Good morning everyone and welcome to the Office's 26th Annual Conference. I am delighted that as usual we have a great turnout this morning from across the criminal justice system.

As most of you who work in the prosecution service will already know, 2025 is the 50th anniversary of the appointment of the first DPP, Eamonn Barnes. The Office has been holding events throughout the year to mark this anniversary, and we commissioned a short history book by Dr Niamh Howlin of UCD. This history documents the lead up to the establishment of the Office and the deep concern within Government about what was perceived as a "widespread" public belief that external influence had a bearing on public prosecutions thus endangering the rule of law. Interestingly the archives also reveal that there was a concern about the assignment of briefs to counsel based on political affiliation.

The final text of the Prosecution of Offences Act 1974 created a DPP who would be an independent civil servant, autonomous in the assignment of prosecution briefs and free from improper influence. The first DPP, Eamonn Barnes, and indeed each of his successors, James Hamilton and Claire Loftus, then took this mandate on and were steadfast in their commitment to the principle of independence.

It is important to emphasise that the prosecution service in Ireland consists of much more than the Office of the DPP. It is comprises of the 30 state solicitors who are delivering a prosecution service locally in the circuit courts across the country. And the 200 independent barristers who prosecute on behalf of the People of Ireland in our courts every day. It also consists of our colleagues in An Garda Síochána who bring prosecutions in approximately 200,000 cases a year in the name of the DPP. Each of these institutions – the State Solicitors, An Garda Síochána and the independent Bar can trace their history back a lot longer than the Office of the DPP, but it is in the past 50 years that we have been collectively delivering an essential public service. I want to take the opportunity this morning to focus beyond the history of the Office of the DPP itself, and instead on this collective of public and private actors providing a prosecution service; and to look to the future in reflecting on how these relationships can be strengthened as the prosecution service grows and develops. Because these relationships will continue to be tested and will need to be minded and developed as we collectively adapt to a continuously changing environment; one that is marked by increasing levels of court activity and digital data, and an increasingly complex legal landscape involving various layers of domestic and EU legislation and caselaw.

It is clear from the material retrieved from the National Archives that the overwhelming focus of civil servants, politicians and drafters at the time of the establishment of the Office was on the issue of independence. I think it is interesting to reflect also on what was not being discussed. It is clear in particular that very little thought was given to scope and resourcing of the new Office, or indeed the overall intended structure of the Irish prosecution service. A departmental note from this time noted that "*it is not anticipated that the creation of the DPP's Office will create a need for extra staff*". Indeed, the initial personnel consisted of just four dedicated lawyers and a small number of support staff. Perhaps unsurprisingly all of the focus was on establishing a

truly independent Office and no attention was paid to the question of how to create a cohesive national prosecution service.

Bit by bit over the past 50 years this gap has been addressed. For many years the Office relied on the CSSO to represent it in court and the Office of the Chief Prosecution Solicitor was only created in 2001 after years of agitating for this by Eamonn Barnes and James Hamilton. Indeed it was only in 2015 during Claire's tenure that the entire Office moved into the one building. Notwithstanding the establishment of a DPP in 1975, state solicitors continued to report to the Attorney General which was an obvious anomaly, and it was not until 2007 when they finally came under the umbrella of the DPP. And it was in 2005 when legislation was passed to finally clarify that all Garda prosecutions are taken in the name of the DPP and only where authorised by general direction of the DPP.

Successive DPPs and governments have also been addressing the resourcing needs of a modern, effective prosecution service. Today the Office has over 300 staff and works with 30 state solicitors and almost 200 barristers on our panels. In addition, there are approximately 14,000 Garda members prosecuting in the name of the DPP every day in the District Court.

Although relatively unusual by international standards, the reliance in Ireland on private partners to deliver a prosecution service is a system that has by and large served the Irish public well in my view. Through our reliance of state solicitors, it has been possible to provide a local service in 30 locations around the country. By relying on the independent Bar, we are supporting a system where accused persons have access to the same expertise as the prosecution and this also supports a balance of perspectives.

Over the years the Office has sought to improve and enhance our governance structures to ensure that there is strong accountability in respect of the performance of each part of the overall prosecution service – whether this is being delivered by a private practitioner, an ODPP staff member or a member of An Garda Síochána. We have established a Prosecution Standards Unit and in collaboration with Garda colleagues are working to identify how best provide greater quality assurance support for Garda summary prosecutions. We have also established a dedicated State Solicitors Support Unit to work with and support State Solicitors. We recognise the importance also of fully supporting our relationship with the Bar which is a key stakeholder in the delivery of the prosecution service.

A key challenge in running any essential public service is ensuring that sufficient expert and qualified professionals are motivated to work for you when, to put it bluntly, they have lots of other options. For everyone who works in the prosecution service there are a range of motivators including a desire to do meaningful work and contribute to the administration of justice, but the question of remuneration is of course also a consideration.

When it comes to remuneration, barrister fees give rise to particularly complex considerations because work is paid for on the basis of set milestones in a case; and of course, what is actually involved can vary significantly from case to case or as between different types of court appearance, or the preparatory work involved. We are working with the Bar Council to ensure

that there are good channels of communication where issues arise in relation to individual fees. We do however want to ensure that we can maintain our strong record for timely payments of fees so it is important that we do not over complicate the administration of the fee payment system and that it can be administered efficiently.

Over the past four years our overall expenditure on counsel fees has risen very significantly. Quite rightly we need to account to the Department of Public Expenditure and Reform to explain this large increase in fees and to provide assurance that this increase in fees is representing value for public money.

Some of the increase in our counsel fees bill is arising because of the restoration of FEMPI cuts that took place after the financial crisis. I welcome this and also the commitment in the Programme for Government to the full restoration of FEMPI.

Another driver for the increase in our overall budget for counsel fees is the hugely increased levels of court activity. This is a good use of public money where this activity is productive and leading to the resolution of cases. However, it must also be acknowledged that there are inefficiencies in the current system that are resulting in unnecessary delays and costs. To address some of these inefficiencies will require a whole of system approach and I welcome the commitment in the Programme for Government to conduct a review of the criminal justice system and publish an action plan to improve efficiency, remove blockages and cut waiting times.

Putting in place systems to support and incentivise early engagement by the prosecution, and the defence is key to the effective operation of the court system. Given the level of work and money that goes into preparing for a trial, and the level of anxiety caused to all those waiting for their trial to come on, we need to get to a situation where trial dates are seen for what they are – a very valuable resource; where trials are only set down where there is a genuine intention to contest a case; and where all of us in the process are then working sincerely towards ensuring that every trial listed can go ahead. Unpredictability is not only very costly it also ratchets up stress for victims, accused persons, witnesses and practitioners.

The review of criminal legal aid being led by the Department of Justice is also relevant here. It is important for the administration of justice that accused people have access to high quality defence lawyers both inside and outside large urban areas. It is also important that defence lawyers and prosecution counsel fees are structured to support early engagement with a case. Prosecution counsel fees are linked to criminal legal aid fees because of the principle of parity, and my Office will provide whatever assistance we can to these projects with a view to improving efficiencies and ensuring access to justice.

While governance structures, clarity around roles and good communication systems are important in a complex, heavily outsourced prosecution service like ours, at its root the Irish prosecution service is a set of individual relationships, some long established, some new. The additional budget allocation over the last few years has allowed us to appoint new staff. These new staff, and the appointment of new State Solicitors and Counsel, have brought new energy

and ideas to the prosecution service, but it must be acknowledged that such changes bring challenges.

Our environment has been changing rapidly with the uptick in activity, the ever-increasing volumes of data and the increased complexity of our legal landscape. When you are in the middle of a period of change it is very human to focus on what has been lost – a sense of familiarity; of well understood work practices and established work relationships where issues could be easily understood and resolved. Moving from a smaller prosecution service – built on established relationships – to an expanded service has required everyone to adapt. However, we have been negotiating and renegotiating these relationships for the past 50 years and I am confident that we will continue to successfully renegotiate them for the next 50.

To see the progress that we are making it is necessary to zoom the lens of the camera out and consider the achievements of the criminal justice system – in scaling up to respond to the increase in court activity; in better understanding and supporting vulnerable victims; and in expanding our expertise to fully engage with emerging case-law and legislation, much of it originating at an EU level. Criminal lawyers by their very nature tend to be can-do kind of creatures who are used to having curve balls thrown at them. While this agility can also be what psychologists refer to as an "overused strength", it does put us in a strong place to navigate the coming years.

Our changing digital environment, the related need to cooperate with private sector actors, and the ever-increasing significance of EU legislation and case-law to our day-to-day work, means that we must re-skill ourselves to adapt to this developing environment. A particularly novel EU initiative coming into force in August 2026 is the E-evidence Regulation and Directive (E-evidence package). This will allow orders for production of evidence to be sent directly to Internet service providers across the EU. The service providers will be obliged to respond directly and within tight time limits. I was at a discussion a few weeks ago about the planning that Ireland is doing in the lead in to implementing this new EU initiative. Aisling Kelly who was formerly a prosecutor in the Office of the DPP but now a general counsel in Microsoft, made the point that whether we like it or not we are all data lawyers now. Not only are we all data lawyers now but we are also now all EU criminal law practitioners.

A rough estimate of our statute book suggests that around 80% of new domestic substantive and procedural criminal legislation now originates in the EU and more is on the way. I am really very grateful to Peter Csonka, now acting director of Justice Policy in the European Commission, for agreeing to come to Dublin today from Brussels to give us a sense of what is on the horizon. This is particularly timely as Ireland will hold the Presidency of the Council of the EU in the second half of 2026. A lot of work is happening at a policy level here in Ireland on instruments such as E-Evidence, Transfer of Proceedings and a Programme for Government commitment to opt in to the European Public Prosecutors Office. Once these new instruments are operationalised, they will become very relevant to each of you in your day-to-day work.

As a small common law country post Brexit, Ireland is needing to develop our capacity to positively engage with our EU partners about the common law system. There is scope for us

to showcase some of our best practices to our EU colleagues and indeed last year Noelle Kenny from our Policy Unit presented to the Council of the EU during the negotiations on the recast of the Child Sexual Abuse Directive. Ireland is somewhat unusual in its lack of statutes of limitations for serious crime and a number of member states wanted to hear about how this works in the Irish prosecution system. There is also scope for us to learn here in Ireland about other systems – and for example, how other EU countries safely prosecute serious criminal offences without requiring a victim to give evidence and be cross examined for days or even weeks on end.

As an Office I am acutely aware that we need to build our capacity to engage with our colleagues in the Department of Justice and in Brussels on the operational impact of proposed EU instruments and to work collaboratively across the criminal justice system to ensure their successful implementation. The negotiations around the Transfer of Proceedings Regulation is a good example of Irish officials successfully communicating how Ireland can optimally cooperate as the final text of the Regulation took account of the division of labour between law enforcement and prosecutors in common law systems. It is important of course to also remain realistic about the scope for influencing EU instruments where there are 26 other member states also involved in the discussions and understand that ultimately our system will need to also adapt to our EU reality.

One of the features of a common law system is that there is a very strong emphasis on primacy of oral evidence, on the need to have a witness present in court and available for cross examination. We need to be conscious that in many other EU jurisdictions with more inquisitorial systems, rights are protected in a different way – for example by ensuring greater judicial oversight in relation to the taking of evidence during an investigation. Another important feature of our more adversarial common law system is a strong focus on proving provenance and authenticity of evidence. This is a real safeguard in a world of generative AI. However, there is a limit to the extent to which we can expect authorities or tech companies in other jurisdictions to provide elaborate witness or certificate evidence to prove routine processing of automatically generated records. In that regard, as we heard at last year's conference, we do have existing presumptions in our Irish mutual legal assistance legislation to assist in ensuring that – subject ultimately to the trial judge in each case – we are not precluded from using important evidence shared by EU and other partners.

I do want to make reference here to the great assistance we are getting from our team out in Eurojust to navigate these issues in live cases. However, EU criminal law is no longer a specialist area and as prosecutors, we need to think creatively about how to adapt our common law system to the reality of our EU context.

Before I finish, I do want to say something brief about the Supreme Court judgments in the *WC* and *AM* cases. The judgment in *DPP v. WC* made clear that issues involving serious intrusion into private life are not generally subject to disclosure unless directly material to an issue in the case. The Supreme Court returned to the issue in May of this year in the case of *DPP v. AM*. Róisín Lacey, Senior Counsel, represented my Office in that case and we are very grateful to

Róisín for agreeing to come in today to talk about some of the issues that are arising from the case. As everyone here will know, the case underlined the high bar for disclosure of counselling records and also private and sensitive material more generally as well as the rights of victims to have access to legal advice.

In the middle of all of the complexity around operationalising AM there is an important point contained in both of these Supreme Court judgments about the responsibilities of each of the actors involved in dealing with disclosure issues that represents a cultural shift that I do want to emphasise. That *WC* judgment in particular clarified the obligations of all parties – the prosecutor, the defence and the trial judge – in relation to disclosure; that no aspect of the right of the accused to remain silent can render it appropriate to leave opaque what case the defence may seek to make at trial*;* and that it is the role of the trial judge to decide on disputes. In other words, the days of the prosecution having to figure out on its own, in a sea of data and records, what could potentially, "in an abundance of caution", be relevant, should be coming to a close. Going forward it is our job as prosecutors to make sure we are proactively engaging with the defence from an early stage to ensure that the privacy rights of victims can be appropriately balanced against the fair trial rights of accused.

The AM case has prompted changes in practice by our Office and An Garda Síochána to address the need for victims to have access to legal advice in advance of agreeing to any waiver of a disclosure hearing. However, the *AM* judgment itself only dealt with disclosure and not with the earlier stages in the process, including the procuring of records in the first place. Moreover, different judges have interpreted aspects of the judgment differently. There is a road to go yet, therefore, before all of the implications of that judgment are fully resolved and we are in a position to issue definitive guidance on some of the complex questions that are arising. Both judgments have also highlighted the need for this area to receive further legislative attention, and I very much support that view.

I am indebted to each of our speakers for coming in to speak to us on a Saturday morning. Remy Farrell and Roisin Lacey are both eminent Senior Counsel who are well known to most of you here, and as I have overrun my allocated time, I will leave it to John Kinsella, Head of Directing and Specialist Units to introduce their presentations shortly. It is John's first annual conference since taking up the role in January and hopefully most of you will by now have met him but if not, please do introduce yourself. Our next session will be chaired by Marion Berry, Deputy Director, and will start with a presentation by Mr Peter Csonka, the Director of DG Justice in the European Commission. As Ireland moves towards holding the EU presidency next year, this is an important opportunity for awareness raising in the lead into that. Finally, we have Patrick Geoghegan, a Professor of History at Trinity College Dublin. Some of you will know Patrick from his 'Talking History' podcasts. It seemed to me that the 50th anniversary of the appointment of the first DPP was an occasion that needed to be marked with reference to the bigger historical and international picture. As we know, confidence in the rule of law is a precious but fragile thing. Patrick's talk I hope will prompt us to think about the changing international and domestic context for the role that an independent, fair and effective prosecution service can play in supporting the rule of law.

Before I finish, I do want to mention the recent passing of Joe Barnes, a longtime member of our prosecution panel, who died only a few weeks ago. I last met Joe back in March at an event in Iveagh House to commemorate the 50-year anniversary of the appointment of his dad Eamonn to be Ireland's first DPP. He was a gregarious and well-liked colleague and will be much missed. I would also like to mention the death recently of Michael Kennedy who worked for the Office of the DPP in various roles – initially in the CSSO and then directly in the Office. He will be known to many of you as someone who worked on many high profile and difficult trials over the years.

Finally finally, I want to thank GPA for organising today's event, but in particular Kevin Graham and Shauna Donnelly; and lastly all of you for coming and for your continued work and commitment to supporting the administration of justice in Ireland.