

Terms of Reference: Single Person Committee for applications for a certificate of naturalisation where legitimate countervailing State interests arise.

Mandate

- *The Member's brief is informed by the principle of fair procedures in administrative law that requires that reasons should be provided for a decision refusing to grant citizenship and that a decision not to disclose further reasons has to be justified. A failure to give more detailed reasons can only be regarded as justified if that failure impairs the entitlement of an applicant to reasons for a refusal to the minimum extent necessary to protect any legitimate countervailing State interests engaged.*
- *Upon written request by an applicant, the Member will review and consider the draft recommendation provided to the Member by the Minister for Justice upon which the intention to refuse to grant a naturalisation certificate (i.e. Citizenship) was formed by the Minister, in circumstances where the basis of the intention to refuse is in whole or in part predicated on the State's legitimate countervailing interests in maintaining confidentiality.*
- *Any such request by an applicant must be communicated to the Member in writing, within three months of the applicant being informed of the Minister's intention to refuse the naturalisation application, or upon the written request of the Minister if the case falls outside the aforementioned three months window.*
- *The Member will consider the reasons put forward by the Minister as to why the information in question should not be released.*
- *The Member will issue a report to the Minister on disclosure of information having regard on one hand to the applicant's right to reasons for a refusal and on the other hand, to the legitimate countervailing interests of the State in maintaining confidentiality.*

Responsibilities

- *The Member will review the material and documents supplied by the Minister in a timely manner and provide the applicant and the Minister with a status update where requested.*

- *Within three months of receipt of the Minister's draft recommendation, the Member shall issue a report to the Minister as to whether, to what extent, and in what form it may be possible to make disclosure to the applicant of the reasons for the refusal to disclose the information. The Member may issue a report recommending disclosure in the following terms only -*
 - *Not to disclose any of the reasons for the refusal of disclosure;*
 - *Partial disclosure, or the "gist" of the reasons for the refusal of disclosure;*
 - *Full disclosure of the reasons for the refusal of disclosure.*

- *In the case of a report recommending partial disclosure only, it will be the responsibility of the Member to formulate the appropriate wording, having due regard to the right of the applicant to reasons for the refusal and the legitimate countervailing interests of the State in maintaining confidentiality.*

- *Upon issuing the report to the Minister the SPC is functus officio from the date of issue and its role is concluded.*

- *If, at any time during the process, the Minister decides to grant the certificate of naturalisation to the applicant, the SPC is functus officio from the date of that grant and it will not issue a report as its role is concluded.*

Reporting relationship

- *The Member reports to the Minister while remaining entirely independent in its function. The Member must submit a report of activities to the Minister annually, or as required by the Minister.*

Term of appointment

- *Appointments are determined by the Minister and will not exceed three years.*
- *Appointees are eligible for reappointment by the Minister but may not serve more than six consecutive years.*
- *The Member may resign upon written notification to the Minister.*

Conflict of interest disclosure

- *The Member must declare conflicts of interest prior to the discussion of individual files or at any time a conflict of interest or potential conflict of interest arises.*
- *A conflict of interest refers to situations in which personal, occupational or financial considerations may affect or appear to affect the objectivity or fairness of decisions related to the Member's activities.*
- *A conflict of interest may be real, potential or perceived in nature. The Member must declare potential conflicts to the Minister and must absent themselves, or put the decision to the Minister on whether they should absent themselves.*
- *In the event that a conflict of interest arises for the Member, it is open to the Minister to appoint another suitably qualified person as Member of the SPC.*

Confidentiality

- *The Member must sign a confidentiality agreement at the time of his/her appointment indicating his/her agreement to maintain the confidentiality, security and integrity of all information and materials during and after their term as Member of the Committee.*

Indemnification

- *The Member, upon signing an agreement of Indemnification, will be bound and covered by the terms of that agreement.*

Remuneration

- *The Member may claim expenses and reimbursement in accordance with the rates set.*

Amendment to terms of reference

- *The Minister may amend the SPC terms of reference from time to time.*

Administrative Support

- *Secretariat support will be provided by the Department of Justice.*