

Neutral Citation No: [2026] NIKB 44

Ref: McA13121

*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No: 25/53505

Delivered: 17/08/2026

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

**KING'S BENCH DIVISION
(JUDICIAL REVIEW)**

**IN THE MATTER OF AN APPLICATION BY CONRADH NA GAEILGE
FOR JUDICIAL REVIEW**

**Karen Quinlivan QC and Aidan McGowan (instructed by KRW Law Solicitors) for the
Applicant**

**Philip McAteer (instructed by the Departmental Solicitor's Office) for the Executive
Committee for Northern Ireland, First Respondent**

**Dr Tony McGleenan KC and Ms Laura Curran for the Minister for Communities, Second
Respondent**

**Mr Jamie Bryson, litigant in person as Notice Party to these proceedings and applicant in a
related judicial review in which he challenges the lawfulness of a decision by the
Department for Infrastructure to direct the deployment of dual language signage in the
new Grand Central Station, Belfast.**

**Review and Hearing Dates: 15 January 2026, 28 January 2026, 6 February 2026,
13 May 2026, 14 May 2026, 15 May 2026, 18 May 2026, 2 June 2026 and 3 June 2026**

McALINDEN J

Introduction

[1] This is the third application for judicial review brought by Conradh na Gaeilge ("CnaG"), arising out of the continued failure of the Executive Committee to adopt an Irish Language Strategy pursuant to its duty under section 28D of the Northern Ireland Act 1998 ("NIA 1998"). The two previous applications resulted in judgments being delivered by Maguire J on 3 March 2017 reported at [2017] NIQB 27 and Scofield J on 26 August 2022 reported at [2022] NIQB 56. Both judges found that the Executive Committee was in breach of its section 28D duty and made declarations to that effect. In the second application Scofield J declined to make an Order of Mandamus. In this

application CnaG seeks a further declaration against the Executive Committee. It also renews its application for an Order of Mandamus against the Executive Committee. CnaG has also joined the Minister for Communities to this third application on the basis that the Executive Committee has delegated the task of preparing a draft Irish Language Strategy and presenting it to the Executive Committee for adoption to this minister and this minister has failed to perform this delegated role. CnaG seeks a declaration against the Minister for Communities to this effect.

[2] The two previous judgments set out helpful chronologies from the enactment of the amendment to the NIA 1998 which inserted the 28D duty up to March 2021. When Scofield J delivered his judgment on 26 August 2022, the Northern Ireland Executive had collapsed, following the resignation of the First Minister in February 2022. However, work continued on the development of an Irish Language Strategy within the Department for Communities, albeit in the background. In this judgment I will describe what has happened or what has not happened, as the case may be, from March 2021 onwards by giving details of relevant events, engagements and developments during this period. The hearing of this case took place over a number of days and the evidential picture continued to develop over the course of the hearing so that at the end of the hearing there were well over three thousand eight hundred pages of documentation produced to the court, four affidavits from Mr Pádraig Ó Tiarnaigh, Communications Manager of CnaG and six affidavits from Mr Iain Greenway, the Director in the Department for Communities with responsibility for the development of the Irish and Ulster Scots Language Strategies.

[3] Unusually, for a judicial review application, I also heard evidence from Mr Greenway over the course of two days and I have to state that I was greatly impressed by this witness and, at the conclusion of his evidence, I was convinced that any suggestions that the civil servants in the Department for Communities were dragging their heels in relation to the production of a draft Irish Language Strategy or that they were deliberately going slow in the development of such a strategy were completely groundless. Irrespective of whether the present Minister in charge of the Department for Communities is well-disposed to the idea of the promotion of the Irish language or not, I am satisfied that the civil servants in that department, throughout the entirety of the period in question, were diligently, conscientiously and assiduously engaging in meaningful work to develop a realistic and comprehensive Irish Language Strategy for presentation to the Executive Committee which stood a realistic chance of being adopted by the Executive Committee.

[4] Before giving an outline of the key events and developments in the form of a chronology from March 2021 onwards, I consider it important that I highlight a number of issues which must be taken into account by me when deciding how to deal with this third application by CnaG in which this organisation is attempting to obtain some form of meaningful remedy which will force the Executive Committee to do something that they were supposed to have done well almost two decades ago now.

[5] The first issue is the issue of participation of the Executive Committee in these proceedings. The Executive Committee is ably represented in this instance by Mr Philip McAteer, Junior Crown Counsel. Mr McAteer's instructions are, in essence, to play no active role in these proceedings because, to put it bluntly, the First Minister and the deputy First Minister cannot agree on the approach to be adopted by the Executive Committee to these proceedings. This is despite the fact that the applicant is seeking an Order of Mandamus in this case and the UK Supreme Court in the case of *Imam* [2023] UKSC 45 has recently indicated that when a public body or authority is facing the prospect of being made the subject of an Order of Mandamus for an established failure to perform what is a crystallised statutory duty, it is incumbent on the public body or authority to put forward a positive case as to why such an order should not be made. It is a testament to the dysfunctional state of devolved government in this jurisdiction that the First Minister and deputy First Minister cannot agree how to deal with these proceedings.

[6] The second issue is another and a much more serious example of dysfunctionality in devolved government and that is the continuing failure of the Executive to agree a budget for Northern Ireland. Irrespective of the reasons put forward for the inability to reach agreement on a budget, the impacts of this failure are both widespread and significant. In the context of the present application, the impact is the creation and continuation of uncertainty in respect of departmental funding especially for new projects and the inability of the various departments to commit spending to the implementation of an Irish Language Strategy in the short, medium or long-term.

[7] The third issue is the enactment by the Westminster Parliament of the Identity and Language (Northern Ireland) Act 2022 and the subsequent, albeit delayed, appointment of Mr Pól Deeds as the first Irish Language Commissioner for Northern Ireland who took up his post on 13 November 2025. It is now incumbent upon Mr Deeds to develop standards of best practice relating to the use of the Irish language by public authorities and he is presently engaging in this task. Once completed, these draft standards have to be approved by the First and deputy First Ministers and, thereafter, it will be Mr Deeds' role to ensure that public authorities have due regard to those agreed standards. The importance of this development is that there is a clear potential for overlap between an Irish Language Strategy and the Commissioner's standards and now that the Commissioner is in post and working on the development of these standards, it would seem sensible to allow space for detailed discussions between the Commissioner and the department with delegated responsibility for the development of an Irish Language Strategy to ensure that the products of both work-streams coherently mesh with and complement each other in order to achieve what is a clear common statutory goal.

[8] Another area of potential overlap which concerns the Department of Education in particular is the whole issue of Irish Medium Education (“IME”), with the Department of Education being under a duty to encourage and facilitate the development of IME. At present there are 30 Irish-medium schools in Northern Ireland (28 primary and two post-primary) with a further 10 Irish-medium units attached to English-medium host schools (7 primary and 3 post-primary).

[9] The Department of Education has strategies and policies in place in respect of the development of IME and the funding of such development and it is clear that there is clear potential for overlap between any Irish Language Strategy and the Department of Education’s strategies and policies in place for the development and funding of IME. Close liaison between the Department for Communities and the Department of Education would certainly assist in the development of an Irish Language Strategy which takes account of the existing duty placed upon the Department of Education to encourage and facilitate the development of IME.

[10] Finally, in the absence of the Executive adopting an Irish Language Strategy, progress has occurred at a local government level with a number of councils adopting strategies or policies on the promotion of the Irish language, including dual language street signs. In terms of the promotion and celebration of Irish culture, Belfast City Council was instrumental in attracting the Fleadh Cheoil na hÉireann to Belfast between 2 and 9 August 2026 which was the world’s largest festival of Irish music and culture during which it is estimated that there were 1.65M visits made to the city centre during the eight days of the fleadh.

[11] Individual Stormont departments have also taken steps to promote the Irish language, most notably the Department for Infrastructure. The first official dual language road signage and road markings in this jurisdiction were unveiled on the Falls Road, Belfast between the Springfield Road and the Whiterock Road on 21 July 2026. The efforts of the Minister for Infrastructure to have dual language signage and ticketing machines installed and operational in the new Grand Central Station have been put on hold pending the completion of a part-heard (by me) judicial review challenge being brought by Mr Jamie Bryson as a personal litigant in which he is supported by Mr Timothy Gaston, TUV MLA and Minister Lyons MLA, the DUP Minister for Communities. It is noteworthy that Minister Lyons MLA decided to do away with trilingual letterheads for correspondence, documentation and web pages for the Department for Communities in September 2025, adopting a single language policy (English) instead. Also of note is the fact that Conradh na Gaeilge has been granted notice party status in the Grand Central Station judicial review challenge and I will have more to say about that at the end of this judgment.

[12] All these various matters cannot be ignored. They are important and prominent features on the landscape as it presently exists which anyone now constructing a pathway upon which a comprehensive draft Irish Language Strategy can be delivered

to the Executive Committee for adoption has to take into account and make appropriate allowances for. They are matters which the court must take account of when it comes to addressing the substantive merits of this case and, if necessary, the issue of the appropriate remedy to grant in this case, even in circumstances where the Executive Committee, through dysfunctionality or otherwise, is unable to or chooses not bring any of these issues to the attention of the court.

[13] There can be no doubt that the Executive Committee that have been in place from 2007 up to the present date have failed to comply with the duty imposed upon the Executive Committee by the enactment of section 28D of the NIA 1998 and that two other High Court Judges have previously granted declarations against the Executive Committee highlighting this unlawful failure. Despite those two previous rulings of the High Court, the Executive Committee has failed to adopt an Irish Language Strategy. On one view, this could be seen as an affront to the rule of law which calls into serious doubt the commitment of the Executive Committee to uphold the rule of law, a commitment which each Minister making up the Executive Committee is duty bound to fulfil under the provisions of the Ministerial Code.

[14] Irrespective of the particular subject matter of this case (an Irish Language Strategy), on one reading, the real importance of this case is the rule of law issue identified in the preceding paragraph. If a careful examination of events from March 2021 up to the present date demonstrates the Executive Committee's dereliction of duty both in respect of section 28D and, more significantly, in respect of promoting and upholding the rule of law and complying with the Ministerial Code, what is the court to do? Does it simply rend its garments, wring its hands and bemoan the continued breach of section 28D by issuing yet another declaration against the Executive Committee or does it go further and make some form of mandatory order in order to clearly signal and demonstrate:

- (a) that it is the constitutional role of the court to ensure that the other branches of the state uphold and promote the rule of law; and
- (b) that the court's constitutionally appropriate weaponry includes the making of appropriately worded mandatory orders where non-adherence to the rule of law is demonstrated?

[15] This question obviously cannot be properly addressed and answered in a vacuum and any meaningful discussion of it must take place in the context of a proper consideration of what has transpired since the last judicial review case concluded with the making of a second declaration. It is, therefore, necessary to set out an account of the relevant and key events and developments since March 2021 and in order to do so I have drawn on the averments set out in the affidavit evidence of Mr Ó Tiarnaigh and the affidavits and oral evidence of Mr Greenway. In the account set out below, I will concentrate on the Irish Language Strategy as this is the subject of this judicial review

application. However, it should be noted that the Ulster Scots Strategy also featured in many of the meetings, exchanges and papers referred to below.

[16] It is important to note that in March 2021, Ms Deirdre Hargey MLA, was Minister for Communities and this Sinn Féin minister was clearly keen to see progress on the development of an Irish Language Strategy and an Ulster Scots Strategy. She had taken over from Minister Ní Chuilín and it would appear that in relation to the development of an Irish Language Strategy, a co-design process had been adopted consequent to Minister Ní Chuilín's direction in September 2000 and this was consistent with the approach recommended in the New Decade, New Approach framework which stated that engagement with civic society and the principles and practice of citizen and community engagement and co-design must underpin the development of the Programme for Government and its associated budget and strategies.

[17] The co-design approach was intended to ensure meaningful collaboration between those with responsibility for the strategy, those with relevant expertise in the subject matter of the strategy and those stakeholders who would be affected by the strategy. The goal of such an approach was to ensure that the ultimate outcome was relevant, effective and met the needs of those for whom the strategy was designed. It involved using an Expert Advisory Panel to begin the strategy design process and a Co-Design Group, made up of key stakeholders including Mr Ó Tiarnaigh, to advise on the development and content of a draft strategy and action plan. A Cross-Departmental Working Group was also established to discuss and agree the narrative of the strategy and the action plan that was to sit alongside the strategy.

[18] Dealing with each entity in more granular detail, the Expert Advisory Panel was supposed to present a baseline position to inform development of the strategy and make evidence-based recommendations on the themes, content and key actions that should be included in it. It was intended that the Co-Design Group would then examine the recommendations of the Expert Advisory Panel and make recommendations on the main themes, issues and priorities for the new strategy. Alongside this, a draft action plan was to be developed by the Cross-Departmental Working Group which would address the strategy's themes in order to meet the identified and stated outcomes and fill in any gaps in provision identified by the Expert Advisory Panel. It was specifically envisaged that the action plan would contain individual departmental actions. It was intended that the strategy themes and the supporting action plan would be finalised by the Co-Design Group and the Cross-Departmental Working Group.

[19] In June 2021, in the absence of Executive Committee agreement on a timetable for the production of an Irish Language Strategy, Minister Hargey MLA wrote to her Executive Committee colleagues advising them that she intended to proceed with the setting up of the Expert Advisory Panel ("EAP") with a view to the EAP commencing

its work. Mr Ó Tiarnaigh, in his first affidavit sworn on 24 June 2025, claims that at or around this time, Minister Hargey MLA had prepared a paper on the development of an Irish Language Strategy for the Executive Committee but that the Executive Office blocked this paper being tabled before the Executive Committee. Whatever the ins and outs of it, Minister Hargey MLA decided to push ahead with the development of an Irish Language Strategy. The first meeting of this five member EAP took place on 25 August 2021 and the task it set itself was to produce a recommendations report within 12 weeks. In late September 2021, Minister Hargey MLA decided to write to a range of organisations including the applicant in order to obtain nominations to the Co-Design Group ("CDG"). These were received and the first meeting of the CDG took place on 8 November 2021. Between this date and 15 October 2024, the CDG met on 29 occasions.

[20] On 22 November 2021, there was a meeting involving both the EAP and the CDG and following this the EAP submitted a draft of its recommendations report to the Department for Communities ("DfC") on 29 November 2021. The following day the DfC wrote to all the other NI government departments seeking nominations to the Cross-Departmental Working Group ("CDWG"). The intention was to populate the CDWG with officials of sufficient standing to ensure that the action plan was populated with targeted, measurable and resourced actions. The First Minister and deputy First Minister nominated a senior official from their office on 21 December 2021 and all other departments apart from Health (Minister Swann MLA) and Economy (Minister Dodds MLA) followed suit. The CDWG first met in December 2021 and this was followed up by eight meetings in 2022, six meetings in 2024 and three further meetings between January and the end of April 2025. The CDWG did not meet in 2023 when ministers were not in office due to the collapse of the Executive.

[21] The final version of the EAP report was submitted to the DfC on 1 February 2022. It contained 180 recommendations in its 180 pages. Two days later the then First Minister Paul Givan MLA resigned, resulting in the collapse of the Executive Committee. Minister Hargey MLA and other ministers remained in place in caretaker roles until the end of October 2022. In the last week of February 2022, Minister Hargey MLA directed that the EAP report should be published and put out for consultation. In advance of publication, the report was shared with the CDWG and Minister Hargey MLA also met with the EAP to discuss the recommendation report. The report was published on 7 March 2022 with an eight-week consultation period. Minister Hargey MLA notified her ministerial colleagues and the Committee for Communities of the publication of the report and the consultation period. Also on 8 March 2022, DfC wrote to the other departments advising them that the EAP report would require further detailed consideration by each department and the DfC also specifically requested the Health and Economy Departments to nominate officials to the CDWG. The Department for the Economy nominated an official on 11 March 2022 but Health maintained its position of refusing to nominate anyone. Despite this, the CDWG did meet regularly throughout the rest of 2022 and during these meetings the development

of actions arising from the draft strategy was discussed and there was information sharing from CDG meetings. Further, upon closure of the consultation period at the end of April 2022, an analysis report of the responses received was prepared.

[22] It is clear from Mr Ó Tiarnaigh's first affidavit that the CDG continued to work productively during this period and was able to meaningfully progress work on the production of an action plan which he regarded as the main strategy document. When Minister Hargey MLA and the other ministers ceased performing their caretaker roles at the end of October 2022, the CDWG did not meet again until the Executive was reformed in early 2024. Mr Greenway in his first affidavit sworn on 15 December 2025, states that when, during this period, the CDG turned its focus towards producing actions for the delivery of the strategy, this was not a role which it was initially envisaged that the CDG would perform. He states that it had been envisaged that the CDWG would perform this role and the clear implication from both Mr Ó Tiarnaigh's and Mr Greenway's affidavits is that in the period when the CDWG was not meeting, the CDG, with encouragement from the minister, took it upon itself to try to progress the development of an Irish Language Strategy by producing an action plan.

[23] During this period the DfC also had some engagement with local councils and in mid-October 2023, the DfC wrote to the Finance and Health Departments seeking nominations for the CDWG as it was anticipated at that time that the Executive Committee would soon be reformed. It was necessary to seek a nomination from Finance because the previously nominated official had moved to a different role. Both departments nominated officials later that month. On 16 November 2023, the CDG produced an action plan which, as has been indicated above, Mr Ó Tiarnaigh considered to be the main Irish Language Strategy document. In his second affidavit sworn on 14 January 2026, Mr Ó Tiarnaigh is at pains to point out that the CDG's role was to produce an action plan which was the main strategy document. This action plan was completed by November 2023 and as far as Mr Ó Tiarnaigh is concerned the work of the CDG was complete when the action plan was produced. Mr Greenway took up his post as Director of Culture in the DfC on 19 January 2024 and following this the DfC held a series of meetings with the various local councils, with 11 meetings taking place between January and June 2024.

[24] Mr Gordon Lyons MLA took up his post as Minister for Communities on 3 February 2024. In mid-February 2024, there was a meeting between DfC officials and Executive Office officials about the development of the language strategies and it was at this meeting that the Executive Office officials raised the potential overlap between the standards which were due to be developed by the Irish Language Commissioner and the Irish Language Strategy. It is to be recalled that only some of the provisions of the Identity and Language (Northern Ireland) Act 2022 which further amended the NIA 1998 had been commenced on 22 May 2023. According to Mr Ó Tiarnaigh, the CDG designed action plan was provided to the CDWG for consideration in the last week of February 2024 and a meeting of the CDWG took place on 1 March 2024, at

which the action plan was discussed. This was the first of six such meetings during 2024.

[25] At the meeting on 1 March 2024, members of the CDWG noted that the CDG's action plan contained a section relating to status, policies and governance, and it was considered that such matters fell within the scope of the best practice standards which the Irish Language Commissioner was obliged to produce under section 78M of the NIA 1998. In light of this overlap, it was deemed appropriate for a new paper to be produced by DfC which would set out options for progressing the Irish Language Strategy. This paper was produced and was provided to the CDWG in the middle of May 2024 and the CDWG provided feedback in respect of same. This feedback included comments on the costs that would be incurred by the individual departments in progressing the action plan. During this period updates were provided to the CDG.

[26] The DfC prepared a paper for the new minister setting out a number of possible options for progressing the development of the Irish Language Strategy at the end of May 2024. A draft action plan with limited costings was attached to this paper. A key issue which was identified was the scope for significant overlap between the Irish Language Strategy and the Irish Language Commissioner's standards and it was emphasised that the various options had been devised on the basis of varying levels of overlap. It was made clear that the nature and extent of the overlap would have to be more clearly identified before a meaningful decision could be taken in relation to which option to adopt for the development of an Irish Language Strategy. Mr Greenway continued to meet with Mr Ó Tiarnaigh to update him as to progress and on 30 July 2024 and 29 August 2024, Mr Greenway met with the Minister's special advisor ("SpAd") Mr Peter Johnston, in order to see how best to progress the development of the Irish Language Strategy and again the potential overlap between the Irish Language Commissioner's standards and the Irish Language Strategy featured large in these discussions. It should be remembered that neither Language Commissioner had been appointed at this stage. The discussions also delved in to the issue of the cost of the Irish Language Strategy and the amount of detail in relation to cost which would have to be included in any paper provided to the Executive Committee.

[27] Following this, the Executive Office and then the First Minister corresponded with the DfC seeking updates on the development of the Irish Language Strategy. Mr Greenway had a further meeting with the Minister in November 2024 to discuss progress on the development of the Irish Language Strategy and the issue of overlap between the Commissioner's standards and the Irish Language Strategy was again raised. Mr Greenway's first affidavit indicates that the Minister requested that the options and the timetable be updated and refined to provide a more digestible document for the Executive paper. Later in November, the First Minister repeated her request for a specific time line for the production of an Irish Language Strategy for

consideration by the Executive Committee and the DfC responded by indicating that work was ongoing which involved reviewing and refining the action plan.

[28] Prior to this, in July 2024, the DfC met with the CDG and provided it with a strategy narrative document for it to consider and refine. According to Mr Greenway, the CDG met on three occasions during 2024 and completed extensive work on refining the draft narrative for the Irish Language Strategy. This work was completed by 15 October 2024. According to Mr Ó Tiarnaigh's first affidavit, the CDG was and remains of the view that this narrative would simply be a preface to the core document which was the action plan. Further, the CDG was and remains of the view its work on the action plan was completed in November 2023 and that it should have been provided to the Executive Committee shortly thereafter for adoption. Mr Greenway in his oral evidence placed much greater emphasis on the importance of the narrative which he stated was intended to bring everything together and to explain the various aspects of the draft strategy and, in a meaningful way, to persuade the Executive Committee to adopt the draft strategy. Mr Greenway's evidence was to the effect that it was only in early November 2024 when the CDG had refined the narrative document that it and the draft action plan were in a state of readiness to be formally taken forward for consideration by the CDWG.

[29] In his second affidavit, Mr Ó Tiarnaigh is at pains to point out that he does not consider that any work carried out by the CDG on the narrative during this period constituted substantive work on the Irish Language Strategy. In essence, as far as Mr Ó Tiarnaigh is concerned, the draft strategy was complete in November 2023 and should have been approved by the present Minister shortly after he took up office in early 2024 and should have been submitted to the Executive Committee for adoption sometime during the mid part of 2024. Mr Ó Tiarnaigh strongly disagrees with Mr Greenway's averment that November 2024 marked the point in time when the draft strategy reached a stage of development where it was appropriate for it to be brought to the CDWG for consideration and further development.

[30] In his fourth affidavit sworn on 20 January 2026 and in his oral evidence, Mr Greenway drew specific attention to the Terms of Reference of the CDG and the CDWG and emphasised that Ms Ní Chuilín MLA, the then Minister for Communities, had approved these Terms of Reference and they clearly stated that the CDG was to advise on the development and content of the draft strategy and supporting action plan and that the CDWG was tasked with discussing and agreeing the content of the action plan that would sit alongside the strategy. The Terms of Reference for the CDWG are much more focused on the creation of the strategy and action plan, particularly in relation to the actions. However, Mr Greenway accepts, as well he might, that when the Executive collapsed, the CDWG did not meet and the CDG took on the role of devising an action plan and it would seem that this was with the encouragement of the then Minister for Communities, Ms Hargey MLA. Mr Greenway also firmly rejected the suggestion that the narrative was simply some

sort of introduction or forward. He reminded the court that an action plan alone does not and cannot constitute a government strategy. A well-constructed, compelling and comprehensive narrative is an essential part of a strategy document. He asserts that when he took overall control of the project, it was clear to him that the narrative was deficient and lacking in detail. Over the course of 2024, the narrative was refashioned with the aims of the strategy being clearly set out, changes made to the indicators and evidence was added.

[31] In late January 2025, Mr Greenway met with Minister Lyons MLA and discussed further amendments to the draft Executive paper that was being prepared by the DfC. It was suggested to the Minister that the draft strategy including the narrative and action plan should now be provided to the CDWG in order to be reviewed and refined. Following this meeting a formal departmental submission was prepared and presented to the Minister for approval. This submission included the draft Executive paper, the draft strategy including the narrative and action plan, a draft memo to his Executive ministerial colleagues, extracts from the relevant legislation, draft letters to the CDG members and a draft letter to the Committee for Communities.

[32] In the middle of February 2025, the First Minister sought a further update about the progress made in the development of the Irish Language Strategy from the DfC and Minister Lyons MLA confirmed that a detailed draft of the strategy including the narrative and the action plan had been provided to the CDWG and that this group was working on providing a finalised draft strategy that could be provided to the Executive Committee for consideration. The Minister also attended a meeting of the Committee for Communities at the end of February 2025 and provided the Committee with an update.

[33] In the middle of March 2025, the Minister further confirmed that it was his intention to bring a paper to the Executive Committee asking his Executive colleagues to confirm that the departmental officials nominated to sit on the CDWG had been given the authority to agree actions on behalf of their respective departments. It was hoped that this would streamline the process of strategy development and would facilitate a smoother approval process of the Irish Language Strategy by the Executive Committee. Thereafter, it was anticipated that the approved draft strategy would be put out for public consultation with final adoption by the Executive Committee thereafter.

[34] During the course of Private Members' Business in the Assembly on 18 March 2025, Minister Lyons MLA provided a detailed update to the Assembly on the progress made in developing an Irish Language Strategy. Interestingly, during this Assembly session, the Minister stated that the CDWG had thus far been operating in shadow mode, tracking the work of the CDG. It was now intended that with the delivery of

the CDG's drafts the CDWG would be able to move out of shadow mode and perform the important tasks outlined above.

[35] On 9 April 2025, Minister Lyons MLA issued an Executive paper to the Executive Committee for inclusion in the agenda for the Executive Committee meeting of 30 April 2025. The Minister indicated that what was now needed was a focused piece of work by the CDWG to review the material developed by the CDG and to bring to each Executive Committee member a set of coherent, costed and achievable actions individually tailored for each Department. It was explained in correspondence accompanying the Executive paper that the specific authorisation by each department of nominated senior departmental officials to agree actions in the CDWG was intended to ensure that the strategy's action plan was populated with targeted, measurable and resourced actions that have gained the necessary commitment from the various departments in order to make a demonstrable contribution to the issues identified in the strategy and at the same time are aligned to the Programme for Government outcomes. On 10 April 2025, the minister wrote to the CDG membership thanking them for their work. The Executive paper was not considered at the Executive Committee meeting at the end of April but was considered and endorsed by the Executive Committee at its meeting on 15 May 2025.

[36] On 24 June 2025, a bilateral meeting took place between officials from DfC and the Department for the Economy ("DfE"). Discussions centred on identifying areas where departments would have to work together, such as further education, employment benefits, broadcasting and tourism. The role of the Irish Language Commissioner was also discussed as was the issue of overlap between the Commissioner's standards and the Irish Language Strategy. The discussion also focused on the issue of the cost of implementing the Irish Language Strategy. During July and September 2025 there were four meetings between the DfC's Language Strategies Team and the Languages Operations Team during which the discussions focused on how achievable the draft actions were, the wording of strategy outcomes, indicators for each outcome, costings for the various actions and the potential for overlap with the work of the Irish Language Commissioner. Minister Lyons MLA appeared before the Committee for Communities on 3 July 2025 and provided a further update to the Committee.

[37] By early July 2025, all the relevant Stormont departments had nominated senior officials to the CDWG and a meeting was organised for later in July. In advance of this meeting DfC officials met with officials from the Department for Education in order to provide an update to that department, bearing in mind its existing responsibilities for the promotion of Irish-medium education.

[38] The CDWG meeting took place on 28 July 2025 and in advance of this, Mr Greenway provided each nominated departmental official with a detailed briefing pack which included an explanation of the Irish Language Strategy development work

that had been carried out to date, the Executive paper, the CDWG terms of reference, and the draft Irish Language Strategy including the narrative and the action plan. At this meeting a sub-group was formed consisting of the DfC and three departments that had been identified as having responsibility for the majority of the actions arising in the draft strategy. These departments were the Department for the Economy, the Department for Education and the Executive Office. The broader CDWG membership were assigned the task of acting as “critical friends.” The anticipated appointment of the Language Commissioner was discussed at this meeting and it was agreed that each departmental representative on the CDWG would review the relevant actions in the action plan in order to identify areas and issues overlap with the Commissioner’s responsibility to devise and produce draft standards for approval by the First and deputy First Ministers.

[39] Crucially, it was agreed to adopt an outcomes-based approach which was consistent with the approach adopted by the Executive Committee in relation to the Programme for Government rather than a targets-based approach which had been the previous working assumption. The contents of the draft narrative were also discussed in some detail. In mid-August 2025, DfC officials including Mr Greenway met with Foras na Gaeilge, which is the organisation with responsibility for the promotion of the Irish language throughout the island of Ireland. It was set up under the auspices of one of the North/South Implementation Bodies under the Good Friday Agreement. The purpose of the meeting was to discuss progress and next steps in relation to the development of the Irish Language Strategy and to raise the issue of a potential role for Foras na Gaeilge on the CDWG sub-group.

[40] The first meeting of this sub-group took place at the end of August 2025. However, the Department for Education was not represented at that meeting. It was agreed that the task of this sub-group should be to analyse the action plan to ensure that the actions contained therein were affordable, deliverable, feasible and sustainable. The members of the sub-group agreed that it would be best to focus initially on the vision and outcomes of the draft strategy. Following this, a further bilateral meeting between DfC officials and officials from the Department for Education took place in early September 2025 in order to brief the Department for Education on the first meeting of the CDWG sub-group. In mid-September 2025 DfC officials met with officials from the Department for the Economy at the request of this department in order to discuss their concerns about the costing of the proposed actions in the action plan. The DfC also met with Foras na Gaeilge again in late September 2025 in order to follow up on the issues raised at the previous meeting and to further discuss the issue of outcomes for the Irish Language Strategy and what were viewed as the key priority areas within each outcome.

[41] Within the DfC, discussions took place with the department’s Analytics Division in order to discuss the draft strategy and its key indicators from an analytics viewpoint. Thereafter, the Analytics Division was provided with copies of the draft

narrative and the draft action plan and they provided annotated comments which were then considered and fed into the process of revising the draft outcomes for the draft Irish Language Strategy. On 25 September 2025, the DfC issued a set of revised draft outcomes for the Irish Language Strategy to the CDWG for its consideration. The DfC then met with Foras na Gaeilge again on 3 October 2025 in order to further discuss the indicators for each outcome of the Irish Language Strategy and, in particular, to identify what additional indicators were required, to discuss amendments to existing indicators and to identify potential sources of further relevant information and statistics.

[42] The First Minister made a further request for an update on progress in early October 2025 and an update was provided by Minister Lyons MLA on 13 October 2025. The Minister then provided an in-person update to the Committee for Communities on 23 October 2025 and on the same day the CDWG met again in order to discuss further revised vision outcomes, priority action areas and indicators. The relative merits of the costing of actions and targets versus outcomes-based accountability were discussed. On 24 October 2025, Mr Greenway provided an update to the CDG. Separately, Ms Ciara Lynch, the head of the DfC Language Strategies Team met with the head of the Housing Supply Unit in the DfC in order to discuss the presentation of targets and ambitions within the housing supply strategy in order to see whether the approaches adopted in the housing supply strategy might inform the further development of the Irish Language Strategy. Ciara Lynch also met with Mr John McCord, the DfC's Director of Central Policy, to discuss the anti-poverty strategy in order to identify any potential learning points from that process. Mr McCord was acting Director of Culture in the DfC for a period of time during the earlier part of the Irish Language Strategy process and was co-chair of the CDG along with Mr Ó Tiarnaigh and so he was well placed to provide advice on how to apply any learning points to the Irish Language Strategy development process.

[43] Mr McCord highlighted that the Executive's recently published draft anti-poverty strategy 2025-2035 had faced fierce criticism for failing to include costed action plans and specific time-bound targets. This was a clear learning point. Officials in the DfC also had a series of meetings with Welsh government officials in October and November 2025 in relation to the Welsh Language Strategy, the Welsh Language Commissioner and the collation of relevant statistics in order to explore whether the Welsh experience might assist in improving the draft Irish Language Strategy. These various constructive engagements allowed the DfC officials to develop and subsequently share a further iteration of the draft outcomes and revised priority actions with the CDWG.

[44] At the time of swearing of Mr Greenway's first affidavit in December 2025, the CDWG was engaged in reviewing all the proposed actions from the CDG in light of the amended outcomes and the identified priority action areas to ensure that the CDG actions covered all the key matters identified in the priority action areas and were

coherent, costed and achievable. At that time, it was considered that this process, by necessity, would involve meaningful engagement with the Irish Language Commissioner and with a number of delivery partners, including Foras na Gaeilge, the Education Authority, Invest NI and Translink.

[45] It was also emphasised at that time that the so-called “SMART” criteria framework should be utilised in the further development of the Irish Language Strategy. Mr Greenway, in his second affidavit sworn on 8 January 2026, explained what this actually entails. In essence, it means that steps and tasks must be “specific, measurable, achievable, relavant and time-bound.” According to Mr Greenway, it was envisaged that once “SMART” actions have been finalised and agreed, the narrative of the strategy would inevitably have to be updated and detailed information in relation to costings would have to be included. Despite some level of delegated authority being given to the departmental officials on the CDWG, the nature and scale of the actions falling to each department were such that it was appreciated at that time that individual CDWG members would have to report back to their ministers and obtain appropriate approvals in terms of the proposed actions. It was hoped that each department would identify and cost the “SMART” actions which related to that particular department and would return to the CDWG with that information by the end of January 2026.

[46] In his third affidavit, sworn on 12 May 2026, Mr Ó Tiarnaigh makes the point that although Mr Greenway seems to suggest that the “SMART” criteria framework was really only adopted late in the process, in fact, there were much earlier references to this framework and he avers that from the very earliest stage of the process, the DfC emphasised to the CDG that actions had to be “SMART.” He also makes the point that contrary to the suggestion in Mr Greenway’s affidavit evidence that the issue of costing the actions also only came to the fore late in the process, in fact, the need to be able to accurately cost the proposed actions was emphasised to the CDG by DfC from the very inception of the co-design process. Irrespective of when these issues did or should have come to the fore, it is clear that they are highly relevant issues which now have to be addressed.

[47] Returning to Mr Greenway’s evidence, in December 2025, it was envisaged that when CDWG had completed its complex work programme, DfC officials would then meet with the CDG and with the Irish Language Commissioner to share and discuss the draft strategy including the amended narrative and the amended actions so that further input from the CDG and the Irish Language Commissioner could be obtained and evaluated before individual ministerial approval was sought. It was further anticipated that once the individual departments had given the draft strategy the green light, it would then be presented to the Minister for Communities to consider the same and, if content, to present the draft Irish Language Strategy to the Executive Committee for approval which, it was anticipated, would be a relatively straightforward matter, bearing in mind the input and prior approval from the

individual departments and ministers. Once approved, it was anticipated that the draft Irish Language Strategy would be the subject of a public consultation process before being finally adopted by the Executive Committee.

[48] In his second affidavit sworn in early January 2026, Mr Greenway attempted to place a timescale for the completion of all this work. At that time, it was hoped that the finalised draft of the Irish Language Strategy would be presented to the Minister for Communities for approval and onward provision to the Executive Committee by early April 2026. However, this aspirational date was not achieved.

[49] For an explanation as to why this date was not achieved, one need look no further than the minutes of the CDWG meeting that took place on 4 December 2025. It is clear from the minutes that prior to the meeting Mr Greenway had met with the Irish Language Commissioner and had provided the Commissioner with copies of the CDG narrative and action plan, the current drafts of the outcomes and the priority action areas. In relation to the “priority action areas - refinement exercise”, Mr Greenway informed the meeting that he was “looking to lock these down today (to enable work to keep moving) but noted that as actions per action area are further refined, they will likely be subject to future changes.” One of the representatives from the Department for the Economy (“DfE”) stated that “DfE are limited to what they can agree and commit to due to departmental constraints.” The representative from the Department for Infrastructure (“DfI”) stated that “she has not gone formally to her Minister as yet. At the moment existing drafts are very much viewed as DfC documents not an executive document.” The DfI representative advised that “when it is time to consider actions assigned to DfI, a submission would need to go to her Minister.”

[50] In relation to “actions per priority action area – agreed approach”, the representative from DfI stated that she “cannot commit without notifying Minister and Finance colleagues. She also “asked for clarity on next steps.” The DfE representative “explained the challenge for DfE – due to department constraints she cannot as yet go out to delivery partners.” Mr Greenway reiterated the “need to improve/consolidate in order to make ‘SMART.’”

[51] It is also clear from these minutes that various departmental representatives on the CDWG raised concerns about the potential for overlap with the role of the Irish Language Commissioner. In order to assist with individual departmental returns in respect of department specific “SMART” actions, shortly after the meeting on 4 December 2025, the DfC sent all the members of the CDWG an “excel” document outlining the CDG actions for the Irish Language Strategy. The CDWG members were requested to complete the “excel” spreadsheet for their respective departments, utilising an instructions template which was also provided. In essence, they were requested to develop and return “SMART” actions aligned to the Irish Language Strategy outcomes. This provoked a prompt response from the Office of the First and

deputy First Ministers, (“TEO”) seeking an explanation as to why actions were allocated to the TEO and reminding the DfC that the TEO had previously indicated that it considered that many of the actions properly sat with the Language Commissioners rather than with the departments. The TEO correspondence also indicated that the First and deputy First Ministers would not be briefed by TEO officials until these issues were clarified. Mr Greenway responded by requesting the TEO to progress its work on considering the priority action areas for the Irish Language Strategy in the meanwhile.

[52] In his fifth affidavit, sworn on 11 May 2026, Mr Greenway averred that completed “excel” spreadsheet responses were returned to CDWG by the Education, Finance, Justice, Health, Agriculture, Environment and Rural Affairs, and Infrastructure departments between mid-January and early-February. The TEO provided a response on 1 February 2026 indicating that it could not engage further until changes were made to the actions. The Department for the Economy responded substantively on 30 April 2026 and advised on a number of actions that DfE was currently undertaking and those they intended to undertake on foot of the agreed draft visions and priority action areas. DfC acknowledged this response but requested that the DfE provide a full and detailed response in the requested format to ensure that the response was accurately captured in any amended draft Irish Language Strategy. As of the last day of hearing of this matter, nothing further had been received from DfE and no completed “excel” spreadsheet has been returned to DfC by DfE.

[53] In his fifth affidavit, Mr Greenway also avers that DfC officials had a further meeting with the Irish Language Commissioner on 29 January 2026 and this was swiftly followed up with correspondence seeking his input into the draft Irish Language Strategy. It should be noted that the Irish Language Commissioner responded by providing input in relation to the then current draft of the Irish Language Strategy on 18 February 2026. In the meanwhile, a further CDWG meeting took place on 3 February 2026 and it was at this meeting that attempts were made to agree a process and timeline for seeking individual ministerial approval for the draft Irish Language Strategy.

[54] Following this meeting, the DfC wrote to the CDWG membership asking them to review and refine the draft Irish Language Strategy in a number of ways. The CDWG members were requested to assess the proposed outcomes and priority action areas, to flag any concerns with wording and to propose any amendments. The CDWG members were also asked to identify actions where their individual departments could take a lead role and also to highlight any gaps where additional actions might be required to support the delivery of identified outcomes. In an effort to address concerns about budget constraints, CDWG members for the individual departments were requested to focus on strengthening the longer-term dimension by considering how budgetary challenges could be built into the overarching narrative and the action plan for the Irish Language Strategy.

[55] On 6 February 2026, the DfC issued guidance to the various departments outlining the proposed approach to obtaining individual ministerial approval of the draft Irish Language Strategy. Departments were requested to provide their submissions to their ministers by 18 February 2026 and to request their ministers to provide responses by 11 March 2026. On 27 February 2026, DfC officials provided a formal submission to the Minister for Communities, seeking his agreement to the draft action plan, the strategy narrative and proposed next steps in terms of DfC actions.

[56] The other departments also provided their ministers with formal submissions seeking individual ministerial approval of the draft Irish Language Strategy and ministerial responses were received from the following ministers on the following dates:

Health 23 February 2026;
Finance 11 March 2026;
Education 13 March 2026;
Infrastructure 16 March 2026;
Executive Office 20 March 2026;
Agriculture Environment and Rural Affairs 22 March 2026; and
Justice 24 March 2026.

[57] In summary, a number of the ministers who responded expressly reserved approval pending further clarification of a number of issues. In other cases, approval was caveated and a significant number of ministers who responded raised concerns around the funding of the Irish Language Strategy. This is in the context of there being no agreed Northern Ireland budget. None of the affidavits sworn by Mr Greenway indicate that the Minister for Communities has provided a response. There is no affidavit from the Minister for Communities in this litigation, despite his central involvement in this matter and there is not even a hint of an explanation in the papers which I have seen as to why the minister with delegated responsibility for preparing the draft Irish Language Strategy for adoption by the Executive Committee has not provided a response to his own department's request for approval of the draft Irish Language Strategy.

[58] In relation to the ministerial responses which were received, as will become apparent below, it is of interest that in relation to Minister O'Dowd, MLA (Finance), the response received on 11 March 2026 indicated that Minister O'Dowd had "considered the submission and had noted, not approved, the contents of the submission and is content to be kept informed on direction of travel by officials. He will consider the Strategy in its entirety when it is brought forward." The response received from Minister Kimmins MLA (Infrastructure) was that she was content with the draft narrative and outcomes/action plans and signified her approval of the attached actions spreadsheet. However, the response stated that the costings were not

definitive and that they were estimates only. The response specifically stated that from the “Department’s and Translink’s perspective more time is required to carry out a full and comprehensive costings exercise.”

[59] Following on from the ministerial responses that had been received by that date, the DfC circulated an updated narrative and action plan for the Irish Language Strategy on 30 March 2026. As Dr Archibald MLA, the Minister for the Economy, had not provided a substantive response to the request for approval on 15 April 2026, the DfC sought an update from DfE on its ministerial approval process. The response from DfE was that the minister had “approved a request to seek input from Senior Officials in the Department and partner organisations on actions highlighted in the draft strategy documents.” To date the DfC has not received any further response from DfE in respect of the Minister’s approval or otherwise of the draft Irish Language Strategy.

[60] I will now explain why I have highlighted the responses of these three specific ministers. Mr Ó Tiarnaigh’s third affidavit also deals with actions taken by the applicant’s solicitors during the course of this judicial review. While the matter was at hearing, on 26 January 2026, the applicant’s solicitor wrote to each member of the Executive Committee about the progress of the proceedings and about the approach being adopted and maintained by the Executive Committee in relation to the proceedings. It would appear that there was a co-ordinated approach adopted by three ministers, [Ministers Archibald, (Economy), O’Dowd (Finance), and Kimmins (Infrastructure)] who, with remarkable alacrity, replied in very similar terms on 27 January 2026.

[61] Dr Archibald MLA in her response, stated that she was of the view, as were all the Sinn Féin ministers, including the First Minister, that the Minister for Communities had the responsibility to bring forward a draft Irish Language Strategy for Executive consideration without further delay. There was considerable work carried out by the former Minister for Communities to fulfil this obligation, yet under the current Minister, no draft strategy has been forthcoming. Mr O’Dowd MLA made substantially the same points in his reply as did Ms Kimmins MLA in her reply.

[62] What is interesting about this concerted stance by these Sinn Féin ministers is that subsequent to writing these letters, two of these three ministers responded to a request to approve the draft Irish Language Strategy in the matter described in para [58] above, and, to date, the third minister, as identified in para [59] above, has not provided a substantive response. Of the two that responded, one stated that he had noted but had not approved the draft Strategy and the other, although approving it, raised issues in respect of costings. These issues are significantly amplified in the DfI spreadsheet that was returned to DfC where the potential cost to bodies such as the DVLA and Translink are considered. Further, in response to the DfC’s request that the individual departments should identify and cost the “SMART” actions which related

to each particular department and, thereafter, complete the “excel” spreadsheets and return these to the CDWG by the end of January 2026, the DfE responded on 28 January 2026 in the following terms:

“Work is ongoing within DfE, but we are not yet in a position to propose departmental actions.

Also, as mentioned previously, all business-related matters cannot be assigned to DfE. In saying that we aren’t being unhelpful. It’s just that each department will have an understanding of the businesses within its sphere of influence and, if it’s determined that business outreach is required, it would make sense for that to be done on a sectoral basis, utilising the detailed knowledge and expertise within each department.”

[63] There appears to be a marked inconsistency of approach between the contents of these three ministers’ letters to the applicant’s solicitor and their responses (or lack thereof) to the DfC and the responses of their departmental officials in respect of the provision of populated “excel” spreadsheets. It is difficult to reconcile their statements that a draft Irish Language Strategy should be brought forward for Executive approval without further delay and their and their departments’ responses to the DfC in which it is made clear that further work is necessary before individual departmental approval of the relevant actions in the action plan can be given.

[64] It is also interesting to note the response of the Department of Education (“DE”) in which it provided feedback on the proposed actions within the DfC Irish Language Strategy. It was noted that a significant number of these actions relate directly to Irish-Medium Education (“IME”). The response states that the DE is currently developing a dedicated IME Strategy which will seek to address the needs of the IME sector. The note goes on to state that to avoid duplication and ensure coherence, the DE:

“proposes that all actions within the DfC Irish Language Strategy relating to IME be replaced by one overarching action:

Develop, publish and implement a bespoke Irish-Medium Education Strategy which takes into consideration the unique needs of immersion education. This will encompass resourcing, educator recruitment and retention, curriculum and assessment development, sustainability and accommodation, parental and community support, policy and strategic development, and support for students with Special Educational Needs/Disabilities (SEND).

Other actions proposed by DfC for DE, for example relating to Irish language learning in English-medium schools, will be addressed by the relevant DE teams.”

[65] The DE response also indicated that the IME Strategy will provide a comprehensive framework for the development and sustainability of IME in Northern Ireland. It will be structured around seven strategic pillars identified in the indented quotation in the previous paragraph which reflect the key challenges and priorities identified by stakeholders. Publication of the IME strategy is scheduled for mid-2027. The DE attempted to give some indication of the costs associated with the DE actions set out in the original draft of the Irish language Strategy and that the estimated one off costs amounted to over £45M with recurrent costs of £45M per year. The response stated that:

“It should be noted that costs at this stage are purely indicative, and no actions and funding have been agreed.”

More will be said about costs, funding and budgetary issues below.

[66] In his fifth affidavit sworn on 11 May 2026 and in his oral evidence, Mr Greenway was at pains to point out that a huge amount of work has been undertaken by DfC to bring the Irish Language Strategy to a very advanced stage in preparation for Executive consideration. The Irish Language Strategy has been advanced beyond previous drafts in terms of complexity, achievability and careful analysis by the individual departments. However, in light of the ministerial and departmental responses received by DfC, Mr Greenway was of the opinion that the Irish Language Strategy was not yet at a stage of development where it could be brought to the Executive Committee for agreement. He was of the view that having regard to the complexity of achieving agreement on the draft Irish Language strategy, it was unlikely that this could be achieved within the present mandate.

[67] Dealing now with budgetary issues; in Mr Greenway’s sixth affidavit sworn on 18 May 2026, he refers to the Minister for Finance’s Written Ministerial Statement to the Assembly on 6 January 2026. In it, Minister O’Dowd MLA set out his proposals for a draft three-year budget. He described the funding position as “extremely constrained” and noted that it was “simply not possible to provide any department with the funding it has requested.” He referenced “challenging decisions to prioritise the available funding to deliver the desired outcomes.” Since then, the Executive has failed to agree any form of budget for 2026/2027 as required by section 64(1) of the NIA 1998. Mr Greenway was of the view that the cost estimates for actions provided by DAERA and DfI might more appropriately be regarded as costs associated with the implementation of the Irish Language Commissioner’s standards. However, even making allowances for the costs associated with the Irish Language Commissioner’s

standards and the costs associated with the IME Strategy, the additional costs of implementing the Irish Language Strategy will have to be found in very challenging financial and budgetary circumstances. In the DfC submission to its minister in late February 2026, the department estimated that the annual additional spend each year to deliver the Irish Language Strategy, not including the cost of any standards brought forward by the Irish Language Commissioner and also excluding the costs associated with the Irish-Medium Education strategy was somewhere between £3M to £5M.

[68] Mr Greenway acknowledged that the figures quoted above are estimates and that “further work will be required to refine costs in the later stages of strategy and action plan development, and that appropriate appraisals and business cases will be needed to support expenditure decisions on each action area.” It is clear that additional funding will have to be found for the implementation of the Irish Language Strategy and this is in the context of each of the Northern Ireland departments having to reduce spending across the board.

[69] Mr Ó Tiarnaigh, in his fourth affidavit sworn in May 2026, comments on the budgetary issues associated with the Irish Language Strategy and makes the point that the emphasis on costing the Irish Language Strategy is misplaced since it was always envisaged that the Irish Language Strategy would be a twenty-year project with the costs being spread over this long time-scale. The CDG, during the course of its work designing the action plan attached different priorities to different actions. The CDG classed actions as priority one actions if it considered that the implementation of these actions should take place in years one to five. Priority two actions were actions that should take place in years one to ten and priority three actions should take place in years one to fifteen.

[70] In recognition of the importance of keeping costs under control, the CDG when designing the action plan were keen to identify “quick wins” which they considered to be actions which could be implemented quickly and cheaply on a cost-neutral basis. Mr Ó Tiarnaigh has identified a number of these quick wins in his fourth affidavit and he states that it was “not an unreasonable expectation on our part that some priority could have been given to measures which we had identified as relatively cost-neutral but which nonetheless evidence progress on and commitment to the development of the Irish language.” Mr Ó Tiarnaigh opines in this affidavit that there is no evidence that the CDWG considered such an approach.

[71] In general, Mr Ó Tiarnaigh is critical of the DfC’s approach to the issue of costings. He argues that the departments should have been requested to look at the issue of costs through the lens of the prioritisation of actions. It is argued that each of the departments were asked to provide costings on the basis that all the actions attributed to that department had to be carried out at once and could not be staggered over the twenty-year timescale. He specifically notes that section 28D(3)(a) and (b) of the NIA 1998 imposes a duty on the Executive Committee to keep the Irish Language

Strategy under review and to revise it, if necessary. It is argued that this enables the Executive Committee to review costings as the roll out of the actions progress and the timing of this roll out can be altered or staggered according the budgetary situation at the relevant time. It is argued that the DfC's costings exercise lacks coherence and that the returns do not represent valid indicators of actual costs. I remind myself that these assertions are contained in an affidavit from a communications manager with no professed expertise in accounting, financing or public budgetary management.

[72] In this affidavit, Mr Ó Tiarnaigh refers to the DfI's spreadsheet return which is exhibited to Mr Greenway's sixth affidavit and he notes that the DfI has provided an estimate of £250M for bilingual traffic signs. The spreadsheet indicates that this does not include costs for signage post 2017 nor does it include costings associated with additional land take for larger signs and/or the potential uncertainties related to underground services/foundations. Mr Ó Tiarnaigh highlights the fact that there is nothing in the draft Irish Language Strategy which mandates that all road signage is changed to bilingual signage immediately. Bilingual signage could be introduced gradually when existing signs reach the end of their expected "lifespan." The adoption of such an approach would be effectively cost neutral as the replaced signs were being replaced in any event. In essence, Mr Ó Tiarnaigh argues that a more realistic costings exercise would have involved requesting the various departments to provide estimates of costings for priority one actions only.

[73] Mr Ó Tiarnaigh also argues that the costings exercise could and should have been commenced at a much earlier stage in that the document which was provided to the departments to populate with costings estimates was essentially the action plan that the CDG provided in November 2023.

[74] In summary, the applicant's case is that Mr Greenway's raising of the issue of a narrative after he took up his present post, the belated concentration on "SMART" actions and costings and all the other issues which are peripheral to the core action plan were all part of a concerted and deliberate strategy devised by the DfC as a deliberate smokescreen to provide cover for Minister Lyons' deliberate inaction in developing an Irish Language Strategy, which inaction finds its origin in Minister Lyons' political hostility to Irish language and Irish culture. The applicant's case is that the present Minister took up his office with the intent of deliberately thwarting the development of an Irish Language Strategy and Mr Greenway and the DfC have facilitated him in achieving his desired goal. Each time progress has been made on one issue, a new hurdle which has to be surmounted is deliberately put in place by the DfC. The whole idea of getting individual ministerial approval for individual departmental actions is a perfect example of this. There is no need for such an approach and this approach was just thought up by Mr Greenway to throw a spanner in the works at his minister's behest.

[75] It is seldom necessary to hear oral evidence in judicial review applications but when such a case is being seriously presented to the court for adjudication, it may be important for the court to be able to assess the character, integrity and credibility of the individual who is the target of such allegations and to see how he or she answers these allegations in the witness box, during cross-examination by skilled and experienced senior counsel. In the specific context of this case, I considered that it was both appropriate and necessary for Mr Greenway to give evidence and it is likely that I would have requested him to do so even in the absence of an application by the applicant for leave to cross-examine him.

[76] Having listened carefully to the evidence given by Mr Greenway and having been given the opportunity to assess him as a witness of fact and of expert opinion, I am convinced that there is absolutely no substance to the allegations being made by the applicant in this case. Minister Lyons MLA may not have any great enthusiasm for the promotion of the Irish language but it is clear that Mr Greenway and the DfC teams involved in this project are doing and have done their very best to progress the development of the Irish Language Strategy.

[77] The approach that Mr Greenway has adopted is clearly a rational approach. In essence, he knows the political difficulties at Stormont and he knows that in order to get Executive Committee approval, he must leave the Executive Committee with very little wiggle room and with little or no option but to agree the Strategy as presented to the Committee. In order to get to that position, he is trying to nail down each department individually to come back with SMART, costed actions that they can live with, which address the priority action areas identified in the draft action plan. Having seen how the Executive has failed to adopt an Irish Language Strategy despite being legally required to do so well over a decade, he is trying to get this project over the line by a robust design methodology which has a realistic chance of bearing fruit, even in the most difficult of circumstances. There is nothing irrational about the methodology adopted by Mr Greenway and the DfC teams. Indeed, they are to be commended for their efforts and I strongly urge them and the members of the CDWG to maintain those efforts throughout the rest of this mandate in the hope that a finalised draft Irish Language Strategy may at least be signed off by the individual departments and approved by the individual ministers including the DfC Minister so that this final draft is immediately available to the new Executive when it is formed and begins functioning after the May 2027 election.

[78] The fact that I am firmly of the view that Mr Greenwood and the DfC teams involved in this project have and are applying themselves tirelessly and diligently to the task of finalising a draft Irish Language Strategy and have adopted a methodology which is not only rational but which is robust and well-thought through is not the end of the matter as far as the legal responsibility of the Executive Committee and Minister Lyons MLA is concerned. I accept that Minister Lyons is acting as a delegate of the Executive Committee in his and his department's role of devising a draft Irish

Language Strategy for presentation to the Executive Committee for adoption. Minister Lyons MLA has no direct individual legal duty under section 28D of the NIA 1998. That legal duty falls on the Executive Committee and this Executive Committee has not complied with that duty from early February 2024 and the applicant is entitled to a declaration that this duty remains unfulfilled and that the Executive Committee collectively are in breach of a lawful requirement clearly set out in section 28D of the NIA 1998.

[79] I have carefully considered whether it is appropriate to go further and to make some form of mandatory order in this case against the Executive Committee, particularly in light of the case of *R (on the application of Imam) v London Borough of Croydon* [2023] UKSC 45. In *Imam* there was a statutory duty to provide suitable accommodation to a person who was eligible for local authority assistance. The duty was clear, it was to provide suitable housing, plain and simple. The situation here is very different. The duty here is to adopt an Irish Language Strategy and before it is adopted, a comprehensive and meaningful draft Irish Language Strategy must be designed, agreed by the Executive Committee, put out for consultation and then finally adopted by the Executive Committee. The whole issue of the need to agree a draft Irish Language Strategy before adopting it is a completely different form of action from providing a person in need with suitable accommodation. To my mind it is difficult to see how the duty under section 28D of the NIA 1998 is amenable to a meaningful mandatory order. My views in this regard are reinforced by my findings that Mr Greenway, the DfC teams and the CDWG are doing their very best to expertly and skilfully progress the development and finalisation of a draft Irish Language Strategy for presentation to the Executive Committee. I do not consider that a mandatory order should issue against the Executive Committee on the facts of this case.

[80] I have indicated above that I do not consider that the Minister for Communities individually owes a duty under section 28D of the NIA 1998. However, that is not the end of the matter as far as Minister Lyons MLA is concerned. He has a duty to act rationally and lawfully in the performance of his duties and responsibilities as a minister. The DfC sent a detailed submissions to Minister Lyons MLA at the end of February 2026 requesting him to reply and approve the submission which in essence set out the DfC's cross-departmental and individual responsibilities in respect of actions set out in the draft Irish Language Strategy. Up to the last day of hearing of this matter, when judgment was reserved on 3 June 2026, Minister Lyons MLA had not provided a response to his own department. No explanation whatsoever was offered for this. No affidavit was forthcoming from Minister Lyons MLA. I judge this unexplained lack of response to be irrational in the sense that no reasonable minister would behave in such a manner and I regard this failure to respond in any way, shape or form to be unlawful and I consider that it is clearly appropriate that a declaration should issue highlighting this illegality and irrationality. I further consider that if this failure to respond has still not been remedied then a mandatory order should issue requiring the minister to respond to the DfC submission within 14 days. For the

avoidance of doubt, he is not being required to accept the submission but he is being required to provide a meaningful response to that submission which said response has now been outstanding for over five months. Obviously if Minister Lyons MLA has responded to the DfC submission in the period between 3 June 2026 and the date of this judgment then no mandatory order will be required but the declaration will still issue even though the illegality/irrationality has been remedied.

[81] Three other legal issues were raised during the hearing of this matter which I will now attempt to briefly deal with. The first two were raised by Mr Bryson and they related to the question of the legal status of the Executive Committee and whether it is, in law, correct to issue proceedings against the Executive Committee or whether some other title or description has to be used when bringing proceedings against the group of ministers that make up the Executive. Dr McGleenan KC indicated that these matters have been raised, albeit tangentially, in other proceedings but, as far as he was aware, there was no considered and reserved judgment on these issues. There was another aspect to Mr Bryson's argument which has a bearing on whether the Executive Committee is in breach of section 28D and, if so, whether any form of mandatory order should be against the Executive Committee. Since I am not making such an order, the issue does not, perhaps, have the same pressing importance as it otherwise might, but since it has a bearing on the issue of whether there has been a breach of section 28D, it certainly is of more than academic interest and it deserves to be described and discussed, if not resolved.

[82] Mr Bryson submits that in law the Executive is not a body corporate and has no continuing legal personality. As per section 20 of the NIA 1998, the Executive Committee is composed of the First Minister, the deputy First Minister and the Northern Ireland Ministers who for the time being are appointed ministers to the ministerial offices under by section 17 of the NIA 1998 by the First Minister and deputy First Minister acting jointly. He submitted that the ministerial offices are not corporations sole but rather are only in existence for so long as a minister is in place. The ministerial offices are filled by the D'Hondt method or via the process set out in section 18(9) and (10) of the NIA 1998.

[83] Mr Bryson argues that as a matter of law each time a new minister is appointed, each time a position is filled in the Executive, whether by the D'Hondt procedure or by the procedure set out in section 18(9) or (10) of the NIA 1998, this constitutes a new composition of the Executive and thus a new Executive Committee. Mr Bryson poses the following question. If an order of mandamus was issued against composition "A" of the Executive Committee comprising of the individual ministers making up the Executive Committee at that time and either by D'Hondt or by the section 18(9) or (10) procedure, the composition of the Executive Committee was changed to composition "B" by the replacement, addition or removal of an individual minister or individual ministers, could contempt proceedings for non-compliance with the mandatory order be sustained against composition B? Mr Bryson answers his own question in the

negative. Mr Bryson, therefore, argues that any change in the makeup of the Executive Committee, any alteration in its composition, results in a new Executive Committee coming into existence. If this is correct, then the time for compliance with the duty under section 28D or any other duty framed in similar terms only commences from when a particular Executive Committee comes into existence either by being set up after an election or by an alteration in composition during a mandate. The appropriate starting date in this particular case is 3 February 2024 and the assessment of when a reasonable time for compliance has elapsed must take this into account.

[84] As noted above, Mr Bryson argues that the Executive Committee is not a body corporate and has no legal personality but is an unincorporated body made up of ministers who are not corporations sole in their own right. He poses another question: can an unincorporated body bring or for that matter defend a judicial review application? He argues that if declaratory relief or a mandatory order is sought against an unincorporated body in the exercise of the court's discretion in an application for judicial review, it is important to ensure that the relevant persons have been "properly named and given the opportunity to participate in the proceedings."

[85] Mr Bryson's compositional argument raises a genuinely interesting legal point. Looking at it from the perspective of how it would impact on the proper functioning of the institutions set up under the NIA 1998, I am of the view that a new Executive Committee is not established when the identity of a minister changes or a new minister is appointed to a new or differently named department or when the Executive Committee reforms during an existing mandate, after a mid-mandate collapse. Rather a new Executive Committee only comes into existence when first formed after an Assembly election. To conclude otherwise would mean that the Executive Committee could perpetually avoid any of the duties imposed upon it under the NIA 1998 by a minister resigning every month and being replaced by a party colleague. The revolving doors of Stormont were not designed to be used in such a way.

[86] Going back in time, the Northern Ireland Assembly Elections that took place on 6 May 2016 resulted in the formation of an Executive on 25 May 2016 which then collapsed on 16 January 2017 as a result of the resignation of the late Mr Martin McGuinness MLA, deputy First Minister, in protest at the Renewable Heat Incentive scandal. The Executive was not restored until 11 January 2020 following the New Decade New Approach Agreement and collapsed on 3 February 2022 in protest at the Northern Ireland Protocol. Assembly elections took place on 5 May 2022 and Sinn Féin became the largest party in the Assembly for the first time. The DUP refused to nominate a deputy First Minister in continuing protest against the Northern Ireland Protocol and this remained the case until 3 February 2024 when an Executive was formed with Ms Michelle O'Neill MLA as First Minister and Ms Emma Little-Pengelly MLA as deputy First Minister. It is, therefore, clear that in respect of the section 28D duty, time commenced to run against this Executive Committee in February 2024 but this Executive Committee could not ignore history and past court orders and was duty

bound to do what was necessary to adopt Irish Language and Ulster Scots Language Strategies within a reasonable timeframe. I have already determined that even with this commencement date, the applicant is entitled to a declaration that this duty remains unfulfilled and that the Executive Committee collectively are in breach of a lawful requirement clearly set out in section 28D of the NIA 1998.

[87] In relation to the naming of individual members of the Executive Committee and whether that is either necessary or appropriate in the current case, I have considered the very helpful submissions of Mr Philip McAteer on behalf of the Executive Office dated 1 June 2026 and I have considered the letter to the court written by Dame Brenda King, Attorney General for Northern Ireland of the same date. The Attorney General agrees with the submissions of Mr McAteer. She notes that there are very few functions expressly conferred on the Executive Committee by statute but in legal proceedings concerning an alleged breach of a duty expressly imposed on the Executive Committee, it has been the convention to name the Executive Committee as a party to the proceedings “and it is correct to continue to do so.” In such circumstances, the Departmental Solicitor’s Office accepts service on the Executive’s behalf. In the circumstances of this case, having weighed up the arguments ably presented by Mr Bryson and Mr McAteer and having carefully considered the views clearly and unequivocally expressed by the Attorney General, I am satisfied that it is appropriate to name the respondent as the Executive Committee and that it is not necessary, in the circumstances of this case to name each individual minister presently holding a ministerial post in the Northern Ireland Executive.

[88] The third legal issue that arose during the protracted hearing of this matter was the issue of the collateral use by the applicant of the second affidavit sworn by Mr Greenway and the documentation exhibited to that affidavit which said affidavit was sworn for the purposes of this judicial review challenge. In essence, what the applicant did during the course of this case was to swear an affidavit in respect of the Grand Central Station bilingual signs judicial review challenge (in which Conradh na Gaeilge is a notice party) and exhibit thereto Mr Greenway’s second affidavit in this judicial review challenge and the documentation without either notifying the court or the DfC of an intention to do so and, it goes without saying, without seeking permission from the DfC or the court to put to such collateral use the affidavit and the documentation exhibited to Mr Greenway’s second affidavit in this challenge. The issue which now arises is whether there is an implied duty of confidentiality in respect of documentation disclosed in the course of a judicial review application similar to that which exists in an ordinary private law action in the King’s Bench Division.

[89] The duty to provide discovery is a long-standing obligation on parties to an ordinary private law action in Northern Ireland. Despite the recommendations of the Gillen Review for the adoption of a less onerous test, the test for what is discoverable that still applies in Northern Ireland is the *Peruvian Guano* test enunciated by Brett LJ in the Court of Appeal back in 1882. In that case Brett LJ stated:

“It seems to me that every document which relates to the matters in question in the action, which not only would be evidence upon any issue, but also which, it is reasonable to suppose, contains information which may – not which must – either directly or indirectly enable the party requiring the affidavit either to advance his own case or to damage the case of his adversary. I have put in the words ‘either directly or indirectly’ because, as it seems to me, a document can properly be said to contain information which may enable the party requiring the affidavit either to advance his own case or to damage the case of his adversary if it is a document which may fairly lead him to a train of enquiry which may have either of those two consequences.”

[90] In essence, if a document is relevant in the sense set out above, then it must be disclosed by way of discovery unless, the party with possession, custody or power of the document is able to argue that the document is covered by legal professional or litigation privilege or a public interest immunity claim can be made in respect of the document. This is clearly an onerous obligation imposed on parties to ordinary civil litigation and in order to protect those parties and their legitimate interests, the courts have imposed a concomitant duty of confidentiality on the party being provided with discovery. This means that the discovered document (without the agreement of the disclosing party) cannot be put to collateral use, whether in other proceedings or otherwise. However, the courts have also made it clear that in order to preserve the principle of open, public and transparent justice, once a discovered document to which confidentiality attaches is opened in court during the proceedings then the document is no longer confidential unless the court makes an order preserving its confidentiality which it will rarely do on account of the importance of the principle of open, public and transparent justice. Order 24, rule 17 of the Rules of the Court of Judicature (Northern Ireland) 1980 codifies this approach in that it states that:

“Any undertaking, whether express or implied, not to use a document for any purpose other than those of the proceedings in which it is disclosed shall cease to apply to such document after it has been read to or by the court, or referred to, in open court, unless the court for special reasons has otherwise ordered on the application of a party or of the person to whom the document belongs.”

[91] The issue that arises in this case is whether a similar implied duty of confidentiality applies in respect of documentation disclosed in the course of judicial review proceedings. The first matter to note is that although discovery is rarely

ordered in judicial review proceedings, a request for discovery can be made, particularly when human rights issues are in play and the court can make an order for discovery and if discovery is ordered in this manner, then there can be little doubt that such documentation is subject to the implied duty of confidentiality and also to the provisions of Order 24, rule 17.

[92] The second matter to note is that in addition to the possibility of an order for discovery being made by the court, there is a duty of candour that rests upon applicants and respondents and probably others involved in judicial review applications. In relation to the issue of whether the duty of candour applies to interested parties, see the decision of the Privy Council in *Belize Alliance of Conservation Non-Governmental Organisations v Department of the Environment* [2004] Env. L.R. 38 where Lord Walker said:

“there is a very close identity of interest between these parties. They are in effect partners in an important public works project ... its most important consequence is that BECOL was also, in my opinion, under a duty to make candid disclosure to the court.”

[93] In relation to public bodies/authorities who are respondents in judicial review applications, the effect of this duty is to require the public body/authority, when presenting its evidence in response to the application for judicial review to set out fully and fairly all matters that are relevant to the decision that is under challenge, or are otherwise relevant to any issue arising in the proceedings. Lord Donaldson MR in the case of *R v Lancashire CC, ex p Huddleston* [1986] 2 All ER 94 described judicial review as a process:

“which falls to be conducted with all the cards face upwards on the table and the vast majority of the cards will start in the authority’s hands.”

[94] There have been slightly differing formulations of the duty of candour offered in the case law. In the *Huddleston* case, Lord Donaldson MR referred to the duty on the public body/authority to “explain fully what they have done and why they have done it” and not be “partisan in their own defence.” In the House of Lords case of *Tweed v Parades Commission for Northern Ireland* [2007] 1 AC 650, Lord Carswell at para [31] stated that there was an “obligation resting on a public authority to make candid disclosure to the court of its decision-making process, laying before it the relevant facts and the reasoning behind the decision challenged.” In the English Court of Appeal case of *R (Quark) v Secretary of State for FCO* [2002] EWCA Civ 1409, Laws LJ stated at para [50] that it was the responsibility of the public body/authority to “assist the court with full and accurate explanations of all the facts relevant to the issue the court must decide.”

[95] An important issue to be addressed is whether the duty of candour extends to the disclosure of documentation as well as information (facts and reasoning). It must be remembered that discovery is not automatic in judicial review applications and will only be ordered by the court in exceptional circumstances. The formulations of the duty of candour in *Huddleston*, *Tweed* and *Quark* focus on identification of the relevant facts and reasoning rather than the actual disclosure of documents. However, it is clear that as the case law has developed, the duty of candour has been described as not only requiring the public body/authority to disclose the relevant facts and reasoning but also requiring it to disclose relevant documents. See for example the comments of Ouseley J at para [22] of *R (AHK) v SSHD* [2012] EWHC 1117 (Admin):

“The SSHD is also subject to the duty of candour in judicial review proceedings: the duty on the defendant public authority to explain the full facts and reasoning underlying the decision challenged, and to disclose the relevant documents, unless in the particular circumstances of the case, other factors, including those which may fall short of requiring public interest immunity, may exclude their disclosure. *Tweed v Parades Commission for Northern Ireland* [2006] UKHL53, [2007] 1 AC 650 illustrates these points.”

[96] In the case of *Graham v Police Service Commission and the Attorney General of Trinidad and Tobago* [2011] UKPC 46, Sir John Laws stated at para [18]:

“It is well established that a public authority, impleaded as respondent in judicial review proceedings, owes a duty of candour to disclose materials which are reasonably required for the court to arrive at an accurate decision. In *R v Lancashire CC ex p. Huddleston* [1986] 2 AER 941 (to which Jamadar JA referred at paragraphs 18 – 19 of his judgment in the present case) Lord Donaldson MR stated at 945c that the modern development of judicial review had created:

‘a new relationship between the courts and those who derive their authority from the public law, one of partnership based on a common aim, namely the maintenance of the highest standards of public administration.’”

[97] Further, in the guidance on discharging the duty of candour issued by the Treasury Solicitor’s Office back in 2010, the following points were made in section 1.2:

- “• The duty of candour gives rise to a weighty responsibility ... When responding to an application for judicial review public authorities must be open and honest in disclosing the facts and information needed for the fair determination of the issue. The duty extends to documents/information which will assist the claimant's case and/or give rise to additional (and otherwise unknown) grounds of challenge.
- The Court in *Al Sweady*” [R (*on the application of Al Sweady and others*) v *The Secretary of State for Defence* [2009] EWHC 2387 (Admin)] “and in reliance on Laws J in *Quark Fishing* described it as “a very high duty on central government to assist the court with full and accurate explanations of all the facts relevant to the issue that the court must decide.”
- The duty is information-based and not restricted to documents.
- The duty of candour applies as soon as the department is aware that someone is likely to test a decision or action affecting them. It applies to every stage of the proceedings including letters of response under the pre-action protocol, summary grounds of resistance, detailed grounds of resistance witness statements and counsel’s written and oral submissions.
- It is particularly important when evidence is being prepared. When evidence is served in response to an application for judicial review, what is required is that that evidence read as a whole (i.e. the witness statement and the documents served in support of it) must be such as to meet the obligation of candour.
- The duty of candour continues to apply throughout the proceedings. For example, if after the service of evidence, further relevant information comes to light, that information must be disclosed to the other parties to the proceedings and put before the Court at the earliest possible opportunity.
- When preparing evidence in response to a claim for judicial review, one issue that frequently arises concerns

the extent to which the duty of candour can be satisfied by providing a full and fair explanation of all relevant matters in a witness statement, and the extent to which such evidence must be supported by exhibiting relevant documents. Usually, a mix of explanation by way of witness statement, and exhibiting key documents will be appropriate.

- Where the case raises issues under the Human Rights Act this issue must be addressed by reference to the speeches of the House of Lords in *Tweed v Parades Commission for Northern Ireland*. In that case, the House of Lords emphasised that the relevant question is whether disclosure appears to be necessary in order to resolve the matter fairly and justly. Although the House of Lords stated that orders for disclosure were likely to remain exceptional rather than normal, it is clear that in cases where a court is required to consider whether the actions of a public body were proportionate, and where there were documents which were directly material to that issue of proportionality, it will more often be necessary to disclose those documents by exhibiting them to relevant witness statements.”

[98] There is a clear assumption in the Treasury Solicitor’s Office guidance that the duty of candour may encompass the provision of documentation to the applicant in a judicial review application. The Administrative Court Judicial Review Guide published in August 2025 by the Courts and Tribunals Judiciary of England and Wales has this to say about the duty of candour:

“7.5.1 There is a special duty – the duty of candour and cooperation with the Court – which applies to all parties to judicial review claims. Parties are obliged to ensure that all relevant information and all material facts are put before the Court. This means that parties must disclose relevant information or material facts which either support or undermine their case. The duty of candour may require a party to disclose a document rather than simply summarising it.

7.5.2 It is very important that parties comply with the duty of candour. The duty is explained in more detail below at para 15.1 of this Guide ...

...

15 The duty of candour and co-operation with the court.

...

15.1.1 In most civil claims, the parties are required to give standard disclosure pursuant to CPR Part 31. In judicial review claims, disclosure is not required unless the Court orders otherwise. However, in judicial review proceedings there is a special duty which applies to all parties: the “duty of candour.” This requires the parties to assist the court by ensuring that information relevant to the issues in the claim is drawn to the court’s attention, whether it supports or undermines their case. Where a party relies on a document, and the document is significant to the decision under challenge, it will be good practice to disclose the document rather than merely summarise it, because the document is the best evidence of what it says.” See *Tweed v Parades Commission for Northern Ireland* [2006] UKHL 53, [2007] 1 AC, 650, paras [4] and [39]. “The same may be true in other situations, for example where the precise terms of a document are relevant to an issue in the case. In such situations, it may in practice be difficult to comply with the duty of candour without disclosing the document. However, this may not be enough. The duty of candour may also require the party in its statements of case to identify and explain the significance of information and/or documents adverse to that party’s case.” See *R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs* [2018] EWHC 1508 (Admin), paras [19]-[20]; *R (Citizens UK) v Secretary of State for the Home Department* [2018] EWCA Civ 1812, [2018] 4 WLR 123, paras [105]-[106]; and *R (Police Superintendent’s Association) v The Police Remuneration Review Body* [2023] EWHC 1838 (Admin), paras [16]-[18].

...

15.3 The duty as it applies to defendant public authorities and their representatives.

15.3.1 A public authority’s duty of candour and co-operation with the Court is “self-policing.” There is a particular obligation on solicitors and barristers acting for public authorities to ensure that it is fulfilled. The duty arises because public authorities are engaged in a common enterprise with the court to fulfil the public interest in upholding the rule of law. They are accordingly required to assist the Court with full and accurate explanations of all the facts relevant to the issues which the Court must decide.” See *R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs* [2018] EWHC 1508 (Admin), paras [18]-[20]; and *R (Citizens UK) v Secretary of State for the Home Department* [2018] EWCA Civ 1812, [2018] 4 WLR 123, paras [105]-[106].

15.3.2 The duty of candour is owed to the court once judicial review proceedings have been commenced, although it is good practice to demonstrate candour at the pre-action stage. It should be reflected in Summary Grounds, Detailed Grounds, witness statements and in counsel's written and oral arguments. What is required to discharge the duty at the substantive stage will be more extensive than what is required before permission has been granted.

...

15.3.4 At the substantive stage, the duty requires a defendant in the detailed grounds of defence or evidence to identify any relevant facts and the reasoning underlying the measure in respect of which permission to apply for judicial review has been granted. The duty of candour is a continuing one and applies after detailed grounds and evidence have been filed and served.

15.3.5. The duty of candour means that:

15.3.5.1 the process of preparing statements of case and evidence must be conducted "with all the cards face upwards on the table"; public authorities must not be selective in their disclosure;

15.3.5.2 pleadings and evidence must be drafted in clear, unambiguous language, must not deliberately or unintentionally obscure areas of central relevance and must not be ambiguous or economical with the truth or contain "spin";

15.3.5.3 pleadings and evidence must not mislead by omission, for example by non-disclosure of a material document or fact or by failing to identify the significance of a document or fact.

15.3.6 The duty of co-operation with the Court means that defendants and their representatives have an ongoing duty to consider whether their defence remains viable, particularly after the grant of permission.

15.5 Redactions.

15.5.1 Parts of a document which otherwise fall to be disclosed under the duty of candour may be redacted if those parts:

15.5.1.1 are confidential **and** irrelevant to the issues in the case;

15.5.1.2 attract legal professional privilege;

15.5.1.3 are subject to a statutory restriction on their disclosure;

15.5.1.4 or attract public interest immunity.

...

15.5.3 Parties should consider carefully whether the text being redacted is genuinely irrelevant. Text which explains the provenance and context of a document, such as the name of the sender, recipients or copy recipients of a document (even if these are junior officials or external contractors), and should not be redacted as a matter of course. Without this information, it may be more difficult to understand the significance of the document. It will usually be permissible to redact contact details (e.g. email addresses) if that is thought to be useful.

15.5.4 A party disclosing a redacted document should explain the reason for that redaction at the point of disclosure. The explanation need not be elaborate and should be such as to afford the receiving party a sensible opportunity to decide whether to apply for disclosure of the unredacted document. The provision of single word explanations, such as “relevance” or “privilege” will rarely be sufficient. Documents should never be filed or served in an edited form without making clear that they have been edited. When redacted documents are exhibited to a witness statement the reason for redaction may be given either in that statement or a separate witness statement. If the redaction is made on grounds of legal professional privilege the explanation should be given in a witness statement made at the solicitor with conduct of the case.”

[99] This document constitutes very comprehensive guidance which although not in any sense binding in this jurisdiction is certainly worthy of respect and having regard to all the material set out in the previous paragraphs, I consider that it is safe to state that the duty of candour resting on a public body/authority respondent in judicial review applications can, and indeed will, in many cases involve a duty to exhibit documents to affidavits in this jurisdiction.

[100] It is reasonable to assume that affidavit evidence filed in a judicial review application in compliance with the duty of candour may contain information which is properly regarded as confidential. It is also reasonable to assume that some but not

necessarily all of the documentation exhibited to such an affidavit will be confidential in nature. Some information contained in the affidavit and some of the exhibited documentation may already be properly in the public domain, in which case it would be very difficult to assert confidentiality in respect of same. Many documents created or held by public bodies/authorities may be sensitive and may contain information which is properly regarded as confidential for a whole host of reasons ranging from commercial sensitivity involving third-party interests, right across the spectrum, to matters which impinge on the article 2 ECHR and article 8 ECHR rights of individuals. Disclosure of information held by public bodies/authorities is clearly inextricably bound up with the duty imposed on such public entities to behave in an ECHR compliant manner and to comply with the relevant principles and provisions of the UK GDPR, the Data Protection Act 2018 and the Freedom of Information Act 2000.

[101] In relation to a public body/authority, I do not consider that it would be appropriate to adopt a default position that all information contained in such a sworn affidavit or all documentation disclosed pursuant to the duty of candour are confidential in nature. However, both the court and those being provided with the affidavit evidence and the documentation exhibited thereto must be alive to the possibility/probability that information contained in the affidavit and documentation disclosed in this manner may well be confidential and that even in instances where confidentiality is not positively asserted at the time of disclosure, the nature, content of and circumstances of creation of the information and documentation may be such as to make it obvious that confidentiality attaches to the information and/or documentation.

[102] I consider that it would be helpful moving forward for those filing affidavits and disclosing documents in judicial review proceedings, including public bodies/authorities, consequent to the duty of candour to positively assert confidentiality in respect of the information and/or documentation that they consider to be confidential, thus initially preventing collateral use. Any dispute in relation to confidentiality can be resolved by the court as can the issue of when and in what circumstances confidentiality is lost and when in what circumstances collateral use can be made of the information and/or document. The court will be in the best position to fairly balance the interests of the parties when addressing these questions.

[103] Although an affidavit is properly regarded as evidence in the context of an application for judicial review, the information contained in an affidavit may be sensitive and/or confidential so as to require the court to control the use to which that information can be put. Further, I do not consider that by merely exhibiting a document to an affidavit in a judicial review application, that action, per se, has the effect of putting that document in evidence to the extent that any confidentiality is then lost under the principle of open, public and transparent justice. I do not consider that it is appropriate to interpret Order 24, rule 17 as applying to documentation disclosed

pursuant to the duty of candour in the course of an application for judicial review. A much more nuanced approach is necessary in the overall interests of justice.

[104] I am persuaded by Dr McGleenan's submission that the whole issue of disclosure of information and documentation in compliance with the duty of candour, the issue of whether confidentiality attaches to the information and/or documentation disclosed in purported compliance with the duty of candour in judicial review proceedings, the issue of when and in what circumstances (including references to the documentation in court and in the resulting judgment of the court) the protection of confidentiality is lost in respect of disclosed information and/or documentation during an application for judicial review and the issue of the collateral use of such information and/or documentation should at all times be under the direct supervision and control of the court and should not be determined by the unilateral action of one or more of the entities involved in the judicial review application. Such control by the court protects the interests of all concerned and ensures that the overall interests of justice are protected and promoted.

[105] I am convinced that what should have happened in this case is that the applicant should have notified the court and the other parties involved in this judicial review, especially the DfC, of its desire to introduce Mr Greenway's second affidavit and the documentation exhibited thereto in this application for judicial review into the judicial review challenge brought by Mr Bryson in respect of the proposal by DfI to install and operate bilingual signage and bilingual ticket machines in Grand Central Station in Belfast which said application is presently part-heard before me. I am convinced that it was inappropriate for the applicant to introduce that affidavit and the documentation exhibited thereto into those separate judicial review proceedings by exhibiting the affidavit and documentation to an affidavit sworn by an officer of the applicant as a notice party in those proceedings without first notifying the DfC of its desire to do so and without seeking permission to do so from the court hearing the present application for judicial review. The supervision and control of the court is, as I have stated, the best and most appropriate means by which the legitimate interests of the parties and the wider interests of justice can best be protected and served.

[106] In this particular instance, the horse has bolted from this particular stable and it will be necessary for me to decide whether it is appropriate and necessary in the interests of justice to allow the introduction of the affidavit of Conradh na Gaeilge's which exhibits Mr Greenway's second affidavit and the attached documentation in the Bryson judicial review challenge. I will not pre-judge that issue in these proceedings but I hope what I have said in this judgment will ensure that this type of behaviour does not occur in other judicial review applications or that any other collateral use is made of Mr Greenway's second affidavit without the express authority of the court.

[107] I will give the parties 14 days to provide drafts of the declarations and order of mandamus which I have indicated should issue in this case for the court's approval

and a further fourteen days to make brief written submissions in relation to the issue of costs.