

**Office of the Attorney General**

**Annual Report 2013**

**Incorporating the**

**Third Progress Report on Implementation of Statement of Strategy 2011 – 2014.**

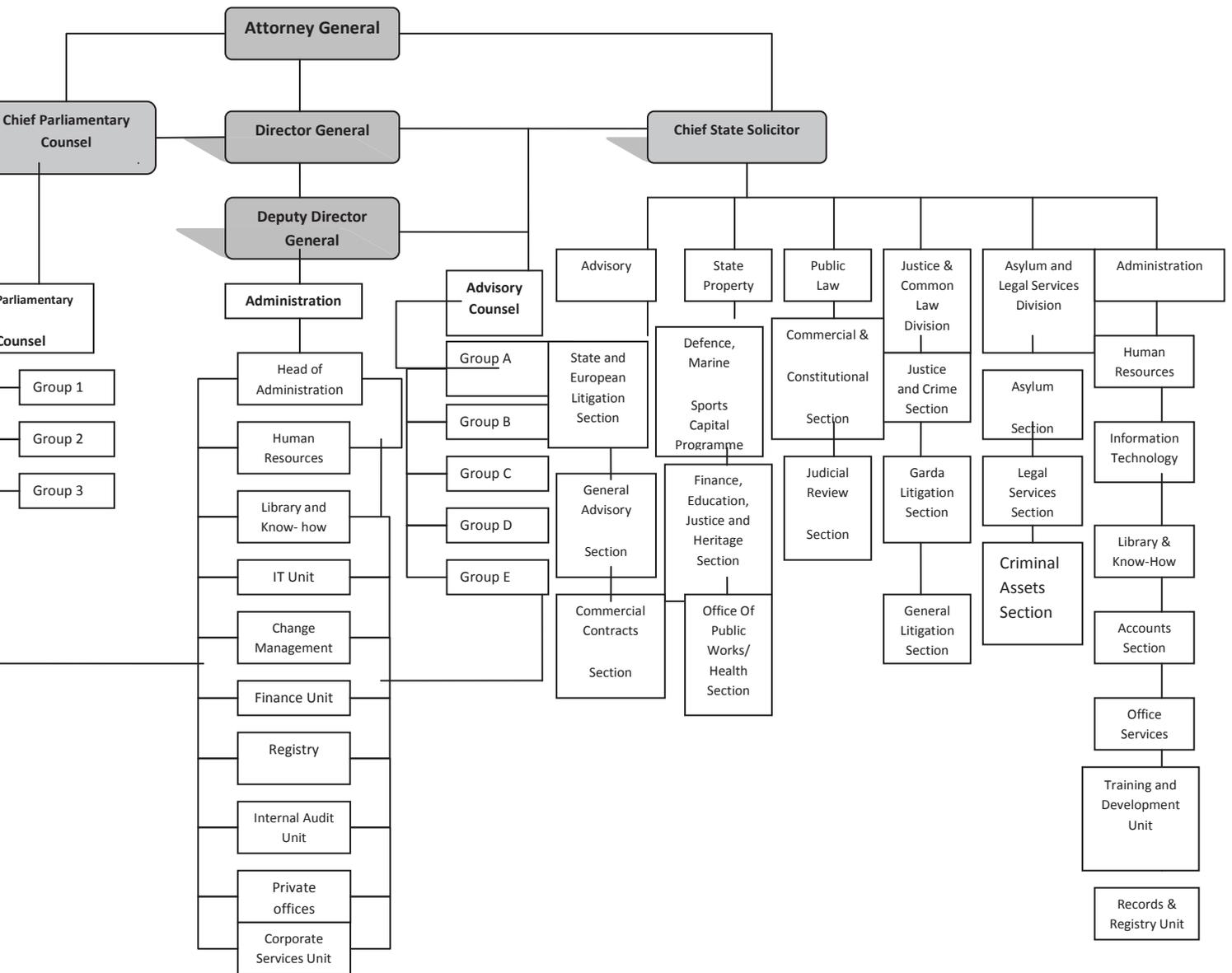
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The Mission Statement of the Office of the Attorney General is:

To provide the highest standard of professional legal services to the Government Departments and Offices as economically and efficiently as possible.

We have six High Level Goals to pursue the above Mission Statement as set out in the Statement of Strategy 2011 - 2014

- 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.



## **Foreword from AG**

It is my privilege to present our Annual Report for 2013 in which I wish to review the major legal and organisational developments in the work of the Office in 2013. This report also includes the progress report arising out of the Office's Strategy Statement 2011 – 2014 which has been forwarded to me by the Director General. In Chapter 5 below I discuss the five most significant areas dealt with in the Office in 2013. These subjects are:

- Impact on the Office arising from the Irish Presidency of the EU
- Advices and legislation in relation to the Protection of Life During Pregnancy Bill
- Advice and drafting related to the two referendums in 2013
- Litigation and legislation relating to the financial crisis and the exit from the bailout in 2013
- The project to streamline advices in relation to public procurement with the CSSO acting for the Office of Government Procurement

I wish to express my sincere appreciation to all of the staff in all parts of the Office for their dedication, support and service during the year.

**Máire Whelan, SC**

**Attorney General**

## **Chapter 1**

### **The Role of the Attorney General's Office**

The Attorney General is a constitutional office holder under Article 30 of the Constitution. She is the adviser to the Government in matters of law and legal opinion. Her office of lawyers and administrative staff assist her in the provision of advice to Government, Ministers of the Government and Government Departments, the drafting of legislation on instructions from Ministers and Government Departments and representing Ireland, the Attorney General and Government Departments in litigation. The Attorney General's own office is in Government Buildings, Merrion Street, Dublin where her staff of Advisory Counsel and Parliamentary Counsel are located while the solicitors in the Chief State Solicitor's Office (CSSO) are based nearer the courts at Ship Street and Chancery Lane. The administrative head of the Office is the Director General, Liam O'Daly. The Chief State Solicitor is Eileen Creedon and the Chief Parliamentary Counsel is Paul Linehan who was appointed by the Government in July 2013.

The administrative structure of the part of the Office located in Merrion Street and the CSSO is set out in the chart on page 4 of this Report. The CSSO is organised into Divisions and Sections with specific areas of work as described in the chart. During 2013 Advisory Counsel were organised into five separate Groups by reference to different areas of legal specialism, while Parliamentary Counsel were organised into three Groups within the Office of the Parliamentary Counsel, each Group dealing with a number of Government Departments.

The Office is the principal law office of the State dealing with public law matters relating to how Ireland is governed and administered. It deals with core issues of constitutional importance, about how the Constitution may be interpreted, applied and occasionally amended. The Office provides advice to Government Departments on how laws are to be interpreted by those who must apply them and how they might be changed to reflect new domestic, European or international legal obligations or other circumstances. When there is disagreement about the interpretation or application of laws by Ministers or Departments the Attorney General's Office advises on their correct interpretation or application, represents the State in any resulting litigation and also advises on, and drafts, any necessary, remedial legislation.

The range of work with which the Office deals reflects the entire scope of governmental activity in a modern democracy, from the details of planning, implementing and defending new rules in technical areas of

industry or agriculture, through the arrangements for government services in education, healthcare, or justice, to significant questions of human rights, European integration and international relations. Government lawyers may be dealing with anything from public procurement issues, transactions in relation to state owned property, intellectual property disputes, compliance with EU Rules, applications in respect of criminal assets to constitutional challenges or criminal law legislation. The Office provides a professional service to its public service clients while at the same time ensuring its legal advice represents an independent assessment of the law on various matters raised. The range of work can be gauged by the fact that in 2013:-

- The Office opened 303 new general judicial review files and 411 new files in the area of asylum and immigration law. Included in the figure for asylum and immigration files are 192 new substantive applications, an increase of 47% over the number of such cases in 2012;
- The Office opened 125 new files dealing with applications under Article 40 of the Constitution with an additional 22 files dealing with applications under Article 40 of the Constitution relating specifically to the asylum and immigration area. There was an increase of 40% in general Article 40 work in 2013 compared to 2012;
- The Office was involved in over 20 cases resulting in judgments before the courts of the EU in Luxembourg;
- Parliamentary Counsel drafted a significant number of Bills for consideration by the Oireachtas (56 Government Bills published in 2013) and Statutory Instruments (581 drafted and transmitted to Departments, of which 49 focused on the incorporation of EU obligations).

The work of the Office is extremely dynamic as Irish, European and international law continue to change and the Office takes steps to meet the highest professional standards and public service requirements. The clients of the Office include the Government, Ministers of the Government and Government Departments. Lawyers in the Office work closely with lawyers working for other public bodies such as the Office of the Director of Public Prosecutions, the National Treasury Management Agency, the Health Service Executive and other State agencies. To help service the legal needs of Government Departments there is an increased use of the secondment service developed by the Office with lawyers being seconded to work as legal advisers within Departments (see further at pages 9 to 11 of the Report) while some lawyers within the CSSO are specially contracted and funded to deal with specialised work from particular Departments.

## **The Law Reform Commission**

The Law Reform Commission is a statutory body established by the *Law Reform Commission Act 1975*. The role of the Commission is to keep the law under independent, objective and expert review, to make consequent recommendations for law reform and to make current law accessible for all.

The Commission's role is carried out primarily under a Programme of Law Reform approved by the Government and placed before both Houses of the Oireachtas. The Commission also works on specific matters referred to it by the Attorney General under the 1975 Act.

The Commission is wholly funded via a Grant-in-Aid from the Offices' Vote.

For more details in relation to the role of the Attorney General's Office please visit our website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

## **Chapter 2 The Attorney General's Office in 2013**

### **Staffing**

At the end of 2013 the authorised staff complement in the Merrion Street Office was 134 and was 17 in the Law Reform Commission. The authorised staff complement in the CSSO at the end of 2013 was 227.

At end-2013 the Merrion Street Office exceeded the Government targets in relation to the employment of women. 54% of staff were female at or above Assistant Principal Officer level while 47% of staff at or above Principal Officer level were female. In relation to the CSSO, at the end of 2013 the Office also exceeded the Government targets in relation to employment of women. The proportion of female staff at or above Assistant Principal Officer level was 60.83%, while the proportion of female staff at or above Principal Officer level was 53.13%. Further details in relation to gender balance are available on the Office website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

In relation to the assessibility of staff with disabilities the proportion of staff with disabilities in the Merrion Street Office at the end of 2013 continues to exceed the Government target of 3%. The Office monitored its accessibility during the year including accessibility through its website, and ensured that all renovation or maintenance work took into account the needs of persons with disabilities. In the CSSO the proportion of staff with disabilities employed in the Office at the end of 2013 exceeded the Government target of 3%. The Office continued to support staff with disabilities and is always interested in receiving suggestions from staff.

### **Lawyers seconded to Government Departments**

As part of the diversification of the model of delivery of legal services and in recognition of the expanding need for legal input at an early stage in Government Departments, the Office has been running a highly successful secondment programme since 2006 whereby Advisory Counsel and Solicitors from the Office are placed as legal advisers within Government Departments.

Advisory Counsel placed in Departments are experienced constitutional lawyers who undergo specific training in the Attorney General's Office to prepare them for their placements.

Legal advisors placed within Departments provide legal advice on matters referred to them by the Department and the relevant Minister and will deal with many aspects of the day to day requirements for

legal input that a Department may have, both in terms of assistance with legislative projects and discrete legal queries that may arise on key policy initiatives.

These in-house legal advisors are uniquely placed to have an insight into the legal requirements of a Department. They develop a specialist legal knowledge of the area in which they are placed and provide effective, focussed and client specific legal advice against a broad background of public law expertise which they have gained at the Office. They develop working relationships with all of the stakeholders involved and provide an important point of liaison between the Departments and the legal offices of the State.

The legal advisors also play an important role in the overall formulation of briefing for the Office and assist Departments in identifying matters of potential legal or constitutional significance at an early stage and referring those for advice to the Attorney General.

In 2012 the Office had seconded 12 Advisory Counsel and 1 solicitor from the CSSO to ten participating Departments. In 2013, due to increasing demand, the secondment programme was significantly expanded and the Office placed 23 legal advisors across 15 Government Departments and Offices.

The Office also assigns an Advisory Counsel as Legal Counsellor to the Permanent Representation of Ireland to the European Union in Brussels. The role of Legal Counsellor has become an essential and intrinsic element of the effective functioning of the Permanent Representation. In 2013 an additional Advisory Counsel was seconded to the Permanent Representation for the duration of the Presidency of the European Union. Furthermore and in light of the Irish Presidency, the Office also seconded an Advisory Counsel to work with the Legal Service of the Council of the European Union. In addition to the secondment programme to Government Departments, the Office also seconded an Advisory Counsel to work as a Seconded National Expert in the Legal Service of the European Commission.

The CSSO also used a new service delivery model in 2013 whereby six solicitors attached to the CSSO were funded by particular Departments to do specialised property work for those Departments. Two solicitors were engaged for the Department of Defence, one solicitor for the Department of the Environment, Community and Local Government, one solicitor for the Department of Agriculture, Food and the Marine and two solicitors for the Department of Social Protection.

The Office welcomes the success of these programmes and intends to continue to introduce innovations as appropriate in seeking to meet the needs of Government for the provision of legal advice into the future.

## **Knowledge Management**

The work of the Office is dependent on the use of legal knowledge. The ongoing development of knowledge management (KM) strategies and protocols is an important focus for a knowledge-based, modern legal

office. During 2013 the Office remained focused on the implementation of the AGO/CSSO Knowledge Management Strategy 2010 to 2013.

The practice of law, and the work of the Office are knowledge-based and good KM is therefore vital to ensure that the objectives of the Office are achieved. In fact, ease of retrieval of the organisation's knowledge has a significant impact on the organisation's time in all areas, not just in relation to legal knowledge. Improved efficiencies in working practices, improved consistency in legal advice and the reduction in duplication of efforts in all Office areas are key cost benefits of KM. In the area of risk management, KM is of particular importance in managing reputational risk.

## **Public Sector Reform**

In February 2013 the Office submitted a progress report to the Department of Public Expenditure and Reform (D/PER) in relation to the implementation of the joint AGO/CSSO/LRC 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.

In January 2013 the Office received feedback from D/PER on the joint AGO/CSSO/LRC Revised Integrated Reform Delivery Plan for 2013 onwards, submitted to the Department in December 2012. The Plan prepared in the context of the Government's Public Sector Reform agenda 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 revised plan to enhance the delivery of legal services to clients include reduction in costs – legal fees, recovery of legal costs, secondment programmes, work with Office of Government Procurement, proposals to reduce litigation costs and the Haddington Road Agreement reforms.

The Office made further revisions to the Plan in July 2013 and received feedback in relation to the revisions in August 2013.

Details in relation to the Offices' Integrated Reform Delivery Plan are available on the Office website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

## **Regulatory Requirements Compliance**

During 2013 the Office kept under review compliance in the AGO and CSSO with the Freedom of Information Acts, Data Protection Acts and Health and Safety legislation. Arrangements in both offices were satisfactory during the year.

The AGO's National Archives Project for 2013 was completed ahead of schedule and 1,775 files were transferred to the National Archives in Bishop Street, including 98% of all documented files scheduled for transfer. Certificates for the retention of those files not transferred are held by the Office.

In relation to energy usage and compliance with Regulation 12(2) of the European Communities (Energy End-use Efficiency and Energy Savings) Regulations 2009 SI No. 542 of 2009 details of usage during 2013 in both offices are available on the Office website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

### **Reduction in costs**

In 2013 the AGO endeavoured to achieve further savings to reduce expenditure within the Vote. During the previous five years the Office's annual expenditure has reduced substantially. At the end of 2013 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)

2012 €13.5 million (1.5% increase on previous year)

2013 €13.3 million (1.5% reduction on previous year)

The CSSO has also achieved further savings to reduce expenditure within the Vote. During the past five years the Office's annual expenditure has reduced substantially. At the end of 2013 net expenditure was 30% 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)

2012 €28.8 million (5.9% reduction on previous year)

2013 €28.3 million (1.7% reduction on previous year)

In relation to counsels' fees, there has been a reduction in expenditure out of the CSSO Vote of 30% at the end of 2013 when compared to 2008 payments.

The Office's Professional Fees Control Group (PFCG) met on a weekly basis in 2013 to monitor and control expenditure on professional fees. The Office also continued to implement 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.

## **Freedom of Information Requests**

Statistics on requests to the AGO and the CSSO under the Freedom of Information Acts are available on the Office website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie).

## **Participation in Committees and Working Groups**

During 2013 legal staff advised and participated in Working Groups on a range of important “cross-cutting” or interdepartmental issues. One significant issue relates to the Offices involvement in property asset management reforms. The Government's programme of public service reform sets out commitments relating to property asset management to drive public service-wide efficiency and ensure that optimal value for money is achieved in the management of the State's property portfolio. In 2013 the CSSO, through its Office of Public Works (OPW) and Health Sections, was represented on a Steering Group the focus of which was to assist in the development of a Property Management Delivery Plan so that stakeholders could move towards having a strategic view of their property as part of the wider State property portfolio. The CSSO prepared draft protocols for consideration and implementation, to standardise and streamline arrangements for intra public service property asset sharing and transfer. Additionally, the CSSO and the OPW consulted with the Property Registration Authority (PRA) with a view to registering State owned property in the PRA. A list of the key interdepartmental Committees and Working Groups can be found on our website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

## Chapter 3

### Work of the Office of the Parliamentary Counsel to the Government in 2013

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.

The main work of the OPC is to draft Government Bills for publication and presentation to the Houses of the Oireachtas and to draft secondary legislation, where appropriate, for Government Departments and Offices, including instruments transposing EU legislation into domestic law under the European Communities Act 1972.

The OPC drafted a significant number of Bills and statutory instruments during 2013:

**56** Government Bills published (Annex A)

**52** Government Bills enacted (Annex B)

**581** Statutory Instruments drafted and transmitted to Departments (**49** of which related to the transposition of European Union measures).

As a consequence of the alignment at EU level of national budgetary arrangements, the Budget has been brought forward to mid-October (formerly mid-December) with the Finance Bill to be enacted before the year end. As a result, in 2013 the OPC managed 2 Finance Bills, in February (following the 2013 Budget in December 2012) and October (following the 2014 Budget in October). For 2014 onwards the Finance Bill will immediately follow the October Budget and will be enacted before the end of December.

Among the most significant drafting assignments undertaken by the OPC during 2013 were the following:

#### **Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013**

The Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013 proposed to amend the Constitution in accordance with Article 46 of the Constitution for the purpose of abolishing Seanad Éireann and providing for the reconstitution of the National Parliament from the date of such abolition. To provide for such matters, the Bill proposed extensive amendments to the Constitution to

remove reference to Seanad Éireann and to amend those provisions that confer functions on Seanad Éireann or are premised on the existence of that House.

The Bill was passed by both Houses of the Oireachtas on 23 July 2013 and the proposals contained therein were submitted by Referendum to the decision of the people on 4 October 2013, in accordance with Article 46.2 of the Constitution. The Referendum was not approved by the people in accordance with Article 47.1 of the Constitution and, accordingly, the Bill was not signed by the President nor promulgated as a law under Article 46.5 of the Constitution.

This Bill was very significant as it proposed extensive and wide-ranging amendment to the Constitution. The scale of the amendments was due to the fact that, in addition to its legislative function, Seanad Éireann has certain other functions under the Constitution. Thus - as well as providing for the abolition of Seanad Éireann, the reconstitution of the National Parliament and changes to the legislative process – the Bill provided for the following: the deletion of Article 27 (reference of Bills to the people by petition) and the conferral of exclusive powers on Dáil Éireann with regard to –

- approving the exercise by the State of certain options and discretions relating to European Union law under Article 29.4; and
- the removal from office of the President, the Comptroller General or a judge of the Superior Courts for stated misbehaviour.

Provision also had to be made for certain consequential matters and the transition to a unicameral chamber.

### **Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013**

The Thirty-third Amendment of the Constitution (Court of Appeal) Act 2013 amends a number of provisions of the Constitution for the purpose of establishing a new court, the Court of Appeal, and altering the appellate jurisdiction of the Supreme Court. It was submitted by Referendum to the people on 4 October 2013 and promulgated as law on 1 November 2013.

The Act makes provision for the Court of Appeal to be established on a day appointed by the Government (“the establishment day”) pursuant to a law enacted for that purpose. The Act provides that, on the establishment day, the Court of Appeal will have appellate jurisdiction from all decisions of the High Court and other courts as may be prescribed by law, subject to such exceptions and regulations as may be prescribed by law.

The decision of the Court of Appeal is to be final and conclusive, though a further appeal may lie to the Supreme Court if the Supreme Court is satisfied that either the decision of the Court of Appeal involves a matter of general public importance or, in the interests of justice, it is necessary that there be an appeal to the Supreme Court.

The Act provides that the Supreme Court may also hear appeals from decisions of the High Court but only where the Supreme Court is satisfied that there are exceptional circumstances warranting a direct appeal to it and a precondition for it being so satisfied is that the decision involves a matter of general public importance or it is in the interests of justice.

Upon the establishment of the Court of Appeal, the Supreme Court will no longer have appellate jurisdiction from decisions of other courts. However, transitional provisions provided for in the Act ensure that the Supreme Court will continue to have appellate jurisdiction to hear and determine appeals from decisions of the Court of Criminal Appeal and other appeals that it may have heard in full or in part on the establishment day.

Provision is also made in the Act to delete Article 34.4.5° of the Constitution, commonly known as the “one judgment” rule, relating to decisions of the Supreme Court on a question as to the validity of a law having regard to the provisions of the Constitution.

The Act also makes provision for certain consequential and transitional matters following the establishment day. As the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013 proposed to amend Article 35 of the Constitution (in a manner relevant to an amendment contained in the Act), a provision was included in the Act providing for contingent amendments in the event that the foregoing Bill was approved by the people.

The Thirty-third Amendment of the Constitution effected by the Act is very significant as it amends the current appellate structure in the courts system in respect of both criminal and civil proceedings.

### **Criminal Justice (Forensic Evidence and DNA Database System) Bill 2013**

The Bill provides for the replacement of the existing statutory and common law arrangements governing the taking of samples for forensic testing from suspects in Garda custody for use as evidence in criminal investigations and proceedings with an updated statute-only regime. It provides for the repeal of the

Criminal Justice (Forensic Evidence) Act 1990 and the establishment of a DNA Database System for use by the Garda Síochána as an intelligence tool for criminal investigations and also to assist in finding missing persons and unknown persons (whether seriously ill or injured persons who are unable to identify themselves or unidentified human remains).

The Bill provides for the taking of samples from suspects and offenders for the purposes of the DNA Database System and for the establishment, management and oversight of the System. The Bill provides for the regulation of the taking of samples from volunteers (persons who are neither suspects nor offenders) for the purpose of generating their DNA profiles in connection with the investigation of criminal offences or incidents that may involve the commission of criminal offences.

The Bill provides for the implementation of the DNA data and dactyloscopic data elements of the EU Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (the Prüm Council Decision), Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (the Prüm Implementing Council Decision) and the Agreement between the EU and Iceland and Norway applying those instruments, and makes provision for similar bilateral or multilateral agreements between the State and other states.

The Bill draws on the Law Reform Commission Report “The establishment of a DNA Database” (LRC 78-2005). The Bill builds on the 2010 Bill of the same name which lapsed on the dissolution of the last Dáil. The Bill is an extensive measure that reforms and updates the law in the subject areas to which it relates, taking account of developments at EU and ECHR levels. It contains an array of safeguards for vulnerable persons such as children and a category of persons described as "protected persons". The Bill contains detailed provisions with regard to the destruction of forensic samples and DNA profiles, and the removal of the latter from the DNA Database System, in certain circumstances.

## **Water Services (No. 2) Bill 2013**

This Act provides for the transfer of most water services functions from the 34 water services authorities (county and city councils) to Irish Water, which was established as a subsidiary of Bord Gáis Éireann under the Water Services Act 2013. The functions set out in Parts 4A and 6 of the Water Services Act 2007 (which relate to domestic waste water treatment systems and rural water services respectively) are retained by the local authorities.

The Act provides that the Minister may by order designate property to be transferred from local authorities to Irish Water. It also provides for the transfer of certain liabilities relating to land or other property from local authorities to Irish Water and provides that a local authority may designate members of its staff for employment by Irish Water. The Act also provides for the making of agreements between Irish Water and each local authority for the delivery of specified water services.

The Act provides that Irish Water shall charge customers for the provision of water services in accordance with a water charges plan approved by the Commission for Energy Regulation.

The Act also provides for the preparation by Irish Water of a code of practice, investment plan and water services strategic plan.

## **Chapter 4**

### **Progress achieved in reaching high level goals**

#### **Delivery of legal services**

During 2013 staff in the Office provided ongoing and continuous support to the Attorney General in the performance of her constitutional role as legal adviser to the Government.

Legal staff provided observations and advice in relation to Memoranda for Government and discussed matters with the Attorney General in advance of responding to requests for observations and advice on the eCabinet system. They also sought her directions on significant issues of legal interpretation, the application of statutes, legislative or administrative solutions to legal difficulties etc. Advisory Counsel and the CSSO sought the Attorney General's directions on the conduct of litigation.

In 2013 the Attorney chaired three meetings of the Office's Legal Management Advisory Committee representative of all legal areas of the Office – Advisory Counsel, the OPC and the CSSO to discuss ongoing important and sensitive legal issues within the Office with particular reference to the list of sensitive files which is regularly submitted to Government.

During the year Advisory Counsel Groups reviewed work through its formalised system of eight-week review cycles and 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.

During 2013 the OPC was centrally involved in the work of the Government Legislation Committee. 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.

The OPC reported regularly to the Government Legislation Committee, detailing progress on the drafting of Bills and European Union statutory instruments. The OPC's ongoing 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.

The focus for the CSSO during 2013 was on the development, enhancement and refinement of legal services in areas of importance to client Departments and Offices. The aim of the Office was delivery of high quality legal services to clients as economically and efficiently as possible. Resources were deployed within the Office in pursuance of that objective. The Office conducted a Customer Service Survey in late 2013 with the results of same to be reported on in 2014.

The CSSO held fortnightly meetings with the Attorney General throughout the year to discuss significant work on hand.

## **Management of Litigation**

Implementing the key strategy to manage litigation, particularly mass claims, in an efficient manner was a key priority for the Office during the year. Advisory Counsel met regularly with legal staff in the CSSO 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.

## **Reducing Litigation costs**

During 2013 the Office remained committed to 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 of appropriate cases were prime objectives. A substantial number of protocols have been developed by the Office (including protocols for increased co-operation between State Agencies) and these protocols are adhered to in order to facilitate the efficient and cost effective conduct of litigation. Also, alternative non litigation resolutions such as mediation were pursued during the year where practical.

Arising from an Expenditure Review carried out by the Office in 2012, a number of initiatives were progressed during the year to reduce legal costs being incurred by the State. These included a reform of the taxation of costs system, changes to procedures in respect of Garda Compensation cases and the establishment of a Unit within the State Claims Agency to process Tribunals of Inquiry bills of costs. Also, discussions were ongoing in 2013 between the Office and the Office of Director of Public Prosecutions to examine mechanisms which could be applied to reduce costs of proceedings in which both offices are involved.

## **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 production, management and update of the electronic Irish Statute Book (eISB). The Office's eISB Group oversees the process of managing this service.

The eISB was updated on a regular basis with both Acts and statutory instruments during 2013 with the Portable Document Format (PDF) version of statutory instruments published within 2 working days of notification in Iris Oifigiúil. The Legislation Directory was updated for Acts (1922-2013) and statutory instruments (2000-2013).

The text of approximately 1,000 pre-1922 extant Acts was also published in 2013.

The eISB is customised for optimal access to the content for users of mobile devices, including the free availability of “Apps” for iPhone/iPad and Android users.

A request for tender (RFT) document for electronic legislation publication services for the eISB was issued in July 2013 and, following a competitive process, a contract for an initial three year period was signed in December.

## **Risk Management**

Legal staff in both Offices contributed to the further embedding of formal risk management policies within the Office during the year. These policies included:

- Regular reporting throughout the year by Advisory Counsel to the Attorney General and Legal Management Advisory Committee (MAC), meetings of the Director General, Deputy Director General and Advisory Counsel Groups on areas and matters of significant risk;
- 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.
- Regular reporting throughout the year by legal staff in the CSSO at Division / Section meetings and local and Legal MAC meetings;
- Participation by Advisory Counsel and legal staff in the CSSO 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 2013.
- 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.

## **Financial Management**

Nominated legal staff in both Offices participated in the project to develop an interface between the Case and Records Management System (ACME) and the Financial Management System (FMS). This development was fully operational in 2013 and when fully embedded will assist in the identification of commitments, financial and non-financial and costing management information reporting requirements.

## **Performance Management and Development System (PMDS)**

In 2013 legal staff in both Offices 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.

## **Training and Development**

During 2013 nominated Advisory Counsel and Parliamentary Counsel participated in the work of the Training and Development Committee and specifically with a view to progressing specific points of action set out in the Training and Development Strategy for the Office. The strategy included specific action points relating to the Advisory and Parliamentary Counsel including:

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

During 2013 solicitors in the CSSO attended a wide range of training courses to enhance their legal knowledge and maximise their capabilities. Particular emphasis was given to in-house training which had the benefit of being customised and cost effective. Topics covered at in-house training courses which took place during the year included, the European Arrest Warrant system in Ireland, Mental Health law, Social Welfare Appeals, Conciliation, LandDirect.ie presentation, Recent developments in the law of discovery, a Practical Guide to the Solicitor's role in mediation, Garda Vetting Procedures and a number of talks on regulatory matters given by senior staff in the Office. Furthermore, legal staff also attended a diverse range

of training courses run by external bodies such as the Law Society, the Dublin Solicitors Bar Association and Public Affairs Ireland. General training courses were also run during the year for all staff in the Office on matters such as annual leave and sick leave information, time management, minute taking, Microsoft Office update and library training for accessing online resources.

The CSSO 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.

### **Corporate and Business Management Services**

During 2013 the administration sides in the AGO and the CSSO provided modern and professional corporate and business management services in support of the delivery of the core legal services of the Office. Functional Business Units in the areas of Human Resources, Finance, Library and Know-how, IT, Registry, Private office support, Internal Audit, Corporate Services and Change Management provided the necessary support structures, staffing, services and systems to facilitate the achievement of the Office's Mission Statement and High Level Goals.

Further details in relation to progress achieved in reaching high level goals in 2013 is available on the Office website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

## **Chapter 5**

### **Attorney General's review of the year**

In the foreword to this Report the Attorney General referred to five major legal areas dealt with by the Office in 2013. They were,

#### **Impact on the Office arising from the Irish Presidency of the EU**

The first half of 2013 represented a unique and singularly challenging opportunity given the Presidency of Ireland of the Council of the EU. In this regard Ireland moved from purely representing Irish interests within the Council and to the Commission and Parliament to assuming the role of ensuring the interests and proper functioning of the Council. This entailed, over and above ensuring that Irish prerogatives and concerns were preserved and met respectively, fundamentally fulfilling the roles of advancing the ongoing work agenda of the Union, concluding legislation, finding compromises and delivering results on behalf of one of the two legislative arms of the Union.

Given that the majority of the work of the Council involves Union legislation the consequential demands on Advisory Counsel for advices in respect of the content of this legislation rose commensurately. These requests were routinely urgent. Advisory Counsel were often required to attend Working Group meetings in Brussels in an advisory capacity on legislative negotiations including trilogues with the European Parliament and Commission. The Office seconded an additional Advisory Counsel to act as Legal Counsellor in the Permanent Representation in Brussels for the duration of the Presidency and the Office was directly responsible for chairing three working groups in Brussels: the Fundamental Rights Working Group dealing with the negotiation of the accession of the EU to the European Convention on Human Rights (ECHR), the Courts of Justice Working Group and a Working Group tasked with negotiating a common framework for the delineation between delegated and implementing acts (Comitology) as between Member States in the first instance and then as between Council, Commission and the European Parliament. In the context of the accession of the EU to the ECHR, the Irish Presidency concluded the Accession Agreement at negotiators level following three years of negotiations which was a notable success of our tenure.

Advisory Counsel were also required to travel to international fora where Ireland, as Presidency, assumed a chairing role. Such meetings included the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem services (IPBES), the final negotiations to agree the text of the Minimata Convention on Mercury and the International Climate Change negotiations under the UNFCCC.

The Chief State Solicitor (Ireland's Agent) hosted a meeting in Dublin of the Agents of the Court of Justice of the European Union (CJEU) as part of the Presidency. The meeting was attended by forty three delegates from twenty four countries and was opened by the Attorney General, who in her address called for the adoption of common rules and standards for those who assist Agents in the presentation of cases before the EU Courts in Luxembourg on behalf of the member states and the institutions. Speakers at the conference included Mr. Justice Aindrias Ó Caoimh, Judge of the CJEU; Anthony Collins SC, then Ireland's nominee for appointment to the General Court and Michael McDowell SC former Tanaiste, Minister for Justice and Attorney General.

Overall the Irish Presidency has been lauded as one of the most successful in some time and the Office played a role in that success.

The nature of EU law is such that it often requires judicial interpretation to determine the exact ambit, meaning and scope of Regulations and Directives. In that context the ongoing participation of Ireland in preliminary rulings sought from the CJEU regarding the validity and interpretation of acts of the Union is key. In 2013 the Office advised in relation to Ireland's participation in a number of cases pursuant to Art. 267 of the Treaty on the Functioning of the EU (TFEU) in respect of which more than twenty judgments of direct concern to Ireland were handed down by the Court of Justice of the European Union. The subject matters varied from cases concerning the freedom of movement, recognition of professional qualifications, pensions, VAT, staff regulations of the Union, access to justice, environment, medicinal products, copyright, equal pay, intellectual property, discrimination on grounds of sex or disability, restrictive measures in the context of the Union's Common Foreign and Security Policy and Ireland's position having regard to the area of Freedom Security and Justice (Title V TFEU).

The Office also advised in respect of the conduct of proceedings leading to judgments in 2013 in five direct actions before the Courts where the issue of Ireland's failure to observe obligations under the Treaties of the Union was in issue.

The ECHR is increasingly invoked in proceedings concerning the State including and up to the European Court of Human Rights in Strasbourg. During 2013 the Office advised in respect of the finalisation of five matters before the Court resulting in three friendly settlements, a finding of no violation of an applicant's Article 6 ECHR rights in the context of his trial before the Special Criminal Court (Donohoe) and a judgment against Ireland for Article 6 ECHR judicial delay (Rooney).

In the context of the Charter of Fundamental Rights of the EU, there have been increasing references to the rights it contains in a number of cases. It has not, to date, formed the sole basis for a decision by an Irish court. This appears to be largely because the Charter applies to Member States' implementation of European

Union law since 2009 only and therefore, insufficient time has passed to allow European instruments to have been adopted and implemented into national law, and rights or duties under those instruments and law to have been litigated. It is expected that as time passes, the Charter will have a far more significant impact than heretofore.

### **Advices in relation to, and drafting of, the Protection of Life During Pregnancy Bill**

Provision of legal services to the Department of Health in connection with the preparation of the Protection of Life During Pregnancy Bill 2013 was a major project dealt with by the Office in the first half of 2013.

As a result of the judgment of the European Court of Human Rights in *A, B and C v Ireland*, which found that Article 8 of the Convention had been violated on the grounds that Irish law did not provide for an accessible and effective mechanism whereby a woman who believed her life was at risk as a result of the pregnancy could establish whether she was legally entitled to terminate the pregnancy, Ireland was under a legal obligation to develop a clear legal framework which would set out the procedures which would apply to those terminations of pregnancy which are lawful within the State under Article 40.3.3° of the Constitution, as interpreted by the Supreme Court in *AG v X*.

In January 2012, the Government established an expert group chaired by Mr Justice Seán Ryan, which was tasked to advise on how to implement the judgment of the European Court of Human Rights. The Group consisted of nominees with relevant medical, legal, regulatory and administrative expertise, including a representative of the Office, and it reported to the Government in November 2012.

On foot of a Government decision of December 2012, the Department moved immediately to prepare Heads of Bill with a view to legislation being drafted and enacted before the summer recess of 2013. The broad parameters of the Bill were largely based upon the recommendations contained in the Report of the Expert Group.

During the preparation of Heads and formal drafting of the Bill, the role of the Office was to provide legal services to the Department of Health, as instructing Department, in connection with the formulation of the Heads of Bill and the drafting of the Bill itself, with a view to producing a Bill that was legally and constitutionally sound and in conformity with the Government's policy objectives.

The Office also provided legal support to the Department in connection with hearings that took place in the Joint Oireachtas Committee on Health and Children in May 2013 and during the passage of the Bill through the Houses.

In order to ensure that the Bill was delivered within the very demanding timescale allocated, a dedicated team of Advisory Counsel and Parliamentary Counsel was established which, under the direction of the Attorney, worked closely with the Department to provide legal services in connection with the formulation of Heads and the drafting of the Bill. CSSO also provided assistance in connection with the briefing of specialist counsel who provided advice in relation to key elements of the Bill.

The Bill was introduced into the Dail on 16 June and having passed all stages in the Houses of the Oireachtas was signed by the President on 30 July 2013. The Protection of Life During Pregnancy Act 2013, was commenced on 1 January 2014.

### **Advice and drafting related to the referendums in 2013**

There were two complex proposals to amend the Constitution in 2013. The Thirty-Second Amendment Bill proposed abolishing Seanad Eireann and converting Ireland into a unicameral state. This required the preparation of very many individual amendments in the different parts of the Constitution where the Seanad appears. The proposal was not approved by the people. Further the Thirty-Third Amendment Bill proposed the establishment of a Court of Appeal as had been recommended by a committee under the auspices of the Chief Justice. This proposal required complicated advices on how the appellate jurisdiction of the Supreme Court should be altered. This proposal was approved by the people. Further information on both these matters can be found in Chapter 3.

### **Litigation and legislation relating to the financial crisis and the exit from the bailout in 2013**

A number of important legal milestones were reached in this area in 2013 including the enactment of legislation to liquidate the Irish Bank Resolution Corporation (IBRC), the renegotiation of the Anglo Promissory notes, Central Bank reform legislation and the EU/IMF Programme exit. The Office advised Government on these matters, in cooperation with a large range of stakeholders from the public and private sectors.

The Irish Bank Resolution Corporation Act 2013 and the renegotiation of the Anglo promissory notes are regarded as of major importance to the financial stability of the State and will contribute to a reduction in general Government debt over time and the removal of IBRC from the financial landscape.

The two major legal challenges by David Hall and by Joan Collins TD to the promissory notes issued by the Government, in respect of Anglo Irish Bank (now IBRC) and the Educational Building Society (EBS), were heard in 2013. The Office provided expert strategic direction and management of the litigation. The State was successful in defending the Hall litigation in both the High Court and the Supreme Court and the Collins litigation in the High Court. The Collins case is under appeal to the Supreme Court.

The twelve Credit Institutions (Stabilisation) Act 2010 (CISA) Orders (end 2010 to 2012) allowed the completion of the required bank restructuring under the EU/IMF Memorandum of Understanding and generated huge savings to the State. The Orders in respect of Irish Life and Permanent have given rise to several legal challenges which have been successfully defended to date.

The Office had an extensive and direct involvement with the legal teams sent by the "Troika", i.e. the European Union, the International Monetary Fund and the European Central Bank (EU, IMF and ECB) on the quarterly review missions in relation to the negotiation of the terms and conditions and ongoing compliance with the EU/IMF Programme. The three reviews carried out by the Troika during 2013 concluded that there was compliance by the State with its legislative undertakings and this helped ensure the State's successful exit from the programme in December 2013.

Key advices were given on the various sovereign funding instruments including the European Financial Stabilisation Mechanism (EFSM), the European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM).

The Office provided legal advice to the Government in complying with new EU fiscal and economic policy co-ordination mechanisms and governance rules, which are included in the so-called Two-Pack and Six-Pack measures and the Treaty on Stability Coordination and Governance in the Economic and Monetary Union (the so-called Fiscal Compact).

The Office adapted to the major changes which were made to the EU budgetary and fiscal framework, which necessitated the bringing forward of the Irish budget to 15 October and compliance with the EU fiscal semester (the cycle of economic and fiscal policy coordination within the EU).

The ongoing pace of reform was challenging in a wide range of domestic and EU contexts, such as sovereign debt, banking union, reforms of public financial procedures, NAMA and credit union reform, the commitments in the EU/IMF Programme and other EU legislative proposals in this area.

## **The project to streamline advices in relation to public procurement with the CSSO acting for the Office of Government Procurement**

Reform of public procurement was identified as one of 14 Public Service reform initiatives announced by the Minister for Public Expenditure and Reform in November 2011. Arising from this, and following the Capacity and Capability Review of Central Procurement Function Report of 2012 (“the Accenture Report”), a Government decision of 23 April, 2013 confirmed, *inter alia*, the establishment of the Office of Government Procurement (OGP), its governance structures and operational plan.

Over 2013 the CSSO participated in the validation and scoping workshops carried out on a cross-sectoral basis to assess and consider the implementation of the Accenture Report and maintained a nominee representation on the Programme Executive which was tasked with the responsibility to bring proposals to Government and thereafter to establish the OGP on an operational basis.

The Chief State Solicitor was appointed to the Interim Board of the OGP and the CSSO was appointed as legal adviser to the OGP.

Some key issues on which the Commercial Contracts Section of the CSSO advised the OGP over 2013 included:

- Establishment of the Office of Government Procurement;
- Governance issues to include the powers and functions of the OGP, the Interim Board, category councils, roles and responsibilities and operational agendas;
- national framework competitions and framework legal strategy;
- Circular 16/13: *Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service*; and
- advisory support to bring the negotiation of three new procurement directives: Central Government, Utilities and Concessions to a successful close.

In parallel with this advisory role on the OGP and procurement reform, the Commercial Contracts Section of the CSSO worked with the Reform Delivery Office (RDO) of the Department of Public Expenditure and Reform as it developed the External Services Delivery Project (ESD), one of the key activities of the RDO. The Commercial Contracts Section assisted with and advised on the strategic procurement and contract governance implications for External Service Delivery, including advising on the training manuals – to include content, context, tone, ambient law, levels and desired outcomes.

With the appointment of the Commercial Contracts Section as the legal adviser to the OGP, and the Commercial Contracts Section Head as OGP Head of Legal Affairs, the Department of Public Expenditure and Reform supported the consequential need to increase the capacity of the Commercial Contracts Section. As a result of a successful recruitment exercise over 2013, the CSSO resource capacity increased to include the appointment of a Specialist Principal Solicitor together with five Specialist State Solicitors (Higher) to provide transactional legal support to the OGP from 2014.

## Chapter 6

### Looking forward to 2014

The following matters will impact upon the Office in 2014 in terms of the delivery of legal services to Government and client Departments:-

- The establishment of the Court of Appeal in 2014 will present challenges for the Office. Heretofore, the Office has dealt with appeals from the High Court to the Supreme Court where currently there is a large backlog of appeals which can be in the list for up to 4 years before they are allocated a hearing date. With the coming into operation of the Court of Appeal, both it and the Supreme Court will be able to sit contemporaneously in divisions, and the hearing of appeals will be accelerated significantly. That will have resource implications for the Office in ensuring that all cases under appeal are prepared and presented for hearing efficiently and expeditiously.
- Formulation of new Statement of Strategy 2015 – 2017. The process to develop the new Strategy Statement will commence in mid-2014.
- The Courts and Civil Law (Miscellaneous Provisions) Act 2013 (Jurisdiction of District Court and Circuit Court) (Commencement) Order 2013 (S.I. No 566 of 2013) was signed by the Minister for Justice and Equality on the 18<sup>th</sup> December 2013 and fixed the 3<sup>rd</sup> February 2014 as the date on which section 2(1) and Part 3 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013 will come into operation.

As and from that date:

- The jurisdiction of the District Court in civil proceedings will be increased to €15,000 from €6,348.69;
- The jurisdiction of the Circuit Court in civil proceedings (other than personal injuries actions) will be increased to €75,000 from €38,092.14;
- The jurisdiction of the Circuit Court in personal injuries actions (as defined in Section 2 of the Civil Liability and Courts Act 2004) will be increased to €60,000, also from €38,092.14.

It is anticipated that these changes will present challenges for the CSSO. In particular, the increase in jurisdiction of the Circuit Court is likely to result in a greater number of cases being heard at provincial Circuit Court venues which would previously have been heard at the High Court in Dublin. The challenges arising will include difficulties associated with having legal staff travelling to attend court hearings at Circuits around the country and accessing and tracking court lists as local Circuit Court Offices do not operate on a uniform basis.

## Annex A

### Government Bills published in 2013 that were drafted by the OPC

| Total No. of Bills to Date | Title of Bill   |
|----------------------------|---|
| 1                          | Thirty-second Amendment of the Constitution (Abolition of Seanad Eireann) Bill 2013           |
| 2                          | Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013                        |
| 3                          | Water Services Bill 2013  |
| 4                          | Euro Area Loan Facility (Amendment) Bill 2013   |
| 5                          | Public Health (Tobacco) (Amendment) Bill 2013   |
| 6                          | Further Education and Training Bill 2013  |
| 7                          | Criminal Justice Bill 2013  |
| 8                          | Irish Bank Resolution Corporation Bill 2013   |
| 9                          | Child Care (Amendment) Bill 2013  |
| 10                         | Finance Bill 2013   |
| 11                         | Finance (Local Property Tax) (Amendment) Bill 2013  |
| 12                         | Motor Vehicle (Duties and Licences) Bill 2013   |
| 13                         | Health (Alteration of Criteria for Eligibility) Bill 2013                                     |
| 14                         | Courts Bill 2013  |
| 15                         | Land and Conveyancing Law Reform Bill 2013  |
| 16                         | Non-Use of Motor Vehicles Bill 2013   |
| 17                         | Criminal Law (Human Trafficking) (Amendment) Bill 2013  |
| 18                         | Forestry Bill 2013  |
| 19                         | Housing (Amendment) Bill 2013   |
| 20                         | Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013                     |
| 21                         | Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013                              |
| 22                         | Financial Emergency Measures in the Public Interest Bill 2013                                 |
| 23                         | Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013                |
| 24                         | European Union (Accession of the Republic of Croatia) (Access to the Labour Market) Bill 2013 |
| 25                         | Health (Amendment) Bill 2013  |
| 26                         | Protection of Life During Pregnancy Bill 2013   |

|           |  |
|-----------|--|
| <b>27</b> | Prison Development (Confirmation of Resolutions) Bill 2013                                     |
| <b>28</b> | Road Traffic (No. 2) Bill 2013   |
| <b>29</b> | Protected Disclosures Bill 2013  |
| <b>30</b> | Child and Family Agency Bill 2013  |
| <b>31</b> | Assisted Decision-Making (Capacity) Bill 2013  |
| <b>32</b> | Betting (Amendment) Bill 2013  |
| <b>33</b> | Fines (Payment and Recovery) Bill 2013   |
| <b>34</b> | Freedom of Information Bill  |
| <b>35</b> | Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Bill 2013 |
| <b>36</b> | Gas Regulation Bill 2013   |
| <b>37</b> | County Enterprise Boards (Dissolution) Bill 2013   |
| <b>38</b> | Criminal Justice (Forensic Evidence and DNA Database System) Bill 2013                         |
| <b>39</b> | Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Bill 2013                       |
| <b>40</b> | Social Welfare and Pensions Bill 2013  |
| <b>41</b> | Finance (No. 2) Bill 2013  |
| <b>42</b> | Health (Alteration of Criteria for Eligibility) (No. 2) Bill 2013                              |
| <b>43</b> | Companies (Miscellaneous Provisions) Bill  |
| <b>44</b> | Health Insurance (Amendment) Bill 2013   |
| <b>45</b> | Social Welfare and Pensions (No. 2) Bill 2013  |
| <b>46</b> | European Parliament Elections (Amendment) Bill 2013  |
| <b>47</b> | Water Services (No. 2) Bill 2013   |
| <b>48</b> | Pyrite Resolution Bill 2013  |
| <b>49</b> | Health Identifiers Bill 2013   |
| <b>50</b> | Appropriation Bill 2013  |
| <b>51</b> | Adoption (Amendment) Bill 2013   |
| <b>52</b> | ESB (Electronic Communications Networks) Bill 2013   |
| <b>53</b> | Health Service Executive (Financial Matters) Bill 2013   |
| <b>54</b> | Industrial Development (Forfás Dissolution) Bill 2013  |
| <b>55</b> | Merchant Shipping (Registration of Ships) Bill 2013  |
| <b>56</b> | Public Health (Sunbeds) Bill 2013  |

## Annex B

### Public Bills enacted in 2013

| Total No. of Acts to Date | Title of Act   |
|---------------------------|--|
| 1                         | Thirty-third Amendment of the Constitution (Court of Appeal) Act 2013                        |
| 2                         | Euro Area Loan Facility (Amendment) Act 2013   |
| 3                         | Irish Bank Resolution Corporation Act 2013   |
| 4                         | Houses of the Oireachtas Commission (Amendment) Act 2013                                     |
| 5                         | Finance (Local Property Tax) (Amendment) Act 2013  |
| 6                         | Child Care (Amendment) Act 2013  |
| 7                         | Water Services Act 2013  |
| 8                         | Electoral (Amendment) (Dail Constituencies) Act 2013   |
| 9                         | Finance Act 2013   |
| 10                        | Motor Vehicle (Duties and Licenses) Act 2013   |
| 11                        | Health (Alteration of Criteria for Eligibility) Act 2013                                     |
| 12                        | Education and Training Boards Act 2013   |
| 13                        | Defence Forces (Second World War Amnesty and Immunity) Act 2013                              |
| 14                        | National Lottery Act 2013  |
| 15                        | Health (Pricing and Supply of Medical Goods) Act 2013  |
| 16                        | Animal Health and Welfare Act 2013   |
| 17                        | Non-Use of Motor Vehicles Act 2013   |
| 18                        | Public Health (Tobacco) (Amendment) Act 2013   |
| 19                        | Financial Emergency Measures in the Public Interest Act 2013                                 |
| 20                        | Criminal Justice Act 2013  |
| 21                        | Social Welfare and Pensions (Miscellaneous Provisions) Act 2013                              |
| 22                        | European Union (Accession of the Republic of Croatia) (Access to the Labour Market) Act 2013 |
| 23                        | Housing (Amendment) Act 2013   |
| 24                        | Health Service Executive (Governance) Act 2013   |
| 25                        | Criminal Law (Human Trafficking) (Amendment) Act   |
| 26                        | Further Education and Training Act 2013  |
| 27                        | Central Bank (Supervision and Enforcement) Act 2013  |
| 28                        | Electoral, Local Government and Planning and Development Act 2013                            |
| 29                        | Prison Development (Confirmation of Resolutions) Act 2013                                    |

|    |   |
|----|---|
| 30 | Ministers and Secretaries (Amendment) Act 2013                                |
| 31 | Land and Conveyancing Law Reform Act 2013                                     |
| 32 | Health (Amendment) Act 2013   |
| 33 | Courts and Civil Law (Miscellaneous Provisions) Act 2013                      |
| 34 | Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013      |
| 35 | Construction Contracts Act 2013   |
| 36 | Protection of Life during Pregnancy Act 2013                                  |
| 37 | Industrial Development (Science Foundation Ireland) (Amendment) Act 2013      |
| 38 | Taxi Regulation Act 2013  |
| 39 | Social Welfare and Pensions Act 2013  |
| 40 | Gas Regulation Act 2013   |
| 41 | Child and Family Agency Act 2013  |
| 42 | Finance (No. 2) Act 2013  |
| 43 | Health (Alteration of Criteria for Eligibility) (No. 2) Act 2013              |
| 44 | Appropriation Act 2013  |
| 45 | Adoption (Amendment) Act 2013   |
| 46 | Credit Reporting Act 2013   |
| 47 | Companies (Miscellaneous Provisions) Act 2013                                 |
| 48 | Public Service Management (Recruitment and Appointments) (Amendment) Act 2013 |
| 49 | Health Insurance (Amendment) Act 2013   |
| 50 | Social Welfare and Pensions (No. 2) Act 2013                                  |
| 51 | Water Services (No. 2) Act 2013   |
| 52 | Pyrite Resolution Act 2013  |

## Annex C

### Office of the Attorney General

#### Vote 3 Merrion Street Office

#### Outturn for 2013 and Estimate for 2013 and 2014

Estimate and Outturn for 2013 and Estimate of the amount required in the year ending 31 December, 2014 for the salaries and expenses of the **Office of the Attorney General**, including a grant-in-aid.

|          | <b>Service</b>  | <b>Estimate<br/>Provision<br/>2013<br/>€000</b> | <b>Provisional<br/>Outturn<br/>2013<br/>€000</b> | <b>Estimate<br/>Provision<br/>2014<br/>€000</b> |
|----------|---|---|--|---|
|          | <b>ADMINISTRATION</b>                                       |   |  |   |
| A.1.     | SALARIES, WAGES AND ALLOWANCES                              | 9,856   | 10,264   | 10,834  |
| A.2(i)   | TRAVEL AND SUBSISTENCE                                      | 175   | 199  | 225   |
| A.2(ii)  | TRAINING AND DEVELOPMENT AND INCIDENTAL EXPENSES            | 560   | 552  | 600   |
| A.2(iii) | POSTAL AND TELECOMMUNICATIONS SERVICES                      | 110   | 61   | 70  |
| A.2(iv)  | OFFICE EQUIPMENT AND EXTERNAL IT SERVICES                   | 590   | 553  | 499   |
| A.2(v)   | OFFICE PREMISES EXPENSES                                    | 166   | 136  | 156   |
| A.2(vi)  | CONSULTANCY SERVICES AND VALUE FOR MONEY AND POLICY REVIEWS | 30  | 20   | 20  |
| A.2(vii) | CONTRACT LEGAL EXPERTISE                                    | 901   | 227  | 481   |

|         |  |               |               |               |
|---------|--|---------------|---------------|---------------|
| A.2(xi) | EU PRESIDENCY                                      | 526           | 24            | -             |
|         | <b>SUBTOTAL</b>                                    | <b>12,914</b> | <b>12,036</b> | <b>12,885</b> |
|         | <b>OTHER SERVICES</b>                              |               |               |               |
| A.3     | CONTRIBUTIONS TO<br>INTERNATIONAL<br>ORGANISATIONS | 38            | 38            | 38            |
| A.4     | LAW REFORM<br>COMMISSION (GRANT-<br>IN-AID)        | 2,103         | 1,896         | 2,091         |
| A.5     | GENERAL LAW<br>EXPENSES                            | 50            | 124           | 75            |
|         | <b>Gross Total</b>                                 | <b>15,105</b> | <b>14,094</b> | <b>15,089</b> |
|         | <b>Deduct</b>                                      |               |               |               |
| B.      | APPROPRIATIONS-IN-<br>AID                          | 788           | 768           | 788           |
|         | <b>Net Total</b>                                   | <b>14,317</b> | <b>13,326</b> | <b>14,301</b> |

## Vote 13 - Office of the Chief State Solicitor

### Outturn for 2013 and Estimate for 2013 and 2014

Estimate and Outturn for 2013 and Estimate of the amount required in the year ending 31 December, 2014 for the salaries and expenses of the Office of the Chief State Solicitor.

|          | Service   | Estimate<br>Provision<br>2013<br>€000 | Provisional<br>Outturn<br>2013<br>€000 | Estimate<br>Provision<br>2014<br>€000 |
|----------|---|---------------------------------------|--|---------------------------------------|
|          | <b>ADMINISTRATION</b>   |                                       |  |                                       |
| A.1      | SALARIES, WAGES AND ALLOWANCES                                  | 14,397                                | 13,993                                 | 14,800                                |
| A.2(ii)  | TRAVEL AND SUBSISTENCE  | 61                                    | 58                                     | 61                                    |
| A.2(iii) | TRAINING AND DEVELOPMENT AND INCIDENTAL EXPENSES                | 1,105                                 | 801                                    | 839                                   |
| A.2(iv)  | POSTAL AND TELECOMMUNICATIONS SERVICES                          | 350                                   | 331                                    | 350                                   |
| A.2(v)   | OFFICE MACHINERY AND OTHER OFFICE SUPPLIES AND RELATED SERVICES | 850                                   | 795                                    | 600                                   |
| A.2(vi)  | OFFICE PREMISES EXPENSES  | 370                                   | 221                                    | 290                                   |
| A.2(vii) | CONSULTANCY SERVICES AND VALUE FOR MONEY AND POLICY REVIEWS     | 29                                    | 7                                      | 29                                    |
|          | <b>SUBTOTAL</b>   | <b>17,162</b>                         | <b>16,206</b>                          | <b>16,969</b>                         |

**OTHER**

**SERVICES**

|     |                         |               |               |               |
|-----|-------------------------|---------------|---------------|---------------|
| A.3 | EXTERNAL LEGAL SERVICES | 248           | 268           | 200           |
| A.4 | FEEES TO COUNSEL        | 11,850        | 12,391        | 9,600         |
| A.5 | GENERAL LAW EXPENSES    | 2,516         | 872           | 1,400         |
|     | <b>Gross Total</b>      | <b>31,776</b> | <b>29,737</b> | <b>28,169</b> |
|     | <b>Deduct</b>           |               |               |               |
| B.  | APPROPRIATIONS-IN-AID   | 1,860         | 1,432         | 1,860         |
|     | <b>Net Total</b>        | <b>29,916</b> | <b>28,305</b> | <b>26,309</b> |

## Annex D

### **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 2013**

##### **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 2013**

### **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 €3,831,827.81 in 2013 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 file handlers 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 €3.354m in 2013 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 €4,089.14 was incurred in penalty interest during the year under Prompt Payment of Accounts legislation.

## Report On Payment Practices For 2013

### 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 2013:**

|  |               |
|--|---------------|
| Total Value of all Payments:                             | €3,353,929.00 |
| Total Value of all late payments (under €320 inclusive): | €4,272.67     |
| Total Value of all late payments (over €320):            | €160,043.85   |
| Value of late payments as % of total payments:           | 4.9%          |
| Number of late payments in excess of €320:               | 41            |
| Amount of Interest paid:                                 | €4,089.14     |
| Amount of interest as percentage of total payments:      | 0.12 %        |
| Broad indication of Length of Delays:                    | 63 days       |