

# Office of the Attorney General

## Annual Report 2020



Incorporating the First Progress Report on Implementation of  
Statement of Strategy 2020-2023

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## Foreword from the Attorney General

I welcome the publication of the 2020 Annual Report for the Office of the Attorney General (which includes the Chief State Solicitor's Office) which demonstrates the extensive range and scale of work undertaken by the Office during what was an exceptionally challenging year.

The work of the Office during 2020 was dominated by the Government's response to the Covid-19 pandemic and ongoing work related to Brexit, both of which required significant legal input from the Office in terms of legal advice, an immense body of enabling legislation and the provision of litigation services. This work was in addition to a range of other matters which required legal input of an advisory, drafting and/or litigation nature.

I would like to express my gratitude to all staff in the Attorney General's Office and the Chief State Solicitor's Office for quickly adapting to the working environment fashioned by the pandemic and for their commitment and support throughout the year.

2020 also marked the start of my second term as Attorney General and it is clear that, in the interim, there has been an enormous development in very significant areas of law which affect the Government including, in particular, EU Law. If the Office is to provide to Governments the standard of service which is required to meet the challenges facing this and future Governments in the radically changed legal environment that now exists and avoid the need to curtail services, significant additional investment in the Office is required. A particular impediment to service provision is the difficulty faced by the CSSO in recruiting legal staff due to the entry-level rates of pay. There is no doubt that addressing the resource deficit in the Office will ultimately lead to significant savings for the State.

Paul Gallagher SC  
Attorney General

## Introduction by the Director General

Attorney General,

I am pleased to introduce the 2020 Annual Report of the Office of the Attorney General (including the Chief State Solicitor's Office) which details the diverse range and volume of work carried out across the Office during the year.

The Office produced a new Statement of Strategy (2020-2023) following client and staff engagement processes which informed the set of overarching strategic goals and key objectives which will guide the focus of the Office over the period of the Strategy. 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 Statement of Strategy.

The service provided by the Office covers all aspects of Government business and policy and many of these areas are continually evolving. In 2020 the Office dealt with a very significant demand for legal services from our clients across a broad range of subject areas. Obviously the challenges arising for the country from the Covid-19 pandemic were an exceptional draw on the resources of the Office and legal services also continued to be required in relation to Brexit.

There also continued to be a high level of demand for legal services outside these streams. For example, advices related to housing matters, policing, State property and State procurement. In 2020, Ireland intervened before the Court of Justice in a number of preliminary references from other EU Member States concerning the interpretation and applicability of EU law in a number of areas.

The Office had to adapt to a new working model as a result of the pandemic and rose to meet the challenges in a timely, and very often urgent, manner, continuing to deliver legal advisory, litigation and legislative drafting services to our clients.

The Office continued to second legal staff to posts domestically and abroad throughout 2020 under its secondment programmes in which 44 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 Bills. During the year, 35 Government Bills were published and 31 Government Bills were enacted. The OPC also drafted 366 of the Statutory Instruments that were made in 2020, 54 of which related to the transposition of European Union measures.

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

I would like to express my deep appreciation to all of the staff in the Merrion Street Office and the Chief State Solicitor's Office for their exceptional dedication and hard work during the year to meet the very significant demands placed on them and, at the same time, adjusting very quickly to an evolving working environment.

Damien Moloney

Director General

Part 1  
The Office

## Introduction

The Attorney General is the legal adviser to Government, as provided for in Article 30 of the Constitution. The present Attorney General is Paul Gallagher SC and he was appointed in June 2020. 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, its Departments and Offices as economically and efficiently as possible and to support adherence to the rule of law. Our vision is to inspire excellence in our people, be at the forefront of legal developments and deliver an unrivalled service to our clients.

However the ability of the Office to deliver the requisite service to this and future Governments is very significantly impaired by the resources available to it. In order to provide the Government of the day with the standard of service required to meet the challenges brought about by the radically changed legal environment that now exists, significant additional investment in the Office is required. Apart from staffing levels, the CSSO experienced significant difficulty in recruiting legal staff due to the low entry-level rates of pay which will need to be addressed to enable the continued provision of services. Furthermore, as noted by the Criminal Assets Bureau in its 2020 Annual Report, there was a significant increase in their demands on the services of the CSSO, brought about by increased output of the Bureau's activities. This phenomenon was repeated across a number of Departments reflecting the fact that the CSSO and AGO provide demand-driven legal services.

Addressing these issues will help equip the Office to provide the required level of service and avoid service curtailment. It will also, ultimately, save the State many multiples of the cost.

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 approximately 300 members of staff including circa 160 solicitors and 30 legal executive officers 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 many aspects of State employment law such as appointment, discipline and pensions.

The Office 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
- 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 (Parliamentary Counsel) to reflect Government policy 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 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 18 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 is the principal provider of Solicitor Services to the Attorney General and Government. The CSSO provides a broad range of legal services to the Attorney General and to Departments and Offices, across the following 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 which are further broken down into 17 legal sections and units.

A full solicitor advisory, litigation and transactional legal service is provided across a broad range of areas including the following:

- constitutional, civil and commercial litigation concerning Government Departments, Offices and An Garda Síochána
- judicial review (both general and immigration and asylum-related)
- environmental and procurement litigation
- representing the State before the Court of Justice, General Court and European Free Trade Association Court
- extradition, European Arrest Warrant and Mutual Assistance litigation
- employment litigation
- inquests and Ministerial Prosecutions
- recovery of fraudulent or criminally acquired monies
- tortious claims
- habeas corpus applications
- representing clients in conciliations and arbitrations and before Tribunals of Inquiry and Commissions of Investigation
- a transactional conveyancing service for Government Departments and the OPW
- commercial leasing and licensing and landlord and tenant matters
- security over property to protect State capital investments
- devolution of real and personal property to the State under the State Property Act 1954 and the Succession Act 1965
- full transactional public procurement and commercial law services to the Office of Government Procurement and Government Departments

## Seconded Lawyers

Advisory Counsel can be seconded as in-house Legal Advisers to Government Departments. At the end of 2020 there were 32 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. Seconded Advisory Counsel are involved in all major legal issues within Departments and provide legal advice directly to Departments. They act as a link between the Department and the Office of the Attorney General.

In 2020, eight CSSO solicitors were seconded to the European Commission, the Department of Education, to Commissions of Investigation and the Disclosures Tribunal of Inquiry.

## 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](http://www.attorneygeneral.ie) and [www.csso.ie](http://www.csso.ie).

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

## Part 2

### Achievement of Strategic Goals in Statement of Strategy\*

2020 was a year of significant challenges. An ambitious Programme for Government was agreed against the backdrop of unparalleled social and economic change arising from the Covid-19 pandemic and the ongoing challenges posed by the withdrawal of the United Kingdom from the European Union.

The Office had to significantly adapt in order to facilitate remote working and develop new ways in which to deliver its services in the midst of the Covid-19 pandemic. Notwithstanding these radical changes, the Office remained available to assist the Government in implementing its strategic priorities as effectively and efficiently as possible.

#### **Covid-19**

The Covid-19 pandemic and the Government's response to it will continue to raise a myriad of new legal issues and is likely to require a significant and sustained response, both in terms of legislation preparation and consequential litigation.

In addition to the challenge of managing this new work stream, remote working will continue to present ongoing challenges in how the Office engages both internally and externally in the provision of its services. Integrating and training new staff and maintaining files are aspects of remote working which present a particular challenge for the Office.

#### **Brexit**

While significant work was undertaken across Government to prepare for the immediate impacts of the withdrawal of the United Kingdom from the EU, the full effects of Brexit remain uncertain and are likely to be felt for many years to come. Among the potential challenges which will arise for the Office is an increased demand for legal advice and new legislation in connection with the common travel area and our new relationship with the United Kingdom.

#### **European Union**

The volume of legislation emanating from the EU is an ongoing challenge for Government and this Office alike. There is likely to be a need for greater resources to be channelled into the State's engagement at EU level having regard in particular to the United Kingdom's withdrawal from the EU. It will be a challenge for the Office to continue to effectively support Government and client Departments in connection with the development of legislation at European level and intervention in matters before the European courts.

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\* As set out in [Statement of Strategy 2020-2023](#)

## Strategic Goal 1: Serve our clients

To deliver a specialist legal service that meets our clients' needs

### Reporting on Strategic Goal 1 in Statement of Strategy

#### Deliver a specialist legal advisory service that meets our clients' needs

In response to the Covid-19 pandemic the continued provision of legal advisory services was achieved through a rapid move to remote working by Advisory Counsel and adjusting our systems and processes for that new environment. This enabled advice on the legislative response to Covid to be provided urgently to clients on matters as diverse as the necessary restrictions in the interests of public health, the financial support measures and the new statutory provisions for remote hearings by courts and other decision making bodies in the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020. Advice was provided on varied and complex legal issues raised by Covid and Brexit to all Government Departments and certain specific examples are outlined below.

In 2020 the Advisory Section within CSSO continued providing a legal service to clients before the Disclosures Tribunal, 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).

Examples of legal services provided by the Office in 2020:

#### **The Covid-19 pandemic**

The State was presented with very challenging circumstances as a consequence of the world-wide pandemic. Societal activities were brought to a halt and many sections of the economy were shut down. In turn, that created significant challenges for the Government and necessitated analysis of rapidly evolving legal issues and many legislative measures, frequently on an urgent basis, in order to provide the legal basis for the constraints imposed on society and to address the consequences for the economy of these measures wrought by the impact of the pandemic across all sectors of society and commercial activity. Extensive legal advices were provided to many Government Departments – most notably the Department of Health – in connection with the suite of legal measures, comprising both primary and secondary legislation, required to underpin the State's response

to the Covid-19 pandemic including measures introduced to protect residential tenancies as part of the ongoing response to the pandemic. Data protection issues requiring often urgent advices also arose in the context of many aspects of the Covid pandemic including advices on the delivery of public services remotely, contact tracing, passenger locator forms and mandatory hotel quarantine.

In addition, advice was provided in connection with the State's defence of litigation commenced on foot of the State's response to the Covid-19 pandemic.

## **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 2020. The late finalisation of negotiations of the EU-UK Trade and Cooperation Agreement required urgent advices on implementation of the terms of the TCA and amendments required to domestic legislation. In particular, urgent advices were provided in the realm of surrender procedures and criminal mutual assistance process in the days immediately prior to 1 January 2021.

## **Examples of other advisory matters**

- Litigation and advisory services in relation to complex asylum and immigration matters, tax matters, utilities and public procurement
- The Department of Finance was advised on legal issues arising in the preparation of Budget 2020 and the drafting of the Finance Bill 2020
- Advices were provided to Government on various matters connected to the CervicalCheck programme, including advice on legal issues connected to the establishment of the CervicalCheck Tribunal
- Advices to the Department of Health on the Risk Equalisation Scheme and issues connected thereto, including in relation to State Aid notification
- Advices in respect of housing (including litigation concerning legislative provisions on social housing) and on matters, including public procurement and State aid issues, arising out of legislation providing for the establishment of the Land Development Agency
- Confidentiality and data protection issues arising in respect of the records of the Commission of Investigation into Mother and Baby Homes
- 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

- Participation in the Civil Justice Review Group, chaired by the President of the High Court, which concluded its work in 2020. The Office nurtured a unified approach on the part of the State law offices and sought to address differences between the positions of representatives of the professions and of representatives of the State on the contentious issue of litigation costs

## Deliver a specialist legislative drafting service that gives effect to Government policy

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 Covid-19 and Brexit.

The OPC drafted a significant number of Government Bills during 2020. Thirty five Government Bills were published (listed at Annex A), and thirty one Government Bills were enacted (listed at Annex B). The OPC also drafted Committee and Report Stage amendments to Government Bills. The OPC drafted Committee and Report Stage amendments to one Private Members' Bill that was enacted in 2020 (listed at Annex C).

The OPC drafted 366 of the statutory instruments that were made in 2020, including 54 for the purposes of transposing EU measures into Irish law.

### **Engagement with Government Legislation Committee**

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.

During 2020, 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.

### **Engagement with Government Departments**

In 2020, the OPC continued to engage with Departments at all stages of the drafting process with a view to achieving greater efficiency in their interactions. Departments were encouraged to consult with seconded Advisory Counsel at an early stage in the development of legislative proposals and with any other Departments 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.

### **Emphasising importance of adherence to procedures and fully developed policy proposals**

During 2020, 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.

### **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.

### **OPC Quality Assurance procedures**

Parliamentary Counsel continued to implement Quality Assurance procedures during 2020 with the aim of safeguarding the quality and legal efficacy of draft legislation, while facilitating the sharing of expertise and insights.

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 2020

## Examples of Legislation drafted by the OPC in 2020:

### Legislation drafted in relation to Covid-19

- **Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020**

Made exceptional provision, in the public interest, to mitigate the effect of Covid-19 by amending the Health Act 1947 and the Social Welfare Consolidation Act 2005.
- **Emergency Measures in the Public Interest (Covid-19) Act 2020**

This omnibus Act made exceptional provision, in the public interest, to address the impact of Covid-19 across a number of diverse sectors including housing, planning and development, regulated health professions, mental health, defence, redundancy payments and civil registration.
- **Financial Provisions (Covid-19) Act 2020**

Made the necessary provision to enable the State to provide temporary support to mitigate unemployment risks in an emergency (SURE guarantee) and the Pan-European Guarantee Fund, and amends the Strategic Banking Corporation of Ireland Act 2014 in relation to the giving of guarantees by the SBCI.
- **Financial Provisions (Covid-19)(No. 2) Act 2020**

Gave effect to the Government's July Stimulus Package aimed at accelerating economic recovery following the impact of Covid-19, including several taxation and finance measures and supports to employers, employees and consumers, and amends Part 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 relating to the Temporary Wage Subsidy Scheme.
- **Companies (Miscellaneous Provisions) (Covid-19) Act 2020**

Made exceptional provision in relation to the operation of certain provisions of the Companies Act 2014 and the Industrial and Provident Societies Act 1893, including provision for general meetings to be held electronically and an increase in the financial threshold and duration of examinership.
- **Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020**

Reforms a number of legal processes to provide flexibility including as a result of Covid-19, including the increase of coronial capacity in exceptional circumstances, the use of remote hearings for certain court proceedings and for meetings and hearings by the State and other bodies, the admissibility of business records and use of electronic means in civil proceedings and the execution of certain documents by counterpart.
- **Criminal Justice (Enforcement Powers) (Covid-19) Act 2020**

Made exceptional provision in the public interest for additional enforcement measures in respect of certain premises where intoxicating liquor is sold or supplied for consumption on the premises to ensure compliance with requirements imposed by or under the Health Act 1947 to mitigate the spread of Covid-19.

- **Finance (Miscellaneous Provisions) Act 2020**  
Amends the Credit Union Act 1997 to provide for the holding of certain meetings, such as Annual General Meetings, of credit unions by remote meeting and for the attendance and voting at certain meetings of credit unions by proxy.
- **Planning and Development, and Residential Tenancies, Act 2020**  
Provided for an increase in notice periods in relation to the termination of residential tenancies for failure to pay rent and a prohibition on rent increases in relation to those tenancies during a specified emergency period due to Covid-19. Provides for the disregard of certain notice periods in certain planning and other enactments and amends the Planning and Development Act 2000 in relation to the giving of substitute consent.

**Other significant legislation:**

- **Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020**  
Makes provision for certain matters consequent on the withdrawal of the United Kingdom from membership of the European Union and makes provision to protect and maintain the Common Travel Area between the State and the United Kingdom and the rights and privileges associated therewith.
- **Natural Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020**  
Establishes the Climate Action Fund on a statutory footing and makes provision for the National Oil Reserves Agency (NORA) levy to be collected for additional purposes, including for the purpose of contributing to the Climate Action Fund pursuant to a direction of the Minister for Communications, Climate Action and Environment.
- **Investment Limited Partnerships (Amendment) Act 2020**  
Amends and extends the Investment Limited Partnerships Act 1994, the Irish Collective Asset-management Vehicles Act 2015 and the Investment Funds, Companies and Miscellaneous Provisions Act 2005 to take account of EU funds legislation, anti-money laundering developments and changes in the international financial services area.
- **Harassment, Harmful Communications and Related Offences Act 2020**  
Provides for offences relating to the recording, distribution or publication of intimate images and anonymity of victims of those offences and for an offence involving the distribution, publication or sending of threatening or grossly offensive communication.
- **Personal Insolvency (Amendment) Bill 2020**  
Amends the Personal Insolvency Act 2012 in relation to Debt Relief Notices, Debt Settlement Arrangements and Personal Insolvency Arrangements, including to address the practical difficulties caused by Covid-19 and provides for the holding

of certain meetings by remote means. Creates an option for the debtor to make a "Confirmation of Truth" as an alternative to a statutory declaration.

Provide a solution-driven legal service led by the CSSO that supports the delivery of our clients' transactional and business objectives in the fields of conveyancing, property, public procurement and commercial contracts law

In providing a solution driven transactional legal service to client Departments and Offices, the State Property Division and the Commercial Contracts Section provide practical solutions to their clients to meet their business challenges. Both the State Property Division and Commercial Contracts Section work with clients to promote consistency and streamlining in all transactions in order to drive efficiency in the delivery of services and advise on the development of public policy. They also actively collaborate with colleagues in CSSO litigation sections, Advisory Counsel and external counsel in litigation matters.

### **Covid-19 issues**

Covid-19 Vaccines - Advance Purchase Agreements for the Minister for Health

- CSSO provided advices on an urgent basis at the start of the pandemic regarding the key legal issues in six Advance Purchase Agreements between the European Commission and a number of pharmaceutical companies for the supply of hundreds of millions of doses of Covid-19 vaccines to participating Member States of the Agreement.

Contracts for PSO ferry services due to Covid-19

- CSSO advised the Minister for Transport, Tourism and Sport on the designation on a temporary basis only, of five strategic maritime routes between the State and the UK and Continental Europe (served by 3 shipping companies) to ensure continued supply lines as a consequence of a Covid-19 related drop in passenger numbers.

Advice on repatriation charter flights contracts

- CSSO advised the Department of Foreign Affairs on an urgent basis in relation to contracts for charter flights to repatriate Irish citizens stranded in various locations abroad as a result of Covid-19 lockdowns.

## **Brexit**

- CSSO advised the Office of Public Works (OPW) on the completion of lease and licence agreements with Dublin Port Company and Rosslare Europort for the provision of essential Brexit infrastructure, such as HGV inspection bays and import and export offices.

## **Other significant property matters**

- CSSO advised the Minister for Education on the acquisition of school sites throughout the State as part of her Department's Schools Building Programme in 2020. Sites acquired during the year included sites at Cherrywood, Kinsealy and Rush, County Dublin.
- CSSO advised the OPW on the ongoing management of its property portfolio throughout the year, as well as on the purchase and taking into guardianship of national monuments, such as Harristown Passage Tomb in Dunmore East, Co Waterford.
- CSSO advised the OPW and the Department of Defence on the disposal of properties surplus to their requirements, including sites with suitability for social housing development.
- CSSO advised the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media in 2020 on the creation and drafting of legal framework documentation to facilitate the making of grants under her Department's Large Scale Sports Infrastructure Fund. The framework documents will form the basis for the project documentation for 32 major sports facility projects over the lifetime of the Fund. CSSO also advised on the proposed funding agreements for these projects in addition to State Aid issues arising under the EU's General Block Exemption Regulation.
- CSSO advised the Minister for Agriculture and the Marine on the grant of a 20 year lease to Cork County Council to facilitate the opening to the public of the Haulbowline Island Amenity Park, Cork on 15th January 2021.
- CSSO advised the OPW on office accommodation projects including on the development of new Dublin offices for the OPW and on a relocation project to facilitate new headquarters for the Department of Environment, Climate and Communications

## **Other significant public procurement and commercial contracts law matters**

- CSSO advised on the successful procurement of a €300 million secure national digital radio network for the public emergency services in Ireland (including An Garda Síochána, ambulances, air and sea rescue, etc.), a

critical service for the State. A competitive procedure with negotiation was used to procure a new service provider. Considerable work went into preparing the Tender documentation with regular engagement between CSSO, Office of Government Procurement (OGP) and Office of Government Chief Information Officer on every aspect of the competition.

- In 2020, CSSO advised OGP on the establishment of a framework to provide legal services to all public sector bodies, excluding Central Government. As part of this new tender competition, a number of sectors could avail of legal services under the one framework including the Health Service Executive, Local Authorities, Education and Training Boards and other public sector bodies. The tender competition commenced in March 2020 and received over 1150 tenders for evaluation.

CSSO advised OGP on the establishment of a framework for Architectural Led Design Services, for the provision of social and affordable residential developments. The purpose of the framework is to support the overarching objectives of the Rebuilding Ireland project and to facilitate the Department of Housing, Local Authorities and Approved Housing Bodies in the design of social and affordable housing. Following publication of the procurement documents in September 2020 a significant volume of tender submissions were received, with the CSSO providing ongoing assistance and advices to the OGP on the evaluation process.

## Provide a litigation service that delivers optimum results

During 2020, the Office continued to ensure that the knowledge and experience gained during the conduct of cases was harnessed to inform strategy in similar cases and thereby deliver optimum results. 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.

## Examples of significant litigation in 2020

### **Leaving Certificate litigation**

The Covid-19 crisis led to the cancellation/ postponement of the written Leaving Certificate in June 2020. A standardisation model was used for the generation of grades to be awarded to students as part of a calculated grades system.

65 judicial review cases were initiated with the central claim that students were unfairly affected by the Minister's decision not to include school historical data and to minimise the effects of national historical data in the standardisation model, which led to points being unfairly downgraded.

The lead case of Sherry v the Minister for Education was successfully defended by the State. Optimal use of resources was deployed with extensive use of expert evidence, development of a dedicated specialist legal team and collaboration with both the client Department and seconded advisory counsel

### **Ryanair DAC -v- An Taoiseach, Ireland and The Attorney General (Respondents) and Aer Lingus (Notice Party)**

The Applicant challenged the Government's advices regarding international travel announced in July 2020 in response to the Covid-19 pandemic. The Applicant claimed, inter alia, that the Government unlawfully encroached upon the legislative prerogatives of the Oireachtas and breached Articles 6 and 15.2 of the Constitution. The High Court ruled that the State had not exceeded its executive powers and trespassed upon the legislative power in relation to Government advice in respect of international travel. The Court also ruled that the advice to avoid non-essential travel and to restrict movements on entry to the State was simply advice.

### **Press Up Limited and Others -v- The Minister for Health and Others**

These proceedings involved a constitutional challenge brought by a holding company whose portfolio includes 56 hospitality businesses. They sought declarations that section 31A of the Health Act, 1947 and regulations made thereunder are unconstitutional being contrary to Articles 15.2.1, Article 40.3, Article 40.1 and Article 43 of the Constitution. They claimed that the regulations have disproportionately interfered with their property rights, and they sought compensation for losses and damage suffered as a result of the prohibitions on public access to their premises.

The case challenged the Government's strategy for the protection of public health and life in the context of the Covid-19 pandemic and, were it to proceed and the Plaintiffs to succeed, had both legal and political implications of a very serious nature with potentially many other similar claims with significant damages claims.

The proceedings were admitted to the Commercial Court but subsequently settled with the withdrawal of the Plaintiffs claim and no further order.

**Nisa Vaqar Un and Muhammad Umer, Mah Noor Imran and Muhammad Salar -v- The Refugee Appeals Tribunal, the Minister for Justice and Equality, Ireland and the Attorney General**

This case concerned Article 17(1) of Dublin III (Regulation 604/2013/EU) which is a discretionary clause permitting a Member State to decide to examine an application for international protection even if such an examination is not its responsibility under the Regulation. The issue before the courts was which of the Minister of Justice, International Protection Office or the International Appeals Tribunal had the discretion.

The Supreme Court delivered judgment in July 2020 where the Respondents were successful. The State notified the High Court on the 27th July 2020 that the Minister had decided to exercise her Article 17 discretion to accept all the Applicants who were currently in the Article 17 Holding List into the protection process in this jurisdiction due to the length of time many applicants had been in the Dublin III holding list. At that time there were approximately 270 cases in the Holding List awaiting the judgment of the Supreme Court.

**MK v Minister for Justice and Equality and ASA v Minister for Justice and Equality**

The High Court considered, inter alia, whether an International Protection Officer, who exercises independent functions under the International Protection Act 2015, can also act as an officer of the Minister for Justice in the exercise of her duties in respect of “permission to remain” applications. The High Court delivered judgment in April 2021 and determined that an International Protection Officer could, under the Carltona Principle, act as an officer of the Minister, as well as carry out their independent functions.

**Ivana Bacik & Others v. An Taoiseach, Ireland and the Attorney General**

The applicants are members of Seanad Éireann having been elected in the Seanad election in 2020. In circumstances where a Government had not yet been formed, the senators took proceedings challenging the decision of the (continuing) Taoiseach not to advise the President to fix a date for the first sitting of the Seanad. It was the Taoiseach’s view that until a new Government was formed and the incoming Taoiseach could nominate 11 further senators to the Seanad, it was not fully constituted and empowered to legislate.

The senators argued that the provisions of Article 16.1 of the Constitution did not mandate that Taoiseach nominees must be appointed in order to for the Seanad to be lawfully constituted and the provision of Article 16.1 must be interpreted in

context of other constitutional provisions including Article 6 – which confirms the democratic nature of the State.

The Divisional Court hearing dismissed the plaintiff's claim. The Court took the view that the wording of Article 16.1 was clear (both in Irish and English) that the Seanad is comprised of 60 members, 11 of whom are the Taoiseach's nominees and that until that constituency has been appointed, the Seanad is not properly constituted. The Court in acknowledging that the Constitution must be interpreted in a manner which allows for the smooth and harmonious operation of the Constitution (see case of Curtain) did not agree that a literal interpretation of Article 16.1 did not achieve a harmonious operation of the Constitution.

### **Emmett Corcoran And Oncor Ventures Limited trading as The Democrat -v- The Commissioner Of An Garda Síochána And the Director of Public Prosecutions**

Injunctive relief was sought restraining An Garda Síochána from accessing the contents of the Applicant's phone which was seized during a criminal investigation of serious assaults when security personnel were allegedly attacked by a large number of individuals. The case gave rise to important issues concerning journalistic privilege where the Applicant claims that access to the contents of his phone will identify and compromise his sources as a journalist and consideration of the parameters of police access to devices seized under warrant in criminal investigations.

### **Paul Doyle and Gary Kelly v. Criminal Injuries Compensation Tribunal, Minister for Justice, Ireland and the Attorney General**

The main complaints concerned the unavailability under the Criminal Injuries Compensation Scheme for compensation for injuries for pain and suffering and the non-payment of legal costs. Before judgment was delivered by the Court of Appeal, the Court of Justice of the European Union delivered judgement in a reference from Italy (Case C-129/19) clarifying that a victim of an intentional violent offence has an EU law right to fair and appropriate compensation from the State under Directive 2004/80/EC. The Court of Appeal held, inter alia, that legal aid is not a requirement in order to vindicate rights under the Directive. The Court also ordered the Tribunal to make available to the appellants, details of previous cases (appropriately redacted) to facilitate the provision of material concerning conduct, character and way of life.

**In light of our increased role post-Brexit, deliver an enhanced EU law service to our clients**

A principal feature of membership of the EU is that a significant proportion of the laws of the State actually originate as laws made by the EU institutions. A large

proportion of that legislation requires transposition into domestic law and routinely gives rise to legal and constitutional issues in such transposition. This is over and above the advisory issues arising during the negotiation of a measure in Brussels concerning consideration of matters including whether significant changes in domestic law may be required, issues of constitutional significance, impacts on domestic legal processes and policy and legal concerns with a view to properly advising on the shape and the final form of the proposed Union measure in order to avoid conflicts with national law.

The departure of the UK from the European Union sees the departure of a largely sectorally like-minded State with whom Ireland's interests were frequently sympathetic if not aligned. This is not least having regard to our shared history, common law heritage and shared participation in the Common Travel Area. The Office is conscious of the need to centrally place provision of legal advisory services at the disposal of client Departments engaged in the negotiation of Union laws in the European Council.

The Office's role in relation to both European and domestic legislation is a crucial element of its work. While some EU legislation has direct effect and therefore it is not always necessary to incorporate EU measures into Irish law, directives, which constitute an important part of EU legislation, must be implemented into Irish law through domestic legislation. Accordingly it is necessary to ensure that directives are transposed in a way which fully complies with EU legal requirements and the OPC provides its drafting service to client Departments in this regard.

An additional consequence of the UK's departure from the EU is that an enhanced strategy is required on when the State intervenes in Article 267 TFEU Preliminary References (questions referred by national courts to the Court of Justice (CJEU) on how to interpret often unclear Union laws). There were 735 cases brought before the CJEU including Preliminary References to the Court last year from courts across 28 Member States. Given the evolving and growing body of real law that is developed and made by the Court in Luxembourg, the Office considered means of being more proactive in intervening in such references in order to help guide and influence the interpretation of Union law by the CJEU. As noted above, this potentially assumes increased significance given our common law heritage and the operation of the TFEU Protocols concerning Ireland (19-21) regarding Ireland's participation in Union laws concerning Schengen, the Common Travel Area and the area of Freedom, Security and Justice.

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.

## Examples of proceedings before the Court of Justice of the European Union in 2020

### **Extradition and the European Arrest Warrant (EAW)**

In 2020, Ireland intervened before the Court of Justice in a number of preliminary references from other EU Member States concerning the interpretation and applicability of EU law in the area of extradition of Union citizens to a third state; the European Arrest Warrant and surrender procedures between Member States.

Ireland intervened in Case **C-398/19 BY**, a preliminary reference from Germany concerning an extradition request sent by the authorities of Ukraine to the authorities of the Federal Republic of Germany, concerning BY, who is a national of both Ukraine and Romania.

Ireland actively participated in Cases **C-354/20 PPU L** and **C-412/20 PPU P**. The cases arose out of two Polish requests for execution of EAWs for two individuals in the Netherlands. The CJEU affirmed its position that the possibility of refusing to execute an EAW requires the two-step examination set out in **C-216/18 LM**. The CJEU added that it was only if the European Council were to suspend the Framework Decision, as envisaged by that same text, that an executing judicial authority would be entitled to automatically refuse to execute an EAW.

Ireland intervened in Case **C-195/20 PPU XC**, a reference from Germany concerning the potential prosecutions for other offences following surrender and the specialty rule. This hearing took place on 16 July 2020 and judgment was delivered on 24 September 2020.

On foot of a reference (**C-509/18**) by the Irish Supreme Court to the Court of Justice of the European Union on whether a public prosecutor could be held to be an issuing judicial authority ("IJA") under the European Arrest Warrant Framework Decision, a subsequent series of cases were referred to the Court of Justice during 2019 and 2020 concerning the status of national public prosecutors acting as IJAs. Ireland intervened in these cases which examined the level of independence necessary for public prosecutors to fall within the concept of an IJA. This stream of litigation and determination of this issue between 2019 and 2020 was fundamental to the operation and effectiveness of the EAW across the EU in circumstances where many Member States rely on public prosecutors to perform the role of the IJA.

## **Data Protection and Retention**

Ireland intervened in a number of preliminary references to the CJEU concerning data in 2020. The Grand Chamber of the CJEU delivered its judgment in Case **C-311/18 The Data Protection Commissioner v. Facebook Ireland Limited and Maximillian Schrems** on 16 July 2020 where the Irish High Court, referred questions to the CJEU relating to the transfer of data by Facebook between the EU and the USA.

The Grand Chamber of the CJEU delivered its judgment in Joined Cases **C-511/18, C-512/18 and C-520/18** on 6 October 2020 – references from French and Belgian courts concerning national legislation which provides for general data retention for law enforcement and national security purposes as well as real time collection of telecommunications data.

On the same day, the Grand Chamber of the CJEU delivered its judgments in Case **C-623/17 Privacy International**. This preliminary reference from the UK concerned legislation which allowed the Secretary of State to issue directions providing for the acquisition by the security and intelligence agencies of bulk communications data from electronic communications service providers.

## **Other cases**

**T-778/16 Ireland v Commission, T-892/16 Apple v Commission, C-465/20 P Commission v Ireland and others:** during 2020 AGO and CSSO provided litigation support to the Department of Finance and the Revenue Commissioners in analysis of the General Court judgment finding that Ireland had not provided state aid to Apple; and in responding to the Commission appeal of that judgment to the ECJ.

**C-550/18 Commission v. Ireland:** pursuant to Article 260(3) of the Treaty on the Functioning of the European Union the European Commission successfully obtained a judgment from the Court of Justice in Luxembourg in July 2020 against the State for payment of €2million lump sum penalty for failure to notify transposition of the Fourth Money Laundering Directive. Complex advices traversing the cross-cutting policies of the Departments of Justice and Finance were required in order to prepare the legislation to transpose the Fifth Money Laundering Directive and to avoid infringement proceedings for a failure to do so.

The first case to be litigated before the Court of Justice (CJEU) in the Irish language commenced in 2020 in **C-64/20 UH**.

## Enhance clients' knowledge of, and access to, the Offices' services

Notwithstanding the Covid-19 pandemic, the Office continued to proactively engage with clients across a range of legislation – much of which was frequently urgent when related to the State's response to the pandemic and also in respect of advisory and litigation matters. The Office moved rapidly into attending these meetings with client Departments and Offices on a virtual basis.

The Office routinely and actively participated in a number of Inter-Departmental groups and forums such as the Civil Justice Review Group and across Brexit issues. This active engagement offered the opportunity to provide rapid advices in addition to raising the visibility and profile of the Office thereby further underpinning the constitutional role executed by the Attorney General and of his staff across three Offices who facilitate that function.

The CSSO State Property Division delivered bespoke training to client Departments to raise the knowledge platform and enhance understanding and cooperation between our solicitors and our clients. In addition the CSSO Commercial Contracts division held fortnightly management meetings with its client the Office of Government Procurement. The division also delivered bespoke training to the Office of Government Procurement and client Departments on public procurement, contracts and data protection law.

## Promote the concept of the State as "Model Litigant"

Acting on behalf of the State in litigation (the State is the biggest consumer of court services) is a vital element of the Office's work. A testament to our legal system's compliance with the Rule of Law is that persons have ready access to the courts to obtain effective remedies. This can impose burdens not only on the Office, but also on Government and Government bodies, to ensure litigation is properly dealt with in the interests of the State and the taxpayer. Defending and, on occasion, instigating litigation is accordingly a very important part of the Attorney General's role, and requires great commitment and input from the Chief State Solicitor's Office and Advisory Counsel in the Attorney General's Office.

In 2020 the CSSO improved proactive case management through early dispute resolution in litigation and established procedures for dealing with multi-client litigation to ensure timely instructions. The CSSO has a mission to provide the highest standard of professional legal services to the Government, its Departments and Offices, as economically and efficiently as possible and to support adherence to the rule of law. The CSSO's Governance framework focuses on legal, regulatory, policy and service obligations and the relationship between management, staff and stakeholders in determining the performance of the

Office. It encompasses the office's values, goals and the ethical framework within which the office conducts its business.

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.

During 2021 the Office will examine the scope to further promote the concept of Model Litigant among its clients.

## Strategic Goal 2: Build relationships

To improve the way we work and how we provide our services by building good relationships both internally and externally

### Reporting on Strategic Goal 2 in Statement of Strategy

#### Build stronger connections with our clients and stakeholders

The Office maintained structured communication with client Departments and Offices and 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 the provision of a 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.

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. 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 Heads of General Schemes 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. Parliamentary Counsel also participate in providing observations on Heads of a General Scheme to Advisory Counsel to anticipate any legal or drafting issues that may arise in the drafting of a Bill.

After the Government Decision for the drafting of a Bill, Parliamentary Counsel regularly raised legal issues for the consideration of Advisory Counsel, often of an acutely complex and novel nature. Advisory Counsel, and where appropriate Parliamentary Counsel, made legal submissions to the Attorney General when his view on issues was required.

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.

A number of solicitors across the CSSO State Property Division are dedicated to specialist areas of State Property work (including maritime and foreshore, sports capital funding and Department of Defence property) and work in close collaboration with the relevant client Departments. In addition bespoke training was delivered by the CSSO to client Departments and Offices to raise the knowledge platform.

### **Client Relations - CSSO**

The launch of the Client Relations Report took place on 5 February 2020 and the following were invited to contribute:-

- Chief State Solicitor
- Division Heads and Section Heads
- Client Relationship Officers
- Seconded Advisory Counsel.
- Garda Actions GHQ
- Legal Services Division Agriculture ( LSD )
- CSSO secondee

Five meetings or tele-conferences were held with Client Relationship Officers (CROs) during the year. A briefing pack was prepared and distributed by CROs to their clients detailing the work of the Office and outlining the CRO role.

A template for client meetings was devised and a number of meetings were conducted with key clients.

## **Raise the knowledge platform for our clients**

### **eISB**

The Office's eISB Group oversees the ongoing production, management and updating of the electronic Irish Statute Book (eISB) and made a significant contribution in 2020 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](http://www.irishstatutebook.ie).

A Legislation Directory for Acts (from 1922 to 2020) and statutory instruments/statutory rules and orders (from 1931 to 2020) is also published and updated, which enables users of the eISB to identify whether a particular statutory provision has been 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 continues to provide direct links from (a) Acts to Revised Acts (unofficial administrative consolidations compiled by the Law Reform Commission) where available and (b) from an Act to the relevant Bill located on the Houses of the Oireachtas web site. In line with open data principles, the eISB continues to make primary legislation data available in XML format.

In accordance with Data Protection guidelines, a cookie consent tool was also implemented.

### **European Legislation Identifier (ELI)**

In 2020 the Office continued to implement the European Legislation Identifier (ELI) through the eISB. The ELI requires EU Member States to use standardised on-line identification of legislation and metadata properties describing each legal resource, enabling an effective, faster and user-friendly search and exchange of legal information.

### **Judicial Review**

To facilitate building stronger connections and raising the knowledge platform for our clients and the AGO, the CSSO Judicial Review Section established a planning/environment forum in 2018. In 2020 this forum continued to facilitate discussion and sharing of information between the AGO, the CSSO and stakeholders in this growing and complex area of law. The Section also has a number of staff sitting on internal and external committees, for example the Superior Courts Customer Service User Group (formerly the Civil Users Group), the Court of Appeal Civil Users Group and Courts Service Consultative User Group.

*Superior Courts Customer Service User Group:* the group changed its name in 2020 from The Civil Users Group established as part of the Courts Service strategic vision plan to develop a world class organisation with the primary objective of meeting the needs of all court users. The Group aims to support the Judiciary and to provide an excellent service to all court users, thereby facilitating access to justice. The Group met quarterly in 2020 to discuss strategy and policy on new developments in their initial or final stages where policies are being rolled out with a strong focus on customer service. The Group comprises management representatives from the various court jurisdictions and select external members

The *Court of Appeal Civil Users Group* participated in a mock remote appeal during Easter 2020. A mock remote appeal was also held in the Supreme Court. Both mock appeals were precursors to the roll out of remote hearings in Easter terms 2020 and fed into the Courts' guidance notes and practice directions for this new remote facility.

### **Article 40 Stakeholder Group**

The Article 40 stakeholders group was established to identify the most common issues giving rise to Habeas Corpus applications and ascertain if remedial action can be taken. A number of CSSO litigation sections play an active role in the bi-monthly meetings with the AG/DPP regarding constitutional cases in criminal law litigation.

### **Promote early engagement with clients**

This was facilitated by Advisory Counsel engagement and participation in Inter-Departmental Working Groups in diverse sectoral areas.

In providing all Solicitor Services to client Departments and Offices, the CSSO ensured effective communication and collaboration and, in particular:

- all Divisions and sections within the CSSO 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
- The CSSO strives to open new files within 24 hours of service of proceedings or a pre-litigation letter on the section (files are usually opened within an hour of receipt of notification). We strive to engage with clients immediately once a file is opened with a view to seeking instructions from the client in a timely manner and to reduce delay in settling applications, where appropriate, at an early stage thus reducing the client's exposure to costs. Where cases are being contested we endeavour to file opposition papers at the earliest possible date. On transactional matters, the CSSO has a number of protocols in place with certain key clients detailing how matters are progressed.

## Strengthen links with Seconded Advisory Counsel and Seconded State Solicitors

The Secondment Programme continues to expand across many Departments and the Office has supported the enlargement of the Legal Units in Departments with the secondment of experienced Advisory Counsel to lead and manage in house Legal Units, such as to the Department of Housing and the Department of Justice in 2020.

The development of strong connections with the seconded Advisory Counsel and legal units in Departments continued. An Advisory Counsel at Assistant Secretary level chairs an umbrella Secondment Working Group 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, 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 (and the CSSO as appropriate) on the provision of legal advisory services to client Departments and agencies, seconded Advisory Counsel also advised on a number of significant matters including:

- In the Department of Finance, seconded Advisory Counsel prepared a paper entitled 'Red Flag Issues for Negotiation of New EU Laws'. This paper was circulated and presented to a number of other departments.
- Advices were also provided within that Department on a Central Bank Individual Accountability Framework which will allow the Central Bank to implement a Senior Executive Accountability Regime and provide for binding and enforceable obligations on regulated financial service providers and individuals.
- Seconded Advisory Counsel in the Department of Agriculture and Department of Enterprise provided ongoing advice in collaboration with the Office on the development and expansion of a range of urgent financial support schemes to assist enterprises adversely affected by both Brexit and Covid-19. This included advising on draft legislation needed to underpin certain support schemes, this required general advice on the establishment, development and maintenance of all such schemes.

- Seconded Advisory Counsel in the Department of Environment, Climate and Communications provided advice on primary legislation establishing a statutory climate action fund, which was enacted within the first 100 days of the new Government (as provided for in the Programme for Government).
- Advice was also provided by seconded Advisory Counsel in that Department on communications regulations prepared by the Commission for Communications Regulation (ComReg) to facilitate the emergency release of spectrum and alleviate network congestion caused by increased internet usage on the introduction of Covid-19 restrictions.
- In January 2020, the Advisory Section of the Department of Justice's new Legal Unit was rolled out to provide a further and enhanced level of legal advisory services to the entire Department, supplementing the services provided by the Office directly and enhancing client relations. In addition, Seconded Advisory Counsel from the Legal Unit were available and on hand to support the Department in its engagements with the Department of Health, An Garda Síochána and with the Office on the development, implementation, and enforcement of the various public health measures introduced to curb the spread of the Covid-19 virus.
- Seconded Advisory Counsel in the Department of Children and Youth Affairs provided urgent advice on the funding of Early Years childcare and education sector following its closure on 12 March 2020.
- Also in that Department, Seconded Advisory Counsel devised, advised upon and implemented the Temporary Covid-19 Wage Subsidy Childcare Scheme, coordinating and collaborating with CSSO and AGO in the implementation of the scheme and the provision of new contracts and subsequent Reopening Support Payment.
- The Legal Unit in the Department of Housing, Local Government and Heritage advised on numerous issues relating to the Residential Tenancies and Valuation Act 2020 and the Planning and Development and Residential Tenancies Act 2020.

The Office also established a Seconded Advisory Counsel Build to Share applications programme on the Office of the Government Chief Information Officer "Hive" platform to foster and facilitate the quick and easy interaction and sharing of information among Seconded Advisory Counsel. This strengthened links with the Office by essentially mimicking and sharing much of the resources that are available on the Office intranet.

## Deepen communication and collaboration across the Office

While challenges initially presented with the advent of the Covid-19 pandemic, the Office rapidly moved into the virtual sphere providing ICT equipment and support to maintain the functioning of the Office. Coordination meetings continued and were convened online across various platforms.

AGO Legal Issues meetings and events (including the annual Seconded Advisory Counsel conference) also moved online, broadening the sharing of information and overall collaboration both in a professional and on an interpersonal level. Communication among teams, groups and divisions was identified as a priority and particular effort was made to ensure that ongoing collaboration remained at a high level.

Library and Know-How staff and legal researchers in the AGO worked closely with Advisory Counsel groups to maximise their ability to provide legal 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 quality legal blogs and constantly reviewed the catalogue of texts available in the library.

Similarly in the CSSO, the Knowledge & Information Service continued to provide library and legal information services to staff working both remotely and in the office. The Service also continued to develop its intranet resources for legal staff and to enhance the functionality of its LegalSearch federated search application. The Knowledge & Information Service developed a new CSSO intranet using the Build-to-Share intranet application provided by the Office of the Government Chief Information Officer (OGCIO).

Due to the Covid-19 pandemic and resulting remote working, the CSSO Learning & Development team adapted to new ways of working including remote training events, in order to continue to provide ongoing continuous professional development, training and wellbeing initiatives. The CSSO pivoted from providing classroom-based learning to virtual learning programmes to ensure legal CPD hours were achieved.

In addition to the continued Secondment Training for newly recruited Advisory Counsel, the CSSO also provided virtual procurement and contractual training sessions for Advisory Counsel advising on such issues to build relationships between the Offices.

The Justice and Crime Division of the CSSO and the Group of Advisory Counsel dealing with criminal law continued to collaborate and communicate effectively across urgent European Arrest Warrant cases, Mutual Legal Assistance requests and Habeas Corpus applications.

## Strategic Goal 3: Build capacity

To be a modern, agile and dynamic legal office and to build sustainable capacity for the benefit of our clients and our people

### Reporting on Strategic Goal 3 in Statement of Strategy

#### Provide ICT solutions that support our people in delivering the required level of service to clients

In response to the Covid-19 pandemic, the ICT areas in the Office significantly scaled up its remote working capability in 2020 to make full access to applications widely available to staff through the provision of laptop PCs and mobile devices. Significant work on back-end systems was required to facilitate the upscaling while maintaining a secure model of network access.

ICT also set up the software and hardware required for effective use of web conferencing on remote devices and also in the physical Office to allow virtual meetings to proceed while complying with social distancing guidelines.

CSSO ICT also introduced systems to support the secure and audited transfer of large case files as well as software and training to support the creation of electronic books for court hearings.

#### Recruit and retain high calibre staff

As mentioned earlier in this Report, the resources available to the Office significantly impede its ability to deliver a top class service to its clients. A contributory factor is the ongoing difficulty for the CSSO in recruiting legal staff due to the low entry-level rates of pay. We are working with colleagues in the Department of Public Expenditure and Reform on resolving these issues.

The Office continued to liaise closely with the Public Appointments Service and contribute resources to the running of recruitment competitions to fill some vacancies throughout 2020. In particular, a number of experienced HR and ICT staff were recruited in line with obligations to improve the professionalisation of these areas.

## Enhance the Office's governance and risk management culture

During 2020 the Office's Risk Management and Audit Committees continued to meet and progress their work. They met on 8 and 2 occasions respectively in 2020. The risk registers were reviewed and updated on a bi-annual basis during 2020. The Risk Management review meetings took place in April and June 2020 and the committee met with all relevant local managers. A programme of internal audits was also carried out by an external firm.

During 2020 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.

The AGO Corporate Governance Framework was also under review during 2020.

## Increase efficiencies in the delivery of our services

### **Continually reviewing and improving specialist advisory service by Advisory Counsel and drafting service by Parliamentary Counsel**

The subject areas and the membership of the five groups of Advisory Counsel and four groups of Parliamentary 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, more than 850 advisory files were opened in the AGO in 2020. 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 (including remotely), in-house and virtual training and development, as well as regular virtual 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 and Parliamentary 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.

## **Processes and Systems**

The Office 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.

The delivery of services was brought into sharp focus with the ongoing pandemic. While the main provision of legal services was determined by court rules and practices, the Office revised its internal procedures in processing counsel fees. The system was revised so that counsel could submit fee notes electronically and that the internal processing of the fee note can, for the most part, be conducted electronically. This replaces what was previously a cumbersome manual process.

### **CSSO - Remote hearings:**

Due to the Covid-19 pandemic, physical sittings of the Courts were curtailed in 2020, which resulted in the sudden and unprecedented move towards remote hearings in litigation cases before the High Court, Court of Appeal, Supreme Court and EU Courts.

Since April 2020, legal staff have altered traditional legal work practices in order to adapt to remote court hearings and call overs. Increased use of technology proved vital in both the preparation and conduct of remote hearings. Video conferencing platforms were used for consultations with clients and attendance at remote hearings. There was a significant transition towards the use of e-books, the e-filing of papers in court and e-briefs for counsel. Legal staff had to follow Government Guidelines and comply with Court Practice Directions when preparing for and conducting remote hearings.

By the end of 2020, the majority of cases were being heard remotely before the High Court, Court of Appeal and Supreme Court, with judgments being delivered electronically. The Court lists were also being dealt with remotely.

### **AGO Registry**

The Registry Unit adapted to the challenges presented by Covid-19 and developed working practices and patterns which enabled the continuity of the service provided by Advisory and Parliamentary Counsel. Remote working is now a feature of the work of the Registry with the ability to react quickly and distribute correspondence in electronic format in urgent matters while ensuring a safe working environment for personnel who continued to attend the Office.

Workflows were streamlined in order to bring about efficiencies and encourage all staff to work within our electronic case management system, capturing more information and

making it more readily available to all stakeholders, particularly in relation to time-sensitive issues.

In co-operation with IT staff in the Office and personnel from CSSO, Registry worked on enhancements to the Office's Case and Records Management System which are anticipated to be rolled-out in 2021.

Despite restrictions imposed by Covid-19, Registry Unit ensured that the obligations of the AGO in respect of the National Archives were met, including transfer of material on the Anglo-Irish Agreement.

## Strategic Goal 4: Support our people

To support our people so that they can perform to the best of their abilities and effectively collaborate to deliver an excellent service to our clients

### Reporting on Strategic Goal 4 in Statement of Strategy

#### **Covid, Facilities and Health and Safety**

Services Units along with the Health and Safety Officers responded very quickly to the Covid-19 pandemic. They played a key role in ensuring that the Office remained a safe place for staff to attend as appropriate and carry out their work. They provided significant input to the development of the Offices' Covid-19 Response Plans and ensured that the necessary controls and arrangements to support the Plans were promptly put in place. As well as their work within the Offices' premises, Services Units provided supports to staff working remotely.

In the context of the Covid-related move to remote working, regular work management, legal education and virtual social meetings were held amongst the teams, units and divisions in the Office to ensure support and solidarity were available to all staff.

Training Delivery Group, Legal Issues and EU Legal issues meetings were convened in person (pre-Covid restrictions) and subsequently virtually on a range of topics.

#### **Staff engagement**

In 2020, the CSSO engaged with staff regularly through civil service engagement initiatives.

In preparing the Office's new Statement of Strategy 2020 -2023, the Statement of Strategy Committee, comprising representatives from the AGO, CSSO and OPC sought the views of staff and clients by conducting an internal consultation process facilitated by 15 virtual workshops (105 staff participated), an online survey (142 staff participated) and an external targeted survey of key clients to ensure that the new Statement of Strategy reflected the views of staff and clients.

During the year, the CSSO Staff Engagement Team conducted staff engagement sessions in January 2020 and again in the summer of 2020 which fed back the result of those sessions and previous staff engagement surveys to staff. The Office also ran a New Entrants focus group in September and an annual ideas forum in December to encourage feedback and listen to the views of staff in relation to their experience of working in the CSSO.

As part of these initiatives, the CSSO Innovation Team was established under the Innovative Climate heading. The Team, comprising representatives from different Divisions, aims to foster an Innovative culture in the CSSO and fields ideas to improve the Office approach to people management, service delivery and to make our office a better place to work. The Innovation Team has presented new initiatives to staff and regularly presents ideas at Management Board meetings. Initiatives in 2020 included an office newsletter initiated by the Innovation Team providing valuable social connection to staff across the office and the introduction of a Buddy System where new members of staff are paired with a longer serving staff member to assist and support a new recruit in settling into the office and who can provide an informal source of information. This has proved very useful during the pandemic where staff interaction has been lessened.

Building on a proposal by the Innovation Team to the Management Board in 2020 and in light of the Office's commitments to Equality, Diversity and Inclusion throughout the Office's Statement of Strategy 2020-2023, the Management Board of the CSSO also agreed to the establishment of a Senior Responsible Team for Equality, Diversity and Inclusion in the Office.

### Promote a culture of respect, dignity, equality and diversity in the workplace

As per the Public Sector Equality and Human Rights Duty ('the Duty'), public service organisations have a statutory obligation to have regard to the need to eliminate discrimination, promote equality of opportunity and protect the human rights of staff and those to whom they provide services. To ensure compliance with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014, the Employment Equality Acts 1998-2005 and the Disability Act 2005, the Office strives to ensure that all activities are conducted through the prism of dignity, equality and diversity. The Office has proactive Disability Liaison Officers (DLO) who help create awareness and provide support with respect to disability. Specialised training was introduced to support a more inclusive culture for new entrants to the CSSO.

#### **Irish Language Scheme**

Early in 2020 the Office published a new Irish language Scheme in accordance with the requirements of the Official Languages Act 2003 and it covers the period 2020-23. The Office's 2019 Annual Report was translated to Irish during the year. There was little demand from members of the public for contact through Irish (this is not unexpected given that the Office does not provide legal services directly to the public).

## Promote excellence through leadership, performance management and development

The AGO continued to use the Civil Service Performance Management and Development System to support the achievement of the goals set out in its Statement of Strategy. The process was also used to manage performance and support and identify learning and development needs.

In the absence of face to face learning, e-learning training options were provided to support the continued development of staff. A mentoring programme was also designed by a Mentoring Working group in the AGO and this programme will be implemented and rolled out in 2021.

The Office continued to engage with OneLearning, and the Civil Service Learning and Development Centre.

In 2020 the AGO embarked on a programme to implement the various points of action outlined in its strategy for Learning & Development for 2020-2023.

Due to the pandemic and resulting remote working, the CSSO Learning & Development team adapted to new ways of working including remote training events in order to continue to provide ongoing continuous professional development, training and wellbeing initiatives. The CSSO pivoted to online virtual learning programmes to ensure legal CPD hours were achieved.

HR teams utilised available technologies and novel communication processes to allow staff to participate fully in HR and training initiatives. The CSSO in-house L&D team encouraged legal and administrative staff to participate in learning and development opportunities by means of a regular Learning & Development bulletin communicating upcoming learning events, and via the Learning & Development page on the CSSO intranet.

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, the Office continued to focus on wellness programmes for its staff.

CSSO staff were afforded the opportunity to attend competency based interview skills training to support their personal development within the Office and a pilot Mentoring Programme was implemented. The CSSO held Away Days for staff in 2020 for continuing professional development. Both internal and external speakers gave presentations on a wide variety of topics.

Senior managers participated in the SPS and PO executive leadership programmes, and nominations were submitted to the National Experts in Professional Training programmes.

The CSSO Refund of Fees Office Notice was redrafted to allow Transfer of Lawyer Qualifications courses to qualify under the Refund of Fees Policy going forward to support staff who gained lawyer qualifications outside the EU to have those qualifications recognised in Ireland so that they may contribute their valued experience to the CSSO.

Human Resources teams engaged with the Civil Service HR Business Partners' network for collaboration and engagement in supporting and driving strategic HR initiatives within the Office.

Numerous Wellbeing activities, communications and updates were provided and conducted throughout 2020 and in particular on foot of the move by the Office to remote working patterns. OneLearning courses, Covid-19 awareness training courses, Manager Covid-19 Return to Work Safely courses and virtual in-house training events were also convened and attended by staff of the Office.

## Support our people through enhanced knowledge management systems

The AGO Library & Research Service continued to provide a full service despite the restrictions imposed by the Covid-19 pandemic. A new suite of current awareness services was developed to keep staff up-to-date on legal developments during the Covid crisis; our e-Books collection was expanded to facilitate lawyers working remotely.

In addition 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. Legal issues meetings and other AGO legal training events transitioned to a virtual forum in 2020 to ensure compliance with the restrictions imposed by the Covid-19 crisis.

The AGO continued to enhance the capture, sharing and accessibility of legal know-how through ongoing development and promotion of the in-house legal know-how database.

The Knowledge, Learning and Development Committee of the CSSO met on a monthly basis throughout 2020. The Committee developed innovative means of enhancing legal knowledge management for the benefit of staff who were primarily working remotely during the year. In particular, the Legal Researchers prepared and disseminated a suite of Legal Bulletins at frequent intervals, highlighting and summarising key legal developments in specific practice areas enabling staff to keep abreast of developments in their particular areas of practice. The CSSO also successfully transitioned an in-house legal training programme to a remote delivery format with the roll-out of a very well received 'Lunch and Learn' programme of monthly events held via video conference, in which our speakers

covered topical areas of expertise. The new format enabled greater attendance and there was a high level of engagement at the sessions.

## Promote a positive work-life balance

In 2020, in response to the global Covid-19 pandemic most employees in the Office moved to remote working. To assist staff in meeting the challenges of remote working, health and wellbeing programmes were put in place. The Office also promoted eLearning health and wellbeing supports developed by OneLearning in consultation with the Civil Service HR division and CSEAS.

## Promote environmentally sustainable work practices

### Energy Efficiency

The AGO Services Unit continued to drive the Office's energy efficiency programme and report energy usage to the SEAI as part of the initiative by all Public Sector bodies to reduce energy usage.

In 2020, AGO consumed:

- 329 MWh of electricity
- 302 MWh gross of natural gas fuels
- 30 tonnes of renewable fuels (wood chips)

Energy saving measures during the year included increased use of light sensor switches in low traffic areas, timers on Air Handling Units and the continued phased introduction of LED lights. Energy consumption is regularly monitored by the Services Unit.

In 2020, the CSSO consumed:

- 416 MWh of electricity
- 322 MWh of gas

In respect of promoting environmentally sustainable work practices within the CSSO, the outbreak of the pandemic changed the priorities for Office Services where resources were necessarily diverted into providing a safe working environment for staff and providing equipment for staff to work from home.

With staff working from home since March 2020 there has been a reduction in the use of gas, electricity, paper and travel which has been beneficial for the environment.

In 2020 the CSSO reduced the amount of paper being used in litigation and other legal services by adapting to court-mandated e-litigation procedures. This saw more electronic briefs being submitted to the courts and to opposing parties in cases. Overall use of paper and printing was reduced by pivoting to online virtual delivery for learning and development events.

## Optimise internal communication

The Human Resources Units are responsible for the development and implementation of progressive HR practices. This includes the development of HR strategies and policies, workforce planning, recruitment and selection, performance management and diversity and inclusion. The Office recognises the role that specialised human resource management skills play in the development and retention of a high performing workforce.

## Part 3

### Annexes

## Government Bills published in 2020

### Public General Bills

- Air Navigation and Transport Bill 2020
- Appropriation Bill 2020
- Central Mental Hospital (Relocation) Bill 2020
- Civil Law and Criminal Law (Miscellaneous Provisions) Bill 2020
- Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Bill 2020
- Companies (Miscellaneous Provisions) (Covid-19) Bill 2020
- Counterfeiting Bill 2020
- Credit Guarantee (Amendment) Bill 2020
- Criminal Justice (Enforcement Powers) (Covid-19) Bill 2020
- Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill 2020
- Criminal Justice (Theft and Fraud Offences) (Amendment) Bill 2020
- Defence (Amendment) Bill 2020
- Emergency Measures in the Public Interest (Covid-19) Bill 2020
- Finance (Miscellaneous Provisions) Bill 2020
- Finance Bill 2020
- Financial Provisions (Covid-19) Bill 2020
- Financial Provisions (Covid-19) (No. 2) Bill 2020
- Forestry (Miscellaneous Provisions) Bill 2020
- Health (Amendment) Bill 2020
- Health (General Practitioner Service and Alteration of Criteria for Eligibility) Bill 2020
- Health (Preservation and Protection and other Emergency Measures in the Public Interest) Bill 2020
- Health Insurance (Amendment) Bill 2020
- Investment Limited Partnerships (Amendment) Bill 2020
- Microenterprise Loan Fund (Amendment) Bill 2020
- Ministers and Secretaries and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Bill 2020
- National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Bill 2020
- Personal Insolvency (Amendment) Bill 2020
- Planning and Development, and Residential Tenancies, Bill 2020
- Public Service Pay Bill 2020
- Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Bill 2020
- Residential Tenancies Bill 2020
- Residential Tenancies and Valuation Bill 2020

- Social Welfare (Covid-19) Amendment Bill 2020
- Social Welfare Bill 2020
- Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2020

## Government Bills enacted in 2020

### Public General Acts

- Appropriation Act 2020
- Central Mental Hospital (Relocation) Act 2020
- Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020
- Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020
- Companies (Miscellaneous Provisions) (Covid-19) Act 2020
- Credit Guarantee (Amendment) Act 2020
- Credit Union Restructuring Board (Dissolution) Act 2020
- Criminal Justice (Enforcement Powers) (Covid-19) Act 2020
- Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020
- Emergency Measures in the Public Interest (Covid-19) Act 2020
- Finance (Miscellaneous Provisions) Act 2020
- Finance Act 2020
- Financial Provisions (Covid-19) Act 2020
- Financial Provisions (Covid-19) (No. 2) Act 2020
- Forestry (Miscellaneous Provisions) Act 2020
- Health (Amendment) Act 2020
- Health (General Practitioner Service and Alteration of Criteria for Eligibility) Act 2020
- Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020
- Health Insurance (Amendment) Act 2020
- Investment Limited Partnerships (Amendment) Act 2020
- Microenterprise Loan Fund (Amendment) Act 2020
- Ministers and Secretaries and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act 2020
- National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020
- Planning and Development, and Residential Tenancies, Act 2020
- Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020
- Regulated Professions (Health and Social Care) (Amendment) Act 2020
- Residential Tenancies Act 2020
- Residential Tenancies and Valuation Act 2020
- Social Welfare (Covid-19) Amendment Act 2020
- Social Welfare Act 2020
- Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020

## Private Members' Bills enacted in 2020

### Public General Acts

- Harassment, Harmful Communications and Related Offences Act 2020

## Vote 3: Office of the Attorney General

## Provisional Outturn 2020 and Estimate for 2020 and 2021

Estimate and Provisional Outturn for 2020 and Estimate of the amount required in the year ending 31 December 2021 for the salaries and expenses of the Office of the Attorney General including a grant.

	<b>Service</b>	<b>Estimate Provision 2020</b>	<b>Provisional Outturn 2020</b>	<b>Estimate Provision 2021</b>
		<b>€000</b>	<b>€000</b>	<b>€000</b>
	<b>Administration</b>			
A1	Salaries, Wages and Allowances	12,107	11,377	12,260
A2 (i)	Travel and Subsistence	310	80	210
A2 (ii)	Training & Development & Incidental Expenses	640	484	640
A2 (iii)	Postal & Telecommunication Services	63	75	100
A2 (iv)	Office Equipment & External IT Services	665	1,026	700
A2 (v)	Office Premises Expenses	160	103	160
A2 (vi)	Consultancy Services & Value For Money Reviews	43	29	35
A2 (vii)	Contract Legal Expertise	280	240	710
	<b>Subtotal</b>	<b>14,268</b>	<b>13,414</b>	<b>14,815</b>
	<b>Other Services</b>			
A3	Contributions to International Organisations	45	50	54
A4	Law Reform Commission (Grant in Aid)	2,439	2,129	2,460
A5	General Law Expenses	133	89	130
	<b>Gross Total</b>	<b>16,885</b>	<b>15,682</b>	<b>17,459</b>
	<b>Deduct</b>			
B	Appropriations In Aid	(705)	(542)	(705)
	<b>Net Total</b>	<b>16,180</b>	<b>15,140</b>	<b>16,754</b>

## Vote 6: Office of the Chief State Solicitor

### Provisional Outturn for 2020 and Estimate for 2020 and 2021

Estimate and Provisional Outturn for 2020 and Estimate of the amount required in the year ending 31 December 2021 for the salaries and expenses of the Office of the Chief State Solicitor.

	<b>Service</b>	<b>Estimate Provision</b>	<b>Provisional Outturn</b>	<b>Estimate Provision</b>
		<b>2020</b>	<b>2020</b>	<b>2021</b>
		<b>€000</b>	<b>€000</b>	<b>€000</b>
	<b>Administration</b>			
A1	Salaries, Wages and Allowances	19,233	19,183	19,537
A2(ii)	Travel and Subsistence	90	35	90
A2(iii)	Training and Development and Incidental Expenses	1,038	954	1,038
A2(iv)	Postal and Telecommunications Services	310	341	310
A2(v)	Office Machinery and Other Office Supplies and Related Services	750	1,225	750
A2(vi)	Office Premises Expenses	250	161	250
A2(vii)	Consultancy Services and Value for Money and Policy Reviews	100	63	100
	<b>Subtotal</b>	<b>21,771</b>	<b>21,962</b>	<b>22,075</b>
	<b>Other Services</b>			
A3	External Legal Services	220	142	220
A4	Fees To Counsel	15,000	15,246	15,000
A5	General Law Expenses	1,200	700	1,200
	<b>Gross Total</b>	<b>38,191</b>	<b>38,050</b>	<b>38,495</b>
	<b>Deduct</b>			
B	Appropriations-in-Aid	810	904	810
	<b>Net Total</b>	<b>37,381</b>	<b>37,146</b>	<b>37,685</b>

## Statements and Reports in Respect of Payment Practices 2020

### Office of the Attorney General

#### 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 Payment in Commercial Transactions) Regulations.

#### Late Payments

Payments totalling €2,087,564.74 in 2020 were made from the Vote of the Office of the Attorney General in respect of payments to which the legislation applies.

There were two instances of Prompt Payment interest totalling €43.98 incurred during the year.

#### Payments to which prompt payments applied from January to December 2020

Total Value of all Payments	€2,087,564.74
Total Value of late Payments (under €320 inclusive)	Nil
Total Value of all late Payments (over €320)	€1,151.68
Value of late Payments as % of total Payments	0.055%
Number of late Payments in excess of €320	2
Amount of Interest paid	€43.98
Amount of Interest as % of total Payments	0.002%
Average indication of Length of Delays	17 days

## Statements and Reports in Respect of Payment Practices 2020

### 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) Regulations 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 2020**

Total Value of all Payments	€3,443,621.98
Total Value of all late payments (under €320 inclusive)	€18,727.30
Total Value of all late payments (over €320)	€90,784.01
Value of late payments as % of total payments	3.18%
Number of late payments in excess of €320	57
Amount of Interest paid	€7,008.62
Amount of interest as % of total payments	0.20%
Broad indication of Length of Delays	31 days

## Staff Breakdown

	<b>Male</b>	<b>Female</b>	<b>% Male</b>	<b>% Female</b>
Secretary General	1	2	33%	67%
Assistant Secretary	6	7	46%	54%
PO	20.4	40.8	33%	67%
AP	66	120.3	35%	65%
HEO (& HLE)	12.8	14.2	47%	53%
AO	1	1	50%	50%
EO	14	26.4	35%	65%
SO (Legal Exec)	3.8	3.8	50%	50%
CO	21	61.7	25%	75%
TCO	2	2	50%	50%
Services Officer	4	0	100%	0%

## Freedom of Information Statistics 2020

<b>Requests</b>	
Requests Received	22
Requests Granted	3
Requests Part-Granted	6
Requests Refused	12
Requests open at year-end	1
Internal Reviews	1
Fees Received	€30
<b>Requestor Type</b>	
Journalist	9
Oireachtas	1
Staff	1
Others	11
Sections (one or more) of the Act relied on for part-granted and refused requests	15, 28-33, 35-37, 42