

Submission to Independent Review Panel

To: Independent Review Panel to review Senior Public Service recruitment and pay processes

From: June Reardon, Chief Parliamentary Counsel, Office of the Attorney General

Date: 10 August 2022

Role of Chief Parliamentary Counsel

1. The Chief Parliamentary Counsel is the professional head of the Office of the Parliamentary Counsel to the Government (OPC). The OPC is a constituent part of the Office of the Attorney General (AGO) and the Attorney General is responsible for the OPC by virtue of section 6 of the Ministers and Secretaries Act 1924 and the ninth part of the Schedule to that Act. Under the Public Service Management Act 1997, the Director General of the AGO is the Head of the Office as a whole and Accounting Officer for the AGO, including the OPC. (The Chief Parliamentary Counsel and the staff of the OPC are subject to the Public Service Management Act 1997, with accountability to the Director General for any assignments of responsibilities under the 1997 Act (none to date).)
2. The OPC is responsible for the drafting of Government Bills (including Bills to amend the Constitution) and Government Statutory Instruments and for the drafting of Statutory Instruments made by Ministers. The OPC is currently organised into 4 groups each having responsibility for providing legislative drafting services to specific Government Departments. Each group is managed by a drafter not below the rank of Parliamentary Counsel (equivalent to an Assistant Secretary in the Civil Service). The allocation and monitoring of the work within a group is undertaken by that Group Manager while the professional administration of the Office and the overall monitoring of work within the Office are the responsibility of the Chief Parliamentary Counsel. The Chief Parliamentary Counsel may be required to be a Group Manager in addition to his or her other duties (which I have done on 2 separate occasions for circa 5 months each).

3. The position of Chief Parliamentary Counsel is equivalent to that of Secretary General.
4. There are 3 Secretaries General reporting to the Attorney General – the Director General of the AGO, the Chief Parliamentary Counsel and the Chief State Solicitor.

Background

5. I was appointed Chief Parliamentary Counsel by the Taoiseach on 14 May 2018. I attach, with the email sending this submission to the Internal Review Panel, a copy of the terms and conditions of my appointment as set out in the Information Booklet for the post. You will note that recruitment to the post was undertaken by the Top Level Appointments Committee (TLAC) assisted by the Public Appointments Service. The recruitment process comprised the submission of an application, etc., a preliminary interview, an interview with and assessment by a psychologist, 3 references and a final competitive interview.

Reason for submission

6. Although the post of Chief Parliamentary Counsel is an equivalent one to that of Secretary General (level 3), the terms and conditions of appointment are not aligned with those of Secretary General. What are known in the Civil Service as TLAC retirement terms were not applied to the post in line with other posts at Secretary General grade. Effectively, those terms involve the incumbent in a Secretary General grade being offered at the end of his or her term of office (if not retiring) an alternative appointment in the Civil or Public Service on the same salary if he or she has not reached the preserved pension age. If such an alternative appointment is not offered, such a person may be offered one year's salary by way of severance. Instead of TLAC retirement terms, the incumbent in the role of Chief Parliamentary Counsel retained the status of Secretary General in a personal capacity after the end of his or her term of appointment and continued to work at that grade until his or her retirement. In 2013, there was a further down-grading of the terms and conditions of the Chief Parliamentary Counsel role by the removal of the Secretary General status at the end of the term of appointment. The basis for that change made has never been made clear and is extremely difficult to understand in view of the importance of the

role (please see paragraph 8 below). In essence, the 2013 change means that a Civil Service incumbent in the role reverts to his or her former grade (in my case that of Parliamentary Counsel, equivalent to Assistant Secretary) at the end of the term of appointment and any extension thereof. That is a most unsatisfactory position for the reasons outlined in paragraph 12 below.

7. For the purposes of this current review, the post of Chief Parliamentary Counsel falls within the remit of the Independent Review Panel, being a Secretary General equivalent in the Civil Service. (That is confirmed at page 2 of the Information Booklet attached.) It is similar in that regard to the other legal posts mentioned in the terms of reference of the Review Panel i.e. those of the Chief State Solicitor (Chief State Solicitor's Office), Director General (Attorney General's Office) and Director of Public Prosecutions (DPP's Office).

Role of Chief Parliamentary Counsel and my appointment to the role in 2018

8. The Chief Parliamentary Counsel is the professional head of the OPC, being a constituent office of the AGO. The OPC has responsibility for the drafting and delivery of legislation for the Government and Ministers of the Government, including Bills to amend the Constitution. I report to the Attorney General regarding the drafting work and outputs of the OPC. I attend (along with other Secretaries General) the weekly de-briefing meetings (post Government meetings) chaired by the Secretary General to the Government. There are generally a significant number of Memoranda for Government relating to legislation or that have an impact on it and the work of the OPC. I liaise regularly with Secretary General colleagues regarding draft legislation, particularly to resolve issues or bottlenecks arising. The OPC is responsible for the delivery of the Government Legislation Programme, as well as a substantial volume of secondary legislation – including legislation to transpose European Union measures into domestic law. Since my appointment as Chief Parliamentary Counsel in 2018, the OPC has delivered a very significant volume of legislation (primary and secondary), including the following:

- (a) Two Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Acts (the first in 2019 and another in 2020), as well as rafts of secondary

legislation relating to Brexit,

(b) Circa 250 pieces of legislation as part of the Government's response to the Covid-19 pandemic, and

(c) A Civil Law (Miscellaneous Provisions) Act 2022 and several statutory instruments as part of the Government's response to the current crisis arising from the war in Ukraine.

9. In 2018, following my selection as the successful candidate in the TLAC competition and before my appointment, I raised issues relating to the terms and conditions attaching to the post of Chief Parliamentary Counsel with the Department of Public Expenditure and Reform. The Attorney General at the time (Mr Seamus Woulfe) and the Director General of the Attorney General's Office were informed of my doing so. After several weeks' consideration, the Department of Public Expenditure and Reform ultimately responded to the issues I raised without addressing the merits of my case. Rather it was decided on the narrow technical ground that the Department did not wish to consider or change the terms and conditions of the post at that stage of the competition, although there was a basis for doing so in the Information Booklet (Please see "Important Notice" at page 12 of the Information Booklet attached). It was made clear to me that the Department would be willing to review the terms and conditions attaching to the post as part of a wider review, such as the current one. (Although not altogether helpful as the merits of the issues were not considered, I can provide, if the Internal Review Panel so requests, copies of my engagement with the Department of Public Expenditure and Reform in 2018.)

History of developments

10. It is worth setting out the recent history of the terms and conditions of appointment of the Director General post in the AGO and those relating to the Chief Parliamentary Counsel. In the Civil Service generally, the practice of making appointments to posts at Secretary General level for a fixed term (usually for 7 years, with a possible extension of 3 years) instead of the appointee's retirement began in 1984.

In the time since 1984, there have been 4 Directors General (including the current incumbent) and 4 Chief Parliamentary Counsel (including myself). The first such appointment for a fixed term was that of a Chief Parliamentary Counsel in 1995 (then called the Parliamentary Draftsman). That was followed shortly thereafter by the appointment of a Director General (then called Senior Legal Assistant). When that incumbent left upon his appointment as the DPP in 1999, a successor was appointed. In 2003, a successor Chief Parliamentary Counsel was appointed and she served in that post for 10 years (an initial term of office of 7 years, with an extended term of 3 years) until 2013. At that point, the same terms and conditions of office applied to the Director General and Chief Parliamentary Counsel posts.

11. After 7 years in office in 2006, the term of office of the serving Director General was extended by 3 years. Upon that extension, enhanced terms and conditions known as “TLAC retirement terms” (referred to in paragraph 6 above) were applied to her re-appointment as Director General. That created for the first time, a divergence between the respective terms and conditions of the Director General and Chief Parliamentary Counsel posts. As already referred to above, in 2013, there was a further down-grading of the terms and conditions of the Chief Parliamentary Counsel post, whereby the appointment was to be on a contractual basis for a period of 7 years (with the possibility of an extension). At the end of the incumbent’s term of appointment, if a serving civil servant he or she reverted to his or her former grade in the Civil Service, in my case, that of Parliamentary Counsel (equivalent of Assistant Secretary). This latter reversion to the lower grade downgrades the status not only of the Chief Parliamentary Counsel post but of the OPC as a whole, although the Office is central to Government operations. I cannot see any sound basis for doing so.

This downgrading of the Chief Parliamentary Counsel post seems to be almost unique to the OPC and does not apply to other Secretary General level III posts across the Civil Service. It is clear from the advertisements setting out terms and conditions for various Secretary General posts in recent years that all of them involve substantive promotion to that higher grade.

Reasons for bringing the Chief Parliamentary Counsel post into line with that of other Secretaries General

12. There are a number of reasons why the reduced terms and conditions of the Chief Parliamentary Counsel are not satisfactory from the point of view of the OPC. I submit they should be brought into line with those of other Secretaries General:

(a) Reduction of Chief Parliamentary Counsel standing internally and externally -

Terms and conditions that involve a reversion to Assistant Secretary grade after serving a term of 7 years (which may be extended by 3 years) reduce the status of the post and the position of the incumbent vis-a-vis the Attorney General, Parliamentary Counsel and other OPC staff, as well as with Advisory Counsel in the AGO.

Furthermore, such terms and conditions will adversely affect the perception of the Chief Parliamentary Counsel by the several stakeholders in the legislative process, including Secretaries General and other officials in Government Departments, with whom the Chief Parliamentary Counsel has to engage on a constant basis.

(b) Uncertainty for Office regarding succession in Chief Parliamentary Counsel role

- The 2013 terms and conditions create uncertainty as it allows a Chief Parliamentary Counsel to avail of the option to revert to the Assistant Secretary grade early (which occurred in one instance). That situation creates uncertainty for the Office and places it in a position where it cannot plan for the smooth succession of officers in this important post in the normal way and timeframe.

(c) Creates dilemma for Office regarding role for former Chief Parliamentary

Counsel – The contract nature of the Chief Parliamentary Counsel appointment involves a Chief Parliamentary Counsel stepping down to the Assistant Secretary grade following completion of a term in office. This sets up the unsatisfactory structure of a former Chief Parliamentary Counsel reporting for Performance Management Development System (PMDS) purposes to an incoming Chief Parliamentary Counsel. This has not happened with either of the previous Chief Parliamentary Counsel who completed their terms of office before 2013. Each of them remained in the OPC at Secretary General grade and undertook a drafting role and, in one case, management of a Group of drafters also. Their contribution at a senior level in the OPC following completion of their respective terms as Chief

Parliamentary Counsel has been significant and valuable to the OPC to ensure the delivery the Government Legislation Programme. Currently, the OPC is heavily reliant upon the drafting services provided by a number of professional legislative drafters from other jurisdictions. That places the legislative drafting services of the State in a less than optimal position as those drafters are engaged on a contractual basis. It is in the interests of the OPC to ensure that former Chief Parliamentary Counsel would remain on in a drafting role and use their experience and expertise for that purpose and also perhaps the training of junior drafters. In the current situation of a former Chief Parliamentary Counsel reverting to an Assistant Secretary grade at the end of the term, there is a real risk that such a person will seek opportunities outside of legislative drafting which would be a significant loss of legislative drafting experience and expertise to the OPC.

- (d) **Vulnerability of Chief Parliamentary Counsel post being cut** – The temporary contract status of the Chief Parliamentary Counsel post, with no back-stop of permanent status for the incumbent in the post, makes it vulnerable to being cut in unfavourable financial or budgetary circumstances in the State in the future. That leaves the OPC in a vulnerable position, whereby the Head of Office post could be axed. That is a significant vulnerability bearing in mind the crucial role performed by the Chief Parliamentary Counsel and the OPC; legislation is an important output of Government.
- (e) **TLAC recruitment process applied** - The full panoply of stages and requirements of the TLAC recruitment process for posts at Secretary General grade, including a preliminary panel interview, a final panel interview and an interview with a psychologist, applied to the 2018 competition for this post. That rigorous recruitment process is out of step with the offering of reduced terms and conditions to the successful candidate. It will make it difficult to attract candidates for such a recruitment process given the proposed terms and conditions. I participated in the Chief Parliamentary Counsel competition on that basis that there would be a willingness to examine the terms and conditions applying to the successful candidate who is already a serving civil servant as stated in the Information Booklet for the post. Unfortunately that did not happen as outlined above. The current review is an opportunity to set the position to rights.

Conclusion

13. The Chief Parliamentary Counsel performs an important role in the Civil Service supporting the Attorney General regarding the drafting and delivery of legislation to the Government and Ministers. The importance of the role ought to be reflected in the terms and conditions attaching to it which I would submit is not currently the case.

I am asking for the terms and conditions of the role to be aligned fully with those of other Secretaries General, whether that involves the conferral of TLAC retirement terms or whatever alternative is to replace them as a result of the current review.

There is no reason why the anomalous position, as set out above, should continue to apply to the role of Chief Parliamentary Counsel. The current review presents an excellent opportunity to rectify this long outstanding anomaly.

14. I will provide any further information that you may require. I am, of course, available to meet with the members of the Independent Review Panel if that would be helpful.



An tSeirbhís um Cheapacháin Phoiblí
Public Appointments Service

INFORMATION BOOKLET

The Public Appointments Service, on behalf of the Top Level Appointments Committee (TLAC), intends to hold a competition for the purpose of recommending a person for appointment to the position of

Chief Parliamentary Counsel

Office of the Attorney General

TLAC 617

Closing Date: 3pm Thursday 11th January, 2018

The Public Appointments Service is committed to a policy of equal opportunity.

The Public Appointments Service will run this campaign in compliance with the codes of practice prepared by the Commission for Public Service Appointments (CPSA). These are available on www.cpsa.ie

CONTACT: AOIFE LYONS, SENIOR EXECUTIVE RECRUITMENT
PUBLIC APPOINTMENTS SERVICE, CHAPTER HOUSE
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Chief Parliamentary Counsel

Office of the Attorney General

TLA/C/617

TITLE OF POSITION: Chief Parliamentary Counsel
OFFICE: Office of the Attorney General
LOCATION: Dublin

General

The Chief Parliamentary Counsel is the professional head of the Office of the Parliamentary Counsel to the Government (OPC). The OPC is a constituent part of the Office of the Attorney General and the Attorney General is responsible for the OPC by virtue of section 6 of the Ministers and Secretaries Act 1924 and the ninth part of the Schedule to that Act. Under the Public Service Management Act 1997 the Director General of the Attorney General's Office is the Head of the Office as a whole and Accounting Officer for the Attorney General's Office including the OPC. The Chief Parliamentary Counsel and the staff of the OPC are subject to the Public Service Management Act 1997, with accountability to the Director General for any assignments of responsibilities under the 1997 Act.

The Office of the Parliamentary Counsel is responsible for the drafting of Government Bills and Government Statutory Instruments and for the drafting of Statutory Instruments made by Ministers. The Office of the Parliamentary Counsel is currently organised into four groups each having responsibility for providing drafting services to specific Government Departments. Each group is managed by a drafter not below the rank of Parliamentary Counsel (equivalent to an Assistant Secretary of a Department). The allocation and monitoring of the work within a group is undertaken by that Group Manager while the professional administration of the Office and the overall monitoring of work within the Office are the responsibility of the Chief Parliamentary Counsel. The Chief Parliamentary Counsel may be required to be a Group Manager in addition to his or her other duties.

The position of Chief Parliamentary Counsel is equivalent to that of Secretary General.

The Office of the Parliamentary Counsel to the Government is situated in Government Buildings, Merrion Street, Dublin 2.

Further information about the Office of the Attorney General and the OPC is available on www.attorneygeneral.ie

The Role of the Chief Parliamentary Counsel

The Chief Parliamentary Counsel is responsible for the management, organisation and output of the OPC. The position involves a wide range of duties including:

- (i) The professional administration of the OPC, particularly the management and organisation of the resources provided to the OPC;
- (ii) Accountability to the Director General on matters for which the Director General has responsibility as Head of the Office and as Accounting Officer;
- (iii) Supporting the Attorney General, the Government and Ministers of the Government, particularly in the context of the Government's Legislative Programme, by ensuring the effectiveness and efficiency of the legislative drafting services provided by the Attorney General's Office;
- (iv) Leading a team of (currently) 33 professional drafting staff (solicitors and barristers) as well as (currently) 10 support staff in the work of the Office;
- (v) Ensuring the quality of the drafting services provided;
- (vi) Through the Government Chief Whip and the Government Legislation Committee, keeping the Government informed on the progress of all Bills being drafted or proceeding through the Houses of the Oireachtas;
- (vii) Drafting Government Bills (including Bills to amend the Constitution), amendments to Bills and Statutory Instruments;
- (viii) Planning, evaluation and development of the drafting services of the OPC, including analysing existing services, service demands and trends in order to develop short and longer terms objectives and plans for the organisation;
- (ix) Implementing the various policies necessary to achieve the OPC's key objectives as defined in the Statement of Strategy, implementation of the Office's Action Plan under the Civil Service Renewal Plan and any other Government initiative especially in relation to Public Service reform and efficiency;
- (x) Accountability for the effective management, governance and general functioning of the OPC;
- (xi) Engaging with officials in Government Departments and Offices, the Chief State Solicitor's Office and the legal advisers seconded by the Office of the Attorney General to Government Departments;
- (xii) Commitment to the application of new and existing technologies to achieve efficiencies;

- (xiii) Assuming personal responsibility in discharging the Chief Parliamentary Counsel's statutory and governance obligations in all matters and in particular matters relating to risk management, service delivery and the management of resources;
- (xiv) Active and positive participation in the management of the Office of the Attorney General as a member of its Management Committee and other committees as appropriate.

Essential requirements

Applicants must have been called to the Bar, or have been admitted and been enrolled as a solicitor¹, with at least ten years practice. Periods spent in whole-time positions in the Civil Service, for appointment to which qualification as a barrister or a solicitor and time spent in practice was an essential requirement, will be reckoned as practice for this purpose.

Key Skills, Knowledge and Expertise

The successful candidate will have:

- (i) Possess detailed knowledge of Public Law – including Constitutional, European Union, and Administrative Law - and a proven record of advising key stakeholders as an adviser of last resort;
- (ii) Have exceptional managerial and organisational ability, with emphasis on delivering quality output;
- (iii) Have a comprehensive knowledge and practical experience of legislative drafting;
- (iv) Have a detailed knowledge of parliamentary procedures with particular reference to the legislative process;
- (v) Have a thorough knowledge of how a Government law office operates and of the structure and function of the Civil Service;
- (vi) Demonstrate strong strategic thinking, well developed decision making abilities and the ability to take responsibility and take effective decisions in a high pressure environment;
- (vii) Possess sound judgement and the commitment and attention to detail that is required by most aspects of legal drafting work and management responsibilities;

¹ Applications from suitably qualified candidates from outside the State are welcome. However, in general, non European Economic Area nationals require an employment permit to work in Ireland. Consequently, in the event of the successful candidate requiring an employment permit, any offer of employment is dependent on an employment permit being secured in respect of the individual for the duration of the term of employment. Information on employment permits can be obtained from the Department of Enterprise Trade and Innovation website, <http://www.djei.ie/labour/workpermits/index.htm>

- (viii) Demonstrate the strategic capability to manage the Office and set its direction and vision;
- (ix) Demonstrate a focus on achieving results and a proven ability to implement change management programmes aimed at optimising the performance of the OPC;
- (x) Demonstrate strong interpersonal and communication skills and the ability to communicate with and influence at senior levels with stakeholders across and outside the public sector;
- (xi) Have excellent leadership ability in the management of the OPC including the Management Committee (or other committees) and be able to demonstrate an ability to develop and implement policies necessary to achieve the key objectives of the OPC and AGO as set out in the Statement of Strategy and Business Plans;
- (xii) Have a proven track record as a successful leader and senior manager in a complex legal organisation in either the private or public sectors with the ability to work under pressure, meet deadlines and manage, motivate and lead others;
- (xiii) Have the requisite knowledge and ability to be able to discharge all the duties of the position;
- (xiv) Have the ability to lead in Civil Service Renewal.

Ideally, applicants will meet two of the following criteria at a senior level:

- (a) Applicant has experience in more than one organisation
- (b) Applicant has international experience (e.g. working abroad or significant engagement with international organisations and processes)
- (c) Applicant has experience outside the Civil Service
- (d) Applicant has a variety of experience (e.g. policy and operational)

Please Note

The Government will also consider any expression of interest from serving Secretaries General in arriving at its decision.

Key Competencies for effective performance

The attention of candidates is drawn to the key competencies that have been developed for use by the Top Level Appointments Committee (TLAC) for Secretary General and equivalent level posts.

The competency framework has identified 10 key individual competencies associated with effective performance, clustered into 4 main dimensions as illustrated below:

Leadership	Judgement	Managing Relationships	Personal Drive for Results
<ul style="list-style-type: none"> • Establishing Vision and Purpose • Providing Developmental Leadership 	<ul style="list-style-type: none"> • Judgement and Systemic Perspective • Steering through the political environment • Environmental Awareness 	<ul style="list-style-type: none"> • Managing Relationships • Communication 	<ul style="list-style-type: none"> • Managing for Results • Personal Drive and Accountability • Performance Focus • Professional Integrity
<p>Assessment will also be made of each candidate under the area of Specialist Knowledge and Expertise.</p>			

Further important information:

For further details on **Principal Conditions of Service**, eg Location, Annual leave, Superannuation etc please see Appendix I page 10

For details on **Eligibility** to compete and certain restrictions on eligibility please see page 9.

For other important information see Appendix II page 14.

THE SELECTION PROCESS

How to Apply

Applications must be made by submitting an on-line application and attaching a single document with the following elements included:

- **A comprehensive CV, including an organisation chart** (See *Senior Executive CV Guidance note* [here](#))
- **The 'Key Achievements Form'** (Available [here](#))
- **A short cover letter/ personal statement** (*i.e. no more than 2 pages*) outlining why you wish to be considered for the post and where you believe your skills, experience and values meet the requirements of the position.

Closing Date: 3.00pm Thursday 11th January, 2018

Selection Process:

The Selection Process may include:

- shortlisting of candidates, on the basis of the information contained in their application;
- a competitive preliminary interview;
- completion of an online questionnaire(s) & follow-up one-to-one interview;
- work sample/role play/media exercise, and any other tests or exercises that may be deemed appropriate;
- a competitive interview which will be conducted by the Top Level Appointments Committee (TLAC).

Please Note

We acknowledge receipt of all applications. If you do not receive an acknowledgement within 3 days of applying, please email sarah.lenards@publicjobs.ie. You can expect to receive emails from us at the relevant stages notifying you to check your secure publicjobs.ie message board for campaign updates. We endeavour to give as much notice as possible for interview dates etc., candidates should make themselves available on the date(s) specified by the Public Appointments Service and/or TLAC.

Shortlisting

Normally the number of applications received for a position exceeds that required to fill the position. While a candidate may meet the eligibility requirements of the competition, if the numbers applying for the position are such that it would not be practical to interview everyone, the Public Appointments Service may decide that a number only will be called to interview. In this respect, the Public Appointments Service provide for the employment of a short listing process to select a group for interview who, based on an examination of the application forms, appear to be the most suitable for the position. An expert board will examine the application forms against a pre-determined criteria based on the requirements of the position. This is not to suggest that other candidates are necessarily unsuitable or incapable of undertaking the job, rather that there are some candidates, who based on their application, appear to be better qualified and/or have more relevant experience. It is therefore in your own interest to provide a detailed and accurate account of your qualifications/ experience on the application.

References

It would be useful if you would begin to consider names of people who would be suitable referees and that we might consult (3 names and contact details). The referees do not have to include your current employer but should be in a position to provide a reference for you. The referees should be able to provide relatively recent information on your performance in a work context. You may wish to select referees that can provide such information from different perspectives or in different work contexts. Please be assured that we will only contact referees should you come under consideration after the preliminary interview stage. Please note, should you be successful at final interview, we will require a reference from your current employer prior to recommendation for appointment. Successful candidates may be required to complete a number of clearance processes such as Health and Character Declaration, Garda Vetting, and any other relevant checks required for the particular role.

If you feel you would benefit from a confidential discussion about any aspect of this significant opportunity, please contact Aoife Lyons on 01 8587629 or email aoife.lyons@publicjobs.ie

ELIGIBILITY TO APPLY AND CERTAIN RESTRICTIONS ON ELIGIBILITY

Eligibility to compete and certain restrictions on eligibility

Applications from non-EEA citizens are welcomed. Candidates in this category should be aware that even if successful at interview, an appointment to the post is contingent on the securing of a work permit.

Incentivised Scheme for Early Retirement (ISER)

It is a condition of the Incentivised Scheme for Early Retirement (ISER) as set out in Department of Finance Circular 12/09 that retirees, under that Scheme, are debarred from applying for another position in the same employment or the same sector. Therefore, such retirees may not apply for this position.

Department of Health and Children Circular (7/2010)

The Department of Health Circular 7/2010 dated 1 November 2010 introduced a Targeted Voluntary Early Retirement (VER) Scheme and Voluntary Redundancy Schemes (VRS). It is a condition of the VER scheme that persons availing of the scheme will not be eligible for re-employment in the public health sector or in the wider Public Service or in a body wholly or mainly funded from public moneys. The same prohibition on re-employment applies under the VRS, except that the prohibition is for a period of 7 years. People who availed of the VER are not eligible to compete in this competition. People who availed of VRS scheme and who may be successful in this competition will have to prove their eligibility (expiry of period of non-eligibility).

Collective Agreement: Redundancy Payments to Public Servants

The Department of Public Expenditure and Reform letter dated 28th June 2012 to Personnel Officers introduced, with effect from 1st June 2012, a Collective Agreement which had been reached between the Department of Public Expenditure and Reform and the Public Services Committee of the ICTU in relation to ex-gratia Redundancy Payments to Public Servants. It is a condition of the Collective Agreement that persons availing of the agreement will not be eligible for re-employment in the Public Service by any Public Service body (as defined by the Financial Emergency Measures in the Public Interest Acts 2009 – 2011) for a period of 2 years from termination of the employment. People who availed of this scheme and who may be successful in this competition will have to prove their eligibility (expiry of period of non-eligibility).

Department of Environment, Community & Local Government (Circular Letter LG(P) 06/2013)

The Department of Environment, Community & Local Government Circular Letter LG(P) 06/2013 introduced a Voluntary Redundancy Scheme for Local Authorities. In accordance with the terms of the *Collective Agreement: Redundancy Payments to Public Servants* dated 28 June 2012 as detailed above, it is a specific condition of that VER Scheme that persons will not be eligible for re-employment in any Public Service body [as defined by the Financial Emergency Measures in the Public Interest Acts 2009 – 2011 and the Public Service Pensions (Single Scheme and Other Provisions) Act 2012] for a period of 2 years from their date of departure under this Scheme. These conditions also apply in the case of engagement/employment on a contract for service basis (either as a contractor or as an employee of a contractor).

Declaration

Applicants will be required to declare whether they have previously availed of a public service scheme of incentivised early retirement and/or the collective agreement outlined above. Applicants will also be required to declare any entitlements to a Public Service pension benefit (in payment or preserved) from any other Public Service employment and/or where they have received a payment-in-lieu in respect of service in any Public Service employment.

Appendix I PRINCIPAL CONDITIONS OF SERVICE

General:

The appointment is subject to the Civil Service Regulation Acts 1956 to 2005, the Public Service Management (Recruitment and Appointments) Act 2004, and any other Act for the time being in force relating to the Civil Service.

Pay:

The pay rate for Chief Parliamentary Counsel is currently graded at Secretary General Level III and the salary for this position effective 1st April 2017 is as follows:

€180,409

This rate will apply where the appointee is an existing civil or public servant appointed on or after 6th April 1995 or is newly recruited to the Civil Service and is required to make a personal pension contribution.

A different rate will apply where the appointee is a civil or public servant recruited before 6th April 1995 and who is not required to make a Personal Pension Contribution.

Important Note: Depending on a person's public service employment history different terms and conditions may apply for existing civil / public servants. The rate of remuneration will not be subject to negotiation and may be adjusted from time to time in line with Government pay policy.

Tenure:

Appointment to the non-established position of Chief Parliamentary Counsel is on a temporary fixed-term contract for a period of up to 7 years from the date of appointment.

The appointment is subject to termination at any time by either side in accordance with the Minimum Notice and Terms of Employment Acts 1973 to 2005. In the case of serious misconduct, the employment as Commissioner may be terminated at any time without notice and without penalty.

The appointment, which is strictly temporary, carries with it no entitlement to established status (by way of limited competition or otherwise).

Unfair Dismissals Acts 1977-2005

The Unfair Dismissals Acts 1977-2005 will not apply to the termination of the employment by reason only of the expiry of the fixed term contract without it being renewed.

Headquarters

The Department is located in Dublin. When absent from home and headquarters on official duty the appointee will be paid appropriate travelling expenses and subsistence allowances, subject to normal civil service regulations

Hours of attendance:

Hours of attendance will be fixed from time to time but will amount to not less than 43 hours and 15 minutes gross per week. The Chief Parliamentary Counsel will be required to work such additional hours from time to time as may be reasonable and necessary for the proper performance of his/her duties subject to the limits set down in the working time regulations. The rate of remuneration payable covers any extra attendance liability that may arise from time to time.

Annual Leave:

In addition to the usual public holidays the annual leave for this position is 30 working days.

Sick Leave:

Pay during properly certified sick absence, provided there is no evidence of permanent disability for service, will apply on a pro-rata basis, in accordance with the provisions of the sick leave circulars.

Officers who will be paying Class A rate of PRSI will be required to sign a mandate authorising the Department of Employment Affairs & Social Protection to pay any benefits due under the Social Welfare Acts direct to the Office of the Attorney General and payment during illness will be subject to the officer making the necessary claims for social insurance benefit to the Department of Employment Affairs & Social Protection within the required time limits.

Retirement/Superannuation

The successful candidate will be offered the appropriate superannuation terms and conditions as prevailing in the Civil Service at the time of being offered an appointment. In general, an appointee who has never worked in the Public Service will be offered appointment based on membership of the Single Public Service Pension Scheme ("Single Scheme"). Full details of the Scheme are at <http://www.per.gov.ie/pensions>

Where the appointee has worked in a pensionable (non-single scheme terms) public service job in the 26 weeks prior to appointment or is currently on a career break or special leave with/without pay different terms may apply. The pension entitlement of such appointees will be established in the context of their public service employment history.

Key provisions attaching to membership of the Single Scheme are as follows:

- Pensionable Age: The minimum age at which pension is payable is 66 (rising to 67 and 68) in line with changes in State Pension age.
- Retirement Age: Scheme members must retire at the age of 70.
- Career average earnings are used to calculate benefits (a pension and lump sum amount accrue each year and are up-rated each year by reference to CPI).
- Post retirement pension increases are linked to CPI

Pension Abatement

- If the appointee has previously been employed in the Civil or Public Service and is in receipt of a pension from the Civil or Public Service or where a Civil/Public Service pension comes into payment during his/her re-employment that pension **will be subject to abatement** in accordance with Section 52 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012. **Please note: In applying for this position you are acknowledging that you understand that the abatement provisions, where relevant, will apply. It is not envisaged that the employing Department/Office will support an application for an abatement waiver in respect of appointments to this position.**
- However, if the appointee was previously employed in the Civil or Public Service and awarded a pension under voluntary early retirement arrangements (other than the Incentivised Scheme of Early Retirement (ISER), the Department of Health Circular 7/2010 VER/VRS or the Department of Environment, Community & Local Government Circular letter

LG(P) 06/2013 which, renders a person ineligible for the competition) the entitlement to that pension will cease with effect from the date of reappointment. Special arrangements may, however be made for the reckoning of previous service given by the appointee for the purpose of any future superannuation award for which the appointee may be eligible.

- **Department of Education and Skills Early Retirement Scheme for Teachers Circular 102/2007**

The Department of Education and Skills introduced an Early Retirement Scheme for Teachers. It is a condition of the Early Retirement Scheme that with the exception of the situations set out in paragraphs 10.2 and 10.3 of the relevant circular documentation, and with those exceptions only, if a teacher accepts early retirement under Strands 1, 2 or 3 of this scheme and is subsequently employed in any capacity in any area of the public sector, payment of pension to that person under the scheme will immediately cease. Pension payments will, however, be resumed on the ceasing of such employment or on the person's 60th birthday, whichever is the later, but on resumption, the pension will be based on the person's actual reckonable service as a teacher (i.e. the added years previously granted will not be taken into account in the calculation of the pension payment).

- **Ill-Health-Retirement**

Please note that where an individual has retired from a Civil/Public Service body on the grounds of ill-health his/her pension from that employment may be subject to review in accordance with the rules of ill-health retirement within the pension scheme of that employment.

Pension Accrual

A 40-year limit on total service that can be counted towards pension where a person has been a member of more than one pre-existing public service pension scheme(i.e. non-Single Scheme) as per the 2012 Act shall apply. This 40-year limit is provided for in the Public Service Pensions (Single Scheme and other Provisions) Act 2012. This may have implications for any appointee who has acquired pension rights in a previous public service employment.

Pension-Related Deduction

This appointment is subject to the pension-related deduction in accordance with the Financial Emergency Measure in the Public Interest Act 2009.

For further information in relation to the Single Public Service Pension Scheme for Public Servants please see the following website: <http://www.per.gov.ie/pensions>.

IMPORTANT NOTICE

Candidates should note that different terms and conditions may apply if, **immediately prior to appointment**, the appointee is already a serving civil or public servant.

The above represents the principal conditions of service and is not intended to be the comprehensive list of all terms and conditions of employment which will be set out in the employment contract to be agreed with the successful candidate.

Standards in Public Office Act 2001

A person appointed to this position will be subject to the tax clearance requirements of the Standards in Public Office Act 2001. Briefly, the Act requires persons appointed to designated positions or directorships in public bodies that attract a remuneration of not less than that of a Deputy Secretary General in the Civil Service, to furnish, to the Standards in Public Office Commission, **not more than nine months after the date of their appointment:**

(i) a tax clearance certificate that the appointee is in compliance with the obligations imposed by the Tax Acts, the Capital Acquisitions Tax Act; the Capital Gains Tax Acts and the Value-Added Tax Act;

or

(ii) an application statement to the effect that the appointee has applied for a tax clearance certificate and that a decision on the application has not been made;

and

(iii) a statutory declaration, made by the appointee, that the appointee is, to the best of his or her knowledge or belief, in compliance with the obligations imposed on him or her by the Acts referred to above and is not aware of any impediment to the issue of a tax clearance certificate.

The tax clearance certificate or application statement must be issued within a period of nine months before or after the date of appointment and the statutory declaration must be made within a period of one month before or after the date of appointment.

Where a person is in contravention of this requirement, the Standards Commission will investigate the matter and draw up a report that will be furnished to the relevant public body and laid before the Oireachtas. A public body in receipt of such a report may take appropriate action, including suspension of the person concerned.

Further details of these requirements are set out at paragraph 10 of Department of Finance Circular 04/2002, dated 14 January 2002. Application forms for tax clearance certificates and forms for making the necessary statutory declaration under the Act are available from the TLAC Secretariat. The Revenue Commissioners have produced a guidance document in relation to the tax clearance elements of the 2001 Act, which is also available from the TLAC Secretariat.

Appendix II

Other Important Information

The Public Appointments Service and TLAC will not be responsible for refunding any expenses incurred by candidates.

The admission of a person to a competition, or invitation to attend interview, or a successful result letter, is not to be taken as implying that the Public Appointments Service is satisfied that such a person fulfils the requirements or is not disqualified by law from holding the position.

The Public Appointments Service will make all such enquiries that are deemed necessary to determine the suitability of candidates for recommendation by TLAC. Until all stages of the recruitment process have been fully completed a final determination cannot be made nor can it be deemed or inferred that such a determination has been made. Should the person recommended for appointment decline, or having accepted it, relinquish it, TLAC may at its discretion, select and recommend another person for appointment on the results of this selection process.

The importance of Confidentiality

Subject to the provisions of the Freedom of Information Acts, 2014, applications will be treated in strict confidence. All enquires, applications and all aspects of the proceedings are treated as strictly confidential and are not disclosed to anyone, outside those directly involved in that aspect of the process.

Certain items of information, not specific to any individual, are extracted from computer records for general statistical purposes.

Deeming of candidature to be withdrawn

Candidates who do not attend for interview or other test when and where required by the Public Appointments Service, or who do not, when requested, furnish such evidence as the PAS require in regard to any matter relevant to their candidature, will have no further claim to consideration.

Candidates are expected to provide all requested documentation to PAS, including all forms issued by PAS for completion, within five days of request. Failure to do so will result in the candidate being deemed to have withdrawn from the competition and their candidature will receive no further consideration.

Quality Customer Service

We aim to provide an excellent quality service to all our customers. If, for whatever reason, you are unhappy with any aspect of the service you receive from us, we urge you to bring this to the attention of the unit or staff member concerned. This is important as it ensures that we are aware of the problem and can take the appropriate steps to resolve it.

Use of Recording Equipment

PAS does not allow the unsanctioned use of any type of recording equipment on its premises. This applies to any form of sound recording and any type of still picture or video recording, whether including sound recording or not, and covers any type of device used for these purposes. Any person wishing to use such equipment for any of these purposes must seek written permission in advance. This policy is in place to protect the privacy of staff and customers and the integrity of our assessment material and assessment processes. Unsanctioned use of recording equipment by any person is a breach of this policy. Any candidate involved in such a breach could be disqualified from the

competition and could be subject to prosecution under section 55 of the Public Service Management (Recruitment & Appointments) Act, 2004.

In addition, where a person found guilty of an offence was or is a candidate at a recruitment process, then:

- Where she/he has not been appointed to a post, he/she will be disqualified as a candidate; and
- Where she/he has been appointed subsequently to the recruitment process in question, she/he shall forfeit that appointment.

Procedures where a candidate seeks a review of a Decision taken in relation to their application

A request for review may be taken by a candidate should they be dissatisfied with an action or decision taken by the Public Appointments Service (PAS). The PAS will consider requests for review in accordance with the provisions of **Section 7** of the Code of Practice *Appointments to Positions in the Civil and Public Service* published by the Commission for Public Service Appointments (Commission). When making a request for a review, the candidate must support their request by outlining the facts they believe show that the action taken or decision reached was wrong. A request for review may be refused if the candidate cannot support their request.

The Commission recommends that, subject to the agreement of the candidate, where the office holder (in this instance the Chief Executive Officer of PAS) considers the matter could be resolved they should first seek to engage on an informal basis, before making use of the formal review procedure.

Procedure for Informal Review

- A request for Informal Review must be made within 5 working days of notification of the decision, and should normally take place between the candidate and a representative of the PAS who had played a key role in the selection process.
- Where the decision being conveyed relates to an interim stage of a selection process, the request for informal review must be received within 2 working days of the date of receipt of the decision.
- Where a candidate remains dissatisfied following any such informal discussion, he/she may adopt the formal procedures set out below.
- If the candidate wishes the matter to be dealt with by way of a formal review, he/she must do so within 2 working days of the notification of the outcome of the informal review.

Procedure for Formal Review of Selection Process

- The candidate must address his/her concerns in relation to the process in writing to the Chief Executive, outlining the facts that they believe show an action taken or decision reached was wrong.
- A request for review must be made within 10 working days of the notification of the selection decision. Where the decision relates to an interim stage of a selection process, the request for review must be received within 4 working days.
- Any extension of these time limits will only be granted in the most exceptional of circumstances and will be at the sole discretion of the Chief Executive.
- The outcome must generally be notified to the candidate within 25 working days of receipt of the request for review.

Complaints Process

A candidate may believe there was a breach of the Commission's Code of Practice by PAS that may have compromised the integrity of the decision reached in the appointment process. The complaints process enables candidates (or potential candidates) to make a complaint under **Section 8** to the Chief Executive Officer of PAS in the first instance, and to the Commission for Public Service Appointments subsequently on appeal if they remain dissatisfied.

- Allegations of a breach of the Code of Practice should be addressed in writing, and within a reasonable timeframe, to the Chief Executive Officer in the first instance. The complainant must outline the facts that they believe show that the process followed was wrong. The complainant must also identify the aspect of the Code they believe has been infringed and enclose any relevant documentation that may support the allegation. A complaint may be dismissed if they the complainant cannot support their allegations by setting out how the Public Appointments Service has fallen short of the principles of this Code.
- On receipt of a complaint PAS may determine to engage with the complainant on an informal basis.

For further information on the above procedures please see the Code of Practice *Appointments to Positions in the Civil and Public Service* which is available on the website of the Commission for Public Service Appointments, www.cpsa.ie

There is no obligation on the PAS to suspend an appointment process while it considers a request for a review. Please note that where a formal review of a recruitment and selection process has taken place under Section 7 of this Code of Practice, a complainant may not seek a further review of the same process under Section 8, other than in the most exceptional circumstances that will be determined by the Commission at its sole discretion.

Requests for Feedback

Feedback in relation to the selection process is available on request. There are no specific timeframes set for the provision of feedback.

Please note that the Review Process as set out in the Code of Practice is a separate process with specified timeframes that must be observed. Receipt of feedback is not required to invoke a review. It is not necessary for a candidate to compile a detailed case prior to invoking the review mechanism. The timeframe set out in the CPSA Code cannot be extended for any reason including the provision of feedback.

Candidates' Obligations:

Candidates must:

- Have the knowledge and ability to discharge the duties of the post concerned
 - Be suitable on the grounds of character
 - Be suitable in all other relevant respects for appointment to the post concerned;
- and if successful, they will not be appointed to the post unless they:
- Agree to undertake the duties attached to the post and accept the conditions under which the duties are, or may be required to be, performed
 - Are fully competent and available to undertake, and fully capable of undertaking, the duties attached to the position.

Candidates in the recruitment process must not:

- knowingly or recklessly provide false information
- canvass any person with or without inducements
- interfere with or compromise the process in any way

A third party must not impersonate a candidate at any stage of the process

Contravention Code of Practice

Any person who contravenes the above provisions or who assists another person in contravening the above provisions is guilty of an offence. A person who is found guilty of an offence is liable to a fine/or imprisonment.

In addition, if a person found guilty of an offence was, or is a candidate at a recruitment process,

- they will be disqualified as a candidate and excluded from the process;
- has been appointed to a post following the recruitment process, they will be removed from that post.

Data Protection Acts, 1988 and 2003

When your application form is received, we create a record in your name, which contains much of the personal information you have supplied. This personal record is used solely in processing your candidature and should you be successful certain information you provide will be forwarded to the employing organisation. Where the services of a third party are used in processing your application, it may be required to provide them with information, however all necessary precautions will be taken to ensure the security of your data. Such information held is subject to the rights and obligations set out in the Data Protection Acts, 1988 & 2003. To make a request under the Data Protection Acts 1988 & 2003, please submit your request in writing to:

The Data Protection Co-Ordinator,
Public Appointments Service,
"Chapter House",
26-30 Abbey Street Upper,
Dublin 1,

Ensuring that you describe the records you seek in the greatest possible detail to enable us to identify the relevant record. Certain items of information, not specific to any individual, are extracted from records for general statistical purposes.

Candidates should note that canvassing will disqualify.