



An Roinn Dlí agus Cirt  
agus Comhionannais  
Department of Justice  
and Equality

CRIMINAL  
ASSETS  
BUREAU

**Department of Justice and Equality**

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**Criminal Assets Bureau**

**Oversight Agreement 2020-22**

# **1. Introduction**

## **1.1 Scope of this Agreement**

This Oversight Agreement has been drawn up by the Department of Justice and Equality (“the Department”) in consultation with the Criminal Assets Bureau (“the Bureau”), 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 Performance Delivery Agreement (PDA), succeeds the previous Corporate Governance Assurance Agreement (2017-2019) between the two parties.

This Oversight Agreement sets out the broad governance and accountability framework within which the Bureau operates, and defines the key roles and responsibilities which underpin the relationship between it and the Department. While this Agreement shall remain in force until end 2022, the parties shall, in accordance with the Code of Practice, review it every 12 months and update it as necessary.

## **1.2 Background and context**

### *1.2.1 Role of the Criminal Assets Bureau*

The Bureau is a statutory body established under the Criminal Assets Bureau Act 1996 (“the Act”). It is a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

The Bureau is a key part of the armoury of the State in tackling criminal activity, in particular serious and organised crime, by divesting persons of their ill-gotten gains and disrupting the resources available to support criminal activity. The Bureau’s Mission is *“To ensure crime does not pay”*. Its Vision is *“To achieve excellence in denying and depriving beneficiaries the proceeds of criminal conduct”*.

The statutory objectives of the Bureau, as set out in section 4 of the Act, are:

- the identification of the assets of persons which derive, or are suspected to derive, directly or indirectly from criminal conduct;
- the taking of appropriate action under the law to deprive or to deny those persons of such assets or the benefit of such assets, and
- the pursuit of any necessary investigation or other preparatory work in relation to relevant proceedings.

The principal functions of the Bureau, as set out in section 5 of the Act, are to identify, freeze and confiscate the proceeds of criminal conduct, which it does in accordance with the provisions of the Proceeds of Crime legislation. The Bureau is also responsible for ensuring that the proceeds of criminal conduct are subject to tax under the Revenue Acts, and for the investigation and recovery of social welfare claims under Section 5(1)(c) and 5(1)(d) of the CAB Act. The Bureau’s investigative work may, as required, involve co-operation (as governed by the applicable international agreements) with police forces, criminal asset recovery bodies, tax authorities and social welfare authorities of other jurisdictions.

In accordance with the relevant legislation, all monies collected by the Bureau are returned to the Exchequer for the benefit of the Central Fund.

### *1.2.2 Strategic fit of the Bureau within Justice and Equality sector*

The Bureau’s statutory functions and objectives support the Department’s strategic goal (as set out in its Strategy Statement 2016-19) of “A Safe, Secure Ireland: To safeguard the security of the State and to achieve reductions in crime and re-offending and improvements in people’s safety”. More

specifically, the Bureau's work supports a number of the Department's stated strategic objectives including tackling serious and organised crime (including cross-border organised crime) and money laundering, *inter alia*.

### 1.2.3 Bureau staffing procedures

The Bureau is a multi-disciplinary body with officers assigned from An Garda Síochána, the Office of the Revenue Commissioners and the Department of Employment Affairs and Social Protection. It also has a Legal Officer. Administrative, Professional and Technical support is provided by staff from the Department of Justice and Equality. The staff of the Criminal Assets Section of the Chief State Solicitor's Office also work with CAB on a full-time, co-located basis.

Under section 7 of the Act, the Chief Bureau Officer is appointed by the Commissioner of An Garda Síochána ("the Commissioner") from amongst the members of An Garda Síochána of the rank of Chief Superintendent. The Commissioner is also empowered to remove the Chief Bureau Officer from his/her appointment.

Under section 8 of the Act, the Minister for Justice and Equality ("the Minister") may, with the consent of the Minister for Public Expenditure, appoint members of An Garda Síochána, officers of the Revenue Commissioners and officers of the Minister for Social Welfare to be bureau officers. The Chief Bureau Officer, with the consent of the Commissioner, may remove any bureau officer from the Bureau.

Under section 9 of the Act the Minister may, with the consent of the Attorney General and of the Minister for Public Expenditure and Reform, appoint a person to be the Bureau Legal Officer. The Minister may also, with the consent of the Minister for Public Expenditure and Reform and following consultation with the Garda Commissioner, appoint persons to be professional or technical members of the staff of the Bureau.

The Act also provides that the Minister may, with the consent of the Attorney General and the Minister for Public Expenditure and Reform, remove the Bureau Legal Officer from being a member of the staff of the Bureau. The Commissioner may, with the consent of the Minister, remove any professional or technical member of the staff of the Bureau other than the bureau legal officer.

Special provision is made in the Act to preserve the anonymity of bureau officers and members of the staff of the Bureau.

### 1.2.4 Department's Transformation Programme

Major structural reform has taken place in the Department with the implementation of its Transformation Programme during 2019. This Programme moves the Department from a traditional divisional structure to a streamlined functional model under which the core work of the Department has been realigned under two separate pillars: Criminal Justice and Civil Justice & Equality. Each pillar is subdivided into the four functional areas of Policy, Legislation, Governance, and Operations & Service Delivery. The criminal and civil pillars are supported by a third, central pillar comprising the enabling and co-ordination functions of Corporate Affairs, Transparency and European Affairs.

The varied work carried out by the Department's former Drugs & Organised Crime Division is now, in the main, being undertaken by the Transparency, Criminal Justice Policy and Criminal Justice Governance functions respectively. The **Transparency** function is responsible for sourcing, assessing and communicating all information required by the Minister, as well as managing internal and external communications including press queries, representations, complaints from members of the public, parliamentary questions, event management etc. Transparency shall have direct and frequent dealings with the Bureau in any such matters. The **Criminal Justice Policy** function shall liaise directly with the Bureau on relevant policy issues.

The establishment of a dedicated **Criminal Justice Governance** function is intended to enable the Department to build and consolidate its capacity in this area, thereby resulting in more focused and mutually beneficial relationships with the bodies under its remit and, ultimately, supporting a better service to stakeholders and the wider public. This new functional area shall oversee all criminal justice agencies under the aegis of the Department. It comprises six Principal Officer-led teams, of which the following four shall have specific dealings with the Bureau as required:

<b><i>Team</i></b>	<b><i>Purpose</i></b>
<b>Governance Standards</b>	To develop and promote consistent approaches to oversight, put in place effective governance agreements with bodies, and advise on specific governance structures and proposals.
<b>Performance and Compliance</b>	To support, monitor and appraise the overall performance of the Bureau and its compliance with its corporate governance obligations, and to manage the governance relationship on an ongoing basis.
<b>Financial and Capital Resources</b>	To oversee financial (current and capital), infrastructure, procurement and IT resource management of bodies and statutory approvals for the accompanying resources.
<b>Human Resources and Appointments</b>	To advise and consult on strategic HR issues and senior appointments.

## **2. Corporate Governance Arrangements and Obligations**

### **2.1 Roles and Responsibilities**

#### *2.1.1 Minister for Justice and Equality*

The Minister is accountable to the Oireachtas for policing and security matters generally and for related matters including the activities and performance of the Bureau. The Act assigns a variety of functions to the Minister, including appointing Bureau officers and conferring on Bureau officers additional functions connected with the objectives and functions of the Bureau.

#### *2.1.2 Accounting Officer*

The Bureau is funded under the Department's Vote (Vote 24), for which the Secretary General is Accounting Officer. The Secretary General is accordingly responsible for ensuring the economy and efficiency of the Bureau in the use of its resources and in overseeing the systems, procedures and practices used by the Bureau in evaluating the effectiveness of its operations. Further external scrutiny and governance is provided through the submission of the Appropriation Accounts to the Comptroller & Auditor General and ultimately to the Oireachtas via the Public Accounts Committee.

#### *2.1.3 Commissioner of An Garda Síochána*

Under the Act, the Commissioner appoints and may, at any time, remove the Chief Bureau Officer. The Commissioner is responsible for overseeing the performance of the Chief Bureau Officer in managing the functions of the Bureau.

#### *2.1.4 Chief Bureau Officer*

The Chief Bureau Officer shall carry on and manage and control generally the administration and business of the Bureau. In this capacity he is also responsible for the implementation of effective corporate governance so as to ensure that the Bureau's statutory and administrative governance obligations are fully discharged. The Act provides that the Chief Bureau Officer shall be appointed from amongst the members of An Garda Síochána at the rank of Chief Superintendent.

The Chief Bureau Officer is accountable to the Commissioner of An Garda Síochána for the performance of the functions of the Bureau, and is accountable to the Department with regard to matters arising (a) for the Secretary General as Accounting Officer for the Bureau and (b) for the Minister in terms of his accountability to the Oireachtas for the performance and activities of the Bureau.

#### *2.1.5 Bureau Senior Management Team*

The Bureau's Senior Management Team (SMT) comprises the highest grade/rank from each discipline within the Bureau and meets formally at least once per month (other than in August). It is chaired by the Chief Bureau Officer and includes the Bureau Legal Officer, Detective Superintendent, two Detective Inspectors, Senior Customs Bureau Officer, two Senior Revenue Bureau Officers, the Senior Social Welfare Bureau Officer, representatives from the Bureau Analysis Unit (Financial Crime Analyst and Forensic Accountant), IT Manager, Office Manager and the relevant Principal Solicitor from the Chief State Solicitor's Office.

The SMT aims to maximise the Bureau's efficiency, productivity and performance by ensuring that all components of the Bureau are effectively led and managed.

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

As a statutory agency operating under the aegis of the Minister, the Bureau is subject to a range of statutory and other corporate governance obligations including those set out in the Code of Practice

and in the Governance Standard for Justice and Equality Sector Bodies. The Chief Bureau Officer shall ensure that all attendant obligations are fully complied with.

### **2.3 Strategy Statement/Strategic Plan**

In accordance with section 1.17 of the Code of Practice, the Bureau produces a multi-year Strategic Plan. The Bureau has recently prepared a new Plan for the period 2020-23.

### **2.4 Auditing and Risk Management**

The Bureau has its own risk management policy and risk register, both of which are regularly reviewed and updated by its senior management. 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, shall be provided to Criminal Justice Governance (Performance and Compliance team).

The Department's Internal Audit Unit (IAU) provides support to the Bureau in monitoring and reviewing the effectiveness of its arrangements for governance, risk management and internal control. Any audit work will be agreed between the Head of Internal Audit and the Chief Bureau Officer, and the IAU will carry out the audits within an agreed timeframe.

The Bureau shall annually, or more frequently if requested, submit a report to Criminal Justice Governance on how it has addressed/ proposes to address any issue that an IAU report has identified as needing remedial action. However, the Bureau shall at the earliest opportunity engage with Criminal Justice Governance (Performance and Compliance team) on any serious breach or problem identified in an IAU report.

As the Bureau falls under the Justice Vote (Vote 24), the Department's Audit Committee supports the Bureau in ensuring that the interests of Government and other stakeholders are protected in relation to business and financial reporting and internal control.

The Bureau also has its own executive-level Audit and Risk Committee which advises the Chief Bureau Officer on financial and other matters. Membership of this committee includes officers and staff of the Bureau, along with a representative from the Department's Financial Management Unit and a representative from An Garda Síochána's Risk Management Unit.

The Bureau shall inform and consult with Criminal Justice Governance (Performance and Compliance team) on any advice received from the Department's Audit Committee and/or the Bureau's Audit and Risk Committee, and on how such advice can or should be put into effect.

### **2.5 Other key obligations and arrangements**

#### *2.5.1 Procurement*

In accordance with section 8.16 of the Code of Practice, the Chief Bureau Officer shall ensure that competitive tendering is standard procedure in the procurement processes of the Bureau, and that the applicable procurement policies are disseminated to all staff and adhered to.

The Chief Bureau Officer shall affirm adherence (or otherwise) to the applicable procurement policies and procedures in the annual Comprehensive Report to the Minister. However, any significant compliance difficulties or breaches shall be reported to Criminal Justice Governance (Financial and Capital Resources team) at the earliest opportunity.

#### *2.5.2 Other expenditure*

The Chief Bureau Officer shall ensure adherence to the applicable levels of delegated sanction for authorising expenditure. In any instance where there does not exist clear authority to make a payment, the Bureau shall consult with Criminal Justice Governance (Financial and Capital Resources team).

### *2.5.3 Protected Disclosures*

In accordance with section 21(1) of the Protected Disclosures Act, 2014, the Bureau has adopted the Department's Protected Disclosures policy and has communicated same to all Bureau personnel. This policy outlines the process for the making of protected disclosures by workers who are or were assigned to the Bureau and the process for dealing with such disclosures. If a worker wishes to report wrongdoing they may contact their line manager or the Department's Head of Internal Audit.

### *2.5.4 Data Protection*

The Bureau shall strive, including with the various bodies with whom it exchanges personal data, to ensure full and continued compliance with the General Data Protection Regulation (GDPR) and the Data Protection Acts 1988 and 2018.

The Bureau shall annually, or more frequently if the Department so requests, submit to Criminal Justice Governance (Performance and Compliance team) a report indicating the number and nature of data breaches identified and reported in the period concerned and any remedial action it has taken to avoid recurrences. However, any major data breach shall be notified to the Performance and Compliance team at the earliest opportunity.

### *2.5.5 Public Sector Equality and Human Rights Duty*

The Bureau shall have full regard to its obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014 to:

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

### *2.5.6 Environmental and Energy Issues*

The Bureau shall fulfil its statutory and other obligations in relation to environmental and energy issues as follows:

- (i) In accordance with requirements set out in the *Public Sector Energy Efficiency Strategy 2017*, the Chief Bureau Officer shall in 2020 designate, from among the Bureau's senior management team, an Energy Performance Officer with responsibility for (inter alia) the following actions and targets:
  - Striving to achieve the statutory target of a 33% reduction in energy use by 31<sup>st</sup> December 2020 in accordance with S.I. 426 of 2014 (European Union (Energy Efficiency) Regulations).
  - Accurately reporting energy use, annually, to the Sustainable Energy Authority of Ireland (SEAI), in advance of their deadline.
  - Publishing progress (or lack thereof) achieved on energy reduction in the Bureau's annual report.
- (ii) The Bureau shall participate as required in Justice-sector and wider public sector initiatives in relation to energy and environmental issues.
- (iii) The Bureau shall due regard to the Department of Public Expenditure and Reform (D/PER) Circular 20/2019 on Promoting Environmental and Social Considerations in Public Procurement.

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

Arrangements are in place to meet with the requirements of D/PER Circular 25/2016 - Protocol for the Provision of Information to Members of the Oireachtas by State Bodies under the aegis of Government Departments/Offices, utilising the facilities of the Department of Justice and Equality ([info@iustice.ie](mailto:info@iustice.ie)).

### *2.5.8 Periodic Critical Review*

The Code of Practice provides that each non-commercial State body shall be subject to a Periodic Critical Review (PCR) no later than every five years. (Sections 8.14, 8.15 and Appendix F of the Code provide details on how such reviews are to be conducted.) Both parties to this Agreement shall engage in a timely, constructive and comprehensive manner on the scheduling, planning and conduct of any PCR proposed for the Bureau.

## **2.6 Annual Report and Chief Bureau Officer's Comprehensive Report to Minister**

### *2.6.1 Annual Report*

Section 21 of the Act requires the Bureau to make a report to the Minister, not later than 30<sup>th</sup> June each year, in relation to the performance of its functions and activities during the preceding year. The Minister shall subsequently lay the report before the Houses of the Oireachtas (the report shall also be published on the websites of the Department, the Criminal Assets Bureau and An Garda Síochána). The Minister is also empowered to direct that information in a particular form and regarding certain matters be included in the Bureau's annual reports.

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

- Note that this Oversight Agreement has been reached and, in particular, indicate the Bureau's level of compliance with the requirements of the Code of Practice for the Governance of State Bodies.
- Confirm that the Bureau 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.
- Confirm adherence to all relevant aspects of the Public Spending Code.
- Confirm compliance with the applicable tax obligations.
- Include 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'.

### *2.6.2 Chief Bureau Officer's Comprehensive Report to the Minister*

In conjunction with the submission of the Bureau's Annual Report, the Chief Bureau Officer shall furnish a Comprehensive Report to the Minister in line with 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 in the body. While the aforementioned statement on the system of internal control forms part of the Annual Report (and hence is published), it is also a component of the Comprehensive Report as per the Code of Practice.

## **2.7 Other reports under section 21 of the Act**

Section 21 of the Act provides that the Minister may also require the Bureau, upon request made through the Commissioner, to furnish to the Minister (via the Commissioner) information as to the general operations of the Bureau.

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

Criminal Justice Governance shall hold two formal governance meetings with the Bureau per year (or more if required). These meetings shall be chaired by the Head of Criminal Justice Governance and attended by the Chief Bureau Officer. These meetings shall consider, as required:

- Delivery of the Bureau's Strategic Plan and its annual business plan(s);
- Progress against the targets and indicators set out in the annual PDA;
- Financial management and budgetary matters;
- Human resource issues including staffing, training and industrial relations matters;
- Risk management;
- Any internal governance-related issue;
- Any matter relating to the Bureau that might have been the subject of, or might give rise to, public commentary or scrutiny;
- Any matter that might impact on the reputation of the Bureau;
- Any other matter comprehended in, or arising from, this Agreement.

Outside of the aforementioned governance meetings there will need to be regular, less formal interactions between the Bureau and the Department in accordance with the business needs and mutual commitments of each party. In this context, informal and unscheduled contact (whether face-to-face or by email or telephone) between both parties is likely to be required on a regular basis.

### **4. Commitments**

#### **4.1 Mutual Commitments**

Both parties shall:

- Be proactive and timely in communications, co-operation and information-sharing on all relevant matters. This is to be underpinned by a 'no surprises' approach to matters of mutual interest or 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 on enhanced data collection/analysis and research initiatives to support both the work of the Bureau and the related policy, governance and transparency functions of the Department.

#### **4.2 Departmental commitments**

The Department shall:

- Liaise appropriately with D/PER to ensure, as far as possible, timely sanctions for Bureau expenditure and resourcing in line with public financial procedures and policies on public service numbers.
- Provide for and resource the annual budget for the Bureau.
- Provide financial services (e.g. payroll and accounting services) through the Department's Financial Shared Services;
- Liaise with the Bureau in relation to proposed IT projects and resulting expenditure via the Department of Justice and Equality's ICT governance group;

- Provide any necessary guidance/direction on procurement and expenditure rules, government accounting and governance generally.
- Liaise as appropriate with the Bureau on public service reform/engagement initiatives.
- Engage in a timely manner with the Bureau on strategic, policy and legislative issues of relevance to the Bureau's functions.
- Liaise, through the Transparency function, with the Bureau at the earliest possible stage on:
  - Requests for information that may be necessary to assist in meeting the Minister's obligations to the Oireachtas and in responding to representations, media queries etc;
  - Ministerial/Departmental announcements of relevance to the functions of the Bureau.
- In all cases where the Bureau Legal Officer is appointed by the High Court as receiver pursuant to Section 7 of the Proceeds of Crime Act 1996 and 2005 (s)he will be indemnified in relation to all *bona fide* actions undertaken, effected or done by him as such receiver. Where the High Court directs that any sum be discharged by the receiver, to any person, body or receivership account, in relation to his/her function as receiver the Department shall either indemnify the receiver for the payment of such sum or alternatively discharge the sum itself.

### **4.3 Bureau commitments:**

The Bureau shall:

- Have due regard, in the preparation of its annual Business Plan and multi-annual Strategic Plan, to the annual Policing Plan and to any relevant strategic priorities of the Office of the Revenue Commissioners, the Department of Employment Affairs and Social Protection and the Department of Justice and Equality.
- Ensure that expenditure in any individual year does not exceed the allocated budget except in exceptional circumstances and with the agreement of the Department's Financial Management Unit.
- Provide timely, relevant and appropriately detailed information to facilitate the monitoring of this Oversight Agreement and the annual PDA, including in the context of the formal governance meetings; and
- Return relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume.

More generally, in keeping with the 'no surprises' principle and in the interests of partnership with the Department, the Bureau shall ensure that the Department is appropriately informed and/or consulted as follows:

- Significant governance-related issues or concerns are brought formally to the attention of Criminal Justice Governance at the earliest possible opportunity.
- The Transparency function is given timely notification (including any appropriate background information) of significant public announcements or media engagements;
- Criminal Justice Governance and/or Criminal Justice Policy, as appropriate, are consulted in early course where the Bureau intends to pursue significant new operational initiatives or to commission research or consultancy that relates substantively to the management, operations or strategic objectives of the Bureau.

## 5. Comply or Explain

As an agency under the Justice Vote (Vote 24), the Bureau does not have its own internal audit capacity; this role is carried out by the Department's Internal Audit Unit. The Bureau liaises with the Department's Financial Management Unit, who report on the Bureau's income and spending in their monthly management reports. The Bureau reconciles this expenditure with their own records. In addition, the Bureau annually compiles Financial Statements on behalf of the Secretary General for submission to the Comptroller and Auditor General, for audit purposes.

Having regard to the nature of the Bureau's work, a dedicated email address for the purpose of communication with Oireachtas members has been deemed inappropriate and therefore arrangements have been made to facilitate such communication through [info@justice.ie](mailto:info@justice.ie).

## 6. Duration and signatories to the Agreement

John O'Callaghan, Head of Criminal Justice Governance, Department of Justice and Equality and Pat Clavin, Chief Bureau Officer, Criminal Assets Bureau, agree that this Oversight Agreement shall be in effect from the date signed hereunder until 31<sup>st</sup> December 2022.

  
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John O'Callaghan  
Head of Criminal Justice Governance  
Department of Justice and Equality  
Date: 29/1/20

  
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Pat Clavin  
Chief Bureau Officer  
Criminal Assets Bureau  
Date: 29/1/2020