



An Roinn Dlí agus Cirt
Department of Justice



An tSeirbhís Phromhaidh
The Probation Service

Oversight Agreement 2023-25

Department of Justice

The Probation Service

1. Introduction

1.1 Scope of this Agreement

This Oversight Agreement sets out the broad governance and accountability framework within which the Probation Service 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 Service, in accordance with the Code of Practice for the Governance of State Bodies (“the Code of Practice”). It succeeds the previous Oversight Agreement 2020-2022 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 Probation Service is a non-statutory executive agency of the Department and forms a key component of the criminal justice system. Its primary function is to contribute to public safety by providing effective assessment and supervision of offenders, challenging their behaviours and facilitating their reintegration into law-abiding society. The Service manages approximately 15,000 offenders in the community each year and provides probation supervision, community service, community return, offending behaviour programmes and specialist support services to both adult and young offenders. It also provides services to prisons and places of detention to rehabilitate offenders and help them in preparing for their return to the community. As of 1st March 2023, the Service has 415 staff and a budget of €54 million.

The Probation of Offenders Act (1907) provides the statutory basis for community-based supervision of offenders and is the foundation for probation work in Ireland. (*Other relevant legislation and international guidance is appended to this Agreement.*) Probation Officers become involved in the criminal justice process between the trial and sanction/sentencing phases, often in cases where a court requires the Probation Service to prepare a pre-sanction assessment to assist in deciding on an appropriate sanction, which may include probation service or community service.

The Probation Service supports sentence management and offender through-care not only by supervising offenders who are given community-based sanctions, but also by managing offenders who are subject to post-release supervision as ordered by the courts or who are released from prison under the Community Return Scheme. In this context, the Probation Service partners with the Irish Prison Service (IPS) and other stakeholders on behavioural work with prisoners in preparation for their release. The Probation Service also works closely with IPS and An Garda Síochána on the joint management of high-risk offenders under initiatives such as the Joint Agency Response to Crime (JARC) and the Sex Offender Risk Assessment and Management (SORAM) programme.

The Mission of the Probation Service is “Offender rehabilitation and integration through respect, accountability, restoration and social inclusion’. Its Vision is “Safer, more inclusive communities where offending and its causes are effectively addressed”.

1.3 Strategic fit of the Probation Service within the Justice Sector

The Minister for Justice has responsibility for the development of penal policy in Ireland and for driving the implementation of penal reform. While punishment for those who commit crime is a central element of the justice system, this is balanced with a strong emphasis on the rehabilitation of offenders and their reintegration into law-abiding society. This approach is supported by international research as representing best practice in the management of offenders. The primary aim of such evidence-based interventions is to encourage offenders to address their behaviour with a view to reducing the risk to overall community safety.

The functions and objectives of the Probation Service align with Goal 3 of the Department's Strategy Statement 2021-2023, viz. to "*Strengthen community safety, reduce reoffending, support victims and combat domestic, sexual and gender based violence*". The Probation Service contributes to this goal by:

- Ensuring that court-ordered supervision is implemented.
- Reducing the likelihood of reoffending and risk of harm to the public.
- Making good the harm done by crime (through reparation and restorative justice).

To achieve these objectives, the Service delivers the following programmes and services:

- Offender assessment, supervision and sentence management
- Community Service and Community Return
- Young Persons' Probation (YPP)
- Community Partner Initiatives (including the provision of programme funding to relevant community-based organisations)

2. Governance and oversight – key roles and responsibilities

2.1 The Minister, Accounting Officer and Department

2.1.1 The Minister

While the day-to-day responsibility for managing the probation system is largely delegated to the Director of the Probation Service, the Minister retains statutory responsibility for the system and has an active role (supported by officials in the Department) in determining probation policy and in approving the Service's strategic and performance objectives.

2.1.2 Accounting Officer

The Probation Service 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 Probation Service

While various areas of the Department (including Transparency Function, the Change, Technology and Innovation Function and multiple units within the Corporate Function) have dealings with the Probation Service, the relationship is fundamentally embodied in the interactions between the Service and the Department's Criminal Justice Policy and Criminal Justice Governance Functions respectively. **Criminal Justice Policy** liaises frequently with the Probation Service on the ongoing penal policy reform programme, the Criminal Justice Sectoral Strategy and related matters. **Criminal Justice Governance** has primary oversight responsibility for the Service. Four of its Principal Officer-led units have specific responsibilities in this regard, as follows:

Unit	Purpose
Standards	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 annual performance targets.
Criminal Justice Performance and Compliance	Support and monitor compliance with corporate governance obligations and with the achievement of agreed performance objectives, and manage the governance relationship on an ongoing basis.
Financial and Capital Resources	Monitor (in conjunction with the Department's finance and internal audit functions) the agency's financial and capital resource management, and manage approvals for the accompanying resources.
Human Resources and Appointments	Advise and consult on strategic HR issues and requirements, and oversee senior and board recruitment/appointments for particular agencies.

2.2 Probation Service management and organisational structures

2.2.1 Director of the Probation Service

The Director of the Probation Service ("the Director") is appointed by the Minister and is responsible for the day-to-day management of the Probation Service. The Director 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 Director is accountable to the Minister for the performance of his/her functions, and reports to the Deputy Secretary General (Criminal Justice).

2.2.2 Deputy Directors and Senior Management Team

The Director is supported by three Deputy Directors and one Principal Officer, each with responsibility for a particular Directorate as follows:

- Operations: Courts & Community
- Operations: Prisoners & Reintegration
- Effective Practice

- Corporate Affairs & Communications

The senior management team of the Service comprises the Director, the three Deputy Directors, one Principal Officer, one Assistant Director, eighteen Regional Managers/Assistant Principals, an Accountant and a Statistician.

2.2.3 Regional and administrative structures

The Probation Service has eight operational regions, five of which are geographical and three of which are national (the Prisons Region, Community Service and Young Persons Probation). Each region is managed by a Regional Manager. The corporate and administrative structure is concentrated in the Probation Service headquarters in Smithfield, Dublin 7. Each local office is managed by a Senior Probation Officer, with administrative support provided onsite by Clerical Officers. There are also five Regional Executive Officers.

2.3 Adherence to relevant Governance Codes and Standards

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

2.4 Strategy Statement

In accordance with section 1.17 of the Code of Practice, the Probation Service produces a multi-year Strategy Statement. The [current Statement](#) covers the period 2021-2023. The Director will ensure that a successor Statement is developed in a timely manner and will submit it to the Department for review before a final version is submitted to the Minister for approval. In accordance with section 1.15 of the Code of Practice, the Statement will include appropriate objectives and goals along with relevant indicators and targets against which performance can be clearly measured.

2.5 Annual business plan

The Probation Service produces an annual business plan to guide its operations and the detailed implementation of its Strategy Statement. The Service will ensure that the plan appropriately reflects the Minister's strategic and policy priorities and that it is consistent with the relevant targets agreed under the annual Revised Estimates process and the PDA.

2.6 Risk Management and Audit

The Probation Service has its own risk management policy which is aligned with the Department's corresponding policy. The Service also has a risk register which is reviewed on a quarterly basis by its Risk Management Committee and updated as necessary. The outcome of these assessments is used to plan and allocate resources to ensure 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 Probation Service 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 Probation Service in monitoring and reviewing the effectiveness of its arrangements for internal governance, risk management and internal control. Audit work is agreed between the Director 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. The Service will inform and consult with Performance & Compliance on any advice received from the audit committee and on how such advice can or should be put into effect.

2.7 Other key obligations

2.7.1 Funded bodies

The Probation Service provides funding to Community Based Organisations (CBOs) who provide a range of services to offenders to help them address their behaviour and facilitate their reintegration into the community. These services include training and education, offender management programmes, residential accommodation, drug and alcohol abuse treatment programmes.

Funding of €18.5m has been allocated to CBOs in 2023 and is subject to appropriate governance and monitoring arrangements. There are Service Level Agreements in place with each CBO which include relevant metrics/targets upon which performance is to be measured and specific processes and procedures in place to address underperformance. The Probation Service will ensure compliance with the relevant requirements of D/PER Circular 13/2014 and with the Department's Policy for the Management of Grant Funding Programmes to Non-Governmental Bodies.

2.7.2 Procurement

The Director will ensure competitive tendering as standard in the procurement processes of the Probation Service, and that the applicable procurement policies are disseminated to all staff and adhered to. The Probation Service 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 Director's annual Comprehensive Report to the Minister will confirm adherence (or otherwise) to the applicable procurement policies and procedures.

2.7.3 Other expenditure

The Director will ensure adherence to the applicable levels of delegated sanction for authorising expenditure. In any instance where the Service is unclear as to its authority or otherwise to incur a given expenditure, it will seek advice from Criminal Justice Governance (Financial & Capital Resources).

2.7.4 Human Rights, Equality, Diversity and Inclusion

The Service will comply with its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014 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 Service will continue to develop and take forward initiatives to give effect to the goals set out in the 'Promoting Inclusion' pillar of its Strategy Statement 2021-23. The Service will also participate constructively in any Department-led sectoral initiatives in the area of equality, diversity and inclusion (EDI).

2.7.5 Environmental and Energy Conservation

The Probation Service will fulfil its statutory and other obligations in relation to environmental and energy conservation, including the following:

- In accordance with requirements set out in the Public Sector Energy Efficiency Strategy 2017, the Service has a designated Energy Performance Officer at senior management level who has primary responsibility for (inter alia) ensuring that the Service meets the applicable statutory/Government-mandated targets on reducing energy consumption and carbon emissions, and for accurately reporting energy use to the Sustainable Energy Authority of Ireland (SEAI) on an annual basis.
- Preparing a Climate Action Roadmap by Quarter 1 of 2023 in accordance with the joint SEAI/Environmental Protection Agency guidelines.
- Outlining progress on energy reduction in the Service's annual report.
- Participating in Justice sector and wider public sector initiatives on energy and environmental issues.
- Having full regard to Department of Public Expenditure and Reform (D/PER) Circular 20/2019 on Promoting Environmental and Social Considerations in Public Procurement.

2.7.6 Provision of information to Members of the Oireachtas

The Probation Service 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').

2.7.7 Child Protection

The Director will ensure that the Probation Service is compliant with its obligations under the Children First Act 2015, the *Children First National Guidance for the Protection and Welfare of Children*, and the Children First Sectoral Implementation Plan published by the Minister under section 27 of the Act. The Service will annually, or more frequently if requested, submit to Performance & Compliance a report on its Children First compliance for the year in question. This report will include, inter alia: details and figures regarding vetting, training and instruction of personnel; and the numbers of mandated reports and other referrals made to Tusla in the period concerned.

Any significant child protection difficulties or breaches¹ will be communicated to Tusla at the earliest opportunity, followed by a report to Performance & Compliance on the matter.

¹ Such as (but not limited to) a serious incident involving a child safeguarding failure, any failure by a mandated person to make a report to Tusla in accordance with their statutory obligations, or any

2.7.8 Data Protection

The Probation Service 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 Probation Service is subject to the Department's data protection policy. Under section 3 of the 2018 Act, the Minister has recently designated the Director of the Probation Service as the data controller of the data processed by the Service. Accordingly, the Service will make arrangements to appoint its own designated Data Protection Officer.

As part of its quarterly reporting to Performance & Compliance under section 3.1.1 of this Agreement, the Service will include an update on any significant developments or issues relating to data protection and data governance. This shall include notification of any identified data breaches in the period concerned and the progress/outcome of any inspections or investigations by the Office of the Data Protection Commissioner (DPC). However, in the event of an especially serious breach² the Service will inform Performance & Compliance as soon as it has made the necessary notification to the DPC.

2.7.9 Conduct and Ethics

The delivery of high quality probation services requires all staff to adhere to the highest standards of probity, ethical conduct and diligence in their dealings with persons under their supervision and with other stakeholders.

Staff conduct 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.

2.7.10 Customer Charter

The Probation Service has a customer charter setting out the level of service that its customers can expect. The charter is displayed prominently on the Service's website and is supported by a customer action plan. The Annual Report of the Service sets out the number of complaints received in the preceding year.

2.7.11 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. The Service 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

significant deficits in child protection training or in maintaining the network of Designated Liaison Persons.

² E.g. a breach involving the inadvertent exposure or disclosure of highly sensitive personal data and/or the personal data of a large number of individuals.

Prescribed Persons” and any subsequent guidance issued over the lifetime of this Oversight Agreement.

In accordance with the Act, The Service 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. Further information in relation to making a protected disclosure is available on the Department’s website.

2.8 Annual Report and Director’s Comprehensive Report to the Minister

2.8.1 Annual Report

In line with section 6 of the Code of Practice, the Director 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 Probation Service 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 Probation Service and the Department) from the applicable provisions of the Code of Practice.
- Confirmation that the Service 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 Probation Service is not required to produce annual Financial Statements. The Service liaises with the Department’s Financial Management Unit, whose monthly management reports include details of the Service’s income and expenditure.

2.8.2 Director’s Comprehensive Report to the Minister

In conjunction with the submission of the Probation Service Annual Report, the Director 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 the Comprehensive 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 Director's Comprehensive Report as well as in the Service's Annual Report.

3. Monitoring arrangements and interactions

3.1.1 Formal interactions

Criminal Justice Governance will hold three formal governance meetings with the Probation Service per year (or more if required). These meetings will be chaired by the Head of Criminal Justice Governance and attended by the Director of the Probation Service. The meetings will consider, as required and *inter alia*:

- Implementation of the Strategy Statement and annual business plan;
- Progress against the targets set out in the annual PDA;
- Financial management, budgetary and resource issues;
- The Service's oversight of funded bodies;
- Data governance and protection;
- Risk management and other internal controls;
- Adherence to the Service'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.

The Service will also provide quarterly written updates on progress against its PDA targets, data protection/governance 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 Service 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 Service 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 Service, 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 Service, or that might otherwise affect the reputation of the Service or of the probation system more generally.

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 data-related initiatives of relevance to the probation system, including initiatives to support the development of enhanced outcome-based performance metrics.

4.2 Probation Service commitments

The Probation Service will:

- Provide timely, relevant and appropriately detailed information, as specified elsewhere in this Oversight Agreement, 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 with Criminal Justice Governance and/or Criminal Justice Policy, as appropriate, 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 Probation Service.
- 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 Service.

4.3 Departmental commitments

The Department will:

- Provide for and resource the annual budget for the Probation Service.
- 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 Service on public service reform/engagement initiatives as appropriate.

5. Duration and signatories to the Agreement

Carole Sullivan, Acting Assistant Secretary, Department of Justice, and Mark Wilson, Director, Probation Service, affirm that this Oversight Agreement will be in effect until 31st December 2025.



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



*Mark Wilson
Director
Probation Service*

Date: 5th April 2023

Appendix

Relevant legislation and national/international guidance includes:

Probation

- *Probation of Offenders Act 1907*
- *Criminal Justice (Administration) Act 1914*

Community Service

- *Criminal Justice (Community Service) Act 1983 (as amended)*
- *Criminal Justice (Community Service)(Amendment) Act 2011*

Suspended Sentences (supervised)

- *Criminal Justice Act 2006*
- *Criminal Justice (Suspended Sentences of Imprisonment) Act 2017*

Prisoners

- *Transfer of Sentenced Persons Act 1995*
- *Transfer of Sentenced Persons (Amendment) Act 1997*

Temporary Release (supervised)

- *Criminal Justice Act 1960 (as amended)*
- *Criminal Justice (Temporary Release of Prisoners) Act 2003*

Parole

Parole Act 2019

Young Persons Probation

- *Children Act 2001*

Sex Offenders

- *Sex Offenders Act 2001*
- *Criminal Law (Sexual Offences) Act 2017*

Misuse of Drugs

- *Misuse of Drugs Act 1977 (as amended)*

Fine Default Alternatives

- *Fines (Payment and Recovery) Act 2014*

Spent Convictions

- *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016*
- *Children Act 2001 (Section 258)*

Child Safeguarding

- *The Children First Act 2015*
- *Children First: National Guidance for the Protection and Welfare of Children (2017)*

In addition, practice is guided by:

- Framework decision 2008/947 - Application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions
- *Council of Europe Recommendation CM/Rec (2010)1 of the Committee of Ministers to Member States on Council of Europe Probation Rules*
- *Council of Europe Recommendation CM/Rec (2017)3 of the Committee of Ministers to Member States on European Rules on Community Sanctions and Measures*

- *Council of Europe Recommendation CM/Rec (2008)11 of the Committee of Ministers to Member States on European Rules for juvenile offenders subject to sanctions or measures*
- *UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), 1990*
- *UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules), 2010*
- *UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985*
- *CORU Code of Professional Conduct and Ethics for Social Workers, 2019*