



The Law Reform Commission  
AN COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ

## **LAW REFORM COMMISSION**

## **STRATEGY STATEMENT 2006-2008**

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## **FOREWORD BY PRESIDENT OF COMMISSION**

I am very pleased, together with my Commission colleagues, to introduce our Strategy Statement for 2006-2008.

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 and makes a significant contribution in relation to law reform and that all activities undertaken on its behalf are discharged in a fully efficient and cost effective way.

The Statement was developed after extensive consultation with the staff of the Commission and it incorporates many suggestions made by them during this consultative process. The legal and non-legal staff of the Commission have an essential contribution to make to its work. So too 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 certain aspects of its activities. This assistance is greatly appreciated by the Commission.

The Commission is determined that this Strategy Statement will be a living and working document, the central source for both the Commission and staff of the key priorities, together with associated responsibilities and accountabilities , to be pursued in the period 2006-2008. In preparing the Statement, the Commission attached very great importance to the need to ensure that it had a real meaning and represented in a clearly understood and practical way what the Commission wanted to achieve between now and 2008 and how it was going to achieve its objectives. The emphasis throughout the document is on direct and clearly stated analysis and action.

The Commission intends to review on a regular basis the progress towards the achievement of the 5 Key Objectives set out in the Strategy Statement. It will monitor performance, identify the reasons when targets are not being achieved, and take necessary remedial action. It will also review and identify general internal and external trends and developments relevant to the work of the Commission which may necessitate changes in the thrust and direction of the Commission's strategies in certain circumstances.

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

## **INTRODUCTION**

This Strategy Statement is the third strategic plan of the Commission. It covers the period 2006-2008 inclusive.

The Statement reflects the views of the Commission and senior management on what needs to be done to maximise the central role and contribution of the Commission in relation to law reform and to ensure that the organisation operates to optimum efficiency and effectiveness and makes the best use of available resources.

The Statement has been drawn up after extensive consultation with the staff of the Commission and it incorporates a number of important points made by them during this consultation process.

The emphasis in drawing up the Statement was to ensure that it had a real meaning for the organisation and its staff. It had to represent the key priorities of the Commission for 2006-2008. It had to set out clear responsibilities and accountabilities for the achievement of these priorities. It had to be the most important working document for the Commission, management and staff and one to which they constantly referred in assessing the performance and development of the organisation. Not least, it had to be written in a clear, direct and easily understood way, capturing the essentials of what the Commission was about and what it was trying to achieve.

These principles have been the key influences on the format, style and length of this Strategy Statement.

## MANDATE

The Commission was established under the Law Reform Commission Act 1975 with a mandate to keep the law under review, to undertake examinations and conduct research with a view to reforming the law, and to formulate proposals for law reform. It is responsible to the Government through the Taoiseach for the discharge of this mandate.

The 1975 Act defines the law as meaning the law of the State (including international law) and including matters of legal practice or procedure. It defines law reform as meaning, in relation to the law or a branch of the law, its development, its codification (including in particular its simplification and modernisation) and the revision and consolidation of statute law.

The 1975 Act also provides that the Commission shall consist of a President and four other members who are appointed by the Government for a term of office not exceeding 5 years and who are eligible for reappointment. The President of the Commission and one other member are full-time.

When the 1975 Act was being introduced in Dáil Éireann, the then Attorney General summarised succinctly the thinking behind the establishment of the Commission:

“If a community’s laws become inadequate for the functions for which they were designed, if they become obsolete, or are too numerous, or over-refined by judicial interpretation, then cases of individual injustices will multiply and society as a whole will suffer. Governments in a dynamic and fast changing world should ensure that the laws are kept under constant review and are regularly and systematically reformed.”

The Commission considers that this view is still very relevant to-day.

## **MISSION STATEMENT**

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

## VALUES

In discharging its mandate, the Commission puts a particular emphasis on the following values:

- Independence. The complete independence afforded to the Commission in reviewing the law and in formulating proposals for necessary reform is the most important factor in ensuring that it fully meets its obligations under its mandate.
- Impartiality. The Commission recognises the crucial importance of carrying out its mandate in an impartial and objective way and fully adheres to these principles in all aspects of its work.
- High quality research. Research is at the core of the Commission's work. The Commission recognises the paramount need to recruit high quality and committed researchers and to ensure that this area operates to maximum efficiency and effectiveness.
- Effective relationships. The Commission makes considerable use of external legal and other experts as members of working groups which play an important role in assisting it in examining particular areas of the law. It also has ongoing relationships with the Office of the Attorney General, the Department of Justice, Equality and Law Reform and other Departments on matters relating to its mandate. The Commission regards the development of effective relationships in these areas as being of key importance to its work.
- Performance culture. The Commission firmly believes that a performance culture (accompanied by clear responsibilities and accountabilities), which sets standards of excellence and which constantly seeks to improve the way things are done, should apply to all activities undertaken in pursuance of its mandate.
- Staff. The Commission recognises the essential contribution of all its staff, both administrative and legal, to effective performance. It fully accepts the need to involve all staff on a partnership basis in ongoing activities and to also develop, in conjunction with staff, effective communication arrangements throughout the organisation.

## **STAFFING AND STRUCTURES**

The staffing of the organisation comprises distinct but inter-related groupings which work closely together across the range of its activities. Each makes a very important contribution to the effective discharge of these activities.

The administrative team, headed by the Secretary/Head of Administration, consists of an Executive Officer and 3 Clerical Officers. The role of this team is threefold. It takes the lead in ongoing relationships with the Office of the Attorney General on a range of matters such as the annual budget, implementation of civil service modernisation programme, financial 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 and safety.

The Legal Information Manager and the Cataloguer, who report to the Secretary/Head of Administration, 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.

The role of the Project Manager is to develop effective communications and linkages with Departments, universities, the Bar Council and the Law Society, in order to ensure an environment that is positive to the progression and implementation of the work of the Commission.

The legal research team, headed by the Director of Research, comprises 8 full-time Legal Researchers who are normally engaged on one-year contracts which may be renewed. The research work undertaken by this team represents the core activity of the organisation and is the key element in successfully implementing the Commission's mandate. The main stages involved in progressing research activities and in formulating consequent recommendations for law reform are summarised in the next section.

## **MAIN STAGES IN FORMULATING LAW REFORM RECOMMENDATIONS**

### **Sources of Commission's work**

In accordance with the 1975 Act, the Commission identifies relevant areas of the law for review from a law reform perspective in two ways:

- through the development by the Commission, in consultation with the Attorney General and for approval by the Government, of a programme of law reform. The Commission's Second Programme for Law Reform, 2000-2007, covers 32 topics under 13 cognate groupings. Its full text is given in the appendix;
- through requests (which must be complied with) by the Attorney General to the Commission to examine and conduct research on particular areas of the law and, if required, to formulate and submit to him proposals for its reform. The Commission has currently before it 3 such requests.

### **Annual Work Programme**

In relation to the 2000-2007 programme, the Commission identifies the particular topics to be pursued in each year of the programme. Cumulatively, this leads to a rolling work programme of topics to be examined and finalised over the period of the programme. A topic comprehended by a request from the Attorney General is dealt with on receipt of the request.

### **Research Process**

The following summarises the main stages involved in bringing a research project to fruition under the procedures set out in the Commission's Protocols on Research.

Once a topic (irrespective of its source) has been identified, it then becomes the subject of a research project. A Legal Researcher, working to the Director of Research, is assigned to the project. The first step involves an examination by the Legal Researcher of existing Irish law covered by the topic, the areas for possible improvement, and a review of comparable international law and practice. A "scoping document" is prepared by the research team (the Legal Researcher in conjunction with the Director of Research) and is presented to the Commission for consideration. This document sets out in quite broad terms the suggested scope of the research to be undertaken.

Following consideration by the Commission, the research team then examines relevant issues in the light of the Commission's views and prepares further documents for consideration by the Commission.

In drawing up these documents, there is a considerable degree of consultation across a broad spectrum- with legal professionals, academic and practising, other professionals in relevant disciplines, Government Departments, individuals and groups with a significant contribution to make in terms of a knowledge of or specialism in the topic in question, and interest groups which are likely to be significantly affected by an amendment of the law comprehended by the topic.

The essential aim of this process is to ensure that the Commission is presented with comprehensive material on all important issues comprehended by a topic to enable it to make policy decisions on the priorities to be followed in seeking reform in specific areas of the law identified by it and on the general thrust and direction of the associated research to be undertaken.

In carrying out this research, different approaches are used. In some cases, a Working Group is established. The basic task of the group, which normally comprises some or all of those comprehended by the consultation process indicated earlier, is to assist generally in furthering the research and in contributing to the consideration by the Commission of major issues. As required, ad hoc groups, representing a range of legal and other disciplines depending on the topic under review, are established to advise the Commission on specific matters.

### **Consultation Paper**

Irrespective of the mechanism chosen, the ultimate product is a Consultation Paper. This is a comprehensive document which deals with the topic in question and which sets out, inter alia, the results of the research and the provisional recommendations of the Commission for amendment of the law.

### **Public Consultation**

The Commission publishes the Consultation Paper and invites written submissions on its provisional recommendations. Almost invariably, this is supplemented by a seminar where relevant individuals and parties and those who have made written submissions on the topic are brought together for discussions on the thrust and conclusions of the research and on the provisional recommendations in the Consultation Paper.

### **Report**

Following conclusion of the detailed consultative process as indicated, the Commission considers any further necessary amendments to the provisional recommendations in the Consultation Paper. It then publishes its final Report setting out its definitive recommendations for law reform in the particular area under review. Where the topic is comprehended by the Commission's law reform programme, the Report is submitted to the Taoiseach. Where the topic derives from a request by the Attorney General, the Report is submitted to the Attorney General. The recommendations of the Commission in its Report are accompanied by a draft Bill where relevant.

## **OPERATING ENVIRONMENT, CHALLENGES AND OPPORTUNITIES**

### **Introduction**

In a constantly changing environment, the Commission must take account of those external and internal factors which have an important influence on the discharge of its activities. The major factors in this regard, which are developed below, are:

- the relationship between law and society;
- the level of resources available to the Commission;
- the Government's civil service modernisation programme;
- requests from the Attorney General to the Commission to examine particular areas of the law;
- the ongoing relationships of the Commission with external individuals and entities in legal and other areas;
- the need to ensure that the main processes utilised by the organisation, particularly those relevant to the maintenance and development of its legal knowledge and capacity, continue to operate in a fully efficient and effective way and are responsive to changing requirements and circumstances;
- the need to develop an effective and comprehensive risk management strategy in line with the Mullarkey principles and the requirements of good governance;
- the need to maintain a performance culture throughout the organisation and to fully involve staff on a partnership basis in constantly seeking ways to improve performance;
- the need to facilitate the maximum involvement by the public and other stakeholders in the development and implementation of the Commission's law reform programmes.

### **The Law and Society/Public Involvement**

The changing relationship between law and society is a key factor impacting on the work of the Commission.

In essence, the law is the glue which knits together the many elements which make up any society. It also occupies a central position in the complex pattern of relationships which exists between the elements. These elements include Government, institutions, people, and the customs, values, attitudes and behaviours of the society in question. Law cannot exist for its own sake or in a vacuum. It exists to serve society and it operates within the framework of that society.

If the law is to continue to maintain this central role, and if it is to continue to have a real meaning for the society it serves, it must evolve with that society. It must reflect

the changing values and attitudes of the society. It must be expressed in modern, clear and readily understood terms. Not least, the people within the society must be given the opportunity to have their views heard on the laws which apply and on the reform of such laws where necessary.

These principles have had a major influence in the preparation of this Strategy Statement. The Statement places considerable stress on the need to keep under review and update the law in the light of societal changes and on the need to maximise the input of the public as important stakeholders in the work of the Commission.

### **Resources and Government Modernisation Programme**

The level of resources made available to the Commission and the Government's civil service modernisation programme are related factors which also have an important influence on the operations of the organisation. Obviously, the organisation cannot function in an optimum way if it does not have the necessary resources. But it would be simplistic to suggest that resources are the sole determinant of effective performance. The way in which such resources are used is of at least equal importance. The Government's modernisation programme, and the role in particular of modern human resource and financial management and information technology as envisaged in the programme, are key elements in improving performance and in managing assigned resources in a fully efficient and effective way.

The view at central level of the importance 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. It is essential, therefore, that the Commission continues to occupy a central position in relation to law reform and to demonstrate the capacity to make meaningful, relevant and well researched recommendations for such reform.

The Strategy Statement takes full account of these factors. First, it provides for major changes in the management of activities in accordance with the Government's modernisation programme, for the development of a strong performance culture throughout the organisation, for necessary changes in staffing resources, and for the maximum involvement and participation of staff in all areas of operation. Secondly, it recognises the ongoing need to develop and build on the existing strong legal capacity of the organisation and to benchmark the performance of its legal research activities against international best practice. All of these actions are essential in ensuring that the Commission continues to make a crucial contribution to law reform in accordance with its mandate.

### **Relationship with the Attorney General**

Another important factor is the power of the Attorney General, under Section 4(2) of the 1975 Act, to request the Commission to examine and conduct research on particular areas of the law. Obviously, the Commission has no control over such requests which are additional to the topics comprehended by its own law reform programme and which can have implications for its research activities. Since 2000, the number of references by the Attorney General has averaged one a year. These have related to significant issues, such as international adoption and the establishment

of a DNA database, of considerable public importance and relevance to the Government's Programme for Government.

The same general type of situation can arise in cases where the Commission may be asked to undertake significant additional responsibilities such as statute law restatement. It is important to assess in good time the implications of such responsibilities for the work programme and staffing levels of the organisation so that the necessary preparatory actions can be undertaken to facilitate the assumption and effective discharge of the new responsibilities by the Commission.

The Strategy Statement thus provides for communication arrangements with the Office of the Attorney General on such matters and on staffing, financial and other important issues relevant to the operation and development of the organisation. The communication mechanisms in question build on existing arrangements which have generally worked well.

### **External Relationships**

The relationships between the Commission and external individuals and organisations are also important factors in the work of the Commission.

As indicated earlier, the Commission relies heavily on external help-members of the judiciary, solicitors and practising barristers, academic lawyers, Departmental representatives, experts in various non-legal areas of relevance and representatives of interest groups- in carrying out its work. It is crucial, therefore, that the existing excellent relations between the Commission and the individuals and entities involved – the Courts Service, the Law Society, the Bar Council, universities, Departments and external groups - are maintained and developed. It is also important that the Commission takes account of changing needs and circumstances in continuing to utilise to the maximum extent and in an optimum way the range of external expertise available to it.

The legislative programme of the Government and those of Departments are also an important influence on the work of the Commission. The 1975 Act clearly puts the Commission in a central position in relation to law reform with the consequence that every effort should be made to avoid unnecessary duplication between its work and that of Departments.

In the nature of things, however, instances can arise which involve some element of overlap between the respective areas. In such instances, it is imperative that, through effective communications between the Commission and Departments, arrangements are made to avoid needless duplication and waste of resources. Existing communication and liaison arrangements have generally worked well but it is important that they be monitored and assessed on an ongoing basis to ensure that they take account of new demands and changing circumstances.

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 in its Strategy Statement 2005-2007. It is important, therefore, that the existing excellent 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 significant 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 Departments of the Taoiseach, Finance, Justice, Equality and Law Reform, Enterprise Trade and Employment, Health and Children, the Bar Council, and the Law Society.

The ongoing relationships with the Office of the Attorney General on policy and other issues, which have been referred to earlier, are a very important factor in the work of the Commission.

This Strategy Statement takes full account of the need to continue to maintain effective communications and excellent relationships with the external areas indicated. These have a very important contribution to make to the work of the Commission.

### **Processes**

Legal knowledge and a high legal intellectual capacity are crucial to the successful discharge of the Commission's work. These are obtained in two main ways- through the recruitment of the Commission's own legal research staff and through availing, as indicated, of external people in the legal area to assist the work of the Commission. Both involve a number of important processes such as the recruitment process and the process of identifying and utilising external support. Each of these processes requires the allocation of considerable time and resources in order to make the best decisions on recruitment of legal staff and availing of appropriate external expertise.

The processes applicable within the organisation in both these areas generally work well. It is important, however, that they, together with all major non-legal processes undertaken by the organisation as part of its operations, be examined to ensure that they are fully up to date and accord with changing circumstances and requirements. This will facilitate the best allocation and use of the Commission's staffing resources and also optimum decision making in those core areas of central importance to the work of the Commission which will, in turn, improve overall efficiency and effectiveness. The Strategy Statement provides, accordingly, for this examination.

### **Risk Management**

The Statement takes account of the need to develop throughout the organisation effective and comprehensive risk management strategies and policies in line with those set out in the Mullarkey Report, relevant guidelines of the Department of Finance, and the requirements of good governance.

## **Staff contribution and involvement**

The final and by no means least important factor impacting on the Commission's work is the role of its staff in both the administrative and legal areas. Each area has a very important contribution to make across the range of activities carried out on behalf of the Commission. The Strategy Statement aims at maximising this contribution through initiatives implementing the best modern practices and approaches to staff communications, staff involvement, definition of roles and responsibilities, and a partnership approach which continually seeks to improve performance in all major operational areas.

### **Summary**

The above are the main factors which affect the work of the Commission and which have been taken into account in this Strategy Statement.

In general, the Commission is satisfied that the organisation has the capacity to cope with the internal and external factors indicated and to seize opportunities presented by such factors as they arise. The basic thrust of its strategies and priorities for 2006 to 2008 in responding to the range of factors indicated may be summarised as follows.

The Commission intends to build on the legal capacity and knowledge, internal and external, currently available to it. These represent the greatest strengths in carrying out its work. It will also place a major emphasis on the development of modern management approaches and a strong performance and accountability culture throughout the organisation. This will ensure that performance matches best external practices, that optimum use is made of resources, and that there is an ongoing emphasis, in conjunction with staff, in continually improving performance.

A strong emphasis will continue to be placed on maintaining and developing effective communication and liaison arrangements with entities and individuals in the legal and other areas as noted earlier. All have an important role to play in the Commission's work.

The Commission also intends to facilitate the maximum involvement by the public and other stakeholders in the development and implementation of its law reform programmes and activities. The Commission will ensure that, in terms of their scope, professional approach, research basis and relevance, its programmes fully meet the changing nature of society and the mandate assigned to the Commission by the Government to which it is ultimately responsible for the discharge of that mandate.

## **KEY OBJECTIVES -INTRODUCTION**

As a result of the analysis indicated in the previous section, the Commission has identified its priorities for 2006-2008 inclusive.

These priorities are comprehended by 5 Key Objectives which are set out in the following sections.

The specific actions necessary for the achievement of these Key Objectives will be set out in the business plans of the legal research and administrative teams of the Commission.

Detailed monitoring arrangements, as summarised in the final section of this Strategy Statement, will be put in place to ensure that progress towards achievement of the Commission's priorities is regularly assessed.

## KEY OBJECTIVE 1

To complete to a high standard (1) the examination of particular areas of the law from the point of view of law reform under requests to the Commission from the Attorney General and (2) the current Second Law Reform Programme of the Commission in accordance with the provisions of that programme and to the maximum possible extent within the period of this Strategy Statement.

### **Outcome**

Examination of current requests from the Attorney General are completed and reports are sent to him with appropriate recommendations for law reform. Reports on topics comprehended by the Second Law Reform Programme are finalised and submitted to the Taoiseach with appropriate recommendations for law reform.

### **Action**

### **Performance Indicator**

Complete examination of current requests from Attorney General and submit reports to the Attorney General with appropriate recommendations for law reform

Reports finalised and submitted

Complete research on topics under Second Law Reform Programme to the maximum possible extent

Research completed

Issue consultation papers on these topics

Consultation papers issued

Complete consultative process

Consultative process completed

Finalise reports and submit them with appropriate recommendations for law reform to the Taoiseach

Reports finalised and submitted

### **NOTE**

The specific timescale for each of the above main actions and any other significant initiatives needed for the achievement of Key Objective 1, together with the person(s) responsible for their implementation, will be identified in the business plan of the legal research team.

The person, namely the full-time Commissioner or the Director of Research, to whom the Commission assigns responsibility for the completion of specific research projects arising under the Second Programme or requests from the Attorney General, will have overall responsibility and accountability for such projects and the related actions necessary for their completion as set out in the business plan.

## KEY OBJECTIVE 2

To develop a Third Programme of Law Reform and to submit this programme to the Taoiseach for Government approval.

### **Outcome**

The finalisation and submission to the Taoiseach for Government approval of a programme of law reform which reflects the needs of a modern society, which is logical and thorough in its approach, and which defines clearly the period of applicability of the programme.

### **Action**

### **Performance Indicator**

Set up specific arrangements to invite and obtain an input from the public and relevant groups on what topics the Third Programme should comprehend

Effective arrangements established and working

Consult with individual legal and other professionals and with bodies in legal and other areas on appropriate composition of Third Programme

Consultations completed

Consult with Departments and Consultative Committee on appropriate composition of Third Programme

Consultations completed

Seek views of the Commission and input from legal research team on composition of programme

Views obtained

Review developments in other relevant countries, programmes of other Law Commissions and other appropriate legal source material to consider their implications for composition of programme

Reviews completed

Decide definitive Third Programme of Law Reform and submit it to the Taoiseach for approval by Government

Programme submitted,  
Government approval obtained

### **NOTE**

The specific timescale for each of the above main actions and any other significant initiatives needed for the achievement of Key Objective 2, together with the person(s) responsible for their implementation, will be identified in the business plan of the legal research team.

The Commission will have overall responsibility and accountability for decisions on the composition and period of applicability of the Third Programme and for submitting it to the Taoiseach for Government approval.

The person, namely the full-time Commissioner or the Director of Research, designated by the Commission to implement the specific preparatory actions indicated above in connection with the finalisation of the Third Programme, will have overall responsibility and accountability for the actions in question and any related tasks necessary to secure their successful implementation.

### **KEY OBJECTIVE 3**

To implement the responsibilities assigned to the Commission by the Attorney General in 2006 in regard to statute law restatement.

#### **Outcome**

Comprehensive and factually correct statute law restatements, helpful to the Oireachtas, judiciary, legal practitioners, interest and other groups and the public at large, which bring legislation up to date by incorporating and cross referencing all subsequent legislative amendments to original enactments as specified.

#### **Action**

#### **Performance Indicator**

Obtain staff resources, including Project Manager, necessary to discharge new Restatement responsibilities to the required standard

Staffing resources in place

Develop comprehensive work programme, identifying scope of Restatement work, priorities in relation to specific Acts in conjunction with relevant Departments and the Office of the Attorney General, overall time frame of project, and communication arrangements with the Office of the Attorney General

Programme developed

Implement work programme on basis determined above

Programme implemented

Complete programme

Results submitted to Attorney General for certification

#### **NOTE**

The specific timescale for each of the above main actions and any other significant initiatives needed for the achievement of Key Objective 3, together with the person(s) responsible for their implementation, will be identified in the business plan for this specific objective.

The Secretary/Head of Administration will have overall responsibility and accountability for the acquisition of required staffing resources and for all relevant actions necessary for such acquisition.

The Commission will have overall responsibility and accountability for approval of the comprehensive restatement work programme on the basis of its consideration of a draft programme drawn up by the Project Manager in consultation with the full-time Commissioner and the Director of Research.

The Project Manager will have 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 full-time Commissioner as appropriate, for liaison with the Office of the Attorney General in connection with the project.

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

## KEY OBJECTIVE 4

To ensure that the research area of the organisation operates, with the full involvement of all legal staff, at optimum efficiency and effectiveness and in accordance with best international practice.

### **Outcome**

The research undertaken by the Commission is central to the effective discharge of its mandate. The legal skills available in the research area, and the quantum, quality and product of research undertaken, are key strengths in this regard. The result of actions undertaken under this objective will be a research arm of the organisation operating to standards of excellence which reflect and match best international practice in this area.

### **Action**

### **Performance Indicator**

Examine approaches of other Law Commissions and relevant legal and other bodies in conducting research

Examination completed

Identify relevant international best practice and benchmarks in research area

Best practice and benchmarks identified

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

Appropriate changes implemented

Develop, in conjunction with Commission and staff, arrangements to maximise effective communication and liaison between Commission, Director of Research and staff in the delivery of the research programme

Arrangements implemented

Review annually, in conjunction with Commission and staff, ways to improve operation of research programme and implement any necessary changes

Necessary changes implemented

Examine main legal processes of organisation and recommend changes to Commission as required

Required changes recommended

## **NOTE**

The specific timescale for each of the above main actions and any other significant initiatives needed for the achievement of Key Objective 4, together with the person(s) responsible for the implementation of the action in question, will be identified in the business plan of the legal research team.

The Director of Research will have overall responsibility and accountability for the implementation of Key Objective 4 and related actions as set out in the business plan of the legal research team. The Director of Research will work in close conjunction with the Secretary/Head of Administration in relation to the examination of the recruitment process for Legal Researchers.

## KEY OBJECTIVE 5

To support the work of the Commission in ensuring that services are delivered in the most cost effective and efficient way and with the maximum involvement and participation of staff.

### **Outcome**

An administrative team (including library personnel) which plays a key role in supporting activities through the development and implementation of modern human resource and financial management approaches throughout the organisation, through the development and implementation of modern staff relations practices and approaches, through the provision of effective and relevant staff development and training initiatives, and through the provision of fully effective information technology, library and other necessary services.

### **Action**

### **Performance Indicator**

Implement the key requirements of Government's modernisation programme in relation to human resource and financial management

Requirements implemented

Implement PMDS throughout the organisation

PMDS implemented

Develop and implement management information framework (MIF) within organisation

MIF implemented

Develop, in consultation with management and staff, appropriate staff consultation and participation arrangements

Arrangements implemented

Develop, in consultation with management and staff, relevant training programmes which meet the competency and skills requirements of the organisation

Programmes implemented

Implement, in consultation with management and staff, an information technology programme best suited to the changing needs of the organisation

Programme implemented

Examine all major non-legal processes of

Required changes recommended

organisation and recommend changes to Commission as required

Develop and implement risk management policy for organisation

Policy implemented

Ensure, in consultation with other work areas, that their requirements are reflected in the provision of the library service

Optimum library service

Implement staffing, structural and other recommendations of November 2005 report on the review of the organisation

Recommendations implemented

Develop and maintain effective communication and liaison arrangements with the Office of the Attorney General

Effective arrangements in place

#### **NOTE**

The specific timescale for each of the above actions and any other significant initiatives needed for the achievement of Key Objective 5, together with the person(s) responsible for their implementation, will be identified in the business plan of the administrative team (including library staff) of the organisation.

The Secretary /Head of Administration will have overall responsibility and accountability for the implementation of Key Objective 5 and related actions as set out in the business plan of the administrative team.

## **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 2006 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 1-3 inclusive will be as identified in the relevant business plans for these objectives;
- the Director of Research ( Key Objective 4) and the Secretary/Head of Administration (Key Objective 5) will have overall responsibility and accountability for the achievement of business plan targets in relation to these objectives;
- each quarter a group ( the President, full-time Commissioner, Secretary/Head of Administration, Director of Research and Project Manager) 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;
- the Commission will review this Strategy Statement at the end of 2006 and will decide, in the light of progress, whether any major changes need to be made to it for 2007;
- a discussion will be held at the end of 2006 with the Office of the Attorney General to review progress generally under the Strategy Statement and to consider any major changes needed for 2007;
- any necessary changes to the Strategy Statement for 2007, arising either from the consideration by the Commission or discussions with the Office of the Attorney General, will be decided on by the Commission.

## APPENDIX

### SECOND PROGRAMME FOR EXAMINATION OF CERTAIN BRANCHES OF THE LAW WITH A VIEW TO THEIR REFORM: 2000-2007 APPROVED BY GOVERNMENT ON 19 DECEMBER 2000

#### **The Legal System**

1. Access to the law for the citizen and, in particular, the effectiveness of the promulgation and dissemination of statutes and statutory instruments.
2. Limitation of actions.
3. Class actions and representative actions taken in the public interest.
4. Alternative dispute resolution.
5. Statute Law: completion of the Commission's remit under its First Programme in the sphere of statutory drafting and interpretation.

#### **Evidence**

6. Forensic evidence.
7. Other aspects of the law of evidence in civil and criminal cases.

#### **Administrative Law**

8. Tribunals of inquiry.
9. Appeals from administrative decisions including judicial review.

#### **Civil Rights Law**

10. The law of privacy
  - (i) Privacy and the law of confidentiality;
  - (ii) Privacy in the context of the criminal justice system: longevity of criminal records and the expunging of certain offences from the record;
  - (iii) Privacy in specific institutional contexts: the workplace; the healthcare system; prisons.

#### **Criminal Law**

11. The law of homicide.
12. Defences including provocation, legitimate defence, duress and necessity.
13. Inchoate offences.
14. Procedure in criminal cases.
15. Restorative Justice.
16. Corporate criminal liability.
17. Penalties for minor offences.

#### **Law of Obligations**

18. The law of tort. Aspects of the law of compensation for personal injuries.
19. The law of contract. Privity of contract and the rights of third parties.

#### **Real and Personal Property**

20. The law of trusts including the law of charities.
21. Succession law.
22. The law relating to condominiums.

23. The Commission will continue its general review of land and conveyancing law with the assistance of its standing specialist Working Group.

### **Commercial Law**

24. Mindful of the Government's proposal to establish a statutory Company Law Review Group, current issues arising in the area of commercial law will, as appropriate, be reviewed and examined.

25. Exceptions to the *nemo dat quod non habet* principle on transfer of title to goods.

### **Law and The Information Society**

26. Electronic commerce and the Internet, where appropriate having regard to activities undertaken or to be undertaken by Government Departments and in particular:

(i) privacy on the internet and encryption.

(ii) liability of service providers.

### **Vulnerable Groups and The Law**

27. Law and the elderly, including the legal protection of older persons transferring assets and 'advance care directives'

28. The law affecting persons with physical, mental or learning disabilities, including issues of capacity, guardianship and the right to marry.

### **Family Law**

29. The law of adoption - a general review.

30. Rights and duties of cohabitants.

### **International Law**

31. Negotiation and preparation of various international agreements, including their implementation in Irish law. We pay particular regard to Ireland's participation in conventions prepared by UNIDROIT, UNCITRAL and the Hague Conference on Private International Law.

### **Miscellaneous Provisions Bill**

32. The Commission will continue to prepare an annual Law Reform (Miscellaneous Provisions Bill), as a vehicle for making minor reforms, ranging over the branches of the law which are covered by this Programme.

### **General**

It is naturally difficult to anticipate change which may call for law reform in the future. Accordingly, the Commission considers it best to supplement the list of discrete topics given above by stating that if events require law reform in any area within any of the branches of the law set out above, the Commission will, where appropriate, and subject to the limits of its available resources, bring forward the necessary proposals. The Commission retains a continuing interest in codification of the law and proposes to address the issue of codification with regard to matters falling within branches of the law set out in this Programme as appropriate. In all these areas, the Commission will, where appropriate, have regard to the activities of other official bodies interested in law reform, among them the Courts Service, and be ready to co-operate with them.