

ANNEX A

FOI documentation re pre-St Andrews

Mr James H Allister QC MEP
139 Hollywood Road
Belfast
3BE



Department of
**Culture, Arts
and Leisure**

www.dcalni.gov.uk

AN ROINN
**Cultúir, Ealaíon
agus Fóillíochta**

MÁNNYSTRIE O
**Fowkgates, Airts an
Aisedom**

Interpoint
20-24 York Street
BELFAST BT15 1AQ

Tel.: 028 9025272
Fax: 028 90258906
Email: dcal@dcalni.gov.uk

Ref.: RFI 84/06

1 February 2007

Dear Mr Allister

FREEDOM OF INFORMATION ACT 2000

I am writing to confirm that, further to my letter of 22 January 2006, the Department has completed its search of the information you requested on 19 December 2006.

After application of a public interest test in relation to the documentation you sought giving rise to the commitment made in the St Andrews Agreement, I must advise you that this documentation is deemed part exempt under Section 35 (1) (a) and that you will find that parts of the documents have been redacted, or withheld in full.

In arriving at this view, we have considered the following public interest arguments.

In favour of disclosure:

- The general public interest in disclosure;
- Greater transparency makes government more accountable to the electorate and increases trust;
- Increases knowledge of the way government, and thereby, the public contribution to the policy making process could become more effective and broadly-based;

- Opportunity to assess the quality of advice being given to Ministers and subsequent decision making.

In favour of non-disclosure:

- Good government depends on good decision making and this needs to be based on the best advice available and a full consideration of all the options;
- The impartiality of the civil service might be undermined if advice was routinely made public as there is a risk that officials could come under political pressure not to challenge ideas in the formulation of policy this would lead to poorer decision;
- The risk of exposure may cause policy advice and deliberations to take place within a narrower compass of advisers and perhaps even orally rather than being fully recorded, this is contrary to good government;
- There needs to be free space in which it is possible to 'think the unthinkable' and use imagination, without the fear that policy proposals will be held up to ridicule.

This public interest test is appropriate to all the information contained within the attached schedule.

Further to this, the names of the Northern Ireland officials contained within the email at tab 2 are exempt under Section 40 (personal information).

I understand that further papers on this issue may be held by OFMDFM and NIO, and you may wish to contact them separately. If you wish to do so, further requests for information should be addressed to:

Departmental Information Manager
OFMDFM
Castle Buildings
Stormont Estate
Belfast
BT4 3SR

Freedom of Information Team
Stormont Castle
Belfast
BT4 3TT

Further to your letter of 29th January 2007 seeking clarification to my response of 22nd January 2007, I have endeavoured to respond below in order.

(1) You have noted the email of 1 December 2006 from Margaret O'Keeffe to Kim McCourt, and the passing on of advice to Judena Goldring, and have asked for that documentation. The advice received from Damian Brady and passed to Judena Goldring was verbal. No further documentation exists.

(2) You have requested documentation from 'HOCS' mentioned in the same email above. The documentation was not in relation to Equality Impact Assessments, and as such, has not been considered for disclosure under your request for information of 19th December 2006.

(3) You have asked for the equality impact assessment of the proposed legislation. You received a copy of the equality screening form in the papers I issued to you on 22 January 2007, and were already in receipt of the equality impact assessment which formed part of the Consultation Paper on proposed Irish Language Legislation, published on 13th December 2006. I have no further papers to provide in this regard.

(4) You note the documentation disclosed to you ends on 7th December 2006, and have asked if any subsequent documentation exists. The draft EQIA was agreed at a meeting on that date, and produced in final form in the consultation paper launched on 13th December 2006.

(5) I note that part of the Equality screening form disclosed to you was incomplete due to photocopying error. I apologise for this, and enclose another copy.

You have the right to request that the Department formally reviews this decision. If you wish to do so, please write to:

Paul McAllister
Department of Culture, Arts and Leisure
Interpoint
20-24 York Street
BELFAST
BT15 1AQ

Telephone: 028 90254256
E-mail: paul.mcallister@dcalni.gov.uk

If you are still dissatisfied after completion of the internal review you may appeal to the:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

who will undertake an independent review.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Ingram', followed by a horizontal line.

Martin Ingram

Tel.No.: 028 90254269

E-mail: Martin.Ingram@dcalni.gov.uk

Tab No. (Only those items numbered are attached)	Date of document/file	Author of Document	Addressee of document	Title of document	Brief Description of Information Covered	Exemption/Exception claimed
1	6/10/2006	Margaret O'Keefe	Colin Jack	Irish Language Act	Briefing for Minister for St Andrews Talks on 12/13 October 2006	Partial disclosure Redactions under Section 35 (1) (a). The public interest test stated in covering letter relates to each redaction and exemption.
	6/10/2006	NIO	DCAL, OFMDFM	Irish Language Act	Email discussion concerning possibility of committing to an Irish Language Act.	Exempt under Section 35 (1) (a) – the public interest test stated in covering letter relates to each redaction and exemption.
	6/10/2006	OFMDFM	NIO	Irish Language Act	Email discussion concerning possibility of committing to an Irish Language Act.	Exempt under Section 35 (1) (a) – the public interest test stated in covering letter relates to each redaction and exemption.
	6/10/2006	NIO	OFMDFM	Irish Language	Email discussion	Exempt under Section

Tab No. (Only those items numbered are attached)	Date of document/file	Author of Document	Addressee of document	Title of document	Brief Description of Information Covered	Exemption/Exception claimed
				Act	concerning possibility of committing to an Irish Language Act.	35 (1) (a) – the public interest test stated in covering letter relates to each redaction and exemption.
	6/10/2006	OFMDFM	NIO	Irish Language Act	Email discussion concerning possibility of committing to an Irish Language Act.	Exempt under Section 35 (1) (a) – the public interest test stated in covering letter relates to each redaction and exemption.
	6/10/2006	NIO	OFMDFM, NIO	Irish Language Act	Email discussion concerning possibility of committing to an Irish Language Act.	Exempt under Section 35 (1) (a) – the public interest test stated in covering letter relates to each redaction and exemption.
	6/10/2006	OFMDFM	NIO	Irish Language Act	Email discussion concerning possibility of committing to an Irish Language Act.	Exempt under Section 35 (1) (a) – the public interest test stated in covering letter relates to each redaction and exemption.

Tab No. (Only those items numbered are attached)	Date of document/file	Author of Document	Addressee of document	Title of document	Brief Description of Information Covered	Exemption/Exception claimed
2	6/10/2006	Colin Jack, DCAL	NIO official, Stewart Johnston, OFMDFM	Irish Language Act	Act. Email discussion concerning possibility of committing to an Irish Language Act	exemption. Partial disclosure Redactions under Section 35 (1) (a). The public interest test stated in covering letter relates to each redaction and exemption.
	6/10/2006	NIO	DCAL, OFMDFM	Irish Language Act	Email discussion concerning possibility of committing to an Irish Language Act.	Exempt under Section 35 (1) (a) – the public interest test stated in covering letter relates to each redaction and exemption.
3	9/10/2006	Colin Jack	OFMDFM	Irish Language Act for Northern Ireland	Briefing for Minister for St Andrews Talks on 12/13 October 2006	Partial disclosure Redactions under Section 35 (1) (a). The public interest test stated in covering letter relates to each redaction and

Tab No. (Only those items numbered are attached)	Date of document/file	Author of Document	Addressee of document	Title of document	Brief Description of Information Covered	Exemption/Exception claimed
						exemption.

IRISH LANGUAGE ACT

Summary

Pressure exists from within the Irish language community in Northern Ireland to introduce a piece of legislation protecting the Irish language in Northern Ireland.

Irish language organisation, POBAL, launched an 'Irish Language Act for Northern Ireland' in February 2006. Government did not contribute to, or participate in the drafting of the document. The document is being used by POBAL to promote discussion and encourage support for an act in Northern Ireland.

Both Sinn Féin and SDLP are supportive of an Irish Language Act.

Background

Wales and Scotland have both granted protection via means of domestic legislation to specific indigenous or minority languages in their respective jurisdictions (The Gaelic Language (Scotland) Act 2005 and The Welsh Language Act 1993).

Under the Belfast Agreement, and the UK's ratification of the Council of Europe Charter on Regional or Minority Languages, the Government has made a commitment to secure and develop both the Irish and Ulster-Scots languages. This is the framework which Government has chosen to support the majority of indigenous languages throughout the UK, including also, Cornish, Manx, and Scots.

The European Charter for Regional or Minority Languages is a European treaty adopted in 1992 under the auspices of the Council of Europe to protect and promote historical regional and minority languages in Europe. It only applies to languages traditionally used by the nationals of the State Parties,

which significantly differ from the majority or official language. The Republic of Ireland has not been able to sign the Charter on behalf of the Irish language as it is defined as the first official language of the state.

The enforcement of the Charter is by regular independent reviews by a Council of Europe Committee of Experts (COMEX). DCAL officials are currently considering a COMEX Report, to be formally published early 2007.

POBAL argue that the obligations contained in the Charter, and the enforcement of them is not strong enough. Because of this, POBAL believe that an Irish Language Act would give the Irish language more protection and underpin the Charter obligations.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**PARTIAL DISCLOSURE UNDER SECTION 35 (1) (a)
EXEMPTION TO APPLY TO RELEASE OF NIO OFFICIALS NAMES**

-----Original Message-----

From: Jack, Colin (DCAL) [mailto:Colin.Jack@dcalni.gsi.gov.uk]

Sent: 06 October 2006 15:18

To: Stewart Johnston; [REDACTED]

Cc: [REDACTED] Jardine, Edgar (DCAL);
O'Keeffe, Margaret

Subject: RE: DESK IMMEDIATE - Irish Language Act

Stewart/[REDACTED]

[REDACTED]

The Council of Europe Charter on Regional or Minority Languages provides a robust framework for Government to deliver language commitments and be held to account for them. The Charter is intended to encourage growth in the use of Irish and experience shows that the Committee of Experts is not afraid to criticise Government if it considers it appropriate.

It also provides for a clear differentiation between Government's commitments on Irish and Ulster-Scots, with the former covered under Parts 2 and 3 and the latter only under Part 2. [REDACTED]

[REDACTED]

Happy to discuss.

Colin

Colin Jack
Director of Culture
Department of Culture, Arts and Leisure
3rd Floor, Interpoint
20-24 York Street

BELFAST
BT15 1AQ

Telephone +44 28 9025 8843

The SDLP and Sinn Féin have both advocated an Irish Language Act to secure the legal position of Irish in Northern Ireland. Wales, Scotland and the Republic of Ireland have all granted protection via means of domestic legislation to indigenous or minority languages. In NI, minority languages are encouraged via the Belfast Agreement and the European Charter for Regional and Minority Languages.

[illegible]

Colin Jack: Director of Culture, Department of Culture, Arts and Leisure,
Work: 028 90 258843
Home: [REDACTED]
Mobile: [REDACTED]

ANNEX B

Correspondence with Minister

Ref: JA/ED/Culture/2289

Ms Maria Eagle MP
Minister of Culture, Arts and Leisure
Department of Culture Arts and Leisure
Interpoint Centre
20 – 24 York Street
BELFAST
BT15 1AQ

19 December 2006

Dear Minister

Re: Consultation paper on proposed Irish Language Legislation for Northern Ireland

I will in due course make a detailed response to this consultation document but at this stage there are a number of preliminary matters I wish to explore.


1. It is clear that the policy aim is to introduce an Irish Language Bill in accordance with the commitment made in the St Andrews Agreement. That commitment, of course, arises from an "agreement" between two Governments only and did not involve my Party, with whom the issue of an Irish Language Bill was not even discussed during St Andrews. However, the point I wish to clarify at this stage is to invite you to confirm that the Government made this commitment without any equality proofing or financial proofing of the proposition. Why was this done? To help me understand the issue I would be obliged to receive copies of all documentation giving rise to the commitment made in the St Andrews Agreement. Insofar as it is necessary, I make this request pursuant to the Freedom of Information Act.
2. Why within this consultation document is there misinformation? At page 62 it proclaims that 10.35% of the population of Northern Ireland can speak Irish. According to figures elsewhere in the document this is patently incorrect and whereas it is claimed that this percentage may have "some knowledge" of Irish, the census figures confirm that a lesser number can actually speak Irish. Such is clear from Table 1 on page 72, so why is an inflated percentage given on pages 62 and 63? Is there an agenda to overstate the number of Irish speakers for the political purpose of promoting an Irish Language Bill? Will you now publicly correct this error and issue a corrigendum?
3. There is constant reference throughout the document to those with "some knowledge" of Irish but could you inform me of the number of Northern Ireland residents who speak Irish as their only or first language?
4. Having regard to the multiple existing measures identified throughout the document and particularly in Annex D to G and the work of Foras na Gaeilge, can you advise me whether or not you regard Northern Ireland as being currently compliant with the

requirements of the European Charter for Regional or Minority Languages. If it is asserted that there is currently non-compliance with the European Charter, then please identify each and every regard in which that is so.

5. It is claimed that an Equality Impact Assessment has been conducted. Frankly, I find the conclusion under this alleged assessment that the introduction of an Irish Language Bill has the potential "to improve good relations" and that it will "have only positive impacts", as laughable. Even at page 5 the consultation accepts that Nationalists/Republicans/Catholics see a political aspect to the Irish language and at pages 6 and 15 there is acceptance that political sensitivities arise and that for Unionists there is the issue of undermining the British identity, yet an Equality Impact Assessment is conducted which finds "only positive impacts" and potential to "improve good relations"! I now formally request disclosure of all documentation pertaining to the alleged Equality Impact Assessment.
6. At page 26 there is reference, in the context of implementing and enforcing language schemes, to the need for public bodies to ensure that they would have a sufficient number of Irish speaking staff to enable the provision of services in Irish and at page 30 there is reference to the need for fluency for frontline services. Would this include policing? If so, why is that not mentioned in the document and the implications, including employment qualifications, discussed and why is there no inclusion of that dimension in the shallow Financial Impact Assessment in Chapter 7?
7. We are constantly reminded by Government of public expenditure constraints yet this proposal seems to have won government commitment without any serious costing and what is proffered in Chapter 7 as "financial proofing" is utterly superficial, making no serious attempt to estimate likely resulting expenditure. If this Bill were to proceed then where does the money for its implementation exist within the present budget? Would its cost be met with new money from the Exchequer or would it have to be found from within the block grant?
8. At page 108 there is reference to projects relating to Irish-medium provision in the non-statutory educational sector having been in receipt of EU funding. Could I please have the details of this?
9. Finally, please clarify Government policy on the use of the name Londonderry. I had understood that in the recent judicial review the relevant Department expressed the view that the correct name was Londonderry, yet at pages 103 and 104 of this document I find Derry/Londonderry used - why is this?

As already indicated, I will make a more detailed response to this consultation paper in due course but I would be obliged if you could address these issues in the meantime.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Allister', written in a cursive style.

James H Allister QC MEP

Please quote our reference on all correspondence



COR/299/2006

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Text phone: (0) 28 9052 7668

19 January 2007

Dear Jim,

Thank you for your letter of 19th December 2006 regarding the consultation paper on the proposed Irish language legislation.

You have raised a number of issues that I will address in turn below.

You will note from correspondence from my Department on 22 December 2006, that part of paragraph 1 and paragraph 5 of your letter are being dealt with separately under the Freedom of Information Act 2000. I can deal here however with your query in paragraph 1 about whether equality proofing or financial proofing of the commitment to introduce Irish language legislation was carried out in the context of the St Andrews Agreement. As I am sure you will appreciate the commitments made as part of the St Andrews Agreement were high level or framework ones some of which require to be fully developed as part of Government's policy development process. The financial and equality proofing of Irish language legislation is being taken forward as part of this process. Initial assessments of both impacts were included in the consultation paper published on 13th December and a further equality impact assessment is to be published next week.

In paragraph 2 you have asked about the reference to the number of Irish speakers in Northern Ireland. I am content that the overall use of the Census figures within the paper leaves little room for misunderstanding.

With reference to your query in paragraph 3 regarding the number of residents in Northern Ireland who speak Irish as their only or first language, There is no official figure available. This question was not asked in the 2001 Census exercise. Nevertheless I think it would be fair to say that the number if any of people in Northern Ireland who fall into these categories is likely to be small.

In paragraph 4 you have asked for details of current non-compliance with the Council of Europe Charter for Regional or Minority Languages.

A second evaluation report on the Government's implementation of the Charter has been prepared by the Committee of Experts (with recommendations) and will be formally presented in the New Year to the Council of Europe Committee of Ministers. That report will identify any non-compliance with the Charter in Northern Ireland.

In light of this, I prefer not to comment on the subject until the report has been formally presented. I shall ask my officials to forward you a copy of the Report at that time.

In paragraph 6 you make reference to the discussion in the consultation paper referring to the anticipated needs to provide a public service in Irish, and to the need for fluency in front line services. You have asked if this would include policing.

The consultation paper draws on various approaches and the possible outworkings of these. No decision has been made on the nature of the provision or the definition of public body, and I would welcome any thoughts and comments you may have in relation to this issue.

In paragraph 7 you have asked if the potential financial costs of implementation Irish language legislation will be met from new money from the Exchequer or from the existing block.

Until comments on the consultation paper have been received and a policy decision taken on the way forward, it is really not practicable to determine in detail the potential financial cost of implementing the Irish language legislation.

In paragraph 8 you have requested details of the projects relating to Irish-medium provision in the non-statutory educational sector having been in receipt of EU funding. As far as the Department for Employment and Learning can determine only one project relevant to Irish Language has been in receipt of EU funding to date. This relates to a course in Irish Language Interpretation developed by Queens University Belfast and as such ought to have been included in the Consultation document under the Higher Education section of the document under paragraph 2 (i) on page 107. There have been no Irish Language projects in the non statutory sector supported by EU funds for which DEL is accountable.

In paragraph 9, you have asked for clarification of Government's policy on the use of the name 'Londonderry'. You are correct in your understanding of the Government's view that the official name of the city is Londonderry. This form was used, together with the name Derry, to acknowledge the alternate forms likely to be in common usage by the potential readers of the document.

Best wishes,

A handwritten signature in dark ink, appearing to read 'Maria Eagle', with a stylized flourish at the end.

MARIA EAGLE MP

Ref: JA/ED/Culture/2365

Ms Maria Eagle MP
Minister of Culture, Arts and Leisure
Department of Culture Arts and Leisure
Interpoint Centre
20 – 24 York Street
BELFAST
BT15 1AQ

29 January 2007

Dear Minister

Re: Irish Language legislation

Thank you for your interesting reply of 19 January 2007 to my letter of 19 December 2006.

I note in particular your contention that the commitments made as part of the St Andrews Agreement were “high level or framework ones”. Perhaps you could explain more fully what this means.

Irrespective of whether those commitments were “high level or framework ones” (whatever that means), the commitment in respect of the Irish Language Act was made on behalf of DCAL. Do you disagree? DCAL is obligated to submit itself in the carrying out of its functions to Section 75 of the Northern Ireland Act 1998. It follows that for this policy to be lawful it required to be Section 75 proofed. Was this done and, if so, when and how? If it was not done before 13 October 2006, then, on what lawful basis was the commitment in the St Andrews Agreement made? I really would like a straight answer. I have reason to believe that the Equality Commission takes the view that the decision to commit to an Irish Language Act would have required its own screening and equality impact assessment. Is this correct?

On a separate but related issue, please help me to understand whether or not the current consultation paper was actually screened and equality impact assessed. If so, when and how? If not, why not? Moreover, has each of the options been subjected to EQIA? If so, when and how? If not, why not? I am aware that Equality Section advised against proceeding to publish the consultation paper in advance of an EQIA, so, I will be most interested in your response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Allister', written in a cursive style.

James H Allister QC MEP

Please quote our reference on all correspondence



COR/145/2007

5 February 2007

**Mr James H Allister QC MEP
139 Holywood Road
Belfast
BT4 3BE**

Dear James

Thank you for letter of 29th January 2007 seeking clarification on a number of points I made in my letter to you of 19th January 2007.

You have asked me to explain more fully the terms 'high level' and 'framework'. I refer you to my original response of 19th January, where I indicated that the commitments, as high level or framework ones, required development as part of the Government's policy development process.

You have also asked for further clarification of whether the decision to include a commitment to introduce an Irish Language Bill was subject to an assessment of its equality impact before the Agreement was published.

As I stated in my original response, the equality proofing of the proposed legislation is being taken forward as part of the policy development leading from the commitment in the St Andrews Agreement.

You may wish to note that an equality impact assessment of the commitment to introduce Irish language legislation was conducted, and formed part of the consultation paper published on 13th December 2006. I indicated in my recent letter to you, that a second equality impact assessment would be published shortly. This was published on Friday 19th January 2007. Copies are available from DCAL's website www.dcalni.gov.uk.

Yours Sincerely

Maria Eagle

MARIA EAGLE MP

Ref: JA/ED/Culture/2404

Ms Maria Eagle MP
Minister of Culture, Arts and Leisure
Department of Culture Arts and Leisure
Interpoint Centre
20 – 24 York Street
BELFAST
BT15 1AQ

15 February 2007

Dear Minister

Re: IRISH LANGUAGE ACT

I refer to your letter of 5 February 2007, which purports to be a reply to mine of 29 January 2007, but avoids addressing the issues raised therein.

Considering that I posed something of the order of 10 questions, could I please have some answers?

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Allister', with a stylized flourish at the end.

James H Allister QC MEP



DCAL COR 183/2007

27 February 2007

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Dear James,

Thank you for your letter of 15th February 2007 regarding our previous correspondence on the proposed Irish language legislation.

My response to you on 5th February 2007 was comprehensive, and I have nothing further to add.

Yours Sincerely,

Maria Eagle

MARIA EAGLE

ANNEX C

Section 75 of NI Act 1998

75. - (1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity-

- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- (b) between men and women generally;
- (c) between persons with a disability and persons without; and
- (d) between persons with dependants and persons without.

(2) Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

(3) In this section "public authority" means-

- (a) any department, corporation or body listed in Schedule 2 to the Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation) and designated for the purposes of this section by order made by the Secretary of State;
- (b) any body (other than the Equality Commission) listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
- (c) any department or other authority listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
- (d) any other person designated for the purposes of this section by order made by the Secretary of State.

(4) Schedule 9 (which makes provision for the enforcement of the duties under this section) shall have effect.

(5) In this section-

"disability" has the same meaning as in the Disability Discrimination Act 1995; and

"racial group" has the same meaning as in the Race Relations (Northern Ireland) Order 1997.