



**LAW REFORM**  
COMMISSION/COIMISIÚN UM  
ATHCHÓIRIÚ AN DLÍ

# **ANNUAL REPORT 2020**

# TABLE OF CONTENTS

<b>Table of Contents</b> .....	<b>2</b>
<b>Law Reform Commission and Staff</b> .....	<b>4</b>
<b>Foreword</b> .....	<b>6</b>
<b>Chapter 1 Introduction</b> .....	<b>9</b>
Overview of the Commission’s Work in 2020 .....	9
The Commission’s Statutory Functions.....	11
Our Strategy Statement 2018-2020.....	11
How We Do Our Research and How We Consult .....	12
Maintaining External Relationships.....	13
<b>Chapter 2 Law Reform Work and Implementing Legislation In 2020</b> .....	<b>16</b>
Overview .....	16
Detailed Review of Commission Work and Implementation In 2020 .....	17
<b>Chapter 3 Access to Legislation Work In 2020</b> .....	<b>23</b>
Introduction .....	23
Legislation Directory .....	23
Revised Acts.....	24
Classified List of Legislation Database.....	26
Pre-1922 Statute Law Revision Programme .....	26
<b>Chapter 4 Administration and Research Support In 2020</b> .....	<b>28</b>
Introduction .....	28
The Commission .....	28
Management Committee .....	29
Administration Team.....	30
Library and Information Services.....	30
Research Team.....	31
Finance .....	31
Governance Arrangements.....	32
Code of Practice for the Governance of State Bodies .....	32
Energy Efficiency.....	34
Freedom of Information Act 2014.....	34
Protected Disclosures Act 2014 .....	34
Commission Resolution as to 2020 Financial Statements and Outputs.....	34
<b>Appendix A Law Reform Commission Organisation Chart 2020</b> .....	<b>37</b>

<b>Appendix B</b>	<b>Post-Covid-19: Proposals from the Law Reform Commission.....</b>	<b>39</b>
<b>Appendix C</b>	<b>Reports and Financial Statements of Law Reform Commission 2020</b>	<b>49</b>

# LAW REFORM COMMISSION AND STAFF

---

## THE COMMISSION

---

The Law Reform Commission comprises five members, the President and four other Commissioners.<sup>1</sup> In 2020, the Commission members were as follows:

**The Hon Ms Justice Mary Laffoy**

President

**Raymond Byrne BL**

Commissioner (full-time)

**Donncha O’Connell**, Established Professor of Law, School of Law, NUI Galway

Commissioner (part-time) (to 31 August 2020)

**Tom O’Malley BL**, Senior Lecturer, School of Law, NUI Galway

Commissioner (part-time) (to 31 August 2020)

**The Hon. Ms Justice Carmel Stewart**

Commissioner (part-time) (to 31 August 2020)

**The Hon. Mr Justice Maurice Collins**

Commissioner (part-time) (from 1 October 2020)

**The Hon. Mr Justice Richard Humphreys**

Commissioner (part-time) (from 1 October 2020)

**Dr Andrea Mulligan BL**, Assistant Professor of Law, Trinity College Dublin

Commissioner (part-time) (from 1 October 2020)

---

## COMMISSION RESEARCH STAFF

---

**Director of Research:**

Rebecca Coen (from 17 February 2020)

**Deputy Director of Research:**

Dr Robert Noonan

**Access to Legislation Manager:**

Alma Clissmann

---

<sup>1</sup> On the terms of appointment of the five Commission members, see Chapter 4, below.

**Access to Legislation Deputy Manager:**

Dr Kate Doran

**Access to Legislation Statutory Instruments Project Manager**

Fiona Carroll

**Library and Information Manager:**

Órla Gillen

---

LEGAL RESEARCHERS<sup>2</sup>

---

Hazel Bergin  
Leanne Caulfield  
Eunice Collins  
Éire Dempsey  
Liam Dempsey  
James Egleston  
Sandra Eaton  
Rachel Gaffney  
Morgane Hervé  
Niamh Ní Leathlobhair  
Suzanne Scott

---

COMMISSION ADMINISTRATION STAFF<sup>3</sup>

---

**Head of Administration:** Bríd Rogers

**Executive Officers:** Ger Mooney  
Gavin Walsh

**Clerical Officer:** Roslyn Dalton  
Claire Carroll

---

<sup>2</sup> Not all legal researchers were employed for the full calendar year.

<sup>3</sup> Not all members of the administration staff were employed for the full calendar year.

## FOREWORD

On behalf of the Law Reform Commission I am very pleased to introduce our Annual Report for 2020.

During the year, the Commission completed four major projects, three of which were from our Fourth Programme of Law Reform, with one from the Fifth Programme which the Government had approved in 2019. I am especially grateful to my fellow Commissioners and the entire staff who achieved these results in 2020, especially as we adjusted to the effects of the COVID-19 pandemic that reached Ireland in 2020.

I would like to take this opportunity to pay tribute to the three part-time Commissioners whose terms of office came to an end in August 2020, Professor Donncha O'Connell, Mr Thomas O'Malley and Ms Justice Carmel Stewart. Their contribution to the work of the Commission has been of the highest standard and I wish to acknowledge that here. Their contribution was especially valued during the year because from March onwards meetings of the Commission had to be conducted remotely. During that challenging time, they were especially committed to ensuring that by the end of their terms of office we were in a position to complete work on four projects that had been, and were continuing to be, under intensive consideration by them. In achieving that important result, I want to express sincere gratitude to my former colleagues for their tremendous work on those projects right up to the end of their terms, which led to an outcome that unquestionably was in the public interest.

These four completed projects, each of which concerned important matters of relevance to our society, led to the publication of:

- *Report on Suspended Sentences;*
- *Discussion Paper on Domestic Implementation of International Obligations;*
- *Report on Accessibility of Legislation in the Digital Age;* and
- *Report on Capping Damages in Personal Injuries Actions.*

The *Report on Suspended Sentences* identified the key principles that explain when a suspended sentence is appropriate, and when it is not, and it also pointed to the need for better coordination between the various agencies involved in the criminal justice and penal system.

The *Discussion Paper on Domestic Implementation of International Obligations* described best practice in the State's implementation of its international obligations. This included the use of roadmaps and Regulatory Impact Analyses, which provide important levels of transparency and clarity as to the impact of implementing our international obligations.

The *Report on Accessibility of Legislation in the Digital Age* complements the Commission's strong commitment to improving the accessibility of our laws, notably making those laws accessible online. The Report recommended that further improvements could be achieved in

this respect through planned programmes to consolidate legislation, under the supervision of a multi-agency Accessibility and Consolidation of Legislation Group.

*The Report on Capping Damages in Personal Injuries Actions* completed work on a project in the Fifth Programme, to which the Commission gave priority in view of the general importance of this to all members of society. The Report concluded that the approach to this question provided for in the *Judicial Council Act 2019* should be allowed some time to operate in practice, while noting that it would, in the Commission's view, be permissible to address it using another legislative model identified in the Report.

Ordinarily, each of these publications would have been formally launched in the Commission's offices. These launches provide the Commission with an opportunity to invite, and thank personally, those who assisted in the work leading to the publications. Unfortunately, the public health restrictions arising from the COVID-19 pandemic meant that such launches were not appropriate. Instead, thanks to the support of our administration team, the Commission launched our 2020 publications online, and through media interviews with Commissioners .

Returning to the Commission's well-established work on Access to Legislation, this involves four elements. These are: the publication and maintenance of 400 Revised Acts (which are administrative consolidations of Acts in their amended form); the Legislation Directory (which is a comprehensive listing of all amendments and other effects to all legislation); the Classified List of In-force Legislation (a database of over 2,000 Acts and 15,000 statutory instruments organised under 36 subject headings); and the pre-1922 Statute Law Revision Programme (SLRP), which will determine what secondary instruments from 1821 to 1922 that remain relevant should be retained in force.

In addition to achieving these important outputs in 2020, in April the Commission prepared a paper that collated a number of the Commission's proposals that had been published in the last decade that could be of particular use and relevance in the wider context of the many policy responses to the COVID-19 pandemic. This was circulated to the Office of the Attorney General and to Government Departments, and I am gratified that a number of the matters identified in that paper were reflected in legislation enacted in 2020. The Commission has decided to publish that paper as an Appendix to this Annual Report.

I would also like to express my thanks to the many people who enhance and assist the Commission in fulfilling our statutory functions as an advisory research body. In particular, I should mention the voluntary advice and assistance which we receive from the many individuals and groups with whom the Commission has consulted or who spontaneously contact us. The Commission also appreciates the cooperation and courtesy which it receives from Government departments and offices, from the Attorney General and the Office of the Attorney General, and from other Government and non-governmental agencies. The Commission's work in all its aspects is greatly enhanced by the collaborative engagement throughout Irish society that this involves.

As I have mentioned, the term of office of three Commissioners came to an end in August 2020. On behalf of everyone in the Commission, I also take this opportunity to very much

welcome the appointment by the Government of Mr Justice Maurice Collins, Mr Justice Richard Humphreys and Dr Andrea Mulligan as members of the Commission with effect from 1<sup>st</sup> October 2020. Their appointment continues the long-standing view of the Government, in accordance with the *Law Reform Commission Act 1975*, of the need to appoint eminent persons with expertise in a variety of areas of the law as members of the Commission. I would also like to thank the Attorney General for the great care he took in nominating the new Commissioners for appointment by the Government. In the short time since their appointment, they have ensured that, as a collegiate body and with the support of our research and administrative teams, we will be able to carry through the Commission's challenging work programme in the coming years.

A handwritten signature in black ink, reading "Mary Laffoy". The signature is written in a cursive style with a large initial 'M' and 'L'.

**The Hon Ms Justice Mary Laffoy,  
Commission President**



# CHAPTER 1

## INTRODUCTION

---

### OVERVIEW OF THE COMMISSION'S WORK IN 2020

---

During 2020, the Commission completed four major projects, three from our Fourth Programme of Law Reform and one from the Fifth Programme, which the Government had approved in 2019. The Commission also continued its well-established work on Access to Legislation. In response to the COVID-19 pandemic, the Commission put in place a business continuity plan to ensure that its work could continue remotely and comply with relevant legislation and guidelines. The key developments in 2020 were the following:

#### **1. Law reform publications**

In 2020 the Commission published the following:

- *Report on Suspended Sentences* (LRC 123-2020), which identified the key principles underlying the imposition of a suspended sentence, including the relevant circumstances in which this sentencing outcome is not appropriate but where a presumption of a custodial sentence applies. The Report also made a series of recommendations concerning the need for better coordination between the various agencies involved in the criminal justice and penal system.
- *Discussion Paper on Domestic Implementation of International Obligations* (LRC 124-2020), which provided an overview of the State's engagement with the international community and the significant impact this has had on the content of Irish law. The Paper differs from many other Commission publications in that it does not contain any specific recommendations for reform but rather describes best practice in the State's implementation of its international obligations. This includes the use of roadmaps and Regulatory Impact Analyses (RIAs), which provide important levels of transparency and clarity as to the impact in practice of implementing our international obligations.
- *Report on Accessibility of Legislation in the Digital Age* (LRC 125-2020), which complements the Commission's strong commitment to improving the accessibility of our laws, notably making those laws accessible online. The Report included an analysis of the important steps to date in managing our legislative stock, while also recommending that further improvements could be achieved. In particular, the Report recommended that there should be planned multi-year programmes to consolidate legislation, under the supervision of a multi-agency Accessibility and Consolidation of Legislation Group. The Report also recommended that the online published version of legislation should be given official recognition, as is the case in many other European countries and in respect of EU law.
- *Report on Capping Damages in Personal Injuries Actions* (LRC 123-2020), which completed work on a project in the Fifth Programme, to which the Commission gave priority in view of the general importance of this to all members of society. The project, and the Report, was limited to the question as to whether it would be constitutionally permissible, or otherwise desirable, to enact legislation capping general damages on personal injuries cases. The Report concluded that, in the Commission's view, the

legislative framework for Personal Injuries Guidelines provided for in the *Judicial Council Act 2019* met relevant constitutional criteria, and that it was desirable that this framework should be allowed some time to operate in practice. The Report also noted that it would be permissible to address the matter using another legislative model identified in the Report. The Report emphasised that this was, ultimately, a matter for the Government, with the benefit of the advice of the Attorney General, and for the Oireachtas.

- *Issues Paper in Plain English on A Regulatory Framework for Adult Safeguarding* (LRC PLEIP 18-2020), which was a Plain English version of the Commission's *Issues Paper on A Regulatory Framework for Adult Safeguarding* (LRC IP 18-2019). The purpose of the Plain English version is to make our work accessible, so that as many people as possible have an opportunity to let us know what they think about the reforms being considered in our project on *A Regulatory Framework for Adult Safeguarding*. In particular, it is important for the Commission to hear from people who feel the proposed reforms are going to affect them in their day to day lives.

## **2. Access to legislation**

The Commission's work on access to legislation during 2020 included the following:

- the Legislation Directory, the online index of legislative changes to Acts and Statutory Instruments, was updated every week when new legislation was enacted (Acts) or made (Statutory Instruments).
- Revised Acts, which are Acts as-amended showing changes made since enactment, reached an important landmark total of 400 in 2020, and are updated to within two months.
- the Classified List of Legislation, which comprises over 2,000 Acts and over 15,000 Statutory Instruments that are in force, organised under 36 subject titles, was published as a database version in January 2020, and is integrated with the Legislation Directory database.
- the pre-1922 Statute Law Revision Programme (SLRP), on which work began in 2019 and which will determine what secondary instruments from 1821 to 1922 remain in force, was progressed during 2020 to the point where the first Scheme/Heads of a Statute Law Revision (pre-1922 Instruments) Bill will be published in 2021.

## **3. Administration and COVID-19**

In 2020, the vital importance of the Commission's small administration team was underlined in the wake of the impact of the COVID-19 pandemic in early 2020. The Commission immediately put in place a business continuity plan to ensure that its work could continue and also to comply with relevant legislation and guidelines, notably through the implementation of remote working arrangements. This included the installation of software document management systems to ensure effective oversight of published outputs, and the use of remote video systems for meetings, including Commission (board) meetings.

In April, the Commission prepared a paper that collated a number of the Commission's proposals that had been published in the last decade that could be of particular use and relevance in the wider context of the many policy responses to the COVID-19 pandemic. This was circulated to the Office of the Attorney General and to Government Departments, and is reproduced as Appendix B to this Annual Report.

---

## THE COMMISSION'S STATUTORY FUNCTIONS

---

The Commission is a statutory body established by the *Law Reform Commission Act 1975* which requires the Commission to keep the law of Ireland under review and to conduct research with a view to reforming the law. Law reform is defined to include:

- developing the law,
- codifying the law, including simplifying and modernising the law, and
- revising and consolidating legislation.

Since it was established, the Commission has published over 220 documents (Issues Papers, Working Papers, Consultation Papers and Reports) containing proposals for law reform and also publishes its Access to Legislation outputs (the Legislation Directory,<sup>4</sup> Revised Acts and the Classified List of Legislation). A full list of Commission publications is available on the Commission's website at [www.lawreform.ie](http://www.lawreform.ie) where all publications are available to download free of charge.

### **Programmes of Law Reform and Requests from the Attorney General**

The Commission's work on law reform comes from two principal sources:

- Programmes of Law Reform prepared by the Commission and agreed by Government and laid before the Houses of the Oireachtas and
- Requests from the Attorney General in relation to particular matters.

Since it was established in 1975, the Commission has worked under five Programmes of Law Reform. The Commission's 5<sup>th</sup> Programme of Law Reform was approved by the Government on 20<sup>th</sup> March 2019 without modification. Developments during 2020 concerning the Commission's law reform work, including the approval of the 5<sup>th</sup> Programme, are discussed in detail in Chapter 2.

### **Access to Legislation**

The Commission's work also involves making legislation more accessible to the public. Developments during 2020 in the work on Access to Legislation are discussed in Chapter 3.

---

## OUR STRATEGY STATEMENT 2018-2020

---

The Commission's *Strategy Statement 2018-2020*, available at [www.lawreform.ie](http://www.lawreform.ie), provides the framework for the work of the Commission in the three year period covered. The Strategy Statement reflects the views of the Commission on what needs to be done to maximise its contribution to law reform and to ensure that the organisation operates to optimum efficiency and effectiveness and makes the best use of available resources. The Commission's Mission Statement is: "to keep the law under independent, objective and expert review, to make consequent recommendations for law reform and

---

<sup>4</sup> The Legislation Directory is published as an integrated element of the electronic Irish Statute Book (eISB), which is hosted and managed by the Office of the Attorney General.

to make current law accessible for all.” Like its predecessors, the Strategy Statement sets out the key priorities of the Commission for 2018-2020, including clear responsibilities and accountabilities for the achievement of these priorities.

### **Key Objectives in the Strategy Statement**

The *Strategy Statement 2018-2020* identifies three Key Objectives. These are:

*Key Objective 1: Law Reform*

*To review the law and to conduct research with a view to developing, simplifying, modernising and codifying the law of Ireland.*

*Key Objective 2: Access to Legislation*

*To make legislation in its current state easily accessible online to the public, as amended rather than as enacted, and provide related information.*

*Key Objective 3: Administration*

*To provide effective, modern and professional corporate administrative and business services to the Commission so as to support it in meeting its objectives.*

This Annual Report follows the sequence of these Key Objectives.

---

## HOW WE DO OUR RESEARCH AND HOW WE CONSULT

---

The Commission’s work is based on careful and thorough research.

To achieve the goals set out in our Programmes of Law Reform, and requests from the Attorney General, each project is assigned to researchers who work under the general supervision of the Director of Research and the Deputy Director of Research. In the case of the Access to Legislation work, researchers work under the supervision of the Access to Legislation Manager and Deputy Managers.

The Commission fully appreciates the importance of ensuring that its proposals for reform are grounded in practice. In the course of preparing proposals, consultations are held with interested parties including legal practitioners, other relevant professionals, representative bodies and NGOs, politicians and members of the Government and Government Departments and Offices, and members of the public who wish to engage with the Commission. The insights we gain from the opinions and experiences of consultees enrich the Commission’s publications and aid us in developing recommendations that are end-user focused, workable and effective.

The Commission carries out and reviews its work according to its annual work programme.

Consultation is of central importance to the Commission’s work. This may take several forms, for example meetings with experts or practitioners working in a particular area, or representatives of interest groups. The Commission also prepares and publishes

consultative documents, which at various times since 1975 have been referred to as Working Papers, Issues Papers and Consultation Papers. Between 2013 and 2020, the Commission described these as Issues Papers, and in early 2021 the Commission decided to return to using the description Consultation Paper. These consultative Papers provide a structured process through which written submissions are sought from interested parties.

The submissions are taken into account in drafting the final Report on the subject, and any issues or concerns they raise are dealt with in the Report. Before drafting the Report, a seminar is often held to which the Commission invites interested parties, including those who have made submissions.

Because of the impact of the COVID-19 pandemic, from March 2020 the Commission suspended face-to-face meetings and round table discussions with consultees, but continued with consultative meetings through remote video systems. These remote meetings and discussions continue to assist the Commission greatly in developing our recommendations for reform in Reports that will arise from Commission projects.

Also arising from the COVID-19 pandemic, the Commission decided not to hold an Annual Conference in 2020, and decided instead to emphasise the use of remote consultative meetings to ensure that projects would be progressed and, where possible, completed. As noted above, the Commission completed four major projects in 2020, and also published a Plain English version of an Issues Paper.

The Commission includes in each Report where it makes recommendations requiring legislative change a draft Bill, or Scheme (Heads) of a Bill. This reflects the statutory remit under the 1975 Act to include draft legislation where we propose reform of the law.

The Commission also consults with interested parties in connection with its research work on Access to Legislation, including the Office of the Attorney General, Government Departments, the legal profession and the general public. The Commission has been an active participant in the work of the eLegislation Group under the auspices of the Department of the Taoiseach and in liaising with the Office of the Attorney General in the ongoing development of the electronic Irish Statute Book (eISB).

To facilitate accessibility, all Commission law reform publications, including consultative papers, are available online on the website of the Commission, and our work on Access to Legislation is accessible through the website of the eISB and on the Commission's website.

---

## MAINTAINING EXTERNAL RELATIONSHIPS

---

### **Communication with Government Departments**

The Commission regularly communicates with relevant Government Departments about both current and future projects. The Commission also meets on a regular basis senior

officials in the Department of Justice to review and discuss law reform developments of mutual interest, both in criminal law and civil law.

### **Meetings with Attorney General and Consultative Committee**

In accordance with the *Law Reform Commission Act 1975* the Commission is a body within the remit of the Attorney General. The five members of the Commission and senior Commission staff usually meet the Attorney General and senior officials of the office of the Attorney General each year. These meetings provide an important structured opportunity to discuss with the Attorney General and senior officials the Commission's current work programme. They also underline the important working relationship between the Commission and the Office of the Attorney General, consistently with the independence of the Commission in the conduct of its functions under the 1975 Act.

In addition, the Attorney General's Consultative Committee carries out important functions that assist in the development of the Commission's Programmes of Law Reform. The Committee comprises representatives of Government Departments, the Council of the Bar of Ireland, the Law Society of Ireland and the Office of the Attorney General.

### **Meetings with and submissions to Oireachtas Committees**

The Commission holds periodic meetings with Oireachtas Committees to discuss our work, and has also contributed written submissions to Oireachtas Committees.

### **Conferences, visits and media contacts**

Commissioners and research staff regularly attend and participate in public seminars and conferences.

In general, Commissioners with coordinating roles in specific projects and the Director of Research act as media spokespersons for the Commission.

### **International connections and annual meeting of neighbouring Law Commissions**

The Commission emphasises comparative analysis in its research, and therefore maintains contacts with relevant international bodies and comparable law reform bodies in other countries. These contacts are maintained through attendance at relevant seminars and through hosting visits from other law reform agencies and comparable bodies engaged in law reform.

In addition, the four neighbouring Law Commissions of England and Wales, Scotland, Jersey and Ireland,<sup>5</sup> respectively, hold an annual meeting, which allows for an exchange of views on developments in law reform, including methodology, as well as maintaining important links between the bodies.

---

<sup>5</sup> When the Northern Ireland Law Commission was a functioning body with an allocated annual budget, these annual meetings involved law reform bodies from five jurisdictions.

On 3 July 2020, the Commission participated in the annual meeting of the four neighbouring Law Commissions. In view of the COVID-19 pandemic, the meeting was held online, and was hosted remotely by the Jersey Law Commission. The theme of the 2020 meeting was “The Rule of Law and the Response to COVID-19.” The meeting presented a timely opportunity to take stock of what measures had been introduced in the different jurisdictions and to evaluate their compatibility with human rights and the rule of law. Each Commission made written and oral presentations at the online meeting. The presentation by this Commission included an overview of legislative responses to mid-2020. It also considered the responses that might be relevant in the medium to long term in the wake of COVID-19, based primarily on a number of the Commission’s Reports that had been published in the last decade, and which reflected the content of the more detailed paper that the Commission had circulated to the Government in April (reproduced in full as Appendix B to this Annual Report). The proceedings of the 2020 annual meeting were also subsequently published by the Jersey Law Commission on its website.<sup>6</sup>

---

<sup>6</sup> “Proceedings of the Joint Annual Conference 2020 of the Four Neighbouring Law Commissions,” available at <https://jerseylawcommission.files.wordpress.com/2020/08/proceedings-of-the-joint-conference-2020.pdf>.

## CHAPTER 2

# LAW REFORM WORK AND IMPLEMENTING LEGISLATION IN 2020

---

### OVERVIEW

---

#### 1. Law reform publications in 2020

During 2020, the Commission completed four major projects, three from our Fourth Programme of Law Reform and one from the Fifth Programme, which the Government had approved in 2019. Completing these four projects led to the publication of:

- *Report on Suspended Sentences* (LRC 123-2020),
- *Discussion Paper on Domestic Implementation of International Obligations* (LRC 124-2020),
- *Report on Accessibility of Legislation in the Digital Age* (LRC 125-2020), and
- *Report on Capping Damages in Personal Injuries Actions* (LRC 123-2020).

The Commission also published:

- *Issues Paper in Plain English on A Regulatory Framework for Adult Safeguarding* (LRC PLEIP 18-2020).

These are discussed in further detail below.

#### 2. Implementation of Commission proposals in 2020

The great majority of Commission Reports are implemented through legislation promoted by the Government. From time to time, Private Member's Bills (PMBs) are published with a view to implementing the draft Bills in Commission Reports. Where the Government indicates that it intends to publish a Bill on the subject, a PMB does not usually proceed beyond Second Stage. Alternatively, the Government may indicate its general support for the PMB and the Bill may then proceed through subsequent stages to enactment.

In 2020, Part 3, Chapter 3 of the *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020*, a Government-proposed measure, and the *Harassment, Harmful Communications and Related Offences Act 2020*, a PMB with Government support, involved implementation of recommendations in Commission Reports.<sup>7</sup>

---

<sup>7</sup> In recent years, a number of Private Member's Bills (PMBs) have led to enacted legislation. Prior to the enactment of the *Mental Health (Amendment) Act 2018*, the *Civil Law (Presumption of Death) Act 2019*, the *Consumer Insurance Contracts Act 2019*, and the *Harassment, Harmful Communications and Related Offences Act 2020*, the most recent previous PMBs related to Commission Reports that had been enacted had been the *Judicial Separation and Family Law Reform Act 1989* and the *Adoption Act 1991*.



In addition, the following legislation, enacted or under consideration in 2020, involved the implementation of recommendations made in Commission Reports: the *Mental Health (Amendment) Bill 2016* (a PMB supported by Government) and the *Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017* (a PMB supported by Government).

The Government has also published a number of Schemes of Bills (or Heads of Bills) related to Commission recommendations. These include: the Scheme of a *Landlord and Tenant Bill* (2011), the Scheme of a *Criminal Justice (Community Sanctions) Bill* (2014), the Scheme of a *Criminal Procedure Bill* (2015, since published as the *Criminal Procedure Bill 2021*), the Scheme of a *Courts and Civil Law (Miscellaneous Provisions) Bill* (2017), the General Scheme of a *Family Court Bill* (2020) and the Revised General Scheme of an *Online Safety and Media Regulation Bill* (2020).

The Commission's website [www.lawreform.ie](http://www.lawreform.ie) includes an Implementation Table containing a general overview of the implementation of Commission Reports, updated on a regular basis.

---

## DETAILED REVIEW OF COMMISSION WORK AND IMPLEMENTATION IN 2020

---

The material in this part of the chapter is discussed under the following nine general headings:

1. Fifth Programme of Law Reform.
2. Courts, Public Law and Regulatory Enforcement.
3. Law in the Digital Era.
4. Criminal Law and Procedure.
5. Civil and Commercial Law.
6. Evidence Law.
7. Family Law.
8. Land Law, Succession and Trusts.
9. International law.

### **1. FIFTH PROGRAMME OF LAW REFORM**

The *Report on the Fifth Programme of Law Reform* (LRC 120-2019) contains an abstract of each of the 15 projects in the Programme, together with a description of the consultative process and guiding principles applied by the Commission in the selection of the projects.

The 15 projects in the Fifth Programme are:

1. Reform of Non-Court Adjudicative Bodies and Appeals to Courts;
2. A Regulatory Framework for Adult Safeguarding;
3. Privacy and Technology in the Digital Era;
4. Structured Sentencing;
5. Review and Consolidation of the Law of Sexual Offences;
6. Perjury;

7. Compensating Victims of Crime;
8. Regulation of Detention in Garda Custody;
9. Caps on Damages in Personal Injuries Litigation;
10. Protective Cost Orders;
11. Liability of Hotels and Related Establishments;
12. Liability of Unincorporated Associations;
13. Aspects of the Law of Evidence;
14. Aspects of Family Law;
15. Aspects of Land and Conveyancing Law.

During 2020, the Commission made significant progress on a number of these projects, including the publication of the *Report on Capping Damages in Personal Injuries Actions* (LRC 123-2020) (Project 9) and the *Issues Paper in Plain English on A Regulatory Framework for Adult Safeguarding* (LRC PLEIP 18-2020) (Project 2). Further details on these and other current projects, under both the Fourth Programme and Fifth Programme, are set out below.

## **2. COURTS, PUBLIC LAW AND REGULATORY ENFORCEMENT**

### **2.(a) Regulatory Framework for Adult Safeguarding**

The Commission had completed work in December 2019 on its *Issues Paper on A Regulatory Framework for Adult Safeguarding* (LRC IP 18-2019), which it published in January 2020, and is on a project that forms part of the Commission's *Fifth Programme of Law Reform* (Project 2). In 2020, the Commission also published an *Issues Paper in Plain English on A Regulatory Framework for Adult Safeguarding* (LRC PLEIP 18-2020). The purpose of the Plain English version is that the Commission intends that as many people as possible have an opportunity to discuss the reforms being considered in this project under the 11 key headings that arise in this project. In particular, it is important that the Commission hears from people who feel the reforms are going to affect them in their day to day lives. During 2020, the Commission engaged with a range of consultees on this project: social workers, legal practitioners, members of An Garda Síochána, mental health professionals, members of the academic community and, most importantly, members of the public who will be directly affected by proposed reforms. The Commission also participated in *The Adult Support and Protection and Safeguarding Five Nations Conference Series*: a network in which researchers, practitioners and policy makers from Ireland, Northern Ireland, England, Scotland, Wales, the Channel Islands and Gibraltar, meet to share ideas and to identify best practice in adult safeguarding. The Commission intends to publish its Report on this project in the first half of 2022.

### **2.(b) Non-Court Adjudicative Bodies and Appeals to the Courts**

The Commission began detailed scoping work in 2019 on Project 1 in the Fifth Programme of Law Reform, which involves an examination of the relationship between adjudicative bodies and the courts. As with most jurisdictions, Ireland now has a great array of quasi-judicial bodies empowered, usually by legislation, to adjudicate issues and disputes in particular areas. They include An Bord Pleanála, the International Protection Appeals Tribunal, the Residential Tenancies Board and the Social Welfare Appeals Office. The profusion of such adjudicative bodies is inevitable in the modern administrative

state, but they have grown up over many decades on a case-by-case basis, without any standard approach to procedural matters or their relationship with the courts, including by way of appeal or review. This project will therefore examine the case for a reformed system, including the approach to evidential matters and simplifying the avenues of appeal to the courts from such bodies. The Commission will take account of reforms in other jurisdictions, such as those enacted in the UK in the *Tribunals, Courts and Enforcement Act 2007*, taking account relevant constitutional provisions, such as those in Articles 34 and 37. The Commission intends to publish a Consultation Paper on this project in 2022.

### **3. LAW IN THE DIGITAL ERA**

#### **3.(a) Accessibility of Legislation in the Digital Age**

In 2020, the Commission published its *Report on Accessibility of Legislation in the Digital Age* (LRC 125-2020), which completed Project 11 from the 4<sup>th</sup> Programme of Law Reform. The Report complements the Commission's existing strong commitment to improving the accessibility of our laws, notably making those laws accessible online, which is discussed in Chapter 3, below. The Report pointed out that there are over 3,000 Acts in force (of which more than 1,000 are pre-1922 Acts from before the State was established) and the vast majority of these Acts have been amended many times, but they are not all available in their up-to-date, as-amended format. The Report includes an analysis of the important steps to date in managing our legislative stock, while also recommending that further improvements could be achieved.

In particular, the Report recommended that there should be planned multi-year programmes to consolidate legislation, under the supervision of a multi-agency Accessibility and Consolidation of Legislation Group. The Report recommended that the following areas should be considered for inclusion in the first planned programme of consolidations: (a) road traffic; (b) employment; (c) gambling control; (d) sale of alcohol; (e) monuments and archaeological heritage; (f) consumer protection; and (g) landlord and tenant.

The Report also recommended that the online version of legislation on the electronic Irish Statute Book (eISB), which is the principal source of legislative data in the State, should be given presumptive official status (as has already occurred in many other European states and for EU law), provided that the online version is accompanied by a qualified electronic signature that complies with the 2014 EU Regulation on the mutual recognition of electronic identification and signatures (the eIDAS Regulation).

The Report recommended that Information and Communications Technology (ICT) should also be used to its full potential in making legislation more accessible online: this should include linking relevant information with the actual text of legislation, including background Reports, Regulatory Impact Analyses (RIAs), pre-legislative and post-legislative scrutiny reports by the Oireachtas, and relevant case law from the courts. It also recommended that the proposed Accessibility and Consolidation of Legislation Group should prepare and publish guidance on legislative policy standards.

### **3.(b) Harmful Communications and Digital Safety**

The *Harassment, Harmful Communications and Related Offences Act 2020*, which had been initiated in 2017 as a Private Member's Bill, derived from the criminal law proposals in the Commission's *Report on Harmful Communications and Digital Safety* (LRC 116-2016) (4<sup>th</sup> Programme of Law Reform, Project 6). The 2020 Act came into force on 10 February 2021: *Harassment, Harmful Communications and Related Offences Act 2020 (Commencement) Order 2021* (SI No.53 of 2021).

In January 2020, the Government published the General Scheme of the Online Safety and Media Regulation Bill, which includes the proposed establishment of an Online Safety Commissioner, which the Commission's 2016 Report had also recommended. In December 2020, the Government published the Revised General Scheme of the Online Safety and Media Regulation Bill, which includes significant regulatory powers for the proposed Commissioner, and which expressly drew on the core set of regulatory powers identified in the Commission's *Report on Regulatory Powers and Corporate Offences* (LRC 119-2018) (4<sup>th</sup> Programme of Law Reform, Project 1). In March 2021, the Commission (in response to a request from the Committee) made a written submission on the Revised General Scheme of the Online Safety and Media Regulation Bill to the Oireachtas Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht.

## **4. CRIMINAL LAW AND PROCEDURE**

### **4.(a) Suspended Sentences**

In 2020, the Commission published its *Report on Suspended Sentences* (LRC 123-2020) (4<sup>th</sup> Programme of Law Reform, Project 5). The Report identified the key principles underlying the imposition of a suspended sentence, including the relevant circumstances in which it is not appropriate and where a presumption of a custodial sentence applies. The Report also made a series of recommendations concerning the suspended sentence, including: alternatives to suspended sentences for child offenders; the use of data management and ICT; and on collaboration between relevant agencies in the criminal justice system.

### **4.(b) Review and consolidation of the law on sexual offences**

After the publication in 2019 of the *Report on Knowledge or Belief Concerning Consent in Rape Law* (LRC 122-2019) (which arose from a request from the Attorney General), the Commission began scoping work in late 2019 on Project 5 in the Fifth Programme of Law Reform, which involves an examination of the current law on sexual offences with a view to the consolidation of the law. The project will take due account of relevant work by the Department of Justice in relation to sexual offences. The Commission intends to publish a Consultation Paper on this project in 2022.

### **4.(c) Criminal procedure: pre-trial hearings and jury information**

In September 2020, the Government published a Revised Scheme of a *Criminal Procedure Bill*, which was later published as the *Criminal Procedure Bill 2021*, and at the time of writing (March 2021) had passed all stages in Dáil Éireann. The Bill would implement recommendations on pre-trial hearings concerning disclosure of documents

in the Commission's *Report on Disclosure and Discovery in Criminal Cases* (LRC 112-2014), and on information for juries in the *Report on Jury Service* (LRC 107-2013).

## **5. CIVIL AND COMMERCIAL LAW**

### **5.(a) Capping general damages in personal injuries actions**

In 2020, the Commission published its *Report on Capping Damages in Personal Injuries Actions* (LRC 123-2020), which completed work on project 9 in the Fifth Programme, to which the Commission gave priority in view of the general importance of this to all members of society. The project, and the Report, was limited to the question as to whether it would be constitutionally permissible, or otherwise desirable, to enact legislation capping general damages on personal injuries cases. The Report concluded that the legislative framework for Personal Injuries Guidelines provided for in the *Judicial Council Act 2019* met, in the Commission's view, relevant constitutional criteria, and that it was desirable that this framework should be allowed some time to operate in practice. The Report also concluded that, in the Commission's view, a second possible legislative model, comprising combined elements from UK and Australian legislation, would also meet the constitutional criteria identified in the Report. The Report emphasised that existing or proposed legislative choices were, ultimately, a matter for the Government, with the benefit of the advice of the Attorney General, and for the Oireachtas

### **5.(b) Liability of unincorporated associations (including clubs)**

During 2020, the Commission continued to develop a draft Consultation Paper on Project 12 in the Fifth Programme of Law Reform, which involves an examination of the civil liability of unincorporated associations. The Supreme Court, in *Hickey v McGowan*,<sup>8</sup> applied the long-established common law view that an unincorporated association has no separate legal character distinct from its members. The Court also identified the need for a review of the civil liability of unincorporated associations, a category that in the past has included many religious orders and continues to include many sports clubs and other community and social organisations. The Commission intends to publish the Consultation Paper on this project in the first half of 2022.

## **6. EVIDENCE LAW**

### **Admitting business records as evidence in civil cases**

Part 3, Chapter 3 of the *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020* implemented the recommendations in the Commission's *Report on Consolidation and Reform of Aspects of the Law of Evidence* (LRC 117-2016) that business records should be admissible in civil cases, subject to procedural safeguards to ensure that the records are reliable. These provisions apply to documentary records such as emails, letters or hospital records, whether generated and stored by private sector or public sector organisations. The relevant provisions in the 2020 Act largely reflect sections 48 to 56 of the *Draft Evidence Bill* in the Commission's 2016 Report. The 2020 Act brought civil

---

<sup>8</sup> [2017] IESC 6, [2017] 2 IR 196.

proceedings broadly in line with the comparable provisions for the admissibility of business records in criminal cases enacted in the *Criminal Evidence Act 1992*. The effect is that the law in both civil and criminal cases does not follow the widely-criticised decision of the UK House of Lords in *Myers v DPP* [1965] AC 1001, which had applied the common law hearsay rule to exclude the admission of such records.

## **7. FAMILY LAW**

### **Family courts**

In September 2020, the Department of Justice published the General Scheme of a *Family Court Bill*. The Bill, if enacted, would implement those recommendations in the Commission's *Report on Family Courts* (LRC 52-1996) concerning the establishment of a unified structure within the courts system to deal with family law matters.

## **8. LAND LAW, SUCCESSION AND TRUSTS**

### **Compulsory acquisition of land**

During 2020, the Commission continued to develop its analysis on the development of a Report on compulsory acquisition of land (4<sup>th</sup> Programme of Law Reform, Project 8). The Commission intends to publish its Report on this wide-ranging project in 2022.

## **9. INTERNATIONAL LAW**

In 2020, the Commission completed work on its project on the implementation of international law (4<sup>th</sup> Programme of Law Reform, Project 10) by publishing its *Discussion Paper on Domestic Implementation of International Obligations* (LRC 124-2020). The Discussion Paper differs from many other Commission final publications on a project in that it is primarily descriptive. It provided an overview of the State's engagement with the international community and the significant impact this has had on the content of Irish law. The Paper also described best practice in the State's implementation of its international obligations. This included the use of roadmaps (used, for example, in connection with the steps towards ratifying, in 2018, the UN Convention on the Rights of Persons With Disabilities) and Regulatory Impact Analyses (RIAs, used for example in connection with the steps towards ratifying international marine and maritime conventions). These best practice methods provide important levels of transparency and clarity as to the potential impact on Irish law of implementing our international obligations.

The Discussion Paper is the second and final output from this project. The other output was the publication in 2018, with the support of the Department of Foreign Affairs, of the *Draft Inventory of International Agreements entered into by the State* (LRC IP 14-2018), which comprises a draft subject-based inventory of international treaties and conventions, comprising 1,400 entries organised under more than 30 subject headings. This approach complements the subject-based approach used in the Commission's Classified List of Legislation, which forms part of its work on Accessibility of Legislation, discussed in Chapter 3, below.

## CHAPTER 3

### ACCESS TO LEGISLATION WORK IN 2020

---

#### INTRODUCTION

---

Legislation in Ireland is frequently amended, as is the case in virtually all countries. As a result, the legislation as enacted may change significantly over time. The Commission's work on Access to Legislation is intended to make it easier for all users to find the law in its current state rather than as originally made. To achieve this objective, the Commission provides three main resources: the Legislation Directory, Revised Acts and the Classified List of Legislation. In 2019, the Commission began work on a fourth resource, the pre-1922 Statute Law Revision Programme (SLRP).

The Legislation Directory (LD) is an online database which enables users of the electronic Irish Statute Book to identify whether a particular Act or Statutory Instrument (SI) has been amended or otherwise affected since its enactment.

During 2020, the Legislation Directory was updated on a weekly basis. In addition, the Commission continued to populate the new format "Commencement" and "SIs made under the Act" tables. Having reached back to 1947 in 2019, the Commission completed this work back to 1922 in 2020.

The Commission also produces and publishes Revised Acts which show each amended Act with all its amendments, fully annotated, in a single document. This enables the reader to see the Act as it currently is, as well as see information on previous versions, what provisions or amendments have been commenced and when, and those which have not yet been commenced. In 2020, the Commission added 20 more Revised Acts to the list, reaching the landmark number of 400 Revised Acts that are maintained up-to-date.

The Classified List is a list of Acts and SIs that remain in force (therefore not including repealed Acts or revoked SIs), classified under 36 subject headings or titles and identified with relevant Government Departments. Legislation is normally published in chronological order and not by subject matter. The Classified List allows a user to search over 2,000 in-force Acts and over 15,000 in-force SIs by subject matter.

The Commission's work on the pre-1922 SLRP involves examining what secondary legislation made between 1821 and 1922 should be revoked or retained. This will provide important certainty on this aspect of the State's legislative stock.

---

#### LEGISLATION DIRECTORY

---

The Commission maintains the Legislation Directory (LD), which is published on the electronic Irish Statute Book website (eISB) hosted by the Office of the Attorney General.

The LD notes the effects of all new legislation on existing legislation, in tables belonging to each Act. For example, to see all changes to the *Succession Act 1965* made since it was enacted, a user can find the 1965 Act on the eISB, and click on the “Amendments, Commencement and SIs made under the Act” tab to see how the Act has been amended since 1965.

The LD includes tables for pre-1922 Acts that remain in force. It also includes complete tables for statutory instruments and legislative effects made by statutory instruments from the current date extending back to 1 January 1972, and incomplete tables prior to that date. In 2016, on foot of a Business Case, the Commission received specific additional funding approval from the Department of Public Expenditure and Reform (DPER) to extend the Directory for statutory instruments back to 1972 when Ireland joined the European Union (then the European Communities). Having carried out a publicly advertised recruitment campaign for this project in early 2017, work began on this in April 2017, and it concluded within the planned two year period in March 2019. There are no plans at present to extend the LD for SIs back prior to 1972.

The Commission maintained the LD in two formats, an older format that the Commission inherited in 2006, which listed amendments to Acts only, and a newer format introduced by the Commission which includes commencement information and SIs made under the Act tables as well as the list of amendments. In 2019, the work based on the funding from DPER meant that the newer format was extended back from 1990 to 1947, and the Commission’s Access to Legislation team, with the Commission’s support, decided to continue this project back to 1922, which it completed in 2020. As a result, in respect of all Acts enacted from the foundation of the State, such as Act No.2 of 1922, the *Adaptation of Enactments Act 1922*,<sup>9</sup> the reader will find an individual LD entry for each of those Acts, including commencement information, amendments, and SIs made under each Act.

The LD was maintained up to date each week in 2020.

---

## REVISED ACTS

---

The Commission prepares and updates administrative consolidations of a growing number of Acts, known as Revised Acts. In 2020, the Commission added 20 more Revised Acts to the list, reaching the landmark number of 400 Revised Acts that are maintained up-to-date. Around half of these Acts are all Acts enacted from 2005 onwards that have been textually amended (such as the *Companies Act 2014* and the *Data Protection Act 2018*), other than Finance Acts and the *Social Welfare Consolidation Act 2005*, in relation to which, as noted below, a Revised Act is currently in preparation. The other Revised Acts are selected pre-2005 Acts and include groups such as

---

<sup>9</sup> The LD contains a specific entry for Act No.1 of 1922, the *Constitution of the Irish Free State (Saorstát Éireann) Act 1922*, which was enacted by Dáil Éireann as a Constituent Assembly. This Act was repealed by Article 48 of the Constitution of Ireland on 29 December 1937, the date when the Constitution of Ireland came into force.



employment law, child law, family law and road traffic Acts. They include much-used Acts such as the *Firearms Act 1925*, the *Road Traffic Act 1961*, the *Succession Act 1965*, the *European Communities Act 1972*, the *Criminal Justice Act 1984*, the *Building Control Act 1990* and the *Planning and Development Act 2000*. The preparation of the Revised Acts is assisted by the Commission's work on the Legislation Directory.

The Revised Acts are updated within one to two months of being amended and are published on the Commission website. They are individually linked from the relevant original Act on the eLSB, with a choice of display by section and by entire Act in HTML format, with annotations, and by entire Act in PDF, with and without annotations. The annotations include the sources of any changes and commencement information. In 2019 over 300 revisions of Revised Acts were prepared within 2 months of amendments, some multiple updates to the same Act.

They can be viewed at <http://revisedacts.lawreform.ie/revacts/alpha>

In 2020, the Commission continued to liaise with the Department of Social Protection to work collaboratively with a view to preparing and publishing a Revised Act of the *Social Welfare Consolidation Act 2005*. This will incorporate all amendments to the 2005 Act which have been made since 2005 in 26 Social Welfare Amendment Acts and, to a lesser extent, in 14 other Acts of the Oireachtas. The Revised Act will also include editorial details of the several hundred statutory instruments made under the 2005 Act or made under earlier legislation but continued in force by section 362(2) of the 2005 Act. The work is being undertaken by a senior official in the Department in full compliance with the Commission's Operational Manual for the Preparation of Revised Acts. As the work involved is being undertaken by an existing staff member of the Department and by existing staff of the Commission, it is not envisaged that this project will give rise to any additional costs. The Department and Commission share the view that the work when completed will be very beneficial and will ensure that the body of social welfare law will be more accessible and can be kept up-to-date into the future. It is expected that the Revised Act will be completed in 2021 and will then be made available through the eLSB on the Commission's website and the Department's website.

In 2020, the Commission began a similar collaborative arrangement with officials in the Department of Transport on the preparation of a Revised Act of the *Merchant Shipping Act 1894*. As enacted, the 1894 Act comprised over 750 sections, but many of these have been repealed since 1894 and replaced by Acts that modernise the law in this important area of commercial trade, including in order to implement international marine and maritime conventions, which were also referred to in the Commission's *Discussion Paper on Domestic Implementation of International Obligations* (LRC 124-2020): see Chapter 2, above. The purpose behind preparing a Revised version of the 1894 Act is for the Department to have a clear picture of the remaining provisions in the 1894 Act in the wider context of possible consolidation of merchant shipping legislation.

---

## CLASSIFIED LIST OF LEGISLATION DATABASE

---

The Commission maintains a Classified List of In-Force Legislation, comprising over 2,000 Acts and over 15,000 Statutory Instruments, organised under 36 subject headings or titles. Legislation is currently available to the public in the order in which it is made and is listed on the eISB chronologically by number. This makes it difficult for lawyers, public sector bodies and public alike to determine the various Acts that deal with a subject such as environmental law, local government or family law. The Classified List groups the Acts together by subject matter and is thus a useful resource. It is available on the Commission website and linked from the home page of the eISB.

During 2019, the Commission engaged in extensive testing of a database version of the Classified List, and this version went live in January 2020. The Classified List is now maintained up to date on a monthly basis, using integrated information from the Commission's Access to Legislation work on the Legislation Directory.

---

## PRE-1922 STATUTE LAW REVISION PROGRAMME

---

In 2019, having received the support of the Office of the Attorney General, the Commission began research to complete certain remaining elements of the Statute Law Revision Programme (SLRP). The outputs from the current SLRP began with the enactment of the *Statute Law Revision (Pre-1922) Act 2005*. The Project has, through a series of five further Revision Acts enacted between 2007 and 2016, achieved a significant tidying of the Irish statute book, notably by not only repealing obsolete pre-1922 and post-1922 legislation but also by providing definitive lists of retained pre-1922 public, local and private Acts. This has provided important clarity as to the extent of pre-1922 primary legislation that remains in force in the State.

A similar level of clarity has been achieved in respect of pre-1922 secondary legislation (now called statutory instruments) made up to 1820. The *Statute Law Revision Act 2015* revoked all instruments made before 1 January 1821 other than a limited number retained and set out in the schedule to that Act. The Commission's work on SLRP that began in 2019 involves examining secondary legislation made between 1821 and 1922 with a view to determining what should be revoked or retained. This work will culminate in the enactment of separate Bills dealing with instruments from 1821 to 1922. These Bills when enacted will provide a comprehensive picture of pre-1922 secondary legislation that will complement the comprehensive picture already achieved by the SLRP work on the pre-1922 Acts.

Aspects of the SLRP work requires access to the Dublin Gazette, the pre-1922 equivalent of Iris Oifigiúil, which is available in hard copy format only and which contains one of the most important sources for the full text of pre-1922 secondary instruments. The Houses of the Oireachtas Commission has provided access to the Dublin Gazette, but because of the rare nature of these volumes and their delicate state, access to them is strictly limited to certain premises. Arising from the COVID-19 pandemic and the need to comply with public health guidelines, access to the relevant volumes for the three-

person research team assigned to the SLRP was severely restricted during 2020. Nonetheless, as part of our business continuity plan for 2020, limited access arrangements consistent with public health guidelines were put in place in order to ensure that as much progress as practicable could continue on the SLRP research. As a result, a Memorandum for Government together with the associated Draft Scheme/Heads of a Statute Law Revision (pre-1922 Instruments) Bill was drafted in 2020 with a view to being presented to Government in 2021. This Bill relates to instruments in the period researched from 1821 to 1860. Following approval of the Memorandum for Government, the Commission will engage in suitable public consultation on the content of the Draft Scheme/Heads of a Bill.

## CHAPTER 4

# ADMINISTRATION AND RESEARCH SUPPORT IN 2020

---

### INTRODUCTION

---

The Commission's small administration team provides effective, modern and professional corporate administrative and business services to the Commission in order to support it in meeting its objectives. This includes business support services such as human resource management, financial management, legal and corporate support and information technology support.

The Library and Information Manager ~~oversees~~ manages, reviews and develops the Commission's print and online library and legal information resources, ~~and also~~ provides current awareness and training resources to the legal research team and maintains the 'search our publications' area of the Commission website.

During 2020, the importance of the Commission's administration team was underlined in the wake of the COVID-19 pandemic. The administration team and the Management Committee put in place a business continuity plan to ensure that the Commission's work could continue remotely and comply with relevant legislation and guidelines, notably through the implementation of remote working arrangements. This included the installation by the administration team of software document management systems to ensure effective oversight of published outputs, and the use of remote video systems for meetings, including Commission (board) meetings.

The organisational structure of the Commission (as of December 2020) is set out in Appendix A.

---

### THE COMMISSION

---

The Commission consists of the President and four other Commissioners. Commissioners are appointed by the Government for a term of up to five years, and their appointment may be renewed. In October 2018, the Government appointed Ms Justice Mary Laffoy, former judge of the Supreme Court, as Commission President for a three year term. Of the other four Commissioners, it has been the practice for one Commissioner to be appointed on a full-time basis (and, in effect, also act as chief executive officer) and for the other three Commissioners to be appointed on a part-time basis. The full-time Commissioner is Raymond Byrne BL who, prior to his appointment, had been Director of Research in the Commission. He was appointed for a five year term in April 2016, following a public appointments process under the auspices of the Top Level Appointments Commission (TLAC) and the Public Appointments Service (PAS). The term of office of three part-time Commissioners (Professor Donncha O'Connell, School of Law NUI Galway, Mr Tom O'Malley, Barrister-at-law, and School of Law NUI Galway;

and Ms Justice Carmel Stewart, judge of the High Court) came to an end on 31<sup>st</sup> August 2020. In accordance with the *Law Reform Commission Act 1975*, the following three Commissioners were appointed by the Government for five year terms each, effective from 1 October 2020: the Hon. Mr Justice Maurice Collins, judge of the Court of Appeal, the Hon. Mr Justice Richard Humphreys, High Court Judge, and Dr Andrea Mulligan BL and Assistant Professor of Law, Trinity College Dublin.

The Commission as a body is responsible for carrying out its statutory functions under the *Law Reform Commission Act 1975*. This includes keeping the law of Ireland under review with a view to its reform. The 1975 Act defined law reform to include: developing the law, codifying the law, including simplifying and modernising the law and revising and consolidating legislation. The Commission must also prepare from time to time draft programmes of law reform for consideration and approval by Government. The Commission publishes proposals for reform of the law in its Reports, which usually contain draft legislation to implement any proposed reforms, having consulted on those proposals in Consultation Papers. The Commission oversees the direction and content of all its research outputs, which are developed in initial draft form by the legal research team. In terms of law reform proposals, the Commission's main outputs are its programmes of law reform and its Consultation Papers and Reports. In terms of its Access to Legislation work, its main outputs are the Legislation Directory, Revised Acts, the Classified List of Legislation and the pre-1922 Statute Law Revision Programme. The Commission also oversees and monitors key administrative and financial decisions, with the support of the administration team and the Management Committee. The Commission meets formally as a body at least 10 times each year.

---

## MANAGEMENT COMMITTEE

---

During 2020, the Commission's Management Committee consisted of the full-time Commissioner, the Head of Administration, the Director of Research, the Access to Legislation Manager, the Deputy Director of Research, the Library and Information Manager, the Deputy Manager for Access to Legislation and the Statute Law Revision Project Manager. The Management Committee meets on a regular basis to review all major issues relevant to the efficient and effective operation of the Commission. One of the principal responsibilities of the Committee is to monitor progress on achieving the targets set out in the Commission's work programme.

Following the appointment of the three new part-time Commissioners in October 2020, the Management Committee prepared for the Commission a paper setting out proposals for the future workforce needs of the Commission. This paper built on the Workforce Plan that had been submitted to and reviewed by the Office of the Attorney General in 2019. This paper was discussed at the meeting between the Commission and the Attorney General and his senior officials held in January 2021. The Management Committee will keep this paper on workforce needs under active review.

---

## ADMINISTRATION TEAM

---

As of December 2020, the Commission's administration team consisted of a Head of Administration, Ms Bríd Rogers, and a team of three staff.

During 2020, the Administration had overall responsibility for:

- Managing, processing and reporting on all financial transactions in the Commission;
- Managing the Commission's accommodation and IT infrastructure;
- Managing the Commission's human resource function, including the organisation of recruitment processes under the Commission's CPSA recruitment licence;
- Providing administrative support for the research team; and
- Carrying out a variety of administrative functions in relation to launches of publications and the online publication of consultative Papers and Reports (and a limited print run of consultative Papers and Reports).

The Administration team also arrange for the distribution of the Commission's publications and planning and organising the various tasks associated with the launch of the Commission's publications. It also arranges event management and corporate services associated with launches, seminars and, where relevant, the annual conference. As already noted, arising from the COVID-19 pandemic, the Commission did not hold an annual conference in 2020, and publication launches were carried out through online YouTube broadcasts.

---

## LIBRARY AND INFORMATION SERVICES

---

The primary role of the Commission's library is to anticipate and respond to the needs of the Commissioners and the Commission's research team for library and information services.

During 2020, the Library and Information Manager, Ms Órla Gillen, worked with suppliers to ensure off-site access for staff to an enhanced collection of online resources as well as facilitating, through updated protocols and when possible, access to the print collection. These external resources were supplemented by her in-house generated daily current awareness update, as well as group training on the various services provided by the library. She also continued to work to improve the range and detail of information provided on the external search portal to the Commission's project and corporate publications, available via the Commission's website, as well as provide relevant support in the preparation for publication launches.

---

## RESEARCH TEAM

---

The primary role of the research staff is to develop draft texts for consideration by the Commission. This includes preparing an initial Scoping Paper for a project which sets out the parameters of the areas under discussion. In the subsequent stages of a project this involves the development of draft Consultation Papers (called Issues Papers between 2013 and 2020) and draft Reports.

In 2020, the law reform research team was headed by the Director of Research. Arising from a public recruitment process in November 2019, the Commission appointed Ms Rebecca Coen as Director of Research and she took up the post in February 2020. Prior to her appointment, Ms Coen had been a principal prosecutor in the Office of the Director of Public Prosecutions. Dr Robert Noonan is Deputy Director of Research. Ms Leanne Caulfield and Ms Suzanne Scott are the Commission's two permanent legal researchers. In 2020, the remaining six of the Commission's sanctioned eight full-time researchers were employed on fixed-term contracts.

In 2020, the Commission's Access to Legislation work (the Legislation Directory, Revised Acts, the Classified List of Legislation and the Statute Law Revision Programme) was overseen by the Access to Legislation Manager, Alma Clissmann, Solicitor, and Deputy Manager, Kate Doran. As already noted, in 2019 the Commission began work on a three year Statute Law Revision Project concerning pre-1922 secondary instruments. The project manager is Ms Fiona Carroll, Solicitor, assisted by two additional sanctioned legal researchers employed on fixed-term contracts.

The Director of Research, with the support of the Deputy Director of Research, leads and manages the law reform research team, and advises and assists the researchers with a view to assuring an appropriate output and quality of work. This includes carrying out general background research, preparing Scoping Papers, preparing draft documents and draft Consultation Papers and Reports for consideration by the Commission. The Director of Research, the Deputy Director of Research, the Access to Legislation Manager and Deputy Manager, and the legal research team meet on a regular basis as a group to exchange views on the areas on which they are conducting research. Researchers are encouraged to publish in relevant law journals during their time with the Commission. This includes articles dealing with areas on which the researcher is actively involved.

---

## FINANCE

---

### **Income and expenditure**

The Commission is funded by a grant-in aid from the Minister for Public Expenditure and Reform through the annual vote of the Office of the Attorney General. Total income received in 2020 from all sources (primarily the grant-in-aid, and also including any net deferred funding from pensions, transfers to capital account and any refunds from the Department of Social Protection) is set out in the Commission's Financial Statements for 2020 in Appendix C, below. The expenditure incurred covered salaries of Commissioners

and staff, pension payments, rent and premises overheads, maintenance of the Commission's library resources, maintenance of the Commission's IT network and printing and distribution costs.

---

## GOVERNANCE ARRANGEMENTS

---

Overall responsibility and accountability for Commission activities rests with the Commission. The Commission is assisted in that role by the Management Committee, the Administration team and the Research team. The Accounting Officer for the Commission is the Director General of the Office of the Attorney General.

Under current accounting procedures, funding is drawn down from the Office of the Attorney General on a monthly basis by way of a grant-in-aid. There is a service level agreement between the Commission and the Office of the Attorney General.

### **External Audit**

Appropriation accounts for 2020 were submitted to the Comptroller and Auditor General for audit and are set out in Appendix C below. Once the accounts are approved, they are sent to the Minister for Public Expenditure and Reform and laid before the Houses of the Oireachtas in accordance with the *Law Reform Commission Act 1975*.

### **Audit Committee**

The Commission is also audited internally by the Audit Committee of the Office of the Attorney General each year.

### **Prompt payments**

The Commission did not incur any late interest penalties during 2019 under the *Prompt Payment of Accounts Act 1997*, as amended by the *European Communities (Late Payment in Commercial Transactions) Regulations 2002*.

### **Ethics in Public Offices Acts 1995 and 2001**

The Law Reform Commission is a public body for the purposes of the *Ethics in Public Offices Acts 1995 and 2001*.

---

## CODE OF PRACTICE FOR THE GOVERNANCE OF STATE BODIES

---

During the period of this Annual Report, the Commission ensured that its policies and procedures were in line with the revised 2016 Code of Practice for the Governance of State Bodies.

The Code of Practice provides a framework for the application of best practice in corporate governance by commercial and non-commercial state bodies. The Code outlines compliance requirements for non-commercial state bodies such as the Law Reform Commission in the following areas, which are discussed below:



- Reports, Remuneration and Accounts
- System of Internal Financial Control
- Conduct of Directors and Employees
- Procurement
- Travel and Subsistence
- Risk Management
- Output Statement

### **Reports, Remuneration and Accounts**

Appendix C of this Annual Report sets out general information on the Commission's income and finance in 2020.

Appendix C also contains a schedule of attendance at Commission meetings for 2020, including the fees and expenses, if any, received by each Commissioner.

Appendix C also contains figures on the salaries, expenses, and costs incurred of attending conferences for the Commissioners in 2020.

### **Travel and Subsistence**

Where relevant, flights and accommodation are organised and paid for in advance by the Legal and Corporate Services Unit in compliance with Government travel policy, and any other related expenses must be vouched. Arising from the COVID-19 pandemic, there was no international travel by the Commission or staff in 2020.

### **System of Internal Financial Control**

The Commission has an appropriate system of internal financial control in place which is reviewed each year by the Comptroller and Auditor General and by the Audit Committee of the Office of the Attorney General.

### **Conduct of Commissioners and Employees**

The Commission has a Code of Business Conduct for Commissioners which has been formally adopted and approved. The Administration staff of the Commission are civil servants and are required to comply with the requirements of the Civil Service Code of Standards and Behaviour and the *Official Secrets Act 1963*.

### **Procurement**

Procurement in the Commission is conducted by the Administration staff who ensure that procurement is in the line with EU law and Government circulars. They are in regular contact with the Office of Government Procurement to avail of centralised managed services where available.

### **Commission's Risk Register**

The Commission's Risk Register was updated in 2020 and is kept under regular review by the Commission.

## **Strategy Statement and Annual Work Programme**

The Key Objectives in the Commission's *Strategy Statement 2018-2020* are matched at an organisational level by targets set out in the Commission's annual work programme. Progress made in achieving these targets is monitored on a regular basis by the Management Committee and Commission.

## **PMDS**

Performance of individual staff members, including legal researchers, is managed through the Performance Management and Development System (PMDS).

---

## ENERGY EFFICIENCY

---

In accordance with the *European Communities (Energy End-use Efficiency and Energy Services) Regulations 2009* (SI No. 542 of 2009), and Directive 2006/32/EC, the Commission ensured during 2020 that it took appropriate steps concerning energy conservation and reduction measures in its office premises.

---

## FREEDOM OF INFORMATION ACT 2014

---

The Commission continues to meet its obligations under the *Freedom of Information Act 2014* in accordance with its Freedom of Information (FOI) Scheme, which is published on its website, [www.lawreform.ie](http://www.lawreform.ie). FOI requests are logged on the Commission's FOI Log, which forms part of its FOI Scheme. In 2020, the Commission did not receive any FOI request.

---

## PROTECTED DISCLOSURES ACT 2014

---

The Commission, as a public body, is required under section 22 of the *Protected Disclosures Act 2014* to publish an annual report in relation to the number of protected disclosures made to it in the preceding year, and the action taken in response to any such protected disclosures.

One protected disclosure was made to the Commission in the period 1 January 2020 to 31 December 2020. This disclosure was the subject of an independent investigation and Report. The Report concluded that none of the matters that fell within the Protected Disclosures Act 2014 was upheld, and the Report recommended that, as a result, no further action on those matters was required by the Commission. The Commission accepted the findings and recommendations of the Report.

---

## COMMISSION RESOLUTION AS TO 2020 FINANCIAL STATEMENTS AND OUTPUTS

---

At the Commission meeting held on 13 May 2021, the following text was approved by the Commission.

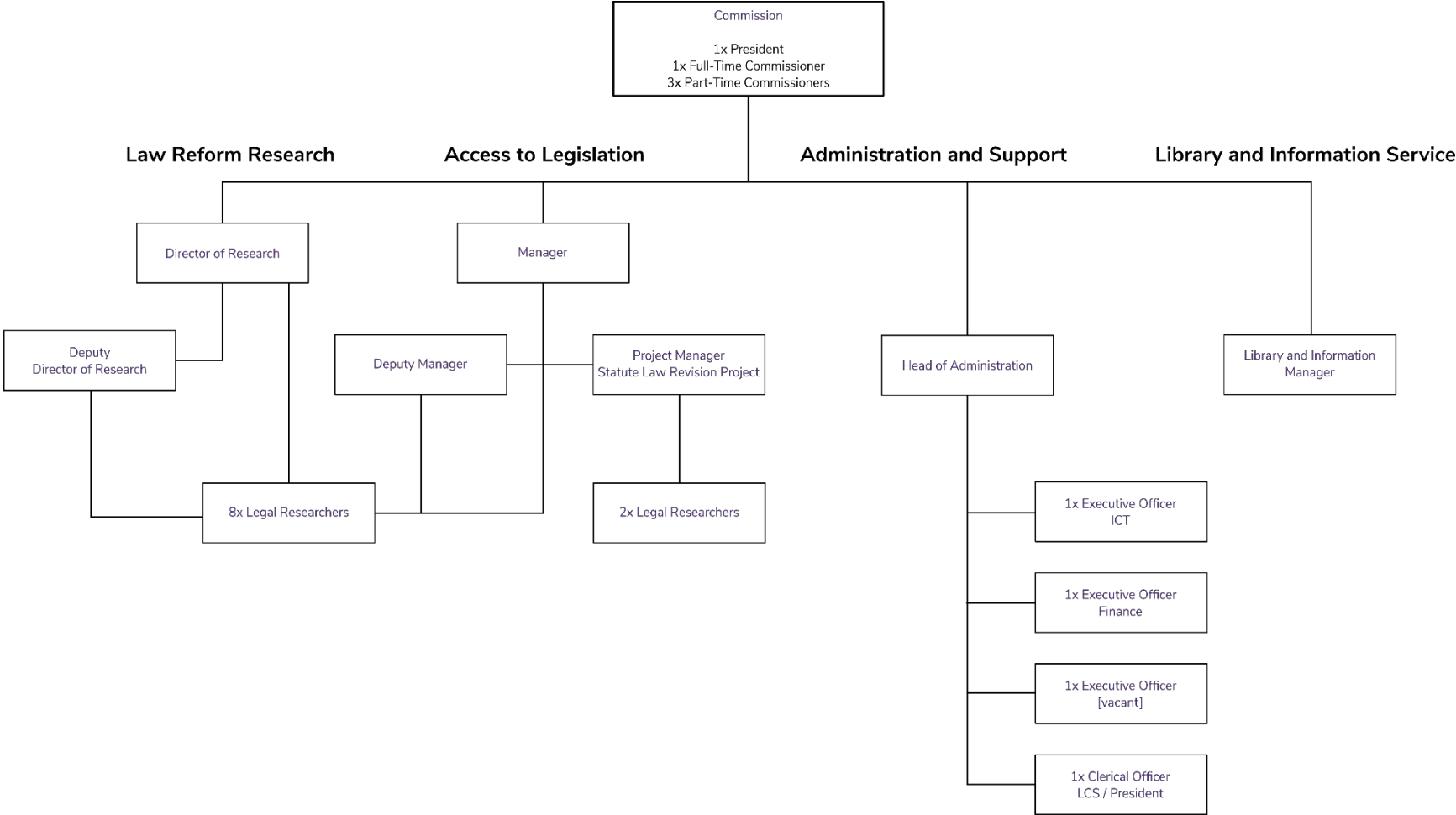
"The Commission **considered** the draft Financial Statements for the Commission for the year ended 31st December 2020 circulated prior to the meeting by the Head of Administration. The Commission **agreed** that the draft Financial Statements correctly reflected the amount of the Commission's grant-in-aid for the year ended 31st December 2020, and that they also correctly reflected the monthly income and expenditure of the Commission during 2020, which the Commission had previously noted and approved at each of its meetings held in 2020, and at its meeting held in January 2021.

The Commission also **noted** that the Commission's outputs during 2020, which included the preparation and, where relevant, publication of a law reform Discussion Paper and three Reports, the development of draft publications intended for publication in 2020, and outputs from its Access to Legislation research, were consistent with its programme of research work, which the Commission had previously noted and approved at each of its meetings held in 2020."



# APPENDIX A

## LAW REFORM COMMISSION ORGANISATION CHART 2020





# APPENDIX B

## POST-COVID-19: PROPOSALS FROM THE LAW REFORM COMMISSION

27 April 2020

	<b>Page</b>
<b>Context and Summary of Proposals in the Paper</b>	<b>38</b>
Context	38
Summary of proposals in the Paper	38
<b>A. Regulatory and supervisory systems: a framework of core powers</b>	<b>40</b>
<b>B. Criminal law reform</b>	<b>42</b>
1. Threatening, menacing and other harmful online communications	42
2. Pre-trial criminal hearings, including disclosure and discovery	42
<b>C. Civil law reform</b>	<b>43</b>
1. Insurance contract law: individual consumers and SMEs	43
2. Decision-making capacity law	43
<b>D. Reform of law of evidence and court procedures</b>	<b>44</b>
1. Law of evidence	44
(a) Presumption of admissibility for electronic and paper business records	44
(b) Clarifying the admissibility of electronic signatures	44
2. Court procedures	45
(a) Using standardised and easily understood terms in civil proceedings	45
(b) Imposing case conduct principles on parties in civil cases	45
(c) Enabling Statutory Rules of Court to support use of ICT	46

## Context and Summary of Proposals in this Paper

### Context

The Law Reform Commission keeps the law under independent and expert review, and makes proposals for law reform based on careful research and extensive consultation. The case for evidence-based assessments of the law and of the legal system has always been compelling, but it is particularly pressing now in the context of a broader re-consideration of life in a Post-COVID-19 world. Not only has the COVID-19 pandemic plunged the world into a health and economic crisis, it has also forced a re-evaluation of many aspects of our lives: the ways in which we work and the ways in which our society is regulated.

This Paper collates a number of the Commission's proposals which have been published in the last decade that may be of particular use and relevance in the wider context of the many policy responses to the COVID-19 emergency.

In recent years, a number of Miscellaneous Provisions Bills have been enacted by the Oireachtas, a concept based on a suggestion by the Commission and supported by the Office of the Attorney General.<sup>10</sup> These Bills have been used to ensure that specific reforms can be enacted without prejudice to more wide-ranging reforms that may be under consideration. A number of the proposals in this Paper could be considered for inclusion in such a Bill.

The Commission emphasises that it is an advisory statutory body, and that the enactment of any proposals it puts forward is a matter entirely for the Government and the Oireachtas.

### Summary of proposals in the Paper

#### A. Regulatory and supervisory systems: a framework of core powers

- **Core regulatory powers:** the COVID-19 emergency has alerted us to the importance of robust regulatory and supervisory systems, including in the health care and social care settings. The Commission's recent work in this area identified a "core" set of six regulatory powers that could form the basis for effective regulatory systems.

#### B. Criminal law reform

- **Threatening and menacing online communications:** COVID-19 has cast into sharp relief that a minority of individuals and organised gangs use online tools for harmful and menacing purposes. The Commission has recommended reform of the criminal law to address harmful communications, including threatening and menacing online communications.
- **Pre-trial criminal hearings, including disclosure and discovery:** COVID-19 has underlined the need to enhance and develop pre-trial hearings in criminal trial proceedings. The Commission has recommended reform of the pre-trial process concerning disclosure of documents in criminal cases.

---

<sup>10</sup> See the discussion of a Miscellaneous Provisions Bill in the Commission's [Second Programme of Law Reform](#) (2000), p.7. The [Civil Law \(Miscellaneous Provisions\) Act 2008](#), the [Civil Law \(Miscellaneous Provisions\) Act 2011](#) and the [Courts and Civil Law \(Miscellaneous Provisions\) Act 2013](#) included a number of provisions implementing recommendations in Commission Reports, as well as a range of other discrete reforms.



### C. Civil law reform

- **Insurance contract law for individual consumers and SMEs:** COVID-19 has identified a common issue surrounding insurance contracts: whether individual consumers and SMEs clearly understand the scope of cover that they have. The Commission's work on this area led to the enactment of the [Consumer Insurance Contracts Act 2019](#), which requires a Ministerial Commencement Order to come into force, anticipated in 2020.
- **Decision-making capacity law:** COVID-19 has raised questions concerning how we regulate health care and financial decisions that affect all individuals. The Commission's work in this area influenced the development and enactment of the [Assisted Decision-Making \(Capacity\) Act 2015](#), many provisions of which require Ministerial Commencement Orders to come into force, also anticipated in 2020. The Commission continues its work in this area, on a regulatory framework for adult safeguarding.

### D. Reform of law of evidence and court procedures

- **Law of evidence:** the Commission's proposed reforms on the law of evidence could assist the efficiency of civil and criminal court hearings, including:
  - a presumption of admissibility for electronic and paper business records; and
  - clarifying the admissibility of electronic signatures.
- **Court procedures:** similarly, and complementing other reforms being considered by the Civil Justice Review Group, the Commission proposals on court procedure include:
  - using standardised and easily understood terms in civil proceedings;
  - imposing case conduct principles on parties in civil cases; and
  - enabling Statutory Rules of Court to support use of ICT.

Further details explaining these proposals are set out in the following pages of the Paper.

## **A. Regulatory and supervisory systems: a framework of core powers**

The COVID-19 emergency has alerted us to the importance of robust regulatory and supervisory systems. This includes effective national coordination through the Health Service Executive (HSE) and the National Public Health Emergency Team (NPHE), as well as collaboration at international level with bodies such as the UN's World Health Organization (WHO).<sup>11</sup>

It may also have identified the need for further reform of existing regulatory arrangements across a wide range of areas, including for example in the health care and social care setting. Whether this requires expansion of the existing role of bodies such as the Health Information and Quality Authority (HIQA) in the hospital setting, the institutional care home setting or the home care setting is a policy matter. This remains to be determined in the wider context of implementation of the [2017 Sláintecare Report](#) (the Report of the Oireachtas Committee on the Future of Healthcare).

The Commission examined regulatory systems in its 2018 [Report on Regulatory Powers and Corporate Offences](#) (LRC 119-2018). The Report also reviewed a number of studies of regulatory systems in other countries, which had identified the need to ensure that regulators had an effective "toolkit" of powers in order to carry out their roles effectively. The Commission therefore concluded that the following six "core" powers should form the basis for an effective regulatory system:

- Power to issue a range of warning directions or notices, including to obtain information by written request, and "cease and desist" notices;
- Power to enter and search premises and take documents and other material;
- Power to require persons to attend in person before the regulator, or an authorised officer, to give evidence or produce documents, including provision for determining issues of privilege;
- Power to impose administrative financial sanctions, subject to court oversight, to ensure compliance with constitutional requirements;
- Power to enter into wide-ranging regulatory compliance agreements or settlements, including consumer redress schemes; and
- Power to bring summary criminal prosecutions, prosecutions on indictment being a matter for the Director of Public Prosecutions.

The Commission recommended that these core powers could be supplemented in the context of specific regulatory settings. These supplemental powers could include:

- A licensing system;
- Pre-approval "fitness and probity" requirements for specific roles.

*How this could improve regulatory systems*

---

<sup>11</sup> Ireland's membership of the WHO is just one of over 1,400 international agreements that the State has signed or ratified: see the 1,400 entries, organised under over 30 subject headings, in the Commission's 2018 *Draft Inventory of the State's International Agreements* (LRC IP 14-2018), published in [EXCEL](#) and [PDF](#) formats (the pdf version also includes an introduction and overview). Later this year, the Commission will publish a Discussion Paper that describes the State's practices in implementing international agreements.

A common set of core regulatory powers is likely to lead to more consistent and effective approaches in any regulatory supervision and enforcement systems that need to be considered in the wake of the experience with COVID-19. The 2018 Report noted that surveys of regulatory systems in other countries concluded that one of the key regulatory powers was the ability to impose administrative financial sanctions, without prejudice to other powers such as criminal prosecutions. This view was also adopted in the Government's [General Scheme of the Online Safety and Media Regulation Bill](#), which was published in January this year.

## **B. Criminal law reform**

### **1. Threatening, menacing and other harmful online communications**

The COVID-19 emergency has underlined the positive value of social media and other digital communication tools as means to ensure that individuals, businesses and State organisations can continue to keep in touch while staying apart. Our increased reliance on online communications tools also underlines the necessity of appropriate safeguards to address a minority of individuals and organised gangs who seek to take advantage of the emergency to use these vital tools to engage in threatening or menacing online behaviour for gain.

The Commission's 2016 [Report on Harmful Communications and Digital Safety](#) (LRC 116-2016) proposed the enactment of criminal law legislation to address specific harmful online communications, including threatening behaviour;<sup>12</sup> and that an Online Safety Commissioner (modelled on existing regulators in Australia and New Zealand) should also be established to regulate and supervise agreed national standards, including on prompt takedown of harmful communications.

#### *Information on legislative proposals from this Report*

Since the publication of the 2016 Report:

- the [Harassment, Harmful Communications and Related Offences Bill 2017](#) (a Private Member's Bill), which seeks to address the criminal law aspects of the Commission's Report, passed Second Stage in Dáil Éireann In January 2018; and
- the Government's [General Scheme of the Online Safety and Media Regulation Bill](#), which includes provision for an Online Safety Commissioner, was published in January 2020.

### **2. Pre-trial criminal hearings, including disclosure and discovery**

The COVID-19 emergency has emphasised the need to increase where possible the use of pre-trial hearings such as bail applications, which can be conducted remotely by video-link, consistently with fundamental constitutional right to a fair trial. Different considerations arise concerning the conduct of criminal trials themselves, including the need for the client to be in proximity to their legal representative to consult and instruct them, which cannot be easily facilitated remotely, and also where the evidence of witnesses may need to be observed directly by members of a jury.

The Commission's 2014 [Report on Disclosure and Discovery in Criminal Cases](#) (LRC 112-2014) made a number of recommendations to reform the pre-trial process concerning disclosure of materials required in a criminal trial, such as documents, video and audio recordings.

#### *Information on legislative proposals from this Report*

Since the publication of the 2014 Report:

- The Revised General Scheme of a [Criminal Procedure Bill](#), which addresses the issue of disclosure, as well as providing for additional forms of pre-trial hearings in criminal cases, was published by the Department of Justice and Equality in 2015, and it is also a proposed output of the Government's 2017 Policy Document *Measures to Enhance Ireland's Corporate, Economic and Regulatory Framework*.

---

<sup>12</sup> The Commission's 2018 [Report on Regulatory Powers and Corporate Offences](#) (LRC 119-2018) also made a number of recommendations for reform of the fraud offences in the [Criminal Justice \(Theft and Fraud Offences\) Act 2001](#). These are being considered by the Government's Review Group on Anti-fraud and Anti-corruption Structures and Procedures (chaired by James Hamilton, former Director of Public Prosecutions).

## C. Civil law reform

### 1. Insurance contract law: individual consumers and SMEs

The COVID-19 emergency has identified a common issue surrounding insurance contracts: whether individual consumers and SMEs clearly understand the scope of cover that they have.

The Commission's 2015 [Report on Consumer Insurance Contracts](#) (LRC 113-2015) made a series of detailed recommendations for reform of the law in this area, and included a *Draft Consumer Insurance Contracts Bill* to implement these. The Commission noted in the Report that implementing these recommendations would bring Ireland's law on insurance contracts into line with recent reforms that have been enacted in the UK. This would lead to both clearer consumer protection for individual consumers and SMEs with an annual turnover of €3 million or less, and also ensure appropriate protection for insurance undertakings against fraudulent claims.

#### *Information on legislative proposals from this Report*

Since the publication of the 2015 Report:

- The [Consumer Insurance Contracts Act 2019](#) (which began as a Private Member's Bill) implemented the main elements of the Commission's Report and Draft Bill, together with a number of additional reforms, some of which involve recommendations made by the Government's Cost of Insurance Working Group (CIWG). As recommended by the Commission, the 2019 Act applies to both individual consumers and to businesses with an annual turnover of €3 million or less. A Commencement Order or Orders is/are required to bring the 2019 Act into force.

### 2. Decision-making capacity law

The COVID-19 emergency has raised questions concerning how we regulate matters such as health care and financial decisions that affect all individuals, including those in institutional or home care settings.

The Commission's 2006 [Report on Decision-Making Capacity and the Law](#) (LRC 83-2006) and 2009 [Report on Bioethics: Advance Care Directives](#) (LRC 94-2009) influenced the development and enactment of the [Assisted Decision-Making \(Capacity\) Act 2015](#). The 2015 Act is a ground-breaking piece of legislation that reflects a rights-based approach to decision-making, and when fully commenced will constitute a significant aspect of Ireland's ratification of the UN Convention on the Rights of Persons With Disabilities (UNCRPD) and of Council of Europe Recommendations on Decision-Making Capacity, including on advance care directives.

#### *Information on legislative proposals from these Reports and recent Commission work*

Since the publication of the 2006 and 2009 Reports:

- While the 2015 Act was enacted five years ago, its key provisions have not yet been brought into force by the required Ministerial Commencement Orders, although this is anticipated in 2020 along with the relevant statutory Codes of Practice, which are being developed by the Director of the Decision Support Service (DSS) established by the 2015 Act.
- The Commission will also continue to work on a related project under its Fifth Programme of Law Reform (approved by Government in 2019), which concerns a regulatory framework for adult safeguarding, on which it published a consultative [Issues Paper](#) in January this year.

## **D. Reform of the law of evidence and of court procedures**

The courts have, in recent years, deployed important ICT tools, such as electronic filing of documents, initially in the small claims court in the District Court, then in the High Court's Commercial Court and, more recently still, in the Supreme Court. In the wake of the COVID-19 emergency, systems for remote court hearings are being developed as a matter of necessity, although, as already noted, remote hearings (video-link hearings) have been in place for a number of years, for example, in High Court bail applications, as well as in extradition proceedings and criminal trials.<sup>13</sup>

The benefits of these developments in ICT could be further enhanced if they were combined with reform of the law of evidence and of court procedure. Indeed, the proposals discussed below could be beneficial whether court hearings are held remotely or in the conventional face-to-face format.

### **1. Law of evidence**

The Commission's 2016 [Report on Consolidation and Reform of Aspects of the Law of Evidence](#) (LRC 117-2016) made wide-ranging recommendations for reform of the rules of evidence, as well as for the consolidation into a single Bill of over 18 Evidence Acts. This was intended as a contribution to the long-standing goal (first set out in the Government's 1962 *White Paper on Law Reform*) to consolidate in a single piece of legislation the principal rules of evidence. The following are of specific relevance to improving efficiency in the wake of the COVID-19 emergency, consistently with fair trial requirements.

#### **(a) Presumption of admissibility for electronic and paper business records**

Documents generated and stored by private sector businesses (such as emails or letters) and by public bodies (such as hospital records) are an important feature of virtually every criminal and civil case. They should, subject to procedural safeguards to ensure that the records are reliable, be presumed to be admissible in both civil and criminal cases (sections 48 to 56 of the Commission's *Draft Evidence Bill*).

##### *How this would improve court hearings*

The proposed presumption of admissibility could reduce the need in a criminal trial for Gardaí and other witnesses to be on stand-by to confirm that a specific written document had been properly compiled and stored. Similarly, in a civil personal injuries case, a witness such as a health care professional, would not have to be on stand-by to confirm that a document had been properly compiled and stored in a hospital's record-keeping system. This would therefore avoid unnecessary waste of scarce human resources in criminal and civil cases, while the procedural safeguards would also ensure compliance with fundamental principles of fair procedures.

#### **(b) Clarifying the admissibility of electronic signatures**

Electronic signatures are an increasing feature of commercial activities, and are likely to be even more important in the future. An electronic signature that complies with the 2014 EU Regulation on Electronic Identification and Trust Services for Electronic Transactions (the e-IDAS Regulation) should be given the same legal effect as a handwritten signature and therefore should be admissible on the same basis (section 91 of the Commission's *Draft Evidence Bill*).

---

<sup>13</sup> Section 24 of the [Extradition \(European Union Conventions\) Act 2001](#) and section 13 of the [Criminal Evidence Act 1992](#).

### *How this would improve court hearings*

Giving electronic signatures that are e-IDAS-compliant the same evidential value as a traditional signature would complement the technological advances already underway in the court system, and is consistent with the Government's policy of digital-by-design.

## **2. Court procedures**

The Commission is conscious of the pending *Report of the Review of the Administration of Civil Justice* (chaired by the President of the High Court, Mr Justice Peter Kelly), whose terms of reference include the removal of over-complex rules of court procedure and examining the use of electronic communications including e-litigation.

The Commission also notes that the 2019 *Interim Report of the Expert Group to Review the Law of Torts and the Current Systems for the Management of Clinical Negligence Claims* (chaired by Mr Justice Charles Meenan) noted that submissions it had received referred to the need for reform of legal pleadings and of the rules regulating court procedure.

The recommendations that are likely to emerge from these two review groups could complement the reforms proposed in the Commission's 2010 [Report on Consolidation and Reform of the Courts Acts](#) (LRC 97-2010) (the concept of consolidating the courts legislation into a single Courts Act had also been proposed in the Government's 1962 *White Paper on Law Reform*). The following are of specific relevance to improving efficiency in the wake of the COVID-19 emergency, consistently with fair trial requirements.

### **(a) Using standardised and easily understood terms in civil proceedings.**

The terms used in the statutory Rules of Court for civil proceedings should be standardised, and they should be easily understood (section 5 of the Commission's *Draft Courts (Consolidation and Reform) Bill*).

#### *How this would improve court procedures*

At present, depending on the specific context and court, various names are given to the documents used to initiate civil proceedings, such as "civil process," "civil bill", "petition," "summons" and "writ". These could be replaced by a single term such as "application". Similarly, various names are given to the person who initiates civil proceedings, such as "plaintiff" (in many proceedings seeking an award of compensation), "petitioner" (in company law and family proceedings) and "applicant" (in judicial review cases). These could be replaced by a single term such as "applicant". These proposals would assist in simplifying the drafting of statutory Rules of Court as well as making civil proceedings more easily understood by the parties involved in civil cases.

### **(b) Imposing case conduct principles on parties in civil cases.**

The success of the judicial case management procedures already in place in a number of courts could be further developed by requiring that, in civil cases, the parties comply with the following case conduct principles (section 75 of the Commission's *Draft Courts (Consolidation and Reform) Bill*):

- issues between parties should, at as early a stage as possible, be identified, defined, narrowed (where possible) and prioritised or sequenced;
- proceedings should be conducted in a manner that is just, expeditious and likely to minimise the costs of those proceedings; and

- the parties should be encouraged to use alternative dispute resolution (ADR) procedures where appropriate, and be facilitated in doing so.

*How this would improve court procedures*

Imposing positive obligations on the parties in civil cases to identify the issues between them at an early stage, and to require them to conduct the proceedings to minimise their cost, would reduce delays in such cases. It would also allow the courts greater discretion to impose appropriate sanctions on the parties if they cause unnecessary costs in the course of the case. The obligation to encourage ADR, such as mediation, has since been implemented in the [Mediation Act 2017](#), which followed from the Commission's 2010 [Report on Alternative Dispute Resolution: Mediation and Conciliation](#) (LRC 98-2010).

***(c) Enabling Statutory Rules of Court to support use of ICT***

Legislation should enable the statutory Rules of Court, to support, where practicable and appropriate, the efficient use of Information and Communications Technology (ICT) in the conduct of proceedings in Court (section 227 of the Commission's *Draft Courts (Consolidation and Reform) Bill*).

*How this would improve court procedures*

This would provide a clear legislative underpinning for initiatives on ICT within the Courts Service, which have become even more relevant against the background of the COVID-19 emergency.



**APPENDIX C  
REPORTS AND FINANCIAL STATEMENTS OF LAW REFORM  
COMMISSION 2020**

**Law Reform Commission**

**Reports & Financial Statements**

**for the financial year ended 31 December 2020**

# Law Reform Commission

## Contents

	<b>Page</b>
Law Reform Commission Information	<b>1</b>
Report of the Comptroller and Auditor General	<b>2 - 3</b>
Governance Statement and Commission Members' Report	<b>4 - 8</b>
Statement on Internal Control	<b>9 - 10</b>
Statement of Income and Expenditure and Retained Revenue Reserves	<b>11</b>
Statement of Comprehensive Income	<b>12</b>
Statement of Financial Position	<b>13</b>
Statement of Cash Flows	<b>14</b>
Notes to the Financial Statements	<b>15 - 26</b>

## Law Reform Commission

### Information

<b>President</b>	Ms Justice Mary Laffoy
<b>Commissioners</b>	Raymond Byrne - Full time Commissioner Mr Justice Maurice Collins - Part time Commissioner Dr Andrea Mulligan, BL - Part time Commissioner
<b>Registered office</b>	The Law Reform Commission 5th Floor Styne House Upper Hatch Street Dublin Dublin 2
<b>Auditor</b>	Comptroller & Auditor General 3A Mayor Street Upper Dublin 1 DO1PF72
<b>Bankers</b>	Danske Bank 3 Harbourmaster Place Dublin 1

J



**Report of the Comptroller and Auditor General**  
**Law Reform Commission (continued)**

Comptroller & Auditor General  
3A Mayor Street Upper  
Dublin  
DO1PF72



# Ard Reachtaire Cuntas agus Ciste Comptroller and Auditor General

## Report for presentation to the Houses of the Oireachtas

### Law Reform Commission

#### Opinion on the financial statements

I have audited the financial statements of the Law Reform Commission for the year ended 31 December 2020 as required under the provisions of section 9 of the Law Reform Commission Act 1975. The financial statements comprise

- the statement of income and expenditure and retained revenue reserves
- the statement of comprehensive income
- the statement of financial position
- the statement of cash flows and
- the related notes, including a summary of significant accounting policies.

In my opinion, the financial statements give a true and fair view of the assets, liabilities and financial position of the Law Reform Commission at 31 December 2020 and of its income and expenditure for 2020 in accordance with Financial Reporting Standard (FRS) 102 — *The Financial Reporting Standard applicable in the UK and the Republic of Ireland*.

#### *Basis of opinion*

I conducted my audit of the financial statements in accordance with the International Standards on Auditing (ISAs) as promulgated by the International Organisation of Supreme Audit Institutions. My responsibilities under those standards are described in the appendix to this report. I am independent of the Law Reform Commission and have fulfilled my other ethical responsibilities in accordance with the standards.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### Report on information other than the financial statements, and on other matters

The Law Reform Commission has presented certain other information together with the financial statements. This comprises the annual report, the governance statement and Commission members' report and the statement on internal control. My responsibilities to report in relation to such information, and on certain other matters upon which I report by exception, are described in the appendix to this report.

I have nothing to report in that regard.

**Colette Drinan**  
For and on behalf of the  
Comptroller and Auditor General  
15 December 2021

## Appendix to the report

### Responsibilities of Commission members

As detailed in the governance statement and Commission members' report, the Commission members are responsible for

- the preparation of financial statements in the form prescribed under section 9 of the Law Reform Commission Act 1975
- ensuring that the financial statements give a true and fair view in accordance with FRS102
- ensuring the regularity of transactions
- assessing whether the use of the going concern basis of accounting is appropriate, and
- such internal control as they determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### Responsibilities of the Comptroller and Auditor General

I am required under section 9 of the Law Reform Commission Act 1975 to audit the financial statements of the Law Reform Commission and to report thereon to the Houses of the Oireachtas.

My objective in carrying out the audit is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement due to fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with the ISAs, I exercise professional judgment and maintain professional scepticism throughout the audit. In doing so,

- I identify and assess the risks of material misstatement of the financial statements whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- I obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal controls.
- I evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures.

- I conclude on the appropriateness of the use of the going concern basis of accounting and, based on the audit evidence obtained, on whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Law Reform Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my report. However, future events or conditions may cause the Law Reform Commission to cease to continue as a going concern.
- I evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

### Information other than the financial statements

My opinion on the financial statements does not cover the other information presented with those statements, and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, I am required under the ISAs to read the other information presented and, in doing so, consider whether the other information is materially inconsistent with the financial statements or with knowledge obtained during the audit, or if it otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

### Reporting on other matters

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation. I report if I identify material matters relating to the manner in which public business has been conducted.

I seek to obtain evidence about the regularity of financial transactions in the course of audit. I report if I identify any material instance where public money has not been applied for the purposes intended or where transactions did not conform to the authorities governing them.

I also report by exception if, in my opinion,

- I have not received all the information and explanations I required for my audit, or
- the accounting records were not sufficient to permit the financial statements to be readily and properly audited, or
- the financial statements are not in agreement with the accounting records.



## **Governance Statement and Commission Member's Report**

### **Governance**

The Law Reform Commission was established under the Law Reform Commission Act 1975. The functions of the Commission are set out in section 4 of the 1975 Act. The Commission is accountable to the Office of the Attorney General, the Department of An Taoiseach and the Minister for Public Expenditure and Reform. The Commission is responsible for ensuring good governance and performs these tasks by setting strategic objectives and targets in its Strategy Statement and taking strategic decisions on all key business issues. The regular day-to-day management, control and direction of the Law Reform Commission are the responsibility of the Full Time Commissioner and Senior Management team. The Full Time Commissioner and the Senior Management team must follow the broad strategic direction set by the Commission, and must ensure that all Commission members have a clear understanding of the key activities and decisions related to the Commission, and of any significant risks likely to arise. The Full Time Commissioner acts as a direct liaison between the Commission and Senior Management.

### **Commission Responsibilities**

The work and responsibilities of the Commission are set out in the Law Reform Commission Act 1975, which describes the matters specifically reserved for Commission decisions. Standing items considered by the Commission include:

- Financial reports and management accounts;
- HR and other administration matters;
- Progress reports from the Director of Research and Deputy Director of Research on the research projects in the Commission's Programmes of Law Reform (these Programmes, which must be approved by Government under the 1975 Act, contain a list of law reform projects on which the Commission carries out research, followed by publication of Consultative Issues Papers and later, Reports with recommendations for law reform) and on specific requests made by the Attorney General;
- Review and discussion of draft papers concerning the Commission's research projects.

Section 9 of the Law Reform Commission Act 1975 requires the Commission members to keep, in such form as may be approved by the Minister for Public Expenditure and Reform, all proper and usual accounts of money received and expended by it.

In preparing these financial statements, the Commission is required to:

- Select suitable accounting policies and apply them consistently;
- Make judgements and estimates that are reasonable and prudent;
- Prepare the financial statements on a going concern basis unless it is inappropriate to presume that it will continue in operation, and;
- State whether applicable accounting standards have been followed, subject to any material departure disclosed and explained in the financial statements.

The Commission carries out an evaluation of the annual work programme at each of its monthly meetings, where it reviews progress on all projects, evaluates it in a specific form annually, which was done at its May 2021 meeting, and also when it reviews its draft Annual Report, in the case of the Annual Report 2020 at its May 2021 meeting.

The Commission is responsible for safeguarding its assets and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Commission considers that its financial statements give a true and fair view of the financial performance and the financial position of the Law Reform Commission at 31 December 2020.

### **Commission Structure**

The Commission comprises its 5 members, that is, the Commission President, the Full Time Commissioner and 3 Part Time Commissioners, all of whom are appointed by the Government in accordance with the Law Reform Commission Act 1975. The Full Time Commissioner was appointed in 2016 after a PAS/TLAC Competition. The members of the Commission may be appointed for a period of up to 5 years. The Commission meets at least 10 times a year. The table below details the appointment period of Commission members in 2020:

Commission member	Role	Date Appointed
Ms Justice Mary Laffoy	President	9th October 2018 (appointed)
Mr Raymond Byrne	F/T Commissioner	16th April 2016 (appointed)
Mr Tom O'Malley	P/T Commissioner	1st September 2015 (re-appointed) 12th August 2020 (ceased)
Prof Donncha O'Connell	P/T Commissioner	1st September 2015 (re-appointed) 12th August 2020 (ceased)
Ms Justice Carmel Stewart	P/T Commissioner	1st September 2015 (re-appointed) 12th August 2020 (ceased)
Mr Justice Maurice Collins	P/T Commissioner	1st October 2020 (appointed)
Mr Justice Richard Humphreys	P/T Commissioner	1st October 2020 (appointed) 16th April 2021 (ceased)
Dr Andrea Mulligan, BL	P/T Commissioner	1st October 2020 (appointed)

### **Committees of the Commission**

The Attorney General's Internal Audit and Risk Committee carries out, in close liaison with the Commission, the internal audit and risk function for the Commission. From time to time, the Commission establishes ad hoc committees and/or working groups to assist its research; in 2020, the Commission did not establish any such committee.

A schedule of attendance at Commission meetings for 2020 is set out below including the fees and expenses received by each Commission member.

<b>Commissioner Name</b>	<b>No. of Meetings Attended</b>	<b>Salary / Fees</b>	<b>Travel expenses to Commission meetings</b>	<b>Attendance at conferences / lectures</b>
		€	€	€
<b>President</b> Ms Justice Mary Laffoy	11	49,008	-	-
<b>Commissioner (F/T)</b> Mr Raymond Byrne	11	151,955	-	-
<b>Commissioners (P/T)</b>				
Mr Tom O'Malley	7	-	296	-
Prof Donncha O'Connell	8	-	668	-
Ms Justice Carmel Stewart	8	-	-	-
Mr Justice Maurice Collins	3	-	-	-
Mr Justice Richard Humphreys	3	-	-	-
Dr Andrea Mulligan, BL	3	-	-	-

The President's salary is in accordance with relevant Government guidelines.

The full time Commissioner's salary is at Assistant Secretary General Level.

The part time Commissioners do not receive salaries or fees under the One Person One Salary (OPOS) policy. Travel Expenses to Commission meetings for the part-time Commissioners are related to travel from outside Dublin.

**Disclosures Required by Code of Practice for the Governance of State Bodies (2016)**

The Commission members are responsible for ensuring that the Law Reform Commission has complied with the requirements of the Code of Practice for the Governance of State bodies as published by the Department of Public Expenditure and Reform in August 2016. The following disclosures are required by the Code.

### **1) Consultancy Costs**

Consultancy costs includes the cost of external advice to management and excludes outsourced "business-as-usual" functions.

	<b>2020</b>	<b>2019</b>
	<b>€</b>	<b>€</b>
Writing Book for 45th Anniversary of the Commission	-	10,000
Consultancy on HR Issues	-	1,230
Collective Citation of Acts	600	880
4th Programme of Law Reform, Contempt of Court	16,675	3,420
Classified List and classification of SIs made under European Communities Act 1972, s.3	6,500	-
4th Programme of Law Reform, Compulsory Acquisition of Land	1,500	-
Statute Law Revision Programme	4,590	-
Revised Acts	1,440	-
Rent Review- Styne House	8,470	-
<b>Total</b>	<b>39,775</b>	<b>15,530</b>

### **2) Legal Costs and Settlements**

There were no legal costs or settlements in 2020.

### **3) Travel and Subsistence Expenditure**

Travel and subsistence expenditure is categorised as follows:

		<b>2020</b>	<b>2019</b>
		<b>€</b>	<b>€</b>
Domestic	Commission	964	9,496
	Employees	597	16
	Other	-	-
International	Commission	-	915
	Employees	-	1,625
	Other	-	-
<b>Total</b>		<b>1,561</b>	<b>12,052</b>

#### **4) Hospitality Expenditure**

The Income and Expenditure Account includes the following hospitality expenditure

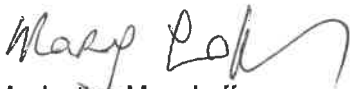
	<b>2020</b>	<b>2019</b>
	<b>€</b>	<b>€</b>
Staff Hospitality	1,782	2,486
Client Hospitality	-	1,190
<b>Total</b>	<b>1,782</b>	<b>3,676</b>

Staff Hospitality includes refreshments for Commission meetings and staff canteen expenses.

Client Hospitality involves expenditure solely in respect of hosting of public consultative meetings, consultative round tables and report launches.

#### **Statement of Compliance**

The Commission has adopted the Code of Practice for the Governance of State Bodies (2016) and has put procedures in place to ensure compliance with the Code. The Commission was in full compliance with the Code of Practice for State Bodies in 2020.



Ms Justice Mary Laffoy  
President

Date 9/12/2021.

## **Statement on Internal Control**

### **Scope of Responsibility**

On behalf of the Commission, I acknowledge its responsibility for ensuring that an effective system of internal control is maintained and operated. This responsibility takes account of the requirement of the Code of Practice for the Governance of State Bodies (2016).

### **Purpose of the System of Internal Control**

The system of internal control is designed to manage risk to a tolerable level rather than to eliminate it. The system can therefore only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded and that material errors or irregularities are either prevented or detected in a timely way.

The system of internal control, which accords with guidance issued by the Department of Public Expenditure and Reform has been in place in the Commission for the year ended 31 December 2020 and up to the date of approval of the financial statements.

### **Capacity to Handle Risk**

The Attorney General's Audit and Risk Committee also has responsibility for the Commission. This committee comprises a Chairperson, two external members, two staff from the AGO and Chief State Solicitor's Office with financial and audit expertise. The Audit Committee met twice in 2020. The Full-Time Commissioner, Raymond Byrne and the Head of Administration, Brid Rogers, attended one meeting of the Internal Audit Committee of the Office of the Attorney General in December 2020 at which the Law Reform Commission's audit was discussed. The Risk Management met nine times in 2020 and the Commission was on none of the agendas.

The Commission is a small public sector body with 20 staff and does not have an Internal Audit Function. As noted above, the internal audit functions fall under the remit of the Audit Committee within the office of the AGO (the Commission's parent Office) which carries out reviews on a biennial basis.

The Commission has developed a risk management policy, which sets out its risk tolerance, the risk management processes in operation and details the roles and responsibilities in relation to risk. This policy has been issued to all staff who are expected to work within the Commission's risk management policies, to alert management on emerging risks and control weaknesses and who assume responsibilities for risks and controls within their own area of work.

### **Risk and Control Framework**

The Commission has implemented a risk management system which identifies and reports key risks and the management actions being taken to address and, to the extent possible, to mitigate those risks.

A risk register is in place, which identifies the key risks facing the Commission, and these have been identified, evaluated and graded according to their significance. The register is reviewed and updated by the Management Committee on an annual basis. The outcome of these assessments is used to plan and allocate resources to ensure risks are managed to an acceptable level.

The risk register details the controls and actions needed to mitigate risks and responsibility for operations of controls assigned to specific senior staff. I can confirm a control environment containing the following elements are in place:

- Procedures for all key business processes have been documented
- Financial responsibilities have been assigned at management level with corresponding accountability
- There is an appropriate budgeting system with an annual budget which is kept under review by senior management.
- There are systems aimed at ensuring the security of the information and communication technology systems.
- There are systems in place to safeguard assets.

### **Ongoing Monitoring and Review**

Formal procedures have been established for monitoring control processes. Control deficiencies are communicated to senior managers and the Commission who will take responsibility for corrective action where relevant. I confirm that the following ongoing monitoring systems are in place:

- Key risks and related controls have been identified. Processes have been put in place to monitor the operation of these key controls and report any identified deficiencies;
- Reporting arrangements have been established at all levels where responsibilities for financial management have been assigned; and
- There are regular reviews by senior management of periodic annual performance and financial reports which indicate performance against budgets/forecasts.

### **Procurement**

During 2020, the Commission paid €40,175 (excl VAT) to one vendor for the purchase of services, where the procedures employed in the year did not comply with the procurement guidelines. The service providers, had been used by the Commission for a number of years. The Commission regularised the procurement position in August 2021 and is now in compliance since October 2021.

### **Review of Effectiveness**

I confirm that the Commission has procedures to monitor the effectiveness of its risk management and control procedures. The Commission's monitoring and review of the effectiveness of the system of internal financial control is informed by the work of the internal and external auditors, and the senior management within the Commission responsible for the development and maintenance of the internal control framework. The Internal Audit Unit of the Office of the Attorney General carry out reviews on a biennial basis.

### **Internal Control Issues**

There were no weaknesses identified in internal controls in relation to 2020 that require disclosure in the financial statements.

  
**Ms Justice Mary Laffoy**  
**President**

Date 9/12/2021.

## Law Reform Commission

### Statement of Income and Expenditure and Retained Revenue Reserves Year Ended 31 December 2020

	Note	2020 €	2019 €
<b>Income</b>			
Oireachtas Grant	3	2,129,282	2,073,350
Other		-	6,607
Reimbursed to Office of the Attorney General		(6,364)	-
Transfer from/(to) Capital Account		70,910	(35,380)
Net deferred funding for pensions	8(c)	317,000	139,000
		2,510,828	2,183,577
<b>Expenditure</b>			
Salaries	6	1,266,542	1,146,968
Pensions	8(a)	377,002	197,355
IT		82,350	79,558
Rent and service charges		364,229	299,555
Light and Heat		9,156	9,647
Repairs and Maintenance - Buildings		3,617	7,453
Insurance		3,355	3,295
Telephone		12,786	12,098
Stationery & office management		21,043	38,735
Seminars		1,946	1,413
Library		100,095	103,930
Travelling and subsistence		1,561	12,052
Cleaning		9,519	9,261
Printing		28,492	8,964
Postage		4,828	2,439
Depreciation		115,486	96,839
Misc Office Expenses		942	828
Auditors remuneration		10,800	9,000
Training		25,208	43,864
Corporate Support		29,368	28,874
Professional fees		39,775	15,530
Annual Conference		-	6,811
		2,508,100	2,134,469
<b>Surplus/(Deficit) for the Year</b>		2,728	49,108
Balance Brought Forward at 1 January 2020		123,651	74,543
Balance Carried Forward as at 31st December 2020		126,379	123,651

The Statement of Cash Flows and notes 1 to 16 form part of these financial statements

  
Ms Justice Mary Laffoy  
President

Date 9/12/2021



**Law Reform Commission**

**Statement of Comprehensive Income**

**Financial year ended 31 December 2020**

		<b>Year ended 2020 €</b>	<b>Year ended 2019 € as restated</b>
Surplus/(Deficit) for the Year		2,728	49,108
Actuarial Loss (Gain) on Experience on pension scheme liabilities	2	352,000	1,177,000
Actuarial Loss/(Gain) on Change in assumption on pension scheme liabilities		<u>-</u>	<u>-</u>
Changes in assumptions underlying the present value of pension scheme liabilities		-	-
Actuarial losses/(gains) on pension liability	8(b)	<u>352,000</u>	<u>1,177,000</u>
Adjustment to deferred pension funding		(352,000)	(1,177,000)
Total Comprehensive Income /(losses) for the year		<u>2,728</u>	<u>49,108</u>

The Statement of Cash Flows and notes 1 to 16 form part of these financial statements



**Ms Justice Mary Laffoy  
President**

Date 9/12/2021

**Law Reform Commission**

**Statement of Financial Position  
As at 31 December 2020**

	Note	2020 €	€	2019 € as restated	€
<b>Fixed assets</b>					
Tangible assets	9	412,364		483,274	
			412,364		483,274
<b>Current assets</b>					
Receivables	10	217,127		172,174	
Cash and cash equivalents	4	81,484		118,462	
		<u>298,611</u>		<u>290,636</u>	
<b>Current liabilities: amounts falling due within one year</b>					
Payables	11	<u>(120,529)</u>		<u>(102,356)</u>	
<b>Net current assets</b>			<u>178,082</u>		<u>188,280</u>
			<u>590,446</u>		<u>671,554</u>
<b>Liabilities: amounts falling due after more than one year</b>					
	12		<u>(51,703)</u>		<u>(64,629)</u>
			<u>538,743</u>		<u>606,925</u>
Deferred retirement benefit funding	2& 8(c)		5,935,000		5,266,000
Retirement benefit (liability)	2& 8(d)		<u>(5,935,000)</u>		<u>(5,266,000)</u>
<b>Net assets</b>			<u>538,743</u>		<u>606,925</u>
<b>Representing:</b>					
Capital account	5		412,364		483,274
Retained Revenue Reserves			126,379		123,651
			<u>538,743</u>		<u>606,925</u>

The Statement of Cash Flows and notes 1 to 16 form part of these financial statements

  
**Ms Justice Mary Laffoy**  
**President**

Date 9/12/2021

**Law Reform Commission**  
**Statement of Cash Flows**  
**Financial year ended 31 December 2020**

	<b>Year ended 2020</b>	<b>Year ended 2019</b>
	€	€
<b>Net Cash Flows from Operating Activities</b>		
Surplus/(Deficit) for the year	2,728	49,108
Transfer from/(to) Capital Account	(70,910)	35,380
Depreciation	115,486	96,839
Decrease/(Increase) in Receivables	(44,953)	15,602
Increase/(Decrease) in Payables	18,173	( 32,751)
Increase/(Decrease) in Creditors amounts falling due after more than one year	(12,926)	( 12,926)
Cash generated from operations	<u>7,598</u>	<u>151,252</u>
<b>Cash flows from investing activities</b>		
Purchase of tangible assets	(44,576)	(132,219)
Net cash used in investing activities	<u>(44,576)</u>	<u>(132,219)</u>
<b>Net increase/(decrease) in cash and cash equivalents</b>	(36,978)	19,033
<b>Cash and cash equivalents at beginning of financial year</b>	<u>118,462</u>	<u>99,429</u>
<b>Cash and cash equivalents at end of financial year</b>	<u><u>81,484</u></u>	<u><u>118,462</u></u>

## Law Reform Commission

### Notes to the Financial Statements Financial year ended 31 December 2020

#### 1. Accounting Policies

The basis of accounting and significant accounting policies adopted by the Commission are set out below. They have all been applied consistently throughout the year and for the preceding year.

##### (a) General Information

The Law Reform Commission was established in 1975 in accordance with the provisions of the Law Reform Commission Act 1975. The Commission's main functions are to keep the law under review, undertake examinations and conduct research with a view to reforming the law and formulate proposals for law reform and to make legislation accessible to all.

##### (b) Statement of compliance

These Financial Statements of the Commission for the year ended 31 December 2020 have been prepared in compliance with FRS102, The Financial Reporting Standard applicable in the UK and Republic of Ireland issued by the Financial Reporting Council (FRC) as promulgated by Chartered Accountants Ireland.

##### (c) Basis of preparation

The Financial Statements have been prepared on a historical cost basis, except for certain assets and liabilities that are measured at fair values as explained in the accounting policies below. The financial statements are in the form approved by the Minister for Public Expenditure and Reform. The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the Commission's financial statements.

##### (d) Currency

The financial statements have been presented in Euro (€) which is also the functional currency of the Commission.

##### (e) Revenue

###### Oireachtas Grant

Oireachtas Grants are recognised on a cash receipts basis.

###### Other Revenue

Other revenue is recognised on an accruals basis.

##### (f) Leased Premises Improvements, Office Equipment and Fixtures and Fittings

Leased premises improvements, office equipment and fixtures and fittings are stated at cost less accumulated depreciation, adjusted for any provision for impairment.

## Law Reform Commission

### Notes to the Financial Statements (continued) Financial year ended 31 December 2020

#### (f) ctd Depreciation

Depreciation is provided on all lease premises improvements, office equipment and fixtures & fittings at rates estimated to write off the cost less the estimated residual value of each asset on a straight line basis over their estimated useful economic life of that asset as follows:

Lease Premises Improvements	-	Over the Lease Period
Office Equipment	-	20% straight line
Fixtures & Fittings	-	10% straight line

Residual value represents the estimated amount which would currently be obtained from disposal of an asset, after deducting estimated costs of disposal, if the asset were already of an age and in the condition expected at the end of its useful life.

If there is objective evidence of impairment of the value of an asset, an impairment loss is recognised in the Statement of Income and Expenditure and Retained Revenue Reserves in the year.

There was no impairment in 2020.

#### (g) Receivables

Receivables are recognised at fair value, less a provision for doubtful debts.

The provision for doubtful debts is a specific provision, and is established when there is objective evidence that the Commission will not be able to collect all amounts owed to it. All movements in the provision for doubtful debts are recognised in the Statement of Income and Expenditure and Retained Revenue Reserves.

#### (h) Operating Leases

Rental expenditure under operating leases is recognised in the Statement of Income and Expenditure and Retained Revenue Reserves over the life of the lease. Expenditure is recognised on a straight-line basis over the lease period, except where there are rental increases linked to the expected rate of inflation, in which case these increases are recognised when incurred. Any lease incentives received are recognised over the life of the lease.

## Law Reform Commission

### Notes to the Financial Statements (continued) Financial year ended 31 December 2020

#### (i) **Employee Benefits**

##### Short-term Benefits

Short term benefits such as holiday pay are recognised as an expense in the year, and benefits that are accrued at the year-end are included in the Payables figure in the Statement of Financial Position.

##### Retirement Benefits

The Commission previously established its own defined benefit pension schemes under sections 11 and 12 of the Law Reform Commission Act 1975 and corresponding contributory spouses' and children's schemes under administrative arrangements. The schemes are funded annually on a pay-as-you-go basis from monies provided by the Vote for the Office of the Attorney General and from contributions deducted from staff and members' salaries. The Commission also operates the Single Public Services Pension Scheme ("Single Scheme"), which is a defined benefit scheme for pensionable public servants appointed on or after 1 January 2013. Single Scheme members' contributions are paid over to the Department of Public Expenditure and Reform (DPER) via the Attorney General's Office.

Pension costs reflect pension benefits earned by employees, and are shown net of staff pension contributions which are remitted to the Office of the Attorney General. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable, and offset by grants received in the year to discharge pension payments.

Actual gains or losses arising on scheme liabilities are reflected in the Statement of Comprehensive Income, and a corresponding adjustment is recognised in the amount recoverable from the Office of the Attorney General.

The financial statements reflect, at fair value, the assets and liabilities arising from the Commission's pension obligations and any related funding, and recognises the costs of providing pension benefits in the accounting periods in which they are earned by employees. Retirement benefit scheme liabilities are measured on an actuarial basis using the projected unit credit method.

## Law Reform Commission

### Notes to the Financial Statements (continued) Financial year ended 31 December 2020

#### (j) Critical Accounting Judgements and Estimates

The preparation of the financial statements requires management to make judgements, estimates and assumptions that affect the amounts reported for assets and liabilities as at the balance sheet date and the amounts reported for revenues and expenses during the year. However, the nature of estimation means that actual outcomes could differ from those estimates. The following judgements have had the most significant effect on amounts recognised in the financial statements.

##### Depreciation and Residual Value

The Commission has reviewed the asset lives and associated residual values of all fixed asset classes and, in particular, the useful economic life and residual values of Leased Premises Improvements, Fixtures and Fittings and Office Equipment, and has concluded that asset lives and residual values are appropriate.

##### Retirement Benefit Obligations

The assumptions underlying the actuarial valuations for which the amounts recognised in the financial statements are determined (including discount rates, rate of increase in future compensation levels, mortality rates and health care cost trend rates) are updated annually based on current economic conditions, and for any relevant changes to the terms and conditions of the pension and post-retirement plan.

The assumptions can be affected by:

- (i) the discount rate, changes in the rate of return on high-quality corporate bonds
- (ii) future compensation levels, future labour market conditions
- (iii) health care cost trend rates, the rates of medical cost inflation in the relevant regions.

## 2. PRIOR YEAR ADJUSTMENT

### Material Error in Defined Benefit Pension Obligation

The Actuarial Loss for 2019 was understated by €191,000. This has now been restated to €1,177,000. As a consequence the defined benefit pension obligation at 31 December 2019 has now been restated at €5,266,000.

## 3. Oireachtas Grant

The Oireachtas Grant voted to the Commission from the Office of the Attorney General (Vote 3 Subhead A4) as shown in the financial statements consists of:

2020	2019
€	€
2,129,282	2,073,350

**Law Reform Commission**

**Notes to the Financial Statements (continued)  
Financial year ended 31 December 2020**

**4. Cash and Cash Equivalents**

	<b>2020</b>	<b>2019</b>
	€	€
Bank Current Accounts	81,380	118,256
Petty Cash	104	206
	<u>81,484</u>	<u>118,462</u>

**5. Capital Account**

The balance on the Capital Account represents the unamortised value of the funds utilised for the acquisition of fixed assets

	<b>2020</b>	<b>2019</b>
	€	€
Opening Balance	483,274	447,894
Add: Amount applied to purchase fixed assets	44,576	132,219
Less depreciation of tangible assets	115,486	96,839
- Less: Disposals of fixed assets - Cost	-	-
Add: Accumulated Depreciation on Disposal	-	-
Closing Balance	<u>412,364</u>	<u>483,274</u>



## Law Reform Commission

### Notes to the Financial Statements (continued) Financial year ended 31 December 2020

#### 6. Staff Costs

The average number of employees and aggregate payroll costs incurred during the financial year were:

	2020	2019
Average number of employees	18	18
	€	€
Wages and salaries	<u>1,266,542</u>	<u>1,146,968</u>

The above figures include the salaries (and expenses, if any) of the President and the full-time Commissioner, the details of which are as follows.

Commissioner Name	2020			2019		
	No. of Meetings Attended	Salary €	Expenses €	No. of Meetings Attended	Salary €	Expenses €
<b>President</b> Ms Justice Mary Laffoy	11	49,008	-	11	49,008	-
<b>Full Time Commissioner</b> Mr Raymond Byrne	11	151,955	-	10	148,665	-
<b>Part Time Commissioners</b>						
Mr Tom O'Malley	7	-	296	8	-	4,074
Prof Donncha O'Connell	8	-	668	10	-	5,422
Ms Justice Carmel Stewart	8	-	-	9	-	-
Mr Justice Maurice Collins	3	-	-			
Mr Justice Richard Humphreys	3	-	-			
Dr Andrea Mulligan, BL	3	-	-			
<b>Total</b>		<b>200,963</b>	<b>964</b>		<b>197,673</b>	<b>9,496</b>

## Law Reform Commission

### Notes to the Financial Statements (continued) Financial year ended 31 December 2020

#### **Employee Short-Term Benefits Breakdown**

The table below reflects the number of employee's remuneration in excess of €60,000.

€	2020	2019
60,000 - 69,999	1	1
70,000 - 79,999	3	3
80,000 - 89,999	-	-
90,000 - 99,999	-	1
100,000 - 109,999	-	1
110,000 - 119,999	2	-
120,000 - 129,999	-	-
130,000 - 139,999	-	-
140,000 - 149,999	1	1

#### **Aggregate Employee Benefits**

	2020	2019
	€	€
Staff Short-Term Benefits	1,266,542	1,146,968
Termination Benefits	-	-
Retirement Benefit Costs	63,114	197,355
<b>Total</b>	<b>1,329,656</b>	<b>1,344,323</b>

The total number of staff employed (WTE) at year end was 18 (2019:18).

There were no termination benefits in 2020.

#### **Key Management Personnel**

The total remuneration of those with significant influence/decision making is €447,670 (€408,077 in 2019). This includes the President, the Commissioners and members of the management committee.

€38,284 was deducted from staff by way of pension levy and was paid over to the Office of the Attorney General (€35,920 in 2019).

## Law Reform Commission

### Notes to the Financial Statements (continued)

Financial year ended 31 December 2020

#### 7. Operating Lease

In August 2017 the Commission entered into an eight year lease to occupy the 5th Floor of Styne House, Upper Hatch Street, Dublin 2.

The Commission received a 5 month rent free lease period. This charge has been spread over the life of the eight year lease in accordance with FRS 102.

4th Schedule Vat in the amount of €206,029 was paid in 2017 on the lease. This has been capitalised under Leased Premises Improvements and is being depreciated over the lease period of eight years.

In December 2020, a rent review was agreed effective from 15th February 2020 for a period of 5 years.

#### Lease Commitments

At 31st December 2020 the Commission had the following future minimum lease payments under non-cancellable operating leases for each of the following periods:

	2020	2019
	€	€
Payable within one year	352,730	260,750
Payable within two to five years	1,116,980	1,525,000
Payable after five years	-	381,250

**Law Reform Commission**

**Notes to the Financial Statements (continued)  
Financial year ended 31 December 2020**

**8. Retirement benefit costs**

	<b>2020</b>	<b>2019</b>
	€	€
	as restated	
<b>(a) Analysis of total retirement benefit costs charged to expenditure</b>		
Current Service Cost	325,000	125,000
Past Service Cost	-	-
Interest on retirement benefit costs charges to expenditure	55,000	75,000
Employee contributions	(2,998)	(2,645)
	<b>377,002</b>	<b>197,355</b>
<b>(b) Movement in net retirement benefit during the financial year</b>		
Net retirement benefit liability at 1 January	5,266,000	3,950,000
Current Service cost	325,000	125,000
Past Service Cost	-	-
Interest Cost	55,000	75,000
Actuarial losses/(gains)	352,000	1,177,000
Retirement benefit paid in the year	(63,000)	(61,000)
Net Retirement benefit liability at 31 December	<b>5,935,000</b>	<b>5,266,000</b>

**(c) Deferred funding for retirement benefits**

The Commission recognises amounts from the State for the unfunded deferred liability for retirement benefit on the basis of a number of past events. These events include the statutory backing for Superannuation schemes and the policy and practice in relation to funding public service retirement benefit including contributions by employees and the annual estimates process. While there is no formal agreement and therefore no guarantee regarding these specific amounts with the Department of Public Expenditure and Reform, the Commission has no evidence that this funding policy will not continue to progressively meet this amount in accordance with current practice.

The Net Deferred Funding for Retirement Benefits recognised in the Statement of Income and Expenditure and Retained Revenue Reserves was as follows:

	<b>2020</b>	<b>2019</b>
	€	€
<b>Net deferred funding for Retirement Benefits in year</b>		
Funding recoverable in respect of current year retirement benefit costs	380,000	200,000
State grant applied to pay pensioners	(63,000)	(61,000)
	<b>317,000</b>	<b>139,000</b>

The deferred funding asset for retirement benefits as at 31 December 2020 amounted to €5,935,000 2019: € 5,266,000)

## Law Reform Commission

### Notes to the Financial Statements (continued) Financial year ended 31 December 2020

(d) History of defined benefit obligations	2020	2019	2018	2017
	€	€	€	€
Defined benefits obligations	5,935,000	5,266,000	3,950,000	3,345,000
Experience (gains)/losses on scheme Liabilities Amount	352,000	1,177,000	510,000	19,000
Percentage of the present value of Scheme Liabilities	6%	22%	13%	0.6%

The cumulative actual (gains) and losses recognised in the Statement of Comprehensive Income amounts to €2,611,900 as at 31st December 2020 (2019: € 2,259,900)

#### (e) General description of the Scheme

The Commission previously established its own defined benefit pension schemes under sections 11 and 12 of the Law Reform Commission Act 1975 and corresponding contributory spouses' and children's schemes under administrative arrangements. The schemes are funded annually on a pay-as-you-go basis from monies provided by the Vote for the Office of the Attorney General and from contributions deducted from staff and members' salaries. The Commission also operates the Single Public Services Pension Scheme ("Single Scheme"), which is a defined benefit scheme for pensionable public servants appointed on or after 1 January 2013. Single Scheme members' contributions are paid over to the Department of Public Expenditure and Reform (DPER) via the Attorney General's Office.

The valuation used for FRS 102 Disclosures has been based on a full actuarial valuation at each date performed by an independent qualified actuary to take account of the requirements of FRS 102 in order to assess the scheme liabilities at 31 December 2020.

Assumptions	2020	2019
Rate of expected salary increase	2.5%	2.5%
Rate of increase in pension payment	2%	2.5%
Discount Rate	0.8%	1%
Inflation	1.75%	1.75%

The mortality rates adopted allows for improvements in the life expectancy over time, so that life expectancy at retirement will depend on the year in which a member attains retirement age (age 65). The table below shows the life expectancy for members attaining age 65 in 2020 and 2019.

Year of attaining age 65	2020	2019
Life expectancy - male	21.7	21.5
Life expectancy - female	24.1	24

**Law Reform Commission**

**Notes to the Financial Statements (continued)  
Financial year ended 31 December 2020**

**9 Tangible assets**

	Leased Premises Improvements	Office Equipment	Fixtures and fittings	Total
	€	€	€	€
<b>Cost</b>				
At 1 January 2020	330,829	1,240,296	625,252	2,196,377
Additions	-	43,274	1,302	44,576
<b>At 31 December 2020</b>	<b>330,829</b>	<b>1,283,570</b>	<b>626,554</b>	<b>2,240,953</b>
<b>Depreciation</b>				
At 1 January 2020	95,193	1,031,132	586,778	1,713,103
Charge for the financial year	41,354	69,413	4,719	115,486
<b>At 31 December 2020</b>	<b>136,547</b>	<b>1,100,545</b>	<b>591,497</b>	<b>1,828,589</b>
<b>Carrying amount</b>				
<b>At 31 December 2020</b>	<b>194,282</b>	<b>183,025</b>	<b>35,057</b>	<b>412,364</b>
At 31 December 2019	235,636	209,164	38,474	483,274

**10. Receivables**

	2020	2019
	€	€
Other Receivables	4,107	1,664
Prepayments	213,020	170,510
	<u>217,127</u>	<u>172,174</u>

**11. Payables**

	2020	2019
	€	€
Other creditors	9,164	-
Tax and social insurance:		
PAYE and social welfare	33,893	30,243
VAT	6,297	22,852
PSWT	1,620	4,975
Accruals	56,629	31,360
Rent free lease period accrual < 1 yr	12,926	12,926
	<u>120,529</u>	<u>102,356</u>

## Law Reform Commission

### Notes to the Financial Statements (continued) Financial year ended 31 December 2020

<b>12. Liabilities: amounts falling due after more than one year.</b>	<b>2020</b>	<b>2019</b>
	€	€
Rent free lease period accrual > 1 yr	51,703	64,629

#### **13. Capital Commitments**

The Commission had no outstanding capital commitments as at 31 December 2020.

#### **14. Related Party Disclosures**

Those with significant influence/decision making in the Commission consist of the President, the Commissioners and members of the management committee. Total compensation paid to personnel with significant influence/decision making amounted to €447,670 in 2020 (2019: €408,077)

For a breakdown of the remuneration and benefits paid to key management personnel, please refer to Note 5.

The Commission adopts procedures in accordance with the guidelines issued by the Department of Public Expenditure and Reform covering the personal interests of Commission Members. In the normal course of business, the Commission may approve grants or enter into other contractual arrangements with entities in which the Commission Members are employed or otherwise interested.

The Commission adopted procedures in accordance with the Code of Practice for the Governance of State Bodies (2016) in relation to the disclosure of interests by Commission Members and these procedures have been adhered to in the year. There were no transactions in the year in relation to the Commission's activities in which members had any beneficial interest.

#### **15. Covid-19**

In accordance with FRS102, COVID-19 is a non adjusting Post Balance Sheet event, with no impact on the financial statements for 2020. The Commission will continue to assess the impacts of emerging risks on its operations in the course of 2021, including any potential costs or impairments which may require to be reflected in the 2021 Financial Statements.

#### **16. Approval of financial statements**

The Commission approved the financial statements at its meeting on 13 May 2021.