



Coimisiún um Chaighdeáin in Oifigí Poiblí
Standards in Public Office Commission

Investigation by the Standards in Public Office Commission
of Alleged Contraventions of
the Ethics in Public Office Acts 1995 and 2001
and Part 15 of the Local Government Act 2001

Senator Brian Ó Domhnaill
formerly of
Donegal County Council and
Údarás na Gaeltachta

December 2016

Report under Section 24 of the Ethics in Public Office Act 1995, as
amended by the Standards in Public Office Act 2001 and as applied by the
Local Government Act 2001

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Foreword

The Standards in Public Office Commission (the Commission), in accordance with section 23 of the Ethics in Public Office Act 1995 (the Ethics Act) as amended by the Standards in Public Office Act 2001 (the Standards Act), has carried out an investigation to determine whether Senator Brian Ó Domhnaill, formerly of Donegal County Council and Údarás na Gaeltachta has contravened the Ethics in Public Office Acts 1995 and 2001 (the Ethics Acts) and/or Part 15 of the Local Government Act 2001 (the Local Government Act). The Commission, in accordance with section 24 of the Ethics Act, has prepared the following report of the result of that investigation, copies of which, in accordance with section 24(1) of the Ethics Act and section 180(3) of the Local Government Act, are being furnished to:

1. Senator Ó Domhnaill, the subject of the investigation;
2. Mr. Seamus Neely, Chief Executive, Donegal County Council and Councillor Terence Slowey, Cathaoirleach, Donegal County Council, one of whose predecessors, Councillor Noel McBride, along with Mr. Neely made a complaint to the Commission and
3. the Minister for Public Expenditure and Reform.

Mr. Justice Daniel O'Keeffe
Chairperson

Mr. Seamus McCarthy
Comptroller and Auditor General

Mr. Peter Tyndall
Ombudsman

Mr. Peter Finnegan
Clerk of Dáil Éireann

Ms Deirdre Lane
Clerk of Seanad Éireann

Mr. Jim O'Keeffe
Commissioner

December 2016

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1. Introduction

- 1.1 The Commission was established by section 21 of the Ethics Act, as amended by section 2 of the Standards Act, as brought into operation by the Standards in Public Office Act 2001 (Commencement) Order 2001. The members of the Commission for the purposes of this investigation are:

Mr. Justice Daniel O'Keeffe (Chairperson)
Mr. Seamus McCarthy, Comptroller and Auditor General
Mr. Peter Tyndall, Ombudsman
Mr. Peter Finnegan, Clerk of Dáil Éireann
Ms Deirdre Lane, Clerk of Seanad Éireann
Mr. Jim O'Keeffe, former member of Dáil Éireann

- 1.2 The Commission's role, briefly, is to supervise the operation of the Ethics Acts in so far as they concern office holders, an Attorney General who is not a member of a House of the Oireachtas, Ministerial special advisers, designated directors and employees of specified public bodies and certain civil servants; to provide guidance and advice on the applicability of the Ethics Acts and to carry out investigations into possible contraventions of the Ethics Acts and/or Part 15 of the Local Government Act.
- 1.3 The investigative function of the Commission is a formalised procedure giving its Chairman statutory powers that include the power to compel the attendance of witnesses and to procure documents or other material. The Ethics Acts oblige the Commission to hold sittings for the purpose of investigations. The detailed procedure determined by the Commission for the conduct of investigations is available on the Commission's website at <http://www.sipo.gov.ie/en/About-Us/Our-Policies/Investigation-Protocol/>
- 1.4 Having carried out an investigation under section 23 of the Ethics Act to determine whether there has been a contravention of the Ethics Acts or of Part 15 of the Local Government Act, the Commission, pursuant to section 24 of the Ethics Act and section 180 of the Local Government Act, is required to prepare a report and to furnish a copy of the report to:
- the person the subject of the investigation,
 - a person who made a complaint,
 - where a report relates to the Cathaoirleach of a local authority, to the Leas-Cathaoirleach and the Chief Executive of the authority,
 - where a report relates to any other member of a local authority, to the Cathaoirleach and the Chief Executive of the authority and
 - the Minister for Public Expenditure and Reform.
- 1.5 In addition, section 24(2) of the Ethics Act provides that, where the Commission is of the opinion that a person the subject of an investigation may have committed an offence relating to the performance of his or her functions, it shall prepare a report in writing in relation to the matter and furnish it to the Director of Public Prosecutions.

- 1.6 This report, under section 24 of the Ethics Act, sets out the findings of the Commission together with its determinations in relation to:
- (a) whether there has been a contravention of Part 15 of the Local Government Act, and whether the contravention is continuing, or whether a "specified act" within the meaning of the Ethics Acts has been done,
 - (b) in case the determination is that there has not been a contravention of Part 15 or that a "specified act" has not been done, whether the Commission is of opinion that the complaint made was frivolous or vexatious or that there were no reasonable grounds for it, and
 - (c) in case the determination is that there has been a contravention of Part 15 or that a "specified act" has been done -
 - (i) if the determination is that the contravention or act is continuing, the steps required to be taken to secure compliance with Part 15, and the period of time within which such steps should be taken,
 - (ii) whether the contravention or act was committed inadvertently, negligently, recklessly or intentionally,
 - (iii) whether the contravention or act was, in all the circumstances, a serious or a minor matter, and
 - (iv) whether the person being investigated acted in good faith and in the belief that his or her action was in accordance with guidelines published or advice given in writing by the Commission under section 25 of the Ethics Act.
- 1.7 The Commission must be satisfied to the civil standard of proof, i.e. satisfied on the balance of probabilities, in finding that a contravention was committed or a 'specified act' was done.
- 1.8 Sections 168 and 169 of the Local Government Act are set out in Appendix 2. A 'specified act' means an act or omission referred to in section 4(1)(a) of the Standards in Public Office Act 2001, which provides:

Where a person ("the complainant") considers that...a specified person or a person who, in relation to a specified person, is a connected person may have done an act or made an omission after the commencement of section 2 that is, or the circumstances of which are, such as to be inconsistent with the proper performance by the specified person of the functions of the office or position by reference to which he or she is such a person or with the maintenance of confidence in such performance by the general public, and the matter is one of significant public importance,...the complainant may make a complaint in relation to the matter to the Commission."

2. Background

- 2.1 On 29 May 2012, the Standards Commission received a complaint dated 28 May 2012 from Councillor Noel McBride, then Mayor, Donegal County Council and Mr. Seamus Neely, County Manager (now Chief Executive), Donegal County Council, concerning Senator Brian Ó Domhnaill, former Councillor, Donegal County Council and member of Údarás na Gaeltachta. In his capacity as a member of an tÚdarás, Senator Ó Domhnaill was nominated by that Authority to the Donegal Sports Partnership (DSP) and served as Chairman from 2005 to 2008. Senator Ó Domhnaill attended meetings or other events in his role as Chairman of the DSP.
- 2.2 The complaint centred on alleged contraventions of Part 15 of the Local Government Act in relation to:
- (i) the claiming of travelling and subsistence expenses from both Donegal County Council and Údarás na Gaeltachta for attendance at a conference at the Fairways Hotel, Dundalk, Co Louth on 9, 10 and 11 March 2006 and attendance at a Donegal Sports Partnership (DSP) meeting in Letterkenny on 10 March 2006;
 - (ii) the claiming of travelling and subsistence expenses from Donegal County Council for attendance at an IPA Training Seminar in Carrickmacross, Co Monaghan on 26 to 27 April 2006 and the claiming of travelling expenses from Údarás na Gaeltachta for attendance at a DSP meeting in Letterkenny, Co Donegal on 27 April 2006; and
 - (iii) the claiming of travelling and subsistence expenses from Donegal County Council for attendance at a Marine Tourism Conference in Carlingford, Co Louth on 30 May to 1 June 2006 and the claiming of travelling and subsistence expenses from Údarás na Gaeltachta in respect of attendance at a DSP event in Dungloe, Co Donegal on 31 May 2006.
- 2.3 Having considered the matter, the Commission appointed Mr. Paddy Walsh of the Office of the Ombudsman as Inquiry Officer on 15 June 2012 under Section 6 of the Standards Act to conduct a preliminary enquiry into the complaint, to prepare a report of his enquiry, to furnish any statements made to him by the persons complained of and any other relevant persons, along with any relevant documents and to express an opinion as to whether there was *prima facie* evidence to sustain the complaint. The Inquiry Officer presented the report of his enquiry to the Commission on 7 November 2012, along with relevant statements and documents. He expressed the opinion that there was *prima facie* evidence to sustain an investigation of the complaint.
- 2.4 Having examined the provisions of the Ethics Acts and the Local Government Act and having taken account of the report of the Inquiry Officer, the Commission decided on 12 November 2012 that it was appropriate to carry out an investigation under section 23 of the Ethics Act to determine whether Senator Ó Domhnaill had contravened Part 15 of the Local Government Act or had done a "specified act" within the meaning of the Ethics Acts. Details of the alleged contraventions are included in the Commission's correspondence with Senator Ó Domhnaill dated 25 January 2013 - see Appendix 1.

- 2.5 The alleged contraventions relate to sections 168 and 169 of the Local Government Act. Those sections are set out in Appendix 2. The alleged contraventions also refer to the doing of alleged ‘specified acts’. A ‘specified act’ means an act or omission referred to in section 4(1)(a) of the Standards in Public Office Act 2001, which provides:

Where a person (“the complainant”) considers that...a specified person or a person who, in relation to a specified person, is a connected person may have done an act or made an omission after the commencement of section 2 that is, or the circumstances of which are, such as to be inconsistent with the proper performance by the specified person of the functions of the office or position by reference to which he or she is such a person or with the maintenance of confidence in such performance by the general public, and the matter is one of significant public importance,...the complainant may make a complaint in relation to the matter to the Commission.”

The complete text of section 4 is set out in Appendix 2.

- 2.6 Appendix 2 also contains other relevant extracts from legislation, from directions concerning the rules for expenses issued by the Minister for the Environment, Heritage and Local Government and from the Code of Conduct for Councillors.

3. Investigation Sitting of the Commission

- 3.1 The Commission intended to sit on 11 March 2013 to hear oral evidence in relation to its investigation. The Senator sought more time to prepare for the inquiry, which request was accommodated by an adjournment to 8 April 2013.
- 3.2 By letter dated 26 March 2013, the Senator informed the Commission of a change of solicitors. The Senator's new solicitors indicated that formal proof would be required of each and every aspect of the allegations against the Senator that would be considered by the Commission.
- 3.3 The Senator's new solicitors also indicated that he now wished to conduct his business with the Commission in Irish, including the public oral hearing then fixed for 8 April 2013. Since that indication, all engagement by the Commission with the Senator has been in Irish and all correspondence has been in both Irish and English. From 2011 until then, all of the correspondence between the Senator and both the local authority and the Commission had been in English.
- 3.4 Given the requirements for witnesses to be called and interpreters to be provided, the hearing was postponed again to 10 June 2013. Arrangements were made for translation facilities and for witnesses to attend on that date.
- 3.5 The Senator's solicitors then wrote contending that the Commission lacked jurisdiction to investigate the complaints made by the Mayor and County Manager of Donegal, contending that they constituted a transfer of an anonymous complaint. The Senator also contended that the investigation hearing should be conducted by a panel of the Commission competent to hear matters in Irish without interpreters. The Commission rejected these contentions.
- 3.6 Senator Ó Domhnaill had previously been notified that appropriate steps had been taken to facilitate the hearing through Irish and that the hearing would take place on 10 June 2013. On 6 June 2013, the Senator applied to the High Court for leave to seek judicial review of the investigation and the Commission hearing was stayed. Senator Ó Domhnaill's claims were rejected by the High Court in January 2014. Senator Ó Domhnaill appealed the decision of the High Court to the Supreme Court in April 2014. In November 2014, the Chief Justice directed that Senator Ó Domhnaill's appeal be heard and determined by the Court of Appeal. Senator Ó Domhnaill's appeal was dismissed by the Court of Appeal in July 2015.
- 3.7 The Commission arranged its investigation hearing for 9 May 2016. The Senator maintained his position with regard to the necessity for formal proof of each and every aspect of the allegations up to the date of the hearing. This necessitated the attendance of witnesses from Donegal County Council and Údarás na Gaeltachta. At no stage before or during the hearing did the Senator assert that the documentation adduced was in any way inaccurate or that his documentation had not been authored by him. Despite having put the documentation in issue, the Senator did not raise any issue thereon at the Commission hearing.
- 3.8 At the sitting, Mr. Seamus Ó Tuathail SC and Mr Daithí MacCárthaigh BL (instructed by Mr Seán Ó Canainn, Solicitor) appeared for Senator Ó Domhnaill. The Commission was represented by Mr. Luán ó Braonáin SC and Ms Siobhán Ní Chúlacháin BL (instructed by Mr.

Peter Law of A & L Goodbody Solicitors). The transcript of the investigation hearing is at Appendix 3.

- 3.9 At the conclusion of the hearing, in light of the lateness of the hour, it was agreed that counsel for the Commission and for Senator Ó Dornáil would make written submissions no later than 20 June 2016. These submissions are included in Appendix 4.

4. The Alleged Contraventions

- 4.1 The issues to be determined by the Commission were whether Senator Ó Domhnaill contravened the Local Government Act and had done a series of "specified acts" as set out in the nine alleged contraventions in the Statement of Alleged Contraventions.
- 4.2 The alleged contraventions concern the claiming of travelling and subsistence expenses from Donegal County Council and Údarás na Gaeltachta.
- 4.3 Each of the claims by Senator Ó Domhnaill for reimbursement of expenses from Donegal County Council was initiated by the completion of a written claim form, which, *inter alia*, contained the following declarations by him:
- “(c) This claim is made strictly in accordance with the Local Government (Expenses of Local Authority Members) Regulations 1993 and directions thereunder.*
- (d) The statements and particulars furnished herein are complete and accurate in all respects.*
- (e) No other payment has been made to me or is payable to me in respect of the time(s), journey(s) or other matters set out herein.*
- (f) I have not made, and will not make, any other claims for payment in respect of the time(s) journey(s) or other matters set out herein.”*
- 4.4 The Minister for the Environment, Heritage and Local Government issued Directions in Circular No. LG. 49/2 dated 17 December 1993 setting out the detailed rules for the claiming of travelling and subsistence expenses by members of local authorities. Relevant extracts are set out in Appendix 2.
- 4.5 A written form for claiming expenses from Údarás na Gaeltachta also had to be completed.
- 4.6 Board members of Údarás na Gaeltachta are entitled to claim travelling and subsistence allowances in line with the rules applying to civil servants. Such allowances are paid to Board members at the highest civil service rates. It should be noted that in accordance with civil service rules, subsistence allowances are payable to Board members in respect of absences of more than (a) five hours and (b) ten hours, whereas under Circular No. LG. 49/2 subsistence allowances are payable to councillors in respect of absences of more than (a) three hours and (b) seven hours.
- 4.7 The nine alleged contraventions can be viewed as three groups of three.

Allegations 1, 4 & 7 ACCC Conference, Dundalk/DSP meeting

- 4.8 In his capacity as a member of Donegal County Council, Senator Ó Domhnaill attended the Association of County and City Council's (ACCC) Annual Conference 2006 at Fairways Hotel, Dundalk, Co Louth on 9, 10 and 11 March 2006. He absented himself from the conference on 10 March 2006 to attend a DSP meeting in Letterkenny.

4.9 On 20 March 2006 Senator Ó Domhnaill submitted his claim to the Council for travelling and subsistence allowances as follows –

Thursday; 9 March 1.00pm - departed from home in Falcarragh to go to Dundalk
Saturday, 11 March 4.30pm - arrived home to Falcarragh

4.10 On 24 October 2006, Senator Ó Domhnaill submitted his claim to Údarás na Gaeltachta for travel and subsistence allowances as follows –

Friday, 10 March 3.30pm – departed from home to go to DSP meeting in Letterkenny
9.00pm – arrived home

4.11 The payments made to him in respect of his claims for travelling and subsistence allowances to the Council and to Údarás na Gaeltachta were as follows:

Donegal County Council payment

| | |
|-----------------|----------------|
| 136 miles x 2 = | €348.43 |
| 2 overnights = | €276.82 |
| 1 x 3 hour = | €16.32 |
| Total = | €641.57 |

In his claim form, Senator Ó Domhnaill claimed that the distance to Dundalk was 179 miles. The Council calculated the distance to be 136 miles and paid the claim on this basis, which Senator Ó Domhnaill accepts is the correct distance.

The Council made a payment of €641.57 to him in respect of his claim. It also paid a conference fee of €190.00 directly to the conference organisers. The conference fee does not form part of the alleged contraventions considered by the Commission in this investigation.

Údarás na Gaeltachta payment

| | |
|----------------|---------------|
| 62 miles = | €76.95 |
| 1 x 5 hour = | €16.32 |
| Total = | €93.27 |

4.12 The issue is that Senator Ó Domhnaill was paid for travelling and subsistence allowances by the Council in respect of his attendance at the Dundalk conference from 9 to 11 March 2006 and he was also paid such allowances by Údarás na Gaeltachta for attending a DSP meeting during one of the days he was said to have attended the Dundalk conference.

4.13 The Ministerial Directions setting out the rules for councillors claiming travelling and subsistence expenses provide, inter alia, that a local authority shall not pay any travelling allowance to a member in respect of any journey or part of a journey in respect of which an allowance is paid by, or is payable by, or is claimed from, another public authority - Circular LG 49/2, paragraph 6 – Appendix 2.

4.14 In his evidence, Senator Ó Domhnaill has said that he made a number of mistakes in completing his expenses claim forms as follows –

- a) he had claimed that the distance from home to Dundalk was 179 miles; he accepted that the decision of the Council to pay travelling expenses for 136 miles each way was correct and said that *“the claim of 179 miles was a genuine error.”* and
- b) In addition, in paragraph 1.1 of his letter of 21st March 2012 to the Mayor and County Manager of Donegal County Council, he claimed that attendance at the afternoon session of the conference in Dundalk on 10 March 2006 was an optional portion of the conference and fundamentally a recreational session and that one of the options available during that session was for conference participants to play golf. In this regard, Mr Liam Kenny, Director, Association of County and City Councils (ACCC), stated:

“The Friday afternoon programme comprised mainstream conference presentations including: “Building communities in city, suburb and county” -- Mr Nicky Brennan, President elect, GAA and “Rolling out the Roads Agenda” -- Mr. Fred Barry, CEO, National Roads Authority. Golf was not a timetabled feature of the programme -- however the contact details of a conference participant interested in arranging a golf game were given on the conference leaflet.”

In his replies to the Inquiry Officer, Senator Ó Domhnaill stated:

“I simply made a mistake in my recollection and fully accept your clarification. You will no doubt have noted in this regard that the letter referred to was written over six years following the conference.”

4.15 In explaining why he had remained in Falcarragh after the DSP meeting on 27 April 2006 rather than returning directly to Dundalk, Senator Ó Domhnaill gave evidence that:

- a) At 9.30 pm that evening he had received a 45 minute session of physio treatment from a man who is based in Falcarragh. He had not mentioned this in previous explanations of his actions. He said that this was a personal matter and that wasn't to do with his work as a councillor or member of Údarás na Gaeltachta and
- b) In addition that the matters which he would have had to deal with would involve telephone messages received in his office together with mail etc. He said that some of the queries were medically related and therefore required quite urgent attention. He said that in a county like Donegal, the regional hospital there is dealing with 145,000 people and people are waiting for operations and that he would be dealing with a lot of people (in such circumstances).
- c) He left Falcarragh at approximately 10:30 p.m. and returned to the conference in Dundalk.

Allegations 2, 5 & 8 Training Seminar in Carrickmacross, Co Monaghan

4.16 Senator Ó Domhnaill attended an IPA Training Seminar in Carrickmacross, Co Monaghan on 26 to 27 April 2006. Within the period covered by this claim he attended a DSP meeting in Letterkenny.

4.17 On 13 June 2006, Senator Ó Domhnaill submitted a claim for travelling and subsistence allowance to Donegal County Council containing the following information –

Wednesday, 26 April 5.00pm - departed from his home in Falcarragh for Carrickmacross
Thursday, 27 April 8.00 pm - arrived home to Letterkenny

4.18 On 24 October 2006, Senator Ó Domhnaill submitted his claim to Údarás na Gaeltachta for travel and subsistence allowances as follows –

Thursday, 27 April 5.00pm departed home to attend DSP meeting in Letterkenny
 8.00 pm - arrived home

4.19 The payments made to him in respect of his claims for travelling and subsistence allowances to the Council and to Údarás na Gaeltachta were as follows:

Donegal County Council payment

| | |
|-----------------|----------------|
| 123 miles x 2 = | €315.13 |
| 1 overnight = | €138.41 |
| 1 x 3 hour = | €16.32 |
| Total = | €469.86 |

In his claim form, Senator Ó Domhnaill claimed that the distance to Carrickmacross was 163 miles. The Council calculated the distance to be 123 miles and paid the claim on this basis, which Senator Ó Domhnaill accepts is the correct distance

The Council made a payment of €469.86 to him in respect of his claim. It also paid a seminar fee of €190 directly to the seminar organisers. The seminar fee does not form part of the alleged contraventions considered by the Commission in this investigation.

Údarás na Gaeltachta payment

| | |
|------------|--------|
| 62 miles = | €76.95 |
|------------|--------|

Senator Ó Domhnaill was not entitled to payment of a subsistence allowance from Údarás na Gaeltachta in this instance as his absence was less than five hours.

4.20 The issue is that Senator Ó Domhnaill was paid travelling allowances by the Council in respect of his attendance at the Carrickmacross training seminar **on 26 to 27 April 2006** and he was also paid such allowances by Údarás na Gaeltachta for attending a DSP meeting in Letterkenny during one of the days he was said to have attended the Carrickmacross seminar.

- 4.21 The Ministerial Directions setting out the rules for councillors claiming travelling and subsistence expenses provide, inter alia, that a local authority shall not pay any travelling allowance to a member in respect of any journey or part of a journey in respect of which an allowance is paid by, or is payable by, or is claimed from, another public authority - Circular LG 49/2, paragraph 6 – Appendix 2.
- 4.22 In his evidence, Senator Ó Domhnaill has said that he made a number of mistakes in completing his expenses claim forms as follows –
- a) he had submitted the DSP meeting as held on April 24th and not April 27th;
 - b) he had entered his return home time from Carrickmacross on 27th April as 8pm , when it should have been 3 p.m.
 - c) he had claimed that the distance from home to Carrickmacross was 163 miles; he accepted that the decision of the Council to pay travelling expenses for 123 miles each way was correct and said that the original 163 figure was presented in error.

Allegations 3, 6 & 9 Marine Tourism Conference in Carlingford, Co Louth

4.23 Senator Ó Domhnaill attended a Marine Tourism Conference in Carlingford, Co Louth on 30 May to 1 June 2006. He absented himself from the conference on 31 May 2006 to attend a DSP event in Dungloe, Co Donegal.

4.24 On 13 June 2006, Senator Ó Domhnaill submitted a claim (dated 13 April 2006) for travelling and subsistence allowance to Donegal County Council containing the following information –

| | |
|-----------------|--|
| Tuesday, 30 May | <u>3.00pm</u> - departed from home in Falcarragh for Carlingford |
| Friday, 2 June | <u>2.00pm</u> - arrived home |

4.25 On 24 October 2006, Senator Ó Domhnaill submitted his claim to Údarás na Gaeltachta for travel and subsistence allowances as follows –

| | |
|-------------------|--|
| Wednesday, 31 May | - departed home to attend DSP meeting in Letterkenny |
| | - arrived home |

[NOTE: no times given for departure or arrival home]

4.26 The payments made to him in respect of his claims for travelling and subsistence allowances to the Council and to Údarás na Gaeltachta were as follows:

| | |
|---------------------------------------|----------------|
| Donegal County Council payment | |
| 142 miles x 2 = | €363.80 |
| 2 overnights (30 + 31) = | €276.82 |
| 1 x 7 hour = | €40.01 |
| Total = | €680.63 |

In his claim form, Senator Ó Domhnaill claimed that the distance to Carlingford was 176 miles. The Council calculated the distance to be 142 miles and paid the claim on this basis, which Senator Ó Domhnaill accepts is the correct distance

The Council made a payment of €680.63 to him in respect of his claim. It also paid a conference fee of €150 directly to the conference organisers. The conference fee does not form part of the alleged contraventions considered by the Commission in this investigation.

| | |
|-------------------------------------|---------------|
| Údarás na Gaeltachta payment | |
| 54 miles = | €67.00 |
| 1 x 5 hour = | €16.32 |
| Total | €83.32 |

- 4.27 The issue is that Senator Ó Domhnaill was paid for travelling and subsistence allowances by the Council in respect of his attendance at the Carlingford conference **from 30 May to 1 June 2006** and he was also paid such allowances by Údarás na Gaeltachta for attending a DSP event in Dungloe during one of the days he was said to have attended the Carlingford conference.
- 4.28 The Ministerial Directions setting out the rules for councillors claiming travelling and subsistence expenses provide, inter alia, that a local authority shall not pay any travelling allowance to a member in respect of any journey or part of a journey in respect of which an allowance is paid by, or is payable by, or is claimed from, another public authority - Circular LG 49/2, paragraph 6 – Appendix 2.
- 4.29 In his evidence, Senator Ó Domhnaill has said that he made a number of mistakes in completing his expenses claim forms as follows –
- a) in his evidence to the Commission hearing on 9 May 2016, he stated that he had made a mistake in submitting a claim in October 2006 for travelling expenses for a day (31 May 2006) in respect of which he had already made a claim for travelling expenses to Donegal County Council.
 - b) he had claimed that the distance from home to Carlingford was 176 miles; the Council paid travelling expenses for 142 miles.
- 4.30 Decisions on attendance by Councillors at conference on behalf of the local authority are decided by the Council members. Senator Ó Domhnaill informed the Inquiry Officer that the exact dates of meetings of the DSP were generally arranged at the previous meeting and that Senator Ó Domhnaill would therefore have known that he was due to attend the Carlingford conference from 30 May to 1 June 2006, when the DSP meeting was being arranged for 31 May 2006. When he was asked by the Inquiry Officer why he did not withdraw from the Dundalk conference or attempt to have the meeting set for another date, he stated:

“It would have been inappropriate and indeed unfair in my view upon the other members and directors of the Sports Partnership, to seek to have the meeting re-scheduled. I made the decision on the Friday morning 10th March to attend. This was a decision which I made in the best interests of all I serve. As already detailed, the decision to attend the DSP meeting meant that I incurred additional travel costs for which I was not recompensed. I made the decision, however, for what I perceived to be the best interests of all of those I served.”

4.31 It is clear from the evidence of Senator Ó Domhnaill that his political and other commitments were most extensive and time consuming on a regular basis. His actions had the effect of prioritising his local constituents in dealing with their needs and requests. He was well aware of these commitments. The time demands were such that he knew when attending these conferences that it was likely that he was going to have to cut short or interrupt his attendance to deal with his domestic, business and political commitments. In turn, this impacted upon his entitlement to claim travelling and subsistence expenses.

4.32 The time span between the journeys undertaken and his submission of claims for expenses to Údarás na Gaeltachta had the potential for mistakes to occur. He acknowledged such mistakes and claimed that they were genuine.

4.33 The Commission notes that, in the case of each of his three claims for travelling expenses to Donegal Council, the errors he made in estimating the distance between his home and his destination were all in his favour and, had the Council accepted the claims on face value, would have provided him with unwarranted expenses payments. Senator Ó Domhnaill stated in his evidence that each of these errors were genuine. He said that

“generally... I would have put in an approximate distance..., and the Council would always, you know they would always do the AA route finder for the members and put in the correct distance.”

4.34 The examination of Senator Ó Domhnaill’s claims by Donegal County Council in the first instance, by the Commission’s Inquiry Officer and ultimately in the course of the Commission’s investigation all took place some considerable time after the events originally occurred. Senator Ó Domhnaill provided detailed accounts of his actions to the Council, to the Inquiry Officer and to the Commission. However, at the investigation hearing when he was asked about his recollection of things and his ability to say that certain times were inaccurate, he stated (in Irish):

“Well, I had to go through this very precisely inasmuch as I could because my name was out there. I had to remember, put some sort of memory together on this and to think and to speak to people, to speak to my family, which I did, speak to my secretary in the office, speak to everybody I could, even to speak to my trainer and coach as late as last night...”

4.35 Senator Ó Domhnaill gave the following evidence to the Commission:

- Notwithstanding that he signed claim forms for travel and subsistence expenses and submitted them to Donegal County Council, which stated *“This claim is made in accordance with the Local Government (Expenses of Local Authorities Members) Regulations 1993 and directions thereunder”*, he stated that he had not read the regulations or directions and he could not remember receiving a copy of the regulations.
- He had a diary to record his appointments and this would have recorded that he was at a conference in Dundalk on 9, 10 and 11 March 2006 and that he was in Letterkenny on 10 March 2006. He stated that in his opinion he was attending on behalf of two different organisations, fulfilling, in his opinion, *“the best thing for the people of Donegal.”*

- He made a claim for subsistence for 10 March 2006 to Údarás na Gaeltachta, having already received payment from Donegal County Council for the same date. He believed that he was entitled to two subsistence payments and stated that he felt honestly that he was trying to serve the two purposes.
- He believed that he was doing the right thing in attending the meetings.
- In a letter of 15 December 2011 to Mr Liam Ward, Donegal County Council, he stated *“I attended the conference in Dundalk on 9th, 10th and 11th March 2006. I left the conference at lunchtime Friday the 10th to travel to Letterkenny as I had a meeting of the Donegal Sports Partnership of which I was and remain a Board member. This meeting finished at approximately 8 p.m. and at this point in the knowledge that the conference events would be finished on my return, I decided to travel to my home in Falcarragh and picked up my mail for Thursday and Friday.”*
- However, he gave evidence to the investigation hearing on 9 May 2016 that (in Irish): *“I went from the conference to my office and my home and then back to the meeting in Letterkenny that afternoon because I had time to do that.”*
- In cross-examination, the Senator confirmed that he was aware of the rules governing expenses claims. He confirmed that he had kept a diary and that it was filled in contemporaneously as a record of his attendance at various events. Under cross-examination about the events of 10 March 2006, the Senator accepted that he had claimed and received two subsistence payments and stated (in Irish) *“in my opinion on those occasions there was black and white of a difference between them. I was attending on behalf of two different organisations, fulfilling, in my opinion, the best thing for the people of Donegal. Q. You mean that you are entitled to two subsistence payments if you are working for two organisations? A. Well, that’s a question for the Commission, I suppose. ... I believe I was entitled to those subsistence payments because I hadn’t made a claim to the Authority, to Údarás na Gaeltachta.”* He agreed, however, that when he made his claim to Údarás na Gaeltachta, he had checked his diary and seen that he had already been paid a subsistence allowance for the relevant day.

The Code of Conduct for Councillors

4.36 The Local Government Act 2001 (Commencement) Order 2004 (SI 217 of 2004) commenced certain provisions of the Local Government Act concerning codes of conduct with effect from 21 May 2004. Following the making of that order, the Minister for the Environment, Heritage and Local Government, pursuant to section 169(1) of the Local Government Act published in June 2004 a Code of Conduct for the guidance of members of local authorities. Provisions of the Act regarding a requirement that a notice be issued to members drawing their attention to the Code and to the obligation to have regard to and be guided by it in the performance of their functions, were commenced with effect from 1 January 2005 under S.I. 217 of 2004.

Section 169(3)(a) of the Act provides:

“Each member shall have regard to and be guided by the Code of Conduct in the exercise of his or her functions”.

Section 169(4)(a)(i) provides:

“As soon as practicable after the election or co-option of a person as a member of a local authority, the Ethics Registrar shall supply to each such member a copy of the National Code of Conduct for Local Authority Members.”

Section 169(4)(a)(ii) provides:

“The notice issued by the ethics registrar under section 174 shall draw the member’s attention to the code of conduct and to subsection (3)(a).”

4.37 Each member of a local authority had to furnish an annual declaration of declarable interests to the Ethics Registrar, in a form which had been furnished to him/her by the Ethics Registrar together with a notice drawing the member’s attention to the Code of Conduct (section 169(4)(a)(ii)) and to the requirement that each member shall have regard to and be guided by the Code of Conduct (section 169(3)(a)). Article 10 of the Local Government Act 2001 (Part 15) Regulations 2004 (SI 770 of 2004) amended with effect from 1 January 2005 the declaration form to be completed by members of local authorities to include the following undertaking:

“I hereby undertake to have regard to and be guided by the Code of Conduct for Councillors in the exercise of my functions. (The Code of Conduct for Councillors was issued by the Minister under section 169 of the Local Government Act 2001.)”

4.38 The Code of Conduct is relevant in this investigation as it is alleged that Senator Ó Domhnaill had failed to comply with or abide by certain of its principles. In particular, paragraphs 8.1 and 8.2 provide:

“8.1 Councillors must show all reasonable care for local authority property, resources and funds and not use them, or permit their use, for unauthorised or non-official purposes. They must observe in full and at all times the rules governing the making of claims and of payments of any kind. This includes representational payment, annual allowance, cathaoirleach’s or other allowance, conference attendance or other travel.

8.2 The Act permits the authorisation of conference attendance where the council is satisfied such is justified by reference to relevance to the authority and local community, the cost and the benefits likely to accrue. It is the personal responsibility of each individual to ensure his or her proper attendance for the duration and to report back to the council in accordance with the Act.”

Written submissions

4.39 Senator Ó Domhnaill’s legal representatives in their written submission on his behalf cited the Commission’s report into its investigation of alleged contraventions of the Ethics in Public Office Acts 1995 and 2001 and Part 15 of the Local Government Act 2001 by former Councillor Dessie Larkin, Donegal County Council and the Border, Midland and Western Regional Assembly (December 2014). In particular, they cite paragraph 5.3 of the report:

In relation to alleged contraventions 4 to 6, whilst the Code of Conduct for Councillors and Section 142(5)(f) of the Local Government Act require a councillor attending a conference to submit a report to the local authority, Donegal County Council in a letter dated 9 August 2013 informed the Inquiry Officer that it was not “a compulsory practice” of the Council at that time to enforce the requirement and Councillor Larkin had not submitted reports in respect of the conferences. The letter stated that revised arrangements were introduced in March 2010 following the raising of the matter by the Local Government Auditor during the 2008 audit. The Commission concludes that in any given case, it is a matter in the first instance for the Council to assess whether there was proper attendance for the duration of a conference by a councillor as required by paragraph 8.2 of the Code and to enforce compliance with the obligation to report back to the Council in accordance with the Act. Against this background, the Commission is of the opinion that it would be inequitable to adjudicate on Councillor Larkin in relation to his partial attendance at a conference when the regime for assessing a councillor’s attendance and reporting thereon was not operated by the Council until 2010. In these circumstances, the alleged contraventions 4 to 6 are not established against Councillor Larkin.

4.40 The submission states, *inter alia*:

“Arising out of the Commission’s decision and jurisprudence in the Larkin case, Senator Ó Dombnaill was free to temporarily absent himself from the Dundalk Conference in order to attend a meeting of the Donegal Sports Partnership on behalf of Údarás na Gaeltachta if he believed that that choice would be more beneficial to his constituents and that is the choice he made.”

4.41 The submission further states, *inter alia*:

“This is not a case of a double expense claim, but rather two distinct claims to two different public bodies arising out of different journeys on different dates and pursuant to the Commission’s decision in the Larkin case, the Senator was fully-entitled to make the journey from an Fál Carrach/Gort a’ Choirce to Letterkenny and back again on 10 March.”

4.42 The submission further states, *inter alia*, in regard to the Senator’s claims regarding his attendance at the IPA Training Seminar in Carrickmacross, Co Monaghan from 26 to 27 April 2006 and his attendance at a Donegal Sports Partnership meeting in Letterkenny on 27 April 2006:

“This alleged contravention arises out of an honest mistake contained on the claim form submitted to the County Council”

5. Findings and Determinations

- 5.1 As the Commission set out in the report of its investigation of alleged contraventions by Councillor Pádraig Doherty, Donegal County Council (June 2014), the general principle underlying the payment of travel and subsistence expenses is recognition of entitlement to payment towards the recompense of expense necessarily incurred in the performance of official functions. The Commission regards the making of claims by councillors whether for travel expenses or subsistence allowances as actions on their part which require diligence and care. There is an element of trust in relation to making such claims. Particular care is required where there are claims to different State agencies. The proper claiming of expenses and subsistence allowances is in principle a serious matter for compliance by councillors, not least to maintain and enhance public trust and confidence in local government. The seriousness of the matter is not determined solely by the quantum at issue.
- 5.2 The Commission had regard to the evidence presented to it in the form of documents and statements and at the hearing and also to the written submissions made to it, which are included in Appendix 4.
- 5.3 In relation to alleged contraventions 1, 4 and 7, the Commission finds that Senator Ó Domhnaill was not entitled under Part II, Paragraph 6 of the Ministerial Directions contained in Circular LG. 49/2 to claim and receive expenses as he did from both Donegal County Council and Údarás na Gaeltachta in respect of his attendance at a meeting of the ACCC conference in Dundalk on 9, 10 and 11 March 2006 and at a DSP meeting in Letterkenny on 10 March 2006.
- 5.4 In relation to alleged contraventions 2, 5 and 8, the Commission finds that Senator Ó Domhnaill was not entitled under Part II, paragraph 6 of the Ministerial Directions contained in Circular LG. 49/2 to claim and receive expenses as he did from both Donegal County Council and Údarás na Gaeltachta in respect of his attendance at an Institute of Public Administration Training Seminar in Carrickmacross, County Monaghan on 26 to 27 April 2006 and at a Donegal Sports Partnership meeting on 27 April 2006 in Letterkenny, County Donegal.
- 5.5 In relation to alleged contraventions 3, 6 and 9, the Commission finds that Senator Ó Domhnaill was not entitled under Part II, paragraph 6 of the Ministerial Directions contained in Circular LG. 49/2 to claim and receive expenses as he did from both Donegal County Council and Údarás na Gaeltachta in respect of his attendance at a Marine Tourism Conference in Carlingford, County Louth on 30 May to 1 June 2006 and at a Donegal Sports Partnership event on 31 May 2006 in Dungloe, County Donegal.
- 5.6 The Commission does not accept the submission made on Senator Ó Domhnaill's behalf that the Commission's decision in its report of the investigation into Councillor Dessie Larkin entitled Senator Ó Domhnaill to temporarily or otherwise absent himself from the Dundalk Conference in order to attend an event of the Donegal Sports Partnership on behalf of Údarás na Gaeltachta even if as he claimed he was doing so on the basis that that choice would be more beneficial to his constituents. The Commission does not accept that the Senator had the right to pick and choose the degree of attendance at a conference to which he was sent by decision of the elected members to represent the county council. The Larkin case involved

different facts and contraventions to the instant case. It is not on all fours with the present case and cannot be relied upon as a precedent.

- 5.7 The Commission does not accept the submission that claims by Senator Ó Domhnaill to Donegal County Council and to Údarás na Gaeltachta were not double expense claims, but rather were two distinct claims to two different public bodies arising out of different dates.
- 5.8 The Commission does not accept the Senator's assertions or those made on his behalf that incorrect information on his claim forms were genuine or honest mistakes. In reaching this finding, it had regard to the pattern of such incorrect information and the fact that each instance of an alleged mistake was in his favour financially. The Commission regards the conduct of Senator Ó Domhnaill as calculated to achieve the maximum financial return. The Commission does not accept the evidence of the Senator, which sought to correct his earlier accounts. The various acknowledgements by the Senator in relation to his mistakes indicate that his evidence was unsatisfactory and lacked credibility.
- 5.9 For convenience, the contraventions alleged against Senator Ó Domhnaill are now set out in turn, followed by the Commission's findings and determinations.
 1. That Senator Ó Domhnaill contravened Section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out his functions as a member of Donegal County Council in that he claimed travelling and subsistence expenses from Donegal County Council in respect of his attendance at the Association of County and City Councils' Annual Conference 2006 at Fairways Hotel, Dundalk, County Louth on 9, 10 and 11 March 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 10 March 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill contravened section 168 of the Local Government Act 2001 in the manner alleged. The Commission is satisfied on the balance of probabilities that the contravention was committed intentionally and that it was, in all the circumstances, a serious matter.

2. That Senator Ó Domhnaill contravened Section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out his functions as a member of Donegal County Council in that he claimed travelling and subsistence expenses from Donegal County Council in respect of his attendance at an Institute of Public Administration Training Seminar in Carrickmacross, County Monaghan on 26 to 27 April 2006 and later also claimed travelling expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 27 April 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 18 and 22 of Part II of

the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1991 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill contravened section 168 of the Local Government Act 2001 in the manner alleged. The Commission is satisfied on the balance of probabilities that the contravention was committed intentionally and that it was, in all the circumstances, a serious matter.

3. That Senator Ó Domhnaill contravened Section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out his functions as a member of Donegal County Council in that he claimed travelling and subsistence expenses from Donegal County Council in respect of his attendance at a Marine Tourism Conference in Carlingford, County Louth on 30 May to 1 June 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 31 May 2006 in Dungloe, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill contravened section 168 of the Local Government Act 2001 in the manner alleged. The Commission is satisfied on the balance of probabilities that the contravention was committed intentionally and that it was, in all the circumstances, a serious matter.

4. That Senator Ó Domhnaill contravened Section 169 (3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3, and 8.1 of the Code of Conduct for Councillors (June 2004) in that he claimed travelling and subsistence expenses from Donegal County Council in respect of his attendance at the Association of County and City Councils' Annual Conference 2006 at Fairways Hotel, Dundalk, County Louth on 9, 10 and 11 March 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 10 March 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill contravened section 169(3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3 and 8.1 of the Code of Conduct for Councillors in the manner alleged. The Commission is satisfied on the balance of probabilities that the contraventions were committed intentionally and that they were, in all the circumstances, a serious matter.

5. That Senator Ó Domhnaill contravened Section 169 (3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3, and 8.1 of the Code of Conduct for Councillors (June 2004) in that he claimed travelling and subsistence expenses from Donegal County Council in respect of his attendance at an Institute of Public Administration Training Seminar in Carrickmacross, County Monaghan on 26 to 27 April 2006 and later also claimed travelling expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 27 April 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill contravened section 169(3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3 and 8.1 of the Code of Conduct for Councillors in the manner alleged. The Commission is satisfied on the balance of probabilities that the contraventions were committed intentionally and that they were, in all the circumstances, a serious matter.

6. That Senator Ó Domhnaill contravened Section 169 (3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3, and 8.1 of the Code of Conduct for Councillors (June 2004) in that he claimed travelling and subsistence expenses from Donegal County Council in respect of his attendance at a Marine Tourism Conference in Carlingford, County Louth on 30 May to 1 June 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 31 May 2006 in Dungloe, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill contravened section 169(3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3 and 8.1 of the Code of Conduct for Councillors in the manner alleged. The Commission is satisfied on the balance of probabilities that the contraventions were committed intentionally and that they were, in all the circumstances, a serious matter.

7. That being a "specified person" within the meaning of section 4(6) of the Standards in Public Office Act 2001, Senator Ó Domhnaill did a "specified act" within the meaning of section 2 of the Ethics in Public Office Act 1995 (inserted by Schedule 1 of the Standards in Public Office Act 2001), or a series of such acts, by way of his conduct in claiming travelling and subsistence expenses from Donegal County Council in respect of his attendance at the Association of County and City Councils' Annual Conference 2006 at Fairways Hotel, Dundalk, County Louth on 9, 10 and 11 March 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás

na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 10 March 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991, which conduct, and/or the circumstances of such conduct, was inconsistent with the proper performance by him of the functions of a member of Donegal County Council and of the functions of a member of Údarás na Gaeltachta and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill did a "specified act" in the manner alleged. The Commission is satisfied on the balance of probabilities that the "specified act" was committed intentionally and that it was, in all the circumstances, a serious matter.

8. That being a "specified person" within the meaning of section 4(6) of the Standards in Public Office Act 2001, Senator Ó Domhnaill did a "specified act" within the meaning of section 2 of the Ethics in Public Office Act 1995 (inserted by Schedule 1 of the Standards in Public Office Act 2001), or a series of such acts, by way of his conduct in claiming travelling and subsistence expenses from Donegal County Council in respect of his attendance at an Institute of Public Administration Training Seminar in Carrickmacross, County Monaghan on 26 to 27 April 2006 and later also claimed travelling expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 27 April 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 2001, which conduct, and/or the circumstances of such conduct, was inconsistent with the proper performance by him of the functions of a member of Donegal County Council and of the functions of a member of Údarás na Gaeltachta and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill did a "specified act" in the manner alleged. The Commission is satisfied on the balance of probabilities that the "specified act" was committed intentionally and that it was, in all the circumstances, a serious matter.

9. That being a "specified person" within the meaning of section 4(6) of the Standards in Public Office Act 2001, Senator Ó Domhnaill did a "specified act" within the meaning of section 2 of the Ethics in Public Office Act 1995 (inserted by Schedule 1 of the Standards in Public Office Act 2001), or a series of such acts, by way of his conduct in claiming travelling and subsistence expenses from Donegal County Council in respect of his attendance at a Marine Tourism Conference in Carlingford, County Louth on 30

May to 1 June 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of his attendance at a Donegal Sports Partnership meeting on 31 May 2006 in Dungloe, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991, which conduct, and/or the circumstances of such conduct, was inconsistent with the proper performance by him of the functions of a member of Donegal County Council and of the functions of a member of Údarás na Gaeltachta and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.

The Commission is satisfied, on the evidence before it, that Senator Ó Domhnaill did a "specified act" in the manner alleged. The Commission is satisfied on the balance of probabilities that the "specified act" was committed intentionally and that it was, in all the circumstances, a serious matter.

- 5.10 The Commission is required by section 24 of the Ethics Act to determine whether the contravention or specified act was committed inadvertently, negligently, recklessly or intentionally. The Commission considers a determination that an act was committed intentionally to be at the highest end of the spectrum (with acts committed inadvertently at the lowest end). Such a determination arises where an act was done consciously with a view to the result intended. In determining the manner in which Senator Ó Domhnaill acted, the Commission had regard to the nature of the contraventions and acts and the system by which the contraventions and acts were committed. It also had regard to the explanations offered to the Commission in relation thereto and the attitude of Senator Ó Domhnaill to his conduct at the time thereof. The Commission, having regard to the evidence given, concludes that each of the contraventions and acts were at the highest level and were done intentionally by Senator Ó Domhnaill.
- 5.11 In making its findings concerning alleged contraventions 1 to 9 that the contraventions and "specified act" were done intentionally and that they were, in all the circumstances, serious matters, the Commission had regard to the differing explanations given by Senator Ó Domhnaill for his actions in this regard at various stages of the examination of this matter both within Donegal County Council and by the Commission.
- 5.12 By their nature, the Commission finds that the contraventions are not continuing ones.
- 5.13 The Commission has decided that it is not in a position to find that Senator Ó Domhnaill acted in good faith in relation to the contraventions.
- 5.14 As there has been no repayment of the expenses incorrectly claimed by Senator Ó Domhnaill and notwithstanding that it is open to him to make such a repayment, it is a matter for Donegal County Council and/or Údarás na Gaeltachta to take the appropriate steps to recoup the moneys involved.

Appendix 1

Letter to Senator Brian Ó Domhnaill – 25 January 2013 - enclosing Statement of Alleged Contraventions

25 January 2013

Senator Brian Ó Domhnaill
Killult
Falcarragh
Co Donegal

Dear Senator Ó Domhnaill,

I refer to my letter of 16 November 2012 regarding the Standards Commission's decision to initiate an investigation under section 23 of the Ethics in Public Office Act 1995, as amended, in relation to the complaint dated 28 May 2012 received from Councillor Noel McBride, then Mayor, Donegal County Council and Mr Seamus Neely, County Manager, Donegal County Council.

The Standards Commission proposes to sit on Monday, 11 March 2013 at 11.00 am at its offices at 18 Lower Leeson Street, Dublin 2 for the purposes of hearing evidence arising from this investigation. Please confirm by return that you are available to attend on that date. Please also indicate whether you will be legally represented at the hearing.

In order to assist you in understanding the investigation process, I enclose a Statement of Intended Procedures which has been prepared by the Commission. I also enclose copies of the following:

1. Statement of Alleged Contraventions of the Local Government Act 2001 and the Ethics Acts.
2. Report dated 7 November 2012 (including Appendices) of Mr Paddy Walsh, the Inquiry Officer appointed by the Commission.

The enclosed Report includes as Appendices certain documentation which was provided to Mr Walsh in the course of his enquiries and also Statements obtained by Mr Walsh from officials of Donegal County Council, Údarás na Gaeltachta and the Association of County and City Councillors and from the then Mayor of Donegal County Council. The Commission intends to rely on this documentation and these Statements in the investigation.

The Commission has extensive powers to compel the attendance of persons to give evidence to it and to procure documentation. However, it appears to the Commission that there is little or no factual dispute disclosed by this documentation and Statements and, in order to obviate the necessity of the Commission having to formally prove this documentation and to call the authors of the Statements as witnesses to give oral evidence at the hearing in accordance with the Statements, I am directed by the Chairman of the Commission to seek your written consent to these documents being produced in evidence without formal proof being required and for the written Statements to be admissible as evidence by the Commission at the hearing. That would not, of course, preclude you

from giving evidence on your own behalf, calling any additional evidence which you consider appropriate or making submissions to the Commission.

In this context, you should note the provisions of Section 32(2) of the Ethics in Public Office Act 1995, which is referred to in para 4.6 of the Statement of Intended Procedures. As is stated there, the Commission will endeavour to comply with any reasonable request made by you or on your behalf in relation to the exercise by the Chairman of his powers under that section for the purposes of securing the attendance of witnesses and/or the production of documents which you wish to present to the Commission.

I look forward to hearing from you as to whether you are that you are available to attend on 11 March 2013, whether you will be legally represented at the hearing and whether you are prepared to agree to the documentation and the Statements included in the Appendices in the Inquiry Officer's Report being admitted into evidence without formal proof.

If you or your legal representative require clarification of any of the matters raised in this letter or alternatively any of the procedures outlined in the Statement of Intended Procedures, please do not hesitate to contact me.

Yours sincerely,

David Waddell
Commission Secretary

**Ethics in Public Office Act 1995
Standards in Public Office Act 2001
Local Government Act 2001**

(Section 32(6)(b) of the Ethics in Public Office Act 1995)

Former Councillor Brian Ó Domhnaill, Donegal County Council

STATEMENT OF ALLEGED CONTRAVENTIONS

1. That you contravened Section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out your functions as a member of Donegal County Council in that you claimed travelling and subsistence expenses from Donegal County Council in respect of your attendance at the Association of County and City Councils' Annual Conference 2006 at Fairways Hotel, Dundalk, County Louth on 9, 10 and 11 March 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 10 March 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

2. That you contravened Section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out your functions as a member of Donegal County Council in that you claimed travelling and subsistence expenses from Donegal County Council in respect of your attendance at an Institute of Public Administration Training Seminar in Carrickmacross, County Monaghan on 26 to 27 April 2006 and later also claimed travelling expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 27 April 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1991 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

3. That you contravened Section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out your functions as a member of Donegal County Council in that you claimed travelling and subsistence expenses from Donegal County Council in respect of your attendance at a Marine Tourism Conference in Carlingford, County Louth on 30 May to 1 June 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting

on 31 May 2006 in Dungloe, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.

4. That you contravened Section 169 (3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3, and 8.1 of the Code of Conduct for Councillors (June 2004) in that you claimed travelling and subsistence expenses from Donegal County Council in respect of your attendance at the Association of County and City Councils' Annual Conference 2006 at Fairways Hotel, Dundalk, County Louth on 9, 10 and 11 March 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 10 March 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.
5. That you contravened Section 169 (3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3, and 8.1 of the Code of Conduct for Councillors (June 2004) in that you claimed travelling and subsistence expenses from Donegal County Council in respect of your attendance at an Institute of Public Administration Training Seminar in Carrickmacross, County Monaghan on 26 to 27 April 2006 and later also claimed travelling expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 27 April 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.
6. That you contravened Section 169 (3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3, and 8.1 of the Code of Conduct for Councillors (June 2004) in that you claimed travelling and subsistence expenses from Donegal County Council in respect of your attendance at a Marine Tourism Conference in Carlingford, County Louth on 30 May to 1 June 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 31 May 2006 in Dungloe, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991.
7. That being a "*specified person*" within the meaning of section 4(6) of the Standards in Public Office Act 2001, you did a "*specified act*" within the meaning of section 2 of the Ethics in

Public Office Act 1995 (inserted by Schedule 1 of the Standards in Public Office Act 2001), or a series of such acts, by way of your conduct in claiming travelling and subsistence expenses from Donegal County Council in respect of your attendance at the Association of County and City Councils' Annual Conference 2006 at Fairways Hotel, Dundalk, County Louth on 9, 10 and 11 March 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 10 March 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991, which conduct, and/or the circumstances of such conduct, was inconsistent with the proper performance by you of the functions of a member of Donegal County Council and of the functions of a member of Údarás na Gaeltachta and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.

8. That being a "*specified person*" within the meaning of section 4(6) of the Standards in Public Office Act 2001, you did a "*specified act*" within the meaning of section 2 of the Ethics in Public Office Act 1995 (inserted by Schedule 1 of the Standards in Public Office Act 2001), or a series of such acts, by way of your conduct in claiming travelling and subsistence expenses from Donegal County Council in respect of your attendance at an Institute of Public Administration Training Seminar in Carrickmacross, County Monaghan on 26 to 27 April 2006 and later also claimed travelling expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 27 April 2006 in Letterkenny, County Donegal in contravention of paragraphs 6, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 2001, which conduct, and/or the circumstances of such conduct, was inconsistent with the proper performance by you of the functions of a member of Donegal County Council and of the functions of a member of Údarás na Gaeltachta and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.
9. That being a "*specified person*" within the meaning of section 4(6) of the Standards in Public Office Act 2001, you did a "*specified act*" within the meaning of section 2 of the Ethics in Public Office Act 1995 (inserted by Schedule 1 of the Standards in Public Office Act 2001), or a series of such acts, by way of your conduct in claiming travelling and subsistence expenses from Donegal County Council in respect of your attendance at a Marine Tourism Conference in Carlingford, County Louth on 30 May to 1 June 2006 and later also claimed travelling and subsistence expenses in respect of the same period from Údarás na Gaeltachta in respect of your attendance at a Donegal Sports Partnership meeting on 31 May 2006 in Dungloe, County Donegal in contravention of paragraphs 6, 13, 18 and 22 of Part II of the Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993) made pursuant to Section 51 of the Local Government Act 1991, which conduct, and/or the circumstances of such conduct, was inconsistent with the proper performance by you of the

functions of a member of Donegal County Council and of the functions of a member of Údarás na Gaeltachta and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.

Appendix 2

Relevant extracts from legislation, Ministerial directions and Code of Conduct for Councillors

Local Government Act 2001

Duty of members appointed to other bodies.

141.—(1) Where one or more than one member of a local authority is elected, appointed or nominated by that authority to another body, whether established by or under statute or otherwise, it is the duty of that member or members to represent the local authority and to present a report to it on the activities and operation of that body—

- (a) annually, or
- (b) at any other time, if so requested by resolution or by the Cathaoirleach.

(2) Every report to which subsection (1) relates shall be presented by the member or members concerned to a meeting of the local authority.

(3) Nothing in this section requires the disclosure of information to the authority which is confidential or which could not otherwise be disclosed.

(4) This section also applies to any person who holds membership of a body, by virtue of being Cathaoirleach or any other member of a local authority.

Members' expenses, remuneration, etc.

142 — (5)(f) Where a member of an elected council attends a meeting or event by virtue of an authorisation under this section, he or she shall submit a summary of the proceedings to the next ordinary meeting of the local authority.

Standards of integrity.

168.— In carrying out their functions under this or any other enactment, it is the duty of every member and every employee of a local authority and of every member of every committee to maintain proper standards of integrity, conduct and concern for the public interest.

Codes of conduct for Local Government Service.

169.— (3) (a) Each member shall have regard to and be guided by the relevant code of conduct in the exercise of his or her functions.

Standards in Public Office Act 2001

Complaints to Commission.

4.— (1) Where a person (“the complainant”) considers that—

(a) a specified person or a person who, in relation to a specified person, is a connected person may have done an act or made an omission after the commencement of section 2 that is, or the circumstances of which are, such as to be inconsistent with the proper performance by the specified person of the functions of the office or position by reference to which he or she is such a person or with the maintenance of confidence in such performance by the general public, and the matter is one of significant public importance,

(b) a specified person may have contravened a provision of the Principal Act, or

(c) a specified person may have contravened a provision of the Act of 1997,

the complainant may make a complaint in relation to the matter to the Commission.

(2) Subsection (1) does not apply to an act or omission of a specified person or a person who, in relation to a specified person, is a connected person if it—

(a) relates to a private matter and is unrelated to the functions of the office or position by reference to which the specified person is such a person, or

(b) results from incompetence or inefficiency in the performance of, or from failure to perform, such a function, on the part of the specified person.

(3) A complaint under subsection (1) shall be in writing or in such other form as may be determined by the Minister.

(4) The Commission may request an inquiry officer to carry out a preliminary inquiry into any complaint under subsection (1) falling within paragraph (a) of that subsection unless it considers the complaint to be frivolous or vexatious.

(5) Where the subject matter of a complaint made or referred to the Commission is not, in the opinion of the Commission, of sufficient gravity to warrant investigation by the Commission, the Commission, at its discretion, either, shall not investigate it or shall refer it—

(a) in case it relates to a person who is or, at the time to which the complaint relates, was a member, to such committee of the House concerned as it considers appropriate,

- (b) in case it relates to a person who is or, at the time aforesaid, was the holder of a designated directorship or any directorship, or the occupier of a designated position or any position, in a public body, to the head of the body,
- (c) in case it relates to a person who is or was at the time aforesaid a special adviser, to the office holder to whom he or she is or was acting as special adviser.

(6) (a) In subsection (1), “specified person” means a person who—

- (i) is or, at the time to which the complaint concerned relates, was an office holder or the holder of the office of Attorney General but not a member,
 - (ii) is or, at the time aforesaid, was a special adviser or held a designated directorship of, or occupied a designated position, in a public body, or
 - (iii) holds or occupies or, at the time aforesaid, held or occupied a directorship or a position of employment in a public body.
- (b) Without prejudice to the generality of the expression “significant public importance” in subsection (1), a matter shall, if the Commission consider it appropriate to do so having regard to all the circumstances, be deemed by it, for the purposes of that subsection, to be of significant public importance if it relates to a benefit alleged to have been received by a specified person or a person who, in relation to a specified person, is a connected person and, in the opinion of the Commission, the value of the benefit was, is or might have been or be expected to be or to become not less than £10,000.

Circular LG 49/2 - Directions issued by the Minister for the Environment under Article 12 of the Local Government (Expenses of Local Authority Members) Regulations 1993 (SI 391 of 1993)

Part II

6. A local authority shall not pay more than one travelling allowance to a member in respect of the same journey and shall not pay any travelling allowance to a member in respect of any journey or part of a journey in respect of which an allowance is paid by, or is payable by, or is claimed from, another public authority.
13. A local authority shall not pay more than one subsistence expenses allowance to a member in respect of the same period of absence and shall not pay any subsistence allowance to a member in respect of any period or part of a period in respect of which an allowance is paid by, or is payable by, or is claimed from, another public authority or other body.
18. A local authority shall not pay any travelling or subsistence expenses allowance or recoup any cost to a member in respect of any matter or any particular journey or part of a journey, or period of time, or item of expense which has been paid or recouped by, or is payable or recoupable by, any other person to such member or which has been claimed from any other person by such member.
22. (1) A member shall not be entitled to take a particular journey or part of a journey, or a particular period of time or any other item into account for the purposes of more than one claim in respect of a travelling or subsistence expenses allowance and a member shall not make a claim from a local authority in respect of any matter or any particular journey or part of a journey, or period of time or item of expense which has been paid or recouped by, or is payable or recoupable by, any other local authority or person to such member or which has been claimed from any other local authority or person by such member.

Code of Conduct for Councillors (relevant extracts)

2. General conduct and behaviour

- 2.1 The general conduct and behaviour of councillors in carrying out their role is an important yardstick by which the honesty, integrity, impartiality and performance of local government is judged and public trust maintained. It is important therefore that these core values underpin all actions of councillors affecting local authority business. As holders of elected office they have a duty to keep faith with the public trust placed in them. This is a personal responsibility and requires them to observe the highest ethical standards in the performance of their role.
- 2.2 Councillors in carrying out their role should abide by this Code and:-
- act in a way which enhances public trust and confidence;
 - avoid conflicts of interest and never seek to use improper influence;
 - make decisions based solely on consideration of the public interest and the common good;
 - serve their local authority and its people conscientiously, honestly and impartially;
 - promote equality and avoid bias;
 - perform their functions in a responsible and diligent manner;
 - treat their colleagues and local authority employees with courtesy and respect.
- 2.3 More generally, councillors should in all matters seek to ensure that their conduct does not bring the integrity of their office or of local government into disrepute.

8. Regard for council resources

- 8.1 Councillors must show all reasonable care for local authority property, resources and funds and not use them, or permit their use, for unauthorised or non-official purposes. They must observe in full and at all times the rules governing the making of claims and of payments of any kind. This includes representational payment, annual allowance, cathaoirleach's or other allowance, conference attendance or other travel.
- 8.2 The Act permits the authorisation of conference attendance where the council is satisfied such is justified by reference to relevance to the authority and local community, the cost and the benefits likely to accrue. It is the personal responsibility of each individual to ensure his or her proper attendance for the duration and to report back to the council in accordance with the Act.

Appendix 3

Transcript of Investigation Hearing – 9 May 2016

The attached is a transcript of proceedings from the investigation hearing held on 9 May 2016, and is included as Part A of this Appendix. Where evidence was heard in Irish, the English transcript reflects the language used by the interpreter who was translating live at the hearing.

Evidence heard in Irish has also been transcribed in the original Irish from the audio recording made at the hearing. In accordance with the agreement made at the hearing, this transcript was made for the use of the Commission. It is included here as Part B of this Appendix.

PART A – English transcript

STANDARDS IN PUBLIC OFFICE COMMISSION

INQUIRY INTO A COMPLAINT
CONCERNING SENATOR BRIAN O'DOMHNAILL
HEARD ON MONDAY, 9th MAY 2016
AT 18 LOWER LEESON STREET, DUBLIN 2

Gwen Malone Stenography
Services certify the
following to be a
verbatim transcript of
their stenographic notes
in the above-named
action.

GWEN MALONE STENOGRAPHY
SERVICES

APPEARANCES

For the COMMISSION:

MR. JUSTICE D. O'KEEFFE (CHAIRMAN)
MS. DEIRDRE LANE (CLERK OF SEANAD ÉIREANN)
MR. PETER FINNEGAN (CLERK OF DÁIL ÉIREANN)
MR. PETER TYNDALL (OMBUDSMAN)
MR. SÉAMUS MCCARTHY (COMPTROLLER & AUDITOR GENERAL)
MR. JIM O'KEEFFE (FORMER MEMBER OF DÁIL ÉIREANN)

COMMISSION'S LEGAL TEAM: MR. LUÁN Ó BRAONÁIN SC
MS. SIOBHÁN NÍ CHÚLACHÁIN BL

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For SENATOR Ó DOMHNAILL: MR. SÉAMUS Ó TUATHAIL SC
MR. DÁITHÍ MACCÁRTHAIGH BL

Instructed by: MR. SEÁN Ó CANAINN, SOLICITOR
CASHEL
GORTAHORK LETTERKENNY
CO. DONEGAL

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1 THE HEARING COMMENCED AS FOLLOWS ON MONDAY, 9TH MAY
2 2016

3
4 **MR. WALSH:** Thank you very much. Just a few
5 housekeeping issues before we start. If you would all, 09:48
6 first of all, turn off your mobile phones. Secondly,
7 in case of an emergency, the emergency exits, there is
8 one at the back (indicating), the other one is at the
9 side, down here, if you go out that door and straight
10 cross, and the other one is, the way you came in, to go 09:48
11 up the stairs rather than using the lift.

12
13 So I'll hand you on now to the Chairman of the
14 Standards in Public Office Commission, Mr. Justice
15 Daniel O'Keefe. Thank you very much. 09:49

16 **CHAIRMAN:** welcome to everybody. So
17 I welcome everybody here and we're going to start by
18 hearing submissions by Mr. Ó Braonáin in relation to
19 the matters which are before us today. When he has
20 made his initial opening and submissions, he can call 09:49
21 whatever witnesses he wishes and they will have the
22 opportunity to give evidence and to be subject to
23 re-examination, should it be necessary.

24
25 In relation to any particular breaks, I think it will 09:49
26 be primarily a matter for the people who are engaged in
27 relation to the translation at the time and also the
28 people who are involved in giving evidence at the time.
29 But I should imagine it should be in the region of one

1 and a half to two hours and then there will be a short
2 break. well, we won't be quite at lunchtime, possibly
3 have a second session then and then we perhaps can have
4 a break for lunch.

5
6 So if, Mr. Ó Braonáin, if you could introduce your
7 representation in relation to the matter and, Mr. Ó
8 Tuathail, if you could give the representation on your
9 side and who is there.

10 **MR. Ó BRAONÁIN:** Thank you, Chairman. Good
11 morning, Members of the Commission. My name is Luán Ó
12 Braonáin. I appear with Siobhán Ní Chúlacháin, I'm a
13 barrister, as is Siobhán. We are instructed by A&L
14 Goodbody and attended on by Peter Law of that office
15 and assisted also by Brian McKeivitt of the Secretariat.

16 **MR. Ó TUATHAIL:** Chairman, I'm Séamus Ó Tuathail,
17 Barrister, and Mr. Dáithí MacCárthaigh is with me well.
18 I am attended by Séan Ó Canáinn, solicitor, and the
19 client is here, Mr. Ó Domhnaill.

20 **MR. Ó BRAONÁIN:** If I might, this is an
21 investigation by the Commission in relation to
22 specified acts that have been put forward, alleged to
23 have been contravened by Senator Ó Domhnaill.

24
25 The procedure of the hearing is going to involve both
26 of the official languages of the State. The Commission
27 has asked me to present the matter in English, which
28 I'm happy to do. Mr. Ó Domhnaill, as he is absolutely
29 entitled to, is going to, I think, engage with his side

1 of the matter in Irish. To that end a translation
2 facility has been made available so that the Members of
3 the Commission can understand at all times what is
4 being said by witnesses, participants and/or their
5 representatives.

09:52

6
7 I understand from Mr. Ó Tuathail and Mr. MacCárthaigh
8 that the position is that witnesses who are giving
9 their evidence in English are to be cross-examined in
10 English, so that will obviate the necessity for any
11 translation in respect of their evidence, but that
12 witnesses who are giving their evidence in Irish will
13 be cross-examined in Irish and that the translation
14 facility can at that stage be used by those Members of
15 the Commission that prefer it or are more comfortable
16 with it, that that can be done.

09:52

09:53

17
18 If it assists, it may be an idea to give a trial or an
19 example to the Members of the Commission as to how that
20 might work. Obviously I think people can understand me
21 as I am, but what I propose to do is to say a little
22 bit in Irish so that you can follow it as you might
23 wish, I think on channel 2. So there are two channels.

09:53

24
25 (In Irish) There is two channels to listen to the
26 translation. Channel 1 is translation from English to
27 Irish and I understand that the second one is the
28 translation from Irish to English. If you choose
29 number two and me speaking Irish, you will hear the

09:54

1 translation into English.

2 **CHAIRMAN:** That's not coming through for
3 me.

4 **MR. Ó BRAONÁIN:** [Testing audio feeds] I would
5 like to ensure that the translation system is working
6 and I would like to ensure that if people hit No. 1,
7 that that is working. Thank you. There is a volume
8 switch on the left-hand side as well that allows the
9 volume to be increased, if that becomes necessary.

10

09:55

11 Just to ensure that the Chair are hear the translation
12 and that it is loud enough through the headphones on
13 the system?

14 **CHAIRMAN:** In relation to any witnesses
15 that you are calling, that they will take the oath and
16 so there is a facility here for them to do, that we'll
17 hand them a card in which the Irish or English version,
18 whichever is appropriate --

09:56

19 **MR. Ó BRAONÁIN:** Yes.

20 **CHAIRMAN:** -- can be dealt with.

09:56

21 **MR. Ó BRAONÁIN:** Thank you, Chairman. I believe
22 that a facility has also been made for such that desire
23 it to affirm, if they prefer that to taking the oath,
24 and that both have been translated and are available
25 for the witnesses. Thank you.

09:56

26

27 Now, this obviously is a matter that is heard by the
28 Commission in public for which reason members of the
29 public have been invited and members of the press are

1 in attendance as the Commission is aware. To that end
2 I'm conscious of the fact that, while documents have
3 been exchanged between the parties and with the
4 Commission, I propose to open the matter and to open to
5 some extent also the legislative background against 09:57
6 which these matters arise. I know that the Commission
7 will be more familiar with the legislative background
8 than members of the public, but believing still that it
9 is important to set out that background so as to assist
10 persons in following how these matters come before you. 09:57

11
12 There is a statement of alleged contraventions which is
13 the first document, I suppose, of significance. To put
14 it in lay man's language, what is alleged is that there
15 have been claims made by Senator Ó Domhnaill for 09:58
16 expenses and the discharge of expenses in 2006 prior to
17 his appointment to the Seanad but at a time when he was
18 both a Councillor of Donegal County Council and a
19 member of Údarás na Gaeltachta. On three particular
20 occasions it is alleged that there were expenses 09:58
21 claimed in respect of work done in his capacity as a
22 councillor which appear to come into conflict with
23 claims made for expenses for work done as a member of
24 Údarás na Gaeltachta.

25 09:59
26 There are three occasions, one in March of 2006, one in
27 April of 2006 and one in May of 2006 that are of
28 relevance, three different forms in which the
29 Commission might view those events have been set out in

1 the statement of alleged contraventions. So that while
2 there are nine paragraphs in the statement, they relate
3 to three different forms in which the Commission might
4 consider the three different events.

5
6 The first form in which the Commission is invited to
7 assess these matters relates to a contravention of
8 section 168 of the Local Government Act of 2001 by:

9
10 *"Failing to maintain proper standards of integrity,* 09:59
11 *conduct and concern for the public interest in carrying*
12 *out your functions as a member of Donegal County*
13 *Council in that you claimed travelling and subsistence*
14 *expenses from Donegal County Council in respect of your*
15 *attendance at the Association of County and City* 10:00
16 *Councils Annual Conference in 2006 at Fairways Hotel,*
17 *Dundalk, Co. Louth on the 9th, 10th and 11th March*
18 *2006;*

19
20 *And later also claimed travelling and subsistence* 10:00
21 *expenses in respect of the same period from Údarás na*
22 *Gaeiltachta in respect of your attendance at a Donegal*
23 *Sports Partnership meeting on 10th March 2006 in*
24 *Letterkenny, Co. Donegal in contravention of paragraph*
25 *6, 13, 18 and 22 of Part II of the directions issued by* 10:00
26 *the Minister for the Environment under Article 12 of*
27 *the Local Government (Expenses of Local Authority*
28 *Members) Regulations 2003 made pursuant to section 51*
29 *of the Local Government Act of 1991."*

1 There is an allegation in similar terms and in the same
2 legislative context in relation to a claim made for
3 travelling and subsistence expenses from Donegal County
4 Council in respect of Mr. Ó Domhnaill's attendance at
5 an Institute of Public Administration training seminar 10:01
6 in Carrickmacross, Co. Monaghan on 26th to 27th April
7 2006; and later also a claim for travelling expenses in
8 respect of the same period from Údarás na Gaeltachta in
9 respect of his attendance at a Donegal Sports
10 Partnership meeting on 27th April 2006 in Letterkenny, 10:01
11 Co. Donegal.

12
13 Again I can read out the technical aspects of the
14 statement of charges in each case, but I think, having
15 done it in one, it may be simpler just to focus on the 10:01
16 substance of the breach in each case. So at No. 3, in
17 a similar legal context, the allegation relates to:

18
19 *"A failure to maintain proper standards of integrity,*
20 *conduct and concern for the public interest in carrying 10:02*
21 *out functions as a Donegal County Council Member in*
22 *claiming travelling and subsistence expenses from*
23 *Donegal County Council in respect of his attendance at*
24 *a marine tourism conference in Carlingford, Co. Louth*
25 *on 30th May to 1st June 2006 and later also a claim for 10:02*
26 *travelling and subsistence expenses in respect of the*
27 *same period from Údarás na Gaeltachta in respect of his*
28 *attendance at a Donegal Sports Partnership meeting on*
29 *31st May of 2006 in Dungloe in Co. Donegal."*

1 The issues relating to these claims for travelling and
2 subsistence expenses from Donegal County Council on the
3 one hand and also then from Údarás na Gaeltachta is
4 also couched in the context of section 169(3) of the
5 Local Government Act 2001 at paragraphs 4, 5 and 6 of 10:03
6 the statement of contraventions; 4 relating to the ACCC
7 annual conference at Fairways Hotel, 5 relating to the
8 Institute of Public Administration training seminar in
9 Carrickmacross in Co. Monaghan and 6 relating to the
10 marine tourism conference in Carlingford and in each 10:03
11 case also relating to a meeting of the Donegal Sports
12 Partnership meeting in the locations to which 1, 2 and
13 3 already refer.

14
15 Then at 7, 8, and 9 of the statement of contraventions 10:03
16 the same instances are also referred to again but in
17 the context of the specific language of the ethics
18 legislation, that at paragraph 7 it outlines that:

19
20 *"Being a specified person within the meaning of section 10:04*
21 *4(6) of the Standards in Public Office Act 2001, that*
22 *Senator Ó Domhnaill did a specified act within the*
23 *meaning of section 2 of the Ethics in Public Office Act*
24 *1995, or a series of such acts, by way of his conduct*
25 *in claiming travelling and subsistence expenses from 10:04*
26 *Donegal County Council in respect of his attendance at*
27 *the Association of County and City Councils Annual*
28 *Conference 2006 at Fairways Hotel, Dundalk, Co. Louth*
29 *on the 9th, 10th and 11th March 2006 and later also*

1 *claimed travelling and subsistence expenses in respect*
2 *of the same period from údarás na Gaeltachta in respect*
3 *of his attendance at a Donegal Sports Partnership*
4 *meeting on 10th March 2006 in Letterkenny,*
5 *Co. Donegal."*

10:04

6
7 Again in contravention of paragraph 6, 13, 18 and 22 of
8 directions issued by the Minister for the Environment
9 under Article 12 of the Local Government Regulations of
10 1993 and was inconsistent with, that conduct and the
11 circumstances of such conduct was:

10:05

12
13 *"Inconsistent with the proper performance by him of the*
14 *functions of a Member of Donegal County Council and of*
15 *the functions of a Member of údarás na Gaeltachta*
16 *and/or with the maintenance of confidence in such*
17 *performance by the general public and which matter is*
18 *one of significant public importance."*

10:05

19
20 The two other events from April and from May of 2006
21 are again alleged at paragraphs 8 and 9 in the same
22 language, in the same legislative context and, rather
23 than repeating the statements, what I propose to do now
24 is to turn to the legislation itself. Members of the
25 Commission, you have, I think, a book of legislation
26 and if I could ask you to put to one side the book of
27 documents that's been furnished and turn to the book of
28 legislation, I propose to go through the relevant
29 portions of that.

10:05

10:05

1 At tab 1 are parts 14 and 15 of the Local Government
2 Act 2001. If I could ask you, firstly, to go to
3 section 142 which simply provides for the -- it's at
4 page 27 of the book of legislation or internal
5 pagination 114, page 26, section 142. So it's Tab 1 10:06
6 page 26.

7 **CHAIRMAN:** Thank you.

8 **MR. Ó BRAONÁIN:** Not at all, Chairman. Section
9 142(1) provides that: *"The Minister may by*
10 *regulations, made with the consent of the Minister for* 10:07
11 *Finance, provide for the payment by a local authority*
12 *of allowances for expenses incurred by its members in*
13 *connection with"* and then it sets out a number of
14 matters. And at (b), it says: *"Attendance at*
15 *conferences, seminars, training or other events to* 10:08
16 *which subsection (5) applies."*

17
18 So that is simply to note the fact that the Minister
19 has power to make regulations and I will turn then in
20 due course to the regulations that have been made. 10:08
21

22 At page 47 of the same tab, if I could ask you, Members
23 of the Commission, to turn to section 168. This is the
24 first of the sections referred to in the statements of
25 contravention. Section 168 provides that: 10:08
26

27 *"In carrying out their functions under this or any*
28 *other enactment, it is the duty of every member and*
29 *every employee of a local authority and of every member*

1 *of every committee to maintain proper standards of*
2 *integrity, conduct and concern for the public*
3 *interest."*

4
5 Section 169 provides at subsection 1(a) that: "After 10:09
6 *consultation with the Commission and the Minister for*
7 *Finance, the Minister, may issue codes of conduct for*
8 *the guidance of members of local authorities and of*
9 *employees of local authorities."*

10
11 Then down the page, subsection 3 of section 169
12 provides at subsection 3(a) that: "*Each member shall*
13 *have regard to and be guided by the relevant code of*
14 *conduct in the exercise of his or her functions."*

15
16 Now, if I could ask you then, Members of the 10:09
17 Commission, to turn to Tab 2, you'll find there the
18 Code of Conduct for Councillors which has been adopted
19 and issued pursuant to section 169. At page 64 of the
20 book's pagination, internal page 4 of the Code, you'll 10:10
21 see under the heading, No. 2, General Conduct and
22 Behaviour. At 2.1 it provides that:

23
24 "*The general conduct and behaviour of councillors in*
25 *carrying out their role is an important yardstick by* 10:10
26 *which the honesty, integrity, impartiality and*
27 *performance of the local government is judged and*
28 *public trust maintained. It is important therefore*
29 *that these core values underpin all actions of*

1 *councillors affecting local authority business. As*
2 *holders of elected office they have a duty to keep*
3 *faith with the public trust placed in them. This is a*
4 *personal responsibility and requires them to observe*
5 *the highest ethical standards in the performance of*
6 *their role."*

10:10

7
8 At paragraph 2.2 there is a series of bulleted points,
9 but it proceeds that: "*Councillors in carrying out*
10 *their role should abide by this Code and act in a way*
11 *which enhances public trust and confidence, avoids*
12 *conflicts of interest and never seeks to use improper*
13 *influence, make decisions based solely on consideration*
14 *of the public interest and common good, serve their*
15 *local authority and its people conscientiously,*
16 *honestly and impartially, promote equality and avoid*
17 *bias and perform their functions in a responsible and*
18 *diligent manner and treat their colleagues and local*
19 *authority employees with courtesy and respect."*

10:11

10:11

20
21 And then at 2.3 under the heading "*General Conduct and*
22 *Behaviour*", it provides that: "*More generally*
23 *councillors should in all matters seek to ensure that*
24 *their conduct does not bring the integrity of their*
25 *office or of local government into disrepute."*

10:11

10:11

26
27 If I could ask you then, Members of the Commission, to
28 turn to page 69, that's internal page 9, there is a
29 heading at No. 8 "*Regard for Council Resources*". At

1 8.1, it provides: *"Councillors must show all*
2 *reasonable care for local authority property, resources*
3 *and funds and not use them or permit their use for*
4 *unauthorised or non-official purposes. They must*
5 *observe in full and at all times the rules governing* 10:12
6 *the making of claims and of payments of any kind. This*
7 *includes representational payment, annual allowance,*
8 *cathaoirleach's or other allowance, conference*
9 *attendance or other travel."*

10
11 At 8.2 it provides that: *"The Act permits the*
12 *authorisation of conference attendance where the*
13 *Council is satisfied such is justified by reference to*
14 *relevance to the authority and local community, the*
15 *cost and the benefits likely to accrue. It is the* 10:12
16 *personal responsibility of each individual to ensure*
17 *his or her proper attendance for the duration and to*
18 *report back to the Council in accordance with the Act."*

19
20 Now, if I could turn to the regulations which are at 10:13
21 Tab 3. I should say that section 142 of the 2001 Act
22 at subsection 8 provides that:

23
24 *"Regulations made under section 51 of the Local*
25 *Government Act of 1991 and in force at the commencement* 10:13
26 *of the 2001 Act shall continue in force and have effect*
27 *as if made under section 142 and may be amended or*
28 *revoked accordingly."*

1 These 1993 Regulations, therefore, continued and
2 subsisted after the passing of the 2001 Act in
3 accordance with section 142(8).
4

5 The Regulations at Article 12, that's at page 79 of the 10:14
6 booklet, provide that: "*Directions may be issued by*
7 *the Minister from time to time with regard to any*
8 *matter referred to in section 51 of the Act or in these*
9 *Regulations or any other matter which appears to him to*
10 *be necessary or expedient for the purposes of* 10:14
11 *section 51.*"

12
13 If I could ask you to turn back to page 77, you'll see,
14 Members of the Commission, Part 3 of the Regulations
15 which relates to travelling and subsistence expenses 10:15
16 allowance, matters to which Part 3 applies, Article 6:
17

18 "*This part shall apply to the following, (a) subject to*
19 *the exclusion of matters referred to in paragraph (c),*
20 *(i) attendance authorised by the local authority in* 10:15
21 *accordance with section 51(2) of the Act and in*
22 *accordance with any directions given by the Minister*
23 *pursuant to Article 12(2)(i) by a member at a meeting*
24 *held at a place which is outside of the functional area*
25 *of the authority or at a conference, seminar or similar* 10:15
26 *event at which the authority is, pursuant to section*
27 *subsection (2) of section 51 of the Act, entitled to be*
28 *represented.*"
29

1 So you'll see, Members of the Commission that --

2 **CHAIRMAN:** That's at page 77.

3 **MR. Ó BRAONÁIN:** That's at page 77 and into 78.

4 That part relates, insofar as it is relevant to these
5 proceedings, to attendance by members at meetings and 10:16
6 conferences for which they have been authorised by
7 their council to attend and then directions are made by
8 the Minister in relation to how those expenses are to
9 be considered which set out the parameters within which
10 the claims are to be made and allowed. 10:16

11
12 So at Tab 4 you'll see the Minister's directions that
13 were in being at the relevant time in 2006, these were
14 directions given in 1993. And if I could ask you,
15 Members of the Commission, to turn to page 85, the 10:17
16 direction at paragraph 6 provides that:

17
18 *"A local authority shall not pay more than one*
19 *travelling allowance to a member in respect of the same*
20 *journey and shall not pay any travelling allowance to a 10:17*
21 *member in respect of any journey or part of a journey*
22 *in respect of which an allowance is paid by or is*
23 *payable by or is claimed from another public*
24 *authority."*

25 10:17
26 At paragraph 7: *"where a member attends more than one*
27 *matter to which Part III of the Regulations applies on*
28 *the same day, the distance in respect of which a*
29 *travelling allowance shall be paid shall, subject to*

1 paragraph 8 of this Part, be the shortest overall route
2 by which the member could reasonably be expected to
3 travel between the member's official residence and the
4 location of the matters concerned."

5
6 Paragraph 8 provides that: "where a member who attends
7 a matter to which Part III of the Regulations applies
8 returns to his or her official residence and travels
9 thence on the same day to the same matter or another
10 such matter or matters, the total travelling and 10:18
11 subsistence allowances to be paid shall be the lesser
12 of - (a) the amounts payable on the basis of the actual
13 journeys and periods of absence in connection with the
14 matters, or (b) the amounts which would be payable if
15 the member did not return to his or her official 10:18
16 residence."

17
18 Paragraph 13, which is at page 88, provides that: "A
19 local authority shall not pay more than one subsistence
20 expenses allowance to a member in respect of the same 10:19
21 period of absence and shall not pay any subsistence
22 allowance to a member in respect of any period or part
23 of a period in respect of which an allowance is paid by
24 or is payable by or is claimed from another public
25 authority or other body." 10:19
26

27 At page 91 at paragraph 18 the directions provide that:
28 "A local authority shall not pay any travelling or
29 subsistence expenses allowance or recoup any cost to a

1 *member in respect of any matter or any particular*
2 *journey or part of a journey or period of time or item*
3 *of expense which has been paid or recouped by or is*
4 *payable or recoupable by any other person to such*
5 *member or which has been claimed from any other person* 10:20
6 *by such member."*

7
8 Then over the page at page 92, at paragraph 22 of the
9 directions, 22(1): "*A member shall not be entitled to*
10 *take a particular journey or part of a journey or a* 10:20
11 *particular period of time or any other item into*
12 *account for the purposes of more than one claim in*
13 *respect of a travelling or subsistence expenses*
14 *allowance and a member shall not make a claim from a*
15 *local authority in respect of any matter or any* 10:20
16 *particular journey or part of a journey or period of*
17 *time or item of expense which has been paid or recouped*
18 *by or is payable or recoupable by any other local*
19 *authority or person to such member or which has been*
20 *claimed from any other local authority or person by* 10:20
21 *such member."*

22
23 I think that Tab 5 has within it the Local Government
24 (Expenses of Local Authority Members) Regulations of
25 2006 but which postdate the events in question and, 10:21
26 while they are there for your information to indicate
27 what replaced the 1993 Regulations, I don't propose to
28 take up the Commission's time with an analysis of them.
29

1 Similarly, there are directions issued in December of
2 2006 with effect from 1st January of 2007 by the
3 Minister arising from the 2006 Regulations, but again
4 they postdate the claims in question here and I don't
5 propose to take up the Commission's time any further
6 with those. 10:21

7
8 Then, Members of the Commission, you'll see at Tab 7
9 the Údarás na Gaeltachta Act of 1979. Again I don't
10 propose to go through the Act in any detail, but 10:22
11 suffice to say it is an Act that creates a public body
12 and that, as a member of the public body, the Senator,
13 as he now is, but a member of Údarás na Gaeltachta,
14 comes within the purview of the ethics and standards in
15 public office legislation. 10:22

16
17 There is a code of conduct which is provided in the
18 Irish and English language versions from February 2006.
19 What it does is it reiterates much of what one can see
20 as being the codes of conduct for county councillors 10:23
21 provided in the code of conduct issued under the Local
22 Authority Act.

23 **CHAIRMAN:** Excuse me, what page are you
24 looking at there?

25 **MR. Ó BRAONÁIN:** This is Tab 8. I'm going to 10:23
26 bring you, if I may, Chairman, to page 160.

27 **CHAIRMAN:** Page 160.

28 **MR. Ó BRAONÁIN:** obligations down at the bottom
29 of the page:

1 *"Údarás na Gaeltachta should adhere to its statutory*
2 *obligations and to other regulations and guidelines*
3 *relating to the following." And the following include:*
4 *"The supervision of public funds and the adherence to*
5 *rules and rates relating to travel and subsistence* 10:24
6 *costs."*

7
8 Then over the page on page 161 under the heading
9 *"Fidelity"*, there is a paragraph that includes
10 reference to: *"The board and staff members being* 10:24
11 *obliged to be loyal to the organisation and its*
12 *functions in their conduct of their duties with Údarás*
13 *na Gaeltachta, also factoring in obligations relating*
14 *to the adherence to rules of ethics and honesty."*

15
16 So that the core principles in relation to conduct and
17 travel and subsistence are reflected in the code of
18 conduct of Údarás na Gaeltachta, if not perhaps in as
19 elaborate a way or in as elaborate language as one
20 finds in the Code of Conduct for Councillors but the 10:25
21 core is there.

22
23 The definition over the tab at Tab 9 is the Ethics in
24 Public Office Act of 1995. I don't propose to go
25 through its provisions in detail. It is the case, 10:25
26 insofar as such confirmation is required, if one looks
27 at page 217, this is the first schedule to the Act
28 which defines public bodies and No. 10 on page 217
29 includes:

1 *"A body, organisation or group established by or under*
2 *any enactment, other than the Companies Acts 1963 to*
3 *1990."* And there, if you like, is the reference to
4 Údarás na Gaeltachta.

10:26

5
6 In the context of the report that is to be given by the
7 Commission at the conclusion of its investigation, one
8 doesn't want at this juncture to presume what
9 conclusion is going to be reached by the Commission
10 because obviously the Commission has yet to hear all of
11 the evidence in relation to the matter and I don't
12 propose, therefore, to go into terrible detail about
13 it, that might be more appropriate to the end of the
14 investigation hearing.

10:26

15
16 But it is the case that the Commission is required, in
17 the case it identifies a contravention, to address
18 certain factors pursuant to section 24, as amended, of
19 the Ethics in Public Office Act of 1995. One of the
20 things that needs to be addressed is whether or not the
21 contravention or act was committed or done
22 inadvertently, negligently, recklessly or
23 intentionally. As I say while I don't propose to go
24 into that in any great depth at this juncture, just so
25 that the Commission has in its mind the relevant
26 parameters while it is hearing the evidence and
27 assessing the matter and considering the relevant
28 materials it might be of some assistance to just very
29 briefly touch on the differences between the four

10:27

10:27

10:27

1 categories.

2
3 Obviously they are a range of mental states, or mens
4 rea as it might be referred to in the courts, which is
5 attendant to conduct, the least significant being 10:28
6 inadvertence. Inadvertence to my mind is something of
7 an oversight, a heedlessness, a mistake perhaps,
8 something that is done without knowledge. Neglect is
9 something more than that because there is a failure to
10 do what ought to have been done. So not mere 10:29
11 heedlessness or mistake or oversight but a duty to do
12 something and then a failure to do the thing that one
13 has a duty to do.

14
15 Recklessness in terms of one's state of mind is 10:29
16 something perhaps more serious again because it
17 involves a conscious disregard of a substantial or
18 unjustifiable risk of the result. So that is to say
19 that one is aware of the risk of the wrong but just
20 simply disregards it and consciously disregards it. 10:29
21 Then obviously intention is in some ways almost as
22 clear or maybe even clearer than inadvertence at the
23 other end of the spectrum because intention is
24 something that is done with a view to the result and
25 consciously with a view to the result. 10:30
26

27 Perhaps those different categories will crystallise in
28 their application to the facts as the evidence unfolds
29 and the Commission will be able to form its view as to

1 where in the scale the conduct lies in the event that
2 it identifies a contravention. Obviously I say these
3 things subject obviously to the Commission also hearing
4 what my Friend Mr. Ó Tuathail might have to say about
5 these things and what the Commission might itself 10:31
6 express and have as a view in relation to these things.

7
8 There is then the question of whether or not, if a
9 contravention is identified, whether it's a serious or
10 a minor matter. Again that is something perhaps, 10:31
11 I think, best left until the end of the hearing.

12
13 That insofar as what I intend to open in respect of the
14 legislative provisions is -- sorry, Ms. Ní Chúlacháin
15 points out, and I think rightly, that, if I might bring 10:31
16 to you Tab 10, I'm sorry, before those books are put
17 away and go to page 227. Members of the Commission may
18 be familiar with this but again because the matter is a
19 public matter it may be appropriate to set out these
20 relevant provisions for everyone's benefit. 10:32

21
22 Complaints can be made to the Commission by persons
23 referred to in the Act as a complainant. In section 4
24 it provides that:

25 10:32
26 *"where a person, the complainant, considers that a*
27 *specified person may have done an act or made an*
28 *omission after the commencement of section 2 or the*
29 *circumstances of which are such as to be inconsistent*

1 *with the proper performance by the specified person of*
2 *the functions of the office or position by reference to*
3 *which he or she is such a person or with the*
4 *maintenance of confidence in such performance by the*
5 *general public and the matter is one of significant* 10:33
6 *public importance, the complainant may make a complaint*
7 *in relation to the matter to the Commission."*

8
9 So the Commission then at subsection 4 has the
10 statutory power to: "*Request an Inquiry Officer to* 10:33
11 *carry out a preliminary inquiry into any complaint*
12 *under subsection 1 falling within paragraph (a) of that*
13 *subsection unless it considers the complaint to be*
14 *frivolous or vexatious."*

15
16 Now, what has happened in this case by way of 10:33
17 background is that a complaint was received by the
18 Commission on 28th May of 2012, a complaint by the
19 Mayor and the County Manager of Donegal County Council.
20 An Inquiry Officer, Mr. Walsh, was appointed by the 10:34
21 Commission to undertake a preliminary inquiry on
22 15th June of 2012 and that inquiry took place over the
23 following months.

24
25 As a result of the report of the Inquiring Officer, the 10:34
26 Commission decided to initiate an investigation and
27 I think wrote, made that decision and wrote to Senator
28 Ó Domhnaill advising him of its decision in November of
29 2012. The Commission has a copy of the report which

1 was generated by Mr. Walsh as a result of his
2 preliminary inquiry and again that material and its
3 appendices and so on have been shared with Senator Ó
4 Domhnaill.

5
6 This is a matter in which a member of the public
7 looking at it might wonder well what has happened in
8 the meantime because there has been some lapse of time
9 in relation to it. The first date -- having made its
10 decision to initiate an investigation in November 2012, 10:35
11 the Commission determined to have a public hearing, an
12 oral hearing and its first oral hearing was scheduled
13 to take place in March of 2013, on the 11th, and
14 notification of that date was given in January 2013.
15 Mr. Ó Domhnaill requested at that juncture some 10:35
16 adjournment so as to allow for consideration in respect
17 of the matter and that was done and the matter then
18 went back to a hearing date in April of 2013.

19
20 In advance of the 8th of 2013 Mr. Ó Domhnaill wrote 10:36
21 indicating that he was requiring to have his side of
22 the case dealt with in Irish, as he is entitled to do,
23 and also that he wished further correspondence, which
24 up until that point had been dealt with in English, to
25 be dealt with in Irish. That was acceded to and the 10:36
26 Commission, as the Commission is required to do in any
27 event when it is asked to write in Irish to a member of
28 the public who wishes to do so, the official languages
29 legislation requires that choice of language to be

1 respected, and the matter was then adjourned to another
2 date in June, 10th June of 2013, so as to allow for the
3 necessary translation facilities to be made available
4 for the hearing.

5
6 There was an application to the High Court in June, in
7 advance of that date, so as to agitate certain matters
8 relating to language rights in respect of the hearing
9 and in particular whether or not the Commission ought
10 to be comprised of a bilingual panel able to deal with 10:37
11 the matter without the assistance of translation in
12 Irish and in English and other matters relating to
13 language issues. At that juncture, obviously a stay
14 was granted by the High Court restraining the matter
15 from going on, and the time it took the court to meet 10:38
16 these matters then became a factor.

17
18 The High Court gave its decision, there was then an
19 appeal by Senator Ó Domhnaill in relation to it and the
20 matter then needed to be dealt with in the Court of 10:38
21 Appeal. The appeal originally was to the Supreme Court
22 but at a time before the Court of Appeal existed and in
23 the meantime there was then a referendum and the matter
24 was transferred from the Supreme Court back to the
25 Court of Appeal. The Court of Appeal gave its decision 10:38
26 in the matter in July of last year and then dealt with
27 subsidiary issues arising from its decision in the
28 appeal in October of last year and declined the relief
29 sought by Senator Ó Domhnaill and perfected its order

1 then earlier this year, I think on 31st March of 2016,
2 which brought to a conclusion the judicial review
3 litigation and the appeal that came from it. But
4 obviously that occupied a period of nearly up to three
5 years from the original intended hearing date and that 10:39
6 is the explanation for the lapse of time that has
7 emerged in the interim.

8
9 Now, in terms of the materials available in respect of
10 the contraventions alleged, there are two smaller 10:39
11 booklets. There is a booklet headed Donegal County
12 Council documentation and a booklet headed Údarás na
13 Gaeltachta documentation. I think, while I can bring
14 the Commission through the documents, I don't want to
15 have unnecessary repetition in doing that and what 10:40
16 I would propose, subject to the Commission, is to call
17 Mr. Walsh, the Inquiry Officer. As I understand he is
18 to be cross-examined in relation to these matters in
19 any event. Mr. Ó Domhnaill has at all times maintained
20 the position that there was no contravention and what 10:41
21 I would propose to do, rather than going through the
22 documents on a number of occasions, is to call
23 Mr. Walsh and in the bringing through of the
24 documentation the position in respect of the alleged
25 contraventions can be brought out. 10:41
26

27 In addition to these booklets of documentation, the
28 other documentation to which I'll be bringing the
29 Commission is the correspondence from Mr. Ó Domhnaill,

1 from Senator Ó Domhnaill, which obviously sets out in
2 much greater detail his answers in relation to and the
3 explanations given by him in relation to the matters
4 arising. And again what I will do, while Mr. Walsh is,
5 if you like, testifying, is to point the Commission to 10:42
6 the relevant documentation again so as to avoid my
7 doing it once now and then having to do it all again
8 with the witness, I was going to do it through the
9 witness.

10 **CHAIRMAN:** Yes. 10:42

11 **MR. Ó BRAONÁIN:** Thank you. So, Mr. Walsh,
12 please, if you might take the oath or affirmation as
13 you prefer.

14 **MR. Ó TUATHAIL:** Chairman, before --

15 **CHAIRMAN:** I think I'll get this headphone 10:43
16 adjusted. [Short pause]

17 **MR. Ó TUATHAIL:** Chair, I would like to say a
18 couple of words about the opening that Mr. Ó Braonáin
19 has made, a couple of sentences. Because I agree with
20 the layout that he has on the legislation, there is no 10:43
21 problem with that, but the description that he has made
22 on the events in the High Court and in the Court of
23 Appeal, I would like to say that the main question, the
24 major question that was raised in those proceedings was
25 the background, the malicious background from the 10:44
26 beginning with the complaint that is before the
27 Commission now, and it's in the documentation in this
28 application before the Commission, that information was
29 circulated to councillors in Donegal by an unknown

1 person at the time. The High Court, Judge Hogan, and
2 the appeal court, with Judge Charleton in charge of
3 that, that gave the judgment on 20th July 2015, that
4 had to do almost totally with the legal question that
5 was raised about evidence from an anonymous source 10:45
6 being acceptable to the Commission. That was the
7 point, the major point that was annoying him.

8
9 Mr. Ó Domhnaill, after agreeing to go to this
10 Commission and to discuss this question, it happens 10:45
11 that it's not on the courts on or Mr. Ó Domhnaill, the
12 delay had to happen because of the question, to clear
13 that question, sort that question. And even though --

14 **CHAIRMAN:** Excuse me, sorry. Could you
15 repeat what you have just said about Judge Hogan. You 10:46
16 referred to --

17 **MR. Ó TUATHAIL:** I'm speaking too fast,
18 I apologise. Judge Hogan gave a judgment in the High
19 Court on the legal question that was raised about
20 information, anonymous information, malicious 10:46
21 information being used against Senator Ó Domhnaill.

22 **CHAIRMAN:** The court gave a judgment.

23 **MR. Ó TUATHAIL:** Yes, it did, Judge Hogan in the
24 High Court at the time, yes. After that there was an
25 appeal to the Court of Appeals. It had been sent to 10:46
26 the Supreme Court. Under Judge Charleton, the appeal
27 court listened to the legal question that had been
28 raised and that is an anonymous person provided
29 information to be used against a County Councillor and

1 that is the main reason that these matters were in the
2 courts for about three years. There is no apology to
3 be made or excuse to be made by us for raising these
4 questions and these issues. Because the Court of
5 Appeal under Judge Charleton, I can show the judgment 10:47
6 that he gave, he clarified the law to do with anonymous
7 information. The High Court and the appeal court
8 accepted that the complaint that the Council, the
9 manager of the Council and the Mayor of the county at
10 the time, the complaint that they had made to this 10:48
11 Commission, that that was proper because the Manager
12 and the Mayor were undertaking the complaint but the
13 background to it that brought it into the court, that
14 brought us into the court was that it was a false,
15 malicious attack on Mr. Ó Domhnaill. 10:48

16
17 I wanted to explain that before things proceed here.
18 I will get copies of this for the Commission of the
19 judgment that was given in the Court of Appeal so that
20 there is no misunderstanding of why we were brought 10:49
21 there.

22 **CHAIRMAN:** All right.

23 **MR. Ó BRAONÁIN:** I don't believe that myself and
24 Mr. Ó Tuathail really disagree about what the issues
25 were before the High Court. Yes, there was certainly 10:49
26 an issue about the anonymity of the complaint to
27 Donegal County Council which prompted its inquiry
28 through its acting Ethics Registrar in relation to the
29 matters. It then had its inquiry and the complaint

1 that was received by the Commission was one from the
2 Mayor and from the County Registrar -- County Manager,
3 I beg your pardon, as he was -- in relation to the
4 matter.

5
6 Senator Ó Domhnaill was agitating that the Mayor's and
7 the County Manager's complaint was an anonymous
8 complaint, or at least a referral of an anonymous
9 complaint, and there was a dispute between the parties
10 in relation to that and that was then resolved by 10:50
11 Mr. Justice Hogan in the High Court in the first
12 instance, together with issues in relation to language
13 rights and the make-up of the panel of the Commission
14 and together with issues relating to correspondence
15 being in Irish or in English and issues of that kind. 10:50

16
17 Then all of those issues were ventilated again,
18 including, and my Friend is right about this, including
19 the issue in relation to the anonymity of the original
20 complaint which was made to the County Council. The 10:51
21 Court of Appeal concluded that the complaint that was
22 received by the Commission was not an anonymous
23 complaint, that it was a complaint made by the Mayor
24 and the County Manager on the basis of their own
25 inquiries, investigations and interactions in relation 10:51
26 to it and not simply a referral of the anonymous
27 complaint that had been made to them.

28
29 If I in any way misled anyone in relation to the

1 issues, I apologise for that, I shouldn't have done
2 that.

3 **CHAIRMAN:** But we will have the judgment?

4 **MR. Ó BRAONÁIN:** Absolutely the judgments can be
5 made available. 10:52

6 **CHAIRMAN:** Yes.

7 **MR. Ó BRAONÁIN:** In both courts. That process
8 concluded by way of judgments in October of 2015, the
9 perfection of the order wasn't made until March of

10 2016. And in effect what I was trying to convey was 10:52

11 that it's not a case where an inquiry hearing was
12 directed for March, April and June of 2013 and then
13 that nothing had happened in the meantime, there were
14 reasons giving rise to the lapse of time in the
15 meantime and the reasons I think are as have been 10:52
16 outlined.

17 **CHAIRMAN:** Thank you.

18

19 **MR. PADDY WALSH, HAVING BEEN SWORN, WAS EXAMINED BY**

20 **MR. Ó BRAONÁIN AS FOLLOWS** 10:53

21

22 **CHAIRMAN:** And your name for the purpose?

23 **THE WITNESS:** My name is Paddy Walsh.

24 **CHAIRMAN:** Thank you, Mr. Walsh.

25 **MR. Ó BRAONÁIN:** Mr. Walsh, good morning to you. 10:53

26 **THE WITNESS:** Good morning.

27 1 Q. Just for the benefit of everyone who is in attendance,
28 could you say what you do?

29 A. I'm currently the Secretary of the Standards in Public

1 Office Commission, but at the time this complaint was
2 received I was an investigator with the Office of the
3 Ombudsman but seconded to the Standards in Public
4 Office Commission at this particular time. I was
5 appointed as Inquiry Officer to carry out the 10:53
6 preliminary inquiry in relation to this particular
7 complaint.

8 2 Q. Yes. I think in that context you then received,
9 firstly, the letter of complaint that had been sent by
10 the County Manager and the Mayor of Donegal County 10:54
11 Council; is that right?

12 A. Yes. Once the Commission had made the decision to
13 appoint me as Inquiry Officer I was handed the file
14 that had been created in relation to the complaint that
15 was received from the Council. 10:54

16 3 Q. Yes.

17 A. And I took on the task then of gathering the relevant
18 information and documents to give to the Commission a
19 report, to gather all the evidence for them so that
20 they could, the Commission could then make a decision 10:54
21 as to whether or not there was evidence to sustain an
22 investigation of the complaint.

23 4 Q. All right. I think that there is a book of documents
24 and that at Tab B of the book of documents is the
25 letter of complaint at page 5 of the book of documents. 10:55
26 Do you see that?

27 A. I'll go back. B?

28 5 Q. Page 5.

29 A. Of tab, which?

1 6 Q. It's Tab 5, at the very beginning, just after the
2 statement of contravention.
3 A. Yes, thanks.
4 7 Q. Do you see that?
5 A. Yeah. 10:55
6 8 Q. In that context the County Manager and the Mayor set
7 out the investigations that they had carried out under
8 the relevant provisions of the Local Government Act of
9 2001?
10 A. That's correct, yeah. 10:56
11 9 Q. And then they enclosed a report identifying what they
12 believed to be specified acts --
13 A. That's correct.
14 10 Q. -- in respect of which they were making a complaint
15 under section 4(1) of the Standards in Public Office 10:56
16 Act?
17 A. That's correct, yeah.
18 11 Q. Okay. That report then set out its consideration of
19 the issues arising, which is from page 17 to page 27,
20 and that was forwarded to you? 10:56
21 A. Yeah.
22 12 Q. In the context of that report there was a series of
23 appendices enclosed with it?
24 A. There were, yeah.
25 13 Q. Okay. And at Tab 1 of B, so it's the dark grey Tab 1? 10:57
26 A. Yeah.
27 14 Q. Page 28?
28 A. Yeah.
29 **CHAIRMAN:** Yes.

1 MR. Ó BRAONÁIN: Just to clarify.
2 CHAIRMAN: Page 28?
3 15 Q. MR. Ó BRAONÁIN: Page 28, just to clarify I think
4 what was being said by Mr. Ó Tuathail and what gave
5 rise to Senator Ó Domhnaill's concern in relation to 10:57
6 what was being investigated, there was a letter of 9th
7 August of 2011 --
8 A. That's correct.
9 16 Q. -- received by Donegal County Council from a concerned
10 citizen? 10:57
11 A. That's correct, yeah.
12 17 Q. And then what it did was it enclosed materials relating
13 to conferences and claims and matters of that kind,
14 yes?
15 A. That's correct, yeah. 10:58
16 18 Q. There was then correspondence arising from an analysis
17 of those materials with Senator Ó Domhnaill, but before
18 I go to the correspondence, if I could get you to turn
19 to these two booklets, Mr. Walsh. The County Council
20 documentation booklet is divided into three sections, 10:58
21 A, B and C, relating to the three conferences at issue;
22 isn't that right?
23 A. That's correct, yeah.
24 19 Q. Okay. So if we could go to A for the time being and
25 what I want to do is to go in the first instance to A4 10:59
26 which is page 9?
27 A. Yeah.
28 20 Q. Because this is the claim that I think was made by
29 Senator Ó Domhnaill, then Councillor Ó Domhnaill, in

1 relation to this; isn't that right?

2 A. That's correct, yeah.

3 21 Q. It's headed: *"Donegal County Council. I declare that*
4 *I have necessarily incurred expenditure on travel and*
5 *subsistence in respect of my authorised attendance at* 10:59
6 *Association of County and City Councils Conference 2006*
7 *as authorised by Donegal County Council at a meeting*
8 *on"*, and there is a blank space there, but I think your
9 inquiry have satisfied you that there was an
10 authorisation by Dublin County Council? 10:59

11 A. Sorry, Donegal County Council.

12 22 Q. Donegal County Council, in relation to that?

13 A. Yeah.

14 23 Q. *"(b), I have made the payments, if any, shown on the*
15 *attached claim form, but (c) the claim is made strictly* 11:00
16 *in accordance with the Local Government (Expenses of*
17 *Local Authority Members) Regulations 1993 and*
18 *directions thereunder"*. So there is a declaration --

19 A. Yes.

20 24 Q. -- of strict compliance with those regulations and 11:00
21 directions: *"The statements and particulars furnished*
22 *therein are complete and accurate in all respects"*?

23 A. That's correct.

24 25 Q. *"(b) no other payment has been made to me or is payable*
25 *to me in respect of the times, journeys or other* 11:00
26 *matters set out herein"*?

27 A. That's correct, yeah.

28 26 Q. And then: *"I have not made and will not make any other*
29 *claims for payment in respect of the times, journeys or*

1 *other matters set out herein"?*

2 A. That's correct.

3 27 Q. Then it sets out distance in miles from official
4 residence to place of meeting, 179?

5 A. That's correct. 11:01

6 28 Q. That's 179 miles being claimed; time and date of
7 departure from official residence, 1 p.m. on 9th March
8 at 2006; time and date of return to official residence,
9 4:30 on 11th March 2006?

10 A. That's correct. 11:01

11 29 Q. And then he has information about the car, it is signed
12 and it is then dated 20th March of 2006.

13 A. That's correct.

14 30 Q. So about nine days after the conclusion of the
15 conference? 11:01

16 A. That's correct.

17 31 Q. Okay. what is the significance of the entries
18 regarding time and date of departure from official
19 residence and then return to official residence, can
20 you just explain? 11:01

21 A. It determines the amount of subsistence that the
22 claimant is entitled to. If there is an overnight
23 payment, if there is a -- he is entitled to claim for
24 an overnight payment.

25 32 Q. Yes. 11:02

26 A. And the return time then determines whether, in
27 addition to an overnight payment, there is a
28 subsistence payment as well, whether it's a three hour
29 or five hour or whatever.

1 33 Q. Yes. But the claim works on the assumption that one is
2 departing from one's official residence?
3 A. Yes, that's correct.

4 34 Q. And that one is returning to one's official residence?
5 A. That's correct. 11:02

6 35 Q. Just over two days later?
7 A. Yeah. As I understand it the council officials then
8 would calculate the amount due and they would base the
9 amount due on the time that's declared, this person
10 declares to be away from their official residence. 11:02

11 36 Q. Yes. And the mileage that was paid for then, is that
12 set out there?
13 A. The mileage claimed is 179 miles which would be
14 payable, a journey outwards and a journey back to home.
15 But the Council pay 136 miles each way. As 11:03
16 I understand it that calculation is made by the Council
17 of the amount due. Travelling expenses is 136 miles by
18 two which is home to the venue and back to the
19 residence and then the subsistence is calculated at two
20 overnight stays and in addition there is a subsistence 11:03
21 payment of 16.32.

22 37 Q. Yes. That was the claim made and then it sets out the
23 payment made on foot of the claim; isn't that right?
24 A. That's correct, yeah.

25 38 Q. Indeed if one goes over the page to Tab 5, I think 11:04
26 there is then a purchase order --
27 A. Yeah.

28 39 Q. -- in relation to it showing payment of the total
29 amount there?

1 A. That's right. The Donegal transactions are set out
2 there.

3 40 Q. That's on the Agresso system?

4 A. Yes.

5 41 Q. Okay. In relation to the conference at Tab 1, that's 11:04
6 at page 1, do you have that?

7 A. Yes.

8 42 Q. Okay. It's an annual conference of the Association of
9 County and City Councils?

10 A. That's correct. 11:04

11 43 Q. 9, 10, 11 March, Thursday evening to Saturday morning
12 at the Fairways Hotel in Dundalk in Co. Louth?

13 A. Yes, that's correct.

14 44 Q. Then it says that it is going to feature:
15 *"Presentations from experienced practitioners in the 11:05*
16 *local government sector as well as inspirational input*
17 *from distinguished speakers from the wider spectrum of*
18 *Irish public life, that there will be ample opportunity*
19 *for debate, discussion and social networking with*
20 *elected colleagues from all parts of Ireland."* 11:05

21 A. That's correct.

22 45 Q. And then over the page at page 2 it sets out the agenda
23 or the conference content. Thursday evening, 9th
24 March, dinner with an opening presentation by
25 Councillor Michael O'Brien and then on the Friday there 11:05
26 is a morning session, then lunch and then an afternoon
27 session. The morning session, for instance, is about
28 councillors in the local government media, councillors
29 and the planning process, impact of the new development

1 management guidelines, the European Union dimension,
2 Irish local government and current EU developments and
3 then in the afternoon building communities in city,
4 suburb and county and then rolling out the roads
5 agenda? 11:06

6 A. That's correct.

7 46 Q. Then on the Saturday morning there was a conference
8 conclusions at 10 a.m., summary of conference
9 proceedings and final feedback, yes?

10 A. That's correct. 11:06

11 47 Q. At Tab 2 there is an excerpt from a council meeting of
12 Donegal County Council at which it was determined that
13 any members who wished could attend that conference?

14 A. Yeah.

15 48 Q. And then over the tab again is Tab 3. There is a list 11:06
16 of attendances, some are typed in, who I presume were
17 the earlier subscribers, and then some are handwritten
18 in --

19 A. That's right.

20 49 Q. -- and sign up and then I think on page 8 there was 11:07
21 confirmation that Councillor Ó Domhnaill, as he was
22 then, was there; is that right?

23 A. That's correct, yeah. His signature is apparently
24 there.

25 50 Q. Yes. So those are the Donegal County Council materials 11:07
26 in relation to the 9th, 10th and 11th March of 2006?

27 A. Yeah, that's correct.

28 51 Q. The attendance sheet, Councillor Ó Domhnaill, as he
29 was, was the last entrant on that sheet?

1 A. Yeah. 11:08

2 52 Q. If I could ask you then to turn to the údarás,
3 documentation, again similarly it's broken into three
4 sections, A, B and C?

5 A. Yeah. 11:08

6 53 Q. A1 is a costs claim sheet?

7 A. That's correct.

8 54 Q. It's dated 24th October of 2006?

9 A. That's correct.

10 55 Q. So just over seven months after the conference in 11:08
11 March?

12 A. That's correct.

13 56 Q. And it sets out, it's *as Gaeilge*, and if interpretation
14 is required that can be done, but it says at the top:
15 "*Údarás na Gaeltachta costaisí taisteal*" which is 11:09
16 travel expenses or travel costs. Then there is an
17 account number and the name of the individual member,
18 which is Mr. Ó Domhnaill, and then it relates to the
19 month, *Marta*, March of 2006?

20 A. That's correct. 11:09

21 57 Q. There are three entries. On 10th March of 2006 one
22 sees there is an entry "ó 03:30 in", which is
23 "*iarnóin*"?

24 A. Iarnóin.

25 58 Q. Which is p.m., so 3:30 p.m.: "*Ag freastal or ócáid de 11:09
26 chuid Pairtiocht Spoirt Dhún na nGall.*" So attendance
27 at a meeting of the Donegal Sports Partnership?

28 A. That's correct.

29 59 Q. IT Leitir Ceanainn, that's Letterkenny Institute of

1 Technology?

2 A. That's correct.

3 60 Q. And then "*na bhaile, naoi iarnóin*" or home at 9 p.m.?

4 A. That's correct.

5 61 Q. Now, on its face when one looked at that and looked at 11:10
6 the Donegal County Council claim for expenses -- sorry,
7 at the bottom one sees it is signed again Brian Ó
8 Domhnaill?

9 A. That's correct.

10 62 Q. And dated and then it's authorised on 11th December of 11:10
11 2006?

12 A. That's correct.

13 63 Q. Okay. And I'll come back to some other detail in the
14 document in a moment. But on its face that showed a
15 meeting at a time that Mr. Ó Domhnaill had otherwise 11:11
16 claimed he was at a conference in Dundalk?

17 A. That's correct, yes.

18 64 Q. Okay. And that was one of the matters that had
19 prompted the investigation at Donegal County Council?

20 A. Yeah. Seemingly it prompted the complainant to make 11:11
21 the complaint and then again to the Commission.

22 65 Q. Okay. Now, can I ask you then to go back to, because
23 I just want to go through the fundamental documents
24 first --

25 A. Okay. 11:11

26 66 Q. -- to see what was being investigated and then we'll go
27 through the steps taken in the investigation. So the
28 Donegal County Council documentation at B?

29 A. Yeah.

1 67 Q. Tab 13, which is page 21?
2 A. That's correct, yeah.
3 68 Q. That is a claim form --
4 A. Yeah.
5 69 Q. -- for Donegal County Council. The declaration on this 11:12
6 occasion relates to an attendance at an IPA training
7 seminar in Carrickmacross as authorised by Donegal
8 County Council meeting on 27th April of 2006?
9 A. That's correct.
10 70 Q. Okay. It makes the same declarations in relation to 11:12
11 strict adherence to the Local Government Regulations
12 and the directions made. It makes the same
13 declarations in there being no payment being payable in
14 respect of the times, journeys or other matters set out
15 in it? 11:13
16 A. That's correct.
17 71 Q. Okay. And the same declaration that the claimant will
18 not make any other claims for payment in respect of the
19 times, journeys or other matters set out in it?
20 A. That's correct, yeah. 11:13
21 72 Q. And it gives the distance in miles from official
22 residence to place of meeting at 163 miles?
23 A. That's correct.
24 73 Q. Just to be clear about that, is that meant to be the
25 total of the return journey or is that a one-way 11:13
26 number?
27 A. Well, it states here on the form: "*Distance in miles*
28 *from official residence to place of meeting.*"
29 74 Q. Okay. So it's one way?

1 A. One way. I assume it's one way, yes, that's what it
2 says there.

3 75 Q. Okay. Because it's the same language as was in the
4 previous one?

5 A. That's correct. 11:13

6 76 Q. Okay. Then it sets out "*time and date of departure*
7 *from official residence*", 5 p.m. on 26th April of 2006?

8 A. That's correct.

9 77 Q. And "*time and date of return to official residence*",
10 8 p.m. on 27th April of 2006? 11:14

11 A. That's correct.

12 78 Q. Okay. It's a day and three hours?

13 A. Yes, and that entitles one overnight payment and it's a
14 three hour rate of 16.32.

15 79 Q. So there is an overnight subsistence payment and then 11:14
16 there is, if I can put it, a daytime subsistence which
17 is three hours or over?

18 A. It's three hours in relation to councillors. For other
19 public servants it's a five hour period.

20 80 Q. Okay. And then it's signed by Mr. Ó Domhnaill? 11:14

21 A. That's correct, yeah.

22 81 Q. And dated on 13th June of 2006?

23 A. That's correct.

24 82 Q. So a little less than two months later?

25 A. Yeah. 11:14

26 83 Q. And what payment, what amount was allowed in relation
27 to the travel and the subsistence?

28 A. The travel claim was for the distance of 163 miles one
29 way, but the Council in their calculations determined

1 that the distance was 123 miles one way, so that they
2 doubled it. Obviously it is one way there and one way
3 back, so they were paid 123 by two, which is 246
4 obviously, and then one overnight payment and one
5 subsistence rate for the three hours. 11:15

6 84 Q. Okay. And again over the tab the Agresso transaction
7 document?

8 A. Shows how the payment was made, yeah.

9 85 Q. It includes that. Then in relation to the conference
10 itself, the invitation to the conference which is a 11:16
11 training programme for elected members of strategic
12 policy committees, I think that local authorities can
13 have strategic policy committees --

14 A. Yeah.

15 86 Q. -- which specialise in an assessment of what policies 11:16
16 should pertain to the different areas in which local
17 authorities are engaged. So, for instance, there could
18 be a social housing strategic policy committee?

19 A. That's correct.

20 87 Q. And this training is being offered so as to assist the 11:16
21 members of such policies in how best to have input into
22 such committees?

23 A. That's correct.

24 88 Q. And at Tab 7 of the booklet at page 15?

25 A. Hmm. 11:16

26 89 Q. One can see a letter from the Department of the
27 Environment, Heritage and Local Government addressed to
28 each City and County Manager and Town Clerk in relation
29 to this training?

1 A. That's correct, yeah.

2 90 Q. And that goes out on 14th February of 2006. Then there
3 was a memo from the IPA, the Institute of Public
4 Administration, in relation to it on 13th March of
5 2006? 11:17

6 A. Yeah. That's correct, yeah.

7 91 Q. And then a training programme set out and again I don't
8 think that the Commission needs to concern itself too
9 much with the content of the training on this occasion.
10 Then you received confirmation that Mr. Ó Domhnaill had 11:17
11 attended the conference, you received that from the
12 IPA?

13 A. That's correct, yeah.

14 92 Q. Okay. So that, if you like, is the Donegal County
15 Council material in relation to the 26th and into the 11:18
16 27th April. If I could then ask you to turn to the
17 Údarás booklet at Tab 3, which is page 3, do you have
18 that?

19 A. Yes, I have it.

20 93 Q. If the Members of the Commission have that? This is a 11:18
21 claim form again, it's filled out by Senator Ó
22 Domhnaill on the 24th October of 2006, I think the same
23 date as the previous claim form?

24 A. That's correct, yeah.

25 94 Q. It relates to *Aibreán* 2006 which is April? 11:19

26 A. Yes.

27 95 Q. Then it has a number of claims: "*Ag taistil go Port*
28 *Lairge, ag freastal ar cruinniú fo-choiste Teanga sa*
29 *Rinn*" and so on but of relevance here is on 24th April

1 of 2006?

2 A. Yeah. There is an error apparently in that date as
3 I understand it from the County Council.

4 96 Q. Yes.

5 A. That date should have read the 27th April 2006. 11:19

6 97 Q. And I think that was subsequently clarified?

7 A. Yes.

8 98 Q. And I think that the correspondence to which I will
9 come confirm that?

10 A. Yes, okay. 11:19

11 99 Q. Okay. So this is at five o'clock --

12 A. Mm hmm.

13 100 Q. -- on the 27th; is that right?

14 A. That's correct, yeah.

15 101 Q. Departing from home at five o'clock on the 27th? 11:19

16 A. That's correct.

17 102 Q. And then it says: "*Ag freastal ar cruinniú de*
18 *Pairtíocht Spóirt Dhún na nGall*", so attending a
19 meeting of the Donegal Sports Partnership, again at the
20 Institute of Technology in Letterkenny and then home at 11:20
21 9 p.m.?

22 A. That's correct, yeah.

23 103 Q. Okay. Then there is a claim for 62 miles in relation
24 to that?

25 A. That's correct. 11:20

26 104 Q. That's from -- home I think is Falcarragh; is that
27 right?

28 A. That's correct, yes, as I understand it.

29 105 Q. To Letterkenny?

1 A. Yeah.

2 106 Q. Okay. And then there seems to have been a claim for
3 subsistence?

4 A. Mm hmm.

5 107 Q. 16.32? 11:20

6 A. That was subsequently deleted.

7 108 Q. That was deleted?

8 A. Yeah.

9 109 Q. And from five until nine would be less than the
10 five hours which is the threshold for Údarás? 11:20

11 A. As I understand it, yeah.

12 110 Q. So that the threshold for the local authority is
13 three hours, but the threshold for Údarás is five
14 hours?

15 A. Is five as I understand it. 11:21

16 111 Q. Again it's signed by Mr. Ó Domhnaill and dated and then
17 that was allowed on 11th December 2006?

18 A. Yeah.

19 112 Q. Along with the other claims that were being made. But
20 when one held this, if you like, up and viewed it in 11:21
21 light of what was in the Donegal material --

22 A. Yes.

23 113 Q. -- the Donegal claim had time and date of return to
24 official residence, 8 p.m. on 27th April?

25 A. That's correct, yeah. 11:21

26 114 Q. And the Údarás material had a departure from home at
27 5 p.m. on the 27th?

28 A. That's correct, yeah.

29 115 Q. Okay. At a time when otherwise the Donegal

1 documentation indicated a continued attendance at the
2 Donegal event?

3 A. At the Carrickmacross event, yeah.

4 116 Q. Sorry, yes, the event in Carrickmacross, that is the
5 IPA training event? 11:22

6 A. That's correct.

7 117 Q. If one on the claim in respect of the IPA training
8 event had a time of 5 p.m. as the time for return to
9 home, as opposed to 8 p.m. for the time to return to
10 home, what impact would that have had on the 11:22
11 subsistence allowance payment made?

12 A. The allowance of €16.32 paid by the County Council
13 would not have been payable by the Council because he
14 hadn't been away from home for the three hours in
15 addition to the overnight, 24 hours plus three. That's 11:22
16 what qualifies for the additional €16 there, 16.32, in
17 the County Council claim.

18 118 Q. Okay. But again at first blush looking at the two
19 claims, they conflicted with each other in terms of
20 times of attendance? 11:23

21 A. Yes.

22 119 Q. Can I ask you then to go to Tab C of, sorry, the
23 Donegal County Council documentation?

24 A. Yeah.

25 120 Q. Okay. And if I could ask you to go to page 37, that's 11:23
26 Tab 19?

27 A. Yeah.

28 121 Q. This is a claim addressed to Donegal County Council in
29 the same form as the previous two claims; isn't that

1 right?

2 A. That's correct.

3 122 Q. So the same declarations which I don't intend to
4 re-emphasise. It relates to the marine tourism
5 conference -- 11:24

6 A. Yeah.

7 123 Q. -- and I think you were satisfied that that was a
8 conference in respect of which the County Council had
9 determined that there should be an authority to go?

10 A. That's correct, yeah. 11:24

11 124 Q. Distance in miles from official residence to place of
12 meeting, 176?

13 A. 176, yeah.

14 125 Q. Now, the marine tourism conference, that was in
15 Carlingford; isn't that right? 11:24

16 A. That's correct, yeah.

17 126 Q. Time and date of departure from official residence,
18 3 p.m. on 30th May of 2006?

19 A. That's correct.

20 127 Q. And time and date of return to official residence, 11:24
21 2 p.m. on 2nd June of 2006?

22 A. That's correct.

23 128 Q. Now, again it's signed Brian Ó Domhnaill and dated the
24 13th April of 2006?

25 A. That's correct. 11:25

26 129 Q. Now, given that the event hadn't occurred in April of
27 2006, I think you believe that that was an error, the
28 13th April, and was more likely meant to be 13th June
29 of 2006?

1 A. That's correct.

2 130 Q. Okay. And in terms of the travelling expenses allowed,
3 what mileage was allowed?

4 A. The claim was for 176 miles one way, the council
5 allowed 142 miles each way. So that was a total of 11:25
6 284 miles.

7 131 Q. Yes.

8 A. The claim is in respect of 30th May to the 2nd June
9 which would at face value be three nights, but the
10 council allowed just two nights and a €40 subsistence 11:26
11 which is the excess of ten hours in addition to the
12 overnights.

13 132 Q. Okay. The material in relation to that claim, again
14 the transaction document under the Agresso system is in
15 the next tab over? 11:26

16 A. Yeah.

17 133 Q. The material in relation to the conference itself is at
18 Tab 16 page 28: "*Marine tourism conference - stoking*
19 *the marine leisure engine*" at the Holy Trinity Heritage
20 Centre in Carlingford, Co. Louth and then the 11:26
21 conference programme is set out in some detail?

22 A. That's correct.

23 134 Q. Day one was wednesday, 31st May?

24 A. Yeah.

25 135 Q. And it goes through the first session, the second 11:27
26 session, the third session, the third session being the
27 afternoon session on the 31st?

28 A. That's correct.

29 136 Q. There was: "*Marine leisure NDP 2008, National*

1 *Development Plan 2008 and marine leisure, a national*
2 *perspective; active branding of the region, the Mourne*
3 *and Cooley mountains as a national park"?*

4 A. Yeah.

5 137 Q. "*Actively targeting key cruising markets*" and then a 11:27
6 Q&A with the speaker's panel and then that was followed
7 by a visit to the Carlingford Oyster Company with
8 Guinness, oysters and mussels served on site?

9 A. Yeah.

10 138 Q. And then sailing and dinner on tall ship Artemis? 11:27

11 A. Yeah.

12 139 Q. Okay. Then Day 2 was Thursday, 1st June and it sets
13 out the programme for that day?

14 A. That's correct, yeah.

15 140 Q. Yes. Then there is material over the tab -- sorry, 11:28
16 page 30/31, encouraging the Dundalk Chamber,
17 encouraging attendance at this?

18 A. That's correct.

19 141 Q. And giving the cost of the conference I think which was
20 €150 for a one and a half day conference, yes? 11:28

21 A. Yeah.

22 142 Q. And then the next tab is the confirmation that you have
23 already indicated in relation to the Council,
24 authorising attendance by the Council's members?

25 A. That's correct. 11:28

26 143 Q. Then at Tab 18 on page 36 you can see three up from the
27 bottom there?

28 A. That's right.

29 144 Q. This is the attendance list kept by Dundalk Chamber

1 confirming Mr. Ó Domhnaill's attendance and that's
2 signed by him there?

3 A. That's correct.

4 145 Q. So, as far as the Donegal County Council documentation
5 was concerned, that indicated attendance at a 11:29
6 conference from 30th May 2006, it would appear from the
7 claim, to 2nd June of 2006?

8 A. Yeah.

9 146 Q. So then if I could ask you to turn to the Údarás
10 booklet, do you have that? 11:29

11 A. Yes, I have it here.

12 147 Q. And at page 6 of the Údarás booklet?

13 A. That's correct.

14 148 Q. There is again an Údarás travel expenses claim form.
15 This one, again it's signed by Mr. Ó Domhnaill and 11:30
16 dated 24th October of 2006?

17 A. That's correct.

18 149 Q. So at the same time as the previous two claim forms?

19 A. That's right, yeah.

20 150 Q. It relates to *Bealtaine* 2006, which is May? 11:30

21 A. Yeah.

22 151 Q. Just in relation to this, which shows on 30th May?

23 A. Yeah.

24 152 Q. Attendance by Mr. Ó Domhnaill at a meeting of CRAT?

25 A. That's correct, yes. 11:31

26 153 Q. Do you know what that stands for?

27 A. I don't, no. I can't recall.

28 154 Q. In any event attendance at a meeting of CRAT and Gleann
29 Colm Cille?

1 A. Yeah.

2 155 Q. From eight o'clock in the morning and back at 3:30 in
3 the afternoon?

4 A. That's right, yeah.

5 156 Q. And then -- that's on the 30th? 11:31

6 A. Yeah.

7 157 Q. Just when one looks at that in the context of the
8 marine tourism conference claim form, that suggested a
9 time of departure from official residence; in other
10 words, the start point in relation to the marine 11:31
11 tourism claim was 3 p.m. on the 30th?

12 A. That's right.

13 **MR. Ó TUATHAIL:** The word CRAT, that is a
14 regional meeting, northern regional meeting.

15 **MR. Ó BRAONÁIN:** A meeting of the northern 11:32
16 regional board committee.

17 **MR. MCCARTHY:** Page 11.

18 158 Q. **MR. Ó BRAONÁIN:** Yes, of the document is there.
19 Thank you. Then on the 31st May of 2006 there is a
20 claim to údarás in relation to: "*Ag freastal ar* 11:32
21 *seoladh Pairtíocht Dhún na nGall An Clochan Liath*"?

22 A. That's correct.

23 159 Q. So that's attending at the launch of the Donegal Sports
24 Partnership in Dungloe?

25 A. That's right. 11:33

26 160 Q. It doesn't give a time for that on the 31st?

27 A. It doesn't, no.

28 161 Q. Okay. There is a claim for mileage in relation to
29 that?

1 A. That's correct.

2 162 Q. That's 54 miles?

3 A. 54, yeah.

4 163 Q. And I think there is a claim for subsistence --

5 A. Yeah. 11:33

6 164 Q. -- on the 31st?

7 A. That's correct.

8 165 Q. Okay. The 31st is the same day in respect of which

9 there had been a claim to Donegal County Council for

10 subsistence on that day by way of an overnight 11:33

11 subsistence; isn't that right?

12 A. Yeah.

13 166 Q. Okay. Now, there is an attendance sheet in relation to

14 the Donegal Sports Partnership event which is at page

15 7, do you see that? 11:34

16 A. Yeah.

17 167 Q. And one can see on it there, "*Councillor Brian Ó*

18 *Domhnaill Chairperson*" and it's signed by him?

19 A. That's correct, yeah.

20 168 Q. That was the state of the claims as they had been 11:34

21 notified then to the County Council in the first

22 instance?

23 A. That's correct.

24 169 Q. And as they came to you?

25 A. That's correct. 11:34

26 170 Q. Okay. You had the benefit of input from Senator Ó

27 Domhnaill in relation to these matters by way of his

28 communications to the County Council during their

29 investigation?

1 A. That's correct, yeah.

2 **MR. Ó BRAONÁIN:** I wonder, I see it's two hours
3 or just short of two hours since we started and I don't
4 know --

5 **CHAIRMAN:** I was going to give you the 11:35
6 opportunity to break at this stage, you've been doing
7 all the work up to date. So what time would you like
8 to resume at?

9 **MR. Ó BRAONÁIN:** I don't know, if you would
10 say -- if you would say ten minutes or 15 minutes. 11:35

11 **CHAIRMAN:** 15 minutes.

12 **MR. Ó BRAONÁIN:** 15 minutes, very good.

13 **CHAIRMAN:** Thank you.

14 **MR. Ó BRAONÁIN:** Thank you.

15 11:35

16 **SHORT ADJOURNMENT**

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1 THE HEARING RESUMED AFTER THE SHORT ADJOURNMENT AS
2 FOLLOWS

3
4 **MR. Ó BRAONÁIN:** We will just await the arrival
5 of Mr. Ó Tuathail and his team. (Short pause) 11:53
6 (Mr. Ó Tuathail and his team re-enter the hearing room)

7 **MR. Ó TUATHAIL:** Apologies for being late.

8 **CHAIRMAN:** Yes.

9 171 Q. **MR. Ó BRAONÁIN:** Thank you for that, Chairman,
10 and Members of the Commission. One of the things that 11:56
11 I was reminded of in that period was, one of the Údarás
12 documents, it's at Tab B3 and relates, therefore, to
13 the second of the three conferences, the time at which
14 there was the IPA training in Carrickmacross. I had
15 brought you through page 3 I think of the document and 11:56
16 the 24th April, which of course is an error and ought
17 to be, I think everyone agrees, 27th April of 2003 and
18 the impact of that.

19
20 But over the page, which I should have gone over, to 11:57
21 page 4, one sees on the 27th April, which is the same
22 date, 27th April, "*ag taistil go Co. Ciarraí*",
23 travelling to Co. Kerry: "*Ag freastal or Cruinniú*
24 *Bord.*" Then on 28th April, I think it says: "*Ag*
25 *taistil go Gaillimh*", on 29th April: "*Ag taistil na* 11:57
26 *bhaile*", going back home. Then there is a global
27 amount of 677 miles for that; isn't that right,
28 Mr. Walsh?

29 A. That's correct, yeah.

1 172 Q. Okay. And there are also subsistence payments made at
2 that time, but the entry on the 27th April is an entry
3 relating to travel to Kerry?

4 A. That's correct.

5 173 Q. Now, when you were furnished with the complaint 11:58
6 materials and those documents setting out the contrast
7 between the claims being made to Donegal County Council
8 and the claims being made to Údarás na Gaeltachta,
9 I think it's the position that you were also furnished
10 with correspondence with Senator Ó Domhnaill? 11:58

11 A. That's correct, yeah.

12 174 Q. And if I could ask the Members of the Commission and
13 yourself to go to the page 55 of the book of documents,
14 it's Tab 8, there is a letter that was sent by Mr. Liam
15 Ward, who was the Director of Housing and Corporate 11:59
16 Services at the time?

17 A. That's correct.

18 175 Q. And the Acting Ethics Registrar in Donegal County
19 Council?

20 A. That's correct, yeah. 11:59

21 176 Q. That goes from page 55 to 62. It referred to previous
22 correspondence to Senator Ó Domhnaill --

23 A. That's correct.

24 177 Q. -- on 2nd September and 25th October. This set out in
25 detail a summary of the matters that we find in the 11:59
26 documentation that we've just been through?

27 A. That's correct, yeah.

28 178 Q. Okay. Then laid that out for Senator Ó Domhnaill and
29 then asked for explanations and clarifications in

1 relation to certain dates and conflicts?

2 A. That's correct, yeah.

3 179 Q. And one can see a summary of the claims and dates that
4 required clarification at page 61?

5 A. Mm hmm, yeah. 12:00

6 180 Q. And then on Tab 10 at page 66 --

7 A. That's correct.

8 181 Q. -- comes Mr. Ó Domhnaill's response?

9 A. That's correct.

10 182 Q. Just to go through his -- this is his first response in 12:00
11 relation to these matters; isn't that correct?

12 A. That's correct.

13 183 Q. It's on 15th December of 2011, the letter is dated, and
14 it's addressed to Mr. Ward. He says: "*Dear Liam,*
15 *I refer to your letter of December 5th regarding my* 12:00
16 *attendance at a number of events in 2006 and 2007.*
17 *I am happy that the below account is factual and true*
18 *and I hope that this matter can be dealt with as*
19 *expediently as is possible so as my name can be fully*
20 *cleared of any wrongful allegations in relation to* 12:01
21 *double claiming of expenses.*"

22 A. That's correct.

23 184 Q. And he says: "*I respond as follows:*
24 *1. I attended the conference in Dundalk on 9th, 10th*
25 *and 11th March 2006. I left the conference at* 12:01
26 *lunchtime Friday, March 10th to travel to Letterkenny*
27 *as I had a meeting of the Donegal Sports Partnership of*
28 *which I was and remain a board member*"?

29 A. Correct.

1 185 Q. *"This meeting finished at approximately 8 p.m. and at*
2 *this point in the knowledge that the conference events*
3 *would be finished on my return, I decided to travel to*
4 *my home in Falcarragh and picked up my mail for*
5 *Thursday and Friday. I consider this a normal* 12:01
6 *practice. I subsequently left Falcarragh at*
7 *approximately 10:30 p.m. and returned to the conference*
8 *in Dundalk. Records will confirm that I claimed no*
9 *expenses from my trip to Dundalk and Letterkenny and*
10 *back but instead claimed my return trip from Dundalk to* 12:01
11 *Letterkenny and back but instead claimed my"* -- I beg
12 your pardon. It appears it seems to be twice: "*But*
13 *instead claimed my return to and from home for the*
14 *Sports Partnership meeting in Letterkenny"*, do you see
15 that? 12:02

16 A. That's correct, yes, I can see that.

17 186 Q. Now, in relation to that indication, until that was
18 said did you have any information that Councillor Ó
19 Domhnaill had left the conference in Dundalk?

20 A. It wasn't obvious from the claim forms. 12:02

21 187 Q. Yes. So this was the first indication of that to
22 Mr. Ward?

23 A. That's correct.

24 188 Q. He says: "*It is fair at this juncture to point out*
25 *that I acted in the best interest of those I serve in* 12:02
26 *attending the Sports Partnership meeting and returning*
27 *to the conference. Records will show that even though*
28 *I claimed for one trip to Dundalk and back, I actually*
29 *made two return trips and only claimed for one. In*

1 *essence the claim of double expenses could not be*
2 *further from the truth given that I actually made two*
3 *return trips and only claimed for one as entitled."*
4

5 Can you speak to that, did Senator Ó Domhnaill have an 12:03
6 entitlement to two claims in respect of that travel?

7 A. Not that I am aware of. The rules do not provide for
8 two payments in such circumstances.

9 189 Q. Yes. In relation to the travel from the Letterkenny 12:03
10 meeting for which Senator Ó Domhnaill left the meeting
11 in Dundalk, he seems to have gone then from the meeting
12 in Letterkenny home and back again?

13 A. Yes.

14 190 Q. Is that a claimable journey?

15 A. Not that I am aware of. He was travelling from Dundalk 12:03
16 to Letterkenny for a meeting and it would appear to me
17 that he was not entitled to claim additional payments
18 in respect of going home and back to the meeting. He
19 was coming from Dundalk, the nearest point was
20 Letterkenny. 12:04

21 191 Q. Yes, okay. He explains that the journey from
22 Letterkenny to home and back again in respect of which
23 he claimed expenses was to get his post; is that right?

24 A. Yeah. He says he picked up his mail for Thursday and
25 Friday as is normal practice. That was his statement 12:04
26 to the Council.

27 192 Q. Yes. And is that a valid expenses generating event,
28 the collection of mail?

29 A. Not that I am aware of, no.

1 193 Q. He goes on then at 2 to say: *"The Sports Partnership*
2 *meeting took place on April 27th 2006. This clarifies*
3 *that there is no conflict, rather a misunderstanding as*
4 *the incorrect date"*?

5 A. Yes. 12:05

6 194 Q. And there was a clarification helpfully in relation to
7 that?

8 A. That's correct.

9 195 Q. He then said: *"3. I had submitted the Sports Meeting*
10 *as held on April 24th and not April 27th which was a* 12:05
11 *genuine error. I accept that this mistake or error was*
12 *made when submitting my expense claim on 24th October*
13 *some six months later. The return home time from*
14 *Carrickmacross on 27th April should be 3 p.m. and not*
15 *8 p.m. and this was a genuine error."* Do you see that? 12:05

16 A. Yeah. I see that, yeah.

17 196 Q. *"Having collected mail that needed attention,*
18 *I proceeded by leaving home at 4:30 p.m. to then travel*
19 *to Letterkenny for the Sports Partnership meeting and*
20 *returned home at 9 p.m. I then left home at 11 p.m.* 12:05
21 *and drove to Galway and went on to Kerry in the morning*
22 *to attend the Údarás board meeting"*?

23 A. Yes.

24 197 Q. How does that marry up with the claim documentation in
25 relation to travel on 27th April? 12:06

26 A. The 27th April he had said that he attended the DSP
27 meeting in Letterkenny at 5 p.m.

28 198 Q. Yes.

29 A. And arrived home from that at 9 p.m. and then left at

1 11 p.m. to travel to Galway.

2 199 Q. But on the claim form in relation to those dates,
3 I think he indicated that on 27th April 2006 he said
4 "*ag taistil go Co. Ciarraí*"?

5 A. That's right, yeah, his travel to Kerry on that 12:06
6 particular date.

7 200 Q. He refers to the time lapse of six months as being a
8 factor in relation to his memory when he identified the
9 24th April as being the date rather than the 27th April
10 as being the date; is that right? 12:07

11 A. That's correct, yeah.

12 201 Q. Notwithstanding that time lapse, he identifies the time
13 that he home from Carrickmacross on the 27th as being
14 3 p.m. and not 8 p.m.?

15 A. That's correct, yeah. 12:07

16 202 Q. Over the page on paragraph 4, he says that the claim
17 for his attendance at the marine tourism conference in
18 Carlingford of two overnights is correct, he says, for
19 the 30th and 31st May?

20 A. Yes, that's correct. 12:07

21 203 Q. He says he returned home on the evening of June 1st,
22 not June 2nd, which was the typo, yes?

23 A. That's what he says in the letter, yeah.

24 204 Q. He says: "*Note no overnight claim was claimed from*
25 *Donegal County Council for June 1st*"? 12:08

26 A. Yeah.

27 205 Q. Is that correct?

28 A. Well, the claim indicated that there was a claim for
29 the overnight of June 1st as he says that he returned

1 home on June 2nd. So at face value there was a claim
2 for three nights, three overnights.

3 206 Q. which was allowed as two nights?

4 A. which was allowed as two nights. Obviously the County
5 Council, when checking the duration of the conference, 12:08
6 decided that it was not valid to pay a third night.

7 207 Q. Yes. In any event Senator Ó Domhnaill explained this
8 by reference to it being a typographical error?

9 A. That's correct, yeah.

10 208 Q. And then he goes on to say: "*I attended the Sports 12:09
11 Partnership launch event in Dungloe as I left the
12 conference in Carlingford at 3:30 p.m.*"?

13 A. That's correct, yeah.

14 209 Q. "*On the 31st May and drove to Dungloe (via home) 153
15 miles and returned to Carlingford (via home) 12:09
16 afterwards*"?

17 A. That's correct.

18 210 Q. Okay. what impact does the driving via home have on
19 the claim?

20 A. It's an additional distance. Taking the direct route 12:09
21 from Carlingford to Dungloe would be a shorter distance
22 than taking a route from Carlingford to Falcarragh and
23 then Falcarragh to Dungloe.

24 211 Q. Okay. what I might do, Mr. Walsh, is finish going
25 through this letter and then I think that you have 12:10
26 maps --

27 A. That's correct.

28 212 Q. -- which we might have a look at. In any event you
29 said, sorry this letter records Senator Ó Domhnaill

1 saying that he returned to Carlingford at 1 a.m. and
2 attended the remainder of the conference on Thursday
3 morning: *"Note I only ever claimed travel expenses*
4 *from home to Dungloe and home again for the Sports*
5 *Partnership event"?* 12:10

6 A. That's correct.

7 213 Q. *"I returned home from Carlingford at 8 p.m. on June 1st*
8 *and, he says, collected mail. I left at 11:00 p.m. and*
9 *drove to Oranmore where I arrived at 2:15 a.m.*
10 *I proceeded to attend the Údarás Board meeting on June* 12:10
11 *2nd and the subsequent Comórtas Peil na Gaeltachta*
12 *events"?*

13 A. That's correct.

14 214 Q. *"It is normal practice for me to leave late in the*
15 *evening for morning meetings and to this day I often* 12:11
16 *leave after 11:00 p.m. when the Senate is sitting the*
17 *next morning. As you can also appreciate the weather*
18 *during the above months allows for this practice to be*
19 *much more practical than during the winter months"?*

20 A. Yeah. 12:11

21 215 Q. Okay. And then there is reference to other matters
22 with which the Commission doesn't need to concern
23 itself, I think?

24 A. That's correct.

25 216 Q. Investigation in respect of a matter in which there is 12:11
26 no contravention being alleged?

27 A. The Commission did not -- the complaint as presented
28 included travel to Armagh, but the Commission did not
29 consider that an investigation was warranted in that

1 case.

2 217 Q. Yes. And then Mr. Ó Domhnaill concluded:

3

4 *"The above explanations show explicitly that I acted*
5 *correctly as per the Local Government code of ethics* 12:11
6 *for Elected Members. Many of the claims to Donegal*
7 *County Council and to Údarás na Gaeltachta were made a*
8 *number of months after the events and so minor*
9 *discrepancies have occurred. Whilst this is no excuse,*
10 *it did add to the confusion. My explanations are* 12:12
11 *comprehensive, but should you have any further*
12 *questions please don't hesitate to contact me."*

13 A. That's correct.

14 218 Q. So that was the Senator's response to Mr. Ward. That
15 was then acknowledged, it was considered by the County 12:12
16 Manager, it having been referred to him and the Mayor.

17 A. Mm hmm.

18 219 Q. And they conducted their inquiry into the matter, the
19 Mayor and the County Manager under the terms of the
20 Local Government Act? 12:12

21 A. That's correct.

22 220 Q. They then wrote, this is at page 78, Tab 15, they wrote
23 in February of 2012 to Senator Ó Domhnaill?

24 A. That's correct.

25 221 Q. He replied at the end of February 2012 indicating that 12:12
26 he would require some time to consider the matter and
27 to see what information and records might be available?

28 A. That's correct.

29 222 Q. And there was no difficulty about that?

1 A. That's correct.

2 223 Q. And then there is a response of 21st March of 2012,
3 which is a relatively lengthy response --

4 A. Yeah.

5 224 Q. -- from Senator Ó Domhnaill in relation to these 12:13
6 matters?

7 A. That's right, yeah.

8 225 Q. The Commission have that, I don't propose to read out
9 all of the letter, but, insofar as it touches on the
10 relevant facts and assertions, do you have that in 12:13
11 front of you, Mr. Walsh?

12 A. Yes, I do.

13 226 Q. I just want to direct you to the relevant parts.

14 A. Yeah.

15 227 Q. In relation to the ACCC annual conference in the 12:13
16 Fairways Hotel in Dundalk, Senator Ó Domhnaill
17 amplifies that he absented himself from the conference
18 for the lunch period of 10th March 2006 which was
19 scheduled for between 1 p.m. and 2:30 p.m.?

20 A. That's right. 12:14

21 228 Q. And for the two hours of the afternoon session of the
22 same day?

23 A. That's correct.

24 229 Q. He said the afternoon session was an optional portion
25 of the conference and a portion which was fundamentally 12:14
26 a recreational session?

27 A. That's correct.

28 230 Q. In that regard one of the options available during that
29 session was for conference participants to play golf,

1 yes?

2 A. That's correct, yes.

3 231 Q. I think that subsequently Senator Ó Domhnaill clarified
4 the matter having been, I think, shown the conference
5 programme? 12:14

6 A. That's correct.

7 232 Q. And it having been explained to him what the position
8 was and acknowledged that he, I think, was in error in
9 relation to that paragraph?

10 A. That's correct. 12:14

11 233 Q. But he went on and he said: *"These periods were the
12 only periods during which I absented myself from the
13 conference. The reason I did so was to attend a
14 meeting of the Donegal Sports Partnership of which
15 I was chairman and remain a board member, that this was* 12:15
16 *in the very best interests of the people that he serves
17 and was discharging his various duties in the best and
18 most effective way possible."*

19

20 And indeed he says: *"As the circumstances of the* 12:15
21 *matter clearly demonstrate, my representation of
22 Donegal County Council at the conference was in no way
23 adversely affected by my attendance at the said
24 meeting."*

25 A. That's correct, that's what he says, yeah. 12:15

26 234 Q. Okay. Is that to say that his absence during that time
27 doesn't adversely affect his attendance?

28 A. He says that correctly. Yeah, that's what he says.

29 235 Q. It then goes on: *"The Sports Partnership meeting*

1 *concluded on 10th March at approximately 8 p.m. The*
2 *conference events in Dundalk being at that point*
3 *finished for the day, I used the opportunity to travel*
4 *from the meeting in Letterkenny to my constituency*
5 *offices in Gortahork and my home in Falcarragh in order* 12:16
6 *to attend to urgent and ongoing constituency work,*
7 *including attending to mail and other documentation*
8 *received there"?*

9 A. Yes. That's correct, he says that, yes.

10 236 Q. I think that the purpose of the departure from the 12:16
11 conference in Dundalk was to go to the meeting in
12 Letterkenny but at that stage --

13 A. That's correct, yes.

14 237 Q. -- Senator Ó Domhnaill decides to go from Letterkenny
15 to Falcarragh and to Gortahork? 12:16

16 A. That's correct, that's what he says.

17 238 Q. Again in relation to those being expense events, is he
18 entitled to claim expenses for going from a meeting in
19 Letterkenny for which he has left the previous
20 conference in order to collect mail and attend to these 12:16
21 matters?

22 A. That would not be an expense item as far as I am aware.

23 239 Q. Okay. And then he describes leaving Gortahork at
24 approximately 10:30 p.m. and returning to Dundalk in
25 what would have been the early hours of the morning of 12:17
26 11th March?

27 A. That's right, yeah.

28 240 Q. And then there was, he says: "*with regard to the*
29 *expenses claims in respect of the conference, I claimed*

1 *for two overnights in Dundalk in respect of the two*
2 *nights during which I stayed in Dundalk and I claimed*
3 *for one return trip to Dundalk. You will note that*
4 *I in fact made two returns trips to Dundalk during the*
5 *currency of the conference, same being necessitated by* 12:17
6 *my attendance at the Sports Partnership meeting when in*
7 *fact only claiming expenses for one of those return*
8 *trips."*

9 A. That's correct.

10 241 Q. Would he have been entitled to make two claims? 12:17

11 A. No, no, that would not be an expense item that he would
12 be entitled to claim.

13 242 Q. Then: "*With regard to the Sports Partnership meeting*
14 *itself, I claimed expenses for one return trip from the*
15 *meeting in Letterkenny to my offices in Falcarragh* 12:17
16 *which was entirely appropriate in the circumstances",*
17 he says?

18 A. That's correct.

19 243 Q. Then at 1.(ii) he refers to the code of conduct and
20 asks for a copy of the rules governing the making of 12:18
21 claims for expenses pertaining at the relevant time.
22 That I think is the directions from the Minister?

23 A. Yes.

24 244 Q. Did you furnish that to Senator Ó Domhnaill?

25 A. This letter was directed -- 12:18

26 245 Q. Sorry, I beg your pardon, in fact that was from
27 Mr. Ward?

28 A. Yeah, and Mr. Neely. It was directed to Mr. Neely and
29 Mr. O'Brien.

1 246 Q. And the response is over the page?
2 A. Yeah.

3 247 Q. Forgive me. He then raises a point in relation to the
4 language that's used at paragraph 8.2 of the code of
5 conduct and reference to the "*proper attendance for the* 12:18
6 *duration*"?
7 A. That's correct.

8 248 Q. He says in his letter: "*The clear meaning and import*
9 *of the phrase 'proper attendance for the duration' as*
10 *contained in the paragraph is that the attendance of a* 12:18
11 *Councillor at a conference should be proper for the*
12 *currency and duration of the conference. Further,*
13 *'proper' in the context of the paragraph means, inter*
14 *alia, that the attendance should result in the optimum*
15 *benefit obtainable by that attendance both for the* 12:19
16 *authority concerned and the local community which it*
17 *serves. It is abundantly clear therefore in the*
18 *circumstances as outlined herein that my attendance at*
19 *the Association of County and City Councils Annual*
20 *Conference in March of 2006 was entirely proper in* 12:19
21 *light of both the Local Government Act and the Code of*
22 *Conduct for Councillors*"?
23 A. That's what he says here, yeah.

24 249 Q. Then he goes over to say, at the top of page 86, that
25 he has endeavoured to locate the vouching documentation 12:19
26 but he has been unfortunately unable to do that?
27 A. Yeah.

28 250 Q. And explains that by reference to it being nearly
29 six years, over six years since the events?

1 A. That's correct.

2 251 Q. In relation to the Carrickmacross IPA training seminar,
3 that's at paragraph 3 on page 86, he says:
4
5 *"I left Carrickmacross at approximately 12:40 p.m. on 12:20*
6 *27th April 2006. The seminar was a morning seminar*
7 *which began at 9 a.m. and concluded at lunchtime.*
8 *I chose not to stay for a lunch which was available and*
9 *instead proceeded back to Donegal in order to attend to*
10 *ongoing constituency matters."* 12:20

11 A. That's correct.

12 252 Q. And then he refers to the marine tourism conference?

13 A. Yeah.

14 253 Q. And he describes leaving home for Carlingford on 30th
15 May, overnighing in Carlingford to attend the 12:20
16 conference the following morning. He says he attended
17 all the conference events up until 3:30 p.m. He said
18 there was approximately one hour of conference time
19 remaining for the day which was to be followed by a
20 dinner. He says there was a Sports Partnership meeting 12:21
21 scheduled for later and he was at that time the
22 chairman of the Donegal Sports Partnership?

23 A. That's correct.

24 254 Q. So: *"Having satisfied myself that I had obtained the*
25 *optimum benefit from that day's conference events both 12:21*
26 *for the local authority and my constituents, I left*
27 *Carlingford for Donegal to attend the Partnership*
28 *meeting"?*

29 A. That's correct.

1 255 Q. He says: "*Having attended the meeting in Dungloe he*
2 *returned to Carlingford arriving there at approximately*
3 *1 p.m.*" I think that's meant to be 1 a.m. on the
4 morning of 1st June?

5 A. I presume so, yeah. 12:21

6 256 Q. And then he attended the remainder of the conference on
7 1st June?

8 A. Yeah.

9 257 Q. So he says he spent two nights in Carlingford in order
10 to attend the conference. His return trip was made, he 12:21
11 says, to *Dungloe* was made via my home in Falcarragh and
12 where my constituency offices are located as I made use
13 of the trip in order to attend to pressing constituency
14 matters which had arisen as well as attending the
15 meeting in Dungloe, yes? 12:22

16 A. That's correct.

17 258 Q. And again he makes this point about returning,
18 completing two return trips but only submitting an
19 expenses claim for one?

20 A. That's correct. 12:22

21 259 Q. In relation to the error on the claim form, as he
22 describes it, he says: "*For me to attempt to explain*
23 *at this point in time how or why the error occurred*
24 *would be for me to engage in mere speculation and I do*
25 *not propose to do so*"? 12:22

26 A. Yes.

27 260 Q. He says: "*what I can say with absolute certainty is*
28 *that an error was made by me and that the fact of the*
29 *matter is that I returned home from Carlingford at*

1 *approximately 8 p.m. on 1st June 2006"?*

2 A. That's correct.

3 261 Q. Okay. And then again he goes at paragraph 4.(iii), he
4 refers again to his inability to locate any relevant
5 documentation? 12:23

6 A. That's correct.

7 262 Q. And he deals with the other matter in respect of which
8 the Commission doesn't need to concern itself?

9 A. Yeah.

10 263 Q. There are general comments made at page 88, 89 and 90? 12:23

11 A. Yeah.

12 264 Q. In relation to the process that was being engaged in by
13 the local authority, at least by the Mayor and the
14 County Manager in terms of its investigation?

15 A. That's correct. 12:23

16 265 Q. And there is an analysis of how the relevant provisions
17 of the Local Government Act interact and the gravity
18 and the seriousness of what is being enquired into?

19 A. Correct.

20 266 Q. And the impact that that might be found to have on 12:23
21 himself. He takes issue with the fact that this is an
22 anonymous complaint, this is in the middle of page 89?

23 A. Yeah.

24 267 Q. And he raises issues around fair procedures and natural
25 justice? 12:24

26 A. That's correct.

27 268 Q. So as of March of 2012 the issue about an anonymous
28 complaint was being raised by Senator Ó Domhnaill?

29 A. That's correct.

1 269 Q. That letter was acknowledged and some further materials
2 were sent to Senator Ó Domhnaill?
3 A. Yeah, that's correct.

4 270 Q. He was furnished with a draft of the report that was
5 ultimately sent by the Mayor and the County Manager? 12:24
6 A. That's correct.

7 271 Q. To the --
8 A. -- the Commission.

9 272 Q. To the Commission?
10 A. That's correct. 12:25

11 273 Q. That was sent to him on -- I think in May. And he
12 responded on 23rd May of 2012, this is at page 98,
13 Members of the Commission?
14 A. Yeah, that's true.

15 274 Q. On 23rd May he wrote saying: "*I refer to the above 12:25
16 matter and to your most recent correspondence
17 concerning same of 4 May last enclosing your relevant
18 report and associated documentation.*

19
20 *I appreciate that the conclusions as contained in that 12:25
21 report are provisional in nature and that you do not
22 wish to make a final decision without considering any
23 further submission I might wish to make. In the
24 circumstances of those present conclusions as set out
25 in your report however, I feel it would be in the best 12:25
26 interests of myself and indeed of all parties concerned
27 at this stage that the matter be referred to the
28 Standards in Public Office Commission for its
29 consideration."*

1 A. That's correct, yeah.

2 275 Q. And then he explains the upset which the matter
3 continues to cause him as being one of the reasons why
4 he wishes for that to happen and goes through the
5 constituency that he serves and the work that he has 12:26
6 done in the various capacities in which he works?

7 A. That's correct.

8 276 Q. And at the end urges again that for those reasons he
9 feels he is not only entitled but duty bound to have
10 the matter investigated? 12:26

11 A. That's correct.

12 277 Q. The matter then comes to the Commission, you are
13 appointed and you then take up the investigation?

14 A. That's correct, yeah.

15 278 Q. As you did that, one of the things that you did was to 12:26
16 analyse the claims made?

17 A. That's correct.

18 279 Q. Another of the things that you did was to consider the
19 responses from Senator Ó Domhnaill in relation to the
20 to the queries raised at the County Council level? 12:27

21 A. That's correct, yeah.

22 280 Q. And I think you then raised your own queries with
23 Senator Ó Domhnaill?

24 A. I raised further queries with him.

25 281 Q. How was that done? 12:27

26 A. That was by letter. I had sought a meeting with
27 Senator Ó Domhnaill.

28 282 Q. Yes.

29 A. But was not able to arrange the meeting so I then

1 decided to write to Senator Ó Domhnaill with the
2 documentation that I had, with the questions that I had
3 and he replied by letter as well.

4 283 Q. Okay. Did you also communicate with Donegal County
5 Council and with Údarás na Gaeltachta in relation to 12:27
6 the matter?

7 A. Yeah. As part of the process of gathering the relevant
8 documentation for the Commission, I would have
9 contacted both Donegal County Council to get all of
10 their documentation and to speak with anybody who may 12:28
11 have had any information that might have been of use to
12 my inquiry. I also spoke to staff in Údarás na
13 Gaeltachta with a similar view, to get documentation
14 and also to get any further information that may have
15 been available from the Údarás that might be helpful in 12:28
16 presenting the full story to the Commission.

17 284 Q. Yes. At page 215 of the booklet of documents there is
18 a letter addressed to Mr. Ó Domhnaill, it's dated 7th
19 April of 2005, it is in Irish?

20 A. That's correct. 12:28

21 285 Q. It congratulations Senator Ó Domhnaill on his
22 re-election to Údarás na Gaeltachta?

23 A. That's right, yeah.

24 286 Q. And then, amongst other things, encloses documentation
25 in relation to costs, he says: "*Taistiil or gnó*", that 12:29
26 is travel on the Údarás business?

27 A. That's correct.

28 287 Q. And then it encloses a sheet which is at page 217?

29 A. That's correct.

1 288 Q. It is headed: "*Taistil or gnó*", so that is on travel
2 on údarás business and claims for travel expenses?
3 A. That's right, yeah.

4 289 Q. And there are general matters dealt with, guidelines at
5 paragraph 1. So claims for payment should be submitted 12:29
6 at the end of every month (lights go out in hearing
7 room)?
8 A. It is probably on a timer.

9 290 Q. I don't know if it's a motion sensor.
10 A. I think if you press the button again. (Lights back) 12:30

11 291 Q. Feed the meter! Okay. So claims for payment should be
12 submitted at the end of the month in respect of travel
13 in that month. There are forms submitted towards that
14 and perhaps more importantly at paragraph 3, "*an*
15 *bhaile*"? 12:31
16 A. That's correct.

17 292 Q. So the time at which you leave home and at which you
18 return home should be detailed always?
19 A. That's right, yeah.

20 293 Q. So if your other obligations or duties, apart from 12:31
21 those as a member of údarás, delay you on your journey,
22 and it says "*mar shampla*", for example a meeting with
23 another organisation or body, "*ni féidir*", that time
24 cannot be claimed as a part of the údarás business?
25 A. That's correct, yeah. 12:31

26 294 Q. "*As bhaile ar gnó*", that is to say that the costs and
27 expenses are based on time away from home on údarás
28 business?
29 A. That's correct.

1 295 Q. You were explaining that you sought a meeting with
2 Senator Ó Domhnaill?

3 A. That's correct.

4 296 Q. That didn't transpire to be possible and so what you
5 did was you then sent him a letter, which is at Tab H 12:32
6 page 224?

7 A. That's correct.

8 297 Q. Enclosing documentation?

9 A. That's right, yeah, the documentation I had gathered
10 from my meetings with the County Council and with the 12:32
11 Údarás na Gaeltachta.

12 298 Q. Yes. So the complaint documentation and the appendices
13 that the --

14 A. That's right.

15 299 Q. -- County Council had compiled and then further 12:33
16 documents, as you say?

17 A. Yes.

18 300 Q. They are all sent through and then you request from him
19 a statement by way of answers to questions that you had
20 formulated and set out in an appendix? 12:33

21 A. That's correct.

22 301 Q. And that's at page 226 on of the booklet of documents?

23 A. That's correct.

24 302 Q. And you received a response to that?

25 A. I did indeed, yes. 12:33

26 303 Q. And the responses, insofar as they relate to the
27 matters at issue, I think are set out. While we have,
28 therefore, your appendix with the questions and we have
29 Senator Ó Domhnaill's response with the answers, one

1 can find both together in order in your report?

2 A. That's correct, yeah.

3 **MR. Ó BRAONÁIN:** For that reason I would think,
4 Members of the Commission, that the report is probably
5 the easiest place to see the questions and the answers 12:34
6 that were given by Senator Ó Domhnaill.

7 **MR. MCCARTHY:** Not in the documents?

8 **MR. Ó BRAONÁIN:** It is in the booklet of
9 documents.

10 **MR. MCCARTHY:** It's easier to look at it in the 12:34
11 report?

12 304 Q. **MR. Ó BRAONÁIN:** I think so because the report
13 collates the questions and the answers so that one can
14 read them together. And if I could just bring you to
15 page 114 of the booklet of documents. Mr. Walsh, 12:34
16 that's your report, isn't it?

17 A. That's correct, yeah, that's my report.

18 305 Q. Page 114 and paragraph 9.1.20 sets out the questions
19 put to Senator Ó Domhnaill and his answers in relation
20 to this conference: "Q. *Did you wait for the lunch on 12:35*
21 *Friday? A. No, I did not wait for lunch.*

22

23 *2. What time did you arrive back from Dundalk on*
24 *Friday? A. From recollection at approximately 1:30*
25 *a.m.* 12:35

26

27 *3. Did you have to make special arrangements for the*
28 *hotel in Dundalk to gain access in the early hours of*
29 *the morning when you got back?*

1 A. No, I didn't. I had my room key and was able to
2 access the hotel without any special arrangements.

3
4 4. What time did the conference finish on Saturday?

5 A. From recollection between 11 and 12. 12:35

6
7 5. What time did you leave Dundalk on Saturday?

8 A. I left the hotel at approximately 12:30 p.m. on the
9 Saturday.

10
11 6. In your claim to Údarás na Gaeltachta dated
12 24 October 2006, in respect of attending at the Údarás
13 meeting on 10th March of 2006, you state that you left
14 home at 3:30 p.m. to attend the meeting. In paragraph

15 1 of your letter of 15th December 2011 to Mr. Liam 12:36
16 Ward, Donegal County Council, you say you left Dundalk
17 to go to the meeting in Letterkenny. You then went
18 home presumably after the meeting to collect mail etc.,
19 this means that you did not leave your home at
20 3:30 p.m. to attend the Letterkenny meeting, please 12:36
21 explain the discrepancy?

22
23 A. The meeting I attended on 10 March 2006 was a
24 meeting of the Donegal Sports Partnership. I am a
25 founding member of this organisation and was chairman 12:36
26 of the organisation in 2006. My mileage claim in
27 respect of the Sports Partnership meeting itself shows
28 that I claimed expenses for one return trip from the
29 meeting to my home office in Falcarragh, Gortahork.

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You will also note that I made two return trips to Dundalk during the currency of the conference, same being necessitated by my attendance at the Sports Partnership meeting while in fact only claiming expenses for one of the return trips."

12:37

That's the answer given?

A. That's correct, yeah.

306 Q. The claim that was submitted to Údarás expressed itself in terms of travel from 3:30 p.m. from home?

12:37

A. That's correct.

307 Q. Going back home, returning home at 9 p.m.?

A. Nine o'clock, yeah.

308 Q. But I think Senator Ó Domhnaill seems to accept in his correspondence with Mr. Ward in December 2011 that in fact he travelled to the meeting in Letterkenny from Dundalk?

12:37

A. From Dundalk, yeah.

309 Q. And then went home afterwards?

12:37

A. That's correct.

310 Q. Okay. At paragraph 7, the question is asked in the same paragraph of the same letter to Mr. Ward: *"You said that you decided to go home to Falcarragh, a distance of 62 miles round trip, you say that this would be normal practice. In paragraph 1.1 of your letter of 21 March 2012 to the County Manager and Mayor you say that the trip back to your constituency office and home was to attend to urgent and ongoing*

12:38

1 *constituency work, including attending to mail, can you*
2 *explain the type of urgent work that needed attending*
3 *to that could not wait until you returned home less*
4 *than 24 hours later."*

12:38

5
6 And the answer is given: "*As a public representative*
7 *I take my role very seriously and deal with all matters*
8 *professionally. The matters which I would have had to*
9 *deal with would involve telephone messages received in*
10 *my office together with mail etc. In addition some of*
11 *the queries were medically related and therefore*
12 *required quite urgent attention."*

12:38

13 A. That's correct.

14 311 Q. Okay. Was there any elaboration on that in terms of
15 detail?

12:39

16 A. No, that was.

17 312 Q. Sorry?

18 A. That was the reply.

19 313 Q. So I don't get it wrong. At paragraph 8 the question
20 is asked: "*what would have happened to this*
21 *constituency work and mail if the Letterkenny meeting*
22 *was not on and you had not returned to deal with these*
23 *matters, i.e. would there have been a crisis when you*
24 *returned on the Saturday?*

12:39

25
26 A. A family member notified me of a large number of
27 letters and telephone messages on the office phone and
28 I felt obliged when in Letterkenny to attend to these
29 matters. It is my view that my public service

12:39

1 *obligations would not have been met to the best of my*
2 *ability in the circumstances had I not returned to my*
3 *office/home to collect the mail and obtain the*
4 *telephone messages on my answering machine"?*

5 A. That's correct. 12:40

6 314 Q. "9. *If there was such urgent work to be done why did*
7 *you volunteer to attend the conference in Dundalk in*
8 *the first place?*

9 A. *I volunteered to attend the conference as I was*
10 *interested in the conference topic. Urgent* 12:40
11 *constituency work is an ongoing and unavoidable*
12 *consequence of being a public representative and one*
13 *which I thoroughly enjoy. I feel obliged and*
14 *continually endeavour to serve my constituents to the*
15 *very best of my ability. Very often this means* 12:40
16 *excessively long working hours as was demonstrated*
17 *during the course of the conference."*

18
19 Paragraph 10: "Q. *You say in paragraph 1.1 of the*
20 *letter of 21st March of 2012 that attendance at the* 12:40
21 *afternoon session of the conference in Dundalk on 10th*
22 *March was an optional portion of the conference and*
23 *fundamentally a recreational session. Please explain*
24 *how you formed this view?*

25 A. *I simply made a mistake in my recollection and* 12:41
26 *fully accept your clarification. You will no doubt*
27 *have noted in this regard that the letter referred to*
28 *was written over six years following the conference."*
29

1 Paragraph 11: "Q. According to the programme for this
2 conference the afternoon session" -- that goes through,
3 sorry, it's probably quicker to just read it out:
4

5 "The afternoon session of 10 March was addressed by 12:41
6 Mr. Nickey Brennan, the President of the GAA, on the
7 topic of building communities - and so on - and by
8 Mr. Barry, CEO of the National Roads Authority on
9 rolling out the roads agenda. It is not apparent why
10 you would have chosen to miss these contributions on 12:41
11 Friday, 10th March even if they were optional and yet
12 make a return trip to Dundalk of 179 miles, total 358
13 miles, to attend the conference conclusions. You will
14 note that Mr. Liam Kenny, Director of Association of
15 County and City Councillors says in document G in 12:41
16 answer that the conference finished at about 11 a.m.
17 and according to the conference programme the Saturday
18 session started at about 10 a.m., please explain."
19

20 So this was directed, I think, at why come back for an 12:42
21 hour the following morning?

22 A. That's correct, yeah.

23 315 Q. If you are going to miss the afternoon. But the answer
24 given is: "I made the round trip to the conference out
25 of commitment to the public interest and my 12:42
26 constituents and to ensure I was present for the
27 conclusions thereof. I would point out that I would
28 have received a full briefing regarding all aspects of
29 the conference and the sessions in question during the

1 *Saturday morning portion. As you note I in fact made*
2 *two return trips to Dundalk during the currency of the*
3 *conference, this being necessitated by my attendance at*
4 *the Sports Partnership meeting and only claimed*
5 *expenses for one of those return trips. I feel that my* 12:42
6 *actions were entirely appropriate in the*
7 *circumstances."*

8
9 A. Correct, yeah.

10 316 Q. At 12 he says: "*In your claim you stated the distance* 12:42
11 *in miles from your home to Dundalk to be 179 miles each*
12 *a way. The Council paid you in respect of a distance*
13 *of 136 miles each way, can you comment on this*
14 *discrepancy?*

15 A. *The claim of 179 miles was a genuine error. I am* 12:43
16 *satisfied that the correct payment of 136 miles was*
17 *paid.*

18
19 13. Q. *You submitted your claim to the Council on*
20 *20th March 2006, did it occur to you to inform the* 12:43
21 *Council that you did not attend the full conference so*
22 *that they could make an appropriate adjustment to your*
23 *claim?*

24 A. *It is my position that the claim submitted was*
25 *appropriate in the circumstances.* 12:42

26
27 14. Your claim for the *Údarás* expenses in respect of
28 10 March 2006 was submitted on 24 October 2006, can you
29 explain why you delayed for over six months in making

1 *this claim? The County Council claim was submitted on*
2 *20th March.*

3 *A. Traditionally I always claimed Údarás expenses due*
4 *to me on a three, six or twelve monthly basis.*

12:42

5
6 *15. You claimed subsistence for 10 March from Údarás*
7 *and also from Donegal County Council, you did not deal*
8 *with this in your statement to the Council, see page 4,*
9 *fourth bullet point of the Council report dated 28th*
10 *May which is attached to their letter of complaint of*
11 *the same date to the Commission. See also page 7,*
12 *second paragraph. Please provide your comments on*
13 *this.*

12:43

14 *A. As I outlined in my letter to Donegal County*
15 *Council of 21st March 2006, the reason that I absented*
16 *myself from the conference was to attend a meeting of*
17 *the Donegal Sports Partnership, of which I was chairman*
18 *at the time. In doing so I was acting in the very best*
19 *interests of the people I serve and was discharging my*
20 *various duties in the best and most effective way*
21 *possible given the circumstances. By representing*
22 *Donegal County Council at the conference was in no way*
23 *adversely affected by my attendance at the said*
24 *meeting. I was present at the conclusion of conference*
25 *events on the Saturday morning which involved an*
26 *overview of the conference discussion topics.*

12:43

12:43

12:43

27 *I claimed and received expenses in respect of 334 miles*
28 *but actually travelled a total of 606 miles in order to*
29 *full my obligations as a public representative over the*

1 *relevant days and I feel that my actions were entirely*
2 *appropriate in the circumstances."*

3
4 Does the answer say anything about the subsistence
5 claim --

12:44

6 A. No.

7 317 Q. -- for 10th March?

8 A. No, it doesn't. It doesn't answer the question that
9 was asked.

10 318 Q. At paragraph 16 the question asked is: "*Was the Sports*
11 *Partnership meeting on 10th March a scheduled meeting?*

12:44

12 A. *I cannot recall if the meeting was a scheduled*
13 *meeting.*

14
15 17. *If not, when was the date of the meeting decided?*

12:44

16 A. *The exact dates of meetings were generally arranged*
17 *at the previous meeting which in this case would have*
18 *been the February meeting.*

19
20 18. *If it was decided after 30th January 2006, the*
21 *date that you were approved by the Council to attend*
22 *the Dundalk conference, why did you not withdraw from*
23 *the Dundalk conference or attempt to have the meeting*
24 *set for another date?*

12:44

25 A. *It would have been inappropriate and indeed unfair*
26 *in my view upon the other members and directors of the*
27 *Sports Partnership to seek to have the meeting*
28 *rescheduled. I made the decision on the Friday morning*
29 *10th March to attend."*

12:44

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It appears then there was a decision made, if you like, mid conference?

A. Yes, it sounds like it.

319 Q. *"This was a decision which I made in the best interests of all I serve. As already detailed, the decision to attend the DSP meeting meant that I incurred additional travel costs for which I was not recompensed. I made the decision, however, for what I perceived to be the best interests of all those I served."* 12:45

And then you set out, you go on then to the IPA training seminar, yes?

A. That's correct, yes.

320 Q. In relation to the Dundalk conference and the meeting in Letterkenny, have you prepared maps that assist in relation to that? 12:45

A. Yeah. I prepared maps there recently and I think they are available for circulation.

321 Q. Just distribute the maps (SAME HANDED). Copies have already been made available, I think, to Senator Ó Domhnaill and his representatives. Now, could you explain please, Mr. Walsh, the exercise that you carried out and the assistance you believe it can give the Commission? 12:46

A. Yeah. The AA route planner shows the most direct route from one point to another and it also provides the distance and the time that it may take to travel that particular route. 12:47

1 322 Q. Yes.
2 A. I hadn't included, I had included a map in my original
3 report but it was in colour when I presented it to the
4 Commission members, but in all the copying it's not
5 very clear. So I prepared this new map last week just 12:47
6 to help the Commission.
7 323 Q. Okay.
8 A. Series of maps, rather.
9 324 Q. The first is Falcarragh to Dundalk and obviously,
10 therefore, then Dundalk to Falcarragh? 12:47
11 A. Yeah.
12 325 Q. In relation to the first conference, if one is
13 travelling from Dundalk to a meeting in Letterkenny one
14 can see that, obviously that is a shorter journey --
15 A. That's correct, yeah. 12:48
16 326 Q. -- than the journey as far as Falcarragh; is that
17 right?
18 A. That's correct, yeah.
19 327 Q. And is that what you are looking to depict there?
20 A. Yeah, that it would make sense to stop off in 12:48
21 Letterkenny for a meeting if you are going from Dundalk
22 to Letterkenny for the meeting rather than going on to
23 Falcarragh and coming back for that meeting.
24 328 Q. Okay.
25 **MR. MCCARTHY:** Can I just ask a question? 12:48
26 **MR. Ó BRAONÁIN:** Please.
27 **MR. MCCARTHY:** Are the distances in miles or
28 kilometres?
29 A. You're looking at, it's printed in kilometres and then

1 I -- you can ask for it in miles but it doesn't give
2 you the two together. So I hand wrote in miles. Is
3 that the same copy that you have?

4 **MR. MCCARTHY:** It is, yes, I think.

5 329 Q. **MR. Ó BRAONÁIN:** I think where, just to clarify, 12:49
6 Mr. Walsh, on the document (indicating) underneath the
7 map section, it has from Falcarragh, Co. Donegal to
8 Dundalk, distance 198.71, show distances in miles. Is
9 that a link that you would click if you want to change
10 it from kilometres to miles? 12:49

11 A. If you wanted it in miles rather than kilometres you
12 would click on that to show distance in miles and it
13 will show you in miles only.

14 330 Q. Okay.

15 A. But I decided to leave the kilometres in there as well 12:49
16 as writing in handwriting the miles.

17 331 Q. Okay. And that I think is the, that first map is the
18 one particularly relevant in relation to the Dundalk
19 conference, the ACCC meeting in Dundalk?

20 A. That's correct. There is also a map separately showing 12:50
21 Falcarragh to Letterkenny, I think it's the sixth map
22 in which will give you more detail of the road,
23 I suppose.

24 **MR. Ó BRAONÁIN:** Yes. We seem to be in the dark
25 again! Might I suggest, I see it's ten to one, I know 12:50
26 it's not as long after the last break as one might
27 wish, but I'm told that for technical reasons it may be
28 necessary to have access to the room so as to try and
29 remedy the problem with the lighting.

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CHAIRMAN: Yes. will we try and be back here for two o'clock?

MR. Ó BRAONÁIN: I was going to suggest this might be a good time for lunch and we'll put that time to use in fixing the lights.

12:51

CHAIRMAN: we'll hold you to that.

MR. Ó BRAONÁIN: Thank you, Chairman.

LUNCHEON ADJOURNMENT

12:51

1 THE HEARING RESUMED AFTER THE LUNCHEON ADJOURNMENT AS
2 FOLLOWS

3
4 **CHAIRMAN:** Now, we are all indebted to the
5 people who worked over lunch in trying to secure the 14:08
6 lights so hopeful power won't be interfered with.

7 **MR. Ó BRAONÁIN:** Yes.

8 **CHAIRMAN:** And we'll proceed now.

9 **MR. Ó BRAONÁIN:** Thank you, Chairman. Just in
10 relation to the lights, there is a back-up by way of 14:08
11 lamps so that if we have that event again and people
12 agree, and particularly if the Commission agrees, we
13 can proceed, but hopefully that won't arise.

14
15 CONTINUATION OF EXAMINATION OF MR. WALSH BY MR. Ó 14:08
16 BRAONÁIN

17
18 332 Q. Now, Mr. Walsh, good afternoon.

19 A. Good afternoon.

20 333 Q. You had been outlining your communications with Senator 14:08
21 Ó Domhnaill in relation to the first conference?

22 A. That's correct, yeah.

23 334 Q. And I think that you had a similar exchange of
24 questions and answers in relation to the second
25 conference; is that right? 14:09

26 A. That's correct, yeah.

27 335 Q. If I could ask Members of the Commission, if you could
28 turn to page 119 of the booklet of documents -- sorry,
29 117. 9.2?

1 A. 19.

2 336 Q. 19 is where the exchange is, but just to show its
3 context. This is in paragraph 9.2 of your report,
4 you're dealing with IPA training seminar in
5 Carrickmacross? 14:09

6 A. That's correct.

7 337 Q. You go through the times in question, the sums paid for
8 travel and subsistence and you then had an exchange
9 with Senator Ó Domhnaill in relation to it?

10 A. That's correct, yeah. 14:10

11 338 Q. You identified the issue, I think, at paragraph 9.2.5,
12 which is on page 118?

13 A. That's correct.

14 339 Q. This is the issue to which you were directing your
15 mind: *"That Senator Ó Domhnaill had originally 14:10*
16 *claimed, in his claim form at Appendix A1 page 13, that*
17 *he had arrived home from Carrickmacross at 8 p.m. on*
18 *Thursday, 27th April 2006. As that indicated that he*
19 *was absent from home for one full day plus three hours*
20 *he was entitled to be paid an overnight plus an 14:10*
21 *three hour allowance of 16.32"?*

22 A. That's correct, yeah.

23 340 Q. *"In his Údarás claim he said he was absent from home*
24 *from 5 p.m. to 9 p.m. to attend the DSP meeting"?*

25 A. That's correct. 14:10

26 341 Q. *"And when asked by the Council to explain the*
27 *discrepancy, Senator Ó Domhnaill had said that he had*
28 *made a mistake in completing the Council claim form and*
29 *that in fact he had arrived home from Carrickmacross at*

1 3 p.m.", not at 8 p.m.?

2 A. That's correct, yeah.

3 342 Q. And you identified the issue then as a lack of
4 entitlement to the three hour allowance --

5 A. That's right. 14:11

6 343 Q. -- from the Council?

7 A. That's correct, yeah.

8 344 Q. Then you summarise the revised account of movements
9 which the Commission will already have seen from the
10 documents and also the content of the letter? 14:11

11 A. Mm hmm, yeah.

12 345 Q. And then over the page at 9.29.10 you set out the
13 exchange: "*Hereunder are the questions I put to*
14 *Senator Ó Domhnaill, you say, and his answers.*" So
15 question 19: 14:11

16

17 "*You say in your letter of 21st March of 2012*", which
18 I think was the second of the letters to the Council?

19 A. Yeah.

20 346 Q. "*That you left Carrickmacross at 12:40 p.m. to go back* 14:12
21 *to Donegal to attend to ongoing constituency matters.*
22 *In your letter of 15 December 2011 you say that you*
23 *arrived home at 3 p.m. and having collected mail that*
24 *needed attention you proceeded by leaving home at*
25 *4:30 p.m. to travel to the meeting in Letterkenny,* 14:12
26 *which I understand started at 5 p.m., i.e. you left*
27 *just 30 minutes to travel the 31 miles to Letterkenny.*
28 *You returned home at 9 p.m. and left home again at*
29 *11 p.m. Can you explain why it was necessary to pass*

1 *through Letterkenny to travel home to collect mail*
2 *(having been away for less than 24 hours) when you were*
3 *going to travel home after the meeting? Also, how you*
4 *managed to get to Letterkenny from home in 30 minutes."*

14:12

5
6 A. That's correct.

7 347 Q. So those were the queries that you had. The answer
8 given by Senator Ó Domhnaill was:

9
10 *"The reason I travelled home before the meeting in*
11 *Letterkenny was to sign constituency mail that I wanted*
12 *to get in the post before the postal service van left*
13 *Gortahork at 3:40 p.m. that evening. I was employing*
14 *at my own cost a constituency secretary at the time and*
15 *I was anxious to deal with constituency mail. The*
16 *times were approximate times. It may have been a*
17 *few minutes before 4:30 p.m. when I left or a*
18 *few minutes after 5 p.m. when I arrived."*

14:12

14:13

19 A. That's correct.

20 348 Q. And then at 19a, you asked: *"In your claim you stated*
21 *the distance in miles from your home to Carrickmacross*
22 *to be 163 miles each way. The Council paid you in*
23 *respect of a distance of 123 miles each way. Can you*
24 *comment on the discrepancy in the distances?"*

14:13

14:13

25
26 And Senator Ó Domhnaill accepted that the 123 miles
27 each way was correct, the original 163 figure was
28 presented in error. And: *"You will note that I was*
29 *paid in respect of 123 miles each way."*

1 A. That's correct.

2 349 Q. Okay. And then you have, in relation to that journey,
3 maps within your list of maps?

4 A. That's correct.

5 350 Q. And again if you could just bring the Commission to the 14:14
6 relevant maps which --

7 A. That was Carrickmacross, it's the third map.

8 351 Q. The third map?

9 A. The third map in.

10 352 Q. Falcarragh to Carrickmacross? 14:14

11 A. Yeah. It shows the direct line, it's the shortest
12 route again by AA route planner.

13 353 Q. Yes, through Letterkenny?

14 A. Through Letterkenny, yes.

15 354 Q. Where the meeting was? 14:14

16 A. That's correct, yeah.

17 355 Q. Okay. And it seems then that, what happened was that
18 there was travel from Carrickmacross to Letterkenny, on
19 to Falcarragh and then returning for the DSP meeting --

20 A. That's correct. 14:15

21 356 Q. -- in Letterkenny and then back to Falcarragh again
22 before going on to, it would seem --

23 A. To Galway.

24 357 Q. -- Galway, according to the correspondence, or on to
25 Kerry according to the claim form? 14:15

26 A. That's correct.

27 358 Q. But A represents Falcarragh; is that right?

28 A. That's correct, yeah.

29 359 Q. Now, the next item is at 9.3, it's on page 119 where we

1 just left off?

2 A. That's correct.

3 360 Q. This relates to the marine tourism conference which is
4 the last of the three conferences. On 30th May to
5 1st June was when the conference was and Senator Ó 14:16
6 Domhnaill is absenting himself from the conference on
7 31st May; is that correct?

8 A. That's correct, yeah.

9 361 Q. You set out in your report times that you have gleaned
10 from the documentation for departures and arrivals? 14:16

11 A. That's correct.

12 362 Q. Then you asked him a series of questions?

13 A. That's correct.

14 363 Q. And if we turn over to page 122, those questions and
15 the answers are set out there? 14:16

16 A. That's correct.

17 364 Q. At paragraph 9.3.14. So question 20: *"It seems that
18 you attended a meeting in Gleann Cholm Cille before
19 leaving for Carlingford. What time did the Gleann
20 Cholm Cille meeting start and finish on 30th May 2006?" 14:17*

21 A. *I left home at 8 a.m. The meeting started at 10:00
22 a.m. and finished up at approximately 1:00 p.m.
23 I arrived home from Gleann Cholm Cille before 3 p.m. in
24 order to pick up mail which I would deal with over the
25 subsequent days."* 14:17

26

27 At question 21, the question: *"According to your
28 Council claim form dated 13 April 2006 -- which you
29 note seems to be dated incorrectly, it should probably*

1 have been 13 June 2006, according to the Council -- you
2 departed your home on 30th May 2006 at 3 p.m. to go to
3 the conference in Carlingford. According to your
4 Údarás claim form you arrived home from a meeting in
5 Gleann Cholm Cille at 3:30 p.m. Can you explain the 14:17
6 apparent discrepancy?

7 A. My departure time for the Carlingford conference
8 may have been approximately 3:15 to 3:45 p.m. This
9 would have had no effect on claimed expenses."

10 A. That's correct. 14:18

11 365 Q. Next question: "As it seems that you are running tight
12 time wise, why would you have travelled home from South
13 Donegal to North Donegal, on minor roads, and then
14 immediately left home again to travel to Carlingford
15 instead of going directly from Gleann Cholm Cille to 14:18
16 Carlingford?"

17 A. I fail to see how it can be concluded that I was
18 'running tight time wise' but in any case there is
19 nothing new in travelling across minor roads in order
20 to fulfil constituency obligations. The reason was the 14:18
21 pick up constituency mail and messages."

22
23 Question 23: "You say in your letter of 15 December
24 2011 that you left Carlingford at 3:30 p.m. on 31 May
25 to travel to Dungloe. You say you travelled via your 14:18
26 home and that you returned to Carlingford via your
27 home. why did you do this when it seems that it would
28 have been shorter to go directly?"

29 A. I made the trip to Dungloe via home (my office) to

1 attend to constituency correspondence and mail. This
2 represents nothing new in the manner in which
3 I undertake my work. I am at all times determined to
4 do my absolute utmost to deal with constituency queries
5 and concerns. 14:19

6
7 24. What was the Dungloe event about?

8 A. The Dungloe event was an event to launch a
9 strategic Donegal Sports Partnership sports policy
10 document. 14:19

11
12 25. What time did the Dungloe launch event start and
13 what time did it finish?

14 A. Started at 8 p.m. and finished at 9:30 p.m. 14:19

15
16 26. You say at page 3 of your reply to the Council
17 dated 21 March '12 that you had gotten optimum benefit
18 from that day's conference. On what basis did you
19 arrive at that decision?

20 A. The conference activities commenced at 9:05 a.m. on 14:19
21 31 May 2006. I attended all of the day's conference
22 events but chose not to attend the visit to the Oyster
23 Company with Guinness, oysters and mussels or indeed
24 attend the dinner on a tall ship. I genuinely felt it
25 more appropriate to the Local Authority, the public and 14:20
26 my constituents to attend the Donegal Sports
27 Partnership event.

28
29 27. You said at paragraph 4(i) of the letter of

1 21 March 2012, that you had to attend a pressing
2 constituency matter which had arisen. Can you say what
3 these were?

4 A. In this instance these are confidential matters
5 between a public representative and a constituent. 14:20
6 I believe that it would be inappropriate to elaborate
7 further in the circumstances.

8
9 28. You say in your letter of 15 December 2011,
10 paragraph 4, that you travelled from Carlingford on 14:20
11 1st June to collect mail at home, arriving home at
12 8 p.m. and then left your home at 11 p.m. to travel to
13 Kerry via Galway. Can you explain what was so
14 important about this mail that you travelled back home
15 from Carlingford (in the region of 150 miles) and then 14:21
16 travelled to Kerry via Galway on relatively bad roads
17 when it would have been more straightforward to have
18 travelled directly from Carlingford to Kerry.

19 A. It may have indeed been more straightforward to
20 travel from Carlingford to Galway (not Kerry as 14:21
21 outlined in your correspondence, Point 28). However,
22 I had to meet a number of constituents prior to my
23 attending the Údarás meeting in Galway. I met a number
24 of constituents on my way home after leaving the
25 conference on June 1st. I felt it important to do this 14:21
26 as I would be attending the Údarás Board meeting,
27 Comórtas Peil na Gaeltachta and other events after the
28 coming days.

1 29. *If the conference in Carlingford finished at*
2 *2:15 p.m. how did it take you nearly six hours to get*
3 *home, i.e. arriving home at 8 p.m.?*
4 A. *See Point 28 above. I used the time to meet with a*
5 *number of constituents on my way home from the* 14:22
6 *conference."*
7 A. That's correct, yeah.
8 366 Q. There are other general questions that you asked in
9 relation to claims at paragraph 9.5 on page 126.
10 I don't propose to go through the general questions, 14:22
11 unless something arises that either my Friend or the
12 Commission wish to ask about. But they are questions
13 about delay in general and awareness when signing forms
14 as to whether or not, particularly given the delay,
15 I think, in doing the Údarás forms, whether there was 14:23
16 an awareness in relation to what had happened in
17 respect of the Council business and conferences, to
18 which the answers in each case were, no, that there was
19 not such an awareness?
20 A. That's correct, yeah. 14:23
21 367 Q. Now, in relation to the maps in respect of the last
22 event, which is the Carlingford and Údarás event in
23 Dungloe?
24 A. Yes.
25 368 Q. I think you prepared maps in relation to those as well 14:23
26 just to illustrate the point I think that you were
27 making; is that right?
28 A. That's correct, yeah. The fifth map in is Falcarragh
29 to Gleann Cholm Cille.

1 369 Q. Yes.

2 A. Which was the first meeting before he left for
3 Carlingford.

4 370 Q. Yes.

5 A. And then -- 14:24

6 371 Q. I mean that's a journey up the west coast?

7 A. Up the west coast of Donegal, yes. The eighth map in
8 shows Dungloe to Carlingford, direct line rather than
9 going through Letterkenny.

10 372 Q. Yes. 14:24

11 A. And map 10, the last one, I think shows the direct line
12 from Gleann Cholm Cille to Carlingford, again without
13 going through Falcarragh. Then map 9 shows direct
14 route from Carlingford to Galway rather than going
15 through Falcarragh again. 14:24

16 373 Q. Okay. So in the first instance travelling from Gleann
17 Cholm Cille to Carlingford is the first issue?

18 A. Yeah.

19 374 Q. Because there's an event in Gleann Cholm Cille in the
20 morning, isn't that the case? 14:25

21 A. Yeah.

22 375 Q. Okay. And what you are showing is that the Gleann
23 Cholm Cille to Carlingford route avoids, in a
24 substantial way, having to go up the west coast to
25 Falcarragh; is that correct? 14:25

26 A. That's correct, yeah.

27 376 Q. And then to show the route back?

28 A. To Dungloe.

29 377 Q. Carlingford to Galway?

1 A. Yes.

2 378 Q. As opposed to Carlingford to Falcarragh?

3 A. Yeah.

4 379 Q. And then from there down to Galway. Again you're
5 cutting out all of the journey to Donegal and back down 14:25
6 again?

7 A. Yeah. And then the journey from Carlingford back to
8 Dungloe for the event in Dungloe, you don't need to go
9 through Letterkenny, there is a more direct route.

10 **MR. Ó BRAONÁIN:** Yes. Mr. Walsh, would you 14:26
11 answer any questions please that Mr. Ó Tuathail or the
12 Members of the Commission have.

13

14 **END OF DIRECT EXAMINATION OF MR. WALSH BY MR. Ó**
15 **BRAONÁIN** 14:26

16

17 **CROSS-EXAMINATION OF MR. WALSH BY MR. MACCARTHAIGH**

18

19 **MR. MACCÁRTHAIGH:** I'll be cross-examining
20 Mr. Walsh. My name is Dáithí MacCárthaigh. Good 14:26
21 afternoon, Mr. Walsh.

22 A. Good afternoon.

23 380 Q. I'll be speaking in English.

24 A. Okay.

25 381 Q. Do you think it's fair to describe this case as a case 14:26
26 of ever reducing complaints? I'll explain that to you.
27 When the document which is the genesis, if you like,
28 for being here today --

29 A. Mm hmm.

1 382 Q. -- was first sent from an anonymous source to Donegal
2 County Council, there were complaints in relation to
3 five events?
4 A. Yeah.

5 383 Q. There was the event in Dundalk, the event in 14:27
6 Carrickmacross, the event in Carlingford, an event in
7 Downings, Na Dúnaibh, in North Donegal and also an
8 event in Co. Armagh, Armagh City and in relation to the
9 event in Downings, that was found to be without any
10 foundation; isn't that right? 14:27
11 A. Yeah.

12 384 Q. Okay. There is another event, the one which involved
13 the John Hewitt school in Co. Armagh which you dealt
14 with in your investigation for the Commission?
15 A. That's correct. 14:27

16 385 Q. In relation to the John Hewitt Summer School, it ran
17 for the best part of a week; is that right?
18 A. That's correct.

19 386 Q. And Senator Ó Domhnaill absented himself for part of
20 the Friday -- 14:28
21 A. That's correct.

22 387 Q. -- in order to attend at a Údarás na Gaeltachta
23 meeting?
24 A. Yeah.

25 388 Q. You took the view in your report, and it's laid out at, 14:28
26 I'll just find the place in your report, in the book in
27 front of you I think you'll find it at page 128 in your
28 report, that you took the view there was a case to
29 answer and that it would be open to the Commission to

1 seek the reimbursement of all the expenses which
2 Senator Ó Domhnaill had secured from Donegal County
3 Council because of his failure to attend the conference
4 in its entirety, page 10.4:

5
6 *"If the Commission takes the view that payment of*
7 *travel and subsistence"* -- 128, it's in the booklet of
8 documents in your own report.

9 A. Yeah.

10 389 Q. So that was the view which you took which wasn't
11 followed by the Commission?

12 A. That's correct, yeah.

13 390 Q. And on that occasion Senator Ó Domhnaill did not claim
14 any expenses for the meeting which he attended in
15 Gortahork?

16 A. That's correct, yeah.

17 391 Q. And he absented himself from Armagh, drove to Gortahork
18 and drove back again, that's what happened?

19 A. Yeah. And?

20 392 Q. He looked for no expenses on that occasion?

21 A. But this particular one is not part of the matters that
22 are being investigated by the Commission.

23 393 Q. Well, it's in your report and I think it's quite
24 important, I'll come to that, not now.

25 A. Okay.

26 394 Q. Because the reason for that, I'm not finding fault with
27 your report, it's a very comprehensive report, is that
28 events, I think, overtook us and events at this
29 Commission overtook your own report. Are you familiar

1 with the case, a decision of which was given in
2 December by this Commission, December 2014, in the case
3 of former councillor Dessie Larkin. As secretary to
4 the commission you are familiar with that?

5 A. Yes. 14:30

6 395 Q. I can get my solicitor to give copies to the -- I'm
7 sure that the Commission would have copies but just in
8 easier of the hearing I can get them distributed now.
9 Now, the facts were quite different in Mr. Larkin's
10 case but there was one similarity in that one of the 14:30
11 heads of complaint was that Mr. Larkin had a partial
12 non-attendance at several conferences?

13 A. Yeah.

14 396 Q. There was a certain set of circumstances at Donegal
15 County Council at the time and when the -- can you give 14:31
16 mister (SAME HANDED TO THE WITNESS)

17 A. Thank you.

18 397 Q. If you just go to, I'll bring everyone to point 5.3 of
19 the report, it's page 20. And while the initial part
20 of it, I'll read from it in full. The initial part 14:31
21 relates to the particular complaint, but the principle,
22 if you like, does shed light on why Senator Ó Domhnaill
23 absenting himself from the John Hewitt school is not
24 being pursued here today as an abuse, if you like.

25 14:31

26 5.3: *"In relation to the alleged contraventions 4 to*
27 *6, whilst the Code of Conduct of Councillors and*
28 *section 1425(f) of the Local Government Act require a*
29 *councillor attending a conference to submit a report to*

1 the local authority, Donegal County Council in a letter
2 dated 9th August 2013 informed the Inquiry Officer that
3 it was not 'a compulsory practice' of the Council at
4 the time to enforce the requirements and Councillor
5 Larkin had did not submitted reports in respect of the 14:32
6 conferences. This stated that revised arrangements
7 were introduced in March 2010 following the raising of
8 the matter by the Local Government Auditor during the
9 2008 audit" and this is what is pertinent, I think, to
10 the case before us today. 14:32

11
12 "The Commission concludes that, in any given case, it
13 is a matter in the first instance for the Council to
14 assess whether there was proper attendance for the
15 duration of a conference by a councillor is required by 14:32
16 paragraph 8.2 of the Code and enforce compliance with
17 the obligation to report back to the Council in
18 accordance with the Act. Against this background, the
19 Commission is of the opinion that it would be
20 inequitable to adjudicate on Councillor Larkin in 14:32
21 relation to his partial attendance at a conference when
22 the regime for assessing a councillor's attendance and
23 reporting thereon was not operated by the Council until
24 2010. In these circumstances, the alleged
25 contraventions are not established." 14:32

26
27 So this would, to my mind, this says to my mind that
28 Donegal County Councillors before March 2010 had the
29 freedom to exercise their discretion, that if they

1 thought that they could better serve the constituents
2 by attending at other matters, that they could absent
3 themselves from conferences which they were attending
4 on behalf of Donegal County Council?

5 A. Yeah. 14:33

6 398 Q. That's what it says, doesn't it?

7 A. Yeah.

8 399 Q. So that would seem to explain why two years beforehand,
9 just over two years beforehand you had recommended that
10 partial non-attendance would be a grounds for seeking 14:33
11 reimbursement from the Senator, that that wasn't
12 followed through?

13 A. It wasn't a recommendation. I was pointing out to the
14 Commission an option they had.

15 400 Q. Right. But it seems to be no longer an option or it 14:33
16 doesn't seem to be an option?

17 A. No, the Commission makes a decision, I was only
18 presenting the facts to the commission.

19 401 Q. Oh, I appreciate that.

20 A. They make the decision and they decided that it wasn't 14:34
21 appropriate as is outlined there in the Dessie Larkin
22 case.

23 402 Q. What I am saying is, and you are familiar with the
24 material as secretary to the Commission, that this
25 would, if you like, the Commission's decision not to 14:34
26 pursue any complaints or not to, not to pursue as
27 alleged offences the Senator's non-attendance at
28 Armagh?

29 A. That was the decision the Commission took, yeah.

1 403 Q. Taking that to be the case, then if we work our way
2 backwards, Carlingford is the next conference before
3 that. That would appear to give the freedom to Senator
4 Ó Domhnaill to absent himself from parts of the
5 conference in Carlingford which he adjudged not to be 14:34
6 as important as a meeting in Donegal for the Sports
7 Partnership, that would seem to be the logic?
8 A. That's Mr. Ó Domhnaill's decision. He wouldn't have
9 been aware of the Commission's views back then.

10 404 Q. Well, I'm not saying that. What I am saying is that, 14:35
11 from the decision in the Larkin case, that applying the
12 jurisprudence of the Commission as it is now?
13 A. Yeah.

14 405 Q. That it gave Senator Ó Domhnaill at the time the
15 freedom to absent himself from, and we'll just look at 14:35
16 what he absented himself from?
17 A. But he wouldn't have been aware in 2006 of the
18 Commission's decision in 2013.

19 406 Q. Well, that's fine, that's fine. But if it was
20 inequitable to pursue Councillor Larkin in relation to 14:35
21 partial attendance at a conference, it's also
22 inequitable now to pursue Senator Ó Domhnaill in
23 relation to partial attendance at a conference in
24 Carlingford?
25 A. But the Commission is not pursuing those particular 14:35
26 matters in this particular case.

27 407 Q. Well, if you just move on from what --
28 A. Yeah.

29 408 Q. Now, if we look at what parts of the event he missed.

1 If you go to, it's the County Council booklet, page 37.
2 Sorry, it's the County Council -- it's Tab 16 of the
3 County Council booklet?
4 A. Sorry, which?
5 409 Q. Tab 16 of the County Council booklet. It's the -- 14:36
6 A. The marine tourism conference?
7 410 Q. The marine tourism conference, yeah. This looked at in
8 conjunction with, if you go to your report, page 21
9 internal, page 120 of the book of documents?
10 A. Yeah. 14:37
11 411 Q. And we see at the top there that Senator Ó Domhnaill
12 left the conference at in Carlingford and went to
13 Dungloe via his home in Falcarragh to attend the
14 Donegal Sports Partnership event?
15 A. Yeah. 14:37
16 412 Q. If we look at the corresponding timeline in the
17 conference, on the second column we see what he missed.
18 He missed the speaker's panel Q&A?
19 A. You're going back to this, oh okay.
20 413 Q. It's Tab 16 of the -- 14:37
21 A. Yeah.
22 414 Q. So he missed the speakers panel Q&A?
23 A. Yeah.
24 415 Q. And then he missed a visit to the Carlingford Oyster
25 company with Guinness oysters and mussels served on 14:37
26 site?
27 A. Correct, yeah.
28 416 Q. And then he also missed the sailing and dinner on tall
29 ship Artemis?

1 A. Yeah.

2 417 Q. would you have any sympathy for the point of view that
3 a County Councillor, as he then was, might better serve
4 his constituency by attending sitting by attending a
5 sports event than feasting on free Guinness, oysters, 14:38
6 mussels and followed by a sailing and a dinner on a
7 tall ship?

8 A. Well, it's not my function to have a view on the
9 rightness, the correctness or otherwise of what Mr. Ó
10 Domhnaill did. My function was to report to the 14:38
11 Commission what happened. End of story.

12 418 Q. So you have no opinion?

13 A. As Inquiry Officer I have no requirement to have an
14 opinion on that. My role was simply to report to the
15 Commission and that's what I have done and that's what 14:38
16 my report indicates.

17 419 Q. Okay, just to move on. Do you have any sympathy with
18 the opinion that a Sports Partnership might be
19 important work for a County Councillor to be involved
20 in? 14:39

21 A. I have no opinion on it, no. I don't know what was
22 going on in the Sports Partnership.

23 420 Q. You don't know what was going on?

24 A. I don't, no.

25 421 Q. Did you not enquire? 14:39

26 A. No. As I say my role was to report what happened.

27 422 Q. I just think it's extraordinary that you have before
28 the Commission today three complaints which essentially
29 arise out of Senator Ó Domhnaill absenting himself,

1 well we'll get to the Carrickmacross question when we
2 get to it, there seems to be no overlap of time in
3 relation to that. But, as the case was put this
4 morning initially, at first flush [sic], you have three
5 instances where Senator Ó Domhnaill is accused of 14:39
6 absenting himself from conferences to attend at the
7 Donegal Sports Partnership and I think it's
8 extraordinary that you didn't, even from the point of
9 view pure curiosity, do some work to find out what the
10 Donegal Sports Partnership was about? 14:40

11 A. You may find it curious, but my role, as I said, was to
12 report the facts to the Commission.

13 423 Q. Okay. So if we go to the times that were involved and
14 if we look at the wording in relation to -- we'll talk
15 about the mileage first of all, the mileage that 14:40
16 Senator Ó Domhnaill incurred and for which he claimed.
17 You say you find it extraordinary that he would have
18 travelled, when he travelled from Carlingford to
19 Dungloe or Clocháan Liath, that he travelled by way of
20 Falcarragh as opposed to driving over the mountain? If 14:40
21 we look at your map, I think.

22 A. Yeah.

23 424 Q. If I can find your map. They aren't numbered so it's
24 the one that shows, it goes from -- it goes to Newry,
25 Armagh, Omagh and Strabane and then goes across what 14:41
26 seems to me to be the Blackstairs Mountain, not the
27 Blackstairs, I am betraying my own --

28 A. This is the one from Carlingford, is it?

29 425 Q. This is the one from Carlingford?

1 A. To Dungloe?

2 426 Q. The Bluestack Mountains. From Strabane to Dungloe you
3 show a straight line?

4 A. Yes.

5 427 Q. Are you aware of what's on that straight line? 14:41

6 A. This is the AA that produces this map, not me.

7 428 Q. Well, it's a map which you introduced in evidence, it's
8 a map which you are using -- sorry, it's a map which
9 you are using to throw doubt on Senator Ó Domhnaill's
10 assertion that the road to Dungloe is a better road 14:41
11 through Falcarragh than it is over the Bluestack
12 Mountains. So I'm asking you if you know what lies
13 between Dungloe and Strabane?

14 A. No, I don't.

15 429 Q. You don't? 14:42

16 A. No.

17 430 Q. You are an educated man, you must have done Irish
18 geography at some stage in your life

19 A. Thank you for the compliment, I take the first part as
20 a compliment. But I don't. I produce a map which says 14:42
21 quite clearly at the top, this is an AA route planner
22 and it shows the direct, the most direct line between
23 Dungloe and Carlingford.

24 431 Q. Have you heard of the Bluestack Mountains?

25 A. I have indeed. 14:42

26 432 Q. Do you know where they are?

27 A. I have no idea. I presume, if you are telling me that
28 they are in Donegal, they must be in Donegal.

29 433 Q. They are in Donegal?

1 A. Yeah.

2 434 Q. You have the alternative route, I think, on the -- or
3 do you have the alternative route, the route that goes
4 through Letterkenny and goes through Falcarragh before
5 it goes to Dungloe? You don't seem to have that, 14:42
6 second map?

7 **MR. Ó BRAONÁIN:** Falcarragh to Carlingford.

8 **MR. MACCÁRTHAIGH:** Oh, right. Second map,
9 Falcarragh to Carlingford. And if that were to be
10 extended down, you see there is a line, you can just 14:43
11 about make it out in your photocopy, a line down to
12 Dungloe, do you know what line, that very faint line on
13 the photocopy you have put before the Commission?

14 A. I presume it's a road.

15 435 Q. Do you know which road it is? 14:43

16 A. Well, Dungloe to Falcarragh road.

17 436 Q. It's the N56, it's a national road?

18 A. Yeah.

19 437 Q. Can you see the attraction for driving on a national
20 road as opposed to driving over a mountain to get from 14:43
21 A to B?

22 A. Which one are you talking about?

23 438 Q. I'm talking about, instead of driving from Strabane
24 over the Bluestack Mountains to Dungloe?

25 A. Yeah. 14:44

26 439 Q. Can you see the attraction of driving through
27 Letterkenny along the N56 and on to Dungloe, can you
28 see the attraction of driving on a national road as
29 opposed to driving over the mountains?

1 A. Are you suggesting he would drive from Letterkenny to
2 Falcarragh and then down to Dungloe?

3 440 Q. Yes, I am. It's a national road.

4 A. Is the road better from Letterkenny across to Dungloe?
5 I don't know. I am saying that I produced those maps. 14:44
6 The route planner, the AA.

7 441 Q. Mr. Walsh, I'm not here to give evidence, okay. You
8 are here to give evidence?

9 A. You are asking me questions and I'm trying to answer.

10 442 Q. Well, if you can't answer them then there is no 14:44
11 problem, if you don't know you don't know.

12 A. I said that.

13 443 Q. I can't answer questions, I can only put them.

14 A. Okay.

15 444 Q. There is also a map which you produced, I think it is 14:44
16 more or less, we find ourselves strangely in agreement.
17 If you look at the map that you produced later in the
18 bunch from Carlingford to Galway?

19 A. Yeah.

20 445 Q. And if anyone can find it for me I would be extremely 14:45
21 grateful.

22 A. It's the second last one.

23 446 Q. Now, Carlingford to Galway, it's the third. I find it
24 to be the fourth page from the back. So that's what AA
25 route planner recommended from Carlingford to Galway? 14:45

26 A. That's correct, yeah.

27 447 Q. Now, that's not a straight line, is it?

28 A. No.

29 448 Q. You are familiar with the main roads in the country?

1 A. Most of them, yeah.

2 449 Q. And can you tell me why it doesn't go from Dundalk,
3 Ardee, Mullingar, Athlone, why do you think --

4 A. It presume it's because it's a motorway, the road they
5 show is a motorway. 14:46

6 450 Q. Yes. There is an old saying in Irish "*más cam nó*
7 *díreach an ród is é an bóthar mór an t-aicearra*",
8 whether the road be straight or windy, that the main
9 road is always the shortcut. So that bears out what
10 I'm saying in relation to driving from Carlingford to 14:46
11 Galway, doesn't it? That the main road --

12 A. Carlingford to Galway is a motorway, yes.

13 451 Q. The motorway is the shortcut, if you like. It mightn't
14 be physically as the crow flies the shortest distance,
15 but it is most definitely the most efficient way of 14:46
16 getting there?

17 A. Yes.

18 452 Q. So what I'm putting to you now, and there will be
19 evidence given on this by people who live in Donegal,
20 that when one is going from Strabane, because I think 14:46
21 the same road as far as Strabane or just south of
22 Strabane you have it, of you have it, that it's more
23 efficient to go from Strabane, Letterkenny, Falcarragh
24 and then to Dungloe?

25 A. Okay. Is that a question or a statement? 14:47

26 453 Q. I'm putting it to you, you can react or you can leave
27 it.

28 A. Well, is it appropriate for me to say this? There is
29 one thing about travelling on the best road, there is

1 another thing about claiming. You are meant to -- the
2 claims, as I understand it, you claim the shortest
3 route. You may decide to go via Belfast or Derry, but
4 the claim needs to be the shortest route.

5 454 Q. Okay. Well, on this particular occasion he went from 14:47
6 Carlingford to, he left the conference to miss the
7 Guinness, the oysters, the speakers panel the dinner on
8 the tall ship?

9 A. Yes.

10 455 Q. And he drove from Carlingford to Falcarragh? 14:48

11 A. Yeah.

12 456 Q. And there was no claim made there because it was --
13 like that was his own time?

14 A. Yeah.

15 457 Q. So that doesn't, as Mr. Ó Braonáin said, that doesn't 14:48
16 generate a claim for expenses?

17 A. That's correct, yeah.

18 458 Q. So when he then drove from his main residence to
19 Dungloe and back again, that that does generate or
20 attract a claim for expenses, doesn't it? If you 14:48
21 accept the truth of it, if you accept the truth of the
22 evidence?

23 A. If he was going from Carlingford to an event in
24 Dungloe.

25 459 Q. Mm hmm. 14:48

26 A. The requirement is to take the shortest route from one
27 point to the other.

28 460 Q. The requirement is if he is going to claim expenses
29 from going --

1 A. To claim expenses, that's right.

2 461 Q. But he didn't claim expenses from going Carlingford to
3 Dungloe, he claimed expenses when going from Údarás na
4 Gaeltachta, who don't seem to have any particular
5 difficulty with this, but we'll see when they give 14:49
6 evidence.

7 A. Mm-hmm.

8 462 Q. He claimed from going from his house and office in
9 Gortahork, Falcarragh, to Dungloe and back again, and
10 he took the most direct route there? 14:49

11 A. But he was --

12 463 Q. But he didn't claim, he didn't claim for travelling
13 from Carlingford to Dungloe, he only claimed from
14 travelling from his house to Dungloe. And the reason
15 that he will say that he travelled via Letterkenny and 14:49
16 via his home is because it's a bigger and better and
17 safer road and surely that's a matter for himself if he
18 is not claiming expenses, isn't it?

19 A. If he is not claiming expenses, yeah.

20 464 Q. And he didn't claim expenses? 14:49

21 A. On the Carlingford to Dungloe?

22 465 Q. Yes, he didn't.

23 A. Carlingford to Falcarragh.

24 466 Q. Carlingford to Falcarragh. So that was a matter for
25 himself? 14:49

26 A. But he claimed to drive from Carlingford to Dungloe.

27 467 Q. He did, via --

28 A. So he didn't then drive from Falcarragh to Dungloe.

29 468 Q. If we look at the basic source, the source material

1 we're dealing with here. The source material we're
2 dealing with here are the claims for expenses; isn't
3 that right?

4 A. Yes.

5 469 Q. So I'll just bring you to those, I didn't want to 14:50
6 labour this too much. Donegal County Council
7 booklet -- actually, no, it's the Údarás booklet, I'm
8 sorry, the Údarás booklet. The Údarás booklet on page
9 6 and I think some light is shown upon it by questions
10 and answers that you put to the Senator? 14:50

11 A. Is it A6 or B6?

12 470 Q. I think it's page 6.

13 A. Page 6.

14 471 Q. Page 6 simpliciter.

15 A. 6, yeah. 14:50

16 472 Q. Údarás, yes. Sorry, I'm working with my own papers
17 here. It's C5, yes, C5. I think you will have to
18 refer back to your own report on page 21, that's page
19 120 of the book of documents.

20 A. Mm hmm. 14:51

21 473 Q. You garnish there the information that Senator Ó
22 Domhnaill left the conference and went to Dungloe via
23 his home in Falcarragh to attend the launch event?

24 A. Yeah.

25 474 Q. So that's the evidence given by or that will be given 14:51
26 by, that's the version of events given to you by
27 Senator Ó Domhnaill?

28 A. Yeah.

29 475 Q. And that will be his evidence here today?

1 A. Yeah.

2 476 Q. So the fact that he went to Dungloe via his home in
3 Falcarragh for, to use that new turn of phrase, health
4 and safety reasons, the fact that he did that meant it
5 did attract an expenses claim, for mileage in any 14:52
6 event?

7 A. I would have thought, he's coming from Dungloe, or
8 coming from Carlingford, and the shortest way to
9 Dungloe to go to the conference or event in Dungloe was
10 to take the view as set out by the AA route planner. 14:52
11 If he decided to go to Falcarragh, then that's his
12 decision.

13 477 Q. It's his decision to travel from Carlingford to
14 Falcarragh any way he wishes because he didn't, that
15 doesn't attract a claim for expenses. He is obliged 14:52
16 when travelling from Falcarragh to Dungloe to take the
17 shortest route possible, which he did?

18 A. Well, any journey that he has taken, if he can take a
19 shorter route, as I understand it, the regulations
20 require that he takes the shortest route. And the 14:53
21 shortest route would have been, on his way home from
22 Carlingford, that he would go directly to Dungloe from
23 Carlingford and not have to go to Falcarragh, to
24 generate a claim from Falcarragh to Dungloe.

25 478 Q. I'm not saying he went from Carlingford to Falcarragh 14:53
26 to generate a claim, I'm saying he went there because
27 it is the safest and it's a national road as opposed to
28 driving over the Bluestack Mountains. We're not going
29 to agree so there's no point us going back and forth

1 for the rest of the evening?

2 A. Okay.

3 479 Q. Because time is grinding on. But you would accept that
4 when that claim was generated for the mileage in any
5 event, that it wasn't at the same time as his claimable 14:54
6 journey from home to Carlingford and back again, it was
7 at a different time and a different journey and it was
8 even a different piece of road?

9 A. It was a journey that was generated at a time when he
10 was being paid to be at another function, another 14:54
11 event, and he had been paid to go there and to come
12 home from there and to be -- he incurred subsistence
13 rates.

14 480 Q. Well, I'm going to bring your attention again to a
15 decision of this Commission in relation to former 14:54
16 Councillor Larkin, 5.3, and it says that at that stage
17 in any event that county councillors who attended
18 conferences weren't in the nature of indentured
19 servants and that they weren't obliged to swill
20 Guinness and oysters and to go to dinners on tall ships 14:55
21 if they thought their time could be better employed
22 during constituency work?

23 A. Yeah.

24 481 Q. Isn't that what that decision means?

25 A. Well, it doesn't say anything about indentured servants 14:55
26 and all that. That means that they weren't, that there
27 is no penalty for not attending all of the conference.

28 482 Q. All right, okay.

29 A. And why the Commission made that decision, they are in

1 front of you there, you may wish to ask them, it's the
2 Commission that made that decision. But Mr. Ó
3 Domhnaill generated a claim to travel from Falcarragh
4 to Dungloe at a time when he was being paid to be in
5 Carlingford. So I don't know how he can square that 14:55
6 circle.

7 483 Q. Okay. He was being paid to be in Carlingford, okay.
8 How much was he paid by the Údarás for his, if we leave
9 the mileage aside because I think you really can't
10 argue with the mileage. If he was free to go, if he 14:56
11 was free to leave, if he was free to travel to Donegal
12 and he was free to travel from his home to Dungloe, to
13 the Donegal Sports Partnership meeting, then he was
14 free to generate mileage, if you like, I think the sum
15 was €67; is that right? According to your report 14:56
16 I think I have at the end of your --

17 A. Oh, yeah, 54 miles.

18 484 Q. €67, isn't it?

19 A. That's the mileage he was paid, yeah.

20 485 Q. That's the mileage he was paid. You're taking issue, 14:56
21 and I can see why you're taking issue, you are saying
22 he was getting subsistence from Donegal County Council
23 and why should he also claim subsistence from the
24 Údarás?

25 A. Yeah. 14:57

26 486 Q. And the sum there I think is 16.32?

27 A. Yeah.

28 487 Q. So we're talking about 16 -- how much petrol did he
29 burn do you think and how much did it cost him to get

1 from --

2 A. No idea.

3 488 Q. Well, I have some, I don't know if I can, I did my own,
4 I did a calculation on the AA, I entered the same
5 information as you did and if I can find it now I'll be 14:57
6 doing well. Here. It says from Carlingford,
7 Co. Louth via -- sorry, Carlingford to Dungloe via
8 Falcarragh, three hours 34 minutes, I suppose if you
9 don't know the road, and fuel costs are €35, that's one
10 way? 14:57

11 A. Mm hmm.

12 489 Q. So he burned €70 in order to gain, if his aim was to
13 act dishonourably, if his aim was to, as we say in
14 Wexford, to hoofle [?] the rate payer. It seems a bit
15 incredible that he would burn €70 worth of petrol, that 14:58
16 he would miss out on free Guinness, free oysters and a
17 free dinner in order to gain 16.32?

18 A. Mine is not to reason why.

19 490 Q. Pardon?

20 A. I'm not to reason why he would have done that. 14:58

21 491 Q. That's very fair of you, Mr. Walsh, that's very fair of
22 you. Now, if we move on to the -- and that's money
23 that was paid by an tÚdarás, isn't it, 16.32?

24 A. Correct.

25 492 Q. And have an tÚdarás expressed a view about recouping 14:58
26 that?

27 A. They did, I believe, yeah.

28 493 Q. Well, you are the man with the report, you can tell me?

29 A. Pardon?

1 494 Q. You're the man with the report and the paperwork, you
2 can tell me?

3 A. I do recall that they did not seek the return.
4 I cannot put my hands on it at this minute, but if you
5 have it you can remind me. 14:59

6 495 Q. Well, I know that an túdarás, and if I just go to the
7 údarás folder, there is a letter there, unfortunately
8 it's in translation, the original is available in the
9 book of documents at a place which I have misplaced but
10 we can look at the English translation. It's at page 9 14:59
11 of the údarás folder?

12 A. Yeah, I have it here. I remember that now, yeah.

13 496 Q. It is a translation, it's Tab 8 page 9?

14 A. Yeah.

15 497 Q. And perhaps when the person from the údarás gives their 15:00
16 evidence in chief they can refer to the original as
17 opposed to the translation, I think it might be more
18 helpful. But I'll just look at the translation here.
19 In the second paragraph:

20 15:00

21 *"Even though no serious discrepancy is evident to me in*
22 *the expenses you claim from an túdarás, there was a*
23 *slight oversight concerning the date in the case of one*
24 *claim. But the relevant meeting did occur on another*
25 *date and we have reached satisfactory confirmation that 15:00*
26 *you were present on the correct day."*

27

28 I think refers to a meeting on the 27th?

29 A. Probably, yeah, around the 24th.

1 498 Q. which was down as the 24th and which you have very
2 helpfully corrected?

3 A. Yes.

4 499 Q. So it seems to me, and the údarás can give their own
5 evidence, that they are not raising any issues. And if 15:00
6 anyone were to raise an issue in relation to
7 Carrickmacross -- sorry, in relation to the Carlingford
8 conference and Senator Ó Domhnaill absenting himself
9 from, and I hate to labour it, but the free Guinness,
10 free oysters, free dinner and free boat ride, if anyone 15:01
11 were to take issue with that it would be an túdarás,
12 wouldn't it?

13 A. It was their claim, yeah.

14 500 Q. Yes, okay.

15 A. If they didn't claim it back that's for them to 15:01
16 explain.

17 501 Q. They have a right, I think, as well, don't they?

18 A. I don't know.

19 502 Q. Well, they have a right under local government -- we
20 can refer to this later. 15:01

21 A. Okay.

22 503 Q. But it's page 18 of the local government, the circular
23 upon which this investigation is based?

24 A. Okay.

25 504 Q. That there is the right of a local authority and 15:01
26 I assume the údarás as well to recoup the money. If we
27 move now to the Carrickmacross event. You very
28 helpfully set out the times on page 109 and 110 of your
29 report, that's how they appear in the booklet of

1 documents, the internal pagination is 10 and 11. 109,
2 it's in the --

3 A. That's the Dundalk one now you're talking about?

4 505 Q. Oh, I am very sorry.

5 A. 117 you're talking about is Carrickmacross. 15:02

6 506 Q. Sorry, 117, I must be anxious to finish, okay. We can
7 look -- because this is where there was a mistake made.
8 I just want to look at the -- sorry, if I bring you
9 back, I don't want to finish too soon, the marine
10 conference. If you look at the County Council book, 15:02
11 page 37. I am sorry, Commissioners, I just want to
12 finish off on the marine tourism conference because
13 there was a mistake made there in relation to the
14 claim.

15 **MR. MCCARTHY:** The Údarás book, is it? 15:03

16 **MR. MacCÁRTHAIGH:** No, sorry, it's the County
17 Council booklet, page 37.

18 **MR. MCCARTHY:** 37.

19 A. Tab 19.

20 507 Q. **MR. MacCÁRTHAIGH:** Tab 19. And we have there that 15:03
21 there was a mistake, there is two mistakes made in
22 filling in this form and they seem to be fairly
23 innocent mistakes. Well, they are innocent mistakes.
24 If you look at the time and date returned to official
25 residence, it was put down as the 2/6/2006. This was 15:03
26 clarified in a letter to the Council when these issues
27 were first raised, it's a letter to the Council by
28 Senator Ó Domhnaill on 15/12, which is available at
29 page 67 of the booklet of documents. Page 67 of the

1 booklet of documents contains the booklet of documents,
2 the large folder which is marked booklet of documents,
3 the large blue folder, it's at Tab 10 page 67.

4 A. Yeah.

5 508 Q. Senator Ó Domhnaill there when writing, I think this is 15:04
6 his first letter, isn't it? If it's not please tell
7 me. I think it's his first letter to the County
8 Council, responding to the County Council, to Liam
9 Ward, I think he was the standing in as ethics officer?

10 A. Mm hmm. 15:04

11 509 Q. And he says that he returned home on the evening
12 of June 1st, not June 2nd, which was a typo error. So
13 there is a mistake there, he put down the 2/6/2006 as
14 opposed to 1/6/2006 but it made no difference as to
15 payment as you explained to the Commission there a few 15:05
16 moments ago or under direct examination?

17 A. Yeah.

18 510 Q. There is also a second, it must have been a bad day,
19 there is also a second mistake in relation to the date
20 on that claim form, the marine tourism conference, in 15:05
21 that it is dated 13/4/2006?

22 A. Yeah.

23 511 Q. Where it should have been the 13/6?

24 A. Yeah.

25 512 Q. Yes. Just to notice at the bottom, it says "*attendance* 15:05
26 *confirmed*" is written in handwriting at the bottom of
27 the page?

28 A. Correct, yeah.

29 513 Q. Okay. If I could just now move on to the

1 Carrickmacross conference?

2 A. Okay.

3 514 Q. Now, page 21 of the County Council booklet contains the
4 claim form?

5 A. Yeah. 15:06

6 515 Q. And this claim form, as you outline and gave in your
7 evidence under direct examination, that there is a
8 mistake also in this form in relation to the date and
9 time of return to official residence, that it is down
10 as 8:00 p.m. on 27/4/2006 where it should read three 15:06
11 o'clock as opposed to eight o'clock on 27/4/2006?

12 A. Yeah.

13 516 Q. Okay. And that that is also, if you go back to the big
14 booklet of documents, the big blue booklet, we were at
15 Tab 10 but if you go to the previous page at point 3, 15:07
16 that when this was brought to Senator Ó Domhnaill's
17 attention by the County Council, by the ethics officer,
18 Liam Ward, Senator Ó Domhnaill says in the second --
19 sorry, in the third paragraph, the last paragraph in
20 the page: 15:07
21

22 *"I submitted to the sports meeting as held on 24th*
23 *April and 27th April which was a genuine error.*
24 *I accept this mistake or error was made when submitting*
25 *my expenses claim on 24th October 2006 some six months 15:07*
26 *later. The return home time from Carrickmacross on*
27 *27th April should be 3 p.m. and not 8 p.m. and this was*
28 *a genuine error."*

29 Do you accept that, I might as well ask you that, do

1 you accept it, that it was a genuine error?

2 A. I have no view on that. He says it was a genuine
3 error.

4 517 Q. Okay. And we say also on the bottom of the form we see
5 that attendance was confirmed, at the bottom of that, 15:08
6 that's handwritten there?

7 A. Yeah.

8 518 Q. Okay. So if we return to your report where you very
9 helpfully lay out the times, the timeline, it's on page
10 117 and we're still in the booklet of documents? 15:08

11 A. Yeah.

12 519 Q. So what we have here is that Senator Ó Domhnaill, the
13 night before the conference, which began at 9:30 --
14 sorry. For some reason we don't have, in the County
15 Council booklet, we don't have the programme and it 15:08
16 wasn't opened by my Friend and I think I will have to
17 refer you to again the same book of documents. So
18 people can perhaps remove it so they can look at the
19 programme for the conference and also Mr. Walsh's
20 timeline at the same time. It's not in the County 15:09
21 Council booklet for whatever reason, inadvertence, but
22 sure these things happen.

23

24 If you go to Tab B2 inadvertence, Tab B2 in this
25 booklet of documents, I think it's upside down, or 15:09
26 Tab B1, I'm sorry, Tab B1. Yes, it's marked page 41
27 and it's upside down in this booklet of documents.

28 **MR. MCCARTHY:** Sorry, I don't have that.

29 **MR. MacCÁRTHAIGH:** Oh?

1 **THE WITNESS:** IPA page 41.

2 520 Q. **MR. MacCÁRTHAIGH:** It's upside down in my copy.

3 It's good to be a commissioner, you get them the right

4 way up. So if we look at, we see that Senator Ó

5 Domhnaill, if you look at your timeline on page 117 of 15:10

6 the booklet of documents, and if people look at the

7 same time at the conference programme, we see that

8 Senator Ó Domhnaill left home at 5 p.m. and drove to

9 Carrickmacross. The next morning the seminar started

10 at, you have 9:00 a.m. on your note but it's 9:30 is 15:10

11 what the programme says?

12 A. Okay.

13 521 Q. Okay, so it's half an hour. Then the conference

14 unfolded during the course of the day and according to

15 Senator Ó Domhnaill at 12:40 he left. He left just 15:11

16 before the questions and answers and he missed the

17 wrap-up and the lunch?

18 A. Yeah.

19 522 Q. Okay. Having left he then arrived home at three

20 o'clock? 15:11

21 A. Yeah.

22 523 Q. Okay. So that was that, if you like, that is the end

23 of his activities, his attendance at the conference in

24 the Nuremore Hotel, Carrickmacross that would attract

25 an expenses claim, that's it self-contained? 15:11

26 A. His expenses claim, though, he got one overnight plus a

27 three hour.

28 524 Q. I know that, yes, he got a three hour. So because of

29 the mistake, as he describes it, his inadvertence by

1 putting down 8 p.m. as his time that he arrived home as
2 opposed to 3 p.m., that the County Council paid out
3 16.32 which it shouldn't have?

4 A. Yeah, that was his claim and that's what they paid.

5 525 Q. So that's where we find ourselves today, that there was 15:12
6 an overpayment of €16.32?

7 A. Mm hmm.

8 526 Q. Okay. And again, as I asked you before, did the
9 council take any steps pursuant to LG 49/2, at the back
10 thereof, it seems to be Regulation 6, 6(1) and (2) 15:12
11 which empowers a local authority to request
12 reimbursement where there has been an error such as
13 this?

14 A. I'm not aware that they have.

15 527 Q. Okay. Donegal County Council can give their own 15:13
16 evidence?

17 A. Yes.

18 528 Q. We'll be asking them, but you don't see it?

19 A. I don't, no.

20 529 Q. You accept, therefore, if Mr. Ó Domhnaill arrived back 15:13
21 at three o'clock to his house, that that was one
22 self-contained event, and then if the meeting of the
23 Sports Partnership in Letterkenny later that evening,
24 he left home at 5 p.m. according to the claim form for
25 the Údarás and arrived home at 9 p.m., that that is 15:13
26 also a self-contained claim?

27 A. No, again he was travelling from Carrickmacross to
28 Letterkenny to a meeting of the DSP partnership in
29 Letterkenny.

1 530 Q. Right.

2 A. The expectation I think would be that he would have
3 attended the meeting and gone home afterwards rather
4 than go home and come back.

5 531 Q. Okay. Well, that's your expectation, but, I mean, it's 15:14
6 strange. Sometimes when I ask you for your opinion you
7 say it's not for you to reason why and then when it
8 comes to what route an elected representative should
9 take when carrying out his business you are full of
10 opinions? 15:14

11 A. Well, you asked me a question there so I --

12 532 Q. No, I'm not, I'm glad to get an answer, but I'm just
13 noticing that sometimes you have no opinion and
14 sometimes you have very strong opinions. Do you know
15 how long it takes to drive from Falcarragh to 15:14
16 Letterkenny?

17 A. The route planner tells us it's thirty
18 something minutes.

19 533 Q. Thirty something minutes. Would you be surprised if a
20 Donegal native could make it in less than 30 or 15:15
21 25 minutes?

22 A. I wouldn't be surprised, no.

23 534 Q. So you can see that given the city dwellers and country
24 dwellers have a different mentality because in the city
25 we are so used to clogged and congestion, that if it is 15:15
26 25 minutes from our house to Letterkenny you can see
27 how people would take the view that it's just down the
28 road?

29 A. Perhaps, yeah.

1 535 Q. And if somebody were, if there were a representative,
2 for example, if there was a member of Dáil Éireann who
3 lived in Phibsborough or lived half an hour, Ranelagh,
4 who lived half an hour from the place of work, from
5 Leinster House, would you find it extraordinary that a 15:15
6 person, if they were going to go down the country,
7 would swing by their house on the way?
8 A. Well --
9 536 Q. It being just down the road, in a Dublin mentality?
10 A. Again we're back to the person making a claim for 15:16
11 expenses can go whatever way he likes or she likes from
12 A to B. But the claim is as required by the
13 regulations the shortest route.
14 537 Q. But aren't we talking about two separate and distinct
15 and self-contained events and two separate and distinct 15:16
16 and self-contained claims, the attendance at
17 Carrickmacross, which started wednesday, 26th April at
18 5 p.m. and ended at 3 p.m. the following day when he
19 returned to his house and that was one matter where he
20 inadvertently claimed 16.32 that he perhaps shouldn't 15:16
21 have claimed?
22 A. Mm hmm.
23 538 Q. And the event where he went from his home later that
24 evening at 5 p.m. to Letterkenny IT and back again for
25 which he claimed only mileage and claimed no 15:16
26 subsistence; isn't that right? There is no subsistence
27 claimed for that?
28 A. There is none on that one, I believe, no.
29 539 Q. It's on page 18 of your report, 117 in the --

1 A. Yeah.

2 540 Q. *"Not entitled to, and did not claim, subsistence, less*
3 *than five hour absence"*?

4 A. I think did he claim actually in the form.

5 541 Q. I think it's written down then stroked through? 15:17

6 A. Yeah, which would suggest that he claimed it but the
7 Údarás discounted it.

8 542 Q. I'm only going by your own report, Mr. Walsh. You are
9 saying not entitled to and did not claim so I'll take
10 that? 15:17

11 A. Mm-hmm, okay.

12 543 Q. Okay. So if we take it that that is the situation,
13 it's not exactly the profile of somebody who wants to
14 rifle the public funds, that he would travel such a
15 distance and burn so much petrol for 16.32? 15:18

16 A. Well, again I don't know the man, if that's what he
17 decided to do.

18 544 Q. It seems to be a lot more credible that it was, as he
19 says himself, inadvertence and an inadvertent misentry
20 in a claim form? 15:18

21 A. Well, it's a matter for the Commission to make that --

22 545 Q. It is a matter for the Commission?

23 A. Those decisions, that's fine.

24 546 Q. I've to put these matters to you.

25 A. Yeah, fine. 15:18

26 547 Q. And there's been no claim, there's been no steps taken
27 by the -- if we go now to the first event in time,
28 that's Dundalk, the Council of County and City
29 Councils, 9th to 11th March. If I just go through your

1 very helpful timeline -- oh, right, yes. That's at
2 page 10 internally of your report and page 109 of the
3 book of documents?

4 A. That's correct, yeah.

5 548 Q. Okay. And the claim forms are found in this instance, 15:19
6 Commission Members, at page 9 of the County Council
7 booklet and page 1 of the Údarás na Gaeltachta booklet.
8 So the Údarás na Gaeltachta booklet at page 1 and the
9 County Council booklet at page 2 -- sorry?

10 A. Page 9. 15:19

11 549 Q. Sorry, working our way back, page 9. There is other
12 materials relating to that conference at page 2, but
13 page 9, okay. And we have, if you like, a claim for
14 mileage and a claim for subsistence, sorry, I forgot
15 the English for it, *cothabhair*, subsistence to Donegal 15:20
16 County Council?

17 A. That's correct, yes.

18 550 Q. And that was paid?

19 A. Yes.

20 551 Q. And nothing more arises there. What arises is the 15:20
21 Senator's movements. Because if you look at what the
22 Senator says, he says he left home at 1 p.m., if you
23 just look at your timeline as well?

24 A. Yeah.

25 552 Q. And you are in accord here, in agreement, that 15:21
26 Thursday, 9th March 1 p.m. departed home at Falcarragh
27 to go to Dundalk; 7 p.m. arrived at Dundalk; conference
28 commences, I think it commenced at 7:30 according to
29 the County Council, the clár, the agenda set out in the

1 County Council booklet page 2. So 7/7:30. Then the
2 following morning there was a session beginning at
3 10:00 a.m.
4

5 At 1 p.m. the Senator left the conference to -- he left 15:21
6 the conference, we'll stop there for a second, he left
7 the conference. So if we look at page 2 of the booklet
8 we'll see what he missed out on. So he missed lunch at
9 12:30 and I think you confirm with questions afterwards
10 that he did miss lunch; isn't that right? It will save 15:22
11 us clicking back, do you remember or will I find it?
12 12:30, lunch, do you see it there on page 2?

13 A. Yeah.

14 553 Q. The County Council booklet page 2?

15 A. Yeah. 15:22

16 554 Q. So the Senator missed lunch, so 12:30. He says he left
17 at one but it could have been 12:30 because he did miss
18 lunch and that was borne out at page 15 of your report.
19 Yes, sorry, page 15 of your report, page 114 of the
20 booklet of documents: "Q. *Did you wait for lunch on 15:22*
21 *Friday?* A. *No, I did not wait for lunch.*" Do you see
22 that?

23 A. Yeah.

24 555 Q. Okay. So that would imply that he could have, he says
25 it was one o'clock he left, but it could have been 15:22
26 12:30/one o'clock, that would be the general, as our
27 American friends say, the ballpark?

28 A. Okay.

29 556 Q. So he missed Nickey Brennan, President elect of the

1 GAA, and he missed Fred Barry, CEO, National Roads
2 Authority?

3 A. Yeah.

4 557 Q. Okay. If I'm right on my reading, I'll put it no
5 further than that, if I'm right on my reading of this 15:23
6 Commission's decision in the Dessie Larkin case, he was
7 free to so do, he was free to absent himself to attend
8 something he thought was more important, okay? If we
9 just look at the conclusions, the event that he did --
10 oh, sorry, he also missed the conference dinner and 15:23
11 entertainment, do you see that there?

12 A. Yeah.

13 558 Q. Then he returned in the early hours, that's common
14 case, I think. At ten o'clock the next morning there
15 was a summary of conference proceedings and final 15:23
16 feedback?

17 A. Yeah.

18 559 Q. So you can see that would be helpful for someone who
19 missed out on the other two sessions because he had,
20 what he termed to be and what he judged to be, more 15:23
21 important business to attend to?

22 A. Okay, yeah.

23 560 Q. So if we look at the claim to an túdarás, he says that,
24 and this is on page 1, údarás na Gaeltachta, that he
25 left home in Falcarragh, "*ag freastaíl ar cruinniú de 15:24*
26 *chuig Pairtíocht Spóirt Dhún na nGall*", so left home at
27 3:30 to attend at a meeting of the Sports Partnership,
28 the Donegal Sports Partnership?

29 A. Yeah.

1 561 Q. IT Leitir Ceanainn, the Institute of Technology
2 Letterkenny. And he was at home "*na bhaile*", good
3 Donegal dialect, at 9 p.m. in the evening?
4 A. Yeah.

5 562 Q. Okay. So if you take those claims at their face value, 15:24
6 if you work from the primary source, if you like,
7 without trying to impose what you will see as being an
8 external logic or what you would have done upon them,
9 and if you take into account the mentality that
10 I discussed with you a few moments ago, that, from the 15:25
11 point of view of a rural Donegal person, Falcarragh and
12 Letterkenny are just down the road from each other;
13 that what we have or the timeline that I would suggest
14 that would make sense is that he left the conference at
15 12:30 because he missed lunch, one o'clock, left the 15:25
16 conference and then returned to Falcarragh?
17 A. Mm hmm.

18 563 Q. And then from Falcarragh he left home to attend the DSP
19 meeting in Letterkenny. So we have him, and this is
20 something which you seem to have taken a view on, that 15:25
21 he goes from Dundalk, he goes to Letterkenny, he
22 bypasses -- you are familiar with Letterkenny, that
23 it's a mass of roundabouts and bypasses?
24 A. I am.

25 564 Q. It wouldn't be an exemplar now for planning. But you 15:26
26 bypass Letterkenny and you go off to Falcarragh, and
27 then from Falcarragh he makes his journey to
28 Letterkenny to attend a meeting at the Institute of
29 Technology, goes back home and then later that night he

1 drives on to Dundalk?

2 A. (WITNESS NODS)

3 565 Q. Now, there is a number of letters which, there was two
4 letters I think which were opened by my Friend which
5 you interpret in a different way. You interpret the 15:26
6 correspondence you got from Senator Ó Domhnaill or that
7 Donegal County Council got from Senator Ó Domhnaill as
8 travelling from Dundalk to Letterkenny and then from
9 there onwards and backwards which, as Mr. Ó Braonáin
10 said, doesn't generate a claim for expenses, okay? 15:27
11

12 But what I'm putting to you is that, and Senator Ó
13 Domhnaill is well able to give evidence on his own
14 behalf and I'm not going to attempt to do it, but if
15 you look at the claim forms and you look at them at 15:27
16 face value?

17 A. Mm hmm.

18 566 Q. What they say is that there was a departure at
19 12:30/one o'clock, to Falcarragh from Dundalk. I'm
20 just going to be very cheeky and use your maps again to 15:27
21 see how long that would take. So we have Dundalk to
22 Falcarragh, the first one. Okay, two hours 56 minutes.
23 So that's three hours?

24 **MR. Ó BRAONÁIN:** I am sorry to interrupt. It was
25 just suggested that there was a claim form indicating a 15:27
26 departure for Falcarragh at about 12:30.

27 **MR. MACCÁRTHAIGH:** No, I didn't say that.

28 **MR. Ó BRAONÁIN:** I am sorry, I thought I heard
29 that being said.

1 MR. MacCÁRTHAIGH: No.

2 MR. Ó BRAONÁIN: If I am wrong about that.

3 MR. MacCÁRTHAIGH: No, no. There was a question
4 asked, this is at page 15, internal page 15, 114 of the
5 book of documents where Mr. Walsh asked Senator Ó 15:28
6 Domhnaill: "Q. *Did you wait for lunch on Friday?*
7 A. *No, I did not wait for lunch.*" And then we have it
8 on the, if you look at the programme of events, lunch
9 starts at 12:30?

10 A. Mm hmm. 15:28

11 567 Q. So if you didn't get lunch, I think a country man now
12 can devour lunch in half an hour, so if he were to have
13 left at one o'clock he would have had lunch. It does
14 point to one o'clock being an estimate and 12:30 being
15 a more likely departure time, I am just simply putting 15:28
16 that to you?

17 A. Did he not say it himself?

18 568 Q. Well, he can say it himself, yes.

19 A. Sorry, did he not say that he left at one o'clock?

20 569 Q. He said -- well, if you can point me to that I would be 15:29
21 very grateful because we seem to be very -- "*left the*
22 *DSP meeting*", Appendix A first bullet point on page 7
23 you have in your book so if you point me to that
24 I would be very grateful. Oh, I don't dispute that you
25 have a good source for the 1 p.m.? 15:29

26 A. That was from the report from the Council from --

27 570 Q. Is it a letter perhaps?

28 A. No, it's a report. It's a report prepared by, I think,
29 Mr. McBride and Mr. Neely. It was page 7 of their

1 report of 28th May 2012.

2 571 Q. And did they give a source for that, did they say where
3 they heard that?

4 A. He absented himself at 1 p.m. on 10th March.

5 572 Q. Is there any letter from Senator Ó Domhnaill saying 15:30
6 that?

7 A. Let me go back and see.

8 573 Q. I want to -- it was very remiss of myself. I have a
9 note here of 1 p.m. but I don't know if I got it from
10 your report or whether I found it somewhere else. 15:30
11 I have no other note besides that. Sure we can leave
12 it in any event, we can take it that the number was --

13 A. Okay.

14 574 Q. The time was given in good faith and then we can take
15 it that the answer was given in good faith, that lunch 15:31
16 was missed and we can take it that sometime between
17 12:30 and 1 p.m. that he left to go to Donegal, or we
18 could be here all day?

19 A. Okay.

20 **MR. MCCARTHY:** Actually, maybe I can help you, 15:31
21 if you look at page 84.

22 **MR. MacCÁRTHAIGH:** Oh, yes, all right.

23 **MR. MCCARTHY:** Paragraph 1.1: "*I absented*
24 *himself from the conference for the lunch period which*
25 *was scheduled for between 1 p.m. and 2:30 p.m.*" which 15:31
26 might explain the Inquiry Officer picking up a one
27 o'clock departure.

28 575 Q. **MR. MacCÁRTHAIGH:** 1 p.m., yes. I'm very grateful,
29 but we see that that is a slight error in that the

1 lunch period was 12:30 per schedule, so I think that it
2 is as likely that he would have left at 12:30 and the
3 AA route planner as from your own route planner,
4 Mr. Walsh?

5 A. Yeah. 15:31

6 576 Q. It says the guts of three hours, we'll call it
7 three hours, which meant he could have reached
8 Falcarragh or he would have reached Falcarragh at 3:30.
9 Again if you know the road I'm sure you can do it in
10 less, that it wouldn't strain the reigns of credulity 15:32
11 to say that he could have made it there for three-ish?

12 A. Mm hmm.

13 577 Q. Giving him time to carry out I think he said
14 constituency work was how he put it in the questions
15 and answers? 15:32

16 A. Yeah.

17 578 Q. That he departed home at 3:30 and attended a meeting of
18 Donegal Sports Partnership in the IT from five until
19 eight, going home for nine and then leaving again to go
20 to Dundalk and arriving in Dundalk in the early hours 15:32
21 of the morning?

22 A. Yeah, that's what he says.

23 579 Q. Okay, that's what he says. There is two letters, which
24 were opened which I think have given rise to some
25 confusion. The first letter is dated, I'm trying to 15:32
26 get them in chronological order, it appears in the book
27 of documents at page 66 and was opened by my Friend and
28 I think it was put to you or you may have -- yes, page
29 66. Yes. I respond as follows, page 66.

1 A. Mm hmm.

2 580 Q. Dated 15th December 2011. This is Senator Ó
3 Domhnaill's first response to queries put to him by
4 Liam Ward who was the ethics officer of Donegal County
5 Council, this is the first -- 15:33

6 A. Correct.

7 581 Q. -- time he's dealing with this. I think, just a minor
8 bit of housekeeping and it was pointed out by Mr. Ó
9 Braonáin, there seems to be a typographical error,
10 there is a bit of text repeated, if you look at 15:33
11 paragraph 1, eighth line down the word "but" can be
12 struck out and the next line, starting with the
13 word "instead" can be struck through all the way to
14 "back", including back, not including "but". Was that
15 what we -- I think that's what we agreed before? 15:34

16 A. Yeah.

17 582 Q. Right. So: *"I attended the conference in Dundalk on
18 the 9th, 10th and 11th March. I left the conference at
19 lunchtime on March 10th to travel to Letterkenny as
20 I had a meeting of the Donegal Sports Partnership which 15:34
21 I was and remain a Board member."*

22

23 Now, when he says he left to travel to Letterkenny,
24 that doesn't rule out the possibility that he left to
25 travel to Letterkenny via Falcarragh, does it? 15:34

26 A. Probably not.

27 583 Q. Okay: *"The meeting finished at approximately 8:00 a.m.
28 [sic]. At this point in the knowledge that the
29 conference events would be finished on my return*

1 *I decided to travel to my home in Falcarragh -- so this*
2 *would be his second journey -- and picked up my mail*
3 *for Thursday and Friday."*

4
5 And again Senator Ó Domhnaill is well able to give you 15:35
6 evidence on his own behalf and the barristers obviously
7 are well able to cross-examine, but I say that that
8 will get you over the difficulty perhaps that you had
9 with that letter.

10 A. Mm hmm. 15:35

11 584 Q. That you saw it as a journey straight, that this seemed
12 to contradict the primary source of the claim form
13 which would have been written a lot closer to the
14 event. The claim form is the 24th, the Údarás na
15 Gaeltachta Book 1, the claim form is 24/10/06? 15:35

16 A. That's right.

17 585 Q. And this is 15th December 2011. There is also a second
18 letter which was put to you, I'm sure I have it
19 somewhere, 15/11, sorry, yes, page 84 I think it is in
20 the book of documents. This is the second response 15:36
21 I think; is that right?

22 A. That's his response to Mr. Neely and McBride, yes.

23 586 Q. Further and better particulars, if you like?

24 A. Yeah.

25 587 Q. And the bottom of the page, the last paragraph in this 15:36
26 page which goes over to the next page I think is what
27 was put to you:

28
29 *"The Sports Partnership meeting concluded on 10 March*

1 at approximately 8 p.m. The conference events in
2 Dundalk at that point finished for the day. I used the
3 opportunity the travel from the meeting in Letterkenny
4 to my constituency office in Gortahork and my home in
5 Falcarragh in order to attend urgent ongoing 15:36
6 constituency work, including attending to mail and
7 other documentation received there."

8 A. Yeah.

9 588 Q. So again that doesn't, it's silent, as far as I see,
10 that's silent in relation to the route he took to get 15:37
11 to Letterkenny, that it's leaves open the possibility
12 that he went to Letterkenny via his home in Falcarragh?

13 A. Yes.

14 589 Q. For whatever reasons that he will -- well, he can give
15 them himself. 15:37

16 A. Yeah.

17 590 Q. There was a question, I think, your written questions
18 and there were written answers and it was along the
19 same lines. Because you say that, there is a number of
20 questions which you weren't satisfied with the answers 15:37
21 to. 6 is in my mind for some reason, if I can find my
22 own bundle of papers now?

23 A. Yes.

24 591 Q. Page 114?

25 A. Yes. 15:37

26 592 Q. "*In your claim to Údarás na Gaeltachta dated 24/10/06*
27 *in respect of attending the Údarás meeting on 10th*
28 *March 2006*", so this is 114, page 15 internal -- six,
29 paragraph 9.1.20. This was discussed in your

1 examination in chief here, in your evidence in chief?

2 A. Yes.

3 593 Q. You say: "6. *In your claim to Údarás na Gaeltachta*
4 *dated 24/10/06 in respect of attending the Údarás*
5 *meeting on 10th March 2006, you state that you left* 15:38
6 *home at 3:30 to attend the meeting. In paragraph 1 of*
7 *your letter of 15th December 2011 to Mr. Liam Ward of*
8 *Donegal County Council, you say he left Dundalk to go*
9 *to the meeting in Letterkenny; you then went home*
10 *(presumably after the meeting) to collect mail etc.* 15:38
11 *This means that you did not leave your home at 3:30 to*
12 *attend the Letterkenny meeting. Please explain the*
13 *discrepancy."*

14

15 So the discrepancy again can be explained by the 15:38
16 timeline I've put to you?

17 A. Okay.

18 594 Q. It's answered in a way which I think places more
19 emphasis on the importance of Donegal Sports
20 Partnership than -- the point seems to have been missed 15:39
21 from my reading of it. It's a very doughty defence of
22 Donegal Sports Partnership and why someone should -- of
23 which he was chairman and why someone should be
24 involved therein, okay.

25

26 There is another one, again you might have to help me,
27 I think it's No. 16, I think it's a similar question?

28 A. There is 15, I think, maybe.

29 595 Q. 15, sorry.

1 A. Page 116.

2 596 Q. *"You claimed subsistence for 10 March from Údarás and*
3 *also from Donegal County Council; you did not deal with*
4 *this in your statement to the Council, Council report*
5 *dated 28th May which is attached to their letter of* 15:40
6 *complaint, please comment on this". 21st March, this*
7 *is the date of the -- oh, sorry:*

8

9 *"A. I outlined in my letter to Donegal County Council*
10 *of 21 March 2012 the reason that I absented myself from* 15:40
11 *the conference was to attend a meeting of Donegal*
12 *Sports Partnership of which I was Chairman at the time.*
13 *In doing so I was acting in the very best interests of*
14 *the people I serve and was discharging my various*
15 *duties in the best and most effective way possible* 15:40
16 *given the circumstances. My representing Donegal*
17 *County Council at the conference was in no way*
18 *adversely affected by my attendance at the said*
19 *meeting. I was present at the conclusion of conference*
20 *events on the Saturday morning which involved an* 15:40
21 *overview of the conference discussion topics.*
22 *I claimed and received expenses in respect of 334*
23 *miles." I think we'll leave it there.*

24 A. Hmm.

25 597 Q. But again it's a reply which again doughtily defends 15:41
26 the value of the Donegal Sports Partnership as opposed
27 to -- the point seems to be somewhat missed. But the
28 primary source, if you like, in this and the source
29 which is closest to the event in time is the Údarás

1 claim form, is it not?

2 A. I think the point that was being made there, the Údarás
3 claim form or, sorry, in his claim to the Council he
4 claimed for subsistence and he also claimed from Údarás
5 and he wouldn't have been entitled to both and I was 15:41
6 asking him to clarify and the Council had asked a
7 similar question.

8 598 Q. So what were the -- again if I go to the end of your
9 report on page 128?

10 A. Mm hmm. 15:41

11 599 Q. You say in relation to the Dundalk event, that's
12 10 March, isn't it, you say that -- I think the
13 breakdown is mileage of 76.95, it's not on that page,
14 sorry, that the Údarás claim, yes, sorry, page 110,
15 it's the same document, dealing with this event, on 15:42
16 page 11, 110, that the claim made to the Údarás over
17 six months later, as you say?

18 A. Yeah.

19 600 Q. Was for the mileage of 76.95?

20 A. Yeah. 15:42

21 601 Q. And subsistence of 16.32?

22 A. Yeah.

23 602 Q. If you go back to the principles laid down by the
24 Commission in the Dessie Larkin case, since Senator Ó
25 Domhnaill was free to absent himself temporarily, part 15:43
26 absent himself for the conference in order to attend a
27 meeting which he found to be more valuable in relation
28 to his work, it would seem to follow that he was
29 entitled to that mileage. The problem which we have in

1 a form that was put in six months later is that perhaps
2 he shouldn't have claimed for the 16.32 from an tÚdarás
3 because he had already been paid for subsistence by
4 Donegal County Council the same weekend?

5 A. Yeah. 15:43

6 603 Q. And again to get that 16.32 he would have had to burn,
7 I think we agreed before, about €70 worth of petrol to
8 go from Dundalk to Falcarragh and back again in order
9 to generate an expense from Údarás na Gaeltachta by his
10 attending the -- 15:44

11 A. Yeah, that's a matter for himself, I suppose, yes.

12 604 Q. That's a matter for himself, okay. It doesn't seem to
13 be the profile of somebody who is out there to rifle
14 the public coffers, 16.32 gain from X number of hours
15 from €70 worth of petrol burnt? 15:44

16 A. Yeah, if that's what he decided to do.

17 **CHAIRMAN:** well, Ladies and Gentlemen,
18 where are we now?

19 **MR. MacCÁRTHAIGH:** I am almost finished, Judge.

20 **CHAIRMAN:** Almost finished. 15:44

21 **MR. MacCÁRTHAIGH:** I've got to ask my learned
22 leader should I say anything else.

23 **CHAIRMAN:** Have you any other witnesses?

24 **MR. MacCÁRTHAIGH:** well, we have the Senator and we
25 have -- our solicitor is the coroner in Donegal, he 15:44
26 travels a lot around the country so he could give
27 evidence in relation to driving over the, driving along
28 the national road as opposed to, the advantage of
29 driving on the national road as opposed to driving over

1 the Bluestack Mountains and various matters in relation
2 to how distances are perceived in Donegal.

3 **CHAIRMAN:** Yes.

4 **MR. MacCÁRTHAIGH:** But that will be a very short
5 matter. 15:45

6 **CHAIRMAN:** Yes.

7 **MR. MacCÁRTHAIGH:** I don't know how long the
8 Senator will take.

9 **MR. Ó CANAINN:** [In Irish] Three quarters of an
10 hour, half an hour. 15:45

11 **CHAIRMAN:** Three quarters of an hour, there
12 may be re-examination.

13 **MR. Ó BRAONÁIN:** Might I, just simply for the
14 Commission's part. There are witnesses from Donegal
15 County Council and from Údarás na Gaeltachta who are in 15:45
16 attendance. I understand that my Friends may wish me
17 to tender them, I don't propose to lead any evidence
18 from them because I don't think that there is a
19 necessity to do so. But if they have questions for
20 them they can be tendered. 15:46

21
22 The most, I'm sure there are a number of pressing
23 logistical issues, but one of the pressing logistical
24 issues is that we have a translation service until six
25 o'clock. 15:46

26 **CHAIRMAN:** Yes.

27 **MR. Ó BRAONÁIN:** So I anticipate that that will
28 be required for the evidence of the Senator, perhaps
29 also his solicitor, I don't know, and also for the

1 witness from Údarás na Gaeltachta.

2 **CHAIRMAN:** Yes.

3 **MR. Ó BRAONÁIN:** And there may also be then an
4 issue about whether submissions are to be translated.

5 **MR. Ó TUATHAIL:** Sorry, is there a translation 15:46
6 service being recorded, a translation to English.
7 There is a question about whether there is a recording
8 of what is being said in Irish by the Senator in
9 particular when giving evidence.

10 **MR. Ó BRAONÁIN:** An issue was raised at lunchtime 15:47
11 by Mr. Ó Tuathail with me and Mr. MacCárthaigh with me
12 in relation to the recording of the evidence. The
13 stenograph is in English and is recording evidence and
14 submissions and anything that is spoken in English and
15 that is the limit on the stenograph. 15:47
16

17 There is an audio recording being made of all of the
18 proceedings so that, if it becomes necessary or
19 appropriate to do so, the evidence given in Irish can
20 be transcribed from the Irish recording, if that 15:47
21 becomes a necessity. But there is a recording being
22 made of the entire proceedings, an audio recording.

23 **MR. Ó TUATHAIL:** I'm happy, Mr. Chairperson, if
24 the Irish is available as evidence, I wouldn't like to
25 be dependent upon translation. I have great experience 15:48
26 in the area of translation and I wouldn't like to be
27 doing the same here, I'd be happy, if there is an audio
28 recording being made, that can be transcribed.

29 **CHAIRMAN:** Are you looking for a transcript

1 in Irish?

2 **MR. Ó TUATHAIL:** I'm asking that there would be a
3 transcript available to the Commission in Irish. Irish
4 is the main national official language.

5 **MR. Ó BRAONÁIN:** The issue of whether or not the 15:49
6 Commission hears and determines this matter through
7 interpreters or without interpreters has been litigated
8 and has been decided and the conclusion is that it is
9 absolutely open to the Commission to determine the
10 matter on the basis of a translation of the evidence, 15:49
11 that's the determination that was reached both in the
12 High Court and in the Court of Appeal. And in those
13 circumstances the Commission, it is open to the
14 Commission to deal with the matter on the basis of the
15 translation of evidence in Irish into English. 15:49

16
17 I understand my Friend wants to have a transcript of
18 the Irish evidence in Irish, which otherwise won't
19 exist because the stenograph doesn't have one. It is
20 possible to do that. I understand from what he is 15:49
21 saying now is that he wishes the Commission to receive
22 the transcript of the evidence in Irish which is simply
23 going to require that to be translated, as well as
24 having translated what was given viva voce.

25 **MR. Ó TUATHAIL:** No, that's not what I'm asking. 15:50
26 I'm asking and I understood earlier that there was
27 being a recording made on what is being said in Irish.
28 This gentleman [stenographer] is not dealing with
29 Irish, he's dealing with translation. I don't mind

1 about that. Unless the original is available in Irish,
2 insofar as it would be available to the Commission, I'm
3 not saying it would be, but so far as it might be
4 needed by the Commission, there is a question of
5 equality.

15:50

6
7 Mr. Ó Domhnaill came here and we came here in the main
8 official language and we're happy to listen to a
9 witness who would give their evidence in English and be
10 cross questioned in English. We needn't really need to
11 give in to that but we did it on behalf of efficiency.

15:51

12
13 I would like there to be a clarification, will there or
14 will there be a recording, a record of this since the
15 Senator was to give evidence to this Commission, that
16 choice has been made prior to this.

15:51

17 **MR. Ó BRAONÁIN:** The technology certainly allows
18 for that to be done.

19 **CHAIRMAN:** which to be done now?

20 **MR. Ó BRAONÁIN:** For a transcription to be made
21 of the evidence in Irish so that the evidence in Irish
22 forms, the original evidence in Irish forms a part of
23 the transcript so that that is available to the
24 Commission. And it is, I think, simply a question for
25 the Commission to determine whether it wishes to do
26 that and obviously, yes, it is open to do that.

15:51

15:52

27 **CHAIRMAN:** As I understand it there is
28 going to be a recording of the evidence?

29 **MR. Ó BRAONÁIN:** It is being recorded.

1 **CHAIRMAN:** It is being recorded?
2 **MR. Ó BRAONÁIN:** Yes.
3 **CHAIRMAN:** And if the translation of the
4 Irish version is necessary, it can be done?
5 **MR. Ó BRAONÁIN:** Yes. 15:53
6 **MR. TYNDALL:** If we wish to receive the
7 original evidence in Irish, that can be transcribed
8 from the tape.
9 **MR. Ó BRAONÁIN:** It can.
10 **MR. TYNDALL:** It's accessible to us should we 15:53
11 require it.
12 **MR. Ó BRAONÁIN:** Exactly. The transcript that is
13 being generated at the moment is a transcript of the
14 evidence in English, the submissions in English and the
15 translation that the stenographer is hearing of Irish 15:53
16 submissions and evidence into English.
17
18 But in addition there is a recording, an audio
19 recording of the evidence. So it will be possible to
20 do a transcription from the original Irish source 15:53
21 rather than simply relying on the stenograph of the
22 English language translation of it. So it is possible
23 to create an Irish language transcription of the
24 evidence.
25 **CHAIRMAN:** So we'll proceed on that basis. 15:54
26 **MR. Ó BRAONÁIN:** Very good.
27 **CHAIRMAN:** Now, where are we in relation to
28 time and the rest? Will we keep going until -- it's
29 five to four now. It is suggested that we continue

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with Mr. Walsh and we conclude with Mr. Walsh and we have a short break for --

MR. MACCÁRTHAIGH: I am finished.

CHAIRMAN: You are finished. Thank you very much.

15:54

MR. Ó BRAONÁIN: No.

CHAIRMAN: So if anybody wants to avail of a five minute break. It's now almost four o'clock, we'll say ten past four we'll resume.

15:55

SHORT ADJOURNMENT

1 THE HEARING RESUMED AS FOLLOWS AFTER THE SHORT
2 ADJOURNMENT

3
4 **MR. Ó BRAONÁIN:** Good afternoon. I propose now
5 to call, very briefly, Séamus Neely from Donegal County 16:12
6 Council.

7 **CHAIRMAN:** All right, thank you.

8 **MR. Ó BRAONÁIN:** Thank you.
9

10 MR. SÉAMUS NEELY, HAVING BEEN SWORN, WAS EXAMINED BY 16:12
11 MR. Ó BRAONÁIN AS FOLLOWS

12
13 **CHAIRMAN:** And your name is, just for the
14 purposes of the record?

15 **THE WITNESS:** Séamus Neely. 16:12

16 **CHAIRMAN:** Thank you.

17 605 Q. **MR. Ó BRAONÁIN:** Mr. Neely, I think that you are
18 the Chief Executive Officer of Donegal County Council;
19 is that right?

20 A. That's correct. 16:12

21 606 Q. Thank you for attending here today. I have very few
22 questions to ask you because I think that we have all
23 now been able to work from the documentation that's
24 before the Commission and in those circumstances don't
25 need to get into that. 16:12

26
27 But one question about local knowledge, because you
28 have an advantage over me certainly, in relation to the
29 account of mountain movement and travel and so on and

1 so forth, did you hear the evidence in relation to
2 that?

3 A. I did.

4 607 Q. Do you have any observation to make on it?
5 A. I suppose my only observation would be that the road 16:13
6 from Lifford through Letterkenny through Falcarragh is
7 indeed a national secondary road.

8 608 Q. Yes.
9 A. I'm based in Lifford myself and I travel regularly to
10 Dungloe and I would normally travel from Lifford 16:13
11 through Ballybofey, Stranorlar, on through Fintown,
12 Doochary and into Dungloe. I would do that in
13 preference to travelling the other way.

14 609 Q. The other way being up to Falcarragh?
15 A. I suppose there are three routes that I could select 16:13
16 from leaving from Lifford which would be a through
17 point on the journey that we have spoken about.

18 610 Q. Yes.
19 A. Either go Stranorlar, Ballybofey, Fintown, Doochary,
20 Dungloe or indeed Lifford/Letterkenny, which would be 16:14
21 on the national primary, it's a more substandard
22 national primary than we would like, it needs
23 significant upgrading, through Letterkenny, over
24 Meenaroy out into Fintown and then on the same route to
25 finish into Dungloe. 16:14

26 **MR. Ó BRAONÁIN:** Yes, thank you very much. For
27 that. If you have any -- sorry, my Friend, I think,
28 may have some questions for you. Thank you.
29

1 MR. NEELY WAS CROSS-EXAMINED AS FOLLOWS BY

2 MR. MacCÁRTHAIGH

3

4 611 Q. MR. MacCÁRTHAIGH: Just a few short questions. You
5 heard the evidence of Mr. Walsh before? 16:14

6 A. I did, today.

7 612 Q. And you heard me cross-examining him as well?

8 A. Yes.

9 613 Q. And there was a question that came up and it's only
10 fair to put it to you: We have identified a possible 16:14
11 overspend or overclaim in relation to the Senator where
12 he originally put his time of arrival at home -- sorry,
13 this is the Carrickmacross conference, the half day
14 conference in Carrickmacross?

15 A. (WITNESS NODS) 16:15

16 614 Q. He left just before lunch, that that was the end of the
17 conference. He had originally in his claim form put
18 his time of arrival at his official residence at 8 p.m.
19 and then as soon as he got the first letter from
20 Liam -- you'll have to help me here? 16:15

21 A. Liam Ward.

22 615 Q. Liam Ward, that he clarified that it was a mistake, an
23 honest mistake and he should have put down 3 p.m. and
24 we calculated, or Mr. Walsh calculated, that there was
25 a possible overpayment of €16.32 and have any steps 16:15
26 been taken by Donegal County Council to recoup that?

27 A. No steps have been taken to recoup it and the reason
28 for that is that, insofar as this examination is
29 ongoing, the decision was taken at Council level not to

1 visit potential recoupment until the process was
2 exhausted, in fairness to Senator Ó Domhnaill.

3 616 Q. A letter wasn't sent to, wasn't sent to Donegal County
4 Council, but I know a letter was sent by my solicitor
5 to the Commission asking if the repayment would do it 16:16
6 in relation to that aspect but that's not a matter for
7 the County Council.
8

9 I just notice, I know it's not a matter for you, but
10 I notice over the short break -- no, sure, we'll leave 16:16
11 that for legal submissions. In relation to, you know
12 that this whole thing began with an anonymous
13 complaint?
14 A. Yes.

15 617 Q. Yes. And, just out of curiosity, were there anonymous 16:16
16 complaints made about other Councillors?
17 A. As I recall there were.

18 618 Q. And what happened to those?
19 A. I think some ended up before the Commission, others
20 didn't, primarily -- only because there was either no 16:17
21 evidence with those anonymous complaints or no pointers
22 to evidence such that would satisfy the person looking
23 at it in the first instance that there was a potential
24 breach.

25 619 Q. Was it the same writing, was it the same type of 16:17
26 letter, do you know?
27 A. As I recall it was typed.

28 620 Q. Was "concerned citizen" the person who wrote it?
29 A. I can't truthfully say that I remember precisely what

1 was in each of them. But I do believe "concerned
2 citizen" was typed at the bottom of at least some of
3 them.

4 621 Q. At least some of them. So that would seem to be from
5 the same source? 16:17

6 A. I suppose -- I would only be speculating to say that.

7 MR. MacCÁRTHAIGH: Thank you very much. Thank you.

8 MR. Ó BRAONÁIN: Thank you very much,
9 If Mr. Neely could be released. Thank you.

10

16:18

11

WITNESS WITHDREW

12

13 CHAIRMAN: Thank you for your attendance.

14 MR. Ó BRAONÁIN: Gearóid Breathnach, le do thoil
15 Just before Gearóid Breathnach, Liam Ward, who was also 16:18
16 in attendance, I don't think is required, the CEO,
17 having been called, so in those circumstances if
18 Mr. ward could be released I'd be grateful.

19 CHAIRMAN: Yes. All right, thank you.

20 MR. Ó BRAONÁIN: Thank you. 16:18

21

22 **MR. GEARÓID BREATHNACH, HAVING BEEN SWORN, WAS EXAMINED**
23 **BY MR. Ó BRAONÁIN AS FOLLOWS**

24

25 Just to confirm, would you like to continue be 16:19
26 questioned in Irish or in English?

27 A. In Irish.

28 MR. Ó BRAONÁIN: I don't have questions to put to
29 you, Mr. Breathnach, but I'm thankful that you are here

1 and if my Friends have any questions or the
2 commissioner you could continue to answer them.

3
4 **MR. GEARÓID BREATHNACH WAS CROSS-EXAMINED BY MR. Ó**
5 **TUATHAIL**

16:19

6
7 622 Q. **MR. Ó TUATHAIL:** You are here all day
8 I understand and you heard much of the evidence in the
9 other official language?

10 A. Yes, I did.

16:19

11 623 Q. I have one question to you: Did Údarás na Gaeltachta
12 have any complaint about the issues that were being
13 discussed here today?

14 A. No.

15 **MR. Ó TUATHAIL:** Thank you.

16:19

16 624 Q. **MR. Ó BRAONÁIN:** Just so that the Commission is
17 aware, what role do you have in Údarás na Gaeltachta?

18 A. I am Director of Corporate Services.

19 **MR. Ó BRAONÁIN:** Thank you. Thank you very much.
20 If in those circumstances Mr. Breathnach could also be
21 released.

16:20

22 **CHAIRMAN:** Indeed, thank you.

23 **MR. Ó BRAONÁIN:** Thank you. I have no further
24 witnesses.

25 **CHAIRMAN:** Thank you, Mr. Ó Braonáin.

16:20

26 **MR. Ó TUATHAIL:** I'll call the Senator then.

27
28
29

1 SENATOR Ó DOMHNAILL, HAVING BEEN SWORN IN IRISH, WAS
2 EXAMINED BY MR. Ó TUATHAIL
3

4 625 Q. MR. Ó TUATHAIL: Your name please?

5 A. Sorry, my name is Brian Ó Domhnaill. 16:21

6 626 Q. Brian, things are continuing on today and taking time
7 so I would like to go around all the journeys and the
8 first question I would have is: Do you accept that the
9 conflict here that has happened since the morning in
10 this hearing has to do with two different things, one 16:21
11 the Donegal Sports Partnership on one side, meetings of
12 the Sports Partnership and meetings that you were
13 authorised to go to by the County Council?

14 A. I would accept that completely.

15 627 Q. Are there difficulties with demanding expenses when you 16:21
16 are attending two different authorities?

17 A. Well, there were two different things. I was chairman
18 of the Donegal Sports Partnership and I had to attend
19 meetings of the partnership and as well as that I was
20 fulfilling my obligations for Donegal County Council at 16:22
21 the different conferences that I attended and I was
22 doing that for the greater good of the community and
23 the organisations that I was dealing with.

24 628 Q. At this time you were a County Councillor and you were
25 a member of Údarás na Gaeltachta, another 16:22
26 qualification?

27 A. I've been elected to the County Council from 2004 and
28 I was on the Údarás since I was 21 years of age, in
29 1999.

- 1 629 Q. What connection did you have with the Donegal County
2 Council Sports Partnership?
- 3 A. I was one of the founders of the Sports Partnership.
4 I put a lot of voluntary work into founding the Sports
5 Partnership since 1999/2000 until the partnership was 16:23
6 founded in 2001. I'm very connected with sports
7 matters because I am an international athlete. And
8 I was always, I always wanted to promote sports in
9 every level that I was involved in and that was the
10 first time that I became involved in politics. 16:23
- 11 630 Q. I'm speaking too fast, I'm sorry about that. There are
12 gaps in the translation. So we'll have to go, sadly
13 we'll have to go slower.
- 14 A. The first time I got involved in politics, I was
15 involved in sports, I was training for the Sydney 16:23
16 Olympics in 2000. At that time I got an injury and
17 I ran for the Údarás elections in '99 after I had left
18 university.
- 19 631 Q. Speak slowly please.
- 20 A. That is the first maybe target I had as a politician 16:24
21 was to promote sports and sports facilities. I saw
22 that the Sports Partnership was interconnected in
23 sports matters. I had a role that I could play in that
24 and I'm really grateful to this day that I was involved
25 in the Donegal Sports Partnership, an organisation that 16:24
26 is doing great work for sporting matters, not only in
27 Donegal, but there are partnerships now in nearly every
28 county in the country.
- 29 632 Q. Personally would it be true for me to say that you are

1 involved internationally in sports or that you were
2 involved internationally in competitions in walking
3 races?

4 A. Yes. I'd say, before I became involved in politics,
5 I had a scholarship from Adidas. I had sponsorships 16:25
6 from them, and Guinness was mentioned earlier today.
7 I was receiving sponsorship to go to university and to
8 train and that was up until 2000. I'd say I fell out
9 of sport when I was elected for a couple of years,
10 maybe from 2000 to 2003/4 until I was elected as a 16:25
11 County Councillor. Because I had heavy
12 responsibilities that a public representative would
13 have, but the coach that I had at the time was a great
14 man from Donegal, he put pressure on me to go back
15 training and I started again intensive training about 16:25
16 maybe the middle of 2005. We had a great target at the
17 time, I don't have to go into that now, but we had a
18 sporting target that had to do with 2012.

19 633 Q. Often during the matters that we're discussing today,
20 you were often out training and you were exercising and 16:26
21 keeping fit?

22 A. Well, I suppose at the start of that year, 2006, I was
23 doing maybe between 60 and 90 miles a week training.

24 634 Q. I would like now to zero in on the questions that were
25 given in evidence today and I would like to discuss, 16:26
26 for the sake of the Commission I would like to discuss
27 the complaints, No. 1, No. 4 and No. 7. That's the
28 three that have to do with the Annual Conference of
29 City and County Councils.

1 Now, the questions start on Thursday, 9th March. Can
2 you say, and you can look at the papers that you have,
3 can you say on the 9th March 2006 and the 10th and
4 11th, you were dealing with an annual conference of the
5 County and City Councils, on Thursday, 9th March and 16:27
6 I'll mention these dates and times for clarification
7 and to help everybody. On Thursday, 9th March what
8 time did you leave? You were in Falcarragh, I take it.
9 Now, Falcarragh, that is your home, where is your
10 office? 16:27

11 A. My office is in Gortahork and since I was elected in
12 '99 I had a full-time office which cost a lot of money
13 and I had a secretary employed there. I was living in
14 Killult, that's about a mile and a half outside of
15 Falcarragh. 16:28

16 635 Q. And other times were you living in Gortahork?
17 A. No. I was always living in Killult, it's in the parish
18 of Gortahork, but it's under the Falcarragh postal
19 address and my office was always in Gortahork, even
20 until this day. 16:28

21 636 Q. So around one o'clock, if I am right, if I am not
22 correct me, around one o'clock on that day you left
23 Falcarragh to go to Dundalk?
24 A. That's correct.

25 637 Q. And you were going to attend the annual conference 16:28
26 there on behalf of the County Council. On 10th
27 March -- yes, sorry, pardon me. You arrived in Dundalk
28 on the 9th and was anything happening that afternoon or
29 evening at the conference?

1 A. In my memory there was a dinner that evening and
2 I think there were opening speeches of the conference.

3 638 Q. And you were present for those events. Then the next
4 morning, on the 10th March 2006, when did the morning
5 session start? 16:29

6 A. Around ten o'clock in the morning.

7 639 Q. Then what happened after that?

8 A. I'd say about half twelve or one o'clock, around half
9 twelve I left the conference to attend the Donegal
10 Sports Partnership meeting. But before that I had to 16:29
11 go to my office and my home to do some work there.
12 I had a secretary employed and there were documents
13 that had to be collected by me and to be brought with
14 me. Then I returned that afternoon to the office to
15 get documents, some application forms and housing 16:29
16 grants, forms that had to be sent out and the secretary
17 had dispatched them the next day.

18 640 Q. So you are driving in a car?

19 A. Yes.

20 641 Q. So what did you lose that day, can you say, from the 16:30
21 conference that was going on, that is on page --

22 A. I understand that the President elect of the GAA,
23 somebody I respect greatly, and the chief executive of
24 the NRA, Fred Barry, was there. Now, there is no
25 motorway and very little money going to Donegal for the 16:30
26 main roads. I thought, I had a decision to make and as
27 the chairman of Donegal Sports Partnership, an
28 organisation that is attending not only to the
29 community in Donegal but to the younger generation,

1 I thought that the greatest benefit that I could give
2 to the rate payers is to attend that meeting as
3 chairman and that I would be better attending as a
4 public representative and that's what I did.

5 642 Q. Mr. Barry had to do with the National Roads Authority. 16:31

6 A. Yes. As you said there is there is no motorway or any
7 chance of a motorway to Donegal for a while. The
8 understanding that I have from that day was that he was
9 talking about national strategies that have to do with
10 roads, especially, to say in English, interurban 16:31
11 connections. There is no interurban between Donegal
12 and Dublin and even til this day there isn't.

13 643 Q. And the third thing you missed there was the dinner and
14 the entertainment, so that's the normal thing at 16:31
15 conferences like that. But you sacrificed that much to
16 attend the Institute of Technology in Letterkenny. You
17 go to Letterkenny, how do you go to Letterkenny from
18 Dundalk, what is the road, what is the direction?

19 A. The road goes through the North of Ireland. From
20 Dundalk -- and the first stop I had, I stopped at home, 16:32
21 I was in Letterkenny that afternoon. The meeting
22 finished around eight o'clock that afternoon and I was
23 talking to some of my colleagues on the DSP, the Sports
24 Partnership, and after that I went home, about nine
25 o'clock or so. 16:32

26 644 Q. I have a question there: Dundalk/Letterkenny, from
27 Dundalk, via Falcarragh, how long does that journey
28 take?

29 A. It depends on what time day. If you are in a hurry you

1 can do it within 30 minutes.

2 645 Q. Wait a minute. No, I'm talking about, you're going to
3 Letterkenny from via Falcarragh from Dundalk, how long
4 would that take, a journey of that length? Say Dundalk
5 to Falcarragh? 16:33

6 A. Around two and three quarters hours, two and a half
7 hours.

8 646 Q. Then on to Letterkenny, how long would that take?
9 A. Between 30 and 45 minutes, around that.

10 647 Q. So it's about three and a half hours? 16:33
11 A. Yes.

12 648 Q. These things happened ten years ago, isn't that true,
13 so it's difficult?
14 A. Yes.

15 649 Q. But some of the documentation gives certain more 16:33
16 accurate information. At the IT in Letterkenny, the
17 meeting was being held of the Sports Partnership, when
18 did that meeting start on the 10th?
19 A. That meeting started around five o'clock in the
20 afternoon, maybe quarter past five, but around five 16:34
21 o'clock, yes.

22 650 Q. And were you chair of that meeting?
23 A. Yes, I was.

24 651 Q. And when did that meeting finish?
25 A. Around 7:30 or eight o'clock, closer to eight. 16:34

26 652 Q. And what happened after that, you went home?
27 A. Well, I was talking to -- the normal practice at
28 meetings like that is that you talk to people after the
29 meetings, I was doing that that afternoon. Some of the

1 time when you are a chair of the meeting like that, if
2 somebody has a problem you have to discuss that problem
3 with them and maybe documents have to be signed, as
4 chair on behalf of the organisation. So I would say
5 I left around maybe quarter past eight or something 16:34
6 like that heading to my home in Falcarragh.

7 653 Q. And you were home maybe around nine o'clock?

8 A. Around nine o'clock.

9 654 Q. The next day, the last day of this three day period
10 (pause) -- why did you go home to Falcarragh at that 16:35
11 point instead of going straight back to Dundalk?

12 A. Well, as I said earlier, there were different documents
13 and letters that I had with me. The secretary will
14 prepare the letters, anybody who deals with politics,
15 you have to deal with the reps. I always had a system, 16:35
16 I had a dictaphone always and I had a system where if a
17 call came into the office or if somebody contacted me,
18 I wanted to get the response out as soon as possible.

19
20 Now, I'm very competitive even til this day in 16:35
21 political matters but I am competitive in athletics as
22 well and I carry that through and that's why. As well
23 as that afternoon, and a lot of other afternoons, I was
24 getting treatment or physio treatment from a man who is
25 based in Falcarragh and he gave me a session that 16:36
26 evening and that session lasted about 45 minutes. The
27 competition, the national competitions were coming up
28 maybe a month after that day so the training was
29 getting stronger all the time, so harder.

1 655 Q. Then on 11th March you went back to Dundalk, when did
2 you start the journey on that day to Dundalk? Were you
3 there at half one?
4 A. I left around half ten and I was there around one
5 o'clock, half one, maybe a bit before that, I'm not 16:36
6 sure. Between one, around that time.

7 656 Q. It was often said this morning that you made one
8 journey, you claimed for one but you made two, you
9 wouldn't have been entitled to the second, the expenses
10 anyway? 16:37

11 A. No, I didn't even seek it.

12 657 Q. But you understood the rules?
13 A. I did, to a point.

14 658 Q. Then the claims that you made to clean that up, if we
15 can, you stayed for a term with the údarás, there was a 16:37
16 delay of six months for the údarás and with the County
17 Council nine days. But you understand now if things
18 are six months apart, that things will become confused,
19 memory and such like. So when you are filling in these
20 forms, you're dealing with two authorities, two 16:38
21 different authorities?

22 A. That claim was six months after the meeting occurred
23 and that's the practice I had at the time. I would put
24 the claims in every three months, six months or before
25 the end of the year and I suppose that's what happens 16:38
26 in that time as well.

27 659 Q. My Friend reminds me it is seven months. There is a
28 letter of 15th December 2011, though I don't think we
29 need to go to that, page 66 of the big blue book.

1 You've been over that letter twice at this point.

2
3 would you like, this is your first chance to speak
4 about this letter. Some of the commentary there was,
5 do you see the first paragraph there, you say, this is 16:39
6 a letter you wrote to Liam Ward: *"I left the*
7 *conference at lunchtime Friday, March 10th to travel to*
8 *Letterkenny as I had a meeting of the Donegal Sports*
9 *Partnership of which I was and remain a board member."*

10
11 Now, do you have anything to say about that sentence in
12 particular? 16:39

13 A. No. I attended the conference, as is set out there,
14 and I attended the meeting. I suppose you could
15 misunderstand the paragraph because maybe it's not 16:40
16 clear enough that I went to my home/office before the
17 meeting in Letterkenny, but that is a mistake on my
18 part if that wasn't clear, so I accept that.

19 660 Q. You went from Falcarragh to Letterkenny, that's the
20 clarification that was there. And then in paragraph 3 16:40
21 of that letter there is a mistake there, is there? You
22 said Carrickmacross, on the 27th and it happened -- no,
23 it's a question of time, of hours, three instead of
24 eight o'clock. And you've admitted that in the letter
25 of 15th December 2011? 16:41

26 A. Yes.

27 661 Q. And that was the first opportunity that you received to
28 discuss this with the County Council of these questions
29 that were raised. I'll go now to complaint No. 258 on

1 the complaint page that is before the Commission and
2 it's the IPA seminar in Carrickmacross in Co. Monaghan.
3 Now, that happened on the 26th/27th April 2006 -- well,
4 it happened on the 27th April. Were you travelling on
5 the 26th?

16:42

6 A. I was.

7 662 Q. When did the seminar start on the 27th?

8 A. Around -- about half nine, yes, in the morning.

9 663 Q. Like the Commission here it starts early in the
10 morning. And you were travelling on the 26th, what
11 time did you leave Falcarragh on the 26th to attend?

16:41

12 A. Around five o'clock in the afternoon.

13 664 Q. And that's been discussed on page 171 but we won't go
14 to it, 171 of the blue book. Now, the 27th, there was
15 a meeting in Letterkenny, is that true?

16:42

16 A. That's true, yes.

17 665 Q. When did you leave Carrickmacross to go to that
18 meeting?

19 A. I left Carrickmacross around twenty to one or around
20 then, around that time.

16:42

21 666 Q. And what did you miss because of it, because of the
22 event that was in Carrickmacross in the IPA there, the
23 seminar?

24 A. The training seminar was nearly finished and most of it
25 had been completed. The programme is there somewhere,
26 it was discussed earlier. There was a summing up and
27 there was a lunch. I thought myself, often I'm not a
28 great one for big lunches or big dinners at conferences
29 especially when you are training and you have a certain

16:42

1 diet that you have to comply to. I left the conference
2 and went straight to my home, to the office, and that's
3 how I --

4 667 Q. So you missed the lunch and the question and answered 16:43
5 session, that's the second time you had missed a lunch
6 from when I started with you. You arrived in
7 Falcarragh then that afternoon at around three o'clock,
8 is it?

9 A. Yes, three o'clock.

10 668 Q. There was a meeting in Letterkenny that you had in the 16:43
11 Institute of Technology, that was the Sports
12 Partnership?

13 A. Yes.

14 669 Q. Were you a chair at that meeting as well?

15 A. Yes. 16:43

16 670 Q. When did the meeting start, when did it finish?

17 A. The meeting started again around five o'clock, quarter
18 past five, and the meeting finished around eight
19 o'clock. The meetings normally last maybe three hours.

20 671 Q. And then home to Falcarragh again, was it? 16:44

21 A. Yes.

22 672 Q. And why did you go home at that point?

23 A. I went home three or four days after the national
24 walking 20 kilometre competitions where I had gotten
25 second place after the Olympian Jamie Costin and 16:44
26 I picked up an injury during that race. It was a hard
27 race, I picked up an injury and I had to get treatment
28 for it because there was a big race coming up in the
29 middle of June so I wanted to make sure that I would be

1 able to start training, the hard training again. I had
2 a session in Falcarragh at the physio that provides the
3 service and that person is my coach as well. So he
4 works but often he meets with me when I have the
5 opportunity. That evening, that was the only 16:45
6 opportunity I had, so he met with me around 9:30,
7 around there, that time.

8 673 Q. And the next day, you had a meeting in Kerry?
9 A. Yes.

10 674 Q. And that was an Údarás meeting? 16:45
11 A. Yes. It was a board meeting of Údarás na Gaeltachta,
12 yes.

13 675 Q. At what time did that come together?
14 A. At ten o'clock in the morning.

15 676 Q. Well, did you go the afternoon down to the meeting? 16:45
16 A. The usual habit and practice I have, and even the
17 practice I have til this day when I am dealing with
18 political matters in the Seanad, is that, I did the
19 same thing that night. I left home about eleven
20 o'clock. Coming to the Seanad here, sometimes the 16:45
21 Seanad sits on Tuesday and you have meetings or clinics
22 every Monday night. And it's some of the time drawing
23 up to midnight before I leave Donegal on a Monday
24 night, but that night I left at eleven o'clock and
25 I arrived in Galway and then in the morning down to 16:46
26 Kerry to the meeting.

27 677 Q. Now, you made the claim to the County Council on the
28 13th June, if I am correct, April 26th, 27th April, the
29 claim is made on 13th June 2006?

1 A. Yes.

2 678 Q. Isn't there subsistence there as well, there is no
3 doubling as with travel matters, but there is
4 subsistence and that was mentioned earlier, €16.32 was
5 in question there. You admitted you made a mistake on 16:47
6 the time that you returned, not at eight o'clock but
7 three o'clock?

8 A. That was an honest mistake.

9 679 Q. And the question that was asked of the manager, what
10 steps did the County Council take to recoup that 16:47
11 €16.32?

12 A. There was no contact with the Council about that with
13 me.

14 680 Q. And seven months after that, if I am accurate this
15 time, you made a claim from Údarás na Gaeltachta -- or 16:47
16 do you remember that?

17 A. That is correct.

18 681 Q. And two months -- well, we've dealt with that claim to
19 the Council. That's complaint 258 and I want to move
20 to the last one on the list. That is the complaint 16:48
21 369, they are ones that we are discussing now. This is
22 to do with the tourist conference, the maritime
23 conference in Carlingford in Co. Louth. We're talking
24 about the 30th and 31st May and 1st June 2006. Now,
25 travelling, what day did you make the journey from 16:48
26 Falcarragh, what day did you start off to go to that
27 conference in Carlingford in Co. Louth?

28 A. On the 30th.

29 682 Q. And what time of day did you undertake that journey?

1 A. I left around half three to go to Carlingford.

2 683 Q. What time did that journey last, driving?

3 A. I'd say about three hours if you are driving there

4 directly, about three hours.

5 684 Q. And that day, I should have had asked the question 16:49

6 before this, on the 30th May were you in Gleann Cholm

7 Cille?

8 A. There was a regional meeting of Údarás na Gaeltachta in

9 Gleann Cholm Cille that day and I attended that meeting

10 in its entirety, the CRAT, the northern regional 16:49

11 committee of the Údarás,.

12 685 Q. At three o'clock in the afternoon on 30th May you were

13 in?

14 A. Around that, it doesn't take two hours to come from

15 Gleann Cholm Cille to Gortahork. You're talking about 16:49

16 maybe an hour and a half, so around three o'clock,

17 maybe it was half two, I'm not sure, but around that.

18 686 Q. Then you left the home in Falcarragh and you went to

19 the office in Gortahork, is it? How many miles is that

20 from home to your office? 16:50

21 A. Maybe a mile and a half.

22 687 Q. And you visited the two places?

23 A. I always visit both places. My father was alive at the

24 time and often he was the one who was looking after the

25 patch at home when I was away at anything and he would 16:50

26 be on the phone morning, noon and night. Sadly he has

27 since passed away but he was alive back then.

28 688 Q. And on 31st May, the registration started early in the

29 morning?

1 A. Yes.

2 689 Q. Half eight?

3 A. Between half eight and nine.

4 690 Q. And the conference continued in Carlingford then. Then
5 did you stop to do anything, you were dealing with 16:51
6 athletics back then?

7 A. Yes. You are asking me about the time I left?

8 691 Q. On that day?

9 A. On 31st May I left Carlingford about half three,
10 I believe. There was a launch in Dungloe that evening, 16:51
11 a Donegal Sports Partnership launch, the second
12 strategic document for the Partnership. It was a nice
13 launch but we were laying out a strategy for the
14 partnership from 2006 to 2010. To be ready for the
15 launch I had to type a speech that I was giving at the 16:51
16 launch. So I had to go to my office first off, finish
17 that and then go from there to Dungloe because I had to
18 say couple of words and put a speech together, so I had
19 to do that preparatory work.

20 692 Q. So what did you miss when you left that day? You don't 16:52
21 have to go into it, there was a question and answer
22 session I believe that you missed and the oysters?

23 A. There was a boat trip and a dinner, Guinness and
24 sailing don't mix. I was more interested, I wasn't
25 interested in eating oysters and drinking Guinness. 16:52
26 I was more interested in being at home helping the
27 Sports Partnership put their work plan together and to
28 launch it.

29 693 Q. So that happened, that meeting happened between 8?

1 A. Till half nine, around that time, yes.

2 694 Q. There was one journey in that question. Is there any
3 other question? What time did you go to Galway and
4 then to Dingle? No, that didn't happen on that day.

5 A. After Dungloe that afternoon, it finished around half 16:53
6 nine and I knew that there was, that the things in
7 Carlingford would be pretty much finished by then.
8 I went home, I had tea and I had a bit of work to be
9 done on notes for my secretary for the morning, I did
10 that and I left and I went back to the conference that 16:53
11 evening to be ready for the conference the next day.

12 695 Q. And home then?

13 A. That's it.

14 **MR. Ó TUATHAIL:** Well, I don't suppose I have any
15 more questions for you so if my friend has any 16:54
16 questions would you answer them.
17

18 **SENATOR Ó DOMHNAILL WAS CROSS-EXAMINED AS FOLLOWS BY**
19 **MR. Ó BRAONÁIN**
20 16:54

21 696 Q. **MR. Ó BRAONÁIN:** A couple of questions for you.
22 Can I start with the documents that we have from
23 Donegal County Council. You see there you have the
24 claim forms and if you go to Tab 4 in the book, you see
25 the first one of the claim forms that we have to look 16:54
26 at. This isn't the first time that you had filled out
27 one of these forms, would it be?

28 A. No. I'd been on the council maybe a year and three
29 quarters at that point.

1 697 Q. You understood then the rules that were in place and as
2 important as they were?

3 A. Even though no explanation was given, I understood that
4 -- in my role as a County Councillor since I had been
5 elected for the first day and my role as a member for 16:55
6 the údarás, I had always, not only done things properly
7 but I'd go further than that. I was always trying to
8 do everything I could. When I was elected the first
9 day, I didn't start in politics to take money from it.
10 I had an office, I had a secretary employed by myself, 16:55
11 and when I was elected on the board of the údarás for
12 the first time in 1999, I had a job, I was earning
13 25,000 a year working at an educator in a school.
14 I gave up that job to get a salary of 8,000 from the
15 údarás, I had no other job. So I was interested in 16:56
16 this thing and that's why I suppose --

17 698 Q. Did you know the rules?

18 A. Yes.

19 699 Q. That was the question I asked, that you knew the rules
20 because when you filled out this form "*strictly in* 16:56
21 *accordance with the Local Government (Expenses of Local*
22 *Authorities Members) Regulations and Directions*
23 thereunder, you see that? Had you read them?

24 A. Those regulations?

25 700 Q. And the directions? 16:56

26 A. No.

27 701 Q. How could you claim, if this claim was done according
28 to the regulations if you hadn't read them?

29 A. Read today?

1 702 Q. I didn't say today, had you read them when you made
2 this declaration?
3 A. They would have been. I don't remember if the
4 regulations were available from the County Council.
5 I asked the Council, when I wrote to Liam Ward in 2011 16:57
6 I asked for a copy of the regulations or the other
7 regulations that were in question because I couldn't
8 remember receiving them from the Council before that.
9 But I take it if they were available before that,
10 I don't remember receiving them. 16:57

11 703 Q. Even if the Council weren't providing them, you had an
12 obligation to read them?
13 A. I accept that.

14 704 Q. So we don't have to be worried if the Council gave them
15 to you or didn't, it was up to you to read them? 16:57
16 A. Yes.

17 705 Q. What you said, and you affirmed in this form, that the
18 claim was made in accordance and complying with the
19 regulations and then you went on: "*Or is payable to me*
20 *in respect of the times, journeys or other matters set* 16:58
21 *out herein.*" And you understood that?
22 A. Yes.

23 706 Q. "*I have not made and will not make any other claims for*
24 *payment in respect of the times, journeys or other*
25 *matters set out herein*". You see that? It's important 16:58
26 that you would know that not only that a claim hadn't
27 been made but a claim wouldn't be made for these times
28 and I take it that you kept a diary to make sure that
29 no such thing would happen, did you do that?

1 A. I had a diary, of course.

2 707 Q. On the dates, on the dates in question, you noted in
3 your diary what you had done, had you done that?

4 A. Well, without doubt.

5 708 Q. And I take it that in the diary not only would you be 16:59
6 in Dundalk but you would be in a meeting in the DSP in
7 Letterkenny?

8 A. I filled in the form on 20th March and that was the
9 form for the Údarás six months after that, seven months
10 after that. 16:59

11 709 Q. When did you fill your diary?

12 A. The diary would have been filled at the time.
13 I suppose.

14 710 Q. And in the diary there would be the dates, the 9th,
15 10th and 11th March, that you were at a conference and 16:59
16 in Dundalk and in the diary on the 10th that you were
17 in Letterkenny?

18 A. It would be, definitely.

19 711 Q. And you would look at your diary on the 20th March and
20 you'd know when you were filling this out that you were 17:00
21 at another meeting on the 10th that wasn't, had nothing
22 to do with Council matters but had to do with Údarás na
23 Gaeltachta?

24 A. The understanding I had on that is that there was,
25 I filled this out honestly, as honestly as I could and 17:00
26 I answered -- and I take the points from (a) to (f)
27 that you have made, but there was no claim made for
28 this conference or any other conference. What I was
29 wanting to do was provide a service for Údarás na

1 Gaeltachta as chairman of Donegal Sports Partnership
2 which had nothing to do with --

3 712 Q. This isn't what I'm asking you about. You've explained
4 to the Commission that you had a diary and that you
5 would have noted in your diary what you were doing on 17:01
6 these dates that are in question and that you would
7 note that on the 9th, 10th and 11th that you were at a
8 conference in Dundalk and that you would have noted
9 that you were working for the Údarás on 10th March?

10 A. That is correct. But I gave that response to Liam Ward 17:01
11 and to the County Manager when I sent him a written
12 reply.

13 713 Q. We'll come back to that. But the 20th March 2006, you
14 knew that, even though you'd been at the conference,
15 that you were also working for the Údarás as well on 17:01
16 10th March and you knew then that you needed to be
17 careful not to make a claim on the Údarás that would
18 come across, the claim that you were making on 20th
19 March, to the County Council?

20 A. I don't agree with you there because in my eyes there 17:02
21 was no crossing over.

22 714 Q. But only that you got two subsistence payments?
23 A. In my opinion on those occasions there was black and
24 white of a difference between them. I was attending on
25 behalf of two different organisations, fulfilling, in 17:02
26 my opinion, the best thing for the people of Donegal.

27 715 Q. You mean that you are entitled to two subsistence
28 payments if you are working for two organisations?
29 A. Well, that's a question for the Commission, I suppose.

1 716 Q. Do you feel that it is yours as of right to get two
2 subsistence payments for one day from two different
3 public organisations?
4 A. What specific payment?
5 717 Q. I'll talk about the subsistence payment. You got a 17:03
6 subsistence payment for the 10th, you got two
7 subsistence payments for the two nights and the two
8 days that you spent and you got another payment for the
9 third day?
10 A. I believe I was entitled to those subsistence payments 17:03
11 because I hadn't made a claim to the Authority, to
12 Údarás na Gaeltachta.
13 718 Q. When you came then to the claim that you made for the
14 Údarás on 24th October, you made a claim for
15 subsistence payments there, didn't you? 17:03
16 A. Where is that, what page? I'm sorry.
17 719 Q. This is the first page.
18 A. No. 1, page No. 1. On the 10th.
19 720 Q. Do you see that and there is a payment, subsistence
20 payment there for the 10th and that is the same day 17:04
21 that you were getting a subsistence, already had a
22 subsistence payment from the County Council, is it not?
23 A. Yes, yes, it is indeed.
24 721 Q. And that's what I am saying. Do you believe that you
25 had a right or you are entitled to two subsistence 17:04
26 payments from the two organisations for one day?
27 A. Well, the understanding that I had and I have is it was
28 an overnight payment from the County Council and it was
29 a payment to attend the meeting from the Údarás and

1 that is the understanding I had.

2 722 Q. But you know that the overnight payment is much larger
3 than the subsistence payment for the day, that is
4 because the nights in question, you have to stay
5 somewhere, but as well as that, some of that payment is 17:05
6 going to pay you to subsist during the day as well?

7 A. I accept that. But the subsistence during the day
8 there, there was lunch and the dinner and the oysters,
9 maybe I'm confused between the conferences. But there
10 was a lunch and dinner. I didn't attend the dinner 17:05
11 after that evening but I take it your point, I accept
12 it.

13 723 Q. When you made your claim to Údarás na Gaeltachta in
14 October did you look at the diary?

15 A. I did. 17:05

16 724 Q. And did you see from the diary that you were after
17 already being at a conference for the County Council
18 and did you check had you been paid a subsistence
19 payment already?

20 A. Without a doubt, without a doubt. As I said, I felt 17:06
21 honestly that I was trying to serve the two purposes.
22 I attended a lot of meetings of the Sports Partnership
23 and I never made a claim and even the secretary of the
24 Údarás at the time wanted me to make a claim so that
25 I could show that I was attending the meetings. So in 17:06
26 one way I wasn't wanting any payment to attend the
27 Sports Partnership, on the other hand if I hadn't made
28 a claim there was no reference the Údarás had of my
29 attendance and work done for the DSP. When I was chair

1 especially that year, I was a chair for maybe more than
2 a year, but I applied for most of the meetings at the
3 time and after that I didn't put in a claim and I was
4 on the board of the údarás up until 2012.

5 725 Q. I'm questioning you about the claim you made in October 17:07
6 2006 because you made a claim for March, April and May,
7 I believe, together in October?

8 A. Yes.

9 726 Q. The reason I'm asking you is to find out, when you made 17:07
10 declarations to Donegal County Council that you were
11 not going to seek another payment for the same periods,
12 what system had you put in place so that you could be
13 sure that you weren't doing that, do you understand?

14 A. I understand, yes.

15 727 Q. And you said you had a system, you had a diary but a 17:07
16 subsistence claim was made for the 10th after you had
17 received a payment for the 10th already?

18 A. That's what you are saying, yes.

19 728 Q. The same declaration is made on the claim forms, on the 17:08
20 other claim forms that are seen here with the other
21 events and I'll come back to them in a minute. But you
22 understand that these are important declarations and
23 they are serious?

24 A. Oh, without a doubt.

25 729 Q. There is a question of matters of recollection here. 17:08
26 I know it's a while, years ago that these things
27 happened, and it can be difficult to remember things
28 from time to time, and of course that's what you say on
29 occasions during your correspondence with the County

1 Council and the Commission, there can be difficulties
2 in remembering things? These events happened more than
3 ten years ago so you can see you have difficulty in
4 remembering things, other times it's like your memory
5 is very, very precise and very sharp on certain 17:09
6 questions, doesn't it look like that?

7 A. Well, I want to tell the truth here. I don't want to
8 draw water on my own mill or make myself, big myself
9 up. This happened in 2011. There is great damage done
10 to my name within the community, amongst the community 17:09
11 and in my opinion that's not right or just because of
12 the work that I have done. I wanted to do my work as
13 well as I could. If I wanted not to attend these
14 meetings I'd be much better off today and I wouldn't be
15 here today. 17:10

16
17 But in my opinion I did the right thing even if I am
18 here because by attending those meetings I believed and
19 I still believe that it was the right thing to do. As
20 a sports person, and I still run, and the opportunities 17:10
21 that are available now because of the sports
22 partnerships, not only in Donegal but throughout the
23 country, it's a great thing and great that I was
24 involved in that. It would have been much easier for
25 me if I hadn't made these claims or go to these, to go 17:10
26 to the dinners and the lunches and the oysters and the
27 Guinness and everything like that and not to attend the
28 meetings.
29

1 It cost me more -- just to make this point. It cost me
2 more with diesel and petrol and wear and tear on the
3 car and everything to attend from these places back to
4 Donegal to go to these meetings and to come back again
5 and the bad and the evil and the damage that's been 17:11
6 done to my life, my name, my political career, my
7 family, it's heavy.

8 730 Q. Can we deal then with the 10th March that we were
9 looking earlier. You explained there in the claims
10 form for Donegal County Council that you left at one 17:11
11 o'clock to go to Dundalk and that you came back home at
12 4:30 on 11th March 2006?

13 A. What page is that?

14 731 Q. That is page 9 Tab 4 in the County Council book. What
15 happened when these documents came to light together, 17:12
16 on the 10th you are after saying to the Údarás that you
17 left your home at half three in the afternoon to go to
18 a meeting of the Sports Partnership in Letterkenny, do
19 you see that?

20 A. I'm sorry, I don't have page 4. 17:12

21 732 Q. It's page 9. The County Council one and the Údarás
22 one, it's page 1?

23 A. I've something else here (SAME HANDED TO THE WITNESS).
24 I can't see it from here. Oh, I've got it here now,
25 thank you. I apologise. 17:12

26 733 Q. No, it's fine, Senator. You've got that in front of
27 you now. One says that you are in Dundalk from one
28 o'clock on the 9th to half four on the 11th and the
29 other one says that you are not in Dundalk but that you

1 are in Letterkenny on 10th March, you understand the
2 difficulty that came about because of that? I think
3 when this came to light you that Mr. Ward started to
4 correspond with you, I think he wrote on 2nd September
5 and I don't think he got a reply at that stage so he 17:13
6 wrote to you again on 25th October 2011. Then I think
7 he wrote again to you on 5th December 2011. You'd had
8 telephone conversations, it says in the letter, on 5th
9 December:

10
11 *"I refer to my earlier correspondence on 2nd September*
12 *and 25th October and to our subsequent telephone*
13 *conversation in connection therewith."* 17:14

14
15 Then he lays out the details, that he was 17:14
16 investigating, and the first one, for example, he laid
17 out what was in the form that had been sent to Údarás
18 na Gaeltachta. *"It was noted that the claim was*
19 *presented to Údarás na Gaeltachta on 24th October for*
20 *attendance on 10th March."* And the time was in that 17:14
21 letter. Do you have the book of documents, if you go
22 to page 66. I see you don't have a glass, if you need
23 a glass we can get one for you.

24 A. I'll be fine.

25 734 Q. You said in this letter: *"I respond as follows.* 17:15
26 *I attended the conference in Dundalk on 9th, 10th and*
27 *11th March 2006. I left the conference at lunchtime*
28 *Friday the 10th to travel to Letterkenny as I had a*
29 *meeting of the Donegal Sports Partnership of which*

1 *I was and remain a Board member."*

2

3 Do you see that?

4 A. Yes.

5 735 Q. *"This meeting finished at approximately 8 p.m. and at 17:15*
6 *this point in the knowledge that the conference events*
7 *would be finished on my return, I decided to travel to*
8 *my home in Falcarragh and picked up my mail for*
9 *Thursday and Friday."*

10

17:15

11 The order in your letter is that you are in Dundalk,
12 you think that it would be better to go to Letterkenny
13 for your meeting, you go to Letterkenny for your
14 meeting and then after that you think of it, you should
15 go home to Falcarragh to get your correspondence, isn't 17:16
16 that the order, the sequence that's laid out there in
17 your letter?

18 A. As I said the letter, and maybe the letter wasn't
19 clear, but what happened was I went from the conference
20 to my office and my home and then back to the meeting 17:16
21 in Letterkenny that afternoon because I had time to do
22 that.

23 736 Q. That's not what's said in the letter, it's the opposite
24 that's said in the letter. what's said in the letter
25 is that you went to Letterkenny and then you went from 17:16
26 there to Falcarragh. When you wrote again on page 84,
27 you came back. It's not that you were in a room with
28 somebody who is asking you questions, that you are
29 under pressure when you are writing these letters or

1 anything like that, you had plenty of time to think
2 about what was being investigated and you had plenty of
3 time to think about what you had already written and
4 you came back on the 11th -- the 21st March and at that
5 stage you say, for example: "*Optional portion of the* 17:17
6 *conference and a portion which was fundamentally a*
7 *recreational session.*"

8
9 That was incorrect, wasn't it?

10 A. Yes. And that was a mistake, yes. 17:17

11 737 Q. What happened there, the impression is given that you
12 have a great memory of what was happening, what was
13 being discussed but your memory is incorrect,
14 inaccurate?

15 A. As you said this is 2012, the letter before that 2011, 17:18
16 five years from the conference and the meeting. I had
17 made every attempt to be as cooperative as I could be
18 with the Commission and with the County Council.
19 Between the letter being sent on 15th December,
20 I thought I'd given an accurate account, but when the 17:18
21 Council were looking for more information I made every
22 effort to provide that information as best as I could
23 and that's why I gave that response on the 21st March.

24
25 And I have to say, I'm certain that I was at home, that 17:18
26 I did go home before that meeting. Not only -- it's
27 not, maybe it's a new thing for people who are not
28 involved in politics, and I understand that solicitors
29 are very, very busy, but politicians are as busy or

1 maybe busier as well. Because often there is
2 competition between politicians in places as well and
3 if my secretary who is working for me through the week
4 would call me and say to be somewhere and to write
5 letters, sign letters and if I said that there was a 17:19
6 benefit for me to it I would run 100 miles to go and
7 write that letter and to put it out before somebody
8 else. So there are things like that coming in here as
9 well.

10 738 Q. If we can look at the rest of your letter. You explain 17:19
11 that you left the conference for a reason because you
12 wanted to go to the meeting in Letterkenny. You said:
13 *"My representation of Donegal County Council at the*
14 *conference was in no way adversely affected by my*
15 *attendance at the said meeting."* 17:20

16
17 when you are at somewhere that would have that effect,
18 and it had no adverse effect on Dundalk, you don't
19 mention that you had gone home before that?

20 A. I said that even when Séamus was asking me, I said for 17:20
21 the third time that that was a mistake.

22 739 Q. But you go on: *"The conference events in Dundalk being*
23 *at that point finished for the day, I used the*
24 *opportunity to travel from the meeting in Letterkenny*
25 *to my constituency offices in Gortahork and my home in* 17:20
26 *Falcarragh."* Do you see that?

27
28 It's obvious when this letter is being written by you
29 that you are thinking and contemplating about what

1 happened at what time and where did you go at what time
2 and what order that things happened in and the order
3 that you give is that you went to a meeting in
4 Letterkenny and then you went home, that's the order
5 that you give. But more than that what you say: "In 17:21
6 *order to attend to urgent and ongoing constituency*
7 *work, including attending to mail and other*
8 *documentation received there.*"
9

10 Do you see that? If you were after going home before 17:21
11 that to deal with your correspondence, your urgent
12 correspondence and to work in your office, it's obvious
13 that it hadn't become urgent by eight o'clock that
14 night?

15 A. A very good point and I would like to respond, if you 17:21
16 would like.

17 740 Q. Very good. If you can explain that. What I am saying,
18 it gives the impression that it's not right that you
19 went home first. Your impression that is given from
20 your correspondence, if you have a better explanation 17:22
21 for that I'm sure we would --

22 A. I'm not here to give the impression, I'm here to tell
23 the truth and that's what I am going to do. As I said
24 when Séamus asked me, I went home to my office in
25 Gortahork, picked up letters that had to be signed. 17:22
26 I gave those letters and other things that had come to
27 the office, I brought them with me. After the meeting
28 when I had the file with me with the letters and such
29 like in it, there were letters that had to be signed

1 and I brought the signed letters, after I had read
2 them, after I had seen them, I brought them back to the
3 office that afternoon, that evening. Some of them, of
4 that correspondence, there are applications form and
5 there were grants available for roads and such, there 17:23
6 are not as many grants available now but back then
7 there were grants available.

8
9 A lot of work I was involved in was grants, housing
10 grants. The Department provided grants, the Roinn na 17:23
11 Gaeltachta provided a grant, €15,000, to build a house
12 on an island, €5,000 to improve a house on the
13 mainland. I was dealing I would say, honestly I would
14 say I was dealing with, say, 30 to 60 of those a week.
15 Every other day, especially Saturday morning when I had 17:23
16 a clinic, there would be a lot of people. So that's
17 what I was doing. I was signing the letters and my
18 secretary would then put the letters with the forms and
19 sent them out. Some of the letters were going to the
20 Council even and other places because they were 17:23
21 applications. That's reason that I have and that's
22 what happened.

23 741 Q. Now, on the same day you say to the Commission I think
24 for the first time that you had to get physio and you
25 were dealing with health matters and it was for 17:24
26 yourself. Because on page 114 in the questions and the
27 answers that happened between Mr. Walsh and yourself,
28 do you see that?

29 A. Yes, indeed.

1 742 Q. At No. 7 you are asked why you went back to Falcarragh.
2 And you say: *"As a public representative I take my*
3 *role very seriously and deal with all matters*
4 *professionally. The matters which I would have had to*
5 *deal with would involve telephone messages received in*
6 *my office together with mail etc. In addition some of*
7 *the queries were medically related and therefore*
8 *required quite urgent attention."* Do you see that?

9 A. Yes.

10 743 Q. It's not a medical query, that gives the impression 17:25
11 that people were asking you about health matters?

12 A. Oh, yes, often as a Councillor, as a Senator,
13 especially in a county like Donegal, the regional
14 hospital there is dealing with 145,000 people and
15 people are waiting for operations and I'm dealing with 17:25
16 a lot of people who are -- maybe, politicians shouldn't
17 be dealing with things like that, maybe the system
18 should be working more effectively and that we
19 shouldn't have to be pushing somebody up on a waiting
20 list, but at the same time that's what I was doing 17:26
21 there and dealing with.

22
23 Now, my own medical treatment, I thought at the time,
24 maybe I was wrong, but I thought at the time not to
25 mention that because it was a personal matter that had 17:26
26 to do with me. It wasn't to do with my work as a
27 councillor or member of the *Údarás*, sport and training
28 and such like, so that's why I didn't give a reply to
29 that.

1 744 Q. **CHAIRMAN:** How did you have the entitlement
2 to get information in relation to patients, how they
3 were or when they were going to have an operation, how
4 did you deal with that matter when there is meant to be
5 confidentiality between the hospital and the doctor and 17:26
6 the individual?

7 A. Yes. What I would do in that case would be around
8 making representations, like all public representatives
9 would be engaged in, you get client's date of birth,
10 details of their circumstances, the medical evidence 17:27
11 from the doctor and you then you follow --

12 745 Q. **CHAIRMAN:** Do you have access to the
13 medical evidence?

14 A. Well, only if the client would provide it to the
15 constituent. 17:27

16 746 Q. Did you get a written entitlement to get that
17 information?

18 A. It's not necessary. Very often, I mean anyone with a
19 political, that has made representations would
20 understand, for example, if someone required urgent 17:27
21 medical attention the doctor would try and get the
22 appointment expedited. Very often a doctor might say
23 talk to your local politician. The constituent would
24 contact the individual public representative, provide a
25 letter from the doctor. Without knowing the full 17:27
26 circumstances, it's not necessary to know the full
27 circumstances, apart from the fact that the client
28 needs to try and have their situation expedited. I do
29 that to this very day.

1 **CHAIRMAN:** Thank you.

2 747 Q. **MR. O BRAONÁIN:** Tell me this, Senator, if you
3 don't mind, I take it you have a mobile phone and you
4 had in 2006?

5 A. I dare say I did. 17:28

6 748 Q. It would be difficult to do your work without one, but
7 in that way you were able, and I don't know, did you
8 have bluetooth in the car or anything like that, but
9 that you could use the phone in the car?

10 A. Yes. Yes, the car I had, I don't -- well I dare say 17:28
11 I did.

12 749 Q. If you couldn't do that, for somebody who is travelling
13 as much as you were, you'd have a lot of dead time in
14 the car and it's not how that was, it was time you were
15 able to use when you were in the car? 17:28

16 A. But you would be pulled in a lot of the time making
17 phone calls. If there was an important call, and the
18 coverage wasn't maybe as great then as it is now.
19 I had a pocket phone or a mobile phone but it wasn't
20 connected to the internet or the email that I had at 17:29
21 the time, it was a County Council email and I had a
22 personal one. So the only point of contact I had with
23 the email was my office, I had a computer there and
24 that's the only place. Now iPhones, everybody has
25 them, and you can use them, but that wasn't available 17:29
26 at the time.

27 750 Q. If you were at a conference at a hotel there would be
28 facilities in the hotel to be able to receive emails
29 and go online and receive faxes and such like?

1 A. The fax, yes, I'd be able to get faxes.

2 751 Q. You could be given messages on the phone or your
3 secretary or somebody else would call you and explain
4 to you the messages and such like?

5 A. But you weren't able to sign a letter. 17:29

6 752 Q. No, but if you don't do a PP, you have to sign it?

7 A. No, no, not in this job.

8 753 Q. Can I ask you to go to page 116. Because on page 116
9 question 15 Mr. Walsh asks you the question about
10 subsistence for 10th March and also from Donegal, do 17:30
11 you see that?

12 A. Yes, I do indeed.

13 754 Q. And he says, he explains that you didn't deal with that
14 in your statement with the conference and you didn't
15 deal with it either when you were in correspondence 17:30
16 with them in May 2012. Do you see that?

17 A. Point 15, yes.

18 755 Q. And then you have a long response of the thoughts that
19 that you had about the reasons why you had gone from
20 the conference to the other meeting in Letterkenny, but 17:31
21 you don't say anything in that response about
22 subsistence?

23 A. No. I give a reply and an account of what I was doing
24 and the travelling I was doing and the meetings I was
25 at. Maybe I didn't understand the question properly, 17:31
26 question 15. But what I did then was, as honestly as
27 I could, reply and respond about the work I was doing.
28 I thought Mr. Walsh might have a better, be able to get
29 a better understanding of it.

1 756 Q. Can we go to the claim you made to Donegal County
2 Council for the IPA, page 21 of the Donegal County
3 Council booklet. This is a claim form you filled out
4 on 13th June 2006 and you have declared that this is
5 correct and accurate. You say that you arrived home on 17:32
6 27th April at eight o'clock in the evening. It's on
7 that basis that the claim was made and it's on that
8 claim that the claim was paid?

9 A. I take that to be true.

10 757 Q. And there was no difficulty with that until the claim 17:33
11 from Údarás na Gaeltachta for the 27th came to light
12 and that (indicating) is at page 3 of the Údarás na
13 Gaeltachta booklet. It says there that you were at
14 home at five in the evening. If that is accurate then
15 it means that the claim that was made to Donegal County 17:34
16 Council wasn't accurate, wasn't correct and that
17 payment for subsistence was made on that basis that
18 shouldn't have been made?

19 A. You're right there. On the 27th I gave a
20 clarification, I went home at three instead of eight 17:34
21 and eight o'clock was in there.

22 758 Q. Just in case this is not clear. When it said the 24th
23 April 2006, "*attending a meeting of the Sports*
24 *Partnership in Donegal in IT Letterkenny*", that should
25 be the 27th? 17:34

26 A. That was a mistake as well.

27 759 Q. Then if you go to the next page, it says there:
28 "*27/4/2006, travelling to Co. Kerry, attending a board*
29 *meeting*", is that not true? In the correspondence

1 I see that you say that you went to Galway instead of
2 Galway [sic]?

3 A. What's in there, that night I left late, there was a
4 meeting in Kerry the next day, the 28th day of April.
5 I left late the 27th and went to Galway, I stayed in 17:35
6 Oranmore that night and then went the next morning to
7 the meeting in Kerry.

8 760 Q. It says on that day of the meeting in Kerry that you
9 were travelling to Galway then home and then on the
10 29th you were going home. 17:36

11 A. (WITNESS NODS)

12 761 Q. With the dates and the times and your recollection of
13 things, even the claim forms, when you came back years
14 later, you were able to say that those times were
15 inaccurate? 17:36

16 A. Yes. Well, I had to go through this very precisely
17 inasmuch as I could because my name was out there.
18 I had to remember, put some sort of memory together on
19 this and to think and to speak to people, to speak to
20 my family, which I did, speak to my secretary in the 17:37
21 office, speak to everybody I could, even to speak to my
22 trainer and coach as late as last night to make sure
23 that that night of the 27th -- the national races were
24 the Sunday before that and I was in second place.
25 I was getting physio on the 27th, the treatment, 17:37
26 I don't know what the Irish for 'massage' or 'physio'
27 or something like that is. But that's the work I was
28 doing. And the importance with that was that, I had
29 long journey in the car and often when you are sitting

1 in the car it pulls the hamstrings on you.

2 762 Q. Now, the last day that is the date in May in
3 Carlingford, the marine tourism conference. Do you see
4 that, it is page 37. This says again that the same
5 declarations have been given, it says the distance in 17:38
6 miles is 176. For example, I think the mileage in all
7 the claims were incorrect?

8 A. On the council ones I think they were incorrect, but
9 the council from have rectified them, yes.

10 763 Q. And then the time you left, three o'clock on the 30th? 17:39
11 A. (WITNESS NODS)

12 764 Q. And you returned two o'clock on the 2nd, and that's
13 what's in the document?

14 A. That's it, yes.

15 765 Q. You'll agree that it's 13th April, it should be the 17:39
16 13th June. As part of the payment, it means you got
17 two payments, overnight subsistence allowance for a day
18 and for night twice?

19 A. Yes, indeed I did.

20 766 Q. When you come to page 6 in the Údarás na Gaeltachta 17:40
21 booklet, have you got that? Page 6. The Údarás na
22 Gaeltachta claim form.

23 A. (WITNESS NODS)

24 767 Q. Page 6. You see on the 30th that you told Donegal
25 County Council that you left at three o'clock in the 17:40
26 afternoon, this says that you were at home from your
27 meeting at half three?

28 A. That's a mistake.

29 768 Q. If you had a diary, that these things should be in the

1 diary and that these times, the correct times should be
2 in the diary?

3 A. I wouldn't put something like that in the diary. You
4 would put it in the diary that you had a meeting in
5 Gleann Cholm Cille, for example. You wouldn't say what 17:41
6 time you left in the morning or what time you arrived
7 back in the afternoon. That day I had it in that I had
8 returned home at half three. It was closer to three
9 o'clock, before three o'clock, some time like that or
10 somewhere around there. But there was no benefit. 17:41

11 769 Q. It's not a question of benefit, it's a question of
12 memory, despite everything else. When would you put in
13 the diary the times that were important?

14 A. Well, that's not the practice I had.

15 770 Q. But the practice you had, instead of making an 17:41
16 application, a claim every month as was proposed but to
17 do it every three months, six months or once a year,
18 that's what I understand from your evidence, were you
19 able to make an accurate claim if you hadn't a note of
20 the times? 17:42

21 A. What I would put in the diary, for example, for that
22 meeting was that that meeting was starting at ten in
23 the morning and finished at one, that's the only thing
24 I would put in the diary. I wasn't putting in the
25 diary about travel expenses. That's not the practice 17:42
26 I had. I put in wherever I was or who I was to meet
27 with in the morning or in the afternoon. I would have
28 the appointments in my diary and the times that I was
29 attending, but I wouldn't have details about when

1 I left the house or when I arrived, I wouldn't have
2 that in the diary.

3 771 Q. I don't understand. If you knew that those times were
4 personality, as you knew, and you knew that you weren't
5 going to be making a claim for months away, why, how 17:43
6 could you do that accurately and correctly and honestly
7 without knowing what times you were leaving and
8 arriving and having a note made?

9 A. How I did that, for example in the meeting in Gleann
10 Cholm Cille between ten and one, I would accept, and 17:43
11 anybody -- it takes at least an hour and a half to
12 travel from Gortahork to Falcarragh to Gleann Cholm
13 Cille, you would put that in beforehand and you would
14 put that in afterwards and that's where that time came
15 from. That's how we worked that out. 17:43

16 772 Q. I don't think that that's how the notation of time
17 worked. I think that's the first time we've heard
18 about that, is it? You never said in your letters that
19 that's how the system that you had worked, that you got
20 whatever document you had and then you went back and 17:44
21 you guessed or estimated how long it would take to
22 travel there and back?

23 A. I don't see that there is anything new there. That's
24 the habit and the practice I had. The meeting on the
25 30th in Gleann Cholm Cille, I left around eight o'clock 17:44
26 and I returned home around three, that's what happened
27 that day.

28 773 Q. Then on the 31st you went to attend the launch of the
29 Donegal Sports Partnership in Dungloe and again you

1 made a claim for payment, subsistence expenses
2 payments?

3 A. Yes.

4 774 Q. And that's when you had already been paid by Donegal
5 County Council for subsistence? 17:45

6 A. Yes. Because of the conference and overnight, yes.

7 775 Q. So there were two subsistence allowance payments for
8 those dates?

9 A. That's the launch of the Donegal Sports Partnership.
10 It cost me more than I earned there. I travelled 17:45
11 from -- I travelled home, went to the launch, then went
12 back that night to the conference that I was attending.

13 The conference that afternoon, I think the oysters and
14 Guinness and out in the boat, I had no interest. If
15 I had gone to that it would have cost the conference 17:45
16 people, I wasn't interested in that. There was a big
17 race coming up, which is noted and you can google it,
18 in England where I was racing for the country, a
19 European race a fortnight after that so I had no
20 interest in drinking Guinness and eating oysters. 17:46

21 776 Q. But that's not all that would have been in question.
22 One of the things is, first of all you look at the way
23 that businesses do things and promote themselves and
24 you speak about how they came up with their ideas and
25 you speak to people who are at the conference and you 17:46
26 create communications about how things are happening
27 and what things are going on, it's not just --

28 A. I'm going according to the programme and the programme
29 was mentioned so I'm going according to the programme.

1 with the Sports Partnership I thought it would be a
2 better benefit to do that, that's why I did it and
3 I put the claim in because of that.

4 777 Q. And because of that two claims were made and two
5 subsistence claims, because of that there is a question 17:47
6 about the €16.32 about the claim that you are making a
7 reference to, that's true do you think, that it makes a
8 difference of any sort because it's 16.32?

9 A. I'm not saying one way or another.

10 778 Q. You mentioned the figure and I'm surprised, do you 17:47
11 think that it makes a difference, a substantial
12 difference that if you look what difference does it
13 make?

14 A. I put in that claim because I had attended an event
15 that in my opinion was doing more good for the county 17:47
16 and for sports in the county than if I was attending
17 the conference and the conference events that
18 afternoon, so that's the understanding I had. As
19 I said to this day I think that was the right thing to
20 do, that I did. As I said great work's been done by 17:48
21 the Donegal Sports Partnership, I'm grateful, I'm glad
22 that I was connected with them and that is the opinion
23 that I have.

24 779 Q. But what it means, is it not, that you knew when you
25 were declaring that you weren't to make another claim 17:48
26 for subsistence for the same days that were connected
27 to the conference, the maritime tourism conference, you
28 knew that, didn't you?

29 A. The question that was on the form, on the application

1 form from Donegal County Council: "*Official residence,*
2 *time and date of return to official residence.*"

3 I didn't have to fill any box saying that's not my
4 handwriting at the bottom, I didn't sign that --
5 I stayed in the hotel. 17:49

6 780 Q. I understand that. But you knew that Donegal County
7 Council had paid it because they paid, if you look over
8 the page, they paid it on 21st June and you knew that
9 it was gone into your account and you knew that you had
10 declared that you would make no other claim for 17:49
11 payments for the same time?

12 A. What is the question please?

13 781 Q. You knew that you had received a payment for the
14 conference and that the conference had lasted -- had
15 been on one of the days what you were in Letterkenny? 17:50

16 A. In Dungloe. Well, I suppose to had to make a decision
17 which was better to my duties as a county man or a
18 councillor or to be out on a boat, so I thought
19 I should fulfil my public obligations.

20 782 Q. I understand that. But you also made a claim in 17:50
21 October for subsistence for a day that you had already
22 been paid for?

23 A. I see the mistake there now.

24 **MR. Ó BRAONÁIN:** If the Commission have any
25 questions. I have no more questions. 17:51

26
27
28
29

1 SENATOR O DOMHNAILL WAS QUESTIONED BY THE COMMISSION AS
2 FOLLOWS

3
4 783 Q. **MR. MCCARTHY:** Just on each of the claims to
5 Donegal County Council, the distance in miles that were 17:51
6 claimed are in excess of the distance in miles that
7 were paid, do you have a view as to why the mileage
8 claimed would be significantly higher?

9 A. These are the claim forms to Donegal County Council.
10 No, I mean it was a genuine error. Generally with 17:51
11 Donegal County Council, with any claims to the Council,
12 my own prior knowledge would have been, I would have
13 put in an approximate distance which I felt, and the
14 Council would always, you know they would always do the
15 AA route finder for the members and put in the correct 17:51
16 distance. That was the modus operandi that was in
17 place during -- you know, I was only a new member on
18 the Council from June 2004 but that was my experience.
19 You know, it was new to me the workings of the Council,
20 but that was certainly my experience. 17:52

21 **CHAIRMAN:** Thank you very much.

22 **THE WITNESS:** Thank you very much.

23 **CHAIRMAN:** Where are we now, does the
24 system come down in seven minute's time?

25 **MR. Ó BRAONÁIN:** I am hoping that it would be 17:52
26 possible to have a little bit more time from the
27 translators which I understand is capable of being
28 done. I see nodding heads for which I am grateful, so
29 that we can proceed. I don't know if that means that

1 you would prefer to break now before continuing or just
2 to go ahead? Really I'm in the Commission's hands in
3 that regard.

4 **MR. O'KEEFFE:** How much more evidence is there?

5 **MR. Ó BRAONÁIN:** That's a question I think for 17:53
6 Mr. Ó Tuathail and Mr. MacCárthaigh.

7 **MR. Ó TUATHAIL:** we've given all our evidence, we
8 are finished. we're dealing with submissions now.

9 **CHAIRMAN:** we've got to the end of the
10 evidence. It would be, I suggest, and we'll hear your 17:53
11 submissions in relation to it, it would be satisfactory
12 for us if you could determine the balance of the
13 hearing by way of the legal submissions in writing, if
14 it was submitted to us in the first instance, they
15 would be submitted by yourselves, decide on that and 17:53
16 then there is a reply and there is a rejoinder should
17 anybody want to deal with it, whoever goes first. We
18 are in your hands in relation to the timing of it.

19 **MR. Ó BRAONÁIN:** I think if we can agree a
20 timetable that would be of assistance. 17:54

21 **CHAIRMAN:** If we adjourn now for
22 five minutes would that give you enough?

23 **MR. Ó BRAONÁIN:** I would be very grateful in
24 fact, just an opportunity to discuss it between counsel
25 and see if we can agree. Thank you. 17:54

26 **CHAIRMAN:** All right. Thank you.

27

28 **SHORT ADJOURNMENT**

29

1 THE HEARING RESUMED AFTER THE SHORT ADJOURNMENT AS
2 FOLLOWS

3
4 **MR. Ó BRAONÁIN:** Thank you very much, Chairman,
5 Members of the Commission, for the opportunity to deal 18:09
6 with the issue of written submissions. We have agreed
7 that we would exchange submissions on the 20th June,
8 which is in six weeks' time, if that meets with the
9 Commission's approval, without the necessity then for
10 having any rejoinders, unless some issue arises that 18:09
11 needs to be dealt with in writing. We have also agreed
12 in principle, insofar as it assists, to try and confine
13 ourselves to about ten pages of submissions so that
14 there isn't an excess of material flooding the
15 Commission, given that there is enough material 18:10
16 already.

17 **MR. MCCARTHY:** Exactly, quite enough.

18 **MR. Ó BRAONÁIN:** So, subject to the Commission's
19 imprimatur, that's what we have agreed.

20 **CHAIRMAN:** Well that's very satisfactory 18:10
21 and very satisfactory that you are also in favour to
22 agree on this matter and hopefully there will be no
23 need for us to reconvene, but there will always be
24 liberty to apply in relation to the matter so that
25 nobody would be taken at a disadvantage. 18:10

26 **MR. Ó BRAONÁIN:** Thank you, Chairman.

27 **CHAIRMAN:** I wish to thank both sides.
28 I trust the roads will be all right to enable you get
29 back safely to Donegal.

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MR. Ó BRAONÁIN: Thank you.

THE HEARING WAS CONCLUDED

| | | | | | |
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| <p style="text-align: center;">▪</p> <hr/> <p>'12 [1] - 103:17 '99 [2] - 167:17, 169:12 'massage' [1] - 203:26 'physio' [1] - 203:26 'proper' [1] - 74:9 'proper' [1] - 74:13 'running' [1] - 102:18</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>03:30 [1] - 44:22</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 [37] - 7:26, 8:6, 12:12, 14:1, 14:5, 27:12, 37:25, 40:7, 42:5, 42:6, 62:24, 68:1, 70:19, 76:3, 81:5, 84:15, 139:7, 139:8, 139:22, 139:26, 140:5, 141:24, 144:25, 145:4, 145:9, 145:17, 145:25, 145:28, 147:11, 148:15, 150:6, 168:27, 187:18, 191:22 1(a) [1] - 15:5 1.(ii) [1] - 73:19 1.1 [3] - 85:26, 87:19, 145:23 1/6/2006 [1] - 131:14 10 [19] - 23:28, 26:16, 42:11, 43:8, 62:6, 84:23, 87:19, 88:5, 88:18, 89:28, 90:6, 106:11, 130:1, 131:3, 132:15, 139:2, 148:29, 151:2, 152:12 10.4 [1] - 109:4 100 [1] - 195:6 107 [1] - 3:20 109 [3] - 129:28,</p> | <p>130:1, 139:2 10:00 [2] - 101:21, 140:3 10:30 [2] - 63:7, 72:24 10th [45] - 10:17, 10:23, 12:29, 13:4, 29:2, 43:26, 44:21, 62:24, 62:26, 70:18, 72:1, 84:13, 87:21, 88:11, 91:7, 91:11, 91:29, 145:4, 147:18, 147:19, 149:27, 150:5, 169:3, 169:26, 170:4, 172:18, 175:7, 185:15, 185:16, 185:21, 186:7, 186:9, 186:16, 187:6, 187:18, 187:20, 189:16, 189:17, 191:8, 191:16, 192:1, 192:20, 192:26, 192:28, 201:10 11 [11] - 42:11, 57:17, 65:20, 66:1, 84:5, 88:1, 88:16, 98:29, 104:12, 130:1, 152:16 110 [3] - 129:28, 152:14, 152:16 114 [8] - 14:5, 83:15, 83:18, 140:19, 144:4, 149:24, 149:28, 197:26 116 [3] - 151:1, 201:8 117 [6] - 96:29, 130:5, 130:6, 133:10, 134:5, 137:29 118 [1] - 97:12 119 [2] - 96:28, 100:29 11:00 [2] - 68:8, 68:16 11th [19] - 10:17, 12:29, 28:13, 40:9, 43:26, 45:10, 51:17, 62:25, 72:26, 138:29, 147:18, 169:4, 174:1, 185:15, 186:7,</p> | <p>191:12, 191:28, 192:27, 194:4 12 [5] - 10:26, 13:9, 18:5, 84:5, 89:10 12(2)(i) [1] - 18:23 120 [2] - 114:9, 123:19 122 [1] - 101:14 123 [5] - 48:1, 48:3, 99:23, 99:26, 99:29 126 [1] - 105:9 128 [3] - 108:27, 109:7, 152:9 12:30 [12] - 84:8, 140:9, 140:12, 140:16, 140:17, 142:15, 143:26, 144:9, 144:14, 145:17, 146:1, 146:2 12:30/one [2] - 140:26, 143:19 12:40 [3] - 75:5, 98:20, 134:15 13 [8] - 10:25, 13:7, 20:18, 46:1, 89:19, 97:16, 101:28, 102:1 13/4/2006 [1] - 131:21 13/6 [1] - 131:23 136 [4] - 41:15, 41:17, 89:13, 89:16 13th [10] - 47:22, 49:4, 53:24, 53:28, 178:28, 178:29, 202:4, 204:15, 204:16 14 [2] - 14:1, 89:27 142 [5] - 14:3, 14:5, 17:21, 17:27, 54:5 142(1) [1] - 14:9 142(8) [1] - 18:3 1425(f) [1] - 110:28 145,000 [1] - 198:14 14th [1] - 49:2 15 [20] - 14:1, 48:24, 59:10, 59:11, 59:12, 69:22, 90:6, 98:22, 102:23, 104:9, 140:18,</p> | <p>140:19, 144:4, 149:28, 150:28, 150:29, 201:9, 201:17, 201:26 15/11 [1] - 148:19 15/12 [1] - 130:28 150 [1] - 104:15 153 [1] - 67:14 158 [1] - 3:21 159 [1] - 3:22 15th [9] - 27:22, 62:13, 84:15, 147:2, 148:17, 150:7, 174:28, 175:25, 194:19 16 [7] - 54:18, 91:10, 114:2, 114:5, 114:20, 126:28, 150:27 16.32 [16] - 41:21, 47:14, 51:5, 52:16, 97:21, 126:26, 127:17, 127:23, 135:3, 137:20, 138:15, 152:21, 153:2, 153:6, 153:14, 208:8 160 [3] - 3:24, 22:26, 22:27 161 [1] - 23:8 162 [1] - 3:26 163 [4] - 46:22, 47:28, 99:22, 99:27 164 [1] - 3:28 165 [1] - 3:31 166 [1] - 4:2 168 [3] - 10:8, 14:23, 14:25 169 [3] - 15:5, 15:11, 15:19 169(3) [1] - 12:4 17 [2] - 37:19, 91:15 171 [2] - 176:13, 176:14 176 [4] - 53:12, 53:13, 54:4, 204:6 179 [6] - 40:4, 40:6, 41:13, 88:12, 89:11, 89:15 18 [7] - 10:25, 13:7, 20:27, 55:26, 91:20, 129:22, 137:29</p> | <p>182 [1] - 4:3 19 [6] - 52:26, 97:1, 97:2, 98:15, 130:19, 130:20 1963 [1] - 24:2 1979 [1] - 22:9 198.71 [1] - 94:8 1990 [1] - 24:3 1991 [2] - 10:29, 17:25 1993 [5] - 13:10, 18:1, 19:14, 21:27, 39:17 1995 [3] - 12:24, 23:24, 24:19 1999 [2] - 166:29, 183:12 1999/2000 [1] - 167:5 19a [1] - 99:20 1:00 [1] - 101:22 1:30 [1] - 83:24 1st [15] - 11:25, 22:2, 55:12, 66:21, 66:25, 66:29, 68:7, 76:4, 76:7, 77:1, 101:5, 104:11, 104:25, 131:12, 179:24</p> | <p>2003/4 [1] - 168:10 2004 [2] - 166:27, 210:18 2005 [2] - 80:19, 168:16 2006 [9] - 9:16, 9:26, 9:27, 10:16, 10:18, 10:23, 11:7, 11:10, 11:25, 11:29, 12:28, 12:29, 13:4, 13:20, 19:13, 21:25, 22:2, 22:3, 22:18, 39:6, 40:8, 40:9, 40:12, 43:26, 44:8, 44:19, 44:21, 45:11, 46:8, 47:7, 47:10, 47:22, 49:2, 49:5, 49:22, 49:25, 50:1, 50:5, 51:17, 53:18, 53:21, 53:24, 53:27, 53:29, 56:6, 56:7, 56:16, 56:20, 57:19, 62:16, 62:25, 65:2, 66:3, 70:18, 74:20, 75:6, 77:1, 84:12, 84:13, 84:23, 84:26, 89:20, 89:28, 90:15, 91:20, 97:18, 101:20, 101:28, 102:1, 102:2, 103:21, 113:17, 132:25, 149:28, 150:5, 168:22, 169:3, 170:4, 176:3, 178:29, 179:24, 181:14, 186:13, 189:6, 191:12, 192:27, 200:4, 202:4, 202:23 2007 [2] - 22:2, 62:16 2008 [3] - 54:29, 55:1, 111:9 2010 [4] - 111:7, 111:24, 111:28, 181:14 2011 [17] - 38:7, 62:13, 84:15, 85:16, 98:22, 102:24, 104:9, 147:2, 148:17, 150:7, 174:28,</p> |
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PART B - Evidence heard in Irish

8:58 An tUasal Ó Braonáin: Tá dhá bhealach le héisteacht leis an aistriúchán. Cnaipe 1; déanann sé aistriú as Béarla go Gaeilge agus an dara ceann sílim go ndéanann sé aistriúchán as Gaeilge go Béarla. Agus má bhrúnn sibh uimhir 2, agus mise ag labhairt as Gaeilge, ba cheart go gcloisfeadh sibh ansin aistriúchán go Béarla.

Sílim má bhrúitear uimhir 1 go ndéanfaidh sé sin aistriúchán go Béarla. Níl a fhios agam an bhfuil sé sin ag obair daoibh ansin. Uimhir a haon. Déanfaidh mé cinnte, iarracht eile.. Tá muid ag an staid seo díreach le cinntiú go bhfuil an córas ateangaireachta ag obair. Agus ba mhaith liom a chinntiú má bhrúnn daoine uimhir a haon go bhfuil sé sin ag obair. Go raibh míle maith agaibh.

Díreach le cinntiú gur féidir leis an gcathaoirleach an t-aistriúchán a chloisteáil, go bhfuil sé sách ard tríd an gcóras.

57:00 An tUasal Ó Tuathail: A Chathaoirligh, sula má thugann an tUasal Walsh fianaise...

58:24 An tUasal Ó Tuathail: A Chathaoirligh, ba mhaith liom cúpla focal a rá faoin oscailt atá déanta ag an Uasal Ó Braonáin. Cúpla abairt mar aontaím leis an leagan amach atá aige faoin reachtaíocht, níl aon fhadhb agam leis sin. Ach ó thaobh an chur síos a dhein sé ar na himeachtaí san Ard-Chúirt agus sa Chúirt Achomhairc, ba mhaith liom a rá gurb é an phríomhcheist a hardaíodh ins sna himeachtaí sin ná an cúlra mailíseach a bhí ó thús leis an ngearán atá os comhair an Choimisiúin anois. Tá sé ins sna cáipéisí san iarratas seo os comhair an Choimisiúin go ndearnathas eolas anaithnid a chur timpeall ar Chomhairleoirí Contae i nDún na nGall. Ag duine anaithnid nó ag duine a bhí anaithnid ag an am sin. Agus gur bhain an Ard-Chúirt, an Breitheamh Ó hÓgáin agus an Chúirt Achomhairc agus an Breitheamh Charleton i gceannas air a thug an breithiúnas an 20 Iúil 2015 bhain sé geall a bheith go huile agus go hiomlán leis an gceist dlí a hardaíodh maidir le fianaise ó dhuine gan ainm a bheith inghlactha ag an gCoimisiún. B’shin an pointe is mó a bhí ag déanamh tinnis don Uasal Ó Domhnaill a bhí roimhe sin tar éis aontú dul go dtí an Coimisiún seo agus an cheist a phlé. Tarlaíonn sé, ní ar an Uasal Ó Domhnaill agus ní ar na cúirteanna b’fhéidir, an mhoill a tharla ach b’éigean an mhoill sin a bheith ann ar mhaithe leis an gceist sin a réiteach. Agus cé go raibh ceisteanna thar a bheith....

An tUasal Ó Tuathail: Gabhaim pardún, táim ag labhairt rósciopta...

Thug an Breitheamh Ó hÓgáin breithiúnas san Ard-Chúirt ar an gceist dlí a hardaíodh maidir le heolas gan ainm, eolas mailíseach gan ainm, a bheith in úsáid in éadan an tSeandóra Ó Domhnaill. In éadan Brian Ó Domhnaill, an t-iarratasóir. Ansin bhí...

1:01:33 An tUasal Ó Tuathail Sea, thug an Breitheamh Hogan san Ard-Chúirt ag an am. Agus ina dhiaidh sin bhí achomharc go dtí an Chúirt Achomhairc agus bhí sé tarchurtha ag an gCúirt Uachtarach mar a mhínigh an tUasal Ó Braonáin ach ní bhaineann sé sin le hábhar. D’éist an Chúirt Achomhairc faoin mBreitheamh Charleton leis an gceist dlí a bhí ardaithe is é sin an bhféadfadh, an bhféadfadh duine gan ainm eolas a chur ar fáil a d’úsáidí in éadan Comhairleoir Contae agus sin an phríomhchúis go raibh cúrsaí sa chúirt ar feadh thart ar trí bliana. Agus níl aon leithscéal le déanamh againne as na ceisteanna sin a ardú mar gur dhein an Chúirt Achomhairc, an Breitheamh Charleton;

is féidir liom an breithiúnas a thug sé a thaispeáint don Choimisiún, do dhein seisean soiléiriú ar an dlí a bhaineann le heolas gan ainm. Ghlac an Ard-Chúirt agus an Chúirt Achomhairc leis go raibh an gearán a dhein an Chomhairle Contae, is é sin Bainisteoir an Chontae agus Méara an Chontae ag an am, don Choimisiún seo go raibh sé sin ceart go leor i ngeall ar gurb é an Bainisteoir agus an Méara a bhí i mbun an ghearáin sin. Ach an cúlra a bhain leis a thug isteach sa chúirt muid. Is é sin, an t-ionsaí bréagach mailíseach ar an Uasal Ó Domhnaill. Theastaigh uaim é sin a mhíniú sula má théann rudaí ar aghaidh anseo. Agus gheobhaidh mé cóipeanna de seo don Choimisiún den bhreithiúnas sa Chúirt Achomhairc le go mbeidh nach mbeidh aon mhíthuiscint faoi na cúrsaí a thug ansin muid.

1:53:43 An tUasal Ó Tuathail: Tá brón orm a Chathaoirligh, tá muid déanach ag teacht ar ais.

Chairman: Ná bac.

4:28:56 An tUasal Ó Tuathail: Agus freisin go bhfuil taifead ar siúl d'fhianaise i nGaeilge. Tá an nuascríbhneoireacht ag plé le Béarla agus aistriúchán go Béarla so tá ceist ann an bhfuil taifead ar bun ar an méid a déarfair i nGaeilge, ag an Seanadóir go háirithe ina chuid fianaise.

4:30:00 An tUasal Ó Tuathail: Bhuel tá mise sásta a Chathaoirligh más rud é go mbeidh an ipsis verbis i nGaeilge ar fáil don Choimisiún má iarrann an Coimisiún é mar fhianaise. Níor mhaith liom a bheith ag brath ar aistriúchán ... tá taithí agam de chúrsaí aistriúcháin sna cúirteanna. Níor mhaith liom a bheith ag déanamh amhlaidh anseo. Tá mise sásta má tá audio ar siúl ar féidir athscríobh a dhéanamh air, athscríobh na fianaise.

4:30:50 An tUasal Ó Tuathail: Tá mé ag iarraidh go mbeidh transcript ar fáil don Choimisiún i nGaeilge mar sí an Ghaeilge an príomhtheanga oifigiúil.

4:32:25 An tUasal Ó Tuathail: No, níl mé á iarraidh sin. Tá mise ag iarraidh agus thuig mé níos luaithe go raibh taifead á dhéanamh ar an méid a deirtear i nGaeilge. Níl an fear uasal seo ag plé le Gaeilge, tá sé ag plé le Béarla nó aistriúchán ón nGaeilge. Is cuma liom faoi sin ach mura bhfuil an bunscríbhinn ar fáil i nGaeilge sa mhéid is go dteastódh sé ón gCoimisiún... níl mise ag rá go dteastódh ach sa mhéid is go mbeadh sé ag teastáil tá cothrom na féinne i gceist. Tháinig an tUasal Ó Domhnaill anseo agus tháinig muide anseo sa phríomhtheanga oifigiúil. Bhíomar sásta comhghéilleadh a dhéanamh maidir le finné a thabharfadh a chuid fianaise i mBéarla go ndéanfaí croscheistiú i mBéarla air. Ní raibh gá dúinn fiú an géilleadh sin a dhéanamh ach rinneamar é ar mhaithe le héascaíocht a dhéanamh do gach duine agus baill an Choimisiúin san áireamh so ba mhaith liom go ndéanfaí soiléiriú anois an bhfuil nó an mbeidh taifead de na ipsis verbis ar fáil ó tharla an Seanadóir le fianaise a thabhairt don Choimisiún seo. Tá an rogha sin déanta i bhfad ó shin.

4:36:50 An tUasal Mac Cárthaigh Tá mé críochnaithe. Go raibh maith agat.

4:45:00 An tUasal Ó Braonáin: Gearóid Breathnach le do thoil.

4:46:15 An tUasal Ó Braonáin: Díreach le cinntiú, an bhfearr leat go ndéanfainn ceistiú ort as Gaeilge nó as Béarla?

Gearóid Breathnach: Gaeilge, le do thoil.

An tUasal Ó Braonáin: Tá go maith. Níl ceisteanna agamsa duit mar a tharlaíonn sé a Uasail Bhreathnaigh ach tá mé buíoch go bhfuil tú anseo agus má tá ceisteanna ar bith ag mo chairde duit nó ag an gCoimisiún dá bhféadfá iad a fhreagairt le do thoil.

An tUasal Ó Tuathail: A Uasail Breathnach bhí tú anseo ar feadh an lae, glacaim leis?

Gearóid Breathnach: Bhí.

An tUasal Ó Tuathail: Agus chuala tú go leor den fhianaise?

Gearóid Breathnach: Chuala.

An tUasal Ó Tuathail: Sa teanga oifigiúil eile?

Gearóid Breathnach: Chuala mé é go léir.

An tUasal Ó Tuathail: Tá ceist amháin agam ort. An bhfuil aon ghearán ag Údarás na Gaeltachta faoi na cúrsaí seo a pléadh ar feadh an lae?

Gearóid Breathnach: Níl.

An tUasal Ó Tuathail: Go raibh maith agat.

An tUasal Ó Tuathail: Agus díreach le go mbeidh an Coimisiún ar an eolas gabh mo leithscéal, cén ról atá agatsa in Údarás na Gaeltachta?

Gearóid Breathnach: Is Stiúrthóir Seirbhísí Corparáideacha mé san Údarás.

An tUasal Ó Tuathail: Go raibh maith agat.

4:48:00 An tUasal Ó Tuathail: An t-ainm le do thoil?

Brian Ó Domhnaill: Brón orm, gabh mo leithscéal. M'ainm – Brian Ó Domhnaill is ainm dom.

An tUasal Ó Tuathail: Go raibh maith agat. Anois a Bhriain. Tá cúrsaí ag dul i bhfad anseo inniu ach ba mhaith liom dul thar na turais ar fad atá i gceist anseo. An chéad cheist ná an nglacann tú leis go mbaineann an choimhlint ar fad a d'éirigh ó mhaidin san éisteacht seo le dhá rud éagsúil, is é sin- Páirtnéireacht Spóirt Dhún na nGall ar thaobh amháin; cruinnithe den Pháirtnéireacht agus cruinnithe go raibh údarás agatsa dul chucu ón gComhairle Contae?

Brian Ó Domhnaill: Glacaim leis sin.

An tUasal Ó Tuathail: Sea.

An tUasal Ó Tuathail: Agus an bhfuil deacracht ar leith ann maidir le costais a éileamh nuair atá tú ag freastal ar dhá údarás éagsúil.

Brian Ó Domhnaill: Bhuel bhí dhá rud éagsúil i gceist agam anseo. Bhí mé mar chathaoirleach ar Pháirtnéireacht Spóirt Dhún na nGall agus bhí agam le freastal ar chruinnithe den Pháirtnéireacht agus chomh maith leis sin bhí mé ag comhlíonadh mo chuid dualgaisí thar ceann Chomhairle Contae Dhún na nGall ag na comhdhálacha éagsúla. Agus bhí mé á dhéanamh sin ar mhaithe le mórmhaitheas an phobail a bhí mé ag déanamh freastail agus na heagrais a bhí mé ag fáil an éilimh uathu.

An tUasal Ó Tuathail: Sea. Agus ar ndóigh ag an am seo ba chomhairleoir contae thú i gcáilíocht amháin agus ba bhall de Údarás na Gaeltachta thú i gcáilíocht eile.

Brian Ó Domhnaill: Sin é. Bhí mé ag tabhairt ar an gComhairle Contae ó 2004 agus bhí mé ag tabhairt ar an Údarás ó bhí mé bliain is fiche d'aois i 1999.

An tUasal Ó Tuathail: Sea. Cén bhaint a bhí agat le Páirtnéireacht Spóirt Dhún na nGall?

Ar ndóigh tá mé ar cheann de na bunaitheoirí ar Pháirtnéireacht Spóirt Dhún na nGall. Chuir mé go leor obair dheonach isteach ag bunú Páirtnéireacht Spóirt Dhún na nGall. Ó 1999/2000 ar aghaidh go dtí bunú an Pháirtnéireacht in 2001 agus tá dlúthcheangal agam le cúrsaí spóirt de bhrí gur lúthchleasaí idirnáisiúnta a bhí ionam. Agus dá bhrí sin bhí i gcónaí, bhí i gcónaí mé ag iarraidh cúrsaí spóirt a bhrú chun cinn ag gabh leibhéal a bhí mé bainteach leis agus sin an chéad uair a bhfuair mé i bhfostú i gcúrsaí polaitíochta.

An tUasal Ó Tuathail: Tá bearnaí ... Sea, bhuel beidh ort labhairt níos moille.

Brian Ó Domhnaill: Tá mé ag labhairt róghasta, tá brón orm faoi sin.

An tUasal Ó Tuathail: Tá bearnaí ins san aistriúchán. Tá brón orm faoi sin. Beidh orainn dul go mall faraor.

Brian Ó Domhnaill: Is dóigh an chéad uair a fuair mé i bhfostú i gcúrsaí polaitíochta ná.. bhí baint spóirt agam, bhí mé ag traenáil do na Cluichí Oilimpeacha i Sydney sa bhliain 2000 agus ag an am sin fuair mé gortú agus rith mé fá choinne toghchán an Údaráis i 1999 agus tar éis dom an ollscoil a fhágáil ...

An tUasal Ó Tuathail: Labhair go mall le do thoil

Brian Ó Domhnaill: Agus sin é an fáth .. an chéad chineál de sprioc a bhí agam mar pholaiteoir ná cúrsaí spóirt agus áiseanna spóirt go háirithe a chur chun cinn agus chonaic mé go raibh an pháirtnéireacht spóirt fite fuaite i bhfostú i gcúrsaí spóirt agus go raibh ról, go raibh ról a thiocthadh liomsa a imirt ins san rud sin agus tá lúcháir go deo orm go dtí an lá seo go raibh mé... go raibh baint agam le Páirtnéireacht Spóirt Dhún na nGall. Eagrais atá ag déanamh sáróbair thar ceann cúrsaí spóirt chan amháin i nDún na nGall tá páirtnéireachtaí anois beagnach i ngach contae ar fud na tíre.

An tUasal Ó Tuathail: Sea ach go pearsanta, an fíor dom nuair a deirim go bhfuil baint agat go hidirnáisiúnta le comórtaisí nó go raibh baint agat le comórtais idirnáisiúnta sna rásaí siúil?

Brian Ó Domhnaill: Is dóigh sula bhfuair mé i bhfostú i gcúrsaí polaitíochta bhí scoláireachtaí agam ó Adidas agus Guinness – rinneadh tagairt do Guinness níos luaith inniu ach bhí mé ag fáil urraíochta le bheith ar an ollscoil agus ag traenáil agus sin suas go dtí 2000. Thit mé amach as an spórt nuair a toghadh mé ar feadh roinnt blianta ó 2003 nó 2004 go dtí gur toghadh mé mar Chomhairleoir Contae. De bhrí go raibh dualgaisí trom le hobair ionadaí poiblí. Ach an coach a bhí agam ag an am - fear uasal ó Dún na nGall, chuir sé brú orm dul ar ais ag traenáil agus thosaigh mé ar ais ag dian-traenáil thart fá lár 2005 agus bhí sprioc mór againn ar ndóigh níl am agam dul isteach ansin inniu ach bhí sprioc spóirt agam a bhain leis an bhliain 2012 agus beimid in ann...

An tUasal Ó Tuathail: Agus is minic le linn na gcúrsaí seo atá á bplé againn inniu, is minic, ba mhinic tú amuigh i mbun traenála agus i mbun aclaíochta

Brian Ó Domhnaill: Bhuel is dóigh..ag tús an bhliain sin, 2006, bhí mé ag déanamh thart ar idir 60 agus 90 míle sa tseachtain ag traenáil.

An tUasal Ó Tuathail: Sea, bhuel ba mhaith liom anois díriú ar na ceisteanna a hardaíodh anseo inniu ó thaobh do chuid fianaise de agus pléifidh mé chomh maith leis sin don Choimisiún, pléifidh mé leis na gearáin – uimhir a haon (1), uimhir a ceathair (4) agus uimhir a seacht (7). Sin trí cinn a bhaineann le gcomhdháil bhliantúil na gcomhairlí contae agus cathrach. Now, tosaíonn na ceisteanna seo ar an Déardaoin an 9 Márta. An féidir leat a rá, agus is féidir leat breathnú ar na páipéir ansin, an féidir leat a rá go díreach ar an 9 Márta 2006 agus an deichiú lá (10ú) agus an t-aonú lá déag (11ú) bhí tú ag plé le comhdháil bhliantúil na gcomhairlí contae agus cathrach.

Brian Ó Domhnaill: Bhí.

An tUasal Ó Tuathail: Ar an Déardaoin an 9 Márta agus luafaidh mé na dátaí seo agus na hamanna seo ar mhaithe le soiléireacht agus le cuidiú le gach éinne agus gan a bheith ag moilleadóireacht ach ar an Déardaoin an 9 Márta cén uair a d'fhág tú ... bhí tú sa bhFál Carrach, glacaim leis? An Fál Carrach, sin an baile agatsa? Cá bhfuil an oifig agat?

Brian Ó Domhnaill: Tá an oifig agam i nGort an Choirce agus ó toghadh mé i 1999 bhí oifig beagnach lánaimseartha agam rud a chosnaigh go leor airgid ach bhí rúnaí fostaithe ansin agam. Bhí mé i mo chónaí i gCill Ulta ar ndóigh, sin thart ar míle go leath taobh amuigh de bhealach na Crosbhealaí nó an Fhál Carraigh.

An tUasal Ó Tuathail: Agus amanna eile, an raibh cónaí ort i nGort an Choirce?

Brian Ó Domhnaill: Ní raibh, bhí mé i gcónaí i mo chónaí i gCill Ultaigh – tá sé i bparóiste Ghort an Choirce ach faoi post sheoladh an Fháil Charraigh agus bhí an oifig agam i gcónaí i nGort an Choirce tá go dtí an lá inniu.

An tUasal Ó Tuathail: Bhuel ar thart ar a haon a chlog má tá an ceart agam mura bhfuil certaigh mé ach thart ar a haon a chlog an lá sin d'fhág tú an Fál Carrach le dul go Dún Dealgan.

Brian Ó Domhnaill: Tá sin ceart.

An tUasal Ó Tuathail: Agus bhí tú ag dul ag freastal ar an gcomhdháil bhliantúil sin ar son an Chomhairle Contae? Now, ar an 10ú lá Márta .. ó sea gabhaim pardún, shroich tú Dún Dealgan glacaim leis ar an 9ú lá? Agus an raibh aon rud ar siúl an tráthnóna sin ag an gcomhdháil sin?

Brian Ó Domhnaill: Bhuel, mar chuimhne bhí dinnéar ar siúl an tráthnóna sin agus measaim go raibh óráidí oscailte na comhdhála ar siúl fosta.

An tUasal Ó Tuathail: Sea. Agus bhí tú i láthair ag na cúrsaí sin.

Brian Ó Domhnaill: Bhí.

An tUasal Ó Tuathail: Ansin an mhaidin dar gcionn, an 10ú Márta 2006, thosaigh cúrsaí .. cén uair ar thosaigh seisiúin na maidine?

Brian Ó Domhnaill: Thart ar 10 a chlog.

An tUasal Ó Tuathail: 10 a chlog ar maidin. Agus thart ansin, céard a tharla ina dhiaidh sin? Thart ar abair, leathuair tar éis a dó dhéag nó thart ar a haon a chlog?

Brian Ó Domhnaill: Bhuel thart ar leathuair tar éis a dó dhéag, d'fhág mé an chomhdháil chun spríoc a bhaint amach is é sin freastal a dhéanamh ar chruinniú de Pháirtnéireacht Spóirt Dhún na nGall ach roimhe sin bhí agam le dhul go dtí m'oifig agus mo bhaile le obair a dhéanamh ansin ina raibh rúnaí fostaithe agam mar a deir mé agus bhí doiciméidí áirithe le cruinniú agam agus iad a thabhairt liom agus ansin d'fhill mé arís an tráthnóna sin ar ais go dtí an oifig leis na doiciméidí, cuid acu a bhí sínithe agus bhí foirmeacha iarratais cosúil le deontais tithíochta agus mar sin de le cur amach agus chuir an rúnaí iad sin amach an lá dar gcionn.

An tUasal Ó Tuathail: Agus ar ndóigh tá tú ag tiomáint i ngluaisteán?

Brian Ó Domhnaill: Tá.

An tUasal Ó Tuathail: Yeah. Anois, cad a chaill tú an lá sin? An féidir leat a rá ó thaobh na comhdhála a bhí ag dul ar aghaidh? Sin ar leathanach, bhuel tuigim go raibh Uachtarán...

Brian Ó Domhnaill: Bhí Uachtarán Chumann Lúthchleas Gael ansin, fear a bhfuil an-mheas agam air agus bhí príomhfheidhmeannach an NRA, Fred Barry... Anois níl aon mótarbhealach agus is beag airgid cuid den am atá ag dul go Dún na nGall ó thaobh na bpríomhbhóithre but bhí... mheas mé féin..bhí cinneadh le déanamh agamsa agus mar chathaoirleach ar Pháirtnéireacht Spóirt Dhún na nGall, eagraíocht nach amháin atá ag déanamh freastail ar phobal Dhún na nGall ach go háirithe ar an nglún óg, mheas mé go raibh sé, an buntáiste ba mhó a thioctadh liomsa a thabhairt do na cáiníocóirí ná freastal a dhéanamh ar an gcruinniú sin mar chathaoirleach. Agus go mbeadh mé ag déanamh freastal níos fearr mar ionadaí poiblí leis sin a bhaint amach agus sin an rud a rinne mé.

An tUasal Ó Tuathail: Agus bhain an tUasal Barry leis an Údarás...

Brian Ó Domhnaill: Údarás na mBóithre Náisiúnta, sin é go díreach. Agus mar a deir tú, níl aon mótarbhealach ná níl aon seans go mbeidh mótarbhealach i nDún na nGall i gceann tamaill. An tuigbheáil atá agam ón lá sin bhí sé ag caint faoi straitéisí náisiúnta a bhaineann le bóithre, go háirithe tugann siad téarma i mBéarla "inter-urban connections", níl aon inter-urban ó Dhún na nGall go Baile Átha Cliath agus fiú go dtí an lá seo, níl aon inter-urban againn.

An tUasal Ó Tuathail: Sea. Agus an tríú rud a chaill tú ansin ná an dinnéar agus an ceol a lean.

Brian Ó Domhnaill: Sin go díreach.

Sin gnáthrudáí ag comhdháil dá leithéid. Ach thug tú an méid sin suas le freastal ar an Institiúid Teicneolaíochta i Leitir Ceanainn, nach ea?

Brian Ó Domhnaill: Sin é go díreach.

An tUasal Ó Tuathail: Agus téann tú go Leitir Ceanainn, conas a théann tú go Leitir Ceanainn as Dún Dealgan? Cad é an bóthar, cad é an treo a ghlacann tú?

Brian Ó Domhnaill: Bhuel, téann an bóthar tríd Tuaisceart na hÉireann...ó Dhún Dealgan...agus an chéad stop a bhí agam, stop mé sa bhaile agus ansin bhí mé i Leitir Ceanainn an tráthnóna sin. Bhí an cruinniú críochnaithe thart ar a hocht a chlog an tráthnóna sin agus bhí mé ag caint le cuid de mo chomhghleacaithe a bhí ar an DSP mar a thugtar anseo air ar Páirtnéireacht Spóirt Dhún na nGall agus tar éis sin d'fhill mé ar an mbaile thart faoin 9 a chlog nó mar sin.

An tUasal Ó Tuathail: Ceist agam ansin. Dún Dealgan... bhuel, Leitir Ceanainn.. as Dún Dealgan bhí an Fál Carrach, cén fhad a thógann turas mar sin ort?

Brian Ó Domhnaill: Bhuel, braitheann sé cén uair den lá agus má tá deifir ort is féidir é a dhéanamh taobh istigh de 30 bomaite agus go minic...

An tUasal Ó Tuathail: No, no, níl fan nóiméad...tá mé ag caint air, tá tú ag dul go Leitir Ceanainn via an Fál Carrach as Dún Dealgan. Cén fhad a thógfadh turas mar sin? Abair, Dún Dealgan go dtí an Fál Carrach?

Brian Ó Domhnaill: Thart fá dhá uair go leath, dhá uair is trí ceathrú.

An tUasal Ó Tuathail: Agus ar ais ansin, ar aghaidh go dtí Leitir Ceanainn, cén fhad a thógfadh sin ort?

Brian Ó Domhnaill: Idir tríocha agus daichead is a cúig bomaite. Thart air sin.

An tUasal Ó Tuathail: So turas thart ar trí go leath uair?

Brian Ó Domhnaill: Thart air sin.

An tUasal Ó Tuathail: Agus ar ndóigh, tharla na rudaí seo deich mbliana ó shin anois, nach fíor?

Deich mbliana ó shin so tá sé deacair...

An tUasal Ó Tuathail: Ach tá cuid den cháipéisíocht, tugann sé eolas áirithid níos cruinne dúinn. Agus ag an Institiúid Teicneolaíochta i Leitir Ceanainn bhí an cruinniú ar siúl den Pháirtnéireacht Spóirt agus cén uair ar thosaigh an cruinniú sin? Ar an 10ú lá?

Brian Ó Domhnaill: Thosaigh sé beagnach a cúig a chlog tráthnóna. B'fhéidir go raibh sé ceathrú i ndiaidh a cúig ach thart fán cúig a chlog.

An tUasal Ó Tuathail: Agus an raibh tusa i do chathaoirleach ar an gcruinniú sin?

Brian Ó Domhnaill: Bhí.

An tUasal Ó Tuathail: Agus cén uair ar chríochnaigh an cruinniú sin?

Idir leathuair i ndiaidh a seacht agus a hocht a chlog. Níos cóngaraí don ocht.

An tUasal Ó Tuathail: Sea. Agus cad a tharla ina dhiaidh sin? D'imigh tú chun an bhaile ab ea?

Brian Ó Domhnaill: Bhuel bhí mé ag caint le cuid... an gnáthnós ag cruinnithe den chineál sin bheinn ag caint le daoine tar éis na gcruinnithe ach is dóigh bhí sin ar siúl agam an tráthnóna sin agus cuid den am fiú nuair atá tú i do chathaoirleach ar choiste mar sin bíonn fadhb ag duine éigin agus caithfidh tú plé a dhéanamh leis agus cáipéisí b'fhéidir cuid den am le síniú agat mar chathaoirleach thar ceann an eagrais. Déarfainn gur fhág mé ceathrú tar éis a hocht, rud éigin mar sin. Ag tabhairt aghaidh ar baile s'agam ar an bhFál Carrach.

An tUasal Ó Tuathail: Bhí tú sa bhaile thart ar a 9 a chlog nó mar sin?

Brian Ó Domhnaill: Thart ar a 9 a chlog.

An tUasal Ó Tuathail: Anois an lá dar gcionn, an lá deireanach den trí lá seo, yeah bhuel ... tuige an ndeachaigh tú abhaile ag an bhFál Carrach ag an bpointe sin seachas dul díreach ar aghaidh go dtí Dún Dealgan?

Brian Ó Domhnaill: Bhuel mar a dúirt mé níos luaithe, bhí cáipéisí éagsúla agus litreacha liom. Déanfaidh an rúnaí amach na litreacha, duine ar bith a bhíonn ag plé le cúrsaí polaitíochta, tá sé an-tábhachtach a bheith ag déileáil leis na reps mar a deireann siad agus bhí córas i gcónaí agamsa, bhí Dictaphone i gcónaí agam agus bhí córas agam dá dtiocfadh scairt ar bith isteach chuig an oifig ná duine ar bith teagmháil liomsa bím ag iarraidh freagra a fháil amach chomh luath agus is féidir. Anois, tá mé an-iomaíoch go deo go dtí an lá seo i gcúrsaí polaitíochta ach tá mé an-iomaíoch i gcúrsaí lúthchleasaíochta fosta. Agus iompraím sin fríd agus sin an fáth. Chomh maith leis sin ar an tráthnóna sin agus go leor tráthnónta eile, bhí mé ag fáil cóir leighis, is é sin treatments nó physio treatments ó fear atá lonnaithe ar na Crosbhealaí agus thug seisean seisiún dom an oíche sin agus maireann na seisiúin sin thart ar daichead is a cúig bomaite. Ag tabhairt faoi deara, bhí na comórtais náisiúnta ag teacht aníos, beagnach mí tar éis an lá seo so bhí an traenáil ag éirí níos láidre leis fosta so bhí sin ar bun agam fosta.

An tUasal Ó Tuathail: So ansin ar an 11ú Márta thiomáin tú ar ais go Dún Dealgan, cén uair ar thosaigh tú amach le dul go Dún Dealgan an lá sin? An raibh tú ann ag thart ar leathuair tar éis a haon nó mar sin?

Brian Ó Domhnaill: Bhí, d'fhág mé ag thart ar leathuair tar éis a deich agus bhí mé ansin thart ar a haon a chlog, leathuair tar éis a haon b'fhéidir nó roimhe sin. Níl mé cinnte, I mean, b'fhéidir idir a haon a chlog, thart fán am sin.

An tUasal Ó Tuathail: Agus dúradh go minic ar maidin é ach cé gur éiligh tú turas amháin go Dún Dealgan, bhí dhá cheann déanta agat.

Brian Ó Domhnaill: Bhí.

An tUasal Ó Tuathail: Agus ní bheadh tú i dteideal an dara ceann, costaisí an dara ceann a lorg ar chaoi ar bith.

Brian Ó Domhnaill: Fiú níor lorg mé é.

An tUasal Ó Tuathail: Sea. Ach thuig tú na rialacha?

Brian Ó Domhnaill: Thuig, go pointe yeah.

An tUasal Ó Tuathail: Agus ansin ó thaobh na héilimh a dhéanamh, just leis sin a ghlanadh suas más féidir, d'fhan tú ráithe i leith an Údaráis nach ea, thart ar ráithe, sular chuir tú na mionghnéithe chucu agus bhí moill sé mhí ansin i leith an Údaráis?

Brian Ó Domhnaill: Bhí.

An tUasal Ó Tuathail: Agus i leith an Chomhairle Contae, naoi lá. Naoi lá. Ach tuigeann tú anois b'fhéidir bhuel má tá rudaí sé mhí óna chéile go mb'fhéidir go rachaidh rudaí in aimhréidh ort ó thaobh cuimhne agus rudaí mar sin nuair atá tú ag líonadh isteach na foirmeacha seo. Tá tú ag plé le dhá údarás ar leith i ndáiríre.

Brian Ó Domhnaill: Tá. Bhí an t-éileamh sin sé mhí tar éis don chruinniú tarlú agus sin an gnáthnós a bhí agam ag an am. Chuirinn isteach na héilimh chuig an Údarás b'fhéidir achan trí mhí, achan sé mhí nó roimh deireadh na bliana. Agus is dóigh sin an rud a tharla ins san am sin fosta.

An tUasal Ó Tuathail: Meabhraím mo chara dom gur seacht mí. Níl an ord i gceart agamsa. Gabhaim pardún faoi sin. Ní gá dul... tá litir den 15ú lá déag Nollaig 2011 ach ní dóigh liom gur gá dul chuige sin. Leathanach 66 den leabhar gorm mór. Bhí tú thar an litir sin faoi dhó ag an bpointe seo. Ach ar mhaith leat.. Seo an chéad deis agatsa labhairt faoin litir seo. Go háirithe bhí míbhrí dar linne á baint as cuid den tráchttaireacht ansin. An bhfeiceann tú an chéad alt ansin? Deireann tú... Seo litir a scríobh tú chuig Liam Ward. (script in EN)

An bhfuil aon rud le rá agat faoin abairt sin go háirithe?

Brian Ó Domhnaill: Níl. Rinne mé freastal ar an gcomhdháil, mar atá leagtha amach ansin, agus rinne mé freastal ar an gcruinniú. Is dóigh b'fhéidir go dtiocfaidh leat míthuiscint a bhaint as an paragraph de bhrí b'fhéidir nach bhfuil sé soiléir go leor go ndeachaigh mé go dtí mo theach cónaithe/oifig roimh an gcruinniú i Leitir Ceanainn. Sin botún ar mo thaobh féin de mura raibh sé sin cruinn agus glacaim leis sin.

An tUasal Ó Tuathail: D'imigh tú ón bhFál Carrach go Leitir Ceanainn, b'shin an soiléiriú a bhí ansin. Agus ansin in alt 3 den litir sin, tá botún i gceist ansin, an bhfuil? Chuir tú síos Carraig Mhachaire Rois ar an 24ú lá, nó ar an 27ú lá ab ea, agus tharla sé ar an 24ú nó vice versa yeah. Is ceist ama atá i gceist, uaireanta an chloig (3:08) trí a chlog in áit a hocht a chlog. Agus tá sin admhaithe agat sa litir 15ú Nollaig 2011?

Brian Ó Domhnaill: Tá.

An tUasal Ó Tuathail: Agus b'shin an chéad deis a fuair tú is dóigh liom plé leis an gComhairle Contae faoin gceist áirithe sin, na ceisteanna a hardaíodh. Gabhfaidh mé anois ag Gearán Uimhir 258 de réir an bhileog gearán atá os comhair an Choimisiúin. Agus sin an Institiúid Riaracháin Phoiblí – seimineár i gCarraig Mhachaire Rois, Co. Mhuineacháin. Tharla an ócáid sin an 26/27ú Aibreán 2006 ... bhuel tharla sé an 27ú Aibreán. Ach an raibh tú ag taisteal an 26ú lá?

Bhí.

An tUasal Ó Tuathail: Cén uair ar thosaigh an seimineár sin ar an 27ú lá?

Brian Ó Domhnaill: Thart ar ceathrú... leathuair tar éis a naoi ar maidin.

An tUasal Ó Tuathail: Sea ar nós an Choimisiúin anseo, tosaíonn siad go luath ar maidin. Agus dá bhrí sin, bhí tú ag taisteal ar an 26ú lá, cén uair a d'fhág tú an Fál Carrach ar an 26ú lá le freastal air?

Brian Ó Domhnaill: Thart ar 5 a chlog tráthnóna.

An tUasal Ó Tuathail: Sea. Agus tá sé sin pléite ar leathanach 171, ní ghabhfaidh mé aige. 171 den leabhar gorm. Ar an 27ú lá, bhí cruinniú i Leitir Ceanainn, an fíor sin?

Brian Ó Domhnaill: Is fíor sin, cinnte.

An tUasal Ó Tuathail: Agus cén uair a d'fhág tú Carraig Mhachaire Rois le dul chuig an gcruinniú sin?

Brian Ó Domhnaill: D'fhág mé Carraig Mhachaire Rois thart ar fiche chun a haon, nó thart air sin.

An tUasal Ó Tuathail: Agus cad a chaill tú dá bharr ó thaobh an imeacht a bhí ar siúl i gCarraig Mhachaire Rois, is é sin an Institiúid Riaracháin Phoiblí, bhí seimineár ar siúl acu.

Brian Ó Domhnaill: Bhí an seimineár traenála beagnach críochnaithe. Bhí an mhórchuid de críochnaithe. Tá an clár ansin áit éigin, bhí plé déanta air níos luaithe. Bhí summing up agus bhí lón i gceist. Mheas mé féin, ní duine mór mé fá choinne lón mór ná dinnéar mór ag comhdhálacha go háirithe nuair atá tú ag traenáil agus ag iarraidh b'fhéidir go bhfuil diet áirithe le baint amach agat agus mar sin de. D'fhág mé an chomhdháil agus fuair mé díreach go dtí mo bhaile go dtí an oifig agus sin mar a bhain mé amach an...

An tUasal Ó Tuathail: Agus ar chaill tú an lón agus na ceisteanna agus freagraí...

Brian Ó Domhnaill: Chaill mé an lón, sin é.

An tUasal Ó Tuathail: Sin an dara huair a chaill tú lón anois ó thosaigh mé leat. Bhain tú an Fál Carrach amach ansin an tráthnóna sin. Thart ar a trí a chlog ab ea?

Brian Ó Domhnaill: Thart ar a trí a chlog.

An tUasal Ó Tuathail: Bhí cruinniú i Leitir Ceannainn agat san Institiúid Teicneolaíochta, b'shin Páirtnéireacht Spóirt Dhún na nGall?

Brian Ó Domhnaill: Sin é.

An tUasal Ó Tuathail: An raibh tú i do chathaoirleach ar an gcruinniú sin freisin?

Brian Ó Domhnaill: Bhí.

An tUasal Ó Tuathail: Agus cén uair ar thosaigh an cruinniú sin? Cén uair ar chríochnaigh sé?

Brian Ó Domhnaill: Thosaigh an cruinniú arís ar a cúig a chlog, ceathrú i ndiaidh a cúig. Agus chríochnaigh an cruinniú thart fán ocht a chlog. De ghnáth maireann na cruinnithe sin thart fá trí uair an chloig.

An tUasal Ó Tuathail: Agus ansin sa bhaile go dtí an Fál Carrach ab ea?

Brian Ó Domhnaill: Sin é go díreach.

An tUasal Ó Tuathail: Agus tuige an ndeachaigh tú abhaile ag an bpointe sin?

Brian Ó Domhnaill: Chuaigh mé chun a bhaile, sin trí lá, ceithre lá tar éis na comórtais náisiúnta siúil 20km áit ar bhain mé amach an dara háit i gcúl an Olympian Jamie Costin agus phioc mé suas gortú le linn an rása cé go raibh rása crua ann, phioc mé suas gortú. Bhí agam le cóir leighis a fháil mar go raibh rása mór ag teacht aníos dom i lár mhí Meithimh so bhí mé ag iarraidh a chinntiú go mbeinn in ann tús a chur leis an traenáil crua arís. Agus bhí seisiún agam ar an Fhál Carrach arís. Ag an physio a chuireann an tseirbhís ar fáil. Agus an duine sin an cóitseálaí agam chomh maith so oibríonn sé féin but go minic buaileann sé liomsa nuair atá deis agam. An oíche sin, sin é an t-aon deis a bhí agam agus bhuail sé liom thart ar 9:30 nó thart fá sin.

An tUasal Ó Tuathail: Agus ansin an lá dar gcionn ab ea, bhí cruinniú agat i gCiarraí?

Brian Ó Domhnaill: Bhí.

An tUasal Ó Tuathail: Agus b'shin cruinniú den Údarás?

Brian Ó Domhnaill: Cruinniú boird den Údarás.

An tUasal Ó Tuathail: Agus cén uair ar tháinig sin le chéile?

Brian Ó Domhnaill: Ag an deich a chlog ar maidin.

An tUasal Ó Tuathail: Ar imigh tú an tráthnóna sin síos chuig an gcruinniú?

Brian Ó Domhnaill: D'imigh. An gnáthnós i gcónaí a bhí agam, agus fiú an gnáthnós atá agam go fóill, agus mé ag plé le cúrsaí polaitíochta sa tSeanad ná... rinne mé an rud céanna an oíche sin. D'fhág mé an baile thart fán aon déag a chlog ar maidin. Go minic fiú ag teacht go dtí an Seanad anseo faoi láthair, bíonn an Seanad ina shuí Dé Máirt agus bíonn clinicí nó cruinnithe ar siúl agamsa gach oíche Luain. Bíonn sé b'fhéidir cuid den am ag tarraingt ar mheán oíche ag fágáil Dún na nGall oíche Dé Luain, ach an oíche sin d'fhág mé ag a haon déag a chlog agus bhain mé Gaillimh amach agus ar aghaidh ansin ar maidin go dtí an cruinniú a bhí ag dul ar aghaidh i gCo. Chiarraí.

An tUasal Ó Tuathail: Rinne tú an t-éileamh ina leith seo chuig an gComhairle Contae an 13 Meitheamh, má tá an ceart agam. 26, 27 Aibreán. Tá an t-éileamh déanta an 13ú Meitheamh 2006?

Brian Ó Domhnaill: Tá.

An tUasal Ó Tuathail: Agus nach bhfuil cothabháil i gceist ansin? Ní raibh aon dúbailt ann mar a maíodh le cúrsaí taistil. Ach bhí cothabháil i gceist agus luadh é cheana féin. €16.32 a bhí i gceist ansin. D'admhaigh tú go ndearna tú botún ó thaobh an t-am a d'fhill tú, sé sin ní ag a hocht a chlog ach ag a trí a chlog?

Brian Ó Domhnaill: Sin é. Botún ionraic a bhí ann.

An tUasal Ó Tuathail: Agus cuireadh an cheist seo ar an mBainisteoir, cad iad na céimeanna a ghlac an Chomhairle Contae leis an €16.32 sin a fháil ar ais uait?

Brian Ó Domhnaill: Ní raibh aon teagmháil agamsa ón gComhairle i dtaca leis sin.

An tUasal Ó Tuathail: Agus seacht mí ina dhiaidh sin, má tá mé cruinn an uair seo, dhein tú éileamh ar an Údarás, an cuimhin leat sin?

Brian Ó Domhnaill: Tá sin ceart.

An tUasal Ó Tuathail: Agus dhá mhí.. is dóigh liom... phléigh muid leis an éileamh sin don Chomhairle Contae. Sin gearán 258 agus tá mé ag iarraidh bogadh ar aghaidh anois go dtí an ceann deireanach ar an liosta. Is é sin gearán 369, sin iad na gearáin atá faoi chaibidil ag an bpointe seo. Baineann sin leis an gcomhdháil turasóireachta mara i gCairlinn i gCo. Lú. Táimid ag caint faoin 30ú lá Bealtaine an 31ú lá Bealtaine agus an chéad lá de mhí an Mheithimh 2006. Anois ó thaobh taistil de, cén lá ar dhein tú an taisteal ón Fál Carrach, cén lá ar thosaigh tú amach le dul go dtí an chomhdháil sin i gCairlinn i gCo. Lú?

Brian Ó Domhnaill: Ar an 30ú lá.

An tUasal Ó Tuathail: Agus cén t-am sa lá ar thug tú faoin turas sin?

Brian Ó Domhnaill: D'fhág mé an baile thart fá leathuair tar éis an trí.

An tUasal Ó Tuathail: Le dul go Cairlinn. Cén fhad a bhí sa turas sin, meastú, ó thaobh tiomána de?

Brian Ó Domhnaill: Is dóigh thart ar ... thart ar.. trí huaire de bheith ag tiomáint díreach.

An tUasal Ó Tuathail: Agus an lá sin, ba chóir dom an cheist a chur ort roimhe seo, ach an 30ú lá Bealtaine i dtús an lae, an raibh tú i nGleann Cholm Cille?

Brian Ó Domhnaill: Bhí cruinniú réigiúnach de chuid an Údaráis i nGleann Cholm Cille an lá sin agus rinne mé freastal iomlán ar an gcruinniú sin.

An tUasal Ó Tuathail: Sin an CR..

Brian Ó Domhnaill: CRAT, Coiste Réigiúnach an Tuaiscirt den Údarás, Bord Réigiúnach.

An tUasal Ó Tuathail: Agus ag a trí an chlog tráthnóna ar an 30ú lá de Bhealtaine, bhí tú díreach isteach ó Ghleann Cholm Cille ab ea?

Brian Ó Domhnaill: Thart air sin. Ní ghlacann sé dhá uair an chloig teacht ó Ghleann Cholm Cille go Gort a'Choirce, bheifeá ag caint ar uair go leath so thart ar a trí a chlog, b'fhéidir go raibh sé leathuair i ndiaidh a dó, nílim cinnte ach thart air sin.

An tUasal Ó Tuathail: Agus ansin d'imigh tú ón teach sa bhFál Carrach go dtí an oifig i nGort a'Choirce ab ea? Cén mhéid mílte atá i gceist ansin? Ón teach agatsa sa bhFál Carrach go dtí an oifig i nGort a'Choirce?

Brian Ó Domhnaill: Is dóigh míle go leath nó mar sin.

An tUasal Ó Tuathail: Agus thug tú cuairt ar an dá áit an lá sin?

Brian Ó Domhnaill: Beirim i gcónaí, yeah. Bhí m'athair beo ag an am sin agus go minic eisean an duine a bhí ag amharc i ndiaidh an phaiste sa bhaile nuair a bhí mise ar shiúl ag rud ag bith agus bhíodh sé ar an bhfón maidin, lá agus oíche agam. Ar an drochuair fuair sé bás ó shin ach bhí sé beo ag an am sin.

An tUasal Ó Tuathail: Agus an 31ú Bealtaine ansin, tharla an clárú ab ea go luath ar maidin?

Brian Ó Domhnaill: Tharla, cinnte.

An tUasal Ó Tuathail: Leathuair tar éis a hocht go dtí...

Brian Ó Domhnaill: Idir leathuair tar éis a hocht a naoi.

An tUasal Ó Tuathail: Agus lean an chomhdháil ar aghaidh ina dhiaidh sin i gCairlinn?

Brian Ó Domhnaill: Lean.

An tUasal Ó Tuathail: Agus faoi bhealach ansin ar stop tú le haghaidh rud ar bith a dhéanamh, nó bhí tú ag plé le lúthchleasaíocht an uair sin?

Brian Ó Domhnaill: Bhí. Tá tú ag cur ceist orm anois faoin am a d'fhág mé ab ea?

An tUasal Ó Tuathail: An lá sin, an 31ú Bealtaine.

Brian Ó Domhnaill: D'fhág mé Cairlinn thart ar leathuair tar éis a trí, tuigim. Thart air sin. Bhí seoladh ar an gClochán Liath an oíche sin, seoladh Páirtnéireacht Spóirt Dhún na nGall, an dara doiciméad straitéiseach don Pháirtnéireacht. Seoladh deas a bhí ann bhíomar ag leagan amach straitéise don Pháirtnéireacht ó 2006 go dtí 2010. Fuair mé ar ndóigh... le bheith réidh fá choinne an seoladh bhí agam le typáil a dhéanamh ar óráid a bhí mé ag tabhairt ag an ócáid sin. Bhí agam le dul chuig m'óifig ar dtús báire, é sin a chríochnú, agus ansin dul ó sin go dtí an Clochán Liath mar go raibh orm féin cúpla focal a rá agus óráid a chur le chéile, so bhí agam leis an réamhobair sin a dhéanamh.

An tUasal Ó Tuathail: Cad a chaill tú nuair a d'imigh tú an lá sin? Ní gá dul i bhfad scéil leis ach bhí ceistanna agus freagraí is dóigh liom a chaill tú agus na hoisrí agus na diúilicíní?

Brian Ó Domhnaill: Bhí turas bád agus dinnéar agus Guinness agus rudaí mar sin.

An tUasal Ó Tuathail: Ní réitíonn Guinness agus seoladh?

Brian Ó Domhnaill: Ní raibh aon suim agamsa bheith ar shiúl ag ithe oisrí agus ag ól Guinness. Bhí níos mó suime agam bheith sa bhaile ag cuidiú le Páirtnéireacht Spóirt Dhún na nGall an plean oibre agus an modh oibre a bhí á leagan amach againn a sheoladh.

An tUasal Ó Tuathail: Agus tharla sin, an cruinniú idir a hocht a chlog go dtí leathuair tar éis a naoi?

Brian Ó Domhnaill: Leathuair tar éis a naoi.

An tUasal Ó Tuathail: Taisteal amháin a bhí i gceist ar an gceist sin. An bhfuil aon cheist eile? Cén uair a ndeachaigh tú go Gaillimh agus síos go dtí an Daingean? No, níor tharla sin ar an lá sin.

Brian Ó Domhnaill: Tar éis an Clochán Liath an tráthnóna sin, chríochnaigh sé ag thart ar leathuair tar éis a naoi. Agus bhí a fhios agam go raibh an ócáid i gCairlinn beagnach thart fán am sin agus chuaigh mé abhaile. Bhí tae agus a leithéid agam agus bhí rud beag obair cóipeála le déanamh agam ar nótaí agus mar sin de do mo rúnaí fá choinne an mhaidin. Rinne mé é sin agus ansin d'fhág mé agus chuaigh mé ar ais go dtí an chomhdháil an oíche sin le bheith réidh fá choinne an chomhdháil an mhaidin dar gcionn.

An tUasal Ó Tuathail: Agus abhaile ina dhiaidh sin?

Brian Ó Domhnaill: Sin é.

An tUasal Ó Tuathail: Bhuel is dóigh liom nach bhfuil aon cheist eile agam ort so ar mhiste leat ceist ar bith atá ag mo chara ort a fhreagairt le do thoil?

Brian Ó Domhnaill: Cinnte.

An tUasal Ó Braonáin: Tá roinnt ceisteanna agam ort. An bhféadfainn tosú le do thoil leis na doiciméid atá againn ó Chomhairle Chontae Dhún na nGall.

Brian Ó Domhnaill: Cinnte.

An tUasal Ó Braonáin: Feicfidh tú ansin, tá na foirmeacha éilimh ina measc, agus má théann tú, mar shampla, go bileoigín 4 sa leabhar, feicfidh tú an chéad cheann de na foirmeacha éilimh atá le breathnú air againn. Níorbh é seo an chéad uair gur líon tú amach ceann de na foirmeacha seo, ab ea?

Brian Ó Domhnaill: Ní hea. Bhí mé ar an Chomhairle b'fhéidir bliain agus trí cheathrú fán am sin.

An tUasal Ó Braonáin: Agus thuig tú mar sin na rialacha a bhí in áit agus chomh tábhachtach is a bhí siad?

Brian Ó Domhnaill: Bhuel, cé nach raibh míniú ar bith tugtha is dóigh, thuig mé ... i mo ról mar Chomhairleoir Contae ó toghadh mé an chéad lá agus i mo ról i gcónaí mar bhall den Údarás, rinne mé gach rud, chan amháin ceart, ach rachainn níos faide ná sin. Agus bhí mé i gcónaí ag iarraidh gach rud is féidir a dhéanamh. Nuair a bhí mise tofa an chéad lá, níor thosaigh mise amach i gcúrsaí polaitíochta le hairgead a bhaint amach as. Mar go raibh.. bhí oifig agam, bhí rúnaí fostaithe agam féin, agus nuair a bhí mé tofa ar bhord an Údaráis den chéad uair i 1999, bhí post agam. Bhí mé ag saothrú 25,000 sa bhliain ag obair mar teagascóir i scoil. Thug mé suas an post sin le táille 8,000 ón Údarás a bhaint amach go lánaimseartha. Ní raibh post ar bith eile agam. Bhí suim agam sa rud seo agus sin an tslí is dócha...

An tUasal Ó Braonáin: An raibh na rialacha ar eolas agat?

Brian Ó Domhnaill: Bhí.

An tUasal Ó Braonáin: Sin an cheist a chuir mé ort, d'fhiafraigh mé an raibh na rialacha ar eolas agat mar rinne tú dearbhú nuair a líon tú amach an fhoirm seo – deir sé... Feiceann tú é sin? An raibh siad sin léite agat?

Brian Ó Domhnaill: Na rialacha sin?

An tUasal Ó Braonáin: Sea, na rialacha sin.

Agus na treoracha.

Brian Ó Domhnaill: Ní raibh.

An tUasal Ó Braonáin: Cén chaoi a bhféadfá dearbhú a dhéanamh, go raibh an t-éileamh seo ar chostaisí déanta ag cloí leis na rialacha sin mura raibh siad léite agat?

Brian Ó Domhnaill: Léite agam inniu?

An tUasal Ó Braonáin: Ní dúirt mé inniu. An raibh siad léite agat nuair a rinne tú an dearbhú seo?

Brian Ó Domhnaill: Cinnte, bheadh, cinnte. Ní cuimhin liom an raibh na rialacha sin ar fáil ón gComhairle Contae. Chuir mé ceist ar an gComhairle Contae nuair a scríobh mé chuig Liam Ward in 2011. D'iarr mé cóip fá choinne na rialacha sin agus cibé rialacháin eile a bhí i gceist mar nach raibh aon chuimhne agam iad a fháil ón gComhairle Contae roimhe sin. Ach glacaim leis má bhí siad ar fáil roimhe sin ach níl aon chuimhne agam iad a fháil.

An tUasal Ó Braonáin: Glacaim leis fiú mura mbeadh an Chomhairle Contae tar éis iad a chur ar fáil duit gurb ortsa a bhí an dualgas ar aon chuma iad a léamh?

Brian Ó Domhnaill: Ó, glacaim leis sin.

An tUasal Ó Braonáin: Ní gá dúinn a bheith buartha ar thug an Chomhairle Contae duit iad nó nár thug, is fútsa a bhí sé iad a léamh?

Brian Ó Domhnaill: Cinnte, cinnte.

An tUasal Ó Braonáin: Agus is éard a dúirt tú, agus a dhearbhaigh tú san fhoirm seo, ná gur deineadh an t-éileamh ar an mbonn go raibh sé ag cloí leis na rialacha.

Brian Ó Domhnaill: Cinnte.

An tUasal Ó Braonáin: Agus ansin lean tú ina dhiaidh sin agus dúirt tú ...

Agus thuig tú é sin?

Brian Ó Domhnaill: Thuig, cinnte.

An tUasal Ó Braonáin: Agus arís ag f dúirt tú: (EN)

Feiceann tú é sin?

Brian Ó Domhnaill: Feicim, cinnte.

An tUasal Ó Braonáin: Bhí sé tábhachtach mar sin go mbeadh a fhios agat nach, ní hamháin, nach raibh éileamh déanta agat, ach nach mbeadh éileamh le déanamh agat maidir leis na hamanna a bhí i gceist?

Brian Ó Domhnaill: Cinnte.

An tUasal Ó Braonáin: Agus glacaim leis gur choimeád tú dialann le cinntiú nach ndéanfá a leithéid, an ndearna tú é sin?

Brian Ó Domhnaill: Bhí dialann agam, cinnte.

An tUasal Ó Braonáin: Ar na dátaí ábhartha, glacaim leis go ndearna tú nótaíl ins sa dialann faoi céard a bhí déanta agat, an ndearna tú é sin?

Brian Ó Domhnaill: Bhuel, gan dabht.

An tUasal Ó Braonáin: Agus glacaim leis mar sin ins sa dialann go mbeadh ní hamháin go raibh tú i nDún Dealgan ach freisin go raibh tú tar éis a bheith ag cruinniú den DSP i Leitir Ceanainn?

Brian Ó Domhnaill: Bhuel, líon mé isteach an fhoirm seo ar an 20ú lá de mhí Márta agus ansin ar ndóigh an fhoirm don Údarás sé mhí dar gcionn. Nó seacht mí dar gcionn.

An tUasal Ó Braonáin: Cén uair a líon tú an dialann?

Brian Ó Domhnaill: Bheadh an dialann líonta ag an am, is dócha.

An tUasal Ó Braonáin: Mar sin ins sa dialann bheadh dátaí an 9ú lá, an 10ú lá, agus an 11ú de mhí Márta, agus go raibh tú ag comhdháil i nDún Dealgan agus ar na dátaí céanna, bheadh sé ins sa dialann ar an 10ú lá go raibh tú i Leitir Ceanainn.

Brian Ó Domhnaill: Bheadh, cinnte.

An tUasal Ó Braonáin: Agus bhreathnófá ar an dialann sin ar an 20ú lá de mhí Márta, agus bheadh a fhios agat mar sin agus é seo á líonadh amach agat go raibh tú tar éis a bheith ag cruinniú freisin ar an 10ú lá nach raibh bainteach le cúrsaí an Chomhairle Chontae ach a bhí bainteach le cúrsaí Údarás na Gaeltachta?

Brian Ó Domhnaill: Bhuel an tuigbheáil a bhí agam air sin ná nach raibh aon .. líon mé é seo amach chomh hionraic agus a thiocfaidh liom é sin a dhéanamh agus thug mé freagraí agus glacaim leis na pointí ó (a) go (f) atá déanta agat ach ní raibh aon éileamh eile déanta agamsa don chomhdháil seo ná aon chomhdháil eile. Ní raibh i gceist agam ach seirbhís a chur ar fáil do Údarás na Gaeltachta mar chathaoirleach ar Pháirtnéireacht Spóirt Dhún na nGall rud nach aon bhaint aige leis an gcomhdháil...

An tUasal Ó Braonáin: Níl mé ag teacht trasna ort faoi sin ar chor ar bith.

Brian Ó Domhnaill: Á tuigim sin, yeah.

An tUasal Ó Braonáin: Ní faoi sin atá mé ag cur ceisteanna ort. Tá tú tar éis a mhíniú don Choimisiún go raibh dialann agat agus go mbeifeá tar éis nótaíl ins sa dialann céard a bhí á

dhéanamh agat ar na dátaí éagsúla a bhí i gceist. Agus go mbeifeá tar éis a nótáil mar sin ar an 9ú, 10ú, 11ú lá déag go raibh tú ag comhdháil i nDún Dealgan agus freisin go mbeifeá tar éis a nótáil go raibh tú ag déanamh gnó don Údarás ar an 10ú lá de mhí Márta.

Brian Ó Domhnaill: Tá sin ceart. Agus chan amháin sin ach thug mé an freagra sin do Liam Ward agus do Bhainisteoir na Contae nuair a chuir mé freagra chuige i scríbhinn ag deimhniú sin fosta.

An tUasal Ó Braonáin: Tíocfaidh mé ar ais aige sin. Ach faoin 20ú lá de mhí Márta 2006, bhí a fhios agat mar sin, cé go raibh tú tar éis a bheith ag an gcomhdháil seo, go raibh tú tar éis a bheith ag déanamh gnó an Údaráis freisin ar an 10ú lá de mhí Márta.

Brian Ó Domhnaill: Sin é.

An tUasal Ó Braonáin: Agus bhí a fhios agat mar sin gur ghá duit a bheith cúramach gan éileamh a dhéanamh ar an Údarás a tháinig trasna ar an éileamh a bhí á dhéanamh agat ar an 20ú lá de mhí Márta leis an gComhairle Contae?

Brian Ó Domhnaill: Ní aontaím leat ansin mar i mo shúile-sa ní raibh aon trasnú i gceist.

An tUasal Ó Braonáin: Ach amháin go bhfuair tú dhá íocaíocht cothabhála?

Brian Ó Domhnaill: I mo thuairim-se bhí na hócáidí sin bhí difear dubh agus bán idir an dá ócáid. Bhí mé ag déanamh freastail thar ceann dhá eagrais. Ag comhlíonadh i mo thuairim-se an rud is fearr thar ceann phobal Dhún na nGall agus sin é an sprioc a bhain mé amach. Mheas mé...

An tUasal Ó Braonáin: An gciallaíonn sé go mbraitheann tú go bhfuil sé de cheart agat dhá íocaíocht cothabhála a fháil má tá obair á déanamh agat thar son an dá eagrais?

Brian Ó Domhnaill: Sin ceist don Choimisiún is dóigh.

An tUasal Ó Braonáin: An mbraitheann tú go bhfuil sé de cheart agat dhá íocaíocht cothabhála a fháil ar son aon lá amháin ó dhá eagrais phoiblí?

Brian Ó Domhnaill: Cén íocaíocht sonracha a bhfuil i gceist agat ansin?

An tUasal Ó Braonáin: An íocaíocht cothabhála. Fuair tú íocaíocht cothabhála don 10ú lá. Fuair tú dhá íocaíocht cothabhála nach bhfuair tú don dá oíche agus don dá lá a chaith tú agus ansin fuair tú íocaíocht bhreise don tríú lá?

Brian Ó Domhnaill: Creidim go raibh mé i dteideal na híocaíochtaí cothabhála sin. Mar nach raibh éileamh ar bith déanta agam chuig an Údarás ar éileamh íocaíochta den chineál céanna.

An tUasal Ó Braonáin: Tuigim. So nuair a tháinig tú mar sin go dtí an t-éileamh a bhí déanta agat ar an Údarás nuair a tháinig tú chuige ar an gceathrú lá fichead de mhí Deireadh Fómhair rinne tú éileamh ar íocaíocht cothabhála air ansin, nach ndearna?

Brian Ó Domhnaill: Cén leathanach, tá brón orm..

An tUasal Ó Braonáin: Gabh mo leithscéal, seo é an chéad bileoigín. Leathanach 1.

Brian Ó Domhnaill: An 10ú lá.

An tUasal Ó Braonáin: An bhfeiceann tú é sin agus tá íocaíocht cothabhála ansin don 10ú lá agus sin an lá céanna lena raibh íocaíocht cothabhála faighte agat cheana féin ón gComhairle Chontae. Nach ea?

Brian Ó Domhnaill: Sea, sea cinnte.

An tUasal Ó Braonáin: Agus sin atá mé a rá. An gcreideann tú go raibh sé de cheart agat dhá íocaíocht cothabhála a fháil ón dá eagrás d'aon lá amháin?

Brian Ó Domhnaill: Bhuel, sén' tuigbheáil a bhí agus atá agam air sin ná gur íocaíocht thar oíche a bhí i gceist ag an gComhairle Contae agus gur íocaíocht chun freastal ar an gcomhairle..ar an gcruinniú a bhí agam ón Údarás, sin an tuigbheáil a bhí agam.

An tUasal Ó Braonáin: Ach nach bhfuil... tá a fhios agat go bhfuil an íocaíocht thar oíche i bhfad níos mó ná an íocaíocht cothabhála don lá?

Brian Ó Domhnaill: Tá.

An tUasal Ó Braonáin: Sin mar gheall go bhfuil an oíche i gceist agus go bhfuil ort fanacht áit éigin.

Brian Ó Domhnaill: Sin é.

An tUasal Ó Braonáin: Ach chomh maith leis sin, mar gheall go bhfuil roinnt den íocaíocht sin ag dul le tú a íoc as cothabháil i rith an lae freisin?

Brian Ó Domhnaill: Bhuel, glacaim leis sin ach an chothabháil fríd an lae anseo, bhí an lón agus an dinnéar agus na hoisrí .. b'fhéidir go bhfuil mé measctha suas idir na comhdhálacha. Bhí lón agus gach rud agus dinnéar. Níor dhein mé féin freastal ar an dinnéar an oíche sin. Ach glacaim le do phointe. Glacaim leis.

An tUasal Ó Braonáin: Agus nuair a rinne tú d'iarratas ar éileamh ar Údarás na Gaeltachta i mí Deireadh Fómhair, ar bhreathnaigh tú ar an dialann?

Brian Ó Domhnaill: Bhreathnaigh.

An tUasal Ó Braonáin: Agus an bhfaca tú ón dialann mar sin go raibh tú tar éis cheana féin a bheith ag comhdháil ar son an Chomhairle Chontae agus ar sheiceáil tú an raibh tú tar éis íocaíocht cothabhála a fháil cheana féin?

Brian Ó Domhnaill: Gan dabht, gan dabht. Mar a dúirt mé, mheas mise go hionraic go raibh mé ag iarraidh an dá thrá a fhreastal agus is é sin an fáth a chuir mé... rinne mise go leor freastail ar chruinnithe den Pháirtnéireacht Spóirt agus níor dhein mé éileamh ar bith orthu agus fiú rúnaí an Údaráis ag an am bhí sé ag iarraidh orm éileamh a dhéanamh de bhrí go raibh mé ag taispeáint ansin go raibh mé ag déanamh freastail ar na cruinnithe. Bhí mé ar an taobh amháin, ní raibh mé ag iarraidh aon íocaíocht ón Údarás fá choinne freastal a dhéanamh ar Pháirtnéireacht Spóirt Dhún na nGall agus ar an lámh eile mura gcuirfinn isteach aon éileamh ní raibh aon tagairt ag an Údarás de mo chuid freastail agus mo obair ar an DSP. Nuair a bhí mé i mo chathaoirleach ach go háirithe an bhliain sin, bhí mé i mo chathaoirleach fá choinne níos mó ná bliain, chuir mé isteach éileamh fá

choinne mhórchuid na gcruinnithe ag an am sin but tar éis sin, níor chuir mé isteach iad. Bhí mé ar bhord an Údaráis suas go dtí 2012.

An tUasal Ó Braonáin: Tá mé ag labhairt nó ag cur ceisteanna ort faoin éileamh a rinne tú i mí Dheireadh Fómhair 2006. Mar rinne tú éileamh le haghaidh mí Márta, mí Aibreáin agus mí Bealtaine sílim le chéile i mí Deireadh Fómhair, nach ea?

Brian Ó Domhnaill: Yeah, sin é.

An tUasal Ó Braonáin: Agus an fáth go bhfuil mé ag cur ceisteanna ort faoi ná chun fáil amach nuair a rinne tú dearbhú le Comhairle Chontae Dhún na nGall nach raibh tú chun íocaíochtaí a lorg maidir leis na tréimhsí céanna, cén córas a bhí tú tar éis a chur in áit le go bhféadfá a bheith cinnte nach ndéanfá é sin? An dtuigeann tú?

Brian Ó Domhnaill: Tuigim, cinnte.

An tUasal Ó Braonáin: Agus deir tú go raibh córas agat, go raibh dialann ann ach mar sin féin déanadh iarratas ar cothabháil don 10ú lá tar éis duit íocaíocht a fháil do chothabháil ar an 10ú lá cheana féin.

Brian Ó Domhnaill: Sin é an rud atá á rá agat.

An tUasal Ó Braonáin: Agus déantar an dearbhú ceanna ar na foirmeacha éilimh eile atá le feiceáil againn maidir leis na hócáidí eile agus tiocfaidh mé ar ais chucu sin i gceann nóiméid. Ach tuigeann tú gur dearbhuithe tábhachtacha iad sin agus go bhfuil siad dáiríre.

Brian Ó Domhnaill: Ó, gan dabht.

An tUasal Ó Braonáin: Tá ceist ann freisin maidir le cúrsaí cuimhneacháin. Tá a fhios agam gur tamall ó shin, nó blianta ó shin a tharla na rudaí seo ar fad agus mar sin gur féidir leis a bheith deacair cuimhneamh ar rudaí ó am go chéile, agus cinnte sin rud a deir tú ar ócáidí i rith do chuid do chuid comhfhreagrais leis an gComhairle Contae agus freisin leis an gCoimisiún, nach ea?

Sén rud atá ráite agat gur féidir deacrachtaí cuimhne a bheith agat?

Brian Ó Domhnaill: Tharla an eachtra seo deich mbliana ó shin. Níos mó ná deich mbliana ó shin anois.

An tUasal Ó Braonáin: Agus deir tú mar sin gur féidir deacrachtaí cuimhne a bheith agat?

Brian Ó Domhnaill: Cinnte.

An tUasal Ó Braonáin: Ach ag amanna eile, is cosúil go bhfuil do chuimhne ana-bheacht ar cheisteanna áirithe – nach bhfuil an chosúlacht sin air?

Brian Ó Domhnaill: Tá mise ag iarraidh an fhírinne a insint anseo. Níl mise ag iarraidh uisce a tharraingt ar mo mhuilleann féin ná rud ar bith mar sin. Tá mise ag iarraidh ... ó tharla seo in 2011, tá dochar, damáiste ollmhór déanta de m'ainmse amuigh i measc an phobail. I mo thuairim-se, níl sé sin ceart ná cóir de bhrí an obair a bhí ar siúl agam. Bhí mé ag iarraidh mo chuid obair a dhéanamh chomh maith agus a thiocfaidh liom. Do bheinnse ag iarraidh gan freastal a dhéanamh ar na

cruinnithe spóirt bheinn i bhfad níos fearr ar aghaidh inniu agus ní bheinn anseo ach i mo thuairimse rinne mé an rud ceart fiú go bhfuil mé anseo mar go raibh mé ag déanamh freastail ar na cruinnithe sin mar gur chreid mé agus creidim go fóill gur sin an rud ceart le déanamh. Ach mar duine spóirt agus bím still ag rith agus na deiseanna anois atá ar fáil de bhrí na páirtnéireachtaí spóirt, chan amháin i nDún na nGall ach ar fud na tíre, is rud iontach é agus tá lúcháir ormsa go raibh baint agam leis sin. Anois bheadh sé i bhfad níos fusa domsa mura ndéanfainn na héilimh sin ach a dhul go dtí na dinnéir agus don lón agus na oysters agus an Guinness agus gach rud mar sin agus gan freastal a dhéanamh ar na cruinnithe seo .. chosnaigh sé níos mó dom .. leis an bpointe seo a dhéanamh. Chosain sé níos mó domsa ó thaobh díosail agus peitрил agus wear is tear sa charr agus gach rud eile ó na háiteacha seo ar ais go Dún na nGall le freastal a dhéanamh ar na cruinnithe agus a theacht arís. Agus an olcas atá déanta ar m'ainm, orm féin go pearsanta, ar mo shaol polaitiúil, ar mo theaghlach, tá sé trom, tá sé trom.

An tUasal Ó Braonáin: An féidir linn mar sin déileáil leis an 10ú Márta? Ar a raibh muid ag breathnú cheana féin ansin? Mar do mhínigh tú san fhoirm éilimh chuig Comhairle Chontae Dhún na nGall gur fhág tú ag 1 a chlog um thráthnóna ar an 9ú lá le dul go Dún Dealgan agus gur tháinig tú ar ais abhaile ag leathuair tar éis an ceathair ar an 11ú lá déag de Mhárta 2006? Nach ea?

Brian Ó Domhnaill: Cén leathanach sin, tá brón orm?

An tUasal Ó Braonáin: Tá brón orm, tá sé sin ar bhileog 4, leathanach 9 de leabhar an Chomhairle Chontae. Ansin séard a tharla nuair a tháinig na doiciméid seo chun solais le chéile ná ar an 10ú lá go raibh tú tar éis a rá leis an Údarás gur fhág tú do bhaile ag leathuair tar éis a trí um thráthnóna le dul ag freastal ar chruinniú de chuid Pháirtnéireacht Spóirt Dhún na nGall i Leitir Ceanainn. An bhfeiceann tú é sin?

Brian Ó Domhnaill: Tá brón orm, níl an leathanach, leathanach 4 ab ea?

An tUasal Ó Braonáin: Tá brón orm, sin leathanach 9.

Brian Ó Domhnaill: Ceann an Údaráis?

An tUasal Ó Braonáin: Ceann an Chomhairle Chontae, sin leathanach 9 agus i gceann an Údaráis, leathanach 1.

Brian Ó Domhnaill: Tá rud éigin eile agamsa anseo.

An tUasal Ó Braonáin: Tá brón orm, ní féidir liom é a fheiceáil as seo.

Brian Ó Domhnaill: Ó yeah, seo anois é. Go raibh maith agat. Tá brón orm.

An tUasal Ó Braonáin: No, tá sé sin go breá a Sheanadóir. Tá sé sin agat os do chomhair. Feiceann tú é sin. Agus deir ceann amháin go bhfuil tú i nDún Dealgan ón 1 a chlog ar an 9ú lá go dtí leathuair tar éis a ceathair ar an 11ú lá déag agus deir an ceann eile go bhfuil tú, nach bhfuil tú i nDún Dealgan ach go bhfuil tú i Leitir Ceanainn ar an 10ú lá de mhí Márta. Tuigeann tú an deacracht a tháinig chun cinn? Agus ansin sílim nuair a tháinig sé seo chun solais go ndeachaigh an tUasal Ward i gcomhfhreagras leat. Scríobh sé chugat silim ar an 2ú lá de Mheán Fómhair agus ní dóigh liom go bhfuair sé freagra air sin ag an staid sin so scríobh sé arís ar an gcúigiú lá fichead de mhí Deireadh Fómhair 2011 agus ansin sílim gur scríobh sé chugat arís ar an gcúigiú lá de mhí na Nollag, 2011? Ba

léir go raibh sibh tar éis glao gutháin a bheith agaibh le chéile mar deir sé ins sa litir ar an gcúigiú lá de mhí na Nollag: (EN)

Agus ansin leag sé amach na sonraí a bhí á fhiosrú aige. Agus an chéad cheann mar shampla leag sé amach cad a bhí san fhoirm a bhí curtha chuig Údarás na Gaeltachta a rá: (EN)

Agus gurb é an t-am a bhí i gceist: (EN)

An tUasal Ó Braonáin: Bhí sé sin sa litir sin. An bhfuil an leabhar doiciméidí agat, más féidir leat dul go dtí leathanach 66. Feicim nach bhfuil gloine agat. Má tá gloine uait is féidir linn ceann a fháil duit.

Brian Ó Domhnaill: Tá mé ceart go leor.

An tUasal Ó Braonáin: Dúirt tú ins sa litir seo: Alt 1: (EN)

An bhfeiceann tú é sin?

Brian Ó Domhnaill: Chím cinnte, yeah.

An tUasal Ó Braonáin: An ord atá i do litir ná go bhfuil tú i nDún Dealgan. Ritheann sé leat go mbeadh sé níos fearr duit dul go Leitir Ceanainn dod' chruinniú. Téann tú go Leitir Ceanainn dod' chruinniú agus ansin ina dhiaidh sin, ritheann sé leat go mbeadh sé go maith dul abhaile go Fál Carrach le do chuid comhfhreagrais a fháil. Sin an ord atá leagtha amach agat i do litir.

Brian Ó Domhnaill: Mar a dúirt mé cheana féin, tá an litir.. b'fhéidir nach raibh an litir soiléir ach an rud a tharla ná go bhfuair mé ón gcomhdháil go dtí m'oifig agus mo bhaile agus ar ais ansin go dtí an cruinniú i Leitir Ceanainn an tráthnóna sin mar go raibh am agam é sin a dhéanamh.

An tUasal Ó Braonáin: Ach ní hé sin atá ráite ins sa litir. Sé a mhalairt atá ráite ins sa litir. Séard atá ráite sa litir ná go ndeachaigh tú go Leitir Ceanainn agus go ndeachaigh tú as sin ar an bhFál Carrach. Agus nuair a scríobh tú faoi arís ag leathanach 84, tháinig tú ar ais aige seo. Ní hé go raibh tú i seomra le duine éigin ag cur ceisteanna ort, go raibh tú faoi bhrú agus tú ag scríobh na litreacha seo, ná aon rud den chineál seo, bhí neart ama agat machnamh a dhéanamh ar an méid a bhí dá fhiosrú agus bhí neart ama agat machnamh a dhéanamh ar an méid a bhí scríofa agat cheana agus tháinig tú ar ais aige seo ar an aonú lá fichead de mhí Márta, nár tháinig tú?

Brian Ó Domhnaill: Sin é go díreach.

An tUasal Ó Braonáin: Agus ag an staid seo, deir tú mar shampla: (EN)

Bhí sé sin mícheart, nach raibh?

Brian Ó Domhnaill: Bhí. Agus botún a bhí ansin, yeah.

An tUasal Ó Braonáin: Séard a tharlaíonn ansin ná go dtugtar an impression go raibh an-chuimhne agat ar na cúrsaí a bhí dá phlé, ach go bhfuil do chuimhne mícheart faoi.

Brian Ó Domhnaill: Bhuel, mar a dúirt tú féin, seo 2012, an litir roimhe sin 2011, beagnach cúig bliana ar aghaidh ón am ar tharla an chomhdháil agus an cruinniú. Rinne mise gach iarracht agus ab fhéidir a bheith chomh comhoibríoch agus a thiocfaidh liom leis an gCoimisiún agus leis an

gComhairle Contae agus idir an litir a chuir mé ar an 15ú lá déag de mhí na Nollag, mheas mé gur thug mé léiriú beacht cruinn ach nuair a bhí an Chomhairle Contae ag lorg breis eolais, rinne mé gach iarracht an t-eolas sin a chur ar fáil chomh maith agus a thiocfaidh liom agus sin é cad ina thaobh a thug mé an freagra sin an 21ú lá de mhí an Mhárta. Agus caithfidh mé a rá tá mé cinnte go raibh mé sa bhaile, go bhfuair mé sa bhaile roimh an gcruinniú sin agus chan amháin... b'fhéidir gur rud úr a bheadh ann do dhuine b'fhéidir nach bhfuil i bhfostú i gcúrsaí polaitíochta, agus tuigim go bhfuil dlíodóirí an- an-ghnóthach go deo, ach tá polaiteoirí chomh gnóthach nó níos gnóthaí fosta. Mar go minic tá iomaíocht ghéar idir polaiteoirí in áiteacha fosta agus dá gcuirfeadh an rúnaí s'agamsa mar shampla a bhí ag obair agam uaireanta tríd an tseachtain scairt ormsa a bheith áit éigin le litir a shíniú agus go mbeinnse den bharúil go mbeadh buntáiste leis rithfinnse 100 míle le dhul agus an litir sin a scríobh agus b'fhéidir é a chur amach roimh duine éigin eile. Tá rudaí mar sin ag teacht isteach anseo fosta.

An tUasal Ó Braonáin: Más féidir linn breathnú ar an gcuid eile de do litir. Míníonn tú gur fhág tú an chomhdháil ar chúis áirithe mar go raibh tú ag iarraidh dul chuig an gcruinniú i Leitir Ceanainn. Dúirt tú, dála an scéil:

Is é sin nuair nach bhfuil tú áit éigin, nach raibh drochéifeacht aige sin ar an méid a bhí le déanamh agat i nDún Dealgan ach ar aon chuma, leanann tú ar aghaidh ansin agus deir tú: (EN)

Ní luann tú ar chor ar bith go raibh tú tar éis dul abhaile roimhe sin.

Brian Ó Domhnaill: No, agus dúirt mé sin fiú nuair a bhí an abhcóide Séamus ag cur ceiste orm gur botún a bhí ansin den tríú huair...

An tUasal Ó Braonáin: Ach leanann tú ar aghaidh agus deir tú: (EN)

An bhfeiceann tú é sin?

Is léir nuair atá an litir seo á scríobh agat go bhfuil tú ag déanamh machnaimh air agus ag smaoineamh ar céard a tharla ag cén am agus cá ndeachaigh tú ag cén am agus cén ord inar tharla rudaí. Agus sén ord a thugann tú ná go ndeachaigh tú ag cruinniú i Leitir Ceanainn agus ansin go ndeachaigh tú abhaile, sin é an ord a thugann tú. Ach níos mó ná sin séard a deir tú: (EN)

An bhfeiceann tú é sin? Má bhí tú tar éis dul abhaile roimhe sin, le déileáil le do chuid comhfhreagrais práinneach, agus le gnó i d'oifig, ba léir nach raibh práinn tar éis teacht air faoina 8 a chlog an oíche sin?

Brian Ó Domhnaill: Pointe an-mhaith agus ba mhaith liom freagra a thabhairt air, má tá tú ag iarraidh.

An tUasal Ó Braonáin: An-mhaith, más féidir leat é sin a mhíniú. Tugann sé an impression nach bhfuil sé ceart a rá go ndeachaigh tú abhaile ar dtús. Sin é an impression a tugtar le do chomhfhreagras.

Brian Ó Domhnaill: Tá brón orm..

An tUasal Ó Braonáin: Tá sé sin go breá... Má tá míniú níos fearr éigin air sin ...

Brian Ó Domhnaill: Mar a dúirt mé, níl mise le impression a thabhairt, tá mé anseo leis an fhírinne a insint agus sin an rud atá mé ag dul a dhéanamh. Mar a dúirt mé nuair a chuir an abhcóide Séamus ceist orm, fuair mé abhaile, fuair mé go dtí m'oifig i nGort a'Choirce, phioc mé suas litreacha a bhí le síniú. Thug mé na litreacha sin agus cuid den.. rudaí eile a tháinig isteach go dtí an office liom. Agus ansin tar éis don chruinniú, nuair a bhí an file liom le litreacha agus rudaí mar sin leis, bhí litreacha le síniú agus thug mé na litreacha a bhí sínithe agam tar éis dom iad a léamh, iad a fheiceáil, ar ais go dtí an oifig an tráthnóna sin. Mar bhí cuid acu den chomhfhreagras sin..go minic bíonn foirmeacha iarratais agus bhí deontaisí ar fáil ag an am sin fá choinne bóithre níl an oiread deontais ar fáil anois. Bhí deontaisí ar fáil agus lear den obair a bhí mise ceangailte leis ná deontaisí de chuid, rudaí cosúil le deontais tithíochta, bhí deontais le fáil ón Roinn ag an am sin, Roinn na Gaeltachta, €15,000 fá choinne teach a thógáil ar an oileán, €5,000 fá choinne feabhas a chur ar theach ar an mhórthír. Bhí mise ag plé, déarfainn, go hionraic go mbeinn ag plé le idir 30 agus 60 acu sin sa tseachtain. Agus gach uile lá, go háirithe maidin Dé Sathairn, nuair a bhíodh clinic agam, bheadh lear daoine... so sin an rud a bhí i gceist agam. Shíníonn sa na litreacha agus chuir an rúnaí na litreacha leis na foirmeacha agus mar sin de amach. Bhíodh cuid de na litreacha sin ag dul go dtí an Chomhairle Contae fiú agus áiteacha eile de bhrí gur iarrataisí a bhí iontu. Sin an réasún atá agam agus sin an rud a tharla.

An tUasal Ó Braonáin: Maidir leis an lá céanna deir tú leis an gCoimisiún, sílim, den chéad uair, go raibh physio le fáil agat agus go raibh tú ag déileáil le cúrsaí leighis agus duit féin a bhí sé sin?

Brian Ó Domhnaill: Sea.

An tUasal Ó Braonáin: Mar ar leathanach 114 tá na ceisteanna agus na freagraí a tharla idir an tUasal Walsh agus tú féin. An bhfeiceann tú é sin?

Brian Ó Domhnaill: Chím, cinnte.

An tUasal Ó Braonáin: Ag uimhir 7 cuirtear ceist ort faoi cén fáth go ndeachaigh tú ar ais go dtí an Fál Carrach. Agus déileálann tú leis sin agus deir tú: (EN)

An bhfeiceann tú é sin?

Brian Ó Domhnaill: Chím, cinnte.

An tUasal Ó Braonáin: Ní medical query a bhí i gceist ab ea? Tugann sé sin an impression go raibh daoine ag cur ceisteanna ortsa faoi chúrsaí leighis.

Brian Ó Domhnaill: Ó bhí. Go minic mar Chomhairleoir, mar Sheanadóir, go háirithe i gcontae cosúil le Dún na nGall, tá ospidéal réigiúnach againn ansin ag déanamh freastail ar 145,000 duine sa cheantar sin agus bíonn daoine ag fanacht ar obráidí agus mar sin de agus bíomse ag déileáil le go leor daoine a bhíonn ag iarraidh ... b'fhéidir nár chóir do pholaiteoirí a bheith ag plé le rudaí mar sin, ba chóir don chóras a bheith ag obair níos éifeachtaí agus nár chóir dúinne a bheith ag iarraidh duine a bhrú ar aghaidh ar an liosta feithimh ach ag an am céanna sin an rud a bhí ar bun agam ansin agus ag déileáil leis. Ó thaobh an chóir leighis dom féin, mheas mé ag an am, b'fhéidir go raibh mé mícheart, mheas mé ag an am gan tagairt a dhéanamh dó sin mar gur rud pearsanta a bhaineann liom féin atá ann in áit rud a bhaineann le mo chuid obair thar ceann Comhairle Contae Dhún na nGall nó Údarás

na Gaeltachta, ó thaobh cúrsaí spóirt de agus traenáil agus gach rud mar sin. Sin é an fáth nár thug mé freagra air sin.

Bhuel, sé an rud a dhéanainnse ansin... **(píosa idir an Cathaoirleach/Seanadóir i mBéarla)**

An tUasal Ó Braonáin: Inis dom seo a Sheanadóir mura miste leat. Glacaim leis go bhfuil guthán póca agat?

Brian Ó Domhnaill: Tá.

An tUasal Ó Braonáin: Agus glacaim leis go raibh agus in 2006.

Brian Ó Domhnaill: Is dóigh go raibh, yeah.

An tUasal Ó Braonáin: Bheadh sé deacair do chuid oibre a dhéanamh gan ceann. Ach sa dóigh sin, bhí sé de chumas agat, glacaim leis.. níl a fhios agam an raibh Bluetooth agat sa charr nó aon rud den chineál sin? Ach go bhféadfaí an guthán a úsáid sa charr?

Brian Ó Domhnaill: Táim cinnte go mbeadh. Bhí an carr a bhí agam ní cuimhin liom ach déarfainn go raibh Bluetooth agam.

An tUasal Ó Braonáin: Mura bhféadfá é sin a dhéanamh do dhuine a bhí ag taisteal an oiread is a bhí tusa, am marbh a bheadh agat sa charr agus ní mar sin a bhí. Is am a bhí tú in ann a úsáid a bhí sa charr, nach ea?

Brian Ó Domhnaill: Bhuel sea ach bheifeá tarraingthe isteach fosta ag déanamh glaonna gutháin agus mar sin de...bheadh scairt tábhachtach go minic agus ní bheadh an coverage b'fhéidir chomh maith is atá sé inniu. Bhíodh fón póca agam cinnte ag an am sin ach ní raibh sé ceangailte leis an idirlíon ná an ríomhphost a bhí agam ag an am, ríomhphost de chuid an Chomhairle Contae a bhí agam agus ceann pearsanta agus an t-aon phointe teagmhála a bhí leis an ríomhphost ná m'oifig. Bhí ríomhaire ansin agam agus sin é an t-aon áit – anois tá na iphones ag gach duine agus is féidir úsáid a bhaint as sin. Ní raibh sin ar fáil ag an am.

An tUasal Ó Braonáin: Dá mbeifeá mar shampla ag comhdháil in óstán bheadh áiseanna ar fáil go minic in óstáin le bheith in ann ríomhphost a fháil agus dul ar líne nó facs a fháil nó aon rud den chineál sin?

Brian Ó Domhnaill: Is dóigh go mbeinn in ann facs a fháil, yeah.

An tUasal Ó Braonáin: Agus d'fhéadfaí teachtaireachtaí a thabhairt duit ar an nguthán ar aon chuma dá gcuirfeadh do rúnaí nó aon duine eile glaach ort agus a mhíniú duit cad a bhí i gceist leis na teachtaireachtaí?

Brian Ó Domhnaill: Bheadh is dócha ach ní bheifeá ábalta litir a shíniú.

An tUasal Ó Braonáin: Ní bheifeá. Ach ní déantar PP, nó aon rud den chineál sin?

Brian Ó Domhnaill: Ah no.

An tUasal Ó Braonáin: Chaithfeadh tú é a shíniú tú féin.

(Ag gáire/laughter)

An tUasal Ó Braonáin: Tá go maith.

Brian Ó Domhnaill: Ní sa jab seo!

An tUasal Ó Braonáin: Maidir le subsistence nó cothabháil ar an 10ú lá de mhí Márta, an féidir liom iarraidh ort dul go dtí leathanach 116.

Brian Ó Domhnaill: Cinnte.

An tUasal Ó Braonáin: Mar ar leathanach 116 ag ceist 15 cuireann an tUasal Walsh an cheist ort faoi chothabháil – deir sé: (EN)

An bhfeiceann tú é sin?

Brian Ó Domhnaill: Chím cinnte.

An tUasal Ó Braonáin: Agus ansin deir sé, míníonn sé duit nach ndearna tú déileáil leis sin le do ráiteas ag an gcomhdháil agus nach ndearna tú déileáil leis ach oiread nuair a bhí tú ag déileáil leo siúd ins sa gcomhfhreagras leo i mí Bealtaine 2012. An bhfeiceann tú é sin.

Brian Ó Domhnaill: Chím, pointe 15.

An tUasal Ó Braonáin: Agus ansin tá freagra fada agat ansin maidir leis na smaointe a bhí agat faoi na fáthanna go raibh tú tar éis dul ón gcomhdháil ag an gcrúinniú i Leitir Ceanainn. Ach ní dheireann tú aon rud sa bhfreagra sin maidir le cothabháil.

Brian Ó Domhnaill: No. Thug mé freagra ar mo chuid imeachtaí is dóigh agus an taisteal a bhí ar bun agam agus na cruinnithe a bhí mé ag. B'fhéidir nár thuig mé an cheist mar i gceart. Ceist uimh. 15. An rud a rinne mé ansin ná, chomh hionraic agus a thiocfaidh liom, freagra a thabhairt ar an obair a bhí ar bun agam agus mheas go mb'fhéidir go mbeadh an tUasal Walsh tuigbheáil nó míniú a bhaint as sin.

An tUasal Ó Braonáin: Tá go maith.

An féidir linn dul mar sin go dtí an t-éileamh a rinne tú ar Chomhairle Chontae Dhún na nGall maidir leis an IPA? Tá sé ag leathanach 21 de leabhrán Chomhairle Chontae Dhún na nGall. Anois seo foirm éilimh a líon tú amach ar an 13ú de mhí Bealtaine, gabh mo leithscéal Meitheamh! 13ú de mhí Meithimh 2006. Agus arís tá tú tar éis a dhearbhu go raibh sé seo ceart agus beacht agus deir tú gur shroich tú baile ar an seachtú lá fichead de mhí Aibreáin ag a hocht a chlog istoíche. Is ar an mbonn sin ar deineadh an t-éileamh agus is ar an mbonn sin gur íocadh é, nach ea?

Brian Ó Domhnaill: Glacaim leis gurb ea.

An tUasal Ó Braonáin: Agus ní raibh deacracht leis sin go dtí gur tháinig an t-éileamh ar Údarás na Gaeltachta don 27ú chun solais. Agus tá sé sin ar leathanach 3 den leabhrán ón Údarás. An bhfeiceann tú é sin?

Brian Ó Domhnaill: Feicim, cinnte.

An tUasal Ó Braonáin: Mar deir sé sin gur fhág tú an baile ag a 5 a chlog tráthnóna. Má tá sé sin ceart, ciallaíonn sé go raibh an t-éileamh a déanadh ar Chomhairle Chontae Dhún na nGall gan a bheith beacht, gan a bheith ceart agus gur déanadh íocaíocht cothabhála ar an bhonn sin nár cheart a dhéanamh.

Brian Ó Domhnaill: Tá an ceart agat. Rinne mé.. an 27ú agus thug mé soiléiriú air sin. D'fhill mé abhaile ag a trí a chlog in áit a hocht agus bhí a hocht a chlog istigh ansin.

An tUasal Ó Braonáin: Agus díreach ar fhaitíos nach bhfuil sé seo soiléir, nuair a deirtear an ceathrú lá fichead (24ú) de mhí Aibreáin 2006, maidir leis an gcruinniú sin, ag freastal ar chruinniú de Pháirtíocht Spóirt Dhún na nGall in IT Leitir Ceanainn, ba cheart gurb é an seachtú lá fichead (27ú) a bheadh ansin, nach ea?

Brian Ó Domhnaill: Sin go díreach. Botún a bhí ansin fosta.

An tUasal Ó Braonáin: Agus ansin má théann tú chuig an gcéad leathanach eile, deir sé ansin:

27/4/2006, ag taisteal go Co. Chiarraí, ag freastal ar chruinniú boird. Nach ea?

Brian Ó Domhnaill: Sin é.

An tUasal Ó Braonáin: Mar ins sa gcomhfhreagras feicim go ndeir tú gur go Gaillimh go ndeachaigh tú, seachas go Chiarraí?

Brian Ó Domhnaill: Bhuel an rud atá istigh ansin, an oíche sin d'fhág mé mall agus bhí cruinniú i Kerry an lá dar gcionn an 28ú lá de mhí Aibreáin. D'fhág mé mall an oíche den 27ú agus chuaigh mé go contae na Gaillimhe. D'fhan mé in Órán Mór an oíche sin. Agus ar aghaidh ansin an chéad maidin eile go dtí an cruinniú i Kerry.

An tUasal Ó Braonáin: Agus ansin deir sé ar an lá faoin gcruinniú i gCiarraí go raibh tú ag taisteal go Gaillimh agus ansin..

Brian Ó Domhnaill: Abhaile. Bhí.

An tUasal Ó Braonáin: Ag taisteal go Gaillimh agus ansin ar an naoú lá fichead ag taisteal abhaile.

Maidir leis na dátaí agus na hamanna agus do chuimhne ar rudaí, cé gur dhúirt na foirmeacha éilimh an méid a bhí iontu nuair a tháinig tú ar ais chuige blianta fada ina dhiaidh sin, bhí tú in ann a rá go raibh na hamanna sin mícheart, ab ea?

Brian Ó Domhnaill: Bhí. Bhuel bhí orm dul tríd seo chomh mion agus a thiocfaidh liom mar go raibh m'ainm amuigh ansin agus bhí agam le cuimhne de chineál éigin a chur air seo agus a bheith ag smaoineamh agus ag labhairt le daoine eile agus ag labhairt le mo theaghlach rud a rinne mé. Ag labhairt le mo rúnaí san oifig, ag labhairt le hachan duine a thiocfaidh liom. Fiú ag labhairt le mo thraenálaí/cóitseálaí chomh mall le aréir. Just le cinnte a dhéanamh fiú an oíche sin, oíche an 27ú lá, bhí na rásaí náisiúnta ar siúl an Domhnach roimhe sin agus bhí mé sa dara háit agus bhí mé ag fáil don oíche sin an 27ú lá bhí mé ag fáil treatment, níl a fhios agam cén t-ainm Gaeilge atá ar treatment nó massage nó physio nó a leithéid sin but sin an obair a bhí ar siúl agam. An tábhacht a bhain leis sin ná go raibh taisteal fada le déanamh agam sa charr agus go minic nuair atá tú i do shuí sa charr

tarraingíonn sé na hamstrings bhochta seo agus caithfidh tú .. bhí siad fite fuaite ina chéile, abróidh mé mar sin é.

An tUasal Ó Braonáin: Anois, maidir leis an lá deireanach, sin é an dáta i mí Bealtaine sa Chairlín, an Marine Tourism Conference... an Chomhdháil Turasóireachta Mara sa Chairlín. Feiceann tú é sin?

Brian Ó Domhnaill: Feiceann. Cinnte, tá an bróisiúr ansin.

Tá sé ag leathanach 37.

An tUasal Ó Braonáin: Deir sé seo, arís, tá na dearbhuithe céanna tugtha ann. Deir sé gurb é an fad i mílte 176. Sílim díreach mar shampla go raibh na faid i mílte ins sna héilimh ar fad mícheart mar a tharla sé, nach raibh?

Brian Ó Domhnaill: Ar mhílte na Comhairle Contae is cosúil go raibh siad mícheart, ach tá ceartú déanta ag an gComhairle Contae air.

Agus ansin cuirtear isteach an t-am a d'fhág tú ag a trí a chlog um thráthnóna ar an 30ú lá, agus ansin an t-am gur tháinig tú ar ais ag an 2 a chlog um thráthnóna ar an 2ú lá. Sin é atá sa doiciméad, nach ea?

Brian Ó Domhnaill: Sin é atá ansin yeah.

An tUasal Ó Braonáin: Agus sílim go n-aontaíonn tú cé gurb é an 13ú lá déag de mhí Aibreáin atá ann, an 13ú lá déag de mhí Meithimh ba cheart a bheith ann?

Brian Ó Domhnaill: Sin é go díreach.

An tUasal Ó Braonáin: Tá go maith. Agus mar chuid den íocaíocht a fuair tú ansin, fuair tú dhá íocaíocht cothabhála thar oíche, sin cothabháil don lá agus thar oíche, faoi dhó.

Brian Ó Domhnaill: Fuair.

An tUasal Ó Braonáin: Fuair é sin. Agus ansin nuair a thagann tú ag leathanach 6 de leabhrán an Údaráis, an bhfuil sé sin agat?

Brian Ó Domhnaill: Leathanach 5 ab ea?

An tUasal Ó Braonáin: Leathanach 6.

Brian Ó Domhnaill: Foirm éilimh ab ea? No?

An tUasal Ó Braonáin: Sea, foirm éilimh Údarás na Gaeltachta, costaisí taistil, leathanach 6, feiceann tú ansin é?

Brian Ó Domhnaill: Chím é.

An tUasal Ó Braonáin: Agus feiceann tú ar an 30ú lá – sin é an lá ar inis tú do Chomhairle Chontae Dhún na nGall gur fhág tú ag a trí a chlog um thráthnóna, deir sé seo go raibh tú sa mbaile ó do chruinniú i nGleann Cholm Cille ag leathuair tar éis an trí um thráthnóna.

Brian Ó Domhnaill: Sin botún a bhí ansin mar a dúirt mé.

An tUasal Ó Braonáin: Agus arís, glacaim leis má bhí dialann á choimeád agat go raibh na rudaí seo ar fad ins sa dialann agus go raibh na hamanna cearta ins sa dialann.

Brian Ó Domhnaill: Ní chuirfeá rud mar sin isteach sa dialann.. chuirfeá isteach sa dialann go raibh cruinniú agam i nGleann Cholm Cille mar shampla, ní chuirfeá isteach cén t-am a d'fhág tú ar maidin, cén t-am a d'fhill tú tráthnóna ach an lá sin, bhí sé istigh agam gur fhill mé abhaile ag leathuair tar éis a trí. Bhí sé níos cóngaraí don trí a chlog, am éigin ach thart air sin. Ní raibh aon buntáiste...

An tUasal Ó Braonáin: Ní ceist buntáiste é seo, is ceist cuimhne é seachas aon rud eile. Cén fáth nach gcuirfeá ins sa dialann na hamanna a bhí ábharthach?

Brian Ó Domhnaill: Bhuel, ní sin an nós imeachta a bhí agam.

An tUasal Ó Braonáin: Ach an nós imeachta a bhí agat, is cosúil, seachas an t-iarratas a dhéanamh gach mí, mar a moladh, ná é a dhéanamh gach trí mhí nó sé mhí, nó b'fhéidir uair sa mbliain, sin é a thuigim ó do fhianaise. Cén chaoi a raibh tú le héileamh beacht a dhéanamh ar aon rud gan nóta a bheith agat ar na hamanna?

Brian Ó Domhnaill: An rud a chuirinn-se sa dialann ná mar shampla don chruinniú sin, go raibh an cruinniú ar siúl ag a deich a chlog ar maidin agus gur chríochnaigh sé ag a haon a chlog. Sin an t-aon rud a bheadh sa dialann agam, ní raibh mise ag cur isteach sa dialann go raibh mé, faoi chostaisí taistil, ní shin nós imeachta a bhí agam ach chuirinn isteach cibé áit a bhí mé ag cruinniú agus má bhí mé le bualadh le duine éigin ar maidin nó tráthnóna bheadh sé sin agus na coinní go léir istigh sa dialann agus na hamanna a bhí mé ag déanamh freastail ar na cruinnithe ach ní bheadh sonraí faoin am a d'fhág mé an baile agus ar fhill mé. Ní raibh sé sin sa dialann agam.

An tUasal Ó Braonáin: Ach ní thuigim é sin má bhí a fhios agat go raibh na hamanna sin ábharthach, mar a bhí a fhios agat, agus má bhí a fhios agat nach raibh tú le bheith ag déanamh éilimh go ceann míosa fada uait, cén chaoi a bhféadfá é a dhéanamh go beacht agus go ceart agus go hionraic gan fios a bheith agat cé na hamanna a bhí tú tar éis a fhágáil agus teacht ar ais gan nóta a bheith déanta?

Brian Ó Domhnaill: Is é an dóigh a rinne mé sin ná, cuir i gcás an cruinniú i nGleann Cholm Cille, idir an 10 agus 1. Glacaim leis agus bhuel, duine ar bith, glacann sé uair go leath taisteal a dhéanamh ó Ghort a'Choirce go Fál Carrach go Gleann Cholm Cille. Agus chuirfeá isteach é sin roimh ré agus chuirfeá é sin isteach tar éis an cruinniú. Agus sin an áit ar tháinig an am sin amach as. Sin an dóigh ar oibrigh mé iad sin amach.

An tUasal Ó Braonáin: Ní dóigh liom gur chualamar cheana gur mar sin a d'oibrigh an nótaíl ar cheist amanna. Sílim gurb é sin an chéad uair a bhfuilimid tar éis cloistéáil faoi sin, nach ea? Ní dhúirt tú i do chuid litreacha gur mar sin a d'oibrigh an córas agat. Go bhfuair tú pé doiciméad a bhí agat maidir leis agus ansin go ndeachaigh tú siar agus tomhais a dhéanamh ar cé chomh fada is a bhí tú tar éis a fhágáil i gcomhair taistil ansin agus ar ais.

Brian Ó Domhnaill: Ní fheictear domsa go bhfuil rud ar bith úr anseo. Sin an nós imeachta a bhí agam. An cruinniú sin ar an 30ú lá, i nGleann Cholm Cille, d'fhág mé an teach thart ar a hocht a chlog agus d'fhill mé abhaile thart ar 3. Agus sin an rud a tharla an lá sin.

An tUasal Ó Braonáin: Agus ansin ar an 31ú lá rinne tú éileamh ar freastal ag seoladh Páirtíocht Spóirt Dhún na nGall ar an gClochán Liath agus arís rinne tú éileamh ar íocaíocht cothabhála, nach ndearna?

Brian Ó Domhnaill: Rinne.

An tUasal Ó Braonáin: Agus sin nuair a bhí íocaíocht cothabhála déanta cheana féin ag Comhairle Chontae Dhún na nGall?

Brian Ó Domhnaill: De bhrí comhdháil agus thar oíche, yes.

Go díreach.

An tUasal Ó Braonáin: So bhí dhá íocaíocht cothabhála don lá sin, an 31ú?

Brian Ó Domhnaill: Bhuel mar a dúirt mé roimhe sin seoladh Páirtnéireacht Spóirt Dhún na nGall a bhí i gceist ar an gClochán Liath, chosain sé níos mó airgid domsa ná mar a shaothraigh mé anseo. Thaistil mé abhaile chun freastal a dhéanamh ar an seoladh agus chuaigh mé ar ais arís an oíche sin go dtí an chomhdháil a bhí mé ag déanamh freastail air. Ó thaobh na comhdhála an tráthnóna sin, bhí measaim oisrí agus Guinness agus mar sin de amuigh ar bád. Ní raibh aon suim agam... dá rachainn ansin chosnódh sé go mór do lucht na comhdhála ach ní raibh suim agamsa é sin a dhéanamh. Fiú bhí rása mór ag teacht aníos agam rud atá nótaílte agus is féidir leat é a googláil, Leamington Spa, i Sasana, áit a raibh mé ag rásaíocht don tír, rás de chuid na hEorpa, coicís ina dhiaidh sin so ní raibh aon suim agamsa bheith ag ól Guinness agus ag ithe oisrí, bhí níos mó suim agam...

An tUasal Ó Braonáin: Ní hé sin amháin a bheadh i gceist. Ceann de na rudaí atá i gceist ná dul ar an gcéad dul síos breathnú ar an slí ina ndéanann gnóthaí eile iad féin a chur chun cinn. Labhairt leo faoi cén chaoi ar tháinig siad ar na smaointe a bhí bainteach leis sin, labhairt leis na daoine eile atá ag an gcomhdháil le cumarsáid a dhéanamh leo faoi cén chaoi le dul ar aghaidh faoi agus mar sin de .. níl i gceist a bheith ag ól agus ag ithe.

Brian Ó Domhnaill: Tá mise just ag dul de réir an chláir agus bhí tagairt déanta den chlár so chuaigh mé de réir an chláir. Ó thaobh Páirtnéireacht Spóirt Dhún na nGall mheas mé gur buntáiste níos mó a bhí ann é sin a dhéanamh. Sin cad ina thaobh gur dhein mé é. Agus chuir mé an t-éileamh isteach dá bhrí sin.

An tUasal Ó Braonáin: Agus mar gheall air sin déanadh dhá éileamh ar dhá íocaíocht cothabhála d'aon lá amháin.

Brian Ó Domhnaill: Dá bhrí sin, tá ceisteanna anois faoi €16.32, faoin éileamh seo atá tú ag déanamh tagairt dó is dócha?

An tUasal Ó Braonáin: Tá sé sin ceart, an gceapann tú go ndéanann sé sin difríocht de chineál éigin? Gur €16.32 atá ann?

Brian Ó Domhnaill: Níl mise ag rá dóigh amháin nó dóigh eile.

An tUasal Ó Braonáin: Is tusa a luaigh an figiúr agus táim ag déanamh iontais ansin an mbraitheann tú go ndéanann sé sin difríocht substaintiúil de chineál éigin? Agus má bhraitheann tú, cén difríocht substaintiúil a dhéanann sé?

Brian Ó Domhnaill: Bhuel chuir mise isteach an t-éileamh sin, de bhrí go ndearna mé freastal ar ócáid a bhí i mo thuairim-se, ag déanamh níos mó maithe don chontae agus do chúrsaí spóirt ná mar a bheinn dá mbeinn ag freastal ar an gcomhdháil agus ar imeachtaí na comhdhála an tráthnóna sin agus sin é an tuigbheáil a bhí agam. Agus mar a dúirt mé, go dtí an lá inniu, measaim gurb é sin an rud ceart le déanamh a rinne mé agus y'know mar a dúirt mé tá obair mhór déanta ag Páirtnéireacht Spóirt Dhún na nGall, tá lúcháir ormsa go bhfuil baint agam leis agus mar sin de agus sin an dearcadh atá agam air.

An tUasal Ó Braonáin: Ach is éard a chiallaíonn sé sin nach ea, ná go raibh a fhios agat nuair a bhí dearbhú á dhéanamh agat, nach raibh tú le héileamh a dhéanamh ar chothabháil amach ansin do na laethanta céanna a bhí bainteach leis an gcomhdháil turasóireacht mara? Bhí a fhios agat é sin, nach raibh?

An cheist a bhí ar an bhfoirm iarratais, ó Chomhairle Chontae Dhún na nGall ná (EN)

Brian Ó Domhnaill: Ní raibh ormsa bosca ar bith a líonadh le rá, ní sin mo chuid scríbhinn ansin thíos ag bun, ní mise a chuir síos go raibh .. cé gur fhan mé san óstán dhá oíche.

An tUasal Ó Braonáin: Tuigim é sin. Ach bhí a fhios agat go raibh Comhairle Chontae Dhún na nGall tar éis é a íoc, mar d'íoc siad é má bhreathnaíonn tú thar an leathanach, d'íoc siad é ar an t-aonú lá fichead (21ú) de mhí Meithimh agus bhí a fhios agat go raibh sé bailithe isteach i do chuntas agus bhí a fhios agat go raibh tú tar éis a dhearbhu nach ndéanfá aon éileamh ar íocaíocht maidir leis na hamanna céanna? Nach ea?

Brian Ó Domhnaill: Cad é an cheist le do thoil?

An tUasal Ó Braonáin: Bhí a fhios agat go raibh tú tar éis íocaíocht cothabhála a fháil don chomhdháil sin.

Brian Ó Domhnaill: Bhí a fhios.

An tUasal Ó Braonáin: Agus go raibh an chomhdháil tar éis maireachtáil ar cheann de na laethanta go raibh tú tar éis a bheith i Leitir Ceanainn, ní hea, ar an gClochán Liath.

Brian Ó Domhnaill: Bhí agam le cinneadh a dhéanamh, cé acu ab fhearr mo chuid dualgaisí mar pholaiteoir agus mar dhuine ón gcontae a chomhlíonadh nó a bheith amuigh ar ócáid sóisialta ag comhdháil. Mheas mé féin go raibh sé níos fearr freastal ar mo chuid dualgaisí poiblí mar ionadaí poiblí agus mar lúthchleasaí.

An tUasal Ó Braonáin: Tuigim é sin. Ach shocraigh tú freisin éileamh a dhéanamh i mí Deireadh Fómhair ar chothabháil do lá go raibh tú tar éis íocaíocht a fháil air cheana féin? Nach ea?

Brian Ó Domhnaill: Chím an botún sin anois.

An tUasal Ó Braonáin: Má tá ceisteanna ar bith ag an gCoimisiún, dá bhfreagrófa iad le do thoil. Níl ceisteanna ar bith eile agamsa.

An tUasal Mac Cárthaigh: Ceist amháin agamsa. (EN/Béarla)

Chairman: Go raibh míle maith agat.

An tUasal Ó Tuathail: Tá deireadh fianaise tugtha againne, tá muid críochnaithe. Tá muid ag plé le haghneachtaí b'fhéidir anois.

Appendix 4

Written submissions made by counsel for the Commission and counsel for Senator Ó Domhnaill

Written submissions made by counsel for the Commission

**STANDARDS IN PUBLIC OFFICE COMMISSION
INQUIRY INTO A COMPLAINT CONCERNING SENATOR BRIAN Ó DOMHNAILL**

Written Submissions for the Commission

ORAL HEARING

1. The Standards in Public Office Commission ("*the Commission*"), as a part of its investigation of complaints that Senator Brian ó Domhnaill ("*the Senator*") wrongly claimed expenses from both Donegal County Council and Údarás na Gaeltachta in respect of three separate overlapping events, convened a public oral hearing on 9 May 2016. The Commission heard from four witnesses, namely Paddy Walsh, the Commission's Inquiry Officer,¹ Séamus Neely, CEO of Donegal County Council², Gearóid Breathnach, Director of Corporate Services in Údarás na Gaeltachta³ and the Senator⁴. At the conclusion of the hearing, the Commission requested the delivery of brief written submissions.

BACKGROUND

2. In August 2011, the Ethics Registrar for Donegal County Council received an anonymous complaint that the Senator had made duplicate claims for repayment of expenses from the County Council and from Údarás na Gaeltachta arising from his attendance at overlapping events. This complaint was investigated in detail, at first by the Acting Ethics Registrar and then by the Mayor and County Manager of Donegal⁵, with the Senator's co-operation, and a report was prepared by the Mayor and County Manager of Donegal. Complaints regarding specified acts were made by them to the Commission by way of letter dated the 28 May 2012.
3. Initially, the Senator agreed in writing that the case should be referred to the Commission. Paddy Walsh was appointed as inquiry officer to carry out a preliminary inquiry for the Commission⁶. The Senator co-operated with that preliminary inquiry and its report was put before the Commission in November 2012. The Commission decided to hold an investigation into the complaints⁷ and the Senator was notified of same.⁸
4. The Commission intended to sit on 11 March 2013 to hear oral evidence in relation

¹ see the transcript of Mr Walsh's evidence at pp 35-153

² see the transcript of Mr Neely's evidence at pp 160-164

³ see the transcript of Mr Breathnach's evidence at pp 164-165

⁴ see the transcript of Senator Ó Domhnaill's evidence at pp 166-210

⁵ in accordance with Section 174(8) of the Local Government Act 2001

⁶ as provided for by Section 6 of the Standards in Public Office Act 2001

⁷ in accordance with Section 7 of the Standards in Public Office Act 2001

⁸ by letter dated 25 January 2013

to its investigation. The Senator sought more time to prepare for the investigation,⁹ which request was accommodated by an adjournment to 8 April 2013.

5. By letter dated 26 March 2013, the Senator informed the Commission of a change of solicitors. Until that date, a wide variety of excuses had been tendered for failing to engage with the Commission and its correspondence: being abroad, solicitors having been instructed, advices awaited from counsel, illness and a change of solicitor.
6. The Senator's new solicitors indicated that formal proof would be required of each and every aspect of the allegations against the Senator that would be considered by the Commission.
7. The Senator's new solicitors also indicated that he now wished to conduct his business with the Commission in Irish, including the public oral hearing then fixed for 8 April 2013. Since that indication, all engagement by the Commission with the Senator has been in Irish. From 2011 until then, all of the correspondence between the Senator and both the local authority and the Commission had been in English.
8. Given the requirements for witnesses to be called and interpreters to be provided, the inquiry was postponed again to 10 June 2013. Arrangements were made for translation facilities and for witnesses to attend on that date.
9. The Senator's solicitors then wrote contending that the Commission lacked jurisdiction to investigate the complaints made by the Mayor and County Manager of Donegal, contending that they constituted a transfer of an anonymous complaint. The Senator also contended that the investigation hearing should be conducted by a panel of the Commission competent to hear matters in Irish without interpreters. The Commission rejected these contentions.
10. On 6 June 2013, the Senator applied for leave to apply for judicial review of the investigation and the Commission hearing was stayed. The Senator was aware that appropriate steps had been taken to facilitate the hearing through Irish on 10 June 2013, as a result of which the Commission incurred a loss in the amount of €2972.70 arising from the late cancellation of the hearing. The Senator's claims were rejected by the High Court in January 2014 and, upon the Senator's appeal, by the Court of Appeal in July 2015. The costs of defending his proceedings against it were awarded to the Commission against the Senator. The Order of the Court of Appeal was perfected on 31 March 2016.
11. The Commission arranged its investigation hearing for 9 May 2016. The Senator maintained his position with regard to the necessity for formal proof of each and every aspect of the allegations up to the date of the hearing. This necessitated the attendance of witnesses from Donegal County Council and Údarás na Gaeltachta. At

⁹ by letter dated 25 February 2013

no stage before or during the hearing did the Senator assert that the documentation adduced was in any way inaccurate or that his documentation had not been authored by him. Despite having put the documentation in issue, the Senator did not raise any issue thereon at the Commission hearing.

THE FACTUAL CONTEXT OF THE ALLEGED CONTRAVENTIONS

12. The Statement of Alleged Contraventions is at Tab A of the Booklet of Documents. The legal and factual background is set out in the opening statement of Mr ó Braonáin¹⁰. Contraventions 1 to 6 fall to be considered as complaints made, pursuant to section 4(1)(b) of the Standards in Public Office Act 2001, of contraventions by the Senator of provisions of the Principal Act¹¹, which applies to Local Government by virtue of section 180(2) of the Local Government Act 2001. Contraventions 7 to 9 fall to be considered as complaints made, pursuant to section 4(1)(a) of the Standards in Public Office Act 2001, of contraventions by the Senator as a “specified person”¹² by his doing of “specified acts”¹³.
13. The allegations can be grouped into three date categories: a) contraventions 1, 4 and 7 regarding 10 March 2006; b) contraventions 2, 5 and 8 regarding 27 April 2006; and c) contraventions 3, 6 and 9 regarding 31 May 2006.
14. The evidence of Paddy Walsh in relation to contraventions 1, 4 and 7 is contained in his preliminary inquiry report and at pp38-45 of the transcript.¹⁴ These contraventions arise from claims for expenses incurred for attendance at the Association of County and City Councils’ Annual Conference at Fairways Hotel in Dundalk (“*the Dundalk conference*”) on 9, 10 and 11 March 2006 and attendance at a Donegal Sports Partnership (“*DSP*”) meeting in Letterkenny on 10 March 2006. Mr Walsh’s evidence was to the effect that the Senator had claimed and been paid subsistence and mileage from Donegal County Council for his attendance at the Dundalk conference, including 10 March 2006, and then later also claimed subsistence and mileage from Údarás na Gaeltachta in respect of his attendance at the DSP meeting on the same date, which were paid.¹⁵
15. The Senator’s letters of 15 December 2011 and 21 March 2012 convey that he travelled from the Dundalk conference directly to the DSP meeting in Letterkenny on 10 March 2006, rather than from home to the meeting (being a condition for claiming mileage from an tÚdarás). However, the Senator’s claim form submitted to Údarás na Gaeltachta on 24 October 2006 had stated that he travelled from home to the DSP meeting in Letterkenny. While this discrepancy was highlighted by Mr Walsh for comment by the Senator during the preliminary inquiry, the answer given

¹⁰ at pp 9 -27 of the transcript

¹¹ being the Ethics in Public Office Act 1995, as construed together with the Local Government Act 2001

¹² within the meaning of section 4(6) of the Standards in Public Office Act 2001

¹³ within the meaning of section 2 of the Ethics in Public Order Act 1995, as amended

¹⁴ from line 24 on p38 to line 23 on p45

¹⁵ at p209 of the transcript, Senator Ó Domhnaill accepts this was the case

did not address the discrepancy. The Senator testified before the Commission that he had travelled from the Dundalk conference to home and/or his office to attend to work matters and then back from there to the DSP meeting in Letterkenny. The Senator was challenged on this latter assertion, which appears to contradict his previous accounts. The transcript records the various issues raised in that regard, including the new issue of physiotherapy offered for the first time during the hearing.

16. The evidence of Paddy Walsh in relation to contraventions 2, 5 and 8 is contained in his preliminary inquiry report and at pp45-52 of the transcript.¹⁶ These contraventions arise from a claim for expenses incurred on 26 and 27 April 2006 at an IPA training event in Carrickmacross ("*the Carrickmacross event*") and attendance at a DSP meeting in Letterkenny on 27 April 2006. Mr Walsh's evidence was that the Senator had claimed and been paid expenses by Donegal County Council for mileage, for an overnight stay and for subsistence on 27 April 2006, based on an overnight conference and attendance at a day event (a day and 3 hours)¹⁷, and then later also claimed subsistence and mileage from Údarás na Gaeltachta in respect of his attendance at the DSP meeting on the same date.¹⁸ It is noted that subsistence from an tÚdarás was not allowed, most likely as the stated time from home to meeting to return home did not meet the relevant time threshold.
17. The claims forms¹⁹ were in conflict regarding the times that the Senator claimed to have reached home – the Donegal County Council claim form indicated he reached home at 8pm on 27 April 2006, while the claim to an tÚdarás indicated that he departed from his home at 5pm on the same date.²⁰ Had the Donegal County Council claim form stated that the Senator had returned home from the Carrickmacross event at 5pm on 27 April 2006, rather than at 8pm, the additional subsistence payment reckoned for that period would not have been payable by the County Council.
18. The Senator's letter of 15 December 2011 said that he arrived home from the Carrickmacross event as early as 3pm, not 8pm, and that this was misstated on his Donegal County Council claim form as a "*genuine error*".
19. The Senator does not explain upon what basis he is to be taken to have had a better memory of the time of his return home on 27 April 2006 by the 24 October 2006, when making his claim to an tÚdarás 6 months after the event, than he had on 13 June 2006, when making his claim to Donegal County Council less than 7 weeks after.

¹⁶ from line 24 on p45 to line 21 on p52

¹⁷ see p47 of the transcript lines 6 – 19

¹⁸ see p50-51 of the transcript

¹⁹ it is noted that the relevant claim form for an tÚdarás incorrectly states the date of the DSP meeting as 24 April 2006, rather than 27 April 2006

²⁰ p51 of the transcript

20. Again, the Senator states that he travelled home from the location of the event he was attending as councillor, in this case Carrickmacross, before travelling to the meeting in Letterkenny that he attended as a member of an tÚdarás. He states in his letter of 15 December 2011 and in his response to questions posed by Paddy Walsh in August 2012 that this was to deal with constituency mail. It is noted that the Senator had not left his home and/or office for Carrickmacross until 5pm the previous day and intended to return there after the DSP meeting that evening.
21. The second page of the Senator's claim form to an tÚdarás records his travel at an unspecified time on 27 April 2006 to Kerry to attend a meeting of the Board.
22. The evidence of Paddy Walsh in relation to contraventions numbers 3, 6 and 9 is contained in his preliminary inquiry report and at pp52-58 of the transcript.²¹ These contraventions arise from a claim for expenses incurred on 30 May to 1 June 2006 at a Marine Tourism Conference in Carlingford ("**the Carlingford conference**") and at a DSP meeting in Dungloe on 31 May 2006. Mr Walsh's evidence was that the Senator had claimed from and been paid by Donegal County Council for mileage, two overnight stays and additional subsistence on the basis that he left home at 3pm on 30 May 2006 and returned at 2pm on 2 June 2006²², and then later also claimed subsistence and mileage from Údarás na Gaeltachta in respect of attendance at a DSP launch event on 31 May 2006, in respect of which date he had already received payment for subsistence.²³
23. The claim forms were in conflict regarding the times at which the Senator claimed he had departed from home for Carlingford on 30 May 2006. The Donegal County Council claim form stated a departure at 3pm that day, while the claim form to an tÚdarás for May 2006 included a claim regarding attendance that day at a meeting of an tÚdarás in Gleann Cholm Cille from which the Senator stated he had not returned home until 3.30pm.
24. When asked by Mr Walsh to explain why he had not travelled directly to Carlingford from Gleann Cholm Cille, being the shorter route, the Senator stated that he wished to pick up constituency mail and messages from home on the way.
25. The Donegal County Council claim form was dated 13 April 2006, which preceded the event to which it related. It appears that it was likely completed on 13 June 2006. The claim form stated that the Senator returned home at 2pm on 2 June 2006. In his letter of 15 December 2011, the Senator explained that the reference to 2 June was a "*typo*" and ought to have been a reference to 1 June. In addition, the Senator explained that he had not returned home at 2pm, but at 8pm.

²¹ from line 22 on p 52 to line 25 on p58

²² see pp53 – 54 of the transcript

²³ see p57 – 58 of the transcript

26. The Senator's claim form to an tÚdarás in respect of the DSP launch event in Dungloe on 31 May 2006 includes mileage for travel of 54 miles from home to Dungloe and back home again. This is so despite the Senator's travelling to the DSP launch event in Dungloe from the Carlingford conference. In his letter of 15 December 2011, the Senator did not say why his return journey to Dungloe from Carlingford was made *via* home. In his letter of 21 March 2012, the Senator explained that this occurred "*in order to attend to pressing constituency matters which had arisen*". In his response to questions posed by Paddy Walsh in August 2012, the Senator explained that this occurred "*to attend to constituency correspondence and mail. This represents nothing new in the manner in which I undertake my work.*"
27. Mr Walsh gave evidence that the County Council had investigated the above matters and, as part of its investigation, the Senator had provided explanations for the alleged contraventions.²⁴ Mr Walsh also gave evidence in relation to his own enquiries of the Senator on foot of the complaint received.²⁵ Mr Walsh then gave evidence with regard to the shortest routes and distances between the locations from and to which the Senator had travelled on the occasions at issue. It appeared from Mr Walsh's evidence, and the Senator's claim forms in particular, that on each occasion the Senator had claimed mileage from Donegal County Council, the amount of miles had been put at a figure in substantial excess of the mileage allowed.
28. The cross-examination of Mr Walsh by Mr Mac Cárthaigh BL on behalf of the Senator is at pp107 – 153 of the transcript.
29. The Commission then heard from two brief witnesses. Séamus Neely, CEO of Donegal County Council gave evidence²⁶ that in relation to a possible overpayment of €16.32, no steps had been taken to recoup that sum of money pending the determination of the Commission proceedings.²⁷ Gearóid Breathnach, Director of Corporate Services at Údarás na Gaeltachta was asked if an tÚdarás had any complaint about the matters under discussion at the Commission and he replied that it did not.²⁸
30. The Senator's evidence in chief in relation to the alleged contraventions is at pp166 – 182 of the transcript and his cross-examination from pp182 – 210. In cross-examination, the Senator confirmed that he was aware of the rules governing expenses claims.²⁹ He confirmed that he had kept a diary and that it was filled in contemporaneously as a record of his attendance at various events.³⁰ Under cross-examination about the events of 10 March 2006, the Senator accepted that he had

²⁴ Mr Walsh's evidence in this regard is at p61 (line 28 onwards) to p78

²⁵ from p79, line 12 of the transcript to p94, line 22 (break for lunch) and then p96 (line 20 onwards) to p107

²⁶ at pp160 – 164 of the transcript

²⁷ at pp162 – 163 of the transcript

²⁸ at p165 of the transcript

²⁹ at p183 of the transcript

³⁰ at p185 of the transcript

claimed and received two subsistence payments and stated *"in my opinion on those occasions there was black and white of a difference between them. I was attending on behalf of two different organisations, fulfilling, in my opinion, the best thing for the people of Donegal. Q. You mean that you are entitled to two subsistence payments if you are working for two organisations? A. Well, that's a question for the Commission, I suppose.³¹ ... I believe I was entitled to those subsistence payments because I hadn't made a claim to the Authority, to Údarás na Gaeltachta."*³² He agreed, however, that when he made his claim to Údarás na Gaeltachta, he had checked his diary and seen that he had already been paid a subsistence allowance for the relevant day.³³

31. When asked about the Carlingford conference, the Senator agreed that he had been paid two overnight allowances and he stated that it was *"a mistake"*.³⁴ Later in his evidence, he said that he *"thought it would be a better benefit to do that, that's why I did it and I put the claim in because of that. Q. And because of that, two claims were made and two subsistence claims ... A. Because of that there is a question about the €16.32 about the claim you are making a reference to. Q. That's true. Do you think it makes a difference of any sort that it's €16.32? A. I'm not saying one way or another."*³⁵ The Senator later said that *"I put in that claim because I had attended an event that in my opinion was doing more good for the county and for sports in the county than if I was attending the conference and the conference events that afternoon, so that's the understanding I had. As I said, to this day I think that was the right thing to do, that I did."*³⁶
32. When asked if he knew that he had received a payment for the conference and that the conference had occurred on one of the days that he was in Donegal, the Senator replied *"I suppose I had to make a decision which was better to my duties as a county man or a councillor or to be out on a boat, so I thought I should fulfil my public obligations. Q. I understand that. But you also made a claim in October for subsistence for a day that you had already been paid for? A. I see the mistake there now."*³⁷
33. When asked would he not have recorded the times he attended events, he replied that he wouldn't put something like that in the diary although, notably, he had recorded a time for the day under scrutiny. *"You would put it in the diary that you had a meeting in Gleann Cholm Cille, for example. You wouldn't say what time you left in the morning or what time you arrived back in the afternoon. That day I had it in that I had returned home at half three. It was closer to three o'clock, before three*

³¹ at p186, lines 23 – 29

³² at p187, lines 10 – 13

³³ at p188, lines 13 – 20

³⁴ at p204, lines 15 – 28

³⁵ at p208, lines 4 – 8 (the sequence of questioning is clear from the Irish version of the transcript)

³⁶ at p208, lines 14 – 20

³⁷ at p209, lines 13 – 24

o'clock some time like that or somewhere around there. But there was no benefit," he said.³⁸

34. When pressed about whether or not he recorded the times of various events, the Senator said that he just recorded the times a meeting was at and the times he was attending appointments but that he wouldn't put in the details of the times he left and arrived home.³⁹ He suggested that he computed the relevant times by adding travel time onto the times of meetings.⁴⁰
35. In his defence, the Senator stated that it had cost him more in fuel and wear and tear on his car, than the payments received, to attend the DSP meetings in question.⁴¹ In relation to the subsistence payments for 31 May 2006, he pointed out that the launch of the DSP had cost him more than he earned in travel expenses.⁴²
36. The reliability of the Senator's memory was examined. The Senator had, for instance, initially contended that he had absented himself only from a recreational part of the Dundalk conference. Under cross-examination, he conceded that was incorrect.⁴³ There was, as has been observed above, a conflict in his accounts of the events of 10 March 2006 and whether he had gone home before attending the DSP meeting and again afterwards, with the Senator contending that he had done so because of the competitive nature of politics.⁴⁴ The Senator testified that he had attended a 45 minute physiotherapy appointment on 10 March 2006,⁴⁵ something that he had not previously mentioned. He had previously said he was dealing with medical queries. The Senator insisted under cross-examination that he had been dealing with medical queries for constituents from hospitals and effectively trying to push people up waiting lists. The Commission Chairperson queried how issues of patient confidentiality could permit such dealings, to which the Senator replied that the constituents would either have to waive confidentiality or, in a lot of cases, it wasn't necessary.⁴⁶ The Senator said he had not been referring to his own medical appointment, which he hadn't mentioned previously, as he did not think it relevant.⁴⁷
37. Under cross-examination about why his memory had improved over time rather than deteriorating, the Senator stated that he had spoken to his family, his secretary, his trainer and coach and so on as his "*name was out there*".⁴⁸

³⁸ at p205, lines 3 – 10

³⁹ at p205, line 21 to end of page

⁴⁰ at p206, lines 9 – 26

⁴¹ at p191, line 2

⁴² at p207, lines 9 – 12

⁴³ at p194, lines 4 – 15

⁴⁴ at pp194 – 196

⁴⁵ at p173 of the transcript

⁴⁶ at p199 of the transcript

⁴⁷ at p198 of the transcript

⁴⁸ at p203 of the transcript

38. The Senator stated that he did not have bluetooth and that he would pull in to deal with telephone calls while driving ('dead time' as counsel called it), as the signal was not as good then as it is now.⁴⁹ He explained that as technology was not so advanced, more visits to his office were required to access email and so on. He said that in his job, it was not acceptable to have another person sign a letter on his behalf.⁵⁰

THE LEGAL CONTEXT OF THE ALLEGED CONTRAVENTIONS

39. In relation to the three occasions of contravention under investigation, three separate legal provisions are alleged to have been contravened. In relation to each of the three occasions, it is alleged that the Senator contravened (i) section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out his functions as a member of Donegal County Council;⁵¹ (ii) Section 169(3) of the Local Government Act 2001 by acting in disregard of the provisions of the Code of Conduct for Councillors in that he claimed travelling and subsistence expenses from both Donegal County Council and Údarás na Gaeltachta⁵² and (iii) that being a specified person within the meaning of section 4(6) of the Standards in Public Office Act 2001, he did a specified act or a series of specified acts, within the meaning of section 2 of the Ethics in Public Office Act 1995 and such conduct was inconsistent with the proper performance by him of the functions of a member of Donegal County Council and Údarás na Gaeltachta and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.⁵³
40. The Commission needs to be satisfied to the civil standard of proof, that is to say satisfied on the balance of probabilities, in finding that a contravention was committed. In reaching its determinations, the Commission ought consider carefully all of the evidence adduced, including the documentation, the correspondence from the Senator, the testimony of the witnesses and their demeanour. The Commission is not only entitled to probe the evidence and to question and test it in the course of its assessment, but is obliged to do so.
41. What appear to be discrepancies between and potential incongruities in the Senator's accounts have been highlighted above. These submissions do not purport to state exhaustively such of those matters that may impact upon the Commission's assessment of the weight to be attached to explanations offered by the Senator. Neither do these submissions intend to do more than highlight matters that may bear upon the Commission's task of assessing the evidence. It is a matter for the

⁴⁹ at p200 of the transcript, lines 16 – 26

⁵⁰ at p201 of the transcript

⁵¹ as set out in the contraventions numbered 1, 2 and 3

⁵² as set out in the contraventions numbered 4, 5 and 6

⁵³ as set out in the contraventions numbered 7, 8 and 9

Commission's expert judgement to determine whether any, some or all of the matters highlighted commend themselves to the Commission as relevant to its considerations. The Commission may regard matters not highlighted here as having greater relevance to its assessment of the matters under investigation.

42. It seems that the Senator does not deny making the relevant claims. It is a matter for the Commission to determine whether the claims as made constituted the contraventions alleged. In the event that it finds the contraventions and acts alleged to have been committed or done, the Commission is required by section 24 of the Ethics in Public Office Act 1995, as amended, to record in its report (a) whether the contravention or act was committed or done inadvertently, negligently, recklessly or intentionally, (b) whether it was, in all the circumstances, a serious or minor matter, and (c) whether the Senator acted in good faith. The Commission may refer to such other matters, if any, as the Commission considers appropriate.
43. Mr ó Braonáin in his opening submissions sought to offer some general guidance with regard to the distinguishing characteristics of inadvertence, negligence, recklessness and intention.⁵⁴ While the determination of the character of any contravention found by it is a matter for the Commission, it is proposed to note some matters that the Commission may in its judgement consider relevant to such determination.
44. The Senator stated that he was familiar with the regulations and directions applicable to expenses claims to Donegal County Council. He declared as much on making each claim. The Commission may conclude that as a county councillor the Senator ought in any event to have been aware of such. The Senator accepted under cross-examination that he was under such an obligation.⁵⁵ The Senator had been a councillor for nearly two years by the period in question and ought by the material times to have been aware of the process by which he received expenses from Donegal County Council. The Senator stated that it was his custom, despite the guidelines provided by an tÚdarás when he was elected, to make his expenses claims to it on an approximately six monthly basis. The Senator stated that he had kept a diary to assist him in making his expenses claims. By reference even to the foregoing matters only, the Commission may find it difficult to characterise any contravention or act as inadvertent or negligent. It would be open to the Commission to conclude that the Senator must, despite keeping a diary, have chosen not to consult it when making his claims for expenses, giving rise to the potential for characterising the claims as having been made recklessly.
45. In his evidence, the Senator appears to have gone further still. He stated that he had spent more on fuel and on maintenance of his vehicle than he had claimed in expenses and also that having attended events on the same date for different organisations, in his view he was entitled to expenses from both organisations. In

⁵⁴ at p25 of the transcript

⁵⁵ at p184, lines 11-22

his written responses to the Commission's Inquiry officer, he also maintained this stance, stating in relation to 10 March 2006, that *"as you note I in fact made two return trips to Dundalk during the currency of the Conference, this being necessitated by my attendance at the Sports Partnership meeting, and only claimed expenses for one of those return trips. I feel that my actions were entirely appropriate in the circumstances."*⁵⁶ He also said that *"I claimed and received expenses in respect of 334 miles but actually I travelled a total of 606 miles in order to fulfil my obligations as a public representative"* and re-stated that in the circumstances, his claims were appropriate.⁵⁷ In some other instances, the Senator avoided the questions asked.⁵⁸ Having regard to the foregoing, the Commission may conclude that the Senator acted intentionally in making his claims.

46. In assessing whether any contravention or act found by the Commission constituted a minor or a serious matter, it is submitted that the sum of money involved is not determinative of that issue. While the quantum of expenses involved is a factor to which the Commission may appropriately have regard, it may also take cognisance of factors such as the nature of a contravention, the number of occasions involved, any system by which contraventions were committed, the explanations offered in relation thereto, the attitude of the contravener to his conduct at the time thereof, the level of insight demonstrated and any other circumstance regarded by the Commission as relevant to assessment of this issue.
47. Similar considerations apply to the Commission's assessment of whether the Senator acted in good faith.

Siobhán Ní Chúlacháin
Luán ó Braonáin SC

20 June 2016

⁵⁶ at p16 of the booklet of documents, A11

⁵⁷ at p17 of the booklet of documents, Q&A 13, p17, Q&A 18

⁵⁸ at p24 of the booklet of documents, Q&A 27, p17, Q&A 15

Written submissions made counsel for Senator Ó Domhnaill

The Standards in Public Office Commission
Investigation into a complaint in relation to Senator Brian Ó Domhnaill made by
Donegal County Council

Written submissions on behalf of Senator O Domhnaill [courtesy translation]

The Alleged Contraventions:

Senator Ó Domhnaill has been accused of nine contraventions, however there are in reality only three alleged breaches at issue arising out of three separate events which may be outlined as follows:

1. The first event “The Dundalk Conference”

That he contravened paragraphs 6, 13, 18 and 22 of Part II of the Directions of the Minister for the Environment LG 49/2¹, said contravention also being a breach of other provisions² in that he claimed travel and subsistence expenses from Donegal County Council for attendance at the Association of County and City Councils’ Annual Conference on the 9-11 March 2006 in Dundalk and that he claimed travel and subsistence expenses from Údarás na Gaeltachta for attendance at a meeting of Donegal Sports Partnership in Letterkenny on the 10 March 2006.

2. The second event “The Carrickmacross Conference”

That he contravened sections 6, 18 and 22 (but not section 13) of Part II of the said Directions of the Minister for the Environment LG 49/2, said contravention also being a breach of other provisions³ in that he claimed travel and subsistence expenses from Donegal County Council for attendance at a Conference of the Institute of Public Administration in Carrickmacross on the 26-27 April 2006 and that he claimed travel (but not subsistence) expenses from Údarás na Gaeltachta for attendance at a meeting of the Donegal Sports Partnership in Letterkenny on the 27 April 2006.

3. The Third event “The Carlingford Conference”

That he contravened sections 6, 13, 18 and 22 of Part II of the said Directions of the Minister for the Environment LG 49/2, said contravention also being a breach of other provisions⁴ in that he claimed travel and subsistence expenses from Donegal County Council for attendance at a Marine Tourism Conference in Carlingford 30 May - 1 June 2006, and that he claimed travel and subsistence expenses from Údarás na Gaeltachta for attendance at a meeting of Donegal Sports Partnership in Dungloe on 31 May 2006.

¹ Made in December 1993 pursuant to article 12 of SI 391/1993

² From which arises an alleged breach of s. 168 of the Local Government Act 2001 (Alleged contravention 1); an alleged breach of s. 169(3) of the Local Government Act 2001 and paragraphs 2.1, 2.2, 2.3 and 8.1 of the Code of Conduct for Councillors (June 2004) (Alleged contravention 4); and an alleged breach of s. 4(6) of the Standards in Public Office Act 2001 as a specified person under that section doing a specified act under s. 2 of the Act of 1995 (Alleged contravention 7).

³ From which arises an alleged breach of s. 168 of the Local Government Act 2001 (Alleged contravention 2); an alleged breach of s. 169(3) of the Local Government Act 2001 and paragraphs 2.1, 2.2, 2.3 and 8.1 of the Code of Conduct for Councillors (June 2004) (Alleged contravention 5); and an alleged breach of s. 4(6) of the Standards in Public Office Act as a specified person under that section doing a specified act under s. 2 of the Act of 1995 (Alleged contravention 8).

⁴ From which arises an alleged breach of s. 168 of the Local Government Act 2001 (Alleged contravention 3); an alleged breach of s. 169(3) of the Local Government Act 2001 and paragraphs 2.1, 2.2, 2.3 and 8.1 of the Code of Conduct for Councillors (June 2004) (Alleged contravention 6); and an alleged breach of s. 4(6) of the Standards in Public Office Act as a specified person under that section doing a specified act under s. 2 of the Act of 1995 (Alleged contravention 9).

It is best to deal with these individually.

The Dundalk Event (Complaints 1, 4, 7)

At the end of his report of 7 November 2012, upon which this investigation is based, Mr Walsh, who at that time was the inquiry officer, sets out in paragraph 10 "Summary" the contraventions which in his opinion ought to be investigated.

With regard to the Dundalk event in particular he states at paragraph 10.4:

"If the Commission takes the view that payment of travel and subsistence allowances to Council members who attend conferences, seminars, etc., is conditional on them attending the full programme of events, unless there are exceptional circumstances that prevent the member doing so, and furnishing a report to the Council afterwards, then it seems that Senator Ó Domhnaill may not have been entitled to any payments from the Council in respect of the Dundalk, Carlingford and Armagh events and he might be liable to refund to the Council any fees paid by the Council. The amounts involved here are:

"€831.57- ACCC conference in Dundalk

"€830.63 – Carlingford conference

"€1.077.54 – Summer School in Armagh

"€2,739.74 – TOTAL (including conference fees)"

The Commission did not agree with this, and there is no contravention alleged in relation to the Senator's partial non-attendance at those conferences – while he attended other events on behalf of Údarás na Gaeltachta. Mr Walsh does not propose a claim for reimbursement at all arising out of Senator Ó Domhnaill leaving the Carrickmacross conference early to attend a Donegal Sports Partnership meeting.

The reason for this difference in approach can be found in the jurisprudence of the Commission itself. In the investigation into complaints made by Donegal County Council against former Councillor Larkin, the Commission issued a report in December 2014. Amongst the contraventions alleged against the former councillor was his incomplete attendance at a conference. The Commission stated at paragraph 5.3:

"In relation to alleged contraventions 4 to 6, whilst the Code of Conduct for Councillors and Section 142(5)(f) of the Local Government Act require a councillor attending a conference to submit a report to the local authority, Donegal County Council in a letter dated 9 August 2013 informed the Inquiry Officer that it was not "a compulsory practice" of the Council at that time to enforce the requirement and Councillor Larkin had not submitted reports in respect of the conferences. The letter stated that revised arrangements were introduced in March 2010 following the raising of the matter by the Local Government Auditor during the 2008 audit. The Commission concludes that in any given case, it is a matter in the first instance for the Council to assess whether there was proper attendance for the duration of a conference by a councillor as required by paragraph 8.2 of the Code and to enforce compliance with the obligation to report back to the Council in accordance with the Act. Against this background, the Commission is of the opinion that it would be inequitable to adjudicate on Councillor Larkin in relation to his partial attendance at a conference when the regime for assessing a councillor's attendance and reporting thereon was not operated by the Council until 2010. In these circumstances, the alleged contraventions 4 to 6 are not established against Councillor Larkin."

[emphasis added]

Although there are substantial differences between the Larkin case and the instant case, both relate to Donegal County Council in the period before 2010 and the decision stands

“that it would be inequitable to adjudicate...in relation to his partial attendance at a conference when the regime for assessing a councillor’s attendance and reporting thereon was not operated by the Council until 2010.”

This means that Senator Ó Domhnaill was free to temporarily excuse himself from a conference he was attending on behalf of the County Council in order to attend to matters on behalf of Údarás na Gaeltachta if he believed that that choice would be more beneficial to his constituents.

This explains why the complaint regarding the Senator’s partial non-attendance at the John Hewitt International Summer School is not being pursued (a few of hours’ absence on Friday 27 July after which he returned later that day). He attended a meeting of the Board of Údarás na Gaeltachta, a meeting for which he claimed no expenses as it was held in his own area.

It also explains the Commission’s decision not to seek full reimbursement for the partial non-attendance at the three conferences in issue here: Dundalk, Carrickmacross and Carlingford.

Regarding the Dundalk Conference in particular the Walsh Report states at paragraph 10.1:

“As originally presented, Senator Ó Domhnaill would not have been entitled to any of the an tÚdarás travel and subsistence allowance claims as these claims were in respect of periods for which Senator Ó Domhnaill had already submitted, and was paid, travel and subsistence allowances by Donegal County Council. After the Council raised queries with Senator Ó Domhnaill about the apparent conflicts in his claims, he gave explanations that changed some of the details on the claim forms. These revised details show that many journeys were made via his home. If the Commission takes the view that the original claim forms contain the correct details Senator Ó Domhnaill was not entitled to payments from an tÚdarás as follows:

“€93.27 – in respect of the DSP meeting on 10 March 2006”

“€76.95 – in respect of the DSP meeting on 27 April 2006

“€76.95 – in respect of the Dungloe event on 27 April 2006

“€253.54 – TOTAL”

It is best to deal with these individually.

Arising out of the Commission’s decision and jurisprudence in the Larkin case, Senator Ó Domhnaill was free to temporarily absent himself from the Dundalk Conference in order to attend a meeting of the Donegal Sports Partnership on behalf of Údarás na Gaeltachta if he believed that that choice would be more beneficial to his constituents and that is the choice he made.

That Údarás na Gaeltachta expenses claim, which is problematic according to the Walsh Report, comprises two elements: €76.95 mileage and €16.32 subsistence⁵.

Since the €76.95 claim for mileage relates to a journey from his house and office in An Fál Carrach/Gort a’ Choirce and back again on 10 March 2006, it relates to a different day and a different journey as opposed to two journeys arising out of, and relating to, the Dundalk Conference for which the County Council had paid mileage expenses: An Fál Carrach to Dundalk on 9 March, and Dundalk to an Fál Carrach on 11 March. This is not a case of a double expense claim, but rather two distinct claims to two different public bodies arising out of different journeys on different dates and pursuant to the

⁵ Book of Documents, page 110

Commission's decision in the Larkin case, the Senator was fully-entitled to make the journey from an Fál Carrach/Gort a' Choirce to Letterkenny and back again on 10 March.

The Walsh Report is not correct where it asserts that, "*he gave explanations that changed some of the details on the claim forms*" in relation to this journey. The plain truth relating to the journeys is set out in the claim forms themselves:

- The County Council expenses claims form⁶ states that he left an Fál Carrach at 1pm on 9 March 2006 and that he returned at 4:30pm on 11 March 2006, and he was paid expenses accordingly.
- The Údarás expenses claims form⁷ states that he left an Fál Carrach at 3:30pm on 10 March 2006 and that he returned at 9:00pm on the same day, and he was paid expenses accordingly.

The Walsh Report lays out a very useful timeline in paragraph 9.1.2⁸. It is sufficient to set out the events of Friday 10 March here, as it is to these alone that the controversy relates:

"Friday; 10 March 10:00am - morning session commences

1.00pm – he left the conference to return to Letterkenny for the DSP meeting at 5pm (see Appendix A, first bullet point on page 7).

3.30pm – he left home to attend the DSP meeting – per his an tÚdarás claim form – Appendix A1, page 3 (although it seems that he went to this meeting directly from Dundalk and went home afterwards.)

5.00pm – DSP meeting commenced – see Appendix D, page 14

8.00pm – DSP meeting finished (Appendix A10, paragraph 1) and he went home from the DSP meeting – per claim form.

9.00pm – arrived home from the DSP meeting – per claim form

10.30pm – left Falcarragh to return to Dundalk

The controversy arises out of the misreading by Mr. Walsh of the expense claim forms. Despite the fact that the only reading of said forms in relation to travel which is consistent with the content of these forms is that Senator Ó Domhnaill left Dundalk (c. 1pm Friday) to travel home to an Fál Carrach ahead of the Donegal Sports Partnership meeting and that he subsequently left his house at approximately 3:00pm to attend said meeting in Letterkenny, Mr. Walsh's report claims that the Senator travelled directly from Dundalk at approximately 1:00pm to Letterkenny for the 5:00pm meeting. This quite simply, apart from not making sense, is not borne out by the evidence.

It is a trip of 2:56hrs according to the AA Route Planner map introduced by Mr. Walsh into evidence, although Mr Walsh under cross-examination accepted that it would have been possible to make the trip in 2:30hrs⁹. Also in answer to the first question put by Mr Walsh for his Report: "*Did you wait for lunch on Friday?*" the Senator replied: "*No I did not wait for lunch*" (Walsh Report para 9.1.20 at page 15)¹⁰.

According to the Conference brochure¹¹ lunch commenced at 12:30 pm. It is true that the Senator, in a letter to the County Council dated 21 March 2012¹², stated that he left Dundalk at 1:00pm, but it is more

⁶ County Council Booklet, page 9

⁷ Údarás Booklet, page 1

⁸ Book of Documents, pages 109-110

⁹ Transcript 146: 6 et seq

¹⁰ Book of Documents, page 114

¹¹ County Council Booklet, page 2

probable that the Senator actually left at some time between 12:30pm and 1:00pm. This means that the Senator would have arrived in Letterkenny at approximately 3:00pm, with sufficient time to have travelled onwards to his home and office in order to see to various constituency matters before returning to Letterkenny for the 5:00pm meeting.

According to Mr Walsh's AA Route Planner Map, it takes 38 minutes to travel from Letterkenny to An Fál Carrach, but during cross-examination he conceded that the trip could in fact have been made in 25-30 minutes¹³.

Under cross-examination, Mr. Walsh accepted that it would not surprise him if a member of the Oireachtas travelled from Leinster House home to Phibsborough before traveling onwards to attend a meeting outside Dublin, as Leinster House and his home were in close proximity. He accepted that a person from a rural area could have this frame of mind in relation to a trip between Letterkenny and An Fál Carrach given that the proximity was similar timewise¹⁴.

In any event, the Senator has always held since first making the expenses claims that he travelled from Dundalk home to an Fál Carrach before attending the Donegal Sports Partnership meeting and that he left his home at 3:30pm to attend said meeting in Letterkenny and that he made another trip home after that meeting (which Mr Walsh accepts) arriving home at about 9pm to deal with official and personal matters before making for Dundalk at 10:30pm that night.

The expense claim forms constitute the best evidence and are closest in time to the event: The County Council claim was submitted in the same month on 20 March 2006. The Údarás claim was submitted, as was the Senator's practice, approximately seven months later. No other source controverts this and this is the evidence given under oath by the Senator to the Commission during this investigation, evidence which was not controverted.

The Senator explained in his oral evidence the necessity for his having to return to his office as often as he could in order to deal with representations from the public and that, to put it frankly, he was in a very competitive situation where the public needed to be attended to in order to secure support at the ballot box.

He explained in particular in his evidence in relation to that day, that he collected post and dealt with constituency matters and how he worked his two trips home around his constituency work and his constituency work around his two trips home¹⁵.

He also explained his medical treatment in relation to his competitive athletics. He outlined in particular the c.45 minute physiotherapy session he underwent at home in an Fál Carrach after the meeting of the Donegal Sports Partnership on 10 March 2006 before returning to Dundalk¹⁶.

Two letters from the Senator to the County Council dated 15 December 2011¹⁷ and 21 March 2012¹⁸ seem to have sent Mr. Walsh astray somewhat in that he failed to marry their contents with the rest of the evidence. The Senator states that he went from the conference in Dundalk to the meeting of the Donegal Sports Partnership. This is true. It does not exclude the possibility of his having travelled to said meeting via his home and office in An Fál Carrach/Gort a' Choirce. Similarly in relation to the questions

¹² Book of Documents, page 84: paragraph 1(i) "*I absented myself from the conference for the lunch period of the 10th day of March, 2006, which was scheduled between 1.00pm and 2.30pm...*"

¹³ Transcript of Evidence 136:19 et seq

¹⁴ Transcript of Evidence 137:3 et seq

¹⁵ Transcript of Evidence 173:12 et seq

¹⁶ Transcript of Evidence 173:23

¹⁷ Book of Documents, page 66 paragraph 1

¹⁸ Book of Documents, pages 84-85

and answers at paragraph 9.1.20 of the Walsh Report, which Mr. Walsh emphasises: questions and answers 6 and 15.

As is the case with the two letters, the answers do not impugn the Senator's consistent evidence that he left Dundalk (c. 12:30-1:00pm) and travelled to the 5pm Letterkenny meeting via his home and office in an Fál Carrach/Gort a' Choirce .

The Senator at all times emphasised that he claimed only the travel expenses from his home to Letterkenny IT and back, despite his being out of pocket for the return trip: from Dundalk to an Fál Carrach and back (which did not, of course, generate a claimable expense). The Senator at all times defended the role and importance of the Donegal Sports Partnership. The claim forms as submitted speak for themselves, and do not seem to require further clarification.

The above addresses the matters raised in paragraph 10.2 of the Walsh Report:

"10.2 In any event, and despite the general explanations offered in relation to his travel arrangements, no explanation has been offered in relation to his attendance at the DSP meeting on 10 March 2006. Accordingly, it would seem that he was not entitled to the travel allowance of €76.95 and the subsistence allowance of €16.32 paid by an tÚdarás in respect of that meeting. Total €93.27."

The basis for the Údarás expenses claim is clear from the form submitted. This claim was never controverted. It is of no surprise that the Údarás has not now, nor never has had, any issues with regard to the validity of expense claimed and paid in relation to this meetings of Donegal Sports Partnership. The day of the oral hearing, the 9 May 2016, an tUasal Gearóid Breatnach, director of corporate services, gave evidence on behalf of Údarás na Gaeltachta and confirmed that Údarás na Gaeltachta had no issue with the expenses claimed by the Senator for the 10 March meeting or indeed of any other expense claim submitted by the Senator¹⁹.

On the totality of the evidence, there could be a question in relation to the payment of €16.32 subsistence to the Senator by Údarás na Gaeltachta for 10 March 2006 when he was already in receipt of an overnight allowance for the 10 March from the County Council but it is submitted that this is best explained as inadvertence when making the claim seven months after the event.

It is also submitted that this is an issue for Údarás na Gaeltachta in the first instance and that it is surprising that the investigation proceeded in the absence of complaint or sanction from the public body which is said to be the injured party.

¹⁹ Transcript, p 165.

The Carrickmacross Event (Complaints 2, 5, 8)

This alleged contravention arises out of an honest mistake contained on the claim form submitted to the County Council²⁰. This form indicates that the Senator arrived home at 8pm when it ought to have read 3pm. This error caused an over-payment of €16.32 subsistence by Donegal County Council. The Senator clarified this error upon the receipt of the first letter from the County Council on foot of the anonymous complaint, the genesis of this process.

In the above mentioned letter from the Senator to the County Council dated 15 December 2011²¹, his first opportunity to address this particular question from the Council, he clarifies in paragraph 3 on the first page, where he answers the questions in the order in which they were put, as follows: *“The return home from Carrickmacross on the 27th April [2006] should be 3pm and not 8pm and this was a genuine error”* and he explains the official business he undertook dealing with post etc. before departing for the 5pm Donegal Sports Partnership meeting in Letterkenny IT as evidenced by the claim form submitted to Údarás na Gaeltachta.²²

There are minor errors on this claim form and the Senator provided explanation and correction as soon as they were brought to his attention. Again in his letter to the County Council of 15 December 2011²³, the first opportunity he had to respond to this particular question from the Council, he clarifies in paragraph 3 that the meeting was on the 27 April 2006 rather than the 24 April as he had written and that he set out for the meeting of the Sports Partnership at 4:30pm rather than at 5pm.

The Senator derived no advantage from these errors on the Údarás claim form. The Senator attended a waste management conference in Na Dúnaibh (Downings) County Donegal on 24 April 2006 from 5pm, which initially raised a complaint from an anonymous person but which the County Council found to be without foundation as the meeting of the Sports Partnership was held on the 27 April as opposed to the 24th as the Senator had first written in error²⁴.

The Senator left the conference at Carrickmacross at 12:40pm and missed 20 minutes of a talk which began at 12:15pm along with a questions and answers session (15 minutes) and the conference lunch²⁵. The Walsh Report does not recommend that all of the conference expenses could be recovered from the Senator on foot of this partial non-attendance²⁶. He does however recommend recovery on behalf of the Údarás in paragraph 10.1:

“€76.95 – in respect of the DSP meeting on the 27th April 2006”

The basis for this is unclear. The Údarás has not, and never has had, any issue with the expenses claimed and paid by them in relation to these meetings of the Donegal Sports Partnership. Only travel expenses are at play for this event.

It is clear that there were two distinct trips here as evidenced by the additional information provided:

- Trip (1) Wednesday 26 April 2006 at 5pm leaving an Fál Carrach for Carrickmacross and home again for 3pm the following day Thursday 27 April 2006.
- Trip (2) Thursday 27 April 2006 leaving an Fál Carrach at 4:30pm for Letterkenny and returning at 9pm the same evening.

²⁰ County Council Booklet, page 21

²¹ Book of Documents, page 66 et seq

²² Údarás booklet, page 3

²³ Book of Documents, page 66 et seq

²⁴ Book of Documents, page 86 paragraph 2

²⁵ Book of Documents, page 128

²⁶ Book of Documents, page 128

Paragraph 10.3 of the Walsh Report states concisely:

“The result of changing the time of his return home from the training seminar in Carrickmacross on 27 April 2006, from what he stated in the claim form, would seem to be that Senator Ó Domhnaill was not entitled to the payment of the 3 hour subsistence allowance of €16.32 paid by Donegal County Council.”²⁷

It was clear to the County Council that this overpayment had been made from the time that the Senator clarified the timeline in his 15 December 2011 letter²⁸, the Council did not however, despite their having the power to do so, take any steps towards the recovery of same²⁹.

It is an interesting technical point that paragraphs 6, 18 and 22 of Part II of the Minister for the Environment’s Directions LG49/2, which the Senator is alleged to have breached in relation to this event, do not seem to deal with an over-payment of this type.

Regarding his return to an Fál Carrach after the meeting of the Sports Partnership and before he departed for the meeting of the Board of Údarás na Gaeltachta in Kerry the following day, the Senator described the c.45 minute physiotherapy session he underwent at home in an Fál Carrach around 9:30pm when his physiotherapist/coach was available. This session was necessary because of an injury he was carrying and in the run up to an important race in June³⁰.

The Carlingford Event (Complaints 3, 6 & 9)

This alleged contravention arises out of the Senator’s decision not to attend the afternoon portion of this marine tourism conference on 31 May 2006. According to the conference brochure³¹ he missed out on the following:

“3.30-3.50 *Speaker’s Panel Q&A*
“4.00-5.00 *A Visit to the Carlingford Oyster Company*
 With Guinness, oysters & mussels served on site.
“6.45-10.30 *Sailing & Dinner on Tall Ship ‘Artemis’*
 Depart Warrenpoint”

Since he was free to absent himself and attend a launch of the Donegal Sports Partnership, of which at the time he was still chairman, rather than remain for these sessions, it is difficult to support the opinion in the Walsh Report that a full recovery of the expenses claimed from the County Council could be sought³².

The question is raised in relation to the expenses received from Údarás na Gaeltachta at paragraph 10.1. Since the claim: €67 for mileage for a trip from his home and office in an Fál Carrach/Gort a’ Choirce to an Clochán Liath (*Dungloe*) and back again is for 31 May 2006 it therefore relates to a separate day and a separate journey as opposed to two journeys arising out of the Carlingford conference for which the County Council paid mileage: An Fál Carrach to Carlingford on 30 May, and Carlingford to An Fál Carrach on 1 June.

²⁷ Cf. Walsh Report, paragraph 9.2.5 for the same opinion

²⁸ Book of Documents, page 66 paragraph 1

²⁹ Paragraph 6, Part III of the Ministerial Directions LG49/2

³⁰ Transcript of Evidence 177:26 et seq.

³¹ County Council Booklet, page 29, Exhibit 16

³² Walsh Report, paragraph 10.4, Book of Documents, page 128

This is not a case of a double expense claim, but of two separate claims to two separate public bodies for different trips on different roads on different dates and pursuant to the Decision of this Commission in the Larkin case, Senator Ó Domhnaill was entitled to travel from his office in an Fál Carrach/Gort a' Choirce to an Clochán Liath (*Dungloe*) and back again on the 31 May.

The question was raised during Mr. Walsh's evidence at the public hearing on 9 May 2016 as to the road the Senator took home and then onward to An Clochán Liath (*Dungloe*): the N56 rather than going over the mountains.

It was at his own expense that the Senator travelled home on 31 May and he was entitled to choose the best and safest route. He was also free to choose that national route on his return trip, at his own expense, from An Fál Carrach to Carlingford³³.

On the totality of the evidence, there could be a question in relation to the payment of €16.32 subsistence by Údarás na Gaeltachta for 31 May 2006 when the Senator was already in receipt of an overnight allowance for the 31 May from the County Council but it is submitted that this is best explained as inadvertence when making the claim five months after the event³⁴.

The day of the oral hearing, the 9 May 2016, an tUasal Gearóid Breatnach gave evidence on behalf of Údarás na Gaeltachta and confirmed that Údarás na Gaeltachta had no issue with the expenses claimed by the Senator for the 31 May meeting or indeed of any other expense claim submitted by the Senator.

It is also submitted that this is an issue for Údarás na Gaeltachta in the first instance and that it is surprising that the investigation proceeded in the absence of complaint or sanction from the public body which is said to be the injured party.

There is again a mistake on the County Council claim form³⁵. The date of the claim was given as 13/4/2006 when 13/6/2006 ought to have been given. This is a mistake which the Senator rectified in his above mentioned letter to the County Council of 15 December 2011³⁶, the first opportunity he had to address this particular question from by the Council. In this same letter he corrected a second mistake contained in this claim form i.e. in that he returned at 2pm on 1 June 2006 as opposed to 2pm on 2 June 2006 as appears on the form. No complaint arises out of either of these two mistakes, and it appears that the Senator's *bona fides* are accepted in this regard.

Questions were raised regarding the travel arrangements of the Senator outside of these alleged contraventions. It appears that these questions were raised in order to test his credibility and prosecuting senior counsel had the opportunity to test the Senator's credibility accordingly without interruption. It is submitted that the Senator proved to be an honest witness.

Conclusion

It is submitted that the totality of the evidence put before the Commission is not consistent with a person who sought to take advantage of the expenses systems of two separate organisations of which he was a member.

The Senator was free to be absent himself from portions of conferences attended by him in order to attend at other events in his capacity as a public representative where he was strongly of the opinion, as he stated in evidence to the Commission, that those matters were a better use of his time.

³³ Transcript 118 et seq.

³⁴ Údarás booklet, page 6

³⁵ County Council booklet, page 37

³⁶ Book of Documents, page 66 et seq

Indeed the amount of costs incurred – between petrol and other items – in returning home in order to properly attend to the business of the Sports Partnership certainly outweighed any expenses claimed for traveling from his home to those Sports Partnership events.

We were given a particular insight into the busy life of a rural public representative in a competitive locality which demands a high level of service from its public representatives - a Irish affliction, perhaps. The pressure to return to one's home/office when in the locality in order to deal with constituency matters ahead of the competition was demonstrated as well as the physical pressure on a young public representative who wishes to remain fit and continue with sporting activities at the same time and the medical demands which flow from that.

One can easily understand how minor errors could occur on claim forms in such a highly pressurised atmosphere but this does not equate with the corruption of which the Senator is accused. The errors upon which nothing turns illustrate that life is not lived under laboratory conditions agus that such errors are made through inadvertence all the time throughout the world.

As prosecuting senior counsel said it is not the size of the amounts in question that is important but the intent or *mens rea*³⁷ honest or otherwise behind the action. It is submitted that on the totality of the evidence adduced, it would be unfair and inequitable to return a negative decision against Senator Ó Domhnaill.

As Senator Ó Domhnaill was a member at the time of two public bodies: Údarás na Gaeltachta and Donegal County Council, he was obliged to deal with any conflict arising between arrangements made by those organisations. Every alleged contravention relates to meetings on behalf of the two organisations and an tUasal Ó Domhnaill was entitled to attend them.

According to the evidence given by Senator Ó Domhnaill to the Commission, each decision he made in the case of conflicting timetabling of such meetings was sensible and reasonable, especially since he was chair of the Donegal Sports Partnership. The explanations given in relation to these decisions were not controverted.

One of the two organisations in question has no issue and has made no complaint (Údarás na Gaeltachta) as is clear from the evidence of Gearóid Breathnach (*supra*).

The maxim of *de minimus non curat lex* should be applied in relation to the subsistence claims of €16.32 because of the delay in relation to submitting the claims and in the absence of any complaint from Údarás na Gaeltachta in relation thereto and in the absence of any request from Donegal County Council for reimbursement, an option still open to it.

This Commission has a positive duty to protect the Senator's reputation as a public representative given the publicity arising from the hearing before it, which has its real genesis in an anonymous complaint, a point accepted by Mr Walsh³⁸.

Also in relation to the costs of the hearing, it is submitted that under all the circumstances, the Senator ought be allowed to recover his costs and that they be taxed in default of agreement.

Dáithí Mac Cárthaigh BL
Séamas Ó Tuathail AS

Seán Ó Canainn, Aturnae le Dlí, Gort a' Choirce, Leitir Ceanainn, Co. Dhún na nGall.

³⁷ Transcript 25:3

³⁸ Transcript pp. 107-08