

Ireland

Member State Contribution

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I. Justice System

1. Appointment and selection of judges, prosecutors and court presidents

In accordance with Articles 13.9 and 35.1 of the Constitution, judicial appointments are made by the President of Ireland acting on the advice of the Government.

The appointment and selection of judges is covered in Part IV of the Courts and Court Officers Act, 1995. The Judicial Appointments Advisory Board (JAAB) is the body tasked with selection of suitable candidates for appointment. The JAAB is made up of Court Presidents from all jurisdictions, the Attorney General, a representative from both the Law Society and the Bar Council, and three lay members.

In regard to the appointment process:

- The Minister for Justice writes to the Chair of the JAAB to request a list of suitable candidates for appointment to a current or pending vacancy.
- The JAAB reviews applications received in regard to the relevant judicial office and reverts to the Minister with a list of suitable candidates.
- The Minister brings a memorandum to Government to agree the nomination of a candidate for appointment to judicial office.
- The President of Ireland makes the appointment.
- The new judge is sworn-in by the Chief Justice.

Article 35 of the Constitution provides that the Judges of the District Court, Circuit Court, High Court, Court of Appeal and Supreme Court (including the Presidents of the Courts) shall be appointed by the President (subject to Article 13.9 of the Constitution) on the advice of the Government.

Section 12 of the Courts and Court Officers Act, 1995 (as amended) provides that the JAAB can only deal with the appointment of ordinary judges of the Courts and, therefore, the procedures of the JAAB do not apply to the appointment of the Presidents of the Courts.

The Government since 2017 have used an independent non-statutory Advisory Committee to assist with identifying eligible and qualified persons, including from among serving judges, interested in the post of President of the relevant Court. The Committee considers candidates suitability and makes recommendations to the Minister for Justice on preferred candidates.

In regard to the appointment process for President of the Court:

- The Government establish the selection process and confirm members of the advisory committee by Government decision.
- The three members of this advisory committee have previously been the Attorney General, the Chair of the Civil Service Top Level Appointments Committee and a judicial member – the Chief Justice, President of the Court of Appeal or President of the High Court, depending on which jurisdiction the process is being run for.
- The Advisory Committee is set up and it takes over the selection process.
- Once the selection process is complete, the Government Secretariat, which acts as Secretary to the Advisory Committee, submits recommendations to the Minister for Justice on preferred candidates.

- From this point on the nomination and appointment of the President of the Court follows the standard process noted previously.

Judicial Appointments Commission Bill

Introduction

The Government approved the General Scheme of the Judicial Appointments Commission Bill 2020 on 15 December 2020, and the relevant Bill is currently being drafted by the Office of the Parliamentary Counsel.

The Bill will provide for the establishment of a Judicial Appointments Commission to replace the JAAB, to be chaired by the Chief Justice with 3 other judicial members, 4 lay members and the Attorney General ex-officio (non-voting) for the purpose of recommending persons to the Government for appointment as judges.

The Minister for Justice decided not to restore the previous legislation, the Judicial Appointments Commission Bill 2017 to the Order paper of Dáil Eireann on the basis that a significant number of adjustments improving the legislation were required to be made.

The Minister is consulting with key stakeholders including the judiciary and the legal professions in Ireland.

Both the European Commission in Country Reports and GRECO (Council of Europe) in Situation Report / Compliance Evaluations were of the opinion that the Judicial Appointments Commission Bill 2017 was not consistent with the standard set down by the Council of Europe (2010 Recommendation). That recommendation relates to the composition of selection/appointment bodies stating that such Commissions should be drawn in substantial part from the judiciary. A relevant related recommendation states that such bodies be drawn from the widest possible representation. The Minister is of the view that the new proposed system as set out in the General Scheme provides both for a substantial representation of judges (4, including the Chief Justice as Chair) and a wide representation of lay persons (4) with appropriate experience and knowledge consistent with the recommendations in question.

Main Provisions of the General Scheme

The General Scheme of the Judicial Appointments Commission Bill will, in summary, provide for the establishment of a Judicial Appointments Commission of 9 members to replace the JAAB. Its main purpose will be the recommendation of persons to the Minister for Justice for judicial appointment by the President on the advice of the Government. Under the Bill, the Minister will receive 5 recommendations for each vacancy. Serving judges wishing to be considered for promotion to a higher judicial position will be required to apply to the Commission under the Bill.

In relation to the composition of the Commission, the Minister is of the view that a smaller Commission than the seventeen (17) members envisaged under the 2017 Bill will be more effective in selecting candidates for judicial office. Appointment of the Chief Justice, who chairs the JAAB, as Chair of the new body will ensure that the selection process is absolutely rigorous and meets the need of having a strong, independent judiciary. In summary the membership proposed is:

- Chief Justice, as Chair of the Commission;
- One court President member being President of the court in respect of which recommendations to fill a vacancy have been sought ;

- Two members of the Judicial Council, one having been a practising barrister and one having been a practising solicitor at the time of their appointment as judges;
- The Attorney General (without vote).
- Four lay members, three of whom to be selected by open competition by the PAS, who will have substantial experience in a number of areas, and one of whom will be nominated by the Irish Human Rights and Equality Commission.

It is proposed that this arrangement will replace the existing JAAB composition of 11 members - 5 judicial members (Presidents of the courts including the Chief Justice who is Chairperson), 3 'legal' members i.e. the Attorney General, 1 Law Society representative, 1 Bar Council representative and 3 lay persons.

The Minister proposes that the Commission will nominate 5 persons to the Minister for each vacancy. This is a reduction on the minimum 7 names to be provided by the JAAB under the Courts and Court Officers Act 1995, as amended. The Scheme will provide a formula for more than one vacancy in the same court that would give less than 10 but more than 5 recommendations for 2 vacancies, and a provision for less than 5 recommendations if the Commission can only recommend less than 5 persons for a single vacancy. The Scheme ensures that all applications, including from serving judges, must be made in writing to the Commission. Under the Scheme, the Commission will assess and deal with applications from serving judges and develop appropriate procedures for their assessment. The current JAAB process only concerns first-time judicial appointments, with no statutory advisory role in place in respect of appointments from the ranks of serving judges.

The Commission additionally will:

- ensure that applicants for judicial office have demonstrated competence and probity and are suitable on grounds of character, temperament and health;
- set out best practice selection procedures for recruitment standards and comprehensive procedures including interviews;
- set out the skills and attributes required of judges, relating to knowledge of the law and conduct of proceedings in an efficient manner among other things.

The Scheme will provide for a Senior Judicial Appointments Advisory Committee. This Committee will be composed of the Chief Justice, 1 lay member and the Attorney General and will recommend persons for appointment to the three most senior judicial posts only – Chief Justice, President of the Court of Appeal and President of the High Court.

Other provisions of the General Scheme include:

- Provision for a dedicated support office headed by a Director and a small number of support staff;
- In line with the 2017 Bill, provision for a mechanism (Procedures Committee) to enable the Commission focus on and develop upgraded procedures and requirements for judicial office selection. The Procedures Committee will prepare and publish statements setting out selection procedures and (judicial) skills and attributes;
- Extending eligibility for appointment as a judge for the first time to serving District Court judges (to the High Court), legal academics and in house practising barristers (Heads 37, 38 and 39).

2. Irremovability of judges; including transfer, dismissal and retirement regime of judges, court presidents and prosecutors

The procedure for the removal of a judge is set out under Article 35.4 of the Constitution, which provides as follows:

- 1° A judge of the Supreme Court, the Court of Appeal, or the High Court shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his removal.
- 2° The Taoiseach shall duly notify the President of any such resolutions passed by Dáil Éireann and by Seanad Éireann, and shall send him a copy of every such resolution certified by the Chairman of the House of the Oireachtas by which it shall have been passed.
- 3° Upon receipt of such notification and of copies of such resolutions, the President shall forthwith, by an order under his hand and Seal, remove from office the judge to whom they relate.

To date, no judge has been removed under Article 35.4. It should be noted that, by virtue of section 39 of the Courts of Justice Act 1924, this applies to a judge of the Circuit Court and, by virtue of section 20 of the Courts of Justice (District Court) Act 1946, to a judge of the District Court.

Under the Judicial Council Act 2019, the Judicial Conduct Committee can invoke section 80 of the 2019 Act which concerns *“Referral by Judicial Conduct Committee to Minister of matter relating to conduct or capacity of judge for Article 35.4 purposes”*. This section outlines that, upon investigation of a complaint or conduct by the Panel of inquiry and upon determination of the Judicial Conduct Committee, the independent committee can make a referral to the Minister to bring motions to the houses of the Oireachtas, seeking the removal of a judge in regards to conduct or capacity.

A judicial transfer can be conducted in two ways:

- i. Ministerial Transfer Order; or
- ii. Reassignment by the Government.

District Court Transfers are referenced in section 32(3) of, and paragraph 2(3) of the Sixth Schedule to, the Courts (Supplemental Provisions) Act 1961.

All members of the judiciary in Ireland are required to retire upon reaching the age of 70 as set out in section 47 of the Court and Court Officers Act 1995 and section 4 of the Courts Act 2019.

3. Promotion of judges and prosecutors

No update or amendment to material provided in 2020.

4. Allocation of cases in courts

No update or amendment to material provided in 2020.

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

No update or amendment to material provided in 2020.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges.

The Judicial Council has a statutory obligation to establish the Judicial Conduct Committee under section 43 of the Judicial Council Act 2019. The Judicial Conduct Committee was formally established on 30 June 2020 and held its first meeting on 27 July 2020 with all members, both judicial and lay, appointed as per legislation. The Committee's functions are defined as being:

“to promote and maintain high standards of conduct among judges, having regard to the principles of judicial conduct requiring judges to uphold and exemplify judicial independence, impartiality, integrity, propriety (including the appearance of propriety), competence and diligence and to ensure equality of treatment to all persons before the courts.”

This Committee is independent in the performance of its functions. The Committee consists of 13 members, 8 judges and 5 lay members.

The Judicial Conduct Committee:

- can determine the admissibility of a complaint and establish a Panel of Inquiry to investigate a complaint;
- can provide a resolution of a complaint by informal means and determine if the complaint is substantiated;
- will provide the Board with draft judicial conduct and ethical guidelines as per section 43 of the 2019 Act;
- will prepare and publish guidelines for informal resolution of complaints as per section 43 of the 2019 Act, and
- has the power under section 61 of the Act to seek resolution of a complaint under informal means.

The Panel of Inquiry under section 69 of the 2019 Act has a number of powers to carry out its investigation.

The Judicial Conduct Committee has met a number of times since its establishment in June 2020. Its work has focused on delivery of its key statutory goals: drafting of Judicial Conduct Guidelines, procedures for Informal Resolution of complaints and on admissibility and operation of the complaints regime. This work is ongoing and more information is available at <https://judicialcouncil.ie/judicial-conduct-committee/>

A statutory deadline of 30 June 2021 provides for the Board of the Council to receive draft Guidelines on judicial conduct and ethics and a deadline of 30 June 2022 for adoption of these Guidelines by the Judicial Council.

7. Remuneration/bonuses for judges and prosecutors

Remuneration for judges is published in S.I. No. 610/2020 - Courts (Supplemental Provisions) Act 1961 (Judicial Remuneration) (Section 46(9)) (No. 2) Order 2020 and S.I. No. 611/2020 - Courts (Supplemental Provisions) Act 1961 (Judicial Remuneration) (Section 46(9A)) Order 2020.

Links:

S.I. 610/2020 <http://www.irishstatutebook.ie/eli/2020/si/610/made/en/print>

S.I. 611/2020 <http://www.irishstatutebook.ie/eli/2020/si/611/made/en/print>

8. Independence/autonomy of the prosecution service

No update or amendment to material provided in 2020.

9. Independence of the Bar (chamber/association of lawyers) and of lawyers

In Ireland, the legal profession has two types of lawyer - solicitors and barristers. Most solicitors work in private practice offering services directly to the public. Other solicitors are “in-house” solicitors, employed for example by the State or by business. Barristers specialise in court advocacy and the provision of legal advice and opinions but can also work in in-house roles and in the full time service of the State.

The Legal Services Regulatory Authority (LSRA), an independent body established in 2016, is Ireland’s national statutory regulator for both branches of the legal profession – barristers and solicitors. The objectives of the Legal Services Regulatory Authority are set out in section 13(4) of the [Legal Services Regulation Act 2015](#):

(4) The Authority shall, in performing its functions of the regulation of the provision of legal services under this Act, have regard to the objectives of—

- (a) protecting and promoting the public interest,
- (b) supporting the proper and effective administration of justice,
- (c) protecting and promoting the interests of consumers relating to the provision of legal services,
- (d) promoting competition in the provision of legal services in the State,
- (e) encouraging an independent, strong and effective legal profession, and
- (f) promoting and maintaining adherence to the professional principles specified in subsection (5).

In 2018, the LSRA established the Roll of Practising Barristers which has expanded the traditional definition of practising barrister and now all barristers who are lawfully entitled to provide legal services as a barrister are on the Roll. In 2019, the LSRA introduced the new business model framework for Limited Liability Partnerships and in 2021 will be introducing the framework for Legal Partnerships (which can include barrister-barrister partnerships and barrister-solicitor partnerships).

The LSRA will also be revisiting the subject of multi-disciplinary practices (involving legal practitioners and other professions – e.g. architect, accountant, barrister practice). A Report on this was produced in 2017 and a further report will be undertaken in 2021.

These developments in the legal sector are introduced in line with the LSRA's objectives, including encouraging an independent, strong and effective legal profession.

Other jurisdictions do not have separate barrister and solicitor professions. In 2020 the LSRA published a report in accordance with section 34(1)(b) of the 2015 Act which considered whether the professions of solicitor and barrister should be unified. The report concluded that there was no evidential basis for recommending unification of the professions but undertook to revisit the issue once other reforms under the Act had bedded down.

The LSRA is currently undertaking a research project at the request of the Minister for Justice on potential barriers that may exist to commencing a career as a barrister or solicitor. It anticipates that it will report on this issue towards the end of 2021. The LSRA is also working with the Department of Justice on the implementation of recommendations made to reform the training and education of legal practitioners including reforms to increase competition in the legal education and training market.

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

The Government of Ireland has given a commitment to establish a Judicial Appointments Commission (JAC). This is a significant development in the appointment process of judges in Ireland and will have a positive impact on the perception the general public has of the independence of our judiciary.

The establishment of a Judicial Appointments Commission of 9 members will replace the Judicial Appointments Advisory Board (JAAB), and the Chief Justice will Chair the Commission instead of the previously purposed model with a Lay Chair.

The 2020 Bill ensures that all applications, including from serving judges, must be made in writing to the Commission. Under the 2020 Bill, the Commission will assess and deal with applications from serving judges and develop appropriate procedures for their assessment. The current JAAB process only concerns first-time judicial appointments, with no statutory advisory role in place in respect of appointments from the ranks of serving judges.

The Judicial Appointments Commission Bill 2020 will provide for a Senior Judicial Appointments Advisory Committee. This Committee will be composed of the Chief Justice, 1 lay member and the Attorney General and will recommend persons for appointment to the top three judicial posts only – Chief Justice, President of the Court of Appeal and President of the High Court. The Bill provides for the Chief Justice to be substituted in instances where the vacancy concerned is that of the Chief Justice. Any decision of this committee will be unanimous. Appointments as President of the Circuit Court and President of the District Court will be filled through the Commission recommendation process, as with all other posts.

The Bill establishing the Judicial Appointments Commission is currently being drafted and will then be brought to the houses of the Oireachtas as soon as possible.

Link to press release regarding heads of bill:

http://www.justice.ie/en/JELR/Pages/General_Scheme_of_the_Judicial_Appointments_Commission_Bill_2020

11. Accessibility of courts (e.g. court fees, legal aid, language)

Costs

Discretionary costs in criminal proceedings

The District Court, in criminal proceedings, may make an order for costs against any party. This power was extended to include an order for costs against the Director of Public Prosecutions or a prosecuting police officer by S.I. 496 of 2020, which was made on foot of a judgment of the Court of Appeal in *DPP -v- McGrath* [2019] IECA 320 in which Order 36 rule 1 of the District Court Rules was held to be *ultra vires* the delegated powers of the District Court Rules Committee. Order 36 rule 1 was accordingly amended to provide that the District Court, having made an order in any case of summary jurisdiction, may make an order in accordance with law ordering any party to the proceedings to pay to the other party such costs and witnesses' expenses as it shall think fit and removing the exception of not awarding costs against a prosecutor.

The Circuit Criminal Court and Central Criminal Court (the courts having jurisdiction to try on indictment) have a discretion to award costs:

- in the case of an acquittal (which award is appealable to the Court of criminal Appeal);
- where an indictment contains unnecessary matter, or is unnecessarily lengthy, or materially defective,
- where a trial is postponed due to amendment of an indictment; or
- where a separate trial on a count in an indictment is directed).

12. Resources of the judiciary (human/financial/material)

All judges receive an allowance of €9057.06 except ordinary judges of the Circuit Court and District Court who receive €2730.02 and €1365.01 respectively. This allowance is split over 12 months.

Since 2012, newly appointed Judges to the Supreme Court, Court of Appeal, High Court, Circuit Court and the President of the District Court are provided with a Judicial Assistant in place of an usher or crier. A Judicial Assistant assists the Judge in Court, as well as assisting with legal drafting, proofing and any research and administrative support required. A small team of five Research Support Associates work on long term projects to assist the judiciary and support members of the judiciary who do not have an assigned assistant.

The Judicial Council Act 2019 (section 17) establishes the Judicial Studies Committee, which is to facilitate the continuing education and training of judges with regard to their functions.

13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)

The Judicial Council Act 2019 (section 17) establishes the Judicial Studies Committee, which is to facilitate the continuing education and training of judges with regard to their functions.

A Director of Judicial Studies (who is a serving judge) was appointed in June 2021 with 50% of her time dedicated to training and education of judges. Since her appointment, she has delivered remote/virtual induction training to all newly appointed judges. A commitment has been given to the delivery of judicial training pursuant to recommendations made in a statutory report on the treatment of vulnerable

witnesses in court. A procurement exercise was carried out to deliver mentor training to judges so that they, in turn, will be enabled to mentor newly appointed judges.

A Judicial Studies Committee made up of a representative judge from each jurisdiction has met regularly throughout the year to formulate education and related governance policy. A survey of judicial training needs was carried out in January/February 2021 with a 72% response rate. It has not been possible to expand the training programme further due to a lack of infrastructural and administrative support being in place e.g. payroll facilities to enable recruitment of Associate Director with responsibility for training and education, accommodation to facilitate training provision etc.

The Courts Service Learning and Development Strategic Plan 2020-2023 supports the building of staff capability, capacity and commitment. The Learning and Development Unit supports approximately 1,100 Courts Service staff across Ireland in their work supporting the judiciary and providing service to court users. The Learning and Development Unit works with subject matter experts, both within the organisation as well as external experts. In 2017 the Learning and Development Unit launched its Learning Management System (LMS), L&D Connect. This has enabled monitoring of the training completed by staff, assisting with the scheduling of training, and providing staff with a repository of training resources, including e-learning courses which are developed internally. A blended learning approach to training has been adopted, which is delivered either in a virtual or traditional classroom. In 2021, the Learning and Development Unit will launch the next generation of its LMS, which will afford its staff with more e-learning opportunities, including targeted learning pathways, relevant to their role.

The Office of the Director of Public Prosecutions has an extensive internal training programme. In order to lead this programme, the Office has a Legal Training Steering Committee. Its aim is to draw together all threads of training requirements and to involve representatives from the legal staff and management in the process. This Group meets 3-4 times per year to discuss training needs and to decide on the training programme for the legal staff of the Office.

The Office also operates a "Refund of Fees Scheme" whereby staff can receive financial assistance to complete courses in their own time, which involve knowledge and skills deemed of relevance to the work of the Office. These courses are offered by external providers such as universities or other third level institutions, as well as the Law Society of Ireland and the Honorable Society of Kings Inns.

Legal Staff can also participate in courses offered by One Learning (the learning and development provider for the Irish Civil Service). These courses include training in management and leadership skills, for example.

Legal Staff also regularly attend external training and conferences. A training series on a specialised topic is held annually which includes external expert speakers. The Office also holds an annual conference, which is attended by legal staff from the Office, which also includes external expert speakers.

Legal staff employed by the Office are either solicitors or barristers. To practice as a solicitor, it is required to be admitted to the Roll of Solicitors. To be admitted, it is required to carry out Professional Practice Courses organised by the Law Society of Ireland and also complete in-office training. Solicitors must also carry out 20 hours of Continuous Professional Development (CPD) per year which includes minimum requirements in the categories of "Management and Professional Development Skills" and "Regulatory Matters"). To qualify as a barrister, it is required to complete and be admitted to the barrister-at-law degree at the Honorable Society of Kings Inns. Practising barristers must "undertake the continuing education and professional development necessary to ensure an adequate level of knowledge and

competence in his area(s) of practice”. A Practising Barrister must also comply with any minimum requirements for continuing education and professional development as may be prescribed by the Legal Services Regulation Authority (see paragraph 3.32, Legal Services Regulation Authority, [Code of Practice for Practising Barristers](#)). The Legal Services Regulation Authority have made recommendations in relation to legal practitioner education and training which may be of assistance - for more see [here](#)

14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

The Courts Service has embarked on a ten year modernisation programme, “The Courts Service Long-Term Strategic Vision to 2030: *Supporting Access to Justice in a modern, digital Ireland*”, which aims to better support access to justice in a modern digital Ireland. Following the onset of the Covid 19 pandemic and in response to the critical requirement to continue to provide access to justice, Courts Service leveraged and extended the existing tools and services within the Courts and rapidly produced remote courtrooms. By extending an existing product, Pexip, and scaling up an existing ICT support partner, the Courts Service was able to produce a remote court approach to quickly meet the emergency need. A Virtual Courtroom programme now facilitates a multitude of case types, with in excess of 2250 virtual court sessions completed since its initial inception in March 2020. Remote courts continue to operate across all jurisdictions, extensively, in the Supreme Court, Court of Appeal and the High Court and it is envisaged that this will become part of the way courts services are delivered in the future.

15. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

The Courts Service Strategic Plan 2017-2020, developed and adopted by the Courts Service Board following an extensive consultation exercise with internal and external users, inter alia takes account of the Courts Service ICT Strategy. The plan identified strategic priorities for the organisation in the three years to 2020.

In 2018, the Courts Service carried out a review of judicial ICT requirements to map the existing judicial ICT experience and recommend enhancements to optimise ICT services to the judiciary. The project, which commenced with members of the Supreme Court and Court of Appeal and continued with judges of the High Court, Circuit Court and District Court, culminated in a report to the Courts Service’s ICT Governing Committee in September 2018. A proof of concept exercise to verify the suitability of the technology proposed was launched at the end of 2018.

The Service also re-designed the Judges’ Intranet site during 2018 to provide better, access, workflow and search facilities. The site has been further developed in 2020 and has the facility to provide access to case documentation commencing with documents relating to applications for leave to appeal to the Supreme Court.

The Service continues to consult with judicial user groups in the development of policies and initiatives on a formal and informal basis. These groups also provide valuable feedback and input into the ongoing work of the Service. Meetings afford the Service the opportunity to update users on developments including ICT.

The Courts Service Online (CSOL) project aims to deliver a single civil case management system to provide a common platform for the civil processes of all jurisdictions. This system incorporates the facility to make

applications and payments online, collect orders and file certain documents electronically. CSOL has replaced a number of existing systems and continues to be implemented on a modular basis. Areas of work benefiting from the CSOL platform include insolvency and small claims, the Supreme Court and the Court of Appeal. Additions during 2020 included the development of Family Law Search function, further expansion of eLicensing functions and enhancements to the e-filing of applications to the Office of the Legal Costs Adjudicator. Other changes carried out in 2020 include further enhancements to the High Court Search function which will provide additional information to Court users which is due to be launched shortly.

The Courts Service has also carried out additional developments on the reporting platform (Apex) and reports are now available from a centralised location covering certain civil and criminal cases. An improved and enhanced reporting interface has also been implemented in 2020, this introduced standardisation and increased usability. Work also commenced in 2020 on a project to share criminal data between agencies in the Criminal Justice sector.

In response to the Covid-19 pandemic and the associated restrictions, the Courts Service initiated a Remote Court programme to facilitate continued access to justice. Since inception, the Remote Court programme has facilitated a multitude of case types, including large call over lists and smaller in-camera hearings with in excess of 2250 virtual court sessions completed since initial go-live in April 2020. The programme continues to expand case types across all Jurisdictions with significant expansion across the Superior Courts.

The increased use of technology is key to meeting the challenge of maintaining services to judiciary, staff, the legal profession and the public, and to meet legislative requirements. Optimising the use of technology is one of the Strategic Goals of the Courts Service.

The Courts Service's Long-Term Strategic Vision to 2030: *Supporting Access to Justice in a modern, digital Ireland*, which was finalised in 2020, has the objectives of delivering and supporting the judiciary in a user-centric manner with a focus on accessibility using simplified services and processes for the timely administration of justice in an integrated manner with other justice partners, working in a collaborative manner to provide efficient value for money services for the citizen.

By managing the courts in a manner that minimises the number of cases that need be dealt with by the courts system, only requiring attendance at hearings where necessary, holding and managing hearing and case information digitally and adopting a digital-first model for the filing of court documents and case progression, the Courts Service's strategic vision for proactively managing the courts and supporting the judiciary will reduce delays for the user. It will also provide information to court users in a manner that allows them to interact with the Courts Service as easily as possible while being a trusted source of court system information. The Courts Service will work to simplify court practices and procedures and design our services based on the needs of those who use them.

16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation

In Ireland, there are basically five distinct types of court: the District Court, the Circuit Court, the High Court, the Court of Appeal and the Supreme Court. Each court deals with specific types of cases.

The District Court is organised on a local basis throughout the country. It deals with civil actions where the compensation claimed does not exceed €15,000. It also handles liquor licensing cases and a wide range of family law cases, including custody and maintenance of children and applications for barring orders. The District Court also deals with criminal matters such as drunk driving, speeding, assault, criminal damage and the initial hearings of serious offences to be tried in the higher criminal courts. A judge sitting alone deals with these cases. Consumers can use the small claims procedure in the District Court across the country to recover sums up to €2,000. There are 23 District Court Districts and the Dublin Metropolitan District. Each District Court District is divided into District Court areas and has one or more judges assigned to that area.

The Circuit Court is organised on a regional basis. It deals with civil cases which do not exceed €75,000 (€60,000 in personal injury cases). It can also deal with some liquor licensing cases and a wide range of family law cases, including divorce and judicial separation. In criminal matters, the Circuit Court sits with a judge and jury and can try all but the most serious offences, such as murder and rape. The Circuit Court hears appeals from the District Court in civil and criminal matters. The Circuit Court also exercises jurisdiction in respect of the following alternative remedies to bankruptcy available under the Personal Insolvency Act 2012: (a) debt relief notices and (up to an indebtedness value of € 2,500,000) - (b) debt settlement arrangements and (c) personal insolvency arrangements. Ireland is divided into eight circuits. A Circuit Court Judge is assigned to each circuit except for Dublin and Cork Circuits. For Dublin Circuit ten judges can be assigned and three judges can be assigned to Cork Circuit.

The High Court is mainly based in Dublin and has the power to hear all criminal and civil matters (including family law cases) but usually hears only those cases that cannot be dealt with by the lower courts. This means that in civil actions it hears cases where the claim exceeds €75,000 (€60,000 in personal injury cases). It also hears appeals from the Circuit Court in civil matters and can give rulings on questions of law raised in the District Court. The High Court exercises jurisdiction in respect of (a) all bankruptcy matters and, where the indebtedness value exceeds € 2,500,000 (b) debt settlement arrangements and (c) personal insolvency arrangements under the Personal Insolvency Act 2012. When the High Court is dealing with criminal cases, it is known as the Central Criminal Court. It tries the most serious offences, such as murder and rape, which the Circuit Court cannot deal with. A judge and jury try these cases.

The Court of Appeal hears appeals in civil cases from the High Court and appeals in criminal cases from the Circuit Court, the Central Criminal Court or the Special Criminal Court. It can also give rulings on questions of law raised in the Circuit Court.

The Supreme Court is the highest court in the land. It hears appeals from the Court of Appeal where the decision involves a matter of general public importance or it is necessary in the interests of justice to hear an appeal and from the High Court where there are exceptional circumstances warranting a direct appeal when the decision involves a matter of general public significance and/or it is in the interests of justice. These limited circumstances are set out in Article 43.5.3 and 34.5.4 of the Constitution. The President of Ireland may refer any Bill passed by the Oireachtas to the Supreme Court to determine whether it is unconstitutional.

In addition the Special Criminal Court consists of three judges sitting without a jury and primarily deals with criminal charges involving terrorist organisations, and, more recently, with charges relating to organised

drug activities. The Court was established to hear cases that the ordinary courts might be unable to handle because of fears of the possibility of jury intimidation.

There are 95 geographic locations where there is a court of at least one of the jurisdictions located throughout the country. In relation to foreseen changes in the court structure, the Assisted Decision-Making (Capacity) Act 2015 will, when commenced, replace the existing wardship regime for persons with capacity issues and introduce new decision support arrangements for such persons. New jurisdiction will, in particular, be conferred on the Circuit Court in respect of such arrangements. The current situation is that while some parts of the 2015 Act are commenced, others remain to be commenced.

17. Length of proceedings

Source: Courts Service Annual report 2019

CIVIL: IN DAYS - FROM ISSUE TO DISPOSAL						
	High Court		Circuit Court		District Court	
	2019	2018	2019	2018	2019	2018
All	785	749	725	749	144	163
Employment (dismissals)	108	98	874		N/A	N/A
Divorce	1064	615	388		N/A	N/A
Commercial	539	321	N/A		N/A	N/A
Personal Injury	974	983	N/A		N/A	N/A
Judicial Review	392	312	N/A	N/A	N/A	N/A

CRIMINAL: CIRCUIT COURT - AVERAGE LENGTH IN DAYS		
	2019	2018
All	672	547

CRIMINAL: CENTRAL CRIMINAL COURT		
AVERAGE LENGTH IN DAYS		
	2019	2018
All	487	382

CRIMINAL: SPECIAL CRIMINAL COURT		
AVERAGE LENGTH IN DAYS		
	2019	2018
All	506	577

CRIMINAL: IN DAYS - FROM ISSUE TO DISPOSAL - BY OFFENCE: DISTRICT COURT					
SUMMARY		INDICTABLE DEALT WITH			RETURN FOR TRIAL
		SUMMARILY			
2019	2018	2019	2018	2019	2018
277	278	375	356	95	92

Other – Please Specify

Material on Review Committee on Offences Against the State Acts

On 16 February 2021, the Minister for Justice, Helen McEntee, appointed a group of six experts to review the Offences Against the State Acts – Ireland’s primary counter-terrorism legislation. The Special Criminal Court was established by the Offences Against the State Act 1939 and therefore will fall under the scope of the Review Committee. The Review Committee will be chaired by Mr. Justice Michael Peart, former Judge of the Court of Appeal and will examine all aspects of the legislation, taking into account the current threat posed by domestic and international terrorism and organised crime. The Review Committee, an independent body, shall examine all aspects of the Offences against the State Acts 1939 to 1998, taking into account:

- the current threat posed by domestic/international terrorism and organised crime;
- the duty to deliver a fair and effective criminal justice system to ensure the protection of communities and the security of the State;
- Ireland’s obligations in relation to Constitutional and ECHR rights and international law.

The review will be undertaken in consultation with the relevant stakeholders, statutory agencies and civil society organisations.

The Review will provide its intended plan of work to the Minister for Justice within one month of being commissioned. The Review shall submit an interim report to the Minister within three months of being commissioned, including an indication of the timescale required to complete its work.

II. Anti-corruption framework

18. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant), e.g. in table format.

The Department of Justice is committed to ensuring that An Garda Síochána have the resources required to combat all forms of crime. An Garda Síochána have been allocated an unprecedented budget of €1.952 billion for 2021. This level of funding is enabling sustained ongoing recruitment of Garda members and staff. As a result, Garda numbers are now over 14,600 Garda members and 3,000 Garda staff nationwide. Budget 2021 provides for the recruitment of up to 620 new Gardaí and an extra 500 Garda staff.

This is in addition to significant additional budgets for Garda ICT, fleet and capital programme. Any additional resourcing for An Garda Síochána into 2022 and onwards will of course be considered and discussed as part of the annual estimates process.

More specifically, the current and projected numbers for the Garda National Economic Crime Bureau (GNECB) are outlined in the table below.

Description	D/Sergeant	D/Garda
Current Permanent Staff	10	36
Sanctioned Additions	13	53
Proposed Sanctioned Total	23	89

The GNECB has commenced the recruitment process for the additional posts sanctioned.

Within An Garda Síochána, the Anti-Corruption Unit in GNECB was established in March 2017. The Unit is a ring fenced resource, dedicated to the proactive prevention, disruption and investigation of bribery and corruption with responsibility for:

1. The investigation of all credible cases of foreign bribery involving Irish nationals, companies or person ordinarily resident in Ireland;
2. The investigation of domestic cases of bribery and corruption of national importance;
3. Taking a proactive role in the identification of possible cases of bribery and corruption;
4. Management of the Bribery and Corruption Confidential Reporting Line;
5. Acting as a centre of excellence in relation to the prevention, disruption and investigation of bribery and corruption;
6. Supporting less complex bribery and corruption investigations being conducted by Divisions;
7. Liaising with foreign law enforcement agencies engaged in the fight against bribery and corruption;
8. Liaising with international organisations' engaged in the fight against bribery and corruption, such as OECD, UNCAC, Council of Europe and European Commission;
9. Providing anti-corruption advice to businesses and the public generally.

The Anti-Corruption Unit, GNECB is currently comprised of one (1) Detective Sergeant and two (2) Detective Gardaí. However, a competition to select detectives for allocation to the Garda National Economic Crime Bureau has recently been completed and it is intended that the Anti-Corruption Unit will receive additional staff when successful candidates are allocated to the Bureau. Forensic accountants attached to the Bureau are also in a position to provide forensic accounting expertise when required.

The Anti-Corruption Unit uses resources within GNECB when conducting major operations and has a close working relationship with other national units such as the Criminal Assets Bureau, Garda National Cyber Crime Bureau, Garda National Bureau of Criminal Investigation and the Garda National Drugs and Organised Crime Bureau. Detectives attached to the Anti-Corruption Unit are members of An Garda Síochána and have all relevant police powers at their disposal. The law in relation to bribery and corruption has recently been updated and consolidated by the Criminal Justice (Corruption Offences) Act 2018 and it is now a criminal offence to fail to report bribery and corruption offences to An Garda Síochána under Section 19 of the Criminal Justice Act, 2011.

ODPP

The Office of the Director of Public Prosecutions (“ODPP”) has sole responsibility for the prosecution of corruption cases with a unit in the Directing Division having the prosecution of them amongst its specialisations. The more complex cases including PIF cases are the responsibility of the Special Financial Crime Unit. It is difficult to say precisely what resources are assigned to the prosecution of corruption cases as the numbers of such cases are relatively few in number and they are not separately resourced from general fraud or other breach of trust cases. It is therefore not possible to set out the resources allocated to these in table format or indeed in any other format.

It is worth noting the recommendations of the recently published [Hamilton Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption](#). Among the Report’s key recommendations are greater resourcing for certain anti-corruption bodies including the ODPP. The recommendation specific to the ODPP included additional prosecutors along with a seconded specialist in digital forensics and a seconded forensic accountant.

It is the intention of the ODPP to put a Business Plan to the Department of Public Expenditure and Reform following on from the Review’s recommendations. The issues of anti-corruption will be specifically referred to in the Plan.

Competition and Consumer Protection Commission

The Competition and Consumer Protection Commission (“CCPC”) does not have any statutory role in relation to the prevention, detection, investigation or prosecution of corruption. However, the CCPC investigates hard core cartels including bid rigging. In investigating bid rigging issues surrounding corruption and fraud may come to its attention. Under legislation, the CCPC can share this information with An Garda Síochána. The CCPC has a full-time seconded member of the Garda National Economic Crime Bureau working alongside its criminal investigators. Bid rigging represents about half of the cartels the CCPC investigates and many of these relate to public procurement.

The CCPC believes that there should be a centralised database of public procurement processes that can be screened for bid rigging. Such a database could also be screened for indicators of corruption or fraud. This issue is being considered as part of the Implementation Plan arising from the review of structures and strategies to prevent, investigate and penalise economic crime and corruption, currently being prepared by the Department of Justice.

Action 17 in the draft plan relates to the introduction of legislation to enable the collection, collation, and analysis of all public procurement data to detect and deter bid-rigging. There is a proposal to consult with relevant agencies on the legislation required to deliver this recommendation.

However, as set out in the report of the Review Group, the introduction of public procurement screening would require specific legislation to enable the data already captured in the e-tenders system to be made available to the CCPC and GNECB.

19. Integrity framework including incompatibility rules (e.g.: revolving doors)

1. Integrity framework

Policy in Ireland for the prevention of corruption and promotion of integrity is set out in a number of pieces of legislation including: the Ethics Acts and the [Regulation of Lobbying Act 2015](#).

1.1 Current Ethics legislative framework

The [Ethics in Public Office Act 1995](#) and the [Standards in Public Office Act 2001](#) are cited together as the Ethics Acts. The Minister for Public Expenditure and Reform has responsibility for these Acts.

1.2 Overview of the Ethics Acts

The broad focus of the Ethics Acts is to provide for disclosure of interests, including material interests, which could influence a Government Minister or Minister of State, a member of the Houses of the Oireachtas, the Attorney General, a board member of a public body or a public servant (including special advisers) in performing their official duties. The principal objective of the legislation is to demonstrate that those who are participating in public life do not seek to derive personal advantage from the outcome of their actions. To meet this objective, a statutory framework has been put in place to regulate the disclosure of interests and to ensure that other measures are taken to satisfy the broad range of obligations arising under the legislation. The legislation is founded on the presumption of integrity but recognises that specific measures should exist to underpin compliance.

Under the Ethics Acts, as well as disclosing interests, evidence that they are tax compliant must be furnished to the Standards in Public Office Commission (Standards Commission) by all members of both Houses of the Oireachtas (Dáil and Seanad), the Attorney General and appointees to senior office in public bodies. Furthermore, evidence of tax compliance is to be forwarded to the Judicial Appointments Advisory Board before appointment takes place to judicial office. The legislation also provides for the drawing up of codes of conduct for members of the Houses of the Oireachtas (other than office holders), for office holders (i.e. Ministers of the Government and Ministers of State, and the Chairpersons and Deputy Chairpersons of both Houses of the Oireachtas), and for board members and public servants. These [codes](#) are published by the Standards Commission.

1.3 Functions of the Standards Commission under the Ethics Acts

The principal ongoing functions of the Standards Commission under the Ethics Acts are to provide advice and guidelines on compliance with the Ethics Acts, to administer the disclosure of interests and tax clearance regimes and to investigate and report on possible contraventions of the legislation. These functions of the Standards Commission apply to office holders and to public servants and, in relation to tax

compliance measures, to all members of the Houses. Apart from matters relating to tax clearance, the Committees on Members' Interests of both Houses have functions similar to those of the Standards Commission in relation to members of the Houses who are not office holders.

The Standards Commission also has oversight responsibility for the Electoral Act 1997 (as amended), the Oireachtas (Ministerial and Parliamentary Offices)(Amendment) Act 2014 and the Regulation of Lobbying Act 2015.

2. Revolving doors

2.1 Post-employment restrictions

There are references to post-employment restrictions in the Regulation of Lobbying Act 2015 (the 2015 Act) (section 22), the Code of Conduct for office holders (2.2.4) and the Civil Service Code of Standards and Behaviour (section 20).

Section 22 of the 2015 Act refers to post-employment restrictions in relation to lobbying activities for "relevant designated public officials" (DPOs), which includes Government Ministers, Ministers of State, Special Advisers and senior designated civil and public servants. The 2015 Act and related statutory instruments can be viewed at <https://www.lobbying.ie/about-us/legislation>

There are requirements on office holders under the Code of Conduct for Office Holders. The Code of Conduct for office holders includes Government Ministers and Ministers of State. Under s. 2.2.4 of the Code of Conduct for Office Holders, office holders are required to "avoid any real or apparent conflict of interest with the office they formerly occupied", and "should act in a way which ensures it could not be reasonably concluded that an office holder was influenced by the hope or expectation of future employment with the firm or organisation concerned or that an unfair advantage would be conferred in a new appointment by virtue of, for example, access to official information the office holder previously enjoyed".

The Civil Service Code relates to any activities that may give rise to a possible conflict of interest for all civil servants, including those at senior levels, when taking up a new position outside the Civil Service. The provisions are designed to foster a culture in which civil servants are fully aware of the potential for conflict of interest in accepting positions outside the Civil Service.

20. General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

1. Lobbying

1.1 Background

The Regulation of Lobbying Act 2015 (the 2015 Act) was commenced on 1 September 2015. This means that from that date, there has been a requirement for those who lobby designated public officials (DPOs, i.e. the lobbied) to register and report on their lobbying activities every four months on the Register of Lobbying (the Register). The elements of the 2015 Act that provide for investigation and enforcement

provisions were commenced on 1 January 2017. The 2015 Act and related statutory instruments can be viewed at <https://www.lobbying.ie/about-us/legislation>

The Register, which is a web-based system, can be viewed at www.lobbying.ie and is overseen by the Standards Commission. There are currently over 2,100 organisations and individuals who have registered on the Register. More than 50,000 returns have been submitted and are available for viewing.¹

There is no fee to register as a lobbyist and members of the public can view and search the Register free of charge. The website, including the online Register, also has a suite of information tools designed to help lobbyists, DPOs and the public to fully understand the 2015 Act and its obligations.

The 2015 Act also provides for a one year post-employment “cooling off” period during which particular public officials cannot undertake specific lobbying activities. In November 2018, the Standards Commission launched the Code of Conduct for persons carrying on lobbying activities (the Code).

<https://www.lobbying.ie/about-us/code-of-conduct/> The purpose of this Code is to govern the behaviour of persons / organisations carrying on lobbying activities and to provide support and guidance on how to lobby in an ethical and transparent way.

1.2 Purpose and key aspects of the legislation

The purpose of the Regulation of Lobbying Act is to provide appropriate transparency on "who is lobbying whom about what". In this context, the Act is designed to provide information to the public about:

- Who is lobbying;
- On whose behalf lobbying is being carried out;
- The issues involved in the lobbying;
- The intended result of the lobbying; and
- Who is being lobbied.

This transparency of interest representation is critically important in order to allow citizens to follow the activities and potential influence of interest groups, representative bodies and industry and civil society organisations on policy and funding discussions and decisions.

1.3 First statutory review of the 2015 Act

In line with section 2 of the 2015 Act, the First Review of the operation of the Act was completed by the Department of Public Expenditure and Reform and a Report published in April 2017.

The main emerging issue was a need for further education and guidance.

While it was not recommended that any amendments be made to the 2015 Act, the First Review did set out a number of areas where further action was recommended. On foot of these recommendations for further action, the Standards Commission, for example, provided additional content on its existing Frequently Asked Questions section of the lobbying.ie website in relation to:

- grassroots communications and mass communication, and;
- communications between a political party and its elected representatives.

¹ Figures correct at 9 February 2021

1.4 Second statutory review of the Regulation of Lobbying Act

The second review of the 2015 Act was published in late February 2020. It is available at <https://www.gov.ie/en/publication/7ef279-second-statutory-review-of-the-regulation-of-lobbying-act-2015/>. The Second Review found that, where issues highlighted through the public consultation process had not already been dealt with, they were capable of being effectively managed and resolved on an administrative basis by the Standards Commission without the need to amend the Act. The Review therefore includes a number of recommended further actions for the Standards Commission to consider, most of which relate to requests received for greater clarity, guidance and education.

The third statutory review of the 2015 Act is required to commence by 1 September 2022.

2. Asset disclosure rules

The general rules and procedures concerning asset disclosure are set out in the Ethics Acts. See material at question 19, paragraphs 1.1, 1.2 and 1.3 for further information.

3. The Freedom of Information Act 2014

The Freedom of Information Act 2014 seeks to underpin a culture of openness, transparency and accountability across the public sector. Under the Freedom of Information (FOI) system in Ireland, members of the public can request records held by public bodies, which must be provided unless they are specifically exempt under the terms of the legislation. Even where the basic requirements of an exemption provision are satisfied, in many cases FOI officers are additionally required to consider the public interest in issuing decisions on access to records, which allows for the release of otherwise exempt records when there are particular public interest factors in favour of release.

The FOI system in Ireland also places a strong emphasis on transparency across the public sector. The legislation mandates public bodies to proactively publish records that may be of public interest in order to maintain a culture of openness and transparency around public decision making. Section 8 of the Freedom of Information Act requires public bodies to prepare and publish a publication scheme, detailing a schedule of records that they will release and update as necessary, including information relating to the general structure of the organisation and the services that it provides. Public bodies are also required to release a description of the types of records they hold, in order to facilitate members of the public in submitting requests for and accessing records.

21. Rules on preventing conflict of interests in the public sector

The Code of Conduct for Office Holders² and the Civil Service Code of Standards and Behaviour³ set out requirements in relation to conflicts of interest, with particular regard to engaging in any activities, or being connected with any outside activity which could materially influence the person concerned in the performance of his/her functions.

² See section 2(2)(4) of the Code of Conduct for Office Holders <https://www.sipo.ie/documents/english/Code-of-Conduct-for-Office-Holders-.pdf>

³ See section 14 and 15 of the Civil Service Code of Standards and Behaviour <https://www.sipo.ie/acts-and-codes/codes-of-conduct/civil-servants/Civil-Service-Code-of-Standards.pdf>

22. Measures in place to ensure whistleblower protection and encourage reporting of corruption

Handling of Whistleblowers within An Garda Síochána

An Garda Síochána have adopted a policy/procedures document for the making of Protected Disclosures, which came into operation in February 2017 and is compliant with the Protected Disclosures Act, 2014.

The policy/procedures document is available on the Garda Portal and is accessible by all personnel. The provisions of the policy are applicable to all staff, including reserves and former workers.

During the course of 2020, the Anti-Corruption unit was established and four additional Protected Disclosure Managers were appointed within the organisation. The Protected Disclosures office is actively engaged in the management of a number of ongoing disclosures and they provide advice and guidance to personnel who are considering making a disclosure.

In keeping with the methodology of the policy/procedures document, every effort is made to protect the identity of the discloser and to ensure they are provided with ongoing feedback. The policy also allows for disclosures to be made anonymously and have the information they provide acted upon, where possible. Disclosers are entitled to request a review of the assessment/investigation and they are provided with safeguards from penalisation and victimisation.

An Garda Síochána is a member of Transparency International Ireland's "Integrity at Work" initiative and seek to promote a supportive working environment for anyone reporting concerns of wrongdoing. Transparency Ireland have provided training to Garda personnel and offer a confidential speak-up helpline, with the additional offer of 30 hours free legal aid for disclosers of relevant wrongdoing.

Future Developments

The new EU Protected Disclosures Directive (EU) 2019/1937 will require substantial changes to the Protected Disclosures Act. The deadline for transposition of the Directive into Irish law is 17 December 2021.

A public consultation on those areas of the Directive where Ireland has discretion as regards implementation was conducted in June and July 2020, which was notified using the gov.ie public consultations page, through targeted invitations to relevant stakeholders and via notice in the national press. In all, 24 submissions were received to this consultation from a wide cross section of national and international sources, including advocacy groups, professional organisations, academics and whistleblowers. These submissions have been published on the public consultation page on gov.ie.

The Department of Public Expenditure and reform is also maintaining close contact with the European Commission as well as other relevant stakeholders as the transposition period continues.

As the Protected Disclosures Act already provides for a high standard of protection for a number of matters addressed within Directive 2019/1937, the Act will be amended in order to transpose the additional provisions of the Directive into law. Draft legislation to enact the required changes to the Protected Disclosures Act and transpose the Directive will be brought to the Oireachtas (Parliament) in 2021, concurrently other facets of the transposition such as establishing Member State supports for whistleblowers will be developed.

Some of the changes to be addressed include the expanded personal and material scope of the Directive when compared to the Protected Disclosures Act, the follow-up and feedback requirements for organisations who receive reports and on the supports which will be offered to those who make protected disclosures.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, other).

1. Public Procurement

Contracting authorities are required to observe the provisions of the public procurement regulations and associated national rules. It is the relevant Accounting Officer that is responsible for preventing corruption and conflict of interest which are outside of public procurement regulations and policy.

Multiple measures, including the Protected Disclosures Act 2014, Ethics Acts, the Regulation of Lobbying Act 2015, and the establishment of the Anti-Corruption Unit within the Garda National Economic Crime Bureau, have been taken with the aim of preventing corruption across all sectors.

At an individual procurement competition level, public bodies are required to ensure that proper procedures are in place for opening tenders to prevent any risk of abuse or impropriety at this stage including a requirement for at least two officials to open the tender box. When tenders are opened they should be date stamped and initialled. In particular, the pages containing pricing details should be stamped and initialled. In addition, a report on the tenders received, those present at the opening of the tenders, and details of any tenders rejected and the reasons for the rejection should be prepared, signed off at the appropriate level and placed in the project file. Where a contracting authority does not use electronic means of communication it must indicate in its report of the procurement process the reasons why it did not use electronic communications. Contracting authorities are required to take “appropriate measures” to prevent, identify and remedy conflicts of interest in the conduct of a procurement procedure to avoid any distortion of competition and to ensure equal treatment of tenderers. Members of the Evaluation Team are obliged to sign conflict of interest declarations.

In terms of oversight, the internal audit unit in each State body should review compliance with procurement procedures as required by the Audit and Risk Committee, from time to time, and report to the Audit and Risk Committee on these matters. The Comptroller and Auditor General (Amendment) Act 1993 provides that all public bodies funded in excess of 50% are audited by the Comptroller and Auditor General. Procurement practices are subject to audit and scrutiny by the Comptroller and Auditor General and all accountable officers and persons are publicly accountable for expenditure incurred. [Note: The Local Government Audit Service carries out similar functions in respect of expenditure incurred by Local Authorities.] Central Government Departments are obliged to report instances of contracts awarded above €25,000 (exclusive of VAT) which have been awarded without a competitive process to the Comptroller and Auditor General every year.

Measures described in previous responses, including the *Protected Disclosures Act 2014*, the *Ethics Public Office Acts 1995 and 2001*, the *Regulation of Lobbying Act 2015*, and the establishment of the Anti-Corruption Unit within the Garda National Economic Crime Bureau, have been taken with the aim of preventing corruption across all sectors.

24. Measures taken to address corruption risks in the context of the COVID-19 pandemic.

The Anti-Corruption Unit in An Garda Síochána continues to monitor communications arising from the COVID-19 Coordination Office, Liaison and Protection, Garda Headquarters, who are leading the response of the Garda organisation towards the pandemic.

An Garda Síochána has put in place a number of measures during the pandemic, including the following:

- Providing relevant updates to Garda personnel through internal emails and documentation available on the Novel COVID 19 Portal page, available through the Garda Portal.
- Providing guidelines to Garda personnel on procedures for fixed charge notices and court prosecutions under the Health Act, 1947.
- Advising that An Garda Síochána will continue to use the graduated policing response incorporating the principles of the four “E’s” - Engage, Explain, Encourage and Enforce.
- Providing relevant guidance and advice to Garda personnel on Statutory Instruments (Regulations made by the Minister for Justice pursuant to Section 31A of the Health Act, 1947).
- Providing advice to Garda personnel that offences contained under Health Act, 1947 can proceed without prior consultation with the Office of the Director of Public Prosecutions, however, the option to consult remains available, if required.
- Providing an updated list of contact details to Garda personnel for Professional Officers at the Office of the Director of Public Prosecutions, should specific consultation on offences or charges be required.
- Providing advice to Garda personnel that in cases involving juveniles, all matters should be referred to the Director of the Juvenile Diversion Programme in the first instance, in order to consider their admission to the Diversion Programme.
- Providing advice to Garda personnel that in accordance with Section 22 of the Children Act, 2001, a juvenile must be considered for the Diversion Programme in advance of any charges or summons being contemplated.
- Providing advice to Garda personnel regarding their personnel health; self-isolation etc.
- Informing Garda personnel that the services of the Garda Employee Assistance Service are available to support personnel in these challenging times, should the need arise.
- Providing summary guidance in relation to processes surrounding funeral concerns, including sections in legislation applicable to funeral homes, Clergy, community representatives, and local Garda.
- Advising Garda personnel of the availability of Community Relations/National Diversity & Integration Unit staff to ensure direct contact is made with relevant sections within the community to ensure the continued safety of all in the community, through compliance with the Government’s advices and restrictions in place.
- Providing advice to Garda personnel on call backs to victims of crime/DVSA victims.
- Providing links to relevant policy re: use of anti-spit guards – HQ Directive 017/2020 – Management and Use of Anti-Spit Guards.

In addition, national Detective Units were ring fenced in terms of the redeployment of resources to the operational frontline as a result of the COVID-19 Pandemic.

25. Any other relevant measures to prevent corruption in public and private sector

Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption

In December 2020, the Minister for Justice published a cross-government report which examines how best to tackle economic crime and corruption in Ireland: "Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption".

One of the main recommendations of the report is the establishment, on a permanent basis, of a cross-sectoral partnership based advisory council for economic crime and corruption to co-ordinate and lead the delivery of the whole-of Government-approach to economic crime and corruption. The Advisory Council will serve as a 'centre of excellence' for coordinating research and analysis, training and generally promoting best practice in relation to anti-corruption activities. It will be responsible for public education and raising awareness in relation to corruption and economic crime.

In addition, the Review Group recommended the development of a multi-annual strategy to combat economic crime and corruption and an accompanying action plan. This will facilitate a joined-up and cohesive approach to combating economic crime and corruption in this jurisdiction and provide a basis for measuring progress.

Minister McEntee's plan for the implementation of the Hamilton Review recommendations will require collaboration across Government and with State agencies and will be complimented by other anti-corruption initiatives such as the forthcoming report of the Garda Inspectorate on Countering the Threat of Internal Corruption.

The Minister's plan will identify priorities that can be implemented in the shorter term, such as the enactment of the Criminal Procedure Bill, which is on the current legislative programme for enactment.

Among the recommendations to be actioned are:

- Establishment of an Advisory Council against Economic Crime and Corruption to make proposals to Government on strategies and policies to tackle economic crime and corruption;
- A permanent forum of senior representatives from State agencies to facilitate greater collaboration and information sharing;
- Greater resourcing for SIPO, DPP, Garda National and Economic Crime Bureau;
- Continuous training for investigators of economic crime and corruption;
- Engagement with the judiciary on the development of training for economic crime/corruption cases and the potential for judicial specialisation in the area;
- Consideration to be given to strengthen criminal law in the area of public sector ethics, including creating new offences such as nepotism;
- Amend legislation to address situations where former members of Oireachtas may have contravened their obligations under the Ethics Acts and the matter only comes to light after the member has left office;
- Provide for appropriate investigative bodies such as the Office of the Director of Corporate Enforcement and the Competition and Consumer Protection Commission in their investigations to obtain evidence using covert means, in line with An Garda Síochána and the Revenue Commissioners;

- Amend Criminal Justice legislation to allow for standalone search warrants that will allow An Garda Síochána to require persons subject to arrest warrants to provide the passwords to electronic devices owned or controlled by them.

26. Criminalisation of corruption and related offences

Ireland's existing anti-corruption legislative framework

Ireland has an extensive range of legislative provisions to protect public standards, prevent and combat corruption. These include the Ethics in Public Office Act 1995, the Standards in Public Office Act 2001, Freedom of Information Act 2014, the Protected Disclosures Act 2014 and the Criminal Justice (Corruption Offences) Act, 2018.

As an EU Member State, Ireland's anti-corruption regime is driven in many important and significant matters by European policy and by a wide range of initiatives. A number of legislative and other reforms in recent times have been necessitated by Ireland's obligations as an EU Member State. This is particularly evident in the area of anti-money laundering legislation. Other recent legislative developments have been driven by the State's duty of compliance with its obligations under international conventions and instruments as well as existing protocols. The comprehensive set of actions developed under the Government's 'White-collar crime Package' have also been a major driver for some of the legislative developments.

The Criminal Justice (Corruption Offences) Act 2018 repealed and replaced the seven previous Prevention of Corruption Acts 1889 to 2010. The Act provides a single, consolidated modern piece of legislation which is more comprehensive and more accessible. As well as being a consolidation, the Act responds to recommendations from the Mahon Tribunal, from GRECO (Council of Europe's Anti-corruption group), from the OECD Working Group on Bribery and from the UNCAC Implementation Review Mechanism. Some of the key aspects of the Act include the introduction of new offences and tougher penalties in areas relating to the giving of gifts; trading in influence; false documentation; and a liability offence for bodies corporate where any individual connected with the company has been found guilty of corruption.

Programme for Government Commitment

The 2020 Programme for Government, *Our Shared Future*, has the following commitments on white-collar crime:

"White-collar Crime

Corruption and white-collar crime damage our economy, breed cynicism in our society, and are a threat to our international reputation. We will:

- Establish the Office of the Director of Corporate Enforcement (ODCE) to be a stand-alone statutory body.
- Introduce and implement new anti-corruption and anti-fraud structures, informed by the forthcoming Hamilton Review.
- Legislate to provide for preliminary trial hearings to expedite the administration of justice in white-collar crime cases.
- Amend the Criminal Justice (Corruption Offences) Act 2018 to make the prosecution of white-collar crime more manageable and efficient."

27. Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

Under Irish law, no individual or office holder has immunity from criminal investigation and/or prosecution for non-summary offences. In addition, withholding information pertaining to a criminal investigation, including for corruption and related offences, is a specific offence under Section 19 of the Criminal Justice Act 2011, and carries a penalty of up to five years imprisonment.

There is no “Political Immunity Regulation” as such. Diplomatic Immunity is a principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official, and to a large extent, their personal activities. Legal immunity or immunity from prosecution is a legal status wherein an individual or entity cannot be held liable for a violation of the law, in order to facilitate societal aims that outweigh the value of imposing liability in such cases.

Parliamentary immunity, also known as legislative immunity, is a system in which members of the national parliament are granted partial immunity from prosecution. Members of the Dáil, Seanad and Committee speakers have certain privileges, exempting them from laws that are set down in the constitution and enabling them to raise points in the chamber that need addressing without them being pursued in the courts.

The sophistication and complexity of high level corruption cases creates additional difficulties for investigators. Such investigations, by their nature are resource intensive and can be time consuming. Specialised skills, such as forensic accounting, are often required and cases frequently involve significant cross border cooperation.

The Criminal Justice (Corruption Offences) Act, 2018 was enacted on 5 June 2018 and commenced in full on 30 July 2018. The main purpose of the Act is to consolidate the law regarding the prevention of corruption and the provisions/offences.

The Garda National Bureau of Criminal Investigation will, on opening an inquiry into a criminal corruption type offence, consider the provisions of the Criminal Justice (Corruption Offences) Act, 2018 which experience to date adequately covers the corrupt sinister actions of individuals that seek to bribe individuals in their performance of duty, be they elected to office or appointed to office.

The Bureau has no experience of investigating the corrupt actions of individuals who are officials or diplomats of foreign missions visiting or resident in Ireland, as host country. In order for a criminal investigation to proceed to a conclusion, diplomatic immunity would need to be waived by the home country.

III. Media pluralism

29. Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

The review of the Defamation Act 2009, due to complete by end of Q1/2021, is expected to consider various submissions made to the public consultation by the Press Council and Press Ombudsman.

The Press Council of Ireland (including the Press Ombudsman) is an independent non-statutory representative and regulatory body for the print media, which has been given statutory recognition as satisfying the criteria as to independence and other matters, set out in Schedule 2 of the Defamation Act 2009. (See the Defamation Act 2009 (Press Council) Order 2010 (S.I. No. 163 of 2010)).

The independence of the Press Council is underpinned by its status as a Designated Activity Company under the Company Acts, its statutory recognition for the purposes of the Defamation Act and by the appointment of 7 of its 13 of its directors, including the Chairman and Deputy Chairman, as independent directors following a public, open competition.

The mission of the Press Council is to uphold the freedom and independence of the press in Ireland and to ensure that its member publications maintain the highest professional ethical standards in accordance with the Press Council's Code of Practice. The Code of Practice sets out 11 principles which members are required to adhere to, including ethical standards, rules and standards intended to ensure the accuracy of reporting where a person's reputation is likely to be affected and rules and standards intended to ensure that intimidation and harassment of persons does not occur and that the privacy, integrity and dignity of the person is respected.

The Office of Press Ombudsman and Press Council provide a complaints handling and appeals process which enables members of the public to seek redress (other than damages) if something is published in an Irish newspaper, magazine or online news publication which breaches the Code of Practice.

30. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

The Press Council of Ireland (including the Press Ombudsman) is an independent non-statutory representative and regulatory body for the print media, which has been given statutory recognition as satisfying the criteria as to independence and other matters, set out in Schedule 2 of the Defamation Act 2009. (See the Defamation Act 2009 (Press Council) Order 2010 (S.I. No. 163 of 2010)). Membership of the Press Council is open to all periodicals (national, regional and local newspapers, magazines and digital editions of print publications) published in the State. The Council is made up of 7 independent members (including the chair) who represent the public interest and 6 members who provide senior editorial and journalistic expertise and perspectives reflective of the press industry. The Press Ombudsman is appointed by the Press Council following an open competition.

The mission of the Press Council is to uphold the freedom and independence of the press in Ireland and to ensure that its member publications maintain the highest professional ethical standards in accordance with the Press Council's Code of Practice. The Code of Practice sets out 11 principles which members are required to adhere to, including ethical standards, rules and standards intended to ensure the accuracy of reporting where a person's reputation is likely to be affected and rules and standards intended to ensure

that intimidation and harassment of persons does not occur and that the privacy, integrity and dignity of the person is respected.

Broadcasting Act 2009

As laid out in section 8 of the Broadcasting Act 2009 (the Act), there are 9 members of the Authority, the members of the Authority are appointed by the Government on the nomination of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media (the Minister).

31. Existence and functions of media councils or other self-regulatory bodies

The Advertising Standards Authority for Ireland (ASAI) is an independent self-regulatory body set up and financed by the advertising industry. Its role is to promote high standards of advertising and sales promotion. It publishes a Code of Standards for Advertising and Marketing Communications.

The Press Council of Ireland is the independent body that oversees news publications. The voluntary members of the Press Council agree to abide by its Code of Practice. The Press Ombudsman can investigate complaints of the member publications to determine if the Code of Practice has been breached.

The Office of the Press Ombudsman receives complaints from members of the public and seeks to resolve them by conciliation or mediation to the satisfaction of everyone concerned. Where conciliation or mediation is not possible, the Press Ombudsman will make a decision on the complaint based on the Code of Practice.

32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

Freedom of Information Act 2014

Under the Freedom of Information Act 2014, members of the public can request access to any records held by public bodies, including details relating to state advertising. Any individual may request details relating to state contracts and costs paid by public bodies for advertising campaigns, and it would normally be expected that overall details will be released, including the identity of the payee, the nature of the service and the amount paid.

Moreover, questions are regularly put to public bodies through the Parliamentary accountability system in relation to spending on public relations and advertising, with all responses published on the Oireachtas website and some questions debated on the floor of the Dáil. These questions and debates can generally be found on the website of the Oireachtas: <https://www.oireachtas.ie/en/debates/questions/>

33. Rules governing transparency of media ownership and public availability of media ownership information

Broadcasters in the State must be licenced by the Broadcasting Authority of Ireland (BAI). Section 25 of the Broadcasting Act 2009 obliges the Broadcasting Authority of Ireland to ensure the provision of open and pluralistic broadcasting services. In this context the BAI operates an Ownership and Control Policy. The BAI uses this policy when considering licence applications. In line with the Ownership and Control Policy, the

BAI has established a searchable reference database, www.mediaownership.ie, containing the ownership information for Irish-owned media businesses.

The Competition and Consumer Protection Act 2014 obliges the BAI to produce an Ownership and Control Report every 3 years which describes the ownership and control arrangements for media businesses in the State, including any changes since the previous report, and analyses the effects of any such changes on plurality of media in the State.

The Competition and Consumer Protection Act 2014 requires that the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media assess the effect that a proposed media merger would have on plurality of media in the State, the Minister will then make a determination based on the assessment's findings. The Minister's determination in each case is published on www.gov.ie.

34. Rules and practices guaranteeing journalist's independence and safety

No update or amendment to material provided in 2020.

35. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

An Garda Síochána has within its capacity the ability to conduct a criminal investigation into any complaint of a threat to life made by a journalist and has the training and willingness to do so and for the purpose of the investigation will secure crime scenes, collect evidence and interview suspects, irrespective of their status and prepare reports for the Director of Public Prosecutions.

HQ Directive 129/11 (*currently under review*) is the guiding document for members of An Garda Síochána in relation to procedures to be adopted in responding to threats to persons, including journalists. The directive seeks to provide a consistent framework for the analysis of threat related information and the designation of appropriate action to be taken by all parties and ensuring, in cases where the person under threat was not previously aware, that the person is spoken to by Gardaí and mitigating steps are discussed and agreed. The HQ Directive provides guidance on the activities that should be taken when a decision is made to inform the person of the threat. The District Officer/relevant Superintendent will make the necessary arrangements to have the threat fully investigated and a specific Garda action plan put in place to mitigate the threat.

The HQ Directive states that information on the existence of a threat can come from either of two (2) sources; either through Security and Intelligence or local sources. It outlines who is responsible for evaluating the threat and designates five (5) levels of threat; low, moderate, substantial, severe and critical. When the level of threat has been determined, the District Officer/relevant Superintendent shall make arrangements to inform the person. Only threats falling within the categories of substantial, severe and critical will necessitate service of Garda Information Forms (GIM's). These should only be issued after the review by the District Officer/relevant Superintendent, which should include the categorisation of the threat.

The District Officer/relevant Superintendent reviews threat files every two months. If the threat no longer exists, the person shall be so informed and the outcome forwarded to Assistant Commissioner, Garda

National Crime and Security Intelligence Service (GNCSIS). A copy of all GIM forms should be forwarded to Assistant Commissioner, GNCSIS for the information of D/Chief Superintendent, Liaison & Protection.

HQ Directive 129/11 '*Guidelines for members of An Garda Síochána in relation to procedures to be adopted in responding to threats to person*' applies to journalists in the same manner as it does to all citizens of the State.

36. Access to information and public documents

Freedom of Information Act (2014)

The Freedom of Information Act 2014 (FOI Act) is a key national measure ensuring general access to information held by public bodies. This provision replaced and updated the first Irish Freedom of Information Act, which was passed in 1997. The FOI Act establishes a number of rights, including a right to access official records held by Government Departments or other public bodies as defined by the Act.

This right of access is exercised by making a request in writing, including in electronic form, to a relevant public sector organization, specifying what records it is that are being sought. If the body holds the records sought, the requester must be granted access to them unless the FOI Act provides otherwise. In order to reconcile the goal of openness, transparency and accountability of public bodies with other rights or matters of public interest, such as privacy, data protection, or commercial sensitivity, the legislation contains a number of exemption provisions, which mandate refusal of an FOI request in clearly defined and limited circumstances.

Each Public Body has one or more FOI Officers whose responsibility it is to handle requests made under the Act. In general, decisions on FOI requests must be made within four weeks. Where a request for information is refused, a written explanation must be given to the requester setting out the reason for the decision, the relevant provision of the Act under which access is refused, and any material findings of fact.

If a requester is dissatisfied with the decision, they may, in the first instance, seek an internal review within the organization, which involves the matter being escalated to an official at a higher grade to make a fresh decision on the request.

If the requester remains dissatisfied following the internal review, a further review may be sought by the Office of the Information Commissioner, an independent statutory body. The Commissioner has broad powers to require bodies to justify their decisions to him, and is entitled to access full, unredacted copies of records and other material necessary for the conduct of a review. If the Commissioner is not satisfied that a body was justified in a refusing a request, he may direct the body to grant access or to reconsider the matter and issue a fresh decision. A further appeal from a decision of the Information Commissioner is available to the High Court.

In addition, the Information Commissioner's functions include general reviews of the operation of the legislation with a view to ensuring maximum compliance, encouraging the voluntary publication by them of information on their activities, as well as preparing and publishing commentaries on the practical operation of the FOI Act

In 2019, the latest year for which statistics are available, public bodies processed 41,176 FOI requests. This represents a 10% increase year on year, and a 179% increase on the number of requests received in 2009. 87% of the requests decided on by public bodies were granted in full or in part. 2.6% of requests sought internal review, while a review by the Information Commissioner was sought in 1.4% of cases. Following review, the Commissioner overturned the body's decision in 25% of cases.

As such, all objective indications are that the Freedom of Information system is functioning well in securing public access to records. In addition, the legislation contains provisions directing the routine publication of certain classes of information. This mechanism is referred to in responses to questions 20 and 43.

Finally, it should also be noted that while the Freedom of Information Act creates a general right of access to records held by state bodies, it co-exists with other, more context specific measures, such as the Reuse of Public Sector Information Regulations, subject access rights under data protection, and the Access to Information on the Environment Regulations.

37. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse

Numbers of Defamation Cases initiated in Courts

Defamation is not a criminal offence in Ireland. Accordingly, there are no criminal proceedings or convictions for defamation. The following information relates to civil defamation actions (i.e. proceedings between private parties).

The review of the Defamation Act 2009, which is due to report by the end of Q1/2021, is expected to consider concerns raised by a number of stakeholders during the public consultation regarding any risks of abusive use of defamation proceedings.

Defamation actions may, in general, be initiated in the Circuit Court or High Court. However certain actions can only be initiated in the Circuit Court e.g. an application for a declaratory order (i.e. an order that a statement is false and defamatory) is made to the Circuit Court.

Circuit Court actions are heard by a judge sitting alone. The maximum damages that can be awarded by the Circuit Court is €75,000. High Court defamation actions are normally heard before a judge and jury.

Details of the numbers of cases initiated in the courts in the period 2014 to 2019 (the latest year that statistics are currently available) are set out below.

Defamation - Circuit Court Cases

Year	Incoming	Resolved		Outstanding
		By Court	Out of Court	
2014	25	8	1	16
2015	48	4	4	40
2016	75	1	6	68
2017	135	0	6	129
2018	112	8	12	92
2019	151	37	3	111

Defamation - High Court Cases

Year	Incoming	Resolved		Outstanding
		By Court	Out of Court	
2014	182	9	75	98

2015	212	10	24	178
2016	133	13	31	89
2017	152	7	9	136
2018	186	7	14	165
2019	157	12	34	111

IV. Other institutional issues related to checks and balances

38. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

The Report of the Review of the Administration of Civil Justice was published in Q4 2020 and makes over 90 recommendations with a view to improving access to civil justice in the State, promoting early resolution of disputes, reducing the cost of litigation, creating a more responsive and proportionate system and ensuring better outcomes for court users. The Review Group held an open call for submissions from interested persons or parties to inform its considerations. An implementation plan in respect of the Review Group recommendations is to be published in February 2021.

While Covid-19 presented some logistical challenges to the Houses of the Oireachtas in all its work, including the consideration of draft legislation, the continued full transparency of the legislative process was maintained at all times. All sessions of both Houses of Parliament and its Committees (regardless of which location was being used), when considering draft legislation, continued to be live streamed and to be shown on Oireachtas TV. All witness statements, business papers of the Houses, reports of debates and relevant material to the consideration of draft legislation, continued to be published and made available to the public on the Houses of the Oireachtas' public website.

During much of the year, for health and safety reasons, visitors were not permitted on the Houses of the Oireachtas' campus, so attendance in the public galleries was not possible at times⁴. This did not include journalists, who were considered as 'essential workers', and who therefore continued to have normal access, albeit at times with limited capacity in the Leinster House press galleries to ensure the correct social distancing. In addition, when Committee public meetings are held via 'Microsoft Teams', journalists are enabled to participate via 'Teams' directly as well as watch the live stream.

Many of the debates and consideration of draft legislation in 2020 were very focused and held over shortened periods of time. Nonetheless, draft legislation progressed through all stages in both Houses of the Oireachtas as normal.

39. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

In 2020, **32 pieces of primary legislation** were passed by the Houses of the Oireachtas, and enacted. This compared to 54 pieces of primary legislation in 2019. It should be borne in mind that the General Election was held in February 2020, which was followed by the election of Members of Seanad Éireann and discussions to form a Government; years during which a General Election is held often see less legislation passing through parliament. As a result, a more relevant comparison might be 2016 (the year the previous General Election was held), when 22 pieces of primary legislation were passed and enacted. Only

⁴ Visitor numbers in 2020 were approximately 13,000, compared to 98,000 in 2019.

emergency legislation was taken from the time of dissolution on 14 January until the new Government was formed on 27 June 2020.

Of those 32 pieces of primary legislation, **15 Acts were focused on the introduction of various provisions and measures to address the Covid-19 pandemic.**

The following is a list of **primary legislation passed by the Houses of the Oireachtas in 2020, and enacted.** Acts which are *primarily* focused on measures to address Covid-19 are indicated with an asterisk (*). Some of the other Acts contain important sections relevant to addressing Covid-19, but it is likely that legislation would have been required even without the pandemic, albeit with different content (for example, the Finance Act 2020 and the Social Welfare Act 2020, both contain sections relevant to addressing Covid-19; but it is highly likely that there would have been both a Finance Act and a Social Welfare Act even had there not been a pandemic).

1. *Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 **[Early Signature Motion]**
2. *Emergency Measures in the Public Interest (Covid-19) Act 2020 **[Early Signature Motion]**
3. *Microenterprise Loan Fund (Amendment) Act 2020 **[Early Signature Motion]**
4. *Financial Provisions (Covid-19) Act 2020 **[Early Signature Motion]**
5. *Credit Guarantee (Amendment) Act 2020 **[Early Signature Motion]**
6. National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020
7. *Residential Tenancies and Valuation Act 2020 **[Early Signature Motion]**
8. *Financial Provisions (Covid-19) (No. 2) Act 2020 **[Early Signature Motion]**
9. *Companies (Miscellaneous Provisions) (Covid-19) Act 2020 **[Early Signature Motion]**
10. Ministers and Secretaries and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act 2020
11. Health (General Practitioner Service and Alteration of Criteria for Eligibility) Act 2020
12. *Social Welfare (Covid-19) (Amendment) Act 2020
13. Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020
14. *Criminal Justice (Enforcement Powers) (Covid-19) Act 2020 **[Early Signature Motion]**
15. Forestry (Miscellaneous Provisions) Act 2020 **[Early Signature Motion]**
16. Regulated Professions (Health and Social Care) (Amendment) Act 2020
17. *Residential Tenancies Act 2020 **[Early Signature Motion]**
18. Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020 **[Early Signature Motion]**
19. *Health (Amendment) Act 2020 **[Early Signature Motion]**
20. Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020 **[Early Signature Motion]**
21. Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020
22. *Credit Union Restructuring Board (Dissolution) Act 2020
23. Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020 **[Early Signature Motion]**
24. Health Insurance (Amendment) Act 2020
25. *Finance (Miscellaneous Provisions) Act 2020
26. Finance Act 2020 **[Early Signature Motion]**
27. *Planning and Development, and Residential Tenancies, Act 2020 **[Early Signature Motion]**
28. Central Mental Hospital (Relocation) Act 2020

29. Appropriation Act 2020 [**Early Signature Motion**]
30. Social Welfare Act 2020
31. Investment Limited Partnerships (Amendment) Act 2020
32. Harassment, Harmful Communications and Related Offences Act 2020

As detailed in last year's report, while limited emergency procedures do technically exist in Ireland under the Constitution, they have not been used in recent times, and were not used in 2020.

Unsurprisingly, considering the urgency in introducing various measures linked to addressing the Covid-19 pandemic, the consideration of many of the pieces of draft legislation took part in a very focused manner in parliament. While no emergency procedures were used in 2020, many of the parliamentary procedural tools that are available to focus discussion and ensure its smooth and timely consideration by the Oireachtas were utilised frequently over the year. This included waiving the requirement for scrutiny of draft text of the Bill before it is published ("pre-legislative scrutiny")⁵, the use of so-called 'guillotine motions' to shorten the time allocated to debate and early signature motions to ensure rapid consideration of a Bill as passed by parliament by the President. During the legislative process and consideration of some of these pieces of draft legislation, *all* of these procedural tools were used.

The onset of the Covid-19 pandemic coinciding with the formation of the new Government as well as the elections to Seanad Éireann, may have contributed to the need to be focussed on draft legislation when the Houses were established and in a position to legislate. The establishment of Committees, following the formation of Government, ordinarily takes a few months. In the absence of Select Committees of the Dáil until September of 2020, and as legislative measures to address Covid-19 were of interest to many of the Members of the Dáil, many of the pieces of draft legislation were considered by 'a Committee of the whole Dáil'⁶.

In 2020, it was agreed to **waive the requirement for pre-legislative scrutiny in relation to 17 of the bills** that were enacted, and the relevant Committee agreed that it was not necessary to conduct pre-legislative scrutiny on one bill.

In 2020, Committee Stage was undertaken by a **Committee of the Whole Dáil for 26 of these Acts** as the draft legislation was considered.

In 2020, guillotine motions were prepared⁷ in relation to 30 of the bills that were passed and enacted and in the end **19 guillotine motions** were used, in order to shorten the debate on 17⁸ different pieces of draft legislation.

⁵ Under Dáil Standing Order 173 (1) the Business Committee, which is made up of representatives of Government and all Opposition Parties, can waive the requirement for pre-legislative scrutiny on foot of a request from a member of Government.

⁶ Dáil Standing Order 181(1) stipulates that when a Bill "has been read a second time, it may either be ordered to be considered in Committee of the whole Dáil on a day then named, or be referred to come other Committee."

⁷ It was agreed that they *could* be used on those bills.

⁸ Two bills had two guillotine motions used for specific parts of the debate: *Emergency Measures in the Public Interest (Covid-10) Bill 2020*, and the *Finance Bill 2020*.

In 2020, Seanad Éireann agreed to the Government's proposal for **Early Signature Motions⁹ on 18 occasions**, allowing for the President's consideration of the Bill to take place within five days.

40. Regime for constitutional review of laws

Article 15 of the Constitution of Ireland states that the Oireachtas (Legislative houses of parliament) will not enact any law which is in any respect repugnant to the Constitution or any provision thereof. It further states that every law enacted by the Oireachtas which is in any respect repugnant to the Constitution or to any provision thereof, shall, but to the extent only of such repugnancy, be invalid. Article 34.3.2 of the Constitution provides that "... the jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of the constitution..." with a right of appeal to the Court of Appeal and the Supreme Court.

As part of the enactment process, all primary legislation must first be signed by the President. Article 26 of the Constitution provides for a judicial process by which the President may, after consultation with the Council of State, refer any Bill to which the article applies to the Supreme Court for a decision on the question as to whether the Bill, or any specified provision or provisions of the Bill, is or are repugnant to the Constitution or to any provision of the Constitution. Article 26 applies to any Bill passed or deemed to have been passed by both Houses of the Oireachtas other than certain exceptions described (such as a Money Bill, or a Bill expressed to be a Bill containing a proposal to amend the Constitution).

The Supreme Court, consisting of a minimum of five judges, shall consider every question put to it by the President under Article 26 for a decision, and, having heard arguments by or on behalf of the Attorney General and by counsel assigned by the court, shall pronounce its decision on such questions in open court as soon as may be, and in any case not later than sixty days after the date of such reference.

41. COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic

- oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

- measures taken to ensure the continued activity of Parliament (including possible best practices)

In advance of the normal formation of new Committees following a General Election, a [Special Committee on Covid-19 Response](#) was established to consider the State's response to the pandemic. The Committee completed its work, and laid its [Report](#) in October 2020. The Committee's [Terms of Reference](#) detailed the number of Members from each political party or group and remit. The Committee heard from a number of

⁹ 'Early Signature Motion' - Article 25 (2)(1) of the Constitution stipulates that when a Bill has passed all stages in both Houses, it is sent to the Taoiseach, who presents it to the President. The President then considers the Bill and the President should sign the Bill 'not earlier than the fifth day and not later than the seventh day after it has been presented to him'. Sub-Section 2 of the same article of the Constitution allows that "at the request of the Government, with the prior concurrence of Seanad Éireann, the President may sign" the Bill earlier than the fifth day. This is done by way of a Motion in the Seanad (presented after the Seanad has completed its consideration of the Bill), and the Seanad is asked to concur with the Government to request the President to sign the Bill earlier than five days.

witnesses and published a number of Interim Reports before publishing its final report. By October 2020, Select and Joint Committees had been formed, and Committees could and do consider matters related to Covid-19 and the individual Committee's area of remit.

The State's response to Covid-19 was discussed frequently in the Houses of Oireachtas in 2020 during dedicated debates with individual Ministers, Questions to Ministers, Leaders' Questions, Topical Issues, Statements on issues and during debates on draft legislation introducing measures to address Covid-19.

In order to both continue necessary and essential work, including the consideration of draft legislation to bring in measures to address the Covid-19 pandemic, and to protect the parliamentary community from the effects of the pandemic, a number of measures that would previously have been considered as extraordinary, were taken in 2020¹⁰. The Irish Constitution requires that Members be physically present¹¹ in order to vote and for parliamentary privilege¹² to apply, and all measures taken in 2020 fully respected this, while enabling the continuation of parliamentary business. This included:

- Dáil Éireann sitting in the Convention Centre Dublin¹³, in order to ensure adequate social distancing of Members. Live streaming of all proceedings of the Houses were maintained from the Convention Centre;
- Seanad Éireann sitting in the Chamber of Dáil Éireann;
- Joint and Select Committees meeting in the Chambers of Dáil Éireann and Seanad Éireann;
- Political agreement to meet with a reduced number of Members in attendance¹⁴. This was not used for the consideration of primary legislation, when it must be possible for all Members to contribute and vote. As a result, the consideration of primary legislation always took place in a venue that allowed for all Members to be present of the relevant House;
- Any votes that were required, were deferred until a day and date when the relevant House was sitting in a venue that would allow for all Members to be present;
- Increased use of witnesses joining Committee meetings via video links;
- Use of 'Microsoft Teams' meetings for Committee meetings to allow Committee Members to all attend the meeting from their individual offices on the parliamentary campus;
- Political agreement to restrict the parliamentary business to be considered, and for a time, limited to urgent Covid-19 related business only;
- Establishment of a Special Covid-19 Response Committee to consider the State's response to the Covid-19 pandemic;
- Dáil Parliamentary Questions were suspended for six weeks (April and May). However, this was replaced with a written procedure system for Covid-19 related questions to Ministers for that

¹⁰ To note – not all measures were used throughout the entirety of 2020, different measures were used at different times, depending on the levels of community transmission and Government advice in place at the time.

¹¹ Art 15.11.1 – “All questions in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present and voting other than the Chairman or presiding member.”

¹² Art 15.12 – “All official reports and publications of the Oireachtas or of either House thereof and utterances made in either House wherever published shall be privileged.”

¹³ The Irish Constitution does not make provision for remote voting or virtual meetings. Article 15.3 of the Constitution does make provision for the Houses of be able to sit outside of its normal campus. Art 15.3: “The Houses of the Oireachtas shall sit in or near the City of Dublin or in such other place as they may from time to time determine.” The Convention Centre Dublin is a very large event centre.

¹⁴ For example, Dáil sittings had a maximum of 19 members in the Chamber for debates and 45 for votes, out of total membership of 160. The political parties/groups determined which of their Members attended.

period of time. 3,404 Covid-19-related queries were processed, before the normal system was resumed.

- Voting by roll call vote of Members or electronic voting only, allowing Members to remain in their seats, and not pass through the lobbies;
- Agreement that Dáil Éireann, Seanad Éireann and Committees will not sit on the same day, limiting the number of Members in attendance. Resulting in a weekly calendar of days when different bodies are sitting;
- Development of a detailed Response Plan to Covid-19, which included prevention and control actions and Covid-19 Training (online) for members of the parliamentary community.
- Microsoft Teams rolled out for the entire organisation, allowing Committee Private meetings, internal meetings and political party/group meetings to take place virtually as well as to allow most Members and parliamentary staff to work from home, where possible;
- Mask wearing has become the norm, apart from when Members are speaking.

42. Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions¹⁰

The Ombudsman and the Information Commissioner

The Offices of the Ombudsman and Information Commissioner are independent both by law and in practice. Their tenure cannot be terminated other than on grounds of stated misbehaviour, incapacity or bankruptcy, and following resolutions of both Houses of the Oireachtas calling for their removal.

The Ombudsman and Commissioner are accountable directly to the Oireachtas. Annual reports of both offices are presented to the Houses, as well as any special reports at their discretion are laid before the Houses, and both office holders appear regularly before Oireachtas Committees. In addition, where the Ombudsman has made recommendations to a public body and these have not been implemented to his satisfaction, he may lay a special report before the Houses in this regard.

Funding for both Offices is appropriated by the Oireachtas under Vote 19, and has increased consistently in recent years, including a 12.1% year on year rise between 2018 and 2019.

Both Offices have extensive powers to require that information is provided as required for their investigations, and may require individuals to attend in order to give evidence, while the Information Commissioner may enter on to premises in order to secure information or records if required.

Ombudsman for Children's Office

The Ombudsman for Children's Office (OCO) was established in 2004 under the [Ombudsman for Children Act 2002](#). The Ombudsman for Children is appointed by the President of Ireland and is directly accountable to the Oireachtas (Ireland's parliament) in relation to the exercise of their statutory functions.

Section 6(1) of the 2002 Act provides for the statutory independence of the Ombudsman for Children in exercising their statutory functions. These functions are:

- to promote the rights and welfare of children up to 18 years of age

- to examine and investigate complaints made by or for children about the administrative actions of schools, hospitals and public bodies that have, or may have, adversely affected a child.

Further information about the OCO, including reports published by the OCO in 2020, is available on the OCO's website, www.oco.ie.

National Disability Authority

The National Disability Authority is an independent statutory body that provides information and advice to the Government on policy and practice relevant to the lives of people with disabilities. The main function of the NDA is to provide advice and information to the Minister of State with responsibility for Disability on matters concerning policy and practice in relation to people with disabilities and to assist the Minister in the co-ordination of disability policy.

43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

This question relates to the Administrative Law branch of the legal system - dealing with government decision making bodies (tribunals, local authorities, government agencies). Unlike other Member States, Ireland does not have an administrative law branch of its legal system.

It is not possible to report on judicial review decisions on questions of administrative law as a result. Judicial review includes matters that cannot be considered administrative law matters and some cases that might come under the heading of administrative law are not dealt with within the judicial review procedure.

However, a number of tribunals and agencies undertake transparency measures such as the publication of decisions and annual reports. For example, An Bord Pleanála is responsible for the determination of appeals and certain other matters under the Planning and Development Act 2000 and provides a Public Access service which allows for members of the public to view decided case files.

A further example is the International Protection Appeals Tribunal which hears and determines appeals on decisions made by the International Protection Officer on applications for protection status in Ireland. The Tribunal publishes an Annual Report summarising its work.

44. Implementation by the public administration and State institutions of final court decisions

No update or amendment to material provided in 2020.

45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)

Significant Developments to December 2020 inclusive, not listed in last year's return:

- In recognition of the difficulties presented on charities as a consequence of COVID-19, the Board of the Regulator exercised its power, under section 52 of the Charities Act 2009, to specify an alternative date for the filing of annual reports. Those reports due to be filed on any date between 12

March 2020 and 15 December 2020 respectively, could be prepared and submitted any time up to 16 December 2020.

- In May 2020, the Regulator published a report into the findings of its *'Impact on Coronavirus (COVID-19) on Charities Survey'*.
- In August, the Regulator launched training for charity trustees to assist them in meeting the core minimum standards set out in the Charities Governance Code. In light of the health risks posed by COVID-19, this training took place online.
- In November, Charities Trustees Week took place online, encompassing webinars and events, facilitating the sharing of knowledge and experiences in an online platform.
- In 2020, the Regulator worked closely with An Garda Síochána as part of an awareness campaign warning members of the public to be vigilant if they wished to donate to charity through door to door collections.
- The Regulator appointed inspectors to conduct statutory investigations into three registered charities during the course of 2020.

46. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)

No update.