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ADOPTION BOARD

TOWARDS GUIDELINES

FOR THE ACCREDITATION OF INTER-COUNTRY ADOPTION MEDIATION AGENCIES

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10th June 2003

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1 INTRODUCTION TO DRAFT GUIDELINES

1.1 Background to Guidelines

The background on the need for guidelines for intercountry adoption mediation agencies was set out in the Invitation to Tender document of 6th August 2002 issued by the Adoption Board and is elaborated in 1.2.

The purpose of intercountry adoption as set out in the UN Convention on the Rights of the Child and the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption is to provide a family for a child in circumstances where a suitable family cannot be found for the child in his or her own country.

Ireland is a receiving country for intercountry adoption and it falls to the Adoption Board to ensure that all prospective adopters wishing to adopt abroad have been approved as both eligible and suitable to adopt. The need for assessment stems from the requirements of the Adoption Act, 1952 as amended by the Adoption Act, 1991. The Adoption Board has the statutory responsibility for determining the eligibility and suitability of prospective adopters. Assessments are carried out by the Health Boards and by some Registered Adoption Societies. Between 1991 and the end of 2000, the Board made 1293 declarations of eligibility and suitability in respect of Irish residents. The number of declarations granted has increased steadily each year.

1.2 Current Arrangements

The Adoption Board has working arrangements with China, Thailand, Belarus and the Philippines at present. Prospective adopters wishing to adopt in these countries submit their adoption application through the Adoption Board to the Central Adoption Authorities of these countries. Referrals of children for adoption from these countries are made through the Adoption Board and no third parties are involved in the adoption process. Ireland has a Government to Government agreement with Romania and prospective adopters wishing to adopt in Romania use adoption agencies in Romania, which are accredited by the Romanian Authorities. Intercountry adoption from Romania is suspended at present as the Romanian Authorities are reviewing their adoption laws.

Prospective adopters wishing to adopt in other countries have to use the services of intercountry adoption mediation agencies or lawyers if they wish to adopt in these countries. Most of the foreign mediation adoption agencies are based in the USA and these agencies have agents in the foreign countries. Lawyers are based in the foreign countries and prospective adopters give these lawyers Power-of-Attorney to act on their behalf in processing their intercountry adoptions.

A number of countries outside the Hague Convention, are important “donor countries” of children for Ireland, including Russia, Ukraine and Vietnam. A country to country agreement is being negotiated with Vietnam. The continued existence of these arrangements may be impacted by the proposed legislation to give effect to the Hague Convention in Ireland.

Under the Adoption Acts, 1952 –1998, the Adoption Board has responsibility for maintaining the Adoption Societies Register and for registering Adoption Societies.

Interest has been expressed by a number of groups in registering with the Adoption Board as registered adoption societies for the specific purpose of mediating intercountry adoptions. Their primary focus is in establishing Irish intercountry adoption mediation agencies that will assist Irish residents with the difficult task of adopting abroad and to ensure the fees chargeable for the service are reasonable.

1.3 Objective of Draft Guidelines

The objective of the project is to prepare guidelines for the accreditation and registration by the Adoption Board of intercountry adoption mediation agencies that are based in Ireland. The Guidelines have regard to the current Irish adoption law as referred to above, as well as proposed legislation which will ratify the Hague Convention. The guidelines are also intended to cover the inspection of, and maintaining standards by, the intercountry adoption mediation agencies (ICAMA) accredited and registered by the Adoption Board.

The purpose of this project is to consider and develop guidelines for the accreditation by the Adoption Board of mediation agencies to work in Ireland. Chapter Four goes into detail on the roles of the various parties, while the later chapters set out draft processes for registration and supervision.

The Guidelines are prepared in Draft format initially for consultation purposes with interested parties. They take account of the requirements of the Hague Convention, and international practice for the accreditation of ICAMA, in particular the arrangements in the Netherlands, Sweden, UK, Canada, Australia and the USA.

1.4 Definitions

“Adoption” has the meaning assigned to it in the Adoption Acts;

“Adoptee” means a child defined by the appropriate authorities as available for, or who has been adopted;

“Best interests of the child” means plans are made with the child’s psychological, social, physical and emotional needs at the core of decision-making;

“Board” – means the Adoption Board as established under the Adoption Acts, 1952 – 1998, and in these guidelines is the body to which application must be made for accreditation and registration;

“Prospective Adopters” or “Prospective Adoptive Parents” means in these guidelines the client of the registered body;

“Hague Convention” means the Hague Adoption Convention concluded on 29 May 1993 on the Protection of Children and Cooperation in respect of Intercountry Adoption.

“Mediation Service” means a registered body entering into contract with prospective adoptive parents (who hold a Declaration of Suitability) to provide child referral, matching and placement services, securing the necessary consent to termination of parental rights and to adoption, accepts custody from a birth parent or guardian/

custodian for the purpose of placement for adoption, assumes responsibility for liaison with another country's appropriate authority or its designated bodies with regard to arranging an adoption, arranges the collection of and receives from or sends to another country information about a child that is under consideration for adoption, makes a determination of the best interests of the child and the appropriateness of the proposed adoptive placement for the child;

"Post-placement Services" means a range of services offered and available to the parties after the adoption is made and the child is placed;

"Registered Body" – means a not-for-profit agency that has been accredited to provide mediation and/or post-placement services and entered in the Adoption Board's register in accordance with Section 37 of the Adoption Act, 1952.

1.5 Application and Exemptions

These guidelines apply to the part of the process of intercountry adoption, which comes after prospective adopters have received a declaration of suitability.

The provision of legal services in connection with adoption by a person who is not providing any adoption service is not subject to these guidelines. The exemption of legal services does not exclude the provision of adoption services by a legal firm or solicitor/ barrister.

2 The Place of Mediation in the Adoption System

2.1 The Adoption System

Intercountry Adoption is a complex system, involving many individual parties, the child at the centre, his or her birth parents, current guardians, prospective adopters, agents and lawyers for the parties. It also, by definition, involves the legal and administrative systems of at least two countries - the donor country and the receiving country. The appropriate state agencies in both countries are charged with ensuring that the welfare of the child at the centre of the process is paramount. In Ireland the Adoption Acts, 1952 to 1998 provide the legislative framework for the Irish side of Intercountry adoption. The area is also governed by international conventions, such as the Hague Convention of 29 May 1993. Ireland is a signatory to this convention, and is currently working on further adoption legislation to give effect to its provisions

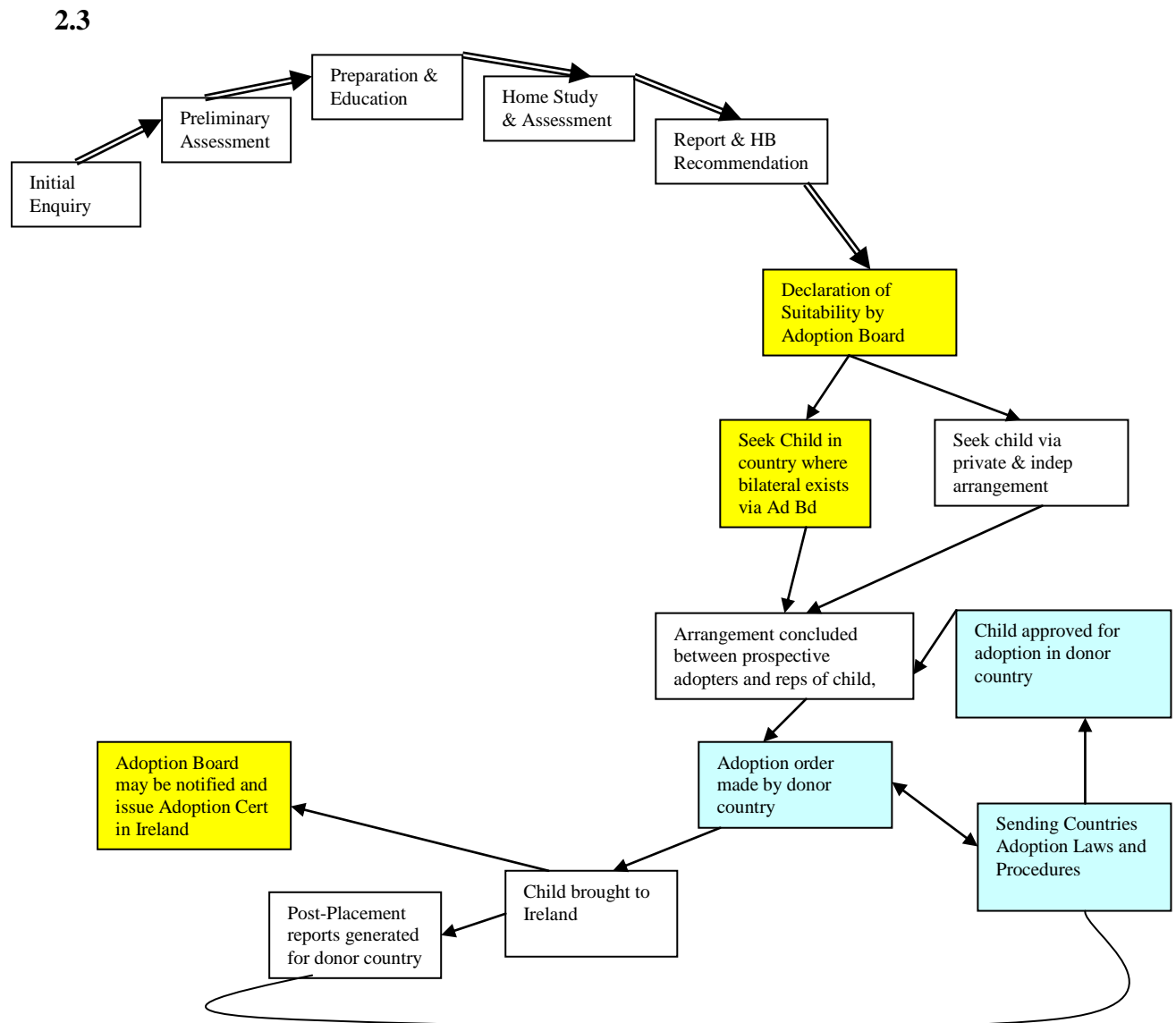
2.2 The Existing Journey through Adoption

The road to adoption is generally perceived as a long and difficult one by the prospective adopters. The current process is illustrated diagrammatically in Figure 2.1 below. The essential elements are:

- A structured preparation/ assessment process, leading to a Declaration of Suitability for the prospective adopters, made by the Adoption Board;
- Armed with their Declaration of Suitability, the prospective adopters then enter either or both tracks or a dual process for seeking out a child for potential adoption.
 - The Adoption Board has working arrangements with China, Thailand, Belarus and the Philippines at present. Prospective adopters wishing to adopt in these countries submit their adoption application through the Adoption Board to the Central Adoption Authorities of these countries. Referrals of children for adoption from these countries are made through the Adoption Board and no third parties are involved in the adoption process. Ireland has a Government to Government agreement with Romania and prospective adopters wishing to adopt in Romania use adoption agencies in Romania, which are accredited by the Romanian Authorities. Intercountry adoption from Romania is suspended at present as the Romanian Authorities are reviewing their adoption laws.
 - Prospective adopters wishing to adopt in other countries have to use the services of intercountry adoption mediation agencies or lawyers if they wish to adopt in these countries. Most of the mediation adoption agencies are based in the USA and these agencies have agents in the foreign countries. Lawyers are based in the foreign countries and prospective adopters give these lawyers Power-of-Attorney to act on their behalf in processing their intercountry adoptions.
- Post-placement, many adoptive parents apply to the Adoption Board to enter the adopted child on the Register of Foreign Adoption. This registration permits the adoptive parents to obtain legal documents for the child, including an Irish passport. However, there is no obligation on the adopters to inform the authorities in Ireland of the fact that they have adopted a child. Given the frequently protracted nature of the first two phases, some adoptive parents

may choose to minimise their involvement with regulatory agencies when the child is placed.

Figure 2.1 - The Journey Through Adoption (Existing)



2.3 Factors Underpinning the Case for Change

There are a number of aspects of the part of the current system, after prospective adopters are approved by the Adoption Board, which underpin the need for change. These include

- There is no supervision of adoption practice by competent authorities to ensure that the best interests of the children are protected after the declaration of suitability is made. The Hague Convention requires that receiving countries should have appropriate supervisory systems;
- There is no systematic process for matching prospective adopters with children's individual needs;
- Where no bilateral agreements exist, prospective adopters have themselves, or through agents based in other jurisdictions, to navigate through unknown and complex systems to identify potential adoptee children, and to make arrangements for their adoption;
- As well as being contrary to the Hague Convention provisions, the concept of ICA may be brought into disrepute by prospective adopters being requested and/ or agreeing to pay disproportionate fees or charges to arrange an adoption;
- Where bilateral arrangements exist, the scarce resources of the Adoption Board are engaged in part of the process, (e.g. arranging translation and transmitting documentation) yet the Board does not exercise a supervisory role;
- It is reported that overseas agencies are operating on behalf of some prospective adopters, in a manner, which could be contrary to Irish legislative provisions.

The benefits of having mediation agencies working in the area of adoption under the Adoption Board's supervision are:

- To protect the rights of children and to prevent abuses against children, birth families and adoptive parents and to ensure that such adoptions are in the best interest of the child, and
- To improve the State's ability to assist Irish citizens seeking to adopt children from abroad, and residents from other countries seeking to adopt children from Ireland

2.4 The Potential Roles of Mediation Agencies

In several countries, which receive children through intercountry adoption, accredited bodies known as mediation agencies, perform a major role in the post-approval phases of the adoption system. The mediation agency is commissioned by the prospective adopter to act on their behalf in seeking to find and match the prospective adopter with an appropriate child. Because this is their core business and with established connections and links, they can act for the prospective adopter in navigating the complex business of finding a child and getting the appropriate approval processes completed.

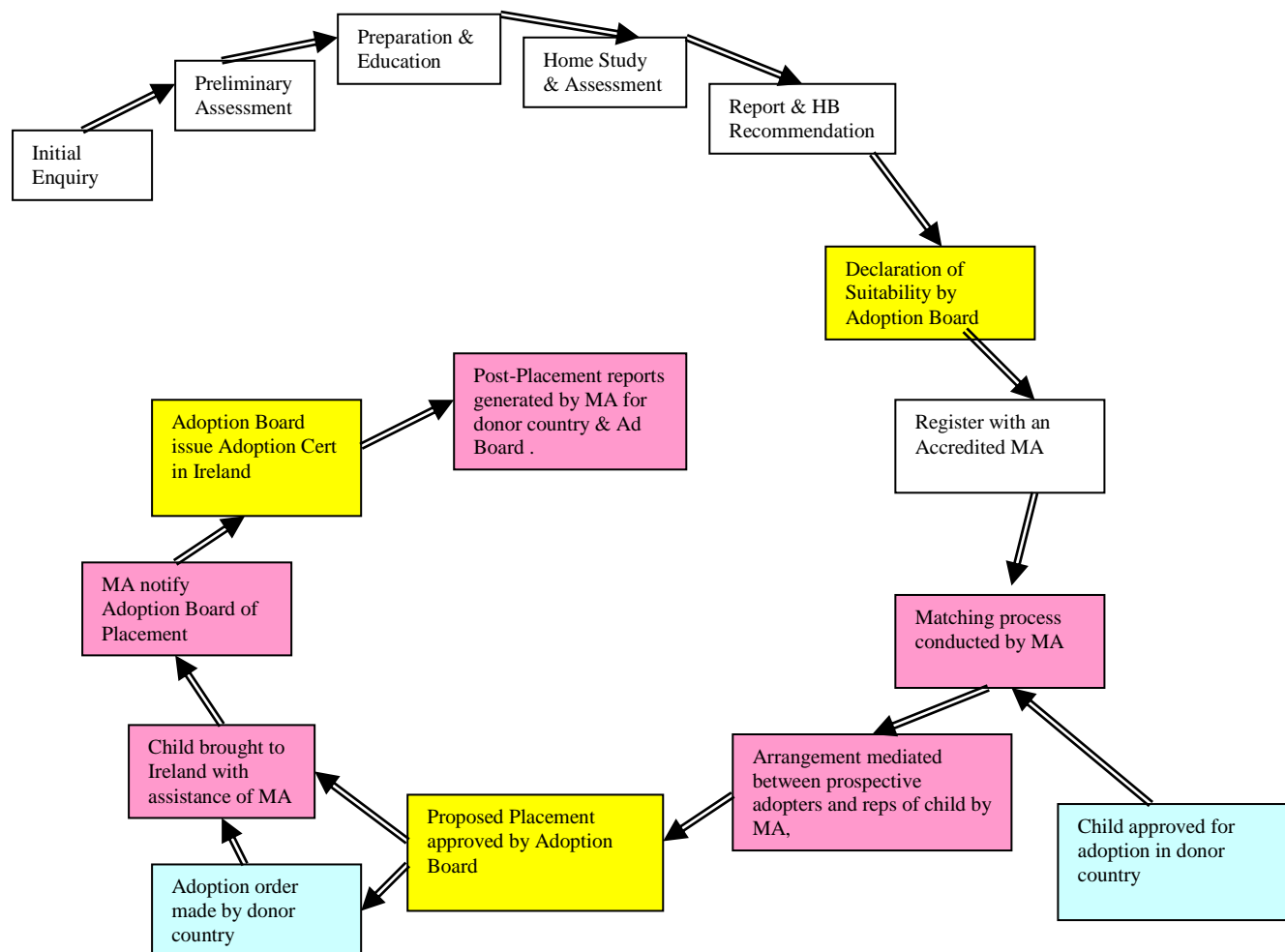
Where they act in a professional manner on behalf of their clients, while still working in the interests of the child, and under the supervision of appropriate state authorities, mediation agencies can do much to make the journey through adoption a better one for all concerned.

Under the Adoption Acts, 1952 –1998, the Adoption Board has responsibility for maintaining the Adoption Societies Register and for registering Adoption Societies. Interest has been expressed by a number of groups in registering with the Adoption Board as registered adoption societies for the specific purpose of mediating intercountry adoptions. Their primary focus is in establishing Irish intercountry adoption mediation agencies that will assist Irish residents with the difficult task of adopting abroad and to ensure the fees chargeable for the service are reasonable.

Figure 2.2 below illustrates the areas in which the Mediation Agencies could operate, and shows an adjusted Adoption System, with mediation agencies involved.

Figure 2.2 - The Journey Through Adoption Proposed with Mediation Agencies*

* It is intended that present country to country process would run in parallel with Mediation Agencies in the short/ medium term.



3 INTRODUCTION OF ACCREDITATION ARRANGEMENTS

3.1 Introduction

These Guidelines will introduce a new and potentially very significant party, the mediation agency, to the Adoption system. Like any change to a system, this will impact on the various parties already involved. It is hoped that these guidelines will provide a basis for a positive change. Among the major changes proposed is to formalise the process of matching the child's need with the parents' capacities, and provide for a pre-placement approval by the Adoption Board of the match.

This chapter considers issues surrounding introduction of accreditation arrangements, as it is also necessary to plan the transition process from the current system to that proposed.

3.2 Demand for Registration and Mediation Services

- There is an assumption that there will be applicants for registration to provide mediation services in Ireland. These guidelines are based on international good practice, and will ensure that agencies interested in providing professional child-centred services only will meet the standards and requirements set out.
- In the short/ medium term prospective adopters will have a choice of either:
 - Putting their papers through existing country to country arrangements, or
 - Using the new mediation agencies
- It is not intended that these guidelines should interfere with cases, which are in hand i.e. where an introduction has already been made.

3.3 Changing the Role of Adoption Board

- It is likely that, in addition to current country to country arrangements where adoption is mediated through central authorities, sending countries will also be asked to deal with Irish registered mediation agencies as well as the Adoption Board. This will have to be negotiated where arrangements are currently in place. This will provide an opportunity for the Adoption Board to re-adjust its role in this area, particularly in relation to the country-to-country services it currently provides egg arranging translation and transmitting documentation.
- The mediation of ICA will involve the Adoption Board taking on a central role in ensuring that other government departments involved in aspects of the process will be kept abreast of developments in the registration and functioning of mediation agencies.
- The thrust of the Hague Convention is to ensure that countries oversee the adoption process. A continuum of arrangements is possible in this sphere – from a laissez-faire policy with little direct state involvement to only allowing adoption to be made when previously approved directly by state agencies (Sweden, Holland UK). These guidelines require mediation agencies to notify and lodge documentation on the matching process for approval by the Board before placement. The Board will need to be in a position to respond to these without delay.

- Under these guidelines the matching process will become a much more significant part of the Adoption process. This should facilitate assessing social workers and agencies to put forward more specific recommendations in terms of what the prospective adopters could offer a child. The absence of controls at present on the matching process, once a declaration of suitability is made, has led agencies away from making specific recommendations with respect to matching. These guidelines require that mediation agencies take full cognisance of international best practice and regulations in the matching process. The Adoption Board will have a central overseeing role in ensuring best practice is adhered to in the matching process, in line with Hague Convention requirements.

3.4 Implications for Health Boards and Registered Adoption Societies

- These guidelines recommend that mediation agencies compile and forward progress reports in response to sending countries requirements and requests. There is no legal requirement currently for adoptive parents to cooperate with this process. However, this practice is in the best interests of the child, his/ her birth family and sending countries. The involvement of mediation agencies in completing post-placement report should free up significant resources for the health board teams, enabling them to focus on home studies/ preparations.
- Post-placement reports are an important part of closing the circle from the preparation/ home study stage, and would contribute to second assessments/ approvals. It is recommended that reports would be forwarded to the relevant health board, with the permission of the adoptive parents, for inclusion as part of a second approval process.
- The introduction of the mediation process and Article 15 (1) of the Hague Convention have implications for type and format of information required in original home study prepared by Health Boards and Registered Adoption Societies, for example, on the characteristics of the child that the applicants are open to adopting or for whom they would be qualified to care

3.5 Systems Issues

3.5.1 Appeals

- In general, all decision-making systems should have an appeal mechanism. There should be a form of review/ appeal system in case of refusals to register or conditions imposed. As an interim arrangement, these guidelines suggest having a sub-committee of the Board deal with the registration, with review/ appeal to the full Board.

3.5.2 Fees & Costs

- These guidelines suggest that there should be fees associated with the registration system. While in the longer term, it should be an objective that the cost to the Adoption Board of processing and ongoing oversight should be met from the fees levied, in the early/ start-up stages of the new system for mediation agencies, this may be unrealisable.
- It is not anticipated that there would be circumstances meriting exemptions from fees.
- In accordance with Article 34 of the Hague Convention, mediation agencies would charge appropriate fees to cover costs. As a principle, prospective

adopters should meet the costs of adoption. These guidelines aim to make these costs upfront, explicit and above board.

3.5.3 Self-declaration and Checking

- As a principle, these guidelines recommend a strong reliance on self-declaration, as this allows for rapid and effective action (de-registering) if there is evidence of concealment of declarable issues.
- The Garda check system should also apply, as any person involved in the child welfare area should be checked by the Garda.
- If factors emerge during the mediation process, which indicate significant discrepancy from the home study, and which may affect approval issued, the mediation agency should highlight such discrepancies and factor them into the matching/ placement recommendation referred back to Adoption Board.

3.6 Internal Preparations and Resourcing within Adoption Board

The Strategic review by Ms Maureen Lynott has already suggested an ICA unit within the boards executive. The main areas of work for the ICA unit of the Board are identified in the strategic review as:

- Processing applications and declarations for prospective adopters
- Registration and regulation of ICA agencies,
- Co-operation with other authorities and monitoring international trends
- Promotion of post-adoption services

While the guidelines are intended to put the onus on applicants to establish themselves as suitable for registration, there remains a considerable amount of work for the Board staff. The detailed steps are set out in Section 5. In addition, these guidelines recommend that reports from mediation agencies are submitted to the Board for approval of matches prior to placement.

4 Draft Guidelines for the Adoption Board and Mediation Agencies

4.1 The Hague Requirements

The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption was finalised on 29 May 1993. This was a most significant milestone in terms of establishing safeguards to ensure that intercountry adoption takes place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law, and to prevent the abduction, the sale of, or traffic in children. The purpose of intercountry adoption as set out in the UN Convention on the Rights of the Child and the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption is to provide a family for a child in circumstances where a suitable family cannot be found for the child in his or her own country of origin.

The terms of the Hague Convention contain several very important benchmarks which are relevant to mediation in intercountry adoption, and it establishes a system of co-operation among contracting states, including the mutual recognition of adoptions made in accordance with the Convention.

Article 6 states that *“A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention up on such authorities”*. Articles 7, 8 & 9 sets out duties of the Central authority to oversee the area and to *“prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects to the Convention”*. (Article 8)

Articles 10 sets out the requirement for accreditation of bodies working in the area: *“Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.”*

Article 11 set out principles for accrediting bodies, which should:

- “(a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;*
- (b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and*
- (c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.”*

4.2 The Adoption Board as the Central Accreditation Agency

4.2.1 The Legislative Framework

4.2.1.1 The Central Authority

As noted in Article 6 of the Hague Convention, a universal requirement of adoption regulatory systems is the nomination of a competent body to operate and oversee the area. In Ireland, the Adoption Act, 1952 established the Adoption Board and set out its roles, powers and responsibilities. The draft legislation to give effect to the Hague

Convention in Ireland will give statutory basis to the Adoption Board's role as the Central Competent Authority in Ireland

4.2.1.2 Power to Register Bodies

Part IV of the 1952 Act deals with the issue of registration of adoption societies. Sections 36 to 38 of the Act empower the Adoption Board to register any body of persons, which apply to be registered. Section 36 states:

- 36 (1) Subject to the provisions of this section, the Board shall enter into the register any body of persons which applies to be registered and furnishes to the Board such information as the Board may think necessary to enable it to determine if the body is entitled to be registered.*
- (2) *The Board shall not register any body of persons unless the Board is satisfied-*
- (a) *that the body is one which exists only for the purpose of promoting charitable, benevolent or philanthropic objects, whether or not any such object is charitable within the meaning of any rule of law, and*
 - (b) *that the body is competent to discharge the obligations imposed upon registered adoption societies under this Act.*
- (3) *The Board may refuse to register any body of persons if it appears to the Board that any person who takes part in the management or control of the body or who is engaged on its behalf in connection with the making of arrangements for adoption is not a fit and proper person to act.*

Sections 37 deals with the cancellation of registration. It states:

- 37 The Board may cancel the registration of a registered adoption society on any ground which would require or entitle the Board to refuse an application for the registration of the society or if it appears to the Board that the requirements of this Act are not being adequately complied with by the society or if an offence under this Act is committed by the society or by any person acting on its behalf.*

Section 38 deals with the furnishing of information by and inspection of books of registered bodies. It states:

- 38 (1) A registered adoption society and every officer of the society or other person taking part in its management or control shall –*
- (a) *furnish the Board with such information as the Board may from time to time by notice in writing require in regard to its constitution, membership employees, organisation or activities;*

- (b) at all reasonable times permit a member or authorised officer of the Board to inspect and make copies of all books and documents relating to adoption in the possession or control of the society.*

This legislation provides the essential framework to enable the Adoption Board to accredit intercountry adoption mediation agencies. While the legislation which is planned to implement the Hague Convention will update and deal with this issue also, these draft guidelines are intended to flesh out an enabling framework for application, evaluation, registration and inspection/ oversight. The framework is intended to make explicit the mutual requirements of the parties who are involved in this area, including the Adoption Board, the mediation agencies, prospective adopters who use the services of the agencies and above all, are conducted in the interests of those children who are placed under intercountry adoption.

4.2.2 General Guidelines for the Adoption Board

The following are general guidelines which it is recommended should guide the Board in its work:

- The Adoption Board should deal with applications in line with the principles and procedures set out in these guidelines. In particular the Board should,
 - only register an applicant who is a legal entity established in Ireland;
 - register, or extend a period of registration for a body for a period at its discretion;
 - refuse to register a body if there is reason to fear that the applicant will not or cannot comply with the provisions of these guidelines and does not have a prospect of mediating the placement of children;
 - de-register a body which has made improper declarations or significantly contravened the provisions of the Hague Convention or these guidelines;
 - The Board should be open and transparent in its dealings, and keep the register available for inspection by interested parties.
- The Board will act as liaison with central authorities of other countries and observe international developments. It will:
 - Negotiate with authorities and organisations in other countries within the scope of the Board's responsibilities;
 - Observe and benchmark costs involved in the adoption of children from different countries of origin;
 - Identify countries where adoption practice is in accordance with the Hague Convention, and accredit bodies to deal with those countries, and conversely identify countries where adoption practice does not meet the Convention standards, and disallow registered bodies and prospective adopters from seeking children in those countries.
- The Board will facilitate information exchange including:
 - Providing information on the status of registered bodies to prospective adopters and on the status of prospective adopters to registered bodies;
 - Seeking information on changes in requirements to adopt under the laws and regulations of other countries
 - Providing notice to registered bodies or other persons of changes in intercountry adoption requirements

- Ensure that background reports (home studies) are provided via the mediation agencies to competent authorities in the country of origin.
- Ensure that post-placement reports are provided via mediation agencies as required to countries of origin.

4.3 Guidelines for the ICA Mediation Agency (the Registered Body)

4.3.1 The Roles of the Mediation Agency

It is the intention of these guidelines that the mediation agency or the registered body will have a significant number of roles in the post-declaration phase of Adoption, as illustrated in Figure 2.2. These include:

- work on behalf of prospective adopters to identify children available for adoption;
- Matching prospective adopters with children who are available for intercountry adoption;
- Gathering information on the child in his/ her own country;
- Notifying the Adoption Board of the proposal for a placement;
- Arranging the Adoption Order (or other documentation) in the country of origin;
- Assisting the prospective adopters with the immigration process in Ireland;
- Providing on-going post-placement support, and supplying periodic progress reports on the adopted child to the country of origin
- Maintaining records, and forwarding agreed records to Adoption Board

Where country-to-country agreements exist, these roles may involve the mediation agency taking on some roles currently performed by both the Adoption Board and health boards, and the post-placement role currently co-ordinated by the health boards and administered by the Adoption Board. This should free up resources at both Adoption and health Board level for other intercountry adoption tasks.

4.3.2 General Guidelines for Registered Bodies

The following are general guidelines which should apply to registered bodies acting as ICA mediation agencies:

4.3.2.1 Organisation

4.3.2.1.1 Organisational Form

- A body seeking to obtain registration should be a private, not-for-profit organisation, (i.e. a charity within the meaning of Irish legislation), and should have appropriate status with the Revenue Commissioners.
- A single person, regardless of form of organisation (e.g. a sole proprietorship, partnership, professional entity, company or other legal entity) may not apply to be registered
- While a registered body may enter into agreements with organisations in other countries in accordance with section 4.3.10, it may not be a “branch office” or a front for organisations based abroad.

4.3.2.1.2 Overseeing Board

- The registered body should have an overseeing board, which should comprise not less than three persons, and should be composed to ensure the protection of the interests of potential adoptees and prospective adopters. The Adoption Board may appoint a competent person to sit on the Board of the body, as a condition of the registration and in discharge of its supervisory functions;

- The overseeing board should be responsible for:
 - Establishing its policies, deciding what activities are consistent with its policies and mission, providing leadership, and ensuring that resources needed to support its activities are available; and
 - Delegating authority and responsibility for the management and oversight of the staff in carrying out the adoption related functions of the organisation to an appropriately competent chief executive officer;
 - Ensuring that a full record is made of the deliberations of the overseeing body and of major organisational or practice decisions affecting the delivery of adoption services. The Adoption Board may require a full copy of such records to be forwarded to it as a condition of the registration and in discharge of its supervisory functions;

4.3.2.1.3 Internal Organisation

- The registered body should have appropriate organisational structure to ensure its work is efficient and supervised to ensure it is undertaken with care;
- The registered body should have, either directly or through arrangements with other agencies or persons, a sufficient number of appropriately trained and qualified personnel and sufficient financial resources to enable it to provide a comprehensive intercountry adoption mediation service

4.3.2.1.4 The Chief Executive Officer

- The Chief Executive Officer of a registered body should be qualified by education, adoption service and management experience to ensure proper delivery of services provided;
- The Chief Executive Officer should:
 - Delegate his or her responsibilities only to personnel who are qualified by professional education and experience to assume them; and
 - Have a written procedure for delegation of authority in his or her absence.

4.3.3 General Duties of the Registered Body

The registered body's duties include:

- To mediate the placement of children in Ireland, and not in any other state;
- To avoid any action or involvement which could contribute to a view of ICA as a trade in children;
- To maintain contact with the Adoption Board, authorities in countries of origin, other organisations and bodies involved in the adoption process;
- To forward information on prospective adopters to countries of origin, and on prospective adoptees to relevant authorities and prospective adopters;
- To facilitate and cooperate with investigations by authorised bodies;
- To provide advice where requested;
- To assist prospective adopters with the procedures to be followed in both countries of origin and Ireland for the placement of a child, and in acquiring the documentation necessary for admitting the child to Ireland;
- To prepare a report on the matching process for prospective adopters and a child in a country of origin, and to submit this to the Adoption Board for approval prior to making a placement;
- To ensure there is no contact between prospective adopters and the parents or guardians of a child until it has been established that the child is eligible for

adoption, the authorities of the country of origin agree, and the required consents have been obtained;

- To submit the application to the Irish authorities for a temporary residence permit for the child;
- To assist in arranging the transfer of the child to Ireland and ensuring this takes place in secure and appropriate circumstances and in the company of the prospective adopters;
- To assist the adopters after the child has been placed, and to make them aware of the range of services available;
- To gather as much information as possible regarding the medical history and origin and the background of the child;
- To forward notification of a placement, with supporting documentation to the Adoption Board;
- To keep appropriate files on all mediations it carries out. The files should contain the information on the child and copies of all documents presented on the entry of the child to Ireland. Arrangements should be made for keeping the file safe, until it is passed over to Adoption Board;
- To disclose to the Adoption Board any investigation (s), suspensions, revocations or other changes in licensing or accreditation status by authorities in any state of their own or any third party working for them in accordance with 4.3.10 and any investigations or criminal charges that have been filed with regard to the provision of adoption services within five working days of learning of any such action.

4.3.4 Policies and Procedures

- The registered body should have appropriate policies and procedures to enable it to provide a comprehensive intercountry adoption mediation service;
- The registered body should have the ability to provide the range of mediation services described in 4.3.1 above, either directly itself, or through agencies acting under contract to it and under its direct control and supervision, and for whom it takes responsibility (See Section 4.3.10), and its policies and procedures should describe how this is to be achieved;
- The registered body should describe its policy on proposed ratios of cases on hand per member of professionally qualified staff;
- A registered body should mediate only in accordance with its approved policies and procedures, and where placements are demonstrably in the best interests of the children concerned;
- A registered body should make systematic and on-going efforts to improve its adoption services, as needed, and using methods appropriate to its size and circumstances. It should review its operations in particular ensure that its payments, fees and services are within acceptable norms.
- The registered body should co-operate with, and contribute to, the information pools being developed for prospective adopters, even where such persons are not their clients;
- The registered body should in its work comply with any rules or directives set out by the Adoption Board, including concerning the collection of information on the child before their arrival in Ireland;
- The registered body should present its policies and practices in full, information on its activities and all fees charged by the agency for inter-

country adoption services to the general public and to all prospective adoptive applicants upon initial contact or on request. In particular, the registered body should disclose fully and in writing:

- All policies and practices, including general eligibility criteria, fees (including forms of payments and receipting systems), and the rights and responsibilities of the prospective adopters as clients and the registered body;
- The contract, or a sample contract, that the prospective adopters will be expected to sign should they proceed;
- The people within and the agencies outside the registered body with whom the prospective adoptive family can expect to work in Ireland and in the child's country of origin, the responsibilities of those parties and the usual costs associated with their services;
- The disruption rates of its placements for intercountry adoption;
- A registered body should have a written policy and practice that determines the order in which its clients are offered children (See 4.3.5 also)
- A registered body should have a written policy and practice that its board members, volunteers, employees, agents, consultants, or independent contractors do not receive preferential placement decisions;
- A registered body should have a written policy prohibiting child-buying and providing that no individual shall give money or other consideration either directly or indirectly to a child's parent(s), other individuals or entity as payment for the child or as an inducement to release the child, other than reasonable, required and documented payments for activities related to the adoption proceedings, pre-birth medical costs, the care of the child, or the provision of child welfare and child protection services. The body should have a written policy which expressly forbids pre-birth medical costs being used to coerce mothers to give consent to the adoption; and
- A registered body may not have a policy of requiring a prospective client to sign a blanket waiver of liability in connection with the provision of adoption services.

4.3.5 Keeping a Summary Record of Clients

- The registered body should keep a Summary Record of the prospective adopters who have retained the agency to provide mediation services. This record should include:
 - Details of the prospective adopters
 - The date that the contract was signed between the prospective adopters and the registered body and date entered on summary record
 - The date declaration made by the Adoption Board in respect of the persons,
 - If any conditions apply to this declaration,
 - Details of the date of the health boards assessment report, and if a supplementary report was attached by the Adoption Board,
 - Any other relevant information in connection with the mediation that comes to the attention of the mediation agency,

- The registered body should ascertain the bona-fides and status of the prospective adopters with the Adoption Board, who will issue a letter of introduction to a specific mediation agency, before entering into a contract with them;
- The body should provide a copy of its summary record of clients to the Adoption Board on request;
- The registered body should have a written contract of services with its clients, which:
 - Identifies the services to be provided and the methods of providing the service
 - requires the registered body to comply with applicable standards and personnel qualifications
 - identify costs and fees for each services, and include a provision prohibiting contingency payments and stating that payment shall be made only on a fee-for-service, hourly, or salaried basis;
 - requires the registered body to provide prompt itemisation to the clients of all costs and fees incurred, to have a reasonable policy, written in plain language for returning any unexpended fees to clients, and to promptly return any funds to which the client is entitled;
 - requires the registered body to respond within a period of time to any request for information from the client
- Registered bodies should require persons wishing to be registered with them to make a declaration that they are not registered with any other body, as prospective adopters should only be registered with one body at any time, and;
- Where a prospective adopter on a register wishes to register with a different registered body, the body with whom they are currently registered, should on receipt of written instructions and completion of payments for services already provided, strike them from their register, cease working on their behalf and transfer the information it holds on the prospective adopters to such other registered body as is specified in the written instruction. The registered body receiving the information should inform the Adoption Board that it has received a transfer;
- The registered body should work in strict numerical rotation on the basis of date order that clients are taken on, subject to the stated needs of the child being paramount in matching children with prospective adopter clients.

4.3.6 Matching Prospective Adopters to Children's Needs

While the mediation agency is working primarily on behalf of the prospective adopters, it must be borne in mind always that the primary purpose of ICA is to find a suitable home for the child – not a child for a home.

- The registered body's major obligation is to match the child's needs with the capabilities of the prospective adopters.
- The report on the prospective adopters generated by the home study should be primary basis of information to be used by the registered body in matching them with the child's identified needs. The matching process should be iterative with full information on child's emotional, medical, developmental and other needs being clearly highlighted. Prospective adopters should be provided with a sufficient amount of time, taking into account the child's age

and best interests, to carefully consider the needs of a child and their ability to meet those needs, and to obtain their own doctor's review of the medical information and other descriptive information, including videotapes of the child. Any videotapes or photographs should contain the date they were taken. The registered body should not apply pressure on prospective adopters during the process.

- The registered body's professionally qualified staff should undertake the matching process.
- The matching process should take account of other aspects of good child-placement practice including
 - Maximum ages of children to be placed should not exceed 6 years, unless specifically related to sibling pre-existing relationship?
 - Age differentials between prospective adopters and children should be in accordance with international best practice and should not exceed 40-44 years, or as specified by country of origin

The process of matching should be subject to a formal reporting process by the registered body, and when the relevant consents are in place in the child's country of origin, and the prospective adopters have also agreed to go forward with the placement, the registered body should submit the matching report to the Adoption Board for approval. This report should include:

- Summary information on the child, including age;
- Medical report on child;
- Report on matching Process;
- Report on mediation process employed, including statement of costs for all aspects of the process;
- Verification by means of documentation that child has been properly relinquished by birth parents;
- Verification by means of documentation that other suitable arrangements did not exist in donor country;
- Verification by means of documentation that the relevant authorities in the donor country have agreed to the placement of the child in the proposed family.
- Where an adoption does not take place as a result of a mediation effort, the registered body should return the originals of all documents concerning the child forwarded to them by the authorities in the donor country

4.3.7 Financial Management and Insurance

- The registered body should
 - Operate under a budget approved by the overseeing board as the plan for management of its funds; and
 - Follow generally accepted accounting principles and sound financial management practices.
- A registered body should meet the financial reporting requirements of Irish law and regulations;
- A registered body should not have been found guilty of offences involving financial irregularities or have filed for bankruptcy within five years prior to the date of application to be registered;
- A registered body should disclose any convictions or current investigations of senior management for crimes involving financial irregularities

- A registered body should appoint an independent and registered auditor, who shall perform an annual audit of the body's finances, and the audit and auditors opinion on the accounts shall be submitted to the Adoption Board.
- A registered body may not accept any donation from any person other than a fee for service as described in Section 4.3.8
- The registered body should arrange to have an assessment prepared of the risks assumed by it, and should use that assessment as the basis for determining the amount of professional liability, general liability, director's and officer's insurance, and other coverage carried by the agency
- A registered body should maintain at all times professional liability insurance from a reliable and fiscally sound carrier in an amount that is reasonable related to the exposure to risk, but in no case is an amount less than €1,000,000 per occurrence (or such other figure as may be specified by the Adoption Board).
- When a registered body contracts with other agencies or persons in Ireland to provide adoption services, it should itself have a bond or liability insurance sufficient to cover the liability and risk associated with the provision of all the contracted adoption services, or it should require its contractors to have a bond or liability insurance sufficient to cover the liability associated with the services that the contractors provide.

4.3.8 Practice in relation to Fees

The following are the recommendations in relation to fees:

- The fees to be charged by the registered body's for its activities should be reasonable and should not be aimed at making profit;
- The registered body should disclose fully all fees charged by the agency for inter-country adoption services to the general public on request and to all prospective adoptive applicants upon initial contact;
- A registered body should make available a written schedule of fees and of estimated and actual expenses to all applicants prior to application and should include the conditions under which fees and costs may be charged, waived, reduced or refunded and when and how fees are to be paid;
- The registered body should prior to actual service delivery identify, itemise and disclose in its contract with prospective adoptive parents the following information for each separate category of fees and costs to be charged:
 - Actual Adoption Expenses: The total lump sum of providing adoption mediation services in Ireland, including but not limited to personnel costs, administrative overhead, training and education, communication and publications costs relating to providing adoption services in Ireland.
 - Overseas costs: The total lump sum cost of providing adoption services in the child's country of origin, including but not limited to personnel costs, administrative overhead, training and education, communication and publications costs relating to providing adoption services in the child's country of origin.
 - Translation and document costs: The costs for obtaining any necessary documents and for any translation of documents required to complete the adoption, costs for the child's court documents in the country of origin, passport, adoption certificate and other documents related to the

- adoption, and costs for notarisations and certifications, with disclosure of any expectation that prospective adoptive parents pay such costs directly, either in Ireland or in the child's country.
- Travel and accommodation expenses: The approximate cost of any travel and accommodation services provided by the agency to the prospective adoptive parents and a projection of similar costs, in cases in which the prospective adoptive parents are making their own travel arrangements; and
 - Contributions: The cost or any contribution to child protection or child welfare services in the child's country, with the description of charges to include:
 - A fixed contribution amount identified in advance to the prospective adoptive parents;
 - The intended use of the contribution; and
 - The manner in which the transaction will be recorded and accounted for.
 - The registered body should have a policy of stating that additional fees beyond those disclosed at the initiation of service will not be charged; however in the event that unforeseen additional costs are incurred or required in the country of origin, the body should:
 - Disclose the additional fees in writing to the prospective adoptive parents;
 - Obtain the consent of the parent to incur any fee in excess of €300, prior to expending any funds; and
 - Provide written receipts for any fees paid in the country and retain copies of such receipts.
 - A registered body should:
 - Have a reasonable policy, written in plain language, for returning an unexpended fees to clients; and
 - Provide prompt itemisation to the clients of all costs and fees incurred and prompt return of any unexpended funds to which the client is entitled.
 - A registered body may charge to provide special services such as cultural programs for adoptees or other services as long as these costs are identified and disclosed to the prospective adoptive parents in advance of service delivery, and there is a full accounting for the use of such funds.
 - A registered body should establish an official and recorded means of funds transfer to prevent the necessity of direct cash transactions by the prospective adoptive parents to pay for adoption services provided in other countries.
 - The registered body should not pay unreasonably high fees for services rendered in connection with mediation, particularly fees in countries of origin should be in line with normal remuneration levels in those countries, and not with Irish levels.

4.3.9 Payments

- Members of the overseeing board of a not-for-profit body may not receive any compensation, other than reasonable reimbursement for expenses associated with their service.

- Officers, administrators, employees and consultants of an agency should receive reasonable remuneration in relation to actual services rendered; Determination of reasonable remuneration should take into consideration the location where the person is based, number of staff, workload requirements, budget size of the body and norms for compensation in other intercountry adoption agencies or practices, as such norms become available for comparison.
- No actual or promised payment or other consideration should be made to any party directly or indirectly involved in the provision of an adoption service, whether the party is acting as an employee, agent, consultant, or independent contractor, except for payment of salaries or fees for actual services rendered.
- A registered body should employ service providers for intercountry adoption services on a fee-for-service basis rather than on a contingent fee basis;
- The registered body should have a written policy prohibiting involvement in any activity or programmes which could be construed or used as an inducement to ensure a supply of children for inter-country adoption.

4.3.10 Working with Agencies and Persons outside Ireland

- A registered body that uses the services of an agency or person in another Hague country must abide by the relevant laws of the other Hague country concerning what entities may provide adoption services in that country. If the other convention country requires the exclusive use of its accredited bodies or public authorities, the body should only use those entities;
- The registered body should use the public authorities or accredited entities in the other Hague country, in so far as possible. Where permitted, and these bodies are not used, the registered body may use other agencies and persons as long as these act under the registered bodies own supervision and the registered body assumes responsibility for their actions;
- The registered body must not work with any agency or person that has a record of having accreditation revoked or other negative sanctions imposed;
- The registered body must require that an agency or person it proposes to work with disclose the following in advance and on an on-going basis:
 - Any debarments by the accreditation authorities from providing adoption services, as well as the reasons therefore;
 - Any other business or activity carried out by the organisation or person, or by the management of the agency or person that may be – or may appear to be - inconsistent with its ability to conduct intercountry adoption services in a manner consistent with the Hague Convention;
 - Any disciplinary actions by the accreditation authorities and the basis of such action;
 - Any past or pending criminal investigations, criminal charges, convictions, malpractice complaints or lawsuits;
 - Any complaint made or prior conduct of an employee or representative that was subject to a disciplinary proceeding, and the outcome of the investigation and proceedings;
 - Any offences or crimes involving financial irregularities.
- The Registered Body must ensure that any agency or person with whom they are working:

- provides the adoption services in compliance with the Hague Convention;
- has a written policy prohibiting child-buying, providing that no individual shall give money or other consideration, whether directly or indirectly to the child's parent (s), other individual, or any entity as payment for the child or as an inducement to release the child, other than reasonable and itemised payments for activities relating to the adoption proceedings, pre-birth medical costs, care of the child, or the provision of child welfare and child protection services. Employees of any agency or person with whom the registered body is working must be familiar with this policy and trained in it;
- Where a service is being provided which involves a social work function requiring clinical skills and judgement, the agency or person must demonstrate that these functions are being or will be performed only by professionals with appropriate qualifications and experience and registered with the appropriate professional body;
- Where the agency or person is responsible for obtaining medical or social information on the child, it complies with 4.3.15. If the relevant information cannot be obtained, the efforts made to do so must be documented as well as the reasons that the information was not obtainable.
- The registered body should ensure that, where this is the general practice in that country, the agency or person has a bond or liability insurance sufficient to cover the liability and risks involved in providing adoption services;
- The registered body must assume responsibility, including legal responsibility, for the compliance and performance of the agency or person in the other country. The amount and type of insurance carried by the registered body itself must reflect the risk of the work carried out on its behalf by service providers that do not carry insurance or other liability coverage.
- The Registered Body must enter a written contract with the agency or person in the other country. The terms of the contract must:
 - Identify the adoption services to be provided by the agency or person and the methods of providing the service;
 - Require the agency or person to comply with the Hague Convention and any applicable standards and personnel qualifications for the services being provided;
 - Identify costs and fees for each adoption service provided and include a provision prohibiting contingency payments and stating that payment shall be made only on a fee-for-service, hourly or salaried basis;
 - Require the agency or person to provide prompt itemisation to the clients of all costs and fees incurred, to have a written, plain language and reasonable policy for returning any unexpended fees to clients, and to promptly return any funds to which the client is entitled;
 - Require that the agency or person respond within a reasonable period of time to any request for information from the registered body, the Adoption Board or any other relevant body;
 - Require that, where applicable, the agency or person be in compliance with any relevant legislation of the country in which it operates, and that the body or person notify the registered body of any licence suspension, revocation or other adverse action, investigation into the

conduct of the agency or person, and any other matter which might affect the ability of the registered body to maintain its status as a registered body;

- Require the agency or person to make appropriate disclosures concerning debarments, inconsistent activities for the prior five year period or changes in the licensing status;
 - Identify the lines of authority between the registered body and the agency or person, including the individual who is performing the supervision and the individual who is responsible within the agency or person for ensuring compliance with the Convention and the contract;
 - Require, where possible considering the general practice in the other convention country, the agency or person to have a bond, liability insurance, or an escrow account covering liability for their activities;
 - Assign legal responsibility to the registered body for the acts of the agency or persons operating for it. This contract condition shall not prohibit the registered body from suing or otherwise seeking redress from the agency or person.
 - Require the agency or person to provide the registered body with any data or information that is necessary to comply with a reporting requirement of the Adoption Board
- If the registered body enters into a relationship with a body or organisation abroad which already has a relationship with another body registered by the Adoption Board, it is essential that conflict of interest is avoided and that the quality service for the users of the service is not compromised.

4.3.11 Duties in Relation to Information

The Registered Body should

- Where the country of origin is a party to the Hague Convention or if the law of the country of origin so requires, inform the competent authority of the process involved, the measures taken to complete it and the progress of the placement;
- Comply with legitimate requests for information on the adoption from the authorities in the country of origin;
- Provide to the child, the adopters or legal representatives information regarding the adoption, including allowing them to inspect the file and to obtain copies of documentation in the possession of the body. (In the case of the child seeking information, information should not be provided where the child is under eighteen years and/ or cannot be considered capable of appreciating his or her own best interests);
- Safeguard records and files, and should not make information available to any other party, other than a health board involved in the execution or preparation of a measure of child protection;
- Refuse a request for information, inspection or copying of information where the provision of such information would invade the privacy of a person other than the adopted child

4.3.12 Medical Information

- The registered body should require as a minimum, that the individual in the child's country of origin, who is responsible for obtaining medical or social information on the child on behalf of the agency use reasonable efforts to obtain all available information on the medical and social history of the child. This should include the date and condition of the child at admission to care, growth data, and developmental status at the time of referral, history of any significant illnesses, hospitalisations and changes in the child's condition since entry into care.
- Medical information regarding an examination or report of observation should include:
 - Name and credentials of person performing the examination;
 - The date of examination
 - Identification of any references, descriptions or observation made by any individual other than the examining physician that are included, clearly identified by source and training of the observer, and with an explanation of whether these are objective or subjective observations;
 - Information about the entry into the most recent and all other forms of care, and review of hospitalisations, significant illnesses and other significant events, and the reasons for them in the course of care;
 - Accurate information about the full range of tests performed on the child, including tests addressing known risk factors in the child's country of origin, and
 - Current health information.
- In any case in which this information cannot be obtained, the agency or person should record the efforts made to obtain this information and/ or the reasons why the information was not obtainable.
- A registered body should obtain and provide prospective adoptive parents of a child with a copy of the medical records of the child (which to the fullest extent practicable, should include an English language translation of such records) at least two weeks before the date on which the prospective adoptive parents travel to a foreign country with a view to completing all procedures in such country relating to the adoption.
- Prospective adoptive parents should be supplied with
 - correctly and completely translated records and a copy of the original record,
 - when requested, and when available contact information for the doctor who completed the medical report should be made available to any doctor engaged by the prospective adoptive parents

4.3.13 Qualifications to Carry Out Social Work Functions

- An agency should have established procedures to ensure that social work functions requiring the application of clinical skills and judgement are performed only by professionals with appropriate qualifications and experience
- The agency should ensure that either the executive director, the supervisor overseeing a case, or the social work personnel providing any adoption mediation services requiring the application of clinical skills and

judgement have experience in the professional delivery of intercountry adoption services.

- The body should ensure that its social work personnel, the personnel of agencies and persons in Ireland that are acting under its supervision and responsibility, are qualified as listed below.
 - Supervisors: The registered body should ensure that its social work supervisors, and the social work supervisors of agencies and persons in Ireland acting under its supervision and responsibility, have prior experience in family and children's services, adoption or intercountry adoption, and the following professional qualifications:
 - A master's degree from an accredited program of social work education; or
 - A master's degree or a doctorate in a related human service field, including psychology, psychiatry, psychiatric nursing, counselling, rehabilitation counselling or human services; and
 - Be registered with an appropriate professional body.
 - Non-supervisory Personnel; The registered body should ensure that its social work personnel, and the social work personnel of agencies and persons in Ireland acting under its supervision and responsibility to provide adoption or intercountry adoption services that require the application of clinical judgement or skill have:
 - A master's degree from an accredited program of social work education or a related human service field;
 - Are supervised by a person with the experience listed above;
 - Be registered with an appropriate professional body.

4.3.14 Personnel Training

A registered body should demonstrate that all new personnel recruited to work, whether they carry administrative or social work responsibilities are provided with orientation and in-service training in intercountry adoption services, as follows:

- Awareness and knowledge of Irish Adoption Legislation and practice guidelines, and the Hague Convention;
- The Department of Justice, Equality and Law Reform's immigration regulations applicable to children adopted from abroad;
- Adoption laws of any other country in which the body works itself or has contracts with agents or persons;
- Goals, ethical and professional guidelines, organisational lines of accountability, and policies and procedures of the organisation, and in particular conduct training of all individuals who are providing adoption services to ensure their compliance with the prohibition of child buying policy (See 4.3.4)
- Cultural diversity.
- Professional staff whose work involve the application of clinical judgement should have appropriate training in a professional setting on adoption related

issues, and receive an annual update on current and emerging adoption practice issues.

4.3.15 Collecting the Child

- As the processes surrounding the initial meetings and collection are vital in attachment building, the meeting between the prospective adopters and the child should be designed to facilitate the transfer of attachment. As a general principle both prospective adopters should travel to pick up the child and undertake the journey of transfer. Only in very exceptional circumstances should a mediation agency allow one parent to undertake this role alone.
- The mediation agency should arrange for the adoptive parents to meet the birth parents if at all possible. In addition, video, photos and detailed notes of the journey and places and people of importance in the child's life should be collected to assist future life story work and to identity formation.
- The adoptive parents need to spend a period of time in the child's country during which time the child is assisted in its transfer of attachments from its carers to the new parents. This work is vital.

4.3.16 Post-Placement Monitoring and Services

- When a child has immigrated to Ireland, the registered body should notify the Adoption Board within 30 days of the child's entry to Ireland. The body should request that an order declaring the adoption as final is made and that an entry is made in the Board's Register of Foreign Adoptions.
- The registered body should compile and provide post-placement reports on a child when the child's country of origin requires it.
- When post-placement reports are to be provided, the registered body should
 - Inform the prospective adoptive parents, prior to the referral of the child, that such reports are required by the sending country, and that they will be required to sign an assent to provide all necessary information for the report(s)
 - Inform the prospective adoptive parents that the registered body is responsible for providing the reports and disclose the fees to be charged for preparing them.
- When a placement is in crisis, the agency should make an effort to provide or arrange for counselling by an individual with appropriate skills to assist the family with the problems of the adoptive placement;
- When counselling in a placement that is in crisis does not succeed in resolving the crisis and the placement is disrupted, a referral must be made to the relevant health board. The health board has responsibility for making another placement for the child. The mediation agency should cooperate fully with the health board to ensure all information is provided which will be of assistance to the child and their carers.
- The registered body should make available to clients as part of their placement agreement written information describing the body's responsibility when there is a disruption of a placement or dissolution of an adoption. This information should address:
 - How the appropriate health board is to be notified.

- Who has responsibility for providing care and the cost of care for the child whose placement for adoption has disrupted or whose adoption is dissolved;
- Financial arrangements to ensure transfer of custody in an emergency or in the case of impending disruption;
- How the child's wishes, age, length of time in Ireland and other pertinent factors may be taken into account;
- The circumstances under which the child may be returned to his or her country of origin;

5 ACCREDITATION AND REGISTRATION PROCESS

5.1 Introduction

This section of the Guidelines sets out in detail the four stages of the approval process. Section 5.2 deals with the making of an application for accreditation by the agency. Section 5.3 deals with the evaluation process to be applied by the Adoption Board. Section 5.4 considers the decision-making and notification procedures to be employed. Section 5.5 deals with renewal of registration, and Section 5.6 deals with withdrawal of a registration.

5.1.1 Principles for Registration of Intercountry Adoption Mediation

- Onus is on applicant to demonstrate and show in their documentation that they meet the requirements of the Board. Whatever inquiries the Board makes should be generally only for the purposes of verification.
- Onus is on applicant to disclose all relevant factors to the Board
- Applicant should confirm that they accept and will practice mediation principles and roles as set out in Section 4.

5.2 Application for Registration as ICAMA

5.2.1 Obligations

- There is a legal obligation (Section 34 (1) or 1952 Act) on any body wishing to provide adoption services to apply to be entered on the Adoption Societies Register;
- Applicants will make application to the Adoption Board to be entered on the Adoption Societies Register in accordance with Section 36 of the Adoption Act, 1952.
- The application should be accompanied by the specified fee;
- The onus is on the applicant to provide sufficient information and evidence to support its application. The information that should accompany an application is specified below.

5.2.2 Format of Application

- Format of Application should capture essential details of applicant,
- Application to be accompanied by and to include
 - Articles of Association or Constitution of applicant organisation
 - Summary history of Applicant Organisation
 - Details of Organisational Structure, board and executive. Details of Principals to be involved. Statement of how the board will ensure and promote the interests of potential adoptees and prospective adopters.
 - Full statement of Policies and Procedures re ICAMA,
 - Proposals for activity in Ireland, the nature of intended activities, the way the applicant proposes to carry out the activities, including the procedures which prospective adopters will have to follow for each donor country;
 - A report on mediation activities the applicant has already carried out;

- Donor countries in which applicant organisation is proposing to operate, including a statement of the persons and agencies in each with which applicant has dealt or proposes to deal with in connection with intermediary activities for the adoption of children. This statement should include legal and other official agencies, children's homes, lawyers and other persons and/ or institutions and organisations that are to be involved in aspects of the mediation activities. Any such persons and/ or organisations working together should be highlighted. See also Section 4.3.9 re relationships with overseas bodies;
- Where available, names, qualifications and experience of professional staff employed;
- Financial Statements (balance sheets, profit and loss accounts etc) for two previous years of activity (if relevant), and name of Auditor, and professional body to whom auditor belongs.
- Details of Insurance and Indemnity held or proposed
- Tax Clearance Cert for the body, and for its individual principals
- Annual Report for three previous years (if relevant)
- Evidence of having published notice of intent to apply
- The Specified Fee

5.2.3 Declarations to Accompany Application

- Declarations by applicants
 - An applicant should disclose to the Board any other business or activity currently carried out by the organisation, affiliate organisations, or the officers and directors of the agency that may be, or appear to be, inconsistent with their ability to provide intercountry adoption services in a manner not consistent with the Articles of the Hague Convention;
 - An applicant should disclose to the Board any of the situations as listed below. The applicant should swear an affidavit, witnessed by a solicitor, to this effect, even where the declaration is nothing to declare,.
 - Debarments, prohibitions or other withdrawals of authority to provide adoption services under their present or any former name(s) and the reasons for any such actions.
 - Any formal, written complaint(s), and the outcome of such complaints, related to the provision of adoption related services by the agency;
 - Any disciplinary action against the body by any licensing authority or accrediting body and the basis of such action;
 - Any past or pending investigations by authorities either in Ireland or abroad, criminal charges, abuse charges, malpractice complaints or lawsuits against the agency related to the provision of adopted related services and the resolution of these actions;
 - Any prior conduct of an employee or representative of an entity that was subject to a disciplinary proceeding related to the provision of adoption related services

- In addition the applicant should provide a declaration that they:
 - accept the principles and terms of these guidelines
 - will provide information and co-operate with inspectorate
 - will supply the Board with a statement enabling the Board to investigate its affairs for the purposes of evaluating the application and, if registered, exercising its oversight role.
 - will be based in Ireland and accept any proceedings under Irish Law
- The directors and staff of the applicant organisation should each provide a statement, witnessed by a solicitor, of their history, if they have even been subject to criminal investigation, charged with any offence and the outcome of any such investigation or charge.

5.2.4 Fees

The Adoption Board should consider how it could make provision for the payment of fees to cover such stages as

- initial application
- an annual fee to the Board in respect of its supervisory costs
- appeals
- renewal application
- copy of entry in Register

5.3 Evaluation of Application

5.3.1 General

The Adoption Board will process the application within a timescale of twelve weeks from the date it is received, provided all necessary documentation is furnished at the time of the original application.

5.3.2 Validation of Application

- Action on receipt
 - Date stamp.
 - The Board should consider if the applicant has complied with the information requirements set out in 5.2 above, and has provided evidence to support its application
 - If the applicant complies, the Board should acknowledge within 10 working days of receipt
 - If it is decided that there is a deficiency in this regard, the Board will inform the applicant, within 10 days, in writing of its view and either
 - return the application as invalid, complete with fee
 - request additional information, while stopping the clock on its processing of the application,

5.3.3 Consideration of Application

- The Board should consider fully material supplied by applicant;
- The Board should consider fully material supplied by any third party;
- The Board is not restricted to considering only information supplied by applicant or third party;

- The Board should make such enquiries as it thinks fit, both in relation to material supplied and other issues or sources it thinks appropriate, and may carry out, or arrange to have carried out on its behalf by persons properly authorised, such investigations, inspections or other activities as it thinks appropriate. A report on investigations, inspections or other activities should be made and placed on the file;
- The Board, where it appears expedient or convenient, may convene a meeting with any or all of the parties for the purposes of assisting its deliberations. A record should be kept of any meeting so convened;
- The Board should retain on file an account of its research activity;
- Where the Board is disposed to register an applicant, it may invite an applicant to file such other information or statements as it thinks proper before making a final decision.

5.4 Decision, Notification and Keeping the Register

5.4.1 Decision on Application

- Decisions will, in the first instance be made by a special sub-committee established by the Board and mandated for this purpose. (Reference to the Board in this stage of the decision making process hereafter refers to the mandated sub-committee, unless otherwise stipulated).
- The Adoption Board may decide to enter the applicants on the register, with or without conditions, or may refuse to register the applicants.
- The conditions which may be included may be determined by the Board, and may include all or anything from Section 4 of these guidelines. In particular, a condition should specify that the registered body may only work for prospective adopters who have written Declaration of Suitability from the Adoption Board, and in accordance with the terms of that declaration, such as:
 - within the time limits specified in the adoption board's Declaration of the prospective adopters;
 - mediating only for one child, or as specified in the Board's approval of the prospective adopter;
- The Adoption Board may, at its own discretion, register a body for a period of up to three years initially.

5.4.2 Notification

- The Board will inform the applicants in writing of its intention to enter the applicant organisation in the register, with or without conditions.
- Where the Board has decided to refuse to register an applicant, it should so inform the applicant in writing, together with its reasons for so doing.
- When a period of 21 days has passed from the notification to the applicant of the intention to enter the body on the register, the Board should make the entry to the register, and send a copy of the entry to the applicant.
- Where the Board register a body with conditions, or refuse to register an applicant, the applicant may appeal to the full Adoption Board (referred to hereafter in Section 5.4.4 as the Appeal Board) within a two-week period from the date of notification. When an appeal is made against the conditions attached to a registration decision, the Board

should not enter the applicant in the register until the appeal is determined.

- Where an application has been refused, the body may make a fresh application in accordance with these rules, provided a bona-fide attempt is made to address the reasons for refusal. Where the Board receives and considers such a fresh application and is not satisfied that a bone-fide attempt has been made to address the refusal grounds, it may reject the application as invalid on this basis.

5.4.3 The Register

The Board shall keep and maintain an Adoption Societies Register in accordance with Section 35 of the 1952 Act. The Mediation Agency Register should contain

- details of all valid applications, including
 - name and address of applicants,
 - the date of receipt
 - the decision, including any conditions
 - the date decision made
 - if decision appealed
 - outcome of appeal
 - the date applicants actually entered on register (where relevant)
- details of subsequent Board decisions in respect of registered body,
 - decisions to revoke registration
 - decisions to renew registrations

5.4.4 Appeals

- Where the mandated committee of the Board decides to register a body with conditions, or refuse to register an applicant, the applicant may appeal to the full Adoption Board (referred to herein as the Appeal Board) within a two week period. For the purposes of hearing an appeal, the Appeal Board means the members of the Adoption Board other than the mandated committee which ruled initially. When an appeal is made against the conditions attached to a registration decision, the Board will not enter the applicant in the register until the appeal is determined.
 - An appeal may only be made by an applicant;
 - An appeal should
 - Be made in writing
 - Give details of appellant
 - State the matter being appealed and the reasons, grounds and arguments for the appeal in full
 - Be accompanied by the fee
 - Be made within 14 days of notification of decision
 - An appeal which does not comply with the above should be deemed invalid;
 - Appellant should not be allowed to make additional submissions;

- The Appeal Board should
 - Notify the mandated committee of the making of a valid appeal;
 - Request a copy of the committee's file in full, which should be provided within 14 days;
 - Request the mandated committee to submit observations on the appeal grounds within one month. The mandated committee should not be entitled to make additional observations after it has made a submission;
 - Where, the Appeal Board is of the view that it is appropriate to request any party who has made a representation on the original application, it may send any material it deems relevant to this party and request, at its discretion, any observations to be made to it within a period between 14 and 28 days
 - Make such inquiries as it deems necessary to arrive at a view on the issues, including requiring any party, which it believes is in possession of documents or information which would assist its decision, to make such information or documentation as it has specified available to it for the purposes of determining the appeal.
 - Where it appears expedient or convenient, the Appeal Board may convene a meeting with any or all of the parties for the purposes of assisting its deliberations. A record should be kept of any meeting so convened.
 - The (Appeal) Board should make such enquiries as it thinks fit, in relation to material supplied, and may carry out, or arrange to have carried out on its behalf by persons properly authorised, such investigations, inspections or other activities as it thinks appropriate. A report on investigations, inspections or other activities should be made and placed on the file
 - Make a determination, in the case of an appeal against a refusal to register, to accept, with or without conditions as it sees fit, or to reject the appeal.
 - In the case of an appeal against a condition or conditions attached to a decision, determine to confirm, modify or delete the condition(s) as it sees fit, and/ or to attach such new conditions as it deems appropriate but it may not overturn the mandated sub-committee's decision to register the applicants.
 - Determine the appeal within a period of three months from receipt;
 - Notify the applicant of its decision, and the reasons therefore;
 - Notify any third party with whom it has communicated in relation to the appeal;

- When the Board determines an appeal, it should as soon as may be, and in accordance with the appeal decision enter the result of the appeal on the register, and where so decided enter the body on the register, and send a copy of that entry to the appellant.
- Where the Appeal Board is of the opinion, for whatever reason, that an appeal has been abandoned, it may serve a notice on the appellant of its belief, and that it will declare the appeal withdrawn unless it receives compelling material within 14 days as to why it should not take this decision.
- The Appeal Board should in its absolute discretion dismiss an appeal where having considered the grounds of appeal, it is of the opinion that the appeal is vexatious, frivolous or without substance or foundation, and should not be considered further by it

5.5 Renewal of Registration

- The Adoption Board may, at its own discretion, register a body for a period of up to three years initially.
- A body who wishes to have its registration extended should apply not less than twelve weeks before the expiration of its current registration. The Board may, at its discretion, extend the registration period for up to five years at a time;
- The Adoption Board may set an annual fee for ongoing registration

5.6 Withdrawal of Registration

The Board may withdraw the registration where

- The information provided in order to obtain the registration was inaccurate or incomplete in such a way that a decision to register would not have been made if accurate and complete information had been available at the time of assessment of the application;
- Any requirement laid down as a condition of the registration is not being complied with, or any of the principles of mediation or guidelines are not being complied with;
- Any requirement laid down in the Hague Convention is not being complied with by the registered body directly, or any of its agents, either in Ireland or abroad;
- The body has not completed mediation in the placement of a child for at least two years
- Where withdrawal of registration is invoked by the Board, the body being de-registered should cooperate fully with the Board in:
 - making arrangements for the transfer or completing the work on behalf of persons for whom it is working currently;
 - Transferring such of its documentation as is directed by the Board to itself or such other bodies as the Board may direct;

6 Oversight of Accredited Agencies

6.1 General

In its oversight role, the Board should ensure that:

- the mediation service provided by the registered body meets the requirements of the Hague Convention;
- the registered body clearly identifies the adoption mediation service it is providing, and complies with the appropriate standards for that service;
- where providing a service that involves a social service requiring the application of clinical skills and judgement such as matching and obtaining consents demonstrates that these functions are being performed by professional persons with the appropriate qualifications and experience;
- the registered body has procedures to protect the confidentiality of the individual it serves, safeguard sensitive information, and ensure that personal data gathered or transmitted is used only for the purpose it was gathered;
- The Board should ensure that a body (or individuals working for the registered body) with a pattern of suspensions or negative sanctions in the adoption field should not be registered to work in Ireland.

6.2 Monitoring Arrangements

- The Adoption Board is the primary agency for the supervision of the mediation phase of ICA in Ireland. The Board may seek the assistance of such bodies as it deems appropriate to assist it in this role, including the health boards, the Garda, the immigration authorities, the revenue commissioners or such other body as may be able to assist it in discharging this role.
- The Adoption Board may appoint a competent person to sit on the Board of the body, as a condition of the registration and in discharge of its supervisory functions;
 - The Adoption Board may require a registered body to provide a copy of the records of its supervisory board meetings to it; The Adoption Board may require a full copy of such records to be forwarded to it as a condition of the registration and in discharge of its supervisory functions;
- The Board should be entitled to request from any person information which may reasonably be considered necessary for the performance of the Board's supervisory role.
- The Board may, at all reasonable times, enter onto the premises of a registered body and examine, take away or copy the records (however comprised) of the registered body for the purpose of their supervisory role
- The Board may specify rules on information to be provided by the registered body concerning its relationships with organisations abroad. In particular a registered body should:
 - Keep a file in respect of each organisation abroad it has a relationship with in accordance with 4.3.10.
 - Provide a copy to the Board of the contract of services between itself and the organisation abroad.

6.3 Complaints Procedures

- Complaint procedures should be provided in a standard, written format to clients when they apply for services, informing them that they have an opportunity to lodge complaints or appeals about unsatisfactory service or activities of the service provider that they believe to be in conflict with these guidelines or the Hague convention. These complaints may be made:
 - First, to the registered body from whom they have received, or are receiving service;
 - Second where the service is being provided by an agency or person on behalf of the registered body, to the registered body;
 - Third, to the Adoption Board.
- An agency should not:
 - Take any action to discourage clients from submitting a complaint, expressing a grievance, or questioning the compliance of the agency or person with the Convention or these Guidelines;
 - Take any action to retaliate against a client for submitting a complaint, expressing a grievance, or questioning the compliance of the agency or person with the Convention or these Guidelines;
 - or
 - Constrain in any way the right of a prospective adoptive parent or birth parent to share factual information or their own personal opinions about services that they have received.
- Once a complaint has been received, the body must respond in writing within thirty days of receipt and provide expedited reviews within seven working days or less for situations that are time-sensitive or involve allegations of fraud.
- Where a statement of complaint is lodged with the Adoption Board:
 - The Board should investigate complaints, and may invite those complained of to respond to the complaint,
 - The Board should adjudicate on the complaint received, and direct that any action it deems appropriate (or none) are taken by such parties as it determines or by itself, including withdrawal of the registration where it deems such action appropriate.
- A registered body should:
 - Provide the Adoption Board with summaries of complaints and their resolutions on a quarterly basis;
 - Analyse complaints about its services for possible patterns, the identification of which could generate improvements in service; and
 - Provide all information to the Adoption Board on request.

6.4 Enforcement

In addition to the ultimate sanction which is withdrawal of registration the Board may:

- issue warnings about an aspect of the service of the registered body or its agents;

- threaten to withdraw the registration unless actions are taken or changes are made;
- direct the registered body to take particular actions.

6.5 Record-Keeping and Reporting

6.5.1 Keeping Records

- The registered body should keep files, books and records of its activities and finances in a proper manner and in a way that shows that it is meeting its obligations at all times;
- The registered body should submit an annual report (based on January to December) of its activities in Ireland and abroad to the Adoption Board within three months of the end of the period, and this report should be made available to the public
- The registered body should within six months of the end of the financial year send to the Adoption Board a set of financial statements (balance sheet with assets and liabilities, statements of income and expenditure with explanatory notes etc) and certified by a registered auditor. These financial statements should also be made available to the public.

6.5.2 Retention and Preservation of Case Files

A registered body should have a plan and procedure for the retention and preservation of records that is consistent with the requirements of these guidelines and relevant laws. In addition a full copy of all files should be forwarded to the Adoption Board as the proposed central authority

A registered body should comply with the requirements of Articles 16 (report on the child) and Article 30 (preservation of and access to adoption records) of the Hague Convention.

A registered body should have procedures designed to protect the confidentiality of the individuals served and should have a system for safeguarding sensitive information.

Adoption case files held by the agency should comply with the Hague Convention requirements regarding the preservation of information concerning the child's medical and social history and the identity of his or her birth parents;

The agency's written procedures should address:

- Protection of the privacy of current and former clients to whom adoption mediation services were provided under the Hague Convention;
- Clients requests for information, particularly information that may not be available elsewhere;
- Disposition and preservation of client records, and information concerning retrieval in the event of dissolution of the agency or person; and
- Efficient and timely transfer of Hague case files to the Board in the event the agency loses its registration status and is no longer eligible to provide adoption services covered by the Hague Convention

Adoption case files should be archived permanently with the Adoption Board?

The registered body should notify the Adoption Board in writing within thirty days if:

- The agency dissolves or ceases to provide adoption services;
 - The agency changes ownership or name; or
 - The agency transfers an adoption case file to a records archive, or to any other agency allowed by these guidelines or by law
- Personal data gathered or transmitted in connection with a Hague Convention adoption should only be used for the purposes for which it was gathered.

6.5.3 Requirements for Case Tracking, Data Management and Reports

An agency should gather and maintain in retrievable and analysable form the case tracking data which is requested by the Adoption Board, and should provide the Board with all information requested for data collection purposes within thirty days of the request. The information will include the number of intercountry adoptions undertaken by the body each year which involves children immigrating to Ireland, as well as case specific information;

- The country from which the child emigrated
- The health board area where the child now resides
- On placements that have been disrupted
 - The age of the child
 - The date of the placement for adoption
 - The reasons for and resolutions of the disruption of a placement for adoption
 - The plans for the child
- The average length of time to complete an adoption, listed by the child's country of origin. The length of time should be calculated from the time the child is matched with the prospective adoptive parents until the adoption is finalised by a court.
- The range of fees charged in connection with adoption mediation services, by the child's country of origin

In addition the registered body should keep information for each year on

- The number of initial enquiries it receives;
- The number of parents who engaged its services
- The number of waiting children, when available
- The number of intact placements,
- The number and percentage of disruptions

