



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



OIFIG AN CHIGIRE PRÍOSÚN
OFFICE OF THE INSPECTOR OF PRISONS

Oversight Agreement 2020-22

Department of Justice and Equality

Office of the Inspector of Prisons

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 Inspector of Prisons ('the OIP'), in accordance with the 2016 edition of the Code of Practice for the Governance of State Bodies ('the Code of Practice'). This Agreement sets out the broad governance and accountability framework within which the OIP operates, and defines the key roles and responsibilities which underpin the relationship between the OIP 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 approximately every 12 months and update it as necessary.

A separate but related Performance Delivery Agreement ('PDA') will be agreed within the overall governance framework provided by this Oversight Agreement.

1.2 Background and context

1.2.1 Role of the Inspector of Prisons

The Inspector of Prisons is a statutory office established under the Prisons Act, 2007 ('the Act'). The Inspector is appointed by the Minister for Justice and Equality and is independent in the performance of her functions. The key role of the Inspector is to carry out regular inspections of the 12 prisons in Ireland, and to present report(s) on each institution inspected as well as an Annual Report to the Minister for publication.

The current Inspector is Ms. Patricia Gilheaney, who was appointed on 7th May 2018.

Section 31(1) of the Act provides that the Inspector shall carry out regular inspections of prisons and for that purpose may:

- at any time enter any prison or any part of a prison,
- request and obtain from the Governor a copy of any books, records, other documents or extracts from such materials, and,
- in the course of an inspection or arising out of an inspection bring any issues of concern to the notice of the governor of the prison concerned, the Director General of the Irish Prison Service (IPS) or the Minister as the Inspector considers appropriate.

Section 31(2) of the Act provides that the Inspector may, and shall if so requested by the Minister, investigate any matter arising out of the management or operation of a prison and shall submit to the Minister a report on any such investigation. Under the terms of a formal request issued by the Minister under section 31(2), the Inspector investigates the circumstances surrounding the death of any prisoner while in prison custody or within the first month of their temporary release from custody.

Governors, prison officers, other persons employed in prisons and prisoners must, as far as reasonably practicable, comply with any request for information that the Inspector may make in the performance of her functions.

Although it is not a function of the Inspector to investigate or adjudicate on a complaint from an individual prisoner, she may examine the circumstances relating to the complaint where necessary for performing her functions. The Inspector has specific functions in overseeing the investigation by the IPS of prisoner complaints under Rules 57A and 57B of the Prison Rules 2007 as amended.

1.2.2 Strategic fit within Justice and Equality sector

The Department has responsibility, inter alia, for developing and implementing penal policy and penal reform, and for ensuring (via the IPS) safe, secure and humane custody of prisoners. The independent oversight and investigative role carried out by the Inspector supports the Department and the IPS in meeting those responsibilities.

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 has moved 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 **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 OIP in such matters. The **Criminal Justice Policy** function liaises with the OIP on relevant policy issues as required.

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 OIP as required:

Team	Purpose
Governance Standards	To develop and promote consistent approaches to oversight, put in place effective governance agreements, and consult and advise on agency-specific governance structures and proposals.
Performance and Compliance	To support, monitor and appraise the overall performance of the OIP 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), infrastructural, procurement and IT resource

	management in the OIP and 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 OIP is funded under the Justice and Equality 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 Inspector of Prisons

The OIP comprises the Inspector and a team of staff provided by the Department to support the Inspector in her functions. The Inspector has a vital role in ensuring effective, independent oversight of the prison system and is accountable to the Minister for the performance of her functions. The Inspector also has corporate responsibilities including budgetary and personnel management, internal control and risk management. The Inspector will discharge the relevant 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.

2.2 Adherence to relevant Governance Codes and Standards

The Inspector 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 Inspector will ensure that these are complied with.

2.3 Strategy Statement/Strategic Plan

In accordance with section 1.17 of the Code of Practice, the Inspector will produce a multi-year Strategic Plan and submit it to the Minister 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.

2.4 Auditing and Risk Management

As a small body funded under the Justice and Equality Vote (Vote 24), OIP does not have its own Internal Audit Unit or Audit/Risk Committee. The Department's Internal Audit Unit (IAU) supports the OIP in monitoring and reviewing the effectiveness of its arrangements for governance, risk management and internal control. Audit work is agreed between the

OIP 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 similar support in relation to risk management, and may from time to time invite the attendance of the OIP to discuss their risks and how they are being managed.

The OIP has developed a Risk Management System and associated Risk Register which is kept under continuing review. Copies of the Risk Register, and of significant changes thereto, will be provided to the Performance and Compliance team in Criminal Justice Governance (hereafter "Performance & Compliance").

2.5 Other key obligations and arrangements

2.5.1 Procurement

In accordance with section 8.16 of the Code of Practice, the OIP will ensure competitive tendering as standard in its procurement processes, and that the applicable policies are disseminated to all staff and adhered to. The Inspector's Comprehensive Report to the Minister (see below) will confirm adherence to the relevant policies and procedures. However, the OIP will report any significant compliance difficulties or breaches¹ to Criminal Justice Governance (Financial & Capital Resources) at the earliest opportunity.

2.5.2 Other expenditure

The Inspector 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 OIP will consult in advance with Criminal Justice Governance (Financial & Capital Resources).

2.5.3 Protected Disclosures

In accordance with section 21(1) of the Protected Disclosures Act, 2014, the OIP 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. The OIP has no role in relation to protected disclosures within the IPS.

2.5.4 Data Protection

The OIP will make every effort, 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.

2.5.5 Public Sector Equality and Human Rights Duty

The Inspector will have full regard to her 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 her functions

¹ 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.

- Identify the policies and practices that are/will be put in place to address those issues
- Report on related developments in her Annual Report

2.5.6 *Environmental and Energy Issues*

The Inspector will fulfil her 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 OIP 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 achieved on energy reduction in the 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.

2.5.7 *Provision of information to Members of the Oireachtas*

The OIP 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).

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

2.6.1 Annual Report

In accordance with section 31 of the Act, the Inspector shall submit to the Minister, not later than 31 March in any year or such later date as the Minister may specify, a Report on the performance of her functions 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 *inter alia* include:

- An explanatory note on any derogations (as agreed between the OIP and the Department) from the applicable provisions of the Code of Practice.
- Confirmation that the OIP 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 in the OIP, 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 OIP is funded under the Justice and Equality Vote, it is not required to produce Financial Statements. The OIP liaises with the Department's Financial Management Unit, who report on income and spending in their monthly management reports.

2.6.2 *Inspector's Comprehensive Report to the Minister*

In conjunction with the submission of the Annual Report, the Inspector shall furnish a Comprehensive Report to the Minister in line 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 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 Annual Report.

3. Monitoring arrangements and key interactions

Criminal Justice Governance will hold two formal governance meetings with the Inspector per year (or more if required). These meetings will consider, *inter alia* and as required:

- Delivery of the OIP Strategic Plan (when finalised) and annual business plan;
- Progress on death in custody reports, the Annual Report, the Inspection Framework (when published);
- Matters relating to the Inspector's oversight of IPS investigations into prisoner complaints under Rules 57A and 57B of the Prison Rules 2007 as amended;
- Operational structure and resources;
- 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 OIP that has been the subject of, or might give rise to, public commentary or scrutiny;
- Any matter that might impact on the reputation of the OIP.

Outside of the aforementioned governance meetings there will continue to be regular, less formal interactions between the OIP and the Department in accordance with their respective business needs and commitments. Such informal and unscheduled contact 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 responses to representations, media queries etc. This will be underpinned by a 'no surprises' approach to matters of mutual interest or concern.
- Engage constructively on relevant strategic, policy and data-related initiatives, including (as appropriate) enhanced data collection/analysis, data exchange and research initiatives to support both the work of the OIP and the related policy, governance and transparency functions of the Department.
- Liaise as appropriate on wider public service reform/engagement initiatives.

4.2 Departmental commitments

The Department will:

- Provide for and resource the annual budget for the OIP.
- Provide, via its HR Division, services encompassing recruitment, employee relations, workforce development and liaison with (HR) shared services as required.
- Liaise with D/PER to seek 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 ICT services and supports through the Managed Service.

4.3 OIP commitments

The OIP will:

- Provide timely, relevant and appropriately detailed information to facilitate the monitoring of this Oversight Agreement, 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 OIP will 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

As a small body which is staffed by the Department and funded under the Justice and Equality Vote, the OIP does not have its own Internal Audit Unit or Audit/Risk Committee and is not required to produce Financial Statements. Alternative arrangements are in place as outlined above.

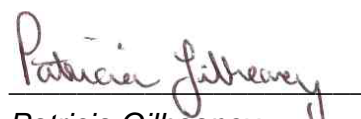
For the same reasons as above, the parties have also agreed that the OIP is not required to produce a separate Customer Charter or associated Action Plan. The OIP follows the principles and procedures set out in the Department's Customer Charter.

6. Duration and signatories to the Agreement

John O'Callaghan, Head of Criminal Justice Governance, Department of Justice and Equality, and Patricia Gilheaney, Inspector of Prisons, 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



Patricia Gilheaney
Patricia Gilheaney
Inspector of Prisons

Date: 26th May 2020