

Oifig an  
Office of the



**Stiúrthóra Ionchúiseamh Poiblí**  
**Director of Public Prosecutions**

**Annual Report 2017**

This Report is also available in the Irish Language

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## FOREWORD

I am pleased to present the annual report for 2017.

2017 saw the very welcome enactment of the Criminal Justice (Victims of Crime) Act transposing the EU Victims Directive into domestic law. In chapter 3.2 of this report we outline how the Office has responded to its obligations in this area. A full review was carried out of our procedures to ensure that they comply with the legislation, and the Office continues to raise awareness with all those involved in dealing with victims and their families on behalf of the Office.

The Office receives a large number of requests for reasons for the decision not to prosecute and dealt with 638 such requests in 2017. Nearly 40% of these requests related to sexual offence complaints. The Office dealt with nearly 200 requests for a review of the decision not to prosecute. In eight of those cases the decision was reversed and a prosecution directed. Again just over 40% of the cases where a review was sought involved sexual offences.

As these figures illustrate, the volume of work involved in dealing with victims is significant. There are additional demands on resources where cases are prosecuted and charges are being processed through the courts, especially at trial stage. We take our obligations to victims and their families very seriously. We are continuing to review the resources required to ensure victims and their families have the least traumatic experience possible of the criminal justice system.

Another area where there is considerable pressure on resources is in relation to the international work undertaken by the Office in order to progress prosecutions. This work covers broadly two areas – seeking evidence from another country and extradition. As is evident from the figures set out on page 39, the number of requests for evidence abroad processed by the Office doubled in 2017 as compared to 2015. This illustrates the very



significant work involved at an international level in gathering evidence abroad under the Mutual Legal Assistance system.

We also regularly seek the return of suspects wanted for offences in this jurisdiction. This is dealt with by way of application for European Arrest Warrant where the suspect is in the EU, or by way of extradition request to the relevant state elsewhere in the world. Details of the work done by the Office on European Arrest Warrants and Extradition requests are set out on pages 37 and 38.

The increasing workload within the International Unit outlined above has created serious pressure on resources in this area. Stretched staff resources resulted in a backlog developing in 2017, most noticeably in the area of applications for European Arrest Warrants. I am pleased to say that in recent months we have been in a position to take steps to address this situation. Sanction was received from the Department of Public Expenditure and Reform

for the creation of a new senior post. This enabled a new Prosecution Support Services Division to be established in June of this year. As you will see in the organisation chart on page 11, this Division, led by Catherine Pierse, Solicitor, comprises the International Unit, the Policy, Research and Library functions, and the Victim Liaison Unit. This new Division will permit a renewed focus on these important areas. We are reviewing as a matter of urgency the additional resources required in order to meet the growing demand, particularly in relation to victims and international work.

The focus on the international dimension is of course particularly relevant in light of the pending Brexit. This has very serious implications for the prosecution of crime and criminal justice generally in this country. Having effective extradition arrangements between this jurisdiction and the UK is extremely important, having regard to the amount of interaction between the two jurisdictions. In 2017 the vast majority of European Arrest Warrants sent abroad were sent to the UK. As of 31 March 2019 the current arrangements, which are very efficient in securing the return of persons wanted for prosecution, will no longer operate. It is therefore crucial that an agreement is reached on an alternative system prior to that date. I know that the Department of Justice and Equality and the Government are acutely aware of the imperatives in this area. One hopes that a practical solution will be found so that mechanisms are put in place to enable us to seek the extradition of an accused or seek important evidence from that jurisdiction. This is particularly important having regard to the shared border with Northern Ireland, and the ongoing necessity for prosecutions in respect of dissident subversive activity.

There continues to be pressure on the budget of the Office. In 2017 net expenditure totalled just under €41 million, up from €38.6 million in 2016. The largest area of expenditure at €16.4 million in 2017 was in respect of fees paid to Counsel engaged to prosecute cases before the Courts. This was an increase of over €1.5 million over the 2016 figure. While significant fees were again incurred in 2017 on large and lengthy trials arising from

the banking crisis, increased activity levels in both the Dublin Circuit Court and the Central Criminal Court accounted in the main for the increased expenditure. The overall volume of trials now being dealt with before the courts at all levels means that there will be a need for at least the current allocation for Counsel's fees to be provided in 2019. The Central Criminal Court for example is expected to have six sitting judges for the foreseeable future.

While the trials in relation to the banking crisis have now concluded, the Special Financial Unit which was set up in 2011 to deal with these cases will continue in operation and will now focus on other large financial crime cases in close liaison with the Garda National Economic Crime Bureau.

The Office continues to adapt and develop in order to meet the challenges that impact on the way we do our business. At present the Office has a number of IT projects for which funds have been allocated, looking at various ways in which the work of the Office and communications with other agencies can be done more efficiently. I am grateful to the many staff in the Office who have taken these various change management projects forward to ensure that we can provide the best prosecution service on behalf of the people of Ireland.

In conclusion, I want to thank the staff in my Office, the State Solicitors around the country and the many prosecution counsel who were involved in the operation of the prosecution service during 2017 for their continued commitment and hard work.



**Claire Loftus**  
**Director of Public Prosecutions**  
**September 2018**

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## MISSION STATEMENT

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To provide on behalf of the People of  
Ireland a prosecution service that is  
independent, fair and effective

# 2017 AT A GLANCE

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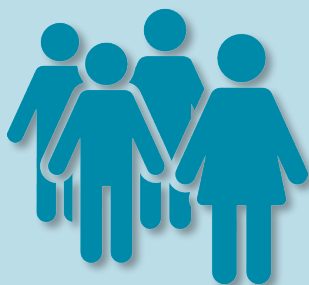


**€40.9million**

Total cost of running the  
Prosecution Service in 2017

**13,666**

Total number of prosecution  
files received in 2017

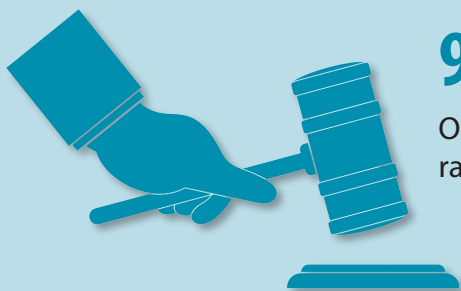


**195**

Total number of staff working  
in the Office of the DPP

**66%**

Percentage of cases on which a  
decision is made within 4 weeks



**94%**

Overall conviction  
rate maintained

**638**

Number of requests for reasons  
for decisions not to prosecute



**€988,297**

Amount recovered from proceeds of  
crime and returned to public funds

# PART 1:

## OVERVIEW OF THE OFFICE

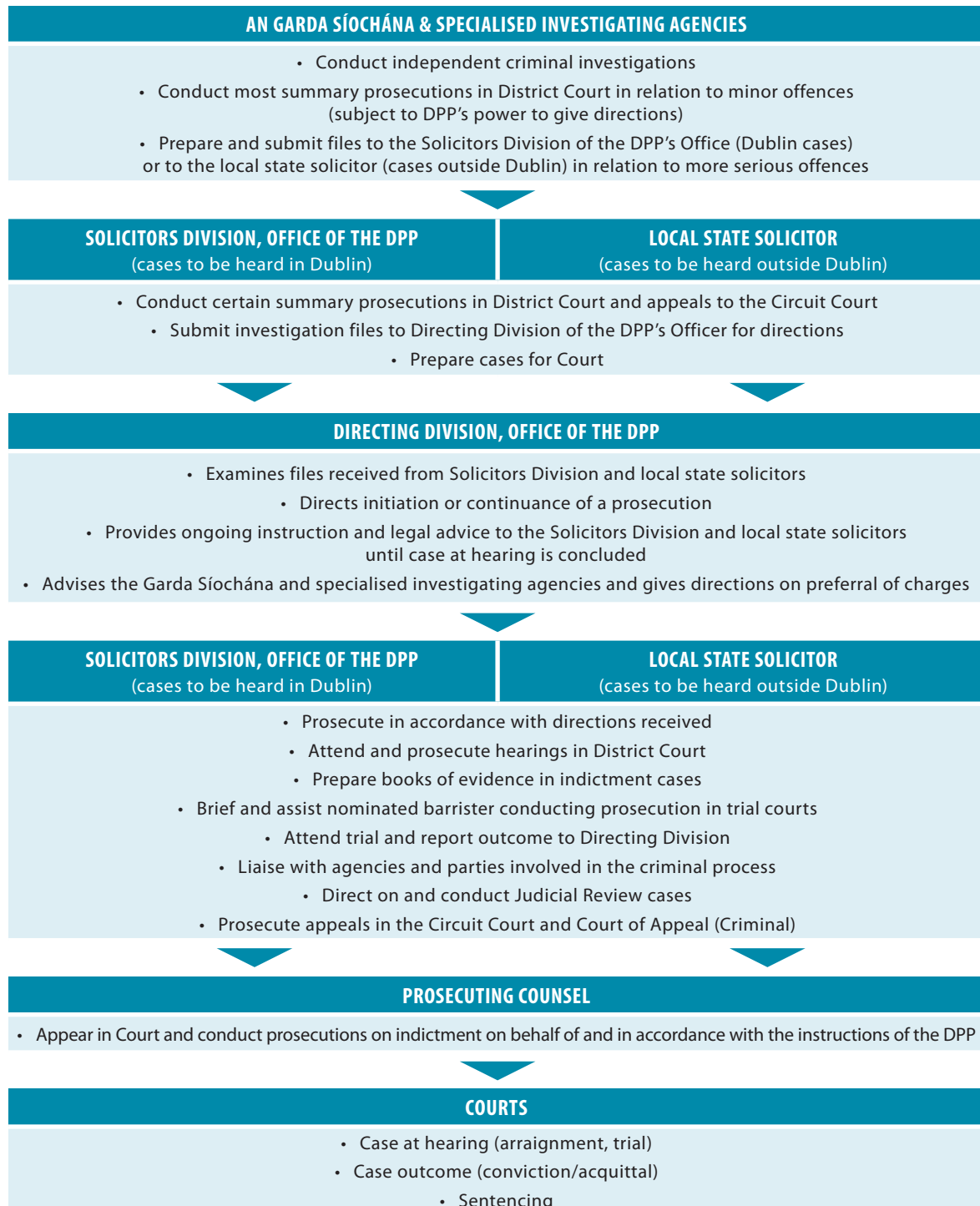
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# 1.1 OVERVIEW OF THE OFFICE

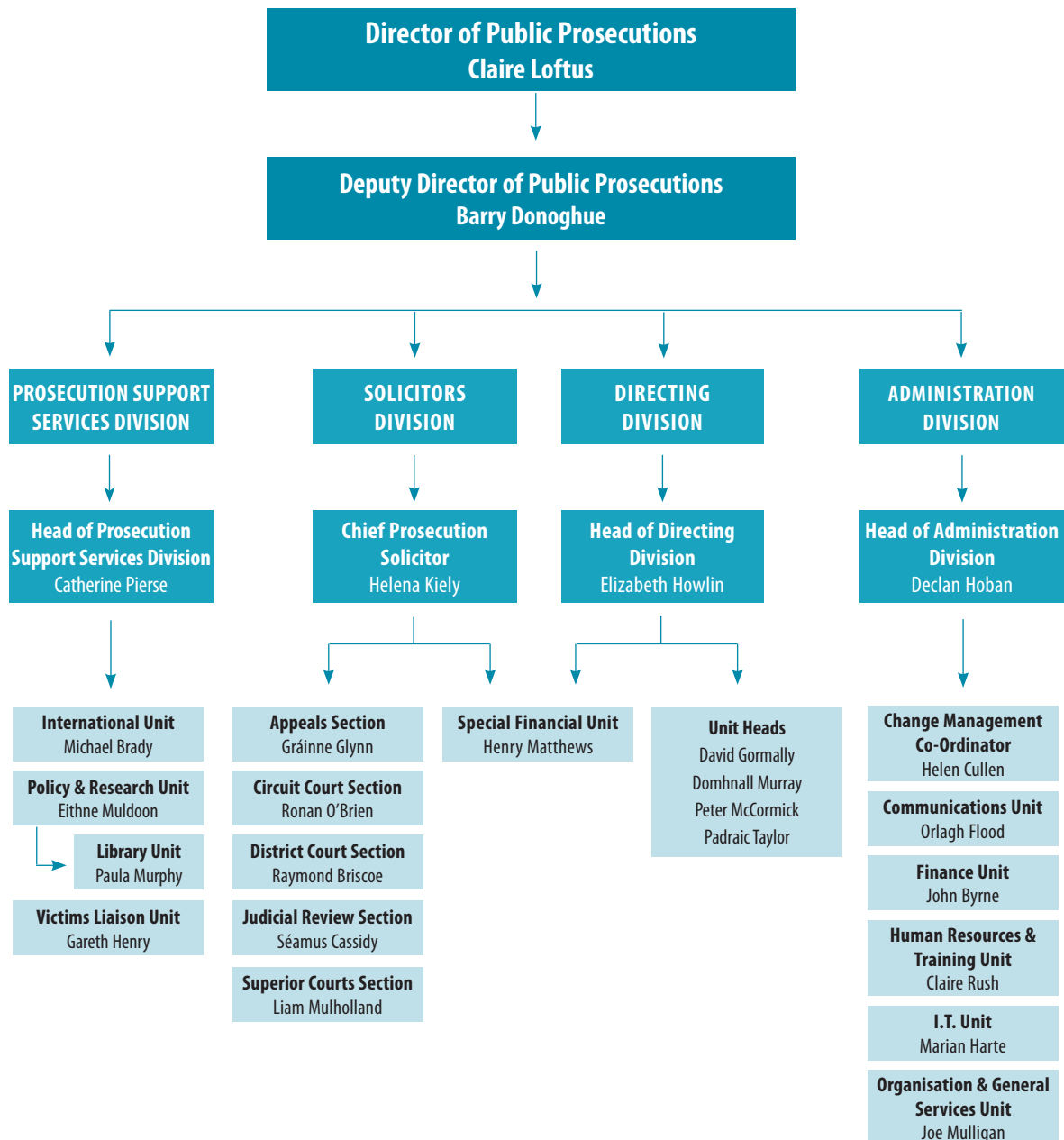
- 1.1.1** The fundamental function of the Director of Public Prosecutions is the direction and supervision of public prosecutions and related criminal matters.
- 1.1.2** The majority of cases dealt with by the Office of the Director of Public Prosecutions are received from the Garda Síochána, the primary national investigating agency. However, some cases are also referred to the Office by specialised investigative agencies including the Revenue Commissioners, Government departments, the Health and Safety Authority, the Competition and Consumer Protection Commission, the Office of the Director of Corporate Enforcement, the Garda Síochána Ombudsman Commission, the Environmental Protection Agency, and local authorities.
- 1.1.3** The Office of the Director of Public Prosecutions has four divisions:
- i)** The **Directing Division** determines, following an examination of an investigation file, whether there should be a prosecution or whether a prosecution commenced by the Garda Síochána should be maintained. The direction which issues indicates the charges, if any, to be brought before the courts. In some cases further information and investigation may be required before a decision can be made. To prosecute there must be a *prima facie* case - evidence which could, though not necessarily would, lead a court or a jury to decide, beyond reasonable doubt, that the person is guilty of the offence.
  - ii)** The **Solicitors Division**, headed by the Chief Prosecution Solicitor, provides a solicitor service to the Director in the preparation and presentation of cases in the Dublin District and Circuit Criminal Courts, the Central Criminal Court and Special Criminal Court, the Court of Appeal and the High and Supreme Courts. Outside the Dublin area 32 local state solicitors, engaged on a contract basis, provide a solicitor service in the Circuit Court and in some District Court matters in their respective local areas.
  - iii)** The **Prosecution Support Services Division** incorporates the Prosecution Policy and Research Unit which provides legal and policy research, develops prosecution policies and advises on legal policy documents referred to the Office for consideration; the Library Unit which provides information and know-how services for both legal and administration staff; the Victims Liaison Unit which is responsible for ensuring that the Office meets its obligations in relation to the support and protection of victims of crime as set out under the Criminal Justice (Victims of Crime) Act 2017; and the International Unit which deals with areas of international criminal law, including extradition, European Arrest Warrants and requests for mutual legal assistance.
  - iv)** The **Administration Division** provides the organisational, infrastructural, administrative and information services required by the Office and also provides support to the Directing, Prosecution Support Services and Solicitors Divisions.

# 1.2 OUTLINE OF THE CRIMINAL PROSECUTION PROCESS



# 1.3 ORGANISATION STRUCTURE

(AS OF SEPTEMBER 2018)



# PART 2:

## SUMMARY OF FILES RECEIVED AND OUTCOMES

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## EXPLANATORY NOTE IN RELATION TO STATISTICS

### 2.1 Part 2 is broken down into five distinct sections:

- i) Charts 2.1.1 to 2.1.5 (Part 2.1) relate to the receipt of files in the Office and include details on the types of directions made;
- ii) Charts 2.2.1 to 2.2.5 (Part 2.2) provide details of the results of cases prosecuted on indictment by the Director in respect of files received in the Office between 2014 and 2016.
- iii) Charts 2.3.1 to 2.3.4 (Part 2.3) provide details of applications made to the courts in relation to appeals in criminal cases, reviews of sentence on grounds of undue leniency, confiscation and forfeiture of criminal assets, and European Arrest Warrants.
- iv) Chart 2.4.1 (Part 2.4) provides details of the preparation/issue of extradition requests, seeking the extradition of individuals who are not present in European Arrest Warrant member states.
- v) Chart 2.5.1 (Part 2.5) provides details of requests for mutual legal assistance processed by the Office of the DPP.

### 2.2 All the yearly demarcations in the statistical tables refer to the year the file was received in the Office. The reason for going back so far in charts 2.2.1 to 2.2.5 is to take account of the time difference between a decision to prosecute being made and a trial verdict being recorded. If statistics were to be provided in respect of 2017 case outcomes, a large proportion of the cases would still be classified as 'for hearing' and the statistics would have little value. Cases heard within a short period of being brought are not necessarily representative.

### 2.3 In this report we have attempted in most instances to include updated versions of the data set out in previous Annual Reports in order to give a fuller account of the progress made since that data was previously published. Because of the continuous change in the status of cases - for example, a case which was pending at the time of a previous report may now have concluded - information given in this report will differ from that for the same cohort of cases in previous reports. In addition, data from two different years may not be strictly comparable because as time goes on more cases are completed so that information from earlier years is necessarily more complete than that from later years. Unless otherwise stated, data included in these statistics was updated in September 2018.

### 2.4 Caution should be exercised when comparing these statistics with statistics published by other organisations such as the Courts Service or An Garda Síochána. The statistics published here are based on our own classification and categorisation systems and may in some cases not be in line with the classification systems of other organisations.

# 2.1 PROSECUTION FILES RECEIVED

Chart 2.1.1 shows the total number of prosecution files received by the Office of the Director of Public Prosecutions from 2002 to 2017.

The chart does not include work undertaken by the Office in relation to other matters not directly related to criminal prosecution files such as: requests for legal advice from the Garda Síochána, local state solicitors or other agencies; policy related matters; or queries of a general nature.

**CHART 2.1.1: Total Prosecution Files Received**

YEAR	FILES
2002	14586
2003	14696
2004	14613
2005	14427
2006	15279
2007	15446
2008	16144
2009	16074
2010	15948
2011	16127
2012	15285
2013	13761
2014	14012
2015	14306
2016	13172
2017	13666

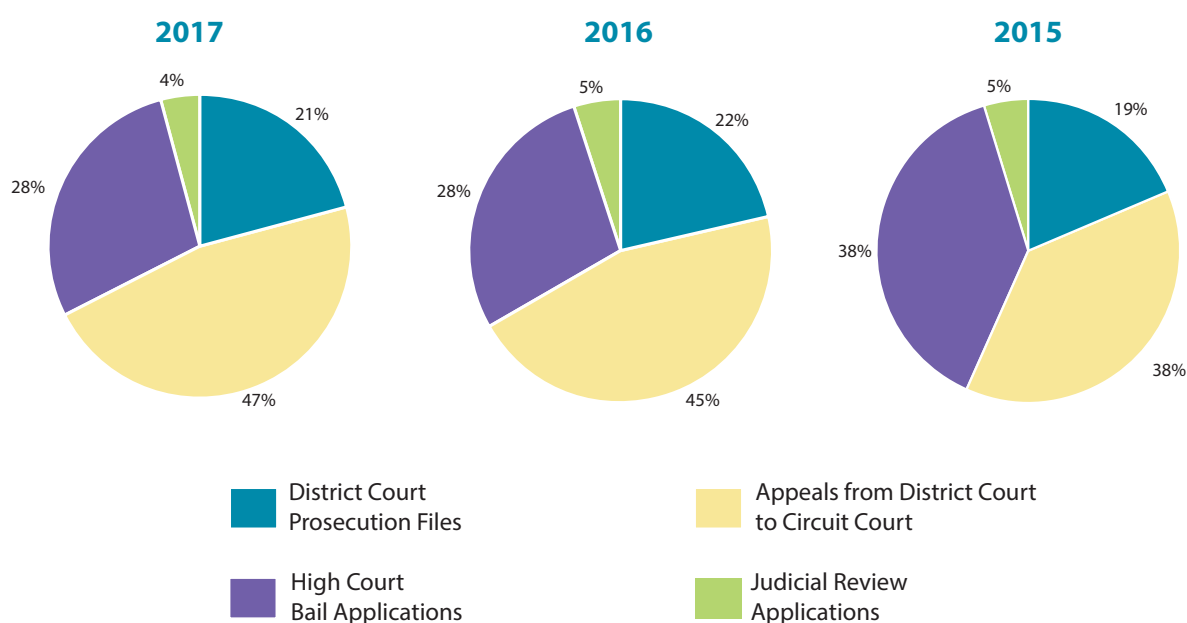
The Solicitors Division of the Office of the Director of Public Prosecutions provides a solicitor service to the Director and acts on her behalf. The division also deals with cases which do not require to be referred to the Directing Division for direction.

Chart 2.1.2 represents the number of cases dealt with solely within the Solicitors Division and includes District Court prosecution files, appeals from the District Court to the Circuit Court and High Court bail applications. The figure for District Court Appeals represents the number of files held, not the number of individual charges appealed. One defendant may have a multiplicity of charges under appeal.

The Solicitors Division also deals with judicial review applications. While some of these applications are dealt with solely within the Solicitors Division, others require to be forwarded to the Directing Division for direction. However, because the dedicated Judicial Review Section is based in the Solicitors Division the total number of judicial review applications dealt with are included in this chart. Judicial reviews may be taken by the Director or be taken against her.

**CHART 2.1.2: Files Dealt with by the Solicitors Division**

	2017	%	2016	%	2015	%
District Court Prosecution Files	1009	21%	947	22%	1006	19%
Appeals from District Court to Circuit Court	2228	47%	1995	45%	2030	38%
High Court Bail Applications	1360	28%	1246	28%	2060	38%
Judicial Review Applications	192	4%	210	5%	246	5%
<b>TOTAL</b>	<b>4789</b>	<b>100%</b>	<b>4398</b>	<b>100%</b>	<b>5342</b>	<b>100%</b>

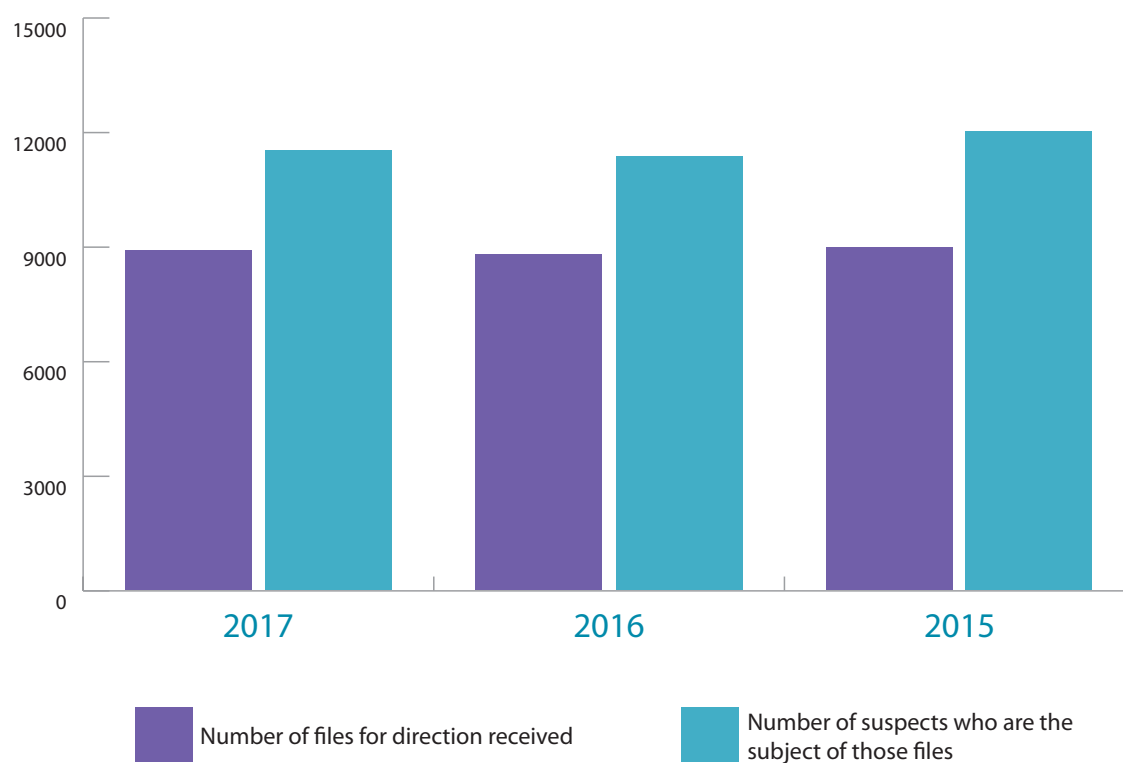


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Chart 2.1.3 represents the number of files received in which a decision to prosecute or not to prosecute must be taken. The chart compares the number of files received with the number of suspects who are the subject of those files. This is because many files relate to more than one suspect. It is important, therefore, to look at the total number of suspects as well as the total number of files.

**CHART 2.1.3: Breakdown of Files Received for Decision Whether to Prosecute**

	2017	2016	2015
Files received for decision whether to prosecute	8877	8774	8964
Number of suspects who are the subject of those files	11499	11352	12004





The following chart shows a breakdown of the disposal of files received in the Directing Division in 2015, 2016 and 2017 (as of September 2018). An Garda Síochána and specialised investigating agencies submit files either directly to this office or to the local state solicitor, for a direction whether or not to prosecute. Depending on the seriousness of the offence and the evidence disclosed in the file, a decision will be taken as follows:

**No Prosecution:** A decision not to prosecute is made. The most common reason not to prosecute is because the evidence contained in the file is not sufficient to support a prosecution. The figures however include all decisions not to prosecute.

**Prosecute on Indictment:** It is decided to prosecute in the Circuit, Central or Special Criminal Courts.

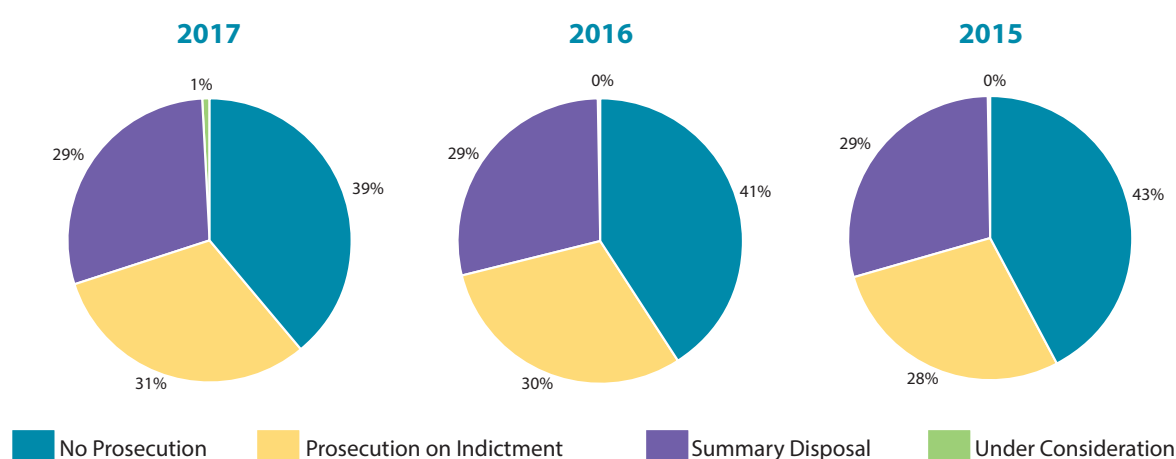
**Summary Disposal:** The offence is to be prosecuted in the District Court.

**Under Consideration:** Files in which a decision has not been made. This figure includes those files in which further information or investigation was required before a decision could be made.

**NOTE:** The figures for 2015 and 2016 have been updated since the publication of previous Annual Reports. The reduction in the files 'Under Consideration' figures compared with those given in previous years reflect developments on those files since then. 'Prosecutions on Indictment' include those cases in which defendants elected for trial by jury and cases where the judge of the District Court refused jurisdiction, even though the Director initially elected for summary disposal.

**CHART 2.1.4: Disposal of Directing Division Files by Number of Suspects Subject of files Received**

Direction Made	2017	%	2016	%	2015	%
No Prosecution Directed	4494	39%	4643	41%	5086	43%
Prosecution on Indictment Directed	3576	31%	3439	30%	3389	28%
Summary Disposal Directed	3345	29%	3241	29%	3522	29%
<b>TOTAL OF FILES DISPOSED</b>	<b>11415</b>		<b>11323</b>		<b>11997</b>	
Under Consideration	84	1%	29	0%	7	0%
<b>TOTAL</b>	<b>11499</b>		<b>11352</b>		<b>12004</b>	



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A decision may be made not to prosecute in relation to a particular file for a variety of reasons other than the main reasons set out in this chart. The death or disappearance of the suspect, the death or disappearance of the complainant or the refusal of a complainant to give evidence are some examples. These are referred to as 'other' in the chart below.

CHART 2.1.4a: Breakdown of Main Reasons for a Direction Not to Prosecute

Main Reasons for No Prosecution	2017	%	2016	%	2015	%
Insufficient Evidence	3579	80%	3714	80%	3966	78%
Juvenile Diversion Programme	76	1%	62	1%	66	1%
Public Interest	80	2%	87	2%	84	2%
Sympathetic Grounds	1	0%	3	0%	7	0%
Time Limit Expired	39	1%	34	1%	42	1%
Undue Delay	48	1%	43	1%	76	2%
Injured Party Withdraws Complaint	302	7%	294	6%	278	5%
Adult Caution	79	2%	93	2%	112	2%
Other	290	6%	313	7%	455	9%
<b>TOTAL</b>	<b>4494</b>		<b>4643</b>		<b>5086</b>	

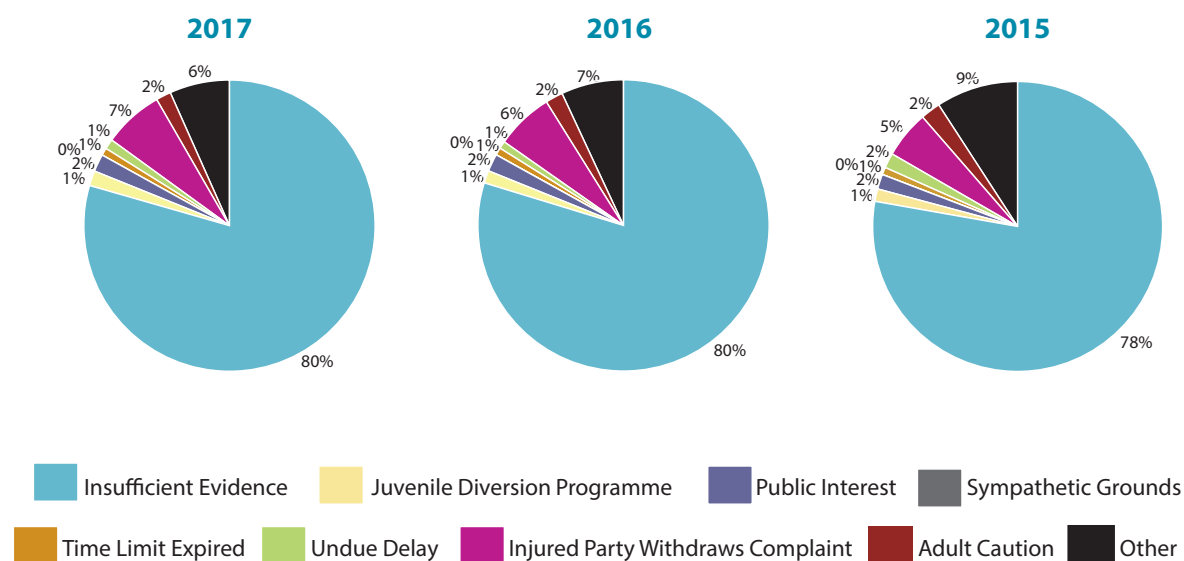


Chart 2.1.4b is a breakdown of directions to prosecute on indictment, by the county in which the offence was committed. It includes cases directed to be heard in the Circuit Criminal, Central Criminal and Special Criminal Courts. Please note that a number of cases are still 'Under Consideration' (see Chart 2.1.4). These include cases where a file was received but further information was required. It is not possible to determine how many of these cases may eventually result in a direction to prosecute on indictment.

**CHART 2.1.4b: Breakdown of Number of Prosecutions on Indictment Directed per County of Offence**

	Population				Population				Population				Number of Prosecutions on Indictment Directed per County					Cases per 1,000 Persons					3 Year Rolling Average		
	2017*	2016*	2015*	2014*	2017*	2016*	2015*	2014*	2017	2016	2015	2014	2013	2017	2016	2015	2014	2013	2015-2017	2014-2016	2013-2014				
Carlow	57,489	56,932	55,613	55,405	55,438	55,438	55,438	55,438	48	42	28	47	28	0.83	0.74	0.50	0.85	0.51	0.69	0.70	0.62				
Cavan	76,887	76,176	70,498	71,621	72,431	72,431	72,431	72,431	59	63	44	34	53	0.77	0.83	0.62	0.47	0.73	0.74	0.64	0.61				
Clare	119,550	118,817	116,755	116,848	116,786	116,786	116,786	116,786	114	66	84	84	59	0.95	0.56	0.72	0.72	0.51	0.74	0.66	0.65				
Cork	543,517	542,868	522,833	525,957	523,770	523,770	523,770	523,770	296	382	369	420	384	0.54	0.70	0.71	0.80	0.73	0.65	0.74	0.75				
Donegal	160,677	159,192	155,225	157,697	159,482	159,482	159,482	159,482	55	73	54	47	60	0.34	0.46	0.35	0.30	0.38	0.38	0.37	0.34				
Dublin	1,350,000	1,347,359	1,305,300	1,274,600	1,262,400	1,262,400	1,262,400	1,262,400	1443	1307	1431	1231	1260	1.07	0.97	1.10	0.97	1.00	1.05	1.01	1.02				
Galway	257,484	258,058	245,106	246,006	246,457	246,457	246,457	246,457	151	125	99	140	94	0.59	0.48	0.40	0.57	0.38	0.49	0.49	0.45				
Kerry	147,883	147,707	146,567	147,443	146,830	146,830	146,830	146,830	73	91	89	82	84	0.49	0.62	0.61	0.56	0.57	0.57	0.59	0.58				
Kildare	226,925	222,504	218,356	216,574	214,158	214,158	214,158	214,158	87	100	88	93	93	0.38	0.45	0.40	0.43	0.43	0.41	0.43	0.42				
Kilkenny	100,203	99,232	97,168	96,804	96,861	96,861	96,861	96,861	62	68	47	37	41	0.62	0.69	0.48	0.38	0.42	0.60	0.52	0.43				
Laois	86,088	84,697	83,637	82,895	82,353	82,353	82,353	82,353	70	48	46	34	47	0.81	0.57	0.55	0.41	0.57	0.64	0.51	0.51				
Leitrim	32,343	32,044	30,631	31,119	31,471	31,471	31,471	31,471	13	9	14	16	11	0.40	0.28	0.46	0.51	0.35	0.38	0.42	0.44				
Limerick	196,102	194,899	191,088	191,239	191,138	191,138	191,138	191,138	193	187	189	130	156	0.98	0.96	0.99	0.68	0.82	0.98	0.88	0.83				
Longford	41,544	40,873	40,490	40,131	39,869	39,869	39,869	39,869	37	39	22	23	29	0.89	0.95	0.54	0.57	0.73	0.80	0.69	0.61				
Louth	130,087	128,884	118,388	120,274	121,634	121,634	121,634	121,634	133	104	84	97	69	1.02	0.81	0.71	0.81	0.57	0.85	0.77	0.69				
Mayo	130,216	130,507	127,747	128,216	128,451	128,451	128,451	128,451	82	71	87	55	75	0.63	0.54	0.68	0.43	0.58	0.62	0.55	0.56				
Meath	198,920	195,044	191,178	189,618	187,503	187,503	187,503	187,503	101	104	90	76	75	0.51	0.53	0.47	0.40	0.40	0.50	0.47	0.42				
Monaghan	61,959	61,386	58,264	59,192	59,861	59,861	59,861	59,861	29	37	35	31	33	0.47	0.60	0.60	0.52	0.55	0.56	0.58	0.56				
Offaly	79,241	77,961	79,617	78,911	78,395	78,395	78,395	78,395	41	33	34	43	25	0.52	0.42	0.43	0.54	0.32	0.46	0.47	0.43				
Roscommon	64,400	64,544	62,647	62,877	62,992	62,992	62,992	62,992	24	39	31	24	23	0.37	0.60	0.49	0.38	0.37	0.49	0.49	0.41				
Sligo	66,147	65,535	62,994	63,997	64,721	64,721	64,721	64,721	28	43	47	26	45	0.42	0.66	0.75	0.41	0.70	0.61	0.60	0.62				
Tipperary	160,857	159,553	160,110	159,829	159,845	159,845	159,845	159,845	130	122	106	86	125	0.81	0.76	0.66	0.54	0.78	0.74	0.65	0.66				
Waterford	117,313	116,176	115,881	115,447	115,515	115,515	115,515	115,515	77	83	84	100	72	0.66	0.71	0.72	0.87	0.62	0.70	0.77	0.74				
Westmeath	90,227	88,770	89,456	88,663	88,083	88,083	88,083	88,083	95	65	69	61	48	1.05	0.73	0.77	0.69	0.54	0.85	0.73	0.67				
Wexford	151,186	149,722	147,985	147,429	147,517	147,517	147,517	147,517	71	70	65	62	52	0.47	0.47	0.44	0.42	0.35	0.46	0.44	0.40				
Wicklow	145,255	142,425	141,866	140,708	139,139	139,139	139,139	139,139	63	68	53	93	74	0.43	0.48	0.37	0.66	0.53	0.43	0.50	0.52				
TOTAL	4,792,500	4,761,865	4,635,400	4,609,500	4,593,100	4,593,100	4,593,100	4,593,100	3575	3439	3389	3172	3115	3575	3439	3389	3172	3115							

\*Population figures for 2016 are taken from the census figures for that year. The 2017, 2013, 2014 & 2015 figures are based on a proration of the estimated regional population figures as published in the Central Statistics Office's Population and Migration Estimates issued in 2017, 2013, 2014 & 2015.

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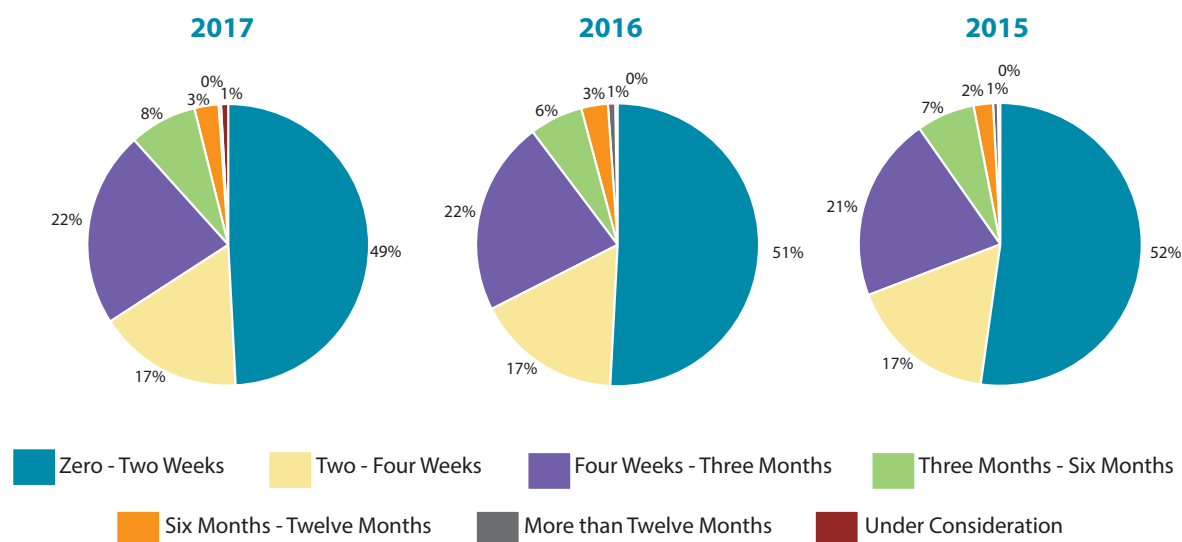
Chart 2.1.5 shows the time between the receipt of a completed prosecution file in the Office and the issuing of a direction as to whether a prosecution of a suspect should be taken or not. It has been decided to show this information by suspect rather than by file since in the case of files containing multiple suspects, decisions in respect of all suspects may not be made at the same time.

Files vary in size and complexity. Also, in some cases, further information or investigation was required before a decision could be made.

The time taken to issue directions is calculated on the basis of only those files which have been disposed of. Files still under consideration are therefore shown as a separate category in the table below.

CHART 2.1.5: Time Taken to Issue Directions

Time Taken	2017	%	2016	%	2015	%
Zero - Two Weeks	5655	49%	5800	51%	6286	52%
Two - Four Weeks	1921	17%	1870	17%	2045	17%
Four Weeks - Three Months	2582	22%	2517	22%	2525	21%
Three Months - Six Months	911	8%	699	6%	814	7%
Six Months - Twelve Months	328	3%	361	3%	256	2%
More than Twelve Months	18	0%	76	1%	71	1%
<b>TOTAL FILES DISPOSED</b>	<b>11415</b>		<b>11323</b>		<b>11997</b>	
Under Consideration	84	1%	29	0%	7	0%
<b>TOTAL</b>	<b>11499</b>		<b>11352</b>		<b>12004</b>	



## 2.2 RESULTS OF CASES PROSECUTED ON INDICTMENT

**2.2.1** Charts 2.2.1 to 2.2.5 provide information for prosecutions on indictment taken by the Director in respect of files received in the Office between 2014 and 2016. As referred to in the initial explanatory note, care should be taken before a comparison is made with figures provided by any other organisation, as they may be compiled on a different basis.

**2.2.2** The figures in these charts relate to individual suspects against whom a direction has been made to prosecute on indictment. Statistics are provided on a suspect-by-suspect basis rather than on the basis of files received. This is because directions are made in respect of each suspect included within a file rather than against the complete file as an entity in itself. Depending on the evidence provided, different directions are often made in respect of the individual suspects received as part of the same file. References in these charts to 'cases' refer to such prosecutions taken against individual suspects. Although individual suspects on a file may be tried together where a direction is made to prosecute them in courts of equal jurisdiction, each suspect's verdict will be collated separately for the purpose of these statistics.

**2.2.3** Statistics are provided on the basis of one outcome per suspect; this is irrespective of the number of charges and offences listed on the indictment. Convictions are broken down into: conviction by jury, conviction on plea, and conviction on a lesser charge. A conviction on a lesser charge indicates that the suspect was not convicted for the primary or most serious offence on the indictment. The offence categorisation used in the main charts is by the primary or most serious offence on the indictment. Therefore, if a defendant is convicted of a lesser offence,

the offence or offences they are convicted for may be different from that under which they are categorised in the charts. For example, a suspect may be charged with murder but ultimately convicted for the lesser offence of manslaughter or charged with aggravated burglary but convicted of the lesser offence of burglary. A breakdown of convictions on a lesser charge is given in respect of cases heard in the Special and Central Criminal Courts in charts 2.2.3a and 2.2.4a. Where a suspect is categorised as 'acquitted', this means that the suspect has been acquitted of all charges.

**2.2.4** It should also be noted that statistics set out in these charts relate to what happened in the trial court only and not in a subsequent appeal court. In other words where a person is convicted and the conviction is subsequently overturned on appeal, the outcome of the trial is still shown in these statistics as a conviction.

**2.2.5** Care should be taken in relation to interpreting the rates of conviction and acquittal in respect of recent years, as a higher number of cases will not have reached a conclusion. The picture furnished by these statistics will be less complete and therefore less representative than those in respect of earlier years. Cases heard relatively early may not necessarily be a representative sample of the whole.

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Chart 2.2.1 shows the results of prosecutions on indictment taken in relation to defendants in respect of whom prosecutions were commenced in the years 2014 to 2016 (as of September 2018). The figures relate to:

**Conviction:** A conviction was obtained in respect of at least one of the charges brought in the case.

**Acquittal:** The defendant was acquitted on all charges.

**Not Yet Heard:** These are cases in which a decision to prosecute has been taken and the matter is before the courts.

**NOTE:** Figures have not been included for 2017 as the great majority of these cases have yet to be dealt with by the courts and the outcomes for the few cases where results are available may not be representative of the final picture covering all the cases.

**CHART 2.2.1: Case Results - Prosecutions on Indictment**

Outcome	2016	%	2015	%	2014	%
Conviction	2286	66%	2524	75%	2446	77%
Acquittal	145	4%	185	5%	190	6%
Not Yet Heard	882	26%	531	16%	355	11%
Struck Out/Discontinued	126	4%	149	4%	181	6%
<b>TOTAL</b>	<b>3439</b>		<b>3389</b>		<b>3172</b>	

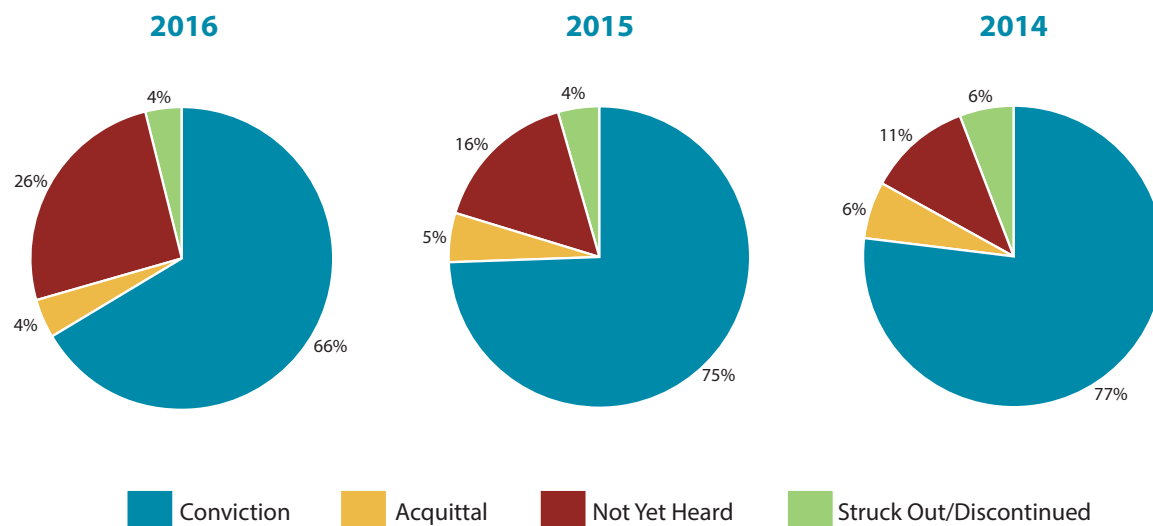
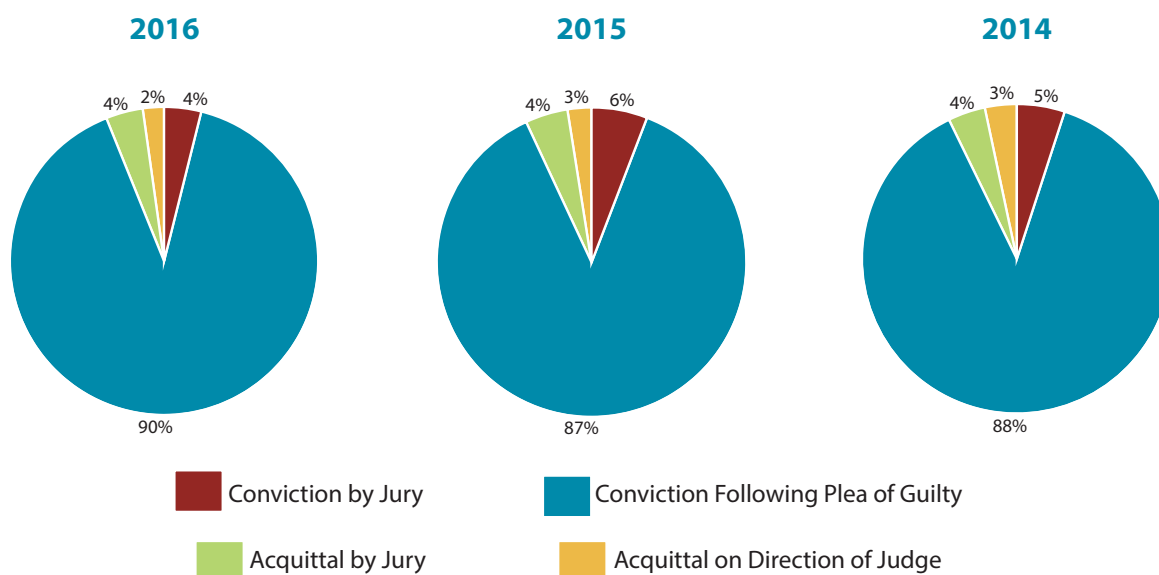


CHART 2.2.1a: Breakdown of Convictions and Acquittals (excluding cases still to be heard)

	2016	%	2015	%	2014	%
Conviction by Jury	96	4%	164	6%	136	5%
Conviction Following Plea of Guilty	2190	90%	2360	87%	2310	88%
<b>TOTAL CONVICTIONS</b>	<b>2286</b>	<b>94%</b>	<b>2524</b>	<b>93%</b>	<b>2446</b>	<b>93%</b>
Acquittal by Jury	93	4%	118	4%	104	4%
Acquittal on Direction of Judge	52	2%	67	3%	86	3%
<b>TOTAL ACQUITTALS</b>	<b>145</b>	<b>6%</b>	<b>185</b>	<b>7%</b>	<b>190</b>	<b>7%</b>
<b>TOTAL</b>	<b>2431</b>		<b>2709</b>		<b>2636</b>	



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Chart 2.2.2 breaks down the prosecutions directed on indictment to be heard in the Circuit Court. The cases categorised as 'For Hearing' are those for which a verdict has not yet been recorded. In some of these cases, a trial may have begun but proceedings have been halted by a Judicial Review application. In other cases the defendant may have absconded before the trial and a bench warrant and/or extradition proceedings may be in process. Other cases, especially those of a complex nature, may not yet have come to trial. The greater proportion of cases 'For Hearing' makes the figures in more recent years less representative. This provision is also applicable to Charts 2.2.3 and 2.2.4. Where a trial results in a jury disagreement the case is treated as still being 'For Hearing' unless a *nolle prosequi* is entered.

**CHART 2.2.2: Outcomes of Cases Prosecuted in the Circuit Criminal Court**

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			For Hearing			Other Disposals		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
Fatal Accident at Work	5	2	4	0	0	0	3	2	4	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Manslaughter	6	2	6	0	0	1	2	1	4	0	1	0	1	0	0	0	0	0	3	0	0	0	0	1
Other Fatal Offences	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL - FATAL OFFENCES</b>	<b>11</b>	<b>4</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>3</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
Burglary	302	307	294	5	8	2	208	216	213	27	21	26	1	5	0	5	4	2	44	42	31	12	11	20
Fraud	48	41	65	1	0	1	25	27	45	2	3	1	2	0	0	2	1	0	13	10	17	3	0	1
Robbery	301	408	424	2	5	3	234	326	360	11	13	16	1	2	3	2	5	5	47	47	31	4	10	6
Theft	236	221	186	1	6	6	170	167	134	10	9	11	2	4	3	2	2	5	44	30	21	7	3	6
Other Offences Against Property	306	319	293	7	11	9	177	196	196	30	39	20	2	9	2	3	5	6	75	44	35	12	15	25
<b>TOTAL - OFFENCES AGAINST PROPERTY</b>	<b>1193</b>	<b>1296</b>	<b>1262</b>	<b>16</b>	<b>30</b>	<b>21</b>	<b>814</b>	<b>932</b>	<b>948</b>	<b>80</b>	<b>85</b>	<b>74</b>	<b>8</b>	<b>20</b>	<b>8</b>	<b>14</b>	<b>17</b>	<b>18</b>	<b>223</b>	<b>173</b>	<b>135</b>	<b>38</b>	<b>39</b>	<b>58</b>
Buggery	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Child Pornography	46	16	16	0	0	0	35	14	12	2	1	1	0	0	0	0	0	0	6	1	1	3	0	2
Sexual Assault	131	109	87	6	13	8	40	42	38	2	4	3	18	11	15	5	4	3	51	28	14	9	7	6
Defilement of a Child	22	23	11	0	0	0	9	11	7	2	1	0	0	2	2	0	0	0	9	6	2	2	3	0
Other Sexual Offences	70	52	51	2	9	3	13	26	24	1	0	1	1	5	1	1	0	2	51	8	10	1	4	10
<b>TOTAL - SEXUAL OFFENCES</b>	<b>270</b>	<b>200</b>	<b>165</b>	<b>8</b>	<b>22</b>	<b>11</b>	<b>97</b>	<b>93</b>	<b>81</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>19</b>	<b>18</b>	<b>18</b>	<b>6</b>	<b>4</b>	<b>5</b>	<b>118</b>	<b>43</b>	<b>27</b>	<b>15</b>	<b>14</b>	<b>18</b>
Dangerous Driving Causing Death	29	19	36	0	2	1	12	7	22	3	1	6	0	1	3	0	4	2	14	2	2	0	2	0
Unauthorised Taking of Motor Vehicles	25	41	31	0	0	0	18	27	21	3	7	4	0	0	0	0	1	0	3	6	5	1	0	1
Other Road Traffic Offences	85	92	62	0	2	2	39	51	36	13	15	7	4	6	2	3	3	1	24	13	12	2	2	2
<b>TOTAL - ROAD TRAFFIC OFFENCES</b>	<b>139</b>	<b>152</b>	<b>129</b>	<b>0</b>	<b>4</b>	<b>3</b>	<b>69</b>	<b>85</b>	<b>79</b>	<b>19</b>	<b>23</b>	<b>17</b>	<b>4</b>	<b>7</b>	<b>5</b>	<b>3</b>	<b>8</b>	<b>3</b>	<b>41</b>	<b>21</b>	<b>19</b>	<b>3</b>	<b>4</b>	<b>3</b>
Drug Offences	489	438	480	0	2	6	168	166	189	212	210	215	1	2	0	3	2	5	101	51	48	4	5	17
Firearms and Explosives Offences	111	147	88	3	4	1	64	86	52	12	20	17	5	5	2	3	0	1	19	26	12	5	6	3
Non Fatal Offences Against the Person	740	682	601	22	17	19	385	379	365	40	65	54	36	38	47	19	24	27	201	109	45	37	50	44
Public Order Offences	182	182	179	1	1	0	91	97	92	35	15	25	5	8	3	0	11	16	46	39	30	4	11	13
Revenue Offences	33	28	35	0	0	2	19	14	20	0	1	0	0	2	1	0	0	5	12	11	6	2	0	1
Sea Fisheries	3	5	5	0	1	0	2	3	1	0	0	0	0	0	0	0	0	0	1	1	4	0	0	0
Other Offences	88	88	68	0	2	5	39	45	22	6	3	6	2	1	0	2	0	6	35	29	24	4	8	5
<b>GRAND TOTAL</b>	<b>3259</b>	<b>3222</b>	<b>3022</b>	<b>50</b>	<b>83</b>	<b>69</b>	<b>1753</b>	<b>1903</b>	<b>1857</b>	<b>412</b>	<b>429</b>	<b>413</b>	<b>81</b>	<b>101</b>	<b>84</b>	<b>50</b>	<b>66</b>	<b>86</b>	<b>801</b>	<b>503</b>	<b>350</b>	<b>112</b>	<b>137</b>	<b>163</b>



CHART 2.2.2a: Breakdown of 'Other Disposals' from Chart 2.2.2

	2016	2015	2014
<i>Nolle prosequi</i> entered	98	117	135
Struck out	0	2	9
Taken into consideration	1	0	2
Successful application to dismiss charges	2	1	3
Suspect absconded and not expected to return	0	0	2
Jury discharged and permanent stay on indictment	1	5	0
Suspect deceased	6	2	3
Suspect unfit to plead	1	1	3
Jury discharged and permanent stay on indictment	1	0	0
Not guilty by reason of insanity	2	9	6
<b>TOTAL</b>	<b>112</b>	<b>137</b>	<b>163</b>

CHART 2.2.2b: Total Cases Finalised in the Circuit Criminal Court and Percentage of Convictions

	TOTAL			Percentage of Convictions		
	2016	2015	2014	2015	2014	2013
Fatal Accident at Work	4	2	4	100%	100%	100%
Manslaughter	3	2	5	67%	100%	100%
<b>TOTAL - FATAL OFFENCES</b>	<b>7</b>	<b>4</b>	<b>9</b>	<b>86%</b>	<b>100%</b>	<b>100%</b>
Burglary	246	254	243	98%	96%	99%
Fraud	32	31	47	88%	97%	100%
Robbery	250	351	387	99%	98%	98%
Theft	185	188	159	98%	97%	95%
Other Offences Against Property	219	260	233	98%	95%	97%
<b>TOTAL - OFFENCES AGAINST PROPERTY</b>	<b>932</b>	<b>1084</b>	<b>1069</b>	<b>98%</b>	<b>97%</b>	<b>98%</b>
Child Pornography	37	15	13	100%	100%	100%
Sexual Assault	71	74	67	68%	80%	73%
Sex with an Underage Girl	11	14	9	100%	86%	78%
Other Sexual Offences	18	40	31	89%	88%	90%
<b>TOTAL - SEXUAL OFFENCES</b>	<b>137</b>	<b>143</b>	<b>120</b>	<b>82%</b>	<b>85%</b>	<b>81%</b>
Dangerous Driving Causing Death	15	15	34	100%	67%	85%
Unauthorised Taking of Motor Vehicles	21	35	25	100%	97%	100%
Other Road Traffic Offences	59	77	48	88%	88%	94%
<b>TOTAL - ROAD TRAFFIC OFFENCES</b>	<b>95</b>	<b>127</b>	<b>107</b>	<b>93%</b>	<b>88%</b>	<b>93%</b>
Drug Offences	384	382	415	99%	99%	99%
Firearms and Explosives Offences	87	115	73	91%	96%	96%
Non Fatal Offences Against the Person	502	523	512	89%	88%	86%
Public Order Offences	132	132	136	96%	86%	86%
Sea Fisheries	19	17	28	100%	88%	79%
Revenue Offences	2	4	1	100%	100%	100%
Other Offences	49	51	39	92%	98%	85%
<b>GRAND TOTAL</b>	<b>2346</b>	<b>2582</b>	<b>2509</b>	<b>94%</b>	<b>94%</b>	<b>93%</b>

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Chart 2.2.3 outlines the result of cases directed for prosecution in the Special Criminal Court.

**CHART 2.2.3: Outcomes of Cases Prosecuted on Indictment in the Special Criminal Court**

	TOTAL			Conviction by Judges			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Judges			Other Disposals			For Hearing		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
Membership of Unlawful Organisation & Related Offences	13	19	14	1	9	3	1	1	1	0	6	10	2	0	0	0	1	0	9	2	0
Directing an Unlawful Organisation	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Firearms and Explosives Offences	7	1	3	0	0	1	2	1	2	2	0	0	0	0	0	0	0	0	3	0	0
Murder	8	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1	0	0	5	0	0
Providing Assistance to Unlawful Organisation	0	2	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
False Imprisonment	0	4	0	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	1	0
Threat to Kill	0	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Facilitating the commission by a criminal organisation of a serious offence	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Withholding information	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
Assault Causing Harm	3	2	0	0	1	0	2	1	0	0	0	0	1	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>33</b>	<b>30</b>	<b>17</b>	<b>2</b>	<b>13</b>	<b>4</b>	<b>7</b>	<b>6</b>	<b>3</b>	<b>2</b>	<b>6</b>	<b>10</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>18</b>	<b>3</b>	<b>0</b>

**CHART 2.2.3a: Breakdown of 'Convictions on Lesser Charge' for Persons Charged with Membership of Unlawful Organisation and Related Offences**

Primary Charge	Lesser Charge Convicted of			TOTAL			Conviction After Trial			Conviction on Plea		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
Membership of Unlawful Organisation & Related Offences	Firearms and Explosives Offences	0	6	7	0	2	5	0	4	2		
Membership of Unlawful Organisation & Related Offences	Assault Causing Harm	0	0	1	0	0	0	0	0	1		
Membership of Unlawful Organisation & Related Offences	Handling Stolen Property	0	0	1	0	0	0	0	0	1		
Membership of Unlawful Organisation & Related Offences	Passing Counterfeit Currency	0	0	1	0	0	0	0	0	1		
Firearms and Explosives Offences	Threat to Kill	2	0	0	0	0	0	0	0	2	0	0
<b>TOTAL</b>		<b>2</b>	<b>6</b>	<b>10</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>5</b>		

CHART 2.2.3b: Breakdown of 'Other Disposals' from Chart 2.2.3

	2016	2015	2014
Suspect deceased	1	1	0
<b>TOTAL</b>	<b>1</b>	<b>1</b>	<b>0</b>

CHART 2.2.3c: Total Cases Finalised in the Special Criminal Court and Percentage of Convictions

	TOTAL			Percentage of Convictions		
	2016	2015	2014	2016	2015	2014
Firearms and Explosives Offences	4	1	3	100%	100%	100%
Membership of / Directing an Unlawful Organisation	4	17	14	50%	100%	100%
Other Offences	6	8	0	83%	88%	N/A
<b>TOTAL</b>	<b>14</b>	<b>26</b>	<b>17</b>	<b>79%</b>	<b>96%</b>	<b>100%</b>

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Chart 2.2.4 outlines the result of cases directed for prosecution in the Central Criminal Court and breaks down all cases by the most serious charge directed against the defendant. Supplementary charts break down the 'convictions on a lesser charge' and the 'other disposals' outcomes.

**CHART 2.2.4: Outcomes of Cases Prosecuted on Indictment in the Central Criminal Court**

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			Other Disposals			For Hearing		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
Murder	20	23	53	3	13	16	1	1	4	5	1	17	1	0	1	0	0	0	0	3	11	10	5	4
Attempted Murder	7	1	4	0	1	0	3	0	1	0	0	1	0	0	0	0	0	0	4	0	2	0	0	0
Rape	114	108	65	17	28	22	17	28	15	12	9	3	10	16	19	0	1	0	8	8	5	50	18	1
Attempted Rape	3	2	6	0	1	0	0	1	4	1	0	2	0	0	0	0	0	0	0	0	0	2	0	0
Aggravated Sexual Assault	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Assisting an Offender	1	2	2	0	0	1	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0
Sexual Assault	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Assault causing harm	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Competition Law	0	0	2	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>147</b>	<b>137</b>	<b>133</b>	<b>20</b>	<b>43</b>	<b>39</b>	<b>22</b>	<b>31</b>	<b>28</b>	<b>18</b>	<b>10</b>	<b>23</b>	<b>11</b>	<b>16</b>	<b>20</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>13</b>	<b>11</b>	<b>18</b>	<b>63</b>	<b>25</b>	<b>5</b>

CHART 2.2.4a: Breakdown of 'Convictions on Lesser Charge'

Primary Charge	Lesser Charge Convicted of	TOTAL			Conviction by Jury			Conviction on Plea		
		2016	2015	2014	2016	2015	2014	2016	2015	2014
Murder	Manslaughter	4	1	14	1	1	5	3	0	9
Murder	Possession of article with intent	0	0	1	0	0	0	0	0	1
Murder	Possession of article in course of dispute	1	0	0	1	0	0	0	0	0
Murder	Assisting an Offender	0	0	1	0	0	0	0	0	1
Murder	Violent Disorder	0	0	1	0	0	0	0	0	1
Rape	Aggravated Sexual Assault	0	0	1	0	0	0	0	0	1
Rape	Assault Causing Harm	1	2	1	0	1	1	1	1	0
Rape	False Imprisonment	0	1	0	0	1	0	0	0	0
Rape	Sex with an Underage Girl	3	1	0	0	0	0	3	1	0
Rape	Sexual Assault	7	5	0	2	4	0	5	1	0
Rape	Indecent Assault	1	0	1	1	0	0	0	0	1
Attempted Murder	Possession of Firearms with Intent to Endanger Life	0	0	1	0	0	0	0	0	1
Attempted Rape	Sexual Assault	1	0	2	0	0	0	1	0	2
<b>TOTAL</b>		<b>18</b>	<b>10</b>	<b>23</b>	<b>5</b>	<b>7</b>	<b>6</b>	<b>13</b>	<b>3</b>	<b>17</b>

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CHART 2.2.4b: Breakdown of 'Other Disposals'

	2016	2015	2014
<i>Nolle prosequi</i> entered	7	6	4
Suspect unfit to plead	0	0	1
Suspect deceased	2	2	1
Successful application to dismiss charges	0	0	1
Judge issued prohibition order	0	1	0
Struck out	1	0	2
Not guilty by reason of insanity	3	2	9
<b>TOTAL</b>	<b>13</b>	<b>11</b>	<b>18</b>

CHART 2.2.4c: Total Cases Finalised in the Central Criminal Court and Percentage of Convictions  
(Including Convictions on a Lesser Charge)

	TOTAL			Percentage of Convictions		
	2016	2015	2014	2016	2015	2014
Murder	10	15	38	90%	100%	97%
Attempted Murder	3	1	2	100%	100%	100%
Rape	56	82	59	82%	79%	68%
Attempted Rape	1	2	6	100%	100%	100%
Aggravated Sexual Assault	0	0	0	N/A	N/A	N/A
Sexual Assault	0	0	0	N/A	N/A	N/A
Assault causing harm	0	0	1	N/A	N/A	100%
Competition Law	0	0	2	N/A	N/A	100%
Assisting an Offender	0	1	2	N/A	100%	N/A
<b>TOTAL</b>	<b>70</b>	<b>101</b>	<b>110</b>	<b>86%</b>	<b>83%</b>	<b>82%</b>

Chart 2.2.5 breaks down the case verdicts for each Circuit Criminal Court. Unlike Chart 2.2.2, it does not include cases 'for hearing' or cases where the outcome is other than conviction or acquittal. Please note that in some cases, a trial may be held in a circuit court for a county other than that in which the offence was committed.

**CHART 2.2.5: Outcomes of Cases Prosecuted on Indictment in the Circuit Criminal Court by County**

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
Carlow	33	18	34	0	1	3	28	12	23	2	4	4	3	0	3	0	1	1
Cavan	50	33	27	0	0	1	48	29	18	2	3	6	0	1	0	0	0	2
Clare	48	69	74	2	2	0	37	49	48	4	9	24	5	5	1	0	4	1
Cork	306	315	370	6	14	10	220	250	293	47	32	52	12	10	7	21	9	8
Donegal	36	35	36	0	3	2	29	23	21	3	5	13	4	1	0	0	3	0
Dublin	877	1059	957	15	11	12	639	753	724	207	252	185	11	30	17	5	13	19
Galway	63	68	107	1	4	3	51	50	80	6	9	19	5	3	2	0	2	3
Kerry	65	79	57	0	3	2	56	68	46	5	3	7	3	5	2	1	0	0
Kildare	80	60	75	5	2	4	57	37	52	15	10	7	2	4	5	1	7	7
Kilkenny	57	39	30	0	0	3	27	35	21	18	2	5	8	2	1	4	0	0
Laois	32	33	27	0	2	0	24	19	19	7	7	5	1	2	2	0	3	1
Leitrim	5	11	9	0	0	0	2	9	4	3	1	2	0	0	0	0	1	3
Limerick	105	147	102	0	8	1	94	122	86	6	14	12	3	3	2	2	0	1
Longford	22	18	19	0	1	0	20	12	13	2	5	5	0	0	0	0	0	1
Louth	61	57	74	2	1	3	50	44	53	8	6	4	0	3	2	1	3	12
Mayo	56	72	40	3	3	3	45	56	30	6	9	3	2	4	4	0	0	0
Meath	62	69	53	2	9	6	44	53	35	12	4	5	2	3	5	2	0	2
Monaghan	4	17	18	0	0	0	4	14	14	0	3	4	0	0	0	0	0	0
Offaly	27	27	26	1	0	0	21	22	18	5	3	5	0	1	1	0	1	2
Roscommon	30	23	17	1	0	0	24	17	9	4	2	3	0	2	3	1	2	2
Sligo	29	33	23	1	1	1	17	28	13	6	2	3	3	2	1	2	0	5
Tipperary	88	88	69	4	5	3	58	58	48	22	17	12	4	5	3	0	3	3
Waterford	66	78	83	5	7	1	51	46	58	2	10	9	4	4	9	4	11	6
Westmeath	49	49	44	0	1	0	38	39	36	4	2	3	1	1	1	6	6	4
Wexford	53	49	58	1	3	1	45	33	46	5	9	8	1	3	1	1	1	2
Wicklow	42	36	80	1	1	8	24	26	51	11	6	8	4	3	7	2	0	6
<b>TOTAL</b>	<b>2346</b>	<b>2582</b>	<b>2509</b>	<b>50</b>	<b>82</b>	<b>67</b>	<b>1753</b>	<b>1904</b>	<b>1859</b>	<b>412</b>	<b>429</b>	<b>413</b>	<b>78</b>	<b>97</b>	<b>79</b>	<b>53</b>	<b>70</b>	<b>91</b>

CHART 2.2.5a: Total Cases Finalised and Percentage of Convictions

	TOTAL			Percentage of Convictions		
	2016	2015	2014	2016	2015	2014
Carlow	33	18	34	91%	94%	88%
Cavan	50	33	27	100%	97%	93%
Clare	48	69	74	90%	87%	97%
Cork	306	315	370	89%	94%	96%
Donegal	36	35	36	89%	89%	100%
Dublin	877	1059	957	98%	96%	96%
Galway	63	68	107	92%	93%	95%
Kerry	65	79	57	94%	94%	96%
Kildare	80	60	75	96%	82%	84%
Kilkenny	57	39	30	79%	95%	97%
Laois	32	33	27	97%	85%	89%
Leitrim	5	11	9	100%	91%	67%
Limerick	105	147	102	95%	98%	97%
Longford	22	18	19	100%	100%	95%
Louth	61	57	74	98%	89%	81%
Mayo	56	72	40	96%	94%	90%
Meath	62	69	53	94%	96%	87%
Monaghan	4	17	18	100%	100%	100%
Offaly	27	27	26	100%	93%	88%
Roscommon	30	23	17	97%	83%	71%
Sligo	29	33	23	83%	94%	74%
Tipperary	88	88	69	95%	91%	91%
Waterford	66	78	83	88%	81%	82%
Westmeath	49	49	44	86%	86%	89%
Wexford	53	49	58	96%	92%	95%
Wicklow	42	36	80	86%	92%	84%
<b>TOTAL</b>	<b>2346</b>	<b>2582</b>	<b>2509</b>	<b>94%</b>	<b>94%</b>	<b>93%</b>



## 2.3 APPLICATIONS TO THE COURTS

Charts 2.3.1 to 2.3.4 provide details of applications made to the Courts in relation to appeals in criminal cases, reviews of sentence on grounds of undue leniency, confiscation and forfeiture of criminal assets, and European Arrest Warrants.

### APPLICATIONS TO THE COURT OF APPEAL (CRIMINAL)

The new Court of Appeal was established in October 2014 following the 33<sup>rd</sup> Amendment to the Constitution and the enactment of the Court of Appeal Act 2014. The Court sits between the High and Supreme Courts and took over the existing appellate jurisdiction of the Supreme Court in civil matters and the Court of Criminal Appeal in criminal matters. The first criminal appeal case was heard on 10 November 2014.

Chart 2.3.1 below details the number of appeals lodged since the establishment of the new Court. The 'Appeal by DPP' column outlines the number of cases in which the Director was an applicant, including, for example, undue leniency, acquittal, and fitness to plead appeals. The remaining columns set out the number of cases in which the Director was a respondent and relate to severity of sentence and conviction appeals.

**CHART 2.3.1: Appeals to the Court of Appeal (Criminal) since November 2014**

Year	Appeal by DPP	Severity of Sentence	Conviction	Conviction and Severity	TOTAL CASES
<b>November - December 2014</b>	10	37	9	13	<b>69</b>
<b>January - December 2015</b>	44	195	40	54	<b>333</b>
<b>January - December 2016</b>	59	164	47	59	<b>329</b>
<b>January - December 2017</b>	49	138	42	49	<b>278</b>
<b>TOTAL</b>	<b>162</b>	<b>534</b>	<b>138</b>	<b>175</b>	<b>1009</b>

## APPLICATIONS FOR REVIEW OF SENTENCE ON GROUNDS OF UNDUE LENIENCY

Section 2 of the Criminal Justice Act, 1993 provides that the Director of Public Prosecutions may apply to the Court of Appeal (Criminal) to have a sentence imposed by the trial court reviewed, if it appears that the sentence imposed was in law unduly lenient.

Chart 2.3.2 below details the number of applications lodged in the last ten years.

Chart 2.3.2a outlines the results of applications by the year in which the application was heard.

**CHART 2.3.2: Applications for Review of Sentence on Grounds of Undue Leniency**

Year of Application	Number of Applications Lodged
2007	42
2008	58
2009	57
2010	54
2011	55
2012	21
2013	32
2014	31
2015	38
2016	56
2017	49

**CHART 2.3.2a: Results of Applications by Year Heard**

Year of Application Heard	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
2007	30	6	3	39
2008	30	14	3	47
2009	15	13	3	31
2010	27	27	3	57
2011	22	18	3	43
2012	15	10	3	28
2013	16	6	4	26
2014	23	11	2	36
2015	36	10	5	51
2016	16	13	6	35
2017	30	18	3	51

## CONFISCATION AND FORFEITURE OF CRIMINAL ASSETS

Taking away the assets of convicted criminals, as provided for under the provisions of the Criminal Justice Act 1994, has proved to be an effective tool available to the Prosecution in diminishing the proceeds that are obtained from criminal activity. The Office of the DPP provides advice and support to prosecution practitioners in relation to confiscation and forfeiture applications. The Office also participates with other departments and agencies in reviewing the procedures and structures for criminal asset seizure in the State.

Asset seizing files received in the Office under the Criminal Justice Act 1994 ranged from forfeiture order cases, to confiscation order cases, to freezing order applications. The total number of cases opened in 2017 is set out in Chart 2.3.3 below.

**CHART 2.3.3: Asset Seizing Files Opened in 2017**

Asset Seizing Files Opened 2017	
Section 39 Forfeiture Applications (Revenue and Gardaí)	43
Section 61 Forfeiture Applications	1
Sections 4 and 9 Confiscation Applications	5
Section 24 Freezing Applications	3
<b>TOTAL</b>	<b>52</b>

**Section 39 Forfeiture Orders:** Under section 39 of the Act a Judge of the Circuit Court may order the forfeiture of any cash which has been seized under section 38\* of the Act if satisfied that the cash directly or indirectly represents the proceeds of crime.

- \* Section 38 of the Act authorises the seizure of cash where a member of An Garda Síochána or an officer of Customs and Excise has reasonable grounds for suspecting that the cash (including cash found during a search) represents any person's proceeds from criminal conduct. The cash seized by a Garda or an officer of Customs and Excise may not be detained for more than 48 hours unless the further detention of the cash is authorised by a Judge of the District Court. Applications can be made to Court to continue to detain the cash for periods of up to two years.

**Section 61 Forfeiture Orders:** Section 61 of the Act allows for forfeiture of any property used to commit, or to facilitate any offence, in either the District Court or Circuit Court. This can be done in relation to a wide variety of assets, such as cars used to transport criminals to and from crime scenes, as well as money and instruments of crime such as drug preparation equipment found at the crime scene, or near to it.

**Section 4 Confiscation Orders:** Under the provisions of section 4 of the Act, once a person has been convicted on indictment of a drug trafficking offence and sentenced, the court of trial must determine whether the convicted person has benefited from drug trafficking, the extent to which he or she has benefited, and the amount that is realisable to discharge a Confiscation Order. The Court can then make a Confiscation Order for that figure.

**Section 9 Confiscation Orders:** Section 9 of the Act allows the confiscation, on conviction, of the benefit an accused person has gained from any indictable offence other than drug trafficking offences. An inquiry may be held by the Circuit Court into the benefit gained after the person is sentenced. The Prosecution must prove that benefit generated is directly related to the offence with which the accused is charged.

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**Section 24 Freezing Orders:** Section 24 of the Act provides for applications to the High Court by the DPP for freezing orders where a person is charged, or a decision has been taken to charge that person, with an indictable offence. The freezing order can cover all property identified both in Ireland or abroad belonging to the accused person. Freezing orders are designed to prevent the dissipation of assets prior to a confiscation inquiry being conducted by the trial court if the accused is convicted on indictment of the offence charged.

Details of Confiscation and Forfeiture Orders granted by the courts in 2017, to a total value of €988,297.03 are outlined in chart 2.3.3a below.

**CHART 2.3.3a: Confiscation of Criminal Assets in 2017**

Orders	Number	Amount
Section 61 Forfeiture Orders	9	€117,834.75
Section 39 Forfeiture Orders (Gardaí)	2	€44,070.00
Section 39 Forfeiture Orders (Revenue Solicitor Applications)	28	€753,192.28
Section 4 Confiscation Orders	2	€73,200.00
<b>TOTAL</b>	<b>41</b>	<b>€988,297.03</b>

## EUROPEAN ARREST WARRANTS

The European Arrest Warrant Act, 2003 came into operation on 1 January 2004. Section 2 of the Act defines the European Arrest Warrant (EAW) as a Court decision in one member state of the EU addressed to a Court in another member state of the EU for the purpose of “conducting a criminal prosecution or the execution of a custodial sentence in the issuing member state”.

Requests for the preparation of EAWs are submitted to the Office of the Director of Public Prosecutions by the Extradition Unit of the Garda Síochána. Applications for EAWs are normally made to a Judge of the High Court. When issued by the High Court, the EAW is dispatched to the Department of Justice and Equality for transmission to the country where it is believed the requested person is residing. Section 33 of the European Arrest Warrant Act 2003 provides that an EAW can be issued by a court if the person requested would, if convicted of the offence (the subject matter of the EAW), be potentially liable to serve a term of imprisonment of twelve months or more. Alternatively, if the person requested has been convicted of an offence, an EAW can be issued in respect to that offence, if the requested person is required to serve as a sentence a term of imprisonment of at least four months. The offences for which EAWs have been sought cover a wide range of serious offences including murder, sexual offences, drugs offences, thefts and serious assaults.

Chart 2.3.4 below outlines the number of European Arrest Warrants dealt with in the years 2015, 2016 and 2017. It should be noted that the issue of the EAW and the surrender of the person will not necessarily correspond to the year the file is received. The total files received includes files where an application is pending or where either no application for an EAW was made, or the issued EAW was withdrawn because the DPP had so directed, the requested person was arrested in Ireland, or the requested person or complainant had died.

**CHART 2.3.4: European Arrest Warrants**

Year	EAW Files Received from Gardaí	EAWs Issued	Persons Surrendered
2015	106	68	22
2016	66	70	34
2017	62	60	30

## 2.4 EXTRADITION REQUESTS

Requests for the preparation/issue of Extradition Requests (seeking the extradition of individuals who are not present in EU member states) are submitted to the Office of the Director of Public Prosecutions by the Extradition Unit of An Garda Síochána.

Once completed, these Extradition Requests are issued by forwarding the requests to the Central Authority in Ireland, namely the Department of Justice & Equality. The Extradition Requests are then transmitted via diplomatic channels by the Department of Foreign Affairs and Trade.

At present Ireland has bi-lateral extradition treaties with the United States of America and Australia. Additionally, Ireland has ratified the European Convention on Extradition (Paris 1957).

In 2017, the Office of the Director of Public Prosecutions received seven files from An Garda Síochána seeking the completion and issue of Extradition Requests.

Seven Extradition Requests were issued in 2017, of which two were transmitted to South Africa, three to Australia, one to the United States of America and one to Israel.

**CHART 2.4.1: Extradition Requests 2017**

Country Request Transmitted to:	Number of Extradition Requests Issued
South Africa	2
Australia	3
USA	1
Israel	1
<b>TOTAL</b>	<b>7</b>

## 2.5 MUTUAL LEGAL ASSISTANCE

Under the provisions of the Criminal Justice (Mutual Assistance) Act 2008, Ireland can provide mutual legal assistance to, and ask for mutual assistance from, other countries in criminal investigations or criminal proceedings. All such requests are dealt with by the Central Authority for Mutual Assistance in the Department of Justice and Equality.

Requests for mutual assistance to other countries are forwarded to the Office of the Director of Public Prosecutions by An Garda Síochána or the Revenue Commissioners for assessment and legal advice, before transmission to other countries.

Chart 2.5.1 outlines the total number of outgoing requests for mutual legal assistance dealt with by this Office in 2015, 2016 and 2017.

**CHART 2.5.1: Requests for Mutual Legal Assistance**

	2015	2016	2017
Number of Requests	268	395	526

**CHART 2.5.2: Countries to which Requests for Mutual Legal Assistance were sent in 2017**

Country	Number of Outgoing Requests
EU Member States (excluding United Kingdom)	133
United Kingdom	135
USA	203
Australia	4
Brazil	3
Canada	14
China	6
Switzerland	5
United Arab Emirates	3
Other	20
<b>TOTAL</b>	<b>526</b>

# PART 3:

## LEGAL DEVELOPMENTS

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# 3.1 LEGAL DEVELOPMENTS

## 2017

### INTRODUCTION

- 3.1.1** This chapter gives a brief outline of some of the court decisions during the past year which are important or interesting or have precedent value for prosecution work. Space does not permit a comprehensive review of all the case law from 2017, but the cases mentioned should give the reader an idea of some of the issues which arise from time to time in the prosecution of offences.

### ACCESS TO SOLICITOR (Conviction Appeal)

***Director of Public Prosecutions v. Doyle* [2017] IESC 1 (SC, Charleton J, 18 January 2017)**

- 3.1.2** The appellant had been interviewed by Gardai in relation to a murder. He had been given access to his solicitor throughout his detention. During one interview, before and during which he had spoken to his solicitor, he made certain admissions. He was subsequently convicted of murder. In appealing his conviction he challenged the admissibility of that interview. The Supreme Court held that the admissions made without his solicitor being present in the interview room were admissible. The Court ruled that suspects were entitled to have reasonable access to legal advice but not the presence of a solicitor during Garda interviews. Since the previous *Gormley* decision (*People (DPP) v. Gormley, People (DPP) v. White* [2014] IESC 17), practices have been developed to enable the presence of a suspect's solicitor during interview.

### BAIL

(Habeas Corpus)

***CMcD v. Ireland* [2017] IECA 81 (CA, Birmingham J, 31 January 2017)**

- 3.1.3** The applicant's challenge to the constitutionality of section 2 and section 2A of the Bail Act 1997 was unsuccessful. He had argued that some of the criteria contained in section 2, which a Court could take into consideration when considering bail, were unconstitutional as they infringed upon his presumption of innocence. He had also argued that section 2A was unconstitutional because it rendered the bail hearing unfair and breached the *audi alterem partem* principle. The Court of Appeal held that the applicant's challenges to the constitutionality of sections 2 and 2A were not made out. Bail had not been refused solely on the belief evidence of the Chief Superintendent.

### CARELESS DRIVING CAUSING DEATH (DPP Appeal to the Supreme Court)

***Director of Public Prosecutions v. Michael O'Shea* [2017] IESC 41, (SC, O'Malley J, 15 June 2017)**

- 3.1.4** In this case the Supreme Court found that it is not necessary to prove *mens rea* in a charge of careless driving causing death or serious bodily harm. The core ingredient of the offence is a lack of care and attention that a reasonably prudent driver would give when driving in a public place, having regard to the circumstances as they actually exist. The Supreme Court also held that section 52 of the Road Traffic Act 1961 as amended by the 2011 Act did not create a new version of careless driving. Careless driving causing death or

serious bodily harm is not a new offence. It is one offence with alternative modes of trial and different penalties depending on the consequences of the driving.

## CHILDREN ACT 2001

(Case Stated)

***Clodagh Forde v. Director of Public Prosecutions* [2017] IEHC (HC, Faherty J, 20 October 2017)**

- 3.1.5** In a consultative case stated by District Court Judge John O'Connor, the High Court held that a reference to "a child charged" in section 75(1) of the Children Act 2001 must be construed as a person who was a "child" at the time of charging and at the time of the section 75(1) hearing. The Court accepted that it was the custom of the Children Court to afford the benefit of section 75(1) to persons over 18 years of age once they were under 18 years of age at the time of charge, but held that the 2001 Act did not require that to be the case.

## CRIMINAL JUSTICE (PUBLIC ORDER) ACT 1994

(Case Stated)

***Director of Public Prosecutions v. James Kelly and Others* [2017] IEHC 125 (HC, Eager J, 6 March 2017)**

- 3.1.6** The defendants were charged with offences pursuant to sections 8, 9 and 24 of the Criminal Justice (Public Order) Act 1994. The District Court Judge dismissed the section 8 charge because she ruled that the prosecuting sergeant was required to believe that the defendants were wilfully obstructing traffic without law, authority or reasonable excuse contrary to section 9, in order to give a direction under section 8. The High Court held that the prosecuting sergeant's opinion that the defendants had committed a public order offence was a reasonable one. He had warned the defendants three times to comply with his direction issued under section 8.

## DISTRICT COURT PROCEDURE

(Judicial Review)

***Wendy Gifford v. Director of Public Prosecutions* IEHC 423 (HC, Ni Raifeartaigh J, 26 May 2017)**

- 3.1.7** The applicant had been charged with theft. Before a plea had been entered, the District Court Judge (when considering jurisdiction) asked what previous convictions the applicant had and then refused jurisdiction. That order was quashed. The High Court held, given the presumption of innocence, that the District Court may not hear evidence as to previous convictions while deciding on venue/jurisdiction.

***Taylor v. Director of Public Prosecutions* [2017] IEHC 729 (HC, Meenan J, 10 November 2017)**

- 3.1.8** The applicant had been charged with section 3 assault. The case was being prosecuted by the Garda pursuant to section 8 of the Garda Síochána Act 2005. The District Court Judge heard an outline of the facts of the case, read a medical report and then accepted jurisdiction in the case. The applicant pleaded guilty and was remanded on bail for a probation report. On the sentencing date, the Judge read the victim impact statement and refused jurisdiction. The applicant sought to quash this order. The High Court quashed his order ruling that the Judge was not entitled, after a plea of guilty had been entered, to change his decision to deal with the case summarily. The case was remitted back to the District Court for sentencing. The key issue in the case was the fact that the applicant had entered a guilty plea. The Court followed the Supreme Court decision of *Ciaran Feeney v. District Judge John Clifford* [1989] I.R. 668.

## EVIDENCE

(Section 34 Without Prejudice Appeal)

***Director of Public Prosecutions v. DJ* [2017] 1ECA 181 (CA, Birmingham J, 15 June 2017)**

- 3.1.9** In this case the respondent was charged with one count of sexual assault. The Circuit Court trial judge had excluded evidence which

tended to show the commission of offences which had not been specifically charged on the indictment, notwithstanding that each of the offences alleged was a sexual assault and had occurred at the time that the offence charged on the indictment had occurred. The Director lodged a section 34 appeal. The Court of Appeal held that the evidence was relevant and *prima facie* admissible and could be excluded only if its inclusion breached one of the rules of evidence. The Court held that the complainant should not have been prevented from giving a full account of the sexual assault.

### IRISH LANGUAGE (Case Stated)

***Padraig O’Ciardha* [2017] ex tempore (HC, O’Regan J, 20 October 2017)**

- 3.1.10** The High Court held that in a prosecution for an offence alleged to have been committed in a Gaeltacht area, the prosecution is entitled to proceed on foot of a summons issued using the English language version of the place name. Section 33 of the Official Language Act 2003 permits the use in legal documents of either the English or the Irish language version of a place name. A summons is a “legal document”.

### NEWTON HEARING (Sentence Appeal)

***Director of Public Prosecutions v. O’Driscoll* [2017] IECA 91 (CA, Sheehan J, 20 March 2017)**

- 3.1.11** The Court of Appeal reduced the appellant’s 12 year sentence for five counts of criminal damage to Garda cars, dangerous driving and one count of endangerment to a Garda whom he injured when he knocked him off his motorbike. The appellant in this case had admitted the offences but in relation to the endangerment charge disputed that he intentionally drove at the Garda. The Court of Appeal held that the sentencing judge erred in law by failing to hold a *Newton* type hearing in circumstances where there was a significant dispute between the parties. A *Newton* hearing, which refers to the English case called *R v. Newton* [1993] Crim Lr 198,

involves the prosecution and defence offering such conflicting evidence so that a judge sitting alone (without a jury) can make appropriate findings of fact. Because a *Newton* type hearing had not been held in this case, it was not clear to the Court of Appeal if the appellant had been sentenced on the basis of intentional endangerment to the Garda as against reckless endangerment.

### RIGHT TO SILENCE (Plenary Action)

***Michael Sweeney v. Ireland, Attorney General and Director of Public Prosecutions* [2017] 702 (HC, Baker J, 23 Nov. 2017)**

- 3.1.12** The High Court held that the offence created by section 9(1)(b) of the Offences Against the State (Amendment) Act 1998 (withholding information) was unconstitutional as it offends against the right to remain silent and was vague and uncertain. The Court noted that the plaintiff when interviewed would have been advised of his right to remain silent. However, the legislation did not provide that he would also be advised that his failure to respond to the questions would in itself amount to an offence under section 9(1)(b).

### ROAD TRAFFIC LAW (Case Stated)

***Director of Public Prosecutions v. Avendenei* [2017] IESC 77 (SC, O’Malley J, 20 Dec 2017)**

- 3.1.13** The Supreme Court upheld a ruling of the Court of Appeal which held that the failure to complete a certificate produced pursuant to section 13 of the Road Traffic Act 2010 in Irish and English rather than just in English did not render the contents misleading or wrong. The Court ruled that the certificate was admissible as evidence in a prosecution for drunk driving, holding that:

“if a breach of the statutory procedure is established, but it has no consequences in that unfairness, prejudice or detriment can be pointed to, then the normal

standards applicable to criminal trials would indicate that the evidence is admissible”.

The Court stated that “disputes about the admissibility of evidence” have “undoubtedly been altered by the judgments of this Court in *Director of Public Prosecutions v JC*”.

***Director of Public Prosecutions v. Higgins* [2017] IECA 55 (CA, Edwards J, 2 March 2017)**

- 3.1.14** The accused had been arrested for being drunk in charge of an MPV having been found asleep in his car. The prosecuting Garda did not give evidence that he had formed the opinion that the accused intended to drive the vehicle. On the basis of the admission by the accused to the Garda that he had pulled over to have a rest, the Court of Appeal held that this implied that he would resume driving after the rest and therefore there was ample evidence to validate the arrest for being drunk in charge of an MPV.

***Director of Public Prosecutions v. Opach* [2017] IECA 305 (CA, Edwards J, 27 November 2017)**

- 3.1.15** The Court of Appeal held that the applicant was properly convicted of having no insurance in circumstances where he was the owner of the vehicle being used by his son without valid insurance. His son was a named driver on the applicant’s insurance policy but was driving his vehicle while in possession of a forged driving licence. The submission that the insurance contract was voidable rather than being void was misconceived. An approved policy of insurance must cover the use of that vehicle by the driver on the occasion in question.

***Director of Public Prosecutions v. Laing* [2017] IEHC 3 (HC, Eager J, 13 January 2017)**

- 3.1.16** The accused had been arrested for drunk driving and then placed in a cell pending the arrival of the doctor. The doctor arrived approximately 35 minutes later. The High Court held that the accused’s detention in the cell was lawful. There was only one member in charge at the station with responsibility for prisoners and he did not have the resources to

sit in an open area observing the accused. The High Court decision was affirmed on appeal. Birmingham J, delivered the judgment for the Court of Appeal on 27 July 2017.

***Director of Public Prosecutions v. Slattery* [2017] IEHC 442 (HC, Binchy J, 4 July 2017)**

- 3.1.17** The High Court held that there was no obligation on a prosecuting Garda before administering a roadside breath test under section 10 of the Road Traffic Acts 1961-2010 to observe an accused for 20 minutes to ensure that he has consumed nil by mouth. Neither is the Garda required to ask the accused if he had had anything to drink in the previous 20 minutes.

***Director of Public Prosecutions v. McTigue* [2017] IEHC 628 (HC, Faherty J, 6 October 2017)**

- 3.1.18** The High Court held that misinformation given to the accused by the Garda as to the precise period of disqualification he would be subject to for failing or refusing to provide a sample of blood or urine did not invalidate a drink driving conviction. The Garda had warned the accused about the penal consequences of not complying with the demand for a specimen, but there had been a slight error when providing the actual period of disqualification. The Court held that there was no obligation on the Garda to warn the accused of any consequential disqualification upon conviction.

## ROBBERY AND ALTERNATIVE VERDICTS (Conviction Appeal)

***Director of Public Prosecutions v. Fitzgerald and O’Driscoll* [2017] IECA 224 (CA, Edwards J, 28 July 2017)**

- 3.1.19** The appellants appealed their convictions for assault and also for robbery contrary to section 14 of the Criminal Justice (Theft and Fraud Offences) Act 2001. Their convictions for assault were upheld. However, their convictions for robbery were quashed. The Court of Appeal held that the trial judge erred in law when he ruled that the alternative verdict provision contained in section 55 of

the 2001 Act applied only in circumstances where the Court had directed the jury to find the appellants not guilty of robbery. The Court of Appeal held that this was incorrect as the offences under sections 17 and 18 could be legitimate alternative offences to a charge of theft or robbery. The Court noted that neither appellant was charged with section 17 or section 18 offences but were charged with a section 14 robbery offence, an offence which has theft as one of its ingredients.

### ROBBERY AND ALTERNATIVE VERDICTS (Case Stated)

***Director of Public Prosecutions v. AS* [2017] IECA 220 (CA, Edwards J, 28 November 2017)**

- 3.1.20** The Court of Appeal confirmed that the power to suspend sentences pursuant to section 99 of the Criminal Justice Act 2006 applied only to sentences of imprisonment and this could not be extended to mean sentences of detention in a children's detention centre. Accordingly, section 99 did not provide the power to suspend a sentence of detention.

### SENTENCING (Judicial Review)

***Mervin White v. Director of Public Prosecutions* [2017] IECA (CA, Hedigan J, 15 June 2017)**

- 3.1.21** The Court of Appeal upheld the decision of the High Court when it held that the applicant could be sentenced by the District Court to a term of imprisonment in his absence, because he had already pleaded guilty to the charges and had failed to attend his sentencing hearing on various dates and was aware of the court dates. The District Court Judge had done everything she could to secure his attendance. The applicant had consciously decided to absent himself from court.

### SENTENCING (Undue Leniency Appeal)

***Director of Public Prosecutions v. Marek Krol* [2017] IECA 205 (CA, Birmingham J, 22 June 2017)**

- 3.1.22** The Court of Appeal allowed the Director's appeal and substituted a custodial sentence in a case where there was a guilty plea to sexual assault where the victim was unconscious at the time of the offence. The Court of Appeal held that:

"an invasive sexual assault on a comatose individual who is not in a position to resist requires to be met by a custodial sentence save in wholly exceptional circumstances".

The trial court had sentenced the respondent to a suspended sentence of two years imprisonment. The Court of Appeal substituted that for two years with the last seven and a half months suspended.

### SEXUAL OFFENCES (Judicial Review)

***David Douglas v. Director of Public Prosecutions and Others* [2017] IEHC 248 (HC, McDermott J, 7 April 2017)**

- 3.1.23** The High Court held that the common law offence of outraging public decency (with which the accused was charged), as developed by the English courts in the 20<sup>th</sup> Century, was not an offence known to Irish law. However, the Court did find that there was an Irish common law offence of committing an indecent act in public, and that this latter offence was not vague and was compatible with the Constitution.

## 3.2 VICTIMS OF CRIME

**3.2.1** On 16 November 2015, EU Directive 2012/29 came into effect. The Directive establishes minimum standards on the rights, support and protection of victims of crime.

**3.2.2** The EU Directive was transposed into Irish law with the enactment of the Criminal Justice (Victims of Crime) Act 2017 on 27 November 2017.

**3.2.3** Under the Act, victims now have specific rights to information. They also have procedural rights during court proceedings. A victim is defined in the Act as a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence, or a family member of a person whose death was directly caused by a criminal offence and who has suffered harm as a result of that person's death.

**3.2.4** Prior to the coming into effect of the Victims' Directive this Office had, since October 2008, given reasons for decisions not to prosecute, on request, to the families of victims in fatal cases only.

Requests for Reasons in Fatal Cases	
October 2008 to November 2015	
Granted	92
Declined	4
Withdrawn	1
Pending	0
<b>TOTAL</b>	<b>97</b>

**3.2.5** Since the coming into effect of the Victims Directive and subsequent Criminal Justice (Victims of Crime) Act 2017, victims have the right to a summary of the reason for

the decision not to prosecute in all cases where the decision was made on or after 16 November 2015, subject to some limited exceptions. A victim can also ask for a review of a decision not to prosecute. The review is carried out by a lawyer who was not involved in making the original decision. Charts 3.2.1 to 3.2.4 outline the number of requests for reasons and reviews received since 16 November 2015 and the main categories of offences which were the subject of those requests.

**3.2.6** The Victims Liaison Unit is primarily responsible for ensuring that the Office meets its obligations in respect of the rights, support and protection of victims as set out in the Criminal Justice (Victims of Crime) Act 2017.

**3.2.7** The Unit deals with all requests for reasons and reviews received from victims of crime. Staff in the Unit also provide an information service for victims who contact the Office by telephone. The Unit has produced two information booklets for victims on 'How we make decisions' and 'How to request reasons and reviews'. Both booklets are available on the 'Victims and Witnesses' section of the Office website, [www.dppireland.ie](http://www.dppireland.ie).

**3.2.8** Now that the Criminal Justice (Victims of Crime) Act 2017 is in place, this Office will continue to review its structures and procedures to ensure that they comply with the legislation, and that we are in a position to provide victims of crime with the standards and quality of service to which they are entitled.

## IMPLEMENTATION OF EU DIRECTIVE

EU Directive 2012/29 came into effect on 16 November 2015. Under the Directive victims have the right to a summary of reasons for a decision not to prosecute in cases where the decision was made on or after 16 November 2015. Victims also have a right to ask for a review of a decision not to prosecute.

Charts 3.2.1 and 3.2.2 below set out the number of requests for a summary of reasons received in 2017, 2016 and 2015 (from when the Directive came into effect on 16 November 2015) and the categories of offences which were the subject of those requests.

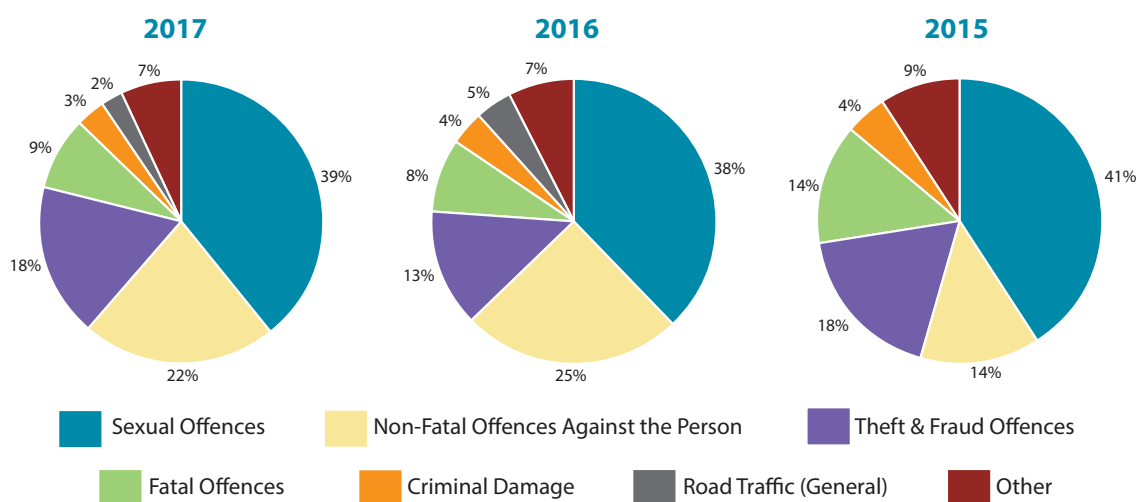
**CHART 3.2.1 Requests for Summary of Reasons**

	2017	2016	2015 (16 Nov - 31 Dec)
Reasons given	577	529	11
Reasons refused	57	80	11
Pending	4	0	0
<b>TOTAL requests for reasons received</b>	<b>638</b>	<b>609</b>	<b>22</b>

Examples of instances in which requests are refused would include requests relating to decisions made prior to 16 November 2015, or where giving a reason may prejudice a future court case.

**CHART 3.2.2 Categories of Offences which were the subject of Requests for Reasons**

Categories of Offences	2017	2016	2015 (16 Nov - 31 Dec)
Sexual Offences	251	231	9
Non Fatal Offences Against the Person	141	153	3
Theft and Fraud Offences	112	81	4
Fatal Offences	54	50	3
Criminal Damage	21	23	1
Road Traffic (General)	15	27	0
Other	44	44	2
<b>TOTAL</b>	<b>638</b>	<b>609</b>	<b>22</b>





## ANNUAL REPORT 2017

Charts 3.2.3 and 3.2.4 below set out the number of requests for review received in 2017, 2016 and 2015 (from when the Directive came into effect on 16 November 2015) and the categories of offences which were the subject of those requests.

CHART 3.2.3 Requests for Review of a Decision Not to Prosecute

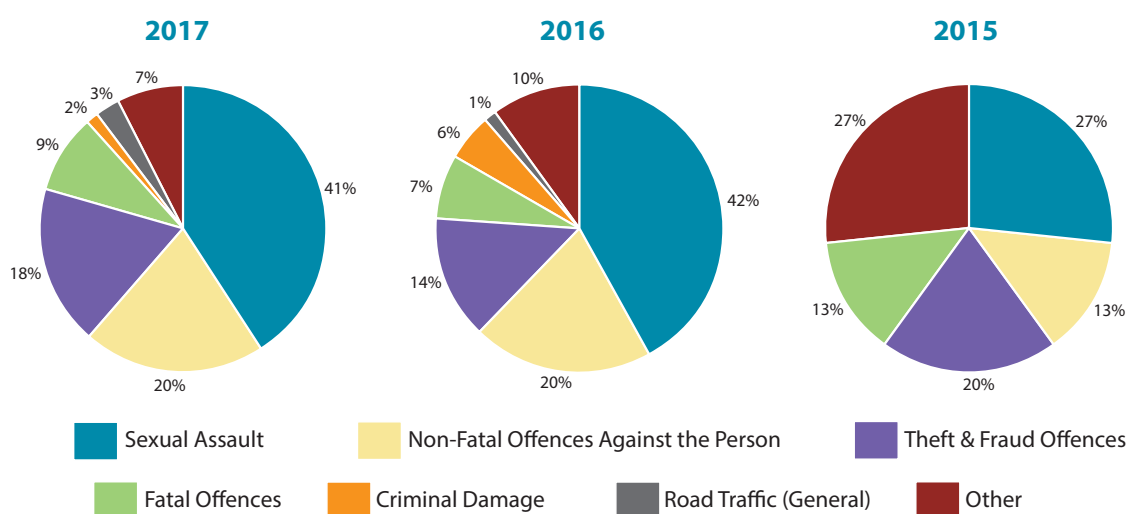
	2017	2016	2015 (16 Nov - 31 Dec)
Decision Upheld	190	200	13
Decision Overturned	8	4 *	1
Invalid Request	19	19	1
Pending	2	0	0
<b>TOTAL requests received for review of a decision</b>	<b>219</b>	<b>223</b>	<b>15</b>

An invalid request would include, for example, a request to review a decision not to prosecute made by An Garda Síochána and not by the Office of the DPP.

\* Three decisions related to three complainants in the one case.

CHART 3.2.4 Categories of Offences which were the subject of Requests for Reviews

Categories of Offences	2017	2016	2015 (16 Nov - 31 Dec)
Sexual Offences	90	94	4
Non Fatal Offences Against the Person	45	45	2
Theft and Fraud Offences	39	31	3
Fatal Offences	20	16	2
Criminal Damage	3	12	0
Road Traffic (General)	6	3	0
Other	16	22	4
<b>TOTAL</b>	<b>219</b>	<b>223</b>	<b>15</b>





# PART 4:

## OFFICE ADMINISTRATION

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# 4.1 OFFICE EXPENDITURE

Chart 4.1.1 shows the breakdown of office expenditure for 2017, 2016 and 2015

**Salaries and Wages:** This represents the cost of salaries of staff employed in the Office. The total staff complement at 1 January 2017 was 195.

**Office Expenses:** This relates to general office administration costs including purchase and maintenance of office equipment, office supplies, library costs, office premises maintenance, travel and other incidental expenses.

**State Solicitor Service:** This refers to payment of amounts agreed by contract with 32 State Solicitors in private practice who are contracted to this Office to represent the Director in courts outside Dublin.

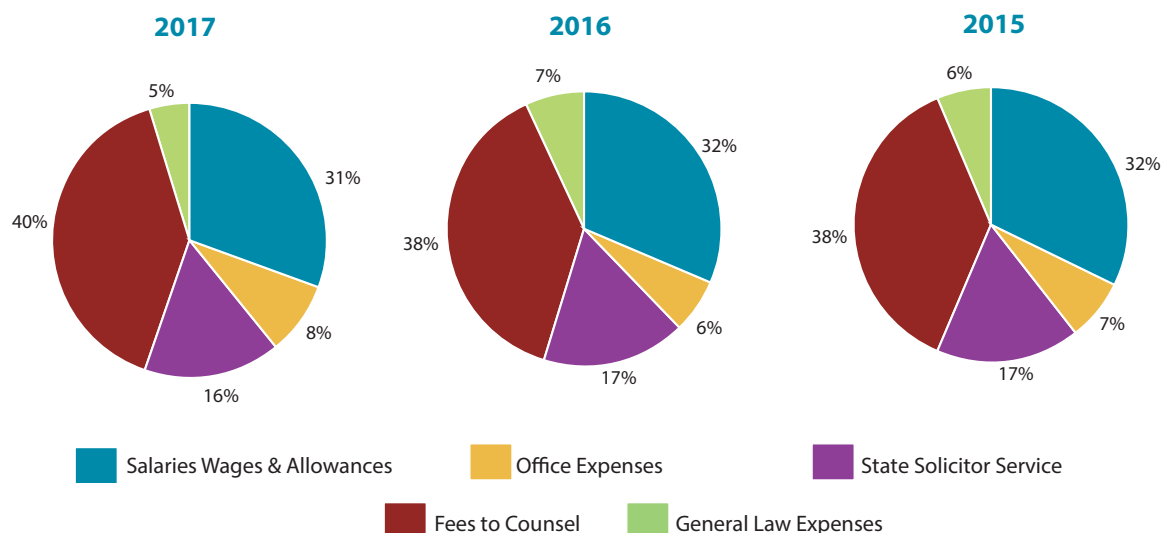
**Fees to Counsel:** These are fees paid to the barristers who prosecute cases on behalf of the Director in the various criminal courts. Fees are set within the parameters set by the Minister for Public Expenditure and Reform.

**General Law Expenses:** This refers to the payment of legal costs awarded by the courts in legal proceedings against the Director.

**NOTE:** The amounts outlined in Chart 4.1.1. for Salaries, Wages & Allowances and Office Expenses are net of pension-related deductions and Appropriations-in-Aid respectively.

**CHART 4.1.1: Office Expenditure**

	2017	%	2016	%	2015	%
	€		€		€	
Salaries Wages & Allowances	12,602,745	31%	12,198,630	32%	12,150,357	32%
Office Expenses	3,450,709	8%	2,417,507	6%	2,744,842	7%
State Solicitor Service	6,561,453	16%	6,547,058	17%	6,433,605	17%
Fees to Counsel	16,406,056	40%	14,857,921	38%	14,022,032	38%
General Law Expenses	1,883,220	5%	2,604,944	7%	2,318,369	6%
<b>TOTAL</b>	<b>40,904,183</b>		<b>38,626,060</b>		<b>37,669,205</b>	



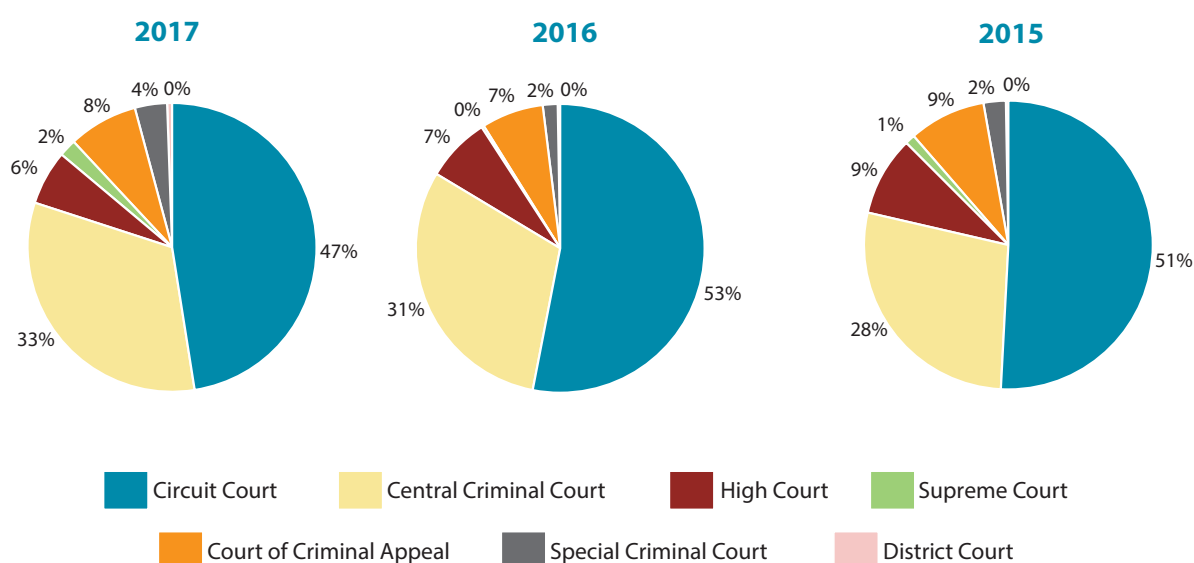
Charts 4.1.2 & 4.1.3 show a breakdown of expenditure on fees to counsel in the various criminal courts and by region in respect of the Circuit Criminal Court.

Fees paid to counsel in the Circuit, Central & Special Criminal Courts cover advising on proofs, drafting indictments, holding consultations, arraignments, presentation of the case and other necessary appearances e.g. for sentence.

Expenditure on fees in the High Court covers mainly bail applications and the preparatory work and hearings associated with judicial reviews.

**CHART 4.1.2: Fees to Counsel Paid by Court**

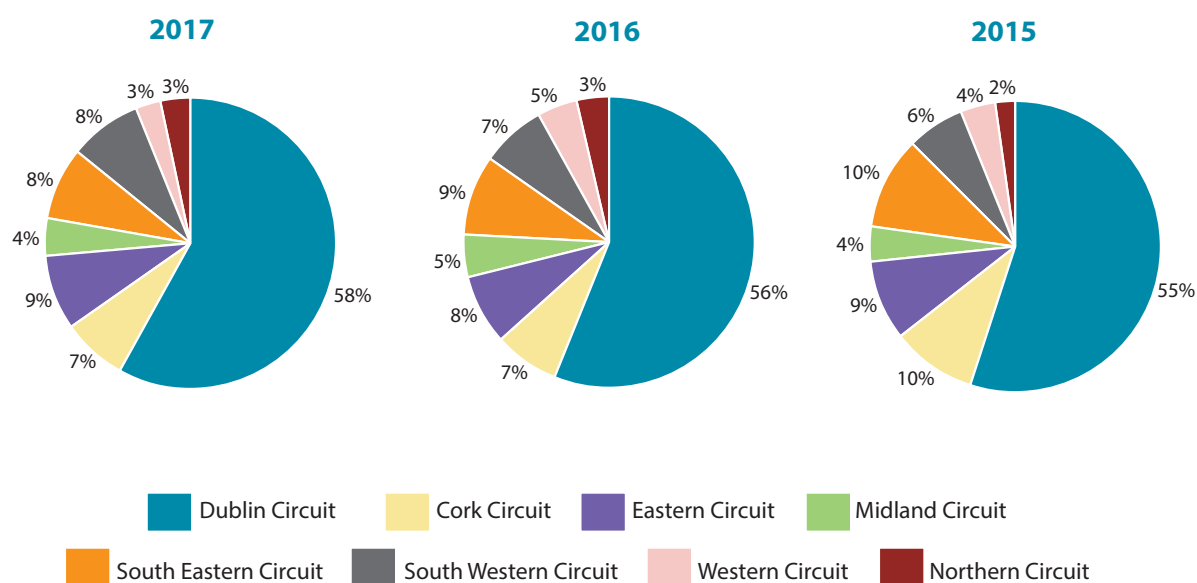
	2017 €	%	2016 €	%	2015 €	%
Circuit Court	7,799,284	47%	7,885,210	53%	7,133,793	51%
Central Criminal Court	5,360,531	33%	4,561,132	31%	3,911,612	28%
High Court	1,005,532	6%	1,070,952	7%	1,246,587	9%
Supreme Court	318,151	2%	48,892	0%	150,056	1%
Court of Appeal	1,240,827	8%	1,013,359	7%	1,204,331	9%
Special Criminal Court	636,149	4%	243,982	2%	354,910	2%
District Court	45,582	0%	34,394	0%	20,743	0%
<b>TOTAL</b>	<b>16,406,056</b>		<b>14,857,921</b>		<b>14,022,032</b>	



## ANNUAL REPORT 2017

CHART 4.1.3: Fees to Counsel Paid by Circuit

	2017 €	%	2016 €	%	2015 €	%
Dublin Circuit	4,537,399	58%	4,435,009	56%	3,935,526	55%
Cork Circuit	559,609	7%	579,824	7%	680,537	10%
Eastern Circuit	649,440	9%	601,443	8%	632,113	9%
Midland Circuit	330,925	4%	365,235	5%	268,629	4%
South Eastern Circuit	618,330	8%	711,779	9%	736,032	10%
South Western Circuit	627,967	8%	560,802	7%	459,927	6%
Western Circuit	217,264	3%	359,908	5%	263,531	4%
Northern Circuit	258,350	3%	271,210	3%	157,498	2%
<b>TOTAL</b>	<b>7,799,284</b>		<b>7,885,210</b>		<b>7,133,793</b>	



# 4.2 EXTRACT FROM APPROPRIATION ACCOUNT 2016

Account of the sum expended in the year ended 31 December 2016, compared with the sum granted and of the sum which may be applied as appropriations-in-aid in addition thereto, for the salaries and expenses of the Office of the Director of Public Prosecutions.

		<u>2016</u>	<u>2015</u>
	Estimate Provision €'000	Outturn €'000	Outturn €'000
<b>PROGRAMME EXPENDITURE</b>			
<b>A.</b>			
Provision of Prosecution Service	39,861	39,417	38,622
<b>Gross Expenditure</b>	<b>39,861</b>	<b>39,417</b>	<b>38,622</b>
<i>Deduct</i>			
<b>B.</b>			
Appropriations-in-Aid	975	791	953
<b>Net Expenditure</b>	<b>38,886</b>	<b>38,626</b>	<b>37,669</b>
<b>Surplus for Surrender</b>			
The surplus of the amount provided over the net amount applied is liable for surrender to the Exchequer			
		<u>2016</u>	<u>2015</u>
<b>Surplus to be Surrendered</b>		<b>€259,940</b>	<b>€164,795</b>
<b>Analysis of Administration Expenditure</b>			
	Estimate Provision €'000	<u>2016</u> Outturn €'000	<u>2015</u> Outturn €'000
<b>I.</b>			
Salaries, Wages and Allowances	13,400	12,825	12,963
<b>II.</b>			
Travel and Subsistence	109	131	91
<b>III.</b>			
Training and Development and Incidental Expenses	991	1,259	1,139
<b>IV.</b>			
Postal and Telecommunications Services	250	207	219
<b>V.</b>			
Office Equipment and External IT Services	808	516	422
<b>VI.</b>			
Office Premises Expenses	1,142	490	983
<b>VII.</b>			
Consultancy Services and Value for Money & Policy Reviews	37	13	30
	<b>16,737</b>	<b>15,441</b>	<b>15,847</b>

# 4.3 PROMPT PAYMENT OF ACCOUNTS ACT, 1997

## Late Payments in Commercial Transactions Regulations 2002

### OPERATION OF THE ACT IN THE PERIOD 1 JANUARY 2017 TO 31 DECEMBER 2017

- 4.3.1** The Office of the Director of Public Prosecutions makes payments to suppliers after the goods or services in question have been provided satisfactorily and within 30 days of the supplier submitting an invoice. In the case of fees to counsel, while invoices are not generated, the practice of the Office is to pay counsels' fees within 30 days of receipt of a case report form in each case.
- 4.3.2** In the period in question, the Office made 10 late payments in excess of €317.50. The value of these payments was €23,874. The total value of late payments in the year amounted to €29,197 out of total payments of €3.7 million and interest thereon came to €341.12.

### Statement of the Accounting Officer

- 4.3.3** The Office of the Director of Public Prosecutions is one of the organisations which is subject to the terms of the Prompt Payment of Accounts Act, 1997 and the Late Payments in Commercial Transactions Regulations 2002. The Act came into force on 2 January 1998, and since that time the Office has complied with the terms of the Act.
- 4.3.4** All invoices from suppliers are date stamped on receipt. Invoices are approved and submitted for payment in a timely manner to ensure that payment is made within the relevant period. When the invoices are being paid the date of receipt and the date of payment are compared, and if the

relevant time limit has been exceeded, an interest payment is automatically generated. In cases where an interest payment is required, the matter is brought to the attention of management so that any necessary remedial action can be taken.

- 4.3.5** The procedures which have been put in place can only provide reasonable and not absolute assurance against material non-compliance with the Act.

**Barry Donoghue**  
Accounting Officer  
April 2018

# 4.4 FREEDOM OF INFORMATION

**4.4.1** The Freedom of Information (FOI) Act 2014 asserts the right of members of the public to obtain access to official information, including personal information, to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

**4.4.2** Section 42(f) of the Act 2014 provides a right of access only with regard to records which relate to the general administration of the Office of the DPP. This in effect means that records concerning criminal prosecution files are not accessible under the FOI Act.

**4.4.3** The Office continues to make FOI information available as readily as possible. Our Freedom of Information Publication Scheme is available on our website, [www.dppireland.ie](http://www.dppireland.ie). This publication outlines the business of the Office including the types of records kept.

**4.4.4** The FOI unit can be contacted by telephone on (01) 858 8500 or by e-mail at [foi@dppireland.ie](mailto:foi@dppireland.ie). This e-mail address can be used to submit a Freedom of Information request, but cannot be used when requesting an internal review where an application fee is required.

**4.4.5** During 2017 a total of 26 requests were submitted to the Office. Eight requests were granted/part granted, 17 requests were refused and one was dealt with outside of FOI. The reason for the refusals was that the records sought did not relate to the general administration of the Office.

**4.4.6** Nine of the requests were submitted by journalists, one was submitted by business/interest groups, while the other 16 requests were made by the general public.

**4.4.7** In the 17 cases where requests were refused, only two of the requesters sought an internal review of the original decision. The original decision was upheld in both of these cases.

## Requests Received 2017

Requests Granted / Part Granted	8
Requests Refused	17
Withdrawn / Dealt with outside of FOI	1
<b>TOTAL REQUESTS</b>	<b>26</b>

## Requesters 2017

Journalists	9
General Public	16
Business / Interest Groups	1

## Reviews 2017

Requests for Internal Review	2
Requests to the Information Commissioner for Review	0

# 4.5 ANNUAL ENERGY EFFICIENCY REPORT 2017

## Overview of Energy Usage in 2017

**4.5.1** In 2017, the Office of the Director of Public Prosecutions consumed 1,330.07MWh of energy.

The total energy consumption is in respect of space heating, air conditioning, hot water, lighting, computer systems and other office equipment at our office buildings in Infirmary Road and North King Street.

This figure is compiled as follows:

- 638.85MWh of Electricity
- 691.22MWh of Natural Gas

The relocation of staff in June 2017 from an air-conditioned building at North King Street to naturally ventilated buildings at Infirmary Road resulted in a marked reduction in energy consumption in 2017.

Separately, arising from its participation in the Office of Public Works *“Optimising Power at work”* Programme, the Office was awarded a “Highly Commended” certificate for energy management in the Naturally Ventilated Buildings Category, Regional Awards, February, 2018.

## Actions Undertaken in 2017

**4.5.2** During 2017, energy efficiency monitoring continued in collaboration with external consultants and maintenance contractors. Actions taken during 2017 include the following:

- Monitoring of existing energy management systems continued and gas boilers were switched off for extended periods over the summer.

- Agreement was reached with the Office of Public Works (OPW) to proceed with the installation of a new computerised Building Management System (BMS) at Infirmary Road by early 2018.
- A major window refurbishment programme commenced in August and was virtually completed by December 2017. The lift was also replaced in the main building.
- Developed and progressed proposals for further insulation measures in key areas of buildings where heat loss was significant.

## Actions Planned for 2018

**4.5.3** Actions planned for 2018 include the following:

- Complete installation of a new BMS system to manage energy consumption at Infirmary Road.
- Implement additional insulation measures carried over from 2017.
- Continuation of awareness campaign using signage and posters.
- Advance proposals for upgrade of controls and possible replacement boiler systems at Infirmary Road.
- Consider and develop proposals for internal lighting upgrade programme.
- Advance proposals for upgrade of controls and boiler systems at Infirmary Road.



# 4.6 IRISH LANGUAGE SCHEME

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**4.6.1** The 3<sup>rd</sup> Irish Language Scheme for the Office of the Director of Public Prosecutions was approved by the Minister for Arts, Heritage and the Gaeltacht in January 2014. The Scheme was effective for the period from 2014 to 2017. A 4<sup>th</sup> Irish Language Scheme for the Office was confirmed by the Minister for Culture, Heritage and the Gaeltacht in May 2018. This scheme took effect from 28 May 2018 and shall remain in force for a period of three years from this date (2018–2021).

**4.6.2** During 2017 the Office dealt with one District Court case in Irish. We received one letter and four emails in the Irish language, all of which were responded to in Irish.

**4.6.3** The Office produced three publications during 2017: Annual Report 2016; Quality Service Charter 2017–2019; and Quality Service Action Plan 2017–2019. All publications were produced bilingually.

**4.6.4** The Office website is maintained and updated in bilingual format. Updates to the Irish version of the website are translated by external translators. Changes are then published simultaneously on the Irish and English versions of the website. During 2017, the total number of page views on the Irish version of our website was 1,117. This represents 0.8% of all page views. Apart from the Irish homepage, the most visited Irish pages were:

- Guidelines for Prosecutors
- About Us
- Compliance

**4.6.5** Our Training Unit continues to promote Irish Language training courses to ensure that the Office can fulfil its obligations under the Official Languages Act. During 2017, two members of the legal staff attended the Gaeltacht.

