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FROM: JEREMY HANLEY  
DATE: 11 AUGUST 1992

- CC: PS/Mr Atkins (DOE&L)
- PS/Mr Mates (B&L)
- PS/Lord Arran (DHSS&L)
- PS/PUS (B&L)
- PS/Mr Fell
- NI Perm Secs
- Mr Ledlie
- Mr Thomas
- Mr Alston
- Mr Bell
- Mr Lyon
- Mr Shannon
- Mr Watkins
- Director, NICS
- Mr McCusker
- Mr D A Hill
- Mr Maccabe
- Mr Doherty
- Mr Dodds
- Mr Baillie, NICS
- Mr Caine

*Mr Ly*

Secretary of State (L&B)

COUNCIL OF EUROPE DRAFT CHARTER ON REGIONAL OR MINORITY LANGUAGES  
- IRISH LANGUAGE

1. The Central Community Relations Unit, in consultation with NI Departments and the NIO, has been giving consideration over the last six months to overall Government policy on the Irish language. This has been taken forward at the same time as the consideration of a Council of Europe proposal for a Draft Charter on Regional or Minority Languages on which an overall UK decision is imminent. We now need to agree the way forward on Irish language policy in the context of the Charter, and clear this with EDH colleagues in September.

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2. The attached note by officials represents a major review of our overall policy on Irish in the context of the Draft Charter. The text of the Draft Charter has been agreed in the Council of Europe and will be open for signature by Ministers in September. Ratification undoubtedly raises some difficulties for us, but I believe that the balance of advantage lies clearly in favour and in seeking solutions to those difficulties, and would indeed argue in favour of such liberalisation irrespective of HMG's position on the Charter.
3. Paras 3-20 of the officials' note set out the background to the Draft Charter. I accept that, inconclusive as the legal arguments may be, political considerations drive us to recognise Irish as a regional minority language for Charter (Part I) purposes (paras 12-20 of the note): to do otherwise, or indeed to adopt anything less than a liberal stance towards the language as a whole, risks putting it (and the whole issue of mutual cultural respect) back on the political agenda unhelpfully both within Northern Ireland and in our dealings with the Republic.
4. Part II of the Charter gives us most difficulty (paras 21-29 of the note by officials), particularly in that for the UK to subscribe to it we would have to amend or repeal both the Administration of Justice (Language) Act (Ireland) 1737 and the Public Health and Local Government Miscellaneous Provisions Act (NI) 1949 governing streetnames. This might entail practical difficulties, perhaps especially with streetnames and in accommodating Irish versions without disruption at district council level. But this question is in my view not one of principle (indeed the principle of changing streetnames legislation was conceded at an IGC in June 1986) but of

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how changes can be achieved, and we can, I believe, leave the choices of the options until after the Charter is ratified; and in any case the right choice should reduce any political objections at council level. I am reinforced in this view by the apparent evolution of attitudes in Northern Ireland to cultural issues as suggested by the current Talks process: of course we do not want to create a divisive issue, but I think that our recent experience of more liberal attitudes in the Talks suggests that streetnames need not become a widespread issue in district councils. It is this change of climate which, I believe, allows us to take a different, more positive view now than Peter Brooke felt able to take in 1990.

5. As to the courts, the Lord Chancellor's letter of 25 June to the Lord Privy Seal expressed concerns at Irish speakers having rights to use Irish in courts here. His officials do not however object to ratification even if this means amendment of the 1737 Act in a way which might, for example, still leave discretion in the hands of the judiciary whether to allow spoken evidence in Irish translated by an interpreter. (There is no question of bilingual court proceedings.) Clearly, however, Lord Mackay would need to be approached if we are to proceed as I recommend.
6. Officials have also consulted the RUC lest liberalisation might cause major problems for the security forces. They do not object in principle, but have pointed out that there will be implications for records and training; they would also be concerned at the possibility that changes in policy could lead to more widespread use of Irish either in streetnames or as a mode of expression (eg, at checkpoints). These problems they would regard as significant but not insuperable. I share the view of

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officials that the liberalisation I propose is unlikely to foster widespread use of Irish and that the security forces are unlikely to face materially different problems in practice with the use of Irish than they face now.

7. Ratification is not dependent on commitment to the details of Part III, which we could not currently sign up to. Any points which might arise under it can be taken individually and in slower time should further developments be sought. (See paras 30-34 of the officials' note.)
8. The major justification for tackling these barriers to a more liberal approach lies in political arguments. We are wholly committed, especially in the Talks, to "the development of a society in which both main traditions would be respected" - and removing barriers to Irish is a major litmus test of our intent, as discussion in the Human Rights and Cultural Diversity sub-committee in Strand I revealed. A positive approach will also remove this as a salient political issue, enable us to respond positively to criticism from the Irish and internationally and help undermine Sinn Fein/PIRA's exploitation of the language issue, not least by providing moderate nationalist politicians with a chance to pursue, through constitutional channels, an appropriate recognition of the identity of particular areas. But ratification of the Draft Charter is a long way from bilingualism which would not be justified. I believe therefore that our balanced approach is sensible.
9. The political reaction to the changes I am proposing is not easy to gauge with full confidence. Responsible nationalist opinion will generally respond positively, though some will be disappointed at our not embracing Part III. Unionist reaction is harder to predict: some,

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perhaps particularly at district council level, will be opposed, but my judgement, and that of officials, is that unionists (some of whom are Irish language activists) will accept the removal of barriers, though perhaps with bad grace. Crucially, my judgement is that these proposals will not damage the Talks, and indeed it may prove possible to use them helpfully with the Irish.

### Recommendations

10. I recommend that:

- (i) we accept Irish as falling within the Draft Charter in Northern Ireland;
- (ii) we agree to ratification on the basis of Parts I and II of the Charter;
- (iii) we agree to announce commitment to removing discriminatory aspects from streetnames legislation and encourage the Lord Chancellor to do likewise for the 1737 Act; and
- (iv) we agree that it is inappropriate to implement Part III but that further consideration be given to its element in consultation with Irish language interests.

11. We need to come to decisions on this by mid-September. That leaves time for you to reflect and, if you would find it helpful, to hold a meeting shortly after your return.

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12. If you agree to these proposals, officials will provide an appropriate draft letter to the Lord Chancellor and colleagues on EDH.

JEREMY HANLEY