



Companies Tribunal (5) Five Year Strategic Plan 2016/17 – 2020/21

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1. Acronyms and Abbreviations

CA:	Companies Act, 2008 No. 71 of 2008
CCRD:	Consumer and Corporate Regulation Division
CIPC:	Companies and Intellectual Property Commission
COTII:	Council of Trade and Industry Institutions
DTI:	Department of Trade and Industry
PFMA:	Public Finance Management Act
IT:	Information Technology
MTEF:	Medium Term Expenditure Framework
PEST:	Political, Economic, Social and Technological
SOP:	Standard Operating Procedures
SWOT:	Strength, Weaknesses, Opportunities and Threats

2. Foreword by Minister

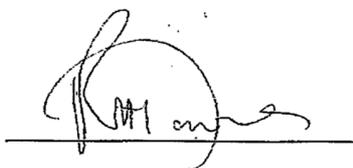
The aim of establishing the Companies Tribunal was to ensure that disputes relating to companies are resolved speedily and cost effectively. Furthermore it was to ensure that there is a move away from the formal court processes in resolving company disputes. In this regard the Tribunal's services are free, the proceedings are informal compared to litigation and the decisions are issued speedily so as to reduce the cost of doing business.

The Companies Tribunal is mandated to adjudicate certain types of disputes in terms of the Companies Act, 2008 such as name and directorship disputes as well as applications for exemption from establishing social and ethics committees. It is further mandated to provide alternative dispute resolution services through conciliation, mediation and arbitration to enable companies to settle their dispute without resorting to costly, protracted and at times acrimonious litigation procedures.

Making the services of the Companies Tribunal accessible to ordinary South Africans remain one of the key priority areas. In this regard it is expected of the Tribunal to enhance further its outreach programme to raise awareness and educate members of the public about its services.

The Tribunal's workload will in the next 5 years increase due to the projected growth in the economy which will lead to more companies enforcing their rights in terms of the Companies Act, 2008. The Tribunal is expected to undertake an impact assessment to evaluate whether or not it has achieved its objectives and mandate, and where necessary recommend changes to enhance its effectiveness

I am hopeful therefore that the Companies Tribunal will continue in its efforts of strengthening the regulatory environment through its decisions which play a significant role in promoting ethical business conduct.

A handwritten signature in black ink, appearing to read 'Rob Davies', is written over a horizontal line.

Dr. Rob Davies, MP
Minister of Trade and Industry

3. Overview of the Accounting Authority

It is a pleasure to present the Companies Tribunal's five year strategic plan ending March 2021. The strategic plan sets out a five year plan for the Companies Tribunal "the Tribunal" to deliver on its mandate and realize the vision of building a world class regulatory organization that contributes to the promotion of fair and ethical business practices through the provision of simple, efficient, fair and transparent adjudication and dispute resolution services. The Tribunal's strategic plan is informed by the values and founding provisions of the Constitution, International Law, the Companies Act, No. 71 of 2008 as well as the Department of Trade and Industry's strategic objective of creating a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner.

The Tribunal derives its mandate from the Companies Act, No. 71 of 2008 which brought about a number of changes into the South African Corporate environment. The Tribunal envisages an increase in the caseload as a result of the favourable economic conditions which will result in the creation of new enterprises which may seek redress from the Tribunal.

The use of Alternative Dispute Resolution (ADR) is expected to increase over the 5 year period as a result of increased awareness about the Tribunal's services. In line with the commitment to building a world class organization the use of technology will be enhanced through the development of an automated case management system with e-filing facility. The Tribunal will continue its advocacy services through outreach initiatives, use of media both electronic and print as well as the hosting of seminars.

The Tribunal will continue to enhance current strategic partnerships and built new ones with municipalities, judiciary, national and international bodies as well as other key stakeholders.

I am therefore confident that through this plan the Tribunal will deliver on its mandate of making redress mechanism readily available to all South African particularly the indigent by removing the cost of doing business and contribute to an ethical corporate culture.

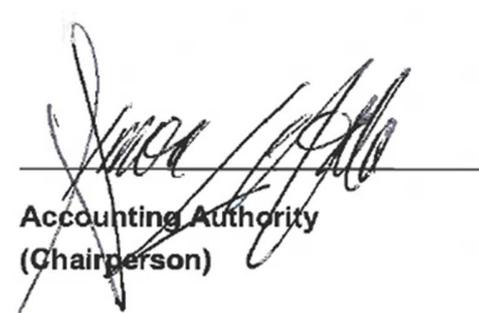


Accounting Authority
(Chairperson)

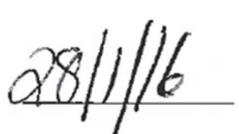
4. Official plan sign-off

It is hereby certified that this Strategic Plan:

- Was developed by the Companies Tribunal;
- Takes into account all the relevant policies, legislation and other mandates for which the Companies Tribunal is responsible;
- Reviewed the current strategic plan ending March 2020;
- Accurately reflects the strategic outcome oriented goals and objectives which the Companies Tribunal will endeavour to achieve over the periods ending 31 March 2021.



Accounting Authority
(Chairperson)



Date

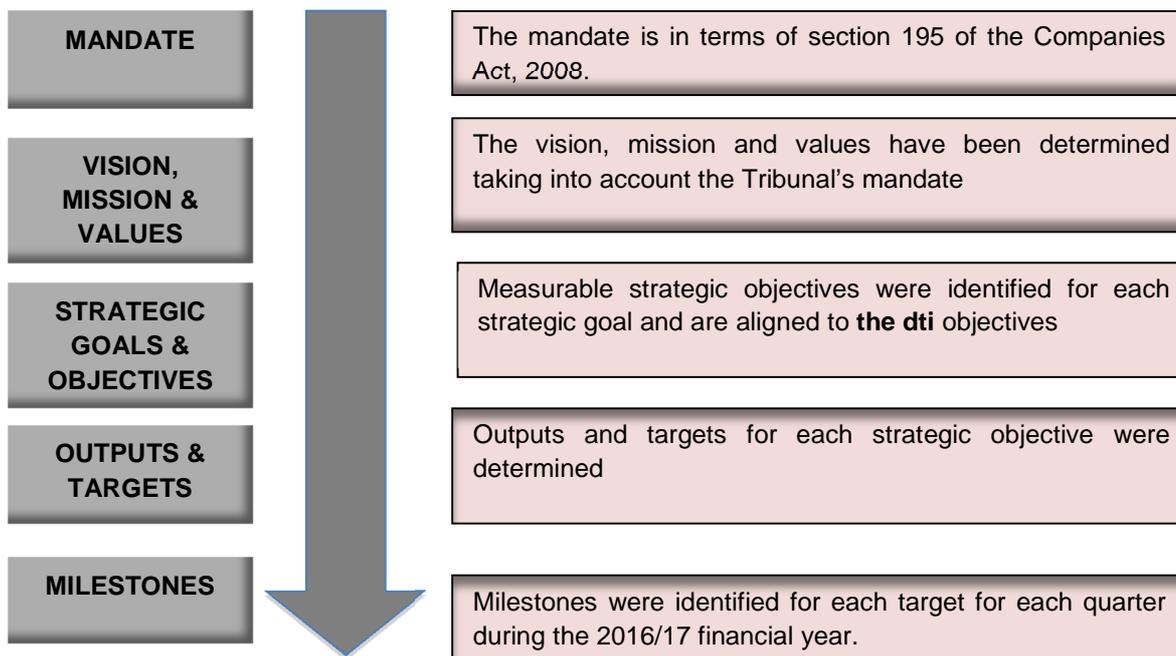
5. Strategic Overview

5.1 Background

The Companies Tribunal was established in terms of the Companies Act, 2008 to adjudicate on applications/complaints and referrals in terms of the Companies Act (“CA”). Fourteen independent Members of the Tribunal including the Chairperson were appointed by the Minister of Trade and Industry for a period of five years. The Tribunal’s mandate includes adjudicating and hearing of applications and cases referred to it in accordance with the CA.

5.2 The Planning Process

In compiling the strategic plan, the Companies Tribunal ensured that there is alignment with all the key processes followed. The diagram below outlines the roadmap followed to ensure strategic alignment of all processes.



5.3 Mandate

The Companies Tribunal is established in terms of the Companies Act, Act No. 71 of 2008, as a juristic person. In terms of the Act the Tribunal has jurisdiction throughout the Republic. It is independent and subject only to the Constitution and law.

The Companies Tribunal's mandate in terms of the Companies Act is to:

- a) Adjudicate in relation to any application that may be made to it in terms of the Act and make any order provided for in the Act in respect of any such application.
- b) Assist in the resolution of disputes as contemplated in part C of Chapter 7 of the Act.
- c) Perform any other function assigned to it by or in terms of the Act or any law in Schedule 4.

In delivering on this mandate the Companies Tribunal is expected to exercise and perform its' functions in line with the spirit, purpose and objects of the Constitution, International Law and Companies Act, and in a manner which is simple, ethical, efficient, equitable, transparent, accountable, impartial and without fear, favour or prejudice.

5.4 Vision Statement

A world class regulatory adjudicatory and dispute resolution organization that contributes to the promotion of fair and ethical business practices.

5.5 Mission

- To adjudicate applications made in terms of the Companies Act and make orders in respect of such applications
- To provide voluntary dispute resolution through conciliation, mediation and arbitration.

5.6 Values

The Tribunal's values are:

- a) **Accountability:** delivering on our plans and commitments and taking responsibility for our actions and inactions;

- b) **Impartiality:** conducting ourselves in a fair and just manner, without favouring one person over another for improper reasons;
- c) **Transparency:** to be open as far as possible and honest about our decisions, policies, procedures, information, activities and actions and be able to give reasons for our decisions;
- d) **Equitability:** to be fair and just to all parties as dictated by reason, policies or norms of the organization and law;
- e) **Efficiency:** to produce outputs or services without wasting resources such as funds, time or energy in order to achieve the objectives of the organization with limited resources;
- f) **Accessibility:** to be readily available to the public and stakeholders, regardless of the circumstances;
- g) **Professionalism:** to be presentable and courteous, punctual, honorable, responsible and adhering to policies, values and code of conduct of the Tribunal when dealing with individuals or stakeholders;
- h) **Respect:** to treat all people with dignity and honour in accordance with the values of the organization;
- i) **Ethical:** to act with integrity, morality and to do what is right guided by policies, code of ethics and code of conduct of the organisation.

5.7 Alignment with the dti’s priorities

Alignment is achieved with **the dti’s** strategic objectives which refer to the creation of a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner and the promotion of a professional, competitive and customer-focused working environment that ensures effective and efficient service delivery. The following table shows the linkage between the objectives of **the dti/ CCRD** and the Tribunal:

the dti	Programmes and strategic goals
Create a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner and	Adjudication: Adjudicate and make orders in relation to any application.

the dti	Programmes and strategic goals
	Resolution of disputes in terms of Alternative Dispute Resolution (ADR).
Promote a professional, competitive and customer-focused working environment that ensures effective and efficient service delivery	<p>Administration:</p> <p>Ensure operational effectiveness and efficiency of the Tribunal.</p> <p>Effective stakeholder engagement.</p>

5.8 Products and services

The Companies Tribunal provides adjudication and alternative dispute resolution services. Alternative dispute resolution service involves conciliation, mediation and arbitration service.

5.9 Legislative and Policy Mandates

In addition to the founding legislation viz. the Companies Act, as well as the Tribunal's Policies and Procedures, the Tribunal has considered the following sets of legislation and policy prescripts, in the development of the strategy and in its operations:

The Constitution of the Republic of South Africa:

Through its adjudicative mandate and its consideration of matters of prohibited conduct and fair business practice, the Tribunal plays a significant role in upholding and preserving the principles enshrined in the Bill of Rights. Specifically, the Tribunal has a direct impact on the following areas within the Constitution of the country, under the **Bill of Rights** chapter:

- **Sub-section 9: Equality** – Through remaining accessible to diverse groupings of consumers and businesses, the Tribunal plays its role in ensuring that parties have the right to equal protection and benefit of the law. Additionally, the Tribunal strives through its value system to respect human diversity and ensure that no form of discrimination, if any, is tolerated.
- **Sub-section 10: Human dignity** – Through the adjudication process, the Tribunal ensures that prohibited conduct, as well as the relevant action thereto does not impair human dignity.

- **Sub-section 14: Privacy** – Whilst adhering to its founding legislation, and as part of the adjudicative role, the Tribunal ensures that the privacy of persons is protected.
- **Sub-section 33: Just administrative action** – The Tribunal ensures it hears both sides to a dispute and that it issues reasons for its decisions.

5.10 Decisions of the Courts

The Tribunal will analyse recent key decisions of the High Court and Constitutional Court and evaluate the potential impact on its mandate and functions.

5.11 Situational Analysis

5.11.1 PEST Analysis

The Tribunal conducted a PEST analysis to enable it to achieve its strategic objectives. The results are tabled below:

Political	Economic
<ul style="list-style-type: none"> • Perception of political alignment on decision making • Perception of non-partisan • Legislative amendments • Activist role of the Tribunal 	<ul style="list-style-type: none"> • Promotion of economic participation by all players • Business fronting • Reducing cost of doing business
Social	Technology
<ul style="list-style-type: none"> • Access to the Tribunal by members of the public • Illiteracy • Language diversity • Awareness of the Tribunal 	<ul style="list-style-type: none"> • Legislative amendments • Technology use to ease access • Efficiency as a result of technology use • Technology use for systems and processes in the work of the Tribunal

5.11.2 SWOT Analysis

A detailed SWOT (strength, weaknesses, opportunities, threats) analysis was performed. The results are tabled below:

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> • Ethical behavior • Enabling legislation (mandate) • Skills, knowledge, and experience 	<ul style="list-style-type: none"> • Weak Standard Operating Procedures (SOPs)/ Business Processes • Lack of appropriate office space • No professional, equipped hearing rooms • No adequate parking • Limited budget to optimally fill the staff establishment • External Dependencies (e.g. internal audit function outsourced and IT infrastructure)
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> • Increasing access through technology usage (e- filing, video conferencing for hearings) • Adoption and adaptation of best practice models from similar entities • Development of jurisprudence • Technology to increase access to Tribunal • Technology- systems and processes to improve efficiency 	<ul style="list-style-type: none"> • Staff turnover • Potential backlog • Availability of Members to do Tribunal work • Competition from other alternative dispute resolution bodies • Ambiguity of ADR provisions within the Companies Act • Voluntary nature of ADR

6. Detailed Analysis of Goals and Organisational Objectives

The specific strategic goals are each supported by measurable objectives. Below is a list of each strategic goal supported by its core strategic objectives. A multi-year performance score-card will then provide further details under each objective.

Strategic Goal	Strategic Objectives
1. Adjudicate and make orders in relation to any application.	1.1. Adjudicate applications timeously, fairly and in a transparent manner.
2. Resolution of disputes in terms of Alternative Dispute Resolution (ADR).	2.1. Resolve disputes in a cost effective, informal and timeous manner.
3. Ensure operational effectiveness and efficiency of the Tribunal	3.1. Recruit, appoint, develop and retain competent staff for the Tribunal 3.2. Build a body of knowledge around company law 3.3. Promote and maintain sound corporate governance 3.4. Ensure the efficient management of cases.
4. Effective stakeholder engagement	4.1. Educate members of the public and raise awareness regarding the Tribunal 4.2. Develop and maintain strategic partnerships.

7. Tribunal Structure

7.1 Governance Structure

EXECUTING AUTHORITY: Minister of Trade and Industry

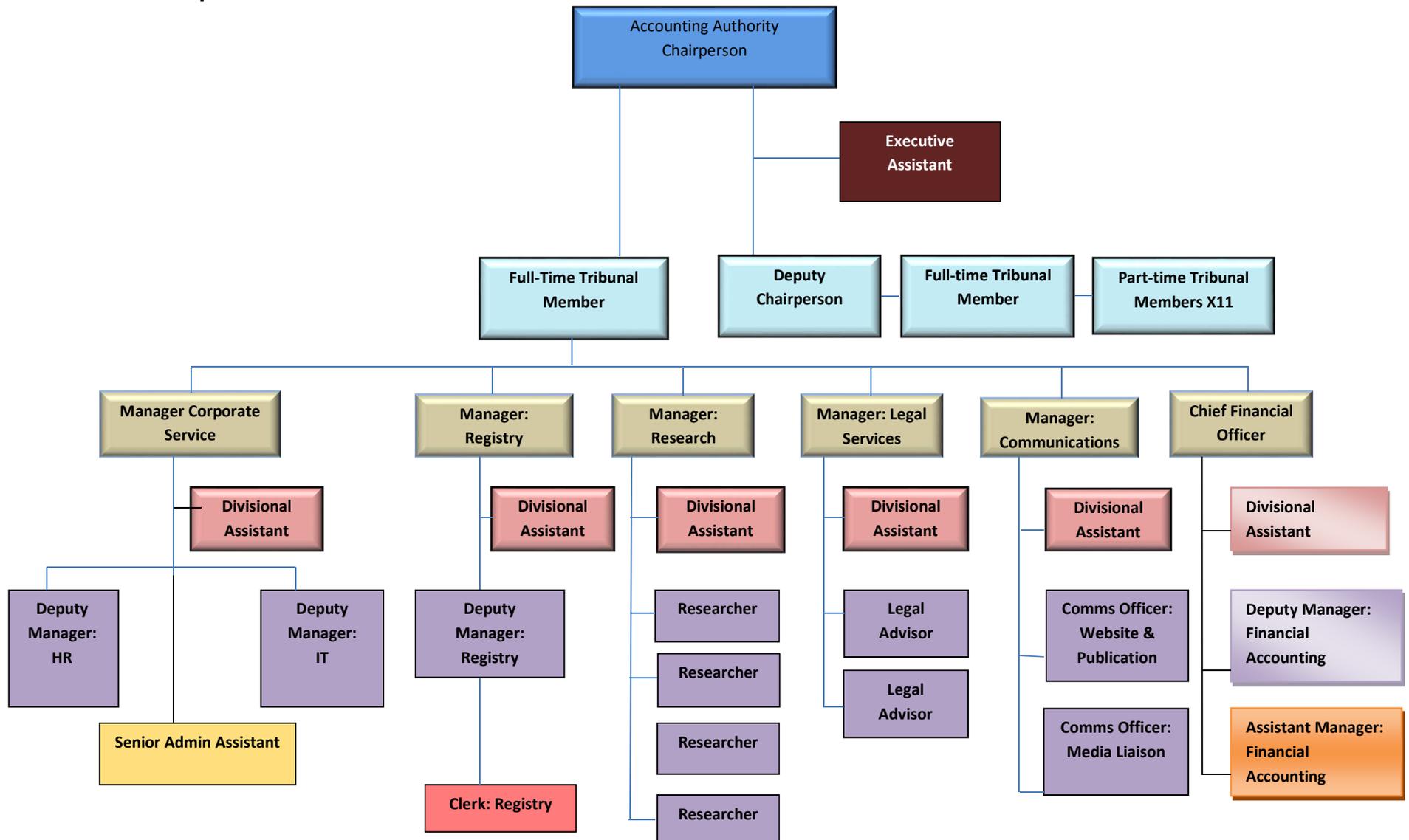
ACCOUNTING AUTHORITY: Chairperson of the CT

GOVERNANCE COMMITTEES

The Chairperson of the Tribunal as the Accounting Authority is responsible for the governance and oversight of the Tribunal as well as the management of cases. The Tribunal reports through the Consumer and Corporate Regulation Division (CCRD) and the Public Entity Oversight Unit of the Department of Trade and Industry (“**the dti**”) to the Executing Authority, the Minister of Trade and Industry.

The Tribunal will establish other governance committees to assist the Chairperson in executing the mandate of the Tribunal. The committees shall operate by way of establishing Terms of Reference which will be approved by the Accounting Authority.

7.2 Operational Structure



8. Synopsis of Key Performance Areas

SECTION	FOCUS AREA/S WITHIN THE TRIBUNAL
ACCOUNTING AUTHORITY (CHAIRPERSON)	<ol style="list-style-type: none"> 1. Provide strategic leadership and direction 2. Oversee the adjudication and allocation of cases 3. Official spokesperson for the Tribunal.
FULL-TIME TRIBUNAL MEMBERS	<ol style="list-style-type: none"> 1. Oversee day to day management and operations of the Tribunal 2. Strategic support to the Chairperson of the Tribunal in respect of operations and adjudications 3. Management of special projects of the Tribunal including the identification and development of special projects to facilitate execution of the Tribunal's mandate 4. Develop linkages and relationships for the Tribunal 5. Adjudication on applications that may be made to the Tribunal and making any order provided for in the Acts in respect of such an application 6. Perform any function assigned to the Tribunal in terms of the Act 7. Ensure compliance with Tribunal policies, procedures and processes.
PART-TIME TRIBUNAL MEMBERS	<ol style="list-style-type: none"> 1. Adjudication on applications that may be made to the Tribunal and making any order provided for in the Acts in respect of such an application 2. Resolution of disputes in terms of Alternative Dispute Resolution (ADR) 3. Perform any function assigned to the Tribunal in terms of the Act 4. Presiding members on one or three member panels 5. Communicate with the Tribunal offices on their information and other requirements in respect of the cases which they are adjudicating (All Tribunal members) 6. Adherence to Tribunal policies, procedures and processes.
REGISTRY DIVISION	<ol style="list-style-type: none"> 1. Case management 2. Assist Chairperson with allocation of cases

SECTION	FOCUS AREA/S WITHIN THE TRIBUNAL
	<ol style="list-style-type: none"> 3. Communicating and informing parties relating to the progress of their cases and Tribunal procedures 4. Management of all enquiries made with the Tribunal 5. Custodian of all Tribunal cases, documents and knowledge management systems. 6. General management functions.
LEGAL SERVICES DIVISION	<ol style="list-style-type: none"> 1. Legal support to the Tribunal 2. Research (substantive and procedural issues) 3. Analyse and advise Chairperson and Tribunal Members on trends in cases – Tribunal and Civil Court and other adjudicative entities and implications for the Tribunal 4. Draft and review contracts
CORPORATE SERVICES DIVISION	<ol style="list-style-type: none"> 1. Organisational planning, monitoring and reporting 2. Human resource management 3. Secretariat functions for the Tribunal (including Audit and Risk committee) 4. Organisational risk management processes 5. Risk and compliance monitoring and reporting (including internal and external audit administration) 6. Organisational support in logistical matters 7. Corporate Policy and procedure administration 8. Facilities management 9. Information and communications technology 10. Implementation of the corporate governance framework 11. General management functions.
RESEARCH DIVISION	<ol style="list-style-type: none"> 1. Development, Management and coordination of specific assigned research 2. Analysis of trends on cases 3. General Research, Policy Development and Analysis 4. Monitoring and evaluation 5. Provision of inputs into review of Companies Act and recommend areas of change 6. Conduct impact analysis.

SECTION	FOCUS AREA/S WITHIN THE TRIBUNAL
CHIEF FINANCIAL OFFICER	<ol style="list-style-type: none"> 1. Financial planning, management, monitoring, and reporting 2. Financial policy, guidelines and procedures 3. Asset management 4. Cash and Investment management 5. Risk Management 6. Supply Chain Management.
COMMUNICATIONS DIVISION	<ol style="list-style-type: none"> 1. Communication and Marketing to enhance the Tribunal's corporate identity 2. Communicating the outcomes of cases through relevant publications 3. Management of media relations 4. Preparation of speeches and presentations for conferences, workshops, to the Minister and Parliament (including input into Annual Report) 5. Ensuring the internal and external communication of the role and processes of the Tribunal with its stakeholders 6. Developing linkages and relationships for the Tribunal with relevant stakeholders.

9. Financial Management Strategy

The budget of the Tribunal will be monitored monthly. The actual expenditure will be compared against the budget to determine whether spending is in line with the budget and to further understand and correct variances (if any). Budget will be reviewed mid-year as part of annual budget adjustments. In terms of financial monitoring and control, the Tribunal will implement cash flow projections to determine where expenditure is heading in order to ensure that additional funding requirements are communicated in good time as necessary.

Financial discipline and efficiency savings will be key considerations in ensuring that the Tribunal is able to optimise on available funding should caseloads grow by more than was anticipated in the budget. To ensure accurate financial reports, Caseware system will be implemented and the Procurement Officer would be appointed to ensure that there is a dedicated human resource to monitor compliance with supply chain management rules and regulations. To ensure efficient and effective control environment, consequence management will be implemented to enforce compliance with PFMA and all related rules and regulations.

9.1 Multi-Year Financial Projections

The following allocations have been made to the Tribunal by **the dti** for the specific periods indicated:

	Actual 2014/15	Budget 2015/16	Budget 2016/17	Budget 2017/18	Budget 2018/19	Budget 2019/20	Budget 2020/21
R thousand							
Grant allocation	13 313	14 221	15 069	15 822	16 740	26 964	29 790
Interest received	1 343	800	700	600	498	300	200
Donations received	196						
Income from surplus funds		600	6 637	6 685	7 546		
Total income	14 852	15 621	22 406	23 107	24 784	27 264	29 990
Expenditure	13 759	15 621	22 406	23 107	24 784	27 264	29 990
Compensation of employees	8 123	11 304	12 780	13 815	14 786	16 265	17 891
Goods and services	5 613	4 235	9 524	9 191	9 889	10 879	11 967
Depreciation	23	82	102	101	109	120	132
Surplus/(Deficit)	1 093	0.00	0.00	0.00	0.00	0.00	0.00

The grant allocation for years 2014/15 to 2018/19 reflects the actual amounts allocated on the ENE ending 2018/19. The allocated grants for each financial year are insufficient to meet the Tribunal's operational requirements to enable the Tribunal to operate optimally. To augment the deficit, Tribunal would be utilizing income from surplus funds to fund some of the operational and administrative expenditure.

From the year 2019/20, the Tribunal would require an increase to the baseline as it is anticipated that the income from surplus funds would have been fully utilised. The Tribunal will however consider generating income from filing fees, but this process will take some time to materialize due to extensive consultations and planning required. Furthermore the income to be generated will in the earlier years not exceed 10% of the Tribunal's 2016/17 budget.

Compensation of employees has been determined according to the anticipated number of vacancies filled, except for the positions of Procurement officer and Divisional assistant. No new positions would be filled due to budgetary constraints. Of the 28 approved posts only 18 posts would be filled and this will remain unchanged until the baseline has been increased. Compensation of employees also includes an annual inflation adjustment as per MTEF guidelines. Three (3) internships are also included in the compensation of employee's budget to augment capacity constraints whilst alleviating unemployment amongst the youth by providing them with proper training and skills.

Goods and services budget also includes the remuneration of Tribunal members which would increase over MTEF due to the anticipated increase in the number of cases to be received by Tribunal.

Capital expenses have been budgeted at minimum levels to enable the Tribunal to remain functional. Capital expenses include the acquiring of ICT infrastructure, equipment and furniture. Due to budgetary constraints no funding has been provided for the acquisition of alternative office accommodation to meet the Tribunal's needs with regard to office space and hearing rooms even though the current space has been constraining to accommodate the needs and expansion of the Tribunal. This means the Tribunal will continue to occupy **the dti** offices at no cost.

9.2 Materiality and Significance of Framework

The best indicator with regard to the Tribunal's non-capital intensive business activity is the higher of revenue or expenditure. For this reason 0.60% of budgeted expenditure is chosen with regard to this framework, and this basis is consistent with prior years. The implications, based on the estimated budget, are summarized as follows:

(For further details see annexure A)

Item	% Used	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Budget	0.60%	14 852 000	15 621 000	22 406 000	23 107 000	24 784 000	27 264 000	29 990 000
Materiality		89 112	93 726	134 436	138 642	148 704	163 584	179 940

10. Risk Register

Risk ID	Risk Category and Sub category	Risk Description	Background to Risk	Likelihood of occurrence	Impact/Severity of consequence	Inherent Risk	Controls in Place	Residual Risk	Responsible	Possible Additional Controls	Timeline
2	OPERATIONAL Reputational Risk	<ol style="list-style-type: none"> Failed ADR Applicant may opt to use a different forum other than Companies Tribunal resulting in loss of customer base. 	<ol style="list-style-type: none"> Parties not agreeing to the proposed solutions Outside the jurisdiction of the Tribunal Either party not acting in good faith Lack of confidence in the Companies Tribunal ADR Limitations of the ADR Regulatory Framework 	Likely	Major	16	<ol style="list-style-type: none"> No controls Educating Stakeholders and the Public No controls for mediation and conciliation Affidavit for cases that go through arbitration 	16	Manager Registry	Recommending the amendment of the Act to consider making ADR Compulsory	April 2016
4	OPERATIONAL Reputational Risk	Biased decision that may result in Disgruntled clients	Conflict of interest or lack of independence; (A Tribunal member may have a relationship or interest with the applicant or respondent)	Likely	Critical	20	Section 206 and 207 of the Companies Act, 2008	20	Manager Registry	Conflict of interest declarations forms to be completed before the adjudication of an allocated case	June 2016

10	STRATEGIC Performance and Reputational Risks	Poor service delivery resulting from delays in finalising cases.	<ol style="list-style-type: none"> 1. Non-existence of performance management system for Tribunal Members 2. Capacity Constraints 3. Inadequate monitoring of applications due to manual tracking system 	Common	Critical	25	<ol style="list-style-type: none"> 1. Reminders are sent to members 2. Prioritizing allocation to members that are adhering to set time frames 	18	Manager Registry	<ol style="list-style-type: none"> 1. Performance agreements to be introduced to members 2. Propose appointment of full time tribunal members 3. Procure case management software. 	June 2016
15	OPERATIONAL Reputational Risk	Failure to benchmark organisation to best practice leading to poor customer service.	Use of outdated methods of doing business	Likely	Major	16	Desktop research	16	Manager: Research	<ol style="list-style-type: none"> 1. Build relationships and partnerships with similar International, 2. Motivation of funding. 	June 2016
16	OPERATIONAL Human Capital Risk	Lack of capacity to perform effectively (Vacant critical positions)	Limited funding for positions	Likely	Critical	20	Outsourcing	20	Manager: Human Resources	Motivate for funding for critical positions.	May 2016
17	STRATEGIC Human Capital Risk	<ol style="list-style-type: none"> 1. Higher staff turnover 2. Poor productivity due to wellness issues. 3. Inadequate Corporate Governance 	<ol style="list-style-type: none"> 1. Low morale leading to demotivated employees 2. Wellness issues 3. Inadequate performance management 	Likely	Critical	20	Performance Management Policy	20	Manager: Human Resources	<ol style="list-style-type: none"> 1. Review the organisational structure and HR Policies & Procedures 2. Requesting funding for the 	September 2016

		4. Non-compliance with Human Resource /Labour laws.	4. Misalignment of the structure with strategic objective 5. Poor communication						structure		
18	STRATEGIC Performance Risk	1. Inability to meet planned targets (Poor Service delivery) 2. Labour unrest	1. Non-compliance with PMS (Failure to adhere to the policy (PMS) by Management and Staff) 2. Inadequate performance assessments of staff 3. Inability to reward good performance	Likely	Critical	20	1. Performance Management Policy 2. Performance Agreements 3. Labour Relations Act	20	Manager: Human Resources	1. Quarterly reviews of organisation and individual performance 2. Consequence management	July 2016
20	OPERATIONAL Compliance Risk	Companies Tribunal may fail to comply with labour laws and regulations (Financial loss resulting from the payment of penalties and fines)	1. Non Adherence to labour laws and regulations 2. Lack of knowledge (new laws and regulations, amendments to existing Laws and regulations)	Likely	Critical	25	KPIs on Submission of UIF, Workmen's Compensation Fund, WSP included on Performance Agreements of the Human Resources Manager	18	Deputy Manager: Human Resources	Compliance Check List	August 2016

22	STRATEGIC Financial	Inability to fund critical operations	<ol style="list-style-type: none"> 1. Insufficient grant funding 2. Inability to generate income from services 	Likely	Critical	0	<ol style="list-style-type: none"> 1. Motivation for funding to the dti 2. No controls for generating income. 	20	CFO	Recommend amendment to Companies Act to enable revenue generation	June 2016
30	OPERATIONAL Technology Risk	<ol style="list-style-type: none"> 1. Delays in IT project delivery 2. Excessive delays in outsourced IT development projects 3. IT budget overruns 4. Incorrect technology solutions 	<ol style="list-style-type: none"> 1. Insufficient funding of projects 2. Lack of capacity 	Likely	Critical	20	<ol style="list-style-type: none"> 1. Service Level Agreement 2. Finance Policy Guidelines 	20	Deputy Manager: IT	<ol style="list-style-type: none"> 1. IT Governance Framework 2. IT Strategic Plan 	November 2016

11. Human Resource Strategy

Delivering on the Tribunal's mandate without the necessary human resources to implement the strategic plan remains a challenge. The purpose of the HR Strategy is to fill all strategic vacant positions timeously and with the correct calibre candidates to meet the envisaged growth path of the Tribunal. The strategy also aims to retain high performing staff, training of current staff and up-skilling staff for purposes of succession-planning. HR systems will be implemented in line with the ICT strategy to facilitate smooth, efficient and effective HR management.

The Tribunal endeavours to have a high-performance culture linked to rewards for excellent performance.

The Tribunal's human resource management approach seeks to gain competitive advantage through the strategic development of a highly committed and capable workforce. In order to realise this strategic HR outcome, the following human resource management principles will be practiced within the Tribunal:

- HR management will be rolled out as an area of responsibility for managers
- Developing a sustainable organisational culture. The Tribunal will develop and sustain an organisational culture that encourages all members of staff to be highly committed to the organisation and its continuous improvement
- Prioritising staff development
- Managing performance
- Retaining of high performing staff
- Equity in employment opportunities and promoting fairness principles
- Considering and incorporating the outcomes of formal job evaluation exercises as part of HR strategic planning from time to time
- Contributing to youth development by offering internships to students in line with government youth employment initiatives
- Complying with all applicable HR legislation and policies

The summarized strategic HR objectives remain as follows for the ensuing five-year period:

1. To enhance operational and strategic efficiencies by implementing an optimal organisational structure for the Tribunal.
2. To position the Tribunal as a high-performance, well balanced work environment with a sound corporate culture.
3. To ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and developing high quality people.

12. Information Technology Strategy

The Tribunal's operations and an expected increased demand for Tribunal services indicate the need for efficient handling and management of cases. The Tribunal will need to automate its core business processes in order to enhance operational efficiency. Information communication technology (ICT) was identified as the key driver to enhance operational efficiency.

ICT operations at the Tribunal will receive priority over the next five-year period. The Tribunal will therefore focus its efforts on ensuring that it aligns its ICT to growing strategic needs and standards of excellence. After the implementation of the systems and processes that are currently under design, ICT will focus on maintaining and updating those systems and processes going forward. This will enable the Tribunal to make sound decisions on cases and manage the cases expeditiously.

The over-arching objective of ICT in the Tribunal will remain aimed at the acquisition, implementation and maintenance of ICT technologies to improve and enhance service delivery having regard to costs and benefits and the direction of emerging technology.

With the increased project activity as envisaged in this strategy, it will be imperative that the Tribunal establishes a formal project governance framework in order to ensure that projects are implemented in a controlled monitoring and oversight environment.

13. Communications Strategy

The development and implementation of a communication strategy remains key to the Tribunal being accessible to members of the public and other stakeholders. Communications strategy involves the identification of activities throughout the year that, when taken as a whole, incrementally communicate the Tribunal's messages to its stakeholders.

The strategy furthermore entails creating awareness of its purpose, processes and timeframes to its stakeholders. However, due to the Tribunal's specific mandate, the communications strategy will be limited to raise awareness only with regards to its own processes, applications and timeframes applicable. The strategy is sufficiently flexible to be responsive to any developments in respect of the Tribunal's enhanced mandate and any subsequent increased caseload.

The Tribunal will engage in stakeholder communication with regard to compliance issues and providing/soliciting access to information. Communication must be purposeful and timeous particularly in relation to consultation and decision-making. Branding will be a continuous priority to enhance the image and recognition of the Tribunal amongst its stakeholders.

The Tribunal will identify alternative points of access to ensure that all stakeholders can interact with the Tribunal. The communication strategy is furthermore structured to accommodate diversity of gender, language, levels of education, and cultures, amongst other factors. In order to ensure effective implementation of the communications strategy, the Tribunal will utilize a broad range of communication tools optimally. These include amongst others, publications, annual reports, the production and distribution of communications material, internal communications, building of stakeholder relationships, electronic communication, consultative forums and working with organisations with similar mandates.

By communicating the Tribunal's core mandate to its stakeholders in a targeted manner, the communications function contributes to the broadening participation of previously marginalised groups in the economy.

The Tribunal's organisational structure will support effective communication wherever possible. The communication strategy will continue to enable all stakeholders to play their respective roles in implementing the Tribunal's strategic goals and objectives.

14. Anti-fraud and Corruption Policy

In order to promote an anti-fraud culture, the Tribunal applies the following principles:

Principle 1: Zero-tolerance

The Tribunal is committed to being an ethical and honest organisation and it is the policy of the Tribunal that fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature will not be tolerated.

Principle 2: Accountability

It is the accountability of leadership and business unit heads to ensure that the control environment is adequate and effective to prevent or detect fraud incidents. All members of staff and Tribunal members are specifically responsible for the prevention and detection of fraud, corruption, theft, maladministration or any activities of a similar nature, within their areas of responsibility.

Principle 3: Duty to implement effective anti-fraud controls

Appropriate prevention and detection controls will be implemented within the Tribunal. These include controls and checking mechanisms as prescribed in existing policies of government procedures and other relevant prescripts to the activities of the Tribunal, and systems of internal control.

In respect of all reported incidents of fraud, business unit heads/ managers are required to immediately review, and where possible, improve the effectiveness of the controls which have been breached in order to prevent similar irregularities from taking place in future.

Principle 4: Duty to report and reporting mechanisms

The Tribunal encourages staff members, stakeholders and members of the public who suspect fraud and wish to report it anonymously to do so by phoning the dedicated whistle blowing hotlines of government and that of the Tribunal due to be established. All calls to the Tribunal's hotline will be treated confidentially and the identity of persons lodging reports ("whistleblowers") will be protected.

Principle 5: Duty to protect whistleblowers

The Tribunal acknowledges and abides by the Protected Disclosures Act as well as other legislation that seeks to protect whistleblowers and will protect all persons that report incidents of fraud from discrimination and maltreatment in the workplace.

Principle 6: Reporting to police and other relevant authorities

The Tribunal will report fraud and/or related misconduct, as applicable, to the South African Police Services or other relevant authorities. Appropriate legal recourse to recover losses or damages arising from fraud and corruption will be taken without undue delay.

Principle 7: Mandate to investigate fraud

All incidences of fraud and corruption will be investigated and followed up by the application of all remedies available within the full extent of the law. The Chairperson of the Audit & Risk Committee of the Tribunal and/or the Tribunal Chairperson holds the mandate to ensure that investigations are facilitated and managed appropriately.

Internal staff, providers, and stakeholders will be expected to cooperate fully during any investigation. Any acts of non-cooperation will be addressed in line with the Tribunal's disciplinary procedures.

Principle 8: Instituting disciplinary proceedings

The Tribunal will ensure that disciplinary proceedings and other available remedies are exercised with minimal delay in the event that acts of fraud and corruption have been committed internally. Where an official is alleged to have committed an act of fraud, corruption, theft or maladministration, the respective line supervisor/manager must institute disciplinary proceedings immediately in line with the disciplinary procedures of the Tribunal.

Principle 9: Training and awareness

Fraud awareness and specific anti-fraud and corruption training will be undertaken regularly to raise and maintain vigilance within the Tribunal.

Principle 10: Fraud risk assessment

The Tribunal will ensure that fraud risk is assessed regularly by the organisation and its business units as well as ensure that, during the design and implementation of new systems and processes, the relevant fraud risks have been considered.

15. Annexure A: Materiality and significance framework

1. Definitions

- **Accounting Authority:** The Chairperson of the Companies Tribunal.
- **Executive Authority:** The Minister of Trade and Industry.
- **PFMA:** The Public Finance Management Act (Act 1 of 1999, amended by Act 29 of 1999).
- **Treasury Regulations:** Public Finance Management Act, 1999, amendments of Treasury Regulations in Terms of Section 76 as published in Government Gazette No 23463 dated 25th May 2002.

2. Introduction

For purposes of material (sections 50(1), 55(2) and 66(1) of the Act) and significant (section 54(2) of the Act) the Accounting Authority must develop and agree a framework of acceptance levels of materiality and significance with the relevant Executive Authority in consultation with the external auditors.

3. Framework

PFMA Section	Quantitative (Amount)	Qualitative (Nature)
S50: Fiduciary duties of accounting authorities (PFMA Section 50)		
	Materiality figure for year ending March 2016 will be 0.60%	
(1) The accounting authority for a public entity must:		
(a) on request, disclose to the Executive Authority responsible for that public entity or the legislature to which the public entity is accountable, all material facts, including those reasonably discoverable, which in any way may	Any fact discovered of which the amount exceeds the planning materiality figure as calculated. (Listed above)	1. Any time or event of which specific disclosure is required by law. 2. Any fact discovered of which its omission or

PFMA Section	Quantitative (Amount)	Qualitative (Nature)
influence the decisions or actions of the Executive Authority or that legislature;		misstatement, in the Tribunal's opinion, could influence the decisions or actions of the Executive Authority or legislature.
S55: Annual report and financial statements (PFMA Section 55)		
(2) The annual report and financial statements referred to in subsection (1) (d) must: -		
<p>(a) fairly present the state of affairs of the public entity, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned:</p> <p>(b) Include particulars of: -</p> <p>(i) any material losses through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year:</p> <p>(ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless</p>	<p>Please note that this is presented as part of the annual report</p> <p>1. Losses through criminal conduct / any loss identified.</p> <p>2. Losses through irregular/fruitless/ wasteful expenditure.</p>	<p>Please note that this is presented as part of the annual report</p> <p>Any identified loss through criminal conduct.</p>

PFMA Section	Quantitative (Amount)	Qualitative (Nature)
<p>and wasteful expenditure; (iii) any losses recovered or written off; (iv) any financial assistance received from the state and commitments made by the state on its behalf; and (v) any other matters that may be prescribed; and</p>		
S66: Restrictions on borrowing, guarantees and other commitments (PFMA) Section 66		
<p>(1) An Institution to which this Act applies may not borrow money or issue a guarantee, indemnity or security or enter into any other transaction that binds or may bind that Institution or Revenue Fund to any future financial commitment, unless such borrowing, guarantee, indemnity, security or other transaction: -</p>	Not applicable	Not applicable
<p>a. Is authorized by this Act ;</p> <p>b. in the case of public entities is also authorized by other legislation not in conflict with this Act</p> <p>c. and in the case of loans by a province or a provincial government business enterprise under the ownership and control of a provincial executive, is within the limits as set in terms of the Borrowing Powers of Provincial Government Act, 1996 (Act no 48 of 1996). (The Credit Act No 35 of 2005 does not</p>	<p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>	<p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>

PFMA Section	Quantitative (Amount)	Qualitative (Nature)
give the Tribunal the mandate to enter into these transactions)		
S54: Information to be submitted by accounting authorities (PFMA Section 54)		
2. Before a public entity concludes any of the following transaction, the accounting authority for the public entity must promptly and in writing inform the relevant treasury of the transaction and submit relevant particulars of the transaction to its Executive Authority for approval of the transaction: -	Not applicable	Not applicable
(a) participation in a significant partnership, trust, unincorporated joint venture or similar arrangement;	Not applicable	Not applicable
(b) Acquisition or disposal of a significant shareholding in a company;	Not applicable	Any asset that would increase or decrease the overall operational functions of the Tribunal, outside of the approved strategic plan and budget.
(c) Acquisition or disposal of a significant asset;		
(d) Commencement or cessation of a significant business activity.	Not applicable	Not applicable