

# **Office of the Attorney General**

## **Annual Report 2018**

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



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## Foreword from the Attorney General

I welcome the 2018 Annual Report for the Office of the Attorney General (which includes the Chief State Solicitor's Office), which outlines the significant work undertaken by the Office in meeting its strategic goals and objectives for the year.

Like other years, the Office saw significant demand for legal services in 2018 from its clients – Government, Departments and Offices. This demand was met effectively in a comprehensive range of subject areas through the provision of legal advice, legislative drafting and litigation services. These services are crucial to the work of Government and support the Office's clients across a very wide range of areas.

A number of significant matters in relation to which the Office provided legal support and services to clients in 2018 included:

- Provision of legal services concerning a wide variety of legal issues related to Brexit;
- Provision of legal services in relation to the Thirty-Sixth Amendment to the Constitution and consequential legislation;
- Provision of legal services in relation to Data Protection issues;
- Litigation and advisory services in relation to complex asylum and immigration matters, tax matters, and environmental regulation;
- Drafting of complex and detailed legislation.

I hope that you will find the information in this report useful. I would like to take this opportunity to express my thanks to all who work in the Attorney General's Office and the Chief State Solicitor's Office for their ongoing commitment and dedication to ensure the provision of the highest quality of legal services throughout the year.

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Seamus Woulfe SC  
Attorney General

## Introduction by the Director General

Attorney General,

I am pleased to present the 2018 Annual Report of the Office of the Attorney General which affords us the opportunity to reflect on what we have achieved over that year and to outline the progress made against the Office's objectives.

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

2018 was a challenging year in a number of ways, for example, the introduction of the General Data Protection Regulation and Brexit related matters. The Office met those challenges and continued to provide high quality legal services to our clients observing the highest professional and public service standards. The Office's highly successful secondment programme saw over 30 legal staff seconded to posts domestically and abroad during 2018.

Advisory Counsel continued to deliver legal advice across a broad range of often complex issues in a context shaped by EU, constitutional, international and domestic law.

During 2018, the Office of the Parliamentary Counsel delivered a significant programme of legislative drafting work including:

- 46 Government Bills published
- 39 Government Bills enacted
- 204 Statutory Instruments were drafted and transmitted to Departments (42 of which related to the transposition of European Union measures).

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

The scope of the subject areas dealt with by the Office is very broad and very deep. It covers all aspects of Government business and policy. Many of these areas are continually evolving and can also involve sensitive matters such as healthcare and criminal justice. The legal framework in which the Office operates is subject to continual change and provides the backdrop for an operational environment that tends to be characterised by urgency.

I want to conclude by thanking all of the staff in the Merrion Street Office and the Chief State Solicitor's Office for their continued commitment and hard work. It is thanks to them that we can deliver on our mission – to provide the highest standard of professional legal services to the Government, Departments and Offices. I would like to take this opportunity to welcome Ms. June Reardon who was appointed Chief Parliamentary Counsel in 2018. I would also like to express my appreciation to the outgoing Chief Parliamentary Counsel Mr. Paul Linehan.

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Damien Moloney  
Director General

## Part 1: The Office

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

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

The AGO is located in Government Buildings at Merrion Street, Dublin, where a staff of approximately 130 is located. The staff includes Advisory Counsel, Parliamentary Counsel, administrative and support staff and Library and Know-How staff. The CSSO is based at Little Ship Street and Chancery Lane and there is a staff of 256 consisting of solicitors and legal executives as well as Library and Know-How and administrative staff.

The administrative head of the Office is the Director General, Damien Moloney. He also leads the Advisory Counsel on the legal advisory side of the Office. The Chief Parliamentary Counsel is June Reardon (who was appointed in May 2018 replacing Paul Linehan) and the Chief State Solicitor is Maria Browne. The Director General is the accounting officer for the Merrion Street Office and the Chief State Solicitor is the accounting officer for the Chief State Solicitor's Office.

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



State employment law e.g. appointment, discipline and pensions.

The Office provides a high quality professional service to its public service clients. It has a deep understanding of the public service, Government and the legislative process and a high level of corporate memory and know-how. The independence of the Office derives from the constitutional role of the Attorney General, the Office culture and the centralised nature of the Government's legal service. Synergies and efficiencies arise from the Office's central role especially when a whole-of-Government approach is required.

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

### **Role of Advisory Counsel**

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

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

Advisory Counsel are divided into 5 specialist groups and work closely with lawyers in both the Office of the Parliamentary Counsel to the Government in relation to advising on legal issues in the drafting of legislation and the Chief State Solicitor's Office in relation to advising on the conduct of litigation and other legal advisory matters. Advisory Counsel also work closely with external counsel when required.

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

## **Role of the Office of the Parliamentary Counsel to the Government**

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

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

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

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

The OPC is headed by the Chief Parliamentary Counsel and, in 2018, was divided into 4 drafting groups. The drafting of Bills and statutory instruments for the 17 Government Departments was divided among the drafting groups, with each group dealing with a number of specified Departments.

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

## **Role of the Chief State Solicitor's Office**

The work of the CSSO primarily involves the provision of legal services in civil law cases to the Attorney General and Government Departments and Offices. The wide remit of the civil business of the CSSO means that staff are involved in many aspects of legal work including a wide range of civil litigation in all courts (including the Court of Justice of the European Union in Luxembourg) as well as in the provision of conveyancing services, property law services, contract law services, public procurement and state aid law advice and general advisory services for an array of civil service clients. The CSSO also provides legal services to Government Departments and Offices before Tribunals of Inquiry, Commissions of Investigation and other statutory inquiries.

## **Seconded Lawyers**

The secondment of Advisory Counsel as Legal Advisers to Government Departments, which commenced in May 2006, continued. At the end of 2018 there were 24 secondees in place in 14 Departments. Two Advisory Counsel were also seconded to the EU Permanent Representation and one was seconded to the EU Parliament. Two Advisory Counsel were also seconded as National Experts to EU institutions.

Four State Solicitors were seconded to work for Commissions of Investigation and a Tribunal of Inquiry in 2018, while two other staff members were seconded to Government Departments. A State Solicitor in the CSSO was nominated to the National Experts in Professional Training programme in the European Commission during the year.

## **Law Reform Commission**

The Law Reform Commission is wholly funded from the vote of the AGO.\* It is a statutory body established by the Law Reform Commission Act 1975. Its role is to keep the law under independent, objective and expert review, to make consequent recommendations for law reform and to make current law accessible for all. The Commission's programme is carried out primarily under a programme of law reform approved by Government and placed before the Houses of the Oireachtas. The Commission also works on specific matters referred to it by the Attorney General under the Act of 1975.

## **More Information**

For more details in relation to the Attorney General's Office and the Chief State Solicitor's Office, please visit our websites at [www.attorneygeneral.ie](http://www.attorneygeneral.ie) and [www.csso.ie](http://www.csso.ie).

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

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

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

#### Examples of advisory services provided by the Office in 2018

- Asylum, immigration and citizenship matters including on judgments delivered by Irish courts and Court of Justice of EU.
- Data Protection: interpretation of the legislation.
- Forensic Science Ireland and Criminal Justice (Forensic Evidence and DNA Database Systems) Act 2014.
- Legal issues arising in Health (Regulation of Termination of Pregnancy) Bill 2018.
- Interpretation of National Vetting Bureau (Children and Vulnerable Persons) Act 2012.
- Brexit - legal advice in relation to a wide variety of legal issues arising.
- Judicial Council Bill (enacted in 2019), Judicial Appointments Commission Bill 2017 and participation in Review Group on Administration of Civil Justice.

#### Reporting on High Level Goal 1 in Statement of Strategy

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

- Legal advice and assistance was provided by Advisory Counsel to the Attorney General in a timely manner concerning his attendance at Government meetings, his advice to Government and Ministers and the discharge of his functions generally.

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

- Parliamentary Counsel provided briefing to the Attorney General on progress and legal advice arising during the drafting process particularly in advance of Government and Government Legislation Committee meetings.

### ***1.2 Regular structured communication with client Departments and Offices***

- The three parts of the Office had regular meetings with key clients (in addition to consultations and meetings on particular issues) e.g. on Extradition/EAW, Asylum and Immigration and the Marine Co-ordination Group. The Office also participated in the relevant Inter-departmental and Senior Official Groups on Brexit.
- Cross-group teams of Advisory Counsel with the requisite spread of expertise ensured a high quality legal advisory service in major projects such as Brexit and the proposed investigation and exhumation at the Tuam Mother and Baby Home.
- Office processes were reviewed and improved e.g. in the areas of EU law.

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

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

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

- The subject areas and the membership of the 5 groups of Advisory Counsel were regularly reviewed, having regard to the spread of expertise, the fluctuations of work and the development of lawyers' skills and experience. The heads of those groups were in regular contact at their weekly meeting and as required in relation to projects that required specialist input from across a number of groups.
- As well as continuing to advise on files already opened, close to 1,000 advisory files were opened in the Office in 2018. Legal advice was also given on legislative, litigation and transactional files.
- Advisory Counsel updated their specialist knowledge of relevant areas of the law through research; mentoring and induction; attendance at courses and conferences, in-

house training and development and regular in-house legal meetings where current legal issues were presented by Advisory Counsel and Parliamentary Counsel. The circulation of group weekly reports to all lawyers in the Office and the emphasis on contributing key legal advices to the Office know-how system were key elements of keeping Advisory Counsel up to date. Specialist knowledge was enhanced by training in the use of research tools on the case and records management system, know-how database and other commercially produced legal databases.

- Library and Know-How staff and legal researchers worked closely with Advisory Counsel groups to maximise their ability to provide high quality advice taking account of the latest developments and authorities. Library and Know-How staff were very active in the Office training and development and know-how initiatives. In addition they regularly circulated recently delivered judgments, accumulated high quality legal blogs and constantly reviewed the catalogue of texts available in the library.
- Advisory Counsel played a particular role in litigation by contributing in-depth legal analysis and reviewing counsel's advice from a whole-of-Government perspective, consulting and informing the Attorney General, as appropriate. A strategic approach to legal issues, including mediation in certain cases, was taken in areas of litigation such as asylum, immigration, Article 40 applications, European arrest warrants, environmental law, employment and disciplinary matters where many cases raise the same issue (see para 3.1 below). The Office also identified legal issues arising which may benefit from a legislative solution.
- The preparation of legal observations and seeking the Attorney General's input on General Schemes of Bills is a significant and demanding role of Advisory Counsel. Constitutional, EU, ECHR and legal policy issues were considered and the Advisory Counsel's knowledge and understanding of the public service, the legislative process, the legal system and case law in the particular areas were essential components to the Advisory Counsel's input.
- After the Government Decision for the drafting of a Bill, Parliamentary Counsel and the Department regularly raised legal issues for the consideration of Advisory Counsel, often of the most complex and novel nature. Advisory Counsel made legal submissions to the Attorney General when his view on issues was required. Advisory Counsel also participated in the Quality Assurance procedures for draft legislation (see 2.6 below).

- Since the present Government came into office, Advisory Counsel have assisted client Departments to understand the legal implications of Private Members' Bills.
- New areas of the law were regularly identified, in collaboration with client Departments, and expertise was further developed in those areas. The legal issues surrounding Brexit, the internet, social media and data protection, retention and sharing are examples of areas raising novel and unprecedented issues of EU and Irish law. Office staff attended in-house and external seminars and lectures on these areas.

### **1.5 Specialised advisory function in the CSSO**

- In 2018, the Advisory Section in the CSSO moved to develop its advisory function with the transfer of litigation files to litigation sections in the Office. The Section's ability to focus on an advisory role was, however, again during 2018 significantly impacted by the large increase of work occasioned by the emergence of new statutory investigations, tribunals and inquiries.

This included providing a legal service to clients before the Disclosures Tribunal, Commission of Investigation into Mother and Baby Homes and Certain Related Matters, the Commission of Investigation (Certain matters relative to a disability service in the South East and related matters), Commission of Investigation (National Asset Management Agency) and five statutory inquiries under Section 42 of the Garda Síochána Act 2005. In addition, advices were provided in anticipation of the Commission of Investigation (Response to complaints or allegations of child sexual abuse made against Bill Kenneally and related matters). Notwithstanding this, the following advisory work was carried out in 2018:

- In conjunction with Advisory Counsel, advices on a myriad of issues ranging from powers of delegation, salvage law, waste disposal, company law redundancy, licensing laws and contract disputes and in relation to developing areas of the law including the impact of the Data Protection Act 2018 on the State's interactions with citizens.
- Advices in relation to the courts' supervision of Freedom of Information Act processes.
- Representation of clients before Citizenship Revocation Committee hearings.
- Providing assistance to civil servants served with subpoenas in third party proceedings.

- Advising in conciliations and arbitrations for OPW and other property related advices.
- The Advisory Section also developed closer ties with other CSSO legal sections in relation to pre-litigation work seeking to find early intervention solutions with clients, including being a “first port of call” for secondees in client Departments and Offices needing urgent CSSO advices.
- The CSSO prioritised training and upskilling of staff in priority areas such as data protection, criminal law and construction law, in addition to enhancing skillsets to meet the needs of statutory inquiry work.

### ***1.6 Continuing to support and further develop the secondment programme***

- The development of strong connections with the seconded Advisory Counsel and legal units in client Departments was ongoing. An Advisory Counsel at Assistant Secretary level chaired an umbrella group for teams that provided support to seconded Advisory Counsel; organised training and development on areas of particular importance to in-house Government lawyers; supported and worked with the network for seconded Advisory Counsel; and reported regularly to the AGO Management Committee.
- Seconded Advisory Counsel attended general meetings of Advisory Counsel in the AGO, training and knowledge management events such as presentations and had access to the AGO Library and Know-How service as required.

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

- A Steering Committee on EU Law oversaw a number of significant projects such as a review of AGO involvement in the development of EU legislation and its transposition; a review of the Office involvement in litigation before the Luxembourg courts; enhanced Departmental engagement; the provision of specific legal education, training and knowledge sharing regarding EU law matters in the Office; and the tracking of important EU legal issues in a user-friendly fashion, paying particular attention to the requirements of seconded Advisory Counsel in this respect.

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

- In accordance with the AGO policy of reviewing the panels of counsel every year, the panels were updated in 2018.



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

### Examples of legislation drafted by the OPC in 2018

#### **Data Protection Act 2018**

Reformed the law on data protection by giving effect to the General Data Protection Regulation and the corresponding Directive applicable in the context of law enforcement.

#### **Thirty-sixth Amendment of the Constitution Act 2018 and the Health (Regulation of Termination of Pregnancy) Act 2018**

The former Act provided for the amendment of Article 40.3.3° of the Constitution and the latter Act regulated the law on termination of pregnancy.

#### **Home Building Finance Ireland Act 2018**

Provided for the formation of Home Building Finance Ireland with a view to making available of financing for residential development in the State.

#### **National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018**

Provided for the establishment of a “Rainy Day Fund” intended to be a reserve fund to be drawn on when certain conditions are met.

#### **Technological Universities Act 2018**

Provided for the establishment of technological universities, the dissolution of certain institutes of technology and reformed governance and investigation procedures for certain providers of third level education.

#### **Aircraft Noise (Dublin Airport) Regulation Bill 2018**

Provided for various matters related to assessing and addressing aircraft noise in Dublin Airport, as well as making certain regulatory changes relating to aircraft noise.

### Reporting on High Level Goal 2 in Statement of Strategy

#### **2.1 Preparation of draft legislation**

- The OPC drafted primary and secondary legislation to give effect to the legislative policy set by the Government and in conformity with the Constitution and the State’s EU obligations.
- Although the OPC does not draft Private Members’ Bills, the Office drafted Committee and Report stage amendments to such Bills that were approved by Government to be

moved by the relevant Government Minister during their passage through the Houses of the Oireachtas.

- The OPC drafted:
  - Government Bills, 46 of which were published in 2018, including 2 Bills to amend the Constitution (listed at Annex A) and 39 of which were enacted in 2018, including 2 Acts amending the Constitution (listed at Annex B)
  - Committee and Report stage amendments to Government Bills
  - Committee and Report stage amendments to 7 Private Members' Bills, 5 of which were enacted in 2018 (listed at Annex C)
  - 204 statutory instruments (including 42 for the purposes of transposing European Union measures into Irish law).

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

During 2018, the OPC continued to facilitate Departments by drafting legislation that was required urgently, while reminding Departments of the importance of adhering to the procedures set out in the Cabinet Handbook to enable the OPC to deliver legislation within the required timeframe. The OPC also continued to emphasise to Departments the importance of fully formulating and developing policy proposals before engaging the services of the OPC.

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

## ***2.3 Engagement with Government Departments***

In 2018, the OPC continued to engage with Government Departments at all stages of the drafting process with a view to achieving greater efficiency in their interaction with the OPC. Departments were reminded of the importance of consulting with seconded Advisory Counsel at an early stage in the development of legislative proposals and with other Government Departments where policy proposals fall within, or have implications for, policy areas that fall under the remit of more than one Department. The OPC continued to engage with Departments to support their training initiatives relating to the legislative

process. The OPC was also centrally involved with Government Departments in preparation for the withdrawal of the United Kingdom from the European Union.

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

During 2018 the OPC continued to actively participate in the Government Legislation Committee, providing regular reports detailing progress on the drafting of priority list Bills, in order to enable proper monitoring and supervision of the implementation of the Government Legislation Programme. The OPC's ongoing participation in the work of the Committee provided a vital mechanism for mediating between competing legislative priorities of Departments. The OPC also regularly briefed the Attorney General (who is a member of the Government Legislation Committee and attends meetings of the Committee) in relation to the progress of draft legislation and legal issues arising during the drafting process.

#### ***2.5 Engagement with Advisory Counsel***

The OPC continued to collaborate with and consult with Advisory Counsel in the Office, through informal discussion and written requests for advice, in relation to legal issues arising in the drafting of legislation. The OPC also engaged with Advisory Counsel in reviewing the procedures for interaction between Advisory Counsel and Parliamentary Counsel relating to the drafting of legislation.

#### ***2.6 Quality Assurance procedures***

- The Quality Assurance procedures in relation to draft legislation were successfully implemented in 2018. These procedures involve the review of each draft Bill, generally by two Parliamentary Counsel (in addition to the Parliamentary Counsel who drafted the Bill) and an Advisory Counsel, prior to agreeing the final text of the Bill with instructing Departments. The purpose of the procedures is to assist in safeguarding the quality and legal efficacy of draft legislation and to facilitate the sharing of expertise and insights.
- The OPC also continued to operate the Legislative Workbench system for the preparation of the text of Bills and amendments to Bills in conjunction with the Bills Office in the Houses of the Oireachtas.

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

### Examples of litigation services provided by the Office in 2018

#### Judicial Review

##### *IRM v. Minister for Justice & Equality*

Immigration case in which a unanimous decision of the Supreme Court clarified the constitutional position of the unborn in advance of the Thirty-sixth Amendment to the Constitution.

##### *Luximon v. Minister for Justice & Equality / Balchand v. Minister for Justice & Equality*

Supreme Court decision - whether students who entered the State on student permissions had the right to have their family and privacy rights under Article 8 of the European Convention on Human Rights taken into account by the Minister when considering whether to renew the applicants' permission to remain in the State.

##### *Moore v. Minister for Arts, Heritage & the Gaeltacht*

Challenge to the decision of the Minister to create a heritage site on 14-17 Moore Street, Dublin, which had previously been designated as a national monument. The Court of Appeal found that the High Court had no jurisdiction under section 2 of the National Monuments Act 1930 to declare the buildings to be a national monument as this was an area of policy for the legislature to decide.

#### Criminal Justice & Data Retention

##### *Dwyer v. Commissioner of An Garda Síochána & Ors*

Challenge to provisions of the Communications (Retention of Data) Act 2011 alleging that data gathered from the plaintiff's phone, should not have been used at his 2015 murder trial. The High Court ruled that the plaintiff was entitled to limited declarations that certain provisions of the 2011 Act were inconsistent with EU law. Judgment currently under appeal to the Supreme Court.

#### Criminal Justice & European Arrest Warrant cases

The Office dealt with a large volume of European Arrest Warrant applications before the courts during 2018.

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

## **Bankruptcy**

### ***Minister for Communications, Energy and Natural Resources & O'Connell v. Wood and Wymes***

Bankruptcy proceedings arising out of debtors' failure to pay circa. €5.25 million in costs and interest which was due to the State following a 177-day High Court trial in the *Bula Ltd. v Tara Mines Ltd.* case.

## **Plenary / Judicial Review actions**

### ***Denis O'Brien v. Clerk of Dáil Éireann, Ireland and The Attorney General & Ors* *Angela Kerins v. McGuinness & Ors***

Consideration of the extent of Oireachtas privilege under Article 15 of the Constitution. Both cases were heard before the Supreme Court in 2018, with each Judgment delivered in 2019.

### ***Health Care – Consultant Doctor Contract cases***

Proceedings brought by a number of consultant doctors alleging a failure on the part of the State to meet the terms of the 2008 Consultant Contract, including a failure to pay certain salary increases. Case had significant financial implications for the State. Proceedings were settled following lengthy negotiations.

## **Court of Justice of the European Union (CJEU) cases**

### ***Ireland v. European Commission***

Challenge by Ireland to the decision of the European Commission that the State had granted State Aid of €13 billion to technology company, Apple.

### ***Minister for Justice & Equality & Anor v. Workplace Relations Commission***

Preliminary reference from the Irish Supreme Court. The CJEU ruled that bodies such as the Workplace Relations Commission, which are established by law in order to enforce EU law in particular areas, must have the power to dis-apply national legislation, including provisions of the Constitution which are contrary to EU law.

## **Reporting on High Level Goal 3 in Statement of Strategy**

### **3.1 Proactive Case Management – examples:**

- Planning and Environmental Law Forum:  
In response to a significant increase in the number of judicial review proceedings in the area of planning and environmental law, the Office established a Planning and

Environmental Law Forum in 2018. The Forum consists of representatives from the CSSO, the AGO and the four client Departments principally affected by these challenges and allows for the sharing of knowledge and information on developing trends to ensure a cross-Government approach to case outcomes.

- **Article 40 Stakeholders Group:**

The Office has responsibility for representing the Minister for Justice and Equality, An Garda Síochána, the Courts Service, the Irish Prison Service, the Minister for Children and Youth Affairs and the Director of Oberstown Children's Detention Centre in *habeas corpus* proceedings founded upon Article 40.4.2° of the Constitution. This enables a person detained to challenge the legality of their detention. Responding to increasing numbers of 'Article 40' challenges, the Office worked with our clients and with the Courts Service, the State Claims Agency and the Director of Public Prosecutions to establish a multi-disciplinary, multi-agency Article 40 Stakeholders' Group to identify recurring trends in applications so as to improve procedures and reduce costs.

- **Productive engagement with the High Court:**

During 2018, the Office monitored the practices and procedures applicable in the Immigration and Asylum list in the High Court, and made submissions on practice directions. This culminated in the introduction of Practice Direction HC81 which brought clarity and rigour to the procedures applicable in this busy area of law.

### **3.2 Leveraged experience and knowledge**

- The Office ensured that the knowledge and experience gained during the conduct of cases was harnessed to inform strategy in similar cases. Through the use of the Office's knowledge management systems, important advices were captured for future use. The outcome of significant cases and those of cross-sectoral interest were communicated to staff to ensure that this knowledge was brought to bear for the benefit of clients in the conduct of litigation.
- The Office identified recurring legal challenges to legislation with our client Departments. The Office encouraged clients to adopt a proactive approach to progressing legislative amendment to close off the risk of further legal challenge where appropriate.

- Through engagement with stakeholders, the Office strengthened procedures and processes so as to reduce unnecessary procedural legal challenges to the business of Government through after-action reviews, feedback and advice to clients.

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

### **Examples of transactional services provided in 2018: CSSO State Property Division**

#### **Brexit preparations**

- Advising the OPW on its acquisition of property interests in key locations to meet urgent property infrastructure requirements for Brexit preparedness.

#### **Purchases and Sales**

- Acquisition and disposal of properties and lands as part of the OPW's mandate to source, provide and manage office accommodation for Central Government Departments and Agencies.
- Acquisition of sites in strategic locations throughout the State to meet the targets set by the Department of Education & Skills for construction and delivery of schools as part of the Department's Rapid School Building Programme.
- Acquisition of boglands by the Department of Culture, Heritage and the Gaeltacht as part of its conservation mandate to protect, manage and conserve national raised bogs located in Special Areas of Conservation for the benefit of present and future generations.

#### **Commercial Leases and Licences**

- Acquisitions of leasehold interests by the OPW to meet ongoing requirements for office space for Government Departments and Offices.
- Provision of specialist maritime advice in respect of the State's management of all designated Fishery Harbour Centres, the foreshore, and in meeting the needs of the Irish Coastguard with regard to its property portfolio.

#### **State Securities**

- Preparation and registration of charges to secure grants to bodies benefitting under the Government's Sports and Arts and Culture Capital Funding Programmes.
- Provision of specialist advice and legal services in respect of property devolved to the State pursuant to the State Property Act 1954 and the Succession Act 1965.



## Examples of transactional services provided in 2018: CSSO Commercial Contracts Section

- Tender Competition for the provision of general banking services across Government procured using the competitive dialogue procedure.
- Advices on a Framework Agreement for Natural Gas and a Dynamic Purchasing System for Electricity for the entire public sector.
- Advice on the Future Growth Loan Scheme and Counter-Guarantee Agreement with the European Investment Fund.

### Reporting on High Level Goal 4 in Statement of Strategy

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

The CSSO led in providing a transactional legal service to client Departments and Offices.

- The State Property Division implemented a new Service Delivery Model comprising three new Sections organised by legal and transactional specialism. This revised model is designed to enhance efficiencies and increase knowledge sharing to optimise client services.
- Both the State Property Division and the Commercial Contracts Section engaged regularly with key clients to review ongoing matters and to strategically plan for upcoming projects. Both also regularly met with instructing officials and AGO secondees, as required, in client Departments throughout the year.

#### ***4.2 Delivery of a high quality service***

We ensured the delivery of a high quality service to client Departments and Offices.

- We enhanced our internal systems for managing and reporting on key transactional work across both the State Property and Commercial Contracts areas.
- We assisted clients in the development of practical solutions to meet their business challenges, for example, in the acquisition of key properties for Brexit related work and of greenfield sites for schools and in tailoring training programmes for OGP staff and other client Departments on compliance with public procurement law and the EU General Data Protection Regulation 2016/679 (“GDPR”).

- We engaged in an active knowledge management programme and ensured staff upskilled by undertaking training in new areas.
- We ensured the application of appropriate expertise to cross-cutting services and appropriate management of contentious transactions through active collaboration with colleagues in CSSO litigation divisions and in the AGO. In the case of the Commercial Contracts Section, this involved working closely with the CSSO Judicial Review and Commercial & Constitutional Sections on cases such as *Word Perfect*, *Copymoore*, *Glenbeigh Construction*, the schools works challenges and a Kildare towing challenge.
- The Commercial Contracts Section promoted consistency and streamlining in all transactions where possible in order to drive efficiency in the delivery of our services and advised on the development of public policy. In particular, the Commercial Contracts Section worked with the OGP to develop:
  - a suite of ICT templates for use across the public service for the design, build and implementation of ICT systems
  - GDPR clauses to ensure OGP's standard template documentation met all EU legal obligations on Privacy and Data Protection
  - an Information Note on Incorporating Social Considerations into Public Procurement.

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

### **Reporting on High Level Goal 5 in Statement of Strategy**

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

- AGO continued working towards full implementation of action points identified in its Knowledge Management Strategy including systems to safeguard knowledge retention where a person leaves or retires from the Office.
- A wide-ranging programme of legal issues meetings continued to be presented by staff members to colleagues during the year.
- The law blog committee continued to employ the legal blog as a legal knowledge management tool with weekly posts on a range of legal subjects.
- AGO continued to enhance the capture, sharing and accessibility of legal and organisational know-how through ongoing promotion of the legal know-how database and targeted campaigns like the KNOWvember initiative.
- AGO continued to monitor trends and developments in knowledge management including participation in the Civil Service Knowledge Management Network and engaged in networking within the wider knowledge management community.

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

- The CSSO Knowledge & Information Service continued to develop the content and functionality of CSSOLegal, the Office's legal information and knowledge portal.
- CSSO staff participated in knowledge management initiatives such as contributing content to the regularly published CSSO Legal Bulletin.

- CSSO staff also participated in and attended Lunch & Learn<sup>KM</sup> Seminars. The purpose of Lunch & Learn<sup>KM</sup> Seminars is to give colleagues the opportunity to share their expertise on a wide variety of legal issues in an informal and collegiate atmosphere.
- Identifying knowledge management priorities was achieved through the completion of Knowledge Plans in each Section and Division across the CSSO and the holding of regular knowledge management meetings.

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

- A new AGO strategy for Learning and Development for 2017-2021 was completed in 2017. In 2018, work continued to implement the various points of action outlined in that strategy. The Office also regularly reviewed its training needs and continued to implement a system of regular feedback for all internal and external training.
- In the CSSO, legal and administrative staff participated in training and development planning in the Office. Particular emphasis was given to in-house training, focused particularly on Continuing Professional Development for solicitors, which had the benefit of being customised and cost-effective. The Training & Development Unit also organised for fellow public bodies to present to staff and for CSSO solicitors to present on topics of relevance to fellow staff.
- Lectures and seminars on legal topics were held in both Offices, including a new series of EU legal lectures from external experts and colleagues who were on secondment in the Permanent Representation in Brussels and EU institutions.
- Both Offices continued to engage with OneLearning, the Civil Service Learning and Development Centre, as part of Action 9 of the Civil Service Renewal Plan.

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

### **Reporting on High Level Goal 6 in Statement of Strategy**

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

- **Processes and Systems:** The AGO and CSSO continued to keep abreast of developments in private legal firms and in particular the support systems employed for the delivery of high quality legal services to clients. This included keeping informed of advancements in information and communications technologies (ICT) in a law office environment, participating in a Knowledge Management Network and seeking to implement current best practice in the Offices. During 2018, both Offices continued to engage with counterpart offices in other jurisdictions with a view to discussing and sharing comparative practices and systems used in the delivery of legal services in a public sector environment.
- **Human Resources:** The AGO and the CSSO kept their budget for staffing under review whilst agreeing their 2018 estimates with the Department of Public Expenditure and Reform.
- By closely liaising with the Public Appointments Service and contributing resources to the running of recruitment competitions, both Offices worked to ensure that the most suitable staff were recruited to fill vacancies arising throughout 2018.

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

- The AGO and the CSSO continued to keep their staffing needs under constant review during 2018.
- Both Offices undertake workforce planning to ensure that they can anticipate staffing needs having regard to secondments to other Departments, conclusion of contracts and retirements etc, in addition to meeting the requirements of clients in new areas. A new workforce plan to cover the years 2019-2021 was submitted to the Department of Public Expenditure & Reform during the year to ensure that both Offices could seek to anticipate staffing requirements.

- **Corporate management:** In preparing any requests for additional staffing the Offices were mindful of their 2018 budgetary allocation and the need to remain within budgetary constraints. During 2018, financial briefings were provided by the Finance Officers at monthly management meetings. These briefings provided detailed profiles of expenditure across all subheads. In addition, Partnership meetings took place in both Offices.
- **Preparation for migration to Financial Shared Services:** Across the Public Service, Departments and Offices are preparing for the full implementation of the Financial Shared Services. This continued during 2018 where representatives from both Offices attended a number of meetings and workshops to prepare for this migration. Both Offices are scheduled to fully move to the new Financial Shared Service in Wave 5.
- **Electronic Irish Statute Book:** The Office's eISB Group oversees the ongoing production, management and updating of the electronic Irish Statute Book (eISB) and made a significant contribution in 2018 to the e-Government agenda. The eISB is an online repository of primary and secondary legislation that is regularly updated and freely available to the public through the website [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

A Legislation Directory for Acts (from 1922 to 2018) and statutory instruments (from 1981 to 2018) is also published, which enables users of the eISB to identify whether a particular statutory provision has been amended or otherwise affected since it was enacted or made.

The full text of the Constitution with links to amending Acts is also published on the eISB. The eISB continues to provide a direct link from Acts to Revised Acts (unofficial administrative consolidations compiled by the Law Reform Commission) where available and, in line with open data principles, the eISB continues to make primary legislation data available in XML format.

A Request for Tender (RFT) was issued in July 2018 for electronic legislation publication services and a contract was awarded in December 2018.

- **European Legislation Identifier (ELI):** In 2018 the Office continued to implement the European Legislation Identifier (ELI) through the eISB. The ELI requires EU Member States to use standardised on-line identification of legislation and metadata properties describing each legal resource, so as to enable an effective, user-friendly and faster search and exchange of legal information.

- **Case and Records Management:** The Registry Units in both Offices continued to execute their core activities in 2018 including records management, file maintenance and matter inception/case creation. Staff in both Offices received training in disaster recovery, a major element of the Office's Risk Management Policy. Other key activities included the preparation and transfer of files to the National Archives in accordance with relevant legislation and the transfer of dormant files to offsite storage to ensure adequate storage provision for current files.

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

- **Risk Management:** During 2018 staff contributed to the further embedding of formal risk management principles within both Offices. The risk registers were reviewed and updated during the year and risk assurance statements were sought biannually from risk owners.
- **Performance Management and Development System (PMDS):** In 2018 staff in both Offices continued to participate in PMDS with a compliance rate of just over 84% recorded for the AGO and 75% recorded for the CSSO.
- **Civil Service Renewal and Reform:** During 2018 both Offices continued to implement or assist in the implementation of initiatives under the Civil Service reform programme. Some of the actions of note during 2018 included:
  - The continued embedding of the HR Shared Service and the preparation for the move to Financial Shared Services (Action 6)
  - Entry competitions to both Offices open to all individuals with the required qualifications (Action 8)
  - Continuation of the Principal Officer Leadership Programme to develop future leaders (Action 10)
  - Continued use of the LEADS performance management system for Assistant Secretaries General and above (Action 12)
  - Continued development of the mobility scheme for staff with an expected launch date of 2019 for the scheme (Action 15)
  - Staff Engagement – analysis of and follow up through additional surveys and focus groups on the 2017 Civil Service Employee Engagement Survey results (Action 25)

- **Training and Development:** The AGO Learning and Development Committee continued to progress points of action as set out in the Learning and Development Strategy for the Office. Legal and administrative staff in the CSSO participated in the work of the CSSO Training and Development Committee to ensure compliance with the CSSO Training and Development Strategy. In addition, both Offices continued to focus on wellness programmes for their staff.
- **Irish Law Awards 2018:** The Judicial Review Section of the CSSO won the public sector law firm of the year award.

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

- **Staff Secondment to Government Departments and European Institutions**  
Secondment opportunities are viewed as a key strategy in retaining expert staff and further building legal expertise. During 2018 staff from the AGO continued to be seconded to assist in other Departments, Offices and organisations. CSSO staff continued to be seconded to client Departments and to assist in public inquiries.
- **Increased specialist legal needs**  
During the year, the Offices continued to recruit specialised staff and to train and upskill staff to meet the priority legal needs of Government.



## Part 3: Annexes

## Annex A

### Government Bills published in 2018

#### Bills to amend the Constitution

- Thirty-sixth Amendment of the Constitution Bill 2018
- Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Bill 2018

#### Public General Bills

- African Development (Bank and Fund) Bill 2018
- Aircraft Noise (Dublin Airport) Regulation Bill 2018
- Appropriation Bill 2018
- Central Bank (National Claims Information Database) Bill 2018
- Children and Family Relationships (Amendment) Bill 2018
- Children's Health Bill 2018
- Companies (Amendment) Bill 2019
- Consumer Protection (Gift Vouchers) Bill 2018
- Copyright and Other Intellectual Property Law Provisions Bill 2018
- Coroners (Amendment) Bill 2018
- Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill 2018
- Criminal Justice (Mutual Recognition of Probation Judgments and Decisions) Bill 2018
- Criminal Law (Extraterritorial Jurisdiction) Bill 2018
- Criminal Law (Sexual Offences) (Amendment) Bill 2018
- Data Protection Bill 2018
- Data Sharing and Governance Bill 2018
- European Investment Fund Agreement Bill 2018
- Finance Bill 2018
- Greyhound Racing Bill 2018
- Health (General Practitioner Service) Bill 2018
- Health (Regulation of Termination of Pregnancy) Bill 2018
- Health and Social Care Professionals (Amendment) Bill 2018
- Health Insurance (Amendment) Bill 2018
- Health Service Executive (Governance) Bill 2018
- Home Building Finance Ireland Bill 2018
- Houses of the Oireachtas Commission (Amendment) Bill 2018
- Industrial Development (Amendment) Bill 2018
- Industrial Relations (Amendment) Bill 2018

- Insurance (Amendment) Bill 2018
- Irish Film Board (Amendment) Bill 2018
- Local Government (Rates) Bill 2018
- Local Government Bill 2018
- Markets in Financial Instruments Bill 2018
- Mental Health (Renewal Orders) Bill 2018
- National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018
- Personal Injuries Assessment Board (Amendment) (No. 2) Bill 2018
- Public Service Superannuation (Age of Retirement) Bill 2018
- Public Service Superannuation (Amendment) Bill 2018
- Qualifications and Quality Assurance (Education and Training) (Amendment) Bill 2018
- Radiological Protection (Amendment) Bill 2018
- Residential Tenancies (Amendment) (No. 2) Bill 2018
- Social Welfare, Pensions and Civil Registration Bill 2018
- Telecommunications Services (Ducting and Cables) Bill 2018
- Vehicle Registration Data (Automated Searching and Exchange) Bill 2018

## **Annex B**

### **Government Bills enacted in 2018**

#### **Acts amending the Constitution**

- Thirty-sixth Amendment of the Constitution Act 2018
- Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Act 2018

#### **Public General Acts**

- Appropriation Act 2018
- Central Bank (National Claims Information Database) Act 2018
- Childcare Support Act 2018
- Children and Family Relationships (Amendment) Act 2018
- Children's Health Act 2018
- Companies (Statutory Audits) Act 2018
- Criminal Justice (Corruption Offences) Act 2018
- Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018
- Data Protection Act 2018
- Domestic Violence Act 2018
- Education (Admission to Schools) Act 2018
- Employment (Miscellaneous Provisions) Act 2018
- European Investment Fund Agreement Act 2018
- Finance (African Development (Bank and Fund) and Miscellaneous Provisions) Act 2018
- Finance Act 2018
- Health (General Practitioner Service) Act 2018
- Health (Regulation of Termination of Pregnancy) Act 2018
- Health Insurance (Amendment) Act 2018
- Heritage Act 2018
- Home Building Finance Ireland Act 2018
- Houses of the Oireachtas Commission (Amendment) Act 2018
- Industrial Development (Amendment) Act 2018
- Insurance (Amendment) Act 2018
- Irish Film Board (Amendment) Act 2018
- Markets in Financial Instruments Act 2018
- Mental Health (Renewal Orders) Act 2018
- National Archives (Amendment) Act 2018
- Planning and Development (Amendment) Act 2018
- Public Health (Alcohol) Act 2018

- Public Service Superannuation (Age of Retirement) Act 2018
- Public Service Superannuation (Amendment) Act 2018
- Radiological Protection (Amendment) Act 2018
- Road Traffic (Amendment) Act 2018
- Social Welfare, Pensions and Civil Registration Act 2018
- Technological Universities Act 2018
- Telecommunications Services (Ducting and Cables) Act 2018
- Vehicle Registration Data (Automated Searching and Exchange) Act 2018

## **Annex C**

### **Private Members' Bills enacted in 2018**

- Consumer Protection (Regulation of Credit Servicing Firms) Act 2018
- Fossil Fuel Divestment Act 2018
- Intoxicating Liquor (Amendment) Act 2018
- Intoxicating Liquor (Breweries and Distilleries) Act 2018
- Mental Health (Amendment) Act 2018

## Annex D

**Office of the Attorney General**  
**Vote 3: Merrion Street Office**  
**Outturn 2018 and Estimate for 2018 and 2019**

Estimate and Outturn for 2018 and Estimate of the amount required in the year ending 31 December 2019 for the salaries and expenses of the Office of the Attorney General including a grant.

	<b>Service</b>	<b>Estimate Provision</b>	<b>Outturn</b>	<b>Estimate Provision</b>
		<b>2018</b>	<b>2018</b>	<b>2019</b>
		<b>€000</b>	<b>€000</b>	<b>€000</b>
	<b>Administration</b>			
A1	Salaries, Wages and Allowances	11,677	10,771	11,894
A2 (i)	Travel and Subsistence	176	249	210
A2 (ii)	Training and Development and Incidental Expenses	640	573	640
A2 (iii)	Postal and Telecommunication Services	70	56	63
A2 (iv)	Office Equipment and External IT Services	590	761	590
A2 (v)	Office Premises Expenses	160	100	160
A2 (vi)	Consultancy Services and Value For Money Reviews	50	28	43
A2 (vii)	Contract Legal Expertise	300	178	280
	<b>Subtotal</b>	<b>13,663</b>	<b>12,716</b>	<b>13,880</b>
	<b>Other Services</b>			
A3	Contributions to International Organisations	38	39	39
A4	Law Reform Commission (Grant in Aid)	2,280	2,008	2,295
A5	General Law Expenses	140	72	139
	<b>Gross Total</b>	<b>16,121</b>	<b>14,835</b>	<b>16,353</b>
	<b>Deduct</b>			
B	Appropriations-in-Aid	(799)	(649)	(761)
	<b>Net Total</b>	<b>15,322</b>	<b>14,186</b>	<b>15,592</b>

**Vote 6: Office of the Chief State Solicitor**  
**Provisional Outturn for 2018 and Estimate for 2018 and 2019**

Estimate and Outturn for 2018 and Estimate of the amount required in the year ending 31 December 2019 for the salaries and expenses of the Office of the Chief State Solicitor.

	<b>Service</b>	<b>Estimate Provision</b>	<b>Provisional Outturn</b>	<b>Estimate Provision</b>
		<b>2018</b>	<b>2018</b>	<b>2019</b>
		<b>€000</b>	<b>€000</b>	<b>€000</b>
	<b>Administration</b>			
A1	Salaries, Wages and Allowances	17,371	16,591	18,113
A2(ii)	Travel and Subsistence	70	97	70
A2(iii)	Training and Development and Incidental Expenses	813	971	983
A2(iv)	Postal and Telecommunications Services	350	310	330
A2(v)	Office Machinery and Other Office Supplies and Related Services	750	656	750
A2(vi)	Office Premises Expenses	275	123	275
A2(vii)	Consultancy Services and Value for Money and Policy Reviews	50	17	50
	<b>Subtotal</b>	<b>19,679</b>	<b>18,299</b>	<b>20,571</b>
	<b>Other Services</b>			
A3	External Legal Services	200	220	200
A4	Fees To Counsel	13,500	13,971	13,500
A5	General Law Expenses	1,400	1,025	1,300
	<b>Gross Total</b>	<b>33,668</b>	<b>33,982</b>	<b>35,571</b>
	<b>Deduct</b>			
B	Appropriations-in-Aid	1,084	1,374	955
	<b>Net Total</b>	<b>32,340</b>	<b>32,658</b>	<b>34,615</b>



## Annex E

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

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

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

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

The key procedures which are in place are as follows:

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

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

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

## **Report on Payment Practices for 2018**

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

#### **General**

- Relevant payments made by the AGO 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 €1,945,389 in 2018 were made from the Vote of the Office of the Attorney General in respect of payments to which the legislation applies.
- There were no prompt payment interest payments incurred during the year.

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

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

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

The key procedures which are in place are as follows:

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

### **Report on Payment Practices for 2018** **Chief State Solicitor's Office**

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

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

### **Payments to which Prompt Payments applied from January to December 2018**

Total Value of all Payments	€2,818,175.15
Total Value of all late payments (under €320 inclusive)	€4,045.61
Total Value of all late payments (over €320)	€41,223.10
Value of late payments as % of total payments	1.61%
Number of late payments in excess of €320	35
Amount of Interest paid	€4,968.10
Amount of interest as % of total payments	0.12%
Broad indication of Length of Delays	105 days

## Annex F

### Staff Breakdown

At the end of 2018 an overview of the staff breakdown and gender composition of the Merrion Street Office and the Chief State Solicitor's Office as a whole, showing the numbers in the grade and the percentage of the grade that it represents is as follows:

	<b>Male</b>	<b>Female</b>
<b>Secretary General*</b>	1 (33%)	2 (66%)
<b>Deputy Director General</b>	1 (100%)	0 (0%)
<b>Assistant Secretary</b>	4 (31%)	9 (69%)
<b>Principal Officer</b>	21.8 (41%)	31 (59%)
<b>Assistant Principal</b>	62 (38%)	99.65 (62%)
<b>Higher Executive Officer</b>	13.8 (44%)	17.4 (56%)
<b>Administrative Officer</b>	0 (0%)	1 (100%)
<b>Executive Officer</b>	8 (21%)	29.35 (79%)
<b>Staff Officer</b>	3.8 (44%)	4.8 (56%)
<b>Clerical Officer</b>	17 (26%)	47.65 (74%)
<b>Temporary Clerical Officer</b>	4 (50%)	4 (50%)
<b>Services Officer</b>	4 (100%)	0 (0%)

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\* Excluding a former Chief Parliamentary Counsel who is still serving in the Office