



An Roinn Dlí agus Cirt
Department of Justice



Oifig An Chigire Príosún
Office of the Inspector of Prisons

Oversight Agreement 2023-24

Department of Justice

Office of the Inspector of Prisons

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 Inspector of Prisons (“the OIP”) 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 OIP, in accordance with the Code of Practice for the Governance of State Bodies (“the Code of Practice”). It succeeds the previous Oversight Agreement 2020-22 and will be reviewed 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

1.2.1 Key statutory provisions

The Inspector of Prisons (hereafter “the Chief Inspector”) is a statutory position established under the Prisons Act, 2007 (“the Act”). The key role of the Chief Inspector is to carry out regular inspections of the 12 prisons in Ireland, and to present report(s) on each institution inspected to the Minister for consideration and publication. In this regard the Chief Inspector is assisted by a team of inspectors and administrative staff known collectively as the Office of the Inspector of Prisons (hereafter “the OIP”).

The current Chief Inspector is Mr. Mark Kelly, who was appointed on 15 August 2022. As at March 2023, the OIP has 11 staff and an annual budget of €2.4 million.

Section 31(1) of the Act provides that the Chief Inspector shall carry out regular inspections of prisons and for that purpose may:

- at any time enter any prison or any part of a prison,
- request and obtain from the Governor a copy of any books, records, other documents or extracts from such materials, and
- in the course of an inspection or arising out of an inspection bring any issues of concern to the notice of the governor of the prison concerned, the Director General of the Irish Prison Service (IPS) or the Minister as the Chief Inspector considers appropriate.

Section 31(2) of the Act provides that the Chief Inspector may, and shall if so requested by the Minister, investigate any matter arising out of the management or operation of a prison and shall submit to the Minister a report on any such investigation. Under the terms of a formal request issued by the Minister under section 31(2), the Chief Inspector investigates the circumstances surrounding the death of any prisoner while in prison custody or within the first month of their temporary release from custody.

Governors, prison officers, other persons employed in prisons and prisoners must, as far as reasonably practicable, comply with any request for information that the Chief Inspector may make in the performance of his functions.

Although it is not a function of the Chief Inspector to investigate or adjudicate on a complaint from an individual prisoner, he may examine the circumstances relating to the complaint where necessary for performing his functions. The Chief Inspector has specific functions in overseeing the investigation by the IPS of prisoner complaints under Rules 57A and 57B of the Prison Rules 2007 as amended.

1.2.2 Inspection of Places of Detention Bill

In June 2022, the Minister received Government approval to publish the General Scheme of the Inspection of Places of Detention Bill. The proposed Bill will provide for the designation of National Preventive Mechanisms (NPMs) to serve as national inspection bodies of places of detention in the State, thereby enabling Ireland to ratify the Optional Protocol to the UN Convention against Torture (OPCAT). The Bill will also strengthen and expand the existing statutory role of the Inspector of Prisons to become the Chief Inspector of Places of Detention, with a remit spanning the whole justice sector. The person who holds the post of Chief Inspector will be the designated NPM not only for prisons but also for places of detention across the sector, including detention in Garda stations, court holding cells and vehicles transporting persons between places of detention.

1.3 Strategic fit within Justice Sector

The Minister for Justice has responsibility, inter alia, for developing and implementing penal policy and penal reform, and for ensuring (via the IPS) the safe, secure and humane custody of prisoners. The OIP's independent oversight and investigative work supports the Minister and the IPS in meeting those responsibilities.

2. Governance and Oversight – key roles and responsibilities

2.1 The Minister, Accounting Officer and Department

2.1.1 The Minister for Justice

Under the current legislation, the Minister appoints the Chief Inspector in accordance with section 30(1) of the Act and provides the OIP with the resources that it requires to function. While the Chief Inspector is (subject to Part 5 of the Act) independent in the performance of his functions, the Minister and Government are ultimately accountable to the Oireachtas for the performance of the OIP as a publicly funded State body.

2.1.2 Accounting Officer

The OIP is funded under the Department of Justice's Vote (Vote 24), for which the Department's Secretary General is currently 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 for the Vote. The OIP provides a detailed briefing to the Secretary General in advance of her appearances before the Public Accounts Committee. 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 OIP

While various areas of the Department (including the Criminal Justice Policy and Legislation Functions, the Change, Technology and Innovation Function and multiple units within the Corporate Function) have dealings with the OIP, the current relationship is fundamentally embodied in the interaction between the OIP and the Criminal Justice Governance Function. Four of the Function's Officer-led units have specific responsibilities in relation to the OIP, 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 OIP management and organisational structures

2.2.1 Inspector of Prisons

The OIP comprises the Chief Inspector and a team of staff provided by the Department to support the Chief Inspector in his functions. The Chief Inspector has a vital role in ensuring effective, independent oversight of the prison system. The Chief Inspector also has a range of corporate responsibilities including budgetary and personnel management, internal control and risk management.

2.2.2 OIP Senior Management Team

The OIP has a Senior Leadership Team (SLT) currently comprising the Chief Inspector, Deputy Chief Inspector, two Senior Inspectors (one post vacant at present) and the Head of Corporate Affairs. The SLT sets the strategic direction of the OIP and is responsible for the allocation of its resources to ensure efficiency and effectiveness in the manner in which the OIP performs its functions. The team convenes for a formal meeting during the third week of each month and informally once during each of the other three weeks.

2.3 Adherence to relevant Governance Codes and Standards

The OIP is subject to a range of statutory and other corporate governance obligations including the applicable provisions of the Code of Practice. The Chief Inspector ensures compliance with all relevant obligations.

2.4 Strategic Plan

In accordance with section 1.17 of the Code of Practice, the OIP produces a multi-year Strategic Plan. The [current Plan](#) covers the period 2020-2023. The Chief Inspector will ensure that a successor Plan 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 Plan 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 OIP produces an annual business plan to guide its operations and the detailed implementation of its Strategic Plan. The OIP ensures that the plan is consistent with the relevant targets agreed under the annual Revised Estimates process and the PDA.

2.6 Risk Management and Audit

The OIP has a risk management system and a risk register which is kept under continuing review. Copies of the risk register, and updates thereto, are provided to the Performance and Compliance Unit in Criminal Justice Governance (hereafter “Performance & Compliance”) upon request.

As a smaller body funded under the Justice Vote (Vote 24), the OIP does not currently have its own internal audit function or audit committee. The Department’s Internal Audit Unit (IAU) supports the OIP in monitoring and reviewing the effectiveness of its arrangements for internal governance, risk management and internal control. Audit work is agreed between the OIP 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 OIP will consult appropriately with Criminal Justice Governance on any advice received from the audit committee and on how such advice can or should be put into effect.

2.7 Other key obligations and arrangements

2.7.1 Procurement

The Chief Inspector will ensure competitive tendering as standard in the procurement processes of the OIP, and that the applicable procurement policies are disseminated to all staff and adhered to. The OIP 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 Inspector’s annual Comprehensive Report

to the Minister will also confirm adherence (or otherwise) to the applicable procurement policies and procedures.

2.7.2 Other expenditure

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

2.7.3 Human Rights, Equality, Diversity and Inclusion

The OIP 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).

2.7.4 Environmental and Energy Conservation

The OIP 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 OIP has a designated Energy Performance Officer at senior management level who has primary responsibility for (inter alia) ensuring that the OIP 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 OIP'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.

2.7.5 Provision of information to Members of the Oireachtas

The OIP 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').

2.7.6 Data Governance and Protection

The OIP 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 OIP is subject to the Department's data protection policy. The OIP has appointed its own Data Protection Officer.

Where so requested in accordance with section 3.1.1 of this Agreement, the OIP will provide Performance & Compliance with an update on any significant developments or

issues relating to data protection and data governance. This shall include information on 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 (ODPC). However, in the event of an especially serious breach¹ the OIP's Data Protection Officer will inform Performance & Compliance as soon as possible after making the necessary notification to the ODPC.

2.7.7 Conduct and Ethics

The conduct of OIP staff 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.

2.7.8 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. The OIP will maintain awareness of all attendant obligations under the Act and will have regard to the principles set out in the guidance published by DPOR 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, the OIP 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 Chief Inspector's Comprehensive Report to the Minister

2.8.1 Annual Report

In accordance with section 31 of the Act, the Chief Inspector shall submit to the Minister, not later than 31 March in any year or such later date as the Minister may specify, a report on the performance of his functions during the preceding year. The Minister will publish the report 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 *inter alia* include:

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

¹ 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.

- Confirmation that the OIP 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 a smaller body funded under the Justice Vote, the OIP is not currently required to produce annual financial statements. The OIP liaises with the Department's Financial Management Unit, the monthly management reports of which include details of the OIP's income and expenditure.

2.8.2 Chief Inspector's Comprehensive Report to the Minister

In conjunction with the submission of the OIP's Annual Report, the Chief Inspector 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 Chief Inspector's Comprehensive Report as well as in the OIP's Annual Report.

3. Monitoring arrangements and interactions

3.1 Formal interactions

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

- Implementation of the Strategic Plan and 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 the OIP's obligations and commitments regarding the environment and the reduction of energy consumption;
- Equality, diversity and inclusion issues and initiatives;

- Matters relating to the Chief Inspector’s oversight of IPS investigations into prisoner complaints under Rules 57A and 57B of the Prison Rules 2007 as amended.
- Any other matter referenced in or comprehended by this Agreement.

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

3.2 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 OIP 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.

3.3 ‘No Surprises’

More generally, the governance 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 OIP will, as soon as it becomes aware of same, immediately inform the appropriate area(s) of the Department regarding:

- Any evidence or allegation of a significant governance or performance issue having occurred within the OIP, 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 OIP, or that might otherwise affect the reputation of the prison inspection 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.
- Liaise appropriately on strategic, policy and data-related initiatives of relevance to the work of the OIP.
- Engage in a timely and constructive manner on the legislative² and practical preparations, including resource implications, for implementation of the Places of Inspection of Detention Bill.

² It being noted that there is ongoing and constructive engagement between the OIP and the Criminal Justice Policy and Legislation function of the Department.

4.2 OIP commitments

The OIP will:

- Provide timely, relevant and appropriately detailed information, as specified elsewhere in this 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.
- Notify Criminal Justice Governance and/or Criminal Justice Policy, as appropriate, where it is intended to pursue significant new operational initiatives or to commission research or consultancy that relates substantively to the functions or management of the OIP.

4.3 Departmental commitments

The Department will:

- Provide for and resource the annual budget for the OIP.
- Liaise with D/PER to ensure timely sanction for expenditure and staffing in relation to the current and envisaged future functions, in line with public financial procedures and policies on public service numbers.
- Actively assist the OIP to acquire and enter into occupation of appropriate permanent accommodation for the Inspectorate.
- 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.
- Provide ICT services and supports through the Managed Service.
- Liaise with the OIP on public service reform/engagement initiatives as appropriate.

5. Comply or Explain

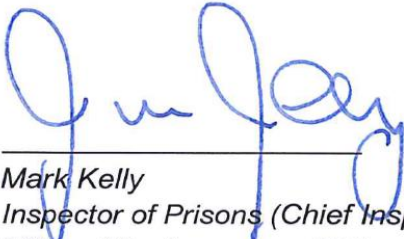
As a smaller inspectorate body currently falling under the aegis of the Department, it has been agreed that the OIP is not required to produce a customer charter or associated action plan. Nonetheless, the OIP follows the principles and procedures set out in the Department's Customer Charter.

6. Duration and signatories to the Agreement

Carole Sullivan, Acting Assistant Secretary, Department of Justice, and Mark Kelly, Chief Inspector, Office of the Inspector of Prisons, affirm that this Oversight Agreement will be in effect until 31st December 2024 or until it warrants replacement on account of the commencement of the Inspection of Places of Detention Bill (whichever is sooner).



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



*Mark Kelly
Inspector of Prisons (Chief Inspector)
Office of the Inspector of Prisons*

Date: 30 May 2023