



The objective of this Memorandum of Understanding is to set out areas of mutual responsibility and shared interest between the Environmental Protection Agency and the Climate Change Advisory Council, particularly in relation to both organisations' responsibilities under the Climate Action and Low Carbon Development Act 2015, as amended.

Signed:

Laura Burke
on behalf of
Environmental Protection Agency

Date: 9 August 2021

Signed:

Marie Donnelly
on behalf of
Climate Change Advisory Council

Date: 9 August 2021

1. Introduction

This Memorandum of Understanding (MoU) between the Environmental Protection Agency ('the EPA') and the Climate Change Advisory Council ('the Advisory Council') provides a framework for arrangements in respect of the operation of the Advisory Council under the Climate Action and Low Carbon Development Act 2015, as amended ('the Climate Act') and the fulfilment of the responsibilities of each organisation under that legislation.

Functions of the EPA and Climate Change Advisory Council

Environmental Protection Agency

The EPA is an independent public body established under the Environmental Protection Agency Act 1992. The EPA has responsibilities for a wide range of licensing, enforcement, monitoring and assessment activities associated with environmental protection and protection of people from the harmful effects of ionising radiation, both natural and man-made.

The EPA's mission is "to protect and improve the environment as a valuable asset for the people of Ireland, to protect our people and the environment from harmful effects of radiation and pollution".

Under Section 9 (18) of the Climate Act, the EPA is to:

- (a) provide the Advisory Council with such services of a secretarial and administrative nature as is appropriate for the performance by the Advisory Council of its functions, and
- (b) permit the Advisory Council to avail of the use of its premises, or such part of its premises as, following consultation between the Advisory Council and the Agency, is considered appropriate, for the purposes of the performance by the Advisory Council of its functions.

Section 12 (3) provides that the Advisory Council shall publish its annual report by such means as the Agency may advise.

The Director General of the EPA is an ex officio member of the Advisory Council.

Climate Change Advisory Council

The Climate Change Advisory Council was established under the Climate Action and Low Carbon Development Act 2015. The Climate Act outlines the Council membership, functions and obligations including:

- Providing an Annual Review and Report by 15 September in each year of the progress made during the immediately preceding year in line with the Climate Act
- Providing a Periodic Review and Report in line with the Climate Act
- Proposing carbon budget programmes in line with the Climate Act

Other functions of the Advisory Council include advising and making recommendations to the Minister and Government in relation to:

- the preparation and approval of a climate action plan
- the preparation and approval of a national long term climate action strategy
- the preparation and approval of a national adaptation framework

- the finalisation and revision of a carbon budget
- compliance with any existing obligation of the State under the law of the European Union or any relevant international agreement
- sector specific actions which are to be included in the climate action plan
- the making and approval of sectoral adaptation plans
- policies in regards to:
 - the reduction of greenhouse gas emissions, and
 - adaptation to the effects of climate change in the State.

Under Section 9 (16A) the Advisory Council shall establish an Adaptation Committee to assist and advise it in relation to the performance of any or all of its functions in relation to adaptation.

The Advisory Council shall be independent in the performance of its functions.

2. Purpose of Memorandum of Understanding

The Climate Act requires that the EPA support the independent functioning of the Advisory Council through the provision of appropriate secretarial and administrative services. This is provided through the Advisory Council Secretariat (described further in Section 4.4 below).

The EPA and the Advisory Council carry out separate and distinct statutory functions, nonetheless under the Climate Act they operate under one Vote and one Accountable Officer while simultaneously protecting and preserving the statutory independence and functions of both. The primary aims of this Memorandum of Understanding are to:

- i. Set out the administrative arrangements and relationships between the EPA and the Advisory Council.
- ii. Outline how the EPA supports the Advisory Council in line with the requirements of the Climate Act and clarify how the Advisory Council requests such supports.
- iii. Outline how relevant issues are dealt with through the appropriate organisational frameworks and structures.
- iv. Promote continued scientific/technical cooperation and information exchange in areas of shared interest.
- v. Promote best practice, the effective and appropriate use of resources and good corporate governance standards while avoiding duplication of effort and conflicting requirements so as to enhance the actions of both.

This MoU does not override the statutory duties or powers of either organisation. It is an indication of agreement rather than a legal commitment.

3. Practical Measures and Operational Liaison

The EPA and Advisory Council shall establish an Operational Liaison Group as a formal, high level mechanism for cooperation and communication between both organisations. Meetings of this group to discuss the implementation of the MoU and other issues as appropriate (including those outlined below) will be held as considered necessary but not less frequently than twice a year. Meetings at other times may also be held at the request of either organisation.

The Operational Liaison Group shall comprise the Chairperson of the Advisory Council, the Director General and relevant Programme Manager of the EPA and the Secretariat Manager. Others may attend meetings of the Operational Liaison Group as required.

The Operational Liaison Group shall report on an annual basis for submission to the Board of the EPA and the Advisory Council outlining the effectiveness of the implementation of the MoU and setting out recommendations for its development if relevant.

This Operational Liaison Group will also deal with disputes, complaints or concerns (e.g. with regards to budget, human resources, the Secretariat etc.) that cannot be adequately resolved through other established mechanisms.

4. Specific Arrangements

4.1 Budget and Human Resources

4.1.1 Budget

The Advisory Council will identify itemised budget and resource requirements associated with its annual work programme.

The Advisory Council has its own operational budget head within the overall EPA budget.

The Advisory Council will advise the EPA of its budget needs for the delivery of its strategy and annual work programme in line with the EPA budget cycle. The EPA will incorporate this into its annual estimates and budgetary reporting and finalisation cycle.

The Secretariat will work with the EPA in terms of budget requesting, reporting, expenditure, control and risk management and will adhere to EPA budgetary management guidelines in doing so.

Should the Advisory Council identify additional budget requirements outside of the normal budgetary framework, it will inform the EPA who will then request additional budget from the Department of the Environment, Climate and Communications on the Advisory Council's behalf.

The Advisory Council will agree a contribution from its budgetary allocation to the EPA budget to cover overhead expenses including but not limited to costs for accommodation, utilities, support and back-office staff, training, etc. in line with the Public Spending Code.

4.1.2 Human Resources

It is noted that the Advisory Council's Secretariat operate under the EPA's terms and conditions of employment.

The Advisory Council will identify the human resource needs for the delivery of its strategy and annual work programme and advise the EPA of its needs in line with the EPA work force planning cycle. The Advisory Council will provide the EPA with the specifications of these post(s). The EPA will incorporate these into its annual work force plan for submission to the Department of the Environment, Climate and Communications on behalf of the Advisory Council. As it pertains specifically to the resources of the Advisory Council Secretariat, the Advisory Council will engage directly with the Department of the Environment, Climate and Communications on the request.

In the event that the Advisory Council identifies a requirement for additional human resources outside of the EPA work force planning cycle, the Advisory Council will engage directly with the Department of the Environment, Climate and Communications on the matter in the first instance. The Advisory Council will advise the EPA of the specifications of the post(s). The EPA will submit a request for these resources to the Department of the Environment, Climate and Communications on behalf of the Advisory Council.

Where applicable, secondments from other organisations to the Secretariat will be identified by the Advisory Council and will be managed in line with EPA policies and procedures.

The Advisory Council may request the EPA permit Secretariat members to undertake other projects and activities, e.g. secondments to other organisations, subject to EPA terms and conditions of employment.

4.2 Corporate Governance

The EPA will provide advice to the Secretariat on behalf of the Advisory Council regarding compliance with relevant corporate governance, legal and regulatory requirements and best practice (including with regards to data protection and protected disclosures). More detailed operational and procedural guidance will be prepared in this regard as required. Where appropriate, the Advisory Council may adopt EPA processes and procedures to avoid duplication.

It is noted that the Advisory Council has in place operational guidance which outlines practices and procedures that will support the operation of the Advisory Council and the Secretariat in its support role for the independent functioning of the Advisory Council and compliance with the requirements of the Climate Act. The EPA will provide advice, as requested, on these corporate governance practices and procedures and any revision of this operational guidance.

The Secretariat, on behalf of the Advisory Council, will record disclosures of interest in line with the requirements of the Climate Act.

4.3 Administration

More detailed operational procedures may be developed by the Advisory Council Secretariat in conjunction with the EPA. Where appropriate, the Advisory Council may adopt EPA processes and procedures to avoid duplication.

4.4 Secretariat

The expert and administrative staff (the Secretariat) provided by the EPA to support the functions of the Advisory Council are employed by the EPA, and therefore fall under the EPA governance, management and administrative structures. The Secretariat must also support and conform to practices and procedures of the Advisory Council to ensure the Advisory Council's independence. These will be no less stringent than those contained in EPA terms and conditions, governance, management and administrative structures.

The EPA is responsible for the performance management, professional development and welfare of the Secretariat as EPA staff and this will be done in line with EPA policies and requirements. Professional development needs will be identified and agreed through the annual Performance Management and Development System (PMDS) process but is to take account of the Advisory Council work programme and key deliverables. Secretariat professional development needs identified by the Advisory Council will also be considered through the Secretariat Manager.

Secretariat workload is agreed between Secretariat management and the Advisory Council taking account of practicalities, resources and prioritisation etc.

4.4.1 Recruitment

The EPA will manage the recruitment process for any Secretariat staff.

The Advisory Council will input into the job descriptions prepared for any Secretariat staff, including regarding necessary qualifications, competencies etc.

The Chairperson of the Advisory Council, or their nominee, will be invited to participate in the interview process.

4.5 Procurement

The EPA will provide necessary support and advice to the Advisory Council and Secretariat to procure goods, services, research and consultancy as per decisions of the Advisory Council. All procurement is subject to regulatory, good practice and governance requirements.

The Advisory Council via the Secretariat will notify the EPA regarding procurement of goods, services or research according to relevant EPA procurement and budgetary approval thresholds and associated processes. Such notification must include sign off by the Chairperson of the Advisory Council where relevant.

Research procured on behalf of the Council by the EPA will follow EPA research procedures.

The EPA will make relevant EPA service agreements or framework agreements available to the Advisory Council as appropriate and subject to funding limits.

More detailed operational and procedural guidance regarding procurement will be prepared as required. This will seek to avoid duplicating EPA procedures in place. This guidance will be agreed by the Operational Liaison Group.

4.6 Premises

The EPA will permit the Advisory Council to avail of the use of its premises, or such part of its premises as, following consultation between the Advisory Council and the EPA, is considered appropriate, for the purposes of the performance by the Advisory Council of its functions.

The Advisory Council will identify minimum requirements for its functioning, including office space, hosting, security, accommodation of contractors etc. through the Operational Liaison Group.

4.7 Freedom of Information and Access to Information on the Environment

The Memorandum of Understanding between the EPA and Advisory Council dated 6 October 2016 outlining the Freedom of Information and Access to Information on the Environment responsibilities between the EPA and the Advisory Council is now incorporated into this MoU as Appendix 1.

4.8 Publications

The Advisory Council will inform the EPA of its publication schedule and the EPA will inform the Advisory Council of its schedule of relevant publications. The Advisory Council may also request the Agency's advice on the publication of the Annual Review in line with Section 12 (3) of the Climate Act.

4.9 Data and Knowledge

This MoU provides a framework for ongoing mutual cooperation and assistance between the EPA and Advisory Council in areas of common interest such as the below:

- Continued cooperation regarding climate research.
- Participation of the Secretariat in the National Environmental Research Coordination Group.
- It is recognised that there may be mutual benefits for Secretariat members to be involved in EPA research project steering committees and in special cases with the agreement of the Advisory Council, Secretariat staff may champion projects.
- Requesting advice on climate change science and issues (e.g. under EPA Climate Cross Office Team, bilateral discussions).

- EPA may put a request to the Advisory Council for a time commitment from a member(s) of the Secretariat for EPA projects and activities.
- Inventories and Projections
 - Access to data and analysis tools (as appropriate).
 - Scenario analysis (noting that further cross-Governmental data sharing arrangements may also be in place).
- Meeting requests for support regarding climate science and policy related European and International developments and obligations as agreed with the Advisory Council.

5. Operative Date and Review

The term of this Memorandum is five years from the date of signing and may be reviewed by agreement of both parties from time to time during the term in order to ensure the greatest efficacy of its implementation. The memorandum shall in any event be reviewed on an annual basis by the Operational Liaison Group and the board of the EPA and the Advisory Council as outlined in Section 3.

Both EPA and the Advisory Council will publish a copy of this MoU on their respective websites.

APPENDIX 1 FREEDOM OF INFORMATION AND ACCESS TO INFORMATION ON THE ENVIRONMENT REQUESTS

1. Introduction

This Memorandum of Understanding (MOU) between the Environmental Protection Agency (EPA) and the Climate Change Advisory Council provides a framework for how the EPA and the Climate Change Advisory Council (the Council) will manage Freedom of Information (FOI) and Access to Information on the Environment (AIE) requests.

The Environmental Protection Agency

The EPA is an independent public body established under the Environmental Protection Agency Act, 1992. The Environmental Protection Agency (EPA) has responsibilities for a wide range of licensing, enforcement, monitoring and assessment activities associated with environmental protection and radiological protection. Primary responsibilities of the EPA include:

- Environmental licensing
- Enforcement of environmental law
- Environmental planning, education and guidance
- Monitoring, analysing and reporting on the environment
- Regulating Ireland's greenhouse gas emissions
- Environmental research development
- Strategic environmental assessment
- Waste management
- Radiological Protection

The EPA is subject to the Freedom of Information Act 2014 and European Communities (Access to Information on the Environment) Regulations 2007 as amended.

The Climate Change Advisory Council

The Climate Change Advisory Council was established under the Climate Action and Low Carbon Development Act 2015. The Act outlines the Council membership, functions and obligations including the provision of:

- Annual Review and Report
- Periodic Review and Report

The functions of the Advisory Council shall be to advise and make recommendations to the Minister and Government in relation to:

- the preparation and approval of a national mitigation plan
- the preparation and approval of a national adaptation framework
- compliance with any existing obligation of the State under the law of the European Union or any international agreement referred to in section 2
- sectoral mitigation measures and plans
- policies in regards to:
 - the reduction of greenhouse gas emissions, and
 - adaptation to the effects of climate change in the State.

The Advisory Council shall be independent in the performance of its functions.

The Climate Change Advisory Council is subject to the Freedom of Information Act 2014 and European Communities (Access to Information on the Environment) Regulations 2007, as amended.

Relationship

The Climate Action and Low Carbon Development Act 2015 requires that the EPA support the independent functioning of the Council through the provision of appropriate secretarial and administrative services. In response to this, and in consultation with the DECLG and the Council, the EPA has provided expert and administrative staff to support the function of the Council. These are employed by the EPA, and therefore fall under the EPA governance, management and

administrative structures but must also support and conform to the practices and procedures of the Council where necessary to ensure its independence. Appropriate procedures must be established to ensure the integrity of the information and the most efficient practices to be established to ensure that FOI/AIE queries can be dealt with in a timely manner.

2. Objective of the Memorandum of Understanding

The purpose of this memorandum is to outline roles and responsibilities when addressing matters relating to the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007, as amended to ensure both bodies can meet their obligations prescribed under the relevant pieces of legislation consistently and efficiently. While this document aims to address the majority of situations and processes, circumstances may arise that fall outside of this memorandum and will have to be approached on an individual basis with both bodies involved in the resolution of the query or issue.

3. Structures and Processes

The EPA has robust structures and procedures in place to ensure the orderly processing of requests made under FOI and AIE.

The Council is responsible for maintaining their own FOI and AIE procedures and structures. The Council's FOI structure is:

- FOI Administration Support - Secretariat
- FOI Officer/Data Protection Officer – Ordinary Council Member
- FOI Decision Maker – Ordinary Council Member
- FOI Internal Reviewer – Chair of the Council

4. Processing Requests

When either party receives a request, the EPA and the Council will follow the recommended procedures outlined in the *Freedom of Information Decision Makers Manual*¹ or the *Guidance for Public Authorities and others on implementation of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011*² and adhere to the *Freedom of Information Act 2014* and the *European Communities (Access to Information on the Environment) Regulations 2007 as amended*. Guidance on how to process the request can be sought from either party, and every effort between the two parties to coordinate and assist the other will be made.

5. FOI/AIE Training

It is the responsibility of the Climate Change Advisory Council Secretariat to arrange necessary training for the FOI Administration Support, the FOI Officer/Data Protection Officer, FOI Decision Maker and the FOI Internal Reviewer.

6. Records Management

Records belonging to the Climate Change Advisory Council are held by the Secretariat and should also be treated as independent of the EPA. Records are currently stored in a restricted location hosted by the EPA, with only the Council Secretariat and relevant IT Administrators having access to these records.

The Climate Change Advisory Council is responsible for maintaining and updating the records contained on this server. Should the EPA request operational information from the Secretariat, the Secretariat will oblige so long as the independence of the Council is not compromised.

7. Resolving FOI/AIE conflicts

¹ Freedom of Information Decision Makers Manual Part 1: Processing an FOI Request, FOI Central Policy Unit, Department of Public Expenditure and Reform.

² Guidance for Public Authorities and others on implementation of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011, Minister for the Environment, Community and Local Government under Article 14 of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011.

Should an issue arise between the EPA and the Climate Change Advisory Council in how to respond to a request or in the provision of operation information, the FOI Officers from each party will communicate to try and resolve the issue in the first instance. If agreement cannot be reached, the issue will be escalated to the next appropriate level within each party, who should then agree on any steps that are necessary to resolve such a conflict. Ultimate responsibility will remain with the party that has received the request.

8. Publication Scheme

Section 8 of the Freedom of Information Act 2014 requires FOI bodies to prepare and publish as much information as possible in an open and accessible manner on a routine basis outside of FOI, having regard to the principles of openness, transparency and accountability as set out in Sections 8(5) and 11(3) of the Act. The EPA and the Climate Change Advisory Council will each publish a publication scheme pursuant to its own activities.

9. FOI/AIE Statistics

Should statistics from the Climate Change Advisory Council in relation to FOI or AIE queries be requested, the Council will oblige and provide the data necessary.

10. Engagement with the Office of the Information Commissioner

The Council will liaise directly with the Office of the Information Commissioner when required.

11. Memorandum of Understanding Review

The EPA and the Climate Change Advisory Council will review this memorandum annually to ensure it remains operationally effective. Recommendations ahead of the review will be submitted for consideration and will be decided by the respective signatories. Should an urgent revision of this memorandum be required, the signatories to this memorandum may meet to discuss the revision outside of this yearly review pattern.