



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



Department of Justice and Equality

Office of the State Pathologist

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 Office of the State Pathologist (“the OSP”), in accordance with the 2016 edition of the Code of Practice for the Governance of State Bodies (“Code of Practice”). Together with the separate but related Performance Delivery Agreement (PDA), it succeeds the previous Oversight/ Performance Delivery Agreement 2019 between the two parties.

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

1.2 Background and context

1.2.1 Role of the Office of the State Pathologist

The OSP is a non-statutory body established on an administrative basis under the aegis of the Department. The principal function of the OSP 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 or ‘defence’ post mortem examinations on cases occurring outside the Irish jurisdiction (e.g. the UK).

The OSP occupies a unique place in the criminal justice system as a specialised agency with an independent operational mandate, providing a specific scientific service to assist in both the investigation and adjudication of criminal cases as well as contributing to death investigation in all 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. 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 Faculty of Pathology at the Royal College of Physicians of Ireland.

1.2.2 Strategic fit within the Justice and Equality sector

The OSP's work aligns with the Department's overall functional mandate and strategic objectives. The Department has overall responsibility for the administration of the criminal justice system, and the objectives set out in its Strategy Statement 2016-2019¹ include leadership in and oversight of justice policy and delivery, and maintaining a safe and secure Ireland.

1.2.3 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 of the Division that formerly had responsibility for OSP issues 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 has direct dealings with the OSP in such matters as required. The **Criminal Justice Policy** function liaises directly with the OSP on relevant policy issues as they arise.

The establishment of a dedicated **Criminal Justice Governance** function is intended to build and consolidate the Department's governance capacity and expertise, 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 functional area oversees all criminal justice agencies under the aegis of the Department. It comprises six Principal Officer-led teams, of which the following four have specific dealings with the OSP:

Team	Purpose
Governance Standards	To develop and promote consistent approaches to oversight, put in place effective governance agreements, and advise on specific governance structures and proposals.
Performance & Compliance	To support, monitor and appraise OSP's overall performance and compliance with its corporate governance obligations, and to manage the governance relationship on an ongoing basis.
Financial & Capital Resources	To oversee financial (current and capital), infrastructure, procurement and IT resource

¹ A successor Strategy Statement is under development.

	management of the OSP and official approvals for the accompanying resources.
Human Resources & Appointments	To advise and consult on strategic HR issues and senior appointments.

2. Governance Arrangements and Obligations

2.1 Roles and Responsibilities

2.1.1 Accounting Officer

The OSP is funded under the Department of Justice and Equality'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 the Department's control, for the efficiency and economy of administration by the Department and for the propriety of all transactions in the appropriation account. Further external scrutiny and governance is provided through the submission and analysis of the Appropriation Accounts to the Comptroller and Auditor General and ultimately to the Oireachtas through the Public Accounts Committee.

2.1.2 Chief State Pathologist

The Chief State Pathologist is appointed by the Department to direct the provision of a national forensic pathology service. The Chief State Pathologist also has overall managerial responsibility for the administration and business of the OSP, including resource management, accommodation, ICT and service development initiatives. The Chief State Pathologist 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 Department for the performance of his/her functions, and reports to the Deputy Secretary General (Criminal Justice).

The current Acting Chief State Pathologist is supported by a State Pathologist, two locum Assistant State Pathologists (one of whom is part-time), a senior laboratory analyst, and 3.6 (whole-time equivalent) administrative staff.

2.2 Adherence to relevant Governance Codes and Standards

The OSP 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 State Pathologist will ensure that all attendant obligations are fully complied with.

2.3 Auditing and Risk Management

The OSP has a risk management system in place, including a risk register, and will report regularly to the Performance and Compliance team within Criminal Justice Governance (hereafter "Performance & Compliance") on its key risks and the actions being taken to address and mitigate those risks.

The OSP is currently a small, non-statutory executive office of the Department which is funded under the Justice Vote (Vote 24). As such, it does not have its own Internal Audit Unit or Audit/Risk Committee. The Department's Internal Audit Unit (IAU) provides support to the OSP in monitoring and reviewing the effectiveness of its arrangements for governance, risk management and internal control. Any necessary audit work will be agreed between the Chief State Pathologist and the Head of Internal Audit in the Department, and the IAU will carry out the work within an agreed timeframe. Similarly, the Department's Audit Committee and Risk Committee provide the relevant oversight and advisory roles in ensuring that the interests of Government and other stakeholders are protected with regard to business and financial reporting, internal control and risk management procedures.

For the same reasons as above, the OSP is not required to produce Financial Statements. The OSP liaises with the Department's Financial Management Unit who report on the OSP's income and spending in their monthly management reports.

2.4 Other key obligations and arrangements

2.4.1 Procurement

In accordance with section 8.16 of the Code of Practice, the OSP will ensure that competitive tendering is standard procedure in its procurement processes. Procurement competitions conducted by OSP are carried out in consultation with the Department's Procurement Unit. The Chief State Pathologist's annual Comprehensive Report to the Minister (see below) will affirm adherence (or otherwise) to the applicable procurement policies and procedures. However, any significant compliance difficulties or breaches² will be reported to Criminal Justice Governance (Financial and Capital Resources team) at the earliest opportunity.

2.4.2 Other expenditure

The OSP 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 an expenditure, the OSP will consult in advance with Criminal Justice Governance (Financial and Capital Resources team).

2.4.3 Protected Disclosures

In accordance with section 21(1) of the Protected Disclosures Act, 2014, the OSP has adopted the Department's Protected Disclosures policy and has communicated it to all OSP 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 may contact their line manager or the Department's Head of Internal Audit.

2.4.4 Customer Charter

The Office of the State Pathologist is encompassed within the Department's Customer Charter and Action Plan. The OSP will annually, or more frequently if requested, submit to Performance & Compliance an appropriately detailed report in respect of any formal

² e.g. of a recurring nature, or involving substantial contract values (or values above EU thresholds) or a serious divergence from procurement rules and/or the Public Spending Code.

complaints that it has received from service users or other stakeholders in the period concerned, and how these were/are being addressed. However, any complaints of a serious nature will be notified to Performance & Compliance at the earliest opportunity.

2.4.5 Data Protection

The OSP will 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. 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.

2.4.6 Public Sector Equality and Human Rights Duty

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

- Assess and identify human rights and equality issues relevant to its functions, especially in relation to medical ethics and respecting the dignity of the deceased;
- Identify the policies and practices that are/will be put in place to address those issues;
- Report on related developments in its Annual Report.

2.4.7 Environmental and Energy Issues

The OSP will 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*, OSP has a designated Energy Manager who participates in the Department's Energy Performance Officers Forum and who is responsible for (inter alia) the following actions and targets:
 - Striving to achieve the statutory target of a 33% reduction in energy use by 31st December 2020 in accordance with S.I. 426 of 2014 (European Union (Energy Efficiency) Regulations).
 - Accurately reporting annual energy use, through the Department, to the Sustainable Energy Authority of Ireland (SEAI), in advance of their deadline.
 - Publishing progress (or lack thereof) achieved on energy reduction in the OSP's annual report.
- (ii) Participating in Justice-sector and wider public sector initiatives in relation to energy and environmental issues.
- (iii) Having due regard to Department of Public Expenditure and Reform (D/PER) Circular 20/2019 on Promoting Environmental and Social Considerations in Public Procurement.

2.4.8 Provision of information to Members of the Oireachtas

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

2.4.9 Periodic Critical Review

The Code of Practice includes a general provision for Periodic Critical Reviews (PCRs) of individual non-commercial State bodies 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 will engage in a timely, constructive and comprehensive manner on the scheduling, planning and conduct of any PCR proposed for the OSP.

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

2.5.1 Annual Report

In line with section 6 of the Code of Practice, the OSP shall, not later than four months after the end of the relevant year, prepare and submit to the Minister a Report on the performance of the functions and activities of the OSP 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 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 OSP's adherence to all relevant aspects of the Public Spending Code
- A statement on the OSP's 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'.

2.5.2 Chief State Pathologist's Comprehensive Report to the Minister

In conjunction with the submission of the OSP's Annual Report, the Chief State Pathologist will furnish a Comprehensive Report to the Minister in accordance 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 line with the Code of Practice, the aforementioned statement on the system of internal control forms part of the Comprehensive Report in addition to its inclusion in the OSP's Annual Report.

3. Monitoring arrangements and key interactions

In accordance with the Department's policy on the monitoring of governance arrangements in relation to the organisations within its remit, Criminal Justice Governance will hold two

formal oversight meetings with the OSP per annum (or more if so required). These meetings will consider, as required:

- Delivery of the OSP's 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 OSP 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 OSP;
- Any other matter comprehended in, or arising from, this Agreement.

Outside of the aforementioned oversight meetings there will continue to be regular, less formal interactions between the OSP 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) forms an integral part of the relationship between the parties.

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. This will 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 PDA.
- Work collaboratively on relevant strategic, policy and legislative issues, including the development of a medium- to long-term plan to address the recruitment, retention and other practical issues facing the OSP.

4.2 Departmental commitments

The Department will:

- Provide, via its HR Division, services encompassing recruitment, employee relations, workforce development, performance management and liaison with (HR) shared services as required.
- Liaise with D/PER to ensure timely sanctions for expenditure and resourcing in line with public financial procedures and policies on public service numbers.

- 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 for and resource the annual budget for the OSP, which forms part of the Estimates of the Department of Justice and Equality Vote (24).
- Provide ICT services and supports to the OSP through the Managed Service.
- Liaise with the OSP on wider public service reform/engagement initiatives.

4.3 OSP commitments:

The OSP will:

- 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;
- Return relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume; and
- In keeping with the 'no surprises' principle, ensure that significant governance-related issues or concerns are brought formally to the attention of Criminal Justice Governance at the earliest possible opportunity.

5. Comply or Explain

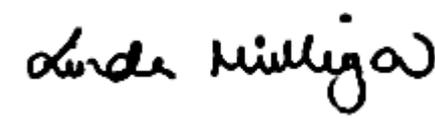
The Department, in partnership with the Chief State Pathologist, is responsible for setting the strategic direction of the OSP and this is incorporated into the latter's annual Business Plan. In view of the OSP's executive office status, its limited corporate resources and its simple mandate, the Department has exempted the OSP from the requirement to prepare a Strategic Plan at this stage. However, the position will be kept under review and revisited during the course of this Agreement.

6. Duration and signatories to the Agreement

John O'Callaghan, Head of Criminal Justice Governance, Department of Justice and Equality and Dr. Linda Mulligan, Acting Chief State Pathologist, affirm that this Oversight Agreement will be in effect from the date hereunder until 31st December 2022.



John O'Callaghan
 Head of Criminal Justice Governance
 Department of Justice and Equality



Dr. Linda Mulligan
 Acting Chief State Pathologist

Date: 27th April 2020