go seolfadh an Roinn Iompair meamram eolais laistigh de 6 seachtaine ó dháta na tuarascála seo chuig baill foirne na Roinne a d'fhéadfadh a bheith freagrach feasta as doiciméid ina leagfaí amach tograí beartais phoiblí a ullmhú lena bhfoilsiú, ina ndeimhneofaí an méid seo:
  - Go raibh fionnachtain déanta ag an imscrúdú seo gur sháraigh an Roinn a dualgas reachtúil faoi Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 sa chás seo; agus
  - Go raibh sé mar dhualgas ar an Roinn a chinntiú nach ligfí dá leithéid de shárú tarlú arís.
3. Go seolfá cóip den mheamram eolais thuasluaite chugam mar Choimisinéir Teanga a luaite agus a d'eiseofaí é.
4. Go gcinnteodh an Roinn Iompair go gcloífeadh sí feasta lena dualgais reachtúla faoi Acht na dTeangacha Oifigiúla 2003.

extension. However, only the English version of the document was available at the time of most media attention and discussion after the launch and, therefore, it could not be expected that the Irish speaking community would be fully confident that submissions in Irish would receive the same attention as those in English.

### Finding of the Investigation

This was the finding of the investigation:

- That the Department of Transport had contravened the statutory language duty confirmed in Section 10(a) of the Official Languages Act 2003 by publishing in English only the document entitled 2020 Vision – Sustainable Travel and Transport: Public Consultation, being a document setting out public policy proposals, at a time when an Irish version was not simultaneously available.

### Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

1. That the Department of Transport ensure that any document setting out public policy proposals henceforth published by it or under its authority would be done simultaneously in both official languages, in accordance with Section 10(a) of the Official Languages Act 2003, and that publication would not for any reason be proceeded with unless full compliance with this statutory duty was ensured.
2. That the Department of Transport send an information memorandum within 6 weeks of the date of this report to its staff who could henceforth be responsible for the preparation of documents setting out public policy proposals for publication stating that:
  - This investigation had found that the Department had in this instance contravened its statutory duty confirmed in Section 10(a) of the Official Language Act 2003; and
  - The Department was obliged to ensure that such a contravention would not occur again.
3. That a copy of the aforementioned information memorandum be sent to me as Coimisinéir Teanga as soon as it was issued.
4. That the Department of Transport ensure that it complied henceforth with its statutory duties under the Official Languages Act 2003.



### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 28 Feabhra 2008  
Tuarascáil eisithe: 20 Bealtaine 2008

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 28 February 2008  
Report issued: 20 May 2008

## An Roinn Comhshaoil, Oidhreachta agus Rialtais Áitiúil

### Ábhar an Imscrúdaithe

Ar sháraigh an Roinn Comhshaoil, Oidhreachta agus Rialtais Áitiúil an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsíú trí Bhéarla a dhéanamh ar an doiciméad ar a dtugtar Páipéar Glas faoin Rialtas Áitiúil ar doiciméad é ina leagtar amach tograí beartais phoiblí ag tráth nach raibh a chomhionann de chruinnleagan Gaeilge ar fáil go comhuaineach?

### Cúlra

Mar chuid de dhualgas reachtúil m'Oifige faireachán a dhéanamh ar chomhlíonadh Acht na dTeangacha Oifigiúla, díriodh m'aird i mBealtaine 2008 ar dhoiciméad dar teideal Páipéar Glas faoin Rialtas Áitiúil a ullmhaíodh faoi scáth na Roinne Comhshaoil, Oidhreachta agus Rialtais Áitiúil agus a seoladh ar an 22 Aibreán 2008.

De réir Alt 10(a) d'Acht na dTeangacha Oifigiúla, tá dualgas ar chomhlachtaí poiblí, an Roinn Comhshaoil, Oidhreachta agus Rialtais Áitiúil san áireamh, a chinntiú go bhfoilseofar aon doiciméad ina leagtar amach *"tograí beartais phoiblí"* go comhuaineach i nGaeilge agus i mBéarla.

Chuir an Roinn in iúl, tar éis fiosrúchán neamhfhoirmiúil ó m'Oifig, gur ullmhaíodh achoimre fheidhmeach i mBéarla agus i nGaeilge den doiciméad agus gur foilsíodh sin go comhuaineach sa dá theanga. Thug an Roinn le fios freisin go raibh dréacht neamhcheartaithe de leagan Gaeilge ullmhaithe i bhfoirm Word ach nach raibh fáil ar leagan foirfe clóbhuailte i nGaeilge ar chomhchaighdeán agus go comhuaineach leis an leagan Béarla ag tráth an tseolta. Bheartaigh mé imscrúdú a sheoladh ar an 13 Bealtaine 2008.

### Freagra na Roinne

Ba léir ó fhreagra na Roinne go raibh sé i gceist go mbeadh leaganacha Béarla agus Gaeilge den doiciméad iomlán á bhfoilsíú go comhuaineach:

*"Agus an Roinn ag réiteach le haghaidh an pháipéar a fhoilsíú, rinneadh cinnte de go mbeadh an Páipéar Glas foilsithe sa dá theanga oifigiúil de réir Alt 10 d'Acht na dTeangacha Oifigiúla."*

## Department of the Environment, Heritage and Local Government

### Subject of Investigation

Did the Department of the Environment, Heritage and Local Government contravene the statutory language duty confirmed in Section 10(a) of the Official Languages Act 2003 by publishing in English only the document entitled Green Paper on Local Government, being a document setting out public policy proposals, at a time when an equivalent and accurate version in Irish was not simultaneously available?

### Background

As part of my Office's statutory obligation to monitor the implementation of the Official Languages Act, my attention was drawn in May 2008 to a document entitled Green Paper on Local Government prepared under the aegis of the Department of the Environment, Heritage and Local Government and launched on 22 April 2008.

In accordance with Section 10(a) of the Official Languages Act, public bodies, including the Department of the Environment, Heritage and Local Government, have a duty to ensure that any document setting out *"public policy proposals"* is published simultaneously in Irish and English.

The Department indicated, following an informal enquiry from my Office, that an executive summary of the document in Irish and English had been prepared and published simultaneously in both languages, that an uncorrected draft Irish version had been prepared in Word form but that a complete printed Irish version of the same standard as the English version had not been simultaneously available at the time of the launch. I decided to initiate an investigation on 13 May 2008.

### Department's Response

It was clear from the Department's response that it intended to make both English and Irish versions of the full document available simultaneously:

*"While the Department was preparing to publish the document, it ensured that the Green Paper would be published in both official languages in accordance with Section 10 of the Official Languages Act."* (translation)

Cé go raibh an Roinn i dteagmháil le seacht gcuideachta aistriúcháin i dtús na bliana, ba chosúil nach raibh ach cuideachta amháin ar fáil le tabhairt faoin tasc nuair a bhí an buntéacs réidh le haistriú. Dúirt an Roinn:

*“Ar an 13 Márta seoladh an téacs chuig comhlucht aistriúcháin. Tugadh le fios don Roinn go dtógfadh sé 20-21 lá oibre leis an aistriúchán a chur ar fáil. Ar an bhonn sin, socraíodh go sheolfá an Páipéar Glas ar an Mháirt 22 Aibreán. Bheirfeadh sé sin seachtain bhreise, ar a laghad, don Roinn dearadh a chuir ar an doiciméad. Ar thoscaí nar bhain leis an Roinn, cuireadh moill ar an obair aistriúcháin.”*

Thug an Roinn léargas freisin ar a tuiscint faoin gcúis nach bhféadfadh sí foilsiú an doiciméid a chur ar athló go dtí go mbeadh na leaganacha Gaeilge agus Béarla araon ar fáil lena bhfoilsiú go comhuaineach:

*“Tugadh cuireadh do chuile méara, cathaoirleach chontae agus bainisteoir contae agus cathrach sa tír teacht chuig an seoladh ar an 22ú Aibreán agus ní fhéadfaí sin a chur ar cheal. Leis na dualgaí faoin Acht a chomhlíonadh rinneadh cinnte de go mbeadh fáil ar chóip Gaeilge den cháipéis ar an 22ú Aibreán. Bhí cóipeanna crua ar fáil ag an seoladh preas agus níos déanaí ag an seoladh oifigiúil ar na lá sin. Bhí an Páipéar ar fáil ar shuíomh idirlíon na Roinne ar an lá céanna. De bharr na deacrachtaí aistriúcháin áfach, cóipeanna neamh-cheartuithe a bhí iontu seo.”*

Léirigh an Roinn freisin gur foilsíodh *“achóimre dátheangach ar an lá chéanna agus scaipeadh é seo go forleathan”*. Breis agus seachtain tar éis na hócáide seolta a chuir an chuideachta aistriúcháin an leagan iomlán ceartaithe den doiciméad ar fáil.

### **Osradharc Ginearálta ar an Imscrúdú**

Níl aon amhras ar bith ann ach gur doiciméad ina leagtar amach tograí beartais phoiblí é Páipéar Glas a d'eiseodh roinn rialtais. Ní dhearna an Roinn aon chás nach raibh dualgas reachtúil uirthi i gcás an doiciméid seo. Ba léir gur theip ar an Roinn an dualgas reachtúil sin a chomhlíonadh go hiomlán agus go cuí. Tugadh mar mhíniú air sin go raibh moill leis an aistriúchán go Gaeilge a bhí á dhéanamh ar théacs an doiciméid ag cuideachta thráchtála.

Is dualgas soiléir reachtúil é faoi Alt 10 den Acht go mbeadh an doiciméad iomlán á fhoilsiú go comhuaineach i nGaeilge agus i mBéarla. Ní shásaíonn achóimre fheidhmeach dhátheangach an dualgas sin agus is léir nach leor cóipeanna neamhcheartaithe clóscríofa i bhfoirm Word den leagan Gaeilge nuair atá leagan iomlán cruinn agus ceartaithe, atá deartha agus clóbhualte go gairmiúil, snasta á chur ar fáil den leagan Béarla.

Although the Department had been in contact with seven translation companies at the beginning of the year, it appeared that only one company was available to undertake the work when the original text was ready for translation. The Department stated:

*“The text was sent to a translation company on 13 March. The Department was told that it would take 20-21 working days to provide the translation. On that basis, it was decided to launch the Green Paper on Tuesday 22 April. That would give the Department an extra week at least to design the document. Due to circumstances not related to the Department, the translation was delayed.”* (translation)

The Department also gave an insight into its understanding as to why publication of the document could not be postponed until both Irish and English versions were available for simultaneous publication:

*“All the country’s mayors, county and city chairpersons and managers were invited to attend the launch on 22 April and that occasion could not be postponed. To fulfil the duties under the Act, it was ensured that an Irish copy of the document would be available on 22 April. Hard copies were available at the press launch and later at the official launch on that day. The Paper was available on the Department’s website on the same day. As a result of the translation difficulties, however, these were uncorrected copies only.”* (translation)

The Department also explained that *“a bilingual summary was published on the same day and widely circulated”*. (translation) Over a week after the official launch, the translation company provided the complete corrected version of the document.

### **General Overview of the Investigation**

A Green Paper issued by a government department is definitely a document setting out public policy proposals.

The Department did not make a case that it had no statutory obligation regarding this document. It was clear that the Department failed to fully and properly fulfil its statutory obligation. This was explained by the fact that there was a delay in the translation to Irish of the document’s text by a commercial company.

There is a clear statutory duty under Section 10 of the Act to publish the entire document simultaneously in Irish and English. A bilingual executive summary does not fulfil that duty and it is clear that typed, uncorrected copies in Word form of the Irish version are not sufficient when a fully accurate, corrected version, designed and printed professionally, is provided of the English version.

Chonacthas don imscrúdú nach mbeadh aon locht ar chruinnleagan Gaeilge den doiciméad a bheith ar fáil clóscríofa i bhfoirm Word dá mbeadh an leagan Béarla á sholáthar amhlaidh. Mar an gcéanna, ba leor an doiciméad a sholáthar i bhfoirm leictreonach i nGaeilge fad is gur go leictreonach amháin a bhí an doiciméad á sholáthar i mBéarla. Cothromaíocht agus comhionannas teanga atá mar chuspóir ag Alt 10 den Acht i gcás an lín theoranta de chroí-fhoilseacháin a thagann faoi scáth na míre sin den reachtaíocht.

Maidir leis na “*deacrachtaí aistriúcháin*” ar thagair an Roinn dóibh, chonacthas don imscrúdú go bhféadfaí an cas a dhéanamh gur mhó de dheacracht phleanála a bhí i gceist ná deacracht aistriúcháin. Níor fhág dáta seolta an doiciméid ar an 22 Aibreán mórán spáis le déileáil le fadhbanna gan choinne.

Is minic a bhíonn comhlachtaí poiblí ag brath ar sheirbhísí aistriúcháin seachtracha, ach tá rogha eile i gcásanna áirithe nár mhiste a scrúdú, go speisialta i ranna móra rialtais ina mbeadh cuid mhaith tascanna aistriúcháin le comhlíonadh, is é sin, an acmhainn aistriúcháin sin a fhorbairt go himheánach trí aistritheoir gairmiúil a fhostú ar an bhfoireann.

I ndeireadh an lae, sa chás seo ba ar an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil amháin a bhí sé a chinntiú go gcloífeadh sí lena dualgas reachtúla. Níor leor mar leithscéal fadhbanna, fiú dá mb’fhadhbanna iad nach raibh faoi smacht iomlán na Roinne féin, le cealú, laghdú ná leasú a dhéanamh ar dhualgas reachtúil a bheadh daingnithe i ndlí ag an Oireachtas.

Chonacthas don imscrúdú gur ghníomh dearfach pleanála i dtionscnaimh foilsitheoireachta den chineál seo a bheadh ann a chinntiú nach mbeadh aon amhras ar bith ach go mbeadh na leaganacha i nGaeilge agus i mBéarla ar fáil don ócáid seolta sula n-eiseofaí go poiblí cuirí chuig an ócáid féin. Ní fhacthas don imscrúdú go mbeartófaí dul chun cinn le hócáid seolta den chineál seo mura mbeadh an leagan críochnaitheach den doiciméad i mBéarla ar fáil go cinnte.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d’Acht na dTeangacha Oifigiúla 2003 i bhfoilsíú trí Bhéarla a dhéanamh ar an doiciméad ar a dtugtar Páipéar Glas faoin Rialtas Áitiúil ar doiciméad é ina leagtar amach tograí beartais phoiblí ag tráth nach raibh a chomhionann de chruinnleagan Gaeilge ar fáil go comhuaineach.

It appeared to the investigation that no fault could be found with providing an accurate typed Irish version of the document in Word form if the English version were provided in that form also. Similarly, it would be sufficient to provide a document in electronic format in Irish if the document was only available electronically in English. The aim of Section 10 of the Act is to ensure linguistic equality in the case of the limited number of core publications which come under that section of the legislation.

As regards the “*translation difficulties*” referred to by the Department, it appeared to the investigation that the case could be made that this was more of a planning difficulty than a difficulty in translation. The launch date for the document of 22 April did not leave much space to deal with unexpected problems.

Public bodies often depend on external translation services, but there is another option that should be examined in certain circumstances, particularly in large government departments requiring a lot of translation work, namely to develop an internal translation resource by employing a professional translator on the staff.

Ultimately, in this case it was solely a matter for the Department of the Environment, Heritage and Local Government to ensure compliance with its statutory duties. Difficulties, even if they were not fully under the Department’s control, were not a sufficient excuse to rescind, reduce or amend a statutory duty confirmed in law by the Oireachtas.

It appeared to the investigation that it would be a positive step in the planning of publication projects of this nature to ensure fully the availability of Irish and English versions for the launch before invitations for the event were issued publicly. It appeared to the investigation that a decision to proceed with a launch of this nature would not have been made unless the final version of the English document were definitely available.

## Finding of the Investigation

This was the finding of the investigation:

- That the Department of the Environment, Heritage and Local Government had contravened the statutory language duty confirmed in Section 10(a) of the Official Languages Act 2003 by publishing in English only the document entitled Green Paper on Local Government, being a document setting out public policy proposals, at a time when an equivalent and accurate version in Irish was not simultaneously available.

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

1. Go gcinnteodh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil go gcloífeadh sí feasta lena dualgais reachtúla faoi Acht na dTeangacha Oifigiúla 2003.
2. Go gcinnteodh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil sa chás is go mbeadh aon doiciméad ina leagfaí amach tograí beartais phoiblí á fhoilsiú aici nó faoina húdaráis feasta go bhfoilseofaí a leithéid go comhuaineach i ngach ceann de na teangacha oifigiúla, mar atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla agus nach rachfaí chun cinn ar chúis ar bith le foilsiú doiciméid den chineál atá i gceist anseo mura bhféadfaí a bheith lánchinnte go mbeadh an dualgas seo á chomhlíonadh go cuí.
3. Go seolfadh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil meamram eolais laistigh de 6 seachtaine ó dháta thuarascáil an imscrúduithe chuig baill foirne sin na Roinne a d'fhéadfadh a bheith freagrach feasta as doiciméid ina leagfaí amach tograí beartais phoiblí a ullmhú le foilsiú, ina ndeimhneofaí an méid seo:
  - Go raibh fionnachtain déanta ag an imscrúdú seo gur sháraigh an Roinn a dualgas reachtúil faoi Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 sa chás seo;
  - Go raibh sé mar dhualgas ar an Roinn a chinntiú nach ligfí dá leithéid de shárú tarlú arís.
4. Go gcuirfeadh an Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil cóip den mheamram eolais a dtagraítear dó i moladh 3 thuas chugam mar Choimisinéir Teanga a luaithé agus a d'eiseofaí é.

## Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 13 Bealtaine 2008  
Tuarascáil eisithe: 13 Meitheamh 2008

## Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

1. That the Department of the Environment, Heritage and Local Government ensure compliance henceforth with its statutory duties under the Official Languages Act 2003.
2. That the Department of the Environment, Heritage and Local Government ensure that any document setting out public policy proposals henceforth published by it or under its authority would be published simultaneously in both official languages in accordance with Section 10(a) of the Official Languages Act and that publication would not in any circumstances be proceeded with unless full compliance with this statutory duty was ensured.
3. That the Department of the Environment, Heritage and Local Government send an information memorandum within 6 weeks of the date of the report of this investigation to members of its staff who could henceforth be responsible for the preparation of documents for publication setting out public policy proposals, affirming that:
  - This investigation had found that the Department had in this case contravened its statutory duty confirmed in Section 10(a) of the Official Languages Act 2003;
  - The Department was obliged to ensure that such a contravention would not occur again.
4. That the Department of the Environment, Heritage and Local Government send a copy of the information memorandum referred to in recommendation 3 above to me as Coimisinéir Teanga as soon as it was issued.

## Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 13 May 2008  
Report issued: 13 June 2008

## An Roinn Gnóthaí Sóisialacha agus Teaghlaigh

### Ábhar an Imscrúdaithe

Ar sháraigh an Roinn Gnóthaí Sóisialacha agus Teaghlaigh an dualgas reachtúil teanga atá daingnithe i bhfo-alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 i gcás cumarsáid i scríbhinn a dhéanamh leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne chun faisnéis a thabhairt don phobal nó don aicme trí chor poist i mBéarla amháin a eisiúint i mí Lúnasa 2008 maidir le heolas a bhí ar ríomhaire glúine a goideadh i mí Aibreáin 2007?

### Cúlra

Leagann fo-alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 dualgas ar chomhlachtaí poiblí, an Roinn Gnóthaí Sóisialacha agus Teaghlaigh san áireamh, a chinntiú gur i nGaeilge, nó i mBéarla agus i nGaeilge, a dhéanfar an chumarsáid i scríbhinn nó leis an bpost leictreonach leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne, más chun faisnéis a thabhairt don phobal nó don aicme atá an chumarsáid sin.

Rinne oifigeach de chuid na Roinne Gnóthaí Sóisialacha agus Teaghlaigh teagmháil ar an nguthán le m'Oifig ar an 12 Lúnasa 2008 ag lorg comhairle faoin dualgas teanga a bhain le fo-alt 9(3) den Acht i gcomhthéacs litreach a bhí le heisiúint chuig na daoine a measadh go raibh a gcuid sonraí ar ríomhaire glúine a goideadh. Tugadh comhairle don oifigeach go gcaithfeadh cor poist faisnéise chuig an bpobal i gcoitinne nó chuig aicme den phobal i gcoitinne a bheith i nGaeilge nó dátheangach.

Rinne ball den phobal gearán foirmiúil liom ina dhiaidh sin, ag rá gur cheart go mbeadh cóip i nGaeilge nó cóip dhátheangach de litir na Roinne faoi na ríomhairí a goideadh seolta chuici de réir fhorálacha Acht na dTeangacha Oifigiúla.

Bheartaigh mé imscrúdú a sheoladh ar an 12 Meán Fómhair 2008 ar mo thionscnamh féin ach ba é gearán ó bhall den phobal a spreag mé é seo a dhéanamh.

### Cás na Roinne

Dheimhnigh an Roinn gur seoladh litreacha i mBéarla amach ach gur seoladh leaganacha Gaeilge chuig roinnt de chustaiméirí na Roinne ar tuigeadh ina dtaobh gur rogha leo an Ghaeilge a úsáid ina gcuid gnóthaí oifigiúla.

## Department of Social and Family Affairs

### Subject of Investigation

Did the Department of Social and Family Affairs contravene the statutory language duty confirmed in Section 9(3) of the Official Languages Act 2003 by communicating in writing with the general public or a class of the general public for the purpose of furnishing information to the public or the class by issuing a mailshot in English only in August 2008 with regard to information on a laptop stolen in April 2007?

### Background

Subsection 9(3) of the Official Languages Act 2003 places a duty on public bodies, including the Department of Social and Family Affairs, to ensure that where they communicate in writing or by electronic mail with the general public or a class of the general public for the purpose of furnishing information to the public or the class, the communication shall be in Irish or in English and Irish.

An officer of the Department of Social and Family Affairs contacted my Office by telephone on 12 August 2008 seeking advice on the language duty involved in subsection 9(3) of the Act in the context of a letter to be issued to the people whose details were thought to be on a laptop that had been stolen. The officer was advised that an information mailshot to the general public or a class of the general public should be in Irish or bilingual.

A member of the public made an official complaint to me afterwards that a copy in Irish or a bilingual copy of the Department's letter should have been sent to her with regard to the stolen laptops under the provisions of the Official Languages Act.

I decided to launch an investigation on my own initiative on 12 September 2008 although a complaint from a member of the public prompted me to so do.

### Department's Case

The Department confirmed that letters in English had been issued but that Irish versions had been sent to some of its customers who were known to prefer Irish as a medium of communication in official matters.



Níor ghlac an Roinn leis gur sháraigh sí fo-alt 9(3) d'Acht na dTeangacha Oifigiúla sa chás mar nach cumarsáid faisnéise a tháinig faoi scáth an fho-ailt sin a bhí sna litreacha a eisíodh.

Go hachomair, mar mhíniú ar an seasamh sin, dúirt an Roinn:

*“Ar an 1 Lúnasa 2008, tar éis don Oifig an Ard-Reachtair Cuntas agus Ciste a chur in iúl don Roinn go raibh sonraí pearsanta leasa shóisialaigh custaiméirí ar cheann dá ríomhairí glúine a bhí ar iarraidh, ghlac an Roinn cinneadh scríobh chuig gach duine, faoi seach, de na custaiméirí a bhí i gceist, ag cur in iúl dó/di cén fhaisnéis ar leith a bhain leis/léi a bhí ar an ríomhaire glúine sin.*

*Dá bhíthin sin, ba litir phearsanta chuig custaiméirí roghnaithe ina dteanga roghnaithe a bhí sa litir sin – litir Bhéarla nó litir Ghaeilge, mar a bhain le cúinsí pearsanta gach custaiméara, faoi seach.*

*Agus an cinneadh sin á dhéanamh, tugadh aird ar an gcineál áirithe cumarsáide a bhí ann agus ar an gcomhairle ghinearálta a sholáthraigh Oifig an Choimisinéir Teanga de bhun ceist maidir le hábhar a bhain le Cáinainéis a eisiúint i Lúnasa 2007.”*

(Is fíor gur chuir m'Oifig comhairle ar an Roinn ar an 20 Lúnasa 2007 agus í ag eisiúint eolais ar an gcáinainéis chuig pinsinéirí. Ós rud é gur aicme den phobal iad pinsinéirí, thug m'Oifig comhairle don Roinn go raibh an chosúlacht ar an scéal go dtiocfadh cumarsáid chuig pinsinéirí faoi Alt 9(3).)

Ghlac an Roinn leis gur aicme den phobal i gcoitinne “daoine a dtéann scéimeanna leasa shóisialaigh na Roinne chun leasa dóibh”.

Níor ghlac sí leis, áfach, gurbh amhlaidh do na “daoine áirithe ar leith a raibh faisnéis phearsanta a bhain leo ar an ríomhaire atá ar iarraidh”.

Mar thacaíocht dá seasamh gur litir phearsanta chuig gach custaiméir ar leith a bhí i gceist, thug an Roinn le fios gur eisíodh leaganacha éagsúla den litir.

The Department did not accept that it had contravened subsection 9(3) of the Official Languages Act in this instance, as the letters issued did not constitute a communication of the kind involved in the subsection.

In summary, explaining its position, the Department stated:

*“On 1 August 2008, on being informed by the Office of the Comptroller and Auditor General that one of its missing laptops contained personal social welfare customer details, the Department decided to write to each of the respective customers involved, informing him/her of the information relating to him/her contained in that laptop.*

*For that reason, the letter was a personal letter to selected customers in the language of their choice – a letter in English or in Irish, as pertained to each customer's personal circumstances, respectively.*

*In making that decision, regard was had to the particular kind of communication involved and to the general advice Oifig an Choimisinéara Teanga had furnished in August 2007 on a question relating to the issuing of Budget material.” (translation)*

(My Office had indeed provided advice to the Department on 20 August 2007 when it was issuing budget information to pensioners. As pensioners are a class of the general public, my Office advised the Department that it appeared that a communication to pensioners would come under subsection 9(3).)

The Department accepted that “persons benefiting from the Department's social welfare schemes” (translation) were a class of the general public.

It did not accept, however, that the same applied to the “particular individual persons whose personal information was contained in the missing laptop”. (translation)

In support of its position that a personal letter to each particular customer was involved, the Department indicated that various versions of the letter had been issued.

Chinn mé go raibh sé tábhachtach cóipeanna a fháil de na leaganacha éagsúla den chumarsáid a eisíodh sa chás seo mar aon le figiúirí i leith an lín a eisíodh i ngach cás. Seo a leanas na staitisticí cuí:

	Béarla	Gaeilge
Litr A (Custaiméirí a íoctar le seic nó trí Oifig an Phoist)	247,207	8
Litr B (Custaiméirí a íoctar trí chuntas bainc)	93,093	10
<b>Iomlán</b>	<b>340,300</b>	<b>18</b>
Céatadán	99.995%	0.005%

Osradharc Ginearálta ar an Imscrúdú

Dá mbeadh an chumarsáid atá faoi chaibidil san imscrúdú seo á déanamh leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne, ba leor sin lena tabhairt faoi scáth na forála i bhfo-alt 9(3) den Acht.

Níor leis an bpobal i gcoitinne a rinneadh an chumarsáid sin mar nár scaipeadh ar gach duine/áitreabh ar fud na tíre í.

Ar le haicme den phobal i gcoitinne a rinneadh an chumarsáid seo?

Níorbh ea go cinnte, a dúirt an Roinn. Litr phearsanta a bhí inti chuig gach custaiméir faoi seach a raibh faisnéis phearsanta dá c(h)uid ar an ríomhaire glúine a bhí ar iarraidh, bunaithe ar a c(h)úinsí áirithe féin, a dúirt an Roinn.

Ghlac an Roinn leis gurbh aicme den phobal i gcoitinne a bhí sa dream a ndeachaigh scéimeanna leasa shóisialaigh chun leasa dóibh ach níor mheas sí gurbh ionann agus aicme den phobal i gcoitinne na daoine ar leith a raibh faisnéis phearsanta a bhain leo ar an ríomhaire glúine a goideadh.

Is léir ó ghnáthbhrí na bhfocal gurb é atá i gceist le “aicme” sa chás seo ná rang, catagóir, earnáil, bailiúchán, cineál, sórt, grúpa, tacar nó baicle de dhaoine ón bpobal a bhfuil nasc, gné nó ceangal comónta eatarthu. D’fhéadfadh aon duine aonarach a bheith áirithe i measc cuid mhór aicmí éagsúla den phobal i gcoitinne, mar shampla mar phinsinéir, mar chéimí ollscoile, mar dhuine dífhostaithe, mar dhuine faoi mhíchumas, srl. D’fhéadfadh duine a bheith mar chuid d’aicme áirithe den phobal i gcoitinne go buan nó de thuras na huaire.

Chonacthas don imscrúdú go ndearna cinneadh an Ard-Reachtair Cuntas agus Ciste daoine áirithe a rangú le chéile nó, i bhfocail eile, aicme acu a roghnú de thuras na huaire i gcomhair iniúchta, “aicme den phobal i gcoitinne” a dhéanamh den ghrúpa sin.

I decided that it was important to obtain copies of the various versions of the communication issued as well as figures with regard to the number in each case. The following are the appropriate statistics:

	English	Irish
Letter A (Customers paid by cheque or through Post Office)	247,207	8
Letter B (Customers paid through bank account)	93,093	10
<b>Total</b>	<b>340,300</b>	<b>18</b>
Percentage	99.995%	0.005%

General Overview of the Investigation

If the communication under discussion in this investigation were with the public in general or a class of the public in general, that would have been sufficient to bring it under the aegis of subsection 9(3) of the Act.

The communication was not with the public in general, as it was not circulated to every person/premises throughout the country.

Was this communication with a class of the public in general?

Definitely not, said the Department. It was a personal letter to each respective customer whose personal information was contained on the missing laptop, based on his/her personal circumstances, stated the Department.

The Department accepted that the group of people benefiting from social welfare schemes was a class of the public in general but did not consider that the particular people whose personal information was contained on the stolen laptop constituted a class of the public in general.

It is clear that in the usual sense of the words used, “a class” in this instance means a classification, category, sector, gathering, kind, type, group, set or band of people from the public with a common link, genus or connection. Any individual person could be included in many various groups of the public in general, for example, as a pensioner, a university graduate, an unemployed person, a disabled person, etc. A person could be part of a particular class of the public in general permanently or for a particular occasion.

It appeared to the investigation that the Comptroller and Auditor General’s decision to classify people together or, in other words, to select a class of them on a particular occasion for audit, constituted them as a “class of the public in general”.

An grúpa sin de 340,318 custaiméir de chuid na Roinne a raibh a gcuid sonraí pearsanta ar an ríomhaire glúine a chuaigh ar iarraidh, ba léir gur chruthaigh gníomh na gadaíochta/imeacht an ríomhaire glúine ceangal comónta eatarthu. Cónasc é sin a rinne “aicme den phobal i gcoitinne” díobh.

Rinne an Roinn an cás gur litir phearsanta a bhí sa chumarsáid “*chuig gach custaiméir faoi seach... bunaithe ar a c(h)úinsí áirithe féin.*” Cinnte, bhí ainm agus seoladh gach duine ar leith ar an litir a fuair sé/sí, ach ba mheicníocht seachadta é sin agus níor leor an difríocht sin le litir phearsanta a dhéanamh den bhuneolas céanna a bhí á dháileadh ar an tríú cuid de mhilliún duine a raibh ceangal comónta eatarthu.

Ní raibh aon sonraí pearsanta in aon cheann de na litreacha a dhéanadh idirdhealú pearsanta idir na litreacha sin, mar shampla: uimhir PSP an chustaiméara ná cineál ná méid na híocaíochta a bhí á déanamh leis/léi. Chreid mé sa chás is go mbeadh a leithéid d'idirdhealú déanta go bhféadfaí a rá gur litir phearsanta a bhí i gceist.

Ba é cuspóir na cumarsáide ag an Roinn, dar leis an imscrúdú, faisnéis a thabhairt d'aicme den phobal i gcoitinne a raibh eolas fúthu ar ríomhaire glúine a bhí ar iarraidh. Chinn an Roinn dhá rannóg a dhéanamh den “*aicme sin den phobal i gcoitinne*” ach níor mheas an t-imscrúdú gur leor sin le laghdú a dhéanamh ar rangú na ndaoine sin mar “*aicme den phobal i gcoitinne.*”

Cé go raibh comhairle lorgtha agus faighte ag an Roinn roimh ré ó m'Oifig i leith scaipeadh na faisnéise seo, bheartaigh an Roinn gan glacadh leis an gcomhairle sin agus an ceart sin aici.

Chonacthas don imscrúdú, áfach, nach raibh aon fhianaise ann ar bhealach ar bith gur d'aon ghnó a sháraigh an Roinn a dualgas reachtúil sa chás seo ach go ndearna sí forléiriú dlíthiúil ar an bhforáil sin den Acht nach raibh ag teacht le cuspóirí agus toil an Oireachtais in achtú na reachtaíochta.

Bhí an Roinn i mbun cumarsáide sa chás seo le haicme den phobal i gcoitinne chun faisnéis a thabhairt don aicme sin, dar leis an imscrúdú seo, agus bhí aici géilleadh do na dualgais teanga i bhfo-alt 9(3) den Acht dá réir sin.

It was clear that the theft/loss of the laptop created a common connection between the Department's 340,318 customers whose personal details were contained on it. That connection made them a “class of the public in general”.

The Department made the case that the communication was a personal letter to “*each respective customer... based on his/her particular circumstances*” (translation). The letter received by each customer certainly contained his or her particular name and address, but that was a delivery mechanism and the difference was not sufficient to make the same basic information delivered to a third of a million people with a common connection a personal letter.

None of the letters contained any personal details to make a personal distinction between them, for example: the customer's PPSN or the type or amount of payment of which he/she was in receipt. I would accept that if such a distinction had been made it could be said that the letter was personal.

The purpose of the Department's communication, in the investigation's view, was to furnish information to a class of the public in general with regard to whom information was contained on a missing laptop. The Department decided to divide “*that class of the public in general*” in two, but the investigation did not consider that decision a sufficient reason to lower the classification of those people from “*a class of the public in general*”.

Although the Department had sought and obtained advice in advance with regard to the circulation of this information, it had decided not to accept that advice, which was its right.

It appeared to the investigation, however, that there was no evidence whatsoever that the Department had deliberately sought to contravene its statutory duty in this instance but that it made a legal interpretation of the provision of the Act which was not in keeping with the aims and intention of the Oireachtas in enacting the legislation.

In the view of the investigation, the Department was communicating in this instance with a class of the public in general to furnish information to that class and, as a consequence, it was required to comply with the statutory language duties in subsection 9(3) of the Act.

## Fionnachtain

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an Roinn Gnóthaí Sóisialacha agus Teaghlaigh an dualgas reachtúil teanga atá daingnithe i bhfo-alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 i gcás cumarsáid i scríbhinn a dhéanamh le haicme den phobal i gcoitinne chun faisnéis a thabhairt don aicme trí chor poist a eisiúint i mí Lúnasa 2008 maidir le heolas a bhí ar ríomhaire glúine a goideadh i mí Aibreáin 2007.

## Moltaí an Imscrúdaithe

Ag féachaint don imscrúdú ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go gcinnteodh an Roinn Gnóthaí Sóisialacha agus Teaghlaigh go gcloífeadh sí feasta lena dualgaís reachtúla faoi Acht na dTeangacha Oifigiúla 2003.
- Go gcinnteodh an Roinn Gnóthaí Sóisialacha agus Teaghlaigh sa chás is go mbeadh aon chumarsáid á déanamh leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne chun faisnéis a thabhairt, go gcloífí leis an bhforáil atá leagtha amach i bhfo-alt 9(3) d'Acht na dTeangacha Oifigiúla 2003, is é sin go mbeadh an chumarsáid i nGaeilge, nó i mBéarla agus i nGaeilge.
- Go seolfadh an Roinn Gnóthaí Sóisialacha agus Teaghlaigh meamram eolais (i scríbhinn nó leis an bpost leictreonach) laistigh de 6 seachtaine ó dháta na tuarascála seo chuig baill foirne sin na Roinne a d'fhéadfadh a bheith freagrach feasta as cumarsáid a dhéanamh leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne chun faisnéis a thabhairt, ina ndeimhneofaí an méid seo:
  - Go raibh fionnachtain déanta ag an imscrúdú seo gur sháraigh an Roinn a dualgas reachtúil faoi fho-alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 sa chás seo; agus
  - Go raibh sé mar dhualgas ar an Roinn a chinntiú nach ligfí dá leithéid de shárú tarlú arís.

## Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 12 Meán Fómhair 2008  
Tuarascáil eisithe: 11 Nollaig 2008

## Finding of the Investigation

This was the finding of the investigation:

- The Department of Social and Family Affairs had contravened the statutory language duty confirmed in Section 9(3) of the Official Languages Act 2003 by communicating in writing with a class of the public in general for the purpose of furnishing information to the class by issuing a mailshot in English only in August 2008 with regard to information on a laptop stolen in April 2007.

## Recommendations of the Investigation

Having regard to the Investigation, these were the recommendations I made as Coimisinéir Teanga:

- That the Department of Social and Family Affairs henceforth ensure it complied with its statutory duties under the Official Languages Act.
- That the Department of Social and Family Affairs ensure that henceforth if it were to communicate in writing with the public in general or a class of the public in general in order to furnish information, that it would adhere to the provision set out in subsection 9(3) of the Official Languages Act 2003, i.e. the communication would be in Irish or in English and Irish.
- That the Department of Social and Family Affairs send an information memorandum (in writing or by electronic mail) within 6 weeks of the date of this report to those of the Department's staff who could henceforth be responsible for communicating in writing with the public in general or a class of the public in general to furnish information, affirming the following:
  - That this investigation had found that the Department of Social and Family Affairs had in this case contravened its statutory duty under subsection 9(3) of the Official Languages Act 2003; and
  - That the Department was obliged to ensure that such a contravention would not occur again.

## Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 12 September 2008  
Report issued: 11 December 2008

## An Chomhairle Oidhreachta

### Ábhar an Imscrúdaithe

An raibh an dualgas reachtúil atá daingnithe in Alt 18(1) den Acht Oidhreachta 1995 – maidir le líon leordóthanach d'fhoireann na Comhairle Oidhreachta a bheith inniúil ar úsáid na Gaeilge chun go mbeifí in ann seirbhís a sholáthar trí Ghaeilge chomh maith lena soláthar trí Bhéarla – á chomhlíonadh?

### Cúlra

Rinne ball den phobal teagmháil le m'Oifig i mí Dheireadh Fómhair 2007 faoina laghad Gaeilge a bhí ar shuíomh gréasáin na Comhairle Oidhreachta. Rinne ball foirne de chuid m'Oifigse teagmháil ar an teiléafón leis an gComhairle le heolas a lorg, ach tugadh le fios di nach raibh fostaí ar bith ag an gComhairle a raibh dóthain Gaeilge aige nó aici le labhairt i nGaeilge léi.

Tá foráil ar leith san Acht Oidhreachta 1995 a bhaineann le fostú foirne sa Chomhairle Oidhreachta (Alt 18(1)) agus ceanglas ar leith i gceist maidir le hinniúlacht ar an nGaeilge agus ar an mBéarla:

*"The Council shall employ its own staff (an adequate number of whom should be competent in the Irish language so as to provide service through Irish as well as English...)"*

Tá sé curtha mar dhualgas reachtúil ormsa in Alt 21(f) d'Acht na dTeangacha Oifigiúla 2003 imscrúdú a dhéanamh *"chun a fháil amach an amhlaidh nach raibh nó nach bhfuil aon fhoráil d'aon achtachán eile a bhaineann le stádas nó le húsáid teanga oifigiúla á comhlíonadh."* Ba léir gurbh fhoráil d'achtachán a bhain le stádas nó le húsáid na Gaeilge é Alt 18(1) den Acht Oidhreachta. Bheartaigh mé imscrúdú a sheoladh ar an 25 Deireadh Fómhair 2007.

### Cás na Comhairle Oidhreachta

Sheol an Chomhairle tuairisc i scríbhinn chugam ar an 28 Samhain 2007 agus tuilleadh faisnéise ar an 12 Nollaig 2007. Ar iarratas ón gComhairle, chas mé le hionadaithe de chuid na heagraíochta ar an 23 Eanáir 2008 agus, i bhfianaise an chruinnithe sin, sheol an Chomhairle faisnéis bhreise chugam ar an 18 Feabhra inar admhaigh sí nach raibh an fhoráil reachtúil maidir le ceapadh líon leordóthanach foirne le hinniúlacht ar úsáid na Gaeilge á comhlíonadh aici. Bhí buanfhoireann de 15 ag an gComhairle.

## Heritage Council

### Subject of Investigation

Was the statutory duty confirmed in Section 18(1) of the Heritage Act 1995 – regarding a sufficient number of Heritage Council staff being competent in the use of Irish in order to be able to provide a service through Irish as well as English – being complied with?

### Background

A member of the public contacted my Office in October 2007 regarding the limited amount of Irish on the Heritage Council's website. A member of staff in my Office contacted the Council by telephone seeking information, but she was given to understand that no member of the Council's staff had sufficient Irish to speak to her.

A specific provision in the Heritage Act 1995 relates to the employment of staff in the Heritage Council (Section 18(1)) and there is a specific duty referring to competency in Irish and English:

*"The Council shall employ its own staff (an adequate number of whom should be competent in the Irish language so as to provide service through Irish as well as English...)"*

I have a statutory duty under Section 21(f) of the Official Languages Act 2003 to carry out an investigation *"to ascertain whether any provision of any other enactment relating to the status or use of an official language was not or is not being complied with."* It was clear that Section 18(1) of the Heritage Act 1995 was a provision of an enactment relating to the status or use of an official language. I decided to initiate an investigation on 25 October 2007.

### Heritage Council's Case

The Council sent me a report in writing on 28 November 2007 and further information on 12 December 2007. At the Council's request, I met with representatives of the organisation on 23 January 2008 and, as a result of that meeting, the Council sent me further information on 18 February in which it admitted that it was not complying with the statutory duty regarding the appointment of a sufficient number of staff competent in the use of Irish. The Council had a permanent staff of 15.



Thairg an Chomhairle sraith de mholtaí a bheifí sásta a fheidhmiú le dul i ngleic leis an sárú ar an dualgas reachtúil:

*“Táimid ag súil go mór neamhláithreacht bhall foirne a labhraíonn Gaeilge a réiteach chomh luath agus is féidir ag brath ar an líon foirne agus ar choinníollacha earcaíochta. Táimid sásta moladh a dhéanamh go n-éascóidh na gníomhartha seo a leanas réiteach ar an gcás:*

- 1. Go n-earcofáí ball foirne amháin a mbeidh sainscileanna Gaeilge aige/aici... Theastódh ceadú áfach ón Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil agus ón Roinn Airgeadais. Gan aon cheadú mar sin ann, mholfaí go mbeadh inniúlacht sa Ghaeilge riachtanach maidir le haon post a thiocfaidh chun cinn go dtí go gcomhlíonfar an ceanglas reachtaíochta. Mura n-éireoidh linn iarrthóir oiriúnach a earcú, bheadh ar an gComhairle Oidhreacht duine a earcú don chomórtas sin gan an ceanglas teanga. (Ní féidir an fhoireann shealadach atá fostaithe faoi láthair a chuir as áit mar gheall ar thabhairt isteach comórtais den chineál sin, mar sin d’fhéadfadh sé go mbeadh comórtais oscailte riachtanach go dtí go mbeidh deis ag an bhfoireann shealadach atá ann faoi láthair dul in iomaíocht do na poist atá acu anois).*
- 2. Ba chóir go gcuirfí oiliúint go leibhéal bunúsach Gaeilge ar an bhfoireann go léir a chuirfeadh ar a gcumas aon cheist a dhíriú chuig an duine cuí.*
- 3. Go mbainfidh suas le 20% den fhoireann meánleibhéal inniúlachta amach a chuirfidh ar a gcumas deileáil le ceisteanna simplí.”*

Maidir le seirbhís trí Ghaeilge ar shuíomh gréasáin na Comhairle, dúradh:

*“Ba mhaith liom a dhearbhuí go bhfuil na doiciméid bheartais go léir ar fáil trí Ghaeilge seachas an páipéar beartais ar Rialacháin Tógála a scríobhadh i 1999 agus nach bhfuil mórán baint aige le hábhar sa lá atá inniu ann... Is é beartas na Comhairle Oidhreacht agus is ceanglas reachtúil é go gclófar na doiciméid bheartais go léir i nGaeilge. Is é beartas na Comhairle Oidhreacht go mbeidh na doiciméid bheartais ar fáil ar an láithreán gréasáin. Tá laithreán gréasáin nua á fhorbairt ag an gComhairle Oidhreacht faoi láthair agus cuirfear leibhéal Gaeilge níos fearr ar fáil don phobal.”*

The Council offered a series of recommendations that it was prepared to implement to address the contravention of its statutory duty:

*“We very much hope to resolve as soon as possible the absence of Irish-speaking staff depending on the number of staff and recruitment conditions. We are prepared to recommend the following actions to facilitate the resolution of the issue:*

- 1. To recruit one staff member with specialised skills in Irish... Permission would however be required from the Department of the Environment, Heritage and Local Government and the Department of Finance. In the absence of such permission, it is recommended that competency in Irish be necessary for any position arising until the statutory requirement is fulfilled. If we do not succeed in recruiting a suitable person, the Heritage Council would have to recruit a person without the language requirement.  
(The temporary staff employed at present cannot be displaced as a result of the introduction of competitions of that kind, therefore open competitions may be necessary until the current temporary staff have had the opportunity to compete for the positions they have at present.)*
- 2. All staff should be trained to a basic level of Irish enabling them to direct any query to the appropriate person.*
- 3. That up to 20% of staff would acquire an average level of competency enabling them to deal with simple matters.” (translation)*

Regarding a service through Irish on the Council's website, it was stated:

*“I would like to confirm that all the policy documents are available through Irish with the exception of the policy paper on Building Regulations written in 1999 which is not very relevant now... It is Heritage Council policy and a statutory requirement that all policy documents be printed in Irish. It is Heritage Council policy that policy documents be available on the website. The Heritage Council is currently developing a new website which will provide an improved level of Irish for the public.” (translation)*



### Osradharc Ginearálta ar an Imscrúdú

D'fhéadfaí an cás a dhéanamh gur shamhlaigh an tOireachtas in achtú Alt 18(1) den Acht Oidhreacht a go mbeadh an Chomhairle Oidhreacht ag soláthar seirbhíse go dátheangach agus chuige sin gur ghá líon leordhóthanach foirne le hinniúlacht ar úsáid na Gaeilge. Ba léir gur samhlaíodh nár leor gur trí chonraitheoirí nó trí chomhairleoirí seachtracha amháin a sheachadfaí seirbhís trí Ghaeilge ach gur trí bhaill foirne na heagraíochta a bheadh an tseirbhís trí Ghaeilge á tairiscint. Ní raibh aon amhras ann ach go ndearna an Chomhairle faillí sa ghnó seo in imeacht na mblianta agus go raibh an eagraíocht ag feidhmiú lasmuigh de na teorainneacha reachtúla a leag an tOireachtas síos di sa chúram seo.

Ba ríshoiléir gur ghá don Chomhairle plean a ullmhú láithreach agus a chur i bhfeidhm le dul i ngleic leis an sárú reachtúil seo agus gach céim a bhí indéanta a thógáil a luaithe agus ab fhéidir le go mbeadh an eagraíocht ag feidhmiú de réir thoil reachtúil an Oireachtais.

Ba léir go gcaithfí déileáil le ceist an *“líon leordhóthanach”* foirne le hinniúlacht ar úsáid na Gaeilge nuair a bheadh aon cheapachán nua á dhéanamh. Ní fhéadfadh aon ghlacadh ar bith a bheith le coincheap na Comhairle go bhféadfadh sí duine a earcú gan an ceanglas teanga *“mura n-éiríonn linn iarrthóir oiriúnach a earcú”*. Ní féidir a rá gur ceanglas *“à la carte”* é an ceangal reachtúil teanga in Alt 18(1) den Acht Oidhreacht.

Ba mhasla don Oireachtas é agus neamhaird iomlán ar dhualgais aitheanta reachtúla a bheadh ann aon duine breise gan inniúlacht ar úsáid na Gaeilge a cheapadh ar fhoireann na Comhairle go dtí go mbeadh an líon leordhóthanach foirne sin le hinniúlacht ar úsáid na Gaeilge i mbun oibre ann.

Sa ghearrthearma, ba léir gur cheart don Chomhairle tús áite a thabhairt do phlean gníomhaíochta le soláthar seirbhíse trí Ghaeilge na heagraíochta a fhorbairt trí úsáid a bhaint as conraitheoirí nó gníomhairí ar conradh, dá mba ghá, nó trí aon bhealach cuí eile a bheartófaí. Níor cheart, áfach, go bhfeicfí sin mar mhalairt ar an dualgas reachtúil i dtaobh baill foirne le hinniúlacht ar úsáid na Gaeilge a bheith fostaithe, ach mar ghníomh eatramhach, gearrthéarmach.

### General Overview of Investigation

The case could be made that in enacting Section 18(1) of the Heritage Act, the Oireachtas was of the view that the Heritage Council would be providing a bilingual service and that consequently a sufficient number of staff competent in the use of Irish would be required. It was clear that it was not considered to be sufficient that a service through Irish be provided solely by external contractors or consultants but rather that the service through Irish be offered through the organisation's own staff. There was no doubt that the Council was negligent in this matter over the years and that the organisation was operating outside the legislative parameters set for it by the Oireachtas regarding this responsibility.

It was very clear that the Council needed to prepare and implement a plan immediately to address this infringement of legislation and to take every practicable step as soon as possible so that the organisation would be operating in accordance with the legislative intention of the Oireachtas.

It was clear that the question of a *“sufficient number”* of staff competent in the use of Irish would have to be dealt with when any new appointment was being made. The Council's concept that it could appoint a person without Irish *“if we do not succeed in recruiting a suitable person”* could not in any way be accepted. It cannot be said that the statutory linguistic duty in Section 18(1) of the Heritage Act is an *“à la carte”* duty.

It would be an insult to the Oireachtas and a complete disregard of acknowledged statutory duties to appoint any additional person without competence in the use of Irish to the staff of the Council until such time as the organisation had employed a sufficient number of persons competent in the use of Irish.

In the short term, it was clear that the Council should prioritise an action plan to develop its provision of a service through Irish by using contractors or agents on contract, if necessary, or in any other appropriate way. This should not, however, be seen as an alternative to the statutory duty of employing staff competent in the use of Irish, but rather as an interim, short-term measure.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Ní raibh an dualgas reachtúil atá daingnithe in Alt 18(1) den Acht Oidhreachta 1995 – maidir le líon leordhóthanach d'fhoireann na Comhairle Oidhreachta a bheith inniúil ar úsáid na Gaeilge chun go mbeifí in ann seirbhís a sholáthar trí Ghaeilge chomh maith lena soláthar trí Bhéarla – á chomhlíonadh.

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go n-ullmhódh agus go gcuirfeadh an Chomhairle Oidhreachta plan i bhfeidhm le cinntiú go mbeadh an eagraíocht ag comhlíonadh an cheanglais atá daingnithe in Alt 18(1) den Acht Oidhreachta 1995 a luaithe agus ab fhéidir maidir le hinniúlacht ar úsáid na Gaeilge a bheith ag líon leordhóthanach dá foireann lena seirbhís a sholáthar trí Ghaeilge chomh maith lena soláthar trí Bhéarla.
- Go mbeadh plan sin na Comhairle Oidhreachta ina léarscáil bhóithre leis an eagraíocht a threorú óna hionad reatha neamhreachtúil go ceann scríbe ina mbeadh sí dílis don dualgas reachtúil atá daingnithe sa dlí ag an Oireachtas agus go ndéanfaí an t-aistear sin a chríochnú laistigh den tréimhse ama is giorra.
- Go gcinnteodh an Chomhairle Oidhreachta go mbeadh inniúlacht ar úsáid na Gaeilge riachtanach i gcás aon duine a cheapfaí ar fhoireann na heagraíochta feasta go dtí go mbeadh líon leordhóthanach foirne ag an eagraíocht lena seirbhís a sholáthar trí Ghaeilge chomh maith lena soláthar trí Bhéarla agus go mbeadh sin amhlaidh ba chuma ar mar thoradh é ar phost nó ar phoist nua a bheith cruthaithe agus ceadaithe don Chomhairle nó de bharr folúntas/folúntais sa bhuanfhoireann reatha a bheith le líonadh.
- San idirlinn, dá mba ghá, mar ghníomh eatramhach, gearrthéarmach go dtí go mbeadh an ceanglas reachtúil teanga á chomhlíonadh go hiomlán, go dtabharfadh an Chomhairle Oidhreachta tús áite d'iarrachtaí cuí le soláthar seirbhíse trí Ghaeilge na heagraíochta a fhorbairt trí úsáid a bhaint as conraitheoirí nó gníomhairí ar conradh, nó ar aon bhealach cuí eile a bheartófaí – deiseanna foghlama Gaeilge don bhuanfhoireann reatha san áireamh – agus go mbeadh soláthar leaganacha Gaeilge/dátheangacha de shuíomh gréasáin, bróisiúir, bileoga, foirmeacha iarratais agus eile na heagraíochta ina chuid den tseirbhís sin.

## Finding of the Investigation

This was the finding of the investigation:

- The statutory duty confirmed in Section 18(1) of the Heritage Act 1995 – regarding a sufficient number of Heritage Council staff being competent in the use of Irish in order to be able to provide a service through Irish as well as English – was not being complied with.

## Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

- That the Heritage Council would as soon as possible prepare and implement a plan to ensure its compliance with the statutory duty confirmed in Section 18(1) of the Heritage Act 1995 with regard to competency in the use of Irish by a sufficient number of its staff in order to provide a service in Irish as well as in English.
- That the Heritage Council's plan be a road map to guide the organisation from its present non-statutory position to a position where it would be compliant with its statutory duty as confirmed in law by the Oireachtas and that that journey be completed in the shortest possible timeframe.
- Until it had a sufficient number of staff to provide a service through Irish as well as English, that the Heritage Council would ensure that competency in Irish would henceforth be necessary for any person appointed to the staff of the organisation, irrespective of whether that would be as a result of a new post or posts being created and authorised for the Council or as a result of a vacancy/vacancies arising among the current permanent staff.
- In the meantime, if necessary, as an interim, short-term measure until the statutory language requirement was completely fulfilled, that the Heritage Council give priority to appropriate efforts to develop the organisation's provision of a service through Irish by using contractors or agents on contract, or in any other appropriate way – including opportunities for the current permanent staff to learn Irish – and that part of that service include the provision of Irish/bilingual versions of the website, brochures, leaflets, application forms, etc.

5. Go gcuirfeadh an Chomhairle Oidhreachta an Roinn Comhshaoil, Oidhreachta agus Rialtais Áitiúil agus an Roinn Airgeadais ar an eolas faoi fhionnachtain agus moltaí an imscrúdaithe agus faoin sárú leanúnach a bheadh ar dhualgais reachtúla faoi Alt 18(1) den Acht Oidhreachta go dtí go mbeadh moltaí an imscrúdaithe curtha i bhfeidhm go hiomlán.

6. Go dtuigfeadh an Chomhairle Oidhreachta go mbeadh sé de cheart ag Oifig an Choimisinéara Teanga fillleadh arís in am trátha, dá mba chúig, le deimhin a dhéanamh go rabhtas ag cloí leis an dualgas teanga atá daingnithe in Alt 18(1) den Acht Oidhreachta ar foráil d'achtachán í a bhaineann le stádas nó le húsáid teanga oifigiúla.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 25 Deireadh Fómhair 2007

Tuarascáil eisiithe: 26 Márta 2008

5. That the Heritage Council inform the Department of the Environment, Heritage and Local Government and the Department of Finance of the investigation's finding and recommendations and the fact that the statutory duties under Section 18(1) of the Heritage Act would continue to be contravened until the recommendations of the investigation were fully implemented.

6. That the Heritage Council accept the right of the Office of An Coimisinéir Teanga to revert to the matter again in due course, if appropriate, to ensure that the language duty confirmed in Section 18(1) of the Heritage Act, being a provision of an enactment relating to the status or use of an official language, was being complied with.

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 25 October 2007

Report issued: 26 March 2008

## An tÚdarás Comhionannais

### Ábhar an Imscrúdaithe

Ar sháraigh an tÚdarás Comhionannais an dualgas reachtúil teanga atá daingnithe in Alt 10(b) d'Acht na dTeangacha Oifigiúla 2003, i bhfoilsiú trí Bhéarla a dhéanamh ar Thuarascáil Bhliantúil 2007 ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach?

### Cúlra

Tháinig sé chun solais i mí Iúil 2008 gur fhoilsigh an tÚdarás Comhionannais Tuarascáil Bhliantúil 2007 i mBéarla amháin. De réir Alt 10(b) d'Acht na dTeangacha Oifigiúla, tá dualgas ar chomhlacht poiblí, an tÚdarás Comhionannais san áireamh, a chinntiú go bhfoilseofar go comhuaineach, i nGaeilge agus i mBéarla, aon tuarascáil bhliantúil a dhéanann sé nó a dhéantar faoina údarás.

Tar éis comhfhreagras neamhfhoirmiúil leis an Údarás, bheartaigh mé nach raibh aon rogha agam ach imscrúdú a thionscnamh ar an 6 Lúnasa 2008.

### Cás an Údarais Chomhionannais

Ghlac an tÚdarás leis gan cheist gur sárú ar Alt 10(b) den Acht a bhí i bhfoilsiú Thuarascáil Bhliantúil 2007 i mBéarla amháin. Dúradh go raibh aiféala ar an Údarás maidir leis seo agus gur tharla an sárú de bharr *“cúinsí pearsanta a bhain le pearsanra a bhí páirteach san aistriúcháin nó a bhí freagrach as, fonn feabhas an aistriúcháin a chinntiú, an riachtanais sárúithe reachtaíochta, earáidí daonna agus dearmad a laghdú a oiread agus is féidir.”* Tagraíodh freisin do thinnis a chuir bac ar dhul chun cinn agus ullmhú na tuarascála.

Tá dualgas ar an Údarás tuarascáil bhliantúil a fhoilsiú laistigh de 6 mhí ó thús gach bliain féilire. Dúirt an tÚdarás nuair ba léir ón 11 Iúil go raibh sé ag sárú Acht na dTeangacha Oifigiúla agus na nAchtanna um Chomhionannas Fostaíochta 1998-2008 ar aon *“ní bheadh sé indéanta nó praiticiúil aistritheoir eile leis an sainoilteacht choibhéiseach a fháil agus chuirfeadh sé moill mhór ar an aistriúchán.”*

Dúradh gur *“shocraigh an Príomhfheidhmeannach sárúithe leanúnacha na reachtaíochta a íoslaghdú trí an Tuarascáil Bhliantúil a fhoilsiú.”* Dheimhnigh an Príomhfheidhmeannach go raibh rún daingean aige *“nach dtarlóidh a leithéid de shárú arís.”*

## The Equality Authority

### Subject of Investigation

Did the Equality Authority contravene the statutory language duty confirmed in Section 10(b) of the Official Languages Act 2003 by publishing the 2007 Annual Report in English only, at a time when an Irish version was not simultaneously available?

### Background

It emerged in July 2008 that the Equality Authority had published the 2007 Annual Report in English only. According to Section 10(b) of the Official Languages Act, a public body, including the Equality Authority, has a duty to ensure that any annual report made by it or under its authority is published simultaneously in Irish and English.

Following informal correspondence with the Authority, I decided that I had no option but to initiate an investigation on 6 August 2008.

### The Equality Authority's Case

The Authority accepted unequivocally that publishing the 2007 Annual Report in English only had contravened Section 10(b) of the Act. It was stated that the Authority regretted this and that the contravention occurred because of *“personal circumstances relating to the personnel engaged in or responsible for the translation, a desire to ensure an excellent translation, the necessity to reduce as much as possible breaches of legislation, human error and omissions.”* (translation). Reference was also made to illness which impeded the progress and preparation of the report.

The Equality Authority has a duty to publish an annual report within 6 months of the beginning of each new calendar year. The Authority stated that when it became clear from 11 July that it was contravening both the Official Languages Act and the Employment Equality Acts 1998-2008 that *“it would not have been possible or practical to secure another translator with the equivalent expert proficiency and this would have significantly delayed the translation.”* (translation)

It was stated that *“the Chief Executive decided to minimise the ongoing breaches of legislation by publishing the Annual Report.”* (translation) The Chief Executive confirmed that he strongly intended *“that this will not happen again”* (translation)

## Osradharc Ginearálta ar an Imscrúdú

Ba léir don imscrúdú nach raibh aon choimhlint idir an dualgas faoi na hAchtanna um Chomhionannas Fostaíochta 1998-2008 maidir le foilsiú tuarascála bliantúla laistigh de 6 mhí ó thús bliana agus an dualgas go mbeadh an tuarascáil sin á foilsiú go comhuaineach sa dá theanga oifigiúla.

Ghlac an t-imscrúdú leis go dtagann cúinsí pearsanta chun cinn maidir le tinneas nó eile in aon chomhlacht poiblí agus go gcaithfí a bheith tuisceanach faoin mbrú a chuirfeadh sin ar dhaoine aonair, ar fhoireann agus ar chomhlacht poiblí. Ní leor sin, áfach, le dualgais reachtúla a fhágáil ar leataobh.

Cé nach mar chosaint ar an sárú a míníodh nach ndearnadh aon iarratas ar an leagan Gaeilge den tuarascáil nuair a foilsíodh é tamall maith de sheachtainí tar éis an leagan Béarla a bheith ar fáil, níor léargas ar bith é sin ar an éileamh a bheadh air dá mbeadh fáil chomhuaineach ar an tuarascáil i nGaeilge agus i mBéarla. Bhreathnaigh sé freisin gurbh é an leagan Béarla amháin a scaipeadh go réamhghníomhach ar na meáin (san áireamh na meáin Ghaeilge), ar pholaiteoirí agus ar gheallsealbhóirí eile, ba chuma cén rogha teanga a bhí acu. Chonacthas don imscrúdú gur gníomh fíor-thromchúiseach d'aon eagraíocht reachtúil, ach go háirithe eagraíocht a raibh cúram comhionannais uirthi, cinneadh gníomhach a dhéanamh dul chun cinn le foilsiú doiciméid agus an eagraíocht ar an eolas go soiléir go raibh reachtaíocht á sárú aici.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an tÚdarás Comhionannais an dualgas reachtúil teanga atá daingnithe in Alt 10(b) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsiú trí Bhéarla amháin a dhéanamh ar Thuarascáil Bhliantúil 2007 ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach.

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

1. Go gcinnteodh an tÚdarás Comhionannais go gclófeadh sé feasta lena dhualgais reachtúla faoi Acht na dTeangacha Oifigiúla 2003.
2. Go gcinnteodh an tÚdarás Comhionannais sa chás is go mbeadh aon tuarascáil bhliantúil á foilsiú aici nó faoina húdarás feasta go bhfoilseofaí a leithéid go comhuaineach i ngach ceann de na teangacha oifigiúla, mar atá daingnithe in Alt 10(b) d'Acht na dTeangacha Oifigiúla 2003, agus nach rachfaí chun cinn ar chúis ar bith le foilsiú doiciméid den chineál atá i gceist anseo murarb fhéidir a bheith lánchinnte go mbeadh an dualgas seo á chomhlíonadh go cuí.

## General Overview of Investigation

It was clear to the investigation that there was no conflict between the duty under the Employment Equality Acts 1998-2008 in regard to publishing an annual report within 6 months of the start of the year and the duty to publish that report simultaneously in both official languages.

The investigation accepted that personal circumstances arise with regard to illness or otherwise in any public body and that the pressure this places on individuals, on staff and on the public body must be appreciated. This is not sufficient, however, to set statutory duties aside.

Although the fact that no one requested the Irish version of the report when it was published many weeks after the English version had been made available was not used as an explanation in defence of the contravention, this could not be seen in any way as an indication of the demand that would have existed had the report been available simultaneously in Irish and English. It appeared also that only the English version was circulated proactively to the media (including the Irish language media), politicians and other stakeholders, irrespective of their language choice. It appeared to the investigation that to actively decide to proceed with the publication of a document with the clear knowledge that it was contravening legislation was a most serious action to be taken by any statutory organisation, especially one with responsibility for equality.

## Finding of the Investigation

This was the finding of the investigation:

- That the Equality Authority had contravened the statutory language duty confirmed in Section 10(b) of the Official Languages Act 2003 by publishing the 2007 Annual Report in English only, at a time that an Irish version was not simultaneously available.

## Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

1. That the Equality Authority ensure compliance henceforth with its statutory duties under the Official Languages Act 2003.
2. That the Equality Authority ensure that any annual report henceforth published by it or under its authority would be published simultaneously in each of the official languages, in accordance with Section 10(b) of the Official Languages Act 2003, and that publication of the kind of document at issue here would not in any circumstances be proceeded with unless full compliance with this statutory duty could be ensured.

3. Go seolfadh an tÚdarás Comhionannais meamram eolais laistigh de 6 seachtaine ó dháta na tuarascála seo chuig baill foirne sin an Údaráis a d'fhéadfadh a bheith freagrach feasta as an tuarascáil bhliantúil a ullmhú lena foilsiú, ina ndeimhneofaí an méid seo:

- Go raibh fionnachtain déanta ag an imscrúdú seo gur sháraigh an tÚdarás a dhualgas reachtúil faoi Alt 10(b) d'Acht na dTeangacha Oifigiúla 2003 sa chás seo;
- Go raibh sé mar dhualgas ar an Údarás a chinntiú nach ligfí dá leithéid de shárú tarlú arís.

4. Go seolfadh an tÚdarás Comhionannais meamram eolais laistigh de 6 seachtaine ó dháta na tuarascála seo chuig cathaoirleach agus baill bhord an Údaráis Chomhionannais agus chuig máthair-roinn na heagraíochta – an Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí – á gcur ar an eolas go raibh fionnachtain déanta ag an imscrúdú.

5. Go seolfadh an tÚdarás Comhionannais cóip den mheamram eolais atá i gceist ag moltaí 4 agus 5 thuasluaite chugam mar Choimisinéir Teanga a luaithé agus a d'eiseofaí iad.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 6 Lúnasa 2008  
Tuarascáil eisithe: 15 Deireadh Fómhair 2008

3. That the Equality Authority send an information memorandum within 6 weeks of the date of this report to those of its staff who could henceforth be responsible for the preparation of the annual report for publication, affirming that:

- This investigation had found that the Authority had in this case contravened its statutory duty confirmed in Section 10(b) of the Official Languages Act 2003;
- The Authority was obliged to ensure that such a contravention would not occur again.

4. That the Equality Authority send an information memorandum within 6 weeks of the date of this report to the chairman and members of the board of the Equality Authority and to the organisation's parent department – the Department of Justice, Equality and Law Reform – informing them of the investigation's finding.

5. That the Equality Authority send a copy of the information memorandum referred to in recommendations 3 and 4 above to me as Coimisinéir Teanga as soon as it was issued.

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within 4 weeks but no such appeal was made.

Investigation launched: 6 August 2008  
Report issued: 15 October 2008



## Feidhmeannacht na Seirbhíse Sláinte

### Ábhar an Imscrúdaithe

Ar sháraigh Feidhmeannacht na Seirbhíse Sláinte an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca le gealltanais áirithe de Scéim Teanga Fheidhmeannacht na Seirbhíse Sláinte (Limistéar an Iarthair), mar atá, Mír 4.6 den Scéim, i gcás inar líomhnaíodh gur cuireadh seirbhísí cigireachta réamhscolaíochta ar fáil i mBéarla amháin i nGaeltacht na Gaillimhe i mí Feabhra 2008?

### Cúlra

Rinne úinéir naíonra i nGaeltacht na Gaillimhe gearán le m'Oifig i mí Feabhra 2008 maidir le cigireacht réamhscolaíochta a bheith déanta i mBéarla amháin ar a naíonra. Dúirt an gearánach gur tugadh le tuiscint di nach raibh rogha ar bith aici ach comhoibriú leis an gcigireacht sin trí Bhéarla.

Bhí sé daingnithe i Mír 4.6 de Scéim Teanga Fheidhmeannacht na Seirbhíse Sláinte (Limistéar an Iarthair), a tháinig i bhfeidhm ar an 1 Meán Fómhair 2005, go gceapfaí duine le Gaeilge le cigireacht a dhéanamh ar an gcóras réamhscolaíochta sa Ghaeltacht ó Eanáir 2006 ar aghaidh.

Bhí an gearán céanna tagtha chun cinn i mí Feabhra 2007 faoi chigireacht trí Bhéarla a bheith á déanamh ar naíonra i nGaeltacht Chonamara. Mar thoradh ar ghearán ó m'Oifig, dheimhnigh Feidhmeannacht na Seirbhíse Sláinte i scríbhinn ar an 3 Bealtaine 2007 *“go mbeadh socraithe a dhéanamh le cinntiú go ndéanfaí an chigireacht agus eile trí Ghaeilge i naíonraí Gaeltachta i gConamara”*. Ba chosúil ón ngearán nua i mí Feabhra 2008 nach raibh beart déanta de réir briathair.

Cé gur mheas mé go raibh an scéal níos tromchúisí mar go raibh dearbhú i scríbhinn tugtha ag Feidhmeannacht na Seirbhíse Sláinte go ndéileálfai leis an ábhar de bharr an ghearáin a rinneadh in 2007, rinne m'Oifig iarracht eile fós an cás seo a réiteach ar bhonn neamhfhoirmiúil ach níor éirigh leis an iarracht sin. Ba léir dom nach raibh de rogha agam ach imscrúdú reachtúil a sheoladh ar an 29 Feabhra 2008.

### An Chéad Fhreagra

I litir dar dáta an 28 Márta 2008, ghlac Feidhmeannacht na Seirbhíse Sláinte leis go raibh an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 á shárú i dtaca le Mír 4.6 den Scéim Teanga sa chás seo. Mar mhíniú dúradh: *“Tharla se seo de bhrí nár éirigh leis an FSS cigire réamhscoile le Gaeilge líofa a earcú i 2005.”*

## Health Service Executive

### Subject of Investigation

Did the Health Service Executive contravene the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to a particular commitment of the Health Service Executive (Western Area) Language Scheme, in Paragraph 4.6 of the Scheme, in a case in which it was alleged that preschool inspection services were provided in English only in the Galway Gaeltacht in February 2008?

### Background

The owner of a preschool in the Galway Gaeltacht complained to my Office in February 2008 that an inspection of her nursery was conducted through English only. The complainant stated that it was indicated to her that she had no other choice but to cooperate with that inspection through English.

The Health Service Executive (Western Area) Language Scheme, which came into effect on 1 September 2005, confirmed that an Irish speaker would be appointed to inspect the preschool system in the Gaeltacht from January 2006 onwards.

A similar complaint had arisen in February 2007 with regard to a preschool in the Connemara Gaeltacht being inspected through English. Following a complaint from my Office, the Health Service Executive confirmed in writing on 3 May 2007 that *“arrangements would be made to ensure that Gaeltacht preschools in Connemara would be inspected etc. through Irish”*. (translation) It appeared from the new complaint in February 2008 that this had not occurred.

Although I considered the issue to be more serious as the Health Service Executive had confirmed in writing that it would deal with the matter as a result of the complaint made in 2007, my Office made yet another attempt to resolve the case on an informal basis but that effort did not succeed. It was clear to me that I had no other choice but to launch a statutory investigation on 29 February 2008.

### First Response

In a letter dated 28 March 2008, the Health Service Executive accepted that in this case the statutory duty confirmed in Section 18(a) of the Official Languages Act 2003 had been contravened with regard to Paragraph 4.6 of the Language Scheme. As an explanation, it was stated: *“This happened because the HSE did not succeed in recruiting a preschool inspector with fluent Irish in 2005.”* (translation)

Míníodh freisin gur fógraíodh go himmheánach post mar chigire réamhscoile i nGaillimh i mí an Mheithimh 2005, go bhfuarthas iarratas amháin don fholúntas sin, gur tairgeadh an post don iarrthóir sin ach nár ghlac sí leis. Dúradh freisin gur fógraíodh an post arís go himmheánach i mí na Samhna 2005 ach nach bhfuarthas aon iarratas an uair sin. Mar thoradh air sin, dúirt Feidhmeannacht na Seirbhíse Sláinte: *“Cinneadh an post a fhógairt mar phost Béarla ar an 5/12/2005.”*

### Taifid

Mar is gnách in imscrúduithe, iarradh ar Fheidhmeannacht na Seirbhíse Sláinte go soláthrfaí aon taifid a bhain le hábhar an imscrúdaithe seo. Nuair a cuireadh na taifid sin ar fáil, b'ábhar iontais don imscrúdú go raibh suas le 137 cáipéis éagsúil i gceist, meamraim agus ríomhphoist inmheánacha den chuid is mó, ina raibh thart ar 156 leathanach ag déileáil leis an gceist seo. Ba chosúil freisin gur beag toradh a bhí ar an saothar riaracháin inmheánaigh sin le dul i ngleic leis an gceist.

### Freagraí Breise

Tar éis scagadh a dhéanamh ar fhreagra Fheidhmeannacht na Seirbhíse Sláinte, bheartaigh mé soiléiriú a lorg ar cheistanna áirithe. Tháinig an dara freagra ó Fheidhmeannacht na Seirbhíse Sláinte i litir dar dáta an 19 Bealtaine 2008.

Ó tháinig an fhoráil den Scéim Teanga a bhain le cigireacht trí Ghaeilge i bhfeidhm in Eanáir 2006, ba chosúil go ndearnadh cigireacht trí Bhéarla ar 16 naíonra Gaeltachta agus Gaeilge as 32 naíonra den aicme sin a bhí liostáilte ag Feidhmeannacht na Seirbhíse Sláinte i gCo. na Gaillimhe.

Ón uair a thug Feidhmeannacht na Seirbhíse Sláinte an deimhniú i scríbhinn do m'Oifig ar an 3 Bealtaine 2007 go ndéanfaí an chigireacht trí Ghaeilge i naíonraí Gaeltachta i gConamara, ba trí Bhéarla amháin fós a rinneadh an chigireacht ar sheacht naíonra idir sin agus dáta an imscrúdaithe. Dúradh go ndearnadh an chigireacht trí Bhéarla *“de bhrí nach bhfuil aon Chigire Réamhscoile le Gaeilge fostaithe againn.”*

Mar fhreagra ar cheist ón imscrúdú faoi thuairim Fheidhmeannacht na Seirbhíse Sláinte maidir le cibé an bhféadfadh nó nach bhféadfadh oifigeach dá cuid gan Ghaeilge cigireacht cheart a dhéanamh ar naíonra Gaeilge/Gaeltachta ina mbeadh na taifid chuí á gcoinneáil i nGaeilge, dúradh an méid seo a leanas:

*“...tá Bainisteoir na Seirbhísí Réamhscoile den tuairim go bhfuil go leor Gaeilge ag na h-oifigigh atá fostaithe faoi láthair le cumarsáid a dhéanamh leis an soláthróir seirbhíse nuair atá an chigireacht idir lámha acu. Ach tar éis an méid thuas a chur san áireamh, glacann muid leis nach bhfuil ar a gcumas Gaeilge a labhairt go líofa.*

It was also explained that a position as a preschool inspector for Galway had been advertised internally in June 2005, that one application was received for this vacancy and that the position was offered to the applicant in question, but that she had not accepted it. It was stated as well that the position was advertised internally again in November 2005 but that no application was received on that occasion. As a result, the Health Service Executive stated: *“It was decided to advertise the position as an English language post on 5/12/2005.”* (translation)

### Records

As is the norm in these investigations, the Health Service Executive was asked to provide any records relating to the subject of this investigation. When those records were provided, the investigation was surprised to find that up to 137 documents were involved in the matter, containing approximately 156 pages, mostly of internal memos and emails. It appeared also that this internal administrative effort achieved little result in terms of dealing with the matter.

### Additional Responses

Having examined the Health Service Executive's response, I decided to seek clarification on certain issues. The second reply came from the Health Service Executive in a letter dated 19 May 2008.

From the time the Language Scheme's provision with regard to inspections through Irish came into effect in January 2006, it appeared that 16 Gaeltacht and Irish language preschools out of a total of 32 of that type listed by the Health Service Executive in Co. Galway were inspected through English.

From the time the Health Service Executive confirmed in writing to my Office on 3 May 2007 that inspections in Gaeltacht preschools in Connemara would be conducted through Irish, a total of seven were nonetheless inspected between that date and the date of this investigation through English only. It was stated that the inspection was conducted through English *“because we have not employed any Preschool Inspector with Irish.”* (translation)

In reply to a question from the investigation seeking the Health Service Executive's opinion as to whether an officer of theirs without Irish could carry out a proper inspection of an Irish language/Gaeltacht nursery in which the appropriate files were kept in Irish, the following was stated:

*“...the Manager of Pre-School Services is of the opinion that the officers currently employed have sufficient Irish to communicate with the service provider while conducting inspections. However, after taking the above into account, we accept that they are not capable of speaking Irish fluently.*

*Cuirtear na tuairiscí faoin gcigireacht ar fáil don soláthróir Réamhscoile i nGaeilge agus i mBéarla."*

Cé gur tugadh le fios don imscrúdú sa chéad litir gur fógraíodh an post don chigireacht mar phost Béarla, bhí malairt scéil sa dara litir:

*"...níor fógraíodh an post mar phost Béarla amháin bhí fáilte roimh iarratais ó chainteoirí líofa Gaeilge. Ní dhearnadh aon chinneadh an post a fhógairt mar phost Béarla..."*

Fós féin, ba léir nár ceapadh duine le Gaeilge sa phost.

Nuair a cuireadh dréacht den tuarascáil ar an imscrúdú chuig Feidhmeannacht na Seirbhíse Sláinte le deis a thabhairt le haon earráidí, míthuiscintí nó míchruinnis sa dréacht sin a leigheas sula mbeadh fionnachtana agus moltaí déanta, thapaigh an Fheidhmeannacht an deis sin chun soiléiriú a dhéanamh ar roinnt pointí.

Chuir an Fheidhmeannacht in iúl go raibh bunús reachtúil leis an gcigireacht a dhéantar ar ionaid réamhscoile faoi achtacháin éagsúla agus dúirt, inter alia:

*"Tugtar tús áite do leas an pháiste i ngach cinneadh a dhéanann an tSeirbhís réamhscoile agus bainistíocht Fheidhmeannacht na Seirbhíse Sláinte..."*

*Dá bhrí sin, bíonn ar an Oifigeach Réamhscoile cothromaíocht a aimsiú idir comhlíonadh a ndualgaisí ó thaobh leas an pháiste sa suíomh réamhscoile agus meas a thaispeáint do riachtanais cultúrtha an pháiste, an clann agus an Naíonra.*

*Bhí ar an Oifigeach Réamhscoile, an fhadhb a d'eascair a réiteach i.e cothromas a aimsiú idir an chontúirt dochair nó mí-iompair agus cearta an Naoínra an chigireacht a bheith déanta as Gaeilge.*

*Ní raibh sé i gceist ariamh ag an tSeirbhís Réamhscoile go ndéanfaí aon lagú ar na dualgaisí de réir na Scéime Teanga."*

Maidir leis an ngearánach atá faoi chaibidil san imscrúdú seo, dúradh gur le freastal ar riachtanas a bhí ag an naíonra féin (mar thaca agus mar chuid d'iarratas ar mhaoiniú caipitil) a rinneadh an chigireacht, gur ar iarratas ón naíonra agus le haontú iomlán ón naíonra a rinneadh an chigireacht, agus gur tuigeadh don chigire go ndúirt stiúrthóir an naíonra i ndeireadh an phróisis go raibh sí sásta.

*The inspection reports are made available to the Preschool provider in Irish and English."* (translation)

Although the first reply to the investigation indicated that the position as an inspector was advertised as an English post, a different reply was given in the second letter:

*"...the position was not advertised as solely an English post. Applications were welcome from fluent Irish speakers. No decision was taken to advertise the position as an English post..."* (translation)

Nevertheless, it was clear that someone with Irish was not appointed to the position.

When a draft report on the investigation was sent to the Health Service Executive to provide the opportunity to correct any mistakes, misunderstandings or inaccuracies in the draft report before findings or recommendations were made, the Executive availed of the opportunity to clarify a number of points.

The Executive indicated that the inspection of preschool centres had a statutory basis under various enactments and stated, inter alia:

*"Priority is given to the child's welfare in every decision made by the preschool Service and the Health Service Executive's management..."*

*Accordingly, the Preschool Officer has to find a balance between complying with duties regarding the child's welfare in the preschool setting and showing respect for the cultural needs of the child, the family and the Preschool.*

*The Preschool Officer had to resolve the problem that arose i.e. finding a balance between the danger of harm or misconduct and the rights of the Preschool to have the inspection conducted through Irish.*

*The Preschool Service never intended to weaken the obligations in the Language Scheme."* (translation)

With regard to the complainant in this investigation, it was stated that the inspection was conducted as a result of a requirement which the preschool itself had (in support of and as part of an application for capital funding), that it was conducted as a result of a request from the preschool and with the full agreement of the preschool, and that at the end of the process, the inspector understood that the director of the preschool had said she was satisfied.

## Osradharc ar an Imscrúdú

Ní raibh aon amhras ar bith orm faoi ríthábhacht na gcigireachtaí reachtúla agus na dualgais throma agus thábhachtacha a chuir siad ar Fheidhmeannacht na Seirbhíse Sláinte i dtaca le leas na bpáistí. Is cuid den dualgas reachtúil sin freisin gur trí Ghaeilge a dhéanfaí an chigireacht i naíonraí i nGaeltacht na Gaillimhe de bhua Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca leis an ngealltanas i Mír 4.6 de Scéim Teanga Fheidhmeannacht na Seirbhíse Sláinte (Limistéar an Iarthair). Tá sé de cheart ag na geallsealbhoirí go mbeadh an chigireacht sin trí Ghaeilge ar chomhchaighdeán agus ar chomhchéim leis an gcigireacht a dhéantar trí Bhéarla, an chigireacht ar dhoiciméid scríofa agus trí agallaimh bhéil san áireamh.

Níor ghéill mé ar chor ar bith don chás go gcaithfeadh ceart amháin géilleadh don cheart eile nuair ba léir go bhféadfaí socruithe cuí pearsanra a dhéanamh le cinntiú go mbeadh na cearta éagsúla (cigireachta agus teanga) á gcosaint.

Feidhmeannacht na Seirbhíse Sláinte féin a roghnaigh cigireacht réamhscoile trí Ghaeilge i nGaeltacht na Gaillimhe i measc a tosaíochtaí i Scéim Teanga na heagraíochta i Limistéar an Iarthair. Níl aon rogha ag Feidhmeannacht na Seirbhíse Sláinte ach na dualgais reachtúla ina leith a chomhlíonadh go cuí.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh Feidhmeannacht na Seirbhíse Sláinte an dualgas reachtúil atá daingnithe in Alt 18(1) d'Acht na dTeangacha Oifigiúla 2003 i dtaca le gealltanas áirithe de Scéim Teanga Fheidhmeannacht na Seirbhíse Sláinte (Limistéar an Iarthair), mar atá, Mír 4.6 den Scéim, nuair a cuireadh seirbhísí cigireachta réamhscoilaíochta ar fáil i mBéarla amháin i nGaeltacht na Gaillimhe i mí Feabhra 2008.

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go gceapfadh Feidhmeannacht na Seirbhíse Sláinte duine le líofacht i nGaeilge le cigireacht a dhéanamh ar na hionaid réamhscoile i nGaeltacht na Gaillimhe mar atá geallta i Mír 4.6 de Scéim Teanga na heagraíochta (Limistéar an Iarthair) a luaithe agus ab fhéidir.

## Overview of the Investigation

I fully accepted the importance of statutory inspections and the serious and grave duties they placed on the Health Service Executive with regard to children's welfare. Part of that statutory duty is also to ensure that inspections of preschools in the Galway Gaeltacht are conducted through Irish by virtue of Section 18(1) of the Official Languages Act 2003 with regard to the commitment in Paragraph 4.6 of the Health Service Executive (Western Area) Language Scheme. The stakeholders are entitled to expect that inspections conducted through Irish are of the same standard and on an equal footing with inspections conducted through English, including the inspection of written documents and oral interviews.

I did not accept in any way the case that one right should give way to the other when it was clear that appropriate personnel arrangements could be made to ensure protection of the various rights (inspection and language).

It was the Health Service Executive itself which chose to include preschool inspections through Irish in the Galway Gaeltacht among its priorities in the organisation's Language Scheme in the Western Area. The Health Service Executive has no option but to properly comply with the relevant statutory duties.

## Finding of the Investigation

This was the finding of the investigation:

- The Health Service Executive contravened the statutory duty confirmed in Section 18(1) of the Official Languages Act 2003 with regard to a particular commitment of the Health Service Executive (Western Area) Language Scheme, in Paragraph 4.6 of the Scheme, when preschool inspection services were provided through English only in the Galway Gaeltacht in February 2008.

## Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

- That the Health Service Executive appoint a person fluent in Irish to inspect preschool centres in the Galway Gaeltacht, as promised in Paragraph 4.6 of the organisation's (Western Area) Language Scheme, as soon as possible.

2. Sa ghearrthréimhse, go dtí go mbeadh an ceapachán sin déanta, go ndéanadh Feidhmeannacht na Seirbhíse Sláinte socruithe cuí pearsanra le cinntiú gur trí Ghaeilge a dhéanfaí aon chigireacht chuí ar ionaid réamhscoile i nGaeltacht na Gaillimhe agus nach bhfágfaí aon pháiste, tuismitheoir, caomhnóir ná soláthraí seirbhísí naíonra faoi aon mhíbhuntáiste ná i mbaol de chineál ar bith de bharr dhualgas teanga seo na Feidhmeannachta.
3. Go nglacfaidh an fhoireann chuí i bhFeidhmeannacht na Seirbhíse Sláinte leis nár ghá go mbeadh aon choimhlint ar bith idir cearta maidir le leas agus sábháilteacht leanaí agus cearta teanga sa chás seo agus go mbeidís aireach i gcosaint na gcomhcheart sin feasta.
4. Go seolfadh Feidhmeannacht na Seirbhíse Sláinte meamram eolais i nGaeilge a luaithe agus ab fhéidir, agus laistigh de 6 seachtaine ó dháta na tuarascála seo ar a dhéanaí, chuig stiúrthóirí na naíonraí i nGaeltacht na Gaillimhe ag deimhniú gur trí Ghaeilge a dhéanfaí an chigireacht réamhscoile iontu feasta mar atá geallta i Scéim Teanga na Feidhmeannachta.
5. Go seolfadh Feidhmeannacht na Seirbhíse Sláinte cóip den mheamram eolais atá i moladh 4 thuas chugam mar Choimisinéir Teanga a luaithe agus a d'eiseofaí é.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 29 Feabhra 2008  
Tuarascáil eisithe: 13 Meitheamh 2008

2. In the short term, until that appointment was made, that the Health Service Executive would make appropriate personnel arrangements to ensure that preschool centres in the Galway Gaeltacht would be inspected through Irish and that no child, parent, guardian or provider of nursery services would be at any disadvantage or in any danger of any kind as a result of the Executive's language duty in this regard.
3. That the appropriate staff of the Health Service Executive accept that in this case there need not be any conflict between children's welfare and safety rights and language rights and that they would, in future, be vigilant in protecting those joint rights.
4. That the Health Service Executive send an information memorandum in Irish, as soon as possible and at the latest within 6 weeks of the date of this report, to the directors of nurseries in the Galway Gaeltacht confirming that preschool inspections would henceforth be conducted through Irish as promised in the Executive's Language Scheme.
5. That the Health Service Executive send a copy of the information memorandum referred to in recommendation 4 above to me as Coimisinéir Teanga as soon as it was issued.

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 29 February 2008  
Report issued: 13 June 2008



## Comhairle Cathrach Bhaile Átha Cliath

### Ábhar an Imscrúdaithe

Ar sháraigh Comhairle Cathrach Bhaile Átha Cliath an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsíú trí Bhéarla amháin a dhéanamh ar an doiciméad ar a dtugtar **Maximising the City's Potential: a Strategy for Intensification and Height** ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach?

### Cúlra

Rinne ball den phobal gearán oifigiúil liom ar an 7 Márta 2008 maidir le doiciméad ar a dtugtar **Maximising the City's Potential: a Strategy for Intensification and Height** a d'fhoilsigh Comhairle Cathrach Bhaile Átha Cliath i mí Feabhra 2008. Bhí an gearánach den bharúil gur cheart go mbeadh leagan dátheangach nó cóip i nGaeilge den doiciméad iomlán ar fáil go comhuaineach leis an leagan Béarla de réir fhorálacha Acht na dTeangacha Oifigiúla 2003.

De réir Alt 10(a) den Acht, tá dualgas ar chomhlachtaí poiblí a chinntiú go bhfoilseofar aon doiciméad ina leagtar amach "tograí beartais phoiblí" go comhuaineach i nGaeilge agus i mBéarla.

Is comhlacht poiblí den chineál atá i gceist san Acht é Comhairle Cathrach Bhaile Átha Cliath. Shéan an Chomhairle Cathrach i scríbhinn don ghearánach go raibh dualgas uirthi faoi Alt 10 den Acht nó faoi Scéim Teanga na Comhairle an doiciméad seo a chur ar fáil i nGaeilge. Ós rud é nár éirigh le m'Oifig an gearán a réiteach ar bhonn neamhfhoirmiúil, bheartaigh mé imscrúdú a thionscnamh ar an 20 Márta 2008.

### Cás Chomhairle Cathrach Bhaile Átha Cliath

D'fhéadfaí cás na Comhairle Cathrach a roinnt ina dhá chuid:

(a) Doiciméad ina leagtar amach tograí beartais phoiblí  
Dúirt an Chomhairle Cathrach nár leag an doiciméad seo amach aon tograí beartais phoiblí:

*"Ní doiciméad den chineál sin é go dtí go ndéanfar moladh reachtúil as, is é sin le rá moladh chun an Plean Forbartha Cathrach a athrú faoi Alt 13 den Acht um Phleanáil agus Fhorbairt, 2000... Sa chomhthéacs reatha is trí athrú faoi Alt 13 a dhéanamh ar Phlean Forbartha na Cathrach an t-aon slí amháin go bhféadfaimis togra beartais phoiblí a leagadh amach."*

## Dublin City Council

### Subject of Investigation

Did Dublin City Council contravene its statutory duty, confirmed in Section 10(a) of the Official Languages Act 2003, by publishing a document entitled **Maximising the City's Potential: a Strategy for Intensification and Height** in English only at a time when the Irish version was not available simultaneously?

### Background

A member of the public made an official complaint to me on 7 March 2008 about a document entitled **Maximising the City's Potential: a Strategy for Intensification and Height** published by Dublin City Council in February 2008. The complainant was of the view that a bilingual version or a copy in Irish of the full document should have been available simultaneously with the English version in accordance with the provisions of the Official Languages Act 2003.

Under Section 10(a) of the Act, public bodies have a duty to publish documents setting out "public policy proposals" simultaneously in Irish and English.

Dublin City Council is a public body under the Act. The City Council denied in writing to the complainant that it had a duty under the Official Languages Act or under the Council's Language Scheme to provide the document in Irish. Since my Office did not succeed in resolving the complaint on an informal basis, I decided to initiate an investigation on 20 March 2008.

### Dublin City Council's Case

The City Council's case could be divided into two parts:

(a) Document setting out public policy proposals  
The City Council stated that the document did not set out any public policy proposals:

*"It is not a document of that kind until a statutory recommendation arises from it, that is a recommendation to alter the City's Development Plan under Section 13 of the Planning and Development Act, 2000... In the current context, it is only by altering the City's Development Plan under Section 13 that public policy proposals can be set out."* (translation)



(b) Doiciméad déanta ag údarás áitiúil nó faoina údarás  
Dúirt an Chomhairle Cathrach freisin gur ghá do dhoiciméad “a bheith ina dhoiciméad reachtúil déanta i gcomhréir leis an reachtaíocht rialtais áitiúil chuí” chun go n-áireofaí é faoi Alt 10 d’Acht na dTeangacha Oifigiúla. Dúirt an Chomhairle Cathrach gur plécháipéis a bhí sa doiciméad a raibh an Chomhairle ag lorg aighneachtaí ón bpobal air sula mbeartófaí ar aon athrú reachtúil a dhéanamh ar an Dréachtphean Forbartha Cathrach 2005-2011: “Ar an mbonn sin ní chreidimid gur doiciméad é atá ‘déanta ag nó faoi Údarás’ na Comhairle Cathrach, mar a éilíonn Alt 10 an Acht.”

Leag an Chomhairle Cathrach béim ar an difríocht idir ról bhaill thofa na Comhairle agus fheidhmeannas na Comhairle sna gnóthaí seo:

“Is é an comhlacht reachtúil amháin a dhéanann cinntí beartas (i.e. an Chomhairle Tofa). Tá próisis riaracháin i bhfeidhm agus déanann an bhainistíocht fheidhmeach cinntí dá réir chun a dheimhniú go ritear an eagraíocht go héifeachtúil agus go héifeachtach. Sonraítear go soiléir in Alt 130 den Acht Rialtais Áitiúil 2001 gur leis na hionadaithe tofa amháin a luíonn feidhm déanamh beartas na n-údarás áitiúil.”

Mar choimriú ar chroí-argóintí na Comhairle Cathrach, chonacthas don Chomhairle nár tháinig an doiciméad faoi scáth Alt 10(a) d’Acht na dTeangacha Oifigiúla toisc nach raibh an doiciméad déanta go hoifigiúil ag an gComhairle i gcomhréir le reachtaíocht na n-údarás áitiúil agus toisc nach leagfadh aon doiciméad de chuid na Comhairle tograí beartais phoiblí amach go dtí go ndéanfaí sin le moladh reachtúil.

### Osradharc Ginearálta ar an Imscrúdú

Tá sé d’éifeacht ag Alt 10 d’Acht na dTeangacha Oifigiúla forálacha d’achtacháin eile a leasú. Tugann sé le tuiscint nach féidir brath ar a bhfuil in aon achtachán eile le dualgais faoin bhforáil seo a theorannú ná a chealú; is gá géilleadh don dualgas faoin bhforáil seo.

Ba léir go raibh roinnt bunriachtanas ann le doiciméad a thabhairt faoi scáth Alt 10 den Acht:

- Chaithfeadh doiciméad nó cáipéis i scríbhinn a bheith i gceist.
- Chaithfeadh an doiciméad sin a bheith foilsithe agus chiallódh sé sin go gcaithfeadh teacht a bheith ag an bpobal air.
- Chaithfeadh gur doiciméad de chuid comhlachta phoiblí faoin Acht é “a dhéanfaidh sé nó a dhéanfar faoina údarás”.
- Chaithfeadh “tograí beartais phoiblí” a bheith sa doiciméad. Is cosúil go n-áirítear doiciméid chomhairliúcháin sa mhéid seo, ina measc Páipéir Bhána is Ghlasa agus dréachtpheananna forbartha, ach gan a bheith teoranta dóibh sin, ina gcuirtear tograí maidir le polasaí poiblí i láthair lena meas agus go bhfuil seans ann go gcuirfeadh nó nach gcuirfeadh i bhfeidhm mar pholasaí iad.

(b) Document made by or under the authority of a local authority  
The City Council also said that it was necessary that a document be “a statutory document made in accordance with the appropriate local government legislation” in order for it to come under Section 10 of the Official Languages Act. The City Council said that the document was a discussion document in regard to which the Council sought submissions from the public before deciding on making any statutory change under the Draft City Development Plan 2005-2011: “On that basis, we do not believe that it is a document ‘made by or under the Authority’ of the City Council, as Section 10 of the Act requires.” (translation)

The City Council emphasised the difference between the role of the elected members of the Council and the Council’s executive in these matters:

“Only the statutory body makes policy decisions (i.e. the Elected Council). There are administrative processes in place and the management executive makes decisions accordingly to ensure that the organisation is run efficiently and effectively. It is clearly specified in Section 130 of the Local Government Act 2001 that the policy making function of local authorities rests solely with the elected representatives.” (translation)

As a summary of the City Council’s central arguments, it appeared to the Council that the document did not come under Section 10(a) of the Official Languages Act since the document was not made officially by the Council in accordance with local government legislation and since no Council document would set out public policy proposals without a statutory recommendation.

### General Overview of the Investigation

Section 10 of the Official Languages Act has the power to amend provisions of other enactments. This means that other enactments cannot be used to limit or rescind obligations under this provision; it is necessary to comply with the obligation under this provision.

It was clear that there were a number of basic requirements in order to bring a document under Section 10 of the Act:

- A written document must exist.
- That document must be published and this would mean that it must be available to the public.
- The document must be that of a public body under the Act “made by or under its authority”.
- The document must contain “public policy proposals”. It appears that this encompasses consultation documents in which proposals on public policy, which may or may not be implemented as policy, are presented for consideration. This includes White and Green Papers and draft development plans, although it is not limited to these documents.

Rinne an Chomhairle Cathrach argóintí láidre nach raibh an doiciméad á bhí á mheas ag an imscrúdú déanta ag an gComhairle ná faoina húdarás. Bhraith an Chomhairle ar an argóint nár dhoiciméad den chineál sin é go dtí go ndéanfaí moladh reachtúil as, is é sin le rá, moladh chun an Plean Forbartha Cathrach a athrú faoi Alt 13 den Acht um Pleanáil agus Forbairt 2000.

Chreid mé go raibh an léirmhíniú sin ar an gcoincheap a bhain le doiciméad de chuid comhlachta phoiblí *“a dhéanfaidh sé nó a dhéanfar faoina údarás”* róchúng i gcomhthéacs ghnáthbhrí na bhfocal agus de réir gnáthrialacha forléirithe agus níor ghéill mé dó.

Ba léir dom gur bhain a raibh i gceist san fhoráil seo (i.e. *“a dhéanfaidh sé nó a dhéanfar faoina údarás”*) le gach cineál comhlachta phoiblí a thiocfadh faoi scáth na reachtaíochta. Ní fhacthas dom gur le sainmhíniú nó léirmhíniú ó reachtaíocht i réimse amháin (i.e. údaráis áitiúla) ba cheart an coincheap seo a fhorléiriú, go háirithe nuair a bhí an réamhráiteas *“D’ainneoin aon achtachtáin eile...”* tugtha mar thús leis an bhforáil.

Maidir leis an idirdhealú a rinne an Chomhairle Cathrach idir ról bhaill thofa na Comhairle agus fheidhmeannas na Comhairle sna gnóthaí seo, ní fhacthas dom gur bhain sé seo le croí na ceiste sa chás seo. Is léir go bhfuil cumhacht agus údarás ag baill thofa na Comhairle tograí beartais phoiblí a cheadú ach ní léir go bhfuil cosc ar an mbainistíocht fheidhmeach pléchaipéis nó dréachtadoiciméad a dhéanamh le foilsiú ina mbeadh rogha de thograí beartais phoiblí a bhféadfaí glacadh nó diúltú dóibh in am trátha. Dá bhrí sin ar fad, bhí mé lánchinnte gur dhoiciméad é seo a bhí déanta ag an gComhairle Cathrach nó faoina húdarás.

An t-aon cheist eile a tháinig chun cinn ná ar leagadh amach *“tograí beartais phoiblí”* sa doiciméad a bhí i gceist. Cé gur léir gur plécháipéis é mar chuid de phróiseas comhairliúcháin, theip orm tograí beartais phoiblí a aimsiú ann. Chonacthas dom gur chongaraí é do dhearcpháipéar ar an staid reatha nó gur leabhrán faisnéise, teorach nó eolais é seachas doiciméad a raibh tograí beartais phoiblí leagtha amach ann.

Ar an gcúis sin, agus ar an gcúis sin amháin, ní fhacthas dom gur dhoiciméad é a tháinig faoi Alt 10(a) d’Acht na dTeangacha Oifigiúla agus, dá bhrí sin, ní fhacthas dom go raibh dualgas reachtúil ar Chomhairle Cathrach Bhaile Átha Cliath é a fhoilsiú go comhuaineach i nGaeilge agus i mBéarla.

The City Council argued strongly that the document under scrutiny in the investigation was not made by or under the authority of the Council. The Council relied on the argument that it could not be a document of this kind until it became subject to a statutory recommendation, i.e. a recommendation to change the City Development Plan under Section 13 of the Planning and Development Act 2000.

Taking the normal meaning of the words and using the usual rules of interpretation, I believed that this interpretation of the concept regarding a public body’s document *“made by it or under its authority”* was too narrow and I did not accede to it.

It was clear to me that this provision (i.e. *“made by it or under its authority”*) related to every kind of public body coming under the legislation. It did not appear to me that the concept should be construed by a definition or an interpretation from legislation in one area (i.e. local authorities), especially when the provision began with *“Notwithstanding any other enactment...”*.

As regards the distinction made by the City Council between the Council’s elected members and the Council’s executive in these matters, it did not appear to me that this related to the central issue in this case. It is clear that elected members of the Council have the power and authority to sanction public policy proposals but it is not clear that the executive management is prohibited from publishing a discussion document or draft document containing a choice of public policy proposals that could be accepted or rejected in due course. As a result of all of this, I was certain that this document had been made by the City Council or under its authority.

The only other question that arose was whether or not *“public policy proposals”* were set out in the document. Although it was clear that it was a discussion paper as part of a consultation process, I failed to find public policy proposals in it. It appeared to me that it was closer to a position paper on the current situation, or that it was a guide or information booklet rather than a document setting out public policy proposals.

For that reason and that reason only, it did not appear to me that it was a document under Section 10(a) of the Official Languages Act and, therefore, it did not appear to me that Dublin City Council had a statutory duty to publish it simultaneously in Irish and English.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Níor sháraigh Comhairle Cathrach Bhaile Átha Cliath an dualgas reachtúil teanga atá daingnithe in Alt 10(a) d'Acht na dTeangacha Oifigiúla 2003 i bhfoilsíú trí Bhéarla amháin a dhéanamh ar an doiciméad ar a dtugtar Maximising the City's Potential: a Strategy for Intensification and Height ag tráth nach raibh leagan Gaeilge ar fáil go comhuaineach.

## Moltaí an Imscrúdaithe

Ó tharla nach raibh aon sárú déanta ar an Acht, ní raibh aon mholtaí le déanamh agam sa chás seo.

## Achomhairc chuig an Ard-Chúirt

Meabhraíodh i dtuarascáil an imscrúdaithe go raibh ceart reachtúil ann achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 20 Márta 2008  
Tuarascáil eisithe: 11 Meitheamh 2008

## Finding of the Investigation

This was the finding of the investigation:

- Dublin City Council did not contravene the statutory language duty confirmed in Section 10(a) of the Official Languages Act 2003 by publishing the document entitled Maximising the City's Potential: a Strategy for Intensification and Height in English only at a time when an Irish version was not simultaneously available.

## Recommendations of the Investigation

Since there was no contravention of the Act, I had no recommendations to make in this case.

## Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 20 March 2008  
Report issued: 11 June 2008

## An Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta

### Ábhar an Imscrúdaithe

Ar sháraigh an Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta an dualgas reachtúil teanga atá daingnithe i bhfo-alt 9(2) d'Acht na dTeangacha Oifigiúla 2003 nuair a tugadh freagra i scríbhinn i mBéarla ar chumarsáid i scríbhinn i nGaeilge i mí Bealtaine 2008, mar a líomhain an gearánach sa chás seo?

### Cúlra

Rinne ball den phobal gearán gur sheol sí foirm iarratais, nach raibh ar fáil i nGaeilge ach a bhí líonta aici i nGaeilge, mar aon le cáipéisí tacaíochta i nGaeilge chuig an gComhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta ag tús 2008 ag lorg scoláireacht taighde.

Fuair sí litir i mBéarla dar dáta an 9 Bealtaine 2008 ag glacadh lena hiarratas agus ag bronnadh scoláireachta uirthi. Bhí foirm dhearbhairthe, arís i mBéarla, leis an litir seo agus líon sí í seo arís i nGaeilge.

Faoi fho-alt 9(2) d'Acht na dTeangacha Oifigiúla 2003, tá sé de cheart ag duine freagra i nGaeilge a fháil ar chomhfhreagras i scríbhinn i nGaeilge le comhlacht poiblí a thagann faoi scáth na reachtaíochta, mar atá, an Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta.

Bhí m'Oifig i dteagmháil leis an gComhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta faoi ghearán den chineál céanna le linn 2007. Dúradh ag an am sin go raibh meamram eisithe chuig an bhfoireann ar fad maidir lena ndualgais faoin Acht agus go raibh córas curtha i bhfeidhm lena chinntiú go bhfreagrófaí cumarsáid i nGaeilge sa teanga chéanna sin.

Thug mé suntas freisin do rabhadh tugtha i gcáipéisí na Comhairle a bhain le téarmaí agus coinníollacha a scéimeanna inar dúradh go bhféadfaí iarratais a dhéanamh i nGaeilge nó i mBéarla ach inar comhairlódh dóibh siúd a roghnódh an Ghaeilge *“to submit their own English translation in order to facilitate evaluation by the International Board of Assessors...”*. Ba mhian liom an bunús a bhí leis an bhfógra sin a thuiscint. Shocraigh mé imscrúdú a thionscnamh ar an 26 Bealtaine 2008.

## Irish Research Council for the Humanities and Social Sciences

### Subject of Investigation

Did the Irish Research Council for the Humanities and Social Sciences contravene the statutory language duty confirmed in sub-section 9(2) of the Official Languages Act 2003 by replying in writing in English to a communication in writing in Irish in May 2008, as alleged by the complainant in this case?

### Background

A member of the public complained that she had forwarded an application form, which was not available in Irish but was completed by her in Irish, as well as supporting documents in Irish to the Irish Research Council for the Humanities and Social Sciences at the beginning of 2008 seeking a research scholarship.

She received a letter in English dated 9 May 2008 accepting her application and awarding her a scholarship. There was a declaration form, also in English, with this letter and again she completed it in Irish.

Under sub-section 9(2) of the Official Languages Act 2003, a person has the right to receive a reply in Irish to written correspondence in Irish with a public body which comes under the legislation. The Irish Research Council for the Humanities and Social Sciences is such a body.

My Office had contacted the Irish Research Council for the Humanities and Social Sciences with regard to a similar complaint during 2007. At that time we were informed that a memorandum had been issued to all staff with regard to their duties under the Act and that a system had been put in place to ensure that any communication in Irish would be answered in that same language.

I also noticed a warning given in the Council's documentation concerning the terms and conditions of its schemes where it was stated that applications could be made in either Irish or English but that those choosing Irish were advised *“to submit their own English translations in order to facilitate evaluation by the International Board of Assessors...”*. I wished to understand the basis for that statement. I decided to initiate an investigation on 26 May 2008.

## Freagra na Comhairle

Ghlac an Chomhairle leis gur sháraigh sí an dualgas reachtúil faoi fho-alt 9(2) den Acht. Dúradh gurbh oth léi an méid a tharla sa chás seo agus iad “*ar bís ag iarraidh torthaí an chomórtais úd a eisiúint*”.

Thug an Chomhairle an léargas seo i dtaca leis an Scéim Mhaoinithe do Scoláireachtaí larchéime Rialtas na hÉireann sna Daonnachtaí agus sna hEolaíochtaí Sóisialta as ar eascair an gearán a rinneadh liom:

*“Faoi scéim na bliana 2008/09, fuair 501 iarratas... De bharr an líon mór iarratas a seoladh, cuireadh litreacha na dtorthaí amach ag úsáid chóras postchumaisc Microsoft Word. Is mar gheall air sin a fuair [an gearánach] freagra i mBéarla.”*

*Glacann an Chomhairle leis gur earráid riaracháin a bhí ansin nár cheart a tharlú in aon chor... theastaigh uainn iad ar fad a chur ar an eolas maidir le toradh an phróisis mheasúnaithe a luaithe ab fhéidir...”*

Thagair an Chomhairle freisin don cheist a bhí tarraingthe anuas agam i dtaca le hAlt 12 de théarmaí agus de choinníollacha na Scéime ina luaitear:

*“Féadfar iarratas a dhéanamh i mBéarla nó i nGaeilge. Más mian le hiarratasóirí iarratas a dhéanamh i nGaeilge, moltar dóibh aistriúchán Béarla a sholáthar in éineacht leis an iarratas le go mbeidh an Bord Idirnáisiúnta Measúnóirí in ann é a mheas. Mura gcuirfeadh aistriúchán Béarla ar fáil, beidh iarratasóirí faoi cheangal ag an aistriúchán a chuirfidh an Chomhairle ar fáil don Bhord Idirnáisiúnta Measúnaithe thar ceann an iarratasóra.”*

Tugadh an míniú seo a leanas ar an bhforáil sin:

*“Ó tharla gur ó gach cearn den domhan na daoine acadúla a shuíonn ar na Boird Mheasúnaithe againn, seoltar an próiseas measúnaithe i mBéarla. Dá bhrí sin, ní mór aistriúchán Béarla a bheith ar fáil do chomhaltaí boird i gcás gach ceann de na hiarratais le gur féidir leis na comhaltaí iad a athbhreithniú.”*

## Osradharc Ginearálta ar an Imscrúdú

Níl aon amhras ann ach gur sháraigh an Chomhairle sa chás seo an dualgas reachtúil teanga atá daingnithe i bhfo-alt 9(2) d'Acht na dTeangacha Oifigiúla. Maidir leis an bhforáil i scéimeanna na Comhairle a bhain le téarmaí agus coinníollacha, b'ábhar imní don imscrúdú cur chuige na Comhairle sa chás.

Cé gur léir go raibh an Chomhairle sásta aistriúchán i mBéarla a sholáthar, bhí sé soiléir go bhféadfaí a fheiceáil gur rabhadh a bhí i gceist nuair a dúradh go mbeadh iarratasóirí “*faoi cheangal ag an aistriúchán a chuirfidh an Chomhairle ar fáil don Bhord Idirnáisiúnta Measúnaithe thar ceann an iarratasóra*” mura

## Council's Response

The Council accepted that it had contravened the statutory duty under sub-section 9(2) of the Act. It said that it regretted what had happened in this case while they were “*anxious to issue the results of the competition*”. (translation)

The Council provided this insight into the Irish Government's Funding Scheme for Postgraduate Scholarships in the Arts and Social Sciences in relation to which the complaint made to me had arisen:

*“We received 501 applications under the 2008/09 scheme... Due to the large number of applications sent, the Microsoft Word mailmerge postal system was used to issue the letters containing the results. Because of this, [the complainant] received a reply in English.”*

*The Council accepts that this was an administrative error that should not have occurred at all... we wished to inform all the applicants of the result of the evaluation process as soon as possible...”* (translation)

The Council referred also to the question which I had raised with regard to Paragraph 12 of the Scheme's terms and conditions, namely:

*“Applications may be made in either English or Irish. Should applicants wish to apply in Irish, they are advised to submit their own English translation along with the application in order to facilitate evaluation by the International Board of Assessors. If an English translation is not provided, applicants will be bound by the translation which the Council provides on their behalf to the International Board of Assessors.”* (translation)

That provision was clarified as follows:

*“The assessment process is conducted through English as the academics on our Assessment Boards come from all over the world. Consequently, the board members require an English translation for all applications in order to review them.”* (translation)

## General Overview of the Investigation

The Council had certainly contravened the statutory duty confirmed in sub-section 9(2) of the Official Languages Act in this instance. The Council's approach regarding the provision in the terms and conditions of the Council's schemes was of concern to the investigation.

Although the Council was prepared to provide a translation in English, the statement that if applicants did not provide their own translation in English, they would “*be bound by the translation which the Council provides to the International Assessment Board on their behalf*” could clearly be taken as a



gcuirfidís aistriúchán Béarla dá gcuid féin ar fáil. Chonacthas don imscrúdú gur seirbhís choinníollach a bhí á tairiscint trí Ghaeilge dá mbeadh sé molta go mbeadh aistriúchán Béarla le hiarratais i nGaeilge.

Gnó don Chomhairle é a cuid oibre féin a stiúradh ina rogha bealach fad is nach bhfuil an reachtaíocht á sárú aici. Dá bhfeicfí don Chomhairle gur trí aistriúchán go Béarla ar iarratais i nGaeilge ab fhearr ab fhéidir léi feidhmiú, ba ar an gComhairle amháin a thitfeadh sé an cruinn-aistriúchán sin a sholáthar. Níor chreid mé gur cheadaigh fo-alt 9(2) den Acht coinníollacha de chineál ar bith a chur le ceart an phobail ceachtar teanga oifigiúil a úsáid ina gcuid cumarsáide i scríbhinn le heagraíocht stáit a bhí ainmnithe faoin Acht sin.

Níor cheart go gcuirfeadh comhlacht poiblí aon chiotáí ná caiteachas breise ar iarratasóir a roghnódh iarratas a dhéanamh i nGaeilge thar mar a thabhoífaí dá roghnódh sé nó sí Béarla a úsáid. Sa bhreis air sin, ba léir gurbh ar an gcomhlacht poiblí a thit sé cibé saoráidí ba dhóigh léi ba chuí a chur ar fáil sa ghnó seo chun a chinntiú nach mbeadh aon duine a roghnódh teanga oifigiúil amháin faoi mhíbhuntáiste toisc nár roghnaigh sé nó sí an teanga oifigiúil eile.

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta an dualgas reachtúil teanga atá daingnithe i bhfo-alt 9(2) d'Acht na dTeangacha Oifigiúla 2003 nuair a tugadh freagra i scríbhinn i mBéarla ar chumarsáid i scríbhinn i nGaeilge i mí Bealtaine 2008, mar a líomhain an gearánach sa chás seo.

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go gcloífeadh an Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta go cuí feasta leis na dualgais reachtúla atá daingnithe i bhfo-alt 9(2) d'Acht na dTeangacha Oifigiúla 2003:
  - Trína chinntiú, i gcás ina ndéanfaid duine cumarsáid i dteanga oifigiúil léi, i scríbhinn nó leis an bpost leictreonach, go bhfreagródh sí sa teanga chéanna;
  - Trína chinntiú nach gcuirfí aon chúram ná aon chiotáí bhreise ar dhuine ar mhian leis nó léi teanga oifigiúil amháin a roghnú dá c(h)umarsáid i scríbhinn nó leis an bpost leictreonach leis an gComhairle thar mar a thabhoífaí dá roghnódh sé nó sí an teanga oifigiúil eile a úsáid;

warning. It appeared to the investigation that in recommending that an English translation accompany the application in Irish, the service offered through Irish was conditional.

It is a matter for the Council to direct its own affairs as it sees fit as long as it is not contravening the legislation. If the Council considered that the best possible way for it to function was by way of English translations of applications in Irish, it was solely the responsibility of the Council to provide an accurate translation. I did not believe that sub-section 9(2) of the Act authorised the attaching of conditions of any kind to the public's right to use either of the official languages in written communication with a public body specified under that Act.

A public body should not impose any inconvenience or any additional expenditure on a person choosing to apply through Irish beyond that incurred if he or she chose to apply in English. In addition, it was clear that a public body must provide whatever facilities it considered appropriate in this matter in order to ensure that a person choosing one official language would not be at a disadvantage because he or she had not chosen the other official language.

## Finding of the Investigation

This was the finding of the investigation:

- That the Irish Research Council for the Humanities and Social Sciences had contravened the statutory language duty confirmed in sub-section 9(2) of the Official Languages Act 2003 by replying in writing in English to a communication in writing in Irish in May 2008, as alleged by the complainant in this case.

## Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

- That the Irish Research Council for the Humanities and Social Sciences properly comply henceforth with the statutory duty confirmed in sub-section 9(2) of the Official Languages Act 2003 by:
  - Ensuring that a person communicating with it in an official language, in writing or by electronic mail, would receive a reply in the same language;
  - Ensuring that no additional responsibility or inconvenience would be placed on a person choosing one official language to communicate in writing or by electronic mail with the Council other than that occurring if he or she chose the other official language;



- Trína chinntiú nach mbeadh duine ar mhian leis nó léi teanga oifigiúil amháin a roghnú seachas an teanga eile dá c(h)umarsáid, i scríbhinn nó leis an bpost leictreonach, leis an gComhairle faoi mhíbhuntáiste de thoradh na rogha sin nó toisc nár roghnaigh sé nó sí an teanga oifigiúil eile;
- Trína chinntiú go ndéanfaí an leasú cuí ar an bhforáil i dtéarmaí agus coinníollacha na scéimeanna leis an gcothromaíocht teanga sin a chinntiú.

2. Go n-eiseodh an Chomhairle um Thaighde sna Dána agus sna hEolaíochtaí Sóisialta nóta eolais oifigiúil chuig baill foirne na heagraíochta ar fad a luaithe agus ab fhéidir, ach laistigh de 6 seachtaine ó dháta na tuarascála seo ar a dhéanaí:

- Ag deimhniú gur chinn an t-imscrúdú seo gur sháraigh an eagraíocht a dualgas reachtúil teanga sa chás seo agus go raibh dualgas uirthi a chinntiú nach dtarlódh sin arís;
- Ag deimhniú go gcuirfí cleachtais oibre i bhfeidhm a chinnteodh go gcomhlíonfaí na dualgais reachtúla teanga feasta; agus
- Go seolfaí cóip den nóta eolais sin chugam mar Choimisinéir Teanga a luaithe agus a d'eiseofaí é.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 26 Bealtaine 2008  
Tuarascáil eisithe: 24 Meitheamh 2008

- Ensuring that a person choosing one official language rather than the other in communicating in writing or by electronic mail with the Council would not be at a disadvantage because of that choice or because he or she did not choose the other official language;
- Ensuring that the provision in its schemes' terms and conditions would be appropriately amended to ensure language equality.

2. That the Irish Research Council for the Humanities and Social Sciences issue an official information note to all its staff as soon as possible, but within 6 weeks of this report's date at the latest, stating:

- That this investigation had decided that the organisation had contravened its statutory language duty in this instance and that it was obliged to ensure that this would not happen again;
- That work practices would be implemented to ensure compliance henceforth with statutory language duties; and
- That a copy of the information note would be sent to me as Coimisinéir Teanga as soon as it was issued.

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 26 May 2008  
Report issued: 24 June 2008

## Iarnród Éireann

### Ábhar an Imscrúdaithe

An amhlaidh go bhfuil nó nach bhfuil an fhoráil in Alt 57(2) den Acht Iompair 1950 – ar fhoráil í a bhaineann le stádas nó le húsáid teanga oifigiúla – á comhlíonadh i dtaca le ticéid taistil de chuid Iarnród Éireann?

### Cúlra

Rinne ball den phobal gearán nach raibh an úsáid teanga ar thicéad taistil áirithe a bhí eisithe ag Iarnród Éireann ag teacht leis an riachtanas reachtúil teanga a leanas atá daingnithe in Alt 57(2) den Acht Iompair 1950:

*“Ní foláir na cárta-thicéidí paisinéara uile a eiseos an Bord i gcóir turasanna laistigh den Stát a bheith clóbhualte i nGaeilge ach is cead iad a bheith clóbhualte i nGaeilge agus i mBéarla.”*

Bhí an ticéad taistil a seoladh chugam clóbhualte i mBéarla amháin. Bheartaigh mé imscrúdú a thionscnamh ar an 28 Márta 2008.

### Freagraí Iarnród Éireann

Dúirt Príomhfheidhmeannach Iarnród Éireann gur i meaisín uathoibríoch díolta ticéad, de chinéal a úsáidtear i go leor stáisiún de chuid Iarnród Éireann, a clóbhuaileadh an ticéad i mBéarla. Dúradh gur ticéid i mBéarla amháin a chlóbhuailtear sna meaisíní sin faoi láthair.

Ba é croí na hargóna ag Iarnród Éireann nár chárta-thicéad paisinéara, de réir mar a shainmhínítear in Alt 57(2) den Acht Iompair 1950, an cineál ticéid a fuair an gearánach. Dúirt an Príomhfheidhmeannach gurb é an fáth a bhí leis seo ná *“go dtagraíonn an téarma cárta-thicéad paisinéara á úsáidtear san Acht do chineál ticéid réamh-phriontáilte nach bhfuil in úsáid a thuilleadh.”*

Thug an Príomhfheidhmeannach soiléiriú breise mar seo a leanas: *“Is ticéid déanta as páipéar a phriontáiltear ag an bpointe eisithe iad na ticéid ar fad a eisiúnn Iarnród Éireann anois.”*

Dúirt an Príomhfheidhmeannach gur aithin an comhlacht *“go bhfuil sé tábhachtach go dtabharfaí stádas comhionann do dhá theanga oifigiúla an Stáit”*. Rinne sé an tairiscint seo a leanas: *“Chun na críocha sin, tá ar rannóg Teicneolaíochta an Eolais i mbun cainteanna cheana féin le soláthróirí ar Meaisíní Díola Ticéad Uathoibríocha chun na córais a leasú lena chinntiú go mbeidh ticéid priontáilte i nGaeilge ag custaiméirí a roghnóidh ticéid a cheannach trí Ghaeilge.”*

## Iarnród Éireann

### Subject of Investigation

Is the provision in Section 57(2) of the Transport Act 1950 – a provision relating to the status or use of an official language – being complied with by Iarnród Éireann with regard to Iarnród Éireann travel tickets?

### Background

A member of the public complained that the language usage on certain tickets issued by Iarnród Éireann did not comply with the following statutory language requirement confirmed in Section 57(2) of the Transport Act 1950:

*“All passenger card tickets issued by the Board for journeys within the State shall be printed in the Irish language but may be printed in both the Irish and English languages.”*

The travel ticket sent to me was printed in English only. I decided to initiate an investigation on 28 March 2008.

### Iarnród Éireann's Responses

Iarnród Éireann's Chief Executive stated that the ticket was printed in English by an automatic ticket sales machine of a type used in many of Iarnród Éireann's stations. It was stated that at present those machines print tickets in English only.

Iarnród Éireann's central argument was that the type of ticket obtained by the complainant was not a passenger card ticket, as defined in Section 57(2) of the Transport Act 1950. The Chief Executive said that this was because *“the term passenger card ticket used in the Act refers to a pre-printed ticket which is not in use any more.”* (translation)

The Chief Executive further clarified as follows: *“All tickets now issued by Iarnród Éireann are paper tickets printed at the point of issue.”* (translation)

The Chief Executive stated that the company recognised *“the importance of affording equal status to the State's two official languages”*. (translation) He made the following offer: *“For this purpose, our Information Technology division is already in discussions with suppliers of our Automatic Ticket Sales Machines in order to alter the systems to ensure the availability of tickets printed in Irish for customers choosing to purchase tickets through Irish.”* (translation)

## Osradharc ar an Imscrúdú

Ba léir nár ghlac Iarnród Éireann leis gurbh ionann an sórt ticéad traenach a bhí i gceist san imscrúdú seo agus na *“cárta-thicéidí paisnéara”* dá dtagraítear in Alt 57(2) den Acht Iompair 1950. Ba léir, mar sin, gur ghá forléiriú dlíthiúil a dhéanamh ar an Alt agus seasamh Iarnród Éireann a mheá sa chomhthéacs sin.

Tugadh an tAcht sin i bhfeidhm beagnach trí scór bliain ó shin agus, cé go ndearnadh leasuithe éagsúla go minic ar fhorálacha eile de chuid an Achta sin sna blianta ó shin, níor bheartaigh an tOireachtas an fhoráil seo a leasú. Ba chosúil gur theastaigh ón Oireachtas in achtú na forála seo gur clóbhualte i nGaeilge nó go dátheangach a bheadh na *“cárta-thicéidí”* a d’eiseofaí chuig paisinéirí do thurais laistigh den Stát.

Ba é mo thuairim gur thagair an *“cárta-thicéad”* don ionstraim sin a thugtar do phaisinéir a chruthaíonn go bhfuil cead, ceadúnas, dearbhú nó barántas ag an duine sin go bhfuil sé údaraithe dó/di taisteal ar aistear áirithe laistigh den Stát. Is é an cead nó an t-údarás chun taisteal a bhronnann an ionstraim seo ar an duine atá i gcroílár na forála seo seachas an t-ábhar ar a bhfuil sé clóbhualte (cárta nó páipéar) nó an modh táirgthe a úsáideadh lena dhéanamh (réamhphriontáilte nó priontáilte ag an bpointe eistithe ar mheaisín uathoibríoch).

Sa chás, áfach, is go mbeadh brí an ailt seo den Acht doiléir nó débhríoch nó nár léir uaithi intinn shoiléir an Oireachtais – rud nár ghéill mé dó – forálann an tAcht Léiriúcháin 2005 (Alt 5(1)) go dtabharfaí don fhoráil *“forléiriú ar léir uaidh intinn shoiléir an Oireachtais nó na parlaiminte lena mbaineann, de réir mar a bheidh, i gcás gur féidir an intinn sin a fhionnadh as an Acht ina iomláine”*. Is léir ó Alt 57 ina iomláine go bhforálann sé d’úsáid na Gaeilge in eilimintí d’obair an chomhlachta, mar atá buanfhógraí, buanchomharthaí poiblí agus ticéid.

Chreid mé nár leor go rachadh Iarnród Éireann i mbun comhráite le *“soláthróirí ár meaisíní díola ticéad lena fháil amach cad iad na costais agus an scála ama a bheadh i gceist lenár gcórais a mhodhnú lena chinntiú go mbeidh ticéid priontáilte i nGaeilge ag custaiméirí a roghnóidh a gcuid ticéad a cheannach trí Ghaeilge”* leis an dualgas a chonacthas dom a bheith daingnithe in Alt 57(2) den Acht Iompair 1950 a chomhlíonadh.

Baineann an dualgas i leith sholáthar na dticéad trí Ghaeilge nó go dátheangach le gach ticéad a eisíonn an comhlacht do thurais laistigh den Stát. Níl sé teoranta do na cinn sin amháin a d’eiseofaí do chustaiméirí a roghnódh a gcuid ticéad a cheannach trí Ghaeilge i meaisín uathoibríoch díolta ticéad. Go deimhin, is cosúil nach bhfuil aon fhoráil reachtúil déanta a cheadódh don chomhlacht ticéid aonteangacha Bhéarla a sholáthar do thurais laistigh den Stát.

## Overview of the Investigation

It was clear that Iarnród Éireann did not accept that the type of train ticket at issue in this investigation was the same as the *“passenger card tickets”* referred to in Section 57(2) of the Transport Act 1950. It was evident, therefore, that it was necessary to define the legal interpretation of the Section and to consider Iarnród Éireann’s position in that context.

That Act came into force almost sixty years ago and, although various amendments were often made to other provisions of that Act over the years, the Oireachtas did not decide to amend this provision. It seemed that in enacting this provision, the Oireachtas intended that the *“card tickets”* issued to passengers for travel within the State would be printed in Irish or bilingually.

I was of the opinion that the *“card ticket”* referred to that instrument which is given to a passenger to prove that he/she has a permit, licence, voucher or warrant authorising travel on a particular journey within the State. It was the permission or the authority bestowed by this instrument on the person that was central in this provision rather than the material (card or paper) on which it was printed or the production process used to manufacture it (pre-printed or printed by an automatic machine at the point of issue).

If, however, the meaning of this section of the Act was vague or ambiguous or the clear intention of the Oireachtas was unclear from it – something I did not accept – the Interpretation Act 2005 (Section 5(1)) provided that the provision be given *“a construction that reflects the plain intention of the Oireachtas or parliament concerned, as the case may be, where that intention can be ascertained from the Act as a whole”*. It was evident from Section 57 in its totality that it provides for the use of Irish in elements of the company’s work, i.e. permanent notices, permanent public signs and tickets.

I did not consider that it was sufficient for Iarnród Éireann to enter into discussions *“with our suppliers of automatic ticket sales machines to find out the costs and the timeframe which would be involved in modifying our systems to ensure the availability of tickets printed in Irish for customers choosing to purchase tickets through Irish”* (translation) in order to comply with the duty which I perceived to be confirmed in Section 57(2) of the Transport Act 1950.

The obligation to provide tickets in Irish or bilingually applies to all tickets issued by the company for travel within the State. It is not confined solely to those tickets issued to customers choosing to purchase such tickets through Irish from an automatic ticket sales machine. Indeed, it appears that no statutory provision has been made permitting the company to provide unilingual tickets in English for travel within the State.

## Ginearálta

Is léir go n-éilíonn Iarnród Éireann go ginearálta go gcomhlíonadh paisinéirí a ndualgais féin agus iad ag taisteal ar thurais traenach, go háirithe an dualgas chun táille chuí a íoc mar mhalairt ar chearta taistil. Caithfidh Iarnród Éireann a dhualgais féin a chomhlíonadh freisin, go háirithe iad siúd atá daingnithe sa dlí ag an Oireachtas agus ina measc Alt 57(2) den Acht Iompair 1950.

Meabhraítear freisin a raibh le rá ag an mBreitheamh Hardiman in athbhreithniú breithiúnach de chuid na Cúirte Uachtaraí sa bhliain 2001:

*“Leagann an Stát nua-aimseartha iliomad dualgas trom ar shaoránaigh i dtaca le gnéithe éagsúla den tsaoil ó ghéilliúlacht i gcúrsaí cánach go dlí pleanála. Dualgais thuirsiúla a ghlacann am agus atá costasach a chomhlíonadh cuid mhór de na dualgais seo ach is cuí é a bheith riachtanach iad a chomhlíonadh.*

*Mar an gcéanna caithfidh an Stát féin a dhualgais a chomhlíonadh, go háirithe iad siúd atá cumhdaithe sa Bhunreacht agus ní féidir é a chloisteáil ag gearán ach chomh beag leis an saoránach aonair gur dualgais thuirsiúla, throma iad sin. Go háirithe, ní féidir an Stát a chloisteáil ag gearán gur de bharr nár chomhlíon sé a dhualgais le scór bliain anuas is breis atá deacracht níos mó aige na dualgais sin a chomhlíonadh anois.”*

(Hardiman, J. – Athbhreithniú Breithiúnach – An Chúirt Uachtarach. Tag: Ó Beoláin v Fahy [2001] 2 I.R. 279.)

## Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Go raibh an fhoráil in Alt 57(2) den Acht Iompair 1950 – ar foráil í a bhaineann le stádas nó le húsáid teanga oifigiúla – á sárú i dtaca le ticéid taistil de chuid Iarnród Éireann do thurais laistigh den Stát.

## Moltaí an Imscrúdaithe

Ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Gan dochar don dualgas iomlán a mheas mé a bheith i gceist, go gcinnteodh Iarnród Éireann go dtógfadh an comhlacht na céimeanna cuí a luaithe agus ab fhéidir chun go gcoifífeadh an comhlacht feasta leis an dualgas reachtúil teanga atá daingnithe in Alt 57(2) den Acht Iompair 1950 trína chinntiú go mbeadh na ticéid paisinéara a d'eiseofaí do thurais iarnróid laistigh den Stát clóbhualte i nGaeilge nó go dátheangach agus go n-ullmhófaí agus go gcuirfí i bhfeidhm plean réalaióch le spriocanna cinnte ama leis seo a bhaint amach.

## General

It is clear that in general Iarnród Éireann requires passengers to fulfil their obligations when undertaking train journeys, especially the duty to pay the correct fare in exchange for the right to travel. Iarnród Éireann must also fulfil its own obligations, particularly those confirmed in law by the Oireachtas, including Section 57(2) of the Transport Act 1950.

Mr Justice Hardiman's statement in a judicial review by the Supreme Court in 2001 is recalled:

*“The modern State necessarily imposes many onerous duties on citizens in relation to various aspects of life, from tax compliance to planning law. Many of these duties are irksome, time-consuming and expensive to comply with, but compliance is properly required.*

*Equally the State itself must comply with its obligations, particularly those enshrined in the Constitution, and can no more be heard to complain that such compliance is irksome or onerous than can an individual citizen. In particular, the State cannot be heard to complain that its non-compliance over a period of decades have now rendered present compliance even more difficult.”*

(Hardiman, J. – Judicial Review – Supreme Court. Ref: Ó Beoláin v Fahy [2001] 2 I.R. 279.)

## Finding of the Investigation

This was the finding of the investigation:

- That the provision in Section 57(2) of the Transport Act 1950 – a provision relating to the status or use of an official language – was being contravened by Iarnród Éireann in relation to travel tickets for journeys within the State.

## Recommendations of the Investigation

These were the recommendations I made as Coimisinéir Teanga:

- Without prejudice to the full obligation that I considered to be at issue, that Iarnród Éireann ensures that it takes the appropriate steps as soon as possible to comply henceforth with the statutory language requirement confirmed in Section 57(2) of the Transport Act 1950 by ensuring that passenger tickets for railway journeys within the State were printed in Irish or bilingually and that a realistic plan be prepared and implemented with specific timeframes to achieve this.

2. Go bhfeidhmeodh an plan sin mar a bheadh “léarscáil bhóithre” ann d’Iarnród Éireann leis an eagraíocht a threorú óna hionad reatha neamhreachtúil go ceann scríbe ina mbeadh sí dílis don dualgas reachtúil atá daingnithe sa dlí ag an Oireachtas faoi Alt 57(2) den Acht Iompair 1950 agus go ndéanfaí an t-aistear sin a chríochnú laistigh den tréimhse ama is giorra a bheadh réasúnta.
3. Go dtuigfeadh Iarnród Éireann go mbeadh sé de cheart ag Oifig an Choimisinéara Teanga filleadh arís in am trátha, dá mba chuí, le deimhin a dhéanamh go mbeifí ag cloí leis an dualgas teanga atá daingnithe in Alt 57(2) den Acht Iompair 1950, ar foráil d’achtachán í a bhaineann le stádas nó le húsáid teanga oifigiúla.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d’achomharc.

Imscrúdú seolta: 28 Márta 2008  
Tuarascáil eisithe: 17 Meitheamh 2008

2. That that plan act as a “road map” for Iarnród Éireann to lead the organisation from its current non-statutory position to a position of compliance with the statutory duty confirmed in law by the Oireachtas in Section 57(2) of the Transport Act 1950 and that that journey should be made in the shortest reasonable timeframe.
3. That Iarnród Éireann appreciate that the Office of An Coimisinéir Teanga retained the right to revert to the matter again in due course, if appropriate, in order to ensure that the language duty confirmed in Section 57(2) of the Transport Act 1950, a provision of an enactment relating to the status or use of an official language, was being complied with.

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 28 March 2008  
Report issued: 17 June 2008

## An tÚdarás um Bóithre Náisiúnta

### Ábhar an Imscrúdaithe

Ar sháraigh an tÚdarás um Bóithre Náisiúnta an dualgas reachtúil teanga atá daingnithe in Alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 i gcás cumarsáid i scríbhinn a dhéanamh leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne chun faisnéis a thabhairt don phobal nó don aicme trí chor poist i mBéarla amháin a eisiúint i mí Lúnasa 2008 maidir le socruithe nua do dholaí (e-flow) ar an M50?

### Cúlra

Rinneadh gearán liom gur chóip i mBéarla amháin den chor poist maidir le socruithe nua do dholaí (e-flow) ar an M50 a sheol an tÚdarás um Bóithre Náisiúnta tríd an gcóras poist i mí Lúnasa 2008 chuig an bpobal i gcoitinne.

Leagann Alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 dualgas ar chomhlachtaí poiblí, an tÚdarás um Bóithre Náisiúnta san áireamh, a chinntiú gur i nGaeilge nó i mBéarla agus i nGaeilge a dhéanfar an chumarsáid i scríbhinn nó leis an bpost leictreonach leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne, más chun faisnéis a thabhairt don phobal nó don aicme atá an chumarsáid sin.

Rinne m'Oifig iarracht an cás seo a réiteach ar bhonn neamhfoirmiúil leis an Údarás ach níor éirigh leis an iarracht sin. Bheartaigh mé imscrúdú a sheoladh ar an 19 Meán Fómhair 2008.

### Cás an Údaráis um Bóithre Náisiúnta

Níor ghlac an tÚdarás leis gur sárú ar Alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 a bhí i seoladh an choir phoist seo i mBéarla amháin.

Thug an tÚdarás an míniú seo a leanas ar chuspóir an bhróisiúir: *"B'é an príomhchuspóir a bhí againn agus an bróisiúr sin á chur amach againn ná chun daoine a spreagadh chun cuntas dolála eFlow a chlárú agus a oscailt, agus is tairiscint tráchtála é seo ón Údarás..."*

Ghlac an tÚdarás leis gur sholáthair an chumarsáid mionsonraí ar oibriocht dola gan bhacainní an M50 ach ba mar *"bhunchuid den mhargaíocht"* a bhí an bróisiúr seo á chur ar fáil, dar leis an Údarás toisc, a dúradh, nach gcláródh daoine do na cuntais a bhí á dtairiscint gan tuiscint a bheith acu ar an rud a raibh siad ag clárú dó agus an fáth a raibh gá dóibh clárú.

## National Roads Authority

### Subject of Investigation

Did the National Roads Authority contravene the statutory language duty confirmed in Section 9(3) of the Official Languages Act 2003 by communicating in writing with the public in general or a class of the public in general for the purpose of furnishing information to the public or the class by issuing a mailshot in English only in August 2008 with regard to new toll (e-flow) arrangements on the M50?

### Background

A complaint was made to me that the National Roads Authority sent a mailshot in English only to the public in general through the postal system in August 2008 with regard to new toll (e-flow) arrangements on the M50.

Section 9(3) of the Official Languages Act 2003 places a duty on public bodies, including the National Roads Authority, to ensure that where they communicate in writing or by electronic mail with the public in general or a class of the public in general, for the purpose of furnishing information to the public or the class, the communication is in Irish or in English and Irish.

My office attempted unsuccessfully to reach agreement in this case on an informal basis with the Authority. I decided to initiate an investigation on 19 September 2008.

### National Roads Authority's Case

The Authority did not accept that by sending this mailshot in English only it had contravened Section 9(3) of the Official Languages Act 2003.

The Authority explained the brochure's purpose as follows: *"Our main purpose in sending out this brochure was to urge people to register and open an e-flow toll account, and was a commercial proposal from the Authority..."* (Translation)

The Authority accepted that, while the communication furnished details on the operation of the M50 barrier-free toll, the brochure was provided as *"a basic marketing measure"* (translation) because, it stated, people would not register for the accounts unless they understood what it was they were registering for and why it was necessary for them to so do.



Thug an tÚdarás le fios gurb é an tuiscint a bhí acu ná gur chlúdaigh Alt 9(3) cásanna cumarsáide a bheadh ann *“chun faisnéis a thabhairt”* agus nár bhain sé le cásanna fógraíochta ná le tairiscintí tráchtála.

Dúirt an tÚdarás:

*“Is é ár dtuiscint ná nach bhfuil fógraíocht dírithe ar tháirgí nó seirbhísí tráchtála a chur chun cinn cuimsithe le raon Ailt 9(3) – dá mbeadh sí, tá seans mór ann go gcruthódh sí saincheisteannta suntasacha ó thaobh cumais fógraíochta agus margaíochta de, le srianta ar leith ag baint le heagraíochtaí tráchtála earnála an Stáit atá i gceist ag an Acht ach nach mbaineann le cuideachtaí insamhlaithe na hearnála príobháidí...”*

### Osradharc Ginearálta ar an Imscrúdú

Is féidir an cás a dhéanamh go bhfuil ceithre ghné éagsúla ag baint le hAlt 9(3) d'Acht na dTeangacha Oifigiúla 2003 agus gur cheart aon chumarsáid atá beartaithe a mheas faoi na slata tomhais sin le féachaint an dtagann nó nach dtagann sí faoi scáth an Ailt seo. Seo a leanas na slata tomhais sin:

- An comhlacht poiblí faoin Acht atá i mbun na cumarsáide?
- An bhfuil an chumarsáid á déanamh i scríbhinn nó leis an bpost leictreonach?
- An cumarsáid í a bhfuil sé mar sprioc aici faisnéis a thabhairt?
- An leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne atá an chumarsáid?

Má shásaíonn cumarsáid áirithe gach ceann de na slata tomhais sin, bheadh an chosúlacht ar chúrsaí go sásaíonn sí gach critéar lena tabhairt faoi fhorálacha Alt 9(3) agus ba cheart go mbeadh sí á déanamh i nGaeilge nó go dátheangach – níl aon fhoráil ann lena leithéid a eisiúint i mBéarla amháin.

Mura sásaíonn an chumarsáid atá beartaithe aon cheann amháin nó níos mó de na slata tomhais thuas, dealraíonn sé nach mbeidh sí san áireamh faoi Alt 9(3).

Ghlac an tÚdarás leis gur comhlacht poiblí é faoin Acht, go ndearnadh an chumarsáid i scríbhinn agus go raibh an chumarsáid sin leis an bpobal i gcoitinne.

Ba é croí na hargóna ag an Údarás gurb é an tuiscint a bhí aige ná gur chlúdaigh Alt 9(3) cásanna cumarsáide a bheadh ann *“chun faisnéis a thabhairt”* agus nár bhain sé le cásanna fógraíochta ná tairiscintí tráchtála.

Is léir nach dtagann an dualgas teanga sin i gceist ach amháin nuair atá faisnéis á tabhairt. An cheist a bhí le freagairt, mar sin, ná ar thug an chumarsáid seo faisnéis?

The Authority indicated that it was their understanding that Section 9(3) covered communications intended to *“provide information”* (translation) but was not concerned with advertising or commercial proposals.

The Authority stated:

*“It is our understanding that advertising aimed at promoting commercial products or services is not covered by Section 9(3) – if it were, it is very probable that it would create considerable issues with regard to advertising and marketing capability, with particular restrictions on the State sector commercial organisations concerned in the Act, but not on similar companies in the private sector...”* (translation)

### General Overview of the Investigation

The case can be made that there are four different aspects to Section 9(3) of the Official Languages Act 2003 and that any proposed communication should be considered under those yardsticks to see if it does or does not come under the aegis of this section. The following are those yardsticks:

- Is the communication from a public body under the Act?
- Is the communication in writing or by electronic mail?
- Is the purpose of the communication to furnish information?
- Is the communication with the public in general or a class of the public in general?

If a communication meets each of those yardsticks, it would appear that it satisfies every criterion to bring it under Section 9(3) and should be made in Irish or bilingually – there being no provision to issue it in English only.

If the proposed communication does not meet any one or more of the above yardsticks, it appears that Section 9(3) does not cover it.

The Authority accepted that it was a public body under the Act, that the communication was done in writing and that that communication was with the public in general.

The Authority's central argument was that it was its understanding that Section 9(3) covered communications *“to furnish information”* and was not concerned with advertising and commercial proposals.

It is clear that the language duty is not at issue unless the purpose of the communication is to furnish information. Consequently, the question to be answered was whether or not this communication furnished information?

Cuireadh an chumarsáid atá i gceist anseo ón Údarás i láthair, den chuid is mó, mar shraith ceisteanna agus freagraí. Freagraíodh gach ceist go cruinn, soiléir ina ceann agus ina ceann, ar bhealach is nach bhféadfaí aon argóint a dhéanamh dáiríre, dar liom, ach go raibh “faisnéis” á tabhairt.

Sa bhreis air sin, leagadh amach eolas faoi na táillí dola a ghearraí le linn 2008 ar chineálacha éagsúla feithiclí ag brath ar an sórt cuntais a bheadh i gceist. Arís ba “faisnéis” a tugadh gan cheist sa chumarsáid sin.

Maidir le hargóint an Údaráis gur chun críche fógraíochta nó margaíochta a raibh aidhm thráchtála aici a bhí scaipeadh na cumarsáide áirithe seo ar an bpobal i gcoitinne, agus gur thug sin lasmuigh de dhualgais Alt 9(3) den Acht í, chonacthas dom nach ndearna an tOireachtas, in achtú na forála seo, aon eisceacht ná teorannú den chineál seo.

Ní bhaineann an dualgas teanga atá daingnithe in Alt 9(3) ach le cumarsáid ó chomhlacht poiblí faoin Acht más i scríbhinn nó leis an bpost leictreonach a dhéantar an chumarsáid. Ní bhaineann an dualgas le fógraí clóite i nuachtáin agus i bhfoilseacháin eile, fógraí raidió, teilifíse agus ar shuímh Ghréasáin, bróisiúir, bileoga eolais, srl.

Chonacthas dom ón gcás a chuir an tÚdarás i láthair an imscrúdaithe gur míchiall a bhain an eagraíocht as an bhforléiriú ar fho-alt 9(3) den Acht a d’fhág gur i mBéarla amháin a scaipeadh an chumarsáid atá i gceist anseo ar an bpobal i gcoitinne.

Fós féin, ba léir dom go raibh sé rómhall ag an bpointe sin, agus nach mbeadh sé chun leas an phobail ná an státchórais ag an tráth sin, leagan Gaeilge den chumarsáid seo a chlóbhualadh agus a dháileadh ar an bpobal i gcoitinne ar fud na tíre chun an dochar a rinne an sárú ar dhualgais reachtúla a chealú nó a laghdú.

Níor ghá go mbeadh an cur chuige seo mar fhasach, áfach, dá dtarlódh sárú den chineál céanna arís ar an bhforáil i bhfo-alt 9(3) den Acht.

The Authority's communication in this case was, for the most part, presented as a series of questions and answers. Each individual question was answered accurately and clearly in such a manner that, to my mind, no argument could really be made but that information was being provided.

In addition, information on toll charges to be charged during 2008 on various types of vehicles was set out, depending on the kind of account involved. Again, unquestionably information was furnished in that communication.

With regard to the Authority's argument that commercial advertising or marketing was the reason for circulating this particular communication to the public in general, thus excluding it from the duties of Section 9(3) of the Act, it appeared to me that the Oireachtas, in enacting this provision, did not make any exception or limitation of this kind.

The language duty confirmed in Section 9(3) relates only to a communication in writing or by electronic mail from a public body under the Act. The duty does not relate to notices printed in newspapers or other publications, radio, television and website notices, brochures, information leaflets, etc.

It appeared to me from the case presented to the investigation by the Authority that, because the organisation wrongly interpreted the meaning of sub-section 9(3) of the Act, the communication in question was circulated in English only to the public in general.

Nonetheless, it was evident to me that it was too late at that juncture, and not in the public interest or that of the state system, to print and circulate at that stage an Irish version of this communication to the public in general throughout the country to abate or reduce the harm caused by the breach of statutory duties.

This approach is not necessarily a precedent, however, if the provision in Section 9(3) of the Act were similarly contravened in the future.

## Fionnachtain

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Gur sháraigh an tÚdarás um Bóithre Náisiúnta an dualgas reachtúil atá daingnithe in Alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 i gcás cumarsáid i scríbhinn a dhéanamh leis an bpobal i gcoitinne chun faisnéis a thabhairt don phobal trí fhoilseachán i mBéarla amháin a seachadadh mar chor poist i mí Lúnasa 2008 maidir le socruithe nua do dholáí (e-flow) ar an M50.

## Moltaí an Imscrúdaithe

Ag féachaint don imscrúdú, ba iad seo a leanas na moltaí a rinne mé mar Choimisinéir Teanga:

- Go dtógfadh an tÚdarás um Bóithre Náisiúnta gach céim chúil le cinntiú go mbeadh sé ar an eolas faoina dhualgaís reachtúla faoi Acht na dTeangacha Oifigiúla 2003 agus go gcomhlíonadh sé go hiomlán agus go cuí forálacha an Aichta.
- Go gcinnteodh an tÚdarás um Bóithre Náisiúnta sa chás go ndéanadh sé cumarsáid i scríbhinn leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne feasta chun faisnéis a thabhairt don phobal nó don aicme go mbeadh an chumarsáid sin déanta go dátheangach (i mBéarla agus i nGaeilge) mura raibh sí i nGaeilge ar fad.
- Go seolfadh bainistíocht an Údaráis um Bóithre Náisiúnta meamram eolais (i scríbhinn nó leis an bpost leictreonach) laistigh de 6 seachtaine ó dháta na tuarascála seo chuig baill foirne sin na heagraíochta a d'fhéadfadh a bheith freagrach feasta as cumarsáid i scríbhinn a dhéanamh leis an bpobal i gcoitinne nó le haicme den phobal i gcoitinne chun faisnéis a thabhairt don phobal nó don aicme, agus go ndeimhneofaí an méid seo sa mheamram eolais sin:
  - Go raibh fionnachtain déanta ag an imscrúdú seo gur sháraigh an tÚdarás um Bóithre Náisiúnta a dhualgas reachtúil faoi Alt 9(3) d'Acht na dTeangacha Oifigiúla 2003 sa chás seo;
  - Agus go raibh sé mar dhualgas ar an tÚdarás um Bóithre Náisiúnta a chinntiú nach ligfí dá leithéid de shárú tarlú arís.

## Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dheanadh a leithéid d'achomharc.

Imscrúdú seolta: 19 Meán Fómhair 2008  
Tuarascáil eisithe: 18 Samhain 2008

## Finding of the Investigation

This was the finding of the investigation:

- That the National Roads Authority had contravened the statutory language duty confirmed in Section 9(3) of the Official Languages Act 2003 by communicating in writing with the public in general for the purpose of furnishing information to the public by delivering a publication in English only as a mailshot in August 2008 with regard to new toll (e-flow) arrangements on the M50.

## Recommendations of the Investigation

Having regard to the Investigation, these were the recommendations I made as Coimisinéir Teanga:

- That the National Roads Authority take every appropriate step to ensure its awareness of its statutory duties under the Official Languages Act 2003 and that it fully and properly complies with the Act's provisions.
- That the National Roads Authority ensure that henceforth if it were to communicate in writing with the public in general or a class of the public in general to furnish information to the public in general or class of the public in general, that the communication be bilingual (in English and Irish) if not fully in Irish.
- That the National Roads Authority's management send an information memorandum (in writing or by electronic mail) within 6 weeks of the date of this report to those of its staff who could henceforth be responsible for communicating in writing with the public in general or a class of the public in general to furnish information to the public in general or a class of the public in general, affirming the following:
  - That this investigation had found that the National Roads Authority had in this case contravened its statutory duty under Section 9(3) of the Official Languages Act 2003;
  - And that the National Roads Authority was obliged to ensure that such a contravention would not occur again.

## Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 19 September 2008  
Report issued: 18 November 2008

## Comhlacht Árachais Ainmnithe

### Ábhar an Imscrúdaithe

Ar chloígh comhlacht árachais ainmnithe leis an bhforáil in Alt 108 den Acht Árachais 1936 – ar foráil d’achtachán í a bhaineann le stádas nó le húsáid teanga oifigiúla – i dtaca le gearánach ainmnithe a lorg cáipéisí árachais i nGaeilge?

### Cúlra

Rinneadh gearán le m’Oifig ar an 28 Bealtaine 2008 gur dhiúltaigh comhlacht árachais ainmnithe doiciméid áirithe árachais a chur ar fáil i nGaeilge. Bhraith an gearánach gur sárú a bhí sa diúltú seo ar Alt 108 den Acht Árachais 1936.

Forálann Alt 108 den Acht Árachais 1936 mar seo a leanas:

108. “ – Pé uair a déanfar fuirm thairisgeana i gcóir polasaí árachais do líonadh i nGaedhilig amháin, ansan, gach polasaí árachais do bhéarfar amach do réir no de dhuim na tairisgeana san agus aon scríbhinn eile do bhéarfar amach maidir leis an bpolasaí sin ag an gcuideachtain árachais no ag an sinneagóid chun a ndearnadh an tairisgint sin, déanfaidh an chuideachta árachais no an tsinneagóid sin (pe’ca aca é) iad do thabhairt amach i nGaedhilig má éilíonn an tairgtheoir san ortha.”

Dhaingnigh leasú den Acht Árachais 2000 go sonrach an riachtanas a bheith ann i gcónaí soláthar a dhéanamh ar dhoiciméid árachais i nGaeilge trí shonrú go ndéanfaí na doiciméid chuí a sholáthar i mBéarla ach i gcásanna a thioctadh faoi Alt 108 den Acht Árachais 1936.

Ba léir gur foráil d’achtachán a bhain le stádas nó le húsáid na Gaeilge, teanga oifigiúil, a bhí in Alt 108 den Acht Árachais 1936.

Rinne m’Oifig iarracht an cás seo a réiteach trínár gcóras neamhfhoirmiúil réitithe gearán sa chéad ásc, ach níor éirigh leis an iarracht sin. Bhí, dá thoradh sin, dualgas orm imscrúdú foirmiúil a sheoladh sa chás, rud a tionscnaíodh ar an 21 Deireadh Fómhair 2008.

### Freagra ón gComhlacht Árachais Ainmnithe

Sheas an comhlacht árachais ainmnithe leis nár sháraigh sé Alt 8 den Acht Árachais 1936, á rá:

“Section 108 of the Insurance Act 1936 is very specific on the conditions entitling a policyholder to require documents to be produced in the Irish language. The proposal form must be filled wholly in the Irish language. In the complainant’s case, this did not occur...”

## A Named Insurance Company

### Subject of Investigation

Did a named insurance company adhere to the provision in Section 108 of the Insurance Act 1936 – a provision of an enactment relating to the status or use of an official language – with regard to a named complainant who sought insurance documents in Irish?

### Background

A complaint was made to my Office on 28 May 2008 that a named insurance company had refused to provide certain insurance documents in Irish. The complainant considered that this refusal contravened Section 108 of the Insurance Act 1936.

Section 108 of the Insurance Act 1936 provides as follows:

108. “ - Whenever a form of proposal for a policy of assurance is filled in wholly in the Irish language every policy of assurance issued in pursuance or as a consequence of such proposal and any other document issued in connection with such policy by the assurance company or syndicate to which such proposal was made shall, if the proposer so requires, be issued by such assurance company or syndicate (as the case may be) in the Irish language.”

An amendment of the Insurance Act 2000 specifically confirmed the necessity to continue to provide insurance documents in Irish by specifying that the appropriate documents should be provided in English except in cases coming under Section 108 of the Insurance Act 1936.

Section 108 of the Insurance Act 1936 was clearly a provision relating to the status or use of Irish, an official language.

My Office endeavoured in the first instance to resolve this case through its informal complaints resolution system, but that attempt was unsuccessful. Consequently, I had a duty to launch a formal investigation, which was initiated on 21 October 2008.

### Response from the Named Insurance Company

The named insurance company maintained that it had not contravened Section 108 of the Insurance Act 1936, stating:

“Section 108 of the Insurance Act 1936 is very specific on the conditions entitling a policyholder to require documents to be produced in the Irish language. The proposal form must be filled wholly in the Irish language. In the complainant’s case, this did not occur...”

Sholáthair an comhlacht árachais ainmnithe fótachóip den fhoirm thogra a bhí comhlánaithe agus sínithe ag an ngearánach don imscrúdú. Bhí cuid den fhoirm seo líonta i nGaeilge, bhí cuid eile di líonta i mBéarla agus líonadh rannóg amháin sa dá theanga.

Bhí sé deimhnithe ag an ngearánach go raibh an fhoirm thogra comhlíonta i nGaeilge aige agus sholáthair sé cóip den fhoirm sin don imscrúdú.

Ba léir go raibh dhá fhoirm thogra éagsúla ann, ceann a bhí líonta go hiomlán i nGaeilge agus an ceann eile nach raibh.

Dhearbhaigh an comhlacht árachais ainmnithe an méid seo a leanas:

*“The original proposal form, the proposal on foot of which the policy of insurance was issued, is the signed proposal, a copy of which I sent to you with my letter of 7 November 2008. This was dated by the complainant as 28-5-08.”*

### Osradharc ar an Imscrúdú

Ní raibh aon amhras i m'intinn faoi nádúr bona fide iarrachtaí an ghearánaigh a chuid doiciméid árachais a fháil i nGaeilge, de réir na reachtaíochta.

Nuair a thug an gearánach an fhoirm isteach go pearsanta chuig oifig de chuid an chomhlachta árachais, is cosúil go ndearnadh leasuithe breise agus, mar thoradh, gur eisíodh foirm thogra nua ar chuir sé a shíniú agus an dáta léi.

Rinne an comhlacht árachais an argóint – agus ghlac mé leis an argóint sin – nár eisíodh aon pholasaí árachais de bhun ná de thoradh ar an mbunfhoirm thogra i nGaeilge agus gur eisíodh an polasaí árachais de bhun na foirme togra a bhí sínithe ag an ngearánach agus an dáta 28-05-08 curtha aige léi.

Tá an reachtaíocht soiléir agus gan débhrí.

Forálann Alt 108 den Acht Árachais 1936 go soiléir go n-eiseoidh cuideachta árachais nó an tsinneagóid i nGaeilge, má éilíonn an togróir sin, gach polasaí árachais a bhéarfar amach de dhroim foirm thogra (*“fuirm thairisgeana”*) *“do líonadh i nGaedhilg amháin”*, agus aon scríbhinn (doiciméad) eile a bhaineann leis an bpolasaí sin a eiseofar.

Ba léir dom nach raibh an fhoirm thogra a síníodh agus a raibh an dáta 28-5-08 curtha léi, agus arbh í an bhunfhoirm í ónar eascair eisiúint an pholasaí, líonta go hiomlán i nGaeilge.

The named insurance company furnished the investigation with a photocopy of the proposal form the complainant had completed and signed. Part of the form had been completed in Irish, another part in English and one section bilingually.

The complainant had confirmed that he had completed the proposal form in Irish and furnished a copy of that form to the investigation.

It was clear that two different proposal forms existed, one completed wholly in Irish and one not so completed.

The named insurance company confirmed the following:

*“The original proposal form, the proposal on foot of which the policy of insurance was issued, is the signed proposal, a copy of which I sent to you with my letter of 7 November 2008. This was dated by the complainant as 28-5-08.”*

### Overview of the Investigation

I had no doubt of the complainant's bona fide attempts to obtain his insurance documents in Irish, in accordance with the legislation.

When the complainant personally brought the form to the insurance company's office personally, it appears to have been amended further and that as a result a new proposal form was generated, which he signed and dated.

The insurance company argued – and I accepted that argument – that an insurance policy had not been issued in pursuance nor as a consequence of the original proposal form in Irish and that the insurance policy was issued in pursuance of the proposal form signed by the complainant and dated 25-08-08 by him.

The legislation is clear and unambiguous.

Section 108 of the Insurance Act 1936 clearly provides that the insurance company or the syndicate will issue in Irish every insurance policy issued as a consequence of a proposal form (*“form of proposal”*) *“filled in wholly in the Irish language”*, if the proposer so requires, and any other document issued relating to the policy.

It was clear to me that the proposal form signed and dated 25-08-08, which was the originating form from which the issued policy derived, had not been filled in wholly in Irish.



Ar na mbonn sin, ní raibh de rogha agam ach fionnachtain a dhéanamh nach raibh sárú déanta ag an gcomhlacht árachais ainmnithe ar Alt 108 den Acht Árachais 1936 trí dhiúltú doiciméid a sholáthar i nGaeilge sa chás seo.

Agus sin ráite, toisc gur iarr an gearánach go soiléir go gcuirfí na doiciméid árachais ar fáil dó i nGaeilge, d'fhéadfadh an comhlacht árachais ainmnithe breathnú ar cháipéisí a sholáthar i nGaeilge mar ghné de sheirbhís ardchaighdeán do chustaiméirí, d'ainneoin nach bhfuil dualgas reachtúil orthu ina leith seo.

### Fionnachtain an Imscrúdaithe

Ba é seo a leanas fionnachtain an imscrúdaithe:

- Nár sháraigh an comhlacht árachais ainmnithe an fhoráil in Alt 108 den Acht Árachais 1936 – ar foráil d'achtachán í a bhaineann le stádas nó le húsáid teanga oifigiúla – i dtaca le gearánach ainmnithe a lorg cáipéisí árachais i nGaeilge, ar an mbonn nach raibh an fhoirm ónar eascair eisiúint an pholasaí árachais líonta go hiomlán i nGaeilge, riachtanas docht den Alt seo.

### Moltaí an Imscrúdaithe

I bhfianaise na fionnachtana thuas, ní fhacthas dom go mbeadh sé cuí aon mholtaí a dhéanamh san imscrúdú seo.

### Achomhairc chuig an Ard-Chúirt

Mheabhraigh mé sa tuarascáil go raibh sé de cheart reachtúil ag aon pháirtí san imscrúdú achomharc a dhéanamh laistigh de cheithre seachtaine chuig an Ard-Chúirt ar phonc dlí i gcoinne an chinnidh ach ní dhearnadh a leithéid d'achomharc.

Imscrúdú seolta: 21 Deireadh Fómhair 2008  
Tuarascáil eisithe: 17 Nollaig 2008

On that basis, I had no choice but to find that the named insurance company had not contravened Section 108 of the Insurance Act 1936 by refusing to provide documents in Irish in this case.

Having said that, as the applicant had clearly requested that the insurance documents be provided in Irish, the named insurance company could consider furnishing documents in Irish as an expression of quality customer care, despite not having a statutory duty in that regard.

### Finding of the Investigation

This was the finding of the investigation:

- The named insurance company had not contravened the provision in Section 108 of the Insurance Act 1936 – a provision of an enactment relating to the status or use of an official language – with regard to a named complainant who sought insurance documents in Irish, as the form from which the issue of the policy document derived was not filled in wholly in Irish, an absolute requirement of this Section.

### Recommendations of the Investigation

Having regard to the finding above, it did not appear to me to be proper to make any recommendations in this investigation.

### Appeals to the High Court

I noted in the report that any party to the investigation had the statutory right to appeal the decision to the High Court on a point of law within four weeks but no such appeal was made.

Investigation launched: 21 October 2008  
Report issued: 17 December 2008



## CÚRSAÍ AIRGEADAIS

Bhí buiséad €1,040,000 curtha ar fáil don Oifig don bhliain 2008 ach níor tarraingíodh anuas ach beagán le cois €830,000 den airgead sin. Tharla sin, ar an gcéad dul síos, toisc nach raibh na poist foirne nua a bhí ceadaithe don Oifig líonta i dtús na bliana agus chomh maith leis sin toisc go ndearnadh coigilteas eile ag teacht le polasaí an Stáit i leith cúrsaí fógraíochta agus eile le linn na bliana.

Tá cuntais na hOifige don bhliain 2008 ullmhaithe don Ard-Reachtaire Cuntas agus Ciste lena n-íniúchadh de réir Alt 8(2) den Dara Sceideal d'Acht na dTeangacha Oifigiúla 2003.

A luaithe agus is féidir tar éis an iniúchta, déanfaidh an Coimisinéir Teanga cóip de na cuntais sin, nó de cibé sleachta as na cuntais sin a shonróidh an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta, mar aon le tuarascáil an Ard-Reachtaire Cuntas agus Ciste maidir leis na cuntais, a chur i láthair an Aire.

Beidh cóipeanna de na doiciméid sin á leagan faoi bhráid Thithe an Oireachtais. Foilseofar freisin iad ar shuíomh gréasáin na hOifige.

## FINANCIAL MATTERS

A budget of €1,040,000 was provided for the Office for the year 2008 but only a little over €830,000 of that money was drawn down. This happened firstly because the new posts sanctioned for the Office were not filled in the early part of the year and secondly because, in the course of the year, savings were made in relation to advertising and other expenses in line with State policy.

The accounts of the Office for 2008 have been prepared for the Comptroller and Auditor General for audit in accordance with Section 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, together with the report of the Comptroller and Auditor General on the accounts, shall be presented to the Minister.

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

## FOIREANN AGUS SONRAÍ TEAGMHÁLA / STAFF AND CONTACT DETAILS

### FOIREANN / STAFF

<b>An Coimisinéir Teanga</b>	Seán Ó Cuirreáin
<b>Stiúrthóir / Director</b>	Máire Killoran
<b>Bainisteoir Cumarsáide / Communications Manager</b>	Damnait Uí Mhaoldúin
<b>Bainisteoir Imscrúduithe / Investigations Manager</b>	Órla de Búrca
<b>Bainisteoir Géilliúlachta / Compliance Manager</b>	Colm Ó Coisdealbha
<b>Riarthóir Oifige / Office Administrator</b>	Éamonn Ó Bróithe
<b>Oifigeach Feidhmiúcháin / Executive Officer</b>	Cáit Uí Mhaoilriain
<b>Oifigeach Cléireachais / Clerical Officer</b>	Deirdre Nic Dhonncha
<b>Oifigeach Cléireachais / Clerical Officer</b>	folúntas / vacancy

### TEAGMHÁIL / CONTACT DETAILS

Is féidir teagmháil a dhéanamh leis an Oifig tríd an bpost, ar facs, le ríomhphost nó ar an teileafón ar chostas glao áitiúil, mar seo a leanas:

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

**POST / POST:** An Coimisinéir Teanga  
An Spidéal  
Co. na Gaillimhe  
Éire

**FÓN / PHONE:** 091-504 006  
**GLAO ÁITIÚIL / LO-CALL:** 1890-504 006  
**FACS / FAX:** 091-504 036  
**RÍOMHPHOST / EMAIL:** [eolas@coimisineir.ie](mailto:eolas@coimisineir.ie)  
**SUÍOMH GRÉASÁIN / WEBSITE:** [www.coimisineir.ie](http://www.coimisineir.ie)

Is é an leagan Gaeilge an bhunchóip den tuarascáil seo.  
The Irish language version is the original text of this report.

*Notaí*

This image shows a single sheet of white paper with horizontal blue lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

*Notaí*

This image shows a single page from a notebook or ledger. It features a series of evenly spaced, horizontal light blue lines running across the width of the page. The lines are thin and consistent in color. There are no vertical margin lines, text, or other markings present on the page.

Notai

*Notaí*

[illegible]



*Notaí*

[illegible]



**POST / POST:** An Coimisinéir Teanga  
An Spidéal  
Co. na Gaillimhe  
Éire

**FÓN / PHONE:** 091-504 006  
**GLAO ÁITIÚIL / LO-CALL:** 1890-504 006  
**FACS / FAX:** 091-504 036  
**RÍOMHPHOST / EMAIL:** [eolas@coimisineir.ie](mailto:eolas@coimisineir.ie)  
**SUÍOMH GRÉASÁIN / WEBSITE:** [www.coimisineir.ie](http://www.coimisineir.ie)