

Annual Report
2016



Oifig an Choimisinéara Faisnéise
Office of the Information Commissioner

**Information Commissioner
Annual Report 2016**

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Office of the Information Commissioner
18 Lower Leeson Street,
Dublin 2
D02 HE97

Tel: (01) 639 5689
Email: info@oic.ie
Website: www.oic.ie

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Foreword

I hereby submit my fourth Annual Report as Information Commissioner to the Dáil and Seanad pursuant to section 47(2) of the Freedom of Information Act 2014.

This is the nineteenth Annual Report of the Information Commissioner since the establishment of the Office in 1998.

A handwritten signature in black ink, which appears to read 'Peter Tyndall'. The signature is stylized and cursive.

Peter Tyndall
Information Commissioner
May 2017

Performance Summary

Our performance



433

We completed 433 reviews in 2016

See page 27



34%

Case completions increased by 34% over 2015

See page 27



60%

We completed 60% of our reviews within four months

See page 28



99%

We completed 99% of our reviews within twelve months



95%

of OIC reviews on hand at end 2016 were less than six months old

Demand for our services



440

We accepted 440 applications for review in 2016

See page 26



32%

We accepted 32% more reviews in 2016

See page 28

FOI usage



30,417

Public bodies received 30,417 FOI requests in 2016

See page 19



73%

of all requests were granted in full or in part

Public body compliance



22%

Journalists accounted for 22% of all FOI requests made

See page 23



39%

Requests for nonpersonal records comprised 39% of all requests received

See page 22



17

We issued 17 statutory notices to public bodies to require compliance

See page 15



24%

of reviews were deemed refused by public bodies at both stages of the FOI request

See page 30



40%

of OIC reviews were deemed refused by public bodies at either the first or second stage of the FOI request

See page 32

Chapter 1:

The Year in Review



Chapter 1: The year in review

Your right to information

Freedom of Information

The FOI Act 2014 provides for a general right of access to records held by public bodies and also provides that records should be released unless they are found to be exempt. The Act gives people the right to have personal information about them held by public bodies corrected or updated and gives people the right to be given reasons for decisions taken by public bodies, where those decisions expressly affect them.

The primary role of the Office of the Information Commissioner is to conduct independent reviews of decisions made by public bodies on FOI requests, where members of the public are dissatisfied with responses to those requests. As Information Commissioner, I have a further role in reviewing and publishing commentaries on the practical operation of the Act.

The FOI Act applies to all public bodies that conform to the definition of public body in Section 6(1) of the Act (unless they are specifically exempt or partially exempt under the provisions of Section 42 or Schedule 1 of the Act). Bodies such as Government Departments and Offices, local authorities, the Health Service Executive, voluntary hospitals, and universities are included. As new public bodies are established, they will automatically be subject to FOI unless they are specifically exempt by order made by the Minister.

Access to Information on the Environment (AIE)

The European Communities (Access to Information on the Environment) Regulations 2007 to 2014 provide an additional means of access for people who want environmental information. The right of access under the AIE Regulations applies to environmental information held by or for a public authority. The primary role of the Commissioner for Environmental Information is to review decisions taken by public authorities on requests for environmental information. Both access regimes are legally independent of each other, as are my roles of Information Commissioner and Commissioner for Environmental Information.

Re-use of public sector information

In addition to the functions outlined above, the European Communities (Re-use of Public Sector Information) (Amendment) Regulations 2015 (S.I. No. 525 of 2015) provide that the Information Commissioner is designated as the Appeal Commissioner. As such, my Office can now accept applications for review of decisions taken by public bodies in relation to requests made under the Regulations to re-use public sector information, including decisions on fees and conditions imposed on re-use of such information.

Introduction

Among the key features of the FOI Act 2014 were the removal of the requirement to pay up-front fees for making FOI requests to public bodies and the significant reduction in the cost of applying to my Office for reviews. Those changes had an almost immediate impact on FOI usage levels, which have continued to rise steadily since.

I am pleased to report that during 2016, my Office rose to the significant challenge of managing the increased demands for its services while continuing to significantly improve case turnaround times.

My Office recorded a 32% increase for the year in the number of reviews accepted when compared with 2015. Importantly, it also achieved a 34% increase in the number of reviews completed. Our impressive completion rates are due, in part, to the revised work processes we introduced in July 2014. In 2013, the last full year before we changed our processes, my Office completed 258 reviews. The completion rate for 2016, at 433, represents a 67% increase in reviews completed when compared with 2013.



We completed **60%** of our reviews
within four months

My Office also met its 2016 business plan target of completing 60% of all reviews within four months. The percentage of reviews completed within four months has grown steadily since 2013, when only 26% of reviews were completed within that timeframe. It is also noteworthy that 99% of all reviews completed in 2016 were completed within twelve months.

As Environmental Commissioner, I am pleased to report on a significant improvement in case completion rates, primarily achieved as a result of my Office having recruited additional staff members specifically for the purpose of processing appeals received under the AIE Regulations. During the year, my Office completed 30 cases, an increase of 50% on 2015. However, as with FOI, demand for the services of the Office of the Commissioner for Environmental Information has also continued to rise. The ability to keep abreast of the increased demand will give rise to particular challenges for 2017 and at the time of writing, I am seeking to increase the staff resources available to carry out this work.

2016 also saw tremendous steps forward in my Office achieving one of its primary strategic objectives, namely to develop and enhance our management and administrative frameworks to enable and underpin our objectives of improving the wider public service and delivering an excellent customer focussed service.

Work has commenced on replacing and enhancing our IT systems. New websites are being developed for both the OIC and OCEI. The new websites will contain an improved online facility for submitting reviews and appeals. In 2016, my Office launched a new intranet service, designed to deliver more efficient internal communications. Towards the end of 2016, work also commenced on the development of new document management systems and case management systems. I discuss these developments in more detail later in my Report.

The removal of the requirement to pay up-front fees for making FOI requests to public bodies and the corresponding increase in usage levels meant that 2016 was also a very challenging year for public bodies. Unfortunately, the increased demand for services does not appear to have been matched by a corresponding increase in the allocation of resources by public bodies to the processing of FOI requests.

In November 2016, in an address I gave at the World Conference of the International Ombudsman Institute, I suggested that FOI has transformed public life and delivered on many of its promises. However, I warned that we must not be complacent. I noted that public finances remain stretched and I expressed my concern that many public bodies are failing to ensure that the administration of FOI, as a statutory function, is afforded as much weight as any other statutory function.

I am disappointed to report that my Office has noted ongoing and, in some cases, increasing examples of some public bodies failing to meet the statutory requirements of the FOI Act. For example, later in my Report I comment on the number of occasions that public bodies have not responded to FOI requests within statutory timeframes and on the fact that my Office noted an all-time high of instances where the request was deemed to have been refused by the public body in the absence of a timely decision. I also report on several instances where my Office had to issue statutory notices to ensure compliance with the Act.

In my Report for 2015, I commented upon the extension of the FOI Act to a number of public bodies that had been previously excluded and I mentioned that I expected to see the first application for review regarding An Garda Síochána in 2016. However, I did not expect that I would, for the first time, have to consider using my new statutory power to apply to the court for an order to oblige compliance with my decision in a case involving An Garda Síochána. I am pleased to report that it did not eventually come to that and I report on the case in more detail in Chapter 2.

In 2016, as Appeal Commissioner, I received the first appeal under the European Communities (Re-use of Public Sector Information) (Amendment) Regulations 2015. While there is no statutory requirement that I report on my activities as Appeal Commissioner, I have set out a brief summary of the matter later in Chapter 2.

As will be clear from my comments above, I am very pleased with the significant outcomes my Office has achieved during 2016. I want to highlight and acknowledge the work of the staff of the Offices of the Information Commissioner and the Commissioner for Environmental Information. My staff approach their work with high levels of professionalism, dedication and determination, to ensure that our services to all our stakeholders are continually improved and delivered to the highest standards and I am very grateful for their efforts. I also want to acknowledge the excellent work of the staff engaged in providing critical support services for my Office.

Peter Tyndall
Information Commissioner
Commissioner for Environmental Information

Office developments in 2016

Strategic Plan 2016-2018

My Office published its three year Strategic Plan in March 2016. The Plan sets out our key objectives for the next three years and aims to build upon the many successes we have already achieved over the course of the previous strategic period.

The plan identifies the core values that help to shape the way in which we deliver our services and that underpin everything we do. It details a number of innovative process initiatives aimed at delivering upon our vision of “a public service that is fair, open, accountable and effective”.

Each year of the plan is supported by detailed annual business plans. For 2016, the business plan focussed in particular on extending and improving the impact of my Office on the wider public service, on continuously improving the level of services we provide, and in ensuring that our systems and processes allow us to deliver on those objectives. I have set out below some details of how my Office is delivering on those objectives. A copy of the plan can be found on our website at www.oic.ie.

Guidance Material

In 2015 my Office commenced the publication of a series of guidance notes relating to the FOI Act. Progress on the guidance notes continued throughout 2016. By the end of the year we had published guidance notes on fourteen separate topics.

The guidance notes provide a commentary on the interpretation of various provisions of the FOI Act. They explain the approach my Office takes to the application of the provisions and provide examples from some of my decisions and those of my predecessors. They also include references to relevant court judgments.

In addition to the guidance notes on various exemptions in the FOI Act, notes have also been published on the provisions of the Act that afford people the right to have personal information amended (section 9) and the right to be given reasons for decisions taken by FOI bodies (section 10).

While notes of this nature can provide general guidance only, they should be of assistance to FOI bodies and to users of FOI. We intend to continue in our efforts to develop and publish guidance on all relevant aspects of the Act.

During 2016, we invited representatives from all Government Departments to an information session in order to draw attention to the potential benefits of the notes to their decision makers and to those charged with preparing submissions for my Office. We also used the session as an opportunity to seek feedback on the experiences of the bodies in their use of

the notes. It was very encouraging to hear that the notes have been warmly welcomed and are being used as a valuable resource for decision makers.

During 2016 my Office also published a suite of sample questions for FOI bodies which may be relevant when I am reviewing a decision under the FOI Act. The document was primarily intended for use by my staff to determine the amount of detail they should seek from public bodies when requesting submissions on cases. However, as the public bodies may also find these questions useful, both in responding to requests from my Office and in their own decision-making, we decided to publish the full suite of sample questions.

Progress on ICT systems

Up to date ICT systems and infrastructure are critical to delivering on our objectives of providing an excellent customer focussed service and improving the wider public service. Implementation of our extensive ICT renewal and improvement plan saw significant progress on the replacement of outdated ICT infrastructure and the procurement of new systems to handle applications for review and our relationships with our customers and stakeholders.

Successful delivery of an extensive new ICT infrastructure in 2016 has provided the building blocks to progress our plans for a complete update of our key ICT systems. Procurement of a new customer relationship management (CRM) system and document management system (DMS) were a significant focus for 2016. The new DMS will handle non-case related documents and is expected to go-live in early 2017. Procurement of our new CRM system was finalised at the end of 2016. Summer 2017 will see the launch of this system. Significant work has been undertaken to ensure that we successfully harness these new technologies to deliver better customer service and knowledge management. Both of these new systems will facilitate the digitisation of services where appropriate and the automation of routine tasks that will support the delivery of a more effective and efficient service.

Work commenced in 2016 on a new OIC website that will facilitate the delivery of enhanced online services for both members of the public and other stakeholders in 2017. The current decisions search facility on our website is used extensively and has been identified as a significant resource for both FOI requesters and decision makers. An enhanced search facility will be a key feature of the new website. In addition, the website will include an online portal offering a fast and efficient facility to submit and manage applications for review online. It will also address the requirement identified by our customers for a quick and secure facility to transfer data and documents to us. We will continue to engage with our stakeholders to ensure that our online facilities meet their needs and to work towards a system that will be capable of streamlining interactions between all stakeholders in the FOI process.

Irish Human Rights and Equality Commission Act 2014

The Irish Human Rights and Equality Commission Act 2014 introduces a positive duty on public bodies to have due regard to human rights and equality issues. My Office is committed to providing a service to all clients that respects their human rights and their right to equal treatment. This is equally applicable to how we interact with our own staff as it is essential in fostering a healthy work environment that promotes engagement, openness and dignity in the work place. Our approach is underlined by our core organisational values of independence, customer focus and fairness, which are evident in both the culture of our Office and our internal policies and practices. We have been proactive in providing training to our staff, which encourages them to bring a human rights perspective to their consideration of cases.

Statutory notices issued to public bodies

Notices issued under section 23 of the FOI Act



We issued **17** statutory notices to public bodies to require compliance

Where I consider that the reasons given by a public body in support of a decision to refuse to grant an FOI request are not adequate, I am empowered, under section 23, to direct the head of the body to issue a more comprehensive statement of its reasons for the decision. Under section 13, a decision to refuse a request must include:

- the reasons for the refusal,
- any provisions of the FOI Act pursuant to which the request is refused,
- the findings on any material issues relevant to the decision, and
- particulars of any matter relating to the public interest taken into consideration for the purposes of the decision.

Where my Office considers the details in an original and/or internal review decision to be inadequate, we may write to the head of the body concerned requiring a fuller statement of reasons for the decision to be issued both to the applicant and to my Office.

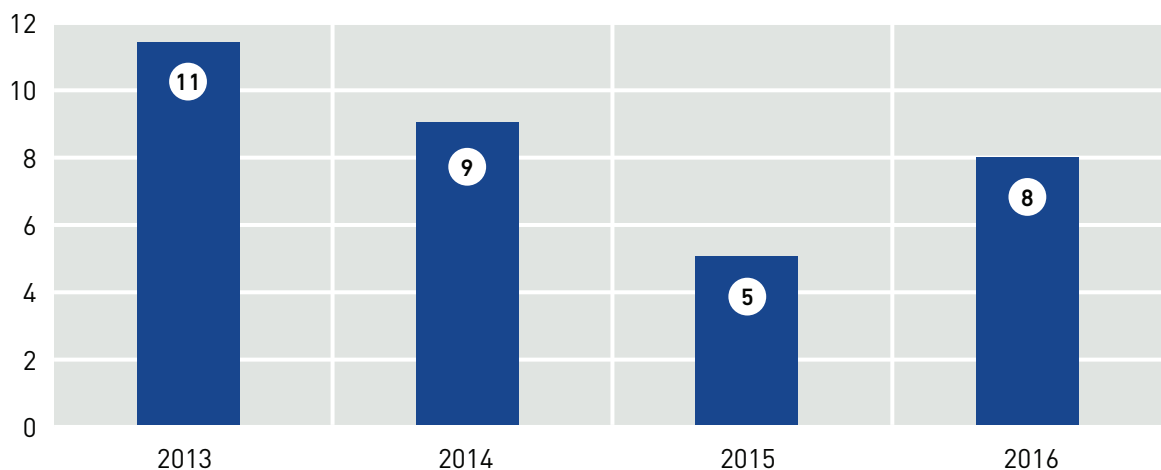
In 2016, we issued notices under section 23 to the heads of the following public bodies:

- HSE
- Cork County Council
- Dublin City Council
- Fingal County Council
- Limerick City and County Council
- Mayo County Council
- Department of Communications, Energy and Natural Resources
- Department of Foreign Affairs and Trade
- RTÉ

In all cases, we considered that the original and/or internal review decisions fell short of the requirements of the FOI Act and we sought a more detailed statement from the public body to be provided within three weeks. The requested statements issued within the required time-frame.

Notices issued under section 45 of the FOI Act

Under section 45, I can require a public body to provide me with any information in its possession or control that I deem to be relevant for the purposes of a review. During the year, my Office issued eight notices under section 45; three to the HSE, two to TUSLA - Child and Family Agency, and one each to the Adelaide and Meath Hospital, Wexford County Council and University College Dublin. I have provided more details on each case below.



HSE (i)

On 30 May 2016, my Office asked the HSE to provide certain information relating to its claim for exemption of certain records and to the searches it had undertaken to locate all relevant records. The review could not proceed without the information sought. The HSE's response was due by 6 June 2016. Despite a number of subsequent reminders, the HSE failed to

provide the relevant information. On 16 September, my Office issued a notice under section 45 to the Director General of the HSE and a reply was received on 26 September 2016. It is difficult to understand how the HSE found it so difficult to provide information that it was subsequently able to provide reasonably quickly upon receipt of a section 45 notification.

HSE (ii)

My Office wrote to the HSE on 7 November 2016 and asked it to provide the applicant with an explanation of its position with regard to her request for her medical records as it had failed to issue an internal review decision on her request. As no reply was received, we issued a section 45 notice to the Director General on 29 November 2016, requiring the information to be provided within seven days. However, this deadline also passed without a reply and we were in the process of issuing a formal request for the Director General to attend before me when we eventually received a reply on 20 December 2016.

HSE (iii)

On 19 May 2016, my Office issued a notice under section 45 to the Director General, wherein we explained that a request for the records that were the subject of the review were outstanding since 28 April and that we were unable to proceed with the review until the records were received. The records were eventually forwarded to my Office on 21 June 2016.

TUSLA - Child and Family Agency (i)

TUSLA was requested to provide copies of the subject records for a review, on 14 April 2016. Despite a further telephone reminder the records were not forwarded to my Office. On 4 May 2016, we issued a section 45 notice to the Chief Executive of TUSLA and the records in question were delivered almost three weeks later.

TUSLA - Child and Family Agency (ii)

My Office wrote to TUSLA on 13 June 2016 and requested copies of the relevant subject records within ten working days. On 27 June an incomplete set of records was received. On 15 July, my Office issued a section 45 notice to the Chief Executive, again requesting the relevant records. While TUSLA delivered a further set of records on 29 July, they were not the ones requested. As a result, on 8 August, we took the unusual step of issuing a second section 45 notice to the Chief Executive. We received the correct records on 11 August, two months after the original request.

For the sake of completeness, I should add that the number of records at issue was exceptionally large. Had my Office been made aware of that fact at an early stage, we may have been in a position to come to a more practical arrangement with TUSLA regarding the submission of the records.

Adelaide and Meath Hospital incorporating the National Children's Hospital

On 29 April 2016, my Office sought copies of the relevant subject records from the Hospital's FOI Unit, to be provided by 16 May 2016. A response was not received. On 1 June 2016, my Office issued a section 45 notice to the Chief Executive of the hospital and formally required the hospital to provide the records within seven days. Further correspondence between my Office and the Hospital followed arising from some confusion about the records sought. We received the records on 23 June 2016.

Wexford County Council

On 25 July 2016, my Office sought clarification from the Council as to the basis on which it had calculated estimated search and retrieval and photocopying fees for processing a request. However, a reply was not received within the time-frame specified or following reminders that the information was outstanding. In November 2016, my Office issued a section 45 notice to the Chief Executive of the Council, in which his attention was drawn to the fact that more than three months had passed since the initial request for clarification. The information sought was eventually submitted on 2 December 2016, more than four months after the initial request.

University College Dublin (UCD)

On 9 December 2016, my Office issued a section 45 notice to the President of UCD as a response to a request for clarification of certain matters relating to the review was outstanding since 24 October 2016.

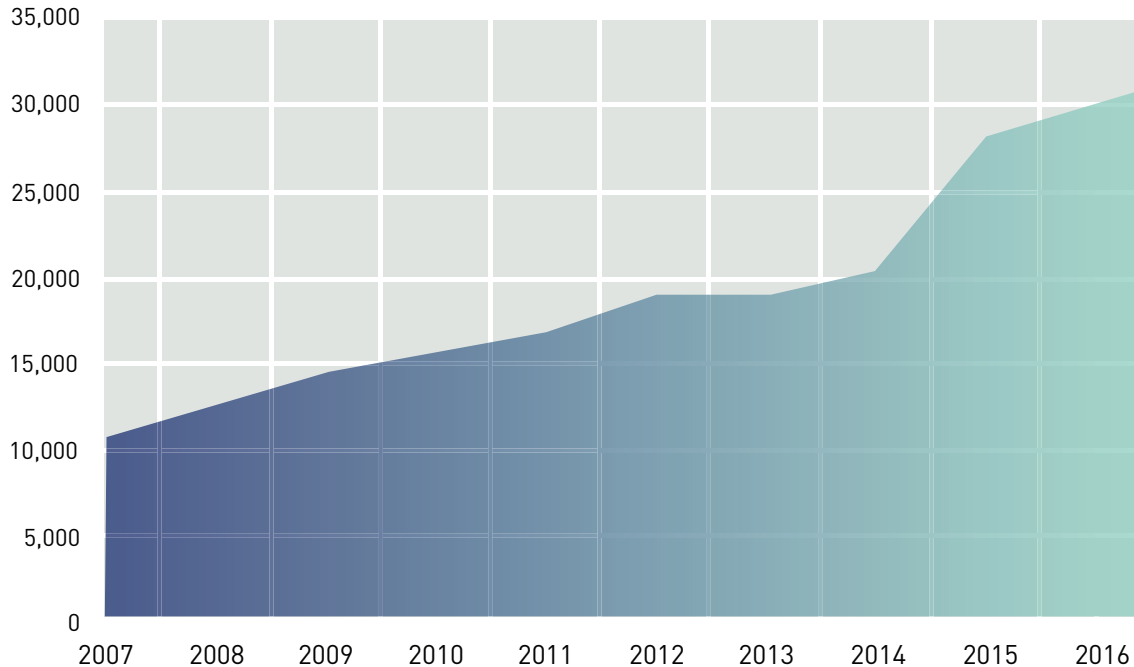
Key FOI statistics for the year

I have included below some key details on FOI usage in 2016. A more detailed breakdown is provided in Chapter 4.

I wish to acknowledge the work undertaken by the lead agencies that collect statistics for inclusion in my Annual Report. Unfortunately, Dublin City University, as the lead agency for the Colleges of Education and the National College of Art and Design was unable to provide statistics on behalf of those bodies as it was apparently unaware of its responsibility for collating the information required as a lead agency. My Office will be liaising with the Central Policy Unit of the Department of Public Expenditure and Reform to ensure that this information is collated and returned for 2017.

It is noteworthy, nevertheless, that the number of FOI requests recorded for the bodies in question has historically been low (53 FOI requests were recorded for 2015).

Number of FOI requests to public bodies 2007-2016



As the graph above indicates, there has been a sharp and continuous increase in the number of requests received since 2014. The total number of requests received by public bodies in 2016 was 30,417, representing an increase of 8% on the number received in 2015 and an increase of 50% on the number received in 2014.

This is a clear indicator of the effect that the elimination of up-front fees in 2014 has had on usage levels.

Public bodies received **30,417**
FOI requests in 2016

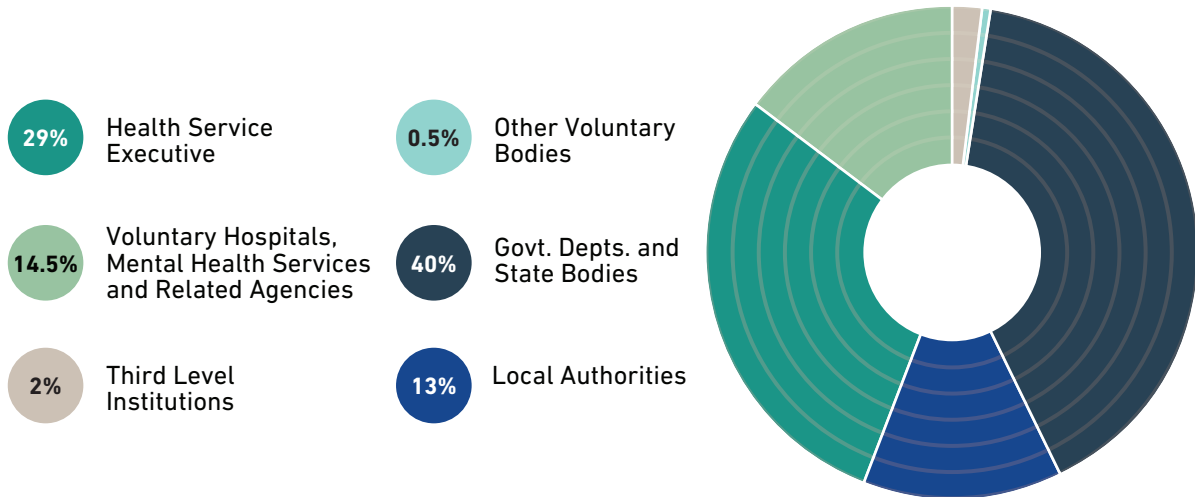
The number of requests on hand within the public bodies has increased from 5,337 at the beginning of the year to 6,018 at the end of the year, an increase of 12%. While the bodies have processed a larger number of requests during 2016, they have not been able to keep up with the increased demand.

As I stated in my introduction, this suggests that the increased demand for services does not appear to have been matched by a corresponding increase in the allocation of resources by public bodies to the processing of FOI requests. This is a matter of ongoing concern for my Office and I would again urge the bodies to make every effort to ensure that the resources afforded to the processing of FOI requests are sufficient to deal with the demand levels.

Top ten bodies who received most requests during 2016

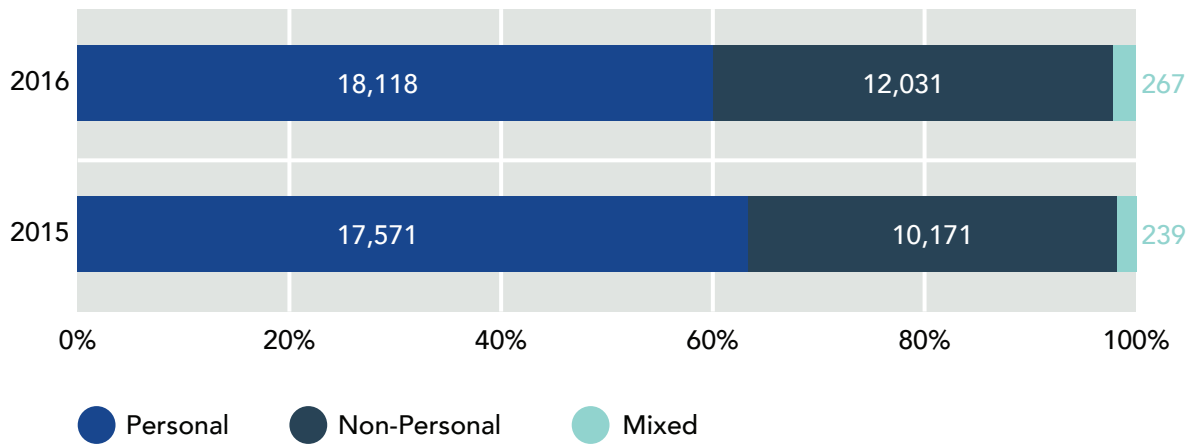
Placing	Public body	2016
1	Health Service Executive	8,719
	HSE South	3,285
	HSE West	2,958
	HSE Dublin North East	1,050
	HSE Dublin Mid-Leinster	849
	HSE National Requests-Corporate	577
2	Department of Social Protection	2,089
3	Tallaght Hospital	834
4	TUSLA - Child and Family Agency	827
5	Irish Prison Service	778
6	St James's Hospital	585
7	Department of Justice and Equality	583
8	Dublin City Council	512
9	Department of Education and Skills	494
10	An Garda Síochána	459

Sectoral breakdown of FOI requests to public bodies



- The majority of Government Departments recorded marginal increases in the number of FOI requests made in 2016.
- Requests to the Department of Transport, Tourism and Sport increased by 24% in 2016. The Department has recorded a 225% increase in the number of requests received since 2014. Of the 302 requests received in 2016, more than 60% were submitted by journalists. The Department attributed the large increase in requests to a number of high profile matters arising during the year, including the alleged sale of Irish Olympic tickets at the Olympic Games in Brazil, the tragic death of a mixed martial arts fighter, and industrial disputes concerning the LUAS and Bus Éireann.
- Requests to An Garda Síochána rose from 183 in 2015 to 459 in 2016, representing a 150% increase.
- Requests to the Department of Justice and Equality decreased by 38% compared with 2015.
- Requests to Local Authorities in 2016 have increased by 147% since 2014.

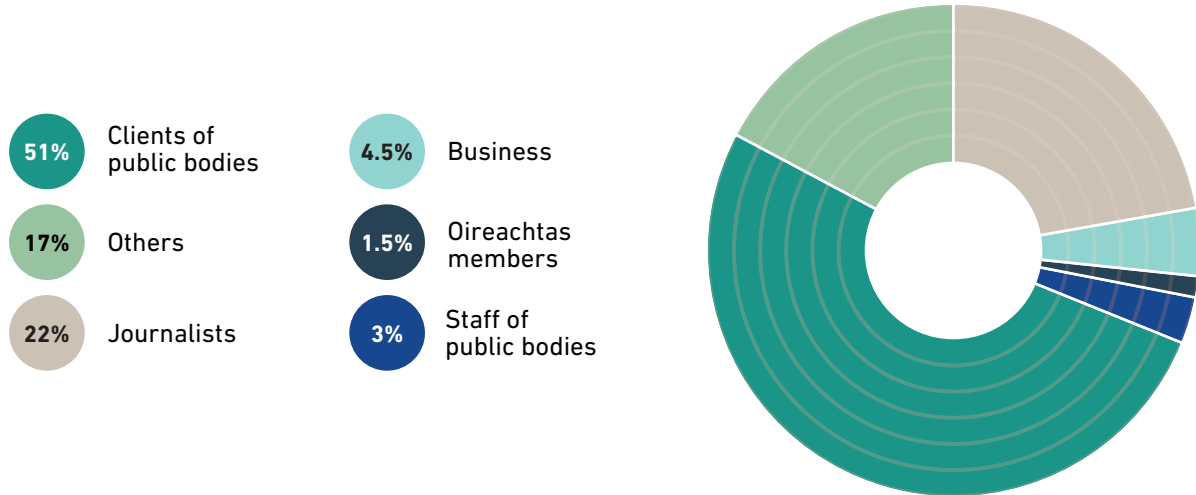
Type of request to public bodies



Requests made in 2016 for non-personal records continued the upward trend of recent years. 22% of all requests received in 2014 were for non-personal records, while that percentage rose to 39% in 2016. This is most likely as a result of the elimination of up-front fees for making requests in late 2014.

Requests for non-personal records
comprised **39%** of all requests received

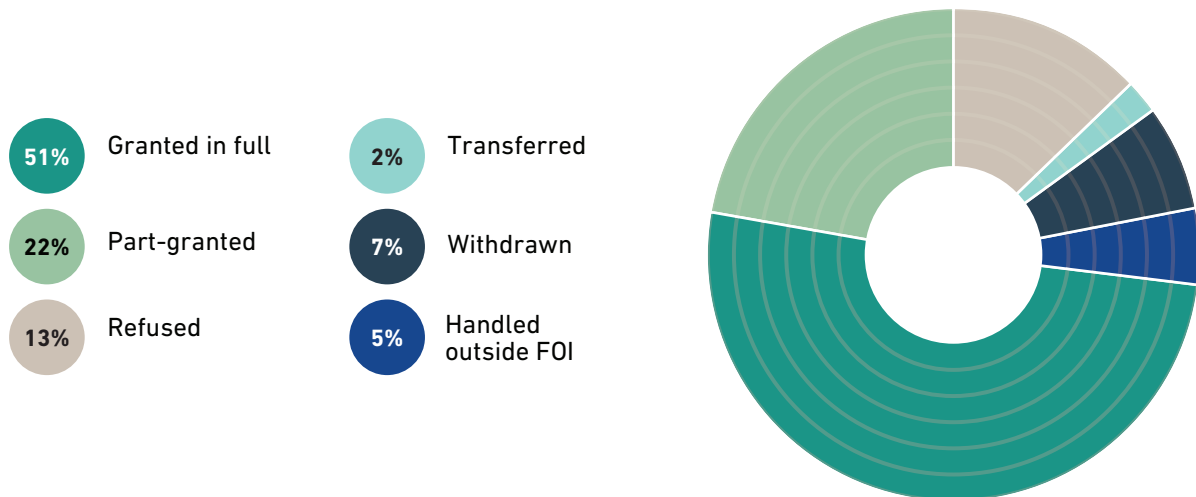
Category of requester to public bodies



The ratios for types of requester are similar to those reported on in 2015, with a slight increase in use by journalists from 20% to 22%.

Journalists accounted for **22%** of all FOI requests made

Release rates by public bodies



2016 saw a slight increase in the percentage of requests refused over 2015, rising from 10% to 13%. More information on release rates can be viewed at table 5, Chapter 4.

73% of all requests were granted
in full or in part

Estimated overall cost for FOI requests in 2016

In March 2016, the Central Policy Unit issued instructions to public bodies for the completion of FOI statistical returns. For the first time, the instructions included details on how to estimate the true cost of processing FOI requests, based on an analysis of a percentage of requests received. Public bodies were requested to submit returns.

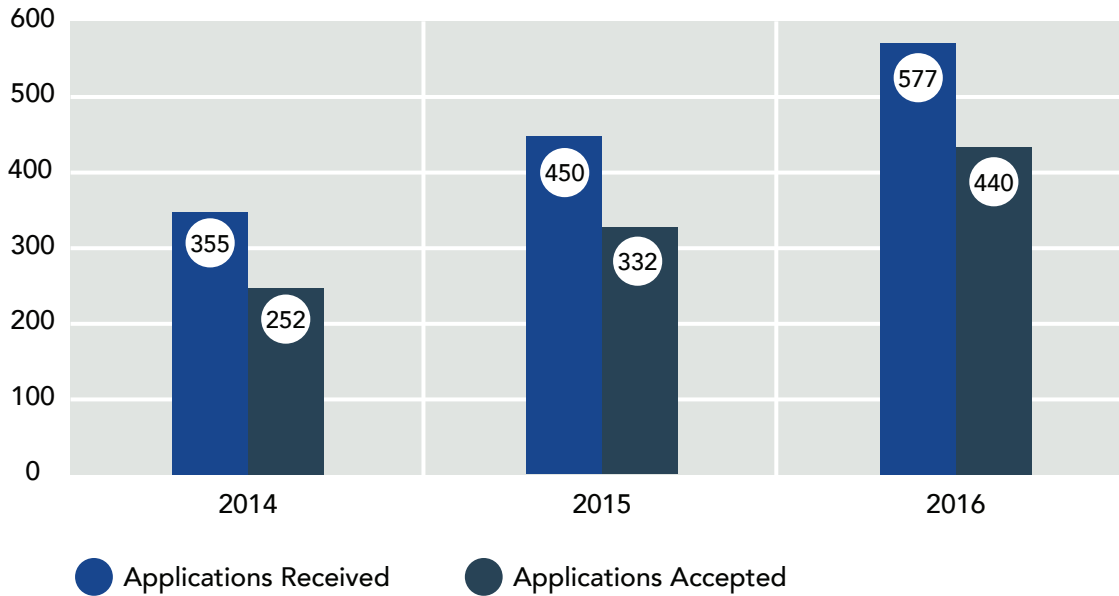
However, the information provided to my Office suggests that many bodies did not provide the requested information. Furthermore, there are some inconsistencies in the manner in which some bodies have reported and/or calculated their estimates. My staff intend to seek clarification of the matter with the Central Policy Unit during the year.

Office of the Information Commissioner (OIC) caseload

An application for review can be made to my Office by a requester who is not satisfied with a decision of a public body on an FOI request. Decisions made by my Office following a review are legally binding and can be appealed to the High Court only on a point of law.

We accepted **440** applications for
review in 2016

Applications to OIC 2014 - 2016



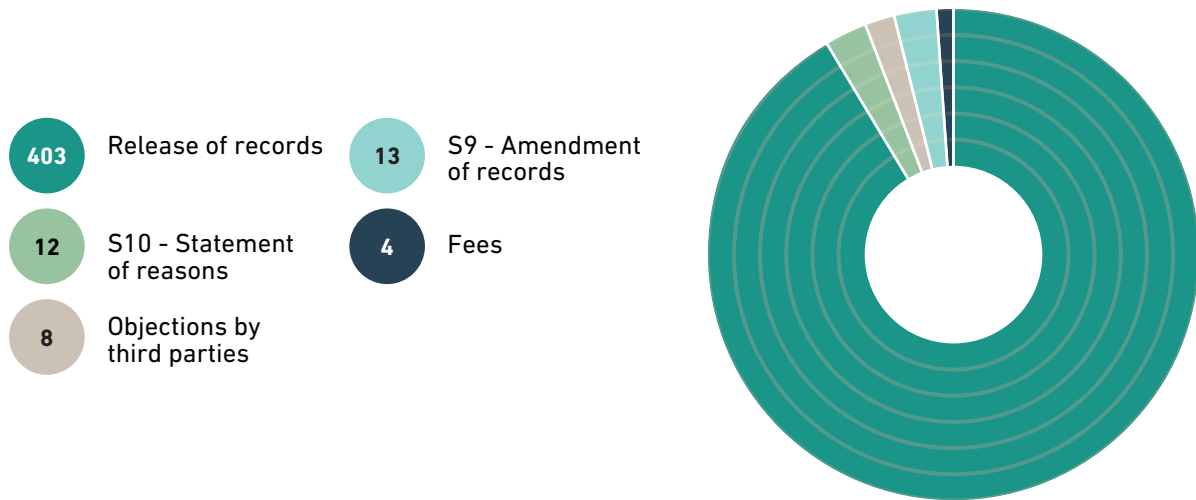
2016 was an extremely busy year for my Office. We recorded a 28% increase in applications for review received over 2015. The increase is even more dramatic when compared with the number recorded for 2014. The 577 applications received in 2016 represent a 62% increase on the number of applications received in 2014.

The number of applications accepted each year is invariably lower than the total number received. This is primarily due to the fact that some applications are deemed by my Office to be invalid or premature (i.e. the application for review has been made to my Office before the full FOI process has been concluded by the public body).

We accepted **32%** more reviews
in 2016

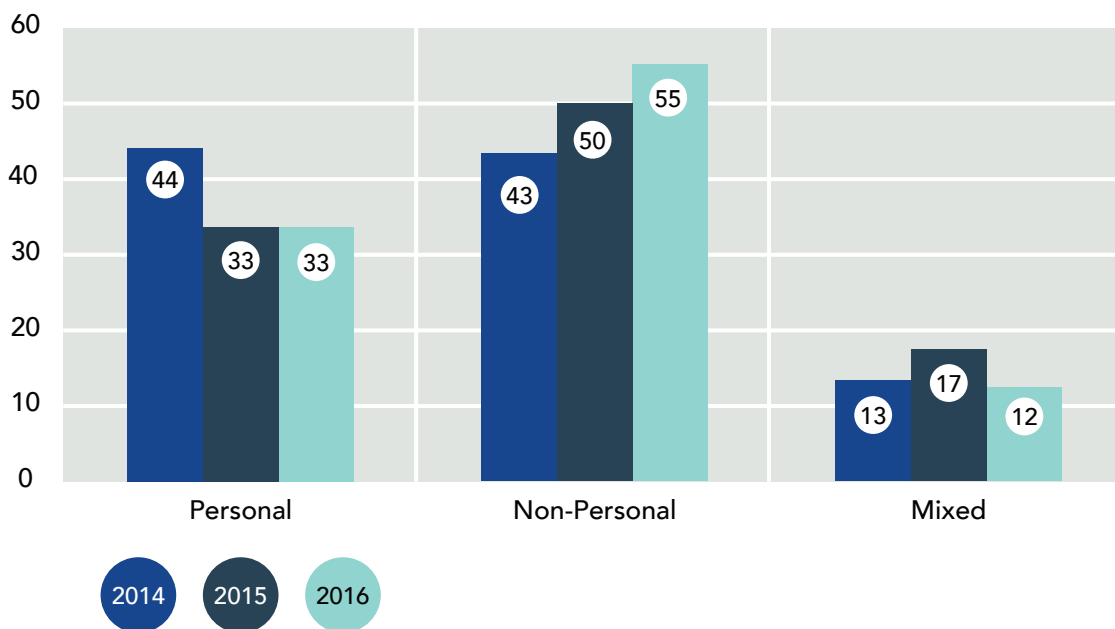
The number of applications which were accepted for review by my Office in 2016 increased by 32% over 2015. In 2016, 76% of all applications made to my Office were accepted for review, whereas the accepted figure for 2014 was 71%.

Subject matter of review applications accepted by OIC



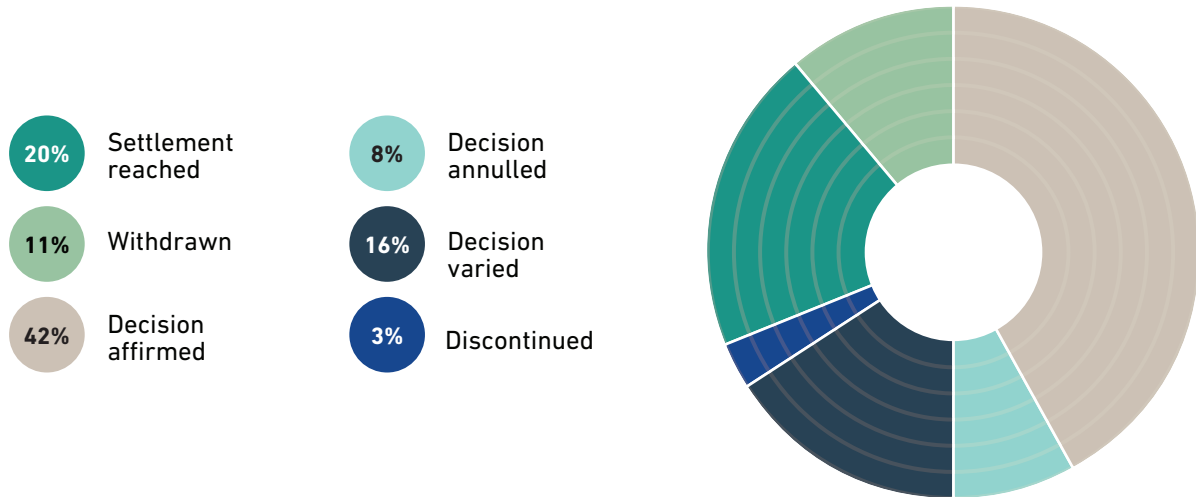
Of the 440 applications accepted by my Office in 2016, 92% were concerned with refusals by the bodies to grant access (in part, or in full) to some or all of the records sought.

Percentage of applications accepted by OIC by type 2014 – 2016



An application recorded by 'type' indicates whether the applicant is seeking access to records which are of a personal or non-personal nature, or a mix of both. The percentage figure for access to non-personal records in 2016 is the highest since 2010.

Outcome of reviews by OIC in 2016

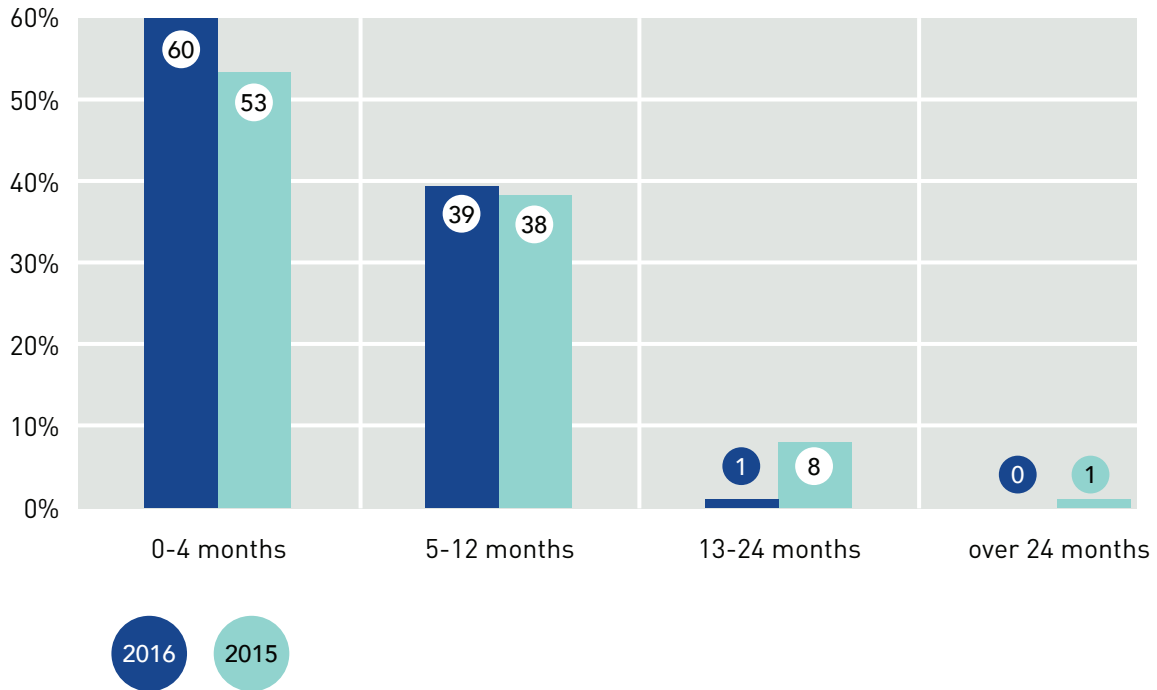


My Office reviewed 433 decisions of public bodies in 2016. This is 34% higher than the number reviewed in 2015.

Settlements and withdrawals

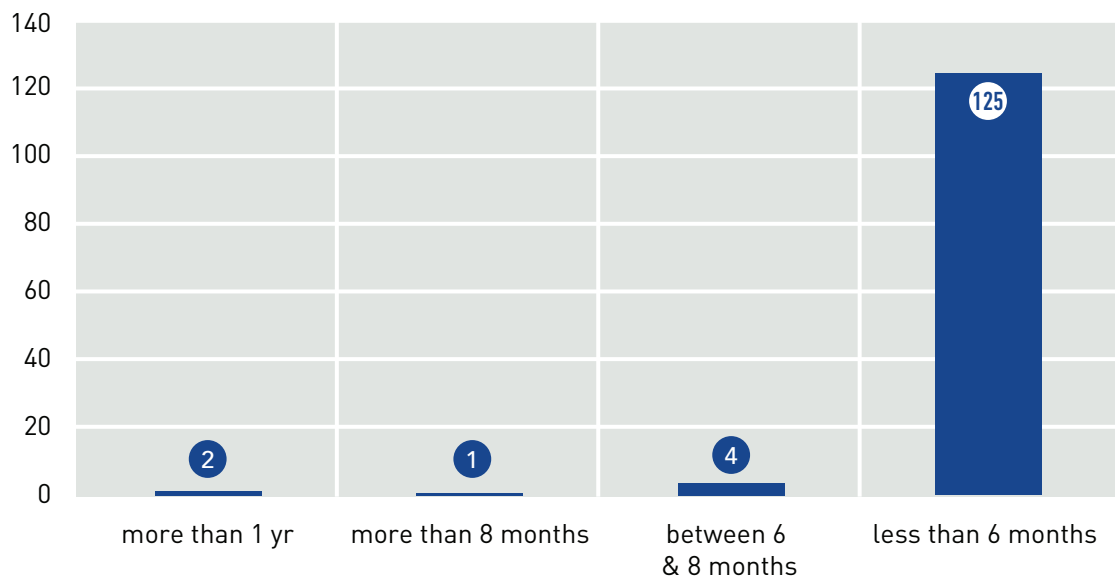
Settled and withdrawn applications often follow as a result of the intervention of my Office, where, for example, a more detailed explanation of a decision is given to the applicant by the public body, or additional records are released or part granted, and the review does not proceed to a formal decision.

Age profile of cases closed by OIC



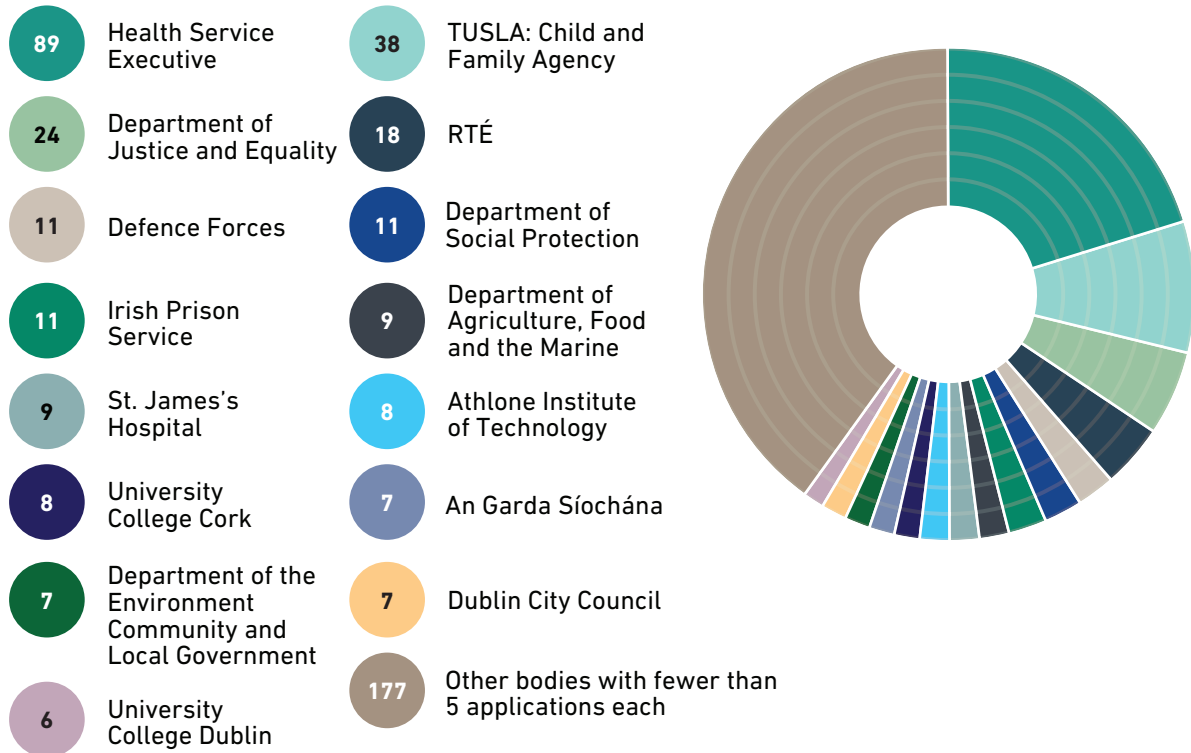
The table above shows how long it took my Office to complete reviews. I am very pleased to report another successful year which records a further increase in the number of cases closed within four months. 60% of all reviews closed in 2016 were closed within that time period. This is especially impressive given the 32% increase in applications accepted during the year.

Age profile of cases on hand in OIC at end 2016

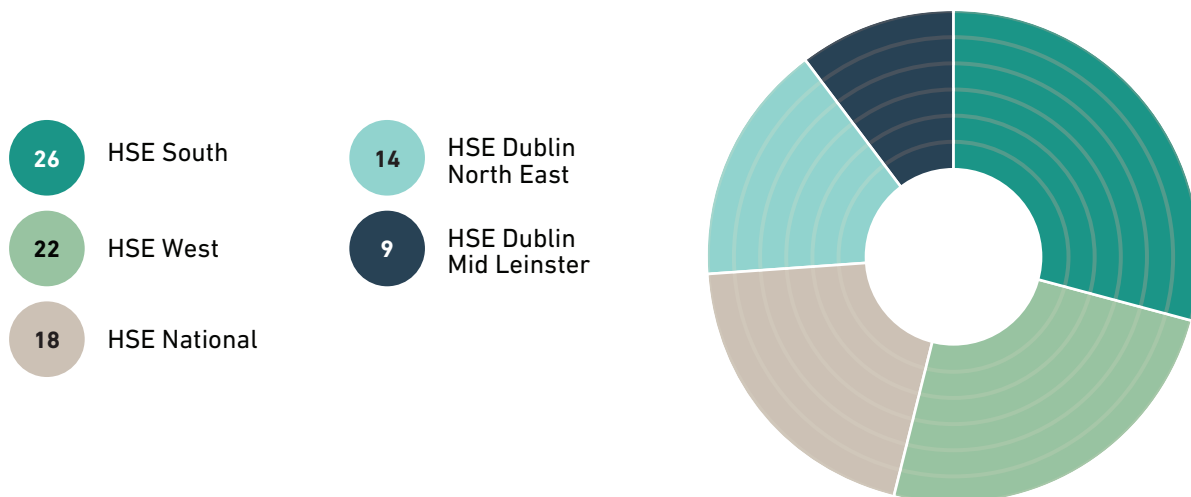


The age profile of open cases at the end of 2016 is quite similar to the position at the end of 2015. At the end of 2015 we had nine open cases over six months old, whereas that figure had fallen to seven by the end of 2016.

Breakdown by public body of applications for review accepted by OIC



Breakdown of HSE cases accepted by OIC



Deemed refusals

The FOI Act imposes statutory time limits on public bodies for processing an FOI request. Specifically, a decision on an original request should issue to the requester within four weeks and a decision on a request for an internal review should issue within three weeks.

Where no decision is issued, either at the original request (first stage), or internal review (second stage), or a decision is issued late, the requester has the right to regard that decision by the public body as a 'deemed refusal' of access. Following a deemed refusal at the internal review stage, a requester is entitled to apply to my Office for a review.

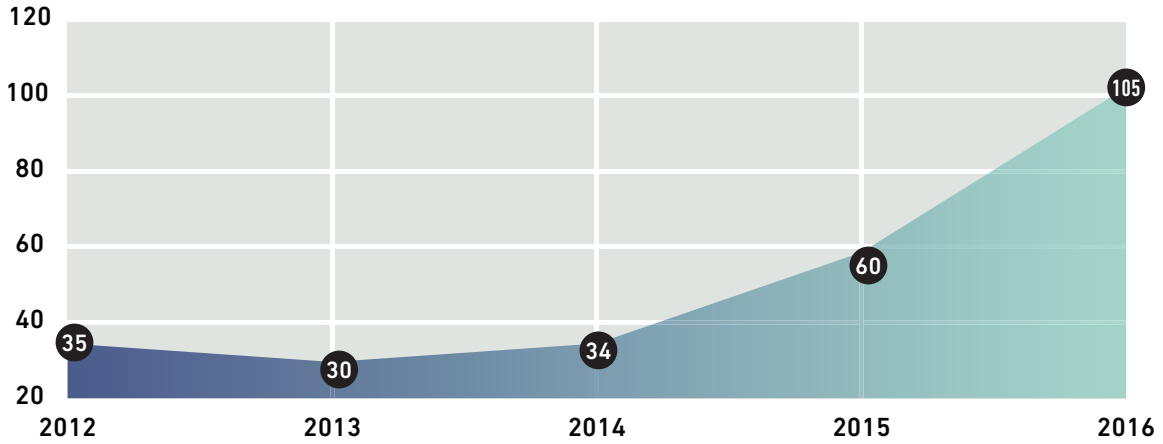


24% of reviews were deemed refused
by public bodies at both stages of
the FOI request

The charts below show how many requests were deemed refused in the year at each stage of the request, and where both stages were deemed refused. This year is quite simply the worst year on record in terms of the number of deemed refusals by public bodies recorded by my Office. This is further clear evidence that public bodies are not providing adequate resources for processing requests.

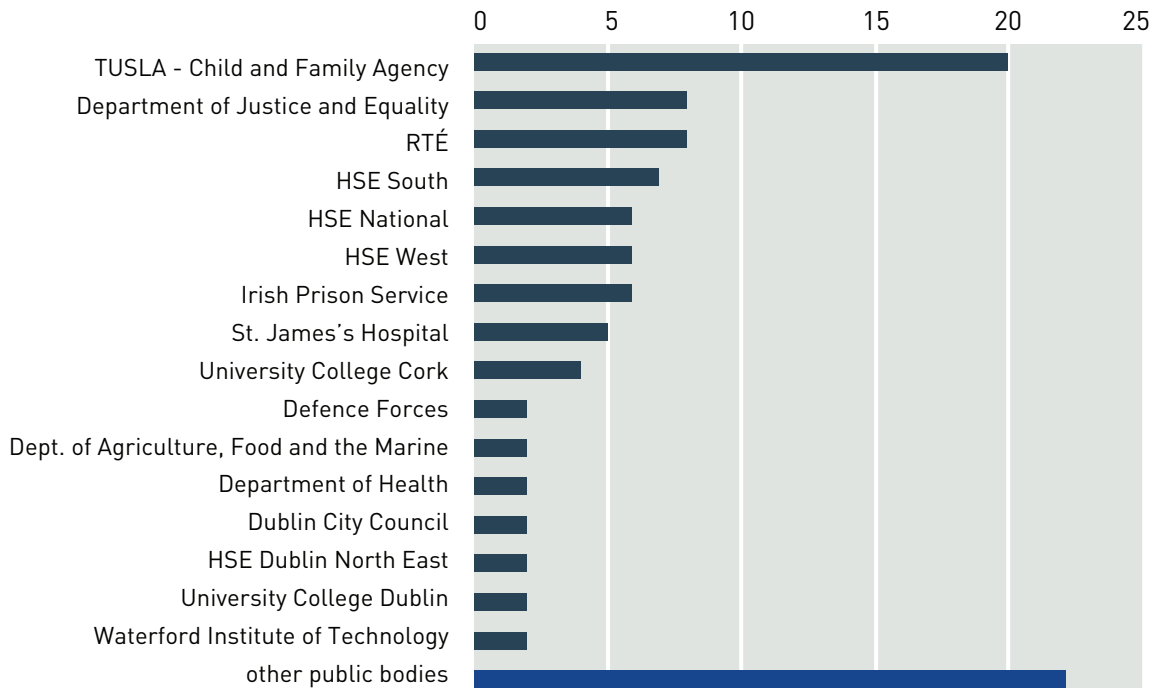
As can be seen from the charts, the worst offender for 2016 was TUSLA. My staff met with representatives of TUSLA during the year to discuss matters of concern, following which we wrote to TUSLA's quality assurance manager in connection with its overall management and processing of requests. At the time of writing, we have had no substantive response from TUSLA on these matters. My staff will be following up with TUSLA to seek tangible improvements in its processing of requests.

Deemed refusals at both stages 2012 - 2016



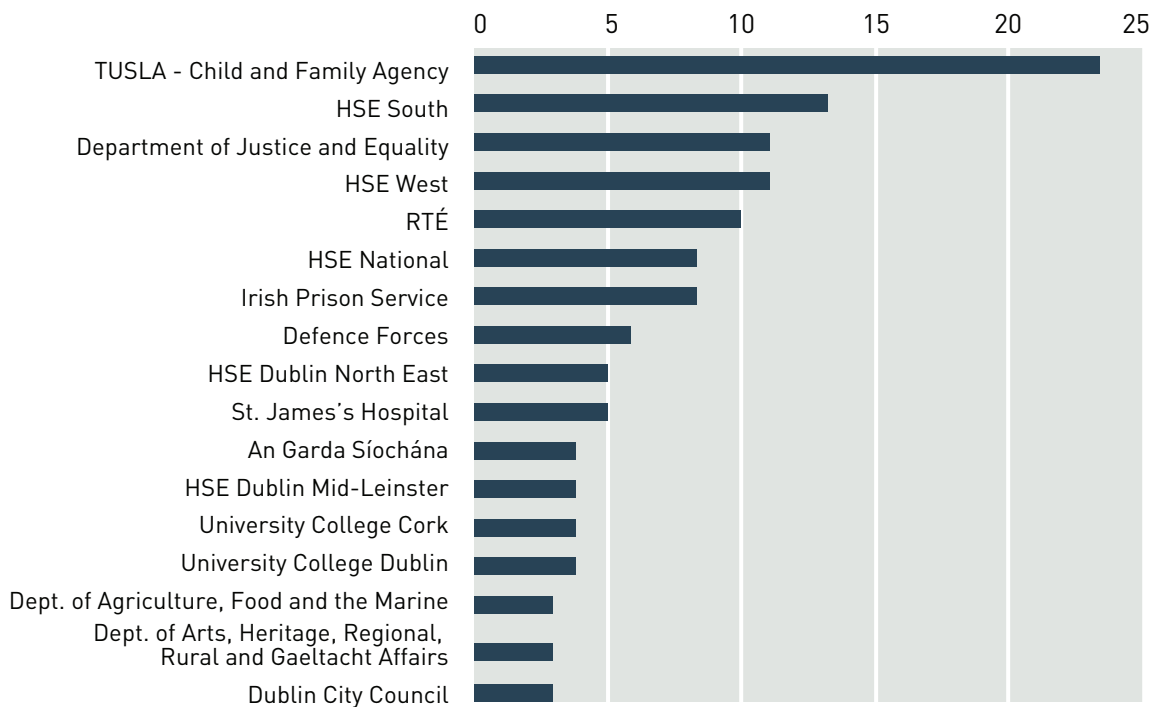
In 2016, 105 (24%) of all applications accepted by my Office were recorded as deemed refused at both stages of the FOI request.

Deemed refusal at both stages by public body - 2016



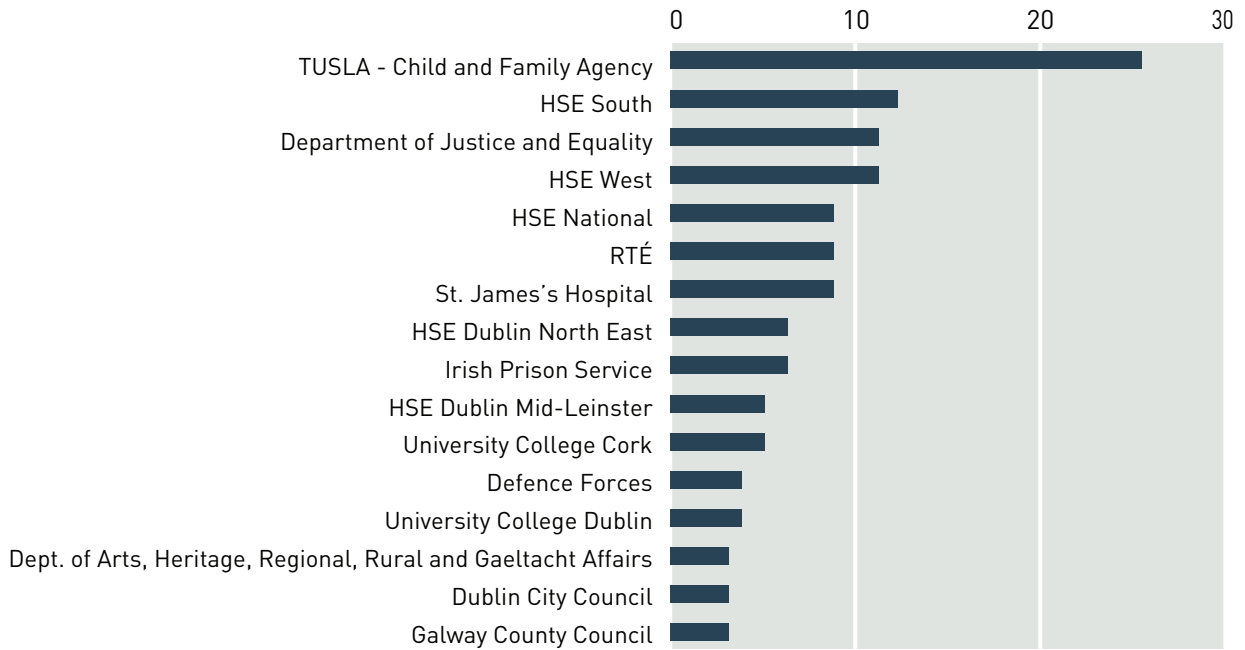
40% of OIC reviews were deemed refused by public bodies at either the first or second stage of the FOI request

Public body - deemed refusal at 1st stage of FOI request



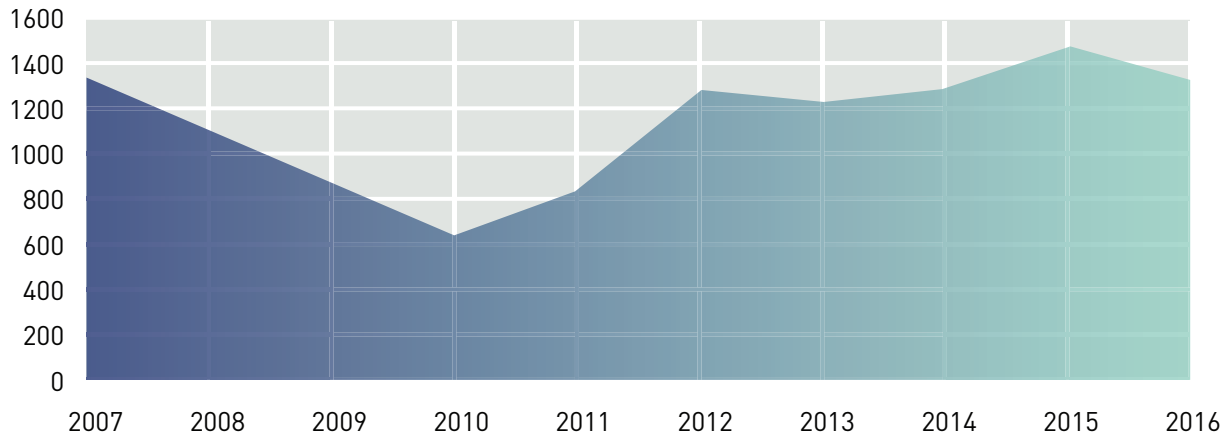
- An additional 49 requests were deemed refused at the original decision stage by 41 other bodies, each of which had fewer than 3 refusals.
- The total number of applications deemed refused by the public body at the original decision stage of the FOI request is 175, or 40% of reviews accepted by my Office.

Public body - deemed refusal at 2nd stage of FOI request



- An additional 48 requests were deemed refused at the internal review stage by 38 other bodies, each of which had fewer than 3 refusals.
- Similar to the first stage, 174 (40%) of reviews accepted by my Office were deemed refused by a public body at the internal review stage.

General enquiries to OIC



General enquiries concern various forms of communication, mostly from members of the public. The nature of those enquiries range from questions on the practicalities of the FOI Act to straightforward information about what to do next, or which public body might be able to assist.

Fees received by OIC

During 2016, my Office received 272 applications for review where a fee was paid, an increase of 94 cases over 2015. The increase is due to the increase in requests for access to non-personal information. See table 17 in chapter 4.

The total amount of fees received in 2016 was €12,150.

A total of €5,910 was refunded to applicants for the following reasons:

- applications were either withdrawn, settled, or discontinued;
- applications were rejected as invalid, or a fee was not due;
- the public body had not issued an internal review decision within the time limit (section 19 of the FOI Act refers).

Statutory Certificates issued by Ministers

Section 34 of the FOI Act

Where a Minister of the Government is satisfied that a record is an exempt record, either by virtue of section 32 (Law enforcement and public safety), or section 33 (Security, defence and international relations) and the record is of sufficient sensitivity or seriousness to justify his or her doing so, that Minister may declare the record to be exempt from the application of the FOI Act by issuing a certificate under section 34(1) of the Act.

Each year, Ministers must provide my Office with a report on the number of certificates issued and the provisions of section 32 or section 33 of the FOI Act that applied to the exempt record(s). I must append a copy of any such report to my Annual Report for the year in question.

Section 34(13) of the FOI Act provides that

“Subject to subsections (9) and (10), a certificate shall remain in force for a period of 2 years after the date on which it is signed by the Minister of the Government concerned and shall then expire, but a Minister of the Government may, at any time, issue a certificate under this section in respect of a record in relation to which a certificate had previously been issued ...”

My Office has been notified of the following certificates renewed or issued under Section 34 in 2016.

- Four certificates were renewed and two new certificates were issued by the Minister for Justice and Equality.
- Three certificates were issued by the Minister for Foreign Affairs and Trade.
- All the certificates referred to above will fall for review in 2018.

A copy of each notification is attached at Appendix I to this Report.

Review under section 34(7)

I was notified by letter dated 9 December 2016 that pursuant to section 34(7) of the FOI Act, the Taoiseach, the Minister for Public Expenditure and Reform and the Minister for Jobs, Enterprise and Innovation carried out a review of the operation of subsection 34(1) of the Act.

The letter concluded that the Taoiseach, the Minister for Public Expenditure and Reform and the Minister for Jobs, Enterprise and Innovation are satisfied that it is not necessary to request revocation of any of the 13 certificates reviewed.

A copy of the notification is attached at Appendix II to this Report.

Acknowledgment

I want to acknowledge the support of my Senior Investigators, Elizabeth Dolan and Stephen Rafferty, during 2016. I want to thank them and all the staff of the Offices of the Information Commissioner and the Commissioner for Environmental Information for their tremendous efforts in dealing with the significant challenges arising from the increased demands for our services while continuing to significantly improve case turnaround times. My thanks also to Diarmuid Goulding and Edmund McDaid for their assistance in compiling this Report.

As reported in this and in previous Reports, the Office is continuing to develop and grow. Consequently, I am grateful for the support of the Information Communications Technology, Corporate Services, and Quality, Stakeholder Engagement and Communications Units, who provide essential shared services for the continuing developmental requirements of the Office.

Finally, I want to thank the Director General of the Office, Jacqui McCrum, for her commitment and support throughout the year. The Office has unquestionably benefitted from Jacqui's extensive experience and energy during the first full year in her role.



Jacqui McCrum
Director General

Chapter 2:

Issues Arising



Chapter 2: Issues Arising

This Chapter highlights issues which arose during the year concerning the operation of the FOI Act. Some issues relate to particular public bodies, while others are commentaries on how the new Act gave rise to issues not previously addressed.

Issues reported on are:

- Schedule 1 bodies
- Section 6(7) Dispute resolution
- First use of section 22(9)(a)(vii)
- First consideration of use of powers under section 45(8)
- Bodies challenging decisions on procedural grounds
- Appeals to the Courts
- Re-use of public sector information

I have also set out a brief summary of court activity during the year. Finally, I have included a brief commentary on my role as Appeal Commissioner under the European Communities (Re-use of Public Sector Information) (Amendment) Regulations 2015 (S.I. No. 525 of 2015).

Schedule 1 bodies

In my Annual Report for 2015, I addressed the issue of the interpretation that had been adopted by the Central Bank of Ireland (the Central Bank) of the scope of its exclusion from the remit of the Act. The Central Bank is a partially included agency under the FOI Act 2014.

The vast majority of relevant bodies are deemed to be public bodies for the purposes of the Act by virtue of their inclusion in the categories set out in section 6 of the Act. However, Part 1(b) of Schedule 1 of the Act states that section 6 does not include a reference to the Central Bank insofar as it relates to certain records.

The issue relating to the Central Bank arose in the context of a request made by Mr. Colin Coyle of The Sunday Times for access to a copy of all minutes of the Central Bank Commission for a period spanning from 2014 to the date of the request in 2015. The Central Bank had taken the position that, as it was not a public body with respect to records containing information described in Schedule 1, Part 1(b)(i), the Act, including the internal and external review provisions, did not apply to all but one of the records requested, even where the records concerned also contained information that would otherwise be subject to the provisions of the Act.

In my decision, I noted that the position taken by the Central Bank was entirely at odds with the spirit and intent of the legislation and that adopting its position would lead to absurd consequences that could not have been intended by the Oireachtas in the passing of the Act. I also noted that my contrary view of the matter was supported by CPU Guidance Note 23 and the principles set out at section 11(3) of the Act. I found that I had the jurisdiction to review the Central Bank's effective decision to refuse the applicant's request for the records concerned on the basis that Schedule 1, Part 1 applies. I also found that a record falls within the scope of Schedule 1, Part 1(b)(i) only insofar as it contains the information specified as excluded from the scope of the Act and that the parts of the record that do not contain Schedule 1, Part 1(b)(i) information fall to be considered for release in accordance with the provisions of the FOI Act. I annulled the Central Bank's effective decision and directed it to undertake a fresh decision-making process in respect of the records concerned.

I am pleased to report that the Central Bank accepted my decision, albeit on a "without prejudice basis", and agreed to process the applicant's request under the provisions of the FOI Act. Redacted versions of the relevant minutes were subsequently released to The Sunday Times and have been published on the Central Bank's website.

During the year it was brought to my attention that the Central Bank was not alone in its interpretation of the scope of its inclusion or exclusion from the remit of the Act by virtue of its inclusion as a partially included agency in Schedule 1 and that other bodies had raised similar issues.

While I am satisfied that my understanding of my jurisdiction to review decisions of Schedule 1 bodies is correct and is supported by CPU Guidance Note 23, it would be a cause for concern for me if my Office was to continue to face similar jurisdictional challenges. It seems to me that a straightforward legislative amendment would put the matter beyond doubt. I intend to raise this matter with the Central Policy Unit during the year.

Section 6(7) Dispute resolution

As I have outlined above, the vast majority of relevant bodies are deemed to be public bodies for the purposes of the Act by virtue of their inclusion in the categories set out in section 6 of the Act. Where a dispute arises between my Office and any entity as to whether it is a public body for the purposes of the Act, the dispute must be submitted to the Minister for Public Expenditure and Reform for a binding determination, in accordance with section 6(7) of the Act.

Early in 2016, the Central Policy Unit published a Dispute Resolution Policy and Procedure for processing such referrals to the Minister. The policy also provided for binding determinations where a dispute arises between an entity and a requester as to whether or not an entity is a public body.

During the year, my Office dealt with two cases where we found that the entity concerned was not a public body for the purposes of the FOI Act. The entities in question were the Property Arbitrator and the Dublin Returning Officer. In both cases, we informed the requesters of their right to seek a binding determination from the Minister in accordance with the published Dispute Resolution Policy.

However, following receipt of advice from the Office of the Attorney General, the Central Policy Unit notified my Office that the Minister was not in a position to make a binding determination on the matter as section 6(7) does not provide for such determinations in cases where the dispute is between the entity and a third party. It subsequently published an amended policy to properly reflect the provisions of section 6(7).

This leaves my Office in a position of having to make determinations on whether or not certain entities are public bodies for the purposes of the FOI Act, with no right of appeal except, perhaps, through the Courts. I intend to raise this matter again with the Central Policy Unit.

For the record, the Minister made determinations in two cases in 2016. He determined that the Bar Council (The General Council of the Bar of Ireland) and The Law Society of Ireland are not public bodies for the purposes of the Act.

First use of section 22(9)(a)(vii)

Section 22(9) of the FOI Act provides for certain circumstances where I may use my discretion to refuse to accept an application for review or to discontinue a review. The FOI Act 2014 extended those circumstances to include cases where I consider that accepting the application would cause a substantial and unreasonable interference with, or disruption of, work of my Office.

I exercised that power for the first time in 2016 in Case No. 150430 (Messrs Z v NAMA). The requesters sought nine categories of records, all concerning their relationship with NAMA. The withheld records comprised more than 3,400 pages of information. While the volume of withheld information was a key factor, other relevant factors included the nature of the information concerned, the number of exemptions claimed by NAMA, the need to establish the identity and status of the parties to the records and the likely need to notify and invite submissions from potentially affected third parties.

I concluded that the examination that would be required of such a number of records, having regard to the number of records involved and the nature of the information concerned, was such that processing the review would cause a substantial and unreasonable interference with, or disruption of, work of my Office. While the applicants were invited to refine the scope of the review, they did not do so. Therefore, I discontinued my review.

First consideration of use of powers under section 45(8)

The 2014 Act extended my powers, for the first time, to follow up on cases where public bodies fail to comply with my binding decisions. Under section 45(8), I may apply to the court for an order to oblige the public body to comply with my decision.

I came very close to seeking such an order in 2016. On 17 August 2016, I issued a decision in Case No. 160196, directing An Garda Síochána (AGS) to release certain information to a journalist in response to his FOI request (See Chapter 3 for more details on the case).

Under section 24, a party to a review may appeal to the High Court on a point of law arising from my decision. However, where no such appeal is made, my decisions are binding on the parties concerned. The circumstances of this case were such that AGS had four weeks within which to make such an appeal. By letter dated 15 September 2016, I was informed by AGS of its intention to appeal my decision. However, no such appeal was made.

A number of further exchanges of correspondence between my Office and AGS followed. However, it was only on the threat of court action, some 11 weeks after my decision, that my Office secured the release of the information at issue.

While I am obviously very pleased that I did not have to seek a court order to oblige compliance, I was disappointed that it took so long for the requester to receive the information in question. I fully accept that public bodies are entitled to carefully consider my decisions and to appeal decisions to the High Court where they consider it appropriate to do so. However, where an appeal is not made, I expect bodies to act upon my decisions without further delay.

Bodies challenging decisions on procedural grounds

On the subject of bodies challenging my decisions through the courts, I noted a matter of particular concern during the year that I hope will not become a regular feature of court appeals.

As I have mentioned above, under section 24 of the Act, a party to a review may appeal to the High Court on a point of law arising from my decision. In two such appeals that were made by public bodies during 2016, the public bodies did not confine themselves to identifying what I would regard as pure points of law on the application and interpretation of the FOI Act as their grounds for appeal. Instead, they also chose to challenge the procedural grounds on which the review was conducted.

While I fully accept that the bodies concerned were entitled to raise procedural concerns, I would question what they were hoping to achieve by doing so. In both cases, the public body raised concerns about the procedures my Office adopted in the course of the review, notwithstanding the fact that those procedures have been in operation since June 2014 and that the details of the procedures are publicly available on our website. It is also noteworthy that all bodies, including the two bodies concerned, received advance notification of our intention to adopt the procedures in question, as far back as April 2014.

It seems to me that were the Court to find that the procedures my Office adopts in conducting reviews are somehow unfair, the most likely outcome would be for the Court to direct my Office to examine the matter again. The substantive issue would most likely remain unresolved.

If any public body has a particular concern about my Office's procedures for conducting reviews, I would sincerely hope that it would raise such concerns directly with my Office outside of the Court process. While I believe that our procedures are, indeed, fair, I would be more than happy to consider any related concerns with the public bodies.

Appeals to the Courts

A party to a review, or any other person who is affected by a decision of my Office, may appeal to the High Court on a point of law. A decision of the High Court can be appealed to the Court of Appeal/Supreme Court.

Three appeals of decisions of my Office were made to the High Court in 2016. Two decisions were appealed by the applicant and one by the relevant public body. All appeals are listed for hearing or mention in 2017.

Two written High Court judgments were delivered in 2016, both of which are summarised below. An *ex tempore* judgment of the Court of Appeal is also summarised in this section.

F.P. v The Information Commissioner [2014 No. 114 MCA]

Background and issue

In December 2016, the High Court delivered its judgment in the case of F.P. v The Information Commissioner [2014 No. 114 MCA]. The question presented by the case was whether under section 28(5)(a) of the FOI Act 1997, the public interest in granting the applicant's requests for access to records relating to himself and his former step-daughter outweighed the public interest in protecting the privacy rights of the individuals (apart from the applicant) to whom the information related. In my decision in Case 090261/62/63, which I reported on in my Annual Report for 2014, I concluded that the answer was no, notwithstanding evidence of malicious allegations of child sexual abuse having been made against the applicant. I found that, regardless of the evidence of malice, the records concerned deeply troubled family circumstances. Having regard to the judgment of the Supreme Court in the Rotunda Hospital case, the views of the applicant's former step-daughter (who was then aged 20) and her mother, and the records that had already been released to the applicant, I determined that, on balance, the public interest in granting the applicant's requests for access to the records at issue was not sufficiently strong to outweigh the public interest in upholding the privacy rights of the third parties concerned. The applicant's appeal to the High Court was not allowed.

Conclusions of the Court

The Court was not satisfied that the issue of malice, as raised by the applicant, was central to, or determinative of, the issue of access to records. The Court found that I was correct in my view that, even if the allegations were made for what may be regarded as malicious purposes, the records at issue related to deeply troubled family circumstances. However, the Court also found that, as I had acknowledged, the context in which the allegations were made was relevant to the strong public interest in openness and accountability in relation to the manner in which public bodies carry out their functions in dealing with allegations of child sexual abuse.

The Court confirmed that the applicant's purpose for seeking the records was not relevant and that his interests in accessing the records in order to determine whether he had a cause of action against any of the parties, or to advance such a claim, or to provide the basis for making a criminal complaint or to mount a judicial review against the public bodies, did not qualify as matters of public interest. The Court was satisfied that these interests were in reality matters of "private interest". The Court was also satisfied that it would require a legislative change to permit the right of access to records as a matter of course to persons claiming to be falsely accused of child sexual abuse or any other crime.

The Court also confirmed that the appropriate forum for pursuing a cause of action arising from false allegations or for challenging the actions of public bodies is provided for by the courts, where extensive legal remedies and fair procedures for discovery and disclosure are available in civil and criminal proceedings. Thus, the Court observed that the question of whether the public bodies acted in accordance with fair procedures may be the subject of judicial review. The Court was not satisfied that the applicant could use the process of appeal under FOI "to mount something akin to a collateral attack on the investigations and determinations" made by the public bodies in relation to the allegations made against him. Likewise, the motivation for, or validity or truthfulness of, any allegation, is a matter to be pursued by other forms of remedy.

The Court was satisfied that I had carefully distinguished between the applicant's assertion of private rights and the general public interest in openness and transparency in respect of information held by public bodies. The Court was also satisfied that I had given appropriate weight to the strong public interest in openness and accountability in relation to the manner in which public bodies carry out their functions in dealing with allegations of child sexual abuse. In the circumstances, and in light of the public interest served by the records that had been released to the applicant, it was open to me to consider that the important public interest concerning good governance was outweighed by the public interest in upholding the rights to privacy of the mother and child concerned.

Note: The applicant has since appealed the Court's decision to the Court of Appeal.

Patrick McKillen and the Information Commissioner [2015 No. 4 MCA]

Background and issue

The applicant applied to my Office for a review of a decision of the Department of Finance to refuse access to certain records relating to him or to his personal or business loans.

My Office found that parts of some of the refused records should be withheld on the grounds that they contained commercially sensitive information relating to third parties (section 27) and the public interest did not justify release of the information. During the course of the review, it emerged that the applicant had sought and been granted an order for discovery in the Courts against parties, including the Department, and that the Department had provided

the applicant with some of the records pursuant to the order for discovery. My Office found that access to those records must be refused, as to do otherwise would constitute contempt of court (section 22).

Conclusions of the Court

The judgment of Noonan J. was given on 19 January 2016 in favour of my Office. The Court upheld my Office's findings with regard to section 27. It found that as the appellant had not argued before my Office that section 27(1)(b) did not apply, he could not, therefore, advance the argument before the Court.

The appellant argued that the public interest lay in exposing what he claimed was unfair dealing by the Department which could be harmful to the State's interest. However, the Court found that any improper conduct, if there was such, was disclosed by the information released.

The judge also found that he was bound to follow the judgment of O'Neill J. in *EH and EPH v. the Information Commissioner* [2001] 2 I.R. 463 with regard to breach of the implied undertaking given in respect of discovered documents being a contempt of court. Disclosure of documents the subject of an order for discovery whenever made, is a contempt of court. Section 22(1)(b) is mandatory and in such circumstances, disclosure must be refused.

Note: The applicant has since appealed the Court's decision to the Court of Appeal.

X and the Information Commissioner [2015 No. 439 MCA]

Background and issue

In this case, my Office had affirmed a decision of the Department of Defence to release certain records with the applicant's name and address redacted (Case No. 130175 - Mr X and the Department of Defence). The applicant appealed that decision to the High Court. While the grounds of appeal were not entirely clear, it appeared that the applicant's main concern was that the release of the redacted records would still result in the disclosure of his identity. At an early stage in the proceedings, it transpired that the Department had not provided my staff with a full set of records. Therefore, my Office did not oppose the appeal and informed the High Court that it was willing to have the matter remitted for a fresh review. On 13 July 2015 the High Court directed that the matter be remitted to my Office to be dealt with in accordance with the law. The applicant subsequently appealed the High Court's decision to the Court of Appeal. The main remedy he sought was for the original FOI request to the Department of Defence to be struck out.

Conclusions of the Court

In October 2016, the President of the Court of Appeal delivered an oral judgment in the case. The Court of Appeal found that under FOI legislation, the original requester was entitled to have his FOI request processed. The Court noted that while Mr X's desire to have the FOI

request struck out was understandable, the FOI request nevertheless remained and there was a statutory mechanism in place to deal with it. In the circumstances, the Court of Appeal held that there was no basis for it to do anything other than affirm the High Court decision and allow a remittal to my Office.

Re-use of public sector information

European Communities (Re-use of Public Sector Information) Regulations 2005

Public sector bodies create, collect, and publish information in the course of their public functions. Directive 2003/98/EC on the re-use of public sector information establishes a minimum set of rules governing the re-use of existing documents held by public sector bodies. Directive 2013/37/EU amends and expands the scope of the earlier Directive. These Directives are transposed into Irish law by the European Communities (Re-use of Public Sector Information) Regulations 2005 (the PSI Regulations), as amended by the European Communities (Re-use of Public Sector Information) (Amendment) Regulations 2015.

Re-use, in relation to a document held by a public sector body, means the use by an individual or legal entity of the document for commercial or non-commercial purposes other than the initial purpose within the public task for which the document was produced. The regulations apply to physical and electronic documents.

Under the PSI Regulations, an individual or a legal entity may make a request in a legible form to a public sector body to release documents for re-use. Every request must indicate that it is being made for the purpose of the re-use of public sector information. The Regulations provide that, on receipt of a request in respect of a document held by it to which the PSI Regulations apply, a public sector body must allow the re-use of the document in accordance with the conditions and time limits provided for by the Regulations.

Where possible and appropriate, documents made available for re-use must be provided in open and machine-readable format. Machine-readable information is information which can be easily interpreted and processed by different software applications.

As Information Commissioner, I am the designated Appeal Commissioner for the purposes of the PSI Regulations. Under Regulation 10 of the PSI Regulations, decisions of public sector bodies can be appealed to my Office, including decisions on fees and conditions imposed on re-use.

In 2016, three appeals were made to my Office under the PSI Regulations.

Conor Ryan on behalf of RTÉ and the Standards in Public Office Commission - RPSI/16/01

In the first such appeal to my Office, a journalist appealed a decision of the Standards in Public Office Commission not to release for reuse a machine-readable version of the online Register of Lobbying. The Commission subsequently provided the journalist with access to a machine-readable version of the Register, and the appeal was withdrawn by the appellant.

Vizlegal Limited and the Patents Office - RPSI/16/02

In this appeal, I reviewed a decision of the Patents Office to refuse to allow re-use of its databases in open and machine-readable format. As a preliminary point, I found that the appellant was not entitled to re-use unpublished documents by making a request under Regulation 5(1)(a) in circumstances where a right of access to such documents had not been established.

I found that the Patents Office was justified in refusing to release the patents database and the design database in open and machine readable format, as this would involve a disproportionate effort, going beyond a simple operation. Accordingly, there was no obligation on the Patents Office to adapt or to provide extracts from the databases to meet the appellant's request.

I found that the statutory fees for use of the computerised trade mark database did not conflict with the rules on charging for re-use under Regulation 6 of the PSI Regulations. In particular, I found that although the charges exceeded the marginal cost of reproduction, provision and dissemination of the database, the charges complied with Regulation 6(1A)(a)(ii), as the Patents Office was required to generate sufficient revenue to cover a substantial part of the costs relating to the collection, production, reproduction and dissemination of the database.

Accordingly, I affirmed the Patents Office's decision to refuse the appellant's request.

Conor Ryan on behalf of RTÉ and the Companies Registration Office - RPSI/16/03

In this appeal, I reviewed a decision of the CRO to refuse a request to re-use a database of disqualified and restricted persons in open and machine-readable format.

I found that the CRO was not justified in refusing the appellant's request on the basis that the information was publicly accessible, as this reason did not address the question of whether the database could be re-used. Notwithstanding this, I found that refusal of the appellant's request was otherwise justified on the basis that there was no obligation on the CRO to adapt

the database or to provide extracts from the database in circumstances where this would involve a disproportionate effort, going beyond a simple operation.

Accordingly, I affirmed the CRO's decision to refuse the appellant's request.

Chapter 3:

Decisions



Chapter 3: Decisions

Formal decisions

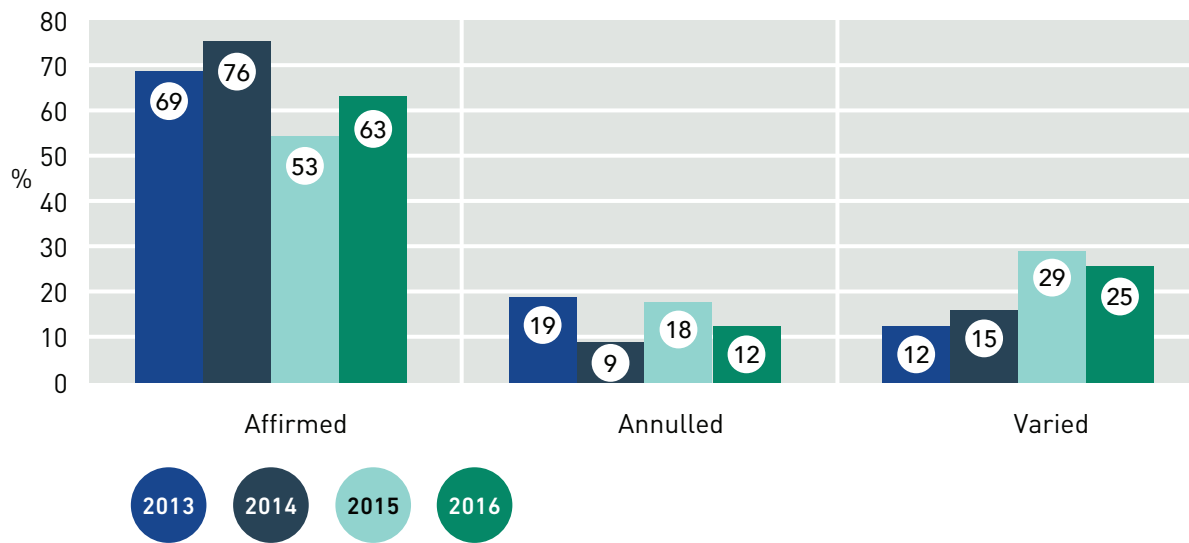
My Office reviewed 433 cases in 2016. A formal decision was issued in 285 of those cases, representing 66% of all reviews completed during the year. The remaining 148 reviewed cases were closed by way of discontinuance, settlement or withdrawal.



We completed **99%** of our reviews
within twelve months

See Table 15, Chapter 4 for a comparison of all reviews closed in the year.

The table below provides a percentage comparison of the outcomes (affirmed, varied or annulled) of decisions on cases.



Annulment of decisions to which section 38 applies

Section 38 provides for a statutory notification requirement that public bodies must observe in relation to the exemptions contained in section 35 (information obtained in confidence), section 36 (commercially sensitive information) and section 37 (personal information relating to a third party). In the case of each of these exemptions, the FOI body may grant a request if it considers that the public interest is better served by granting than by refusing the request. However, any proposal to release such otherwise exempt material is subject to the provisions of section 38. That section requires the FOI body to notify certain third parties that it proposes to grant the request in the public interest and that the FOI body will consider any submissions from the third parties before deciding whether to grant or refuse the request. It also provides for the processing of such requests within a specified timeframe.

My Office may annul decisions where timelines associated with the provisions of section 38 have not been adhered to by the body concerned. In 2015, I annulled ten such cases. I am pleased to report that just three such cases were annulled by my Office in 2016.

The section 38 notification process is complex and can place an onerous burden on decision makers. However, there are various sources of information available to assist public bodies in processing such requests. The Central Policy Unit has published a manual for FOI decision makers which contains guidance on the application of section 38, including some useful letter templates. It has also published a specific guidance note on the matter (CPU Notice No. 8 - Requests involving third parties - A step by step guide).

Decisions of interest

The following cases represent a sample of cases my Office reviewed during the year that were concluded by way of a formal decision. The full text of all formal decisions issued during 2016 is available at www.oic.ie.

Mr C and the Defence Forces - Case 150243

In this case, the applicant, a member of the Defence Forces, sought access to a military police report relating to a redress of wrongs complaint submitted by him. The Defence Forces refused access to the record under section 42(c)(ii)(II) of the FOI Act. That section provides that the Act does not apply to a record held by the Defence Forces relating to section 170 of the Defence Act 1954. Section 170 of the Defence Act states that "For the prompt suppression of all offences a provost marshal of commissioned rank may from time to time be appointed." The Defence Forces contended that section 42(c)(ii)(II) was intended to restrict the application of the FOI Act in relation to Defence Forces records held by the Provost Marshal appointed under section 170 of the Defence Act relating to his police function in respect of the suppression of offences.

Having regard to the plain and ordinary meaning of the language used, I concluded that the purpose of section 170 was to provide the statutory authority for the appointment of a provost marshal. Therefore, any records relating to the appointment of a provost marshal were excluded from the FOI Act by virtue of section 42(c)(ii)(II). However, I did not accept the Defence Forces' argument that records relating to the provost marshal's functions were also excluded on the basis that such records related to section 170. In my view, there was not a sufficiently substantial link between records "initiated under the direction and authority of the Provost Marshal for the purposes of the investigation of offences under military law", as described by the Defence Forces, and section 170 of the Defence Act, given that the purpose of that section was simply to provide the statutory authority for the appointment of a provost marshal.

Therefore, I found that section 42(c)(ii)(II) did not operate to restrict the application of the FOI Act to the record sought by the applicant. I annulled the Defence Forces' decision and directed it to conduct a fresh decision making process on the request.

Siobhán Maguire of The Sunday Times and the Health Products Regulatory Authority - Case 160089

The applicant sought access to all 2015 inspection reports of premises using animals for scientific or educational purposes, together with certain related correspondences. The Health Products Regulatory Authority (HPRA) granted partial access to the records, and refused access to the remaining information under sections 29, 30(1)(a), 32(1)(b), 35(1)(a), 36(1)(b) and 37 of the FOI Act.

During the course of the investigation, my Office notified the 18 affected research establishments of the review and invited them to make submissions. Fifteen establishments replied, the majority of which objected to release of the relevant information.

Section 29 is an exemption that protects the deliberative processes of FOI bodies. In this instance, I did not accept that the HPRA was engaged in a deliberative process, but

rather found that it had issued certain correspondence in the exercise of its regulatory responsibilities. Therefore, I found that section 29 did not apply to the records. Section 30 is an exemption that protects the functions and negotiation of FOI bodies. As establishments involved in animal testing for scientific purposes are legally obliged to cooperate and engage with the HPRA, I did not accept the HPRA's argument that the release of the records could reasonably have been expected to prejudice or harm the effectiveness of future investigations of such establishments. Similarly, I found that the HPRA had not demonstrated that the release of the records would have been likely to prejudice the future supply of information from research establishments, and therefore I concluded that section 35(1)(a), which protects information given to a public body in confidence, did not apply.

Section 32(1)(b) is an exemption that protects records, the release of which could reasonably be expected to endanger the life or safety of any person. I noted that scientific research on animals is an issue that generates much controversy and on which many people hold strong opinions. While I accepted that the vast majority of opponents of animal research are entirely peaceful, I was satisfied that there may be a small minority who are willing to use violence against those involved in such research.

I accepted, therefore, that the disclosure of information revealing the location of the research institutions, and the identities of individuals involved in such research and engaged in inspections, could reasonably be expected to endanger the life or safety of such individuals. While I directed the release of the majority of the information contained in the inspection reports, this was subject to the redaction of certain information that could allow for the identification of the research establishments or the individuals either engaged in such research or in inspecting such establishments.

[Note: This decision has been appealed to the High Court by the HPRA.]

Seán McCárthaigh of The Times and An Garda Síochána – Case 160196

In this case, the applicant sought access to a record of staffing levels of An Garda Síochána (AGS) at sub-district level as at 31 December 2015. AGS argued that the information sought was exempt under section 32(1)(a), a discretionary, harm-based exemption which applies where access to the record concerned could reasonably be expected to prejudice or impair certain aspects of law enforcement and public safety. AGS contended that the disclosure of the staffing levels at sub-district level would disclose detailed operational policing information which would allow for an assessment of the operational policing capabilities in any location at any given time, and that this would prejudice and impair the personal safety of Gardaí and their ability to employ methods to prevent criminal activity, and would put the local community at risk of being subjected to crime sprees.

While acknowledging that AGS has a special and unique expertise in relation to the enforcement of the law and the prevention of criminal activity, I found that its own internal review decision had demonstrated that the disclosure of the information sought would not,

in fact, allow for an accurate assessment of operational policing capabilities in any location at any given time. I also noted that similar information has been placed into the public domain in the past, including by the previous Minister for Justice and Equality in July 2013, and no argument had been made that the harms envisaged arose. I concluded that AGS had failed to demonstrate that it was justified in refusing access to the information sought by the applicant, and I directed its release to him.

Mrs X and the Rotunda Hospital - Case 150389

The applicant made a request for any records held by the Rotunda Hospital in relation to her late son. Her son was born at home in 1960, attended by midwives from the Hospital. Sadly, he died later that day in the Hospital.

The Hospital found and released a small number of relevant records to the applicant. The applicant sought a review by this Office because she was not satisfied with the extent of the records found, and particularly because a paediatric chart could not be found.

The Hospital submitted that if the paediatric chart existed, it would be in external archives, in a particular box. It stated that when looking for an archived file, it normally asks the external archive company to check the box that would be expected to hold the file. If the company does not find the file, the Hospital normally then asks for the box concerned to be delivered to the Hospital, so that Hospital staff can re-examine it. The Hospital's submission said it had "called in" and "reviewed" all charts in the appropriate box but that the file was not found.

The Hospital agreed, at this Office's suggestion, to search two other particular boxes of archived paediatric charts, to rule out the possibility that it had been misfiled. However, the paediatric chart was subsequently found in the box in which it should have been. It seems that the Hospital gave the wrong box number to the archive company at the outset, and so the archive company checked the wrong box. Furthermore, the Hospital did not retrieve the box concerned from the archive company, and the internal reviewer failed to review the searches conducted for the paediatric file. Finally, the Hospital had prepared its submission to this Office based on an assumption that procedures for searching and retrieving boxes held in external archives had been complied with.

An Investigator from this Office met with the Hospital to discuss what had happened and to carry out spot checks of some other records that the Hospital's submission said were searched. I was satisfied, on foot of this meeting, that the paediatric file was not found at the outset because of a mistake that anyone could make. However, this was compounded by failures to follow procedures, and by assumptions being made.

The Hospital was very frank with this Office about why there was a delay in finding the chart. Its staff cooperated fully with this review. It apologised for the errors and assured this Office that it will review its procedures for searching for records and that, in particular, it will

comply with its own procedures for checking externally archived records. It has also said it will ensure that internal reviewers will examine all aspects of the appeal before them (which the Hospital says is normally the case). Accordingly, I do not expect similar issues to arise in future reviews. I should also say that, over the years, the Hospital has taken its obligations under the FOI Act very seriously, and I am satisfied it continues to do so. Furthermore, the Hospital seemed to have gone to great lengths to assist the applicant in this case.



Case completions increased by
34% over 2015

Mrs X and the Department of Justice and Equality - Case 160157

In this case, the Department failed to meet the deadlines for issuing both the original and internal review decisions. Furthermore, my decision on this case, which issued on 25 July 2016, directed the Department to release certain records. Section 24(4)(b)(ii) of the FOI Act requires a public body to release records within four weeks of such a decision (unless an appeal to the High Court is made, which was not the case here).

However, the applicant contacted my Office in September to say that she had not received any records. Further to contacts from this Office, the Department released the records on 6 October 2016. The Department, and all FOI bodies, should bear in mind that section 45(8) of the FOI Act gives me the power to apply for a court order to require compliance with a binding decision from this Office.

Mr Y and the Central Statistics Office - Case 150292

The Central Statistics Office (CSO) refused the applicant's request for access to information about him contained in the 2006 and 2011 Census of Population forms. It based its refusal on a provision of the Statistics Act 1993. Under section 41(1)(b) of the FOI Act 2014, a public body must refuse a request if the non-disclosure of the record is authorised by any enactment other than a provision specified in Schedule 3 of the Act and the case is one in which the body would refuse to disclose the record pursuant to that enactment.

The CSO primarily relied on sections 32 and 33 of the Statistics Act which provide for restrictions on the use of information gathered for statistical purpose and a prohibition on the disclosure of such information.

The CSO argued that statistical confidentiality is a core value of official statistics and that the quality of official statistics depends on public trust that statistical information returned by individuals and businesses will be treated as strictly confidential and used only for statistical purposes. It claimed that the only section of the Statistics Act explicitly providing for disclosure is section 35, which provides for access to the Census of Population after 100 years and that it is the policy of the CSO that census records are not released in advance of this 100 year period.

I fully appreciate the CSO's concern to ensure the confidentiality of statistical information provided by individuals and businesses. However, the question before me was whether the CSO was justified in its decision to refuse access to the information sought by the applicant under section 41(1)(b) of the FOI Act on the ground that the non-disclosure of the records is authorised by the Statistics Act 1993.

I accepted that section 33(1) of the Statistics Act generally prohibits the disclosure of information obtained under the Act that can be related to an identifiable individual or undertaking. However, I noted that the prohibition on disclosure is not absolute. The section provides that no information that can be related to an identifiable individual or undertaking shall, except with the written consent of that person or undertaking or the personal representative or next-of-kin of a deceased person, be disseminated, shown or communicated to any person or body.

I took the view that it is implicit in the wording of the section that the general prohibition on disclosure of information that can be related to an identifiable individual or undertaking does not apply where the identifiable individual or undertaking or the personal representative or next-of-kin of the individual, if deceased, has given written consent for its disclosure.

Accordingly, I found that section 41(1)(b) of the FOI Act does not apply in the circumstances of the case as the prohibition on disclosure in the Statistics Act is not absolute and does not authorise the CSO to refuse to disclose to an individual information relating to that same individual. I annulled the CSO's decision and directed it to undertake a fresh decision making process on the request.

Mr X and the Department of Transport, Tourism and Sport - Case 160187

The background to this case is the crash of an Aer Lingus Viscount plane (St. Phelim) in 1968 near Tuskar Rock, Co. Wexford, in which 61 passengers and crew lost their lives. The applicant sought access to the witness statements taken during investigations into this matter. However, many of the witness statements predated FOI legislation. If requesters seek access to "pre-commencement records" which do not relate to personal information about them, they must show that access is necessary or expedient in order to understand later records. On reviewing the records, my Office decided that the later witness statements could be understood independently of, and without reference to, the older ones and that

there was no right of access to the older ones. My Office went on to decide that the later witness statements were exempt from release, as the information which they contained was either confidential or personal information.

Dara Bradley, Connacht Tribune Group and Galway City Council - Case 160047

The Connacht Tribune asked the Council for the names of hotels/B&Bs providing emergency accommodation to homeless people and the amounts being paid to them. The Council released details of its total expenditure on the hotels/B&Bs for the period concerned but refused to give the hotels/B&Bs' names or the individual amounts payable to them.

In its submissions to my Office the Council emphasised the very serious challenges which it faces in providing emergency accommodation for homeless people. In my decision, I emphasised that I did not underestimate the gravity of the housing situation, but that I had to consider the matter within the framework of the FOI Act.

In that respect, I did not accept that releasing the information concerned could have a serious, adverse effect on the Council's functions. This was not least because none of the hotels/B&Bs had told my Office they would stop doing business with the Council if the information were released, despite having been invited to make submissions. Moreover, although I recognised the possibility that releasing the information could prejudice the hotels/B&Bs' competitive positions, I believed that the public interest required the disclosure of this information. In my view, real transparency about achieving value for money required access not only to the total expenditure, but also the number and identities of the hotels/B&Bs concerned and the amounts being paid to each of them.

Mr X and Limerick City and County Council - Case 150322

The applicant sought Council records about the maintenance of a street on which she had fallen. The Council believed that she was looking for this information in order to bring a personal injury claim against the Council. Its correspondence indicated that it did not believe that the applicant should be allowed to access records under FOI which could relate to future litigation. However, my Office's decision emphasised that the applicant's motive was not relevant to whether she was entitled to the records under FOI. It referred to a finding of my predecessor in Case 020179 ('Organisation A and the Department of Arts, Sport and Tourism'): "I am aware of no restrictions on the use of the FOI Act as a means of obtaining documents held by a public body which might otherwise be available through the process of discovery". In the circumstances, my Office found that the Council had not justified its position that releasing the records could prejudice future legal proceedings or negotiations.

Ms X and the Health Service Executive - Case 160190

This case concerned information about applications for temporary appointments in the HSE. Given the nature of the information, it should have been a fairly straightforward

matter. However, the HSE's handling of the request was among the poorest my Office has experienced in several years. The HSE issued no original or internal review decision to the applicant. During the FOI review, it made no submissions to my Office on the exemptions or public interest tests. Despite the fact that my Office issued it with a statutory notice requiring information, nobody within the HSE took responsibility for this case. It is incumbent on public bodies, including the HSE, to ensure that sufficient resources are in place to facilitate compliance with FOI legislation.



95% of reviews on hand at the end of 2016 were less than six months old

Ms L and the Department of Finance - Case 150348

In this case the applicant submitted a request for correspondence between the Department and the management of the IBRC concerning the special liquidation process. The Department failed to issue an original decision or an internal review decision within the required time-frames.

The applicant expressed concerns as to the manner in which the Department processed her FOI request as well as possible resourcing issues within the Department that led to the delays. I noted in my decision that while it is a matter for the Department to ensure that it has afforded adequate resources to the FOI function, the administration of the FOI Act is a statutory function which should be afforded as much weight as any other statutory function. I also noted that in response to a PQ on the matter of resources and delays, the Minister for Finance had explained that there has been a significant increase in requests to the Department since the FOI Act 2014 came into force, many of which had been broad in terms of ambit and relate to complex issues. I welcomed the Minister's statement that additional decision makers were retained to work exclusively on the backlog of requests and the Department's decision to afford additional resources to the FOI function which I hoped would allow the Department to more readily meet the statutory time-frames in the future.

However, my decision was quite critical of the Department's handling of this request. The FOI Act provides that where an FOI body cannot meet the statutory time-frame for issuing a decision, the body is deemed to have refused the request and the requester is entitled to apply for an internal review. Similarly, where the body fails to issue an internal review decision within the required time-frame, the Act provides for an application for review to be submitted to this Office. Notwithstanding the fact that the Department has been subject to

FOI for almost eighteen years, it did not appear to have been aware of these provisions in this case.

In my decision I also pointed out that the applicant had rightly sought an internal review of the deemed refusal of her original request, but that rather than process the internal review request as such, the Department informed this Office that it was not possible to conduct an internal review within the required time-frame as the original decision had not been made at that stage. I also noted that when the decision eventually issued, it purported to represent an original decision and offered a right of internal review as opposed to a right of review by this Office. This was clearly incorrect. I drew the Department's attention to the support available from the Central Policy Unit (CPU) of the Department of Public Expenditure and Reform for FOI bodies. I also stated that I expected the Department to take note of my concerns and to put appropriate procedures in place to ensure that similar issues do not arise in the future.

Ms M and TUSLA: Child and Family Agency – Case 160233

This case concerned an application for personal records from TUSLA: Child and Family Agency. TUSLA refused access to the records on the basis of section 15(1)(i) of the FOI Act, which provides that access to records may be refused where they have already been released to the same requester and the records are available to the requester concerned. In this case, the applicant had previously submitted requests for some of the records the subject of the review. Records had been released to her on those previous occasions. However, she stated that they were no longer available to her at the time of the review.

The Senior Investigator found that the records previously released to the requester were not available to her and that, thus, the conditions necessary for that provision to apply did not exist and section 15(1)(i) did not apply. However, he shared TUSLA's concerns regarding the applicant's failure to safeguard sensitive and personal records. He annulled the decision and directed TUSLA to make a fresh decision.

Mr & Mrs X and National Asset Management Agency – Case 160078

The National Asset Management Agency (NAMA) is a partially included agency under the FOI Act 2014. Part 1(x)(iii) of Schedule 1 of the Act states that section 6 does not include a reference to NAMA, and certain other agencies, insofar as it relates to records concerning "purchasers or potential purchasers of any asset or loan or of any other asset securing loans held or managed by any of these bodies".

This was the first case addressing the question of whether records relating to the sale and purchase of an asset securing a loan, held or managed by NAMA, fell within Schedule 1, Part 1(x)(iii) of the FOI Act so that the Act did not apply to them. The question arose in the context of a request for access to records relating to the sale and purchase of Kilcooley Abbey Estate in Thurles, Co. Tipperary.

At the time of its sale and purchase, Kilcooley Abbey Estate was an asset securing a loan held or managed by NAMA. NAMA refused access to the majority of the records concerned on the basis that Schedule 1, Part(x)(iii) applied, but it did not challenge my jurisdiction to review the matter. In carrying out the review, my Office accepted that the Oireachtas has determined that the FOI Act does not apply to NAMA in relation to the records it holds which concern purchasers or potential purchasers of any asset or loan or of any other asset securing loans held or managed by NAMA. Based on an examination of the records concerned, my Office was satisfied that Schedule 1, Part 1(x)(iii) applied as claimed.

Ms X and the Department of the Environment, Community and Local Government – Case 140108

In this case, the review was carried out under the provisions of the FOI Acts 1997 & 2003 notwithstanding the fact that the FOI Act 2014 has now been enacted. The transitional provisions in section 55 of the 2014 Act provide that any action commenced under the 1997 Act but not completed before the commencement of the 2014 Act shall continue to be performed and shall be completed as if the 1997 Act had not been repealed.

In November 2005, the State granted a lease to a private company under the Foreshore Act 1933 for the development of what was described by the Department as “a major strategic infrastructure project, an 1100 MW windfarm (200 turbines), at Codling Bank off the coast of County Wicklow”. Previously, the company had been granted a foreshore licence for the purpose of allowing it to assess the suitability of the proposed Codling site for the construction of an off-shore electricity generating station. The question at issue in this case was whether the Department’s decision to refuse to grant access to certain records concerning the project was justified under sections 26 (information obtained in confidence) and 27 (commercially sensitive information) of the FOI Act 1997.

In my decision, I noted that I do not accept, as a general matter, that information that a licensee is required to provide on the natural and archaeological resources of the State in relation to a proposed development of a major infrastructure project with significant environmental impacts, could properly be regarded as information of a confidential nature. I also did not accept that the State is obliged, as a matter of law, to treat as confidential the information that it requires in order to determine whether a particular foreshore site owned by the State is suitable for a major infrastructure development project such as a wind farm. Likewise, I did not accept that the Department could reasonably be expected, as a matter of law, to treat the terms and conditions governing the use of a public asset such as the foreshore of this country as confidential. Moreover, given the acknowledged importance of public participation in relation to environmental matters affecting the foreshore, I did not accept that an enforceable obligation of confidence may exist with respect to information relating to environmental conditions or to the environmental impacts of proposed activities in the foreshore.

In relation to the public interest, I had regard to the need for transparency and accountability in relation to the use of public property and public assets, as recognised in previous decisions of this Office. I also had regard to the public interest principles of openness and transparency recognised under the Access to Information on the Environment regime in relation to environmental matters. At the same time, I noted that the purpose of the public interest test is to strike a balance between competing interests insofar as they are relevant and that, generally speaking, the FOI Act was not designed as a means to open up the operations of private enterprises to scrutiny.

In the circumstances, I directed the release of bi-monthly reports containing information on the natural and archaeological resources of the foreshore site concerned, the records directly relating to the terms and conditions of the foreshore lease, and records relating to certain pre-construction surveys, while protecting certain other records containing details of the third party company's business operations and approach to the project, on the basis of section 26(1)(a) of the FOI Act.

Mr X and Galway County Council – Case 160150

This case has its background in legal action taken by the applicant against the Council. The matter was handled by the Council's insurer and the case was settled out of court. The Council refused to release information relating to the settlement under section 15(1)(a) of the FOI Act on the ground that it held no relevant records containing that information.

The Council's position was that it had no formal record of the settlement reached and had no information relating to a breakdown of the monies paid, as the claim was handled in its entirety by its insurer and the settlement was paid by its insurer.

The question my Office had to consider was whether any relevant records that might be held by the Council's insurers might also be deemed to be held by the Council for the purposes of the FOI Act. Section 11(9) of the Act provides that a record in the possession of a service provider shall, if and in so far as it relates to the service, be deemed for the purposes of the FOI Act to be held by the FOI body. A service provider is defined, at section 2, as a person who, at the time the request was made, was not an FOI body but was providing a service for an FOI body under a contract for services.

The Council's insurance policy stated that, subject to certain specified limits, the insurer would indemnify the Council against all sums which it was legally liable to pay as damages in respect of accidental bodily injury to any person or accidental loss of or damage to property. The insurer was responsible for all costs and expenses of litigation recovered by any claimant in connection with any accident to which the indemnity expressed in the policy applies, again subject to certain specified limits. The policy further provided that the insurer would be entitled to take over and conduct in the name of the Council for its own benefit any claim and would have full discretion in the conduct of any proceedings and in the settlement of any claim.

My Office formed the view that any records held by the insurer relating to the applicant's claim were held by it in its own right. The contract that the Council had entered into with its insurer involved the indemnification of the Council by the insurer against valid claims. It was entirely a matter for the insurer to determine how it processes such claims. The Council had no role to play in such matters. For this reason, my Office did not accept that records relating to the processing of the applicant's claim that may be held by the insurer could reasonably be described, in the context of the FOI Act, as relating to a service that the insurer was providing for the Council as a service provider under a contract for services. Thus, my Office found that section 11(9) did not apply in this case and that the Council was justified in refusing the request on the ground that it held no relevant records.

Chapter 4:

Statistics



Chapter 4 Statistics

Section I - Public Bodies - 2016

Table 1:	Overview of FOI requests dealt with by public bodies
Table 2:	FOI requests dealt with by public bodies and subsequently appealed
Table 3:	FOI requests received - by requester type
Table 4:	Outcomes of FOI requests dealt with by public bodies
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Table 10:	FOI requests received by third-level education institutions
Table 11:	FOI requests received by other bodies

Figures for the above tables are supplied by the Department of Public Expenditure and Reform, the HSE, the Local Authorities FOI Liaison Group, the Department of Health, the National Federation of Voluntary Bodies and the Liaison Group for the Higher Education Sector, and collated by the Office of the Information Commissioner.

Section II - Office of the Information Commissioner - 2016

Table 12:	Analysis of applications for review received
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Section I – Public Bodies - 2016

Table 1: Overview of FOI requests dealt with by public bodies

Requests on hand - 01/01/2016	5,337
Requests received in 2016	
Personal	18,119
Non-personal	12,031
Mixed	267
Total	30,417
Total requests on hand during year	35,754
Requests dealt with	29,736
Requests on hand - 31/12/2016	6,018

Table 2: FOI requests dealt with by public bodies and subsequently appealed

	Number	Percentage
FOI requests dealt with by public bodies	29,736	100%
Internal reviews received by public bodies	987	3%
Applications accepted by the Commissioner	440	1.5%

Table 3: FOI requests received - by requester type

Requester Type	Number	Percentage
Journalists	6,819	22%
Business	1,518	5%
Oireachtas Members	503	2%
Staff of public bodies	789	3%
Clients	15,551	51%
Others	5,237	17%
Total	30,417	100%

Table 4: Outcomes of FOI requests dealt with by public bodies

Request Type	Number	Percentage
Requests granted	15,073	51%
Requests part-granted	6,665	22%
Requests refused	4,008	13%
Requests transferred to appropriate body	553	2%
Requests withdrawn or handled outside FOI	3,437	12%
Total	29,736	100%

Table 5: Analysis of FOI requests dealt with by public service sector

	granted	part granted	refused	transferred	withdrawn or handled outside of FOI
Civil Service departments	31%	33%	19%	3%	14%
Local Authorities	47%	25%	22%	1%	5%
HSE	68%	15%	6%	1%	10%
Voluntary Hospitals, Mental Health Services Regulators and Related Agencies	73%	6%	7%	2%	12%
Third Level Institutions	51%	25%	12%	0%	12%
Other bodies	56%	27%	11%	0%	6%

Table 6: FOI requests received by civil service Departments/Offices

Civil Service Department/Office	Personal	Non-personal	Mixed	Total
Department of Social Protection	1,848	231	10	2,089
Department of Justice and Equality	312	269	2	583
Department of Education and Skills	155	334	5	494
Department of Finance	4	401	0	405
Department of Housing, Planning, Community and Local Government	7	384	2	393
Department of Public Expenditure and Reform	91	258	0	349
Department of Agriculture, Food and the Marine	138	208	1	347
Department of Health	12	301	0	313
Department of Transport, Tourism and Sport	17	285	0	302
Office of the Revenue Commissioners	87	211	0	298
Department of the Taoiseach	5	270	0	275
Department of Foreign Affairs and Trade	22	192	0	214
Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs	5	164	0	169
Department of Jobs, Enterprise and Innovation	29	134	0	163
Department of Communications, Climate Action and Environment	3	156	0	159
Department of Defence	18	102	0	120
Office of Public Works	5	113	1	119
Department of Children and Youth Affairs	2	82	0	84
Standards in Public Office Commission	0	16	0	16
Office of the Ombudsman	11	4	0	15
Commission for Public Service Appointments	3	8	0	11
Office of the Information Commissioner	0	2	1	3
Total	2,774	4,125	22	6,921

Table 7: FOI requests received by local authorities

Local Authority	Personal	Non-personal	Mixed	Total
Dublin City Council	163	349	0	512
South Dublin County Council	69	117	0	186
Cork County Council	1	175	0	176
Dún Laoghaire/Rathdown County Council	27	148	1	176
Fingal County Council	18	157	0	175
Limerick City and County Council	45	112	0	157
Roscommon County Council	5	141	4	150
Cork City Council	30	119	0	149
Galway County Council	2	138	6	146
Meath County Council	19	119	0	138
Clare County Council	17	106	5	128
Kilkenny County Council	3	124	0	127
Galway City Council	21	100	1	122
Louth County Council	40	80	0	120
Mayo County Council	4	114	0	118
Kildare County Council	24	80	5	109
Wicklow County Council	9	96	1	106
Wexford County Council	27	76	0	103
Tipperary County Council	16	81	4	101
Waterford City and County Council	24	77	0	101
Donegal County Council	16	83	0	99
Kerry County Council	8	86	0	94
Leitrim County Council	3	83	0	86
Longford County Council	3	81	0	84
Monaghan County Council	4	79	0	83
Cavan County Council	4	75	0	79
Carlow County Council	4	68	0	72
Offaly County Council	9	60	0	69
Westmeath County Council	6	62	1	69
Laois County Council	10	55	0	65

Sligo County Council	12	52	0	64
Total	643	3,293	28	3,964
Regional Assemblies	0	3	0	3

Table 8: FOI requests received by the HSE (excluding certain agencies covered in Table 9)

HSE area*	Personal	Non-Personal	Mixed	Total
HSE South	3,197	79	9	3,285
HSE West	2,688	269	1	2,958
HSE Dublin North East	938	109	3	1,050
HSE Dublin Mid-Leinster	791	57	1	849
HSE National	0	577	0	577
Total received	7,614	1,091	14	8,719

*Figures represent the regional structure of the HSE

Table 9: FOI requests received by voluntary hospitals, mental health services regulators and related agencies

Hospital/Service/Agency	Personal	Non-Personal	Mixed	Total
Tallaght Hospital	801	33	0	834
TUSLA: Child and Family Agency	733	92	2	827
St James's Hospital	555	27	3	585
Beaumont Hospital	341	52	0	393
Mater Misericordiae University Hospital	334	25	0	359
Our Lady's Hospital for Sick Children, Crumlin	285	35	0	320
Rotunda Hospital	250	38	0	288
St. Vincent's University Hospital	237	33	1	271
St. John's Hospital, Limerick	203	15	0	218
Temple Street Children's University Hospital	171	30	0	201
National Maternity Hospital, Holles Street	164	16	0	180

South Infirmary/Victoria Hospital, Cork	155	20	0	175
Coombe Hospital	123	11	0	134
Cappagh Orthopaedic Hospital	102	0	22	124
Mercy Hospital, Cork	94	22	0	116
Hospitaller Order of St. John of God	69	0	0	69
National Rehabilitation Hospital, Dún Laoghaire	54	1	0	55
Central Remedial Clinic	45	9	0	54
Health Information & Quality Authority	7	45	0	52
St. Michael's Hospital, Dún Laoghaire	27	19	0	46
Medical Council	19	14	2	35
Royal Victoria Eye and Ear Hospital	31	1	0	32
Mental Health Commission	19	9	0	28
St. Vincent's Hospital, Fairview	23	3	0	26
Food Safety Authority of Ireland	0	23	0	23
Enable Ireland	16	5	0	21
Other Hospitals/Services/Agencies	71	41	2	114
Total	4,929	619	32	5,580

Table 10: FOI requests received by third-level education institutions

Third Level Education Body	Personal	Non-Personal	Mixed	Total
University College Dublin	45	65	1	111
University of Limerick	11	92	8	111
National University of Ireland Galway	36	49	0	85
University College Cork	12	50	2	64
Trinity College Dublin, the University of Dublin	5	47	2	54
Dublin City University	6	42	0	48
National University of Ireland Maynooth	8	24	0	32
Galway-Mayo Institute of Technology	9	21	1	31
Dublin Institute of Technology	8	23	0	31
Waterford Institute of Technology	3	20	4	27
Athlone Institute of Technology	7	13	1	21

Royal College of Surgeons in Ireland	6	14	0	20
Other bodies	11	116	3	130
Total	167	576	22	765

Table 11: FOI requests received by other bodies

Public body	Personal	Non-Personal	Mixed	Total
Irish Prison Service	682	96	0	778
An Garda Síochána	122	333	4	459
Defence Forces Ireland	184	80	1	265
Social Welfare Appeals Office	248	0	0	248
Houses of the Oireachtas Service	8	226	0	234
Health and Safety Authority	10	26	136	172
RTÉ	12	154	0	166
Irish Water	40	120	0	160
Courts Service	77	78	0	155
Public Appointments Service	70	20	1	91
Central Bank of Ireland	7	61	2	70
National Asset Management Agency	2	64	0	66
National Transport Authority	44	2	1	47
National Treasury Management Agency	4	40	1	45
Environmental Protection Agency	0	39	5	44
IDA Ireland	0	44	0	44
Central Statistics Office	14	29	0	43
Transport Infrastructure Ireland	1	41	0	42
Property Registration Authority	30	10	0	40
Eirgrid	0	36	0	36
Enterprise Ireland	0	35	0	35
SOLAS	12	22	0	34
ESB Networks	6	28	0	34
Commission for Communications Regulation	12	20	1	33
Caranua	20	13	0	33

Pobal	1	32	0	33
Road Safety Authority	6	26	1	33
Garda Síochána Ombudsman Commission	24	7	0	31
Office of the Director of Public Prosecutions	17	14	0	31
Fáilte Ireland	2	28	1	31
Arts Council	1	29	0	30
State Examinations Commission	14	16	0	30
Other bodies (93 bodies with fewer than 30 requests each)	206	496	22	724
Total	1,876	2,265	176	4,317

Section II - Office of the Information Commissioner – 2016

Table 12: Analysis of applications for review received

Applications for review on hand - 01/01/2016	19
Applications for review received in 2016	577
Total applications for review on hand in 2016	596
Applications discontinued	4
Invalid applications	91
Applications settled	12
Applications withdrawn	10
Applications rejected	5
Applications accepted for review in 2016	440
Total applications for review considered in 2016	562
Applications for review on hand - 31/12/2016	34

Table 13: Analysis of review cases

Reviews on hand - 01/01/2016	125
Reviews accepted in 2016	440
Total reviews on hand in 2016	565
Reviews completed in 2016	433
Reviews carried forward to 2017	132

Table 14: Applications for review accepted in 2016

Health Service Executive		89
HSE South	26	
HSE West	22	
HSE National	18	
HSE Dublin North East	14	
HSE Dublin Mid-Leinster	9	
TUSLA: Child and Family Agency		38
Department of Justice and Equality		24
RTÉ		18
Defence Forces Ireland		11
Department of Social Protection		11
Irish Prison Service		11
Department of Agriculture, Food and the Marine		9
St James's Hospital		9
Athlone Institute of Technology		8
University College Cork		8
An Garda Síochána		7
Department of Housing, Planning, Community and Local Government		7
Dublin City Council		7
University College Dublin		6
Others (bodies with fewer than 6 applications each)		177
Total		440

Table 15: Outcome of completed reviews - 3-year comparison

	2016		2015		2014	
Decision affirmed	179	42%	110	34%	154	45%
Decision annulled	36	8%	37	12%	17	5%
Decision varied	70	16%	59	18%	31	9%
Discontinued	14	3%	10	3%	19	6%
Settlement reached	88	20%	69	21%	74	22%
Withdrawn	46	11%	38	12%	45	13%
Reviews completed	433	100%	323	100%	340	100%

Table 16: Subject matter of review applications accepted - 3-year comparison

	2016		2015		2014	
Refusal of access	403	91%	299	90%	211	84%
Objections by third parties to release information about them or supplied by them	8	2%	15	5%	8	3%
Amendment of records under section 9	13	3%	4	1%	7	3%
Statement of reasons under section 10	12	3%	11	3%	24	9%
Decision to charge a fee	4	1%	3	1%	2	1%
Total	440	100%	332	100%	252	100%

Table 17: Applications accepted by type - 3-year comparison

	2016		2015		2014	
Personal	146	33%	109	33%	110	44%
Non-personal	242	55%	167	50%	108	43%
Mixed	52	12%	56	17%	34	13%
Total	440	100%	332	100%	252	100%

Table 18: General enquiries

Year	Number
2016	1,307
2015	1,462
2014	1,274
2013	1,218
2012	1,262
2011	824
2010	622
2009	857
2008	1,100
2007	1,315

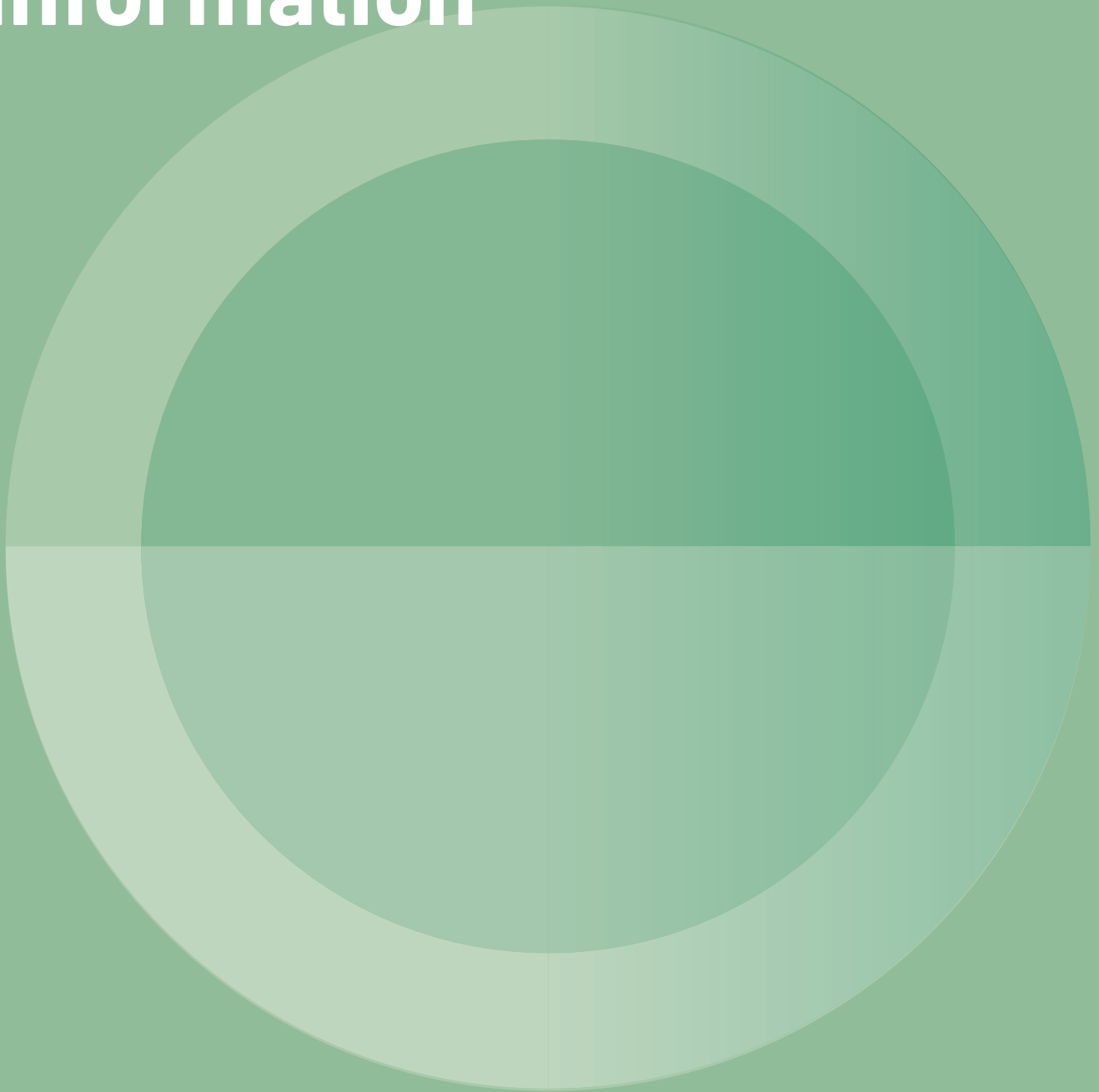
Table 19: Deemed refusals due to non-reply by public bodies

Deemed refusal of original and internal review decisions			
Public Body	2016	2015	2014
TUSLA: Child and Family Agency	20	7	3
Department of Justice and Equality	8	7	3
RTÉ	8	-	-
HSE South	7	5	5
HSE National	6	4	6
HSE West	6	7	3
Irish Prison Service	6	-	-
St James's Hospital	5	-	1
University College Cork	4	4	-
Defence Forces Ireland	2	-	-
Department of Agriculture, Food and the Marine	2	1	-
Department of Health	2	-	-
Dublin City Council	2	-	-
HSE Dublin North East	2	-	1

University College Dublin	2	1	-
Waterford Institute of Technology	2	-	-
other Bodies - 1 each	21		
Total 2016	105		

Part II

Commissioner for Environmental Information



Introduction

My role as Commissioner for Environmental Information is to review decisions of public authorities on appeal by applicants who are not satisfied with outcomes of requests made under the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (the AIE Regulations). In 2016, the Office of the Commissioner for Environmental Information (OCEI) processed more cases than ever before, while responding to a recent upsurge in appeals under the AIE Regulations.

The AIE Regulations transpose Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information. Directive 2003/4/EC implements the first pillar of the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (“the Aarhus Convention”).

The right of access to information under the AIE Regulations applies to “environmental information” held by or for a “public authority”. These two terms have specific meanings defined by article 3(1) of the AIE Regulations. My decisions on appeals are final and binding on the affected parties, unless a further appeal is made to the High Court on a point of law within two months of the decision concerned.

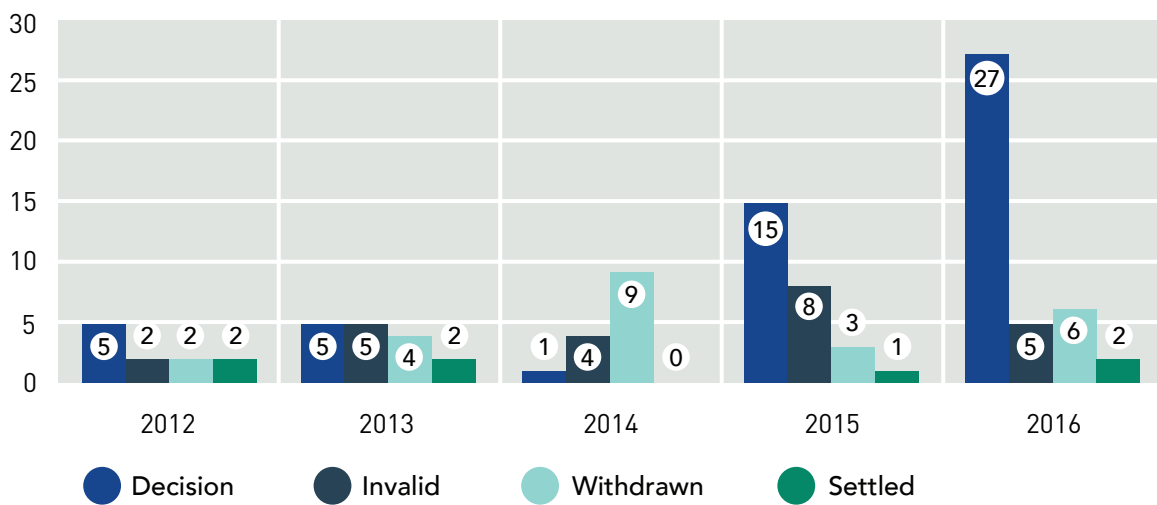
The OCEI is legally separate from the Office of Information Commissioner (OIC); however article 12(10) of the AIE Regulations provides that the Commissioner for Environmental Information shall be assisted by the staff of the Office of the Information Commissioner and by such other resources as may be available to that Office.

For further information on the operation of the AIE regime in Ireland, please visit my website at www.ocei.ie, which includes links to the previous Annual Reports of this Office, the OCEI Procedures Manual, the website of the Department of Communications, Climate Action and the Environment, and Directive 2003/4/EC.

Appeals and enquiries in 2016

At the start of 2016, the OCEI had 27 appeals on hand; 22 from 2015, four from 2014 and one from 2013. In 2016, the OCEI received 52 new appeals (equivalent to the combined number of appeals received in 2014 and 2015). The OCEI closed 40 cases in 2016: I made 27 formal decisions, five appeals were invalid, six cases were withdrawn, and two cases were settled.

OCEI Appeal Outcomes 2012 -2016



At the end of 2016, the OCEI had 39 valid appeals on hand – 36 received in 2016, and three from 2015. At the time of writing, the outstanding 2015 cases are being progressed by Investigators. My staff recorded 27 general enquiries about the AIE Regulations in 2016. In 2016, my Office processed three AIE requests, and one of these decisions was the subject of an internal review.

Deemed refusals in 2016

The AIE Regulations include fixed time limits for decisions and internal review decisions by public authorities on AIE requests. A request is deemed to be refused when the public authority fails to issue a decision within the relevant time limit specified in the AIE Regulations (usually one month).

In 2016, eight public authorities failed to make first instance decisions on AIE requests within the time specified by the AIE Regulations. The public authorities were: the Commission for Energy Regulation; the Department of Agriculture, Food and the Marine; Dublin City Council; the Electricity Supply Board; the Environmental Protection Agency; Gas Networks Ireland; the Health Service Executive; and the Industrial Development Board.

In 2016, seven public authorities failed to make internal review decisions within the time specified by the AIE Regulations. The public authorities were: Coillte; the Courts Service; the Department of Agriculture, Food and the Marine; Eirgrid; Gas Networks Ireland; the Health Service Executive; and Transport Infrastructure Ireland.

Powers under article 12(6) of the AIE Regulations

Article 12(6) of the AIE Regulations provides that in the course of carrying out a review on appeal I may require a public authority to make environmental information available to me, examine and take copies of environmental information held by a public authority, and enter any premises occupied by a public authority so as to obtain environmental information. I am pleased to report that I had no need to apply these powers in 2016.

2016 Court Proceedings

Redmond & Anor -v- Commissioner for Environmental Information 2016/27 JR

In my decision in the case of Mr Jim Redmond and Coillte Teoranta (CEI/14/0011) I found that certain information on a transfer of land did not fall within the scope of the AIE Regulations. This decision is the subject of an ongoing judicial review in the High Court, and is listed for hearing on 3 October 2017.

Minch -v- Commissioner for Environmental Information [2016] IEHC 91

In the case of Mr. Stephen Minch and the Department of Communications, Energy and Natural Resources (CEI/13/0006), I found that an economic report entitled “Analysis of options for potential State intervention in the roll out of next-generation broadband” did not, of itself, contain environmental information. I also considered whether this report contained analyses or assumptions used in the framework of a measure likely to affect the environment (the National Broadband Plan in this case). I considered that the link between the National Broadband Plan and any effect on the environment was too remote. I therefore found that the Department was justified in refusing to provide access to the report.

Mr Minch appealed my decision to the High Court. In a judgment delivered on 16 February 2016, the High Court applied the Supreme Court judgment in NAMA v Commissioner for Environmental Information [2013] IEHC 86 in adopting a purposive interpretation of the AIE Regulations. The Court held that “analyses and assumptions used within the framework” of a measure included information of a type which was “capable of informing” a decision-maker. The Court held that information “used within the framework of a measure” is not limited to information which was available at the time a particular report was written. The Court found that the remoteness test applied in my original decision was incorrect, as it was too narrow.

In particular, the Court held that the remoteness test applied did not take into account measures, programmes, or policies which were likely to affect the environment. The Court indicated that the matter should be remitted to my Office for a new decision.

I have appealed from certain parts of this judgment to the Court of Appeal, and the matter is listed for hearing on 16 June 2017.

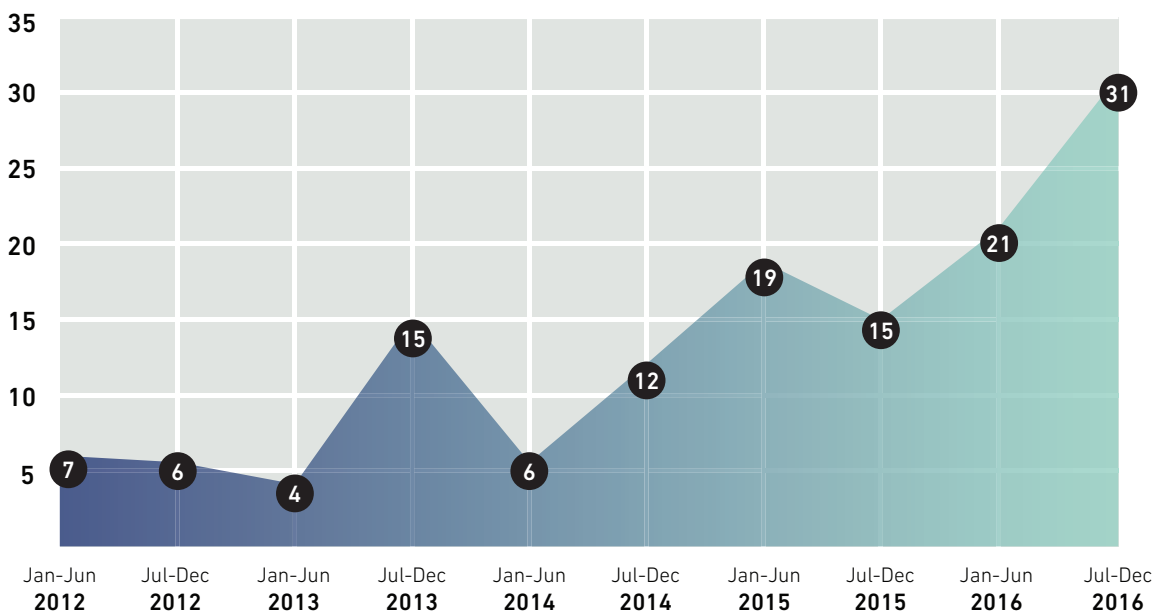
Issues arising in 2016

Increased number of appeals made to the OCEI

It has been the experience of the OCEI that AIE appeals are often more complex and resource-intensive than FOI appeals. In recent years, appeals to my Office have been subject to delays due to a lack of available resources, and a significant backlog of appeals developed. To address this problem, I made a successful budget submission in 2014 to the Department of Public Expenditure and Reform seeking additional staff to meet the operational needs of the OCEI. Following an open recruitment process, two Investigators were appointed in June 2015 to work specifically on OCEI appeals.

The expanded staffing of my Office has facilitated a marked increase in the number of appeals processed on an annual basis. In 2016, I made 27 formal decisions on appeals (more than the four previous years combined). However, despite this progress, the backlog of cases awaiting investigation increased throughout 2016.

AIE Appeals received 2012 - 2016



It is now clear that since 2014 there has been an unprecedented surge in the number of AIE requests made to Irish public authorities. According to statistics available on the website of the Department of Housing, Planning, Community and Local Government, 374 AIE requests were made to Irish public authorities in 2013. By 2015, this number had increased to 658 AIE requests. While I welcome greater public awareness of the right of access to environmental information, this two-fold increase in requests for environmental information has had a corresponding effect on the number of appeals to my Office, which has increased by 280% since 2014.

As a result of this greatly increased level of demand there is now a clear shortfall in OCEI capacity to process appeals. In particular, substantial delays arise between acceptance of appeals and the availability of an OCEI Investigator. To address this, I have commenced recruitment of additional staff to ensure that I can carry out my statutory functions effectively.

Engagement with the Department of Communications, Climate Action and Environment

In October 2016, the Senior Investigator in my Office participated in an AIE Advisory Group organised by the Department of Communications, Climate Action and Environment. This group included external stakeholders and non-governmental organisations and focussed on potential improvements and reforms of national law on access to environmental information.

In October the Department also ran an AIE training event for public authority staff. An Investigator in my Office made a presentation on OCEI appeal decisions and drew attention to online resources. As in recent years, the training provided clear and useful information to public authority staff on the AIE Regulations, and I would like to thank the Department for its continued work in this regard.

I look forward to further engagement with the Department in 2017 on the publication of revised guidelines on access to information on the environment, and on other issues of mutual concern.

Communication to the Aarhus Convention Compliance Committee (ACCC/C/2016/141)

In August 2016, Right to Know CLG (an Irish advocacy group concerned with public access to information) made a communication to the Aarhus Convention Compliance Committee (ACCC/C/2016/141) in relation to aspects of Ireland's compliance with the Convention. This communication included references to delays in processing AIE appeals by the OCEI, as well as commentary on OCEI procedures. The Department of Communications, Climate Action and Environment is responsible for submitting statements to the Compliance Committee in

response to this communication. My Office provided the Department with information on the work of the OCEI to inform the Department's statements, and I will continue to monitor this process as appropriate.

2016 Judgments of the Court of Justice of the European Union

Article 10(1) of the AIE Regulations prevents the application of certain exceptions to disclosure where a request "relates to information on emissions into the environment."

In its judgments in the cases of Bayer CropScience SA-NV, Stichting De Bijenstichting v College voor de toelating van gewasbeschermingsmiddelen en biociden (Case C-442/14) and Commission v Stichting Greenpeace Nederland and PAN Europe (Case C-673/13 P), the Court of Justice of the European Union clarified the meaning of "emissions into the environment" in the context of plant protection products and biocides. The Court held that the term "emissions into the environment" covers the actual or foreseeable release of substances under normal or realistic conditions of use. The Court did not limit the concept of emissions to those of industrial installations.

The Court held that information on "emissions into the environment" includes information regarding the nature, composition, quantity, date and place of the emissions, but also includes information enabling the public to check whether an official assessment of actual or foreseeable emissions is correct, data concerning the medium to long-term consequences of those emissions on the environment, and information on residues of emissions and drift of emissions.

In Case C-673/13 P, the Court set aside an earlier finding of the General Court that the scope of information relating to emissions included information linked in a "sufficiently direct manner" to such emissions. The CJEU held instead that information which relates to emissions must actually concern or be relevant to such emissions, and does not include information having any link at all, direct or indirect, to emissions into the environment.

Significant decisions in 2016

Summary of decision outcomes in 2016

In 2016 I made 27 formal decisions on appeals under the AIE Regulations. In 19 of these cases I found that a refusal of a request was (to some extent) not justified. In 12 of the 27 decisions I required the public authority to provide access to some or all of the environmental information requested. In 9 cases, I stated that the public authority should make a new decision on the request. In 8 appeals I found that refusal of the appellants' requests was justified in full (although not always for the same reasons provided by the public authority). All of my decisions in 2016 are published on the OCEI website.

The following are notable examples from 2016 of decisions where I required public authorities to make environmental information available to applicants.

In Galway Bay Against Salmon Cages and the Marine Institute (CEI/15/0013) I considered a request for access to information on pancreas disease in farmed salmon. I found that the commercial interests served by refusal of the appellant's request were outweighed by the public interest in transparent regulation of the fish farming industry. I required the Marine Institute to provide access to the information requested.

In Francis Clauson and ESB Networks Limited (CEI/15/0029) I considered a request for access to information on the power output of an electricity generation facility. This information was held by ESB Networks, the statutory authority with responsibility for the national power distribution system. I found that, although disclosure of the information would adversely affect commercial and industrial confidentiality, this interest was outweighed by the strong public interest in the transparent operation of renewable energy policy and related price support mechanisms.

In Fand Cooney and ESB Networks Limited (CEI/15/0002) I reviewed a refusal by ESB Networks to provide access to information on a power transmission project in Portlaoise. I reviewed an "investment appraisal" document on the project, and found that it contained environmental information (as defined by the AIE Regulations). I found that ESB Networks was not obliged to disclose information on the cost of the project, as this would adversely affect commercial confidentiality. Notwithstanding this decision, I required ESB Networks to make other parts of the appraisal document available to the appellant, where commercial confidentiality did not apply.

In Damien McCallig and the Department of Communications, Climate Action and Environment (CEI/15/0032), I reviewed the Department's refusal to provide access to modelling data used to inform the development of wind energy policy. The Department contended that this information related to an ongoing deliberative process. It submitted that disclosure of the information would adversely affect the confidentiality of the proceedings of public authorities for the purposes of article 8(a)(iv). I considered that the information at issue did not, of itself, disclose the outcome of a decision. I therefore found that release was not likely to prejudice a decision-making process. I also noted the strong public interest in providing members of the public an opportunity to make well informed submissions on environmental decisions.

Manifestly unreasonable requests, and requests formulated in too general a manner

A number of appeals in 2016 concerned requests which were formulated in too general a manner and requests which were manifestly unreasonable having regard to the volume and range of information sought. Articles 9(2)(a) and (b) of the AIE Regulations provide that public

authorities may refuse such requests. Where appropriate, public authorities should consider these grounds for refusal as preliminary matters when processing AIE requests.

Requests formulated in too general a manner

Under article 7(8) of the AIE Regulations, where a request is made in too general a manner, the public authority is obliged to invite the applicant to make a more specific request as soon as possible, and must offer assistance to the applicant in the preparation of such a request. Article 9(2)(b) provides that a public authority may refuse to make environmental information available where a request remains formulated in too general a manner, taking into account article 7(8).

In the case of Councillor Thomas Cullen and the Department of Environment, Community and Local Government (CEI/15/0018), I noted that the AIE Regulations do not oblige public authorities to process overly general requests for information. Requests should be reasonably limited with regard to subject matter where possible. In this case, the appellant's AIE request sought access to *"All information relating to documentation submitted to your department by [a named third party]. All letters sent and received, E mails external & internal, all memos, minutes and dates of meetings, all records and notes of phone conversations and all such information that is in your possession relating to [the named third party's] correspondence with your Minister and Department."* In response, the Department invited the appellant to make a more specific request, and suggested that he should include details of relevant subject matters and time periods. The appellant declined to make a more specific request. On appeal, I subsequently found that the Department was justified in refusing the request under article 9(2)(b).

Manifestly unreasonable requests for environmental information

Article 9(2)(a) of the AIE Regulations provides that a request may be refused if it is manifestly unreasonable in terms of the volume or range of information sought. This ground for refusal must be interpreted in light of article 7(2)(b), which provides that a public authority may extend the time for making a decision by up to one month if the volume or complexity of the request requires this. Where a public authority cannot reasonably process a request within the extended two month timeframe it may be appropriate to consider refusal on the basis that the request is manifestly unreasonable. As with all exceptions to disclosure under articles 8 and 9, this ground for refusal is subject to a public interest test under article 10(3).

In 2016, a number of appeals to my Office were determined on the basis of this ground for refusal. For example, in the case of Ms Mary Horan, Ms Margaret Mulligan and Mr Frank Mulligan and ESB Networks (CEI/14/0009), the appellants sought access to *"copies of: all correspondence/ documentation/pieces of paper generated, and all information known by you, that in any and all ways relate to the entire cost of The Srananagh Station Project ('the Project') . . . including but not limited to original costings for project, compensation to all affected landowners, cost of all construction works, and any and all costs associated with the*

project, including legal fees and consultation fees". ESB Networks contended that this request was manifestly unreasonable, as it sought to access information on hundreds of discrete transactions which took place over many years, as well as the cost of related litigation. Given the all-encompassing wording of the appellants' request, and having had regard to the volume and range of information requested, I found that refusal was justified on the basis that the request was manifestly unreasonable with regard to volume and range.

While I appreciate that an applicant may not know the extent of information held by or for a public authority, making a universal AIE request may be counterproductive and can lead to refusal where an unmanageable amount of information falls within the scope of the request. I would strongly encourage applicants and public authorities to engage on the scope of requests at the outset to avoid the need for refusal under article 9(2)(a).

Decisions on the definition of environmental information

Article 3(1) of the AIE Regulations defines "environmental information" for the purposes of the AIE Regulations. The definition includes any information on six broad subject matters pertaining to the environment, including any information on measures or activities affecting or likely to affect the elements of the environment. In many cases before me, public authorities refuse AIE requests on the basis that the information sought falls outside the definition of environmental information. I wish to emphasise that information need not describe the elements of the environment directly in order to fall within the AIE Regulations; therefore, public authorities should have regard to the full extent of the definition when considering AIE requests. I anticipate that the Court of Appeal will provide further clarity on the definition of environmental information in 2017, following the hearing of the *Minch* case on appeal.

In 2016, I set out my view on the scope of the definition of environmental information in the case of Ken Foxe and the Department of Defence (CEI/15/0007). This appeal related to information on official travel using State owned aircraft. Bearing in mind the aims of the Aarhus Convention, I concluded that information which describes integral aspects of an activity affecting the environment can be said to have a sufficient connection to environmental factors for the purposes of the definition, even where such information does not of itself directly reflect the state of the elements of the environment. In the same decision, I found that incidental information which does not define the conduct of an activity under consideration (such as lists of passenger names in this case) falls outside the scope of the AIE definition.

In my decision in the case of Ms Mary Horan, Ms Margaret Mulligan and Mr Frank Mulligan and ESB Networks (CEI/14/0009) I found that information on the entire cost of a major energy infrastructure development project was integral information on that project, disclosure of which would facilitate accountability of and transparency in a measure affecting the environment. I therefore found that the requested information fell within the definition of "environmental information".

Conversely, in the case of Phillip Cantwell and Meath County Council (CEI/15/0021) I found that fragmentary information on project costs (as set out in individual invoices, requisitions for cheques and descriptions of interim payments) did not fall within the definition, as this information was not integral to the measure under consideration for the purposes of the AIE Regulations.

Transfer of AIE Requests

Under article 7(5) of the AIE Regulations, where a request is made to a public authority and the information requested is not held by or for the authority concerned, that authority must inform the applicant of this fact as soon as possible.

Under article 7(6), where no relevant information is held by or for a public authority, but it is aware that the information requested is held by another public authority, it must transfer the request to the other public authority, or inform the applicant of the public authority to whom it believes the request should be directed. It is important to note that these two provisions are linked – it is only possible to transfer a request where the information sought is not held.

In the case of Mr Thomas Freeman and Electricity Supply Board (CEI/16/0010), an AIE request was made to the Electricity Supply Board, a statutory corporation established under the Electricity (Supply) Act 1927. However, the decision on this request issued from a separate public authority: a ring-fenced subsidiary of the ESB called ESB Networks Limited. In its submission to my Office, the ESB explained that it operated a shared service for processing AIE requests across all its subsidiary companies, by which AIE requests are forwarded to a central coordinator who then directs the request to whichever ESB subsidiary is likely to hold the information.

In the circumstances, I found that ESB was not justified in its purported transfer of the appellant's request. Members of the public have discretion to direct an AIE request to a public authority of their own choosing, and the obligation to reply to an AIE request falls on the public authority selected by the applicant. A public authority may not transfer a request to a different public authority, except as provided in articles 7(5) and (6).


In my decision, I acknowledged the complexity of the regulatory and contractual arrangements between the bodies which make up the ESB Group; however, I nevertheless consider that each public authority within the group must individually comply with the provisions of the AIE Regulations.

Appendices



Appendix I

Statutory Certificates issued by Ministers in 2016

 An Roinn Gnóthaí Eachtracha agus Trádála
Department of Foreign Affairs and Trade

13 January 2017

Ms Jacqui McCrum
Director General
Office of the Information Commissioner
18 Lower Leeson Street
Dublin 2

Ombudsman and
Information Commissioner
09 FEB 2017
Received

Notification under Section 34 of the Freedom of Information Act 2014

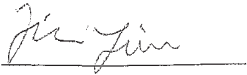
Dear Ms McCrum

I refer to your recent letter on the above.

On 23rd November 2016 the Minister for Foreign Affairs and Trade issued three certificates in accordance with Section 34 of the Freedom of Information Act 2014 by reference to which the records are exempted under Section 32 and Section 33. The certificates related to three requests for the same set of records.

Please find enclosed copies of the certificates issued in 2016.

Yours sincerely



Fiona Flood
Director
Security, Coordination and Compliance

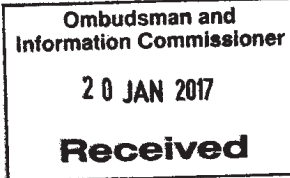
Appendix I

AN ROINN DLÍ agus CIRT agus
COMHIONANNAIS
51 Faiche Stiabhna
Baile Átha Cliath 2
Teileafón/Telephone: (01) 602 8202
Ríomphoist/e-mail: foi@justice.ie



DEPARTMENT OF JUSTICE and
EQUALITY
51 St. Stephen's Green
Dublin 2
Eircode : D02 HK52
Facsúimhín/Fax: (01) 661 5461

Ms Jacqui McCrum
Director General
Office of the Information Commissioner
18 Lower Leeson Street
Dublin 2



17 January 2017

Dear Ms. McCrum,

I wish to refer to your letter of 9 January 2017 regarding Ministerial Certificates. The Department of Justice and Equality have 9 Ministerial Certificates.

4 certificates were renewed in 2016 and 2 new certificates was issued. For the sake of completeness, copies of all are attached.

Yours sincerely,

Noel Waters
Secretary General

Appendix II

Review under section 34(7) of Ministerial Certificates issued



Roinn an Taoisigh
Department of the Taoiseach

9th December 2016

Mr. Peter Tyndall,
Information Commissioner,
Office of the Information Commissioner,
18 Lower Leeson Street,
Dublin D02 HE97

<p>ACKNOWLEDGED 14 DEC 2016 Office of the Ombudsman</p>

**Re: Review of Certificates issued under Section 34 of the
Freedom of Information Act, 2014**

Dear Commissioner,

I would like to confirm that, pursuant to the above Act, the Taoiseach, the Minister for Public Expenditure and Reform and the Minister for Jobs, Enterprise and Innovation carried out a review of the operations of the Act, for the period ended 1st August 2016 on 6th December 2016.

Thirteen Certificates were reviewed, seven of which were issued by the Minister for Justice and Equality and six by the Minister for Foreign Affairs and Trade.

The Taoiseach, the Minister for Public Expenditure and Reform and the Minister for Jobs, Enterprise and Innovation are satisfied that it is not necessary to request revocation of any of the thirteen certificates which were the subject of this review - copies of the forms signed by the reviewers to that effect are enclosed.

Yours sincerely,

Marc McManus
Department of the Taoiseach

Enc:

c.c. D/J&E, D/FA&T, D/JE&I, D/PER

Tithe an Rialtais, Baile Átha Cliath 2.
Government Buildings, Dublin 2.



Tuarascáil Bhliantúil
2016



Oifig an Choimisinéara Faisnéise
Office of the Information Commissioner

**An Coimisinéir Faisnéise
Tuarascáil Bhliantúil 2016**

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Oifig an Choimisinéara Fáisnéise
18 Sráid Líosain Íochtarach,
Baile Átha Cliath 2
D02 HE97

Teil: (01) 639 5689
Riomhphost: info@oic.ie
Suíomh Gréasáin: www.oic.ie

Sraithuimhir Caighdeánach Idirnáisiúnta: 1649-0479



Oifig an Choimisinéara Faisnéise
Office of the Information Commissioner

Tuarascáil Bhliantúil 2016

Clár Ábhar

Brollach

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Brollach

Leis seo, cuirim an ceathrú Tuarascáil Bhliantúil uaim mar Choimisinéir Faisnéise faoi bhráid na Dála agus an tSeanaid de bhun alt 47(2) den Acht um Shaoráil Faisnéise, 2014.

Is í seo an naoú Tuarascáil Bhliantúil déag ón gCoimisinéir Faisnéise ó bunaíodh an Oifig i 1998.

A handwritten signature in black ink, appearing to read 'Peter Tyndall'. The signature is stylized and cursive.

Peter Tyndall
An Coimisinéir Faisnéise
Bealtaine 2017

Achoimre Feidhmíochta

Ár bh-Feidhmíocht



433

Chuireamar 433 athbhreithníú i gcrích sa bhliain 2016

Féach leathanach 29



34%

Bhí líon na gcásanna a cuireadh i gcrích 34% níos airde ná sa bhliain 2015

Féach leathanach 29



60%

Chuireamar 60% dár n-athbhreithnithe i gcrích laistigh de cheithre mhí

Féach leathanach 30



99%

Chuireamar 99% dár n-athbhreithnithe i gcrích laistigh de dhá mhí dhéag



95%

Ag deireadh na bliana 2016, bhí 95% de na hathbhreithnithe idir lámha níos lú ná sé mhí d'aois

An tÉileamh ar ár seirbhísí



440

Ghlacamar le 440 iarratas ar athbhreithníú sa bhliain 2016

Féach leathanach 28



32%

Bhí méadú 32% ann ar líon na n-athbhreithnithe ar ghlacamar leo sa bhliain 2016

Féach leathanach 30

Úsáid saorála faisnéise



30,417

Fuair comhlachtaí poiblí 30,417 n-iarraidh saorála faisnéise sa bhliain 2016

Féach leathanach 21



73%

Deonaíodh 73% de na hiarrataí go hiomlán nó go páirteach

Comhlíonadh i measc Comhlachtaí Poiblí



22%

Rinne iriseoirí 22% de na hiarrataí saorála faisnéise ar fad a rinneadh

Féach leathanach 25



39%

B'ionann iarrataí ar thaifid neamhphearsanta agus 39% de na hiarrataí go léir a fuarthas

Féach leathanach 24



17

D'eisíomar 17 bhfógra reachtúla chuig comhlachtaí poiblí chun comhlíonadh a éileamh

Féach leathanach 16



24%

Measadh 24% d'athbhreithnithe a bheith diúltaithe ag comhlachtaí poiblí ag an dá chéim den chóras iarrataí saorála faisnéise

Féach leathanach 32



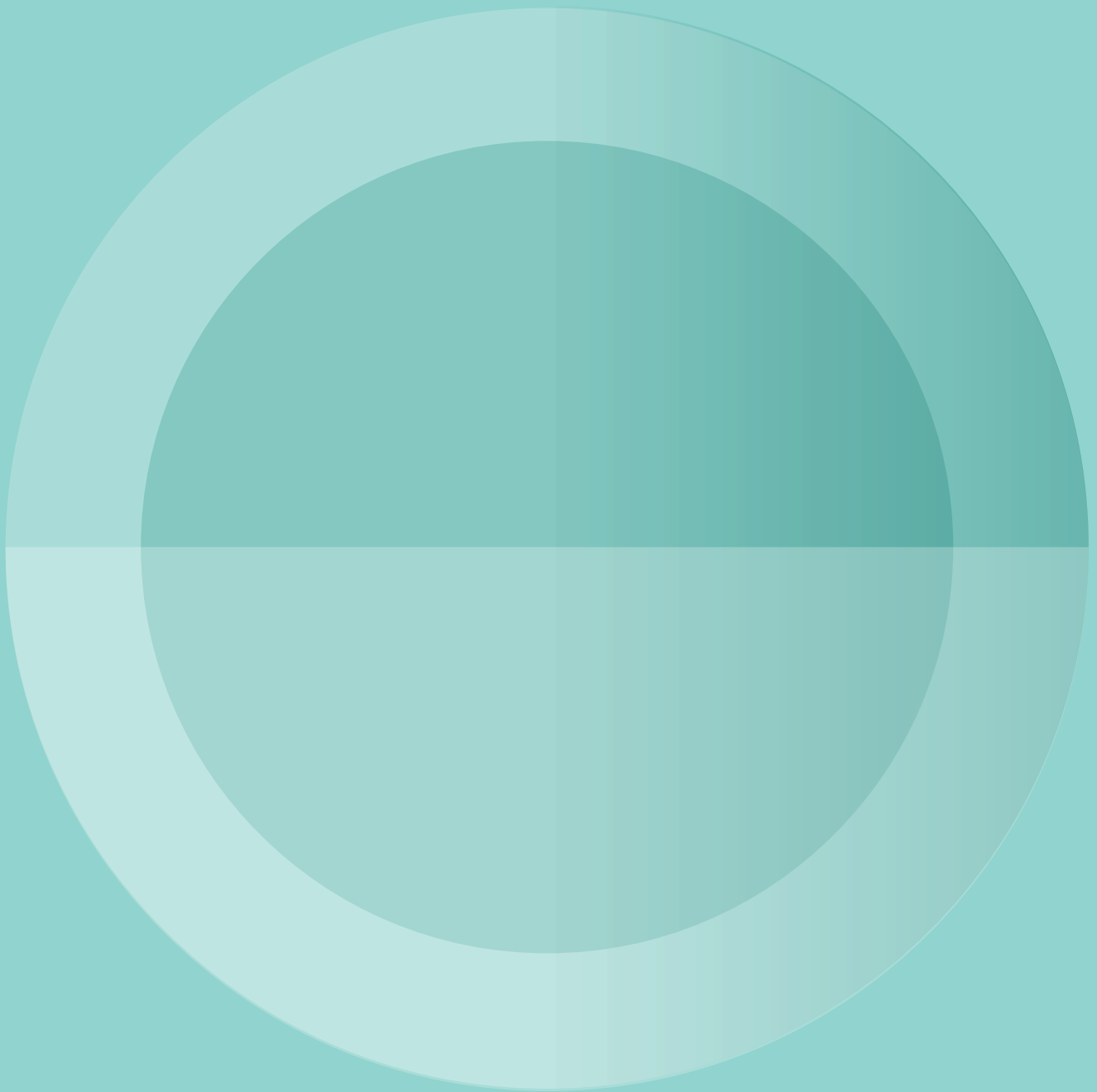
40%

Measadh 40% d'athbhreithnithe Oifig an Choimisinéara Faisnéise a bheith diúltaithe ag an gcéad chéim nó ag an dara céim den chóras iarrataí saorála faisnéise

Féach leathanach 34

Caibidil 1:

An Bhliain Faoi Athbhreithniú



Caibidil 1: An bhliain faoi athbhreithniú

An ceart atá agat chun faisnéis a fháil

Saoráil Faisnéise

Foráiltear leis an Acht um Shaoráil Faisnéise, 2014, do cheart ginearálta chun rochtain a fháil ar thaifid atá i seilbh comhlachtaí poiblí. Foráiltear leis freisin gur cheart taifid a eisiúint ach amháin sa chás go meastar iad a bheith díolmhaithe. Leis an Acht, tugtar an ceart do dhaoine chun a iarraidh go ndéanfaí faisnéis phearsanta a bhaineann leo agus atá i seilbh comhlachtaí poiblí a cheartú nó a nuashonrú agus tugtar an ceart do dhaoine chun cúiseanna a fháil le breitheanna atá tugtha ag comhlachtaí poiblí i gcásanna ina dtéann na breitheanna sin i bhfeidhm go sainráite orthu.

Is é an príomhról atá ag Oifig an Choimisinéara Faisnéise athbhreithnithe neamhspleácha a dhéanamh ar bhreitheanna atá tugtha ag comhlachtaí poiblí ar iarrataí saorála faisnéise i gcásanna ina bhfuil baill den phobal míshásta leis an bhfreagra ar na hiarrataí sin. Mar Choimisinéir Faisnéise, tá ról breise agam maidir le tráchttaireachtaí a athbhreithniú agus a fhoilsiú ar fheidhmiú praiticiúil an Achta.

Tá feidhm ag an Acht um Shaoráil Faisnéise maidir le gach comhlacht poiblí a thagann faoin sainmhíniú ar chomhlacht poiblí atá leagtha amach in alt 6(1) den Acht (ach amháin sa chás go bhfuil siad díolmhaithe nó páirtdíolmhaithe go sonrach faoi fhorálacha alt 42 nó faoi Sceideal 1 leis an Acht). Áirítear leo sin comhlachtaí amhail Ranna agus Oifigí Rialtais, údaráis áitiúla, Feidhmeannacht na Seirbhíse Sláinte (FSS), ospidéal dheonacha, agus ollscoileanna. De réir mar a chuirtear comhlachtaí poiblí nua ar bun, beidh siad faoi réir saoráil faisnéise go huathoibríoch ach amháin sa chás go bhfuil siad díolmhaithe go sonrach uathí le hordú ón Aire.

Rochtain ar Fhaisnéis faoin gComhshaol

Le Rialacháin na gComhphobal Eorpach (Rochtain ar Fhaisnéis faoin gComhshaol), 2007 go 2014, tugtar bealach eile do dhaoine rochtain a fháil ar fhaisnéis comhshaoil. Baineann

an ceart rochtana faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil le faisnéis comhshaoil atá á sealbhú ag údarás poiblí nó thar a cheann. Is é príomhról an Choimisinéara um Fhaisnéis Comhshaoil ná athbhreithniú a dhéanamh ar bhreitheanna atá tugtha ag údarás poiblí ar iarrataí ar fhaisnéis comhshaoil. Tá an dá chóras rochtana neamhspleách ar a chéile de réir an dlí, díreach mar is amhlaidh i gcás na ról atá agam mar Choimisinéir Faisnéise agus mar Choimisinéir um Fhaisnéis Comhshaoil.

Faisnéis earnála poiblí a athúsáid

De bhreis ar na feidhmeanna atá leagtha amach thuas, foráiltear le Rialacháin na gComhphobal Eorpach (Faisnéis Earnála Poiblí a Athúsáid) (Leasú), 2015 (I.R. Uimh. 525 de 2015), gurb é an Coimisinéir Faisnéise an Coimisinéir Achomhairc. Dá bhrí sin, is féidir leis an Oifig seo anois glacadh le hiarratais ar athbhreithniú ar bhreitheanna atá tugtha ag comhlachtaí poiblí i dtaca le hiarrataí a dhéantar faoi na Rialacháin ar fhaisnéis earnála poiblí a athúsáid, lena n-áirítear breitheanna ar tháillí agus coinníollacha a fhorchuirtear ar athúsáid na faisnéise sin.

Réamhrá

Ar na príomhghnéithe den Acht um Shaoráil Faisnéise, 2014, bhí an deireadh a cuireadh leis an gceanglas chun táillí láithreacha a íoc as iarrataí saorála faisnéise a dhéanamh chuig comhlachtaí poiblí agus an laghdú suntasach ar an gcostas a bhaineann le hiarratas ar athbhreithniú a dhéanamh chuig an Oifig seo. Chuaigh na hathruithe sin i bhfeidhm ar leibhéal úsáide saorála faisnéise lom láithreach, beagnach. Tá na leibhéal sin ag ardú go seasta ó shin i leith.

Tá áthas orm a rá gur ghlac an Oifig seo sa bhliain 2016 leis an dúshlán suntasach a bhaineann le freastal ar na héilimh mhéadaithe ar a cuid seirbhísí, agus í ag leanúint le feabhas suntasach a chur ar an tréimhse ama a bhítear ag tógáil chun cásanna a chur i gcrích ag an am céanna.

I gcomparáid leis an bhfigiúr don bhliain 2015, thuairiscigh an Oifig seo méadú 32% don bhliain ar líon na n-athbhreithnithe ar glacadh leo. Is tábhachtach gur éirigh léi méadú 34% a bhaint amach ar líon na n-athbhreithnithe a cuireadh i gcrích freisin. Go pointe éigin, is féidir ár rátaí maithe cur i gcrích a chur síos do na próisis leasaithe oibre a thugamar isteach i mí Iúil 2014. Sa bhliain 2013, a bhí ar an mbliain iomlán deiridh sular athraíomar ár gcuid próiseas, chuir an Oifig seo 258 n-athbhreithniú i gcrích. I gcomparáid leis an mbliain 2013, b'ionann an ráta cur i gcrích don bhliain 2016 agus méadú 67% ar líon na n-athbhreithnithe a cuireadh i gcrích. Cuireadh 433 athbhreithniú i gcrích sa bhliain.

Ina theannta sin, chomhlíon an Oifig seo an sprioc a shocraigh sí ina bplean gnó don bhliain 2016, ba é sin, 60% d'athbhreithnithe a chur i gcrích laistigh de cheithre mhí. Tá ag méadú go seasta ón mbliain 2013 i leith ar an gcéatadán d'athbhreithnithe atáthar ag cur i gcrích laistigh de cheithre mhí. Sa bhliain sin, níor cuireadh ach 26% d'athbhreithnithe i gcrích laistigh den tréimhse ama sin. Is fiú a lua freisin gur laistigh de dhá mhí dhéag a rinneadh 99% de na hathbhreithnithe go léir a cuireadh i gcrích sa bhliain 2016 a chur i gcrích.

Chuireamar **60%** dár n-athbhreithnithe i gcrích laistigh de cheithre mhí

Mar Choimisinéir um Fhaisnéis Comhshaoil, tá áthas orm a thuairisciú go raibh feabhas suntasach ann ar rátaí cur i gcrích cáis. Baineadh é sin amach go príomha mar gur earcaigh an Oifig seo baill foirne bhreise go sonrach chun achomhairc a fuarthas faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol a phróiseáil. Chuir an Oifig seo 30 cás i gcrích sa bhliain. B'ionann é sin agus méadú 50% i gcomparáid leis an mbliain 2015. Faoi mar atá an scéal le saoráil faisnéise, áfach, lean an t-éileamh ar sheirbhísí Oifig an Choimisinéara um Fhaisnéis Comhshaoil ar aghaidh ag méadú. Tiocfaidh dúshláin ar leith chun cinn sa bhliain 2017 maidir le freastal ar an éileamh méadaithe. Táim ag iarraidh, agus an méid seo á scríobh, na hacmhainní foirne atá ar fáil chun an obair sin a dhéanamh a mhéadú.

D'éirigh leis an Oifig seo dul chun cinn iontach a dhéanamh sa bhliain 2016 ar cheann amháin dá príomhchuspóirí straitéiseacha a bhaint amach. Is é atá i gceist leis sin ár gcreataí bainistíochta agus riaracháin a fhorbairt agus a fheabhsú d'fhonn tacú leis na cuspóirí atá againn feabhas a chur ar an mórsheirbhís phoiblí agus seirbhís shármhaith atá dírithe ar chustaiméirí a sholáthar.

Cuireadh tús le hobair ar ár gcórais TF a athsholáthar agus a fheabhsú. Tá suíomhanna Gréasáin nua á bhforbairt le haghaidh Oifig an Choimisinéara Faisnéise agus Oifig an Choimisinéara um Fhaisnéis Comhshaoil araon. Beidh saoráid fheabhsaithe ar líne ar fáil sna suíomhanna Gréasáin nua le haghaidh athbhreithnithe agus achomhairc a chur isteach. Sa bhliain 2016, sheol an Oifig seo seirbhís inlín nua arb é an aidhm atá léi cumarsáidí inmheánacha níos éifeachtúla a sholáthar. I dtreo dheireadh na bliana 2016, cuireadh tús le hobair freisin ar chórais bhainistíochta doiciméad nua agus ar chórais bhainistíochta cásanna nua a fhorbairt. Pléifidh mé na forbairtí sin go mion níos déanaí sa Tuarascáil seo.

Mar gheall gur cuireadh deireadh leis an gceanglas chun táillí láithreacha a íoc as iarrataí saorála faisnéise a dhéanamh chuig comhlachtaí poiblí agus mar gheall ar an méadú comhfhreagrach ar leibhéal úsáide, bliain an-dúshlánach do chomhlachtaí poiblí freisin ba ea an bhliain 2016. Is amhlaidh, ar an drochuair, nach bhfuil méadú comhfhreagrach ar na hacmhainní atá á leithdháileadh ag comhlachtaí poiblí ar iarrataí saorála faisnéise a phróiseáil ag teacht leis an éileamh méadaithe ar sheirbhísí.

I mí na Samhna 2016, luaigh mé le linn aithisc a thug mé ag Comhdháil Dhomhanda Institiúid Idirnáisiúnta na nOmbudsman gur bunathraíodh an saol poiblí chun feabhais le saoráil faisnéise agus go bhfuil an-chuid dá gealltanais comhlíonta aici. Thug mé rabhadh nach mór dúinn bogás a sheachaint, áfach. Luaigh mé go bhfuil an t-airgeadas poiblí faoi bhrú fós agus chuir mé in iúl go bhfuilim buartha go bhfuil ag teip ar roinnt mhaith comhlacht poiblí a chinntiú go ndéileáiltear le riar na saorála faisnéise, mar fheidhm reachtúil, ar an mbealach céanna a dhéileáiltear le feidhmeanna reachtúla eile.

Is oth liom a chur in iúl gur thug an Oifig seo samplaí leanúnacha agus, i roinnt cásanna, samplaí méadaitheacha á léiriú go bhfuil ag teip ar roinnt comhlachtaí poiblí ceanglais reachtúla an Achta um Shaoráil Faisnéise a chomhlíonadh. Mar shampla, labhraím níos déanaí sa Tuarascáil seo faoi na huaireanta nár thug comhlachtaí poiblí freagra ar iarrataí saorála faisnéise laistigh de thréimhsí reachtúla agus faoin bhfíric gur thug an Oifig seo faoi deara gurbh ann don líon ab airde cásanna riamh inar measadh an iarraidh a bheith diúltaithe ag an gcomhlacht poiblí gan breith thráthúil a thabhairt. Tuairiscím freisin ar roinnt cásanna ina raibh ar an Oifig seo fógraí reachtúla a eisiúint chun comhlíonadh an Achta a chinntiú.

Sa tuarascáil uaim don bhliain 2015, labhair mé faoi leathnú an Achta um Shaoráil Faisnéise chuig roinnt comhlachtaí poiblí nach raibh ar áireamh ann roimhe. Luaigh mé go raibh mé ag súil leis an gcéad iarratas ar athbhreithniú a fháil sa bhliain 2016, ar iarratas é lenar bhain an Garda Síochána. Níor shíl mé riamh, áfach, go mbeadh orm smaoineamh ar fheidhm a bhaint as mo chumhacht reachtúil nua chun iarratas a dhéanamh chuig an gcúirt ar ordú lena gceanglófaí comhlíonadh mo bhreithe i gcás lenar bhain an Garda Síochána. Tá áthas orm nach raibh sé riachtanach sa deireadh déanamh amhlaidh. Tuairiscím ar an gcás sin go mion i gCaibidil 2.

Mar Choimisinéir Achomhairc, fuair mé an chéad achomharc faoi Rialacháin na gComhphobal Eorpach (Faisnéis Earnála Poiblí a Athúsáid) (Leasú), 2015, sa bhliain 2016. Cé nach bhfuil aon cheanglas reachtúil orm tuairisciú ar mo ghníomhaíochtaí mar Choimisinéir Achomhairc, leag mé achoimre ghairid ar an ábhar amach i gCaibidil 2.

Mar atá soiléir óna bhfuil ráite agam thuas, táim an-sásta leis na torthaí suntasacha a bhain an Oifig seo amach sa bhliain 2016. Ba mhaith liom béim a leagan ar obair na mball foirne ar fad d'Oifig an Choimisinéara Faisnéise agus d'Oifig an Choimisinéara um Fhaisnéis Comhshaoil agus aitheantas a thabhairt don obair sin. Tugann na bail foirne faoina gcuid

oibre le leibhéal ard gairmiúlachta, tiomantais agus diongbháilteachta chun a chinntiú go ndéantar na seirbhísí a chuirtear ar fáil dár ngeallsealbhóirí go léir a fheabhsú go leanúnach agus go soláthraítear iad ar an gcaighdeán is airde. Táim an-bhuíoch dá gcuid iarrachtaí ina leith. Ba mhaith liom freisin aitheantas a thabhairt do shárobair na mball foirne atá gafa le seirbhísí tábhachtacha tacaíochta a chur ar fáil don Oifig seo.

Peter Tyndall
An Coimisinéir Faisnéise
An Coimisinéir um Fhaisnéis Comhshaoil

Forbairtí san Oifig sa bhliain 2016

Plean Straitéiseach 2016-2018

D'fhoilsigh an Oifig seo an Plean Straitéiseach trí bliana uaithi i mí an Mhárta 2016. Leagtar amach sa phlean na príomhchuspóirí atá againn don chéad trí bliana eile. Is é an aidhm atá leis forbairt a dhéanamh ar an iomad éachtaí a bhaineamar amach cheana féin le linn na tréimhse straitéisí roimhe.

Sainithnítear sa phlean na croíluachanna atá taobh thiar den dóigh a soláthraímid ár seirbhísí agus a bhuntacaíonn le gach a ndéanaimid. Tugtar sonraí sa phlean faoi roinnt tionscnamh nuálach a bhaineann lenár bpróisis, agus é mar aidhm leo an fhís atá againn “seirbhís phoiblí atá cóir, oscailte, cuntasach agus éifeachtach” a sholáthar a bhaint amach.

Tá pleananna bliantúla gnó mionsonraithe ag gabháil le gach bliain den phlean. Don bhliain 2016, díriodh sa phlean gnó ar an méid seo a leanas go háirithe: leathnú agus feabhsú a dhéanamh ar an tionchar atá ag an Oifig seo ar an mórsheirbhís phoiblí, an leibhéal seirbhísí a sholáthraímid a fheabhsú go leanúnach, agus a chinntiú go gcumasóidh ár gcórais agus ár bpróisis dúinn na cuspóirí sin a bhaint amach. Tá roinnt sonraí leagtha amach agam thíos faoin dóigh a bhfuil an Oifig seo ag comhlíonadh na gcuspóirí sin. Is féidir cóip den phlean a fháil ar ár suíomh Gréasáin ag www.oic.ie.

Ábhar Treorach

Chuir an Oifig seo tús sa bhliain 2015 le sraith nótaí treorach a fhoilsiú maidir leis an Acht um Shaoráil Faisnéise. Leanadh le dul chun cinn a dhéanamh ar fhoilsiú na nótaí treorach ar fud na bliana 2016. Bhí nótaí treorach foilsithe againn maidir le ceithre ábhar déag ar leith faoi dheireadh na bliana.

Déantar cur síos sna nótaí treorach ar léiriú forálacha éagsúla den Acht um Shaoráil Faisnéise. Tugtar míniú iontu faoin gcur chuige a ghlacann an Oifig seo i leith chur i bhfeidhm na bhforálacha agus tugtar samplaí de roinnt de na breitheanna uaim agus ó mo réamhtheachtaithe. Áirítear leo tagairtí do bhreithiúnais ábhartha chúirte.

De bhreis ar na nótaí treorach maidir le díolúintí éagsúla san Acht um Shaoráil Faisnéise, foilsíodh nótaí freisin maidir leis na forálacha den Acht lena dtugtar an ceart do dhaoine chun a iarraidh go leasófaí faisnéis phearsanta (alt 9) mar aon leis an gceart chun a iarraidh go dtabharfaí cúiseanna dóibh le breitheanna atá tugtha ag comhlachtaí saorála faisnéise (alt 10).

Cé nach dtugtar ach treoir ghinearálta amháin i nótaí den chineál sin, ba cheart go mbainfeadh comhlachtaí saorála faisnéise agus úsáideoirí saorála faisnéise leas astu. Tá sé beartaithe againn leanúint lenár gcuid iarrachtaí treoir a fhorbairt agus a fhoilsiú maidir le gach gné ábhartha den Acht.

Sa bhliain 2016, thugamar cuireadh d'ionadaithe ó gach Roinn Rialtais freastal ar sheisiún faisnéise chun aird a tharraingt ar na sochair a d'fhéadfadh a gcinnteoirí agus na daoine sin a bhfuil cúram orthu aighneachtaí a ullmhú don Oifig seo a bhaint as na nótaí. Chomh maith leis sin, thapaíomar an deis ag an seisiún le haiseolas a iarraidh faoi eispéiris na gcomhlachtaí sna nótaí a úsáid. B'údar mór imní é a chloisteáil gur glacadh go maith leis na nótaí agus go bhfuiltear á n-úsáid mar acmhainn luachmhar do chinnteoirí.

Le linn na bliana 2016, d'fhoilsigh an Oifig seo sraith ceisteanna samplacha do chomhlachtaí saorála faisnéise. D'fhéadfadh go mbeadh na ceisteanna ábhartha le linn dom athbhreithniú a dhéanamh ar bhreith faoin Acht um Shaoráil Faisnéise. Ullmhaíodh an doiciméad go príomha lena úsáid ag baill foirne na hOifige seo chun a chinneadh cén sórt mionsonraí ba cheart dóibh a iarraidh ó chomhlachtaí poiblí nuair a iarrann siad aighneachtaí maidir le cásanna. Chinneamar, áfach, go bhfoilseoimis an tsraith iomlán ceisteanna samplacha mar go bhféadfadh na comhlachtaí poiblí leas a bhaint as na ceisteanna sin freisin agus iad ag tabhairt freagra ar iarrataí ón Oifig seo agus ag tabhairt a mbreitheanna féin.

Dul chun cinn ar chórais TFC

Baineann ríthábhacht le córais agus bonneagar TFC atá cothrom le dáta ionas go mbeimid in ann comhlíonadh a dhéanamh ar ár gcuspóirí i dtaca le seirbhís shármhaith atá dírithe ar chustaiméirí a sholáthar agus le feabhas a chur ar an mórshéirbhís phoiblí. Le linn dúinn ár bplean fairsing athnuachana agus feabhsúcháin TFC a chur chun feidhme, rinneadh dul chun cinn suntasach ar bhonneagar seanchaite TFC a athsholáthar agus ar chórais nua a fháil chun déileáil le hiarratais ar athbhreithniú agus lenár gcaidreamh le custaiméirí agus le geallsealbhóirí.

Le soláthar rathúil an bhonneagair fairsing nua TFC sa bhliain 2016, táimid in ann anois dul chun cinn a dhéanamh ar ár bpleananna le haghaidh ár bpríomhchórais TFC a nuashonrú go hiomlán. Rud amháin ar díriodh go mór air sa bhliain 2016 ba ea córas bainistíochta caidrimh chustaiméirí agus córas bainistíochta doiciméad nua a fháil. Déileálfar le doiciméid nach mbaineann le cásanna leis an gcóras bainistíochta doiciméad nua. Táthar ag súil go seolfar é go luath sa bhliain 2017. Tabharfar soláthar ár gcórais bhainistíochta caidrimh chustaiméirí chun críche ag deireadh na bliana 2016. Seolfar an córas i samhradh na bliana 2017. Rinneadh méid suntasach oibre chun a chinntiú go mbainimid an-leas as na teicneolaíochtaí nua sin chun seirbhís níos fearr do chustaiméirí agus bainistíocht eolais níos fearr a sholáthar. Leis an dá chóras nua sin, beifear in ann seirbhísí a dhigitiú nuair is cuí agus gnáth-thascanna a uathobriú, rud lena dtacófar le seirbhís níos éifeachtaí agus níos éifeachtúla a sholáthar.

Cuireadh tús sa bhliain 2016 le hobair ar shuíomh Gréasáin nua d'Oifig an Choimisinéara Faisnéise. Mar thoradh ar an obair sin, soláthrófar seirbhísí feabhsaithe ar líne do bhaill den phobal agus do gheallsealbhóirí eile sa bhliain 2017. Baintear úsáid leathan as an tsaoráid chuardaigh bhreitheanna reatha ar ár suíomh Gréasáin agus aithníodh í a bheith ina

hacmhainn thábhachtach d'iarrthóirí saorála faisnéise agus do chinnteoirí saorála faisnéise araon. Eochairghné den suíomh Gréasáin nua a bheidh i saoráid fheabhsaithe chuardaigh. Anuas air sin, beidh tairseach ar líne ar áireamh sa suíomh Gréasáin lena dtabharfar saoráid thapa éifeachtúil le haghaidh iarratais ar athbhreithniú a chur isteach agus a bhainistiú ar líne. Tabharfar aghaidh leis freisin ar an ngá atá ann, dar lenár gcustaiméirí, le saoráid thapa shábháilte le haghaidh sonraí agus doiciméid a sheoladh chugainn. Leanfaimid ar aghaidh ag dul i dteagmháil lenár ngeallsealbhóirí chun a chinntiú go bhfreastalófar ar a gcuid riachtanas lenár saoráidí ar líne agus chun córas a sholáthar lena bhféadfar idirghníomhaíocht idir gach geallsealbhóir sa phróiseas saorála faisnéise a chuíchóiriú.

An tAcht fá Choimisiún na hÉireann um Chearta an Duine agus Comhionannas 2014

Leis an Acht fá Choimisiún na hÉireann um Chearta an Duine agus Comhionannas 2014, leagtar dualgas dearfach ar chomhlachtaí poiblí aird chuí a thabhairt ar shaincheistean a bhaineann le cearta an duine agus le comhionannas. Tá an Oifig seo tiomanta do sheirbhís a chur ar fáil dár gcliaint go léir lena dtugtar aird ar a gcearta daonna agus ar an gceart atá acu chun caitheamh cothrom. Baineann sé sin le hábhar freisin maidir leis an dóigh a mbímid i mbun caidreamh lenár bhfoireann féin mar go bhfuil sé bunriachtanach le haghaidh dea-thimpeallacht oibre a chothú ina gcuirtear rannpháirtíocht, oscailteacht agus dínit chun cinn san áit oibre. Léirítear ár gcur chuige go soiléir lenár mbunluachanna eagraíochta um neamhspleáchas, díriú ar chustaiméirí agus cothroime, nithe atá le feiceáil i gcultúr na hOifige seo, inár mbeartais inmheánacha agus inár gcleachtais inmheánacha. Tá obair réamhghníomhach déanta againn maidir le hoiliúint a chur ar ár mbaill foirne. Leis an oiliúint sin, spreagtar iad dearcadh chearta an duine a chur san áireamh agus cásanna á mbreithniú acu.

Fógraí reachtúla a eisíodh chuig comhlachtaí poiblí

Fógraí a eisíodh faoi alt 23 den Acht um Shaoráil Faisnéise

D'eisíomar **17** bhfógra reachtúla chuig comhlachtaí poiblí chun comhlíonadh a éileamh

I gcás ina measaim nach leor na cúiseanna atá tugtha ag comhlacht poiblí chun tacú le breith diúltú gilleadh d'iarraidh saorála faisnéise, tugtar de chumhacht dom le halt 23 ordú

a thabhairt do cheann an chomhlachta ráiteas níos cuimsithí a eisiúint ar na cúiseanna a bhí aige leis an mbreith. De réir alt 13, ní mór na nithe seo a leanas a chur ar áireamh i mbreith diúltú géilleadh d'iarraidh:

- na cúiseanna atá leis an diúltú,
- aon fhorálacha den Acht um Shaoráil Faisnéise ar diúltaíodh don iarraidh dá mbun,
- na fionnachtana maidir le haon saincheisteanna ábhartha a bhaineann leis an mbreith, agus
- sonraí faoi aon ábhar a bhaineann le leas an phobail a cuireadh san áireamh chun críocha na breithe.

I gcás ina measann an Oifig seo nach leor na sonraí i mbreith bhunaidh agus/nó i mbreith athbhreithnithe inmheánaigh, féadfaimid scríobh chuig ceann an chomhlachta lena mbaineann, á éileamh go ndéanfaí ráiteas níos iomláine faoi na cúiseanna leis an mbreith a eisiúint chuig an iarratasóir agus chuig an Oifig seo araon.

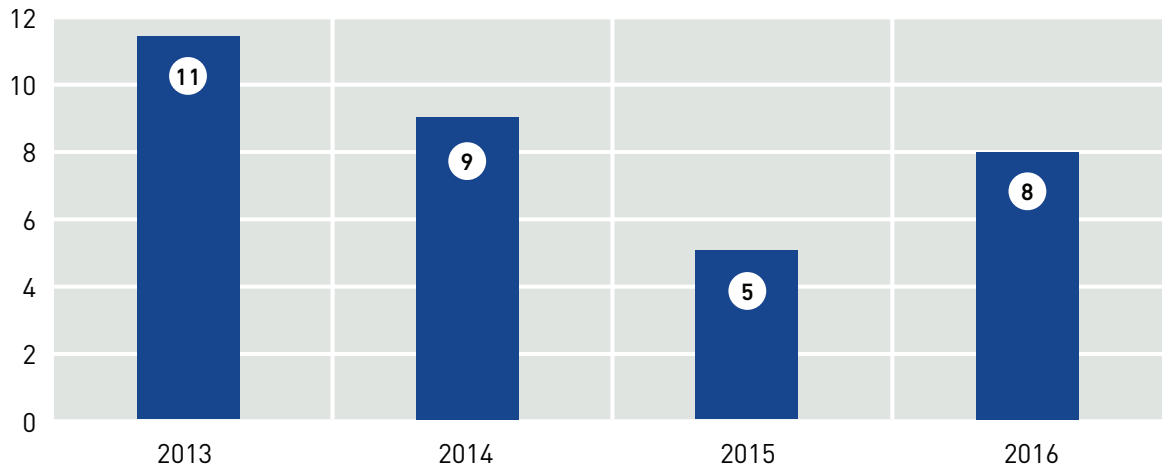
Sa bhliain 2016, d'eisíomar fógraí faoi alt 23 chuig cinn na gcomhlachtaí poiblí seo a leanas:

- Feidhmeannacht na Seirbhíse Sláinte (FSS)
- Comhairle Contae Chorcaí
- Comhairle Cathrach Bhaile Átha Cliath
- Comhairle Contae Fhine Gall
- Comhairle Cathrach agus Contae Luimnigh
- Comhairle Contae Mhaigh Eo
- An Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádúrtha
- An Roinn Gnóthaí Eachtracha agus Trádála
- RTÉ

I ngach cás, mheasamar nár chomhlíon na breitheanna bunaidh agus/ná na breitheanna athbhreithnithe inmheánaigh ceanglais an Achta um Shaoráil Faisnéise. D'iarramar ar an gcomhlacht poiblí ráiteas níos mionsonraithe a chur ar fáil laistigh de thrí seachtaine dá bharr. Eisíodh na ráitis iarrtha laistigh den tréimhse riachtanach.

Fógraí a eisíodh faoi alt 45 den Acht um Shaoráil Faisnéise

Faoi alt 45, féadfaidh mé ceangal a chur ar chomhlacht poiblí aon fhaisnéis atá ina sheilbh nó faoina rialú agus a mheasaim a bheith iomchuí chun críocha athbhreithniú a chur ar fáil dom. Le linn na bliana, d'eisigh an Oifig seo ocht bhfógra faoi alt 45. Eisíodh trí cinn chuig FSS, dhá cheann chuig TUSLA - an Ghníomhaireacht um Leanaí agus an Teaghlach, agus ceann amháin chuig Ospidéal Adelaide agus na Mí, Comhairle Contae Loch Garman agus an Coláiste Ollscoile, Baile Átha Cliath. Tá tuilleadh sonraí curtha ar fáil agam thíos faoi gach ceann de na cásanna sin.



FSS (i)

An 30 Bealtaine 2016, d'iarr an Oifig seo ar FSS faisnéis áirithe a chur ar fáil maidir lena héileamh ar dhíolúine ó thaifid áirithe a chur ar fáil agus leis na cuardaigh a rinne sí chun gach taifead ábhartha a aimsiú. Ní rabhthas in ann leanúint leis an athbhreithniú in éagmais na faisnéise a bhíodhas ag iarraidh. Bhí an freagra ó FSS le cur isteach faoin 6 Meitheamh 2016. Cé gur seoladh roinnt meabhúrúchán chuici ina dhiaidh sin, theip ar FSS an fhaisnéis ábhartha a chur ar fáil. An 16 Meán Fómhair, d'eisigh an Oifig seo fógra faoi alt 45 chuig Ard-Stiúrthóir FSS. Fuarthas freagra an 26 Meán Fómhair 2016. Tá sé doiligh a thuiscint cén fáth a raibh sé chomh doiligh sin do FSS faisnéis a chur ar fáil nuair a bhí sí in ann an fhaisnéis chéanna a chur ar fáil measartha tapa tar éis fógra faoi alt 45 a fháil.

FSS (ii)

Scríobh an Oifig seo chuig FSS an 7 Samhain 2016. D'iarramar uirthi míniú a thabhairt don iarratasóir faoina seasamh i leith a hiarrata ar a taifid leighis mar gur theip uirthi breith athbhreithnithe inmheánaigh a eisiúint ar a hiarraidh. Ós rud é nach bhfuarthas aon fhreagra, d'eisíomar fógra faoi alt 45 chuig an Ard-Stiúrthóir an 29 Samhain 2016, á éileamh go gcuirfí an fhaisnéis ar fáil laistigh de sheacht lá. Chuaigh an spriocdháta sin thart freisin gan freagra a fháil, áfach, agus bhíomar ar tí iarraidh ar an Ard-Stiúrthóir go foirmiúil bualadh liom sula bhfuairamar freagra sa deireadh an 20 Nollaig 2016.

FSS (iii)

An 19 Bealtaine 2016, d'eisigh an Oifig seo fógra faoi alt 45 chuig an Ard-Stiúrthóir. Míníodh san fhógra go raibh iarraidh ar na taifid a bhí ina n-ábhar don athbhreithniú gan réiteach ó bhí an 28 Aibreán ann agus nach mbeimis in ann leanúint leis an athbhreithniú go dtí go mbeadh na taifid faighte againn. Cuireadh na taifid sin ar aghaidh chun na hOifige seo ar deireadh thiar an 21 Meitheamh 2016.

TUSLA - An Ghníomhaireacht um Leanaí agus an Teaghlach (i)

Iarradh ar TUSLA an 14 Aibreán 2016 cóipeanna a chur ar fáil de na taifid ábhair le haghaidh athbhreithnithe. Cé gur tugadh meabhrúchán don Ghníomhaireacht ar an teileafón ina dhiaidh sin, níor cuireadh na taifid ar aghaidh chun na hOifige seo. An 4 Bealtaine 2016, d'eisíomar fógra faoi alt 45 chuig an bPríomhfheidhmeannach ar TUSLA. Seachadadh na taifid i gceist beagnach trí seachtaine ina dhiaidh sin.

TUSLA - An Ghníomhaireacht um Leanaí agus an Teaghlach (ii)

Scríobh an Oifig seo chuig TUSLA an 13 Meitheamh 2016 chun a iarraidh go gcuirfí cóipeanna de na taifid ábhair ábhartha ar fáil laistigh de dheich lá oibre. Fuarthas tacar neamhiomlán taifead an 27 Meitheamh. D'eisigh an Oifig seo fógra faoi alt 45 chuig an bPríomhfheidhmeannach an 15 Iúil. D'iarramar na taifid ábhartha ann an athuair. Cé gur sheachaid TUSLA tacar breise taifead an 29 Iúil, níorbh ionann na taifid sin agus na taifid a iarradh. Mar thoradh air sin, rinneamar beart neamhghnách an 8 Lúnasa nuair a d'eisíomar fógra eile faoi alt 45 chuig an bPríomhfheidhmeannach. Fuaireamar na taifid chearta an 11 Lúnasa, dhá mhí tar éis an iarraidh bhunaidh a dhéanamh.

Ar mhaithe leis an scéal iomlán a thabhairt, ba cheart dom a rá go raibh líon ollmhór taifead i gceist anseo. Dá mba rud é gurbh eol don Oifig seo an méid sin go luath sa phróiseas, d'fhéadfadh go rabhamar in ann socrú níos praiticiúla a chomhaontú le TUSLA i dtaca le cur isteach na dtaifead.

Ospidéal Adelaide agus na Mí ina gcorpraítear Ospidéal Náisiúnta na Leanaí

An 29 Aibreán 2016, d'iarr an Oifig seo cóipeanna de na taifid ábhair ábhartha ó Aonad Saorála Faisnéise an Ospidéil. D'iarramar air na taifid a chur ar fáil faoin 16 Bealtaine 2016. Ní bhfuarthas freagra. An 1 Meitheamh 2016, d'eisigh an Oifig seo fógra faoi alt 45 chuig Príomhfheidhmeannach an Ospidéil. D'iarramar go foirmiúil ar an ospidéal na taifid a chur ar fáil laistigh de sheacht lá. Bhí tuilleadh comhfhreagrais ann idir an Oifig seo agus an tOspidéal. Bhain sé le mearbhall faoi na taifid a bhíodhas ag iarraidh. Fuaireamar na taifid an 23 Meitheamh 2016.

Comhairle Contae Loch Garman

An 25 Iúil 2016, d'iarr an Oifig seo soiléiriú ón gComhairle maidir leis an mbonn ar ar ríomh sí táillí measta cuardaigh agus aisghabhála agus cóipeála le haghaidh iarraidh a phróiseáil. Ní bhfuarthas aon fhreagra laistigh den tréimhse ama a sonraíodh ná tar éis meabhrúchán á rá nár cuireadh an fhaisnéis ar fáil fós, áfach. I mí na Samhna 2016, d'eisigh an Oifig seo fógra faoi alt 45 chuig Príomhfheidhmeannach na Comhairle. Tarraingíodh a aird san fhógra ar an bhfíric go ndeachaigh níos mó ná trí mhí thart ón uair a rinneadh an iarraidh bhunaidh ar shoiléiriú. Cuireadh an fhaisnéis a bhíodhas ag iarraidh isteach sa deireadh an 2 Nollaig 2016, níos mó ná ceithre mhí tar éis an iarraidh bhunaidh a dhéanamh.

An Coláiste Ollscoile, Baile Átha Cliath (UCD)

An 9 Nollaig 2016, d'eisigh an Oifig seo fógra faoi alt 45 chuig Uachtarán an Choláiste Ollscoile, Baile Átha Cliath, mar nach bhfuarthas freagra ar iarraidh a rinneadh an 24 Deireadh Fómhair 2016 ar shoiléiriú ar ábhair áirithe a bhain leis an athbhreithniú.

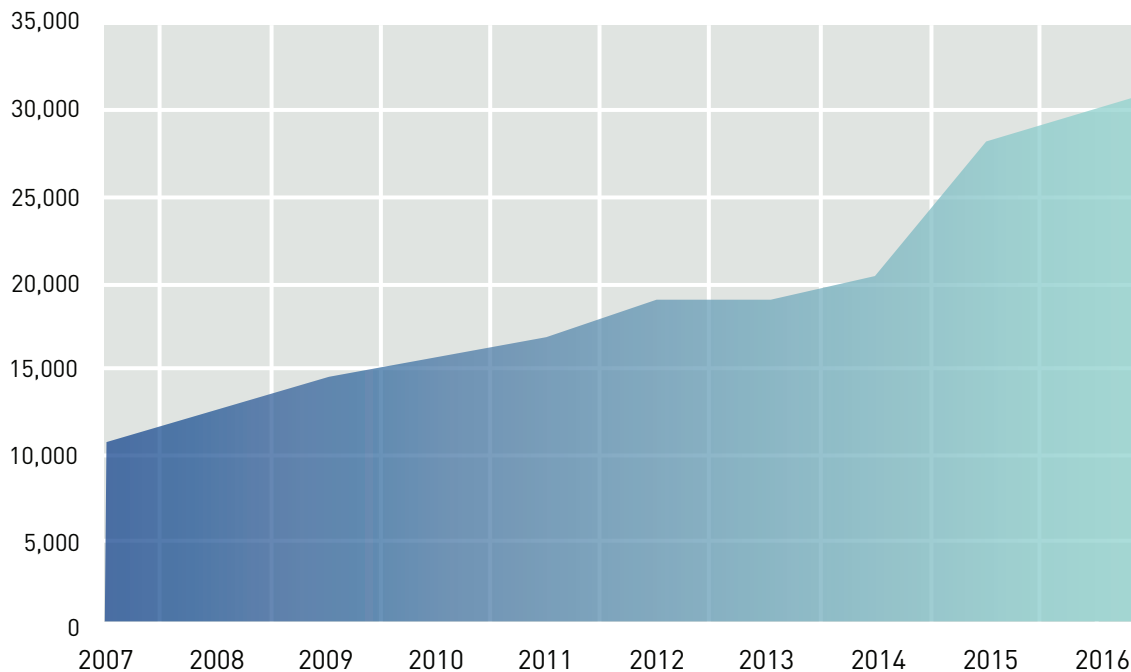
Príomhstaitisticí Saorála Faisnéise don bhliain

Tá roinnt eochairshonraí faoi úsáid saorála faisnéise sa bhliain 2016 tugtha agam thíos. Is féidir miondealú níos mine a fháil i gCaibidil 4.

Ba mhaith liom aitheantas a thabhairt don obair a rinne na príomhghníomhaireachtaí a bhailíonn staitisticí lena gcur ar áireamh sa Tuarascáil Bhliantúil seo. Ar an drochuair, ní raibh Ollscoil Chathair Bhaile Átha Cliath, mar phríomhghníomhaireacht le haghaidh na gColáistí Oideachais agus an Choláiste Náisiúnta Ealaíne is Deartha, in ann staitisticí a chur ar fáil thar ceann na gcomhlachtaí sin mar nach raibh sí eolach, más fíor, go bhfuil freagracht uirthi mar phríomhghníomhaireacht as an bhfaisnéis riachtanach a chomhthiomsú. Beidh an Oifig seo ag obair leis an Láraonad Beartais sa Roinn Caiteachais Phoiblí agus Athchóirithe chun a chinntiú go ndéanfar an fhaisnéis sin a chomhthiomsú agus a thuairisciú le haghaidh na bliana 2017.

Is díol suntais, áfach, gurbh íseal i mblianta roimhe seo a bhí líon na n-iarrataí saorála faisnéise a taifeadadh do na comhlachtaí i gceist (taifeadadh 53 iarraidh saorála faisnéise sa bhliain 2015).

Líon na n-iarrataí saorála faisnéise chuig comhlachtaí poiblí 2007-2016



Mar a léirítear sa ghraf thuas, tá méadú géar leanúnach ann ón mbliain 2014 i leith ar líon na n-iarrataí atáthar ag fáil. Fuair comhlachtaí poiblí 30,417 n-iarraidh san iomlán sa bhliain 2016. B'ionann é sin agus méadú 8% ar an líon a fuarthas sa bhliain 2015 agus méadú 50% ar an líon a fuarthas sa bhliain 2014.

Is léiriú soiléir é sin ar an dóigh a bhfuil díothú na dtáillí láithreacha sa bhliain 2014 ag dul i bhfeidhm ar leibhéal úsáide.

Fuair comhlachtaí poiblí **30,417**
n-iarraidh saorála faisnéise sa bhliain
2016

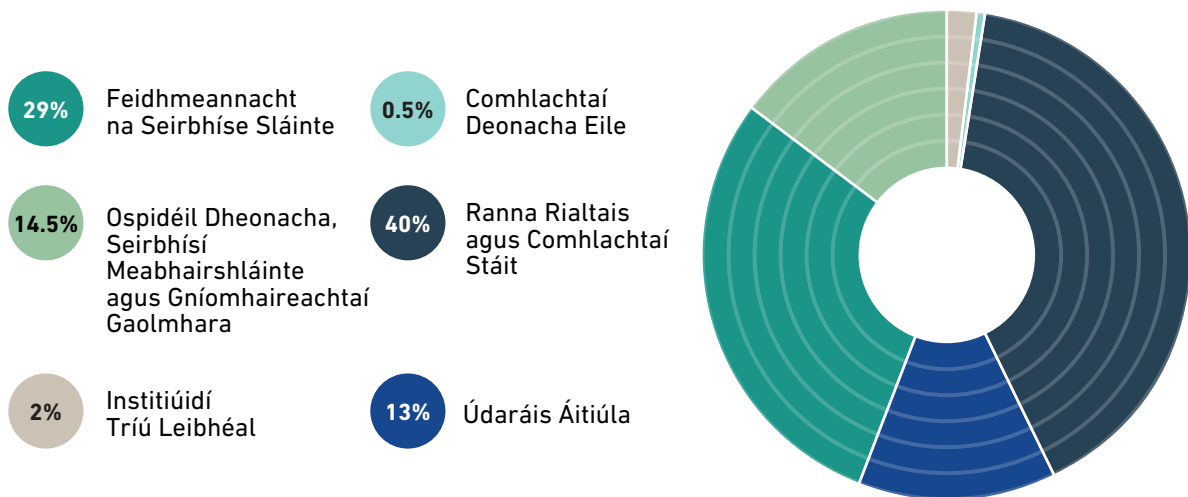
Mhéadaigh líon na n-iarrataí idir lámha sna comhlachtaí poiblí ó 5,337 n-iarraidh i dtús na bliana go 6,018 n-iarraidh ag deireadh na bliana. B'ionann é sin agus méadú 12%. Cé gur phróiseáil na comhlachtaí líon níos airde iarrataí sa bhliain 2016, ní raibh siad in ann fós freastal ar an éileamh méadaithe.

Mar a luaigh mé sa réamhrá, tugann sé sin le tuiscint nach bhfuil méadú comhfhreagrach ar na hacmhainní atá á leithdháileadh ag comhlachtaí poiblí ar iarrataí saorála faisnéise a phróiseáil ag teacht leis an éileamh méadaithe ar sheirbhísí. Is ábhar imní leanúnach é sin don Oifig seo. Molaim arís do na comhlachtaí a seacht ndícheall a dhéanamh chun a chinntiú gur leor na hacmhainní a leithdháiltear ar iarrataí saorála faisnéise a phróiseáil chun freastal ar an éileamh.

Na deich gcomhlacht a fuair an líon ba mhó iarrataí sa bhliain 2016

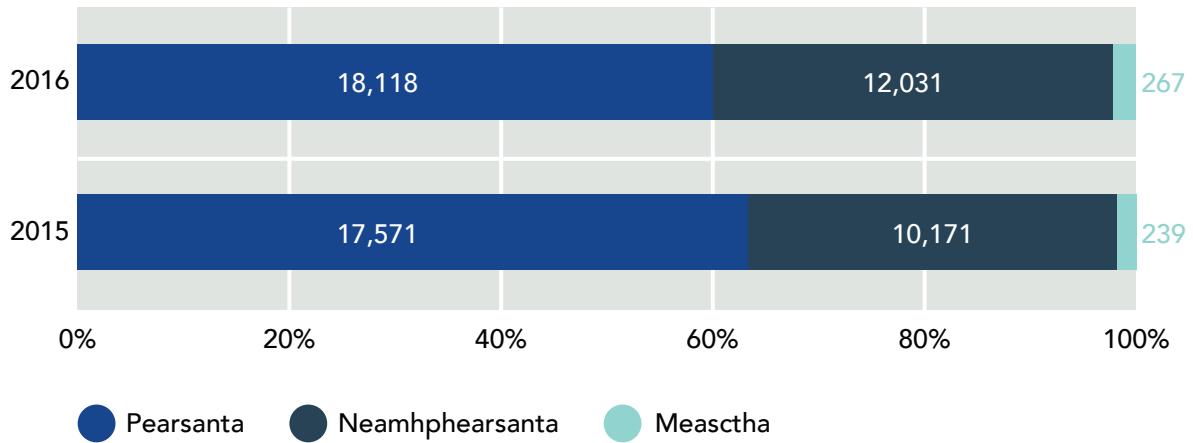
Áit	Comhlacht poiblí	2016
1	Feidhmeannacht na Seirbhíse Sláinte	8,719
	FSS - An Deisceart	3,285
	FSS - An tIarthar	2,958
	FSS - Baile Átha Cliath agus an tOirthuaisceart	1,050
	FSS - Baile Átha Cliath - Laighin Láir	849
	Iarrataí Náisiúnta FSS - Corparáideach	577
2	An Roinn Coimirce Sóisialaí	2,089
3	Ospidéal Thamhlachta	834
4	TUSLA - An Ghníomhaireacht um Leanaí agus an Teaghlach	827
5	Seirbhís Phríosúin na hÉireann	778
6	Ospidéal San Séamas	585
7	An Roinn Dlí agus Cirt agus Comhionannais	583
8	Comhairle Cathrach Bhaile Átha Cliath	512
9	An Roinn Oideachais agus Scileanna	494
10	An Garda Síochána	459

Miondealú de réir earnála ar iarrataí saorála faisnéise a rinneadh chuig comhlachtaí poiblí



- Thuairiscigh formhór na Ranna Rialtais méadú beag ar líon na n-iarrataí saorála faisnéise a rinneadh sa bhliain 2016.
- Mhéadaigh iarrataí chuig an Roinn Iompair, Turasóireachta agus Spóirt faoi 24% sa bhliain 2016. Thaifead an Roinn méadú 225% ar líon na n-iarrataí a fuarthas ón mbliain 2014 i leith. Den 302 iarraidh a fuarthas sa bhliain 2016, fuarthas breis agus 60% ó iriseoirí. Chuir an Roinn an méadú mór ar iarrataí síos do roinnt ábhair ardiomrá a tháinig chun cinn sa bhliain, lena n-áirítear díol líomhnaithe na dticéad Éireannach le haghaidh na gCluichí Oilimpeacha sa Bhrasaíl, an bás tragóideach a d'fhulaing ealaíontóir comhraic measctha, agus díospóidí tionsclaíocha lena bhain an LUAS agus Bus Éireann.
- Mhéadaigh iarrataí chuig an nGarda Síochána ó 183 iarraidh sa bhliain 2015 go 459 n-iarraidh sa bhliain 2016. B'ionann é sin agus méadú 150%.
- Laghdaigh iarrataí chuig an Roinn Dlí agus Cirt agus Comhionannais faoi 38% i gcomparáid leis an mbliain 2015.
- Mhéadaigh iarrataí chuig Údaráis Áitiúla sa bhliain 2016 faoi 147% ón mbliain 2014 i leith.

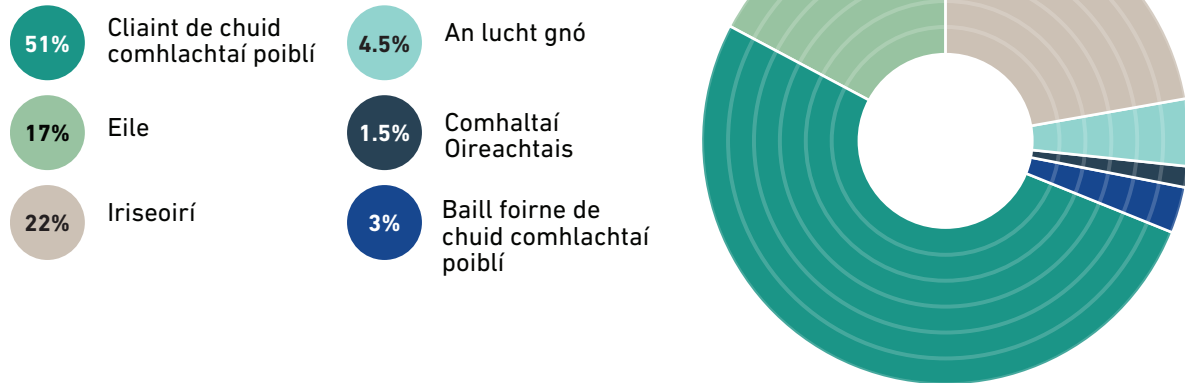
An cineál iarrata a rinneadh chuig comhlachtaí poiblí



Mar a bhí amhlaidh sna blianta roimhe, lean líon na n-iarrataí a rinneadh ar thaifid neamhphearsanta ar aghaidh ag méadú sa bhliain 2016. Ba ar thaifid neamhphearsanta a rinneadh 22% de na hiarrataí a fuarthas sa bhliain 2014. Mhéadaigh an figiúr sin go 39% sa bhliain 2016, áfach. Is é is dóichí gur eascair sé sin as an deireadh a cuireadh go mall sa bhliain 2014 le táillí láithreacha a íoc as iarrataí a dhéanamh.

B'ionann iarrataí ar thaifid neamh-
phearsanta agus **39%** de na hiarrataí
go léir a fuarthas

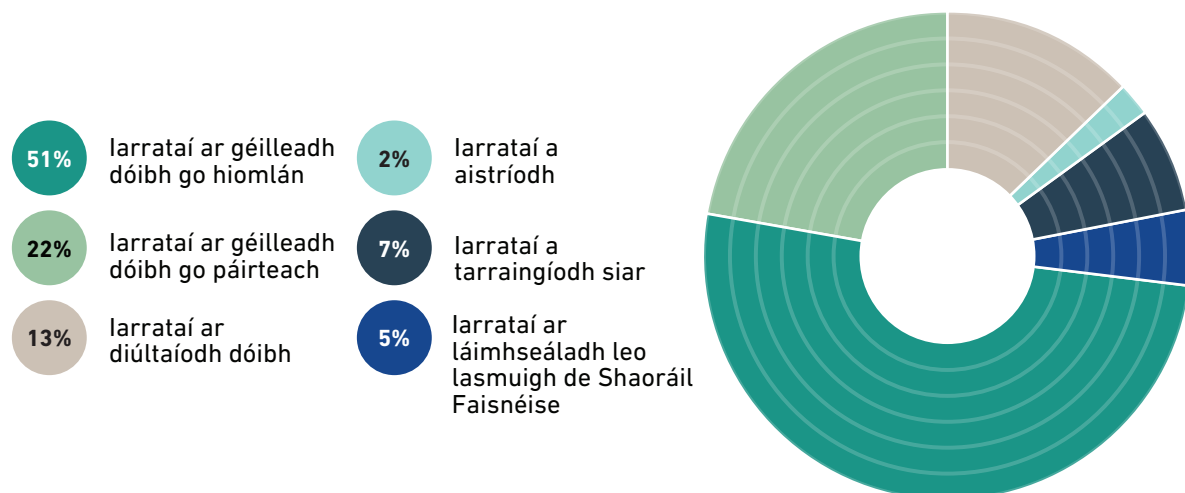
An chatagóir iarrthóra chuig comhlachtaí poiblí



Tá na cóimheasa le haghaidh cineálacha iarrthóra cosúil leo sin ar tugadh tuairisc orthu sa bhliain 2015. Bhí méadú beag ann, ó 20% go 22%, ar úsáid ag iriseoirí.

Rinne iriseoirí **22%** de na hiarrataí saorála faisnéise ar fad a rinneadh

Rátaí eisiúna ag comhlachtaí poiblí



Bhí méadú beag ann sa bhliain 2016 ar an gcéatadán d'iarrataí ar diúltaíodh dóibh i gcomparáid leis an mbliain 2015. Mhéadaigh sé ó 10% go 13%. Is féidir tuilleadh faisnéise faoi rátaí eisiúna a fháil i dtábla 5 i gCaibidil 4.

An costas iomlán measta a bhain le hiarrataí saorála faisnéise sa bhliain 2016

I mí an Mhárta 2016, d'eisigh an Láraonad Beartais treoracha chuig comhlachtaí poiblí maidir le tuairisceáin staitistiúla saorála faisnéise a chomhlánú. Áiríodh leis na treoracha den chéad uair riamh sonraí faoin dóigh ar féidir an fíorchostas a bhaineann le hiarrataí saorála faisnéise a phróiseáil, bunaithe ar anailís ar chéatadán de na hiarrataí a fhaightear. Iarradh ar chomhlachtaí poiblí tuairisceáin a chur isteach.

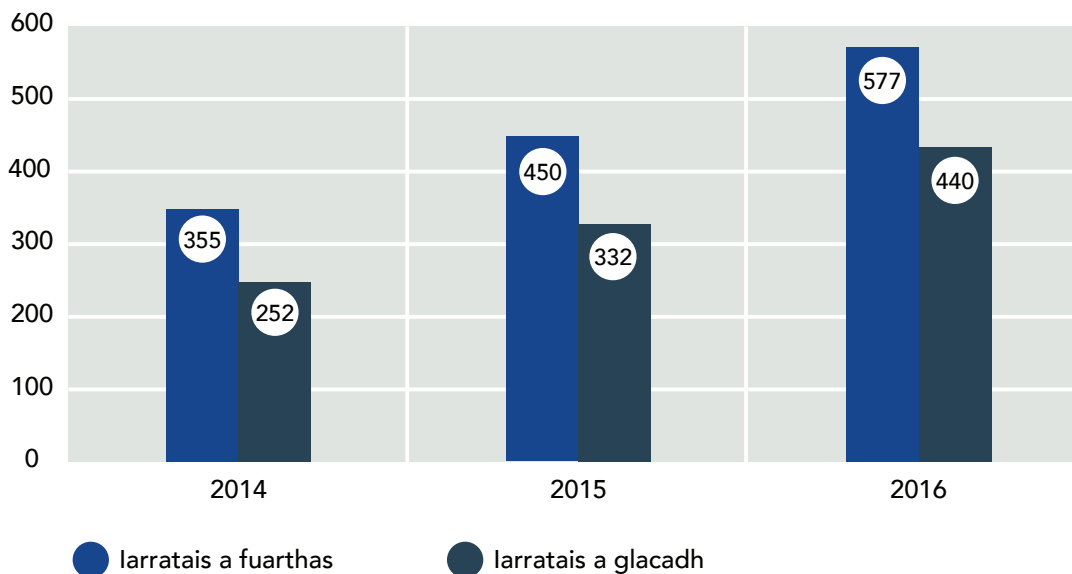
Mar sin féin, tugtar le fios san fhaisnéis a cuireadh ar fáil don Oifig seo nár chuir roinnt mhaith comhlachtaí an fhaisnéis iarrtha ar fáil. Ina theannta sin, is ann do roinnt neamhréireachtaí sa dóigh a ndearna roinnt comhlachtaí a meastacháin a thuairisciú agus/nó a ríomh. Tá sé beartaithe ag foireann na hOifige seo iarraidh ar an Láraonad Beartais soiléiriú ar an ábhar a thabhairt le linn na bliana.

Cásualach Oifig an Choimisinéara Faisnéise (OCF)

Féadfaidh iarrthóir nach bhfuil sásta leis an mbreith a thug comhlacht poiblí ar iarraidh saorála faisnéise iarratas ar athbhreithniú a dhéanamh chuig an Oifig seo. Is ceangailteach le dlí atá breitheanna a thugann an Oifig seo tar éis di athbhreithniú a dhéanamh agus ní fhéadfar achomharc a dhéanamh orthu chuig an Ard-Chúirt ach ar phoncanna dlí amháin.

Ghlacamar le **440** iarratas ar
athbhreithniú sa bhliain 2016

Iarratais chuig OCF 2014 - 2016



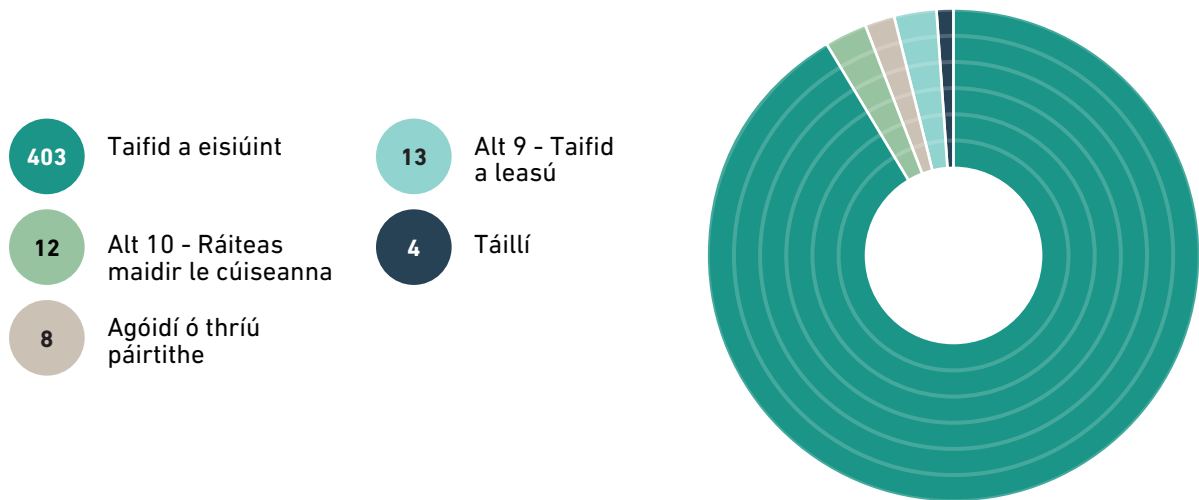
Bliain fhíordhúshlánach don Oifig seo ba ea an bhliain 2016. Thuairiscíomar méadú 28% sa bhliain ar líon na n-iarratas ar athbhreithniú a fuarthas sa bhliain 2015. Tá an méadú sin níos suntasaí fós nuair a chuirtear i gcomparáid é leis an líon a taifeadh don bhliain 2014. Is ionann na 577 n-iarratas a fuarthas sa bhliain 2016 agus méadú 62% ar líon na n-iarratas a fuarthas sa bhliain 2014.

Is lú i gcónaí líon na n-iarratas a nglactar leo gach bliain ná an líon iomlán a fhaightear. Is amhlaidh sin go príomha mar gheall ar an bhfíric go measann an Oifig seo iarratais áirithe a bheith neamhbhailí nó réamhaibí (i.e. rinneadh an t-iarratas ar athbhreithniú chuig an Oifig seo sular chuir an comhlacht poiblí atá i gceist an próiseas iomlán saorála faisnéise i gcrích).

Bhí méadú **32%** ann ar líon na n-athbhreithnithe ar ghlacamar leo sa bhliain 2016

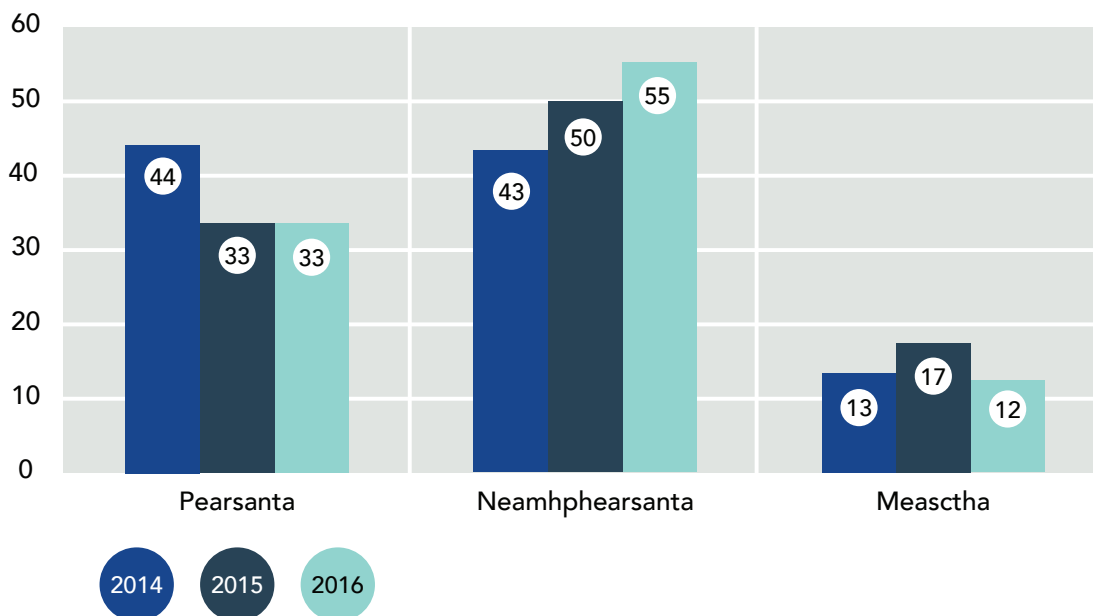
Bhí méadú 32% ann sa bhliain 2016 ar líon na n-iarratas ar athbhreithniú ar ghlac an Oifig seo leo i gcomparáid leis an mbliain 2015. Sa bhliain 2016, glacadh le 76% de na hiarratais ar athbhreithniú a rinneadh chuig an Oifig seo. Ba é 71% an figiúr comhfhreagrach don bhliain 2014.

Ábhar na n-iarratas ar athbhreithniú ar ghlac OCF leo



Den 440 iarratas ar ghlac an Oifig seo leo sa bhliain 2016, bhain 92% le diúltú ag na comhlachtaí a bhí i gceist géilleadh (go hiomlán nó go páirteach) do rochtain ar chuid de na taifid a iarradh nó ar na taifid ar fad a iarradh.

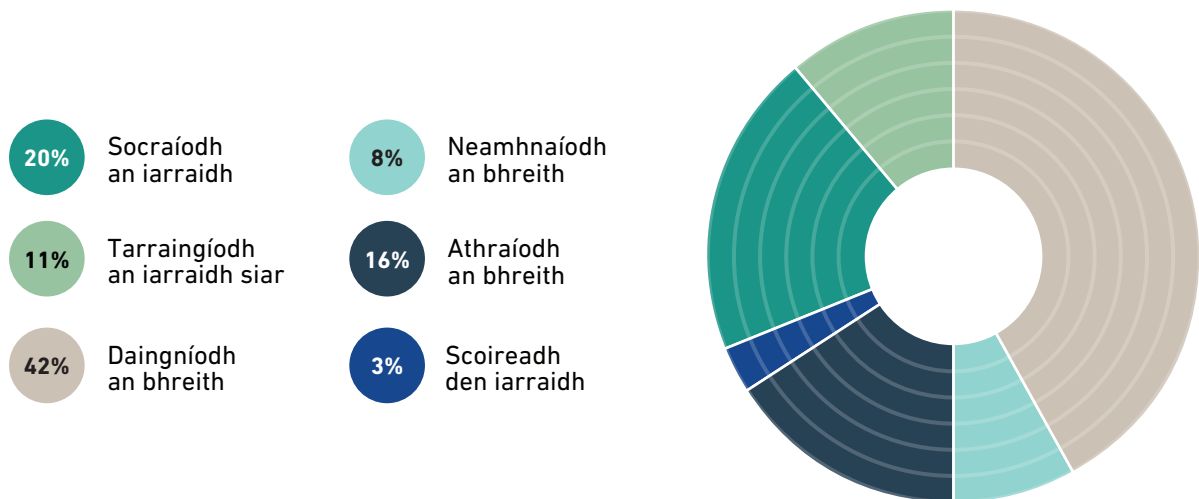
An céatadán d'iarratais ar ghlac OCF leo de réir cineáil 2014 – 2016



Léirítear in iarratas atá tuairiscithe de réir 'cineáil' cé acu atá an t-iarratasóir ag iarraidh rochtain a fháil ar thaifid atá de chineál pearsanta, ar thaifid atá de chineál neamhphearsanta nó ar thaifid atá de chineál pearsanta agus neamhphearsanta. Is é an

figiúr céatadánach do rochtain ar thaifid neamhphearsanta a taifeadh sa bhliain 2016 an figiúr is airde ón mbliain 2010 i leith.

Toradh ar athbhreithnithe OCF sa bhliain 2016



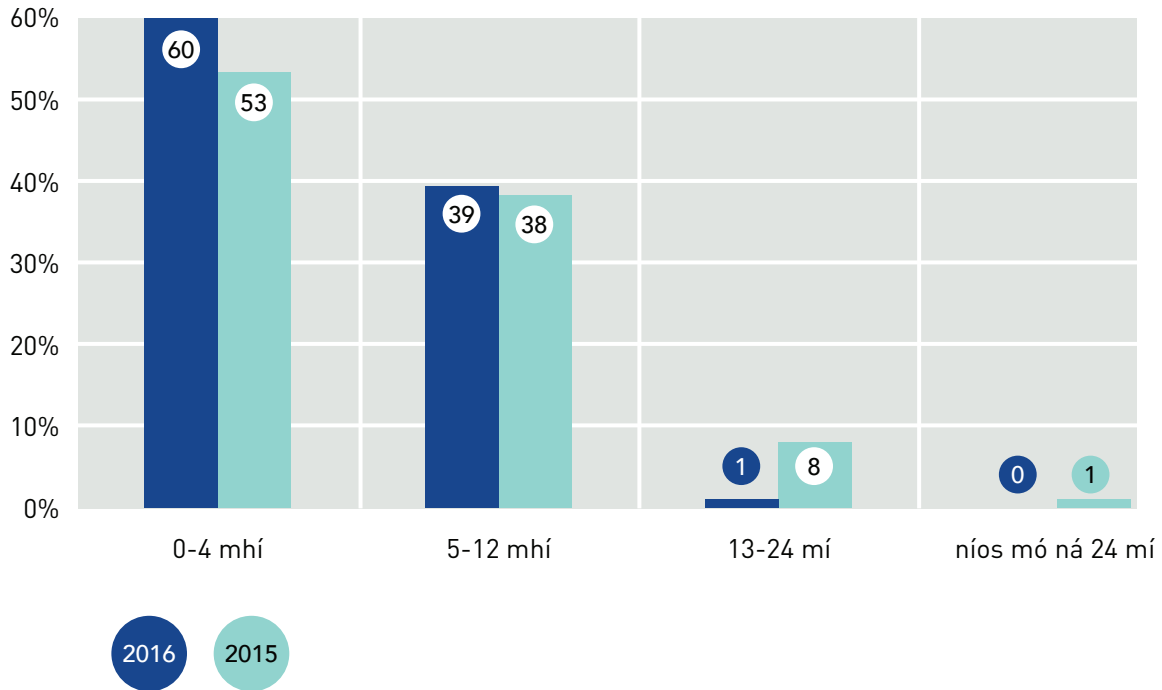
Sa bhliain 2016, rinne an Oifig seo athbhreithniú ar 433 bhreith a thug comhlachtaí poiblí. Is ionann é sin agus méadú 34% ar an líon a athbhreithníodh sa bhliain 2015.

Iarratais a réitíodh agus iarratais a tarraingíodh siar

Is minic a tharraingítear iarratais siar nó a réitítear iad mar thoradh ar idirghabháil ón Oifig seo, mar shampla, i gcásanna ina dtugann an comhlacht poiblí míniú níos mionsonraithe ar an mbreith don iarratasóir, nó ina n-eisítear taifid bhreise nó ina ngéilltear do rochtain pháirteach orthu, agus nach dtéann an t-athbhreithniú ar aghaidh chuig breith fhoirmiúil.

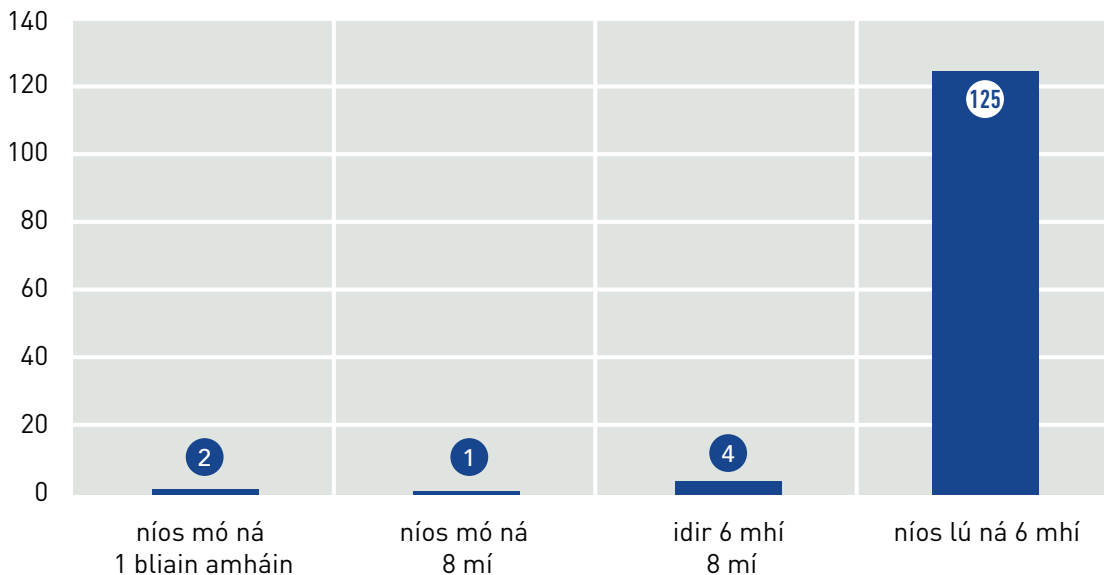
Deonaíodh **73%** de na hiarrataí go hiomlán nó go páirteach

Aoisphróifíl na gcásanna a dhún OCF



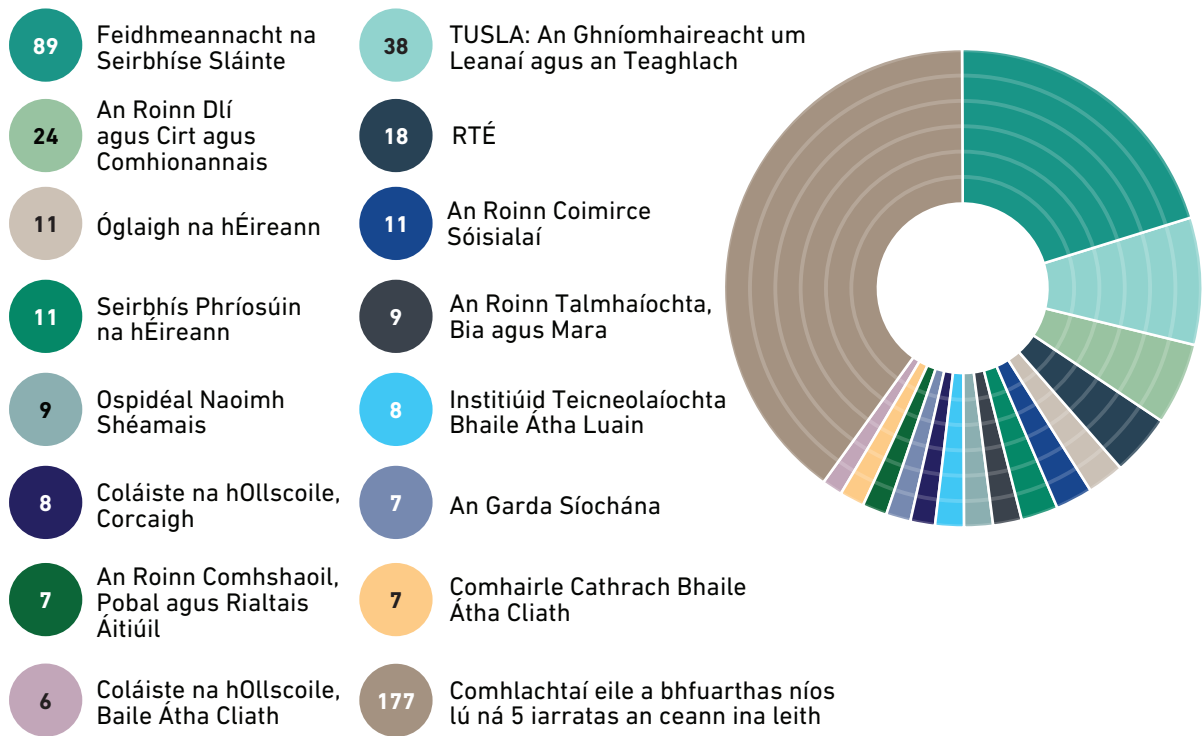
Léirítear sa tábla thuas an tréimhse ama a bhí ag teastáil ón Oifig seo chun athbhreithnithe a chur i gcrích. Tá an-áthas orm bliain rathúil eile a thuirisciú inar taifeadh méadú breise ar líon na gcásanna a dúnadh laistigh de cheithre mhí. Ba laistigh den tréimhse sin a dúnadh 60% de na hathbhreithnithe go léir a dúnadh sa bhliain 2016. Tá an figiúr sin níos iontaí mar gheall ar an méadú 32% ar líon na n-iarratas ar glacadh leo sa bhliain.

Aoisphróifíl na gcásanna a bhí idir lámha in OCF ag deireadh na bliana 2016

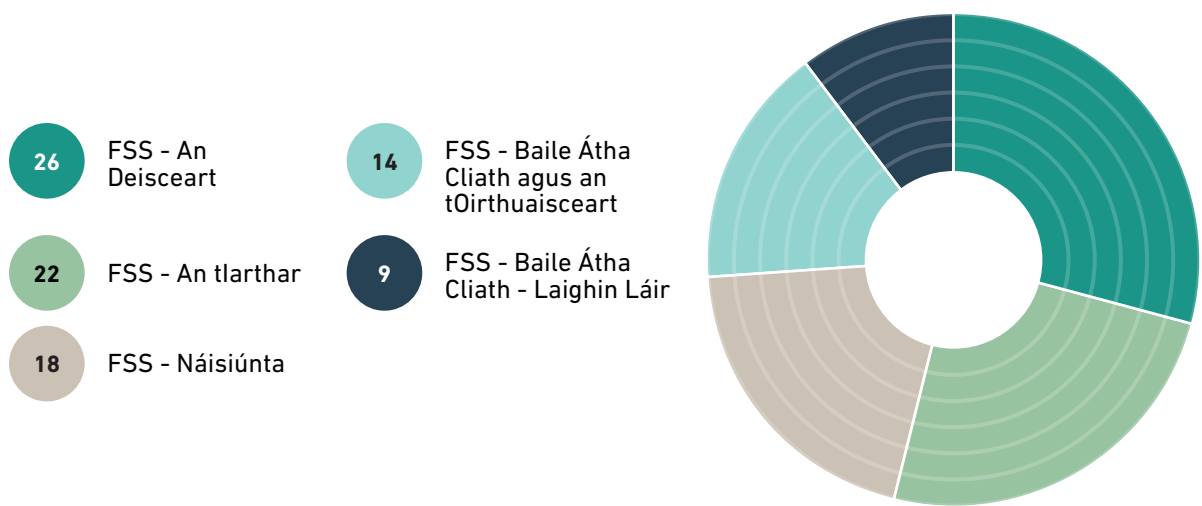


Tá aoisphróifíl na gcásanna oscailte ag deireadh na bliana 2016 measartha cosúil leis an staid ag deireadh na bliana 2015. Bhí naoi gcás oscailte againn ag deireadh na bliana 2015 a bhí níos mó ná sé mhí d'aois. Laghdaigh an figiúr sin go seacht gcás ag deireadh na bliana 2016.

Miondealú de réir comhlacht poiblí ar iarratais ar athbheithniú ar ghlac OCF leo



Miondealú ar chásanna FSS ar ghlac OCF leo



Iarrataí a measadh a bheith diúltaithe

Leis an Acht um Shaoráil Faisnéise, forchuirtear teorainneacha ama reachtúla ar chomhlachtaí poiblí maidir le hiarraidh saorála faisnéise a phróiseáil. Go sonrach, ba cheart breith ar iarraidh bhunaidh a eisiúint chuig an iarrthóir laistigh de cheithre seachtaine agus ba cheart breith ar iarraidh ar athbhreithniú inmheánach a eisiúint laistigh de thrí seachtaine.

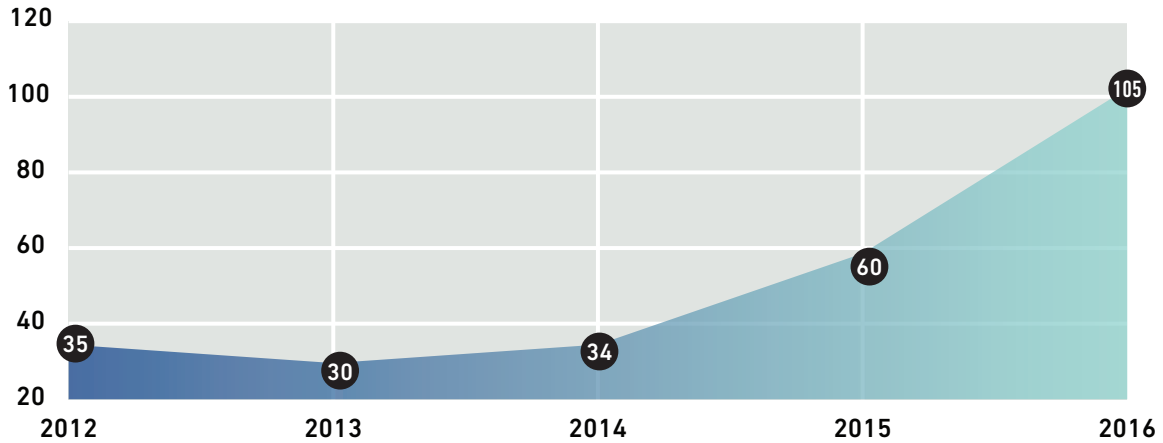
I gcás nach n-eisítear aon bhreith, ag céim na hiarrata bunaidh (an chéad chéim) nó ag céim an athbhreithnithe inmheánaigh (an dara céim), nó ina n-eisítear breith lasmuigh den teorainn ama, beidh sé de cheart ag an iarrthóir a mheas gur dhiúltaigh an comhlacht poiblí géilleadh do rochtain – iarraidh a measadh a bheith diúltaithe. Tar éis iarraidh a measadh a bheith diúltaithe ag céim an athbhreithnithe inmheánaigh, tá iarrthóir i dteideal iarratas ar athbhreithniú a dhéanamh chuig an Oifig seo.

Measadh **24%** d'athbhreithnithe a bheith diúltaithe ag comhlachtaí poiblí ag an dá chéim den chóras iarrataí saorála faisnéise

Léirítear sna cairteacha thíos líon na n-iarrataí a measadh a bheith diúltaithe ag na céimeanna ar leith den iarraidh agus líon na n-iarrataí a measadh a bheith diúltaithe ag an dá chéim den iarraidh sa bhliain. Go bunúsach, is í an bhliain seo an bhliain is measa dár thaifead an Oifig seo riamh ó thaobh líon na ndiúltaithe a measadh a bheith diúltaithe ag comhlachtaí poiblí. Is fianaise shoiléir bhreise í seo á léiriú nach bhfuil comhlachtaí poiblí ag cur acmhainní leordhóthanacha ar fáil le haghaidh iarrataí a phróiseáil.

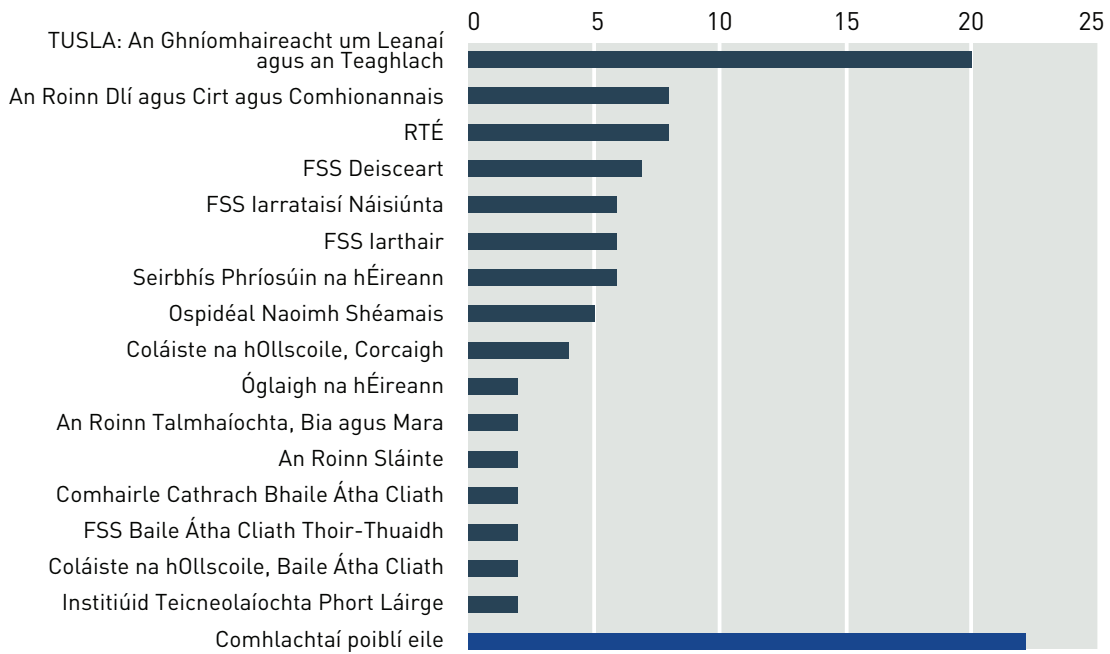
Mar is féidir a fheiceáil ó na cairteacha, ba í TUSLA an comhlacht poiblí ba lú feidhmíocht ina leith sin sa bhliain 2016. Bhuail foireann na hOifige seo le hionadaithe ó TUSLA le linn na bliana chun ábhair imní a phlé. I ndiaidh an chruinnithe sin, scríobhamar chuig bainisteoir dearbhaithe cáilíochta TUSLA maidir leis an dóigh a ndéanann an Ghníomhaireacht iarrataí a bhainistiú agus a phróiseáil. Agus an méid seo a scríobh, ní bhfuarthas aon fhreagra substainteach ó TUSLA i dtaca leis na hábhair sin. Beidh foireann na hOifige seo ag dul i dteagmháil le TUSLA chun feabhsuithe inbhraite ar an dóigh a bpróiseálann sí iarrataí a iarraidh.

Iarrataí a measadh a bheith diúltaithe ag an dá chéim 2012 - 2016



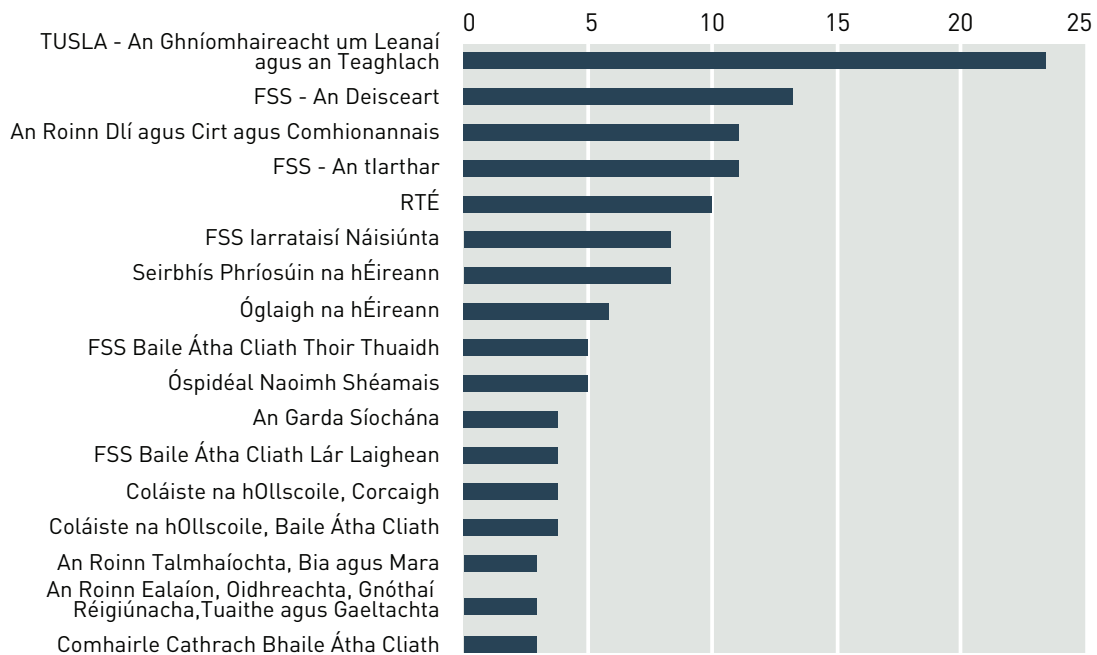
Taifeadadh 105 cinn (24%) de na hiarratais ar ghlac an Oifig seo leo sa bhliain 2016 mar iarrataí a measadh a bheith diúltaithe ag an dá chéim den chóras iarrataí saorála faisnéise.

Iarrataí a measadh a bheith diúltaithe ag an dá chéim de réir comhlacht poiblí – 2016



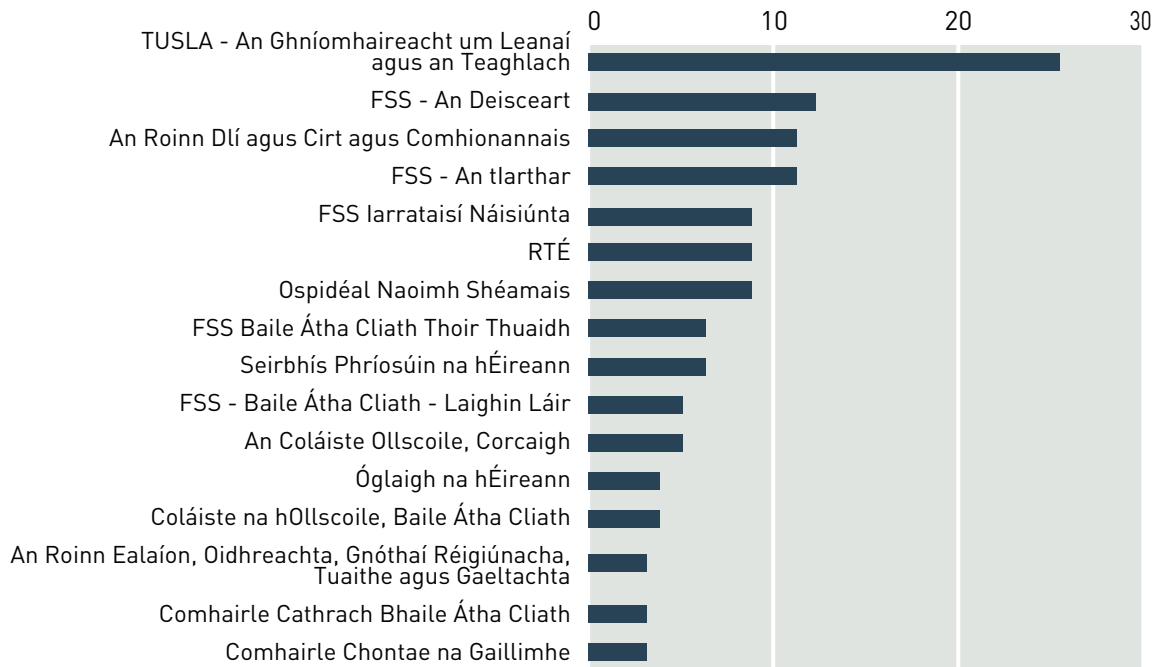
Measadh **40%** d'athbhreithnithe Oifig an Choimisinéara Faisnéise a bheith diúltaithe ag an gcéad chéim nó ag an dara céim den chóras iarrataí saorála faisnéise

Comhlacht poiblí - iarrataí a measadh a bheith diúltaithe ag an gcéad chéim den chóras iarrataí saorála faisnéise



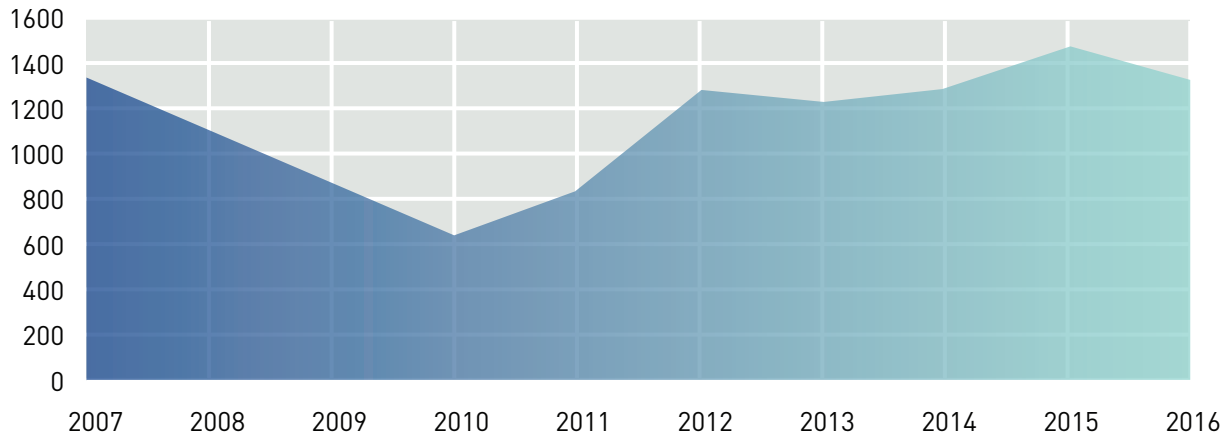
- Measadh 49 n-iarraidh bhreise a bheith diúltaithe ag 41 chomhlacht eile ag céim na breithe bunaidh. Bhí níos lú ná 3 dhiúltú ag gach ceann de na comhlachtaí sin.
- B'ionann agus 175 cinn líon iomlán na n-iarratas a measadh a bheith diúltaithe ag an gcomhlacht poiblí ag céim na breithe bunaidh den chóras iarrataí saorála faisnéise. Tá an figiúr sin cothrom le 40% de na hathbhreithnithe ar ghlac an Oifig seo leo.

Comhlacht poiblí - iarrataí a measadh a bheith diúltaithe ag an dara céim den chóras iarrataí saorála faisnéise



- Measadh 48 n-iarraidh bhreise a bheith diúltaithe ag 38 gcomhlacht eile ag céim an athbhreithnithe inmheánaigh. Bhí níos lú ná 3 dhiúltú ag gach ceann de na comhlachtaí sin.
- Cosúil leis an gcéad chéim, measadh 174 cinn (40%) de na hathbhreithnithe ar ghlac an Oifig seo leo a bheith diúltaithe ag comhlacht poiblí ag céim an athbhreithnithe inmheánaigh.

Ceisteanna ginearálta ar OCF



Baineann ceisteanna ginearálta le foirmeacha éagsúla cumarsáide agus is iad baill den phobal a chuireann iad den chuid is mó. Ar chineál na gceisteanna sin tá ceisteanna faoi chúrsaí praiticiúla an Achta um Shaoráil Faisnéise agus faisnéis shimplí faoin gcéad bheart eile atá le déanamh nó faoin gcomhlacht poiblí a d'fhéadfadh a bheith in ann cabhair a thabhairt.

Táillí a fuair OCF

Le linn na bliana 2016, fuair an Oifig seo 272 iarratas ar athbhreithniú inar íocadh táille. B'ionann é sin agus 94 chás níos mó ná an bhliain 2015. D'eascair an méadú sin as an méadú a bhí ann ar iarrataí ar rochtain ar fhaisnéis neamhphearsanta. Féach tábla 17 i gcaibidil 4.

Ba é €12,150 an tsuim iomlán a fuarthas i bhfoirm táillí sa bhliain 2016.

Aisíocadh suim iomlán €5,910 le hiarratasóirí ar na cúiseanna seo a leanas:

- tarraingíodh an t-iarratas siar, réitíodh é, nó scoireadh de;
- diúltaíodh d'iarratais mar bhí siad neamhbhailí, nó ní raibh táille le híoc ina leith;
- níor eisigh an comhlacht poiblí breith ón athbhreithniú inmheánach laistigh den teorainn ama (féach alt 19 den Acht um Shaoráil Faisnéise).

Deimhnithe Reachtúla arna n-eisiúint ag Airí

Alt 34 den Acht um Shaoráil Faisnéise

Sa chás gur deimhin le hAire den Rialtas gur taifead díolmhaithe é taifead, de bhua alt 32 (Forfheidhmiú an dlí agus sábháilteacht an phobail) nó de bhua alt 33 (Slándáil, cosaint agus caidreamh idirnáisiúnta) agus gur deimhin leis an Aire den Rialtas go bhfuil an taifead sách íogair nó sách tromaí chun gur chóir dó nó di déanamh amhlaidh, féadfaidh sé nó sí a dhearbhu, trí dheimhniú a eisiúint faoi alt 34(1) den Acht, gur taifead díolmhaithe ó fheidhmiú an Achta um Shaoráil Faisnéise an taifead.

Ní mór d'Airí tuarascáil a chur ar fáil don Oifig seo gach bliain ar líon na ndeimhnithe a eisíodh agus ar fhorálacha alt 32 nó alt 33 den Acht um Shaoráil Faisnéise a raibh feidhm acu maidir leis na taifid díolmhaithe nó leis na taifid dhíolmhaithe. Ní mór dom cóip d'aon tuarascáil den sórt sin a chur i gceangal leis an Tuarascáil Bhliantúil uaim don bhliain atá i gceist.

Foráiltear an méid seo le halt 34(13) den Acht um Shaoráil Faisnéise:

"Faoi réir fho-ailt (9) agus (10), leanfaidh deimhniú de bheith i bhfeidhm go ceann tréimhse 2 bhliain tar éis an dáta a shíníonn an tAire den Rialtas lena mbaineann é agus rachaidh sé in éag ansin, ach féadfaidh Aire den Rialtas, tráth ar bith, deimhniú a eisiúint faoin alt seo i leith taifead ar eisíodh deimhniú i ndáil leis roimhe sin..."

Tugadh fógra don Oifig seo go ndearnadh na deimhnithe seo a leanas a athnuachan nó a eisiúint faoi alt 34 sa bhliain 2016.

- Rinne an tAire Dlí agus Cirt agus Comhionannais ceithre dheimhniú a athnuachan agus dhá dheimhniú nua a eisiúint.
- Rinne an tAire Gnóthaí Eachtracha agus Trádála trí dheimhniú a eisiúint.
- Tiocfaidh na deimhnithe go léir dá dtagraítear thuas faoi réir athbhreithniú sa bhliain 2018.

Tá cóip de na fógraí ar fad ceangailte le hAguisín I leis an Tuarascáil seo.

Athbhreithniú faoi alt 34(7)

I litir dar dáta an 9 Nollaig 2016, tugadh fógra dom go ndearna an Taoiseach, an tAire Caiteachais Phoiblí agus Athchóirithe agus an tAire Post, Fiontar agus Nuálaíochta athbhreithniú, de bhun alt 34(7) den Acht um Shaoráil Faisnéise, ar fheidhmiú fhomhír 34(1) den Acht.

Ba é tátal na litreach gur deimhin leis an Taoiseach, leis an Aire Caiteachais Phoiblí agus Athchóirithe agus leis an Aire Post, Fiontar agus Nuálaíochta nach gá a iarraidh go ndéanfaí ceann ar bith de na 13 dheimhniú a athbhreithníodh a chúlghairm.

Tá cóip den fhógra ceangailte le hAguisín II leis an Tuarascáil seo.

Buíochas

Ba mhaith liom aitheantas a thabhairt don tacaíocht a fuair mé le linn na bliana 2016 ó Elizabeth Dolan agus ó Stephen Rafferty, Imscrúdaitheoirí Sinsearacha san Oifig. Ba mhaith liom buíochas a ghabháil leosan agus leis an bhfoireann ar fad in Oifig an Choimisinéara Faisnéise agus in Oifig an Choimisinéara um Fhaisnéis Comhshaoil as a ndícheall a dhéanamh go leanúnach déileáil leis na dúshláin mhóra a eascraíonn as na héilimh mhéadaithe ar ár gcuid seirbhísí, agus iad ag leanúint le feabhas suntasach a chur ar an tréimhse ama a bhítear ag tógáil chun cásanna a chur i gcrích ag an am céanna. Gabhaim buíochas freisin le Diarmuid Goulding agus le Edmund McDaid as an gcúnamh a thug siad dom chun an Tuarascáil seo a chur le chéile.

Mar a luaitear sa Tuarascáil seo agus mar a luadh i dTuarascálacha roimhe, tá an Oifig seo ag leanúint ar aghaidh ag forbairt agus ag fás. Dá bharr sin, táim buíoch as an tacaíocht a thugann an tAonad um Theicneolaíocht Faisnéise agus Cumarsáide, an tAonad um Sheirbhísí Corparáideacha, an tAonad um Chaidreamh Ardchaighdeáin le Geallsealbhóirí agus an tAonad Cumarsáide. Cuireann siad go léir seirbhísí comhroinnte bunriachtanacha ar fáil le haghaidh riachtanais forbartha leantacha na hOifige.

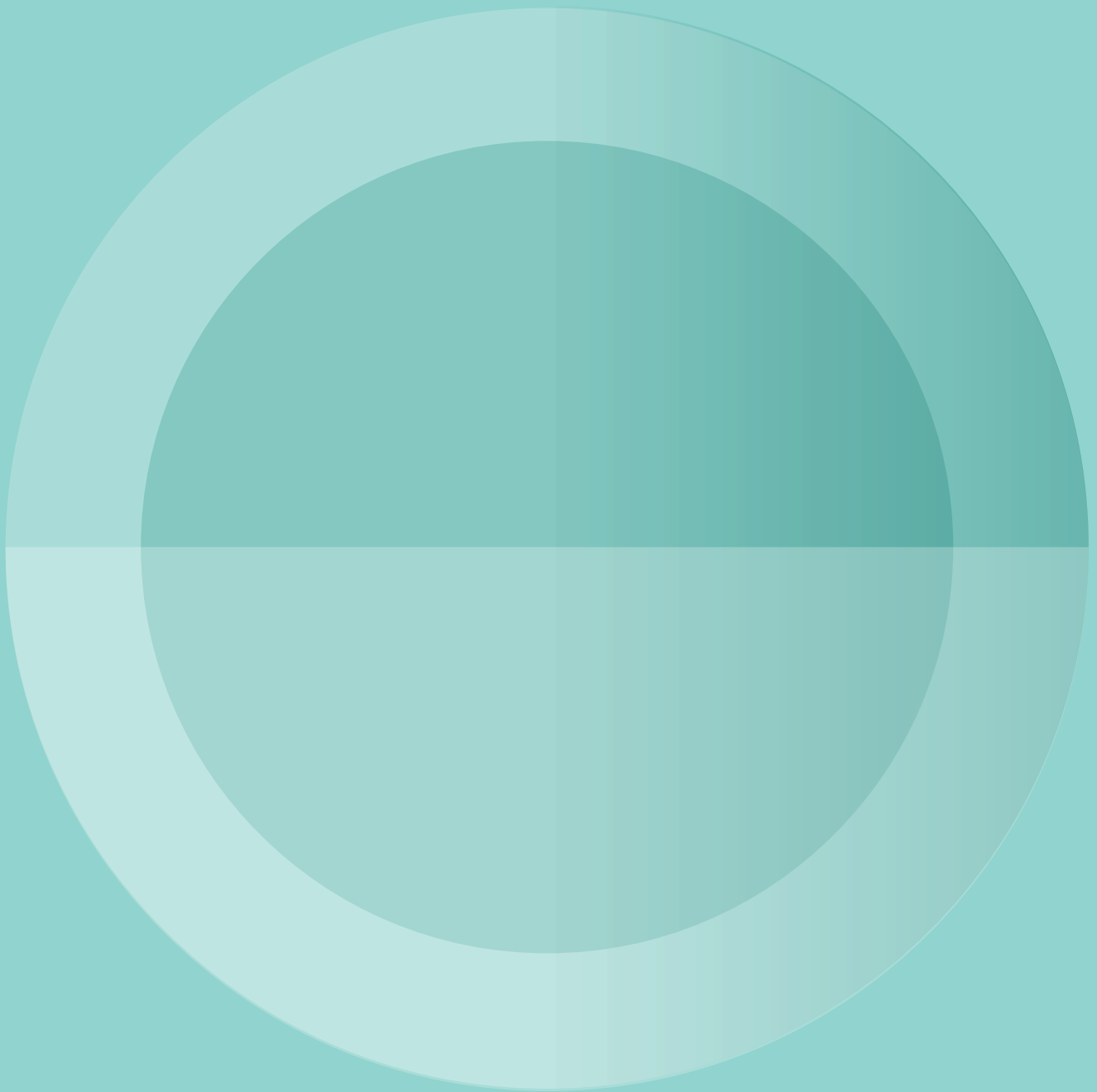
Mar fhocal scoir, ba mhaith liom buíochas a ghabháil le Jacqui McCrum, Ard-Stiúrthóir na hOifige, as a tiomantas agus a tacaíocht ar fud na bliana. Is cinnte gur bhain an Oifig fíorleas as taithí fhairsing agus fuinneamh Jacqui sa chéad bhliain iomlán a chaith sí ina ról.



Jacqui McCrum
Ard-Stiúrthóir

Caibidil 2:

Saincheisteanna a Tháinig Chun Cinn



Caibidil 2: Saincheisteanna a Tháinig Chun Cinn

Sa Chaibidil seo, leagtar béim ar na saincheisteanna a tháinig chun cinn le linn na bliana a bhaineann le hoibriú an Achta um Shaoráil Faisnéise. Baineann roinnt saincheisteanna le comhlachtaí poiblí ar leith agus is é atá i saincheisteanna eile ná cur síos ar an dóigh ar chruthaigh an tAcht nua saincheisteanna nár pléadh leo roimhe sin.

Is iad seo na saincheisteanna a dtugtar tuairisc orthu:

- Comhlachtaí Sceideal 1
- Réiteach díospóide faoi alt 6(7)
- An chéad úsáid a baineadh as alt 22(9)(a)(vii)
- An chéad uair a rinneadh breithniú ar chumhachtaí faoi alt 45(8) a fheidhmiú
- Breitheanna á gceistiú ag comhlachtaí ar fhorais nós imeachta
- Achomhairc chuig na Cúirteanna
- Faisnéis eárnála poiblí a athúsáid

Tá achoimre ghairid leagtha amach agam freisin ar an ngníomhaíocht cúirte sa bhliain freisin. Mar chríoch, tá cur síos achomair déanta agam ar mo ról mar Choimisinéir Achomhairc faoi Rialacháin na gComhphobal Eorpach (Faisnéis Eárnála Poiblí a Athúsáid) (Leasú), 2015 (I.R. Uimh. 525 de 2015).

Comhlachtaí Sceideal 1

Sa Tuarascáil Bhliantúil uaim don bhliain 2015, phléigh mé an tsaincheist maidir leis an léiriú a ghlac Banc Ceannais na hÉireann (an Banc Ceannais) ar raon feidhme a eisiaimh ó théarmaí tagartha an Achta. Is gníomhaireacht a chuimsítear go páirteach faoin Acht um Shaoráil Faisnéise, 2014, é an Banc Ceannais.

Meastar an chuid is mó de na comhlachtaí ábhartha a bheith ina gcomhlachtaí poiblí chun críocha an Achta de bhua iad a bheith ar áireamh sna catagóirí a leagtar amach in alt 6 den Acht. Luaitear i gCuid 1(b) de Sceideal 1 den Acht, áfach, nach bhfolaíonn alt 6 tagairt don Bhanc Ceannais a mhéid a bhaineann sé le taifid áirithe.

Tháinig an tsaincheist a bhain leis an mBanc Ceannais chun cinn i gcomhthéacs na hiarrata a rinne an tUas. Colin Coyle ó *The Sunday Times* ar rochtain ar chóip de na miontuairiscí go léir de chuid Choimisiún an Bhainc Cheannais le haghaidh tréimhse ón mbliain 2014 go dtí dáta na hiarrata sa bhliain 2015. Ghlac an Banc Ceannais an seasamh gurb amhlaidh, toisc nach raibh sé ina chomhlacht poiblí i leith taifead a chuimsíonn faisnéis a ndéantar cur síos air i Sceideal 1, Cuid 1(b)(i), nach raibh feidhm ag an Acht, lenar áiríodh na forálacha athbhreithnithe inmheánaigh agus na forálacha athbhreithnithe sheachtraigh de, ach maidir le ceann amháin de na taifid a iarradh, fiú i gcás inar chuimsigh na taifid lenar bhain faisnéis a bheadh faoi réir fhorálacha an Achta ar shlí eile.

Luaigh mé i mo bhreith nach raibh seasamh an Bhainc Cheannais ag teacht le brí agus rún na reachtaíochta ar chor ar bith agus go mbeadh glacadh an tseasaimh a roghnaigh an Banc Ceannais ina chúis le hiarmhairtí áiféiseacha nár bheartaigh an tOireachtas iad agus an tAcht á rith aige. Thug mé faoi deara freisin gur thacaigh Nóta Treorach 23 ón Láraonad Beartais agus na prionsabail a leagtar amach in alt 11(3) den Acht leis an tuairim mhalartach a bhí agam faoin ábhar. Fuair mé go raibh an dlínse agam athbhreithniú a dhéanamh ar bhreith éifeachtach an Bhainc Cheannais diúltú géilleadh d'iarraidh an iarratasóra ar rochtain ar na taifid lenar bhain ar an mbonn go raibh feidhm ag Sceideal 1, Cuid 1, maidir léi. Fuair mé freisin nach dtagann taifead faoi raon feidhme Sceideal 1, Cuid 1(b)(i), ach a mhéid a chuimsíonn sé an fhaisnéis a shonraítear a bheith eisiata ó raon feidhme an Achta agus go bhfuil na codanna den taifead nach gcuimsíonn faisnéis Sceideal 1, Cuid 1(b)(i), le breithniú le haghaidh scaoileadh de réir fhorálacha an Achta um Shaoráil Faisnéise. Chuir mé breith éifeachtach an Bhainc Cheannais ar neamhní agus thug mé ordú dó tabhairt faoi phróiseas cinnteoireachta nua i dtaca leis na taifid lenar bhain.

Tá áthas orm a chur in iúl gur ghlac an Banc Ceannais le mo bhreith, cé go ndearna sé amhlaidh “gan dochar”, agus gur chomhaontaigh sé iarraidh an iarratasóra a phróiseáil faoi fhorálacha an Achta um Shaoráil Faisnéise. Scaoileadh leaganacha curtha in eagar de na miontuairiscí ábhartha chuig *The Sunday Times* ina dhiaidh sin. Foilsíodh iad ar shuíomh Gréasáin an Bhainc Cheannais freisin.

Le linn na bliana, tarraingíodh m'aird ar an bhfíric nach raibh an Banc Ceannais ar an aon chomhlacht amháin a léirigh a chuimsiú i dtéarmaí tagartha an Achta, nó a eisiadh uathu, de bhua é a bheith ar áireamh mar ghníomhaireacht a chuimsítear go páirteach i Sceideal 1 agus toisc gur chuir comhlachtaí eile saincheisteanna den chineál céanna chun cinn.

Cé gur deimhin liom gur ceart atá an tuiscint atá agam ar mo dhlínse maidir le breitheanna ó chomhlachtaí Sceideal 1 a athbhreithniú agus go dtacaítear leis an tuiscint sin le Nóta

Treorach 23 ón Láraonad Beartais, bheadh sé ina údar imní dom dá mbeadh ar an Oifig seo déileáil le dúshláin dlínse den chineál céanna amach anseo. Feictear dom go mbainfí aon amhras faoin ábhar trí leasú reachtach simplí a dhéanamh. Tá sé beartaithe agam an t-ábhar seo a phlé leis an Láraonad Beartais i mbliana.

Réiteach díospóide faoi alt 6(7)

Mar atá luaite agam thuas, meastar an chuid is mó de na comhlachtaí ábhartha a bheith ina gcomhlachtaí poiblí chun críocha an Achta de bhua iad a bheith ar áireamh sna catagóirí a leagtar amach in alt 6 den Acht. I gcás ina dtagann díospóid chun cinn idir an Oifig seo agus aon eintiteas maidir le cé acu atá sé ina chomhlacht poiblí chun críocha an Achta nó nach bhfuil, ní mór an díospóid a chur faoi bhráid an Aire Caiteachais Phoiblí agus Athchóirithe le haghaidh cinneadh ceangailteach, de réir alt 6(7) den Acht.

Go luath sa bhliain 2016, d'fhoilsigh an Láraonad Beartais Beartas agus Nós Imeachta maidir le Réiteach Díospóide le haghaidh aighneachtaí den sórt sin chuig an Aire a phróiseáil. Foráladh leis an mbeartas freisin do chinntí ceangailteacha i gcás ina dtagann díospóid chun cinn idir eintiteas agus iarrthóir maidir le cé acu atá eintiteas ina chomhlacht poiblí nó nach bhfuil.

Le linn na bliana, dhéileáil an Oifig seo le dhá chás inar aimsíomar nach raibh an t-eintiteas lenar bhain ina chomhlacht poiblí chun críocha an Achta um Shaoráil Faisnéise. Ba iad an tEadránaí Maoine agus Ceann Comhairimh Bhaile Átha Cliath na heintitis a bhí i gceist. Sa dá chás sin, thugamar eolas do na hiarrthóirí ar an gceart atá acu chun cinneadh ceangailteach ón Aire a iarraidh de réir an Bheartais fhoilsithe maidir le Réiteach Díospóide.

Tar éis comhairle a fháil ó Oifig an Ard-Aighne, áfach, chuir an Láraonad Beartais in iúl don Oifig seo nach raibh an tAire in ann cinneadh ceangailteach a dhéanamh ar an ábhar mar nach bhforáiltear le halt 6(7) do chinntí den sórt sin i gcásanna ina bhfuil an díospóid idir an t-eintiteas agus tríú páirtí. D'fhoilsigh sé beartas leasaithe ina dhiaidh sin chun forálacha alt 6(7) a léiriú go cuí.

Fágann sé sin nach mór don Oifig seo cinntí a dhéanamh ar cé acu atá eintitis áirithe ina gcomhlachtaí poiblí chun críocha an Achta um Shaoráil Faisnéise nó nach bhfuil agus fágann sé freisin nach ann d'aon cheart achomhairc, seachas trí na Cúirteanna, b'fhéidir. Tá sé beartaithe agam an t-ábhar seo a phlé leis an Láraonad Beartais an athuir.

Ar mhaithe leis an scéal iomlán a thabhairt, rinne an tAire cinntí in dhá chás sa bhliain 2016. Chinn sé nach bhfuil Comhairle Bharra na hÉireann (Comhairle Ghinearálta Bharra na hÉireann) agus Dlí-Chumann na hÉireann ina gcomhlachtaí poiblí chun críocha an Achta.

An chéad úsáid a baineadh as alt 22(9)(a)(vii)

Foráiltear le halt 22(9) den Acht um Shaoráil Faisnéise do chúinsí áirithe ina bhféadfaidh mé mo lánrogha a úsáid chun diúltú glacadh le hiarratas ar athbhreithniú nó scor d'athbhreithniú. Leis an Acht um Shaoráil Faisnéise, 2014, leathnaíodh na cúinsí sin chun cásanna a chur ar áireamh ina measaim go gcuirfí bac nó go gcuirfí isteach, go substaintiúil agus go míréasúnach, ar obair na hOifige seo dá nglacfaí leis an iarratas.

D'fheidhmigh mé an chumhacht sin den chéad uair riamh sa bhliain 2016 i gCás Uimh. 150430 (Messrs Z v an Ghníomhaireacht Náisiúnta um Bainistíocht Sócmhainní (GNBS)). D'iarr na hiarrthóirí naoi gcatagóir taifid. Bhain siad go léir lena gcaidreamh le GNBS. Chuimsigh na taifid choinnithe siar níos mó ná 3,400 leathanach faisnéise. Cé gur thoisc thábhachtach é méid na faisnéise coinnithe siar, áiríodh le tosca ábhartha eile cineál na faisnéise lenar bhain, líon na ndíolúintí a d'éiligh GNBS, an gá le haitheantas agus stádas na bpáirtithe sna taifid a dheimhniú agus an gá dóchúil le fógra a thabhairt do thríú páirtithe a bhféadfaidh go rachfaí i bhfeidhm orthu agus cuireadh a thabhairt dóibh aighneachtaí a chur ar fáil.

Tháinig mé ar an gconclúid go raibh an scrúdú ba ghá a dhéanamh ar an oiread sin taifead, ag féachaint do líon na dtaifead i gceist agus do chineál na faisnéise lenar bhain, de shórt go gcuirfí bac nó go gcuirfí isteach, go substaintiúil agus go míréasúnach, ar obair na hOifige seo dá bpróiseálfaí an t-athbhreithniú. Cé gur iarradh ar na hiarratasóirí raon feidhme an athbhreithnithe a bheachtú, ní dhearna siad amhlaidh. Scoir mé den athbhreithniú, dá bhrí sin.

An chéad uair a rinneadh breithniú ar chumhachtaí faoi alt 45(8) a fheidhmiú

Le hAcht 2014, leathnaíodh mo chumhachtaí le go mbeinn in ann fiosrú a dhéanamh den chéad uair riamh ar chásanna ina mainníonn comhlachtaí poiblí déanamh de réir mo bhreitheanna ceangailteacha. Mar shampla, féadfaidh mé, faoi alt 45(8), iarratas a dhéanamh chuig an gcúirt ar ordú chun oibleagáid a chur ar an gcomhlacht poiblí déanamh de réir na breithe uaim.

Dóibair dom ordú den sórt sin a iarraidh sa bhliain 2016. An 17 Lúnasa 2016, d'eisigh mé bhreith i gCás Uimh. 160196, ag ordú don Gharda Síochána faisnéis áirithe a scaoileadh chuig iriseoir mar fhreagra ar a iarraidh saorála faisnéise (féach Caibidil 3 le haghaidh tuilleadh sonraí ar an gcás).

De réir alt 24, féadfaidh páirtí in athbhreithniú achomharc a dhéanamh chuig an Ard-Chúirt ar phonc dlí a eascraíonn as breith uaim. I gcás nach ndéantar aon achomharc den sórt sin, áfach, is ceangailteach ar na páirtithe lena mbaineann atá mo bhreitheanna. Bhí cúinsí an

cháis seo de shórt go raibh ceithre seachtaine ag an nGarda Síochána chun achomharc den sórt sin a dhéanamh. I litir dar dáta an 15 Meán Fómhair 2016, chuir an Garda Síochána in iúl dom go raibh rún aige achomharc a dhéanamh in aghaidh na breithe uaim. Ní dhearnadh aon achomharc den sórt sin, áfach.

Bhí tuilleadh comhfhreagrais idir an Oifig seo agus an Garda Síochána ann ina dhiaidh sin. Níor éirigh leis an Oifig seo scaoileadh na faisnéise i gceist a chinntiú ach tar éis di caingean chúirte a bhagairt thart ar 11 sheachtain tar éis na breithe uaim, áfach.

Cé go bhfuilim an-sásta, ar ndóigh, nach raibh orm ordú cúirte a iarraidh chun comhlíonadh a chinntiú, bhí díomá orm gur thóg sé an oiread sin ama don iarrthóir an fhaisnéis i gceist a fháil. Glacaim leis go hiomlán go bhfuil comhlachtaí poiblí i dteideal mo bhreitheanna a bhreithniú go cúramach agus achomhairc a dhéanamh chuig an Ard-Chúirt in aghaidh breitheanna nuair is cuí leo déanamh amhlaidh. I gcás nach ndéantar achomharc ann, áfach, táim ag súil go ngníomhóidh comhlachtaí de réir mo bhreitheanna gan a thuilleadh moille.

Breitheanna á gceistiú ag comhlachtaí ar fhorais nós imeachta

Maidir le mo bhreitheanna a bheith á gceistiú ag comhlachtaí trí na cúirteanna, thug mé ábhar imní ar leith faoi deara sa bhliain a bhfuil súil agam nach dtiocfaidh sé chun cinn go rialta in achomhairc chúirte.

Mar atá luaite agam thuas, féadfaidh páirtí in athbhreithniú achomharc a dhéanamh chuig an Ard-Chúirt ar phonc dlí a eascraíonn as breith uaim de réir alt 24 den Acht. In dhá achomharc den sórt sin a ndearna comhlachtaí poiblí iad sa bhliain 2016, níor theorannaigh na comhlachtaí poiblí iad féin do shainaithint a dhéanamh ar nithe atá, dar liom, ina bhfíorphoncanna dlí i bhfeidhmiú agus léiriú an Achta um Shaoráil Faisnéise mar fhorais achomhairc dóibh. Ina ionad sin, roghnaigh siad na forais nós imeachta a ndearnadh an t-athbhreithniú orthu a cheistiú.

Cé go nglacaim leis go hiomlán go raibh na comhlachtaí lenar bhain i dteideal ábhair imní faoi nósanna imeachta a chur in iúl, nílim cinnte cad a bhí siad ag iarraidh a bhaint amach trí dhéanamh amhlaidh. Sa dá chás, chuir an comhlacht poiblí ábhair imní in iúl faoi na nósanna imeachta ar ghlac an Oifig seo iad le linn an athbhreithnithe, cé go raibh na nósanna imeachta sin i bhfeidhm ó mhí an Mheithimh 2014 i leith agus go bhfuil fáil ag an bpobal ar shonraí fúthu ar ár suíomh Gréasáin. Is fiú a lua freisin go bhfuair gach comhlacht, lenar áiríodh an dá chomhlacht lenar bhain, réamhfhógra i mí Aibreáin 2014 faoin rún a bhí againn na nósanna imeachta i gceist a ghlacadh.

Feictear dom gurbh é an toradh ba dhóchúla a bheadh ann dá dtabharfadh an Chúirt breith gur míchothrom ar bhealach éigin atá na nósanna imeachta a nglacann an Oifig seo iad agus

athbhreithnithe á ndéanamh aici ná go dtabharfadh an Chúirt ordú don Oifig seo an t-ábhar a scrúdú an athuair. Ba é ba dhóichí nach réiteofaí an tsaincheist shubstainteach.

I gcás ina bhfuil ábhar imní ar leith ag comhlacht poiblí ar bith faoi nósanna imeachta na hOifige seo le haghaidh athbhreithnithe a dhéanamh, tá súil agam go gcuirfidh sé na hábhair sin in iúl don Oifig seo go díreach agus lasmuigh den phróiseas Cúirte. Cé go bhfuilim den tuairim go bhfuil ár nósanna imeachta cothrom, táim sásta aon ábhair imní ghaolmhara a phlé leis na comhlachtaí poiblí.

Achomhairc chuig na Cúirteanna

Páirtí in athbhreithniú agus duine ar bith eile a dtéann breith a thugann an Oifig seo i bhfeidhm air, féadfaidh sé achomharc a dhéanamh chuig an Ard-Chúirt ar phonc dlí. Is féidir breith a thugann an Ard-Chúirt a achomharc chuig an gCúirt Achomhairc/an gCúirt Uachtarach.

Rinneadh trí achomharc in aghaidh bhreitheanna na hOifige seo chuig an Ard-Chúirt sa bhliain 2016. Rinne an t-iarratasóir achomharc in aghaidh dhá bhreith agus rinne an comhlacht poiblí lenar bhain achomharc in aghaidh breith amháin. Tá na hachomhairc go léir liostaithe lena n-éisteacht nó lena lua sa bhliain 2017.

Tugadh dhá bhreithiúnas scríofa ón Ard-Chúirt sa bhliain 2016. Tá achoimre déanta ar an dá cheann díobh thíos. Tá achoimre déanta sa rannán seo ar bhreithiúnas ex tempore ón gCúirt Achomhairc freisin.

F.P. v an Coimisinéir Faisnéise [2014, Uimh. 114 MCA]

An cúlra agus an tsaincheist

I mí na Nollag 2016, thug an Ard-Chúirt an breithiúnas uaithe sa chás F.P. v an Coimisinéir Faisnéise [2014 Uimh. 114 MCA]. Ba é an cheist a cuireadh i láthair sa chás seo ná cé acu ab amhlaidh nó nárbh amhlaidh, faoi alt 28(5)(a) den Acht um Shaoráil Faisnéise, 1997, gur mhó leas an phobail in iarrataí an iarratasóra ar rochtain ar thaifid a bhain leis féin agus lena iar-leasiníon a dheonú ná leas an phobail sna cearta chun príobháideachta a bhí ag na daoine aonair (seachas an t-iarratasóir) ar bhain an fhaisnéis leo a chosaint. Sa bhreith a thug mé i gCás 090261/62/63, ar thug mé tuairisc air sa Tuarascáil Bhliantúil uaim don bhliain 2014, tháinig mé ar an gconclúid nárbh amhlaidh a bhí, d'ainneoin na fianaise ar líomhaintí mailíseacha mí-úsáide gnéasaí leanaí a rinneadh in aghaidh an iarratasóra. Fuair mé, beag beann ar an bhfianaise ar mhailís, gur bhain na taifid le tosca teaghlaigh ag a raibh fadhbanna. Ag tabhairt aird ar bhreithiúnas na Cúirte Uachtaraí i gcás Ospidéal an Rotunda, ar thuairimí iar-leasiníon an iarratasóra (a bhí 20 bliain d'aois ag an am), ar thuairimí a máthar agus ar na taifid a eisíodh chuig an iarratasóir cheana féin, ba é an breithiúnas a thug mé ná nár mhó, tríd is tríd, leas an phobail in iarrataí an iarratasóra ar rochtain ar na taifid i gceist a dheonú ná leas an phobail i seasamh leis na cearta chun príobháideachta a

bhí ag na tríú páirtithe lenar bhain. Níor ceadaíodh achomharc an iarratasóra chuig an Ard-Chúirt.

Breithiúnais na Cúirte

Níor dheimhin leis an gCúirt gur ghné lárnach nó chinntitheach den tsaincheist um rochtain ar thaifid í saincheist na mailíse a chuir an t-iarratasóir in iúl. Ba é an breithiúnas a thug an Chúirt ná go raibh mé ceart i mo thuairim gur bhain na taifid i gceist le tosca teaglaigh ag a raibh fadhbanna, fiú má rinneadh na líomhaintí chun críocha a d'fhéadfaí a mheas a bheith mailíseach. Mar sin féin, fuair an Chúirt freisin, mar a d'aithin mé féin, go raibh an comhthéacs ina ndearnadh na líomhaintí ábhartha do leas mór an phobail in oscailteacht agus i gcuntasacht i dtaca leis an dóigh a gcomhlíonann comhlachtaí poiblí a gcuid feidhmeanna agus iad ag déileáil le líomhaintí go ndearnadh mí-úsáid ghnéasach leanaí.

Dheimhnigh an Chúirt nár bhain cuspóir an iarratasóra le haghaidh na taifid a iarraidh le hábhar agus nár cháiligh mar ábhair leas an phobail na leasanna a bhí aige sna taifid a rochtain chun a chinneadh an raibh cúis chaingne aige in aghaidh ceann ar bith de na páirtithe nó nach raibh, chun dul chun cinn a dhéanamh ar mhaíomh den sórt sin, chun an bonn a chur ar fáil le gearán coiriúil a dhéanamh nó chun athbhreithniú breithiúnach a thionscnamh in aghaidh na gcomhlachtaí poiblí. Ba dheimhin leis an gCúirt gur ábhair "leasa phríobháidigh" a bhí sna leasanna sin i ndáiríre. Ba dheimhin leis an gCúirt freisin go mbeadh athrú reachtach ag teastáil uaithe chun an ceart chun rochtain ar thaifid a cheadú mar chuid den ghnáthchleachtas do dhaoine atá ag maíomh gur líomhnaíodh go bréagach go ndearna siad mí-úsáid ghnéasach leanaí nó aon choir eile.

Dheimhnigh an Chúirt freisin go ndéanann na cúirteanna soláthar don fhóram is cuí le haghaidh cúis chaingne a eascraíonn as líomhaintí bréagacha a shaothrú agus le haghaidh agóid a dhéanamh in aghaidh gníomhartha comhlachtaí poiblí mar gur sna cúirteanna a chuirtear leigheasanna dlíthiúla fairsinge agus nósanna imeachta cothroma le haghaidh follasú agus nochtadh ar fáil in imeachtaí sibhialta agus coiriúla. Dá bhrí sin, thug an Chúirt faoi deara go bhféadfaí athbhreithniú breithiúnach a dhéanamh ar an gceist faoi cé acu a ghníomhaigh na comhlachtaí poiblí de réir nósanna imeachta cothroma nó nár ghníomhaigh. Ba dheimhin leis an gCúirt nach bhféadfadh an t-iarratasóir úsáid a bhaint as an bpróiseas achomhairc faoi Shaoráil Faisnéise "chun ní atá cosúil le hionsaí comhthaobhach a dhéanamh ar na himscrúduithe agus na cinntí" a rinne na comhlachtaí poiblí i dtaca leis na líomhaintí a rinneadh ina aghaidh. Mar an gcéanna, is ábhar atá le saothrú trí fhoirmeacha eile leighis atá sa spreagadh taobh thiar d'aon líomhain, nó i mbailíocht nó fírinneacht aon líomhna.

Ba dheimhin leis an gCúirt go ndearna mé idirdhealú cúramach idir dearbhú ceart príobháideach an iarratasóra agus leas ginearálta an phobail in oscailteacht agus i dtrédhearcacht i leith faisnéis atá i seilbh comhlachtaí poiblí. Ba dheimhin leis an gCúirt freisin gur thug mé aird chuí ar leas láidir an phobail in oscailteacht agus i gcuntasacht i dtaca leis an dóigh a gcomhlíonann comhlachtaí poiblí a gcuid feidhmeanna agus iad

ag déileáil le líomhaintí go ndearnadh mí-úsáid ghnéasach leanaí. Sna cúinsí sin, agus i bhfianaise leas an phobail a bhí ag baint leis na taifid a scaoileadh chuig an iarratasóir, bhí an deis agam a mheas nár mhó leas tábhachtach an phobail i ndea-rialachas ná leas an phobail i seasamh leis na cearta chun príobháideachta a bhí ag an máthair agus an leanbh lenar bhain.

Tabhair faoi deara: Rinne an t-iarratasóir achomharc in aghaidh bhreith na Cúirte chuig an gCúirt Achomhairc ó tugadh an bhreith.

Patrick McKillen agus an Coimisinéir Faisnéise [2015, Uimh. 4 MCA]

An cúlra agus an tsaincheist

Rinne an t-iarratasóir iarratas chuig an Oifig seo ar athbhreithniú ar bhreith a thug an Roinn Airgeadais diúltú géilleadh do rochtain ar thaifid áirithe a bhaineann leis féin nó lena iasachtaí pearsanta nó gnó.

Fuair an Oifig seo gur cheart roinnt de na taifid dhiúltaithe a choinneáil siar ar na forais gur chuimsigh siad faisnéis atá íogair ó thaobh na tráchtála de a bhain le tríú páirtithe (alt 27) agus nach raibh leas an phobail ina údar le scaoileadh na faisnéise. Le linn an athbhreithnithe, tháinig sé chun solais gur iarr an t-iarratasóir ordú follasaithe sna Cúirteanna in aghaidh páirtithe, lenar áiríodh an Roinn, agus gur deonaíodh an t-ordú sin dó. Tháinig sé chun solais freisin gur thug an Roinn roinnt de na taifid don iarratasóir de bhun an ordaithe follasaithe. Ba é breith na hOifige seo nach mór diúltú géilleadh do rochtain ar na taifid sin mar gurbh ionann é agus díspeagadh cúirte dá ndéanfaí a mhalairt (alt 22).

Breithiúnais na Cúirte

Ba i bhfabhar na hOifige seo a bhí an breithiúnas a thug Noonan J. an 19 Eanáir 2016. Sheas an Chúirt le breith na hOifige seo i dtaca le halt 27. Ba é breith na Cúirte nach raibh feidhm ag alt 27(1)(b) mar nár argóin an t-achomharcóir os comhair na hOifige seo ar dtús agus, mar sin de, nach bhféadfadh an t-achomharcóir dul chun cinn a dhéanamh ar an argóint os comhair na Cúirte.

D'argóin an t-achomharcóir gur bhain leas an phobail le nochtadh a dhéanamh ar chaitheamh míchothrom ag an Roinn, dar leis, rud a bheadh dochrach do leas an Stáit. D'aimsigh an Chúirt, áfach, gur nochtadh aon iompar míchuí, dá mb'ann dó, san fhaisnéis a scaoileadh.

Fuair an breitheamh freisin go raibh ceangal air leanúint a dhéanamh ar an mbreithiúnas a thug O'Neill J. in EH agus EPH v. an Coimisinéir Faisnéise [2001] 2 I.R. 463 gur díspeagadh cúirte é sárú an ghealltanais intuigthe a tugadh i leith doiciméid fhollasaithe. Is díspeagadh cúirte é nochtadh a dhéanamh ar dhoiciméid atá ina n-ábhar d'ordú follasaithe, is cuma cén uair a dhéantar é. Is éigeantach atá alt 22(1)(b) agus ní mór nochtadh a dhiúltú sna cúinsí sin.

Tabhair faoi deara: Rinne an t-iarratasóir achomharc in aghaidh bhreith na Cúirte chuig an gCúirt Achomhairc ó tugadh an bhreith.

X agus an Coimisinéir Faisnéise [2015, Uimh. 439 MCA]

An cúlra agus an tsaincheist

Sa chás seo, dhearbhaigh an Oifig seo breith ón Roinn Cosanta taifid áirithe a scaoileadh ina raibh ainm agus seoladh an iarratasóra ceilte (Cás Uimh. 130175 - An tUas. X agus an Roinn Cosanta). Rinne an t-iarratasóir achomharc in aghaidh na breithe sin chuig an Ard-Chúirt. Cé nach raibh na forais achomhairc an-soiléir, ba chosúil gurbh é príomhábhar imní an iarratasóra ná go nochtfaí a aitheantas fós dá scaoilfí na taifid churtha in eagar. Tháinig sé chun solais go luath sna himeachtaí nár chuir an Roinn tacar iomlán taifead ar fáil d'fhoireann na hOifige seo. Dá bhrí sin, níor chuir an Oifig seo in aghaidh an achomhairc agus chuir sí in iúl don Ard-Chúirt go raibh sí toilteanach go dtarchuirfí an t-ábhar le haghaidh athbhreithniú nua. Thug an Ard-Chúirt ordú an 13 Iúil 2015 go dtarchuirfí an t-ábhar chuig an Oifig seo le go ndéileálfá leis de réir an dlí. Rinne an t-iarratasóir achomharc in aghaidh bhreith na hArd-Chúirte chuig an gCúirt Achomhairc ó tugadh an bhreith. Ba é an príomhleigheas a bhí sé ag iarraidh ná go gcealófaí an iarraidh saorála faisnéise bhunaidh a rinne sé chuig an Roinn Cosanta.

Breithiúnais na Cúirte

Thug Uachtarán na Cúirte Achomhairc breithiúnas ó bhéal ar an gcás i mí Dheireadh Fómhair 2016. Fuair an Chúirt Achomhairc go raibh an t-iarrthóir bunaidh i dteideal go bpróiseálfá a iarraidh saorála faisnéise. Cé gur thuig an Chúirt cén fáth a raibh an tUas. X ag iarraidh go gcealófaí an iarraidh saorála faisnéise, thug sí dá haire go raibh an iarraidh saorála faisnéise ann fós agus go raibh meicníocht reachtúil i bhfeidhm chun déileáil léi. Ag féachaint do na cúinsí, ba é breith na Cúirte Achomhairc nach raibh aon bhonn ann le rud ar bith a dhéanamh seachas breith na hArd-Chúirte a dhearbhu agus tarchur chuig an Oifig seo a cheadú.

Faisnéis earnála poiblí a athúsáid

Rialacháin na gComhphobal Eorpach (Faisnéis Earnála Poiblí a Athúsáid), 2005

Déanann comhlachtaí earnála poiblí faisnéis a chruthú, a bhailiú agus a fhoilsiú le linn dóibh a bhfeidhmeanna poiblí a chomhlíonadh. Le Treoir 2003/98/CE maidir le faisnéis earnála poiblí a athúsáid, bunaítear sraith íosta rialacha lena rialaítear athúsáid doiciméad reatha atá i seilbh comhlachtaí earnála poiblí. Déantar an raon feidhme a bhí ag an Treoir roimhe a leasú agus a mhéadú le Treoir 2013/37/AE. Trasuítear na Treoracha sin i ndlí na hÉireann le Rialacháin na gComhphobal Eorpach (Faisnéis Earnála Poiblí a Athúsáid), 2005, arna leasú le Rialacháin na gComhphobal Eorpach (Faisnéis Earnála Poiblí a Athúsáid) (Leasú), 2015.

Ciallaíonn athúsáid, i dtaca le doiciméad atá i seilbh comhlacht earnála poiblí, úsáid ag duine aonair nó eintiteas dlíthiúil as an doiciméad chun críocha tráchtála nó neamhthráchtála nach n-áiríonn an chríoch thosaigh sa tasc poiblí ar táirgeadh an doiciméad ina leith. Tá feidhm ag na rialacháin maidir le doiciméid fhisiciúla agus le doiciméid leictreonacha.

Faoi na Rialacháin maidir le Faisnéis Earnála Poiblí a Athúsáid, féadfaidh duine aonair nó eintiteas dlíthiúil iarraidh a dhéanamh i bhfoirm inléite chuig comhlacht earnála poiblí go scaoilfear doiciméid le haghaidh athúsáid. Ní mór a lua i ngach iarraidh go bhfuil sí á iarraidh chun críche faisnéis earnála poiblí a athúsáid. Foráiltear leis na Rialacháin nach mór do chomhlacht poiblí, ar iarraidh a fháil i dtaca le doiciméad atá ina sheilbh agus a bhfuil feidhm ag na Rialacháin maidir le Faisnéis Earnála Poiblí a Athúsáid maidir leis, athúsáid an doiciméid a cheadú de réir na gcoinníollacha agus na dteorainneacha ama dá bhforáiltear leis na Rialacháin.

Nuair is féidir agus is cuí, ní mór doiciméid a chuirtear ar fáil le haghaidh athúsáid a chur ar fáil i bhformáid atá oscailte agus inléite ag meaisín. Is é is faisnéis atá inléite ag meaisín ann ná faisnéis ar féidir le feidhmchláir dhifriúla bhogearraí í a léiriú agus a phróiseáil go héasca.

Mar Choimisinéir Faisnéise, táim ar an gCoimisinéir Achomhairc ainmnithe chun críocha na Rialachán maidir le Faisnéis Earnála Poiblí a Athúsáid. Faoi Rialachán 10 de na Rialacháin maidir le Faisnéis Earnála Poiblí a Athúsáid, is féidir achomharc a dhéanamh chuig an Oifig seo in aghaidh breitheanna ó chomhlachtaí earnála poiblí, lena n-áirítear breitheanna maidir le táillí agus coinníollacha a ghearrtar ar athúsáid.

Rinneadh trí achomharc chuig an Oifig seo sa bhliain 2016 faoi na Rialacháin maidir le Faisnéis Earnála Poiblí a Athúsáid.

Conor Ryan, thar ceann RTÉ, agus an Coimisiún um Chaighdeán in Oifigí Poiblí - RPSI/16/01

Sa chéad achomharc den sórt sin a rinneadh chuig an Oifig seo, rinne iriseoir achomharc in aghaidh breith ón gCoimisiún um Chaighdeán in Oifigí Poiblí gan leagan atá inléite ag meaisín den Chlár Brústocaireachta ar líne a scaoileadh le haghaidh athúsáid. Chuir an Coimisiún rochtain ar leagan atá inléite ag meaisín den Chlár ar fáil don iriseoir ina dhiaidh sin agus, dá bharr sin, tharraing an t-achomharcóir an t-achomharc siar.

Vizlegal Limited agus Oifig na bPaitinní - RPSI/16/02

San achomharc seo, rinne mé athbhreithniú ar bhreith ó Oifig na bPaitinní diúltú d'athúsáid a bunachar sonraí i bhformáid atá oscailte agus inléite ag meaisín a cheadú. Mar réamhphointe, fuair mé nach raibh an t-achomharcóir i dteideal doiciméid neamhfhóilsithe a athúsáid trí iarraidh a dhéanamh faoi Rialachán 5(1)(a) i gcúinsí nár deimhníodh go raibh ceart ann chun na doiciméid sin a rochtain.

Fuair mé go raibh údar ag Oifig na bPaitinní le diúltú don bhunachar sonraí paitinní agus don bhunachar sonraí dearáí a scaoileadh i bhformáid atá oscailte agus inléite ag meaisín mar go mbeadh iarracht dhíríreach i gceist leis sin, ar iarracht í a rachadh thar oibríocht shimplí. Dá réir sin, ní raibh aon oibleagáid ar Oifig na bPaitinní sleachta ó na bunachair shonraí a oiriúnú ná a chur ar fáil chun freastal ar iarraidh an achomharcóra.

Fuair mé nach raibh na táillí reachtúla as an mbunachar sonraí trádmharcanna ríomhairithe ag teacht salach ar na rialacha maidir le táille a ghearradh as athúsáid faoi Rialachán 6 de na Rialacháin maidir le Faisnéis Earnála Poiblí a Athúsáid. Fuair mé go háirithe gur chloígh na táillí le Rialachán 6(1A)(a)(ii), cé gur mhó na táillí ná an costas imeallach a bhain leis an mbunachar sonraí a atáirgeadh, a sholáthar agus a scaipeadh, mar go raibh ar Oifig na bPaitinní ioncam dóthanach a ghiniúint chun íoc as cuid shuntasach de na costais a bhain leis an mbunachar sonraí a bhailiú, a tháirgeadh, a atáirgeadh agus a scaipeadh.

Dá réir sin, dhearbhaigh mé an bhreith ó Oifig na bPaitinní diúltú géilleadh d'iarraidh an achomharcóra.

Conor Ryan, thar ceann RTÉ, agus an Oifig um Chlárú Cuideachtaí - RPSI/16/03

San achomharc seo, rinne mé athbhreithniú ar bhreith ón Oifig um Chlárú Cuideachtaí diúltú géilleadh d'iarraidh ar athúsáid a bhaint as bunachar sonraí daoine dícháilithe agus srianta i bhformáid oscailte agus inléite ag meaisín.

Fuair mé nach raibh údar ag an Oifig um Chlárú Cuideachtaí le diúltú géilleadh d'iarraidh an achomharcóra ar an mbonn go raibh rochtain ag an bpobal ar an bhfaisnéis mar nár réitigh an chúis sin an cheist ar cé acu a d'fhéadfaí an bunachar sonraí a athúsáid nó nach bhféadfaí. Dá ainneoin sin, fuair mé go raibh údar le diúltú géilleadh d'iarraidh an achomharcóra ar shlí eile ar an mbonn nach raibh aon oibleagáid ar an Oifig um Chlárú Cuideachtaí an bunachar sonraí a oiriúnú ná sleachta ón mbunachar sonraí a chur ar fáil i gcúinsí ina mbeadh iarracht dhíríreach i gceist leis sin, ar iarracht í a rachadh thar oibríocht shimplí.

Dá réir sin, dhearbhaigh mé an bhreith ón Oifig um Chlárú Cuideachtaí diúltú géilleadh d'iarraidh an achomharcóra.

Caibidil 3:

Breitheanna



Caibidil 3: Breitheanna

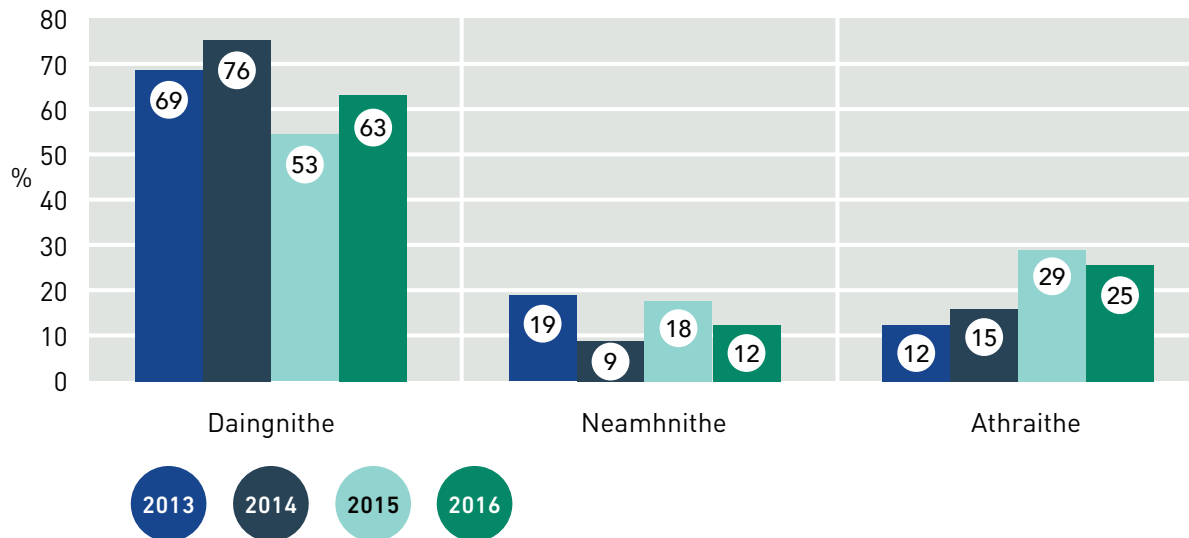
Breitheanna foirmiúla

Rinne an Oifig seo athbhreithniú ar 433 chás sa bhliain 2016. Eisíodh breith fhoirmiúil in 285 cinn de na cásanna sin. B'ionann an figiúr sin agus 66% de na hathbhreithnithe go léir a cuireadh i gcrích le linn na bliana. Ba trí bhíthin scor díobh, socrú nó tarraingt siar a dúnadh an 148 gcás eile a ndearnadh athbhreithniú orthu.

Chuireamar **99%** dár n-athbhreithnithe
i gcrích laistigh de dhá mhí dhéag

Féach Tábla 15, Caibidil 4, le haghaidh comparáid idir na hathbhreithnithe go léir a cuireadh i gcrích sa bhliain a fheiceáil.

Tugtar sa tábla thíos comparáid chéatadánach idir na torthaí ar na breitheanna a tugadh ar chásanna (breitheanna ar seasadh leo, a athraíodh nó a neamhníodh).



Breitheanna a bhfuil feidhm ag alt 38 maidir leo a neamhniú

Foráiltear le halt 38 do cheanglas fógra reachtúil nach mór do chomhlachtaí poiblí cloí leis i dtaca leis na díolúintí atá in alt 35 (faisnéis a fhaightear i modh rúin), in alt 36 (faisnéis atá íogair ó thaobh na tráchtála de) agus in alt 37 (faisnéis phearsanta a bhaineann le tríú páirtí). I gcás gach ceann de na díolúintí sin, féadfaidh an comhlacht saorála faisnéise géilleadh d'iarraidh i gcás go measann sé gurbh fhearr a dhéanfaí leas an phobail trí ghéilleadh don iarraidh saorála faisnéise ná trí dhiúltú géilleadh di. Mar sin féin, is faoi réir fhorálacha alt 38 atá togra ar bith chun ábhar den chineál sin atá díolmhaithe ar shlí eile a scaoileadh. Ceanglaítear leis an alt sin ar an gcomhlacht saorála faisnéise fógra a thabhairt do thríú páirtithe áirithe go bhfuil sé beartaithe aige géilleadh don iarraidh chun leas an phobail agus go mbreithneoidh an comhlacht saorála faisnéise aon aighneachtaí ó na tríú páirtithe roimh bhreith a thabhairt i dtaobh cibé acu a ghéillfidh sé, nó a dhiúltóidh sé géilleadh, don iarraidh. Foráiltear leis freisin do phróiseáil na n-iarrataí sin laistigh de thréimhse ama shonraithe.

Féadfaidh an Oifig seo breitheanna a neamhniú i gcás nár chloígh an comhlacht lena mbaineann leis na tréimhsí ama a bhaineann le forálacha alt 38. Neamhnigh mé deich gcás den sórt sin sa bhliain 2015. Tá áthas orm a thuairisciú nár neamhnigh an Oifig seo ach trí chás den sórt sin sa bhliain 2016.

Is casta an rud é an próiseas um fhógra a thabhairt faoi alt 38 agus, i gcásanna áirithe, cuirtear ualach trom ar an lucht tugtha breitheanna dá bharr. Mar sin féin, tá foinsí éagsúla faisnéise ar fáil chun cabhrú le comhlachtaí poiblí iarrataí den sórt sin a phróiseáil. D'fhoilsigh an Láraonad Beartais lámhleabhar don lucht tugtha breitheanna saorála

faisnéise, rud ina bhfuil treoir maidir le cur i bhfeidhm alt 38, lena n-áirítear roinnt teimpléad úsáideach litreach. D'fhoilsigh sé nóta treorach sonrach ar an ábhar freisin (Fógra Uimh. 8 ón Láraonad Beartais - Iarrataí a bhaineann le tríú páirtithe - Treoir céim ar chéim).

Breitheanna lena mbaineann leas

Léirítear sna cásanna seo a leanas sampla de na cásanna a d'athbhreithnigh an Oifig seo sa bhliain agus a cuireadh i gcrích trí bhithin breith fhoirmiúil. Tá an téacs iomlán de na breitheanna foirmiúla uile a eisíodh sa bhliain 2016 ar fáil ag www.oic.ie.

An tUas. C agus Óglaigh na hÉireann - Cás 150243

Sa chás seo, d'iarr an t-iarratasóir, ar ball d'Óglaigh na hÉireann é, rochtain ar thuarascáil ó na póilíní airm. Bhain an tuarascáil sin le gearán maidir le sásamh in éagóracha a chuir sé isteach. Dhiúltaigh Óglaigh na hÉireann géilleadh do rochtain ar an taifead faoi alt 42(c)(ii)(II) den Acht um Shaoráil Faisnéise. Foráiltear leis an alt sin nach bhfuil feidhm ag an Acht maidir le taifead atá i seilbh Óglaigh na hÉireann agus a bhaineann le halt 170 den Acht Cosanta, 1954. Luaitear an méid seo a leanas in alt 170 den Acht Cosanta: "D'fhonn gach cion a chur faoi chois go groud, féadfar profast-mharascal de chéim choimisiúnta a cheapadh ó am go ham." Mhaígh Óglaigh na hÉireann go bhfuil sé mar aidhm le halt 42(c)(ii)(II) srian a chur le cur i bhfeidhm an Achta um Shaoráil Faisnéise i ndáil le taifid Óglaigh na hÉireann atá i seilbh an Phrofast-Mharascail arna cheapadh faoi alt 170 den Acht Cosanta maidir leis an bhfeidhm póilíní atá aige i ndáil le cionta a chur faoi chois.

Agus aird á tabhairt agam ar ghnáthbhrí chaighdeánach na teanga a úsáideadh, tháinig mé ar an gconclúid go bhfuil sé mar aidhm le halt 170 údarás reachtúil a thabhairt le haghaidh profast-mharascal a cheapadh. Dá bhrí sin, bhí aon taifid a bhain le profast-mharascal a cheapadh eisiata ó raon feidhme an Achta um Shaoráil Faisnéise de bhua alt 42(c)(ii)(II). Mar sin féin, níor ghlac mé leis an argóint ó Óglaigh na hÉireann go raibh taifid a bhain le feidhmeanna an phrofast-mharascail eisiata freisin ar an mbonn gur bhain taifid den sórt le halt 170. I mo thuairim féin, ní raibh nasc sách láidir ann idir taifid "a tionscnaíodh faoi threoir agus faoi údaráis an Phrofast-Mharascail chun críche imscrúdú a dhéanamh ar chionta faoin dlí míleata", mar a chuir Óglaigh na hÉireann síos orthu, agus alt 170 den Acht Cosanta, toisc nach raibh sé i gceist leis an alt sin ach údarás reachtúil a thabhairt le haghaidh profast-mharascal a cheapadh.

Dá bhrí sin, chinn mé nach bhféadfaí leas a bhaint as alt 42(c)(ii)(II) chun srian a chur le cur i bhfeidhm an Achta um Shaoráil Faisnéise maidir leis an taifead a d'iarr an t-iarratasóir. Neamhnigh mé an bhreith ó Óglaigh na hÉireann agus d'ordaigh mé dóibh próiseas úrnua cinnteoireachta a thionól ar an iarraidh.

Siobhán Maguire ó The Sunday Times agus an tÚdarás Rialála Táirgí Sláinte – Cás 160089

D'iarr an t-iarratasóir rochtain ar gach tuarascáil ar chigireachtaí a rinneadh sa bhliain 2015 ar áitribh inar baineadh úsáid as ainmnithe chun críocha eolaíocha nó oideachasúla, mar aon le píosáí áirithe gaolmhara comhfhreagrais. Ghéill an tÚdarás Rialála Táirgí Sláinte (HPRA) do rochtain pháirteach ar na taifid, ach dhiúltaigh sé géilleadh do rochtain ar an bhfaisnéis eile faoi ailt 29, 30(1)(a), 32(1)(b), 35(1)(a), 36(1)(b) agus 37 den Acht um Shaoráil Faisnéise.

Le linn an imscrúdaithe, thug an Oifig seo fógra do na 18 ngnólacht taighde lena mbaineann faoin athbhreithniú agus thug sí cuireadh dóibh aighneachtaí a dhéanamh ina leith. Thug cúig ghnólacht déag freagra don Oifig. Bhí formhór díobh i gcoinne scaoileadh na faisnéise iomchuí.

Tugtar in alt 29 díolúine lena gcosnaítear próisis phléite chomhlachtaí saorála faisnéise. Sa chás seo, níor ghlac mé leis go raibh an HPRA ag gabháil do phróiseas pléite. Ina ionad sin, chinn mé gur eisigh sé comhfhreagras áirithe le linn dó a fhreagrachtaí rialála a chomhlíonadh. Dá bhrí sin, chinn mé nach raibh feidhm ag alt 29 maidir leis na taifid. Tugtar in alt 30 díolúine lena gcosnaítear feidhmeanna agus caibidlí comhlachtaí saorála faisnéise. Ós rud é go bhfuil oibleagáid dhlíthiúil chun comhoibriú agus dul i dteagmháil leis an HPRA ar ghnólachtaí atá ag gabháil do thástáil ainmnithe chun críocha eolaíocha, níor ghlac mé leis an argóint ón HPRA go bhféadfaí le réasún a bheith ag súil leis, dá scaoilfí na taifid a bhí i gceist, go ndéanfaí dochar nó díobháil dá éifeachtaí a bheadh imscrúduithe ar ghnólachtaí den sórt sin amach anseo. Mar an gcéanna, chinn mé nár thaispeáin an HPRA go bhféadfaí le réasún a bheith ag súil leis, dá scaoilfí na taifid, go ndéanfaí dochar don soláthar faisnéise ó ghnólachtaí taighde amach anseo. Dá bhrí sin, tháinig mé ar an gconclúid nach raibh feidhm ag alt 35(1)(a), lena gcosnaítear faisnéis a thugtar do chomhlacht poiblí i modh rúin.

Tugtar in alt 32(1)(b) díolúine lena gcosnaítear taifid a d'fhéadfaí le réasún a bheith ag súil leis go gcuirfí beatha nó sábháilteacht aon duine i mbaol dá scaoilfí iad. Thug mé faoi deara go bhfuil taighde eolaíoch ar ainmnithe ina shaincheist an-chonspóideach a bhfuil tuairimí láidre ag a lán daoine ina leith. Cé gur ghlac mé leis gur síochánta go hiomlán atá formhór mór na ndaoine atá in aghaidh ainmnithe a úsáid chun críocha taighde, ba dheimhin liom go bhféadfadh go mbeadh mionlach beag ann atá toilteanach foréigean a úsáid in aghaidh daoine atá ag gabháil do thaighde den sórt sin.

Dá bhrí sin, ghlac mé leis, dá scaoilfí faisnéis inar nochtadh láthair na n-institiúidí taighde agus aitheantas daoine aonair a raibh baint acu le taighde den sórt sin agus a bhí ag gabháil do chigireachtaí den sórt sin, go bhféadfaí le réasún a bheith ag súil leis go gcuirfí beatha nó sábháilteacht na ndaoine sin i mbaol. Cé gur ordaigh mé go scaoilfí formhór na faisnéise a bhí sna tuarascálacha cigireachta, bhí sé sin faoi réir faisnéis áirithe a chur in eagar ar dtús. B'ionann an fhaisnéis sin agus faisnéis a bhféadfadh go gcumasófaí léi na gnólachtaí

taighde nó na daoine aonair a raibh baint acu le taighde den sórt sin nó a bhí ag gabháil do chigireacht a dhéanamh ar ghnólachtaí den sórt sin a aithint.

[Tabhair faoi deara: Rinne an HPRA achomharc in aghaidh na breithe seo chuig an Ard-Chúirt.]

Seán McCárthaigh ó The Times agus An Garda Síochána – Cás 160196

Sa chás seo, d'iarr an t-iarratasóir rochtain ar thaifid ar sholáthar foirne an Gharda Síochána ar leibhéal focheantair amhail an 31 Nollaig 2015. D'áitigh an Garda Síochána go raibh an fhaisnéis a iarradh díolmhaithe faoi alt 32(1)(a), rud lena dtugtar díolúine lánroghnach dhocharbhunaithe a bhfuil feidhm aici i gcásanna ina bhféadfaí le réasún a bheith ag súil leis, dá dtabharfaí rochtain ar an taifead lena mbaineann, go ndéanfaí dochar nó díobháil do ghnéithe áirithe d'fhorfheidhmiú an dlí agus do shábháilteacht an phobail. Mhaígh an Garda Síochána gurbh amhlaidh, dá nochtfaí taifid ar a sholáthar foirne ar leibhéal focheantair, go nochtfaí faisnéis mhionsonraithe oibríochtúil póilíneachta, rud lena gcumasófaí measúnú ar na hinniúlachtaí oibríochtúla póilíneachta atá ann in aon láthair ag aon am ar leith. Dhéanfaí dochar agus díobháil do shábháilteacht phearsanta na nGardaí agus dá gcumas chun modhanna a úsáid chun gníomhaíocht choiriúil a chosc agus chuirfí an pobal áitiúil i mbaol babhtaí coireachta dá bharr sin.

Cé gur aithin mé go bhfuil saineolas uathúil ag an nGarda Síochána ar fhorfheidhmiú an dlí agus ar ghníomhaíocht choiriúil a chosc, chinn mé nár taispeánadh sa bhreith athbhreithnithe inmheánaigh uaidh gurbh amhlaidh, dá nochtfaí an fhaisnéis a iarradh, go gcumasófaí measúnú cruinn ar na hinniúlachtaí oibríochtúla póilíneachta atá ann in aon láthair ag aon am ar leith. Thug mé faoi deara freisin gur cuireadh faisnéis den chineál céanna ar fáil sa réimse poiblí san am atá thart, lena n-áirítear faisnéis a chuir an tAire Dlí agus Cirt agus Comhionannais roimhe seo ar fáil i mí Iúil 2013, agus nach ndearnadh aon argóint gur tháinig an dochar a samhlaíodh chun cinn. Tháinig mé ar an gconclúid gur mhainnigh an Garda Síochána a thaispeáint go raibh údar aige le diúltú géilleadh do rochtain ar an bhfaisnéis a d'iarr an t-iarratasóir, agus d'ordaigh mé go scaoilfí an fhaisnéis chuige.

X Uas. agus Ospidéal an Rotunda - Cás 150389

Rinne an t-iarratasóir iarraidh ar aon taifid a bhí i seilbh Ospidéal an Rotunda maidir lena mac nach maireann. Rugadh a mac sa bhaile sa bhliain 1960, le cuidiú ó mhná cabhrach ón Ospidéal. Ar an drochuair, fuair sé bás san Ospidéal níos déanaí an lá sin.

D'aimsigh an tOspidéal líon beag taifead iomchuí agus scaoil sé chuig an iarratasóir iad. D'iarr an t-iarratasóir go ndéanfadh an Oifig seo athbhreithniú ar an gcás toisc nach raibh sí sásta le méid na dtaifead a aimsíodh. Bhí sí míshásta go háirithe nach rabhthas in ann cairt phéidiatraiceach a aimsiú.

Mhaígh an tOspidéal go mbeadh an chairt péidiatraiceach, dá mbeadh sí ann, le fáil i mbosca ar leith i gcartlann sheachtrach. Luaigh an tOspidéal gurb amhlaidh, le linn dó comhad cartlannaithe a chuardach, gur gnách leis iarraidh ar an gcuideachta cartlainne seachtraí an bosca ar dhóigh go mbeadh an comhad le fáil ann a sheiceáil. Mura n-aimsíonn an chuideachta an comhad ansin, is gnách leis an Ospidéal a iarraidh go seachadfaí an bosca lena mbaineann chuig an Ospidéal ionas gur féidir lena bhaill foirne é a sheiceáil an athuir. Luadh san aighneacht ón Ospidéal gur “iarr sé” agus gur “athbhreithnigh sé” gach comhad sa bhosca iomchuí agus nár éirigh leis teacht ar an gcomhad.

Ar mholadh ón Oifig seo, chuardaigh an tOspidéal dhá bhosca shonracha eile a raibh cairteacha péidiatraiceacha cartlannaithe iontu chun a chinntiú nár cuireadh an chairt sa bhosca mhícheart. Aimsíodh an chairt péidiatraiceach sa bhosca ceart ina dhiaidh sin, áfach. Is cosúil gur thug an tOspidéal an uimhir bhosca mhícheart don chuideachta cartlainne ag an tús agus gur sheiceáil an chuideachta an bosca mícheart dá bharr sin. Ina theannta sin, níor aisghabh an tOspidéal an bosca ceart ón gcuideachta cartlainne agus mhainnigh an t-athbhreithneoir inmheánach athbhreithniú a dhéanamh ar na cuardaigh a rinneadh ar an gcomhad péidiatraiceach. Ar deireadh, d’ullmhaigh an tOspidéal an aighneacht uaidh chuig an Oifig seo ar an toimhde gur cloíodh leis na nósanna imeachta atá i bhfeidhm aige le haghaidh boscaí atá á sealbhú i gcartlanna seachtracha a chuardach agus a aisghabháil.

Bhuail Imscrúdaitheoir ón Oifig seo leis an Ospidéal chun plé a dhéanamh ar an méid a tharla agus chun spotseiceáil a dhéanamh ar roinnt taifead eile ar maíodh san aighneacht ón Ospidéal gur cuardaíodh iad. De bhun an chruinnithe sin, ba dheimhin liom nár aimsíodh an comhad péidiatraiceach ag an tús mar gheall ar earráid a d’fhéadfadh aon duine a dhéanamh. Mar sin féin, rinneadh an scéal níos measa fós mar gheall ar an mainneachtain cloí le nósanna imeachta agus mar gheall ar na toimhdí a rinneadh.

Thug an tOspidéal míniú an-mhacánta don Oifig seo ar na cúiseanna leis an moill ar an gcairt a aimsiú. Chomhoibrigh baill foirne an Ospidéil go hiomlán leis an athbhreithniú seo. Ghabh an tOspidéal a leithscéal as na hearráidí a rinneadh. Gheall sé don Oifig seo go ndéanfadh sé athbhreithniú ar a nósanna imeachta le haghaidh taifid a chuardach agus, go háirithe, go gcloífeadh sé lena nósanna imeachta féin le haghaidh taifid atá cartlannaithe go seachtrach a sheiceáil. Dúirt sé freisin go gcinnteodh sé go ndéanfaidh athbhreithneoirí inmheánacha athbhreithniú ar gach gné den achomharc atá os a gcomhar as seo amach (rud nach ndéanann siad de ghnáth, dar leis an Ospidéal). Dá réir sin, ní dóigh liom go dtiocfaidh fadhbanna den chineál céanna chun cinn an athuir in athbhreithnithe amach anseo. Ba cheart dom a rá freisin go bhfuil an-aird tugtha ag an Ospidéal le blianta fada anuas ar na hoibleagáidí atá air faoin Acht um Shaoráil Faisnéise. Is deimhin liom go leanann sé le déanamh amhlaidh freisin. Ina theannta sin, ba chosúil go ndearna an tOspidéal a sheacht ndícheall chun cabhrú leis an iarratasóir sa chás seo.

Bhí líon na gcásanna a cuireadh i gcrích **34%** níos airde ná sa bhliain 2015

X Uas. agus an Roinn Dlí agus Cirt agus Comhionannais - Cás 160157

Sa chás seo, mhainnigh an Roinn cloí leis na spriocdhátaí le haghaidh an bhreith bhunaidh agus an bhreith athbhreithnithe inmheánaigh araon a eisiúint. Ina theannta sin, sa bhreith uaim ar an gcás a eisiódh an 25 Iúil 2016, ordaíodh don Roinn taifid áirithe a scaoileadh. Ceanglaítear le halt 24(4)(b)(ii) den Acht um Shaoráil Faisnéise ar chomhlacht poiblí taifid a scaoileadh laistigh de cheithre seachtaine ó bhreith den sórt sin a thabhairt (ach amháin i gcás go ndéanfar achomharc chuig an Ard-Chúirt, rud nach ndearna an Roinn sa chás seo).

Mar sin féin, rinne an t-iarratasóir teagmháil leis an Oifig seo i mí Mheán Fómhair chun a rá nach raibh aon taifid faighte aici go fóill. Tar éis tuilleadh teagmhála ón Oifig seo, scaoil an Roinn na taifid an 6 Deireadh Fómhair 2016. Ba cheart don Roinn, agus do gach comhlacht saorála faisnéise, a chuimhneamh go dtugtar de chumhacht dom le halt 45(8) den Acht um Shaoráil Faisnéise iarratas a dhéanamh chun na cúirte ar ordú chun a cheangal go ndéanfaí de réir breith cheangailteach ón Oifig seo.

An tUas. Y agus an Phríomh-Oifig Staidrimh - Cás 150292

Dhiúltaigh an Phríomh-Oifig Staidrimh (POS) géilleadh d'iarraidh an iarratasóra ar rochtain ar fhaisnéis maidir leis a bhí sna foirmeacha Daonáirimh do na blianta 2006 agus 2011. Bhunaigh POS an diúltú sin ar fhoráil atá san Acht Staidrimh, 1993. Faoi alt 41(1)(b) den Acht um Shaoráil Faisnéise, 2014, ní mór do chomhlacht poiblí diúltú géilleadh d'iarraidh i gcás go bhfuil neamhnochtadh an taifid údaraithe le haon achtachán seachas foráil a shonraítear i Sceideal 3 den Acht agus gur cás é ina ndiúltódh an comhlacht, de bhun an achtacháin, an taifead a nochtadh.

Bhí POS ag brath go príomha ar ailt 32 agus 33 den Acht Staidrimh, lena bhforáiltear do shrianta a chur ar úsáid faisnéise a bhailítear chun críocha staidrimh agus do thoirmeasc a chur ar nochtadh faisnéise den sórt sin.

D'áitigh POS gur croílúach an staidrimh oifigiúil í rúndacht staidrimh. D'áitigh sí freisin go bhfuil cáilíocht an staidrimh oifigiúil ag brath ar mhuinín a bheith ag an bpobal gur mar fhaisnéis rúnda a chaithfeadh le faisnéis staidrimh a chuireann daoine aonair agus gnólachtaí isteach agus nach n-úsáidfear an fhaisnéis sin ach amháin chun críocha staidrimh. Mhaígh

POS gurb é an t-aon alt den Acht Staidrimh lena bhforáiltear go sainráite do nochtadh na faisnéise ná alt 35, lena bhforáiltear do rochtain ar thaifid Daonáirimh tar éis 100 bliain. Mhaígh sí freisin go bhfuil sé mar bheartas ag POS nach scaoilfí taifid Daonáirimh roimh an tréimhse 100 bliain sin.

Tuigim go hiomlán an seasamh a ghlacann POS i leith rúndacht na faisnéise staidrimh a chuireann daoine aonair agus gnólachtaí ar fáil a chinntiú. Mar sin féin, ba é an cheist a bhí le freagairt agam anseo ná cé acu a bhí nó nach raibh údar ag POS le diúltú géilleadh do rochtain ar an bhfaisnéis a d'iarr an t-iarratasóir faoi alt 41(1)(b) den Acht um Shaoráil Faisnéise ar an bhforas go n-údaráítear neamhnochtadh na dtaifead leis an Acht Staidrimh, 1993.

Ghlac mé leis go gcuirtear le halt 33(1) den Acht Staidrimh toirmeasc ginearálta ar nochtadh faisnéise a bhailítear faoin Acht agus is féidir a chur i mbaint le duine nó le gnóthas inaitheanta. Thug mé faoi deara, áfach, nach ionann an toirmeasc sin agus dearbhthoirmeasc ar nochtadh. Foráiltear leis an alt sin nach ndéanfar aon fhaisnéis is féidir a chur i mbaint le duine nó le gnóthas inaitheanta a scaipeadh, a thaispeáint ná a chur in iúl d'aon duine ná d'aon chomhlacht, seachas le toiliú i scríbhinn ón duine sin nó ón gnóthas sin nó ó ionadaí pearsanta nó neasghaol duine éagtha.

Tháinig mé ar an tuairim go bhfuil sé soiléir i bhfoclaíocht an ailt nach mbeidh feidhm ag an toirmeasc ginearálta ar nochtadh faisnéise is féidir a chur i mbaint le duine nó le gnóthas inaitheanta i gcás gur thug an duine aonair nó an gnóthas inaitheanta nó ionadaí pearsanta nó neasghaol an duine aonair, más duine éagtha é an duine aonair, toiliú i scríbhinn go nochtfaí an fhaisnéis sin.

Dá réir sin, chinn mé nach bhfuil feidhm ag alt 41(1)(b) den Acht um Shaoráil Faisnéise sa chás seo toisc nach dearbhthoirmeasc é an toirmeasc ar nochtadh a leagtar amach san Acht Staidrimh agus nach n-údaráítear leis ach oiread do POS diúltú d'fhaisnéis aonair a bhaineann le duine aonair a nochtadh don duine aonair sin. Neamhghnách mé an bhreith ó POS agus d'ordaigh mé dó próiseas úrnua cinnteoireachta a thionól ar an iarraidh.

An tUas. X agus an Roinn Iompair, Turasóireachta agus Spóirt - Cás 160187

Bhain an cás seo le heitleán Viscount (St. Phelim) de chuid Aer Lingus a thuairteáil i ngar don Tuscar, Co. Loch Garman, sa bhliain 1968. Cailleadh 61 dhuine de phaisinéirí agus de bhail den chriú dá bharr sin. D'iarr an t-iarratasóir rochtain ar ráitis finné a tógadh le linn imscrúduithe ar an ábhar. Ba roimh thosach feidhme na reachtaíochta um shaoráil faisnéise a tógadh cuid mhór de na ráitis finné, áfach. Má iarrann iarratasóirí rochtain ar "thaifid roimh thosach feidhme na reachtaíochta" nach mbaineann le faisnéis phearsanta maidir leis na hiarratasóirí féin, ní mór dóibh a thaispeáint gur gá nó gur fóirsteanach rochtain a fháil ar thaifid arna gcruthú tar éis an dáta sin ionas gur féidir leo taifid níos déanaí a thuiscint. Tar

éis di na taifid a athbhreithniú, chinn an Oifig seo go bhféadfaí na ráitis finné níos déanaí a thuiscint go neamhspleách ar na ráitis níos sine, agus go bhféadfaí déanamh amhlaidh gan tagairt do na ráitis níos sine, agus nach raibh aon cheart ann chun rochtain a fháil ar na ráitis níos sine. Chinn an Oifig seo ansin go raibh na ráitis finné níos déanaí díolmhaithe óna scaoileadh toisc gur chuimsigh siad fhaisnéis rúnda nó faisnéis phearsanta.

Dara Bradley, Connacht Tribune Group agus Comhairle Cathrach na Gaillimhe - Cás 160047

D'iarr an Connacht Tribune ar an gComhairle faisnéis a chur ar fáil dó faoi ainm na n-óstán/na dtithe leaba is bricfeasta a bhí ag soláthar cóiríocht éigeandála do dhaoine gan dídean agus faoi na suimeanna a bhí á n-íoc leo ina leith sin. Scaoil an Chomhairle sonraí faoina caiteachas iomlán ar na hóstáin/na tithe leaba is bricfeasta don tréimhse lena mbaineann, ach dhiúltaigh sí faisnéis a thabhairt faoi ainm na n-óstán/na dtithe leaba is bricfeasta agus faoi na suimeanna aonair a bhí iníoctha leo.

Sna haighneachtaí a sheol sí chuig an Oifig seo, leag an Chomhairle béim ar na dúshláin an-tromchúiseach a bhíonn le sárú aici chun cóiríocht éigeandála a sholáthar do dhaoine gan dídean. Sa bhreith uaim, chuir mé in iúl go láidir gur thuig mé go maith tromchúis na staide tithíochta, ach gur ghá dom an t-ábhar a bhreithniú faoi chuimsiú an Achta um Shaoráil Faisnéise.

Maidir leis sin, níor ghlac mé leis go bhféadfadh scaoileadh na faisnéise lena mbaineann dochar tromchúiseach a dhéanamh d'fheidhmeanna na Comhairle. Ceann de na cúiseanna taobh thiar den tuairim sin ba ea nár chuir ceann ar bith de na hóstáin/na tithe leaba is bricfeasta in iúl don Oifig seo go stopfaidís ag déanamh gnó leis an gComhairle dá scaoilfí an fhaisnéis, in ainneoin gur tugadh cuireadh dóibh aighneachtaí a dhéanamh ina leith sin. Ina theannta sin, agus cé gur aithin mé an fhéidearthacht go bhféadfadh scaoileadh na faisnéise dochar a dhéanamh do staid iomaíoch na n-óstán/na dtithe leaba is bricfeasta lena mbaineann, chreid mé gur ghá an fhaisnéis sin a nochtadh chun leas an phobail. Ar mhaithe le fóiréadhearacht a sholáthar maidir le saincheisteanna luach ar airgead, bhí mé den tuairim gur ghá rochtain a thabhairt ní amháin ar an gcaiteachas iomlán ach ar líon agus ainm na n-óstán/na dtithe leaba is bricfeasta lena mbaineann agus ar an tsuim a bhí á híoc le gach ceann díobh freisin.

X Uas. agus Comhairle Cathrach agus Contae Luimnigh - Cás 150322

D'iarr an t-iarratasóir taifid na Comhairle maidir leis an gothabháil a bhí á déanamh ar shráid ar leith ar ar thit sí. Chreid an Chomhairle go raibh an fhaisnéis sin uaithi chun éileamh díobhála pearsanta a dhéanamh in aghaidh na Comhairle. Sa chomhfhreagras uaithi, thug an Chomhairle le fios nár chreid sí gur cheart, faoin Acht um Shaoráil Faisnéise, rochtain a thabhairt don iarratasóir ar thaifid a d'fhéadfadh bheith ag baint le dlíthíocht amach anseo. Sa bhreith ón Oifig seo, áfach, leag sí béim ar an bhfíric nach raibh rún an

iarratasóra ábhartha maidir le cé acu a bhí nó nach raibh sí i dteideal na taifid a fháil faoin Acht um Shaoráil Faisnéise. Thagair sí do bhreith a thug an tOmbudsman roimhe i gcás 020179 ('Eagraíocht A agus an Roinn Ealaíon, Spóirt agus Turasóireachta'): "Níl mé ar an eolas faoi aon srianta atá ann ar an Acht um Shaoráil Faisnéise a úsáid mar bhealach chun doiciméid atá i seilbh comhlacht poiblí a fháil, i gcás go bhféadfaí na doiciméid sin a fháil ar shlí eile trí phróiseas fionnachtana". Sna cúinsí sin, chinn an Oifig seo nár thug an Chomhairle údar lena seasamh go bhféadfadh scaoileadh na dtaifead dochar a dhéanamh d'imeachtaí nó do chaibidlí amach anseo.

X Uas. agus Feidhmeannacht na Seirbhíse Sláinte - Cás 160190

Bhain an cás seo le faisnéis faoi iarratais ar cheapacháin shealadacha i bhFeidhmeannacht na Seirbhíse Sláinte (FSS). Mar gheall ar chineál na faisnéise a bhí i gceist, ba cheart go mbeadh an cás seo measartha simplí. Mar sin féin, dhéileáil FSS leis an iarraidh seo ar cheann de na bealaí is measa a bhí feicthe ag an Oifig seo le blianta fada. Níor eisigh FSS aon bhreith bhunaidh ná aon bhreith athbhreithnithe inmheánaigh chuig an iarratasóir. Le linn an athbhreithnithe saorála faisnéise, ní dhearna FSS aon aighneachtaí chuig an Oifig seo ar na díolúintí ná ar thástálacha leas an phobail. Cé gur eisigh an Oifig seo fógra reachtúil chuici lena ceanglaíodh uirthi faisnéis a chur ar fáil, níor ghlac aon duine laistigh de FSS freagracht as an gcás seo. Tá dualgas ar chomhlachtaí poiblí, FSS ina measc, a chinntiú go bhfuil acmhainní dóthanacha i bhfeidhm acu chun comhlíonadh na reachtaíochta um Shaoráil Faisnéise a éascú.

Ag deireadh na bliana 2016, bhí **95%** de na hathbhreithnithe idir lámha níos lú ná sé mhí d'aois

L Uas. agus an Roinn Airgeadais - Cás 150348

Sa chás seo, chuir an t-iarratasóir iarraidh isteach ar chomhfhreagras idir an Roinn agus lucht bainistíochta Chorpáid na hÉireann um Réiteach Bainc (IBRC) maidir leis an bpróiseas leachtachta speisialta. Mhainnigh an Roinn breith bhunaidh agus breith athbhreithnithe inmheánaigh a eisiúint laistigh de na tréimhsí ama riachtanacha.

Chuir an t-iarratasóir imní in iúl faoin dóigh ar phróiseáil an Roinn an iarraidh saorála faisnéise uathu agus faoi shaincheistean acmhainní laistigh den Roinn a bhféadfadh na moilleanna bheith inchurtha ina leith. Cé gur faoin Roinn atá sé a chinntiú go gcuireann sí

acmhainní dóthanacha ar fáil don fheidhm saorála faisnéise, thug mé faoi deara sa bhreith uaim go bhfuil riar an Achta um Shaoráil Faisnéise ina fheidhm reachtúil ar cheart an aird chéanna a thabhairt di agus a thugtar d'aon fheidhm reachtúil eile. Thug mé freisin gur tharla sé, sa fhreagra uaidh ar cheist pharlaiminteach maidir le hacmhainní agus le moilleanna, gur mhínigh an tAire Airgeadais go bhfuil méadú suntasach tagtha ar líon na n-iarrataí chuig an Roinn ó theacht i bhfeidhm an Achta um Shaoráil Faisnéise, 2014. Mhínigh sé freisin go raibh na hiarrataí sin leathan ó thaobh raoin de agus gur le saincheisteanna casta a bhain siad. D'fháiltigh mé roimh an ráiteas ón Aire go raibh cinnteoirí breise á gcoinneáil chun oibriú go sonrach ar an riaráiste iarrataí. D'fháiltigh mé freisin roimh an mbreith ón Roinn acmhainní breise a chur ar fáil don fheidhm saorála faisnéise, rud a raibh mé ag súil go gcabhródh sé leis an Roinn cloí leis na tréimhsí ama reachtúla sa todhchaí.

Sa bhreith uaim, áfach, rinne mé an-cháineadh ar an dóigh ar dhéileáil an Roinn leis an iarraidh seo. Foráiltear leis an Acht um Shaoráil Faisnéise gurb amhlaidh, i gcás nach féidir le comhlacht saorála faisnéise cloí leis an tréimhse ama reachtúil le haghaidh breith a eisiúint, go measfar gur dhiúltaigh an comhlacht géilleadh don iarraidh agus go mbeidh an t-iarrthóir i dteideal iarratas a dhéanamh ar athbhreithniú inmheánach. Mar an gcéanna, foráiltear leis an Acht gurb amhlaidh, i gcás go mainneoidh an comhlacht breith athbhreithnithe inmheánaigh a eisiúint laistigh den tréimhse ama riachtanach, go bhféadfar iarratas ar athbhreithniú a dhéanamh chuig an Oifig seo. In ainneoin go raibh an Roinn faoi réir an Achta um Shaoráil Faisnéise le beagnach ocht mbliana déag ag an am, níor chosúil go raibh sé ar an eolas faoi na forálacha sin sa chás seo.

Sa bhreith uaim, thug mé faoi deara go raibh an ceart ag an iarratasóir athbhreithniú inmheánach a lorg ar an iarraidh bhunaidh uaithe a measadh bheith diúltaithe. In ionad an iarraidh sin ar athbhreithniú inmheánach a phróiseáil, áfach, thug an Roinn fógra don Oifig seo nach bhféadfadh sí athbhreithniú inmheánach a dhéanamh laistigh den tréimhse ama riachtanach toisc nach raibh breith bhunaidh tugtha aici ar an iarraidh go fóill. Thug mé faoi deara freisin gur tharla sé, nuair a eisíodh an bhreith ar deireadh, gur airbheartaíodh í a bheith ina breith bhunaidh agus gur tairgeadh inti an ceart chun athbhreithniú inmheánach a fháil ón Roinn agus ní an ceart chun athbhreithniú a fháil ón Oifig seo. Bhí sé sin mícheart go follasach. Tharraing mé aird na Roinne ar an tacaíocht atá ar fáil do chomhlachtaí saorála faisnéise ón Láraonad Beartais sa Roinn Caiteachais Phoiblí agus Athchóirithe. Luaigh mé freisin go raibh mé ag súil go dtabharfadh an Roinn aird ar mo chuid ábhar imní agus go gcuirfeadh sí nósanna imeachta cuí i bhfeidhm chun a chinntiú nach dtiocfaidh saincheisteanna den chineál céanna chun cinn sa todhchaí.

M. Uas. agus TUSLA: an Ghníomhaireacht um Leanaí agus an Teaghlach – Cás 160233

Bhain an cás seo le hiarratas ar thaifid phearsanta a fháil ó TUSLA: an Ghníomhaireacht um Leanaí agus an Teaghlach. Dhiúltaigh TUSLA géilleadh do rochtain ar na taifid ar bhonn alt 15(1)(i) den Acht um Shaoráil Faisnéise, lena bhforáiltear go bhféadfar diúltú géilleadh do

rochtain ar thaifid i gcás gur scaoileadh iad cheana féin chuig an iarrthóir céanna agus go bhfuil na taifid ar fáil don iarrthóir lena mbaineann. Sa chás seo, bhí iarrataí curtha isteach ag an iarratasóir cheana féin ar roinnt de na taifid a bhí ina n-ábhar don athbhreithniú. Scaoileadh taifid chuici ar na hócáidí roimhe sin. Dúirt sí, áfach, nach raibh na taifid ar fáil di a thuilleadh tráth an athbhreithnithe.

Fuair an tImscrúdaitheoir Sinsearach amach nach raibh fáil ag an iarrthóir ar na taifid a scaoileadh chuici roimhe sin agus nár bh ann do na coinníollacha a bhí riachtanach chun feidhm a bheith ag an bhforáil lena mbaineann. Dá bhrí sin, chinn sé nach raibh feidhm ag alt 15(1)(i) maidir leis an gcás seo. Mar sin féin, bhí sé chomh buartha céanna le TUSLA maidir le mainneachtain an iarratasóra taifid íogaire phearsanta a chosaint. Neamhnigh sé an bhreith agus d'ordaigh sé do TUSLA breith nua a thabhairt ar an gcás.

An tUas. X agus X Uas. agus an Ghníomhaireacht Náisiúnta um Bainistíocht Sócmhainní – Cás 160078

Is gníomhaireacht a chuimsítear go páirteach faoin Acht um Shaoráil Faisnéise, 2014, í an Ghníomhaireacht Náisiúnta um Bainistíocht Sócmhainní (NAMA). Luaitear i gCuid 1(x)(iii) de Sceideal 1 den Acht nach bhfolaíonn alt 6 tagairt do NAMA, agus do ghníomhaireachtaí áirithe eile, a mhéid a bhaineann sé le taifid “maidir le ceannaitheoirí nó ceannaitheoirí ionchasacha aon sócmhainne nó iasachta nó aon sócmhainne eile lena ndéantar iasachtaí a shealbhaíonn nó a bhainistíonn aon cheann de na comhlachtaí sin a urrú”.

Bhí sé seo ar an gcéad chás riamh inar pléadh leis an gceist maidir le cé acu a tháinig nó nár tháinig faoi Sceideal 1, Cuid 1(x)(iii) den Acht um Shaoráil Faisnéise taifid maidir le díol nó le ceannachán sócmhainne lena ndearnadh iasacht a shealbhaigh nó a bhainistigh NAMA a urrú. Tháinig an cheist chun cinn i dtaca le hiarraidh ar rochtain ar thaifid a bhain le díol agus le ceannachán Eastát Mhainistir Chill Chúile i nDurlas, Co. Thiobraid Árann.

Tráth a díoladh agus a ceannaíodh é, bhí Eastát Mhainistir Chill Chúile ina shócmhainn lena ndearnadh iasacht a shealbhaigh nó a bhainistigh NAMA a urrú. Dhiúltaigh NAMA géilleadh do rochtain ar fhormhór na dtaifead lena mbaineann ar an mbonn go raibh feidhm ag Sceideal 1, Cuid (x)(iii), sa chás seo. Mar sin féin, níor chuir sé i gcoinne an údaráis a bhí agam chun athbhreithniú a dhéanamh ar an ábhar. Le linn di an t-athbhreithniú a dhéanamh, ghlac an Oifig seo leis gur chinn an tOireachtas nach bhfuil feidhm ag an Acht um Shaoráil Faisnéise maidir le NAMA i ndáil leis na taifid atá ina seilbh maidir le ceannaitheoirí nó ceannaitheoirí ionchasacha aon sócmhainne nó iasachta nó aon sócmhainne eile lena ndéantar iasachtaí a shealbhaíonn nó a bhainistíonn NAMA a urrú. Bunaithe ar scrúdú ar na taifid lena mbaineann, ba dheimhin leis an Oifig seo go raibh feidhm ag Sceideal 1, Cuid 1(x)(iii), sa chás seo, faoi mar a maíodh.

X Uas. agus an Roinn Comhshaoil, Pobail agus Rialtais Áitiúil – Cás 140108

Sa chás seo, rinneadh an t-athbhreithniú faoi fhorálacha na nAchtanna um Shaoráil Faisnéise, 1997 agus 2003, in ainneoin go raibh an tAcht um Shaoráil Faisnéise, 2014, achtaithe ag an am. Foráiltear leis na forálacha idirthréimhseacha in alt 55 d'Acht 2014 gurb amhlaidh, maidir le haon ghníomh a mbeidh tús curtha leis faoi Acht 1997 ach nach mbeidh críochnaithe roimh thosach feidhme Acht 2014, go leanfar dá chomhlíonadh agus go gcríochnófar é amhail is nach n-aisghairfí Acht 1997.

I mí na Samhna 2005, dheonaigh an Stát léas do chuideachta phríobháideach faoin Acht Imeall Trágha, 1933. Bhain an léas sin le forbairt a dhéanamh ar rud ar chuir an Roinn síos air mar “mhórthionscadal bonneagair straitéisigh, is é sin, feirm ghaoithe 1100 MW (200 tuirbín) ar Bhruach Codling amach ó chósta Chontae Chill Mhantáin”. Deonaíodh ceadúnas imeall trá don chuideachta roimhe sin chun í a chumasú measúnú a dhéanamh ar a oiriúnaí atá an suíomh beartaithe in Codling do stáisiún giniúna leictreachais amach ón gcósta a thógáil. Ba é an cheist sa chás seo ná cé acu a bhí nó nach raibh údar ag an Roinn le diúltú géilleadh do rochtain ar thaifid áirithe maidir leis an tionscadal faoi alt 26 (faisnéis a fhaightear i modh rúin) agus faoi alt 27 (faisnéis atá íogair ó thaobh na tráchtála de) den Acht um Shaoráil Faisnéise, 1997.

Sa bhreith uaim, thug mé faoi deara nach nglacaim leis, mar riail ghinearálta, go bhféadfaí a mheas i gceart gur faisnéis rúnda í faisnéis faoi acmhainní nádúrtha agus seandálaíochta an Stáit a gceanglaítear ar cheadúnaí í a sholáthar i ndáil le forbairt bheartaithe mhórthionscadail bhonneagair lena ndéanfaí difear suntasach don chomhshaoil. Níor ghlac mé leis ach oiread go bhfuil oibleagáid ar an Stát, mar ábhar dlí, caitheamh mar fhaisnéis rúnda le faisnéis a theastaíonn uaidh chun a chinneadh cé acu atá nó nach bhfuil suíomh imeall trá ar leith atá faoi úinéireacht an Stáit oiriúnach do mhórthionscadal forbartha bonneagair amhail feirm ghaoithe. Mar an gcéanna, níor ghlac mé leis go bhféadfaí le réasún a bheith ag súil leis gur mar ábhar rúnda a chaithfeadh an Roinn, mar ábhar dlí, le téarmaí agus coinníollacha lena rialaítear úsáid sócmhainne poiblí amhail imeall trá na tíre seo. Ina theannta sin, agus mar gheall ar an tábhacht aitheanta a bhaineann le rannpháirtíocht an phobail i gcúrsaí comhshaoil a dhéanann difear don imeall trá, níor ghlac mé leis go bhféadfadh go mbeadh oibleagáid in-fhorfheidhmithe mhuiníne ann i ndáil le faisnéis a bhaineann le dálaí comhshaoil nó leis an difear a dhéanadh gníomhaíochtaí beartaithe ar an imeall trá don chomhshaoil.

Maidir le leas an phobail, bhí aird agam ar an ngá atá ann le trédhearcacht agus le cuntasacht i ndáil le húsáid maoine poiblí agus sócmhainní poiblí, mar a aithníodh i mbreitheanna roimhe sin ón Oifig seo. Bhí aird agam freisin ar phrionsabail leas an phobail amhail oscailteacht agus trédhearcacht, ar prionsabail iad a aithnítear faoin gcóras um Rochtain ar Fhaisnéis faoin gComhshaoil i ndáil le cúrsaí comhshaoil. Ag an am céanna, thug mé faoi deara go bhfuil sé mar chuspóir le tástáil leas an phobail cothromaíocht a bhaint amach idir leasanna atá in iomaíocht le chéile a mhéid atá siad ábhartha. Thug mé faoi

deara freisin gurb amhlaidh, tríd is tríd, nár ceapadh an tAcht um Shaoráil Faisnéise chun oibríochtaí de chuid fiontar príobháideach a chur faoi réir grinnscrúdú.

Sna cúinsí sin, d'ordaigh mé go scaoilfí na nithe seo a leanas: tuarascálacha démhíosúla ina raibh faisnéis faoi acmhainní nádúrtha agus seandálaíochta an tsuímh imeall trá lena mbaineann; taifid a bhain go díreach le téarmaí agus coinníollacha an léasa imeall trá; agus taifid a bhain le suirbhéanna áirithe réamhthógála. Ag an am céanna, d'ordaigh mé, ar bhonn alt 26(1)(a) den Acht um Shaoráil Faisnéise, go gcosnófaí taifid áirithe eile ina raibh sonraí faoi oibríochtaí gnó na cuideachta tríú páirtí agus faoin gcur chuige a ghlac an chuideachta sin i leith an tionscadail.

An tUas. X agus Comhairle Contae na Gaillimhe – Cás 160150

Bhain an cás seo le caingean dlí a thionscain an t-iarratasóir in aghaidh na Comhairle. Ba é árachóir an Chomhairle a láimhseáil an t-ábhar seo agus socraíodh an cás lasmuigh den chúirt. Dhiúltaigh an Chomhairle géilleadh d'fhaisnéis a scaoileadh faoin tsocraíocht faoi alt 15(1)(a) den Acht um Shaoráil Faisnéise ar an mbonn nár shealbhaigh sí aon taifid iomchuí ina raibh an fhaisnéis sin.

Ba é seasamh na Comhairle ná nach raibh aon taifead foirmiúil aici ar an tsocraíocht a comhaontaíodh agus nach raibh aon fhaisnéis aici ach oiread maidir le miondealú an airgid a íocadh toisc gurbh é a hárachóir a láimhseáil an t-éileamh ina iomláine agus gurbh é an t-árachóir sin a d'íoc an tsocraíocht.

Ba é an cheist a bhí le breithniú ag an Oifig seo ná cé acu a d'fhéadfaí nó nach bhféadfaí a mheas, chun críocha an Achta um Shaoráil Faisnéise, gur i seilbh na Comhairle freisin atá aon taifid iomchuí atá i seilbh árachóirí na Comhairle. Foráiltear don méid seo a leanas le halt 11(9) den Acht: aon taifead atá i seilbh soláthraí seirbhíse, measfar, chun críocha an Achta seo, má bhaineann agus a mhéid a bhaineann an taifead leis an tseirbhís, é a bheith i seilbh an chomhlachta saorála faisnéise. In alt 2, sainmhínítear soláthraí seirbhíse mar dhuine nach raibh, an tráth a rinneadh an iarraidh, ina chomhlacht saorála faisnéise nó ina chomhlacht saorála faisnéise ach ag a raibh seirbhís á soláthar le haghaidh comhlacht saorála faisnéise faoi chonradh le haghaidh seirbhísí.

Luadh i bpolasaí árachais na Comhairle go ndéanadh an t-árachóir, faoi réir teorainneacha sonraithe áirithe, an Chomhairle a shlánú ar gach suim a raibh sí faoi dhliteanas dlíthiúil i leith iad a íoc mar dhamáistí i dtaca le díobháil choirp de thaisme d'aon duine nó cailliúint maoin de thaisme nó damáiste de thaisme do mhaoín. Bhí freagracht ar an árachóir as freastal ar gach costas agus speansas dlíthíochta ar aisghabh an t-éilitheoir iad i dtaca le haon timpiste a raibh feidhm ag an tslánaíocht atá curtha in iúl sa pholasaí ina leith. Bhí an méid sin faoi réir teorainneacha sonraithe freisin. Foráladh sa pholasaí freisin go mbeadh an t-árachóir i dteideal aon éileamh a thógáil ar láimh nó a láimhseáil in ainm na Comhairle

chun a thairbhe féin agus go mbeadh lánrogha aige le linn dó aon imeachtaí a sheoladh agus aon éileamh a shocrú.

Tháinig an Oifig seo ar an tuairim gurbh i seilbh an árachóra ina cheart féin a bhí aon taifid a bhí ina seilbh maidir le héileamh an iarratasóra. Ba é a bhí i gceist leis an gconradh a ndeachaigh an Chomhairle isteach ann lena hárachóir ná go ndearna an t-árachóir an Chomhairle a shlánú ar éilimh bhailí. Ba faoin árachóir amháin a bhí sé a chinneadh conas a phróiseálfadh sé na héilimh sin. Ní raibh aon ról ag an gComhairle in ábhair den sórt sin. Ar an gcúis sin, níor ghlac an Oifig seo leis go bhféadfaí le réasún a rá, i gcomhthéacs an Achta um Shaoráil Faisnéise, gur bhain taifid maidir leis an dóigh ar próiseáladh éileamh an iarratasóra - ar thaifid iad a bhféadfadh go mbeidís i seilbh an árachóra - le seirbhís a bhí á soláthar ag soláthraí seirbhíse le haghaidh na Comhairle faoi chonradh le haghaidh seirbhísí. Dá bhrí sin, chinn an Oifig seo nach raibh feidhm ag alt 11(9) sa chás seo agus go raibh údar ag an gComhairle le diúltú géilleadh don iarraidh ar an bhforas nár shealbhaigh sí aon taifid iomchuí.

Caibidil 4:

Staitisticí



Caibidil 4: Staitisticí

Roinn I - Comhlachtaí Poiblí – 2016

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Tábla 3:	Iarratais saorála faisnéise a fuarthas, anailís de réir chineál iarratasóra
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Tábla 5:	Anailís ar iarratais ar dhéileáil earnáil na seirbhíse poiblí leo
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Tábla 8:	Iarratais saorála faisnéise a fuair feidhmeannacht na seirbhíse sláinte (FSS)
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Figiúirí do na tablaí thuas arna soláthar ag An Roinn Caiteachais Phoiblí agus Athchóirithe, Feidhmeannacht na Seirbhíse Sláinte, Grúpa Idirchaidrimh Saorála Faisnéise na nÚdarás Áitiúil, an Roinn Sláinte, Cónaidhm Náisiúnta na gComhlachtaí Saorálacha, an Grúpa Idirchaidrimh don Earnáil Ard-Oideachais agus arna dtiomsú ag Oifig an Choimisinéara Faisnéise.

Roinn II - Oifig an Choimisinéara Faisnéise - 2016

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- Tábla 14: Iarratais ar athbhreithnithe ar glacadh leo i 2016 - de réir comhlacht poiblí
- Tábla 15: Toradh athbhreithnithe críochnaithe - comparáid trí bliana
- Tábla 16: Ábhar na niarratas ar athbhreithniú ar glacadh leo – comparáid trí bliana
- Tábla 17: Iarratais ar glacadh leo de réir cineáil - comparáid trí bliana
- Tábla 18: Gnathfhiosruithe
- Tábla 19: Iarrataí a mheastar a bheith diúltaithe de bharr nár thug comhlachtaí poiblí freagra orthu

Roinn I - Comhlachtaí Poiblí – 2016

Tábla 1: Forbhreathnú ar iarratais saorála faisnéise ar dhéileáil comhlachtaí poiblí leo

Iarratais idir lámha - 01/01/2016	5,337
Iarratais a fuarthas i 2016	
Pearsanta	18,119
Neamhphearsanta	12,031
Measctha	267
Iomlán	30,417
Iomlán na n-iarratas idir lámha le linn na bliana	35,754
Iarratais ar déileáladh leo	29,736
Iarratais idir lámha - 31/12/2016	6,018

Tábla 2: Iarratais saorála faisnéise ar dhéileáil comhlachtaí poiblí leo agus a rinneadh a achomharc ina dhiaidh sin

	Líon	Céatadán
Iarratais saorála faisnéise ar dhéileáil	29,736	100%
Comhlachtaí poiblí leo athbhreithnithe inmheánacha	987	3%
A fuair comhlachtaí poiblí iarratais ar ghlac an Coimisinéir leo	440	1.5%

Tábla 3: Iarratais saorála faisnéise a fuarthas, anailís de réir chineál iarratasóra

Iarratasóirí	Líon	Céatadán
Iriseoirí	6,819	22%
Lucht gnó	1,518	5%
Comhaltaí den Oireachtas	503	2%
Baill foirne comhlachtaí poiblí	789	3%
Cliaint foirne comhlachtaí poiblí	15,551	51%

Eile	5,237	17%
Iomlán	30,417	100%

Tábla 4: Torthaí ar iarrataí saoráil faisnéise ar dhéileáil comhlachtaí poiblí leo

Iarratasóirí	Líon	Céatadán
Iarratais a géilleadh dóibh	15,073	51%
Iarratais a géilleadh dóibh i bpáirt	6,665	22%
Iarratais a diúltaíodh dóibh	4,008	13%
Iarratais a aistríodh chuig an gcomhlacht cuí	553	2%
Iarratais a tarraingíodh siar nó a láimhseáileadh lasmuigh de shaoráil faisnéise	3,437	12%
Iomlán	29,736	100%

Tábla 5: Anailís ar iarratais ar dhéileáil earnáil na seirbhíse poiblí leo

	Céatadán dár géilleadh	Céatadán dár géilleadh ibpáirt	Céatadán a diúltaíodh	Céatadán a aistríodh	Céatadán a tarraingíodh siar nó a láimhsíodh lasmuigh de raon an Achta
Ranna/Oifigí Státseirbhíse	31%	33%	19%	3%	14%
Údaráis Áitiúla	47%	25%	22%	1%	5%
FSS	68%	15%	6%	1%	10%
Ospidéal Shaorálacha, Seirbhísí Sláinte Meabhracha agus Gníomhaireachtaí Gaolmhara Eile	73%	6%	7%	2%	12%
Institiúdí Tríú Leibhéal	51%	25%	12%	0%	12%
Comhlachtaí Eile	56%	27%	11%	0%	6%

Tábla 6: Iarratais shaorála faisnéise a fuair ranna/oifigí na státseirbhíse

Rannóg/Oifig na Státseirbhíse	Pearsanta	Neamh- phearsanta	Measctha	Iomlán
An Roinn Coimirce Sóisialaí	1,848	231	10	2,089
An Roinn Dlí agus Cirt agus Comhionannais	312	269	2	583
An Roinn Oideachais agus Scileanna	155	334	5	494
An Roinn Airgeadais	4	401	0	405
An Roinn Tithíochta, Pleanála, Pobail agus Rialtais Áitiúil	7	384	2	393
An Roinn Caiteachais Phoiblí agus Athchóirithe	91	258	0	349
An Roinn Talmhaíochta, Bia agus Mara	138	208	1	347
An Roinn Sláinte	12	301	0	313
An Roinn Iompair, Turasóireachta agus Spóirt	17	285	0	302
Oifig na gCoimisinéirí Ioncaim	87	211	0	298
Roinn an Taoisigh	5	270	0	275
An Roinn Gnóthaí Eachtracha agus Trádála	22	192	0	214
An Roinn Ealaíon, Oidhreacht, Gnóthaí Réigiúnacha, Tuaithe agus Gaeltachta	5	164	0	169
An Roinn Post, Fiontar, agus Nuálaíochta	29	134	0	163
An Roinn Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil	3	156	0	159
An Roinn Cosanta	18	102	0	120
Oifig na nOibreacha Poiblí	5	113	1	119
An Roinn Leanaí agus Gnóthaí	2	82	0	84
Coimisiún um Cheapacháin Seirbhíse Poiblí	0	16	0	16
Oifig an Ombudsman	11	4	0	15
Coimisiún um Chaighdeáin in Oifigí Poiblí	3	8	0	11
Oifig an Choimisinéara Faisnéise	0	2	1	3
Iomlán	2,774	4,125	22	6,921

Tábla 7: Iarratais saorála faisnéise a fuair údaráis áitiúla

Údaráis Áitiúil	Pearsanta	Neamh- phearsanta	Measctha	Iomlán
Comhairle Cathrach Bhaile Átha Cliath	163	349	0	512
Comhairle Chontae Bhaile Átha Cliath Theas	69	117	0	186
Comhairle Chontae Chorcaí	1	175	0	176
Comhairle Chontae Dhún Laoghaire-Rath an Dúin	27	148	1	176
Comhairle Chontae Fhine Gall	18	157	0	175
Comhairle Cathrach & Contae Luimnigh	45	112	0	157
Comhairle Chontae Ros Comáin	5	141	4	150
Comhairle Cathrach Chorcaí	30	119	0	149
Comhairle Chontae na Gaillimhe	2	138	6	146
Comhairle Chontae na Mí	19	119	0	138
Comhairle Chontae an Chláir	17	106	5	128
Comhairle Chontae Chill Chainnigh	3	124	0	127
Comhairle Cathrach na Gaillimhe	21	100	1	122
Comhairle Chontae Lú	40	80	0	120
Comhairle Chontae Mhuigh Eó	4	114	0	118
Comhairle Chontae Chill Dara	24	80	5	109
Comhairle Chontae Chill Mhantáin	9	96	1	106
Comhairle Chontae Loch Garman	27	76	0	103
Comhairle Chontae Thiobraid Árann	16	81	4	101
Comhairle Cathrach & Contae Phort Láirge	24	77	0	101
Comhairle Chontae Dhún na Gall	16	83	0	99
Comhairle Chontae Chiarraí	8	86	0	94
Comhairle Chontae Liatroma	3	83	0	86
Comhairle Chontae Longfoirt	3	81	0	84
Comhairle Chontae Mhuineacháin	4	79	0	83
Comhairle Chontae an Chabháin	4	75	0	79
Comhairle Chontae Cheatharlocha	4	68	0	72
Comhairle Chontae Uibh Fhailí	9	60	0	69
Comhairle Chontae na h-Iarmhí	6	62	1	69
Comhairle Chontae Laoise	10	55	0	65

Comhairle Chontae Shligigh	12	52	0	64
Iomlán	643	3,293	28	3,964
Comhthionóil Réigiúnda	0	3	0	3

Tábla 8: Iarratais um SF a fuair FSS (seachas gníomhaireachtaí áirithe a chlúdaítear i dTábla 9)

Limistéar Fheidhmeannacht na Seirbhíse Sláinte*	Pearsanta	Neamh-phearsanta	Measctha	Iomlán
FSS Deisceart	3,197	79	9	3,285
FSS Iarthair	2,688	269	1	2,958
FSS Baile Átha Cliath Thoir-Thuaidh	938	109	3	1,050
FSS Baile Átha Cliath-Lar Laighean	791	57	1	849
Iarrataí Náisiúnta	0	577	0	577
Iomlán	7,614	1,091	14	8,719

*De réir struchtúr réigiúnach Fheidhmeannacht na Seirbhíse Sláinte

Tábla 9: Iarratais um SF a fuair ospidéal dheonacha, rialaitheoirí na seirbhísí meabhairshláinte agus gníomhaireachtaí gaolmhara

Ospidéal/Seirbhís/Gníomhaireacht	Pearsanta	Neamh-phearsanta	Measctha	Iomlán
Ospidéal Thamhlachta	801	33	0	834
TUSLA: An Gníomhaireacht um Leanaí agus an Teaghlach	733	92	2	827
Ospidéal Naoimh Shéamais	555	27	3	585
Ospidéal Beaumont	341	52	0	393
Ospidéal Mater Misericordiae	334	25	0	359
Ospidéal Mhuire do Leanaí Breoite, Cromghlinn	285	35	0	320
Ospidéal Rotunda	250	38	0	288
Ospidéal na hOllscoile Naoimh Uinseann	237	33	1	271
Ospidéal Naoimh Eoin, Luimneach	203	15	0	218
Ospidéal na Leanaí, Sráid an Teampaill	171	30	0	201

Ospidéal Náisiúnta Máithreachais, Sráid Holles	164	16	0	180
Ollscoil Otharlann an Deiscirt - Ospidéal VICTEORIA, Corcaigh	155	20	0	175
Ospidéal Ban an Chúm	123	11	0	134
Ospidéal Náisiúnta Ortaipéideach Cheapach	102	0	22	124
Ospidéal na hOllscoile na Trócaire, Corcaigh	94	22	0	116
Ord Spidiléirí N. Eoin Dé	69	0	0	69
Ospidéal Náisiúnta Athshlánúcháin, Dún Laoghaire	54	1	0	55
An Lárchlinic Feabhais	45	9	0	54
An tÚdarás Um Fhaisnéis agus Cáilíocht Sláinte	7	45	0	52
Ospidéal Naoimh Micheál, Dún Laoghaire	27	19	0	46
Comhairle na nDochtúirí Leighis	19	14	2	35
Ospidéal Ríoga VICTEORIANACH SÚL agus CLUAS	31	1	0	32
Coimisiún Meabhair-Shláinte	19	9	0	28
Ospidéal Naoimh Uinsíonn - Fionnradharc	23	3	0	26
Údarás Sábháilteachta Bia na hÉireann	0	23	0	23
Enable Ireland	16	5	0	21
Eile	71	41	2	114
Iomlán	4,929	619	32	5,580

Tábla 10: Iarratais saorála faisnéise a fuair comhlachtaí oideachais tríú leibhéal

Comhlacht Oideachais Tríú Leibhéal	Pearsanta	Neamh-phearsanta	Measctha	Iomlán
Coláiste na hOllscoile, Baile Átha Cliath	45	65	1	111
Ollscoil Luimnigh	11	92	8	111
Ollscoil na hÉireann, Gaillimh	36	49	0	85
Coláiste na hOllscoile, Corcaigh	12	50	2	64
Coláiste na Tríonóide, Baile Átha Cliath	5	47	2	54
Ollscois Chathair Bhaile Átha Cliath	6	42	0	48
Ollscoil na hÉireann, Má Nuad	8	24	0	32
Institiúid Teicneolaíochta na Gaillimhe-Maigh Eo	9	21	1	31

Institiúid Teicneolaíochta Bhaile Átha Cliath	8	23	0	31
Institiúid Teicneolaíochta Phort Láirge	3	20	4	27
Institiúid Teicneolaíochta Bhaile Átha Luain	7	13	1	21
Coláiste Ríoga na Máinleá in Éirinn	6	14	0	20
Comhlachtaí eile	11	116	3	130
Iomlán	167	576	22	765

Tábla 11: Iarratais saorála faisnéise a fuair comhlachtaí eile

Comhlacht Poiblí	Pearsanta	Neamh-phearsanta	Measctha	Iomlán
Seirbhís Phríosúin na hÉireann	682	96	0	778
An Garda Síochána	122	333	4	459
Óglaigh na hÉireann	184	80	1	265
Oifig Achomhairc Leasa Shóisialaigh	248	0	0	248
Seirbhís Tithe an Oireachtais	8	226	0	234
An tÚdarás Náisiúnta um Shábháilteacht agus Sláinte Ceirde	10	26	136	172
RTÉ	12	154	0	166
Uisce Éireann	40	120	0	160
Seirbhís Chúirteanna na hÉireann	77	78	0	155
An tSeirbhís um Cheapacháin Phoiblí	70	20	1	91
Banc Ceannais na hÉireann	7	61	2	70
Gníomhaireacht Náisiúnta um Bhainistíocht Sócmhainní	2	64	0	66
Údarás Náisiúnta Iompair	44	2	1	47
Gníomhaireacht Bainistíochta um Chisteáin Náisiúnta	4	40	1	45
An Gníomhaireacht um Chaomhnú Comhshaoil	0	39	5	44
GFT Éireann	0	44	0	44
An Phríomh-Oifig Staidrimh	14	29	0	43
Bonneagar Iompair Éireann	1	41	0	42
An tÚdarás Clárúcháin Maoine	30	10	0	40
Eirgrid	0	36	0	36

Fiontraíocht Éireann	0	35	0	35
SOLAS	12	22	0	34
ESB Networks	6	28	0	34
An Coimisiún um Rialáil Cumarsáide	12	20	1	33
Caranua	20	13	0	33
Pobal	1	32	0	33
Údarás um Shábháilteacht ar Bhóithre	6	26	1	33
Coimisiún Ombudsman an Gharda Síochána	24	7	0	31
Oifig an Stiúrthóra Ionchúiseamh Poiblí	17	14	0	31
Fáilte Ireland	2	28	1	31
An Chomhairle Ealaíon	1	29	0	30
Coimisiún na Scrúduithe Stáit	14	16	0	30
Eile (93 chomhlacht le níos lú ná 30 iarrataisí an ceann)	206	496	22	724
Iomlán	1,876	2,265	176	4,317

Roinn II - Oifig an Choimisinéara Faisnéise - 2016

Tábla 12: Anailís ar iarratais ar athbhreithnithe a fuarthas

Iarratais ar athbhreithniú idir lámha - 01/01/2016	19
Iarratais ar athbhreithniú a fuarthas i 2016	577
Iomlán na n-iarratas ar athbhreithniú idir lámha i 2016	596
Scoradh den iarratas	4
Iarratais neamhbhailí	91
Iarratais socraithe	12
Iarratais a tharraingíodh siar	10
Iarratais a dhiúltóidh	5
Iarratais ar glacadh leo le haghaidh athbhreithnithe i 2016	440
Iomlán na n-iarratas ar athbhreithniú a bhreithníodh i 2016	562
Iarratais ar athbhreithniú lámha - 31/12/2016	34

Tábla 13: Anailís ar chásanna athbhreithnithe

Athbhreithnithe idir lámha - 01/01/2016	125
Iarratais ar glacadh leo le haghaidh athbhreithnithe i 2016	440
Iomlán na n-athbhreithnithe idir lámha i 2016	565
Athbhreithnithe a críochnaíodh i 2016	433
Athbhreithnithe ar chuirthear ar aghaidh go 2017	132

Tábla 14: Iarratais ar athbhreithnithe ar glacadh leo i 2016 - de réir comhlacht poiblí

Feidhmeannacht na Seirbhíse Sláinte		89
FSS Deisceart	26	
FSS Iarthair	22	
FSS Iarrataisí Náisiúnta	18	
FSS Baile Átha Cliath Thoir Thuaidh	14	
FSS Baile Átha Cliath Lár Laighean	9	
TUSLA: An Gníomhaireacht um Leanaí agus an Teaghlach		38
An Roinn Dlí agus Cirt agus Comhionannais		24
RTÉ		18
Óglaigh na hÉireann		11
An Roinn Coimirce Sóisialaí		11
Seirbhís Phríosúin na hÉireann		11
An Roinn Talmhaíochta, Bia agus Mara		9
Ospidéal Naoimh Shéamais		9
Institiúid Teicneolaíochta Bhaile Átha Luain		8
Coláiste na hOllscoile, Corcaigh		8
An Garda Síochána		7
An Roinn Tithíochta, Pleanála, Pobail agus Rialtais Áitiúil		7
Comhairle Cathrach Bhaile Átha Cliath		7
Coláiste na hOllscoile, Baile Átha Cliath		6
Eile (chomhlacht le níos lú ná 6 athbhreithniú an ceann)		177
Iomlán		440

Tábla 15: Toradh athbhreithnithe críochnaithe - comparáid trí bliana

	2016		2015		2014	
Breith Dearbhaithe	179	42%	110	34%	154	45%
Breith Neamhnithe	36	8%	37	12%	17	5%
Breith Athraithe	70	16%	59	18%	31	9%
Scoradh den Iarratas	14	3%	10	3%	19	6%
Thangthas ar shocrú	88	20%	69	21%	74	22%
Tarraingthe siar	46	11%	38	12%	45	13%
Athbhreithnithe Críochnaithe	433	100%	323	100%	340	100%

Tábla 16: Ábhar na niarratas ar athbhreithniú ar glacadh leo – comparáid trí bliana

	2016		2015		2014	
Diúltú Rochtanna	403	91%	299	90%	211	84%
Agóidí ag tríú pairtithe i gcoinne scaoilte faisnéise fúthu nó arna soláthar acu	8	2%	15	5%	8	3%
Leasú ar thaifid faoi alt 9	13	3%	4	1%	7	3%
Ráiteas cúiseanna faoi alt 10	12	3%	11	3%	24	9%
Breith chun táille a ghearradh	4	1%	3	1%	2	1%
Iomlán	440	100%	332	100%	252	100%

Tábla 17: Iarratais ar glacadh leo de réir cineáil - comparáid trí bliana

	2016		2015		2014	
Pearsanta	146	33%	109	33%	110	44%
Neamhphearsanta	242	55%	167	50%	108	43%
Measctha	52	12%	56	17%	34	13%
Iomlán	440	100%	332	100%	252	100%

Tábla 18: Gnathfhiosruithe

Bliain	Líon
2016	1,307
2015	1,462
2014	1,274
2013	1,218
2012	1,262
2011	824
2010	622
2009	857
2008	1,100
2007	1,315

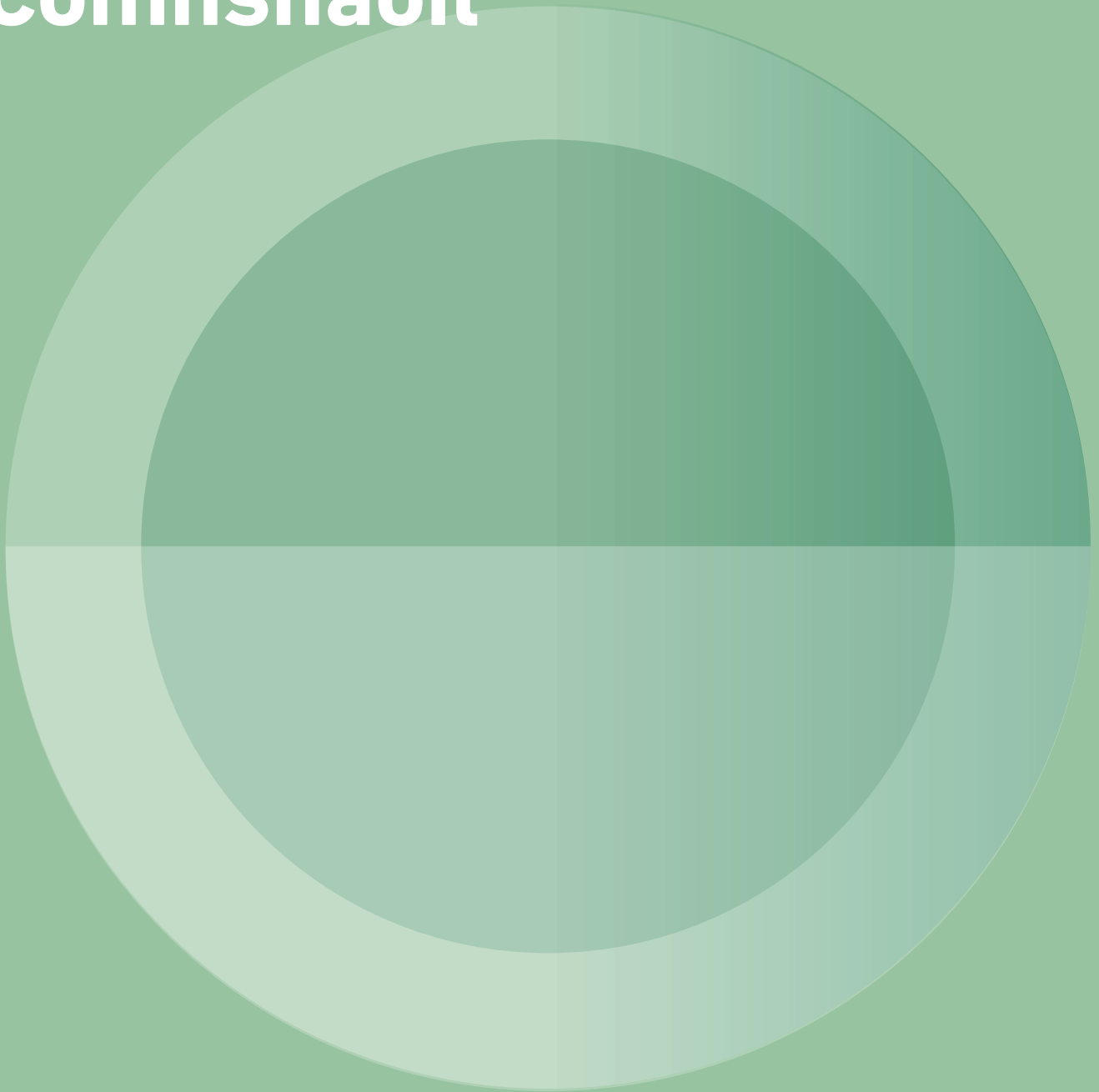
Tábla 19: Iarrataí a mheastar a bheith diúltaithe de bharr nár thug comhlachtaí poiblí freagra orthu

Gan Breith tugtha ar Bhuniarratais ná ar Athbhreithniú Inmheánach			
Comhlacht Poiblí	2016	2015	2014
TUSLA: An Ghníomhaireacht um Leanaí agus an Teaghlach	20	7	3
An Roinn Dlí agus Cirt agus Comhionannais	8	7	3
RTÉ	8	-	-
FSS Deisceart	7	5	5
FSS Iarrataisí Náisiúnta	6	4	6
FSS Iarthair	6	7	3
Seirbhís Phríosúin na hÉireann	6	-	-
Ospidéal Naoimh Shéamais	5	-	1
Coláiste na hOllscoile, Corcaigh	4	4	-
Óglaigh na hÉireann	2	-	-
An Roinn Talmhaíochta, Bia agus Mara	2	1	-
An Roinn Sláinte	2	-	-
Comhairle Cathrach Bhaile Átha Cliath	2	-	-
FSS Baile Átha Cliath Thoir-Thuaidh	2	-	1

Coláiste na hOllscoile, Baile Átha Cliath	2	1	-
Institiúid Teicneolaíochta Phort Láirge	2	-	-
Comhlachtaí eile (le hiarratas amháin an ceann)	21		
Iomlán 2016	105		

Cuid II

An Coimisinéir um Fhaisnéis Comhshaoil



Réamhrá

Is é an ról atá agam mar Choimisinéir um Fhaisnéis Chomhshaoil athbhreithniú a dhéanamh ar bhreitheanna údarás poiblí atá á n-achomharc ag iarratasóirí nach bhfuil sásta leis an toradh ar iarrataí a rinneadh faoi Rialacháin na gComhphobal Eorpach (Rochtain ar Fhaisnéis faoin gComhshaol), 2007 go 2014. Sa bhliain 2016, phróiseáil Oifig an Choimisinéara um Fhaisnéis Chomhshaoil (OCFC) níos mó cásanna ná riamh, agus í ag freagairt do mhéadú suntasach ar líon na n-achomharc faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol ag an am céanna.

Trasuítear leis na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol Treoir 2003/4/CE ó Pharlaimint na hEorpa agus ón gComhairle an 28 Eanáir 2003 maidir le rochtain phoiblí ar fhaisnéis faoin gcomhshaol. Cuirtear chun feidhme le Treoir 2003/4/CE an chéad cholún de Choinbhinsiún Choimisiún Eacnamaíochta na Náisiún Aontaithe don Eoraip maidir le Rochtain ar Fhaisnéis, Rannpháirtíocht Phoiblí i gCinnteoireacht agus Rochtain ar Cheartas i gCúrsaí Comhshaoil (“Coinbhinsiún Aarhus”).

Is le “faisnéis faoin gcomhshaol” atá á sealbhú ag “údarás poiblí” nó thar a cheann a bhaineann an ceart chun rochtain a fháil ar fhaisnéis faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol. Tá brí shonrach leis an dá théarma sin atá sainmhínithe in airteagal 3(1) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol. Tá mo chuid breitheanna ar achomhairc críochnaitheach agus ceangailteach ar na páirtithe lena mbaineann, ach amháin i gcásanna ina ndéantar achomharc eile chuig an Ard-Chúirt ar phonc dlí laistigh de dhá mhí ó dháta na breithe lena mbaineann.

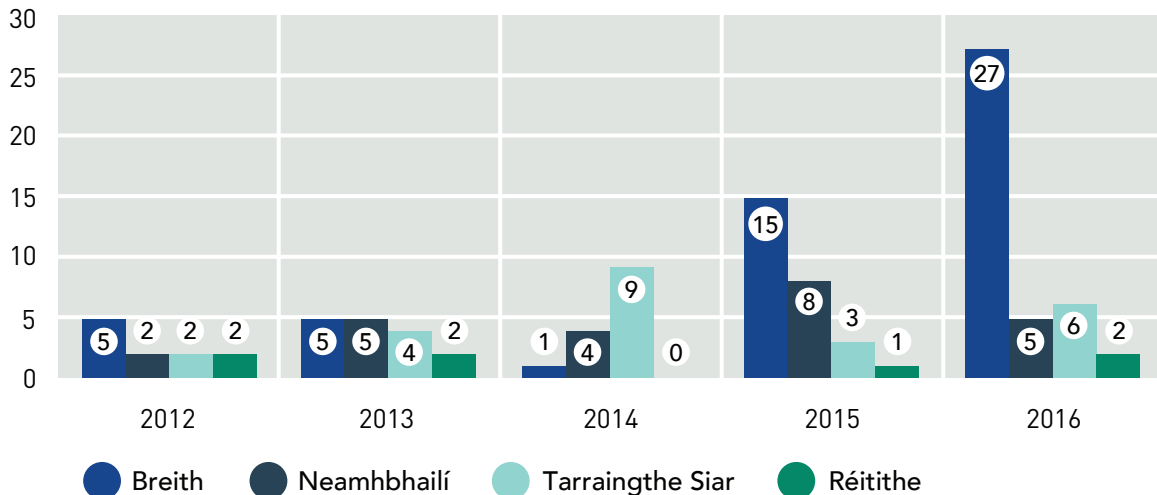
Cé go bhfuil OCFC scartha go dlíthiúil ó Oifig an Choimisinéara Faisnéise, foráiltear le hairteagal 12(10) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol go bhfaighidh an Coimisinéir um Fhaisnéis Chomhshaoil cúnaimh ó fhoireann Oifig an Choimisinéara Faisnéise agus, dá bhrí sin, go mbeidh fáil aige ar aon acmhainní eile atá ar fáil don Oifig sin.

Chun tuilleadh faisnéise a fháil faoi fheidhmiú an chórais um rochtain ar fhaisnéis faoin gcomhshaol in Éirinn, tabhair cuairt ar ár suíomh Gréasáin ag www.ocei.ie, áit a bhfuil naisc chuig Tuarascálacha Bliantúla roimhe seo ón Oifig, chuig an Lámhleabhar maidir le Nósanna Imeachta OCFC, chuig suíomh Gréasáin na Roinne Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil agus chuig Treoir 2003/4/CE.

Achomhairc agus ceisteanna sa bhliain 2016

Bhí 27 n-achomharc idir lámha ag OCFC i dtús na bliana 2016. Díobh sin, osclaíodh 22 cheann sa bhliain 2015, osclaíodh ceithre cinn sa bhliain 2014 agus osclaíodh ceann amháin sa bhliain 2013. Fuair OCFC 52 achomharc nua sa bhliain 2016 (figiúr arbh ionann é agus líon comhcheangailte na n-achomharc a fuarthas sna blianta 2014 agus 2015). Dhún OCFC 40 cás sa bhliain 2016: thug mé 27 mbreith fhoirmiúla; bhí cúig achomharc neamhbhailí; tarraingíodh sé chás siar; agus réitíodh dhá chás.

Torthaí ar Achomhairc chuig OCFC sa tréimhse 2012-2016



Ag deireadh na bliana 2016, bhí 39 n-achomharc bhailí idir lámha ag OCFC – fuarthas 36 cinn díobh sin sa bhliain 2016 agus fuarthas na trí cinn eile sa bhliain 2015. Tá na cásanna ón mbliain 2015 á gcur ar aghaidh ag ár nImscrúdaitheoirí agus é seo á scríobh. Thuairiscigh an fhoireann go bhfuarthas 27 gceist ghinearálta faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol sa bhliain 2016. Phríoiseáil an Oifig seo trí iarraidh ar rochtain ar fhaisnéis faoin gcomhshaol sa bhliain 2016. Bhí ceann amháin de na breitheanna sin ina ábhar d'athbhreithniú inmheánach ina dhiaidh sin.

Iarrataí a measadh a bheith diúltaithe sa bhliain 2016

Leagtar síos sna Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil teorainneacha ama socraithe inar gá d'údaráis phoiblí breitheanna ar iarrataí ar rochtain ar fhaisnéis faoin gcomhshaoil agus breitheanna athbhreithnithe inmheánaigh a thabhairt. Meastar iarraidh a bheith diúltaithe i gcásanna ina mainníonn an t-údarás poiblí breith a eisiúint laistigh den teorainn ama iomchuí atá sonraithe sna Rialacháin (mí amháin, de ghnáth).

Sa bhliain 2016, mhainnigh ocht n-údarás phoiblí breitheanna céadchéime a thabhairt ar iarrataí ar rochtain ar fhaisnéis faoin gcomhshaoil laistigh den tréimhse ama atá sonraithe sna Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil. Ba iad seo a leanas na húdaráis phoiblí sin: an Coimisiún um Rialáil Fuinnimh; an Roinn Talmhaíochta, Bia agus Mara; Comhairle Cathrach Bhaile Átha Cliath; Bord Soláthair an Leictreachais; an Ghníomhaireacht um Chaomhnú Comhshaoil; Líonraí Gáis Éireann; Feidhmeannacht na Seirbhíse Sláinte; agus an Bord Forbartha Tionscail.

Sa bhliain 2016, mhainnigh seacht n-údarás phoiblí breitheanna athbhreithnithe inmheánaigh a thabhairt laistigh den tréimhse ama atá sonraithe sna Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil. Ba iad seo a leanas na húdaráis phoiblí sin: Coillte; an tSeirbhís Chúirteanna; an Roinn Talmhaíochta, Bia agus Mara; EirGrid; Líonraí Gáis Éireann; Feidhmeannacht na Seirbhíse Sláinte; agus Bonneagar Iompair Éireann.

Cumhachtaí faoi airteagal 12(6) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil

Foráiltear le hairteagal 12(6) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil go bhféadfaidh mé, le linn dom athbhreithniú a dhéanamh ar achomharc, ceangal a chur ar údarás poiblí faisnéis faoin gcomhshaoil a chur ar fáil dom, faisnéis faoin gcomhshaoil atá á sealbhú ag údarás poiblí a scrúdú agus cóipeanna a dhéanamh di, agus dul isteach in aon áitreabh atá á áitiú ag údarás poiblí ionas gur féidir liom faisnéis faoin gcomhshaoil a bhailiú. Tá áthas orm a thuairisciú nár ghá dom na cumhachtaí sin a chur i bhfeidhm sa bhliain 2016.

Imeachtaí Cúirte sa bhliain 2016

Redmond & Anor -v- An Coimisinéir um Fhaisnéis Comhshaoil 2016/27 JR

Sa bhreith a thug mé sa chás An tUas. Jim Redmond agus Coillte Teoranta (CEI/14/0011), chinn mé nár tháinig faisnéis áirithe faoi aistriú talún faoi raon feidhme na Rialachán maidir le Rochtain ar Fhaisnéis faoin gComhshaoil. Tá an bhreith sin ina hábhar d'athbhreithniú breithiúnach san Ard-Chúirt faoi láthair. Tá sí liostaithe lena héisteacht an 3 Deireadh Fómhair 2017.

Minch -v- An Coimisinéir um Fhaisnéis Comhshaoil [2016] IEHC 91

Sa chás An tUas. Stephen Minch agus an Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádúrtha (CEI/13/0006), chinn mé nach raibh i dtuarascáil eacnamaíoch dar teideal “Analysis of options for potential State intervention in the roll out of next-generation broadband” inti féin aon fhaisnéis faoin gcomhshaoil. Bhreithnigh mé freisin cé acu a bhí nó nach raibh sa tuarascáil sin anailísí nó toimhdí a úsáideadh faoi chuimsiú birt ar dóigh dó difear a dhéanamh don chomhshaoil (ba é an Plean Náisiúnta Leathanbhanda an beart a bhí i gceist anseo). Bhí mé den tuairim gur ró-iargúlta a bhí an nasc idir an Plean Náisiúnta Leathanbhanda agus aon difear a dhéanfaí don chomhshaoil. Dá bhrí sin, chinn mé go raibh údar ag an Roinn le diúltú géilleadh do rochtain ar an tuarascáil.

Rinne an tUas. Minch achomharc in aghaidh na breithe sin chuig an Ard-Chúirt. I mbreithiúnas uaithi an 16 Feabhra 2016, chuir an Ard-Chúirt an breithiúnas ón gCúirt Uachtarach sa chás An Ghníomhaireacht Náisiúnta um Bainistíocht Sócmhainní v An Coimisinéir um Fhaisnéis Comhshaoil [2013] IEHC 86 i bhfeidhm, agus brí chuspóiriúil á baint aici as na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil. Bhí an Chúirt den tuairim gur áiríodh le “hanailísí agus toimhdí a úsáideadh faoi chuimsiú” birt faisnéis “atá in ann eolas a thabhairt” do chinnteoir. Bhí an Chúirt den tuairim nach bhfuil faisnéis “a úsáideadh faoi chuimsiú birt” teoranta don fhaisnéis a bhí ar fáil tráth a scríobhadh tuarascáil ar leith. Chinn an Chúirt gur mhícheart a bhí an tástáil iargúlta a cuireadh i bhfeidhm sa bhreith bhunaigh uaim toisc go raibh an tástáil féin róchúng. Go háirithe, bhí an Chúirt den tuairim nár tugadh aird sa tástáil iargúlta ar bhearta, ar chláir ná ar bheartais ar dhóigh dóibh difear a dhéanamh don chomhshaoil. Thug an Chúirt le fios gur cheart an t-ábhar a chur ar ais chuig an Oifig seo ionas go bhféadfadh sí breith nua a thabhairt air.

Rinne mé achomharc in aghaidh codanna áirithe den bhreithiúnas sin chuig an gCúirt Achomhairc. Tá an t-ábhar liostaithe lena éisteacht an 16 Meitheamh 2017.

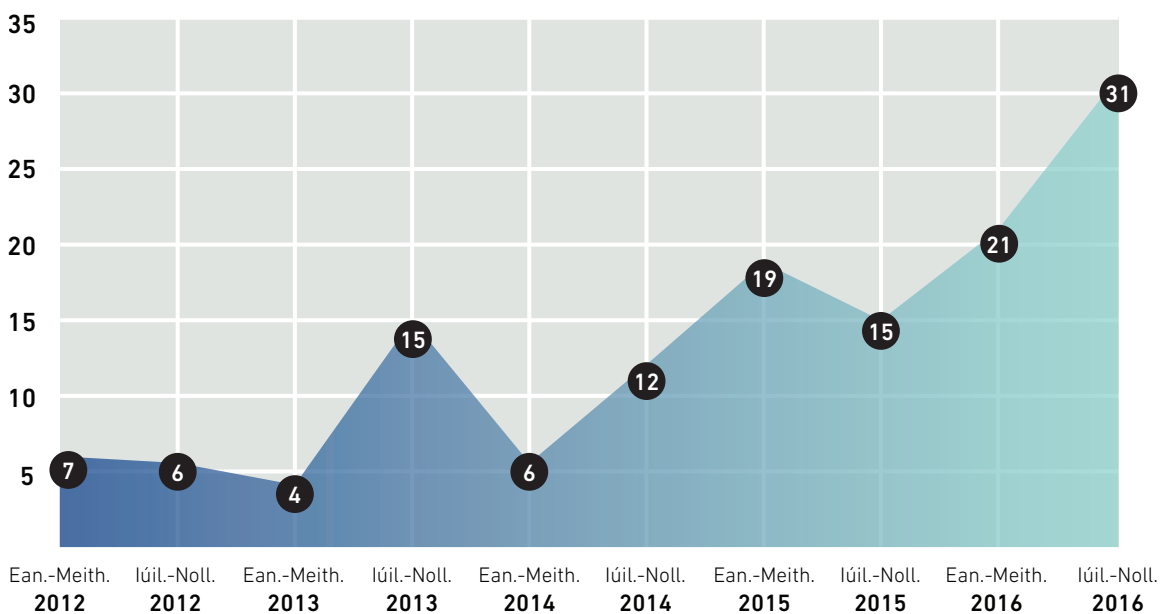
Saincheistanna a tháinig chun cinn sa bhliain 2016

Méadú ar líon na n-achomharc a rinneadh chuig OCFC

Bunaithe ar eispéireas OCFC, is minic a bhíonn achomhairc faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil níos casta agus níos déine ó thaobh acmhainní de ná achomhairc faoin Acht um Shaoráil Faisnéise. Le blianta beaga anuas, bhí achomhairc chuig an Oifig seo faoi réir moilleanna mar gheall ar an easpa acmhainní a bhí ar fáil. Tháinig riaráiste suntasach achomharc chun cinn dá bharr sin. Chun dul i ngleic leis an bhfadhb sin, rinne mé aighneacht rathúil buiséid chuig an Roinn Caiteachais Phoiblí agus Athchóirithe sa bhliain 2014 d’fhonn baill foirne bhreise a áirithiú chun freastal ar riachtanais oibriúcháin OCFC. Tar éis próiseas oscailte earcaíochta, ceapadh beirt Imscrúdaitheoirí i mí an Mheithimh 2015, agus é de dhualgas orthu oibriú go sonrach ar achomhairc chuig OCFC.

A bhúí leis an méadú sin ar sholáthar foirne, bhí an Oifig seo in ann líon na n-achomharc a phróiseáiltear gach bliain a mhéadú go suntasach. Sa bhliain 2016, thug mé 27 mbreith fhoirmiúla ar achomhairc (níos mó ná an líon a tugadh sna ceithre bliana roimhe le chéile). Beag beann ar an dul chun cinn sin, áfach, is amhlaidh gur tháinig méadú ar líon na gcásanna a bhí ag fanacht lena n-imscrúdú sa bhliain 2016.

Achomhairc a fuarthas faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil sa tréimhse 2012-2016



Tá sé soiléir anois gurb amhlaidh, ón mbliain 2014 i leith, go bhfuil méadú níos mó ná riamh tagtha ar líon na n-iarrataí ar rochtain ar fhaisnéis faoin gcomhshaoil atá á ndéanamh chuig údaráis phoiblí in Éirinn. De réir an staidrimh atá ar fáil ar shuíomh Gréasáin na Roinne Tithíochta, Pleanála, Pobail agus Rialtais Áitiúil, rinneadh 374 iarraidh ar rochtain ar fhaisnéis faoin gcomhshaoil chuig údaráis phoiblí in Éirinn sa bhliain 2013. Mhéadaigh an figiúr sin go 658 n-iarraidh ar rochtain ar fhaisnéis faoin gcomhshaoil faoin mbliain 2015. Cé go bhfáiltím roimh an bhfeasacht mhéadaithe atá ag an bpobal ar an gceart atá acu chun rochtain a fháil ar fhaisnéis faoin gcomhshaoil, is amhlaidh, mar gheall ar an méadú faoi dhó atá tagtha ar líon na n-iarrataí ar fhaisnéis faoin gcomhshaoil, go raibh tionchar comhfhreagrach ann ar líon na n-achomharc a rinneadh chuig an Oifig seo, agus méadú 280% tagtha ar líon na n-achomharc a fuarthas ón mbliain 2014 i leith.

Mar thoradh ar an méadú suntasach sin ar an leibhéal éilimh, is léir go bhfuil easpa acmhainne ag OCFC anois chun achomhairc a phróiseáil. Go háirithe, bíonn moilleanna suntasacha ann idir an dáta a ghlactar le hachomhairc agus an dáta a bhíonn Imscrúdaitheoir de chuid OCFC ar fáil chun déileáil leo. Chun aghaidh a thabhairt air sin,

chuir mé tús leis an bpróiseas chun baill foirne bhreise a earcú ar mhaithe lena chinntiú go mbeidh mé in ann na feidhmeanna reachtúla atá agam a chomhlíonadh go héifeachtach.

Caidreamh leis an Roinn Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil

I mí Dheireadh Fómhair 2016, ghlac an tImscrúdaitheoir Sinsearach san Oifig seo páirt i nGrúpa Comhairleach maidir le Rochtain ar Fhaisnéis faoin gComhshaoil. Ba í an Roinn Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil a d'eagraigh an grúpa sin. Bhí an grúpa comhdhéanta de gheallsealbhóirí seachtracha agus d'eagraíochtaí neamhrialtasacha agus dhírigh sé ar na feabhsuithe agus ar na hathchóirithe a d'fhéadfaí a dhéanamh ar an dlí náisiúnta maidir le rochtain ar fhaisnéis faoin gcomhshaoil.

Rinne an Roinn imeacht oiliúna maidir le rochtain ar fhaisnéis faoin gcomhshaoil a réachtáil do bhaill foirne údaráis phoiblí i mí Dheireadh Fómhair freisin. Le linn an imeachta sin, thug Imscrúdaitheoir ón Oifig seo cur i láthair maidir le breitheanna achomhairc ó OCFC agus tharraing sé aird na rannpháirtithe ar na hacmhainní atá ar fáil ar líne. Faoi mar a tharla i mblianta roimhe sin, soláthraíodh faisnéis shoiléir úsáideach faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil do bhaill foirne údaráis phoiblí le linn an imeachta oiliúna. Ba mhaith liom buíochas a ghabháil leis an Roinn as an obair leanúnach a dhéanann sí ina leith sin.

Táim ag tnúth le hobair i gcomhar leis an Roinn an athuir sa bhliain 2017 chun treoirínte athbhreithnithe a fhoilsiú maidir le rochtain ar fhaisnéis faoin gcomhshaoil agus chun freastal ar shaincheisteanna eile a bhfuil leas frithpháirteach againn iontu.

Teachtaireacht chuig an gCoiste um Chomhlíonadh Choinbhinsiún Aarhus (ACCC/C/2016/141)

I mí Lúnasa 2016, rinne Right to Know CLG (grúpa abhcóideachta Éireannach atá ag plé le rochtain an phobail ar fhaisnéis) teachtaireacht a sheoladh chuig an gCoiste um Chomhlíonadh Choinbhinsiún Aarhus (ACCC/C/2016/141) maidir le gnéithe den dóigh a raibh Éire ag comhlíonadh an Choinbhinsiúin. Rinneadh tagairt sa teachtaireacht sin do mhoilleanna ar an am a thóg sé ar OCFC chun achomhairc faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil a phróiseáil. Pléadh nósanna imeachta OCFC sa teachtaireacht freisin. Is í an Roinn Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil atá freagrach as ráitis a chur faoi bhráid an Choiste um Chomhlíonadh i leith na teachtaireachta sin. Sholáthair an Oifig seo faisnéis don Roinn faoin obair a dhéanann OCFC, agus é mar aidhm aici bonn eolais a chur faoi na ráitis ón Roinn. Coinneoidh mé súil ar an bpróiseas sin de réir mar is cuí.

Breithiúnais ó Chúirt Bhreithiúnais an Aontais Eorpaigh sa bhliain 2016

Le hairteagal 10(1) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil, cuirtear cosc ar eisceachtaí áirithe ó nochtadh a chur i bhfeidhm i gcás go mbaineann iarraidh “le faisnéis faoi astaíochtaí isteach sa chomhshaoil.”

Sna breithiúnais uathí sna cásanna Bayer CropScience SA-NV, Stichting De Bijenstichting v College voor de toelating van gewasbeschermingsmiddelen en biociden (Cás C-442/14) agus An Coimisiún v Stichting Greenpeace Nederland agus PAN Europe (Cás C-673/13 P), thug Cúirt Bhreithiúnais an Aontais Eorpaigh soiléiriú maidir leis an mbrí atá le “hastáíochtaí isteach sa chomhshaoil”, de réir mar a bhaineann siad le táirgí cosanta plandaí agus le bithicídí. Bhí an Chúirt den tuairim go gcumhdaítear leis an téarma “astaíochtaí isteach sa chomhshaoil” scaoileadh substaintí iarbhír nó intuartha faoi ghnáthdhálaí úsáide nó faoi dhálaí úsáide réalaíocha. Níor theorannaigh an Chúirt coincheap na n-astaíochtaí do na hastaíochtaí sin ó ionaid thionsclaíocha.

Bhí an Chúirt den tuairim go n-áirítear le faisnéis faoi “astaíochtaí isteach sa chomhshaoil” faisnéis faoi chineál, comhdhéanamh, cainníocht, dáta agus áit na n-astaíochtaí, mar aon le faisnéis lena gcumasaítear don phobal a sheiceáil cé acu atá measúnacht oifigiúil ar astaíochtaí iarbhír nó intuartha ceart nó nach bhfuil. De réir na Cúirte, áirítear léi freisin faisnéis lena gcumasaítear don phobal sonraí faoi na hiarmhairtí a bheidh ag na hastaíochtaí lena mbaineann ar an gcomhshaoil idir an meántearma agus an fadtearma agus faisnéis faoi fhuíll astaíochtaí agus faoi ghluaiseacht astaíochtaí a sheiceáil.

I gcás C-673/13 P, chuir an Chúirt an cinneadh roimhe sin ón gCúirt Ghinearálta i leataobh, rud ina bhfuarthas amach go n-áirítear le faisnéis a bhaineann le hastaíochtaí faisnéis atá nasctha “ar bhealach sách díreach” le hastaíochtaí den sórt sin. Ina ionad sin, tháinig Cúirt Bhreithiúnais an Aontais Eorpaigh ar an tuairim gur gá, maidir le faisnéis a bhaineann le hastaíochtaí, go bpléitear inti leis na hastaíochtaí atá i gceist agus gur gá go bhfuil sí ábhartha maidir le hastaíochtaí den sórt sin agus nach n-áirítear léi faisnéis ag a bhfuil aon nasc, bíodh sé díreach nó indíreach, le hastaíochtaí isteach sa chomhshaoil.

Breitheanna suntasacha sa bhliain 2016

Achoimre ar na torthaí ar bhreitheanna sa bhliain 2016

Sa bhliain 2016, thug mé 27 mbreith fhoirmiúla ar achomhairc faoi na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil. Chinn mé i 19 gcinn de na cásanna sin nach raibh údar ann (go pointe éigin) le diúltú géilleadh d’iarraidh. In 12 cheann de na 27 mbreith, chuir mé ceangal ar an údarás poiblí lena mbaineann rochtain a chur ar fáil dom ar chuid den fhaisnéis faoin gcomhshaoil a iarradh nó ar an bhfaisnéis sin ar fad. Luaigh mé i 9 gcás gur cheart don údarás poiblí breith nua a thabhairt ar an iarraidh. I gcás 8 n-achomharc, chinn mé go raibh údar iomlán ann leis an diúltú géilleadh d’iarrataí na n-achomharcóirí (cé nár

aontaigh mé leis an údarás poiblí lena mbaineann maidir leis na cúiseanna leis an diúltú i ngach cás). Tá gach ceann de na breitheanna a thug mé sa bhliain 2016 foilsithe ar shuíomh Gréasáin OCFC.

Tá na cásanna seo a leanas ina samplaí suntasacha de bhreitheanna a thug mé sa bhliain 2016 agus inar chuir mé ceangal ar údarás phoiblí faisnéis faoin gcomhshaol a chur ar fáil d'iarratasóirí.

Sa chás Cuan na Gaillimhe in aghaidh Cliabháin Bhradán agus Foras na Mara (CEI/15/0013), bhreithnigh mé iarraidh ar rochtain ar fhaisnéis faoi ghalar paincréasach i measc bradán feirme. Chinn mé gur mhó an leas pobail i rialáil thrédhearcach an tionscail feirmeoireachta éisc ná na leasanna tráchtála a bhí ag gabháil leis an diúltú géilleadh don iarraidh ón achomharcóir. Chuir mé ceangal ar Fhoras na Mara rochtain a chur ar fáil ar an bhfaisnéis a iarradh.

Sa chás Francis Clauson agus Líonraí BSL Teoranta (CEI/15/0029), rinne mé breithniú ar iarraidh ar fhaisnéis faoin aschur cumhachta ó shaoráid giniúna leictreachais. Bhí an fhaisnéis sin i seilbh Líonraí BSL, rud arb é an t-údarás reachtúil atá freagrach as an gcóras náisiúnta dáilte cumhachta é. Cé go ndéanfadh nochtadh na faisnéise lena mbaineann dochar do rúndacht tráchtála agus thionsclaíoch, chinn mé gur mhó leas láidir an phobail in oibriú thrédhearcach an bheartais fuinnimh in-athnuaite agus meicníochtaí gaolmhara tacaíochta praghsanna ná an leas sin i rúndacht.

Sa chás Fand Cooney agus Líonraí BSL Teoranta (CEI/15/0002), rinne mé athbhreithniú ar dhiúltú ó Líonraí BSL géilleadh do rochtain ar fhaisnéis faoi thionscadal tarchuir chumhachta i bPort Laoise. Rinne mé athbhreithniú ar dhoiciméad "breithmheasa infheistíochta" ar an tionscadal agus fuair mé amach gur chuimsigh sé faisnéis faoin gcomhshaol (mar atá sainmhínithe sna Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol). Chinn mé nach raibh oibleagáid ar Líonraí BSL faisnéis a nochtadh faoi chostas an tionscadail toisc go ndéanfadh sé sin dochar do rúndacht tráchtála. Beag beann ar an mbreith sin, chuir mé ceangal ar Líonraí BSL codanna eile den doiciméad breithmheasa a chur ar fáil don achomharcóir, ar chodanna iad nach raibh feidhm ag rúndacht tráchtála ina leith.

Sa chás Damien McCallig agus an Roinn Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil (CEI/15/0032), rinne mé athbhreithniú ar an diúltú ón Roinn géilleadh do rochtain ar shonraí samhaltaithe a úsáideadh mar bhonn eolais faoi fhorbairt an bheartais fuinnimh ghaoithe. D'áitigh an Roinn gur bhain an fhaisnéis sin le próiseas breithniúcháin a bhí fós ar siúl ag an am. Bhí sí den tuairim go ndéanfadh nochtadh na faisnéise dochar do rúndacht imeachtaí údarás poiblí chun críocha airteagal 8(a)(iv). Tháinig mé ar an tuairim nár nochtadh an toradh ar an bpróiseas sin san fhaisnéis a bhí i gceist. Dá bhrí sin, chinn mé nár dhóigh go ndéanfadh eisiúint na faisnéise dochar do phróiseas cinnteoireachta. Thug mé faoi deara freisin an leas láidir pobail a bhaineann le deis a bheith ag daoine den phobal aighneachtaí eolacha a dhéanamh ar bhreitheanna comhshaoil.

Iarrataí atá míréasúnta go follasach agus iarrataí atá curtha in iúl i dtéarmaí róginearálta

Sa bhliain 2016, bhain roinnt achomharc a fuarthas le hiarrataí a bhí curtha in iúl i dtéarmaí róginearálta agus le hiarrataí a bhí míréasúnta go follasach maidir leis an méid agus an raon faisnéise atá á iarraidh. Foráiltear le hairteagail 9(2)(a) agus (b) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil go bhféadfaidh údaráis phoiblí diúltú géilleadh d'iarrataí den sórt sin. Nuair is cuí, ba cheart d'údaráis phoiblí breithniú a dhéanamh ar na forais sin le diúltú mar réamhábhair le linn dóibh iarrataí ar rochtain ar fhaisnéis faoin gcomhshaoil a phróiseáil.

Iarrataí atá curtha in iúl i dtéarmaí róginearálta

Faoi airteagal 7(8) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil, is amhlaidh, i gcás go bhfuil iarraidh curtha in iúl i dtéarmaí róginearálta, go bhfuil oibleagáid ar an údarás poiblí lena mbaineann cuireadh a thabhairt don iarratasóir iarraidh níos sonraí a dhéanamh a luaithe is féidir. Ní mór don údarás cúnamh a thairiscint don iarratasóir maidir le iarraidh den sórt sin a ullmhú freisin. Foráiltear le hairteagal 9(2)(b) go bhféadfaidh údarás poiblí diúltú géilleadh d'fhaisnéis faoin gcomhshaoil a chur ar fáil i gcás go bhfuil iarraidh fós curtha in iúl i dtéarmaí róginearálta, agus aird á tabhairt ar airteagal 7(8).

Sa chás An Comhairleoir Thomas Cullen agus an Roinn Comhshaoil, Pobail agus Rialtais Áitiúil (CEI/15/0018), thug mé faoi deara nach gcuirtear leis na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil aon oibleagáid ar údaráis phoiblí próiseáil a dhéanamh ar iarrataí ar fhaisnéis atá curtha in iúl i dtéarmaí róginearálta. Ba cheart iarrataí a bheith teoranta go réasúnta don ábhar atá i gceist agus don ábhar sin amháin nuair is féidir. Sa chás sin, d'iarr an t-achomharcóir *"An fhaisnéis ar fad a bhaineann le doiciméid a chuir [tríú páirtí ainmnithe] faoi bhráid na Roinne. Gach litir a seoladh agus a fuarthas, gach ríomhphost seachtrach agus inmheánach, gach meamram, miontuairiscí agus dáta gach cruinnithe, gach taifead agus gach nóta ar chomhráite thar an teileafón agus gach faisnéis den sórt sin atá i seilbh na Roinne agus a bhaineann leis an gcomhfhreagras idir [an tríú páirtí ainmnithe], an tAire agus an Roinn."* Sa fhreagra uaithi air sin, thug an Roinn cuireadh don achomharcóir iarraidh níos sonraí a dhéanamh agus mhol sí gur cheart dó sonraí a thabhairt faoi gach ábhar agus tréimhse ama lena mbaineann. Dhiúltaigh an t-achomharcóir d'iarraidh níos sonraí a dhéanamh ina dhiaidh sin. Ar achomharc, chinn mé ina dhiaidh sin go raibh údar ag an Roinn le diúltú géilleadh don iarraidh faoi airteagal 9(2)(b).

Iarrataí ar fhaisnéis faoin gcomhshaoil atá míréasúnta go follasach

Foráiltear le hairteagal 9(2)(a) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil go bhféadfar diúltú géilleadh d'iarraidh i gcás go bhfuil an iarraidh míréasúnta go follasach maidir leis an méid agus an raon faisnéise atá á iarraidh. Ní mór an foras sin le diúltú a léirmhíniú i bhfianaise airteagal 7(2)(b), rud lena bhforáiltear go bhféadfaidh údarás poiblí aon mhí amháin a chur leis an tréimhse nach mór dó breith a thabhairt inti i

gcás gur gá déanamh amhlaidh mar gheall ar mhéid nó ar chastacht na hiarrata. I gcás nach féidir le húdarás poiblí iarraidh a phróiseáil go réasúnach laistigh den tréimhse shínte dhá mhí, d'fhéadfadh go mbeadh sé cuí breithniú a dhéanamh ar dhiúltú géilleadh don iarraidh ar an mbonn go bhfuil an iarraidh míréasúnta go follasach. Amhail i gcás gach eisceachta ó nochtadh faoi airteagail 8 agus 9, tá an foras sin le diúltú faoi réir tástáil leasa pobail faoi airteagal 10(3).

Ba leis an bhforas sin le diúltú a bhain roinnt achomharc a rinneadh chuig an Oifig seo sa bhliain 2016. Mar shampla, sa chás Mary Horan Uas., Margaret Mulligan Uas. agus an tUas. Frank Mulligan agus Lónraí BSL (CEI/14/0009), d'iarr na hachomharcóirí rochtain ar *“chóipeanna díobh seo a leanas: gach píosa comhfhreagrais/gach doiciméad/gach píosa páipéir a gineadh, agus an fhaisnéis ar fad atá ar eolas agat agus a bhaineann in aon slí nó i ngach slí le costas iomlán Thionscadal Stáisiún Shrath na nEach ('an Tionscadal') . . . lena n-áirítear na nithe seo a leanas, ach gan a bheith teoranta dóibh: na costálacha bunaidh don tionscadal, an cúiteamh a íocadh le gach úinéir talún lena mbaineann, an costas ar na hoibreacha tógála ar fad, agus aon chostais agus gach costas a bhaineann leis an tionscadal, táillí dlí agus táillí comhairleoireachta ina measc”*. D'áitigh Lónraí BSL go raibh an iarraidh sin míréasúnta go follasach toisc gur lorgaíodh inti rochtain ar fhaisnéis faoi na céadta idirbheart scoite a rinneadh thar chuid mhór blianta, mar aon leis an gcostas ar an dlíthíocht a bhí i gceist. Mar gheall ar an bhfoclaíocht uilechuimsitheach a bhí san iarraidh ó na hachomharcóirí, agus tar éis dom aird a thabhairt ar an méid agus an raon faisnéise a iarradh, chinn mé go raibh údar ann leis an diúltú ar an mbonn go raibh an iarraidh míréasúnta go follasach ó thaobh méide agus raoin de.

Cé go nglacaim leis nach mbíonn iarratasóirí ar an eolas faoin méid faisnéise atá á sealbhú ag údarás poiblí nó thar a cheann, d'fhéadfadh gur mhó dochar ná maitheas a dhéanfadh iarraidh uileghabhálach ar fhaisnéis faoin gcomhshaol agus go ndiúltófaí géilleadh don iarraidh toisc go dtagann méid doláimhsithe faisnéise faoi raon feidhme na hiarrata. Mholfainn go láidir d'iarratasóirí agus d'údaráis phoiblí obair le chéile ar raon feidhme na n-iarrataí ón tús ar mhaithe leis an ngá atá le diúltú faoi airteagal 9(2)(a) a sheachaint.

Breitheanna ar an sainmhíniú ar fhaisnéis faoin gcomhshaol

In airteagal 3(1) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaol, tugtar sainmhíniú ar “fhaisnéis faoin gcomhshaol” chun críocha na Rialachán. Áirítear leis an sainmhíniú aon fhaisnéis faoi shé mhórábhar a bhaineann leis an gcomhshaol, lena n-áirítear aon fhaisnéis faoi bhearta nó ghníomhaíochtaí a dhéanann difear do ghnéithe den chomhshaol nó ar dóigh dóibh difear a dhéanamh do na gnéithe sin. Ina lán cásanna a thagann os mo chomhair, diúltaíonn údaráis phoiblí géilleadh d'iarrataí ar rochtain ar fhaisnéis faoin gcomhshaol ar an mbonn nach dtagann an fhaisnéis atá á iarraidh faoin sainmhíniú ar fhaisnéis faoin gcomhshaol. Ba mhaith liom a chur in iúl go soiléir nach gá go gcuimseoidh faisnéis cur síos díreach ar ghnéithe den chomhshaol ionas go dtiocfaidh sí faoi raon feidhme na Rialachán maidir le Rochtain ar Fhaisnéis faoin gComhshaol. Dá bhrí

sin, ba cheart d'údaráis poiblí aird a thabhairt ar gach a dtagann faoin sainmhíniú sin agus iad ag déanamh breithniú ar iarrataí ar rochtain ar fhaisnéis faoin gcomhshaoil. Táim ag súil go soláthróidh an Chúirt Achomhairc tuilleadh soiléirithe ar an sainmhíniú ar fhaisnéis faoin gcomhshaoil sa bhliain 2017, tar éis di cás *Minch* a éisteacht ar achomharc.

Sa bhliain 2016, chuir mé mo thuairim in iúl ar raon feidhme an tsainmhínithe ar fhaisnéis faoin gcomhshaoil sa chás Ken Foxe agus an Roinn Cosanta (CEI/15/0007). Bhain an t-achomharc sin le faisnéis faoi thaisteal oifigiúil inar úsáideadh aerárthaí atá faoi úinéireacht an Stáit. Agus aidhmeanna Choinbhinsiún Aarhus á gcur san áireamh agam, tháinig mé ar an gconclúid gur féidir a rá gurb amhlaidh, chun críche an tsainmhínithe, gur ag faisnéis ina gcuirtear síos ar ghnéithe dílse de ghníomhaíocht a dhéanann difear don chomhshaoil atá nasc leordhóthanach le tosca comhshaoil, fiú amháin i gcás nach léirítear staid na ngnéithe den chomhshaoil go díreach san fhaisnéis inti féin. Sa bhreith chéanna, chinn mé nach dtagann faisnéis theagmhasach nach sainítear inti seoladh na gníomhaíochta atá i gceist (amhail liostaí d'ainmneacha paisinéirí sa chás seo) faoi raon feidhme an tsainmhínithe atá sna Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil.

Sa bhreith uaim sa chás Mary Horan Uas., Margaret Mulligan Uas. agus an tUas. Frank Mulligan agus Líonraí BSL (CEI/14/0009), chinn mé gurbh fhaisnéis dhílis faoin tionscadal a bhí san fhaisnéis faoin gcostas iomlán ar mhórthionscadal forbartha bonneagair fuinnimh agus go n-éascódh nochtadh na faisnéise sin cuntasacht agus trédhearcacht i leith beart a dhéanann difear don chomhshaoil. Dá bhrí sin, chinn mé gur tháinig an fhaisnéis a iarradh faoin sainmhíniú ar "fhaisnéis faoin gcomhshaoil".

Ar an taobh eile, chinn mé, sa chás Phillip Cantwell agus Comhairle Chontae na Mí (CEI/15/0021), nár tháinig píosaí faisnéise ar leith faoi chostais tionscadail (mar a bhí leagtha amach ar shonraisc aonair, ar éilimh ar sheiceanna agus ar thuairiscí ar íocaíochtaí eatramhacha) faoin sainmhíniú, toisc nach raibh an fhaisnéis sin ina cuid dhílis den bheart a bhí á bhreithniú chun críocha na Rialachán maidir le Rochtain ar Fhaisnéis faoin gComhshaoil.

Aistriú Iarrataí ar Rochtain ar Fhaisnéis faoin gComhshaoil

Faoi airteagal 7(5) de na Rialacháin maidir le Rochtain ar Fhaisnéis faoin gComhshaoil, is amhlaidh, i gcás go ndéantar iarraidh chuig údarás poiblí agus nach bhfuil an fhaisnéis a iarradh á sealbhú ag an údarás lena mbaineann ná thar a cheann, nach mór don údarás sin fógra a thabhairt don iarratasóir faoi sin a luaithe is féidir.

Faoi airteagal 7(6), is amhlaidh, i gcás nach bhfuil aon fhaisnéis iomchuí á sealbhú ag údarás poiblí ná thar a cheann agus gurb eol don údarás sin go bhfuil an fhaisnéis a iarradh á sealbhú ag údarás poiblí eile, nach mór don údarás poiblí an iarraidh a aistriú chuig comhlacht poiblí eile nó fógra a thabhairt don iarratasóir faoin údarás poiblí a gcreideann sé gur cheart an iarraidh a sheoladh chuige. Tá sé tábhachtach a thabhairt faoi deara go bhfuil

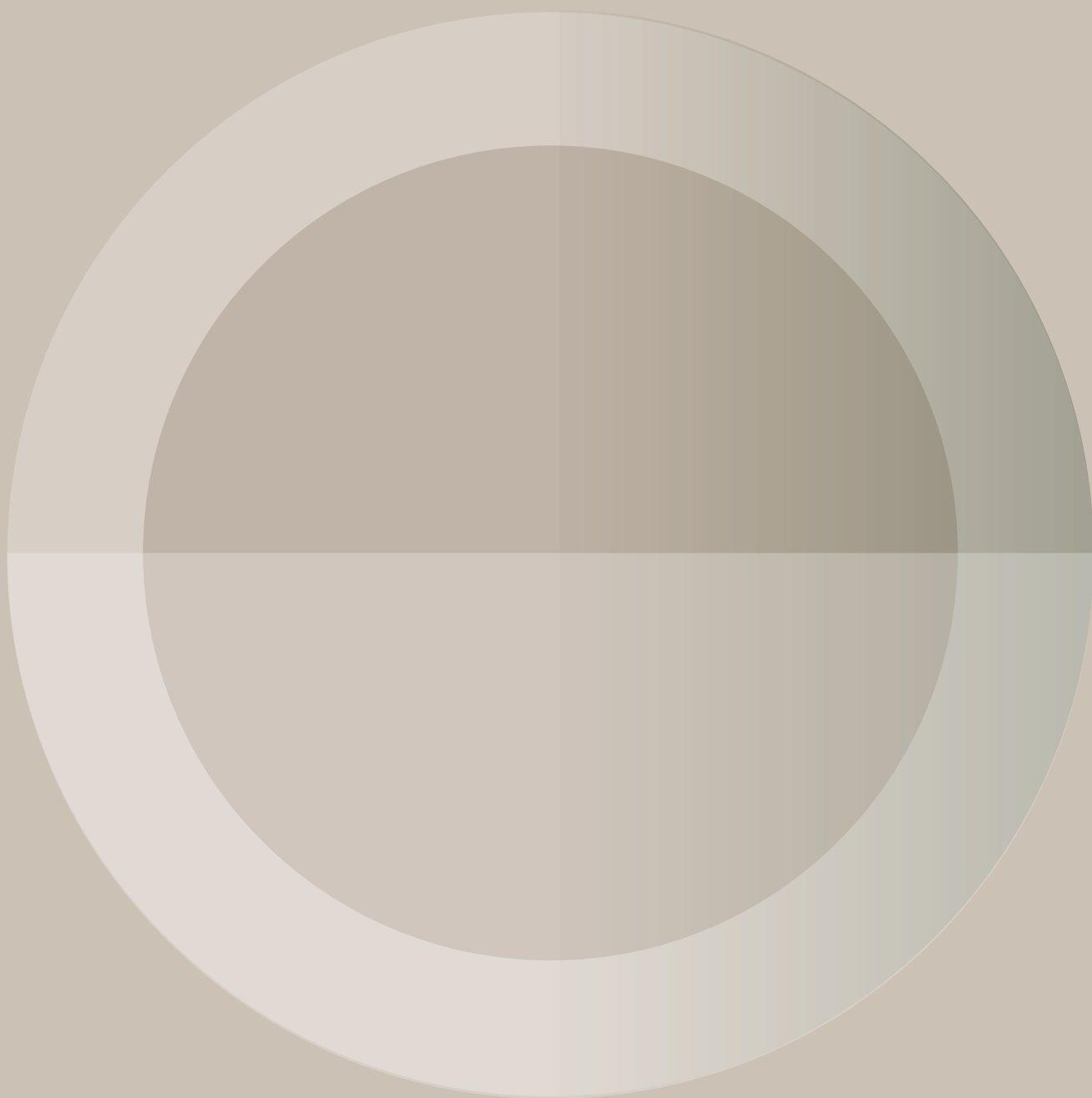
an dá fhoráil sin nasctha le chéile – ní fhéadfaidh údarás poiblí iarraidh a aistriú ach amháin i gcás nach bhfuil an fhaisnéis a iarradh á sealbhú ag an údarás poiblí sin.

Sa chás An tUas. Thomas Freeman agus Bord Soláthair an Leictreachais (CEI/16/0010), rinneadh iarraidh ar rochtain ar fhaisnéis faoin gcomhshaol chuig Bord Soláthair an Leictreachais, ar corparáid reachtúil é a bunaíodh faoin Acht Leictreachais (Soláthar), 1927. Sa chás sin, áfach, ba ó údarás poiblí ar leith a eisíodh an bhreith ar an iarraidh. Ba é sin, fochuideachta imfhálaithe de chuid BSL darb ainm Lónraí BSL Teoranta. San aighneacht uaidh chuig an Oifig seo, mhínigh BSL go raibh seirbhís chomhroinnte i bhfeidhm aige chun iarrataí ar rochtain ar fhaisnéis faoin gcomhshaol a phróiseáil ar fud a fochuideachtaí eile. Cuireann na fochuideachtaí sin na hiarrataí ar aghaidh chuig comhordaitheoir lárnach ansin, a sheolann an iarraidh chuig cibé fochuideachta de chuid BSL ar dóigh go mbeidh an fhaisnéis lena mbaineann aici.

Sna cúinsí sin, chinn mé nach raibh údar ag BSL leis an iarraidh ón achomharcóir a aistriú mar a airbheartaíodh. Féadfaidh daoine den phobal iarraidh ar rochtain ar fhaisnéis faoin gcomhshaol a sheoladh chuig údarás poiblí dá rogha. Mar sin, is faoin údarás poiblí ar roghnaigh an t-iarratasóir é a bheidh sé freagra a thabhairt ar an iarraidh. Ní fhéadfaidh údarás poiblí iarraidh a aistriú chuig údarás poiblí eile ach amháin mar a fhoráiltear dó in airteagail 7(5) agus (6).

Sa bhreith uaim, d'aithin mé a chasta atá na socruithe rialála agus conarthacha atá i bhfeidhm idir na comhlachtaí a bhfuil Grúpa BSL comhdhéanta díobh. Táim den tuairim, áfach, nach mór do gach údarás poiblí laistigh den ghrúpa forálacha na Rialachán maidir le Rochtain ar Fhaisnéis faoin gComhshaol a chomhlíonadh ar bhonn aonair.

Aguisíní



Aguisín I

Deimhnithe Reachtúla arna n-eisiúint ag Airí sa bhliain 2016



An Roinn Gnóthaí Eachtracha agus Trádála
Department of Foreign Affairs and Trade

13 January 2017

Ms Jacqui McCrum
Director General
Office of the Information Commissioner
18 Lower Leeson Street
Dublin 2

Ombudsman and
Information Commissioner

09 FEB 2017

Received

Notification under Section 34 of the Freedom of Information Act 2014

Dear Ms McCrum

I refer to your recent letter on the above.

On 23rd November 2016 the Minister for Foreign Affairs and Trade issued three certificates in accordance with Section 34 of the Freedom of Information Act 2014 by reference to which the records are exempted under Section 32 and Section 33. The certificates related to three requests for the same set of records.

Please find enclosed copies of the certificates issued in 2016.

Yours sincerely

Fiona Flood
Director
Security, Coordination and Compliance

Aguisín I

AN ROINN DLÍ agus CIRT agus
COMHIONANNAIS
51 Faiche Stiabhna
Baile Átha Cliath 2
Teileafón/Telephone: (01) 602 8202
Ríomhphoist/e-mail: foi@justice.ie



DEPARTMENT OF JUSTICE and
EQUALITY
51 St. Stephen's Green
Dublin 2
Eircode : D02 HK52
Facsuimhir/Fax: (01) 661 5461

Ms Jacqui McCrum
Director General
Office of the Information Commissioner
18 Lower Leeson Street
Dublin 2

Ombudsman and
Information Commissioner

20 JAN 2017

Received

17 January 2017

Dear Ms. McCrum,

I wish to refer to your letter of 9 January 2017 regarding Ministerial Certificates. The Department of Justice and Equality have 9 Ministerial Certificates.

4 certificates were renewed in 2016 and 2 new certificates was issued. For the sake of completeness, copies of all are attached.

Yours sincerely,

Noel Waters
Secretary General

Aguisín II

Athbhreithniú faoi alt 34(7) ar na Deimhnithe arna n-eisiúint ag Airí



Roinn an Taoisigh
Department of the Taoiseach

9th December 2016

Mr. Peter Tyndall,
Information Commissioner,
Office of the Information Commissioner,
18 Lower Leeson Street,
Dublin D02 HE97

ACKNOWLEDGED
14 DEC 2016
Office of the Ombudsman

**Re: Review of Certificates issued under Section 34 of the
Freedom of Information Act, 2014**

Dear Commissioner,

I would like to confirm that, pursuant to the above Act, the Taoiseach, the Minister for Public Expenditure and Reform and the Minister for Jobs, Enterprise and Innovation carried out a review of the operations of the Act, for the period ended 1st August 2016 on 6th December 2016.

Thirteen Certificates were reviewed, seven of which were issued by the Minister for Justice and Equality and six by the Minister for Foreign Affairs and Trade.

The Taoiseach, the Minister for Public Expenditure and Reform and the Minister for Jobs, Enterprise and Innovation are satisfied that it is not necessary to request revocation of any of the thirteen certificates which were the subject of this review - copies of the forms signed by the reviewers to that effect are enclosed.

Yours sincerely,

Marc McManus
Department of the Taoiseach

Enc:

c.c. D/J&E, D/FA&T, D/JE&I, D/PER

Tithe an Rialtais, Baile Átha Cliath 2.
Government Buildings, Dublin 2.

