

**Minutes of the Article 9(1) Sub-Group Meeting on
Wednesday 26 November 2003 Northern Ireland Court Service,
Conference Room, 1st Floor, Windsor House
(Inter-Departmental Meeting)**

Present: Jim Alford
Pat McAlister
David Polley
Leslie Morgan
Tim Devine
Simon Rogers
Brian Doherty
Siobhan Broderick (Chair)
Alison Houston
Grainne Campbell
Rosie Keenan (Minutes)

Apologies: Claire Archbold

1. Mrs Broderick welcomed the members of the Sub-Group to this inaugural meeting. The members introduced themselves and their role in the group.
 - Jim Alford - representative from the Northern Ireland Office (NIO)
 - Pat McAlister - representative from Department of Culture and Learning (DCAL)
 - David Polley representative from DCAL
 - Leslie Morgan – representative from Department for Social Development.
 - Tim Devine – representative from Department of Employment and Learning (DEL)
 - Simon Rogers - representative from the Lord Chief Justice's Office.

- Brian Doherty - representative from the Departmental Solicitors Office.

2. Ms Broderick gave a brief background saying that the Sub-Group has been established to consider the implications of Article 9(1) of the European Charter for Regional and Minority Languages. The Charter came into force on the 2nd July 2001. The Secretary of State has responsibility in Northern Ireland for the Charter. In the devolved administration DCAL has overall responsibility for the implementation of the Charter. A standing Inter-departmental Charter Group chaired by DCAL and involving all the Northern Ireland Departments, the Northern Ireland Office, Customs and Excise, Inland Revenue and the Northern Ireland Court Service exists to co-ordinate the implementation of the Charter.

3. The main drivers for the establishment of the Sub-Group were:-

- the commitment given in relation to the Irish language in the Belfast Agreement; and
- Recommendation 138 of the Criminal Justice Review which recommended the consideration of the use of the Irish language in courts to be taken forward in the wider context of the

development of policy and the use of Irish in public life generally.

4. In November 2001 the implementation plan for the Criminal Justice Review was published, in it the Government signalled its acceptance of recommendation 138. It was agreed in light of the existence of an Inter Departmental Standing Group with responsibility for the Charter, that it should establish a sub-group to consider the implications of signing up to Article 9. It was agreed that the Northern Ireland Court Service take the lead in establishing such a sub-group given it's responsibility for administering the courts. The terms of reference for the Sub-group were circulated to the Inter-Departmental Group and ministerial approval was recently obtained. The Sub-group members have been provided with a copy.

5. Ms McAlister (DCAL) asked for an amendment to the terms of reference - in the first paragraph, substitute 'of the European Charter' for 'of the Council of Europe Charter'. This amendment was agreed by the group. Ms McAlister also asked to clarify the remit of the group. Mrs Broderick confirmed that this sub-group was looking at Article 9(1).

6. Any decisions to ratify Article 9(1) of the Charter would have implications for tribunals. Consequently the departments that have responsibility for the main tribunals in Northern Ireland are represented on the Sub-group.

7. Mrs Broderick stated that the work of the Sub-Group is dictated by Article 9(1) and the Group's terms of reference. It breaks down into three main strands:

(1) Research into demand for use of Irish in Article 9(1) proceedings.

(2) To identify and evaluate the practical implications including cost of applying Article 9(1) and to look at the impact on the administration of justice.

(3) The implications of the Administration of Justice (Language) Act (Ireland) 1977.

8. The Court Service has established an Internal Working Group to consider the second strand identified above. This requires consideration of criminal, civil and family proceedings across all of the court tiers. The work programme copied to group members reflects the approach being adopted by this group to identification and consideration of the practical implications of using Irish in

courts. The Sub-Group now needs to feed into this work programme to reflect the implications for Article 9(1) in relation to tribunals. This, in the main affects DEL, DSD and to a lesser extent the NIO.

Action Point 1

It was agreed that these departments would take the work programme away and apply to the tribunals for which they are responsible. Mrs Broderick asked for a first draft of their input by the end of December 2003. (Mrs Broderick suggested that an internal working group may be of assistance in this work).

9. Mr Devine asked why the Sub-group was only considering Irish? Ms McAlister confirmed that the Government only signed up to Irish for the purposes of Part III of the Charter. Mr Devine queried whether the Sub-group should look at Ulster-Scots for the purposes of Article 9(1). Ms McAlister confirmed that there was no actual standard form of Ulster Scots at this stage and this posed difficulties for translation. Mr Alford commented that at this stage our objectives were not aspirational. We could only sign up for what we can actually deliver now. Mrs Broderick stated that the

Sub-Group's role was dictated by its terms of reference. It was the use of Irish in court and tribunals and the timeframe was short.

10. Mrs Broderick referred to the political commitment given to consider the use of Irish in courts. It was recognised that the timeframe was tight but that Court Service had already committed significant time and resources to providing a programme of work which other departments are to adopt in relation to tribunals.

Subject to these the group agreed to the issue of the specification.

11. Mrs Broderick stated that an independent verification of the programme of work appears appropriate. A consultant is perhaps the most suitable way to provide this service. It is preferable that this verification applies to all work (both courts and tribunals).

13. There will however be a cost implication. She intimated that the

departments had already been alerted to the fact that the Court

12. In relation to the first strand of work, Mrs Broderick referred the Group to the draft Research Specification copied to members prior to the meeting. She provided the group with an amended specification which had been slightly amended. The group discussed the specification and were agreed it, subject to the following amendments to the objectives:-

the Departments contributing $\frac{1}{15}$ of the cost).

- Bullet point 1 to read the number of persons in Northern

Ireland who can speak Irish. Remove the words "and use".

- Bullet point 2 should read "the number of persons who might want to be able to use Irish and who would personally use it in the circumstances detailed".

Action Point 2

Subject to these the group agreed to the issue of the specification.

Mrs Broderick informed the group that the aim is to issue the tender quickly (next week) with the research starting in the week commencing 5th January 2004.

13. Mrs Broderick then raised the issue of cost. She intimated that the departments had already been alerted to the fact that the Court Service would be looking for a contribution to the costs incurred by the sub-group. There was no exact way to approach a division of the costs. But as Article 9(1) broke down into three main tiers (criminal, civil and administrative) it appeared reasonable that a one third contribution be provided by the other Departments represented in the Sub-group (in reality this would result in each of the Departments contributing $\frac{1}{15}$ of the cost).

Action Point 3

14. Mr Alford, on behalf of the NIO, undertook to seek funding. Mr Devine and Ms Morgan intimated that they would go back to their Departments and seek approval for funding. Ms McAlister undertook that she would also look for funding and would share any research that she has available. She also undertook the Court Service with provide copies of the Seamus Dunn report and other written guidance for circulation to Sub-group members.

15. Mrs Broderick referred to the third strand of the group's work and advised that the Court Service had started to consider the effect of the 1737 Act. It may be that Crown Counsel's advice is appropriate, however it was too early to make such a decision.

Brian Doherty advised that he had previously considered the Act and he would provide copies of this advice.

16. Mrs Broderick then raised the issue of consultation; who and when. One of the main areas of concern was the issue of consulting the legal professions seeking their views on the implications of Article 9(1) and secondly, consultation with other stakeholders informing them of the work of the Sub-group.

Action Point 4

Mrs Broderick undertook to provide draft letters to members of the

Sub-group before the next meeting.

17. The subgroup then suggested the following consultees:-

- The Childrens Commissioner
- The Legal Services Commissioner
- Belfast Law Centre
- Ombudsman
- Courts inspectorate

18. Mrs Broderick commented that it may be useful to the Sub-group's work to look at other jurisdictions

19. There being no other business the meeting closed. The next meeting was arranged for **14th January 2004.**

Article 9 Sub-group

Agreed Terms of Reference

- To identify and evaluate the practical implications of applying provisions of Article 9(1) (use of language in court/tribunal proceedings) of the European Charter for Regional or Minority Languages in respect of the Irish language;
- To consider the likely cost of doing so and any implications for the administration of justice;
- To commission research, as appropriate, into demand for the use of the Irish language in Article 9(1) proceedings;
- To evaluate the interface between Article 9(1) of the Charter and the Administration of Justice (Language) Act (Ireland) 1737;
- To make recommendations to Ministers with regard to the scope for applying provisions of Article 9(1) of the Charter in respect of the Irish language.

Tim Devine

Department of Employment and Learning

Brian Doherty

Departmental Solicitor's Office

Pat McAlistar

Department of Culture, Arts and Leisure

Lesley Morgan

Department of Social Development

Simon Rogers

Office of the Lord Chief Justice

* Attendance by representatives of Operations Division to be notified

ARTICLE 9(1) SUB-GROUP

Members of the Sub-group

Siobhan Broderick	Civil Policy Branch, NI Court Service
Alison Houston	Civil Policy Branch, NI Court Service
Grainne Campbell ¹ }	Operations Division, NI Court Service
Clive Cromie }	
Paula McCourt }	
Jim Alford	Northern Ireland Office
Claire Archbold	Office of the First and Deputy First Minister
Tim Devine	Department of Employment and Learning
Brian Doherty	Departmental Solicitor's Office
Pat McAlister	Department of Culture, Arts and Leisure
Lesley Morgan	Department of Social Development
Simon Rogers	Office of the Lord Chief Justice

¹ Attendance by representatives of Operations Division to be rotated