



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



An tSeirbhís Phromhaidh
The Probation Service

Oversight Agreement 2020-22

Department of Justice and Equality

The Probation Service

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 Probation Service, in accordance with the 2016 edition of the Code of Practice for the Governance of State Bodies (“the Code of Practice”). A separate but related Performance Delivery Agreement (“PDA”) will be agreed annually within the overall governance framework provided by this Oversight Agreement.

This Oversight Agreement sets out the broad governance and accountability framework within which the Probation Service 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 every 12 months and update it as necessary.

1.2 Background and context

1.2.1 Role of the Probation Service

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 Probation 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 January 2020, the Probation Service has over 400 staff and an annual budget of €49 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”.

1.2.2 Strategic fit within Justice and Equality sector

The Department has responsibility, *inter alia*, for the strategic 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.

One of the six strategic goals of the Department in its Strategy Statement 2016-2019 is “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”. 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 Probation 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 Community Based Organisations in receipt of funding).

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 carried out by the Department’s former Prisons & Probation Policy 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 has direct and frequent dealings with the Probation

Service in such matters. The **Criminal Justice Policy** function liaises directly with the Probation Service 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. Criminal Justice Governance 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 Probation Service as required:

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

The Probation Service is funded under the Department’s Vote (Vote 24), for which the Secretary General is 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 of the Appropriation Accounts to the Comptroller & Auditor General and ultimately to the Oireachtas via the Public Accounts Committee.

2.1.2 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, including finance, accommodation, human resource management, IT, Health and Safety, Information Management and service development initiatives. 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 Department for the performance of his/her functions, and reports to the Deputy Secretary General (Criminal Justice).

The Director is supported by three Deputy Directors and one Assistant Director. The three Deputy Directors lead the Corporate Affairs Directorate, the Operations Directorate and the Business Support and Development Unit.

2.1.3 Senior Management Team

The Probation Service senior management team comprises the Director, the Deputy Directors, Assistant Director, thirteen Regional Managers/Assistant Principals, an Accountant and a Statistician.

2.1.4 Regional and administrative structures

The Probation Service has seven operational regions, five of which are geographical and two of which are national (the Prisons Region 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 three Regional Executive Officers.

2.2 Adherence to relevant Governance Codes and Standards

The Probation Service 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 Director and Senior Management Team will 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 Probation Service produces a multi-year Strategic Plan. The [current Plan](#) covers the period 2018-2020. The Director will ensure that a successor Plan is developed in a timely manner and will submit it to the Minister/Department for consideration before it is finalised. 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.

The Probation Service also has a number of other strategy documents and protocols in place that align with the Department's overall mission and with good governance. These include a joint IPS–Probation Service Strategic Plan.

2.4 Auditing and Risk Management

The Probation Service has its own risk management policy which is aligned with the Department of Justice and Equality's corresponding policy. The Probation Service also has a risk register which is reviewed on a quarterly basis by the Probation Service 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 Team 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 Unit or Audit/Risk Committee. The Department's Internal Audit Unit (IAU) supports the Probation Service in monitoring and reviewing the effectiveness of its arrangements for 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 Department's Risk Committee provides a similar support in relation to risk identification and management, and may from time to time invite the attendance of the Probation Service to discuss their risks and how they are being managed. The Probation Service will inform and consult with Performance & Compliance on any advice received from the Audit and Risk Committees, 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 Director will ensure that competitive tendering as standard in the procurement processes of the Probation Service, and that the applicable policies are disseminated to all staff and adhered to.

The Director's annual Comprehensive Report to the Minister (see below) will confirm adherence (or otherwise) to the relevant procurement policies and procedures. However, any significant compliance difficulties or breaches – 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 – will be reported to Criminal Justice Governance (Financial & Capital Resources) at the earliest opportunity.

2.5.2 Other expenditure

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

2.5.3 Protected Disclosures

In accordance with section 21(1) of the Protected Disclosures Act, 2014, the Probation 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 may contact their line manager or the Department's Head of Internal Audit.

2.5.4 Children First

The Probation Service is identified as a relevant service under the Children First Act 2015 and, as such, is required to produce a Child Safeguarding Statement which incorporates a risk assessment and sets out the corresponding controls (e.g. training, vetting) that are

in place. Schedule 2 to the Act designates Probation Officers as 'mandated persons' who are obliged to make reports to the Child and Family Agency (Tusla) in prescribed circumstances and to assist with Tusla assessments on request. In addition, in line with the *Children First National Guidance*, the Probation Service has designated regional Designated Liaison Persons (DLPs) to serve as their area's principal contact for information/advice regarding specific child safeguarding concerns and for recording and addressing such concerns. Each DLP also liaises with the statutory child protection authorities in reporting such concerns as required.

The Probation Service will ensure compliance with its obligations under the Children First Act, the *National Guidance* and the Children First Sectoral Implementation Plan published by the Minister under section 27 of the Act. The Probation Service will annually, or more frequently if requested, submit to Performance & Compliance a report on its Children First compliance for the year in question, to include *inter alia* appropriate details and figures regarding staff training and instruction, numbers of mandated reports made, and other referrals made to Tusla in the period concerned. However, any significant compliance difficulties or breaches (for example, a serious incident involving a child safeguarding failure, or a substantial shortfall in training, mandated reporting or maintenance of the DLP network) will be reported to Performance & Compliance at the earliest opportunity.

2.5.5 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 Probation Service website and is supported by a customer action plan.

The Annual Report of the Probation Service sets out the number of complaints received in the preceding year. However, any complaints of a serious nature will be notified to Performance & Compliance at the earliest opportunity.

2.5.6 Data Protection

The Probation Service 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 agency of the Department, the Probation Service is subject to the Department's data protection policy. The Department's Data Protection Officer (DPO) is also the DPO for the Probation Service.

2.5.7 Public Sector Equality and Human Rights Duty

The Probation Service will 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.

2.5.8 Environmental and Energy Issues

The Probation Service 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*, the Probation Service has a designated Energy Performance Officer 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 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 Probation Service'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 the Department of Public Expenditure and Reform (D/PER) Circular 20/2019 on Promoting Environmental and Social Considerations in Public Procurement.

2.5.9 Provision of information to Members of the Oireachtas

The Probation Service 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').

2.5.10 Periodic Critical Review

The Code of Practice includes a general provision for Periodic Critical Reviews (PCR) 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 Probation Service.

2.6 Annual Report and Director's Comprehensive Report to the Minister

2.6.1 Annual Report

In line with section 6 of the Code of Practice, the Director shall 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 preceding year. 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 shall 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 Probation 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'.

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

2.6.2 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 accordance 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 in the body. In line with the Code of Practice, the aforementioned statement on the system of internal control forms part of the Director's Comprehensive Report as well as being included in the Authority'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 three formal governance meetings with the Probation Service per year (or more if required). At least two of these meetings will be chaired by the Head of Criminal Justice Governance and attended by the Director of the Probation Service. These meetings will consider, as required:

- Delivery of the Probation Service 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 Probation Service 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 Probation Service;
- Any other matter comprehended in, or arising from, this Agreement.

Outside of the aforementioned governance meetings there will continue to be regular, less formal interactions between the Probation Service 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 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 Performance Delivery Agreement.
- 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 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 sanction for expenditure and staffing 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 Probation Service.
- Provide ICT services and supports through the Managed Service.
- Liaise as appropriate with the Probation Service on public service reform/engagement initiatives.

4.3 Probation Service commitments:

The Probation Service 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; 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 a partnership-based relationship, the Probation Service will ensure that the Department is appropriately informed and/or consulted as follows:

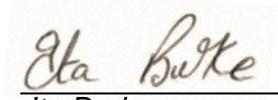
- Significant governance-related issues or concerns are brought formally to the attention of Criminal Justice Governance at the earliest possible opportunity.
- Criminal Justice Governance and/or Criminal Justice Policy, as appropriate, are consulted in early course where it is intended to pursue significant new operational initiatives (including joint initiatives with other bodies) or to commission research or consultancy that relates substantively to the management, operations or strategic objectives of the Probation Service.

5. Duration and signatories to the Agreement

John O'Callaghan, Head of Criminal Justice Governance, Department of Justice and Equality, and Ita Burke, Director (Acting), Probation Service, affirm that this Oversight Agreement will apply from the date given hereunder until 31st December 2022.



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



Ita Burke
Director (Acting)
Probation Service

Date: 23rd March 2020

Relevant legislation and 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*

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*

In addition, practice is guided by:

- *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*