

# **Office of the Attorney General**

## **Annual Report 2009**

### **Incorporating the**

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

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## **Foreword by the Attorney General**

**Paul Gallagher, SC  
Attorney General**

## **Introduction by the Director General**

**Liam O'Daly**  
**Director General**

## **Chapter 1: Roles and Functions**

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

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

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

### **Advisory Counsel**

The Advisory side of the Office is divided into five specialist Groups covering all major legal specialisms. In addition, the Deputy Director General also has responsibility for specific specialisms including the Legal Counsellor to the Permanent Representation of Ireland to the European Union in Brussels. The Advisory side comprises barristers (Advisory Counsel) each of whom specialises, to a

significant degree, in a variety of specific areas of law. The principal duty of Advisory Counsel is to assist the Attorney General in the performance of functions and duties. Each Advisory Group has dedicated clerical support staff familiar with the business of the Group.

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

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

### **Work of Advisory Counsel**

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

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

### **Permanent Representation to the European Union**

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

Permanent Representation. Due to the participation of the Legal Counsellor in important EU negotiations, including Treaty reform and other significant legislative developments, the Attorney General is involved from an early stage in advising on significant EU legal issues.

## **Parliamentary Counsel to the Government**

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

### **Work of Parliamentary Counsel**

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

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

### **Chief State Solicitor's Office**

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



## **Work of Chief State Solicitor's Office**

The Chief State Solicitor's Office is organised into five legal Divisions. The Divisions are Public Law, Asylum and Legal Services, State Property, Justice and Common Law and Advisory. Each Division is organised into Sections on the basis of similarity of work or client. The organisation takes account of the principal demands of clients including an increased involvement with the ECJ, more ECHR related actions, an increase in the number of European Arrest Warrants received from other countries in the EU and a greater demand for advice in relation to Public Procurement and Commercial Contracts. This structure also takes account of the management challenges for the Office and in particular the challenges created by the programme for public service modernisation.

## **Administration**

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

## **Website**

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

## **Chapter 2: Mission Statement and Goals**

The Office's *Statement of Strategy 2008 – 2010* had the following Mission Statement and Goals -

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

### **Four Goals were derived from the Mission Statement;**

- To provide high quality specialist legal advice and support to the Attorney General in carrying out the duties of his office and to client Departments and Offices in a responsive, efficient and effective manner in areas of law of importance to Government.
- To provide a high quality professional, specialist and efficient legislative drafting service to Government.
- To deliver a high quality specialist solicitor service to the Attorney General, Departments and Offices in litigation and to provide high quality specialist legal advice in property and transactional matters.
- To provide modern and professional corporate and business support services that deliver the highest quality service to internal and external clients and customers.

## **Chapter 3: Main Developments in 2009**

### **Part I: Legal Developments**

#### **Work of the Office of the Attorney General, Merrion Street Office, in 2009**

##### **The work of Advisory Counsel in 2009**

During 2009 Advisory Counsel advised Departments and Offices as requested across the full range of specialisms identified below. Each group is comprised of a Group Manager and a number of Advisory Counsel and clerical support staff.

**Group A** has responsibility in the areas of criminal law, Garda, prisons, AG's criminal law functions, Legal Aid, Law Reform Commission, Statute Law Reform Bills, criminal assets, interception of telecom and postal packages including Mutual Legal Assistance aspects, International co-operation in criminal matters, EU criminal justice measures – Title IV, Road Traffic Acts, Licensing, Good Friday Agreement, Electoral Law.

**Group B** has responsibility in the areas of private international law, casual and occasional trading, statistics, statutory instruments, personal injury, tobacco, health law, Blood, childhood abuse, Abortion, adoption, assisted human reproduction, education, family law, Civil Legal Aid, censorship, solicitors/barristers, Prosecutions of Offences Act 1974, health and safety, nuclear and environmental law, Agriculture and Aquaculture, Foreshore, Fisheries, Planning Acts.

**Group C** has responsibility in the areas of asylum, immigration and citizenship.

**Group D** has responsibility in the areas of International trade law, telecommunications, National Infrastructure/NDP/PPPs., Revenue law, Appropriation and Public Expenditure, Financial Services, Insurance, Company Law, Bankruptcy/Insolvency/Liquidations, Mergers and Monopolies, Gaeltacht, Defence, Metrology, Mining and Quarrying, Petroleum, Seabed Exploration Continental Shelf,

e-Commerce, Semi-State bodies, other State Authorities, State Property Act, Property, Realtor Actions, Probate, Succession, Charities and Escheated Estates, Land Registration, Landlord and Tenant, Civil Justice, Coroners, Irish Language, Cultural, State aids and grants and Competition law.

**Group E** has responsibility in the areas of Intellectual Property, Public International Law, Official Secrets Act, Data Protection Act, Freedom of Information, Government contracts and public procurement, Arbitration, Social Welfare law, Public Service, Oireachtas, Ministers and Secretaries, Pay, allowances and pension of Ministers, Ethics, Labour Law, Tourism, Consumer protection, Electricity, Gas, Postal law, Road haulage, Buses and Taxis, Rail Transport, Air Transport, Law of Sea, Shipping law, Harbours, Irish Coastguard Service, Commissioners of Irish Lights and Marinas.

**Deputy Director General:** The DDG has responsibility in the areas of Defamation/Privacy Legislation, Tribunal Costs, Tribunals & Commissions of Inquiry. (Tribunals and Commissions falling within the subject matter of a Group's specialisms will be dealt with by that Group), Morris Tribunal, Institutional EU issues, EC Judicial system, Horizontal issues, Brussels-specific work, Horizontal Issues – Human Rights (DG), Fisheries Prosecutions (DG).

Of particular note are the following work developments in 2009 in which Advisory Counsel assisted in the provision of advice and directions.

## **Legislation**

Advisory Counsel also advised in relation to primary and secondary legislation drafted in the Office of the Parliamentary Counsel in 2009.

## **International Law**

The Office advised on many international Conventions, Protocols and Agreements, cases and legislative developments in international law in 2009. Advices were also furnished on a considerable number of draft bilateral Agreements in the areas of extradition and mutual legal assistance with non-EU countries.

## **Education Issues**

Special needs litigation required a closely co-ordinated approach during 2009.

Litigation has reduced in these cases significantly since 2008.

## **Nursing Home Litigation**

Nursing home litigation and the Health Repayment Scheme issues continued to be demanding areas that required significant attention in 2009.

## **Environmental Issues**

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

## **Tribunals and Inquiries**

During 2009, legal issues connected with both statutory and non-statutory tribunals remained an important component of Advisory Counsel work.

## **International and EU organisations**

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

## **Health Insurance**

During 2009 the Office provided a considerable amount of advice to the requesting Department specifically in relation to the risk equalisation scheme (RES) and also advised on other litigation in relation to the scheme.

## **Banking**

The Office has had a detailed involvement in advising Government and relevant Departments in relation to matters arising out of the financial crisis, including the development of policy, the drafting of legislation, compliance with EU law and the interpretation and giving effect to legislation. The following have been advised on by the Office in the context of drafting the following legislation:

- *Credit Institutions Financial Support Act 2008*, including advising on the State Aid approval for the Government guarantee given to the Irish banks;
- **Credit Institutions Financial Support Scheme 2008** (pursuant to the above Act) including legal issues concerning its implementation and related state aids and competition issues;
- *Anglo Irish Bank Act 2009*;
- **Review of Credit Institutions Financial Support Guarantee Scheme** and revised **Eligible Debt Security Instrument Scheme** and state aid notification to the European Commission;
- **Financial Measures (Miscellaneous Provisions) Bill 2009** (in Seanad this week) includes **amendments to the CIFS Act 2008** and the implementation of the Prospectus Directive;
- Advice on the **recapitalisation of Anglo Irish Bank**;
- **NAMA Bill** and Scheme including ongoing contact with the EU Commission as to the scope of the Scheme to be notified and valuation methodology etc of the property loans to be transferred.

In general, this work in the financial area has required intense engagement with the relevant Department and their solicitors, the Central Bank, the Financial Regulator and the firm of corporate finance advisers.

## **Social Partnership**

During 2009 the Office continued to provide legal advice and support in relation to employment law measures including a range of proposals for legislation including the Employment Compliance Bill, the Industrial Relations Amendment Bill and Employment Agency Regulation Bill,

## **Medical Defence Union Cases and Motor Insurance Bureau of Ireland cases**

During 2009 the Office continued to advise on these two categories of litigation.

## **Justice and Criminal law**

At EU level the Office has advised on a considerable number of proposed measures under Title VI TEU relating to areas such as information sharing, procedural law, mutual recognition and substantive criminal law. The Office assisted the Attorney General in his role during 2009 as member of the Justice Future Group which made recommendations on the priorities of the European Commission in the field of Justice and Home Affairs.

## **Extradition and European Arrest Warrant cases**

In these matters the Office works very closely with the Central Authority at the Department of Justice, Equality and Law Reform, the Garda Síochána and in some cases the Department of Foreign Affairs. The volume of work in this area has increased dramatically in recent years. During 2008 an Advisory Counsel was seconded to the section at the Department of Justice, Equality and Law Reform to advise on these matters.

During the year, (Insert Number) persons were surrendered by the State under the European Arrest Warrant Act 2003. There were a number of important judgments under the Act handed down in 2009.

## **The Law Reform Commission**

The Office continued to support the Law Reform Commission in its work during 2009.

## **Advisory Counsel in Irish Permanent Representation in Brussels 2009**

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

European Institutions. The Legal Counsellor discharged the following additional duties:

- Attendance at the Courts of Justice and other Working Groups.
- Liaison between the Legal Counsellors at the Permanent Representations of the various Member States and with Members of the Council, Commission and Parliamentary Legal Services.
- Assisting in the bilateral resolution of technical legal difficulties in relation to legislation under negotiation in Council.
- Liaising between Permanent Representation in Brussels and the Office of the Attorney General in Dublin.

## **Work of Parliamentary Counsel in 2009**

The Office of the Parliamentary Counsel to the Government (OPC) drafted a significant number of Bills and Statutory Instruments during 2009. Among the 52 Government Bills that were published (see **Annex A**) and the 47 Bills enacted (see **Annex B**) in the course of the year, there was a number of significant drafting assignments undertaken by the office during 2009 including the following –

### **Adoption Bill 2009**

The Bill provides for the establishment of the Adoption Authority of Ireland, to replace An Bord Uchtála. It consolidates the law regulating adoption in the State, including adoption of children born outside the State, and gives the force of law to the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption 1993. It provides for the possibility of the adoption of foreign children from states that are not party to the Hague Convention if bilateral agreements for such adoptions have been signed with those states and the State.



## **Anglo Irish Bank Corporation Act 2009**

The Anglo Irish Bank Corporation Act 2009 took Anglo Irish Bank into public ownership to avoid the possibility of an imminent collapse of the bank with consequent serious damage to the stability of the Irish financial system.

## **Charities Act 2009**

The Charities Act 2009 -

- dissolves the Commissioners of Charitable Donations and Bequests,
- establishes a body to be known as the Charities Regulatory Authority to monitor and police charitable organisations,
- provides for the establishment of a register of all charitable organisations operating in the State to be maintained by the Charities Regulatory Authority,
- requires the keeping of proper accounts by charitable organisations and the annual auditing of those accounts,
- provides for the investigation of the affairs of a charitable organisation by inspectors appointed by the Charities Regulatory Authority,
- establishes a Charity Appeals Tribunal to hear appeals from decisions of the Charities Regulatory Authority,
- amends the Street and House to House Collections Act 1962 to cater for new techniques employed by charitable organisations in soliciting donations from the public.

## **Civil Partnership Bill 2009**

The Bill establishes a new scheme permitting civil partnership between two adults of the same sex and creating rights, obligations and protections consequent on entering into civil partnerships (including protection of the home the partners share, the maintenance of the civil partners (including attachment of earnings orders), succession matters, and extension of the domestic violence protections, as well as

miscellaneous provisions, including with respect to property rights, redress provisions in other statutes, pensions, and conflict of interests rules.) It also provides for the annulment and dissolution of civil partnerships and the recognition of foreign relationships as civil partnerships where warranted. The Bill also provides a redress scheme for opposite-sex and same-sex couples after the break-up of a relationship where they were cohabiting without being married or registered in civil partnerships. It creates the possibility of opting-out of this scheme by way of cohabitation agreements.

## **Companies Consolidation and Reform Bill**

During 2009 the OPC continued, in collaboration with the relevant Department, to progress work on this Bill. The exigencies of the Government legislative programme in 2009 resulted in the deferral of some aspects of various Parts of the Bill. However, notwithstanding the necessity for this re-scheduling, the position as of 31 December 2009, was that only Part A11 (Winding Up) in Pillar A of the General Scheme remained to be dealt with, in terms of providing a first draft of it to the Department.

## **Courts and Court Officers Act 2009**

This Act provides for the placement in temporary custody of prisoners and other persons while they are awaiting a court appearance, sets out the procedures to be followed when such a placement occurs, and confers certain powers on the officers in whose temporary custody the persons are placed. It also provides for the detention of persons in holding cells, in or adjacent to a court building, while awaiting a court appearance.

The Act also allows the establishment by the Courts Service (or, in certain cases, the Government) of "combined court offices", in which the business of two or more existing court offices can be transacted, and for the management and staffing of these offices. While the Act is of general application, its enactment in November 2009 allowed the operation of the new Criminal Courts Complex in Dublin 7.

## **Criminal Justice (Amendment) Act 2009**

This Act provides additional measures with respect to combating organised crime, including a re-definition of the offence of participation in activities that could enhance the ability of a criminal organisation to commit serious offences (first introduced by the Criminal Justice Act 2006), the creation of an offence of directing the activities of a criminal organisation and also a re-definition of the expression (contained in the 2006 Act) of "criminal organisation" itself. The Act enables the trial in the Special Criminal Court of organised crime offences and provides for the admissibility of the opinion of a Garda (or former Garda), with the requisite expertise, as to the existence of a criminal organisation. Various other changes are made by the Act to criminal law and procedure (and not just in the sphere of organised crime) and particularly with regard to the powers, under several enactments, for detaining suspects for questioning. A meeting of the Council of State was convened by the President for the purpose of considering whether to refer the Bill for this Act under Article 26 of the Constitution to the Supreme Court; the outcome of the meeting was that the President decided not to make a reference.

## **Criminal Justice (Money Laundering and Terrorist Financing) Bill 2009**

The main purposes of this Bill are to give effect to the EC Directive commonly referred to as the "Third Money Laundering Directive" and to give effect to certain provisions of the United Nations Convention on Transnational Organised Crime. In particular, the Bill -

- sets out offences of money laundering, including money laundering occurring outside the State,
- provides for directions and orders to be made that freeze of suspicious transactions and services to enable investigations to be carried out,

- increases the obligations on financial and other service providers, including lawyers, accountants, real estate agents and private members clubs, to identify customers and connected beneficiaries and to monitor transactions,
- requires those service providers to report suspicious transactions to An Garda Síochana and the Revenue Commissioners,
- provides for the monitoring of those service providers by various professional bodies or by the Minister for Justice, Equality and Law Reform, and
- provides for the licensing of trust or company service providers.

### **Criminal Procedure Bill 2009**

This Bill takes account of many of the recommendations contained in the final report of the Balance in the Criminal Law Review Group and will provide for the reform of the law relating to victim impact evidence, and will in particular, extend the entitlement to make an oral statement at a sentencing hearing to family members of victims of certain crimes.

The Bill makes provision for the modification of the rule against double jeopardy to allow a person who has been acquitted on an offence to be retried in certain limited circumstances where new and compelling evidence emerges or where the acquittal is tainted. Provision is made in the Bill to enable the Director of Public Prosecutions in certain limited circumstances to appeal on a with prejudice basis certain acquittals and rulings to the Supreme Court. The Bill will also provide for the modification in the rules governing character evidence of the accused or the victims of alleged offences and a change in the way expert evidence is adduced. It will also provide for return of or disposal of real evidence before trial. The Bill will also provide for a number of other miscellaneous matters relating to appeals.

### **Criminal Justice (Surveillance) Act 2009**

The Act provides for the admissibility in court of information and material obtained by the use of surveillance. It creates a scheme of judicial authorisation of the use of

surveillance. It provides for surveillance without authorisation in limited circumstances and for limited periods where senior officials approve the use, subject to recording and reporting requirements. It further provides that where the information could be obtained by the less-intrusive means of a tracking device, this method should be preferred to complete surveillance. The use of tracking devices is subject to senior official approval and there are provisions requiring recording of the approval, as well as reporting on the use of tracking devices. The Act also contains provisions for oversight and complaints procedures, as well as setting out protections for the confidentiality of the material obtained. There are consequential amendments to other Acts as well.

### **The Defamation Act 2009 -**

- abolishes the distinction between libel and slander,
- abolishes all of the common law defences and replaces them with new statutory defences to the tort,
- provides for a defence of fair and reasonable publication where the media publish a false and defamatory statement concerning a person provided its publication is in good faith, it concerns a matter of public importance, its discussion is for the public benefit and it is fair and reasonable in all of the circumstances to publish the statement,
- allows the defendant to make a lodgment of money in court without admission of liability,
- provides for remedies in addition to the remedy of damages, for instance a correction order requiring the defendant to publish a correction of the defamatory statement,
- allows a plaintiff to bring an action seeking a declaration that he or she has been falsely defamed subject to his or her not being able to recover damages should he or she elect to seek such a declaration,
- amends the Statute of Limitations 1957 to provide that a defamation action may not be brought after the expiration of one year, or such longer period not exceeding 2 years as the court permits, from the accrual of the cause of action,

- abolishes the offences of defamatory libel, seditious libel and obscene libel,
- provides for a definition of blasphemy to give effect to the requirement in Article 40.6.1.i of the Constitution that there be an offence of publishing or uttering blasphemous matter,
- provides for the recognition of a Press Council by the Minister for Justice, Equality and Law Reform.

### **Defence (Miscellaneous Provisions) Act 2009**

The Defence (Miscellaneous Provisions) Act 2009 provides that -

- participation by the State in projects and programmes under Articles 20 and 21 of Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency be subject to the prior approval of the Government and Dáil Éireann,
- participation by the State in permanent structured cooperation referred to in Article 42 of the Treaty on European Union also be subject to such approval.

### **Electoral (Amendment) Act 2009**

This Act: (i) revises the number of members to be elected to Dáil and European Parliament constituencies, (ii) amends the law relating to the Constituency Commission by providing that the Commission will be established on publication by the Central Statistics Office, following a Census of Population, of the Census Report setting out the preliminary result of the Census in respect of the total population of the State, (iii) provides for alternative procedures for nomination of non-party candidates at European and local elections by way of assent or deposit, and (iv) provides additional amendments to the Local Elections Regulations 1995 and gives them statutory effect.

### **Employment Agency Regulation Bill 2009**

This Bill will -

- provide for the licensing by the Minister for Enterprise, Trade and Employment of employment agencies that wish to operate in the State,
- permit the provision of employment agency services in the State without a licence by certain employment agencies established in designated EEA states,
- provide for the designation of certain EEA states by the Minister for the purposes of dispensing with the requirement that employment agencies established in those states obtain a licence in order to operate in the State,
- provide for the prosecution *in absentia* of persons who commit offences provided for under the Bill,
- provide for a code of practice to give guidance to employment agencies on compliance with the Bill,
- provide for administrative cooperation by the Minister with foreign statutory bodies in relation to the policing of employment agencies,
- provide for the establishment by the Minister of an Advisory Committee on Employment Agencies to assist and advise him in relation to the performance of his functions under the Bill.

## **European Union Act 2009**

- amends the European Communities Act 1972 and the European Union (Scrutiny) Act 2002 consequent upon the entry into force of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community,
- confers power on the Houses of the Oireachtas to -
  - (a) oppose the adoption by the State of certain decisions under the Treaty on European Union and the Treaty on the Functioning of the European Union,
  - (b) issue a reasoned opinion to the Presidents of the European Parliament, the Council and the European Commission pursuant to Article 6 of Protocol No. 2 to the Treaty on European Union and the Treaty on the Functioning of the European Union, and

- (c) require the Minister for Foreign Affairs to arrange for proceedings seeking a review of an act of an institution of the European Union to be brought in the Court of Justice of the European Union in accordance with Article 263 of the Treaty on the Functioning of the European Union,
- deems all statutory instruments made for the purpose of giving effect to an act of an institution of the European Union that is repealed and codified by a subsequent act of such institution to have been made for the purpose of giving effect to the subsequent codifying act.

### **Financial Emergency Measures in the Public Interest Act 2009**

The purpose of this Act is to introduce a number of financial emergency measures in the public interest. These are the making of a new deduction from the remuneration of most public servants who are members of a public service pension scheme or who have an analogous arrangement; provisions to allow public bodies to reduce the professional fees paid by them to external service providers; changes in the early childcare supplement and in the Farm Waste Management Scheme.

### **Financial Emergency Measures in the Public Interest (No. 2) Act 2009**

The purpose of this Act is to reduce the remuneration of public servants as a financial emergency measure in the public interest. The Act was introduced in the context of the priority being given to the stabilisation of the public finances, including the need to achieve an adjustment of over €1 billion in the public service pay and pensions bill in 2010.

### **Financial Services (Deposit Guarantee Scheme) Act 2009**

This Act is one part of a legislative package (the other part being a complementary statutory instrument) to amend and update the Irish deposit guarantee scheme (DGS) (which is operated by the Central Bank and Financial Services Authority of Ireland) in line with the Government's announcement of 20 September 2008.



The reforms announced at that time involve—

- increasing the statutory limit for the deposit guarantee scheme for banks and building societies from €20,000 to €100,000 per eligible depositor per institution with effect from 20 September 2008;
- the discontinuance of the co-insurance requirement whereby the depositor bore 10% of the loss up to the statutory ceiling on cover; and
- extending the guarantee scheme to apply to credit union savers.

The DGS reforms overlap to some extent the recent EU amendments to Directive 94/19/EC, on which our DGS is based and which was transposed into Irish law by S.I. No. 168 of 1995.

The Act also incorporates some provisions currently in S.I. No. 168 of 1995 (e.g. the use of the Deposit Protection Account in the CBFSAI and which funds the DGS) so as to give a firmer footing in primary legislation to those provisions.

This Act, together with the follow-on S.I., will complement the Credit Institutions (Financial Support) Scheme, 2008. That Bank Guarantee Scheme provides State guarantees for all deposits and certain liabilities of the guaranteed institutions to the extent that these are not covered by existing deposit protection schemes in the State or any other jurisdiction. It is also important to emphasise that while the Credit Institutions (Financial Support) Scheme 2008 applies to the seven covered credit institutions, the deposit guarantee scheme legislation applies to all credit institutions authorised in the State, including — in the light of this reform — credit unions which did not previously benefit from statutory deposit protection.

## **Fines Bill 2009**

This Bill will provide for –

5 classes of fine in respect of offences that are tried summarily,

- the increase of all existing summary fines to take account of the increase in the value money so that they fall within one of the 5 classes referred to above,

- the increase of certain indictable fines to ensure that no fine that may be imposed upon conviction on indictment will be less than the maximum summary fine,
- the taking into account of a person's financial circumstances by a court when imposing a fine upon conviction of an offence,
- the payment of fines by instalment,
- new mechanisms relating to the recovery of fines imposed by a court upon conviction of an offence.

### **Health Insurance (Miscellaneous Provisions) Act 2009**

This Act amends the Health Insurance Acts 1994 to 2007 so as to assure, in the interests of the common good, that access to health insurance cover is available to all consumers without differentiation made in respect of age and health status. The Act builds on the existing legislative provisions to achieve this purpose by providing for amendments to the Taxes Consolidation Act 1997 and the Stamp Duties Consolidation Act 1999. The Act also provides for more information to be made available to consumers of health insurance in relation to health insurance advertising and health insurance contracts and enables the Health Insurance Authority to pursue enforcement measures where it is of the opinion that an insurer is contravening same.

### **Labour Services (Amendment) Act 2009**

The Labour Services (Amendment) Act 2009 amends the Labour Services Act 2009 by -

- inserting provisions relating to the appointment of the members of FÁS and the terms upon which they hold office,
- inserting provisions relating to the terms upon which the office of the Director General is held,
- making the Director General accountable to the Committee of Public Accounts and other committees of the Houses of the Oireachtas,

- inserting provisions relating to disclosure of conflicts of interest on the part of members or members of staff of FÁS and the prohibition on the influencing of decisions where there is a conflict of interest,
- inserting provisions protecting persons who report misconduct in relation to FÁS.

### **Merchant Shipping Bill 2009**

The Merchant Shipping Bill updates the Merchant Shipping Acts in relation to the construction of vessels and radio communications and navigational aids on board and life saving appliances and other safety measures on board as required by the Safety Convention SOLAS. It also deals with access to vessels to persons with reduced mobility and the raising of sunken vessels. The Bill also gives effect to the Maritime Labour Convention 2006.

### **Multi-Unit Developments Bill 2009**

The purpose of the Bill is to regulate the operation of multi-unit developments and to provide for the timely and orderly transfer of ownership of the common areas of these developments to management companies.

The Bill also provides a framework for the setting of annual service charges as well as the establishment of a sinking fund by such management companies and attempts to ensure a greater degree of transparency and fairness into the manner in which such charges are set and the purposes for which monies levied are expended.

### **National Asset Management Agency Act 2009**

The purpose of this Act is to address a serious threat to the economy and to the systemic stability of credit institutions in the State generally by providing for the establishment of a statutory body to be known as the National Asset Management Agency (NAMA). NAMA's purposes include—

- acquiring certain assets from certain persons designated by the Minister;

- effecting the expeditious and efficient transfer of those assets to NAMA;
- holding, managing and realising those assets;
- taking all steps necessary or expedient to protect, enhance and better realise the value of those assets;
- performing such other functions relating to the management or realisation of those assets as provided for in the Act or as directed by the Minister; and
- facilitating the restructuring of credit institutions of systemic importance to the economy.

### **Nursing Homes Support Scheme Act 2009**

The Nursing Homes Support Scheme Act establishes a scheme of financial support for persons who require nursing home care either in a public facility or in a private facility. The Scheme provides for the giving of State support towards the care of the person entering care and the amount of this support is determined on the basis of an assessment of means. The Bill also provides for payment of further support called "ancillary State support" which is in essence a loan linked to a mortgage or charge placed on a person's house or land. The loan is repayable on the death of the person receiving the nursing home care but repayment may be deferred where specified relatives are living in the property.

### **Property Services (Regulation) Bill 2009**

The principal purpose of the Bill is to transfer the existing District Court-based licensing system for auctioneers and house agents to a new authority (called the "Property Services Regulatory Authority") to be established by the Bill. In addition to providing for the licensing of auctioneers and house agents, the Bill also provides for the licensing of property management agents. The activities of auctioneers, house agents and property management agents which will require to be authorised by a

licence issued under the Bill come under the umbrella term “property services” as defined in section 2(1) of the Bill. The Bill also gives the Property Services Regulatory Authority comprehensive powers to control and supervise licensees, including powers in relation to investigating complaints against licensees and imposing sanctions on them where improper conduct has occurred. The Bill also provides for the establishment of a Property Services Compensation Fund to compensate clients of licensees who have suffered a loss as a result of dishonesty on the part of a licensee.

### **Statute Law Revision Act 2009**

The Statute Law Revision Act 2009 expressly repealed 1,339 obsolete Acts passed prior to Irish independence. This includes the repeal of all obsolete Local and Personal Acts passed prior to 1850 and all obsolete Private Acts passed prior to 1750, and leaves only a limited list of such Acts which are still in force for those periods. It dovetails with the Statute Law Revision Act 2007 which was enacted last May and which eliminated 3,226 obsolete Public General Acts from the statute book. This Bill is a major step in a process to revise the overall statute book by setting out a list of Acts specifically repealed and by retaining a specified list of Acts which are of continuing relevance.

### **Twenty-Eighth Amendment of the Constitution (Treaty of Lisbon) Act 2009**

This Act amended Article 29.4 of the Constitution and enabled the State to ratify the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community.

## **Work of the Chief State Solicitor's Office in 2009**

The following is a summary of the work dealt with in the Legal Divisions of the Chief State Solicitor's Office during 2009.

### **Public Law Division**

The Public Law Division is made up of the Commercial and Constitutional Section and the Judicial Review Section and deals with a wide range of litigation, with many of the cases being high profile, requiring compliance with strict time limits and involving complex issues of law.

### **Commercial and Constitutional Section**

This Section is responsible for the defence of a wide range of civil actions against the State and State Authorities. During 2009 the Section received 329 new cases. Most of the cases that were dealt with went to full plenary hearing. Issues of law dealt with included commercial, constitutional, contract, employment, insurance, international, environmental, planning, electoral, public health, intellectual property, housing, social welfare, administrative and European Union Law.

### **Judicial Review Section**

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

In 2009 the Section received 218 judicial reviews, 89 habeas corpus applications, 6 adoption cases, 1 case stated, 2 letters of request from foreign tribunals and 218 documents for service under EU Council Regulation No 1348/2000 and the Hague Convention on service abroad of judicial and extra judicial documents in civil and commercial matters.

## **Asylum and Legal Services Division**

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

### **Asylum Section**

This Section handles all asylum, immigration and repatriation related cases on behalf of the Department of Justice, Equality and Law Reform, the Office of the Refugee Applications Commissioner, the Refugee Appeals Tribunal and the Garda National Immigration Bureau. The majority of the work is of a litigious nature dealing primarily with judicial review applications (both leave and substantive hearings) as well as habeas corpus applications (where the Section acts on behalf of the Prison Governor) in the Asylum area and necessitates daily attendance before the High Court and to a lesser degree the Supreme Court. The Section also deals with District Court applications pursuant to the Refugee Act 1996 as amended. In 2009, 775 new asylum related files were opened in the Section.

### **Legal Services Section**

This Section has responsibility for legal costs accounting (including assessing bills of costs and attending at the taxation of same) and the recovery of legal costs due to the State. It is further responsible for the payment of Counsels' fees and acts for the Commissioner of Valuation in appeals before the Valuation Tribunal. The Section is also involved in the preparation of Ministerial Prosecutions in the District Court. The Section Head chairs a Committee which oversees a legal training scheme for clerical staff in the Office.

## **State Property Division**

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

### **Office of Public Works / Health and Children Section**

The Section acts mainly for The Commissioners of Public Works in Ireland (“OPW”) and handles the acquisition, disposal and leasing work of OPW Property Management Services. OPW Property Management Services are responsible for the procurement of office accommodation for Government Departments, Offices, Agencies and Tribunals, as well as the ongoing management of the State’s property portfolio. The Section handles some work for OPW Project Management Services, OPW Engineering Services and OPW Property Maintenance Services. The Section also handles work for the Department of Health and Children and the Department of Finance. The Section, in addition, handles heritage transactions and State Property Act waivers.

The work of the Section comprises commercial conveyancing, including commercial leasing; landlord and tenant issues and advice; acquisitions and disposals; construction related matters and advice; commercial agreements relating to property; title advices. Acquisitions and disposals of property take place under various Government Programmes and leasing of accommodation for Government Departments is an ongoing requirement.

Work handled during 2009 included the following:- acquisition of office accommodation in various locations for Social Welfare purposes; acquisition by long lease of premises in Clonmel for storage of flood defence barriers as part of OPW’s flood relief scheme; acquisition of warehouse accommodation at Swords for the National Museum; acquisition of additional space for the National Gallery; completion of disposal of Broc House as part of the Affordable Housing Scheme; continued work on the OPW’s involvement in the National Concert Hall PPP;



continued granting of mobile phone, broadband and digital radio (Tetra) licences on State property; continued work on the Digital Hub Project.

### **Defence, Marine and Sports Capital Programme Section**

During 2009 this Section dealt with transactional and advisory property matters for the following Government Departments – Departments of Defence; Agriculture, Fisheries and Food; Arts, Sports and Tourism; Community Rural and Gaeltacht Affairs; Transport; Enterprise, Trade and Employment and Communications and Natural Resources. The work included Fishery Harbour Centre Leasing , Conveyancing of Forestry Lands , legal charging under the Sports capital programme and access programme and disposal of Department of Defence properties.

### **Finance, Education, Justice and Heritage Section**

In 2009 the work of this Section included the property aspects of the Residential Institutions Redress Indemnity Scheme, dealing with escheated estates where the State was the ultimate intestate successor, school leases, purchases of sites for schools and prisons, commercial leases for the Minister for Justice, Equality and Law Reform and claims for compensation under Section 120 of the Registration of Title Acts 1964 -2006. The heritage work involved the acquisition of national monuments and historic properties. A substantial amount of bogs and turbary rights in various counties were acquired on behalf of the Minister for the Environment, Heritage and Local Government for conservation purposes.

### **Justice and Common Law Division**

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

### **Justice and Crime Section**

This Section deals with Extradition cases and European Arrest Warrant applications in the High and Supreme Courts on behalf of the Attorney General and the Minister for Justice, Equality and Law Reform. In addition, it deals with Mutual Assistance applications in the District, Circuit and High Courts on behalf of the Minister for Justice, Equality and Law Reform. The Section also provides Solicitor services to the

Garda Síochána and client Departments in matters such as Inquests, Licensing applications, Police Property Act applications, Transfer of Sentenced Persons applications, Appeals to the Courts Martial Appeals Court and Ministerial Prosecutions.

During 2009 the Section received 314 new European Arrest Warrant applications (an increase of 66% in the number received in 2008), 9 new Extradition cases from outside the European Union, including 5 from the United States of America, 63 new Mutual Assistance applications, 11 Dublin Inquests, 15 Transfer of Sentenced Persons applications, 1 Transfer of Execution of Sentence application, 93 Intoxicating Liquor Licence applications, 11 Police Property Applications, 1 Court Martial Appeal and a range of Ministerial prosecutions including 499 Social and Family Affairs prosecutions.

Also during 2009, the Head of Section managed the on-call panel of staff in the Office which provides a round the clock service out of office hours in Extradition, European Arrest Warrant, Habeas Corpus and other urgent matters. In 2009, 10 out of Dublin Inquests were managed as well by the Head of Section.

### **Garda Litigation Section**

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

The Section also deals with all claims by Gardaí under the Garda Síochána (Compensation) Acts 1941 and 1945. In addition, the Section acted for the Garda Authorities before the Dublin Archdiocese Commission of Investigation. There were 94 general Garda cases and 320 Garda Compensation cases received in the Section in 2009.

### **General Litigation Section**

This Section deals with all childhood abuse litigation arising out of claims of abuse in Residential Institutions and Day Schools. Following the coming into operation of the

National Treasury Management Agency (Delegation of Claims Management Functions) Order 2005 (SI No 503 of 2005) on the 1<sup>st</sup> September 2005, the State Claims Agency took over the responsibility for the management of childhood abuse litigation and the Section provides legal services to the SCA in respect of such claims. There is a team of Solicitors in the Section to handle Day School Abuse litigation and a special Unit to deal with Residential Abuse cases.

The Section also deals with claims for damages for injury suffered by members of the Defence Forces, outside the State, whilst in the service of the State, Civil Service bullying and harassment cases and appeals to the High Court by persons infected by Hepatitis C or HIV or both, through the administration of blood or blood products. There were 149 new cases in the Section in 2009.

### **Advisory Division**

The Advisory Division consists of three Sections - the General Advisory Section, the State and European Litigation Section and the Commercial Contracts Section. A total of 876 files were opened in the Division in 2009.

### **General Advisory Section**

This Section has responsibility for general advisory matters which include instituting Plaintiff litigation on behalf of the State, third-party discovery, company law proceedings, arbitrations, adoption matters, civil registration matters, Garda Síochána advice matters, advising the Irish Prison Service, mining and petroleum exploration and development, wildlife prosecutions, habitat prosecutions, debt collection to include recovery of overpayment of State pensions and non-payment of vehicle storage charges, grants and REPS payments, recovery and enforcement of Pensions Ombudsman's determinations, as well as dealing with work before Tribunals of Inquiry and costs issues arising therefrom.

### **State and European Litigation Section**

This Section deals with cases before the European Court of Justice and the Court of First Instance. It handles legal proceedings before the ECJ instituted by the European Commission, as well as cases in which Ireland intervenes in proceedings involving

another member State. The Section also deals with Employment work and represents Government Departments and Offices at hearings before Rights Commissioners, the Labour Court, the Employment Appeals Tribunal and the Director of Equality Investigations. Further, the Section provides legal advices on Civil Service employment issues as well as handling company restoration applications.

### **Commercial Contracts Section**

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

## **Part II: Organisational Developments**

### **Management Advisory Committees**

A joint Management Advisory Committee (Main MAC), representative of senior management of both the Merrion Street Office and the Chief State Solicitor's Office, met on **3** occasions during 2009 to advise the Director General on issues of common concern to both Offices including issues relating to the Modernisation agenda. A Legal MAC, representative of both Offices and attended by the Attorney General was established in 2006 in the context of a recommendation of the Report on the Attorney General's Office (Sullivan Report, June, 2006). The Legal MAC met on **3** occasions in 2009 and focused on current legal issues in the Office. Separate local Management Advisory Committees (MACs) also met on a monthly basis to advise the Director General, Chief Parliamentary Counsel and Chief State Solicitor, as appropriate.

### **Staffing**

By the end of 2009 the authorised staff complement in the Merrion Street Office was 122. . The authorised staff complement in the Chief State Solicitor's Office at the end of 2009 was 232. .

## **Quality Customer Service**

Progress on the implementation of commitments set out in the Merrion Street Office's *Client Service Guide 2008 – 2010* and *Client and Customer Charters* and the Chief State Solicitor's Office's *Customer Action Plan 2008 – 2010* and *Client and Customer Charters* is outlined in Chapters 4 to 7 of this Report.

## **Information Technology**

During 2009 the Office continued to refine and enhance its IT Systems to ensure that they remained aligned with the business demands of the Office. The IT Unit also continued to play a very significant role in the ongoing management and enhancement of the electronic Irish Statute Book (eISB). Progress achieved is outlined in Chapter 7 of this Report.

## **Knowledge Management**

During 2009 the Office continued to promote a culture of knowledge sharing within the Offices. The Knowledge Management Strategy 2009 – 2012 was completed and presented for the approval of the Management Advisory Committee (MAC) in 2009.

The new Knowledge Management Strategy builds on the achievements of the previous Strategy and makes specific succinct recommendations in relation to KM. It also makes recommendations in relation to a know-how application. It is intended to begin the implementation of the new Knowledge Management Strategy in 2010. Progress achieved in this regard is outlined in Chapter 7 of this Report.

## **Development of Legal Services**

During 2009, the Office continued to focus on the development and enhancement of further specialisation to meet the changing needs of Government and client Departments and Offices and in pursuit of its strategy of increased specialisation in key areas.

## **Better Regulation**

In line with commitments set out in the Government's White Paper "Regulating Better" the Office's proposals for improving the accessibility and coherence of Irish Statute Law continued to have an impact on the work of the Office in 2009.

## **Report of the Review of the Office of the Attorney General (Sullivan Report, June, 2006)**

During 2009 the Office continued to keep under review its Action Plan to monitor the implementation of the recommendations of the Sullivan Report on the Review of the Office of the Attorney General published in June, 2006. Notwithstanding the fact that all recommendations were implemented prior to 2008 the local Merrion Street and CSSO MACs, the joint Merrion Street/CSSO MAC and the Partnership Committee in the Merrion Street Office were consulted in relation to developments arising out of the Report as appropriate.

## **Cross-Functional Working Initiatives**

During 2009 cross-functional teams involving staff from the Merrion Street Office and the Chief State Solicitor's Office continued to operate in projects including the Case and Records Management System Project, the Financial Management System Project and the Knowledge Management Strategy Project.

Also, staff from both Offices worked together on issues such as the finalisation of the Value for Money and Policy Review in respect of the Administration of the Attorney General's Scheme. Legal and Administrative staff in the Merrion Street Office worked together on the finalisation of the Value for Money and Policy Review on the Maintenance of the electronic Irish Statute Book (eISB). Both Reports were published in February 2009.

## **Organisational Flexibility in the Merrion Street Office**

During 2009 the Office continued to implement proposals to increase organisational flexibility in line with commitments set out under the Social Partnership Agreement *Towards 2016*. In the Merrion Street Office there is significant mobility of staff, between the Advisory Counsel Groups and also within the Parliamentary Counsel

Groups and indeed within Administration Business Units, to respond to urgent work demands.

During 2009 specific examples of flexibility demonstrated by the Merrion Street Office included the continued availability of legal and administrative staff to be involved in the IT project, particularly in relation to representation on and involvement in the work of relevant project governance and business users' committees. This flexibility occurred at a time when the workload of the Office increased significantly since the previous year.

### **Organisational Flexibility in the Chief State Solicitor's Office**

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

The Office continued to be flexible in the allocation of its staff to deal with work related to Tribunals and Commissions of Inquiry.

During 2009 some of the more specific examples of flexibility demonstrated by the Office included the following:

- A panel of solicitors set up for short-term employment to replace established staff on career breaks and extended leave, continued to operate;
- The continued outsourcing of all outdoor 'clerking' duties to a private firm operated to the satisfaction of the Office;
- The on-call panel for out of hours urgent court applications continued to operate;
- A panel was maintained to deal with inquests outside Dublin;
- The Office continued to operate an internal staff mobility policy;
- A panel of external solicitors was available for the Office of Public Works to provide the OPW with expert legal service at competitive costs. This was over and above the work undertaken by the Office directly for the OPW;

- Legal staff dealt with an increased number of High Court cases at provincial venues as a result of the High Court listing cases for hearing around the country.

## **Shared Services and close cooperation with Departments**

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

Specific examples during 2009 include:

- Secondment of Advisory Counsel and solicitors to participating Departments;
- Maintaining close liaison with the State Claims Agency in regard to the management of childhood abuse litigation;
- Close cooperation in context of recent banking issues with the private lawyers employed in the Department of Finance and who are the in-house lawyers in NAMA and our recent secondment of an Attorney General Office lawyer to the banking division of the Department of Finance;
- Co-operation and regular review meetings between legal staff in the Office and Departmental officials in devising appropriate legal strategies to ensure the ongoing effective management of domestic and European Court of Justice (ECJ) litigation;
- Monthly meetings of separate local MAC in the Merrion Street Office and Chief State Solicitor's Office, quarterly meetings of the joint Attorney General's Office/Chief State Solicitor's Office MAC to discuss organisational developments.
- Legal MAC representative of the Attorney General's Office and the Chief State Solicitor's Office and attended by the Attorney meets 3 times yearly to discuss specific legal issues.



- Co-operation and regular review meetings between legal staff in the Office and officials in client Departments so as to ensure that requests for advice, the drafting of Bills and managing mass litigation are effectively managed on an ongoing basis.
- Co-operation and regular review meetings between legal staff in the Office and relevant Departmental officials so as to ensure that mass litigation is effectively managed on an ongoing basis;
- Co-operation between the Office of the Parliamentary Counsel and the Government Legislation Committee.

The Office also operates a shared service approach internally by developing a single Case and Records Management System and FMS for the Office of the Attorney General and the Chief State Solicitor's Office, supported by a shared IT service between the Office of the Attorney General and Chief State Solicitor's Office. The Office also has a single internal audit Unit and change management Unit. Other examples are highlighted below in the context of the delivery of legal services.

## **People and Leadership**

The Office recognises the importance of achieving flexibility in the mobility and redeployment of staff within and outside of the Office. During 2009, in an internal context Advisory Counsel and Parliamentary Counsel in the Merrion Street Office were regularly redeployed within specialist Groups and legal staff in the CSSO within specialist Sections. Also, in an external context the secondment of Advisory Counsel to participating Departments represents a strategic approach to the provision of specialist legal expertise to those Departments, supported by the resources and expertise of the Office. All Advisory Counsel recruited since 2005 are recruited on the basis that they may be seconded to Departments.

## **Strengthening Governance and Implementation Strategy**

During 2009 the Office provided specialist legal service to all Departments and Offices and to Government. This Civil Service wide role, allowed it to engage closely and integrate with the whole of Government. During the year the Office dealt with

many cross-cutting issues and demonstrated a good understanding of departmental needs and priorities.

### **Freedom of Information Requests**

Statistics on requests to the Merrion Street Office and the Chief State Solicitor's Office under the Freedom of Information Acts are set out in **Annex G**. During 2009 Advisory Counsel continued to advise the Central Policy Unit in the Department of Finance on legal issues relating to the implementation and application of the Acts.

### **Other Organisational Developments**

Progress achieved in 2009 in relation to other significant developments such as Internal Audit, the Partnership process and the Official Languages Act is outlined in Chapter 7 of this Report.

### **International, EU organisations and Interdepartmental issues**

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

## **Chapter 4: Progress Achieved in reaching Goal 1**

### **Goal 1 – Advisory Counsel**

To provide high quality and specialist legal advice and support to the Attorney General in carrying out the duties of his office and to client Departments and Offices in a responsive, efficient and effective manner in areas of law of importance to Government.

The objectives, strategies and performance indicators to meet this Goal will be:

#### **Objective 1**

To deliver a high quality specialist legal advisory service to our clients supported by knowledge management and information technology.

#### **Strategy 1**

Deliver the Office's key commitments in its *Client Service Guide 2008 – 2010* and *Client and Customer Charter 2008 – 2010* for Advisory Counsel and Administration.

#### **Performance indicators**

Compliance with the Client Service Guide and Charter commitments evaluated through regular formal reviews, annual meetings of Client Panel and client surveys. Benchmark progress and improvement against previous survey and review results which consider:

- Effectiveness in communicating proactively with clients;
- Responsiveness and timeliness in service delivery performance;
- Accuracy, quality and consistency of work outputs/advice provided;
- General service delivery and professionalism of Advisory Counsel;
- Client contributions to service delivery;
- Improvements achieved over intervening periods.

#### **Strategy 2**

Maintain close co-operation with the OPC, the CSSO and Departmental legal advisers in the handling of legal work

#### **Performance Indicators**

- Procedures and practices set out in the Report of the Group on the Quality Control of Legislation monitored and reviewed;
- Demonstrate co-ordination with legal advisers in Government Departments and other State Offices with regular review meetings with those legal units;
- Fully operate the case and records management system in handling all legal work.

### **Strategy 3**

Continued development of knowledge management to ensure best practice.

#### **Performance Indicators**

- Contribute to Know-how database to ensure legal advices and other legal materials are accessible to staff;
- Share knowledge through widespread participation by Advisory Counsel in legal information meetings and other fora.
- Contribute to production of Knowledge Management Strategy to succeed and develop existing one;

### **Strategy 4**

Implement the risk management policies of the Office.

#### **Performance Indicators**

- Designate appropriate officials in respect of specific risks on which they report to MAC
- Provide information to Director General, and Attorney General and Management Advisory Committee on areas of significant risk, including weekly reports to Director General of work of Groups by Group Manager;
- Regular formal review of Group and Corporate Risk Registers;
- Review system for monitoring of sensitive legal files;
- Report three times yearly to Government on sensitive litigation;
- Agree and monitor adherence to Office policies, protocols and workflows.

### **Strategy 5**

Participate in the development of Financial Management in the Office to ensure the delivery of outputs in accordance with the Office's Annual Output Statement and ensuring value for money.

#### **Performance Indicators**

- Produce Annual Output Statement for the Advisory Counsel Programme;

- Plan and allocate resources having regard to trends in workloads and their complexity and volume;.

## **Strategy 6**

Plan for the future in advisory legal services.

### **Performance Indicators**

- Annually review legal services provided and other activities to ascertain what changes, if any, should be made in method of delivery or organisational management;
- Monitor and respond to emerging legal issues.
- With CSSO, review panels of counsel annually.

## **Objective 2**

To implement the Office's Human Resources Strategy relevant to Advisory Counsel.

### **Strategy 1**

Develop and implement strategic training programme in legal and management issues..

### **Performance Indicators**

- Develop and implement programme for further/ongoing strategic training and development for Advisory Counsel;
- Provide support and training to trainee and seconded Advisory Counsel managed by a designated Advisory Counsel Training Manager.
- Review induction and training programs.
- Report to Management Advisory Committee every 6 months on training and development.

### **Strategy 2**

Ensure correct application of PMDS for legal staff.

### **Performance Indicators**

- Implement the integrated PMDS and HR training and development;
- Annual review for members of each specialist Group of progress toward meeting targets in PMDS, education, training and development.

### **Objective 3**

To assist in the co-ordination of legal services of the State

#### **Strategy 1**

Contribute to effective public service by assisting in the co-ordination of the legal services of the State.

#### **Performance Indicators**

- Demonstrate co-ordination with legal advisers in client Departments and Offices through regular review meetings with them;
- Operate the programme of secondment of Advisory Counsel to Departments and Offices with annual reviews of its operation;
- Review and enhance the system to facilitate and co-ordinate the approach to domestic and ECJ litigation;
- Participate in the work of the AGO/Law Reform Commission Consultative Committee.

#### **Strategy 2**

Provide legal services to Government in the implementation of litigation and compensation scheme policies and in the handling of cross-Departmental issues.

#### **Performance Indicator**

- Participate in interdepartmental working groups and in the Committees and Commissions listed in Appendix 4;
- Ensure appropriate communication with Government Departments in relation to European Court, of Justice litigation;
- Liaise with State Claim Agency, Office of Director of Public Prosecutions, Revenue Solicitors Office and agent to European Court of Human Rights (Department of Foreign Affairs) in relation to litigation as appropriate.

### **Progress achieved**

#### **Objective 1**

During 2009 the focus for the Advisory side of the Merrion Street Office was on the further development, enhancement and refinement of specialisation as the key to the achievement of the Office's Goals, Objectives and Strategies. This overarching strategy of specialisation is the key to providing effective legal services in the exceptionally wide range of legal work in which the Advisory side is involved.

During the year the Office undertook a re-organisation of the Advisory Groups with a view to aligning the delivery of services with changing client needs. The process entailed an analysis and review of the workload and composition of all Advisory Groups thus facilitating the identification of new emerging areas of law, areas of law that are expanding, reviewing and identifying all activities/services which should be managed by other competent authorities and the need to anticipate client needs and client feedback received in all areas of law.

In 2009 the Advisory Groups continued to review work through a formalised system of eight-week review cycles. The Groups prioritised work through regular formal and informal meetings with client Departments held throughout the year. In addition to addressing work related matters these meetings also provided an opportunity to gauge feedback from clients on service delivery issues and to highlight new and emerging issues. For example, the bi-monthly extradition/European Arrest Warrant meetings with client Departments, Garda Síochána and the CSSO held during the year dealt with issues in relation to individual cases, categories of cases, management of the area, communications between stakeholders, approaches and strategies to be communicated to panel of counsel and liaison with requesting States and the Courts Service.

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

### **Quality Customer Service**

In early 2009, nominated representatives of the Advisory side continued to engage in the process of developing a new Client Service Guide for the Office and Client and Customer Charters for the Advisory and Administration sides. The Guide and Charters were published in early-June 2009 in both languages.

The Office's Legal Management Advisory Committee representative of all legal areas of the Office – Advisory, OPC and CSSO as well as the Attorney General met on 3

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

Nominated Advisory Counsel continued to participate throughout the year in the work of various project governance committees and working groups in the context of the ongoing embedding of the new Case and Records Management System. Also all Advisory Counsel continued to use the system throughout the year.

During the year consultations with the Office of the Director of Public Prosecutions continued in relation to the transfer of responsibility for fisheries prosecutions to that Office. During the first half of the year the Office outsourced a significant amount of work to state solicitors in the Office of the Director of Public Prosecutions. From the start of August the fisheries prosecutions work formally and permanently transferred to that Office.

During 2009 Advisory Counsel continued to support the Law Reform Commission, particularly in the context of its programme of work included in the Commission's Third Programme for Law Reform.

### **Knowledge Management**

During 2009 Advisory Counsel continued to promote a culture of knowledge sharing, underpinning the delivery of legal advice to Government, Departments and Offices through attendance and participation in Legal Issues meetings and contributing to the preparation of Legal and European Convention on Human Rights (ECHR) Bulletins. Advisory Counsel participated in the Knowledge Management Committee and the Know-how Sub-Committee in the context of the development of a new Knowledge Management Strategy 2009 - 2012.

### **Risk Management**

During 2009 Advisory Counsel contributed to the further embedding of formal risk management policies within the Office. Advisory Counsel reported throughout the year to the Attorney General and Legal MAC and indeed to meetings of the Director General, Deputy Director General and Advisory Counsel I and to Advisory Counsel



Group meetings on areas and matters of significant risk. In the context of recommendations arising out of the Sullivan Report, Advisory Counsel participated in the process of identification of sensitive and constitutional cases for inclusion in reports submitted to Government on such cases in March, July and November 2009. Also during 2009 an Advisory Counsel I chaired meetings of the joint Merrion Street Office/CSSO Risk Management Committee and reported regularly to meetings of local and Main MACs and the Audit Committee in the context of the Committee's embedding of an Office-wide risk management strategy including a risk policy, a corporate risk register and individual Group and Business Unit risk registers. Heads of Advisory Groups reviewed the Advisory Counsel risk register and completed an assurance statement in this regard in line with the risk management policy. The Office also put in place a Business Continuity Plan to ensure essential services could be maintained in the event of the Office building being inaccessible or a significant amount of staff being incapacitated.

### **Financial Management**

Throughout 2009 Advisory Counsel Groups participated in the Office's Resource Allocation Business Planning (RAB) Project in the further development and finalisation of framework models to determine notional cost for the provision of legal services across Groups having regard to trends in workloads and complexity and volume. The models explore the link between financial Estimates and Strategy Statements to the outputs of the Offices.

A nominated Advisory Counsel I also participated in the process of developing the Office's Annual Output Statement, specifically in relation to monitoring inputs and the delivery of outputs across a range of selected legal tasks associated with the Advisory Counsel Programme included in the Statement.

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

In 2009 Advisory Counsel participated in the process of embedding PMDS including Upward Feedback and the use of PMDS ratings for promotion and salary increment purposes. At the beginning of the year individual Role Profile Forms were agreed with managers, Interim Reviews were carried out mid-year and a significant number

of annual reviews were completed after the end of the year. PMDS training was provided to new Advisory Counsel within 2 months of arrival in the Office.

### **Co-operation with Legal Advisers in Government Departments**

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

### **Secondment of Advisory Counsel to Government Departments**

During 2009 the Office contributed significantly to effective public service by assisting in the co-ordination of the legal services of the State. Significant progress was achieved during the year in the further implementation of the Office's initiative to recruit, train and second Advisory Counsel to participating Government Departments. A total of eighteen new Advisory Counsel have been recruited and trained (six in 2006, seven in 2007, four in 2008 and one in 2009). Thirteen are currently on secondment to the following Departments:

- Department of Justice, Equality & Law Reform (2 secondees)
- Department of Finance (2 secondees)
- Department of Communications, Energy & Natural Resources
- Department of the Environment, Heritage and Local Government
- Department of Education and Science (2 secondees)
- Department of Agriculture, Fisheries and Food
- Department of Transport
- Department of Health and Children (2 secondees)
- Department of Social & Family Affairs

Each secondee received general training, coupled with specific training tailored to the needs of the particular Department to which they will be seconded. Specific training provided included training in handling European and international legal issues, familiarisation with practice and procedure at the European Court of Justice (ECJ), the Court of First Instance and the European Convention on Human Rights (ECHR). Training in horizontal legal issues such as the legislative process, the drafting process, delegated legislation and the exercise of delegation, employment law as regards civil service contracts, the role of the Comptroller and Auditor General and the Public Accounts Committee, ethics in Government and governance issues was also provided. The Office also continued to provide ongoing advice and support to those Advisory Counsel already seconded to participating Departments.

### **Inter-Departmental Committees and Working Groups**

During 2009 Advisory Counsel advised and participated in Working Groups on a range of important “cross-cutting” or interdepartmental issues.

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

### **Management of Litigation – particularly mass claims**

During the year the Office continued to implement the important strategy to manage litigation, particularly mass claims, in a strategic manner. Overall legal strategy was directed by the Merrion Street Office and regular review meetings took place between Advisory Counsel in the Merrion Street Office, legal staff in the Chief State Solicitor’s Office and officials in the relevant Departments to ensure that mass litigation was being effectively managed on an ongoing basis.

### **European Court of Justice litigation and Interventions**

During the year Advisory Counsel continued to provide direction of legal strategy as appropriate to ensure the ongoing effective management of European Court of Justice (ECJ) litigation. This involved regular review meetings with legal staff in the CSSO and Departmental officials. **Annex J** of this Report sets out details of some important cases before the ECJ in 2009.

### **Law Reform Commission**

An important component in co-ordinating the legal services of the State is to adopt a co-ordinated approach to law and contacts to facilitate the Law Reform Commission in its role in reviewing, examining and formulating proposals for law reform. During 2009 the Advisory side maintained close collaborating with colleagues in the Commission in this regard.

## **Chapter 5: Progress Achieved in reaching Goal 2**

### **Goal 2 – Office of the Parliamentary Counsel**

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

#### **Objective 1**

To draft

- Government Bills in accordance with the priorities set out in the Government Legislation Programme;
- Committee and Report Stage amendments to Bills in a timely manner;
- Statutory instruments (including regulations giving effect to acts of the European Communities) in a timely manner.

#### **Strategy 1**

Co-operate with the Government Legislation Committee in monitoring and supervising the implementation of the Government Legislation Programme.

#### **Performance Indicators**

- Preparation of weekly reports for the GLC on the Bills that are being drafted in the Office;
- Attendance by the Chief Parliamentary Counsel and Group Managers at meetings of the GLC;
- Ensure that, where Ministers attend meetings of the GLC, officers from the Office who are drafting Bills for the Department for which he or she is responsible attend also.

#### **Strategy 2**

Deliver the Office's key commitments in its Client Service Guide 2008 – 2010 and Client and Customer Charter for Parliamentary Counsel.

#### **Performance Indicators**

- Comply with the Client Service Guide and Charter commitments evaluated through regular formal reviews, annual meetings of Client Panel and client surveys in 2008 and 2010. Benchmark progress and improvement against previous survey and review results which consider:
- Effectiveness in communicating with Government Departments;
- Responsiveness and timeliness in delivery of draft legislation;

- Accuracy, quality and consistency of draft legislation;
- General service delivery and professionalism of Parliamentary Counsel;
- Departmental contributions to service delivery;
- Improvements achieved over intervening periods.

### **Strategy 3**

Co-operation with Advisory Counsel in the handling of legislation files.

#### **Performance Indicators**

- Procedures and practices set out in the Report of the Group on the Quality Control of Legislation monitored and reviewed;
- Fully operate the Case and Records Management System in handling all work.

### **Strategy 4**

Continued development of knowledge management.

#### **Performance Indicators**

- Disseminate information and knowledge among drafters;
- Collaborate with Advisory Counsel in the sharing of knowledge and expertise.
- Contribute to Know-how database to ensure legal advices and other legal materials are accessible to staff.
- Share knowledge through widespread participation by Parliamentary Counsel in legal information meetings and other fora.
- Contribute to production of new Knowledge Management Strategy to succeed and develop the existing one.

### **Strategy 5**

Implement the risk management policy relevant to Parliamentary Counsel.

#### **Performance Indicators**

- Designate appropriate officials in respect of specific risks on which they report to Management Advisory Committee.
- Provide feedback to the Chief Parliamentary Counsel, Management Advisory Committees and Attorney General on areas of significant risk;
- Regular Formal reviews of Group and Corporate Risk Registers;
- Agree and monitor adherence to Office policies, protocols and workflows.

## **Strategy 6**

Participate in the development of Financial Management in the Office to ensure the delivery of outputs in accordance with the Office's Annual Output Statement and ensuring value for money.

### **Performance Indicators**

- Produce Annual Output Statement for the Parliamentary Counsel Programme;
- Plan and allocate resources having regard to trends in workloads and their complexity and volume.

## **Strategy 7**

In conjunction with the Government Legislation Committee plan for the delivery of the Government Legislation Programme.

### **Performance Indicators**

- Review annually drafting services to ascertain what changes, if any, should be made in method of delivery or organisational management;
- Monitor and respond to emerging issues relevant to legislative drafting.

## **Objective 2**

To implement the Office's Human Resources Strategy relevant to Parliamentary Counsel.

## **Strategy 1**

Recruit, train and develop new Parliamentary Counsel.

### **Performance Indicators**

- Seek appropriate Department of Finance sanction for and recruit Parliamentary Counsel as necessary;

- Review Office's induction of new Parliamentary Counsel entrants;
- Further develop and progress the training of recently recruited drafters so as to ensure that they acquire requisite drafting skills within a timeframe that accords with international best practice;
- Regular meetings held with recently recruited drafters, supervise them closely and give them regular feedback on drafting;
- Training log for recently recruited drafters to be prepared and kept up-to-date by them and kept under review by Group Manager on a regular basis.

## **Strategy 2**

Implement training programme relevant to Parliamentary Counsel.

### **Performance Indicators**

- Implement OPC programme for further/ongoing training and development;

Report to Management Advisory Committee every 6 months on training and development.

## **Strategy 3**

Ensure correct application of PMDS for OPC staff.

### **Performance Indicators**

- Implement the integrated PMDS and HR training and development priorities;
- Annual review for members of each specialist group of progress toward meeting targets in PMDS, education, training and development.

## **Objective 3**

To assist in the co-ordination of legal services of the State.

## **Strategy 1**

Contribute to the ongoing process of making Acts of the Oireachtas more accessible and easier to produce.

### **Performance Indicators**

- Continue to liaise with Houses of the Oireachtas staff on formatting of Bills;



- Participate in trial of Houses of the Oireachtas Parliamentary Workbench system;
- Ensure ongoing consultation with the Houses of the Oireachtas in relation to collaboration on the production of the Acts of the Oireachtas;
- Participate in collaborative initiatives (including the Interdepartmental Group on eLegislation chaired by the Department of the Taoiseach) that promote accessibility and coherence of the electronic Irish Statute Book.

## **Strategy 2**

Contribute to effective public service by assisting in the co-ordination of the legal services of the State.

### **Performance Indicators**

- Ensure continued co-operation with the Law Reform Commission in its preparation of future Restatements and the Legislation Directory;
- Co-operation with legal advisers in Departments in relation to the finalisation of Heads of Bills;
- Continued participation in the delivery of appropriate training courses for the Civil Service on the legislative process.

## **Progress achieved**

### **Objective 1**

#### **Government Legislation Committee**

During 2009 the OPC continued to be centrally involved in the work of the Government Legislation Committee. The Committee oversees each proposed Government Bill from the time of its inclusion in the Government's Legislation Programme to the completion of its progress through the Houses of the Oireachtas and deals with any problems that arise in relation to the smooth and speedy implementation of the Programme.

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

## **Quality Customer Service**

In February 2009 a follow-up meeting of the OPC Client Panel, represented of clients of the Office was held to discuss service delivery matters. The meeting was facilitated by an external consultant.

In early 2009, nominated representatives of the OPC continued to engage in the process of developing a new Client Service Guide 2008 – 2010 for the Office and Client and Customer Charters 2008 – 2010 for the Advisory and Administration sides. The Guide and Charters were published in early-June 2009 in both languages.

During the year Parliamentary Counsel collaborated closely with Advisory Counsel colleagues in the context of the drafting of legislation. This entailed regular review meetings to discuss legal issues as they arose during the drafting process.

## **Knowledge Management**

During 2009 the Office of the Parliamentary Counsel continued to promote a culture of knowledge sharing, underpinning the delivery of legislation to the Government. Parliamentary Counsel collaborated throughout the year as appropriate with Advisory Counsel colleagues in the course of the legislative drafting process. Parliamentary Counsel also attended and participated in Legal Issues meetings and fully participated in the Knowledge Management Committee and the Know-how Sub-Committee in the context of the development of a new Knowledge Management Strategy 2009 - 2012.

## **Risk Management**

During 2009 Parliamentary Counsel contributed to the further embedding and implementation of formal risk management policies within the Office. Throughout the year risk related matters were discussed at meetings between the Chief Parliamentary Counsel and Group Managers, at individual Group meetings and Legal MAC meetings. The Chief Parliamentary Counsel attended and contributed to meetings of the joint Merrion Street Office/CSSO Risk Management Committee in the context of the Committee's implementation of an Office-wide risk management strategy including a risk policy, a corporate risk register and individual Group and Business Unit risk registers. Group Managers reviewed individual Group risk registers during 2009 and completed an assurance statement in this regard in line with

the risk management policy. The OPC also participated in the development a Business Continuity Plan to ensure essential services could be maintained in the event of the Office building being inaccessible or a significant amount of staff being incapacitated.

### **Financial Management**

Throughout 2009, Parliamentary Counsel Groups participated in the Office's Resource Allocation Business Planning (RAB) Project in the further development and finalisation of framework models to determine notional cost for the provision of legal services across Groups having regard to trends in workloads and complexity and volume. The models explore the link between financial Estimates and Strategy Statements to the outputs of the Offices.

A nominated Parliamentary Counsel also participated in the process of developing the Office's Annual Output Statement, specifically in relation to monitoring inputs and the delivery of drafting outputs associated with the Parliamentary Counsel Programme included in the Statement.

### **Government Legislation Programme**

During 2009 the OPC continued to be centrally involved in the work of the Government Legislation Committee. The Committee oversees each proposed Government Bill from the time of its inclusion in the Government's Legislation Programme to the completion of its progress through the Houses of the Oireachtas and deals with any problems that arise in relation to the smooth and speedy implementation of the Programme.

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

The OPC Groups met regularly during the year with the Chief Parliamentary Counsel to discuss workload issues. These meetings provided valuable opportunities for the

exchange of legal know-how and drafting ideas and experiences across different specialist Groups. The meetings also highlighted issues that enabled the OPC to respond more efficiently to client needs in the context of the ongoing re-prioritisation of Bills included in the Programme.

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

In 2009 Parliamentary Counsel participated in the process of embedding PMDS including Upward Feedback and the use of PMDS ratings for promotion and salary increment purposes within the Office. At the beginning of the year individual Role Profile Forms were agreed with managers, Interim Reviews were carried out mid-year and all annual reviews were completed after the end of the year. PMDS training was provided to new Parliamentary Counsel within 2 months of arrival in the Office.

### **Training**

During the year the Office continued to implement the Parliamentary Counsel Training Plan in respect of the most recently recruited drafters. The Drafting Manual and the Statutory Instruments – Drafting Checklist and Guidelines are also used in the training process. As in previous years the OPC participated in training courses provided by CMOD on the legislative process. These courses facilitate Departments becoming familiar with the legislative process and in identifying for client Departments the level of instructions that is required to facilitate an efficient drafting service.

### **Better Regulation and Regulatory Reform**

During 2009 in its high quality drafting work the Office contributed to the ongoing process of making Acts of the Oireachtas more accessible and easier to produce. The Office continued to be very involved with Better Regulation policy and the Regulatory Reform agenda. Significant areas of work during the year were the Statute Law Revision Project and the electronic Irish Statute Book. These measures are aimed at making legislation more accessible and consequently reducing costs for the end user.

## **Pre-Independence Statute Law Revision Project**

In 2009 the Office continued to project-manage the Statute Law Revision Project which is part of an on-going programme of statute law revision signalled publicly on a number of occasions, including the launch by the Taoiseach of the White Paper on Better Regulation in January 2004.

The Statute Law Revision Bill was published on 27 May 2009 and enacted in December 2009 as the Statute Law Revision Act 2009 (No. 46 of 2009). The Act deals with Private Acts up to 1750 and Local and Personal Acts up to 1850. It expressly repeals 1,350 obsolete Acts pre-dating independence. A further 12,563 Acts that were not applicable to Ireland but were passed by the Parliament of the United Kingdom of Great Britain and Ireland were also implicitly repealed by the 2009 Act. In total, 138 Acts (11 Private Acts and 127 Local and Personal Acts) for the periods concerned have been preserved by the 2009 Act because of their continuing legal relevance.

The 2009 Act together with the Statute Law Revision Act 2007 (which deals with the Public and General Acts up to 1922) constitute one of the most extensive statute law revisions undertaken worldwide.

The Statute Law Revision Act 2009 was enacted on 23 December 2009. Further elements of the Project have been postponed until more funds become available

## **Electronic Irish Statute Book (eISB)**

The Office of the Parliamentary Counsel continues to actively participate in the work of the Merrion Street Office eISB Group.

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

The Irish Statute Book Project Team (comprising a member of the OPC and colleagues on the Advisory and Administration sides of the Office) managed a tender process in October 2009 for electronic publishing services to update the eISB on a more regular basis and to provide additional functionality in relation to the search engine. On foot of the process, a new contract was awarded and work on the project is ongoing.

The eISB currently publishes Acts and Statutory Instruments from 1922 to 2009 and the Legislation Directory from 1922 to 2005. Acts and statutory instruments will be updated on a monthly basis from 2010 onwards. The Legislation Directory will be updated when work on the Directory has been finalised by the Law Reform Commission. Work is also progressing on the implementation of a new search engine with improved functionality.

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

## **Chapter 6: Progress Achieved in reaching Goal 3**

### **Goal 3 – Chief State Solicitor’s Office**

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

#### **Objective 1**

To use best practice in the delivery of legal services supported by the use of information technology and high quality knowledge and understanding of legal practice.

#### **Strategy 1**

Deliver the Office’s key commitments in its Customer Action Plan 2008 – 2010 and Customer Charter.

#### **Performance Indicators**

Compliance with the Customer Action Plan and Charter commitments evaluated through regular formal reviews and biennial client surveys. Benchmark progress and improvement against previous survey and review results which consider:

- Relationship and Understanding;
- Service Quality;
- Responsiveness;
- Documentation;
- Feedback;
- Complaints;
- Service through Irish;
- Physical Access.

#### **Strategy 2**

Maintain close co-operation with the Attorney General’s Office and Departmental legal advisers in the handling of legal work.

#### **Performance Indicators**

- Demonstrate co-ordination with legal advisers in Government Departments, Tribunals and Inquiries and other State Offices with regular review meetings;
- Fully operate the Case and Records Management System in handling all legal work.

#### **Strategy 3**

Continued development of knowledge management.

#### **Performance Indicators**

- Share knowledge and expertise at Division and Section meetings and through widespread participation by Solicitors and Legal Executives in legal information meetings and other fora;
- Contribute to Know-how database to ensure legal advices and other legal materials are accessible to staff;

Contribute to production of new Knowledge Management Strategy to succeed and develop the existing one.

#### **Strategy 4**

Implement the risk management policies of the Office.

#### **Performance Indicators**

- Designate appropriate officials in respect of specific risks on which they report to Management Advisory Committee;
- Provision of information to Chief State Solicitor and CSSO Management Advisory Committee and to the Attorney General's Office on areas of significant risk;
- Regular formal review of legal Risk Registers and Corporate Risk Register;
- Review system for monitoring of sensitive legal files;
- Report three times yearly to Government on sensitive litigation;
- Agree and monitor adherence to Office policies, protocols and workflows.

#### **Strategy 5**

Participate in the development of Financial Management in the Office to ensure the delivery of outputs in accordance with the Office's Annual Output Statement and to ensure value for money.

#### **Performance Indicators**

- Produce Annual Output Statement for the CSSO Programme;
- Plan and allocate resources having regard to trends in workloads and their complexity and volume;
- With AGO, review panels of counsel annually;
- Implement policy of collection of legal costs where awarded and viable;



Review of Office practices on taxation of costs in light of the Report of the Legal Costs Working Group (Haran Report).

## **Strategy 6**

Planning for the future in CSSO legal services.

### **Performance Indicators**

- Review annually legal services provided and other activities to ascertain what changes, if any, should be made in method of delivery or organisational management;
- Monitor and respond to emerging legal issues.

## **Objective 2**

To implement the Office's Human Resources Strategy relevant to CSSO legal staff.

### **Strategy 1**

Train and develop CSSO legal staff.

### **Performance Indicators**

- Provide and review induction for new legal entrants;
- Review on an ongoing basis specific training and development requirements for new legal staff.

### **Strategy 2**

Develop and Implement strategic training programme in legal issues.

### **Performance Indicator**

- Develop and Implement CSSO programme for further/ongoing strategic training and development;
- Report to Management Advisory Committee every 6 months on training and development.

### **Strategy 3**

Ensure correct application of the PMDS for legal staff.

### **Performance Indicators**

- Implement the integrated PMDS and HR training and development priorities;
- Annual review for members of each Division and Section of progress towards meeting targets in PMDS, education, training and development.

### **Objective 3**

To assist in the co-ordination of legal services of the State

#### **Strategy 1**

Contribute to effective public service by assisting in the co-ordination of the legal services of the State.

#### **Performance Indicators**

- Demonstrate co-ordination with legal advisers in client Departments and Offices, Tribunals and Inquiries through regular review meetings;
- Review and enhance the system to facilitate and co-ordinate the approach to domestic and ECJ litigation.

#### **Strategy 2**

Provide legal services to Government in the implementation of litigation policies and in the handling of cross-Departmental issues.

#### **Performance Indicators**

- Participate in interdepartmental working groups and in the Committees and Commissions listed in Appendix 4;
- Ensure necessary communication with Government Departments in relation to European Court of Justice litigation;
- Represent Attorney General on the Courts Rules Committees and the Courts Service User Group;
- Liaise with State Claims Agency, Office of Director of Public Prosecutions and Revenue Solicitor's Office and other law offices in relation to litigation as appropriate.

## **Progress achieved**

### **Objective 1**

During 2009 the Chief State Solicitor's Office continued to focus on the development, enhancement and refinement of legal services in areas of importance to client Departments and Offices. The primary focus during the year, in consultation with client Departments, was on identifying areas of work which are expanding and required specialist legal services, such as Commercial Contracts, Commercial and Constitutional litigation, European Arrest Warrant applications, Mutual Assistance requests, Civil Service employment cases, Garda litigation, Conveyancing for Government Departments and Offices and asylum, immigration and repatriation work.

The Office's MAC regularly discussed the issue of redeploying its resources to meet the changing needs of clients. Some staff were redeployed during the year and others remained in situ to cover important areas of work:

- Redeployment of a Solicitor to deal with European Arrest Warrant applications.
- Redeployment of a Solicitor to deal with Commercial Contracts.
- Continued provision of a specialised service handling asylum, immigration and repatriation work
- Continued operation of a special unit to deal with residential abuse litigation.
- Continued operation of a team to deal with day school abuse litigation.
- Continued operation of dedicated teams to deal with special needs, child welfare and nursing home charges litigation.
- Continued operation of an on-call panel to deal with European Arrest Warrants, Extraditions, habeas corpus applications and other urgent matters in Court, out of office hours.
- Continued operation of a panel to deal with inquests outside Dublin.

### **Quality Customer Service**

During 2009 the Office prepared and published a new Customer Charter 2008-2010 and a new Customer Action Plan 2008-2010. At the end of the year, the Office

commenced a Customer Service Survey to further review client satisfaction with the service provided.

### **Knowledge Management**

During 2009 legal staff in the CSSO continued to promote a culture of knowledge sharing, underpinning the delivery of legal advice to Government, Departments and Offices through attendance and participation in Legal Issues meetings and contributing to the preparation of Legal Reference Guides. Also work on identifying further communities of practice which would be supported by the Offices to enhance knowledge-sharing in critical legal areas continued during the year. The CSSO Library and Know-how Unit continued to promote legal research skills and assist staff in attaining a level of proficiency in the use of electronic sources of legal information. CSSO legal staff participated in the Knowledge Management Committee and the Know-how Sub-Committee in the context of the development of a new Knowledge Management Strategy 2009 - 2012.

### **Risk Management**

During 2009 the CSSO actively contributed to the further embedding and implementation of formal risk management policies within the Office. Throughout the year risk related matters were discussed at Divisional and Section meetings and local and Legal MAC meetings. Divisional Heads attended and contributed to meetings of the joint Merrion Street Office / CSSO Risk Management Committee in the context of the Committee's implementation of an Office-wide risk management strategy including a risk policy, a corporate risk register and individual Group and Business Unit risk registers. Divisional Heads reviewed risk registers and completed an assurance statement in this regard in line with the risk management policy.

### **Financial Management**

Throughout 2009 the CSSO participated in the Office's Resource Allocation Business Planning (RAB) Project in the further development and finalisation of framework models to determine notional cost for the provision of legal services across Divisions and Sections having regard to trends in workloads and complexity and volume. The models explore the link between financial Estimates and Strategy Statements to the outputs of the Office.

Divisional Heads also participated in the process of developing the Office's Annual Output Statement, specifically in relation to monitoring inputs and the delivery of outputs across a range of selected legal tasks associated with the CSSO Programme included in the Statement.

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

In 2009 legal staff in the CSSO participated in the process of embedding PMDS including Upward Feedback and the use of PMDS rating for promotion and salary increment purposes. At the beginning of the year individual Role Profile Forms were agreed with Division and Section Heads, Interim Reviews were carried out mid-year and annual reviews were completed after the end of the year. PMDS training was provided as appropriate to new legal staff within 2 months of arrival in the Office.

### **Management of Litigation – particularly mass claims**

During the year CSSO staff attended regular review meetings with Advisory Counsel in the Merrion Street Office and officials in the relevant Departments in the context of managing litigation, particularly mass claims, in a strategic manner. Also, close liaison was maintained between the CSSO and the State Claims Agency in regard to the management of childhood abuse litigation.

The CSSO continued to operate specific initiatives to manage mass litigation, including:-

- The provision of an asylum law litigation service to support the Department of Justice, Equality and Law Reform and the immigration / asylum agencies.
- The provision of dedicated teams to handle special needs, child welfare and nursing home charges litigation.
- Actively handling and defending where appropriate, the Office's current caseload of residential and day school abuse cases.
- Actively handling and defending where appropriate, the civil servant employment law caseload.

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

### **European Court of Justice litigation and Interventions**

During 2009 legal staff in the CSSO continued to co-operate with Advisory Counsel in the Merrion Street Office in the provision of a direction of legal strategy as appropriate to ensure the ongoing effective management of European Court of Justice (ECJ) litigation. This involved regular review meetings with Advisory Counsel and Departmental officials. **Annex J** of this Report sets out details of some important cases before the ECJ in 2009.

### **Provision of critical legal services outside of normal Office hours**

Throughout 2009 the Office continued to operate the on-call legal panel to manage issues which arise out of hours. During the year additional legal staff were made available for the on-call panel.

### **Value for Money & Policy Reviews**

During 2009 the CSSO in conjunction with the Merrion Street Office finalised the Report of the joint AGO/CSSO Value for Money and Policy Review (VFM & P) in respect of the Administration of the Attorney General's Scheme. The Report was published in February 2009. Also progress was made during the year to complete Reports on the Reviews of Stenographer's Services and Costs Recovery.

## **Chapter 7: Progress Achieved in reaching Goal 4**

### **Goal 4 – Business Support Services**

To provide modern and professional corporate and business support services that deliver the highest quality service to internal and external clients and customers.

#### **Objective 1**

To develop human resource management to support the overall objectives of the Office and to develop the training and development function within the Offices.

#### **Strategy 1**

Implement the HR Strategies 2008 – 2010.

#### **Performance Indicators**

- Put HR Strategies in place;
- Put Action Plans in place in respect of HR Strategies.

#### **Strategy 2**

Review and develop specific recruitment and selection methodology so as to enhance the ability of the Offices to attract, select and retain suitable and high potential candidates.

#### **Performance Indicators**

- Review core skills and competencies identified for all staff, in conjunction with Groups/Divisions/Sections/Business Units as appropriate;
- Introduce use of formal competency and ability testing;
- Provide new staff with induction training within 2 months of taking up duty;
- Undertake an analysis of atypical working arrangements for staff and devise/review appropriate policies.

### **Strategy 3**

Develop comprehensive Training & Development Strategies to address anticipated needs over the next three years. including management development programmes.

#### **Performance Indicators**

- Undertake an analysis of the staff skills, knowledge and experience required by each section in the Offices, in conjunction with senior managers, to carry out their work both current and anticipated work;
- Set out in strategy form how these skills can be most effectively imparted to new entrants and further developed in more experienced staff;
- Ensure that the Offices' Action Plans meet the objectives of this Statement of Strategy;
- Implement formal Management Development Programmes;
- Carry out an interim review by the end Q1 2009 to evaluate progress made against the aims of this Statement of Strategy;
- Report to Management Advisory Committee every 6 months on training and development.

### **Strategy 4**

Further develop and enhance Human Resource IT system.

#### **Performance Indicators**

- Review effectiveness of the Human Resource Management System;
- Develop appropriate management reports.

### **Strategy 5**

Provide suitable accommodation for all staff.

#### **Performance Indicators**

- Identify suitable accommodation for Merrion Street Office and CSSO through ongoing consultation with appropriate authority;
- Continued upkeep and maintenance of existing office space;
- Review annually Health and Safety Statement and Business Continuity Plans;

Keep accessibility to and security of, all buildings kept under review.



## **Strategy 6**

Continue to review and develop the Partnership process.

### **Performance Indicator**

- Review Partnership process annually.

## **Strategy 7**

Review operation of CSSO Documentation Centre.

### **Performance Indicator**

Complete Review.

## **Objective 2**

To develop financial management processes that control and monitor the financial resources of the Office so as to ensure the delivery of outputs and value for money.

## **Strategy 1**

Implement final elements of Management Information Framework Project Plan.

### **Performance Indicators**

- Fully embed MIF and achieve utilisation of full functionality of FMS;
- Provide statistical reports for use in Management Reporting for review by relevant Office Committees;
- Improve Management Reports;
- Use costing Framework in conjunction with the RAB project with initial Costing Reports utilising financial and non-financial information completed;
- Update RAB Models annually;
- Submit Annual Output Statements on each Programme to Department of the Taoiseach.

## **Strategy 2**

**Maintain Office capability to operate FMS (Agresso).**

### **Performance Indicators**

- Develop core skills to maintain Office capability to operate FMS effectively;
- Comply with statutory requirement to submit Annual Appropriation Account;
- Pay interest and compensation under Prompt Payment legislation, where applicable, minimised and reported as appropriate.

### **Strategy 3**

Recommendations of Mullarkey Report on accountability of Secretaries General and Accounting Officers reviewed annually in Merrion Street Office and CSSO within set timeframes.

### **Performance Indicators**

- Have annual year-end review of internal financial procedures verified by Audit Committee to ensure monitoring and control of all income and expenditure through efficient and effective systems;
- Review risk Policy, Risk Registers for Groups/Divisions/Sections/Business Units and Corporate Risk Register twice yearly by Risk Committee and reported to local MAC's, Main MAC and Audit Committee;
- Have Annual Internal Audit Programme agreed by Audit Committee with Audits undertaken and recommendations implemented within agreed timeframes;
- Make Annual Report made to Audit Committee on implementation of all Audit Reports;
- Put programme of Value for Money and Policy Reviews in place with regular reviews undertaken and externally reviewed and published.

### **Objective 3**

To implement cost effective ICT systems that support all professional transactional, management and service delivery activities in the Office.

### **Strategy 1**

Further develop the Case and Records Management System to ensure that it effectively supports the Office in its strategic and operational requirements.

### **Performance Indicators**

- Achieve maximum use for all business;

- Evaluation feedback from staff;
- Implement approved improvements.

### **Strategy 2**

Further develop the Financial Management System to ensure that it effectively supports the Office in the management of its finance function and its management information needs.

#### **Performance Indicators**

- Achieve maximum use of system for all business;
- Evaluate feedback from staff;
- Implement approved improvements.

### **Strategy 3**

Implement appropriate IT Systems to support the Merrion Street Office and CSSO Knowledge Management Strategy.

#### **Performance Indicators**

- Define business requirements for the system;
- Implement appropriate Know-how systems to match requirements identified.

### **Strategy 4**

Develop a new IT Strategy for the Office.

#### **Performance Indicator**

- Implement new IT Strategy, integrated with the Office's business objectives.

### **Strategy 5**

Keep under review the Office's technical architecture and ensure that it continues to provide a robust foundation for the delivery of IT Services to the Merrion Street Office and CSSO.

#### **Performance Indicator**

Assess and improve IT systems as necessary.

### **Objective 4**

To implement a Modernisation Programme that supports the achievement of the Offices' Goals and is allied with the Civil Service Modernisation Programme.

### **Strategy 1**

Implement agreed commitments set out in Modernisation Action Plans within agreed timeframes.

#### **Performance Indicators**

- Have progress reported in line with central deadlines and verified externally by CSPVG;
- Have recommendations of CSPVG in place and implemented in advance of submission of subsequent Progress Reports.

### **Strategy 2**

Delivery of the Offices' key service delivery commitments as set out in the Client and Customer Charters and Client Service Guide 2008 – 2010 and Customer Action Plan 2008 - 2010.

#### **Performance Indicators**

- Gauge client and customer satisfaction levels through annual meetings of Client and Customer Panels;
- Measure client and customer satisfaction levels through client and customer surveys in 2008 and 2010.

### **Strategy 3**

Undertake comprehensive organisational review in the context of the Organisational Review Programme.

#### **Performance Indicator**

Undertake organisational review and implement recommendations within agreed times.

### **Strategy 4**

Undertake review of the Report of the Report of the Task Force on the Irish Public Service.

## **Performance Indicators**

- Undertake review of Report and implement appropriate initiatives within agreed timelines.

## **Strategy 5**

Ensure that clients are directed to the appropriate access and referral points for information on the Office.

## **Performance Indicators**

- Publish Annual Reports for 2008, 2009 and 2010 in accessible formats;
- Review and update Internet site regularly by Working Group;
- Meet obligations under the Freedom of Information Acts and Data Protection Act.

## **Objective 5**

To provide staff with access to the information and knowledge required to deliver high quality services through the strategic development of information and knowledge management.

## **Strategy 1**

Establish a co-ordinated approach to the organisation of office-wide information and knowledge management.

## **Performance Indicators**

- Revise and implement strategies for the continued development of knowledge management;
- Review the need for the development of a taxonomy/office-wide thesaurus to support key business applications;
- Contribute professional expertise to the ongoing development of file-plans.

## **Strategy 2**

Identify and implement appropriate technical solutions to deliver improved library, research and know-how services to users.

## **Performance Indicators**

- Review shared AGO/CSSO/ODDP e-journals solution to ensure that it is meeting the requirements of users;

- Review the Know-how procedures. Select and implement appropriate know-how databases;
- Review the joint AGO/CSSO/LRC Library Management System (LMS) with a view to planning the future development of the LMS. Plan/implement any necessary developments and enhancements to the system;
- Support and develop the level and range of services available to legal staff seconded to Government Departments and Offices;
- Review the level of library and research services provided to external Government lawyers.

### **Strategy 3**

Review and implement enhanced research and know-how services.

#### **Performance Indicators**

- Continue to monitor increased areas of specialisation in the Offices, and ensure library, research and know-how services reflect these;
- Review staffing levels and structures required to deliver specialised research services;
- Identify communities of practice in key legal areas and support these with research services where required;
- Identify measures to support the development of independent research skills for lawyers including a review of appropriate e-learning tools;
- Identify opportunities for collaboration with the Training & Development Units and IT Units to co-ordinate approach to training & learning provision;
- Incorporate library and know-how training/educational initiatives into organisational training strategies.

### **Strategy 4**

Provision of the appropriate physical environment to maximise access to our print collections and reading room facilities

#### **Performance Indicators**

- Review layout of print collections;

- Review collection development policy to ensure it continues to meet the Offices needs.

## **Objective 6**

To maintain and develop the Registry and Records function to support the legal, drafting and administration areas of the Office.

### **Strategy 1**

Administration and maintenance of an efficient records centre and filing system.

### **Performance Indicators**

- Close files electronically and store physical files appropriately for subsequent archiving;
- Comply with the Offices' obligations under the National Archives Act.

### **Strategy 2**

Development of statistical/data strategy for the Offices.

### **Performance Indicator**

- Production of appropriate statistical data for use in management and other reports.

## **Progress Achieved**

### **Merrion Street Office**

#### **Objective 1**

#### **Human Resource Strategy, Merrion Street**

During 2009 the Office continued the implementation of the Human Resources Strategy 2008 - 2010. The continued embedding of PMDS was a key development during the year.

## **Recruitment**

Due to the moratorium on recruitment throughout the Public Service the Office did not run any recruitment competitions throughout 2009.

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

## **Human Resources Management System (HRMS)**

During 2009 the Office continued to utilise and further embed PeopleSoft/HRMS.

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

During 2009, the focus for the Office was the further embedding of the new PMDS model including Upward Feedback and the application of PMDS ratings to promotion and salary increment processes. Training in the new model was provided to all new staff within 2 months of their arrival in the Office. In the context of the finalisation of PMDS Role Profile Forms, as well as annual reviews for the previous year each staff member and their manager was required to indicate the staff members training and development priorities for the year.

## **Accommodation**

During 2009 the Office continued to keep under review the accommodation needs of the Office and liaised with representatives from the Office of Public Works as necessary to ensure that all facilities were suitable.

## **Partnership Committee**

During 2009, the Partnership Committee in the Merrion Street Office continued to be centrally involved in the ongoing development of the change culture in the Office. During the year the Committee met on 9 occasions. The focus for the Committee, which has Office-wide representation, was to deal with core Office-related issues and matters such as relating to the implementation of the Public Service-wide Programme for Modernisation. Sub-Groups of the Partnership Committee reviewed issues such as Quality Customer Service, PMDS, Training and Development and Exceptional Performance Awards.



## **Gender Representation**

At end-2009 the Office continued to exceed the Government targets in relation to employment of women. The proportion of female staff at or above Assistant Principal Officer level stood at 50%, while the proportion of female staff at or above Principal Officer level stood at 47%.

The end-2009 figures for permanent staff were as follows:

<b>Grade</b>	<b>Female</b>		<b>Male</b>	
	No.	(%)	No.	(%)
Director General	1	(100)	0	(0)
Chief Parliamentary Counsel	1	(100)	0	(0)
First Parliamentary Counsel	0	(0)	1	(100)
Deputy Director General	0	(0)	1	(100)
Assistant Secretary	4	(44)	5	(56)
Principal Officer	11	(48)	12	(52)
Assistant Principal	14	(54)	12	(46)

## **Accessibility for Persons with Disabilities**

The proportion of staff with disabilities at the end of 2009 meets the Government target. The Office continued to improve its accessibility including through its website, and ensured that all renovation or maintenance work took into account the needs of persons with disabilities.

## **Training and Development**

In 2009, Merrion Street Office Training and Development Unit continued to provide a high standard of training and development opportunities and deliver on its responsibility for the planning, organisation and evaluation of training courses offered to all staff. However, the financial situation meant that managers and staff had to limit the amount of training undertaken.

Throughout the year staff were encouraged and facilitated in undertaking training identified in their Role-Profile Forms for 2009. The Office further embedded the

importance of PMDS for continued professional and personal development and endeavoured to deliver on its commitment to developing the skills and potential of all staff.

Overall expenditure on training and development in 2009 was €146,737.20. This amount represented 1.42% of the payroll allocation for the year. A full breakdown of training and development expenditure is contained in Annex H of this Report.

## **CSSO**

### **Human Resource Strategy**

During 2009 the focus for the Office continued to be on implementing the Action Plan in respect of the Human Resources Strategy. The elements of the Action Plan were reviewed six-monthly and annually by local and Main MACs respectively. By end-2009 the Office had made significant progress on implementing the following priority areas of the Action Plan:

### **Recruitment**

During 2009 the Office filled the following internal vacancies:- . (Insert Number) staff members successfully completed during 2009 the internal Training Solicitor programme and were appointed to the grade of State Solicitor. (Insert Number) member of staff successfully completed the Trainee Legal Executive Scheme and appointed as a Legal Executive.. The Office with the assistance of the Public Appointments Service the Office made assignments to the State Solicitor, Executive Officer, Staff Officer and Clerical Officer grades. The competencies required for each of these positions were carefully considered and reflected in the competition documentation. The selection process takes these requirements into account and the Office is very happy with the standard of candidates who attended for interview.

### **Performance Management and Development System**

The role profile, interim review and annual review phases of the 2009 PMDS cycle, including the Staff Mobility Policy and upward feedback, were managed, monitored and reviewed, practice directions and guidelines issued. Team-working was further developed as a core competency for 2009 and five core competencies and generic model key deliverables were recommended and approved by Partnership and a

reporting system was operated to audit for consistency and verify correct application of PMDS.

During 2009 a two day PMDS training programme was provided for new staff to the Office.

### **Continued Professional Development**

With effect from 1<sup>st</sup> January 2008, (S.I. 807 of 2007 refers), all solicitors employed by the State must now complete compulsory Continuing Professional Development (CPD). In the cycle commencing 1<sup>st</sup> January 2009 a total of 10 hours must be received. Individual solicitor must keep a record of training received, as under the process, the Law Society may audit compliance with this requirement. A reporting system was operated to audit for compliance.

### **Accommodation**

Due to the current fiscal situation ongoing discussion with OPW regarding the provision of additional accommodation for the staff of the Office was suspended during 2009.

### **Training and Development and Training courses provided in 2009**

Annex H of this Report sets out details in relation to training and development and training courses provided to CSSO staff during 2009. During 2009 a wellness at work programme was continued in the Office and workshops on bereavement, awareness of skin cancer were organised for staff. A comprehensive IT training programme was continued for staff during 2009. Staff also attended Induction training during 2009.

### **Dignity Charter**

The Office Dignity Charter launched in 2008 continued to operate throughout 2009. Positive Working Environment seminars were held for staff during the year.

### **Gender Representation**

At end 2009 the Office continued to exceed the Government targets in relation to employment of women. At year-end the proportion of staff at or above Assistant Principal Officer level who are female was Insert Number%, while the proportion of female staff at or above Principal Officer level was Insert Number%.

### **Accessibility for Persons with Disabilities**

At end 2009 the proportion of staff with disabilities exceeded the Government target of 3%.

### **Partnership Committee**

During 2009, the Partnership Committee in the Chief State Solicitor's Office continued to contribute to the ongoing development of the change culture in the Office. During the year the Committee met on the second Tuesday of each month. The committee dealt with issues arising out of the modernisation agenda e.g. PMDS, Statement of Strategy and progress under *Towards 2016* along with accommodation and Health and Safety issues. Sub-Groups set up to review issues such as HR (including PMDS, Training, HR Practice and Procedures), Premises, Irish Language Policy, IT Policy, Office Communications, Health and Safety, Social, PMDS Rating and Green Policies reported to the Committee during the year.

## **Objective 2**

### **Management Information Framework (MIF)**

During 2009 the focus for the Offices was on the continued embedding and implementation of the Offices' MIF Project Plan. The MIF Project Board supported by a Sub-Group, continued to monitor the implementation of the Plan. Under the Board's direction, work was undertaken to further develop the functionality of the Agresso FMS and the development of management reports within the ACME system. During the year the Offices made further progress towards the development of an interface between the new Case and Records Management System and the Financial Management System. This development, when fully implemented in 2010 will assist in the identification of commitments, financial and non-financial and costing management information reporting requirements.

During 2009 enhanced Management and Costing Reports were developed and made available to the local Merrion Street Office/CSSO MACs, joint Merrion Street Office/CSSO MAC and to senior management. This information already facilitates greater cost awareness among those responsible for resource allocations.

In March , 2009 the Offices submitted separate Annual Output Statements to the Dáil for consideration in the context of the Estimates process.

### **Financial Management System**

During 2009 the Offices continued to further develop and embed the Agresso FMS. Electronic funds transfer has been a feature of the FMS for the last number of years. The AGO continues to encourage suppliers to accept payment for goods and services by this method. The volume of EFT payments now exceeds 98% of regular payments.

An asset tracker system has been fully implemented in the Office ensuring that adequate systems of controls are maintained over all assets. Audits of assets, using a barcode scanner, were carried out during the year by both IT and Services Units.

The system continues to be utilised in providing a full range of financial services to the Office including the preparation of :

- Appropriation Account 2008;
- Monthly financial reports to Management Advisory Committee and Department of Finance;
- Annual Output Statement 2009.

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

During 2009 the Offices continued to keep under review internal financial controls aspects of which were also reviewed in the context of specific internal audits.

The Offices' Risk Management Committee reviewed the Offices' risk management strategy including the risk management policy, corporate risk register and risk registers for the legal and administrative sides of both Offices. In line with the risk management policy, Heads of legal Groups and Business Units reviewed risk registers and submitted assurance statements to the Secretary to Main MAC in mid-2009.

## **Audit Committee**

The Audit Committee, comprising 3 external personnel and a representative from each Office, met on 4 occasions during 2009. Matters dealt with included consideration and review of the following Audit Reports outlined in the Internal Audit Programme for 2009:

- Internal Audit Report on IT Security in the Office of the Attorney General and Chief State Solicitor's Office
- Follow-up Internal Audit Report on Taxis and Couriers in the Office of the Attorney General and Chief State Solicitor's Office
- Internal Audit Report on Travel and Subsistence in the Office of the Attorney General, Chief State Solicitor's Office and the Law Reform Commission
- Internal Audit Report on the Sensitive File Procedures in the Office of the Attorney General and in the Chief State Solicitor's Office
- Review of Procedures for the Storage of Files Off-Site in the Office of the Attorney General and in the Chief State Solicitor's Office
- Interim Audit on Training in the Chief State Solicitor's Office
- Follow-up Recommendations Report in the Chief State Solicitor's Office, Office of the Attorney General and the Law Reform Commission

During 2009 the Audit Committee also reviewed developments in the MIF and ACME projects and the Offices' risk management strategy.

## **Value for Money and Policy Review Plan**

During 2009 the Offices finalised Value for Money and Policy Reviews in relation to the Administration of the Attorney General's Scheme and the Maintenance of the electronic Irish Statute Book (eISB). The Reports were published in February 2009.

Further progress on finalising Reviews of Stenographer's Services and Costs Recovery in the CSSO was made during the year.

## **Interest Payments under Prompt Payment of Accounts legislation**

In the Merrion Street Office no penalty interest payments were incurred during 2009.

In the CSSO, a total amount of [Insert on submission of Annex E] was incurred in penalty interest during the year under Prompt Payment of Accounts legislation.

See **Annex E** for the Offices Reports on Payment Practices for 2009.

### **Objective 3**

#### **Case & Records Management System**

The focus during 2009 was on further embedding of the new Case and Records Management System and refining and enhancing it further to ensure that it continued to serve the Office as effectively and efficiently as possible. Continued support was provided by Helpdesk staff to all users of the system.

#### **Human Resources Management System (HRMS)**

Progress achieved on the implementation of the HRMS is outlined above under Objective 1 of this Chapter.

#### **Business Continuity Management Services**

Of particular concern during the year was the impact of the Swine Flu Pandemic. Safety equipment was installed and staff were briefed on its use and procedures relating to the plan to ensure business continuity in case of an escalation of the Pandemic.

#### **Other IT related developments**

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

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

#### **Development of Intranet in CSSO**

The CSSO continued to develop its Intranet in 2009.

## **Objective 4**

### **QCS Publications**

In line with developments at central level the Merrion Street Office and the CSSO published revised Client and Customer Charters 2008 – 2010, Client Service Guide 2008 – 2010 (Merrion Street) and Customer Action Plan 2008 – 2010 (CSSO) in early June 2009. The new Charters, Guide and Plan took account of the reports of follow-up client and customer satisfaction surveys undertaken in both Offices, the report of the review of Charters published by Fitzpatrick Associates in June, 2007 and the 2008 Edition of Guidelines for the preparation of Customer Charters & Customer Action Plans/Guides.

### **Official Languages Act**

Following the publication of the Offices' joint AGO/CSSO Scheme to implement the provisions of the Official Languages Act 2003 which commenced in June, 2007 the Offices put in place an Action Plan to facilitate the monitoring of the implementation of the Scheme.

The Scheme which covers the three year period from the commencement date sets out the Offices commitments to provide certain services through the medium of Irish, the medium of English, the medium of Irish and English and the measures to be adopted to ensure that any service not provided by the Office through the medium of the Irish language will be so provided within an agreed timeframe.

Responsibility for monitoring and reviewing the scheme will rest with the local Management Advisory Committees and the joint AGO/CSSO Main Management Advisory Committee within the Offices.

During 2009 the Office was fully compliant in terms of meeting the commitments set out in the Scheme. These included:

- Maintaining equal prominence of Irish and English versions of websites;
- Replying in Irish to correspondence received in Irish;



- Assignment of legal staff proficient in Irish in any legal proceedings instituted in Irish;
- Nomination of counsel fluent in Irish in any legal proceedings instituted in Irish;
- Actively promoting the Irish language generally among staff and encouraging staff to attend Irish training. Gaelagras and other Irish course opportunities are regularly circulated by the Training Officer;
- Publication of the updated FOI Booklet in December 2009.
- A system will operate to ensure the review of the number of staff who are fluent in Irish.

### **Publications**

As outlined in Chapter 3 of this Report a Value for Money and Policy Review of the Maintenance of the electronic Irish Statute Book (eISB) and Attorney General's Schemes were published in February 2009. The updated FOI Booklet was published in December 2009.

### **Regulatory Requirements Compliance**

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

### **Website**

The IT Units in the Merrion Street Office and the CSSO continued to manage the presentation and design as well as the publication of contents on the Offices' website during the year. It continues to exist as an important resource and reference tool for customers, clients and members of the public. Access is provided to e.g. the Electronic Irish Statute Book, *Towards 2016*, Revised Action Plans and Progress Reports, procedures applying to the engagement of external counsel and the Offices' publications.

## **Objective 5**

During 2009 the focus for the Merrion Street Office and CSSO Library & Know-how Units was on the continued delivery of high quality legal information, research and know-how services to staff in both Offices. The Units also provided services to Advisory Counsel seconded to Government Departments, to state solicitors assigned to the various Tribunals of Inquiry, Criminal Assets Bureau and local State Solicitors.

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

### **Enhanced legal information and research services**

During 2009 legal research services continued to be provided by both Units to all staff. Legal Researchers in the Merrion Street Office provided legal research and know-how support to discrete Groups of Advisory Counsel and Parliamentary Counsel in support of the ongoing legal specialisation within the Office. They also attended legal group meetings where practicable in order to strengthen their knowledge of legal issues of interest to the Office.

The Units continued to provide a range of current awareness services during 2009 and provided access to a wide range of legal information resources and legal reference guides through the Units intranet pages.

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

In the Merrion Street Office over fifteen formal training sessions and over twenty-five customised individual sessions were provided to staff during the year. Topics included the Irish Statute Book, Finding EU legislation, Electronic sources of case-law etc.

In the CSSO fourteen formal training sessions and ten customised individual sessions were provided to staff. Topics included Electronic resources for legal research, the European Union on the web, specific commercial database training and using the Library OPAC.

In the Merrion Street Office, the Unit supported the provision of two training sessions on '*Administrative law for civil servants*' by Advisory Counsel.

### **Knowledge Management**

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

Both Units participated in the Knowledge Management Committee and contributed significantly to the development of a new Knowledge Management Strategy during 2009 as outlined in Chapter 3 (Organisational developments).

**Government Bills Published during 2009**

No.	Title of Bill
1	Anglo Irish Bank Corporation Bill 2009
2	Adoption Bill 2009
3	Residential Tenancies (Amendment) Bill 2009
4	Financial Emergency Measures in the Public Interest Bill 2009
5	Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Bill 2009
6	Electoral (Amendment) Bill 2009
7	Health (Miscellaneous Provisions) Bill 2009
8	Companies (Amendment) Bill 2009
9	Criminal Justice (Surveillance) Bill 2009
10	Social Welfare Bill 2009
11	Fines Bill 2009
12	Financial Services (Deposit Guarantee Scheme) Bill 2009
13	Finance Bill 2009
14	Merchant Shipping Bill 2009
15	Property Services (Regulation) Bill 2009
16	Criminal Justice (Miscellaneous Provisions) Bill 2009
17	Criminal Procedure Bill 2009
18	Multi-Unit Developments Bill 2009
19	Statute Law Revision Bill 2009
20	Planning and Development (Amendment) Bill 2009
21	Aviation (Preclearance) Bill 2009
22	European Parliament (Irish Constituency) Members Bill 2009
23	Financial Measures (Miscellaneous) Bill 2009
24	Local Government (Charges) Bill 2009
25	Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Bill 2009
26	Civil Partnership Bill 2009
27	Criminal Justice (Amendment) Bill 2009
28	Enforcement of Court Orders (Amendment) Bill 2009

<b>29</b>	Twenty-Eighth Amendment of the Constitution (Treaty of Lisbon) Bill 2009
<b>30</b>	Public Health (Tobacco)(Amendment) Bill 2009
<b>31</b>	Communications Regulation (Premium Rate Services) Bill 2009
<b>32</b>	Communications (Retention of Data) Bill 2009
<b>33</b>	Employment Agency Regulation Bill 2009
<b>34</b>	Criminal Justice (Money Laundering and Terrorist Financing) Bill 2009
<b>35</b>	Industrial Relations (Amendment) Bill 2009
<b>36</b>	Courts and Court Offices Bill 2009
<b>37</b>	Defence (Miscellaneous Provisions) Bill 2009
<b>38</b>	Public Transport Regulation Bill 2009
<b>39</b>	National Asset Management Agency Bill 2009
<b>40</b>	Child Care (Amendment) Bill 2009
<b>41</b>	Labour Services (Amendment) Bill 2009
<b>42</b>	European Union Bill 2009
<b>43</b>	Road Traffic Bill 2009
<b>44</b>	Foreshore and Dumping at Sea (Amendment) Bill 2009
<b>45</b>	Companies (Miscellaneous Provisions) Bill 2009
<b>46</b>	Inland Fisheries Bill 2009
<b>47</b>	Houses of the Oireachtas Commission (Amendment) Bill 2009
<b>48</b>	Forestry (Amendment) Bill 2009
<b>49</b>	Social Welfare and Pensions (No. 2) Bill 2009
<b>50</b>	Financial Emergency Measures in the Public Interest (No. 2) Bill 2009
<b>51</b>	Appropriation Bill 2009
<b>52</b>	Dog Breeding Establishments Bill 2009

## Annex B

<b>No.</b>	<b>Public Bills Enacted in 2009</b>
<b>1</b>	Anglo Irish Bank Corporation Act 2009
<b>2</b>	Residential Tenancies (Amendment) Act 2009
<b>3</b>	Gas Amendment Act 2009
<b>4</b>	Electoral (Amendment) Act 2009
<b>5</b>	Financial Emergency Measures in the Public Interest Act 2009
<b>6</b>	Charities Act 2009
<b>7</b>	Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Act 2009
<b>8</b>	Legal Services Ombudsman Act 2009
<b>9</b>	Electoral (Amendment) (No. 2) Act 2009
<b>10</b>	Social Welfare and Pensions Act 2009
<b>11</b>	Industrial Development Act 2009
<b>12</b>	Finance Act 2009
<b>13</b>	Financial Services (Deposit Guarantee Scheme) Act 2009

<b>14</b>	Financial Measures (Miscellaneous Provisions) Act 2009
<b>15</b>	Nursing Homes Support Scheme Act 2009
<b>16</b>	Aviation (Preclearance) Act 2009
<b>17</b>	European Parliament (Irish Constituency Members) Act 2009
<b>18</b>	Broadcasting Act 2009
<b>19</b>	Criminal Justice (Surveillance) Act 2009
<b>20</b>	Companies (Amendment) Act 2009
<b>21</b>	Enforcement of Court Orders (Amendment) Act 2009
<b>22</b>	Housing (Miscellaneous Provisions) Act 2009
<b>23</b>	Public Health (Tobacco) (Amendment) Act 2009
<b>24</b>	Health Insurance (Miscellaneous Provisions) Act 2009
<b>25</b>	Health (Miscellaneous Provisions) Act 2009
<b>26</b>	Harbours (Amendment) Act 2009
<b>27</b>	Land and Conveyancing Law Reform Act 2009
<b>28</b>	Criminal Justice (Miscellaneous Provisions) Act 2009
<b>29</b>	Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009
<b>30</b>	Local Government (Charges) Act 2009
<b>31</b>	Defamation Act 2009
<b>32</b>	Criminal Justice (Amendment) Act 2009



<b>33</b>	European Union Act 2009
<b>34</b>	National Asset Management Agency Act 2009
<b>35</b>	Defence Miscellaneous (Provisions) Act 2009
<b>36</b>	Courts and Court Offices Act 2009
<b>37</b>	Public Transport Regulation Act 2009
<b>38</b>	Labour Services (Amendment) Act 2009
<b>39</b>	28th Amendment of the Constitution (Treaty of Lisbon) Act 2009
<b>40</b>	Forestry (Amendment) Act 2009
<b>41</b>	Financial Emergency Measures in the Public Interest (No. 2) Act 2009
<b>42</b>	Appropriation Act 2009
<b>43</b>	Social Welfare and Pensions (No. 2) Act 2009
<b>44</b>	Houses of the Oireachtas Commission (Amendment) Act 2009
<b>45</b>	Companies (Miscellaneous Provisions) Act 2009
<b>46</b>	Statute Law Revision Act 2009
<b>47</b>	Foreshore and Dumping at Sea (Amendment) Act 2009

## Annex C

### Office of the Attorney General

#### Vote 3, Merrion Street Office

##### Outturn for 2009 and Estimate for 2009 and 2010

Estimate and Outturn for 2009 and Estimate of the amount required in the year ending 31 December, 2010 for the salaries and expenses of the **Office of the Attorney General**, including a grant-in-aid.

	Service	Estimate Provision 2009 €000	Provisional Outturn 2009 €000	Estimate Provision 2010 €000
	<b>ADMINISTRATION</b>			
A.1.	SALARIES, WAGES AND ALLOWANCES	11,191	10,241	10,148
A.2.	TRAVEL AND SUBSISTENCE	208	64	120
A.3.	INCIDENTAL EXPENSES	830	503	710
A.4.	POSTAL AND TELECOMMUNICATIONS SERVICES	143	103	120
A.5.	OFFICE MACHINERY AND OTHER OFFICE SUPPLIES AND RELATED SERVICES	850	586	994
A.6.	OFFICE PREMISES EXPENSES	252	161	240
A.7.	CONSULTANCY SERVICES	25	3	20
A.8.	VALUE FOR MONEY AND POLICY REVIEWS	-	-	-
A.9.	CONTRACT LEGAL EXPERTISE	1,017	985	966
	<b>SUBTOTAL</b>	<b>14,516</b>	<b>12,646</b>	<b>13,318</b>

	<b>OTHER SERVICES</b>			
B.	CONTRIBUTIONS TO INTERNATIONAL ORGANISATIONS	38	37	38
C.	LAW REFORM COMMISSION (GRANT-IN-AID)	3,581	3,297	2,385
D.	GENERAL LAW EXPENSES	78	238	60
	<b>Gross Total</b>	<b>18,213</b>	<b>16,218</b>	<b>15,801</b>
	<b>Deduct</b>			
E.	APPROPRIATIONS-IN-AID	733	632	570
	<b>Net Total</b>	<b>17,480</b>	<b>15,586</b>	<b>15,231</b>

## Office of the Chief State Solicitor

### Vote 13

#### Outturn for 2009 and Estimate for 2009 and 2010

Estimate and Outturn for 2009 and Estimate of the amount required in the year ending 31 December, 2010 for the salaries and expenses of the Office of the Chief State Solicitor.

	Service	Estimate Provision 2009 €000	Provisional Outturn 2009 €000	Estimate Provision 2010 €000
	<b>ADMINISTRATION</b>			
A.1.	SALARIES, WAGES AND ALLOWANCES	16,303	15,791	15,000
A.2.	TRAVEL AND SUBSISTENCE	127	51	92
A.3.	INCIDENTAL EXPENSES	1,288	873	1,120
A.4.	POSTAL AND TELECOMMUNICATIONS SERVICES	466	395	450
A.5.	OFFICE MACHINERY AND OTHER OFFICE SUPPLIES AND RELATED SERVICES	893	893	920
A.6.	OFFICE PREMISES EXPENSES	605	393	385
A.7.	CONSULTANCY SERVICES	29	14	29
A.8.	EXTERNAL LEGAL SERVICES	443	149	439
A.9.	VALUE FOR MONEY AND POLICY REVIEWS	46	-	14
	<b>SUBTOTAL</b>	<b>20,200</b>	<b>18,559</b>	<b>18,449</b>

	<b>OTHER SERVICES</b>			
B.	FEES TO COUNSEL	15,151	16,138	14,350
C.	GENERAL LAW EXPENSES	3,976	3,585	3,616
	<b>Gross Total</b>	<b>39,327</b>	<b>38,282</b>	<b>36,415</b>
	<b>Deduct</b>			
D.	APPROPRIATIONS-IN-AID	3,441	4,689	1,604
	<b>Net Total</b>	<b>35,886</b>	<b>33,593</b>	<b>34,811</b>

**Annex D**

**Vote 3**

**Office of the Attorney General**

**2009 Output Statement**

## **Vote 3**

### **Office of the Attorney General**

#### **Mission Statement**

*The Mission of the Office is to provide the highest standard of professional legal services to the Government, Departments and Offices.*

This Mission Statement contained in the Statement of Strategy covers the Office as a whole and includes the Advisory side of the Office, the Office of the Parliamentary Counsel to the Government and the Chief State Solicitor's Office. All three parts of the Office work closely together to achieve their common mission.

#### **Programmes:**

The Output Statement accounts for the Vote of the Office under three Programmes:

- The Advisory Counsel Service that provides legal advice and directs litigation strategy to clients.
- The Office of the Parliamentary Counsel to the Government (OPC) that provides a legislation drafting service to the Government.
- The Law Reform Commission (LRC), an independent body funded by way of Grant-in-Aid from the Vote that keeps the law under review.

#### **High Level Goals**

The high level goals for each of these Programmes are:

##### ***(a) Advisory Counsel Programme***

To provide high quality and specialist support and advice to the Attorney General in carrying out the duties of his office through the provision of specialist Advisory Counsel services in a responsive, efficient and effective manner in areas of law of importance to Government.

##### ***(b) Parliamentary Counsel Programme***

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

##### ***Administration Units***

*The Administration Units of the Office also have a high level goal to provide modern and professional corporate and business support services that deliver the highest quality service to internal and external clients and customers. Resources are assigned to the Advisory Counsel and Parliamentary Counsel Programmes on an indicative basis.*

##### ***(c) Law Reform Commission Programme***

To keep the law under independent, impartial and expert review, and make recommendations for its reform, under a Programme of Law Reform and arising from specific requests from the Attorney General; to prepare Statute Law Restatements; and to update and maintain the Legislation Directory.

## 2. Total Budget for Vote - by source of funding by year:

	2008 REV €million	2008 Outturn, €million	2009 Estimate €million	Change on Outturn
<b>Net Voted Expenditure</b>	<b>19.551</b>	<b>18.106</b>	<b>17.500</b>	<b>-3.35%</b>
<b>Appropriations in Aid</b>	<b>0.008</b>	<b>0.004</b>	<b>0.733*</b>	
<b>Gross Voted Expenditure</b>	<b>19.559</b>	<b>18.110</b>	<b>18.233</b>	<b>+0.68%</b>
<b>Non-Voted (State source)</b>	<b>0.006</b>	<b>0.031**</b>	<b>0.030</b>	<b>-3.23%</b>
<b>Total Gross Expenditure</b>	<b>19.565</b>	<b>18.141</b>	<b>18.263</b>	<b>+0.67%</b>
<i>of which - Exchequer Pay</i>	<i>13.367</i>	<i>12.517</i>	<i>12,395</i>	<i>-0.98%</i>
<i>No. of Public Service Employees of which directly engaged in the three Programmes</i>	<i>168 109</i>	<i>168 109</i>	<i>169 109</i>	

\* The Appropriations-in-Aid in 2009 includes the Pension Levy - €731,000. \*\*Includes an allocation of €20,000 to the Law Reform Commission from the Department of Justice, Equality and Law Reform for the Courts Acts Project.

## 3. Breakdown of Total Gross Expenditure at 2 above by Programme

<i>Programme Name:</i>	2008 REV €million	2008 Outturn €million	2009 Estimate €million	Change on Outturn
<b>Advisory Counsel</b>	<b>8.655</b>	<b>7.713</b>	<b>7.834</b>	<b>+1.57%</b>
<b>Parliamentary Counsel</b>	<b>6.742</b>	<b>6.843</b>	<b>6.818</b>	<b>-0.37%</b>
<b>Law Reform Commission</b>	<b>4.168</b>	<b>3.585</b>	<b>3.611</b>	<b>+0.72%</b>
<b>Total Gross Expenditure</b>	<b>19.565</b>	<b>18.141</b>	<b>18.263</b>	<b>+0.67%</b>



#### 4. Advisory Counsel Programme

**High-Level Goal:** To provide high quality and specialist support and advice to the Attorney General in carrying out the duties of his office through the provision of specialist Advisory Counsel services in a responsive, efficient and effective manner in areas of law of importance to Government.

**Key Strategies:**

Deliver the Office's key commitments in its Client Service Guide and Client and Customer Charter for Advisory Counsel and Administration.

Maintain close co-operation with the OPC, Chief State Solicitor's Office and Departmental legal advisers in the handling of legal work.

Recruit, train and develop new Advisory Counsel.

Contribute to effective public service by assistance in the co-ordination of the legal services

Develop and implement strategic training programme in legal and management issues.

<b>Inputs</b>				
	<b>2008 €million</b>	<b>Outturn 2008 €million</b>	<b>2009 Estimate €million</b>	<b>Change on Outturn</b>
Programme Expenditure	<b>5.283</b>	<b>4.965</b>	<b>5.176</b>	<b>+4.25%</b>
- Current				
- Capital				
Administration and other Support <sup>3</sup>				
- Pay	<b>1.902</b>	<b>1.532</b>	<b>1.511</b>	<b>-1.37%</b>
- Non-Pay	<b>1.470</b>	<b>1.216</b>	<b>1.147</b>	<b>-5.67%</b>
Total Gross Programme Expenditure	<b>8.655</b>	<b>7.713</b>	<b>7.834</b>	<b>+1.57%</b>
Number of Staff employed on Programme (whole time equivalents) as at end year.	<b>51</b>	<b>49</b>	<b>49</b>	
- Civil servants				
- Other public servants				

<sup>3</sup> Administrative resources are assigned to each Programme on an indicative basis only.

of the State.

<b>Outputs</b>		
<b>2008</b>	<b>2008</b>	<b>2009</b>
<b>Output Target<sup>1</sup></b>	<b>Output Achieved<sup>2</sup></b>	<b>Output Target</b>
<b>HEADLINE OUTPUTS</b>		
Advice on Advisory Files 1,311	1914	100% monitored turnaround of requests for legal advices as demanded by client Departments.
Advice on Litigation Files 2,414	3,600 <sup>3</sup>	100% monitored turnaround of requests for legal advices as demanded by client Departments.
Advice on Drafting Files 42	139	100% monitored turnaround of requests for legal advices as demanded by client Departments.

The 2008 Output Achieved statistics are based on work carried out by the Office on files irrespective of the year in which the file was created. The Office considers this approach to be a more accurate account of the Outputs Achieved during 2008.

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<sup>1</sup> Targets set in the 2008 Output Statement were based on **new** files projected to be opened during the year

<sup>2</sup> The 2008 Output Achieved statistics are based on **work carried out** by the Office on files irrespective of the year in which the file was created.

<sup>3</sup> On Litigation Files advice was provided on the following legal areas:

ECHR - 8

ECJ - 609

Extradition - 252

Judicial Review - 257

Judicial Review Asylum - 239

Ministerial Prosecutions - 62

Advice on Litigation Files included: Sensitive/Constitutional -152 Sensitive/General -163

An independently undertaken Client Survey in respect of the services provided by the Advisory Counsel in April 2008 found that the performance ratings in the delivery of services increased on the findings of a similar survey in 2006 under all factors -Communications, Responsiveness/Timeliness, Accuracy and Quality of Outputs and Service Delivery. This is noteworthy in a situation where client expectations had also increased in all four areas.

Advisory Groups were most recently reorganised in January 2009 to reflect the outcome of the review of specialisms allocated to each of five specialist groups within the Office. The Office has agreed, in principle, with the Office of the Director of Public Prosecutions to transfer responsibility for fisheries prosecutions to that Office. Recently-published Value for Money and Policy Reviews on the Administration of the Attorney General's Scheme and on the Maintenance of the electronic Irish Statute Book contain recommendations in relation to how the relevant responsibilities for these functions might more appropriately be the responsibility of the Department of Justice, Equality and Law Reform in the case of the Scheme and of some other agency in the case of the eISB.

In May 2008 an experienced Advisory Counsel was seconded to the Department of Justice, Equality and Law Reform to put mechanisms in place in that Department to deal with European Arrest Warrants and Mutual Legal Assistance. This has resulted in EAWs being handled within the Department with significant streamlining of procedures and efficiencies. The Legal Adviser has recently had his legal advisory remit extended to comprehend all divisions dealing with criminal law. The Department is the single largest client for the Office and having an in-house Legal Adviser is a major advantage. There is also an Advisory Counsel on secondment to the Irish National Immigration Service in that Department.

During 2008, four new Advisory Counsel Grade III were recruited, six Advisory Counsel were seconded to Departments of Health and Children, Education and Science, Finance, Communications, Energy and Natural Resources, Justice, Equality and Law Reform and Agriculture, Fisheries and Food. These join five Advisory Counsel seconded to the Departments of Environment, Heritage and Local Government, Education and Science, Transport, Health and Children and Social and Family Affairs in 2006 and 2007. All of these Advisory Counsel were recruited and trained in the Office prior to their secondment. The secondments have facilitated routine issues being dealt on an inhouse Department and proactive basis. It also allows for a significant involvement by the Legal Advisers in more important matters and improves the engagement between the Office and the Departments on these matters.

Advisory Counsel were involved in advising on many of the Bills drafted in the Office of the Parliamentary Counsel to the Government, some had very short timescales for delivery of the necessary legal advice. Advisory Counsel were also involved in advising and directing litigation in co-operation with the Office of the Chief State Solicitor. Advisory Counsel presented training on Administrative Law to civil servants from various Departments and Offices in June and November 2008 and

in February 2009. A further session is scheduled for June 2009. The feedback on these courses has been very positive.

## **5. Parliamentary Counsel Programme High**

### **Level Goal:**

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

### **Key Strategies:**

Co-operate with the Government Legislation Committee in monitoring and supervising the implementation of the Government Legislation Programme.

Deliver the Office's key commitments in its Client Service Guide and Client and Customer Charter for Parliamentary Counsel.

Co-operate with Advisory Counsel in the handling of legislation files. Recruit,

train and develop new Parliamentary Counsel.

Contribute to the ongoing process of making Acts of the Oireachtas more accessible and easier to produce.

Contribute to effective public service by assisting in the co-ordination of legal services of the State.

<b>Inputs</b>				
	<b>2008 €million</b>	<b>Outturn 2008 €million</b>	<b>Year 2009 Estimate €million</b>	<b>Change on Outturn</b>
Programme Expenditure	<b>4.603</b>	<b>4.723</b>	<b>4.767</b>	<b>+0.93%</b>
- Current - Capital				
Administration and other Support				
- Pay	<b>1.206</b>	<b>1.182</b>	<b>1.166</b>	<b>-1.35%</b>
- Non-Pay	<b>0.933</b>	<b>0.938</b>	<b>0.885</b>	<b>5.65%</b>
Total Gross Programme Expenditure	<b>6.742</b>	<b>6.843</b>	<b>6.818</b>	<b>-0.36%</b>
Number of Staff employed on Programme (whole time equivalents) as at end year.	<b>30</b>	<b>30</b>	<b>31</b>	
- Civil servants				
- Other public servants				

<b>Outputs</b>			
	<b>2008</b>	<b>2008</b>	<b>2009</b>
	<b>Output Target</b>	<b>Output Achieved</b>	<b>Output Target</b>
<b>HEADLINE OUTPUTS</b>			
Bills Published	40	33	36
Bills in progress at year-end	-	34	***
Committee and Report Stage amendments to Bills completed	-	4,111	***
Statutory Instruments completed	300	245	250
Statutory Instruments in progress at year-end	-	196	***

\*\*\*Targets and priorities are set and approved by the Government in the context of the Government Legislation Programme for each Dail session via the 'A' list. The Committee oversees each proposed Government Bill from the time of its inclusion in the Government's Legislation Programme to the completion of its progress through the Houses of the Oireachtas.

In any given year, the requirements of sponsoring Departments control the lifecycle of the progress of the Bills for which they are responsible. In addition to the 'A' list, priority is also given to emergency legislation arising from, amongst other things, decisions of the courts or responses to social, economic or political controversies. The number of amendments required to be drafted in any year also affects the overall output of Bills and Acts for that year. This means that the drafting resources of the OPC can, as the figures for 2008 demonstrate, very often be largely devoted to drafting amendments to Bills initiated in previous years. This is a vital task of the OPC.

The demands of Government Departments in any given year for the services of the Office of the Parliamentary Counsel to the Government in relation to Statutory Instruments is difficult to quantify at the beginning of the year as there is no centralised programme for the delivery of Instruments in contrast to Bills. Output of Statutory Instruments is dependent on the type and content of Instruments required.

An independently undertaken Client Survey in respect of the Office of the Parliamentary Counsel in July 2008 found that the performance ratings of the Office in the delivery of services increased on the findings of a similar Survey in 2004 under all 4 factors - Communications; Responsiveness/Timeliness; Accuracy and Quality of Outputs and Service Delivery. This is noteworthy in a situation where client expectations had also increased in all 4 factors.

In 2008, 14 Bills not scheduled in the Government Legislation Programme for the particular Parliamentary Session were drafted as a matter of urgency. In 2009 to date, 6 Bills not scheduled for the current Parliamentary Session are also being drafted as a matter of urgency and 3 more such Bills have already been published.

Three Assistant Parliamentary Counsel Grade II were recruited in 2008 and 1 in March 2009. These are currently being trained.

In 2008, the Office, continued to project manage the Statute Law Revision Project. Submissions were sought on Private Acts enacted up to and including the year 1750 and Local and Personal Acts up to and including the year 1850. It is proposed to publish shortly a Statute Law Revision Bill repealing any Local and Personal Acts up to and including 1850 and Private Acts up to and including 1750 that are now obsolete.

In 2008 the Office continued to liaise with the Department of the Taoiseach, Office of the Houses of the Oireachtas, Law Reform Commission, the Government Supplies Agency and other stakeholders on how legislation might be more assessible and easier to produce. The Office recently published a Value for Money and Policy Review on the maintenance of the electronic Irish Statute Book. Members of the OPC along with colleagues on the Advisory and Administration sides of the Office contributed to the updating of the eISB which will be further updated shortly.

Parliamentary Counsel gave presentations on the Legislative Process in April, October, November and December 2008 to civil servants. The feedback was very positive.



## 6. Law Reform Commission Programme

**High Level Goal:** To keep the law under independent, impartial, and expert review, and make recommendation for its reform, under *the Third Programme of Law Reform 2008-2014* and arising from specific requests from the Attorney General; to prepare Statute Law Restatements; and to update and maintain the Legislation Directory.

### Key Strategies:

Progress towards completion to a high standard the examination of: (1) the projects currently selected by the Commission from the 37 Projects in the *Third Programme of Law Reform 2008-2014*; and (2) the particular areas of law which the Attorney General has requested the Commission to examine.

Complete the First Programme of Statute Law Restatement.

Update and Maintain the Legislation Directory.

<b>Inputs</b>				
	<b>2008 €million</b>	<b>Outturn 2008 €million</b>	<b>Year 2009 Estimate €million</b>	<b>Change on Outturn</b>
Programme Expenditure	<b>1.849</b>	<b>1.440</b>	<b>1.417</b>	<b>-1.60%</b>
- Current				
- Capital				
Administration and other Support				
- Pay	<b>0.487</b>	<b>0.353</b>	<b>0.518</b>	<b>+46.74%</b>
- Non-Pay	<b>1.832</b>	<b>1.792</b>	<b>1.676</b>	<b>-6.47%</b>
Total Gross Programme Expenditure	<b>4.168</b>	<b>3.585*</b>	<b>3.611</b>	<b>+0.72 %</b>
Number of Staff employed on Programme (whole time equivalents) as at end year.	<b>23</b>	<b>30</b>	<b>29</b>	
- Civil servants				
- Other public servants				

\*The Commission's expenditure in 2008 totalled €4,061,500 - the difference from the figure above is accounted for through a carryforward of funds provided in the 2007 Grant-in-Aid.

<b>Outputs</b>		
<b>2008</b>	<b>2008</b>	<b>2009</b>
<b>Output Target</b>	<b>Output Achieved</b>	<b>Output Target</b>
<b>HEADLINE OUTPUTS</b>		
<b>HEADLINE OUTPUTS 10</b>		
<i>Reports/Restatements</i>	<i>6 Reports</i>	<i>6 Reports</i>
<i>5 Consultation Papers</i>	<i>5 Consultation Papers</i>	<i>5 Consultation Papers</i>
		<i>Restatements of 44 Acts including suites of Acts</i>
		<i>Updates of Legislation Directory 2006 - 2008</i>
<b>OTHER KEY OUTPUTS</b>		
<i>Annual Stakeholders' Conference</i>	<i>Annual Stakeholders' Conference</i>	<i>Annual Stakeholders' Conference</i>
<i>Draft Committee Stage Amendments to Land and Conveyancing Law Reform Bill 2006</i>	<i>Draft Committee Stage Amendments to Land and Conveyancing Law Reform Bill 2006</i>	<i>Draft Report Stage Amendments to Land and Conveyancing Law Reform Bill 2006</i>
		<i>Customer Satisfaction Surveys for Seminars / Round Tables /Annual Stakeholders' Conference</i>

The Commission's Output Target 2009 includes two new Headline Outputs. These deal with the Commission's role in Statute Law Restatement and the Legislation Directory, for which functional responsibility was transferred from the Office of the Attorney General to the Commission in 2006 and 2007, respectively. In 2007, the Commission published a Consultation Paper on Statute Law Restatement, followed by a Report in 2008, which included the Commission's *First Programme of Statute Law Restatement 2008-2009*. The Commission also published a Consultation Paper on the *Legislation Directory: Towards a Best Practice Model* in July, 2008.

In 2008, two Acts and nine Bills or Schemes of Bills and five Statutory/non-Statutory Codes were based in whole or in part, on Commission Reports, recommendations and draft Bills.

Three draft Restatements of Legislation are expected to be referred in the near future by the Commission for certification by the Attorney General in accordance with the Statute Law (Restatement) Act 2002.

The Report of the Expenditure Review Initiative (Value for Money Review) of the Commission was placed before the Houses of the Oireachtas in 2008. The stakeholders surveyed for the Review concluded that the Commission's outputs continued to be of high value, in particular as they were based on wide consultation. The stakeholders surveyed included the Director of Corporate Enforcement, the CEO of the Mental Health Commission, the then Garda Commissioner, the Director of Public Prosecutions, the Chairman of the Bar Council, the Director General of the Law Society and the Assistant Secretary, Department of Justice, Equality and Law Reform (Civil Law Division). The Report concluded that "at international level there is confirmation that law reform through a Law Reform Commission is the best method of achieving the objectives of law reform.

## Vote 13

### Office of the Chief State Solicitor

The work of the CSSO primarily involves the provision of solicitor services in civil law issues to the Attorney General and to Government Departments/Offices.

The Output Statement is presented as one Programme: the Solicitor service provided by the CSSO.

#### Mission Statement

*The Mission of the Office is to provide the highest standard of professional legal services to the Government, Departments and Offices.*

#### High Level Goals:

To deliver a high quality specialist solicitor service to the Attorney General, the Departments and Offices, in the areas of litigation, provision of legal advice, and in property and transactional matters, and assistance in the negotiation of complex business contracts.

#### 2. Total Budget for Ministerial Vote Group - by source of funding by year:

	2008 REV € m	2008 Outturn €m	2009 €m	% Change on Outturn
<b>Net Voted Expenditure*</b>	<b>41,283</b>	<b>40,623</b>	<b>35,886</b>	<b>-12</b>
<b>Appropriations in Aid*</b>	<b>500</b>	<b>708</b>	<b>3,441</b>	<b>80**</b>
<b>Gross Voted Expenditure*</b>	<b>41,783</b>	<b>41,331</b>	<b>39,327</b>	<b>-5</b>
<b>Non-Voted (State source)</b>				
<b>Total Gross Expenditure</b>				
<i>of which - Exchequer Pay</i>	<i>16,124</i>	<i>15,422</i>	<i>16,303</i>	<i>5</i>
<i>No. of Public Service Employees</i>				

\* As in Budget Estimates / Revised Estimates \*\*  
Pension Levy for 2009 now included in A-in-A

### 3. Breakdown of Total Gross Expenditure at 2 above by Programme

The Chief State Solicitor's Office's function is to provide solicitor services, including conveyancing and other transactional services, to Departments and Offices.

The Office is organised into five legal Divisions and an Administrative Division. Each legal Division is organised into Sections (or, in some cases, teams) on the basis of similarity of work or client.

The Chief State Solicitor is Ireland's Law Agent in cases before the European Court of Justice and before other international tribunals.

*Appendix 1 shows comparative costs between legal services provided or sourced by CSSO and private practice.*

<i>Programme Name:</i>	<b>2008 REV €m</b>	<b>2008 Outturn €m</b>	<b>2009 €m</b>	<b>% Change on Outturn</b>
<b>Solicitor Service</b>	<b>41,783</b>	<b>41,331</b>	<b>39,327</b>	<b>-5</b>
<b>Total Gross Expenditure</b>	<b>41,783</b>	<b>41,331</b>	<b>39,327</b>	<b>-5</b>

\* As in Budget Estimates / Revised Estimates

#### **4. Individual Programme details for each programme**

##### **PROVISION OF SOLICITOR SERVICE**

Statement of relevant High Level Goal as per Statement(s) of Strategy:

- **Key** strategies to achieve High Level Goal as per Statement(s) of Strategy:
  - Deliver the Office's key commitments in its Customer Action Plan 2008 -2010 and Customer Charter.
  - Maintain close co-operation with the Attorney General's Office and Departmental legal advisers in the handling of legal work.
  - Implement the risk management policies of the Office.
  - Planning for the future in CSSO legal services.
  - Recruit, train and develop new CSSO legal staff.
  - Develop and Implement strategic training programme in legal issues
  - Contribute to effective public service by assisting in the co-ordination of the legal services of the State.
  - Provide legal services to Government in the implementation of litigation policies and in the handling of cross-Departmental issues.

##### **Rationale for how Programme outputs contribute to these key strategies**

To provide a solicitor service to Government Departments and Offices with a particular emphasis on high quality service in the following areas:

- The defence of all Constitutional actions taken against the State, both in the High Court and Supreme Court.
- Representation of the State in European Court of Justice.
- Handling of European Arrest Warrants, Extradition and Mutual Assistance requests
- The defence of all commercial cases instructed to the Office.
- The defence of all judicial review and habeus corpus proceedings on behalf of Government Departments, Offices and clients.
- The provision of an asylum law litigation service to support the Department of Justice, Equality and Law Reform and the immigration / asylum agencies.
- The provision of a conveyancing and property law service for the State.

- Defending all civil proceedings taken against An Garda Siochana or its members.
- Dealing with childhood abuse cases arising out of abuse in residential institutions and day schools.
- Provision of a solicitor service to support Government Departments and Offices in the bringing of court proceedings in Ireland on behalf of the State.
- Provision of solicitor service to State Offices in specific technical areas.
- Representation of State parties in the taxation of legal costs before the Taxing Masters.
- Recovery and taxation of costs.
- Advising and preparing commercial contract for Departmental clients.

<b>Inputs</b>				
<b>Programme A etc. (As at 3)</b>	<b>2008 € million</b>	<b>Outturn 2008 €million</b>	<b>Year 2009 €million</b>	<b>%Change on Outturn</b>
Programme Expenditure	<b>31,720</b>	<b>33,497</b>	<b>31,699</b>	<b>-5</b>
- Current				
- Capital				
Administration and other Support <sup>4</sup>	<b>5,358</b>	<b>4,781</b>	<b>4,177</b>	<b>-13</b>
- Pay	<b>4,705</b>	<b>3,093</b>	<b>3,451</b>	<b>19</b>
- Non-Pay				
Total Gross Programme Expenditure	<b>41,783</b>	<b>41,371</b>	<b>39,327</b>	<b>-5</b>
Number of Staff employed on Programme (whole time equivalents) as at end year.	<b>249</b>	<b>243</b>	<b>249</b>	
- Civil servants				
- Other public servants				

<b>Outputs</b>		
<b>2008</b>	<b>2008</b>	<b>2009</b>
<b>Output Target *</b>	<b>Output Achieved</b>	<b>Output Target</b>
<b>HEADLINE OUTPUT(S)**</b>		
<b>Public Law</b> <sup>2</sup>	868	Not withstanding a reduction in staffing the Office is committed to maintaining an operational capability to service in 2009, a comparable level of demand as achieved in 2008
New Cases Closed	463	
Cases in Progress	3,476	
<b>Advisory</b> <sup>3</sup>		
New Cases	840	
Closed Cases in Progress	770	
	2,343	
<b>State Property</b>		
New Cases	1,179 <sup>6</sup>	
Closed Cases in Progress	782	
	4,885	
<b>Asylum &amp; Legal Services</b> <sup>4</sup>	1,635	
New Cases Closed Cases in Progress	648	
	7,260	
<b>Justice &amp; Common Law</b> <sup>5</sup>	887	
New Cases Closed Cases in Progress	767	
	4,756	
<b>Other Key Outputs (if any)</b>		

<sup>4</sup> Administrative resources are assigned to each Programme on an indicative basis only.



\*As per 2008 Annual Output Statement.

\*\*The level of demand for the Office's services is determined by its client government Departments and Offices.

<sup>2</sup> The Public Law Division handles most of the constitutional challenges taken against the State. As of November 2007 this Division together with the Asylum Section, handled 217 Constitutional Actions.

<sup>3</sup> These cases include commercial contract cases, ECJ cases, tribunal cases and employment rights cases.

<sup>4</sup> Legal Services includes ministerial prosecutions, Garda compensation cases, valuation appeals, and legal cost accounting cases. Asylum cases include all asylum refugee and residency cases arising from these related functions of Government.

<sup>5</sup> These cases include extradition, EAW cases, transfer of sentenced persons, inquests and District Court appearances in Dublin. They also include personal injuries and tortious claims against the State such as in the areas of child abuse, Garda litigation and litigation taken by civil servants.

<sup>6</sup> Figures given for new cases in the State Property Division are accounted for by particular scheme related Departmental demands. These, in turn, have created a higher than expected demand for certain legal services. These files are currently under review for the purpose of identifying additional provisions of legal staff, application of outsourcing solutions and / or other efficiencies.

## Appendix 1

### Comparison of Costs of Legal Services, CSSO v. Party Costs. (Ex VAT).

Service Area	CSSO Cost			Party Costs		Junior Counsel
	Internal Counsel	Senior	Junior Costs	Solicitor's Counsel	Senior Costs	
<b><i>Asylum Litigation</i></b>						
	€3,200	-	€800	RLS	-	€7,000
	€1,400	-	Awaited	€13,500	-	€3,500
	€1,400	-	€750	RLS	-	€4,250
	€1,400	-	€750	€13,500	-	€3,350
	€3,200	-	€2,100	€16,500	-	€9,500
<b><i>Public Law — Commercial &amp; Constitutional Litigation</i></b>						
	€10,230	€14,500	€6,841	€25,000	€8,500	€5,666
	€10,230	€1,500	€1,500	€145,000	€20,000	€13,332
	€10,230	€7,500	€5,000	€32,000	€7,500	€5,000
	€10,230	-	€75	€60,000	€15,000	€10,000
	€10,230	€7,500	€5,000	€81,500	€18,900	€12,600
<b><i>Public Law — Judicial Review</i></b>						
	€6,323	€6,800	€3,333	€90,000	€29,000	€17,166
	€6,323	-	€5,000	€34,000	€9,750	€6,500
	€6,323	-	-	€15,000	€7,000	€4,666
	€6,323	-	€1,650	€14,000	€2,500	€3,100
	€6,323	-	-	€30,000	€14,000	€9,500
<b><i>Public Law — Habeas Corpus.</i></b>						
	€422	€900	-	€7,500	-	€6,000
	€422	-	-	€4,500	€2,000	€1,333
	€422	-	-	€7,000	-	€3,500
	€422	-	-	€6,400	€1,400	€1,000
	€422	-	€1,500	€6,000	-	€5,000



## Annex E

# Statements of Compliance; Reports on Payment Practices 2009

## Office of the Attorney General (Merrion Street Office)

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

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

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

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

- Unless otherwise agreed by written contract, the prompt payment deadline of 30 days applies to all payments
- Staff are asked to ensure that invoices are addressed to a named person when placing orders for goods and services thus avoiding delays in tracing the person who placed the order for certification purposes
- All invoices are forwarded to the Finance Unit and date stamped immediately on receipt. This date is the date from which the prescribed payment period is calculated
- Staff in the Finance Unit scan all invoices received onto the Financial Management System once they are received in the Finance Unit
- Once the goods or service to which the invoice refers have been received by the Office the relevant Unit will certify the invoice as being in order for payment by generating a goods received notice (GRN) on the Financial Management System. As soon as the GRN process has taken place staff members in the Finance Unit can proceed with payment of the invoice
- In the event of the relevant Unit not being in a position to GRN the goods due to an incomplete order, non-provision of full service etc. Finance Unit should be notified and the 30 day period will only begin when the goods or service has been fully supplied to the Office
- Staff have been advised of the need to generate the GRN as soon as the goods or service have been received by the Office or to advise the Finance Unit if they are not in a position to generate the GRN in respect of a particular invoice. Arrangements should be made to ensure

that the GRN process is not delayed due to staff being on leave etc.

- If an invoice needs to be corrected or is in dispute, the procedures specified in the Act are followed. These procedures are applied by the Finance Unit and a written record of the procedures applied is recorded
- The staff in the Finance Unit monitor the payment due date and endeavour to ensure that payment is made within the prescribed period. In the event of payment being made outside of the prescribed time interest is calculated by Finance Unit in accordance with the Act and with the Regulations
- The Financial Management System prompts the staff in the Finance Unit of due payment date

The Office's Report of Payment Practices for 2009 follows.

### **Office of the Attorney General**

## **Report on Payment Practices for 2009**

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

#### **General**

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

#### **Late Payments**

- Payments totalling €3,821 million in 2009 were made from the Vote of the Office of the Attorney General in respect of payments to which the Legislation applies.
- There were no Prompt payment interest payments incurred during the year.

## **CHIEF STATE SOLICITOR'S OFFICE**

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

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

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

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

## **Interest Payments under Prompt Payment of Accounts legislation**

In the CSSO, a total amount of €36.66 was incurred in penalty interest during the year under Prompt Payment of Accounts legislation.

### **REPORT ON PAYMENT PRACTICES FOR 2009**

#### **CHIEF STATE SOLICITOR'S OFFICE**

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

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

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

#### **Payments to which Prompt Payments applied from January to December 2009:**

Total Value of all Payments:	€70,464
Total Value of all late payments (under €20 inclusive):	€86.95
Total Value of all late payments (over €20):	€9,777.05
Value of late payments as % of total payments:	1.13%
Number of late payments in excess of €20:	36
Amount of Interest paid:	€36.66
Amount of interest as percentage of total payments:	.0134%
Broad indication of Length of Delays:	

## **Annex F**

### **Office Representation on Committees and Working Groups in 2009**

Advisory Board National Children's Office  
Advisory Forum on Financial Services Legislation  
Assistant Secretaries Network  
  
Better Regulation Group  
  
Change Management Network  
  
Circuit Court Rules Committee  
  
Civil Service Training Officers Network  
Commission for Democracy through Law  
Commission on the Assisted Human Reproduction  
Company Law Review Group  
Consultative Committee on Law Reform  
  
Consumer Advisory Council  
Corporate and Public Lawyers Association  
Council of Europe Committee on Administrative Law  
Council of Europe Committee of Experts in Family Law  
Court Service Forum  
Courts Service User Group  
Court of Appeal Committee  
Courts Martial Rules Committee  
Criminal Law Codification Committee  
Cross-Departmental Team on Infrastructure  
Cross-Departmental Group on EU Enlargement and Freedom of Movement  
Cross-Departmental Group on the Services Directive  
District Court Rules Committee  
EU Working Group on Legal Data Processing  
EU Working Group on Contract Law  
EU Intergovernmental Convention Oversight Group  
Expenditure Reviewers Network



FOI Interdepartmental Working Group  
FOI Liaison Officers Network  
FOI Users Network Group  
Garda Síochána Working Group on Vetting  
Garda Síochána Implementation Group on Vetting  
Government Legislation Committee  
Government Library Managers Network  
Greco Evaluation Team  
Hague Conference on Private International Law  
Information and Communications Technology Managers' Forum  
Information Society Legal Working Group  
Implementation Group on Compensation Issues  
Implementation Group of Secretaries General  
Interdepartmental Committee on the Reform of Marriage  
Interdepartmental Co-ordinating Committee on European Affairs  
Interdepartmental eLegislation Group  
Interdepartmental Group on Special Education Needs Litigation  
Interdepartmental Working Group on Nursing Homes Charges  
Interdepartmental Committee on Nuclear Issues  
Interdepartmental Group on Childhood Abuse Litigation  
Interdepartmental Working Groups on Disability  
Interdepartmental Committee on Infrastructure  
Interdepartmental Committee on State Aids  
Interdepartmental Group on the Commission proposal for a European Fishing Control Agency  
Interdepartmental Group on the EU Convention  
Interdepartmental Group on Legislative Issues for the Information Society  
Interdepartmental Group on Oireachtas Scrutiny of EU legislation  
  
Interdepartmental Task Force on the Report of the Commission on the Status of People with Disabilities  
  
Interdepartmental Working Group on Compensation Issues  
Interdepartmental Committee on Multi-Unit Developments  
Internal Audit Network  
International Maritime Organisation Legal Committee

International Expert Group on Nuclear Liability (INLEX)  
Litigation Committee of the Law Society  
Management Group for Judicial Reviews in Asylum Cases  
Ministers and Secretaries Group on European Matters  
Money Laundering Steering Committee (Official side)  
“No-Fault” Advisory Group  
Northern Ireland (various groups dealing with Northern Ireland matters)  
Nuclear Law Committee (Nuclear Energy Agency, a branch of the OECD)  
Personnel Officers Network  
  
PMDS Network  
Public Law Committee – International Bar Association  
Secretaries General and Heads of Offices Group  
Single Regulatory Authority Implementation Advisory Group  
State Claims Agency Liaison Committee  
  
Steering Committee for the Pilot Project to establish an on-line small-claims procedure  
  
Steering Group on Systems Review of Department of Agriculture and Food  
Strategic Management Initiative Communications Sub-Group  
Strategic Management Initiative Implementation Groups  
Superior Courts Rules Committee  
Tax Strategy Group  
UNCITRAL (The United Nations Commission on International Trade Law)  
UNCITRAL Working Group on Arbitration  
UNCITRAL Working Group on Security Issues  
UNCITRAL Working Group on Electronic Commerce  
UNCITRAL Working Group on Insolvency Law  
UNIDROIT  
  
Working Group on Company Law Compliance and Enforcement  
  
Working Group to Review Coroners Services

## Annex G

### Statistics of requests made under the Freedom of Information Acts

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

Office of the Attorney General	Applications Received	Personal	Non-Personal	Mixed	Requests Granted	Requests Part Granted
1998	22	6	16	0	4	1
1999	27	7	20	0	2	4
2000	25	3	22	0	3	3
2001	23	4	19	0	2	2
2002	22	4	18	0	3	1
2003	18	3	15	0	5	4
2004	6	2	4	0	2	0
2005	3	1	2	0	0	0
2006	6	0	6	0	1	0
2007	1	1	0	0	0	0
<b>2008</b>	<b>5</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>0</b>
2009	7	2	5	0	1	1
<b>Total</b>	165	34	131	0	25	16

Office of the Attorney General	Requests Refused	Requests refused under section 46 (1) (b) (Figure included in Total Requests Refused)	Requests Transferred	Requests Withdrawn or handled outside FOI	Live Cases	Internal Reviews Received	Appeals to Info Comm.	Fees No.	Charged Amount
1998	15	12	1	0	1	6	2	0	Nil
1999	21	18	0	1	0	6	0	0	Nil
2000	18	14	0	1	0	4	0	0	Nil
2001	16	13	0	0	3	2	2	0	Nil
2002	20	20	0	0	1	0	0	0	Nil

2003	9	9	0	1	0	1	1	3	€15
2004	4	3	0	0	0	0	0	4	€60
2005	2	2	1	0	0	0	0	1	€15
2006	5	5	0	0	0	0	0	6	€0
2007	1	1	0	0	0	0	0	0	Nil
<b>2008</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>€15</b>
2009	6	6	0	0	0	1	0	2	€25
<b>Total</b>	118	104	2	4	n/a	20	5	19	€80

## Statistics for 2009

### Office of the Attorney General

Office of the Attorney General	Applications Received	Journalists	Business	Oireachtas	Staff	Others
01/01/09 to 31/12/09	7	3	0	0	0	4

## Statistics from 21 April 1998 to 31 December 2007

Office of the Attorney General	Applications Received	Journalists	Business	Oireachtas	Staff	Others
21/04/98 to 31/12/09	165	46	34	3	5	77

## Statistics of requests made under the Freedom of Information Acts

### Chief State Solicitor's Office

Chief State Solicitor's Office	Applications Received	Personal	Non-Personal	Mixed	Requests Granted	Requests Part Granted
1998	17	14	3	0	10	0
1999	9	3	6	0	4	0
2000	23	11	12	0	15	4
2001	9	6	3	0	5	0
2002	9	5	4	0	2	0
2003	6	2	4	0	0	1
2004	3	1	2	0	0	0
2005	2	2	0	0	2	0
2006	2	0	2	0	0	0
2007	3	2	1	0	2	0
<b>2008</b>	6	6	0	0	2	0
<b>2009</b>	<b>10</b>	<b>1</b>	<b>9</b>	<b>0</b>	<b>1</b>	<b>1</b>
<b>Total</b>	99	53	46	0	43	6

Chief State Solicitor's Office	Requests Refused	Requests refused under section 46 (1) (b) (Figure included in Total Requests Refused)	Requests Transferred	Requests Withdrawn or handled outside FOI	Live Cases	Internal Reviews Received	Appeals to Info Comm.	Fees No.	Charged Amount
1998	4	4	2	0	1	1	0	0	Nil
1999	4	4	1	0	1	3	1	0	Nil
2000	5	2	0	0	0	1	1	0	Nil
2001	4	3	0	0	0	1	1	0	Nil
2002	7	7	0	0	0	0	0	0	Nil
2003	1	1	2	2	0	1	0	0	Nil
2004	0	0	0	2	1	0	0	0	Nil
2005	0	0	0	0	0	0	0	0	Nil
2006	2	2	0	0	0	1	0	1	15
2007	0	0	0	1	0	0	0	1	15
2008	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>Nil</b>
2009	3	3	2	2	2	0	0	4	60
<b>Total</b>	32	26	8	7	6	8	3	6	90

## Statistics for 2009

### Chief State Solicitor's Office

<b>Chief State Solicitor's Office</b>	<b>State</b>	<b>Applications Received</b>	<b>Journalists</b>	<b>Business</b>	<b>Oireachtas</b>	<b>Staff</b>	<b>Others</b>
01/01/09	to	10	4	0	0	0	6
31/12/09							

## Statistics from 21 April 1998 to 31 December 2009

<b>Chief State Solicitor's Office</b>	<b>State</b>	<b>Applications Received</b>	<b>Journalists</b>	<b>Business</b>	<b>Oireachtas</b>	<b>Staff</b>	<b>Others</b>
21/04/98	to	99	16	2	0	37	44
31/12/09							

## Annex H

### Training and Development - Merrion Street Office

#### **Breakdown of Expenditure on Training on Development for 2009 in respect of the Office of the Attorney General:**

- The total cost of training and development for 2009, including the cost of administration, was €146,737.20
- Excluding administration costs the training and development budget was broken into four specific areas, Staff Training and Development, Refund of Fees, Membership Fees and Conferences
- Two members of staff received a refund of fees during 2009 at a cost to the Office of €10,639

#### **Expenditure on Training & Development – 2009**

<b>Item</b>	<b><i>Expenditure €</i></b>
Staff Training and Development	€17,444.49
Refund of Fees	€10,639
Membership Fees	€7,798.95
Conferences	€20,418.65
Trainers' salaries	€25,134.11
Cost of administration	€65,302
<b>Total</b>	<b>€146,737.20</b>
<b>Total Payroll costs A1</b>	<b>€10,277,101</b>
<b>Expenditure on T &amp; D as % of salary cost</b>	<b>1.42%</b>

## **Training and Development 2009 CSSO**

### **Breakdown of Chief State Solicitor's Office Expenditure on Training & Development 2009**

#### **Training and Development 2009 CSSO**

### **Breakdown of Chief State Solicitor's Office Expenditure on Training & Development 2009**

The role of the Training and Development Unit (TDU) of the Chief State Solicitor's Office is to provide targeted training for staff throughout the office. Throughout 2009 the TDU undertook a number of areas of training which had been identified by staff in their Personal Training and Development Forms under Performance Management and Development System (PMDS) and areas of training prioritised by the office ranging from health & safety issues, to legal topics to administrative training requirements. 2009 saw more of a focus on providing in-house training for staff, taking into account the 2008 CPD regulations which included public sector solicitors for the first time.

The following training was provided for staff during 2009:-

- Induction training for staff new to the Office
- PMDS training for new staff to the Office
- Training sessions on the ACME system were provided for new entrants to the Office
  - Manual handling training was provided for all staff during 2009
- Other training relating to Health and Safety was provided for staff such as, Fire Marshal training, Occupational & Refresher First Aid Training
- TDU contacted the Divisional Managers in early 2009 to look at topics that would be suitable for inviting speakers into the office to talk to staff under an in-house talk's initiative
- Solicitor staff were required to complete 10 hours Continuing Professional Development (CPD) hours in 2009
- External conferences and seminars relevant to the business undertaken by the Office were attended by staff throughout the year
- Based on information provided by staff under PMDS and requests made throughout the year the Training and Development Unit organised a number of general training courses for staff

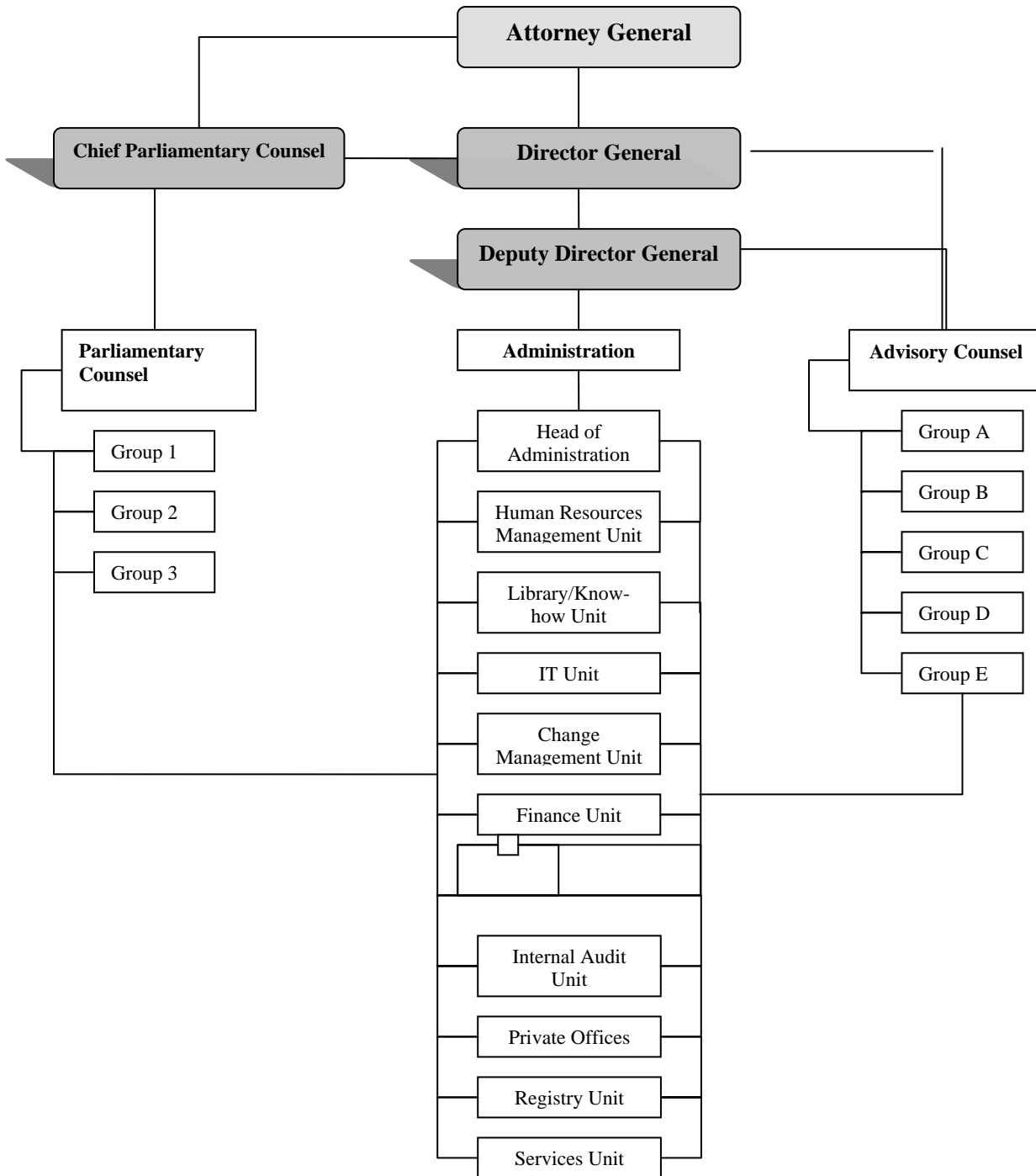
The Training Unit were allocated €241,000.00 in order to provide training and development for CSSO staff during 2009. The allocation was broken into three specific areas.

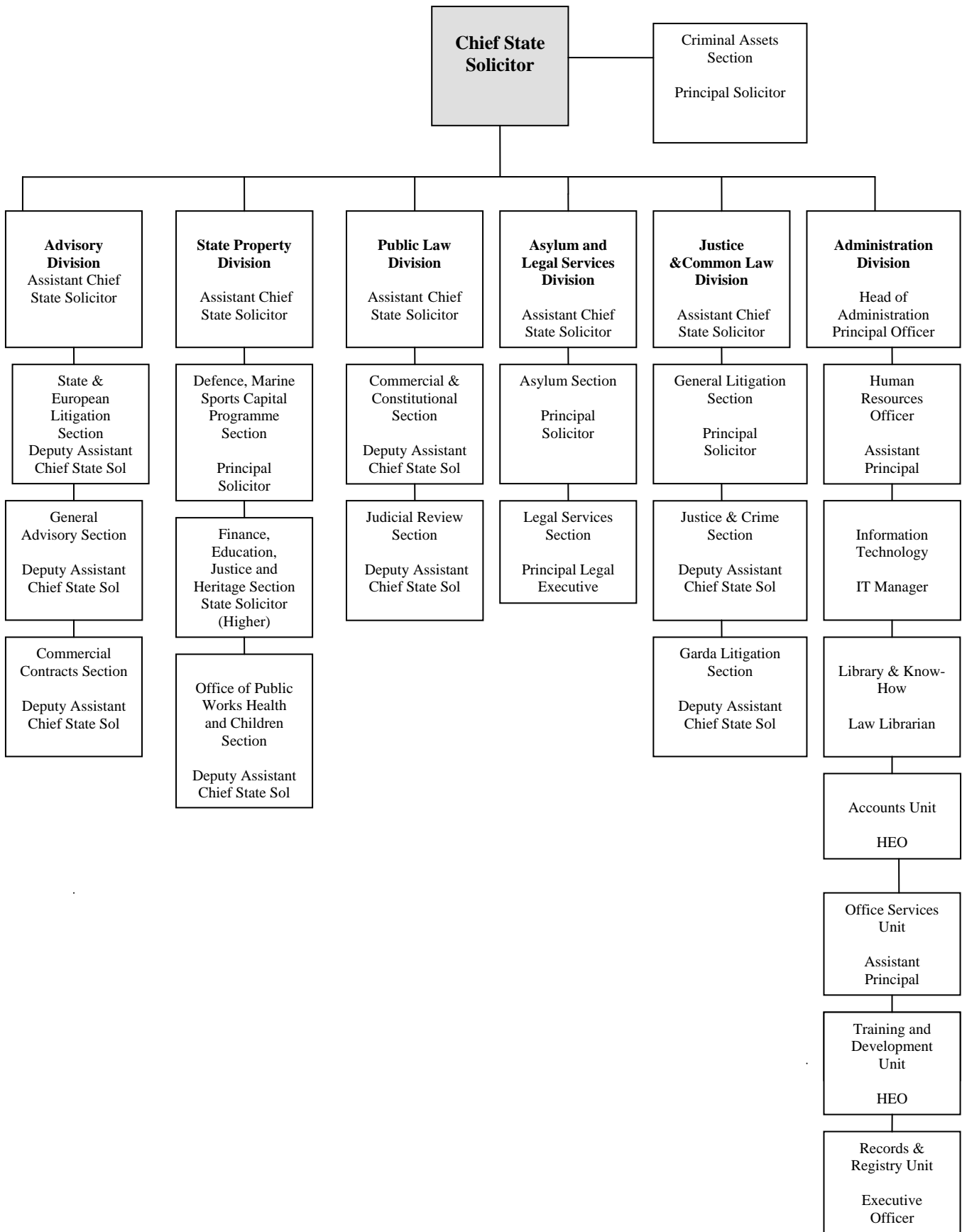


Area	Allocation	Spend	Summary
<b>Delegated Budget</b>	<b>€74,200.00</b>	<b>€50,947.79</b>	This amount was divided between the 6 divisions, with each division responsible for working within the allocated amount.
<b>Refund of Fees</b>	<b>€40,000.00</b>	<b>€41,518.00</b>	During 2009, a refund of fees to staff was made in relation to 19 courses
<b>Holding Fund</b>	<b>€126,800.00</b>	<b>€ 60,191.32</b>	This fund was used for expenditure by the TDU on a number of areas of training

## **Annex I**

**Organisation Chart:**





## ANNEX J

### HIGH COURT CASES FROM 2009 INVOLVING THE STATE

**O'Donnell, and Others v South Dublin County Council, the Minister for the Environment, Heritage and Local Government, Ireland and the Attorney General**

Judgment delivered by Edwards J on 11/01/2009

These judicial review proceedings related to a challenge whereby the applicants claimed that they were entitled by law to be provided with suitable, adequate and accessible caravan accommodation by the first named respondent and that, by failing to provide such accommodation, the Council had acted in breach of their statutory duty under the Housing Acts 1966-2004 and the European Convention on Human Rights Act 2003.

**Frank Koranteng v District Judge Sheridan and the Director of Public Prosecutions**

Judgment delivered by Edwards J on 12/01/2009

This was an application for *habeas corpus* made in respect of the applicant's detention following his failure to produce necessary identification documents without satisfactory explanation.

**The Minister for Justice, Equality and Law Reform v Tomasz Laks**

Judgment delivered by Peart J on 14/01/2009

This was a challenge to the request for the surrender of the respondent who was sought by a Polish judicial authority in order to serve a sentence of 10 months' imprisonment which had been imposed upon him there.

**JC v The Minister for Justice, Equality and Law Reform and the Commissioner of An Garda Síochána**

Judgment delivered by Cooke J on 14/01/2009 (*ex tempore*)

In these judicial review proceedings the applicant challenged the revocation by the Garda National Immigration Bureau of the applicant's "leave to remain" in the State.

**Patrick Hickey, Drishlawn Limited, Hickey's Pharmacy Ltd., Wheaton Pharmacy Ltd., Gleeson's Pharmacy Ltd., Philip Dillon Ltd., Estherfield Ltd., DGM Pharmacies Ltd., T/A Hickey's Pharmacy v Health Service Executive**

Judgment delivered by Finlay-Geoghegan J on 19/01/2009

This case was a decision on damages following an earlier finding by the Court of breach of contract by the Health Service Executive.

**Kevin Tracey (Applicant) v District Judge Miriam Malone and District Judge Bridget Reilly (Respondents)**

Judgment delivered by Cooke J on 20/01/2009

In these judicial review proceedings the applicant sought to quash "rulings or orders" claimed to have been made by the respondents at hearings together with a stay of the District Court proceedings.

**The Minister for Justice, Equality and Law Reform v Perry John Wharrie**

Judgment delivered by Peart J on 22/01/2009

The respondent challenged his surrender sought by a judicial authority in the United Kingdom under a European arrest warrant.

**Tran Tuan Anh v District Judge Geoffrey Browne, the Director of Public Prosecutions and the Governor of Castlerea Prison**

Judgment delivered by O'Neill J on 23/01/2009

In these judicial review proceedings the applicant sought to quash certain orders pertaining to the extension of time to serve the book of evidence.

**David O'Quigley v Her Honour Judge Olive Buttimer and Mary O'Quigley**

Judgment delivered by Edwards J on 26/01/2009

In these proceedings the applicant sought to appeal an Order of Discovery made by the Master of the High Court in aid of the applicant's judicial review proceedings.

**Minister for Justice, Equality and Law Reform v Domenikas Paulauskas**

Judgment delivered by Peart J on 28/01/2009

These proceedings related to the surrender of the respondent sought by a Lithuanian judicial authority on foot of a European arrest warrant.

**Minister for Justice, Equality and Law Reform v Grzegorz Dus**

Judgment delivered by Peart J on 28/01/2009

These proceedings related to the surrender of the respondent sought by a Polish judicial authority under a European arrest warrant.

**Minister for Justice, Equality and Law Reform v James Anthony Tighe**

Judgment delivered by Peart J on 28/01/2009

These proceedings related to the surrender of the respondent sought by a United Kingdom judicial authority under a European arrest warrant.

**James Macharia v The Governor of Cloverhill Prison**

Judgment delivered by Peart J on 03/02/2009

This was a habeas corpus application which challenged the lawfulness of the applicant's detention on foot of a warrant purported to have been issued from the Dublin Metropolitan District Court.

**David Smith v Patrick Meade, Philip Meade, FBD Insurance Plc, Ireland and the Attorney General**

Judgment delivered by Peart J on 05/02/2009

This was a challenge to an insurance company which declined to provide indemnity in respect of the plaintiff's injuries on the basis that the policy in question did not cover liability where the personal injuries occurred in a part of the vehicle which was not designed and constructed with seating accommodation for passengers.

**Ayavoro v Health Service Executive and Minister for Social and Family Affairs**

Judgment delivered by O'Neill J on 06/02/2009

This was a judicial review challenging the refusal of Supplementary Welfare Allowance and Jobseeker's Allowance.

**Neil Bates v The Minister for Agriculture, Fisheries and Food, Ireland and the Attorney General**

Judgment delivered by McMahon J on 06/02/2009

The plaintiff sought an injunction of prohibition until the trial of an action prohibiting the third-named respondent from proceeding with the trial by way of indictment of the plaintiff until the within proceedings have to be determined by the High Court.

**Cairde Chill an Disirt Teoranta v An Bord Pleanála, Ireland and the Attorney General and Shannon Explosives Limited, Clare county Council, an Taisce, Terence Corry, John Hurley, Noel Corry, Margaret Ayres**

Judgment delivered by Cooke J on 06/02/2009

These judicial review proceedings related to public access to planning appeal procedures.

**Gertruda Kudelska v An Bord Altranais**

Judgment delivered by Hedigan J on 10/02/2009

In these proceedings the applicant sought an order cancelling the decision of the Board to erase her name from the Register of Nurses and an order directing the Board to reinstate her name to the Register of Nurses.

**Veronica Thembisa Somqisha v The HSE and the Mercy University Hospital Limited and, by order, Ireland and the Attorney General**

Judgment delivered by Edwards J on 11/02/2009

These proceedings related to a *habeas corpus* application in respect of the lawfulness of the detention of a woman in hospital.

**Niall Harnett v Conor O'Reilly and Commissioner of An Garda Síochána, the Attorney General, and Ireland**

Judgment delivered by Peart J on 12/02/2009

In these judicial review proceedings the applicant challenged the lawfulness of the seizure of his vehicle by gardaí from him at the site of a protest at the gates of the Shell site in Belmullet, Co. Mayo.

**John McDonagh v The Director of Public Prosecutions**

Judgment delivered by Hedigan J on 12/02/2009

In these judicial review proceedings the applicant sought an injunction restraining his prosecution in relation to charges on the grounds of delay and that there was a real and substantial risk that he would not get a fair trial because one of the witnesses could not be located.

**The Minister for Justice, Equality and Law Reform and the Commissioner of An Garda Síochána v The Director of the Equality Tribunal and Others**

Judgment delivered by Charleton J on 17/02/2009

In these judicial review proceedings the applicant challenged the jurisdictional limits of the Equality Tribunal.

**The National Tourism Development Authority v JP Coughlan and Others**

Judgment delivered by Charleton J on 17/02/2009

These proceedings pertained to a determination as to whether a trust was charitable.

**Board of Management of St. Molaga's National School (Applicant) v Secretary General of the Department of Education and Science, Kevin Meehan, Ann O'Sullivan and Paddy Hogan (Respondents)**

Judgment delivered by Irvine J on 17/02/2009

These judicial review proceedings related to a challenge to a decision of an appeals committee under section 29 of the Education Act 1998.

**Minister for Justice, Equality and Law Reform v Vida Valentinas Stasinas**

Judgment delivered by McCarthy J on 18/02/2009

These proceedings related to the surrender of the respondent sought by a Lithuanian judicial authority pursuant to a European arrest warrant.

**Paul Walsh (Plaintiff) v The Minister for Justice, Equality and Law Reform, the Minister for Finance, Ireland and the Attorney General (Defendants)**

Judgment delivered by Laffoy J on 19/02/2009

The Plaintiff sought remedies for the refusal of the Minister for Justice, who had statutory responsibility for provision of criminal legal aid, to discharge his fees in connection with the representation by him of an accused who had free legal aid which covered representation by senior counsel.

**John Kneafsey v The Commissioner of An Garda Síochána**

Judgment delivered by O'Neill J on 20/02/2009

In these judicial review proceedings the applicant sought an order of prohibition restraining the respondent from taking any further steps in a disciplinary enquiry initiated against the applicant and on which a hearing had been arranged to take place in November 2006.

**Joseph Kemmy v Ireland and the Attorney General**

Judgment delivered by McMahon J on 25/02/2009

In these proceedings the plaintiff sought damages against the State for an infringement by the State, through its judicial organ, of the plaintiff's constitutional right to a fair trial.

**St. Vincent's Healthcare Group Ltd v Commissioner of Valuation**

Judgment delivered by Cooke J on 26/02/2009

This was an appeal from the Valuation Tribunal's determination in respect of a car park.

**Donall Murray and Air Ambulance Services Ltd (Plaintiffs) v Sandra Fitzgerald, Ireland and the Attorney General (Defendants) and consolidated pursuant to order of the High Court, incorporating 10 separate actions**

Judgment delivered by MacMenamin J on 27/02/2009

The Plaintiffs sought an order for the preliminary determination of a number of points of law.

**Zoran Andjelkovic (Applicant) v The Governor of Cloverhill Prison (Respondent)**

Judgment delivered by Hedigan J on 04/03/2009

This habeas corpus application involved a challenge by a Dutch national to his detention under section 15A of the Misuse of Drugs Act 1977 on the basis of alleged unlawful procedures in the District Court at Cloverhill.

**Robert Balaz (Applicant) v His Honour Judge Anthony Kennedy and the Director of Public Prosecutions (Respondents)**

Judgment delivered by Hedigan J on 05/03/2009

In these judicial review proceedings the applicant sought an order of *certiorari* quashing the decision of the first respondent (a Circuit Court Judge assigned to the Midlands Circuit) to affirm the conviction and sentence imposed by the District Court on the applicant on grounds of bias and error of law.

**Paul O'Brien v The Member in Charge, Bridewell Garda Station; Jean Cummins and Anthony O'Brien v Superintendent, An Garda Síochána, Pearse Street Garda Station**

Judgment delivered by Peart J on 05/03/2009

This was a *habeas corpus* hearing in respect of the continued detention of the applicants under section 30 of the Offences Against the State Act 1939.

**Desmond Crofton v The Minister for the Environment, Heritage and Local Government**

Judgment delivered by Hedigan J on 10/03/2009

These judicial review proceedings related to the respondent's decision to continue the prohibition of hunting on State-owned lands.

**The Minister for Justice, Equality and Law Reform v Dominik Slonski**

Judgment delivered by Peart J on 10/03/2009

The respondent challenged his surrender sought by a judicial authority in Poland on foot of a European arrest warrant.

**Sandra Boland (Applicant) v Minister for Justice Equality and Law Reform (Respondent)**

Judgment delivered by Sheehan J on 10/03/2009

This matter related to an application for an interlocutory injunction to prohibit the termination of a contract of employment with the Department of Justice.

**Jackson Way Properties Limited (Applicant) v Dun Laoghaire Rathdown County Council (Defendant)**

Judgment delivered by Laffoy J on 11/03/2009

These proceedings concerned an application to amend pleadings.

**The Minister for Justice, Equality and Law Reform v Tomasz Fil**

Judgment delivered by Peart J on 13/03/2009

The surrender of the respondent was sought by a Polish judicial authority under a European arrest warrant.

**Fergal O'Connell v The Health and Safety Authority (Struck Out By Order), the Minister for Enterprise, Trade and Employment and By Order Ireland and the Attorney General**

Judgment delivered by Sheehan J on 13/03/2009

In these judicial review proceedings the applicant sought an order of *certiorari* quashing a decision of the Minister to suspend/postpone the certification of shot firers by virtue of the Safety, Health and Welfare at Work (Construction) (Amendment) Regulations 2008 (S.I. No. 130/2008).

**Louis Blehein v The Minister for Health, Ireland and the Attorney General**

Judgment delivered by Laffoy J on 16/03/2009

The applicant sought leave to re-enter proceedings which had been adjourned generally with liberty to re-enter in July 2005.

**Martha O'Neill and Others v An Taoiseach, Ireland and the Attorney General**

Judgment delivered by Murphy J on 18/03/2009

This was an appeal against an order for discovery.

**Patricia Byrne v Dublin City Council and the Attorney General**

Judgment delivered by Murphy J on 18/03/2009

The applicant sought an interlocutory injunction restraining Dublin City Council, the respondent and her landlord, from evicting her from her residence in Dublin.

**The Minister for Justice, Equality and Law Reform v Adam Walas**

Judgment delivered by Peart J on 19/03/2009

The surrender of the respondent was sought by a judicial authority in Poland on foot of a European arrest warrant.

**Seamus Treacy v Cork County Council; the Minister for the Environment, Heritage and Local Government; Ireland and the Attorney General and Kieran Coughlan and Claire Riordan**

Judgment delivered by Hedigan J on 24/03/2009

In these judicial review proceedings the applicant sought an order of *certiorari* of the decision to grant planning permission.



**OF v Judge Hugh O'Donnell, Ireland and the Attorney General (Respondents) and TF (Notice Party); and MI v Judge Hugh O'Donnell (Respondent) and BH, Ireland, the Attorney General and the Minister for Justice (Notice Parties)**

Judgment delivered by O'Neill J on 27/03/2009

In these judicial review proceedings the applicant sought costs following earlier judicial review proceedings.

**Eddie Kershaw v Ireland and the Attorney General and Judge Patrick McMahon and the Director of Public Prosecutions**

Judgment delivered by O'Neill J on 27/03/2009

In these judicial review proceedings the applicant sought declarations in respect of the Criminal Justice (Public Order) Act 1994.

**Dolores Moran (Plaintiff) v The Minister for Health and Children (Defendant)**

Judgment delivered by de Valera J on 29/03/2009

In these proceedings a preliminary issue was tried as to whether the plaintiff a claim was barred due to opportunity to raise same in previous judicial review proceedings.

**Bridget Devoy v The Governor of the Dochas Centre, Mountjoy Prison**

Judgment delivered by Peart J on 31/03/2009

This was a *habeas corpus* application for the applicant's release from custody in which the issues considered were the powers of District Court to remand a person in custody and the jurisdiction of District Judge to alter/revoke bail conditions on his own motion.

**The Minister for Justice, Equality and Law Reform v Marek Malek**

Judgment delivered by Peart J on 01/04/2009

The surrender of the respondent was sought by a Polish judicial authority under a European arrest warrant.

**Dermot Sparrow v the Minister for Agriculture, Fisheries and Food and Judge Hamill**

Judgment delivered by Sheehan J on 01/04/2009

In these judicial review proceedings the applicant sought an order prohibiting his trial on two summary offences on the basis of medical evidence to the effect that his health was so precarious that the trial would put his life at risk.

**MO'S (Otherwise known as MG) (Plaintiff) v WO'S, The Commissioner of An Garda Síochána, The Minister for Justice, Equality and Law Reform, Ireland and the Attorney General (Defendants)**

Judgment delivered by Dunne J on 02/04/2009

The State defendants sought an order dismissing the plaintiff's action by reason of lapse of time between the events complained of and the date of the trial of the action as a result of which the State defendants were no longer in a position to properly defend the action and a fair trial was no longer possible.

**Ryanair v The Minister for Transport and Aer Arann**

Judgment delivered by Finlay-Geoghegan J on 02/04/2009

In these judicial review proceedings the applicant sought an order of *certiorari* of the decision of the Minister for Transport to award the Public Service Obligation (PSO) contract for the Knock-Dublin route to Aer Arann following a tender process pursuant to Council Regulation No. 2408/92 (EEC).

**The Minister for Justice, Equality and Law Reform v Anthony John Hill**

Judgment delivered by Peart J on 03/04/2009

The surrender of the respondent was sought by a judicial authority in the United Kingdom on foot of a European arrest warrant.

**Peter Sweetman v An Bord Plenála, Ireland and the Attorney General and the Minister for the Environment, Heritage and Local Government and Galway County Council and Galway City Council**

Judgment delivered by Kelly J on 03/04/2009

In these judicial review proceedings the applicant sought an order of *certiorari* quashing the Board's decision in respect of a planning decision.

**Timothy O'Donovan v The Board of Management of De La Salle College Wicklow and Others**

Judgment delivered by Hedigan J on 03/04/2009

In the judicial reviews proceedings the applicant sought various reliefs in respect of the respondents' decisions to expel him from school.

**DO (Applicant) v Her Honour Judge Buttimer (Respondent) and MO (Notice Party)**

Judgment delivered by Hedigan J on 03/04/2009

The applicant sought an order of *certiorari* quashing a maintenance order made by the respondent in Kilkenny Circuit Court.

**MD (A Minor suing by his Mother and Next Friend SD) (Plaintiff) v Ireland, the Attorney General and the Director of Public Prosecutions (Defendants)**

Judgment delivered by Clarke J on 21/04/2009

In these proceedings the plaintiff applied to stay criminal prosecution pending a constitutional challenge.

**Thomas Downes v Health Service Executive and the Mental Health Commission**

Judgment delivered by Peart J on 23/04/2009

These *habeas corpus* proceedings challenged the lawfulness of a renewal order affirmed by a Mental Health Tribunal following a hearing.

**William Ryan v The Governor of Cloverhill Prison and the Director of Public Prosecutions**

Judgment delivered by Peart J on 23/04/2009

This *habeas corpus* application related to whether the applicant was in lawful custody on foot of the committal warrant signed by the District Judge upon the making of an order sending him forward for trial to the "present sittings of the Circuit Court", in circumstances where that date passed without the applicant being brought before those sittings.

**The Minister for Justice, Equality and Law Reform v Jelena Voznuka**

Judgment delivered by Peart J on 23/04/2009

This was a challenge by the respondent in respect of his surrender sought by a Latvian judicial authority pursuant to a European arrest warrant.

**The Minister for Justice, Equality and Law Reform v Wojciech Cieply (Nos. 1 and 2)**

Judgment delivered by Peart J on 24/04/2009

This was a challenge by the respondent to his surrender sought by Polish judicial authorities pursuant to a European arrest warrant.

**John Ahern and Others v The Minister for Agriculture, Ireland and the Attorney General**

Judgment delivered by Laffoy J on 24/04/2009

This application arose in the context of a claim for assessment of damages suffered by the 40<sup>th</sup> named plaintiff, James Kavanagh, as a result of the mistake of law of the first defendant.

**Nicholas Cotter (Plaintiff) v Minister for Agriculture, Fisheries and Food and Others (Defendants)**

Judgment delivered by Cooke J on 27/04/2009

The Plaintiff sought to set aside judgments given by the High Court in 1991 and on appeal to the Supreme Court in 1993 on the grounds that those courts had been misled by perjured evidence of certain witnesses.

**John Aher (Applicant) v The Criminal Injuries Compensation Tribunal for Personal Injuries Criminally Inflicted on Prison Officers (Respondent)**

Judgment delivered by Sheehan J on 27/04/2009

In these judicial review proceedings the applicant sought an order of *certiorari* quashing the decision of the respondent Tribunal in relation to injuries which the applicant claimed had resulted from a violent incident involving a prisoner under escort in Middleton Garda Station in May 2002.

**Thomas Geaney and Others (Plaintiffs) v The Board of Management of Pobalscoil Chorca Dhuibhne and Others (Defendants)**

Judgment delivered by Laffoy J on 27/04/2009

This related to an application for further and better particulars.

**Thomas Redmond v Ireland and the Attorney General**

Judgment delivered by McMahon J on 30/04/2009

The plaintiff sought declarations that section 3(2) of the Offences Against the State (Amendment) Act 1972 was unconstitutional and incompatible with the State's obligations under the European Convention on Human Rights.

**OL v The Minister for Justice, Equality and Law Reform, Ireland and the Attorney General (Respondents) and the Legal Aid Board (Notice Party)**

Judgment delivered by Irvine J on 06/05/2009

These judicial review proceedings related to a delayed application for leave to seek judicial review of refusal to grant refugee status.

**Minister for Communications, Energy and Natural Resources and MO'C (Respondents) v MW and RW (Applicants)**

Judgment delivered by McGovern J on 12/05/2009

This was an application for an order dismissing a bankruptcy summons on the grounds of the invalidity of the summons.

**Gerald McCarthy v The Irish Prison Service, Minister for Justice, Equality and Law Reform and the Governor of Cork Prison**

Judgment delivered by McMahon J on 13/05/2009

In these judicial review proceedings the applicant sought a review of a decision of the Minister in respect of the disallowance of an appeal for sick leave benefits.

**JO'D v The Minister for Education and Science, Ireland, the Attorney General and Denis Minihane**

Judgment delivered by Dunne J on 13/05/2009

In these proceedings the defendants sought to have a claim arising out of alleged physical and sexual abuse suffered by the plaintiff at a school he attended dismissed on the grounds of delay.

**Daniel Doherty v The Minister for Justice and Others**

Judgment delivered by McGovern J on 15/05/2009

This was an application by defendants to strike out plaintiff's claim as an abuse of process.

**Karl Kennedy v Garda Eamonn Taaffe, Judge John Coughlan, Judge Mary Collins and the Commissioner of An Garda Síochána**

Judgment delivered by O'Neill J on 15/05/2009

In these judicial review proceedings the applicant sought to challenge orders authorising the detention of cash seized by the gardaí.

**Castletown Fisheries Ltd and Pesquera Baqueiro SA v Minister for Transport and Marine, Minister for Agriculture, Ireland and Attorney General**

Judgment delivered by O'Neill J on 15/05/2009

These judicial review proceedings related to the status of a certificate of equivalent competency in this jurisdiction.

**The Minister for Justice, Equality and Law Reform v Charles Hall**

Judgment delivered by Peart J on 20/05/2009

In these proceedings the respondent challenged his surrender to the United Kingdom pursuant to a European arrest warrant.

**Minister for Justice, Equality and Law Reform v Edward John Doyle**

Judgment delivered by Peart J on 22/05/2009

This was a challenge to a request for the surrender of the respondent who was sought by a judicial authority in the United Kingdom under a European arrest warrant in order to serve an unexpired period of his sentence which he was required to serve due to his failure to comply with a term of his licensed release.

**The Health Service Executive v His Honour Judge Michael White (Respondent) and the Director of Public Prosecutions, Jonathan Costen, Eleanor Joel and the Attorney General (Notice Parties)**

Judgment delivered by Edwards J on 22/05/2009

In these judicial review proceedings the Court considered whether it was possible to compel the disclosure of documents in the possession of a non-party to criminal proceedings.

**Peter Creighton (Plaintiff) v Ireland and the Attorney General, The Minister for Justice Equality and Law Reform and the Governor of Wheatfield Prison (Defendants)**

Judgment delivered by White J on 25/05/2009

The plaintiff sought damages in negligence in respect of injuries which he sustained while a prisoner in Wheatfield prison.

**Donal Healy v Minister for Communications, Fisheries and Natural Resources, Minister for Agriculture, Fisheries and Food, Sea Fisheries Protection Authority, Ireland and the Attorney General**

Judgment delivered by O'Neill J on 28/05/2009

In these judicial review proceedings the applicant sought to quash the Minister's revocation of authorisation to fish for tuna.

**Laurence Pullen and Others v Dublin City Council, Irish Human Rights Commission (Amicus Curiae) and the Attorney General (Notice Party)**

Judgment delivered by Irvine J on 28/05/2009

This action related to matters pursuant to section 62 of the Housing Act 1966.

**Monica Leech (Plaintiff) v Independent Newspapers (Ireland) Limited (Defendant) and Department of An Taoiseach (Non-Party)**

Judgment delivered by O'Neill J on 28/05/2009

In these proceedings the defendant sought third party discovery by the Department of An Taoiseach in respect of certain documents.

**SMR v The Governor of Wheatfield Prison**

Judgment delivered by McKechnie J on 28/05/2009

In this *habeas corpus* application, the applicant challenged the lawfulness of his detention pursuant to a Supreme Court order.

**Michael Walsh v Health Service Executive**

Judgment delivered by O'Keeffe J on 09/06/2009

The applicant sought judicial review of the process of reporting adopted by the HSE and the manner in which it published in November 2006 a report following an investigation into the deaths of residents and former residents of Leas Cross Nursing Home, Swords, Co. Dublin.

**The Minister for the Environment, Heritage and Local Government v Michael Joseph Leneghan and Patrick McHugh**

Judgment delivered by Hedigan J on 12/06/2009

This was an appeal by way of case stated by a District Judge on the application of the prosecutor who was dissatisfied with the determination of the learned District Judge as being erroneous in point of law.

**Caroline McCann (Plaintiff) v The Judge of Monaghan District Court, the Commissioner of An Garda Síochána, the Chief Executive of the Irish Prison Services, the Minister for Justice, Equality and Law Reform, Ireland and the Attorney General (Defendants) and the Human Rights Commission and Monaghan Credit Union Ltd (Notice Parties)**

Judgment delivered by Laffoy J on 18/06/2009

This case related to the statutory scheme for enforcement of civil debts.

**Mariusz Hiszpanski v European Arrest Warrant**

Judgment delivered by Peart J on 18/06/2009 (*ex tempore*)

These judicial review proceedings related to a challenge to the surrender of the respondent sought by a Polish judicial authority pursuant to a European arrest warrant in order to serve a two year sentence imposed on him for four offences, such sentence having been reactivated due to the respondent having committed a further offence during his probationary period.

**Derek Devoy (Applicant) v The Governor of Portlaoise Prison, The Irish Prison Service, and the Minister for Justice, Equality and Law Reform (Respondents)**

Judgment delivered by Edwards J on 22/06/2009

In these judicial review proceedings the applicant challenged his present regime of detention in Portlaoise prison.

**Troy Cremin (Prosecutor) v Garda Michael Dineen (Accused)**

Judgment delivered by Hedigan J on 23/06/2009

This was a case stated by the District Court pursuant following a request by the private prosecutor who initiated the prosecution as a common informer.

**John Hanrahan v The Minister for Agriculture, Fisheries and Food**

Judgment delivered by McMahon J on 24/06/2009

In these proceedings the plaintiff contended that the defendant breached a 2006 Agreement arising from animal welfare issues.

**David Maloney v Ireland, the Attorney General, the Director of Public Prosecutions, and the Member in charge of Tallaght Garda Station, Sergeant John Cribbin**

Judgment delivered by Laffoy J on 25/06/2009

In these proceedings the plaintiff challenged the constitutionality of section 30(1) of the Offences Against the State Act 1939.

**Minister for Justice, Equality and Law Reform v Igor Gritunic**

Judgment delivered by Peart J on 30/06/2009

This matter related to a European Arrest Warrant in which the French judicial authority sought the surrender of the respondent in connection with his conviction *in absentia* for trafficking in human beings and 'forgery of administrative documents and trafficking therein'.

**Minister for Justice, Equality and Law Reform v Arunas Zukauskas**

Judgment delivered by Peart J on 02/07/2009

The surrender of the respondent was sought by a judicial authority in Lithuania under a European arrest warrant to face prosecution for a single offence involving an assault on another person.

**PV (A Minor suing by his mother and next friend AS) (Applicant) v The Courts Service, the Minister for Justice, Equality and Law Reform, Ireland and the Attorney General (Respondents)**

Judgment delivered by Clarke J on 02/07/2009

In these judicial review proceedings relating to a family law matter, the issues became moot because the High Court issued an injunction which dealt with the matter to completion.

**Usk and District Residents Association Ltd (Applicant) v An Bord Pleanála, Ireland and the Attorney General (Respondents)**

Judgment delivered by MacMenamin J on 08/07/2009

In these judicial review proceedings the applicants sought to quash the decision of An Bord Pleanála in 2008 to grant planning permission to Greenstar Recycling Holdings Ltd for the development and operation of an engineered residential landfill at Usk, Co. Kildare.

**County Westmeath Vocational Educational Committee (Applicant) v The Secretary General of the Department of Education and Science and Others (Respondents) and David Noonan and Therese Noonan (Notice Parties)**

Judgment delivered by O'Keeffe on 10/07/2009

In these judicial review proceedings the applicants sought to challenge a decision by the Appeals Committee which upheld an appeal of parents (notice parties) against the refusal by the VEC to enrol their son as a student.

**County Westmeath VEC v The Secretary General of the Department of Education and Science, Freddie Bell, Maire Ní Mhartín and Paddy Hogan (Respondents) and David Noonan and Therese Noonan (Notice Parties)**

Judgment delivered by O'Keeffe on 10/07/2009

In these judicial review proceedings the decision not to enrol a student in a school by the board of management was challenged.

**J. Harris Assemblers v The Director of Public Prosecutions and the Attorney General**

Judgment delivered by Hedigan J on 14/07/2009

In these judicial review proceedings the applicant sought an order of prohibition restraining the prosecution on the basis of prosecutorial delay.

**Zigmars Strazdins v The Governor of Cloverhill Prison**

Judgment delivered by Peart J on 17/07/2009

This matter related to issues arising from a European Arrest Warrant in which the applicant had consented to his surrender to Latvian authorities.

**Gerard Stokes v Governor of Cloverhill Prison**

Judgment delivered by Peart J on 29/07/2009

This was a habeas corpus application in which the applicant submitted that, following his release from custody, there was never any statutory or other lawful basis for his re-arrest less than two days later.

**Minister for Justice, Equality and Law Reform v Maciej Wawrzyniak**

Judgment delivered by Peart J on 31/07/2009

In these proceedings the respondent challenged his surrender to a judicial authority in Poland under a European arrest warrant.

**Curran and Others (Applicants) v The Minister for Education and Science, Ireland and the Attorney General (Respondents)**

Judgment delivered by Dunne J on 31/07/2009

In these judicial review proceedings the applicants challenged the Minister's decision to suspend an early retirement scheme in which the Court considered whether the applicants had a legitimate expectation to apply for the early retirement scheme in respect of the school year 2008/2009.

**Denis Teahan and Others (Applicants) v The Minister for Communications, Energy and Natural Resources**

Judgment delivered by Hedigan J on 18/08/2009

The applicants sought judicial review of the decision of the Minister to introduce a second bye-law in August 2008, prohibiting salmon and sea trout fishing by draft net and rod and line in Castlemaine Harbour, Co.Kerry.

**Usk and District Residents Association Ltd (Applicant) v An Bord Pleanála, Ireland and the Attorney General (Respondents)**

Judgment delivered by MacMenamin J on 18/08/2009

This was a supplemental ruling in relation to costs arising from a judgment delivered on the same date.

**John Burke v The Attorney General, the Taoiseach of Ireland, the Minister for Justice, Equality and Law Reform and the Director of Public Prosecutions**

Judgment delivered by McKechnie J on 03/09/2009 (*ex tempore*)

The applicant sought leave to bring judicial review proceedings in respect of the holding of a constitutional referendum on the Lisbon Treaty on the 2<sup>nd</sup> October 2009.

**NC (A person of unsound mind not so found suing by her mother and next friend MC) v P McG, GC, KM, CM, the Minister for Education, the Mid-Western Health Board, Ireland, the Attorney General and the Minister for Health and Children**

Judgment delivered by McCarthy J on 19/09/2009

This was an application by the first defendant to strike out the plaintiff's claim for want of prosecution due to the plaintiff's failure to set the matter down for trial, and on the basis of alleged delay generally.

**Patrick McCann v The Governor of Mountjoy Prison and the Director of Public Prosecutions**

Judgment delivered by Edwards J on 25/09/2009

In these judicial review proceedings the applicant sought leave to apply for *certiorari* of the DPP's decision to seek to have him serve a sentence previously suspended and/or an injunction prohibiting the taking of any steps by the DPP in furtherance of that decision.

**Marta Martin v Kieran Geraghty, Coroner for the County of Dublin**

Judgment delivered by McCarthy J on 02/10/2009

The applicant sought an order of prohibition by way of an application for judicial review in order to restrain the respondent coroner from taking any further steps in the inquest into the death of the applicant's daughter.

**M. & F. Quirke and Sons and Others v An Bord Pleanála and Others**

Judgment delivered by O'Neill J on 06/10/2009

The applicants sought to challenge conditions imposed on their quarries pursuant to section 261(6) of the Planning and Development Act 2000.

**ERO'B (a minor) suing by her father and next friend WO'B (Applicant) v The Minister for Justice, Equality and Law Reform, Ireland and the Attorney General (Respondents)**

Judgment delivered by O'Neill J on 06/10/2009

In these judicial review proceedings the Court considered whether the failure to establish public register of guardianship agreements was breach of child's legal and constitutional rights.

**Denis Harrington v Commissioner of An Garda Síochána**

Judgment delivered by O'Neill J on 06/10/2009

In these judicial review proceedings the applicant sought a declaration that the respondent was guilty of inordinate and inexcusable delay in instituting and prosecuting the disciplinary proceedings and a declaration that the respondent had acted in excess of power conferred by the relevant Regulations.

**WS v The Adoption Board**

Judgment delivered by O'Neill J on 06/10/2009

In these judicial review proceedings the applicant sought a number of reliefs including an order of *certiorari* to quash the adoption order as it had been made without his knowledge.

**John Ryan v Commissioner of An Garda Síochána**

Judgment delivered by O'Neill J on 06/10/2009

In this judicial review the applicant sought an order of prohibition permanently restraining the respondent from taking any further steps in the Garda Síochána discipline proceedings on the basis of inordinate and inexcusable delay since it would be unfair and unjust to proceed further as it undermined the applicant's right to natural justice and fair procedures.

**Paul Anthony McGarry v The Revenue Commissioners**

Judgment delivered by O'Neill J on 06/10/2009

The applicant applied for an order of *certiorari* quashing the decision of the respondents to the effect that the applicant and respondent had entered into an agreement for the purposes of section 1086(2) of the Taxes Consolidation Act 1997, as amended.

**Owen O'Callaghan and Others v The Mahon Tribunal**

Judgment delivered by O'Neill J on 06/10/2009

The applicants sought judicial review of the decisions of the Tribunal which refused to supply the applicants a copy of any proposed draft findings referring to the applicants to be incorporated in the report of the Tribunal.

**Laurence Pullen and Others v Dublin City Council (Defendant) and by order the Human Rights Commission (Amicus Curiae) and the Attorney General (Notice Party)**

Judgment delivered by Irvine J on 09/10/2009

This was an application for damages pursuant to section 3(2) of the European Convention on Human Rights Act 2003.

**Peter Sweetman v An Bord Pleanála, Ireland, the Attorney General and the Minister for the Environment, Heritage and Local Government (Respondents) and Galway County Council and Galway City Council (Notice Parties)**

Judgment delivered by Birmingham J on 09/10/2009

The applicant sought judicial review of a decision of An Bord Pleanála in respect of a proposed road development.

**Hands Across the Corrib Limited v An Bord Pleanála**

Judgment delivered by Birmingham J on 09/10/2009

This judicial review involved a challenge to the decision of the Board to authorise the Galway City Outer-By-Pass.

**In the matter of a Report of a Commission established to investigate and report on the handling by Church and State authorities of a representative sample of allegations of suspicion of child sex abuse against clerics operating under the aegis of the Archdiocese of Dublin – Minister for Justice, Equality and Law Reform (Applicant)**

Judgment delivered by Gilligan J on 15/10/2009

The Minister brought an application under section 38 of the Commissions of Investigation Act 2004 following his consideration that publication of extracts from the Report might prejudice criminal proceedings pending or in progress.

**Don Ellis and Tara McDonnell v The Minister for the Environment, Heritage and Local Government and the Minister for Finance**

Judgment delivered by McMahon J on 19/10/2009

This action related to a contractual matter and the meaning of an article under a statutory instrument.

**The Minister for Justice, Equality and Law Reform v Rafal Jerzy Adach**

Judgment delivered by Peart J on 20/10/2009 (*ex tempore*)

These proceedings involved a challenge to a European arrest warrant.

**John Conway v Ireland, the Attorney General and the National Roads Authority**

Judgment delivered by Laffoy J on 21/10/2009

In these proceedings the applicant sought various orders from the Court against the defendants in connection with the construction of a specified section of the A1/NI Dundalk Link Road.

**The Minister for Justice, Equality and Law Reform v James Jordan**

Judgment delivered by Peart J on 23/10/2009

Respondent challenged his surrender under a European Arrest Warrant to the United Kingdom in connection with the prosecution of eight alleged sexual offences.

**Joseph Casey v The Governor of Midlands Prison, the Minister for Justice, Equality and Law Reform, Ireland and the Attorney General**

Judgment delivered by Irvine J on 27/10/2009

The plaintiff brought a claim seeking damages for negligence against the defendants arising from an assault which he sustained whilst a prisoner at the Midlands Prison.

**Frank Agrama v The Minister for Justice, Equality and Law Reform, District Judge Catherine Murphy and District Judge Bridget Reilly**

Judgment delivered by Peart J on 30/10/2009

These judicial review proceedings related to mutual assistance where the applicant, who was the subject of criminal proceedings instituted against him in Italy, sought an order for discovery of in respect of certain documents.

**Dublin City Council v Martin Gavin and Others**

Judgment was delivered by Peart J on 03/11/2009

This matter involved an application for an injunction ordering respondents to leave lands.

**TD v Judge Dearbhla Flanagan, Ireland and the Attorney General and CM (Otherwise SD)**

Judgment delivered by McMahon J on 06/11/2009

Applicant sought the judicial review of a Circuit Court order which had already been appealed to the High Court, seeking declarations that certain provisions in the Family Law Act 1995 were unconstitutional.

**Denis O'Flynn (Otherwise known as Denis Flynn) v The Minister for Justice, Equality and Law Reform, Ireland and the Attorney General**

Judgment delivered by Hedigan J on 11/11/2009

This matter involved the delay in taking proceedings by the plaintiff and whether the High Court had inherent jurisdiction to dismiss his claims in the interests of justice.

**Brian Mooney v Governor of St. Patrick's Institution**

Judgment delivered by Peart J on 16/11/2009

These *habeas corpus* proceedings related to the period of detention in respect of a child.

**Sean Foley v Her Honour Judge Yvonne Murphy, the Director of Public Prosecutions, Ireland and the Attorney General**

Judgment delivered by Hedigan J on 18/11/2009

This was a judicial review in which the applicant sought various reliefs in respect of the 1<sup>st</sup> named respondent's judgment in which the Judge refused to award costs following prosecution in a criminal matter.

**Patrick O'Doherty v The Attorney General, Ireland and Limerick County Council (Defendants) and Fianna Fáil (Notice Party)**

Judgment delivered by Birmingham J on 23/11/2009

Plenary proceedings in which the plaintiff challenged the constitutionality of section 19 of the Local Government Act 2001, a section which deals with the manner in which casual vacancies in the membership of local authorities are to be filled.

**Paul McCarthy v The Governor of Mountjoy Prison**

Judgment delivered by Edwards J on 25/11/2009

Applicant sought leave to apply for order of *mandamus* to provide literacy and education facilities.

**Claudio Pop, Florina Iona Pop, Roberto Daniel Pop and Jessica Pop v Judge Bryan Smyth, Office of the Revenue Commissioners, Ireland and the Attorney General**

Judgment delivered by Irvine J on 25/11/2009

This concerned a judicial review in respect of an order made pursuant to section 38(2) of the Criminal Justice Act 1994, as amended, authorising the detention of a cash sum for a period of three months.

**Waxy O'Connors Ltd v Judge David Riordan (Respondent) and the Director of Public Prosecutions, Ireland and the Attorney General (Notice Parties)**

Judgment delivered by Herbert J on 25/11/2009



This judicial review involved the interpretation of section 31 of the Intoxicating Liquor Act 1988.

**Health Service Executive (Appellant) v Teresa Dykes (Respondent) and Roger Gallahue (Notice Party)**

Judgment delivered by Hanna J on 08/12/2009

This was an appeal brought by the Health Service Executive in respect of a determination made by a Disability Appeals Officer (Respondent) pursuant to section 15 of the Disability Act 2005.

**The Minister for Justice, Equality and Law Reform v Kevin Barry**

Judgment delivered by Peart J on the 11/12/2009

Respondent challenged his surrender under a European Arrest Warrant to the United Kingdom in order to face prosecution for an alleged offence of sexual assault detailed in the warrant.

**Barry O'Brien v The Special Criminal Court and the Director of Public Prosecutions**

Judgment delivered by O'Neill J on 11/12/2009

In these judicial review proceedings the applicant sought to quash the refusal and sought an order of prohibition or an injunction prohibiting the respondents from proceeding with his trial pending the determination of the other cases.

**Frederick Olafusi (Applicant) v The Governor of Cloverhill Prison and the Director of Public Prosecutions (Respondents)**

Judgment delivered by O'Neill J on 11/12/2009

This was a *habeas corpus* application where the applicant challenged his detention when arrested and charged with offences contrary to sections 12(1)(a) and (2) and section 13 of the Immigration Act 2004.

**Robert Casey v Private Security Appeal Board (Respondent) and Private Security Authority (Notice Party)**

Judgment delivered by Dunne J on 11/12/2009

This was an application for costs by successful applicant in judicial review proceedings in which the issue was whether the applicant was entitled to an order for costs against the respondent, who did not take part in the judicial review proceedings.

**The Minister for Justice, Equality and Law Reform v JRM**

Judgment delivered by Peart J on 16/12/2009

This case involved the postponement order in respect of the respondent's surrender to the United Kingdom under a European Arrest Warrant until the final determination of the charges against him.

**Dunnes Stores v The Central Statistics Office and the Minister for State at the Department of An Taoiseach**

Judgment delivered by O'Neill J on 17/12/2009

Applicant sought judicial review challenging a prosecution for alleged breaches of statistical information to be provided.

**Thomas McNally and Marie Reilly v Ireland, the Attorney General, Minister of State for Community, Rural and Gaeltacht Affairs and the Garda Commissioner**

Judgment delivered by MacMenamin J on 17/12/2009

This was a constitutional and European Community law challenge to section 99 of the Charities Act 2009.

**J. & J. Haire & Company Ltd., Thomastown Pharmacy Ltd., Borris Pharmacy Ltd., Graignamanagh Pharmacy Ltd. and Haire Pharmacy Holdings Ltd. v The Minister for Health and Children, the Minister for Finance, Ireland and the Attorney General**

Judgment delivered by McMahon J on 17/12/2009

The plaintiffs challenged the constitutionality of both the Financial Emergency Measures in the Public Interest Act 2009.

**Angela Grosu v Attorney General**

Judgment delivered by Charleton J on 18/12/2009

This was an application for a wasted costs order.

## **SUPREME COURT CASES FROM 2009 INVOLVING THE STATE**

**The Minister for Justice, Equality and Law Reform v Roman Snela**

Judgment delivered by Murray CJ (with Denham and Macken JJ concurring) on 15/01/2009 (*ex tempore*)

The appellant sought to set aside the order for his surrender to Germany made by the High Court pursuant to a European arrest warrant.

**Ciaran Sheehan (Applicant/Appellant) v The Garda Síochána Complaints Tribunal and the Garda Síochána Complaints Board (Respondents)**

Judgment delivered by Geoghegan J (with Fennelly and Macken JJ concurring) on 28/01/2009

This was an appeal against a High Court ruling stemming from decision of the Garda Síochána Complaints Tribunal which found the appellant guilty of breach of discipline following a complaint by a member of the public.

**Lovejoy v The Attorney General**

Judgment delivered by Geoghegan J (with Macken and McKechnie JJ concurring) on 30/01/2009 (*ex tempore*)

This was an appeal from a decision in the High Court arising from a constitutional challenge to the Refugee Act 1996 and the independence of the immigration Tribunal.

**The Minister for Justice, Equality and Law Reform v Jindrich Marek**

Judgment delivered by Murray CJ (with Denham and Kearns JJ) on 05/02/2009 (*ex tempore*)

This was an appeal from a decision of the High Court ordering the appellant's surrender to the Czech Republic in respect of certain offences for which he had been convicted *in absentia*.

**Eamon Dunne (Applicant/Respondent) v Governor of Cloverhill Prison (Respondent/Appellant)**

Judgment delivered by Kearns J (with Denham, Hardiman, Geoghegan and Fennelly JJ concurring) on 18/02/2009

The question which arose in this matter was whether and in what circumstances there was an obligation on the prosecution to adduce evidence when seeking an extension of time in the District Court for the service of documents under section 4B(3) of the Criminal Procedure Act 1967.

**The Minister for Justice, Equality and Law Reform v Jaroslav Piotr Gotszlik**

Judgments delivered by Denham (with Fennelly J concurring) and Macken JJ (with Fennelly J concurring) on 19/02/2009

This was an appeal by the Minister for Justice, Equality and Law Reform from the refusal of the High Court to surrender the respondent on foot of two European arrest warrants which had issued from a Polish judicial authority.

**Raymond Reilly v Patrick Devereux, the Minister for Defence, Ireland and the Attorney General**

Judgment delivered by Kearns J (with Denham and Finnegan JJ) on 24/03/2009

The plaintiff appealed against the High Court's dismissal of his claim for damages for personal injuries suffered as a result of his sexual abuse by his superior, the first named defendant, while serving in the army.

**Thomas O'Keeffe v District Judge Murrrough Connellan, Judge Raymond Groake and the Director of Public Prosecutions**

Judgment delivered by Hardiman J (with Fennelly and Finnegan JJ concurring) on 24/03/2009

These proceedings were an appeal against the judgment and order of the High Court, whereby the trial judge, though finding in the applicant's favour on the substantive legal issues and on certain matters of defence raised by the respondents, refused to grant the applicant relief, in the exercise of his discretion.

**The Director of Public Prosecutions v Michael McKeivitt**

Judgment delivered by Murray CJ (with Denham, Hardiman, Geoghegan and Fennelly JJ) on 26/03/2009

This was an appeal from a final decision in which the Court considered the issue of constitutional justice in respect of an incorrect statement of fact.

**Thomas Talbot v McCann Fitzgerald Solicitors, Mrs Thérèse Talbot, Judge Michael White, Judge Jacqueline Linnane, Court Services, Chief State Solicitor**

Judgment delivered by Denham J (with Kearns and Clarke JJ) on 26/03/2009

This was an appeal from final decision of the Supreme Court which arose from family law matters.

**The Attorney General v Ludmilla Borisovna Pratkunas**

Judgment delivered by Denham J (with Geoghegan and Fennelly JJ concurring) on 02/04/2009

This was an appeal from an order committing the applicant to prison pending her surrender to the Russian Federation.

**Alan Burns and John Hartigan v the Governor of Castlerea Prison and the Minister for Justice, Equality and Law Reform**

Judgment delivered by Geoghegan J (with Denham and Kearns JJ concurring) on 02/04/2009

The issue in this appeal was whether a prison officer against whom complaints had been made of alleged breaches of the Disciplinary Code for Officers was entitled to legal representation at an oral hearing before the Governor of the Prison.

**Gama Construction and Gama Endustri Tesisleri Imalat Montaj AS v Minister for Enterprise, Trade and Employment and Edward Nolan**

Judgment delivered by Kearns J (with Denham, Hardiman, Fennelly and Macken JJ concurring) on 30/04/2009  
These proceedings related to issues arising from a breach of employment legislation.

**The Minister for Justice, Equality and Law Reform v Charles Hall**

Judgment delivered by Denham J (with Kearns and Macken JJ concurring) on 07/05/2009  
This was an appeal from the order and judgment of the High Court in which the appellant was ordered to be surrendered to the United Kingdom authorities pursuant to a European arrest warrant.

**Eamonn Dunne v The Governor of Cloverhill Prison**

Judgment delivered by Denham J (with Hardiman, Geoghegan, Fennelly and Kearns JJ) on 21/05/2009  
This was an appeal against applicant's order for release following an inquiry pursuant to Article 40.4.2° of the Constitution.

**Denis Riordan v The Government of Ireland and Others**

Judgment delivered by Murray CJ (with Denham, Hardiman, Geoghegan and Fennelly JJ concurring) on 27/05/2009  
The appellant challenged the constitutionality of various legislative provisions regulating the operation of the courts.

**EH v The Clinical Director of St. Vincent's Hospital, Aideen Freyne and the Mental Health Tribunal**

Judgment delivered by Kearns J (with Fennelly, Macken and Finnegan JJ, and Murray CJ concurring) on 28/05/2009  
This was a *habeas corpus* application by way of appeal from an order of the High Court refusing to discharge the applicant from detention at St. Vincent's Hospital in Dublin.

**Pierce t/a Swords Memorial and Another v Dublin Cemeteries Committee and Others**

Judgment delivered by Kearns J (with Macken and Hardiman JJ concurring) on 28/05/2009  
In this preliminary hearing, the Court considered the issue of *locus standi* in the context of a possible alternative remedy under the Competition Act 1991.

**Louise O'Keeffe (Plaintiff/Appellant) v Leo Hickey (Defendant) and the Minister for Education and Science, Ireland and the Attorney General (Defendants/Respondents)**

Judgment delivered by Murray CJ (with Denham, Hardiman, Geoghegan and Fennelly JJ concurring) on 05/06/2009  
These proceedings dealt with the issue of costs.

**The Minister for Justice, Equality and Law Reform v Marek Ster**

Judgment delivered by Geoghegan J (with Fennelly and Finnegan JJ) on 10/06/2009 (*ex tempore*)  
The respondent appealed against his order of surrender to a Czech judicial authority pursuant to a European Arrest Warrant.

**The Minister for Justice, Equality and Law Reform v Damian Dolny**

Judgment delivered by Denham J (with Kearns and Macken JJ concurring) on 18/06/2009  
This was an appeal from an order of the High Court in respect of a European arrest warrant in which the appellant was to be surrendered to the Polish authorities.

**Hazel Lawlor (Applicant/Appellant) v The Members of the Tribunal of Inquiry into Certain Planning Matters and Payments (Respondents)**

Judgment delivered by Murray CJ (with Denham, Geoghegan, Fennelly and Kearns JJ) on 01/07/2009  
The appellant challenged a judgment in the High Court in respect of the standard of proof to be used in tribunals and on the issue of financial aid for legal representation.

**Carmel Rose O'Reilly McCabe v the Minister for Justice, Equality and Law Reform, and Patrick Cusack Smith & Co (Agents of Thomas McCabe, Ward of Court and Minor)**

Judgment delivered by Denham J (with Kearns and Macken JJ) on 07/07/2009  
This was an appeal of an order to strike out proceedings following previous proceedings making similar claims.

**Colm Murphy (Applicant/Appellant) v The Director of Public Prosecutions, Ireland and the Attorney General (Respondents) (Unapproved)**

Judgment delivered by Geoghegan J (with Murray CJ, Hardiman, Fennelly and Finnegan JJ concurring) on 14/07/2009  
This appeal dealt with systemic delay.

**Abbeydrive Developments Limited (Applicant/Appellant) v Kildare County Council (Respondent)**

Judgment delivered by Fennelly J (with Denham, Hardiman, Geoghegan and Kearns JJ concurring) on 22/07/2009  
The appellant challenged the decision of the High Court which rejected its right to planning permission by default under section 34(8) of the Planning and Development Act 2000.

**JD (Applicant/Respondent) v Residential Institutions Redress Review Committee, Ireland and the Attorney General (Respondents/Appellants)**

Judgments delivered by Murray CJ and Fennelly J (with Murray CJ and Denham, Hardiman J and Geoghegan JJ concurring) on 27/07/2009

This appeal arose out of a discrimination claim made on the basis of the interpretation of the definition of "child" under the Residential Institutions Redress Act 2002.

**Teresa McGee v Brian Farrell, the Minister for Justice, Equality and Law Reform, Ireland and the Attorney General**

Judgment delivered by Finnegan J (with Murray CJ and Fennelly J concurring) on 28/07/2009

In these proceedings the Court considered whether the plaintiff was entitled to the provision by the State of publicly funded legal representation at the inquest.

**James McGrath v The Minister for Defence, Ireland and the Attorney General**

Judgment delivered by Fennelly J (with Kearns J concurring) and Geoghegan J on 28/07/2009

This was a challenge to the plaintiff's discharge from the Defence Forces.

**David Pierce trading as Swords Memorials and Andrew Pierce Monuments v Dublin Cemeteries Committee, Glasnevin Cemetery Monument Works Ltd and Glasnevin Crematorium Ltd**

Judgment delivered by Macken J (with Hardiman J concurring); Kearns J dissenting on 30/07/2009

In this appeal the plaintiff alleged that the manner in which the second defendant carried on its business was unfair to him and to other persons who operate both monumental sculpting businesses and provide headstones, and was damaging to such businesses.

**Minister for Justice, Equality and Law Reform v Grzegorz Dus**

Judgment delivered by Macken J (with Hardiman and Finnegan JJ concurring) on 31/07/2009

This was an appeal from the judgment of the High Court by which the appellant was ordered to be surrendered to a Polish judicial authority pursuant to a European arrest warrant in order to serve the outstanding portion of a composite sentence imposed on him in respect of two separate offences.

**John Burke (Applicant/Appellant) v The Attorney General, the Taoiseach of Ireland, the Minister for Justice, Equality and Law Reform and the Director of Public Prosecutions (Respondents)**

Judgment delivered by Murray CJ (with Denham and Fennelly JJ) on 22/09/2009 (*ex tempore*)

The applicant appealed against the High Court's refusal to grant him leave to seek to restrain the respondents from proceeding with the Lisbon Treaty referendum scheduled to take place on October 2<sup>nd</sup>.

**The Minister for Justice, Equality and Law Reform v Clive Kavanagh**

Judgment delivered by Murray CJ (with Kearns and Macken JJ concurring) on 23/10/2009 (*ex tempore*)

This was an appeal against an order made by the High Court to surrender the respondent to the Netherlands in respect of a European Arrest Warrant.

**Edward Carmody (Appellant) v The Minister for Justice, Equality and Law Reform and Others (Defendants)**

Judgment delivered by Murray CJ (with Denham, Hardiman, Geoghegan and Fennelly JJ concurring) on 23/10/2009

In these proceedings the appellant claimed to have been denied a constitutional right to legal aid in criminal prosecutions before the District Court because there is no statutory or other means by which he can seek to have free legal representation which includes counsel as well as solicitor, even though the circumstances pertaining to the prosecution brought against him were such that representation by solicitor and counsel might have been essential in the interests of justice.

**The Competition Authority v Beef Industry Developments Society Limited and Barry Bros. (Carrigmore) Meats Limited**

Judgments delivered by Kearns P and Fennelly J (with Murray C.J., Denham J., Finnegan J. concurring) on 03/11/2009

This matter was a challenge where the Competition Authority did not consider that certain arrangements resulting from the rationalisation plan for the beef industry were compatible with Irish competition law.

**The Minister for Justice, Equality and Law Reform v Modestas Kizelavicius**

Judgment delivered by Denham (with Murray CJ and Kearns P concurring) on 11/11/2009

This was an appeal from the decision of the High Court to surrender the appellant to Lithuania in respect of three of the four offences outlined in the European Arrest Warrant.

**The Minister for Justice v Florin Gheorghe and the Minister for Justice v Violeta Corina Gheorghe**

Judgment delivered by Fennelly J (with Denham and MacMenamin JJ concurring) on 18/11/2009

Respondents challenged their surrender under a European Arrest Warrant to Romania in connection with their trial *in absentia* and sentences for "swindling concerning contracts".

**The Minister for Justice, Equality and Law Reform v Jaroslav Stankiewicz**

Judgment delivered by Geoghegan J (with Denham and Finnegan JJ concurring) on 01/12/2009

Respondent challenged his surrender under a European Arrest Warrant to Poland in connection with serving a sentence from which Polish authorities claimed he fled.

**Mary Roche v Thomas Roche, Anthony Walsh, David Walsh and Sims Clinic Ltd (Defendants) and Attorney General (Notice Party)**

Judgments delivered by Murray CJ, Denham, Hardiman, Geoghegan and Fennelly JJ on 15/12/2009

The Court considered whether embryos, frozen and stored in a clinic, are "unborn" for the purposes of Article 40.3.3° of the Constitution.

**The Minister for Justice, Equality and Law Reform v Martin Stafford**

Judgment delivered by Denham J (with Hardiman and Finnegan JJ concurring) on 17/12/2009

This was an appeal from an order of the High Court ordering the surrender of the appellant to a United Kingdom judicial authority.

**JUDGMENTS OF THE ECJ AND CFI INVOLVING IRELAND IN 2009**

(Case C-301/06) Judgment of the Court (Grand Chamber) of 10 February 2009: Ireland v European Parliament and Council of the European Union (Action for annulment - Directive 2006/24/EC - Retention of data generated or processed in connection with the provision of electronic communications services - Choice of legal basis)

(Case C-532/08) Judgment of the Court (Sixth Chamber) of 19 May 2009: Commission v Ireland (Failure of a Member State to fulfil obligations – Directive 2005/60/EC – Money laundering and terrorist financing – Failure to transpose within the period prescribed)

(Case C-427/07) Judgment of the Court (Second Chamber) of 16 July 2009: Commission v Ireland (Failure of a Member State to fulfil obligations – Assessment of the effects of projects on the environment – Directive 85/337/EEC – Access to justice – Directive 2003/35/EC)

(Case C-554/07) Judgment of the Court (Third Chamber) of 16 July 2009: Commission v Ireland (Failure of a Member State to fulfil obligations – Value added tax – Directive 2006/112/EC – Articles 2, 9 and 13 – Economic activity in which the State, local authorities and other bodies governed by public law engage – Exemption)

(Case C-549/08) Judgment of the Court (Sixth Chamber) of 1 October 2009: Commission v Ireland (Failure of a Member State to fulfil obligations – Directive 2006/70/EC – Money laundering and terrorist financing – Failure to transpose within the period prescribed)

(Case C-188/08) Judgment of the Court (Second Chamber) of 29 October 2009: Commission v Ireland (Failure of a Member State to fulfil obligations - Directive 75/442/EEC - Waste - Domestic waste waters discharged through septic tanks in the countryside - Waste not covered by other legislation - Failure to transpose)

(Case C-202/09) Judgment of the Court (Eighth Chamber) of 26 November 2009: Commission v Ireland (Failure of a Member State to fulfil obligations – Directive 2006/24/EC – Electronic communications – Respect for private life – Retention of data generated or processed in connection with the provision of electronic communications services – Failure to transpose within the prescribed period)

(Case C-89/08 P) Judgment of the Court (Grand Chamber) of 2 December 2009: Commission v Ireland (Appeal – State aid – Exemption from excise duty on mineral oils – Regulation (EC) No 659/1999 – Article 1(b)(v) – Failure to state reasons – Court acting of its own motion – Plea involving a matter of public policy raised by the Community judicature – Infringement of the rule that the parties should be heard – Scope of the obligation to state reasons)

(Case C-455/08) Judgment of the Court (Second Chamber) of 23 December 2009: Commission v Ireland (Failure of a Member State to fulfil obligations – Directives 89/665/EEC and 92/13/EEC – Public supply and public works contracts – Review procedure against a contract award decision – Guarantee of effective review – Minimum period to be ensured between notification to the unsuccessful tenderers of the decision to award a contract and the signature of the contract concerned)

#### EUROPEAN COURT OF HUMAN RIGHTS (ECTHR)

- The case of **A, B and C v Ireland** (application no. 25579/2005) was heard by the Grand Chamber on 9 December 2009. Judgment is awaited. A hearing also took place before the Grand Chamber in the case of **Taxquet v Belgium** (application no. 926/2005) on 21 October 2009. Ireland intervened as a third party in this case in support of Belgium but did not take part in the oral hearing. Judgment is awaited.
- There were no cases involving Ireland in 2009 where judgment was given.
- There were no cases involving Ireland in 2009 where a decision was given.