

**INDEPENDENT REVIEW BY SENIOR COUNSEL OF THE RESPONSE OF THE DEPARTMENT OF JUSTICE
AND EQUALITY TO REQUESTS FOR DOCUMENTS FROM
THE TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER THE PROTECTED
DISCLOSURES ACT 2014 AND OTHER MATTERS ('THE DISCLOSURES TRIBUNAL')**

TERMS OF REFERENCE

1. **Michael Collins SC** is appointed to conduct an independent review and undertake a thorough examination of the practices and procedures employed by the Department of Justice and Equality in regard to its obligations to provide documents to the Disclosures Tribunal.
2. The review shall involve consideration of a written document, to be prepared by the Department by **21st December 2017**, setting out and explaining the actions taken in response to requests by the Disclosures Tribunal for documents, with particular reference to any orders made or directions issued by the Tribunal requiring the production of documents. The review will also encompass an examination of all relevant documents and records held by the Department together with any additional material obtained from any interviews with Department officials and other relevant persons, as considered appropriate by the Reviewer. Specifically the Reviewer will examine why the emails of the 15th May 2015, the 25th May 2015 and the 4th July 2015 were not sent to the Tribunal until November 2017.
3. The Reviewer shall be given all necessary co-operation by the Department, including access to documents, records and other relevant materials.
4. At the conclusion of the review, the Reviewer shall submit a written report to the Taoiseach which will set out the facts as found, together with such observations or comments as are considered necessary, in relation to the following matters:
 - a. The actions taken by the Department in response to all requests for documents directed to the Department, whether formal or informal;
 - b. The processes and protocols within the Department which gave rise to those actions, including processes relating to:
 - i. The receipt of requests for documents,
 - ii. The assignment and communication of responsibility for responding to such requests,

- iii. The supervision and management of those responsible for responding to such requests, including any decisions or discussions taken about the material that was to be sent to the Tribunal.
 - iv. The search processes used to locate relevant documentation, and
 - v. The provision of documents to the Tribunal;
- c. The communication of information to and from senior management and with the Minister at the Department concerning the Department's response to requests for documentation made by the Tribunal including a review of any relevant notes or minutes of any interactions .
5. In the report the Reviewer may identify any concerns arising from the above with regard to:
- a. practices and procedures operated by the Department in relation to the storage, identification and retrieval of documents,
 - b. management and supervision processes relating to interactions, including the sending of documentation, with the Tribunal in the Department,
 - c. communication of information within the Department,
 - d. communication of information between the Department and the Tribunal,
 - e. whether taking account of the recent additional trawl, in so far as is practical, the Department has now carried out appropriately comprehensive search and retrieval to identify any relevant material for the tribunal.

The Reviewer may also advise on what further measures, if any, might be taken to address those concerns.

6. The Reviewer shall use his best endeavours to submit a final report to the Taoiseach on or before **19th January 2018** or at the earliest possible date thereafter.