



ODAIT'S IDENTIFICATION PROGRAMME POLICY GUIDELINES

These Guidelines provide practical information and guidance on the operation of ODAIT's Identification Programme, pursuant to The Institutional Burials Act 2022.
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Glossary

Act	Institutional Burials Act 2022
Administrative Scheme	A scheme established by Minister Roderic O’Gorman, which allows officials of the Department of Children, Disability and Equality (DCDE) to take DNA samples from eligible family members who are elderly and/or vulnerable and, therefore, require a DNA sample to be taken on a more urgent basis. Set up as an interim measure, prior to the ID Programme.
Affidavit	A written sworn testimony used as evidence.
Ancillary burial land	Relevant residential land- (a) adjacent to principal burial land, and (b) where burials, associated with burials that took place on that principal burial land, have taken place.
Ancillary land	Land that is not principal burial land or ancillary burial land and on which it is proposed to carry out related activities.
Appeal	A request made under section 81, where an applicant is not satisfied with the Director’s decision under section 48, participation in the ID Programme.
Applicable Person	A sample of a person (in this Act referred to as an “applicable person”) which is being used in accordance with <i>section 51(2)</i> , may only be forensically tested, and the DNA profile of the person generated from that testing included in the family members’ index, for the purposes referred to in that provision.
Applicant	A person who applies to a Director to participate in the ID Programme under section 48(1) of the Act.
Authorised Person	Has the meaning assigned to it by section 41 of the Act: A suitably qualified person authorised by the Director to take samples from human remains or from relevant persons or from persons for the purpose of elimination.
Capacity	Has the meaning assigned to it under the Assisted Decision-Making (Capacity) Act 2015. Capacity is the ability to understand when a decision is being made and the nature and consequences of the decision in the content of the available choices.
Data Controller	The natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data. For the purposes of the ID Programme, the Data Controller is ODAIT.

Department	Department of Children, Disability and Equality also referred to as DCDE.
Director	Required to meet the objectives of the functions of the Director (section 10 of the Act).
Director of FSI	The officer who oversees Forensic Science Ireland (FSI)
DNA	Deoxyribonucleic acid
DNA profile	Subject to section 58 of the Act, information comprising a set of identification characteristics of the DNA derived from an examination and analysis of a sample from a person that is clearly identifiable as relating to the person and that is capable of comparison with similar information derived from an examination and analysis of a sample from another person that is clearly identifiable as relating to that other person <i>A DNA profile is generated by testing a DNA sample to reveal distinct genetic characteristics of an individual. It consists of a specific set of genetic markers, which can range from tens to thousands, depending on the DNA testing method used. A person's DNA profile can be used to distinguish them from others, either by individualising them or linking them to family lines.</i>
Eligible Family Member	A person who believes on reasonable grounds that- (a) He or she is, in relation to a deceased person, a child, parent, sibling, half sibling, grandparent, grandchild, aunt, uncle, niece or nephew (whether of the whole or the half), grandniece or grandnephew of the person, and (b) The deceased person is buried in the principal burial land or ancillary burial land in respect of which an ID Programme is undertaken.
Familial Link	Between a relevant person or an applicable person, as the case may be, on the one hand and a person whose human remains have been recovered on the other hand, that those two persons are likely to be related to each other within the degree of relationship asserted by the relevant person or the applicable person
Family Member's Index	Shall be construed in accordance with section 63 (1)(a)(ii) of the Act.
Final arrangements	In relation to recovered human remains or samples taken from those remains, final arrangements made in accordance with <i>section 57</i> of the Act

Forensic excavation and recovery	In relation to principal burial land or ancillary burial land- (a) The excavation of the land and recovery of human remains buried in the land, and (b) The treatment of the remains so recovered in a manner sufficient to satisfy legal requirements regarding the use and storage of evidence in connection with the identification of human remains, including criminal proceedings.
Forensic testing	In relation to human remains or sample taken from those remains or from a living person- (a) The examination and analysis of the remains or sample, or both, as the case may be, (b) The carrying out, on the human remains or sample, of biochemical or other scientific tests and techniques that are used in connection with the identification of human remains or persons, and (c) If possible, the generation of DNA profile of a person from the sample taken from those remains or from the person.
FSI	Forensic Science Ireland, an associated office of the Department of Justice.
GDPR	General Data Protection Regulation.
Institution	A current or former residential facility (howsoever described) for adults or children, or both, in respect of which a public body has or had a relevant role.
Minister	Minister for Children, Disability and Equality
Nominee	(a) In relation to a relevant person, a person who consents, in the prescribed form, to act as a nominee under section 49 of the Act and who has not withdrawn his or her consent under that section, and (b) In relation to an applicable person at the time of giving a sample referred to in section 51 of the Act and who has not withdrawn his or her consent under section 53 of the Act.
Non-intimate sample	A sample of saliva taken, or to be taken, from a person

Notice of Determination	Written correspondence to an applicant outlining the decision in relation to their application.
ODAIT	The Office of the Director of Authorised Intervention, Tuam
Regulations	Institutional Burials Act 2022 (Section 80) Regulation 2024
Relevant Person	A person who has been notified by a Director under section 48 or section 81(7) of the Act that he or she may participate in an ID Programme and who has not withdrawn from participation under section 48 of the Act.
Spouse/Civil Partner	A person who is a spouse or civil partner of a person whom the spouse or civil partner believes, on reasonable grounds, is buried in the principal burial land or ancillary burial land concerned, and who, in accordance with section 42(1)(d) of the Act, notifies a Director of his or her interest in being the person to whom any identified recovered human remains are returned in accordance with section 57 of the Act and his or her wishes as to the final arrangements for those remains should he or she die or become incapacitated before such arrangements.

Chapter 1 – Introduction and Overview

Background

The Commission of Investigation into Mother and Baby Homes was established in 2015 to investigate and report on a wide range of issues associated with Mother and Baby Institutions, including burial practices. In March 2017, the Commission confirmed the presence of juvenile human remains at the site of the former Mother and Baby Institution in Tuam. In response, the then Minister for Children and Youth Affairs commissioned an Expert Technical Group (ETG) to outline the options available for responding appropriately to the situation.

In October 2018, the Government decided that a phased, forensic-standard excavation, recovery and identification (if possible) of the remains should be carried out at the full available site at Tuam, followed by respectful re-interment of remains. The Attorney General advised that new legislation was required to implement the decision.

In December 2019, the Government approved and published the General Scheme and Heads of Bill, which set out the main legal changes or provisions of the proposed legislation. The General Scheme was scrutinised by an Oireachtas Committee during the first half of 2021. The Committee provided its report and recommendations in July 2021. The Minister worked with the Attorney General to prepare the Institutional Burials Bill, taking account of feedback received from the Oireachtas Committee and other stakeholders. The Bill was approved by Government in February 2022.

The legislation then completed its passage through both Houses of the Oireachtas. The Institutional Burials Act 2022 (here after referred to as ‘the Act’), was signed into law in July 2022. This provides the underlying legislative basis for an intervention, whereby the remains of those who died in residential institutions, in respect of which a public body has or had a relevant role, and who were buried in a manifestly inappropriate manner, may be recovered and re-interred in a respectful and appropriate way.

In October 2022, Government made an Order under the legislation to direct the establishment of an independent Office to lead an intervention at the site of the former Mother and Baby Institution in Tuam. In March 2023, the Office of the Director of Authorised Intervention, Tuam (ODAIT), was established to oversee the excavation, recovery, analysis, identification (where possible) and dignified reburial of the children’s remains located at the site of the former Mother and Baby Institution in Tuam, Co. Galway.

In May 2023, Daniel MacSweeney was appointed as Director of Authorised Intervention (hereafter referred to as the ‘Director’). Following his appointment, the Director worked to establish the core administrative and staffing structures of ODAIT, engaged extensively with families and former institution residents, and developed a detailed design for the excavation and construction works. At the end of 2024, preliminary

groundworks were completed at the site in preparation for the excavation to begin in 2025.

In July 2025, works to forensically excavate the Tuam site began, marking a significant milestone in the intervention. All work will be undertaken to a forensic-standard in line with international standards and best practice. It is estimated that work at the site will be completed in approximately two years; the final timeline depends on many variables and these will only become clear as the work progresses.

In line with the Government Order, the functions of the Director include undertaking the ODAIT Identification Programme (hereafter referred to as the ID Programme). ODAIT is now commencing the ID Programme. These Guidelines have been developed to support the implementation of the ID Programme, and in particular those applicants who wish to engage with ODAIT.

Purpose of Guidelines

These Guidelines have been issued by ODAIT, to provide practical information and guidance on the operation of the ID Programme. These Guidelines set out the rules governing the ID Programme. It is intended that these Guidelines will provide a user-friendly explanation of the legislation applying to the ID Programme, although they do not purport to be a legal interpretation. These Guidelines also aim to aid the implementation of consistent and user-friendly operating procedures by those involved in operating the ID Programme within ODAIT.

Purpose of the ID Programme

The ID Programme is provided for in legislation by the Act, and associated Regulations. These provisions allow the Director to oversee a programme of DNA identification to establish the likelihood of a familial link between people who believe they have family members buried at a site, and the human remains that are recovered from that site. DNA samples will be taken from human remains recovered from the site and from relatives who participate in the ID Programme. The legislation provides that the ID Programme will proceed when there are living family members of deceased persons believed to be buried at the site who wish to participate in the ID Programme, and where DNA of sufficient quality is available from the remains to enable DNA comparison. It also provides for a review mechanism whereby the Director, having considered these factors, and having consulted with the Advisory Board, can determine whether an ID Programme should continue.

Guiding Principles of the ID Programme

The ID Programme will be delivered with a focus on kindness and service excellence. ODAIT will support applicants as much as possible throughout the programme. In order for an applicant to partake in the ID Programme, the applicant must be in the position to provide sufficient evidence that they are an eligible family member to a deceased person. The Director will determine an applicant's eligibility having consideration to the documentation.

In circumstances where the records available are not sufficient for the purpose of establishing an applicant as an eligible family member, it may be necessary for applicants to provide information by affidavit, at the request of the Director. This process will be managed with sensitivity.

More detailed information on eligibility is set out in **Chapter 2-** Eligibility for the ID Programme.

Data Protection and GDPR

The administration of the ID Programme will result in the processing of personal data and in some cases, special categories of personal data of eligible family members. Data subject rights are protected by the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

The GDPR states that a Data Controller may only retain personal data for as long as it is required to. If the purpose for which the personal data was obtained has ceased, the data must be deleted or disposed of in a secure manner. The retention period will depend on the purpose for which the personal data is processed, in line with the National Archives Act 1986.

The ID Programme will consider the conditions for consent pursuant to Article 7 GDPR. Those participating in the ID Programme shall have the right to withdraw their consent at any time. Consent is any ‘freely given, specific, informed and unambiguous’ indication of the individual’s wishes by which the data subject, either by a statement or by clear affirmative action, signifies agreement to personal data relating to them being processed for one or more specific purposes.

Further information on data protection regarding the ID Programme is outlined in **Chapter 3-** Data Protection.

Chapter 2 - Applying for the ID Programme

Eligibility Criteria

The Act sets out that eligible family members can participate in the ID Programme. The Act defines an eligible family member as a person who has reasonable grounds to believe that they are one of the following relatives to those believed to be buried at the site of the Mother and Baby Institution, Tuam, Co. Galway;

- child
- parent
- sibling
- half-sibling
- grandparent
- grandchild
- aunt
- uncle
- niece
- nephew
- half-niece
- half-nephew
- grandniece
- grandnephew

To be considered an eligible family member, the applicant must provide evidence that establishes themselves as a relative of the deceased as stated above. This can be provided as the following:

- a) An applicant can provide the Director with public records, including but not limited to, a birth certificate, marriage certificates or death certificates.
- b) Where public records are not available or the Director deems that they are insufficient, an applicant may provide other records, including but not limited to, institutional records, medical records or baptismal records.
- c) Where these documents are considered insufficient by the Director, the Director may request the provision of an affidavit by an applicant with such information as is considered necessary
- d) A Director may use the powers provided under section 27 and 29 of the Act in order to support the assessment of evidence provided by the applicant.

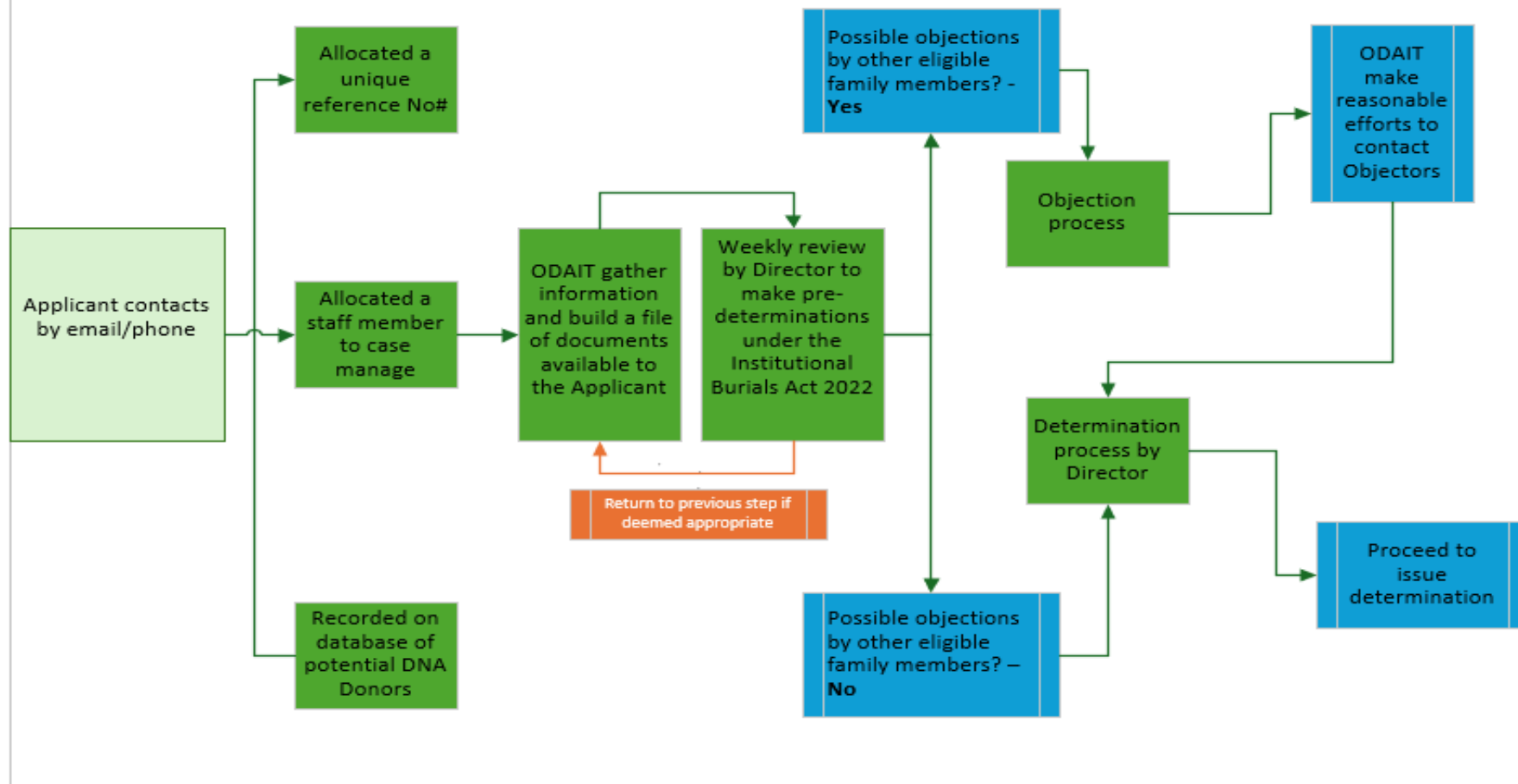
ODAIT is committed to supporting families through this process to make it as simple as possible.

How to apply?

ODAIT encourage all those who believe they may be eligible to provide a DNA sample to contact the office by email info@dait.ie, phone 01 5391777 or post to Office of the Director of Authorised Intervention, Tuam, Customs House, Flood Street, Galway, H91XV2C with their details, and ODAIT will begin the process of the application.

The ODAIT ID team will support applicants throughout the process. ODAIT is committed to helping people who are unsure of their family's relationship to those believed to be buried at the site of the former Mother and Baby Institution, Tuam, Co. Galway. ODAIT will attempt to establish if applicants are an eligible family member, while at all times respecting GDPR and our Privacy Policy.

ID Programme Application Process & Objections

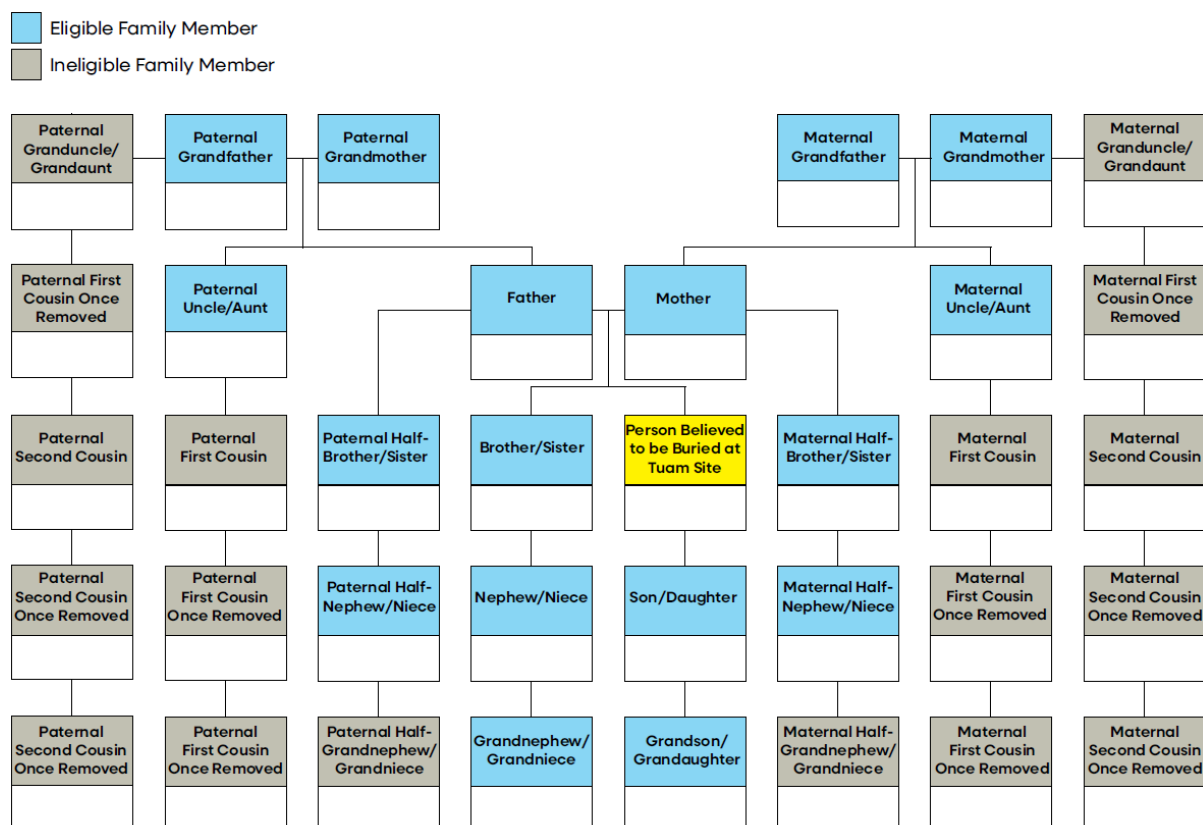


Application Process

Once an applicant contacts ODAIT, they will be assigned to a member of the ODAIT ID team. The applicant will be provided with a unique reference number to safeguard and anonymise, where necessary, any personal information. This information will be added to ODAIT's database of potential DNA donors.

ODAIT will work closely with applicants to gather information and create a file that demonstrates whether a familial link can be established in line with the eligibility criteria pursuant to the Act. This involves confirming the relationship with the deceased i.e. child, parent, sibling, half-sibling, grandparent, grandchild, aunt, uncle, niece, nephew, half-niece, half-nephew, grandniece or grandnephew. This part of the process establishes that there are reasonable grounds for believing that the applicants relative (the deceased) is buried at the Tuam Site. The Act refers to these as eligible family members.

Please see family tree diagram below that may help.



The ODAIT ID team will meet with the Director regularly and present this information for pre-determination. At this point of the process, the Director will consider all documentation and determine whether consideration of objections are necessary.

Objections to Participation in the ID Programme

DNA testing is a very powerful tool and, in participating in the ID Programme, it is possible that information will be revealed about familial relationships to persons other than to the deceased relative that a participant believes may be buried at a site.

The Act balances the public interest in identifying remains with the privacy rights of close living relatives. As the ID Programme allows for the participation of a wide range of relatives, the Act provides for the closest living relatives (parent, child, sibling and half-sibling) to object to the participation of other relatives.

It is important to highlight that an objection does not automatically mean that an applicant cannot participate in the ID Programme and any objection will be considered by the Director in conjunction with the closeness of the genetic relationship of the person who wishes to participate and the public interest of identifying human remains.

In line with the Act, a child, parent, sibling, and half-sibling of the deceased can object to an eligible family member's participation in the ID Programme. When making an objection, the objector must state the grounds for the objection. The Director will set out a specific timeframe, within which objections can be registered by half-siblings. However, a parent, a child and a sibling can make an objection at any time prior to a determination by the Director, on the participation of an eligible family member. The table below provides an overview of objectors and relevant timeframes.

Objector (related to the deceased)	Who they can object to participating in the ID Programme	Timeframe
Parent	Any other eligible family member except another	Any time prior to determination by the Director
Child	Any other eligible family member except a Parent	Any time prior to determination by the Director
Sibling	Any other eligible family member except a Parent or Child	Any time prior to determination by the Director
Half-sibling	Any other eligible family member except a Parent or Child	Within a timeframe specified by Director
Grandparent	Can not object to an eligible family member	N/A
Grand child	Can not object to an eligible family member	N/A
Aunt	Can not object to an eligible family member	N/A
Uncle	Can not object to an eligible family member	N/A
Niece	Can not object to an eligible family member	N/A
Nephew	Can not object to an eligible family member	N/A
Half Niece	Can not object to an eligible family member	N/A
Half Nephew	Can not object to an eligible family member	N/A
Grand niece	Can not object to an eligible family member	N/A
Grand nephew	Can not object to an eligible family member	N/A

When applying for the ID Programme, eligible family members can include a letter of support (in the legislation termed a "letter of non-objection") from a parent, a child, a sibling or a half-sibling of the deceased who would otherwise be able to object to their participation.

ODAIT contacting possible Objectors

In line with the legislation ODAIT will make reasonable efforts to contact possible objectors (i.e. parent, child, sibling or half sibling of the deceased) to inform them that

the ID Programme is taking place, that they have the right to make an objection to the participation of an applicant and the deadline for receipt of such an objection.

In this circumstance, and as provided for in the section 80 Regulations under the 2022 Act, ODAIT may ask for contact information from the applicant or other eligible family members of the deceased person. Where this is the case, the applicant or other eligible family members may state that they are not aware of the existence or whereabouts of the close family member.

ODAIT may conclude that all reasonable efforts were made to contact the child, parent, sibling or half sibling. Final determination will be made by the Director having considered all objections.

Register of Notifications

Under section 45 of the Act, the Director must establish and maintain a register of notifications. This register includes information regarding:

- Eligible family members expressing interest in participating in the ID Programme
- Eligible family members submitting their objections/non objections pursuant to section 43 and 44 of the Act
- Eligible family members expressing their wishes for final remains of the deceased buried at the site of the former Mother and Baby Institution, Tuam, Co. Galway

The register of notifications will record, in respect of each eligible family member the following information:

- The name, contact details and the genetic relationship the person believes they have with the deceased person believed to be buried at the site of the former Mother and Baby Institution, Tuam, Co. Galway
- Details of the notification made to the office as stated above

An eligible family member can withdraw their notification at any stage.

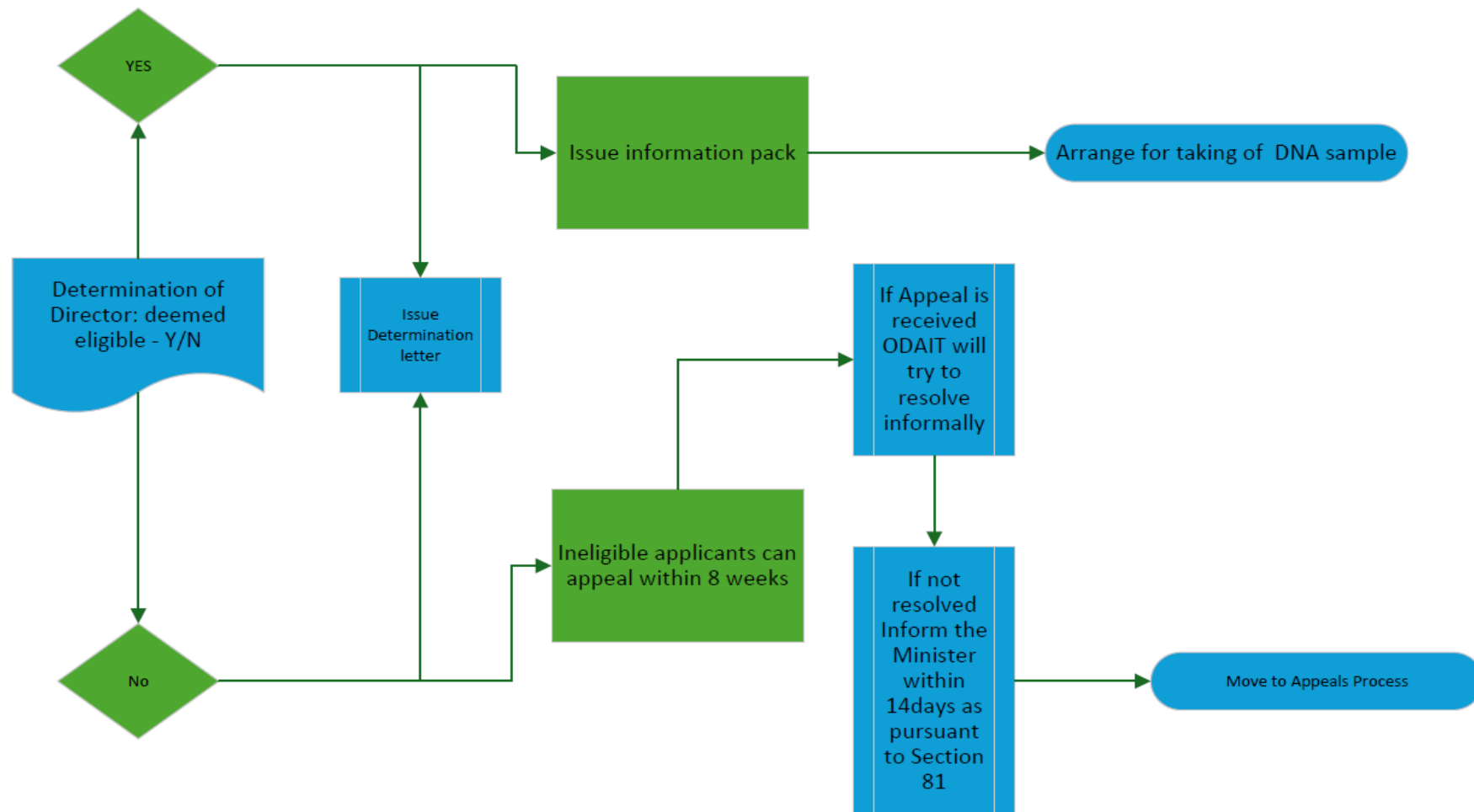
Determination Process

Under section 48(4) of the Act, the Director is obliged to notify an applicant of the ID Programme, of their determination as to whether they can provide a DNA sample. As previously stated, this determination considers:

- Whether an applicant meets the criteria of an eligible family member
- The information provided to ODAIT to establish a familial link
- Letters of objection/ non objection, where applicable

The Director will issue, in writing, a determination letter explaining the reasons for the final determination. Those who are determined to be eligible to participate, will be provided with an information pack regarding further information on participation in the ID Programme and will be contacted to arrange for a DNA sample to be taken. Those who are determined to be ineligible to participate may, if they wish, appeal this determination under section 81 of the Act.

ID Programme Determination Process



Appeals Process

Who Can Appeal?

In circumstances where an applicant has been determined ineligible to participate in the ID Programme, the applicant has the right to appeal under section 81 of the Act.

Time Limit for Appeals:

- The appeal must be made, in writing, to the Director, within 8 weeks of receiving the decision
- The appeal must explain the reasons for challenging the decision and specify whether they want an oral hearing (a chance to speak in person)

Appeal forms are available upon request to info@dait.ie

What happens next?

The Director will inform the Minister about the appeal within 14 days unless otherwise resolved or withdrawn by the applicant. Within 4 weeks, the Minister will:

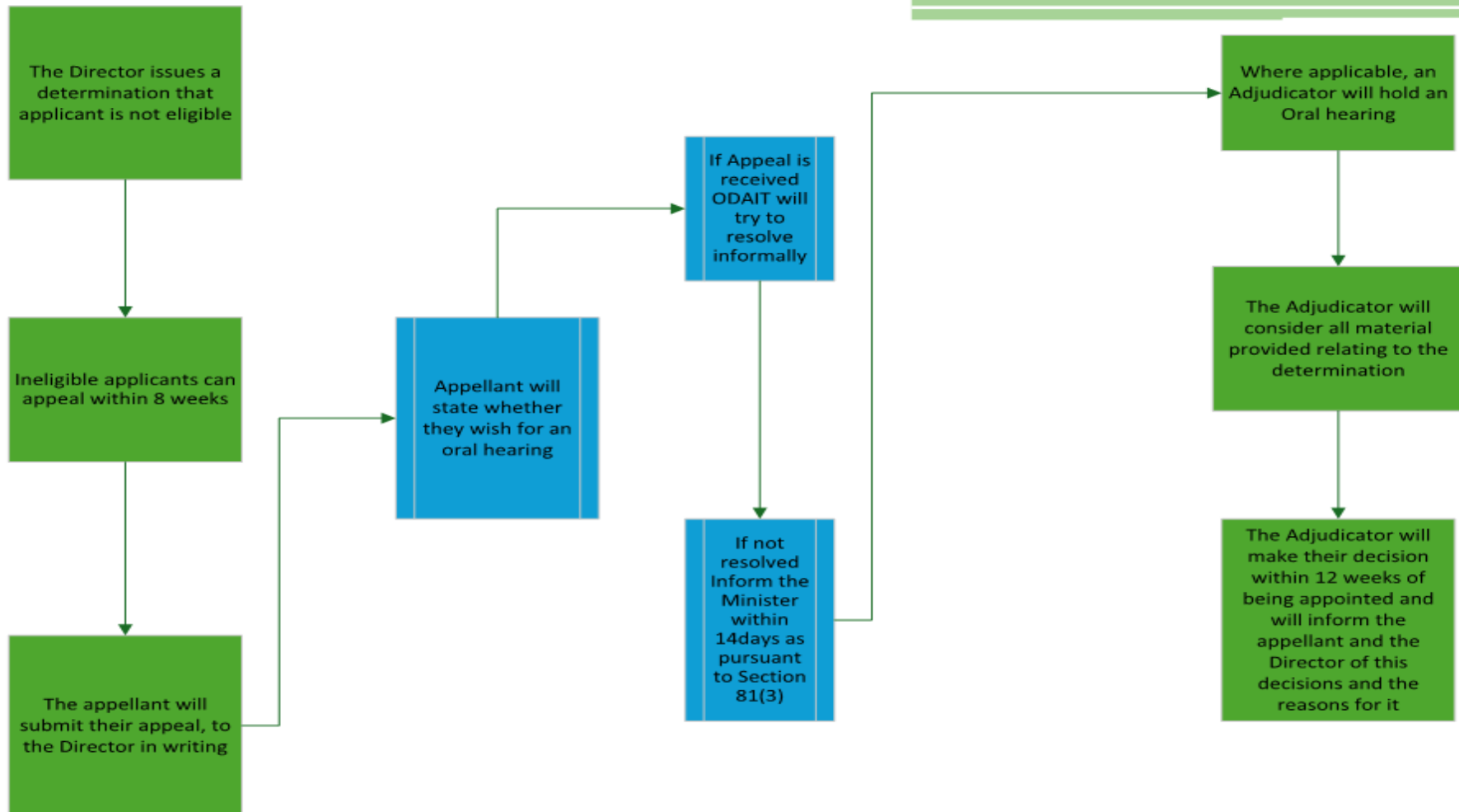
- Appoint an independent expert (adjudicator) to review the appeal
- Request the Director provides all relevant documents to the adjudicator for review and preparation

If the appellant (person appealing) requests an oral hearing, the adjudicator will hold one. The adjudicator reviews all evidence provided (documents, oral evidence submitted, or other submissions).

The adjudicator will either agree with the original determination made by the Director or overturn the determination and make a new ruling. The adjudicator will make a decision within 12 weeks of being appointed. The adjudicator will inform the appellant and ODAIT, explaining the reasons for the decision.

If the Appeal is successful, the adjudicator will overturn the original decision, determining that the appellant can take part in the ID Programme. The Director will then notify the appellant in writing as soon as possible and include them in the register of notifications to proceed their application to the ID Programme.

ID Programme Appeals Process



Chapter 3- DNA Samples

What is DNA?

Deoxyribonucleic acid (DNA) is a molecule found in almost every cell of the human body. It acts as our genetic code, containing all the instructions necessary for life. DNA can be used for identification purposes, as well as to indicate biological relationships. DNA is passed down from one generation to the next in a unique combination, which means that each individual has a different genetic code (except for identical twins, who share the same genetic code). For more information, please visit our website www.odait.ie.

What is a DNA profile?

A DNA profile is generated from a DNA sample to reveal distinct genetic characteristics of an individual. A person's DNA profile can be used to distinguish them from others, either by individualising them or linking them to family lines.

Who/What is Forensic Science Ireland?

Forensic Science Ireland (FSI) is an associated office of the Department of Justice and Equality and was established in 1975. FSI has been appointed under the Act as the organisation who will establish a DNA (Historic Remains) database and a related database for personal information of relatives of persons believed to be buried at the site of the former Mother and Baby Institution, Tuam, Co. Galway. Under the Institutional Burials Act 2022, Forensic Science Ireland (FSI) will perform the DNA testing and matching for ODAIT.

Taking of DNA sample

Under the ID Programme, officials from ODAIT, who have been trained in the collection of DNA samples, will take a DNA sample from the participant. The DNA sample is collected by rubbing a swab gently against the inside surface of the cheek. This process is simple, quick and painless. **Two** samples are required to ensure enough DNA is collected to generate a DNA profile. The participant will be asked to provide one swab and also to place some saliva on a sampling card. Participants can either take the DNA samples themselves or an ODAIT official can assist as this will take place in person.

Information collection and storing

Personal Information

ODAIT will collect and store the applicant's personal information, such as name, address, contact details and related documentation. The personal information collected is required by ODAIT to participate in the ID Programme. The personal information will be used to verify identity, document biological relationships and to contact applicants.

Genetic Information (DNA Sample)

ODAIT and FSI will collect and store the DNA sample. The swab and sample card are the DNA samples, these will be stored by FSI and retained for a period as set out below in the section: *How long will my information be kept for?* This genetic information will be collected and retained for the purpose of DNA profiling.

In the unfortunate circumstances that an applicant becomes incapacitated or dies the DNA profiles generated from the samples will continue to be used in the ID Programme. Applicants will be offered the opportunity to provide nominees for ODAIT to contact in these circumstances.

How will information be kept?

ODAIT and FSI will securely store the personal and genetic information. Only authorised personnel will have access to the secure premises, computers and systems that store the personal and genetic information. Please refer to the ODAIT's Privacy Statement for further information: <https://odait.ie/website-privacy-statement/>

How long will the information be kept for?

ODAIT and FSI will keep the personal and genetic information until an applicant withdraws their consent in writing, a familial link has been established or the ID Programme ends (either because it was completed or the Director decided it should cease).

Following any of the above, we will destroy the DNA samples, delete the DNA profiles and delete the related information in accordance with the Act:

- If an applicant withdraws consent, deletion will occur as soon as practicable after receipt of the notice
- If a familial link is established:
 - The DNA samples will be destroyed not later than three months after an applicant or their nominee has been notified
 - The DNA profiles will be deleted not later than three months after the ID Programme ends
 - The personal information will be deleted as soon as practicable after the ID Programme ends
- If the ID Programme ends:
 - The DNA samples will be destroyed and the DNA profiles will be deleted not later than three months after the ID Programme is completed or the Director has made the decision to cease the ID Programme
 - The related information will be deleted as soon as practicable after the ID Programme ends

All applicants have the right to access the personal information ODAIT hold about them pursuant to Article 15 of the General Data Protection Regulations (GDPR). To do so, applicants can contact info@dait.ie to notify us in writing. It is important to note that the DNA samples and DNA profiles will not be returned to applicants. DNA profiles and any unrelated genetic information derived from these DNA samples (such as biological

relationships with other participating family members, ancestral origin or hair/eye colour) will not be disclosed. Additionally, FSI will not test DNA samples for medical or health information

If any of the personal information ODAIT hold about applicants is inaccurate, incomplete, out-of-date, irrelevant or misleading, they can contact us at info@dait.ie to notify us in writing. Upon receiving the request, we will take reasonable steps to promptly correct or update any personal, sensitive or genetic information we hold.

Consent

Applicants will be asked to sign a consent form, consenting to officials from ODAIT taking DNA samples as well as consenting to FSI generating a DNA profile from the DNA samples to use in the ID Programme. The consent form must be completed before the sample is taken, ODAIT will support applicants through this process, in person.

Withdraw consent from the ID Programme

Applicants have the right to withdraw consent at any time. To do so, please contact us at info@dait.ie to notify us in writing. Upon receiving the request, ODAIT will take reasonable steps to promptly and securely destroy the DNA samples, delete the DNA profile and delete the related information in accordance with the Act. It is important to note that if an applicant withdraws consent before the ID Programme is complete, ODAIT will be unable to continue to use the DNA sample to identify the family member believed to be buried at the site of the former Mother and Baby Institution in Tuam.

How will a familial link be established?

FSI scientists will compare participants DNA profile with DNA profiles from human remains recovered from the site of the former Mother and Baby Institution, Tuam, Co. Galway. If there is strong evidential support indicating that there is a likely familial link between these DNA profiles, a DNA report will be prepared by FSI and provided to ODAIT. A multi-disciplinary team will evaluate all available evidence. The DNA comparison results are just one form of evidence that will be considered.

Challenges

While the legislation provides the legal basis to undertake the ID Programme, its success will depend on a number of factors, most notably the quality of the DNA that can be generated from the recovered human remains, as well as the number of living relatives that take part. In the context of Tuam, reassociating the remains into single individuals may present additional challenges. Testing of remains to extract DNA risks destruction of those remains.



Chapter 4 – Data Protection

Introduction

The operation of the ID Programme will result in the processing of the personal data, including special categories of personal data, of applicants. The ID Programme facilitates this processing of personal data, including special categories of personal data, in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

Data protection is the means by which the privacy rights of individuals (known as “data subjects”) are safeguarded in relation to the processing of their personal data. ODAIT is committed to protecting the rights and freedoms of data subjects, and safely and securely processing their data in accordance with legal obligations, including compliance with the GDPR. ODAIT place a high importance on the correct, lawful and fair handling of all personal data, respecting the legal rights, privacy and trust of all individuals with whom we deal or interact with.

Data protection principles, policies, and procedures must be adhered to in order to ensure the effective and secure processing of all data in the administration of the ID Programme.

General Principles and Powers

Why do we process your personal data? ODAIT Privacy Notice and ODAIT Privacy Statement, detail the processing of personal data across the functions of ODAIT. For the purposes of the ID Programme, ODAIT is the data controller in relation to personal data processed under the scheme’s remit. The ODAIT ID team in conjunction with FSI are processors, and a joint controller of the information gathered. The ODAIT ID team will process personal data for the purposes of dealing with applications to the ID Programme.

The legal basis for ODAIT to process personal data is to ensure compliance with our legal obligations under the Institutional Burials Act 2022. Chapter 2 of the Act and section 80 Regulations provides that the ID Programme may request information in respect of an applicant such as public records, institutional records, medical records or baptismal records. Chapter 5 of the Act sets out how an eligible family members DNA sample will be processed by FSI to create a DNA profile.

Guiding Principles

As with all data processing arrangements, there are seven key principles related to the processing of personal data, established under Article 5 of the GDPR, which the ID Programme will comply with when collecting and otherwise processing personal data. They are as follows:

1. Lawfulness, fairness, and transparency;
2. Purpose limitation;
3. Data minimisation;

4. Accuracy;
5. Storage limitation;
6. Integrity and confidentiality;
7. Accountability.

Nature of Data Processing

Personal Data

ODAIT process information about an applicant for the specific purpose of participating in the ID Programme. These purposes may include:

- Response to correspondence either directly from the applicant, or from nominated person(s) approved by applicant to act on their behalf in relation to the ID Programme;
- If an applicant notifies ODAIT of a change in their details or circumstances including for the purposes of reasonable accommodation;
- Where ODAIT receive information provided voluntarily from an applicant and which had been requested to be retained for future processing;
- Where ODAIT receive information from information sources as defined in section 27(5) of the Act relating to specific purposes set out in the Act;
- Where ODAIT engage in any consultative processes;
- The storage of personal data (including legacy data), depending on ODAITs retention and archive requirements;
- In context of an appeal or a review;
- Where ODAIT are the subject of a legal case involving ODAIT.

Any additional data processing that may be considered in the future implementation and operation of the ID Programme, will be examined in light of these relevant purposes and in compliance with GDPR, in particular with respect to the seven key principles related to the processing of personal data, established under Article 5 of the GDPR listed above.

Accountability

Data Sharing Arrangements

ODAIT may share an applicant's data with a range of organisations, but only where legally permissible.

In general, the types of organisations that ODAIT may be required to share the information with are as follows:

- Forensic Science Ireland (FSI);
- Timeline Research Ltd;
- National Archives of Ireland;
- General Register Office;
- Tusla;
- Forensic Contractors;

- Nominated contact person if appropriate consent has been given;
- Government Departments, including Department of Children, Disability and Equality (DCDE) or other public authorities in relation to contractors and/or ODAIT staff.

Privacy Statement and Data Transparency

Under the GDPR principle of transparency, data subjects must be informed about the nature of the processing of their personal data at the point their data is collected.

A Privacy Statement (also known as a Fair Processing Notice) will be presented to applicants when they apply to the ID Programme. The Privacy Statement informs the applicant what data is being processed, for what purpose it is being processed, with whom it is shared, and for how long it will be retained.

In all cases, Privacy Statements will direct data subjects to the Data Protection policies of ODAIT.

Subject Access Request

Under GDPR, a data subject has the right to obtain, from the data controller, a copy of their personal data without being charged a fee. The request may be in writing (by any media, e.g. email, letter etc.) or made verbally. The data controller, ODAIT, must respond to the request in full within one month of receipt of same. Where ODAIT receive complex requests, or where a large number of requests are received, ODAIT have the right to extend their time to respond to the data subject by a further two months, however, the data subject must be informed of same. Reasons for failure to do so must be recorded. The ODAIT ID team, as data processors under the scheme, will promptly notify the DPO in the event they receive a Subject Access Request. ODAIT will need to confirm the identity of the data subject first, as we cannot give data to others.

The ODAIT ID Team will respond, without undue delay, to any request in relation to a Subject Access Request. Further information can be found in ODAITs Data Subject Rights Policy and our Data Privacy Notice on our website. You can make a request by contacting ODAIT's Data Protection Officer: e-mail: dpo@dait.ie or by post: Data Protection Officer, The Office of the Director of Authorised Intervention Tuam, Custom House, Flood Street, Galway, H91XV2C.

Data Retention

GDPR requires that data should be held in a form which allows identification of the individual for the shortest time possible and should then be anonymized or erased. Data protection best practice requires that organisations should not store personal data for longer than is required. ODAIT is responsible for the personal data that it collects, including that which does not need to be retained indefinitely.

ODAIT currently retain records in accordance with the requirement of the National Archives Act 1986. Records may include personal data that has been processed by

ODAIT or on its behalf. ODAIT will engage with the National Archives to determine best practice retention periods across all relevant classes of records, and ODAITs retention policy and retention schedule will be updated to reflect any approved retention changes.

Data Breaches

A data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

Data breaches can include, but are not limited to, the following:

- Loss of personal data, for example by misplacing paper files, laptops, unencrypted USB keys etc;
- Transmission of personal data to an unintended data subject, for example by posting or emailing personal data to an incorrect recipient;
- A server failure, resulting in the irreparable loss of data;
- Access to personal data by an unauthorised person;
- Malicious external access, e.g. hacking;

All breaches will be managed in accordance with the Data Protection Policy. ODAIT as a data controller is required to notify a breach to the Data Protection Commission within 72 hours of becoming aware of the breach (where the breach is categorised as having a certain risk rating). ODAIT's ID team are required to notify the DPO of a breach "without undue delay" and in all instances.

Data subjects will be notified in the event of a breach if there is a high risk to their rights and freedoms.

"Near misses" in relation to data breaches will be logged by completing an internal Data Breach Reporting form followed by an investigation by the DPO. ODAIT, the DPO and the ODAIT ID Team will demonstrate a culture of compliance with GDPR along with regular reviews of processes and procedures demonstrating a strong commitment to continuous process improvement.

ODAIT have the following policies in place to help mitigate the potential of a data breach:

- Data Management Policy (which includes policies around Passwords, and Roles and Access)
- Premises Security and Confidentiality Policy (including Clean Desk Policy)
- Staff Internet Conduct & Access Policy
- Regular Staff training

Overseas Transfer of Data

The personal data of data subjects participating in the ID Programme will not be processed outside of the EEA.

Data Protection Officer

ODAIT have appointed a Data Protection Officer (DPO). The contact details for the DPO are available in ODAIT's Data Subject Rights Policy.

Further information and guidance in relation to data protection can be sought by consulting with the ODAITS's DPO, and the office of the Data Protection Commissioner.

Chapter 5- Additional Information

Cost of participating in the ID Programme

There is no cost to you to participate in the ID Programme.

Public Awareness Campaign

As per section 42(1)(2) the Director will take measures, including public information campaigns, to inform the public particularly those connected to the former Mother and Baby Institution, Tuam, Co. Galway, about the ID Programme.

Key information to be communicated:

The ID Programme's purpose and the fact that it is being undertaken. Focus will be on the rights of eligible family members, including:

- Expressing interest in participating
- Objecting to another family member's participation
- Families option to indicate their preference for receiving identified remains and making final dignified arrangements
- The option for eligible family members to provide a letter of non-objection from others who could object
- The right of a spouse or civil partner of a deceased person (reasonably believed to be buried in Tuam Mother and Baby Institution) to express interest in receiving remains and making final arrangements
- The process for submitting notifications and the required evidence to prove eligibility in order to receive a decision from ODAIT

Support Services

What support is available?

The following support lines are best placed to provide solidarity, support, counselling and advocacy.

Counselling

HSE's National Counselling Service

Survivors and family members can phone and ask for Tuam Mother and Baby Institution Service

Gov.ie Counselling Supports

Information on overseas supports

Tusla- Counselling Queries

Phone: +353 818 44 55 00

Email BITCounselling@tusla.ie

Additional Services

Special Advocate – Patricia Carey**Phone: +353 1 511 7660****Email: info@specialadvocate.ie****Post: Special Advocate Office, First Floor, Holbrook House, Holles Street, Dublin 2, D02 EY84****Tusla – General Queries****Phone: +353 818 44 55 00****Email: birthinfo@tusla.ie****Adoption Authority of Ireland****Contact via webform****Phone: +353 1 2309 300****Birth Tracing****www.birthinfo.ie****Barnardos Birth History Service****barnardos.ie/birth-history-service/****Northern Ireland Truth Recovery Programme****Home – Truth Recovery Programme (truthrecoverystrategy.com)**

Can I get support from ODAIT?

ODAIT understand that survivors, families and those connected to the Tuam site continue to be impacted by their experiences. ODAIT's work is centred around survivors and family members and ODAIT recognise that these members play a crucial role in collecting critical information to assist in the restoration of dignity in death to those inappropriately buried at the site and, where possible, an identity to the deceased. Our work will be conducted in accordance with international standards and best practice and keeping with ODAIT's core values.

A **Family and Survivor Liaison** has been appointed by ODAIT and is available to offer practical and emotional support to family members and survivors. ODAIT's Family and Survivor Liaison will meet in-person with family members and survivors where they can share their experiences in a supportive and empathetic space. The role of liaison has been established to build relationships with the dispersed community of people in contact with our Office and is the main point of contact for family members and their advocates. Our Family and Survivor Liaison will explain processes, listen to concerns and will represent the views and opinions of the families and survivors to ODAIT.

How do I contact the Family and Survivor Liaison?

Please contact us directly at info@dait.ie.

Review of Operation of ID Programme

Under section 47 of the Act, ODAIT are obliged to review the ID Programme. The Director may review the programme (either on their own or at the request of the Minister) and, after consulting the Advisory Board, may halt certain parts of the ID Programme i.e. sampling, testing or DNA comparisons.

A number of factors will be considered and taken into account before any decision impacting the ID Programme is taken, there will also be consultation with Families and Survivors in advance of a decision being made public

Factors for consideration:

- DNA profile quality
- Potential impact of further testing on remains
- Number of participants
- Scientific limitations regarding genetic relationships

If halted, the Director will notify the relevant Minister, Families and Survivors and FSI promptly in writing. The legislation requires this decision and its reasoning to be published on a ODAIT's website within one week.