

## **INCORRECT BIRTH REGISTRATIONS – INTERIM REPORT**

**10<sup>th</sup> September 2018**

As the Independent Reviewer I write to apprise you of developments in relation to the completion of the Review into incorrect birth registrations. I have now met with AAI and TUSLA on five occasions.

The following sets out the decisions which have been agreed and the progress made to date:

- the Review covers the period 1953, when legislation commenced to regulate adoption, and 1996 when all parts of the 1991 Child Act were commenced;
- as previously noted there is no index of the records held by TUSLA and AAI. Within the 4 month timescale it is not possible to create such an index given the scale of the records and the diverse ways in which they are held;
- the sample of case records selected for review will be weight with 85% being selected to cover the 1953 to 1976 period. A sample of 15% will be selected covering the period 1977 to 1996 to check that the incorrect registration of births was not an ongoing practice;
- of the 30,000 records held by AAI a total of 4,351 are identified as relevant to the review. With the assistance of a Departmental Statistician the number of records required from the 5 adoption societies has been identified. In total 459 records will be sampled yielding a 95% confidence level, according to the Departmental Statistician. The sample size is just above 1% of all the relevant records held by AAI;
- TUSLA has 70,000 records identified across adoption agencies; nursing homes and boarded out case files. The exact number of records held in respect of each adoption society or other category of agency is unknown.

Unlike AAI it has not, therefore, been possible to establish an exact sampling size for each agency. A 1% sample of records has, however, been agreed with the five larger adoption societies drawing a larger sample of some 68 case files each. TUSLA has appointed a member of staff to undertake the selection of the sample as a means of ensuring consistency;

- Initially, it was anticipated that a number of 'marker' terms agreed by AAI and TUSLA could be used by their scanning contractor to identify case records with potentially incorrect birth registrations. The quality of the records has meant, however, that digital scanning would be ineffective. I have had the opportunity to review a number of the records held by TUSLA and in my opinion action is now required from an archivist to help preserve them as many are in a very fragile condition;
- given the inability to digitally scan records social workers will examine each file selected for review. Some 24 possible marker terms have been identified by TUSLA and AAI to guide the review of records; social workers will also exercise their professional judgement in their examination of the records. TUSLA and AAI are in the process of agreeing a common pro forma to standardise the information extracted from the case records by social workers;
- records will be selected from: 25 adoption agencies (20 TUSLA and 5 AAI); 6 nursing homes which acted as 'informal adoption agencies'; and 4 boarding out services selected to provide national coverage;
- the commencement of GDPR in May 2018 created concerns for AAI and TUSLA about accessing individual records without the prior consent of data subjects. The Department received papers from both organisations setting out their concerns. Legal advice was sought by the Department. At the 5<sup>th</sup> meeting of the group on 10<sup>th</sup> September 2018 considerable attention was afforded to discussing the legal advice provided by the Department and the concerns of both agencies. The meeting ended with both AAI and TUSLA

agreeing to set out, by the 17<sup>th</sup> September 2018, their requirements, as Data Processors, in relation to commencing the review of case files. On receipt of same Marie Kennedy is to ascertain whether, or not, the Department can issue a Directive in the terms required to commence the file review. The risks to each agency, and the Department, of failing to progress the review was underlined. Each agency confirmed its commitment to the review process.

Finally, at today's meeting the timescale for completing the review was reconsidered. The following timescales for the receipt of information and final report were agreed taking into account the delay in commencing the examination of records:

- AAI anticipate 5 weeks will be required for data collection and two weeks to collate findings with a report on its findings being with the Independent Reviewer by mid November;
- TUSLA anticipate providing its report to the Independent Reviewer by the end of November 2018;
- the Independent Reviewer anticipates completing a report by mid December, provided that both of the above agencies' reports are with her by the end of November 2018.

Unfortunately, there has been slippage in completing this review due to the need to resolve GDPR issues to the satisfaction of the Data Processors. In the event that these concerns cannot be addressed adequately by a Ministerial Directive I feel that further discussion with the Department will be required to address how best to take matters forward.



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