



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

Oversight Agreement
between
the Courts Service
and
Department of Justice and Equality

2020 - 2022

Oversight Agreement

1.1 Scope of the Agreement

This Oversight Agreement has been drawn up by the Department of Justice and Equality (“the Department”) in consultation with the Courts Service 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 Oversight/Performance Delivery Agreement between the two parties.

This Oversight Agreement sets out the broad governance and accountability framework within which the Courts Service operates, and defines the key roles and responsibilities which underpin the relationship between it and the Department. While this Agreement shall cover a three year period, the parties shall, in accordance with the Code of Practice, review it every 12 months and update it as may be considered necessary.

1.2 Background and Context

The Courts Service is a State agency established in November 1999 pursuant to the provisions of the Courts Service Act, 1998 (the Act) to manage and administer the Courts. In accordance with the Act the Courts Service is a body corporate which is independent in the performance of its functions.

The Courts Service has a staff of 1080 (FTE) at 1st January 2020 and a network of 33 court offices outside Dublin and offices in Dublin (Four Courts, Blanchardstown, Criminal Courts of Justice, Dolphin House, Swords, Dún Laoghaire, Tallaght and Cloverhill). The Courts Service supports the Supreme Court, Court of Appeal and High, Circuit and District Courts and provides services to court users. The Courts Service has 5 directorates based at its Headquarters in Dublin - 2 Operational Directorates - Superior Courts Operations and Circuit and District Court Operations and 3 Support Directorates.

1.3 Role of the Courts Service

Functions

The statutory functions of the Courts Service as set out in the Section 5 of the Act are:

- To manage the Courts;
- To provide support services for the judges;
- To provide information on the Courts system to the public;
- To provide, manage and maintain Court buildings;

- To provide facilities for users of the Courts; and
- To perform such other functions as are conferred on it by any other enactment.

The powers of the Service in exercising its statutory functions are set out in section 6 of the Act.

Mission

The mission of the Courts Service is *to support the judiciary and provide excellent services to all court users, thereby facilitating access to justice.*

The administration of justice is a matter for the judiciary who are supported in this function by the Courts Service. Judges are, under the Article 35(2) of the Constitution, independent in the exercise of their judicial functions. The Courts Service Act precludes the Courts Service from interfering in any way with the conduct of the business of the courts required to be exercised by a judge or impugning the independence of a judge or quasi-judicial officer in the performance of his or her judicial/quasi-judicial functions.

1.4 The Courts Service and the Department of Justice and Equality

In the management and administration of the Courts, in accordance with the provisions of the Act

- The Board must have regard to any policy or objective of the Government or a Minister of the Government insofar as it may affect or relate to the functions of the Service;
- The Courts Service must furnish an annual report to the Minister on its activities;
- The Service must submit a draft strategic plan every three years for approval by the Minister;
- The Service must provide at the Minister's request any information on any matter concerning its policy and activities generally or any specific matter or account prepared by it;
- The Service must contain expenditure within the funding provided by Government; and
- The Service must appoint such numbers of staff as are approved by the Government.

The Department of Justice and Equality has responsibility for

- Securing the annual vote of funds from the Oireachtas for the Courts Service;
- The Legislation and Policy functions in relation to the courts and the Courts Service;
- Liaising with and representing the interests of the Courts Service and the courts at Government level; and

- Appropriate oversight to discharge the Minister’s accountability to the Dáil.

In relation to funding for the Courts Service an agreed mechanism has been put in place whereby a meeting will be held between the Department, the Department of Public Expenditure and Reform and the Courts Service during the estimates process and following the receipt of the Courts Service Estimates Submission to the Department.

2. Corporate Governance Arrangements

The Courts Service has strong governance arrangements in place at organisational and Board level providing a framework of rules and practices to ensure accountability, fairness and transparency across organisational activities.

As a state agency, the Courts Service is subject to a range of statutory and corporate governance obligations including the 2016 Code of Practice for the Governance of State Bodies.

In carrying out its functions, the Courts Service operates in accordance with Courts Service policies and wider government and Civil Service policies regulations across all areas including financial management, internal control, Human Resources, ICT, Capital building and Reporting. Compliance is monitored on an ongoing basis and both compliance and the policies in place are subject to Internal Audit review and review by the C&AG.

The Courts Service ensures that it complies with government regulations and best practice in relation to risk management, internal audit and the Public Spending Code.

2.1 Board

The Courts Service is governed by a Board consisting of a chairperson and 17 other members. The Courts Service Act provides that the Chairperson of the Board will be the Chief Justice or a judge of the Supreme Court nominated by the Chief Justice and that the Board membership will include judicial representatives from each court, a staff representative, a representative of the Minister for Justice and Equality, representatives from the legal professions and trade unions and nominees of the Minister to represent the business world and court users.

The Board is collectively responsible for leading and directing the activities of the Courts Service in a framework of prudent and effective management in accordance with the Code of Practice for the Governance of State Bodies (2016).

The functions of the Board are to consider and determine policy in relation to the Service and to oversee the implementation of that policy by the Chief Executive Officer. The Act also provides that the Board may establish committees of the Board to advise it in relation to the performance of its functions.

The Board, in the performance of its functions, must have regard to the resources of the Service to secure the most beneficial, effective and efficient use of these resources. The Board must also have regard to any policy or objective of the Government or a Minister of the Government insofar as it may affect or relate to the functions of the Service.

The Board of the Courts Service is comprised of judicial and non-judicial members. Section 18(3) (b) (v) of the Ethics in Public Office Act, 1995, precludes the designation for the purposes of the Act of "the office of Judge of any Court".

In accordance with best practice, Board members are required to make annual declarations of interests and, prior to consideration of reports on procurement or relevant matters, all Board and Committee members are requested formally to declare if there is any conflict of interest and to absent themselves from consideration of the item if a conflict exists. The minutes of the meetings note any such abstentions.

2.2. The Chief Executive and Accounting Officer

The Chief Executive is appointed by the Board of the Courts Service and is responsible for the implementation of policies approved by the Board, management and control generally of the staff and business of the Service. The Chief Executive is responsible to the Board for the performance of his/her functions.

The Chief Executive is also the Accounting Officer for the Courts Service. As Accounting Officer, the Chief Executive is responsible to the Oireachtas for the proper expenditure of monies provided by the Exchequer for the management and administration of the Courts Service and signs the Annual Appropriation Account and a Statement of Internal Financial Controls providing assurance on the internal financial control environment operating within the Courts Service.

In accordance with the Act, the Chief Executive may be summoned before the Oireachtas to account for the general administration of the Service including the 3 year Strategic Plan. The Chief Executive cannot be requested to give account for any matter relating to the exercise by

a judge of his or her judicial functions including a matter which is or has been or may at a future time be the subject of proceedings before a court.

2.3 Compliance with the Code of Practice for the Governance of State Bodies

The Code of Practice for the Governance of State Bodies 2016 applies to the Courts Service. The Courts Service is compliant with the main requirements of the Code as follows:

Board

- **The legislative framework** for the Board and the Courts Service has been augmented by the Board Framework Document, Terms of Reference, Standing Orders and role profiles for the Chairperson, Chief Executive, Board members and secretary. These documents set out the functions, authorities and procedures of the Board and define the roles of the Board, the Chairperson and the Chief Executive.
- **A Code of Conduct** has been put in place for Board members.
- **A self-evaluation assessment** is carried out annually in relation to Board and committees and arrangements are made for an external evaluation at least every 3 years.
- **Disclosure of Interest** procedures are in place for Board members.
- **Committees of the Board** have been established with clear terms of reference, accountability and reporting arrangements to assist it in the performance of its functions which are reviewed annually.
- **A Comprehensive Report** is submitted annually to the Minister on behalf of the Board in relation to the compliance with the Code and government policies and regulations.

Service

- A robust **Risk Management** policy and framework is in operation in the Service in accordance with best practice and the requirements of the Code and the Board approves the annual Corporate Risk Register and receives reports on the measures being taken to address identified risks.
- **Effective systems of Internal control** in place in relation to the financial, operational and compliance environment and obligations.
- **Audit arrangements** in place include
 - an effective internal audit function which has an independent appraisal function charged with reviewing operations across all area

- an Audit and Risk Committee which was established and operates in accordance with the provisions of the Code.
- **A Strategic Plan** is submitted to the Minister every 3 years.
- **Protected Disclosures Policy and procedures** are in place in accordance with the Protected Disclosures Act 2014.
- **Financial Reporting** is carried out in accordance with C&AG and government accounting procedures.
- **Procurement procedures and a Corporate Procurement Plan** are in place annually as required by the Code.
- Staff in the Courts Service are subject to the Civil Service Code of Standards and Behaviour.

Customer Charter

The Courts Service has a customer charter setting out the level of service that its customers can expect. The charter is displayed prominently on the Courts website and is supported by a customer action plan.

Data Protection

The Courts Service 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.

Public Sector Equality and Human Rights Duty

The Courts Service 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.

Environmental and Energy Issues

The Courts Service 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 Courts 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 its 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.

2.4 Implementation of the Code is on a “Comply or Explain” basis. The Code acknowledges that all aspects of the Code may not necessarily be appropriate to all organisations and in some circumstances the provisions of the Code may be more appropriately achieved by other governance measures. In such circumstances, should they arise, the Courts Service will reach agreement with the Department and report on and provide explanations in relation to any such derogations.

3. Commitments

The Courts Service will

- Continue to carry out its functions in accordance with the Courts Service Act, 1998;
- Report annually to the Minister on its activities as required under the Courts Service Act and in accordance with the provisions of the Code of Practice for the Governance of State bodies;
- Comply with the Code of Practice for the Governance of State Bodies as appropriate and, if necessary, reach agreement with the Minister in relation to any derogations;
- Provide a comprehensive report, as required under the Code, to the Minister, annually to provide assurance that the systems of internal control, risk management and other areas of compliance are operating effectively;
- Comply with the requirements of the Public Spending Code;

- Comply with Government regulations and procedures in relation to all aspects of Courts Service management including procurement, financial management, internal control, Human Resources, ICT procurement and development, Capital building and reporting;
- Submit a Strategic Plan every three years to the Minister for approval;
- Adopt an annual planning and budgeting cycle to facilitate implementation of the Strategic Plan;
- Provide at the Minister's request any information on any matter concerning its policy and activities generally or any specific matter or account prepared by it;
- Comply 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 in relation to
 - the provision of information within prescribed timeframes,
 - dedicated email address,
 - formal feedback process,
 - designation of the Head of the Office of the CEO as the senior official with responsibility for ensuring the timely provision of information, and
 - seeking where appropriate to publish the response to queries from members of the Oireachtas on the Courts Service website. In accordance with the circular the Courts Service will report annually on compliance, as part of the Comprehensive Report to the Minister.
- Contain expenditure within the funding provided by Government;
- Appoint staff of the Courts Service in accordance with delegated sanction;
- Prepare the Annual Appropriation Account and financial reporting in accordance with the C&AG Appropriation Accounts guidelines;
- Implement Courts Service policy and procedures in relation Protected Disclosures and publish material annually on the matter;
- Work with the Department and other justice agencies, to provide an integrated justice system that provides efficient and effective services to the public;
- Participate in cross sector initiatives involving or impacting on the provision of court services and the administration of justice;
- Provide input and commentary on policy and legislative proposals where relevant; and
- Provide appropriate information to allow the Minister discharge accountability to the Oireachtas.

The Department of Justice and Equality will

- Support the provision of the necessary funding and resources to the Courts Service to enable it to fulfil its remit in the management and administration of the courts and deliver on its commitments as set out in this agreement;
- Provide clear and timely information regarding budget estimates and annual allocations;
- Provide and support effective communication between the Courts Service, the Department and the Department of Public Expenditure and Reform in relation to expenditure, staffing and related matters;
- Inform the Courts Service of any policy or objective of the Government which relates to the functions of the Service in a timely manner;
- Apprise and liaise with the Courts Service at the earliest possible opportunity concerning any intended legislation impacting on court jurisdiction, procedure or operations to enable the potential impacts of proposed legislation on the Courts and the Courts Service and their ability to fulfil their role, to be identified, assessed and considered prior to any enactment;
- Facilitate incorporation into legislation, where required and agreed, Courts Service proposals for reform of court jurisdiction, procedure or operations;
- Support and sanction, subject to available funding, expenditure in the delivery of the Courts Service capital programme and PPP projects;
- Support communication and co-operation between Justice Sector agencies in ICT development;
- Lead, co-ordinate and support the development of change initiatives and cross justice sector efficiency measures arising from significant changes impacting a number of justice agencies;
- Liaise with the Courts Service in relation to Public Service Reform initiatives;
- Provide guidance on Civil Service HR policy, Public Expenditure, remuneration, industrial relations, procurement and contracts as appropriate;
- Provide guidance on Government Accounting and Governance;

Mutual Commitments

Both parties shall:

- Be proactive and timely in communications, co-operation and information-sharing on service delivery. This is to be underpinned by a 'no surprises' approach to matters of mutual concern.
- Clarify the interface arrangements on issues of mutual interest.

- Support adherence to corporate governance obligations under this Oversight Agreement and the achievement of targets under the annual PDA.
- Provide prompt and timely responses to correspondence, information requests and related matters.
- Engage as appropriate on enhanced data collection/analysis, data exchange and research initiatives to support both the work of Courts Service and the related Policy, Legislation, Governance and Transparency functions of the Department.

4. Monitoring arrangements and key interactions

The Department of Justice and Equality commits to a formal meeting at least twice annually between the Director of Civil Justice and Equality Governance and the CEO of the Courts Service. These will be supplemented by less formal interactions between the Courts Service and the Department in accordance with the business needs and mutual commitments of each party.

5. This Agreement may be amended to include derogations or agreed exemptions from the provisions of the Code of Practice for the Governance of State Bodies and the reasons for such derogations or exemptions.

6. Duration and Signatories of the Agreement

It is agreed that this Agreement will apply with effect from the date signed hereunder until 31st December 2022.



Angela Denning
Chief Executive
Courts Service

Date: 25/3/2020



Yvonne White
Director Civil Justice & Equality Governance
Department of Justice and Equality

Date: 25th March 2020