



An tSeirbhís Chúirteanna
Courts Service

COURTS SERVICE ORGANISATIONAL CAPABILITY REVIEW

April 2019

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1. INTRODUCTION

BACKGROUND AND PURPOSE

For organisations that are committed to improving their performance and effectiveness, periodic review of their structures, approaches and capabilities is helpful in checking that they are well aligned to deliver on their purpose.

Within that context, Action 20 of the *Civil Service Renewal Plan* provides for the implementation of a programme of organisational reviews, the purpose being:

‘To embed a culture of regular and objective assessments of the capacity and capability of each Department to achieve its objectives and take the necessary action to close any gaps’.

Having consulted with the sponsoring Secretaries General and the Civil Service Management Board (CSMB), the Courts Service was chosen as the next organisation for review on the completion of the review of the Department of Transport, Tourism and Sport (DTTAS).

A revised methodology template was submitted to the CSMB for review and approval before the commencement of the review of the Courts Service. The revised methodology incorporated shared learnings from the pilot review phase including the ‘themes’ approach adopted within the pilot review report. The revised methodology allowed for the easier grouping of evidence gathered through the interviews and workshops conducted. The review commenced in June 2017 with the evidence gathering phase completed at the end of October 2017. Post evidence gathering engagements with members of the Courts Service’s Senior Management Team (SMT) was completed in early December 2017.

TERMS OF REFERENCE FOR THE REVIEW

The Constitution of Ireland delineates the powers of the legislative, executive and judicial arms of Government. It also provides that judges shall be independent in their judicial function and subject only to the Constitution and the law.

Given the unique relationship between the Courts Service; as a statutorily independent organisation and the Judiciary; being the third branch of Government, it was necessary to develop and adopt agreed Terms of Reference to enable the effective review of the Courts Service while not impinging on the rights, duties and independence of Judges in the execution of their function(s).

The agreed Terms of Reference agreed were:

‘To review the organisational capability of the Courts Service to serve the public through delivery of its mandate. The functions involved, as set out in Section 5 of the Courts Service Act, 1998, are to manage the courts, support the judges, provide information on the courts system to the public, and provide court buildings and facilities for court users. Capability will be assessed by particular reference to leadership, strategy, delivery and corporate support within the Courts Service organisation.’

Courts Service -v- Courts system: For the sake of clarity, it is necessary to draw a clear distinction at this juncture between the Courts Service (whose mandate is to manage the courts, thereby playing its part in facilitating access to justice) and the Courts system (how access to justice is structured in this country). The work of the judiciary within their own courts, which includes case waiting times, case throughput, sitting times/duration etc., are outside the remit of this review as they are issues that are not part of the Courts Service's statutory functions.

The Review Team notes that a considerable number of people who engaged in the review process, from both within and outside the Courts Service, raised serious concerns about the frequent lengthy delays in accessing courts. Frustration at the failure to provide individual appointment times for cases, erratic sitting times, length of court holidays, frequent adjournments, and delays in preparing books of evidence by parties to criminal trials (both defence and prosecution) were all cited as evidence of a system that is making access to justice very difficult and expensive. These matters do not fall exclusively within the remit of the Courts Service to resolve: the role of legal representatives and other State agencies in cases before the Courts are also important external factors in this context.

The Courts Service, while not disputing the issues raised, do point to the constitutional independence of judges and to the limitations of its own statutory remit, in particular section 9 of the Courts Service Act, 1998 which provides:

‘No function conferred on or power vested in the Service, the Board or the Chief Executive, under this Act shall be exercised so as to interfere with the conduct of that part of the business of the courts required by law to be transacted by or before one or more judges or to impugn the independence of—

- a) a judge in the performance of his or her judicial functions, or
- b) a person other than a judge in the performance of limited functions of a judicial nature conferred on that person by law.’

Courts Service management sees its role in this particular context as being, principally, to

- maximise the productive use of judicial and court support personnel resources
- promote efficient listing and disposal of court business
- improve processes and procedures (including through amendments to the court rules - to expedite court proceedings and minimise costs of litigation
- provide key data on court case flow to enable judicial and court support staff resources to be allocated optimally to service court case loads.

While welcoming the considerable co-operation which already takes place, the Review Team believes that there is scope for further collaboration between the Courts Service and the Judiciary in areas of common cause.

Civil Justice Review: It is also noteworthy that Mr. Justice Peter Kelly, President of the High Court, has been tasked with reviewing the administration of civil justice in the State. The broad areas to be pursued by the group will be:

- a) Improving procedures and practices and removal of obsolete, unnecessary or over-complex rules of procedure
- b) Reviewing the law of discovery
- c) Encouraging alternative methods of dispute resolution
- d) Reviewing the use of electronic communications including e-litigation and possibilities for making court documents (including submissions and proceedings) available or accessible on the internet, and
- e) Achieving more effective and less costly outcomes for court users, particularly vulnerable court users.

While Justice Kelly's review only applies to civil law it is the Review Team's understanding that it will include examining all of these concerns.

GOVERNANCE OF THE REVIEW

A review team based in the Reform and Delivery Office of the Department of Public Expenditure and Reform carried out the review. The team comprised Dave Hanley, Gerry Cribbin and Alan Cromie from the Department and Audrey Leonard as the Departmental Liaison Officer (DLO) from the Courts Service. The DLO provided vital support and assistance to the review team, scheduled and attended each interview and/or workshop, offered guidance and context in relation to evidence and other research material gathered and participated in the drafting of the final report.

The team reported to an External Peer Review Panel whose role was 'to review, validate, edit and finalise the report prepared by the team'. The panel comprised:

- Catherine Treacy, Former Chief Executive, Property Registration Authority
- Tom Moran, Former Secretary General, Department of Agriculture and the Marine
- Professor Joe McDonagh, Director of Doctoral Studies, Trinity Business School

The overall programme of capability reviews is overseen by a steering group of three sponsoring Secretaries General from the Civil Service Management Board (CSMB): Seán Ó Foghlú, Department of Education and Skills, Mark Griffin, Department of Communications, Climate Action and Environment, and Maurice Quinn, Department of Defence.

REVIEW PROCESS

The review process involved one-to-one interviews with all members of the Courts Service's SMT and a number of Heads of Function (PO grade). Workshops were organised for all other staff on a grade basis, up to and including Principal Officers. These workshops involved staff based in Dublin and the regions with four workshops taking place between Tullamore and Cork.

In addition, interviews were conducted with a number of serving Courts Service Board members, including the former Chief Justice, Hon. Mrs. Justice Susan Denham and the current Chief Justice, Hon. Mr. Justice Frank Clarke. Interviews with the individual Court Presidents were also conducted. Non-judicial board members were interviewed as well.

The views of a representative selection of the Courts Service's external stakeholders were also gathered through interview, providing a triangulation of internal views and external opinions. In all, just over 49 evidence gathering engagements were conducted. The report is written such that evidence cannot be attributed to any identifiable person or parties.

While cognisant of the reduction in overall staff resources since 2008 and the slow rebuilding of staff numbers since the lifting of the recruitment embargo in 2015, the review did not include an analysis of resources available to business units relative to needs and demands. However, where the research identified clear evidence of significant risks being carried by the organisation, customer service deficits or capacity limitations due to inadequate resourcing, such matters are referenced in the report.

COURTS SERVICE ENGAGEMENTS

Category	Number of Engagements Undertaken	Number of Participants	Further Engagements Planned
Presidents of Courts (incl. former Chief Justice)	6	6	-
Senior Management Team (incl. Marie Ryan)	7	7	-
Head of Function(s)	8	8	-
PO Workshops	2	12	-
AP Workshops	2	27	-
HEO Workshops	2	18	-
EO Workshops	4	36	-
CO Workshops	4	29	-
ICT Workshop	1	4	-
Sub-total	36	147	0
External Stakeholders (incl. 3 Board Members)	13	15	-
Total	49	162	0

THEMATIC APPROACH

The review of the Courts Service was guided by a comprehensive standards-based methodology template which was revised after the pilot review to better capture the evidence available and to reflect the report structure that was developed from the pilot report. The methodology entailed the Department's capability being tested against a series of best practice statements. The process involved views being gathered in interviews and staff workshops on a secure and confidential basis by reference to a number of attributes under 4 over-arching filters; Leadership, Strategy, Delivery and Organisational Capability.



When the report had been approved by the External Panel, the Courts Service developed an action plan based on the findings within the report. Actions are time-bound with a senior responsible official assigned to each action to ensure progress and implementation. The governance of the review process includes the action plan being agreed with CSMB with both the final report and action plan being submitted to Government prior to publication.

ACKNOWLEDGEMENTS

The Review Team would like to sincerely thank the Courts Service for its co-operation throughout the review process, in particular to members of the SMT for their continued engagement throughout the evidence gathering phase and to staff members whether as individuals or within workshops for the positive contributions made throughout. Particular thanks and praise is due to the Departmental Lead Official for her proactive participation, imparting of knowledge and expertise, and general contributions to the review process were of enormous benefit. Finally, the enthusiasm and openness of the entire organisation contributed to the robustness and comprehensiveness of the evidence gathered.

OVERVIEW OF THE COURTS SERVICE

The Courts Service is a statutory independent State agency, established by the Courts Service Act, 1998 to support the third branch of Government: the courts and judiciary.

Section 5 of the Courts Service Act, 1998 states:

‘The functions of the Service shall be to—

- (a) manage the courts,
- (b) provide support services for the judges,
- (c) provide information on the courts system to the public,
- (d) provide, manage and maintain court buildings, and
- (e) provide facilities for users of the courts.’

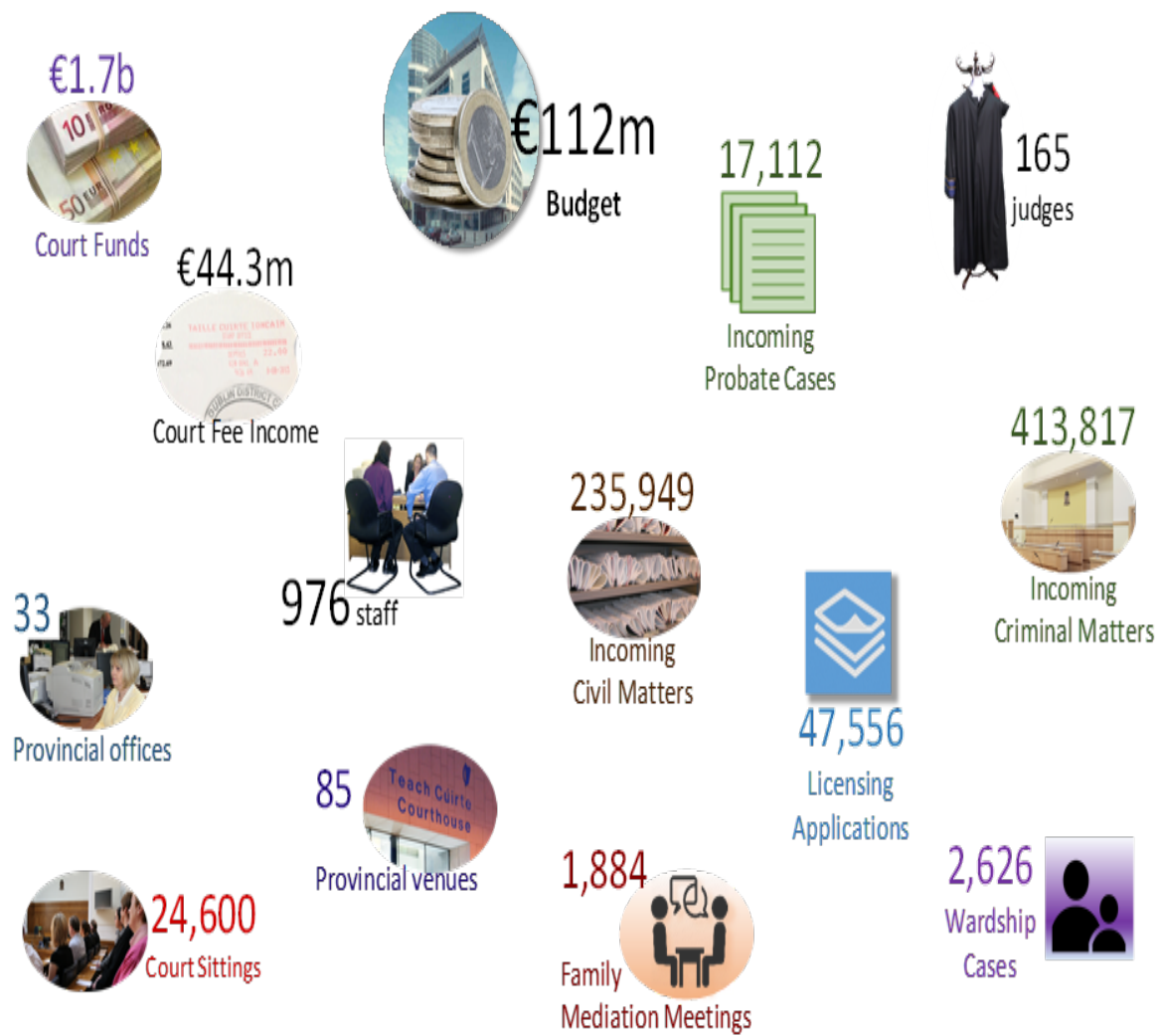
The Courts Service is governed by a Board chaired by the Chief Justice and comprising of 17 other members including representatives of the Judiciary, the Chief Justice, Courts Service staff, the Minister for Justice and Equality, and a number of other civil society stakeholders. The Board is responsible for the determination of policy and for oversight of the implementation of policy.

The Board appoints a Chief Executive who is responsible for the management and control of staff together with the day-to-day operation of the Service. The Chief Executive is supported by the Senior Management Team consisting of the following heads of Directorates:

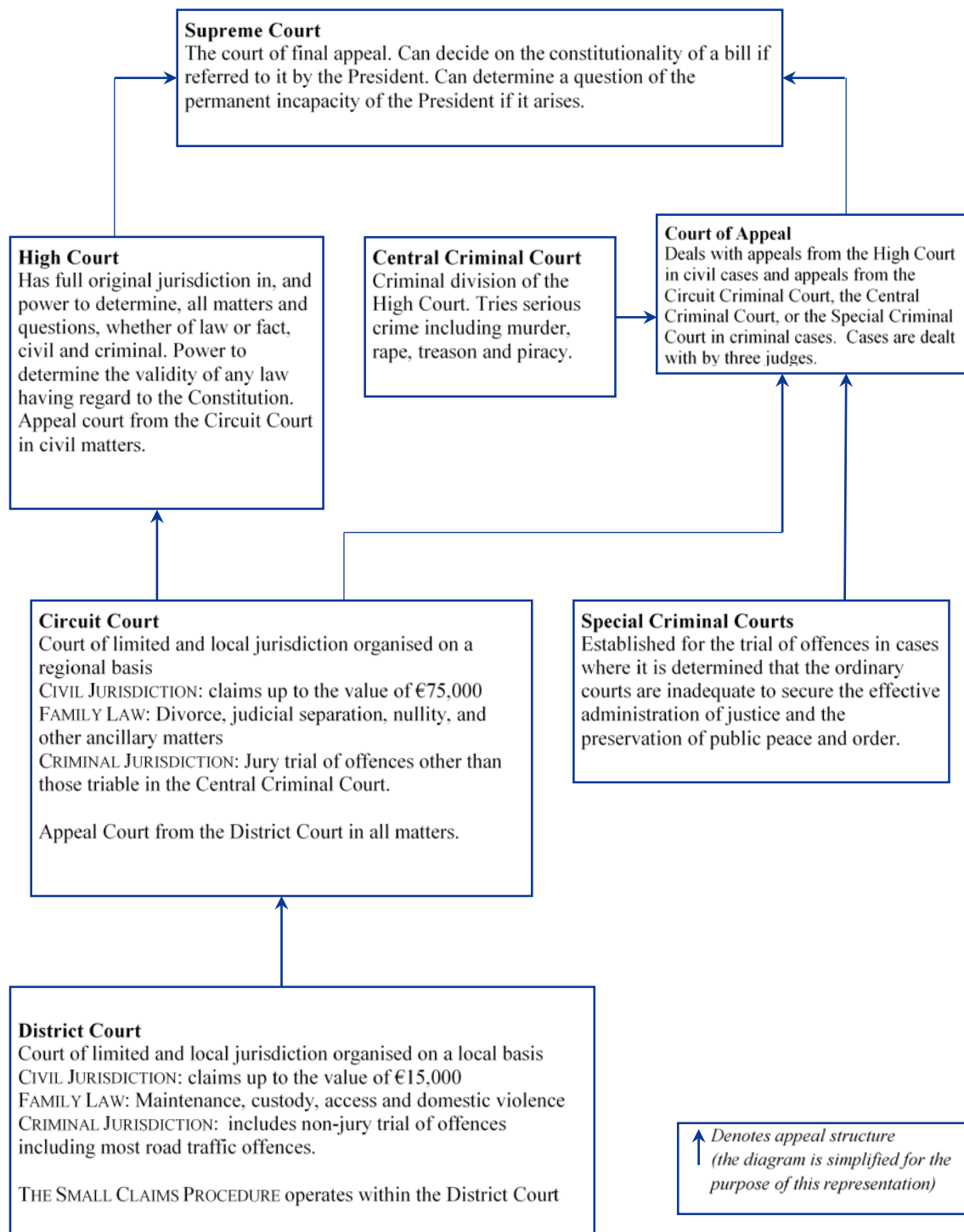
- Head of Superior Courts, including the Court of Appeal
- Head of Circuit and District Courts Operations
- Head of Reform and Development
- Head of Resource Management
- Head of Infrastructure Services (including ICT)

The Courts Service, through its offices in the Supreme Court, Court of Appeal, High Court, Circuit Court and District Court, together with the support Directorates established as part of the management structure for the Service, has responsibility for the management of all aspects of court support activities with the exception of judicial functions which are a matter exclusively for the judiciary.

High level details of Courts Service's resources and service delivery, *Strategic Plan Report, 2017-2020*



STRUCTURE OF THE COURTS



RESOURCES OF THE COURTS SERVICE

The Courts Service has a staff of 1036 (FTE), (please see Appendix 1) and a network of 33 court offices outside Dublin and offices in Dublin (Four Courts, Phoenix House, Criminal Courts of Justice, Dolphin House, and court offices in Swords, Dún Laoghaire, Blanchardstown and Cloverhill). In line with other centrally recruited civil service organisations, there was a reduction in staffing numbers from 2008 onwards.

The Courts Service's overall staff numbers fell by 16% during the ECF programme but conversely there was a rise in the number of Judges appointed to the Courts system, a unique set of circumstances not experienced by other organisations of the State during this period.

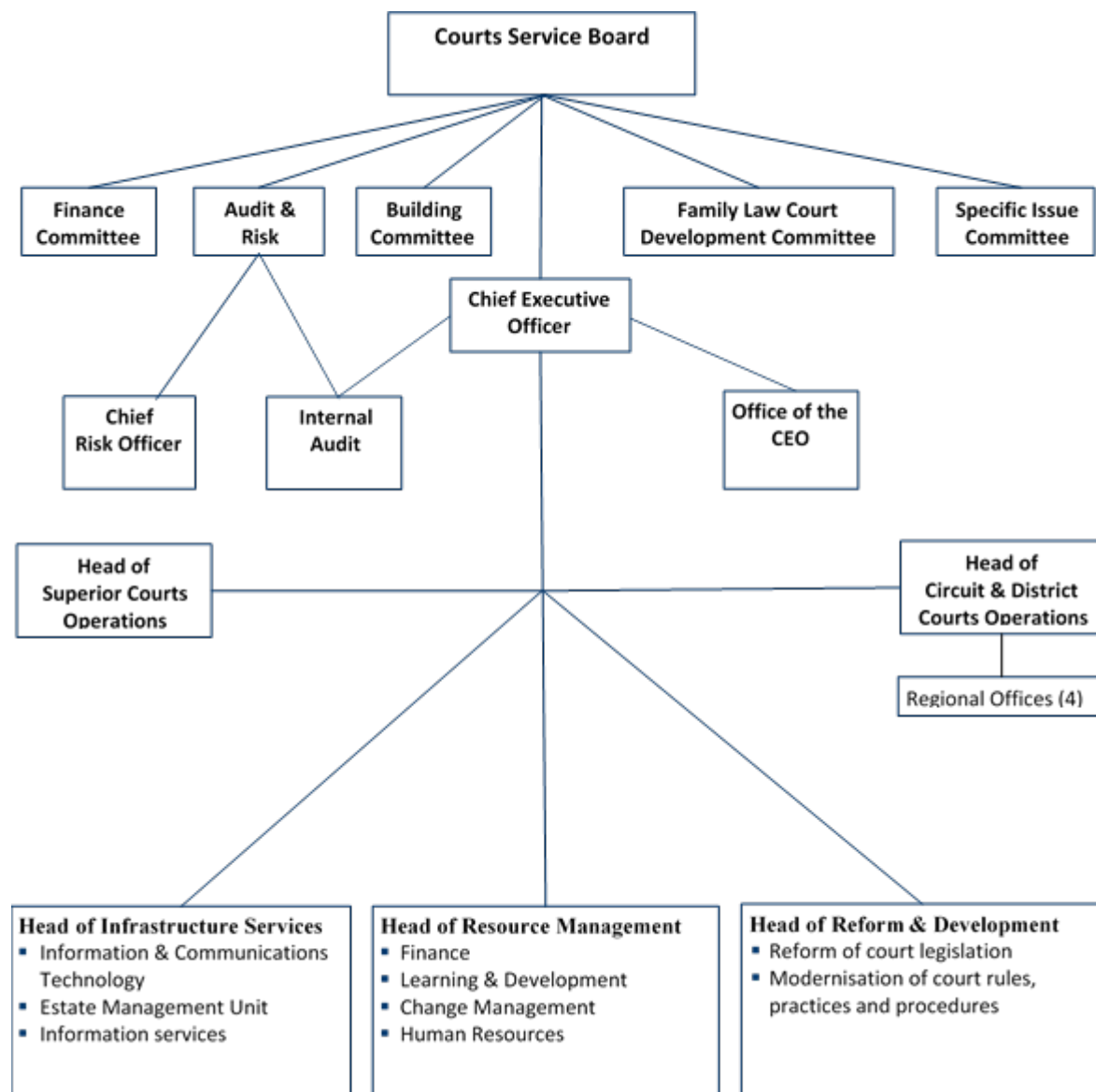
Very significant performance and efficiency improvements have been achieved over the past 5 years as a result of a wide range of change projects implemented. Increased productivity is evidenced by a 25% increase in the ratio of court sittings to staff, and a 20% increase in the ratio of judges to staff.

Some 40% of Courts Service staff are located outside Dublin and are dispersed across the entire jurisdiction of the State; a large geographic area. The staff within the regional offices and county courthouses work on Circuit and District court business and are supported by 4 regional managers; Eastern, North Midlands, Southern and Western regions. They provide management support and act as the main conduit between HQ and local offices.

While the Courts Service's staff are primarily assigned to the management of the day-to-day operations of the Courts and back office support functions, the Courts Service is also responsible for the operation and management of a number of standalone statutorily based offices, structured under the remit of the Superior Courts Directorate:

- a) **The Probate Office:** Processes applications for Grants of Representation of a deceased person's estates. The Principal Probate Registry is located in Dublin. There are fourteen District Probate Registries located outside of Dublin attached to some Circuit Court Offices.
- b) **Office of the Examiner of the High Court:** There are five substantive statutory functions assigned to the Examiner of the High Court: court-related bankruptcy work, mortgage suits, administration suits, court liquidations and miscellaneous matters referred to the Examiner by the High Court. The Companies Act, 2014 removed the Examiner's jurisdiction in respect of court liquidations which post-dated the commencement provisions of the Act.
- c) **Office of the Taxing Masters:** Provides an independent and impartial assessment of legal costs incurred by an individual or company involved in litigation. The Office responsible for assessing a fair and reasonable amount that one part has to pay to another.
- d) **Wards of Court Office:** The Wards of Court Office, under the direction of the President of the High Court and the Registrar of Wards of Court, manages the person and property of wards of court – i.e. persons who lack capacity to manage their own affairs. There are currently over 2,600 such cases. This Office also provides court support to the President of the High Court in relation to wardship matters. The Wards of Court Office is also responsible for the registration of enduring powers of attorney.
- e) **Office of the General Solicitor for Minors & Wards of Court:** The General Solicitor is a solicitor in the service of the state appointed by the President of the High Court to act in certain wardship matters. The General Solicitor is accountable to the High Court for all monies and assets under his/her control relating to the affairs of a minor or ward.

ORGANISATIONAL STRUCTURE OF THE COURTS SERVICE



2. EXECUTIVE SUMMARY

INTRODUCTION

As set out in Section 5 of the Courts Service Act, 1998 the Courts Service is mandated to manage the courts, support the judges, give information on the courts system to the public, and provide court buildings and facilities for court users. Within that context, the agreed Terms of Reference for this review encompassed an assessment of organisational capability by reference to leadership, strategy, delivery and corporate support within the Courts Service as an organisation.

This review is focused on the Courts Service – the organisation tasked with managing the courts and thereby playing its part in facilitating access to justice – and not the Courts System – how justice is administered. Thus, the conduct of the Judiciary within their own courts, including decision-making, waiting times and case throughput, fall outside the remit of this review, reflecting the independence of the Judiciary as prescribed in the Constitution.

Over the course of evidence gathering, stakeholders raised concerns about access to justice, drawing particular attention to matters around delays, costs and complexity. However, for its part, the Courts Service pointed to the constitutional independence of judges and to the limits of its own statutory remit to effect change on its own in relation to these matters.

A. CRITICAL REQUIREMENTS FOR CHANGE

In common with most government departments and non-commercial state agencies, the Courts Service experienced significant reductions in staff and budgets during the economic recession. Despite that and due to the very considerable commitment and resilience demonstrated by staff right across the organisation, no Court sitting was ever cancelled or deferred due to resource limitations. Other critical areas of the Courts Service's business also continued uninterrupted during that challenging period.

In addition, the Courts Service successfully managed the implementation of a number of high profile Government decisions such as the establishment of the Court of Appeal and the introduction of the necessary structures to give effect to the Fines Act. These and other similar major projects were often implemented at relatively short notice.

More recently, the Courts Service has been proactive in developing a suite of policies and strategies around modernising its HR and Learning and Development (L&D) functions. That has included the adoption of a more strategic and professional approach to HR management and investing heavily in staff development.

The organisation has also been very successful in modernising much of its portfolio of Court buildings nationwide and a major capital investment programme with a significant PPP dimension continues to be implemented.

Looking to the future, the Courts Service, in addition to carrying out its own review of the probate service and combined court officers project, is participating in a number of other reviews, principal amongst them being that under way on the administration of civil law led by Mr. Justice Peter Kelly.

Notwithstanding these positive developments, a number of key challenges exist that require immediate attention:

- a) **Board and SMT more strategic:** The Court Service's Board needs to exercise a much stronger strategic role on matters relating to access to justice and the effective operation of the Courts Service. That will include the Board overseeing the development of a strategic framework that would capture the long term vision, goals, objectives and outcomes for the Courts Service along with a supporting action plan, implementation roadmap, and resourcing plan.

There is a requirement for a step change too in setting strategic direction for the organisation requiring the SMT to forge much closer and stronger linkages with key stakeholders in shaping and delivering all strategies.

- b) **Stronger relationship with parent Department:** There is scope for improving the corporate level relationship with the Department of Justice and Equality, especially on prioritisation and strategic reform.
- c) **Transformational ICT state:** ICT represents a particular challenge. The development of a new ICT state will require significant collective leadership at senior levels, major strategic reorientation, substantial internal structural reform, and considerable additional investment.
- d) **Managing retirement cliff:** The Courts Service faces an enormous capability challenge in dealing effectively with the very significant numbers of staff due for retirement in the next 5 years. At present, 35% of staff are over 55 years of age, many of them occupying very senior positions. A comprehensive and well-planned response is called for, and initial steps towards that end have already been taken.

Other areas of business requiring attention include the measurement of the satisfaction of court users, the standardisation of processes and procedures, and the evaluation of projects and programmes.

In order to secure successful outcomes, it will be essential that the Board, the Judiciary, the Senior Management Team and the Department of Justice and Equality all work together to improve access to justice for citizens and modernise the operations of the Courts Service. Such a partnership approach is a critical requirement to ensure successful outcomes.

B. PRINCIPAL FINDINGS

Four key themes emerge from this review:

- 1) Developing strategic capability
- 2) Engaging in common purpose with justice agencies
- 3) Delivering customer service, and
- 4) Creating an e-court environment

B1. DEVELOPING STRATEGIC CAPABILITY

As an operationally oriented organisation, the Courts Service views its primary focus as delivering a service to the Judiciary and court users. Since the publication of the *Transforming Administration and Structures in the Courts (TASC)* report in 2010, there is little evidence to suggest that the Courts Service has had the necessary space to develop further long-term policies and strategies.

That has led to no apparent priority being given to developing a long term vision for the organisation or indeed the likely shape and characteristics of the wider environment in the coming years. There are weaknesses in strategic planning, inadequate delivery frameworks and a fragmented approach to strategy at many levels – for example, there is no HR strategy or long range ICT plan. However, during the course of this review, the new 3 year strategic plan, Strategy 2020, was produced in accordance with a legislative requirement, and work has been ongoing in developing a HR strategy. Work also commenced on developing longer term strategic vision including digital services delivery. However, these initiatives while welcome do not of themselves constitute the development of a long term vision for the Courts Service.

Some areas of capability can be difficult to assess due to the interdependence between the Courts Service and the Courts system and there is a need for both the Board and the SMT, working collaboratively across boundaries, to deliver improved access to justice for the citizen.

Consideration should also be given to establishing a new function within the Courts Service which would be devoted solely to the development of long term strategy and the establishment of more structured coherence between the various internal business strategies than is the case at present.

B2. ENGAGING IN COMMON PURPOSE WITH JUSTICE AGENCIES

Although an independent statutory agency, the Courts Service is highly dependent on the Department of Justice and Equality as an enabler and facilitator, particularly for securing resources and progressing legislative change. The bilateral relationship is characterised by strong one-to-one relationships and a set of formal arrangements, some of which are very effective and others which would benefit from further development.

On those aspects of the bilateral relationship requiring attention, there is common ground between the Courts Service itself and many of its key stakeholders that prioritisation and the impacts of externally-driven proposals on the business of the Courts Service all require a more rigorous focus from the Department than has been demonstrated in the past:

- a) **Prioritisation:** Given its small size relative to some other justice agencies such as An Garda Síochána, the Courts Service struggles at times: (i) to get its parent Department to adopt the priorities of the Courts Service as if they were its own, and (ii) to retain its preset priorities in the face of new external demands imposed on it, particularly in having to take on board centrally ordained policies and decisions.
- b) **Impacts of externally driven proposals:** The Courts Service feels frustrated at times that due account is not given to the impacts of new proposals, especially from the Department of Justice and Equality, on its business priorities and resources. An example is the Fines Act which, amongst other effects, necessitated the ICT development work that supplanted

other priority projects. The application of Regulatory Impact Assessments (RIA) by the Department to major change initiatives would identify their likely impacts.

Against that background, there appears to be considerable merit in augmenting the current bilateral relationship between the Courts Service and the Department of Justice and Equality with more formal arrangements. They could take the form of shared agreements or understandings on priorities to be pursued over the short- to medium-term, although that would be a matter for the two organisations themselves.

At an operational level, the Courts Service engages collaboratively with the various justice agencies and court user groups and this engagement is generally well regarded.

At a corporate strategic level, the Courts Service is represented on a range of strategic cross-cutting justice sector groups in the criminal and civil areas of work. While there was good feedback from stakeholders within the justice agencies, a number of them commented that the Courts Service is somewhat introspective, due largely to its primary focus on supporting the Judiciary and that it could do more to project itself to the wider civil service system, including other justice agencies, and to the public generally on the services it provides.

B3. DELIVERING CUSTOMER SERVICE

Management and staff point to the 25% increase over the past few years in the ratio of court sittings to staff, the deployment of technologies such as Digital Audio Recording and video-conferencing which are improving courtroom experiences and delivering efficiencies, and the overall improved physical facilities for court-users in many locations.

For their part external stakeholders, while acknowledging recent improvements, provided a more critical assessment of customer service: crucially, access to justice in terms of time, cost and complexity featured as a concern (which is a matter outside the direct control of the Courts Service). Other matters arising included variations between regions and offices in office opening times, telephone responsiveness and service quality, the absence of customer service measurement, sub-standard holding cells in some venues, and a website which is cumbersome to navigate.

In seeking to constantly improve its overall level and consistency of customer service, the Courts Service should be guided by the detailed best practice outlined in Action 2 of DPER's *'Our Public Service 2020'* including targeted staff training, efficient ICT systems, the use of plain English, timely and comprehensive information for the public, standardised business practices, regular customer and stakeholder research, and strong leadership at the highest levels.

B4. CREATING AN eCOURT ENVIRONMENT

ICT in the Courts Service requires particular attention because it is not resourced and configured to deliver effectively for the organisation across its key business functions. In particular, many features of its current ICT systems are not fit for purpose, and are unsuited for managing, administering and delivering services in an efficient and effective manner.

Overall, the current ICT state is in part a legacy of uneven strategy and inadequate investment, and these matters will have to be addressed in a planned and consistent manner over the years ahead.

Chapter 4 of this report provides a detailed description and assessment of the issues involved which are broadly as follows:

- a) Multiple standalone civil case management systems resulting in duplicate data entry, weak systems interoperability, avoidable manual intervention and cumbersome data interrogation and aggregation for management information purposes
- b) Excessive reliance on paper-based systems, both within the Courts Service itself and in its interactions with other justice agencies, such as the criminal legal aid system and Charge Sheets from An Garda Síochána
- c) An inadequately resourced ICT function which is insufficiently supported in terms of strategic guidance, project prioritisation, business partnerships and process standardisation, and
- d) A lack of a clearly articulated long term vision for ICT and how it might optimally meet the needs of a professional 21st century business model for the Courts Service.

Given the current fragmented state and the low levels of user confidence, four critical interventions are considered essential:

- a) User confidence needs to be restored, particularly in terms of the reliability of systems, the responsiveness of support services, and the speed of networks
- b) Structural reforms are required, especially the replacement of legacy systems, the standardisation of processes as a precursor to new development, the establishment of effective and managed partnerships between the ICT and business functions, and the inclusion of automated reporting as core functionality in all new ICT solutions
- c) The strategic orientation of the ICT function needs to be strengthened, particularly by establishment of a new dedicated strategic unit, and
- d) An end-ICT state should be conceptualised involving conclusions being reached by the Courts Service on what an efficient and effective 21st century courts model should look like and satisfy itself as to the role that technology should play – an eCourt environment in effect. Such an environment would be characterised by harmonisation and interoperability between systems, particularly of a case management nature, and enabled by e-filing to the maximum extent possible.

It would be a matter for the Courts Service, in consultation with internal and external stakeholders, to determine for itself the form and features of a new eCourt environment. A clear articulation of such an environment could provide critical value-added guidance for the development of a new organisational vision and an updated ICT strategy, as well as assisting with the prioritisation of projects and the deployment of resources.

If the current ICT landscape were transformed into the new state proposed in this review, the benefits would be far-reaching, not just for the operation of the Courts Service but also for the courts system it supports. To ensure successful delivery, substantial investment from central government would be required. For that to happen, a long term vision for the organisation would

need to be articulated and agreed first, so that the necessary context and guidance would be in place when conceptualising and developing a new ICT state.

OVERALL CONCLUSIONS

Having engaged with the Court Service's principal stakeholders and reflected on the full range of opinions expressed internally and externally, it is the considered conclusion of the Review Team that the Judiciary and the Courts Service exist to serve the single purpose of administering justice and, within that context there is scope for the Courts Service to collaborate further with the Judiciary in areas of common cause. There are crossovers between the operations of the Courts Service and the functioning of the courts system, which need to be acknowledged and accommodated in order to improve access to justice for citizens. That perspective informs the conclusions and recommendations contained in this report.

The overriding message from the evidence is that the management and staff are highly capable, committed and professional in their everyday work. They continue to demonstrate resilience and adaptability, which were particularly evident during the very challenging recessionary period. Although management and staff undoubtedly work hard, there is clear potential for them to work in a smarter and more efficient way.

The key reason for that conclusion is that the Courts System, including the Courts Service, is not sufficiently modern in the conduct of its business. The Board and the SMT need to play a strong role in overseeing implementation of the necessary reforms outlined in this report.

The five areas requiring particular attention are:

- A more strategic oversight role for the Board
- More effective collaboration between the Board and the SMT on matters relating to strategy
- A stronger bilateral relationship with the Department of Justice and Equality
- An urgent focus on the challenge of largescale retirements over the next 5 years, and
- A particular need to develop a long term vision for the delivery of services, including a transformative ICT state as an enabler for the implementation of that vision.

The organisation fully and enthusiastically engaged with the Review Team in the conduct of this review, which is an indicator of a clear appetite to embrace change. That needs to be accompanied by strong leadership and collaborative working models.

There are a number of factors at play which make the present time particularly ideal for putting in place measures and plans aimed at transforming the organisation:

- The findings and recommendations in this capability review report
- A new Board since late 2017
- The ongoing developments in terms of modernisation and change as set out in both the *Civil Service Renewal Plan* and the *Public Service 2020 Plan*
- The investment already being made in re-structuring the HR and L&D functions

- The major review of civil law under the direction of Justice Peter Kelly, and
- The completion of a number of internal business reviews (Probate Office and Combined Court Office).

Given those circumstances, it is hoped that the Courts Service, working closely with its key partners and stakeholders, can optimise current opportunities to map out a clear and long-term vision for the organisation and its wider environment.

1. LEADERSHIP

1.1 INTERNAL LEADERSHIP

Management of the Courts Service is exercised by means of a three-tier structure as follows:

- a) **Board:** The Courts Service Board (“The Board”), which is chaired by the Chief Justice, comprises 18 members as provided for in statute: 5 Court Presidents, 5 elected Judges, CEO of the Courts Service, nominees by the Department of Justice and Equality, the Bar Council, the Law Society, Irish Congress of Trade Unions and Courts Service’s staff, as well as two Ministerial nominees each representing consumer interests and financial matters. Additionally, the Director of Resource Management attends every meeting and every other Director attends at least once a year.

The Board is legislatively obliged to meet at least 4 times per annum.

- b) **Committees:** Four standing committees¹ report into the Board as follows:
 - a. Finance
 - b. Audit and Risk
 - c. Building
 - d. Family Law Court Development, and

The committees typically meet a week or so before a Board meeting, although some meet more frequently if circumstances require.

- c) **Chief Executive Officer:** Section 17 of the Courts Service Act, 1998 outlines the appointment of a Chief Executive Officer (CEO) by the Board. The CEO is responsible for the performance of the functions outlined in the Act and provides the Board with high quality information in particular the management of the organisation’s budget and risks, the implementation of business plans and the efficient and effective delivery of Courts Service business.
- d) **Senior Management Team (SMT):** The day-to-day management of the Courts Service is overseen by the SMT which comprises the CEO and the Heads of the 5 internal directorates.

The SMT meets every fortnight, operates on the basis of an agreed Terms of Reference, and deals with a set agenda of standing items along with thematic-specific issues as required and ICT governance matters five (5) times a year.

Section 13 of the 1998 Act, as amended, describes the functions of the Board and the *Courts Service’s Corporate Governance Framework, 2016*² defines the governance framework and sets out the roles of the CEO, the Board and the various committees reporting to it.

1.1.1 FUNCTIONING AND EFFECTIVENESS OF THE BOARD

Over the course of evidence gathering, there was a significant measure of consensus on areas where the Board is strong and effective, and others where it is less so:

¹ Memberships are set out in Appendix 1

² <http://www.courts.ie/Courts.ie/Library3.nsf/pagecurrent/D171C224DF0083D180257FB10043BD33?>

- a) **Size and composition:** While the size and composition of the Board are set by statute, many of those interviewed, including Board members, believe that it is too big and that its effectiveness is consequently diminished.
- b) **Strategic oversight:** An example of strong strategic direction and engagement by the Board is the courts rationalisation programme which resulted in the number of provincial court offices being reduced from 66 to 33 accompanied by a major refurbishment and new build programme. In that instance, the Board exercised effective scrutiny and strategic oversight of a particularly challenging change programme. A further example is the recent transformative Learning and Development programme. However, these examples are much more an exception than a general rule: in matters relating to other areas requiring particular attention such as a long range ICT strategy, improved access to justice and modern service delivery, there is scope for the Board to become much more engaged and directive.
- c) **Interrogation of proposals:** The Board has tended not to direct the four committees reporting to it to examine, report and recommend on strategic issues on enabling access to justice and the operation of an effective courts system. It needs to challenge the SMT more on how it is managing the Courts Service by interrogating all such reports and proposals with depth and rigour.
- d) **Decision-making:** The culture of the outgoing Board favoured decision-making on the basis of consensus, save for one exception when a vote was called on foot of an objection to close a provincial courthouse as part of the courts rationalisation programme.

While there are divided opinions amongst members and managers on the merits or otherwise of decision-making by consensus, there is general agreement that it is predominantly a function of the size of the Board, the number of agenda items, the duration of meetings and the quality of proposals and reports from committees.

As already indicated it also needs to reflect on whether, as a Board, it is deliberating sufficiently on strategic issues which, of themselves, tend to generate exploration and debate. A notable development is that the recently appointed new Chief Justice has indicated a wish for specific time during each Board meeting to be devoted to strategic issues relating to both the justice system and the Courts Service as an organisation.

1.1.2 FUNCTIONING AND EFFECTIVENESS OF COMMITTEES

The four committees reporting to the Board are mandated to undertake certain tasks, principally the preparation of reports on specific issues relating to their remits. They typically meet a week or so before a Board meeting, are comprised predominantly of serving Board members and with the exception of the Audit and Risk Committee, each of them is chaired by a judicial member of the Board.

The committees³ are critical to the effective functioning of the Board. Invariably their papers are of high quality and are informed by much discussion and challenge at committee level. In order

³ In addition, a number of rules committees operate under the aegis of the Board and it is they rather than the Board that generate procedural and jurisdictional reform initiatives. The Reform and Development Directorate is represented on these committees and provides a rapporteur service. Each committee is chaired by a member of the judiciary and includes representation from the legal profession and the Office of the Attorney General.

to better support the Board on strategic oversight, the work of the committees should be reoriented more towards strategic matters.

1.1.3 FUNCTIONING AND EFFECTIVENESS OF THE SENIOR MANAGEMENT TEAM

The Senior Management Team (SMT) performs the executive function and is a critical enabler for the effective working of the committees and the Board. It comprises the CEO and the Heads of the 5 Directorates and operates on the basis of an agreed Terms of Reference. The SMT oversees and monitors the implementation of the annual Strategic Plan for the Courts Service.

High calibre: The members of the SMT are viewed very favourably by their judicial colleagues and external stakeholders. They are knowledgeable, professional, accessible when required, and highly committed to what they do.

Relationship between SMT and Board: The Chair of the Board – the Chief Justice – and the Head of the Courts Service – the CEO – work very closely, and the working relationship is open and collegiate. More widely, the relationship between the Board and the SMT, collectively and individually, is amicable and respectful.

SMT as an influencer: Internally and externally there is a perception that notwithstanding the positive features of the bilateral relationship, the SMT adopts an overly-conservative approach in seeking to influence the judiciary, and that it could do more persuade, particularly in trying to make the courts system more effective and efficient, especially in those areas which overlap between the responsibilities of the judiciary and those of the Courts Service.

Accountability of SMT to the Board: Not all individual members of the SMT report formally to the Board on the development and implementation of plans and programmes relevant to their work areas. This situation should be regularised in order to strengthen the accountability line between the Board and the SMT.

Accessibility and visibility: Individual members of the SMT are very accessible to members of the Board, external stakeholders, Principal Officers and Heads of Function. Regarding managers and staff across the organisation generally, the CEO and individual members of the SMT make a considerable effort to meet face-to-face as required of their roles. Given the geographic dispersal of venues and the opportunity costs involved, the SMT is as visible as could be reasonably expected.

Decision-making capacity: Generally, there is a good *esprit de corps* amongst the members of the SMT and constructive challenge between them. However, not unlike the Board, the agenda is quite extensive, and there are doubts that the balance between operational issues and strategic concerns is not in equilibrium. There is need for a tighter fit between the major strategic issues facing the Courts Service and what predominates deliberation at the SMT and Board levels. It should be acknowledged however that decisions of an operational nature are taken regularly, and the general exercise of that function is strong. In line with a developing trend across the Civil Service generally, consideration might be given to the addition of the HR Manager as a full-time member of the SMT.

1.1.4 LEADERSHIP BY PRINCIPAL OFFICERS AND ASSISTANT PRINCIPALS

The PO and AP grades are indispensable for the effective management and administration of the Courts Service. They perform their duties competently and are well regarded by the judiciary and senior management peers.

Collaboration with SMT: There is considerable potential for greater systemic cooperation between the SMT and the PO cohort. There is a strong appetite amongst POs for improved collaboration, notwithstanding a sense of frustration amongst them at past failures. There is also unease that while a small number of them do attend some SMT meetings, the generality of them do not.

A mechanism already exists in the form of the recently established PO network. It would be mutually beneficial if some formalised arrangements were put in place to facilitate a regularised and structured relationship between the SMT and the network. That could be supplemented by other means of engagement, a useful reference being the recent facilitation by the SMT of a workshop with POs and APs on examining ways to improve the delivery of services.

Leadership by regional managers: There is widespread appreciation amongst managers and staff throughout the country at the considerable amount of direct engagement by the 4 regional managers (PO level), given especially their extensive geographical remits. Generally, the managers are regarded as approachable and responsive.

Leadership by POs and APs generally: The business of the Courts Service is predominantly of an operational nature as opposed to policy-making. On the operational side, there are very capable staff at PO and AP grades who can be relied upon to manage and deliver well, often in difficult circumstances.

Projection of leadership capability: Regarding policy and strategy, decisions are made by the SMT and the Board. Quite a number of managers at AP and PO levels are not afforded opportunities to develop analytical and policy-making capability. Similarly, some of them have limited scope to demonstrate people management skills owing to the nature of their work, such as Registrars who typically are not managers of staff. Yet such managers have a lot of technical knowledge and are relied upon heavily by judges and legal practitioners to assist in managing the courts. Additionally, there are a number of POs who head up specific discrete functions such as Wards of Court, Finance and Internal Audit.

Engagement with staff: There are variations in the extent and quality of engagement between POs/APs and those reporting to them; in some locations the engagement is very good, in others considerably less so.

1.2 INTERNAL COLLABORATION

As a regionally-dispersed organisation, the Courts Service faces particular challenges in ensuring that it has structures and processes in place to facilitate and promote regular liaison and collaboration between internal business units. Because of some “natural silos” within the organisation (for example between the Superior and Circuit/District Court offices), collaboration can be more difficult.

Role of the Change Advisory Board: The Change Advisory Board (CAB) comprises three members of the SMT, the High Court Registrar (PO), and the PO Heads of ICT, the Change Management Office, the Information Office, the Criminal Courts of Justice, and Reform and Development.

The CAB was established to approve proposals for internal business projects, some with an ICT dimension, others possibly not. For those with a strong ICT component, there is a further level in the approvals process, involving assessment and decision by the ICT Governance Committee.

The CAB, which is scheduled to meet every quarter, approves or rejects project proposals presented to it. It does so independent of previous approvals and their status on an implementation schedule.

The CAB has not moved beyond the establishment phase to full maturity and for that and other reasons is not yet realising its potential:

- a) A weak connection between the work of the Change Advisory Board and the 3 year strategic plan for the Courts Service
- b) An absence of a standardised criteria for the evaluation of projects
- c) A lack of clarity in the Terms of Reference on the post-approvals processes, and
- d) Insufficient account of implementation factors, particularly in terms of lead responsibilities and required resources relative to alternative project choices

Until the above issues are resolved, the CAB will struggle to deliver on its aims. It will need in particular to address as a matter of urgency the current disconnection between the approvals and follow-up processes.

At a higher strategic level, there is also a need for a stronger relationship between the CAB and the ICT Governance Committee on project prioritisation and implementation.

Establishment of the Change Management Office (CMO): The establishment of the CMO in March 2016 was intended to drive change and reform in a co-ordinated manner across the Courts Service. Amongst its key deliverables are the following:

- a) To act as a central point for co-ordinating, monitoring and supporting all business change initiatives
- b) To ensure alignment of initiatives and projects internally with strategic and business plans and externally with legislative developments and the reform agenda of the Departments of Justice and Equality and Public Expenditure and Reform
- c) To provide oversight of all change initiatives planned and under way
- d) To support offices and/or Directorates in the preparation of documents required for presentation to the Change Advisory Board, and
- e) To assist business units in the execution and delivery of change initiatives by providing business knowledge, expertise and project management methodologies.

The CMO has prepared a three year change programme that is aligned with the *Public Service Reform Plan* and the *Justice Sector Integrated Reform Plan*. The programme places an emphasis on service delivery, people, technology and structures, and on the effective implementation of the initiatives of the CMO.

The establishment of the CMO is an example of senior management taking positive steps to introduce new structures and processes to better position the organisation to meet current and future challenges. Given the short period since the CMO's establishment and the generally slow changing nature of reform in any organisational setting, only tentative assessments can be made regarding capability and effectiveness at this stage:

- a) **Cooperation with the HR and L&D functions:** Communications and cooperation between the CMO and the HR and Learning and Development functions are strong, resulting in collaborative improvements to the staff induction process and the management of probation for new staff entrants.
- b) **'As is' cooperation with the ICT function:** As dealt with later in Chapter 4, ICT requires special attention, investment and support. Within that context, collaboration between the ICT and business units needs to be significantly strengthened, such that it would become embedded in the everyday way of planning and doing business.

The CMO is expected to act as a bridge between the ICT and business sides and as a positive agent for change through, for example, its work on setting standards for good business case design, including for ICT projects. Yet there is no formal process for systemic interaction between the ICT Unit and the CMO on how the two Units might work best together into the future. This matter needs to be addressed urgently.

There is a particular need for the Change Advisory Board and the ICT Governance Committee to project a shared sense of leadership on change initiatives which, in turn, would have a strong demonstration effect across the organisation generally.

- c) **'Go to' cooperation with the ICT function:** The ICT Unit is unclear on the purpose of the CMO insofar as its work could intersect in a substantive and positive way with ICT planning and delivery. Possible roles that the CMO could play would be to:
 - help the ICT Governance Committee to prioritise ICT projects for delivery
 - assist the Change Advisory Board to rank business projects, and
 - ensure that project ownership would rest with the business side and that there would be full partnership throughout.

Although establishment of the CMO has been a positive and necessary development, there is nonetheless a marked lack of awareness internally as to its precise role and purpose which needs to be addressed by the SMT. The relationship between the ICT Governance Committee and the Change Advisory Board remains largely untested and their relationships with the CMO are still quite undefined.

General internal cross-functional working: The natural siloes within the justice system are reflected in the structure and operation of the courts system, acting as boundaries on the extent and nature of day-to-day interaction that would be possible between business areas. For example, in the cases of the Dublin-based High Court and a provincial District Court, geography and type of business limit the extent to which collaboration would be either warranted or meaningful.

Most change initiatives in the Courts Service, from the research to implementation, have involved some measure of partnership between two or more directorates and constituent business units. Examples include the establishment of the Combined Court Offices as a unitary support service to the Circuit and District Courts, the setting up of the Court of Appeal, the rationalisation of court venues, and the development of the Criminal Courts of Justice facility.

1.3 CROSS-GOVERNMENT COLLABORATION

The Courts Service's engagement across the government system is predominantly with the justice agencies, principally its parent Department (Department of Justice and Equality), An Garda Síochána, the Irish Prison Service, the Probation Service and the Legal Aid Board.

1.3.1 RELATIONSHIP WITH THE DEPARTMENT OF JUSTICE AND EQUALITY

Although the Courts Service is an independent statutory agency, it remains dependent upon the Department of Justice and Equality for many important facets of its day-to-day operations such as funding and resource requirements. In addition, any legislative changes needed for the functioning of the Courts Service must be introduced and managed by the Minister and his Department through the Houses of the Oireachtas. The Department also plays a role in coordinating communications and collaboration between the various agencies comprising the wider justice family.

Departmental representation on Courts Service's Board: An Assistant Secretary from the Department of Justice and Equality is a member of the Courts Service's Board. This arrangement is regarded positively amongst other Board members and across the Senior Management Team. It helps to promote Departmental understanding of the business of the Courts Service and the challenges it faces. In turn, the Courts Service is kept apprised of priorities, developments and plans across the justice sector as a whole.

Bilateral engagement by senior management: There are a number of formal and informal arrangements in place for engagement at senior management level between the Courts Service and the Department of Justice and Equality:

- a) Annual meeting between the Chief Justice and the Minister on publication of the Court's Service Annual Report
- b) Annual meeting between the Minister and heads of justice agencies
- c) Regular bilateral engagement by individual SMT members and Principal Officers
- d) Day-to-day contacts between individual business units and the Department's Courts Policy Division whose functions include the management of judicial appointments and engagement with the Houses of the Oireachtas and the media
- e) Engagement on the Criminal Justice Strategic Committee, which is chaired by a Departmental official and comprises the heads of each of the justice agencies, and on a number of sub-committees (see section 1.3.2), and
- f) At an operational level an Oversight Agreement is in place between the Courts Service and the Department – *see section 3.2.1 on Governance*.

Overall bilateral relationship: While one-to-one relationships between the Courts Service and the Department are very good, there is a view internally amongst managers and externally with stakeholders that there is still considerable scope for improvement in formal bilateral relationships. In that regard, the core issues requiring formal agreement and collaboration between the two organisations relate predominantly to prioritisation, strategic reform, and the impacts of Departmental proposals on the business of the Courts Service:

- a) **Prioritisation:** There is a considerable measure of frustration at the recurring failure of the Department to include some of the Courts Service's priorities amongst its own. The Courts Service believes strongly that given its small size relative to other justice agencies such as An Garda Síochána, matters relating to law and order, immigration and prisons predominate the Department's priorities. That view was not contested by those interviewed within the Department itself.

- b) **Strategic reform:** The Courts Service cites various pieces of draft legislation (drafted in-house) that have yet to be enacted or even put onto the Government's legislative priorities list that would create efficiencies for the organisation. For example, draft Heads of a Bill were prepared in 2012 and submitted by the Courts Service to the Department of Justice and Equality to facilitate e-filing. These have yet to be incorporated into a Bill for presentation to the Houses of the Oireachtas.

Additionally in the mid-2000s the Department of Justice and Equality collaborated with the Courts Service and the Law Reform Commission on long-term reform of the Courts, culminating with the publication in 2010 of a report, *Consolidation and Reform of the Courts Acts*, since then the matter has not been progressed beyond the production of a Bill.⁴

The Department acknowledges that there is merit to some of the opinions put forward by the Courts Service. It also points out however that some of the decisions not to proceed with draft legislation are taken by the Attorney General's Office while others simply reflect political priorities at any given time.

- c) **Impacts of proposals on pre-determined priorities:** The Courts Service highlights the difficulty it sometimes experiences in getting the Department to take on board concerns or views it expresses in relation to proposed new legislation or new legal structures – for example, the impacts of the proposed Fines Act and Insolvency Service on the Courts Service's own priorities and its programmes of work. In response the Department does acknowledge that the impacts on the Courts Service's business (actual and opportunity) of proposed legislative change are not always taken sufficiently into account. The Department acknowledged the need to reintroduce Regulatory Impact Assessments so that the staffing and resourcing implications of legislative proposals on the operation of the Courts Service would be quantified and taken into account.
- d) **Oversight Agreement with Department:** For operational matters, an Oversight Agreement is in place between the Courts Service and the Department of Justice and Equality⁵. In addition to ensuring corporate governance compliance, it is important in helping to clarify the mutual needs and expectations of both parties.

While the Agreement focuses heavily on important requirements of a compliance nature, it is limited in that long-term strategic outcomes are not associated with the various actions and commitments contained within it.

As a final point the CEO of the Courts Service does not have a seat on the Civil Service Management Board, which is the entity tasked with overseeing the delivery and implementation of the Civil Service Renewal Plan. The Courts Service is therefore reliant on the Secretary General of the Department of Justice and Equality to keep it apprised of relevant plans and developments.

⁴ The report recommended that the Acts should be consolidated into a single Courts (Consolidation and Reform) Act which, at that time, comprised two hundred and forty different pieces of legislation. In addition to modernising the legislative framework within which the courts operate, the Law Reform Commission proposed a number of significant reforms which would improve the efficiency and effectiveness of the Irish legal system. Even though the report was followed by a 400 page Bill, nothing further became of the initiative.

⁵ The Agreement is a requirement of the Code of Practice for the Governance of State Bodies 2016 which sets out the corporate governance arrangements to be adopted by State Bodies.

The Department acknowledges that this is another element of the relationship in need of improvement.

1.3.2 COLLABORATION ACROSS THE JUSTICE SECTOR

There are a number of formal and informal arrangements for engagement and collaboration between justice agencies as follows:

Working Group on Efficiencies in Circuit and District Courts: This committee was established in November 2011 ‘to identify and report on how greater efficiencies and cost reduction measures could be achieved in the operations of the Circuit and District Courts, with particular emphasis on how the agencies in the [justice] sector interact with the courts and with each other.’ Chaired by the Department of Justice and Equality, it includes representatives from relevant justice agencies.⁶

This committee was able to build on work completed by the Courts Service around the design and delivery of a number of cross-functional initiatives including with the Courts Service. Amongst them are:

- **Video-conferencing:** The expansion of the use of the video conferencing service between the Irish Prison Service and the Courts Service for persons in custody or requiring to appear in court
- **Case procedures:** Pre-trial procedures to help ensure that cases listed for trial would commence on the scheduled date
- **Justice Hub:** The planned implementation of a ‘Justice Hub’ which would act as the central enabler for electronic collaboration between justice agencies. This is part of the collaborative work between justice agencies participating in the Criminal Justice Strategic Committee. When developed it would enable certain classes of records from the various agencies to be routed to a central repository from which designated bodies would be able to draw. However as set out later in Chapter 4, there are concerns over the pace of progress relative to the urgent needs of the Courts Service, and
- **Hub Forum:** The establishment of a ‘Hub Forum’ is helping to identify projects that can be used to expand on the deliverables of the main justice stakeholders. An example is a ‘pathfinder’ project at proof of concept stage and featuring an inter-agency team to jointly manage the cases of certain prolific offenders via a shared CMS model.

Bilateral cooperation with individual justice agencies: Cooperation and collaboration between the Courts Service and individual justice agencies, other than the Department, are predominantly informal in nature, tending to be based on personal connections rather than formal working structures. While the informal approach is necessary and effective, there is a view amongst some stakeholders that it might usefully be complemented by more formal arrangements. The Courts Service point to user groups through which formal communication takes place. There are also a range of working groups on issues and areas of common interest.

⁶ The Group is chaired by the Department of Justice and Equality and includes a judge each from the Circuit and District Courts, as well as senior representatives of the Courts Service, An Garda Síochána, the Irish Prison Service, the Probation Office, the Office of the Director of Public Prosecutions, the Office of the Attorney General, and the Legal Aid Board.

A factor in that regard is that the impending retirements of a number of the Senior Management Team and other experienced managers over the next few years will alter significantly some of the Courts Service's bilateral relationships.

1.3.3 COLLABORATION ACROSS THE GOVERNMENT SYSTEM

Outside of the justice sector, the Courts Service has quite a considerable amount of engagement with other State entities – the Department of Public Expenditure and Reform on budgetary, funding, compliance and governance issues, the office of Public works in relation to the courthouse estate, the Office of the Government Chief Information Officer (OGCIO) on ICT planning and approvals, the Department of Transport, Tourism and Sport on road traffic legislation and related matters, the Revenue Commissioners on probate, and a wide range of State commercial and non-commercial bodies on licensing issues.

Engagement with the Department of Public Expenditure and Reform (DPER): The Courts Service's engagement with DPER is primarily on matters relating to budgets, HR management, and governance.

On budgetary issues, the Department of Justice and Equality oversees and distributes Voted allocations across the sector, including for the Courts Service whose current expenditure funding represents some 4.7% of the amount for the sector as a whole. There is some frustration with this arrangement as currently all submissions from the Courts Service to DPER regarding funding and resource requirements must be submitted through the Department of Justice and Equality. The Courts Services argues that this potentially forces competition with other justice agencies for resources and funding.

In 2015, the then Chief Justice, with the assent of the Taoiseach, had an exercise undertaken to explore an alternative funding model for the Courts Service. While much of this was related to concerns regarding the extent of the cutbacks experienced during the recession, it was also prompted by a perceived need to facilitate more direct discussions on annual estimates/budgets between the Courts Service and DPER.

A paper prepared by the Chief Justice, Frank Clarke, (then an ordinary member of the Supreme Court) was the subject of a meeting between the then Chief Justice and the Minister for Public Expenditure and Reform in September 2016. The understanding is that while a move away from the current funding model is not envisaged by the Minister, the way is nonetheless open for the Courts Service to engage in more regular and direct dialogue with DPER than heretofore, particularly at official level but also including meetings between the Minister and Chief Justice as considered necessary.

There is also an openness on the part of DPER to forging closer bilateral interaction on strategic issues, such as the looming retirement cliff (35% of staff over 55) and the fragmented ICT state (see Chapter 4). On the latter, the OGCIO has indicated a willingness to review a new ICT Strategy and sign-off on the implementation process and approve the associated budget in co-operation with the relevant Votes Section in the Department of Public Expenditure and Reform.

1.4 COMMUNICATIONS

1.4.1 INTERNAL COMMUNICATIONS

The Courts Service has in place an internal Communications Policy⁷ which has been approved by the Board. The Policy sets out a series of commitments, and emphasises the shared responsibility for effective communication involving management and staff at all levels.

In progressing its commitments, the Courts Service has taken a number of progressive steps, particularly in the context of improving communications with the regional offices which had surfaced as an issue previously in an internal staff survey and workshops with the SMT:

- A monthly bulletin from the SMT is published
- The Courts Service's intranet has the key corporate information that regional managers and staff would need
- The Directors hold regular meetings with their Heads of Office and regional managers
- When visiting a regional office, the Director tends to meet with as many staff as possible to hear their concerns
- There is an annual conference for office managers (POs and APs) and deputy managers (APs and HEOs), and
- The SMT is visibly active when promoting new initiatives – for example, it participated in the L&D roadshow which toured the country to promote the reconstituted L&D function and what it can deliver for staff and, during the course of this review, participated in a consultation exercise with staff as part of development of new *Strategic Plan, 2020*.

Additionally, the four regional managers, despite extensive geographical remits, have considerable visibility and engagement with managers and staff in regional and local offices. An effective and well-regarded Forum of Regional Managers is also in place. Although the Forum engages positively on internal cross-cutting initiatives such as the combined office review, the extensive local and coalface knowledge of the individual managers could be harvested to better effect for planning and operational purposes.

Staff survey results: Despite the considerable steps being taken to improve internal communications, the situation still remains an issue according to the latest staff survey. In response, the SMT is considering how it might improve its visibility, particularly to provincial staff. Obviously it would have to take account too of the considerable time and opportunity cost that might be involved, given in particular the geographical dispersal of venues.

1.4.2 EXTERNAL COMMUNICATIONS

Section 5 of the Courts Service Act, 1998 requires the Courts Service to provide information on the courts system to the public. The establishment of the Information Office was an acknowledgment of the significance of this mandate to the reputation of the courts given that the role of the courts in our society is the preservation of the rule of law. A well-informed public leads to public confidence in the courts and public respect and support for the justice system.

The Information Office engages in a number of initiatives to support the administration of justice and better inform the public on how the courts operate. They include maintenance and development of the Courts Service's website and face-to-face engagement with the community

⁷ Appendix 2 of *Courts Service Corporate Framework, 2016*

via outreach initiatives. Outreach initiatives include engaging with schools, universities, and community groups in Ireland and abroad offering tailored visits including opportunities to meet judges, act out mock trials, and engage in work experience. Thousands avail of these opportunities annually.

The Information Office also publishes information on the operation of the courts, collates statistical information on the work of the courts and court offices, prepares the annual report of the Courts Service, and prepares material to support Courts Service events including official openings of new and refurbished courthouses and heritage leaflets to acknowledge the significant contribution of court buildings to the built heritage of our country.

The recent decision to broadcast some Supreme Court hearings is an indicator of increased openness, and individual members of the judiciary have been quite forthright in the media on matters of concern such as the process for judicial appointments and particular features of the justice system.

Regarding the Courts Service itself, a number of stakeholders commented that the organisation is somewhat introspective due largely to its primary focus on supporting the Judiciary. Specifically, it could do more to project itself to the wider civil service system, including other justice agencies, and to the public generally on the services it provides.

OVERALL CONCLUSIONS ON LEADERSHIP

The Board and the Senior Management Team (SMT) are clear on their respective roles, and the general relationship between them combines respect with collaboration.

Traditionally the Board has operated on the basis of consensus, due in part to its size and extensive agenda. A further factor is that the high quality reports of the various committees have tended to be technical and informative in nature rather than strategic and decision-oriented, thus curtailing the necessity for interrogation.

Given the challenges being faced, there is a need for the Board to focus much more than it does at present on examining, reporting and recommending on strategic issues affecting access to justice system and the operation of an effective courts system.

Regarding the Senior Management Team (SMT), it is very experienced and individual members are generally well regarded internally by the judiciary, managers and staff and externally by stakeholders. Like the Board however, the agendas for their meetings are quite extensive and there is an evident need to balance the emphasis on operational matters with a greater level of strategic deliberation. The SMT should play a more influential role in determining strategic priorities, both for the Courts Service as an organisation and the courts system it supports.

The PO cohort could be engaged to better effect. There is a lack of mechanisms for structured bilateral engagement with the SMT. Collaboration between the POs and the SMT needs to be strengthened, with the recently established PO network being a potentially useful and effective mechanism if supported appropriately.

Having emerged from a very testing period of severe staffing and budgetary cutbacks during the recession, the SMT has recently put in train a number of structural reviews and reforms aimed at positioning the Courts Service on a more solid footing to meet a series of challenges ahead, both of an internal and outward facing nature.

Particularly notable in that respect are the Change Advisory Board (CAB) and the Change Management Office (CMO) which have been tasked with spearheading and overseeing various aspects of organisational change. In both cases there are gaps on a number of criteria: senior management leadership, assigned remits, reporting arrangements, and implementation mechanisms including resources.

On the CMO specifically, its role in change management is unclear to some internal business units and corporate support functions in terms of shaping and leading change across the Courts Service. Its role and functions need to be reviewed at the instigation of the SMT in the context of strengthening the overall change management function.

Together the CAB and the CMO, along with other change initiatives, offer the Board and the SMT the potential to adopt an increasingly forward-looking perspective, subject to the initiatives being nurtured to full maturity. Furthermore, overseeing the implementation of change initiatives requires particular attention especially at SMT level.

Regarding the bilateral relationship with the Department of Justice and Equality, a particular challenge arises when the Courts Service's own medium- and long-term priorities on the management of the courts are forced into a secondary position by those initiatives which the Department requests the Courts Service to implement. This underscores the particular need for the Courts Service to be clear on its own strategic priorities, and to have had appropriate input and agreement from its parent Department.

Generally, while one-to-one engagement is strong, there is a need for the relationship with the Department of Justice and Equality to be elevated to a more strategic level, so that the necessary supports in terms of resourcing and legislative measures are provided to assist in improving access to justice, reducing complexity in the legal process, bringing down costs and developing alternatives to litigation. More regular and meaningful engagement at senior levels between the Courts Service and the Department would also foster stronger mutual understanding of respective challenges and constraints. That should be augmented by deeper working relationships being forged with individual agencies in the wider justice family and with some government departments and offices.

3. FINDINGS ON LEADERSHIP

- **Board – deliberations:** The Board is not so much tasked with making decisions as approving reports presented by the committees reporting to it. Insofar as it does make decisions, it has been on the basis of consensus. That is a function of the size of the Board, the extensive agenda, the duration of meetings and the technical and discrete nature of reports from the committees. Due primarily to those reasons, the Board has tended not to interrogate reports presented to it in a deep and forensic manner.
- **Board – strategic oversight:** Given the challenges to be faced, there is considerable scope for the Board to exercise greater strategic oversight than it is doing at present. That oversight should relate in particular to a long term vision for the Courts Service as an organisation, and strategic matters relevant to its operation. Issues requiring special attention are ICT strategy and planning, improved service delivery, access to justice and succession planning. In those regards the Board could utilise the committees to particular effect.
- **SMT – challenge by Board:** The members of the Senior Management Team (SMT) are generally regarded very favourably by their judicial colleagues, the managers and staff reporting to them, and external stakeholders. However, the *modus operandi* of the Board have led to a situation whereby the SMT as a collective entity is not challenged sufficiently on strategic matters.
- **SMT – collaborating with the judiciary:** It is believed internally and externally that the SMT could do more to work with the judiciary in seeking to make the courts system more effective and efficient without breaching the boundaries protecting the independence of the judiciary.
- **SMT – decision-making:** There is a need for recalibration of the deliberative and decision-making processes such that more attention would be devoted to strategic and long-term challenges facing the Courts Service and opportunities available to it.
- **SMT – engagement with the POs:** A more structured relationship needs to be developed between the SMT and the PO cohort. The recently established PO network could act as a particularly positive enabler in that respect.
- **People management:** Principal Officers and Assistant Principals need to take a more hands-on approach to ensuring that there is a consistent approach taken throughout the organisation to people management and staff engagement. A very effective enabler in that respect is the coaching programme provided recently for senior and middle managers. The programme was strongly driven by the SMT.
- **Challenges of regional dispersal:** As a regionally dispersed organisation comprising a number of clear jurisdictional divides spanning District Court to Supreme Court, the Courts Service faces challenges on collaboration between internal business units, standardisation of processes and procedures in provincial venues, and communications across the country – vertically from its headquarters in Dublin and horizontally between regions and offices. Senior management, while aware of those challenges, needs to exercise stronger leadership on cross-cutting issues. To their credit senior management and the regional managers work diligently to engage face-to-face and electronically with local managers and staff as much as they reasonably can do so.

- **Clarity on the Change Advisory Board:** This Board, which was established to approve proposals for internal business projects, is not realising its full potential, principally because of a lack of clarity on ownership of implementation and gaps in the evaluation criteria.
- **Role of the Change Management Office (CMO):** This Office represents a positive initiative for overseeing and assisting on business change projects. However, there is a lack of clarity regarding its primary role and responsibilities in terms of the strategic fit with the wider Courts Service's organisational plans.

Although Terms of Reference, approved by the SMT, are in place for the CMO, they were developed in isolation from an overarching corporate framework for change, comprising in particular:

- a clear vision for the Courts Service
- direction from the SMT on project priorities to be pursued, especially those with a strong ICT dimension
- clarity on the roles and responsibilities of the CMO in implementing agreed priorities, and
- oversight structures to establish connections between internal business strategies such as ICT and HR so as to ensure harmonised development and implementation.

As a result, the change management function lacks the necessary coherence for developing strategy and direction for ensuring its implementation, and struggles to communicate a clear agenda for reform internally across the Courts Service and to provide clarity on the role of the CMO in that respect.

- **Relationship with Department of Justice and Equality:** The bilateral relationship at a strategic level between the Courts Service and the Department of Justice and Equality requires attention. Fundamentally it requires the Department to exercise proactive leadership in establishing a new way of working between the two organisations.

While the one-to-one relationships are very good, there is considerable scope to improve the formal bilateral relationships in the following respects:

- **Prioritisation:** There is much frustration at the recurring challenge in convincing the Department to include in its own suite of priorities some of those of the Courts Service which perceives itself as being at a disadvantage relative to large justice agencies, particularly An Garda Síochána.

In a related vein, a particular challenge arises when the Courts Service's own medium- and long-term priorities are forced into a secondary position by those initiatives which the Department requests the Courts Service to implement.

- **Strategic reform:** A number of transformational legislative proposals on the administration of justice have been stalled for some considerable time owing to external factors such as competing political priorities holding sway.
- **Impacts of proposals:** There is a deep-seated internal conviction that due account is rarely taken of the impacts of proposals from the Department on the business of the Courts Service – for example, the effects of the Fines Act on the Courts Service's own priorities and work programmes.
- **Oversight Agreement with parent Department:** The Oversight Agreement with the Department of Justice and Equality is heavily focused on operational compliance

and although that is important, there is a need for the Department to also include shared strategic aims as a priority.

The Courts Service and the Department need to engage more regularly at senior levels on high-level strategic issues. In that respect, there is a particular need for a common understanding to be reached on the priorities to be pursued by the Courts Service over the short- to medium-term.

- **Engagement across Government:** On bilateral cooperation with the wider government system, including individual agencies, the Courts Service is somewhat introspective, due largely to its primary focus on supporting the judiciary. On a strategic level the Courts Service needs to raise its profile with other public sector agencies and with its wider stakeholder base.

4. RECOMMENDATIONS ON LEADERSHIP

- **Recommendation L1:** The Board should exercise a stronger role than at present on matters relating to strategic oversight. Particular emphasis should be given to examining, considering and recommending on strategic challenges relating to access to justice and the operation of an effective court system. Consideration might usefully be given to how the committee structure could best be used to that effect.
- **Recommendation L2:** All individual members of the Senior Management Team (SMT) should report to the Board on plans, progress and risks, thereby strengthening the accountability line between the Board and the Executive.
- **Recommendation L3:** Formal arrangements should be put in place to facilitate regular and structured engagement between the SMT and the PO and AP cohorts. The recently established PO network could be a useful mechanism in that respect, along with a similar arrangement for the APs.
- **Recommendation L4:** There is a need to amend the Terms of Reference of the Change Advisory Board (CAB), which was established to approve and evaluate proposals for internal business projects. The revised Terms should provide clarity on the CAB's role in the post-approvals processes, and lead responsibilities for the implementation of projects, particularly those with a strong ICT component.
- **Recommendation L5:** As indicated in the Executive Summary and developed later in chapter 2, section 2.1, a clear vision for the Courts Service should be developed by the SMT and approved by the Board as a critical first step to improving strategic capability. Subsequently, a new strategic function should be established, led by an Assistant Secretary and reporting formally and regularly into the SMT. The function would be devoted solely to the development of strategy and organisational development and reform, including the establishment of structured coherence between the various internal business strategies. As part of that process, the Change Management Office (CMO) would also have an advisory role.

This new function may require the establishment of a new office or the incorporation of the functions of strategy and change into the current CMO. In establishing the new function, it would be necessary to review the Terms of Reference of the CMO so that there would be full clarity and maximum awareness regarding its roles and responsibilities in contributing to strategic reform.

While primary responsibility for implementing change management projects would rest with the commissioning business units, the CMO would provide an advisory and support service on project methodology and business case development.

- **Recommendation L6:** The relationship between the Courts Service and the Department of Justice and Equality should be strengthened at a senior level so as to set agreed priorities, review their appropriateness as deemed necessary, assess progress on their implementation, and gain a better mutual understanding of respective challenges and constraints.
- **Recommendation L7:** The informal relationships between the Courts Service and its principal stakeholders, particularly the justice agencies, should be supplemented by formal face-to-face engagements with the SMT. The aim would be to strengthen the Courts Service's understanding of their expectations and any concerns, and take

account of them as considered necessary which might include the Legal Aid Board and Probation Service.

- **Recommendation L8:** While continuing to respect its special governance relationship with the Department of Justice and Equality, the Courts Service should pursue a more direct relationship with the Department of Public Expenditure and Reform on centrally ordained budgetary policies: with the Office of Public Works on estates management, the Office of the Government Chief Information Officer on ICT strategy, and Revenue and the Department of Transport, Tourism and Sport on matters of bilateral interest.

2. STRATEGY

INTRODUCTION

The Courts Service by its nature is an operationally driven service-delivery organisation. It suffered a 16% reduction in its staffing levels during the recent economic recession and was forced to make drastic cuts in spending. Notwithstanding those very real difficulties, the Courts Service succeeded in keeping all courts open, and no scheduled hearing was cancelled or postponed as a result of staffing or budgetary restrictions.

Thus, given these set of circumstances, it is understandable that the organisation's focus was very much on keeping the essential services operating, and neither the time resources were available to do much in the way of long-term planning or strategy development.

Looking ahead, the Courts Service is presented with a number of unique constraints restricting its ability to develop and implement its own strategic agenda - for example, legislative limitations relating to changing or updating Court processes and rules, the varying views of its key stakeholders in relation to the Courts Service's preferred organisational direction, and the belief that the Courts Service itself is not the master of its own destiny.

In this section, the views, internal and external, on the Courts Service's vision and goals and its capacity to develop strategy and – to a lesser extent – policy are set out, including its strengths and weaknesses.

2.1 STRATEGIC PLANNING AND ENGAGEMENT WITH EXTERNAL STAKEHOLDERS

Section 7 of the Courts Services Act, 1998 obliges the Court Service to prepare a strategic plan for each 3 year period and submit it to the Minister for Justice and Equality. The Minister in turn lays the plan (with or without amendments) before the Houses of the Oireachtas.

Strategic Plan: A new Strategic Plan, covering the period 2017-2020, has now been approved by the Minister. Invitations for submissions were openly advertised. The plan was developed using a series of staff workshops and a short public consultation where key stakeholders were invited to make submissions on the areas they believed the Courts Service should be focussing on for the next 3 years.

Falling out from this, the SMT produces an annual Corporate Business Plan which is approved by the Board and aims to bring focus to the implementation of the priorities identified in the Strategic Plan. Implementation is then monitored by the Board through regular progress reports and formal twice yearly reviews of overall performance against targets.

Divisional level annual business plans are based on the priorities and deliverables identified above.

More generally on business planning matters the SMT meets formally once a year with the Association of Judges to present on individual areas of responsibility within the Courts Service and to discuss areas of related interest with the judiciary.

The Courts Service also regularly engages with similar agencies in other jurisdictions to assist in properly benchmarking various elements of its operations. In addition, the Courts Service

contributes to the Department of Justice and Equality's Integrated Performance Delivery Plan and has an established network of Customer Service Groups across the country.

Developing long term vision: In terms of developing longer term vision for the organisation, the evidence suggests that this has been only moderately successful. There was little sense during the evidence gathering phase of an organisation is thinking or planning for what it and its wider environment will look like in 10 years' time.

At present there is a lack of a long term vision for how the Courts Service will keep pace with fast moving change and at the same time deliver high quality service to an ever more demanding public.

The 2010 *Transforming Administration and Structures in the Courts (TASC)* report is the most recent example available of an attempt to set out a long term vision for the organisation. The report is very detailed and clearly involved significant engagement across the organisation and beyond. As is referenced elsewhere in this report, there have been some successes from that process while other elements have not fared so well or are now being relaunched and better resourced (this report is referenced in more detail in Chapter 3, Delivery).

The key lessons from this experience are the need to ensure active leadership in following up on strategic decisions, to adequately resource the units tasked with implementation and to ensure thorough evaluation of progress.

An exemplar of good strategy: One example of a very successful recent strategy is in the area of Learning and Development. This is dealt with in more detail at Section 5.2.3. Again, using staff workshops and, critically, liaising with some other civil service departments which had already successfully undertaken such an exercise, the Courts Service has devised a very practical strategy for delivering much-needed L&D following several years of under-investment due to cutbacks. This strategy will dovetail closely with the HR Strategy which is currently being developed and also link into workforce planning and succession planning. These are all very positive developments.

Proposed reforms: Since its establishment in 2002, the Reform and Development Directorate has promoted and continues to promote a series of measures aimed at addressing in particular key obstacles to access to justice, case delays, cost user costs and complexity of proceedings as follows (full outline available at Appendix 4):

- a) Addressing delay
 - Cost containment
 - Complexity of proceedings
 - Promotion of Alternative Dispute Resolution
- b) Court organisational reform initiatives
- c) Use of Information and Communications Technology in the Courts
- d) Cross departmental/agency collaboration on reform, and
- e) Current reform / modernisation initiatives

The active support of the Department of Justice and Equality, particularly in promoting legislation to give effect to the Heads of a Bill prepared by the Reform and Development Directorate, is essential to completing the overall programme of reform.

Impediments to strategy development: As has already been referenced, unforeseen external factors all too often impose new service delivery requirements and challenges on the organisation, thus pushing out longer term objectives. As a result, many staff within the Service have low expectations that a strategy or plan will result in any substantive or effectual change at an operational level.

Review of submissions: The Courts Service invited submissions from stakeholders when developing its new strategic plan. Many submissions focused on access to justice, including by an increasing number of lay litigants, and the growing need for better and more relevant statistics on such matters as domestic and sexual violence. Yet, many of these matters do not feature in the plan as currently drafted.

The lack of comprehensive references to the requirements of external bodies and the predominant focus on internal matters within the Strategic Plan suggests that the Courts Service has scope for developing more meaningful engagement with stakeholders with a view to better recognising their needs and formulating more inclusive strategies that look outward rather than inward. It is also unclear what role if any the Department of Justice and Equality played in contributing to the formulation of the current plan. Apart from a submission from COSC (a division within the Department) no other input appears to have been received.

Disseminating information received: The submissions received, whether referenced within the Strategic Plan or otherwise, were not circulated – as a matter of course – amongst senior management below SMT level to better inform them of the priorities of stakeholders and customers. Such systematic circulation of submissions would help to deepen managerial understanding of possible gaps in strategy and delivery.

2.2 PRIORITY V STRATEGIC FOCUS

The recession contributed in part – but not exclusively – to a considerable measure of ‘fire-fighting’ by management and staff. While staff resources are being gradually replenished, the Courts Service asserts that it is not always in control of its own destiny, particularly due to new priorities being parachuted in unexpectedly by external demands, led typically by Government.

There are also internal factors which limit the Courts Services’ ability to devote more time to strategic thinking. Weak standardisation, deficient data management processes, multi-system data storage and an over-reliance on manual inputs all result in information not being harnessed to full effect - see *also Chapter 4, section 4.5*.

Impacts of staff reduction: In 2008 the Courts Service had a staff complement of 1,080, falling to 900 in 2014. As elsewhere in the Civil Service, the moratorium had an enormous impact on the Courts Service, resulting in no adequate ‘thinking time’ being available to management. In order to ensure that the frontline services continued to operate during that period, the SMT was obliged to reallocate staffing resources from the support side which impacted negatively on its capacity to plan ahead and develop strategy.

Strategic space developing: Since the lifting of the recruitment embargo and introduction of delegated sanction, the Courts Service is now beginning to focus more on strategy than it had previously, with ‘pieces of the strategic jigsaw’ beginning to fall into place, particularly with strategy in the area of people management and development. Notably positive developments

have been the development of a Learning and Development Strategy and a Workforce Plan although the absence of an overarching HR Strategy constitutes a continuing gap.

Impacts of Brexit: The strategic implications for the courts system in Ireland and in turn the Courts Service as a result of Brexit needs to be considered thoroughly at Board and SMT level.

In a post-Brexit environment, Ireland, as the only remaining Common Law jurisdiction (along with Malta and Cyprus) and a member of pan-European bodies, (including the European Court of Human Rights) will be increasingly called upon to fulfil the role formally occupied by the United Kingdom in providing insights and commentary on Common Law matters insofar as they relate to wider EU legislative matters. As the legal systems in the other Member States are based on civil law, Ireland's role in providing Common Law perspectives will be crucial. A challenge for the Courts Service is that the skillset required to support the Judiciary in exercising that deepening role into the future will need to be strategic in nature and will have to be augmented and upgraded, including in support of deliberations by the Board.

2.3 EMPHASIS ON RESEARCH

The Courts Service is required under the Public Spending Code to undertake and commission various forms of research appraisal and evaluation as part of its strategic and delivery functions. The principal features are set out in the remainder of this section.

2.3.1 ASSESSMENT OF BEST PRACTICE

Best practice: On specific themed issues the Courts Service engages with other Common Law jurisdictions, for example Scotland, in examining and comparing structures, procedures and practices. The Courts Service also engages at times in desktop research in other jurisdictions when developing strategic plans.

Review of the Administration of Civil Justice: The President of the High Court, Mr. Justice Peter Kelly has been appointed by Government to conduct a review of the Civil Courts. It is anticipated that this will take up to two years to complete.

The review, which arises as a result of a Law Reform Commission report, is tasked with assessing how civil courts operate and will examine - amongst other matters - how to improve procedures within the courts system to ensure timely hearings and the greater use of technology to process cases.

A public request for submissions from interested persons or parties was published in December 2017 with particular emphasis on the following;

- Improving procedures and practices and removal of obsolete, unnecessary or over-complex rules of procedure
- Reviewing the law of discovery
- Encouraging alternative methods of dispute resolution
- Reviewing the use of electronic communications including e-litigation and possibilities for making court documents (including submissions and proceedings) available or accessible on the internet, and
- Achieving more effective and less costly outcomes for court users, particularly vulnerable court users.

2.3.2 APPRAISAL AND EVALUATION

Internal business reviews: As previously referenced, a comprehensive review of the 2011 Combined Court Office was also completed recently and a detailed report with findings and a series of recommendations has been submitted to the SMT.

A review of the administration and operation of the Probate Service (where there is a significant and growing backlog of cases) has been completed. Both these reviews involved the establishment of project teams comprising key staff from across the organisation – and in the case of the Probate Service – from outside the organisation.

Such reviews are welcome and demonstrate a willingness by the SMT to objectively assess the extent to which strategic decisions have been progressed. Clear and identifiable leadership, measurable milestones, appropriate resourcing and mechanisms to allow for evaluation should all be built into the development of strategy at the outset. That would then enable senior management to easily monitor progress and to intervene if necessary to keep projects on track.

Gap in post-project reviews: While internal business cases relating to projects with a significant spend are considered robust and well developed, one area of focus for the Courts Service in the future will be to build their post-project review capacity. It is notable that the implementation of projects is not habitually reviewed.

For example, the setting up of the Court of Appeal was not examined post-establishment to inform similar change projects in the future. Likewise, the Department of Public Expenditure and Reform noted that the Courts Service do not provide Value for Money (VfM) reports on any new buildings or other similar projects, with the exception of the Criminal Courts of Justice (CCJ). It would be considered good practice to ascertain the actual benefits realised against the efficiencies projected. In that regard there is a gap in the Court Service's capability.

DPER spending review: In July 2017, the Department of Public Expenditure and Reform undertook a spending review of the Courts Service as part of a wider programme of reviews throughout the civil service. The purpose is to assist central Government in the preparation of the annual budgeting process. The review assessed a subset of spending areas and reform initiatives and considered the rationale, sustainability, impact and efficiency of selected reforms.

The report highlighted the positive developments undertaken in a number of key areas including the Court rationalisation programme, and the deployment of a number of technological innovations including digital audio recording and video conferencing facilities within courtrooms. While acknowledging the achievements of the Courts Service to date, the review identified a number of areas requiring focus including the continuing investment in ICT, the rollout of a building maintenance programme for Court buildings and further investment in Learning and Development.

EU scorecard: The Courts Service is obliged to submit statistical data to the European Commission. Such data is used to produce an EU wide Justice Scorecard; an information tool aiming to assist the EU and other Member States in comparing data on the quality, independence and efficiency of justice systems.

2.4 A VISION FOR AN ECOURT ENVIRONMENT

The vision of an eCourt environment surfaced in interviews with the Court Presidents. Referred to interchangeably as a paperless court, an eCourt is aimed primarily at reducing the over-reliance on paper files in courtroom settings, sharing information by automated means between court jurisdictions and wider justice agencies, and speeding up trial processes from pre-trial to conclusion.

While the concept of an eCourt environment⁸ had featured in some of the Courts Service's ICT strategies in the past, it has diminished as an organisational priority in recent years due in part to managing a highly fragmented ICT state and inadequate resources for transformational development work.

As set out later in Chapter 4, the Courts Service needs to imagine and describe for itself what an efficient and effective 21st century courts model should look like and come to conclusions on the role that technology should play. Thus business would drive ICT and would determine the ultimate shape, boundaries, features and texture of the eCourt environment within which the business of the Courts Service and the courts system would fit.

OVERALL CONCLUSIONS ON STRATEGY

The Courts Service has proudly pointed to its ability to maintain court sittings during the recession and in some cases increase the number of sittings due to additional Judges. The ability of the Courts Service to continue delivering services during the period of austerity – when the drive to drastically reduce costs resulted in budgets and resources being severely cut – is testament to the organisation's unwavering focus on providing users with access to justice despite the constrained environment in which it found itself.

This success has however come at a cost to the organisation. Keeping the courts open for business involved having to make difficult decisions to effect savings elsewhere, whether in ICT systems, staff development, essential back office functions or investments in necessary longer term projects. A further consequence has been that the imposition of unforeseen or unplanned external demands from Government has limited the organisation's agility and flexibility to absorb these additional tasks and keep the rest of its plans on track.

With the introduction of delegated sanction and the lifting of the recruitment moratorium, the Courts Service is slowly restoring its staff complement to pre-crisis levels. This restoration of resources comes with the requirement that the Courts Service must begin to identify and appropriately assign staff to the areas in most need of development or where end-user requirements demand.

On people management, a particularly positive development has been the production of a high quality L&D strategy which is being actively implemented and its effectiveness measured, thus enabling valuable analytics to be inputted into the development of future staff development strategies. Similarly, a strong workplace plan is now in place, although work on an overarching HR strategy remains to be concluded.

⁸ A partial proof of concept exercise was conducted in the Supreme Court (the Lanigan Case). Using electronic evidential material on handheld devices reduced the hearing from an estimated 4 hours (using conventional Court processes) by around 45 minutes.

More generally, the Courts Service's enhanced capacity for strategic deliberation would be significantly augmented by a long-term vision for the organisation. Such a vision would act as a guide and check when developing and implementing strategy. That vision should extend beyond the 3 years' timeframe of the Strategic Plan and be aimed at setting out the ideal future state for the Courts Service by reference to a specified future time, perhaps 2030.

5. FINDINGS ON STRATEGY

- **Vision for the Courts Service:** There is a lack of a long term vision beyond the 3 year Strategy Plan for how the Courts Service will keep pace with fast-moving change and at the same time deliver high quality service to an ever-more demanding public and wider legal sector.
- **Operationally focused:** The Courts Service is an operationally focused organisation, concentrating its resources on ensuring the day-to-day functions of the courts are fully supported. However, as already set out in chapter 1, it is challenged to devote the required time and resources to strategic planning and needs to pursue a long term vision for the organisation as a whole.
- **Impacts of cuts:** The space and capacity to develop strategic thinking was limited during the recessionary period, with reductions in both budgets and staffing levels having had significant impacts across a range of areas. As a result of the changed economic situation and the associated increase in recruitment, there is now an opportunity for the Courts Service to devote more time and effort to long range strategic issues affecting both its operation and access to justice.
- **Legislative constraints:** At times the Courts Service is constrained by legislation and court rules and procedures, some pre-dating the foundation of the State. This restricts its ability to pursue a more progressive modernisation programme, though the review of Civil Law currently underway may ultimately assist in that regard.
- **Review of Administration of Civil Law:** This review which is chaired by the President of the High Court is expected to be concluded by late 2019. The review may have particular implications around access to justice and the effective operation of the Courts Service.
- **Strategic Plan:** The approach adopted by the Courts Service to the development of its 3 year Strategic Plan does not appear to take sufficient account of the strategic priorities of the principal stakeholders in the justice sector.
- **Staff development strategies:** Good progress has been made in the areas of L&D strategy and workforce planning and the work underway on a HR Strategy needs to be concluded soon.
- **Post project reviews:** Post-project reviews, particularly of major initiatives, are not standard practice across the Courts Service and thus it is not in a position to establish the extent of benefits realised relative to gains expected, or to apply the lessons learned to other similar initiatives. Additionally there is scope to improve the appraisal of project proposals and the monitoring of their implementation by reference to project milestones and to do so using standardised best practice methodologies.

6. RECOMMENDATIONS ON STRATEGY

- **Recommendation S1:** Following a period of austerity and an attendant focus on core service delivery, the Courts Service now needs to plan more strategically for the future, starting in particular with the articulation of a long-term vision for itself. That vision, which should be developed by the Board and the SMT (ideally with specialist external support), should extend beyond the 3 years' timeframe of the Strategic Plan and be aimed at setting out the ideal future state for the Courts Service by reference to a defined point in time, perhaps 2030.
- **Recommendation S2:** In addition to the annual meeting between the SMT and the Association of Judges, the SMT should also meet formally once a year with the Chief Justice and the Presidents of the Courts to review strategy and priorities, both their development and implementation, by reference in particular to the Courts Service's three year Strategic Plan.
- **Recommendation S3:** The Courts Service should produce and implement a formal written framework for engagement with stakeholders when developing strategic plans and proposing significant reforms in order to ensure maximum input to their development and appropriate cooperation with implementation.
- **Recommendation S4:** Building on the increased usage of appraisals and business cases for project proposals, the Courts Service needs to embed post-project evaluation as a corporate norm, in order to apply lessons learned and determine realised benefits against expected gains. That is especially necessary for large-scale infrastructure investments such as the PPP programme currently being rolled out and involving the construction of 8 new courthouses. As the Court Service lacks the requisite analytical skillset, there may be a need to secure external assistance.
- **Recommendation S5:** A series of recommendations in the recently concluded review of the Combined Office Review should be followed through by reference to a comprehensive implementation plan overseen by the SMT.

3. DELIVERY

INTRODUCTION

The Courts Service is predominately a service delivery organisation involving the provision of support services to the judiciary and facilitating access to justice by the public. Capability in those areas was assessed primarily through the lens of:

- Managing performance and stakeholder focus
- Governance and risk management
- Continuous Improvement and Managing Implementation

3.1 CUSTOMER SERVICE AND STAKEHOLDER INPUT

The Courts Service as a public facing body is expected to provide service that is customer centred, consistent and timely. In order to attain that standard, the Courts Service would be required to engage internally and externally on the effectiveness of its performance and the quality of its services.

3.1.1 CUSTOMER SERVICE

Good customer service: There was positive feedback from both the judiciary and external stakeholders in relation to the customer service provided to them in terms of professionalism, expertise and commitment. Internal customer service is highly rated by the judiciary who regard the administration of the courts by senior management and staff as “generally very impressive”.

Insufficient measurement: There is a general internal perception of a strong customer service ethos and this is viewed as an organisational strength. In the 2017 internal staff engagement survey, 61% of staff felt that the organisation was customer focussed and provided a high quality service.

A counterbalance to that view however is that apart from stakeholder feedback at user groups, users of the courts are not surveyed on their expectations and experiences and therefore it is not possible to conclude whether internal perceptions of customer service are in fact correct. It is noteworthy that issues around access to justice in a reasonably timely fashion were unfavourably commented upon in both internal and external engagements conducted as part of this capability review. As already outlined these issues do not fall exclusively within the Courts Service’s remit.

Increased productivity: There is evidence of significant performance and efficiency improvements as a result of a wide range of change initiatives. In particular there was a 25% increase in the ratio of court sittings to staff over the eight year period 2008 – 2016. This increased productivity was enabled by a 20% increase in the ratio of judges to staff and the reforms achieved through the introduction of courtroom technologies such as Digital Audio Recording and video conferencing along with the implementation of LEAN⁹ processes. A further factor has been the rationalisation of Circuit and District Court Offices which reduced the number of provincial court offices from 66 to 33.

Improving access to justice: Some progress has been made on procedural reforms in the operation of the High Court bail list and pre-trial procedures at Circuit Court level. The Courts Service, through its support for the Rule Committees and its participation in reform initiatives internally

⁹ LEAN – A project methodology to improve efficiencies through greater standardisation.

and with cross agency focus, has promoted court procedural reform aimed at improving access to justice, especially in reducing complexity of procedure, controlling costs and promoting case management.

A further development of note is that, for the first time, the revised Estimates for Government now includes outturn data in respect of the sittings of the Superior Courts. It would be particularly helpful if this development were built upon in future years, thereby strengthening the link between outputs of the courts system and expenditure profiles. A selection of relevant metrics is contained in the table at Appendix 3.

Customer complaints: The recent appointment of a Customer Complaints Co-ordination Officer and new customer complaints procedures are welcome developments. The benefit of these initiatives would be strengthened if the Courts Service were to appoint a corporate leader or sponsor for corporate services in order that a greater emphasis would be placed on customer expectations and experience. There is a measurement gap in that respect at present.

Customer charter: The current customer service charter should be reviewed, a particular aim being that those services provided would be described clearly and simply. Similarly, all forms and documents on the website should be available in plain language, which would be in line with the Civil Service policy on the use of plain and easily understandable language.

Consistency of service delivery: Court staff are unsure of the level of assistance to be given to members of the public which is leading to inconsistency in service delivery across offices thus clarity and direction for all staff are required. In a related vein the lack of standardisation as referenced later in this chapter is impinging on the ability of staff to adopt a consistent approach to customer service. There are variations in the levels of customer service which are provided across offices in terms of opening hours, telephone service and assistance provided.

Lack of formal structures for collaboration: There is scope to collaborate on customer service matters more regularly on a formal basis with external stakeholders, including non-governmental organisations such as the Free Legal Advice Centres and Women's Aid and other justice agencies such as the Director of Public Prosecutions, Revenue, Chief State Solicitor's Office, Irish Prison Service, the Legal Aid Board and the Probation Service with the objective of improving service to court users.

Inadequate court facilities: There continues to be deficiencies in the facilities for court users, legal practitioners and prisoners, particularly the provision of holding cells in county town courthouses and outlying venues. While significant progress has been made by the Courts Service to improve overall facilities, a considerable amount of work remains to be done. The Irish Prison Service has highlighted the particular difficulties in relation to holding cells in specific locations.

Website: The website (www.courts.ie) provides a comprehensive range of information to assist the litigating community, including information on court hearings (the 'Legal Diary') and Court processes etc. While the website contains a wealth of information, it is not user friendly and is difficult to navigate and search, though it receives 2.7 million hits annually. On a positive note approval has been given for redevelopment and this should proceed quickly as both staff and stakeholders are strongly critical of the current site. The new website should be guided by best practice design and be informed by consultations with key external and internal stakeholders.

Electronic customer support: As dealt with later in Chapter 4 there is potential for the much greater delivery of services through modern technologies, encompassing centralised procedures and customer support operations where appropriate.

3.1.2 FEEDBACK FROM STAFF AND EXTERNAL STAKEHOLDERS

Improving service delivery: The staff of the Courts Service place great emphasis on serving the needs of the judiciary. Additionally, front-line staff pride themselves in the provision of courteous and professional service to public users. The family mediation service in Dolphin House has been a very successful in-house initiative which has improved service delivery to family law applicants in the Dublin District Court and this model is being further implemented in other locations outside of Dublin.

External stakeholders have commented that the work of the staff of the Courts Service is highly appreciated, for example the work of the Office of the Wards of Court and those dealing with victims of crime (VSAC).

3.2 GOVERNANCE AND RISK MANAGEMENT

The Courts Service has taken a number of positive steps in recent times on matters relating to governance and risk management.

3.2.1 GOVERNANCE

Governance Framework Document: The Courts Service published a comprehensive corporate governance framework document in April 2016 which reflects the responsibilities, structure and governance of the organisation in line with the new governance standard as enunciated by the Department of Public Expenditure and Reform in 2015. It sets out the statutory framework for the Courts Service as set out in the Courts Service Act 1998, the structure of the organisation, the role of the Board and its Committees, the CEO and the Senior Management Team (SMT), along with the governance and accountability arrangements already in place. It also covers areas such as risk management and the policy on protected disclosures.

The framework document is expected to evolve over time and will be updated and reviewed as appropriate. The next iteration of the document should include the governance arrangements and reporting structures of the Change Management Office and the Change Advisory Board as discussed in section 1.2 *Internal Collaboration*.

3.2.2 RISK MANAGEMENT

The Courts Service operates a risk management framework that provides a structured approach to managing risk. Under the Code of Practice for the Governance of State Bodies, a Chief Risk Officer is in situ (a member of the SMT) and reports to the Audit and Risk Committee and the Board.

Risk management infrastructure: A corporate risk register is in place which is kept under regular review by the Audit and Risk Committee, the SMT, and the Board. The register is compiled and reviewed in consultation with individual members of the SMT and the Head of Internal Audit. Risk registers are linked to the annual business planning cycle. The major risks are set out along with the proposed controls and time-bound actions designed to mitigate those risks which are assigned to specific risk owners.

Until recently the Audit and Risk Committee was chaired by a professional forensic accountant. The committee works very well. There are strong contributions from members, involving a lot of discussion and challenge before an agreed position is reached.

Overall the risk management infrastructure is robust, and risk features on the SMT agenda on a quarterly basis. Where risks do arise, they are generally well managed, primarily by the Audit and Risk Committee.

Internal audit and managing corporate risk: The Courts Service has an Internal Audit Unit with a staffing complement of 5 who carry out 4-5 audits per year involving reviews of risk management processes and procedures.

While corporate risk is managed well, the mitigating actions at an operational level vary in effectiveness. In this regard risk management could be utilised to better effect as a management tool. This conclusion has been reflected separately in reports from the Internal Audit Unit.

Treatment of ICT risk: As is set out later in Chapter 4, ICT is in need of particular attention. Risk is being borne across a number of criteria relating principally to connectivity, reliability, interoperability, and the sustainability of some existing applications, some of which will be out of support soon and others which are inappropriate for assigned tasks such as standalone Lotus Notes systems for case management work.

On the risk register, all identified ICT risks, apart from cyber security, relate to outdated ICT infrastructure and systems, and are colour coded red which is defined as 'critical and requiring immediate Senior Management Team attention'.

Given the fragmented ICT state set out later in this report and the varying degrees of risk associated with different systems, it would be worthwhile for the Courts Service to consider if a greater level of risk disaggregation is warranted – in particular which precise systems carry the most impactful and likely risks from an organisation-wide perspective and what elements of infrastructure pose the greatest systemic risks.

Treatment of non-financial risk: There is scope to give non-financial risk greater priority in the risk management process than at present and for the SMT to monitor the mitigating actions.

3.3. CONTINUOUS IMPROVEMENT

Standardisation and TASC Report: Since the establishment of the Courts Service, many local practices and procedures have evolved in addition to other localised variations having developed previously when the Courts Service had been part of its parent Department. This lack of standardisation has long been acknowledged internally, and its resolution features as one of the 7 key recommendations in the 2010 report, *Transforming Administration and Structures in the Courts (TASC)*.

That report concedes that where there is inconsistency in the execution of business practices and processes, it is inevitable that there will be inefficiency which will impact on the quality of service and increases the risk of errors. Despite the prominence given to this matter in the TASC report and the rollout of the LEAN project, progress has been made although less impactful than originally envisaged – *further details in section 3.1, Customer Service*.

The standardisation problem has been discussed at meetings of the Board and Senior Management Team and attention has also been drawn to it by the Audit and Risk Committee. Yet, there is a strong belief internally and externally that tackling the problem requires greater attention and urgency than given to date.

Standardisation and new Business Support Unit: A particularly promising response to the standardisation problem has been the establishment of the Business Support Unit (BSU). A major objective of the BSU revolves around the considerable task of standardising procedures and processes in the Circuit and District Courts. It is also intended that it will assess the impacts of proposed and new legislation. Inevitably it will be a long-term challenge, given especially the scale of the task and the level of resources currently available to the BSU. Nonetheless, the initiative of senior management constitutes a genuine first step to deal definitively with this long-running business weakness.

The establishment of the BSU in the Circuit and District Courts has been well received by staff and is seen as providing a valuable service. However, it is not currently resourced to take on all this work.

Procedures manuals and job documentation: Ready access to procedural manuals has improved, particularly through availability on the intranet, *Courts Connect*. However, there are variations in the quality of documentation, a matter which should form part of the standardisation exercise. The BSU acts as an internal source of advice on rules and procedures, thus helping to mitigate the risk of local customisation. In addition to its work on standardisation, the unit is overseeing and producing work manuals that will aid the retention and transfer of knowledge.

3.4 MANAGING IMPLEMENTATION

The Courts Service has a good track record in certain areas of delivery. The building and rationalisation programme demonstrated the Courts Service's strength in planning, managing budgets and delivering on projects in this area. Once the Board have approved a policy decision (such as rationalisation of court venues), implementation tends to proceed well – *see further details in section 5.3.3 of this report*.

Implementation at short notice: The Courts Service has managed and delivered on the implementation of new legislation, often at short notice, e.g. the establishment of the Court of Appeal and the implementation of the Insolvency Act in addition to the continuous amendments to legislations and rules. In some such instances though, significant risk was being borne through a combination of little time for planning and execution and limited resources for implementation purposes, pointing again to the need for strong understandings to be reached with the Department of Justice and Equality on progressing change initiatives.

Generally, the Courts Service has a good track record of delivery when externally mandated, such as by the parent Department. However, the implementation of projects can be patchy and uneven when driven internally. For example, in the case of the e-Licensing project,^[1] sufficient attention was not paid to project scope and the details of implementation.

^[1] The scope changed from an initial 10 licence applications for digitalisation to the full suite of some 150 licence applications and related documents requiring court approval.

Establishment of the Combined Court Offices: The Combined Court Offices (CCO) project started in May 2011 and was completed in February 2014. Its core purpose was the replacement of the single jurisdictional Court Offices in each provincial county town with a unitary Court Office providing services across both the Circuit and District Courts. Previously, staff worked in either one or the other of the Courts resulting in little or no cross-fertilisation of learning, weak cooperation on matters of potentially mutual benefit, and inefficiencies in the deployment of resources. The establishment of the CCO was the most fundamental organisational change recommended in the TASC report.

Results of the Combined Court Offices project: This major project has not been the transformative initiative originally planned. In many instances, local management and staff have managed to successfully resist proposed reforms to structures and work practices, the implementation of which would have precipitated significant shifts in local organisational cultures and major changes to day-to-day work practices. Notably this matter was not related solely to culture; there was also a significant decline in resources and supports as the project was being rolled out.

Review of Combined Court Offices project: A significant internal review of the CCO project was completed in December 2017. It contains a number of findings which reflect closely those surfaced in this review. One particular finding from staff stands out:

“Resistance to change went unchallenged”

That resistance cannot persist if the project is to ever succeed as originally envisaged.

This capability review found that there is a general consensus amongst managers and staff that while establishment of the Combined Court Offices was warranted, it will take a number of years for the anticipated benefits to be realised. The particular issues identified include:

- a) **Considerable learning:** A considerable amount of learning is involved in getting to know the business of both the Circuit and District Courts.
- b) **Cultural challenge:** The Combined Offices have not yet yielded a significant crossover of expertise, as longer serving staff have not transitioned as easily as anticipated, with quite a significant proportion continuing to undertake their work as previously. New staff however are learning the business of both the Circuit and District Courts, and slowly a new working norm is taking hold.
- c) **Senior management leadership:** While the success or failure of a Combined Court Office was fundamentally dependent on local management, it is not clear that the project post implementation was actively and visibly led from the top. While the project was well managed at the pilot stage, there appears to have been insufficient managerial oversight for the duration of the project – in particular, a project team remaining in place and reporting regularly to the SMT and the Board after the offices had combined structurally.

Against that background, success has been mixed; in some instances, it is still a case of Circuit and District Courts’ staff doing the same work as they have always done whereas in others, it is leading to greater efficiency and improved standardisation.

Recommendations from the Combined Court Office Review: The Review of the Combined Court Offices sets out a series of recommendations for relaunching this important initiative. To ensure

success the SMT will need to exercise a strong collegiate and direct leadership in relation to the implementation of the agreed review recommendations.

Given in particular the weaknesses in process and standardisation and their pivotal role in the mixed outcomes of the Combined Court Office project, LEAN should be relaunched with a view to embedding it as an integral part of management and delivery into the future. To ensure success, the following steps should be included in the follow-up actions:

- a) **Audit:** Carry out a review of all Combined Court Offices to re-establish the application of LEAN
- b) **Training:** Underpin the programme with adequate training and support, and
- c) **Managing:** Ensure that local office managers, reporting to their regional managers, drive the necessary reforms.

Project management and change management: The Courts Service has already recognised that a more focused and structured approach is required to ensure maximum benefits are realised from future change and reform projects. The reviews of both the e-Licensing and the Combined Court Office projects determined that *ex post* evaluation and a lack of change management support were significant factors in not realising maximum benefits. In this regard the establishment of the Change Management Office (CMO) is welcome progress.

OVERALL CONCLUSIONS ON DELIVERY

There is a strong sense of customer service ethos within the organisation with positive feedback from both judiciary and external stakeholders in relation to the level of professionalism, knowledge, expertise and commitment to delivering services. A weakness however is that there is an absence of performance management data that measures or quantifies levels of customer satisfaction ratings and there is scope to collaborate on customer service matters more regularly with all court users.

There have been a number of positive initiatives aimed at improving customer service and strengthening organisational performance. There have been efficiency improvements in the areas of civil procedural reform, courtroom technology, family mediation services and business processes. These have been achieved with varying degrees of success over the last number of years, involving collaboration with external stakeholders including other justice agencies as required.

However, there is scope for further progress in managing performance and delivering services, particularly in relation to access to justice, the availability of online services, the Courts Service's website and the introduction of greater uniformity in practices and procedures across Circuit and District Court offices. Specifically, in relation to access to justice issues, while there has been considerable public commentary on delays in processing cases as already indicated in the Introduction to this report, these matters, which relate to the administration of justice fall outside the exclusive remit of the Courts Service.

The Courts Service has a Corporate Governance Framework in place which reflects the responsibilities, structure and governance of the organisation. However, there is a need for the framework document to bring clarity to the roles of the Change Management Office and the Change Advisory Board, particularly in terms of lead responsibilities for implementing change

initiatives. At an operational level an Oversight Agreement is in place between the Courts Service and the Department of Justice and Equality, although there is scope for further discussion which would elaborate on the strategic outcomes associated with the various actions and commitments contained in the Agreement.

The risk management infrastructure is robust. The framework in place provides a structured approach for managing risk within the organisation and these are well managed, primarily by the Audit and Risk Committee. At an operational level, there is evidence that risk management could be utilised more fully as a management tool. In particular, non-financial risk needs to be accorded a similar level of scrutiny to that applying to financial risk.

Where external drivers exist, the Courts Service has a good track record of delivery on projects, for example, the establishment of the Court of Appeal at short notice. However, in that and other instances, significant risk was being borne due to the limited time and resources devoted to implementation matters. On internally driven projects, delivery and implementation is more patchy and uneven, particularly in the case of the e-Licensing project which has experienced significant scope creep.

The Combined Court Offices project and the related application of LEAN, which was designed to bring about a greater degree of standardisation of court processes and procedures, are examples of mismatch between vision and delivery. In both cases, positive long-term visions for an improved and more effective organisation were hindered by inadequate resourcing and the absence of meaningful mechanisms to allow senior management to monitor and assess progress relative to pre-determined milestones.

On a positive note there are indications that lessons are being learned. In the Circuit and District Court Directorate, the recent review of the Combined Court Offices and the establishment of a business unit to address the standardisation problem demonstrate a desire on the part of the SMT to deal more effectively with these longstanding systemic weaknesses. A similar exercise may be required the other Court jurisdictions – Supreme Court, Court of Appeal and High Court – even though their work is of a less standardised nature than in the Circuit and District Courts.

In order to secure successful outcomes, clear and visible leadership, supported by effective change management and adequate resourcing, is imperative for the successful delivery of all projects in the future. In this regard the establishment of the Change Advisory Board and the Change Management Office constitute welcome progress, but primary responsibility for identifying priorities and ensuring their delivery and effective implementation must rest with the SMT, reporting as necessary into the Board.

7. FINDINGS ON DELIVERY

- **Customer service:** Internal customer service is highly rated by the judiciary who feel well supported by dedicated staff and Court Registrars. More generally, there is a strong customer service ethos across the Courts Service and this is viewed internally as an organisational strength. That assessment was not as positive amongst the external stakeholders interviewed as part of this review. This matter can only be definitely resolved when the expectations and experiences of court users are formally measured at regular intervals.
- **Access to justice issues:** Some progress has been made in improving access to justice, particularly around civil procedural reform, the High Court bail list and pre-trial procedures at Circuit Court level. However, the impacts are not known as no evaluations have been undertaken. External stakeholders, in acknowledging such improvements, drew attention to access to justice matters in terms of time, cost and complexity and variations in service between regions and offices.
- **Service to court users:** The Customer Service Charter is in need of update, particularly on the nature of services provided and the service standards which court users can expect. There is also scope to improve the extent and quality of legal information provided, particularly in a user-friendly format on the website. This is a particularly important requirement given the on-going growth in the number of lay litigants and vulnerable court users.
- **Family mediation service:** The family mediation service in Dolphin House, Dublin has been a very successful Court Service's initiative which has improved service delivery to family law applicants in the Dublin District Court and this model is being further implemented in other locations outside of Dublin.
- **Website information:** Although hosting a lot of very useful information, the website is not user friendly and is difficult to navigate and search both for legal practitioners and the general public. As a matter of urgency it needs to be overhauled in both design and content and be actively led by the SMT.
- **Consistency in procedures:** There are considerable local variations in the application of certain rules and procedures at Circuit and District Court levels. The establishment of an internal business unit to address this issue constitutes a genuine first step to deal with this long-standing business weakness. Strong leadership, adequate resources and appropriate urgency will be critical to ensuring that the matter will be dealt with in a definitive and timely manner.
- **Review of Combined Court Offices:** With the Combined Court Offices project, some local offices successfully resisted transitioning from the single jurisdictional Court Offices in each provincial town to a unitary Court Office model covering both Circuit and District Court business. Because of that, all of the intended benefits have not been fully realised. There is a particular need to apply best practice change management methodology to secure measureable, impactful and sustainable outcomes within a reasonable pre-set timeframe. A positive development in that respect is that the Board has signed off on the internal review of the project and have agreed to a series of recommendations relating to phase one of implementation.

- **Productivity:** There has been a 25% increase in the ratio of court sittings to staff over the eight year period 2008 – 2016. This increased productivity was enabled primarily by a 20% increase in the ratio of judges to staff and a series of internal structural reforms, notably the introduction of Digital Audio Recording and video conferencing in courtrooms, the implementation of LEAN processes, and the rationalisation of Circuit and District Court Offices – provincial court offices reduced from 66 to 33.
- **Governance Framework:** A comprehensive corporate governance model is in place and covers all key areas of responsibility and activity. Looking ahead, it needs to be treated as a dynamic model that would be modified with changing contexts and needs.
- **Risk management:** While risk management at an operational level is improving, the follow-up mitigating actions vary in quality and effectiveness between individual business areas, thus pointing to a need for a stronger organisation-wide standard to be set and implemented.
- **Treatment of non-financial risk:** Non-financial risk needs to be given greater priority than it is at present.

8. RECOMMENDATIONS ON DELIVERY

- **Recommendation D1:** A programme of regular surveys should be put in place to measure the experiences of court users by jurisdiction, distinguishing separately the general public and legal practitioners.
- **Recommendation D2:** The Customer Service Charter needs to be reviewed and updated with a particular emphasis on the services provided and the quality of service which court users can expect.
- **Recommendation D3:** Building on the previous recommendations L7 under *Leadership* and S3 under *Strategy*, a programme of regular engagement on customer service matters should be developed with other justice agencies and key stakeholders in order to improve service planning and delivery, supplemented by a stakeholder engagement framework when developing strategies and major reform proposals.
- **Recommendation D4:** Given that some court venues have either poor holding facilities or none at all, the Courts Service should work with the Irish Prison Service to review venues with a view to giving this matter greater priority than at present.
- **Recommendation D5:** As a priority, the Courts Service's website needs to be redeveloped in order to make it user friendly and easy to navigate. The new website should be guided by best practice design and be informed by consultations with key internal and external stakeholders.
- **Recommendation D6:** As follow-up to the recent appointment of a Customer Complaints Co-ordination Officer and the introduction of new customer complaints procedures, a corporate leader or sponsor for corporate services should be appointed in order that a greater emphasis would be placed on ascertaining the needs and measuring the experiences of customers.
- **Recommendation D7:** The Courts Service should ensure that its high quality Corporate Governance Framework Document should be updated on a regular basis.
- **Recommendation D8:** The Courts Service should refine its risk management model so that non-financial risk would be given greater attention than it is at present - an example in that regard is the absence of a plan for managing large scale retirements.
- **Recommendation D9:** The Courts Service could continue its programme on the standardisation of processes and procedures in the Circuit and District Courts involving the application of LEAN process methodologies and led by an appropriately resourced Business Support Unit. More widely the application of LEAN should be embedded as a standard change management methodology across the organisation including the Superior Courts.
- **Recommendation D10:** The Courts Service should implement the series of recommendations set out in the review of the combined court offices so as to ensure that this change initiative becomes fully embedded at Circuit and District court levels. To that end, the SMT will need to exercise strong and continuous oversight of the implementation process.
- **Recommendation D11:** *Ex-post* evaluations should be conducted on the Combined Court Office and e-Licensing projects when they have reached full maturity.

4. CORPORATE CAPABILITY IN ICT AND DATA MANAGEMENT

INTRODUCTION

The Courts Service faces a significant organisation-wide challenge in ICT planning and delivery and strong leadership at a number of levels will be needed in order to bring about the essential transformative change required. The Courts Service's Board, the Senior Management Team, the Judiciary, individual business units, the Department of Justice and Equality, the wider government system and stakeholders will all have to work in a planned and collaborative way to help deliver on this objective.

A multiplicity of factors has given rise to the current ICT state, principal amongst them being the following:

- The consequences of under-resourcing
- The effects of persistent underinvestment¹⁰
- Poor prioritisation and partnering by the business side
- Underdeveloped standardisation by business units
- Legacy standalone systems
- Uneven leadership by the Department of Justice and Equality on ICT interoperability across the justice sector and related enabling legislation
- Weak collaboration by some justice agencies on change initiatives – for example, in the computerisation of Charge Sheets from An Garda Síochána
- The impacts on ICT priorities of unanticipated demands, internal as well as external, and
- The absence of a long range and appropriately funded ICT vision and strategy.

As set out in the remainder of this chapter, all of these factors will have to be addressed in order to optimise the use of ICT in supporting the administration of justice.

4.1 FRAGMENTED STATE

Blended delivery: The ICT function is managed and administered by means of a blended model whereby an internal ICT Unit is focused disproportionately on the management of external contractors who lead on both development and support. This situation is the product of a deliberate reconfiguration of the function some years ago.

The Unit is particularly challenged to manage the myriad of contractors, given especially the scale of dependency (42% of ICT expenditure), the number of providers and the geographically dispersed nature of the Courts Service.

Resourcing of ICT Unit: Given the day-to-day demands and the scale of the ICT deficit, the Unit itself is widely regarded internally and externally as under-resourced in skills and staff which number just 12. While a separate analytical exercise would be required to quantify the scale and composition of any resource gap, it is clear that resources alone are not the only factor at play.

¹⁰ ICT investment dropped from some €10 million p.a. at the peak of the boom to just around €4 million at the trough, although it has now risen to between €8 and €9 million per annum. During 2009 to 2015, funding shortfalls of €1m to €1.5 million were not uncommon. It costs €7.5 million p.a. to 'keep the show on the road'.

A particular concern is that the ICT Unit is regarded as somewhat disconnected from the business side. There is a belief amongst some managers that the Unit should advise and guide them on what a good ICT state for particular areas of business should look like and what solutions (with modifications) might be available in the marketplace. They refer also to the absence of a well-developed model for ICT that binds the individual components into a coherent whole.

For its part, the ICT Unit points to persistent underinvestment in the past, inadequate skills, poor prioritisation by the business side and a lack of appropriate support, particularly a failure by business units to release staff for work relating to project scope, specification, development and testing.

When conceptualising, developing and implementing a new ICT approach, collaborative engagement between the ICT and business sides will need to be put on a systemic footing, and that will be critically dependent on visible leadership from the Courts Service's Senior Management Team.

Standalone legacy case management systems: By way of brief background, a number of standalone systems were developed as interim measures in the mid-2000s, including multiple standalone Lotus Notes-based civil case management systems in the District and Circuit Courts, which are still in use to this day. Other than the Lotus Notes-based Integrated Criminal Management System (ICMS), which has limited interoperable capacity between court jurisdictions, no other integrated systems – either criminal or civil – exist.

Forming the core of the current criminal and civil case management state are three separate systems resulting in multiple and duplicated data entry points as a case moves up through the jurisdictions. Outside of that core are a number of other standalone systems, a net effect of which is that Courts Service personnel wishing to view across the entire suite of activity on any given day might require access to up to 10 separate systems.

Paper-based systems: The ICT state is characterised by considerable paper-based systems internally within the Courts Service and externally across the justice sector – for example:

- **Internal:** Summary judgements (paper)
- **Internal:** Jury selection (mostly paper-based)
- **Internal:** Central Office has a large volume of staff working on ledger-based services
- **External:** Information from civil stakeholders – e.g. parking infringements (paper)
- **External:** Garda Charge Sheets (paper) uploaded onto Criminal Case Tracking System by Courts Service staff

4.2 COLLABORATION WITH THE WIDER JUSTICE SECTOR

There are numerous 'touchpoints' involving the sharing of information between the various justice agencies. The current state is unstructured and somewhat *ad hoc*, although some steps are being taken to remedy that. In working through the shape and attributes of a new ICT state, the Courts Service will need to look outside itself and across the wider justice sector, and to its credit it is already doing some of that.

Criminal Justice Strategic Committee: Chaired by the Secretary General of the Department of Justice and Equality and comprised of the Heads of relevant justice agencies¹¹, this committee plays the lead role on inter-agency criminal planning and cooperation, including from an ICT perspective.

One such initiative was the Criminal Justice Interoperability Project (CJIP) which was led by the Courts Service and has now concluded. The CJIP has improved considerably the exchange of information in respect of District Court business between the Courts Service and An Garda Síochána who jointly exercise governance.

Collaboration between justice agencies: As part of phase 2 of the CJIP, the Department of Justice and Equality is proposing the development of a 'Justice Hub' which will act as the central enabler for electronic collaboration between the justice agencies. It is at the early investigative stage at present. When developed, it will enable certain classes of records from the various agencies to be routed to a central repository from which designated bodies like the Courts Service would be able to draw.

The following two examples serve to illustrate the potential of the 'Justice Hub' concept, particularly its capacity for electronic cooperation between different agencies of government. They also underscore the need for the planning of new ICT initiatives to be inclusive of all relevant interests, not just from within the justice sector but also externally to it as required:

Example 1 - Charge Sheets and paper-based steps: At present, Charge Sheets from An Garda Síochána are furnished to the Courts Service in paper form – and often at short notice – and staff have to type up the details onto the Criminal Case Tracking System (CCTS) which performs a number of courts-related functions such as the generation of warrants and the production of the court lists. Processing the Charge Sheets through the Justice Hub is emerging as a priority module, although a business case has yet to be developed.

Example 2 – Interoperability with civil stakeholders: The CCTS, while having interoperability links with An Garda Síochána, has no such capability with any the systems of civil stakeholders such as local authorities and An Post. Relevant information has to be re-keyed into the systems used by the Courts Service. Coding and wording used by the local authorities (for parking tickets for example) varies in instances between authorities. Amongst the net effects are avoidable manual effort and the increased likelihood of data transcription errors.

Collaboration with civil stakeholders: There is considerable scope for stronger engagement and greater collaboration between the Courts Service and stakeholders, including Revenue, legal practitioner interests and end-court users, when scoping and developing ICT solutions, as the following example indicates:

Example – eLicensing project: Under way for the past 3 years, the scope has changed from an initial 10 licence applications for digitalisation to the full suite of some 150 licence applications and related documents requiring court approval. While the technology piece of the project has been completed and installed in 10 offices, there has been a delay with

¹¹ The Courts Service's representatives are the CEO and the Director of Circuit and Civil Court Operations

full roll-out. That has arisen from the need for a number of quality control procedures and practices on the business side to be addressed in response to poor quality data, especially from solicitors' practices.

4.3 PRIORITISATION AND DRIVERS OF CHANGE

As already alluded to in chapter 2, section 2.2, the Courts Service is not always the master of its own destiny and that is particularly so with the prioritisation of new ICT development. The primary business needs of the organisation do not necessarily drive the ICT agenda, with the Department of Justice and Equality's priorities, impending legislation and individual preferences often holding sway. At times the priorities of the Department and other justice agencies converge with those of the Courts Service, at other times they diverge.

- a) **Convergence of interests:** An example of convergence is the interoperability between the Criminal Case Tracking System (CCTS) and the Garda Pulse system regarding court outcomes such as convictions and bench warrants.¹² A further example is the exploratory work underway with Revenue on the electronic processing and transmission of probate applications which will assist the Courts Service with addressing current backlogs.
- b) **Divergence of priorities:** Examples of divergence on ICT priorities between the Courts Service and other justice agencies, notably the Department of Justice and Equality, are the enactment of the Fines Act, the establishment of the Court of Appeal, and the development of a system for the Insolvency Service of Ireland, all of which caused other pre-determined internal ICT priorities to be downgraded in importance. There are corollaries however such as the development by the Courts Service of a Debt Claims On-line System which has been stalled pending the enactment of legislation, even though the Heads of a Bill have been prepared for quite some time.

4.4 DEVELOPING A NEW ICT STATE

Should the Courts Service embark on conceptualising, planning, developing and implementing a new ICT state, there are a number of critical actions that would have to be taken, principally:

- Restoring user confidence
- Implementing structural reforms
- Developing a strong strategic orientation
- Formulating and progressing an ICT vision

These four actions should be viewed as parallel, iterative and mutually supporting processes, led and driven by senior management.

4.4.1 RESTORING USER CONFIDENCE

Confidence in the current ICT state is very low across all internal user groups, although there are variations by system, application and location. The concerns revolve mainly around network speeds, systems' reliability and interoperability, extent of manual processes, support on hardware peripherals such as courtroom printers, and the responsiveness of service from external contractors. Such concerns had been borne out previously in internal staff surveys and face-to-face engagements between management and staff.

¹² This functionality was developed as part of the Criminal Justice Interoperability Project

As part of its response, the Courts Service has put in place a major programme of ICT infrastructure refreshment, as a critical enabler for realising the full benefits of recent and future investments in both hardware and software. Significant legacy deficits are being addressed such as new cabling, routers and switches, the installation of a new desktop platform (Citrix), and the phased replacement of XPs and Microsoft 2003 with the much more up-to-date MS 365 suite.

While such investments are collectively and incrementally improving the user experience, there is still a considerable distance to go on the non-infrastructure side, particularly with the Lotus Notes-based case management systems. Given that context, there is a particular need for senior management and the ICT Unit to communicate regularly across the organisation on plans and initiatives, the benefits expected, the timelines involved, the business support required and the disruption that might arise during transition.

4.4.2 IMPLEMENTING STRUCTURAL REFORMS

As part of its efforts to restore user confidence and develop a new ICT state, the Courts Service needs to take a number of steps as follows:

- a) **Replacement of legacy systems:** A major programme of replenishment is needed to replace the numerous applications which are standalone and going out of technical support soon. Particularly urgent in that respect is the standalone Progress system used in the High Court Central Office, and the multiple standalone Lotus Notes applications used throughout the Courts Service for civil cases which have no meaningful capacity for interoperability between them, and very weak reporting functionality.
- b) **Standardisation of processes:** As already set out in section 3.3.1, Continuous Improvement, some processes for the same activities vary between areas, naming and tagging conventions differ, and forms are customised locally. Best practice would propose that it is a matter for the business side to first standardise those processes relevant to a proposed ICT solution and only then should the ICT Unit be engaged on developing or procuring the solution. The work on standardisation should be undertaken in advance of migrating existing work to new applications.

To minimise transition risks and deliver successful change, strong leadership and guidance would be required from the outset of the change programme and throughout its delivery.

- c) **Business side as ICT partners:** Difficulties continue to be encountered in securing the release of appropriately skilled staff from business units to assist with the specification, design, testing and implementation of new ICT development. Led by senior management, a new partnership arrangement between the ICT Unit and the business side would need to be developed and enforced.

A further matter requiring resolution is the relationship between the Change Management Office (CMO) and the ICT Unit, particularly on how the former could usefully assist the latter on implementing reform. At present, the ICT Unit is vague on the purpose of the CMO insofar as its function would intersect with ICT planning and delivery. That matter needs to be resolved and formalised.

- d) **Systemic reporting functionality:** As expounded upon later in section 5.5, there will be a need for statistical outputs to be generated systemically from within systems in order to speed up reporting, improve statistical reliability and replace the considerable manual

intervention required at present to produce analyses for the Senior Management Team and the Board.

4.4.3 DEVELOPING A STRONG STRATEGIC ORIENTATION

eCourt as a vision would give strategic direction to ICT development into the future. A complicating factor is that the ICT Unit – as already noted – is under-resourced and is immersed in managing contractors, overseeing infrastructure investment, providing in-house assistance, and developing solutions. A consequence is that its capacity for formulating strategy is constrained.

At present, the strategic function is largely remitted to an ICT Governance Committee which is responsible to the Board for ICT planning and prioritisation and is comprised of the entire Senior Management Team, the Heads of the ICT Unit and the Change Management Office. The committee is also overseeing the production of a new ICT strategy covering the years 2018 to 2021.

In view of the scale and complexity of the task ahead to conceptualise and map a transformational ICT strategy and programme, there is a need to strengthen the strategic capacity of the ICT function. That will require the establishment of a dedicated strategic unit that would work alongside but would be independent of the unit responsible for the business as usual work.

Either way the focus of the new incarnation would be solely on strategic IT, be separate from day-to-day operations and delivery, and be supported by business champions – all led and guided by the Senior Management Team and the Board.

Critical value-added would accrue for the strategic function if external expertise were engaged to assist with developing the new eCourt environment described in the next section and devising the new ICT strategy, with particular regard to best practice lessons from abroad.

4.4.4 FORMULATING AND PROGRESSING AN eCOURT ENVIRONMENT

As already set out in Chapter 2, the Courts Service needs to reach conclusions for itself on what an efficient and effective 21st century courts model should look like and satisfy itself as to the role that technology should play.

In parallel confidence in ICT will need to be built incrementally over time, requiring the Courts Service to provide reassurance that retiring legacy systems, putting in place new solutions, investing in infrastructure and changing business practices will lead collectively to a new ICT state that will support adequately the business of the organisation and facilitate the progression of its strategic aims. In essence what is needed is a new eCourt environment characterised by harmonisation and interoperability between systems to the fullest extent necessary, as determined by management in consultation with the business side and users.

While there is a divergence of views internally within the Courts Service on what an eCourt environment would or should look like in practice, the following attributes from some eCourt environments abroad portray the potential for generating efficiency and effectiveness gains, in terms of both the management of the Courts Service and the operation of an effective courts system:

- a number of interconnected solutions, with e-filing, and centralised case management and document management systems forming the centrepiece of the new ICT state

- the filing of cases and related legal documents with the courts could be done electronically
- the civil and criminal case management systems would be interoperable with one another where appropriate and would enable the files relevant to a particular case to migrate up through the court jurisdictions (e.g. Circuit to High) as necessary
- access to be controlled by means of registration processes covering the judiciary, Courts Service personnel, legal practitioners, and litigants
- internet connections would provide instant access to authorised case information, details, and records that would be governed by policies and procedures aimed at protecting privacy rights
- court proceedings would be recording using audio and video-conferencing technologies, and
- official court outputs, including case lists and court decisions, would be published electronically.

As evident from the above scenario, an eCourt environment would be a modular and multi-functional construct. Individual court jurisdictions would access bespoke civil or criminal systems¹³ which would be delineated by case type and be interoperable with one another where relevant, warranted and beneficial.

It would be a matter for the Courts Service, in consultation with internal and external stakeholders, to determine for itself the form and features of a new eCourt environment, some of which like the digital and audio recording of court proceedings, are already in place. As an aid to crystallising thoughts, the following points and views from evidence gathering are of particular note:

- (a) **Two core case management systems:**¹⁴ One option would be two core case management systems as follows:
 - a) **Criminal case management:** Expand the Criminal Case Management System (CCTS) in use in the District Court to include the Circuit Court and the High Court.
 - b) **Civil case management:** Expand Courts Service On-line (CSOL) to cover all civil cases in each court jurisdiction (currently on Lotus Notes) and family law. It is noteworthy that, in that regard and at the time of writing, it is planned that over time all existing Lotus Notes and Progress applications would be redeveloped and processed via CSOL, which does not allow for local and regional variations in input.
- (b) **Reorientation from infrastructure investment:** Relative to relevant benchmarks, the Courts Service is spending a disproportionate share of its ICT budget on infrastructure – and with good reason as it addresses considerable legacy challenges. The diminishing need for such investment over the period ahead will inevitably lead to a shift in emphasis towards more new development.

¹³ Mounted perhaps on the same platform

¹⁴ One senior internal stakeholder commented that ‘given the diversity of cases across the jurisdictions – civil and criminal – an integrated case management system encompassing them all might be too ambitious.’

- (c) **Positive DPER and OGCI0 disposition:** Both the OGCI0 and the Justice Vote Section in the Department of Public Expenditure and Reform are positively disposed towards supporting an ambitious ICT agenda underpinned by multiannual funding certainty, provided the necessary vision, strategy, prioritisation, business case rigour and stakeholder buy-in are demonstrated.
- (d) **Civil v criminal divide:** There may be a clear divide between the criminal and civil law practitioners regarding their eagerness to engage with eCourt requirements. It has been suggested to the Review Team that legal professionals on the criminal side are generally resistant to engaging with technology in a substantive day-to-day manner and insist overwhelmingly on face-to-face dealings with their clients, whereas civil law practitioners and court users readily embrace technology as demonstrated in the area of family law and e-licensing.

Whatever the complexion of the eventual eCourt environment, it would be highly desirable that interoperability within and between systems at appropriate touchpoints, including externally to justice agencies outside the Courts Service, would be a central feature of the ultimate design.

4.5 CORPORATE CAPABILITY IN INFORMATION AND DATA MANAGEMENT

In significant part, the management of information and data is a function of the ICT state, the prevalence of paper-based systems and the variations in standards for processes and procedures. Given that context, it is not surprising that the production of a lot of statistical reports is excessively labour intensive and the outputs are limited in comparative capacity.

Particularly with the paper-based and Lotus Notes systems, a considerable amount of potentially very valuable statistical analysis is not undertaken because of the unstructured manner in which information and data are stored and the disproportionate effort that would be involved in collation, aggregation, interrogation and production.

At a granular level, there are a number of other factors and features of the current state that require reflection and attention:

- a) **Non-standardised definitions:** A factor with the standardisation issue referred to previously is the absence in some instances of standardised definitional sets whereby any given measurable event can be described differently across jurisdictions and regions. While the extent of the problem could not be ascertained in this review, it is nonetheless clear to some managers in both the ICT Unit and the business side that the problem does indeed exist, especially with the Lotus Notes-based systems.
- b) **Variations on criminal side:** On the criminal side, it is fairly straightforward to extract certain core statistics for analytical purposes from the Criminal Case Tracking System (CCTS) as data storage is structured. That is not the case however with the Integrated Criminal Management System (ICMS) which is Lotus Notes-based. Because of that and the absence of interoperability between the CCTS and the ICMS, considerable analytical capability on the criminal side is foregone.
- c) **Civil and family:** A lot of information and data relating to civil cases are held on a combination of manual systems and Lotus Notes databases and because they don't have any relational capacity, it can be very onerous to extract and aggregate statistical data.

- d) On domestic violence specifically, where there is an especially high concentration of lay litigants, much of the information and data are held on both Lotus Notes databases and separate Progress systems which are not integrated or harmonised in any way, resulting in a paucity of statistics.
- e) **Court statistics for the Board:** Because of the systemic weaknesses in data management, it takes a very considerable amount of effort to produce statistics on the performance of the courts. Nonetheless well regarded analyses on such measures as case throughputs and waiting times are produced each quarter for the CEO's report to the Board.

OVERALL CONCLUSIONS ON ICT AND DATA MANAGEMENT

ICT as a business tool requires significant development and investment in order in particular to replace the significant volume of paper-based processing and myriad of standalone systems existing at present.

In embarking on that journey, the Courts Service needs first to satisfy itself as to what an ideal end ICT state should look like, drawing from its own internal experiences and exemplars of best practice from abroad. It needs to imagine a new eCourt environment whereby the business side drives ICT, the ICT function supports the business and both operate in a spirit of partnership led, guided and fostered by the Board and the Senior Management Team.

The articulation of a new eCourt environment and adherence to its principles and features – from conceptualisation to strategy to implementation – would be especially beneficial from a number of perspectives:

- 1) It would provide guidance and set parameters for the development of ICT strategy, the prioritisation of projects, and the deployment of resources.
- 2) The Board and senior management would be better equipped than at present to lead and engage on ICT matters internally with business users and externally with other justice agencies, including the Department of Justice and Equality, and stakeholders, particularly those representing legal practitioners.
- 3) The process of engagement and collaboration between the Courts Service and other justice agencies, particularly its parent Department, would be given clearer shape and structure.
- 4) The Courts Service would be assisted not only in setting out its own priorities but also in holding firm to them in the face of unexpected new demands.
- 5) ICT investment and development would come into stronger alignment with business needs over time.
- 6) A well-developed eCourt environment with a strong emphasis on efficient data and information management could transform the present state which is characterised by excessive manual effort, weak dataset matching and cumbersome document management processes.

Critically, realising the vision of a new eCourt environment and ensuring its successful alignment with business needs would require the judiciary and senior management, particularly at Board and SMT levels, to lead and drive the initiative as part of a joint endeavour.

9. FINDINGS ON ICT AND DATA MANAGEMENT

- **Underdeveloped as a business tool:** ICT as an integrated business tool is significantly underdeveloped across the Courts Service and the courts system it supports. The current state is characterised by paper-based processes, piecemeal development and standalone systems – a legacy in part of historically uneven strategy and inconsistent levels of investment since the establishment of the Courts Service.
- **ICT Unit under-resourced and challenged:** The internal ICT Unit is widely regarded as under-resourced in skills and staff, and is particularly challenged to manage a myriad of contractors in a geographically dispersed environment.
- **Weak systems interoperability:** The current ICT state is characterised by multiple standalone case management systems which have no meaningful capacity to communicate with one another and to either migrate or match information and data. A further consequence is that Courts Service personnel wishing to view across the entire suite of systems and applications on any given day might require access to 10 separate systems.
- **Stronger collaboration with parent Department and wider justice sector:** While there are effective mechanisms in place for collaboration on ICT matters between the Courts Service, the Department of Justice and Equality and other justice agencies, there is a considerable distance to go in remedying the current fragmented state in the Courts Service.

On the positive side, a system developed by the Courts Service enables it to upload summons information and case returns onto the Garda Pulse system. That system was meant to be a stepping stone to the creation of a 'Justice Hub' led by the Department of Justice and Equality.

The intention was that, on development, the Hub would enable certain classes of records from the various justice agencies to be routed to a central repository from which designated bodies like the Courts Service would be able to draw. However, the project remains at the early investigative stage. It needs to be given greater priority in order that the collaborative needs of the Courts Service – and indeed other justice agencies – would be met.

In that regard, a noticeable deficit is that Charge Sheets from An Garda Síochána are furnished to the Courts Service in paper form following download from the Pulse system. Staff from the Courts Service are then required to replicate the work by typing up the details onto the Criminal Case Tracking System (CCTS) – an ICT system which performs a number of courts-related functions such as the generation of warrants and the production of the court lists.

- **ICT priorities and external demands:** The primary business needs of the Courts Service do not always drive its ICT agenda. On occasion, new priorities from the Department of Justice and Equality supplant predetermined ICT priorities set by the Courts Service for itself. Examples include the introduction of the Fines Act, the establishment of the Court of Appeal, and the creation of the Insolvency Service of Ireland, all of which required bespoke ICT solutions to be developed and resulted in other pre-set internal ICT priorities to be downgraded in importance.

While some measure of the unexpected is commonplace in ICT environments, the effects of new demands on the Courts Service can be particularly acute given, in particular, the size and skills mix of the ICT Unit, the number of systems and applications within its remit, the demands to improve the current state, and the limited in-house capability for development work.

- **Pathways to a new ICT state:** As part of its efforts to restore user confidence and develop a new ICT state, the Courts Service needs to take a number of steps as follows:
 - 1) **Replacement of legacy systems:** A major programme of replenishment is needed to replace the numerous applications which are standalone and going out of support.
 - 2) **Standardisation of processes and procedures:** The processes and procedures for the same activities vary between jurisdictions and areas. The work underway on bringing about uniformity of practice should be concluded as a necessary prerequisite to the development of new ICT solutions.
 - 3) **Business side as partners:** The ICT Unit encounters difficulties in securing the release of appropriately skilled staff from business units to assist with the specification, design, testing and implementation of new ICT development. Led by senior management, a new partnership arrangement between the ICT Unit and the business side needs to be put in place.
 - 4) **Systemic reporting functionality:** A key aim of all new ICT solutions should be a facility for the automated production of statistical outputs, as there is an excessive amount of manual intervention at present.
- **Developing an eCourt environment:** Given the scale, complexity and diversity of the ICT challenge being faced, the Courts Service needs to be bold and ambitious in conceptualising, developing and implementing a new ICT environment. It needs to work towards a new eCourt state characterised by harmonisation and interoperability between systems to the fullest extent necessary. A particular feature, as already set out, would be interoperable case and document management systems enabled by the e-filing of documentation and the e-publication of court outputs.

10. RECOMMENDATIONS

- **Recommendation ICT1:** Given the significant problems being encountered recently around the reliability of systems and speeds of networks, the Courts Service as a priority should develop an ICT Stabilisation Programme, for review and approval of the OGCIO, to ensure that users would receive high levels of service and would have confidence in the general ICT state.
- **Recommendation ICT2:** A robust regime for business continuity and disaster recovery needs to be developed by the SMT whereby agreed business priorities would continue to be delivered, should a critical ICT event such as a sustained outage occur.
- **Recommendation ICT3:** As part of a revised structure for ICT planning and delivery, a new unit dealing with strategic ICT and focusing initially on the development of a Digital Transformation Programme should be established and be supported in its work by external facilitation and assistance.
- **Recommendation ICT4:** The Courts Service should develop a vision for the organisation, stretching out to 2030, that would encompass an ideal future eCourt state that would be modern, fit-for-purpose and service oriented. An external partner would be required to help map out the vision.

The future state should be transformative and be such that the capability of the Courts Service would be significantly enhanced in terms of improving access to justice and supporting the operation of an effective courts system. The state should encompass services that are fit-for-purpose, built in partnership with internal and external stakeholders be considered key enablers of business for both the judiciary and other users.

- **Recommendation ICT5:** Separately the Courts Service should develop a comprehensive eCourt strategy that would take into account the 5 pillars of the government's strategy for ICT as set out in the report of the Office of the Government Chief Information Officer (OGCIO), *Public Service ICT Strategy*:
 - **Build-to-Share:** That would involve the development of ICT shared services solutions that would enable interoperability and support integration between applications internally within the Courts Service and externally with other government bodies, especially the justice agencies, in order to drive efficiency, standardisation, consolidation, reduction in duplication and cost control. An essential precursor to the development of each common application is that the relevant process flows must be standardised for each court jurisdiction.
 - **Digital First:** A Digital Transformation Programme should feature as a requirement in the ICT Strategy so that a common approach to building ICT platforms would be put in place, including for the purposes of developing new digital services for court users and the public in line with OECD and Government policy.
 - **Data as an Enabler:** A plan for the automated generation of management information from ICT systems without resort to manual intervention is needed, particularly from the perspectives of decision-making, service delivery and statistical reliability.

- **Improved Governance:** The governance model for ICT projects needs to change so that the commissioning business unit would exercise lead responsibility for delivery, and provide all necessary support to the ICT Unit throughout the various project phases. To that end, senior management needs to put in place a new policy on the partnership arrangements to apply between the ICT Unit and the business side.
- **Increased Capability:** As the ICT function is not appropriately resourced to meet the demands placed upon, in terms of both new development and business-as-usual (BAU) activities, it needs to be restructured to best manage and organise the required transformation agenda – see recommendation ICT4.
- **Recommendation ICT6:** The Courts Service needs to strengthen the arrangements by which ICT projects are prioritised, especially proposals for new development. As a counterbalance to external pressures for alternative choices to be pursued, they should be agreed in the first instance with the Department of Justice and Equality and the OGCI0. Progression of the priorities, covering a 3 to 5 years' timeframe, should be overseen by a strong governance structure.
- **Recommendation ICT7:** As a first step to speeding up delivery, the Courts Service and the Department should agree to include the OGCI0 on the oversight group for the Justice Hub project. Those 3 bodies along with the other members of the group should develop and agree proposals on how best to speed up the delivery of the build-to-share hub platform in order that the particular needs for electronic collaboration between the justice agencies, including the Courts Service, might be progressed with the requisite urgency.
- **Recommendation ICT8:** Based on an assessment of statistical reporting needs, the Courts Service should ensure that all new ICT solutions would have facilities for the automated production of statistical outputs, thereby eliminating manual intervention and improving statistical reliability and timeliness.

5. ORGANISATIONAL CAPABILITY

INTRODUCTION

In focussing on organisational capability, the review looks at how the Courts Service maintains and promotes high standards of ethical behaviour, manages and develops its staff through adherence to best practice HR policies, undertakes its finance function through effective and robust financial management systems, and develops and manages its extensive property portfolio through the use of strong estates-related methodologies.

5.1. CULTURE AND VALUES

5.1.1 ORGANISATIONAL CULTURE

Core values: The core values of the Courts Service are set out in its Strategic Plan and Corporate Governance Framework document. Service, integrity and respect are outlined as its core values with a strong focus on high class customer service. The vision is described in terms of developing a world class organisation that has as its primary objective to meet the needs of all court users.

Professional staff: The senior members of the Judiciary interviewed were unanimous in their praise for the professional ethos and high degree of flexibility and diligence displayed by staff, particularly during the very difficult recessionary period.

5.1.2 STAFF ENGAGEMENT

Awareness of staff engagement: The geographical dispersal of the Courts Service presents challenges for strong and regular staff engagement. While many provincially-based staff feel the organisation is Dublin-centric, the Courts Service's senior management is keenly aware of the need to engage and involve staff, particularly when introducing change. The senior management regularly use country-wide workshops as a means of meeting with staff to outline plans and proposals and to assess staff reaction, and the four regional managers are strong at face-to-face engagement despite their extensive geographical remits.

Divisional meetings needing attention: A matter requiring attention is the uneven approach to holding and conducting of divisional/team meetings. The frequency and scope varies considerably from location to location (including within the GDA) and seems to be very much down to the preference of individual managers as to if and when such meetings happen and what can or cannot be discussed.

5.2 MANAGEMENT AND DEVELOPMENT OF PEOPLE

5.2.1 PLANNING AND RESOURCING STAFF

Retirement cliff: The Courts Service faces an enormous capability challenge in dealing effectively with the very significant numbers of staff due for retirement in the next 5-7 years. 35% of staff are over 55 years of age, many of them occupying very senior positions. A potential exodus of this scale represents a major risk and challenge for the organisation and requires a comprehensive and well-planned response.

Senior management is aware of the potential impacts on the organisation's capacity and capability to deliver on its business remit and is increasingly conscious of the urgent need to develop a comprehensive response to deal with these challenges.

Workforce plan: The Courts Service submitted a workforce plan to DPER in 2017 and a further iteration of this is now being developed as part of a new Human Resources Strategy that will focus strongly on putting in place a suite of robust succession planning policies and practices.

Succession planning: A significant number of staff appeared to have little awareness of the organisation's plans in terms of succession planning and there appears to have been little consultation in the drafting of the original workforce plan. Senior management should consider how it could raise the overall profile of succession planning and increase staff involvement in developing future plans.

Capturing knowledge and expertise will be a key challenge for the organisation in developing its strategy to combat the threats posed by the retirement cliff it is facing.

In response to this, the Business Strategy Unit (BSU) is heavily involved in helping develop manuals for staff, particularly for those working in courtrooms where the work can often be very complex and technical in nature (mainly around the need to have detailed knowledge and awareness of court rules and procedures).

Skills matching: The Courts Service's capacity for skills matching is limited due to a combination of factors as follows:

- a) **Significant variation:** The required knowledge and skillsets vary significantly from office to office particularly those of a discrete and technical nature - the Examiner's Office, the Probate Office, the Office of the Wards of Court, General Solicitors Office, and the Office of the Taxing Masters. There is also an impact on staff mobility.
- b) **Registrars:** The senior members of the judiciary interviewed as part of this review all expressed frustration that finding suitably experienced replacements for skilled Court Registrars is becoming increasingly problematic. Judges often rely heavily on the Registrars for their forensic knowledge of court rules and procedures.
- c) **Using external recruitment panels:** There is a requirement on the Courts Service, like any other civil service body, to fill a percentage of vacancies from external panels managed by the Public Appointments Service. That makes the replacement of experienced staff all the more challenging, requiring that attention be focused on internal staff mobility and the high quality learning and development interventions for staff.

Notwithstanding these very real difficulties, there is some measure of staff frustration at what is seen as a lack of importance attaching to matching staff skills to job vacancies. The SMT has indicated that it would like to see this situation improved and it will feature as part of the development of the new HR Strategy.

Skills audit: As a skills audit has not been undertaken the Courts Service lacks a critical means of matching skills with vacancies, this clearly requires attention.

Staff mobility: As with skills matching, the structure of the Courts Service - with its dispersed geographical spread together with the distinct variations in technical knowledge required in individual areas of the organisation - militates against the straightforward application of a staff mobility scheme.

The lack of lateral mobility is having a negative effect on staff, particularly those based in Dublin. This finding is very much in line with the feedback being received right across the civil service in relation to mobility and the importance civil servants attach to it. It is planned that the forthcoming HR Strategy will deal with this issue and the recently-introduced new mobility arrangements within the wider civil service also will apply to Courts Service staff.

Additionally, the recently completed review into the Combined Court Offices includes a specific recommendation on staff mobility at local office level.

Performance management: The SMT focussed on the strong compliance rates (in terms of completing annual goal setting and end-of-year reviews), the implementation of the Performance Management Development System (PMDS) is nonetheless uneven at best, with a strong view from staff that it is very much down to individual managers whether the process is taken seriously or not.

Linked to that is the issue of the management of underperformance. While there is no evidence to suggest that this is a major issue within the organisation, the weight of the evidence suggests that where visible, underperformance is often ignored or tolerated. This view tallies with the general perspective of staff throughout the civil service as borne out in recent staff surveys.

It also tallies closely with the results of the Courts Service's own internal staff surveys (conducted by Korn Ferry). For April 2017 only 30% of respondents agree with the question that *"poor performance is managed effectively in my team"* and only 35% agree that they receive clear and regular feedback on how well they do their work.

Responding to underperformance: In the opinion of managers, the process for managing underperformance is overly complex and lengthy, there is a lack of training and confidence for addressing the issue, and it is questionable whether one would be supported by line managers and/or the HR Unit if tackling an underperformer.

In the view of the SMT, there are practical difficulties for managers in small provincial offices when seeking to tackle underperformance due in part to the often close relationships amongst managers and staff.

Additionally, evidence emerging from engagement with staff indicates that the quality of managers, particularly at HEO level (and often in local offices), is irregular and strong frustration was expressed at the difficulties posed by weak uncommunicative managers who do not engage meaningfully with staff.

Notwithstanding those issues, the Courts Service has put in place some positive mitigating actions:

- a) **Developing training programmes to address underperformance:** The Courts Service, with the visible support and leadership of the SMT, continues to invest significantly in the strategic Learning and Development programme. Central to that is a coaching programme for all managers. A feature of one of the modules is aimed specially at helping to upskill managers in tackling underperformance and helping to initiate the necessary "challenging conversations" in that regard.

- b) **Probation working group:** The Courts Service has in place a Probation Working Group to ensure that a staff member's performance and management during the critical probationary period is fully measured and assessed at the 3, 6 and 9 monthly milestones.

Performance management needs the visible leadership and support of all senior managers if it is to be properly embedded in the organisation. Furthermore, it is imperative that all staff occupying managerial roles have the necessary "people" skills to properly do the full range of duties and that the necessary supports are in place to assist them. These will need to be reflected in any new HR Strategy and aligned to the L&D Strategy.

5.2.2 LEARNING AND DEVELOPMENT (L&D)

During the ECF period resources within the L&D function (both staff and budgets) were drastically reduced. However, more recently, the Courts Service has been proactive in significantly raising the strategic and operational profile of this important function.

L&D strategy: A comprehensive L&D strategy is now firmly in place which includes a comprehensive programme of training courses. Its development involved a considerable number of staff workshops as well as liaising with other Departments. Central to this strategy was the establishment of an L&D Unit tasked with implementing the various targets and commitments contained within the strategy. An important and very positive element of the L&D function is the routine post-evaluation of courses, which involves measuring the effectiveness of training interventions using the Kirkpatrick Model.

The SMT is providing clear leadership on this and is prioritising the linking of staff development with the PMDS process. This is a very constructive and welcome development. In the course of the review, staff were universally laudatory¹⁵ of L&D provision and the major improvements made recently, although some reservations were expressed about scarce resources preventing staff release for training purposes on occasion.

Revamped induction training: In the most recent internal staff survey conducted in early 2017, a significant number of respondents answer negatively on whether new entrants receive the training they need to do their jobs well. While the Review Team did encounter some negative comment in this regard it is noteworthy that there were also positive responses and that the Courts Service has revamped its induction training as part of its more strategic focus on HR. This training is being aligned with the changes being made centrally within the wider civil service in relation to induction processes and procedures.

Court Registrars and L&D: As previously referenced, there is a need for the Courts Service to continue to address the specific challenges of dealing with new and often inexperienced Court Registrars. This will need to involve a number of internal units, including HR, L&D and the Business Support Unit (BSU). It is noted that this also a specific recommendation of the CCO review.

Staff well-being: Quite a number of staff raised concerns regarding the lack of counselling and training and access to relevant support services to help them deal with the increasingly fraught nature of their work, in particular dealing with cases involving domestic and sexual violence,

¹⁵ When compared to the 2015 internal Staff Survey, the 2017 Survey results identified that there was a 19% increase in staff satisfaction to training provided and 33% increase in staff believing that they were supported by managers.

sometimes involving children. Senior management acknowledges that this matter requires attention and specific provisions are planned to better support and assist staff in this respect.

5.3. CAPABILITY IN CORPORATE AND ORGANISATIONAL SERVICES

5.3.1 CORPORATE CAPABILITY IN HR

During the ECF period the HR function was primarily focussed on managing staff numbers. The nature of this work was largely transactional and routine in nature. During this difficult period the HR unit itself experienced a significant reduction in staff, from 15 to 6 staff members.

New HR environment: With the easing of the ECF stipulations, the increase in recruitment and internal promotions and especially the significant operational risk posed by the impending retirement cliff, the SMT recognised the need for the urgent restructure and a more strategic focus of the HR function.

As part of that the appointment of a new HR Manager with considerable external experience following the undertaking of an open competition. Additionally, the HR unit was restructured into separate sub-divisions dealing with HR analytics (planning and data), Recruitment (talent management), Operations (transactions, absence management etc.) and HR Advisory (employee relations, industrial relations and performance management).

The priority now is the development of a HR Strategy which has been absent to-date. This is expected to tie in with the critical areas of L&D, succession planning, workforce planning and staff mobility. Work has already commenced with a target date for completion of end Quarter 1 2018.

Continued support of the reforms: In repositioning and refocussing the Unit there is a need for HR management to be proactive in ensuring that all staff are aware of who does what within the HR function.

There is already a tangible sense of change, which, allied to the very positive steps taken on L&D, are indicative of an organisation which has a clear vision of where it wants to go on HR matters. In those circumstances it is imperative that the SMT and all senior managers are visibly supporting these endeavours. Effective implementation of HR-related policies is not just the responsibility of the HR function but of all members of management within the organisation.

HR visibility and PeoplePoint: While many staff acknowledged the difficult job that the HR unit has had in recent years, there was also some negative commentary regarding the perceived low profile of the Unit and its lack of proactivity in communicating with staff. With the establishment of PeoplePoint (the shared service for HR in the civil service) there is also evidence of considerable confusion about who is now responsible for dealing with a myriad of HR-related issues.

5.3.2 CORPORATE CAPABILITY IN FINANCE

The Finance Unit is responsible for the management of the Courts Service Vote as approved by the Oireachtas (for both expenditure and income), and it is also responsible for the preparation of the annual budget based on approved funding. The Unit also prepares the annual appropriation account for sign-off by the CEO (Accounting Officer).

The [Courts Service Corporate Governance Framework](#)¹⁶ sets out in detail the ancillary functions associated with the finance function including risk management (already dealt with in Section 3.2.2), procurement policy, and value-for-money reviews.

Governance structures: The organisation uses the shared services facility operated by Financial Shared Services, Department of Justice and Equality, Killarney to carry out a number of functions including the payment of salaries, travel and subsistence and invoices.

The Courts Service is a single programme Vote (for the purposes of managing the courts and supporting the judiciary). It represents around 5% in funding terms of the overall Justice Sector Group of Votes with total gross expenditure of just under €110m in 2016.

Section 19 of the Courts Service Act provides that the CEO is the Accounting Officer. As such he is responsible for signing the annual Appropriation Account together with the Statement of Internal Financial Controls which provides assurance on the internal financial control environment operating within the Courts Service.

The Finance Committee (a sub-committee of the Courts Service Board), which is chaired by the Chief Justice, meets every quarter prior to a full Board meeting. Among its responsibilities,¹⁷ the Committee considers both proposals for the annual budget and the CEO's reports on actual implementation/expenditure.

Wards of Court: The Accountant's Office is responsible for administering the Wards of Court funds. At the time of establishing the Courts Service, the NTMA was engaged to review the management of these funds. As a result, an Investment Committee, chaired by the President of the High Court, was established to oversee the management of investments. There are considerable sums involved: some €1.8bn involving some 18,000 beneficiaries, which includes a range of beneficiaries some of whom are Wards of Court. The Committee includes the Courts Service's Finance Officer, independent financial advisors and State Street who manage the fund on behalf of the beneficiaries.

The finance function (Courts Accounts and Funds Accounts) is very professionally run, and is highly regarded within the organisation and among the principal stakeholders (Departments of Justice and Equality and Public Expenditure and Reform).

5.3.3 CORPORATE CAPABILITY IN ESTATES MANAGEMENT

On its establishment, the Courts Service inherited some 300 or so venues, many of which had been managed by local authorities and were in very poor condition. During the recession, the standard of the national stock continued to deteriorate due to a lack of investment. Additionally, quite a number of the venues were processing a small number of cases.

Venue review: A Venue Review Committee was established in 2011/12 with the task of identifying and recommending venues that would be suitable for closure and/or amalgamation with other venues. A detailed evaluative methodology was developed to order to rate each venue. Factors taken into account included the condition of holding cells, general facilities, proximity to other venues and availability of ICT infrastructure. Each venue was assessed and scored under each

¹⁶ <http://www.courts.ie/Courts.ie/Library3.nsf/pagecurrent/D171C224DF0083D180257FB10043BD33?opendocument>

¹⁷ The full terms of reference for the Finance Committee (and all Board committees) is set out in Appendix 6 of the organisation's Corporate Framework Document

criteria and a list of venues for closure was drawn up. 40 venues were identified in the initial list and the merits of the recommendation to close were considered on a case-by-case basis.

A lengthy consultation process on the rationalisation programme was conducted with local stakeholders for each proposed venue closure, with the ultimate decision on whether or not to close a venue resting with the Board.

Refurbishments and new builds: Over the last number of years, a major refurbishment programme has taken place throughout the country, including the construction of the Criminal Courts of Justice (CCJ) complex in Dublin. Widespread and thorough consultation has taken place with the full range of court users in the design of all new builds. As the former Chief Justice remarked in the *Annual Report of the Courts Service 2016*:

“....Each new courthouse will be of a standard befitting the serious nature of the business conducted there, and respectful of the dignity of the people who are called upon to appear in court, in any capacity”.

As the Courts Service strives towards achieving this aim it needs to commence with an audit of its existing facilities in order to determine refurbishment requirements. Many stakeholders and staff expressed concerns about the adequacy of facilities throughout the country regarding them as unfit for purpose and unsuited to individual needs.

Public Private Partnerships (PPP): Eight buildings within the Courts Service’s estate have been delivered by way of PPP:

- Criminal Courts of Justice building on Parkgate street, Dublin - delivered in 2009
- Drogheda courthouse, Letterkenny courthouse and Wexford courthouse - all delivered in second half of 2017, and
- new courthouses in Waterford, Limerick, Cork and Mullingar which will be delivered by end Q1 2018

Related developments and matters of note on the PPP programme include the following:

- a) **Governance structures:** The Courts Service relies on the National Development Finance Agency (NDFA) for the procurement and day-to-day project management of PPP contracts. There are strong and well-established governance arrangements in place between the two organisations. The Courts Service develops the business case for proposals with the aid of an external consultant procured through an OGP Framework. Once a decision is reached that the project would be financed via a PPP model, a PPP feasibility study is conducted. Capital funding for these projects forms part of the annual engagement with the Departments of Justice and Equality and Public Expenditure and Reform.
- b) **PPP audit:** From an audit and governance perspective there appears to be a good process in place regarding the PPP programme. The Courts Service’s Internal Audit Unit has reviewed the PPP projects a number of times including the CCJ. Audits have focused in particular on the contract management element and it is clear that overall the Courts Service has handled the PPP programme well.

- c) **PPP and the OPW:** The Courts Service has done particularly well in the estates planning and building function. Interaction with the OPW is good and is underpinned by a well-developed architectural template for rolling out new Courthouses and related facilities. When the current batch of PPP projects is completed in 2018, only 5 county courthouses will remain to be completed. The Courts Service is ready to begin the refurbishment process on these Courthouses contingent on securing the necessary capital funding.
- d) **Training programmes:** Training programmes on the roles and responsibilities of members of governance committees on PPP projects have not been conducted to date (an internal report for the Court Service by Mazars suggests that such training be provided) and this is something that should be pursued.
- e) **Preventative maintenance programme:** The contractual arrangements under which all of the PPP buildings have been procured provide for a full facilities management service and a full planned preventative maintenance programme for the 25 year contract terms. The cost of this is included in the monthly unitary charge payments and these payments are contractual commitments.

In respect of the rest of the Courts Service's estate there is no preventative maintenance programme in place. It is intended to take steps to address this in 2018. The first task will be to undertake a 'condition survey' of the entire estate (excluding PPP buildings) to determine what is required in terms of backlog and ongoing maintenance and to also get an estimate of associated costs. This will require a procurement exercise in order to commission a suitably qualified firm to undertake the survey and it is intended to conduct this procurement in 2018. The results from the survey will provide the necessary information to determine how best to structure and implement a preventative maintenance programme.

- f) **Family law facilities:** Despite the record of good progress, some problem areas continue to exist. The current family law court venue at Dolphin House is not suitable as a venue and attracted significant criticism. The conditions are cramped, the segregation of parties is not possible and there are no private spaces available for consultation with legal representatives. This problem is replicated to varying degrees in venues outside Dublin.
- g) **Hammond Lane project:** A detailed plan is in existence to develop a vacant site on Hammond Lane to house the family law courts, the Supreme Court and the Courts Service HQ (the lease on its current HQ building in Smithfield expires in the near future). Some difficulties remain to be resolved with the Department of Justice and Equality on the level of funding required for this very necessary project.

Against that background, there is a need for the Courts Service and the Department of Justice and Equality to engage on a more regular and meaningful basis at senior levels, primarily to gain a better mutual understanding of respective challenges and constraints. Illustrative of that is that at the time of writing an unresolved issue remains between both sides around the level of PPP funding to be allocated for the construction of the new family law court and organisational HQ in Hammond Lane, Dublin. While such difficulties can arise in any organisation, there appears to be no obvious means of resolving this particular matter, which is indicative of an important corporate relationship in need of urgent improvement.

OVERALL CONCLUSIONS ON ORGANISATIONAL CAPABILITY

There is a clear enunciation of the Courts Service's culture and values in its Corporate Governance Framework document with service, integrity and respect regarded as fundamental. Within that context, a notably positive feature is that despite the organisation's geographical dispersal, senior management is highly attuned to the importance of engaging with staff, particularly when it is proposing to introduce change. That is done primarily by means of face-to-face engagement and electronic communications by means of an intranet. One area requiring attention is the need for a more consistent approach to divisional team meetings and to affording staff the opportunity to raise concerns and have them meaningfully addressed at that local level.

More strategically, managing largescale retirements over the next 5 years and the associated loss of corporate memory present the Courts Service with one of its greatest capability challenges. While a number of positive steps are being taken, it is critical that such efforts should not lose momentum, thus requiring the Board and senior management to regularly take stock of progress. More generally, there is a related communications requirement, whereby the Courts Service should raise staff awareness about the measures being taken.

On people management, strategic and coordinated responses are being put in place through the development of policies on HR, Learning and Development, Workforce Planning and Succession Planning. As part of that overall work, there is a particular need for greater focus on staff mobility and skills matching. For their part, staff will be required to accept the limitations involved, arising in particular from the technical nature of much of the Courts Service's work and the significant proportion of staff who are regionally-based.

Inconsistent approaches to managing underperformance has been identified during this review and in recent staff surveys. The SMT is already responding to this, primarily through a highly regarded coaching programme for all managers which includes a specifically designed module to better equip managers to deal with such issues.

The quite recent reinvigoration of the Learning and Development function is a significant success story for the Courts Service. A strong strategy has been developed and increased resources and budgets have been provided to improve overall delivery across the breadth of business activities. Managers and staff alike spoke in very positive terms of progress. One area requiring follow-up is the need for access to psychological well-being supports, as at times staff are exposed to quite harrowing scenes in the course of their work.

Regarding the HR function, it has been restructured and re-focused with the emphasis now on the speedy delivery of a HR strategy. There is also a need for the HR function to adopt a higher and more visible profile amongst staff in general.

On finance, this function performs well and is highly professional. It is supported in its work by the Finance Committee which reports to the Board and is involved in the annual budgetary process. It also monitors expenditure and progress on implementing the various annual business priorities.

The sensitive area of the Wards of Court function is managed by a separate Accountant's Office. An Investment Committee which includes independent financial advisors, assists with the management of the funds.

In the area of estates management, the Courts Service has invested heavily in both new builds and refurbishment its nationwide property stock. In successfully delivering on this, it has worked very closely with a multiplicity of stakeholders. Additionally, strong governance structures have been established to manage its bundle of valuable PPP contracts.

A matter requiring redress is that no preventative maintenance contract exists for the extensive suite of non-PPP properties within the Courts Service's estates portfolio and this deficit should be addressed as soon as possible.

Finally, a particularly urgent matter is the need to address the challenges associated with family law facilities, especially the imperative of resolving, in collaboration with the Department of Justice and Equality, outstanding issues relating to the funding requirements for the proposed Hammond Lane complex in Dublin.

11. FINDINGS ON ORGANISATIONAL CAPABILITY

- **Staff engagement:** The Courts Service's senior management go to considerable lengths to engage face-to-face with the geographically dispersed management and staff, particularly when contemplating or proposing major reform initiatives. There are however variations in approach to holding divisional and team meetings driven in particular by the preference of individual managers.
- **Retirement cliff:** The Courts Service is facing into a very significant capability challenge arising from the fact that 35% of staff are over 55 years of age, many of them in senior positions. The bulk of these staff are due to retire in the next 5 -7 years, thus having major implications for succession planning and knowledge retention.
- **Skills matching:** Although the Courts Service's capacity for matching staff skills to job vacancies is quite limited, primarily due to the discrete nature of functions and roles, there is still considerable staff frustration at the perceived lack of priority given to this issue. For their part, senior management have indicated that the matter will feature as part of the new HR strategy.
- **Learning and Development:** Significant progress has been made in devising and delivering a long-term vision and strategy for Learning and Development underpinned by best practice measurement methodologies. Allied to this, a HR Strategy, which has been absent to-date, is also being developed which will have strong linkages with L&D as well as workforce planning and succession planning. For their part the SMT is attaching particular urgency to this important project.
- **Coaching:** The decision to include a module on managing underperformance in the coaching programme for all managers from HEO upwards is a most positive development and has been commented upon very variably by participants. It will be important that this continues to be monitored to ensure effective follow-up and, in that respect, the continued support and funding for regular staff surveys should remain in place.
- **Staff wellbeing:** Insufficient attention has been given to date to supporting staff through counselling and training to help them deal with particularly harrowing experiences in the course of their work. Senior management acknowledges fully the need to address this matter urgently.
- **Strategic perspectives:** The recent decision to merge all of these corporate functions (with the exception of ICT) under one Directorate and to professionalise the HR function through the recruitment of an externally-sourced HR manager is further evidence of the more strategic perspective now being taken by the SMT.
- **Finance:** The finance function is very well regarded and provides a highly professional service. An active Finance Committee and strong internal audit function provide added reassurance.
- **PPP facilities:** The Courts Service continues to oversee the major improvements in the standard of courthouse accommodation around the country particularly through the delivery of a number of PPP projects. This remains an area of significant achievement for the Courts Service and has involved very close and positive collaboration with a wide number of different stakeholders.

- **Refurbishment and preventative maintenance:** In relation to its non PPP stock of property there is an absence of a long term preventative maintenance regime and a facilities refurbishment programme covering the entire portfolio.
- **Family law facilities:** There an urgent need to address the very visible challenges around family law facilities especially in Dolphin House in Dublin.
- **Hammond Lane project:** The proposal to develop a vacant site on Hammond Lane, Dublin to house the family law courts, Supreme Court and the Courts Service HQ is a very positive proposition but the project has been on hold for some considerable time. Outstanding issues regarding funding requirements need to be resolved with some urgency in consultation with the Department of Justice and Equality.

12. RECOMMENDATIONS ON ORGANISATIONAL CAPABILITY

- **Recommendation OC1:** The Courts Service should conclude the work currently underway on developing a HR strategy which would deal with a number of organisational and staff development issues such as succession planning and staff mobility.
- **Recommendation OC2:** Subject to approval by the Board, the senior management team and the HR manager should develop a comprehensive plan for managing the impacts arising from a very significant scale of retirements over the next 5 – 7 years. In that respect, particular attention will need to be given to business continuity and knowledge retention matters, involving as required, the Business Support Unit.
- **Recommendation OC3:** As part of the process to improve skills matching with job vacancies, a skills audit should be undertaken and incorporated into wider workforce planning considerations.
- **Recommendation OC4:** In order to mitigate the risks associated with the departure of experienced court registrars, a standardised upskilling and handover policy should be developed for the new replacement, involving a number of internal units particularly the HR unit, the L&D unit and Business Support Unit.
- **Recommendation OC5:** The Courts Service should put in place a support programme for staff to assist them in dealing with disturbing and harrowing cases arising in the course of their day-to-day work. The programme might cover both training and access to psychological supports.
- **Recommendation OC6:** The HR Unit should take some steps to raise its profile across the organisation and provide clarity on roles and responsibilities within the Unit.
- **Recommendation OC7:** A model should be developed and put in place to ensure a standardised approach would be adopted by all managers to holding and conducting divisional and team meetings.
- **Recommendation OC8:** The Courts Service should develop a preventative maintenance programme for its entire property portfolio with the exception of the PPP facilities which are subject to separate arrangements. A critical first step in that respect would be a 'condition survey' to determine the requirements and costs of the programme.

APPENDIX 1: COURTS SERVICE STAFF NUMBERS

Grade	2008	2011	2017
Secretary – General	1.0000	1.0000	1.0000
Master of the High Court	1.0000	1.0000	1.0000
A Sec	5.0000	5.0000	5.0000
Taxing Master	2.0000	0.0000	2.0000
County Registrar	28.0000	23.0000	17.0000
Property Arbitrator	2.0000	2.0000	1.0000
PO	38.6000	31.9000	31.0000
General Solicitor	0.5000	1.0000	1.0000
AP	121.4000	100.7000	110.4000
Deputy General Solicitor	0.8000	0.0000	0.0000
Librarian	1.0000	1.0000	1.0000
Assistant Solicitor	4.0000	4.0000	3.0000
Stenographer	1.8000	1.5000	1.0000
HEO	152.9317	140.9500	140.2317
Assistant Librarian	1.0000	1.0000	1.0000
Executive Legal Assistant/ Officer	1.0000	0.0000	1.0000
EO	224.0600	215.7317	262.2317
CO	288.6900	271.1951	283.0753
TCO	26.1000	1.0000	24.0000
Bankruptcy Inspector	0.8000	0.8000	0.0000
Court Messenger	25.6000	20.8000	18.0000
Senior Research Assistant	1.0000	1.0000	0.0000
Research Assistant/ Judicial Assistant	7.0000	5.0000	50.0000
Head Services Officer	2.0000	2.0000	2.0000
Service Officer	29.5000	31.5000	25.3000
Usher	46.0000	43.0000	26.0000
Crier	38.0000	29.0000	26.0000
Supt Cleaners	1.0000	0.0000	0.0000
Cleaner	8.0000	7.0000	3.0000
Totals	1080.2134	957.6085	1036.2387

APPENDIX 2: MEMBERSHIP OF COMMITTEES REPORTING TO THE BOARD

Five standing committees report into the Board and typically meet a week or so before a Board meeting:

- **Finance Committee** (8 members): Chair - Chief Justice; other members are 4 Court Presidents, 1 Judge, the CEO and the D/Justice Board representative
- **Audit and Risk Committee** (7 members): Chair - nominee of Minister (a forensic accountant); other members are 2 Judges, Head of CARB (a non-Board member), nominee of Minister (consumer interests) and the Department of Justice and Equality Board representative
- **Building Committee** (11 members): Chair - Judge; other members are 3 Judges, 1 representative each from Bar Council, Law Society, ICTU, and OPW and 3 representatives from Courts Service – CEO and 2 Directors (Infrastructure Service, and Circuit and District Court Operations)
- **Family Law Court Development Committee** (11 members): Chair - Judge; other members are 4 Judges, nominee of Minister (forensic accountant and Chair of Audit and Risk Committee), 1 representative each from Bar Council, Law Society, and County Registrars' Association, and Head of Circuit and District Court Operations

ICT Governance Committee: Does not report into the Board. Chair is CEO. Full membership comprises the SMT, Head of ICT Unit and Head of Change Management Office.

APPENDIX 3: SELECTED METRICS ON PERFORMANCE OF COURTS SERVICE

KEY OUTPUTS AND PUBLIC SERVICE ACTIVITIES – COURTS SERVICE¹⁸

Key High Level Metrics	2016 Output Outturn	2017 Output Target	2018 Output Target
Supporting the Judiciary	<i>Number</i>		
No. of sittings supported for High Court	4,670	4,700	4,700
No. of sittings supported for Court of Appeal*	370	311	311
No. of sittings supported for Special Criminal and Central Criminal Courts**	1,100	1,274	1,274
No. of sittings supported for Circuit and District Courts	18,196	19,000	19,000
Video conferencing	<i>Number</i>		
No. of courtrooms with Video Conferencing and Evidence Display	33 (New Metric)	39	49
No. of courtrooms with Evidence Display	27 (New Metric)	27	31

Targets are based on the maximum possible number of court sitting days and a full complement of judges being available.

* The appeals list in the Court of Appeal is fixed in advance, there may be a requirement for additional sittings to be convened as the need arises, as was the case in 2016.

** The Special Criminal Court commenced sittings in May 2016.

¹⁸ [Revised Estimates for Public Services 2018](#)

APPENDIX 4: COURT SERVICE REFORM INITIATIVES

1. Court process reform

A. *Addressing delay*

Civil proceedings

Commercial Court proceedings

The Competition List

Case management in the High Court more generally

Case Management in the Circuit Court (civil and family proceedings)

Case management at appellate level

Pilot preliminary hearing procedures in criminal proceedings

B. *Costs containment* –revisions to the court rules to enable litigation costs containment and implement the Haran and Miller reports

C. *Complexity of proceedings*

Introduction of standardised/ template procedures for statutory applications and appeals in the High Court and Circuit Court

D. *Promotion of Alternative Dispute Resolution (ADR)*

Court rules to facilitate recourse by litigants to mediation, conciliation and arbitration and promote/incentivise use of letters of offer to settle.

2. Court organisational reform initiatives

1. Court procedural reforms to facilitate the TASC (“Transforming Administration and Structures in the Courts”) report.

2. The Combined Court Office

3. Use of Information and Communications Technology in the Courts

Draft primary legislation to facilitate e-filing and preparation of court rules amendments to facilitate e-litigation and e-service of documents.

4. Cross departmental/agency collaboration on reform

Criminal jurisdiction review; company law reform; intellectual property remedies

5. Current reform /modernisation initiatives

Legal Cost Adjudication

Probate Services Review.