



**An Roinn Dlí agus Cirt**  
Department of Justice



# **Oversight Agreement 2023-25**

**Department of Justice**

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**Office of the State Pathologist**

## **1. Introduction**

### **1.1 Scope of this Agreement**

This Oversight Agreement sets out the broad governance and accountability framework within which the Office of the State Pathologist (“the OSP”) operates, and defines the key roles, responsibilities and commitments that underpin its relationship with the Department of Justice (“the Department”). The Agreement has been drawn up by the Department in consultation with the OSP, in accordance with the Code of Practice for the Governance of State Bodies (“Code of Practice”). It succeeds the previous Oversight Agreement 2020-22 between the two parties and will be subject to a formal review approximately midway through its operation.

A separate Performance Delivery Agreement (“PDA”) is agreed annually under the governance architecture provided by this Oversight Agreement.

### **1.2 Background and context**

The OSP is a non-statutory agency established on an administrative basis under the aegis of the Department. Its primary function is to provide independent expert advice on matters relating to forensic pathology, and to perform post mortem examinations in cases where foul play is suspected. These post mortem examinations may require, in some cases, attendance at the scene of death. Travel to and from these cases and/or scenes is known as a call out. In such cases, the OSP provides a post mortem report to the relevant Coroner. The relevant pathologist also attends the inquest held into the death as well as any court proceedings arising out of a Garda investigation.

The OSP’s workload also involves the review of skeletonised remains and referred cases. A referred case may be a second opinion sought by An Garda Síochána on a previous post mortem examination or on injuries to a living individual. More commonly, referred cases are requests for second independent post mortem examinations, usually requested by a defence solicitor/barrister on cases occurring outside the Irish jurisdiction (e.g. the UK).

The OSP makes a significant contribution to lectures and courses for medical students, histopathology trainees, An Garda Síochána and the Military Police. The forensic expertise provided by the OSP also enables pathologists to sit on a number of national committees e.g. the National Mass Fatality Steering Group, the National Drug-related Death Index Steering Group, and the Board of the Faculty of Pathology at the Royal College of Physicians of Ireland.

As of 1<sup>st</sup> March 2023, the OSP has 10.7 staff and a budget of €1.553 million.

### **1.3 Strategic fit of the OSP within the Justice Sector**

The Department has overall responsibility for the administration of the criminal justice system. The functions and objectives of the OSP align with Goal 1 of the Department’s Strategy Statement 2021-2023, viz. to “Tackle crime, enhance national security and transform policing”.

The OSP occupies a unique place in the criminal justice system as a specialised agency with an independent operational mandate, providing a scientific service to assist in both the investigation and adjudication of criminal cases as well as contributing to death investigation in all suspicious deaths and a small number of non-suspicious deaths. As such, the OSP provides a service that is essential for the administration of justice. The service is part of the wider death investigation system which, in addition to the administration of justice, is of interest to the State and to the public in providing information to families of the deceased, in public health epidemiology and in preventing future death and injury.

**2. Governance and oversight – key roles and responsibilities**

**2.1 The Minister, Accounting Officer and Department**

*2.1.1 The Minister*

With monies voted by the Oireachtas, the Minister provides the OSP with the resources that it requires to function. While the day-to-day responsibility for managing the OSP resides with the Chief State Pathologist, the Minister and the Government are ultimately accountable to the Oireachtas for the OSP’s performance as an executive agency under the aegis of the Minister.

*2.1.2 Accounting Officer*

The OSP is funded under the Department of Justice’s Vote (Vote 24), for which the Department’s Secretary General is the Accounting Officer. The Accounting Officer is responsible for the safeguarding of public funds and property under their control, for the efficiency and economy of administration by their Department and for the regularity and propriety of all transactions in the appropriation account. External scrutiny of the appropriation accounts and related matters is provided by the Comptroller and Auditor General (C&AG) and ultimately by the Oireachtas via the Public Accounts Committee.

*2.1.3 Core Areas of Departmental Interaction with the OSP*

While various areas of the Department (including several units of the Corporate Function) have dealings with the OSP, the relationship is fundamentally embodied in the interactions between the OSP and the Criminal Justice Governance Function, which has primary oversight responsibility for the OSP. Four of the Function’s Principal Officer-led units have specific responsibilities in this regard, as follows:

<b><i>Unit</i></b>	<b><i>Purpose</i></b>
<b>Standards</b>	Develop and promote consistent approaches to the Department’s oversight of criminal justice agencies, propose/advise on new governance structures as required, and put in place appropriate oversight agreements and performance targets.
<b>Criminal Justice Performance and Compliance</b>	Support and monitor agency compliance with corporate governance obligations and with the achievement of agreed performance objectives.

<b>Financial and Capital Resources</b>	Monitor the agency's budgetary management, and manage approvals for the accompanying resources.
<b>Human Resources and Appointments</b>	Advise and consult on strategic HR issues and requirements, and oversee senior and board recruitment/appointments for particular agencies.

## **2.2 OSP management and organisational structures**

### *2.2.1 Chief State Pathologist*

The Chief State Pathologist is appointed by the Minister to direct the provision of a national forensic pathology service. The Chief State Pathologist is responsible for the day-to-day management of the OSP and will discharge these obligations in accordance with (a) the policy and budgetary frameworks laid down by the Minister and the Department and (b) the governance structures and obligations outlined in this Agreement. The Chief State Pathologist is accountable to the Minister for the performance of his/her functions, and reports to the Deputy Secretary General (Criminal Justice).

### *2.2.2 Organisational structures*

The Chief State Pathologist is supported by two State Pathologists, two Deputy State Pathologists, a part-time locum Assistant State Pathologist, a senior laboratory analyst, and 4.4 (whole-time equivalent) administrative staff.

## **2.3 Adherence to relevant Governance Codes and Standards**

The OSP is subject to a range of statutory and other corporate governance obligations including the applicable provisions of the Code of Practice. The Chief State Pathologist and Senior Management Team will ensure compliance with all relevant obligations.

## **2.4 Annual business plan**

The OSP produces an annual business plan to guide its operations. The OSP will ensure that the plan is consistent with the targets agreed under the annual Revised Estimates process and the PDA.

## **2.5 Risk Management and Audit**

The OSP has its own risk management policy which is aligned with the Department's corresponding policy. The OSP also has a risk register which is regularly reviewed and updated as necessary. The outcome of these assessments is used to plan and allocate resources to ensure that risks are managed to an acceptable level. Copies of the risk management policy and risk register, and updates thereto, will be provided to the Performance and Compliance Unit in Criminal Justice Governance (hereafter "Performance & Compliance") upon request.

As the OSP is a non-statutory executive agency of the Department and is funded under the Justice Vote (Vote 24), it does not have its own internal audit function or audit committee. The Department's Internal Audit Unit (IAU) supports the OSP in monitoring and reviewing the effectiveness of its arrangements for internal governance, risk management

and internal control. Audit work is agreed between the Chief State Pathologist and the Head of Internal Audit, and the IAU carry out the audits within an agreed timeframe.

The Department's Audit Committee provides further support in ensuring that the interests of Government and other stakeholders are protected in relation to business and financial reporting and internal control. OSP will appropriately inform and consult with Criminal Justice Governance on any advice received from the audit committee and on how such advice can or should be put into effect.

## **2.6 Other key obligations and arrangements**

### *2.6.1 Procurement*

The Chief State Pathologist will ensure competitive tendering as standard in the procurement processes of the OSP, and that the applicable procurement policies are disseminated to all staff and adhered to. The OSP will report on its compliance, and on any issues arising, to the Department's Internal Audit Unit and/or Finance and Procurement Unit in line with established procedures. In addition, the Chief State Pathologist's annual Comprehensive Report to the Minister will confirm adherence (or otherwise) to the applicable procurement policies and procedures.

### *2.6.2 Other expenditure*

The Chief State Pathologist will ensure adherence to the applicable levels of delegated sanction for authorising expenditure. In any instance where there does not exist clear authority to incur a given expenditure, the OSP will consult in advance with Criminal Justice Governance (Financial and Capital Resources).

### *2.6.3 Human Rights, Equality, Diversity and Inclusion*

The OSP will comply with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014 – particularly in relation to medical ethics and respecting the dignity of the deceased – and with its public service obligations under relevant equality/diversity legislation (including, but not limited to, the Employment Equality Acts and the Disability Act 2005).

The OSP will also participate constructively in any Department-led sectoral initiatives in the area of equality, diversity and inclusion (EDI).

### *2.6.4 Environmental and Energy Conservation*

The OSP's energy consumption is incorporated within the overall consumption figures that the Department reports annually to the Sustainable Energy Authority of Ireland. The OSP participates in the Department of Justice's Energy Performance Officers Network and will take appropriate steps to reduce energy consumption and to meet its wider environmental obligations. The OSP will continue to report on progress to the Department on these matters as and when required.

### *2.6.5 Provision of information to Members of the Oireachtas*

The OSP will comply with D/PER Circular 25/2016 ('Provision of information to Members of the Oireachtas by State bodies under the aegis of Government Departments/Offices').

### 2.6.6 Data Protection

The OSP is committed to complying with its obligations under the Data Protection Acts 1988-2018, the EU General Data Protection Regulation (GDPR) and the EU Law Enforcement Directive. As an executive office of the Department, the OSP is subject to the Department's data protection policy. The Department's Data Protection Officer (DPO) is also the DPO for the OSP.

### 2.6.7 Conduct and Ethics

The delivery of high quality forensic pathology services requires all staff to adhere to the highest standards of probity, ethical conduct and diligence.

Staff conduct more generally is governed by (inter alia) the Civil Service Code of Standards and Behaviour, the Civil Service Disciplinary Code and the Ethics in Public Office Acts. In accordance with the latter legislation, members of staff that occupy 'designated positions' must furnish annual Statements of Interest to the Standards in Public Office Commission. These statements provide for the disclosure of interests, including material interests, which could influence directors of public bodies in the performance of their official duties.

### 2.6.8 Protected Disclosures

The Protected Disclosures Act 2014 ("the Act") was amended by the Protected Disclosures (Amendment) Act 2022. The amended Act commenced operation on 1 January 2023. OSP will maintain awareness of all attendant obligations under the Act and will have regard to the principles set out in the guidance published by DPER in November 2022: "*Protected Disclosures Act: Interim Guidance for Public Bodies and Prescribed Persons*" and any subsequent guidance issued over the lifetime of this Oversight Agreement.

In accordance with the Act, OSP has adopted the Department's Protected Disclosures policy and it has been communicated to all staff. This policy outlines the process for the making of protected disclosures by workers who are or were employed in the organisation and the process for dealing with such disclosures. If a worker wishes to report wrongdoing they should contact the Department's dedicated email at: [Speakup@justice.ie](mailto:Speakup@justice.ie). Further information in relation to making a protected disclosure is available on the Department's website.

## 2.7 Annual Report and Chief State Pathologist's Comprehensive Report to the Minister

### 2.7.1 Annual Report

In line with section 6 of the Code of Practice, the OSP will submit to the Minister, not later than four months after the end of the relevant year, an Annual Report on the performance of the functions and activities of the OSP during the year concerned. The Report will be published as soon as possible thereafter.

In line with Appendix A of the 'Code of Practice for the Governance of State Bodies – Business & Financial Reporting Requirements', the Annual Report will include (*inter alia*):

- An explanatory note on any derogations (as agreed between the OSP and the Department) from the applicable provisions of the Code of Practice.

- Confirmation that the OSP has carried out an appropriate assessment of its principal risks (which should also be described) and, where appropriate, outline any associated mitigation measures or strategies.
- Confirmation of adherence to all relevant aspects of the Public Spending Code.
- A statement on the system of internal control, covering all applicable items set out in Appendix D of the 'Code of Practice for the Governance of State Bodies – Business & Financial Reporting Requirements'.

The 2022 Annual Report, and subsequent annual reports, will also include details of performance against the targets set out in the PDA for the year concerned.

As an executive agency of the Department which is funded under the Justice Vote (Vote 24), the OSP is not required to produce annual Financial Statements. The OSP liaises with the Department's Financial Management Unit, whose monthly management reports include details of the OSP's income and Expenditure.

#### *2.7.2 Chief State Pathologist's Comprehensive Report to the Minister*

In conjunction with the submission of the OSP's Annual Report, the Chief State Pathologist shall furnish a Comprehensive Report to the Minister in line with the applicable provisions of section 1.9 and Appendix C of the 'Code of Practice for the Governance of State Bodies – Business & Financial Reporting Requirements'. The purpose of this report is to provide assurance that the necessary systems of internal control, risk management and other areas of compliance are operating effectively. As prescribed by the Code of Practice, the above mentioned statement on the system of internal control is to be included in the Comprehensive Report as well as in the OSP's Annual Report.

### **3. Monitoring arrangements and interactions**

#### *3.1.1 Formal interactions*

Criminal Justice Governance will hold two formal governance meetings with the OSP per year (or more if required). These meetings will be chaired by the Head of Criminal Justice Governance and attended by the Chief State Pathologist. The meetings will consider, as required and *inter alia*:

- Implementation of the annual business plan;
- Progress against the targets set out in the annual PDA;
- Financial management, budgetary and resource issues;
- Data governance and protection;
- Risk management and other internal controls;
- Adherence to OSP's obligations and commitments regarding the environment and the reduction of energy consumption;
- Equality, diversity and inclusion issues and initiatives;
- Any other matter comprehended in, or arising from, this Agreement.

OSP will also provide quarterly written updates on progress against its PDA targets and other items to be agreed with Performance & Compliance.

#### *3.1.2 Informal engagement*

Outside of the aforementioned governance agreements and quarterly reports there will continue to be regular, less formal interactions between the Department and the OSP in accordance with the needs and commitments of each party. Informal and unscheduled contact between the parties will remain an integral part of the relationship.

### 3.1.3 'No Surprises'

More generally, the relationship between the two parties will be underpinned by a principle of 'no surprises', with both parties informing and/or consulting each other in a timely manner on matters of mutual interest or concern. In this regard the OSP will, as soon as it becomes aware of same, immediately inform the appropriate area(s) of the Department:

- Any evidence or allegation of a significant governance or performance issue having occurred within the OSP, or of serious misconduct by a member of its staff;
- Any other incident or issue that appears reasonably likely to generate public commentary or scrutiny in connection with the management of the OSP, or that might otherwise affect the reputation of the OSP.

## 4. Commitments

### 4.1 Mutual Commitments

Both parties will:

- Be proactive and timely in communicating on (a) relevant matters including significant public announcements, media engagements and publications and (b) specific information requests and responses to meet the Minister's obligations to the Oireachtas or to inform Ministerial responses to representations, media queries etc.
- Engage in a timely and constructive manner on strategic, policy and other initiatives of relevance to the work of OSP.

### 4.2 OSP commitments

The OSP will:

- Provide timely, relevant and appropriately detailed information to fulfil its obligations under this Agreement and the annual PDA and to facilitate the Department in monitoring and appraising same.
- Provide, in its annual Estimates submission and in any other business cases for additional resources/funding, detailed and measurable information as to what new or enhanced outputs and outcomes it expects to deliver in return.
- Return relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume and the related Performance Reports produced annually by DPER.
- Consult appropriately with Criminal Justice Governance where it is intended to pursue significant new operational initiatives (including joint initiatives with other bodies) or to commission research or consultancy that relates substantively to the functions or management of the OSP.



- Engage fully and constructively with any Department-led research or evaluations (including any Periodic Critical Review initiated under the Code of Practice) which relate substantively to the functions of the OSP.

#### **4.3 Departmental commitments**

The Department will:

- Provide for and resource the annual budget for the OSP.
- Liaise with D/PER to ensure timely sanction for expenditure and staffing in line with public financial procedures and policies on public service numbers.
- Provide ICT services and supports through the Managed Service.
- Provide, via its HR Division, services encompassing recruitment, employee relations, workforce development, performance management and liaison with (HR) shared services as required.
- Provide any necessary guidance/direction on procurement and expenditure rules, government accounting and governance generally.
- Provide invoice processing and other accounting services through the Department's Financial Shared Services.
- Liaise with the OSP on public service reform/engagement initiatives as appropriate.

#### **5. Comply or Explain**

In view of the OSP's executive office status, limited corporate resources and functional scope, it has been agreed that the OSP is not required to produce a multiannual strategic plan at this point. This position will be kept under review.

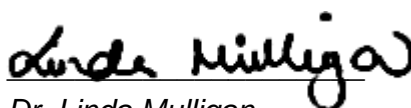
For the same reasons as above, the parties have agreed that the OSP is not required to produce its own customer charter or associated action plan. The OSP follows the principles and procedures set out in the Department's Customer Charter.

#### **6. Duration and signatories to the Agreement**

Carole Sullivan, Acting Assistant Secretary, Department of Justice, and Dr. Linda Mulligan, Chief State Pathologist, Office of the State Pathologist, affirm that this Oversight Agreement will be in effect until 31<sup>st</sup> December 2025.



*Carole Sullivan*  
*Assistant Secretary (Acting)*  
*Department of Justice*



*Dr. Linda Mulligan*  
*Chief State Pathologist*  
*Office of the State Pathologist*

**Date: 21<sup>st</sup> March 2023**