

Office of the Attorney General

Statement of Strategy

2015 – 2017

Mission of the Office

Our mission is to provide the highest standard of professional legal services to the Government, Departments and Offices as economically and efficiently as possible and to support adherence to the rule of law.

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Introduction by the Attorney General

I am pleased to present the new Statement of Strategy for the Office of the Attorney General which includes the Office of the Parliamentary Counsel and the Office of the Chief State Solicitor. This is an opportunity for the Office to re-examine its place within the State's legal and governmental framework and how its challenging and diverse roles are carried out. I am proud that the Office has maintained high standards during a period when there were more limited resources but an increased demand for legal services, and that the Office has helped the implementation of the Programme for Government by providing legal support. This Statement provides a framework of goals for the Office to plan for the future in a rapidly changing world and legal environment.

Maire Whelan S.C.

Foreword by the Director General and by Chief Parliamentary Counsel.

'The Civil Service and the Office of the Attorney General is currently entering a period of change and renewal. The Office will have to keep abreast of all developments to satisfy the expectations of efficiency and service delivery. An extensive environmental analysis has provided a basis for this new Statement of Strategy so it can act as a framework for addressing the challenges and opportunities ahead and will allow us to continue to provide an excellent legal service to the Government.'

Liam O'Daly, Director General.

Paul Linehan, Chief Parliamentary Counsel.

Foreword by the Chief State Solicitor

I welcome our new Statement of Strategy. The increasingly sophisticated legal environment poses challenges and opportunities for both our Office and our clients. We share, with our clients; the desire for our Office to provide an expert legal service that is attuned to, and developed in line with, the needs of our client Departments and Offices. We also acknowledge the challenge to respond to the

increased use of external law firms by Government in specialised areas in such a way as to maintain consistency, value for money and the public interest. In order to meet these challenges, we must strengthen our communication and collaboration with our clients, so as to deepen our knowledge of their legal service requirements. I am greatly looking forward to meeting the challenges and opportunities of the next three years and, in particular, to strengthening client collaboration. This will ensure an increasingly effective service delivery by our dedicated staff which places our clients at the centre of what we do and which supports the central vision of the Civil Service Renewal Plan 2015-17.

Eileen Creedon, Chief State Solicitor

Structure of the Office

Under the Constitution the Attorney General, Máire Whelan SC, is the legal adviser to the Government and is therefore the chief law officer of the State. Her Office comprises:-

- the Advisory Counsel to the Attorney General, who provide advice to Government across all the major legal specialisms, including in respect of draft legislation, and also direct litigation;
- the Office of the Parliamentary Counsel to the Government, which provides a specialist legislative drafting service to Government and certain Government Offices
- the Chief State Solicitor's Office, which provides litigation, advisory and transactional solicitor services to all Government Departments and Offices.

The Office also provides a grant-in-aid to fund the Law Reform Commission, whose role under the Law Reform Commission Act 1975 is to keep the law under independent, objective and expert review, to make recommendations according to a planned Programme of Law Reform, and to make current law accessible for all. The latter role is carried out by updating the Legislation Directory and Revised Acts of the Oireachtas.

Constitutional Role of Office

The Attorney General, as the Chief Law Officer in the State - a role mandated by Article 30 of the Constitution - is briefed on all matters of Government with a legal, human rights or constitutional dimension. The professional legal services provided by her Office, therefore, come with the benefit of a whole-of-government perspective. We act only for the State and therefore operate free from conflicts of interest and we are funded by monies voted by the Oireachtas. Our institutional knowledge of the workings of the State and of Government, gained through experience working with Government Departments and Offices, their legal units and the Office's secondees who work in 12 Departments, has give us an awareness of the legal issues that are shared across all Departments and Offices. This places us in the unique position of being able to assist Departments and Offices in anticipating legal risks across Government.

Our role is to:-

- assist and advise the Attorney General in carrying out her functions both under Article 30 of the Constitution and under statute;
- provide advice to Government, Departments and Offices in all matters of law and legal opinion;
- provide a legislative drafting service to Government ;
- represent the State in litigation whether in the Irish Courts or before external courts or tribunals;
- engage with other States in relation to extradition matters, European Arrest Warrants, and mutual assistance requests;
- conduct Ministerial prosecutions where instructed by client Departments and Offices;
- provide a comprehensive property legal service to client Departments and Offices;
- provide commercial and other transactional advices for important areas of Government such as central procurement.

The Office's website at www.attorneygeneral.ie provides more detailed information.

Background to the Statement of Strategy

Our Statement of Strategy has been developed through engagement with our client Departments, following internal consultation across the constituent parts of the Office and an intensive examination of the legal environment. This reflects a driving force of our strategy which is to work closely with Government clients to deliver optimum legal services. We recognise the need to be sufficiently flexible in our organisational structure to allow us to respond to the current and future legal needs of Government Departments and Offices and changes in the external environment. This Statement of Strategy also responds to the requirement of the Programme for Government, the Civil Service Renewal Plan and related priorities.

This Statement of Strategy takes into account the external environment, the opportunities and challenges facing the State through its Membership of the European Union and other international bodies and the impact of EU legislation on Government. Because of

- the increasing pace at which Government Departments and Offices work and the resulting need for new, accelerated schedules for the provision of advice and drafting services, consistent with maintaining quality,
- the recent loss of policy development skills in Departments resulting from the loss of experienced personnel by the Civil Service and
- the increased use by Government of external legal services,

the Office is acutely conscious of the need to continue to develop expert lawyers.

The review of the external environment highlighted the following challenges and opportunities:

- **Legislative Agenda** – the challenge to produce draft legislation of varying complexity and urgency, often on the basis of incompletely developed policy instructions.

- **Legal Specialisms** – the opportunity to consult regularly with client Department to identify new and emerging areas of law in which to develop further our expertise to meet ongoing requirements.
- **Collaborative Engagement** – the imperative to encourage early referral and active review of files to enhance case management options and ensure that prudent approaches to cases are adopted.
- **Litigation Management** – the challenge to manage litigation effectively and the opportunity to encourage early investment by client Departments and Offices in the assessment of litigation files, particularly in those areas in which, from time to time, there are significant increases in litigation, so as to minimise the cost of the litigation to the taxpayer.
- **Legal units** – the development of dedicated legal units within Departments which can include legal staff seconded from the Office.
- **Efficiency Enhancement** – the opportunity to identify where processes, procedures and operations can be streamlined and rendered as efficient as possible so as to make the best use of resources.
- **Clients’ Policy Formulation** – recognising Departments’ critically important policy responsibilities, and the need to enhance their expertise in that regard, the opportunity to provide appropriate assistance where feasible in order to allow the delivery of clear, precise instructions to the Office.
- **Service delivery** – the need to ensure consistency and quality of work undertaken by the Office, and by external counsel or service providers.
- **Investment in staff** – the challenge of retaining legal staff in a competitive marketplace and the need to ensure that all staff are developed to their maximum potential so as to obtain the best from them.
- **Specialised services** – the challenge to respond to the increased use of external law firms by Government Departments in specialist areas in such a way as to maintain consistency, value for money, and the public interest.
- **EU measures** – the opportunity to respond to the increased awareness in Government Departments of the need for early intervention in the negotiation of EU instruments to protect the State's interest and to facilitate the early transposition of EU measures.
- **Resource Constraints** – the need to respond to the challenge of limited State legal resources.

Accordingly, our aim is to deliver an expert legal service to all our client Departments that is attuned to, and developed in line with, the needs of our client Departments in a changing environment. We aim to do this by focusing on the priorities set out in this Statement of Strategy.

Measuring performance

The Office has an established record of undertaking in-depth assessments of client satisfaction and scope for continuous improvement. It has been at the forefront of the civil service in undertaking qualitative and quantitative assessments of performance. Benchmarks were established on the basis of extensive client satisfaction surveys and focus groups which were first undertaken in 2004. Since then, performance against benchmark key performance indicators (in areas relating to e.g. communications, responsiveness, accuracy/quality, service delivery, etc.) has been formally evaluated by undertaking extensive surveys and follow-up actions on a periodic basis. The Office has researched and learnt from how other law offices address issues such as quality assurance, efficiency and consistency. The Office has also engaged in internal feedback mechanisms to identify how internal processes can be improved. Such assessment measures (internal and external) will continue to be used on a more regular basis to monitor, evaluate and achieve the objectives outlined below during the course of this Statement of Strategy.

Consistent with its commitment to service delivery improvement, the Office has identified a total of 20 discrete initiatives which will be pursued over the next three years. These include the preparation and implementation of guidelines, protocols and flexible service delivery models and the review and development of ICT, knowledge management, case management, learning/development and support systems.

The Goals of the Office

A Delivery of the Government Legislative Programme

The goal of the Office of the Parliamentary Counsel (OPC) is to provide a professional legislative drafting service to the Government.

A 1 The OPC will prepare draft legislation that gives effect to the legislative policy set by Government and that conforms with the Constitution and the State's EU obligations, in particular it will draft:

- Government Bills in accordance with the Government Legislation Programme;
- other urgent or priority Bills as directed by Government;
- Committee and Report stage amendments to such Bills;
- Government orders, commencement orders and statutory instruments (including regulations intended to give effect to acts of the European Union) that amend primary legislation;
- other statutory instruments where the exigencies of existing legislative priorities permit.

A 2 The OPC will continue to emphasise to Government Departments the importance of:

- adherence by Government Departments to the procedures regarding primary and secondary legislation set out in the Cabinet Handbook;
- Government Departments fully formulating and developing legislative policy proposals before engaging the services of the OPC;
- the central role of the Government Legislation Committee in setting and overseeing Government legislation priorities and in reconciling competing legislative priorities in order to ensure that Government derives maximum benefit from the services provided by the OPC.

A 3 The OPC will continue to engage with Government Departments in order to ensure greater efficiency in the interaction by the Departments with the OPC, and in particular will –

- emphasise the importance of Departments engaging with legal secondees and Advisory Counsel at an early stage in the development of legislative proposals,

- emphasise the importance of Departments' engaging with other Government Departments at an early stage in the development of legislative proposals where the policy proposals fall under the remit of more than one Department or have implications for policy areas that fall under the remit of more than one Department,
- where appropriate and subject to resource constraints within the OPC, engage with Departments to support training initiatives taken by them in respect of the legislative process.

A 4 The OPC will continue to actively participate in and engage with the Government Legislation Committee in order to enable proper monitoring and supervision of the implementation of the Government Legislation Programme.

A 5 The OPC will continue to collaborate with Advisory Counsel when drafting legislation. The OPC will also engage with Advisory Counsel in carrying out reviews of significant legislative projects in order to improve and refine processes relating to legislation drafting files.

B Communication and Collaboration with Client Departments

The goal of the Office is to further develop focussed and productive engagement with client Departments and Offices. This will range from encouraging early intervention in cases, to case management in litigation in order to achieve better outcomes for the State. The achievement of this goal will require agreement with our clients on the most appropriate method of engagement in each area of service provision. Our aim is to ensure that over the next 3 years, enhanced communication and collaboration will lead to better solutions for our clients and improved costs savings for the taxpayer.

B 1 We will engage in regular structured consultation with our client Departments to respond to their policy objectives and thus:

- improve our understanding of our client Departments' policy objectives, specialised legal needs and priority targets;

- strengthen engagement to anticipate and plan legal needs and the provision of services across the entire range of the Office's functions;
- agree guidelines for the furnishing of comprehensive and timely instructions necessary for the provision of advice, conduct of litigation and avoidance of unnecessary cost;
- regularly review with client Departments the timing and manner of delivery of legal advice to ensure it matches their developing and changing needs;
- support early investment by client Departments in the assessment of litigation and agree arrangements for the early identification, referral and active management of precedent forming cases, such that the State's interests may be best protected;
- continue to promote joint reviews of litigation in areas in which a significant number of proceedings have been instituted in order to learn from experience and agree measures to prevent unnecessary litigation and ensure accountability in relation to legal expenditure;
- identify ways in which we can assist client Departments in the development of their expertise in policy formulation and the giving of instructions for legislation;
- co-operate with existing legal capacity within client Departments, including legal staff seconded from the Office, to optimise the delivery of legal services;
- engage with client Departments and Offices to identify new and emerging areas of law of significance in which to develop further our expertise;
- support client Departments in identifying areas in which the development of precedents and checklists can facilitate efficiency and consistency;

B 2 We will provide an enhanced EU law service by responding to Departments requirements with regard to EU legal developments with implications for the State by:

- assisting Departments to make interventions and responses in respect of relevant litigation before the Court of Justice.
- providing early and effective advice to client Departments which seek advice on EU projects and policy proposals;

- where requested, deepening our engagement in the development and negotiation of EU legislation;
- reviewing with Departments (a) the point at which they require advice in relation to the negotiation of individual EU instruments and (b) the schedule for implementation of EU measures, which takes adequate account both of the resources available and other implementation deadlines;
- defining a greater role for legal secondees in these processes;
- agreeing protocols with client Departments for the provision of instructions to achieve these aims.

B 3 We will explore and develop appropriate channels of communication with all Government Departments and Offices, to inform them of the role of the Office and the range of services we provide by:

- continuing to enhance the Office's web and e-based methods of communication with client Departments
- seeking and acting on feedback and evaluation provided by client Departments;
- increasing the provision of workshops and education and training initiatives with client Departments;
- assisting clients to engage with e-justice initiatives of Government in all its forms;
- managing, updating and improving online access to Irish legislation through the electronic Irish Statute Book (eISB);
- increasing focus on early and alternative dispute resolution solutions with client Departments
- facilitating Departments in developing data bases of advice furnished by the Office.

C More Effective Service Delivery

Our goal here is to support the constitutional role of the Attorney General as the Chief Law Officer in the State by delivering an effective up to date shared legal service to Government that is responsive to the changing needs of our client Departments. We will develop systems, structures and solutions that support

optimum, cost-effective, service delivery in line with Government priorities, while maintaining our professional independence, and public service values.

C 1 We will develop flexible models for service delivery that can meet our client Departments' changing needs over the lifetime of this Statement of Strategy by:

- exploring models for flexible service delivery to respond to urgent legal demands affecting client Departments;
- identifying flexible models for service delivery;
- in conjunction with client Departments, considering formulae for the resourcing of flexible models to deliver on their priorities.

C 2 We will continue to develop information and communications technology ICT systems and technical innovation to support our legal staff in delivering a modern and flexible service to our client Departments by:

- streamlining our case management system;
- monitoring trends and developments in how law offices use ICT and continuing to review our ICT systems;
- benchmarking and reviewing our internal supports needs and implementing recommendations for improvement;
- expanding ICT remote access in litigation matters and ensuring the best use of technical innovation to support our legal staff.

C 3 We will adhere to the principles of professional excellence in our legal services by:

- promoting best practice and value for money in the delivery of our services;
- promoting best practice in the delivery of legal services to the State by those external legal service providers whom we engage;
- Strengthening quality control mechanisms and accountability for performance in the delivery of legal services by both State and external legal service providers who we engage.

C 4 We will keep under review the range of legal services provided to Government to ensure that its needs are being met in an efficient and cost-effective manner by:

- reviewing, on the basis of available data, the quantum and quality of legal services provided to Government and the manner in which they are delivered;
- engaging with client Departments to ensure efficient and cost-effective legal services are available to them;
- seeking and acting on feedback and evaluation provided by client Departments in relation to the legal efficiency and cost-effective delivery of legal services by this Office.

C 5 We will support client Departments in ensuring that administrative decision making and the implementation of priorities under the Civil Service Reform Plan 2015-17 rests on a solid legal foundation and adheres to public service values by:-

- supporting client Departments through effective engagement in ensuring that relevant legal, human rights and constitutional principles are understood and applied in decision-making;
- enhancing accountability, transparency and service-delivery in the public interest as identified under the Civil Service Reform Plan 2015-17 by supporting clients in formulating clear policy instructions when seeking legal advices;
- helping client Departments to approach decision-making in a manner which reduces legal risks to the State and allows for lawful, accessible, transparent, proportionate and foreseeable decision-taking in the interests of citizens.

D. Knowledge Management, Learning and Organisational Capability

Our goal here is to ensure we are able to recruit and retain high quality staff, while continuing to invest in and develop our staff to ensure continued professional excellence so as to provide optimum legal services to client Departments. The Office recognises the central role of Knowledge Management and learning and

development. We therefore intend over the lifetime of the Strategy to augment knowledge management, learning, development and IT systems, by committing to the following objectives:

D 1 The Office will prepare new knowledge management strategies with a view to:

- Enhancing the capture and sharing of legal and organisational know-how;
- Encouraging Government Departments to engage in legal Knowledge Management;
- Monitoring trends and developments in relation to knowledge management in both the legal and non-legal world.

D 2 As a knowledge based Office, we will continue to focus on the learning and development of our staff in order to meet ongoing and anticipated legal needs by:

- reviewing learning and development needs across the constituent parts of the Office and employing strategies to ensure training and development of our legal staff;
- implementing our learning and training strategies across the Office;

D 3 We will plan for increased specialist legal needs in the Office and how best to resource the priority legal needs of Government by:

- reviewing the need for specialist legal staff;
- engaging with Government on how best to resource specialist legal needs'
- review the models for delivery of legal services in Departments including the use of legal units within Departments, partly or wholly staffed by members of the Office.

D 4 The Office will take steps to learn from other providers of legal services so as to ensure better service and thus better outcomes for Government by -

- benchmarking and reviewing the services provided by other legal service providers' and implementing any recommendations arising;

- with the assistance of Government, ensuring the Office has sufficient resources to be competitive when it comes to recruiting the best staff and reviewing the career structures for staff in the Office.