



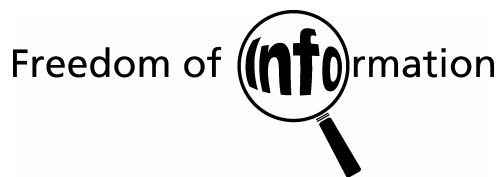
# **Office of the Attorney General**

## **Guide to the Functions and Records of the Office**

Freedom of Information Acts

Section 15 & Section 16  
Reference Book

2009 Edition



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**1. MISSION  
OF THE OFFICE OF THE ATTORNEY GENERAL**

**“... to provide the highest standard of professional legal services to Government, Departments and Offices as economically and efficiently as possible.”**

## 2. INTRODUCTION

The Freedom of Information Act 1997 establishes three statutory rights:

- a legal right for each person to access information held by public bodies;
- a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading;
- a legal right to obtain reasons for decisions affecting oneself.

The Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

It is important to note that section 46 (1) of the Freedom of Information Act 1997 provides:

*“This Act does not apply to - ... (b) a record held or created by the Attorney General or ... the Office of the Attorney General ... (other than a record concerning the general administration of either of those Offices)”.*

In other words, only records concerning the general administration of this Office<sup>1</sup> are disclosable under Freedom of Information legislation. Therefore, access to information under the Freedom of Information Act does not extend to, for example, records relating to legal advice or the conduct of particular cases.

The Freedom of Information (Amendment) Act 2003 came into effect on 11 April 2003. This Act introduced a number of amendments relevant to access to information from this Office, namely the right to appeal a decision that a record does not concern the general administration of the Office (section 34 (1)(dd)) and the introduction of standard fees for certain requests (section 47(6A)).

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<sup>1</sup> In the interests of clarity references in this publication to “the Office” denotes the Office of the Attorney General as a whole i.e. the Legal Advisory function and the Office of the Parliamentary Counsel to the Government (both based in Government Buildings, Merrion Street, Dublin 2) and the Chief State Solicitor’s Office (which operates from Osmond House, Little Ship Street, Dublin 8 and 3-10 The Chancery, Chancery Lane, Dublin 2). In the course of this Reference Book it is sometimes necessary to draw a distinction between the Legal Advisory function and the Office of the Parliamentary Counsel to the Government on the one hand which is referred to as the Attorney General’s Office, Merrion Street and the State Solicitor Service on the other which is referred to as the Chief State Solicitor’s Office.

The Freedom of Information Acts are designed to allow public access to information held by public bodies which is NOT routinely available through other sources. Access to information under the Acts is subject to certain exemptions and involves specific procedures and time limits.

This Reference Book has been prepared and published in accordance with the requirements of sections 15 and 16 of the Acts. Its purpose is to facilitate access to official information held by this Office by outlining its structure and functions detailing the services we provide and how they may be availed of; providing information on the classes of records we hold; and giving information on how to make a request to the Office and how to make an appeal under the Freedom of Information Acts, as well as the fees chargeable.

## **2.1 Routinely Available Information**

On occasion this Office makes information available to the public in relation to its functions, activities and schemes. Such information will continue to be available informally without the need to use the Freedom of Information Acts. Such information can be found on the website <http://www.attorneygeneral.ie/>.

### **3. DESCRIPTION & FUNCTIONS**

The role of the Attorney General is defined in Article 30 of the Constitution as “*the adviser of the Government in matters of law and legal opinion*”. The functions, powers and duties of the Attorney General are to be found in the Constitution, in legislation (primarily section 6 of the Ministers and Secretaries Act 1924), in constitutional convention and in judicial decisions delivered both prior to and subsequent to the founding of the State.

The Attorney General has a wide variety of functions as follows:

- As legal adviser to the Government, the Attorney General attends Government meetings. The Attorney General advises the Government on all the constitutional and legal issues which arise in connection with or at Government meetings.
- The Attorney General is responsible for the drafting of legislation to meet the policy requirements of Ministers. As well as ensuring the provision of draft legislation, he also advises in relation to compliance of proposed legislation with the provisions of the Constitution, the European Convention on Human Rights and European Union Law.
- The Attorney General represents the State in all legal proceedings involving the State.
- The Attorney General is the representative of the public in all legal proceedings for the enforcement of law and the assertion or protection of public rights (see website for further details regarding relator actions).
- The Attorney General defends the constitutionality of Bills referred to the Supreme Court by the President under Article 26 of the Constitution.
- The Attorney General advises in relation to escheated estates.
- The Attorney General has functions in respect of the Law Reform Commission under the Law Reform Commission Act 1975.
- The Attorney General has functions in respect of the legislative programme and is a member of the Government Legislation Committee.
- The Attorney General determines whether the Attorney General’s Scheme, which is a discretionary Scheme relating to limited forms of litigation involving the liberty of the person (see website for further details), applies to particular litigation.

The Office of the Attorney General incorporates the Office of the Parliamentary Counsel to the Government and the Office of the Chief State Solicitor. The Office of the Attorney General comprises three elements:

- Advisory Counsel (Legal Advisory)
- Office of the Parliamentary Counsel to the Government (drafting of legislation),
- Chief State Solicitor's Office<sup>2</sup>

### **3.1 Advisory Counsel**

The principal duty of Advisory Counsel is to assist in the performance of the Attorney General's functions and duties. The Advisory side of the Office is divided into five specialist Groups<sup>3</sup> covering all legal specialisms. Each Group is comprised of barristers (Advisory Counsel) and specialises in a variety of specific areas of law with dedicated clerical support staff familiar with the business of the Group. The range of subjects covered is extensive but the activities themselves fall into three functional areas, namely:

- (a) the provision of advice;
- (b) the direction of litigation;
- (c) advising on legal issues arising in the course of legislative drafting.

#### **3.1.2 Work of Advisory Counsel**

There is a high degree of specialist legal knowledge within the Office. Advisory Counsel work closely with lawyers in the Office of the Parliamentary Counsel to the Government in relation to advising on legal issues arising in the drafting of legislation and with the Chief State Solicitor's Office in relation to advising on the conduct of litigation and other legal matters.

The range of advisory work normally undertaken by the Office is very broad and includes constitutional law, administrative law, European law, commercial law, public international law and criminal law – in fact, all areas of legal work in respect of which Government or a Department or Office may require legal advice. Requests for advice may be received from the Government as a whole, from Ministers, or from civil servants in Government Departments or

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<sup>2</sup> Later referred to as the CSSO

<sup>3</sup> [The areas for which each Group has responsibility may change from time to time.](#)



Offices. Requests from Government or Ministers are usually made directly to the Attorney General. An Advisory Counsel is usually assigned to assist the Attorney in dealing with such a request. Most requests for advice, however, come from civil servants in Departments or Offices. Such requests either come directly to the Office or *via* the Chief State Solicitor's Office.

### **3.1.3 Structure**

Each of the five specialist Groups has a Group Co-ordinator who is an Advisory Counsel Grade 1 (equivalent to an Assistant Secretary). Each Group takes responsibility for specified areas of work grouped together in broad categories. The Group Co-ordinators have a combination of both professional and managerial responsibilities. Each Group has a complement of two dedicated clerical support staff who are familiar with the business of the Group.

Details of the Groups and their areas of responsibility are set out in Appendix. 1

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

The Office has assigned an Advisory Counsel to be seconded as Legal Counsellor to the Permanent Representation of Ireland to the European Union in Brussels. The role is very varied and involves a wide range of functions and duties.

The Legal Counsellor furnishes legal advice to the representatives of all Government Departments who are members of the Permanent Representation on the legal issues which arise on a day-to-day. The participation of the Legal Counsellor at important EU negotiations, including Treaty reform and other significant legislative developments, enables the Attorney General to be informed from an early stage where his advice is sought on significant EU legal issues. The role involves furnishing to Government Departments oral and written advices, opinions and briefings on matters of EU law, domestic legal and constitutional issues which arise in the context of Ireland's membership of the Union. This service facilitates the seeking and provision of legal advice in respect of Community initiatives. The diplomatic aspect of the role includes extensive consultation, briefing and negotiations within the Council for the protection and promotion of the State's legal interests.

### **3.1.5 Secondment of Advisory Counsel**

A number of Advisory Counsel have been recruited, trained within the Office and seconded to nominated Government Departments. The protocols agreed with the Departments involved are

designed to ensure maximum communication between the Departments and the Office on legal issues. Such staff have taken up office as Legal Advisers in the Department of Transport, Department of Health and Children, Department of the Environment, Heritage and Local Government, Department of Education and Science, Department of Social and Family Affairs, Department of Communications, Energy and Natural Resources, Department of Justice, Equality and Law Reform, Department of Finance, Department of Agriculture, Fisheries and Food and Department of Enterprise, Trade and Employment

## **3.2 Parliamentary Counsel to the Government**

The Office of the Parliamentary Counsel to the Government ("OPC") comprises a team of specialist lawyers known as Parliamentary Counsel trained to a high level in the discipline of drafting legislation. The mission of the OPC is to provide a legislative drafting service to the Government and to maintain information on the progress of the drafting of legislation.

### **3.2.1 Work**

The main work of the OPC is to draft Government Bills to be introduced into the Houses of the Oireachtas and to draft secondary legislation, where appropriate, for Government Departments or Offices, including instruments transposing EU legislation into domestic law under the European Communities Act 1972. The OPC is actively involved in the development and promotion of the Better Regulation agenda in co-operation with the Department of the Taoiseach.

### **3.2.2 Structure**

The Chief Parliamentary Counsel is the head of the OPC and, within the Office of the Attorney General, has overall responsibility for the legislative drafting services provided by it.

The OPC is organised into three Groups, each having responsibility for the provision of drafting services to specific Government Departments and Offices<sup>4</sup>. Each Group is headed by a Group Manager (of the rank of at least an Assistant Secretary). The Group Manager has responsibility for managing the delivery of the drafting services of the OPC to the Departments and Offices allocated to that Group.

Each Group has dedicated clerical support staff familiar with the business of the Group. Details of the Groups and their areas of responsibility are set out in Appendix 2.

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<sup>4</sup> [The areas for which each Group has responsibility may change from time to time.](#)

### **3.3 Administration and Support Services at Attorney General's Office Merrion Street**

This Division of the Office is headed by the Head of Administration (Principal Officer) and includes the following:

- Library and Know-How Unit
- IT Unit
- Registry
- Finance Unit
- Human Resources Unit
- Internal Audit Unit (shared with the CSSO)
- Change Management Unit (shared with the CSSO)
- Services Unit
- Attorney General's Private Office
- Director General's Private Office
- Chief Parliamentary Counsel's Private Office.

A more detailed breakdown of the organisation of the AGO Administration is contained at appendix 4.

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

The Chief State Solicitor's Office is a component part of the Office of the Attorney General and is the principal provider of solicitor services to the Attorney General and to all Government Departments and Offices. The Office also provides solicitor services to certain other State Agencies and to Tribunals of Inquiry.

#### **3.4.1 Work**

The range of work undertaken by the Chief State Solicitor's Office is very broad and includes the following:

- carrying out conveyancing of State property, including dealing with landlord and tenant and other property matters.
- furnishing of legal advice on the various issues that are submitted by Government, Departments and Offices and drafting of the necessary accompanying legal documents, including commercial contracts.
- providing a Solicitor service in all civil courts in which the State, any State Authority or the Attorney General is involved.
- preparing and presenting prosecutions initiated by Ministers or Government Departments.
- providing a Solicitor service to the Garda Síochána in matters related to the functions of the Criminal Assets Bureau.
- acting as Agent of the Government before the European Court of Justice.
- acting for the State in Inquiries under the Tribunals of Inquiry (Evidence) Acts 1921 - 2004 and supplying legal staff to act for the Tribunals, the public interest and other relevant State Authorities.
- advising and representing State parties in asylum, refugee and immigration matters.
- acting for the State in Extradition and European Arrest Warrant proceedings, Mutual Assistance Applications, Inquests, Police Property Applications and cases involving the Transfer of Sentenced Persons.
- discharging functions under the Council Regulation (E.C.) No. 1348/2000 of 29 May 2000 and the 1965 Hague Convention on the service abroad of Judicial and Extra-judicial documents in civil or commercial matters.
- representing the State and State Authorities in taxations of costs before the Taxing Masters and on appeal.

### **3.4.2 Structure**

The Office is organised into five legal Divisions<sup>5</sup> and an administration Division. Each legal division is organised into sections (or, in some cases, teams) on the basis of similarity of work or client.

Further details on the State Solicitor Service can be found in Appendix 3.

### **3.4.3 Prosecution of Crime**

Generally, the solicitor service for the prosecution of crime is provided by the Solicitor's Division of the Office of the Director of Public Prosecutions. The Attorney General does retain certain functions in relation to certain prosecutions, e.g. his consent is required to prosecute under the Official Secrets Act. In the case of prosecutions in respect of which the Attorney General retains a function and which arise outside Dublin, the solicitor service was provided by the local State solicitor service until end October 2008. After this date any such work has been managed by the Chief State Solicitor's Office. Responsibility for the provision and management of the local State solicitor service was transferred to the Office of the Director of Public Prosecutions in May 2007.

## **3.5 Administration & Support Services at the Chief State Solicitor's Office**

This Division of the Office is headed by the Head of Administration (Principal Officer) and includes the following:

- Library and Know-how Unit
- IT Unit
- Records & Registry
- Finance Unit
- Human Resources Section
- Documentation Centre & Services Unit
- Training and Development Unit
- Chief State Solicitor's Private Office

Internal Audit Unit and Change Management Unit are shared with the Attorney General's Office.

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<sup>5</sup> The areas for which each Division has responsibility may change from time to time.

A more detailed breakdown of the organisation of the CSSO Administration is contained at appendix 5.

## **3.6 Delivery of Service**

### **3.6.1 Attorney General's Office, Merrion Street**

Clients of the Attorney General's Office, Merrion Street, are the executive branch of Government, that is to say, the Government as a whole, its individual members and the Departments they head.

Because of the doctrine of the separation of powers, it is important to note that the Attorney General does not furnish legal advice to the other branches of Government, that is to say, the President and the legislative and judicial branches. Nor does the Attorney General furnish legal advice to individual members of the public.

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

The Office provides a solicitor service to the Attorney General, Government Departments and Offices. The Office's principal clients are -

- All Government Departments, to include the State, the Government, Government Ministers and their Departments
- An Garda Síochána.

## **3.7 Information Available**

### **3.7.1 Attorney General's Office, Merrion Street**

Further information in relation to the Office of the Attorney General is contained in its *Statement of Strategy, Client Service Guide*, Client and Customer Charters, Action Plan and Progress Reports on the implementation of *Sustaining Progress and Towards 2016* and Annual Report. Copies of the above publications are available from the Office of the Attorney General, Government Buildings, Upper Merrion Street, Dublin 2, by phoning 01-6616944 / 6314000 or can be accessed on our website <http://www.attorneygeneral.ie/>.

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

Further information in relation to the Chief State Solicitor's Office is contained in its *Statement of Strategy, Customer Action Plan, Client and Customer Charters, Action Plan* and Progress Reports on the implementation of *Sustaining Progress and Towards 2016* and the Annual Report. Copies of the above publications are available from the Office of the Chief State Solicitor, Osmond House, Little Ship Street, Dublin 8, by phoning 01-4176100 or can be accessed on our website <http://www.csso.ie>

## 4. SECTION 16 REQUIREMENTS

Section 16 (1) of the Freedom of Information Act 1997 provides:

*“A public body shall cause to be prepared and published and to be made available...*

- (a) the rules, procedures, practices, guidelines and interpretations used by the body, and an index of any precedents kept by the body, for the purposes of decisions, determinations or recommendations, under or for the purposes of any enactment or scheme administered by the body with respect to rights, privileges, benefits, obligations, penalties, or other sanctions to which members of the public are or may be entitled or subject under the enactment or scheme,*
- and*
- (b) appropriate information in relation to the manner, or intended manner, of administration of any such enactment or scheme.”*

The only relevant enactments or schemes which are administered by the Office or in respect of which the Office advises on the intended administration are, (a) the administrative requirements and procedures which must be complied with to enable the Attorney General make a decision as to whether to grant his consent to the institution of a relator action and (b) the Attorney General’s Scheme. Details in relation to these two schemes can be found on <http://www.attorneygeneral.ie/>.



## **5. ACCESS TO INFORMATION WITHIN THE OFFICE**

### **5.1 Applications under the Freedom of Information Acts**

Under the Freedom of Information Acts, anyone is entitled to apply for access to information not otherwise publicly available. As stated in the Introduction, by virtue of the provisions of section 46 (1) (b) of the Freedom of Information Act 1997, the Acts do not apply to a record held or created by the Attorney General or the Office of the Attorney General (other than a record concerning the general administration of the Office of the Attorney General). Thus the Acts only apply to records relating to the general administration of the Office of the Attorney General. Subject to this exemption and restrictions contained and imposed by the Acts, in particular Part III, each person has a right to:

- access records held by the Office,
- correction of personal information relating to oneself held by the Office where it is inaccurate, incomplete or misleading, and
- access to reasons for decisions made by the Office directly affecting oneself.

Subject to these exemptions and restrictions, the following records come within the scope of the Acts:

- all records relating to personal information held by the Office irrespective of when created,
- all other records created from commencement date, i.e. 21 April 1998, and
- any other records necessary to the understanding of a current record.

The Office is obliged to respond to the request within four weeks.

Applications for information under the Freedom of Information Acts in relation to the Attorney General's Office, Merrion Street, should be addressed to:

**Mr. David Donnelly**  
**Office of the Attorney General**  
**Government Buildings**  
**Upper Merrion Street**  
**Dublin 2.**  
**Phone: 01-6616944 / 6314000**  
**Fax: 01-6761806**  
**e-Mail: david\_donnelly@ag.irlgov.ie**

Applications for information under the Freedom of Information Acts in relation to the Chief State Solicitor's Office should be addressed to:

**Mr. Gearoid Browne**  
**Office of the Chief State Solicitor**  
**Osmond House,**  
**Little Ship Street,**  
**Dublin 8.**  
**Phone: 01-4175144**  
**Fax: 01-4176299**  
**e-Mail: gearoid\_browne@csso.gov.ie**

Applications should be in writing and should indicate that the information is sought under the Freedom of Information Acts. If information is desired in a particular form i.e. photocopy, computer disk, etc. this should also be mentioned in your application. Please give as much detail as possible to enable the staff of the Office to identify the record. If you have difficulty in identifying the precise records which you require, **Ms. Emma O'Reilly of the Attorney General's Office, Merrion Street, or Mr. Gearoid Browne of the Chief State Solicitor's Office**, as appropriate, will be happy to assist you in preparing your request.

## **5.2 Rights of Review and Appeal**

As set out in 5.1 above, the Acts do not apply to records unless they concern the general administration of the Office. Where a record concerns the general administration of the Office a, decision to withhold information may be appealed.

The Acts also set out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or third parties. Where a record does not concern the general administration of the Office, but the Office invokes these provisions to withhold information, that decision too may be appealed.

Decisions in relation to deferral of access, charges or forms of access may also be the subject of appeal.

Details of the appeals mechanisms are set out below.

### **5.3 Internal Review**

Where

- (a) you are dissatisfied with the initial response received i.e. refusal of information, form of access or charges,
- or
- (b) you have not received a reply within four weeks of your initial application (this is deemed to be a refusal of your request and you are entitled to proceed to internal review),

you may seek internal review of the initial decision, which will be carried out by an official at a higher level. Such a request for internal review must be submitted within four weeks of the initial decision and accompanied by payment of a fee, where appropriate (see paragraph 6 below).

Requests for internal review in the Attorney General's Office, Merrion Street, should be submitted to:

**Mr. Pdraig McMahon**  
**Office of the Attorney General**  
**Government Buildings**  
**Upper Merrion Street**  
**Dublin 2.**  
**Phone: 01-6616944 / 6314000**  
**Fax: 01-6761806**  
**e-Mail: [padraig\\_mcmahon@ag.irlgov.ie](mailto:padraig_mcmahon@ag.irlgov.ie)**

Requests for internal review in the Chief State Solicitor's Office should be submitted to:

**Mr Michael Fallon**  
**Office of the Chief State Solicitor**  
**Osmond House,**  
**Little Ship Street,**  
**Dublin 8.**  
**Phone: 01-4176102**  
**Fax: 01-4176299**  
**e-Mail: michael\_fallon@csso.gov.ie**

This Office must complete the review within three weeks. A week is defined in the Acts to mean five consecutive workdays excluding Saturdays, Sundays and public holidays. You will be notified of the outcome. An internal review must normally be completed before an appeal may be made to the Information Commissioner.

#### **5.4 Review by the Information Commissioner**

If you are dissatisfied at the outcome of the internal review, you may seek an independent review of the decision from the Information Commissioner. Further, if you have not received a reply to your application for internal review within three weeks, this is deemed to be a refusal and you may appeal the matter to the Commissioner.

Appeals in writing may be made directly to the Information Commissioner at the following address:

**Office of the Information Commissioner**  
**18 Lower Leeson Street**  
**Dublin 2.**  
**LoCall: 1890 223030**  
**Phone: 01-6785222**  
**Fax: 01-6610570**  
**e-Mail: foi@ombudsman.irlgov.ie**  
**web: www.irlgov.ie/oic/**

## 6. FEES

There are two types of fees chargeable under the Acts, namely:

- (1) Fees that accompany a request for a record or a review of a decision which are charged as follows:
  - A fee of €15 must accompany a request for records other than records containing only personal information relating to the applicant. A reduced fee of €10 applies in relation to such a request if you are covered by a medical card. Neither fee applies if the request is for personal information relating to oneself.
  - A fee of €85 must accompany most applications for internal review of a decision of a public body. A reduced fee of €25 applies if you are covered by a medical card. There is no fee for internal review applications concerning only personal information relating to oneself or in relation to a decision to impose a fee or deposit.
  - A fee of €150 must accompany most applications for review by the Information Commissioner. A reduced fee of €50 applies if you are covered by a medical card or in relation to a review concerning certain third party information. There is no fee for review applications concerning only personal information relating to the applicant self or in relation to decisions to impose fees or deposits.
- (2) Fees/deposits in relation to the cost of search and retrieval and copying of records released which may be charged as follows:
  - in respect of personal records, fees in respect of the cost of copying the records requested will not apply, save where a large number of records are involved;
  - in respect of other (non-personal) information, fees may be charged in respect of the time spent in efficiently locating records and for copying records, based on a standard hourly rate. No charges may apply in respect of the time spent by public bodies in considering requests.

A deposit may be payable where the total fee is likely to exceed €50.79. In these circumstances, the Office must, if requested, assist the member of the public to amend the request so as to reduce or eliminate the amount of the deposit.

Payment should be made by way of bank draft, postal money order or personal cheque made payable to the Professional Accountant, Office of the Attorney General or the Accountant, Chief State Solicitor's Office. If claiming a reduced application fee, the request must also be accompanied by the Medical Card registration number, issuing Health Service Executive and your consent to the verification of these details with the Health Service Executive

Charges may be waived in the following circumstances:

- where the cost of collecting and accounting for the fee would exceed the amount of the fee;
- where the information would be of particular assistance to the understanding of an issue of national importance; or
- in the case of personal information, where such charges would not be reasonable having regard to the means of the requester.

## **7. CLASSES OF RECORDS HELD BY THE OFFICE**

Section 46 (1) (b) of the Freedom of Information Act 1997 provides that the Act does not apply to records held or created by the Attorney General or the Office of the Attorney General which includes the Office of the Chief State Solicitor (other than a record concerning the general administration of the Office).

This means that access to information under the Freedom of Information Act 1997 as it relates to this Office is limited to the general administration of this Office and does not extend to records relating to, for example, legal advice or the conduct of particular litigation.

Records concerning the general administration of the Attorney General's Office, Merrion Street and the Chief State Solicitor's Office include records relating to the following:

Human Resources, Pay matters, Recruitment, Accounts, Information Technology, Accommodation, Internal Administration, general administration of the Attorney General's Scheme (not including individual cases thereunder which are exempt), general administration of requests by members of the public for Attorney General's Relator Scheme (not including individual cases thereunder which are exempt), Office Procedures, Contracts/Tenders, organisation of training courses, etc.

## ADVISORY COUNSEL GROUPS

The areas for which each Group has responsibility may change from time to time.

**Group A** has responsibility in the areas of criminal law, garda, prisons, Attorney General's criminal law functions, criminal assets, interception of telecom and postal packages, International co-operation in criminal matters, EU criminal justice measures – Title VI, Road Traffic Acts, liquor licensing, legal aid, Law Reform Commission, Statute Law Reform Bills and electoral law.

The group is comprised of the Group Manager and 6 other Advisory Counsel.

**Group B** has responsibility in the areas of private international law, casual and occasional trading, statistics, Statutory Instruments, personal injury, tobacco, health, blood, childhood abuse, adoption, abortion, assisted human reproduction, education, family law, civil legal aid, censorship, solicitors/barristers, Prosecution of Offences Act 1974, health and safety, environmental law, agriculture and aquaculture, foreshore, fisheries, nuclear and planning Acts.

The group is comprised of the Group Manager and 6 other Advisory Counsel.

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

The group is comprised of the Group Manager and 2 other Advisory Counsel.

**Group D** has responsibility in the areas of international trade law, telecommunications, National infrastructure/NDP/PPPs, revenue law, appropriation and public expenditure, financial services, insurance, company law, bankruptcy/insolvency/liquidation, mergers and monopolies, gaeltacht, defence, metrology, mining and quarrying, petroleum, e-commerce, semi-State bodies, other State authorities, State Property Act, property, relator actions, probate, succession, charities and escheated estates, land registration, landlord and tenant, civil justice, coroners, Irish language, cultural, State aids and grants and competition law.

The group is comprised of the Group Manager and 6 other Advisory Counsel.



**Group E** has responsibility in the areas of Intellectual Property, Public International Law, Official Secrets Act, Data Protection Act, Freedom of Information, air transport, Government contracts and procurement, social welfare law, public service, labour law, electricity, gas, postal law, road haulage, buses and taxis, rail transport, arbitration, Oireachtas, Ministers and Secretaries, pay, allowances and pension of Ministers, ethics, tourism, consumer protection, law of the sea, shipping law, harbours, Irish Coastguard Service, Commissioners of Irish Lights and marinas.

The group is comprised of the Group Manager and 6 other Advisory Counsel.

The Deputy Director General has responsibility in the areas of Defamation/privacy law, Tribunals of Inquiry (Evidence) Acts, Morris Tribunal, Tribunal costs, Institutional EU issues, EC judicial system, horizontal issues, horizontal issues – human rights (DG), Brussels-specific work and Fisheries prosecutions (DG).

The Legal Counsellor to the Permanent Representation to the European Union in Brussels also works within this group.

### PARLIAMENTARY COUNSEL GROUPS

The areas for which each Group has responsibility may change from time to time.

**Group 1** has responsibility for drafting legislation for the following Departments and Offices-

- Agriculture, Fisheries and Food
- Finance (including the Revenue Commissioners)
- Communications, Energy and Natural Resources
- Transport
- Taoiseach

The group is comprised of the Group Manager at Secretary General level and seven other Parliamentary Counsel.

**Group 2** has responsibility for drafting legislation for the following Departments-

- Defence
- Education and Science
- Enterprise, Trade and Employment
- Environment, Heritage and Local Government
- Social and Family Affairs

The group is comprised of the Group Manager at Assistant Secretary level and six other Parliamentary Counsel.

**Group 3** has responsibility for drafting legislation for the following Departments-

- Community, Rural and Gaeltacht Affairs
- Foreign Affairs
- Health and Children
- Justice, Equality and Law Reform
- Arts, Sport and Tourism

The group is comprised of the Group Manager at Assistant Secretary level and nine other Parliamentary Counsel

## CHIEF STATE SOLICITOR'S OFFICE

### ORGANISATION AND DIVISIONS

#### Organisation

The Office comprises five Legal Divisions and an Administration Division. These Divisions are further organised into Sections and Units to take account of the work requirements of clients.

The Management Advisory Committee (MAC) comprises the Chief State Solicitor and the six Divisional Heads and is responsible for the overall management of the CSSO and the development and implementation of strategy through a consultative approach in partnership with all staff.

#### Divisions

*(The areas which each Division has responsibility may change from time to time)*

##### Advisory Division

The Advisory Division consists of three Sections, the General Advisory Section, the State and European Litigation Section and the Commercial Contracts Section.

##### General Advisory Section

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

### State and European Litigation Section

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

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

### The Commercial Contracts Section

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

### **State Property Division**

The State Property Division consists of three Sections, the Office of Public Works/Health and Children Section; the Defence, Marine and Sports Capital Programme Section and the Finance, Education, Justice and Heritage Section.

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

This Section acts primarily for the Office of Public Works, with some work also being undertaken for the Department of Health and Children. The work for the OPW is mainly commercial conveyancing including the commercial leasing of accommodation for Government Departments and Offices and the acquisition and disposal of properties under various Government Programmes (e.g. the Decentralisation Programme and the Transferring State Assets Programme). The Section also undertakes heritage work for the OPW and handles waivers of the property of dissolved companies under the State Property Act 1954 for the Minister for Finance.

### Defence, Marine and Sports Capital Programme Section

This Section deals with transactional and advisory property matters for the following Government Departments – Departments of Community, Rural and Gaeltacht Affairs; Agriculture, Fisheries and Food; Enterprise, Trade and Employment; Transport; Defence; Communications, Energy and Natural Resources; Arts, Sport and Tourism. The work includes leases and licences of foreshore, sales and leases of premises which are surplus to military requirements and the implementation of the legal framework for the disposal of property for the Affordable Housing Initiative, The Section is also responsible for the legal work in relation to National Lottery Grants and the Arts Grants under the ACCESS Programme.

### Finance, Education Justice and Heritage Section

This Section deals with the property aspects of the Residential Institutions Redress Indemnity Scheme, escheated estates where the State is the ultimate intestate successor, school leases, purchases of sites for schools and prisons, commercial leases for the Department of Justice, Equality and Law Reform, claims for compensation under Section 120 of the Registration of Title Acts 1964 – 2006 and the acquisition of bog land and turbary rights for conservation purposes under the European (Natural Habitats) Regulations 1997.

### **Public Law Division**

The Public Law Division consists of two Sections the Commercial and Constitutional Section and the Judicial Review Section.

### Commercial and Constitutional Section

This Section is responsible for the defence of a wide range of civil actions against the State and the State Authorities with many cases going to full plenary hearing. Issues of law which are dealt with include commercial, constitutional, contract, employment, human rights, insurance, international, environmental, planning, electoral, public health, intellectual property, housing, social welfare, administrative and European Union Law.

### Judicial Review Section

This Section represents the State and State Authorities in judicial review applications. Judicial Review is the process by which judicial control of administrative action is exercised and by which the High Court exercises jurisdiction of over the proceedings and decisions of inferior courts, tribunals and other bodies who carry out quasi – judicial functions or who are charged

with the performance of public acts or duties. The Section also has responsibility for habeas corpus applications, cases stated, adoption cases, letters of request from foreign tribunals and service of documents under EU Council Regulation No 1348/2000 and the 1965 Hague Convention on the service abroad of judicial and extra judicial documents in civil and commercial matters.

### **Asylum and Legal Services Division**

The Asylum and Legal Services Division consists of two Sections the Asylum Section and the Legal Services Section.

#### **Asylum Section**

This Section handles all asylum, immigration and repatriation related cases on behalf of the Department of Justice, Equality and Law Reform, the Office of the Refugee Applications Commissioner, the Refugee Appeals Tribunal and the Garda National Immigration Bureau. The majority of the work is of a litigious nature dealing primarily with judicial review applications (both leave and substantive hearings) as well as habeas corpus applications (where the Section acts on behalf of the Prison Governor) in the Asylum area and necessitates daily attendance before the High Court and to a lesser degree the Supreme Court. The Section also deals with District Court applications pursuant to Section 9(8) of the Refugee Act 1996 as amended.

#### **Legal Services Section**

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

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

The Justice and Common Law Division consists of three Sections, the Justice and Crime Section, the Personal Injuries Section and the Tortious Claims Section.

#### **Justice and Crime Section**

This Section deals with Extradition proceedings, European Arrest Warrants, applications under the Transfer of Sentenced Persons Acts 1995 and 1997, Mutual Assistance applications, appeals

to the Courts Martial Appeals Court and Police Property applications. Staff in the Section also conduct Ministerial prosecutions in court, represent the Garda Síochána at the hearing of Intoxicating Liquor Licensing Applications and provide representation for the State at Inquests. The Head of Section manages the on call panel of staff in the Office which continues to provide a round the clock service out of office hours in Extradition, European Arrest Warrant, habeas corpus and other urgent matters.

#### Personal Injuries Section

This Section deals with civil claims against the Gardá Síochána. The Section handles claims for damages arising from assaults, wrongful arrests, false imprisonment and malicious prosecution by members of the Gardá Síochána. It also deals with claims under the Gardá Síochána (Compensation) Acts 1941 and 1945, non party discovery applications involving the Gardá Síochána and represents the Garda Authorities at Commissions of Inquiry.

#### Tortious Claims Section

This Section deals with Civil Service bullying and harassment cases, claims for damages for injury suffered by a member of the Defence Forces outside the State whilst in the service of the State and appeals to the High Court by persons infected by hepatitis C or HIV through the administration of blood or blood products. It also deals with all childhood abuse litigation arising out of claims of abuse in Residential Institutions and Day Schools.

#### Criminal Assets Section

This Section provides a solicitor service in matters related to the functions of the Criminal Assets Bureau.

### AGO ADMINISTRATION UNITS

The Division is headed by a Head of Administration at Principal Officer grade. It comprises the following Business Units:-

The **Human Resources Unit** (incorporating the Training & Development Unit), which is headed by an acting Principal Officer and has a staff of five. As well as being responsible for personnel and training and development functions within the Office the Unit oversees the implementation of the Office's Human Resources Strategy. Any new policies or procedures arising from the strategy are discussed at meetings of the Partnership Committee.

The **Information Technology Unit**, headed by an Assistant Principal, comprises a staff of nine. The main functions of the IT Unit are to develop and implement IT systems and infrastructure, where appropriate, to support the Office in achieving its business objectives and to maintain, manage and further develop those systems and infrastructure over time as requirements change.

The **Library and Know-how Unit** is headed by a Legal Information Manager and comprises a staff of eight. The Library and Know-how Unit assists in the delivery of legal services to the State through the provision and development of professional library, research and know-how resources, and services. The Unit's objective is to provide the highest quality service possible and to respond effectively and efficiently to the changing research needs of a modern government law Office.

The Unit caters for the information needs of approximately 140 staff and information services are also provided to Advisory Counsel on secondment to Government Departments and Offices. In addition to providing access to a substantial law collection in both hardcopy and electronic formats, the Unit manages the provision of a legal know-how database and the delivery of legal information/research services, information skills training and current awareness services to staff.

The **Finance Unit**, headed by an Assistant Principal, comprises of a staff of six and is supported by the provision of the financial expertise of a professional accountant. It is responsible for the processing of all payments, excluding payroll, within the Office's Financial Management System, maintenance of financial records, the preparation of annual Estimates, monthly financial returns



to the Department of Finance and the preparation of the annual Appropriation Account. The Unit liaises with the Fees Officer in the Chief State Solicitor's Office to ensure that fees to barristers and solicitors engaged to act on the instructions of the Attorney General are paid regularly. The Unit assists the Professional Accountant, who is the Management Information Framework (MIF) Project Manager, with the ongoing implementation within the Offices of the MIF project.

The **Internal Audit Unit** shares an Internal Auditor and Executive Officer with the Chief State Solicitor's Office. The work of the Internal Audit Unit is overseen by an Audit Committee which meets regularly.

**Registry**, with a staff of ten, handles all the incoming post, including electronic correspondence, to the Office and maintains all files within the Office. The Unit also is centrally involved in the implementation of the Offices' Case and Records Management System and examines and identifies material for transfer to the National Archives Office.

The **Services Unit** comprises four staff and deals with all areas relating to the maintenance and upkeep of the Office accommodation, procuring office supplies, ensuring appropriate security arrangements, telephone communications, organising functions, co-ordinating freedom of information requests as well as maintaining the Office's Asset Register.

The Merrion Street has three **Private Offices**. The Attorney General's Private Office has a Private Secretary, a Special Assistant, two Personal Secretaries and one Clerical Support staff. The Director General has a Private Secretary and three Clerical Support staff who also provide secretarial services to the Deputy Director General and the Head of Administration. The Chief Parliamentary Counsel has a Private Secretary.

The **Change Management Unit** is headed by an Assistant Principal with an Executive Officer to assist. The Unit has responsibility for implementing the Programme of Change arising from initiatives such as the Strategic Management Initiative (SMI)/Delivering Better Government (DBG), Public Service Management Act 1997(PSMA), Quality Customer Service (QCS), Value for Money Policy Review Initiative (VFM/R), Irish Language including obligations under the Official Languages Act 2003 (OLA), *Towards 2016* Social Partnership Agreement etc. within the Offices (AGO and CSSO). Specific projects include co-ordinating the preparation of the Office's Annual Reports, Statements of Strategy, AGO Client Service Guides and Client and Customer Charters, The Unit is located in the Merrion Street Office but it also services the Chief State Solicitor's Office.

## CSSO ADMINISTRATION UNITS

This Division is headed by a Head of Administration and comprises the following sections:

### Accounts Section

This Section is responsible for all payments, excluding payroll and a small number of payments processed through the Costs Accounting Section. It is also responsible for maintenance of relevant records and accounts and for ensuring that effective internal control practices are in place. On an agency basis, the Department of Finance Accounts Section provides a payroll service. The Office shares an internal auditor and a professional accountant with the Office of the Attorney General and maintains an internal audit programme and an Internal Audit Committee under an independent and external chair.

### Human Resources Section

This Section is headed by a Human Resources Manager. It has responsibility for the traditional personnel functions as well as for the development of progressive human resources strategy and practice within the Office. In addition it has responsibility for the Training and Development Unit which organises training courses for CSSO staff, particularly training identified by staff in the Training and Development forms under PMDS.

### Information Technology (IT) Unit

This Section is headed by an IT Manager. Responsibilities include the management, development, maintenance and service of all IT resources both in terms of hardware and software and with particular reference to the databases and communications systems which support the legal service functions of the Office. The Section plays a lead role in the implementation of the Office's IT Strategy.

### Library & Know-How Unit

This Section's role is to provide staff with access to the knowledge and information required to deliver high quality legal services. The Unit is managed by a Law Librarian, who is responsible for the strategic development of professional library, research and know-how resources, and services. The Unit is also staffed by an Assistant Librarian and a clerical officer. In addition, to managing hardcopy and electronic law collections and providing traditional law library services, the Unit handles a large volume of legal research queries, provides current awareness services,

delivers information skills training programmes and supports the Office's education initiatives. The Library & Know-How Unit is strongly committed to the development of knowledge management capabilities within the Office and is involved in the implementation of knowledge management initiatives and strategies. The Unit staff, through their involvement with Office committees, also play a key role in information management projects in the AGO/CSSO. The Unit does not handle queries from the public.

#### Office Services Unit

This Unit consists of two sub-units, the Documentation Centre and the Services Unit. The function of the Documentation Centre is to provide all large scale copying and binding services for the Office under agreed quality performance standards. The Services Unit is responsible for ensuring the provision all other support services to the staff of the Office including opening, distributing and collecting post, security, cleaning services, operation of lifts, reception, telephones, heating, lighting and plumbing, health and safety, ordering and supplying stationary and office equipment, ordering couriers and taxis and the maintenance of a register of physical assets in the Office.

#### Registry & Records Unit

This Unit was established as part of the introduction of a new case and records management system. The function of this Unit is to manage the records of the Office in an efficient and effective manner and in line with best practice in this area. The Unit is also responsible for ensuring compliance with the National Archives Act 1986. In addition the Unit manages the incoming and outgoing faxes.

The Office shares an Internal Auditor and an Accountant with the Office of the Attorney General and maintains an internal audit programme and an Internal Audit Committee under an independent and external chair.

# Appendix 6

