



The International Protection Appeals Tribunal
An Binse um Achomhairc i dtaobh Cosaint Idirnáisiúnta



An Roinn Dlí agus Cirt
Department of Justice

Oversight Agreement

Between

The International Protection Appeals Tribunal

And

The Department of Justice

2023 - 2025

Oversight Agreement

1. Introduction

1.1 Scope of the Agreement

This Oversight Agreement has been drawn up by the Department of Justice (“the Department”) in consultation with the International Protection Appeals Tribunal (“the Tribunal”) in accordance with the 2016 edition of the Code of Practice for the Governance of State Bodies (“Code of Practice”). It, together with the separate but related Performance Delivery Agreement (PDA), succeeds the previous Oversight Agreement 2020-2022 between the two parties.

This Oversight Agreement sets out the broad governance and accountability framework within which the International Protection Appeals Tribunal operates, and defines the key roles and responsibilities which underpin the relationship between it and the Department. While this Agreement shall cover a three year period, the parties shall, in accordance with the Code of Practice, review it every 12 months and update it as may be considered necessary.

This Agreement relates to the administration and management of the workload of the Tribunal and does not affect the conduct of hearings by and decisions of individual Tribunal Members which are made independently and with reference to the International Protection Act 2015 and its relevant implementing regulations, as well as the European Union (Dublin System) Regulations 2018 and the European Communities (Reception Conditions) Regulations 2018-2021.

Note: References to the *International Protection Appeals Tribunal* (“the Tribunal”) in this document shall be read as importing the body established by the Act of 2015, unless the context requires that it shall be read as importing the relevant statutory office holders’ (expressly excluding Members of the Tribunal) functions under the Act, and the subsequent use of “*International Protection Appeals Tribunal*” shall be read accordingly.

1.2 Background and Context

The International Protection Appeals Tribunal (“the Tribunal”) was established on a statutory basis by the Minister for Justice (“the Minister”) pursuant to the International Protection Act 2015 and is inquisitorial in nature and independent in the performance of its functions.

1.3 The mandate of the Tribunal is to:

- determine appeals from recommendations of International Protection Officers, that a person is not a refugee;
- determine appeals from recommendations of International Protection Officers, that a person is not entitled to subsidiary protection;
- determine appeals from recommendations of International Protection Officers that a person’s application for international protection is inadmissible;
- determine appeals from recommendations of International Protection Officers that a person be refused consent to the making of a subsequent application;
- determine appeals from transfer decisions of International Protection Officers pursuant to the European Union (Dublin System) Regulations 2018; and
- exercise an appellate function under Regulation 21 of the European Communities (Reception Conditions) Regulations 2018, S.I. No. 230 of 2018.

The Tribunal carries out these functions efficiently and as expeditiously as may be consistent with fairness and natural justice. In that regard, it is recognised that the Tribunal must be able to act in compliance with legislative and case law developments both at national and European level.

2. Role of the International Protection Appeals Tribunal within the Justice Sector

2.1 The Tribunal is a statutory body established in accordance with Section 61 of the International Protection Act 2015 (“2015 Act”). In accordance with the 2015 Act, the Tribunal is inquisitorial in nature, and independent in the performance of its functions.

- 2.2** The Tribunal is a key element of the State’s international protection framework and performs an important function as an effective remedy in relation to the processing and determination of international protection and reception condition appeals. It also has a key role to play in maintaining the integrity of the International Protection system, in accordance with the Department of Justice’s (“the Department”) Strategy Statement.
- 2.3** The core function of the Tribunal is the hearing and determination of international protection appeals; it also determines appeals against recommendations of International Protection Officers regarding inadmissibility decisions and the making of subsequent applications for international protection.
- 2.4** The Tribunal also exercises an appellate function under Regulation 21 of the European Communities (Reception Conditions) Regulations 2018, S.I. No. 230 of 2018 and under the European Union (Dublin System) Regulations 2018, S.I. No. 62 of 2018. In respect of appeals under the Reception Conditions Regulations, the Tribunal determines appeals in respect of decisions also of the Minister of Employment Affairs and Social Protection and also the Minister for Children, Disability, Equality, Integration and Youth.
- 2.5** The Tribunal exercises quasi-judicial functions. In line with the case law of the Court of Justice of the European Union, it exercises these functions as a ‘court or tribunal’ for the purpose of Article 267 of the Treaty on the Functioning of the European Union (TFEU).
- 2.6** Staff of the Tribunal are civil servants within the meaning of the Civil Service Regulations Acts 1956 to 2005 and are currently assigned to the Tribunal from the Department. The Chairperson, Deputy Chairpersons and whole-time Members of the Tribunal are engaged on individual contracts of service and part-time Tribunal Members are engaged on individual contracts for services on such terms and conditions (including terms and conditions relating to remuneration, allowances, expenses and superannuation) as the

Minister, with the consent of the Minister for Public Expenditure, NDP Delivery and Reform, may determine.

- 2.7** This Agreement relates to the administration and management of the workload of the Tribunal and does not affect the conduct of hearings and making of decisions of individual members which are made independently and with reference to the International Protection Act 2015 and its relevant implementing regulations and its relevant implementing regulations, as well as the European Union (Dublin System) Regulation 2018 and the European Communities (Reception Conditions) Regulations 2018.

3. Corporate Governance

3.1 Roles and Responsibilities

Accounting Officer

The Tribunal falls under the Department's Vote (Vote 24) and as such the Department's Secretary General is the Accounting Officer. The Accounting Officer is responsible for the safeguarding of public funds and property under his control, for the efficiency and economy of administration by the Department and for the regularity and propriety of all transactions in the appropriation account. Further external scrutiny and governance is provided through the submission and analysis of the Appropriation Accounts to the Comptroller and Auditor General and ultimately to the Oireachtas through the Public Accounts Committee.

Chairperson

The Chairperson of the Tribunal is appointed on a whole-time basis and holds office under a contract of service. The term of office of the Chairperson shall be 5 years and the Chairperson may be re-appointed to the office for a second term not exceeding 5 years.

In accordance with Section 63 of the 2015 Act, the Chairperson shall ensure that the functions of the Tribunal are performed efficiently and that the business assigned to each member is disposed of as expeditiously as may be consistent with fairness and natural justice. The Chairperson may also issue appropriate guidelines to both members of the Tribunal and the Registrar, in accordance with the Act.

The Chairperson furnishes the reports and compliance statements to the Minister as set out in Section 3.3 hereof. The Minister shall cause the Chairperson's annual report to be laid before each House of the Oireachtas not more than 30 days after he or she receives it.

Registrar

Section 66 of the 2015 Act, provides that there shall be a Registrar of the Tribunal appointed by the Minister, who shall be responsible to the Chairperson for the performance of his or her functions. The Registrar is responsible for managing and controlling generally the staff and administration of the Tribunal and shall perform such other functions as may be conferred on him or her by the Chairperson.

Deputy Chairpersons

In accordance with Section 62 of the 2015 Act, the Tribunal shall consist of, inter alia, not more than two Deputy Chairpersons, who shall be appointed in a whole-time capacity and hold office under a contract of service. The term of office of a Deputy Chairperson shall be 5 years and a Deputy Chairperson may be re-appointed to the office for a second term not exceeding 5 years. A Deputy Chairperson of the Tribunal shall perform such of the functions of the Chairperson under the 2015 Act, as the Chairperson may assign to him or her.

Tribunal Members

Section 62 of the International Protection Act 2015 requires the Tribunal to hold a membership of such a number of members, appointed either in a whole-time or a part-time capacity, as the Minister, with the consent of the Minister of Public Expenditure, National Development Plan Delivery and Reform, considers necessary for the expeditious performance of the functions of the Tribunal. Each member shall be appointed by the Minister on a contract for services, after an open competition held by the Public Appointments Service, in accordance with the 2015 Act. Following an amendment to Section 62 of the International Protection Act by the Courts and Civil Law (Miscellaneous Provisions) Act 2023, the term of office of an ordinary member, whether appointed in a whole-time or in a part-time capacity, is extended from 3 to 5 years and such a member may be re-appointed to the office for a second term not exceeding 5 years.

3.2 Statement of Strategy

In accordance with paragraph 1.15 of the *Code of Practice for the Governance of State Bodies*, the Tribunal should have a formal process in place for setting strategy. A Statement of Strategy should be adopted for a period of three to five years ahead. The current Statement of Strategy of the Tribunal is in place for the period 2021 – 2023. A new Strategy should be developed, following internal as well as external consultation, for the period 2024 – 2026.

3.3 Internal Audit

The Department's Internal Audit Unit provides support to the Tribunal in monitoring and reviewing the effectiveness of the Tribunal's arrangements for governance, risk management and internal control. Audit work will be agreed between the Chairperson and the Head of Internal Audit in the Department. The Audit Unit will, subject to resources, carry out the audits within an agreed timeframe.

3.4 Department of Justice Audit and Risk Committee

As the Tribunal falls under the Justice Vote (Vote 24), the Department’s Audit Committee, subject to resources, supports the Tribunal in order to provide oversight, ensuring that the interests of Government and other stakeholders are protected in relation to business and financial reporting and internal control.

3.5 Protected Disclosures

In accordance with Section 21(1) of the Protected Disclosures Act 2014, the Tribunal has adopted the Protected Disclosures Policy of the Department of Justice as its policy on protected disclosure in the workplace. This Procedure outlines the process for the making of protected disclosures by workers who are or were employed on behalf of the Tribunal, and for dealing with such disclosures.

The Protected Disclosures (Amendment) Act 2022 commenced operation on 1 January 2023. The Tribunal should maintain awareness of the new obligations under the Act, and adhere to the *“Protected Disclosures Act: Interim Guidance for Public Bodies and Prescribed Persons”* published by DPER in November 2022 and any subsequent guidance issued over the lifetime of this Oversight Agreement.

The Tribunal will develop and implement its own Protected Disclosures Policy having regard to obligations as set out in The Protected Disclosures (Amendment) Act 2022.

3.6 Procurement

The Tribunal does not have an express legal power to contract, however the Registrar and other administrative staff, as Civil Servants in a statutory body under the aegis of the Department of Justice, shall enter contracts for the Minister on behalf of the Tribunal, subject to such other terms and conditions of service as the Minister may, with the consent of the Minister for Public Expenditure, NDP Delivery and Reform determine.

In accordance with section 8.16 of the Code of Practice for the Governance of State Bodies, the Tribunal will ensure that competitive tendering is used in relation to all procurement carried out on behalf of the Tribunal and that procurement policies and procedures have been developed and published to all staff. The Registrar can avail of procurement advice and support provided by the Department's Procurement Unit / Procurement Strategy Group (PSG), where appropriate, for all services necessary for the efficient, effective and lawful operation of the Tribunal. The Registrar will sign contracts on behalf of the Tribunal unless financial authorisation limits preclude this, in which case a Department official at the relevant grade will sign the contract on behalf of the Tribunal. The day-to-day management of the services/goods under contract and the performance of suppliers will be by the Tribunal with any necessary financial documentation provided to the Department. The Tribunal should affirm adherence to the relevant procurement policy and procedures in the annual Comprehensive Report to the Minister.

The Registrar shall be responsible in the discharge of procurement functions to the Accounting Officer of the Department and not to the Chairperson, although the Chairperson will be fully informed of all matters relating to procurement.

3.7 Legal Advice

The processes by which independent legal advice is provided to the Tribunal is to be detailed in a separate agreement and annexed to this document. Nothing in the Oversight Agreement should preclude the annex from being updated throughout the life of this document.

3.8 Customer Charter

In accordance with paragraph 10.1 of the Code of Practice for the Governance of State Bodies, the Tribunal should have a customer charter setting out the level of service a customer can expect. The charter should be displayed prominently on the Tribunal's website and should be supported by a customer action plan.

3.9 Publication of Customer Service Targets

The Tribunal will publish customer service information, including customer service targets where possible, in a prominent location on the homepage of its website.

3.10 Data Protection

The Tribunal will engage proactively with its data protection obligations and ensure substantial compliance with the General Data Protection Regulation (GDPR) and the Data Protection Acts 1988 and 2018. The Data Protection Officer (DPO) appointed to the Department also acts as DPO for the Tribunal and the Tribunal will have access to the Department's Data Protection Support and Compliance Office.

3.11 Governance Obligations

As an independent statutory quasi-judicial body operating under the aegis of the Minister, the Tribunal is subject to a range of statutory and corporate governance obligations including the 2016 *Code of Practice for the Governance of State Bodies* ("the Code"). The Tribunal will ensure that all the necessary obligations, including those for risk management and adherence to the Public Spending Code are fully complied with in so far as they can be applied to the Tribunal given its structure and relationship with the Department.

It is to be noted that a number of the elements contained the Code cannot be applied directly to the Tribunal, which does not have a Board as foreseen at paragraph 1.1 of the Code and its Members have no functions in the governance or administration of the Tribunal.

As acknowledged in the Code, *"(I)nstead of a Board structure, some State bodies may be constituted in the form of an individual office holder, tribunal, commission or regulatory body. Where appropriate, the relevant body should reach an agreement and formally*

document with the relevant Minister/parent Department the extent to which the compliance requirement might be suitably adapted in their case”.

Accordingly, certain exemptions from specific provisions in the Code have been applied in this Agreement in application of the principle of ‘Comply or Explain’ (as provided for in the Code) and, where appropriate, exemptions from specific provisions of the Code have been achieved by other governance measures outlined in this Agreement.

- i. Having regard to the fact that the Tribunal does not have its own Vote, it does not produce Financial Statements. Alternatively, all costs including staff salaries, fees to members of the Tribunal, legal fees and all accommodation/utilities and other running and maintenance costs are agreed between the Department and the Tribunal and approved by and funded from the Department vote.

The Tribunal is also subject to the provisions of the Public Service Management Act 1997.

3.12 Provision of Information to Members of the Oireachtas

In accordance with D/PER Circular25/2016 - *Protocol for the Provision of Information to Members of the Oireachtas by State Bodies under the aegis of Government Departments/Offices*, the Tribunal is obliged to:

- i. Provide and maintain a dedicated email address for Oireachtas Members: IPATOireachtasMail@protectionappeals.ie
- ii. Put in place formal feedback processes to obtain feedback from Oireachtas members.
- iii. Comply with target deadlines and standards in terms of acknowledgements and responses to queries.

- iv. The Registrar has been designated as the individual within the Tribunal with responsibility for ensuring the timely provision of information to members of the Oireachtas.
- v. Report annually (in the Chairperson’s comprehensive report to the Minister) on compliance with standards set out in Circular 25/2016.
- vi. Seek, where appropriate, to publish the response to queries from members of the Oireachtas on the Tribunal’s website.

3.13 Environmental and Energy Issues

The Tribunal shall fulfil its statutory and other obligations in relation to environmental and energy issues as follows:

- (i) In accordance with requirements set out in the Department of Communications, Climate and the Environment’s Climate Action Plan 2023; the Tribunal shall commit to Climate and Sustainability best practice both in business operations and in relation to accommodation. The Tribunal shall support the Department’s Green Team Network and appoint a ‘Green Champion’, who shall promote energy efficiency and carbon reduction.
- (ii) Participating in Justice-sector and wider public sector initiatives in relation to energy and environmental issues.
- (iii) Having due regard to the Department of Public Expenditure and Reform (D/PER) Circular 20/2019 on Promoting Environmental and Social Considerations in Public Procurement.

3.14 Annual Report & reporting requirements

The Annual Report of the Tribunal will contain:

- i. A statement of the Tribunal’s mandate, mission and strategy as well as its Membership and staff.
- ii. A statement of the Tribunal’s operations and support.

- iii. A summary of the work of the Tribunal, including caseload, appeals received, appeals scheduled for hearing, number of decisions issued and outcome of appeals.
- iv. A statement on other activities of the Tribunal, including Members' training and stakeholder engagement.
- v. A statement on the Tribunal's customer service, including data protection, health and safety, ethics in public office, freedom of information, child safeguarding and the public sector equality and human rights duty.

3.15 Financial reporting

The Tribunal's annual report shall contain a statement of expenditure on the costs incurred by the Tribunal, including staff salaries, fees paid to Members of the Tribunal, costs for Tribunal specific training and professional development, legal costs and all accommodation/utilities and other running and maintenance costs.

3.16 Public Sector Equality and 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.

In particular, the Tribunal will have regard to its obligations under section 42 of the Act to:

Assess and identify human rights and equality issues relevant to its functions, particularly when delivering its **Strategy Statement 2021 – 2023** and preparing subsequent Strategy Statements:

- Identify the policies and practices that are in place/ will be put in place to address these issues; and
- Report on developments in that regard in its Annual Report.

3.17 Periodic Critical Review

As outlined in section 8.14 of the Code of Practice for the Governance of State Bodies, the Tribunal is expected to undergo a Periodic Critical Review (PCR) by the Department of Justice at regular, and appropriate, intervals. Sufficient advance notice will be given by the Department of Justice to allow for adequate planning and preparation for the PCR.

4. Commitments

4.1 Mutual Commitments

Both parties recognise the statutory independence of the International Protection Appeals Tribunal and its position as a quasi-judicial body, and are committed to:

- Proactive and timely communications, cooperation, and information sharing on service delivery;
- The effective achievement of agreed outcomes, as well as the promotion of partnership, responsiveness and mutual cooperation in their ongoing interactions;
- Agreeing appropriate administrative arrangements between the Tribunal and the Department, including but not limited to the International Protection Office;
- Supporting prompt and timely responses to correspondence, information requests and related matters;
- Keeping each other fully apprised and updated on matters of mutual relevance, on a 'no surprises' basis;
- Supporting an appropriate corporate governance framework for the Tribunal;

4.2 Department of Justice Commitments

The Department will provide the following supports to the Tribunal, subject to overall budgetary constraints, to enable it deliver on its objectives:

- Provide, via its Corporate HR Function, services encompassing recruitment, employee relations, workforce development, performance management and liaison with (HR) shared services as required. In addition, the recruitment of tribunal members will be facilitated with assistance of the Civil Governance Function.
- Liaise appropriately with D/PENDPDR, based on the business cases prepared by the Tribunal, to ensure, as far as possible, timely sanctions for expenditure and resourcing in line with public financial procedures and policies on public service numbers.
- Provide for and resource the annual budget for the Tribunal, based on budget estimates submission prepared by the Tribunal, and in consultation with the Tribunal under the annual Estimates process.
- In line with support provided to other Departmental Bodies, provide any necessary guidance/direction/assistance to facilitate the procurement of goods and services by the Tribunal.
- Provide any necessary guidance/direction/assistance on expenditure rules, government accounting and governance generally.
- Provide ICT and other services as agreed in support of the Tribunal.
- Provide payroll, invoice processing, internal audit, and other accounting services through the Department's Financial Shared Services.
- Continue to provide other support services essential to the ongoing core work of the Tribunal.
- Share information on issues such as Public Financial Procedures and Civil Service HR Policy Guidelines as may arise from time to time.
- Engage in a timely manner with the Tribunal on strategic, corporate, policy, and legislative issues of relevance to Tribunal functions while noting the cross functional nature of the Department post-transformation.

- Liaise, through the Transparency function, with the Tribunal at the earliest possible stage on:
 - Requests for information that may be necessary to assist in meeting the Minister’s obligations to the Oireachtas and in responding to representations, media queries etc; and
 - Ministerial/Departmental announcements of relevance to the functions of the Tribunal.

4.3 International Protection Appeals Tribunal Commitments

- Ensuring that the functions of the Tribunal are performed efficiently and the business assigned to each member is disposed of as expeditiously as may be consistent with fairness and natural justice;
- Producing high quality decisions without undue delay as expeditiously as possible with a target of 6 months as best practice;
- Engaging with the International Protection Modernisation strategy, and identifying actions to address challenges in service delivery and to increase efficiencies to meet the increased volumes of International Protection appeals expected during the lifetime of this Agreement;
- Achieving the goals as outlined in the Tribunal’s Strategy Statement;
- Provide timely, relevant and appropriately detailed information to facilitate the monitoring of this Oversight Agreement and the annual PDA, including in the context of the formal governance meetings and regular data reporting arrangements as specified in the PDA;
- Return relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume;

- Ensure that expenditure in any individual year does not exceed the allocated budget except in exceptional circumstances and with the agreement of the Department's Financial Management Unit;
- More generally, in keeping with the 'no surprises' principle and in the interests of partnership with the Department, the Tribunal shall ensure that the Department is appropriately informed and/or consulted as follows:
 - Significant governance-related issues or concerns are brought formally to the attention of Civil Justice Governance at the earliest possible opportunity, and
 - The Transparency function is given timely advance notification (including any appropriate background information) of significant public announcements or media engagements.

5. Monitoring Arrangements

The Oversight Agreement will be agreed with the Civil Justice Governance Function along with the separate Performance Delivery Agreement document, which itself will be reviewed annually. Oversight Agreements, while remaining under review, will be formally renewed every three years thereby allowing better use of time to consider and implement the Performance Delivery Agreements as they relate to each calendar year.

In accordance with the Department's policy on the monitoring of governance arrangements in relation to the organisations within its remit, the Chairperson and Registrar of the Tribunal will meet with the Department twice yearly, or more frequently if required by the Department or the Tribunal, for the detailed consideration of matters relating to this Agreement and the respective roles and functions of the Tribunal and the Department as may arise.

The Tribunal or the Department will immediately bring to each other's attention any matters, which might impact the ability of either party to meet their obligations under this agreement with a particular focus on the output of first instance recommendation by the IPO.

The Civil Governance Unit of the Department will act as a first point of contact for the Tribunal.

The parties will exchange:

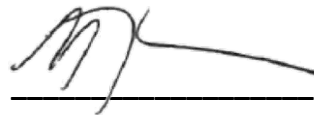
- (a) Relevant and appropriately detailed performance information to allow for monitoring of this Agreement;
- (b) relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume; and
- (c) information as may be appropriate to the mutual coordination of any matters arising from legislative changes and relevant jurisprudential developments at national and EU level.

6. Duration and Signatories to the Agreement

It is agreed that this Agreement will apply with effect from the date signed hereunder until 31st December 2025, however the general provisions of the agreement will continue to apply until such time as a subsequent Oversight Agreement is agreed.



Cindy Carroll
Interim Chairperson
International Protection Appeals Tribunal



Dr Stjohn O'Connor
Director Civil Justice Governance
Department of Justice

Date: 14/08/2023

Date: 14/08/2023