

Oversight Agreement

Department of Justice and Equality

and

The National Disability Authority (NDA)

2020-2022

Part I – Oversight Agreement

I Introduction

- 1.1** The National Disability Authority (NDA) was established as an independent statutory body on 12 June 2000 under the National Disability Authority Act 1999, (“the Act”).
- 1.2** The NDA has duties to deliver on functions set out in section 8 of the Act, and can produce codes of practice in accordance with section 10 of the Act. The NDA has additional functions awarded under the Disability Act 2005 and further in the Disability (Miscellaneous Provisions) Bill, 2016. It may produce codes of practice in accordance with section 10 of the
- 1.3** The NDA is independent in the exercise of its functions, in accordance with section 7 of the National Disability Authority Act, 1999.
- 1.4** The Office of the NDA is based in 25 Clyde Road, Ballsbridge, Dublin 4, being owned by the NDA. The NDA’s staff complement is 36.8 WTE, who are currently public servants, noting that the Disability (Miscellaneous Provisions) Bill, 2016 provides for conversion to civil servants of the state.
- 1.5** The NDA’s independent Board (the Authority) is appointed by the Minister for Justice and Equality (“the Minister”) to provide governance oversight and direction, and oversee delivery on the statutory Strategic Plan approved by the Minister. The Governance Unit in the Department of Justice and Equality is responsible for governance oversight on behalf of the Minister, as set out in this Agreement.
- 1.6** **Scope of the Agreement**

This Oversight Agreement has been drawn up by the Department of Justice and Equality (“the Department”) in consultation with the National Disability 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 between the two parties.

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

2. Role of the National Disability Authority

2.1 Mission

The NDA is an independent and non-commercial statutory body with a duty to provide evidence-informed advice and information to Government and officials in the public sector on disability matters; to assist in the co-ordination of disability policy; and to promote awareness and adoption of Universal Design to benefit the wider population.

The NDA was established to provide independent, objective and evidence-informed advice, particularly to assist the mainstreaming of disability in public policy and services. This advice is informed by research, information gathered, and its monitoring activities, and provided to the Minister, officials and other Ministers as appropriate to the policy area concerned.

2.2 Functions

In accordance with Section 8 of the National Disability Authority Act, 1999 the NDA's overarching function is to provide information and evidence informed advice to the Minister for Justice and Equality on matters relevant to the lives of persons with disabilities and their participation in economic, social and cultural life. The NDA's principal functions are set out in the Act, and in the Disability Act 2005 and include:

- To provide independent information and advice to the Minister on matters concerning policy and practice relevant to the lives of persons with disabilities;
- To support the Minister in the co-ordination of disability policy;
- To undertake and commission research and to assist in development of statistics to support disability policy;
- To guide on standards for disability services and programmes;
- To prepare codes of practice;
- To monitor implementation of standards and codes of practice;
- To liaise with those involved in providing services;
- To monitor employment of persons with disabilities in the public sector and submit an annual report to the Minister for Justice and Equality by 30 November each year; and
- To establish and operate a centre for excellence in Universal Design. Universal Design is defined as the design of built environment, places, products, services and ICT so that they can be easily used and understood by all persons regardless of their age, size, ability or disability.

The NDA will have further functions under the Disability (Miscellaneous Provisions) Bill 2016 in respect of the provision of information to IHREC as appropriate to its role in monitoring implementation of the UN Convention on the Rights of Persons with Disabilities, ratified by Ireland in March 2018. Please see appendix for list of functions.

While the National Disability Authority Act, 1999 requires that the NDA advises the Minister for Justice and Equality, its brief as provided in the Act extends across all government departments and agencies, so that it provides a whole of government support through its research and advice. It engages therefore with relevant Ministers and officials as determined by the policy issue of focus.

3. Corporate Governance

3.1 Roles and Responsibilities

Accounting Officer

The NDA falls under the Department of Justice and Equality's Vote (Vote 24) and 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 ("the Department") and for the regularity and propriety of all transactions in the Appropriate 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.

Director of the NDA

In accordance with Section 25 of the National Disability Authority Act, 1999, the Director is the chief executive of the Authority and is appointed by the Authority with the consent of the Minister. Reporting to the Authority, the Director is responsible for the day-to-day management and administration of the business and resources (financial and non-financial) of the National Disability Authority. She is responsible for the establishment and maintenance of high standards in implementing the functions of the Authority and ensuring a reputation for impartiality, management of conflicting interests, and upholding the public interest at all times. The Director is also responsible, in conjunction with the Authority, for setting strategic direction and being the Authority's public face.

The Director's duties as set out in the National Disability Authority Act, 1999, include, under the agreement and direction of the Authority, to submit estimates of income and expenditure to the Minister as may be required, to ensure all proper books of account of all income and expenditure are maintained.

Accountable Person

In accordance with section 17(5) of the National Disability Authority Act 1999, the Director of the NDA is the Accountable Officer in relation to the accounts of the Authority and shall whenever required by a Committee of Dáil Éireann report

on the appropriation accounts and reports to the C & AG, and give evidence to the committee on all matters pertaining to the expenditure of the Authority.

The Authority

The National Disability Authority Act (as amended) requires the Authority (i.e. the board of the NDA) to consist of a chairperson and twelve ordinary members.

The Act requires that ordinary members shall include:

- i. One officer of the Minister;
- ii. A representative of any other Minister of the Government who has direct concern for activities relevant to the Authority; and
- iii. One member of the staff of the Authority elected by secret ballot of the staff of the Authority.

Each member of the Authority shall be appointed by the Minister and one ordinary member will be appointed as Chairperson by the Minister.

The members of the Authority are collectively responsible for leading and directing the NDA'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).

The Authority will ensure that annual statement of accounts are produced no later than three months after the end of financial year for submission to the C & AG for audit, and copies of the certified accounts are made available to the Minister.

Chairperson of Authority

The Chairperson is responsible for leading and guiding the Authority in its task of setting the NDA's strategic priorities. The Chairperson works with the Director 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 Authority'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.

In addition, the Governance Statement and Statement of Internal Control signed by the Chairperson on behalf of the Authority in 2019 will provide assurance on the level of controls in place in compliance with the Code of Practice. The audit programme agreed by the NDA's Audit Committee, including the review of

internal controls by the Department's Internal Audit Service all ensures an independent assessment of compliance.

3.2 Annual Self-Assessment Evaluation

The Authority will undertake an annual self-assessment evaluation of its own performance and that of its committees in accordance with the Code of Practice for the Governance of State Bodies (2016). Guidance on conducting such evaluations is taken from the Code of Practice .An external evaluation of the Authority's performance will be carried out every three years in accordance with the Code. The last external evaluation of the Authority's performance took place in 2018.

3.3 Strategic Plan

In accordance with section 9 of the National Disability Authority Act 1999 and the Code of Practice, the Authority produces three-yearly strategic plans, and has a formal process in place for developing these. The plan is submitted to the Minister for approval by the 12 June in the year preceding commencement of a plan. The strategic plan for 2019 to 2021 was approved by the Minister in 2018 in this regard.

The plan was developed with due regard to the strategic objectives of the Department of Justice and Equality as appropriate, government policies for reform and modernisation of the public service, relevant national programmes for advancing disability equality and with due regard to the NDA's statutory responsibilities.

3.4 Draft Unaudited Financial Statements

Draft unaudited annual financial statements are 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

Section 15 of the Act requires that the Authority submits an annual report to the Minister by 30 of September each year. As the annual report incorporates the annual financial statements and those statements must be published before the end of June each year in compliance with the Code of Practice, the Authority will endeavour to submit the annual report to the Minister by June. This will be dependent on the completion of the audit and certification of the accounts by the C & AG.

The annual report of the NDA will therefore be submitted to the Minister before the end of June 2019 and the Department will arrange for copies in both Irish and English to be laid before the Houses of the Oireachtas, following which the NDA will arrange for the report to be published.

3.6 Reporting Requirements – Annual Report

In accordance with Appendix A of the “Business and Financial Reporting” Document in the Code of Practice, the Annual Report should, inter alia include:

- i. Confirmation that this Oversight Agreement has been reached with the Department of Justice and Equality and, in particular, indicating NDA’s level of compliance with the requirements of the Code of Practice;
- 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 NDA’s principal risks have been carried out, including a description of these risks, where appropriate, and associated mitigation measures or strategies;
- vii. Confirmation that NDA is adhering to the relevant aspects of the Public Spending Code;
- viii. Confirmation that NDA has complied with its obligations under tax law, while noting that the NDA operates under the employer revenue numbers of the Department of Justice and Equality;
- ix. A statement on the system of internal controls in the NDA, addressing each of the items listed in Appendix D of the Business and Financial Reporting annex to the Code of Practice.

3.7 Accounts/Financial Statements

In accordance with Section 17 of the National Disability Authority Act 1999, the Director shall prepare the Authority’s accounts and submit to the Comptroller and Auditor General not later than three months after the end of the financial year to which they relate. A copy of the accounts, together with the report of the Comptroller and Auditor General, will be presented to the members of the Authority and to the Minister as soon as practicable and the Minister shall cause a copy of these documents to be laid before each House of the Oireachtas.

3.8 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 will 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, 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; and
- vi. Details of termination/severance payments and agreements with a value in excess of €10,000, made within the period.

3.9 Internal Audit

The Department’s Internal Audit Unit provides support to the NDA in monitoring and reviewing the effectiveness of the Authority’s arrangements for governance, risk management and internal control. Any audit work will be agreed between the Authority’s Audit Committee and the Head of Internal Audit in the Department.

3.10 NDA Audit and Risk Committees

The Authority has appointed an Audit Committee with an independent external Chairperson to advise it on audit matters. The term of the Committee coincides with the 4-year term of the Authority. The committee comprises three Authority members and four external members, ensuring a mix of relevant competence for the role. The Audit Committee, which meets at least four times per year, reports into the Authority, and reviews the annual statements, audit reports and risk management matters as appropriate. Representatives of the Internal Audit Unit attend Audit Committee meetings at least annually, as required and upon request.

A Risk Management Committee is also in place comprising the Director and senior management group, as well as two external members each of whom represent the Audit and Finance Committees. The Committee, which meets at least twice per year, is chaired by the Audit Committee representative who reports into the Audit Committee, as appropriate. The Authority agreed that the additional layer of the Risk Committee supports a thorough analysis of risk management. Risk Management is a constant item on the agenda for Authority meetings.

3.11 NDA Finance Committee

The Authority has appointed a Finance Committee, chaired by a member of the Authority, to review and monitor expenditure by the NDA, and advise it in this regard. The committee comprises four Authority members and two external independent members. It meets at least quarterly to review monthly management accounts. The financial statements and financial reports are a standing item on the Authority's agenda.

3.12 Protected Disclosures

The NDA has a Protected Disclosure Policy modelled on the policy of the Department and approved by the Authority and its Audit Committee. The policy outlines the process for making protected disclosures by workers who are or were employed by the NDA, and for dealing with such disclosures.

3.13 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 the NDA and that procurement policies and procedures have been developed and published to all staff.

The Authority will affirm adherence to the procurement policy in the annual compliance statement to the Minister.

3.14 Customer Charter

The NDA does not provide services to the public, but it does have a Customer Charter/Action Plan in place, which is published to the NDA's website. It identifies the key customers and other stakeholders with whom the NDA engages and the level of service that can be expected.

3.15 Data Protection

The NDA will ensure compliance with the General Data Protection Regulation and Data Protection Acts 1988 and 2018. A Data Protection Officer has been appointed in the NDA and an Action Plan is in place and being implemented to ensure compliance in how information is dealt with and risks mitigated.

Arrangements have been put in place to ensure the provision of reports are submitted, as appropriate, to the Department's Data Protection Support and Compliance Office. The NDA continues to liaise with the Department and the Data Protection Commissioner on the Regulation as relevant to the NDA as matters arise.

3.16 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 National Disability 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 2022– 2024;
- 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.

3.17 Environmental and energy issues

The NDA will fulfil statutory and other obligations in relation to environmental and energy issues, as follows;

- I. In accordance with requirements set out in the Department of Communications, Climate Action and the Environment’s Public Sector Energy Efficiency Strategy 2017 the NDA 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; and
 - 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.

3.18 Governance Obligations

As a statutory agency operating under the aegis of the Minister, the NDA is subject to a range of statutory and corporate governance obligations including the Code of Practice for the Governance of State Bodies. The NDA will ensure that

all necessary obligations, including those for risk management, internal audit and the Public Spending Code are fully complied with.

3.19 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 Authority will complete on behalf of the Authority a Chairperson's Comprehensive Report to the Minister on an annual basis in conjunction with the annual report in order to provide assurance to the Minister and 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 requirements of paragraph 1.9 of the Business & Finance Reporting Requirements Annex to the Code of Practice.

3.20 Provision of Information to Members of the Oireachtas

In accordance with DPER Circular 24/2016 – *Protocol for the Provision of Information to Members of the Oireachtas by State Bodies under the aegis of Government Departments/Offices*, the NDA is obligated to:

- i. Provide and maintain a dedicated email address for Oireachtas members (OireachtasReps@nda.ie);
- 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 Director of the NDA has been designated 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 24/2016; and
- vi. Seek, where appropriate, to publish the response to queries from members of the Oireachtas on the NDA's website.

4. Mutual Commitments

4.1 Both parties shall:

- Be proactive and timely in communications, co-operation and information-sharing on service delivery. 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 achievement of targets under the annual PDA.
- Provide prompt and timely responses to correspondence, information requests and related matters.

- Engage as appropriated on enhanced data collection/analysis, data exchange and research initiatives to support both the work of the NDA and the related Policy, Legislation, Governance and Transparency Functions of the Department.

4.2 Departmental commitments

The Department shall:

- 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 any necessary guidance/direction on procurement and expenditure rules, government accounting and governance generally.
- Engage in a timely manner with the NDA on strategic, policy and legislative issues of relevance to NDA functions while noting the cross functional nature of the Department post-transformation.
- Provide payroll, invoice processing, internal audit, and other accounting services through the Department's Financial Shared Services.
- Provide for and resource the annual budget for the NDA.
- Provide ICT and other services in support of the NDA.
- Liaise with the NDA on public service reform/engagement initiatives.
- Liaise, through the Transparency function, with the NDA 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 NDA.

4.3 The National Disability Authority commitments

The NDA 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; and
- 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.

- More generally, in keeping with the 'no surprises' principle and in the interests of partnership with the Department, the NDA shall 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.

5. Monitoring arrangements and key interactions

This Oversight Agreement, for 2020-2022, will be reviewed and updated 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 only have to be renewed every three years thereby allowing better use of time to consider and implement the Performance Delivery Agreements as they relate to each calendar year.

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 Director of the National Disability Authority. These will be supplemented by less formal interactions between the NDA and the Department in accordance with the business needs and mutual commitments of each party.

6. 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.

Siobhan Barron

Siobhan Barron,
Director,
National Disability Authority

Date: 10/3/20

Yvonne White

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

Date: 10/3/20

