



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



AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAS
DEPARTMENT OF JUSTICE AND EQUALITY

Oversight Agreement 2018

between the International Protection Appeals Tribunal and the Department of Justice and Equality

Part I – Oversight Agreement

1. Introduction

1.1 The International Protection Appeals Tribunal (“the Tribunal”) was established on a statutory basis by the Minister for Justice and Equality pursuant to the International Protection Act 2015 and is independent in the performance of its functions. The Tribunal is responsible for determining appeals against certain recommendations of International Protection Officers in accordance with the 2015 Act.

1.2 The mandate of the Tribunal is:

- To determine appeals from recommendations of International Protection Officers that a person’s application for international protection is inadmissible.
- To determine appeals from recommendations of International Protection Officers, that a person is not a refugee.
- To determine appeals from recommendations of International Protection Officers, that a person is not entitled to subsidiary protection.
- To determine appeals from transfer decisions of International Protection Officers pursuant to the European Union (Dublin System) Regulations 2018.
- To determine appeals from recommendations of International Protection Officers that a person be refused consent to the making of a subsequent application

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

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

The Tribunal is a key element of the State's international protection framework and performs an important function in relation to the processing of protection 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 and Equality's ("the Department") Strategy Statement.

2.3 The core function of the Tribunal is the hearing and determination of appeals from certain recommendations and decisions of International Protection Officers.

2.4 The Tribunal exercises a quasi-judicial function under the 2015 Act. Staff are assigned to the Tribunal from the Department, the Chairperson, Deputy Chairpersons and full-time Members of the Tribunal are engaged on individual contracts of services and part-time Tribunal Members are engaged on individual contracts for services.

2.5 The Tribunal exercises an appellate function under Paragraph 21 of the European Communities (Reception Conditions) Regulations 2018, S.I. No. 230 of 2018 with effect from 29 June 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 his 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 a 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 will furnish a report to the Minister in relation to any function that the Chairperson perform under this Act, if requested to do so by the Minister or if the Chairperson considers it appropriate to do so.

The Chairperson will furnish an annual report to the Minister not later than 3 months after the end of each year, which the Minister shall cause to be laid before each House of the Oireachtas not more than 30 days after he or she receives it.

The Chairperson will furnish a Compliance Statement to the Minister for Justice & Equality (“the Minister”), in conjunction with the Tribunal’s annual report, affirming the Tribunal’s compliance with relevant codes and regulations, in accordance with the Code of Practice for the Governance of State Bodies (2016), in particular addressing the relevant requirements of paragraph 1.9 of the ‘Business & Financial Reporting Requirements’ Annex to the 2016 *Code of Practice for the Governance of State Bodies*.

Registrar

Section 66 of the International Protection Act 2015, 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 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. The term of office of an ordinary member, whether appointed in a whole-time or in a part-time capacity, shall be 3 years and such a member may be re-appointed to the office for a second term not exceeding 3 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. This Statement of Strategy should be aligned with the Department's Statement of Strategy.

3.3 Reporting Requirements

Annual Report

Section 63(8)(b) of the International Protection Act 2015 requires the Chairperson to make a report to the Minister for Justice and Equality ("the Minister"), not later 3 months after the end of each year, in relation to the performance of the functions and activities of the Tribunal during the preceding year.

In accordance with Appendix A of the 'Business & Financial Reporting' Annex to the *Code of Practice for the Governance of State Bodies*, the Annual Report should, inter alia, include:

- i. Confirmation that this Oversight Agreement has been reached with the Department of Justice and Equality and, in particular, indicating the Tribunal's level of compliance with the requirements of the *Code of Practice for the Governance of State Bodies*;
- ii. Confirmation that an appropriate assessment of the Tribunal's principal risks has been carried out, including a description of these risks, where appropriate and associated mitigation measures or strategies;
- iii. Confirmation that Tribunal is adhering to the relevant aspects of the *Public Spending Code*.
- iv. Confirmation that the Tribunal has complied with its obligations under tax law; and
- v. A statement on the system of internal controls in the Tribunal, addressing each of the items listed in Appendix D of the 'Business and Financial Reporting' annex to the *Code of Practice for the Governance of State Bodies*, in so far as they can be applied to the Tribunal given its structure and relationship with the Department.

Report to Minister

Section 63(8)(a) of the International Protection Act requires the Chairperson to make a report to the Minister in relation to any function the Chairperson performs under this Act, if requested to do so by the Minister or if the Chairperson considers it appropriate to do so.

3.4 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.

3.5 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.

3.6 Protected Disclosures

In accordance with Section 21(1) of the Protected Disclosures Act 2014, the Tribunal shall establish and maintain appropriate Protected Disclosures Procedures for the making of protected disclosures by workers who are or were employed by the Tribunal, and for dealing with such disclosures.

The former Refugee Appeals Tribunal, in 2015, opted into the Department of Justice and Equality's Protected Disclosures Policy (i.e. a reporting structure through the management grades up to the Head of Internal Audit) and this applies to the International Protection Appeals Tribunal.

3.7 Procurement

In accordance with section 8.16 of the *Code of Practice*, the Chairperson will ensure that competitive tendering is standard procedure with regard to requests for procurement made by IPAT and that policies and procedures with regard to requests for procurement have been developed and published to all staff.

The Chairperson should affirm adherence to the relevant policy and procedures for requests for procurement in the annual compliance statement to the Minister.

3.8 Customer Charter

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

3.9 Data Protection

IPAT will engage proactively with the data protection obligations and ensure substantial compliance with the General Data Protection Regulation (GDPR) and the Data Protection Acts 1988 & 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.

3.10 Governance Obligations

As a statutory agency 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 Tribunal will ensure that all the necessary obligations, including those for risk management and 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.

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

3.11 Compliance Statement to the Minister

To confirm compliance (or otherwise) with key provisions of the *Code of Practice* and the *Governance Standard for Justice and Equality Sector Bodies*, the Chairperson of the Tribunal will complete, on an annual basis in conjunction with the Annual Report, a Compliance Statement to the Minister in order to provide assurance to the Department that the systems of internal control, risk management and other areas of compliance are operating effectively. This statement should include all relevant requirements of paragraph 1.9 of the 'Business & Financial Reporting Requirements' Annex to the Code of Practice for the Governance of State Bodies in so far as they can be applied to the Tribunal given its structure and relationship with the Department.

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 (IPATOireachtasMail@protectionappeals.ie) for Oireachtas members.
- 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 Governance obligations will also be reviewed as part of the overall monitoring process of this Oversight Agreement itself.

3.14 Comply or Explain

- i. Having regard to the size and structure of the Tribunal, it is not deemed feasible for the Tribunal to establish its own Internal Audit Unit or its own Audit & Risk Committee. Alternative arrangements have been put in place to provide the Tribunal with access to the Department's Internal Audit Unit and Audit Committee.
- ii. Having regard to the fact that The Tribunal does not have its own budget, 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 approved by and funded from the Department through INIS Shared Services.

Part II - Performance Delivery Agreement

4. Objectives of the Agreement¹

The purpose of this agreement is to formalise a process through which the outputs and outcomes required from the Tribunal can be measured and assessed. Equally, the agreement will set out the expectations of the Tribunal in relation to the support, guidance and information flow from the Department of Justice and Equality (“the Department”), which are vital in enabling the Tribunal to achieve its strategic and operational goals. To achieve this, it is necessary to set out the following:

- The Department’s expectations of the Tribunal;
- The key inputs, outputs and expected outcomes of the Tribunal’s activities;
- Assessment of performance by monitoring of agreed targets, around those key outputs, inputs and outcomes;
- Support of the Tribunal by the Department in the delivery of its functions as set out in the International Protection Act 2015;
- Defined priorities, agreed administrative arrangements, and outcomes to achieve efficient use of resources resulting in the delivery of effective public services.

This Agreement documents the agreed level of service between the parties in order to facilitate improved effectiveness and efficiency of relevant public services. It sets out the Tribunal’s key targets for 2018 and defines the output and outcome indicators on which performance should be measured.

¹ Appendix E to the Code of Practice for the Governance of State Bodies sets out the expected format and detail to be included in the Performance Delivery Agreements.

5. Commitments

5.1 Mutual Commitments

Both parties are committed to:

- Proactive and timely communications, cooperation, and information sharing on service delivery;
- The effective achievement of agreed targets, 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;
- Supporting prompt and timely responses to correspondence, information requests and related matters;
- Keeping each other fully appraised and updated on all key issues;
- Developing an appropriate corporate governance framework for the Tribunal;
- Developing Tribunal's on-line resources within the infrastructure parameters of the INIS web site for technical standards, content standards, design standards, process standards and customer standards.

5.2 Department of Justice and Equality Commitments

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

- Provide sufficient support staff to the Tribunal and undertake to agree any staffing changes with the Tribunal;
- Provide the shared services to the Tribunal as set out in Appendix 2;
- Appoint a Chairperson in a timely manner;
- Appoint not more than two Deputy Chairpersons in a timely manner;
- Appoint at least three full-time members of the Tribunal and a number of part-time members as required in a timely manner;

- Provide sufficient funding, including accommodation and technical equipment, so that the Tribunal can carry out its functions effectively.

5.3 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;
- Achieving the goals as outlined in the Tribunal's Strategy Statement,

5.4 Quarterly Report

A report will be provided to the Department by the Tribunal on a quarterly basis (each report on the preceding quarter will be submitted before the end of the first month of the following quarter e.g. the report on the first quarter activities will be submitted by the end of April). These quarterly reports will include the following information:

- 1) No. of Full-time Members and the numbers of Decisions made by each;
- 2) No. of Part-time Members and the numbers of Decisions made by each;
- 3) No. of Decisions Issued in relation to an appeal under section 41(a) (i.e. against IPO recommendation that applicant should not be given a refugee declaration but should be given subsidiary protection):
 - a) To affirm the recommendation that the applicant should not be given a refugee declaration;
 - b) To set aside the recommendation that the applicant should not be given a refugee declaration and recommend that the applicant be given a refugee declaration.
- 4) No. of Decisions Issued in relation to an appeal under section 41(b) (i.e. against IPO recommendation that applicant should be given neither a refugee declaration nor a subsidiary protection declaration) :

- a) To affirm the recommendation that the applicant should be given neither a refugee declaration nor a subsidiary protection declaration;
 - b) To set aside the part of the recommendation that recommends that the applicant should not be given a refugee declaration and recommend that the applicant be given a refugee declaration;
 - c) To affirm the recommendation that the applicant should not be given a refugee declaration and set aside the part of the recommendation that recommends that the applicant should not be given a subsidiary protection declaration and recommend that the applicant be given a subsidiary protection declaration.
- 5) No. of individual applicants to which the decisions issued above relates;
 - 6) No. of Appeals processed to completion within 3 months of application to the Tribunal;
 - 7) No. of Appeals processed to completion within 6 months of application to the Tribunal;
 - 8) No. of Appeals which exceeded the above timelines;
 - 9) No. of Appeals applications on hands and short summary of the processing status of these cases;
 - 10) No. of Judicial Review Applications lodged, on hands, settled, won and lost in the quarter and a short summary of key cases / decisions;²
 - 11) Appeals to the Tribunal in respect of the Dublin System Regulations
 - a) No. of Decisions Issued by IPAT to Affirm the transfer decision;
 - b) No. of Decisions Issued by IPAT to Set Aside the transfer decision;
 - c) No. of applicants to which these the decisions issued above relates;
 - d) No. of Dublin Regulations Appeals processed to completion within 15 days of application to the Tribunal.
 - e) No. of Dublin Regulations Appeals not processed to completion within 15 days of application.
 - f) A short summary of status of cases referred to in e)
 - 12) Appeals to the Tribunal in respect of Inadmissible applications

² With regard to post 2016 cases, this information will be based on information received from the Department's Legal Services Unit (LSSU) on a regular basis.

- a) No. of decisions issued to affirm the IPO recommendation that an application is inadmissible.
 - b) No. of decisions issued to set aside the IPO recommendation that an application for international protection is inadmissible.
 - c) No. of applicants to which the decisions issued above relate.
 - d) No. of inadmissibility appeals processed to completion within 10 days of application to IPAT.
 - e) No of inadmissibility appeals processed to completion in excess of the above timeline.
- 13) Appeals to the Tribunal in respect of subsequent applications
- a) No. of decisions issued to affirm the IPO recommendation that consent to the making of a subsequent application be refused.
 - b) No of decisions issued to set aside the IPO recommendation that consent to the making of a subsequent application be refused.
- 14) Appeals to the Tribunal in respect of persons whom subsection (7) or (8) of Section 70 (i.e. Transitional Provisions) applies
- (a) the Number and type of decisions issued in respect of these appeals.

6. Inputs

Funding for the Tribunal is provided from Subhead E4 of the Justice Vote of the Office of the Minister for Justice and Equality and under the control of the Accounting Officer for the Vote. Accordingly, staff salaries, members' fees, legal fees, accommodation, utilities etc. are resourced from central Department funds.

6.1 Financial Inputs

The following table summarises budget allocation for 2018 (based on Qtrs. 1 and 2 expenditure and will require review in light of IPAT expected expansion and shared services expenditure in 7/8 Hanover St. premises).

Expenditure	2018 Budget Allocation
Pay	€1.767m.
Non-Pay	€1.736m.
Gross Total	€3.503m.

6.2 Staffing Resources

The following table summarises staffing levels required by the Tribunal to deliver agreed outputs and current staffing levels at August 2018 (*2017 Oversight Agreement figure is on the left and current staffing numbers and FTE are in square brackets to the right*)

Grade	Staffing Level August 2018 (FTE)	
PO	2	[2(2)]
Assistant Principal Officer	6	[6(6)]
Higher Executive Officer	3	[3 (3)]
Administrative Officer	1	[1 (1)]
Executive Officer	8	[6 (5.2)]
Clerical Officer	27	[24 (22.6)]
Total	47	[42 (39.8)]

7. Outputs /Targets

7.1 The following five high level goals have been identified as the key goals that the Tribunal will focus on in the three-year period from 2017 to 2020:

High Level Goal 1:

To administer, consider and decide appeals to the highest professional standards.

High Level Goal 2:

Manage the transition to the new structures of the Tribunal following commencement of the International Protection Act 2015.

High Level Goal 3:

To achieve and maintain quality standards through the provision of training and professional development supports to Tribunal Members

High Level Goal 4:

To efficiently and actively manage cases in the Superior Courts to which the Tribunal is a party and to provide instructions and/or observations where appropriate

High Level Goal 5:

Provide quality service to the highest professional standards with a particular focus on achieving value for money in the deployment of the Tribunal's physical and human resources

Goals	Actions	KPIs	Target
1. To administer, consider and decide appeals to the highest professional standards with delays kept to a minimum.	Decide upon appeals against negative recommendations/decisions of ORAC/IPO.	a) No. of new appeals cases processed following lodgment with Tribunal; b) No. of appeals cases assigned to members; c) No. of Appeal Hearings scheduled per week; d) No. of Member's Decisions issued per week; e) No. of Appeal cases to assigned to each part-time member per month for ten months of the year. f) No. of Appeal cases to be assigned to each full-time member per month	a) 40 appeal cases per week b) 40 cases assigned to members per week c) 40 Hearings scheduled per week. d) 40 Decisions issued per week e) 4 Appeal cases assigned to each available part-time member per month for ten months of the year. f) 10 cases to be assigned to full-time members per month for 10 months of the year
	Monitor progress of all cases.	Monthly, Quarterly, Annual Reports and additional as required on caseload progress provided by IPAT.	A report will be provided to the Department by the Tribunal on a quarterly basis (each report on the preceding quarter will be submitted before the end of the first month of the following quarter).

Goals	Actions	KPIs	Target
2. Manage the transition to the new legislative basis and structures of the Tribunal following commencement of the International Protection Act 2015	<p>Agree revisions to administrative processes and procedures reflecting the provisions of the IP Act 2015 and subsequent amendments/regulation.</p> <p>Develop all required appropriate procedures and processes</p>	<p>a) All required IPAT Appeal Forms revised to meet new IP Act and Regulation requirements.</p> <p>b) Agreed Administrative Procedures in place with Department.</p> <p>c) All Chairpersons Guidelines reviewed transitioning from RAT</p> <p>d) All Tribunal/IPO Procedures and Processes agreed clearly documented.</p>	<p>a) All required Forms available on IPAT website – ongoing</p> <p>b) All Department procedures agreed – ongoing</p> <p>c) All Tribunal Guidelines reviewed on an ongoing basis</p> <p>d) All Tribunal/IPO Procedures and Processes agreed – ongoing</p>

8. Potential Risk Factors

The Tribunal operates a formal Risk Management policy and maintains a Risk Register and, in accordance with the Department of Finance Guidelines, this is updated on an ongoing basis. The maintenance of the Register ensures that risks are identified and assessed and necessary mitigating actions are, where resources allow, put in place. Members of the Tribunal's senior management team have participated and will be participating in risk management training provided by the Department of Justice and Equality.

Reflecting the key priorities of the organisation, the main potential risks to the achievement of targets set out in this Agreement at the time of writing are:

- A. Insufficient full and part-time members of the Tribunal recruited, trained and appointed in a timely manner.**
- B. Insufficient administrative staff to provide appropriate support.**
- C. Insufficient engagement by Members of Tribunal to ensure sufficient, timely & high quality decisions**
- D. Change in procedures by INIS placing additional administrative burden on IPAT resources.**

9. Flexibility and Amendment of Targets

Where amendments become necessary, both parties will engage to agree on amended targets.

Any changes to the service levels set out above should be the subject of agreement between the parties.

10. Monitoring Arrangements

In accordance with the Department's policy on the monitoring of governance arrangements in relation to the organisations within its remit, the Chairperson of the Tribunal will meet with the Department twice yearly, or more frequently if required by the Department, to provide an update on developments and achievement of targets as set out in this Agreement.

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. The Tribunal will provide quarterly reports to the Department detailing the information as set out in section 5.4 above and this information and other information considered relevant will be used to monitor performance against agreed service levels.

The International Protection Policy Division of the Irish Naturalisation and Immigration Service is assigned as the line Division of the Department for reporting and liaison.

The Tribunal undertakes to return:

- (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) performance information in line with the set of such indicators, and in keeping with the timeframe, agreed with the Department.

11. Duration and Signatories to the Agreement

Hilkka Becker, Chairperson, International Protection Appeals Tribunal and Michael Kirrane, Director General, INIS agree that the arrangements as set out in this Agreement will apply with effect from the date signed hereunder until 31st December 2018.



Hilkka Becker

Chairperson

International Protection Appeals Tribunal



Michael Kirrane

Director General

INIS

Date: 29th April 2018

Date: 29 / 8 2018

