Ireland

Member State Contribution

European Commission Annual Rule of Law Report 2022

24 January 2022

I. Justice System

1. Appointment and selection of judges[4], prosecutors and court presidents (incl. judicial review)
2. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)
3. Promotion of judges and prosecutors (incl. judicial review)
4. Allocation of cases in courts
5. Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)
6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)
7. Remuneration/bonuses/rewards for judges and prosecutors, including changes (significant increase or decrease over the past year), transparency on the system and access to the information
8. Independence/autonomy of the prosecution service
9. Independence of the Bar (chamber/association of lawyers) and of lawyers
10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary
11. Accessibility of courts (e.g. court/legal fees, legal aid, language)
12. Resources of the judiciary (human/financial/material[6])
13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)
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)[7]
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)
16. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.
17. Length of proceedings

II. Anti-corruption framework

18. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).
19. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.
20. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.
21. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.
22. General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they

exist, and framework rules on lobbying including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)
23. Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)
24. Measures in place to ensure whistleblower protection and encourage reporting of corruption.
25. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other).
26. Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic.
27. Any other relevant measures to prevent corruption in public and private sector
28. Criminalisation, including the level of sanctions available by law, of corruption and related offences including foreign bribery.
29. Data on investigation and application of sanctions for corruption offences[9], including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.
30. Potential obstacles to investigation and prosecution as well as to the effectiveness of sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, pardoning)
31. Information on effectiveness of administrative measures and sanctions, in particular recovery measures and administrative sanctions on both public and private offenders.

III. Media freedom and pluralism

32. Measures taken to ensure the independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies
33. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies
34. Existence and functions of media councils or other self-regulatory bodies

35. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)
36. Safeguards against state / political interference, in particular:
- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations),
- procedures for the concession/renewal/termination of operating licenses
- information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirements and corporate governance
37. Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)
38. Rules and practices guaranteeing journalist's independence and safety
39. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists
40. Access to information and public documents (incl. procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities)
41. Lawsuits (incl. SLAPPs - strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against abusive lawsuits

IV. Other institutional issues related to checks and balances

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

43. 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)

44. Regime for constitutional review of laws

45. 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 (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

46. Independence, resources, 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 institutions[11]

47. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.

48. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

49. Judicial review of administrative decisions: - short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).

50. Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non- implementation

51. Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc.)

52. Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders

53. 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.)

I - Justice System

A. Independence

1. Appointment and selection of judges[4], prosecutors and court presidents (incl. judicial review)

Judges

The 2021 Rule of Law Report (Country Chapter on the rule of law situation in Ireland) noted that the General Scheme of the Judicial Appointments Commission Bill was approved for drafting by the Government in December 2020. Drafting of the Bill is well advanced at present (January 2022) and it is expected that the Government will present the Bill early in 2022 to the National Parliament (Oireachtas) which will commence the process of enactment of the proposed legislation. In accordance with the standard procedure, the Minister for Justice forwarded the General Scheme to the Oireachtas Joint Committee on Justice for the purpose of pre-legislative scrutiny. The report on pre-legislative scrutiny was provided by the Committee in October 2021. This report and other observations provided, including the views of the European Commission, have informed the detailed drafting of the provisions of the Bill. It is expected that the contents of the Bill, published following the approval of the Government, will be an important input into the 2022 Rule of Law Report.

In general terms, the Bill will provide for the establishment of a Judicial Appointments Commission to replace the Judicial Appointments Advisory Board (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. Under the Scheme, the Commission will assess and deal with applications from serving judges and develop appropriate procedures for their assessment. The Commission additionally will set out best practice selection procedures for recruitment standards and comprehensive procedures including interviews and 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.

Current system

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

The appointment and selection of judges is covered in Part IV of the Court 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 the relevant 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 Judicial Appointments Advisory Board (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, has 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 candidate 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 Top Level Appointments Commission and a final Judicial Member – The Chief Justice, President of Appeals Court or President of the High Court - depending on which jurisdiction the position relates to.
- 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.

Prosecutors

All Office of the Director of Public Prosecutions (hereafter ODPP) recruitment and promotion competitions are run in compliance with the Code of Practice for Appointments to Positions in the Civil Service and Public Service. The Codes of Practice are published by the CPSA www.cpsa.ie. If a candidate is unhappy following a selection process, they have a right under the Code to request a review of a decision made during the process or make a complaint that the selection process followed was unfair.

2. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

Judges

The removal of a judge is set out under Article 35 of the Constitution. However, no judge has ever been removed under Article 35. Article 35 is outlined below; it should be noted that this applies by virtue of section 39 of the Courts of Justice Act 1924, to a judge of the Circuit Court, and section 20 of the Courts of Justice (District Court) Act 1946, to a judge of the District Court.

Article 35

4 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 Houses 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.

Under the Judicial Council Act 2019, the Judicial Conduct Committee can invoke section 80 of the 2019 Act which is '' 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 regard 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.

Prosecutors

New hire Prosecutors are offered a one-year probationary contract. During their first year their attendance, performance and attitude is reviewed on a quarterly basis in accordance with the civil service probation scheme. Prosecutors who successfully complete their probation have their appointment confirmed. Unsuccessful Prosecutors have their appointment terminated. This decision can be appealed by the employee.

The Civil Service Code of Standards and Behaviour applies to all Prosecutors. Any Prosecutor in breach of the Code could be dismissed under circular 19 of 2016 Civil Service Disciplinary Code. Employees have a right to appeal a decision in accordance with the appeals process, set out in Part 4 of the Code.

All Prosecutors are members of a Civil Service Pension Scheme. The minimum retirement age of a Prosecutor is dependent on their pension scheme. Most Prosecutors must retire at age 70 with an exception to members of the New Entrant Scheme 2004 where any Prosecutors hired between 2004 - 2012 have no compulsory retirement age.

3. Promotion of judges and prosecutors (incl. judicial review)

Judges

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

Members of the judiciary may write to the Attorney General's Office requesting a promotion to a higher Court e.g. from the Circuit Court to the High Court. Those expressions of interest are considered by the Government while nominating a candidate to fill a judicial vacancy in the relevant Court.

Prosecutors

As senior vacancies arise, the ODPP will hold competency based competitions to create a panel at senior grades from which successful candidates will be offered promotion in order of merit. Competitions are run in compliance with the Code of Practice for Appointments to Positions in the Civil Service and Public Service. The Codes of Practice are published by the CPSA www.cpsa.ie. If a candidate is unhappy following a selection process, they have a right under the Code to request a review of a decision made during the process or make a complaint that the selection process followed was unfair.

4. Allocation of cases in courts

Under the provisions of the Courts Service Act 1998, management of the courts, including the provision of accommodation for court sittings, is the responsibility of the Courts Service, which is independent in the exercise of its functions.

The Criminal Procedure Act 2021 was enacted on 24 May 2021 however as yet, has not been commenced. Part 2 of the Act provides for pre-trial preliminary hearings in criminal cases. The principal purpose of these hearings is "to deal with certain matters ahead of the beginning of the trial so as to ensure that the parties are ready to proceed on the day of the trial, and to minimise interruptions to unitary nature of the trial while it is in train" (Criminal Procedure Bill 2021, Revised Explanatory and Financial Memorandum, 27 January 2021, 1).

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

The Judicial Council was formally established on 17 December 2019 under the Judicial Council Act 2019.

The Council, as provided for by section 6 of the 2019 Act, is independent in the exercise of its functions. Responsibility for the functions of the Judicial Council and the work of the Council's Committees fall to the Board of the Judicial Council. Neither the Department of Justice nor the Minister for Justice has any role in relation to the operation of the Council or its Committees.

The Council, under section 7 of the 2019 Act, outlines its statutory functions as being; to promote and maintain respect for the independence of the judiciary, public confidence in the judiciary and the administration of justice. Section 7 of the same Act details the functions of the Council to be as follows:

A. Excellence in the exercise by judges of their judicial functions;
B. 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;

C. The effective and efficient use of resources made available to judges for the purposes of the exercise of their functions;
D. Continuing education of judges,
E. Respect for the independence of the judiciary, and
F. Public confidence in the judiciary and the administration of justice.

The Judicial Council Members are set out in the Judicial Council Act 2019, under section 8, as follows:

- The Chief Justice and the ordinary judges of the Supreme Court;
- The President of the Court of Appeal and the ordinary judges of the Court of Appeal;
- The President of the High Court and the ordinary judges of the High Court;
- The President of the Circuit Court and the ordinary judges and specialist judges of the Circuit Court;
- The President of the District Court and the judges of the District Court other than the President of that Court.

The Board of the Judicial Council performs the functions of the Council on its behalf.
The Board is comprised of the following 11 members:

- The Chief Justice and each of the four Presidents;
- One judge elected by and from the judges of each of the five jurisdictions;
- One additional judge co-opted by the Board.

When a member of the Council ceases to be a judge, he or she shall thereupon cease to be a member of the Council. The Chief Justice shall be the chairperson of the Council and the President of the Court of Appeal shall be its vice-chairperson.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

Judges

The Judicial Council was required by the Act to establish a number of statutory committees to support its functions, in particular in relation to guidelines to support the judiciary, these included:

- Personal Injuries Guidelines Committee
- Sentencing Guidelines and Information Committee
- Judicial Conduct Committee
- Panels of Inquiry

Lay Member representation is required, under the 2019 Act, on the Judicial Conduct Committee, the Sentencing Guidelines and Information Committee, and Panels of Inquiry. The Government duly appointed and nominated Lay Members on 21 July 2020. The 2019 Act also outlines that the work of each of the Committees must met the statutory deadlines set out.

A number of these Committees have progressed their work in support of the Council's statutory functions.

Personal Injuries and Guidelines Committee
The principal function of the Personal Injuries Guidelines Committee was to prepare and submit to the Board of the Council, for its review, draft Personal Injuries Guidelines pursuant to Section 18 (4), as amended, of the Judicial Council Act 2019. The Council adopted these guidelines, pursuant to section 7 of the Act, on 6 March 2021. The Guidelines can be viewed in full here.

Sentencing Guidelines and Information Committee
The functions of the Sentencing Guidelines and Information Committee are to prepare and provide draft Sentencing Guidelines pursuant to section 23 of the 2019 Act. This Committee does not have a statutory deadline set out in legislation, however it is continuing to progress its work by carrying out research and has recently published a summary of existing Irish case law in appellate courts in respect of particular offences, which can viewed here.

Judicial Conduct Committee
The Judicial Conduct Committee completed its work of drafting guidelines concerning judicial conduct and ethics and submitted them for review by the Board of the Judicial Council pursuant to section 43 (3) (d) of the Judicial Council Act 2019.

The draft guidelines include guidance for judges as to the matters to be considered when deciding on recusal from presiding over legal proceedings. The Board of the Council will now consider the draft guidelines, and may make amendments as required, with a statutory obligation for adoption of the guidelines by 28th June 2022, as per section 7 of the 2019 Act.

Further information on the Judicial Council, and on the Committees established by the Council, is available from the Council's Website – www.judicialcouncil.ie

Prosecutors

The Civil Service Code of Standards and Behaviour applies to all Prosecutors employed by the Office of the Director of Public Prosecutions (ODPP). On appointment to the ODPP, Prosecutors are asked to familiarise themselves with the Code and sign a confirmation document to confirm they have done so. Anyone found in breach of the Code could be disciplined under circular 19 of 2016 Civil Service Disciplinary Code. Under the Code employees have a right to Appeal the outcome. Prosecutors are also obliged under Section 18 of the Ethics in Public Office Act, 1995 to make an annual written statement in respect of their interests and those of their spouse, civil partner, child or stepchild which could materially influence them in the performance of their official duties.

7. Remuneration/bonuses/rewards for judges and prosecutors, including changes (significant increase or decrease over the past year), transparency on the system and access to the information

Remuneration for judges is published in S.I. No. 323/2021 - Courts (Supplemental Provisions) Act 1961 (Judicial Remuneration) (Section 46(9)) Order 2021 and S.I. No. 324/2021 - Courts (Supplemental Provisions) Act 1961 (Judicial Remuneration) (Section 46(9A)) Order 2021.

Links:
S.I. 323/2021 https://www.irishstatutebook.ie/eli/2021/si/323/made/en/print
S.I. 324/2021 https://www.irishstatutebook.ie/eli/2021/si/324/made/en/print

Remuneration for ODPP staff: €32,443 - €82,520 - 1% pay increase awarded on the 1st October 2021 under Circular 19/2021.

8. Independence/autonomy of the prosecution service

The ODPP has nothing further to add to the 2021 or 2020 joint responses on this area, however, by way of assistance in understanding the prosecution service in Ireland, and the roles of the ODPP, State Solicitors and the Garda Síochána in terms of prosecuting crime, ODPP would refer the Commission to the following document: Prosecution Service in Ireland

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

No change from 2021 input

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

Given the increased volumes of cases being lodged in the High Court in recent years, the Irish Government enacted legislation in 2021 – through the medium of the Civil Law (Miscellaneous Provisions) Act 2021 – to provide for the statutory complement of High Court judges to be increased by five. Four of the five additional posts created had been filled by year's end. The same Act provided that, when certain conditions obtained, the statutory complement of High Court judges could be exceeded by a further one. By year's end, the required Government Order had been made, thus clearing the way for the creation of one further judicial post in the High Court.

The Government of Ireland established the Judicial Planning Working Group in April, 2021 in line with commitments in the Programme for Government and Justice Action Plan 2021 to "Establish a working group to consider the number of and type of judges required to ensure the efficient administration of justice over the next five years".

The Group is independently chaired and comprises representatives from the Departments of Justice, Public Expenditure and Reform and An Taoiseach, the Courts Service and the Office of the Attorney General.

The Government of Ireland has engaged the OECD to undertake independent research. The findings of this research will be provided in a report from the OECD and will be used as an evidential base to support the deliberations of the Working Group recommendations on resourcing the Judiciary in Ireland for the next five years.

The Working Group is consulting with relevant experts and stakeholders in the course of its work as required and appropriate. The Group is to provide a report to the Minister in 2022. The Government of Ireland is committed to ensuring adequate resources for the courts in order to maintain access to justice for all citizens.

B. Quality of justices

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

No change from 2021 input.

12. Resources of the judiciary (human/financial/material[6])

All judges receive an allowance of €9,057.06, except ordinary judges of the Circuit Court and District Court who receive allowances of €2,730.02 and €1,365.01 respectively. This allowance is split over 12 months.

Since 2012, newly appointed judges to the Supreme Court, Court of Appeal, High Court, Circuit Courts 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 support required.

The Judicial Council Act 2019, under section 17, establishes the Judicial Studies Committee. This Committee shall facilitate the continuing education and training of judges with regard to their functions.

Family Court Bill
In September 2020, the Government approved the drafting of a Family Court Bill (a draft law) to provide for the establishment of a District Family Court, a Circuit Family Court and a Family High Court as divisions within the current court structures.

The Family Court Bill, once drafted, will include provisions for the establishment of a Family Court as divisions within the existing court structures, i.e., providing for a Family High Court, a Circuit Family Court, and a District Family Court, each dealing with family law matters as appropriate to its jurisdiction.

The Bill will be underpinned by a set of guiding principles to help ensure that the family court system will operate in a user-friendly and efficient manner. In addition to encouraging alternative dispute resolution, these principles are directed at, among other matters, encouraging active case management by the courts and providing that the best interests of the child are a primary consideration in all family law proceedings

The Bill will provide for judges with a special interest in family law to be appointed on a full-time basis to both the District Family Court and the Circuit Family Court.

It is intended that the Family Court Bill will provide for the establishment of a dedicated Family Law Rules Committee to ensure that the rules of court in relation to family law proceedings are coherent and applied with consistency across all levels of the family courts.

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

The Judicial Council Act 2019 established the Judicial Studies Committee under section 17 of the 2019 Act. This committee's remit is too facilitate the continuous 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 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 Judicial Studies Committee met a number of times throughout the year.

Training recommendations of the O'Malley Report on Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences were implemented in August 2021 and followed up November 2021 when a pilot group of judges were also trained to deliver future workshops to their colleagues on this topic. Training courses on unconscious bias and vulnerable witnesses were also delivered.

All newly appointed judges received induction training with an emphasis on conduct and ethics "Judgecraft" training was also delivered to new appointees in November and December.

International Conferences were hosted by the Judicial Studies Committee, including one comprising Anglophone Germanophone family law judges and experts on the topics of family law [child abduction and the role of mediation], and a UKIJSC Conference which facilitated an annual jurisdictional update and matters of common interest between judges from Ireland, Northern Ireland, Scotland, and England and Wales. Judges also attended an EJTN course on the digitisation of judicial training. Mentoring training was also delivered to mentor judges who in turn are assigned to newly appointed judges.

Family Court Bill
The principal purpose of the forthcoming material for inclusion Family Court Bill is to provide for the establishment of a dedicated Family Court to improve levels of judicial expertise and training in family law matters and streamline family law proceedings, thereby making them more user-friendly and less costly.

The Judges of the Family Court will be appointed with the aim of having judges with a particular interest and suitability for determining family law proceedings dealing with such cases on an ongoing basis. These would be judges who are deemed, by reason of their training or experience, suitable to deal with matters of family law. Ongoing professional training in the area of family law would be required for judges of the family court divisions.

The ODPP has nothing to add to the 2021 joint response provided to this question.

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)[7]

No change from 2021 input.

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)

No change from 2021 input.

16. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.

Family Court Bill

At a structural level, the General Scheme of the Family Court Bill provides for the establishment of a District Family Court, a Circuit Family Court and a Family High Court as divisions within the existing court structures.

The Family Court Bill will provide for the designation of the locations of the courts that will operate as Family Courts and the geographic boundaries of the District Family Court and Circuit Family Court jurisdictions.

It is the intention that the Family Court, once established, will sit to hear family law proceedings (including child care proceedings) in a different building or room from that in which other court sittings are held or on different days or at different times from other court sittings.

C. Efficiency of the justice system[8]

17. Length of proceedings

No change from 2021 input.

II – Anti-Corruption Framework

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

18. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).

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 €2.062 billion for 2022.
As of 14 January 2022, Garda numbers are as follows:

- 14,411 Sworn Gardaí (72% male, 28% female)
- 429 Garda Reserves (74% male, 26% female)
- 3,388 Garda Staff (28% male, 72% female)

To note, Garda member numbers are slightly lower now than in 2021 due to retirements and the impact of Covid on training new Garda members. However, Budget 2022 provides for the recruitment of up to 800 new Garda members and an extra 400 Garda staff.
More specifically, the current Garda member numbers for the Garda National Economic Crime Bureau (GNECB) are outlined in the following table:

RANK	**Staff numbers as at 31 December 2021**
Chief Superintendent	1
Superintendent	2
Inspector	2
Sergeant	22
Garda	78
TOTAL	**105**

The current Garda Staff strength (in whole time equivalent terms) for the GNECB is as follows:

ROLE	**Staff numbers as at 31 December**
Forensic Accountant Grade II	1
Professional Accountant Grade 2	3.8
Higher Executive Officer	1
Executive Officer	5
Clerical Officer	11
TOTAL	**21.8**

An Garda Síochána are currently developing a strategic long-term plan for resourcing the GNECB, including the allocation of Garda members on secondment to the Office of the Director of Corporate Enforcement (ODCE)/Corporate Enforcement Authority (CEA), the Competition and Consumer Protection Commission (CCPC), and the Department of Social Protection.
Ireland is fully supportive of OLAF and cooperates as required.

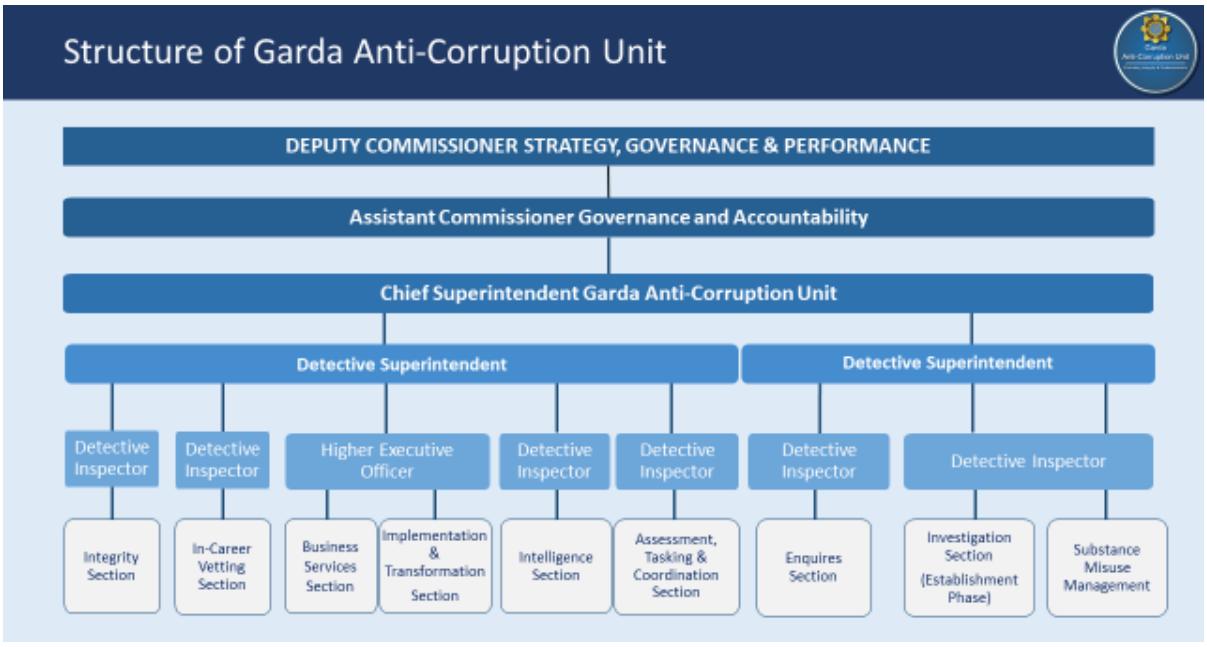
As a non-participating Member State, Ireland is fully committed to cooperating with the EPPO. Negotiations concerning the working arrangements between EPPO and Ireland are ongoing.

The Garda Anti-Corruption Unit (GACU) was established on the 30 November 2020. Resources are being assigned to the Garda ACU on a phased basis to support the development of its eight (8) Business Units, including its investigative capacity which is being developed incrementally. The Garda Anti-Corruption was officially launched on 1 June 2021, at Kevin Street Garda Station, Dublin, by way of a media briefing.

The role of the Garda Anti-Corruption Unit is to proactively prevent, reduce and detect corruption, safeguarding the reputation and integrity of An Garda Síochána. The unit will promote integrity and professionalism through the prevention, identification and when necessary, the investigation of corruption and wrongdoing.

Central to the business activities of the Garda Anti-Corruption Unit, is the promotion of a culture of professional conduct, ethical behaviour and doing the right thing for the right reason. The Garda Anti-Corruption Unit's Integrity Section promotes integrity, professional standards and ethical values across all areas of An Garda Síochána. This Section is pro-active in their endeavours to prevent corruption, misconduct and wrongdoing before it ever takes place.

The following table outlines the current structure of the Garda Anti-Corruption Unit;



The recommendations in the Hamilton Review in relation to staff were acted upon by the ODPP. The ODPP has received sanction from the Department of Expenditure and Reform for an additional 35 staff members (see ODPP Annual Report 2020, 5), which will bring the total staff of the Organisation to 260. However, at the time of writing not all of these additional staff are in place nor have they been allocated to particular units within the Organisation.

The (EU budget Section of the) Department of Finance is designated the national Anti-Fraud Coordination Service (AFCOS). There is a strong commitment to cooperate fully between AFCOS and

OLAF on matters concerning anti-fraud and the protection of the financial interests of the EU. This is demonstrated by timely, considered and full cooperation with the authorities in respect of any queries or requests received.

19. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.

Responsibility for the development and implementation of anti-corruption policies in Ireland does not rest with any one body. Instead, many departments, agencies and bodies have roles and responsibilities in this area.

The *Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption*, published in December 2020 (and progressed via the implementation plan referred to in Q.20), considered the establishment of a corporate crime agency and did not recommend the creation of a single standalone agency to deal with all issues relating to the prevention, investigation and prosecution of corruption.

Rather, the review group made structural recommendations to enhance "multi-agency collaboration, information-sharing, resourcing, training, awareness raising, legislative reform and so on" (see below response to Q.20).

In relation to the police service, regarding the functional independence of An Garda Síochána, section 26(1) of the Garda Síochána Act 2005 (as amended) provides for the Garda Commissioner to:

- direct and control An Garda Síochána,
- carry on and manage and control generally the administration and business of An Garda Síochána, including by arranging for the recruitment, training and appointment of its members and civilian staff.

In addition, under section 33 of the 2005 Act, the manner in which Garda members are to be distributed and stationed throughout the State is a matter for the Commissioner.

In relation to the judiciary, the Judicial Council Act 2019 provides for the establishment of a Judicial Council. The primary function of the Council, which consists of all members of the judiciary, is to promote and maintain excellence in the exercise by judges of their judicial functions and high standards of conduct among judges. The Board of the Council is responsible for carrying out the functions of the Council on a day-to-day basis. A key element of the Act relates to the establishment of a Judicial Conduct Committee to consider complaints in relation to judicial misconduct, prepare draft guidelines concerning judicial conduct and ethics for adoption by the Council and provide advice and recommendations to an individual judge or to judges generally on judicial conduct and ethics. The membership of this Committee includes persons who are not judges. The Judicial Council will be assisted in its work by a Judicial Studies Committee which will have a role in facilitating the continuing education and training of judges. Provision is also made for a Sentencing Guidelines and Information Committee and for a Personal Injuries Guidelines Committee, both of which are responsible for drawing up guidelines relevant to their functional area for adoption by the Council.

20. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.

An all-of-government implementation plan to progress the review group recommendations was published in April 2021. Examples of the recommendations currently being implemented include:

- greater powers for investigating agencies to tackle economic crime and corruption;
- the establishment of an Advisory Council against Economic Crime and Corruption;
- the establishment of a Forum of senior representatives from operational agencies;
- a reform of the Ethics Acts;
- and additional resourcing for enforcement agencies.

The implementation plan includes deliverables and timelines for all actions, including for the following structural/systemic recommendations:

- the establishment of an Advisory Council to co-ordinate and lead the delivery of a Whole-of Government approach to economic crime and corruption and to serve as a 'centre of excellence' for research and analysis, awareness-raising, training and other best practice issues. The establishment process is currently in the final stages.
- the establishment of a Forum of Senior Representatives to facilitate greater interagency co-ordination, collaboration and information sharing. The first formal Forum meeting took place on 24 June 2021.
- the development of a multi-annual National Strategy to Combat Economic Crime and Corruption and an accompanying Action Plan.

B. Prevention

21. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.

Policy in Ireland for the prevention of corruption and promotion of integrity among elected and appointed senior public officials is set in a number of pieces of legislation including the Ethics Acts (Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001), the Regulation of Lobbying Act 2015 and the Criminal Justice (Corruption Offences) Act 2018 (which provides for the forfeiture of office, position or employment by an Irish official following conviction or indictment for certain corruption offences under this Act).

The Ethics Acts

The Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 are cited together as the Ethics in Public Office Acts 1995 and 2001 (the Ethics Acts). The Ethics Acts provide a statutory framework for the disclosure of interests, regulation of gifts, and personal appointments (of special advisors), oversight by the Standards in Public Office Commission (SIPO) or the Select Committee on Members' Interests in each House of the Oireachtas.There is also a requirement that tax clearance certificates to be furnished on election/nomination to either house of the Oireachtas, appointment to judicial office or senior office.

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.

Institutional framework

The Standards in Public Office Commission (SIPO) is an independent non-partisan body established under the Standards in Public Office Act 2001. Its membership is composed of the Chairperson and five ordinary members. The Chairperson must be a judge or former judge of the High Court or Supreme Court, who is appointed by the President following a resolution passed by both Houses of the Oireachtas. There are four ex-officio members - the Comptroller and Auditor General, the Ombudsman, the Clerk of Dail Eireann and the Clerk of Seanad Eireann. The final member is a former member of either Dail Eireann or Seanad Eireann, who is appointed by the Government following a resolution passed by both Houses of Parliament.

SIPO has supervisory roles under four separate pieces of legislation: the Ethics in Public Office Act 1995, as amended by the Standards in Public Office Act 2001 (Ethics Acts), the Electoral Act 1997 (as amended), the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014, and the Regulation of Lobbying Act 2015. SIPO's principal functions are to publish guidelines, to give advice and to investigate and report in relation to possible contraventions of the Ethics Acts. These functions relate to office holders (including Ministers and Ministers of State), the Attorney General, special advisers and public servants.

The SIPO Commission is supported by a secretariat composed of civil servants, which is provided by the Office of the Ombudsman. That office also provides shared services. Funding to SIPO is provided through the vote of the Ombudsman, which is also managed by that Office.. While it does not report to a Minister, its funding comes from government budget processes (rather than directly from parliament). SIPO Annual Report is provided to the Minister for Public Expenditure and Reform for tabling in the Oireachtas.

Codes of Conduct

Section 10 of the Standards in Public Office Act 2001 provides for codes of conduct to be drawn up for certain specified categories of person. The codes, which are published by SIPO, set out the standards of conduct and integrity expected to be observed by the persons to whom they relate in the performance of their official duties and connected matters. A person to whom a code of conduct relates is obliged to have regard to and be guided by the code, in the performance of his or her functions, and in relation to any other matters to which the code relates (sections 10(6) and (7), 2001 Act). The principal codes published by SIPO are as follows:

(i) The Code of Conduct for Office Holders (as prescribed under the Ethics Acts) includes Ministers of Government, the Attorney General and Ministers of State.

(ii) The Civil Service Code of Standards and Behaviour includes Secretaries General and Special Advisers.

(iii) The Codes of Conduct for Oireachtas Members.

In circumstances where SIPO holds an investigation in relation to the conduct of a relevant person under the Ethics Acts, the investigation hearings are generally held in public and the investigation reports are published in the public domain with an accompanying press release. SIPO also reports on its activities in its Annual Report, which includes information on compliance with the requirements of the Ethics Acts, as appropriate.

Advice and Training

SIPO gives advice to office holders, on a confidential basis, on the interpretation of their obligations under the Ethics Acts. Office holders are required to act in accordance with the advice given (section 25, 1995 Act). In addition, advice is to be given on request to an office holder in relation to the application or otherwise of the Code of Conduct for Office Holders to any particular case or circumstance relating to him/her or to any conduct or proposed conduct of the person (section 10, 2001 Act). Office holders may also seek more informal guidance, which is not binding. Where SIPO is of the view there has been or may be a breach of the Acts by an office holder, it may decline to give advice.

SIPO has agreed to provide training to all Members of Parliament in concert with already scheduled training initiatives for Members under electoral legislation. The parliamentary authorities have included SIPO as part of its training program for new member induction, and facilitates SIPO to host bi-annual information sessions for both the Ethics Acts and the Electoral Act.

A general election was held in February 2020 and in November 2020 SIPO staff provided training to new Members of Parliament as part of their induction programme. Training covered relevant aspects of the ethics, political finance and lobbying legislation. In addition, a presentation and question/answer session were held in early 2021 via videoconference for interested members and their staff in advance of the January deadline to submit statutory ethics and electoral returns. Ongoing training is planned to take place annually hereafter.

Review of the Statutory Framework

The 2020 Programme for Government committed to the reform and consolidation of the Ethics legislation. In 2021, the Government approved proposals by the Minister for Public Expenditure and Reform that his Department undertake the review of ethics legislation.

The review as agreed by the Government includes the following elements:

- A review of Ireland's existing ethics legislative framework, including a reassessment of the 2015 Public Sector Standards Bill;
- A review of the recommendations of relevant tribunals of inquiry;
- A review of recommendations of the Standards in Public Office Commission (SIPO) based on its operation of the current regime – and consideration of ethical questions that have arisen since 2017;
- Consultations with the Department of Housing, Planning and Local Government on the local government aspects of a consolidated statutory regime.
- A review of current EU/International best practice; and
- A Public Consultation - Consultations with various parties.

The review process is underway, and formal stakeholder engagement and a public consultation process commenced in November 2021. Following the outcome of the review, it is expected that reform proposals will be presented to Government in 2022.

Revolving Doors

The issue of revolving doors is dealt with in the Regulation of Lobbying Act 2015 (the 2015 Act). This primary legislation is the main source of the legislative framework governing the carrying on of lobbying activities in Ireland.

Section 22 of the 2015 Act provides for restrictions on post-term employment as a lobbyist. One of the purposes of this provision is generally to manage, and place restrictions on any perceived operation of, what is often referred to as a 'revolving door' between the public and private sectors.

The 2015 Act provides that specific categories of designated public officials (DPOs) are subject to a one-year 'cooling-off' period, during which they cannot engage in lobbying activities in specific circumstances, or be employed by, or provide services to, a person carrying on lobbying activities in specific circumstances. The cooling-off period is a statutory requirement and applies for the full one-year term, unless the relevant DPO applies to the Standards in Public Office Commission (SIPO) for consent to waive or reduce their cooling-off period. In accordance with section 22(5), SIPO may:

- Give the person consent without conditions;
- Give the person consent with specific conditions attached; or
- Refuse consent.

(More detailed information on the operation of section 22 can be found under Q23. Below).

SIPO Code of Conduct

Under section 16 of the 2015 Act, SIPO has the power (if it chooses to do so) to produce a Code of Conduct for persons carrying on lobbying activities "*with a view to promoting high professional standards and good practice*".

SIPO produced a Code of Conduct which came into operation on 1 January 2019. SIPO has responsibility for the Code's text and operation. The Code does not supersede or replace any requirement that a person has under any legislative provision, either in the Act itself or in any other piece of statute.

SIPO has stated that the Code aims to ensure that lobbying activities are conducted in accordance with public expectations of transparency and integrity, and that decisions are made in the public interest.

In support of the 2015 Act's objectives to foster transparency and the proper conduct of lobbying activities, SIPO sets out in the Code several principles by which persons carrying on lobbying activities should govern themselves, namely:

- demonstrating respect for public bodies;
- acting with honesty and integrity;
- ensuring accuracy of information;
- disclosure of identity and purpose of lobbying activities;
- preserving confidentiality;
- avoiding improper influence;
- observing the provisions of the Regulation of Lobbying Act; and
- having regard to the Code of Conduct.

The Code of Conduct can be found: https://www.lobbying.ie/about-us/code-of-conduct/

22. General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying

including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)

Lobbying and Transparency for Decision Makers

The ***Regulation of Lobbying Act 2015*** 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 which 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 SIPO. 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.

Purpose and Key Aspects of the Legislation

The purpose of the 2015 Act is to provide appropriate transparency on "who is lobbying whom about what". In this context, the 2015 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. The 2015 Act aims to do this by providing for:

- The establishment and maintenance of a publicly accessible Register of Lobbying;
- SIPO to be the regulator of lobbying;
- Obligations on lobbyists to register and to provide information regularly about their lobbying activities, including, in the case of professional lobbyists, information about their clients;
- A Code of Conduct on the carrying-on of lobbying activities; and
- The introduction of a 'cooling-off' period during which lobbying activity may not be carried out by some former public officials.

Guidance for DPOs

On the lobbying website, SIPO has introduced a suite of information and guidance for lobbyists, DPOs, the general public, and public bodies. One such document is a Guidance Note for DPOs. Amongst other things, DPOs are encouraged to become familiar with the requirements of the 2015 Act. DPOs are advised to be proactive in advising possible lobbyists of their status as a DPO. DPOs should ensure that a proper record is maintained of all correspondence with a lobbyist on a particular matter. It is also

recommended that DPOs check the Register on a periodic basis to ensure that their name is associated with the correct lobbying activities and that the information provided on the Register is factually correct. Persons have a right to seek correction from SIPO where information published on the Register is inaccurate, out of date, or misleading.

Statutory Reviews 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, SIPO, 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.

The second review of the 2015 Act was published in late February 2020. It is available at this link: 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 SIPO without the need to amend the 2015 Act. The Review therefore includes a number of recommended further actions for SIPO 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.

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 legislation additionally creates a right for individuals to seek reasons for a decision by a state entity that has affected them.

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.

The Open Data and Re-use of Public Sector Information Regulations 2021, SI 376/2021, came into force on 22nd July, 2021. Open Data as a concept is generally understood to denote data, in an open format that can be freely used, re-used and shared by anyone for any purpose. These Regulations transposed the EU Open Data Directive into Irish law and provide a framework for free access to public sector data in open formats.

The public sector collects, produces, reproduces and disseminates a wide range of information in many areas of activity and constitutes a vast, diverse and valuable pool of resources that can benefit society. Providing that information in a commonly used electronic format allows citizens and businesses to find new ways to use this thereby creating new innovative products and services.
The Regulations do not circumscribe existing regimes in respect of copyright, intellectual property, protection of personal data or Freedom of Information, and do not permit the release of information in a manner that is otherwise prohibited by law. Information produced, held or disseminated outside the public tasks of the public body is also outside the scope of the Regulations.

Electoral Act 1997

The Electoral Act 1997 (as amended) provides the statutory framework for dealing with political donations and sets out a detailed regulatory regime providing for a broad range of issues such as the funding of political parties; the reimbursement of election expenses; the setting of election expenditure limits; the disclosure of election expenditure; the setting of limits on permissible donations; the prohibition of certain donations; the disclosure of donations; and the independent supervision of the regime by the Standards in Public Office (SIPO) Commission. The primary purpose of the Act is to ensure that there is openness and accountability in the relationships that exist between political parties and individual politicians and those who would support them politically, whether by way of financial assistance or otherwise.

The meaning of donation is explicitly defined under the Act as are various donation thresholds and disclosure requirements, including permissible anonymous donations (€100 maximum), permissible cash donations (€200 maximum), permissible corporate donations (€200 maximum if not registered with SIPO or €1,000 maximum if registered with SIPO), the size of donations that may be received from a single source in any calendar year (€1,000 maximum for candidates / elected members and €2,500 for political parties / third parties), mandatory disclosure to SIPO of donations exceeding €100, the making of donation statements (for all donations exceeding €600 for candidates / elected members and €1,500 for political parties). Foreign donations are prohibited unless made by Irish citizens' resident outside of the island of Ireland.

The Act also provides for Exchequer funding of qualified political parties which are political parties registered on the Register of Political Parties and whose candidates received an aggregate of at least 2% of the first preference votes at the last preceding general election to Dáil Éireann. Payments are comprised of a fixed amount prescribed in the Act as well as an annual sum to be shared pro rata to the amount of first preference votes received by each of the qualified political parties; these payments are reduced by 50% unless at least 30% of the candidates authenticated by a qualified political party at the last preceding general election were women and at least 30% were men (this will rise to 40% for elections held after 26 February 2023). The Act prohibits the use of Exchequer funding to recoup election or referendum expenses and prescribes a number of broad categories under which such funding can be spent. Payments are made quarterly in arrears, subject to a number of verification checks and certification from SIPO.

23. Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

Conflicts of Interest: The Ethics Acts

As outlined the response to **Question 21** above, the broad focus of the Ethics Acts is to provide for disclosure of interests, including material interests that could influence a Government Minister or Minister of State, members of parliament, the Attorney General, a board member of a public body or a public servant (including special advisers) in performing their official duties.

Disclosure obligations arise for the following categories:

- **Oireachtas:** Member of the Dáil or Seanad
- **Office Holders:** i.e. Ministers, Ministers of State, Taoiseach, Tánaiste, a member who is Attorney General, and Chairman and Deputy of both Houses and chair of a House Committee
- **Public Bodies and Civil Service:** Designated Director e.g. chairman of a Board of a public body; Designated Position of Employment e.g. positions of employment below Principal Officer Grade level in the civil service, whose work area could produce conflicts of interest (e.g. procurement)

In the case of members of the Oireachtas, statements of interests are furnished annually to SIPO, who passes them on to the Clerks of either House, who compile the Registers of Members' Interests. Registrable interests are in summary:

- A remunerated profession (exceeding €2,600),
- Shares or other investments (value exceeding €13,000)
- A directorship of any company
- Interest in land (exceeding €13,000)
- Interest in any contract for the purchase of land
- Certain gifts (excluding personal) (any gift over €650) see Appendix.
- Below cost supply of travel facilities and entertainment
- Remunerated position as political lobbyist or consultant
- Certain contracts in relation to supply of goods and services to a public body
- Below cost supply of property or a service
- Voluntary disclosure of any other interests that could materially influence the person in his or her official functions

In addition to the statement of registrable interests an Oireachtas member must also declare any material interest in proceedings of a House or Committee. There are different procedures depending of the member (a) intends to speak or (b) intends to vote but not speak. This obligation extends beyond personal interests and includes the material interests of a "connected person" i.e. a relative, anyone in partnership, a trustee and controller of a company. Such statements must be furnished to the Clerk of either House.

Office Holders: As members of the Oireachtas, Office-Holders have the same obligations as non-office holding Oireachtas members concerning:

- Tax clearance;
- Annual disclosure of registrable interests; and

- The disclosure of a material interest in the proceedings of a house or committee.

However, as Office-Holders, there is the additional requirement to:

- Furnish a statement of additional interests;
- Surrender and disclose gifts received by virtue of office; and
- Disclose a material interest in a function of office.

'Additional interests' are the interests of a spouse or civil partner, child or child of spouse that could materially influence the office holder in his or her official functions 'so as to confer on or withhold from the office holder or the spouse or civil partner or the child a substantial benefit. There is a separate interests form for additional interests. The statement of additional interests is furnished to the Clerk of the House of which the Office-Holder is a member. The additional interests form is private whereas the statement of registrable interests form is public as personal registrable interests are published in the registers of members' interests 9see above).

There is an obligation to furnish an additional interests form or a nil statement even if the person is no longer an office holder or no longer an Oireachtas member on 31 December. Once a person has been an office holder they must comply with the requirements on additional interests. There is no requirement for the monetary value of the statement to be specified. Statements of additional interest are furnished to the Clerk of either House.

Declaration of a Material interest in a function of office: Where an Office-Holder intends to perform a function of office, and has actual knowledge of a personal material interest in that function or of a connected person, or another office or of a person connected to another office holder, then a statement must be made of the facts and nature of the interest concerned. Statements are furnished to An Taoiseach and SIPO, or by An Taoiseach to the Chairman of SIPO.

Analogous declaration requirements apply to the holders of designated directorships and designated positions of employment in the public and civil service.

Conflicts of Interest

The 2015 Act provides for measures to prevent conflicts of interest regarding lobbying. In particular, section 22 provides for restrictions on post-term employment as a lobbyist. The purpose of these provisions is generally to manage the potential for conflicts of interest between the public and private sectors.

The 2015 Act provides that specific categories of designated public officials (DPOs) are subject to a one-year 'cooling-off' period, during which they cannot engage in lobbying activities in specific circumstances, or be employed by, or provide services to, a person carrying on lobbying activities in specific circumstances (as defined in section 22(3)). The cooling-off period is a statutory requirement and applies for the full one-year term, unless the relevant DPO applies to SIPO for consent to waive or reduce their cooling-off period. SIPO may make a determination on an application for consent after any appropriate consultation. In accordance with section 22(5), SIPO may:

- Give the person consent without conditions;
- Give the person consent with specific conditions attached; or
- Refuse consent.

Anonymised summaries of all section 22 cases are included in the Lobbying Annual Reports for each year. These reports are produced by SIPO under its obligation contained in section 25 of the ACT, and they can be located at the following link: https://www.lobbying.ie/reports-statistics/annual-report-2015/

It is the responsibility of the relevant DPO to seek consent prior to taking up an offer of employment (or to provide services). It is possible that an employer may not be carrying out lobbying activities as set out in section 22(3) when a person is considering accepting an offer of employment (or to provide services). If, however, the person considers that there is a possibility that the specific circumstances of section 22 might arise with the particular employment/provision of service during the person's cooling-off period, then the person should seek SIPO's consent to take up the employment/provide the service prior to accepting the offer of employment or agreeing to provide the service. Should previously unforeseen circumstances arise where lobbying activity is anticipated after the person has commenced the employment, he or she should seek the consent of SIPO to stay in the position.

The relevant DPOs covered by section 22 are as follows:

- Ministers of the Government and Ministers of State;
- Special advisers appointed under section 11 of the Public Service Management Act 1997; and
- Public servants of a prescribed description.

SIPO has prepared a Guidance Note on the provisions of section 22, which is available on the Lobbying website at:
https://www.lobbying.ie/help-resources/information-for-public-bodies/guidance-notes/guidance-note-on-section-22-of-the-regulation-of-lobbying-act-the-cooling-off-period/

There are currently no enforcement provisions associated with the post-employment restrictions in the 2015 Act. SIPO has no authority to investigate or prosecute breaches of section 22. The text of section 22 of the Act can be found at the following link:
https://www.irishstatutebook.ie/eli/2015/act/5/section/22/enacted/en/html#sec22

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

Garda personnel may report suspected corruption to the Garda Anti-Corruption Unit by one of the following means: directly to the GACU via email, phone, post, confidential reporting line and the submission platform. By way of report to their Supervisor who should forward same directly to the GACU. In addition, Garda members also have the option to make protected disclosures directly to the Minister for Justice under the Protected Disclosures Act 2014.

The Garda Commissioner has nominated Transparency International (Ireland) as the responsible person to receive protected disclosures. Transparency International (Ireland) promotes supportive environments for workers to raise concerns of wrongdoing via a "Speak Up Helpline", and by affording legal advice from a solicitor within the Transparency Legal Advice Centre (TLAC). There are four senior managers both Garda members and Garda staff internally appointed confidential recipients, appointed by the Commissioner and one external recipient, appointed by the Minister.

The confidential recipients are the Protected Disclosures Managers and are trained accordingly. One PD manager has completed a Certificate in Law for Protected Disclosures in University College Dublin

and all PD Managers have completed the online training provided by Transparency International. Transparency International also provide seminars to allow PD managers to upskill.

Protected Disclosures - Regulatory Framework

The Protected Disclosures Act 2014 provides robust statutory protections for workers in both the public and private sectors against the real or potential penalisation by their employers where they have brought concerns about wrongdoing in the workplace to light. This legislation, which incorporates many of the recommendations in relation to whistle-blower protection legislation made by international bodies such as G20, the OECD, the Council of Europe and Transparency International and meets the highest international standards, represented a new departure in Irish law.

Since its enactment, the Protected Disclosures Act has attracted favourable comment in European forums, and has been acknowledged as setting a benchmark in regard to a number of aspects of the anti-corruption agenda.

'Whistleblowing' Directive

This legislation is currently in the process of being amended to give effect to the Whistleblowing Directive, Directive 2019/1937. This process is to be completed in the coming months and the Protected Disclosures (Amendment) Bill is expected to pass in Q1 2022 and will transpose the Directive.

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, the reversal of the burden of proof in civil proceedings, and the supports which will be offered to those who make protected disclosures. With these amendments the Protected Disclosures (Amendment) Bill will go further in safeguarding protections for those who report wrongdoing.

Bodies/persons to which reports may be made / if reports can be made public directly

The main objective of the Act is the protection of workers in all sectors of the economy – both public and private – against reprisals in circumstances where they make a disclosure of information relating to wrongdoing in the workplace.

It provides for a "stepped" disclosure regime in which a number of distinct disclosure channels are available – internal, "regulatory" (prescribed persons/bodies), to the relevant Minister in the case of workers employed in public bodies, and external (including publicly) – which the worker can access to acquire important employment protections. While the different channels require different evidential thresholds, and internal disclosure is encouraged where possible, it is not compulsory to use any one channel before another, although in the case of public disclosure this can only be done directly in limited circumstances, including where evidence is likely to be concealed or destroyed or the matter is of an exceptionally serious nature.

In addition, in order to further enhance and improve the implementation of the protected disclosures legislation, a Protected Disclosures Commissioner in the Office of the Ombudsman will be established. They will assist reporting persons in ensuring that external reports get to the right prescribed person or where there is no prescribed person, they will take on responsibility for following up on the report directly ensuring there is person to receive and follow-up on all external reports of wrongdoing. The Commissioner will also take on responsibility for ensuring an independent and thorough follow up of all protected disclosures sent to Ministers of the Government.

The Act seeks to safeguard the broadest possible range of workers from being subject to occupational detriment for having made a protected disclosure and also provides for immunity against civil liability.

Disclosures made under existing sectoral legislation are given "protected disclosure" status to ensure a uniform standard of protection to all workers.

In terms of members of An Garda Síochána (the Irish Police Service) reports can be made internally within AGS; to a prescribed person in the form of members of the Garda Síochána Ombudsman Commission; to the Minister for Justice and Equality; or externally if the higher evidential thresholds are met. However, external disclosures are restricted to specified procedures if the matter relates to issues concerning law enforcement or security and defence (including intelligence), and direct disclosures to the public are not permitted in such circumstances.

Anonymous reports
While anonymous disclosures made by workers are not excluded from the protections provided under the Protected Disclosures Act, a worker cannot obtain redress under the Act without identifying themselves. Public bodies are encouraged to commit in their procedures that anonymous disclosures will be acted upon to the extent that this is possible.

Thresholds
Depending on the channel chosen to disclose the information the level of belief demonstrated by the worker is on the basis of "reasonable belief". Disclosure to an employer is expected to be availed of most frequently.
In certain circumstances a protected disclosure may be made externally to other recipients such as the media or Members of the Houses of the Oireachtas (Parliament). In such a case the worker needs to meet stronger qualifying criteria.

Retaliation protected against

Three forms of protection are available under the Act:
- Protection from the retributive actions of an employer
- Protection from civil liability
- Protection from victimisation by a third party

In the event that a worker is penalised for having made a protected disclosure, a claim for redress through the normal industrial dispute resolution mechanisms may be made. Redress is available for penalisation (which is widely defined in the Act) falling short of dismissal and, in the case of a dismissal, under the Unfair Dismissal Act regardless of the length of service. In the case of a dismissal a provision is included in the Act which allows a worker to make a claim for interim relief to the Circuit Court.

Awareness raising /confidential advice
All public bodies are obliged under the Act to have procedures in place to deal with protected disclosures and made available to their workers. The Department of Public Expenditure and Reform published comprehensive Guidance for public bodies on their implementation of the legislation in February 2016. Alongside this, the Department of Public Expenditure and Reform has centralised contracts for training services and for investigations into alleged wrongdoing and penalisation. These framework contracts will support public bodies by standardising procedures as well as streamlining procurement processes. These will assist in supporting the effective implementation of the Directive.
The Workplace Relations Commission, in consultation with staff and employer representatives, has also developed a Code of Practice (which has a statutory basis) giving guidance and setting out best practice to help employers, workers and their representatives understand the Protected Disclosures Act.

A Statutory Review of the Protected Disclosures Act was published in July 2018. A public consultation was held in 2017 as part of the review process and this elicited 25 submissions from public bodies, interest groups and members of the public. The Review Report considers the issues raised in the submissions made under the public consultation process. The Review makes it clear that, while awareness of the Act is increasing among workers and employers, it needs to increase further.

Financial support) is provided by the Government to Transparency International Ireland (TII) to operate a "Speak Up" helpline and a legal advice centre (Transparency Legal Advice Centre) that offers information and advice to support whistleblowers and potential whistleblowers. This has been increase from €220,000 per annum to €285,000 per annum for 2022.

The advice centre offers information to people who wish to report concerns about wrongdoing (such as corruption, fraud, waste of public resources and harm to others), referral to legal advisors if feasible and support to individuals who wish to bring public attention to cases of systemic abuses of power, white collar crime or corruption. TII also collect and publish statistical data from complaints/reports received, to help identify corruption risks and to have them addressed by those in a position to take action.

Transparency International Ireland also operate the Integrity at Work scheme, a multi-stakeholder, not-for-profit initiative for employers. Through training, best practice exchange, online resources and specialist advice and guidance, Integrity at Work promotes supportive environments for anyone reporting concerns of wrongdoing.

25. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other).

An Garda Síochána are carefully monitoring the activities of criminal groups and are implementing strong policing measures to disrupt and dismantle all organised crime networks, including those trying to misuse COVID recovery funds, in particular fraudulent claims of the Pandemic Unemployment Payment which has been identified by the Garda National Economic Crime Bureau (GNECB) as particularly vulnerable to infiltration by organised crime.

Relevant recommendations from the *Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption* include the following in relation to bid-rigging and reforming ethics legislation:

- Amend competition law to create a specific offence of bid-rigging or, in the alternative, specify bid-rigging as an offence as a form of market sharing.
- Introduce legislation to enable the collection, collation and analysis of all public procurement data to detect and deter bid-rigging.
- Conduct a review of Ethics in Public Office as set out in the Programme for Government with a view to strengthening the law relating to ethics in public office including to address misconduct by former members of the Oireachtas/Office holders

There is a risk of corruption within all sections that come under the remit of An Garda Síochána.
A suite of Garda Anti-Corruption Policies have issued to the Garda organisation and others are under development. These Policies proactively promote, strengthen and enhance a culture of integrity within An Garda Síochána, including an environment where Garda personnel can feel confident to report ethical concerns.

Three (3) policies have been published by the GACU:

- An overarching Anti-Corruption Policy - which reaffirms that An Garda Síochána will not tolerate corruption and where corruption occurs, all avenues will be used to address it.
- A Professional Boundaries and the Abuse of Power for Sexual Gain Policy, which aims to protect vulnerable people inside and outside the organisation. It recognises that professional boundaries exist and that there can be an imbalance of power in some relationships during the course of their duties. The policy provides guidance in respect of same.
- A Substance Misuse (Controlled Drugs) Policy, which will ensure that all Garda personnel are aware that the misuse of controlled drugs is not tolerated. It is the intention of An Garda Síochána to introduce drug testing for all Garda personnel.

Three (3) further GACU Policies have been developed and will issue to the Garda organisation.

- Notifiable Associations
- Business Interests & Secondary Occupations
- Conflict of Interest

GACU Blended Learning Programme

A GACU Blended Learning Programme focused on promoting professionalism and integrity, and creating awareness of the role the Garda Anti-Corruption Unit has been developed with assistance from the Garda College and Deloitte Ireland. This will be delivered via:

- E-Learning on the Garda LMS (Learning Management System)
- Regional Briefings
- Garda ACU Liaison Officer Training

The Garda Anti-Corruption Unit has delivered briefings to Senior Garda Managers promoting professionalism and integrity, and creating awareness of the role the Garda Anti-Corruption Unit. These briefings were finalised in November 2021. These briefings were delivered by the GACU in partnership with Deloitte Ireland and a consultant working with Deloitte Ireland, a subject matter expert in police corruption. A Blended Learning Approach was adopted in shaping these briefings, including the completion of a suite a Garda Anti-Corruption LMS Modules.

Invitations were extended to all Garda Associations / Garda Staff Unions to attend these briefings. Representatives from Garda Associations (GRA / AGSI), Garda Unions (FORSA), the Policing Authority and colleagues from the PSNI attended the briefings concerned.

Garda Anti-Corruption LMS Modules are now hosted on An Garda Síochána LMS Platform and are to be completed by all Garda personnel.

GACU Integrity Section

The Integrity Section within the Garda Anti-Corruption Unit has responsibility for building on the tradition of policing with integrity within An Garda Síochána, promoting ethical culture, conducting research, delivering training and providing organisational support. The Section's aim is to identify

vulnerabilities to corruption and to prevent and reduce instances of corrupt behaviour within An Garda Síochána. The Integrity Building Section is implementing a communication strategy that will include briefings for all new Probationers, briefings for all personnel (through continuous professional development) and the provision of briefings and workshops to personnel on development / promotion courses.

The Integrity Building Section has responsibility for:

- Increasing integrity awareness
- Providing advice and guidance regarding issues such as; conflicts of interest, use of personal data, inappropriate hospitality, secondary business interests, notifiable associations
- Developing and overseeing the 'ACU Liaison Officers' network
- Extracting organisation learning from investigations and developing / publishing 'Lessons Learned' newsletter
- Developing training courses, delivering training / briefings (e.g. Probationer training courses, detective training, leadership training etc.)
- Develop and maintain on-line tools to support integrity building (e.g. on LMS)

ACU Liaison Officers and Integrity Network

The GACU will be supported throughout the country in every Division and Section by Garda ACU Liaison Officers of Superintendent rank and Assistant Principal grade. These Liaison Officers will act as the point of contact for the GACU, they will monitor progress on the ground and identify areas where early intervention is required. Over time the ACU Liaison Officers will be supported by an Integrity Network of Garda personnel of all ranks and grades.

The GACU is working with a police corruption subject matter expert and the Garda College in the development of a training programme for Garda ACU Liaison Officers nationally.

Office of Government Procurement (OGP)

The Office of Government Procurement (OGP) has published a standard suite of template documents which includes a Declaration as to Personal Circumstances of Tenderer where contracting authorities can choose to include multiple clauses including, inter alia, a requirement for the tenderer to self-declare that the preparation of the tender was carried out independently, that it has not entered into agreements with other economic operators aimed at distorting competition and that Is not aware of any conflict of interest due to its participation in the Competition.

The European single procurement document (ESPD) is a self-declaration form used in above threshold public procurement procedures. Tenderers are asked to self-declare in the ESPD that they are not subject to the exclusion grounds relating to criminal convictions (as set out in Regulation 57 of S.I. 284/16) which includes a conviction within the last 5 years for corruption.

Each contracting authority is responsible for its own procurement activity and should alert the CCPC to any suspicions that it has regarding bid rigging/collusive tendering. The OGP includes guidance on notifying the CCPC in relation to collusive tendering in the Public Procurement Guidelines For Goods And Services.

For individual procurement competitions, public bodies are required to ensure that proper procedures are in place for opening tenders to prevent abuse or impropriety including a requirement for at least two officials to open the tenders received. When tenders are opened they are date stamped and

initialled by the officials. In particular, the pricing details are 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 are prepared, signed off at the appropriate level and recorded in the project file. Where a contracting authority does not use electronic means for submission of tenders, it must state 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 declare any conflicts of interest.

The internal audit unit in each State body may review compliance with procurement procedures 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% may be audited by the Comptroller and Auditor General. Procurement practices of central government departments are subject to scrutiny by the Comptroller and Auditor General and Accounting Officers are publicly accountable for expenditure incurred. Instances of contracts awarded over €25,000 (exclusive of VAT) which have been awarded without a competitive process must be reported annually to the Comptroller and Auditor General. The Local Government Audit Service carries out similar functions in respect of expenditure incurred by Local Authorities.

26. Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic.

Since the COVID Pandemic Unemployment Payment (PUP) was introduced, Gardaí from the GNECB on secondment at the Department of Social Protection special investigations unit have been involved in numerous investigations in different parts of Ireland.

GNECB has also seen a large number of Suspicious Transaction Reports (STRs) being submitted by financial institutions alleging COVID-related fraud in areas such as the PUP and procurement of Personal Protective Equipment. STRs are received by FIU Ireland, then analysed and disseminated where deemed necessary.

To manage the additional COVID-related STRs, of which there have been in excess of 4,000, a specific Operation was established by FIU Ireland.

Next Generation EU marks a key element of Europe's recovery from COVID-19 and will enable us to move beyond the pandemic and rebuild the European economy. This is key for Ireland as a successful open and global economy at the heart of the European Union. Ireland remains committed to playing its part in international cooperation measures and An Garda Síochána welcomes the launch of Operation Sentinel to protect *Next Generation EU* recovery funds. Operation Sentinel is a clear indication of the collective commitment of European Member States and JHA agencies to respond and adapt to the ever-changing economic environment and operating methods of organised crime gangs.

The Anti-Corruption Unit 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 Covid-19 pandemic, including the following:

- Providing relevant updates to Garda personnel through internal emails and documentation available on the 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 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 personal 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.

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

See material submitted for questions 25 & 26

C. Repressive measures

28. Criminalisation, including the level of sanctions available by law, of corruption and related offences including foreign bribery.

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.

The Act created several new offences to strengthen the law on corruption in Ireland. New offences include:

- Offering or agreeing to accept a gift, consideration or advantage to induce another person to exert an improper influence over an act of a foreign or public official
- Making use of confidential information obtained in the course of duties by an official in order to gain an advantage.
- Giving a gift consideration or advantage where an official knows or reasonably ought to know that the gift will be used to facilitate a corruption offence.
- A new strict liability offence for corporate bodies whose management, employees or subsidiaries commit a corruption offence with the intention of securing an advantage for the company. It shall be a defence for the body corporate to prove they took reasonable steps to prevent this. The penalty for conviction on indictment is an unlimited fine.

The Act extends the categories of persons to which the presumptions relating to corrupt donations will apply to include family members and close business associates as recommended by the Mahon Tribunal. It also creates a presumption of corrupt enrichment whereby a public official who has not declared an interest in land or other property can be presumed to have obtained it as an inducement or reward for doing an act in relation to his office.

Penalties under the law aim to be sufficiently harsh to reflect the serious social and economic harm corruption can do, particularly when committed by public officials. Sentences of up to 10 years are provided for as well as unlimited fines for conviction on indictment.

The Act also provides for a new penalty of forfeiture of office of an Irish official found guilty of corruption, as recommended by UNCAC. It further provides for an order prohibiting an individual seeking a public office following conviction on indictment for a corruption offence.

29. Data on investigation and application of sanctions for corruption offences[9], including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

Between 2019 and 2021, there were 21 incidents of bribery and corruption reported (figure correct as of 18/01/2022).

The specific incident type of 'European Communities Fraud' is also of relevance. There were none (zero) such incidents reported between 2019 and 2021. Please note figures below 10 are not released in order to ensure that there are no data protection issues arising.

30. Potential obstacles to investigation and prosecution as well as to the effectiveness of sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, pardoning)

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.

Reference is made to Political Immunity Regulation, which is not expanded on and may refer to Diplomatic Immunity, 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 can raise points in the chamber that need addressing without 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, a host country. In order for a criminal investigation to proceed to a conclusion, diplomatic immunity would need to be waived by the home country.

31. Information on effectiveness of administrative measures and sanctions, in particular recovery measures and administrative sanctions on both public and private offenders.

No change from 2021 input.

III – Media Freedom and Pluralism

A. Media authorities and bodies

32. Measures taken to ensure the independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

The **review of the Defamation Act 2009**, which is expected to be published in Q1/2022, will 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 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 the 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.

The legislative process is underway for the Online Safety and Media Regulation Bill which will replace the Broadcasting Authority of Ireland (BAI) with a new multi-person commission, the Media Commission, as the media regulatory authority in Ireland. The Online Safety and Media Regulation Bill will also implement the revised Audiovisual Media Services Directive into Irish law and create a regulatory framework for online safety.

The Government approved the finalised General Scheme of the Bill in December 2020 and simultaneously referred it for detailed drafting and to the Joint Oireachtas Committee for consideration for pre-legislative scrutiny. The Joint Oireachtas Committee published their pre-legislative scrutiny report on 2 November 2021. On 12 January 2022, following Ministerial consideration of the pre-legislative scrutiny report, the Government agreed to publish the Online Safety and Media Regulation Bill. The Bill will be brought forward for passage through the Houses of the Oireachtas in 2022.

In Budget 2022, €5.5 million was allocated to establish the Media Commission.

33. 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.

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

The review of the Defamation Act 2009, which is expected to be published in Q1/2022, will consider various submissions made to the public consultation by the Press Council and Press Ombudsman.
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 the 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.

B. Transparency of media ownership and safeguards against government or political interference

35. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

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.

With specific regard to public procurement, the EU Directives on public procurement require that contracts including state advertising contracts above the relevant EU thresholds must be advertised on the Official Journal of the EU and awarded on the basis of objective and non-restrictive criteria. For contracts below these thresholds, national rules apply (implemented through Circular 10/2014) which require all public contracts for supplies and services with an estimated value of €25,000 (exclusive of VAT) and upwards are advertised on the national public procurement website, www.etenders.gov.ie.

It is the responsibility of each public body to ensure that they comply with EU and national rules in relation to public procurement which is subject to audit by the public body's internal audit function and the Comptroller and Auditor General or the Local Authority Audit Service as appropriate.

36. Safeguards against state / political interference, in particular:
- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations),
- procedures for the concession/renewal/termination of operating licenses
- information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirements and corporate governance

Section 25 of the Broadcasting Act 2009 states that the BAI shall ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression are upheld and provide a regulatory environment that will sustain independent and impartial journalism.
Under section 87 of the Act, members of the boards of the public service broadcasters, RTÉ and TG4, must safeguard the independence of the corporation, as regards, the conception, content and production of programmes, the editing and presentation of news and current affairs programmes and the definition of programme schedules from State, political and commercial influences. Furthermore, section 98 of the Act provides that the public service broadcasters shall be independent in the pursuance of their objects.

The public service broadcasters must comply with the Code of Practice for the Governance of State Bodies. The Code of Practice sets out principles of corporate governance which Boards of State Bodies are required to observe. This includes governance practices and procedures in a broad range of areas such as the role of the Board; codes of conduct and disclosure of interests; business and financial reporting; risk management and internal control; relations with the Oireachtas and parent Department; and a range of other specific control procedures. The Chair of the Board for RTÉ and TG4 are required to confirm annually to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media that the governance practices and procedures are in compliance with the Code of Practice.
Section 81 of the Act provides for the appointment of the 12-person board of both public service broadcasters. Six Board members are appointed on the nomination of the Minister; the Oireachtas Joint Committee on Tourism, Culture, Arts, Gaeltacht, Sports and Media proposes four members to the Minister for appointment; the Director General is an ex officio member; and one member of staff is appointed following election.

Section 82 of the Broadcasting Act 2009 sets out the experience criteria for membership of the board of the public service broadcasters including: media affairs, public-service broadcasting, broadcast content production, digital media technologies, business or commercial affairs, legal or regulatory affairs and matters pertaining to the development of the Irish language.
Section 87 of the Act sets out the criteria for membership of a board and sets out the term of appointment as a period not exceeding 5 years for not more than 2 consecutive terms.

Section 24 of the Act sets out that the BAI, and each statutory committee of the BAI, shall be independent in the performance of their functions. As such, there is no Government influence over the licensing process.

There are three principal categories of broadcaster in the Irish broadcasting landscape - public, commercial and community. The BAI is responsible for the licensing of commercial and community broadcasters, and of broadcast-content providers. The Broadcasting Act 2009 is prescriptive in its requirement of the BAI to develop and implement a licensing plan and in respect of the types of broadcasting contracts into which the BAI may enter as well as the mechanisms for the award of such contracts. The BAI has a policy to guide and inform its licensing activities, the Broadcasting Services Strategy, with the key objective of endeavouring to ensure that the number and categories of broadcasting services in the State best serve the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity.
The BAI's Ownership and Control Policy gives practical effect to the obligations set out in the Broadcasting Act 2009 which the BAI must consider when deciding on the most suitable applicant for the award of a radio or television service contract. A key objective of the Ownership and Control Policy is to contribute to the achievement of a regulatory environment that will sustain independent and impartial journalism.

Regarding community radio, under the Ownership and Control Policy, while assessing community contracts for sound broadcasting the BAI must consider the extent to which the service is being operated on a not-for-profit basis and is maintaining its independence by attracting funding from a variety of sources.

When the BAI awards a licence for a television or radio service, the successful service enters into a broadcasting contract with the BAI. The terms and conditions of a broadcasting contract are determined by the type of licence awarded. The broadcasting contracts are publicly available on request from the BAI's offices. The BAI monitors a contractor's compliance with the terms of its contract through a number of activities including performance reviews and listening and/or watching broadcast content. The reports generated by these activities are considered by the BAI's Compliance Committee.

The Broadcasting Act 2009 assigns investigative powers to the BAI and in particular, the BAI can initiate an investigation for non-compliance with the terms of a broadcasting contract under section 50 and, under section 53, for a breach of the broadcaster's duties as prescribed under the 2009 Act, or a breach of the broadcasting codes and rules. The BAI has set out procedures for the investigative process. Some apparent compliance issues may relate to both content and the terms of a Broadcasting Contractor's contract and could be investigated under either section of the 2009 Act. In deciding on whether an investigation should be undertaken pursuant to section 50 or 53, the Compliance Committee will consider the nature and extent of the apparent non-compliance and the Contractor involved. The powers of investigation and sanction differ between each of the relevant sections.

Section 53 investigations relate to broadcast content and can apply to all broadcasters in the State (both independent broadcasting services licensed by the BAI and the public service broadcasters) and may commence when the Compliance Committee is of the view that there may be apparent breach by the broadcaster of certain statutory requirements or a broadcasting code or rule. Section 53 investigations will involve the appointment of an investigating officer who will issue a report to the Compliance Committee. The Compliance Committee may find that there has been a breach by the broadcaster concerned, or that the broadcaster has failed to co-operate in an investigation, and recommend to the Authority that it notifies the broadcaster of its findings. In such a case, the BAI will

issue a notification to the broadcaster of the Compliance Committee's decision and the process may ultimately result in the imposition of a financial sanction (not exceeding €250,000).

Section 50 investigations relate to the independent broadcasters licensed by the BAI (referred to as "Contractors") and may commence when the Compliance Committee believes that a Contractor may not be providing a broadcasting service in accordance with the terms of its Broadcasting Contract with the BAI. This may involve an investigation into the operational, programming, financial, technical or other affairs of a Contractor. On foot of such an investigation, the Compliance Committee may recommend the suspension or termination of a Contractor's broadcasting contract. The BAI Authority, on foot of a recommendation from the Compliance Committee, may suspend or terminate a contract following a section 50 investigation.

37. Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)

No update or amendment to material provided in 2021 and 2020.

C. Framework for journalists' protection

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

Article 85 of the GDPR provides that Member States shall by law reconcile the right to protection of personal data with the right to freedom of expression and information, including processing for journalistic purposes and for the purposes of academic, artistic or literary expression. Ireland has given effect to the requirement to reconcile these rights in section 43 of the Data Protection Act 2018, which reads as follows:

Data processing and freedom of expression and information

43. (1) The processing of personal data for the purpose of exercising the right to freedom of expression and information, including processing for journalistic purposes or for the purposes of academic, artistic or literary expression, shall be exempt from compliance with a provision of the Data Protection Regulation specified in subsection (2) where, having regard to the importance of the right of freedom of expression and information in a democratic society, compliance with the provision would be incompatible with such purposes.

(2) The provisions of the Data Protection Regulation specified for the purposes of subsection (1) are Chapter II (principles), other than Article 5(1)(f), Chapter III (rights of the data subject), Chapter IV (controller and processor), Chapter V (transfer of personal data to third countries and international organisations), Chapter VI (independent supervisory authorities) and Chapter VII (cooperation and consistency).

> *(3) The Commission may, on its own initiative, refer any question of law which involves consideration of whether processing of personal data is exempt in accordance with subsection (1) to the High Court for its determination.*
>
> *(4) An appeal shall, by leave of the High Court, lie from a determination of that Court on a question of law under subsection (3) to the Court of Appeal.*
>
> *(5) In order to take account of the importance of the right to freedom of expression and information in a democratic society that right shall be interpreted in a broad manner*

Particular attention is drawn to subsection (3), which provides that the Data Protection Commission may refer cases in which issues arise in relation to the importance of freedom of expression and

information in a democratic society to the High Court for its determination. Moreover, subsection (5) provides that in order to take account of the importance of the right to freedom of expression and information in a democratic society, that right shall be interpreted in a broad manner.

39. Law enforcement capacity, including during protests and demonstrations, 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 an assessment 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.

40. Access to information and public documents (incl. procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities)

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 2020, the latest year for which statistics are available, public bodies processed 32,652 FOI requests. This represents a 118% increase on the number of requests received in 2010. 81% of the requests decided on by public bodies were granted in full or in part. 3.3% of requests sought internal review, while a review by the Information Commissioner was sought in 1.3% of cases. Following review, the Commissioner overturned the body's decision in 30% of cases. [1]

Section 8 of the Freedom of Information Act 2014 also requires FOI bodies to prepare a publication scheme based on a central model detailing classes of information that will be published on a routine basis. This scheme, and the relevant information, must be published on the organisation's website. While all objective indicators point to a system that is robust and functioning well, in 2021 the Minister for Public Expenditure and Reform announced a review of the Freedom of Information Act 2014. The review is currently underway and represents an opportunity to examine the strengths and weaknesses of the current FOI regime and to take account of relevant domestic and international developments. The review is designed to be collaborative in nature and seeks to incorporate the views of as many stakeholders as possible. A public scoping consultation survey has already taken place to identify key themes and issues for consideration throughout the course of the review, and more than 1,100 submissions were received. A customer satisfaction survey will also take place in the coming weeks to gain a deeper insight into the experiences of the FOI process on the part of requesters, as well as staff

[1] https://www.oic.ie/publications/annual-reports/OICAR2020FinalWebEN.pdf

of FOI Bodies. Other projects are planned to establish the cost of the Freedom of Information system to the exchequer and to monitor international developments in Freedom of Information. Further details on the review can be found here: https://www.gov.ie/en/policy-information/2e3d5-freedom-of-information-updates-from-the-department-of-public-expenditure-and-reform/?referrer=http://www.gov.ie/FOIreform/.

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.

The Open Data and Re-use of Public Sector Information Regulations 2021, SI 376/2021, provides for access to information held by public bodies. The Regulations apply to all public sector bodies, with certain exceptions, notably educational, research and cultural organisations.

This right of access is exercised by making a request to a relevant public sector organisation specifying what data is being sought. Requests for data must be facilitated where possible. Any person can make a request and in general, decisions on requests must be made within four weeks. Where a request for data has been refused, the requester must be informed of the reason for the refusal and the means of appeal to the Information Commissioner.

The default position with regard to charging for public sector data is that re-use should be allowed free of charge. This is subject to some exceptions and if charges are applied these must be clearly set out on the public body's website.

A requester can submit an appeal to the Information Commissioner where a request for re-use has been refused, the costs applied for re-use are above what is allowed under the Regulations or conditions have been applied to the reuse. Decisions by the Information Commissioner are binding.

41. Lawsuits (incl. SLAPPs - strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against abusive lawsuits

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 concept of anti-SLAPP measures has not been widely discussed as yet in Irish law; and there are currently no specific legal measures designed to counter a SLAPP (in the sense that this concept has been developed in some other jurisdictions.) In September 2020, Ireland received its first 'Media Freedom Alert'[2] notification, of a defamation case against the Dublin Inquirer launched by a non-State actor (political activist). The alert was filed with the Council of Europe by a non-profit organisation, Index on Censorship. This is the only known reported case of a SLAPP.

[2]The Council of Europe online platform for NGOs specialised in media freedom to report SLAPPs.

Irish law includes measures to respond to litigation which amounts to an abuse of process, including for example the inherent jurisdiction of the courts to strike out vexatious proceedings.

The review of the Defamation Act 2009, which is expected to be published in Q1/2022, will consider concerns raised by a number of stakeholders during the public consultation regarding possible 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

		Resolved		
Year	**Incoming**	**By Court**	**Out of Court**	**Outstanding**
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
2020	161	2	8	151

Defamation - High Court Cases

		Resolved		
Year	**Incoming**	**By Court**	**Out of Court**	**Outstanding**
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
2020	156	16	9	131

IV – Other Institutional Issues related to Checks and Balances

A. The process for preparing and enacting laws

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

In 2021, the Houses of the Oireachtas continued to operate with appropriate Covid-19 measures in place, which changed across the year, depending on the situation at the time and health and safety recommendations for workplaces.

Notwithstanding Covid-19 measures, as is the standard, all sessions of both Houses of Parliament and public meetings of its Committees, continued to be live streamed, to be shown on 'Oireachtas TV' and all documentation, including that related to the consideration of draft legislation, continued to be made available to the public on the Houses of the Oireachtas' public website. In line with Covid-19 Health and Safety advice, public visitors were not able to access the Leinster House campus for most of 2021.

While a number of debates and stages of draft legislation were focused and held over shortened periods of time, all draft legislation progressed through all stages in both Houses of the Oireachtas as normal.

Committees of the Houses of the Oireachtas considered a number of proposals for legislation under the 'Pre-legislative scrutiny' procedures as well as considering broader policy areas. As part of those procedures and that consideration, many Committees included stakeholder and/or public consultations. Examples from 2021, with regard to proposals in the area of judicial reforms (for draft legislation or policy proposals), included:

- Victim's Testimony in cases of rape and sexual assault. Process included written submissions from stakeholders and a public hearing with a number of stakeholders.
- Implementation of GDPR in Ireland. Process included written submissions from stakeholders and a public hearing with a number of stakeholders.
- Pre-legislative scrutiny of the General Scheme of the Judicial Appointments Commission Bill 2020. Process included written submission from stakeholders and two meetings of engagements with stakeholders.
- Pre-legislative scrutiny of the General Scheme of the Garda Síochána (Digital Recording) Bill. Process included inviting written submissions from stakeholders and a public hearing with several stakeholders.

Consideration by other Committees which resulted in significant public responses included:

- Pre-legislative scrutiny of the Birth Information and Tracing Bill. Eight public meetings of engagement with stakeholders were held as well as a call for public submissions and invitations issued for submissions from relevant stakeholders.
- Pre-legislative scrutiny of the General Scheme of a Certain Institutional Burials (Authorised Interventions) Bill. Over 400 responses were received to the call for public submissions and four days of public hearings with stakeholders were held.

43. 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 2021, **50 pieces of primary legislation** were passed by the Houses of the Oireachtas, and enacted. Of the 50 pieces of primary legislation, 10 dealt specifically with provisions and measures to address the Covid-19 pandemic.

As detailed in previous reports in 2020 and 2021, while limited emergency procedures do technically exist in Ireland under the Constitution, they have not been used in recent years, and **were not used in 2021.**

In terms of ordinary parliamentary procedures that can be used to ensure focused discussions and timely consideration by the Houses of the Oireachtas, there were two changes to the rules in relation to pre-legislative scrutiny, one in each House.

Dáil Éireann - on 29 June 2021, a Sessional Order was agreed by Dáil Éireann to the effect that requests for waivers from undertaking pre-legislative scrutiny are to be referred directly to the relevant sectoral Committee (rather than the Business Committee). Where the relevant Committees declines the request, a Minister may request the Business Committee make a determination on the matter. In the event that the Business Committee does not agree to such a determination, a Minister may table a motion before the House.

Seanad Éireann – On 21 September 2021, Seanad Éireann agreed a Resolution of the House, requiring a Minister, if pre-legislative scrutiny had not taken place, to request a waiver, before a Seanad Bill could be printed[3]. On 7 December 2021, Seanad Éireann agreed to discharge this requirement.

Ordinary parliamentary procedures were used in 2021 as follows:

- In 2021, it was agreed to waive the requirement for **pre-legislative scrutiny** for 14 of these bills, prior to publication[4].
- In 2021, Committee Stage in Dáil Éireann was undertaken by a **Committee of the Whole Dáil** for 32 of these Acts.
- In 2021, '**guillotine' motions** were prepared in relation to 40 of the bills that were passed and enacted and of those, 26 'guillotine' motions were used, in order to shorten the debate on 24 different pieces of draft legislation.
- In 2021, Seanad Éireann agreed to the Government's proposal for **Early Signature Motions** on 13 occasions, allowing for the President's consideration of the Bill to take place within five days.

In July 2021, the President of Ireland wrote to the Ceann Comhairle[5] raising concerns with regards to a pattern he perceived to be emerging in the consideration of bills being concentrated during the two weeks before recesses and the manner in which that consideration was sometimes carried out. A joint meeting of the Dáil Business Committee and the Seanad Committee on Parliamentary Privileges and Oversight was convened to consider those concerns. As a consequence, the Speakers of both Houses met with An Taoiseach and the Attorney General, there was communication with Ministers and

[3] Prior to the rule change, if pre-legislative scrutiny was not completed in advance, the Minister could could give a reason for that when detailing the content of the Bill.

[4] In 13 cases by way of a waiver request being granted, and in 1 case by way of a Motion agreed by Dáil Éireann.

[5] Speaker of the Lower House

Secretaries-General of Government Departments and there was a renewed focus on ensuring the appropriate ordering of the business of parliament.

44. 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.

45. 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 (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

In 2021, the evolving situation around Covid-19, financial supports in place, national measures to address the pandemic, the roll-out of the vaccination programme, the impact on the education system and on mental health, and many other aspects were of great interest to National Parliament. A significant number of debates were held in Dáil Éireann, Seanad Éireann and their Committees to discuss the pandemic.

10 pieces of primary legislation were focused on mitigating the impact of Covid-19, and these were considered in detail as they passed through the legislative stages:

- *Health (Amendment) Act 2021*
- *Residential Tenancies Act 2021*
- *Education (Leaving Certificate 2021) (Accredited Grades) Act 2021*
- *Health and Criminal Justice (Covid-19) (Amendment) Act 2021*

- *Civil Law (Miscellaneous Provisions) Act 2021*
- *Planning and Development (Amendment) Act 2021*
- *Finance (Covid-19 and Miscellaneous Provisions) Act 2021*
- *Health (Amendment) (No. 2) Act 2021*
- *Health (Amendment) (No. 3) Act 2021*
- *Health and Criminal*

As some existing legislation in place included 'sunset clauses' that required resolutions of both Houses and/or new primary legislation to extend the applications of measures in place to mitigate the impact of Covid-19, these were all debated by the Houses in advance of decisions.

A number of Committees considered aspects of the pandemic and reported on them, some examples were:

- In January 2021, the Houses of the Oireachtas' Joint Committee on Education, Further and Higher Education, Research, Innovation and Science published its report on "The Impact of Covid-19 on Primary and Secondary Education".

- In July 2021, the Houses of the Oireachtas' Sub-Committee on Mental Health published its "Interim Report on Covid-19 and its effect on Mental Health Services in the Community".

In July 2021, the Houses of the Oireachtas' Committee on Tourism, Culture, Arts, Sport and Media published a report on the Impact of Covid-19 on the Hospitality and Entertainment sectors.

- In September 2021, the Houses of the Oireachtas' Joint Committee on Justice published its "Report on Civil Liberties during the Covid-19 Pandemic" following a call for submissions from stakeholders and meeting on 22 June 2021 at which the Committee engaged with a number of stakeholders. The Report concluded by making 20 recommendations.

Several other Committees held debates, including:

- In May 2021 – Joint Committee on Health held a discussion on the impact of Covid-19 on Human Rights and Mental Health.

Parliamentary questions have continued to act as a key tool for parliamentarians to scrutinise Government action to mitigate the impact of Covid-19. Traditionally around 40,000-45,000 parliamentary questions are asked on an annual basis. In 2021, that number increased to 68,297. It is difficult to provide accurate figures for how many of these questions are Covid-19 related, but over one third of all parliamentary questions are now accounted for by health questions (most of them were Covid-19 related), and Covid-19 has continued to be the predominant theme for questions asked to most Government Departments.

B. Independent authorities

46. Independence, resources, 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 institutions[11]

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.

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 the Defence Forces (ODF)

The ODF was established as an independent statutory office, under the Ombudsman (Defence Forces) Act 2004. The ODF has full independence and autonomy in the discharge of his statutory functions. The ODF generally deals with complaints from personnel who have made complaints under the Redress of Wrongs (ROW) system and are dissatisfied with the outcome of the internal Redress of Wrongs mechanism within the Defence Forces. However, a serving member may also submit a complaint directly the Ombudsman without having initiated a complaint under the Redress of Wrong process.

The function of the ODF is to act as an independent assessment of investigation into, complaints made by members and former members of the Defence Forces. Section 114 of the Defence Acts 1954 - 2011 provides that any member of the Defence Forces, who consider themselves to have been wronged in any matter, may make a complaint and have it investigated and, if upheld, to have it redressed. Where the wrong is proven, redress is offered to the complainant. In the event that the complainant is unhappy with the internal military investigations or with the proposed redress, they can have their complaint forwarded to the ODF. Where the complainant is currently serving in the Defence Forces the complaint must have already been within the military redress of wrongs system for at least 28 days before the matter can brought to the Ombudsman for investigation.

The Defence Forces are required to notify the ODF of every Redress of Wrongs complaint initiated under Section 114 of the Defence Acts 1954-2011. Former members of the Defence Forces may make the complaint directly to the ODF.

The ODF may investigate a complaint made by a complainant in respect of an action or decision which may have adversely affected the complainant personally.

The ODF is excluded from investigating actions that concern:

- Security or military operations
- Organisation, structure and deployment of the Defence Forces
- Terms and conditions of employment
- Administration of military prisons

In addition, the ODF is excluded from investigating actions if the person making the complaint has lodged legal proceedings in relation to the matter or if the action has been summarily dealt with according to Section 179 of the Defence Acts.

Ombudsman for Children's Office (OCO)

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.

The OCO engages with a diverse range of issues affecting children through its independent examination and investigation of complaints, engagement with developments in legislation and public policy, initiatives to hear and highlight the views of children and activities to raise awareness of children's rights. They include issues arising in the areas of education, health, housing, child protection and welfare, family and alternative care, child justice and asylum and immigration.
Further information about the OCO, including reports published by the OCO, 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.

Irish Human Rights and Equality Commission (IHREC)

The Irish Human Rights and Equality Commission (IHREC) was established on 1 November 2014 from a merger of the Human Rights Commission and Equality Authority. IHREC is accredited by the International Coordinating Committee on National Human Rights (ICC) as an 'A' status national human rights and equality institution (NHRI) for Ireland in full compliance with the UN Paris Principles, with the right to participate in sessions of the Human Rights Council. IHREC is also a national equality body for Ireland under EU law.

IHREC is an independent public body that accounts to the Oireachtas, with a mandate established under the Irish Human Rights and Equality Commission Act 2014 (IHREC Act 2014).
The Commission has a broad statutory remit in relation to the protection and promotion of human rights and equality under the Act. The work of the Commission ranges from working at the policy level to review the effectiveness of human rights and equality law, policy and practice in the State and within public bodies, to working with communities and civil society to monitor and report on people's real life experiences of human rights and equality on the ground. Its legal powers and functions (Section 10) are set out in the Act, and include giving practical help including legal assistance to help people defend their rights, and contributing to legal cases (amicus curiae) that deal with an individual's equality or human rights.

The Irish Human Rights and Equality Commission Act 2014 provides, at section 9(2), that the Commission shall, subject to the provisions of the Act, be independent in the performance of its functions. Section 26 of the Act provides that the funding provided to the Commission is to be reasonably sufficient for the purposes of expenditure by the Commission in the performance of its functions. The Commission's Director is accountable to the Oireachtas (Parliament) for the use of its resources (Section 22), and for the general administration of the Commission (Section 23). The

Commission also reports on its activities annually to the Oireachtas, with the report to be submitted not later than 6 months after the end of the financial year concerned (Section 28).

47. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.

The Office of the Ombudsman

The Office of the Ombudsman is tasked with investigating complaints made by members of the public who feel they have been unfairly treated by a public service provider. They are concerned with ensuring fairness and high quality service provision from public bodies and play an important role in ensuring that human rights are respected in the provision of public services in Ireland.

The Office of the Ombudsman publishes an Annual Report each year, including details of the number of complaints they have investigated and the number of complaints that have been resolved. In 2020, the Office of the Ombudsman received 3,418 complaints about public service providers.[6] This represents a decrease of 6.7% on the 3,664 complaints received in 2019. 97.5% of cases examined by the Office of the Ombudsman in 2020 were closed within 12 months, while 98.5% of cases examined in 2019 were closed within 12 months. In 2020, the Office of the Ombudsman substantively examined 1,863 cases, of which 25% were fully or partially upheld and 52% were not upheld. Assistance was provided to complainants in 23% of cases. In 2019, 1,818 cases were substantially examined, of which 30% were fully or partially upheld and 50% were not upheld. In a further 20% of cases, assistance was provided to the complainant. [7]

The Office of the Ombudsman also regularly publishes special reports on issues arising in public service provision which they have deemed to be particularly problematic. In 2019, the Office of the Ombudsman published a report on the Magdalen Restorative Justice Scheme Investigation and issued four recommendations. The Department of Justice accepted three out of the four recommendations and they have since been implemented. The fourth recommendation is currently being addressed by the Department of Public Expenditure and Reform, who are finalising draft policy guidelines on foot of the Ombudsman's recommendations.

In 2019, the Office of the Ombudsman also reported on the issue of end of life care in the Irish Health system and the 2020 Annual Report outlines the steps which have been taken to improve service provision in this area. The Annual Report outlines the collaborative approach taken between the Health Service Executive, the Irish Hospice Foundation Hospice Friendly Hospitals Oversight Group and the Office of the Ombudsman to implement recommendations as outlined by the Ombudsman and improve outcomes in the area.

In 2015, the Office of the Ombudsman published a report on their investigation into the complaint handling procedures in the Irish health service, which included a set of 34 recommendations to the Department of Health. The 2020 Annual Report for the Office of the Ombudsman includes a progress report on the work of the Department of Health and the HSE in implementing these recommendations. The report outlines the significant progress which has been made towards improvements in complaint processing, monitoring and reporting, including the publication of a National Anonymised Feedback Learning Casebook for 2020.

Ombudsman for the Defence Forces (ODF)

[6] https://www.ombudsman.ie/publications/annual-reports/Ombudsman-AR-2020-English-Final-Web.pdf
[7] https://www.ombudsman.ie/publications/annual-reports/Ombudsman-AR-2019-ENG-WEB.pdf

- In 2020, 57 case reports produced by the Ombudsman were signed and completed by the Minister, of which 39 related to a back log of case reports submitted during 2018 and 2019. In addition, 27 new case reports were received in 2020, of which 18 were signed by the Minister and completed before year-end.
- In 2020, the Ombudsman made recommendations in 13 of his reports. The Minister accepted all of these recommendations, 8 of which have been implemented while 5 remain ongoing.
- In 2021, 37 reports were received from the Ombudsman, of which the Minister has signed and completed 25. The 12 remaining cases are under consideration, at various stages of the reporting process.
- A further 1 report from 2018, 15 reports from 2019 and 9 reports from 2020 were cleared during 2021. A total 50 reports have been signed and completed by the Minister to date in 2021.
- In 2021, the Ombudsman made recommendations in 16 of his reports. The Minister accepted all of these recommendations, 9 of which have been implemented while 7 remain ongoing.

C. Accessibility and judicial review of administrative decisions

48. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

In addition to the FOI request mechanism detailed at question 40 above, section 8 of the Freedom of Information Act 2014 requires FOI bodies to prepare a publication scheme based on a central model detailing classes of information that will be published on a routine basis. This scheme, and the relevant information, must be published on the organisation's website.

The standard model includes information about the body, its services and decision-making processes, as well as financial, procurement and other information. In preparing their scheme, bodies are required to consider the public interest in allowing public access to information held by the FOI body, the publication of reasons for decisions made by the FOI body, and publishing information of relevance or interest to the general public in relation to its activities and functions generally.

Furthermore, the Freedom of Information Act also provides that individuals must be provided, on request, with a statement of the reasons for and any material findings of fact on a decision that affected them in a manner set out in the legislation.

49. Judicial review of administrative decisions: - short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).

50. Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non- implementation

D. The enabling framework for civil society

51. Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc.)

Charities Regulatory Authority

The Charities Regulatory Authority ('the Regulator') was established on 16 October 2014 under the provisions of the Charities Act 2009. It is an independent authority, responsible for the registration, regulation and protection of all charities that carry out activities in Ireland.
The Register of Charities, which can be accessed via the Regulator's website, www.charitiesregulator.ie, was established on the same date. All charities that intend to operate or carry on activities in Ireland are required to apply for inclusion on the Register of Charities.
General functions of the Charities Regulator pursuant to section 14 of the Charities Act 2009
The Regulator also acquired functions under the Charities Acts 1961 and 1973 in relation to the provision of services to trustees of charities. These functions were transferred to the Regulator from the Commissioners of Charitable Donations and Bequests for Ireland (CCDB) under section 82 of the Charities Act 2009 and the CCDB were dissolved.

The Regulator operates under the aegis of the Department of Rural and Community Development, however it is independent in the performance of its statutory functions. The Regulator is funded by the exchequer via the Department of Rural and Community Development. The Regulator's allocated budget for 2020 is €4.6 million.

Governance Framework

The Department of Rural and Community Development is responsible for overseeing the corporate governance framework within the Charities Regulator and its development in line with current governance requirements. It is also responsible for the delivery of legislation to support the work of the Regulator.

Section 29 of the Charities Act 2009 requires the Regulator to prepare and submit to the Minister a strategy statement in respect of each 3 year period. The Regulator's second Statement of Strategy covers the period 2019 – 2021 and is available on its website.

Section 31 of the Charities Act 2009 requires the Regulator to submit a report to the Minister not later than 30 June in each year, in relation to its activities in the immediately preceding year. The Regulator's 2018 Annual Report is available on its website.

The Regulator is subject to the Code of Practice for the Governance of State Bodies and signed a 2019-2020 Oversight Agreement with the Department of Rural and Community Development in November 2019. This agreement set out the broad corporate governance framework within which the Regulator will operate and defines key roles and responsibilities, which underpin the relationship between the Regulator and the Department of Rural and Community Development.
Under this Code of Practice for the Governance of State Bodies, non-commercial state bodies are subject to a Periodic Critical Review every five years. The review is conducted by a working group who report to the Minister, and its objectives are to secure improvements in accountability, efficiency and effectiveness, to scrutinise objectively the case for rationalisation / consolidation and assess the governance structure of the public body and the Departments oversight to ensure they are consistent with legislation and aligned to business needs (D/PER, 2016). The Department initially engaged the Charities Regulator for its first periodic review in late 2019.

Membership of the Board of the Charities Regulator

Under section 13 and paragraph 2(1) of Schedule 1 of the Charities Act 2009, the Board of the Charities Regulator consist of not less than nine and not greater than twenty members, of whom not less than three shall be persons each of whom –

(a) hold or formerly held judicial office in the Superior Courts, or(b) are barristers or solicitors of not less than 10 years standing.
All members are appointed by the Minister, with the approval of the Government. The chairperson is appointed by the Minister from amongst the members of the Board.
Appointments to the Board of the Regulator are made in line with the Guidelines on Appointments to State Boards which require that appointments are advertised openly on the State Boards portal www.stateboards.ie operated by the Public Appointments Service (PAS). Section 13 and paragraph 2(5) of Schedule 1 to the Charities Act 2009, requires the Minister to ensure that among the members of the Board there are persons who have knowledge of and expertise in relation to: (a) the law relating to charities, (b) the keeping of accounts by, and funding of, charitable organisations, and (c) the management of charitable organisations.
Under section 13 and paragraph 2(6) of Schedule 1 of the Charities Act 2009, appointments to the Board of the Regulator are made for a period not exceeding five years. A member of the Board of the Regulator shall be eligible for re-appointment provided that they shall not hold office for periods the aggregate of which exceeds eight years.

Significant Developments involving Charities Regulator to December 2021 inclusive

- Reporting to the Charities Regulator on the Charities Governance Code became mandatory in 2021.
- The Charities Regulator signed an updated co-operation agreement with the Revenue Commissioners and a Memorandum of Understanding (MoU) with the Health Information and Quality Authority (HIQA) respectively.
- In April, the Regulator published its Irish Public Survey into society's attitudes and engagement with registered charities in Ireland.
- This survey was followed in May by the publication of new research findings on the views that charities have in relation to the impact of Covid-19, their views on revenue generation, public trust and confidence and the Charity Sector.
- In 2021, the Charities Regulator also issued new guidance to both charities and the public on the issue of clothing collections.
- During the year, the Charities Regulator appointed inspectors, pursuant to section 64 of the Charities Act 2009, to investigate the affairs of three charities.
- In 2021, two inspector's reports were published further to the conclusion of investigations.
- In 2021, imposed intermediate sanctions on one charity under section 73 of the Charities Act 2009.

General Scheme of the Electoral Reform Bill

The **General Scheme of the Electoral Reform Bill** has been the subject of extensive pre-legislative scrutiny, with seven sessions taking place over the first half of 2021, through Ireland's parliamentary committee system. Drafting of the Bill is now at an advanced stage with publication anticipated in early 2022. The bill will establish an Electoral Commission when enacted. It remains the Government's intention that this Electoral Commission will carry out a comprehensive review of the Electoral Act 1997, including rules governing civil society organisations' access to funding.

52. Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders

No update to material provided in 2021.

E. Initiatives to foster a rule of law culture

53. 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.)

Ireland has participated actively in discussions on rule of law items at the General Affairs Council. This has included partaking in the annual rule of law report country chapter dialogues exercise; Ireland's 2020 country chapter was one of the five member states discussed at the April 2021 round under the Portuguese presidency. We welcome the opportunity for mutual learning and sharing of best practices that the Rule of Law dialogue offers. Ireland has also contributed consistently to hearings and discussions within the ongoing Article 7 TEU process in relation to Hungary and Poland and their adherence to rule of law standards and EU values. Furthermore, in October 2021, Ireland was one of nine Member States to intervene, along with the European Parliament, in C-156/21 & C-157/21, in order to argue in favour of the validity of *Regulation on a General Regime of Conditionality for the Protection of the Union Budget.*

Minister of State for European Affairs, Thomas Byrne, T.D. launched the Ireland country chapter of the 2021 Commission Rule of Law Report at a 22 September 2021 event hosted by the Irish Council for Civil Liberties (ICCL). Minister Byrne's address included encouragement to civil society groups to actively engage with the Commission's Rule of Law report process. A follow-up event was hosted by the ICCL that provided guidance to civil society groups on how to partake in the process.

Further, several rule of law-related events have been organised by the Institute of International and European Affairs (IIEA), Ireland's leading international affairs think tank. These have included a November 2021 event on rule of law in the EU with the former Chief Justice of Ireland, Mr Justice Frank Clarke (more information available here) and a February 2021 event discussing rule of law that featured contributions from Minister Byrne and Minister Judit Varga, Minister of Justice of Hungary. The IIEA also regularly publishes online briefings and papers on rule of law subjects, such as this December 2021 paper on media freedom in the EU. Rule of law and the EU is one of the thematic priorities for the initial phase of Year Two of IIEA's Global Europe project, a three year project funded by the Department of Foreign Affairs.

Human Rights Champions with AGS

A significant contribution to the fostering of a rule of law culture within An Garda Síochána, is the Human Rights Champions initiative. This role was designed to create a network of individuals of all ranks and grades throughout An Garda Síochána who will;

- Be a human rights advocate by using their voice to promote and protect human rights of all persons they encounter.
- Lead by example and carry out their duties in a human rights compliant manner, leading other Garda personnel to follow this example.
- Use their knowledge and learning to promote human rights within An Garda Síochána by instigating conversations about human rights where relevant.
- Participate and engage in learning opportunities and initiatives made available to them, and encourage other Garda personnel to participate in human rights related learning opportunities.
- Develop ideas for how to promote the visibility of human rights in the work of An Garda Síochána.
- Provide feedback on this initiative to help continue supporting positive change within the organisation.

Training was a key aspect in developing this role with a participants required to pass a level 8 certificate in Policing and Human Rights Law in Ireland (accredited through the University of Limerick) before taking up the role of Human Rights Champions. The course was designed and delivered jointly by An Garda Síochána and the University of Limerick. Additional further monthly learning sessions are provided to the Human Rights Champions spanning diverse areas (such as Neurodiversity, Autism Spectrum Disorder and Unconscious Bias etc.), aimed at further developing their knowledge base.

To date, two intakes of this course have created in excess of 1000 Human Rights Champions with a third intake due to commence in January 2022. This initiative has influenced others from outside of An Garda Síochána to undertake this course. This included individuals from key stakeholders such as, the Garda Síochána Ombudsman Commission, the Policing Authority, the Garda Inspectorate, the Police Service of Northern Ireland and the Irish Defence Forces. The next intake aims to cast yet a wider net by including Garda Liaison Officers in Paris, Lisbon and Washington who will pair up with their in-country counterparts. This includes individuals from the United States Drugs Enforcement Administration (DEA), Federal Bureau of Investigation FBI and Department of Homeland Security.

Awareness

The Human Rights Section has provided organisational wide advice highlighting the human rights impact of public health guidelines on the Autism Spectrum Disorder (ASD) community. These publications were designed to proactively lessen the policing impact on this specific group, who could potentially, be disproportionally impacted by public health restrictions.

Policy Review

All new An Garda Síochána policies are required to be screened from a human rights perspective. Specifically, the Human Rights Section has been extensively involved in the review of policy documents covering the following areas for example;

- Custody Management
- Uniform and Dress code
- Use of force
- Repossessions and Evictions
- Covert Human Intelligence Sources
- Critical Incident Command
- Management and Use of Anti-Spit guards &
- Extradition

Legislation Review

The Human Rights Section has given advice with regard to the human rights implications of the following pieces of draft legislation;

- An Garda Síochána (Digital Recording) Bill
- Consolidated Police Powers Bill &
- Emergency Health Bill

National Parliament

The issue of judicial independence in the context of the issue of judicial discretion on sentencing was debated at some length in the Houses of the Oireachtas during the passage of the Criminal Justice (Amendment) Act 2001. The Criminal Justice (Amendment) Act 2021 was passed by the Oireachtas

last year. This Act arose from the 2019 Supreme Court judgement in the case of Ellis v the Minister for Justice. In this ruling, the Supreme Court struck down a provision of the Firearms Act 1964 providing for a mandatory sentence of a minimum of five years for second or subsequent firearms offence. The Court found that it is not constitutionally permissible for the Oireachtas to specify a mandatory penalty which only applies to a limited class of persons, namely those who had committed a second or subsequent offence for one or more listed offences. The Court held that the application of a penalty in such cases amounted to the administration of justice which, under Article 34 of the Constitution, may only be administered by the Courts and not by the Oireachtas. Given the need to bring the law into compliance with this judgement, the Criminal Justice (Amendment) Act 2021 repealed all provisions on the statute book providing for specific mandatory minimum sentences for second or subsequent offences. These offences related primarily to certain firearms and misuse of drugs offences.

The Commission may want to refer to the second stage debate in the Seanad, see here. In this debate, the Minister of State at the Department of Justice, James Browne T.D., confirmed that the Act was needed to underpin judicial discretion in criminal sentencing and to align the criminal law with a judgement of the Supreme Court from 2019. There was not complete agreement across the Seanad on the Bill (see the intervention by Senator McDowell at Committee stage in the Seanad, here) but the Government did pass the Bill. It was signed into law on 8/12/21 and commenced with effect from 27/12/21.

There were several other debates on matters of law in the national parliament, often around individual pieces of legislation during which the rule of law was touched upon. In 2021, this included:

- March 2021 – Joint Committee on European Union Affairs - Engagement with European Commissioner Didier Reynders, European Commission for Justice, on the rule of law and the European Commission's 2020 Rule of Law Report. In advance of the engagement, the Joint Committee engaged with stakeholders, including by seeking written submissions.
- October 2021 – Joint Committee on European Union Affairs – Engagement with Minister Thomas Byrne, included a discussion on rule of law as did a separate meeting on the State of the Union 2021.
- June and October 2021 – Statements on Pre-European Council Meeting – included discussions on the rule of law.
- In 2021, Seanad Éireann held a series of debates with Irish MEPs. Many of these touched on the rule of law.