

Speech by Minister for Finance
Conference of the Office of the Information Commissioner
Thursday, 15th May

Chairman, Information Commissioner and colleagues, I would like to thank the Information Commissioner for inviting me to open this important conference to mark the tenth anniversary of the coming into operation of the Freedom of Information Act. The Commissioner has assembled a formidable group of speakers and panel guests to contribute to today's discussions and I have no doubt that this will be a stimulating and lively event. It is good to take stock of the progress made ten years on and to do this by bringing together key stakeholders including elected representatives, the media, the public service and the academic experts. I am pleased also to welcome our distinguished visitors from the UK, including Scotland. The combined wisdom and experience of all present today should surely give rise to fruitful dialogue and insight.

From my own perspective as a member of the cabinet, as an elected representative and now as Minister for Finance with responsibility for the public service, FOI has been an important development in our modern democratic system and has helped to improve the engagement between the citizen and the administration.

In one sense, ten years is a long time. In the past ten years, we have been living through an information revolution, driven by rapid and tremendous developments in Information Technology. Ten years ago, the internet was only beginning to appear in workplaces whereas today it has become a central reality of modern life, enabling instant communication and provision of information across the globe and a whole new way for businesses, public and private to interact with their clients. But in another sense ten years is also a short time. And, it is certain that, in the next ten years, this

new Information Society we are living in, will continue to change and develop, posing new challenges for policy makers.

The past ten years have also been years of important change in the public service and the way in which it goes about its business of delivering quality, value-for-money service to citizens. Ciarán Connolly, Secretary General in my Department with responsibility for Public Service Management and Development, will speak in more detail, later this morning, about the public service modernisation programme and about what has been achieved and the agenda going forward from here. What I want to say to you is that ongoing public service modernisation and reform is an essential requirement for Ireland in meeting the new and different challenges which lie ahead. Changing economic circumstances in particular have to be faced. We need a public service closely focused on service delivery to its customers; which is flexible, highly skilled, capable of providing a wide-range of services, responsive to change, innovative and dynamic. We also need a

public service which represents value for money. That is why the former Taoiseach decided in 2006 to ask the OECD to benchmark the Irish public service against international comparators and to make recommendations for improvement. Again Ciarán will take the opportunity to speak in more detail about the OECD report and the Government's response but public service modernisation will remain close to the top of my agenda for the foreseeable future.

We are here today to talk about one decade of Freedom of Information. In the changing environment which I have been describing, FOI has been an important catalyst for change. By turning the presumption of secrecy on its head, it has fundamentally altered the nature of the engagement between the citizen and the administration. It has been a culture change for everyone involved, including members of the Government. Where previously, most of the business of Government Departments was conducted in secrecy, today, under the FOI Act, the business is open for inspection – and so it should be! Public service reform is

about providing quality service to the citizen and accountability is an intrinsic part of this – FOI is a natural expectation in a modern democracy.

Of course openness is not without limits and, while I don't want to reopen old debates. which have been already well ventilated, I would like to recall the reasons for the two most debated changes to the FOI Act which were introduced in 2003, after five years experience of operating FOI, and which I believe were necessary and proportionate : the introduction of up-front fees for FOI requests and the extension to ten years of protection for cabinet records.

In 2003, my Department estimated the average cost of processing an FOI request at €425 - today, applying inflation, that would be €485. And, it found, in the first five years of FOI, that there was a certain level of abuse of the Act – for example, one requester who made 466 requests, 101 applications for internal review and 35

appeals to the Information Commissioner – which would have cost well over €100,000 to process. There were also so called ‘trawling’ requests and dealing with these was not considered to be a reasonable diversion of staff and resources from providing services to the public. To deter this type of activity and also indeed to reflect to some degree the work involved in processing a request, it was decided to introduce a nominal fee of €15 for non-personal information, reduced to €10 for medical card holders. This fee was pitched at a level which would not deter serious requesters but which would make less serious requesters hesitate and it has not been increased since 2003, notwithstanding the increases in costs across the board since then. Since the introduction of the fee there has been a decrease in the number of requests but it is too simplistic to attribute this solely to the fee. The decrease is also due to the ongoing increase in the volume of information being published all the time by public bodies. Support for this viewpoint is provided by the statistical evidence that the number of requests for personal information, for which we do not charge, has also

fallen considerably since 2003. The Government has noted the OECD's recommendation in relation to fees and does not agree that they are a disincentive to openness.

As regards the protection of cabinet records, as the Minister at the time, Charlie McCreevy said, the Government has a right to organise its business and, with the benefit of five years' experience of operating the Act, five years is too short a timeframe to provide the 'space' which Ministers require for full and frank discussion, uninhibited by fear of disclosure. With ten years' protection, we are still at the liberal end of the international scale. We are now at the end of the 10 year time frame.

Moving on from 2003 to today, I would like to mention the important role which the Information Commissioner and her distinguished predecessor have played in establishing the FOI regime in Ireland. While there hasn't always been agreement between the administration and the Commissioner about the

interpretation of the Act, nor should one always expect there to be, I think you will all agree that the Commissioner has been a very important independent force in helping to bring about the culture change and change of mindset required by all of us. Her Office has won the respect of citizens and of public servants alike and she has been a strong and relentless advocate in articulating the importance of openness and transparency in Government.

I think it is fair to say today, that ten years on, FOI is now well embedded in our public administration and overall it is operated effectively by public bodies. Its implementation is well supported by ongoing investment by Government Departments and public bodies in training and other supports including the Central Policy Unit of my own Department and of course by the Office of the Information Commissioner. As I said at the beginning, I believe the Act as amended strikes the right balance between the public's right to know and the effective functioning of the administration.

I wish you an interesting and enjoyable day here today and I look forward to hearing about your discussions.