

Office of the Attorney General

Annual Report 2011

Incorporating the

- **First Progress Report on Implementation of Statement of Strategy 2011 – 2014, and**
- **Third Progress Report on Implementation of Merrion Street Office’s Client Service Guide 2008–2010 and Chief State Solicitor’s Office Customer Action Plan 2008–2010**

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Chapter 1: Roles and Functions

The Attorney General is the legal adviser to the Government and is a constitutional officer. The clients of the Attorney General and the Attorney's Office are the executive branch of Government, that is to say the Government as a whole, its individual members and the Departments they head. By virtue of Article 30.1 of the Constitution and section 6 of the Ministers and Secretaries Act 1924 and the Ninth Part of the Schedule to that Act, the Attorney General has control and responsibility for the Office of the Parliamentary Counsel to the Government and the Office of the Chief State Solicitor. The main functions of the Office of the Attorney General are:

- to provide legal advice to Government, Departments and Offices
- to draft legislation
- to provide litigation services
- to provide solicitor services, including conveyancing and other transactional services
- to assist and advise the Attorney General in carrying out his functions as described in Section 6 of the Ministers and Secretaries Act 1924, including those functions pertaining to the public interest.

The role of the Office of the Attorney General, including all its officers, is to assist and to advise the Attorney General in carrying out the functions of advising Government and in performing other functions specifically conferred by the Constitution and legislation. Under the Public Service Management Act 1997 authority for management of the Office, monitoring policies that affect the Office and the delivery of specified outputs devolves on the Head of the Office, who is the Director General.

Advisory Counsel

The Advisory side of the Office is divided into five specialist Groups covering all major legal specialisms (subject areas). In addition, the Deputy Director General and the Head of EU and ECHR law also have responsibility for specific subject areas. The Advisory side comprises Advisory Counsel each of whom specialises, to a significant degree, in a variety of specific areas of law. The principal duty of Advisory Counsel is to assist the Attorney General in the performance of functions

and duties. Each Advisory Group has dedicated clerical support staff familiar with the business of the Group.

The range of subjects covered by the Groups is extensive, but the activities themselves fall into three functional areas, namely:

- the provision of advice;
- the direction of litigation;
- involvement in the provision of a drafting service to Government Departments.

Work of Advisory Counsel

The Office has put in place structures and systems to accommodate and address all routine queries as well as requests for urgent advice on significant legal issues. Advisory Counsel work closely with lawyers in the Office of the Parliamentary Counsel advising on legal issues arising in the drafting of legislation and with the Chief State Solicitor's Office advising on the conduct of litigation and other legal matters.

The range of advisory work normally undertaken by the Office is very broad and includes constitutional law, administrative law, European law, commercial law, public international law and criminal law – in fact, all areas of legal work in respect of which Government or a Department or Office may require advice. Requests for advice may be received from the Government as a whole, from Ministers, or from civil servants in Government Departments or Offices either directly to the Office or via the Chief State Solicitor's Office. Advice is frequently provided under extreme pressure of time.

Permanent Representation to the European Union

The Office continued its assignment of an Advisory Counsel by way of secondment as Legal Counsellor to the Permanent Representation of Ireland to the European Union in Brussels. Since its establishment in 1996, the role of the Legal Counsellor has become an essential and intrinsic element of the effective functioning of the Permanent Representation.

Parliamentary Counsel to the Government

The Office of the Parliamentary Counsel to the Government (OPC) comprises a team of specialist lawyers trained to a high level in the discipline of drafting legislation. The goal of the OPC is to provide a high quality professional, specialist and efficient legislative drafting service to Government.

Work of Parliamentary Counsel

The main work of the OPC is to draft Government Bills to be introduced into the Houses of the Oireachtas and to draft secondary legislation, where appropriate, for Government Departments or Offices, including instruments transposing EU legislation into domestic law under the European Communities Act 1972. The OPC is actively involved in the development of the Better Regulation policy in co-operation with the Department of the Taoiseach and its work includes statute law revision and consolidation in the context of the Regulatory Reform Agenda.

The OPC is organised into three Groups, each having responsibility for the provision of drafting services to specific Government Departments and Offices. Each Group has dedicated clerical support staff familiar with the business of the Group.

Chief State Solicitor's Office

The Chief State Solicitor's Office is a constituent element of the Attorney General's Office and is the principal provider of solicitor services to the Attorney General and to all Government Departments and Offices. It also provides solicitor services to certain other State Agencies and to Tribunals of Inquiry, but does not act for members of the public.

Work of Chief State Solicitor's Office

The Chief State Solicitor's Office is organised into five legal Divisions. The Divisions are Public Law, Asylum and Legal Services, State Property, Justice and Common Law and Advisory. Each Division is organised into Sections on the basis of similarity of work or client. The organisation takes account of the principal demands of clients

including an increased involvement with the European Court, more ECHR related actions, an increase in the number of European Arrest Warrants received from other countries in the EU and a greater demand for advice in relation to Public Procurement and Commercial Contracts. This structure also takes account of the management challenges for the Office and in particular the challenges created by the programme for public service modernisation.

Administration

Both the Merrion Street Office and the Chief State Solicitor's Office have administrative Units to support the work of legal staff by providing professional corporate support services such as Human Resources/Training and Development, Finance, Corporate Services, Clerical Support, Private Office Support, Change Management, Information Technology, Internal Audit, Registry and Records and Library and Know-how. There is close contact between the Heads of Administration and relevant Unit staff in both Offices and their counterparts in other Law Offices and the Law Reform Commission about issues of common interest.

Website

The Office's website at www.attorneygeneral.ie provides a detailed description of the roles, functions, responsibilities and work of the Attorney General, Advisory Counsel, Parliamentary Counsel and the Chief State Solicitor's Office.

Chapter 2: Mission Statement and Goals

The Office's *Statement of Strategy 2011 – 2014* has the following Mission Statement and Goals -

The Mission of the Office of the Attorney General is *“to provide the highest standard of professional legal services to the Government, Departments and Offices as economically and efficiently as possible”*.

Six High level Goals were derived from the Mission Statement;

- To support the Attorney General in the performance of her constitutional role as legal adviser to the Government.
- Delivery of a high quality specialist legal advisory service to our clients.
- To provide a high quality professional specialist and efficient legislative drafting service to Government.
- To support and assist in the coordination of the legal services of the State.
- To deliver a high quality specialist solicitor service to the Attorney General, Departments and Offices in areas of litigation and to provide high quality specialist legal advice and services in property and transactional matters.
- To provide modern and professional corporate and business management services in the Office that delivers the highest quality of service.

Chapter 3: Main Developments in 2011

Part I: Legal Developments

Work of the Office of the Attorney General, Merrion Street Office

The Work of Advisory Counsel in 2011

During 2011 Advisory Counsel advised Departments and Offices as requested across the full range of specialisms identified below. Each group is comprised of a Group Manager and Advisory Counsel and clerical support staff.

Group A had responsibility in the areas of *Criminal Law, the Garda Síochána, Prisons, Attorney General's Criminal Law functions, Legal Aid, Law Reform Commission, Statute Law Reform Bills, Criminal assets, Interception of telecom and postal packages including Mutual Legal Assistance aspects, International Co-operation in Criminal Matters, EU Criminal Justice Measures – Title V, Road Traffic Acts, Licensing and the Good Friday Agreement.*

Group B had responsibility in the areas of *Private International Law, Casual and Occasional Trading, Statistics, Statutory Instruments, Personal Injury, Tobacco, Health, Blood, Childhood Abuse, Abortion, Adoption, Assisted Human Reproduction, Education, Family Law, Civil Legal Aid, Solicitors/Barristers, Prosecution of Offences Act 1974, Environmental Law, Nuclear and Planning Acts.*

Group C had responsibility in the areas of *Asylum, Immigration and Citizenship, Agriculture and Aquaculture, Foreshore, Fisheries, Metrology, Mining and Quarrying, Petroleum, Seabed Exploration/Continental Shelf, Law of Sea, Shipping Law, Harbours, Irish Coastguard Service, Commissioners of Irish Lights, Marinas, Health and Safety – Authority and prosecutions and Air Transport.*

Group D had responsibility in the areas of *Telecommunications, Revenue Law, Appropriation and Public Expenditure, Financial Services, Insurance, Company Law, Bankruptcy/Insolvency/Liquidation, Mergers and Monopolies, Gaeltacht, Defence,*

eCommerce, Semi-State bodies, Other State Authorities, Coroners, Irish Language, Cultural, State aids and grants and Competition Law.

Group E had responsibility in the areas of *Intellectual Property, Public International Law, Official Secrets Act, Data Protection Act, Freedom of Information, Arbitration, Social Welfare Law, Labour Law, Pensions, Tourism, Consumer Protection, Electricity, Gas, Postal Law, Road Haulage, Buses and Taxis, Rail Transport, State Property Act, Property, Probate, Succession, Charities and Escheated Estates, Land Registration, Landlord and Tenant, Civil Justice, Explosives and Firearms, Prisons and Public Service.*

European Union/European Court of Human Rights/Northern Ireland: *The former Director General has responsibility in the areas of EU Institutional issues, EU Horizontal issues, Working Groups, COREPER and Council of Ministers, Council of Europe, Human Rights horizontal issues and Northern Ireland.*

Deputy Director General: *The Deputy Director General has responsibility in the following areas: International Trade Law, Government Contracts and public procurement (with Group E), National Infrastructure/National Development Plan/Public Private Partnerships, Electoral Law, Censorship, Oireachtas, Ministers and Secretaries, Pay, allowances and pensions of Ministers, Ethics, Public Service and Relator Actions.*

Of particular note are the following work developments in 2011 in which Advisory Counsel assisted in the provision of advice and directions.

Legislation

Advisory Counsel advised in relation to primary and secondary legislation drafted in the Office of the Parliamentary Counsel in 2011.

International Law

The Office advised on many international Conventions, Protocols and Agreements, cases and legislative developments in international law in 2011. Advices were also

furnished on a considerable number of draft bilateral Agreements in the areas of extradition and mutual legal assistance with non-EU countries. The Office participated in the Cross-Departmental Committee on International Sanctions and advised in respect of legislative measures and handled relevant domestic and EU/UN cases.

Tenders

The Office provided significant input into several key matters in relation to public procurement in 2011 and provided advice to the National Procurement Service during the year.

Education Issues

Special needs litigation required a closely co-ordinated approach during 2011.

Nursing Home Litigation

The management of Nursing home litigation continued to be a demanding area that required significant attention in 2011.

Remuneration and Conditions of Employment

Management was required of issues arising from challenges to the Industrial Relations Act 1946 and the regulation and remuneration and conditions of employment of certain workers by way of EROs (Employment Regulations Orders) and REAs (Registered Employment Agreements).

Environmental Issues

Environmental issues and in particular infringement actions against the State and domestic litigation continued to be a demanding area that required significant attention during 2011.

International and EU organisations

Advisory Counsel in the Office also participated in relevant working groups listed at **Annex E**.

Justice and Criminal Law

At EU level the Office has advised on a considerable number of proposed measures under Title VI of the TEU relating to areas such as information sharing, procedural law, mutual recognition and substantive criminal law. The Office assisted the Attorney General in his role during 2011 as member of the Justice Future Group which made recommendations on the priorities of the European Commission in the field of Justice and Home Affairs.

Extradition and European Arrest Warrant cases

In these matters the Office works very closely with the Central Authority at the Department of Justice, Equality and Law Reform, the Garda Síochána and in some cases the Department of Foreign Affairs. The volume of work in this area has increased dramatically in recent years.

The Law Reform Commission

The Office continued to support the Law Reform Commission in its work during 2011.

Advisory Counsel in Irish Permanent Representation in Brussels 2011

One Advisory Counsel is seconded as Legal Counsellor to the Permanent Representation of Ireland to the European Union. During 2011 the Legal Counsellor advised the Permanent Representative and his Deputy on the various legal issues that arise as a consequence of their attendance at COREPER I and II. He also advised Departmental officials in relation to issues arising at the Working Groups of the Council that they attend and in relation to issues arising between Departments and European Institutions. The Legal Counsellor discharged the following additional duties:

- Attendance at the Courts of Justice and other Working Groups.
- Liaison between the Legal Counsellors at the Permanent Representations of the various Member States and with Members of the Council, Commission and Parliamentary Legal Services.

- Assisting in the bilateral resolution of technical legal difficulties in relation to legislation under negotiation in Council.
- Liaising between Permanent Representation in Brussels and the Office of the Attorney General in Dublin.

Banking Crisis, Euro Sovereign Debt Crisis, Fiscal Governance and Programmes of Financial Support to the State

The Office was centrally involved in advising Government and the Department of Finance in relation to matters arising out of ongoing bank restructuring and the Euro sovereign debt crisis. The major impact this work had on the Office since early 2008 continued in 2011. The work involved in advising on the development of policy, drafting of legislation, an amendment of the EU Treaty, EU legislation, international agreements, the interpretation of and giving effect to EU and domestic law, reviewing loan documentation, making court applications and defending litigation is probably unprecedented in the history of the State. The Office was acutely aware that the financial stability of the State and the Eurozone itself was under threat, and rose to the challenge.

Approximately 72 new files were opened in respect of legal issues arising from the banking crisis such as bank restructuring, liabilities management exercises, litigation and bank reform legislation. 20 new files were opened in respect of the sovereign debt crisis dealing with matters such as fiscal governance in the Euro area, EU Fiscal Stability Treaty (Treaty on Stability Coordination and Governance in the Economic and Monetary Union), the European Stability Mechanism, the EU/IMF Programme and the UK and Nordic loan agreements. In addition, files opened in previous years continued to generate significant volumes of work.

The work was particularly demanding legally by virtue of its importance, volume, complexity, continuously changing factual matrix and the constant level of urgency. These factors required Advisory Counsel and Parliamentary Counsel to adopt a flexible approach and become involved in the very early developmental stage of legislative proposals. The Office worked in close co-operation with other members of multi-stakeholder teams involving some or all of the following: Department of

Finance, NTMA, Central Bank, NAMA, CSSO, external consultants and in-house and commercial lawyers retained by those bodies and counsel.

The Office had an intensive involvement with the legal teams sent by the "Troika" (EU, IMF, ECB) on quarterly review missions in relation to the negotiation of the terms and conditions and ongoing compliance with the EU/IMF Macro-economic Adjustment Programme.

There was ongoing advice on the negotiations and execution of the separate loan agreements concluded with UK, EU and EFSF and the compliance with conditions for ongoing loan disbursements. IMF/EU documentation was also intensively considered in the context of each of the three reviews thereof carried out by the Troika during 2011. In addition we advised and assisted at the negotiations to conclude the Danish and Swedish loan agreements.

Teams of Advisory and Parliamentary Counsel worked for long hours, often seven days a week, to ensure speedy delivery of service, a high quality of advice and urgent production of legislation. The organisation of teams and the communications methods adopted ensured accessibility, responsiveness, fast "turn around", quality and, if necessary, round the clock cover.

The major tasks of filing and organising files both manually and electronically, which followed the critical phases of such projects, is indicative of the volume and speed of the work involved.

The following selection of issues on which the Office advised gives a flavour of the nature of the work and the challenges posed:-

- The **Credit Institutions Stabilisation Act 2010** ("CISA") put in place a series of far-reaching and unique court powers affecting the restructuring of banks, shareholders and bondholders. Advice was given across a wide area dealing with the first CISA applications, the recapitalisation of the banks, the disposal

of Anglo and INBS deposits, the restructuring of the banks, the liability management exercises affecting the banks and the related legal challenges. This work allowed the completion of the required bank restructuring on time under the EU/IMF MOU and generated a saving of in excess of €5 billion to the State.

- The legally complex and novel **Central Bank and Credit Institutions (Resolution) Act 2011** ("CBCIR") is separate to CISA, mentioned above. It provides for a "steady state" permanent banking resolution regime administered by the Central Bank and includes provision for the appointment of a special manager; the transfer a troubled institution's assets and liabilities to other institutions and the establishment of "bridge banks".
- The **Central Bank (Supervision and Enforcement) Bill 2010**.
- Particular issues in the context of NAMA, CISA, CBCIR, the bank guarantee, the commitments in the EU/IMF MOU, burden-sharing, foreign litigation with bondholders and contingency planning on an ongoing and urgent basis.
- Reviewing EU developments in relation to banking State aid and individual clearance decisions by the Commission, ongoing reviews of the recapitalisations in the banking sector and the EU reform agenda.
- The negotiation of the **European Stability Mechanism Treaty**.
- Legal questions pertaining to the terms and conditions of the **EU/IMF loan agreement, the MOU on specific economic policy conditionality and the UK and Nordic loan agreements**.
- The Euro sovereign debt crisis projects affecting the State including the European Financial Stabilisation Mechanism ("EFSM"), the European Financial Stability Facility ("ESFF") and **loan documentation** issued pursuant to the EFSF and ESM. **The European Financial Stability Facility and Euro**

Area Loan Facility (Amendment) Act 2011.

- The ratification of the **EU treaty change to Article 136 Treaty on the Functioning of the European Union** and the European Communities (Amendment) Bill (now an Act of 2012).
- The proposed terms and negotiation of the **Fiscal Stability Treaty**.
- The **Fiscal Responsibility Bill** based *inter alia* on the EU/IMF requirement for a budget advisory council and the Government's desire to have improved fiscal governance rules.
- The package of six proposed economic governance measures issued by the EU Commission on reinforcing economic policy co-ordination at EU level (also known as the **Van Rompuy package**) and the Commission **Second Economic Governance Package**.
- **Troika legislative commitments** in other areas including the Competition (Amendment) Bill, Local Government (Household Charge) Act 2011, Health (Provision of General Practitioner Services) Bill 2011 and the enormous tasks which were the commencement of the work on the Personal Insolvency Bill and the Legal Services Bill.
- **Finance Bill:** Revenue law is raising cutting edge issues of the highest importance as Government is faced with reducing severe fiscal deficits over the coming years and implementing innovative fiscal solutions.
- Issues arising for the State from **Quinn Insurance (in Administration) and payments from the Insurance Compensation Fund**.

The complex, fast moving and evolving set of confidential and market-sensitive issues required innovative legal solutions. The work was facilitated by the flexibility of the Office and by the exceptional commitment and competence of the Advisory

and Parliamentary Counsel involved as well as CSSO, legal researchers, support staff and others. Excellent relations and co-operation with other stakeholders, including outside lawyers, was essential to the successful delivery of the Office's service in this area.

The Work of Parliamentary Counsel in 2011

The Office of the Parliamentary Counsel to the Government (OPC) drafted a significant number of Bills and Statutory Instruments during 2011:

- **55** Government Bills published (Annex A)
- **41** Government Bills enacted (Annex B)
- **374** Statutory Instruments were drafted and transmitted
- **91** of which related to the transposition of European Union measures.

There was a significant number of drafting assignments undertaken by the office during 2011 including the following –

Companies Consolidation and Reform Bill

There was published on the sponsoring Department's website, in the Summer of 2011, the draft prepared by the OPC of the first 952 sections of the above, together with the 6 Schedules associated with them. Those sections constitute what is described as Pillar A in the General Scheme of the Bill approved by the Government in 2007. Pillar A contains practically all of the law regarding private companies limited by shares. Following that publication, work began in the OPC on what is described in that Scheme as Pillar B.

A significant proportion of the additional 480 or so sections that constitute that Pillar B was completed by the end of 2011, with a view to publication of the entire Bill in late 2012.

Public Service Pensions (Single Scheme) and Remuneration Bill 2011

The principal purpose of the Bill as published in September 2011 was to provide for a new single pension scheme for all new entrants to the public service. The new scheme is a commitment under the EU-IMF Programme of Financial Support for

Ireland. The key feature of the Single Scheme is that pensions are to be calculated on career average pay and not on final salary.

The Bill also provided, in Part 3, the necessary legislative amendments required to facilitate a reduction in pay rates for certain public servants and officeholders, including members of the Government and new members of the judiciary, whose pay rates are determined in legislation.

Central Bank (Supervision & Enforcement) Bill 2011

The principal purposes of this Bill as published in July 2011 are to provide enhanced powers to the Central Bank of Ireland for the supervision of regulated financial service providers, to provide enhanced powers to the Central Bank of Ireland for the enforcement of financial services legislation and to provide for related amendments to the Central Bank Acts 1942 to 2010 and certain other acts and statutory instruments.

Financial Emergency Measures in the Public Interest (Amendment) Act 2011

This Act applies the Financial Emergency Measures in the Public Interest Acts of 2009 to serving judges following the referendum on the Twenty- Ninth Amendment of the Constitution amending Article 35.5 of the Constitution relating to judicial remuneration.

The Act removes the exemption for a military judge, once appointed, from the application of those 2009 Acts and makes the necessary legislative amendments to reduce the pay of newly appointed judges, certain officeholders and other public servants. The Act makes other amendments of the Financial Emergency Measures in the Public Interest Acts.

Finance (No. 3) Act 2011

The purpose of this Act is to give effect to the changes necessary to the Taxes Consolidation Act 1997, the Stamp Duties Consolidation Act 1999, the Capital Acquisition Tax Consolidation Act 2003 and the Value-Added Tax Consolidation Act 2010 in relation to the taxation of civil partners and cohabitants as a consequence of the passing of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

New Parts 44A and 44B are inserted into the Taxes Consolidation Act 1997 provide for the same tax treatment for civil partners in a registered partnership as available to married couples and for the tax consequences for cohabitants on the break-up of their relationship and any maintenance requirements that arise as a result.

Schedules 1 to 4 contain the technical amendments to the Taxes Consolidation Act 1997, the Stamp Duties Consolidation Act 1999, the Capital Acquisition Tax Consolidation Act 2003 and the Value-Added Tax Consolidation Act 2010 that are required as a consequence of the passing of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

European Financial Stability Facility (Amendment) and Euro Area Loan Facility (Amendment) Act 2011

The purpose of this Act is to further facilitate, in the public interest, the financial stability of the European Union and safeguarding the financial stability of the Euro Area as a whole.

It enabled Ireland to ratify both the June 2011 amendments to the European Financial Stability Facility (EFSF) framework agreement and those arising from the decision of 21 July 2011. This is provided for in the Act by way of amendments to the European Financial Stability Facility Act 2010.

The Act also enabled Ireland to ratify amendments to the Greek loan facility agreement by way of amendment to the Euro Area Loan Facility Act 2010.

Central Bank and Credit Institutions (Resolution) Act 2011

The purpose of this Act is to make provision for the restructuring of the domestic banking system by providing an effective and expeditious resolution regime for certain credit institutions that are failing or are likely to fail and to so provide at the least cost to the State,

For that purpose the Act provides for the taking of measures to maintain public confidence in the financial system in the State, for securing (to the extent possible in

the circumstances) the continuity of banking services, for the orderly winding up of an authorised credit institution that is insolvent and to provide the Central Bank of Ireland with the necessary powers for that purpose.

Communications Regulation (Postal Services) Act 2011

The principal purpose of this Act is to transpose the Third Postal Services Directive (2008/6/EC), which provides for the final phase in opening the postal services market to competition. The Act sets out a regulatory framework, the main purpose of which is to safeguard the permanent provision of a universal postal service and to encourage competition in a liberalised market and includes the designation of a universal postal service provider and the updating of some key pieces of postal legislation so as to ensure their compatibility with a liberalised market. The Act also provides for the establishment and maintenance of a postcode system.

Competition (Amendment) Bill 2011

This Bill contained provisions, the aim of which was to ensure more effective competition law enforcement in the State. It was introduced in fulfilment of a commitment in the EU/IMF memorandum of understanding that had to be met by the end of the third quarter in 2011.

Qualifications and Quality Assurance (Education and Training) Bill 2011

This Bill provided for the dissolution of the National Qualifications Authority of Ireland, the Higher Education and Training Awards Council and the Further Education and Training Awards Council and the transfer of their functions to a new body to be known as the Qualifications and Quality Assurance Authority of Ireland.

Water Services (Amendment) Bill 2011

The Bill was published in response to a European Court of Justice ruling against Ireland where the Court found that Ireland had failed to fulfil its obligations under the Waste Directive (75/442/EEC) regarding domestic waste waters disposed of through septic tanks and other individual waste water treatment systems. The Bill provides for a system of registration and inspection of domestic waste water treatment systems and provides for related matters including the duties of owners of domestic waste water systems and the appointment and powers of inspectors.

The Local Government (Household Charge) Act 2011

The Act is an important revenue raising measure. It provides for the payment of an annual charge in respect of residential properties subject to certain limited exceptions.

Child Care (Amendment) Act 2011

This Act provides for the detention, in a secure place, of children where their behaviour is a threat to their life, health, safety, development or welfare and the provision of care to those children whilst in detention that addresses their behaviour. Educational supervision is also to be provided during the detention.

It also provides for the detention and provision of that care and educational supervision in circumstances where a child is charged with a criminal offence or has been convicted of a criminal offence. It makes provision for the continuation of the detention and provision of care during criminal proceedings in such a way that the detention and criminal proceedings can operate in tandem.

The Act dissolves the Children Acts Advisory Board, a measure required as part of the programme for rationalisation of State bodies.

Ministers and Secretaries (Amendment) Act 2011

This Act established the Department of Public Expenditure and Reform and transferred certain budgetary functions from the Minister for Finance to the Minister charged with responsibility for that Department. It also conferred on the Minister for Public Expenditure and Reform functions in relation to the modernisation and development of the public service.

Health (Provision of General Practitioner Services) Bill 2011

This Bill, which was enacted as the Health (Provision of General Practitioner Services) Act 2012, provides for the elimination of restrictions on registered medical practitioners wishing to obtain contracts to treat public patients under the General Medical Services Scheme operated by the Health Service Executive. The elimination of those restrictions is in line with the EU/IMF programme requirement to provide for

the introduction of legislative changes to remove restrictions to trade and competition in sheltered sectors.

Health Insurance (Miscellaneous Provisions) Act 2011

The Health Insurance (Miscellaneous Provisions) Act 2011 amended the Health Insurance Act 1994, the Taxes Consolidation Act 1997 and the Stamp Duties Consolidation Act 1999, to ensure that, in the interests of societal and intergenerational solidarity, the burden of the costs of health services be shared by insured persons by providing that the cost subsidy (an age-related tax credit funded by the collection of a levy on all insured lives) between the young and the old, as provided by the Health Insurance Act 1994 as amended by the Health Insurance (Miscellaneous Provisions) Act 2009, be continued for a further year to the end of 2012.

Nurses and Midwives Act 2011

The Act provides for the registration, regulation and control of nurses and midwives and for the enhancement of standards of professional education, training and competence of nurses and midwives. It also provides for a mechanism for the investigation of complaints against nurses and midwives.

The Act repealed the Nurses Act 1985 and dissolved the National Council for the Professional Development of Nursing and Midwifery. The Act recognises midwifery as a separate profession. The regulatory body previously known as the Nursing Board is continued in being by this Act and is now called the Nursing and Midwifery Board of Ireland.

Civil Law (Miscellaneous Provisions) Act 2011

This Act effected changes in the law in a wide range of areas, including that relating to the provision of private security services, citizenship, immigration, civil legal aid, equality, bankruptcy, family mediation services, registration of easements and *profits à prendre*, enforcement of court orders in family law cases, court fees and civil liability for acts of good Samaritans and volunteers.

Criminal Law (Defence and the Dwelling) Act 2011

This Act deals with the liability of a person in respect of the use of force by the person whilst in his or her dwelling or as a lawful occupant of a dwelling against a person who enters the dwelling with the intention of committing a criminal act. The Act also provides for the amendment of certain provisions of the Non-Fatal Offences against the Person Act 1997.

Criminal Justice (Female Genital Mutilation) Bill 2011

The purpose of this Bill, which was enacted as the Criminal Justice (Female Genital Mutilation) Act 2012, is to create the offence of female genital mutilation and of removing a girl or woman from the State when one of the purposes of the removal is to have female genital mutilation performed on her. The Act also provides for an offence of doing an act of female genital mutilation in certain circumstances outside the State.

Criminal Justice Act 2011

This Act makes certain changes to criminal law and procedure insofar as they relate to specified offences. Those offences are ones that are arrestable offences (i.e. punishable by a term of imprisonment of 5 years or more) and whose investigation is generally complex and prolonged due to such factors as the large number of witnesses, the large volume of documents, the wide electronic distribution of documents, the large number of transactions and the complexity of transactions that are generally involved.

The detention and questioning by the Garda Síochána of suspects under section 4 of the Criminal Justice Act 1984 for offences covered by the Act may be suspended in certain circumstances. Part 2 of the Act amends the entitlement of a suspect who is detained under any of the statutory detention provisions to get access to legal advice. Part 3 of the Act provides for the granting by a District judge to the Garda Síochána of a production order for documents or information relating to the investigation of an offence covered by the Act. Offences of concealing information contained in documents, and the withholding of information, relating to offences within the ambit of the Act are created. The Act also creates certain presumptions relating to

documents. The Act contains provisions to protect employees from penalisation for disclosing information relating to offences covered by the Act.

Criminal Justice (Public Order) Act 2011

This Act outlaws begging by persons where accompanied by certain aggravating behaviour. It confers power on members of the Garda Síochána to give certain directions to such persons. The Act also creates an offence of directing or organising begging and an offence of living off the proceeds of begging.

Twenty-Ninth Amendment of the Constitution (Judges' Remuneration) Act 2011

This Act amended Article 35.5 of the Constitution following approval of the proposed amendment by the people at a referendum. The new section 5 of Article 35 of the Constitution sets out the circumstances in which the remuneration of judges may be reduced during their continuance in office.

The Work of the Chief State Solicitor's Office in 2011

The following is a summary of the work dealt with in the Legal Divisions of the Chief State Solicitor's Office during 2011.

Public Law Division

The Public Law Division is made up of the Commercial and Constitutional Section and the Judicial Review Section and deals with a wide range of litigation, with many of the cases being high profile, requiring compliance with strict time limits and involving complex issues of law. At least 10 cases handled in the Division were entered into the Commercial Court list over the course of the year, which Court is highly efficient and enables parties to litigate commercial disputes quickly and effectively, albeit it is an expensive method of dispute resolution as the cases are vigorously case managed with very tight deadlines imposed on lawyers and their clients.

Commercial and Constitutional Section

This Section is responsible for the defence of a wide range of civil actions against the State and State Authorities in all courts. Most of the cases dealt with go to full plenary hearing in the High Court, are frequently appealed to the Supreme Court and occasionally referred to the Court of Justice of the European Union. Issues of law dealt with include commercial, constitutional, contract, employment, agricultural, insurance, international, environmental, planning, electoral, public health, intellectual property, housing, social welfare, family status, administrative, European Convention on Human Rights and European Union Law. These cases sometimes commence with an injunction and are invariably subject to scrutiny by the media at each stage of their progress through the courts. During 2011 the Section received 140 new cases.

Judicial Review Section

This Section represents the State and State Authorities in judicial review applications. Judicial Review is the process by which judicial control of administrative action is exercised and by which the High Court exercises jurisdiction over the proceedings and decisions of inferior courts, tribunals and other bodies who carry out quasi-judicial functions or who are charged with the performance of public acts or duties. This Section also has responsibility for habeas corpus applications, cases stated, letters of request from foreign tribunals and service of documents under EU Council Regulation No 1348/2000 and the 1965 Hague Convention on the service abroad of judicial and extra judicial documents in civil and commercial matters.

In 2011 the Section received 512 new files made up of 275 judicial reviews, 83 habeas corpus applications, 2 cases stated, 3 letters of request from foreign tribunals and 149 documents for service under EU Council Regulation No 1348/2000 and the Hague Convention on service abroad of judicial and extra judicial documents in civil and commercial matters.

Asylum and Legal Services Division

There are two Sections in this Division, the Asylum Section and the Legal Services Section.

Asylum Section

This Section handles all asylum, immigration and repatriation related cases on behalf of the Department of Justice and Equality, the Office of the Refugee Applications Commissioner, the Refugee Appeals Tribunal and the Garda National Immigration Bureau. The majority of the work is of a litigious nature dealing primarily with judicial review applications (both leave and substantive hearings), as well as habeas corpus applications (where the Section acts on behalf of the Prison Governor) in the Asylum area and necessitates daily attendance before the High Court and to a lesser degree the Supreme Court. The Section also deals with District Court applications pursuant to the Refugee Act 1996 as amended. In 2011, 715 new asylum related files were opened in the Section.

Legal Services Section

This Section has responsibility for legal costs accounting (including assessing bills of costs and attending at the taxation of same) and the recovery of legal costs due to the State. It is further responsible for the payment of Counsels' fees and acts for the Commissioner of Valuation in appeals before the Valuation Tribunal. The Section is involved in the preparation of Ministerial Prosecutions in the District Court on behalf of the Minister for Social Protection and the Minister for Agriculture, Fisheries and Food. The Section also takes civil proceedings on behalf of the Minister for Social Protection to recover monies fraudulently obtained. The Section Head chairs a Committee which oversees a legal training scheme for clerical staff in the Office.

State Property Division

The State Property Division deals with property transactions, landlord and tenant matters, grants, escheated estates and planning and title issues for the State. It is organised into three Sections, the Office of Public Works / Health Section, the Defence, Marine and Sports Capital Programme Section and the Finance, Education, Justice and Heritage Section.

Office of Public Works / Health Section

The Section acts mainly for the Commissioners of Public Works in Ireland (OPW) and handles the acquisition, disposal and leasing work of OPW Property Management Services. OPW Property Management Services are responsible for the procurement of

office accommodation for Government Departments, Offices and Agencies, as well as the ongoing management of the State's property portfolio. The Section handles some work for OPW Project Management Services, OPW Engineering Services and OPW Property Maintenance Services. The Section also handles work for the Department of Health and the Department of Finance. The work of the Section comprises commercial conveyancing, including commercial leasing; landlord and tenant issues and advice; acquisitions and disposals; construction related matters and advice; commercial agreements relating to property; State Property Act waivers and title advices. Acquisitions and disposals of property take place under various Government Programmes and leasing of accommodation for Government Departments is an ongoing requirement.

Defence, Marine and Sports Capital Programme Section

During 2011 this Section dealt with transactional, litigation and advisory property matters for the following Government Departments – Departments of Defence; Agriculture Fisheries and Food; Transport, Tourism and Sport; Arts, Heritage and the Gaeltacht; Jobs, Enterprise and Innovation and Communications Energy and Natural Resources. The work included acquisitions and disposals (private treaty/auction/tender), commercial leases, landlord and tenant, delivery and implementation of bespoke legal frameworks for specific programmes, legal charges, property advice, title advice, litigation in respect of rent arrears, repossession, specific performance, leases and licences.

Finance, Education, Justice and Heritage Section

In 2011 the work of this Section included the property aspects of the Residential Institutions Redress Indemnity Scheme, the proposed transfers of properties following the fallout of the Ryan Report, dealing with escheated estates where the State was the ultimate intestate successor, school leases, purchases of sites for schools, commercial leases for the Minister for Justice and Equality and claims for compensation under Section 120 of the Registration of Title Acts 1964 -2006. The heritage work involved the acquisition of national monuments. Bogs and turbary rights in various counties were acquired on behalf of the Minister for Arts, Heritage and the Gaeltacht for conservation purposes.

Justice and Common Law Division

This Division comprises three Sections, the Justice and Crime Section, the Garda Litigation Section and the General Litigation Section.

Justice and Crime Section

This Section deals with Extradition cases and European Arrest Warrant applications in the High and Supreme Courts on behalf of the Attorney General and the Minister for Justice and Equality. In addition, it deals with Mutual Assistance applications in the District, Circuit and High Courts on behalf of the Minister for Justice and Equality. The Section also provides Solicitor services to the Garda Síochána and client Departments in matters such as Inquests, Licensing applications, Police Property Act applications, Transfer of Sentenced Persons applications, and Ministerial Prosecutions.

During 2011 the Section received 373 new European Arrest Warrant applications, 9 new Extradition cases from outside the European Union, including 3 from the United States of America, 97 new Mutual Assistance applications, 9 Dublin Inquests, 11 Transfer of Sentenced Persons applications, 82 Intoxicating Liquor Licence applications, 6 Police Property Applications, and a range of Ministerial prosecutions, including finalisation of over 100 Social Protection prosecutions in Dublin.

Also during 2011, the Head of Section managed the on-call panel of staff in the Office which provides a round the clock service out of office hours in Extradition, European Arrest Warrant, Habeas Corpus and other urgent matters. In 2011, 7 out of Dublin Inquests were managed as well by the Head of Section.

Garda Litigation Section

This Section deals with civil actions against the Garda Síochána. The cases include claims for damages for assault, wrongful arrest, false imprisonment, malicious prosecution, miscarriage of justice, deceit and defamation. Further, it handles non party discovery applications seeking disclosure of documentation from the Gardai.

The Section also deals with all claims by Gardaí under the Garda Síochána (Compensation) Acts 1941 and 1945. In addition, the Section acted for the Garda Authorities before the Smithwick Tribunal of Inquiry. There were 132 general Garda cases and 99 Garda Compensation cases received in the Section in 2011.

General Litigation Section

This Section deals with personal injury and other tortious litigation which has not been delegated to the State Claims Agency (SCA) and also acts for the SCA in certain matters. The two principal areas where the SCA instructs the Section are, post traumatic stress disorder litigation by members of the Defence Forces serving abroad and bullying and harassment cases. At the end of 2011 there were 112 High Court actions on hand relating to bullying and harassment.

Other non-delegated cases being handled by the Section include defamation cases, defective product claims, assaults by prison officers and appeals to the High Court by persons infected by Hepatitis C or HIV or both, through the administration of blood or blood products. There were 145 new cases in the Section in 2011.

Advisory Division

The Advisory Division consists of three Sections - the General Advisory Section, the State and European Litigation Section and the Commercial Contracts Section. A total of 820 files were opened in the Division in 2011.

General Advisory Section

This Section has responsibility for general advisory matters which include instituting Plaintiff litigation on behalf of the State, third-party discovery, company law proceedings, conciliations and arbitrations, construction disputes relating to school building contracts, civil registration matters, Garda Síochána advice matters, advising the Irish Prison Service, mining and petroleum exploration and development, wildlife prosecutions, habitat prosecutions, debt collection to include recovery of overpayment of State pensions and non-payment of vehicle storage charges, grants and REPS payments, recovery and enforcement of Pensions Ombudsman's determinations, as

well as dealing with work before Tribunals of Inquiry and costs issues arising therefrom.

State and European Litigation Section

This Section deals with cases before the Court of Justice of the European Union and the General Court. It handles legal proceedings before the CJEU instituted by the European Commission in direct actions, as well as cases in which Ireland intervenes in proceedings involving another member State, including its Institutions. The Section also deals with Employment work and represents Government Departments and Offices at hearings before Rights Commissioners, the Labour Court, the Employment Appeals Tribunal and the Equality Tribunal. Further, the Section provides legal advices on Civil Service employment issues as well as handling company restoration applications, and applications under section 371 of the Companies Amendment Acts together with other applications under Company Law.

Commercial Contracts Section

This Section provides advice on commercial contracts to Government Departments and Offices including dealing with public procurement issues and contractual negotiations and drafting. It handles contractual work in a wide range of areas including information technology, intellectual property, employment, pensions, maritime, aviation and natural resources.

The Section also has a key role in conjunction with the Office of the Attorney General in assisting the National Procurement Service (OPW) in its strategy for modernising procurement practices across the public sector. As part of this process, the CSSO established an outplacement solicitor service from within the Commercial Contracts Section to the NPS at their offices in Trim from April, 2011. with two solicitors attending 4 days a week on site, working exclusively on NPS legal support.

Further, the Section worked with the NPS on its input to the Department of Finance submission to the EU Commission on the Procurement Directive Review Consultation Project. Following on from this submission

Section representatives attended the June 2013 Consultation on the outcomes of the Member State Submissions.

The Section together with the AGO has critically assessed issues relating to procurement documentation and practices that arise across the public sector. In conjunction with the NPS, following consultation within the public sector and with relevant industry representative groups developed a suite of standardised best practice tender and contract documentation and guidance material for use by Government Departments and Agencies ("the CSSO NPS Template Suite of Tender and Contract Documents"). In June 2011, Mr. Brian Hayes, Minister for State, Department of Public Expenditure and Reform launched the publication of the CSSO NPS Template Suite of Tender and Contract Documents under Department of Public Expenditure and Reform Circular 1/2011.

The Section also provided training in procurement law and practice to various Departments on a request basis and Section members have participated at the NPS National Conferences/Seminars on Public Procurement,

Part II: Organisational Developments

Management Advisory Committees

A joint Management Advisory Committee (Main MAC), representative of senior management of both the Merrion Street Office and the Chief State Solicitor's Office, met on 3 occasions during the year to advise the Director General on issues of common concern to both Offices including issues relating to the Public Service Reform Plan and the Public Service (Croke Park) Agreement. A Legal MAC, representative of both Offices and attended by the Attorney General was established in 2006 in the context of a recommendation of the Report on the Attorney General's Office (Sullivan Report, June, 2006). The Legal MAC met on 3 occasions during 2011 and focused on current legal issues in the Office. Separate local Management Advisory Committees (MACs) also met on a monthly basis to advise the Director General, Chief Parliamentary Counsel and Chief State Solicitor, as appropriate.

Staffing

At the end of 2011 the authorised staff complement in the Merrion Street Office was 126.4 and was 20 in the Law Reform Commission. The authorised staff complement in the Chief State Solicitor's Office at the end of 2011 was 232.

Quality Customer Service

Progress on the implementation of commitments set out in the Merrion Street Office's *Client Service Guide 2008 – 2010* and *Client and Customer Charters* and the Chief State Solicitor's Office's *Customer Action Plan 2008 – 2010* and *Client and Customer Charters* is outlined in Chapters 5, 6, 8 and 9 of this Report.

Information Technology

During 2011 the Office continued to refine and enhance its IT Systems to ensure that they remained aligned with the business demands of the Office. The IT Unit also continued to play a very significant role in the ongoing management and enhancement of the electronic Irish Statute Book (eISB). In late 2011 the Unit commenced the development of a new IT Strategy 2012 – 2016. Progress achieved is outlined in Chapter 9 of this Report.

Knowledge Management

The Knowledge Management Strategy 2010-2013 was agreed at MAC. Knowledge management strategies are designed to promote efficiency (e.g. ease of retrieval and sharing and re-use of knowledge), quality and consistency of legal advice and risk management and mitigation, particularly reputational risk. These bring cost benefits for the Offices and our clients.

An Implementation Group has been set up in the AGO to oversee and drive the implementation of the Strategy for the AGO to ensure that all recommendations are considered and implemented if appropriate by 2013. In that regard the Group is actively engaging with committees/business units in the Office to ensure progress is being achieved and there is a cohesive approach in addressing the Strategy. Reports are regularly made by the Implementation Group to MAC in relation to progress achieved.

One of the key recommendations of the KM Strategy is a new know-how application for the Offices. This will be a powerful tool in the management and availability of legal knowledge in the AGO/CSSO. The contract for this new know-how application was signed in April 2011. Alpha and beta testing of this new application was completed in 2011. These test phases and in particular the acceptance test phase scheduled for 2012 are critical to ensuring that the application meets the requirements of the Offices.

Development of Legal Services

During 2011, the Office continued to focus on the development and enhancement of further specialisation to meet the changing needs of Government and client Departments and Offices and in pursuit of its strategy of increased specialisation in key areas.

Better Regulation

The Office's proposals for improving the accessibility and coherence of Irish Statute Law continued to have an impact on the work of the Office in 2011.

Public Service Agreement 2010 – 2014 (Croke Park Agreement)

In January 2011 the Office of the Attorney General, Merrion St, in conjunction with the Office of the Chief State Solicitor and the Law Reform Commission, published a Revised Action Plan to implement commitments under the Public Service Agreement 2010 – 2014 (Croke Park Agreement). The Plan includes many changes, developments and initiatives which have already been implemented, many currently in progress and several for the future. The objective of the changes is to enhance efficiency, customer service and reduce costs. The Office published Progress Reports on the implementation of the Revised Action Plan in May and October 2011.

Statement of Strategy 2011 – 2014

In December 2011 the Office submitted the draft Statement of Strategy 2011 – 2014 to the Taoiseach for his review and views as appropriate. Progress achieved in this regard is outlined in Chapter 9 of this Report.

Cross-Functional Working Initiatives

During 2011 cross-functional teams involving staff from the Merrion Street Office and the Chief State Solicitor's Office continued to operate in projects including the Case and Records Management System (ACME) Business Users Group, the ACME/Financial Management System Integration Project, the Knowledge Management Strategy Project and the legal Know-how database implementation project.

Allocation of Resources for Urgent Legal Issues

The Office recognises the need to allocate resources on a flexible basis to tackle urgent major projects modelled on the work method developed to deal with the legal issues and the heavy workload arising out of the banking and euro sovereign debt crisis. During 2011 teams of advisory counsel and parliamentary counsel worked on a flexible basis on many projects to ensure an immediacy of response and a high quality of advice and legislation in response to crises. The changes in the allocation of resources to tackle urgent major projects were accommodated from within existing resources and facilitated the prompt provision of high quality advices and legislation.

These changes resulted in an enhanced capacity to respond to issues as they arose and the availability of greater expertise in a complex and multidisciplinary context in cooperation with outside lawyers and with full participation by all stakeholders leading to a better quality of service to the Attorney General, the Government and the citizen.

By way of example the work done in the preparation of the Legal Services Bill and the special stabilisation and resolution regime for banks was effected during the year using this multidisciplinary approach.

Also, Court applications under the Credit Institutions (Stabilisation) Act 2010, stabilisation legislation relating to subordinated bonds in 2011 broke new legal ground and saved the exchequer a significant amount (€4.5 Billion) across the banking system. The legal work in the recoupment of the subordinated junior debt owed by the Irish banks was effected by means of the well executed stabilisation legislation and the successful defending of the litigation challenging the court orders made under the legislation.

The targets set for the publication of legislation in the Programme to implement the IMF/EU Memorandum of Understanding on Specific Economic Policy Conditionality (MoU) during 2011 consumed huge amounts of advisory and parliamentary counsel resources but these targets were met successfully during the year.

Reduction in costs

In 2011 the Merrion Street Office has achieved further savings to reduce expenditure within the Vote. During the past four years the Office's annual expenditure has reduced substantially. At the end of 2011 net expenditure was 26.5% lower than 2008. Net expenditure over that period was:

2008 €18.1 million

2009 €15.6 million (13.8 % reduction on previous year)

2010 €13.5 million (13.4 % reduction on previous year)

2011 €13.3 million (1.5% reduction on previous year)

The Chief State Solicitor's Office has also achieved further savings to reduce expenditure within the Vote. During the past four years the Office's annual expenditure has reduced substantially. At the end of 2011 net expenditure was 24.9% lower than 2008. Net expenditure over that period was:

2008 €40.6 million

2009 €33.5 million (17.4 % reduction on previous year)

2010 €31.6 million (5.6 % reduction on previous year)

2011 €30.6 million (3.5% reduction on previous year)

In relation to counsels' fees, pursuant to procedures and scrutiny processes between the AGO and the CSSO, there has been a reduction in expenditure out of the CSSO Vote of 40% at the end of 2011 when compared to 2008 payments.

Organisational Flexibility in the Merrion Street Office

During 2011 the Office continued to implement proposals to increase organisational flexibility in line with commitments set out under the Public Service Agreement 2010 – 2014 (Croke Park Agreement). In the Merrion Street Office there was significant mobility of staff, within the Advisory Counsel Groups, the Parliamentary Counsel Groups and Administration Business Units in order to respond to urgent work demands and staff shortages.

During 2011 specific examples of flexibility demonstrated by the Office included the following:

- Legal and administrative staff were involved in various IT projects.
- Staff provided representation on and involvement in the work of project governance and business users' committees.

- Throughout the year the majority of legal staff in the Office worked additional hours in order to meet the demands for urgent and complex advice and drafting work.
- There was ongoing re-organisation of the roles and responsibilities of administration staff in response to a reduction in administrative staffing numbers during the year.

Organisational Flexibility in the Chief State Solicitor's Office

Organisational flexibility is a priority within the Office, with reorganisation of staff, responsibilities and Sections as required, in response to the ongoing changing demands of clients.

During 2011 some of the more specific examples of flexibility demonstrated by the Office included the following:

- The continued outsourcing of all outdoor 'clerking' duties to a private firm operated to the satisfaction of the Office;
- The on-call panel for out of hours urgent court applications continued to operate;
- A panel was maintained to deal with inquests outside Dublin;
- The Office continued to operate an internal staff mobility policy;
- Legal staff dealt with an increased number of cases at provincial venues as a result of the transfer of the local State Solicitor service to the Director of Public Prosecutions;
- Representation was provided to the Garda Authorities before the Smithwick Tribunal of Inquiry;
- Staff were deployed to deal with a class action;
- The Office continued a policy of secondment of staff to certain Departments;
- The Office worked with external solicitors in litigation involving financial institutions under the Credit Institutions (Stabilisation) Act 2010.

Review and Reform of AGO

The Office recognises the need to constantly monitor and review the organisation and how it operates in an internal and external context so as to achieve the mission of the Office *“to provide the highest standard of professional legal services to the Government, Departments and Offices as economically and efficiently as possible”*. To this end in October 2011 the Office included an important action point in the Office’s Action Plan to implement the Public Service Agreement 2010 -2014 (Croke Park Agreement). The Office will in early 2012 carry out a review of its organisation and operation.

It is envisaged that the review will entail taking into account the findings from the upcoming client and customer satisfaction surveys, the proposal to benchmark the Office against similar organisations in other jurisdictions and the proposed Organisational Review Programme which will be undertaken by the Department of Public Expenditure & Reform.

In relation to the benchmark proposal the Office does not have any direct comparators within the State. By comparing its output and staffing numbers with similar Government organisations in other jurisdictions the Office will be better able to evaluate its own effectiveness. In late 2011 a member of MAC was assigned to oversee the project, proposals we prepared and presented to MAC. The Office has found it difficult to identify any organisation outside the State that undertakes a similar range of duties. Consequently, it is now seeking the co-operation of the specialist Unit in the Department of Public Expenditure & Reform in sourcing suitable comparators.

In relation to the proposed Organisational Review Programme which will be undertaken by the Department of Public Expenditure & Reform this review was deferred and the Office awaits a timeline from the Department for the commencement of the review.

The Office's MAC will evaluate how it is meeting its clients' needs and consider what changes are necessary as a result of other Public Service Reform initiatives. It is anticipated that this evaluation will lead to the creation of an Action Plan to be

implemented over the subsequent 12 – 18 months. The Deputy Director General has been assigned responsibility for this project.

Shared Services and close co-operation with Departments

The Office recognises the benefits that accrue from the adoption of a shared service approach to certain activities undertaken in the Office.

Specific examples during 2011 include:

- Continuation of project to second Advisory Counsel and solicitors to participating Departments
- Maintaining close liaison with the State Claims Agency in regard to the management of childhood abuse litigation
- Continued close cooperation in context of the banking crisis with the private lawyers employed in the Department of Finance and the in-house lawyers in NAMA and the Advisory Counsel seconded to the banking division of the Department of Finance
- Co-operation and regular review meetings between legal staff in the Office and Departmental officials in devising appropriate legal strategies to ensure the ongoing effective management of domestic and European Court of Justice (ECJ) litigation
- Monthly meetings of separate local MAC in the Merrion Street Office and Chief State Solicitor's Office, quarterly meetings of the joint Merrion St Office Office/Chief State Solicitor's Office MAC to discuss organisational developments
- Legal MAC representative of the Attorney General's Office and the Chief State Solicitor's Office and attended by the Attorney met 3 times in 2011 to discuss specific legal issues
- Co-operation and regular review meetings between legal staff in the Office and officials in client Departments so as to ensure that requests for advice,

the drafting of Bills and managing mass litigation are effectively managed on an ongoing basis

- Co-operation and regular review meetings between legal staff in the Office and relevant Departmental officials so as to ensure that mass litigation is effectively managed on an ongoing basis
- Co-operation between the Office of the Parliamentary Counsel and the Government Legislation Committee

The Office also operates a shared service approach internally through a single Case and Records Management System and Financial Management System for the Merrion St Office and the Chief State Solicitor's Office, supported by a shared IT service between both Offices. The Offices also operate a single shared Internal Audit Unit and Change Management Unit. Other examples are set out below in the context of the delivery of legal services.

People and Leadership

The Office recognises the importance of achieving flexibility in the mobility and redeployment of staff within and outside of the Office. During 2011, in an internal context Advisory Counsel and Parliamentary Counsel in the Merrion Street Office were regularly redeployed within specialist Groups and legal staff in the CSSO within specialist Sections. Also, in an external context the continuation of the project to second Advisory Counsel to participating Departments represents a strategic approach to the provision of specialist legal expertise to those Departments, supported by the resources and expertise of the Office. All Advisory Counsel recruited since 2005 are recruited on the basis that they may be seconded to Departments.

Strengthening Governance and Implementation Strategy

During 2011 the Office provided specialist legal service to all Departments and Offices and to Government. This Civil Service wide role, allowed it to engage closely and integrate with the whole of Government. During the year the Office dealt with many cross-cutting issues and demonstrated a good understanding of departmental needs and priorities.

Pace of Communication

The Office recognises the need to adapt on an ongoing basis to changing communication methods with a view to enhancing the management of information so as to ensure the timely and effective delivery of the highest quality legal advice.

During 2011 the Office enhanced communication methods and the management of enormous volumes of information thus enabling increased accessibility and responsiveness to stakeholders to deal with the particular challenges of larger projects such as the large number of stakeholders, the intense volume of transactions and the urgency of the work.

The Office also facilitated the use of high speed, multi user communications methods for discussion of ideas and the issue of formal advices. The Office recognised that a major challenge going forward will be to align existing systems for the management of information such as ACME.

Freedom of Information Requests

Statistics on requests to the Merrion Street Office and the Chief State Solicitor's Office under the Freedom of Information Acts are set out in **Annex F**. During 2011 Advisory Counsel continued to advise the Central Policy Unit in the Department of Finance on legal issues relating to the implementation and application of the Acts.

Other Organisational Developments

Progress achieved in 2011 in relation to other significant developments such as Internal Audit, the Partnership process and the Official Languages Act is outlined in Chapter 9 of this Report.

International, EU organisations and Interdepartmental issues

Legal and Administrative staff in the Offices also participated in working groups and were involved in a range of interdepartmental issues listed at **Annex E**.

Chapter 4: Progress Achieved in reaching High Level Goal 1

High Level Goal 1

To support the Attorney General in the performance of her constitutional role as legal adviser to the Government.

Output

Provision of advice and briefing of material for the Attorney General for Government meetings.

Outcome

Provision of advice to Cabinet on the legal issues arising from, and the legally compliant means of, implementing Government policies and priorities in accordance with the Constitution, with European Union law and with obligations arising under international treaties.

Performance Indicators

- Provision of requests for advice from the Attorney General.
- Observations and advice supplied in response to Government Memoranda and documents to be submitted to Cabinet.
- Briefing notes and material prepared for the Attorney General for use at Cabinet meetings.

Strategy

- Efficient use of and continued training on eCabinet system.
- Timely response to requests on eCabinet.
- Responding to Government memoranda as required by the Cabinet Handbook.
- Maintaining close relationships and communications with relevant officials in Government Departments.
- Private Office procedures to ensure briefing material is available.

Progress achieved

During 2011 legal staff in the Merrion Street Office and the Chief State Solicitor's Office provided ongoing and continuous support to the Attorney General in the

performance of her constitutional role as legal adviser to the Government. The Attorney held regular meetings with legal staff including:

- Weekly meetings during the year with the Director General and Chief Parliamentary Counsel to discuss advisory and drafting matters;
- Weekly meetings during the year with the Chief State Solicitor to discuss matters relating to the Chief State Solicitor's Office and major litigation cases involving the State;
- Fortnightly meetings with Group managers in the OPC in advance of meetings of the Government Legislation Committee to discuss drafting matters;
- Regular meetings with Advisory Counsel to discuss advisory matters;
- Regular meetings with Parliamentary Counsel in the OPC to discuss issues relating to draft legislation.

In relation to ongoing advisory matters Advisory Counsel met with the Attorney as appropriate to discuss specific requests for advice. Legal staff provided observations and advice in relation to Memoranda for Government and discussed matters with the Attorney in advance of responding to requests for observations and advice on the eCabinet system. In advance of Government meetings the Attorney discussed any legal matters arising with the Director General, Deputy Director General, Chief Parliamentary Counsel and Chief State Solicitor as appropriate.

In 2011 the Attorney chaired 3 meetings of the Office's Legal Management Advisory Committee representative of all legal areas of the Office – Advisory, OPC and CSSO to discuss ongoing important and sensitive legal issues within the Office.

Chapter 5: Progress Achieved in reaching High Level Goal 2

High Level Goal 2

Delivery of a high quality specialist legal advisory service to our clients.

Output

Opinions and advice provided in a timely fashion to Government Departments to assist them in meeting their requirements, in particular in relation to fulfilling the commitments required under the EU/IMF Programme of Financial Support for Ireland and the Programme for Government as it is implemented by the Government.

Outcome

The attainment of the targets set by the EU/IMF Programme during its course and the attainment of the priorities and objectives set by Government in compliance with the legal requirements of the Constitution, European Union Law and international treaty obligations.

Performance Indicators

- Quality and quantity of advices to clients.
- Delivery of advice in accordance with agreed timelines.
- Client feedback.

Strategy

- Compliance with the Client Service Guide and Client and Customer Charter.
- Implementation and roll-out of legal Know-how application.
- Maintaining high quality Library and KH Unit, promoting a culture of Knowledge Management and implementation of Knowledge Management Strategy.
- Maintenance and review of risk management policies in the Office.
- Commitment to training and development for all staff.
- Continued optimal application of human resources including PMDS.
- Maintenance and development of the integrated case records and file management system.

- Improved systems for the management of information and communications in a complex and multi-disciplinary environment.

Progress Achieved

During 2011 the primary focus for the Advisory side of the Merrion Street Office was on the delivery of a high quality specialist legal advisory service to our clients. An important strategy in this regard entailed the further development, enhancement and refinement of specialisation as the key to the achievement of the Office's High Level Goals, Outputs, Outcomes and Strategies. The Office recognises that this important strategy of specialisation is the key to providing effective legal services in the exceptionally wide range of legal work in which the Advisory side is involved. In early 2011 the Office completed a re-organisation of the Advisory Groups with a view to aligning the delivery of services with changing client needs. The process entailed an analysis and review of the workload and composition of all Advisory Groups thus facilitating the identification of new emerging areas of law as well as areas of law that are expanding. The process also involved anticipating client needs and reviewing the client feedback received in all areas of law and reviewing and identifying all activities/services that should be managed by other competent authorities.

During the year Advisory Groups continued to review work through a formalised system of eight-week review cycles. The Advisory Groups prioritised work through regular formal and informal meetings with client Departments held throughout the year. In addition to addressing work related matters these meetings also provided an opportunity to gauge feedback from clients on service delivery issues and to highlight new and emerging issues. For example, the bi-monthly extradition/European Arrest Warrant meetings with client Departments, the Garda Síochána and the CSSO which were held during the year dealt with issues in relation to individual cases, categories of cases, management of the area, communications between stakeholders, approaches and strategies to be communicated to panel of counsel and liaison with requesting States and the Courts Service. A proposed follow-up client satisfaction survey to be undertaken by an external consultant in 2012 will enable the Office to evaluate performance against the results of the previous surveys with a view to improving

service delivery to clients. The survey will also inform the development of a new Client Service Guide and Client and Customer Charter.

Also, Advisory Groups held regular meetings during the year to discuss workload and case specific issues. Examples of such meetings included the monthly Legal Issues meeting, the asylum lawyers group, weekly meetings of the Director General, Deputy Director General and Advisory Counsel Grade 1 and the weekly Advisory Counsel Group meetings. These meetings provided valuable opportunities for the exchange of legal know-how ideas and experiences across different specialist Groups.

Bi-monthly meetings were also held between the Office and the Office of the Director of Public Prosecutions to discuss constitutional cases common to both Offices.

During the year nominated Advisory Counsel continued to participate in the work of various project governance committees and working groups in the context of the ongoing management and development of the Case and Records Management System (ACME). For example, Advisory Counsel participated in the comprehensive review of the system commenced by the ACME Business Users Group (BUG) during the year. The main aim of the review is to identify any areas of the system where improvements might be made. Also all Advisory Counsel continued to use the system throughout the year.

During 2011 Advisory Counsel continued to support the Law Reform Commission, particularly in the context of the delivery of its programme of work included in the Commission's Third Programme for Law Reform.

Knowledge Management

During 2011 Advisory Counsel continued to promote a culture of knowledge sharing, underpinning the delivery of legal advice to Government, Departments and Offices through attendance and participation in Legal Issues meetings and contributing to the preparation of Legal Bulletins. Advisory Counsel participated in the Knowledge Management Strategy Information Group in the context of the implementation of the recommendations of the new Knowledge Management Strategy 2010 - 2013. Also, in April 2011 the Office signed a contract with the preferred tenderer for the

development and implementation of a new legal Know-how application. Advisory Counsel participated in the work of the Know-how Implementation Group throughout the year.

Risk Management

During 2011 Advisory Counsel contributed to the further embedding of formal risk management policies within the Office. These policies included:

- Regular reporting throughout the year by Advisory Counsel to the Attorney General and Legal MAC, meetings of the Director General, Deputy Director General and Advisory Counsel I and to Advisory Counsel Group meetings on areas and matters of significant risk;
- Participation by Advisory Counsel in the process of identification of sensitive and constitutional cases for inclusion in reports submitted to Government on such cases in March, July and November 2011;
- Regular reports by the Deputy Director General to meetings of local and Main MACs and the Audit Committee in the context of the Committee's embedding of an Office-wide risk management strategy including a risk policy, a corporate risk register and individual Group and Business Unit risk registers.
- Reviews by Heads of Advisory Groups of the Advisory Counsel risk register and completion of an assurance statement in this regard in line with the risk management policy.

Financial Management

During 2011 nominated Advisory Counsel participated in the project to develop an interface between the Case and Records Management System (ACME) and the Financial Management System FMS. This development, when fully implemented will assist in the identification of commitments, financial and non-financial and costing management information reporting requirements. Further details in relation to this matter are outlined in Chapter 9 of this Report.

Performance Management and Development System (PMDS)

In 2011 Advisory Counsel participated in the process of further embedding PMDS including Upward Feedback and the use of PMDS ratings for promotion and salary

increment purposes. At the beginning of the year individual Role Profile Forms were agreed with managers, Interim Reviews were carried out mid-year and all annual reviews were completed after the end of the year. PMDS training was provided to new Advisory Counsel within 2 months of arrival in the Office.

Training and Development

During 2011 nominated Advisory Counsel participated in the work of the Training and Development Committee. The primary focus of the Group in early 2011 was to develop and finalise a co-ordinated Training and Development Strategy for the Office. The strategy included specific action points relating to the Advisory side including:

- Preparation of a procedures/training manual to reflect appropriate interaction between ACs and PCs in the legislative process;
- Organisation of legal training events in the Office;
- Development of a new Advisory Counsel Training Programme for new Advisory Counsel and Advisory Counsel returning from secondment, and
- Updating of the Advisory Counsel Protocol Document.

Chapter 6: Progress Achieved in reaching High Level Goal 3

High Level Goal 3

To provide a high quality professional specialist and efficient legislative drafting service to Government.

Output

Government Bills in accordance with the Government Legislation Programme, subject to priority for

- legislation required under the EU/IMF Programme and
- Priority and urgent matters as directed by Cabinet.

Committee and Report Stage Amendments to Bills provided in a timely manner. Statutory Instruments, including regulations giving effect to acts of European Communities. Government Orders approved by Cabinet.

Outcome

- Delivery of draft legislation as laid down in the EU/IMF Programme and as required by Government in line with instructions given by Government Departments.
- Draft Legislation which conforms to Irish and EU legal requirements.
- Draft legislation which conforms to the policy objectives set by Government in terms of encouraging employment and the business environment and furthering the Government's Better Regulation Agenda.

Performance Indicator

- The number and size of Bills.
- The number of Committee Stage Amendments.
- The number of Statutory Instruments.
- Client feedback.

Strategy

- Participation in the Government Legislation Committee to monitor and supervise the implementation of the Government Legislation Programme.
- Maintaining close working relationships with Government Departments and instructing officials.
- Operating the Quality Assurance System for draft legislation.
- Continued development and training in drafting skills.
- Development of Know-How.
- The implementation and use of the Legislation Workbench in conjunction with the Bills Office of the Houses of the Oireachtas.

Progress achieved

Government Legislation Committee

The OPC continued to be centrally involved in the work of the Government Legislation Committee throughout 2011. The Committee oversees each proposed Government Bill from the time of its inclusion in the Government's Legislation Programme to the completion of its progress through the Houses of the Oireachtas and deals with any problems that arise in relation to the smooth and speedy implementation of the Programme.

During the year the OPC reported regularly to the Government Legislation Committee, detailing progress on the drafting of Bills and European Union statutory instruments. The OPC's continued participation in the work of the Committee provided a vital mechanism for mediating between the competing claims of Departments for the services of the OPC.

During the year there was regular interaction between Parliamentary Counsel and Advisory Counsel in the context of the drafting of legislation. They collaborated closely through regular review meetings to discuss legal issues as they arose during the drafting process.

The OPC Groups met regularly during the year with the Chief Parliamentary Counsel

to discuss workload issues. Also, all Parliamentary Counsel attended regular meetings with the Attorney General throughout the year to discuss legislative drafting matters. These meetings provided valuable opportunities for the exchange of legal know-how and drafting ideas and experiences across different specialist Groups. The meetings also highlighted issues that enabled the OPC to respond more efficiently to client needs in the context of the ongoing prioritisation of Bills included in the Programme.

Knowledge Management

During 2011 the Office of the Parliamentary Counsel continued to promote a culture of knowledge sharing, underpinning the delivery of legislation to the Government. Parliamentary Counsel collaborated throughout the year as appropriate with Advisory Counsel in the course of the legislative drafting process. Parliamentary Counsel also attended and participated in Legal Issues meetings and participated in the Knowledge Management Strategy Information Group in the context of the implementation of the recommendations of the new Knowledge Management Strategy 2010 - 2013. Also, in April 2011 the Office signed a contract with the preferred tenderer for the development and implementation of a new legal Know-how application. A nominated Parliamentary Counsel participated in the work of the Know-how Implementation Group throughout the year.

Risk Management

During 2011 Parliamentary Counsel contributed to the further embedding and implementation of formal risk management policies within the Office. These policies included:

- Discussion of risk related matters pertaining to the legislative drafting process and the OPC took place at meetings between the Chief Parliamentary Counsel and Group Managers, at individual Group meetings and Legal MAC meetings.
- Attendance by the Chief Parliamentary Counsel and OPC Group managers at meetings of local and Main MACs to discuss the Office-wide risk management strategy including a risk policy, a corporate risk register and individual Group and Business Unit risk registers.
- Reviews by Heads of Parliamentary Groups of the Parliamentary Counsel risk register and completion of an assurance statement in this regard in line with the risk management policy.

Financial Management

During the year a nominated Parliamentary Counsel participated in the project to develop an interface between the Case and Records Management System (ACME) and the Financial Management System FMS. This development, when fully implemented will assist in the identification of commitments, financial and non-financial and costing management information reporting requirements. Further details in relation to this matter are outlined in Chapter 9 of this Report.

Performance Management and Development System (PMDS)

In 2011 Parliamentary Counsel participated in the process of embedding PMDS including Upward Feedback and the use of PMDS ratings for promotion and salary increment purposes within the Office. At the beginning of the year individual Role Profile Forms were agreed with managers, Interim Reviews were carried out mid-year and all Annual Reviews were completed after the end of the year. PMDS training was provided to new Parliamentary Counsel within 2 months of arrival in the Office.

Training and Development

During the year the Office continued to implement the Parliamentary Counsel Training Plan in respect of the most recently recruited drafters. As in previous years the OPC participated in training courses provided by CMOD on the legislative process. These courses facilitate Departments becoming familiar with the legislative process and in identifying for client Departments the level of instructions that is required to facilitate an efficient drafting service. Although not in conjunction with CMOD, senior members of the OPC held an on-site training event for relevant staff in the Department of Health in 2011. The event was very well received and the OPC is considering holding similar events for other client Departments in the future.

Also, a nominated Parliamentary Counsel participated in the work of the Training and Development Committee during the year. The primary focus of the Group in early 2011 was to develop and finalise a co-ordinated Training and Development Strategy for the Office. The strategy included specific action points relating to the Parliamentary Counsel including:

- Preparation of a procedures/training manual to reflect appropriate interaction between ACs and PCs in the legislative process;
- Organisation of legal training events in the Office, and;
- Identification of elements of the new Advisory Counsel Training Programme to be incorporated in the Parliamentary Counsel Training Plan.

e-Legislation

In 2011 the OPC completed a process of testing an authoring tool (*Legislation Work Bench* (LWB)) to support the process of authoring and managing legislation text (Bills, Government amendments and Statutory Instruments) with a view to reducing re-keying, proof reading and general tracking of administrative overheads in the preparation of legislation. If implemented, the authoring tool will integrate with the proposed LWB implementation in the Office of the Houses of the Oireachtas and will ultimately provide savings for both Offices.

Following the completion of the testing phase and receipt of the Houses of the Oireachtas Framework agreement contract for Legislation services in late September 2011, the OPC agreed a programme of work with the vendor to implement the LWB in the OPC. The first phase of this work began in the second week of October and consisted of the technical implementation of the LWB as well as the first tranche of training of OPC staff. This phase was completed by the end of 2011. The OPC will work with the Houses of the Oireachtas on setting a go-live date for the LWB in 2012.

Chapter 7: Progress Achieved in reaching High Level Goal 4

High Level Goal 4

To support and assist in the coordination of the legal services of the State.

Output

- To provide information to Government on significant cases which pose risks on legal or financial grounds.
- Coordination of advice on a whole of Government basis. Maintenance of panels of counsel and briefing counsel on behalf of the State to provide advice and litigation services. Maintenance and updating of the electronic Irish Statute Book (eISB).

Outcome

Facilitating Departments to carry out their functions in a lawful and consistent manner on a whole of Government basis. Coordination and sharing of advice to ensure consistency and conformity with legal requirements.

Performance Indicators

- Reports to Government on sensitive cases.
- Review meetings with Departments and Legal Advisers.
- Close contacts with Legal Advisers and Seconded in Departments.
- Participation in Inter-Departmental Working Groups.
- Feedback.
- Timely publication of Statutes and Statutory Instruments on the electronic Irish Statute Book (eISB).

Strategy

- Continuance and expansion of the Secondment Programme involving the placement of lawyers in Departments.
- Assisting Departments to develop legal advice databases.
- Continued use and development of the ACME integrated case records and file management system in AGO and CSSO.

- Possible transfer of areas of litigation or legal work to other agencies such as the State Claims Agency or outsourcing.
- Shared services and legal teams shared by various State agencies in litigation where appropriate.

Progress Achieved

Secondment of Advisory Counsel to Government Departments

During 2011 the Office continued to provide ongoing advice and support to those Advisory Counsel seconded to participating Departments in the context of the Office's initiative to recruit, train and second Advisory Counsel to participating Government Departments. The secondment programme provides direct legal advice and guidance to participating client Departments and by the end of 2011 a total of 11 secondees were successfully in place in 8 Departments.

The programme benefits the Office and Department in the following ways:

- routine issues are dealt with on an in-house basis, releasing legal staff within the Office to concentrate on more specialised activities;
- seconded Advisory Counsel have developed first hand knowledge and understanding of departmental requirements for legal services;
- the Office will benefit from expertise developed by persons on secondment returning to the Office;
- the Secondment Project affords direct links with client Departments enabling the Office to understand better their needs, and the policy imperatives which drive them. This benefit has been in evidence in relation to requests for legal advice, litigation and legislation.

Secondment of Solicitors to Government Departments

During 2011 the Chief State Solicitor's Office seconded 2 solicitors to work exclusively with the National Procurement Service on commercial contract work. A further solicitor was seconded to the Department of Education and Skills to assist with the legal work of the Department.

Assisting Departments to develop Legal Advice Databases

The Office is committed to assisting Departments to create databases of previous advices furnished by the Office. This is an important recommendation of the Office's Knowledge Management Strategy. The Office is committed to assisting seconded legal advisers who wish to collate previous advices of this Office to their Department and Departments in building up databases of AGO advices by providing advices electronically when requested. During 2011 Departments were informed of this service and invited to contact the Office to put it in place. The project will require a great deal of work by the Office especially in trying to capture as many as possible previous advices but the Departments will be able to compile a repository of advices relevant to their own work. In addition to being a quick research tool for Departments it should also reduce the instances of the similar advice being sought on several occasions.

Outsourcing

During 2011 the Office undertook a review of all areas of law with a view to identifying all activities/services that should be managed by other competent authorities. The Office identified legal work in respect of overseas Defence Force personal injury claims as one such area for transfer to the State Claims Agency (SCA). The transfer was effected in 2011 and was cost effective for reasons of efficiency, economies of scale and specialist knowledge of the SCA.

Reports to Government on sensitive cases

During 2011 the Office prepared and submitted 3 reports on sensitive cases to Government in March, July and November. The Office's Legal Management Advisory Committee representative of all legal areas of the Office – Advisory, OPC and CSSO met to discuss these reports in advance of the finalisation of the reports and subsequent submission of the reports to Government.

Co-operation with Legal Advisers in Government Departments

During 2011 Advisory Counsel continued to foster constructive and close working relationships with legal advisers in Government Departments. The Office continues to recognise the importance of these links given the increasing number of complex inter-Departmental legal issues which arise on an ongoing basis. Links with Departmental legal advisers also play a crucial role in the preparation of legislation. Advisory Counsel and Departmental Legal Advisers co-operated during the year in a large range of matters so as to ensure a consistency in advices given by them with other advices given by the Attorney General.

Inter-Departmental Committees and Working Groups

During 2011 Advisory Counsel advised and participated in Working Groups on a range of important “cross-cutting” or interdepartmental issues.

A list of the key interdepartmental Committees and Working Groups is set out at **Annex E** of this Report.

Management of Litigation – particularly mass claims

During 2011 the Office continued to implement the key strategy to manage litigation, particularly mass claims, in a strategic manner. Advisory Counsel in the Merrion Street Office met regularly with legal staff in the Chief State Solicitor’s Office and officials in the relevant Departments to direct the overall legal strategy so as to ensure that mass litigation was being effectively managed on an ongoing basis.

During 2011 the CSSO continued to operate specific initiatives to manage litigation, including mass litigation as follows:

- The provision of an asylum law litigation service to support the Department of Justice and Equality and the immigration / asylum agencies.
- The provision of dedicated teams to handle special needs, child welfare and nursing home charges litigation.
- Actively handling and defending where appropriate, the civil servant employment law caseload.

- Actively handling and defending where appropriate, all civil proceedings taken against An Garda Síochána or members of An Garda Síochána.

Assisting and advising client Departments on proposals to reduce litigation costs. The Office reaffirms the need to seek ways to reduce the cost to the State of litigation. In particular mechanisms such as continuing advice in respect of avoiding litigation and early resolution will be prime objectives. For instance, at the Office's instigation protocols are now in place with the Departments of Health and Education to ensure that in the same legal action multiple legal teams are not allowed to represent multiple State Bodies. This is a development of the process already in place where the Office co-operates with other State agencies such as the DPPO or Revenue Commissioners in defending litigation and agreeing joint legal teams to represent the State's interests. We will work with Client Departments to identify and consider similar efficiencies and cost saving proposals.

During 2011 particular measures pursued with clients included the timely production of EU implementation legislation in order to avoid EU fines, drawing to the attention of relevant Departments situations where legal disputes between State Agencies were being pursued and supporting efforts to seek alternative non litigation resolutions such as mediation and arbitration wherever practical.

The Office in the course of its Comprehensive Review of Expenditure undertaken in April 2011 made several suggestions to reduce legal costs being incurred by the State. Examples included a reform of the taxation of costs system, establishment of a centralised State legal cost unit, removal of the requirement for endorsement of European Arrest Warrants by the High Court in order to avoid engaging Counsel, a simpler administrative rather than Court based system for restoring companies struck off the Companies Register and changes to procedures in respect of Garda compensation cases.

European Court of Justice litigation and Interventions

During 2011 the former Director General and Advisory Counsel continued to co-operate with legal staff in the CSSO to provide direction of legal strategy as appropriate so as to ensure the ongoing effective management of European Court of

Justice (ECJ) litigation. This involved regular review meetings with Departmental officials. Annex I of this Report sets out details of some important cases before the ECJ in 2011.

Law Reform Commission

An important component in co-ordinating the legal services of the State is to adopt a co-ordinated approach to law and contacts to facilitate the Law Reform Commission in its role in reviewing, examining and formulating proposals for law reform. During 2011 the Advisory side maintained close collaboration with colleagues in the Commission in this regard.

Provision of critical legal services outside of normal Office hours

Throughout the year the majority of legal staff in the Office worked additional hours in order to meet the demands for urgent and complex advice and drafting work. Also the CSSO continued to operate the on-call legal panel to manage issues which arose out of hours during the year.

Better Regulation and Regulatory Reform

During 2011 in its high quality drafting work the Office contributed to the ongoing process of making Acts of the Oireachtas more accessible and easier to produce. Significant areas of work during the year were the Statute Law Revision Project and the electronic Irish Statute Book. These measures are aimed at making legislation more accessible and consequently reducing costs for the end user.

Statute Law Revision Project

Prior to 2011 considerable work was undertaken on the Statute Law Revision Project culminating in the enactment of the Statute Law Revision Act 2007 and subsequently, the Statute Law Revision Act 2009 in December 2009 resulting in the repeal of spent and obsolete pre-independence statutes. However, a review of the project was undertaken in 2010 as a result of fiscal constraints. In 2011 work on the project recommenced to complete the pre-independence phase of the Project on a greatly reduced cost basis utilising the FÁS Work Placement Programme and JobBridge National Internship Scheme.

Electronic Irish Statute Book (eISB)

The Office contributes significantly to the e-Government agenda and its future potential specifically in the context of the ongoing management and update of the electronic Irish Statute Book (eISB). The Office's eISB Group (in which the Office of the Parliamentary Counsel actively participates) oversees the process of managing this service.

All promised updates were completed during the year. This entailed updating the eISB in a timely manner as new legislation was enacted and published. During the year the eISB was upgraded to include advanced search functionality and improved access to PDF versions for printing purposes. Direct linking from within Acts to the entry in the Legislation Directory was also implemented during the year.

In 2011 the Office completed the customisation of the eISB to optimise access to the content of the eISB for users of mobile devices such as smart phones, tablet devices etc. These measures are part of the Office's strategy to provide greater access to legislation online.

The completion of the mobile customisation has allowed the Office to develop specific Apps for more streamlined access. An App for both the Android and iPhone/iPad platforms was developed in 2011. The equivalent App for the iPhone/iPad was also implemented by the end of 2011.

Also during 2011 the eISB also published a Legislation Directory for statutory instruments with legislative changes effected between January 2006 and June 2011. A full Legislation Directory for primary legislation is also available for the period 1922 to August 2011 and was updated on a regular basis during the year.

Section 62 of the Civil Law (Miscellaneous Provisions) Act 2011 amended section 7 of the Official Languages Act 2003 to permit electronic publication of Acts of the Oireachtas in one official language only, prior to their printing and publication in both official languages. Since the amendment came into operation, on 2 August 2011, Acts of the Oireachtas were made available on the eISB within a short period of enactment, and all Acts of the Oireachtas were published on the eISB.

The eISB also functions as the source database for the EU N-Lex project which is a common access portal for sources of national law currently being developed by the EU Publications Office. The objective of this project is the development of a single harmonised multilingual search interface that will facilitate access to legislation across the European Union. The N-Lex project requires member states to provide electronic access to legislation on a non-fee basis. A nominated member of the Merrion Street Office IT Unit attended meetings of the relevant EU Council Working Party during 2011.

Chapter 8: Progress Achieved in reaching High Level Goal 5

High Level Goal 5

To deliver a high quality specialist solicitor service to the Attorney General, Departments and Offices in areas of litigation and to provide high quality specialist legal advice and services in property and transactional matters.

Output

Involvement in legal actions on behalf of the State and in defending the interests of the State in litigation. The provision of legal advice and services generally. The provision of specialist legal advice and services in relation to property transactions and Government contracts.

Outcome

Effective management of litigation on behalf of the State. Minimising the exposure of the State to damages and costs. Assessing the lessons learned from the outcome of litigation. The provision of legal services concerning property contracts and in other specialist areas.

Performance Indicators

- The volume of cases and new litigation dealt with. Quality and quantity of advices to clients.
- Delivery of services in timely manner and in compliance with litigation deadlines. Client feedback. Relative movement in the cost of litigation from year to year.

Strategy

- To monitor litigation and advice to extract relevant lessons and to disseminate this information across the Public Sector.
- To maintain close relationships with clients and instructing officials.

- To maintain close relationships between Chief State Solicitor and Attorney General's Office and a high level of communication and interchange.
- To maintain levels of training and development within the Office to maximise staff capability.
- To maintain, review and revise risk management within the Office.
- To continue to develop knowledge management within the office and to maintain and develop the case management system between the Chief State Solicitor and the Attorney General's Office.

Progress Achieved

During 2011 the Chief State Solicitor's Office continued to concentrate on the development, enhancement and refinement of legal services in areas of importance to client Departments and Offices. The primary focus during the year was on the provision of high quality legal services as economically and efficiently as possible. Resources were deployed within the Office in pursuance of that objective.

The Chief State Solicitor's Office maintained a Professional Fees Control Group (PFCG) which met on a weekly basis to monitor and control expenditure on professional fees. During the year the Office also implemented a policy of collection of legal costs in all cases in which costs had been awarded to the State, where such collection was deemed viable.

In 2011 the Chief State Solicitor's Office continued to implement the key strategy to manage litigation, particularly mass claims, in a strategic manner. Legal staff in the Office in conjunction with Advisory Counsel in the Attorney General's Office collaborated with client Departments and Offices in monitoring and dealing with litigation, especially high profile and high volume cases, to ensure that the most efficient practices were followed in order that appropriate cases were settled at the earliest opportunity so as not to expose the State to greater financial risk.

The Office continued to maintain close relationships with clients and instructing officials throughout the year. Meetings were held on an ongoing basis with clients to discuss progress in cases and preparation of same for hearing. Formal case review meetings also took place with clients, for example bi-monthly Extradition / European

Arrest Warrant meetings. Furthermore, bi-monthly meetings were held by the Chief State Solicitor's Office and the Attorney General's Office with the Office of the Director of Public Prosecutions to discuss constitutional cases common to the Offices.

A high level of communication and interchange continued to be maintained during the year between legal staff in the Chief State Solicitor's Office and Advisory Counsel in the Attorney General's Office. Staff communicated on an ongoing basis and continued to work through the shared case and records management system.

Important services provided during the year, included:

- continued operation of a specialised service to deal with commercial contracts and procurement issues.
- continued operation of a specialised service to deal with cases before the Court of Justice of the European Union.
- continued operation of dedicated teams to deal with special needs, child welfare and nursing home charges litigation.
- continued operation of a dedicated Section to deal with judicial review proceedings against State bodies.
- continued operation of a specialised service to deal with European Arrest Warrant applications and Extraditions.
- continued operation of a specialised service to deal with Civil Service employment litigation.
- continued operation of a specialised Section to deal with all civil proceedings taken against An Garda Síochána.
- continued operation of a specialised service handling asylum, immigration and repatriation work.
- continued operation of a specialised service handling all property transactions for Government Departments and Offices.
- continued operation of an on-call panel to deal with urgent matters in Court, out of office hours.
- continued operation of a panel to deal with inquests outside Dublin.

Knowledge Management

During 2011 the Chief State Solicitor's Office continued to promote a culture of knowledge sharing underpinning the delivery of solicitor services to Government, Departments and Offices. Solicitors attended legal issues meetings in the Attorney General's Office and training courses run, inter alia, by the Law Society and the Dublin Solicitor's Bar Association, as well as in-house legal training courses. The Library and Know-How Unit continued to promote legal research skills and assist legal staff in attaining a level of proficiency in the use of electronic sources of legal information.

Knowledge was also managed by the development of appropriate precedent banks in the various Sections of the Office and was disseminated by the holding of regular Section meetings at which recent judgments were distributed and discussed and notes from legal training courses were circulated.

Case and Records Management System (ACME)

The case and records management system (ACME) between the Chief State Solicitor's Office and the Attorney General's Office continued to be maintained and developed in 2011. Nominated legal staff from the Chief State Solicitor's Office participated in the ACME Business Users Group (BUG) which commenced a comprehensive review of the system to identify any areas where improvements might be made.

Risk Management

During 2011 the Chief State Solicitor's Office continued to embed risk management policies within the Office. Throughout the year risk related matters were discussed at Division / Section meetings and local and Legal MAC meetings. The Chief State Solicitor and the Division Heads attended and contributed to meetings of the joint AGO/CSSO Main Management Committee in the context of the implementation of an Office-wide risk management strategy, including a risk policy. The Office risk register and the Administration risk register were reviewed and revised. Division Heads completed an assurance statement in this regard in line with risk management policy.

Legal Staff in the Office identified cases as sensitive in consultation with Advisory Counsel in the Attorney General's Office and updated the status of sensitive cases for reporting to Government in March, July and November 2011. Upon classification of a case as sensitive, the legal officer in the CSSO dealing with same attended a meeting with the Chief State Solicitor to discuss the issues in the case.

Financial Management

During 2011 nominated solicitors in the Chief State Solicitor's Office participated in the project to develop an interface between the Case and Records Management System (ACME) and the Financial Management System (FMS). This development, when fully implemented will assist in the identification of commitments, financial and non-financial and costing management information reporting requirements. Further details in relation to this matter are outlined in Chapter 9 of this Report.

Performance Management and Development System (PMDS)

In 2011 legal staff in the Chief State Solicitor's Office participated in the process of further embedding PMDS including Upward Feedback and the use of PMDS ratings for promotion and salary increment purposes. At the beginning of the year Role Profile Forms were agreed with Division and Section Heads. Interim Reviews were carried out mid-year and Annual Reviews were completed after the end of the year. PMDS training was provided as appropriate to new legal staff within 2 months of arrival in the Office.

Training and Development

During 2011 solicitors in the Chief State Solicitor's Office participated in a wide range of training courses to maximise their capabilities, with particular emphasis being given to in-house training which had the benefit of being customised and cost effective.

The Office ensured that solicitors completed the requisite number of hours legal training as well as training in management and professional development skills and regulatory matters to comply with the Law Society's Continuing Professional Development requirements.

Chapter 9: Progress Achieved in reaching High Level Goal 6

High Level Goal 6

To provide modern and professional corporate and business management services in the Office that delivers the highest quality of service.

Output

Maintenance of support structures and functions such as Finance, Human Resources, Library and Know-how, Registry and facilities such as Office space and IT infrastructure etc. to allow the organisation meet the Goals set out above.

Outcome

Satisfactory working conditions and operation of Office within parameters set by Government.

Performance Indicators

- Expenditure within the budgetary limits set by the Department of Public Expenditure and Reform. Achievement of the limits on staff numbers.
- Staff, services and systems facilitating achievement of Office's mission statement.

Strategy

- The continued maintenance of Office facilities, the optimal use of human resources and the management of information assisted by the best Library and Know-How Service and Information and Communications Technologies available to modern law Offices.
- Maintain Office capabilities to operate FMS.
- Keep under review the Office's IT technical architecture and infrastructure and ensure it continues to provide a robust foundation for the delivery of IT services.
- Implement Public Service Reform Plan.
- The continued maintenance of development of the Registry and Records function to support the legal, drafting and administration functions.

Progress Achieved

Merrion Street Office

Human Resource Strategy, Merrion Street

During 2011 the Office continued to implement the strategies set out in the Offices' Human Resources Strategy 2008 - 2010. A new Human Resources Strategy for the period 2011 - 2013 was developed during the year for consideration by MAC. The continued embedding of PMDS was a key development during the year.

Recruitment

On 9 March 2011 Máire Whelan SC was appointed to the position of Attorney General. The positions of Special Assistant and two Personal Assistants to the Attorney General were filled following the appointment of the Attorney General. In early 2011 the Office recruited 6 candidates from the FÁS Placement Programme to work as researchers on the Statute Law Revision Project. In August 2011 the Office submitted a business case to the Department of Public Expenditure and Reform to fill legal positions on the Parliamentary Counsel and Advisory Counsel sides of the Office.

The Office continued to offer a wide range of atypical working arrangements during the year.

Employment Control Framework

The Department of Finance set a target for the reduction of AGO staff to 126 by the end of 2014. This represents a 10% reduction in overall numbers. In 2011 the Merrion Street Office had already achieved this target.

From the start of 2010 to the end of 2014 it is estimated that the reduction will save a total of €3.03 million in staff costs. Other initiatives including the incentivised career

break scheme and the public sector pay cut will result in a further €3.44 million in savings during the same period.

Human Resources Management System (HRMS)

During 2011 the Office continued to utilise and further embed PeopleSoft/HRMS.

Performance Management and Development System (PMDS)

The Office was in 100% compliance with PMDS in respect of 2011 with all role profiles, interim and annual reviews for the year completed and submitted to the HR Unit within agreed timeframes. The Office will adopt the newly developed and enhanced PMDS Role Profile Form for 2012 and will continue to implement any enhancements to the system as agreed centrally.

Sick Leave

The Office early in 2010 undertook an audit of its sick leave in respect of 2008 and 2009 as part of its strategy to address issues raised in the C & AG's Report on Sickness Absence in the Civil Service. Recommendations agreed by MAC and implemented in the Office include;

In January 2011 the Management Advisory Committee adopted a Sick Leave Report for 2010 in respect of the Merrion Street Office as part of its strategy to address issues raised in the *Comptroller and Auditor General's Special Report on Sickness Absence in the Civil Service*. Revised sick leave procedures were also approved including:

- Officers are referred to the Chief Medical Officer at the earliest opportunity, but no later than after four weeks continuous sick leave, when issues with their sick leave arise.
- The Human Resources Unit now undertakes a bi-annual sick leave audit and reports the findings to MAC.
- Regular reminders issuing to all staff regarding sick leave procedures.
- Reminders issue to all staff regarding the need to submit social welfare forms in a timely manner.
- A new letter which issues to staff who have amassed 12 or more days absence over three years or three or more absences in a 12 month period (irrespective

as to whether the absences are covered by medical certificate). This will ensure both staff and managers are aware of levels of sick leave.

- Increment form revisions to draw managers attention to need to factor sick leave into evaluation when determining if increment is to be paid.
- Sick leave totals are now emailed to managers in advance of interim and annual review meetings. This will enable sick leave to be discussed if necessary at PMDS meetings.

The implementation of the revised sick leave procedures contributed to an overall reduction in the amount of sick leave amassed by staff members during 2011. The 2010 review of sick leave levels showed that 142 less days were taken in comparison to 2009.

The Office now conducts bi-annual reviews of sick leave with a review on the first 6 months of 2011 having been completed in July of 2011 and the review of the second 6 month period of 2011 will be completed in January 2012.

Accommodation

During 2011 the Office continued to review the accommodation needs of the Office and liaised with representatives from the Office of Public Works as necessary to ensure that all facilities were suitable.

Partnership Committee

During 2011, the Partnership Committee in the Merrion Street Office continued to be centrally involved in the implementation of the Public Service Reform Plan and issues relating to the implementation of the Office's Revised Action Plan under the Public Service Agreement 2010 – 2014 (Croke Park Agreement). During the year the Committee met on 12 occasions. The focus for the Committee, which has Office-wide representation, was also to deal with core Office-related issues effecting staff such as sick leave, PMDS and Training and Development.

Gender Representation

At end-2011 the Office continued to exceed the Government targets in relation to the employment of women. 50.89% of staff were female at or above Assistant Principal Officer level while 46.52% of staff at or above Principal Officer level were female.

The end-2011 figures for permanent staff were as follows:

Grade	Female		Male	
	No.	(%)	No.	(%)
Director General	0	(0)	1	(100)
Chief Parliamentary Counsel	1	(100)	0	(0)
Co-ordinator of EU Law	1	(100)	0	(0)
First Parliamentary Counsel	0	(0)	1	(100)
Deputy Director General	0	(0)	1	(100)
Assistant Secretary	5	(55.56)	4	(44.44)
Principal Officer	10.4	(44.44)	13	(55.56)
Assistant Principal	16.8	(56.38)	13	(43.62)

Accessibility for Persons with Disabilities

The proportion of staff with disabilities at the end of 2011 continues to exceed the Government target of 3%. The Office continued to monitor its accessibility including through its website, and ensured that all renovation or maintenance work took into account the needs of persons with disabilities.

Training and Development

During 2011 nominated Advisory Counsel participated in the work of the Training and Development Committee. Preparation of a procedures/training manual to reflect appropriate interaction between ACs and PCs in the legislative process;

- Organisation of legal training events in the Office;
- Development of a new Advisory Counsel Training Programme for new Advisory Counsel and Advisory Counsel returning from secondment, and
- Updating of the Advisory Counsel Protocol Document.

In 2011, Merrion Street Office Training and Development Unit continued to provide a high standard of training and development opportunities and deliver on its responsibility for the planning, organisation and evaluation of training courses offered to all staff. The Unit also participated in the work of the Training and Development Committee during the year. The primary focus of the Group in early 2011 was to develop and finalise a co-ordinated Training and Development Strategy for the Office. The strategy included specific action points relating to the Administration side including:

- Increased liaison and coordination between AGO T&D Unit and Civil Service T&D Network.
- Increased liaison and coordination between AGO and CSSO T&D Units.
- Clerical Support Survival Handbook.
- Talks by ACs and PCs to administration and clerical staff on different legal topics –
- Training and Development Reports to Merrion Street MAC.
- Evaluation of training.

Throughout the year staff were encouraged and facilitated in undertaking training identified in their Role-Profile Forms for 2011. The Office further embedded the importance of PMDS for continued professional and personal development and endeavoured to deliver on its commitment to developing the skills and potential of all staff.

Overall expenditure on training and development in 2011 was €175,165. This amount represented 1.75% of the payroll allocation for the year. A full breakdown of training and development expenditure is contained in **Annex G** of this Report.

Enhanced system to evaluate training courses funded by the Office

Reliable and comprehensive evaluation of training is essential to ensure value for money and also to ensure that training events of the highest standards are identified and in particular taking account of the fact that much of the training sourced and

availed of will not be generic in nature but rather legal and targeted to our particular requirements as a specialised Civil Service Office.

During 2011 in the context of the implementation of the recommendations of the Merrion Street Office's Training and Development Strategy the Office reviewed and revised its training evaluation processes and these changes have been implemented. The existing evaluation form was revised. Staff are not allowed to avail of subsequent training opportunities unless their evaluation of the previous event has been submitted to the Training and Development Officer.

Closer Administrative links with the Law Reform Commission

The Office maintains close co-operation with the Law Reform Commission with a view to providing the Commission with access to high level support for administrative matters and for reassuring the AGO that appropriate levels of corporate governance are in place. In 2011 a member of the Merrion Street staff transferred to the Law Reform Commission to take over duties as its Head of Administration. The duties include responsibility for Finance, IT, HR and other corporate services. This move was effected from within existing staff numbers of both the Office and the Commission.

CSSO

Recruitment

During 2011, 16 staff left the Office and of which 2 were retirements and 3 resigned. During 2011, 10 staff joined the Office, 1 returned from a secondment and 1 returned from career break. 5 temporary professional staff and 3 clerical staff joined the office.

Performance Management and Development System

Following on from the review in 2010, the 2011 PMDS cycle operated on the basis of the revised PMDS documents. Training in respect of the revised arrangements and documents was rolled out to all staff of the Office. New arrangements that were agreed were implemented.

Continued Professional Development

All solicitors employed by the State are required to complete Continuing Professional Development (CPD) training. With effect from 1st January 2008, (S.I. 807 of 2007, as amended by S.I. 452 of 2009 refers), CPD is compulsory. In the cycle commencing 1st January 2011 a total of 12 hours must be received. Individual solicitor's are required to maintain a record of training received. Under the CPD process, the Law Society may audit compliance with the requirement.

Accommodation

The use of space in Osmond House was reviewed by the OPW in 2010. The review recommended renovation works that would provide additional office space, an additional conference room and a staff canteen along with additional file storage facilities for HR, Accounts payable and Office Service's.

Work was carried out to the fourth, second, first and ground floors of Osmond House. New Offices were established and occupied on the fourth and second floor's. The Office Service's section was relocated from the ground floor to a renovated open plan space on the first floor. And the ground floor received renovation to create the additional Conference, Storage and Canteen facilities.

The Office in continuing to place an emphasis on off-site storage of files in order to make corridors and offices compliant with Health and Safety requirements.

Training and Development and Training courses provided in 2011

The role of the Training and Development Unit (TDU) is to provide targeted training for staff throughout the Office. Throughout 2011, the TDU undertook a number of areas of training which had been identified by staff in their Personal Training and Development Forms under Performance Management and Development System (PMDS) and areas of training prioritised by the Office ranging from Health & Safety issues to Legal Topics to staff and administrative training requirements. 2011 continued the focus on providing in-house training for staff, taking into account the new 2009 CPD regulations requiring Solicitors to complete 12 hours CPD training.

The Office allocated a total of €20,000 to provide training, development and learning for Staff of the Office during 2011. **Annex G** of this Report sets out details in relation to training and development and training courses provided to CSSO staff during 2011.

Dignity Charter

The Office Dignity Charter, launched in 2008, continued to operate throughout 2011.

Gender Representation

At the end of 2011 the Office continued to exceed the Government targets in relation to employment of women. The proportion of female staff at or above Assistant Principal Officer level was 59%, while the proportion of female staff at or above Principal Officer level was 42%.

Accessibility for Persons with Disabilities

The accommodation works carried out to the ground floor in Osmond House took into account persons with disabilities. The double door into the renovated area was fitted with an electronic sensor to automatically open when approached from either side. In addition the staff canteen was fitted with wheel chair level push pads to open the door into the canteen.

The proportion of staff with disabilities employed in the Office at the end of 2011 exceeded the Government target of 3%.

Partnership Committee

During 2011, the Partnership Committee and related sub groups in the Chief State Solicitor's Office continued to contribute to the ongoing development of the change culture in the Office.

Merrion Street Office and CSSO

Financial developments

During 2011 the focus for the Offices was on achieving further progress towards the implementation of initiatives at central level, further enhancement of the Office's

Financial Management System and the development of an interface between the new Case and Records Management System and the Financial Management System.

In relation to the development of an interface between the new Case and Records Management System and the Financial Management System this development, when fully implemented will assist in the identification of commitments, financial and non-financial and costing management information reporting requirements. By the end of 2011 the interface process was operational in the Common Law and Public Law Divisions in the CSSO. These Divisions cover circa 65% of the total expenditure incurred by the CSSO in counsel fees. Also, plans were well advanced at year end for the further rollout of the interface process across all other relevant areas in the Office.

During 2011 enhanced Management and Costing Reports were developed and made available to the local Merrion Street Office/CSSO MACs, joint Merrion Street Office/CSSO MAC and to senior management. This information already facilitates greater cost awareness among those responsible for resource allocations.

In relation to the Office's Agresso Financial management System the Office continued to further develop and embed the Agresso system during the year. The system continued to be utilised in providing a full range of financial services to the Office including the preparation of the following:

- Appropriation Account 2011;
- Monthly financial reports to local and Main Management Advisory Committees and the Department of Public Expenditure and Reform;

Consideration was given in 2011 whether to proceed with an upgrade of the system. The Office consulted with other organisations using the Agresso system in the context of agreeing a joint approach to issues relating to support and upgrades of the system. At year end a decision was made that the Office would benefit by upgrading to the next version and work commenced on the development of a Business Case for consideration by both Accounting Officers.

Also in late 2011 the Office adopted a report in relation to a comprehensive desktop review of financial controls and processes prepared by a former Head of

Administration in the CSSO. This review provides assurance as to the effectiveness of the system of internal financial control operated by the Office. Ensuring that controls and processes comply with best practice and adequately satisfy the requirements of accuracy, reliability and security. By end 2011 significant progress had been achieved to implement the recommendations of the review.

Following the completion of the Review, the Report was delivered to the Offices' Audit Committee. The Finance Unit is currently implementing the recommendations in conjunction with the CSSO and is on target for full implementation by the end of this year.

Case & Records Management System

During 2011 the focus was on further refining and enhancing the Case and Records Management System (ACME) to ensure that it continued to serve the Office as effectively and efficiently as possible. Continued support was provided by Helpdesk staff to all users of the system. The ACME Business Users Group (BUG) commenced a comprehensive review of the system late in 2011 with a view to identifying any areas where improvements might be made.

Integration of the Financial Management System with the Case and Records Management System (ACME)

Counsels' fees are a very significant cost to the State. It is imperative that the Office is able to manage the process to ensure both value for money and an effective financial process to support it. While currently the Office operates a comprehensive and detailed paper-based system, it is labour intensive and not as efficient as it might be for producing real time information for management purposes.

Critical to managing the cost is an ability to monitor and recognise the financial commitment on an accruals basis when the activity takes place rather than just at the point an invoice or fee note is received and subsequently paid.

During 2011 the Office made significant progress towards finalising the developing of an interface between the Case and Records Management and Financial Management System. Both systems are efficient and effective in the tasks for which they were designed. However, linking the financial system with the ACME system will ensure that the financial commitments raised by advisory/CSSO legal staff when engaging legal counsel will be automatically captured. This will enable management to be aware with greater accuracy the extent of potential liability for future legal costs and fees as well as ensuring that ultimately when the formal invoice or fee note arrives the payment process will be both accurate and efficient. The visibility and completeness of this information will have significant added value for management decision making.

Comprehensive Review of Expenditure (CRE)

In April 2011 the Office along with all Government Departments, Offices and Agencies was requested to carry out a Comprehensive Review of Expenditure in order to identify savings that could be achieved. The Office examined its previous years spending patterns, the core material used in estimating expenditure for the period 2012-2014 and expenditure to that point in 2011.

In its report to the Department of Public Expenditure and Reform the Office was able to identify significant savings in its own Vote but also several options which, if pursued, would result in savings elsewhere in the Public Service.

Report of the Working Group on the Accountability of Secretaries General & Accounting Officers (Mullarkey Report)

During 2011 the Offices continued to keep under review internal financial controls aspects of which were also reviewed in the context of specific internal audits. As mentioned above the report of a desktop review of financial controls and processes in both Offices, undertaken by a former head of Administration in the CSSO in 2010/2011 was adopted in late 2011. The Offices' Audit Committee requested that a report be prepared for the Chair of the Committee on high level internal financial controls within both Offices.

During the year the Offices' local and Main Management Advisory Committees reviewed the Offices' risk management strategy including the risk management policy, corporate risk register and risk registers for the legal and administrative sides of both Offices. In line with the risk management policy, Heads of legal Groups and Business Units reviewed risk registers and submitted assurance statements to the Secretary to Main MAC during the year.

Audit Committee

The Audit Committee, comprising 3 external personnel and a representative from each Office, met on 3 occasions during 2011.

The Internal Audit Unit's Annual Report for 2010 was presented to the Main Management Advisory Committee in September 2011. In relation to audits undertaken in 2011 the Audit Reports listed below were reviewed by the Audit Committee in 2011:

- Examination of Month-end Procedures regarding the General Ledger in the Office of the Attorney General, the Chief State Solicitor's Office and Law Reform Commission
- Examination of Staff Leave Procedures in the Office of the Attorney General, the Chief State Solicitor's Office and the Law Reform Commission
- Examination of Procurement and Tendering Procedures in the Office of the Attorney General and the Chief State Solicitor's Office
- Follow-up Recommendations Report in the Chief State Solicitor's Office, Office of the Attorney General and the Law Reform Commission
- Further review of implementation of audit recommendations following the audit of year end general ledger month end procedures in the Office of the Attorney General, the Chief State Solicitor's Office and Law Reform Commission
- Examination of Procurement and Tendering Procedures in the Law Reform Commission

During 2011 the Audit Committee also reviewed developments in relation to the ACME/FMS Interface project and the Offices' risk management strategy.

Interest Payments under Prompt Payment of Accounts legislation

In the Merrion Street Office no penalty interest payments were incurred during 2011.

In the CSSO, a total amount of €2,547.09 was incurred in penalty interest during the year under Prompt Payment of Accounts legislation. See **Annex D** for the Offices' Reports on Payment Practices for 2011.

IT Strategy 2012 - 2016

In late 2011 the IT Unit commenced the development of a new IT Strategy for the period 2012 – 2016.

Over the past number of years the Office used the resources available to put in place a comprehensive and efficient IT infrastructure. The Office recognises that notwithstanding the potential to achieve savings and efficiencies, the development and maintenance of ICT facilities can involve significant cost. In the context of severely reduced funds and staffing there is a critical need to ensure that all necessary development to enhance, upgrade or introduce new facilities takes place in a coherent and strategic manner taking into account the scarce resources available to implement such measures.

It is intended that the new IT strategy will be formulated to cover the period 2012 to 2016 in order to plan all such developments and expenditure. The strategy will address key areas such as eGovernment, an assessment of existing IT, Infrastructure, Application and Information strategies and Organisation strategy. By year end significant progress was achieved and an initial draft of the document was circulated to Group, Division, Section and Business Unit Heads for observations.

Other IT related developments

The IT Units continued to review the technology platforms and systems in use and further refine and develop these where appropriate to ensure the IT systems continued to meet the requirements of the Offices.

The Merrion Street IT Unit also played a very significant role in management and enhancement of the electronic Irish Statute Book. More specific details are provided elsewhere in this report.

Statement of Strategy 2011 – 2014

The process of developing the new Strategy Statement for the period 2011 to 2014 commenced in August 2010. Following the formation of the new Government in March 2011 and the publication of the Programme for Government the Office recommenced developing the Strategy Statement to take account of the new Programme for Government. The process of development involved an extensive analysis of the internal and external environment within which the Office operates and consultation with client Departments and Offices. It also involved the Attorney General, both local and the Main Management Advisory Committees and every individual section of every part of the Office. The Partnership Committees of both Offices also provided very valuable input to the process.

In December 2011 the Office submitted the draft Statement of Strategy 2011 – 2014 to the Taoiseach for his review and views as appropriate.

Public Service Agreement 2010 – 2014 (Croke Park Agreement)

In January 2011 the Office of the Attorney General, Merrion St, in conjunction with the Office of the Chief State Solicitor and the Law Reform Commission, published a Revised Action Plan to implement commitments under the Public Service Agreement 2010 – 2014 (Croke Park Agreement).

The Plan includes many changes, developments and initiatives which have already been implemented, many currently in progress and several for the future. The objective of the changes is to enhance efficiency, customer service and reduce costs. Some of the proposed initiatives set out in the action plan to enhance the delivery of legal services to clients include the allocation of resources for urgent legal issues, the enhancement of communication methods to increase accessibility and responsiveness to stakeholders, enhancing knowledge management, taking all measures necessary to facilitate clients of the Office in achieving the objectives of the Public Service

Agreement, controlling expenditure on professional fees and recovery of costs awarded to the State. The Office published Progress Reports on the implementation of the Revised Action Plan in May and October 2011. The Revised Action Plan and Progress Reports are available on the Office website.

Implementation of Public Service Reform Plan

During 2011 the Department of Public Expenditure & Reform developed a *Draft Plan for Public Service Reform*. The Office, in conjunction with the Department, arranged presentations on the initiative for senior staff members. The Office issued a written response to the Department and is awaiting the final version of the Plan to be approved by Government.

The Deputy Director General has been assigned responsibility for the supervision of the implementation of the aspects of the Plan appropriate to the Office.

Client and customer satisfaction surveys

The Office is committed to undertake a follow-up client and customer survey of the Advisory and Administration sides and a follow-up client survey of the Office of the Parliamentary Counsel and benchmark the findings against the results of the previous surveys undertaken in 2008.

One of QCS Guiding Principles states that Public Service organisations: “will ensure meaningful evaluation of service delivery”. The Office is committed to rigorously evaluating performance against the service standards set out in the Office’s Client and Customer Charter. The undertaking of follow-up surveys of clients and customers will enable the Office to evaluate performance against the results of the previous surveys with a view to improving service delivery to clients and customers. The surveys will consider service delivery in terms of:

- Effectiveness in communicating proactively with clients, customers and Government Departments;
- Responsiveness and timeliness in service delivery performance;

- Accuracy, quality and consistency of work outputs, advice provided and legislation drafted;
- General service delivery and professionalism of legal and Administrative staff;
- Client, customer and Departmental contributions to service delivery;
- Improvements achieved over intervening periods.

The Office issued an invitation to selected companies on 12 September 2011 to submit a proposal to undertake separate surveys of clients and customers of the Advisory and Administration sides and clients of the Office of the Parliamentary Counsel to the Government (OPC). Proposals received by the deadline were evaluated and a preferred tenderer was selected in September 2011.

By year end significant progress was achieved in identifying regular clients of the Advisory side and customers of the Administration side and finalising the questionnaires to issue to clients and customers. It is envisaged that both surveys will be completed in 2012 and the findings will inform the development of a new Client Service Guide and Client and Customer Charter for the Office.

Regulatory Requirements Compliance

During 2011 the Office kept under review compliance in the Merrion Street Office and in the CSSO with the Freedom of Information Acts, Data Protection Acts, National Archives Act and Health and Safety legislation. Arrangements in both Offices were satisfactory during the year.

Website

The IT Units in the Merrion Street Office and the CSSO continued to manage the presentation and design as well as the publication of content on the respective Offices' websites during the year. They continue to exist as an important resource and reference points for customers, clients and members of the public. Access is provided to e.g. the Electronic Irish Statute Book (eISB), the Public Service Agreement 2010 – 2014 (Croke Park Agreement) Implementation Plans, procedures applying to the engagement of external counsel and the Offices' publications.

Maintenance of efficient filing system and Records Centre

1,852 files were closed in the Office of the Attorney General in 2011. Files are stored in the Office in numerical order in accordance with file numbering conventions within the Office or catalogued before being sent for secure off-site storage. Sensitive files are either retained in the Office or placed in secure Vault boxes with restricted access.

In the Chief State Solicitor's Office 3,914 files were closed in 2011. Files are stored by year of opening and then numerically or catalogued before being sent for secure off-site storage. All files closed, up those opened in 2011, are stored off-site. Closed sensitive files are kept on-site.

Compliance with obligations under the National Archives Act

The AGO's National Archives Project for 2011 was completed ahead of schedule and 1,687 files were transferred to the National Archives in Bishop Street, including 91.2% of all documented files scheduled for transfer. Certificates for the retention of those files not transferred are held by the Office.

Production of statistical data for use in management reports

During 2011 with assistance from the IT Units in the Merrion Street Office and the CSSO, both Registry Units produced individual reports relating to the various functions of the Offices. These reports were then further analysed in order to extract statistical data for use by management.

Legal research and know-how services

In 2011 the Merrion Street Office and CSSO Library & Know-how Units focused on the continued delivery of high quality legal information, research and know-how services to staff in both Offices. The Units also continued to provide services to Advisory Counsel seconded to Government Departments, to state solicitors assigned to the various Tribunals of Inquiry, Criminal Assets Bureau and local State Solicitors.

The Units provided many important services to legal staff including:

- iLink (online library catalogue),
- cataloguing, classification and abstracting of legal material,
- access to a substantial law collection in both hardcopy and electronic formats,
- legal know-how database,
- legal information/research services,
- information skills training,
- current awareness services,
- legislative proof-reading and
- access to external libraries and information services.

Enhanced legal research services

In 2011 legal research services continued to be provided by both Units to all staff.

Legal Researchers in the Merrion Street Office provided legal research and know-how support to discrete Groups of Advisory Counsel and Parliamentary Counsel in support of the ongoing legal specialisation within the Office. They also attended legal group meetings where practicable in order to strengthen their knowledge of legal issues of interest to the Office.

The Units continued to provide a range of current awareness services during the year and provided access to a wide range of legal information resources and legal reference guides through the Units intranet pages.

Both Units continued to provide training to legal and administrative staff on library applications and legal information databases during the year. Staff had the opportunity to avail of formal information skills training programmes as well as customised individual training sessions.

Both Units provided formal training sessions and customised individual sessions to staff during the year.

Contributing to Knowledge Management

During the year both Units continued to promote a culture of knowledge sharing within and between the Offices. Legal staff in both Offices continued to share knowledge on topical issues of interest through the medium of legal issues meetings. The Units published six issues of the Legal Bulletin and seven issues of the Judgments Alert during the year.

Both Units continued to participate in Knowledge Management initiatives and contributed significantly to the continued implementation of the new Knowledge Management Strategy during 2011.

Government Bills Published during 2011

Access to Central Funds (Commission for Energy Regulation) Bill 2011
Appropriation Bill 2011
Bretton Woods Agreements (Amendment) Bill 2011
Bretton Woods Agreement (Amendment) (No. 2) Bill 2011
Central Bank (Supervision and Enforcement) Bill 2011
Central Bank and Credit Institutions (Resolution) (No. 2) Bill 2011
Central Bank and Credit Institutions (Resolution) Bill 2011
Civil Law (Miscellaneous Provisions) Bill 2011
Competition (Amendment) Bill 2011
Criminal Justice (Community Service) (Amendment) (No. 2) Bill 2011
Criminal Justice (Community Service) (Amendment) Bill 2011
Criminal Justice (Female Genital Mutilation) Bill 2011
Criminal Justice Bill 2011
Defence (Amendment) Bill 2011
Dormant Accounts (Amendment) Bill 2011
Electoral (Amendment) Bill 2011
Electoral (Amendment) (Political Funding) Bill 2011
Energy (Miscellaneous Provisions) Bill 2011
Environment (Miscellaneous Provisions) Bill 2011
European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Bill 2011
European Financial Stability Facility and Euro Area Loan Facility (Amendment) Bill 2011
Finance (No. 2) Bill 2011
Finance (No. 3) Bill 2011
Finance Bill 2011
Financial Emergency Measures in the Public Interest (Amendment) Bill 2011
Foreshore (Amendment) Bill 2011
Health Insurance (Miscellaneous Provisions) Bill 2011
Health (Provision of General Practitioner Services) Bill 2011
Industrial Relations (Amendment) Bill 2011
Insurance (Amendment) Bill 2011
Irish Film Board (Amendment) Bill 2011
Jurisdiction of Courts and Enforcement of Judgments (Amendment) Bill 2011
Legal Service Regulation Bill 2011
Local Government (Household Charge) Bill 2011
Medical Practitioners (Amendment) Bill 2011
Ministers and Secretaries (Amendment) Bill 2011
National Asset Management Agency (Amendment) Bill 2011

National Tourism Development Authority (Amendment) Bill 2011
Patents (Amendment) Bill 2011
Protection of Employees (Temporary Agency Work) Bill 2011
Public Health (Tobacco) (Amendment) Bill 2011
Public Service Pensions (Single Scheme) and Remuneration Bill 2011
Qualifications and Quality Assurance (Education and Training) Bill 2011
Residential Institutions Redress (Amendment) Bill 2011
Road Traffic Bill 2011
Road Traffic (No. 2) Bill 2012
Road Transport Bill 2011
Social Welfare Bill 2011
Social Welfare and Pensions Bill 2011
Spent Convictions Bill 2011
Thirtieth Amendment of the Constitution (Houses of the Oireachtas Inquiries) Bill 2011
Twenty-Ninth Amendment of the Constitution (Judges' Remuneration) Bill 2011
Veterinary Practice (Amendment) Bill 2011
Water Services (Amendment) Bill 2011
Welfare of Greyhounds Bill 2011

Acts Passed In 2011

Access to Central Treasury Funds (Commission for Energy Regulation) Act 2011
Appropriation Act 2011
Biological Weapons Act 2011
Bretton Woods Agreements (Amendment) Act 2011
Central Bank and Credit Institutions (Resolution) (No. 2) Act 2011
Child Care (Amendment) Act 2011
Civil Law (Miscellaneous Provisions) Act 2011
Communications Regulation (Postal Services) Act 2011
Communications (Retention of Data) Act 2011
Criminal Justice Act 2011
Criminal Justice (Community Service) (Amendment) Act 2011
Criminal Justice (Public Order) Act 2011
Criminal Law (Defence and the Dwelling) Act 2011
Defence (Amendment) Act 2011
Electoral (Amendment) Act 2011
Environment (Miscellaneous Provisions) Act 2011
European Financial Stability Facility and Euro Area Loan Facility (Amendment) Bill 2011
Finance Act 2011
Finance (No. 2) Act 2011
Finance (No. 3) Act 2011
Financial Emergency Measures in the Public Interest (Amendment) Act 2011
Foreshore (Amendment) Act 2011
Health Insurance (Miscellaneous Provisions) Act 2011
Insurance (Amendment) Act 2011
Irish Film Board (Amendment) Act 2011
Local Government (Household Charge) Act 2011
Medical Practitioners (Amendment) Act 2011
Ministers and Secretaries (Amendment) Act 2011
Multi-Unit Developments Act 2011
National Tourism Development Authority (Amendment) Act 2011
Nurses and Midwives Act 2011
Property Services (Regulations) Act 2011
Public Health (Tobacco) (Amendment) Act 2011

Residential Institutions Redress (Amendment) Act 2011

Road Traffic Act 2011

Road Traffic (No. 2) Act 2011

Road Transport Act 2011

Social Welfare Act 2011

Social Welfare and Pensions Act 2011

Student Support Act 2011

Welfare of Greyhounds Act 2011

**Office of the Attorney General
Vote 3 Merrion Street Office**

Outturn for 2011 and Estimate for 2011 and 2012

Estimate and Outturn for 2011 and Estimate of the amount required in the year ending 31 December, 2012 for the salaries and expenses of the **Office of the Attorney General**, including a grant-in-aid.

	Service	Estimate Provision 2011 €000	Provisional Outturn 2011 €000	Estimate Provision 2012 €000
	ADMINISTRATION			
A.1.	SALARIES, WAGES AND ALLOWANCES	10,436	9,995	10,929
A.2.	TRAVEL AND SUBSISTENCE	70	98	120
A.3.	INCIDENTAL EXPENSES	640	584	660
A.4.	POSTAL AND TELECOMMUNICATIONS SERVICES	125	79	100
A.5.	OFFICE MACHINERY AND OTHER OFFICE SUPPLIES AND RELATED SERVICES	695	491	557
A.6.	OFFICE PREMISES EXPENSES	215	170	203
A.7.	CONSULTANCY SERVICES	20	4	20
A.8.	CONTRACT LEGAL EXPERTISE	668	487	765
	SUBTOTAL	12,869	11,908	13,354
	OTHER SERVICES			
B.	CONTRIBUTIONS TO INTERNATIONAL ORGANISATIONS	38	-	39

C.	LAW REFORM COMMISSION (GRANT- IN-AID)	2,191	2,132	2054
D.	GENERAL LAW EXPENSES	50	16	50
50	Gross Total	15,148	14,056	15,497
	Deduct			
E.	APPROPRIATIONS-IN- AID	788	778	788
	Net Total	14,360	13,278	14,709

Vote 13 - Office of the Chief State Solicitor

Outturn for 2011 and Estimate for 2011 and 2012

Estimate and Outturn for 2010 and Estimate of the amount required in the year ending 31 December, 2011 for the salaries and expenses of the Office of the Chief State Solicitor.

Service	Estimate Provision 2011 €000	Provisional Outturn 2011 €000	Estimate Provision 2012 €000
ADMINISTRATION			
A.1. SALARIES, WAGES AND ALLOWANCES	14,995	14,404	14,843
A.2. TRAVEL AND SUBSISTENCE	61	61	61
A.3. INCIDENTAL EXPENSES	1,070	991	1,055
A.4. POSTAL AND TELECOMMUNICATIONS SERVICES	400	339	350
A.5. OFFICE MACHINERY AND OTHER OFFICE SUPPLIES AND RELATED SERVICES	835	716	750
A.6. OFFICE PREMISES EXPENSES	412	445	410
A.7. CONSULTANCY SERVICES	29	20	29
A.8. EXTERNAL LEGAL SERVICES	280	147	248
	18,082	17,123	17,746
SUBTOTAL			
OTHER SERVICES			
B. FEES TO COUNSEL	14,350	10,268	12,550
C. GENERAL LAW EXPENSES	3,616	5,524	4,516

		36,048	32,915	34,812
	Gross Total			
	Deduct			
D.	APPROPRIATIONS-IN-AID	1,860	2,332	1,860
	Net Total	34,188	30,583	32,952

Statement of Compliance with the Prompt Payment of Accounts Act 1997 and with the European Communities (Late Payment in Commercial Transactions) Regulations 2002

**Statements of Compliance; Reports on Payment Practices 2011
Office of the Attorney General (Merrion Street Office)**

Relevant payments made by this Office comply with the terms of the Prompt Payment of Accounts Act 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations 2002.

Guidelines put in place to ensure compliance with the Act were circulated to all staff in January 1998 and staff were also notified of the European Communities (Late Payment in Commercial Transactions) Regulations 2002 when it came into operation on 7 August 2002. The aim of these guidelines is to facilitate prompt clearance of invoices and prevent interest, penalties and compensation arising. Furthermore, financial procedures in place in the Office are regularly monitored to ensure compliance with the Legislation.

The key procedures which are in place are as follows:-

- Unless otherwise agreed by written contract, the prompt payment deadline of 30 days applies to all payments. From 15 June 2009 all Government Departments are obliged and are to commit to paying all suppliers within 15 days of receipt of a valid invoice although the 30 day limit in respect of payment of prompt payment interest still applies.
- Staff are asked to ensure that invoices are addressed to a named person when placing orders for goods and services thus avoiding delays in tracing the person who placed the order for certification purposes
- All invoices are forwarded to the Finance Unit and date stamped immediately on receipt. This date is the date from which the prescribed payment period is calculated
- Staff in the Finance Unit scan all invoices received onto the Financial Management System once they are received in the Finance Unit
- Once the goods or service to which the invoice refers have been received by the Office the relevant Unit will certify the invoice as being in order for payment by generating a goods received notice (GRN) on the Financial Management System. As soon as the GRN process has taken place staff members in the Finance Unit can proceed with payment of the invoice
- In the event of the relevant Unit not being in a position to GRN the goods due to an incomplete order, non-provision of full service etc. Finance Unit should

be notified and the 30 day period will only begin when the goods or service has been fully supplied to the Office

- Staff have been advised of the need to generate the GRN as soon as the goods or service have been received by the Office or to advise the Finance Unit if they are not in a position to generate the GRN in respect of a particular invoice. Arrangements should be made to ensure that the GRN process is not delayed due to staff being on leave etc.
- If an invoice needs to be corrected or is in dispute, the procedures specified in the Act are followed. These procedures are applied by the Finance Unit and a written record of the procedures applied is recorded
- The staff in the Finance Unit monitor the payment due date and endeavour to ensure that payment is made within the prescribed period. In the event of payment being made outside of the prescribed time interest is calculated by Finance Unit in accordance with the Act and with the Regulations
- The Financial Management System prompts the staff in the Finance Unit of due payment date

Report on Payment Practices for 2011
Office of the Attorney General, Merrion Street

General

- Relevant payments made by this Office complied with the terms of the Prompt Payment of Accounts Act 1997 as amended by the European Communities (Late Payments in Commercial Transactions) Regulations 2002.

Late Payments

- Payments totalling €4,235,687 in 2011 were made from the Vote of the Office of the Attorney General in respect of payments to which the Legislation applies.
- There were no Prompt payment interest payments incurred during the year.

Chief State Solicitor's Office

Statement of Compliance with the Prompt Payment of Accounts Act 1997 and with the European Communities (Late Payment in Commercial Transactions) Regulations 2002

Guidelines put in place to ensure compliance with the Act were circulated to all staff in January 1998 and staff were also notified of the European Communities (Late Payment in Commercial Transactions) Regulations 2002 when it came into operation on 7 August 2002. The aim of these guidelines is to facilitate prompt clearance of invoices and prevent interest penalties arising. Furthermore, financial procedures in place in the Office are regularly monitored.

The key procedures which are in place are as follows:-

- Unless otherwise agreed by written arrangement, the prompt payment deadline of 30 days applies to all payments.
- All invoices received are forwarded directly to Finance Unit where they are date stamped. This date is the date from which the prescribed payment period is calculated.
- Staff in the Finance Unit scan general invoices into the Financial Management System using Invoice Manager and the invoice approval process is carried out electronically. General Law invoices are inputted to the Financial Management System and forwarded to the relevant filehandlers for approval.
- Staff have been advised that all invoices should be certified for payment and forwarded to the Finance Unit immediately on receipt. Arrangements should be made to ensure that invoices are not delayed due to staff being on leave etc.
- If an invoice needs to be corrected or is in dispute, the procedures specified in the Act are followed. These procedures are applied by the Finance Unit and a written record of the procedures applied is recorded.
- The staff in the Finance Unit monitor the payment due date and endeavour to ensure that payment is made within the prescribed period. In the event of payment being made outside of the prescribed time interest is calculated automatically by the Financial Management System and manually checked by Finance Unit in accordance with the Act and with the Regulations.

Interest Payments under Prompt Payment of Accounts legislation

Payments totalling €4.155m in 2011 were made from the Vote of the Chief State Solicitor's Office in respect of payments to which the Legislation applies. A total amount of €2,547.09 was incurred in penalty interest during the year under Prompt Payment of Accounts legislation.

Report On Payment Practices For 2011
Chief State Solicitor's Office

The terms of the Prompt Payment of Accounts Act 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations 2002 applies to payments made by or on behalf of this Office excluding payroll and certain other Office expenses.

The CSSO introduced a new Financial Management System in July 2004. On the introduction of this new system, the Finance Unit of the CSSO assumed responsibility for all payments from the CSSO Vote, apart from Payroll and Salaries (A1 Subhead). The system has been designed specifically to monitor and control compliance with the terms of the Act.

In the small proportion of cases where payments are not made within the statutory period, the appropriate interest payments are made.

Payments to which Prompt Payments applied from January to December 2011:

Total Value of all Payments:	€4,155,159.33
Total Value of all late payments (under €320 inclusive):	€2,845.35
Total Value of all late payments (over €320):	€194,660.89
Value of late payments as % of total payments:	4.75%
Number of late payments in excess of €320:	50
Amount of Interest paid:	€2,547.09
Amount of interest as percentage of total payments:	0.06 %
Broad indication of Length of Delays:	179 days

Office Representation on Committees and Working Groups in 2011

Advisory Board National Children's Office
Advisory Forum on Financial Services Legislation
Assistant Secretaries Network
Better Regulation Group
Business Process Improvement Network
Change Management Network
Civil Service Training Officers Network
Commission for Democracy through Law
Company Law Review Group
Consultative Committee on Law Reform
Corporate and Public Lawyers Association
Council of Europe Committee on Administrative Law
Council of Europe Committee of Experts in Family Law
Court Service Forum
Courts Service User Group
Courts Martial Rules Committee
Criminal Law Codification Committee
Cross-Departmental Committee on International Sanctions
Cross-Departmental Group on EU Enlargement and Freedom of Movement
Cross-Departmental Group on the Services Directive
EU Working Group on Legal Data Processing
EU Working Group on Contract Law
EU Intergovernmental Convention Oversight Group
Finance Officers Network
Garda Síochána Working Group on Vetting
Garda Síochána Implementation Group on Vetting
Government Legislation Committee
Government Library Managers Network
Greco Evaluation Team
Information and Communications Technology Managers' Forum
Information Society Legal Working Group

Implementation Group on Compensation Issues
Implementation Group of Secretaries General
Interdepartmental Committee on the Reform of Marriage
Interdepartmental Committee on European Enforcement
Interdepartmental eLegislation Group
Interdepartmental Group on Special Education Needs Litigation
Interdepartmental Working Group on Nursing Homes Charges
Interdepartmental Committee on Nuclear Issues
Interdepartmental Group on Childhood Abuse Litigation
Interdepartmental Working Groups on Disability
Interdepartmental Committee on Infrastructure
Interdepartmental Committee on State Aids
Interdepartmental Group on the Commission proposal for a European Fishing Control Agency
Interdepartmental Group on the EU Convention
Interdepartmental Group on Legislative Issues for the Information Society
Interdepartmental Group on Oireachtas Scrutiny of EU legislation
Interdepartmental Project Board: Oberstown National Childrens Detention Facility Development Project
Interdepartmental Project Board: Contracting of Private Sector Employment Services
Interdepartmental Project Board and Project Team: Contracting of Private Sector Medical Services
Interdepartmental Task Force on the Report of the Commission on the Status of People with Disabilities
Interdepartmental Working Group on European Commission Proposal for a Replacement Public Procurement Directive
In House & Public Sector Committee of the Law Society
Interdepartmental Working Group on Compensation Issues
Interdepartmental Working Group on Construction Contracts and Practices
Internal Audit Network
International Expert Group on Nuclear Liability (INLEX)
Litigation Committee of the Law Society
Management Group for Judicial Reviews in Asylum Cases
McFarlane Expert Group

Ministers and Secretaries Group on European Matters
Money Laundering Steering Committee (Official side)
National Procurement Board
National Procurement Service Procurement of Legal Services Working Group
National ESCO/EPC Action Group
“No-Fault” Advisory Group
Northern Ireland (various groups dealing with Northern Ireland matters)
Nuclear Law Committee (Nuclear Energy Agency, a branch of the OECD)
Personnel Officers Network
PMDS Network
Processing Criminal Cases in the Dublin Metropolitan District
Public Law Committee – International Bar Association
Quality Customer Service Network
Secretaries General and Heads of Offices Group
Single Regulatory Authority Implementation Advisory Group
State Claims Agency Liaison Committee
Steering Group on Systems Review of Department of Agriculture and Food
Strategic Management Initiative Communications Sub-Group
Strategic Management Initiative Implementation Groups
Superior Courts Rules Committee
Tax Strategy Group
Training Officer Network
Working Group on Company Law Compliance and Enforcement
Working Group to Review Coroners Services
Working Group on Malaria Chemoprophylaxis

**Statistics of requests made under the Freedom of Information Acts
Office of the Attorney General, Merrion Street Office**

Office of the Attorney General	Applications Received	Personal	Non-Personal	Mixed	Requests Granted	Requests Part Granted
1998	22	6	16	0	4	1
1999	27	7	20	0	2	4
2000	25	3	22	0	3	3
2001	23	4	19	0	2	2
2002	22	4	18	0	3	1
2003	18	3	15	0	5	4
2004	6	2	4	0	2	0
2005	3	1	2	0	0	0
2006	6	0	6	0	1	0
2007	1	1	0	0	0	0
2008	5	1	4	0	2	0
2009	7	2	5	0	1	1
2010	10	3	7	0	3	1
2011	6	1	5	0	1	1
Total	181	38	143	0	29	18

Office of the Attorney General	Requests Refused	Requests refused under section 46 (1) (b) (Figure included in Total Requests Refused)	Requests Transferred	Requests Withdrawn or handled outside FOI	Live Cases	Internal Reviews Received	Appeals to Info Comm.	Fees No.	Charged Amount
1998	15	12	1	0	1	6	2	0	Nil
1999	21	18	0	1	0	6	0	0	Nil
2000	18	14	0	1	0	4	0	0	Nil
2001	16	13	0	0	3	2	2	0	Nil
2002	20	20	0	0	1	0	0	0	Nil
2003	9	9	0	1	0	1	1	3	€45
2004	4	3	0	0	0	0	0	4	€60
2005	2	2	1	0	0	0	0	1	€15
2006	5	5	0	0	0	0	0	6	€90
2007	1	1	0	0	0	0	0	0	Nil
2008	1	1	0	1	1	0	0	3	€45
2009	6	6	0	0	0	1	0	2	€25
2010	6	6	0	0	0	0	0	6	€90
2011	4	4	0	0	0	2	0	6	€90
Total	128	114	2	4	n/a	22	5	31	€460

Statistics for 2011
Office of the Attorney General

Office of the Attorney General	Applications Received	Journalists	Business	Oireachtas	Staff	Others
01/01/11 to 31/12/11	6	3	0	0	0	3

Statistics from 21 April 1998 to 31 December 2011

Office of the Attorney General	Applications Received	Journalists	Business	Oireachtas	Staff	Others
21/04/98 to 31/12/11	181	54	35	3	5	84

**Statistics of requests made under the Freedom of Information Acts
Chief State Solicitor's Office**

Chief State Solicitor's Office	Applications Received	Personal	Non-Personal	Mixed	Requests Granted	Requests Part Granted
1998	17	14	3	0	10	0
1999	9	3	6	0	4	0
2000	23	11	12	0	15	4
2001	9	6	3	0	5	0
2002	9	5	4	0	2	0
2003	6	2	4	0	0	1
2004	3	1	2	0	0	0
2005	2	2	0	0	2	0
2006	2	0	2	0	0	0
2007	3	2	1	0	2	0
2008	6	6	0	0	2	0
2009	10	1	9	0	1	1
2010	5	2	3	0	2	0
2011	4	0	4	0	1	0
Total	108	55	53	0	46	6

Chief State Solicitor's Office	Requests Refused	Requests refused under section 46 (1) (b) (Figure included in Total Requests Refused)	Requests Transferred	Requests Withdrawn or handled outside FOI	Live Cases	Internal Reviews Received	Appeals to Info Comm.	Fees No.	Charged Amount
1998	4	4	2	0	1	1	0	0	Nil
1999	4	4	1	0	1	3	1	0	Nil
2000	5	2	0	0	0	1	1	0	Nil
2001	4	3	0	0	0	1	1	0	Nil
2002	7	7	0	0	0	0	0	0	Nil
2003	1	1	2	2	0	1	0	0	Nil
2004	0	0	0	2	1	0	0	0	Nil
2005	0	0	0	0	0	0	0	0	Nil
2006	2	2	0	0	0	1	0	1	15
2007	0	0	0	1	0	0	0	1	15
2008	2	0	1	0	1	0	0	0	Nil
2009	3	3	2	2	2	0	0	4	60
2010	3	3	0	0	0	2	2	2	30
2011	3	3	0	0	0	1	0	3	
Total	38	32	8	7	6	11	5	11	120

Statistics for 2011
Chief State Solicitor's Office

Chief State Solicitor's Office	Applications Received	Journalists	Business	Oireachtas	Staff	Others
01/01/11 31/12/11	4	1	0	0	0	3

Statistics from 21 April 1998 to 31 December 2011

Chief State Solicitor's Office	Applications Received	Journalists	Business	Oireachtas	Staff	Others
21/04/98 to 31/12/11	108	17	3	0	39	50

Training and Development Merrion Street Office

Breakdown of Expenditure on Training on Development for 2011 in respect of the Office of the Attorney General:

- The total cost of training and development for 2011, including the cost of administration, was €175,165
- Excluding administration costs the training and development budget was broken into four specific areas, Staff Training and Development, Refund of Fees, Membership Fees and Conferences
- No members of staff received a refund of fees during 2011

Item	Expenditure €
Seminars, Conferences & Training Courses	129,800
Refund of Fees	0
Cost of consultants & external trainers	300
IT Training	2,164
Trainers' salaries & overheads	42,311
Cost of administration	0
Cost of courses attended by trainers	590
Purchase of new training materials	0
Master's in Policy Analysis	0
Other	0
Total	175,165
Total Payroll costs A1	9,994,602
Expenditure on T & D as % of salary cost	1.75%

Training and Development 2011 CSSO

Breakdown of Chief State Solicitor's Office Expenditure on Training & Development 2011

The role of the Training and Development Unit (TDU) of the Chief State Solicitor's Office is to provide targeted training for staff throughout the office. Throughout 2011 the TDU undertook a number of areas of training which had been identified by staff in their Personal Training and Development Forms under Performance Management and Development System (PMDS) and areas of training prioritised by the office ranging from health & safety issues, to legal topics to administrative training requirements. 2011 continued the focus on providing in-house training for staff, taking into account the new 2009 CPD regulations requiring Solicitors to complete 12 hours CPD.

The following training was provided for staff during 2011:-

- comprehensive and refresher IT training programmes to staff in Microsoft 2003
- Training sessions on the ACME system were provided for new entrants to the Office and staff that requested further training on the system.
- Programme of Health Screening for the office.
- Other training relating to Health and Safety was provided for staff such as, Fire Marshal training, Occupational & Refresher First Aid Training, and Evacuation Chair Training.
- TDU contacted and met with the Divisional Managers in early 2011 to look at topics that would be suitable for inviting speakers into the office to talk to staff under an in-house talk's initiative.
- Solicitor staff were required to complete 12 hours Continuing Professional Development (CPD) hours in 2011.
- A number of in house seminars on areas of law were organised throughout the year such as Taxation of Costs, Public Registration Authority Presentations, An Introduction to Bail and Restrictions to that Right, Implications of the Judgement in Zambrano, Revocation of Refugee Status, Presenting a Case before the ECJ, Remedies Directive, Mediation, Infringement Actions and the European Court of Justice, A New Era for Company Law, International Mutual Legal Assistance and Proceedings at International Courts and Tribunals, The Regulation of Solicitors.

- Further In House ‘lunchtime talks’ were provided throughout the year such as, Irish Cancer Society Information Session, Money and Budgeting Service (MABS), Pension Workshops, Tax savers Promotion, Positive Working Environment Workshops.
- External conferences and seminars relevant to the business undertaken by the Office were attended by staff throughout the year.
- Based on information provided by staff under PMDS and requests made throughout the year the Training and Development Unit organised a number of general training courses for staff.

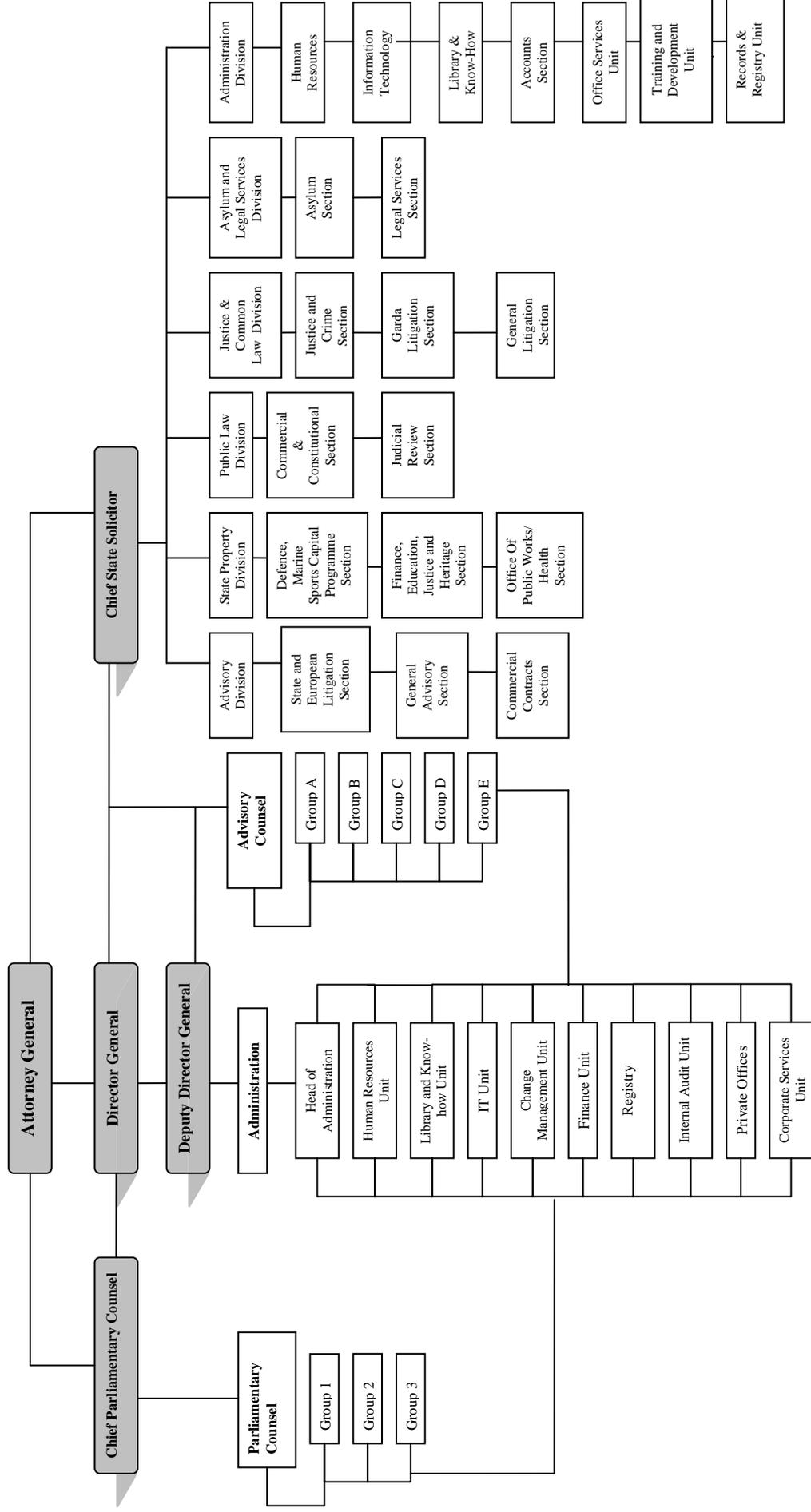
The Training Unit was allocated €220,000.00 in order to provide training and development for CSSO staff during 2011. The allocation was broken into three specific areas.

Area	Allocation	Spend	Summary
Delegated Budget	€5,100.00	€3,360.88	This amount was divided between the 6 divisions, with each division responsible for working within the allocated amount.
Refund of Fees	€30,000.00	€24,798.69	During 2011, a refund of fees to staff was made in relation to 9 courses
Holding Fund	€4,900.00	€ 38,025.10	This fund was used for expenditure by the TDU on a number of areas of training

Annex H

Organisation Chart:

Annex H: Organisation Chart



Annex I

HIGH COURT CASES FROM 2011 INVOLVING THE STATE

Martin Collins v. Galway Co. Council, Ireland & The Attorney General

Judgment delivered by Edwards J. on 04/01/11

In these judicial review proceedings the applicant sought to challenge two decisions of Galway County Council extending the life of a planning permission granted by An Bord Pleanála.

Children's University Hospital Temple St. v. C.D. and E.F

Judgment delivered by Hogan J. on 12/01/11

The plaintiff applied to the High Court for an order sanctioning a blood transfusion for A.B. whose parents had objected to the procedure on religious grounds. The plaintiff also applied for an order preventing the identification of A.B. on grounds of medical confidentiality.

Minister for Justice, Equality and Law Reform v. Marek Marciszewski

Judgment delivered by Peart J. on 18/01/11

The case concerned an application for surrender of the respondent to Polish authorities on foot of two separate European Arrest Warrants.

L.M. v The Commissioner of an Garda Síochána, The Director of Public Prosecutions, Ireland and The Attorney General

Judgment delivered by Hedigan J. on 20/01/11

In this case the plaintiff brought a claim for negligence, that the defendants' owed her a duty of care to pursue a prosecution following her formal complaint of a rape.

Annastacia Roberston v. Governor of the Dóchas Centre

Judgment delivered by Hogan J. on 25/01/11

This was an application for an order of habeas corpus to release the applicant from detention.

Lucan Educate Together National School (Applicant) v. The Secretary General of The Department of Education and Science and Others and A.B and C.D. (Notice Parties)

Judgment delivered by O'Keefe J. on 27/01/11

In these judicial review proceedings, the applicant sought to quash the decision of the second, third and fourth named respondents which upheld the appeal of the notice parties on behalf of their son under s. 29 of the Education Act 1998 against the decision of the applicant to refuse him enrolment.

Izmailovic and Elmorsy v. Commissioner of An Garda Síochána, Minister for Justice Equality and Law Reform, Ireland and The Attorney General

Judgment delivered by Hogan J. on 31/01/11

This was an application for an order of habeas corpus where the applicants sought to challenge the legality of the second applicant's detention.

Minister for Justice, Equality and Law Reform v. Vera Dunkova

Judgment delivered by Peart J. on 28/01/11

The respondent challenged her surrender sought by a judicial authority in the Czech Republic under a European Arrest Warrant inter alia on the grounds of her ill health and that of her husband.

Bernard Markley v. The Minister for Justice and Law Reform, The Director of Public Prosecutions, Ireland and The Attorney General

Judgment delivered by Kearns P. on 04/02/11

The applicant brought judicial review proceedings seeking a declaration that section 34 of the Criminal Procedure Act 2010 is unconstitutional and a further declaration that the same section is incompatible with Article 6 of the European Convention on Human Rights.

John Barry & ors v. The Minister for Agriculture & Food

Judgment delivered by Hedigan J. on 09/02/11

In this case the respondents appealed the determination of the Employment Appeals Tribunal that the appellants were employed under a contract of service and were therefore employees of the respondent.

Minister for Justice, Equality and Law Reform v. Ciarán Tobin

Judgment delivered by Peart J. on 11/02/11

The case involved a second application for the surrender of the respondent to Hungary so that he could serve a sentence of imprisonment imposed upon him in his absence in May 2002. The first application had been refused by the High Court and affirmed by the Supreme Court in February 2008 on the ground that the respondent had not “fled” from Hungary within the meaning of section 10 of the European Arrest Warrant Act 2003 and thus the respondent was not a person in respect of whom surrender could be ordered.

Denise O’Connor v. Judge John O’Neill, The Director of Public Prosecutions, Ireland and the Attorney General

Judgment delivered by Hanna J. on 18/02/11

This was an application for judicial review of a conviction of the applicant for an offence of refusal to provide a breath specimen pursuant to section 13 of the Road Traffic Act, 1994.

Minister for Justice Equality and Law Reform v. Josef Adam

Judgment delivered by Edwards J. on 01/03/11

The respondent challenged his surrender sought by a judicial authority in the Czech Republic under a European Arrest Warrant.

Michael Sage v. Minister for Justice, Governor of Cork Prison, Ireland and the Attorney General and Patrick Hogan

Judgment delivered by Irvine J on 01/03/11

This was a claim for damages against the defendants for negligence arising from a vicious assault that was perpetrated upon him on his second day as a prisoner at Fort Mitchell Prison, Cork.

Environmental Protection Agency (Applicant) v. Neiphin Trading Ltd and Others (Respondents) and Ireland and the Attorney General (Notice Parties)

Judgment delivered by Edwards J. on 03/03/11

In these proceedings, the applicant sought by way of a notice of motion, certain Orders and Declarations against the respondents including Orders pursuant to section 57 of the Waste Management Act 1996 as amended.

Noel Brohoon v. Ireland, The Attorney General and The Director of Public Prosecutions

Judgment delivered by Kearns P. on 04/03/11

This was an action was then taken by the plaintiff challenging the constitutionality of section 4(E)(7) of the Criminal Procedure Act 1967 which allows the DPP 21 days to appeal a trial judges decision to dismiss charges where the plaintiff is not afforded the same right of appeal.

The Minister for Justice, Equality and Law Reform v. Peter Puskas

Judgment delivered by Edwards J. on 04/03/11

The respondent challenged his surrender sought by a judicial authority in the Republic of Hungary under a European Arrest Warrant. The respondent argued that his surrender would be disproportionate and would be contrary to section 37 of the European Arrest Warrant Act 2003

The Minister for Justice, Equality and Law Reform v. Wojciech Pawel Ciechanowicz

Judgment delivered by Edwards J. on 18/03/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant. The question arose as to whether the requirements of s. 10(d) of the European Arrest Warrant Act 2003, as amended were satisfied, whether the surrender was prohibited by s. 45 of the Act of 2003 and whether the surrender would be incompatible with the State’s obligations under Article 8 the European Convention on Human Rights

The Minister for Justice, Equality and Law Reform v. F.L.J.

Judgment delivered by Edwards J. on 08/04/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant.

The Minister for Justice, Equality and Law Reform v. Jerzy Zych

Judgment delivered by Edwards J. on 13/04/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant on the basis that: (a) the warrants are vague and imprecise; (b) the warrants fails to comply with section 38 of the European Arrest Warrant Act 2003 (minimum gravity and correspondence) and (c) non-satisfaction of s.10 of the 2003 Act criteria

The Minister for Justice, Equality and Law Reform v. Christian Charron

Judgment delivered by Edwards J. on 14/04/11

The respondent challenged his surrender sought by a judicial authority in the Republic of France under a European Arrest Warrant on the basis that: (a) his conviction and sentencing was malicious and politically motivated (b) he was tried *in absentia* and contrary to the French authority's undertaking that he would be re-tried if surrendered and (c) the offences do not correspond with offences known by law in Ireland.

Thomas Kennedy & Ors v. The Minister for Agriculture, Fisheries and Food, The Minister for Finance, Ireland and The Attorney General

Judgment delivered by Laffoy J. on 15/04/11

This was a hearing on a motion to dismiss the plaintiffs' claim for no reasonable cause of action or on the basis of the inherent jurisdiction of the Court that plaintiffs have no reasonable prospect of success or that the action is bound to fail.

Hooper Dolan Financial Limited v. Financial Services Ombudsman, Financial Services Ombudsman Council, Ireland and the Attorney General

Judgment delivered by MacMenamin J. on 15/04/11

These judicial review proceedings challenged a decision of the Financial Services Ombudsman on the basis that the finding was *ultra vires* the powers of the Ombudsman.

The Minister for Justice and Law Reform v. Radoslaw Wicinski

Judgment delivered by Edwards J. on 15/04/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant. The respondent objects to his surrender on the basis that: (a) the EAW does not state that the sentences imposed for offences specified are "immediately enforceable" under section 11(1A)(e) of the European Arrest Warrant Act 2003; (b) the warrant fails to comply with section 38 of the Act and (c) non-satisfaction of section 10 of the 2003 Act criteria.

Noel Callan v. Ireland and The Attorney General

Judgment delivered by Hanna J. on 15/04/11

The plaintiff brought plenary proceedings contending that the President's decision to commute the original death sentence imposed upon him to penal servitude for 40 years does not contain any conditions in relation to remission. The plaintiff submitted that he is eligible to earn and apply for standard remission in accordance with law.

Paddy Fitzgerald v. Minister for Community, Equality and Gaeltacht Affairs

Judgment delivered by Hogan J. on 05/05/11

This was a statutory appeal on a point of law from the Circuit Court in a complaint made by the appellant to the Equality Tribunal following their dismissal of his discrimination. The Circuit Court had affirmed the decision of the Equality Tribunal and refused to make a reference to the Court of Justice pursuant to Article 267 TFEU.

Jingguo Li v Governor of Wheatfield Prison

Judgment delivered by Kearns P. on 13/05/11

This was an application for an order of habeas corpus to release the applicant from detention.

DM v. CF and the Attorney General (Notice Party/Appellant)

Judgment delivered by Clark J. on 27/05/11

The appellant sought to appeal a decision of the Circuit Court granting declarations pursuant to section 29(1) of the Family Law Act 1995 that the applicant's marriage in Zimbabwe in 1998 was a valid and subsisting marriage on the ground that a traditional marriage which allows for the possibility of polygamy cannot be recognised as a valid marriage known to Irish law.

Donna Sfar v. Revenue Commissioners, The Attorney General and Ireland

Judgment delivered by MacMenamin J. on 08/06/11

The applicant had sought judicial review of a decision by the first respondent not to award funding to the applicant for the Bar Vocational Course in England.

A.A. v. Refugee Appeals Tribunal and Minister for Justice, Equality and Law Reform

Judgment delivered by Cooke J. on 08/06/11

The applicant sought judicial review of the decision of the respondent tribunal which recommended that the applicant ought not to be declared a refugee.

Viridian Power Limited and Huntstown Power Company Limited v. Commission for Energy Regulation and (by Order of the Court) the Attorney General (Notice Party); Endesa Ireland Limited v Commission for Energy Regulation and (by Order of the Court) the Attorney General (Notice Party)

Judgment delivered by Clarke J. on 09/06/11

The applicant companies brought these judicial review proceedings seeking a declaration that the terms of a statutory licence which they operated from the respondent permitted them to include the cost of a levy, which had been imposed by the Electricity Regulation (Amendment) (Carbon Revenue Levy) Act 2010, by virtue of the definition of 'opportunity cost' in the relevant part of the licence.

Minister for Justice and Equality v. DL

Judgment delivered by Edwards J. on 22/06/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant.

James Ryan v. Director of Public Prosecutions

Judgment delivered by Kearns P. on 23/06/11

In these judicial review proceedings the applicant sought an order for the prohibition of his forthcoming criminal trial on the basis of the alleged 'failure' on the part of the gardaí to preserve certain items of evidence the absence of which is claimed to render it impossible for the applicant to obtain a fair trial.

Pinky Bhan v. Minister for Health and Children

Judgment delivered by Irvine J. on 28/06/11

The appellant brought an appeal pursuant to section 5(15) of the Hepatitis C Compensation Tribunal Act 1997 against the decision of the Hepatitis C and HIV Compensation Tribunal that the appellant had not established, on the balance of probabilities, that her husband (deceased) had been infected as a result of blood products received by him in this jurisdiction, thereby refusing the appellant an award in respect of the loss of consortium of the deceased under section 4(1)(h) of the Act.

Telefonica O2 Ireland Limited (Applicant) v. Commission for Communications Regulation (Respondent) and Minister for Communications, Energy and Natural Resources and BT Communications Ireland Limited (Notice Parties)

Judgment delivered by Clarke J. on 30/06/11

In these judicial review proceedings the applicants sought an order for disclosure and discovery of confidential materials in relation to underlying proceedings in which the applicant sought to quash a determination made by the respondent fixing the price at which emergency calls which were free to the public were to be charged as and between service providers.

Attorney General v. Pratkunas

Judgment delivered by Peart J. on 01/07/11

The respondent objected to her surrender to the Russian Federation on the basis that to do so would have presented her with a real risk that she would have faced conditions in prison which amounted to inhuman and degrading treatment.

The Minister for Justice, Equality and Law Reform v. Krzysztof Sliwa

Judgment delivered by Edwards J. on 06/07/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant.

The Minister for Justice and Equality v. Sebastian Palach

Judgment delivered by Edwards J. on 07/07/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant.

John Grace Fried Chicken Limited & ors v. The Catering Joint Labour Committee, The Labour Court, Ireland and The Attorney General

Judgment delivered by Feeney J. on 07/07/11

The plaintiffs in these proceedings sought declarations that certain provisions of the Industrial Relations Act 1946 and the Industrial Relations Act 1990 were invalid having regard to the provisions of the Constitution.

Murphy v. Governor of Cloverhill Prison

Judgment delivered by Peart J. on 08/07/11

An application was made to have the costs of Article 40.4.2° applications measured by a judge even where one side had objected to such a measurement.

Oliver Moran v. The Garda Síochána Ombudsman Commission

Judgment delivered by Hedigan J. on 09/07/11

In these judicial review proceedings the applicant sought to quash this decision of the respondent to extend the six month time limit for the making of complaints under section 84 of the Garda Síochána Act 2005 in relation to a complaint made against the applicant

Sandra Dunne v. Minister for Defence

Judgment delivered by Dunne J on 20/07/11.

The applicant brought judicial review proceedings by way of certiorari to quash the order of discharge and sought an order reinstating her as a member of the Defence forces.

Brightwater Selection (Ireland) Limited v. Minister for Social and Family Affairs

Judgment delivered by Gilligan J. on 27/07/11

An appeal on a point of law regarding a decision of an Appeals Officer that found that an individual was employed under a contract of service by the appellant (Brightwater Selection) and that her employment was insurable for all benefits and pensions under the Social Welfare Acts at PRSI Class A rate of contribution

**Boyne Valley v. Drogheda Borough Council and By Order of the Court of 16th November 2010
The Minister for Education and Skills**

Judgment delivered by O'Keefe J on 29/07/11

In these judicial review proceedings the applicant sought to challenge a decision of the Council refusing the applicant access to documentation submitted on foot of conditions contained in planning permission and refusing to allow the applicant to make submissions in respect of those conditions.

**Marian Murphy (Acting in her Capacity as Attorney to Desmond Peter Murphy) (Applicant) v
Registry of Deeds and Property Registration Authority and Patrick Emek (Notice Party)**

Judgment delivered by Kearns P. on 09/08/11

This was an application for judicial review in which the applicant seeks an order of *certiorari* to review and/or rectify alleged omissions or errors made by the Registry of Deeds and Property Registration Authority whereby whereby an assigned property interest had first been registered with and then vested in the notice party.

**B.G. v. District Judge Catherine Murphy and The Director of Public Prosecutions and Judges of
the Dublin Circuit Court**

Judgment delivered by Hogan J. on 20/09/11

In this case an issue arose as to which court should determine whether the applicant was fit to plead and whether the applicant was deprived of the right to please guilty in the District Court following a summary disposal of the matter, pursuant to the Criminal Law (Insanity) Act 2006.

The Minister for Justice and Equality v. Liam Dominic Adams

Judgment delivered by Edwards J. on 03/10/11

The respondent's surrender was sought in Northern Ireland on foot of a European Arrest Warrant. The respondent contended that the European Arrest Warrant procedure did not contemplate surrender in 2010 for offences alleged to have occurred prior to 1983. The respondent alleged that the delay thereafter for surrender would result in his being deprived of the right to a fair and public hearing and his fair trial rights pursuant to Article 6 ECHR on account of unfair pre-trial publicity.

Edward Keenan v. David Power, Eugene McNamara, Thomas Somers, The Governor of Arbour Hill Prison, The Irish Prison Service, The Minister for Justice, Equality and Defence, Ireland and The Attorney General

Judgment delivered by Quirke J. on 05/10/11

The plaintiff brought a claim for damages against the defendants for psychological injuries he claimed he suffered while an officer in the Irish Prison Service as a result of bullying, harassment, intimidation and abuse perpetrated upon him and a claim of negligence against the State for failing to provide him with a safe place of work and an environment which was free from intimidation, stress and abuse from his fellow workers.

Shu Jie Liu v. Governor of the Dóchas Centre

Judgment delivered by Hogan J. on 06/10/11

This was an application under Article 40.4.2 of the Constitution as to the lawfulness of the applicant's detention.

Minister for Justice and Equality v. Robert Orlowski

Judgment delivered by Edwards J. on 07/10/11

The respondent challenged his surrender sought by a judicial authority in Poland under a European Arrest Warrant.

Minister for Justice and Equality v. Palico Rendo Mihai

Judgment delivered by Edwards J. on 10/10/11

The case concerned an application for surrender of the respondent on foot of a European Arrest Warrant.

Bennett v. Egan, The Commissioner of An Garda Síochána, An Garda Síochána Complaints Board, The Minister for Justice Equality

Judgment delivered by Ryan J. on 10/11/11

This was an application to strike out the action as against the third named defendant, the Garda Síochána Complaints Board.

Ikraan Jama v. The Minister for Social Protection

Judgment delivered by Hedigan J. on 11/10/11

The applicant sought an order requiring the respondent to provide her with access to copies of relevant reasoned decisions of the Social Welfare Appeals Officer and the Chief Appeals Officer and also sought orders directing the respondent to publish those decisions and to establish a system enabling such decisions to be accessible to parties to a social welfare appeal.

Telefonica O2 Limited (Applicant) v Commission for Communications Regulation (Respondent) and Minister for Communications, Energy and Natural Resources and BT Communications Ireland Limited (Notice Parties)

Judgment delivered by Clarke J. on 11/10/11

In this case an issue arose as to the liability for costs of the notice parties.

Minister for Justice, Equality and Law Reform v. Liam Dominic Adams

Judgment delivered by Edwards J. on 18/10/11

The respondent sought leave to appeal a decision of the High Court to order the surrender of the applicant pursuant to section 16(12) of the European Arrest Warrant Act 2003.

Island Ferries Teoranta v. Minister for Communications, Marine and Natural Resources, Ireland and the Attorney General, and the Minister for Agriculture

Judgment delivered by Cooke J. on 18/10/11

The plaintiff contested the legality of increased charges and a new basis for a principal charge brought about under the Fishery Harbour Centres (Rates and Charges) Order made under the Fishery Harbour Centres Acts 1968-1980.

OB v Refugee Appeals Tribunal and the Minister for Justice, Equality and Law Reform

Judgment delivered by Hogan J. on 22/10/11

The applicant sought to challenge the validity of a decision of the Refugee Appeals Tribunal of which rejected the applicant's asylum request.

Gary Campion v. Governor of Cork Prison

Judgment delivered by Irvine J. on 24/10/11

This was an application for an order of habeas corpus where the applicant sought to challenge the legality of his detention.

Aidan Keegan v. Judge of the District Court Kevin Kilrane and The Director of Public Prosecutions

Judgment delivered by Birmingham J. on 26/10/11

The applicant brought judicial review proceedings seeking to quash decisions of the first respondent convicting him of various road traffic offences on the basis that, prior to his appointment to the bench, the first respondent had acted on behalf of the applicant in previous proceedings. During the proceedings the first respondent judge had refused to recuse himself.

Patrick Taaffe v. Judge McMahon, The Commissioner of an Garda Síochána and The Director of Public Prosecutions

Judgment delivered by Kearns J. on 28/10/11

The Court was asked to consider whether it had jurisdiction to measure costs in uncontested *habeas corpus* or judicial review proceedings where, following the granting of leave, the respondents indicate that no opposition will be raised to the making of a *habeas corpus* order or the quashing by way of *certiorari* of some order of the District Court or Circuit Court.

Carbery Fishing Limited v. Minister for Agriculture, Fisheries and Food, Ireland and the Attorney General

Judgment delivered by Laffoy J. on 15/11/11

The plaintiff instituted proceedings claiming that it had a legitimate expectation to the allocation of a certain fishing quota.

Eugene Bates and Brendan Moore v. Minister for Agriculture, Fisheries and Food, Ireland and the Attorney General

Judgment delivered by Laffoy J. on 15/11/11

The plaintiffs sued for losses arising from their detention in French waters for fishing as a result of an incorrect communication from an official in the respondent's Department that they were permitted to fish in such territories.

Thomas Murphy v. Ireland, the Attorney General and the Director of Public Prosecutions

Judgment delivered by Herbert J. on 16/11/11

The plaintiff had been the subject of a certification by the Director of Public Prosecutions under section 46(2) of the Offences Against the State Act 1939 to have his trial for non-scheduled indictable offences heard in the Special Criminal Court. The plaintiff challenged this certification, alleging that section 46(2) and the way in which the certification had been exercised was unconstitutional and incompatible with the European Convention on Human Rights.

Cheshire Foundation in Ireland v. Attorney General

Judgment delivered by Laffoy J. on 28/11/11

The application sought an order under section 51 of the Charities Act 1961 that the Court frame a scheme for the application *cy-près* of certain funds held by it along the lines of a scheme proposed.

B.G. (Applicant) v. District Judge Catherine Murphy & Others (Respondents) and Ireland & The Attorney General (Notice Parties)

Judgment delivered by Hogan J. on 08/12/11

The applicant had a significant impaired mental capacity. The first respondent concluded that she had no jurisdiction, save if the applicant had pleaded guilty. The applicant was sent forward to the Circuit

Court and a question arose as to which court should determine the fitness to plead issue and whether the applicant was deprived of the right to plead guilty in the District Court following a summary disposal of the matter, pursuant to the Criminal Law (Insanity) Act 2006.

Neenan Travel Limited v. Minister for Social and Family Affairs

Judgment delivered by Laffoy J. on 08/12/11

This case concerned an appeal against the decision of an Appeals Officer that a third party had been an employee of the appellant and engaged under a contract of service. Further the appellant sought the refund of certain contributions alleged to have been incorrectly paid to the respondent Minister/Department.

Minister for Justice and Equality v. Brendan McGuigan

Judgment delivered by Edwards J. on 09/12/11

In these proceedings the respondent challenged his surrender sought by a judicial authority in Lithuania

Raymond Francis Roche v. Minister for Finance

Judgment delivered by Irvine J. on 14/12/11

In these proceedings the applicant claimed compensation under the provisions of the Garda Síochána Compensation Acts 1941-1945 in respect of injuries he sustained as a result of an assault upon him in the course of his duties. The issue for the court was causation and liability for an infection he contracted subsequent to the assault.

Tom Hayes v. Anthony McDonnell, Collette Cullinan, The Minister for Education and Science, The Minister for Health and Children, Ireland and The Attorney General

Judgment delivered by Hanna J. on 15/12/11

This application was brought to strike out the plaintiff's claim for damages for personal injuries on the grounds of delay on the part of the plaintiff.

In the Matter of Catriona McAnaspie and Daniel McAnaspie (Deceased); Health Service Executive v. Martina McAnaspie (Deceased)

Judgment delivered by Birmingham J. on 15/12/11

The applicant had sought access to reports prepared for the Health Service Executive) regarding her son whilst he was in care. A number of questions arose for the court to determine; relating to the expiry of a care order, should a child die whilst in care and as to whether the District Court was entitled to make orders releasing certain documents; by way of case stated from the District Court.

Carbery Fishing Limited v. Michael Vallely, Register General of Fishing Boats, Minister for Agriculture Fisheries and Foods, Emile Daly, Ireland and Attorney General

Judgment delivered by Cross J. on 19/12/11

In this application for judicial review, the applicant sought a number of declaratory reliefs to challenge decisions of the Appeals Officers.

Michael F. Murphy v. John Gilligan, Geraldine Gilligan, Darren Gilligan and Tracey Gilligan

Judgment delivered by Feeney J. on 20/12/11

The State sought to have orders of disposal made in respect of the properties owned by the respondents. The respondents objected to the making of the orders. They contended that the orders of seizure equated to forfeiture and that the claims of the State were statute-barred.

Geraldine Gilligan v. Michael F. Murphy, Felix J. McKenna, The Attorney General and Ireland and John Gilligan v. Ireland, The Attorney General and The Criminal Assets Bureau

Judgment delivered by Feeney J. on 20/12/11

The plaintiffs sought a declaration that all or part of section 3 of the Proceeds of Crime Act of 1996 is incompatible with the European Convention on Human Rights within the meaning of section 5 of the European Convention on Human Rights 2003.

Kevin Galvin v. The Commissioner of An Garda Síochána, The Minister for Justice, Equality and Law Reform, The Government of Ireland and The Attorney General

Judgment delivered by Hedigan J. on 20/12/11

The applicant brought judicial review proceedings seeking a court order to quash the decision of the Garda Commissioner to dismiss him from An Garda Síochána and an order to have him re-instated to An Garda Síochána.

SUPREME COURT CASES FROM 2011 INVOLVING THE STATE

Thomas Olsson v. Minister for Justice, Equality and Law Reform

Judgment delivered by O'Donnell J. (with Murray CJ, Fennelly, Macken and MacMenamin JJ) on 13/01/11

The appellant was a citizen of Sweden, which sought his arrest pursuant to a European Arrest Warrant. The appellant raised a number of challenges to the warrant on the question of legal assistance available to him under the Attorney General's Scheme and whether the his surrender should be refused by the court on the grounds that it was alleged that a decision had not been made to charge him with, and try him for, the offence as stated in the warrant.

Dellway Investments & ors v. National Asset Management Agency, Ireland and The Attorney General

Judgments delivered by Murray CJ and Fennelly J (with Denham, Hardiman, Macken, Finnegan and McKechnie JJ) on 03/02/11

The appellants appealed against an order of the High Court refusing their application for certain reliefs by way of judicial review against the respondents.

Minister for Justice, Equality and Law Reform v. John Renner-Dillon

Judgment delivered by Finnegan J. (with Murray CJ and Denham J. concurring) on 11/02/11

The appellant sought to have an order of the High Court granting consent pursuant to the European Arrest Warrant 2003 to be quashed.

Dellway Investments Limited & ors v. National Asset Management Agency, Ireland and the Attorney General

Judgement delivered by Murray CJ. (with Hardiman J., Denham J., Macken J., Finnegan J., Fennelly J. and McKechnie J. concurring) on 12/04/11

The appellants argued that the meaning given to an eligible bank asset by s.69 of the National Asset Management Agency Act 2009 constituted an unjust attack on the property rights of the appellants.

Dellway Investments Limited & ors v. National Asset Management Agency, Ireland and the Attorney General

Judgements delivered by Murray CJ., Hardiman J., Denham J., Macken J., Finnegan J. and Fennelly J. (with McKechnie J. concurring) on 12/04/11

The appellants argued that s.84 of the National Asset Management Agency Act 2009 had to be construed in accordance with constitutional justice to grant them the right to make representations.

Simmonds v. Kilkenny County Borough

Judgment delivered by Fennelly J (with Finnegan and O'Donnell JJ) on 08/06/11

The appellant had sought to establish the existence of ancient market rights in the Parade, an area in Kilkenny town centre. The High Court had held that the appellant did not enjoy any market rights in the area. The appellant appealed to the Supreme Court in respect of this issue.

Matthew Ezeani v. the Minister for Justice, Equality and Law Reform, Commissioner of An Garda Síochána, Ireland and the Attorney General

Judgment delivered by Fennelly J. (with Hardiman and Denham JJ. concurring) on 12/07/11

The Minister appealed against a judgment of the High Court granting an order of certiorari quashing the Minister's decision to refuse the applicant post-nuptial citizenship.

Jack Canty v. the Attorney General, the Private Residential Tenancies Board and David Connolly (Notice Party)

Judgment delivered by Denham J. (with Hardiman J., Macken J., Finnegan J., and Fennelly J. concurring) on 19/07/11

The appellant sought a declaration that s.123(4) of the Residential Tenancies Act 2004 was repugnant to the Constitution in so far as it provided that an appeal to the High Court from a decision of the PRTB should be conclusive and prevented an appeal to the Supreme Court.

Arklow Holidays Limited v An Bord Pleanála & Ors

Judgment delivered by Finnegan J (with Murray CJ and Fennelly J concurring) on 21/07/2011

This appeal involves points of law of exceptional public importance following the High Court's refusal of relief sought by the appellant in judicial review proceedings.

Denis O'Callaghan v. Director of Public Prosecutions

Judgments delivered by Fennelly and Hardiman JJ. (with Murray CJ, Denham and Finnegan JJ.) on 22/07/11

An appeal brought by the appellant to restrain his further prosecution on new charges following the entry of a *nolle prosequi*.

Director of Public Prosecutions v. Hegarty

Judgment delivered by McKechnie J (with Murray CJ and O'Donnell J.) on 28/07/11

By way of consultative case stated from the Circuit Court, the court held that a director or manager of an undertaking could be found guilty of a competition law offence without the undertaking in question being convicted of the offence.

McGuinn v The Commissioner of an Garda Siochana & Ors

Judgments delivered by Murray J (with Fennelly J concurring) and Kearns P (dissenting) on 28/07/2011

This appeal concerned an interlocutory matter in which the above named defendants appealed against an order of the High Court refusing their application to set aside a judgment obtained by the plaintiff, the respondent, in default of defence.

David Joyce v. Judge Patrick Brady and The Director of Public Prosecutions

Judgment delivered by O'Donnell J. (with Murray and McKechnie JJ. concurring) on 29/07/11

Judicial review proceedings seeking an order to quash a refusal of the respondent District Court judge to grant legal aid.

The Minister for Justice, Equality and Law Reform v. Kaspars Koncis

Judgment delivered by Denham CJ (with Murray and Hardiman JJ concurring.) on 29/07/11

This is an appeal against the judgment and order of the High Court wherein the appellant was ordered to be surrendered to Latvia pursuant to the terms of the European Arrest Warrant Act, 2003.

Minister for Justice Equality and Law Reform v. John Richard Murrell

Judgment delivered by Macken J. (with O'Donnell and McKechnie JJ. concurring) on 29/07/11

The surrender of the appellant to the UK under a European Arrest Warrant was postponed pending the determination of certain offences in respect of which the appellant has been charged in the District Court. The appellant contended that the High Court judge was wrong to conclude that postponement was proper.

G.E. v The Governor of Cloverhill Prison & Anor

Judgment delivered by Denham J (with Fennelly and O'Donnell JJ concurring) on 28/10/2011

This was an application for *habeas corpus* under Article 40.4.2° of the Constitution.

Nottinghamshire County Council v K.B.

Judgment delivered by O'Donnell J (with Denham C.J., Murray, Fennelly and Macken JJ concurring) on 15/12/2011

This was an appeal from a decision not to return children to England following their removal by their parents following concerns for the children's welfare by local authorities.

Z.S. v Director of Public Prosecutions

Judgments delivered by Denham, CJ, Fennelly (Hardiman and Macken JJ concurring) and Murray JJ on 21/12/2011

This is an appeal from a judgment and order of the High Court refusing a declaration that an offence contrary to a criminal statute is unconstitutional.

JUDGMENTS OF THE ECJ AND GENERAL COURT FROM 2011 INVOLVING IRELAND

(Case C-50/09) Judgment of the Court (First Chamber) of 3 March 2011: European Commission v Ireland (Failure of a Member State to fulfil obligations - Directive 85/337/EEC - Obligation of the competent environmental authority to carry out an assessment of the effects of certain projects on the environment - More than one competent authority - Need to ensure an assessment of the interaction between factors likely to be directly or indirectly affected - Application of the directive to demolition works.)

(Case C-431/10) Judgment of the Court (Seventh Chamber) of 7 April 2011: European Commission v Ireland (Failure of a Member State to fulfil obligations - Directive 2005/85/EC - Right of asylum - Procedure for granting and withdrawing refugee status - Minimum standards - Failure to transpose provisions fully within the prescribed period.)

(Case C-82/10) Judgment of the Court (Fourth Chamber) of 29 September 2011: European Commission v Ireland (Failure of a Member State to fulfil obligations - Directive 73/239/EEC - Articles 6, 8, 9, 13 and 15 to 17 - Directive 92/49/EEC - Articles 22 and 23 - Direct insurance other than life assurance - Amendment of statutes of an insurance body as regards its capacity - Non-application of the European Union insurance legislation in respect of insurance other than life assurance.)

EUROPEAN COURT OF HUMAN RIGHTS INVOLVING THE STATE 2011

- Judgment was delivered on 8 September 2011 by the Fifth Chamber in **Superwood Holdings plc and Others v Ireland** (application no. 7812/04). Judgment was delivered on 8 December 2011 in **T.H. v Ireland** (application no. 37868/06).
- There were five decisions involving Ireland in 2011. The application of **Olubunmi, Adio and Adio v Ireland** (application no. 8596/08) was declared inadmissible on 17 May 2011. The application of **Izevbekahi and Others v Ireland** (application no. 43408/08) was declared inadmissible on 17 May 2011. The application of **J.B. v Ireland** (application no. 9519/07) was struck out on 21 June 2011. The application of **Enright v Ireland** (application no. 61138/08) was struck out on 21 June 2011. The application of **Okon and Okon v Ireland** (application no. 22255/11) was declared inadmissible on 13 December 2011.
- There were no hearings involving Ireland (as Respondent or third party intervener) before the ECtHR in 2011

