



**Oifig an
Rialaitheora Pleanála**
Office of the
Planning Regulator

Implementation of Recommendations arising from the Office of the Planning Regulator's Review of Certain Systems and Procedures used by An Bord Pleanála

Progress Update January 2024



1. Introduction

An Bord Pleanála has a critical role in the effective operation of the Irish planning system. As Ireland's national planning appeals body, it is an integral part of the overall planning process and its decisions have significant societal, economic and environmental consequences.

In 2022, the OPR conducted a review of certain systems and procedures used by An Bord Pleanála. The review was instigated by the OPR under section 31AS of the Planning and Development Act 2000, as amended, in response to public concern in relation to the robustness and effectiveness of decision-making practices, the organisation of work, and governance arrangements. The emphasis of the review was to identify measures aimed at restoring public confidence in An Bord Pleanála as the independent arbiter of planning and sustainable development matters and its capacity to deliver timely, robust, independent decision-making.

The review, carried out in two phases, examined the robustness and effectiveness of decision-making practices and the organisation of work and governance arrangements, including in relation to planning case-file handling. The [first phase report](#) (published in October 2022) made 11 recommendations for implementation by An Bord Pleanála and the Minister. The [second phase report](#) (December 2022) made 23 recommendations. The 34 wide-ranging recommendations covered various aspects of the work of An Bord Pleanála, including in relation to its organisational structure, approach to governance, decision-making, internal communications and stakeholder engagement.

Since the publication of the review reports, the OPR has been engaging closely with An Bord Pleanála to ensure the implementation of the recommendations. This report provides an update on some of the key developments, one year on from the publication of the OPR review.

2. Organisational structure and governance

Appointment of board members

A fundamental review recommendation concerned the urgency of ensuring a sufficient number of board members to effectively deliver An Bord Pleanála's decision-making function. Five out of the ten board member positions were filled at the time the review was being conducted, with a further three of these due to expire in the short-term, furthermore the organisation was without a chairperson (though an interim chair had been identified) and a deputy chairperson.

Capacity at board level was therefore having a detrimental effect on An Bord Pleanála's ability to deliver on its primary function to process planning appeals, with a significant impact on the wider planning and development system. On-hand caseload climbed to some 3,600 – a figure roughly equating to what has been traditionally processed over a twelve-month period.

Since the review process concluded, arrangements have been put in place for the expansion of the complement of board members to 15. Over the past year, this expanded board has been making significant inroads in relation to the on-hand caseload which it is understood now represents approximately 2,400 files, with An Bord Pleanála anticipating that the figure will be reducing to standard operating levels by mid-2024.

While temporary appointments were necessary to restore An Bord Pleanála's decision-making capacity quickly, a critical next step in ensuring that functions are delivered in a sustainable manner is to recruit full-term board members. A more proactive system of forward filling vacancies is vital to ensure that, as board members vacate their positions, replacements are ready to take up duty in a seamless manner.

A full-term chairperson was appointed in January 2024. The legislation to allow recruitment through the Public Appointments Service is now in place and the OPR understands that it will be possible to appoint full-term board members via this channel from early in Q2 2024.

Staffing

Significant progress has also been made in relation to staff recruitment. While recruitment is ongoing, over 100 new posts have been sanctioned by the Department of Housing, Local Government & Heritage since the report on the first phase of the review was published in October 2022. With approximately 250 staff, including 15 board members, now in place, the organisation is significantly better resourced than at any point previously. The overall complement of staff is expected to exceed 300 during 2024.

Governance

The OPR's review identified a need for urgent reform in relation to the strengthening of An Bord Pleanála's day-to-day management structures, including a robust structure for ethics and compliance oversight to monitor conflicts arising in the decision-making function as well as appropriate legal services supports.

Significant progress has been made in this regard. A new Code of Conduct informed by a range of guiding principles set out in the OPR review, was put in place in September 2023. The new Code of Conduct sets standards for staff and board members and provides guidance on potential conflicts of interest, record keeping at board meetings and internal and external communications. A dedicated ethics officer has also been appointed. Taken together, these measures will enhance An Bord Pleanála's overall ethics regime.

An Bord Pleanála has also recruited key staff to provide support and legal advice to its board members and staff in their respective decision-making roles. The OPR will continue to monitor developments to ensure that the provision of legal supports is adequate to support An Bord Pleanála's decision-making process and ultimately, the decisions it is required to make.

Composition of the board

The OPR's review found an over-reliance on board meetings with the minimum quorum of two members and recommended the ending of this practice. The Planning and Development and Foreshore (Amendment) Act 2022 provided the legislative basis to end this practice and two person quorums are no longer in place.

Furthermore, the OPR recommended quorums of five persons for certain categories of planning decisions, such as, Strategic Infrastructure Development and Large Scale Residential Development. While clearing the backlog of cases on hand currently requires a level of flexibility in relation to quorums, the OPR is continuing to monitor implementation of this recommendation.

A new organisational approach

More broadly, the review found that the wider and increased operational demands on An Bord Pleanála require a radically new organisational approach to enable effective operation of the systems and procedures of a national planning authority. The OPR recommended a new structural framework for the strategic leadership of An Bord Pleanála, separating its quasi-judicial planning decision-making and wider corporate and supporting functions.

While many of the shorter-term organisational structure and governance actions have been completed, the establishment of a new structural framework is addressed in the Planning and Development Bill 2023. The Bill outlines the proposed new structure which will separate the organisation's planning decision-making function from its corporate responsibilities with the creation a distinct governing board.

3. Decision-making

To complement bolstered resources for the making of sound decisions from a legal and ethical perspective, the OPR's review found that An Bord Pleanála needed to put in place clear and effective written systems and procedures to guide all staff, including the chairperson and board members, in relation to its quasi-judicial, decision-making process. The OPR recommended that these procedures would encompass, among others, the establishment of case files and allocation to inspectors, inspector's reports and recommendation preparation, allocation of and consideration of cases files by board members and board decision-making.

Taken as a whole, these recommendations seek to ensure that An Bord Pleanála's procedures for decision-making are robust in terms of transparency and fairness with clearly established guidance and protocols on how decisions should be progressed through the different stages. An Bord Pleanála has made significant progress in developing written decision-making procedures. The OPR will continue to monitor progress to ensure that a full set of procedures is completed and operationalised.

Furthermore, to reinforce public confidence in the integrity of the decision-making process, the OPR recommended that when discharging their reports to board meetings, inspectors should include a statement confirming that the report reflects their professional judgement and that no person has influenced or sought to influence them in an inappropriate way. This recommendation has now been implemented.

4. Communications

Following engagement with An Bord Pleanála staff, the organisation has also committed to improving both internal and external communications. The organisation's Protected Disclosure Policy has been updated and shared with staff.

An Bord Pleanála has also been engaging with external stakeholders during 2023, and the Office will continue to monitor implementation in this area to ensure that a proactive plan for long-term stakeholder engagement is developed and implemented.

Stakeholder engagement, based on effective communication with appropriately representative groupings, is critical to rebuilding public trust and lasting credibility in An Bord Pleanála. Positive engagement facilitates the development of best practice standards, and a culture of continuous improvement, by driving action on projects and providing a platform to listen and respond to legitimate stakeholder concerns.

5. Conclusion

Since the publication of the review, significant progress has been made across a number of recommendations, most notably the establishment of an expanded board, recruitment of key staff, commencement of a revised Code of Conduct and development of a suite of decision-making procedures. These are key structural pieces to enable An Bord Pleanála to fulfil its statutory functions effectively and, taken together, have helped to stabilise the organisation in the short term and provide a basis for continuing improvements.

There are areas where further work is required. Crucially, a new system for filling board vacancies to underpin operational continuity and strategic workforce planning is required as well as further work to deliver a new structural framework for the strategic leadership of An Bord Pleanála. Progress of the Planning and Development Bill 2023 will be key to these reforms. The OPR also continues to monitor the operationalisation of written decision-making procedures and the implementation of a more proactive regime of stakeholder engagement.

The OPR is committed towards working with An Bord Pleanála, the Minister and Department of Housing, Local Government and Heritage to deliver tangible improvements to the way in which An Bord Pleanála delivers its functions and ultimately, to improve the overall effectiveness of, and ensure public confidence in, the Irish planning system.

Appendix: Table of Recommendations

No.	Recommendation	Update on An Bord Pleanála progress
Phase One		
1	Temporary board appointments	Temporary appointments complete.
2	Forward filling of board vacancies	Legislation to allow recruitment through the Public Appointments Service is in place and a recruitment process is underway.
3	Cease the convening of two person boards	Two person boards have ceased with legislation in place to end the practice.
4	Quorum for boards	Minimum quorum for certain case types is being considered and will be implemented as the backlog of cases on hand is cleared.
5	Establish Governance, Ethics and Compliance unit	Governance, Ethics and Compliance function has been established.
	New Code of Conduct	A new Code of Conduct has been introduced.
6	Procedures for conflict of interest checking prior to decision-making	New procedure has been established to assess and monitor potential conflicts.
7	Procedures for decision-making	All decision-making processes are being clearly identified and made available for all staff through a newly established framework of documentation.
8	Case presentation by inspectors	A protocol for inspector presentations to the board has been established.
9	Establish a Legal Services unit	A Legal Affairs function has been established.
10	Stated referral procedures	New legislation is required to be enacted.
11	Revised material contravention procedures	New procedures to be introduced once new legislation is enacted.
Phase Two		
1	New leadership structure	New structure to be introduced upon enactment of draft legislation.
2/3	Composition of boards / Senior person to allocate cases	New case allocation procedure is being introduced.
4	File escalation procedures	New decision-making procedure being introduced addresses file escalation.
5	Board member declaration	Board member declaration is to be included in terms and conditions of employment.
6	Determination of casework accessible online	A board meeting record is to be available online once a case has been decided.
7	Record-keeping regarding conflicts of interest at board meetings	New decision-making procedure being introduced addresses record keeping at board meetings including conflicts of interest.
8	Determination of preliminary matters	New decision-making procedure being introduced addresses the determination of preliminary matters.
9	Communication lines inspectorate / board liaison group	New Code of Conduct addresses communication between board members and the inspectorate, and a liaison committee now meets at regular intervals.

No.	Recommendation	Update on An Bord Pleanála progress
10	System for board directions	New decision-making procedure being introduced addresses the issuing of board directions.
11	Statement of reasons on departures from recommendations	New decision-making procedure being introduced will include guidance to support decision-making which departs from an inspector's recommendation.
12	External party communications / inspector notification	New decision-making procedure being introduced addresses communications and inspector notification.
13	Protocol for area co-ordinators	New decision-making procedure being introduced addresses file allocation within the inspectorate.
14	Inspector statement	All inspector's reports now include a statement to confirm that the report represents the exercise of professional planning judgement.
15	Improved implementation of performance management and development systems	A renewed focus is being placed on the organisation's internal performance management and development of staff.
16	Inspector presentations protocol	A protocol for inspector presentations to the board has been established.
17	Delegations to inspectors	New decision-making procedure being introduced addresses delegations to inspectorate management.
18	People survey annually	Staff survey is being undertaken annually.
19	Protected disclosures policy	An updated protected disclosures policy has been adopted. Regular organisation-wide meetings have been introduced.
20	External engagement group	A communications strategy is being developed.
21	ICT and business operations	A new Director of Transformation and Digital has been recruited. Capacity review of processes is out to tender.
22	Data collection and monitoring	New staff have been appointed to improve data collection, monitoring and reporting, a process for which is being developed.
23	Reporting arrangements	With appearances at the Joint Oireachtas Committee in 2023, further opportunities to address this recommendation are being considered.



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