

Office of the Attorney General

Annual Report 2019

Incorporating the Third Progress Report on Implementation of
Statement of Strategy 2016-2019

Contents

Foreword from the Attorney General

Introduction by the Director General

Part 1: The Office

- Role of Advisory Counsel
- Role of the Office of the Parliamentary Counsel to the Government
- Role of the Chief State Solicitor's Office
- Seconded Lawyers
- Law Reform Commission
- More information

Part 2: Achievement of High Level Goals in Statement of Strategy

High Level Goal 1: Deliver a specialist legal advisory service to the Government and client Departments and Offices

- Examples of advisory services provided by the Office in 2019
- Reporting on High Level Goal 1 in Statement of Strategy

High Level Goal 2: Office of the Parliamentary Counsel to the Government: Provision of a specialist legislative drafting service to Government

- Examples of legislation drafted by the OPC in 2019
- Reporting on High Level Goal 2 in Statement of Strategy

High Level Goal 3: To provide a litigation service that delivers optimum results for our client Departments and Offices

- Examples of litigation services provided by the Office in 2019
- Reporting on High Level Goal 3 in Statement of Strategy

High Level Goal 4: To provide a solution-driven legal service led by the CSSO that supports the delivery of our client Departments' transactional and business objectives

- Examples of transactional services provided in 2019: CSSO State Property Division
- Examples of transactional services provided in 2019: CSSO Commercial Contracts Section
- Reporting on High Level Goal 4 in Statement of Strategy

High Level Goal 5: To support the development of high levels of expertise, competence, up to date knowledge of the law and effective communication skills, within a knowledge based environment

- Reporting on High Level Goal 5 in Statement of Strategy

High Level Goal 6: Provision of modern and professional legal practice, corporate and business management services that support the Office in its delivery of the highest quality of service

- Reporting on High Level Goal 6 in Statement of Strategy

Part 3: Annexes

- Annex A: Government Bills published in 2019
- Annex B: Government Bills enacted in 2019
- Annex C: Private Members' Bills enacted in 2019
- Annex D: Estimates and Provisional Outturns
- Annex E: Statements and Reports in respect of payment practices
- Annex F: Staff Breakdown
- Annex G: Freedom of Information Statistics
- Annex H: Energy Usage

Foreword from the Attorney General

I welcome the publication of the 2019 Annual Report for the Office of the Attorney General (which includes the Chief State Solicitor's Office) which demonstrates the extensive range of work undertaken by the Office during the year.

The Office responded to a significant demand for the provision of legal services from Government, Departments and Offices in 2019. The Annual Report highlights the broad range of work carried out by the Office providing legal advice, conducting litigation in the Courts and drafting legislation across a wide range of subjects. The Office plays a crucial role in supporting the work of Government through the legal services it provides.

A number of matters which the Office provided legal support and services to clients in 2019 included:

- Provision of legal services concerning a wide variety of legal issues pertaining to Brexit;
- Provision of legal services on various matters connected to the CervicalCheck litigation and proposed Tribunal;
- Provision of legal services in relation to Data Protection issues;
- Litigation and advisory services in relation to complex asylum and immigration matters, tax matters, and environmental regulation;
- Drafting of complex and detailed legislation, including the Brexit Omnibus legislation.

I would like to express my gratitude to all staff in the Attorney General's Office and the Chief State Solicitor's Office for their commitment and support throughout the year in ensuring that the Office continues to provide the highest quality of legal services.

Seamus Woulfe SC
Attorney General

Introduction by the Director General

Attorney General,

I am pleased to introduce the 2019 Annual Report of the Office of the Attorney General which details the diverse range of work carried out across the Office of the Attorney General and the Chief State Solicitor's Office during the year.

The Statement of Strategy sets out the overarching goals for the Office and the key objectives in achieving them. The Public Service Management Act 1997 requires a report to be presented annually to the Attorney General on the progress in meeting the objectives set out in the strategy statement.

In 2019 the Office dealt with a significant demand for legal services from our clients across a broad range of subject areas. The service provided by the Office covers all aspects of Government business and policy and many of these areas are continually evolving. We faced a number of challenges, in 2019 for example, Brexit related matters, the CervicalCheck Programme and Data Protection issues. The Office met those challenges in a timely manner and continued to deliver a high quality legal service through the provision of legal advice, litigation services and legislative drafting.

The Office continued to second legal staff to posts domestically and abroad throughout 2019 under its secondment programmes in which 40 staff participated.

Advisory Counsel continued to deliver legal advice across a wide and diverse range of issues involving points of EU, constitutional, international and domestic law.

The OPC drafted a significant number of Government Bills, as well as drafting Committee and Report Stage amendments to those Bills and to Private Members' Bills. During the year, 40 Government Bills were published and 48 Government Bills were enacted. The OPC also drafted 235 of the Statutory Instruments that were made in 2019, 57 of which related to the transposition of European Union measures.

The Chief State Solicitor's Office continued to provide high quality specialist solicitor services, covering litigation, property, Government contracts and other transactional services.

I would like to conclude by expressing my appreciation to all of the staff in the Merrion Street Office and the Chief State Solicitor's Office for their continued dedication and hard work. It is thanks to them that we can deliver on our mission – to provide the highest standard of professional legal services to the Government, Departments and Offices. I would like to take this opportunity to express my appreciation to Mr. Richard Barrett who retired from the position of Deputy Director General in 2019.

Damien Moloney
Director General

Part 1: The Office

The Attorney General is the legal adviser to Government, as provided for in Article 30 of the Constitution. The present Attorney General is Seamus Woulfe SC. The Office, which comprises three constituent elements: the Advisory Counsel to the Attorney General and the Office of the Parliamentary Counsel to the Government (“the AGO”) and the Chief State Solicitor's Office (“the CSSO”), assists the Attorney General in the provision of legal advice to Government. This includes advice to Ministers, Departments and certain other public bodies; the drafting of legislation; the representation of the State in litigation and the performance of a number of other functions, particularly statutory functions.

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

The AGO is located in Government Buildings at Merrion Street, Dublin, where a staff of approximately 140 is located. The staff includes Advisory Counsel, Parliamentary Counsel, administrative and support staff and Library and Know-How staff. The CSSO is based at Little Ship Street and Chancery Lane and has a staff of 294 consisting of solicitors and legal executives as well as administrative staff and Library and Know-How staff.

The administrative head of the Office is the Director General, Damien Moloney. He also leads the Advisory Counsel to the Attorney General. The Chief Parliamentary Counsel is June Reardon and the Chief State Solicitor is Maria Browne. The Director General is the accounting officer for the AGO and the Chief State Solicitor is the accounting officer for the CSSO.

The Attorney General is the chief law officer of the State and the Office is the principal State law office. The range of work in the Office reflects the entire scope of Government business and policy, including unforeseen events giving rise to requests for legal advice, the drafting of primary and secondary legislation and the defending of court proceedings. Highly contested and sensitive legal issues, in areas such as EU law, immigration, education, healthcare, data protection and criminal justice, are dealt with. The Office also provides commercial legal advice and legal transactional services to Government, Departments and Offices in the areas of public procurement, contracts, state aid, State property and intellectual property. It also advises on the many aspects of State employment law e.g. appointment, discipline and pensions.

The Office provides a high quality professional service to its public service clients. It has a deep understanding of the public service, Government and the legislative process and a high level of corporate memory and know-how. It participates in a large number of committees, working groups and professional networks of the public service, the legal profession and international organisations. The independence of the Office derives from the constitutional role of the Attorney

General, the Office culture and the centralised nature of the Government's legal service. Synergies and efficiencies arise from the Office's central role especially when a whole-of-Government approach is required.

The dynamic nature of the work, with constant changes in Irish, European and international law and in circumstances and needs, requires a responsive Office and compliance with the highest professional and public service standards.

Role of Advisory Counsel

The principal duty of Advisory Counsel is to assist the Attorney General in performing his functions, powers and duties. The range of subjects covered is as broad as Government's remit, but the activities themselves fall broadly into three categories -

- the provision of legal advice,
- the direction of litigation, and
- legal advice in the provision of a legislative drafting service to Government.

Advisory Counsel are divided into five specialist groups and work closely with lawyers in both the Office of the Parliamentary Counsel to the Government, advising on legal issues in the drafting of legislation, and the CSSO, advising on the conduct of litigation and other legal advisory matters. Advisory Counsel also work closely with external counsel when required.

The assistance provided to the Attorney General prior to Government meetings is particularly important e.g. advising whether a proposed Government decision or legislative scheme complies with the provisions of the Constitution, legislation, Treaties and law of the European Union, the European Convention on Human Rights and other international treaties to which Ireland has acceded.

Role of the Office of the Parliamentary Counsel to the Government

The Office of the Parliamentary Counsel to the Government ("the OPC") provides a professional legislative drafting service to the Government.

Primary legislation (Government Bills) and secondary legislation (statutory instruments including regulations and Government orders) of varying complexity and urgency is drafted by the specialist lawyers of the OPC called Parliamentary Counsel to reflect the policy of the Government and to transpose EU legislation into Irish law.

The OPC is also responsible for drafting Government amendments to Bills (including Private Members' Bills) at Committee Stage and Report Stage of a Bill's progression through the Houses of the Oireachtas.

The work of the OPC enables the Government to implement their Legislation Programme in an efficient and timely manner and the OPC liaises closely with the Government Legislation Committee in relation to Bills accorded priority by the Government.

The OPC is headed by the Chief Parliamentary Counsel and is divided into four drafting groups. The drafting of Bills and statutory instruments for the 17 Departments is divided among the drafting groups, with each group dealing with a number of specified Departments.

Parliamentary Counsel are trained to a high level in the discipline of drafting legislation that, in addition to reflecting the policy of the Government, must be constitutionally sound, take into account the wider legal system and be clear and effective.

Role of the Chief State Solicitor's Office

The CSSO provides a broad range of legal services to the Attorney General and to Departments and Offices, across five legal Divisions: the Administrative Law Division; the Advisory, Commercial & Employment Law Division; the Constitutional & State Litigation Division; the Justice Division; and the State Property Division. These services include a wide range of civil litigation in all courts (including the Court of Justice of the European Union in Luxembourg (“the CJEU”)); conveyancing and property law services; commercial contract law services; public procurement and state aid law advice; general legal advisory services; and legal services to Departments and Offices before Tribunals of Inquiry, Commissions of Investigation and other statutory inquiries.

Seconded Lawyers

The secondment of Advisory Counsel as Legal Advisers to Departments, which commenced in May 2006, continued in 2019. At the end of 2019 there were 28 seconded Advisory Counsel in place in 14 Departments. One Advisory Counsel was seconded to the EU Permanent Representation with another seconded to the European Court of Human Rights. Two Advisory Counsel were also seconded as National Experts to EU Institutions.

In the CSSO, five solicitors commenced secondment in 2019, bringing the total number of solicitors on secondment to ten. Of those five, two were seconded to Departments, two to the National Experts in Professional Training programme in the European Commission, and one to a regulatory authority.

Law Reform Commission

The Law Reform Commission is wholly funded from the vote of the AGO.* It is a statutory body established by the Law Reform Commission Act 1975. Its role 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 programme is carried out primarily under a programme of law reform approved by Government and placed before the Houses of the Oireachtas. The Commission also works on specific matters referred to it by the Attorney General under the Act of 1975.

More Information

For more details in relation to the AGO and the CSSO, please visit our websites at www.attorneygeneral.ie and www.csso.ie.

* Money for the services of the Office which is voted by the Dáil on an annual basis.

Part 2: Achievement of High Level Goals in Statement of Strategy*

High Level Goal 1: Deliver a specialist legal advisory service to the Government and client Departments and Offices

Examples of advisory services provided by the Office in 2019:

- Brexit - legal advice in relation to a wide variety of legal issues arising, including advisory services in relation to the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019.
- Advising Departments on the report of the Data Protection Commissioner in regard to the Public Services Card.
- Advices to Government on various matters connected to the CervicalCheck programme. This included advice on legal issues in relation to various reports and inquiries into the operation of the programme and advice on the establishment of the CervicalCheck non-disclosure ex-gratia Scheme. Advices were also provided on the CervicalCheck Tribunal Act 2019.
- Asylum, immigration and citizenship matters, including judgments delivered by Irish courts and the CJEU in relation to such matters.
- Section 24(1) of the Coroners Act 1962 provides for the power of the Attorney General to direct a coroner to hold an inquest. In the most significant exercise of this function in many years, the Attorney General in September 2019 directed that fresh inquests be held into the 48 deaths in the fire at the Stardust disco in Artane, Dublin, on 14 February 1981.
- Advising Departments on Private Members' Bills.
- Office staff sat on the Review of the Administration of Civil Justice Group (chaired by Mr Justice Peter Kelly and administered by the Department of Justice and Equality). The Review Group is examining the current administration of civil justice in the State with a view to improving access to justice, reducing the cost of litigation (including costs to the State) and improving procedures and practices so as to ensure timely hearings.

* As set out in [Statement of Strategy 2016-2019](#).

- Advices in respect of housing (including amendments to the Residential Tenancies Act 2004) and the establishment of the Land Development Agency.
- Policing matters including advices to An Garda Síochána on legal issues such as Garda powers, Garda vetting and the juvenile diversion scheme and to the Department of Justice and Equality on issues including interpretation of the Garda Síochána Act 2005 and the preparation of a Policing and Community Safety Bill.
- Interpretation of law in respect of the highly sensitive Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 and operations of Forensic Science Ireland.
- Advices on the Divorce Referendum and associated legislation.
- Advising on a range of medical law and bioethics issues including reproductive health law, assisted reproduction and surrogacy.

Reporting on High Level Goal 1 in Statement of Strategy

1.1 Assisting the Attorney General in the performance of his constitutional role

- Legal advice and assistance was provided by Advisory Counsel to the Attorney General in a timely manner concerning his attendance at Government meetings, his advice to Government and Ministers and the discharge of his functions generally.
- Parliamentary Counsel provided advice to the Attorney General in relation to legislative drafting matters, as well as briefing on progress and legal advice arising during the drafting process, particularly in advance of Government and Government Legislation Committee meetings.

1.2 Regular structured communication with client Departments and Offices

- The Office had regular meetings with key clients (in addition to consultations and meetings on particular issues) e.g. on extradition and the European Arrest Warrant (“EAW”), asylum and immigration and the Marine Co-ordination Group. The Office also participated in the relevant Inter-Departmental and Senior Officials Groups on Brexit and contingency planning.
- Cross-group teams of Advisory Counsel with the requisite spread of expertise ensured a high quality legal advisory service on major projects such as CervicalCheck and Brexit.

- AGO processes were reviewed and improved e.g. in the area of EU law.

1.3 Keeping abreast of developments in legal firms and legal divisions in the private and public sectors or other jurisdictions

- The Office has high quality knowledge management and case and records management systems. The Library and Know-How and ICT units kept abreast of best practice, particularly in legal firms and divisions in the private sector. See section 6.1 below for further information.

1.4 Continually reviewing and improving specialist advisory service by Advisory Counsel

- The subject areas and the membership of the five groups of Advisory Counsel were regularly reviewed, having regard to the spread of expertise, the fluctuations of work and the development of lawyers' skills and experience. The heads of those groups were in regular contact at their weekly meeting and as required in relation to projects that required specialist input from across a number of groups.
- As well as continuing to advise on files already opened, close to 1,000 advisory files were opened in the AGO in 2019. Legal advice was also given on legislative drafting, litigation and transactional files.
- Advisory Counsel updated their specialist knowledge of relevant areas of the law through research, mentoring and induction, attendance at courses and conferences, in-house training and development, and regular in-house legal meetings where current legal issues were presented by Advisory Counsel and Parliamentary Counsel. The circulation of group weekly reports to all lawyers in the AGO and the emphasis on contributing legal advices to the know-how system were key elements of keeping Advisory Counsel up to date. Specialist knowledge was enhanced by training in the use of research tools on the case and records management system, know-how database and other commercially produced legal databases.
- Library and Know-How staff and legal researchers worked closely with Advisory Counsel groups to maximise their ability to provide high quality advice taking account of the latest developments and authorities. Library and Know-How staff were very active in the AGO training and development and know-how initiatives. In addition they regularly circulated recently delivered judgments, accumulated high quality legal blogs and constantly reviewed the catalogue of texts available in the library.
- Advisory Counsel played a particular role in litigation by contributing in-depth legal analysis and reviewing the advice of external counsel from a whole-of-Government perspective, consulting and informing the Attorney General, as appropriate. A strategic approach to legal issues, including mediation in certain cases, was taken in areas of litigation such as asylum,

immigration, Article 40 applications, EAW, environmental law, employment and disciplinary matters where many cases raised the same issue (see section 3.1 below). Advisory Counsel also identified legal issues arising which may benefit from a legislative solution.

- The preparation of legal observations and seeking the Attorney General's input on General Schemes of Bills is a significant and demanding role of Advisory Counsel. Constitutional, EU, ECHR and legal policy issues were considered and the Advisory Counsel's knowledge and understanding of the public service, the legislative process, the legal system and case law in the particular areas were essential components to the Advisory Counsel's input.
- After the Government Decision for the drafting of a Bill, Parliamentary Counsel and the Department regularly raised legal issues for the consideration of Advisory Counsel, often of the most complex and novel nature. Advisory Counsel made legal submissions to the Attorney General when his view on issues was required. Advisory Counsel also participated in the Quality Assurance procedures for draft legislation (see section 2.6 below).
- Advisory Counsel provided significant input on and assisted Departments to understand the legal implications of Private Members' Bills. Advisory Counsel brought a depth of knowledge and experience of the legislative process and of the specific legal areas concerned.
- New and emerging areas of the law continued to be identified and monitored, in collaboration with Departments, and expertise was further developed in those areas. Brexit; the internet, social media and data protection; and the retention and sharing of data are some examples of areas raising novel and unprecedented issues of EU and Irish law. Advisory Counsel attended in-house and external seminars and lectures on these areas.

1.5 Specialised advisory function in the CSSO

- The Advisory Section in the CSSO moved to develop its advisory function with the transfer of litigation files to litigation sections in the CSSO in 2019. The Section's ability to focus on an advisory role was, however, again during 2019 significantly impacted by the large increase of work occasioned by the emergence of ongoing and new statutory investigations, tribunals and inquiries.
- This included providing a legal service to clients before the Disclosures Tribunal, the Commission of Investigation into Mother and Baby Homes and Certain Related Matters, the Commission of Investigation (Certain matters relative to a disability service in the South East and related matters), Commission of Investigation (National Asset Management Agency), multiple statutory inquiries under Section 42 of the Garda Síochána Act 2005, and the Commission of Investigation (Response to complaints or allegations of child sexual abuse made against Bill Kenneally and related matters). In addition, a new category of legal service

emerged for Citizenship Revocation Committee hearings. Notwithstanding this, the following advisory work was carried out in 2019:

- In conjunction with Advisory Counsel, advices on a myriad of issues ranging from powers of delegation, salvage law, waste disposal, company law, redundancy, licensing laws and contract disputes and in relation to developing areas of the law including the impact of the Data Protection Act 2018 on the State's interactions with citizens.
- Advices in relation to the courts' supervision of Freedom of Information Act 2014 processes.
- Representation of clients before Citizenship Revocation Committee hearings.
- Providing assistance to civil servants served with subpoenas in third party proceedings.
- Advising in conciliations and arbitrations for the Office of Public Works ("the OPW") in property related disputes, and in commercial disputes for other Departments.
- Advising An Garda Síochána and the Irish Prison Service on statutory and operational matters.
- Advising on Brexit-related legislation and its impact on the existing statutory framework.
- The Advisory Section also developed closer ties with other CSSO legal sections in relation to advisory and pre-litigation work seeking to find early intervention solutions with clients, including being a "first port of call" for seconded Advisory Counsel in Departments and Offices needing urgent CSSO advices.
- The CSSO prioritised training and upskilling of staff in priority areas such as data protection, in addition to enhancing skill sets to meet the needs of statutory inquiry work.

1.6 Continuing to support and further develop the secondment programme

- The development of strong connections with the seconded Advisory Counsel and legal units in Departments continued. An Advisory Counsel at Assistant Secretary level chaired an umbrella group for teams that provided support to seconded Advisory Counsel; organised training and development on areas of particular importance to in-house Government lawyers; supported and worked with the network of seconded Advisory Counsel; and reported regularly to the AGO Management Committee.
- Groups of seconded Advisory Counsel met with the Attorney General during the course of the year to discuss the working of the secondment programme. The Director General met periodically with seconded Advisory Counsel in their place of work, as did the Advisory Counsel overseeing the secondment programme.

- Seconded Advisory Counsel attended general meetings of Advisory Counsel and training and knowledge management events in the AGO, and had access to the AGO Library and Know-How service as required.
- In addition to collaborating with Advisory Counsel within the AGO on the provision of the highest levels of legal advisory service to client Departments and agencies, seconded Advisory Counsel also advised on a number of significant matters including:
 - Migration of Participating Securities Act 2019, which facilitates the migration of participating securities from the CREST settlement system based in the United Kingdom to alternative central securities depositories based in the EU, if required as a consequence of Brexit.
 - Legal advice on the establishment of a separate and independent Environmental Advisory Unit within the Department of Communications, Climate Action and Environment on an administrative basis to carry out environmental assessments of proposed oil and gas exploration activities that require Ministerial permission and where a prohibited conflict of interest would otherwise arise.
 - Legal advice to officials engaged with the European Commission on the development of a new EU Directive on whistleblower protection (Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law, which was adopted on 23 October 2019).
 - Legal advice on the establishment of a statutory Climate Action Fund to provide funding for projects, initiatives and research that seek to reduce, or support the reduction of, greenhouse gas emissions in the State including renewable energy and energy efficiency related projects, with funding to be obtained from a portion of the proceeds raised by a repurposed petroleum products levy.

1.7 Delivering an enhanced EU law service to client Departments and Offices

- A Steering Committee on EU law oversaw a number of significant projects such as a review of AGO involvement in the development of EU legislation and its transposition; a review of the Office involvement in litigation before the CJEU; enhanced Departmental engagement on EU law matters; the provision of specific legal education, training and knowledge sharing regarding EU law matters in the Office; and the tracking of important EU legal issues in a user-friendly fashion, paying particular attention to the requirements of seconded Advisory Counsel in this respect. A Legal Manual for Government Departments and Offices on Aspects of European Union Law was produced and circulated for the benefit of Departments in June 2019.

1.8 Section 7 of the Prosecution of Offences Act 1974 and retention of external counsel

- In accordance with the AGO policy of reviewing the panels of external counsel every year, the panels were updated in 2019.

High Level Goal 2: Office of the Parliamentary Counsel to the Government: Provision of a specialist legislative drafting service to Government

Examples of legislation drafted by the OPC in 2019:

Legislation drafted in relation to Brexit

- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019*

This omnibus Act contained provisions to facilitate continuity of services and arrangements with the United Kingdom in the event of a disorderly Brexit, dealing with diverse subject areas including taxation, financial services, healthcare, electricity, social welfare, extradition and insurance.

- *Health and Childcare Support (Miscellaneous Provisions) Act 2019*

Provided, in the event of a disorderly Brexit, for eligible residents in Northern Ireland to be reimbursed for the cost of necessary medical expenses incurred while in the EU or EEA, or in Switzerland, and provided for the inclusion of British citizens as a category of persons who are eligible to apply for financial support under the National Childcare Scheme on the same basis as Irish citizens.

- *Family Law Act 2019*

Provided, *inter alia*, for the recognition, in the event of a disorderly Brexit, of certain divorces, legal separations and marriage annulments granted in the United Kingdom or Gibraltar.

- *Industrial Development (Amendment) Act 2019*

Extends the power of Enterprise Ireland to make grants and loans and to purchase shares for the purposes of potential new lending schemes that may be required to deal with the impacts of Brexit on certain industries.

- *Migration of Participating Securities Act 2019*

Provides for the contingency that a substitute for the securities settlement system commonly known as CREST may be required on or after 30 March 2021.

Other significant legislation

- *CervicalCheck Tribunal Act 2019*
Provides for the implementation of the recommendations contained in the Report on an Alternative System for Dealing with Claims Arising from CervicalCheck and provides for the establishment of the CervicalCheck Tribunal.
- *Education (Student and Parent Charter) Bill 2019*
Sets out a framework that schools will apply in their engagement with students and parents by requiring schools to prepare, publish and implement student and parent charters, in accordance with Ministerial guidelines, with powers for the Minister to issue a direction where there is a failure to comply with the obligations.
- *Housing (Regulation of Approved Housing Bodies) Act 2020*
Establishes a Regulator to oversee the effective governance, financial management and performance of approved housing bodies through the mechanism of registration, approved standards and investigation, and protection of housing assets.
- *Judicial Council Act 2019*
Provides for the establishment of a Judicial Council and various committees of that Council for the purposes of promoting and maintaining high standards of conduct among judges and the continuing education of judges, investigating complaints of judicial misconduct and adopting guidelines concerning judicial conduct, sentencing and personal injury awards.
- *Official Languages (Amendment) Bill 2019*
Amends and extends the Official Languages Act 2003 to promote the use of the Irish language for official purposes in the State, providing for enhanced obligations on public bodies as regards their dealings with the public. Provides for the establishment of the Irish Language Services Advisory Committee and the preparation of a National Plan to increase public services available through Irish.
- *Patient Safety (Notifiable Patient Safety Incidents) Bill 2019*
Provides for the mandatory provision of information to a patient if a specific type of patient safety incident occurred when medical treatment was provided to the patient. Provides for the Health Information and Quality Authority to set and monitor standards under the Health Act 2007 in relation to private hospitals.

- *Thirty-eighth Amendment of the Constitution (Dissolution of Marriage) Act 2019*

This was a Private Members' Bill, to which Government amendments were made, to amend Article 41 of the Constitution to remove the requirement that parties to a marriage have lived apart for a period in order to obtain a divorce (which was subsequently provided for instead in primary legislation) and to substitute the provision of that Article on recognition of foreign divorces.

Reporting on High Level Goal 2 in Statement of Strategy

2.1 Preparation of draft legislation

- The OPC drafted primary and secondary legislation to give effect to the legislative policy set by the Government, in conformity with the Constitution and the State's EU obligations. This included a large volume of complex legislation addressing a broad spectrum of issues arising from Brexit.
- The OPC drafted a significant number of Government Bills during 2019. Forty Government Bills were published (listed at Annex A), including a Bill to amend the Constitution, and 48 Government Bills were enacted (listed at Annex B). OPC also drafted Committee and Report Stage amendments to Government Bills.
- Although the OPC does not draft Private Members' Bills, it drafted Committee and Report Stage amendments to a number of such Bills, which were moved, with the approval of the Government, by the relevant Government Minister during the passage of the Bills through the Houses of the Oireachtas. In 2019, six Private Members' Bills to which OPC drafted amendments were enacted (listed at Annex C), including an Act amending the Constitution.
- OPC drafted 235 of the statutory instruments that were made in 2019, including 57 for the purposes of transposing EU measures into Irish law.

2.2 Emphasising importance of adherence to procedures and fully developed policy proposals

- During 2019, the OPC continued to facilitate Departments by drafting legislation that was urgently required, while reminding Departments of the importance of adhering to the procedures set out in the Cabinet Handbook to enable the OPC to deliver legislation within the required timeframe. The OPC also continued to emphasise to Departments the importance of fully formulating and developing policy proposals before engaging the services of the OPC.

- Departments were reminded of the central role of the Government Legislation Committee in setting and overseeing the Government's legislative priorities, and its role in ensuring that Government derives maximum benefit from the services provided by the OPC in order to successfully implement the Government's Legislation Programme.

2.3 Engagement with Government Departments

- In 2019, the OPC continued to engage with Departments at all stages of the drafting process with a view to achieving greater efficiency in their interaction with the OPC. Departments were encouraged to consult with seconded Advisory Counsel at an early stage in the development of legislative proposals and with any other Department whose remit may be affected by the proposals. The OPC continued to engage with Departments to support their training initiatives relating to the legislative process. The OPC engaged closely with Departments in relation to legislation required to address issues arising from Brexit. The progress of Brexit-related drafting work was monitored centrally on a weekly basis at meetings of Secretaries General and at Senior Officials Group meetings, which were attended by the Chief Parliamentary Counsel.

2.4 Engagement with Government Legislation Committee

- During 2019, the OPC continued to actively participate in the Government Legislation Committee, providing regular reports detailing progress on the drafting of Priority List Bills. This reporting enabled the Committee to monitor and supervise the implementation of the Government Legislation Programme. The OPC's ongoing participation in the work of the Committee provided a vital mechanism for mediating between competing legislative priorities of Departments. The Attorney General (who is a member of the Government Legislation Committee and attends meetings of the Committee) was briefed regularly by Parliamentary Counsel in relation to the progress of draft legislation and legal issues arising during the drafting process.

2.5 Engagement with Advisory Counsel

- The OPC continued to collaborate with and consult with Advisory Counsel, through informal discussion and written requests for advice, in relation to legal issues arising in the drafting of legislation.
- During 2019, Advisory Counsel and Parliamentary Counsel continued their review of the procedures relating to the interaction between, and respective responsibilities of, Advisory Counsel and Parliamentary Counsel during the legislative process of a Government Bill.

2.6 Quality Assurance procedures

- Parliamentary Counsel continued to implement Quality Assurance procedures during 2019 with the aim of safeguarding the quality and legal efficacy of draft legislation, while facilitating the sharing of expertise and insights. The procedures involve the review of each Bill drafted in OPC, generally by two Parliamentary Counsel (in addition to the Parliamentary Counsel who drafted the Bill) and an Advisory Counsel, prior to agreeing the final text of the Bill with the instructing Department.
- The OPC continued to utilise the Legislative Workbench system for the preparation of the text of Bills and amendments to Bills in conjunction with the Bills Office in the Houses of the Oireachtas. A number of training sessions on the Legislative Workbench system were delivered during 2019.

High Level Goal 3: To provide a litigation service that delivers optimum results for our client Departments and Offices

Examples of litigation services provided by the Office in 2019:

Judicial Review

I.X. v. The International Protection Office and the Minister for Justice and Equality

Important immigration case in which the Supreme Court upheld the use of independent contractors or panel members contracted to assist international protection officers in assessing international protection applications. There were approximately 150 cases tracking this action.

Friends of the Irish Environment v. Ireland and the Attorney General

The High Court rejected a challenge against the Government's climate National Mitigation Plan holding that the Plan was a policy instrument and was not justiciable and that no declaratory relief on the basis of an alleged constitutional "right to an environment consistent with human dignity" could be granted. This case is on appeal to the Supreme Court.

Criminal Justice and European Arrest Warrant

Fines (Payment and Recovery) Act 2014

Owens and Dooley v. DPP and Others was a judgment of the Supreme Court regarding the retrospective application of the Act. ***DPP v. Claudia Fogarty*** (Minister for Justice and Equality was joined as a notice party) concerned whether the DPP or other prosecutor needs to attend court in respect of proceedings under section 7 of the Act (recovery or enforcement of the fine) with the Court holding that attendance is not required.

Wayne Ellis v. The Minister for Justice and Equality, Ireland, and the Attorney General

The Supreme Court held that the mandatory minimum sentence provision at issue in firearms legislation was unconstitutional.

The Office dealt with a large volume of EAW applications before the courts during 2019 including significant legal points in cases such as ***Harrison*** (UK request relating to charges of people trafficking), ***Downey*** (UK request relating to charges of murder and relating to explosives), ***Bailey*** (French request relating to charge of murder) and ***Celmer*** (Polish request in which changes to the Polish judicial system were considered). The State intervened in a number of CJEU cases relating to the interpretation of the Framework Decision on the EAW.

Brexit continued to pose particular challenges in this area and much planning work was done to minimise any disruption which might flow from the UK leaving the EAW system in the event of a disorderly Brexit.

Data Retention

Dwyer v. Commissioner of An Garda Síochána and Others

The State's appeal from the judgment of the High Court was heard by the Supreme Court in December 2019. The plaintiff had challenged provisions of the Communications (Retention of Data) Act 2011 alleging that data gathered from his phone should not have been used at his trial in 2015 for murder. Judgment was reserved and delivered in February 2020 with a decision to make a reference to the CJEU.

The State continued to intervene in a number of cases before the CJEU concerning interpretation of data retention laws (*Privacy International* C-623/17, *La Quadrature du Net* C-511/18, *Ordre des Barreaux* C-520/18 and *HK* C-746/18).

Plenary / Judicial Review actions

Clarke and Others v. Ireland and the Attorney General

The plaintiffs were four pensioners representing approximately 500 interested persons who had suffered up to a 20% reduction in their pensions following the introduction of the Shannon Act 2014, which allowed for such deductions due in part to the fact that the Irish Airlines Superannuation Scheme was in deficit. The case concerned challenges to that Act as representing an unconstitutional attack on property rights and a breach of Directive 2003/41/EC. Judgment was reserved and is awaited.

Fitzpatrick and Daly v. An Bord Pleanála, Galway County Council and Apple Distribution International

The Supreme Court dismissed the appeal in the Apple data centre case holding that the obligation on An Bord Pleanála under the Environmental Impact Assessment Directive (Directive 2011/92/EU) was to assess the application before it and not the later phases of a master plan.

Maurice McCabe

Successful mediation of all High Court proceedings brought by Maurice McCabe against the State and State Agencies. Eleven sets of proceedings in all were settled.

Court of Justice of the European Union cases

Ireland v. European Commission

The challenge by Ireland to the decision of the European Commission that the State had granted state aid of €13 billion to technology company, Apple, was heard by the General Court in September 2019.

C-154/18 Horgan and Keegan v. Minister for Education and Skills

As part of Budget 2011 the Government applied a 10% reduction in pay to all new entrants to the public service. A group of teachers brought proceedings alleging indirect discrimination on grounds of age due to the fact that 70% of teachers recruited in 2011 were under 25 years of age. The CJEU assessed whether the measure was in breach of Directive 2009/78/EC and determined that the reduction in salary was applied based only on the date of recruitment as a new entrant. Given that this applied regardless of the person's age, there was no difference of treatment on the grounds of that person's age.

European Commission v. Ireland

Infringement proceedings brought against Ireland under Article 260(3) TFEU by the European Commission for Ireland's alleged failure to notify transposing measures for the Fourth Anti-Money Laundering Directive (Directive (EU) 2015/849). The hearing took place in December 2019.

Reporting on High Level Goal 3 in Statement of Strategy

3.1 Proactive Case Management – examples:

- The Planning and Environmental Law Forum was established in 2018 in response to a significant increase in the number of judicial review proceedings in the area of planning and environmental law. The Forum consists of representatives of the CSSO, the AGO and the four Departments principally affected by these challenges and allows for the sharing of knowledge and information on developing trends to ensure a cross-Government approach to case outcomes. In 2019 this area of work continued to grow in the Office and staff continue to up-skill in this area to meet the needs of Departments.
- Article 40 Stakeholders Group: *Habeas corpus* proceedings founded upon Article 40.4.2° of the Constitution enable a person detained to challenge the legality of their detention. Responding to increasing numbers of 'Article 40' challenges, a multi-disciplinary, multi-agency Article 40 Stakeholders' Group was established in 2018 to identify recurring trends in applications so as to improve procedures and reduce costs. The Office is a significant member of the Group which includes stakeholders such as the Minister for Justice and Equality, An Garda Síochána, the Irish Prison Service, the Minister for Children and Youth Affairs, the Courts Service and the DPP. Due to the continued cooperation, strategic case management and communication

between all the State parties involved in this Group, there was a further reduction in the number of Article 40 proceedings being initiated against State bodies in 2019. This reduction has helped reduce costs payable by the State. This Group continues to meet every quarter.

- Productive engagement with the High Court: Following the introduction in December 2018 of Practice Direction HC81 concerning immigration and asylum cases, various challenges were brought to provisions of the practice direction. During 2019 the practice direction resulted in a reduction by approximately one third of the number of judicial reviews taken. While the numbers may have reduced, the cases are becoming more complex.
- In July 2019, a team established to identify means of improving client relations delivered its report to the CSSO Management Board. This report, produced following extensive research and consultation within the Office and with the wider legal profession, recommended the creation of the role of client relations officer in each legal section of the CSSO and guidelines on engagement. The implementation of the report commenced in 2019, including by the appointment of client relations officers.

3.2 Leveraged experience and knowledge

- The CSSO ensured that the knowledge and experience gained during the conduct of cases was harnessed to inform strategy in similar cases. Through the use of its knowledge management systems, important advices were captured for future use. The outcome of significant cases and those of cross-sectoral interest were communicated to staff to ensure that this knowledge was brought to bear for the benefit of clients in the conduct of litigation.
- The CSSO identified recurring legal challenges to legislation with Departments and encouraged Departments to adopt a proactive approach to progressing legislative amendment to close off the risk of further legal challenge where appropriate.
- Through engagement with stakeholders, the CSSO strengthened procedures and processes through after-action reviews, feedback and advice to clients so as to reduce unnecessary procedural legal challenges to the business of Government.

High Level Goal 4: To provide a solution-driven legal service led by the CSSO that supports the delivery of our client Departments' transactional and business objectives

Examples of transactional services provided in 2019: CSSO State Property Division

Sales and Purchases

- Acquisition by the OPW of lands at Bray and Rosslare as part its Brexit strategy to provide the necessary infrastructure required for Brexit.
- Acquisition by the Department of Education and Skills of school sites in strategic locations throughout the State as part of its Schools Building Programme (including the Rapid Building Programme) to include large sites situate at Goatstown, Dublin and Moore Abbey, Monasterevin and intra-State transfers from other Departments.
- Acquisition by the Department of Culture, Heritage and the Gaeltacht of bog lands as part of its conservation mandate to protect rare and threatened natural habitats.
- Acquisition by the National Parks and Wildlife Service of lands throughout the State to include the purchase of lands at Curraghmore Estates, County Wicklow for the purpose of extending the Wicklow Mountains National Park and purchase of lands at Tomies, Beaufort, County Kerry necessary for the expansion of Killarney National Park.

Leases and Licences

- Advising the OPW Brexit Unit on various leases and licences to meet land and infrastructure requirements for Brexit preparedness.
- Acquisitions by the OPW of leasehold and licence interests to meet ongoing requirements for a variety of lettable space for the accommodation of Departments and Offices.
- Provision of specialist maritime advice in respect of the State's management of the designated Fishery Harbour Centres and the administration of the foreshore.

State Securities

- Preparation and registration of charges to secure grants to bodies benefitting under the Government's Capital Funding Programmes for sports, arts and cultural projects.
- Provision of specialist advice and legal services in respect of property devolved to the State pursuant to the State Property Act 1954 and the Succession Act 1965.
- Provision of specialist advice to the Property Registration Authority ("the PRA") regarding registration of title.
- Representation of the PRA in litigation arising out of registration of title matters.

Examples of transactional services provided in 2019: CSSO Commercial Contracts Section

Advice on Public Procurement Transactions and Commercial Law

- Establishment of a Framework for Capital Works Projects relating to the design and construction of primary and secondary schools throughout the State.
- Legal support provided in the procurement of various IT Solutions for the State such as the Storage Area Network Solution.
- Advice on procuring services to facilitate the processing of social protection payments to citizens.
- Advice provided to Departments on the contractual implications of a disorderly Brexit.
- Advice on a Framework Agreement for Robotic Process Automation Software.

Reporting on High Level Goal 4 in Statement of Strategy

4.1 *Effective communication and collaboration with client Departments and Offices to ensure the delivery of best results*

- In providing a transactional legal service to client Departments and Offices, the CSSO ensured effective communication and collaboration and, in particular:
 - both the State Property Division and the Commercial Contracts Section appointed staff as designated client relationship officers to enhance management and facilitation of client relationships, prioritisation of work and collaboration with colleagues on a global view of client matters across the CSSO;
 - the CSSO engaged regularly with key clients to review ongoing matters and to strategically plan for upcoming projects and met regularly with instructing officials and seconded Advisory Counsel, as required, in client Departments throughout the year.

4.2 *Delivery of a high quality service*

- The CSSO ensured the delivery of a high quality service to client Departments and Offices, and in particular:
 - assisted clients in the development of practical solutions to meet their business challenges, for example:
 - the Commercial Contracts Section delivered tailored training programmes for Office of Government Procurement (“OGP”) staff and other client Departments on compliance with public procurement law and the EU General Data Protection Regulation 2016/679;

- the State Property Division assisted in the acquisition of key sites of strategic and national importance and in the negotiation of leases and licences to expand or replenish the State's office accommodation portfolio;
- engaged in an active knowledge management programme to deepen existing specialisms and ensure that all staff are up to date on latest developments;
- ensured the application of appropriate expertise to cross-cutting services and appropriate management of contentious transactions, for example:
 - the State Property Division actively collaborated with colleagues in CSSO litigation sections, Advisory Counsel and external counsel in litigation matters on behalf of the PRA and others;
 - the Commercial Contracts Section worked closely with the CSSO Judicial Review and Commercial and Constitutional Sections on public procurement cases;
- promoted consistency and streamlining in all transactions in order to drive efficiency in the delivery of services and advised on the development of public policy, for example:
 - the State Securities Section of the State Property Division designed and presented bespoke training to client Departments to enhance the delivery of Capital Funding Programmes for sports, arts and culture;
 - the Commercial Contracts Section advised the OGP on its operating model to ensure that public bodies optimise the procurement of goods and services under State Frameworks;
 - the Commercial Contracts Section provided guidance on the OGP's procurement of goods and services by way of Dynamic Purchasing Systems.

High Level Goal 5: To support the development of high levels of expertise, competence, up to date knowledge of the law and effective communication skills, within a knowledge based environment

Reporting on High Level Goal 5 in Statement of Strategy

5.1 *Ensuring that knowledge management remains at the heart of what we do by implementing the AGO knowledge management strategy*

- The AGO continued working towards full implementation of action points identified in its Knowledge Management Strategy including the development of an after action review process.
- A wide-ranging programme of legal issues meetings continued to be presented by staff members to colleagues during 2019.
- The AGO legal blog continued to serve as a legal knowledge management tool for the AGO, through the contribution of posts on a wide range of legal topics by AGO staff (including seconded Advisory Counsel) with the support of the AGO Legal Blog Committee.
- The AGO continued to enhance the capture, sharing and accessibility of legal and organisational know-how through ongoing promotion of the legal know-how database.
- The AGO continued to monitor trends and developments in knowledge management including participation in a number of Knowledge Management networks and engaged in networking within the wider knowledge management (“KM”) community.

5.2 *Ensuring that knowledge management remains at the heart of what we do by implementing the CSSO knowledge management strategy*

- The CSSO Knowledge and Information Service implemented an upgrade of its LegalSearch federated search system and continued to develop the content and functionality of CSSOLegal, its legal information and knowledge portal.
- CSSO staff also participated in and attended legal training sessions delivered by internal speakers. The purpose of these training sessions was to give colleagues the opportunity to share their expertise on a wide variety of legal issues in an informed and collegiate atmosphere.
- CSSO’s Knowledge, Learning and Development Committee met on a monthly basis to consider KM support needed across the CSSO. Two specialist Legal Researchers were recruited to the CSSO to bolster capacity on priority KM projects and provide a valuable additional resource to legal officers.

5.3 Continuing to focus on the training, learning and development of all our staff in order to maximise performance and potential and meet ongoing and anticipated needs

- In 2019, work continued to implement the various points of action outlined in the AGO strategy for Learning and Development for 2017-2021. The AGO also regularly reviewed its training needs and continued to implement a system of regular feedback for all internal and external training.
- In the CSSO, legal and administrative staff participated in training, development and staff engagement planning which had the benefit of being customised and cost-effective. To complement the legal training and development provided, the CSSO organised a suite of wellbeing programmes throughout 2019 to focus on the holistic development of staff.
- A number of specialised Committees organised the delivery, by internal and external experts, of lectures, seminars and presentations on a range of legal and non-legal topics to staff in the AGO and CSSO.
- The AGO and CSSO continued to engage with OneLearning, the Civil Service Learning and Development Centre.
- The CSSO held Away Days for staff in 2019 for continuing professional development. Both internal and external speakers gave presentations on a wide variety of topics.

High Level Goal 6: Provision of modern and professional legal practice, corporate and business management services that support the Office in its delivery of the highest quality of service

Reporting on High Level Goal 6 in Statement of Strategy

6.1 *The Office will take steps to learn from other providers of legal services so as to ensure better service and thus better outcomes for Government*

- **Processes and Systems:** The AGO and CSSO continued to keep abreast of developments in private legal firms and in particular the support systems employed for the delivery of high quality legal services to clients. This included keeping informed of advancements in information and communications technologies in a law office environment, participating in a Knowledge Management Network and seeking to implement current best practice in the Office. During 2019, the AGO and CSSO continued to engage with counterpart offices in other jurisdictions with a view to discussing and sharing comparative practices and systems used in the delivery of legal services in a public sector environment.
- **Human Resources:** The AGO and the CSSO kept their budget for staffing under review whilst agreeing their 2019 estimates with the Department of Public Expenditure and Reform. By closely liaising with the Public Appointments Service and contributing resources to the running of recruitment competitions, both Offices worked to ensure that the most suitable staff were recruited to fill vacancies arising throughout 2019.

6.2 *The Office will maintain support structures and functions to allow it to meet the goals set out above*

- **Workforce planning:** The AGO and the CSSO continued to keep their staffing needs under constant review during 2019 and undertook workforce planning to ensure that staffing needs were anticipated having regard to secondments to Departments, the need for specialist support and administrative roles, conclusion of contracts and retirements etc., in addition to meeting the requirements of clients in new areas. New workforce plans were submitted to the Department of Public Expenditure and Reform during the year to ensure that both Offices could seek to anticipate staffing requirements.
- **CSSO Skills Register:** In 2019 the CSSO launched a Skills Register on a pilot project basis to assist in skills-matching and identification of training needs, and to support evidence-based workforce planning.
- **Corporate management:** In preparing any requests for additional staffing, the AGO and CSSO were mindful of their 2019 budgetary allocation and the need to remain within budgetary constraints. During 2019, financial briefings were provided by the Finance Officers at monthly

management meetings. These briefings provided detailed profiles of expenditure across all subheads. In addition, Partnership meetings took place in both Offices.

- **Preparation for migration to Financial Shared Services:** Across the public service, Departments and Offices are preparing for the full implementation of Financial Shared Services. This continued during 2019 with representatives of the AGO and CSSO attending a number of meetings and workshops to prepare for this migration.
- **Electronic Irish Statute Book (“eISB”):** The Office’s eISB Group oversees the ongoing production, management and updating of the eISB and made a significant contribution in 2019 to the e-Government agenda. The eISB is an online repository of primary and secondary legislation that is regularly updated and freely available to the public through the website www.irishstatutebook.ie. The Legislation Directory continued to be updated (from 1922 to 2019 for Acts and from 1962 to 2019 for statutory instruments) and published on the eISB, enabling users to identify whether a particular statutory provision was amended or otherwise affected since it was enacted or made.

The full text of the Constitution with links to amending Acts is also published on the eISB. The eISB continued to provide a direct link from Acts to Revised Acts (unofficial administrative consolidations compiled by the Law Reform Commission) where available. In 2019 a direct link from an Act to the relevant Bill located on the Houses of the Oireachtas website was also added. In line with open data principles, the eISB continued to make primary legislation data available in XML format.

- **European Legislation Identifier (“ELI”):** In 2019 the Office continued to implement the ELI through the eISB. The ELI requires EU Member States to use standardised online identification of legislation and metadata properties describing each legal resource, so as to enable an effective, user-friendly and faster search and exchange of legal information.
- **Case and Records Management:** The Registry Units in the AGO and CSSO continued to execute their core activities in 2019 including records management, file maintenance and matter inception/case creation. New staff received training in disaster recovery, a major element of the Office’s Risk Management Policy. Other key activities included the preparation and transfer of files to the National Archives in accordance with relevant legislation and the transfer of dormant files to offsite storage to ensure adequate storage provision for current files. The CSSO appointed a Records Manager in 2019 and initiated a procedural and policy review in relation to Registry operations and Records Management processes within the office. CSSO Registry services and procedures have been updated and adapted to meet changing operational needs.

6.3 The Office will continue to create a culture of professionalism and performance to embed high standards of performance

- **Risk Management:** During 2019 the AGO-CSSO Risk Management Committee worked with staff to raise awareness of risk and to review and update the risk registers. Risk assurance statements were sought biannually from relevant risk owners and a new Risk Management Committee Plan was agreed for 2020.
- **Performance Management and Development System (“PMDS”):** In 2019 staff in the Office continued to participate in PMDS with a compliance rate of 83% recorded for the AGO and 79% recorded for the CSSO.
- **Civil Service Renewal and Reform:** During 2019 the AGO and CSSO continued to implement or assist in the implementation of initiatives under the Civil Service Reform Programme. Some of the actions of note during 2019 included:
 - The continued embedding of the HR Shared Service and the preparation for the move to Financial Shared Services.
 - Entry competitions to both Offices open to all individuals with the required qualifications.
 - Continuation of the Principal Officer Leadership Programme to develop future leaders.
 - Continued use of the LEADS performance management system for Assistant Secretaries General and above.
 - Continued development and participation in the mobility scheme for staff which launched in early 2019 for certain grades.
 - An AGO staff focus day was held early in 2019 on the theme of culture and values in the AGO and a number of other initiatives were implemented as follow-up to the 2017 Civil Service Employee Engagement Survey.
 - In the CSSO, two Town Hall meetings with staff were held in May 2019 which communicated the results and analysis of staff engagement focus groups and an in-house survey conducted in December 2018. A follow-up Action Plan was agreed by the Management Board and senior managers at Assistant Secretary level were tasked with implementation of the actions falling within their area of responsibility. In September and December 2019, in addition to four further focus groups held with staff (including sessions for new entrants and longer serving staff), a further in-house staff survey was conducted and the CSSO’s Innovation Team held an Annual Ideas Forum.
- **Training and Development:** The AGO Learning and Development Committee continued to progress points of action as set out in the Learning and Development Strategy for the AGO. Legal and administrative staff in the CSSO participated in the work of the CSSO Training and

Development Committee to ensure compliance with the CSSO Training and Development Strategy. In addition, both Offices continued to focus on wellness programmes for their staff.

- **Irish Law Awards 2019:** The CSSO took part in the Irish Law Awards which is an annual event designed to recognise excellence in the legal profession in Ireland, commending the achievement of lawyers. The Judicial Review Section, Commercial and Constitutional Section (Family Law Team) and Criminal Assets Sections were all finalists in their categories.

6.4 The Office will plan for increased specialist legal needs in the Office and how best to resource the priority legal needs of Government

- **Staff Secondment to Departments and European institutions:** Secondment opportunities are viewed as a key strategy in retaining expert staff and further building legal expertise. During 2019 staff from the AGO and CSSO continued to be seconded to Departments, Offices, European institutions and other organisations and to assist in public inquiries.
- **Increased specialist legal needs:** During the year, the Office continued to recruit, train and upskill staff to meet the increased specialist legal needs in the Office and the priority legal needs of Government.

Part 3: Annexes

Annex A

Government Bills published in 2019

Bill to amend the Constitution

- Thirty-ninth Amendment of the Constitution (Presidential Elections) Bill 2019

Public General Bills

- Appropriation Bill 2019
- Blasphemy (Abolition of Offences and Related Matters) Bill 2019
- Broadcasting (Amendment) Bill 2019
- CervicalCheck Tribunal Bill 2019
- Child Care (Amendment) Bill 2019
- Citizens' Assemblies Bill 2019
- Civil Registration Bill 2019
- Companies (Amendment) Bill 2019
- Courts (Establishment and Constitution) (Amendment) Bill 2019
- Credit Union Restructuring Board (Dissolution) Bill 2019
- Criminal Justice (International Co-operation) Bill 2019
- Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Bill 2019
- Criminal Records (Exchange of Information) Bill 2019
- Defence Forces (Evidence) Bill 2019
- Education (Student and Parent Charter) Bill 2019
- European Parliament Elections (Amendment) Bill 2019
- Family Law Bill 2019
- Finance (Tax Appeals and Prospectus Regulation) Bill 2019
- Finance Bill 2019
- Gaming and Lotteries (Amendment) Bill 2019
- Gender Pay Gap Information Bill 2019
- Health and Childcare Support (Miscellaneous Provisions) Bill 2019
- Health Insurance (Amendment) Bill 2019
- Housing (Regulation of Approved Housing Bodies) Bill 2019
- Industrial Development (Amendment) Bill 2019
- Investment Limited Partnerships (Amendment) Bill 2019
- Land and Conveyancing Law Reform (Amendment) Bill 2019
- Microbeads (Prohibition) Bill 2019

- Migration of Participating Securities Bill 2019
- Official Languages (Amendment) Bill 2019
- Parent's Leave and Benefit Bill 2019
- Patient Safety (Notifiable Patient Safety Incidents) Bill 2019
- Prohibition of Nuclear Weapons Bill 2019
- Redress for Women Resident in Certain Institutions (Amendment) Bill 2019
- Regulated Professions (Health and Social Care) (Amendment) Bill 2019
- Retention of Records Bill 2019
- Social Welfare Bill 2019
- Social Welfare (No.2) Bill 2019
- Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019

Annex B

Government Bills enacted in 2019

- Aircraft Noise (Dublin Airport) Regulation Act 2019
- Appropriation Act 2019
- Blasphemy (Abolition of Offences and Related Matters) Act 2019
- CervicalCheck Tribunal Act 2019
- Citizens' Assemblies Act 2019
- Civil Registration Act 2019
- Companies (Amendment) Act 2019
- Consumer Protection (Gift Vouchers) Act 2019
- Copyright and Other Intellectual Property Law Provisions Act 2019
- Coroners (Amendment) Act 2019
- Courts Act 2019
- Criminal Justice (International Co-Operation) Act 2019
- Criminal Justice (Mutual Recognition of Probation Judgments and Decisions) Act 2019
- Criminal Law (Extraterritorial Jurisdiction) Act 2019
- Criminal Law (Sexual Offences) (Amendment) Act 2019
- Criminal Records (Exchange of Information) Act 2019
- Data Sharing and Governance Act 2019
- European Parliament Elections (Amendment) Act 2019
- Family Law Act 2019
- Finance (Tax Appeals and Prospectus Regulation) Act 2019
- Finance Act 2019
- Gaming and Lotteries (Amendment) Act 2019
- Greyhound Racing Act 2019
- Hallmarking (Amendment) Act 2019
- Health and Childcare Support (Miscellaneous Provisions) Act 2019
- Health and Social Care Professionals (Amendment) Act 2019
- Health Insurance (Amendment) Act 2019
- Health Service Executive (Governance) Act 2019
- Housing (Regulation of Approved Housing Bodies) Act 2019
- Industrial Development (Amendment) Act 2019
- Industrial Relations (Amendment) Act 2019

- Judicial Council Act 2019
- Land and Conveyancing Law Reform (Amendment) Act 2019
- Local Government Act 2019
- Local Government Rates and other Matters Act 2019
- Microbeads (Prohibition) Act 2019
- Migration of Participating Securities Act 2019
- National Surplus (Reserve Fund for Exceptional Contingencies) Act 2019
- Parent's Leave and Benefit Act 2019
- Personal Injuries Assessment Board (Amendment) Act 2019
- Prohibition of Nuclear Weapons Act 2019
- Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2019
- Redress for Women Resident in Certain Institutions (Amendment) Act 2019
- Residential Tenancies (Amendment) Act 2019
- Sea-Fisheries (Amendment) Act 2019
- Social Welfare Act 2019
- Social Welfare (No. 2) Act 2019
- Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019

Annex C

Private Members' Bills enacted in 2019

Act amending the Constitution

- Thirty-eighth Amendment of the Constitution (Dissolution of Marriage) Act 2019

Public General Acts

- Civil Law (Presumption of Death) Act 2019
- Consumer Insurance Contracts Act 2019
- Landlord and Tenant (Ground Rents) (Amendment) Act 2019
- Parental Leave (Amendment) Act 2019
- Parole Act 2019

Annex D

Estimates and Provisional Outturns Vote 3: Office of the Attorney General, Merrion Street Office Provisional Outturn 2019 and Estimate for 2019 and 2020

Estimate and Provisional Outturn for 2019 and Estimate of the amount required in the year ending 31 December 2020 for the salaries and expenses of the Office of the Attorney General including a grant.

	Service	Estimate Provision	Provisional Outturn	Estimate Provision
		2019	2019	2020
		€000	€000	€000
	Administration			
A1	Salaries, Wages and Allowances	11,894	10,971	12,107
A2 (i)	Travel and Subsistence	210	271	310
A2 (ii)	Training & Development & Incidental Expenses	640	646	640
A2 (iii)	Postal & Telecommunication Services	63	68	63
A2 (iv)	Office Equipment & External IT Services	590	705	665
A2 (v)	Office Premises Expenses	160	82	160
A2 (vi)	Consultancy Services & Value For Money Reviews	43	5	43
A2 (vii)	Contract Legal Expertise	280	180	280
	Subtotal	13,880	12,928	14,268
	Other Services			
A3	Contributions to International Organisations	39	44	45
A4	Law Reform Commission (Grant in Aid)	2,295	2,073	2,439
A5	General Law Expenses	139	108	133
	Gross Total	16,353	15,153	16,885
	Deduct			
B	Appropriations In Aid	(761)	(580)	(705)
	Net Total	15,592	14,573	16,180

Vote 6: Office of the Chief State Solicitor

Provisional Outturn for 2019 and Estimate for 2019 and 2020

Estimate and Provisional Outturn for 2019 and Estimate of the amount required in the year ending 31 December 2020 for the salaries and expenses of the Office of the Chief State Solicitor.

	Service	Estimate Provision	Provisional Outturn	Estimate Provision
		2019	2019	2020
		€000	€000	€000
	Administration			
A1	Salaries, Wages and Allowances	18,113	17,735	19,233
A2(ii)	Travel and Subsistence	70	101	90
A2(iii)	Training and Development and Incidental Expenses	983	974	1,038
A2(iv)	Postal and Telecommunications Services	330	284	310
A2(v)	Office Machinery and Other Office Supplies and Related Services	750	784	750
A2(vi)	Office Premises Expenses	275	166	250
A2(vii)	Consultancy Services and Value for Money and Policy Reviews	50	60	100
	Subtotal	20,571	20,104	21,771
	Other Services			
A3	External Legal Services	200	156	220
A4	Fees To Counsel*	18,500	19,237	15,000
A5	General Law Expenses	1,300	940	1,200
	Gross Total	40,571	40,437	38,191
	Deduct			
B	Appropriations-in-Aid	955	988	810
	Net Total	39,616	39,449	37,381

* Includes €5.0m Supplementary Estimate in December 2019.

Annex E

Statements and Reports in respect of payment practices

Office of the Attorney General, Merrion Street Office

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

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 2019 **Office of the Attorney General, Merrion Street Office**

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 €2,000,853.47 in 2019 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 agreement, the prompt payment deadline of 30 days applies to all payments.
- All invoices received are forwarded directly to the Finance and Accounts Section where they are date stamped. This date is the date from which the prescribed payment period is calculated.
- Staff in the Finance and Accounts Section 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 and Accounts Section 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 and Accounts Section and a written record of the procedures applied is recorded.
- The staff in the Finance and Accounts Section 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 the Finance and Accounts Section in accordance with the Act and with the Regulations.

Report on Payment Practices for 2019 Chief State Solicitor's Office

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

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 2019

Total Value of all Payments	€3,419,266.81
Total Value of all late payments (under €320 inclusive)	€6,185.01
Total Value of all late payments (over €320)	€37,435.33
Value of late payments as % of total payments	1.28%
Number of late payments in excess of €320	21
Amount of Interest paid	€3,737.47
Amount of interest as % of total payments	0.10%
Broad indication of Length of Delays	38 days

Annex F

Staff Breakdown

At the end of 2019 an overview of the staff breakdown and gender composition of the Office, showing the numbers in the grade and the percentage of the grade that it represents is as follows:

	Male	Female
Secretary General¹	1 (33%)	2 (67%)
Deputy Director General	0 (0%)	0 (0%)
Assistant Secretary	5 (36%)	9 (64%)
Principal Officer	19.8 (34%)	38.75 (66%)
Assistant Principal	62 (35%)	115.01 (65%)
Higher Executive Officer	14.8 (52%)	13.4 (48%)
Administrative Officer	1 (50%)	1 (50%)
Executive Officer	14 (32%)	29.55 (68%)
Staff Officer	3.8 (50%)	3.8 (50%)
Clerical Officer	22 (27%)	60.2 (73%)
Temporary Clerical Officer	0 (0%)	2 (100%)
Services Officer	4 (100%)	0 (0%)

¹Excluding a former Chief Parliamentary Counsel who is still serving in the Office.

Annex G**Freedom of Information Statistics****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
2012	7	4	3	0	3	0
2013	5	2	3	0	2	0
2014	7	1	6	0	4	0
2015	19	4	15	0	5	0
2016	6	1	5	0	3	0
2017	15	5	10	0	2	2
2018	6	1	5	0	1	0
2019	19	5	14	0	2	0
Total	265	61	204	0	51	20

Office of the Attorney General	Requests Refused	Requests refused under section 46 (1) (b) of the 1997 Act and Section 42 (f) of the 2014 Act (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
2012	3	3	0	1	0	1	1	3	€45
2013	3	3	0	0	0	0	0	3	€45
2014	3	3	0	0	0	0	0	0	Nil
2015	8	8	0	0	0	0	0	0	Nil
2016	2	0	0	1	0	0	0	0	Nil
2017	11	11	0	0	1	1	1	0	Nil
2018	5	5	0	0	0	0	0	0	Nil
2019	16	15	1	0	0	0	0	0	Nil
Total	179	162	3	6	n/a	24	7	37	€550

Statistics for 2019

Office of the Attorney General	Applications Received	Journalists	Business	Oireachtas	Staff	Others
01/01/19 to 31/12/19	19	3	0	0	0	16

Statistics from 21 April 1998 to 31 December 2019

Office of the Attorney General	Applications Received	Journalists	Business	Oireachtas	Staff	Others
21/04/98 to 31/12/19	265	82	39	3	6	135

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
2012	6	0	6	0	1	0
2013	3	2	1	0	2	0
2014	6	1	5	0	1	0
2015	3	1	2	0	1	0
2016	3	2	1	0	2	0
2017	3	2	1	0	0	0
2018	2	0	2	0	0	0
2019	7	0	7	0	1	0
Total	141	63	78	0	54	6

Chief State Solicitor's Office	Requests Refused	Requests refused under section 46 (1) (b) of the 1997 Act or Section 42(f) of the 2014 Act (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	€45
2012	4	4	0	0	1	1	0	4	€60
2013	0	0	1	0	0	0	0	0	Nil
2014	4	4	1	0	0	0	1	0	Nil
2015	3	2	0	0	0	0	0	0	Nil
2016	1	0	0	0	0	0	0	0	Nil
2017	3	0	0	0	0	0	0	0	Nil
2018	2	0	0	0	0	0	0	0	Nil
2019	6	6	0	0	0	0	0	0	€30
Total	61	48	10	7	n/a	12	6	15	€255

Statistics for 2019 Chief State Solicitor's Office

Chief State Solicitor's Office	Applications Received	Journalists	Business	Oireachtas	Staff	Others
01/01/19 to 31/12/19	7	0	1	0	1	5

Statistics from 21 April 1998 to 31 December 2019

Chief State Solicitor's Office	Applications Received	Journalists	Business	Oireachtas	Staff	Others
21/04/98 to 31/12/19	141	20	6	0	45	70

Annex H

Energy Usage

Overview of Energy Usage by the Office of the Attorney General in 2019

In relation to energy usage in the Merrion Street Office, most of the energy consumption in the building is for space heating, air conditioning and hot water. Lighting, office equipment and catering equipment account for the vast majority of the remaining office energy consumption. In 2019, the AGO consumed:

- 357 MWh of electricity,
- 342 MWh gross of natural gas fuels,
- 33 tonnes of wood pellets of renewable fuels (wood chips).

Actions Undertaken in 2019

In 2019 the AGO undertook a number of initiatives to improve its energy performance.

These included fitting LED lights in bathroom areas, corridors and conference rooms. The lighting in bathrooms was changed to operate on sensors. The AGO also developed its relationship with the Optimising Power at Work team who undertook energy audits and ongoing tracking of figures.

Actions planned for 2020:

- Ongoing replacement of lights in all rooms with LEDs as they need replacing.
- Continue to identify areas which will lead to further reductions in energy consumption.
- Develop staff engagement programme on energy awareness with events such as surveys, energy days etc.

Overview of Energy Usage by the CSSO in 2019

The CSSO consumes energy at two office buildings at Osmond House, Ship Street Little and at 3 Chancery Lane. In 2019 the CSSO consumed 1081.478 MWh of energy consisting of:

- 522.947 MWh of electricity
- 558.531 MWh of fossil fuel (Gas)

Actions undertaken in 2019

- In 2019 the CSSO continued its ongoing programme in relation to raising awareness among staff in order to effect reductions in energy usage where possible.
- The CSSO reported data via the online SEAI Monitoring and Reporting system. The required data was submitted by the target deadlines.
- The CSSO had continued engagement with the Public Sector Mentoring Programme.
- The project to upgrade lighting in Osmond House to LED lamps was completed.

Actions planned for 2020

- To continue with a programme of raising awareness of staff regarding energy consumption and areas where efficiencies can be realised.
- Examine and where practical implement initiatives that will lead to further reductions in Energy consumption.