

## SUMMARY OF OVERALL FINDINGS

### *In relation to demand for the use of Irish in Court...*

- According to the latest census the vast majority of the Northern Ireland population (almost 90%) have 'no knowledge' of Irish. Whilst the numbers currently are small, we were given to understand, from those interviewed and those consulted in the focus groups, that the population of Irish speakers in Northern Ireland is growing with the expansion of Irish-medium education.
- The survey of Court users (n=161)<sup>1</sup> found that:
  - well over half of the respondents were in favour of:
    - There being an option to conduct a trial in Irish (criminal or civil)
    - The accused being able to choose to use Irish in proceedings (criminal or civil)
    - A party or witness being given the option to give evidence in Irish (criminal or civil) – with the majority considering that the State should cover the cost of this
    - The Court providing documents in Irish
  - Concerns about accuracy, time and delays were the main factors that would seem to influence a person's choice to use or not use Irish. Cost and comfort were lesser factors in this regard.
  - Between a quarter and a third said they would want to have the option to use Irish in Court themselves (e.g. as accused, witness or party). Of those who said they would choose not to use Irish, more than two-thirds said the main reason was because they could not speak Irish.
  - Respondents who described themselves as being 'Catholic' or 'Irish' were significantly more likely to agree that Irish should be used in Court.
- According to those consulted via focus groups or focus groups:
  - The majority seemed to have no objection in principle to a trial being conducted in Irish, or to an accused or a party or witness using Irish or presenting evidence in Irish (i.e. irrespective of whether it pertained to a criminal or civil trial). However, some felt that this option should only be open to someone whose first language was Irish.
  - These opinions were more in line with the rights of those who speak Irish as a first language, rather than as a second language.



## Northern Ireland Court Service Research Into the Use of Irish in Court and Tribunal Proceedings

2<sup>nd</sup> June 2004

### *Final Report*

It should be noted that given the relatively small number of respondents (n=161) and the fact that no Tribunal Service users were included in the sample, a degree of caution should be applied as regards the statistical robustness of the findings. We recommend that Court Service should be considering a larger scale, more statistically robust survey of the general population before finalising its deliberations on this matter.

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    - The Court providing documents in Irish.
  - Concerns about accuracy, time and delays were the main issues that would seem to influence a person's choice to use or not use Irish. Cost and comfort were lesser factors in this regard.
  - Between a quarter and a third said they would want to have the option to use Irish in Court themselves (e.g. as accused, witness or party). Of those who said they would choose not to use Irish, more than three-quarters said the main reason was because they could not speak /read Irish.
  - Respondents who described themselves as being 'Catholic' or 'Irish' were significantly more likely to state that Irish should be used in Court.
- According to those consulted via interview or focus group:
  - The majority seemed to have no objection in principle to a trial being conducted in Irish, or to an accused or a party or witness using Irish or presenting evidence in Irish (i.e. irrespective of whether it pertained to a criminal or civil trial). However, some felt that this option should only be open to someone whose first language was Irish.
  - Those operating outside the Court Service tended to view the matter more as one of rights rather than demand.
  - Concerns about competence in the language and possible cost would seem to influence a person's choice to use or not use Irish.

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## EXECUTIVE SUMMARY

### In relation to practical implications....

- Whilst those who were interviewed or who took part in the focus groups supported, in principle, the conduct of trials in Irish, they also identified significant practical implications which, to them, effectively rendered this approach untenable in the short term.
- The favoured approach, amongst interviewees and focus group participants appeared to be to present evidence in Irish through the use of interpreters. However, there was widespread concern about the possible accuracy of interpreting services. There was a suggestion that an independent, quality-assured interpreting service needed to be set up. It was suggested that such a service would need to be dedicated to the Northern Ireland Court Service.
- There appear to be very mixed views about what should be done about Court documentation. Within the survey, respondents who described themselves as being Protestant were significantly more likely to agree with the statements 'Courts should use single language forms as standard practice in English'. Catholics were significantly more likely to agree with the statement, 'Courts should use bi-lingual forms as standard practice, English and Irish'. However, amongst those interviewed or who took part in a focus group, there was strong support for the Court rules and Court documentation being available in English and Irish.
- There were also opposing views on the matter of legislation. Many of those consulted in the interviews and focus groups were against the notion of translating legislation into Irish. However, quite a number of those consulted in the focus groups were also in favour of all legislation being translated into Irish.
- Most seemed in favour of the State paying for any additional costs associated with conducting proceedings in Irish.

## 1.3 DEMAND FOR THE USE OF THE IRISH LANGUAGE IN COURT AND TRIBUNAL PROCEEDINGS IN NORTHERN IRELAND

### 1.3.1 OVERVIEW OF THE METHODS USED TO ASSESS DEMAND

- The desk based research exercise was used to explore existing statistical material relating to the use / knowledge of Irish within the context of Northern Ireland. Emphasis was placed on examining the Census figures (2001) to obtain a breakdown of the number of people in Northern Ireland who have some knowledge of the Irish language. Whilst it was recognised that the data would not provide direct feedback on actual demand for Irish in Court or Tribunal settings, it was felt that it would however provide a useful insight into the potential numbers of the population who would have some knowledge of the Irish language and who may potentially wish to use it in Court or Tribunal proceedings.
- Attempts were also made to gauge demand during the in-depth interviews and focus group stages. The main emphasis was placed on eliciting views as to whether or not participants thought the Court should be required to permit the use of Irish under various circumstances, as well as gathering information on whether or not participants could speak Irish and, if so, whether they would use it in Court in each of the circumstances outlined. It should be noted, however, that the number of actual participants at the focus groups was quite low, despite the significant efforts which were made to ensure a high turn-out.

## **EXECUTIVE SUMMARY**

### **1 EXECUTIVE SUMMARY**

#### **1.1 BACKGROUND TO THE RESEARCH**

- The Interdepartmental Group, established to ensure the effective implementation of the European Charter for Regional or Minority Languages in the context of Northern Ireland, approved the establishment of a sub-group to consider the implications of applying the provisions of Article 9(1) (use of language in Court/Tribunal proceedings) in respect of the Irish language. RES was commissioned by the sub-group to carry out research to establish the demand for the use of the Irish language in Court and Tribunal proceedings, as well as to elicit views on the implications associated with using Irish. A broad range of representatives were invited to participate in the research, these included members of the legal profession, the judiciary, public sector staff, Irish Language groups, voluntary organisations, and members of the general public. The findings which have emerged from this research will be used by the sub-group to make a preliminary report and recommendations to Government later this year.

#### **1.2 SUMMARY OF THE METHODOLOGY**

- The methodology used by RES was comprised of four key elements as outlined below:
  - ☑ Desk Based Research;
  - ☑ Survey of Court Users (N=161);
  - ☑ In-depth Interviews (N=20); and,
  - ☑ Focus Groups (N=6).

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- Attempts were also made to gauge demand during the in-depth interviews and focus group stages. The main emphasis was placed on eliciting views as to whether or not participants thought the Court should be required to permit the use of Irish under various circumstances, as well as gathering information on whether or not participants could speak Irish and, if so, whether they would use it in Court in each of the circumstances outlined. It should be noted however, that the number of actual participants at the focus groups was quite low, despite the significant efforts which were made to ensure a high turn-out.

- The survey of Court Users formed the main method used to assess demand for the use of the Irish language in Court and Tribunal proceedings. It should be noted that, given the relatively small number of survey participants (n=161), as well as the fact that no users of the Tribunal Service were included in the sample, a degree of caution should be applied in interpreting the statistical robustness of the findings.

### **1.3.2 CONCLUSIONS FROM THE DESK BASED RESEARCH**

- The analysis showed that in total some 10.35% of the population in Northern Ireland (aged 3 years and over) had some knowledge of Irish. The remaining 89.65% had no knowledge of Irish.
- The areas with highest levels of knowledge were Newry and Mourne (20.41%), Dungannon (19.10%), Magherafelt (17.54%) and Omagh (16.19%).
- Almost a third of the population (31%) who had some knowledge of Irish were aged between 25 – 39 years. A further 29% were in the 40 – 59 years category and 26% were aged between 16 – 24 years. Some 92% of those who had some knowledge of Irish were Catholic, 7% were Protestant.

### **1.3.3 CONCLUSIONS FROM THE SURVEY OF COURT USERS (n=161)**

#### *Use of the Irish Language in Court / Tribunal Proceedings:*

- 57% of respondents [91] thought the Court should be required to conduct the proceedings in Irish (if necessary with the use of interpreters), if requested by one of the parties to criminal proceedings.
  - Respondents who described themselves as being Irish were significantly more likely to express the view that the Court, if requested by one of the parties to criminal proceedings, should be required to conduct the proceedings in Irish. Catholics were also significantly more likely to agree with this statement. Those in the 16-24 years of age category were also significantly more likely to report that the Court, if requested by one of the parties to criminal proceedings, should be required to conduct the proceedings in Irish.
- 63% [102] reported that the accused in criminal proceedings should be allowed to use Irish in Court if he / she requested to do so.
  - Respondents who described themselves as being Irish were significantly more likely to express the view that where the accused in criminal proceedings requests to use Irish, he / she should be allowed to do so. Catholics were also significantly more likely to state that where the accused in criminal proceedings requests to use Irish, he / she should be allowed to do so.
  - Respondents in the 16-24 years of age category were significantly more likely to report that where the accused in criminal proceedings requests to use Irish, he / she should be allowed to do so. Those from the Belfast (Local Government District) area were also significantly more likely to express the view that where the accused in criminal proceedings requests to use Irish, he / she should be allowed to do so.

- 67% [108] stated that where a party or witness makes a request or gives evidence in Irish, either in writing or orally, it should be treated the same as similar requests or evidence made in English.
  - Respondents who described themselves as being Irish or as being Catholic were significantly more likely to express the view that where a party or witness makes a request or gives evidence in Irish (either in writing or orally) it should be admitted in evidence (and treated the same as similar requests or evidence made in English). Males were significantly less likely than females to state that where a party or witness makes a request or gives evidence in Irish (either in writing or orally) it should not be admitted in evidence (and treated the same as similar requests or evidence made in English). Respondents in the 16-24 years of age category were significantly more likely to report that where a party or witness makes a request or gives evidence in Irish (either in writing or orally) it should not be admitted in evidence (and treated the same as similar requests or evidence made in English).
- 55% [89] thought the Court should be required to provide documents connected with legal proceedings in Irish.
  - Respondents who described themselves as being Irish or as being Catholic were significantly more likely to hold the view that the Court should be required to provide documents connected with legal proceedings in Irish (e.g. Court forms, Court rules, legislation etc.). Those in the 16-24 years of age category were also significantly more likely to report that the Court should be required to provide documents connected with legal proceedings in Irish.
- 56% (91) thought the Court or Tribunal should be required to conduct the proceedings in Irish, if requested by one of the parties to civil proceedings.
  - Respondents who described themselves as being Irish or as being Catholic were significantly more likely to hold the view that the Court should, if requested by one of the parties to civil proceedings, be required to conduct the proceedings in Irish. Those in the 16-24 years of age category were significantly more likely to report that the Court should, if requested by one of the parties to civil proceedings, be required to conduct the proceedings in Irish.
- 62% of respondents [56] thought the State should bear the additional cost of proceedings being conducted in Irish. A quarter of respondents (25%) [23] thought the party making the request for the proceedings to be conducted in Irish should bear the additional cost.
  - Respondents who described themselves as being Irish were significantly more likely to hold the view that the State should bear the additional cost of the proceedings being conducted in Irish.
- 53% [86] felt that a party appearing in person before a civil Court or Tribunal should be allowed to use Irish at no additional expense to themselves.
  - Respondents who described themselves as being Irish or as being catholic were significantly more likely to hold the view that a party appearing in person before a civil Court or Tribunal should be allowed to use Irish at no additional expense to themselves. Respondents in the 45-64 years of age category were significantly more likely to state that a party appearing in person before a civil Court or

Tribunal should not be allowed to use Irish at no additional expense to themselves.

- 62% [99] thought a party or witness in civil or Tribunal proceedings should be allowed to produce documents or give evidence in Irish.
  - Those who described themselves as being Irish were significantly more likely to agree that a party or witness in civil or Tribunal proceedings should be allowed to produce documents or give evidence in Irish. Catholics were also significantly more likely to state that a party or witness in civil or Tribunal proceedings should be allowed to produce documents or give evidence in Irish. Respondents in the 45-64 years of age category were significantly more likely to state that a party or witness in civil or Tribunal proceedings should be allowed to produce documents or give evidence in Irish.
- 55% [54] felt that the State should bear the additional cost to facilitate the use of Irish in Court and Tribunal proceedings; 28% [28] thought the party making the request should bear the additional cost and a further 12% [12] thought the person who loses the case should pay the additional costs.
  - Married respondents were significantly more likely to express the view that the State should bear the additional cost of using Irish. Respondents most in favour of the State bearing the additional costs were significantly more likely to be in the 25 – 44 years of age category.
- 84% [100] reported that accuracy would have an effect on their choice to use Irish in Court and Tribunal proceedings; 62% [74] stated that comfort factor would have an effect on their choice; 72% [86] stated that time would not effect their decision to use Irish, whilst 71% [85] stated that a delay would not effect their decision to use Irish in proceedings; 56% reported that cost would not effect their choice to use Irish.
  - Those who described themselves as being Irish were significantly more likely to state that, time and delay would not effect their choices. They were also significantly more likely to report that they would feel comfortable in Court if one of the parties was speaking Irish and they were unable to understand what was being said.
  - Catholics were significantly more likely to state that time and delay would not effect their choices. They were also significantly more likely to report that they would be confident that the interpreter was accurately representing what they said, or what another person had said, and they would feel comfortable in Court if one of the parties was speaking Irish and they were unable to understand what was being said.
  - Respondents who were married were significantly more likely to report that they would feel comfortable in Court if one of the parties was speaking Irish and they were unable to understand what was being said. Respondents who stated that they would be confident that the interpreter was accurately representing what was being said were significantly more likely to be in the 25 – 44 years of age category.

*Personal Use of the Irish Language in Court / Tribunal Proceedings:*

- 36% [58] stated that if they were a party or witness in civil or Tribunal proceedings, they would want to be allowed to produce documents or give evidence in Irish; 35%

[56] reported that if they were a party before a civil Court or Tribunal they would want to be allowed to use Irish at no additional expense; 30% [48] reported that if they were being tried for a criminal offence, they would want to be allowed to give evidence and make requests in Irish; 74% [119] said that they would not want to have their criminal proceedings conducted in Irish; 26% [41] would want their criminal proceedings conducted in Irish; 27% [43] reported that they would want to have their civil or Tribunal proceedings conducted in Irish; 27% [44] would want to be provided with the documents connected with their Court proceedings in Irish (e.g. Court forms, Court rules, legislation etc.).

- Those who described themselves as being British were significantly more likely to state that they would not want to have their criminal proceedings conducted in Irish. Respondents who described themselves as being Irish were significantly more likely to state that: if they were being tried for a criminal offence, they would want to be allowed to give evidence, and make requests, in Irish; in criminal proceedings, they would want their written and oral evidence and requests to be admitted in evidence (and treated the same as similar evidence and requests in English); they would want to be provided with the documents connected with their Court proceedings in Irish (e.g. Court forms, Court rules, legislation etc); they would want to have their civil or Tribunal proceedings conducted in Irish; if they were a party appearing before a civil Court or Tribunal, they would want to be allowed to use Irish at no additional expense; and, if they were a party or witness in civil or Tribunal proceedings they would want to be allowed to produce documents or give evidence in Irish. Catholics were significantly more likely than Protestants to report that they would want personally to use Irish in each of the circumstances listed.
- Those in the 45 – 64 years of age category were significantly less likely to state that they would want to have their criminal proceedings conducted in Irish and that if they were a party appearing before a civil Court or Tribunal, they would want to be allowed to use Irish at no additional expense.
- Those in the 45 – 64 years of age category were significantly more likely to state that: if they were being tried for a criminal offence, they would not want to be allowed to give evidence, or make any requests, in Irish; they would not want to be provided with the documents connected with their Court proceedings in Irish; they would not want to have their civil or Tribunal proceedings conducted in Irish; and, if they were a party or witness in civil or Tribunal proceedings, they would not want to be allowed to produce documents or give evidence in Irish.
- 79% [92] stated that the main reason why they would not want to have their criminal proceedings conducted in Irish was that they could not speak / read Irish.
- The fact that people could not speak or read Irish was the main reason why: 84% [92] stated that if they were being tried for a criminal offence, they would not want to be allowed to give evidence, or make requests, in Irish; 86% [95] reported that in criminal proceedings, they would not want their written or oral evidence and requests to be admitted in evidence (using Irish), (and treated the same as similar evidence and requests in English); 90% [99] stated that they would not want to be provided with the documents connected with their Court proceedings in Irish; 90% [101] reported that they would not want to have their civil or Tribunal proceedings conducted in Irish; 89% [84] indicated that if they were a party appearing before a civil Court or Tribunal, they would not want to be allowed to use Irish at no additional expense; 89% [85] indicated that if they were a party or witness in civil or Tribunal

proceedings, they would not want to be allowed to produce documents or give evidence in Irish.

- Respondents who stated that they had no Irish were significantly more likely to report that: they would not want to have their criminal proceedings conducted in Irish; if they were being tried for a criminal offence, they would not want to give evidence, or make any requests, in Irish; in criminal proceedings, they would not want their written or oral evidence and requests to be admitted in evidence (in Irish); they would not want to be provided with the documents connected with their Court proceedings in Irish; they would not want to have their civil or Tribunal proceedings conducted in Irish; if appearing before a civil Court or Tribunal, they would not want to be allowed to use Irish at no additional expense; if a party or witness in civil or Tribunal proceedings, they would not want to be allowed to produce documents or give evidence in Irish.
- Those who could not read any Irish were significantly more likely to report that: if they were being tried for a criminal offence, they would not want to give evidence, or make any requests, in Irish; in criminal proceedings, they would not want their written or oral evidence and requests to be admitted in evidence (in Irish); would not want to be provided with the documents connected with their Court proceedings in Irish; would not want to have their civil or Tribunal proceedings conducted in Irish; if a party appearing before a civil Court or Tribunal, would not want to be allowed to use Irish at no additional expense; if a party or witness in civil or Tribunal proceedings, they would not want to be allowed to produce documents or give evidence in Irish.
- Respondents with no particular feelings towards the Irish language were significantly more likely to state that they: would not want to have their criminal proceedings conducted in Irish; if being tried for a criminal offence, they would not want to give evidence, or make requests, in Irish; in criminal proceedings, they would not want their written or oral evidence and requests to be admitted in evidence (in Irish); would not want to be provided with the documents connected with their Court proceedings in Irish; would not want to have their civil or Tribunal proceedings conducted in Irish; if appearing before a civil Court or Tribunal, would not want to be allowed to use Irish at no additional expense; if a party or witness in civil or Tribunal proceedings, would not want to produce documents or give evidence in Irish.

*Importance of Being Able to Use Irish in Court / Tribunal Proceedings:*

- 46% [58] thought it was important / very important to be allowed to use Irish at no additional expense if you were a party appearing before a civil Court or Tribunal; 38% [60] felt it was important / very important to be allowed to produce documents or give evidence in Irish if you were a party or witness in civil or Tribunal proceedings; 34% [54] thought it was important / very important to be provided with the documents connected with Court proceedings in Irish (for example, Court forms, Court rules, legislation etc). Sixty-five per cent felt that it was not important / not at all important to: have criminal proceedings conducted in Irish; be allowed to give evidence, and make any requests, in Irish if being tried for a criminal offence; be allowed to have written and oral evidence and requests admitted in evidence (and treated the same as similar evidence and requests in English) if being tried for a criminal offence; have civil or Tribunal proceedings conducted in Irish.
- Respondents who described themselves as being Irish were significantly more likely to state that it was important to: have your criminal proceedings conducted

in Irish; be allowed to give your evidence, and make any requests, in Irish if being tried for a criminal offence; be allowed to have written and oral evidence and requests admitted in evidence (and treated the same as similar evidence and requests in English) if you were being tried for a criminal offence; be provided with the documents connected with your Court proceedings in Irish (e.g. Court forms, Court rules, legislation etc); have your civil or Tribunal proceedings conducted in Irish, if necessary by the use of interpreters; be allowed to use Irish at no additional expense if you were a party appearing before a civil Court or Tribunal; be allowed to produce documents or give evidence in Irish if you were a party or witness in civil or Tribunal proceedings.

- Protestants were significantly more likely to state that it was unimportant to: have your criminal proceedings conducted in Irish; be allowed to give your evidence, and make any requests, in Irish if you were being tried for a criminal offence; be allowed to have your written and oral evidence and requests admitted in evidence (and treated the same as similar evidence and requests in English) if you were being tried for a criminal offence; be provided with the documents connected with your Court proceedings in Irish (e.g. Court forms, Court rules, legislation etc); have your civil or Tribunal proceedings conducted in Irish, if necessary by the use of interpreters; to be allowed to use Irish at no additional expense if you were a party appearing before a civil Court or Tribunal; to be allowed to produce documents or give evidence in Irish if you were a party or witness in civil or Tribunal proceedings.
- Respondents in the 16 – 24 years of age category were significantly more likely to state that it was important to be allowed to use Irish at no additional expense if you were a party appearing before a civil Court or Tribunal and to be allowed to produce documents or give evidence in Irish if you were a party or witness in civil or Tribunal proceedings.
- 58% [93] agreed / agreed strongly with the statement, 'Courts should issue Irish language forms on a request only basis'; 54% [86] agreed / agreed strongly with the statement 'Courts should use single language forms as standard practice in English'; 53% [85] agreed / agreed strongly with the statement, 'Courts should issue Irish language forms on request only to those who are not literate in the English language; 51% [81] agreed / agreed strongly that 'Courts should use bilingual forms as standard practice, English and Irish'; 72% [116] disagreed / disagreed strongly with the statement, 'Courts should use single language forms as standard practice in Irish'; 60% [96] disagreed / disagreed strongly with the statement, 'Courts should never under any circumstances issue any Court forms in the Irish language'.
- Respondents with no Irish were significantly more likely to agree with the statement 'Courts should use single language forms as standard practice in English', and were most likely to disagree with the statement 'Courts should use single language forms as standard practice in Irish.' Those able to understand a few simple sentences were significantly more likely to agree with the statement 'Courts should use bilingual forms as standard practice, English and Irish.' Respondents who could recognise a few words only were significantly more likely to agree with the statement 'Courts should use bilingual forms as standard practice, English and Irish.'
- Those who described themselves as being British were significantly more likely to agree with the statement 'Courts should use single language forms as standard practice in English.' Respondents who described themselves as being Irish were significantly more likely to agree with the statement 'Courts should use bilingual

forms as standard practice, English and Irish' and to disagree with the statements 'Courts should never under any circumstances issue any Court forms in the Irish language' and 'Courts should issue Irish language forms on request only to those who are not literate in the English language.'

- Respondents who described themselves as being Protestant were significantly more likely to agree with the statement 'Courts should use single language forms as standard practice in English.' Catholics were significantly more likely to agree with the statements 'Courts should use bilingual forms as standard practice, English and Irish' and 'Courts should issue Irish language forms on a request only basis' and to disagree with the statement 'Courts should never under any circumstances issue any Court forms in the Irish language.'

*Current Use of the Irish Language:*

- 53% [86] could not speak any Irish; 25% [40] could speak 'the odd word' of Irish; 15% [24] could speak a 'few simple sentences' of Irish; 2% [3] had the ability to speak 'most conversations' in Irish.
  - Respondents who described themselves as being British were significantly more likely to state that they had no Irish. Protestants were significantly more likely to state that they had no Irish.
- 67% [107] could not read any Irish; 20% [32] could 'recognise a few words only'; 6% could 'read with some help'; and, 4% [7] could 'read with much help.'
  - Respondents who described themselves as being Irish were significantly less likely to state that they could not read any Irish. Protestants were significantly more likely to state that they could not read any Irish.
- 36% [58] had no particular feelings about the Irish language; 26% [42] were strongly in favour of the Irish language; 24% [39] were somewhat in favour; 9% [14] were strongly opposed to the Irish language; and 4% [7] reported being somewhat opposed.
  - Respondents who described themselves as being Irish were significantly more likely to state that they were strongly in favour of the Irish language. Catholics were significantly more likely than Protestants to report being strongly in favour of Irish.

### **1.3.4 CONCLUSIONS FROM THE IN-DEPTH INTERVIEWS**

#### **CRIMINAL PROCEEDINGS**

*Demand in relation to hosting the trial in Irish:*

- The majority of interviewees had no objection in principle to Irish being used to conduct a trial in criminal proceedings.
- Most argued that parties should not have an automatic right to have a case heard in Irish.
- Some felt that Irish should only be permitted in circumstances where the person in Court is a native Irish speaker and not someone who uses Irish as a second language

and whose first language is English. However, most felt that the number of native Irish speakers in Northern Ireland, who do not have English as a second language, would be virtually non-existent.

- Most expressed the view that the option to use Irish was essentially about giving people the principle of choice.
- A few reported that demand was low because people did not know they had a choice to use Irish, or that by requesting to use Irish some felt that they may in effect compromise their case as they may be viewed by some as hard-line nationalists with a political agenda.
- A few made the point that the overall number of Irish speakers in Northern Ireland is growing, and therefore consideration would need to be given to making provision for increased demand in the future.

*Demand in relation to the accused requesting to use Irish:*

- The majority of interviewees had no objection in principle to allowing an accused in criminal proceedings to use Irish. Most felt that this was a much more feasible option compared to conducting the entire trial in Irish.
- Most highlighted the need to question why the accused would want to or would need to use Irish.

*Demand for a party or witness giving evidence in Irish:*

- The interviewees agreed unanimously that where a party or witness makes a request or gives evidence in Irish (either in writing or orally) it should be admitted in evidence and treated the same as similar requests or evidence made in English. All agreed that no distinction should be made because the evidence is presented in Irish or because it is presented in either written or oral format.

*Demand for Court providing documents in Irish:*

- The majority of interviewees felt that in principle they could see no reason why a Court user should not be provided with Court forms or Court rules in Irish. However, most were against the need to translate legislation into Irish.
- Some argued that Court forms should be bi-lingual. As they pointed out, this approach has been used in other settings such as Canada (English and French), Wales (English and Welsh) and in Europe.
- Some stated that they had no views on this issue as they felt it was more a matter for those resourcing any translation i.e. the Court Service.

**CIVIL PROCEEDINGS**

*Demand in relation to party or witness to civil proceedings requesting to conduct trial in Irish:*

- No distinction was made between whether or not a Court, if required by one of the parties to civil proceedings, as opposed to criminal proceedings, should be required to

conduct the proceedings in Irish. The principle being applied was that whatever system was being used for one should also be used for the other.

*Demand for who should bear the additional cost of proceedings being conducted in Irish:*

- A somewhat mixed response emerged when interviewees were asked to comment on who they thought should bear the additional cost of the proceedings being conducted in Irish. Most felt that the State should bear the cost, although some were of the view that this would depend on the individual circumstances.
- Some felt that the Courts should accept paying costs of up to £1000, after which the person making the request would accept the costs or that the person making the request would pay the first £1000 and the Court would bear all additional costs thereafter.
- A number of interviewees made the point that if a party wins their case they should not be expected to have to pay any additional costs as a result of having used Irish.
- A few expressed the view that the State should pay the additional costs accrued in any case where a minority language is involved, irrespective of the language in question whether Irish, Chinese, Greek, Pakistani etc.

*Demand for party in a civil Court appearing in person requesting to use Irish:*

- Some felt that it was reasonable for the person making the request to incur some of the additional costs, others argued that it should be up to the Court to absorb the costs and that under no circumstances should the person making the request be expected to pay. Some felt that a person who does not want to speak Irish should not have to pay extra because the other party opts to use Irish.
- Some were unsure about how the issue should be dealt with.

*Demand for party or witness producing documents in Irish:*

- All of those interviewed stated that a party or witness in civil or Tribunal proceedings should be allowed to produce documents or give evidence in Irish.

*Likely to use Irish:*

- Only a few interviewees were able to speak Irish, most of whom stated that they would be willing to use it in Court proceedings, however, some felt that it would depend on how serious the issue was i.e. whether or not it was a dispute with neighbours over the height of a hedge or if it was a murder trial. Those who could not speak Irish said that even if they were fluent in the language they would still prefer for all their Court dealings to be conducted through the medium of English.
- A few reported that using Irish would be their most preferred option and that they would use it in the event of being in Court regardless of the circumstances. Several believed that there would be no demand for Irish in Court or Tribunal proceedings if it were to be offered.
- Whilst the numbers of people in Northern Ireland for whom Irish is a first language is argued to be small, this is set to change in the future given the number of pupils

currently being taught their entire curriculum through the medium of the Irish language. This it was felt was set to have a significant impact on the demand for Irish not just in Court settings but also more broadly amongst public bodies in general.

*Is demand likely to be affected by cost, time, accuracy, comfort:*

- Cost, time, delay, accuracy and ‘comfort factor’ were all seen as being likely to have an effect on the choices which people would make in deciding on whether or not to use Irish in the circumstances outlined.
- Overall, it was felt that costs would discourage people from requesting to use Irish in Court proceedings. Some also thought it would be very expensive to accommodate the use of Irish, therefore it would depend on the demand for it.
- Most were of the view that if a party felt strongly enough that they wanted to use Irish then they would not be perturbed by having a delay. Others felt that people would feel happier dealing with a time delay if they were able to “feel they have had a fair hearing” as a result of being able to use Irish.
- A number took objection to being asked about whether or not they would feel comfortable in Court if one of the parties was speaking in Irish. It was argued that people should not feel any less comfortable because Irish is being spoken than what they would if French or Portuguese was being used. Others reported that discussions which are likely to take place are usually whispers and therefore cannot be heard by the other party in any case. Some also expressed the view that in terms of comfort factor, people should use their professional integrity and should carry out their role.

### **1.3.5 CONCLUSIONS FROM THE FOCUS GROUPS**

*General points on demand:*

- Those operating outside the Court Service tended to view the use of Irish in Court more a matter of rights (i.e. as distinct from any empirical assessment of demand). They therefore were more inclined to assert that a person should have a right to choose a language in which to represent himself / herself.

#### **CRIMINAL PROCEEDINGS**

*Demand in relation to hosting the trial in Irish:*

- There was a common concern<sup>2</sup> that hosting the trial in Irish should be allowed if the accused did not have sufficient English.
- A few of those working inside or alongside the Courts service felt that it should be provided if the accused felt more comfortable speaking in Irish.

*Demand in relation to the accused requesting use Irish:*

- There were a range of views on this:

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<sup>2</sup> Note: In this context the term “common concern” is not intended to mean that these points were the majority view of both types of focus groups i.e. those working within and alongside the service and those working outside. It merely means that some individuals within both types of groups raised this point. Where a point is the majority view across all of the groups consulted, we make this clear in the write up above, otherwise the meaning shown here should be assumed.

- A few of those operating within and alongside the Court Service felt that the accused should be able to request to use Irish if Irish was his / her first language.
- Some of those operating outside the Court Service also thought this but the predominant view, in their case, related to rights i.e. that a person should be able to choose which language to use irrespective of whether or not Irish was their first language.
- A few of those operating within and alongside the Court Service indicated that the number of Irish language speakers in Northern Ireland is growing and whatever provision was being planned Government and policy makers should be mindful of this.
- There was a general consensus amongst those operating outside the Court Service that allowing the accused to use Irish was a more practical alternative, in the immediate future, to trying to conduct a trial in Irish.

*Demand for a party or witness giving evidence in Irish:*

- There was a common concern that any entitlement that applies to the accused should apply equally to all other parties to the proceedings. Those working outside the Court Service referred to this more often than those working within and alongside the service.

*Demand for Court providing documents in Irish:*

- There was a distinct difference in the perceptions of the demand for Court documentation in Irish between those working within and alongside the Courts service and those operating outside the service.
- Most of those operating outside the Court Service:
  - felt that all Court documents should be translated into Irish and should be available as a matter of routine (i.e. as compared with on request);
  - were in favour of all of the existing legislation being translated into Irish – as they saw it, this was related to parity of esteem. Only a few felt that it would suffice to translate the legislation into Irish from here on.
- Those operating within and alongside the Court Service were concerned about the costs of translating the documents and legislation. There was a sense that a balance needed to be struck between cost and efficiency.

**CIVIL PROCEEDINGS**

*Demand in relation to party to civil proceedings requesting to conduct trial in Irish:*

- There was a common concern that any entitlement that applies to the criminal proceedings should apply equally to in civil proceedings.
- A few of those operating within and alongside the Court Service felt that there was a need to consider the rights of other parties to the proceedings before making a decision on whether or not to allow a trial to be conducted in Irish.

Demand for party in a civil Court appearing in person requesting to use Irish:

- There was a common concern that a party to a case should be allowed to use Irish and the State should pay for it.
- However, a few of those operating within and alongside the system felt that this should only be allowed if witness or party was not competent in English.
- In contrast, a few of those operating outside the Court Service held the view that the State already pays for interpreters in relation to the Social Security Appeals where the appellant does not speak English and contended that this should be treated in the same way.

Demand for party or witness producing documents in Irish:

- There was a common concern that the principle of using Irish should be the same whether the evidence was presented in person or via documents.

Likely to use Irish:

- There was a common concern that any choice to use Irish in Court would depend on a person's own level of competence in the language.
- Of those who expressed a view of this, those operating within and alongside the Court Service felt that most would not choose to use Irish because they felt that they would be at a disadvantage trying to represent themselves through a third party.
- Again, of those who expressed a view of this, those operating outside the Court Service gave a range of opinion:
  - Some felt that it would depend on how dedicated someone was to the language
  - Others were concerned about possible prejudice against the Irish language in Court and a possible effect on the proceedings.
  - Some were concerned about possible delays to proceedings which may be critical in some cases.

Is demand likely to be affected by cost, time, accuracy, comfort:

- Cost - Primarily those operating outside the Court Service were concerned that any additional cost would act as a disincentive for someone wishing to use Irish and could reduce demand. However, any such charge is likely to be perceived by those operating outside the system as discriminatory.
- Time - There was a common concern that if a case was time critical this could reduce the likelihood of someone choosing to use Irish.
- Accuracy - In relation to accuracy, there was a general concern about the accuracy of interpretation irrespective of the skill of the interpreter.

- Comfort – Some of those operating outside the system were concerned that the choice to use Irish would be perceived as threatening to some parts of Northern Ireland society and that there was a need for cultural diversity training.

#### **1.4 POSSIBLE PRACTICAL IMPLICATIONS PERTAINING TO ANY USE OF THE IRISH LANGUAGE IN COURT AND TRIBUNAL PROCEEDINGS IN NORTHERN IRELAND**

##### **1.4.1 OVERVIEW OF THE METHODS USED TO ASSESS IMPLICATIONS**

The in-depth interviews and focus groups were used to assess the implications associated with using Irish in Court and Tribunal proceedings. The main emphasis was placed on eliciting views of the implications associated with using Irish under each of the circumstances outlined. As noted earlier, the number of actual participants at the focus groups was quite low, despite the significant efforts which were made to ensure a high turn-out.

##### **1.4.2 CONCLUSIONS FROM THE IN-DEPTH INTERVIEWS (IMPLICATIONS)**

###### **CRIMINAL PROCEEDINGS**

###### *Possible implications in relation to hosting the trial in Irish:*

- Many felt that the implications of hosting a criminal trial in Irish would in effect render this option as untenable.
  - The main implications associated with using Irish to conduct proceedings included: the additional expense; the length of time required to have cases heard in Irish; the length of time required to bring an Irish case to Court; risk of compromising the judicial process; disadvantage associated with hearing evidence 'second hand'; risk of misinterpretation; delays in having documentation translated; tactically creating delay; risk of adding to aggression / aggravation in Court; recording the proceedings; identifying suitable interpreters; waste of time and money; introduction of a measure of artificiality into proceedings; independence of tribunal hearings; and, risk of exploitation.
- A few felt that the use of Irish in conducting criminal proceedings was the "ideal" and most "attractive" way forward, however they also thought that smaller steps towards normalising the language would be required first.
- Several of the interviewees referred to the current shortage of suitably qualified interpreters.
- Given the complexity of Court language, several highlighted the need for specialist training for interpreters seeking to undertake such work.
- A number of interviewees raised concern about the issue of accommodating the use of other ethnic minority language if Irish were to be facilitated.

###### *Possible implications in relation to the accused requesting to use Irish:*

- On the whole, it was felt that this approach would be cheaper than conducting the entire trial in Irish.

- Most highlighted concerns about the quality and effects of translation.

Possible implications for a party or witness giving evidence in Irish:

- Concerns were raised about the extent to which documentary translations should be facilitated because of the potential to introduce a significant amount of extra work and possible delays.

Possible implications in relation to the Courts providing documents in Irish:

- Several of the interviewees raised concerns about the costs associated with translating copious amounts of legislation.
- A few raised concerns about the risk that if two documents had to be completed and an error was made on one of the documents, how would it be decided which would be the correct document?
- A few questioned what the protocol would be for translating legislation for other minority languages.
- Concerns were also raised about how well the technicalities of legislation would translate into Irish.
- It was argued by a few of the interviewees that Irish is a developing language and its use in Courts will further aid its development.

CIVIL PROCEEDINGS

Possible implications in relation to party or witness to civil proceedings requesting to conduct trial in Irish:

- Similar concerns were voiced in relation to time delays and expense as noted earlier in the discussion relating to criminal proceedings.
- ‘Directions Hearings’ it was felt by some could not be accommodated in Irish because of the timescale involved and the requirement to have translators on stand-by.

Possible implications - Who should bear any additional cost:

- If the Court adopts an approach where it is seen to encourage the use of Irish, for example, in Court forms etc. then it should be made responsible for accommodating those people who choose to complete the forms in Irish and therefore this would mean accepting the costs that go with it.

Possible implications - Party in a civil Court appearing in person requesting to use Irish:

- A few felt that it would be difficult for the Government in general to introduce any forthcoming cuts in Legal Aid whilst at the same time making additional funding available to cover the expense of translating from English to Irish for people who are perfectly able to understand the English language.

Possible implications - Party or witness producing documents in Irish:

- No additional implications were discussed.

Possible Implications - Likely to use Irish:

- No additional implications were discussed.

Possible implications - cost, time, accuracy, comfort:

- A number of interviewees underlined the importance of ensuring that interpreters are not only fluent in the Irish language but are also competent in understanding technical legal issues.
- Concerns raised that some people may appeal their case on the grounds that their hearing was held in Irish and the Court interpreter had not fully explained a particular aspect of the hearing accurately to them.
- If demand was to increase for the use of Irish in Court or Tribunal proceedings the Court Service would need a significantly increased number of interpreters.
- Simultaneous translation would be quite a difficult and tiresome exercise and therefore would require translators to take a break every 15-20 minutes. This would mean that each hearing would require more than one interpreter.
- If translation was done sequentially it would only increase the time factor slightly but would not have as profound an effect as to double the time required.
- Time delay that would result in people requesting to use Irish would mean that other parties involved in the case would not be seen to have justice done to them.

#### 1.4.3 CONCLUSIONS FROM THE FOCUS GROUPS (IMPLICATIONS)

Some general points:

- Several people commented on the complexity of Court language.
- There was widespread concern about the possible limitations of translation and possible implications for access to justice.
- A few people referred to the current shortage of qualified interpreters and consequently very little service could be made available at present, capacity would need to be developed.
- There was mention of the need for the establishment of an independent, quality-assured interpreting service which was dedicated to providing interpreting services for the Northern Ireland Court Service.

#### CRIMINAL PROCEEDINGS

Possible implications in relation to hosting the trial in Irish:

- There was some concern amongst those within and outside the Court Service about the cost involved in hosting a trial in Irish.

*Possible implications in relation to the accused requesting to use Irish:*

- Those operating within and alongside the Court Service were concerned that:
- Having a trial in both languages, English and Irish was overly complex – it should be in one language or the other;
- Having interpreters would add to the cost.
- Those operating outside the Court Service were concerned that:
  - Some people might use this option to make a political point;
  - There may be prejudice against the Irish language amongst some Court Service personnel and this could possibly impact on the proceedings;
  - Having interpreters would add to the cost.

*Possible implications in relation to the Courts providing documents in Irish:*

- Those working within and alongside the Court Service were concerned about the cost implications for their service if all documentation had to be provided in Irish.

**CIVIL PROCEEDINGS**

*Possible implications in relation to party or witness to civil proceedings requesting conduct of trial in Irish:*

- Those operating within and alongside the Court Service felt that:
  - There was a need to ensure that civil proceedings were not made more tense by requests to use Irish;
  - Some civil cases have critical time lines and would any request to use Irish stall proceedings?

*Possible implications - Who should bear any additional cost:*

- The vast majority felt that the State should bear any additional cost in criminal cases.
- There was a common concern that in civil cases, either the individual making a request to use Irish should bear the additional cost or the losing party should pay.
- Almost all of those operating outside the Court Service felt that having to pay would act as a disincentive to use Irish. This was perceived as a denial of rights and potentially discriminatory.
- Some of those operating outside the Court Service felt that rather than any party pay the full additional cost, that the State pay part and the losing party pay part.

*Possible implications - Party in a civil Court appearing in person requesting to use Irish:*

- A few of those operating within and alongside the Court Service were concerned:

- that the use of Irish language in Courts would create precedents for the use of Irish language in other public services in Northern Ireland;
- about what represented the boundary in relation to the expression “use of Irish in Court” i.e. what other supporting activities was it intended to cover and what might be the cost implications for the operation of their service area.

*Possible implications - Party or witness producing documents in Irish:*

- A few of those operating within and alongside the Court Service were concerned about:
  - The possibility that it could seem that the witness was dictating the proceedings; and
  - Potential abuse of this option, although the numbers who might do so were thought to be small.

*Possible Implications - Likely to use Irish:*

- A few of those operating outside the Court Service felt that the Court Service should do more to make it evident that a choice to use Irish was welcome in Court e.g. signage etc.