



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

## **Oversight Agreement 2019-2021**

**between the Insolvency Service of Ireland and the  
Department of Justice and Equality**

# Oversight Agreement

## 1. Introduction

**1.1** The Insolvency Service of Ireland, (ISI) is an independent statutory body under the aegis of the Minister for Justice and Equality (“Minister”). It was established on a statutory basis on 1 March, 2013 pursuant to the Personal Insolvency Act 2012. The ISI is based in Dublin.

**1.2** In the absence of a Board, there is a non-statutory Senior Management Team in place, which is comprised, of the Director; Head of Bankruptcy; Head of Case Management; Head of Policy and Regulation; and Head of Legal Services. There is also representation from the Assistant Principal Officer grade. All major strategic matters facing the ISI are considered at formal meetings of the Senior Management Team which meets at regular intervals.

## 2. Role of the Insolvency Service of Ireland within the Justice & Equality Sector

### 2.1 Mission

The ISI’s mission as set out in the draft Strategic Plan 2019-2021 (which is to be agreed shortly) is, *“by operating the statutory framework for personal insolvency solutions, to return insolvent people to solvency and full participation in social and economic activity”*. The work of the ISI is aligned with the objective *“To develop appropriate structures and systems to handle mortgage arrears and other personal insolvency cases”* which falls under the strategic goal of “Access to Justice” set out in the Department of Justice and Equality Strategy Statement 2016-2019.

### 2.2 Function

In accordance with Section 9 of the Personal Insolvency Act 2012, the principal functions of the Insolvency Service of Ireland are as follows:

- To monitor the operation of the arrangements relating to personal insolvency provided for in the Act,
- To consider applications for Debt Relief Notices,
- To process applications for protective certificates,
- To maintain the Registers established under Section 133 of the Act,
- To provide information to the public on the working of the Act,
- To advise the Minister on any matter relating to its functions,
- In accordance with Section 47 of the Act -
  - Authorise a person or class of person to perform the functions of an approved intermediary,
  - Supervise and regulate persons or classes of persons authorised to perform the functions of an approved intermediary,
- In accordance with Part 5 of the Act -
  - Authorise individuals to carry on practice as personal insolvency practitioners,
  - Supervise and regulate persons practising as personal insolvency practitioners,
  - Perform such functions as are assigned to the Insolvency Service under that Part
- To prepare and issue guidelines as to what constitutes a reasonable standard of living and reasonable living expenses under section 23 of the Act,
- To arrange for the provision of such education and training, in relation to the performance by them of their functions under the Act, of approved intermediaries, personal insolvency practitioners and other persons, as it thinks fit,
- Subject to Section 60(3) of the Bankruptcy Act 1988, administer the functions assigned to the Official Assignee by the Bankruptcy Act 1988 or any other enactment,
- To compile, collect, analyse and disseminate information and statistics on the operation of this Act and of the Bankruptcy Act 1988,
- To monitor and analyse developments, as respects the situation of insolvent debtors and trends in, and patterns of, debtor and creditor behaviour,
- To develop strategies for communicating with the public aimed at promoting the use of insolvency arrangements and enhancing their effective application,
- To contribute to the development of policy in the area of personal insolvency, and

- To carry out any other duties and exercise any other powers assigned to it by or under this Act.

## **2.3 Vision**

The vision of the ISI “A fresh start for people in debt” is underpinned by the organisation’s values:

- Committed & Accountable across all aspects of our work and in the delivery of our mandate;
- Innovative & Effective in meeting challenges and implementing solutions;
- Transparent while demonstrating integrity in our dealings with all stakeholders;
- Respectful of all those we interact with.

## **3. Corporate Governance**

### **3.1 Roles and Responsibilities**

#### *Accounting Officer*

The ISI falls under the Department of Justice and Equality’s (“the Department”) Vote (Vote 24) and as such the Department’s Secretary General is the Accounting Officer. The Accounting Officer is responsible for the safeguarding of public funds and property under his control, for the efficiency and economy of administration by his Department and for the regularity and propriety of all transactions in the appropriation account. Further external scrutiny and governance is provided through the submission to the Comptroller and Auditor General for analysis of the annual financial statements. The C & AG’s report is included when laying the certified accounts before the Houses.

#### *Director*

In accordance with section 11 of the Personal Insolvency Act, the Director of the ISI shall:

- (a) manage and control generally the Insolvency Service’s staff, administration and business,
- (b) be responsible to the Minister for the performance of his or her functions, and
- (c) perform such other functions (if any) as may be required by the Minister or

as may be authorised under this Act.

The Director will furnish a Compliance Statement to the Minister, in conjunction with the ISI's annual report and financial statements, outlining any significant commercial developments in the preceding year and affirming the ISI's compliance with relevant codes and regulations, in accordance with the Code of Practice for the Governance of State Bodies (2016), in particular addressing relevant requirements of paragraph 1.9 of the 'Business & Financial Reporting Requirements' Annex to the 2016 *Code of Practice for the Governance of State Bodies*.

The ISI and the Department have agreed an approach to the completion of the Compliance Statement that reflects the governance structure of the ISI – in particular the absence of a Board and Chairperson.

#### *The Senior Management Team*

In the absence of a Statutory Board, the ISI has established a Senior Management Team (SMT). The Team meets under the chairmanship of the Director. The Director is supported by the SMT to provide strategic leadership, direction, support and guidance for the ISI and promote commitment to its core values, policies and objectives.

The members of the Senior Management Team are collectively responsible for leading and directing the ISI's activities within a framework of prudent and effective control as set forth in the *Code of Practice for the Governance of State Bodies (2016)*.

### **3.2 Strategic Plan**

Section 14 of the Act requires the ISI, as soon as is practicable after the establishment day and thereafter within 6 months before each third anniversary of the establishment day, to prepare and submit for the Minister's approval, a strategic plan for the ensuing three-year period. The ISI's draft Strategic Plan (to be agreed with the Department shortly) covers the 3-year period 2019 - 2021.

### **3.3 Business Plan**

Section 15 of the Act requires the ISI to submit an annual business plan to the Minister. The ISI's Business Plan should provide a detailed indication of its planned activities, outlining the staff numbers, income and expenditure required.

### **3.4 Draft Unaudited Financial Statements**

Draft unaudited annual financial statements should be submitted to the Department not later than two months after the end of the relevant financial year, in accordance with the *Code of Practice for the Governance of State Bodies* (1.4 (ii) – 'Business and Financial Reporting' Annex).

### **3.5 Annual Report and Accounts**

Section 16 of the Personal Insolvency Act 2012 requires the ISI to make a report to the Minister, not later than four months after the end of the financial year, in relation to the performance of the functions and activities of the ISI during the preceding year.

### **3.6 Reporting Requirements – Annual Report**

In accordance with Appendix A of the 'Business & Financial Reporting' Annex to the *Code of Practice for the Governance of State Bodies*, the Annual Report should include:

- i. Confirmation that this Oversight Agreement has been reached with the Department and, in particular, indicating ISI's level of compliance with the relevant requirements of the Code of Practice for the Governance of State Bodies
- ii. Confirmation that an appropriate assessment of ISI's principal risks has been carried out, including a description of these risks, where appropriate, and associated mitigation measures or strategies.
- iii. Confirmation that the ISI is adhering to the relevant aspects of the *Public Spending Code*.
- iv. Confirmation that the ISI has complied with its obligations under tax law; and
- v. A statement on the system of internal controls in the ISI, addressing each of the items listed in Appendix D of the 'Business and Financial Reporting' annex to the *Code of Practice for the Governance of State Bodies*.

### **3.7 Reporting Requirements – Financial Statements**

In accordance with Appendix B of the 'Business & Financial Reporting' Annex to the *Code of Practice for the Governance of State Bodies*, the Financial Statements should include:

- i. Details of salary of Director;
- ii. Aggregate pay bill, total number of employees and compensation of key management level;
- iii. Total Costs incurred in relation to travel and subsistence and hospitality;
- iv. Details of expenditure on external consultancy/adviser fees;
- v. Details of the number of employees whose total employee benefits for the reporting period fell within each band of €10,000 from €60,000 upwards;  
Details of termination/severance payments and agreements with a value in excess of €10,000, made within the period.

The above disclosures should be included in the Governance Statement in the Financial Statements as set out in the Department of Public Expenditure and Reform's "*A Guide to the Implications for the Annual Financial Statements and the Annual Report*" (Nov 2017).

### **3.8 Internal Audit**

The Department's Internal Audit Unit provides support to the ISI in monitoring and reviewing the effectiveness of the ISI's arrangements for governance, risk management and internal control. The audit work will be agreed between the Director and the Head of Internal Audit in the Department. The Audit Unit will, subject to resources, carry out the audits within an agreed timeframe.

Section 17(2A) of the Personal Insolvency Acts, requires the ISI to maintain accounts relating to the functions of the Official Assignee under the Bankruptcy Act 1988 or any other enactment. These accounts are subject to the supervision of the Court. Consequently, the financial statements of the ISI do not recognise any transactions in relation to bankrupts and the accounts relating to the functions of the Official Assignee do not fall under the remit of the Comptroller and Auditor General.

The ISI engages independent accountants to carry out an annual review of the accounts relating to the functions of the Official Assignee and the internal controls operated by the Official Assignee.

### **3.9 Audit and Risk Committee**

The SMT shall approve the risk management framework for the ISI and monitor its effectiveness. The ISI will highlight key risks to the Department within its Oversight Agreement and to its internal and external auditors as appropriate. Due to the ISI's size and lack of a board, a separate audit and risk committee shall not be formed. As the ISI falls under the Justice Vote (Vote 24), the Department's Audit Committee, subject to resources, continues to support the ISI in order to provide oversight, ensuring that the interests of Government and other stakeholders are protected in relation to business and financial reporting and internal control.

### **3.10 Protected Disclosures and Other Concerns**

In accordance with Section 21(1) of the Protected Disclosures Act 2014, the ISI has adopted the Protected Disclosures Policy of the Department as its policy on protected disclosure in the workplace.

This Procedure outlines the process for the making of protected disclosures by workers who are or were employed by the ISI, and for dealing with such disclosures. If a worker wishes to report a wrongdoing they may contact their line manager, the Director or the Head of Internal Audit at the Department.

As a prescribed body under the SI No 339 of 2014 and any subsequent amending SI's, the ISI should ensure that staff treat any correspondence submitted as a Protected Disclosure with increased awareness of confidentiality.

The ISI has also established procedures for dealing with other concerns from persons who are external to the ISI. The ISI website contains the following publications:

- Customer Charter;



- Guidebook on how to make a complaint against the ISI;
- Guidebook on how to make a complaint against a Personal Insolvency Practitioner.

### **3.11 Procurement**

In accordance with section 8.16 of the Code of Practice, the ISI will ensure that competitive tendering is standard procedure in the procurement process of the ISI and that procurement policies and procedures have been developed and published to all staff.

The Director should affirm adherence to the relevant procurement policy and procedures in the annual Compliance Statement to the Minister.

### **3.12 Customer Charter**

The ISI has a customer charter setting out the level of service a customer can expect. The charter is displayed prominently on the ISI's website and should be supported by a customer action plan.

### **3.13 General Data Protection Regulation**

ISI continues to engage proactively with its data protection obligations in compliance with the General Data Protection Regulation (GDPR). The ISI is a member of the Department's GDPR Steering Group and will continue to ensure that ISI policies and procedures are in line with the Department's policies and procedures and will liaise with the Department's Data Protection Support and Compliance Office to clarify any issues that arise.

### **3.14 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 Insolvency Service of Ireland will have regard to its obligations under section 42 of the Act to:

- assess and identify human rights and equality issues relevant to its functions, particularly when preparing its Strategic Plan 2019 – 2021;
- identify the policies and practices that are in place/ will be put in place to address these issues; and
- report on developments in that regard in its Annual Report.

### **3.15 Environmental and energy issues**

The Insolvency Service of Ireland will fulfil statutory and other obligations in relation to environmental and energy issues, as follows;

1. In accordance with requirements set out in the Department of Communications, Climate Action and the Environment's [Public Sector Energy Efficiency Strategy 2017](#) the ISI will appoint an Energy Performance Officer, who will have responsibility for the delivery of the following actions and targets:
  - a) 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).
  - b) Accurately reporting energy use, annually, to the Sustainable Energy Authority of Ireland (SEAI), in advance of their deadline.
  - c) Publishing progress (or lack thereof) achieved on energy reduction in the annual report.
2. Eliminating the use of single-use plastics from the organisation, in accordance with the Government Decision of 3 January 2019.
3. Participating in Justice-sector and wider public sector initiatives in relation to energy and environmental issues.

### **3.16 Governance Obligations**

As a statutory independent body operating under the aegis of the Minister, the ISI is subject to a range of statutory and corporate governance obligations including the 2016 *Code of Practice for the Governance of State Bodies*. The ISI will ensure that all the necessary obligations, including those for risk management, internal audit and the Public Spending Code are fully complied with.

The ISI and the Department have agreed an approach to ensure relevant sections of the Code of Practice where practicable are complied with. This approach reflects the governance structure of the ISI – in particular the absence of a Board and Chairperson.

### **3.17 Compliance Statement to the Minister**

To confirm compliance (or otherwise) with key provisions of the Code of Practice and the Governance Standard for Justice and Equality Sector Bodies, the Director will complete on an annual basis and submit to the Minister, in conjunction with the Annual Report, a Compliance Statement in order to provide assurance to the Department that the systems of internal control, risk management and other areas of compliance are operating effectively. This statement will address all of the relevant requirements of paragraph 1.9 of the '*Business & Financial Reporting Requirements*' Annex to the *Code of Practice for the Governance of State Bodies*.

### **3.18 Provision of Information to Members of the Oireachtas**

In accordance with D/PER Circular25/2016 - *Protocol for the Provision of Information to Members of the Oireachtas by State Bodies under the aegis of Government Departments/Offices*, the ISI are obliged to:

- i. Provide and maintain a dedicated email address (oireachtasmembers@isi.gov.ie) for Oireachtas members.
- ii. Put in place formal feedback processes to obtain feedback from Oireachtas members.
- iii. Comply with target deadlines and standards in terms of acknowledgements and responses to queries.
- iv. Designate a person at senior management level<sup>1</sup> within the ISI with responsibility for ensuring the timely provision of information to members of the Oireachtas.
- v. Report annually (in the Compliance Statement to the Minister) on compliance with standards set out in Circular 25/2016.
- vi. Seek, where appropriate, to publish the response to queries from members of the Oireachtas on the ISI's website.

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<sup>1</sup> Head of Corporate Affairs

**3.19** Governance obligations will also be reviewed as part of the overall monitoring process of this Oversight Agreement itself.

### **3.20 Comply or Explain**

(i) Having regard to ISI's size and the fact that it is a Body without a Board, it is not deemed feasible for it to establish its own Internal Audit Unit or an Audit & Risk Committee. Alternative arrangements have been put in place to provide the ISI with access to the Department's Internal Audit Unit.

(ii) The ISI and the Department have agreed an approach to the completion of the Compliance Statement (section 3.17) that reflects the governance structure of the ISI – in particular the absence of a Board and Chairperson. This Compliance Statement will satisfy the requirement for the Chairperson's Comprehensive Report to the Minister, as prescribed by the Code of Practice.

## **4. Potential Risk Factors**

The ISI operates a formal Risk Management policy and maintains a Risk Register and this is updated on an ongoing basis. The maintenance of the Register ensures that risks are identified and assessed and necessary mitigating actions are, where resources allow, put in place.

## **5. Dynamic Document**

This Oversight Agreement for 2019-2021 will be reviewed annually and updated as required.

## **6. Monitoring Arrangements**

In accordance with the Department's policy on the monitoring of governance arrangements in relation to the organisations within its remit, the Director of the ISI will meet with the Department twice yearly, or more frequently if required by the Department, to provide an update on developments and achievement of targets as set out in the annual Performance Delivery Agreements.


The ISI undertakes to return:

- (a) Relevant and appropriately detailed performance information to allow for monitoring of this Agreement;
- (b) relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services; and
- (c) performance information in line with the set of such indicators, and in keeping with the timeframes agreed with the Department.

The ISI will 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.

## 7. Duration and Signatories to the Agreement

Michael McNaughton, Director, Insolvency Service of Ireland and Yvonne White, Head of Civil Governance, Department of Justice and Equality agree that the arrangements as set out in this Oversight Agreement will apply with effect from 1 January 2019 until 31 December 2021.



Michael McNaughton  
Director  
Insolvency Service of Ireland

Date: 27/11 2019



Yvonne White  
Head of Civil Governance  
Department of Justice and Equality

Date: 27/11 2019

