



An Roinn Airgeadais
Department of Finance



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean
Financial Services and
Pensions Ombudsman

Service Level, Oversight and Performance Delivery Agreement

between

The Department of Finance

- and -

The Office of the Financial Services and Pensions Ombudsman

2023

1. Definitions and Interpretation

“Act of 2017” – means the Financial Services and Pensions Ombudsman Act 2017, as amended.

“Agency” or “State Body” – means the Office of the Financial Services and Pensions Ombudsman established under section 7 of the Act of 2017.

“Council” – means the Financial Services and Pensions Ombudsman Council established under section 37 of the Act of 2017.

“Department” – means the Department of Finance.

“Deputy Ombudsman” – means the person appointed under section 8 of the Act of 2017 to hold office as the Deputy Financial Services and Pensions Ombudsman.

“Liaison Unit” – means the Unit in the Department that has been designated to liaise with the Agency.

“Minister” – means Minister for Finance.

“Ombudsman” – means the person appointed under section 8 of the Act of 2017 to hold office as the Financial Services and Pensions Ombudsman.

“Pension Cost Allocation Model” – means the basis for the apportionment of the costs of the Financial Services and Pensions Ombudsman service between the two funding sources: The financial services industry levy in respect of financial service related

complaints and a grant provided by the Exchequer in respect of pension related complaints.

“Service Level, Oversight and Performance Delivery Agreement” – means this Agreement, which sets out the level of performance expected of the Agency to ensure that the indicators as set out at Appendix 1 are met.

“Strategy” – means the Strategy of the Agency referred to in section 1.15 of the 2016 Code of Practice for the Governance of State Bodies, i.e. a plan that sets out appropriate objectives and goals and identifies relevant indicators and targets against which performance can be clearly measured. The Strategy covers a 3 year period and may be referred to variously in the context of the State Body’s governing legislation. The Strategy is supported by the annual work programme and budgeting cycle.

“Work Programme” denotes an annual work programme, business plan, corporate plan or an agreed performance plan that sets out the business goals, timelines and performance indicators (with due regard to the Key Output targets, and context and impact indicators being used for Performance Budgeting) to be achieved by the Agency, and with due regard to the resource allocation as agreed with the Department.

2. Context

- 2.1 This Agreement is between the Department of Finance (‘the Department’) and the Office of the Financial Services and Pensions Ombudsman (‘the Agency’).
- 2.2 The Agency is an independent statutory body established under the Act of 2017, consisting of the Ombudsman, the Deputy Ombudsman and the Ombudsman’s staff appointed under section 15 of the Act of 2017. Under section 12 of the Act of 2017, the Ombudsman may authorise and direct the Deputy Ombudsman or a member of the Ombudsman’s staff to perform any of the functions conferred on the Ombudsman by the Act of 2017.
- 2.3 In accordance with Section 12 of the Act of 2017, the principal function of the Ombudsman shall be to investigate complaints in an appropriate manner proportionate to the nature of the complaint by-
- (a) Informal means,
 - (b) mediation,
 - (c) formal investigation (including oral hearings if required), or
 - (d) a combination of the means referred to in paragraphs (a) to (c).
- 2.4 The primary functions of the Council are set out in Section 40 of the Act of 2017. These functions are:
- To determine and prescribe by regulation, in accordance with section 43 of the Act, the financial services industry levy;

- To keep under review the efficiency and effectiveness of the Ombudsman and advise the Minister, either at the Minister’s request or on its own initiative, on any matter relevant to the performance of the functions of the Ombudsman;
- To advise the Ombudsman on any matter on which the Ombudsman seeks advice (including advice in relation to the development and publication of guidelines and procedures in relation to the complaints process and investigations under the Act);
- To carry out such other functions as are conferred on it by the Act.

The Council also has certain oversight responsibilities in relation to the work of the Agency, including its responsibilities in relation to the Agency’s annual budget and its strategic plan; these are detailed in full in the Schedule of Matters for the Council.

Section 40(3) of the Act states that the Council shall have no role in the manner in which the Ombudsman deals with a particular complaint.

- 2.5 The Agency’s Mission Statement is outlined in the Agency’s Strategic Plan 2021-2024 as: “Providing an impartial, accessible, and responsive complaint resolution service that delivers fair, transparent and timely outcomes for all our customers, and enhances the financial services and pension environment.”
- 2.6 The Act of 2017 and any Statutory Instruments made under the Act underpin the role of the Agency in the performance of its functions.
- 2.7 This Agreement is prepared in fulfilment of the requirement under the Code of Practice for the Governance of State Bodies, published in August 2016, for each Department to ensure that they have written Service Level, Oversight and Performance Delivery Agreements with State bodies under their aegis. It also fulfils the requirements of Circular 13/2014 Management of and Accountability for Grants from Exchequer Funds.
- 2.8 The governance of the Agency shall be pursued in accordance with its establishing legislation and the relevant guidance issued by the Department or the Department of Public Expenditure, National Development Plan Delivery, and Reform, including:
- Report of the Working Group on the Accountability of Secretaries General and Accounting Officers (Mullarkey Report), 2002
 - Public Financial Procedures
 - Timely Production and Submission of Financial Statements/Accounts of State Bodies and Funds audited by the Comptroller and Auditor General and the Laying of Special Reports of the Comptroller and Auditor General before the Houses of the Oireachtas (Circular 24/2021)
 - Code of Practice for the Governance of State Bodies, 2016
 - The Role and Responsibilities of Accounting Officers, A Memorandum for Accounting Officers, 2011
 - The Public Spending Code 2013 (Circular 13/2013)

- Arrangements for Oversight of Digital and ICT-related Initiatives in the Civil and Public Service (Circular 14/2021)
- Protocol for the Provision of Information to Members of the Oireachtas by State Bodies under the aegis of Government Departments/Offices (Circular 25/2016)

and any other relevant circulars or instruction issued by the Department or the Department of Public Expenditure, National Development Plan Delivery, and Reform from time to time.

THE PARTIES AGREE THE FOLLOWING:

3. Purpose of the Agreement

The key objectives of this agreement are to:

- define the requirements that the Department has of the Agency, within the resources that are available to the Agency,
- assist the Department in monitoring and, where appropriate, managing the Agency's performance, and
- where appropriate¹, ensure mutual agreement between the Department and the Agency with regard to priorities.

4. Duration of the Agreement

This Agreement is deemed to commence on the date of signature by both parties and is subject to annual renewal at the start of each business year.

5. Commitments (Operational Roles, Responsibilities, Outputs and Outcomes)

5.1 The Agency undertakes to provide an agreed level of service, in accordance with the deliverables and performance criteria specified in its annual work programme, the key deliverables of which are set out in Appendix 1, and in accordance with all relevant legislation.

5.2 The Department commits to assisting the Agency in the achievement of its targets by providing:

- regular information flows,
- guidance and directions, and
- appropriate levels of financial and sanctioned staff resources (for which the Agency will manage the recruitment), within the Department's control.

The Agency will also provide all relevant information to the Department, follow guidance and directions from the Department, and ensure that there is efficient and effective use of the financial and staff resources assigned to it in order to meet the Key Output targets, and context and impact indicators as set out in the Revised Estimates Volume for that year, under Vote 7, in so far as they relate to its work.

¹ This objective will not be appropriate where the Agency or Office is required to be statutorily independent in the exercise of its functions.

- 5.3 The Liaison Unit / Department shall be the initial point of contact between the Agency and any other Department in relation to corporate issues, including finance, human resources, pensions and employment contracts, unless otherwise advised by the Liaison Unit.

6. Performance Delivery, Monitoring and Reporting

- 6.1 The performance of the Agency will be monitored by the Department against the commitments in the key deliverables which are set out in Appendix 1 and having regard to the statutory role of the Agency. To facilitate this, the Agency will provide on a quarterly basis to the Liaison Unit a report on progress in reaching targets and performance indicators set out therein.
- 6.2 Both parties agree that any issues which may impact on the Agreement will be brought to the attention of the other party as soon as reasonably possible, having regard to all the circumstances, and that both parties agree to work towards a mutually satisfactory solution.
- 6.3 The Agency will seek at all times to meet the terms of this agreement. Where any shortfalls in performance are identified, the Agency will put forward its proposals and a timetable for rectifying the performance to the expected standard for consideration by the Department with a view to reaching an agreed amendment to the Agreement.
- 6.4 In circumstances where the Department and the Agency cannot reach agreement on resolving an issue arising from this Agreement to mutual satisfaction, the Minister's decision on the matter will be final.

7. Flexibility & Amendment of Targets

- 7.1 Both parties recognise that it may become necessary to change, modify, add to or otherwise alter agreed performance targets during the course of this Agreement. A necessity for amendment may arise due to changes to the prevailing operating circumstances and / or changes in the financial and economic climate which may impact on the ability of the Agency to meet its obligations under the terms of this Agreement.

8. Financial Management and Monitoring / Controls

- 8.1 The Agency will comply with the Department's requirements in relation to financial management, monitoring and control. Such requirements are underpinned by the Public Financial Procedures set out by the Minister for Public Expenditure, National Development Plan Delivery, and Reform. The requirements of the Code of Practice for the Governance of State Bodies, the Public Spending Code, and the provisions of Circular 14/2021 Arrangements for Oversight of Digital and ICT-related Initiatives in

the Civil and Public Service should also be adhered to, per the oversight and reporting agreements established in 2022.

- 8.2 Payments due in relation to this Agreement (i.e. annual funding) will be made in light of the annual estimate of income and expenditure as outlined in the Act of 2017.

The Ombudsman shall, not later than 3 months before the beginning of each financial year, or within such extended period as the Council may allow—

- (a) arrange for the preparation of a statement setting out estimates of the income and expenditure of the office of the Ombudsman for that year, and
- (b) submit the statement to the Council for approval.

The statement shall

- (a) specify the amounts expected to be collected and recovered during the financial year concerned from the imposition of the financial services industry levy,
- (b) specify the amount of proposed funding by the Oireachtas to be agreed by the Minister,
- (c) set out the proposed financial services industry levy for that year,
- (d) set out the expected expenses to be paid out of moneys provided by the Oireachtas for that year, and
- (e) specify any other sources from which funds are expected to be obtained during that year to finance the carrying out of the functions of the Ombudsman and the amounts expected to be raised from those sources.

The amount of proposed funding by the Oireachtas will be based on the Pension Cost Allocation Model.

The Council shall, with the consent of the Minister, prescribe by regulation the financial services industry levy to be paid having regard to the expenditure incurred or reasonably expected to be incurred by the Agency in relation to complaints received by the Agency in relation to financial service providers.

Public Financial Procedures require that drawdown requests for exchequer funding should not exceed the needs of a public body for the period in question. Accordingly, in submitting drawdown requests to the Department, the Agency should only request sufficient funding to meet its needs for the period in question.

Given the importance of Vote Management and the efficient and effective use of the financial and staff resources, the Agency will be required to ensure that programme

expenditure is reviewed on a regular basis as against projections/profile and that it informs the Department as soon as possible of any savings/excesses that may occur.

The Agency must also comply with the requirements of Circular 13/2014 Management of and Accountability for Grants. This Circular outlines the public financial management principles, procedures and additional reporting requirements to be followed in the management of grant funding provided from public funds. Bodies should have regard to the reclassification provisions of the Circular and in particular those provisions detailing the payment principles to be followed, including as they relate to requests for prefunding. Bodies should also comply with the provisions of the Circular not only insofar as they relate to their responsibilities as grantees of public monies but also as they relate to situations where they make onward grants to other bodies, including the payment principles that must be followed in such instances.

The Ombudsman shall confirm annually by letter in line with Circular 13/2014 the following:

- That funding by the Oireachtas will only be used in line with Section 3 of the Act of 2017
- That “adequate financial control systems” are in place
- That the Comptroller and Auditor General has conducted an audit of the Agency’s Financial Statements

The Agency must also comply with the provisions of Circular 13/2014 in relation to the retention of end-year balances.

- 8.3 Funding for each year is determined as part of the Revised Estimates Volume (REV) approved by Government and published in December of the previous year.

The funding capacity and subsequent provision made to the Agency will be determined by the overall financial provision being made to the Department of Finance Vote taking into consideration Government priorities and the available resources at the disposal of the Minister and Department.

9. Governance

- 9.1 The Council bears responsibility only for those oversight and governance responsibilities provided to it under the governing legislation. The Ombudsman is the statutory Accountable Officer for the Agency as per Section 20 of the Act. As Accountable Officer, many of the governance and oversight responsibilities, which might rest with a Board in other public service contexts, are the responsibility of the Ombudsman under the Act of 2017.

- 9.2 The draft FSPO strategic plan should be submitted to the Council. As soon as may be after approving a strategic plan, the Council shall submit the plan to the Minister, in line with the requirements of its governing legislation.

- 9.3 The Ombudsman shall, not later than 6 months after the end of a financial year, prepare an annual report on the performance of the functions of the Ombudsman during that year, and submit the report to the Council. As soon as may be after receiving the annual report, the Council shall present the report to the Minister and the Minister for Social Protection.
- 9.4 The Agency operates a formal Risk Management policy, which includes a Risk Appetite Statement and the maintenance and regular review of a corporate Risk Register. The Agency's Audit and Risk Committee reviews and monitors, at a high level, the effectiveness of the processes for managing risk. As part of its review and monitoring, the Audit and Risk Committee considers the operation of the risk management framework. Internal audit provides objective assurance to the Ombudsman, Deputy Ombudsman, the Senior Management Team, and to the Audit and Risk Committee as appropriate, on the effectiveness of the risk management system and assesses if key business risks are being managed appropriately and that the system of internal control is operating effectively.
- 9.5 The Agency will have regard to its obligations under Section 42 of the Irish Human Rights and Equality Commission Act 2014 which places 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.
- 9.6 The Agency will maintain an up-to-date customer charter setting out the level of service a customer can expect. The charter should be displayed prominently on the FSPO's website and is supported by a customer action plan.
- 9.7 The Agency will fulfil its statutory and other obligations in relation to environmental and energy issues, as follows:
- 9.7.1 In accordance with requirements set out in the Department of the Environment, Climate, and Communications' Public Sector Energy Efficiency Strategy 2017, the FSPO will appoint an Energy Performance Officer, who will have responsibility for reporting energy use, annually, to the Sustainable Energy Authority of Ireland (SEAI), reducing energy usage and publishing progress achieved on energy reduction in the annual report.
- 9.7.2 In accordance with the Government Decision of 3 January 2019, the FSPO will eliminate the use of single-use plastics from the organisation.
- 9.7.3 In accordance with the requirements set out in Circular 01/2020 Procedures for offsetting the emissions associated with official air travel, the FSPO will record the carbon emissions associated with all official air travel, value these emissions based on the prevailing rate of Ireland's domestic Carbon Tax and pay an amount equivalent to the travel emissions impact into the Climate Action Fund.
- 9.7.4 The FSPO will participate in public sector wide initiatives in relation to energy and environmental issues.
- 9.8 As outlined in section 8.14 of the Code of Practice for the Governance of State Bodies, the FSPO will undergo a Periodic Critical Review (PCR) by the Department of Finance

at appropriate intervals. Sufficient advance notice will be given by the Department of Finance to allow for adequate planning and preparation for the PCR.

9.9 Reflecting the statutory role of the Agency, the following potential risks are identified as the main areas that could impact on the achievement of targets over the Agreement's reporting period:

1. Resourcing risks, due to increase in complaint volumes, or decrease in available resources
2. Business continuity risks arising from external events, or vacancies in relation to Office holders
3. Legal risks, due to the difficulty in predicting potential legal actions against the Agency arising from its statutory functions

10. Communication & Information Sharing

10.1 The Minister shall arrange to meet with the Ombudsman and/or the Deputy Ombudsman at least once a year to discuss relevant issues, including progress towards strategic targets and objectives, policy developments and other relevant issues.

10.2 An annual meeting between a senior member of the Department and the Agency's Senior Management Team will be held in Q1 each year to ensure there is an understanding of the Department's strategic priorities and to discuss key issues and challenges.

10.3 Review meetings between the Agency and the Department at operational level will be held at least on a quarterly basis with the agenda to be agreed in advance of the meeting. Additional agenda items may be agreed before the meeting.

11. Partnership & Responsiveness

11.1 Both parties support the effective achievement of the agreed targets and commit to keep each other fully apprised and updated on all key issues covered by this Agreement.

12. Derogations from the Code of Practice for the Governance of State Bodies

12.1 Any derogations from the Code of Practice for the Governance of State Bodies arise due to the specific legislative provisions within the Act of 2017, both reflecting the oversight and governance responsibilities assigned to the Council and that the Ombudsman is the statutory Accountable Officer for the Agency as per Section 20 of the Act.

SIGNED:

Financial Services and Pensions Ombudsman

For the Department of Finance

Liam Slovan

Louise Heenan

on 23rd day of August 2023

on 30 day of August 2023

Liam Slovan

Louise Heenan

Financial Services and Pensions Ombudsman

Principal Officer, Banking Division

Appendix 1: FSPO Performance Delivery Details 2021-2024

The governance of the Agency shall be pursued in accordance with its establishing legislation and the relevant guidance issued by the Department and the Department of Public Expenditure, National Development Plan Delivery, and Reform as listed at 2.8 of this document.

Delivery Details:-

Ongoing Commitments

- Complaints regarding financial service and pension providers to be completed within the earliest possible timeframe
- The Ombudsman may, and shall when requested by the Minister—
 - (a) advise and, as appropriate, make recommendations to the Government, the Minister, any other Minister of the Government or any Minister of State, in relation to any proposals for legislative change, or any other policy matters, concerning financial services or pensions and relating to the functions of the Ombudsman, and
 - (b) submit to the Minister, any other Minister of the Government or any Minister of State, after consultation with such persons as he or she considers appropriate having regard to the proposals to be submitted, any proposals he or she considers appropriate for amendment of any enactment, or for new enactments, concerning financial services or pensions and relating to the functions of the Ombudsman.
- Input to Parliamentary Questions provided within the allocated timeframe
- Prompt Payments deadlines to be met
- When requested, Access Information Environment Returns (AIE) to be provided by the Agency
- Complaints trends data to be provided to the Department at least five working days in advance of each Quarterly governance meeting
- Where a publication is to be made, that an embargoed draft copy be delivered to the Department at the earliest appropriate opportunity in advance of publication

Annual Requirements

- Comply or Explain return, required under section 8.2 of the Code of Governance of State Bodies to be provided in H1 each year
- Circular 13/2014 “Annual Delegated Sanction Letter” - The Ombudsman to confirm the following:-
 - the “Pension Budget” will only be used in line with Section 3 (2) (b) and Section 3 (3) of the Act of 2017.
 - “adequate financial control systems” are in place and
 - The Office of the Comptroller and Auditor General audits the Agency’s accounts

- Retention of end-year balances. The Agency must inform the Department as early as possible if there is going to be a request for “Retention of end-year Balance”.
- Each year by the relevant deadline, the Agency to provide information as part of the National Disability Authority (NDA) Census, as required under the Disability Act 2005
- Each year by 31 July, the Agency to send a copy of its Tax Clearance Certificate to be sent to Minister to confirm the Agency is Tax compliant.
- Draft unaudited financial statement furnished to the Department no later than two months after the end of the financial year.
- The Agency’s Annual Report including the Financial Statements to be submitted to the Minister within one month of the audit certificate on the accounts being issued by the Comptroller and Auditor General, together with any report of the Comptroller and Auditor General on the accounts.
- When approved by the Council, the “Financial Services Industry Levy” Regulation to be submitted to the Minister for his consent.
- Annual Ethics Returns - Confirmation email required from Agency stating that the requirements have been met in respect of the Agency and the Council.
- An advance copy of the Annual Overview and the Ombudsman’s Digest of Decisions shall be submitted to Department before publication for information to the Minister.

As required:

- The Strategic Plan to be submitted to the Minister in accordance with Section 26 (1) of the Act of 2017.
- Give due regard to the findings of any Periodic Critical Review conducted by the Department.
- Provision of annual budget estimates with regard to Departmental timelines.
- Any resignations of Members of the Council to be immediately notified to the Department.
- Circular 14/2021 - ICT Control - all proposals for new projects must be submitted for approval to the Department of Finance, through the liaison unit, by the ICT Liaison in the Agency (Director of Corporate & Communication Services) after they have been approved by senior management within the Agency.
- Input to matters related to the progression of the Financial Services and Pensions Ombudsman (Amendment) Bill.
- Any other relevant instruction issued by the Department or the Department of Public Expenditure, National Development Plan Delivery, and Reform from time to time.

Where amendments to this Agreement become necessary, both parties will engage to agree the revised amendments.