

LAW REFORM
COMMISSION/COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ

ANNUAL REPORT 2018

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LAW REFORM COMMISSION AND STAFF

THE COMMISSION

The Law Reform Commission comprises 5 members, the President and 4 other Commissioners.¹ In 2018, the Commission members were as follows:

The Hon Mr Justice John Quirke (to 27 September 2018)

The Hon Ms Justice Mary Laffoy (from 9 October 2018)

President

Raymond Byrne BL

Commissioner

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

Commissioner

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

Commissioner

The Hon. Ms Justice Carmel Stewart

Commissioner

COMMISSION RESEARCH STAFF

Director of Research:

Professor Ciarán Burke

Deputy Director of Research:

Robert Noonan (from 1 June 2018)

Access to Legislation Manager:

Alma Clissmann

Access to Legislation Deputy Manager:

Kate Doran

Access to Legislation Statutory Instruments Project Manager

Fiona Carroll

Library and Information Manager:

Órla Gillen

LEGAL RESEARCHERS²

Emma Barry, Hanna Byrne, Leanne Caulfield, Éire Dempsey, Liam Dempsey, Ciara Dowd, James Egleston, Niall Fahy, Ivan Gramatikov, Morgane Hervé, Finn Keyes,

¹ On the terms of appointment of the 5 Commission members, see Chapter 4, below.

² Not all legal researchers were employed for the full calendar year.

Ciaran Murray, Jack Nea, Niamh Ní Leathlobhair, Robert Noonan, Claire O'Connell, Rebecca O'Sullivan, Suzanne Scott.

COMMISSION ADMINISTRATION STAFF³

Head of Administration: Deirdre Fleming (to 30th September 2018)
Brid Rogers (from 8th October 2018)

Executive Officers: Brendan Meskell
David Field

Clerical Officers: Roslyn Dalton
Gavin Walsh

³ Not all members of the administration staff were employed for the full calendar year.

FOREWORD

On behalf of the Law Reform Commission I am pleased to introduce our Annual Report for 2018.

During 2018, the Commission made further significant progress towards the completion of our Fourth Programme of Law Reform. We also completed a series of consultative meetings throughout the country seeking views on the projects that might be included in our Fifth Programme of Law Reform. On behalf of the Commission, I express sincere thanks to all those who made submissions to the Commission on projects that they suggested for inclusion. Of necessity, not all could be included in the Programme.

The Commission subsequently submitted a draft Fifth Programme, containing 15 projects, to the Attorney General. The draft Programme was referred to the Attorney General's Consultative Committee, which approved the content of the 15 projects in the draft Programme. In November 2018, the Government referred the draft Programme to the Oireachtas Joint Committee on Justice and Equality, which in January 2019 commended the draft Programme, and on 20th March 2019 the Government formally approved the Programme in accordance with the *Law Reform Commission Act 1975*.

During the year, the Commission also published a number of Issues Papers as well as one of the most wide-ranging Reports in its history.

The *Report on Regulatory Powers and Corporate Offences* completed work on the largest project in the *Fourth Programme of Law Reform*. It contains over 200 recommendations for further reform on regulatory powers and corporate offences. These include recommendations: to establish a multi-agency Corporate Crime Agency on a statutory basis; that economic regulators should have the power to impose significant financial sanctions and to make regulatory enforcement agreements, which should include consumer redress schemes; clarifying the circumstances in which a corporate body could be held criminally liable for systemic failures by its senior executives; and, in order to address egregiously reckless risk-taking, that existing fraud offences should be amended so that conscious (subjective) recklessness by a person would amount to fraud under, for example, the offence of false accounting in the *Criminal Justice (Theft and Fraud Offences) Act 2001*.

The Commission also published, with the support and assistance of the Department of Foreign Affairs and Trade, a draft Inventory of International Agreements entered into by the State. This is a subject-based inventory comprising 1,400 entries organised under 38 subject headings, and is one of the two outputs of the project in the Fourth Programme concerning domestic implementation of international law.

The Commission also published in 2018 two Issues Papers arising from references from the Attorney General under the *Law Reform Commission Act 1975*, concerning, respectively, privilege for court reports under the *Defamation Act 2009* and knowledge or belief concerning consent in rape law.

The Commission's work on Access to Legislation continues to grow and to provide much needed services to the legal and general community, notably by providing access to over 360 Revised Acts, which are administrative consolidations of Acts in their amended form.

I would like to pay tribute to my immediate predecessor, Mr Justice John Quirke, who was President for a 6 year period from 2012 to 2018. During that time, Mr Justice Quirke

oversaw, with his Commissioner colleagues, not only the completion of the remaining projects in the Commission's Third Programme of Law Reform, but also completion of a significant number in its Fourth Programmes of Law Reform. Added to this, he and his colleagues also bequeathed the ambitious contents of the draft Fifth Programme. During his time as President, I am aware that he played an active part in the preparation and finalisation of the many Issues Papers and Reports that the Commission published between 2012 and 2018. It may be invidious to refer to any particular projects, but I might mention the particular benefit of his long experience, as practitioner and judge, in connection with the Commission's detailed reports on mandatory sentences (2013), consumer insurance contracts (2015), the law of evidence (2016) and regulatory powers and corporate offences (2018).

I would also thank my fellow Commissioners for their commitment, work and support during 2018. As Commissioners, we are greatly indebted to the many people who enhance and assist the Commission in fulfilling its function and we greatly appreciate 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 Hon Ms Justice Mary Laffoy,
Commission President**

CHAPTER 1

INTRODUCTION

OVERVIEW OF THE COMMISSION'S WORK IN 2018

By 2018, the Commission had made significant progress on each of the projects in the 4th Programme of Law Reform. Of the 11 projects in the 4th Programme, 2 had been overtaken by developments since the Programme was finalised in 2013.⁴ The Commission also completed work on developing the draft of our 5th Programme of Law Reform, which was submitted to Government in 2018 and formally approved on 20th March 2019. During 2018, the Commission also published Issues Papers concerning 2 requests from the Attorney General.

The key developments in 2018 were the following.

1. Law reform publications

In 2018 the Commission published the following Report, Draft Inventory of International Agreements and 2 Issues Papers:

- *Report on Regulatory Powers and Corporate Offences* (LRC 119-2018). The Report completed work on the largest project in the Fourth Programme of Law Reform. Published in 2 volumes, the Report made over 200 recommendations for further reform on regulatory powers and corporate offences, including that: a statutory Corporate Crime Agency and a dedicated unit in the Office of the Director of Public Prosecutions should be established, and properly resourced; economic regulators should have the power to impose significant financial sanctions and to make regulatory enforcement agreements, which should include consumer redress schemes; the recommendations on regulatory powers would apply not only to regulation of financial services but also to the wider economic context, such as in competition law, communications regulation and health products regulation; the recommendations on corporate offences would clarify the circumstances in which a corporate body could be held criminally liable for systemic failures by its senior executives; and in order to address egregiously reckless risk-taking, existing fraud offences should be amended so that conscious (subjective) recklessness by a person would amount to fraud under, for example, the offence of false accounting in the *Criminal Justice (Theft and Fraud Offences) Act 2001*.
- *Draft Inventory of International Agreements entered into by the State* (LRC IP 14-2018). This draft Inventory is one of the two outputs of the project in the Fourth Programme concerning domestic implementation of international law. It comprises a draft subject-based Inventory comprising 1,400 entries organised under 38 subject headings. The vast majority of the entries were derived from the Department of Foreign Affairs and Trade's Irish Treaty Series (ITS) of ratified international agreements, but it also includes international agreements the State has signed but not ratified. In addition, the Commission's Inventory attempted where possible to link each entry with corresponding domestic measures in Acts and, as the case may be, statutory Regulations. The Commission's Inventory is a working draft and it is being published on the Commission's website as a basis for public discussion. It will be updated and supplemented where necessary.
- *Issues Paper on Knowledge or Belief Concerning Consent in Rape Law* (LRC IP 15-2018). This Paper arose in response to a reference from the Attorney General under the *Law Reform Commission Act 1975* to examine and make

⁴ See Chapter 2, footnote 6, below.

recommendations on whether changes should be made to that aspect of section 2 of the *Criminal Law (Rape) Act 1981* dealing with knowledge or belief in consent, having regard to relevant case law on the matter, particularly the Supreme Court's decision in *The People (DPP) v C. O'R* [2016] IESC 64. The Paper sought views on a number of issues relating to the mental element of rape, including whether an objective or "reasonable belief" element should be added to the definition of rape. Under this reform option, an accused's belief in consent would have to be both honest (as under the current, primarily subjective, test) and reasonable (thereby importing an objective element) in order for him to be acquitted. The inclusion of such an objective element in the definition of rape would be in line with the definition of some other serious offences in Irish law, such as manslaughter and sexual activity with a child, as well as the definition of rape in Northern Ireland, England and Wales, Scotland, and other common law jurisdictions. The Commission also asked whether the accused's personal characteristics, such as his decision-making (mental) capacity, could be considered in deciding if his belief in consent was reasonable.

- *Issues Paper on Privilege for Reports of Court Proceedings under the Defamation Act 2009* (LRC IP 16-2018). This Paper also arose in response to a reference from the Attorney General under the 1975 Act, in this instance as to whether the *Defamation Act 2009* should be amended to include a new qualified privilege for reports of court proceedings that would not qualify for the absolute privilege in section 17 of the 2009 Act that attaches to "fair and accurate" court reports. Such a qualified privilege would apply provided that no malice was present in their publication, for example, where any inaccuracies might arise because of the pressure to publish material under a strict deadline rather than from any malicious intent. The Paper sought views on a number of issues that arose from this reference. The Commission's Report on this project was published in July 2019.

2. Access to legislation

The Commission's work on access to legislation during 2018 included the following:

- Updates to the Legislation Directory, the online index of legislative changes to Acts and Statutory Instruments, now updated virtually weekly.
- Updates to over 360 Revised Acts, which are Acts as amended showing changes made since enactment, updated to within two months.
- Changing the method of updating of the Classified List of Legislation, which comprises over 2,000 Acts that are in force organised under 36 subject titles, and a draft Classified List of Statutory Instruments, organised in the same manner, to integrate it with the new Legislation Directory database. The Commission intends to publish a new version of the Classified List prepared in this way in 2019.

FUNCTIONS OF THE COMMISSION

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

- the development of law
- its codification (including its simplification and modernisation)
- the revision and consolidation of statute law

Since it was established, the Commission has published over 200 documents (Issues Papers, Consultation Papers, Working Papers and Reports) containing proposals for law reform. A full list of Commission publications is available on the Commission's

website at 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 2 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 5 Programmes of Law Reform. The Commission's 5th Programme of Law Reform was approved by the Government on 20th March 2019. Developments during 2018 concerning the Commission's law reform work 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 2018 in the work on Access to Legislation are discussed in Chapter 3.

STRATEGY STATEMENT 2018-2020

The Commission's *Strategy Statement 2018-2020*, available at www.lawreform.ie, provides the framework for the work of the Commission in the 3 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 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 3 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.

METHODS OF WORK AND CONSULTATION PROCESS

The Commission's work is based on careful and thorough research. 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 opinions and experiences of these contacts are taken into account in the Commission's publications.

Methodology

To achieve the goals set out in its Programmes of Law Reform and requests from the Attorney General, each project is assigned to researchers who work under the general direction of the Director of Research and, since June 2018, the Deputy Director of Research. In the case of the Access to Legislation work, researchers work under the direction of the Access to Legislation Manager and Deputy Managers.

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

The consultation process, including roundtables, workshops and conference

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 (at various times since 1975 referred to as Working Papers, Consultation Papers and Issues Papers). These provide a structured process through which written submissions are sought from interested parties. The submissions are taken into account in the drafting of 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 usually held to which the Commission invites interested parties, including those who have made submissions.

In 2018, the Commission held 4 round table discussions with interested parties in connection with the Commission's projects. These were:

- 25th April 2018: Suspended Sentences (4th Programme, Project 5);
- 2nd May 2018: Compulsory Acquisition of Land (4th Programme, Project 8);
- 13th June 2018: Suspended Sentences (4th Programme, Project 5);
- 16th October: Knowledge or Belief in Rape Law (Attorney General request)

These will greatly assist the Commission in developing its recommendations for reform in the Reports that will arise from these projects.

During the year, the Commission completed a series of 5 consultative meetings throughout the country seeking views on the projects that might be included in the 5th Programme of Law Reform, which was submitted to Government in 2018, and subsequently approved on 20th March 2019. The fourth consultative meeting was in Dundalk IT on 10th January 2018, and the fifth and final meeting was in University College Cork on 31st January 2018.

The Commission's Annual Conference in 2018 was on the subject of Brexit and Law Reform in Ireland. The conference began with a Keynote Address by Advocate General Gerard Hogan, Court of Justice of the European Union, on the Future of the

Common Law in the European Union after Brexit. The conference also heard presentations by: Patrick Leonard, SC, Bar Council of Ireland; Professor Blanaid Clarke, McCann Fitzgerald Chair in Corporate Law, Trinity College Dublin, the University of Dublin; Professor Federico Fabbrini, Full Professor of EU Law, Director, DCU Brexit Institute; Maree Gallagher, Solicitor, Covington and Burling; Ken Murphy, Director General, Law Society of Ireland; and Professor Christopher McCrudden, Professor of Human Rights and Equality Law, Queen's University Belfast. The speeches and presentations are all available on the Commission's website.

The Commission includes a draft Bill in each Report where it makes recommendations requiring legislative change in accordance with its statutory remit under the 1975 Act to include draft legislation where it proposes reform of the law.

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

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

Communication with Government Departments

The Commission communicates with Government Departments about both current and future projects. The Commission meets each year with the Department of Justice and Equality to review and discuss matters of mutual interest, both in criminal law and civil law.

Attorney General's Consultative Committee

The Attorney General's Consultative Committee, which assists in the development of the Commission's Programmes of Law Reform, comprises representatives of Government Departments, the Council of the Bar of Ireland, the Law Society of Ireland and the Office of the Attorney General. On 25th July 2018, the Commission met with the Committee to discuss the 15 projects in the draft Fifth Programme of Law Reform which the Commission had prepared. The Consultative Committee discussed in detail the 15 projects in the draft Programme and expressed satisfaction with the range of topics included. This greatly facilitated the consideration by Government of the draft Programme, and its approval without amendment on 20th March 2019.

Meetings with Oireachtas Committees

The Commission holds periodic meetings with the Oireachtas Joint Committee on Justice and Equality to discuss the work of the Commission. In 2018, the Government forwarded the Commission's draft Fifth Programme to the Oireachtas Committee on Justice and Equality for its consideration; and in January 2019 the Committee commended the contents of the draft Programme, following which as noted above it was approved by Government without amendment on 20th March 2019. The Commission also meets with other Oireachtas Committees from time to time to discuss projects that fall within their remit.

Conferences, visits and media contacts

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

Contacts with law reform bodies in other jurisdictions are also maintained through attendance at relevant seminars and through hosting visits from other law reform bodies.

In May 2018, the Commission met a delegation from the Welsh Government, including the Welsh General Counsel, Jeremy Miles AM, to discuss developments in accessibility, consolidation and publication of legislation, on which the Commission is completing a project under the Fourth Programme of Law Reform.

In June 2018, the Commission hosted the annual meeting of the 4 Law Commissions of, England and Wales, Scotland, Jersey and Ireland, respectively. These annual meetings allow for an exchange of views on developments in law reform, including methodology, as well as maintaining important links between the bodies. At the 2018 meeting, the Commission led a discussion on the methodologies used in the selection of law reform projects.

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

Appendix 2 contains a selection of Commission events, including publication launches, seminars and meetings hosted by the Commission and seminars attended by staff in 2018.

CHAPTER 2 LAW REFORM: WORK ON FOURTH PROGRAMME AND ATTORNEY REQUESTS; AND IMPLEMENTING LEGISLATION

OVERVIEW

(1) Law reform publications in 2018 and development of 5th Programme

By 2018, the Commission had made significant progress on each of the projects in the 4th Programme of Law Reform; and on projects arising from Attorney General requests. Of the 11 projects in the 4th Programme, 2 had been overtaken by developments since the Programme was finalised in 2013.⁵ During 2018, the Commission also published two Issues Papers concerning 2 requests from the Attorney General.

The Commission also completed work on developing our 5th Programme of Law Reform, which included completing a series of consultative meetings throughout the country seeking views on the projects that might be included in the Programme. The Commission submitted the draft Programme to Government in 2018, and it was formally approved on 20th March 2019.

In 2018 the Commission published the following Report, Draft Inventory of International Agreements and 2 Issues Papers:

- *Report on Regulatory Powers and Corporate Offences* (LRC 119-2018). The Report completed work on the largest project in the Fourth Programme of Law Reform. Published in 2 volumes, the Report makes over 200 recommendations for further reform on regulatory powers and corporate offences, including that: a statutory Corporate Crime Agency and a dedicated unit in the Office of the Director of Public Prosecutions should be established, and properly resourced; economic regulators should have the power to impose significant financial sanctions and to make regulatory enforcement agreements, which should include consumer redress schemes; the recommendations on regulatory powers would apply not only to regulation of financial services but also to the wider economic context, such as in competition law, communications regulation and health products regulation; the recommendations on corporate offences would clarify the circumstances in which a corporate body could be held criminally liable for systemic failures by its senior executives; and in order to address egregiously reckless risk-taking, existing fraud offences should be amended so that conscious (subjective) recklessness by a person would amount to fraud under, for example, the offence of false accounting in the *Criminal Justice (Theft and Fraud Offences) Act 2001*.
- *Draft Inventory of International Agreements entered into by the State* (LRC IP 14-2018). This draft Inventory is one of the two outputs of the project in the Fourth Programme concerning domestic implementation of international law. It comprises a draft subject-based Inventory comprising 1,400 entries organised under 38 subject headings. The vast majority of the entries were derived from the Department of Foreign Affairs and Trade's Irish Treaty Series (ITS) of ratified international agreements, but it also includes international agreements the State has signed but not ratified. In addition, the Commission's Inventory attempted where possible to link each entry with corresponding domestic measures in Acts and, as the case may be, statutory Regulations. The Commission's Inventory is a

⁵ See footnote 6, below.

working draft and it was published on the Commission's website as a basis for public discussion. It will be updated and supplemented where necessary.

- *Issues Paper on Knowledge or Belief Concerning Consent in Rape Law* (LRC IP 15-2018). This Paper arose in response to a reference from the Attorney General under the *Law Reform Commission Act 1975* to examine and make recommendations on whether changes should be made to that aspect of section 2 of the *Criminal Law (Rape) Act 1981* dealing with knowledge or belief in consent, having regard to relevant case law on the matter, in particular the decision of the Supreme Court in *The People (DPP) v C. O'R.*⁶ The Paper sought views on a number of issues relating to the mental element of rape, including whether an objective or "reasonable belief" element should be added to the definition of rape. Under this reform option, an accused's belief in consent would have to be both honest (as under the current, primarily subjective, test) and reasonable (thereby importing an objective element) in order for him to be acquitted. The inclusion of such an objective element in the definition of rape would be in line with the definition of some other serious offences in Irish law, such as manslaughter and sexual activity with a child, as well the definition of rape in Northern Ireland, England and Wales, Scotland, and other common law jurisdictions. The Commission also asked whether the accused's personal characteristics, such as his decision-making (mental) capacity, could be considered in deciding if his belief in consent was reasonable.
- *Issues Paper on Privilege for Reports of Court Proceedings under the Defamation Act 2009* (LRC IP 16-2018). This Paper also arose in response to a reference from the Attorney General under the 1975 Act, in this instance as to whether the *Defamation Act 2009* should be amended to include a new qualified privilege for reports of court proceedings that would not qualify for the absolute privilege in section 17 of the 2009 Act that attaches to "fair and accurate" court reports. Such a qualified privilege would apply provided that no malice is present in their publication, for example, where any inaccuracies might arise because of the pressure to publish material under a strict deadline rather than from any malicious intent. The Paper sought views on a number of issues that arose from this reference. The Commission published its Report on this in July 2019.

(2) Implementation of Commission proposals in 2018

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 could then proceed through subsequent stages to enactment. An example of such a PMB is the *Mental Health (Amendment) Bill 2017*, which was enacted as the *Mental Health (Amendment) Bill 2018*.⁷

In addition, the following legislation, enacted or under consideration in 2018, involved the implementation of recommendations made in Commission Reports: the *Civil Law (Presumption of Death) Bill 2016* (a PMB supported by Government, since enacted as the *Civil Law (Presumption of Death) Act 2019*); the *Mental Health (Amendment) Bill*

⁶ [2016] IESC 64.

⁷ 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 most recent PMBs related to Commission Reports that had been enacted were the *Judicial Separation and Family Law Reform Act 1989* and the *Adoption Act 1991*.

2016 (a PMB supported by Government); the *Harassment, Harmful Communications and Related Offences Bill 2017* (a PMB supported by Government); the *Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017* (a PMB supported by Government); the *Consumer Insurance Contracts Bill 2017* (a PMB supported by Government); the *Domestic Violence Act 2018*; and the *Mental Health (Amendment) Act 2018* (which, as noted above, originated as a PMB).

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 *Criminal Justice (Community Sanctions) Bill*, the Scheme of a *Landlord and Tenant Bill*, the Scheme of a *Criminal Procedure Bill*, and the Scheme of a *Courts and Civil Law (Miscellaneous Provisions) Bill*.

The Commission's website 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 2018

The material in this part of the chapter is discussed under the following 7 general headings:

1. Courts, Public Law and Regulatory Enforcement (pp.15-18).
2. Criminal Law and Procedure (pp.18-19).
3. Civil and Commercial Law (p.19).
4. Land Law, Succession and Trusts (pp.19-20).
5. Family Law (p.20).
6. Health Services (p.20)
7. International law (p.20).

1. COURTS, PUBLIC LAW AND REGULATORY ENFORCEMENT

1.(a) Regulatory Powers and Corporate Offences

In 2018, the Commission published its *Report on Regulatory Powers and Corporate Offences* (LRC 119-2018) (4th Programme of Law Reform, Project 1), which followed its *Issues Paper on Regulatory Enforcement and Corporate Offences* (LRC IP 8-2016). The Report completed work on the largest project in the Fourth Programme of Law Reform. Published in 2 volumes, the Report made over 200 recommendations for further reform on regulatory powers and corporate offences.

Important reforms have resulted from the banking crisis, and existing law has led to significant convictions

The banking and financial crisis that emerged in 2008 brought home the need for certain fundamental legal reforms. In particular, it pointed to the importance of ensuring that financial and economic regulators have at their disposal sufficiently robust and comprehensive powers to discharge their functions effectively. It also illustrated the need to ensure that the law governing corporate criminal liability should reflect the reality of modern-day corporate decision-making; and that this body of law should be adequate to respond to what the former Governor of the Central Bank, Patrick Honohan, described in 2015 as "egregiously reckless risk-taking."

This Report acknowledges that significant policy changes and legislative reforms at national and EU level have already been made in response to the banking crisis. The

Report also notes that our existing law has resulted in a number of significant convictions that related to the actions of senior bank executives in the lead up to the banking crash.

Corporate Crime Agency and dedicated Unit in DPP's Office

The Report commends the decision, in the Government's 2017 paper *Measures to Enhance Ireland's Corporate, Economic and Regulatory Framework*, to establish on a pilot basis a multi-agency task force to address corporate offences. The Commission's Report recommends that a Corporate Crime Agency with power to investigate corporate offences should be established on a statutory basis, and should be a multidisciplinary agency similar to the Criminal Assets Bureau. The Report also recommends that there should be a dedicated Unit in the Office of the Director of Public Prosecutions, which would liaise closely with the proposed Corporate Crime Agency. The Report recommends that both the Agency and Unit should be properly resourced, but that the details of this are matters for Government and the Oireachtas to determine.

Core Regulatory Powers

The Report recommends that, to be fully effective, financial and economic Regulators should have a "core regulatory toolkit". This core set of powers should include:

(a) the power to impose Administrative Financial Sanctions (subject to court oversight, to ensure compliance with constitutional requirements), similar to the Central Bank's current power, with a maximum sanction for companies of €10 million and/or 10% of turnover, and maximum sanction for individuals of €1 million; and

(b) the power to enter into Regulatory Compliance Agreements (regulatory settlements), which should include financial sanctions, consumer redress schemes, and agreement to put in place compliance policies;

Note: the Central Bank already has both these powers (and has used them in, for example, the tracker mortgage case), but other regulators such as the Competition and Consumer Protection Commission do not.

Reforms to address egregiously reckless risk-taking

In 2015, the former Governor of the Central Bank, Patrick Honohan, used the phrase "egregiously reckless risk-taking" to describe the extreme behaviour that contributed, in part, to the financial and economic crisis that emerged in 2008. The Commission's Report notes that existing fraud offences, including those in the *Criminal Justice (Theft and Fraud Offences) Act 2001*, were used in the prosecutions and convictions of senior bank executives that were dealt with in the courts between 2014 and 2018. The Report recommends that, to address egregiously reckless risk taking, the 2001 Act should be amended to include an explicit reference to recklessness. This would mean, for example, that the offence of false accounting in the 2001 Act would occur not only where the accounts were fabricated "knowingly and intentionally" (the current law) but also where this was done with subjective recklessness, that is, where the defendant consciously disregarded a risk that the victim would be deceived. Because of these recommendations in respect of the 2001 Act, the Report recommends against the enactment of an offence of "reckless trading", on the basis that such an offence would run the risk of having a chilling effect on legitimate, entrepreneurial, risk taking.

Deferred Prosecution Agreements (DPAs)

DPAs, which involve suspending a corporate prosecution subject to a company complying with strict conditions, should be introduced on a statutory basis, the Report recommends, under the control of the DPP. The Report also recommends that the DPA system should be modelled on the UK DPA system introduced in 2013, which requires court approval for any proposed DPA. The Commission's Report rejects the US DPA system for the following reasons: it has no statutory basis, it is offered at the discretion of the relevant prosecutor, and it does not need court approval.

Due diligence defence for corporate body and senior managers

The Report recommends that, for most corporate offences of a regulatory type, the corporate body and its senior managers should only be convicted if they have not exercised “due diligence”, that is, where they have not set up suitable risk management policies and procedures. This is designed to encourage companies to put in place suitable risk prevention policies and procedures, and is consistent with statutory Corporate Governance Codes from regulators, and the approach in the Central Bank’s recent *Behaviour and Culture Report* published in July 2018.

Legal effect of legal advice and regulatory advice

The Report recommends that, in general, where a corporate body, in advance of taking a certain action, obtains legal advice that the action complies with the law, this should not in itself be a defence to a subsequent criminal prosecution, but that it could be taken into account as a mitigating factor in sentencing. The Report also recommends that, where a regulator clearly indicates that a proposed action complies with the relevant law, this should either have the effect of prohibiting a prosecution or act as a defence, but that this approach should be applied only on a case-by-case setting, such as under competition law, and only where the regulatory advice appears authoritative and reasonable. These recommendations would not involve any change to how the law on these points is currently applied.

Regulatory Guidance Office

The Report recommends that a Regulatory Guidance Office should be established, with membership drawn from Government Departments and Regulators, to provide guidance and information on regulatory matters, including national and international best practice in economic regulation, the content of Regulatory Impact Assessments (or comparable documents) and lessons learned from the relevant case law. The functions of the Regulatory Guidance Office would be broadly comparable to the former Better Regulation Unit (BRU) in the Office of the Taoiseach.

Trials on indictment for most corporate offences should remain in Circuit Criminal Court

The Report recommends retaining the current system where most corporate trials on indictment are dealt with in the Circuit Criminal Court (some competition offences are dealt with in the Central Criminal Court/High Court). The Report notes that recent experience is that the Circuit Criminal Court has been fully capable of dealing with complex corporate criminal trials.

Report includes 4 Draft Schemes of Bills

The Report includes 4 draft Schemes of Bills to implement the recommendations: *Scheme of a Corporate Crime Agency Bill*; *Scheme of a Regulatory Powers Bill*; *Scheme of a Corporate Criminal Liability Bill*; and *Scheme of a Criminal Justice (Theft and Fraud Offences) (Amendment) Bill*.

1.(b) Consolidation and Codification of Law

In 2018, the Commission continued the development of a Report to follow from its *Issues Paper on Accessibility, Consolidation and Online Publication of Legislation* (LRC IP 11-2016) (4th Programme of Law Reform, Project 11). The Commission intends, having consulted further on this wide-ranging project, to publish its Report on this in the first half of 2020.

1.(c) Jury Service

In April 2018, the Department of Justice and Equality established a Working Group on Juries, with a view to preparing legislation to implement the Commission’s *Report on*

Jury Service (LRC 107-2013) (3rd Programme of Law Reform, Project 1), which contained wide-ranging recommendations for reform of the law on jury service, currently set out in the *Juries Act 1976*. A recommendation in the Report on additional jurors in lengthy trials was implemented through an amendment to the *Juries Act 1976* by the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*.

2. CRIMINAL LAW AND PROCEDURE

2.(a) Harmful Communications and Digital Safety

The *Harassment, Harmful Communications and Related Offences Bill 2017* is 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) (4th Programme of Law Reform, Project 6). During the Dáil Éireann Second Stage debate on the Bill on 31st January 2018, the Government indicated its intention to support the Bill, and having passed Second Stage it was referred for Select Committee consideration. On 1st May 2019, the Government approved drafting of amendments to the Bill. In 2018, the Government also announced that it would engage in public consultation (including a public forum on 8th March 2018) on the establishment of an Online Safety Commissioner, which the Commission's Report also recommended. In March 2019, the Government published a public consultation document setting out proposals on the regulation of harmful online content with view to publishing an Online Safety Bill.

2.(b) Suspended Sentences

In 2018, the Commission continued the development of a Report to follow from its *Issues Paper on Suspended Sentences* (LRC IP 12-2017) (4th Programme of Law Reform, Project 5).

2.(c) Sexual offences: consent and honest belief

In 2018, the Commission published its *Issues Paper on Knowledge or Belief Concerning Consent in Rape Law* (LRC IP 15-2018). This Paper arises in response to a reference from the Attorney General made in accordance with section 4(2)(c) of the *Law Reform Commission Act 1975* to examine and make recommendations on whether changes should be made to that aspect of section 2 of the *Criminal Law (Rape) Act 1981* dealing with knowledge or belief in consent. The Attorney General request was made in the wake of the Oireachtas debates on the *Criminal Law (Sexual Offences) Act 2017* and the decision of the Supreme Court in *The People (DPP) v C.O'R.*⁸ The Paper seeks views on a number of issues relating to the mental element of rape, including whether an objective or "reasonable belief" element should be added to the definition of rape. Under this reform option, an accused's belief in consent would have to be both honest (as under the current, primarily subjective, test) and reasonable (thereby importing an objective element) in order for him to be acquitted. The inclusion of such an objective element in the definition of rape would be in line with the definition of some other serious offences in Irish law, such as manslaughter and sexual activity with a child, as well the definition of rape in Northern Ireland, England and Wales, Scotland, and other common law jurisdictions. The Commission also asks whether the accused's personal characteristics, such as his decision-making (mental) capacity, could be considered in deciding if his belief in

⁸ [2016] IESC 64.

consent was reasonable. The Commission intends to publish its Report on this project by the end of 2019.

3. CIVIL AND COMMERCIAL LAW

3.(a) Defamation and court reporting

In 2018, the Commission published its *Issues Paper on Privilege for Reports of Court Proceedings under the Defamation Act 2009* (LRC IP 16-2018). This arose in response to a reference from the Attorney General under section 4(2)(c) of the *Law Reform Commission Act 1975* to examine whether the *Defamation Act 2009* should be amended to include a new qualified privilege for reports of court proceedings that would not qualify for the absolute privilege in section 17(2) of the 2009 Act that attaches to “fair and accurate” court reports. The Attorney General’s request raised the question as to whether, having regard to the importance of ensuring that court proceedings are accessible to the public through the media, it would be appropriate to provide that a court report that does not come within the scope of section 17(2) might nonetheless be subject to a qualified privilege based on absence of malice; and whether any claim related to such a qualified privilege should require leave of the court before issuing proceedings. The Paper seeks views on a number of issues that arise from this reference. The Commission published its Report on this project in July 2019: *Report on Privilege for Reports of Court Proceedings under the Defamation Act 2009* (LRC 121-2019), to which the Commission will return in its Annual Report 2019.

3.(b) Consumer Insurance Contracts

The *Consumer Insurance Contracts Bill 2017* (a Private Member’s Bill, which the Government has supported in principle) was the subject of a detailed scrutiny Report by the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach published in December 2018. The Bill subsequently passed Third (Committee) Stage in Dáil Éireann on 11th July 2019. The 2017 Bill derives from the draft Bill in the Commission’s *Report on Consumer Insurance Contracts* (LRC 113-2015) (3rd Programme of Law Reform, Project 34).

3.(c) Prevention of Benefit from Homicide

The *Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017* (a Private Member’s Bill, which the Government has supported in principle) passed Second Stage in Dáil Éireann on 4th October 2018, and was referred to detailed scrutiny by Select Committee. The 2017 Bill derives from the draft Bill in the Commission’s *Report on Prevention of Benefit from Homicide* (LRC 114-2015) (4th Programme of Law Reform, Project 7, Module 1).

4. LAND LAW, SUCCESSION AND TRUSTS

4.(a) Compulsory purchase law

In 2018, the Commission began work on the development of a Report on compulsory purchase law, having published its *Issues Paper on Compulsory Acquisition of Land* (LRC IP 13-2017) (4th Programme of Law Reform, Project 8).

4.(b) Landlord and tenant

The Government Legislation Programme Autumn-Winter Session 2018 stated that, following the publication in 2012 of the Scheme of a *Landlord and Tenant Bill* (which derived from the Commission’s *Report on the Law of Landlord and Tenant* (LRC 85-2007) (2nd Programme of Law Reform, Project 23), a *Landlord and Tenant Bill* is to be published.

4.(c) Trust Law and the Settled Land Acts

The Government Legislation Programme Autumn-Winter Session 2016 (Section C) stated that a *Trusts Bill* is to be published which would consolidate and reform the *Trustee Act 1893*, taking account of the Commission's *Report on Trust Law: General Proposals* (LRC 92-2008) and the Commission's work on its project on Trust Law and the Settled Land Acts (3rd Programme of Law Reform, Project 21), which arises from the repeal of the Settled Land Acts by the *Land and Conveyancing Law Reform Act 2009*.

5. FAMILY LAW

Domestic Violence

The *Domestic Violence Act 2018* takes account of the Commission's recommendations in the *Report on Aspects of Domestic Violence* (LRC 111-2013) (3rd Programme of Law Reform, Project 24).

6. HEALTH SERVICES

6.(a) Professional home care

In 2018, the Department of Health published a Report on the findings of the public consultation on home-care services, which approved Government proposals for statutory regulation of home care, within the context of the general proposals in the 2017 Sláintecare Report (Report of the Oireachtas Committee on the Future of Healthcare). This proposal would implement the recommendations in the Commission's *Report on Legal Aspects of Professional Home Care* (LRC 105-2011) (3rd Programme of Law Reform, Project 29).

6.(b) Children and consent to medical treatment

The *Mental Health (Amendment) Act 2018* (which originated as a Private Member's Bill to which the Government gave its support) inserted section 4A into the *Mental Health Act 2001*. This implemented those recommendations in the *Report on Children and the Law: Medical Treatment* (LRC 103-2011) (3rd Programme of Law Reform, Project 26) as to the enactment of general principles concerning consent to treatment in the mental health care setting. Two Private Member's Bills under consideration in 2018 also derived from the Report: the *Mental Health (Amendment) Bill 2016* (passed Seanad Éireann on 27 June 2018; detailed scrutiny by Oireachtas Joint Committee on Health, March 2019) (age appropriate accommodation for persons under 18 in mental health care setting); and the *Mental Health (Capacity to Consent to Treatment) Bill 2018* (passed Second Stage, Seanad Éireann 10 October 2018) (capacity to consent of 16 and 17 year olds in mental health care setting).

7. INTERNATIONAL LAW

In 2018, the Commission published, with the support of the Department of Foreign Affairs and Trade, a *Draft Inventory of International Agreements entered into by the State* (LRC IP 14-2018) (4th Programme of Law Reform, Project 10). It comprises a draft subject-based inventory comprising 1,400 entries organised under 38 subject heading. The vast majority of the entries have been derived from the Department of Foreign Affairs and Trade's Irish Treaty Series (ITS) of ratified international agreements. The draft Inventory also includes international agreements the State has signed but not ratified. In addition, the Commission's Inventory has attempted where possible to link each entry with corresponding domestic measures in Acts and, as the case may be, statutory Regulations. The Commission's Inventory is a working draft and it is being published on the Commission's website as a basis for public

discussion. It will be updated and supplemented where necessary. The draft Inventory is one of the two outputs of this project. The second output will be a Discussion Paper, which will set out the methodologies used by the State to implement international obligations in domestic law. The Commission intends to publish the Discussion Paper by the first half of 2020, which will complete the work on this project.

CHAPTER 3 ACCESS TO LEGISLATION

INTRODUCTION

Irish law is frequently amended so that 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, professional and others, to find the law in its current state rather than as originally made. To achieve this objective, the Commission provides 3 main resources, the Legislation Directory, Revised Acts and the Classified List of Legislation.

The **Legislation Directory** is an online index of legislative changes to legislation, including pre-1922 Acts that remain in force. It enables users to identify the amendments which affect a piece of legislation, including where provisions have been repealed, and indicates if a provision requires a commencement order to come into effect. From 1962 onwards, it also lists commencement orders and other related Statutory Instruments made under powers in an Act; the work to continue the inclusion of this information for earlier Acts continues. During 2018 it was kept up-to-date to within 1-2 weeks.

The Commission also produces and publishes over 360 **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.

The **Classified List of Legislation** allows users to locate the legislation they seek. The Acts of the Oireachtas are published in chronological order by year, but are not arranged by subject matter. Therefore even when a user finds a principal Act such as the *Family Law Act 1995*, the legislation as listed chronologically does not assist in finding other family or child law legislation. The Classified List of Legislation lists over 2,000 Acts in force under 36 subject titles. Thus for example a user can find all family legislation under Heading 17 (Family Law) and all legislation on financial services and credit institutions, including banking and insurance under Heading 18 (Financial Services and Credit Institutions).

LEGISLATION DIRECTORY

The Commission maintains the Legislation Directory (LD), an index of legislative changes, which is published on the electronic Irish Statute Book website (eISB) hosted by the Office of the Attorney General. The LD analyses all new legislation, notes its effects on existing legislation, and records the effects in tables belonging to each Act. Thus for example, to see all changes to the *Succession Act 1965* made since it was enacted, a user can access the 1965 Act on the eISB, and look up the linked table of changes.

The LD includes tables for pre-1922 Acts that remain in force. It also includes tables for statutory instruments and legislative effects made by statutory instruments from the current date extending back to 1 January 1972. 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 in early 2017 a publicly advertised recruitment campaign for this project, work began on this in Quarter 2 of 2017, and concluded within the planned 2 year period in March 2019.

The Commission maintains the LD in two formats, an older format that the Commission inherited in 2006, which lists amendments to Acts only, and a newer format introduced by the Commission which includes commencement information and related secondary legislation as well as the list of amendments. In 2018, the work based on the funding from DPER meant that the newer format was extended back from 1990 to 1974.

The LD was maintained up to date to within to 1-2 weeks in 2018.

REVISED ACTS

Revised Acts

The Commission prepares and updates administrative consolidations of a growing number of Acts, now over 360, known as Revised Acts. About 200 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*, on which, as noted below, a Revised Act is currently in preparation. The other Revised Acts are about 160 selected pre-2005 Acts and include groups such as 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 *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 to within 1-2 months of being amended and are published on the Commission website. They are individually linked from the relevant original Act on the eISB, 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 2018 over 300 revisions of Revised Acts were prepared within two months of amendments, some multiple updates to the same Act.

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

In 2018, the Commission agreed with the Department of Employment Affairs and 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 s.362(2) of the 2005 Act.

Following discussions between the Department and the Commission, a Departmental official began working in early 2019 with the Commission to publish the Revised version of the 2005 Act. The work is being undertaken in full compliance with the Commission's Operational Manual for the Preparation of Revised Acts. It is envisaged

that the work will take at least 12 months to complete. 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.

CLASSIFIED LIST OF LEGISLATION

Classified List of Acts

The Commission maintains a list of Acts in force classified under 36 subject headings or titles. Irish 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 and public alike to know the various Acts which deal with a subject such as environmental law, local government or marriage. The Classified List groups the Acts together by subject matter and is thus a useful access point. It is available on the Commission website and linked from the home page of the eISB.

Draft Classified List of Statutory Instruments

In 2016 the Commission published a draft Classified List of Statutory Instruments to complement the List of Acts. It contained around 15,000 statutory instruments listed under their enabling Acts, of over 35,000 instruments made since the foundation of the State. The Commission was assisted by the feedback received from Government Departments in the previous 3 years. Many instruments have been identified as spent, obsolete, superseded or inappropriate. It is intended that this list should serve as a working list, being refined as more information comes to light, and serve as a resource for drafters and legislators to assist in the revocation of redundant legislation, bringing greater clarity to the statute book. With the ongoing development of the Legislation Directory for Statutory Instruments, there is now a publicly accessible repository for noting revocation and other changes to statutory instruments. The Classified List of Acts and Statutory Instruments was updated with further feedback and published as a September 2016 edition.

Work continued on integrating the Classified Lists with the new Legislation Directory database, with a view to basing future updates on the database and reducing duplication of work. The Commission intends to publish an update prepared in this way in 2019.

PRE-1922 STATUTE LAW REVISION PROJECT

In 2018, the Commission submitted a comprehensive proposal to the Office of the Attorney General to complete, over a 3 year period, certain elements of the Statute Law Revision Project (SLRP). The SLRP project outputs began with the enactment of the *Statute Law Revision (Pre-1922) Act 2005*. The Project has, through a series of 5 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 proposal to the Office of the Attorney General was that this work should be continued and that the remaining secondary legislation made between 1821 and 1922 should also be examined with a view to determining what should be revoked or retained. This work will culminate in the enactment of two separate Bills, the first dealing with instruments from 1821 to 1893 (which are more difficult to source and analyse) and the second with those from 1894 to 1922 (when official volumes were published). These Bills when enacted would provide a comprehensive picture of pre-1922 secondary legislation that would complement the comprehensive picture already achieved by the SLRP work on the pre-1922 Acts. In November 2018, the Office of the Attorney General agreed to support the Commission's proposal and in March 2019, the Commission carried out a recruitment process for a project manager for this work. Arising from this, Fiona Carroll, Solicitor, was appointed as project manager for a 3 year period.

CHAPTER 4 ADMINISTRATION

INTRODUCTION

The Commission's administration aims to provide effective, modern and professional corporate administrative and business services to the Commission so as to support it in meeting its objectives. The outcome is a working environment where administrative units support the legal work of the Commission by providing excellent corporate business support services such as human resource management, financial management, legal and corporate support, information technology, and library and information services.

The organisational structure of the Commission (as of December 2018) is set out in Appendix 1.

THE COMMISSION

The Commission consists of the President and 4 other Commissioners. Commissioners are appointed by the Government for a term of up to 5 years, and their appointment may be renewed. Until September 2018, the President of the Commission had been Mr Justice John Quirke, a former judge of the High Court, who had been President since 2012. In October 2018, the Government appointed Ms Justice Mary Laffoy, former judge of the Supreme Court, as Commission President for a 3 year term. Of the other 4 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 3 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 5 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 3 Commissioners (part-time), who were appointed for a 5 year term in 2015, are: 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.

The Commission makes recommendations to Government on the content of the programme of law reform, determines the contents of the research output of the Commission (contained in Issues Papers and Reports), and makes key administrative and financial decisions. The Commission meets formally as a body at least 10 times each year.

MANAGEMENT COMMITTEE

During 2018, the Commission's Management Committee consisted of the full-time Commissioner, the Director of Research, the Access to Legislation Manager and the Head of Administration. 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 Annual Business Plan which is updated on a quarterly basis. In late 2018, the Commission's Management Committee was expanded to include the Deputy Director of Research, the Library and Information Manager and the two Deputy Managers for Access to Legislation.

ADMINISTRATIVE STAFF

As of December 2018, the Commission's administrative staff consisted of a Head of Administration and a team of three (3) staff.

During 2018, 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
- Providing administrative support for the research function
- Carrying out a variety of administrative functions in relation to launches of publications and the online publication of Issues Papers and Reports (and a limited print run of Reports).

The Administration also arranged for the distribution of the Commission's publications and planning and organising the various tasks associated with the launch of the Commission's publications as well as event management and corporate services associated with launches, seminars and the annual conference.

RESEARCH AND LIBRARY STAFF

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 a draft Issues Paper and draft Report.

Research Team

In 2018, the law reform research team was headed by the Director of Research, Professor Ciarán Burke. In 2018, the Commission, having obtained approval for the creation of the post of Deputy Director of Research, carried out a recruitment process. As a result, Dr Robert Noonan was appointed to the post in June 2018.

In 2018, the Commission's Access to Legislation work (the Legislation Directory, Revised Acts and the Classified List of Legislation) was overseen by the Access to Legislation Manager, Alma Clissmann, Solicitor, and Deputy Manager, Kate Doran. During 2018, the Commission carried out a publicly advertised recruitment campaign for legal researchers (who are engaged on fixed-term contracts) and, following competitive interviews, developed a panel of researchers from which it can ensure that its sanctioned 8 full-time Legal Researcher positions are filled.

In 2018, the Commission continued its 2 year project, begun in 2017, to extend the Legislation Directory for Statutory Instruments back to 1972. This work was project

managed by Fiona Carroll, Solicitor, assisted by 2 sanctioned legal researchers. This project was successfully completed on schedule in March 2019.

The Director of Research, with the assistance (since June 2018) of the Deputy Director of Research, leads and manages the law reform research team, and generally 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 Issues 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.

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 2018, the Library and Information Manager continued to work in consultation with the research teams to provide timely access to new electronic and hard copy resources. These were supplemented by both daily and weekly current awareness updates and group training on the various services provided by the library. She also worked 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; including but not limited to, an Irish language version of the landing page.

FINANCE

Income and expenditure

The Commission is funded by a grant from the Minister for Public Expenditure and Reform via the Office of the Attorney General. Total income received in 2017 from all sources (including grant-in-aid, net deferred funding from pensions, transfers to capital account, sale of publications and income received from the Department of Social Protection) is set out in the Commission's Financial Statements for 2018 in Appendix 3, below. The expenditure incurred covered salaries and superannuation of Commissioners and staff, rent and premises overheads, maintenance of the Commission's library, 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 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. There is a service level agreement between the Commission and the Office of the Attorney General.

External Audit

Appropriation accounts for 2018 were submitted to the Comptroller and Auditor General for audit and are set out in Appendix 3 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 of the *Law Reform Commission Act 1975*.

Audit Committee

The Commission is audited 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 2018 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 the non-commercial 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 3 of this Annual Report sets out general information on the Commission's income and finance in 2018.

Appendix 3 also contains a schedule of attendance at Commission meetings for 2018, including the fees and expenses, if any, received by each Commissioner.

It also contains figures on the salaries, expenses, and costs incurred of attending conferences for the Commissioners in 2018.

Travel and Subsistence

Flights and accommodation were organised and paid for in advance by the Legal and Corporate Services Unit in compliance with Government travel policy, and any other related expenses were vouched. Appendix 3 contains information on attendance by Commission staff at conferences abroad in 2018:

System of Internal Financial Control

The Law Reform 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 Law Reform 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 Law Reform 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 2018 and is kept under regular review by the Commission.

Strategy Statement and Business Plan

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 Business Plan. The Business Plan contains quarterly targets under each objective. Progress made in achieving these targets is monitored on a regular basis by the Management Committee.

PMDS

Performance of individual staff members (and of legal researchers, who in 2018 were all employed on fixed-term contracts) 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 2018 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

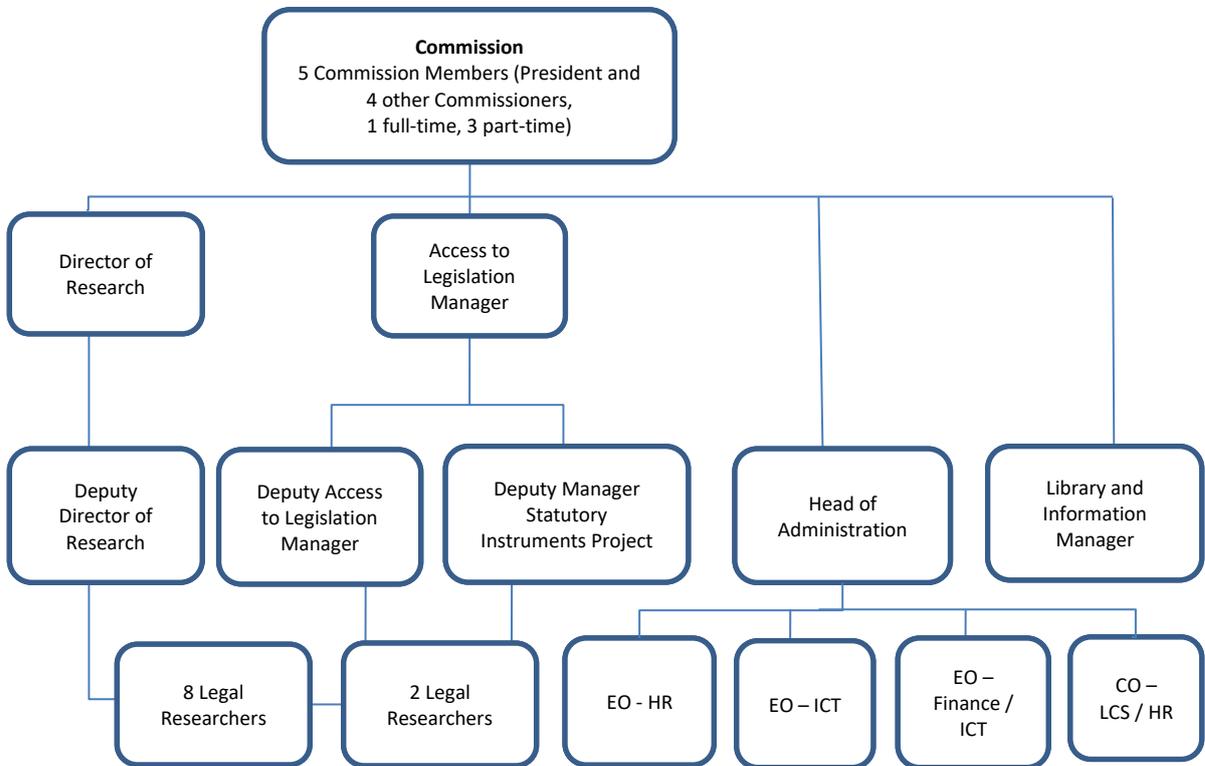
published on its website, www.lawreform.ie. FOI requests are logged on the Commission's FOI Log, which forms part of its FOI Scheme. In 2018, the Commission received 1 FOI request.

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.

No protected disclosures were made to the Commission in the period 1 January 2018 to 31 December 2018.

APPENDIX 1
Law Reform Commission Organisation Chart in 2018



APPENDIX 2

Selection of Law Reform Commission Events in 2018

31 January 2018	Fifth Programme Consultation Cork
6 April 2018	Attended MOYS Seminar
25 April 2018	Roundtable: Suspended Sentences
2 May 2018	Roundtable: Compulsory Purchase Orders
31 May 2018	Hosted Welsh Government Delegation
6-8 June 2018	Attended BIALL Conference (Birmingham)
7-8 June 2018	Attended EU Forum of Gazettes (The Hague)
13 June 2018	Roundtable: Suspended Sentences
28-29 June 2018	Hosted Annual Meeting of Law Commissions (2 days)
28 June 2018	Attended CCBE Brussels
4 July 2018	Attended ACJRD Conference
18 July 2018	Launch of draft Inventory International Agreements
27 July 2018	Launch of Issues Paper: Knowledge or Belief as to Consent in Rape Law
7 August 2018	Attended Consent Conference
29 August 2018	Launch of Issues Paper: Privilege for Reports of Court Proceedings under Defamation Act 2009
7 September 2018	Attended North South Conference
13 September 2018	Attended Justice Conference: Alex Hotel
13 September 2018	Attended CBBE Brussels
20 September 2018	Attended Digital Government Conference
4 October 2018	Hosted Students from University of Jena
16 October 2018	Hosted Roundtable: Knowledge or Belief as to Consent in Rape Law
23 October 2018	Report Launch: Regulatory Powers and Corporate Offences
14 November 2018	Law Reform Commission Annual Conference
22 November 2018	Attended PAI Conference on Procurement
23 November 2018	Attended IALT Conference
3 December 2018	Presentation to Economic Regulators Forum on Report on Regulatory Powers and Corporate Offences

APPENDIX 3
Reports and Financial Statements of Law Reform Commission 2018

Law Reform Commission

Reports & Financial Statements

for the financial year ended 31 December 2018

Law Reform Commission

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Law Reform Commission

Information

President	Ms Justice Mary Laffoy
Commissioners	Raymond Byrne - Full time Commissioner Tom O'Malley - Part time Commissioner Donncha O'Connell - Part time Commissioner Ms Justice Carmel Stewart - Part time Commissioner
Registered office	The Law Reform Commission 5th Floor Styne House Upper Hatch Street Dublin Dublin 2
Auditor	Comptroller & Auditor General 3a Mayor Street Upper Dublin Dublin 1
Bankers	Allied Irish Bank 1-4 Lower Baggot Street Dublin Dublin 2



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 2018 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 2018 and of its income and expenditure for 2018 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.

Mark Brady
For and on behalf of the
Comptroller and Auditor General
16 December 2019

Appendix to the report

Responsibilities of Commission members

As detailed in the governance statement and Commission Board 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, and also when it reviews its draft Annual Report, in the case of the Annual Report 2018 at its May 2019 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 2018.

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 2018:

Commission Member	Role	Date Appointed
Ms Justice Mary Laffoy	President	9th October 2018 (appointed)
Mr Justice John Quirke	President	27th September 2018 (retired)
Mr Raymond Byrne	Full Time Commissioner	16th April 2016
Mr Tom O'Malley	Part Time Commissioner	1st September 2015 (re-appointed)
Prof Donncha O'Connell	Part Time Commissioner	1st September 2015 (re-appointed)
Ms Justice Carmel Stewart	Part Time Commissioner	1st September 2015

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 2018, the Commission did not establish any such committee.

Schedule of Attendance, Fees and Expenses

A schedule of attendance at Commission meetings for 2018 is set out below including the fees and expenses received by each Commission member.

Commissioner Name	No. of meetings attended	Salary / Fees	Travel expenses to Commission meetings	Attendance at conferences / lectures
		€	€	€
President				
Ms Justice Mary Laffoy	3	11,196 (appointed 9/10/2018)	-	-
Retired President				
Mr Justice John Quirke	4	36,750 (retired 27/09/2018)	-	-
Commissioner (full-time)				
Mr Raymond Byrne	10	144,227	17	-
Commissioners(part-time)				
Mr Tom O'Malley	8	-	15,233 (Note 1)	-
Prof Donncha O'Connell	9	-	2,746 (Note 2)	-
Ms Justice Carmel Stewart	10	-	-	-

President Mr Justice John Quirke retired on 27th September 2018 and Ms Justice Mary Laffoy was appointed President from 9th October 2018. Their salaries were agreed 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.

Note 1: This includes the provision of an accrual of €15,000 for Commissioner O'Malley travel expenses to Commission meetings from 2014 to 2018 (inclusive) and for meetings on other Commission business.

Note 2: This includes the provision of an accrual of €2,500 for Commissioner O'Connell travel expenses to Commission meetings for 2018.

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

	2018 €	2017 €
Styne House Residential & Commercial Consultancy/(Office Relocation)		28,548
Styne House Financial Consultancy	1,519	5,996
4th Programme of Law Reform, Project 10, Draft Inventory of International Agreements and Discussion Paper	11,000	10,000
4th Programme of Law Reform, Project 1- Regulatory Powers and Corporate Offences	10,575	
Dignity at Work Adjudication	18,427	
Total	41,521	44,545

2 Legal Costs and Settlements

There were no legal costs or settlements in 2018.

3) Travel and Subsistence Expenditure

Travel and subsistence expenditure is categorised as follows:

		2018 €	2017 €
Domestic	Commission	17,996	10,408
	Employees	1,115	2,023
	Other	30	
International	Commission	139	
	Employees	2,912	2,813
	Other	330	
Total		22,053	15,713

Flights and accommodation were organised and paid for in advance by the Legal and Corporate Services Unit in compliance with Government travel policy, and any other related expenses were vouched. Commission members and staff attended the following conferences in 2018:

- Birmingham: Annual Conference on BIALL
- Oslo: European Forum of Legal Gazettes
- London: Conference on Law Reform Implementation and Independence at the Institute of Advanced Legal Studies
- Consultative meeting 5th Programme with Law Reform, University of Limerick
- Consultative meeting 5th Programme with Law Reform, NUI Galway
- Consultative meeting 5th Programme with Law Reform, University College Cork
- Consultative meeting 5th Programme with Law Reform, Dundalk Institute of Technology

4) Hospitality Expenditure

The Income and Expenditure Account includes the following hospitality expenditure

	2018	2017
	€	€
Staff Hospitality	2,068	2,160
Client Hospitality	6,244	3,607
Total	8,312	5,767

Staff Hospitality includes refreshments for Commission meetings, interview boards, ad hoc meetings and staff canteen expenses.

Client Hospitality involves expenditure solely in respect of hosting of the Four Commissions Conference, 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 2018.

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 2018 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. They met four times in 2018. The Commission was not listed on any agendas that year but the Full-Time Commissioner attended the Committee meeting in October to discuss the review of the Commission's audit which EY undertook.

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 an internal audit annually.

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

I confirm that the Commission has procedures in place to ensure compliance with current procurement rules and guidelines. The Commission complied with those procedures during 2018.

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.

Internal Control Issues

There were no weaknesses identified in internal controls in relation to 2018 that require disclosure in the financial statements.

Ms Justice Mary Laffoy

President

Date 11th December 2019

Law Reform Commission

Statement of Income and Expenditure and Retained Revenue Reserves

Year Ended 31 December 2018

	Note	2018 €	2017 €
Income			
Oireachtas Grant	2	2,008,675	2,190,289
Sale of Publications		210	475
Other		6,153	362
Transfer from/(to) Capital Account		35,650	(300,644)
Net deferred funding for pensions	7(c)	95,000	86,000
Rental Income		-	61,871
Rental Income reimbursed to AG's Office		-	<u>(61,871)</u>
		<u>2,145,688</u>	<u>1,976,482</u>
Expenditure			
Salaries	5	1,093,740	1,043,161
Pensions	7(a)	152,364	142,724
IT		65,295	77,686
Rent and service charges		308,229	575,473
Premises - Styne House - Relocation Expenses		-	25,428
Light and Heat		10,764	1,161
Repairs and Maintenance - Buildings		4,253	1,789
Insurance		3,463	1,577
Telephone		10,654	12,725
Stationery & office management		30,159	25,493
Seminars		1,587	1,930
Library		89,489	82,458
Travelling and subsistence		22,053	15,713
Cleaning		9,244	9,221
Printing		20,892	3,386
Postage		1,829	2,373
Depreciation		88,615	79,867
Misc Office Expenses		706	728
Auditors remuneration		9,000	9,000
Training		34,395	24,301
Corporate Support		31,857	29,147
Professional fees		41,521	44,545
Annual Conference		4,220	5,687
Loss on disposal of tangible assets		-	<u>32,755</u>
		<u>2,034,329</u>	<u>2,248,328</u>
Surplus/(Deficit) for the Year		<u>111,359</u>	<u>(271,846)</u>
Balance Brought Forward at 1 January 2018		<u>(51,853)</u>	<u>219,953</u>
Balance Carried Forward as at 31st December 2018		<u>59,506</u>	<u>(51,853)</u>

The Statement of Cash Flows and notes 1 to 14 form part of these financial statements

Ms Justice Mary Laffoy
President

Date 11th December 2019

Law Reform Commission

Financial year ended 31 December 2018

		Year ended 2018	Year ended 2017
	Note	€	€
Surplus/(Deficit) for the Year		111,359	(271,846)
Actuarial Loss (Gain) on Experience on pension scheme liabilities		510,000	19,000
Actuarial Loss/(Gain) on Change in assumption on pension scheme liabilities		-	-
Changes in assumptions underlying the present value of pension scheme liabilities		-	-
Actuarial losses/(gains) on pension liability	7(b)	510,000	19,000
Adjustment to deferred pension funding		510,000	19,000
Total recognised losses/(gains) for the year		111,359	(271,846)

The Statement of Cash Flows and notes 1 to 14 form part of these financial statements

Ms Justice Mary Laffoy

President

Date 11th December 2019

Law Reform Commission

**Statement of financial position (continued)
As at 31 December 2018**

		2018		2017	
	Note	€	€	€	€
Fixed assets					
Tangible assets	8	447,894		483,544	
			447,894		483,544
Current assets					
Receivables	9	177,789		71,338	
Cash and cash equivalents	3	99,429		105,430	
			<u>277,218</u>		<u>176,768</u>
Current Liabilities: amounts falling due within one year					
Payables	10	(140,157)		(138,140)	
Net current assets			<u>137,061</u>		<u>38,628</u>
			<u>584,955</u>		<u>522,172</u>
Liabilities: amounts falling due after more than one year					
	11		(77,555)		(90,481)
			<u>507,400</u>		<u>431,691</u>
Deferred retirement benefit funding	7(d)		3,950,000		3,345,000
Retirement benefit (liability)	7(d)		3,950,000		3,345,000
Net assets			<u>507,400</u>		<u>431,691</u>
Representing:					
Capital account	4		447,894		483,544
Retained Revenue Reserves			59,506		(51,853)
			<u>507,400</u>		<u>431,691</u>

The Statement of Cash Flows and notes 1 to 14 form part of these financial statements

Ms Justice Mary Laffoy

President

Date 11th December 2019

Law Reform Commission

Statement of cash flows (continued)
Financial year ended 31 December 2018

	Year ended 2018 €	Year ended 2017 €
Net Cash Flows from Operating Activities		
Surplus/(Deficit) for the year	111,359	(271,846)
Transfer from/(to) Capital Account	(35,650)	300,644
Depreciation of tangible assets	88,615	79,867
(Gain)/loss on disposal of tangible assets		32,755
Decrease/(Increase) in Receivables	(106,451)	158,212
Increase/(Decrease) in Payables	2,017	21,296
Increase/(Decrease) in Creditors amounts falling due after more than one year	(12,926)	90,481
	<hr/>	<hr/>
Cash generated from operations	46,964	411,409
	<hr/>	<hr/>
Cash flows from investing activities		
Purchase of tangible assets	(52,965)	(413,266)
	<hr/>	<hr/>
Net cash used in investing activities	(52,965)	(413,266)
	<hr/>	<hr/>
Net increase/(decrease) in cash and cash equivalents	(6,001)	(1,857)
Cash and cash equivalents at beginning of financial year	105,430	107,287
	<hr/>	<hr/>
Cash and cash equivalents at end of financial year	99,429	105,430
	<hr/>	<hr/>

Law Reform Commission

Notes to the financial statements (continued) Financial year ended 31 December 2018

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.

(b) Statement of compliance

These financial statements of the Commission for the year ended 31 December 2018 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 & Fittings

Leased premises improvements, office equipment and fixtures & 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 2018

(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 2018.

(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 2018

(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 card method.

Law Reform Commission

Notes to the financial statements (continued) Financial year ended 31 December 2018

(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 Lease Premises Improvements, Fixtures/Fittings and 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. 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:

	2018	2017
	€	€
	2,008,675	2,190,289

3. Cash and Cash Equivalents

	2018	2017
	€	€
Bank Current Accounts	99,325	105,134
Petty Cash	104	296
	<hr/>	<hr/>
	99,429	105,430
	<hr/>	<hr/>

Law Reform Commission

Notes to the financial statements (continued)
Financial year ended 31 December 2018

4. Capital Account

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

	2018	2017
	€	€
Opening Balance	483,544	182,900
Add: Amount applied to purchase fixed assets	52,965	413,266
Less: depreciation of tangible assets	88,615	79,867
Less: Disposals of fixed assets - Cost		412,448
Add: Accumulated Depreciation on Disposal		379,693
Closing Balance	447,894	483,544

Law Reform Commission

Notes to the financial statements (continued) Financial year ended 31 December 2018

5. Staff Costs

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

	2018	2017
Average number of employees	18	18
	€	€
Wages and salaries	1,093,740	1,043,161
	<u> </u>	<u> </u>

The above figures include Presidents and Full Time Commissions Salaries Remuneration as follows:

Commissioner Name	2018			2017		
	No. of Meetings Attended	Fees	Expenses	No. of Meetings Attended	Fees	Expenses
		€	€		€	€
President Ms Justice Mary Laffoy <small>(appointed 9/10/2018)</small>	3	11,196	-	-	-	-
Retired President Mr Justice John Quirke	4	36,750	-	10	48,750	340
Full Time Commissioner Mr Raymond Byrne	10	144,227	17	10	140,314	231
Part Time Commissioners Mr Tom O'Malley	8	-	15,233	9	-	56
Prof Donncha O'Connell	9	-	2,746	9	-	9,920 <small>(2014/15/16/17)</small>
Ms Justice Carmel Stewart	10	-	-	9	-	-
Total	44	192,173	17,996	57	189,064	10,547

Law Reform Commission

Notes to the financial statements (continued) Financial year ended 31 December 2018

Employee Short-Term Benefits Breakdown

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

€	2018	2017
60,000 - 69,999	2	1
70,000 - 79,999	0	0
80,000 - 89,999	0	0
90,000 - 99,999	2	2
100,000 - 109,999	0	0
110,000 - 119,999	0	0
120,000 - 129,999	0	0
130,000 - 139,999	0	0
140,000 - 149,999	1	1

Aggregate Employee Benefits

	2018	2017
	€	€
Staff Short-Term Benefits	1,093,740	1,043,161
Termination Benefits	0	0
Retirement Benefit Costs	57,364	59,000
Employer's Contribution to	0	0
Social Welfare	0	0
Total	1,151,104	1,102,161

The total number of staff employed (WTE) at year end was 18 (2017 :18)

There was no overtime or allowances for any Commission staff in 2018.

There were no termination benefits in 2018.

Key Management Personnel

The total remuneration of those with significant influence/decision making is €442,785. This includes the President, the Full Time Commissioner, Director of Research, Access to Legislation Manager and Head of Administration.

€41,124 was deducted from staff by way of pension levy and was paid over to the Office of the Attorney General (€38,340 in 2017)

Law Reform Commission

Notes to the financial statements (continued) Financial year ended 31 December 2018

6. 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.

Lease Commitments

At 31st December 2018 the Commission had the following future minimum lease payments under non-cancellable operating leases for each of the following periods:

	2018	2017
	€	€
Payable within one year	260,750	260,750
Payable within two to five years	1,525,000	1,043,000
Payable after five years	762,500	782,250

Law Reform Commission

**Notes to the financial statements (continued)
Financial year ended 31 December 2018**

Retirement benefit costs

	2018	2017
	€	€
(a) Analysis of total retirement benefit costs charged to expenditure		
Current Service Cost	90,000	85,000
Past Service Cost	-	-
Interest on retirement benefit costs charges to expenditure	65,000	60,000
Employee contributions	(2,636)	(2,276)
	152,364	142,724
(b) Movement in net retirement benefit during the financial year		
Net retirement benefit liability at 1 January	3,345,000	3,240,000
Current Service cost	90,000	85,000
Past Service Cost	-	-
Interest Cost	65,000	60,000
Actuarial losses/(gains)	510,000	19,000
Retirement benefit paid in the year	(60,000)	(59,000)
	3,950,000	3,345,000
Net Retirement benefit liability at 31 December	3,950,000	3,345,000

(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 Finance, 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:

	2018	2017
	€	€
Net deferred funding for Retirement Benefits in year		
Funding recoverable in respect of current year retirement benefit costs	155,000	145,000
State grant applied to pay pensioners	(60,000)	(59,000)
	95,000	86,000

The deferred funding asset for retirement benefits as at 31 December 2018 amounted to €3,950,000 (2017: € 3,345,000)

Law Reform Commission

Notes to the financial statements (continued) Financial year ended 31 December 2018

(d) History of defined benefit obligations	2018	2017	2016	2015
	€	€	€	€
Defined benefits obligations	3,950,000	3,345,000	3,240,000	2,800,300
Experience (gains)/losses on scheme Liabilities Amount	510,000	24,000	356,000	1,199,000
Percentage of the present value of Scheme Liabilities	13%	7%	11%	43%

The cumulative actual (gains) and losses recognised in the Statement of Comprehensive Income amounts to €1,082,900 as at 31st December 2018 (2017: € 572,900)

(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 uses 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 2018.

Assumptions	2018	2017
Rate of expected salary increase	2.5%	2.5%
Rate of increase in pension payment	2.5%	2.5%
Discount Rate	1.85%	1.85%
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 2018 and 2017.

Year of attaining age 65	2018	2017
Life expectancy - male	22	24
Life expectancy - female	24	26

Law Reform Commission

Notes to the financial statements (continued)
Financial year ended 31 December 2018

8 Tangible assets

	Leased Premises Improvements	Office Equipment	Fixtures and fittings	Total
	€	€	€	€
Cost				
At 1 January 2018	330,829	1,082,477	597,887	2,011,193
Additions	-	31,810	21,155	52,965
Disposals	-	-	-	-
At 31 December 2018	<u>330,829</u>	<u>1,114,287</u>	<u>619,042</u>	<u>2,064,158</u>
Depreciation				
At 1 January 2018	12,485	935,447	579,717	1,527,649
Charge for the financial year	41,354	44,530	2,731	88,615
At 31 December 2018	<u>53,839</u>	<u>979,977</u>	<u>582,448</u>	<u>1,616,264</u>
Carrying amount				
At 31 December 2018	<u>276,990</u>	<u>134,310</u>	<u>36,594</u>	<u>447,894</u>
At 31 December 2017	<u>318,344</u>	<u>147,030</u>	<u>18,170</u>	<u>483,544</u>

9. Receivables

	2018	2017
	€	€
Other Receivables	5,652	7,744
Prepayments	172,137	63,594
	<u>177,789</u>	<u>71,338</u>

10. Payables

	2018	2017
	€	€
Trade Creditors		708
Other creditors	1,360	2,188
Tax and social insurance:		
PAYE and social welfare	38,122	12,647
VAT	10,312	5,574
PSWT	5,300	1,825
Pension Recoupment		16,017
Accruals	72,137	86,255
Rent free lease period accrual < 1 yr	12,926	12,926
	<u>140,157</u>	<u>138,140</u>

Law Reform Commission

Notes to the financial statements (continued) Financial year ended 31 December 2018

11. Creditors: amounts falling due after more than one year

	2018	2017
	€	€
Rent free lease period accrual > 1 yr	77,555	90,481

12. Capital Commitments

The Commission had no outstanding capital commitments as at 31 December 2018

13. 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 €442,785 in 2018 (2017: € 430,500)

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.

14. Approval of financial statements

The Commission approved the financial statements at its meeting on 10th April 2019.