

## **Oversight Agreement between the Department of Children, Equality, Disability, Integration and Youth and the Adoption Authority of Ireland**

This oversight agreement is between the Department of Children, Equality, Disability, Integration and Youth ('the Department') and the Adoption Authority of Ireland ('the Authority') in line with the requirements of the revised Code of Practice for the Governance of State Bodies 2016. It replaces the previous agreement signed by the Secretary General of the Department and the CEO of the Authority in 2021.

### **1. Context**

In 2016, the Minister for Public Expenditure and Reform published the Code of Practice for the Governance of State Bodies (the Code). Under Section 8.4 of the Code, the Department is required to ensure that it has a written oversight agreement with all State bodies under its aegis which clearly define the terms of the State body's relationship with the relevant Minister /parent Department.

#### **1.1 Legal Framework and Environment**

The Authority was established on the 1<sup>st</sup> of November 2010 under Part 12 of the Adoption Act 2010 and is a quasi-judicial body under the aegis of the Department, being one of the public bodies funded through the Department's Vote. The key provisions relating to the governance relationship between the Department and the Authority are set out in Part 12 of the Adoption Act 2010.

Since 3 June 2011 the Minister for Children, Equality, Disability, Integration and Youth has had responsibility for the Authority, following the Office of the Minister for Children and Youth Affairs (Transfer of Departmental Administration and Ministerial Functions) Order 2011 (S.I. No. 218 of 2011) and the Children and Youth Affairs (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. 437 of 2020).

This oversight agreement is intended to be followed in conjunction with the Adoption Act 2010. Where they overlap, the Authority's legislative obligations take precedence over those in the Code of Practice for the Governance of State Bodies 2016 ('the Code').

#### **1.2. Purpose and Responsibilities**

The Authority is responsible for the implementation of the Adoption Act 2010, the Adoption (Amendment) Act 2017, the Birth Information and Tracing Act 2022 and Ireland's adherence to the Hague Convention in relation to inter-country adoption.

The Authority's mission statement is: "To ensure the provision of the highest possible standards of adoption related services, throughout the lifelong adoption process, with the best interest of children as the first and paramount objective".

#### **1.3. Compliance with the Code of Practice / Performance Delivery**

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The Authority, as a State body under the aegis of the Department, is required to confirm to the Minister for Children, Equality, Disability, Integration and Youth that it complies with the Code as part of its governance practices and procedures. These include:

- A Performance Delivery Agreement. This takes the form of the Authority's three year Corporate Plan and annual Business Plan and associated quarterly reports, with reporting and review in the form of the Authority's Annual Report and by updates at the Authority's regular meetings with the Department's Adoption Policy Unit (APU) ;
- Adhering to reporting requirements, including the provision of interim and final financial statements;
- Making appropriate arrangements for its audit and risk committee. Best practice requires that the Authority has an audit and risk committee in place which is commensurate with its responsibilities and functions;
- Observing remuneration and superannuation requirements. The Chairperson and Board of the Authority are required to implement Government policy in relation to the total remuneration package (basic salary, allowances and all other benefits in cash or in kind) and in relation to other provisions for superannuation and termination benefits, of the Chief Executive Officer of the Authority;
- Implementing any relevant Government policy, as expressed from time to time, with regard to remuneration of the Board and other staff;
- Providing members of the Oireachtas with information. This requires the Authority to have a dedicated email address for Oireachtas members, to have formal feedback processes in place to obtain feedback from Oireachtas members, to comply with target deadlines and standards in terms of acknowledgements and responses to queries, to designate a person at senior management level with responsibility for ensuring the timely provision of information to Oireachtas members, to report annually on compliance and where appropriate publish responses to queries from Oireachtas members on its website;
- The Board of the Authority undertaking an evaluation of its performance on an annual basis. Consistent with the requirement in the Code, the Board of the Authority should constantly review its own operation and performance and that of its committees and individual members.
- Adhering to the relevant provisions in 'A Guide to the Implications for the Annual Financial Statements and the Annual Report' published in November 2017 including: the Statement on Internal Control, the Governance Statement and Board Members' Report and Remuneration.

#### **1.4. Arrangements for Oversight, Monitoring and Reporting**

APU monitors the Authority's compliance with its statutory requirements and its obligations outlined in the Code of Practice for Governance of State Bodies (2016) with reference to the Authority's Annual Report, Business Plan (which the Authority will provide a progress report to the Department quarterly), Corporate Plan, Annual Accounts and its own Code of Governance. Any obligations in the Code of Practice for Governance of State Bodies that are not reported on in these documents are reported on by way of a checklist, which the Authority reports on annually. APU also meets with the Authority approximately every six weeks. Governance is a standing item on the agenda.

#### **1.5 Staffing**

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The Department's External Human Resources (HR) Unit is responsible for providing support and advice to include, but not limited to:

- compliance with the requirements of relevant civil service HR circulars and policies;
- advising of new and revised HR circulars applicable to Authority and its staff;
- compliance with requirements of recruitment licence granted by the Commission for Public Service Appointments (CPSA) to the Authority.
- Provision of advice and guidance in relation to any industrial relations matter that might arise at the Authority.

In order to comply with the terms of this Department's delegated sanction (as determined by the Department of Public Expenditure and Reform) for recruitment and staffing levels, the Authority's HR Unit seeks sanction for the recruitment of posts, including replacement posts, and supports applications for sanctions with job descriptions, revised organisation chart, explanatory narrative and funding capacity for the posts in question.

Furthermore, the External HR unit requests the Authority to prepare and furnish completed data returns and explanatory narratives for, but not limited to:

- the number of staff:
  - by grade description;
  - by salary point or scale;
  - by tenure (permanent, contract, seconded, etc.);
  - projected by end of current year or subsequent years.
- The number of existing and projected pensioners.

Generally, the External HR Unit requests the above information quarterly; however, requests may be more frequent.

The Department's External HR Unit and the Authority may deal directly on the above matters; however, External HR unit will also refer items to APU for consideration and discussion.

### **1.6. Children First**

The Department and bodies under its aegis have existing obligations under the Children First Guidance and the Children First Act 2015. The Act places statutory obligations on certain individuals and on organisations providing services to children, in relation to safeguarding of children. These statutory obligations include mandated reporting of child abuse, keeping children safe from harm while availing of services of an organisation, and preparing and publishing Child Safeguarding Statements. The Department and the Authority will engage on any required governance arrangements regarding these obligations.

• **1.7 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. The Authority will have continued regard to its obligations under Section 42 of the Act, and in particular its obligations to:

- Assess and identify human rights and equality issues relevant to its functions;
- Identify the policies and practices that are in place/will be put in place to address these issues; and
- Report on relevant developments in its Annual Report

## **2. Roles and Responsibilities**

### **2.1. Minister for Children, Equality, Disability, Integration and Youth**

Under the Ministers and Secretaries Act, 1924, the Minister is head of the Department and is accountable to the Dáil for the Department.

### **2.2 Accounting Officer**

The Authority falls under the remit of the Department of Children, Equality, Disability, Integration and Youth's Vote (Vote 40) 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 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 duties and responsibilities of the Secretary General include:

- Managing the Department;
- Implementing Government policies;
- Delivering outputs as determined with the Minister;
- Providing advice to the Minister and using resources appropriately;
- Assigning specific functions, for which the Secretary General is responsible, to officers or grades of officers within the Department.

### **2.3 The Board**

The Adoption Act 2010 provides for the appointment of a seven person Board, consisting of a Chairperson, Deputy Chairperson and 5 ordinary members, appointed by the Minister for Children, Equality, Disability, Integration and Youth in accordance with section 98 of the Act.

The members of the Board are collectively responsible for leading and directing the Authority's activities within a framework of prudent and effective control as set out in the Adoption Act 2010, and the Code of Practice for the Governance of State Bodies (2016).

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- The Board is the governing body of the Authority. The Minister through his Department oversees the performance of the Authority, and the Authority is accountable under the Adoption Act 2010 to the Minister via the Board.

#### **2.4 The Chairperson**

The Chairperson is responsible for leading and guiding the Authority in its task of setting its strategic policies. The Chairperson works with the Chief Executive Officer to manage the Authority's agenda and provides direction to the Secretary of the Board.

The Chairperson will furnish a Comprehensive Report to the Minister for Children, Equality, Disability Integration and Youth in conjunction with the Authority's Annual Accounts outlining any significant developments in the preceding year and affirming the Authority's compliance with relevant codes and regulations, in accordance with the Adoption Act 2010 and the Code of Practice for the Governance of State Bodies (2016), in particular addressing the requirements of paragraph 1.9 of the Business and Financial Reporting Requirements Annex to the 2016 Code of Practice for the Governance of State Bodies. The Chairperson currently provides a comprehensive report with the Annual Accounts and it is important that this report complies with all requirements of the aforementioned paragraph 1.9 of the Business and Financial Reporting Requirements Annex to the 2016 Code of Practice for the Governance of State Bodies.

#### **2.5 The Chief Executive Officer**

In accordance with section 103 of the Adoption Act 2010, the Board appoints a Chief Executive Officer (CEO) who is recruited in accordance with the Public Service Management (Recruitment and Appointments) Act, 2004.

Per section 104(1) of the Adoption Act 2010 the CEO shall:

- Carry on and manage and control generally the administration and business of the Authority;
- Perform such other functions as may be assigned to him or her by or under the Adoption Act 2010 or any other enactment or as may be determined by the Authority; and
- Provide the Authority with information (including financial information) relating to the performance of his or her functions as the Authority may require.

Per section 104(2) of the Adoption Act 2010 the CEO is responsible to the Authority for:

- The performance of the CEO's functions and the implementation of the Authority's policies;
- Supporting the Authority in all functions of a judicial nature conferred on the Authority by this Act;
- Maintaining on behalf of the Authority
  - The register of accredited bodies,
  - The register of intercountry adoptions, and
  - The register of gender recognition of intercountry adoptions

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

### 3. Periodic Critical Review

As of the 1<sup>st</sup> of September 2017, the Authority will be subject to a Periodic Critical Review (PCR) every five years. The objective of the PCR is:

- To ensure that the ongoing business case for State bodies, including those newly established, will be subject to periodic scrutiny and assessment;
- To secure improvements in accountability, efficiency and effectiveness;
- To objectively scrutinise the case for rationalisation and consolidation of the Authority in light of changing requirements, demands and priorities;
- To assess the extent to which the governance structure of the Authority and the Department's oversight of the Authority is consistent with its legislative underpinning and is strongly aligned to the business needs of the body.

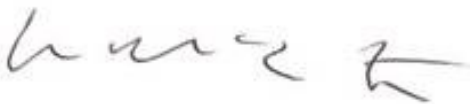
As set out in the Code of Practice for the Governance of State Bodies, a Working Group comprised of officials from the Department of Children, Equality, Disability, Integration and Youth, the Adoption Authority of Ireland and the relevant Vote Sections of the Department of Public Expenditure and Reform, will be established by the Department of Children, Equality, Disability, Integration and Youth Affairs to conduct the PCR and report to the Minister for Children Equality, Disability, Integration and Youth.

Given the work in 2022 in preparing for and implementing the Birth Information and Tracing Act 2022, it was agreed between the Department and the Authority that a Periodic Critical Review was not practical during 2022. It is intended that this Periodic Critical Review will take place in the latter half of 2023.

### 4. Review of Oversight Agreement

As recommended by the DPER Code of Practice for the Governance of State Bodies (2016) the Oversight Agreement is a dynamic document insofar as it should be modified in light of changing circumstances. The oversight agreement will be reviewed annually and updated as required.

Signatures:



Kevin McCarthy  
Secretary General  
Department of Children, Equality, Disability,  
Integration and Youth Affairs



Patricia Carey  
Chief Executive  
The Adoption Authority of Ireland

Date: 25/11/2022

Date: 23/11/2022