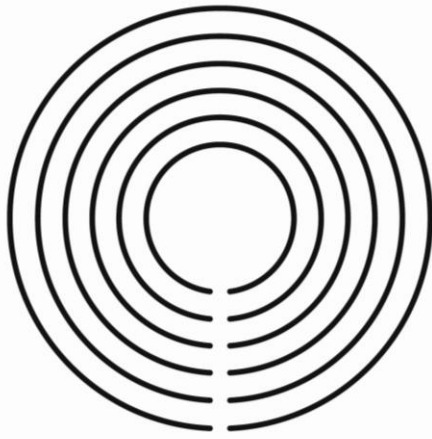




LAW REFORM
COMMISSION/COMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

STRATEGY STATEMENT
2009 -2011



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STRATEGY STATEMENT

2009-2011

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FOREWORD

I am very pleased, together with my Commission colleagues, to introduce our Strategy Statement for 2009-2011.

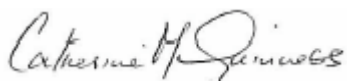
This Statement sets out the key priorities and strategies we intend to pursue over this period to ensure that the Commission continues to occupy a central role in making a significant contribution to law reform in this country.

This Statement was developed in consultation with the staff of the Commission and it incorporates many suggestions made during the consultative process. The legal and non-legal staff of the Commission have an essential contribution to make to its work. So also have external sources - both individuals and organisations in legal and other areas - which are availed of by the Commission to help it in carrying out its work. This assistance is greatly appreciated by the Commission.

Last year the Commission embarked on its Third Programme of Law Reform 2008-2014 and, during the period covered by the present Strategy the Commission intends to make substantial progress in examining many of the legal topics set out in the Programme and in completing recommendations for law reform in those areas. The Commission will also further develop its programme of Statute Law Restatement, together with the continued updating and modernisation of the Legislation Directory.

During the period of our former Strategy Statement considerable progress was made in ensuring that all activities undertaken on behalf of the Commission were discharged in a fully efficient and cost effective way. The Commission is confident that this progress will continue successfully during 2009 - 2011, a period during which this aim will be of crucial importance.

The Commission is confident that, in partnership with its staff, the priorities, actions and approach set out in this Strategy Statement will keep the Commission at the leading edge of law reform and will enable it successfully to discharge its mandate.



The Hon. Mrs Justice Catherine McGuinness
President

MISSION STATEMENT

To keep the law under independent, impartial and expert review and to make consequent recommendations for law reform.

OVERVIEW OF COMMISSION

The Law Reform Commission is an independent statutory body established by the *Law Reform Commission Act 1975*. Our principal role is to keep the law under review and to make proposals for reform, in particular by recommending the enactment of legislation to clarify and modernise the law. The Commission has five members - two full-time and three part-time.

The Commission's role is carried out primarily under a Programme of Law Reform. The *Third Programme of Law Reform 2008-2014* was prepared by the Commission following broad consultation and discussion. In accordance with the 1975 Act, it was approved by the Government in December 2007 and placed before both Houses of the Oireachtas. The Commission also works on specific matters referred to it by the Attorney General under the 1975 Act. Since it was established, the Commission has published over 140 documents containing proposals for law reform and these are all available on the Commission's website, www.lawreform.ie Most of these proposals have led to reforming legislation.

Since 2006, the Commission's role includes two other areas of activity, Statute Law Restatement and the Legislation Directory. Statute Law Restatement involves the administrative consolidation of all amendments to an Act into a single text, making legislation more accessible. Under the *Statute Law (Restatement) Act 2002*, where this text is certified by the Attorney General it can be relied on as evidence of the law in question. The Legislation Directory - previously called the Chronological Tables of the Statutes - is a searchable annotated guide to legislative changes.

VALUES IN CARRYING OUT OUR ROLE

In carrying out our role, we place a particular emphasis on a number of values.

Independence

Our independence is of paramount importance in ensuring that we properly fulfil our role. While independence is a fundamental principle, we also realise that there must be proper liaison with all stakeholders in society, including the public and the Government.

Impartiality

We recognise the crucial importance of carrying out our role in an impartial and objective way. This concept is very much intertwined with the notion of our independence.

High quality research

High quality research and expert review of the law is at the core of our work. Consultation Papers and Reports produced by law reform commissions are often regarded as the definitive text on that particular area of law. Similarly, the accuracy of Statute Law Restatements and of the Legislation Directory is of vital importance.

Effective relationships

External legal specialists and other experts are invited to assist us as members of working groups and user groups. We also have ongoing relationships with the Office of the Attorney General, the Department of Justice, Equality and Law Reform, and other Departments of Government. The development of effective relationships is of key importance to our work, consistent with the commitment to ensure that our independence and impartiality is retained.

Responsiveness

Our responsiveness to the needs of Irish society is a core value. Responsiveness is maintained through consistent and ongoing consultation on all Commission projects.

ROLLING WORK PROGRAMME AND BUSINESS PLAN

The Commission carries out its work on the basis of a Rolling Work Programme, which contains target dates for the achievement of the various stages of work. In order to assist the Commission in monitoring the achievement of these targets, quarterly reviews of the Work Programme are conducted through the Commission's Business Plan.

METHODS OF WORK AND CONSULTATION PROCESS ON LAW REFORM PROJECTS

Internal methodology and management

The Commission ensures that each project is assigned a Researcher who works under the general direction of the Director of Research and the Commission. The Commission also makes use of Working Groups, whose members provide their expertise on a voluntary basis, in areas where significant expert input is necessary. Given the complexity of some of the issues that arise, the Commission regularly consults with experts in particular areas of legal and other professional knowledge on a particular subject. The Commission's published Consultation Papers and Reports are based on careful and thorough research. The Commission gives particular attention to the laws of comparable jurisdictions, as well as to proposals put forward by law reform bodies in these jurisdictions.

Consultation process leading to Consultation Papers and Reports

The consultation process is of central importance to the Commission's work. Consultation may take several forms. In the initial stages of its research, the Commission may meet with experts or practitioners working in a particular area, or representatives of interest groups. The Commission will then prepare and publish a Consultation Paper. The Commission will seek written submissions from interested parties on the provisional recommendations made in the Consultation Paper. These submissions will be taken into account in the drafting of the final Report on the subject, and any issues or concerns they raise will be dealt with in the Report. Before drafting the Report, a seminar is usually held to which the Commission may invite interested parties, or those who have made submissions. The Commission invariably includes a draft Bill in each Report where it makes recommendations requiring legislative change.

Restatement and Legislation Directory

Preparation of a restatement entails searches of the electronic repository of legislation and other sources as necessary, validated against the relevant table in the Legislation Directory, to compile a comprehensive affecting provisions document. This supplies the master list of amendments which are incorporated in the restatement. Further steps include the research of commencement provisions and orders, the annotation of textual and non-textual amendments and the addition of editorial notes where appropriate. A completed restatement then undergoes peer review with checking of all amendments and references and, finally, reviews by the project manager. Where possible, draft restatements are submitted to the relevant agency or department for further review (for example, the Data Protection Acts submitted to the Office of the Data Protection Commissioner).

The maintenance of the Legislation Directory requires reading of new legislation to identify any amendments, textual and non-textual. These are analysed and annotated, and compared with the results from the same process carried out independently (double blind), and any discrepancies investigated and corrections made. They are finally reviewed by the project manager.

HUMAN RESOURCES

The team responsible for delivering on the Commission's work programme comprises a mix of legal and administrative staff. (For the working methods of the legal team see above)

The role of the administration team is threefold. It takes the lead in ongoing relationships with the Office of the Attorney General on a range of matters such as financial management, implementation of civil service modernisation and change management programme, accounting and other initiatives arising under Government policies. It supports the organisation's activities through information technology, financial, human resource and printing and publication services. It provides a general back up to the organisation in relation to matters such as buildings, accommodation, purchasing, procurement, seminars, conferences and safety.

In consultation with the Commission, the Head of Administration and Development takes the lead in the strategic development of the organisation and acts as Secretary to the Commission.

The Legal Information Manager and the Cataloguer support the work of the legal research team in particular and also the organisation generally by providing library and information services in partnership with other libraries and research providers.

EFFECTIVE USE OF RESOURCES

The Commission is committed to using the resources it receives in the most effective manner to ensure its objectives are met. In a challenging environment, the Commission will optimise the use of all the resources at its disposal, both financial and human, taking full account of the Government's modernisation programme. In particular, the Commission will continue to pursue the use of shared services, where possible. Best practice will be followed in modern human resource and financial management and information technology will be harnessed to improve performance and deliver a consistently high quality service at the lowest cost. In particular, the Commission will look towards greater use of e-publishing in order to reduce both the output cost of producing reports and to ensure the widest possible audience for its publications.

The view at central level of the relevance and contribution of the Commission in relation to law reform will obviously influence attitudes on resource allocations and support for the Commission's work generally. The Commission will continue to deliver high quality output and demonstrate the ongoing relevance and importance of keeping the law up to date, accessible and accurate, especially in an environment where scarce resources must target areas of maximum benefit to citizens.

The development of a strong performance culture within the organisation is driven by the personal engagement of the Commissioners and the Commission is committed to ensuring that such a culture is embedded in the structure of the organisation, built on maximum involvement and participation of staff in all areas of operation.

RELATIONSHIP WITH THE ATTORNEY GENERAL

Under Section 4(2) of the *Law Reform Commission Act 1975*, the Attorney General may request that the Commission examine and conduct research on particular areas of the law. Where such requests arise, the Commission will adapt its rolling work programme to take account of the extra resources required to fulfil its obligations to the Attorney General. The subjects covered by such referrals are invariably of significant interest to the public and often arise from specific

commitments contained in the Programme for Government. Recent referrals have included international adoption, the establishment of a DNA database and the issue of prosecution appeals against acquittals. Functional responsibility for statute law restatements and the ongoing maintenance of the legislation directory were transferred to the Law Reform Commission from the Attorney General's office.

In addition the Director General of the Attorney General's Office acts as accounting officer for the grant-in-aid received annually by the Commission. Given the close relationship that exists between the two offices, regular contact is maintained on issues of mutual concern. The Commission is committed to keeping these arrangements under review.

EXTERNAL RELATIONSHIPS

As a small organisation committed to achieving optimum results from limited resources, the Commission maintains a series of relationships with external individuals and organisations. The Department of the Taoiseach liaises regularly with the Commission on matters of mutual interest.

As outlined above, the Commission relies heavily on outside expertise to achieve its business objectives. Relationships with members of the judiciary, solicitors and practising barristers, academic lawyers, Departmental representatives, experts in various non-legal areas of relevance, representatives of interest groups and members of the public are maintained to assist the Commission in carrying out its work.

The Department of Justice, Equality and Law Reform is a significant entity in relation to the work of the Commission. It plays an extremely important role in supporting this work, both generally and in the implementation of the law reform recommendations of the Commission. Law reform is a significant element in the responsibilities of the Department and is so reflected as one of the high-level goals in its Strategy Statement 2008-2010. It is important, therefore, that the existing communication and liaison arrangements between the Commission and the Department are maintained and developed as necessary.

A Consultative Committee, operating under the aegis of the Office of the Attorney General, also has assigned responsibilities in relation to law reform, including assisting the Attorney General on specific aspects of law reform and monitoring the implementation of the recommendations of the Commission. The Committee comprises representatives of the Attorney General's Office, Departments of the Taoiseach, Finance, Justice, Equality and Law Reform, Enterprise Trade and Employment, Health and Children, the Bar Council, and the Law Society.

In addition to the above relationships, the Commission is an active participant in information sharing and best practice discussions with other law reform agencies, including the recently established Northern Ireland Law Commission.

RECRUITMENT

The Commission meets its business needs by recruiting researchers and by calling on external legal expertise, as required. While the Commission is satisfied that the recruitment process used to engage staff has worked well, it is committed to ensuring that such processes are kept under constant review and are adapted to changing circumstances and business needs. The allocation of scarce resources to procure the best available expertise is a key goal set by the Commission.

RISK MANAGEMENT

The Commission will continue to develop and implement an up to date risk management policy, taking into account relevant public sector guidelines as issued by the Department of Finance.

STAFF CONTRIBUTION AND DEVELOPMENT

The staff of the Commission, both legal and administrative, represents its key asset. Clear and open lines of communication, definition of roles and responsibilities, and a partnership approach are the hallmarks of the Commission's approach to the involvement and development of its staff. The Commission is committed to providing opportunities to all members of staff to develop their full potential through a dedicated training and development policy and to improving performance through the Performance and Management Development System (PMDS) for civil service staff. Legal staff are assessed through a separate performance system.

KEY OBJECTIVES

Four key objectives have been identified based on the analysis in this statement and represent the Commission's commitment to delivery for the period 2009-2011. The actions required to meet these objectives will be set out in the Commission's business plan. Monitoring arrangements to ensure our targets are being met are summarised in the final section of this strategy statement.

KEY OBJECTIVE 1

LAW REFORM PROJECTS

To progress towards completion to a high standard the examination of: (1) the projects selected by the Commission from the 37 Projects in the *Third Programme of Law Reform 2008-2014*; and (2) where relevant, the particular areas of law which the Attorney General has requested the Commission to examine.

Outcome

Publication of Consultation Papers and Reports dealing with: (1) the projects selected by the Commission from the 37 Projects in the *Third Programme of Law Reform 2008-2014* and (2) where relevant, the particular areas of law which the Attorney General has requested the Commission to examine.

Action**Performance Indicator**

Develop initial Scoping Papers for law reform projects	Scoping Papers agreed by Commission
Progress detailed drafting of text of law reform projects	Detailed draft texts agreed by Commission
Publish Consultation Papers for law reform projects	Consultation Papers approved for publication by Commission and published
Progress public consultation for law reform	Public consultations held and reviewed by Commission
Publish Reports for law reform projects	Reports approved for publication by Commission and published

NOTE

The Director of Research, to whom the Commission assigns responsibility for the development, progress and completion of the law reform projects, has overall responsibility and accountability for these projects and the related actions necessary for their completion, as set out in the Business Plan.

KEY OBJECTIVE 2

STATUTE LAW RESTATEMENT

To implement the responsibilities assigned to the Commission by the Attorney General in 2006 in regard to Statute Law Restatement.

Outcome

Comprehensive and accurate statute law restatements in XML format suitable for publication with the electronic Irish Statute Book (eISB), which will bring legislation up to date by incorporating and cross referencing all subsequent legislative amendments to original enactments as specified.

Action

Provide the resources necessary to discharge Restatement responsibilities to the required standard including:

- pursuit of full operational functionality of the authoring system integrated with upgraded legislative material to achieve planned productivity gains;
- supply of new legislative material in suitable format as it becomes available.

Performance Indicator

Effective functioning of the authoring system and realisation of increased productivity and output.

Pipeline for regular supply of new legislative material in appropriate format in place.

Production of Restatements

Preparation of Restatements contained in the First Programme of Restatement 2008-2009 and their presentation to the Attorney General for certification.

Production of Restatements in suitable format for publication on the electronic Irish Statute Book (eISB). Liaison with Office of the Attorney General as custodian of the eISB to support the necessary adaptation of publication routines to accommodate publication of restatements.

Establishment of User Group

Establishment of small User Group with representatives of key stakeholders to advise on production and development of the Second Programme.

Development of Second Programme of Restatement

Development of Second Programme of Restatement in consultation with Government Departments, the legal profession, special interest groups, other users of legislation and the public.

NOTE

The Project Manager has overall responsibility and accountability for implementing the

programme efficiently and effectively and in accordance with the requirements decided on by the Commission and, in conjunction with the Director of Research and/or the Commission as appropriate, for liaison with the Office of the Attorney General in connection with the project.

The Commission has overall responsibility and accountability for submitting Restatements to the Attorney General for certification.

The Commission has overall responsibility and accountability for approval of the Second Programme of Restatements on the basis of its consideration of a draft programme drawn up by the Project Manager in consultation with the full-time Commissioner, the Director of Research, the User Group and taking into account submissions received as a result of the public consultation.

KEY OBJECTIVE 3

LEGISLATION DIRECTORY

To implement the responsibilities assigned to the Commission by the Attorney General in 2007 in regard to the Legislation Directory (formerly the Chronological Table of the Statutes).

Outcome

Comprehensive and accurate updating of the Legislation Directory to enable tracking of all new legislative effects arising from legislation from 2006 onwards, in a format suitable for publication with the electronic Irish Statute Book (eISB). Preparation of a Report on the development of the Legislation Directory based on the Consultation Paper *The Legislation Directory: Towards a Best Practice Model* (July 2008) (LRC CP-49 2008).

Action

Discharge Legislation Directory responsibilities to the required standard; pursuit of full operational functionality of the authoring system integrated with upgraded legislative material to achieve planned productivity gains; and supply of new legislative material in appropriate format as it becomes available.

Performance Indicator

Effective functioning of authoring system and realisation of increased productivity and output. Pipeline for regular supply of new legislative material in appropriate format in place.

Maintenance of the Legislation Directory

Maintenance of the Directory from 2006 onwards up to date with the additional information proposed in the Consultation Paper in relation to Public Acts, and provision of periodic updates in suitable format for internet publication to the Office of the Attorney General as custodian of the eISB. Liaison with Office of the Attorney General to support the necessary adaptation of publication routines to accommodate electronic publication of updates to the Directory.

Tracking of amendments to Statutory Instruments 2006 to 2009 on a trial basis.

Collation, verification and correction of historical errors notified to the Commission.

Maintenance of ancillary tables including the List of Collective Citations and the Table of Regulations made under the European Communities Act 1972.

Preparation of Report

Research and preparation of a Report building on the Consultation Paper *The Legislation Directory: Towards a Best Practice Model* (July 2008) (LRC CP-49 2008) in the light of experience in maintaining the Directory and submissions received in response to the public consultation.

NOTE

The Project Manager has overall responsibility and accountability for implementing the programme efficiently and effectively and in accordance with the requirements decided on by the Commission and, in conjunction with the Director of Research and/or the Commission as appropriate, for liaison with the Office of the Attorney General in connection with the project.

The Commission has overall responsibility and accountability for submitting updates of the Legislation Directory to the Office of the Attorney General.

The Commission has overall responsibility and accountability for the Report and its recommendations, taking into account submissions received as a result of the public consultation.

KEY OBJECTIVE 4

ADMINISTRATION/LEGAL SUPPORT

Continue to ensure that the research and administrative teams operate together and at optimum efficiency and effectiveness in order to support the Commission in carrying out its role, and with the maximum involvement and participation of staff.

Outcome

The administrative and research teams are essential supports to the research function and governance obligations of the Commission. The quality of the research undertaken by the Commission is central to the effective discharge of its mandate. Similarly, the provision of fully effective support services, such as information technology, library and information services, financial and human resources (including training and development) are essential. The result of actions undertaken under this objective will be research and administration teams operating together to the highest standards of excellence, in a spirit of partnership.

Action**Performance Indicator**

Develop a Management Information Framework (MIF)

MIF implemented

Identify relevant international best practice in research area

Experience sharing documented

Ensure ongoing development of performance management, including through the PMDS system

PMDS Implemented fully

Develop appropriate staff consultation and participation arrangements in consultation with management and staff, specifically through a local partnership process

Partnership process implemented fully

Draw up a training and development policy tailored to the competency and skills requirements of the organisation, in consultation with management and staff

Training and Development Policy implemented

Draw up an Information and Communications Technology (ICT) Policy, suited to the changing needs of the organisation, in consultation with management and staff

ICT Policy implemented

Develop an updated records management policy

Records management policy updated

Develop an updated risk management policy

Risk management policy updated

Action

Engage in an on-going examination of all non-legal processes in the organisation, especially in relation to finance, and make proposals to the Commission

Ensure the provision of an optimum library and information service, tailored to the needs of the organisation.

Develop and maintain effective communication and liaison arrangements with the Department of the Taoiseach, Office of the Attorney General and other external stakeholders

Ensure full compliance with statutory obligations arising under various headings including the Freedom of Information Act, the Official Languages Act and data protection legislation.

Consider, identify and implement, in conjunction with Commission and staff, appropriate changes and improvements in the management and delivery of research activities

Performance Indicator

Proposals presented and implemented

Optimum library and information service delivered

Effective arrangements in place

Policies developed and implemented

Proposals presented and implemented

NOTE

The Head of Administration and Development has overall responsibility and accountability for meeting this key objective, working closely with the Director of Research and the project managers.

MONITORING ARRANGEMENTS

The following arrangements will apply:

- specific business plans, indicating the contribution of the administrative and legal research teams to the achievement of the Key Objectives indicated, will be prepared and finalised;
- these business plans will set out clearly the specific actions being taken in each area; the person(s) responsible for the implementation of each action; the overall deadline for each action; the target for 2009 and for the next quarter; and the person with overall accountability for results under each action;
- overall responsibility and accountability for specified business plan targets in relation to Key Objectives will be as identified in the relevant business plans;
- each quarter the management committee (the President, full- time Commissioner, Head of Administration and Development, Director of Research and Project Managers) will assess progress on each Key Objective in conjunction with the person(s) having overall accountability for the objective;
- this group will report on progress every 6 months to the Commission but will immediately bring to its notice any major problems, threats or opportunities emerging;
- a review will take place at the end of 2009 to consider any major changes needed for 2010;
- any necessary changes to the Strategy Statement for 2010 will be decided on by the Commission.

APPENDIX

Projects Included in the Third Programme of Law Reform

Approved by Government on 12 December 2007

A. Legal System and Public Law

1. The Law Relating to Juries
2. Debt Enforcement and Securing Interests over Personal Property
3. Bench Warrants and Search Warrants
4. Limitation of Actions
5. Alternative Dispute Resolution
6. Consolidation and Reform of the Courts Acts

B. Law of Evidence

7. Documentary Evidence and Technology
8. Hearsay in Civil and Criminal Cases
9. Advance Disclosure of Defence Cases
10. Forensic Evidence
11. Expert Evidence

C. Criminal Law

12. The Law of Sexual Offences
13. The Victim and the Criminal Justice System
14. Vulnerable Persons and the Criminal Justice System
15. Restorative Justice
16. Having regard to the establishment of the Criminal Law Codification Advisory Committee, examination of issues arising in the general part of the criminal law
17. The Law of Homicide
18. Defences in the Criminal Law
19. Inchoate Offences

D. Land Law and Property

20. Further Statutory Codification of Land Law
21. Trust Law and the Settled Land Acts
22. eConveyancing Road Map

E. Family Law

23. Legal Aspects of Family Relationships
24. Domestic Violence
25. The Law of Annulment in the 21st Century

F. Specific Groups in a Changing Society

26. Children and the Law
27. Gender Recognition
28. Legal Aspects of the New and Emerging Members of Irish Society (Reunification Procedures and Citizenship)
29. Legal Aspects of Carers

- G. Technology, Innovation and the Individual
 - 30. Legal Aspects of Bioethics
 - 31. Legal Aspects of Assisted Human Production
 - 32. Privacy

- H. Commercial Law and the Law of Obligations
 - 33. Frustration of Contracts
 - 34. Insurance Contracts
 - 35. Damages in Contract and Tort Law

- I. International Law
 - 36. The Status of International Law in Domestic Irish Law
 - 37. Civil Law Aspects of the Law of Missing Persons