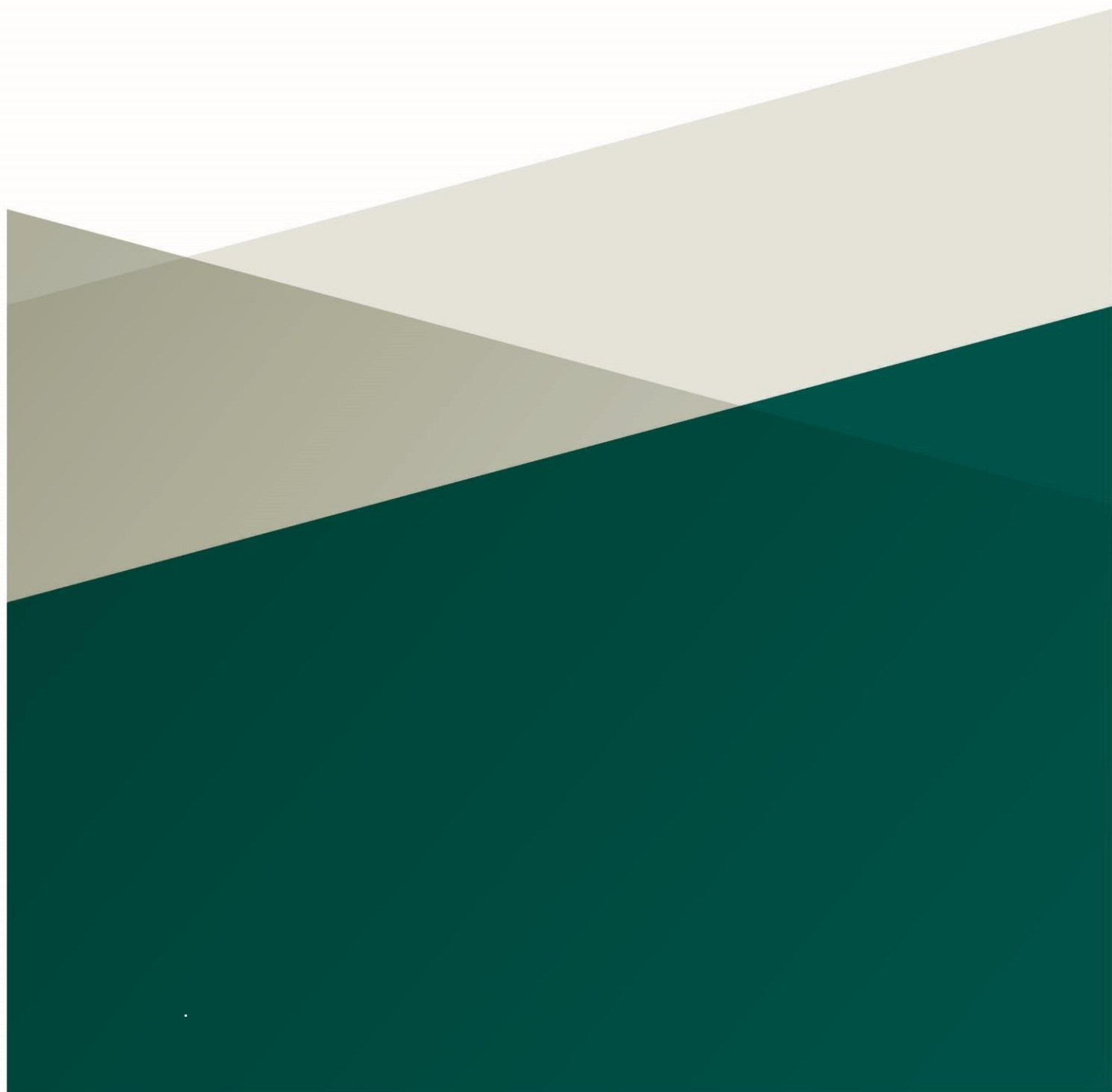




An Roinn Dlí agus Cirt
Department of Justice

Criminal Injuries Compensation Tribunal (CICT)

Oversight Agreement 2021-2023



Part 1 – General

This agreement is grounded in the principles of the Code of Practice for the Governance of State Bodies¹.

1. Introduction

1.1. The Criminal Injuries Compensation Tribunal (hereafter “the Tribunal”) is a non-statutory body established on an administrative basis under the Scheme of Compensation for Personal Injuries Criminally Inflicted (“the Criminal Injuries Compensation Scheme”), which operates under the aegis of the Department of Justice (“the Department.”) The Scheme came into operation on 8 May 1974 and was retrospective to 1 October 1972.

1.2 The function of the Tribunal is to administer the Criminal Injuries Compensation Scheme². The purpose and intention of the Criminal Injuries Compensation Scheme is to compensate victims of crimes of violence for out of pocket expenses, unless there is good reason not to make an award or to make a reduced award. The Tribunal is responsible for deciding in any particular case whether compensation is payable under the Scheme. The Tribunal administers the Scheme in accordance with the terms and conditions set out in the Scheme. The Tribunal is independent in the matter of individual decisions on applications for compensation.

1.3 The Tribunal, in accordance with paragraph 17 of the Scheme, is made up of qualified barristers and solicitors who are appointed periodically by the Minister for Justice (“the Minister”) following a recruitment and selection process undertaken by the Department.

1.4 Under paragraph 17 of the Scheme, the number of members is limited to a Chair and six ordinary members who provide services on a part-time basis.

1.5 On 2 February 2021 the Minister for Justice Helen McEntee T.D. appointed the Chair and 6 Ordinary members to the Tribunal for a maximum term of office ending

¹ <https://www.gov.ie/en/publication/0918ef-code-of-practice-for-the-governance-of-state-bodies/>

² The Tribunal also administers a separate Scheme of Compensation for Personal Injuries Criminally Inflicted on Prison Officers who suffer personal injuries due to a violent crime in the course of their duties.

on 31 December 2025 or such earlier date as may be decided by the Minister for Justice.

1.6 Tribunal staff provide the secretariat to the Tribunal. Currently there are 5.8 full-time equivalent Tribunal staff, who are civil servants employed by the Department of Justice who have been assigned by the Department to the Tribunal secretariat.

2. Role of the Criminal Injuries Compensation Tribunal

- The Tribunal administers applications made under the Criminal Injuries Compensation Scheme.
- It considers and makes decisions on applications from people who suffer a personal injury or death as a result of a crime of violence.
- Compensation may be awarded on the basis of vouched out-of-pocket expenses, including loss of earnings, experienced by the victim, or if the victim has died as a result of the incident, by the dependents of the victim.
- The Criminal Injuries Compensation Scheme is the means by which the State gives effect to its obligations under Directive 2004/80/EC³.

3.0 Roles and Responsibilities

3.1 Accounting Officer

The Tribunal falls under the Department's Vote (Vote 24) and as such, the Department's Secretary General is the Accounting Officer. External scrutiny and governance is provided through the submission of the Appropriation Accounts for Vote 24 by the Department to the Comptroller and Auditor General and ultimately to the Oireachtas through the Public Accounts Committee.

3.2 Tribunal members

The main duties of Tribunal members include;

- a) To make decisions of first instance in accordance with the terms and conditions of the Scheme on any applications allocated by the secretariat.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0080&from=EN>

- b) Subject to file allocation, to make a minimum of 30 decisions of first instance per annum.
- c) To submit decisions to the Tribunal secretariat on allocated files within one month of allocation.
- d) To make themselves available to participate in appeal hearings and subject to allocation, to participate in a minimum of 4 appeal hearings per annum.
- e) To prioritise participation in appeal hearings above other work that may arise, once a commitment has been made to participate on an appeal panel.
- f) To chair appeal hearings if required.
- g) To draft decisions of appeal hearings if required, in consultation and agreement with other members on the appeal panel. To return written decisions on appeals to the Tribunal secretariat within six weeks.
- h) To participate in a minimum of four meetings per annum with the Department, Tribunal staff and other Tribunal members.
- i) To agree to the conclusion of a multi-annual oversight agreement with the Department to be signed by the Chair.
- j) To submit requests for fee payments for work undertaken to the Tribunal secretariat promptly within one month and in accordance with agreed procedures.
- k) To attend meetings of Tribunal members organised from time-to-time by the Tribunal Chair.

3.3 Tribunal Chair

The main duties of the Tribunal Chair include all of the duties of an ordinary Member and include additional duties as follows:

- To agree to and sign on behalf of the Tribunal a multi-annual oversight agreement with the Department
- To organise meetings with the other Tribunal members, from time to time as required
- To liaise with the Department as necessary on any issues arising
- As part of the Chair fee, to meet with the Department at least twice a year and to liaise continually with Tribunal staff who provide the secretariat to the Tribunal, as required
- To liaise with other Tribunal members, in particular if any issues arise relating to the implementation of the oversight agreement

- To ensure that an annual report of the activities of the Tribunal is submitted to the Minister
- To sign-off on any procedures that the Tribunal decides to publish under Paragraph 20 of the Scheme.

3.4 Tribunal staff

The Human Resources section of the Department of Justice assigns Tribunal staff, one of whom is an Assistant Principal who is designated as the Tribunal Secretary. Tribunal staff provide the secretariat to the Tribunal. Under the terms of the Scheme, “Tribunal staff” undertake the following functions:

- Paragraph 22 – “Applications should be made on the Tribunal’s application form. This will be obtainable from the Secretary to the Tribunal.”
- Paragraph 24 – *“The Tribunal’s staff will process applications in the first instance and may seek all relevant information as to the circumstances of the injury either from the applicant or otherwise.”*
- Paragraph 25: - “A decision by the Tribunal on a claim may, in the first instance, be taken by a duly authorised officer of the Tribunal where the amount claimed does not exceed £250. Where the claim is for a greater sum than £250 or where the claimant is not satisfied with a decision by that officer, the decision will normally be taken by one member of the Tribunal...”
- Paragraph 26 – *“A member of the Tribunal’s staff may make submission to the Tribunal on a case and will also be entitled to call, examine and cross examine witnesses.”*

Tribunal staff carry out all the administrative support work necessary for the day-to-day operation of the Scheme. This includes, inter alia, carrying out duties such as:

- Paper File handling, photocopying, scanning etc
- Creation and updating of files on the Lotus Notes database ‘CRITIC’ and the Lotus Notes document library
- Dealing with all correspondence sent to criminalinjuries@justice.ie
- Dealing with members of the general public and other stakeholders enquiring about the Scheme.
- The preparation of files and corresponding and liaising with applicants or their representatives on the completion of their applications (submission of reports, receipts etc) and the sending of those applications, when ready, to Tribunal members for consideration and decision.

- The processing of decisions – issuance to applicant for acceptance or appeal and liaison with applicant on same.
- The organisation of appeal hearings.
- The secretary attends the appeal hearings with the three Tribunal Members hearing the appeal.
- Liaising with the Prison Service as required on prison officer cases (e.g. Governors reports and loss of earnings calculations)
- Liaising with An Garda Síochána as required on Garda reports of crimes
- Liaison with the Department of Social Welfare as required on social welfare payments made to applicants
- Liaison with the Wards of Court office on payment of awards in ward of court cases.
- Liaising with the Department's Finance Unit for the payment of awards to applicants including the setting up on an applicant on the system and the issuing a direction for payment of the award, duly signed at the appropriate level.
- Liaising with Tribunal members' on their fees and sending the necessary directions to the Department's Finance Unit for payment.
- Processing Tribunal members' Travel and Subsistence claims where relevant.
- Liaising with the relevant authorities in other jurisdictions as required in cross-border cases in accordance with Directive 2004/80/EC and assisting applicants in cross-border cases.

3.5 Annual Report

In line with paragraph 19 of the Scheme, the Tribunal is required to submit an Annual Report, including information on accounts, to the Minister, which is to be laid by the Minister before both Houses of the Oireachtas. Under this agreement, Annual Reports are to be submitted to the Minister by the Chair in respect of 2020, 2021 and 2022.

3.6 Audit and Risk Committee

As a small non-statutory structure funded under Vote 24, the Tribunal does not have its own Internal Audit Unit or Audit/Risk Committee. The Department's Audit Committee and Risk Committee perform the relevant advisory roles in ensuring that the interests of Government and other stakeholders are protected with regard to business and financial reporting, internal control and risk management. The

Department's Internal Audit Unit (IAU) is available to support the Tribunal and its staff in monitoring and reviewing the effectiveness of arrangements for governance, risk management and internal control. Any necessary audit work will be agreed between the Principal Officer in charge of the Criminal Injuries Compensation Scheme, the Chair of the Tribunal and the Department's Head of Internal Audit. Where such work is agreed, the IAU will carry out the work within an agreed timeframe.

3.7 Procurement

The Tribunal's Secretary will ensure that any public procurement which is carried out by the secretariat on behalf of the Tribunal adheres to the procurement policies and procedures which are in place for Government Departments.

3.8 Customer Service

A strong and supportive level of customer service should underpin the interactions of the Tribunal and Tribunal staff in their dealings with all victims of crime and members of the general public enquiring about the Scheme. Tribunal Members and staff should familiarise themselves with the Victims Charter: <https://www.victimscharter.ie/>

3.9 Data Protection

Applications to the Tribunal consist of personal data from applicants, who are seeking a decision from the Tribunal on their application under the Criminal Injuries Compensation Scheme. In carrying out its work, the Tribunal and Tribunal staff will adhere to all data protection obligations as provided for in the Data Protection Act, 2018 and the EU's General Data Protection Regulation.

The original files are managed by Tribunal staff. They will be held securely and processed in accordance with data protection law. Tribunal staff must adhere to the internal Department data protection procedures and undertake all requisite training. Any breaches of data protection law must be reported to the Department's data protection unit via the Principal Officer.

Copies of the applications and all related data must be provided by the secretariat to Tribunal Members so that decisions can be made on files. As such, the Department is the custodian of the data for Tribunal Members. Once the Tribunal Chair and Ordinary

Members have finished working on applications, they will either return copies of files to the secretariat for destruction or commit to the secure destruction of all copies of any files in their possession. Any electronic records created by Tribunal Members will be stored securely and will only be retained for as long as is necessary, after which they will be destroyed.

Any breaches of data protection that come to light must be addressed having regard to the Department's procedures in this regard and will be reported by Tribunal Members or Tribunal staff to the Principal Officer, who has been assigned the role of data controller by the Department in respect of the data held in relation to the Scheme.

3.10 Public Sector Equality & Human Rights Duty

Section 42 of the Irish Human Rights and Equality Commission Act 2014 establishes a positive duty on public bodies to have regard to the need to eliminate discrimination, promote equality and protect the human rights of staff and persons to whom services are provided.

The Tribunal will have regard to its obligations under section 42 to:

- Assess and identify human rights and equality issues relevant to its functions;
- Identify the policies and practices that are/will be put in place to address those issues;
- Report on related developments in its Annual Report.

3.11 Protected Disclosures

In accordance with section 21(1) of the Protected Disclosures Act, 2014, Tribunal staff as employees of the Department of Justice may make protected disclosures. In reporting any suspected wrongdoing, Tribunal staff will follow the Department's Protected Disclosures policy.

Part II - Performance Delivery Agreement

4. Objectives of the Agreement

The Agreement seeks to facilitate the Tribunal in carrying out its functions and improve the effectiveness and efficiency of service delivery.

5. Mutual Commitments

The Department, Tribunal and Tribunal staff will, as appropriate:

- Be proactive and timely in communicating requests and responses to meet the Minister's obligations to the Oireachtas or to inform responses to representations media queries etc.
- Adopt a 'no surprises' approach to matters of mutual interest or concern.
- Consult or, as applicable, inform each other in a timely manner regarding relevant strategic, policy and legislative issues of relevance to the Tribunal's functions.
- Engage as appropriate on wider public service reform/engagement initiatives.

Departmental commitments

The Department will provide the following supports to the Tribunal to enable it deliver on its objectives:

- The Department will provide staff for the secretariat - "Tribunal Staff."
- The Department's Finance Unit will liaise with the Department of Public Expenditure and Reform as part of the annual Estimates process to ensure, insofar as possible, an appropriate budgetary allocation for the Tribunal
- The Department will ensure that a fair and transparent recruitment and selection procedure is in place for appointments to the Tribunal, which will be made by the Minister in line with paragraph 17 of the Scheme.
- The Department will liaise with the Law Reform Commission, as required and as appropriate, in relation to their project reviewing the Scheme.
- The Department will provide financial services through the Department's financial shared services (processing payment of awards and Members fees and expenses.)
- The Department will work with the secretariat and through the Department's Information, Management and Technology (IMT) section in relation to improving or replacing the case management system used for the administration of the Scheme
- The Department will continue to seek to progress key issues and reforms which need to be decided on by Government in relation to the Scheme.

Tribunal commitments

- Subject to file allocation, Tribunal members shall each make a minimum of 30 decisions of first instance per annum.
- Tribunal members shall submit decisions to the Tribunal secretariat on allocated files within one month of allocation.

- Tribunal members will make themselves available to participate in appeal hearings and subject to allocation, participate in a minimum of 4 appeal hearings per annum.
- Tribunal members will return written decisions on appeals to the Tribunal secretariat within six weeks.
- Tribunal members will participate in a minimum of four meetings per annum with the Department and Tribunal staff.
- Tribunal members will submit requests for fee payments for work undertaken to the Tribunal secretariat promptly within one month and in accordance with agreed procedures.
- The Tribunal Chair will report on the above outputs and provide other appropriate information to facilitate the monitoring of this Oversight Agreement, including in the context of the quarterly meetings with the Department.
- In keeping with the 'no surprises' principle, the Chair will ensure that in the event of any significant governance related issues or concerns arising with regard to the Tribunal's work that they will be brought to the attention of the Department's Principal Officer with responsibility for the Scheme.
- As required under paragraph 19 of the Scheme the Tribunal will submit annually to the Minister for Justice a full report on the operation of the Scheme together with their accounts.

6. Budget

As provided for under paragraph 18 of the Scheme, compensation will be payable out of funds made available to the Tribunal out of monies voted by the Oireachtas. In this regard, the general Scheme is covered by the voted budget of the Department of Justice.⁴ The Criminal Injuries Compensation Scheme is a cash-limited grant scheme⁵.

A budget allocation of €11,016,000 has been provided for awards under the General Scheme in 2021.

⁴ The Prison Officer Scheme is covered by the voted budget of the Irish Prison Service.

⁵ This means that the Tribunal cannot pay out more funds in any one year than has been voted by the Dáil. So, if the Tribunal's annual funding is used up before the end of a financial year (at 31 December) it is necessary to seek a supplementary budget or wait until the next financial year before making any further payments to applicants.

The Department recognises that the existing budget arrangements for the Scheme may present a challenge in management of the Scheme, as there is no cap on the level of any individual award, while the voted budget allocation is for a fixed amount. In the event that awards exceed voted expenditure in a financial year, it may be necessary to seek a supplementary budget allocation for that year and if no supplementary budget is available, the following year's budget must be awaited before awards can be paid. The Tribunal and the Department will liaise on budgetary matters that may arise during the year as necessary.

In line with paragraph 5 of the Scheme the Tribunal will seek to ensure that duplicate compensation is not awarded in respect of the same incident giving rise to the application under this Scheme. This is subject to the caveat that information concerning duplicate compensation is available to the Tribunal in determining an award.

7. Staffing resources

Tribunal staff from the Department act as secretariat to the Tribunal (this currently consists of 5.8 staff members). This consists of 1 Assistant Principal Officer, 1 Executive Officer and 3.8 Clerical Officers.

8. Potential Risk Factors

A potential key risk is budgetary constraints. In the event of an insufficient budget available to pay compensation awarded by the Tribunal in the current financial year, the Department will seek a supplementary budget for the Scheme for that year through the standard Exchequer procedures. However, there is no guarantee such a budget will be provided and in that event applicants may have to wait for the following year's allocation to receive payment of their award.

Another potential risk relates to the potential impact of judgments arising from legal proceedings concerning the Scheme. In such circumstances the Department may be required to seek legal advice to inform any necessary response arising from such judgments. The Department will forward to Tribunal members relevant Court judgments that may affect the operation of Scheme.

9. Monitoring Arrangements

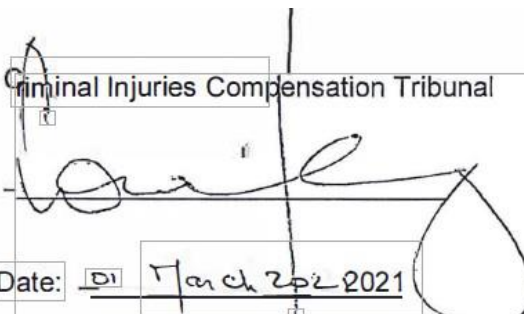
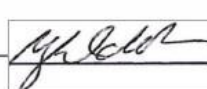
A minimum of quarterly meetings will be held annually between the Department, the Tribunal and Tribunal staff representatives to facilitate monitoring arrangements. Standing agenda items for these meetings generally will, inter alia, including the following items:

- Key statistics (e.g. numbers of applications sent for decision/returned; numbers of new applications; number of appeals)
- Paragraph 20 of the Scheme (decisions and introduction of published procedures)
- Budgetary situation
- Appeal hearings
- Organisational matters (file allocation, fee payments etc.)
- Reviews of the Scheme
- Any Court judgments arising

10. Duration and Signatories to the Agreement

Mr. Conor Heaney, Chair of Criminal Injuries Compensation Tribunal and Ms Marion Walsh, Director, Department of Justice agree that the arrangements as set out in this Oversight Agreement will apply with effect from the date signed hereunder until end 2023.

The implementation of the oversight agreement will be reviewed at the start of 2022 and 2023, and the section on the commitments of the parties and other relevant sections may be updated at that time, as agreed between the parties.

 Criminal Injuries Compensation Tribunal	 Department of Justice
Date: <u>01 March 2021</u>	Date: <u>1 Feb</u> 2021

**Addendum 1 to Oversight Agreement between the Department of Justice and the Criminal
Injuries Compensation Tribunal for 2021-2023 effective from
25/03/22 to 14/06/23**

Section 10 of the Oversight Agreement provides that the implementation of the oversight agreement will be reviewed at the start of 2022 and 2023, and the section on the commitments of the parties and other relevant sections may be updated at that time, as agreed between the parties.

As was agreed between the parties at a joint meeting on 25 March 2022, this Addendum updates the original Oversight Agreement in place between the Department of Justice and the Criminal Injuries Compensation Tribunal for 2021-2023.

The following updates to the document as underlined below have been made

Section 3.2 Tribunal members

The main duties of Tribunal members include;

d) To make themselves available to participate in appeal hearings and subject to allocation, to participate in a minimum of 6 appeal hearings per annum.

Section 5 Mutual commitments

Tribunal commitments

Tribunal members will make themselves available to participate in appeal hearings and subject to allocation, participate in a minimum of 6 appeal hearings per annum

Addendum 2 to Oversight Agreement between the Department of Justice and the Criminal Injuries Compensation Tribunal for 2021-2023 effective from 01/10/23 until further notice.

Section 10 of the Oversight Agreement provides that the implementation of the oversight agreement will be reviewed at the start of 2022 and 2023, and the section on the commitments of the parties and other relevant sections may be updated at that time, as agreed between the parties.

As was agreed between the parties in October 2023 this Addendum updates the original Oversight Agreement (and related Addendum 1) in place between the Department of Justice and the Criminal Injuries Compensation Tribunal for 2021-2023.

The following updates to the document as underlined below have been made

Section 3.2 Tribunal members

The main duties of Tribunal members include;

d) To make themselves available to participate in appeal hearings and subject to allocation, to participate in a minimum of 8 appeal hearings per annum.

Section 5 Mutual commitments

Tribunal commitments

Tribunal members will make themselves available to participate in appeal hearings and subject to allocation, participate in a minimum of 8 appeal hearings per annum