

# **Office of the Attorney General**

## **Annual Report 2015**

**Incorporating the**

**First Progress Report on Implementation of Statement of Strategy 2015 – 2017.**

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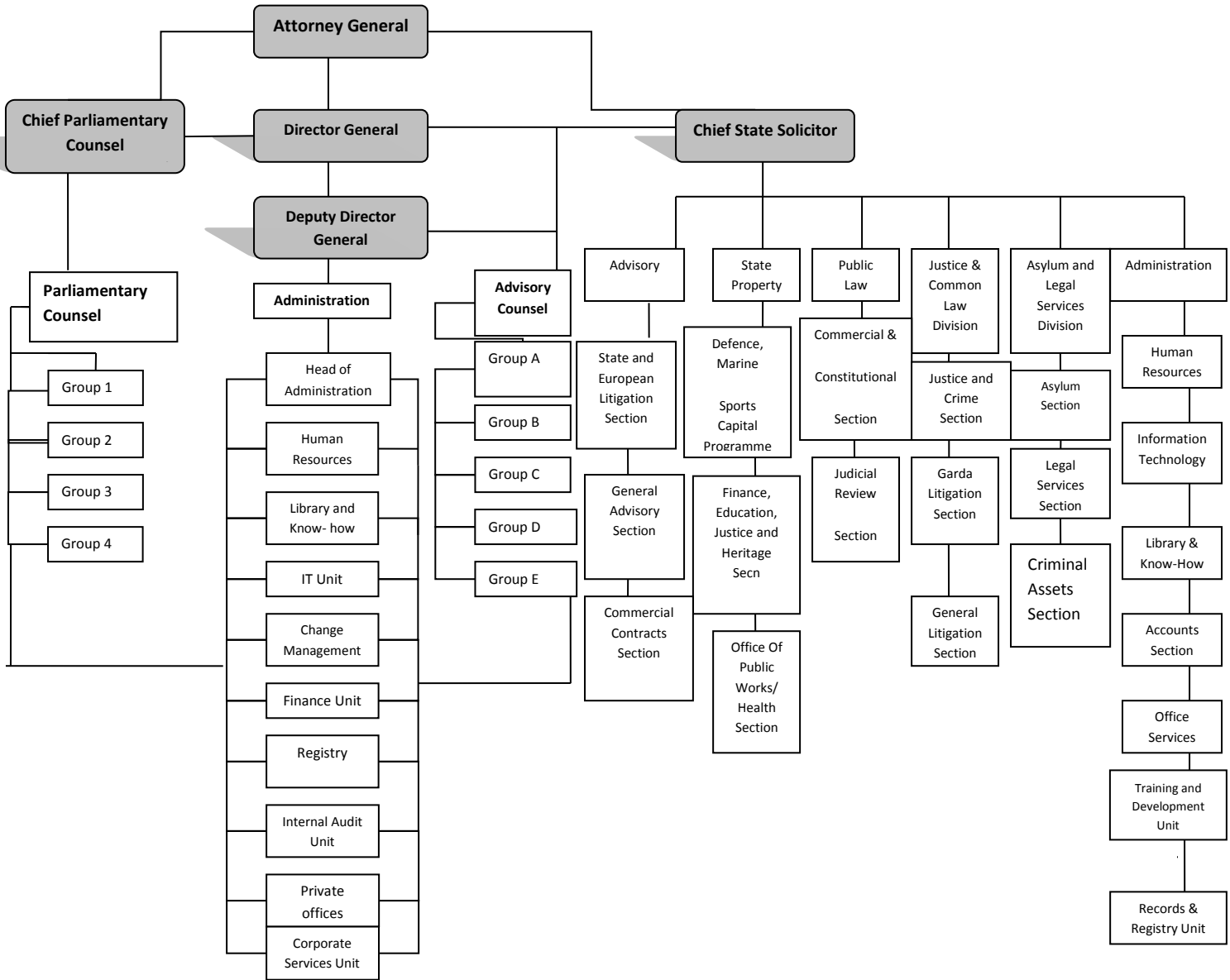
The Mission Statement of the Office of the Attorney General is:

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

We have four High Level Goals to pursue the above Mission Statement as set out in the Statement of Strategy 2015 – 2017:

- Delivery of the Government Legislative Programme
- Communication and Collaboration with Client Departments
- More Effective Service Delivery
- Knowledge Management, Learning and Organisational Capability

**Organisation Chart**



## **Foreword from AG**

I am pleased to present the Office's Annual Report for 2015.

The publication of this Annual Report provides an opportunity to review the major legal and organisational developments in the work of the Office in 2015. This Annual Report also includes the first progress report arising out of the Office's Strategy Statement 2015 – 2017. In Chapter 5 below I refer to several major legal areas dealt with in the Office in 2015. These subjects are:

- The setting up of the Irish Bank Resolution Corporation Commission of Investigation and the legal issues around the Joint Oireachtas Banking Inquiry.
- Large and complex litigation in relation to tax treatment, financial stability measures and the Central Bank's administrative sanctions regime.
- On 28<sup>th</sup> April the President signed into law the 31<sup>st</sup> Amendment to the Constitution, which inserted a new Article into the Constitution, Article 42A, which provides specifically for the protection of children's rights.
- Following a referendum on 22 May, the Thirty Fourth Amendment to the Constitution was enacted, which provides for marriage by two persons without distinction as to their sex. The referendum was followed by the enactment of the Marriage Bill, 2015 which made changes to the law that were necessary to give effect to the principle of marriage equality.
- The enactment of legislation to create a policing authority to provide for further accountability by An Garda Síochána.

Finally I want to thank the staff in both Offices for their continued dedication, hard work and service.

**Máire Whelan, SC**

**Attorney General**

## **Chapter 1**

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

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

The administrative structure of the part of the Office located in Merrion Street and the CSSO is set out in the chart on page 4 of this Report. The CSSO is organised into Divisions and Sections with specific areas of work as described in the chart. During 2015 Advisory Counsel were organised into five separate Groups by reference to different areas of legal specialism, while Parliamentary Counsel within the Office of the Parliamentary Counsel to the Government (OPC) were organised into four Groups, each Group dealing with a number of Government Departments.

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

The range of work with which the Office deals reflects the entire scope of governmental activity in a modern democracy, from the details of planning, implementing and defending new rules in technical areas of industry or agriculture, through the arrangements for government services in education, healthcare, or

justice, to significant questions of human rights, European integration and international relations. Government lawyers may be dealing with anything from public procurement issues, transactions in relation to state owned property, intellectual property disputes, compliance with EU Rules, applications in respect of criminal assets to constitutional challenges or criminal law legislation. The Office provides a professional service to its public service clients while at the same time ensuring its legal advice represents an independent assessment of the law on various matters raised. The range of work can be gauged by the fact that in 2015:-

- The Office opened 353 new judicial review files and 252 new files in the area of asylum and immigration law.
- In 2015, the State and European Litigation Section commenced 26 Court of Justice of the European Union (CJEU) cases in which Ireland participated in the written and/or oral procedure.
- Parliamentary Counsel drafted a significant number of Bills for consideration by the Oireachtas (52 Government Bills published in 2015) and Statutory Instruments (258 drafted and transmitted to Departments, of which 72 focused on the incorporation of EU obligations).

The work of the Office is extremely dynamic as Irish, European and international law continue to change and the Office takes steps to meet the highest professional standards and public service requirements. The clients of the Office include the Government, Ministers of the Government and Government Departments. To help service the legal needs of Government Departments there is an increased use of the secondment service developed by the Office with lawyers being seconded to work as legal advisers within Departments while some lawyers within the CSSO are specially contracted and funded to deal with specialised work from particular Departments.

## **The Law Reform Commission**

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

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

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

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



## **Chapter 2 The Attorney General's Office in 2015**

### **Staffing**

At the end of 2015 the authorised staff complement in the Merrion Street Office was 137 and was 18 in the Law Reform Commission. The authorised staff complement in the CSSO at the end of 2015 was 243.

At end-2015 the Merrion Street Office exceeded the Government targets in relation to the employment of women. 33.26% of staff were female at or above Assistant Principal Officer level while 16.82% of staff at or above Principal Officer level were female. In relation to the CSSO, at the end of 2015 the Office also exceeded the Government targets in relation to employment of women. The proportion of female staff at or above Assistant Principal Officer level was 62%, while the proportion of female staff at or above Principal Officer level was 56%. Further details in relation to gender balance are available on the Office website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

In relation to the accessibility of staff with disabilities the proportion of staff with disabilities in the Merrion Street Office at the end of 2015 continues to exceed the Government target of 3%. The Office monitored its accessibility during the year including accessibility through its website, and ensured that all renovation or maintenance work took into account the needs of persons with disabilities. In the CSSO the proportion of staff with disabilities employed in the Office at the end of 2015 exceeded the Government target of 3%. The Office continued to support staff with disabilities and is always interested in receiving suggestions from staff.

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

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

Prior to secondment, Advisory Counsel undergo specific training in the Attorney General's Office to prepare them for their placements.

When placed within Departments they provide legal advice, often on a very broad range of matters referred to them by the Department and the relevant Minister. They deal with many aspects of the day to day requirements for legal input that a Department may have, both in terms of assistance with legislative projects and discrete legal queries that may arise on key policy initiatives.

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

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

By 2015, due to increasing demand, the secondment programme had significantly expanded and developed, with the Office placing more than 18 legal advisors across Government Departments and Offices.

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

In 2015, two solicitors were seconded from the CSSO to Tusla (the Child and Family Agency) and one Solicitor was seconded to the IBRC.

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

## **Knowledge Management**

The Office is a Knowledge based organisation with a central focus on Knowledge Management (KM). The ease of retrieval of the organisation's knowledge has a significant impact on the organisation's time in all areas, not just in relation to legal knowledge. Improved efficiencies in working practices, improved consistency in legal advice and the reduction in duplication of efforts in all Office areas are key cost benefits of KM. In the area of risk management, KM is of particular importance in managing reputational risk.

The Office continues to build on the investment and development of staff to ensure continued professional excellence in order to provide optimum legal services through the development and implementation of KM Strategies. In 2015 the Knowledge Management Committee in the Merrion Street Office prepared a draft knowledge management strategy having regard to consultations with legal and non- legal firm/units within the public sector and private sector and internal consultations with staff. The draft strategy was presented to MAC and approved in December 2015.

In 2015, the CSSO recruited a Knowledge Management Officer. The Knowledge Management Officer, with the support of the CSSO's Knowledge Management Committee, has been a key driver of knowledge management and knowledge sharing in the CSSO. A Knowledge Audit was undertaken by the Knowledge Management Officer during Q4 of 2015, as an initial information gathering exercise to identify what the KM needs of the CSSO were. A draft CSSO Knowledge Management Strategy, informed by the findings of the Knowledge Audit, along with information gleaned as a result of consultation with a variety of parties, both internal and external, was submitted to MAC at year's end. In December an internal monthly Legal Bulletin was launched for the CSSO, containing news and information on CSSO judgments, legislative changes and updates to Rules of Court, as well as information on upcoming CPD events, new journal articles and new material in the CSSO Library.

## **Public Sector Reform**

In January 2015 the Office submitted a progress report to the Department of Public Expenditure and Reform (D/PER) in relation to the implementation of the joint AGO/CSSO/LRC Integrated Reform Delivery Plan to the end of 2014. In February 2015 the Office submitted a new Plan for 2015 to D/PER and in July 2015 submitted a progress report in relation to the implementation of the Plan to end June 2015. In December 2015 D/PER requested a further progress report to in relation to the implementation of the Plan to end 2015.

The 2015 Plan includes many changes, developments and initiatives which have already been implemented, many currently in progress and several for the future. The objective of the changes is to enhance efficiency, customer service and reduce costs.

Some of the initiatives set out in the 2015 Plan to enhance the delivery of legal services to clients include reduction in costs – legal fees, recovery of legal costs, secondment programmes, proposals to reduce litigation costs and the Haddington Road Agreement reforms.

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

## **Regulatory Requirements Compliance**

During 2015 the Office kept under review compliance in the AGO and CSSO with the Freedom of Information Acts, Data Protection Acts and Health and Safety legislation in addition to mandatory legal Continuing Professional Development requirements. Arrangements in both offices were satisfactory during the year.

The AGO's National Archives Project for 2015 was completed ahead of schedule and 1,646 files were transferred to the National Archives in Bishop Street, including 98.75% of all documented files scheduled for transfer. Certificates for the retention of those files not transferred are held by the Office.

In relation to energy usage and compliance with Regulation 12(2) of the European Communities (Energy End-use Efficiency and Energy Savings) Regulations 2009 SI No. 542 of 2009 details of usage during 2015 in both offices are available on the Office website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

## **Reduction in costs**

In 2015 the AGO endeavoured to achieve further savings to reduce expenditure within the Vote. During the previous seven years the Office's annual expenditure has reduced substantially. At the end of 2015 net expenditure was 27.62% lower than 2008. Net expenditure over that period was:

2008 €18.1 million

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

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

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

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

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

2014 €12.9 million (3 % reduction on previous year)

2015 €13.1 million (1.5% increase on previous year)

The CSSO has also achieved further savings to reduce expenditure within the Vote. During the past six years the Office's annual expenditure has reduced substantially. At the end of 2015 net expenditure was 30.54% lower than 2008. Net expenditure over that period was:

2008 €40.6 million

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

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

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

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

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

2014 €25.5 million (9.9% reduction on previous year)

2015 €28.2 million (10.6% increase on previous year)

In relation to counsels' fees, there has been a reduction in expenditure out of the CSSO Vote of 32% at the end of 2015 when compared to 2008 payments.

The Office's Professional Fees Control Group (PFCG) met on a weekly basis in 2015 to monitor and control expenditure on professional fees. The Office also continued to implement a policy of collection of legal costs in all cases in which costs had been awarded to the State, where such collection was deemed viable.

## **Freedom of Information Requests**

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

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

During 2015 legal staff 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 can be found on our website at [www.attorneygeneral.ie](http://www.attorneygeneral.ie)

## **Chapter 3**

### **Work of the Office of the Parliamentary Counsel to the Government in 2015**

The OPC comprises a team of specialist lawyers trained to a high level in the discipline of drafting legislation.

The goal of the OPC is to provide a high quality professional, specialist and efficient legislative drafting service to Government.

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

The OPC drafted a significant number of Bills and statutory instruments during 2015:

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

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

258 Statutory Instruments drafted and transmitted to Departments (72 of which related to the transposition of European Union measures).

## **Chapter 4**

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

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

During 2015 staff in the Office provided ongoing and continuous support to the Attorney General in the performance of her constitutional role as legal adviser to the Government.

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

In 2015 the Attorney chaired three meetings of the Office's Legal Management Advisory Committee representative of all legal areas of the Office – Advisory Counsel, the OPC and the CSSO to discuss ongoing important and sensitive legal issues within the Office with particular reference to the list of sensitive files which is regularly submitted to Government.

During the year Advisory Counsel Groups reviewed work through its formalised system of eight-week review cycles and prioritised work through regular formal and informal meetings with client Departments held throughout the year. In addition to addressing work related matters these meetings also provided an opportunity to gauge feedback from clients on service delivery issues and to highlight new and emerging issues.

During 2015 the OPC was centrally involved in the work of the Government Legislation Committee. The Committee oversees each proposed Government Bill from the time of its inclusion in the Government's Legislation Programme to the completion of its progress through the Houses of the Oireachtas and deals with any problems that arise in relation to the smooth and speedy implementation of the Programme.

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

The focus for the CSSO during 2015 was on the continued development, enhancement and refinement of legal services in areas of importance to client Departments and Offices. The aim of the Office was delivery of high quality legal services to clients as economically and efficiently as possible. Resources were deployed within the Office in pursuance of that objective. The CSSO held fortnightly meetings with the Attorney General throughout the year to discuss significant work on hand.

## **Management of Litigation**

Implementing the key strategy to manage litigation, particularly mass claims, repeat litigation of issues, and individual fact-intensive cases in an efficient manner was a key priority for the Office during the year. Advisory Counsel met regularly with legal staff in the CSSO and officials in the relevant Departments to direct the overall legal strategy so as to ensure that these types of litigation were being effectively managed on an ongoing basis. This is an area in which advice of the Office is capable of saving public money in legal costs and in identifying the best use of the time of Departmental officials in preparation of cases.

## **Reducing Litigation costs**

During 2015, the Office remained committed to the need to seek ways to reduce the cost to the State of litigation. In particular mechanisms such as continuing advice in respect of avoiding litigation and early resolution of appropriate cases were prime objectives. A substantial number of protocols have been developed by the Office (including protocols for increased co-operation between State Agencies) and these protocols are adhered to in order to facilitate the efficient and cost effective conduct of litigation. Also, alternative non litigation resolutions such as mediation were pursued during the year where practical.

A number of initiatives were progressed during the year to reduce legal costs being incurred by the State. These included the settlement and taxation of costs at reasonable levels and the development of a Costs Accounting Database and capturing of all data concerning legal costs so as to facilitate the overall cost effective management of litigation costs and a reform of the taxation of costs system.

The Article 40 Stakeholders Group which was established in 2014 continued to meet during the year and examined ways to reduce litigation costs arising from Article 40 applications. The Group has a very wide brief and also fosters co-operation between the stakeholders, for example, the Garda Síochána and the Irish Prison Service (IPS), and are setting up a communications procedure where prisoners are being released on temporary release. The group is comprised of representatives from AGO, CSSO, Garda Legal Services, Department of Justice, IPS and Courts Service.

In relation to asylum cases, telescoped hearings (i.e. leave and substantive hearings in one) continued to operate in 2015 for cases in the Asylum and Immigration List in the High Court. This development has



enabled the Office to achieve savings in the region of 30% to 40% in the brief fees paid to counsel for the State in such cases. Savings also continued to be made by the early settlement of appropriate cases.

## **Recovery of Legal Costs**

In 2015 the Office continued to implement the key policy to recover legal costs in all cases where the State has been successful and the court has awarded costs to the State. The Office's new Costs Recovery Database, in operation since February 2015 records all data in respect of new recoveries. Total recoveries for 2015 amounted to €658,646.

## **Asset Reform Plan**

During 2015, the CSSO continued its work for the Steering Group on Asset Reform. The Steering Group, established by the Government, and led by the Office of Public Works (OPW), is tasked with reform and rationalisation of the State's Property Portfolio. The Steering Group comprises senior representatives of Central Government, Local Authorities, the Health Service Executive and Semi State bodies, in addition to representatives from the Office of Public Works Section (State Property Division) of the CSSO.

The Steering Group, in consultation with and advised by the CSSO, published a Property Asset Management Delivery Plan which enumerated the strategic goals to achieve the Government's programme for State property reforms. One of the specific goals of this Plan was to develop Protocols to govern acquisitions, disposals and sharing of all State property.

During 2015 the CSSO worked closely with the OPW particularly in relation to the planned disposal of up to 250 properties. Also, the CSSO led the preparation of a State Property Transfer Protocol and a State Property Sharing Protocol to assist all Stakeholders in managing and sharing State property. These Protocols seek to streamline and improve efficiencies in intra-departmental/state organisation property transactions and also seek to assist stakeholders in the cost efficient utilisation of the State property portfolio. In summary, procedures are set down in the Protocols to streamline transfers from one State body to another and also in relation to the sharing of State properties by multiple State stakeholders. By the end of 2015 the Protocols were circulated to all Stakeholders.

Significant savings will be achievable for the State through the implementation of the Protocols and also the remaining goals set out in the Property Asset Management Delivery Plan.

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

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

The eISB which is an online repository of legislation that is freely available to the public through the website [www.irishstatutebook.ie](http://www.irishstatutebook.ie) was updated in 2015 to include Acts of the Oireachtas from 1922 to 2015, Statutory Rules and Orders from 1922 to 1947 and Statutory Instruments from 1948 to 2015 and most of the pre 1922 public and general statutes in force in the State following the enactment of the Statute Law Revision Act 2007.

A Legislation Directory for Acts is also published for the period 1922 to end 2015 which enables users of the Irish Statute Book to identify whether a particular provision of an Act has been amended or otherwise affected since its enactment. A Legislation Directory for statutory instruments is also included, which identifies amendments and revocations to statutory instruments effected between January 1999 and end 2015. The full text of the Constitution with links to amending Acts is also published on the eISB.

Another important development in 2015 is the implementation of the first phase of the European Legislation Identifier (ELI) which requires Member States to use standardised identification of legislation and metadata properties describing each legal resource, so as to enable an effective, user-friendly and faster search and exchange of legal information. In early 2016 it is proposed to implement a new web design to improve user access to legislation and supporting information.

## **Risk Management**

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

- In the AGO: regular reporting throughout the year by Advisory Counsel to the Attorney General and Legal Management Advisory Committee (MAC), meetings of the Director General, Deputy Director General and Advisory Counsel Groups on areas and matters of significant risk;
- Discussion of risk related matters pertaining to the legislative drafting process and the OPC took place at meetings between the Chief Parliamentary Counsel and Group Managers, at individual Group meetings and Legal MAC meetings.

- In the CSSO: regular reporting throughout the year by legal staff in the CSSO at Division / Section meetings and local and Legal MAC meetings;
- Participation by Advisory Counsel and legal staff in the CSSO in the process of identification of sensitive and constitutional cases for inclusion in reports submitted to Government on such cases in March, July and November 2015;
- A joint revised Risk Management Policy for AGO and CSSO adopted in December 2015;
- A joint AGO-CSSO Risk Management Committee established in September 2015;
- Regular reports by the Deputy Director General (AGO) and Assistant Chief State Solicitor (CSSO) 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, as appropriate.

In late 2015 the Risk Management Committee representative of legal and administrative staff of both Offices engaged an external consultant to facilitate the review of the Office's risk management policy, corporate risk register and group, division, section and business unit risk registers.

In 2015, both Offices adopted Protected Disclosure Act policies.

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

In 2015 legal staff in both Offices participated in the process of further embedding PMDS including Upward Feedback and the use of PMDS ratings for promotion and salary increment purposes. At the beginning of the year individual Role Profile Forms were agreed with managers, Interim Reviews were carried out mid-year and all annual reviews were completed after the end of the year. At year's end, changes to the PMDS system from 2016 was communicated to staff of both Offices.

## **Training and Development**

During 2015 nominated Advisory Counsel and Parliamentary Counsel participated in the work of the Learning and Development Committee and specifically with a view to progressing particular points of action set out in the Learning and Development Strategy for the Office. Significant progress was achieved in 2015 in relation to the implementation of specific action points relating to training programmes for Advisory and Parliamentary Counsel. A survey was launched in September 2015 on the training of legal staff in the

Office. The results of the survey were very informative in terms of identifying additional in-house, external and other learning and development courses and events for legal staff.

Also during 2015 Advisory and Parliamentary Counsel in the AGO and solicitors in the CSSO attended a wide range of training courses to enhance their legal knowledge and maximise their capabilities. Particular emphasis was given to in-house training which had the benefit of being customised and cost effective.

New staff received Induction Training and also training in the Performance Management Development System (PMDS).

A wide range of external training for both legal and administration staff was provided. Staff also availed of Diploma and Degree courses to enhance their career prospects thus ensuring they are equipped to take on more senior roles in the future and to ensure staff and are prepared for mobility within the civil service.

During 2015 the CSSO's Training and Development Committee met on seven occasions and produced a list of key priorities for inclusion in a new Training and Development Strategy. These included aligning the new Training and Development Strategy with the Office's Strategic Human Resources Strategy, continuing with ongoing in-house CPD training, progressing up-skilling on Alternative Dispute Resolution skills for legal file handlers, roll-out of modular for solicitors/legal executives, provision of legal manager training for the roles of Section Heads and legal supervisors and better identification of budget for training and development.

Legal staff in the CSSO attended a wide range of training courses to enhance their legal knowledge and maximise their capabilities. Particular emphasis was given to in-house training which had the benefit of being customised and cost effective. Also, legal staff also attended a diverse range of training courses run by external bodies such as the Law Society, the Dublin Solicitors Bar Association and Public Affairs Ireland. General training courses were also run during the year for all staff in the Office.

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

## **Corporate and Business Management Services**

During 2015 the administration sides in the AGO and the CSSO provided modern and professional corporate and business management services in support of the delivery of the core legal services of the Office. Functional Business Units in the areas of Human Resources, Finance, Library and Know-how, IT, Registry, Private office support, Internal Audit, Corporate Services and Change Management provided the

necessary support structures, staffing, services and systems to facilitate the achievement of the Office's Mission Statement and High Level Goals.

## **Chapter 5**

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

During 2015 several major legal areas were dealt with by the Office.

The setting up of the Irish Bank Resolution Corporation Commission of Investigation and the legal issues around the Joint Oireachtas Banking Inquiry were very significant legal work items dealt with by the Office. Also, the Office dealt with large and complex litigation in relation to tax treatment, financial stability measures and the Central Bank's administrative sanctions regime.

Two significant constitutional changes took effect in 2015. On 28<sup>th</sup> April the President signed into law the 31<sup>st</sup> Amendment to the Constitution, which inserted a new Article into the Constitution, Article 42A, which provides specifically for the protection of children's rights. This took place after litigation challenging the referendum result was concluded. Following a referendum on 22 May, the Thirty Fourth Amendment to the Constitution was enacted, which provides for marriage by two persons without distinction as to their sex. Much legal advice was provided during the preparations for the referendum, both in relation to the wording of the referendum and consequential changes to the law that would be needed. The referendum was followed by the enactment of the Marriage Bill, 2015 which made changes to the law that were necessary to give effect to the principle of marriage equality.

Another major area affecting the Office during 2015 was in relation to legislation to create a policing authority to provide for further accountability by An Garda Síochána.

In 2015 the implementation of the Protected Disclosures Act 2014 had a significant impact on the Office. The purpose of the Act is to put in place a structure of protections for 'whistleblowers' in both the public and private sectors. This required important advices to Government Departments as the legislation bedded down.

## Annex A

### Government Bills published in 2015 that were drafted by the OPC

Appropriation Bill 2015
Bankruptcy (Amendment) Bill 2015
Child Care (Amendment) Bill 2015
Children (Amendment) Bill 2015
Children and Family Relationships Bill 2015
Choice of Court (Hague Convention) Bill 2015
Civil Debt (Procedures) Bill 2015
Climate Action Low Carbon Development Bill 2015
Communications Regulation (Postal Services) (Amendment) Bill 2015
Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015
Courts Bill 2015
Credit Guarantee (Amendment) Bill 2015
Criminal Justice (Burglary of Dwellings) Bill 2015
Criminal Law (Sexual Offences) Bill 2015
Defence (Amendment) Bill 2015
Dublin Docklands Development Authority (Dissolution) Bill 2015
Education (Admission to Schools) Bill 2015
Electoral (Amendment) (No. 2) Bill 2015
Finance (Local Property Tax) (Amendment) (No. 2) Bill 2015
Finance (Miscellaneous Provisions) Bill 2015
Finance (Tax Appeals) Bill 2015
Finance Bill 2015
Financial Emergency Measures in the Public Interest Bill 2015
Garda Síochána (Policing Authority and Miscellaneous Provisions) Bill 2015
Harbours Bill 2015
Health (General Practitioner Service) Bill 2015
Health Insurance (Amendment) Bill 2015
Horse Racing Ireland Bill 2015
Houses of the Oireachtas Commission (Amendment) Bill 2015

Industrial Relations (Amendment) Bill 2015
International Protection Bill 2015
Marriage Bill 2015
Minerals Development Bill 2015
Misuse of Drugs (Amendment) Bill 2015
Motor Vehicle (Duties and Licences) Bill 2015
National Cultural Institutions (National Concert Hall) Bill 2015
National Minimum Wage (Low Pay Commission) Bill 2015
National Tourism Development Authority (Amendment) Bill 2015
Petroleum (Exploration and Extraction) Safety Bill 2015
Planning and Development (Amendment) Bill 2015
Prisons Bill 2015
Public Health (Alcohol) Bill
Public Sector Standards Bill 2015
Public Transport Bill 2015
Social Welfare (Miscellaneous Provisions) Bill 2015
Social Welfare Bill 2015
Statute Law Revision Bill 2015
Teaching Council (Amendment) Bill 2015
Technological Universities Bill 2015
Thirty-fourth Amendment of the Constitution (Marriage Equality) Bill 2015
Thirty-fifth Amendment of the Constitution (Age of Eligibility for Election to the Office of President) Bill 2015
Urban Regeneration and Housing Bill 2015



## **Annex B**

### **Public Bills enacted in 2015**

Appropriation Act 2015  
Assisted Decision-Making (Capacity) Act 2015  
Bankruptcy (Amendment) Act 2015  
Betting (Amendment) Act 2015  
Central Bank (Amendment) Act 2015  
Child Care (Amendment) Act 2015  
Children (Amendment) Act 2015  
Children and Family Relationships Act 2015  
Children First Act 2015  
Choice of Court (Hague Convention) Act 2015  
Civil Debt (Procedures) Act 2015  
Climate Action and Low Carbon Development Act 2015  
Communications Regulation (Postal Services) (Amendment) Act 2015  
Consumer Protection (Regulation of Credit Servicing Firms) Act 2015  
Courts Act 2015  
Criminal Justice (Burglary of Dwellings) Act 2015  
Criminal Justice (Mutual Assistance) (Amendment) Act 2015  
Criminal Justice (Terrorist Offences) (Amendment) Act 2015  
Customs Act 2015  
Defence (Amendment) Act 2015  
Dublin Docklands Development Authority (Dissolution) Act 2015  
Education (Miscellaneous Provisions) Act 2015  
Electoral (Amendment) Act 2015  
Environment (Miscellaneous Provisions) Act 2015  
Equality (Miscellaneous Provisions) Act 2015  
Finance (Local Property Tax) (Amendment) Act 2015  
Finance (Miscellaneous Provisions) Act 2015  
Finance (Tax Appeals) Act 2015  
Finance Act 2015  
Financial Emergency Measures in the Public Interest Act 2015  
Garda Síochána (Amendment) (No. 3) Act 2015  
Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015  
Gender Recognition Act 2015

Harbours Act 2015  
Health (General Practitioner Service) Act 2015  
Health Insurance (Amendment) Act 2015  
Houses of the Oireachtas Commission (Amendment) Act 2015  
Industrial Relations (Amendment) Act 2015  
International Protection Act 2015  
Irish Collective Asset-management Vehicles Act 2015  
Legal Services Regulations Act 2015  
Marriage Act 2015  
Mental Health (Amendment) Act 2015  
Misuse of Drugs (Amendment) Act 2015  
Motor Vehicle (Duties and Licences) Act 2015  
National Cultural Institutions (National Concert Hall) Act 2015  
National Minimum Wage (Low Pay Commission) Act 2015  
Personal Insolvency (Amendment) Act 2015  
Petroleum (Exploration and Extraction) Safety Act 2015  
Planning and Development (Amendment) Act 2015  
Prisons Act 2015  
Public Health (Standardised Packaging of Tobacco) Act 2015  
Redress for Women Resident in Certain Institutions Act 2015  
Regulation of Lobbying Act 2015  
Residential Tenancies (Amendment) Act 2015  
Roads Act 2015  
Social Welfare (Miscellaneous Provisions) Act 2015  
Social Welfare and Pensions Act 2015  
Sport Ireland Act 2015  
Statute Law Revision Act 2015  
Teaching Council (Amendment) Act 2015  
Thirty-First Amendment of the Constitution (Children) Act 2012  
Thirty-fourth Amendment of the Constitution (Marriage Equality) Act 2015  
Urban Regeneration and Housing Act 2015  
Valuation (Amendment) Act 2015  
Vehicle Clamping Act 2015  
Workplace Relations Act 2015

## Annex C

### Office of the Attorney General

#### Vote 3 Merrion Street Office

#### Outturn for 2015 and Estimate for 2015 and 2016

Estimate and Outturn for 2015 and Estimate of the amount required in the year ending 31 December, 2016 for the salaries and expenses of the **Office of the Attorney General**, including a grant.

	<b>Service</b>	<b>Estimate Provision 2015 €000</b>	<b>Provisional Outturn 2015 €000</b>	<b>Estimate Provision 2016 €000</b>
	<b>ADMINISTRATION</b>			
A.1.	SALARIES, WAGES AND ALLOWANCES	11,532	10,115	11,200
A.2(i)	TRAVEL AND SUBSISTENCE	130	147	130
A.2(ii)	TRAINING AND DEVELOPMENT AND INCIDENTAL EXPENSES	540	577	600
A.2(iii)	POSTAL AND TELECOMMUNICATIONS SERVICES	70	65	70
A.2(iv)	OFFICE EQUIPMENT AND EXTERNAL IT SERVICES	499	658	559
A.2(v)	OFFICE PREMISES EXPENSES	156	158	156
A.2(vi)	CONSULTANCY SERVICES AND VALUE FOR MONEY AND POLICY REVIEWS	20	20	20

A.2(vii)	CONTRACT LEGAL EXPERTISE	461	125	401
A.2(xi)	EU PRESIDENCY	-	-	-
	<b>SUBTOTAL</b>	<b>13,408</b>	<b>11,865</b>	<b>13,136</b>
	<b>OTHER SERVICES</b>			
A.3	CONTRIBUTIONS TO INTERNATIONAL ORGANISATIONS	38	34	38
A.4	LAW REFORM COMMISSION (GRANT- IN-AID)	2,149	2,002	2,119
A.5	GENERAL LAW EXPENSES	250	94	190
	<b>Gross Total</b>	<b>15,845</b>	<b>13,995</b>	<b>15,483</b>
	<b>Deduct</b>			
B.	APPROPRIATIONS-IN- AID	815	854	788
	<b>Net Total</b>	<b>15,030</b>	<b>13,141</b>	<b>14,695</b>

## Vote 13 - Office of the Chief State Solicitor

### Outturn for 2015 and Estimate for 2015 and 2016

Estimate and Outturn for 2015 and Estimate of the amount required in the year ending 31 December, 2016 for the salaries and expenses of the Office of the Chief State Solicitor.

	Service	Estimate Provision 2015 €000	Provisional Outturn 2015 €000	Estimate Provision 2016 €000
	<b>ADMINISTRATION</b>			
A.1	SALARIES, WAGES AND ALLOWANCES	14,818	14,414	15,100
A.2(ii)	TRAVEL AND SUBSISTENCE	70	72	70
A.2(iii)	TRAINING AND DEVELOPMENT AND INCIDENTAL EXPENSES	813	879	813
A.2(iv)	POSTAL AND TELECOMMUNICATIONS SERVICES	350	321	350
A.2(v)	OFFICE MACHINERY AND OTHER OFFICE SUPPLIES AND RELATED SERVICES	600	584	750
A.2(vi)	OFFICE PREMISES EXPENSES	200	158	300
A.2(vii)	CONSULTANCY SERVICES AND VALUE FOR MONEY AND POLICY REVIEWS	25	25	25
	<b>SUBTOTAL</b>	<b>16,876</b>	<b>16,453</b>	<b>17,408</b>

**OTHER  
SERVICES**

A.3	EXTERNAL LEGAL SERVICES	200	243	200
A.4	FEES TO COUNSEL	12,100	12,090	12,000
A.5	GENERAL LAW EXPENSES	1,150	1,139	1,400
	<b>Gross Total</b>	<b>30,326</b>	<b>29,925</b>	<b>31,008</b>
	<b>Deduct</b>			
B.	APPROPRIATIONS-IN-AID	1,860	1,672	1,860
	<b>Net Total</b>	<b>28,466</b>	<b>28,253</b>	<b>29,148</b>

## **Annex D**

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

#### **Statements of Compliance; Reports on Payment Practices 2015**

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

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

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

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

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

These procedures are applied by the Finance Unit and a written record of the procedures applied is recorded

- The staff in the Finance Unit monitor the payment due date and endeavour to ensure that payment is made within the prescribed period. In the event of payment being made outside of the prescribed time interest is calculated by Finance Unit in accordance with the Act and with the Regulations
- The Financial Management System prompts the staff in the Finance Unit of due payment date

## **Report on Payment Practices for 2015**

### **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 €2,147,664.45 in 2015 were made from the Vote of the Office of the Attorney General in respect of payments to which the Legislation applies.
- Prompt payment interest payments totalling €74.59 were 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**

### **Report on Payment Practices 2015**

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

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

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

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

Payments totalling €2.726 m in 2015 were made from the Vote of the Chief State Solicitor's Office in respect of payments to which the Legislation applies. A total amount of €3,755 was incurred in penalty interest during the year under Prompt Payment of Accounts legislation.

## **Report On Payment Practices For 2015**

### **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 2015:**

Total Value of all Payments:	€2,726,699
Total Value of all late payments (under €320 inclusive):	€6,992.91
Total Value of all late payments (over €320):	€42,583.06
Value of late payments as % of total payments:	1.82%
Number of late payments in excess of €320:	23
Amount of Interest paid:	€3,754.94
Amount of interest as percentage of total payments:	.14 %
Broad indication of Length of Delays:	42 days