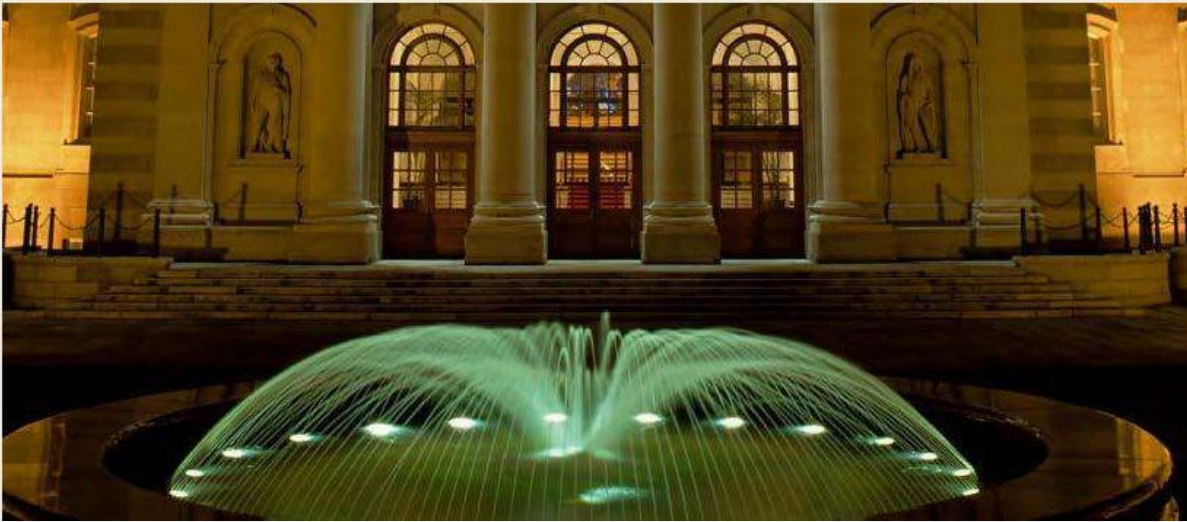


Office of the Attorney General

Annual Report 2021



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

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Foreword from the Attorney General

I was appointed as Attorney General on 17 December 2022 and this Report therefore spans a year which concluded prior to the commencement of my tenure.

However, I wish to take this opportunity to publicly acknowledge the extraordinary dedication and hard work of my predecessor, Paul Gallagher SC, and all of the staff of the Office (including the Chief State Solicitor's Office) during 2021, which transpired to be the extremely challenging second year of the Covid-19 pandemic.

I look forward to working with the staff of the Office over the course of my term, in continuing to provide the highest standard of professional legal services to our clients.

Rossa Fanning SC
Attorney General

Introduction by the Director General

Attorney General,

I am pleased to introduce the 2021 Annual Report of the Office of the Attorney General (including the Chief State Solicitor's Office) which details the diverse range and the large volume of work carried out across the Office during the year.

The service provided by the Office encompasses the full range of Government business and policy, where novel challenges continued to be presented. In 2021 the Office dealt with a very significant demand for legal services from our clients across a broad range of subject areas, in particular those related to Covid-19.

Other areas of demand for services that drew on the Office included those related to Brexit, housing and climate matters, data protection, State property and public procurement. In 2021, Ireland intervened before the Court of Justice in a number of preliminary references concerning the interpretation and applicability of EU law in a number of areas.

The Office continued to successfully negotiate the new working model brought about by Covid-19 and rose to all challenges to ensure our clients were supported effectively.

The Office continued its secondment programme and 45 legal staff participated in 2021. Advisory Counsel continued to deliver legal advice across a wide and diverse range of issues involving points of EU, constitutional, international and domestic law.

The OPC drafted a significant number of Government Bills, as well as drafting Committee and Report Stage amendments to Bills. During the year, 49 Government Bills were published and 49 Government Bills were enacted. The OPC also drafted 337 of the Statutory Instruments that were made in 2021, 45 of which related to the transposition of European Union measures.

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

I would like to sincerely thank all staff in the Merrion Street Office and the Chief State Solicitor's Office for their outstanding commitment in providing our clients with the legal services they required, often in very urgent and challenging circumstances.

Damien Moloney

Director General

Part 1
The Office

Introduction

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

The mission of the Office is to provide the highest standard of professional legal services to the Government, its Departments and Offices as economically and efficiently as possible and to support adherence to the rule of law. Our vision is to inspire excellence in our people, be at the forefront of legal developments and deliver an unrivalled service to our clients. Like any Department or Office of Government, the Office must also endeavour to fulfil its mission within the resources which the Oireachtas makes available to it. In that respect, while all elements of the Office continue to be subject to ever greater demands, the additional investment in its staffing resources recently provided is welcome.

The AGO is located in Government Buildings at Merrion Street, Dublin, where a staff of approximately 145 is located. The staff includes Advisory Counsel, Parliamentary Counsel, administrative and support staff and Library and Know-How staff. The CSSO is based at Little Ship Street and Chancery Lane and has approximately 300 members of staff including solicitors and legal executive officers as well as administrative staff and Library and Know-How staff.

The Head of the Office under the Public Service Management Act 1997 is the Director General, Damien Moloney. He also leads the Advisory Counsel to the Attorney General. The Chief Parliamentary Counsel is June Reardon and the Chief State Solicitor is Maria Browne. The Director General is the accounting officer for the AGO and the Chief State Solicitor is the accounting officer for the CSSO.

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

The Office has a deep understanding of the public service, Government and the legislative process and a high level of corporate memory and know-how. It participates in a large number of committees, working groups and professional networks of the public service, the legal profession and international organisations. The independence of the Office derives from the constitutional role of the Attorney General, the Office culture and the centralised nature of the Government's legal service. Synergies and efficiencies arise from the Office's central role especially when a whole-of-Government approach is required.

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

Role of Advisory Counsel

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

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

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

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

Role of the Office of the Parliamentary Counsel to the Government

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

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

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

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

The OPC is headed by the Chief Parliamentary Counsel and is divided into four drafting groups. The drafting of Bills and statutory instruments for the 18 Departments is divided among the drafting groups, with each group dealing with a number of specified Departments.

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

Role of the Chief State Solicitor's Office

The CSSO is the principal provider of Solicitor Services to the Attorney General and Government. The CSSO provides a broad range of legal services to the Attorney General and to Departments and Offices, across the following five legal Divisions: the Administrative Law Division; the Advisory, Commercial & Employment Law Division; the Constitutional & State Litigation Division; the Justice Division; and the State Property Division which are further broken down into 17 legal sections and units. A full solicitor advisory, litigation and transactional legal service is provided across a broad range of areas including the following:

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

- devolution of real and personal property to the State under the State Property Act 1954 and the Succession Act 1965
- full transactional public procurement and commercial law services to the Office of Government Procurement and Government Departments.

Seconded Lawyers

Advisory Counsel are seconded as in-house Legal Advisers to Government Departments. At the end of 2021 there were 32 seconded Advisory Counsel in place in 14 Departments. One Advisory Counsel was seconded to the EU Permanent Representation with another seconded to the European Court of Human Rights. Two Advisory Counsel were also seconded as National Experts to EU Institutions. Seconded Advisory Counsel are involved in all major legal issues within Departments and provide legal advice directly to Departments. They act as a link between the Department and the Office of the Attorney General.

In 2021, nine CSSO solicitors were seconded to the European Commission, the Department of Education, the Department of Defence, the Stardust Inquest, the Department of Justice, Commissions of Investigation and the Disclosures Tribunal of Inquiry.

Law Reform Commission

The Law Reform Commission is wholly funded from the vote of the AGO¹. 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

¹ Money for the services of the Office which is voted by the Dáil on an annual basis.

approved by Government and placed before the Houses of the Oireachtas. The Commission also works on specific matters referred to it by the Attorney General under the Act of 1975.

More Information

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

Part 2

Achievement of Strategic Goals in Statement of Strategy²

² As set out in Statement of Strategy 2020-2023

Strategic Goal 1: Serve our clients

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

Reporting on Strategic Goal 1 in Statement of Strategy

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

In response to the Covid-19 pandemic the provision of legal advisory services by the Office of the Attorney General continued to be achieved through remote working as well as on-site service by Advisory Counsel and the continued adaptation of systems and processes for that environment. This enabled advice on the legislative response to Covid to be provided urgently to clients on such diverse matters as the necessary restrictions in the interests of public health, the financial support measures, travel restrictions and mandatory hotel quarantine. Advice was provided on varied and complex legal issues raised by Covid and Brexit to all Government Departments and certain specific examples are outlined below.

In 2021, the Advisory Section within the CSSO continued to provide a legal service to clients before tribunals, commissions of investigations, statutory inquires and statutory reviews, including in particular: the Disclosures Tribunal; the Commission of Investigation (Response to complaints or allegations of child sexual abuse made); multiple inquiries under Section 42 of the An Garda Síochána Act 2005 and the first statutory re-examination of draft final report in respect of the R116 helicopter accident pursuant to section 15 of S.I. No. 460 of 2009.

Examples of legal services provided by the Office in 2021

The Covid-19 Pandemic

Extensive legal advices were provided to many Government Departments – most notably the Department of Health – in connection with the suite of legal measures, comprising both primary and secondary legislation, required to underpin the State’s continuing response to the Covid-19 pandemic. Data protection issues requiring often urgent advices also arose in the context of many aspects of the Covid pandemic including advices on the delivery of public services remotely, contact tracing, passenger locator forms, the use of Digital Covid Certificates as evidence of vaccination and mandatory hotel quarantine. The reactive nature of this advice and response is demonstrated by the fact that the Advisory Section and the Office of the Parliamentary Counsel to the Government (“OPC”) provided legal advice and drafting support for the extension of operation of the Covid-19 legislative measures through advising on and drafting Oireachtas resolutions, primary legislation, and legislative amendment to extend the operation of primary legislation.

In addition, advice was provided in connection with the State’s defence of litigation commenced on foot of the State’s response to the Covid-19 pandemic. This included advice to the Irish Prison Service and the Department of Justice in response to a number of applications pursuant to Article 40 of the Constitution brought by prisoners who considered that their conditions of detention and means of access to the courts were adversely impacted by measures taken to mitigate the spread of Covid-19 in prisons. The Chief State Solicitors Office (“CSSO”) and the Office gave advice on contracts for the purchase of Covid-19 vaccines and their legal implications for the State and interaction with EU joint purchasing programmes.

▪ Mandatory hotel quarantine

With the commencement of a system of mandatory hotel quarantine, a system of statutory appeals was crafted for those who contended that they were not liable or

subject to such quarantine. A cross-office team of Advisory Counsel and CSSO lawyers was formed to urgently respond to an applications for High Court Article 40 inquiries into detention on foot of mandatory hotel quarantine. Advisory Counsel provided support to Government Departments in liaison with the European Commission as regards the EU law dimension of mandatory hotel quarantine.

- **Covid litigation resolved in 2021**

Irish Coursing Club challenge - the Applicant Irish Coursing Club challenged regulations made by the Minister for Health in December 2020 which, in imposing restrictions on large group gatherings, prohibited the holding of coursing events. The Applicant failed to get the order sought, that the Minister by way regulations allow the holding of such events.

- **Restaurants Association of Ireland challenge**

The Applicant challenged the regulations imposed which initially closed and then opened restaurants and pubs under conditions different than those which pertained to hotels and lodging accommodation. The State opposed the application which the Applicant withdrew rather than pursue to hearing.

Brexit

The EU/UK Trade and Co-operation Agreement was provisionally applied from 1 January 2021, and formally came into force on 1 May 2021. The Office continued to advise and support the work of client Departments, including through active participation in relevant interdepartmental working groups, in navigating this novel chapter in Ireland's and the European Union's relationship with the United Kingdom.

SI 150/2021, the European Union (Trade and Co-operation Agreement)(Part 3)(Title VII) Regulations 2021, grounds the new surrender/extradition relationship with the UK post Brexit. Case C-479/21 *PPU SN and SD*, concerned an urgent preliminary reference

from the Irish Supreme Court and was the subject of an important post-Brexit judgment of the CJEU in September 2021 which confirmed the legal basis for both the Withdrawal Agreement and the Trade and Co-operation Agreement. It clarified the binding nature of the agreements, the unique circumstances giving rise to the agreements and their interaction of those legal bases with their law enforcement and judicial cooperation content. This facilitated the efficient resumption of surrender as between the State and the UK. The Office did considerable advisory work on rendering the mutual assistance freezing and confiscation Titles of the Trade and Co-operation Agreement operable domestically.

Examples of other AGO advisory matters

- Advice on the preparations for and participation in the America's Cup 2024 together with advice on the commercial legal and contractual obligations of participation in that competition.
- Significant advices provided on the State's obligation to co-operate with the International Criminal Court when that Court is exercising its jurisdiction over war crimes as per the extended definition thereof following amendments to the Rome Statute of the International Criminal Court in circumstances where Ireland has not ratified those amendments to the Rome Statute; these advices clarified the State's obligations under international law and whether the existing domestic laws are sufficient to fulfil the State's obligations having regard to the expansion of the crimes prosecutable by the International Criminal Court.
- Substantive advices provided to the Department of Justice in respect of the Council Framework Decision and domestic legislation concerning the mutual recognition of external financial penalties i.e. mutual recognition of financial penalties imposed by judicial or administrative authorities for the purpose of facilitating the enforcement of such penalties in a Member State other than the State in which the penalties are imposed.

- Significant advices provided on various aspects of prison management including prisoner food refusal and the searching of prisoners.
- Extensive advices provided to the Department of Justice and An Garda Síochána on the statutory framework regulating firearms. This included advices on the transposition by the State of European legislative measures on firearms, and advices on the defence of judicial review proceedings challenging obligations imposed on applicants pursuant to the Firearms Acts.
- Advisory assistance to the Department of Enterprise Trade and Employment on draft legislation providing for a new system of corporate restructuring for SMEs, namely, the Companies (Rescue Process for Small and Micro Companies) Act 2021.
- Advisory assistance to the Department of Agriculture Food and the Marine on draft legislation for the prohibition of fur farming within the State, namely, the Animal Health and Welfare and Forestry (Miscellaneous Provisions) Bill 2021.
- Advice provided to the Department of Finance on legislative proposals associated with the ratification of the Agreement Amending the Treaty establishing the European Stability Mechanism.
- Advice provided to the Department of Enterprise Trade and Employment on legislative proposals for the control of military and dual-use exports.
- Advices to Government on various matters related to the Housing for All Strategy and associated residential tenancy issues, as well as on the Land Development Agency.
- Advices on data protection issues in legislative measures to address the Covid-19 pandemic.
- Advices on data protection issues in relation to the Birth Information and Tracing Bill and other matters.
- Advices to various Government Departments on Protected Disclosures, including on the Protected Disclosures (Amendment) Bill.

- Advices to the Department of Health on various matters connected to the Cervical Check legislation.
- Advices to various Government Departments on employment law matters including equality complaints.
- Advices to the Department of Public Expenditure and Reform on matters related to the Financial Emergency Measures in the Public Interest (FEMPI) legislation.
- Advice to the Department of Health on various matters connected to the implementation of Sláintecare.
- Advice to the Department of Social Protection in relation to the Public Services Card and associated litigation.
- Advices to various Government Departments on Freedom of Information issues.
- Participation in the Judicial Planning Working Group, which commenced its work in 2021, giving extensive consideration to issues of judicial resourcing, with direct judicial involvement and liaison with Organisation for Economic Co-operation and Development (OECD).

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

The OPC drafted primary and secondary legislation to give effect to the legislative policy set by the Government, in conformity with the Constitution and the State's EU obligations. This included a large volume of complex legislation addressing a broad spectrum of issues, including issues arising from Covid-19.

The OPC drafted a significant number of Government Bills during 2021. 49 Government Bills were published (listed at Annex A), and 49 Government Bills were enacted (listed at Annex B). The OPC also drafted Committee and Report Stage amendments to Government Bills. The OPC drafted Committee and Report Stage amendments to one Private Members' Bill that was enacted in 2021 (listed at Annex C).

The OPC drafted 337 of the statutory instruments that were made in 2021, including 45 for the purposes of transposing EU measures into Irish law.

Engagement with Government Legislation Committee

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

During 2021, the OPC continued to actively participate in the Government Legislation Committee, providing regular reports detailing progress on the drafting of Priority List Bills. This reporting enabled the Committee to monitor and supervise the implementation of the Government Legislation Programme. The OPC's ongoing participation in the work of the Committee provided a vital mechanism for mediating between competing legislative priorities of Departments. The Attorney General (who is a member of the Government Legislation Committee and attends meetings of the Committee) was briefed regularly by Parliamentary Counsel in relation to the progress of draft legislation and legal issues arising during the drafting process.

Engagement with Government Departments

In 2021, the OPC continued to engage with Departments at all stages of the drafting process with a view to achieving greater efficiency in their interactions. Departments were encouraged to consult with seconded Advisory Counsel at an early stage in the development of legislative proposals and with any other Departments whose remit may be affected by the proposals. The OPC continued to engage with Departments to support their training initiatives relating to the legislative process.

Emphasising importance of adherence to procedures and fully developed policy proposals

During 2021, the OPC continued to facilitate Departments by drafting legislation that was urgently required, while reminding Departments of the importance of adhering to the procedures set out in the Cabinet Handbook to enable the OPC to deliver legislation within the required timeframe. The OPC also continued to emphasise to Departments the importance of fully formulating and developing policy proposals before engaging the services of the OPC.

Engagement with Advisory Counsel

The OPC continued to collaborate with and consult with Advisory Counsel, through informal discussion and written requests for advice, in relation to legal issues arising in the drafting of legislation.

OPC Quality Assurance procedures

Parliamentary Counsel continued to implement Quality Assurance procedures during 2021 with the aim of safeguarding the quality and legal efficacy of draft legislation, while facilitating the sharing of expertise and insights.

The OPC continued to utilise a common IT system for the preparation of the text of Bills and amendments to Bills in conjunction with the Bills Office in the Houses of the Oireachtas. A number of training sessions on the system were delivered during 2021.

Examples of legislation drafted by the OPC in 2021:

- **Family Leave and Miscellaneous Provisions Act 2021**

Amends the Adoptive Leave Act 1995 to enable a couple who jointly adopt a child to choose which member of the couple is to be entitled to employment leave under that Act for the purpose of the adoption. It also amends the Parent's Leave and Benefit Act 2019 to extend the period to which a relevant parent is entitled to leave from his or her employment under that Act and to extend the period in which such leave may be taken. For those purposes the Social Welfare Consolidation Act 2005 and certain other enactments are also amended.

- **Criminal Procedure Act 2021**

Makes provision in relation to matters of criminal procedure. In particular, it provides for preliminary trial hearings to be held in respect of the trial of certain criminal offences. It also makes provision for certain documents and materials to be given to juries in the trial of certain offences and amends a number of other Acts of the Oireachtas relating to criminal procedure.

- **Nursing Homes Support Scheme (Amendment) Act 2021**

Amends the Nursing Homes Support Scheme Act 2009 to change the treatment of farms and certain business assets in the financial assessment of means of certain persons in long-term residential care services who have, or had, an interest in such a farm or business.

- **Workplace Relations (Miscellaneous Provisions) Act 2021**

Makes provision for certain changes to the procedures of the Workplace Relations Commission to take account of the decision of the Supreme Court in *Zalewski v. Adjudication Officer & Ors* [2021] IESC 24, for example in relation to the hearing of proceedings in public and the administration of oaths. This Act also made provision in relation to the eligibility for appointment of adjudication officers and for the revocation by Government in certain circumstances of such appointments, to require that applications in relation to the enforcement of decisions of adjudication officers be made on notice, and to provide that the chairman, deputy chairman and ordinary members of the Labour Court be independent in the performance of their functions.

- **Companies (Rescue Process for Small and Micro Companies) Act 2021**
Amends the Companies Act 2014 to provide, in certain circumstances, for a rescue process for small and micro companies which are, or are likely to be, unable to pay their debts
- **Finance (Local Property Tax) (Amendment) Act 2021**
Amends the Finance (Local Property Tax) Act 2012, the Taxes Consolidation Act 1997, the Standards in Public Office Act 2001, the Ministers and Secretaries (Amendment) Act 2011, and the Housing (Miscellaneous Provisions) Act 2014 so that properties being revalued for Local Property Tax on the 1st November 2021 and thereafter will be reviewed every four years.
- **Climate Action and Low Carbon Development (Amendment) Act 2021**
Amends the Climate Action and Low Carbon Development Act 2015 to provide for the transition to a climate neutral economy by 2050 (the national climate objective). The Act requires the Government to approve carbon budgets, sectoral emissions ceilings, a climate action plan, a national long term climate action strategy and a national adaptation framework to support the achievement of the national climate objective. The Act also strengthens the role of the Climate Change Advisory Council.
- **Maritime Area Planning Act 2021**
Creates a planning system for the maritime area and establishes a new agency – Maritime Area Regulatory Authority (MARA). MARA will operate a consenting regime for occupation of the maritime area, along with an associated development consent. It will also grant licences for specified maritime uses and oversee compliance and enforcement.
- **Garda Síochána (Functions and Operational Areas) Bill 2021**
Amends certain enactments, consequent upon changes in the manner in which the Garda Síochána are to be distributed and stationed throughout the State. It provides that references in certain enactments to Garda districts are to be, or to be construed as, references to Garda Síochána divisions. It provides that specified functions of members of the Garda Síochána under certain enactments may be performed by members of a different rank. The Bill also amends the Garda Síochána Act 2005 to introduce a testing regime of members and certain other persons in the Garda Síochána to detect whether such persons have consumed controlled drugs or psychoactive substances.

- **Animal Health and Welfare and Forestry (Miscellaneous Provisions) Bill 2021**

Amends the Animal Health and Welfare Act 2013 to provide for the prohibition of the breeding, rearing or keeping of specified animals solely or primarily for the value of, or the manufacture of products from, their fur or skin and provides for a system of compensation to persons who before the coming into operation of the prohibition were engaged in the fur farming of mink pursuant to a licence under the Musk Rats Act 1933. It confers on the Minister for Agriculture, Food and the Marine the power to make regulations for the purpose of licensing livestock marts. The Forestry Act 2014 is also amended to make provision for schemes to facilitate the planting of native tree areas.

Legislation drafted in relation to Covid-19

- **Health (Amendment) Act 2021**

Made exceptional provision for the enforcement of regulations under section 31A of the Health Act 1947 and provided for the mandatory quarantine of persons coming into the State from certain areas from where there is known to be sustained human transmission of, or high risk of importation of infection with, Covid-19. Also provided for alternatives to such quarantine for persons coming into the State who indicated an intention to apply for international protections and unaccompanied minors.

- **Health (Amendment) (No. 2) Act 2021**

Provided for the lawful operation of certain indoor premises subject to certain conditions notwithstanding restrictions in place in relation to such premises and amended certain of the requirements in relation to persons arriving in the State including in relation to mandatory quarantine of persons arriving in the State.

- **Health (Amendment) (No. 3) Act 2021**

Provided for the reintroduction on a temporary basis of the mandatory quarantine of persons coming into the State from certain areas from where there is known to be sustained human transmission of, or high risk of importation of infection with, Covid-19 and ancillary measures.

- **Education (Leaving Certificate 2021) (Accredited Grades) Act 2021**

Makes provision, due to the exigencies of the public health emergency posed by the spread of the disease known as Covid-19, for a system of accredited grades for the purposes of the

Leaving Certificate 2021 and for that purpose to provide for the indemnification of certain persons in respect of the provision of estimated marks. This Act also prohibited certain communications with teachers, tutors, principals and other persons who perform any function in relation to the provision of estimated marks and provided for the issue of certificates in respect of the final results awarded for the Leaving Certificate Examination for the year 2020.

- Finance (Covid-19 and Miscellaneous Provisions) Act 2021

Provides for a 10 per cent rate of stamp duty on the acquisition of 10 or more residential units during a rolling 12-month period in order to dis-incentivise such multiple-unit purchases and also provides for the extension of certain support schemes and measures aimed at addressing the effects of Covid-19 on employers and businesses.

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

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

Commercial Contracts Section

2021 Covid-19 related work

- The CSSO advised the Department of Transport on their ability to rely on a derogation from procurement rules and drafted a Covid-19 Antigen testing contract for hauliers travelling from Ireland to France.
- The CSSO advised the Department of Health on the implementation of Mandatory Hotel Quarantine facilities in March 2021. The CSSO, together with Advisory Counsel, provided advice to the Department on their ability to rely on a procurement rules derogation to implement mandatory hotel quarantine facilities. An initial short term contract was drafted by CSSO and CSSO assisted the Department to conduct its longer term procurement.
- In 2021 the CSSO advised the Department of Health to donate surplus Covid-19 vaccines to countries outside the EU, directly where Ireland already had the vaccine stock and through the EU Covax System by reviewing the main APA agreements, side letters, amending trilateral agreements between the manufacturers, Ireland and recipient countries and drafting bespoke bilateral agreements between Ireland and recipient countries resulting in the donation of Pfizer, AstraZeneca, Janssen vaccines.
- The CSSO advised the Department of Health in relation to the finalisation of a contract for the provision of Passenger Locator Forms call centre service.

Advice to Office of Government Procurement (OGP) in 2021

- The CSSO advised the OGP on the successful establishment of a very high value (€200m) Dynamic Purchasing System for the provision of Media Strategy & Buying Services available to all Public Sector Bodies.

- CSSO advised the OGP on the development and procurement of two separate multiple lot frameworks for the provision of ICT Technical Support Services to the Public Sector which provide flexibility to Public Bodies when procuring services.
- The CSSO advised the OGP on the procurement and successful roll out of a 2nd generation framework for the provision of mobile voice and data services to the Irish public sector. The original framework saw a high volume of business which increased dramatically due to demands arising from the pandemic. The multi lot framework valued at over €140 million has multiple lots and is complex from a procurement perspective, including both single supplier and multi supplier elements with significant interest from all players in the Irish market.

Other significant Public Procurement and commercial contract law matters

- **Local Employment Services:** The CSSO and Advisory Counsel, advised the Department of Social Protection on the successful procurement of phase one of the Local Employment Services. This service together with JobPath are two key national employment activation services, to support the unemployed in returning to the labour market. Contracts were awarded in 2021. Phase 2 aims to conclude in 2022.
- **Valuation Office ICT contract:** The CSSO advised the Valuation Office on the successful procurement of a cloud based software as a service solution for commercial valuations. This project involved a significant spend for the Valuation Office. Significant work was required to draft a bespoke contract acceptable to the market which was entered into in October 2021.
- **Bord na Móna Climate Action Fund Grant:** The CSSO drafted a comprehensive grant funding agreement for the Department of Environment, Climate and Communications for funding of up to €108 million to Bord na Móna for its large scale peatlands restoration project subject to a set of detailed conditions.

- **Office of the Government Chief Information Officer (OGCIO) Project**
Portfolio System: The CSSO advised the OGCIO on a competition to procure a cloud hosted Project Portfolio Management system for use across the Public Service, the first such cloud hosted framework for the state which will inform future cloud based frameworks.

CSSO State Property Division

State Leases Section

- In 2021 the State Leases Section continued to provide legal service to the OPW Brexit Unit on various leases and licences to meet land and infrastructure requirements for Brexit implementation and ongoing preparedness for future proofing.

State Securities Section and State Sales & Purchases Section - significant matters

- A dedicated CSSO team worked, in tandem with Advisory Counsel and the Office of the Parliamentary Counsel, on the highly complex revisions to the Land and Conveyancing Law Reform Act 2009 in so far as it pertained to Prescriptive Easements and Profits a Prendre. The key objective was to secure the Limitation periods of 30 and 60 years in advance of an impending legislative deadline of the 1st December, 2021 which, in the absence of repealing and reforming legislation, would have resulted in the loss of Prescriptive rights not registered before 1st December, 2009. The Land and Conveyancing Law Reform Act 2021 was enacted on 30th November 2021.

State Sales and Purchases significant matters

- The CSSO continued to advise the Department of Education on the acquisition of school sites throughout the State as part of its Schools Building Programme. Key sites acquired in 2021 include sites at Dun Laoghaire, Enfield, Loughshinny and

Rathcoole in addition to acquiring sites by way of intra-State transfers from other Departments and local authorities.

- The CSSO continued to advise and support the Commissioners of Public Works, a key client, in their disposal of properties surplus to requirements.

The Section also routinely advises on issues relating to the ongoing management of the property portfolio.

- The CSSO advised Department of Housing, Local Government and Heritage on the acquisition of bog lands as part of its conservation mandate to protect rare and threatened natural habitats.

Provide a litigation service that delivers optimum results

During 2021, the Office continued to ensure that the knowledge and experience gained during the conduct of cases was harnessed to inform strategy in similar cases and thereby deliver optimum results. Through the use of its knowledge management systems, important advices were captured for future use. The outcome of significant cases and those of cross-sectoral interest were communicated to staff to ensure that this knowledge was brought to bear for the benefit of clients in the conduct of litigation.

The CSSO identified recurring legal challenges to legislation with Departments and encouraged Departments to adopt a proactive approach to progressing legislative amendment to close off the risk of further legal challenge where appropriate.

Examples of significant litigation in 2021

O'Doherty and Waters v Minister for Health, Ireland and Attorney General

The lay litigant Applicants challenged the legality of the Covid-19 legislation and the social restrictions put in place during the Covid pandemic. They appealed to the

Court of Appeal and their appeal was dismissed. They then applied for leave to appeal to the Supreme Court, which granted leave to appeal on the following points:

- Should leave be granted where Applicants fail to lay any evidential foundation regarding proportionality or direct impact upon Applicants?
- Where the measures challenged are on their face of such clear and significant impact upon the constitutional rights of every citizen, if their validity is challenged in judicial review proceedings should leave to seek judicial review be granted?
- If so, does the evidential burden shift to the Respondent asserting that the measures are proportionate and necessary?

The appeal will be heard by a 7 Judges panel of the Supreme Court in 2022.

Costello v. The Government of Ireland, Ireland and the Attorney General

The Applicant, a TD, sought reliefs to include a declaration that Chapter 8 of the Comprehensive Economic and Trade Agreement (CETA) between the European Union and Canada is repugnant to the Constitution. The High Court, in refusing the relief sought, found that the plaintiff had not established that ratification of CETA in the manner proposed would be unconstitutional:

Hosford v Minister for Employment Affairs and Social Protection

These proceedings related to alleged penalisation under the Protected Disclosures Act 2014. Mr Hosford was unsuccessful before the WRC, the Labour Court and the High Court, and sought to appeal to the Court of Appeal. In a judgment delivered in December 2021 the Court of Appeal held that there is no right of appeal from the High Court in such cases and it has no jurisdiction to determine the appeal.

Eager v Minister for Employment Affairs and Social Protection

This was a complaint to the Workplace Relations Commission (WRC) alleging that the age criteria applicable to payment of the Pandemic Unemployment Payment (PUP) was discriminatory contrary to the Equal Status Acts. The WRC found that the complaint was misconceived as the payment falls within the statutory exemptions contained in section 14(10)(a) of the Act.

Fox v Minister for Justice, Ireland & the Attorney General

This was a significant case in which the Supreme Court considered novel issues of constitutional law, namely whether the right to life guaranteed by Article 40.3.2° carries with it a derived right and obligation to investigate certain deaths. The applicant instituted judicial review proceedings seeking to compel the Minister for Justice to establish two Commissions of Investigation into matters connected with the death of his uncle Seamus Ludlow, in 1976. The Supreme Court held that there was no constitutional obligation for the State to conduct an investigation.

O'Callaghan v Ireland and the Attorney General

The Supreme Court held that the delay that occurred in the prosecution of the appellant's case infringed his constitutional right under Article 38.1 of the Constitution. This judgment puts the State in a position to demonstrate to the ECtHR and the Committee of Ministers of the Council of Europe that there has been a successful claim under the Constitution for breach of the right to a trial within a reasonable time.

Minister for Employment Affairs and Social Protection v Data Protection Commission

The Department of Social Protection and the Data Protection Commission (DPC) reached agreement on the processing of personal data in relation to SAFE registration and the Public Services Card (PSC). This agreement was reached in the

context of an appeal by the Department against an enforcement notice issued by the DPC which, as part of its terms, required the Department to cease all processing of personal data carried out for the purpose of SAFE registration and the issuing of PSCs other than where a PSC is issued in relation to a person claiming, presenting to, or receiving a benefit from the Department. Consequent on the agreement, the DPC has withdrawn its Enforcement Notice and the Department has withdrawn its appeal.

Zalewski v Adjudication Officer and the Workplace Relations Commission and Ireland and the Attorney General

The applicant sought orders that various provisions of the Workplace Relations Act 2015 were contrary to the Constitution and also that the powers and functions of an Adjudication Officer of the Workplace Relations Commission constitute the administration of justice within the meaning of Article 34 of the Constitution. The Supreme Court unanimously held that the adjudication officer was engaged in the administration of justice for the purposes of Article 34, however the functions concerned were limited, within the meaning of Art. 37 of the Constitution, and thus their conferral on an adjudication officer was constitutionally permissible.

However, the Court made a Declaration that s.41 (13) of the Workplace Relations Act, 2015, together with s.8 (6) of the Unfair Dismissals Act, 1977 was inconsistent with the Constitution. A further Declaration was made to the effect that the legislation was inconsistent with the Constitution by reason of the absence of any provision concerning the administration of oaths or affirmations or providing for a penalty for giving untruthful evidence. As a result the Workplace Relations (Miscellaneous Provisions) Act 2021 was enacted and makes provision for certain changes to the procedures of the Workplace Relations Commission to take account of the decision of the Supreme Court in this case.

S.G. (Albania) v. Minister for Justice and Equality

These proceedings concerned an issue of statutory interpretation and the question of whether s.26 ("Repeals and substitutions") or s. 27 ("Effect of repeal on enactment") of the Interpretation Act 2005 was applicable to the Applicant's case.

Section 3 of the Immigration Act 1999 provided for the making of a deportation order by the Minister subject to the prohibition on refoulement contained in section 5 of the Refugee Act 1996. Section 6 of the International Protection Act 2015 repealed s. 5 of the 1996 Act with effect from 31st December 2016.

A Deportation Order was made against the Applicant in January 2017, which the Applicant challenged on the basis that the Order stated that it was subject to s. 5 of the 1996 Act (repealed as outlined above).

In March 2021 the Supreme Court found that once the Minister had made a proposal to deport prior to 31st December 2016, that triggered the right of the Applicant to have the question of refoulement under s. 5 considered. On a point of statutory interpretation, the Court was satisfied that although the Deportation Order was not made until the 13th January, 2017, the Order was valid and that the reference on its face to s. 5 correct.

K.G, K.J.S. and E.G. (an infant suing by and through her mother and next friend K.J.S.) –v- Minister For Justice And Equality [2021] IECA 242

The first named Applicant had his student permission cancelled because he was not attending his course. He failed to leave the State and a Deportation Order issued. Upon his arrest he issued proceedings seeking, inter alia, revocation of the Deportation Order.

Subsequent to the issue of proceedings, the Minister gave an undertaking not to deport the Applicant. The Applicant's application to be treated as a permitted family member was processed and granted and the Deportation Order was revoked. The High Court was informed of this outcome and the proceedings were rendered moot save as to costs.

In an appeal against a decision on costs by the High Court, the Appellants contended that the Minister's change of position was the event which caused the proceedings to become moot; and that a Costs Order should be made against the Minister.

The Court of Appeal found in favour of the Minister that there was no causal link between the bringing of the Judicial Review proceedings and the decision which rendered the proceedings moot and awarded the Minister the costs of the Appeal.

The General Litigation Section deals with claims in tort where the plaintiffs are primarily seeking damages for (inter alia) negligence, breach of duty (including statutory duty), breach of constitutional rights, personal injury and breach of Convention rights. The claims include: Non-delegated personal injury claims, Defamation (excluding Garda claims); Unlawful detention, Trespass; Assaults by Prison officers, breaches of GDPR, Claims pursuant to S3A ECHR, Hep C Appeals (very sensitive cases), claims in respect of delay in granting subsidiary protection, Non-party discovery. During 2021 the Section saw an increase in claims for data breach.

The Section represents Central Government and other State agencies such as the Court Services, in unlawful detention cases; County Registrars in their capacity as under-sheriff and non-party discovery applications, the most notable non-party discovery application during 2021, was one where the Section acted on behalf of the Department of Transport, and the substantive case was before the commercial court.

The Section also acts for the State Claims Agency in a variety of cases including bullying and harassment claims (instituted prior to 2017) against Government Departments, claims from Defence forces serving overseas.

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

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

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

The Office's role in relation to both European and domestic legislation is a crucial element of its work. While some EU legislation has direct effect and therefore it is not

always necessary to incorporate EU measures into Irish law, directives, which constitute an important part of EU legislation, must be implemented into Irish law through domestic legislation. Accordingly it is necessary to ensure that directives are transposed in a way which fully complies with EU legal requirements and the OPC provides a drafting service to client Departments in this regard.

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

Advisory work included provision of advice to the Department of Justice/An Garda Síochána on several issues arising prior to the "going live" in Ireland of the EU-wide Schengen Information System – "SIS II" - including advice on how certain aspects of the system could be made operational without requiring a legislative basis. Advice provided to the Department of Foreign Affairs included a series of advices on how extradition arrangements can be concluded by Ireland with non-EU countries, such as Canada and the United Arab Emirates, where there is no existing bilateral agreement or other basis for extradition. Advice was provided to the Dept. Justice on threatened infringement proceedings ("Letter of Formal Notice") against Ireland for failure to give proper effect to the Framework Decision on the EAW, including

advice on strategy and appropriate responses to the EU Commission. A number of advices were provided concerning Ireland's "opt-in" for proposed EU measures pursuant to Protocol 21 TFEU. Ireland's position regarding Protocol 21 TFEU and the discretion for the State to opt in and participate in measures proposed by the Union in the Area of Freedom, Security and Justice were increasingly in focus in 2021 and not simply having regard for the UK's withdrawal from the Union. Advices on various issues concerning the Protocol were provided to the Department of Justice through 2021.

Examples of proceedings before the Court of Justice of the European Union in 2021

Extradition and European Arrest Warrant (EAW)

Polish European Arrest Warrant (EAW) requests, including that for *Wojciech Orłowski*, gave rise to a need for continuing advices, including advice on intervening in related Article 267 TFEU references to the CJEU, on whether changes in Polish law affecting the judiciary and courts presented "Rule of Law" obstacles to surrender to Poland, possibly leading to a serious breakdown of the EAW system.

Ireland intervened in a number of preliminary references to the CJEU concerning data retention in 2021 with a view to preserving the ability of the State to adequately detect and investigate serious crime including *HK Prokuratuur (C-746/18)*, *VD (C-339/20)* and *SpaceNet (C-799/19)*. The latter reference was heard by the Grand Chamber of the Court of Justice jointly with the reference made by the Supreme Court on foot of the challenge to the Communications (Retention of Data) Act 2011 brought in *Dwyer v Commissioner of An Garda Síochána & Ors. (GD (C-140/20))*. Ireland similarly intervened in preliminary references concerning the Passenger Name Record Directive.

Opinion 1/19 -EU accession to the Istanbul Convention

The European Parliament submitted a request for an opinion concerning the conclusion by the European Union of the Istanbul Convention on preventing and combatting violence against women and domestic violence. The signature decision was split into two separate decisions to take into account that Ireland, under Protocol 21, does not participate in certain matters in connection with the administration of Justice. The Court held that Protocols 21 and 22 (Denmark) justify splitting the act concluding the Convention into two decisions. The second issue was the legal basis for the Union to sign up to the Convention and whether Treaties allow or require the Council to wait for a 'common accord' (i.e. unanimity) among Member States before concluding the Convention. The CJEU held that common accord was not required but nothing precluded the Council from waiting for such common accord before adopting the decision.

C-64/20 UH -v- An tAire Talmhaíochta Bia agus Mara, Éire Agus an tArd-Aighne

This was a reference from the Irish High Court to the CJEU concerning the labelling of certain veterinary products being in English only and not both official languages. The High Court found that this was in breach of EU law but queried whether they could disregard this in light of the fact that an amending Regulation was due to apply from 22 January 2022 which would permit the use of one official language.

The CJEU held that national courts are precluded from disregarding obligations to transpose a directive on the ground that transposition is costly or would serve no purpose on account of the forthcoming application of a regulation intended to replace the current directive. It is of note that this was the first case conducted in Irish before the CJEU and appropriately judgment was delivered on St. Patrick's Day. The case was conducted on a teamwork basis between the Legal Officer dealing with the domestic proceedings and the EU Law Section.

C-77/20 KM -v- DPP

This case was a reference to the CJEU from the Irish Court of Appeal. It concerned a criminal prosecution concerning fisheries protection. The issue referred to the CJEU was whether it was proportional for there to be mandatory confiscation of fish and fishing gear for certain offences. The Court held that it was permissible for legislation to provide for not only the imposition of a fine but also the mandatory forfeiture of the catches and the prohibited or noncompliant fishing gear.

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

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

The Office routinely and actively participated in a number of Inter-Departmental groups and forums. These include the Judicial Planning Working Group, established in 2021, and the Company Law Review Group including, in the latter case, participation in the finalisation of its Report on the Consequences of Certain Corporate Liquidation and Restructuring Practices. The Office is, in addition, represented on a Working Group comprising representatives from across Government and from members of the LGBTQI+ community. This Working Group, established in 2021, is examining how best to design a scheme to enable the expungement/disregard of criminal records for certain historic convictions imposed under statutes that criminalised consensual sexual acts between men. The Working Group expects to conclude its work in 2022.

Active engagement of such nature offered the opportunity to provide rapid advices in addition to raising the visibility and profile of the Office thereby further underpinning the constitutional role executed by the Attorney General and of his staff across three Offices who facilitate that function.

Promote the concept of the State as “Model Litigant”

In 2021 the CSSO continued to provide case management through early dispute resolution in litigation and established procedures for dealing with multi-client litigation to ensure timely instructions.

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

During 2022, the Office will examine the scope to further promote the concept of Model Litigant among its clients.

Strategic Goal 2: Build relationships

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

Reporting on Strategic Goal 2 in Statement of Strategy

Build stronger connections with our clients and stakeholders

Throughout 2021, the Office maintained structured communication with client Departments and Offices and had regular meetings with key clients (in addition to consultations and meetings on particular issues).

Advisory Counsel played a role in litigation by contributing in-depth legal analysis and reviewed the advice of external counsel from a whole-of-Government perspective, consulting and informing the Attorney General as appropriate. A strategic approach to legal issues, including mediation in certain cases, was taken in areas of litigation, environmental law, employment and disciplinary matters where many cases raised the same issue. Advisory Counsel also identified legal issues arising which may benefit from a legislative solution.

The preparation of legal observations and seeking the Attorney General's input on Heads of General Schemes was a significant and demanding role for Advisory Counsel. Constitutional, EU, ECHR and legal policy issues were considered and the Advisory Counsel's knowledge and understanding of the public service, the legislative process, the legal system and case law in the particular areas were essential components to the Advisory Counsel's input. Parliamentary Counsel also

participated in providing observations on Heads of a General Scheme to Advisory Counsel to anticipate any legal or drafting issues that arose in the drafting of a Bill.

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

New and emerging areas of the law continued to be identified and monitored, in collaboration with Departments and expertise was further developed in those areas. The Covid-19 crisis, Brexit, the internet, social media and data protection and the retention and sharing of data are some examples of areas raising novel and unprecedented issues of EU and Irish law.

All divisions and sections within CSSO schedule regular calls/meetings with core clients enabling the CSSO to gain an understanding of the internal workings, policy objectives, client priorities, key challenges and potential blockages which leads to discussion around strategy, realistic timeframes, resourcing and next steps/actions. Clients have also gained an understanding of how the CSSO works, the various Sections and work types within those Sections, the optimum way to engage, furnish full and complete instructions via agreed form instruction sheets and better awareness and understanding around key requirements.

Client Relations

Citizenship Training

In June 2021, at the invitation of the Department of Justice's Citizenship Unit, the Office ran a training series on legal issues for officials. This Unit processes a large volume of applications for citizenship by naturalization and the purpose of the

sessions was to provide training to Department officials on the applicable law. The sessions involved training on both Irish citizenship law and bespoke training on specific areas. The training allowed the Office to work directly with the Department of Justice officials in designing and providing training to address potential legal issues proactively. It was clear from both the positive feedback and high engagement by officials that an identified need was met and existing working relationships between the Office and the officials were further enhanced.

Sanctions

Advisory Counsel participated in the Cross Departmental Implementation of Sanctions Committee (CDISC), chaired by the Department of Foreign Affairs, which coordinates the implementation of EU restrictive measures in the State. Advisory Counsel also took part in the Interdepartmental Working Group on the Implementation of Restrictive Measures, which was to undertake a review of current practices with regard to the domestic implementation and enforcement of sanctions in Ireland; to identify any potential administrative and/or legislative improvements, in particular with regard to investigative and enforcement powers and the timely establishment of appropriate penalties for breaches of sanctions; and to make recommendations in this regard, as well as recommendations relating to the optimal long-term arrangements and structures for ensuring effective domestic implementation and enforcement of sanctions.

The Client Relationship Network core contact has proved to be of assistance to facilitate greater focus on trends and strategy development.

As part of the Office's service delivery obligations in 2021, the standards committee has reviewed and will finalise (in 2022) all of the internal practice guidelines for Legal officers and have produced a comprehensive internal discovery guide as a part of their work.

All Divisions and sections within the CSSO have appointed staff as designated Client Relationship Officers – the CRO Network - to enhance management and facilitation of client relationships, prioritisation of work and collaboration with colleagues on a global view of client matters across the CSSO.

The CRO Network also links in with the AGO Secondment group manager with a view to providing supports, specifically in the provision of virtual procurement and contractual awareness. For areas of legal advice support where there may not be a standing ongoing relationship across a work stream, the CRO Network is supportive in assisting Clients access the appropriate advice.

Ongoing engagement with Clients enables the CSSO to gain an understanding of the internal workings, policy objectives, client priorities, key challenges and potential blockages which leads to discussion around strategy, realistic timeframes, resourcing and next steps/actions.

Administrative Law division

Covid-19 had a major impact on the work of the Judicial Review (JR) Section. During the year the JR Section opened 58 Covid related files. Of the 58 files opened 43 related to Mandatory Hotel Quarantine (MHQ) cases.

The Judicial Review Section continues to play a role in the Planning/Environmental forum it established in 2018 and intends to facilitate meetings of the forum in 2022.

The Superior Courts Customer Service User Group (previously known as The Civil Users Group) aims to support the Judiciary and to provide an excellent service to all court users, thereby facilitating access to justice. The Group met quarterly in 2021 to discuss strategy and policy on new developments in their initial or final stages where policies are being rolled out with a strong focus on customer service. The Group

comprises management representatives from the various court jurisdictions and select external members.

In 2021, client relations was a top priority in the Immigration and Asylum (I&A) section with positive engagement between the Immigration and Asylum legal team and the instructing client throughout the year.

Article 40 Stakeholder Group

The Article 40 Stakeholders Group was established to identify the most frequent issues giving rise to Article 40 applications and to ascertain what remedial action can be taken to address these issues. Litigation sections in the CSSO play an active role in the bi-monthly meetings with the Office of the Attorney General, Chief State Prosecution's Office, The Department of Justice, The Courts Service, The Irish Prison Service and The Department of Children, Equality, Disability, Integration and Youth.

Advisory Division

The Commercial Contracts Section management in CSSO hold fortnightly work process meetings with the Office of Government Procurement to discuss each ongoing matter. In 2021 the Commercial Contracts Section in the CSSO continued to provide virtual training to its clients providing 11 virtual public procurement masterclass & Q&A sessions to Office of Government Procurement attended by over 100 OGP staff. Commercial Contracts solicitors have also provided bespoke public procurement and data protection training to some Central Government Departments.

Justice & Crime

The Justice and Crime Division of the CSSO faces continuing challenges in meeting the new legal relationship with the UK on extradition and mutual criminal legal assistance. In 2021, this required engagement with both the Department of Justice

and Parliamentary Counsel on the drafting of a new Bill to address the issues raised by the European Commission's Infringements proceedings in the failure to transpose the framework decision on European Arrest Warrants fully bringing the perspective of litigator to bear.

A number of non-EU extradition requests, including those from the USA for *Majken Wadum* for international child kidnapping, and *Martin Jude Wall* for online child sexual abuse offences were successfully managed through the Courts.

Garda Litigation Section

Representatives from CSSO Garda Litigation section joined the working group on the new Garda Compensation Bill of Department of Justice and continue to contribute to the working group's delivery of this project.

State Property

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

General Litigation

The CSSO General Litigation section held Quarterly Divisional meetings with Garda Legal Actions in 2021 and prepared a working document which is shared with LSSU, Department of Justice and AGO in respect of the plenary cases regarding delays in processing subsidiary protection applications.

In 2021, a State Solicitor was appointed point of contact to the Department of Health in relation to Hep C Appeals and works closely with the blood unit in the Department.

Raise the knowledge platform for our clients

eISB

The electronic Irish Statute Book (eISB)

The Office's eISB Group oversees the ongoing production, management and updating of the electronic Irish Statute Book (eISB) and made a significant contribution in 2021 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. A Legislation Directory for Acts (from 1922 to 2021) and statutory instruments/statutory rules and orders (from 1931 to 2021) is also published and updated, which enables users of the eISB to identify whether a particular statutory provision has been amended or otherwise affected since it was enacted or made.

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

A technical project to extend the network protocol of the eISB to allow for encrypted traffic (HTTPS) was implemented in 2021.

European Legislation Identifier (ELI)

In 2021 the Office continued to implement the European Legislation Identifier (ELI) through the eISB. The ELI requires EU Member States to use standardised on-line identification of legislation and metadata properties describing each legal resource, enabling an effective, faster and user-friendly search and exchange of legal information.

Promote early engagement with clients

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

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

- all Divisions and sections within the CSSO appointed staff as designated client relationship officers to enhance management and facilitation of client relationships, prioritisation of work and collaboration with colleagues on a global view of client matters across the CSSO
- the CSSO engaged regularly with key clients to review ongoing matters and to strategically plan for upcoming projects and met regularly with instructing officials and seconded Advisory Counsel, as required, in client Departments throughout the year
- The CSSO strives to open new files within 24 hours of service of proceedings or a pre-litigation letter on the section (files are usually opened within an hour of receipt of notification). We strive to engage with clients immediately once a file is opened with a view to seeking instructions from the client in a timely manner and to reduce delay in settling applications, where appropriate, at an early stage thus reducing the client's exposure to costs. Where cases are being contested we endeavour to file opposition papers at the earliest possible date. On transactional

matters, the CSSO has a number of protocols in place with certain key clients detailing how matters are progressed.

Strengthen links with Seconded Advisory Counsel and Seconded State Solicitors.

The Office's Secondment Programme continues to expand across many Departments and the Office has supported the enlargement of the Legal Units in Departments with the secondment of experienced Advisory Counsel to lead and manage in-house Legal Units, such as to the Department of Social Protection, Department of Children and the Department of Enterprise in 2021.

The development of strong connections with the seconded Advisory Counsel and Legal Units in Departments continued. An Advisory Counsel at Assistant Secretary level chairs an umbrella Secondment Working Group that provided support to seconded Advisory Counsel; organised training and development on areas of particular importance to in-house Government lawyers; supported and worked with the network of seconded Advisory Counsel; and reported regularly to the Office Management Committee. Groups of seconded Advisory Counsel met with the Attorney General during the course of the year to discuss the working of the secondment programme. The Director General met periodically with seconded Advisory Counsel, as did the Advisory Counsel overseeing the secondment programme.

Seconded Advisory Counsel attended general meetings of Advisory Counsel and training and knowledge management events in the Office, including the Annual Seconded Conference, and had access to the AGO Library and Know-How service as required. In addition to collaborating with Advisory Counsel within the Office (and the CSSO as appropriate) on the provision of legal advisory services to

client Departments and agencies, seconded Advisory Counsel also advised on a number of significant matters including:

- Seconded Advisory Counsel of the Legal Unit of the Department of Justice were on hand to provide ongoing legal advice, in conjunction with the Office AGO, for the once-in-a-generation scheme to regularise undocumented migrants in the State.
- The Department of Finance Legal Unit provided advices on the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2021. The legislation is intended to improve the level of consumer protection associated with the provision to consumers of personal contract plans and hire purchase agreements and provides for a limit on the interest rate that consumers may be charged by credit institutions under credit agreements and hire-purchase agreements.
- The Department of Public Expenditure Legal Unit participated in two talks organised by the Office of the Government Chief Information Officer given to stakeholders (the first to Government Departments and the second to the LGMA and its members) on the new Data Sharing and Governance Act 2019 sponsored by that Department.
- The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media Legal Unit advised on (i) key legislative priorities for the Department such as the Online Safety and Media Regulation Bill and the Official Languages (Amendment) Act 2021; and (ii) legal issues encountered by the Department as a consequence of Brexit and the Covid-19 pandemic.
- In the Department of Health, seconded Advisory Counsel played a key role in the Government response to the Covid-19 pandemic, complementing and collaborating with the Office and the CSSO to provide in-house legal advice on numerous legislative measures and associated litigation files.

- The Legal Unit in the Department of Social Protection worked closely with the Office to reach an amicable and sustainable settlement with the Data Protection Commission with regard to the continued use of the Public Services Card. In collaboration with the Office, Seconded Advisory Counsel worked to narrow down the numerous, complex and systemic issues of EU and domestic data protection law that the use of the Public Services Card involves, both with respect to the Department of Social Protection itself and with respect to associated Public Bodies.
- The Department of Children, Equality, Disability, Integration and Youth provided extensive legal advice and assistance in relation to matters concerning the Commission of Investigation into Mother and Baby Homes and certain related matters.
- In the Department of Environment, Climate and Communications, seconded advisory counsel worked closely with the Office on the enactment of the Climate Action and Low Carbon Development (Amendment) Act 2021. The Act itself is a very significant piece of legislation to provide statutory targets for climate emissions, introduces a new carbon budgeting system and sectoral ceilings for emissions, together with a governance framework.
- The Legal Unit in the Department of Housing, Local Government and Heritage advised on numerous legal issues including the provision of advice on the transfer of the Heritage function into the Department, the Review of planning legislation, the Defective Concrete Blocks Scheme and Case C-261/18 - Commission v. Ireland (Derrybrien windfarm).

Deepen communication and collaboration across the Office

While challenges continued during 2021 as a result of the Covid-19 pandemic, the Office continued to operate in a virtual sphere providing ICT equipment and support

to maintain the functioning of the Office. Coordination meetings continued and were convened online across various platforms.

The Office's Legal Issues meetings and events (including the annual Seconded Advisory Counsel conference) remained online in 2021, broadening the sharing of information and overall collaboration both in a professional and on an interpersonal level. Particular effort was made to ensure that ongoing collaboration remained at a high level.

Library and Know-How staff and legal researchers in the Office worked closely with Advisory Counsel Groups to maximise their ability to provide legal advice taking account of the latest developments and authorities. Library and Know-How staff were very active in the Office training and development and know-how initiatives. In addition they regularly circulated recently delivered judgments, accumulated quality legal blogs and constantly reviewed the catalogue of texts available in the library.

Due to the continuing nature of Covid-19 pandemic and resulting remote working, the CSSO Learning & Development team continued to utilise remote training events, in order to continue to provide ongoing continuous professional development, training and wellbeing initiatives. The CSSO continued to hold virtual learning programmes to ensure legal CPD hours were achieved.

Strategic Goal 3: Build capacity

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

Reporting on Strategic Goal 3 in Statement of Strategy

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

The ICT Units continued to consolidate and support the Office's remote working capability in 2021 to ensure that full access to applications were available to staff through improving, where necessary, the scale, resilience, performance and reliability of the supporting systems. The effective use of web conferencing on remote devices and also in the physical Office to allow virtual meetings was supported during 2021.

A major software upgrade to the legal case management system was also implemented in 2021 to ensure the continued functionality and support levels for the system. There was also a focus on cybersecurity during the year which saw the completion of a number of projects covering systems, governance and training. ICT have also greatly increased the quality of the infrastructure deployed to facilitate remote court sittings, in particular relating to the high standards set by the Court of Justice of the European Union.

Recruit and retain high calibre staff

The work of the HR Units in the Office is aligned with Theme 3 of the Civil Service Renewal Strategy 2030, *Building the Civil Service workforce, workplace and*

organisation of the future. The Office continued to develop its HR functions in 2021, through the development of the professional expertise and specialised knowledge of the staff members within the Units. This enabled the HR Units to support and develop employees and to build and foster a flexible and engaged workforce. In addition in 2021, the Office reviewed its capacity and skills needs. In view of this and in recognition of the increase in the volume of work undertaken by the Office, the HR Units liaised with the Department of Public Expenditure and Reform, with a view to expanding the Offices' staffing levels. During 2021 the Office liaised with DPER on securing adequate resources to allow the Office fulfil its mission. This engagement resulted in significant increases in the estimates allocations to allow for the recruitment of additional staff.

The AGO HR Unit also worked with the Public Appointments Service in managing recruitment campaigns for Advisory Counsel III and Assistant Parliamentary Counsel II. In conjunction with the Law Reform Commission, a Legal Researcher competition was also run.

Enhance the Office's governance and risk management culture

During 2021 the Office's Risk Management and Audit Committees continued to meet and progress their work. They met on 11 and 4 occasions respectively in 2021. The risk registers were reviewed with all relevant local managers and updated on a bi-annual basis during 2021. During 2021 the AGO/CSSO Risk Management Committee worked with staff to raise awareness of risk and a training programme, facilitated by an external expert, was arranged and made available to all staff of the Office. A programme of internal audits was also carried out by the Office's internal auditors (outsourced to an external firm). Following a competitive tendering process, a new firm was appointed at the end of 2021 to fulfil the internal audit function from 2022. The Offices' Corporate Governance Frameworks were also reviewed during 2021.

Increase efficiencies in the delivery of our services

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

The subject areas and the membership of the five groups of Advisory Counsel and four groups of Parliamentary Counsel were regularly reviewed, having regard to the spread of expertise, the fluctuations of work and the development of lawyers' skills and experience. The heads of those groups were in regular contact at their weekly meeting and as required in relation to projects that required specialist input from across a number of groups.

As well as continuing to advise on advisory files, legal advice was also given on legislative drafting, litigation and transactional files. Advisory Counsel updated their specialist knowledge of relevant areas of the law through research, mentoring and induction, attendance at courses and conferences (including remotely), in-house and virtual training and development, as well as regular virtual in-house legal meetings where current legal issues were presented by Advisory Counsel and Parliamentary Counsel. The circulation of group weekly reports to all lawyers in the AGO and the emphasis on contributing legal advices to the know-how system were key elements of keeping Advisory Counsel and Parliamentary Counsel up to date. Specialist knowledge was enhanced by training in the use of research tools on the case and records management system, know-how database and other commercially produced legal databases.

Processes and Systems

The Office continued to keep abreast of developments in private legal firms and in particular the support systems employed for the delivery of high quality legal services to clients. This included keeping informed of advancements in information and communications technologies in a law office environment, participating in a

Knowledge Management Network and seeking to implement current best practice in the Office.

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

AGO Registry

The Registry Unit continued to adapt to the challenges presented by Covid-19 and developed working practices and patterns which enabled the continuity of the service provided by Advisory and Parliamentary Counsel.

Process and performance enhancements to the electronic Case and Records Management System were rolled out by the IT Unit with substantial input from the Registry Unit. Despite continued restrictions imposed by Covid-19, Registry Unit ensured that obligations in respect of the National Archives were met, including transfer of material on the Anglo-Irish Agreement.

CSSO - Remote hearings

During 2021 the Courts returned to physical hearings for some cases. The CSSO continued to attend remote hearing where appropriate. In 2021 a new group was formed to examine and develop Elitigation procedures internally.

HR Operations commenced Pilot of Recording of Time Initiative in 2021 with view to wider rollout in 2022.

Strategic Goal 4: Support our people

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

Reporting on Strategic Goal 4 in Statement of Strategy

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

Under Section 42 of the Irish Human Rights and Equality Commission Act 2014, the Office of the Attorney General (as with all public bodies) has a statutory obligation to have regard to the need to eliminate discrimination, promote equality of opportunity and treatment of its staff and the persons to whom it provides services and protect the human rights of staff and the people to whom it provides services. The Office's Statement of Strategy reflects its commitment to being a workplace that is inclusive, diverse and respects the human rights and equality of all employees. While the Office is an equal opportunities employer, it is aware that it may be difficult for some people to establish themselves on career paths in the legal profession.

To that end, in 2021, the AGO reviewed its student placement policy to establish ways in which it could have more inclusive internship programmes. The Office expressed an interest in participating in the Willing Able Mentoring Programme and it is anticipated that it will be accepted for inclusion in this programme in 2022.

In 2021, the Office also supported the research being undertaken, by the Legal Services Regulatory Authority, at the request of the Minister for Justice. This piece of research is considering the economic and other barriers faced by young barristers and solicitors and is part of the Minister for Justice's plan to increase diversity across the justice sector.

The Office has proactive Disability Liaison Officers who work to create awareness and provide support with respect to disability. Training and awareness programmes on equality, diversity and inclusion themes were also made available to staff of the Office.

The L&D Team continued to build on the culture of Inclusion and Diversity across the Office through a suite of awareness raising and training initiatives. Dignity at Work training was delivered to all colleagues in line with relevant legislation and training was also arranged for Designated Persons as provided for under the Dignity at Work Policy.

The Office is committed to continual review of its HR policies and business plans to ensure compliance with the obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014, Employment Equality Acts 1998-2015 and the Disability Act 2005. The CSSO in 2021 established a Centre of Expertise ("COE") for Talent Acquisition, Strategic Workforce Planning, Talent Management and Equality, Diversity and Inclusion ("EDI") team to drive the strong commitments to these values in the Office's Statement of Strategy. The team developed a three-year plan to promote EDI in the CSSO. The EDI team organised volunteers to engage with local primary school children under the "Time to Read" programme. The EDI committee also worked with the Transition Year programme to include more secondary students from DEIS schools in participating in the CSSO annual TY programme.

Irish Language Scheme

Early in 2020 the Office published a new Irish language Scheme (covering the period 2020-23) in accordance with the requirements of the Official Languages Act 2003. A number of corporate publications were translated to Irish during 2021 for simultaneous publication to the Office's website and a small number of queries through Irish came to and were dealt with by the Office.

Promote excellence through leadership, performance management and development

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

The Office is committed to developing its leadership capacity. In 2021, staff engaged in the Principal Officer and Senior Public Service Talent Management Programmes run by the Department of Public Expenditure and Reform and nominations were submitted to the National Experts in Professional Training (NEPT) programmes. A pilot mentoring programme was also launched in the Office in the autumn of 2021.

As a knowledge-based organisation, a very high priority is accorded to ongoing staff training and development, both legal and non-legal in nature and a range of training on legal and non-legal topics was arranged throughout the year. Remote training delivery utilising video conferencing platforms, which allowed for greater participation in training initiatives throughout the pandemic, continued to be made available across the Office.

Civil Service Mobility offers an opportunity for permanent Civil Service staff members to apply for mobility through an open and transparent system. The Civil Service Renewal 2030 strategy commits to a further expansion of a coherent mobility policy to facilitate staff development. In 2021, the Office engaged with this policy facilitating employees with the opportunity to build new skills and develop their experience.

Support our people through enhanced knowledge management systems

The AGO Library & Research Service continued to provide a blended service in 2021 and to expand its e-Books collection to facilitate staff working remotely.

In collaboration with their colleagues in the Office of the Parliamentary Counsel, legal researchers prepared ongoing revisions of the Covid-19 Health Regulations which were then published on gov.ie. The AGO legal blog continued to serve as a legal knowledge management tool for the AGO, through the contribution of posts on a wide range of legal topics by AGO staff (including seconded Advisory Counsel) with the support of the AGO Legal Blog Committee.

The AGO continued to enhance the capture, sharing and accessibility of legal know-how through ongoing development and promotion of the legal know-how database. Internal legal knowledge sharing forums (Legal issues, EU legal issues & Training Delivery Group) continued to provide ongoing legal learning and training online.

A legal knowledge manager was appointed to the CSSO in June 2021, to lead on the development and implementation of the Office's knowledge management strategy. The Legal Knowledge Manager works with the Information Manager and Legal Researchers in the Knowledge & Information Service. This team manages the CSSO's

internal and external legal information, including its library service, knowledge resources and its intranet. In 2021, the internal "Legal Bulletin" was enhanced and consolidated into a weekly publication, distributed to all legal staff. The Lunch & Learn series continued to operate successfully online. In December, the CSSO's strategic plan for knowledge management 2021 – 2024 was finalised.

During 2021, the Knowledge, Learning and Development Committee supported the delivery of knowledge management, training and career development opportunities throughout the Office. Particular achievements included the launch of a new Legal Learning and Development Strategy for the CSSO 2021-2023. This Strategy clarifies the roles and responsibilities across the Office in this important strategic area. The Strategy prioritises the greater delivery of in-house CPD together with an increase in specialist upskilling by way of external postgraduate courses. The KL&D Committee also arranged an operational training survey to help enable people to properly use technology tools to increase their efficiency and effectiveness when working from home. An inaugural Open Trainee Solicitor Scheme whereby for the first time external candidates could undertake their solicitor traineeship in the CSSO was also launched with the first two such trainees beginning their PPC1 course in Blackhall Place in September 2021.

HR Operations also implemented CSSO Knowledge-Sharing Circle Meetings for Line Managers which was facilitated by the CSEAS team.

Promote a positive work-life balance

The Office is committed to providing a safe and healthy work environment for all civil servants and to ensuring that their safety, health, welfare and wellbeing at work is protected, so far as is reasonably practicable. This is in line with our obligations as an employer under the Safety, Health and Welfare at Work Act 2005. To support this

commitment the Office ran a number of health and wellbeing programmes in 2021, including the provision of flu vaccines. The Office also promoted eLearning health and wellbeing supports (including on-demand) developed by OneLearning, in consultation with the Civil Service HR division and CSEAS.

Staff Engagement

In line with the CSSO's commitment to Staff Engagement, the 2021 CSSO Staff Engagement Survey was carried out during 2021 as a follow up to the 2020 Civil Service Employee Engagement Survey (CSEES), and previous CSSO Staff Engagement surveys of 2018 and 2019. Building on the work of previous years, the 2021 Survey continued to cover themes such as values, autonomy, teamwork, communication, innovation, skills matching, management and leadership. In addition, the 2021 survey included new themes on equality, diversity and inclusion, the experience of and lessons from working during the pandemic, future working patterns, wellness, mobility and ICT supports. Members of the Team, building on the experience and feedback from the engagement surveys support the various developmental initiatives across the CSSO.

Innovation

During 2021, the CSSO's Innovation Team facilitated a "Buddy" system under the new entrant induction training programme and sought volunteers to act as buddies for new entrants and made a number of proposals to the CSSO Management Board for new initiatives in areas such as wellness, green procurement and career development and recruitment.

The CSSO has representatives on a number of professional committees with the Law Society and contributes to the support of the profession at large in this way. This representation also serves to support and develop the expertise and networking capability of our professional staff. The Standards Committee worked with the

Divisions to address the current professional guidance suite to update and widen the scope of supports.

The CSSO continued over 2021 to maintain close liaison with the Courts Service to support the CSSO in delivery of its litigation services in a safe environment and in seeking the Court Services support in the CSSO move to an e-litigation platform in so far as this is achievable having regard to the requirements of the Judiciary and collaboration with counsel.

The Office has encouraged participation of its staff in the NEPT programme and a number of legal officers have served in Brussels, deepening the links with our colleagues in Europe.

The Office also supports the *Ireland for Law* initiative with the presence of a member of the Management Board joining *Ireland for Law* towards the end of 2021.

Promote environmentally sustainable work practices

Facilities Management

Apart from their regular role of maintaining the building and the facilities within, Services Units were to the fore, along with the Office's Health and Safety functions, in ensuring that the Office remained a safe place for staff during the year, liaising as appropriate with colleagues in the OPW and contractors. A number of building maintenance and upgrade projects were also undertaken in the AGO.

As well as their work within the Offices' premises, Services Units continued to provide supports to staff working remotely.

Energy Efficiency

The AGO Services Unit also continued to drive the energy efficiency programme and report energy usage to the SEAI as part of the initiative by all Public Sector bodies to reduce energy usage. Services Unit also continued to liaise with its assigned energy advisor to identify ways to reduce energy consumption and to replace lights with LED units on a phased basis. In 2021, AGO consumed:

- 327 MWh of electricity
- 308 MWh gross of natural gas fuels
- 35 tonnes of renewable fuels (wood chips)

In 2021, the CSSO consumed:

- 416 MWh of electricity
- 569 MWh of gas

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

With staff continuing to work from home there has been a reduction in the use of paper and travel which has been beneficial for the environment. Also in 2021 the CSSO reduced the amount of paper being used in litigation and other legal services by adapting to court-mandated e-litigation procedures. This saw more electronic briefs being submitted to the courts and to opposing parties in cases. Overall use of paper and printing was reduced by continued online virtual delivery for learning and development events.

Optimise internal communication

Due to the Covid-19 pandemic and resulting remote working, the Office continued new ways of working including remote meetings and remote training events in order to continue to provide ongoing continuous professional development, training and wellbeing initiatives. While the Office recognises the value of virtual technologies in supporting remote participation, there are some instances where on-site attendance is required to ensure optimum engagement and this mode was adopted during the year where necessary.

Part 3
Annexes

Annex A

Government Bills published in 2021

Public General Bills

- Affordable Housing Bill 2021
- Animal Health and Welfare (Miscellaneous Provisions) Bill 2021
- Appropriation Bill 2021
- CervicalCheck Tribunal (Amendment) Bill 2021
- Child and Family Agency (Amendment) Bill 2021
- Civil Law (Miscellaneous Provisions) Bill 2021
- Climate Action and Low Carbon Development (Amendment) Bill 2021
- Companies (Corporate Enforcement Authority) Bill 2021
- Companies (Rescue Process for Small and Micro Companies) Bill 2021
- Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2021
- Criminal Justice (Amendment) Bill 2021
- Criminal Justice (Mutual Recognition of Custodial Sentences) Bill 2021
- Criminal Justice (Smuggling of Persons) Bill 2021
- Criminal Procedure Bill 2021
- Education (Leaving Certificate 2021) (Accredited Grades) Bill 2021
- Family Leave and Miscellaneous Provisions Bill 2021
- Finance (Covid-19 and Miscellaneous Provisions) Bill 2021
- Finance (European Stability Mechanism and Single Resolution Fund) Bill 2021
- Finance (Local Property Tax) (Amendment) Bill 2021
- Finance Bill 2021
- Garda Síochána (Compensation) Bill 2021
- Garda Síochána (Functions and Operational Areas) Bill 2021
- Health (Amendment) (No. 2) Bill 2021
- Health (Amendment) (No. 3) Bill 2021
- Health (Amendment) Bill 2021
- Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Bill 2021
- Health and Criminal Justice (Covid-19) (Amendment) Bill 2021
- Health Insurance (Amendment) Bill 2021
- Houses of the Oireachtas Commission (Amendment) Bill 2021
- Land and Conveyancing Law Reform Bill 2021
- Land Development Agency Bill 2021
- Loan Guarantee Schemes Agreements (Strategic Banking Corporation of Ireland) Bill 2021
- Maritime Area Planning Bill 2021

- Maritime Jurisdiction Bill 2021
- Merchant Shipping (Investigation of Marine Casualties) (Amendment) Bill 2021
- Nursing Homes Support Scheme (Amendment) Bill 2021
- Planning and Development (Amendment) (Large-scale Residential Development) Bill 2021
- Planning and Development (Amendment) (No. 3) Bill 2021
- Planning and Development, Heritage and Broadcasting (Amendment) Bill 2021
- Private Security Services (Amendment) Bill
- Residential Tenancies (Amendment) (No. 2) Bill 2021
- Residential Tenancies (No. 2) Bill 2021
- Residential Tenancies Bill 2021
- Road Traffic and Roads Bill 2021
- Sale of Tickets (Cultural, Entertainment, Recreational and Sporting Events) Bill 2021
- Sea-Fisheries (Miscellaneous Provisions) Bill 2021
- Sex Offenders (Amendment) Bill 2021
- Social Welfare Bill 2021
- Workplace Relations (Miscellaneous Provisions) Bill 2021

Annex B

Government Bills enacted in 2021

Public General Acts

- Affordable Housing Act 2021
- Appropriation Act 2021
- CervicalCheck Tribunal (Amendment) Act 2021
- Child and Family Agency (Amendment) Act 2021
- Civil Law (Miscellaneous Provisions) Act 2021
- Climate Action and Low Carbon Development (Amendment) Act 2021
- Companies (Corporate Enforcement Authority) Act 2021
- Companies (Rescue Process for Small and Micro Companies) Act 2021
- Counterfeiting Act 2021
- Criminal Justice (Amendment) Act 2021
- Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021
- Criminal Justice (Perjury and Related Offences) Act 2021
- Criminal Justice (Smuggling of Persons) Act 2021
- Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021
- Criminal Procedure Act 2021
- Defence (Amendment) Act 2021
- Education (Leaving Certificate 2021) (Accredited Grades) Act 2021
- Family Leave and Miscellaneous Provisions Act 2021
- Finance (Covid-19 and Miscellaneous Provisions) Act 2021
- Finance (European Stability Mechanism and Single Resolution Fund) Act 2021
- Finance (Local Property Tax) (Amendment) Act 2021
- Finance Act 2021
- Gender Pay Gap Information Act 2021
- Health (Amendment) (No. 2) Act 2021
- Health (Amendment) Act 2021
- Health (Amendment)(No. 3) Act 2021
- Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021
- Health and Criminal Justice (Covid-19) (Amendment) Act 2021
- Health Insurance (Amendment) Act 2021
- Houses of the Oireachtas Commission (Amendment) Act 2021
- Land and Conveyancing Law Reform Act 2021
- Land Development Agency Act 2021

- Loan Guarantee Schemes Agreements (Strategic Banking Corporation of Ireland) Act 2021
- Maritime Area Planning Act 2021
- Maritime Jurisdiction Act 2021
- Nursing Homes Support Scheme (Amendment) Act 2021
- Official Languages (Amendment) Act 2021
- Personal Insolvency (Amendment) Act 2021
- Planning and Development (Amendment) (Large-scale Residential Development) Act 2021
- Planning and Development (Amendment) Act 2021
- Planning and Development, Heritage and Broadcasting (Amendment) Act 2021
- Private Security Services (Amendment) Act 2021
- Public Service Pay Act 2021
- Residential Tenancies (Amendment) Act 2021
- Residential Tenancies (No. 2) Act 2021
- Residential Tenancies Act 2021
- Sale of Tickets (Cultural, Entertainment, Recreational and Sporting Events) Act 2021
- Social Welfare Act 2021
- Workplace Relations (Miscellaneous Provisions) Act 2021

Annex C

Private Members' Bills enacted in 2021

- Children (Amendment) Act 2021

Annex D

Vote 3: Office of the Attorney General

Provisional Outturn 2021 and Estimate for 2021 and 2022

Estimate and Provisional Outturn for 2021 and Estimate of the amount required in the year ending 31 December 2022 for the salaries and expenses of the Office of the Attorney General including a grant.

| | Service | Estimate Provision | Provisional Outturn | Estimate Provision |
|----------|--|-------------------------------|--------------------------------|-------------------------------|
| | Administration | 2021 | 2021 | 2022 |
| | | €000 | €000 | €000 |
| A1 | Salaries, Wages and Allowances | 12,260 | 11,601 | 14,308 |
| A2 (i) | Travel and Subsistence | 210 | 70 | 240 |
| A2 (ii) | Training & Development & Incidental Expenses | 640 | 543 | 700 |
| A2 (iii) | Postal & Telecommunication Services | 100 | 116 | 125 |
| A2 (iv) | Office Equipment & External IT Services | 700 | 839 | 700 |
| A2 (v) | Office Premises Expenses | 160 | 98 | 208 |
| A2 (vi) | Consultancy Services & Value For Money Reviews | 35 | 21 | 35 |
| A2 (vii) | Contract Legal Expertise | 710 | 873 | 2,710 |
| | Subtotal | 14,815 | 14,161 | 19,026 |
| | Other Services | | | |
| A3 | Contributions to International Organisations | 54 | 53 | 54 |
| A4 | Law Reform Commission (Grant in Aid) | 2,460 | 2,460 | 2,781 |
| A5 | General Law Expenses | 130 | 33 | 130 |
| A6 | Consolidation and Revision of Planning Laws | - | - | 12,000 |
| | Gross Total | 17,459 | 16,707 | 33,991 |
| | | | | |
| | Deduct | | | |
| B | Appropriations In Aid | (705) | (556) | (705) |
| | Net Total | 16,754 | 16,151 | 33,286 |

Vote 6: Office of the Chief State Solicitor

Provisional Outturn for 2021 and Estimate for 2021 and 2022

Estimate and Provisional Outturn for 2021 and Estimate of the amount required in the year ending 31 December 2022 for the salaries and expenses of the Office of the Chief State Solicitor.

| | Service | Estimate Provision | Provisional Outturn | Estimate Provision |
|---------|---|-------------------------------|--------------------------------|-------------------------------|
| | | 2021 | 2021 | 2022 |
| | | €000 | €000 | €000 |
| | Administration | | | |
| A1 | Salaries, Wages and Allowances | 20,309 | 20,275 | 24,795 |
| A2(ii) | Travel and Subsistence | 25 | 26 | 90 |
| A2(iii) | Training and Development and Incidental Expenses | 1,006 | 958 | 1,038 |
| A2(iv) | Postal and Telecommunications Services | 350 | 349 | 310 |
| A2(v) | Office Machinery and Other Office Supplies and Related Services | 1,112 | 1,199 | 1,005 |
| A2(vi) | Office Premises Expenses | 188 | 170 | 250 |
| A2(vii) | Consultancy Services and Value for Money and Policy Reviews | 70 | 50 | 100 |
| | Subtotal | 23,060 | 23,027 | 27,588 |
| | Other Services | | | |
| A3 | External Legal Services | 154 | 162 | 220 |
| A4 | Fees To Counsel | 17,600 | 17,537 | 21,500 |
| A5 | General Law Expenses | 681 | 706 | 1,200 |
| | Gross Total | 41,495 | 41,432 | 50,508 |
| | | | | |
| | Deduct | | | |
| B | Appropriations-in-Aid | 810 | 1,530 | 850 |
| | Net Total | 40,685 | 39,902 | 49,658 |

Annex E

Statements and Reports in Respect of Payment Practices 2021

Office of the Attorney General

General

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

Late Payments

Payments totalling €2,612,979.07 in 2021 were made from the Vote of the Office of the Attorney General in respect of payments to which the legislation applies.

There were eight instances of Prompt Payment interest totalling €229.30 incurred during the year.

Payments to which prompt payments applied from January to December 2021

| | |
|---|---------------|
| Total value of all payments | €2,612,979.07 |
| Total value of late payments (under €320 inclusive) | Nil |
| Total value of all late payments (over €320) | €53,040.62 |
| Value of late payments as % of total payments | 2.03% |
| Number of late payments in excess of €320 | 8 |
| Amount of interest paid | €229.30 |
| Amount of interest as % of total payments | 0.0087% |
| Average indication of length of delays | 17 days |

Chief State Solicitor's Office

The terms of Prompt Payment of Accounts Act 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations applies to payments made by or on behalf of this Office excluding payroll and certain other Office expenses. In the small proportion of cases where payments are not made within the statutory period, the appropriate interest payments are made.

Payments to which Prompt Payments applied from January to December 2021

| | |
|---|---------------|
| Total value of all payments | €2,626,870.81 |
| Total value of all late payments (under €320 inclusive) | €6,181.53 |
| Total value of all late payments (over €320) | €53,324.38 |
| Value of late payments as % of total payments | 2.27% |
| Number of late payments in excess of €320 | 36 |
| Amount of interest paid | €4,526.42 |
| Amount of interest as % of total payments | 0.17% |
| Broad indication of length of delays | 40 days |

Annex F
Staff Breakdown

| | Male | | Female | | % | |
|---------------------|-------------|------|---------------|-------|-------------|---------------|
| | | | | | Male | Female |
| Secretary General | | 1 | | 2 | 33% | 67% |
| Assistant Secretary | | 7 | | 9 | 44% | 56% |
| PO | | 21.4 | | 39.1 | 35% | 65% |
| AP | | 74 | | 127.2 | 37% | 63% |
| HEO (& HLE) | | 12.8 | | 14.4 | 47% | 53% |
| AO | | 1 | | 1 | 50% | 50% |
| EO | | 14 | | 26.1 | 35% | 65% |
| SO (Legal Exec) | | 2.8 | | 2.8 | 50% | 50% |
| CO | | 29 | | 59.4 | 33% | 67% |
| Services Officer | | 4 | | 0 | 100% | 0% |

Annex G

Freedom of Information Statistics 2021

| | |
|---|-----------------------------|
| Requests | |
| Requests Received | 43 |
| Requests Granted | 2 |
| Requests Part-Granted | 4 |
| Requests Refused | 31 |
| Requests open at year-end | 6 |
| | |
| Internal Reviews | 7 |
| Fees Received | €150 |
| | |
| Requestor Type | |
| Journalist | 12 |
| Oireachtas | 0 |
| Staff | 0 |
| Others | 31 |
| | |
| Sections (one or more) of the Act relied on for part-granted and refused requests | 15(1)(a), 32, 33, 37, 42(f) |