



PROGRAMME FOR GOVERNMENT 2020 SYNOPSIS

JUNE 2020





ABOUT THE LAW SOCIETY OF IRELAND

The Law Society of Ireland is the educational, representative and regulatory body of the solicitors' profession in Ireland.

The Law Society exercises statutory functions under the *Solicitors Acts 1954 to 2011* in relation to the education, admission, enrolment, discipline and regulation of the solicitors' profession. It is the professional body for its solicitor members, to whom it also provides services and supports.

The headquarters of the organisation are in Blackhall Place, Dublin 7.



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PRESIDENT'S REMARKS



Following today's confirmation that the wider membership of Fine Gael, Fianna Fáil and the Green Party has ratified the Programme for Government, I wanted to take the opportunity to highlight some Law Society Priority Achievements in the document and to draw your attention to Other Items of Interest in the areas of legislative, regulatory and structural reform.

For the purposes of this synopsis, please note that all quotations of text are extracted from the Programme for Government which is available [here](#).

I will be glad to address any queries you may have on the contents and/or the ongoing work of the Society on these issues.

Michele O'Boyle
President of the Law Society of Ireland



LAW SOCIETY PRIORITY ACHIEVEMENTS

1. FAMILY LAW AND THE COURTING DISASTER CAMPAIGN

The Society has consistently highlighted the crisis in our family law court system and the need for fit for purpose court facilities to accommodate these most sensitive of cases. The Society pledged its support to the multi-agency [Courting Disaster Campaign](#) earlier this year which called for a number of actions including the assignment of necessary budget for the provision of suitable accommodation and the prioritisation of children.

The Programme for Government recognises that “the family court system must be reformed, to ensure that proceedings involving children are dealt with in a manner that recognises the unique vulnerability and needs of children” and commits to:

1. “Enacting a Family Court Bill to create a new dedicated Family Court within the existing court structure and provide for court procedures that support a less adversarial resolution of disputes.
2. Building a new Family Law Court building in Dublin and ensuring that court facilities across the country are suitable for family law hearings, so that these hearings can be held separately from other cases”.

2. INSURANCE REFORM

The Society has long advocated for substantial reform of the insurance industry and emphasised the need to attract international competition into Ireland’s uncompetitive and dysfunctional market.

As we face into a period of widespread economic uncertainty, the Society has argued that it has never been more important that decisive action is taken quickly to protect both individual consumers and the SME sector which will be vital to our recovery.

The Programme for Government acknowledges that “we need to ensure that insurance acts as a safety net that enables our economy and our society to fully function” and that “addressing high claim pay-outs and competitive issues will be critical in building an insurance system that is affordable and reliable and which underpins a vibrant economy”.

The document commits to “prioritising reform of the insurance sector with particular emphasis on motor, public liability, and employer liability insurance” and confirms that the Cabinet Committee on Economic Recovery and Investment will prioritise the issue of insurance reform.

Specifically, the Programme for Government undertakes to “increase transparency, tackle anti-competitive behaviour, and foster competition by:

1. Giving the Competition and Consumer Protection Commission (CCPC) effective enforcement powers to punish and deter anti-competitive conduct.
2. Requesting the industry and stakeholders to give an assessment of the expected impact on premium levels of the key reforms being fully introduced.



3. Expanding, with urgency, the National Claims Information Database to employer liability and public liability to track the level of claims.
4. Establishing a databank within the Central Bank for new entrants.
5. Prioritising the establishment of a fully functioning European-wide single insurance market.
6. Working to remove dual pricing from the market.
7. Creating an office within Government tasked with encouraging greater competition in the Irish insurance market.”

The Programme for Government also commits to tackling insurance costs by “strengthening the Solicitors (Advertising) Regulations of 2002”¹. The Society made a detailed submission to the Legal Services Regulatory Authority in November of last year in respect of its statutory power to make regulations around the advertising of legal services².

3. HATE CRIME

In our [submission to the Department of Justice and Equality](#) on its review of the Incitement to Hatred Act 1989, the Society argued that the Act should be substantially updated so that ‘hatred’ is clearly defined, protected characteristics are broadened (to include those based on gender, disability, civil status, family status and age) and the mental threshold required to prove the offence of incitement to hatred should be lowered to recklessness.

The Society therefore welcomes the commitment to “introduce Hate Crime legislation within 12 months of the formation of the Government. This legislation will create specific offences, to ensure that those who target victims because of their association with a particular identity characteristic are identified as perpetrators of hate crime. This legislation will be on the basis of an aggravated offences model. It will be supported by training across the criminal justice system, as well as victim supports [...] In order to ensure that those who seek to encourage and incite others to hate minority groups can be prosecuted, we will revise and update the Incitement to Hatred Act 1989, taking account of the public consultation conducted in 2019”.

4. VICTIMS OF CRIME

In November 2019, the Society provided [evidence to the Oireachtas Committee on Justice and Equality](#) which emphasised that the prosecution of sexual offences, and the subsequent conviction of sexual offenders, is vital to any society which is concerned with protecting the rights of all victims of sexual and gender-based violence. The necessity to support victims through the legal process was also highlighted.

As such, the Society welcomes commitments in the document to fully implement both the Victims’ Charter (and establish a system to monitor its implementation) and the EU Victims of Crime Directive (to include the full provision of victim liaison officers).

¹ Please note that the Solicitors Advertising Regulations 2019 (S.I No. 229 of 2019) repeal and replace the Solicitors (Advertising) Regulations 2002 (S.I No. 518 of 2002)

² Under [section 218 of the Legal Services Regulation Act 2015](#)



5. ONLINE SAFETY

In its September 2019 [evidence to the Oireachtas Committee on Justice and Equality](#) in respect of that Committee's work in the area of online harassment, harmful communications and related offences, the Society submitted that:

- Focus should be placed on harm inflicted and consideration given to defining 'harmful content';
- Allowing varying levels of self-regulation among online platforms is not an adequate response; and
- The establishment of an online Digital Safety Commissioner should be prioritised.

It is therefore welcome that the Programme for Government commits to "enacting the [Online Safety and Media Regulation Bill](#) and to establishing an Online Safety Commissioner to:

1. Require online platforms to set out the steps they will take to keep their users safe online and to build safety into the design of their platforms.
2. Ensure that new Online Safety Codes can combat cyber bullying material and material promoting eating disorders, self-harm, and suicide.
3. Provide a mechanism for further categories of harmful content to be added following consultation with the Oireachtas.
4. Require that services operate effective complaints procedures.
5. Ensure that advertising, sponsorship, and product placement are not harmful and that they uphold minimum standards.
6. Require platforms to have takedown measures that are timely and effective.
7. Promote positive digital citizenship among children and young people, in conjunction with Webwise and other educational partners, schools, and the Ombudsman for Children.
8. Develop a research programme led by internationally recognised experts to review the existing and developing literature in relation to (a) the consequences, benefits and potential harms to society and children specifically of digital activity and (b) the concept of duty of care and the public interest in the design of online platforms.
9. The Broadcasting Authority of Ireland (BAI) will be replaced with a new Media and Online Safety Commission, when the legislation is enacted.
10. We will support digital literacy schemes across the country and will continue to support the Digital Skills for Citizens Scheme".



OTHER ITEMS OF NOTE – LEGISLATIVE, REGULATORY AND STRUCTURAL REFORM

COURTS REFORM

“An independent, impartial, and efficient judiciary and courts system is critical to our democracy. The costs associated with the Irish legal system, as well as the time involved in cases, are more expensive and take longer than in peer countries and we will address this. We must make greater use of alternative dispute resolution across all courts. We will:

1. Clarify and strengthen contempt of court sanctions for violations on social media.
2. Legislate to introduce a statutory offence of perjury, to make this crime easier to prosecute.
3. Modernise the law on the administration of oaths in judicial and other proceedings.
4. Establish a working group to consider the number of and type of judges required to ensure the efficient administration of justice over the next five years.
5. Enact the [Judicial Appointments Commission Bill](#) within the first six months of Government. However, we will engage with stakeholders to make appropriate amendments to the current Bill, to ensure that it enjoys broad support. These would include ensuring that the Chief Justice is the ex-officio chairperson of the body.
6. Implement reforms to the administration of civil justice in the State covering matters such as the more efficient and effective deployment of court and judicial resources. This will be guided by the report of the group chaired by the former President of the High Court, Mr. Justice Peter Kelly.
7. Independently examine the option of a dedicated system of public defenders.
8. Introduce the necessary legislative reforms of the personal insolvency system.”

PLANNING AND ENVIRONMENTAL LAW COURT AND JUDICIAL REVIEW

Stating that “it is evident that in areas such as planning law there is a need for greater specialism to enable the more efficient management of cases”, the Programme for Government commits to:

1. “Establishing a new Planning and Environmental Law Court managed by specialist judges and on the same basis as the existing Commercial Court model.
2. Reviewing and reforming the judicial review process, so that such reforms come into effect upon the establishment of the Environmental and Planning Law Court, while always adhering to our EU law obligations under the Aarhus Convention”.



FURTHER INSURANCE REFORM

1. “Work to protect customers during and after the COVID-19 crisis, with particular emphasis on business disruption insurance, travel insurance and rebates for motor insurance customers.
2. Support the Central Bank’s direction on compensating businesses with disruption cover for infectious diseases.
3. Tackle insurance costs by:
 - Recognising the work of the Personal Injuries Guidelines Committee, under the Judicial Council, in providing guidance on personal injury claims.
 - Enhancing and reforming the role of the Personal Injuries Assessment Board.
 - Regulating claims management companies and claims harvesters.
 - Considering changes to the [Occupiers' Liability Act](#) and the [Civil Liability Act](#) (duty of care) to strengthen waivers and notices to increase protections for consumers, businesses, sporting clubs and community groups.
 - Considering the need for a constitutional amendment to enable the Oireachtas to establish guidelines on award levels.
4. Get tough on insurance fraud by:
 - Seeking to increase coordination and cooperation between An Garda Síochána and the insurance industry. We will seek to expand the Garda Economic Crime Bureau, which deals with fraud. Under new structures, it will train and support Gardaí in every division, to ensure that expertise and skill are diffused across the State.
 - Reviewing and increasing the penalties for fraudulent claims.
 - Placing perjury on a statutory footing, making the offence easier to prosecute. We will broaden the scope of the [Perjury and Related Offences Bill](#), ensuring that the maximum penalty for indictment should be harmonised with the equivalent maximum penalties for largely similar offences in the [Civil Liability and Courts Act 2004](#).
 - Ensuring that fraudulent claims are forwarded to the Director of Public Prosecutions (DPP).
 - Publishing insurance fraud data.
 - Exploring the feasibility of obliging fraudulent claimants to pay the legal expenses for defendants.”



CONSTITUTIONAL REFORM

"We will hold referendums on housing and extending the franchise at presidential elections to Irish citizens living outside the State.

Informed by the work of the Citizens' Assembly, we will hold a referendum on Article 41.2³ of the Constitution.

We will refer the issue of the environment, including water, and its place in the Constitution, to a relevant Joint Oireachtas Committee for consideration."

PRISON AND PENAL REFORM

"It is essential we have a prison service that provides secure custody for those in prison, thereby protecting the public from dangerous criminals, while facilitating the rehabilitation of prisoners to enable their safe return into communities. We will:

1. Ratify and implement the [Optional Protocol to the Convention against Torture](#) within 18 months of the formation of the Government.
2. Establish a high-level cross-departmental and cross-agency taskforce to consider the mental health and addiction challenges of those imprisoned, and primary care support on release.
3. Take a comprehensive approach to the development of the next Irish Prison Service's Capital Strategy, ensuring the availability of modern detention facilities with adequate capacity.
4. Review the existing functions, powers, appointment procedures and reporting processes for prison-visiting committees.
5. Review the [Criminal Justice \(Spent Convictions and Certain Disclosures\) Act 2016](#) to broaden the range of convictions that are considered spent.
6. Establish a Penal Policy Consultative Council to advise on penal policy."

NATIONAL ECONOMIC PLAN – REGULATION AND COSTS

1. "Establish a forum in which all sectoral regulators measure their regulatory approaches against best practice. Its task will be to test Irish preparedness for emerging challenges and make recommendations to Government and submit an annual report to the Dáil.
2. Review the Companies Acts and make any necessary changes to simplify and improve receivership, examinership and liquidation laws in response to the COVID-19 crisis. This must include a review of the protection periods for companies.

³ **Article 41 of the Constitution** – 1. In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved. 2. The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.



3. Review whether the legal provisions surrounding collective redundancies and the liquidation of companies effectively protect the rights of workers.
4. Publish and begin to implement a reform programme to reduce the costs associated with access to the legal system in Ireland.
5. Review the regulation of receivers to ensure that, in all cases, they are accountable and act with transparency on such issues as fees, asset sales, the overall conduct of the receivership, and treating fairly all parties involved.
6. Enable regulatory bodies such as ComReg, the Central Bank and the CCPC to have greater use of administrative penalties to sanction rogue operators, as is the norm in other EU Member States.”

DOMESTIC AND SEXUAL VIOLENCE

“There is an epidemic of domestic, sexual and gender-based violence. Building on the ratification of the [Istanbul Convention](#), we will work with NGOs and services to:

1. Develop the third National Strategy on Domestic, Sexual and Gender Based Violence, which will place a priority on prevention and reduction and will include a National Preventative Strategy.
2. Conduct an immediate audit, to be concluded within nine months of the formation of the Government, of how responsibility for domestic sexual and gender-based violence is segmented across different government agencies, and develop proposals on what infrastructure is needed to ensure that the issue is dealt with in the most effective manner possible. This audit will be undertaken in conjunction with NGOs and service providers.
3. Implement a plan for future refuge space on the publication of a review of domestic violence accommodation provision.
4. Investigate the provision of paid leave and social protection provision to victims of domestic violence.
5. Learn from the UK model, where the crime of coercive control has been successfully prosecuted since 2015. We will invest in a comprehensive training programme for professionals who may have contact with a victim of coercive control, including An Garda Síochána, legal professionals, and courts services personnel, to ensure that there is a clear understanding of the nature of this relatively new offence.
6. Legislate to introduce Domestic Homicide Reviews.
7. Update the [Sex Offenders Act 2001](#), to ensure that convicted sex offenders are effectively managed and monitored.
8. Enact the [Harassment & Harmful Communications Bill \(as amended\)](#), in order to outlaw image-based sexual abuse and to prevent the abusive sharing of intimate images online.



9. Implement the findings of the O'Malley Review of supports for vulnerable witnesses in sexual violence cases to support victims.
10. Adopt and implement a comprehensive strategy to combat trafficking of women and girls.”

EQUALITY

“Equality between all citizens is a core guiding principle of our Republic. Over recent years, we have taken major strides in addressing discrimination against minority and marginalised groups. However, the task of ensuring that every individual enjoys this fundamental right remains incomplete. This Government will continue to build on hard-won progress to give real meaning to our best values of equality and fairness.”

On the issue of socio-economic inequality, the document undertakes to “examine the introduction of a new ground of discrimination, based on socio-economic disadvantaged status to the [Employment Equality](#) and [Equal Status Acts](#)”.

IMMIGRATION AND INTEGRATION

1. “Create new pathways for long-term undocumented people and their dependents, meeting specified criteria to regularise their status within 18 months of the formation of the Government, bearing in mind EU and Common Travel Area commitments.
2. Publish a new national Action Plan against Racism.
3. Develop and implement a new Migrant Integration Strategy.
4. Enact legislation that encompasses relevant EU measures and the UN Protocol against the smuggling and trafficking of migrants.”

ANTISOCIAL BEHAVIOUR

“Antisocial behaviour causes fear and insecurity to people and communities. We will tackle this by ensuring more visible community policing, in line with the Report of the Commission for the Future of Policing. This will significantly reduce antisocial behaviour and help make people feel safer in their communities. We will:

1. Set up a special expert forum on antisocial behaviour, to consider the effectiveness of existing legislation and propose new ways forward, including new powers for An Garda Síochána and additional interventions to support parenting of offenders.
2. Examine increasing the age limit for the application of the Garda Youth Diversion Programme to 24-year olds.
3. Implement a new Youth Justice Strategy, drawing on learnings from the Icelandic model and emphasising prevention, early intervention, and inter-agency collaboration.
4. Criminalise adults who groom children to commit crimes.
5. Work with all criminal justice agencies to build capacity to deliver restorative justice, safely and effectively.



6. Extend the pilot schemes of the Joint Agency Response to Crime to more areas to target prolific repeat and vulnerable offenders aged 16 -21.
7. Enhance powers available to An Garda Síochána to limit the use of scramblers and quads by those engaged in antisocial behaviour and enact legislation to add to those powers, if needed.

ELECTORAL REFORM

- “Reform and consolidate the Ethics in Public Office legislation.
- Review our current electoral laws and the conduct of politics in Ireland, to ensure that donations and resources from non-citizens outside the State are not being utilised to influence our elections and political process. We will legislate to prevent this, if necessary.”

PUBLIC SECTOR REFORM

- “Extend the lobbying register so that the lobbying of senior officials in bodies like the Central Bank of Ireland, ComReg, the NTA and the HSE, which have significant policymaking or development functions, will need to be reported on the same basis as central and local Government.
- Use the opportunity of the EU consideration of reforms to European wide whistleblowing provisions to review, update and reform our whistleblowing legislation and ensure that it remains as effective as possible.
- Expand the remit of the Office of the Ombudsman to consider clinical decisions in health and social care complaints.”

NIGHT-TIME CULTURE

“Social distancing will have a major impact on night-time culture. We will work with stakeholders from across the night-time culture sector to develop innovative approaches to enable it to function and to create a vibrant, diverse, and sustainable night-time economy in Ireland. We will:

- Establish, in the first 30 days of Government, a Night- time Economy Taskforce. Conduct a full review of the regulations and policy framework governing our night-time culture at national and local level, including the staggering of trading hours for pubs, late bars, clubs and restaurants.
- Modernise our licensing laws and application processes.
- Support the establishment of the Night-Time Culture Mayors, proposed for Dublin and Cork, and examine the establishment of local committees to advance and improve our night-time entertainment and creative offerings in other urban areas.”



THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PEOPLE WITH DISABILITIES (UNCRPD)

"We will enshrine disability rights by finalising the legislation required following Ireland's recent ratification of the [UN Convention on the Rights of People with Disabilities](#) (UNCRPD).

The legislation will:

1. Double the target for employment of people with disabilities in the public service to 6%.
2. Reform the [Mental Health Act 2001](#).
3. Improve protections for people with disabilities against hate crime and hate speech.
4. Improve access for people with disabilities to jury service.
5. Remove outdated references to 'persons of unsound mind' from the Statute Book.
6. Commence the [Assisted Decision-Making \(Capacity\) Act 2015](#) to abolish wardships.
7. Develop an implementation plan to coordinate implementation of the UNCRPD.
8. Implement a consultation and participation model, in line with the UNCRPD, to enable people with disabilities to participate in the policy development process.
9. Ratify the Optional Protocol to the UNCRPD after the first reporting cycle.
10. Work with other parties in the Oireachtas to establish a Joint Oireachtas Committee to assist in monitoring and implementing the provisions in the Convention on the Rights of People with Disabilities (UNCRPD)."

DEFECTS

- "Examine the issue of defective housing in the first 12 months, having regard to the recommendations of the [Joint Oireachtas Committee on Housing report, 'Safe as Houses'](#).
- Bring forward law reform to improve the legal remedies for homeowners who are dealing with defects."

MEDIA

- "Enact the Broadcasting Bill by the end of the year, to ensure that we can support our local community radio stations and independent national, regional and local broadcasters in the important work they do.
- Review and reform defamation laws, to ensure a balanced approach to the right to freedom of expression, the right to protection of good name and reputation, and the right of access to justice."



AUDIOVISUAL AND COPYRIGHT

- “Work with the relevant government departments to ensure the full implementation of the [Audiovisual Media Services Directive](#) (AVMSD).
- Work with relevant government departments and external stakeholders to guarantee the protection of intellectual property rights and digital rights for the creative sector, and to ensure the full implementation of the new EU Copyright Directive.”

REGULATION

“We recognise the domestic and international importance of data protection in Ireland. We will support the Data Protection Commission, to ensure that Ireland delivers on its responsibilities under the General Data Protection Regulation (GDPR).”

CHARITIES

“We will update legislative provisions with the Charities Regulator, to ensure that it has the necessary powers to increase trust and confidence in the management and administration of charities.”

OIREACHTAS REFORM

“Fully respond to the ruling in the [Kerins’ Supreme Court Case](#) and make appropriate changes.”

CHILD CARE LAW REPORTING PROJECT

“Continue funding for the [Child Care Law Reporting Project](#). ”

GAMBLING

“We will establish a gambling regulator focused on public safety and wellbeing, covering gambling online and in person, and the powers to regulate advertising, gambling websites and apps.”

CREATIVE AND CULTURAL INFRASTRUCTURE

“We will examine ‘meanwhile use’ legislation for vacant buildings, with a view to its potential application in Ireland.”

AN GHAELGHE

“We will strengthen and enact the Official Languages Bill by the end of 2020 and include periodic reviews to monitor the overall objective of ensuring that 20% of new recruits to the public services are Irish speakers.”



ADDRESSING THE COST OF EDUCATION

“We will enact the [Student and Parent Charter Bill](#).”

COMMUNITY DEVELOPMENT, SOCIAL INCLUSION AND PUBLIC PARTICIPATION

“We will update the [Dormant Accounts \(Amendment\) Acts 2005 - 12](#) to expand the eligibility of projects and programmes under the funding scheme, to include biodiversity, environmental awareness, and climate change.”

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