

Oversight Agreement 2020 - 2022

Between

The Property Services Regulatory Authority

And

The Department of Justice and Equality

1. Introduction

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 Property Services Regulatory Authority 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 2019 between the two parties.

This Oversight Agreement sets out the broad governance and accountability framework within which the Property Services Regulatory Authority 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, both parties shall, in accordance with the Code of Practice, review it every 12 months and update it as may be jointly considered necessary.

1.2 The Property Services Regulatory Authority (“PSRA”) is an independent statutory body established on 3 April 2012, by the Minister of Justice and Equality pursuant to the Property Services (Regulation) Act, 2011. The PSRA is responsible for the licensing and regulation of Property Service Providers (i.e. auctioneers/estate agents, letting agents and property management agents).

1.3 The principal functions of the Property Services Regulatory Authority are to:

1. Control, supervise and regulate Property Service Providers;
2. Operate a comprehensive licensing system covering all Property Service Providers;
3. Establish and administer a system of investigation and adjudication of complaints against Property Service Providers;
4. Establish and administer a system of investigation of standards in the provision of Property Services;

5. Impose sanctions on Property Service Providers for improper conduct (including fines up to €250,000 and the revocation of a licence);
6. Promote increased consumer protection and public awareness of property services in general;
7. Establish, maintain and administer a Compensation Fund to compensate parties who lose money as a direct consequence of the dishonesty of a Property Services Provider;
8. Develop Codes of practice for Property Service Providers;
9. Establish and maintain a Public Register of Property Sales Prices;
10. Establish and maintain a Commercial Leases Database;
11. Establish and maintain a Public Register of Licensed Property Service Providers;
12. Act as a State Competent Authority for Money Laundering in the Property Services Sector;
13. Assist the Minister in the development of policy relating to the regulation of the Property Services industry;
14. Undertake or commission research projects;
15. Specify and enforce:
 - Standards for the granting of all licences to Property Service Providers (e.g. educational/training standards; levels of professional indemnity insurance), and
 - Standards to be observed in the provision of property services by Property Service providers (e.g. technical standards; appropriate ethical standards).

1.4 Residential Property Price Register

Section 86 of the Property Services (Regulation) Act provides for the establishment of the Residential Property Price Register. The Register, which was established and published by the Authority in September 2012, includes information on residential properties purchased in Ireland since 1 January 2010, as declared to the Revenue Commissioners for stamp duty purchases. The Register is updated on a weekly basis and published on the Authority's website.

1.5 Register of Licensed Property Service Providers

The Authority is required under the Property Services (Regulation) Act 2011 to publish particulars of all Property Service Providers licensed by it. This Register was first published in March 2013 and reviewed in 2019 and contains the following information on all persons licensed by the Authority:

- Name of Licensee;
- Address of Licensee;
- Licence number
- Category of Licensee (i.e. Company, Partnership, Sole Trader, Employee);
- Type of Licence held; and
- Licence Expiry Date.

1.6 Commercial Leases Database

Section 87 of the Property Services (Regulation) Act 2011 provides for the establishment of the Commercial Leases Database. This legislation applies to all commercial property leases entered into on or after the 3 April 2012 (the date the legislation became operational). The Act also provides that certain limited information may be published by the Authority in respect of leases entered into before that date. Consequently, the Authority is making available certain information in respect of all leases entered into since 1 January 2010.

The Database, which was published by the Authority in October 2013, provides for greater transparency by making publically available, for the first time, the relevant details of letting agreements and rent reviews in the commercial property market.

2. Role of the Property Services Regulatory Authority within the Justice & Equality Sector

2.1 Mission

The PSRA's mission is to control and supervise Auctioneers, Estate Agents, Letting Agents and Management Agents and to protect the interests of the public in their interaction with them by ensuring that high standards are maintained in the delivery of property services. As an agency of the Department of Justice and Equality, the PSRA is the State organisation responsible for licensing and regulating all of Ireland's Property Services Providers.

The work of the PSRA contributes to the Department's high level strategic goal of maintaining a safe and secure Ireland.

2.2 Function

The core function of the Authority is to ensure that the objectives of the establishing legislation are fully realised so as to ensure that those licensed to provide Property Services meet the highest standards in service provision and that consumers are fully protected through the rigorous application of the provisions of the Act.

2.3 Values

The Authority is guided by its core values of the public interest, good governance and value for money, proportionality, consultation and commitment to staff.

3. Corporate Governance

3.1 Roles and Responsibilities

Accounting Officer

The PSRA falls under the Department of Justice and Equality's 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 and analysis of the Appropriation Accounts to the Comptroller and Auditor General and ultimately to the Oireachtas through the Public Accounts Committee.

The Board

Section 10 Part 2 of the Property Services (Regulation) Act 2011 requires the Authority to have a membership of no more than eleven members, all of whom shall be appointed by the Minister and one of whom shall be designated as its Chairperson. In appointing persons to be members of the Authority the Minister is required to regard the desirability of their having knowledge or experience in consumer affairs, business, finance, management or administration or any subject which would, in his opinion, be of assistance to the Authority in performing its functions.

The members of the Board are collectively responsible for leading and directing the PSRA'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).

Chairperson of Authority

The Chairperson is responsible for leading and guiding the Authority in its task of setting the State body's strategic policies. The Chairperson works with the CEO to manage the Authority's agenda and provides direction to the Secretary to the Authority. The Chairperson will furnish a Comprehensive Report to the Minister for Justice & Equality ("the Minister"), in conjunction with the PSRA's annual report and

financial statements, outlining any significant commercial developments in the preceding year and affirming the Authority's compliance with relevant codes and regulations, in accordance with the Code of Practice for the Governance of State Bodies (2016), in particular addressing the requirements of paragraph 1.9 of the 'Business & Financial Reporting Requirements' Annex to the 2016 *Code of Practice for the Governance of State Bodies*.

Chief Executive Officer

In accordance with Section 19 of the Property Services (Regulation) Act 2011, the Chief Executive is appointed by the Minister on the recommendation of the Chief Executive of the Public Appointments Service. Reporting to the Board of the Authority, the Chief Executive is responsible for the day to day management and administration of the business and resources (financial and non-financial) of the PSRA. She is responsible for the establishment and maintenance of high standards in implementing the functions of the PSRA and ensuring a reputation for impartiality, management of conflicting interests, and upholding the public interest at all times. The CEO is also responsible, in conjunction with the Board, for setting strategic direction and being the Authority's public face.

As Accountable Officer, the CEO is accountable to the Committee of Public Accounts (PAC) and other Oireachtas Committees.

3.2 Annual Self-Assessment Evaluation

The Board of the Authority should undertake an annual self-assessment evaluation of its own performance and that of its committees in accordance with the Code of Practice of the Governance of State Bodies. Guidance on how to conduct this evaluation can be found in the *Board Self-Assessment Evaluation Questionnaire* document which has been appended to the *Code of Practice for the Governance of State Bodies* (2016). An external evaluation of the Authority's performance should be carried out every three years.

3.3 Strategic Plan

Section 16 of the Property Services (Regulation) Act 2011 requires the PSRA to submit a Strategic Plan to the Minister for approval. This Plan should cover the ensuing three-year period and should be submitted within 6 months before each third anniversary of the establishment day. The current Strategic Plan for the PSRA covers the period September 2017 – August 2020 with a new Strategic Plan to be introduced covering September 2020 – August 2023.

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 17 of the Property Services (Regulation) Act 2011 requires the Property Services Regulatory Authority to make a report to the Minister for Justice and Equality (“the Minister”), not later than 30 June in each year, in relation to the performance of the functions and activities of the Authority 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. Noting that this Oversight Agreement has been reached with the Department of Justice and Equality and, in particular, indicating the PSRA’s level of compliance with the requirements of the Code of Practice for the Governance of State Bodies.
- ii. A statement of how the Board operates , including a high level statement of which types of decisions are to be taken by the Board and which are to be taken by management;

- iii. A statement of how the performance evaluation of the Board and its committees has been conducted;
- iv. Number of Board meetings and attendance level of each Board member;
- v. Names of Chairperson, the deputy Chairperson (if any) the CEO and members of the Authority and its committees;
- vi. Confirmation that an appropriate assessment of PSRA's principal risks has been carried out, including a description of these risks, where appropriate and associated mitigation measures or strategies;
- vii. Confirmation that the PSRA is adhering to the relevant aspects of the *Public Spending Code*;
- viii. Confirmation that the PSRA has complied with its obligations under tax law; and
- ix. A statement on the system of internal controls in the PSRA, 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 non-salary related fees paid in respect of Board members and the salary of CEO;
- 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;
- vi. 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 & Board Member's Report 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

As the PSRA falls under the Justice Vote (Vote 24), the Department's Internal Audit Unit, subject to resources, supports the Authority 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.

3.9 Audit and Risk Committee

The Authority's Audit and Risk Committee shall consist of at least three independent, non-executive Authority members, with written terms of reference which clearly outline the committee's authority and duties. The role of the Committee is to ensure that the interests of Government and other stakeholders are fully protected in relation to business and financial reporting and internal control.

The PSRA 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.

3.10 Protected Disclosures

In accordance with Section 21(1) of the Protected Disclosures Act 2014, the PSRA has adopted the Protected Disclosures Policy of the Department of Justice and Equality 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 Authority, and for dealing with such disclosures.

As a prescribed body under the Protected Disclosures Act 2014 (Section 7(2)) Order 2014 (SI No 339 of 2014) and any subsequent amending SI's, the PSRA should ensure

that staff treat any correspondence submitted as a Protected Disclosure with increased awareness of confidentiality.

3.11 Procurement

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

The Chairperson should affirm adherence to the relevant procurement policy and procedures in the annual Comprehensive Report to the Minister.

3.12 Customer Charter

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

3.13 Data Protection

The PSRA will engage proactively with the data protection obligations and ensure substantial compliance with the General Data Protection Regulation (GDPR) (in force from May 25, 2018) and the Data Protection Acts 1988 & 2018. Arrangements have been put in place to provide the Authority with access to the Department's Data Protection Support and Compliance Office.

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 Property Services Regulatory Authority 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 2020– 2023;
- 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 PSRA 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 PSRA 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 Anti-Money Laundering and Terrorist Financing

A Property Services Provider is a “designated person” for the purposes of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. In order to comply with

this Act, designated persons are required to ensure that customers are not laundering money or financing terrorism.

On 5 September 2016, the Minister conferred the relevant powers under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 upon the PSRA by way of an order under Section 60 of the Act. This enables the PSRA to monitor Property Service Providers for the purpose of securing compliance by such providers with the requirements of the Act. The resources necessary to perform the investigative function is dependent upon the outsourcing of audit compliance investigations.

As part of its regulatory remit, the Authority will undertake audits of anti-money laundering compliance of property service providers.

3.17 Governance Obligations

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

3.18 Chairperson's Comprehensive Report 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 Chairperson of the Board will complete, on an annual basis and in conjunction with the Annual Report, a Comprehensive Report to the Minister 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 report will address all of the requirements of paragraph 1.9 of the '*Business & Financial Reporting Requirements*' Annex to the *Code of Practice for the Governance of State Bodies*.

3.19 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 PSRA are obliged to:

- i. Provide and maintain a dedicated email address (PQ@psr.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. The HEO attached to Corporate Services has the responsibility for ensuring the timely provision of information to members of the Oireachtas.
- v. Report annually (in the Chairperson's comprehensive report 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 PSRA's website.

3.20 Periodic Critical Review

A Periodic Critical Review (PCR) of the PSRA is proposed to be conducted in late 2020 under the relevant Guidelines. The Department will engage with the Authority throughout this process.

4. Dynamic Document

This Oversight Agreement will be reviewed and updated jointly as required. This document will be agreed with the Civil Justice Governance Function along with the separate Performance Delivery Agreement document, which itself will be reviewed annually. Oversight Agreements, while remaining under review, will be renewed every three years.

5. Mutual Commitments

5.1 Both parties shall:

- Be proactive and timely in communications, co-operation and information-sharing on service delivery.
- Both parties agree to consult and to keep each other fully apprised on all matters of mutual relevance. This is to be underpinned by a 'no surprises' approach to matters of mutual concern.
- Support adherence to corporate governance obligations under this Oversight Agreement and the effective achievement of targets under the annual PDA.
- Provide prompt and timely responses to correspondence, information requests and related matters.
- Engage as may be considered appropriate on enhanced data collection/analysis, data exchange and research initiatives to support both the work of the PSRA and the related Policy, Legislation, Governance and Transparency Functions of the Department.

5.2 Departmental Commitments

The Department shall:

- In forming the estimates for the Justice and Equality vote, consider the requirements of the PSRA as part of the annual budgetary provision of the PSRA.
- Provide, via its HR Division, services encompassing recruitment, employee relations, staff circulars, Civil Service HR Policy Guidelines, workforce development, performance management and liaison with (HR) shared services as required.
- Liaise appropriately with D/PER to ensure, as far as possible, timely sanctions for expenditure and resourcing in line with public financial procedures and policies on public service numbers.
- Provide guidance/direction on procurement and expenditure rules, government accounting and governance generally.
- Engage through the appropriate departmental function in a timely manner with the PSRA on strategic, policy and legislative issues of relevance to PSRA functions..
- Provide payroll, invoice processing and other accounting services through the Department's Financial Shared Services and Financial Management Unit.

- Provide internal audit services to the Authority. The audit work will be agreed between the Chair of the Audit and Risk Committee, the CEO and the Head of Internal Audit in the Department of Justice and Equality.
- Provide ICT development and operations services in support of the PSRA.
- Liaise with the PSRA on public service reform/engagement initiatives.
- Engage and progress the State Boards process as vacancies arise or are anticipated on the Board of the PSRA.
- Liaise, through the Transparency function, with the PSRA at the earliest possible stage on:
 - Requests for information that may be necessary to assist in meeting the Minister’s obligations to the Oireachtas and in responding to representations, media queries etc; and
 - Ministerial/Departmental announcements of relevance to the functions of the PSRA.
- Liaise and support, through the Civil Governance function, with the PSRA at the earliest possible stage on significant governance developments and related issues of concern.

5.3 The Property Services Regulatory Authority commitments

The PSRA shall:

- Provide timely, relevant and appropriately detailed information to facilitate the monitoring of this Oversight Agreement and the annual PDA, including in the context of the formal governance meetings.
- Return relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume.
- Ensure that expenditure in any individual year does not exceed the allocated budget except in exceptional circumstances and with the agreement of the Department’s Financial Management Unit.
- 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 Civil Justice Governance at the earliest possible opportunity.

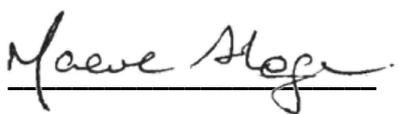
- The Transparency function is given timely advance notification (including any appropriate background information) of significant public announcements or media engagements.

6. 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 Property Services Regulatory Authority. These will be supplemented by less formal interactions between the PSRA and the Department in accordance with the business needs and mutual commitments of each party.

7. 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.



Maeve Hogan,
CEO,
Property Services Regulatory Authority



Yvonne White,
Director,
Civil Justice & Equality -
Governance Function,
Department of Justice and Equality

Date: 17/04/2020

Date: 17/04/2020