

MEMORANDUM OF UNDERSTANDING

BETWEEN

**NORTHERN IRELAND COURTS AND TRIBUNALS
SERVICE (NICTS)**

AND

**THE PLANNING APPEALS COMMISSION (PAC)
AND THE WATER APPEALS COMMISSION (WAC)**

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INTRODUCTION & BACKGROUND

Purpose of the Memorandum of Understanding

- 1.1 This Memorandum of Understanding (MOU) sets out the relationship between the Northern Ireland Courts and Tribunals Service (NICTS) and the Planning Appeals Commission and the Water Appeals Commission (the Commissions) or (PACWAC). The MoU defines the financial and administrative framework within which the Commissions operate.
- 1.2 The Stormont House Agreement included a commitment to reduce the number of Northern Ireland Civil Service (NICS) departments from twelve to nine. The transfer of functions between departments was further noted in the “A Fresh Start” document and confirmed that administrative support for the Planning Appeals Commission and Water Appeals Commission would transfer from the then Office of the First Minister and Deputy First Minister, now The Executive Office, (OFMDFM) to the Department of Justice (the Department, DoJ). The Departments (Transfer of Functions) Order (Northern Ireland) 2016, was made by the First Minister and deputy First Minister on 25 February 2016 and was affirmed by vote in the Assembly on 15 March 2016. The Ministerial Offices (Number and Functions) Determination 2016 was also approved by the Assembly with the necessary cross-community support. These were the final actions in the legislative process for restructuring and the transfer for sponsorship of the Commissions took place on 8 May 2016.
- 1.3 The administrative support function transferred from OFMDFM to the Department. NICTS, as an Agency in the Department, fulfills this role on behalf of the Department.
- 1.4 The MOU has been devised to establish an operating model between NICTS and the PACWAC, which recognises the operational and judicial independence of the PACWAC and satisfies the rules of accountability and oversight for the effective use of public funds and the overarching Seven Principles of Public Life.
- 1.5 The MOU will:
 - clarify and support the working relationships between the Parties by setting out their roles and responsibilities and day-to-day handling arrangements.

- maintain and uphold the independence and the perception of independence of the PACWAC.
- inform others of the separation of responsibilities and how the Parties interact; and
- provide confirmation and a shared understanding of the overarching governance framework.

1.6 The MOU specifically sets out the requirements that each Party is expected to adhere to. It will enable the NICTS Director of Tribunals and Corporate Services, on behalf of the NICTS Accounting Officer and Departmental Accounting Officer, to obtain the necessary assurances that the administration of public resources allocated to the PACWAC is subject to the same accounting and governance requirements applicable to the NICTS and delivers value for money as required by Managing Public Money Northern Ireland. It will also enable the Commissions to carry out their functions in a manner that is, and is perceived to be, independent and supported by the secretariat (who are NICTS staff).

The MOU is effective from 15 December 2025. The MoU is formally reviewed every three years.

2.0 ROLES

The Commissions

2.1 The Commissions are independent Tribunal Non-Departmental Public Bodies established under statute to deal with a wide range of land use, planning, water, and related issues. The Commissions carry out their functions independent of government departments or agencies and are not a Crown body. PACWAC's role is to:

- determine appeals against decisions made and notices issued by government departments and local councils on a wide range of planning, environmental and water matters; and
- to conduct independent examinations, public inquiries and hearings and report to the referring authorities on a wide range of matters referred to PACWAC. Decisions on these matters are taken by the referring authority.

- 2.2 In carrying out their functions the Commissions follow the well-established principles of natural justice – openness, fairness, and impartiality. In the exercise of their statutory functions the Commissions are accountable to the courts.
- 2.3 The Planning Appeals Commission (PAC) was established by The Planning (Northern Ireland) Order 1972 and continues under Section 203 of the Planning Act (Northern Ireland) 2011. It has a wide range of statutory functions which are found in various pieces of legislation. Its functions are mainly to be found in the Planning Act (Northern Ireland) 2011.
- 2.4 The Water Appeals Commission (WAC) is a separate appellate body set up under Article 7 of the Water and Sewage Services (Northern Ireland) Order 1973 and continues under Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006. It has a variety of statutory functions which are found in various pieces of legislation.
- 2.5 The Commissions must be, and be seen to be, impartial and independent. This independence is both from the Northern Ireland Executive and from the parties in any case before them. The principles of independence are:
- (i) that in exercising their functions the Commissions must both be and be seen to be free of Executive interference or influence.
 - (ii) that the Department and NICTS should not intervene in the functions or the Commissions' procedures in a way that goes beyond what is necessary and appropriate to the administrative oversight relationship; and
 - (iii) those arrangements should not lead to a perception that the Commissions lack independence.
- 2.6 Although the Commissions are two separate statutory independent appellate bodies they are administered and resourced as one entity. Relationships between the Department of Justice and the Commissions will be governed by the "arm's length" principle whereby within the financial governance framework set by the Department,

the Commissions determine their priorities, processes, activities, and expenditure in accordance with their statutory responsibilities.

The Department/NICTS

2.7 The Department has the following statutory functions in relation to PACWAC:

- it appoints Commissioners, including the Chief Commissioner, and provides administrative support staff to assist PACWAC.
- it determines, with the approval of the Department of Finance (DoF) the remuneration, allowances, pensions, and benefits of Commissioners.
- it is consulted prior to the appointment of specialist assessors by the Chief Commissioner.
- it has the power, after consultation with the Chief Commissioner, to make rules regulating procedures for their proceedings; and
- it has the power to set fees in respect of appeals to PACWAC and planning applications deemed to be made to PACWAC.

2.8 The Department is responsible for providing resources and services to the Commissions and is accountable for the use of these resources and any public expenditure.

2.9 NICTS is responsible for communicating and responding to Commissioners on all matters relating to terms and conditions of appointment.

2.10 The Department is responsible for all appointments to the Commissions in accordance with the principles of public appointment based on merit with independent assessment, openness, and transparency of process. The Department will consult the Chief Commissioner in advance of any appointments process and work collaboratively through the recruitment process, which will be delivered with the support of the NICTS HR Business Partner and associated contracted out HR services. If the Chief Commissioner wishes to increase the number of Commissioners above the agreed complement of 20 Full Time Equivalent Commissioners, the Chief Administrative Officer will, in conjunction with the Chief Commissioner, prepare a business case for consideration by NICTS.

- 2.11 An annual budget allocation (or longer-term allocation, depending on the NICTS budget settlement) is made from the NICTS to PACWAC. The NICTS Accounting Officer (who is accountable to the DoJ Principal Accounting Officer) is accountable for the funding allocation. PACWAC operates within the NICTS accountability framework to ensure that there is appropriate governance and financial accountability over the funds allocated.
- 2.12 NICTS has no role in any of the decision making and hear and report functions of the Commissions.

PACWAC Secretariat

- 2.13 PACWAC administrative staff are NICTS staff, who work under the leadership of the PACWAC Chief Administrative Officer (CAO) who provide case management and administrative support to the Chief Commissioner and the Commissions to enable them to fulfil their statutory functions. The CAO reports directly to the NICTS Head of Tribunals, who reports to the Director of Tribunals and Corporate Services, on all matters relating to budget, information management, human resources, good governance, and risk management.
- 2.14 The PACWAC CAO is accountable to the Chief Commissioner and Deputy Chief Commissioner for the day-to-day administrative functions of the Commissions.

3.0 ARRANGEMENTS

Governance

- 3.1 The NICTS sponsorship arrangements will ensure that the Minister, the Permanent Secretary, the Department and NICTS secure an appropriate and effective level of oversight of PACWAC to provide assurance that PACWAC is fulfilling its statutory obligations and meeting the business objectives it has been funded to deliver.
- 3.2 In furtherance of good governance NICTS will:

- ensure robust and proportionate governance arrangements are in place for the administration of PACWAC; and
- exercise its governance responsibilities in such a way as to uphold the operational independence of PACWAC.

4.0 RESPONSIBILITIES

The Chief Commissioner

4.1 The key responsibilities of the Chief Commissioner are:

- To be accountable for the efficient and effective discharge of the functions of the Commissions.
- To manage and supervise at a strategic level the work of the Commissions and to ensure that their functions are discharged with openness, fairness, and impartiality.
- To set an annual business plan and performance standards for the work of PACWAC and update NICTS on a quarterly basis at the liaison meeting.
- To ensure effective leadership of the Commissions and Commissioners.
- To implement appropriate information assurance in line with policy and procedure in a Commission context.
- To ensure effective financial and administrative management of the Commissions to ensure compliance with corporate governance requirements.
- To maintain standards of technical competency, professionalism, and integrity throughout the Commissions on a corporate and individual basis.
- To determine procedures for proceedings before the Commissions, subject to any rules made by the Department.
- To oversee the investigation of complaints in relation to all matters pertaining to the Commissions in accordance with the Commissions' published complaints system.
- To decide, in consultation with the Commissions' legal advisers, how to respond to legal challenges to Commission decisions and rulings.
- To respond directly to Assembly Questions and other correspondence from elected representatives in relation to matters solely or substantially within the statutory responsibility of the Commissions.

- To act as a leader and chairperson of the Commissions, promoting clear understanding of the Commissions' roles as independent appellate tribunals and to develop working relationships on matters of common interest with other bodies in Northern Ireland, England, Scotland, Wales and the Republic of Ireland.
- To publish, with the timely administrative support of the Secretariat, an Annual Report before September each year providing information about PACWAC's performance and use of financial resources for the preceding financial year.

The Deputy Chief Commissioner

4.2 The Deputy Chief Commissioner is responsible:

- To the Chief Commissioner for the quality of the service delivered by the Commissioners. The Deputy Chief Commissioner advises the Commissions on matters of law and policy and oversees the training and development of Commissioners.
- For the provision of line management to the Principal Commissioners who in turn are responsible for the provision of line management to Senior Commissioners and Commissioners.
- For the provision of advice on legislative interpretation/professional procedural matters in response to queries from the Secretariat.
- To the Chief Commissioner for any changes to the Commissions policies and procedures with referral to the Secretariat who will decide if any adaptation to their own processes is required to align to these updated policies and procedures.

The NICTS Accounting Officer

4.3 The NICTS Accounting Officer is responsible for ensuring that the financial and other management controls applied by NICTS to the Commissions are appropriate and sufficient to safeguard public funds and for monitoring the Commissions' compliance with those controls. The NICTS Accounting Officer must be satisfied that the internal controls applied by the Commissions conform to the requirements of regularity, propriety and good financial management and is accountable for the overall effective and efficient use of public funds by the Commissions in carrying out their functions. To this end, the NICTS Accounting Officer has access to the administrative information of the Commissions that relate to the use and control of its resources. The

NICTS Accounting Officer will meet annually with the Chief Commissioner and on an ad- hoc basis as required.

4.4 In order to enable the Commissions to fulfil their statutory obligations, the NICTS Accounting Officer is responsible for providing:

- adequate and affordable funding, subject to business case appraisal and an appropriate and agreed administrative staff and Commissioner resource.
- appropriate accommodation.
- IT infrastructure, including maintenance of the Commissions' website.
- corporate governance guidance for the Commissions; and
- financial oversight.

4.5 The NICTS Accounting Officer will:

- as part of the spending review process and review subsequent in-year monitoring, consult with the Chief Commissioner before submitting to the Department any financial proposals for the Commissions and business plans relating to the Commissions.
- consult with the Chief Commissioner in the event of any significant adjustment to the Commissions budget arising because of in-year monitoring, savings plans or required efficiency savings; and
- meet, as a minimum, annually with the Chief Commissioner.

The NICTS Director of Tribunals and Corporate Services Division (the Division)

4.6 The Director of the Division will meet with the Chief Commissioner on a regular basis to address matters regarding service delivery and share information as appropriate. The Director of Division will communicate new developments in a timely manner to PACWAC to ensure that they are aware of information which is relevant to operational effectiveness.

4.7 The Director of the Division will act in a sponsor role for colleagues in the Department of Justice and the Department for Infrastructure on all matters which impact on PACWAC.

4.8 The Director of the Division will hold, as a minimum, quarterly Liaison Meetings with the Chief Commissioner. The purpose of the meetings is to ensure compliance with the MOU, monitor performance, resourcing of PACWAC and risk management. The meetings will routinely be attended by the Deputy Chief Commissioner and the Chief Administrative Officer, although others may be invited to attend as required.

The NICTS Head of Tribunals

4.9 The NICTS Head of Tribunals will act as the day-to-day liaison between the Chief Administrative Officer, Chief Commissioner and Deputy Chief Commissioner to resolve any emerging issues or refer these to the NICTS Director of Tribunals and Corporate Services or NICTS Accounting Officer as appropriate.

The Chief Administrative Officer

4.10 The Chief Administrative Officer (CAO) is responsible for the day-to-day functions of the administration staff who support the Commissions. The CAO provides effective financial and operational support to PACWAC and oversees case management arrangements which respect and safeguard the independence of the Commissioners.

The key responsibilities of the Chief Administrative Officer are:

- To ensure effective leadership of the secretariat.
- To ensure effective service delivery.
- To provide quality assurance of administrative processes.
- To oversee case management to ensure that cases are progressed through administrative stages in a timely fashion.
- To liaise with the Chief Commissioner (CC) Deputy Chief Commissioner (DCC) on Commission policies.

- To advise the DCC of training requirements that need to be delivered by the professional team to administrative staff to ensure administrative staff can fulfil their role.
- To provide the Chief Commissioner with input to a draft Annual Report before August each year, by providing information about PACWAC's performance and use of financial resources for the preceding financial year.
- To ensure HR management and administration of the secretariat.
- To ensure there are appropriate financial and management controls to safeguard public funds.
- To ensure adherence to NICTS procurement and business case guidance for all expenditure.
- To ensure adherence to NICTS guidance on the provision and acceptance of gifts and hospitality.
- To ensure compliance with NICTS risk management policy and follow the procedures set out in NICTS Risk Management Handbook.
- To ensure completion of bi-annual and annual Stewardship Statements and provide these to the Director of Tribunals and Corporate Services for the purpose of the NICTS Accounting Officer inputting to the overall NICTS annual statement on internal controls.
- To participate in all other relevant governance and monthly/quarterly financial reporting returns.
- To ensure compliance with all relevant NICS HR, finance, governance, risk and information assurance policies and procedures.
- To ensure provision of accurate draft responses to the Director of the Division in respect of Assembly Questions, Freedom of Information requests, complaints regarding the administrative function of PACWAC and other correspondence relating to NICTS in its role as sponsor of the Commissions. If the query relates to matters solely or substantially within the responsibility of the Chief Commissioner, it will be referred to the Chief Commissioner for a response.
- To ensure that press and media enquiries on PACWAC administrative functions are addressed in a timely manner, in association with the DoJ Press Office and following consultation with the Chief Commissioner and NICTS Head of Tribunals, if appropriate.

- To establish, monitor, and report on performance management measures in relation to the internal administrative support provided by the secretariat to the Commission in line with the agreed KPI's for administrative staff.
- To act in a liaison function between the Commissioners and the DoJ NICS HR Business Partner, regarding Commissioner related HR matters and when necessary, escalate requests to the Director of the Division. These will be dealt with in a confidential manner.

4.12 The CAO must ensure that administrative arrangements safeguard the independence of PACWAC's statutory function. The CAO will work collaboratively with the Commissions to deliver the following:

- Effective secretariat service delivery and quality assurance of the administrative processes and delivery of agreed targets.
- All administrative operational aspects of case work.
- Statistical information on case work.
- The secretariat role at meetings.
- Organisation of the Commissions' events.
- Information assurance, IT and data handling.
- Provision of appropriate and timely management information to support the delivery of Commission business and priorities.
- Implementation of any required changes to the secretariat's processes because of changes by the Commission to their professional policies and procedures to ensure alignment.

The Secretariat

4.13 The role of the Secretariat is to effectively support the CAO and provide an efficient and effective administrative service to PACWAC.

4.14 The Secretariat is responsible for effective application of all relevant NICS, DoJ and NICTS policies including, but not limited to, the following:

- financial management and budgetary control.
- information assurance and data handling.

- complaints handling.
- stewardship reports.
- procurement.
- business planning and risk management.
- business continuity.
- health and safety; and
- information technology.

The Management Board

4.15 The Commissions' Management Board is an internal arrangement. It comprises the Chief Commissioner, the Deputy Chief Commissioner, and the Chief Administrative Officer.

5.0 SPECIFIC MATTERS

Budget Setting

5.1 The budget for the Commissions will be set by NICTS at the earliest practicable date, and in line with the monitoring round timetable, as dictated by Department of Finance. During the budget setting process, the Director of Tribunals and Corporate Services will meet with the Chief Commissioner to discuss the PACWAC allocation and all related value for money considerations. The Commissions will report at quarterly liaison meetings to NICTS on expenditure, identifying pressures and easements through the Department's monitoring rounds. The CAO will consult with the CC/DCC on all matters relating to budget.

5.2 Bids for additional funding will follow DoJ financial management procedures, in line with the timetable from DoF, and will be initiated by the Commissions, with administrative support from the Secretariat, and decided by NICTS.

5.3 The Commissions will operate within the agreed budget limits.

Business Planning and Risk Management

- 5.4 The Chief Commissioner will develop a Business Plan that will set out the strategic direction for the Commissions and shorter terms objectives. The Commissions annual business plan will be agreed for publication by the end of June. The Business Plan for PACWAC will be developed in consultation with the secretariat and Director of the Division annually. Progress against the PACWAC annual Business Plan and associated risk register will be a standing agenda item at the quarterly liaison meetings and the annual meeting between the Chief Commissioner, the Director of Division and NICTS Accounting Officer.

Records Management

- 5.5 In compliance with DoJ policy the administrative records/information processed by PACWAC administrative staff is stored securely using the approved electronic system. The PACWAC case management team work to minimise the retention of hard copy files. Commissioners are provided with a separate information assurance policy in acknowledgement of their status as data controllers in their own right. This is subject to independent legal advice as and when required.
- 5.6 No information shall be provided to any individual or organisation as a result of a request for information, including any requests received by NICTS under the Freedom of Information or Data Protection Acts, without consulting the Chief Commissioner or Deputy Chief Commissioner prior to release.

Human Resource Function

- 5.7 The Commissioners, appointed by the Department, have terms and conditions similar to those in the Northern Ireland Civil Service (NICS). It is the responsibility of the NICTS Director of Tribunals and Corporate Services to ensure all Commissioners remain aware of and have access to updates to the NICS Handbook.
- 5.8 The NICTS Director of Tribunals and Corporate Services will ensure that the Chief Commissioner is advised of any changes to NICS policy. The CAO will provide a liaison function between the Commissioners and the DoJ NICS HR Business Partner, regarding Commissioner related HR matters and when necessary, escalate requests

to the Director of the Division. Any requests be dealt with in a confidential manner and may be subject to independent legal advice.

- 5.9 Remuneration and allowances for Commissioners are determined by the Department with the approval of the Department of Finance. The salaries of full time Commissioners are processed by NICTS via the HR Connect system. HR Connect is utilised for payroll purposes only.

Fraud & Audit

- 5.10 The Commissions will apply an Anti-Fraud Policy and Fraud Response Plan which reflects the principles of the Department's policy and procedures.
- 5.11 The Commissions shall report immediately to NICTS all frauds (actual or suspected), including attempted fraud and will complete an annual fraud return on fraud and theft suffered by the Commissions.
- 5.12 The Department's Internal Auditors shall have access to the Commissions' administrative files, systems, data etc. to enable them to provide the necessary level of assurance for the Accounting Officer to fulfil their responsibilities. Copies of all final internal audit reports will be copied to the Accounting Officer, NICTS Audit and Risk Committee and the NIAO.
- 5.13 The Northern Ireland Audit Office officials also have access to all records as may be required for them to carry out examinations into the regularity and propriety of expenditure and the economy, efficiency and effectiveness with which resources have been used.
- 5.14 The Commissions shall comply with any relevant financial recommendations of the Public Accounts Committee or other Assembly authority which are accepted by the Government whether specific to the Commissions or of a more general nature.

6.0 ENGAGEMENT

Parties

6.1 Both Parties will:

- work to develop and maintain constructive working relationships based on trust, respect, and shared values.
- inform each other of any proposed changes to the MoU document that specifically relate to the other party; and
- meet at least bi-annually.

7.0 REVIEW

7.1 Any change to, or termination of this Agreement must be agreed by both parties and confirmed in writing.

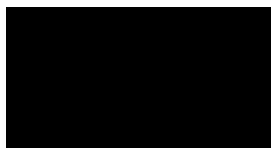
7.2 Consideration of any proposed change to, or termination of, this Agreement must have regard to the impact of the proposal for responsibilities relating to the Commissions.

7.3 The arrangements set out in this MOU will be formally reviewed every three years.

Effective Date

7.4 The Memorandum of Understanding was updated and effective from 15 December 2025.

(Signed)



Accounting Officer
Northern Ireland Courts and Tribunals Service

(Signed)



Chief Commissioner
Planning Appeals Commission
Water Appeals Commission