

Office of the Ombudsman

Operation of Panel of Counsel, 2026-2029

Deadline for applications: 5th June 2026

Applications by email only to legal@ombudsman.ie with the subject line “2026 Counsel Panel Application”

Background

1. The Office of the Ombudsman (the “Office”) comprises six independent statutory offices which are funded by way of a single Vote and who are accountable to Dáil Éireann through a single Accounting Officer, the Director General. These offices are the Ombudsman, the Information Commissioner (“the OIC”), the Commissioner for Environmental Information (“the OCEI”), the Standards in Public Office Commission (“the SIPOC”), the Commission for Public Service Appointments (“the CPSA”) and the Protected Disclosures Commissioner (“the OPDC”). The six offices have one office holder in common, the Ombudsman. Each office has its own staff complement, with finance, human resources, legal services, communications and ICT functions shared with the other statutory offices. Each of the statutory offices has its own legal basis, remit, structure and functions (see Annex A).
2. The Legal Services Unit (the LSU) is an in-house legal team which is registered as a ‘firm’ with the Law Society as the ‘Office of the Ombudsman.’ It provides a shared legal service to all of the statutory offices falling under the rubric of the Office, providing advice to each of the offices and representing each office in litigation. External solicitors may also be instructed by the Office.
3. The LSU is generally responsible for managing the relationship of the Office with any external legal providers, whether external solicitors or barristers, in accordance with the Office’s corporate procurement policy. Part of the LSU’s function is to promote value for money in the use of legal services by the Office.

Appointment to Panel

4. The Office will operate a Panel of Counsel for the purpose of instructing barristers to provide legal services to the Office, consistent with [Circular 05/13](#).
5. In the past four years, the majority of services provided by counsel have been in three areas:
 - a. Representation in and advice on statutory appeals and judicial reviews of decisions of the various statutory bodies;
 - b. Representation in and advice on ethics investigation hearings conducted by the Standards in Public Office Commission; and
 - c. Opinions on various issues of law.

6. In order to ensure that the Office has access to a sufficiently broad range of legal expertise to cover the different requirements of the statutory offices, the Panel will include barristers with expertise in one or more of the following areas:
 - a. Public and administrative law
 - b. Constitutional law
 - c. European law
 - d. Data protection law
 - e. Freedom of information law
 - f. Law on access to environmental information
 - g. Law on regulatory investigation and enforcement
 - h. Law on criminal investigation and prosecution in a regulatory context
 - i. Conduct of reviews or investigations
7. In relation to point (h) above, please note that the only criminal prosecutions undertaken are those brought on behalf of the Standards in Public Office Commission under the Regulation of Lobbying Act 2015 and the Electoral Act 1997 in the District Court.
8. In relation to point (i) above, some of the statutory offices have powers to appoint external persons conduct investigations. It may be appropriate in certain cases to appoint a barrister with appropriate expertise and experience to carry out this function.
9. While it is preferable that barristers will have expertise in more than one of the above areas, it is not necessary to demonstrate expertise in all of the areas to be included on the Panel.
10. The Office may require advice of varying levels of complexity and representation in litigation in a variety of courts and tribunals. As such, the Panel will include barristers at all levels of seniority.

Fee information sought

11. The application form requests fees in three categories:
 - a. Junior counsel instructed without a senior
 - b. Junior counsel led by a senior
 - c. Senior counsel.
12. It is only in complex cases that raise issues of systemic importance that the Office will engage both a senior and junior counsel. In the majority of cases the Office will only instruct a junior counsel.
13. Where a junior counsel is led by a senior counsel, the usual policy of the Office is to pay a brief fee in respect of the hearing to the senior only. The junior counsel will be paid an hourly rate

for drafting and consultation work, as well as being paid an hourly rate for the hearing of the substantive case. This reflects the very low probability that a junior will be required to run a case due to the unavailability of a senior.

14. Where a junior counsel is led by a senior counsel, the usual policy of the Office is to pay the senior counsel an hourly rate for settling pleadings and legal submissions. This policy reflects the usual practice that junior counsel drafts pleadings and legal submissions for review by senior counsel.

Operation of the Panel

15. In general, the Office intends to instruct barristers from the Panel to provide legal services to it, where the services of a barrister are required, during the course of its operation. The Panel will remain in place for 3 years from the date on which it is created.
16. Barristers will usually be instructed by the LSU on behalf of the Office. However, where advisory services are required on non-contentious matters and there is a potential conflict of interest for the LSU, statutory offices may instruct barristers directly. In such cases, the LSU may still process invoices received from the barrister, on behalf of the statutory office.
17. Barristers will be instructed to provide legal services on a particular matter based on their demonstrated expertise and experience, cost, availability, the Office's aim of having a broad spread of barristers familiar with the Office's work and geographical location, where relevant. The Office may also take into account other relevant considerations in appropriate cases. While the Panel will not operate on a cascade or rotation basis, it is generally intended that the full range of experience and expertise on the Panel will be utilised by the Office should appropriate work arise.
18. On appointment to the Panel, barristers will be asked to provide supplier information for the purpose of payment and will be provided with details of how the invoicing processes of the Office operate. In respect of each new matter, barristers will be asked to provide an estimate of fees to the Office, in accordance with section 150 of the Legal Services Regulation Act 2015. Consistent with the financial processes of the Office, **instructions to provide legal services will not be confirmed until the fee estimate has been received and approved by the Office.** Where a barrister's fee estimate is at the upper end of, or exceeds, the range provided by the barrister on application to the Panel, the barrister will be asked to provide clear and detailed reasons before the fee can be approved. Reasonable travel expenses will only be payable on production of appropriate evidence, in accordance with our invoicing processes.
19. The barrister will be expected to disclose in full to the Office any potential conflict of interest in respect of a matter at the earliest possible stage. The Office will decide on a case by case basis the appropriate course of action in light of any such disclosure.
20. Barristers will be expected to provide a professional standard of work and service in a timely and efficient manner and to conduct themselves in a manner consistent with their professional duty and the reputation and standing of the Office. Where the Office has any

concerns about a barrister's work, service or conduct it will endeavour to address its concerns with the barrister in the first instance. However, the Office may disengage the barrister's services in that matter in the event of an unsatisfactory standard of work, service or conduct. The Office will take any such concerns into account in considering whether to instruct the barrister in relation to any other matter.

21. The Office is located at 5-6 Earlsfort Terrace, Dublin 2. Barristers may be requested to attend consultations at its offices or by video conference as part of the legal service provided. The Office will take into account the geographic location of the barrister's practice before requesting an in-person consultation.
22. Barristers will be expected to notify the Office if any legal services will be provided to the Office on the barrister's behalf by or with the assistance of a pupil barrister.
23. Barristers will be expected to comply with their obligations under data protection law. Personal data shared with barristers on the Panel will usually be shared between the LSU, as solicitors, and the Panel barrister. The terms of the [Data Sharing Protocol](#) between the Law Society of Ireland and the Bar of Ireland will apply.
24. Appointment to the Panel is not a commitment that a barrister will be instructed to provide legal services to the Office. Nor does the creation of the Panel prevent the Office from instructing barristers who have not been appointed to the Panel, where this can be appropriately justified in accordance with the Office's corporate procurement policy. The Panel will not be used to instruct barristers in cases where the Office is represented by its external solicitors.

Annex A

Legal basis, remit, structure and functions of each statutory office

The **Ombudsman**¹ examines complaints from people who feel they have been unfairly treated by a public service provider in Ireland, including government departments, local authorities, the HSE, nursing homes and publicly funded third level education bodies. The Ombudsman may investigate any action taken by bodies within his remit in the performance of administrative functions, where it appears that the action has or may have adversely affected a person. The Ombudsman may investigate on foot of a complaint or on his own motion, with various discretionary grounds not to investigate. The Ombudsman has powers to obtain evidence that is, in his opinion, relevant to the investigation. The Ombudsman determines his own procedures, subject to certain requirements, such as that investigations are not conducted in public and that an opportunity to be heard must be afforded to the alleged wrongdoer. Where, following an investigation, the Ombudsman finds an adverse effect on a statutory ground, the Ombudsman may make recommendations to the body in relation to the specific matter and may also make general recommendations to the body and any other body within remit in relation to actions of the same kind. While the Ombudsman has no specific powers of enforcement should his recommendations not be followed, he may include a special report on the case in his annual report. The Ombudsman also has remit over public bodies' compliance with the Disability Act 2005, including powers of investigation and prosecution for non-compliance or non-cooperation.

The **Information Commissioner**'s² primary function is to review decisions of public bodies in respect of freedom of information requests on application by a requester or other relevant person. The Commissioner has the power to affirm, vary, annul or substitute the public body's decision. A decision of the Commissioner is binding on the parties, subject to a right of appeal to the High Court. The Commissioner may also carry out investigations into the practices and procedures of FOI bodies for the purposes of compliance with the Act, and to report on his findings. The Commissioner enjoys discretion to decide his own review and investigation procedures. The Commissioner has powers to require, examine and copy information and records and to enter premises. The Court of Appeal has affirmed the inquisitorial nature of the Commissioner's function.

The **Commissioner for Environmental Information**'s³ function is to review decisions of public authorities to refuse requests for access to environmental information, on appeal by the requester or others affected by the decision. The Commissioner has the power to affirm, annul or vary a public authority's decision and to require the public authority to make available environmental information. A decision of the Commissioner is binding on the parties, subject to a right of appeal to the High Court. The Commissioner has powers to require, examine and copy information and records and to enter premises. The holder of the office of Commissioner is the person who, for the time being, holds the office of Information Commissioner. The Court of Appeal has affirmed the inquisitorial nature of the Commissioner's function and the Superior Courts have confirmed that the

¹ See the Ombudsman Act 1980.

² See the Freedom of Information Act 2014.

³ See the European Communities (Access to Information on the Environment) Regulations 2007-2018.

Commissioner enjoys substantial discretion as to his procedures on the basis of the Commissioner's inquisitorial nature.

The **Commission for Public Service Appointments**⁴ is the regulatory and oversight body for recruitment of staff to public service positions. It establishes standards and principles to be followed in public service recruitment and publishes codes of practice in relation to those standards and procedures. The Commission has the function of monitoring, auditing and evaluating the recruitment and selection process, including through the consideration of complaints made by candidates, in accordance with its Code of Practice. The Commission is responsible for licensing public bodies other than the Public Appointments Service to carry out their own recruitment. The Commission also regulates the conduct of external recruitment bodies who run competitions on public bodies' behalf, including private-sector recruitment agencies as well as the Public Appointments Service. The Commission can audit, examine and investigate the exercise of functions by licensed recruiters and has powers to inspect, request and copy documents and information in that respect. A Commission investigation may result in a report to the Government and/or the amendment or revocation of a licence. The Commission is prescribed to receive reports under the protected disclosures regime.

The **Standards in Public Office Commission**⁵ has functions under a variety of statutes, all relating to the conduct of political activity in the State. In summary, the Commission has oversight over the political financing and political allowances regimes, the regime for ethics and conduct in public office and the regime governing the lobbying of public officials. The Commission's functions include receipt and consideration of ethics, political financing and political allowances statements, maintenance and operation of the Register of Lobbying, the investigation and determination of breaches of ethics, and criminal investigations into offences under the political financing and lobbying legislation. The Commission has powers to make non-binding determinations and recommendations under the ethics regime and to prosecute, or refer offences to the DPP for prosecution, under the political financing and lobbying regimes. The Commission is prescribed to receive reports under the protected disclosures regime.

The **Protected Disclosures Commissioner's**⁶ primary function is to receive reports of wrongdoing and to transmit the report to the appropriate recipient for follow-up or, if there is no appropriate recipient in respect of the report, to follow-up the report. In respect of follow-up, the Commissioner has powers to require information and documents, as well as entering premises under warrant and similar investigatory powers. In common with prescribed persons, the Commissioner must provide feedback to the reporting person and must communicate the final outcome of investigations to the reporting person.

⁴ See the Public Service Management (Recruitment and Appointments) Act 2004.

⁵ See the Electoral Act 1997, the Ethics in Public Office Act 1995, the Standards in Public Office Act 2001, the Regulation of Lobbying Act 2015 and the Ministerial and Parliamentary Offices Act 1938.

⁶ See the Protected Disclosures (Amendment) Act 2022.