



# Guidance for Drafting a Policy Submission

issued by

**Policy Department**

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## INTRODUCTION

### 1. Why do we need this Guidance?

1.1 This document sets out general guidance that applies to drafting any policy submission by the Law Society of Ireland, including by any Law Society Committee, (**Law Society**), to a government department or public body. This document sets out the requirements that apply in respect of the drafting of a submission, including the writing style, the formatting to be used, and the governance/approval process that must be followed prior to any policy submission being formally submitted to an external entity.

1.2 A submission is generally a document or letter (or email) that is directed at a government department or public body in which the Law Society sets out its perspective on a policy or legislative matter. The following are examples of situations in which the making of a submission would typically arise: (a) in response to an invitation directed at the Law Society, asking that it provide its perspective on a policy matter; (b) in the context of a public consultation process; or, (c) where the Law Society, on its own initiative (without being invited), prepares a document or letter setting out its perspective on a policy or legislative matter.

1.3 There are three main reasons why following this Guidance is important, as now outlined:

- (i) **Consistency and balance:** The Law Society needs a consistent voice that represents, in a balanced and considered way, the interests of the profession as a whole, as well as the wider public interest. Often the views of individual practitioners will differ on aspects of proposed or existing legislation or policy reform. But when we engage with policy makers, we must do so in a way that reflects a common position. This helps ensure that the Law Society remains a credible and trusted collaborator in the minds of key stakeholders.

The need to ensure consistency is also important in situations where more than one Law Society Committee is engaging with the same public body (or different public bodies) on the same topic.

- (ii) **Constructive and insightful:** Submissions should demonstrate the expertise of our members. The content of a Law Society submission should be couched in constructive terms. So, for example, where we identify deficiencies in the approach being considered by the government department or public body, we should not merely criticise what is being proposed, but should seek to put forward well-considered, alternative and workable solutions where that is appropriate.
- (iii) **Ensuring alignment with Strategy:** The Policy Department has a central role in ensuring that the strategic objectives of the Law Society are achieved and is tasked with ensuring that our submissions are consistent with the Strategy. Therefore, Law Society submissions should also be consistent with the strategic objectives of the Law Society.

1.4 When a person reads a submission that has been made by the Law Society, two things in particular must be very clear:

- (i) that the submission is made on behalf of the Law Society (ie. not on behalf of named individuals);

- (ii) that the submission conveys a well-considered, unified stance on the issues addressed within it (i.e. no reference is made to there being disagreement on the stance being adopted etc).

1.5 This Guidance document replaces the *Procedure for Submissions* (March 2022).

## CONTEXT

### 2. Engaging with Policy Makers

2.1 The importance of the Law Society engaging with policy makers is reflected in the *Statement of Strategy 2024 – 2028*.<sup>1</sup> It makes clear the Law Society’s intention to be more active and more engaged in shaping the external policy environment. For example, the Purpose statement commits the Law Society to seeking to “shape a just and accessible legal system”. That the Law Society will “be the influential voice on law and justice in Ireland” is the cornerstone of the Ambition that we have committed to in the Strategy. It is clear that the Strategy envisages that the Law Society will become more outward in its focus, while also becoming more proactive in its engagement on matters of policy.

### 3. Assessing Each Opportunity

3.1 When the Law Society identifies a potential opportunity to make a submission, it is important that we carefully assess each opportunity and decide whether the voice of the Law Society ought to be heard on that particular topic.

3.2 The Law Society should be discerning in selecting the issues on which it determines that a submission is warranted. There will often be situations (e.g. owing to the topic, owing to the unreasonableness of the timeframe for making a submission, etc) where a determination is made that the making of a submission by the Law Society is not appropriate or not warranted.

3.3 The guiding principle is that the Law Society only opts to make a submission where:

- (i) the Council or a Committee determines that, owing to the topic or nature of the policy proposals being addressed/considered by policy makers, a submission ought to be made, or
- (ii) the Policy Department determines that even in the absence of the circumstances of point (i) above, owing to the topic or nature of the policy proposals or legislation being addressed/considered by policy makers, a submission ought to be made in the interests of the Law Society or the wider public interest.

### 4. Consultation Processes and the Opportunity to Exercise Influence

4.1 The use of consultation processes as a means of involving stakeholders in the policy development process stems primarily from the *Better Regulation* agenda that was introduced by the government in the early 2000s. The value attributed to consultation processes is likely to vary across government departments and public bodies and will also be influenced by a

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<sup>1</sup> <https://www.lawsociety.ie/globalassets/documents/news/2024/law-society-statement-of-strategy.pdf>

range of factors such as, for example, the amount of time available for engaging, the stage of development of the policy proposals (mature versus untested proposals) and so on.

4.2 In some instances, consultation processes are backed by a genuine openness on the part of the policy makers to learning from and taking on board the perspective of others, and in contrast, there are also circumstances in which the consultation process is conducted to merely satisfy a requirement to demonstrate that external engagement has taken place. Where possible, it is worthwhile reflecting upon the type of consultation process for which you are considering drafting a submission.

4.3 Do remember that engaging with policy makers in the context of consultation processes (and making a submission) is just one of many stages in the development of policy. It is important to bear in mind that there are other (and earlier) points in the policy development cycle and legislative development process that also represent important opportunities on which to engage, if we are to be influential. One of the objectives of the Policy Department is to work collaboratively with Committees so as to identify the policy priorities of each Committee, and to create opportunities for earlier engagement with key officials so as to advance the Committee's policy agenda and ultimately influence and shape policy change.

4.4 The opportunity to make a submission can arise in different ways, as now outlined.

- (i) **By Invitation:** The Law Society may receive a specific invitation extended by a government department or public body to the President, the Director General, a Committee, or the Policy Department, etc. Where an invitation to make a submission is received by a Committee, it is important that the Policy Department is informed of that opportunity, even in circumstances where the Committee determines that it does not wish to draft or make a submission.
- (ii) **Public Consultation Process:** The Law Society may identify an opportunity to make a submission following the announcement by a government department or public body of the opening of a formal consultation process.
- (iii) **Own Initiative:** The Law Society may decide to draft a submission on its own initiative on a policy issue that it has determined requires immediate policy or legislative change - without having first been asked to provide its perspective. In a situation such as this, the Policy Department can advise on the most relevant government department or public body and can advise on the best approach to engaging with the relevant official(s) before sending in the 'own initiative' submission.

4.5 Committees should also note that where a Committee has identified its own policy priorities, the Policy Department can provide support and advice on developing a more comprehensive public affairs strategy for the Committee so as to advance those specific priority issues.

## **SUBMISSIONS AND THE ROLE OF COMMITTEES**

### **5. Expertise of Committees**

5.1 As a membership-focused organisation, Committees are of particular importance to the Law Society, which through their membership and level of engagement, have the potential to be influential in the context of policy and legislative developments in Ireland. Committee

members tend to have a lot of expertise in their chosen field and have practical experience and insights that can be very beneficial in assessing the likely impact of proposed new government policy or legislation. Therefore, Committees can play a key role in contributing to the quality of submissions that are made by the Law Society.

## **6. Who takes the leading role in drafting a submission?**

6.1 When the Policy Department identifies an opportunity to make a submission, it will inform any relevant Law Society Committees of that opportunity through the relevant Committee Secretary.

6.2 *Option for Committee to Draft Submission:* It is intended that Committees will have the opportunity, should they seek it, to take the lead in the drafting of a submission. Where a Committee determines that it is best placed to hold the pen, it is essential that the Committee notify the Policy Department of that decision and engages with any other relevant Committee so as to ensure that any other Committees with a particular interest in the topic is given an opportunity to provide input into the drafting.

6.3 The Policy Department is supportive of cross-Committee engagement taking place between Committee Chairs, Committee Members, Committee Secretaries and so on. Where input from any other Committee is required, the Policy Department can, if required, help to facilitate this collaboration. Where more than one Committee is involved in contributing to a draft submission, the Policy Department can play a role in helping colleagues to reach an agreed Law Society position.

6.4 Where a Committee opts to hold the pen on the drafting of a submission, that Committee must provide the Policy Department with a draft of that submission in sufficient time - in any case, not less than **5 business days** in advance of the submission deadline set by the government department or public body. This time period is necessary to enable the Policy Department to carry out its review of the submission before it is finalised. Any comments and/or amendments arising from the Policy Department's review of the draft Submission will, wherever possible, be shared with the Committee Secretary prior to the deadline for the making of the submission.

6.5 *Submission Drafted by Policy Department:* Where the Policy Department takes the lead in drafting a submission, the Policy Department will inform all relevant Committees that a submission is being drafted, and the Policy department will work closely with any Committees that indicate an interest in contributing to the content of the submission. The Policy Department will also engage with other Law Society Departments as necessary (eg. Regulation, Education, Finance etc) on an issue-dependent basis to seek their perspective and input in relation to the proposed submission.

## **APPROVAL, PRESENTATION AND PUBLICATION**

### **7. Approval Process for Every Submission**

7.1 A Submission must not be made without securing the following required approval:

- (i) Once drafting has been completed, the submission must be sent to the Director of Policy for approval. The Director of Policy will then engage with the Director General.
- (ii) The Director of Policy will ensure that a copy of the draft submission is shared with the President and also the Senior Vice President, and Junior Vice-President.
- (iii) In rare instances, where a submission addresses a sensitive, political, or an otherwise potentially controversial matter, the Policy Department may determine that the matter be brought to the Co-ordination Committee/Council for approval in advance of the submission being made.

## **8. Presentation of Finalised Submissions**

8.1 The Policy Department is responsible for formally sending the finalised and approved submission to the relevant government department or public body. The Policy Department will keep the relevant Committee informed of any material developments post-submission.

8.2 Once a submission has been made, the Policy Department will send a copy to LSI Governance for circulation to the Council. A copy of the finalised submission will also be sent by the Policy Department to the Committee Secretary of the lead Committee involved in drafting the submission.

8.3 The Policy Department will ensure that the 'as-submitted' version of the submission is saved and stored as a matter of record.

## **9. Publication of a Submission by the Law Society**

9.1 The Policy Department is responsible for assessing whether the finalised submission should be published on the Law Society's website, and the timing of that publication<sup>2</sup>. Where a determination has been made that a submission should be published, it will then be circulated to the Communications team and to Solicitor Services for further publication.

## **10. Publication of a Submission by a Government Department or Public Body**

10.1 It is also important to note the relevant government department or public body may as a matter of course publish on their website any submission made to it. Even where a submission is not published on the website of the relevant government department or public body, please also bear in mind that it may be possible for a member of the public or a journalist to access a copy of the submission under the Freedom of Information regime.

10.2 As a guiding principle, the Law Society should assume that any submission made to a government department or public body is ultimately accessible to the public (and to journalists).

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<sup>2</sup> If, for any reason, a Committee involved in drafting a submission wishes to request that a particular submission not be published on the Law Society's website or that it not be publicised in the media, any such request should be communicated to the Policy Department prior to the submission being sent to the requesting government department or public body.

## DRAFTING GUIDANCE

### 11. Form of the Document

11.1 A submission should be made using any one of the four submission templates that accompany this Guidance document. The templates are accessible on the intranet.

### 12. Structure of the Submission

12.1 A policy submission should generally consist of three parts:

- (i) **Introduction:** this section should provide a brief summary of what the Law Society is, who we represent and indicate why the submission topic is of particular interest or importance to the Law Society. This section can also be used to provide additional information on background/context in which the submission topic arises. This section should also provide an executive summary or brief overview of the main points addressed in the submission. This should be short and clear to allow the reader to get a sense of the focus of the submission.
- (ii) **Main body:** the main part of the submission should provide the Law Society's perspective on aspects of the proposal or topic that is the focus of the consultation process. The Law Society's perspective should be expressed in clear terms using short sentences. For clarity, the submission should make generous use of headings. The text should deal with one point per paragraph, be logically structured, and backed up by references.
- (iii) **Conclusion:** this section should reiterate some of the key points made in the submission. This part of the submission should signal the Law Society's availability to meet or to provide further input into the policy development process.

### 13. Formatting

13.1 Please note the following formatting guidance:

- Use the submission templates that are Annexed to this Guidance.
- Use Arial font, size 11 for the main text. Use Arial 12 in bold for the headings.
- The main body of the document should make good use of clear headings.
- Use numbered paragraphs in bold font.
- Make sure to apply consistent line spacing of 1 or 1.5.
- Pages and illustrations should be numbered consistently.
- Justify your text and use the standard document template sizing margins.
- Avoid using hypertext links in the body of the document. Links should instead be placed in footnotes.

## 14. Writing Style

14.1 Each submission made by the Law Society should be easy to read and should utilise plain English. Please also refer to the Law Society's tone of voice guidance as available on the Intranet.

14.2 Avoid using technical language or Latin terms unless you are addressing a technical issue where certain terminology has a widely understood technical meaning. In general, each Law Society submission should be concise, informed, and accessible.

14.3 Check that all defined terms are used consistently throughout the document. Avoid overusing defined terms. Once the "Law Society of Ireland" has been referenced in the and the shorter form of "Law Society" has been introduced to the reader, that should then be used rather than the longer form. Please avoid using "the Society" as a shorthand.

14.4 Remember the audience and reflect that in your writing style. Make sure to proofread the submission.

## 15. Research and Referencing

15.1 The following are examples of some sources that you may find useful to inform the content of a policy submission:

- previous versions of a Bill / an Act (make sure to exactly cite paragraphs of concern), relevant parliamentary debates, and pre-legislative scrutiny reports;
- previous Law Society submissions (be careful to avoid inconsistencies in policy position previously expressed by the Law Society);
- updates from the large or specialist law firms on relevant policy or legislative developments;
- past submissions that may have been made by other interested bodies/organisations (e.g., the Bar of Ireland, the Irish Human Rights and Equality Commission, the Irish Council for Civil Liberties, etc.);
- any relevant Law Reform Commission Consultation Papers or Reports;
- the Law Society's extensive library resources, including the LawWatch newsletter, subject guides, subscription databases (Westlaw, Lexis+, Bloomsbury, etc.), and Irish case law.

15.2 When referring to external sources in a submission, use a consistent referencing style throughout your policy submission, such as [OSCOLA](#). Please include statutory and case references in footnotes or endnotes rather than in the body of the document.

15.3 Please note that the Library may be able to assist Committees with the conduct of research in the context of the drafting of a submission. The Library can be contacted at [libraryenquire@lawsociety.ie](mailto:libraryenquire@lawsociety.ie)

## 16. Timelines

16.1 When a government department or public body invites the Law Society (or the wider public) to make a policy submission, our experience is that the timeframe afforded for a response can be particularly curtailed, and on occasion may be insufficient to allow the level of internal discussion and interaction as we might wish at the Law Society. Based upon recent trends, we would observe that 4 to 6 weeks is a somewhat generous timeframe for a

submission to be provided, and more commonly we are seeing a window of 2 or 3 weeks being set by government departments and public bodies.

16.2 While the Policy Department is not of the view that the Law Society must engage with every consultation process, where a consultation process relates to a policy issue on which we believe the Law Society ought to engage, we will strive to work with Committees, colleagues, and members in order to develop a submission that is as representative and strong as it can be in the time available to us. Where the timeframe and subject-matter mean that it is not possible to develop a submission that is of a sufficiently high standard, then in those circumstances the Policy Department is very likely to decide against making a submission.

## **17. Reporting of Lobbying Activity**

17.1 Policy submissions are made in the name of the Law Society, and on occasion a submission may be presented as representing the perspective of particular committee. Submissions made by the Law Society are not made in the name of individuals, and nor should the submission reference individuals by name.

17.2 While practitioners should have regard to the relevant legislative requirements for themselves, as a matter of principle, where a committee or committee member simply provides input to a submission that is presented in the name of the Law Society or a committee on behalf of the Law Society, that does not necessarily mean that the committee as a whole or individual committee member(s) are to be regarded as having engaged in lobbying within the meaning of Regulation of Lobbying Act 2015. In case of there being any doubt, committee members are encouraged to have regard to the terms of the Act.

## **18. Questions**

18.1 If you have any questions in relation to any aspect of this Guidance, please get in touch with your usual contact in the Policy Department or email us at [policyteam@lawsociety.ie](mailto:policyteam@lawsociety.ie)

18.2 Please note that this Guidance is subject to review and change at regular intervals.

## **Annexes – Policy Submission Templates**

(accessible on the Intranet)

- 1 – Letter format
- 2 – Memo format
- 3 – Longer form submission (plain cover)
- 4 – Longer form submission (colour cover)