

Chairman,

I would like to thank the Joint Committee for your invitation to appear before you today. My Office was established by legislation nearly 10 years ago with three distinct statutory functions: to provide an ombudsman service; to act as compliance agency in relation to state services through Irish; and to provide advice on language rights and obligations.

Our Annual Report for 2012 was provided to the Minister for State for the Gaeltacht for laying before both Houses of the Oireachtas on 31<sup>st</sup> January 2013 and subsequently published on 12<sup>th</sup> March last.

In general, 2012 was not a vintage year for the promotion of the Irish language in the public sector, and for every one step forward there appeared to have been two steps backwards.

### **Ombudsman role**

In relation to our role as an ombudsman service, we dealt last year with 756 cases of difficulties or problems with state services through Irish – the largest number of complaints from the public to the Office since its establishment. This represented an increase of 3% on the number of cases in the previous year. The vast majority of cases were resolved by means of informal negotiations with the relevant state bodies or by providing advice to the complainant.

A total of 13 formal investigations were commenced during 2012. Findings of breaches of individual elements of language legislation were made against a mix of public bodies including An Garda Síochána and 3 Government Departments.

### **Compliance agency**

As regards functioning as a compliance agency, it is with regret that I report that three quarters of language schemes – statutory language plans – agreed by the Department of Arts, Heritage and the Gaeltacht with various state bodies had expired without renewal by the end of 2012 with a quarter of them out of date for three years or more. In 10 other cases, more than 6 years have elapsed since the Minister for Arts, Heritage and the Gaeltacht requested state bodies to prepare draft language schemes but they remain to be agreed. The failure to promote this element of language legislation in a meaningful way has been identified by the independent audit committee in my Office as a significant risk.

Such language schemes were to be the fundamental pillars of the legislation on which an increase in quantity and quality of services through Irish were to be based.

A dangerous precedent emerged for the first time in 2012 where a language scheme was amended to cancel a previously confirmed statutory obligation which would have cost little and would have been relatively simple to implement.

Rather than ensuring the implementation of the fairly innocuous obligation – that the “Fit for viewing” section of video/ DVD labels supplied by the Irish Film Classification Office be produced in bilingual format – a complaint from a member of the public prompted the eventual cancellation of the statutory commitment when the Department of Arts, Heritage and the Gaeltacht acceded to a request from the Department of Justice and Equality to have the commitment deleted from the scheme.

### **Current year**

The current year has seen a limited increase in the quantity of language schemes – 15 have been confirmed to date, yet 20 have expired in the same timeframe – but I am more concerned by the quality of some of those schemes. In too many instances the provision of services through Irish is conditional on “available resources”, which suggests that such services may be perceived as optional extras rather than fundamental rights. In one such scheme, commitment to the provision of services through Irish, detailed over 3 pages, has the condition ‘subject to available resources’ listed 11 times.

In another scheme, a commitment to issue Irish versions of a limited category of press releases has the footnote that this will not require the Irish and English versions to be issued simultaneously: putting such a commitment on a statutory basis is an affront to the intelligence of any journalist working through Irish.

Would it not be an unfortunate and cynical practice if confirming language schemes were to become a box-ticking exercise rather than an effective mechanism for developing state services through Irish? I have been told by the Department of Arts, Heritage and the Gaeltacht that it is to redouble its efforts in relation to language schemes but I am concerned that with the damage already caused and the lack of confidence in the system, that it may prove impossible to salvage it now.

### **An Garda Síochána**

I am glad to report that progress has been made by the management of An Garda Síochána in the provision of Garda services through Irish on foot of a complaint to my Office. A language rights awareness campaign is being promoted by senior management following an investigation into an incident in Dublin where a young man, who attempted to conduct his business through Irish when stopped by Gardaí in relation to a minor road traffic matter, found himself arrested and escorted in handcuffs to a Garda station where he was detained

until a Garda was found who could deal with him through Irish. An Garda Síochána had failed in this instance to comply with a statutory commitment which recognises the right of the public to conduct business with the force in either official language, Irish or English.

In dealing with this case I noted an attitude, notwithstanding the constitutional status of Irish, that Irish speakers should be dealt with as if they were speakers of a foreign language. The discourse with Garda members involved in the incident placed “using Irish” and “dealing with foreign nationals” in the same space which might give rise to concern about how both groups were perceived.

The person detained in the case was not involved in an accident nor were there any allegations made concerning speeding or driving under the influence of alcohol. I was struck by the fact that Gardaí who had received their education within this country’s schools system and had finished their training in Templemore some short years previously had insufficient command of Irish to ask a driver when stopped at the roadside “Cad is ainm duit?” or to seek his address through Irish. No adequate support system was in place to facilitate their interaction with a member of the public who sought in this situation to conduct his business through Irish.

However, I welcome the positive attitude of the Garda Commissioner and senior management to the implementation of the recommendations I made on foot of this case and hope that the systematic change being introduced will prevent the occurrence of similar incidents.

An obligation confirmed in the Garda Síochána Act 2005 that only members fluent in Irish should be stationed in Gaeltacht areas is also receiving more focussed attention from Garda management following a complaint detailed in a previous report about the absence of Gardaí with Irish in Gaoth Dobhair, a heartland of the Donegal Gaeltacht. While the matter is not yet fully resolved, I am glad to report that the Garda Commissioner has now confirmed that, in order to facilitate compliance with the requirement of the Garda Síochána Act, future recruitment to the organisation will see a percentage (up to 10%) of places reserved specifically for Irish speakers who will subsequently be attached to Gaeltacht stations for a period of up to 5 years. This should ensure in a number of years that 100% of Gaeltacht Gardaí are fluent Irish speakers.

### **Competence in Irish**

In general, the absence of staff with competence in both official languages of the State remains one of the main factors restricting state bodies in their delivery of services to the public in Irish as well as in English. The system of awarding bonus marks for competence in both Irish and English at recruitment and promotional competitions in the Civil Service which replaced ‘compulsory Irish’ in 1975 is currently being replaced by a new system on a pilot basis. The old system – of bonus marks – failed because it was never properly

implemented. I firmly believe that the new system, which I consider to be ill-conceived, will also fail and that consequently the Irish language will be continue to be marginalised in public administration. For example, research we have to hand using official figures from the Department of Education and Skills suggests that if the new system were to be fully implemented in the most positive way, it would take in the region of 28 years to raise the current level of fluency in Irish in that department from 1½% to 3%.

I would appeal today to the authorities to revisit the proposed system in a meaningful way when the Official Languages Act is being reviewed and amended.

### **Gaeltacht**

I have also suggested that in amending the Act a clear provision should be added requiring the staff members of all state agencies assigned to providing services to Gaeltacht communities to be fluent in Irish without terms or conditions applying. Research by my Office recently revealed that such a statutory provision was in fact enacted in 1928 but its introduction was regularly postponed by statutory instruments on 54 occasions until it was quietly shelved in 1966. It is time to deal with this issue for once and for all: requiring the people of the Gaeltacht to conduct their business in English with state agencies flies in the face of any policy which suggests that the survival of the Gaeltacht is on the State's agenda. The idea of continuously 'kicking the can down the road' on this matter, as has been the norm for decades, is no longer an option.

### **Reports to both Houses**

In common with other ombudsman services, I am empowered to make findings and recommendations following an investigation. Such findings may be appealed to the High Court on a point of law. However, if findings or recommendations are not appealed but are nevertheless not implemented, I am required to report such failure to the Houses of the Oireachtas. I have done this on 3 occasions in the past and I thank this Joint Committee for the follow-up work it has undertaken with the state bodies involved. I regret to say that I have recently laid 3 further reports before both Houses in cases where the state bodies in question did not appeal my findings to the High Court but subsequently failed to implement the findings. The organisations involved are Iarnród Éireann, Westmeath County Council and the Office of Public Works. It falls to the House of the Oireachtas to take whatever action they deem appropriate, should they wish, in these cases.

### **Review**

While a review of the Official Languages Act was announced in November 2011 – more than two years ago – and a substantial public consultation process ensued which ended in January 2012, little or nothing has been heard publicly of the results of that process since then. This vacuum simply has not been helpful.

A Government decision was made in November 2011 to merge the functions of my Office with the Office of the Ombudsman as part of the *Public Service Reform Plan*. This decision was made without reference to me or to the then Ombudsman. No details are available publicly of the proposed arrangement or how it is thought it ought to work and I would be concerned about the future viability of the Office itself, including the implications for its staffing.

The Office is one of the smallest agencies of the State – with a budget smaller even than the Irish secret service! We have a current staff level of 4.4 civil servants. We have 3 unfilled vacancies at present and our budget has shrunk by 45% since 2008. The Office was never given adequate resources to fully perform its statutory obligations in a satisfactory manner.

### **Conclusion**

For those generally involved with the protection or promotion of the Irish language, either professionally or voluntarily, we are in a time of great uncertainty. Never before have I seen in over 30 years' experience - as a journalist or language commissioner - morale and confidence so low. Despite the enormous goodwill of the vast majority of the people of this country, the language continues to drift further to the margins of society including within much of the public sector; bringing it back to the mainstream is no simple procedure.

An essential first step would require that in amending the Official Languages Act as part of the programme for Government, that a clear provision be made to ensure that state employees serving the Gaeltacht communities are Irish speaking without question or conditions – forcing native Irish speakers to use English in dealing with the agencies of the State must not be allowed to continue. And in parallel, it is essential that the issue of the Irish language in recruitment and promotion in the Civil and Public Service in general be revisited immediately – there is absolutely no way that the most recent proposal in relation to the Civil Service will work.

If those two elements – the use of Irish in dealing with Gaeltacht communities and ensuring an adequate Irish language capacity in public administration – are not addressed by the State when the legislation is being amended, I fear that the exercise will be seen as a fudge, a farce or a falsehood.

As we begin to regain our economic sovereignty, it would be a travesty if we were to lose our linguistic sovereignty – a cornerstone of our cultural identity, heritage and soul as a nation. I believe this to be a clear and present danger.

By the end of February next I will have held the position of Coimisinéir Teanga for 10 years. Although my term of office runs for a further 2 years my heartfelt belief is, in view of the information I have presented to you today, that there is little else I can personally achieve in that timeframe in relation to language rights for Irish speakers and Gaeltacht communities. It is therefore with regret that I announce that I have decided to resign from my position as

Coimisinéir Teanga on 23<sup>rd</sup> February next. I have informed the President of Ireland of this decision today as required by legislation.

I would like at this stage to thank everyone who has helped me during the years in which I have held this position – in particular the small, dedicated team of staff in my Office. I thank all of those in politics and in the state sector in general who supported our work. I appreciate the support we received from the media, particularly from Irish language journalists, from Gaeltacht and Irish language organisations, from academia, from those who provided advice either professionally or voluntarily, from other language commissioners throughout the world, from civil and public servants, friends and many other who have helped in so many ways.

But above all, I wish to express my sincere thanks to the people of the Gaeltacht and to Irish speakers in general for the confidence they placed in me and in my office's staff over the past 10 years.

I thank you, a Chathaoirligh, and the members of the Joint Committee for your attention today.

Go raibh míle maith agaibh.

(ENDS)

Information: Damhnait Uí Mhaoldúin: (091)504006 or 087-2197946 or [eolas@coimisineir.ie](mailto:eolas@coimisineir.ie)

Please see INFORMATION NOTE attached

## INFORMATION NOTE

The Office of An Coimisinéir Teanga was established by legislation nearly 10 years ago with 3 distinct statutory functions: to provide an ombudsman service and act as compliance agency in relation to state services through Irish and to provide advice on language rights and obligations.

The President of Ireland appointed Seán Ó Cuirreáin as first Coimisinéir Teanga on 6 February 2004, on the advice of Government and with the support of both Houses of the Oireachtas. He was reappointed in a similar manner for a second 6-year term on 23 February 2010.

### HEADLINES over the past 10 years:

- Complaints ... 6,089 to 30 November 2013, (28% from the Gaeltacht)
- 22% of complaints related to Government Departments and Offices, 32% to local authorities and the rest to a wide range of state organisations
- 1,856 requests for advice concerning language obligations from state organisations
- 96 formal investigations undertaken
- 213 reviews/audits of language schemes completed
- 9 annual reports and audited financial accounts published
- 6 special reports laid before the Houses of the Oireachtas
- Website developed as a one stop shop on all aspect of language rights and obligations
- Language Rights Charter published
- Guidebook to the Official Languages Act published
- Recommendations on the reform of the Official Languages Act published
- Television advertising campaigns on language rights developed and broadcast
- Educational resource on Language Rights for the Junior Certificate Civic, Social and Political Education (CPSE) course developed and distributed to schools
- Language rights event commemorating Myles Joyce and the Maamtrasna Murders organised in Galway
- Participation in numerous events to develop awareness of language rights and obligations
- Lectures given on language rights in almost all third level institutions in Ireland
- Regular assistance given in relation to national and international research on language rights and obligations
- Advice and training provided through the OSCE to the Government of Kosovo on the establishment of a language commissioner's office in Kosovo
- International conference on language rights organised in Dublin
- Proactive in establishing the International Association of Language Commissioners

