

*Schedule of Records /Summary of Decision Making*  
**Freedom of Information Request No. 2015 / 24**

<b>Record No.</b>	<b>Brief Description</b>	<b>File Ref.</b>	<b>Page Nos</b>	<b>Relevant Facts</b>	<b>Findings/Conclusions (Public Interest Considerations)</b>	<b>Grant or Refuse</b>	<b>Basis of Refusal: Section of Act</b>	<b>Record edited/ Identify Deletions</b>
1	17 July 2014, e-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	-	1-4	E-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	None	-	-	-
2	14 August 2014, e-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	-	1-4	E-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	None	-	-	-
3	19 August 2014, e-mail from the Planning Tribunal to C O'Hehir re. the Bi Monthly Return.	-	1-4	E-mail from the Planning Tribunal to C O'Hehir re. the Bi Monthly Return.	None	-	-	-
4	5 September 2014, e-mail from B Thornberry to Planning Tribunal re. payments made to M Collins.	-	1	E-mail from B Thornberry to the Planning Tribunal re. payments to M Collins.	None	-	-	-
5	29 September 2014, e-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	-	1-3	E-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	None	-	-	-
6	30 September 2014, e-mail from the Planning Tribunal to C O'Hehir re. the Bi Monthly Return.	-	1-4	E-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	None	-	-	-
7	16 October 2014, e-mail from the Planning Tribunal to B Thornberry re. Finbarr Hanrahan costs.	-	1-2	E-mail from the Planning Tribunal to B Thornberry re. Finbarr Hanrahan costs.	None	-	-	-
8	4 November 2014, e-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return.	-	1-4	E-mail from C O'Hehir to Planning Tribunal re. the Bi Monthly Return	None	-	-	-
9	5 November 2014, e-mail from the Planning Tribunal to C O'Hehir re. the Bi Monthly Return.	-	1-4	E-mail from the Planning Tribunal to C O'Hehir re. the Bi Monthly Return.	None	-	-	-
10	6 November 2014, e-mail from the Planning Tribunal to C O'Hehir re. protocol for the	-	1-10	E-mail from the Planning Tribunal to C O'Hehir re. protocol for the transfer of	None	-	-	-

	transfer of tribunal documentation.			tribunal documentation.				
11	26 November 2014, e-mail from C O'Hehir to Planning Tribunal re. the transfer of tribunal documentation.	-	1-3	E-mail from C O'Hehir to Planning Tribunal re. the transfer of tribunal documentation.	None	-	-	-
12	19 December 2014, e-mail from the Planning Tribunal to B Thornberry in relation to High Court decision.	-	1	E-mail from the Planning Tribunal to B Thornberry in relation to High Court decision.	None	-	-	-
13	22 December 2014, e-mail from the Planning Tribunal to C O'Hehir re. High Court Decision.	-	1-3	E-mail from the Planning Tribunal to C O'Hehir re. High Court Decision.	None	-	-	-
14	8 January 2015, e-mail from the Planning Tribunal to C O'Hehir re. arranging a meeting.	-	1-2	E-mail from the Planning Tribunal to C O'Hehir re. arranging a meeting.	None	-	-	-
15	15 January 2015, e-mail from C O'Hehir to Planning Tribunal re. briefing material for the Tanaiste.	-	1-2	E-mail from C O'Hehir to Planning Tribunal re. briefing material for the Tanaiste.	None	-	-	-
16	15 January 2015, e-mail from C O'Hehir to Planning Tribunal re. outstanding court cases.	-	1-3	E-mail from C O'Hehir to Planning Tribunal re. outstanding court cases	None	-	-	-
17	15 January 2015, e-mail from the Planning Tribunal to C O'Hehir re. briefing material for the Tanaiste.	-	1-2	E-mail from the Planning Tribunal to C O'Hehir re. briefing material for the Tanaiste.	None	-	-	-
18	15 January 2015, e-mail from the Planning Tribunal to C O'Hehir re. briefing material for the Tanaiste.	-	1-3	E-mail from the Planning Tribunal to C O'Hehir re. briefing material for the Tanaiste.	None	-	-	-
19	15 January 2015, e-mail from C O'Hehir to Planning Tribunal re. briefing material for the Tanaiste.	-	1	E-mail from C O'Hehir to Planning Tribunal re. briefing material for the Tanaiste.	None	-	-	-
20	26 January 2015, e-mail from the Planning Tribunal to C O'Hehir re. information statement.	-	1-5	E-mail from the Planning Tribunal to C O'Hehir re. information statement.	None	-	-	-

21	26 January 2015, e-mail from the Planning Tribunal to C O'Hehir re. information statement.	-	1-5	E-mail from the Planning Tribunal to C O'Hehir re. information statement.	None	Grant with Redactions	Section 28	Personal Information
----	--	---	-----	---	------	-----------------------	------------	----------------------

**Brian Thornberry - (DECLG)**

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 17 July 2014 12:11  
**To:** accounts@planningtribunal.ie  
**Cc:** Brian Thornberry - (DECLG)  
**Subject:** FAO Ruth Mulligan  
**Attachments:** Bi monthly Temp 13Mahon.doc

Good afternoon Ruth,

Can you have a look at the attached in relation to the personnel-related elements and let me know whether any changes are required? You might cc my colleague Brian Thornberry on your reply as I'll probably be on leave.

Thanks a million,

*Colin O'Hehir*

Colin O'Hehir  
Planning  
Department of the Environment, Community & Local Government  
Ph. 01 8882726  
Fax. 01 8882692  
Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** Monica Brack [<mailto:Monica.Brack@per.gov.ie>]  
**Sent:** 17 July 2014 12:02  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** May/June

Hi Colin

Could you fill in the attached in respect of Mahon please and return to me by 28<sup>th</sup> July

*Regards*

*Monica*

Monica Brack  
Expenditure Policy Evaluation & Management Division  
Room 1.5  
Government Buildings  
Merrion Street  
Dublin 2

PH; 01 6045216

mail:monica.brack@per.gov.ie

## **Tribunal Bi Monthly Return Colin Hehir**

<b>Title</b>	<b>Tribunal of Inquiry into Certain Planning Matters &amp; Payments</b>
<b>Description</b>	
<b>Established</b>	<b>November 1997</b>
<b>Status</b>	<b>Ongoing</b>
<b>Chairman</b>	<b>Judge Alan P. Mahon</b>
<b>Parent Department</b>	<b>Environment Community &amp; Local Government</b>
<b>Contact</b>	<b>Colin Hehir colin.hehir@environ.ie</b>

### **Staffing Numbers:**

<b>Senior Counsel</b>	<b>Junior Counsel</b>	<b>Legal Researchers (Jnr. Counsel)</b>	<b>Paralegal</b>	<b>Solicitor</b>	<b>Qualified Paralegal as legal research assistant</b>
<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

### **Tribunal Legal Personnel Details:**

<b>Name</b>	<b>Date of Engagement</b>	<b>Method of Selection</b>	<b>Calculation of Payment</b>
<b>Annette Foley JC</b>	<b>29/01/01 (JC since Nov 04)</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>
<b>Susan Gilvarry Solicitor</b>	<b>23/10/00</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>

### **Administraton Staffing Numbers:**

#### **Civil Servants:**

**1 Registrar:**

**Peter Kavanagh**

**1 Service Officer:**

**William O'Donnell**

**3 Tipstaff:**

**JJ Coy,  
Colman Greene & Pat Keeley**

#### **Tribunal & Agency Staff: Non Civil Servants:**

**1 Legal Secretary: (Agency Staff)**

**Amanda Craddock,**

**1 Office Support Staff: (Tribunal Staff) Ruth Mulligan**

**1 IT Support Staff: (Tribunal Staff)**

**John Lynn**

<b>Counsel</b>	<b>Brief Fee</b>	<b>Per Diem Rate</b>
<b>Senior Counsel</b>	<b>€31,743.00</b>	<b>€1,760.00</b>
<b>Junior Counsel</b>	<b>€20,951.00</b>	<b>€1,173.00</b>

<b>Legal Research Counsel</b>	<b>€509.00</b>
<b>Qualified Paralegal as legal research assistant</b>	<b>€350.00</b>
<b>Legal Research Assistant</b>	<b>€250.00</b>
<b>Paralegal</b>	<b>€180.00</b>
<b>Solicitor</b>	<b>€810.00</b>

**Bi Monthly**

**Cost of Tribunal 1 May to 30<sup>th</sup> June 2014**

<b>Administration</b>	<b>Tribunal Legal Cost*</b>	<b>3<sup>rd</sup> Party Legal Cost</b>	<b>Overall Cost</b>
<b>€</b>	<b>€</b>	<b>€</b>	<b>€</b>

**\* Tribunal legal costs includes fees paid to the legal team at the Tribunal and all other legal costs incurred by the Tribunal**

**Brian Thornberry - (DECLG)**

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 14 August 2014 12:07  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Subject:** FW: FAO Ruth Mulligan  
**Attachments:** Bi monthly Temp 13Mahon.doc

Hi Ruth,

I'm just catching up after my return from leave, and was wondering if you had a chance to look at the attached?

Regards

Colin

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 17 July 2014 12:11  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Cc:** Brian Thornberry - (DECLG)  
**Subject:** FAO Ruth Mulligan

Good afternoon Ruth,

Can you have a look at the attached in relation to the personnel-related elements and let me know whether any changes are required? You might cc my colleague Brian Thornberry on your reply as I'll probably be on leave.

Thanks a million,

*Colin O'Hehir*

Colin O'Hehir  
Planning  
Department of the Environment, Community & Local Government  
Ph. 01 8882726  
Fax. 01 8882692  
Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** Monica Brack [<mailto:Monica.Brack@per.gov.ie>]  
**Sent:** 17 July 2014 12:02  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** May/June

Hi Colin

Could you fill in the attached in respect of Mahon please and return to me by 28<sup>th</sup> July



Regards

Monica

Monica Brack

Expenditure Policy Evaluation & Management Division

Room 1.5

Government Buildings

Merrion Street

Dublin 2

PH; 01 6045216

mail:monica.brack@per.gov.ie

## **Tribunal Bi Monthly Return Colin Hehir**

<b>Title</b>	<b>Tribunal of Inquiry into Certain Planning Matters &amp; Payments</b>
<b>Description</b>	
<b>Established</b>	<b>November 1997</b>
<b>Status</b>	<b>Ongoing</b>
<b>Chairman</b>	<b>Judge Alan P. Mahon</b>
<b>Parent Department</b>	<b>Environment Community &amp; Local Government</b>
<b>Contact</b>	<b>Colin Hehir colin.hehir@environ.ie</b>

### **Staffing Numbers:**

<b>Senior Counsel</b>	<b>Junior Counsel</b>	<b>Legal Researchers (Jnr. Counsel)</b>	<b>Paralegal</b>	<b>Solicitor</b>	<b>Qualified Paralegal as legal research assistant</b>
<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

### **Tribunal Legal Personnel Details:**

<b>Name</b>	<b>Date of Engagement</b>	<b>Method of Selection</b>	<b>Calculation of Payment</b>
<b>Annette Foley JC</b>	<b>29/01/01 (JC since Nov 04)</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>
<b>Susan Gilvarry Solicitor</b>	<b>23/10/00</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>

### **Administraton Staffing Numbers:**

#### **Civil Servants:**

**1 Registrar:**

**Peter Kavanagh**

**1 Service Officer:**

**William O'Donnell**

**3 Tipstaff:**

**JJ Coy,  
Colman Greene & Pat Keeley**

#### **Tribunal & Agency Staff: Non Civil Servants:**

**1 Legal Secretary: (Agency Staff)**

**Amanda Craddock,**

**1 Office Support Staff: (Tribunal Staff) Ruth Mulligan**

**1 IT Support Staff: (Tribunal Staff)**

**John Lynn**

<b>Counsel</b>	<b>Brief Fee</b>	<b>Per Diem Rate</b>
<b>Senior Counsel</b>	<b>€31,743.00</b>	<b>€1,760.00</b>
<b>Junior Counsel</b>	<b>€20,951.00</b>	<b>€1,173.00</b>

<b>Legal Research Counsel</b>	<b>€509.00</b>
<b>Qualified Paralegal as legal research assistant</b>	<b>€350.00</b>
<b>Legal Research Assistant</b>	<b>€250.00</b>
<b>Paralegal</b>	<b>€180.00</b>
<b>Solicitor</b>	<b>€810.00</b>

**Bi Monthly**

**Cost of Tribunal 1 May to 30<sup>th</sup> June 2014**

<b>Administration</b>	<b>Tribunal Legal Cost*</b>	<b>3<sup>rd</sup> Party Legal Cost</b>	<b>Overall Cost</b>
<b>€</b>	<b>€</b>	<b>€</b>	<b>€</b>

**\* Tribunal legal costs includes fees paid to the legal team at the Tribunal and all other legal costs incurred by the Tribunal**

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal Accounts <accounts@planningtribunal.ie>  
**Sent:** 19 August 2014 14:49  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** RE: FAO Ruth Mulligan  
**Attachments:** Bi monthly Temp Mahon Aug 14.doc

Hi Colin,

My apologies on the delay in returning this. Please find attached.

Kind regards,

Ruth

---

**From:** Colin O'Hehir - (DECLG) [mailto:colin.o'hehir@environ.ie]  
**Sent:** Thursday, August 14, 2014 12:07 PM  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Subject:** FW: FAO Ruth Mulligan

Hi Ruth,

I'm just catching up after my return from leave, and was wondering if you had a chance to look at the attached?

Regards

Colin

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 17 July 2014 12:11  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Cc:** Brian Thornberry - (DECLG)  
**Subject:** FAO Ruth Mulligan

Good afternoon Ruth,

Can you have a look at the attached in relation to the personnel-related elements and let me know whether any changes are required? You might cc my colleague Brian Thornberry on your reply as I'll probably be on leave.

Thanks a million,

*Colin O'Hehir*

Colin O'Hehir  
Planning  
Department of the Environment, Community & Local Government  
Ph. 01 8882726  
Fax. 01 8882692  
Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** Monica Brack [<mailto:Monica.Brack@per.gov.ie>]  
**Sent:** 17 July 2014 12:02  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** May/June

Hi Colin

Could you fill in the attached in respect of Mahon please and return to me by 28<sup>th</sup> July

Regards

Monica

Monica Brack  
Expenditure Policy Evaluation & Management Division  
Room 1.5  
Government Buildings  
Merrion Street  
Dublin 2  
PH; 01 6045216  
[mail:monica.brack@per.gov.ie](mailto:monica.brack@per.gov.ie)

## **Tribunal Bi Monthly Return Colin Hehir**

<b>Title</b>	<b>Tribunal of Inquiry into Certain Planning Matters &amp; Payments</b>
<b>Description</b>	
<b>Established</b>	<b>November 1997</b>
<b>Status</b>	<b>Ongoing</b>
<b>Chairman</b>	<b>Judge Alan P. Mahon</b>
<b>Parent Department</b>	<b>Environment Community &amp; Local Government</b>
<b>Contact</b>	<b>Colin Hehir colin.hehir@environ.ie</b>

### **Staffing Numbers:**

<b>Senior Counsel</b>	<b>Junior Counsel</b>	<b>Legal Researchers (Jnr. Counsel)</b>	<b>Paralegal</b>	<b>Solicitor</b>	<b>Qualified Paralegal as legal research assistant</b>
<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

### **Tribunal Legal Personnel Details:**

<b>Name</b>	<b>Date of Engagement</b>	<b>Method of Selection</b>	<b>Calculation of Payment</b>
<b>Annette Foley JC</b>	<b>29/01/01 (JC since Nov 04)</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>
<b>Susan Gilvarry Solicitor</b>	<b>23/10/00</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>

### **Administraton Staffing Numbers:**

#### **Civil Servants:**

**1 Registrar:**

**Peter Kavanagh**

**1 Service Officer:**

**William O'Donnell**

**3 Tipstaff:**

**JJ Coy,  
Colman Greene & Pat Keeley**

#### **Tribunal & Agency Staff:**

**1 Legal Secretary: (Agency Staff)**

**Amanda Craddock,**

**1 Office Support Staff: (Tribunal Staff) Ruth Mulligan**

<b>Counsel</b>	<b>Brief Fee</b>	<b>Per Diem Rate</b>
<b>Senior Counsel</b>	<b>€31,743.00</b>	<b>€1,760.00</b>
<b>Junior Counsel</b>	<b>€20,951.00</b>	<b>€1,173.00</b>

<b>Legal Research Counsel</b>	<b>€509.00</b>
<b>Qualified Paralegal as legal research assistant</b>	<b>€350.00</b>
<b>Legal Research Assistant</b>	<b>€250.00</b>
<b>Paralegal</b>	<b>€180.00</b>
<b>Solicitor</b>	<b>€810.00</b>

**Bi Monthly**

**Cost of Tribunal 1 May to 30<sup>th</sup> June 2014**

<b>Administration</b>	<b>Tribunal Legal Cost*</b>	<b>3<sup>rd</sup> Party Legal Cost</b>	<b>Overall Cost</b>
<b>€</b>	<b>€</b>	<b>€</b>	<b>€</b>

**\* Tribunal legal costs includes fees paid to the legal team at the Tribunal and all other legal costs incurred by the Tribunal**

## Brian Thornberry - (DECLG)

---

**From:** Brian Thornberry - (DECLG)  
**Sent:** 05 September 2014 17:01  
**To:** 'info@planningtribunal.ie'  
**Subject:** Mr Michael Collins S.C.

FAO : Susan Gilvarry

Following on from your recent letters to Colin O'Hehir in relation to the outstanding fee's in respect of Mr Michael Collins, S.C., below is a list of the last 4 payments made to Mr Collins for your information:

Court Costs O'Callaghan v Mahon Tribunal, €20,910 (incl WHT) paid on 3/12/2013 – included WHT €3,400  
 Planning Tribunal v O'Callaghan and others, €42,436 (incl WHT) paid on 27/11/2012 – WHT €6,900.16  
 Planning Tribunal v Keena & Kennedy, €2,783 (incl WHT) paid on 24/5/2012 – WHT €460  
 JMSE v Planning Tribunal-Supreme Court, paid €52,320.40 (incl WHT) paid on 30/6/2011 – WHT €8,648

The following payments were made to Mr Collins in relation to the Caldwell and Fitzwilton case:

Caldwell v Tribunal fees, €23,655 (incl WHT) paid on 13/12/06 – WHT €3,910  
 Fitzwilton v Mahon Fee's, €11,698.60 (incl WHT) paid on 16/1/07 – WHT €1,933.65  
 3<sup>rd</sup> Party Legal Costs fitzwilton, €45,776.39 (incl WHT) paid on 30/8/08 – WHT €9,155.28

The Dept has a copy of the costs associated with the Ahern v Mahon & Caldwell v Mahon cases but do not have the costs associated to the Fitzwilton Limited, Goulding Limited & Rennicks Sign Manufacturing case. If you have these or any other relevant claims to hand could you please send us a copy to enable us to process the payments.

Regards,

Brian

Brian Thornberry  
 Planning Section  
 Department of Environment, Community & Local Government  
 Custom House  
 Dublin 1

Tel : 01-8882157



**Brian Thornberry - (DECLG)**

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 29 September 2014 16:40  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Subject:** FAO Ruth Mulligan  
**Attachments:** Bi monthly Temp 13Mahon.doc

Good afternoon Ruth,

Apologies for the shortened notice on this but I was away when the request came in. Can you fill in your bit of the attached and get it back to me at some stage tomorrow or Wednesday?

Thanks a million,

Colin

---

**From:** Monica Brack [<mailto:Monica.Brack@per.gov.ie>]  
**Sent:** 24 September 2014 09:58  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Mahon Tribunal

Hi Colin

Can you fill in the attached iro the Mahon Tribunal please and return to me by Wed 1<sup>st</sup> October

*Regards*

*Monica*

*Monica Brack  
Expenditure Policy Evaluation & Management Division  
Room 1.5  
Government Buildings  
Merrion Street  
Dublin 2  
PH; 01 6045216  
[mail:monica.brack@per.gov.ie](mailto:monica.brack@per.gov.ie)*

## **Tribunal Bi Monthly Return Colin Hehir**

<b>Title</b>	<b>Tribunal of Inquiry into Certain Planning Matters &amp; Payments</b>
<b>Description</b>	
<b>Established</b>	<b>November 1997</b>
<b>Status</b>	<b>Ongoing</b>
<b>Chairman</b>	<b>Judge Alan P. Mahon</b>
<b>Parent Department</b>	<b>Environment Community &amp; Local Government</b>
<b>Contact</b>	<b>Colin Hehir colin.hehir@environ.ie</b>

### **Staffing Numbers:**

<b>Senior Counsel</b>	<b>Junior Counsel</b>	<b>Legal Researchers (Jnr. Counsel)</b>	<b>Paralegal</b>	<b>Solicitor</b>	<b>Qualified Paralegal as legal research assistant</b>
<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

### **Tribunal Legal Personnel Details:**

<b>Name</b>	<b>Date of Engagement</b>	<b>Method of Selection</b>	<b>Calculation of Payment</b>
<b>Annette Foley JC</b>	<b>29/01/01 (JC since Nov 04)</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>
<b>Susan Gilvarry Solicitor</b>	<b>23/10/00</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>

### **Administraton Staffing Numbers:**

#### **Civil Servants:**

**1 Registrar:**

**Peter Kavanagh**

**1 Service Officer:**

**William O'Donnell**

**3 Tipstaff:**

**JJ Coy,  
Colman Greene & Pat Keeley**

#### **Tribunal & Agency Staff: Non Civil Servants:**

**1 Legal Secretary: (Agency Staff)**

**Amanda Craddock,**

**1 Office Support Staff: (Tribunal Staff) Ruth Mulligan**

<b>Counsel</b>	<b>Brief Fee</b>	<b>Per Diem Rate</b>
<b>Senior Counsel</b>	<b>€31,743.00</b>	<b>€1,760.00</b>
<b>Junior Counsel</b>	<b>€20,951.00</b>	<b>€1,173.00</b>

<b>Legal Research Counsel</b>	<b>€509.00</b>
<b>Qualified Paralegal as legal research assistant</b>	<b>€350.00</b>
<b>Legal Research Assistant</b>	<b>€250.00</b>
<b>Paralegal</b>	<b>€180.00</b>
<b>Solicitor</b>	<b>€810.00</b>

**Bi Monthly**

**Cost of Tribunal 1 July to 31<sup>st</sup> August 2014**

<b>Administration</b>	<b>Tribunal Legal Cost*</b>	<b>3<sup>rd</sup> Party Legal Cost</b>	<b>Overall Cost</b>
<b>€</b>	<b>€</b>	<b>€</b>	<b>€</b>

\* Tribunal legal costs includes fees paid to the legal team at the Tribunal and all other legal costs incurred by the Tribunal

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal Accounts <accounts@planningtribunal.ie>  
**Sent:** 30 September 2014 11:27  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** RE: FAO Ruth Mulligan  
**Attachments:** Bi monthly 30th Sept 2014.doc

Hi Colin,

Please find attached bi-monthly, it remains unchanged from the previous one.

Kind regards,

Ruth

---

**From:** Colin O'Hehir - (DECLG) [mailto:colin.o'hehir@environ.ie]  
**Sent:** Monday, September 29, 2014 4:40 PM  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Subject:** FAO Ruth Mulligan

Good afternoon Ruth,

Apologies for the shortened notice on this but I was away when the request came in. Can you fill in your bit of the attached and get it back to me at some stage tomorrow or Wednesday?

Thanks a million,

Colin

---

**From:** Monica Brack [mailto:Monica.Brack@per.gov.ie]  
**Sent:** 24 September 2014 09:58  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Mahon Tribunal

Hi Colin

Can you fill in the attached iro the Mahon Tribunal please and return to me by Wed 1<sup>st</sup> October

*Regards*

*Monica*

*Monica Brack  
 Expenditure Policy Evaluation & Management Division  
 Room 1.5  
 Government Buildings*

Merrion Street

Dublin 2

PH; 01 6045216

mail:monica.brack@per.gov.ie

## **Tribunal Bi Monthly Return Colin Hehir**

<b>Title</b>	<b>Tribunal of Inquiry into Certain Planning Matters &amp; Payments</b>
<b>Description</b>	
<b>Established</b>	<b>November 1997</b>
<b>Status</b>	<b>Ongoing</b>
<b>Chairman</b>	<b>Judge Alan P. Mahon</b>
<b>Parent Department</b>	<b>Environment Community &amp; Local Government</b>
<b>Contact</b>	<b>Colin Hehir colin.hehir@environ.ie</b>

### **Staffing Numbers:**

<b>Senior Counsel</b>	<b>Junior Counsel</b>	<b>Legal Researchers (Jnr. Counsel)</b>	<b>Paralegal</b>	<b>Solicitor</b>	<b>Qualified Paralegal as legal research assistant</b>
<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

### **Tribunal Legal Personnel Details:**

<b>Name</b>	<b>Date of Engagement</b>	<b>Method of Selection</b>	<b>Calculation of Payment</b>
<b>Annette Foley JC</b>	<b>29/01/01 (JC since Nov 04)</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>
<b>Susan Gilvarry Solicitor</b>	<b>23/10/00</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>

### **Administraton Staffing Numbers:**

#### **Civil Servants:**

**1 Registrar:**

**Peter Kavanagh**

**1 Service Officer:**

**William O'Donnell**

**3 Tipstaff:**

**JJ Coy,  
Colman Greene & Pat Keeley**

#### **Tribunal & Agency Staff:**

**1 Legal Secretary: (Agency Staff)**

**Amanda Craddock,**

**1 Office Support Staff: (Tribunal Staff) Ruth Mulligan**

<b>Counsel</b>	<b>Brief Fee</b>	<b>Per Diem Rate</b>
<b>Senior Counsel</b>	<b>€31,743.00</b>	<b>€1,760.00</b>
<b>Junior Counsel</b>	<b>€20,951.00</b>	<b>€1,173.00</b>

<b>Legal Research Counsel</b>	<b>€509.00</b>
<b>Qualified Paralegal as legal research assistant</b>	<b>€350.00</b>
<b>Legal Research Assistant</b>	<b>€250.00</b>
<b>Paralegal</b>	<b>€180.00</b>
<b>Solicitor</b>	<b>€810.00</b>

**Bi Monthly**

**Cost of Tribunal 1 July to 31<sup>st</sup> August 2014**

<b>Administration</b>	<b>Tribunal Legal Cost*</b>	<b>3<sup>rd</sup> Party Legal Cost</b>	<b>Overall Cost</b>
<b>€</b>	<b>€</b>	<b>€</b>	<b>€</b>

**\* Tribunal legal costs includes fees paid to the legal team at the Tribunal and all other legal costs incurred by the Tribunal**

## Brian Thornberry - (DECLG)

**From:** Planning Tribunal <info@planningtribunal.ie>  
**Sent:** 16 October 2014 10:01  
**To:** Brian Thornberry - (DECLG)  
**Subject:** RE: Finbarr Hanrahan -v- Tribunal

Dear Brian

I confirm that the lawyers on behalf of Mr. Hanrahan have agreed the fees as recommended by Mr. Fitzpatrick, Costs Accountant.

I would now be obliged if you could arrange to have them discharged at your convenience.

Regards

Susan Gilvarry

---

**From:** Brian Thornberry - (DECLG) [<mailto:Brian.Thornberry@environ.ie>]  
**Sent:** 15 October 2014 14:59  
**To:** Planning Tribunal  
**Subject:** RE: Finbarr Hanrahan -v- Tribunal

FAO : Susan Gilvarry

In response to your e-mail below.

A precedent regarding the payment of claims of this nature developed over time whereby a claim is submitted on which the professional opinion of either Fitzpatrick's or the State Claims Agency is sought before payment issues. The Department has no decision-making capacity beyond making the arrangements for the recommended amount to be paid. As both Fitzpatricks and yourselves are of the opinion that payment in the amount of **€35,208.50** should issue on this occasion, the Department's position is that this is the appropriate course of action.

A breakdown of Fitzpatrick's proposal in relation to the costs in question is set out below for info:

Category	Amount	Vat	Total
Solicitors Fee	€12,500	2,875	15,375
Schedule II	€750	172.50	922.5
Postage & Telephone	100	23	123
Junior Counsel	7,000	1,610	8,610
Senior Counsel	8,000	1,840	9,840
Stamp Duty Fees	338	-	338
Total	28,688	6,520.50	35,208.50

Regards,

Brian



**From:** Planning Tribunal [<mailto:info@planningtribunal.ie>]  
**Sent:** 15 October 2014 11:34  
**To:** Brian Thornberry - (DECLG)  
**Subject:** Finbarr Hanrahan -v- Tribunal

Dear Brian

I attach for your attention letter from M. Little, Solicitors.

I am of the view that the proposals of Stephen Fitzpatrick reflect what would reasonably tax before the Taxing Master and in the circumstances I would not recommend the increase as suggested by ML solicitors

Perhaps you would revert and confirm the Departments position in relation to this matter.

Kind regards

Yours sincerely

Susan Gilvarry  
Solicitor to the Tribunal

\*\*\*\*\*

Is faoi rún agus chun úsáide an té nó an aonán atá luaite leis, a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bhainisteoir an chórais.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphoist seo scuabtha le bogearraí frithvórais chun vórais ríomhaire a aimsiú.

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

This footnote also confirms that this email message has been swept by anti-virus software for the presence of computer viruses.

\*\*\*\*\*

## Brian Thornberry - (DECLG)

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 04 November 2014 11:04  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Subject:** FW: Tribunal Returns FAO Ruth Mulligan  
**Attachments:** Bi monthly Temp 13Mahon.doc

Good morning Ruth,

Please find attached request from DPER for the bimonthly staff details. Can you fill in your bit and get it back to me?

Also, we received the tv licence for yourselves, do you want me to post it over to you or do we normally hold them here?

Regards

*Colin O'Hehir*

Colin O'Hehir  
 Planning  
 Department of the Environment, Community & Local Government  
 Ph. 01 8882726  
 Fax. 01 8882692  
 Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** Monica Brack [<mailto:Monica.Brack@per.gov.ie>]  
**Sent:** 04 November 2014 10:07  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Tribunal Returns

Hi Colin

Could you fill in the attached please and return to me by 13<sup>th</sup> November

*Regards*

*Monica*

*Monica Brack  
 Expenditure Policy Evaluation & Management Division  
 Room 1.5  
 Government Buildings  
 Merrion Street  
 Dublin 2*

PH; 01 6045216

mail:monica.brack@per.gov.ie

## **Tribunal Bi Monthly Return Colin Hehir**

<b>Title</b>	<b>Tribunal of Inquiry into Certain Planning Matters &amp; Payments</b>
<b>Description</b>	
<b>Established</b>	<b>November 1997</b>
<b>Status</b>	<b>Ongoing</b>
<b>Chairman</b>	<b>Judge Alan P. Mahon</b>
<b>Parent Department</b>	<b>Environment Community &amp; Local Government</b>
<b>Contact</b>	<b>Colin Hehir colin.hehir@environ.ie</b>

### **Staffing Numbers:**

<b>Senior Counsel</b>	<b>Junior Counsel</b>	<b>Legal Researchers (Jnr. Counsel)</b>	<b>Paralegal</b>	<b>Solicitor</b>	<b>Qualified Paralegal as legal research assistant</b>
<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

### **Tribunal Legal Personnel Details:**

<b>Name</b>	<b>Date of Engagement</b>	<b>Method of Selection</b>	<b>Calculation of Payment</b>
<b>Annette Foley JC</b>	<b>29/01/01 (JC since Nov 04)</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>
<b>Susan Gilvarry Solicitor</b>	<b>23/10/00</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>

### **Administration Staffing Numbers:**

#### **Civil Servants:**

**1 Registrar:**

**Peter Kavanagh**

**1 Service Officer:**

**William O'Donnell**

**3 Tipstaff:**

**JJ Coy,  
Colman Greene & Pat Keeley**

## **Tribunal & Agency Staff: Non Civil Servants:**

**1 Legal Secretary: (Agency Staff)                      Amanda Craddock,**

**1 Office Support Staff: (Tribunal Staff)    Ruth Mulligan**

<b>Counsel</b>	<b>Brief Fee</b>	<b>Per Diem Rate</b>
<b>Senior Counsel</b>	<b>€31,743.00</b>	<b>€1,760.00</b>
<b>Junior Counsel</b>	<b>€20,951.00</b>	<b>€1,173.00</b>

<b>Legal Research Counsel</b>	<b>€509.00</b>
<b>Qualified Paralegal as legal research assistant</b>	<b>€350.00</b>
<b>Legal Research Assistant</b>	<b>€250.00</b>
<b>Paralegal</b>	<b>€180.00</b>
<b>Solicitor</b>	<b>€810.00</b>

### **Bi Monthly**

**Cost of Tribunal 1 September to 31<sup>st</sup> October 2014**

<b>Administration</b>	<b>Tribunal Legal Cost*</b>	<b>3<sup>rd</sup> Party Legal Cost</b>	<b>Overall Cost</b>
<b>€</b>	<b>€</b>	<b>€</b>	<b>€</b>

**\* Tribunal legal costs includes fees paid to the legal team at the Tribunal and all other legal costs incurred by the Tribunal**

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal Accounts <accounts@planningtribunal.ie>  
**Sent:** 05 November 2014 15:40  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** RE: Tribunal Returns FAO Ruth Mulligan  
**Attachments:** Bi monthly2014NovMahon.doc

Hi Colin,

Please find Bi-monthly return. Only change is there is a note that Ms. Foley is working a 3 day aggregated week, that is to say e.g. she may work 4 days this week and 2 the next etc.

Regards,

Ruth

---

**From:** Colin O'Hehir - (DECLG) [mailto:colin.o'hehir@environ.ie]  
**Sent:** Tuesday, November 04, 2014 11:04 AM  
**To:** [accounts@planningtribunal.ie](mailto:accounts@planningtribunal.ie)  
**Subject:** FW: Tribunal Returns FAO Ruth Mulligan

Good morning Ruth,

Please find attached request from DPER for the bimonthly staff details. Can you fill in your bit and get it back to me?

Also, we received the tv licence for yourselves, do you want me to post it over to you or do we normally hold them here?

Regards

*Colin O'Hehir*

Colin O'Hehir  
 Planning  
 Department of the Environment, Community & Local Government  
 Ph. 01 8882726  
 Fax. 01 8882692  
 Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** Monica Brack [mailto:[Monica.Brack@per.gov.ie](mailto:Monica.Brack@per.gov.ie)]  
**Sent:** 04 November 2014 10:07  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Tribunal Returns

Hi Colin

Could you fill in the attached please and return to me by 13<sup>th</sup> November

Regards

Monica

Monica Brack  
Expenditure Policy Evaluation & Management Division  
Room 1.5  
Government Buildings  
Merrion Street  
Dublin 2  
PH; 01 6045216  
mail:monica.brack@per.gov.ie

## **Tribunal Bi Monthly Return Colin Hehir**

<b>Title</b>	<b>Tribunal of Inquiry into Certain Planning Matters &amp; Payments</b>
<b>Description</b>	
<b>Established</b>	<b>November 1997</b>
<b>Status</b>	<b>Ongoing</b>
<b>Chairman</b>	<b>Judge Alan P. Mahon</b>
<b>Parent Department</b>	<b>Environment Community &amp; Local Government</b>
<b>Contact</b>	<b>Colin Hehir colin.hehir@environ.ie</b>

### **Staffing Numbers:**

<b>Senior Counsel</b>	<b>Junior Counsel</b>	<b>Legal Researchers (Jnr. Counsel)</b>	<b>Paralegal</b>	<b>Solicitor</b>	<b>Qualified Paralegal as legal research assistant</b>
<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

### **Tribunal Legal Personnel Details:**

<b>Name</b>	<b>Date of Engagement</b>	<b>Method of Selection</b>	<b>Calculation of Payment</b>
<b>Annette Foley JC</b>	<b>29/01/01 (JC since Nov 04)</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>
<b>Susan Gilvarry Solicitor</b>	<b>23/10/00</b>	<b>Appt. by Tribunal</b>	<b>Per Diem Rate</b>

**Note:** Ms. Foley works for an aggregated 3 day week.

### **Administration Staffing Numbers:**

#### **Civil Servants**

**1 Registrar:**

**Peter Kavanagh**

**1 Service Officer:**

**William O'Donnell**

**3 Tipstaff:**

**JJ Coy,  
Colman Greene & Pat Keeley**



## **Tribunal & Agency Staff: Non Civil Servants:**

**1 Legal Secretary: (Agency Staff)**

**Amanda Craddock,**

**1 Office Support Staff: (Tribunal Staff) Ruth Mulligan**

<b>Counsel</b>	<b>Brief Fee</b>	<b>Per Diem Rate</b>
<b>Senior Counsel</b>	<b>€31,743.00</b>	<b>€1,760.00</b>
<b>Junior Counsel</b>	<b>€20,951.00</b>	<b>€1,173.00</b>

<b>Legal Research Counsel</b>	<b>€509.00</b>
<b>Qualified Paralegal as legal research assistant</b>	<b>€350.00</b>
<b>Legal Research Assistant</b>	<b>€250.00</b>
<b>Paralegal</b>	<b>€180.00</b>
<b>Solicitor</b>	<b>€810.00</b>

### **Bi Monthly**

**Cost of Tribunal 1 September to 31<sup>st</sup> October 2014**

<b>Administration</b>	<b>Tribunal Legal Cost*</b>	<b>3<sup>rd</sup> Party Legal Cost</b>	<b>Overall Cost</b>
<b>€</b>	<b>€</b>	<b>€</b>	<b>€</b>

**\* Tribunal legal costs includes fees paid to the legal team at the Tribunal and all other legal costs incurred by the Tribunal**

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal <info@planningtribunal.ie>  
**Sent:** 06 November 2014 12:37  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Civil Law (Miscellaneous Provisions) Act 2011  
**Attachments:** Ltr - SG to Colin O'Hehir.pdf; Memorandum re Tribunal Docs and Compliance with the Civil Law (MP)Act 2011.doc

Dear Colin

Please see attached letter from Susan Gilvarry, Solicitor together with enclosed memorandum.

Regards

Amanda

# **Tribunal of Inquiry into Certain Planning Matters and Payments Binse Fiosrúcháin um Chúrsaí Pleanála agus Íocaíochtaí Áirithe**

Appointed by instrument of the Minister for the Environment and Local Government dated the 4<sup>th</sup> day of November 1997 as amended by instruments dated the 15<sup>th</sup> day of July 1998, the 24<sup>th</sup> day of October 2002, the 7<sup>th</sup> day of July 2003 and the 3<sup>rd</sup> day of December 2004



Ceaptha de réir Ionstraim an Aire Comhshaoil agus Rialtais Áitiúil dar dáta an 4ú lá de Shamhain 1997 a leasaíodh de réir Ionstraimí dar dáta an 15ú lá de Iúil 1998, an 24ú lá de Dheireadh Fómhair 2002, an 7ú lá de Iúil 2003 agus an 3ú lá de Mhí na Nollag 2004

His Honour Judge Alan P. Mahon S.C. (Chairperson)  
Her Honour Judge Mary Faherty S.C.  
His Honour Judge Gerald B. Keys

A Onóir an Breitheamh Alan P. Mahon S.C. (Cathaoirleach)  
A hOnóir an Breitheamh Mary Faherty S.C.  
A Onóir an Breitheamh Gerald B. Keys

6<sup>th</sup> November, 2014

Our Ref: PTB/9

**Strictly Private & Confidential - To Be Opened By Addressee Only**

Mr. Colin O'Hehir  
Room 1.71  
Planning Section  
Department of the Environment, Community & Local Government  
Custom house  
Dublin 1

**By e-mail:**

**Re: Civil Law (Miscellaneous Provisions) Act 2011**

Dear Colin,

I refer to the above and enclose for your attention a Memorandum prepared by myself on the instructions of the Tribunal Chairman.

Perhaps you could revert to me when you have had an opportunity to peruse the contents of same, with a view to meeting and agreeing a protocol for the transfer of documentation on the completion of the Tribunal's work.

I await hearing from you.

Kind regards,

Yours sincerely,

Susan Gilvarry  
Solicitor to the Tribunal

Enc.

**MEMORANDUM RE TRIBUNAL DOCUMENTATION AND  
COMPLIANCE WITH THE CIVIL LAW (MISCELLANEOUS  
PROVISIONS) ACT 2011**

**TO:** Colin O'Hehir, Department of the Environment, Community & Local Government  
Mr. Colm Downey, Department of the Environment, Community & Local Government

**FROM:** Susan Gilvarry, Solicitor to the Tribunal of Inquiry into Certain Planning Matters and Payments

**DATE:** 6<sup>th</sup> November, 2014

---

The Tribunal's work is now at an advanced stage. The Tribunal Chairman will, in due course, notify the Minister that the Tribunal has completed, or is about to complete, its work in accordance with the Section 46 Civil Law (Miscellaneous Provisions) Act 2011. The Tribunal Chairman is of the view that it would assist the efficient, effective and expeditious wind down of the Tribunal if, in advance of such notification, a person could be nominated by the Department of the Environment, in order that it will be in a position to discuss full compliance with the requirement of the aforementioned Act.

Following on from a the previous meeting between Susan Gilvarry, Solicitor and Peter Kavanagh, Registrar to the Tribunal and Mr Colin O'Hehir, Mr. Colm Downey, and Mr David Mack, Cost Accountant, State Claims, a full audit of the documentation in the Tribunal's possession has now been carried out to ascertain the extent of documentation which falls under the definition of "relevant material" as defined by Section 44 of the Civil Law (Miscellaneous Provisions) Act 2011.

The documentation in the possession of the Tribunal falls into four categories:

1. Documents provided to the Tribunal relevant to its investigative function, on a voluntary basis or on foot of Orders of Discovery and/or Production;
2. Documents created by the Tribunal;

3. Correspondence between the Tribunal and parties engaging with the Tribunal, including person/corporate bodies/government departments and Local Authorities who assisted the Tribunal;
4. Correspondence between the Tribunal and the Department of Environment, Community, and Local Government.

### **Civil Law (Miscellaneous Provisions) Act 2011**

**Section 44** of the above mentioned Act states as follows:

Subsection 1 states “Relevant material” in relation to a Tribunal, means all material which is **evidence\*** received by or a document created by or for the Tribunal whatsoever (including any document which is incomplete or in draft for only)

#### **Relevant Material**

The Chairman of the Tribunal has formed the view that the documents listed (a) – (n) below are documents in the Tribunal's possession which fall within the definition of “Relevant Material”;

- (a) Brief of Documents used at public hearings;
- (b) Transcripts;
- (c) Video and tape recordings;
- (d) Private interviews;
- (e) Word/Excel documents created by Tribunal personnel;
- (f) Tribunal Orders;
- (g) Affidavits of Discovery;
- (h) Documents created by Tribunal Accountants;
- (i) White books;
- (j) Judges notes;
- (k) Backing documents for reports;
- (l) Draft reports;
- (m) Reports;

(n) Administrative correspondence together with received invoices and miscellaneous documents.

The documentation set out above, with the exception of Judges Notes and correspondence files before mid-May 2004 are stored in both a hard copy and digital format.

I have set out in the attached pages the requirements under the Act to comply with the management of documents in the possession of the Tribunal. Should you have any views regarding a procedure that should be put in place, I would be obliged to receive details of same.

## **REQUIREMENTS UNDER THE ACT**

### **Step 1**

Section 46 (1) of the Act requires the Chairman of the Tribunal indicates to the responsible Minister that he is about to finish his inquiry.

The Chairman will issue such a letter as soon as he is of the view that his work is at an end. In advance of this letter, the Chairman is of the view that the procedure and for the handover or data or the destruction or return of data should be agreed with the Department to ensure compliance with Step 2 below.

### **Step 2**

- (a) The Minister shall, as soon as is practicable, subject to the consent of the Minister for Finance, by notice in writing require the Chairman to deposit the relevant material with such person who is, or at such place which is specified in the notice, and
- (b) within the period specified in the notice for the purpose

Subsection (2) for the purpose of assisting the Chairman of a Tribunal to perform his or her function under subsection (4) or (5) in a manner that is efficient and expeditious as is practicable, the Minister may set out in a notice guidelines to the Chairman as to how to perform his function under subsections (4) and (5) of section 46. This involves the Chairman giving an opinion as **Step 3**

### **Step 3**

The Chairman shall comply with the requirements of the Notice under sub section 1 (including any guidelines if given by the Minister).subsection (4) states that the Chairman may in complying with the requirements of a notice under sub section (1) and after having regard to section 47 (See later) cause the material to be accompanied by

- (a) opinion in writing as to which parts of that material, if any, need, in particular, to be considered for the purpose of section 47(2) and
- (b) reason in writing for holding such an opinion

Subsection (5) - Subject to subsection (6) the chairman of the Tribunal to whom a notice under subsection 1 has been given in respect of the relevant material may, with the consent of the responsible Minister, return any part of that material to the person who gave the part concerned to the Tribunal if –

(a) the Chairman is satisfied that

(i) the retention of the part concerned is not necessary in order to understand any of the following:-

- (I) any of the proceedings of the Tribunal;
- (II) any interim report of the Tribunal;
- (III) the final report of the Tribunal.

and

(ii) the part has little, if any, historical worth or relevance to either:-

- (I) the matter that the Tribunal was established to inquire into, or
- (II) the findings of the Tribunal.

#### **Step 4**

**Subsection 6 of section 46 of the Act states** “where the Chairman of the Tribunal would, pursuant to subsection 5, return part of the relevant material to the person who gave the part concerned to the Tribunal but for the fact that –

- (a) the person has declined to accept the return of the part, or
- (b) the whereabouts of the person cannot reasonably be ascertained.

(i) The Chairman, may with the consent of the Minister, cause the part to be disposed of in such a manner as the Chairman sees proper;

(ii) The Chairman shall

- (I) Prepare a record which gives a general description of the part, specifies the name and address of the person who has



declined to accept the return of the part (if paragraph (a) applies), specifies the name.

The Chairman (subject to subsection 6 where a person does not want documents back or cannot be found, can destroy relevant material with consent of Minister) may with the consent of the responsible Minister return part of that material to the person who gave the part concerned to the Tribunal if :-

(c) The Chairman is satisfied that –

- (i) the retention of the part concerned is necessary in order to understand any of the following:
  - (i) Any of the proceedings of the Tribunal;
  - (ii) Any interim report of the Tribunal;
  - (iii) The final report of the Tribunal

And

- (ii) the part has little, if any, historical worth or relevance to either:
  - (I) the matter that the Tribunal was established to inquire into, or
  - (II) the findings of the Tribunal.

(d) The Chairman

- (i) has prepared a record which gives a general description of the part of the relevant material concerned, specifies the name and address of the person whom the part is to be returned and specifies the basis or bases on which the chairman is, in respect of that part, satisfied as described in paragraph 9a) and
- (ii) ensures that such record accompanies the relevant material which is not returned to any person pursuant to this sub section (5) or otherwise disposed of pursuant to this subsection

## **Section 6 Subsection (7)**

This section deals with what happens to the documentation after the Tribunal has "ceased to be seized of the relevant material.

Where the Tribunal has ceased to be seized of the relevant material (whether pursuant to the provisions of this section or otherwise) nothing in this section shall be construed to prevent the responsible Minister, or another Minister of the Government for the time being responsible for the storage of the material, from causing the material to be deposited from time to time with such person or at such place, as the responsible Minister, or that other Minister of the Government, as the case maybe, thinks proper.

## **Section 47**

- (1) Any relevant material of a Tribunal (other than any part of such relevant material which falls within section 46(5) or (6) that constitutes Departmental records within the meaning of section 2(2) of the National Archives Act 1986 is, on the expiry of 30 years after the date of the dissolution of the Tribunal, deemed to have been published under section 8 (11) of that Act as a class of records to which a certificate granted under section 8 (40) of that Act may relate.
- (2) As soon as is practicable after the date on which any relevant material of a Tribunal is deemed to have been prescribed as described in subsection (1) an officer of a Department of State authorised for the purposes of section 8(4) of the National Archives Act 1986 shall consider whether, after having regard to any opinion and reasons referred in section 46(4) that the Chairman of the Tribunal caused to accompany the material and subject to any consent required under section 8(4), the material, or specified parts of it should be certified under section 8(4).
- (3) Subject to subsection (1) and (2) the National Archives Act 1986 applies to any relevant material of a Tribunal (other than any part of such relevant material which falls within section 46(5) or (6) that constitutes Departmental records within the meaning of section 2(2) of that Act.

#### **Section 48 – Freedom of Information**

(1) The Freedom of Information Acts 1997 and 2003 do not apply to a record relating to the inquiry into any matter by a Tribunal unless:-

- (a) the record was created before the appointment of the Tribunal; or
- (b) the record relates to the expenses of the Tribunal or other matters concerning the general administration of the Tribunal.

(2) Subsection (1) applies whether the record concerned is:-

- (a) held by the Tribunal, or
- (b) deposited with a person, or at a place, in compliance with the requirements of a notice under section 46 (1) given to the Chairman or former Chairman, as the case may be, of the Tribunal.

**Brian Thornberry - (DECLG)**

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 26 November 2014 17:06  
**To:** info@planningtribunal.ie  
**Cc:** 'Colm Downey - (DECLG) (Colm.Downey@environ.ie)'; Brian Thornberry - (DECLG)  
**Subject:** FAO Susan Gilvarry  
**Attachments:** Tribunal letter re preliminary discussions on handover of records.doc

Good afternoon,

Please find attached letter for Susan Gilvarry in response to the correspondence of 6<sup>th</sup> November.

Regards

*Colin O'Hehir*

Colin O'Hehir

Planning

Department of the Environment, Community & Local Government

Ph. 01 8882726

Fax. 01 8882692

Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)



Comhshaol, Pobal agus Rialtas Áitiúil  
Environment, Community and Local Government



26 November 2014

Susan Gilvarry  
Tribunal of Inquiry into Certain Planning Matters and Payments  
Block M  
Ship Street Gate  
Dublin Castle  
Dublin 2

Re: Tribunal's compliance with the Civil Law (Miscellaneous Provisions) Act 2011

Dear Susan,

I refer to the above and to your correspondence of 6 November 2014. You raise a number of issues to be addressed as one of the final tasks of the Tribunal prior to the completion of its work:

- The identification of the documentation in possession of the Tribunal,
- Arrangements for the handover, where appropriate, of said documentation,
- Handover of remaining documentation to this Department, and
- Ensuring the availability of said documentation once the 30 year rule has expired.

I have made preliminary enquiries about how this Department can assist in the carrying out of these functions, and would agree that a meeting, and the agreement to a protocol for the handover of the relevant documentation, would be very helpful in the near future. To this end, perhaps a meeting in Dublin Castle would be of benefit to me and to my colleagues, in order to ascertain the scale of the task ahead.

The following may be worth considering ahead of that meeting:

- The nature of the Tribunal's current filing arrangements – security, accessibility, and whether the records are all available in hard and soft copy or if some records may be in hard copy only;

- Iron Mountain provides this Department, as well as a number of other Government Departments, with an archiving service. I have discussed the nature of the service they provide with them, and they provided an outline of the services they provide which may be of use. It is worth noting that, depending on the volume of records, a tender process may be necessary;
- The decision making in relation to the return of material to the person who provided it, where appropriate: A discussion on where the responsibility for decision-making of this nature would be very helpful. I would also be interested in your thoughts of whether the Tribunal sees this as a one-off period of decision-making, or whether it could arise over the foreseeable future;
- A discussion of the timescales, both of the remaining work of the Tribunal and of the handover process, would be very useful in informing the protocols.

With the above in mind, perhaps we could make arrangements for a meeting either in December or early in the new year?

Regards

Colin O'Hehir

Colin O'Hehir

Planning

Department of the Environment, Community & Local Government

Ph. 01 8882726

Fax. 01 8882692

Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal <[info@planningtribunal.ie](mailto:info@planningtribunal.ie)>  
**Sent:** 19 December 2014 16:21  
**To:** Brian Thornberry - (DECLG)  
**Subject:** RE: Query

Hi Brian,

I will have to get back to about this query on Monday,

Regards,

Peter

---

**From:** Brian Thornberry - (DECLG) [<mailto:Brian.Thornberry@environ.ie>]  
**Sent:** 19 December 2014 15:15  
**To:** [info@planningtribunal.ie](mailto:info@planningtribunal.ie)  
**Subject:** Query

FAO : Susan Gilvarry/Peter Kavanagh

In light of the High Court's decision to quash the Mahon Tribunal findings against George Redmond, have there been any other individuals who have been successful in overturning the same

Regards,

Brian

Brian Thornberry  
Planning Section  
Department of Environment, Community & Local Government  
Custom House  
Dublin 1

Tel : 01-8882157

**Brian Thornberry - (DECLG)**

---

**From:** "Info" <info@planningtribunal.ie>  
**Sent:** 22 December 2014 16:56  
**To:** Colin O'Hehir - (DECLG)  
**Cc:** Brian Thornberry - (DECLG)  
**Subject:** Copy Letter sent to Minister  
**Attachments:** Ltr - SG to Minister Kelly.doc

Dear Colin/Brian

Please see attached letter sent today to Minister Kelly for your information.

Regards

Susan



22<sup>nd</sup> December, 2014

Our Ref: PTB/9

**Strictly Private & Confidential - To Be Opened By Addressee Only**

Mr. Alan Kelly, T.D.

Minister of the Department of the Environment, Community & Local Government

Department of the Environment, Community & Local Government

Custom house

Dublin 1

**Re: Tribunal of Inquiry into Certain Planning Matters and Payments**

Dear Minister Kelly

I have been directed by the Members of the Tribunal to write to you in the following terms.

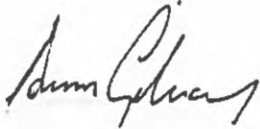
The Tribunal is concerned that in the wake of the settlement of the legal challenge taken by Mr. George Redmond against the Tribunal in relation to certain findings in the Report of Mr. Justice Feergus Flood, the then Sole Member of the Tribunal (the Third Interim Report dated 30<sup>th</sup> September, 2002), some media reports over recent days (and including comments reportedly made by the Chairman of the Public Accounts Committee, Mr. John McGuinness, T.D.) have been to the effect that the costs which Mr. Redmond will now recover in relation to his involvement with the work of the Tribunal, and which was the subject of Mr. Justice Flood's Third Interim Report will be "*millions*", and furthermore that the overall costs of the Tribunal (including its own internal costs and lawyers' fees) will greatly exceed the current estimate by the Tribunal of €159m approximately.

The Tribunal is satisfied that Mr. Redmond's legal costs in relation to his involvement with the Tribunal between 1998 and 2002 will not be "*millions*". Any costs claimed by him (or indeed any other party) are subject to taxation by a Taxing Master of the High Court.

It is not expected that Mr. Redmond's costs bill will increase the Tribunal's estimate of its overall costs of €159m approximately. This estimate was prepared on the assumption that all parties involved with the Tribunal, and who were entitled to apply for their costs, actually receives all of their costs. In reality therefore, the Tribunal's estimate of €159m includes Mr. Redmond's costs.

It should also be noted that Mr. Redmond's successful challenge to part of the content of Mr. Justice Flood's Third Interim Report has no bearing, impact or relevance to the content or findings of the Tribunal's Final Report published in March 2012 (and a then withheld section of the Final Report published in 2013).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Susan Gilvarry', written in a cursive style.

Susan Gilvarry  
Solicitor to the Tribunal

*c.c. Mr. John McCarthy, Secretary General, Department of the Environment.*

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal <info@planningtribunal.ie>  
**Sent:** 08 January 2015 12:14  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** RE: FAO Susan Gilvarry

Hi Colin,

Happy New Year to you and I hope you had a good Christmas. Friday the 16th at 10.30 suits perfectly. I look forward to seeing you then.

Kind regards,

Susan

-----Original Message-----

**From:** Colin O'Hehir - (DECLG) [mailto:colin.o'hehir@environ.ie]  
**Sent:** 07 January 2015 15:32  
**To:** "Info"  
**Cc:** Brian Thornberry - (DECLG); Colm Downey - (DECLG)  
**Subject:** FAO Susan Gilvarry

Good afternoon Susan and a belated happy new year,

Further to our correspondence late last year in regard to the forthcoming winddown of the work of the Tribunal, would you be amenable to a meeting in Dublin Castle at, say, 10.30am on Friday 16th January 2015?

It might also be useful to have David Mack of the State Claims Agency attend, and take the opportunity to clarify exactly where we're at in relation to outstanding orders, payments etc.

Regards,

Colin O'Hehir

Planning

Department of the Environment, Community & Local Government Ph. 01 8882726 Fax. 01 8882692

Email: colin.o'hehir@environ.ie

-----Original Message-----

**From:** "Info" [mailto:info@planningtribunal.ie]  
**Sent:** 22 December 2014 16:56  
**To:** Colin O'Hehir - (DECLG)  
**Cc:** Brian Thornberry - (DECLG)  
**Subject:** Copy Letter sent to Minister

Dear Colin/Brian

Please see attached letter sent today to Minister Kelly for your information.

Regards

Susan

\*\*\*\*\*

Is faoi rún agus chun úsáide an té nó an aonán atá luaite leis, a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bhainisteoir an chórais.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphoist seo scuabtha le bogearraí frithvíorais chun víorais ríomhaire a aimsiú.

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

This footnote also confirms that this email message has been swept by anti-virus software for the presence of computer viruses.

\*\*\*\*\*

**Brian Thornberry - (DECLG)**

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 15 January 2015 09:28  
**To:** info@planningtribunal.ie  
**Subject:** Mahon Findings

**Importance:** High

Good morning,

We need to provide briefing material for the Tanaiste's Office in relation to today's article in the Irish Times; Can you provide us with a few lines asap?

Thanks,

*Colin O'Hehir*

Colin O'Hehir  
 Planning  
 Department of the Environment, Community & Local Government  
 Ph. 01 8882726  
 Fax. 01 8882692  
 Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** Terry Sheridan - (DECLG)  
**Sent:** 15 January 2015 09:24  
**To:** Colm Downey - (DECLG); Colin O'Hehir - (DECLG)  
**Subject:** FW: Mahon findings  
**Importance:** High

Guys,  
 Can you have a look at this and pull something together asap.  
 Terry.

Sent from my Windows Phone

---

**From:** Press Office - (DECLG)  
**Sent:** 15/01/2015 09:11  
**To:** Terry Sheridan - (DECLG)  
**Subject:** Mahon findings

Good morning Terry

Please see the article below. The Tanaiste office may look for a note on this for leaders questions. Could I get a few lines on this in advance please?

Mahon tribunal apologises to former FF minister Ray Burke

<http://www.irishtimes.com/news/politics/mahon-tribunal-apologises-to-former-ff-minister-ray-burke-1.2066176>

regards

Iain

**Brian Thornberry - (DECLG)**

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 15 January 2015 10:04  
**To:** info@planningtribunal.ie  
**Cc:** 'Colm Downey - (DECLG) (Colm.Downey@environ.ie)'  
**Subject:** FW: Memo from Peter Kavanagh re live court cases  
**Attachments:** Memo - PK to Colin O'Hehir re live court cases.docx

Hello again,

We received the attached from Peter Kavanagh around this time last year, giving a few lines on the outstanding court cases.

Could something similar be drawn up to reflect the current position?

Also, in respect of our need for a few lines in respect of today's newspaper article, it would be greatly appreciated if we could have something before 11am.

Thanks, and see you tomorrow,

*Colin O'Hehir*

Colin O'Hehir  
 Planning  
 Department of the Environment, Community & Local Government  
 Ph. 01 8882726  
 Fax. 01 8882692  
 Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** [info@planningtribunal.ie](mailto:info@planningtribunal.ie) [<mailto:info@planningtribunal.ie>]  
**Sent:** 15 January 2014 13:00  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Memo from Peter Kavanagh re live court cases!!!!

Dear Colin

Please see attached memo from Peter Kavanagh in relation to your email of yesterday.

Regards

Amanda Craddock  
 Secretary  
 Tribunal of Inquiry Into Certain Planning Matters & Payments  
 Block M  
 Ship Street Gate  
 Dublin Castle  
 Dublin 2

Tel: 01 6339800

Web: [www.planningtribunal.ie](http://www.planningtribunal.ie)

Email: [info@planningtribunal.ie](mailto:info@planningtribunal.ie)



Dear Colin,

Further to our telephone conversation yesterday, please find listed below the Court Cases extant as of the end of December, 2013.

1. Further to our telephone conversation yesterday, please find listed below the Court Cases extant as of *O'CALLAGHAN, OWEN [ NO 4 ] V TRIBUNAL* (On appeal to Supreme Court , the Tribunal having been successful in High Court.)
2. *REDMOND, GEORGE V TRIBUNAL* (On appeal to Supreme Court in relation to a preliminary issue in relation to which the Tribunal was unsuccessful in High Court.)
3. *BARRY, OLIVER V TRIBUNAL* (On appeal to Supreme Court the Tribunal having its Order as to costs the subject of the Application quashed but remitted back to the Tribunal and the Court having awarded only 50% of the costs to the Applicant.)
4. *RICHARDSON, DES V TRIBUNAL* (On appeal to Supreme Court the Tribunal having won in the High Court.)
5. *CHAWKE, CHARLES V TRIBUNAL* ( In Judicial Review list for hearing on the 25<sup>th</sup> February 2014.)
6. *HAUGHEY, CONOR V TRIBUNAL* (Proceedings instigated but not set down for trial yet.)
7. *HANRAHAN, FINBARR V TRIBUNAL* (Judicial Review proceedings served on Tribunal. In list to get date for hearing.)
8. *FOX, TONY V TRIBUNAL* ( Leave to apply granted and proceedings served on the Tribunal, return date for Motion is the 16<sup>th</sup> January 2014.)
9. *THE TRIBUNAL –V- IRISH TIMES* (Case is now being dealt with by Attorney General, it having been appealed to Europe in relation to an award of costs to the Tribunal.)

If you have any queries regarding the above please contact me,

Regards,

Peter Kavanagh.

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal <info@planningtribunal.ie>  
**Sent:** 15 January 2015 10:16  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** RE: Mahon Findings

Dear Colin

I acknowledge the contents of your email. I will revert to you in relation to same as soon as possible.

Regards

Susan

---

**From:** Colin O'Hehir - (DECLG) [mailto:colin.o'hehir@environ.ie]  
**Sent:** 15 January 2015 09:28  
**To:** info@planningtribunal.ie  
**Subject:** Mahon Findings  
**Importance:** High

Good morning,

We need to provide briefing material for the Tánaiste's Office in relation to today's article in the Irish Times; Can you provide us with a few lines asap?

Thanks,

*Colin O'Hehir*

Colin O'Hehir  
 Planning  
 Department of the Environment, Community & Local Government  
 Ph. 01 8882726  
 Fax. 01 8882692  
 Email: [colin.o'hehir@environ.ie](mailto:colin.o'hehir@environ.ie)

---

**From:** Terry Sheridan - (DECLG)  
**Sent:** 15 January 2015 09:24  
**To:** Colm Downey - (DECLG); Colin O'Hehir - (DECLG)  
**Subject:** FW: Mahon findings  
**Importance:** High

Guys,  
 Can you have a look at this and pull something together asap.  
 Terry.

Sent from my Windows Phone

---

**From:** Press Office - (DECLG)  
**Sent:** 15/01/2015 09:11  
**To:** Terry Sheridan - (DECLG)  
**Subject:** Mahon findings

Good morning Terry

Please see the article below. The Tanaiste office may look for a note on this for leaders questions. Could I get a few lines on this in advance please?

Mahon tribunal apologises to former FF minister Ray Burke

<http://www.irishtimes.com/news/politics/mahon-tribunal-apologises-to-former-ff-minister-ray-burke-1.2066176>

regards

Iain

\*\*\*\*\*

Is faoi rún agus chun úsáide an té nó an aonán atá luaite leis, a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bhainisteoir an chórais.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphoist seo scuabtha le bogearraí frithvórais chun vórais ríomhaire a aimsiú.

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

This footnote also confirms that this email message has been swept by anti-virus software for the presence of computer viruses.

\*\*\*\*\*

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal <info@planningtribunal.ie>  
**Sent:** 15 January 2015 13:00  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Ltr to Colin O'Hehir re Tanaiste query  
**Attachments:** Ltr to Colin O'Hehir re Tanaiste query.659.doc

Colin,

Please find attached reply to query of the Tanaiste this morning.

Regards,

Susan

Dear Colin,

I refer to the query raised by the Tanaiste this morning concerning an article in the Irish Times. I have set out below the response of the Tribunal Members.

I trust this is sufficient but should you have any further queries please do not hesitate to contact me

Kind regards

Susan.

---

In his Second Interim Report dated September, 2002, the then Sole Member of the Tribunal, Mr. Justice Feergus Flood, made certain findings of hindrance and obstruction against a number of parties. Following on from the Supreme Court decision in the case of (Murphy –v- Tribunal) [2010], the said findings of hindrance and obstruction against these parties have been withdrawn. Costs Rulings were made by the Chairman of the Tribunal in 2004 which relied on the said findings of hindrance and obstruction. These rulings have now been vacated. Orders providing for the payment of these costs on a party and party basis have been made by the Tribunal Chairman and are subject to taxation by a Taxing Master of the High Court.

In a recently settled case taken by Mr George Redmond against the Tribunal, the Tribunal agreed to remove findings of corruption against Mr Redmond from its third interim report. This arose in circumstances where the former Sole Member of the Tribunal, having reviewed certain statements of Mr Gogarty, formed the view that certain matters contain therein were not probative to the inquiry and that they should be redacted. During the course of the Murphy case, the Supreme Court indicated that the full unredacted statements should have been provided to the Murphy group in order to allow for a full examination of Mr Gogarty's credibility. As similar findings had been made against Mr Redmond and Mr Bailey in the third interim report, the Members of the Tribunal agreed to the removal of the findings of corruption in that report. The amended Report is now available on the Tribunal's website. The findings of hindrance and obstruction and other adverse findings against Mr. Redmond and Mr. Michael Bailey have been removed from this Report.

The findings of hindrance and obstruction referred to above are findings limited to the Second and Third Interim Report. No such findings were made in the Tribunal's Fifth and Final Report. Accordingly, all costs orders made by the current chairman of the Tribunal relating to the Fifth and Final report are unaffected by the decision in (Murphy –v- Tribunal)

[2010]. In addition, arising out of the decision of O'Callaghan .v. The Tribunal [2005], the tribunal changed its policy regarding the provision of prior statements of witnesses. All parties appearing before the Tribunal, concerning matters reported on in the Fifth and Final report were provided with all statements of witnesses giving evidence concerning them and were afforded a full opportunity to cross examine that witness as to their credibility as a witness.

in relation to the issue of outstanding third party costs attention should be drawn to a recent statement by the Tribunal on its website which is as follows:-

**"RECENT MEDIA REPORTS RELATING TO THE TRIBUNAL'S COSTS**

*Some recent media reports have speculated that the Tribunal's estimate of its total costs (€159m) incurred between its establishment and the completion of its work which figure is inclusive of its estimate of total outstanding Third Party costs of € 48.5 million ( both as of May 2014 ), are no longer accurate as a consequence of the outcome of the legal challenge taken by Mr. George Redmond to the 2002 Report of the Tribunal's then Sole Member, Mr. Justice Flood, and the associated costs decisions arising therefrom. Such speculation is incorrect.*

*The Tribunal's estimate of outstanding Third Party costs in the amount of € 48.5 million was provided to the Department of the Environment in May 2014. This estimate was based on the assumption that all third parties (including Mr. Redmond) received their full costs, following (where appropriate) an adjudication of those costs by the Taxing Master of the High Court. The recent Redmond case decision does not alter this estimate of € 48.5 million nor the estimate of € 159 million in relation to the total cost of the Tribunal since its inception.*

*The Tribunal's estimates are based on actual costs paid, or likely to be paid, and not amounts claimed for costs. It has been the experience of the Tribunal that in very many cases, third party claims for costs have been grossly exaggerated and bear little relevance to the costs actually paid or likely to be paid following negotiation and / or the Taxation process."*

**Brian Thornberry - (DECLG)**

---

**From:** Colin O'Hehir - (DECLG)  
**Sent:** 15 January 2015 14:29  
**To:** 'Planning Tribunal'  
**Subject:** RE: Ltr to Colin O'Hehir re Tanaiste query

Thanks a million for the detailed response. We will see you tomorrow at 10.30.

Regards

Colin

---

**From:** Planning Tribunal [<mailto:info@planningtribunal.ie>]  
**Sent:** 15 January 2015 13:00  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** Ltr to Colin O'Hehir re Tanaiste query

Colin,

Please find attached reply to query of the Tanaiste this morning.

Regards,

Susan

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal <info@planningtribunal.ie>  
**Sent:** 26 January 2015 18:43  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** STATEMENT OF PLANNING TRIBUNAL  
**Attachments:** STATEMENT OF PLANNING TRIBUNAL MEMBERS.docx

Hi Colin,

Sorry I omitted to attached copy

Here it is now

Regards,

Susan



The Tribunal is concerned that some recent media reports have provided information relating to the Tribunal which is inaccurate or incomplete. The purpose of this information statement is to ensure that correct information is made available.

Statement of the Planning Tribunal:

1. The Tribunal was established in late 1997, and commenced public hearings in 1998. Mr. Justice Feergus Flood was appointed Sole Member of the Tribunal in 1997 and remained as such until September 2002, whereupon the Tribunal was reconstituted to incorporate three Members. Mr. Justice Flood was the Chairperson of the reconstituted Tribunal until his retirement in June 2003, whereupon Mr. Justice Alan Mahon was appointed Chairperson. Judges Mahon, Faherty and Keys comprised the membership of the tribunal from 2003 onwards.
2. Mr. Justice Flood, as Sole Member of the Tribunal, completed public hearings into a number of modules of inquiry in late 2001. He published his Report in September 2002, known as the 2<sup>nd</sup> Interim Report (a section of that Report was withheld from publication at the time because of pending criminal proceedings against Mr. George Redmond, and was released in 2003, as the 3<sup>rd</sup> Interim Report).
3. Between 1997 and 2002 Mr. Justice Flood conducted his investigations in accordance with procedures and practices which he believed and understood were fair, appropriate and in compliance with legislation and relevant decisions of the Superior Courts, and did so with the benefit of legal advice, both internal and external. One such practice involved the redacting of some information in witness' statements. This was done in an effort to confine lines of inquiry to those relevant to the Tribunal's Terms of Reference and in the interests of the efficient investigation

of lengthy and complex investigations, and to avoid revealing the identities of individuals who were not immediately involved in the Tribunal's inquiries.

4. New modules of inquiry commenced in late 2002, and continued until late 2008. The current Chairperson and Members of the Tribunal presided during this period (as did Mr. Justice Flood until his retirement in mid 2003).
5. The same practice of redacting what was believed to be irrelevant material was continued post 2002, until 2005 so that portions of statements and records of telephone conversations by the late Mr. Tom Gilmartin were redacted in the same way as statements of the late Mr. Gogarty had been earlier. This practice was legally challenged by Mr. Owen O'Callaghan, and in a decision of the Supreme Court in March 2005, the Tribunal was directed to release Mr. Gilmartin's statements in their entirety (with some minor redactions permitted by the High Court in July 2005) to Mr. O'Callaghan on the basis that Mr. O'Callaghan, as an individual who was facing allegations of wrongdoing by Mr. Gilmartin, should be entitled to use their content to test Mr. Gilmartin's credibility.
6. Having regard to that decision of the Supreme Court, the Tribunal, over a number of months, took steps to ensure that Mr. O'Callaghan and all other witnesses henceforth received full and un-redacted copies of witness' statements. Essentially the only statements captured by the Supreme Court decision in the then current module of inquiry were those of Mr. Gilmartin. The tribunal however adopted the principle of that decision and altered its procedures in relation to its inquiries from 2002 onwards. All affected parties were provided with the opportunity to recall or re-examine Mr. Gilmartin if they so wished in order to question him in relation to previously redacted portions of his statements.
7. The current Tribunal did not at that time (i.e. late 2005) consider Mr. Gogarty's statements or revisit the modules of inquiry which had been conducted by

Mr. Justice Flood prior to his 2<sup>nd</sup> and 3<sup>rd</sup> Interim Report, as it did not believe that it was required to do so, nor was it legally entitled to reopen modules of inquiry which had been conducted solely by Mr Justice Flood in the years prior to the appointment of the current Tribunal. Had the current Members of the Tribunal decided to reopen modules of inquiry in which they had had no role there would have not been an opportunity for affected parties to re-examine Mr. Gogarty, as Mr. Gogarty was by then seriously ill and died in October 2005. The Tribunal proceeded to act upon the decision of the Supreme Court, only in relation to its then current inquiries.

8. In the case of *Murphy –v- Flood* [2010] the Supreme Court quashed the non-cooperation findings of hindrance and obstruction made by Mr. Justice Flood in his 2<sup>nd</sup> Interim Report against the Murphy interests, and quashed the subsequent 2004 costs orders refusing them their costs, which had been made arising from the hindrance and obstruction findings. The Tribunal has now applied the benefit of that decision to a number of parties including Mr. George Redmond, Mr. Ray Burke, Mr Oliver Barry, Mr James Stafford, Mr Thomas Brennan, Mr Joseph McGowan, Mr John Finnegan, and the Bailey Interests. Those parties are now deemed entitled to costs which had previously been refused, and which they would have been entitled to in the absence of such hindrance and obstruction findings.
9. The Tribunal has also moved to withdraw adverse findings, based on the evidence of Mr. Gogarty, made by Mr. Justice Flood in his 2<sup>nd</sup> and 3<sup>rd</sup> Interim Reports against a number of parties including Mr Ray Burke, Mr George Redmond, the JMSE Interests and the Bailey Interests. In relation to the Century Module and the Brennan and McGowan Module, adverse findings against Mr Ray Burke, Mr Oliver Barry, Mr James Stafford, Mr John Mulhern, Mr Thomas Brennan, Mr Joseph McGowan and Mr Jack Foley remain in place and have not been withdrawn. It is not the case that Mr. Justice Flood's 2<sup>nd</sup> and 3<sup>rd</sup> Interim Reports have been withdrawn in their entirety.

10. The current Tribunal Members published their Final Report and Recommendations in late March 2012 following 589 days of public hearings conducted by them since October 2002, and including the evidence of 427 witnesses. Nothing in that report is affected by the O'Callaghan or Murphy decisions and none of its adverse findings have been withdrawn or altered as a consequence of those decisions. One party, Mr. Owen O'Callaghan, has legally challenged certain adverse findings made against him. That challenge failed in the High Court, and has been appealed by Mr. O'Callaghan to the Court of Appeal.

11. Arising from the Tribunal's Final Report, some 305 costs orders have been made to date. 4 await completion. Of the orders made approximately 24 are orders for reduced costs on foot of findings of non-cooperation made as part of a separate process subsequent to the publication of the Final Report. Of this number, one individual has successfully legally challenged his award of reduced costs and another has unsuccessfully legally challenged his award of reduced costs. Furthermore no party referred to in the Final Report has been refused his or her entire costs, and the vast majority of parties have been awarded their full costs.

12. The total cost of the Tribunal has been estimated (in 2014) by the Tribunal at €159m. This figure was calculated on the basis that all parties received all their costs, as did previous estimates provided by the Tribunal. The recent revision of costs orders will not therefore increase this estimate.

**Brian Thornberry - (DECLG)**

---

**From:** Planning Tribunal <info@planningtribunal.ie>  
**Sent:** 26 January 2015 19:17  
**To:** Colin O'Hehir - (DECLG)  
**Subject:** STATEMENT OF TRIBUNAL MEMBERS  
**Attachments:** STATEMENT OF PLANNING TRIBUNAL MEMBERS.docx

Hi Colin,

I attach for your attention a statement of the Tribunal members posted on our website today

If you have any questions arising therefrom please contact me on [REDACTED]

Regards,

Susan

The Tribunal is concerned that some recent media reports have provided information relating to the Tribunal which is inaccurate or incomplete. The purpose of this information statement is to ensure that correct information is made available.

Statement of the Planning Tribunal:

1. The Tribunal was established in late 1997, and commenced public hearings in 1998. Mr. Justice Feargus Flood was appointed Sole Member of the Tribunal in 1997 and remained as such until September 2002, whereupon the Tribunal was reconstituted to incorporate three Members. Mr. Justice Flood was the Chairperson of the reconstituted Tribunal until his retirement in June 2003, whereupon Mr. Justice Alan Mahon was appointed Chairperson. Judges Mahon, Faherty and Keys comprised the membership of the tribunal from 2003 onwards.
2. Mr. Justice Flood, as Sole Member of the Tribunal, completed public hearings into a number of modules of inquiry in late 2001. He published his Report in September 2002, known as the 2<sup>nd</sup> Interim Report (a section of that Report was withheld from publication at the time because of pending criminal proceedings against Mr. George Redmond, and was released in 2003, as the 3<sup>rd</sup> Interim Report).
3. Between 1997 and 2002 Mr. Justice Flood conducted his investigations in accordance with procedures and practices which he believed and understood were fair, appropriate and in compliance with legislation and relevant decisions of the Superior Courts, and did so with the benefit of legal advice, both internal and external. One such practice involved the redacting of some information in witness' statements. This was done in an effort to confine lines of inquiry to those relevant to the Tribunal's Terms of Reference and in the interests of the efficient investigation

of lengthy and complex investigations, and to avoid revealing the identities of individuals who were not immediately involved in the Tribunal's inquiries.

4. New modules of inquiry commenced in late 2002, and continued until late 2008. The current Chairperson and Members of the Tribunal presided during this period (as did Mr. Justice Flood until his retirement in mid 2003).
5. The same practice of redacting what was believed to be irrelevant material was continued post 2002, until 2005 so that portions of statements and records of telephone conversations by the late Mr. Tom Gilmartin were redacted in the same way as statements of the late Mr. Gogarty had been earlier. This practice was legally challenged by Mr. Owen O'Callaghan, and in a decision of the Supreme Court in March 2005, the Tribunal was directed to release Mr. Gilmartin's statements in their entirety (with some minor redactions permitted by the High Court in July 2005) to Mr. O'Callaghan on the basis that Mr. O'Callaghan, as an individual who was facing allegations of wrongdoing by Mr. Gilmartin, should be entitled to use their content to test Mr. Gilmartin's credibility.
6. Having regard to that decision of the Supreme Court, the Tribunal, over a number of months, took steps to ensure that Mr. O'Callaghan and all other witnesses henceforth received full and un-redacted copies of witness' statements. Essentially the only statements captured by the Supreme Court decision in the then current module of inquiry were those of Mr. Gilmartin. The Tribunal however adopted the principle of that decision and altered its procedures in relation to its inquiries from 2002 onwards. All affected parties were provided with the opportunity to recall or re-examine Mr. Gilmartin if they so wished in order to question him in relation to previously redacted portions of his statements.
7. The current Tribunal did not at that time (i.e. late 2005) consider Mr. Gogarty's statements or revisit the modules of inquiry which had been conducted by

Mr. Justice Flood prior to his 2<sup>nd</sup> and 3<sup>rd</sup> Interim Report, as it did not believe that it was required to do so, nor was it legally entitled to reopen modules of inquiry which had been conducted solely by Mr Justice Flood in the years prior to the appointment of the current Tribunal. Had the current Members of the Tribunal decided to reopen modules of inquiry in which they had had no role there would have not been an opportunity for affected parties to re-examine Mr. Gogarty, as Mr. Gogarty was by then seriously ill and died in October 2005. The Tribunal proceeded to act upon the decision of the Supreme Court, only in relation to its then current inquiries.

8. In the case of *Murphy –v- Flood* [2010] the Supreme Court quashed the non-cooperation findings of hindrance and obstruction made by Mr. Justice Flood in his 2<sup>nd</sup> Interim Report against the Murphy interests, and quashed the subsequent 2004 costs orders refusing them their costs, which had been made arising from the hindrance and obstruction findings. The Tribunal has now applied the benefit of that decision to a number of parties including Mr. George Redmond, Mr. Ray Burke, Mr Oliver Barry, Mr James Stafford, Mr Thomas Brennan, Mr Joseph McGowan, Mr John Finnegan, and the Bailey Interests. Those parties are now deemed entitled to costs which had previously been refused, and which they would have been entitled to in the absence of such hindrance and obstruction findings.
9. The Tribunal has also moved to withdraw adverse findings, based on the evidence of Mr. Gogarty, made by Mr. Justice Flood in his 2<sup>nd</sup> and 3<sup>rd</sup> Interim Reports against a number of parties including Mr Ray Burke, Mr George Redmond, the JMSE Interests and the Bailey Interests. In relation to the Century Module and the Brennan and McGowan Module, adverse findings against Mr Ray Burke, Mr Oliver Barry, Mr James Stafford, Mr John Mulhern, Mr Thomas Brennan, Mr Joseph McGowan and Mr Jack Foley remain in place and have not been withdrawn. It is not the case that Mr. Justice Flood's 2<sup>nd</sup> and 3<sup>rd</sup> Interim Reports have been withdrawn in their entirety.



10. The current Tribunal Members published their Final Report and Recommendations in late March 2012 following 589 days of public hearings conducted by them since October 2002, and including the evidence of 427 witnesses. Nothing in that report is affected by the O'Callaghan or Murphy decisions and none of its adverse findings have been withdrawn or altered as a consequence of those decisions. One party, Mr. Owen O'Callaghan, has legally challenged certain adverse findings made against him. That challenge failed in the High Court, and has been appealed by Mr. O'Callaghan to the Court of Appeal.

11. Arising from the Tribunal's Final Report, some 305 costs orders have been made to date. 4 await completion. Of the orders made approximately 24 are orders for reduced costs on foot of findings of non-cooperation made as part of a separate process subsequent to the publication of the Final Report. Of this number, one individual has successfully legally challenged his award of reduced costs and another has unsuccessfully legally challenged his award of reduced costs. Furthermore no party referred to in the Final Report has been refused his or her entire costs, and the vast majority of parties have been awarded their full costs.

12. The total cost of the Tribunal has been estimated (in 2014) by the Tribunal at €159m. This figure was calculated on the basis that all parties received all their costs, as did previous estimates provided by the Tribunal. The recent revision of costs orders will not therefore increase this estimate.