



**An tÚdarás Rialála
Seirbhísí Dlí**
Legal Services
Regulatory Authority

ANNUAL REPORT 2018

Independence

Innovation

Consumer Protection

Accountability and Transparency

April 2019

Declaration

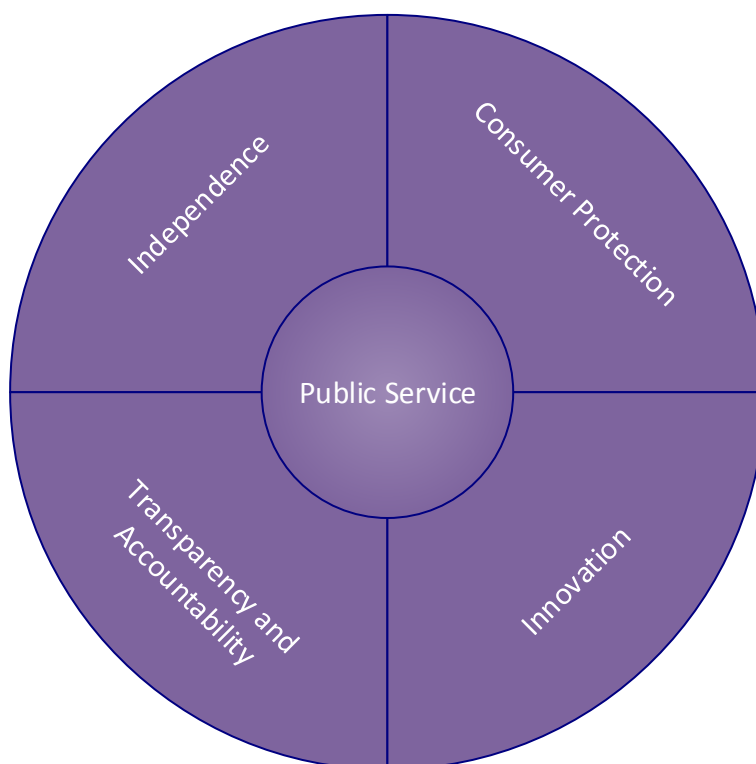
Annual Report for the year ended 31 December 2018

This Annual Report is made to the Minister for Justice and Equality and to the Oireachtas Joint Committee on Justice and Equality in accordance with section 21(1) of the Legal Services Regulation Act 2015.

The LSRA’s Vision:

“To develop the LSRA into an efficient, effective and accountable regulatory body with the capacity to protect and promote the public interest and the interests of consumers of legal services whilst encouraging an independent, strong, competitive legal profession with high standards of professionalism and integrity.”

LSRA Statement of Strategy 2018-2020





Foreword by the Chairperson

I am pleased to introduce the 2018 Annual Report for the Legal Services Regulatory Authority (LSRA). This is the Authority's third annual report and the second to reflect on a full year's activities.

The 2018 Annual Report looks back on a very busy year in which the Authority completed some key pieces of work and laid the groundwork for some of the significant reforms in the delivery of legal services in Ireland, which will be introduced throughout 2019.

It has been a demanding time for the Authority, and a lot of hard work has been delivered by the small executive team.

The significant work completed within 2018 by the LSRA included the review of the education and training of legal practitioners in the State. This was submitted to the Minister for Justice and Equality at the end of September 2018. The LSRA, in fulfilling its statutory duties to publicly consult and report on the arrangements in the State for the education and training of legal practitioners, commissioned an independent review of the existing arrangements. The resulting report proposes some key reform initiatives, which if implemented, could have a wide reaching impact on the delivery of legal education. Further consideration and exploration of the report and its proposals, including stakeholder and public consultations, will take place over the course of the coming year.

During 2018, the LSRA established the Roll of Practising Barristers. The work involved in such an undertaking should never be underestimated and it is a credit to the small team of the LSRA that by year-end, they had put in place a robust and efficient system to register qualified barristers who are entitled to provide legal services in the State.

The Authority members met on five occasions in 2018 and I once again wish to thank my fellow Authority members for their hard work, commitment and active engagement throughout the year. Each of the five meetings in 2018 have had detailed and challenging agendas accompanied by papers, reports and regulations of a highly technical nature. This has routinely required significant preparatory work on the part of all of the Authority members. The Authority has tackled these tasks with an open and cohesive approach. I am grateful to them for their engagement and interest in all areas.

In July, our Chief Executive Brian Doherty and I were delighted to attend a meeting of the Joint Oireachtas Committee on Justice and Equality. It was a valuable opportunity to highlight the work of the Authority to date, to outline our plans for the future and to hear the views of the Committee members and answer questions on our role, resources and remit.

2019 will be an important year for the Authority. We will launch the frameworks for the establishment of Legal Partnerships and Limited Liability Partnerships, new models for the delivery of legal services in Ireland. We will also commence the independent investigation of complaints made against legal practitioners. A lot of our work in 2018 has been focused on laying the groundwork for what we will deliver in 2019 and into 2020. For a small Authority with limited staff and resources, this has been a challenge, but one that will no doubt hold us in good stead in the future.

We are closer to our goal of fully establishing the Legal Services Regulatory Authority so that it can fulfil the comprehensive range of functions and duties conferred on it under the Act. I am confident that the work done in 2018 has created a solid foundation on which we can build.

Dr. Don Thornhill
Chairperson



Introduction by the Chief Executive Officer

I am delighted to introduce the third annual report of the Legal Services Regulatory Authority under section 21 of the Legal Services Regulation Act 2015. This report covers my first full year as Chief Executive of the new Authority and I am pleased to be able to reflect on a busy and demanding but fulfilling year.

The year saw the establishment of the Roll of Practising Barristers. The small team at the LSRA worked diligently and effectively so that by year-end, over two thousand practising barristers were registered. In that time, they dealt with a multitude of queries from members of the legal profession about the Roll and its potential impact. Both the King's Inns and the staff and management of the Bar of Ireland provided invaluable assistance in this process. The staff of the King's Inns assisted the LSRA in verifying the qualifications of applicants to the Roll whilst the management and staff of the Bar of Ireland distributed application forms and provided repeated and regular information updates to their members. This was all greatly appreciated by the team at the LSRA.

The year also saw the submission to the Minister for Justice & Equality of the report on the education and training of legal practitioners. I was heartened during the process of preparing the report by the great interest shown by legal practitioners, law students, State and non-State agencies and the general public. We received 38 written submissions on the topic of legal education and almost 700 people completed questionnaires or were interviewed, all of which ensured that the report was based on a broad range of viewpoints and a rich data set. We are very grateful to all of those who took part and a special thanks is due to all of those who provided written submissions, completed questionnaires or were interviewed as part of this important piece of research. There is more work ahead of us and we will be engaging with the legal profession and the consumer in the coming year to build on the work already done.

During the year, I was delighted to be able to attend several events at which I was able to meet with members of the legal profession and the public, and to speak about the work of the LSRA and our plans for the future. I am particularly grateful to the Bar Associations throughout the country who invited me to meet their members and to Smith and Williamson for affording me the opportunity to speak at the launch of their seventh annual survey of legal firms. It was again heartening to repeatedly

hear welcoming and encouraging sentiments being expressed in relation to the work of the LSRA. There was also, occasionally, the opportunity for a frank exchange of views on certain topics. All of this healthy and open dialogue reflects the commitment of the LSRA to be Transparent and Accountable in its activities.

As with last year, I am grateful to the staff and management of the Law Society, the Bar of Ireland and the Honorable Society of King's Inns for their engagement and assistance throughout the year. Due to the high level of public consultation and consultation with the professional bodies required in carrying out the independent functions of the LSRA, the LSRA has continually placed demands on the resources of the Law Society, the Bar and King's Inns. The professional bodies have all been very generous with their time, insight and resources and, whilst respecting the independence of the LSRA, have engaged enthusiastically with each consultation process.

Finally, I once again owe a huge debt of thanks to the small staff of the LSRA who have worked extraordinarily hard to meet all of the challenges that building a new regulatory authority presented throughout the year. The team is small but very effective and they have tackled each new task with enthusiasm and aplomb.

As always, they have my heartfelt thanks.

Dr. Brian J. Doherty
Chief Executive Officer

PART 1: The Authority

The Legal Services Regulatory Authority (the Authority) was established by the Minister for Justice & Equality on 1 October 2016 by virtue of S.I. 507 of 2016 in accordance with section 7 of the Legal Services Regulation Act 2015 (the 2015 Act).

The Authority is a body corporate with perpetual succession and a seal. The executive function is provided by a Chief Executive Officer (CEO), the Secretary to the Authority and a small executive team.

The Authority is comprised of 11 Members nominated in accordance with section 9 of the 2015 Act. The Authority has a lay majority and chair. Authority members are appointed by the Government following nomination by 10 organisations. This nomination process was designed to ensure the independence of the Authority while also achieving a gender balance and a balance of interests between legal practitioners and those consumers who avail of their services. The nominating organisations are as follows:

Organisation	No. of Nominations
The Citizens Information Board	1
Higher Education Authority (An tÚdarás um Ard-Oideachas)	1
The Competition and Consumer Protection Commission	1
The Irish Human Rights and Equality Commission	1
The Institute of Legal Costs Accountants	1
Consumers' Association of Ireland	1
Bar Council (Bar of Ireland)	1
Legal Aid Board	1
Honorable Society of the King's Inns	1
Law Society	2

When appointing a person to be a member of the Authority, the Government must be satisfied that he or she has knowledge of, and expertise in relation to, at least one of the following:

- The provision of legal services,
- Legal education and legal training,
- Competition law and policy,
- The maintenance of standards in professions regulated by a statutory body,
- Business and commercial matters,
- The needs of consumers of legal services.

The membership of the Authority in 2018 was as follows:

Authority Member	Organisation	Term¹ of Appointment
Angela Black	The Citizens Information Board	4 Years
Don Thornhill (Chair)	Higher Education Authority	4 Years
Deirdre McHugh	The Competition and Consumer Protection Commission	3 Years
Gerry Whyte	The Irish Human Rights and Equality Commission	4 Years
Stephen Fitzpatrick	The Institute of Legal Costs Accountants	3 Years
Dermott Jewell	Consumers' Association of Ireland	3 Years
Sara Moorhead ²	Bar Council (Bar of Ireland)	3 Years
Joan Crawford	Legal Aid Board	4 Years
Eileen Barrington	Honorable Society of the King's Inns	4 Years
James MacGuill	Law Society	4 years
Geraldine Clarke	Law Society	3 Years

The Authority met on five occasions in 2018. The minutes of all Authority meetings are published on the LSRA website.

The Authority adopted the Department of Public Expenditure and Reform Code of Practice for the Governance of State Bodies in 2016 and commenced the implementation of the relevant provisions of the DPER Code throughout 2017. In 2018, the Authority submitted its first Financial Statements for the period from October 2016 to December 2017, to the Comptroller and Auditor General for Audit. On 21 December 2018, the Comptroller and Auditor General reported that the LSRA Financial Statements gave a true and fair view of the assets, liabilities and financial position of the LSRA at 31 December 2017 and of its income and expenditure from 1 October 2016 to 31 December 2017 in accordance with Financial Reporting Standard (FRS) 102.

The Authority undertook procurement exercises in 2018 with the advice and assistance of the Office of Government Procurement. The procurement exercises employed the existing All-of-Government Frameworks.

The Executive function of the LSRA is provided by a Chief Executive Officer and the Secretary to the Authority, assisted by a small team. The Chief Executive Officer is Dr. Brian Doherty and Ultan Ryan is the Secretary to the Authority.

Under section 21(1) of the 2015 Act, the Authority shall, no later than 30 April each year, make a report (referred to as the Annual Report) to the Minister and to the Oireachtas Joint Committee on Justice and Equality, or any Oireachtas Joint Committee that may replace that Committee, on the performance of its functions during the preceding year. The annual report may be in such form

¹ Under section 10 of the 2015 Act, five of the Authority members, selected by the drawing of lots, shall hold office for a period of 3 years, with the remaining members, including the Chair holding office for a period of 4 years.

² Sara Moorhead was appointed to the Authority in May 2018 following the appointment of David Barniville to the High Court.

and shall include information in respect of such matters as the Authority considers appropriate.
This annual report is submitted in compliance with section 21(1) of the 2015 Act.

Part Two: Our Mission, Objectives, Values and Functions

Our Mission:

“The Legal Services Regulatory Authority will regulate the provision of legal services by legal practitioners and will ensure the maintenance and improvement of standards in the provision of legal services in the State.”

Adapted from section 13(1) of the Legal Services Regulation Act 2015

Our Six Statutory Objectives:

The Legal Services Regulatory Authority will³

- (1) Protect and promote the public interest.
- (2) Support the proper and effective administration of justice.
- (3) Protect and promote the interests of consumers relating to the provision of legal services.
- (4) Promote competition in the provision of legal services in the State.
- (5) Encourage an independent, strong and effective legal profession.
- (6) Promote and maintain adherence to the professional principles of legal practitioners specified in the 2015 Act.⁴

Our Four Core Values:

The work of the LSRA as a public service body will be guided by our four core values:

1. Independence
2. Consumer Protection
3. Innovation
4. Transparency and Accountability

³ As per section 13(4) of the 2015 Act

⁴ Section 13(5) of the 2015 Act outlines the professional principles of legal practitioners as follows:

- (a) That legal practitioners shall
 - (i) act with independence and integrity,
 - (ii) act in the best interests of their clients,
 - (iii) maintain proper standards of work,
- (b) that legal practitioners who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court by virtue of being legal practitioners, shall comply with such duties as are rightfully owed to the court, and
- (c) that, subject to any professional obligation of a legal practitioner, including any obligation as an officer of the court, the affairs of clients shall be kept confidential.

Our Eleven Key Functions:

The Authority will undertake the following specific functions as part of its role:

- (1) Keep under review and make recommendations to the Minister in respect of:**
 - a. admission requirements of the Law Society, Bar Council, and Honorable Society of King's Inns;**
 - b. availability and quality of education and training including ongoing training for the solicitors' and barristers' professions;**
 - c. policies in relation to admission and, or, entitlement to practise of the Law Society, Bar Council and the Honorable Society of the King's Inns;**
 - d. professional codes;**
 - e. the organisation of the provision of legal services in the State.**
- (2) Disseminate information in respect of the education and accreditation requirements and any other matters referred to above as the LSRA thinks fit.**
- (3) Specify the nature and minimum levels of professional indemnity insurance required.**
- (4) Establish and administer a system of inspection of legal practitioners for the purposes of the Act.**
- (5) Receive and investigate complaints against legal practitioners.**
- (6) Establish and maintain the roll of practising barristers.**
- (7) Promote public awareness and disseminate information to the public in respect of legal services, including the cost of such services.**
- (8) Keep the Minister for Justice & Equality informed of developments in respect of the provision of legal services including their cost.**
- (9) Keep the Minister informed of developments in respect of the provision of legal services and make recommendations to assist the Minister in coordinating and developing policy.**
- (10) Undertake, commission or assist in research projects and other activities in respect of the provision of legal services, which may increase public awareness and promote an improvement in standards for their provision, and make recommendations to the Minister for Justice & Equality.**
- (11) Perform any other functions conferred by the Act or by regulations made under it.**

Part Three: Summary of Key Activities in 2018

30 January 2018	Workshop on LPs and the Roll of Practising Barristers with the Bar of Ireland.
15 February 2018	At the 10 th meeting of the Authority, the LSRA's Strategic Plan for 2018-2020 was reviewed and approved. The Authority also approved a document setting out the LSRA's Terms of Reference and approved the commencement of the review of the operation of the 2015 Act required under section 6.
21 February 2018	Workshop on LPs and the Roll of Practising Barristers with the Honorable Society of King's Inns.
06 March 2018	Meeting with the Independent Adjudicator of the Law Society
08 March 2018	Legal Partnership Strategic Planning Day
03 April 2018	LSRA Strategic Plan 2018-2020 submitted to the Minister for Justice and Equality.
19 April 2018	At the 11 th meeting of the Authority, the Financial Statements for 2017 were approved. The Authority also approved the engagement of Hook Tangaza to assist with the section 34 report into legal education and training. A Code of Conduct for LSRA Staff was approved and Stephen Fitzpatrick was appointed as Chair of the LSRA Finance Audit and Risk (FAR) Committee.
24 April 2018	A Half-Day Workshop on Legal Education and Training was held with Hook Tangaza.
04 May 2018	Public consultation on the education and training of legal practitioners commenced.
31 May 2018	Meetings with the Southern Law Association and the West Cork Bar Association.
1 June 2018	Meeting with the Kerry Law Society
8 June 2018	Public consultation on the review of the operation of the 2015 Act commenced.
15 June 2018	Public consultation on education and training of legal practitioners closed.
28 June 2018	At the 12 th meeting of the Authority, updates were provided on the review of the education and training of legal practitioners and the operation of the 2015 Act. A Terms of Reference and Charter for the LSRA Finance Audit and Risk Committee was approved.
29 June 2018	Establishment of the Roll of Practising Barristers commenced (S.I. No. 228 of 2018).

04 July 2018	Chairman and CEO of the LSRA appeared before the Joint Oversight Committee of the Oireachtas on Justice and Equality.
05 July 2018	Meeting with the Galway Bar Association.
06 July 2018	Meeting with the Clare Bar Association
11 July 2018	Meeting with the Limerick Bar Association.
13 July 2018	Corporate Governance Assurance Agreement signed by the LSRA and the Department of Justice and Equality.
13 July 2018	First meeting of the LSRA Finance Audit and Risk Committee.
27 July 2018	Public consultation on the review of the operation of the 2015 Act closed
03 August 2018	Meeting with the Inishowen Bar Association.
24 August 2018	Meeting with the Letterkenny Bar Association.
29 August 2018	Update report to Internal Audit Unit at Department of Justice & Equality in respect of progress on recommendations from 2017 Review of Governance and Internal Financial Controls.
6 September 2018	At the 13 th meeting of the Authority the report under section 34 on the education and training of legal practitioners was approved for submission to the Minister for Justice and Equality. The Authority also reviewed the draft report under section 6 on the operation of the 2015 Act.
13 September 2018	MOU signed between King's Inn and the LSRA to facilitate information sharing required for the Roll of Practising Barristers.
17 September 2018	Presentation to the Central Bank.
21 September 2018	Workshop on Professional Indemnity Insurance (PII) for Legal Partnerships (LPs) and Limited Liability Partnerships (LLPs)
28 September 2018	Report submitted to Minister for Justice & Equality on the Education & Training of Legal Practitioners (Section 34).
28 September 2018	Public consultation on the Code of Practice for Practising Barristers commenced.
12 October 2018	Second Meeting of LSRA Finance Audit and Risk Committee
26 October 2018	Public consultation on the Code of Practice for Practising Barristers closed.
1 November 2018	Consultation on the draft Professional Indemnity Insurance Regulations commenced.

15 November 2018	At the 14 th meeting of the Authority, the Authority considered and discussed draft regulations for the operation and management of Legal Partnerships and Limited Liability Partnerships. They also considered draft Professional Indemnity Insurance Regulations and a draft Code of Practice for Practising Barristers.
16 November 2018	Consultation on the draft regulations for the operation and management of Legal Partnerships and Limited Liability Partnerships commenced.
14 December 2018	Consultation on the draft Professional Indemnity Insurance Regulations closed.
14 December 2018	Consultation on the draft regulations for the operation and management of Legal Partnerships and Limited Liability Partnerships closed.
28 December 2018	End of Six Month Establishment Phase of the Roll of Practising Barristers.
31 December 2018	Roll of Practising Barristers for 2018 Financial Year Completed.

Part Four: The Report into Legal Education and Training

Under section 34 of the 2015 Act, the LSRA was required to provide to the Minister by 30 September 2018⁵ a report in relation to the education and training, including on-going training arrangements, in the State for legal practitioners including the manner in which such education and training is provided.

Section 34 further required that the report:

- contain a review of the existing arrangements relating to the education and training of legal practitioners, and
- make such recommendations as it considers appropriate in relation to the arrangements that, in the opinion of the Authority, should be in place for the provision of education and training, including the accreditation of education and training bodies.

The report was also required to include:

- any appropriate recommendations in relation to the appropriate standards of education and training for legal professional qualifications,
- the arrangements necessary to ensure adherence to such standards,
- the scope and content of the curriculum forming part of courses of legal professional education and training,
- arrangements that would facilitate the minimisation of duplication and expense in the taking of legal examinations, and
- the standards required for the award of legal professional qualifications.

In addition to its own resources, the LSRA engaged the expertise of a specialist team to undertake the research required, to manage the public consultation exercise and to report to the Authority on their findings.

SECTION 34 REPORT INTO LEGAL EDUCATION AND TRAINING

On 28 September 2018, following a public consultation, the LSRA submitted a report under s. 34 on the education and training of legal practitioners in the state. The report included 14 proposals set out by the Hook Tangaza review team. The Review team proposed:

1. A clear definition of the competencies and standards required to practise as either a solicitor or a barrister should be developed for both solicitors and barristers.
2. Roles and responsibilities of stakeholders in the legal education and training system should be reformed by the Authority establishing a Legal Practitioner Education and Training (LPET) Committee, which would be responsible for setting the statement of competence and defining standards, which legal practitioners would achieve on qualification. The LPET Committee would require existing provider of legal education to demonstrate how they met these standards and to enable new providers to explain how they would seek to meet them.
3. An accreditation and validation framework should be developed for legal education and training.
4. Programmes offered by existing and new providers to be accredited against the competency framework.
5. Assessment methodologies should ensure adherence to standards.

⁵ Section 34(3) of the 2015 Act required that the report into legal education and training be provided to the Minister within 2 years of the establishment date of the Authority, which was 1 October 2016.

The review team consisted of four members, Alison Hook, Director of Hook Tangaza, Professor Scott Slorach, University of York, Professor Nigel Savage of Savage Huthinson Consulting and Katherine Bird of Hook Tangaza.

As section 34 required that the LSRA undertake “an appropriate public consultation process”, the LSRA undertook the statutory consultation between 4 May 2018 and 15 June 2018. A public consultation notice was published on the LSRA website and distributed by e-mail to 187 different organisations. Thirty-eight submissions were received in total. These included responses from An Garda Síochána, the Association of Judges in Ireland, the Office of the Director of Public Prosecutions, the Competition and Consumer Protection Commission, Universities and Institutes of Technology, Consumer Associations and Bar Associations⁶. In addition to the above submissions were received from individuals and from the large Dublin based solicitor firms. Submissions were also received from the three professional bodies for legal practitioners as defined by the 2015 Act, the Bar of Ireland, the Honorable Society of King’s Inns and the Law Society of Ireland.

The Hook Tangaza review team created a dedicated website for the review of legal education and training in Ireland. They also circulated opinion surveys to capture the views of law students, trainee solicitors and barristers, training principals in large firms, pupil masters and in-house solicitors. An omnibus survey of the consumers of legal services was also conducted. The surveys were also supplemented by a series of round table discussions with the professional bodies and face-to-face and telephone interviews with key individuals.

In total, 730 different organisations or individuals provided evidence to the review team.

The Hook Tangaza review team submitted their report to the LSRA in August of 2018. The review team found evidence of

- a lack of clarity around the competencies required of a solicitor or barrister,

SECTION 34 REPORT INTO LEGAL EDUCATION AND TRAINING

Key proposals (Continued):

6. The LPET Committee should monitor the quality of legal education and training. Legal education and training providers should be required to maintain ongoing quality assurance processes.
7. Admission to programmes of legal practitioner education should be based on achievement of specified competencies at defined standards.
8. The LPET Committee should develop a common set of competencies and standards for admission to the current Professional Practice Course and barrister-at-law degree programmes.
9. Non-law graduates to have alternative means to enter the profession other than through the FE-1.
10. Additional routes to qualification will encourage diversity and increase access.
11. Admission responsibilities of professional bodies to be separated from delivery of education programmes.
12. Transfer arrangements between the professions to be reviewed once a new competency framework is in place.

⁶ The full list of respondents to the statutory consultation can be found at page 168 of the Hook Tangaza report which is available on the LSRA website at www.lsra.ie

- the existence of indirect barriers to entry into the professions,
- the existence of unnecessary duplication in learning and assessment,
- a mismatch of the skills taught in current professional qualification courses with the needs of the users of legal services,
- the existence of some quality gaps, and
- a lack of independent oversight of the system of legal practitioner education and training.

The review team submitted 14 proposals to the LSRA for their consideration. These proposals aim to:

- provide a clear definition of professional legal competence, and
- to ensure that the design of a new competence framework meets the requirement of all stakeholders,
- to remove barriers to access,
- reduce duplication and costs in learning, and
- to ensure ongoing independent oversight of legal education and training in the State.

Exploring The Way Forward

The Authority considered the review report by Hook Tangaza and submitted it with their own report to the Minister for Justice & Equality on 28 September 2018.

In their report, the Authority stated that:

- the research report set out a detailed case for reform of the education and training of legal of legal practitioners, and
- the proposals, if implemented, had the capacity to significantly affect the education and training of legal practitioners and the wider legal services sector, and
- legislative change would also be required.

The Authority expressed the view that such significant change should only be made following careful consideration and informed debate on both the proposals for change and their proposed implementation and impact.

The Authority concluded that it would make its final recommendations and set out a proposed implementation process when it has had the opportunity to undertake further consultation on the proposals laid out in the Hook Tangaza external review report, as well as engaging with both the providers and users of legal services, and exploring the possible impact of the proposals on legal education and on the wider legal services sector.

SECTION 34 REPORT INTO LEGAL EDUCATION AND TRAINING

Key proposals (Continued):

13. The process for foreign (Non-EU) transfers and agreements to be assessed against new competency framework, once in place.
14. CPD programmes to be linked to competence frameworks and standards.

The full report is available at www.lsr.ie

The Authority intends therefore, to allow for a period of consideration and discussion by stakeholders and the wider community on the proposals set out in the Hook Tangaza external review report and then to convene a public symposium on legal education in 2019. The public symposium will provide a forum to discuss and examine the findings of the Hook Tangaza external review and such other proposals as may be made during the consideration and discussion period as well as on implementation issues.

Following this process, which will allow stakeholders in legal services, in legal education and training and in the wider community to explore the way forward, the Authority will submit a further report to the Minister for Justice & Equality, outlining the recommendations it considers appropriate in relation to the provision of legal education and training in the State.

The report of the Hook Tangaza review team and the LSRA report to the Minister for Justice & Equality are both available on the LSRA website (www.lsr.ie). The key proposals made by the review team are summarised in the sidebars in this report.

Should you wish to make any observations or submissions on the Hook Tangaza proposals or on any aspect of the section 34 review, you can e-mail the LSRA at info@lsra.ie.

Part Five: The Roll of Practising Barristers

Another key piece of work for the LSRA in 2018 was the establishment of the Roll of Practising Barristers.

Under Part 9 of the 2015 Act, the LSRA was required to set up the Roll of Practising Barristers and, within six months of the commencement date, to enter on the Roll of Practising Barristers the name of every person who was, on the commencement date, a practising barrister.

The Roll of Practising Barristers established by the LSRA is a register of all barristers entitled to provide legal services in the State, which the LSRA is required to maintain on a continual basis. Under section 134(1) of the Act, every person who has been called to the Bar of Ireland and who intends to provide legal services as a barrister must apply to the Authority to have his or her name entered on the Roll of Practising Barristers. The Authority, when it is satisfied that the applicant is a qualified barrister and the information provided is in order, must then enter that barrister's name on the Roll of Practising Barristers.

The provisions in Part 9 of the Act relating to the Roll of Practising Barristers were commenced on 29 June 2018 and the six months establishment phase ended on 28 December 2018.

To set up the Roll of Practising Barristers, the LSRA provided a series of guidance documents for barristers. These included a General Guidance Note for the Roll of Practising Barristers, a Guidance for Practising Barristers in Employment, a Guidance Note in respect of Full-time Service of the State and a Guidance note outlining how to complete the Application. All of these documents have been provided in both Irish and English.

In order to publicise the Roll and to alert practising barristers of the legal requirement to apply for entry, advertisements were placed on-line by the LSRA and in the print media repeatedly throughout the six-month establishment phase. The LSRA also wrote to Government Departments, regulators and other agencies to highlight the need for practising barristers to apply for entry onto the Roll.

The LSRA is extremely grateful to both the Bar of Ireland and the Honorable Society of King's Inns for their assistance in establishing the Roll. The Bar of Ireland took every conceivable step to ensure that its members were given practical assistance in applying for entry on the roll, including providing printed copies of the application form, guidance documents and targeted e-mail reminders and updates. The Honorable Society of King's Inns provided dedicated resources to confirm the qualifications of applicants throughout the process.

As of the 31st of December 2018 there were 2,285 barristers listed on the Roll of Practising Barristers. 1,995 of these barristers were members of the Law Library.

The LSRA has put procedures in place to make a copy of the roll available at its principal office during normal working hours to members of the public for inspection free of charge as required by section 133(2) of the Act. The LSRA is working to make the Roll of Practising Barristers available online during 2019.

During 2019, section 136 of the 2015 Act will be commenced. This will make it a criminal offence for a qualified barrister, whose name has not been entered on the Roll of Practising Barristers, to provide legal services as a barrister.

It is also intended, during 2019, to enhance the Roll of Practising Barristers as permitted under the 2015 Act to include additional information such as professional qualifications and areas of expertise.

The Roll of Practising Barristers is a significant step in the establishment of the LSRA. Not only is the maintenance of the Roll of Practising Barristers a key function of the Authority under section 13(2)(f) of the 2015 Act, it is a necessary element for the calculation and administration of the levy on the legal professions under part 7 of the Act, which is the LSRA's principal funding mechanism. It is also a key requirement for the enforcement of the regulations relating to Professional Indemnity Insurance (PII) for legal practitioners that the LSRA will issue in 2019.

The Roll of Practising Barristers is the only register of all qualified barristers entitled to provide legal services in Ireland including in-house counsel and barristers in the full-time service of the State.

Part Six: Laying the Foundations for 2019

Continuing to Establish the New Regulatory Body

Whilst a lot of work has been carried out since the establishment in law of the LSRA on 1 October 2016, work continues to ensure that the LSRA can deliver the full broad remit of its functions and objectives under the Act.

As can be seen for other sections in this report, a huge effort has been made to ensure that the proper procedures, governance and infrastructure are in place to ensure that the LSRA is in compliance with the DPER Code of Practice for the Governance of State Agencies and the other responsibilities of a modern regulatory body.

As might be expected, this is both time consuming and labour intensive. The LSRA remains committed, however, to setting strong foundations on which a new independent and effective regulatory body must be built.

As has been stated in previous Annual reports, the interlocking nature of the 2015 Act also presents a challenge to the LSRA. It has meant that careful analysis of the Act and thorough planning as to how it is to be implemented has been essential for the efficient build and operation of the LSRA. The LSRA has worked hard to ensure that all statutory deadlines have been met.

The small team at the LSRA analysed the interlocking sections of the Act carefully and thoroughly and produced the LSRA Strategic Plan 2018-2020 that was developed over the last quarter of 2017 and the first quarter of 2018. The Strategic Plan was submitted to the Minister for Justice & Equality in April of 2018 and is aligned with the Corporate Governance Assurance Agreement (CGAA) in place between the LSRA and the Department of Justice & Equality.

In relation to the commencement of all the remaining functions of the LSRA under the 2015 Act, the Strategic Plan recognises that this will require the recruitment and training of appropriate staff, the necessary IT systems to be in place, interim and permanent premises to have been secured and the development of the required additional infrastructure. The Strategic Plan provides an indicative timeline for the achievement of the key milestones required to safely undertake the full scope of the functions required under the Act. The LSRA Strategic Plan is available on the LSRA website.

Staffing

Under section 25 of the 2015 Act, whilst the LSRA may appoint its own staff, it requires the approval of the Minister for Public Expenditure & Reform in determining the terms and conditions of employment and the numbers and grades of staff in the Authority. The LSRA has engaged extensively with DPER in relation to the proposed staffing structure and numbers. Over the course of 2018, the LSRA worked with an external consultant to complete a Workforce Plan for the LSRA for 2019-2020. Considerable care and effort was taken to ensure that the model proposed was as lean and efficient as possible to ensure that the funding required by way of the levy on the legal professionals was within reasonable limits. The plan was submitted to DPER in early 2019 for their consideration and sanction. Once sanction has been received, the LSRA will commence direct recruitment of full-time staff.

Under section 26 of the 2015 Act, the Authority may also give appropriately qualified staff of the Law Society and the Bar of Ireland the option of transferring to the Authority. In 2018, the LSRA commenced formal engagement with both professional bodies regarding the possible transfer of staff. The Bar Council indicated at an early stage that none of the relevant staff there would be seeking an option to transfer to the LSRA. The LSRA has been engaging extensively with the Law Society on the arrangements for the transfer of staff from the Law Society's Complaints and Regulation Department and the Solicitor's Disciplinary Tribunal. Whilst much work was done in this regard in 2018, more work will be required in 2019 to ensure that the transfer of staff is done on an equitable, open and transparent basis.

Complaints Function under Part 6 of the 2015 Act

The transfer of knowledgeable staff with experience of dealing with complaints relating to the provision of legal services will be of huge benefit in ensuring that the LSRA will be ready to receive and investigate complaints in 2019.

The LSRA has always been very conscious that the focus of a large part of the public interest in the work of the Authority is on the introduction of the complaints function under Part 6 of the Act.

In 2018, the LSRA completed a careful analysis of the new complaints regime provided for under the Act, process maps for the new system were developed and the necessary guidance and information leaflets, templates and decision-making models were significantly advanced.

The LSRA has put arrangements in place for a temporary case handling system to be introduced to allow the LSRA to receive complaints as soon as practicable.

Further work is of course required in 2019. The transfer and recruitment of staff will have to be completed, permanent premises and additional infrastructure will have to be put in place and complaints mediation and informal resolution procedures will have to be designed and implemented. The LSRA will also be required to establish the Complaints and Review Committees, which are the two key regulatory committees underpinning the LSRA's complaints function. The LSRA will also be required to provide logistical and administrative support for the Legal Practitioners Disciplinary Tribunal (LPDT).

Work on the complaints function has been a large focus of the 2018 work programme as the LSRA's efforts continue in working toward the strategic goal of building an independent and effective regulatory body and complaints function.

Legal Partnerships and Limited Liability Partnerships

Another huge focus for the work of the LSRA in 2018 has been the development of the infrastructure required to introduce Legal Partnerships and Limited Liability Partnerships. This work was prioritised due to a statutory imperative in the 2015 Act.

Over the course of 2018, a huge amount of effort was undertaken:

- in developing the regulations for the operation and management of Legal Partnerships and Limited Liability Partnerships,
- in developing regulations in relation to Professional Indemnity Insurance,

- in conducting extensive consultations with the professional bodies and with legal practitioners who are not members of the professional bodies but who might be subject to the regulations.

Resources were also committed to develop and consult on a Code of Practice for Practising Barristers, which will ensure an equity of standards across all types of Practising Barristers as defined in the 2015 Act.

These instruments necessarily developed over a number of drafts and through extensive engagement with key stakeholders. A set of draft regulations were considered by the Authority at their November 2018 meeting. Detailed feedback received from the Authority and also through consultation with the professional bodies and the public has been incorporated into the regulations and code.

Building on the work completed in 2018, the LSRA intends to bring through the frameworks introducing Legal Partnerships and Limited Liability Partnerships early in 2019. This will include a public register of both Legal Partnerships and Limited Liability Partnerships. The register of Limited Liability Partnerships will also be made available on the LSRA website.

As per the conclusions of the statutory reports on Multi-Disciplinary Practices, once Legal Partnerships and Limited Liability Partnerships are in place and resources permit, the LSRA will then revisit the consideration of the viability of Multi-Disciplinary Practices.

Funding and the Levy on the Professions

Under the 2015 Act, the LSRA has two main sources of funding. The first source is funds advanced to the LSRA under section 32 of 2015 Act, which states that the Minister for Justice and Equality shall advance to the Authority such amounts as the Minister, may determine for the purposes of expenditure by the Authority in the performance of its functions. The second source of funding is provided for in Part 7 of the Act, which introduces a levy to be paid by the Law Society, the Bar of Ireland and certain barristers. It should be noted that the LSRA is also entitled to charge fees for certain aspects of its work (e.g. in respect of registration of Legal Partnerships and Limited Liability Partnerships).

In 2017, the LSRA completed a thorough analysis of the statutory provisions that allow for the implementation of the levy on the professional bodies and liaised closely with the Department of Justice in this regard. In 2018, the LSRA established the Roll of Practising Barristers, which is an essential element for the calculation and implementation of the levy.

The LSRA has engaged with Law Society and the Bar of Ireland in relation to the levy and has provided information that it is hoped will be useful for financial planning purposes.

The LSRA also met with the Department of Justice & Equality on several occasions over 2018 to examine the requirements of the Act in relation to the levy and how they can be successfully implemented. Building on this work, the LSRA intends to issue levy notices in 2019 to recover the approved expenses of the LSRA for 2018.

Stakeholder Engagement

Throughout 2018, the LSRA continued to engage with key stakeholders in the legal sector, legal and other regulatory bodies and with consumer protection agencies.

The LSRA had regular meetings with the Law Society, King's Inns, the Bar of Ireland and the Dublin Solicitors Bar Association to outline the progress of the LSRA in developing its capacity to implement the 2015 Act. Each of the organisations has been welcoming and generous of their time in sharing their knowledge and experience whilst respecting the independence of the LSRA in the exercise of its functions.

The LSRA also engaged with other Bar Associations across the country to ensure that their members were aware of the work being undertaken by the LSRA, to encourage engagement and submissions in the public consultations and to address any concerns or queries that may have arisen about the commencement of the LSRA's functions.

The completion of the section 34 report on legal education and training provided an opportunity for the LSRA to deliver briefings on the findings of the external review team and of the Authority to the Consumer Protection and Competition Commission, Quality and Qualifications Ireland and to representatives of the larger Dublin based legal firms.

The LSRA is grateful to the Consumer Protection and Competition Commission, the Charities Regulator, the Policing Authority, the Irish Medical Council, the Teaching Council, CORU, the Courts Service, the Insolvency Service of Ireland, the Personal Injuries Assessment Board, the Irish Auditing and Accounting Supervisory Authority, to name but a few, for their advice and assistance throughout the year.

In 2017, the LSRA became a member of the International Conference of Legal Regulators, which provides a platform for interacting and sharing learning and good practice with an international network of legal regulators. In 2018, the LSRA CEO was invited to contribute to a panel discussion on the introduction of third party managed accounts into the legal services sector.

Part Six: Governance and Structure

Attendance at Authority Meetings

The Authority met on five occasions in 2018. A schedule of attendance at the Authority Meetings is set out below:

Dates	15/02/18	19/04/18	28/06/18	06/09/18	15/11/18
Members					
Eileen Barrington	✓	✓	✓	x	✓
Angela Black	✓	✓	x	✓	✓
Geraldine Clarke	✓	✓	x	✓	✓
Joan Crawford	✓	✓	✓	✓	✓
Stephen Fitzpatrick	✓	✓	✓	✓	✓
Dermott Jewell	✓	✓	x	✓	✓
James MacGuill	✓	✓	✓	✓	✓
Deirdre McHugh	✓	✓	✓	✓	✓
Sara Moorhead*	x	x	✓	✓	✓
Don Thornhill (Chair)	✓	✓	✓	✓	✓
Gerry Whyte	✓	✓	✓	✓	✓

*Appointed by Minister for Justice & Equality by letter dated 18 May 2018. This was to fill a casual vacancy arising from the resignation of member David Barniville on his appointment to the High Court in Q4 2017.

Finance, Audit and Risk Committee

The LSRA established its Finance Audit and Risk (FAR) Committee in mid-2018. The LSRA FAR Committee is chaired by Authority member Stephen Fitzpatrick. Authority members Angela Black and Geraldine Clarke also sit on the Committee along with the independent external members of the Committee who are Peter O'Brien and Claire Byrne.

The FAR Committee met twice in 2018. The FAR Committee were formally inducted at the first meeting in 2018 and also reviewed and approved the LSRA FAR Committee Terms of Reference and Charter. At each meeting, the FAR Committee receives a briefing from the CEO and formally reviews the LSRA Risk Register and examines all steps taken by the LSRA Executive to mitigate the risks. The LSRA FAR Committee also reviews up-to-date financial statements and information at each meeting.

The LSRA Risk Register, budget and financial statements are also considered and evaluated at each Authority meeting.

Finance, Audit and Risk Committee. Meetings in 2018		
No	Date	Attendance
1	13 July 2018	<ul style="list-style-type: none"> • Stephen Fitzpatrick (Chair) • Angela Black • Geraldine Clarke • Peter O'Brien • Claire Byrne
2	12 October 2018	<ul style="list-style-type: none"> • Stephen Fitzpatrick (Chair) • Angela Black • Peter O'Brien

Governance Arrangements

The Legal Services Regulatory Authority is a statutorily independent body. Under section 13(3) of the Legal Services Regulation Act 2015, the Authority is required to be independent in the performance of its functions.

The LSRA's governance framework is guided by:

- the Legal Services Regulation Act, 2015;
- the DPER Code of Practice for the Governance of State Bodies (2016) which has been adopted by the Authority;
- the DPER Code of Practice for the Governance of State Bodies: Business and Financial Reporting Requirements (2016)
- Public Financial Procedures including the Public Spending Code.

The Legal Services Regulatory Authority has developed a suite of governance documents including:

- Code of Conduct for Authority members and staff;
- A Terms of Reference for the Authority;
- A schedule of delegations and matters reserved to the Authority;
- A Protected Disclosures Policy;
- A Data Protection Policy;
- Risk Register and Risk Management Strategy;
- Financial Policies and Procedures;
- A Strategic Plan 2018-2020; and
- A Corporate Governance Assurance Document Agreement with the Department of Justice and Equality.

In 2018, the LSRA reviewed and updated its Financial Procedures Manual. The LSRA also agreed and signed a Corporate Governance Assurance Document Agreement with the Department of Justice and Equality on 13 July 2018.

Where appropriate these documents have been made available on the Authority's website.

The Role of the Authority and the Chief Executive

The Authority has approved a terms of reference for the LSRA which sets out the respective roles of the Authority and of the Chief Executive.

The Authority:

The Authority is responsible for

- i. Reviewing and guiding the strategic direction and major plans of action of the LSRA;
- ii. Ensuring compliance with all applicable statutory objectives;
- iii. Holding the CEO and senior management to account for the effective performance of their responsibilities;
- iv. Risk management policies and procedures,
- v. Annual budgets and business plans,
- vi. Setting performance objectives,
- vii. Monitoring implementation and performance,
- viii. Overseeing major capital expenditure and investment decisions.

The Chief Executive

The Authority delegates operational responsibility for the day-to-day running of the LSRA to the Chief Executive Officer and the LSRA's senior management team.

The Chief Executive Officer attends Authority meetings at the invitation of the Authority chairperson and provides regular reports on all aspects of the operation of the LSRA as required by the Authority members. The Chief Executive Officer also attends the FAR Committee meetings for the purpose of providing an update on risk and financial management.

The Chief Executive Officer's role and responsibilities are set out in the 2015 Act. Section 24(3) of the 2015 Act states that the Chief Executive Officer shall:

- (a) implement the policies and decisions of the Authority,
- (b) manage and control generally the Authority's staff, administration and business,
- (c) be responsible to the Authority for the performance of his or her functions, and
- (d) perform such other functions (if any) as may be required by the Authority or as may be authorised under this Act.

Under section 13(7) of the 2015 Act, any function of the Authority may be performed through or by the Chief Executive or any member of its staff duly authorised in that behalf by the Authority.

The Chief Executive Officer ensures that the Authority is kept up to date and fully informed about strategic issues and challenges affecting the LSRA and the environment in which it operates.

Conflicts of Interest

The Legal Services Regulatory Authority has developed a “Policy and Procedure for the Disclosure of Interests”. Under the policy, and the Codes of Conduct for Authority Members and Employees, the Authority members and the Chief Executive register their interests in any other relevant undertakings with the Secretary of the Authority on appointment and on an annual basis.

Performance Evaluation

The first self-assessment evaluation of the Authority’s performance as required by the DPER Code of Practice for the Governance of State Bodies was undertaken in 2018. The evaluation was conducted by means of a self-assessment exercise based on the model self-assessment questionnaire set out in the DPER Code. The self-assessment questionnaire was administered by the accounting services provider of the LSRA. The themes and lessons arising from the self-assessment evaluation process were discussed at the June Authority meeting. No issues arose.

Procurement

All procurement activity undertaken by the LSRA is guided by the Department of Public Expenditure and Reform Public Spending Code. The LSRA Executive has developed a Financial Policies and Procedures Manual which includes a Purchasing and Procurement Policy which is in line with the DPER Public Procurement and OGP Guidelines for Goods and Services (July 2017). This manual was reviewed and updated in 2018.

In 2018 formal sanction was sought from the Department of Public Expenditure and Reform where required prior to the commencement of any procurement activity. The LSRA are grateful for the ongoing guidance and assistance in their procurement exercises by the Office of Government Procurement.

Department of Justice and Equality

Over the course of 2018, the LSRA has again engaged extensively with officials from the Department of Justice & Equality. On 13 of July 2018, the LSRA signed a Corporate Governance Assurance Agreement with the Department of Justice and Equality as required by the DPER Code of Practice for the Governance of State Bodies, which was adopted by the LSRA in 2017. This document recognises the independence of the LSRA in the performance of its functions and sets out the roll of the Authority and the Chief Executive in fulfilling the governance requirements under the DPER Code

As required under the Governance Assurance Agreement, in 2018 the LSRA attended two governance meetings with the Civil Law Reform division of the Department of Justice and Equality. At these meetings, the LSRA provided updates on internal governance, staffing and statutory reporting. Civil Law Reform division provided policy, financial and legislative updates including on the commencement of the remaining sections of the 2015 Act. Discussions were also had in relation to the imposition of the levy and the development of the new models for the delivery of legal services.

Outside of the Governance Meetings required by the DPER Code, other formal meetings take place on a regular basis on issues of common interest such as the implementation of Legal Partnerships and

Limited Liability Partnerships, the education and training of legal practitioners, funding and levy provisions and the Roll of Practising Barristers.

Financial Reporting

All appropriate procedures for financial reporting were adhered to in 2018 by the Authority.

An annual budget for 2018 was agreed by Authority members at the first Authority meeting of the year.

At each meeting of the Authority, up-to-date management accounts were presented by the Chief Executive. Monthly management accounts were produced throughout the year by the accounting services to the Authority and presented to the Executive team ensuring that senior management have access to relevant and timely financial and non-financial information.

An annual Financial Statement of the Accounts of the LSRA for the period from establishment date of 1 October 2016 to 31 December 2017 was prepared and submitted to the Office of the Comptroller and Auditor General (OCAG) by the deadline of 31 March 2018. Audited accounts were approved by the OCAG on 21 December 2018 and submitted to the Minister for Justice and Equality along with the signed Letter of Representation, the Chairperson's Comprehensive Report to the Minister and a copy of the audit report to be laid before the Houses of the Oireachtas.

Tax Law

The Legal Services Regulatory Authority has complied with its obligations under tax law in 2018.

Prompt Payment of Accounts Act 1997

It is the policy of the Legal Services Regulatory Authority to fully comply with the terms of the Prompt Payment of Accounts Act 1997. The LSRA has introduced procedures to ensure that all invoices are paid within the statutory time limit.

Whilst it is accepted that procedures designed to ensure compliance with the Act could only provide reasonable assurance and not absolute assurance against non-compliance, 5 invoices incurred late payment fees in 2018. These instances arose due to an issue with the delivery of invoices from two suppliers. This issue has since been rectified.

Total late payment fees paid in 2018 was €9.36.

GDPR and Data Protection

The LSRA is registered as a Data Controller with the Office of the Data Protection Commissioner.

The LSRA's Data Protection Policy is available on the LSRA's website.

Freedom of Information

The LSRA is an FOI body under the Freedom of Information Act 2014.

The Authority has adopted Transparency and Accountability as one of its four core values. The Authority is committed to transparency in relation to its work and decision-making. In line with the

core value of transparency, the minutes of all Authority meetings and the actions points arising are published on the LSRA website. The LSRA has also committed to publishing all of the statutory reports prepared by or on behalf of the Authority. All of the submissions made to the Authority as part of the public consultations are also made available on the LSRA website.

The LSRA website is updated regularly with information relating to the progress of the implementation of the 2015 Act. All key internal policy documentation can also be found on the site.

In 2018, Irish language versions of guidance documents were made available.

In 2018, the LSRA received two requests under the Freedom of Information Act 2014. Both requests were dealt with in compliance with the FOI Act.

A large number of general queries and requests for information were received in 2018. The majority of requests for information related to the Roll of Practising Barristers. Queries relating to the Roll were responded to by the LSRA's project team who deal with the implementation of all of the registers and rolls required under the Act. Queries and requests for general information from the public and members of the legal professions are acknowledged and responded to by the Executive team. It is the objective of the LSRA to acknowledge all queries and requests within three days of receipt and to issue a substantive response, where possible, within 14 days.

Protected Disclosures Act 2014

The LSRA has developed and introduced a Protected Disclosure Policy and Procedure. The policy has been developed with regard to the DPER "Guidance under section 21(1) of the Protected Disclosures Act 2014 for the purpose of assisting public bodies in the performance of their functions under the Act" and in compliance with the obligations of the Protected Disclosures Act 2014

There were no Protected Disclosures made to the Legal Services Regulation Authority in 2018. A report reflecting this position has been published on the LSRA website.

Level of Compliance with the DPER Code

The LSRA adopted the Department of Public Expenditure and Reform Code of Practice for the Governance of State Bodies in 2017. A detailed gap analysis of the requirements of the DPER Code was presented to the Authority in November 2017 and throughout 2018, governance arrangements were put in place to ensure compliance with the Code.

The LSRA has limited staff numbers and resources at present and, whilst every reasonable effort has been made, it is of course a challenge to comply with every element of the DPER Code.

By the end of 2018, the LSRA has fully complied with the DPER Code with the following exceptions:

- The LSRA has not yet developed a Post Resignation/Retirement Employment or Consultancy procedure as per paragraph 1.10 of the DPER Code. The procedure will be developed by the end of 2019.

- The LSRA has not yet developed a Customer Charter and Customer Action Plan as per paragraphs 10.1 and 10.5 of the DPER Code. The LSRA Customer Charter will be developed and introduced in 2019. This will be timed to coincide with the commencement of the receipt and investigation of complaints under Part 6 of the 2015 Act.

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