



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



An Roinn Dlí agus Cirt
Department of Justice

Performance Delivery Agreement

between

the Department of Justice

and

the International Protection Appeals Tribunal

2021

Performance Delivery Agreement

1. Introduction and Objective of the Agreement

This Performance Delivery Agreement (PDA) has been drawn up by the Department of Justice (“the Department”) in partnership 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 Oversight Agreement (OA), succeeds the previous Performance Delivery Agreement between the two parties for 2020.

This Performance Delivery Agreement shall be reviewed and updated annually, and will be utilised to formalise the process through which the outputs and outcomes required from the Tribunal can be measured and assessed.

As per the Code of Practice, with reference to PDAs, *“These agreements will act as a performance contract between the parent Department and the State body in which an agreed level of performance/service is formalised and which will ultimately result in improved efficiency and effectiveness in the delivery of public services.*

The agreements allow for the adoption of both annual and multi-annual targets, and the development of output and outcome indicators, including milestones to measure performance against targets.”

To achieve this, it is necessary to set out the following:

- The key inputs, outputs and expected outcomes of the Tribunal’s activities, in quantitative, measurable terms;
- Assessment of performance by monitoring of agreed targets, around those key outputs, inputs and outcomes.

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 2021 and defines the output and outcome indicators on which performance should be measured. In addition, it also highlights any potential risk factors, allows for a level of flexibility and amendments of targets where necessary, and specifies the monitoring arrangements between the Department and the Tribunal.

The Agreement ultimately seeks to (a) facilitate the Tribunal in carrying out its functions, (b) progress the ongoing development of output measures for its expenditure, and (c) improve the effectiveness and efficiency of public services.

The Agreement will support the Tribunal's Strategy Statement which, following conclusion of a formal process, including stakeholder consultations, in line with the Tribunal's obligations under the *Code of Practice for the Governance of State Bodies*, will be adopted for the three year period 2021 to 2023.

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 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.

2. Commitments

2.1 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;
- Supporting innovative service delivery modes including audio-video hearings and hearings in regional locations;
- 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;

2.2 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/PER 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 in consultation with the Tribunal under the annual estimates process.

- Provide any necessary guidance/direction/assistance on procurement and expenditure rules, government accounting and governance generally.
- Provide ICT and other services as agreed in support of the Tribunal.
- The Department, through shared services, will provide necessary supports to the Tribunal for audio-video hearings and hearings in regional locations.
- The Department will continue to work with the Tribunal in the implementation of the Catherine Day Report recommendations as prioritised under the Programme for Government.
- 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.
- The Department will continue to provide interpretation and translation services.
- 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.

2.3 International Protection Appeals Tribunal Commitments

- Ensure 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;
- Produce high quality decisions;
- Achieve the strategic priorities as outlined in the Tribunal’s Strategy Statement 2021-2023;
- Implement actions to address delays in service delivery as a result of COVID-19 restrictions:
 - The Tribunal has submitted its input into the Justice Sector Action Plan *“COVID-19 Resilience & Recovery 2021 – The Path Ahead”*
 - Overall, the Tribunal is satisfied that its Contingency and Recovery Plans remain valid and can be adjusted to the level of any future easing or indeed the further tightening of restrictions.
 - KPIs for 2021 have been adjusted to reflect the impact of COVID
- Seek innovative and improved service delivery modes, including audio-video hearings and hearings in regional locations, in meeting annual targets;
- 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;
- 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.

3. Inputs

Funding for the Tribunal is provided under Subhead B.14 of the Justice Vote of the Office of the Minister for Justice 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.

3.1. Financial Inputs and Services

Financial Allocations to the Tribunal

The following table summarises budget allocation for 2021.

Expenditure	2021 Budget Allocation
Pay	€2.296m.
Non-Pay	€2.454m.
Gross Total	€4.75m.

3.2 Human Resources

Tribunal staffing levels

The following table summarises staffing levels¹ required by the Tribunal to deliver agreed outputs. The Oversight Agreement Figure is shown under Column B and current staffing levels at 1st January 2021 are shown in Column A.

Column C shows vacancies on 1/1/21.

	A	B	C
IPT STAFF LEVELS		Agreed	
1st January 2020	Persons	levels posts	Vacancies
Chairperson (PO)	1	1	
Members Unit:			
Deputy Chairpersons (AP1)	2	2	
W/t Tribunal Member (AP)	3	3	
SUB TOTAL	6	6	
Administration:			
Principal Officer (Registrar)	1	1	
Assistant Principal Officer	1	1	
HEO/Administrative Officers	4	4	
EXECUTIVE OFFICERS	7	8	-1
CLERICAL OFFICERS	25	27	-2
SUB TOTAL	38	41	-3
TOTAL	44	47	

¹ All work sharing arrangements to be agreed at Tribunal level.

4. Performance/Service Levels and Performance Measurement:

This section of the PDA specifies the performance/services and outputs/service levels, based on the agreed inputs outlined in section 2 above, to be provided by the Department, as well as the performance monitoring and measurement indicators agreed between the Tribunal and the Department.

4.1 The Tribunals strategic objectives for the period 2021-2023 are set out in its Strategy Statement 2021-2023.

1. Ensure quality and consistency of decision-making.
2. Optimise efficiency of appeal processing.
3. Deliver a user-focused appeal service.
4. Communicate effectively with service users and other stakeholders.
5. Engage and strengthen the Tribunal’s synergies across the international protection ecosystem.

STRATEGIC PRIORITY	ACTION	KPI	REVIEW
1. Ensure quality and consistency of decision-making	A. Tribunal Members to deal with all appeals assigned efficiently and as expeditiously as may be consistent with fairness and natural justice.	1. Tribunal Members to make themselves available to hear or determine appeals.	
		2. 4 Appeal cases decided by each available part-time member per month for 10 months p.a.; <i>to be reduced based on reduced number of available appeals for assignment and hearings held.</i>	
		3. 10 appeal cases decided by each full-time member per month for	

		<p>10 months p.a.; <i>to be reduced to a total output of 230 due to maternity leave.</i></p>	
		<p>4. All appeals processed by Tribunal Members within agreed or, where applicable, statutory timeframes.</p>	
		<p>5. Each decision submitted to Tribunal by Tribunal Member within 10 working days/2 weeks from date of hearing as best practice but no later than 20 working days/4 weeks.</p>	
	<p>B. Ensure availability of sufficient number of Tribunal Members</p>	<p>1. Tribunal successfully liaising with DoJ Governance and HR on all issues regarding the appointment and re-appointment of Tribunal Members.</p>	
		<p>2. Availability of Tribunal Members monitored as per indication in the Tribunal’s Members’ Calendar.</p>	
	<p>C. Provide regular high quality training to Tribunal Members</p>	<p>1. All newly appointed Tribunal Members have received dedicated training on international protection law and procedures.</p>	
		<p>2. Ongoing high quality training based on a dedicated Training Strategy delivered, including bi-annual compulsory training</p>	

		sessions, special interest training sessions, lunch & learn sessions.	
		3. The Tribunal continues to contribute to the development of Members' expertise through participation in training and networking opportunities provided by relevant bodies at European and international level.	
	D. Guidance and mentoring to individual Tribunal Members	1. Resources and tools for Tribunal Members developed, including decision templates and guidance notes.	
		2. Regular review of Chairperson's Guidelines carried out; Guidelines amended and supplemented where necessary.	
		3. Individual guidance and peer support is provided to Members in accordance with needs identified through the ongoing Tribunal decision and judicial review monitoring.	

	<p>E. Monitor Tribunal decision-making on an ongoing basis through regular quality audits</p>	<p>1. The Tribunal has achieved and maintained quality standards through the provision of training, quality audits and professional development supports, including mentoring to Tribunal Members.</p>	
		<p>2. Quarterly quality audits of Tribunal Members’ decisions carried out with the support of UNHCR and quarterly audit reports provided to the Chairperson and Registrar of the Tribunal.</p>	
	<p>F. Monitor judicial review challenges against Tribunal decisions and any systemic challenges</p>	<p>1. All judicial reviews against Tribunal decisions are monitored and any issues arising are incorporated into a monthly report on judicial reviews which feeds into training and professional development for Tribunal Members and staff.</p>	
		<p>2. Tribunal Members consulted and updated on pending judicial reviews against their decisions; quarterly reports regarding such challenges including the outcomes and learnings from same provided to Tribunal Members.</p>	
		<p>3. Case-law summaries of relevant judgments of the Irish superior courts and</p>	

		European courts are provided to Tribunal Members and staff in the 'Tribunal Quarterly' newsletter.	
		4. Regular meetings held with the DoJ LSSU regarding pending judicial reviews with a view to addressing systemic issues and ensuring timely and efficient provision of information in the context of judicial challenges.	
STRATEGIC PRIORITY	ACTION	KPI	REVIEW
2. Optimise efficiency of appeal processing.	A. Process to completion substantive international protection (IP) appeals within six months	1. All new substantive IP appeals should be processed to completion within <i>6 months from date of receipt of the required documents from the Minister</i> ² .	
		2. All appeals that have been delayed due to COVID-19 restrictions to be completed within 2 months following appeal hearing.	
	B. Register new Notices of Appeal	1,400 new appeals expected in 2021 due to COVID-19 restrictions. ³ (<i>2,300 Appeals would be expected to be processed per annum in a normal full year</i>).	

² In accordance with section 44(1) of the International Protection Act 2015, the Minister shall, for the purposes of an appeal under section 41, furnish the Tribunal with copies of the documents provided to the applicant under section 40.

³ This figure is based on IPO June 2021 estimates of recommendations to be issued.

	C. Assign cases to Members	Up to 1,400 new appeals are expected to be assigned to Tribunal Members in 2021.	
	D. Schedule Hearings	1. Up to 2,300 hearings scheduled to maximum capacity through a combination of audio/video and on-site hearings.	
		2. Audio/video hearings scheduled to maximum capacity in combination with on-site hearings, depending on prevailing COVID-19 restrictions. <i>(⇒ maximum capacity to schedule 30 A/V per day)</i>	
	E. Hold appeal hearings	1,500 hearings per annum <i>held</i> at maximum capacity through a combination of on-site and audio/video hearings.	
	F. Complete all appeals on hand	1,500 appeals to be completed in 2021.	
STRATEGIC PRIORITY		KPI	REVIEW
3. Deliver a user-focused appeal service.	Ensure best business practices are employed in managing resources and in compliance with the IP Act 2015 and the Code of Practice for the Governance of State Bodies.	1. All required guidelines issued. 2. Administrative Procedures for the provision of information in accordance with the Act in place with Department.	

		3. All procedures between the Tribunal and Governance/ISD/IPO agreed and documented.	
		4. All Financial procedures are robust – expenditure monitored on a monthly basis	
		5. Return relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume.	
		6. 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.	
		7. Ensure that expenditure in any individual year does not exceed the allocated budget except in exceptional circumstances and with the agreement of the DoJ FMU	
STRATEGIC PRIORITY	ACTION	KPI	REVIEW
4. Communicate effectively with	A. Report on all appeals categories:	<i>Annual Report</i> to the Minister for Justice not later than 3 months after the end of each year.	

<p>service users and other stakeholders.</p>	<p>(i) International Protection</p> <p>(ii) Dublin III Regulation</p> <p>(iii) Reception Conditions Regulations</p> <p>(iv) Inadmissibility provisions</p> <p>(v) Subsequent appeal provisions</p>	<p><i>Quarterly report</i> to the Department of Justice Governance Unit on delivery of KPIs (each report on the preceding quarter will be submitted before the end of the first month of the following quarter).</p>	
		<p><i>Further reports</i> on appeals processing as requested.</p>	
	<p>B. Ensure information and documentation sharing between the DoJ and other government departments and the Tribunal proceeds in a manner that is timely and facilitates the operational needs of both the departments and the Tribunal.</p>	<p>1. All Significant governance-related issues or concerns have been formally brought to the attention of DoJ Civil Justice Governance at the earliest possible opportunity.</p>	
		<p>2. The DoJ Transparency function is given timely advance notification (including any appropriate background information) of significant public announcements or media engagements.</p>	
		<p>3. Contribute, when requested, to any policy or legislative matters pertinent to the functions of the Tribunal, including requests for material under the Parliamentary process.</p>	
		<p>4. Participate in working groups or consultative groups or forums under the auspices of the DoJ.</p>	

		5. Work in partnership with the DoJ Health and Safety Manager and Facilities Unit particularly in relation to COVID-19 controls	
	C. Ensure effective communication with Appellants, Legal Representatives and other relevant stakeholders	1. Convene bi-annual <i>Tribunal Users' Group</i> meetings with representatives selected by the Law Society of Ireland and the Bar Council of Ireland	
		2. Convene regular meetings with the UNHCR for the purpose of exchanges on Tribunal activities and relevant international developments.	
		3. Open and regular communication provided to relevant stakeholders on key procedural innovations and other substantive matters.	
	D. Ensure the visibility and accessibility of the Tribunal for all its users in a manner fit for the digital age	Collaborate with the DoJ ICT and RAU Divisions to enhance the accessibility and user-friendliness of the Tribunal website and Decisions Archive.	
STRATEGIC PRIORITY	ACTION	KPI	REVIEW
5. Engage and strengthen the Tribunal's synergies across the	A. Proactive monitoring of legislative and jurisprudential changes at national and international level.	1. Regular review of national and EU legislative initiatives and processes carried out; issues with potential impact on the Tribunal	

international protection ecosystem.		identified and marked for ongoing monitoring.	
		2. Ongoing monitoring of national and European case-law in the area of international protection and related areas; relevant case-law summaries included in the <i>'Tribunal Quarterly'</i> newsletter; DoJ informed of matters with potential systemic impact on the Tribunal and its work.	
	B. Provision of expert insight relating to the Tribunal's functions provided to the DoJ.	1. Active participation in and contribution by the Tribunal SMT to the working group on the implementation of recommendations arising from the Advisory Group Report and the White Paper to End Direct Provision. 2. If and when requested, expert insight provided to the DoJ in relation to any future design of a, revised process for the processing of international protection applications.	
	C. Seek out, implement and contribute to best practice initiatives, including for training and CPD, in the area of international protection and related areas.	1. Ongoing monthly collaboration with quasi-judicial bodies in Ireland with a view to identifying and sharing best practice, e.g. in relation to AV hearings and other COVID-19 related measures.	

		<p>2. Active collaboration with colleagues from other EU Member States and from the UK in relation to Members training and best practice measures, e.g. regarding AV hearings.</p>	
		<p>3. Participation in training and networking events organised by the EJTN with a view to increasing the Tribunal’s expertise particularly in areas such as ‘judicial ethics’, unconscious bias, decision writing skills etc.</p>	
	<p>D. Share expertise arising from its functions with other stakeholders, such as the UNCHR, the EASO Network of Courts and Tribunals, the European Migration Network (EMN), and the International Association of Refugee and Migration Judges (IARMJ), for mutual benefit in respect of efficiency and good practice in decision-making and appeal-processing.</p>	<p>1. Active participation in the EASO Network of Courts and Tribunals through annual meetings, survey responses, expert panels etc.</p>	
		<p>2. Collaboration with the IARMJ in the production of judicial training materials on international protection and related areas (under contract to EASO).</p>	
		<p>3. Active contribution to the EMN Ireland Consultation Group; provision of information and feedback on EMN Annual Report on Migration and Asylum 2021.</p>	

5. 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.

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. The impact of the COVID-19 pandemic and resulting restrictions on the Tribunal's ability to transact its statutory business, including emerging backlogs;
- B. Insufficient whole- and part-time members of the Tribunal recruited, trained and (re-) appointed in a timely manner;
- C. Insufficient administrative staff and other resources to provide adequate support;
- D. Insufficient engagement by Members of Tribunal to ensure sufficient, timely and high quality decisions;
- E. Change in procedures in the Department of Justice, in particular within Immigration Service Delivery or the Civil Justice Functions, placing additional administrative or financial or resource burden on the Tribunal;
- F. Legal challenges against the international protection system leading to lack of legal certainty and impacting on the ability of the Tribunal to complete outstanding appeals;
- G. Other external challenges, including Brexit, which may impact on the Tribunal's ability to deliver on its mission.

6. Flexibility and Amendment of Agreement

Where necessary, both parties will engage to agree appropriate amendments to this agreement.

7. Monitoring Arrangements

The implementation of this Agreement will be monitored twice yearly, or more frequently if required or requested by either party, governance meetings between the Tribunal and the Civil Governance Function in the Department to provide:

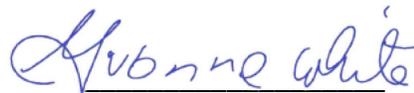
- a) An update on developments and achievement of targets by the Tribunal, and
- b) A review of the supports provided to the Tribunal by the Department as set out in this agreement.
- c) The Tribunal undertakes to submit all relevant and appropriately detailed performance information in line with indicators and timeframes agreed with the Department; to enable monitoring; to advise on any changes necessary and how best to address these; to provide relevant performance information for the Revised Estimates process.
- d) The Department undertakes to provide a statement for each of the twice yearly meetings on the provision of agreed inputs. This will also assist the Tribunal and Department to evaluate the effectiveness of the inputs provided and to advise on any changes necessary and how best to address these and to provide relevant information for the Revised Estimates process.

8. Duration and Signatories to the Agreement

The arrangements as set out in this Agreement will apply with effect from the date signed hereunder until 31st December 2021.



Hilkka Becker
Chairperson
International Protection Appeals Tribunal



Yvonne White
Director Civil Justice Governance
Department of Justice

Date: 21st June 2021

Date: 21st June 2021