



An Roinn Dlí agus Cirt
Department of Justice

Oversight Agreement
between
the Legal Aid Board
and
the Department of Justice
2023 – 2025

1.1 Scope of this Agreement

This Oversight Agreement has been drawn up by the Department of Justice (“the Department”) in consultation with the Legal Aid Board in accordance with the 2016 edition of the Code of Practice for the Governance of State Bodies (“Code of Practice”). It, together with the separate but related annual Performance Delivery Agreement (PDA), succeeds the previous Oversight Agreement between the two parties.

This Oversight Agreement sets out the broad governance and accountability framework within which the Legal Aid Board operates, and defines the key roles and responsibilities which underpin the relationship between it and the Department. While this Agreement shall cover a three year period, the parties shall, in accordance with the Code of Practice, review it every 12 months and update it as may be considered necessary.

1.2 Background and Context

Function

The Legal Aid Board (“the Board”) is the statutory, independent body responsible for the provision of civil legal aid (legal advice and legal representation) to persons of modest means, in accordance with the provisions of the Civil Legal Aid Act, 1995 (the “Act”).

In accordance with Section 5 of the Civil Legal Aid Act, 1995 (as amended by the Civil Law (Miscellaneous Provisions) Act 2011) the principal functions of the Legal Aid Board are:

1. To provide, within the Board’s resources and subject to the other provisions of the Act—
 - (i) legal aid and advice in civil cases to persons who satisfy the requirements of the Act, and
 - (ii) a family mediation service;
2. Where the Board considers it necessary or expedient to do so to make arrangements for the provision of—
 - (i) family mediation services on its behalf by the engagement of persons appointed by it for that purpose, and
 - (ii) training in family mediation, either by itself or by persons appointed by it for that purpose.

Section 5 also provides that the Board shall, to such extent and in such manner as it considers appropriate, disseminate, for the benefit of those for whom its services are made available, information in relation to those services and their availability.

The Board’s remit is in the process of being further expanded, following a Government decision in 2010, to transfer responsibility to the Board for the management and administration of the various criminal

legal aid schemes previously administered by the Department of Justice. At the time of signing, the General Scheme of a Criminal Justice (Legal Aid) Bill is currently being drafted by the Department to give statutory effect to that decision.

Responsibility for the administration of the Garda Station Legal Advice Scheme transferred on an *ad hoc* basis to the Board on the 1st October 2011, for the Legal Aid – Custody Issues Scheme (formerly the Attorney General’s Scheme) on the 1st June 2012 and for the Criminal Assets Bureau legal aid scheme on the 1st January 2014.

The Board’s head office is located in Cahirciveen, Co. Kerry. Some of the headquarter functions also operate from a Dublin office.

Purpose

The Legal Aid Board is an independent statutory body currently responsible for the provision of civil legal aid and advice, family mediation and vulnerable witness related services and for the administration of a number of ad hoc legal aid schemes. It is a key strategic partner and a civil agency of the Department of Justice.

Mission

The Board’s Mission is to deliver timely, effective, inclusive and just resolution of family and civil disputes to those most in need of their assistance, through high quality legal representation and advice and / or mediation and to manage other aspects of legal aid which have been entrusted to the Board.

Vision

The Board’s vision is to be instrumental in ensuring access to justice to those most in need, through a highly motivated and trained workforce, external providers and working with stakeholders across the justice framework and beyond.

This vision is underpinned by the organisation’s values which include; respecting all users of the services and the Board’s staff, placing the client at the centre of their decision making, openness in the decision making process, working in partnership and collaborating with stakeholders across the justice system, fostering a culture of learning, maximising their influence, at all times acting with integrity and ensuring they practice with a child centred approach.

2. Corporate Governance Arrangements

2.1 Roles and Responsibilities

Accounting Officer

The Legal Aid Board falls under the Department of Justice’s Vote (Vote 24) and as such the Department’s Secretary General is the Accounting Officer. The Accounting Officer is responsible for the safeguarding of public funds and property under her control, for the efficiency and economy of administration by her

Department and for the regularity and propriety of all transactions in the appropriation account. Further external scrutiny and governance is provided through the submission and analysis of the Financial Statements to the Comptroller and Auditor General and ultimately to the Oireachtas through the Public Accounts Committee.

The Board

Section 4 of the Civil Legal Aid Act 1995 requires the Legal Aid Board to consist of a chairperson and an ordinary membership of twelve members. The term of membership of any Board member does not exceed five years and no member can serve any more than two terms. Each member is appointed by the Minister for Justice (“the Minister”) subject to the provisions of the Act.

The members of the Board are collectively responsible for leading and directing the Legal Aid Board’s activities within a framework of prudent and effective control as set forth in the *Code of Practice for the Governance of State Bodies* (2016).

Chairperson of the Board

The Chairperson is responsible for leading and guiding the Board in its task of setting the State body’s strategic policies. The Chairperson works with the CEO to manage the Board’s agenda and provides direction to the Secretary to the Board. The Chairperson furnishes a Comprehensive Report to the Minister, in conjunction with the Board’s annual report and financial statements, affirming the Board’s compliance with relevant codes and regulations, in accordance with the *Code of Practice for the Governance of State Bodies* (2016), in particular addressing the requirements of paragraph 1.9 of the ‘Business & Financial Reporting Requirements’ Annex to the 2016 *Code of Practice for the Governance of State Bodies*.

Chief Executive Officer

In accordance with Section 10 of the Civil Legal Aid Act 1995, the Chief Executive (CEO) is appointed by the Minister on the recommendation of the Public Appointments Service. Reporting to the Board, the CEO is responsible for the day to day management and administration of the business and resources (financial and non-financial) of the Board. The CEO is responsible for the establishment and maintenance of high standards in implementing the functions of the Board and ensuring a reputation for impartiality, management of conflicting interests, and upholding the public interest at all times. The CEO is also responsible, in conjunction with the Board, for setting strategic direction and being the Legal Aid Board’s public face.

2.2 Annual Self-Assessment Evaluation

The Board undertakes an annual self-assessment evaluation of its own performance and that of its committees in accordance with the *Code of Practice for the Governance of State Bodies*. In accordance with that Code, an external evaluation of the Board’s performance is to be carried out every three years. The most recent external evaluation was carried out in 2018 and following the appointment of a new

Board in November 2021, a new evaluation of the Board commenced in Q4 2022 with a view to it being finalised in Q1 2023.

2.3 Statement of Strategy

In accordance with Section 1.17 of the *Code of Practice for the Governance of State Bodies*, the Legal Aid Board has a formal process in place for the setting of strategy and adopts a Statement of Strategy every three to five years. The Legal Aid Board currently has a Statement of Strategy in place which covers the period 2021 – 2023. This was noted by the Minister in February 2021.

2.4 Draft Unaudited Financial Statements

Draft unaudited annual financial statements are submitted to the Department not later than two months after the end of the relevant financial year, in accordance with the *Code of Practice for the Governance of State Bodies* (1.4 (ii) – ‘Business and Financial Reporting’ Annex).

2.5 Annual Report and Accounts

Section 9 of the Civil Legal Aid Act 1995 requires the Board to make a report to the Minister, not later than 30 September in each year, in relation to the performance of the functions and activities of the Board during the preceding year. The Department of the Taoiseach has indicated that such reports should be submitted to the Government, prior to presentation to the Oireachtas, “within six months of the end of the year to which they relate, unless a shorter period is specified by statute”.

2.6 Reporting Requirements – Annual Report

In accordance with Appendix A of the ‘Business & Financial Reporting’ Annex to the *Code of Practice for the Governance of State Bodies*, the Annual Report includes:

- i. Confirmation that this Oversight Agreement has been reached with the Department of Justice and, in particular, indicating the Board’s level of compliance with the requirements of the *Code of Practice for the Governance of State Bodies*.
- ii. A statement of how the Board operates, including the types of decisions to be taken by the Board and those delegated to management;
- iii. A statement of how the performance evaluation of the Board and its committees has been conducted;
- iv. The number of Board meetings and the attendance record of each Board member;
- v. The names of the Chairperson, the CEO and members of the Board and its committees;
- vi. Confirmation that an appropriate assessment of the Board’s principal risks has been carried out, including a description of these risks, where appropriate and associated mitigation measures or strategies;
- vii. Confirmation that the Legal Aid Board is adhering to the relevant aspects of the *Public Spending Code*;
- viii. Confirmation that the Legal Aid Board has complied with relevant tax law during the reporting period in question; and

- ix. A statement on the system of internal controls in the Legal Aid Board, addressing each of the items listed in Appendix D of the 'Business and Financial Reporting' document of the *Code of Practice for the Governance of State Bodies*.

2.7 Reporting Requirements – Financial Statements

In accordance with Appendix B of the 'Business & Financial Reporting' Annex to the *Code of Practice for the Governance of State Bodies*, the Financial Statements include:

- i. Details of non-salary related fees paid in respect of Board members and the salary of the CEO;
- ii. Aggregate pay bill, total number of employees and compensation of key management level;
- iii. Total costs incurred in relation to travel, subsistence and hospitality;
- iv. Details of expenditure on legal costs and external consultancy/adviser fees;
- v. Details of the number of employees whose total short-term employee benefits for the reporting period fell within each band of €10,000 from €60,000 upwards;
- vi. Details of termination/severance payments and agreements with a value in excess of €10,000, made within the period.

The above disclosures should be included in the Governance Statement & Board Member's Report in the Financial Statements as set out in the Department of Public Expenditure and Reform's "*A Guide to the Implications for the Annual Financial Statements and the Annual Report*" (Nov 2017).

2.8 Internal Audit

The Legal Aid Board's Internal Audit Unit is responsible for monitoring and reviewing the effectiveness of the Board's arrangements for governance, risk management and internal control.

2.9 Audit and Risk Committee

The Board's Audit and Risk Committee consists of at least three independent non-executive Board members, and has written terms of reference which clearly outline the Committee's authority and duties. The role of the Committee is to ensure that the interests of Government and other stakeholders are fully protected in relation to business and financial reporting and internal control.

2.10 Protected Disclosures

The Protected Disclosures (Amendment) Act 2022 will commence operation on 1 January 2023. The Legal Aid Board should maintain awareness of the new obligations under the Act, which amends the Protected Disclosures Act 2014, and should adhere to the "Protected Disclosures Act: Interim Guidance for Public Bodies and Prescribed Persons" published by the Department of Public Expenditure and Reform in November 2022 and any subsequent guidance issued over the lifetime of this Oversight Agreement.

2.11 Procurement

In accordance with section 8.16 of the *Code of Practice*, the Board will ensure that competitive tendering is standard procedure in the procurement process of the Legal Aid Board and that procurement policies

and procedures have been developed and published to all staff. The Chairperson should affirm adherence to the relevant procurement policy and procedures in the annual Comprehensive Report to the Minister.

2.12 Customer Charter

The Legal Aid Board should maintain an up to date customer charter setting out the level of service a customer can expect. The charter should be displayed prominently on the Legal Aid Board's website and is supported by a customer action plan.

2.13 Data Protection

The Legal Aid Board will engage proactively with its data protection obligations and ensure substantial compliance with the General Data Protection Regulation (GDPR) and the Data Protection Acts 1988 to 2018.

2.14 Public Sector Equality and Human Rights Duty

Section 42 of the Irish Human Rights and Equality Commission Act 2014 establishes a positive duty on public bodies to have regard to the need to eliminate discrimination, promote equality and protect the human rights of staff and persons to whom services are provided.

The Legal Aid Board will have full regard to its obligations under section 42 of the Act to:

- Assess and identify human rights and equality issues relevant to its functions, including through its Strategic Plan 2021 – 2023;
- Identify the policies and practices that are in place/ will be put in place to address these issues; and
- Report on developments in its Annual Report.

2.15 Environmental and energy issues

The Legal Aid Board shall fulfil its statutory and other obligations in relation to environmental and energy issues, as follows;

1. In accordance with requirements set out in the Department of the Environment, Climate and Communications' Climate Action Plan 2021, the Legal Aid Board has appointed an Energy Performance Officer, who is responsible for (inter alia) the following actions and targets:
 - a) Striving to achieve the statutory target of a 51% absolute reduction in energy related emissions and a 50% improvement in energy efficiency by 31st December, 2030, in accordance with The Climate Action Plan 2021.
 - b) Accurately reporting energy use, annually, to the Sustainable Energy Authority of Ireland (SEAI), in advance of their deadline.
 - c) Publishing progress (or lack thereof) achieved on energy reduction in the annual report.

2. Eliminating the use of single-use plastics from the organisation, in accordance with the Government Decision of 3 January 2019; and
3. Participating in Justice-sector and wider public sector initiatives in relation to energy and environmental issues.

2.16 Governance Obligations

As an agency operating under the aegis of the Minister, the Legal Aid Board is subject to a range of statutory and corporate governance obligations including the 2016 *Code of Practice for the Governance of State Bodies*. The Board ensures that all the necessary obligations, including those for risk management, internal audit and the Public Spending Code are fully complied with.

Governance obligations will also be reviewed as part of the overall monitoring process of this Oversight Agreement itself.

2.17 Chairperson's Comprehensive Report to the Minister

To confirm compliance (or otherwise) with key provisions of the Code of Practice and the Governance Standard for Justice Sector Bodies, the Chairperson of the Board completes, on an annual basis, a Comprehensive Report to the Minister in order to provide assurance to the Department that the systems of internal control, risk management and other areas of compliance are operating effectively. This report will address all of the requirements of paragraph 1.9 of the '*Business & Financial Reporting Requirements*' Annex to the *Code of Practice for the Governance of State Bodies*.

2.18 Provision of Information to Members of the Oireachtas

In accordance with D/PER Circular25/2016 - *Protocol for the Provision of Information to Members of the Oireachtas by State Bodies under the aegis of Government Departments/Offices*, the Board is obliged to:

- i. Provide and maintain a dedicated email address (oireachtas_enq@legalaidboard.ie) for Oireachtas members.
- ii. Put in place formal feedback processes to obtain feedback from Oireachtas members.
- iii. Comply with target deadlines and standards in terms of acknowledgements and responses to queries.
- iv. The officer within the Board with responsibility for ensuring the timely provision of information to members of the Oireachtas is Donal Reddington, Director of Corporate Services.
- v. Report annually (in the Chairperson's comprehensive report to the Minister) on compliance with standards set out in Circular 25/2016.
- vi. Seek, where appropriate, to publish the response to queries from members of the Oireachtas on the Board's website.

2.19 Periodic Critical Review

Section 8.14 in the *Code of Practice for the Governance of State Bodies* outlines that the Legal Aid Board is expected to undergo a Periodic Critical Review (PCR) by the Department of Justice at regular, and appropriate, intervals. Sufficient advance notice will be given by the Department of Justice to allow adequate planning and preparation for the PCR.

2.20 Comply or Explain

The Legal Aid Board seeks to comply fully with the *Code of Practice for the Governance of State Bodies* 2016.

3. Commitments

The Legal Aid Board shall:

- Continue to carry out its functions in accordance with the Civil Legal Aid Act 1995;
- Report annually to the Minister on its activities as required under the Civil Legal Aid Act 1995 and in accordance with the provisions of the Code of Practice for the Governance of State bodies;
- Comply with the Code of Practice for the Governance of State Bodies as appropriate and, if necessary, reach agreement with the Minister in relation to any derogations;
- Provide a comprehensive report, as required under the Code, to the Minister, annually to provide assurance that the systems of internal control, risk management and other areas of compliance are operating effectively;
- Comply with the requirements of the Public Spending Code;
- Comply with Government regulations and procedures in relation to all aspects of Legal Aid Board management including procurement, financial management, internal control, Human Resources, ICT procurement and development;
- Submit a Strategic Plan every three years to the Minister for approval;
- Adopt an annual planning and budgeting cycle to facilitate implementation of the Strategic Plan;
- Provide at the Minister's request any information on any matter concerning its policy and activities generally or any specific matter or account prepared by it;
- Contain expenditure within the funding provided by Government and income generated by the Legal Aid Board in accordance with its functions. The totality of income and expenditure will need to be notified to the Department each month in conjunction with the request for drawdown of funding.
- Appoint staff of the Legal Aid Board in accordance with delegated sanction;
- Work with the Department and other justice agencies, to provide an integrated justice system that provides efficient and effective services to the public;
- Provide input and commentary on policy and legislative proposals where relevant;
- Provide appropriate information to allow the Minister discharge accountability to the Oireachtas.
- Provide timely, relevant and appropriately detailed information to facilitate the monitoring of this Oversight Agreement and the annual Performance Delivery Agreement, including in the context of the formal governance meetings;

- Return relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume;
- Keep the Department informed of the key risks to the organisation and to notify the Department in a timely manner if there is a change in status of significance of any the identified risks and where a risk changes to the extent that it exceeds the risk appetite of the Board.

The Department of Justice will

- Support the provision of the necessary funding and resources to the Legal Aid Board to enable it to fulfil its remit in the management and administration of the Legal Aid Board and deliver on its commitments as set out in this agreement;
- Liaise with the Department of Public Expenditure and Reform to ensure as far as possible, timely sanction for expenditure in line with Public Financial Procedures and Public Service Numbers policy;
- Provide updates on Public Financial Procedures and Civil Service HR Policy Guidelines;
- Provide guidance on Civil Service HR Policy, public expenditure, remuneration and industrial relations, procurement and contracts;
- Provide guidance on Government Accounting and Governance;
- Inform and involve the Board in any activities related to the role that the Board plays or may be required to play within the Department;
- Provide monthly financial reports and general financial advice via the Department's Financial Management Unit (FMU);
- Provide assessment and sanction of IT expenditure;
- Ensure that the State Boards process is initiated at an early stage (when vacancies arise or are anticipated).

Mutual Commitments

Both parties shall:

- Be proactive and timely in communications, co-operation and information-sharing on service delivery. This is to be underpinned by a 'no surprises' approach to matters of mutual concern. Support adherence to corporate governance obligations under this Oversight Agreement and the achievement of targets under the annual Performance Delivery Agreement.
- Provide prompt and timely responses to correspondence, information requests and related matters.
- Engage as appropriate on enhanced data collection/analysis, data exchange and research initiatives to support both the work of Legal Aid Board and the related Policy, Legislation, Governance and Transparency Functions of the Department.

4. Monitoring Arrangements and key interactions

In accordance with the Department's policy on the monitoring of governance arrangements in relation to the organisations within its remit, the Chief Executive of the Legal Aid Board will meet with the Department twice yearly, or more frequently if required by the Department, and to will provide an update on developments and achievement of targets as set out in the annual Performance Delivery Agreements. These meetings will be supplemented by less formal interactions between the Legal Aid Board and the Department in accordance with the business needs and mutual commitments of each party.

The Legal Aid Board undertakes to return:

- a) relevant and appropriately detailed performance information to allow for monitoring of this Agreement;
 - b) relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services; and
 - c) performance information in line with the set of such indicators, and in keeping with the timeframes agreed with the Department.
- The Legal Aid Board will provide at the Minister's request any information on any matter concerning its policy and activities generally or any specific matter or account prepared by it.

5. Duration and Signatories to the Agreement

It is agreed that this Agreement will apply with effect from the date signed hereunder until 31st December 2025.



John McDaid
Chief Executive Officer
Legal Aid Board



Dr. Stjohn O'Connor
Director
Civil Governance Function
Department of Justice

Date: 05/01/2023

Date: 05/01/2023