



Comhairle na mBreithiúna
The Judicial Council

Annual Financial Statements

For the year ended

31 December 2022

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GENERAL INFORMATION

Address

The Judicial Council, Green Street Courthouse, Dublin 7, D07 W568

| Board Members | Court | Basis |
|---|----------------------------------|--------------|
| Mr Justice Donal O'Donnell (Chairperson) | Chief Justice | ex officio |
| Mr Justice George Birmingham | President of the Court of Appeal | ex officio |
| Mr Justice David Barniville | President of the High Court | ex officio |
| Ms Justice Patricia Ryan | President of the Circuit Court | ex officio |
| Judge Paul Kelly | President of the District Court | ex officio |
| Ms Justice Marie Baker | Supreme Court | Elected |
| Ms Justice Aileen Donnelly | Court of Appeal | Elected |
| Mr Justice Michael MacGrath | High Court | Elected |
| Judge John Aylmer | Circuit Court | Elected |
| Judge Elizabeth MacGrath | District Court | Elected |
| Ms Justice Iseult O'Malley | Supreme Court | Co-opted |

Senior Executive

Kevin O'Neill, Secretary to the Judicial Council

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Auditors

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GOVERNANCE STATEMENT

Governance

The Judicial Council was established pursuant to the Judicial Council Act 2019 (“the Act”) on the 17th of December 2019 by the Minister for Justice pursuant to Section 5 of the Act. The functions of the Council are set out in Section 7 of the Act.

The Council is, subject to the Act, independent in the performance of its functions. As regards governance in relation to its relationship with the Department of Justice and Code of Practice for the Governance of State Bodies, the Council is a council of the judiciary and accordingly in certain instances preservation of judicial independence displaces the requirements of the Code.

The Board of the Judicial Council is responsible for ensuring good governance and performs this task by setting strategic objectives and targets and taking strategic decisions on all key business issues.

The day-to-day management of the staff and administration of the Judicial Council is carried out by the Secretary and his senior management team. The Secretary is accountable to the Board for the performance of those functions under the Act and such other functions as may be given by the Board.

Functions of the Judicial Council

The functions and responsibilities of the Judicial Council are set out in the Judicial Council Act 2019. Standing items considered by the Board on behalf of the Council include:

- reports on the statutory committees.
- financial reports
- performance reports
- Risk Register
- Statistics.

Section 38 of the Act requires the Council to keep, in such form as may be approved by the Minister for Justice with consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, usual accounts of moneys received and expended by the Council.

In preparing these financial statements, the Board, on behalf of the Council, is required to:

- select suitable accounting policies and apply them consistently,
- make judgments and estimates that are reasonable and prudent,
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that it will continue in operation, and
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements.

The Board is responsible for keeping adequate accounting records which disclose, with reasonable accuracy at any time, its financial position and enables it to ensure that the financial statements comply with Section 38. The maintenance and integrity of the corporate and financial information on the Council's website is the responsibility of the Board.

The Board is responsible for approving the annual plan and budget. Evaluation of the performance of the Council by reference to the annual plan and budget is a standing item for Board meetings. The Board is also responsible for safeguarding its assets and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Board considers that the financial statements of the Council properly present the financial performance and the financial position of the Judicial Council as at 31 December 2022.

Management

The day-to-day management of the staff and administration of the Judicial Council is carried out by the Secretary and his senior management team. The Secretary is (other than as Registrar to the Judicial Conduct Committee) accountable to the Board for the performance of the functions under the Act and such other functions as may be given by the Board.

Council Structure

The Judicial Council is made up of the following members:

The Chief Justice (who is the Chairperson) and the ordinary members of the Supreme Court.

The President of the Court of Appeal (who is the vice-chairperson) and the ordinary members of the Court of Appeal.

The President of the High Court and the ordinary members of the High Court.

The President of the Circuit Court and the ordinary members of the Circuit Court.

The President of the District Court and the judges of the District Court.

Board Structure

The Board consists of the Presidents of the 5 court jurisdictions (ex officio), 1 judge elected by the judges of each of the 5 court jurisdictions and 1 judge co-opted pursuant to Section 12 (5) of the Act. The elected judges and the co-opted judge serve as members of the Board for a period of four years (or where replacing an elected or co-opted judge, for the unexpired term of that judge). The Chief Justice is the Chairperson of the Board. The Board met on 4 occasions in 2022. Board members do not receive fees. Travel and Subsistence payments of €234 were made to Judge Aylmer.

| MEMBERSHIP | MEETINGS ATTENDED |
|---|--------------------------|
| Mr Justice Donal O'Donnell, Chairperson* ¹ | 4 |
| Mr Justice George Birmingham | 3 |
| Ms Justice Mary Irvine** | 2 |
| Mr Justice David Barniville** | 2 |
| Ms Justice Patricia Ryan | 4 |
| Judge Paul Kelly | 4 |
| Ms Justice Marie Baker* | 2 |
| Ms Justice Aileen Donnelly | 4 |
| Mr Justice Michael MacGrath | 4 |
| Judge John Aylmer | 4 |
| Judge Elizabeth MacGrath | 4 |
| Ms Justice Iseult O'Malley | 4 |

¹ * There was a vacancy as at 31 December 2021 which was subsequently filled by Ms Justice Marie Baker who was in place for Board meeting on 25th April 2022 and 21st July 2022.

** Ms Justice Mary Irvine attended the 2 Board meetings prior to her retirement on 13th July 2022. She was replaced by Mr Justice David Barniville as President who attended the latter 2 Board meetings in 2022.

The Judicial Council has nine statutory committees and has established one further committee under the terms of the Act. The jurisdictional support committees did not meet in 2022.

Judicial Studies Committee – Section 17

This Committee was established on the 10th of February 2020. The Committee met 7 times in 2022. The broad function of this Committee is to provide for the Council’s function pursuant to Section 7 (1) (d) of the continuing education of judges. This is further particularised in Section 7, Section 17 and the Terms of Reference adopted by the Council for the Committee. Committee members do not receive fees and no expenses were paid to members.

| Membership | Meetings attended |
|--|--------------------------|
| Mr Justice John MacMenamin (to 25 th November 2022) ^{2*} | 5 |
| Mr Justice Brian Murray (from 25 th November 2022)* | 1 |
| Ms Justice Aileen Donnelly (Chairperson) | 7 |
| Ms Justice Mary Rose Gearty, Director of Judicial Studies | 7 |
| Ms Justice Niamh Hyland | 4 |
| Judge Mary O Malley Costello | 6 |
| Judge Paul Kelly | 3 |
| Judge Marie Quirke (Vice Chairperson) | 5 |

² *Mr Justice John MacMenamin retired on 25th November 2022 and was replaced as Supreme Court nominee by Mr Justice Brian Murray who attended his first and only 2022 meeting on 5th December 2022.*

Judicial Conduct Committee - Section 43

This Committee was established on the 30th of June 2020. The Committee has met on 2 occasions in 2022.

The function of the Judicial Conduct Committee is to promote and maintain high standards of conduct among judges, having regard to the principles of judicial conduct requiring judges to uphold and exemplify judicial independence, impartiality, integrity, propriety (including the appearance of propriety), competence and diligence and to ensure equality of treatment to all persons before the courts.

Without prejudice to the generality of Section 43 subsection (2), the Judicial Conduct Committee:

- Shall consider complaints and refer them for resolution by informal means or undertake investigations into the conduct of individual judges in accordance with Part 5 of the Act,
- Shall take such action, if any, in accordance with this Part as it considers necessary for the purposes of safeguarding the administration of justice whether as a result of its consideration of a complaint and its referral for resolution by informal means or the undertaking of an investigation under Part 5 or otherwise,
- Shall prepare and publish guidelines providing for the resolution by informal means of complaints that are determined to be admissible under this Part,
- Shall, not later than 12 months after its establishment, prepare and submit to the Board for its review draft guidelines concerning judicial conduct and ethics, which guidelines shall include guidance as to the matters a judge should consider when deciding whether he or she should recuse himself or herself from presiding over legal proceedings, for adoption by the Council,
- May of its own volition or, shall, on the request of the Board or the Council, prepare and submit to the Board for its review draft amendments to guidelines concerning judicial conduct and ethics adopted by the Council, and
- May provide such advice and recommendations to an individual judge or to judges generally on judicial conduct and ethics as it sees fit.

| Membership | Meetings attended |
|--|--------------------------|
| Mr Justice Donal O'Donnell (Chairperson) | 2 |
| Mr Justice George Birmingham | 2 |
| Ms Justice Mary Irvine ^{*3} | 1 |
| Mr Justice David Barniville* | 1 |
| Ms Justice Patricia Ryan | 2 |
| Judge Paul Kelly | 2 |
| Mr Justice Charles Meenan | 2 |
| Judge Martin E. Nolan | 2 |
| Judge Alan Mitchell | 1 |
| Mr Kieran Coughlan | 2 |
| Ms Claire Archbold | 2 |
| Professor Maeve Conrick | 2 |
| Mr Patrick Doyle | 2 |
| Dr Bernard McCartan | 2 |

Judicial committee members do not receive fees. Lay members not subject to one person one salary are due fees. Lay members received payment of fees in 2022, but the fees were not charged by the Department of Justice to the Judicial Council until 2023. These fees are recorded as accruals. No expenses were paid.

Remuneration of Judicial Conduct Committee Lay Members

The Judicial Conduct Committee includes five lay members nominated by Government in July 2020. The Department of Public Expenditure, National Development Plan Delivery and Reform has decided that a per diem rate of €500 apply to lay members subject to a limitation on the total number of meetings and subcommittee meetings of 30 per annum in respect of both Committees which include lay members.

³ Ms Justice Mary Irvine attended the one Committee meeting scheduled in her term as President in 2022. She retired on 13th July 2022 and was replaced by Mr Justice David Barniville who attended the other Committee meeting in 2022.

Personal Injuries Guidelines Committee – Section 18

This Committee was established on 28th April 2020. The Committee has met on 1 occasion in 2022. The principal function of the Personal Injuries Guidelines Committee of the Judicial Council is to prepare and submit to the Board of the Council, for its review, draft Personal Injuries Guidelines, and from time to time to review those guidelines. The draft Personal Injuries Guidelines which were submitted to the Board of the Judicial Council on the 9th December 2020 pursuant to Section 18 (4) as amended were adopted by the Council on 6th March 2021. Those Guidelines require to be reviewed by the Committee by 5th March 2024.

| Membership | Meetings Attended |
|---|--------------------------|
| Ms Justice Dunne, Chairperson (from 14 th July 2022) | 1 |
| Ms Justice Mary Irvine, Chairperson (to 13 th July 2022) | N/A |
| Mr Justice Seamus Noonan | 1 |
| Mr Justice Paul Coffey (from 27 th October 2022) | 1 |
| Mr Justice Michael MacGrath | 1 |
| Judge Sarah Berkeley (from 18 th January 2022) | 1 |
| Judge James McCourt (from 18 th January 2022) | 0 |
| Mr Justice Senan Allen* ⁴ | N/A |
| Judge Brian O'Shea | 0 |

Sentencing Guidelines and Information Committee – Section 23

The Committee was established on the 30th of June 2020 and has met on 4 occasions in 2022. The Sentencing Guidelines and Information Committee includes five lay members nominated by Government in July 2020. The Department of Public Expenditure, National Development Plan Delivery and Reform has decided that a per diem rate of €500 apply to lay members subject to a limitation on the total number of meetings and subcommittee meetings of 30 per annum in respect of both Committees which include lay members. This Committee has formed subcommittees to progress its work, one of which has met in 2022.

⁴ *Mr Justice Senan Allen remained as a member until 23rd June 2022 when he was appointed to the Court of Appeal. There was no meeting in 2022 during his membership term.*

Judicial committee members do not receive fees. Lay members not subject to one person one salary are due fees. Lay members received payment of fees in 2022, but the fees were not charged by the Department of Justice to the Judicial Council until 2023. These fees are recorded as accruals.

The Committee's functions are to :-

- prepare and submit to the Board for its review draft sentencing guidelines,
- prepare and submit to the Board for its review draft amendments to sentencing guidelines adopted by the Council,
- monitor the operation of sentencing guidelines,
- collate, in such manner as it considers appropriate, information on sentences imposed by the Courts, and
- disseminate that information from time to time to judges and persons other than judges.

| Membership | Meetings attended |
|--|--------------------------|
| Ms Justice Iseult O'Malley (Chairperson) | 4 |
| Mr Justice John Edwards | 4 |
| Mr Justice Tony Hunt | 4 |
| Mr Justice Paul Coffey | 2 |
| Ms Justice Tara Burns | 3 |
| Judge Rory MacCabe [^] | N/A |
| Judge Keenan Johnson ^{^5} | 3 |
| Judge Francis Comerford [^] | 4 |
| Judge Paula Murphy | 4 |
| Mr. Vivian Geiran | 4 |
| Dr. Diarmuid Griffin | 1 |
| Mr. Michael O'Sullivan | 4 |
| Ms. Marianne O'Kane | 4 |
| Dr. Sinéad Ring | 4 |

⁵ Judge Melanie Greally and Judge Rory McCabe resigned on 6th October 2021 and 13th January 2022 respectively. They were replaced by Judge Keenan Johnson and Judge Francis Comerford who were appointed on 18th January 2022.

Judicial Support Committees – Section 30

Section 30 (3) of the Judicial Council Act 2019 states that “the function of a Judicial Support Committee shall be to advise and assist the Council in the performance of its functions under this Act insofar as matters relevant to the Court to which the Committee relates are concerned”.

Date of establishment of all five Committees: 31st March 2020

Membership of each jurisdictional committee is made up of (i) the jurisdictional President plus (ii) the elected member(s) from that jurisdiction for a term of four years:

| | |
|------------------|--|
| Supreme Court: | The Chief Justice and Ms Justice Elizabeth Dunne |
| Court of Appeal: | The President of the Court of Appeal and Vacancy |
| High Court: | The President of the High Court, Mr Justice Robert Eagar and Ms Justice Niamh Hyland |
| Circuit Court: | The President of the Circuit Court, Judge Tom O’Donnell and Judge Eoin Garavan |
| District Court: | The President of the District Court, Judge Marie Keane and Judge Dermot Simms |

None of these committees met in 2022.

Judicial Welfare and Support Committee – established pursuant to Section 7 (3) (a)

Date of establishment: 10th February 2020

The following are the terms of Reference of the Judicial Welfare and Support Committee adopted at the first meeting of the Judicial Council on 7th February 2020:

“The Committee will assist and advise the Judicial Council in the performance of its function set out in Section 7 (2) (l) of the Act to assist with the provision of support to judges generally.”

The Committee is comprised of 5 judges [one from each jurisdiction] nominated by the Chief Justice.

The term of office of a member of the Support and Welfare Committee shall be for four years.

The Judicial Welfare and Support Committee has met on 1 occasion in 2022.

| Membership | Meetings Attended |
|------------------------------|--------------------------|
| Ms Justice Marie Baker | 1 |
| Ms Justice Caroline Costello | 1 |
| Mr Justice Garrett Simons | 1 |
| Judge Elma Sheahan | 1 |
| Judge John Brennan | 0 |

Committees of the Board

The Board has established the following Committees in relation to oversight of its financial management.

Finance Committee (consisting of the Chief Justice and four Presidents). Its role is in relation to financial oversight and authorisation of contracts during the establishment phase of the Council's functions. The Board retains financial oversight and no separate meetings of this committee were required.

Governance Committee (consisting of Ms Justice Donnelly, Judge Aylmer and Judge Elizabeth MacGrath). Its role is in relation to oversight of the development of the governance policies and requirements of the Council. No fees are paid to members and no expenses were paid.

The Board is responsible for ensuring that the Council has complied with the requirements of the Code of Practice for the Governance of State Bodies ("the Code"), as published by the Department of Public Expenditure, National Development Plan Delivery and Reform in August 2016 insofar as it is compatible with the independence of the judiciary in Ireland. The following disclosures are required by the Code:

Employee short term benefits breakdown

Employees' short term benefits in excess of €60,000 are categorised into the following bands.

| Range of Total Employee Benefits | | Employee Numbers 2022 | Employee Numbers 2021 |
|----------------------------------|-----------|-----------------------------|-----------------------------|
| <u>From</u> | <u>To</u> | | |
| €60,000 | €69,999 | - | 1 |
| €70,000 | €79,999 | 1 | - |
| €80,000 | €89,999 | - | - |
| €90,000 | €99,999 | - | - |
| €100,000 | €109,999 | - | - |
| €110,000 | €119,999 | 1 | - |
| €120,000 | €129,999 | - | - |
| €130,000 | €139,999 | - | 1 |
| €140,000 | €149,999 | - | - |
| €150,000 | €159,999 | - | - |
| €160,000 | €169,999 | - | - |

Note: For the purposes of this disclosure, short-term employee benefits in relation to services rendered during the reporting period include salary, overtime allowances and other payments made on behalf of the employee but exclude employer's PRSI.

Consultancy Costs

Consultancy costs include the cost of external advice to management and exclude outsourced 'business-as-usual' functions.

| | 2022 | 2021 |
|---|---------------|--------------|
| | € | € |
| Legal Advice | 19,746 | - |
| IT Consultancy | - | 8,124 |
| Total | 19,746 | 8,124 |
| Consultancy Costs Capitalised | - | - |
| Consultancy Costs charged to the Income and Expenditure and Retained Revenue Reserves | 19,746 | 8,124 |
| Total | 19,746 | 8,124 |

Legal Costs and Settlements

The Judicial Council did not incur expenditure in the reporting period in relation to legal costs, settlements and conciliation and arbitration proceedings relating to contracts with third parties.

Travel and Subsistence Expenditure

Travel and subsistence expenditure is categorised as follows:

| | 2022 | 2021 |
|---------------|----------------------|---------------------|
| | € | € |
| Domestic | | |
| • Judges | 6,696 | 6,334 |
| • Employees | 590 | - |
| • Lay Members | - | - |
| | <u>7,286</u> | <u>6,334</u> |
| Foreign | | |
| • Judges | 80,667 | - |
| • Employees | 1,818 | - |
| • Lay Members | - | - |
| | <u>82,485</u> | <u>-</u> |
| Total | <u><u>89,771</u></u> | <u><u>6,334</u></u> |

Hospitality Expenditure

The Income and Expenditure account includes the following hospitality expenditure:

| | 2022 | 2021 |
|--------------------------------------|---------------------|---------------------|
| | € | € |
| Judges / Visiting Judges Hospitality | 2,941 | 1,181 |
| Total | <u><u>2,941</u></u> | <u><u>1,181</u></u> |

Statement of Compliance with the Code of Practice for the Governance of State Bodies (2016)

The Judicial Council of which all judges are members by virtue of their office, creates for the first time a “judicial public body”. It is a council of the judiciary which, in addition to its independence under the Act, is internationally recognised as wholly independent.

The members of the Council's Board and members of its committees may only be judges and it therefore follows that this membership is consequently a judicial function. These roles therefore carry with them that constitutional independence. In practical terms this means that a judge cannot be held to account in the same manner as public servants. In enacting legislation assigning roles which may only be carried out by judges, it is to be considered that the Oireachtas contemplated, and was aware of, this position and consequently that different governance criteria would have to apply. This situation is therefore unique and unprecedented with no direct comparator insofar as public sector governance in Ireland goes.

Judges in Ireland are, under the Constitution, independent in carrying out their functions. The separation of powers enshrines the independence of the judiciary to preserve that independence from other branches of government and organs of the State. The judiciary in Ireland is subject to oversight as provided in law including under the Constitution. This position was unchanged with the commencement of the Judicial Council Act 2019. Therefore aspects of the Code of Practice for the Governance of State Bodies may not apply to the Judicial Council. It is agreed with the Department of Justice that there is no necessity for a formal oversight arrangement to be put in place between the Council and the Department.

The Code of Practice for the Governance of State Bodies expressly states that governing legislation supersedes the Code:

“This Code should be read in conjunction with the legislative provisions which govern the State body. Existing legislative provisions applying to a State body on matters that are also the subject of this Code, continue to apply and for the avoidance of doubt, in the event of any conflict or inconsistency, the legislative provisions prevail.”

In the case of the Council, that governing legislation includes both the Judicial Council Act 2019 and the Irish Constitution, and both displace provisions of the Code where a conflict or incompatibility arise. It is the position that the Code and other guidelines may apply in a range of circumstances to the Council. It does not apply where it conflicts with judicial independence. There are a number of categories identified to date in which the Code cannot apply. In addition, the Act is notably absent many of the reporting provisions typical of public bodies in their governing legislation.

Matters in the Code which conflict with judicial independence and cannot apply

- Oversight agreement with a government department
- A performance delivery agreement
- Any provision of the Code which holds judges, as members of the Council, the Board or a Committee to account
- A comprehensive report to a Minister
- Ethical Guidelines have been adopted for all judges and the ethical guidelines envisaged in the Code do not apply
- Register of Interests (judges are not required upon taking up office as a judge to make a disclosure of interests as envisaged by the Code and any such requirement would be an indirect route to bypassing such. Conflicts of Interests is a standing item for Board meetings which provides appropriate assurance.)
- The Chairperson is not required to attend before an Oireachtas Committee
- A Customer Charter and a Customer Action Plan are not required.

There are instances set out in the Code whereby, notwithstanding the Code does not apply, its standards are adopted by the Council so as to adhere to good governance. In other instances, the Code clearly applies. In both of these cases the Council intends to follow the Code's provisions.

Other aspects of the Code

Save in respect of the foregoing, the Council intends to follow the other aspects of the Code in circumstances where

- the Council adopts a provision of the Code as a measure of good governance, notwithstanding that the Code does not apply, or
- there is no conflict with judicial independence and the Code will be followed.

The Judicial Council does however adhere to good governance principles. In some instances where the Code cannot apply, judges are already held to different but much greater scrutiny and/or higher standards than envisaged by the Code. Further, the Act discloses a number of statutory reporting requirements and timebound targets.

As at 31 December 2022, the Judicial Council has complied with the requirements of the Code of Practice for the Governance of State Bodies, as published by the Department of Public Expenditure, National Development Plan Delivery and Reform in August 2016, insofar as it is compatible with the independence of the judiciary in Ireland with the following exceptions, arising from which it intends to :

1. Establish an Audit and Risk Committee. This will be done during the next accounting year.

2. Undertake an assessment of its Board's effectiveness as recommended by the Code as a matter of good practice during 2023.

On behalf of the Judicial Council

Donal O'Donnell

Donal O'Donnell,
Chief Justice and Chairperson

Kevin O'Neill

Kevin O'Neill,
Secretary to the Judicial Council

Date: 8th December 2023

STATEMENT ON INTERNAL CONTROL

Scope of Responsibility

On behalf of the Judicial Council, I acknowledge the Board's responsibility for ensuring that an effective system of internal control is maintained and operated in the Council. This responsibility takes account of the requirements of the Code of Practice for the Governance of State Bodies (2016).

Internal Control in Place

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

The Board is satisfied that the systems, which it has in place, are reasonable, proportionate and appropriate for the Council's circumstances having regard to its size, level of expenditure, staff resources and the nature of its operations. Maintaining the system of internal controls is a continuous process and the system and its effectiveness are kept under ongoing review.

Impact of Covid-19 pandemic on the Control Environment

The onset of the Covid-19 pandemic in early 2020, and the resulting public health advice and safety measures, rapidly changed the working practices of the Judicial Council, with a remote and virtual working becoming the norm. As the Council was in its initial set up stages in 2020 it was able to build its early capacity in full knowledge of the new environment and without having to adapt pre-existing procedures. This benefit continued in 2022 though the regularly changing public health measures resulted in in-person statutory meetings being postponed or moved to a remote platform at short notice. Guidance provided by the Department of Justice was also availed of.

Shared Services

The Judicial Council was established with effect from 17th December 2019. From then, the Council did not have its own accounting system. An arrangement is in place whereby all income and expenditure pertaining to the Council are processed on its behalf by the Courts Service. The Council also avails of shared services from the Payroll Shared Services Centre (PSSC) via the Courts Service.

Risk and Control Framework

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

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

Ongoing Monitoring and Review

The Judicial Council has in place an Internal Control Document which identifies risks to the Council, the controls in place and the reporting and monitoring procedures.

The Board takes the major strategic decisions and meets at regular intervals to monitor performance and plans. The executive management only act within the authority delegated by the Board or pursuant to those functions under the Act to give effect to the Council's policies and the Board's decisions. I confirm that the following ongoing monitoring systems are in place:

- Key risks and controls have been identified and processes have been put in place to monitor the operation of those key controls and report on any deficiencies,
- Formal procedures are in place for the purchase of all goods and services, for approval of invoices in respect of goods and services and authorisation of payment in respect of goods and services.
- There are regular reviews by the Secretary of periodic and annual performance and financial reports which indicate performance against budgets/forecasts.
- Reporting arrangements have been established at all levels where responsibility for financial management has been assigned.
- A Finance Committee has been established to provide financial oversight and authorisation of contracts during the establishment phase of the Council's functions
- There are systems in place to safeguard assets

Assurances

Information and Communication Technologies

An independent ICT function for the Council was developed and rolled out in early 2022. An independent ICT service provider, Radius Technologies who are an ISO90001 and ISO27001 accredited Managed Services Provider was engaged. The Council uses the Radius Private Cloud Service which is located in a Data Centre in Dublin and it has deployed a multi node cluster with failover redundancy, replication and data backup managed by Radius Technologies staff.

Procurement

I confirm that the Judicial Council has procedures in place to ensure compliance with current procurement rules and guidelines and that during 2022 the Council complied with those procedures.

Internal Control Issues

No weaknesses with internal controls were identified in relation to 2022 that require disclosure in the financial statements.

Review of Effectiveness

I confirm that the Council has procedures to monitor the effectiveness of its risk management and internal control procedures. The Council has appointed an external firm to carry out the Internal Audit function as recommended by the Code of Practice for the Governance of State Bodies. The review carried out by Internal Audit on internal controls informed the Council's review.

I confirm that the Council conducted an annual review of the effectiveness of the internal controls for 2022 in March 2023.

On behalf of the Judicial Council



Donal O'Donnell,
Chief Justice and Chairperson

Date: 8th December 2023

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL ON THE FINANCIAL STATEMENTS



Ard Reachtaire Cuntas agus Ciste Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Judicial Council

Opinion on financial statements

I have audited the financial statements of the Judicial Council for the period ended 31 December 2022 as required under the provisions of section 38 (2) of the Judicial Council Act 2019. The financial statements comprise

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

In my opinion, the financial statements give a true and fair view of the assets, liabilities and financial position of the Judicial Council at 31 December 2022 and of its income and expenditure for the period ended 31 December 2022 in accordance with Financial Reporting Standard (FRS) 102 — *The Financial Reporting Standard applicable in the UK and the Republic of Ireland*.

Basis of opinion

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

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

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

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

I have nothing to report in that regard.

Paul Southern
For and on behalf of the
Comptroller and Auditor General

11 December 2023

Appendix to the report

Responsibilities of the Board members

The governance statement sets out the Board members' responsibilities. The Board is responsible for

- the preparation of annual financial statements of the Judicial Council in the form prescribed under section 38 (1) of the Judicial Council Act 2019
- ensuring that the financial statements give a true and fair view in accordance with FRS 102
- ensuring the regularity of transactions
- assessing whether the use of the going concern basis of accounting is appropriate, and
- such internal control as they determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Responsibilities of the Comptroller and Auditor General

I am required under section 38 (2) of the Judicial Council Act 2019 to audit the financial statements of the Judicial Council and to report thereon to the Houses of the Oireachtas.

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

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

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

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

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

I report by exception if, in my opinion,

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

Information other than the financial statements

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

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

Reporting on other matters

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

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

**STATEMENT OF INCOME AND EXPENDITURE AND RETAINED REVENUE
RESERVES FOR THE YEAR ENDED 31 DECEMBER 2022**

| Income | Notes | 2022 | 2021 |
|---|--------------|------------------|------------------|
| | | € | € |
| Oireachtas Grant | 2 | <u>832,717</u> | <u>379,385</u> |
| Total Income | | 832,717 | 379,385 |
| Expenditure | | | |
| Staff Costs | 3 | (330,758) | (216,524) |
| Administration and Operations | 4 | (351,456) | (268,682) |
| Depreciation | | <u>(3,097)</u> | <u>-</u> |
| Total Expenditure | | (685,311) | (485,206) |
| Deficit for the period before appropriations | | 147,406 | (105,821) |
| Transfer to capital account | 7 | (308,131) | (3,740) |
| Remitted to Department of Justice | | <u>-</u> | <u>-</u> |
| Deficit for the period after Appropriations | | <u>(160,725)</u> | <u>(109,561)</u> |
| Deficit brought forward at 01 January | | <u>(160,131)</u> | <u>(50,570)</u> |
| Deficit carried forward at 31 December | | <u>(320,856)</u> | <u>(160,131)</u> |

The Statement of Income and Expenditure and Retained Revenue Reserves includes all gains and losses recognised in the period. The Statement of Cash Flows and notes 1 to 13 form an integral part of these financial statements.

On behalf of the Judicial Council

Donal O'Donnell

Donal O'Donnell,
Chief Justice and Chairperson

Kevin O'Neill

Kevin O'Neill,
Secretary to the Judicial Council

Date: 8th December 2023

STATEMENT OF FINANCIAL POSITION AS AT 31 DECEMBER 2022

| | Notes | 2022 € | 2021 € |
|--------------------------------|-------|------------------|------------------|
| Fixed Assets | 5 | <u>311,871</u> | <u>3,740</u> |
| Current Liabilities | | | |
| Payables | 6 | <u>(320,856)</u> | <u>(160,131)</u> |
| Net Current Liabilities | | <u>(320,856)</u> | <u>(160,131)</u> |
| Total Net Liabilities | | <u>(8,985)</u> | <u>(156,391)</u> |
| Representing | | | |
| Capital Account | 7 | 311,871 | 3,740 |
| Retained Revenue reserves | | <u>(320,856)</u> | <u>(160,131)</u> |
| | | <u>(8,985)</u> | <u>(156,391)</u> |

The Statement of Cash Flows and notes 1 to 13 form an integral part of these financial statements.

On behalf of the Judicial Council

Donal O'Donnell

Donal O'Donnell,
Chief Justice and Chairperson

Kevin O'Neill

Kevin O'Neill,
Secretary to the Judicial Council

Date: 8th December 2023

STATEMENT OF CASH FLOWS FOR YEAR ENDED 31 DECEMBER 2022

| | 2022 | 2021 |
|---|------------------|----------------|
| | € | € |
| Net Cash Flows from Operating Activities | | |
| Operating deficit for period | 147,406 | (105,821) |
| Depreciation charge | 3,097 | - |
| (Increase)/Decrease in Receivables | - | - |
| Increase/(Decrease) in Payables | 160,725 | 109,561 |
| Net Cash Flows from Operating Activities | <u>311,228</u> | <u>3,740</u> |
| Cash Flows From Investing Activities | | |
| Payments to Acquire Property, Plant and Equipment | <u>(311,228)</u> | <u>(3,740)</u> |
| Net Cash Flows from Investing Activities | <u>(311,228)</u> | <u>(3,740)</u> |
| Cash Flows from Financing Activities | <u>-</u> | <u>-</u> |
| Net Increase/(Decrease) in Cash and Cash Equivalents | <u>-</u> | <u>-</u> |
| Cash and Cash Equivalents at 31 st December 2022 | <u>-</u> | <u>-</u> |

On behalf of the Judicial Council

Donal O'Donnell

Donal O'Donnell,
Chief Justice and Chairperson

Kevin O'Neill

Kevin O'Neill,
Secretary to the Judicial Council

Date: 8th December 2023

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2022

1. Accounting Policies

(a) The basis of accounting and significant accounting policies adopted by the Judicial Council is set out below. They have all been applied consistently throughout the period.

(b) General Information

The Judicial Council was established pursuant to the Judicial Council Act 2019 on the 17th December 2019, with a head office at Green Street Courthouse, Dublin 7, D07 W568. A part of that premises houses the administrative and training functions for the Council and is provided in kind by the Courts Service. The Courts Service also facilitates the Council's access to financial and HR shared services provided to that body by the Department of Justice and the NSSO respectively. The processing of the Council's financial transactions is supported by the Courts Service. That process involves payments incurred by the Council being paid by the Courts Service and recouped to that body by the Department of Justice from the Council's funding within the Department's Vote.

The Council's functions are as set out in Section 7 of the Judicial Council Act 2019, being to promote and maintain:

- excellence in the exercise by judges of their judicial functions;
- high standards of conduct among judges, having regard to the principles of judicial conduct requiring judges to uphold and exemplify judicial independence, impartiality, integrity, propriety (including the appearance of propriety), competence and diligence and to ensure equality of treatment to all persons before the courts.
- the effective and efficient use of resources made available to judges for the purposes of the exercise of their functions.
- continuing education of judges,
- respect for the independence of the judiciary, and
- public confidence in the judiciary and the administration of justice.

(c) Basis of accounting

The financial statements of the Judicial Council for the year ended 31 December 2022 have been prepared in accordance with FRS 102, the financial reporting standard applicable in the UK and Ireland issued by the Financial Reporting Council (FRC).

The financial statements have been prepared on the going concern basis, under the accruals method of accounting, except where stated below, and in accordance

with generally accepted accounting principles under the historical cost convention and in the form approved by the Minister for Justice with the consent of the Minister for the Department of Public Expenditure, National Development Plan Delivery and Reform.

(d) Revenue

Oireachtas grants are recognised in the financial statements on a cash basis and represent funding provided to the Judicial Council through the Vote of the Department of Justice. The funding is provided via the Courts Service for all payments on behalf of the Judicial Council. Oireachtas grant income and income applied to capital expenditure match the sum charged to the Appropriation Account of the Department.

(e) Expenditure

All expenditure, including payroll, is processed by the Courts Service and recorded on an accrual basis in the financial statements.

(f) Tangible Assets and Depreciation

Tangible assets are stated at their historical cost less accumulated depreciation. Depreciation is charged to the Statement of Income and Expenditure and Retained Reserves on a straight line basis, at the rates set out below, so as to write off the assets, adjusted for residual value, per their expected useful lives as follows:

| | |
|------------------|----------------------------|
| IT Equipment | Straight-line over 5 years |
| Office Equipment | Straight-line over 5 years |

Any assets that are under construction are not depreciated. Once projects under construction are completed, relevant depreciation rates are applied.

The residual value and useful lives of fixed assets are considered annually for indicators that these may have changed. Where such indicators are present, a review will be carried out of the residual value, depreciation methods and useful lives, and these will be amended if necessary. Changes in depreciation rates arising from this review are accounted for prospectively over the remaining useful lives of the assets.

(g) Employee Benefits

Short-term Benefits

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

Superannuation Benefits

The employee(s) of the Judicial Council are civil servants and are members of a defined benefit scheme which is unfunded and is administered by the Department of Public Expenditure, National Development Plan Delivery and Reform. For transparency, the Secretary holds office under a contract of service, and is therefore not a member of the staff of the Council or a civil servant.

The Public Service (Single Scheme and Other Provision) Act 2012 became law on 28th July 2012 and introduced the new Single Public Service Pension Scheme (Single Scheme) which commenced with effect from 1st January 2013. All new staff members to the Judicial Council, who are new entrants to the Public Sector, on or after 1st January 2013 will be members of the Single Scheme.

There is no charge in these financial statements for any liabilities which may arise in respect of the retirement benefits of Judicial Council staff.

One member of staff has been seconded from the Courts Service and a second member of staff was recruited in 2021. Two further staff were recruited in August and October 2022 via civil service mobility and a Public Appointments Service competition respectively. Pension liabilities of such staff will be met out of Vote 12 Superannuation and no provision has been made in these financial statements in respect of these costs.

(h) Critical Accounting Judgements and Estimates

The preparation of the financial statements requires management to make judgements, estimates and assumptions that affect the amounts reported for assets and liabilities as at the reporting date and the amounts reported for revenues and expenses during the year. However, the nature of estimation means that actual outcomes could differ from those estimates.

2. Oireachtas Grant

| Oireachtas Grant | 2022 € | 2021 € |
|----------------------------------|----------------|----------------|
| Vote 24 — Justice – Sub-head B 9 | 832,717 | 379,385 |
| Total | 832,717 | 379,385 |

The Oireachtas grant figure comprises the amount charged to Subhead B 9 in 2022 of €818,341 (2021: €365,136) and pension levy receipts amounting to €14,376 (2021: €14,249).

3. Staff Costs

(a) Aggregate Employee Benefits

| | 2022 € | 2021 € |
|----------------------------|----------------|----------------|
| Wages and salaries | 328,350 | 216,524 |
| Travelling and subsistence | 2,408 | - |
| Total | 330,758 | 216,524 |

At 31 December 2022 the Council employed 3.6 (2021: 1.6) whole time equivalent permanent staff in addition to the Secretary.

(b) Secretary

The remuneration of the Secretary for the year ended 31 December 2022 was €120,538 (Including employee allowances and PRSI). Travel and Subsistence payments of €1,283 (2021: €Nil) were made to the Secretary in accordance with Civil Service rates.

The administration of the pay and pension for the relevant person has been unresolved and therefore no liabilities have been reflected in relation to pension in the financial statements. The arrangements for the establishment of the relevant pension scheme are ongoing. Separately, an accrual for pay arrears for the Secretary has been included in the financial statements.

The Secretary's pension entitlements do not extend beyond the standard entitlements in the public sector defined benefit superannuation scheme. No performance related payments were made in 2022 to the Secretary. The Judicial Council Act 2019 authorises the setting up of a pension scheme for the Secretary. Discussions are ongoing with the Department of Justice in relation to the establishment of the scheme.

4. Administration and Operations

| | 2022 | 2021 |
|---|----------------|----------------|
| | € | € |
| Postage and telecommunications | 2,915 | - |
| Travel and Subsistence – Judicial Council members | 87,363 | 6,334 |
| Judicial Training | 102,087 | 109,751 |
| Academic Research | 36,560 | - |
| Hospitality | 2,941 | - |
| Communications | 7,380 | 26,980 |
| General expenses | 5,852 | 7,181 |
| Accountancy fees | 27,011 | 28,413 |
| Administration and Operations | 8,684 | 6,014 |
| Legal textbooks | - | 32 |
| IT support and maintenance | 40,672 | 14,834 |
| Lay member fees | (58) | 18,000 |
| Subscriptions | 1,424 | 1,491 |
| Legal Advice | 19,746 | 41,152 |
| Audit Fee | 8,500 | 8,500 |
| Prompt Payment Interest | 379 | - |
| Total | <u>351,456</u> | <u>268,682</u> |

5. Fixed Assets

| | Construction In Progress* | Office Equipment | IT Equipment | Total |
|------------------------------|--------------------------------------|-----------------------------|-------------------------|----------------|
| | € | € | € | € |
| <u>Cost</u> | | | | |
| At 01 January 2022 | - | - | 3,740 | 3,740 |
| Additions | 274,258 | 27,650 | 9,320 | 311,228 |
| At 31 December 2022 | <u>274,258</u> | <u>27,650</u> | <u>13,060</u> | <u>314,968</u> |
| <u>Depreciation</u> | | | | |
| At 01 January 2022 | - | - | - | - |
| Charge for the period | - | 1,512 | 1,585 | 3,097 |
| At 31 December 2022 | <u>-</u> | <u>1,512</u> | <u>1,585</u> | <u>3,097</u> |
| <u>Net Book Value</u> | | | | |
| At 31 December 2022 | <u>274,258</u> | <u>26,138</u> | <u>11,475</u> | <u>311,871</u> |
| At 31 December 2021 | <u>-</u> | <u>-</u> | <u>3,740</u> | <u>3,740</u> |

*Construction in progress relates to leasehold improvement works which are due to be complete and in use in 2023.

6. Payables

| | 2022 | 2021 |
|--------------------|----------------|----------------|
| | € | € |
| Accruals - Pay | 83,567 | 40,253 |
| Accruals – Non-pay | 237,289 | 119,878 |
| Total | <u>320,856</u> | <u>160,131</u> |

7. Capital Accounts

| | 2022 | 2021 |
|---|----------------|--------------|
| | € | € |
| As at 1 st January | 3,740 | - |
| Funds allocated to acquire fixed assets | 36,970 | 3,740 |
| Funds allocated to development of assets | 274,258 | - |
| Amount amortised in line with asset depreciation | (3,097) | - |
| Amount released from / (to) statement of income and expenditure | <u>308,131</u> | <u>3,740</u> |
| As at 31st December | <u>311,871</u> | <u>3,740</u> |

8. Additional Superannuation Contribution

Additional Superannuation Contributions (ASC) were made in line with statutory requirements. The Courts Service pays salaries on behalf of the Council. ASC deductions, are made by the Courts Service. Deductions of €14,376 (2021: €14,249) were paid over to the Department of Justice by the Courts Service.

9. Premises

The Council's head office is at Green Street Courthouse, Dublin 7 D07 W568.

Judicial Council entered into a Licence Agreement with the Courts Service in May 2022. The duration of this agreement is for a period of ten years. The office is provided free of charge by the Courts Service under the condition that Judicial Council is to incur the costs of building works.

10. Capital Commitments

There were no capital commitments as at 31st December 2022.

11. Related Party Transactions/ Disclosure of interests

Key management personnel consist of Board members, Committee members and the Secretary. Board members are not entitled to receive fees or stipends.

The details regarding the Secretary pay and expenses are disclosed in Note 3.

The Judicial Council complies with the Code of Practice for the Governance of State Bodies issued by the Department of Finance in relation to the disclosure of interests by the Council members [having regard to and insofar as compatible with their positions as members of the judiciary] and its staff. Formal procedures exist to ensure adherence with this requirement of the code. No related party transactions took place in 2022.

12. Events after reporting period

There are no events between the reporting date and the date of approval of these financial statements for issue that require adjustment to the financial statements.

13. Approval of financial statements

These accounts were approved by the Judicial Council on 8th December 2023