

Board of Management Oberstown Children Detention Campus

Governance Handbook

2021

Version 3

**Adopted by the Board of Management, in consultation with the Department of
Children, Equality, Disability, Integration and Youth, May 2019.**

Version 4

Adopted by the Board of Management, April 2021

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1.0 Introduction

Oberstown Children Detention Campus ('Oberstown') provides safe and secure care and education to young people under 18 years remanded or sentenced by the courts. Operating under the auspices of the Minister for Children, Equality, Disability, Integration and Youth, Oberstown is managed by a Director and governed by a Board of Management ("the Board") appointed under the Children Act 2001, as amended.

Drafted to take account of the legislative framework and the Code of Practice for the Governance of State Bodies, this Handbook sets out the respective functions, authority and responsibilities of the Minister for Children, the Board of Management and the Director, so as to provide clarity on the governance and management of the Campus.

The Handbook is provided to all members of the Board. It will be reviewed annually, each edition approved by the Board of Management and reissued to all members.

2.0 Oberstown – Status

Oberstown Children Detention Campus ('Oberstown') was formed on 1 June 2016 following the amalgamation of three on-site detention schools (s. 163A). The Campus is an entity established under Part 10 of the Children Act, 2001 as amended ['the Act'], currently certified by the Minister for Children, Equality, Disability, Integration and Youth to provide residential accommodation for 48 boys and six girls.

A Board of Management is appointed to Oberstown under Section 164 of the Act by the Minister of Children, Equality, Disability, Integration and Youth to manage Oberstown¹ in accordance with criteria set down by the Minister. The first Board of the amalgamated Campus was appointed with effect from 1 June 2016. The second Board was appointed, with varying terms of appointment, from July 2019.

3.0 Legislative, Regulatory and Policy Framework

3.1 Primary Legislation

The primary legislation relevant to the governance and management of Oberstown is the Children Act 2001 ("the Act"), as amended.

Other legislation relevant to the Campus includes:

- Children First Act 2015
- Criminal Justice (Forensic Evidence and DNA Database System) Act 2014
- Victims Act 2017
- Safety, Health and Welfare at Work Act 2005.

For the avoidance of doubt, the legislation takes primacy over the Code of Practice for the Governance of State Bodies.

¹ The 'school' in this section refers to the 'Campus' (in accordance with S.I. No. 273/2016 - Children Act 2001 (Amalgamation of Children Detention Schools) Order 2016) and should not be confused with the Campus school which operates under the management of Dublin Dun Laoghaire Education and Training Board.

3.2 Relevant Statutory Instruments

Statutory instruments provide for the commencement of relevant parts of the primary legislation and can be found in the Irish Statute Book (www.irishstatutebook.ie).

3.3 Rules for the Good Governance and Management of Oberstown

The Board may at any time with the consent of the Minister and whenever so required by the Minister, make rules for the management of the Campus and the maintenance of discipline and good order (s. 179(1)).

Rules may also set out the procedures and conditions applicable to:

- the grant of mobility trips (s. 204),
- the grant of temporary leave (s. 205), and
- Placing out under supervision in the community (s. 207) (s. 179(1)).

The Rules shall be consistent with the legislation and any regulations or criteria set out by the Minister for the management of the Campus (s. 179(2)).

A notice containing an abridged version of the rules shall be displayed in a conspicuous place in the Campus once approval has been received from the Department, and a child on admission shall be given a document which contains information relating to the rules and the daily routine in the school and written in language appropriate to children's age and understanding (s. 179(3)). The latter requirement is fulfilled by the Young Person's Handbook distributed to every young person on arrival and developed in consultation with the Campus Council.

The Rules were approved by the Board of Management on 22nd July 2020 with the consent of the Minister received on 25th June 2020. These now form part of the Children's Rights Policy Framework.

3.4 Policy Framework

Under the Act, it is a function of the Board of Oberstown to manage the Campus in accordance with '**criteria**' and '**policy**' set down by the Minister (s. 165).

There are currently no specific requirements as to whether policy in any particular area should emanate from the Minister or the Board.

Currently, the following DCEDIY or (former) Irish Youth Justice Service policies apply to Oberstown:

- DCYA, A National Policy on Single Separation use in Secure Accommodation for Children: Special Care and Oberstown, November 2016
- IYJS, CPI Behaviour Management Policy and Procedures for Children Detention Schools, December 2012;
- IYJS, Children Detention Schools Notifiable Incident Policy, April 2013. This is currently being reviewed. (June 2020).

In the performance of its functions, the Board of Management shall have:

*...“all such powers as are necessary or expedient for the exercise of their functions.”
(s 165(2))*

To ensure good governance, the Board of Management has responsibility to adopt a policy framework for the Campus. All Oberstown policies shall be approved by the Board of Management and shall set out the scope and purpose of the policy and provide guidance and parameters on the associated procedures which shall be developed and amended as required by the Director to ensure compliance with the policy as approved by the Board. The Children’s Rights Policy Framework – incorporating the Oberstown Rules and Policies – was approved by the Board of Management on 22nd July 2020, effective from 1 April 2021. Current policies were extended by the Board of Management on 16th December 2020 to confirm their application to 31 March 2021.

All Oberstown Policies shall be reviewed on a cyclical basis.

3.5 The Education of Young People in Oberstown

The education of young people in Oberstown is carried out in an Education Centre situated on the Oberstown Campus under the day to day direction of a School Principal and under the auspices of the Dublin and Dun Laoghaire Education and Training Board. A school committee, made up of representatives of the School, the Director (in loco parentis) and the ETB is in place. Regular communication takes place between the School Principal, the Director, the ETB Director of Schools, the Chair of the Oberstown Board of Management and Department representatives.

In accordance with section 159A of the Act:

“(3) An education and training board in whose functional area transferred premises are situated shall provide for the education of children in those premises.

(4) Without prejudice to the generality of subsection (3), each education and training board shall, in respect of any such premises—

(a) plan, coordinate and review the provision of education and services ancillary thereto,

(b) ensure that the education provided therein meets the requirements of education policy as determined from time to time by the Minister for Education.

(c) ensure that students have access to appropriate guidance to assist them in their educational and career choices,

(d) promote the moral, spiritual, social and personal development of the children concerned, and

(e) ensure that the needs of personnel involved in management functions and those in relation to staff development generally are identified and provided for.

(5) The functions of an Inspector within the meaning of the Education Act 1998

apply, with any necessary modifications, in relation to education facilities provided in respect of any transferred premises.”

4.0 Oberstown’s Strategic Objectives

4.1 Statutory Objectives

The principal objects of Oberstown are set down in Section 158 of the Children Act:

“158.—It shall be the principal object of children detention schools to provide appropriate educational, training and other programmes and facilities for children referred to them by a court and, by—

- (a) having regard to their health, safety, welfare and interests, including their physical, psychological and emotional wellbeing,*
- (b) providing proper care, guidance and supervision for them,*
- (c) preserving and developing satisfactory relationships between them and their families,*
- (d) exercising proper moral and disciplinary influences on them, and*
- (e) recognising the personal, cultural and linguistic identity of each of them, to promote their reintegration into society and prepare them to take their place in the community as persons who observe the law and are capable of making a positive and productive contribution to society.”*

4.2 Oberstown Strategic Plan 2017-2020

In response to the legislative requirements, building on the Irish Youth Justice Action Plan 2014-2018 and following consultation with stakeholders, the Oberstown Board of Management approved a Strategic Plan for the Campus in 2017, for the period up to 2020. A Strategic Plan 2021-2023 is being developed and in the interim the Strategic Plan 2017-2020 has been extended to June 2021.

The five key strategic objectives of that Plan are:

1. Providing the best possible care for young people;
2. Developing our people and our organisation;
3. Implementing the policies, procedures and standards consistent with the best model of detention for young people
4. Enhanced communications aligned to our values and mission;
5. Delivering robust governance at all levels and driving effective accountability.

4.3 Mission

Oberstown’s mission is to ensure that young people detained in Oberstown Children Detention Campus are supported to move away from offending behaviour to make a more positive contribution to society.

4.4 Vision

Oberstown provides safe, secure care and education to young people in our care and we will continue to develop our people, our processes and our capability to meet the best international standards in the delivery of this care.

4.5 Values

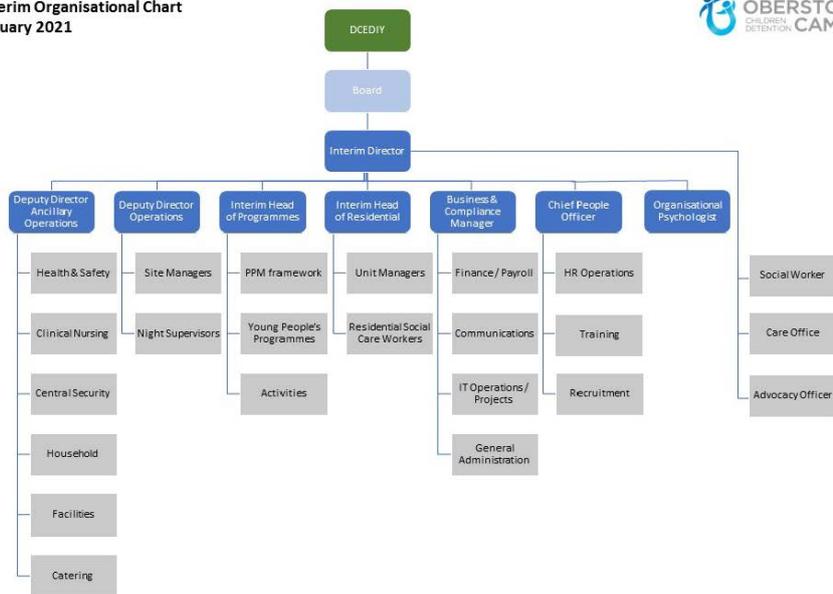
Oberstown understands that the core values of an organisation should meet the needs of all stakeholders, including young people, employees and the organisation generally in line with national law and policy.

Oberstown’s Values are:

- Respect
- Learning and reflection
- Working Together
- Honesty and Integrity
- Commitment to quality care and support.

5.0 Oberstown’s Organisational Structure

Interim Organisational Chart
January 2021



6.0 Minister for Children, Equality, Disability, Integration and Youth

Oberstown falls under the control and legal responsibility of the Minister for Children, Equality, Disability, Integration & Youth (“the Minister”) (s. 3).

6.1 Authority of the Minister

According to the Act, the Minister has the following authority with respect to Oberstown:

- To appoint the Board of Management of the Campus in line with the requirements of the Act (s. 164);
- To lay down criteria according to which the Board shall manage the Campus (s. 165(1));
- To specify any policy in relation to children on remand or in detention (s 165(1)(a));
- To make Regulations with regards to the matters specified in Section 221 of the Act;
- To give directions to the Board in relation to the management of the school, such directions shall not apply to any individual child. (s. 176);
- To assign such additional functions to the Board as the Minister considers to be “incidental to or consequential on the functions assigned to them under the Act (s. 166);
- To remove from office a member of the Board who “ in the opinion of the Minister, has become incapable through ill-health or effectively performing his or her functions or has committed stated misbehaviour or whose removal appears to the Minister to be necessary for the effective performance by the board of its functions” (s. 168(1));
- To appoint a person to be a member instead of a Board member who dies, resigns becomes disqualified or is removed from office” (s. 169(2));
- Advance to the Board moneys provided by the Oireachtas for the purposes of expenditure by the Board in the performance of its functions (s. 172);
- Lay a copy of the Board’s Annual Report before each House of the Oireachtas (s 174(4);
- Lay a copy of the annual accounts, together with the report of the Comptroller and Auditor General, before the Oireachtas as soon as may be (s 173(2)(c));
- To appoint authorised persons to conduct inspections at least once every 12 months (ss 185, 186);
- To commission an investigation where matters of concern to him/her arise from an inspection by an authorised person and where it would be desirable to investigate those matters (s. 186A).

In addition, the Minister may:

- suspend mobility trips for a child or a school where this would be in the interests of the child, or school or society generally (s. 205(5));
- suspend temporary leave of a specific child or for all children S.205(3)
- order the child’s release on compassionate grounds (s.209);
- delegate certain function to department officials (s. 220).
- authorise transfer of children reaching 18 years of age on foot of a request from the Director (s. 155).

6.2 Oversight Agreement

In line with the Code of Practice for the Governance of State Bodies, an Oversight Agreement between the Department of Children and Youth Affairs (now DCEDIY) and Oberstown was signed on 17th December 2019. In accordance with the Agreement, this was reviewed and a revised version approved and signed by the parties on 11th September 2020.

6.2 Performance Delivery Agreement

In line with the Code of Practice for the Governance of State Bodies, a Performance Delivery Agreement between the Department of Children and Youth Affairs (now DCEDIY) and Oberstown was approved and signed by the parties on 11th September 2020.

7.0 Board of Management

7.1 Appointment of the Board of Management

The Board of Management of Oberstown is appointed by the Minister (s. 164).

7.2 Structure, Membership and Period of Office of the Board

The Board, as appointed by the Minister, shall include:

- A chairperson;
- 12 members, including at least the following:
 - An officer of the Minister;
 - An employee of the Child and Family Agency, nominated by the relevant Minister;
 - An officer of the Minister for Education, nominated by that Minister;
 - Two members of staff;
 - Two representatives of persons living in the area (s. 167).

Five additional members may be appointed by the Minister following selection by the State Boards appointments process.

‘In appointing persons to be members of a board of management, the Minister shall have regard to the desirability of their having knowledge or experience of matters that come within the competence of such a board in the performance of its functions.’ (s. 167(3))

Members of the Board shall be appointed for a term not exceeding four years, eligible for reappointment (s 167(5)) and shall act on a part-time basis (s 167(6)).

7.3 Powers and Functions of the Board

The Board shall have “all such powers as are necessary or expedient for the exercise of their functions” (s. 165(2)) including any additional functions assigned by the Minister (s. 166).

The Board must comply with any directions issued by the Minister “in relation to their management of the school” (s 176(1)).

In line with the Code of Practice for the Governance of State Bodies, the Board should:

- share collective responsibility for leading and directing the activities of Oberstown Children Detention Campus. While the Board may delegate some of its functions to the Director, the exercise of the power of delegation does not absolve the Board from the duty to supervise the discharge of the delegated functions.
- support the development of the capacity of Oberstown Children Detention Campus including the capability of its leadership and staff.
- hold the Director to account for the effective performance of their responsibilities.
- ensure that the Minister is advised of significant matters arising in respect of Oberstown Children Detention Campus.

7.4 Decisions Reserved to the Board

Decision	Act
Appointment of the Director	180 (1)
Approval of the Strategic Plan for the Campus	165
Approval of Rules for the Campus	179 (1)
Approval of Oberstown Policies	165
Approval of the Annual Accounts	173 (2) (b)
Present the Annual Report to the Minister	174 (1)
Determine its own procedure	175 (3)
Approval of delegation by the Director of certain duties	180
Decide on grievances or complaints which are appealed to the Board or on which the Director cannot adjudicate	
Commission reviews on matters outside of the Director's remit	
Approve the Campus Risk Register and mandate any necessary actions	
Establish and approve Terms of Reference of Board Committees	
Approval of Contracts above €50,000	
Approval of terms of major contracts	

7.5 Meetings of the Board

The Board must hold as many meetings as necessary for the performance of its functions (s. 175(1)) and is entitled to determine its own procedure (s. 175(3)). The Board normally meets at least 11 times annually.

All members of the Board have a vote, and each question is to be determined by a majority of members present and voting. Where a vote results in a tie, the Chairperson or his or her nominee will have the deciding vote. (s.175)

The quorum for a meeting shall be six or such greater number as the Board may from time to time determine (s 175(2)(f)).

7.6 Role of the Chair of the Board

The Chair of the Board shall chair the meetings of the Board (section 175(2)(a)). If the Chair is not present, or the office is vacant, the members who are present shall choose one of their number to chair the meeting concerned (section 175(2)(b)).

In line with the Code of Practice for the Governance of State Bodies, the Chair should:

- Set the agenda for each Board meeting in consultation with the Director;
- Ensure adequate time available for discussion of all agenda items;
- Ensure that information for each Board meeting is clear, adequate and circulated in a timely manner;
- Ensure that adequate minutes are made of each Board meeting;
- Take responsibility for the conduct of meetings and ensure that meetings are conducted in a respectful, open, fair and transparent manner;
- Promote a culture of openness and debate;
- Act as the sole point of communication with staff and externally on behalf of the Board;
- Ensure effective communication with all stakeholders;
- Undertake formal correspondence on behalf of the Board with the Minister, as required;
- Ensure that an Annual Report is submitted to the Minister;
- Ensure that the Minister is kept apprised of significant Campus developments on behalf of the Board;
- Where the Chair is of the view that specific skills are required on the Board, advise the relevant Minister of this view for her/his consideration sufficiently in advance of a time when Board vacancies are due to arise.
- Take responsibility for the dissemination of this Governance Handbook;
- Notify each new member of their confidentiality obligations and the requirement to attend 100% of meetings;
- Chair the appointment board in the event of a vacancy in the post of Director;
- Ensure that there is a signed contract of employment in place between the Board of Management and the Director and sign the contract on behalf of the Board;
- Where necessary, obtain independent professional advice in consultation with Board members as appropriate and in line with Procurement and other requirements;
- Lead on succession planning for the role of Director.

7.7 Role, Duties and Responsibilities of Individual Board Members

In accordance with the Code of Practice for the Governance of State Bodies, members of the Board of Management shall carry out their functions with integrity, independence, confidentiality, honesty, good faith and proper purpose and act at all times in the best interests of Oberstown, its young people and staff.

In particular, Board Members should:

- (a) act honestly, responsibly and fairly with the due care, skill, diligence, loyalty, and the prudence of a reasonable individual;

- (b) treat each other, and Oberstown staff and young people with professionalism, courtesy and respect;
- (c) not improperly influence other members;
- (d) not use Oberstown property, information or opportunities for their own or anyone else's benefit;
- (e) not act as spokespersons for the Board in any form, unless specifically requested by the Board to do so;
- (f) participate actively and work co-operatively with fellow members in discharging their responsibilities as members;
- (g) develop and maintain a clear understanding of the functions of the Board;
- (h) familiarise themselves with the contents of the Children Act, 2001 as amended and act at all times in accordance with the law;
- (i) familiarise themselves with the contents of key documents;
- (j) prepare for meetings by reading and considering all papers circulated with the agenda, provided to them ordinarily at least one week before each meeting.
- (k) at all times act, as a member, in the best interests of Oberstown, and shall not act as a representative of any special interest.

7.8 Attendance at Meetings of the Board

Board members are expected to attend all meetings in accordance with section 3.9 of the Code of Practice for the Governance of State Bodies. According to the Code of Practice, 'the Board should clarify an expectation of 100% attendance at all Board meetings and as part of the assignment of a new Board member evaluate attendance when the member is due to be re-appointed.'

Attendance at Board meetings may include dial-in for specific meetings where physical attendance is not possible. Provision is made under SI 553 of 2020 that meetings of the Oberstown Board of Management may be conducted by remote means.

Inability to attend should be notified in advance to the Board Secretary. Attendance will be reviewed quarterly by the Chair.

Attendance at Board and Board committee meetings will be included in the Annual Report to the Minister.

7.9 Confidentiality

Board Members are required to maintain confidentiality in relation to any personal information acquired as a Board Member (s 178). Confidentiality does not apply to the supply of information to the Minister or the Comptroller and Auditor General.

Generally, and in line with the Code of Practice for the Governance of State Bodies, Board members should:

- (a) ensure that appropriate care is taken to guarantee the security of sensitive documents, whether in paper or electronic form; respect the confidentiality of information received in the performance of their duties, as well as the confidentiality of the deliberations of the Board;

- (b) ensure that confidential records are subject to appropriate access procedures;
- (c) observe any restrictions agreed by the Board on the use or dissemination of information (subject to Freedom of Information Act or Data Protection Act requirements); and
- (d) respect the privacy of individuals.
- (e) All necessary precautions are undertaken to ensure confidentiality is maintained during virtual meetings. Use of the chat function is strictly limited to non-confidential information.

7.10 Conflict of Interest

In line with the Code of Practice for the Governance of State Bodies, if a Board member knows that she/he has a personal, professional, or financial interest in relation to the decision being made by the Board s/he should declare any such interest to the Chairperson.

A Board member in that position should withdraw from any decision making in relation to that matter and absent her/himself from any related meeting and the confirmation of the minutes on that matter.

A Board member shall notify the Chairperson of any concerns in relation to a potential or real conflict of interest arising for the Board Member or in relation to any other Board Member.

Board Members shall review the Board papers in advance of each meeting and draw any potential conflict of interest to the attention of the Chairperson in advance of that meeting.

Provisions of this handbook in relation to Conflict of Interest which apply to the Board shall apply equally to each of the Board's Committees.

7.11 Register of Interests

The Board shall maintain a Register of Interests in line with the Code of Practice for the Governance of State Bodies. Members of the Board shall at the commencement of their term or at any other time at the request of the Chairperson provide information on their interests for inclusion on a Register of Interests.

The format and guidelines for the provision and recording of this information shall be provided to the Board by the Board Secretary, administered by the Governance Committee

7.12 Removal, resignation and replacement of Board members

A member of the Board may at any time resign by letter addressed to the Minister, and the resignation shall take effect as and from the date on which the Minister receives the letter (s. 168(2)).

Where a Board member is appointed or nominated to either House of the Oireachtas or the European Parliament he/she will cease to be a member of the Board (s. 177(1)).

The Minister may remove or replace a Board member in circumstances set out in the Act (see above).

7.13 Duties on Retirement or Resignation

In line with the Code of Practice for the Conduct of State Bodies, on retirement or resignation a Board member shall:

1. Return all Oberstown Board papers received as a Member of the Board;
2. Delete all electronic files received from or downloaded from Oberstown;
3. Sign to confirm that no information received or acquired as a Board Member in Oberstown will be divulged to any party post retirement or resignation. This commitment shall remain in force indefinitely.

7.14 Remuneration and Expenses

The Chairperson and any other member of a Board of Management shall be paid, out of funds at the disposal of the Board, such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Finance, may from time to time determine (s 171).

In terms of public sector employees, the one-person one-salary rule applies.

Any standard out of pocket expenses incurred by Board members and, by extension by members of the Board's committees, shall be paid in accordance with the Oberstown expenses policy, which shall accord with national policy in that regard as specified by the Department of Public Expenditure and Reform.

7.15 Board Committees

The Board of Management may appoint such committees as the Board considers necessary to assist it in the performance of its functions. Such committees may be standing Committees or established on an *ad hoc* basis as necessary.

The formation, terms of reference and membership of a standing Committee shall be approved by the Board. This shall include a Statement of Purpose, and requirements regarding Membership and Meetings, Frequency of Meetings, Notice of Meetings, Quorum, Attendance at Meetings and Minutes of Meetings.

Provisions of this handbook in relation to Conflict of Interest and Declaration of Interest which apply to the Board, shall apply equally to each of the Board Committees.

Current Board Committees

Committee	Established	TOR Last Approved	Review Date	Status
Audit and Risk	17/10/2019	11/12/2019	21/03/21	Standing

Governance	17/10/2019	16/12/2020	16/12/21	Standing
Young People	14/10/2020	18/11/2020	18/11/21	Standing
Transition and Succession Committee	14/10/2020	N/A		Ad Hoc
Strategy Committee	14/10/2020	16/12/2020	16/12/21	Standing
People and Culture Committee	16/12/2020	18/02/2021	18/02/2022	Standing

Committees of the Board may obtain independent professional advice if necessary. In advance of obtaining any such advice, the Chairperson of the relevant Committee shall obtain the authorisation of the Chairperson of the Board of Management in relation to any such proposal and to the remuneration involved. Compliance with procurement (administered by the Office of Government Procurement) and other procedures will be maintained.

7.16 Accounts and Finance

The Board of Management is required to keep accounts subject to ministerial direction (s. 173) in line with the requirements of the 2001 Act.

“173.—(1) Each board of management shall—

keep such special accounts as the Minister may from time to time direct, and...

(2) (a) Accounts kept in pursuance of this section shall be submitted by each board of management to the Comptroller and Auditor General not later than 3 months after the end of each accounting year.

(b) A copy of the income and expenditure account and of the balance sheet and of such other (if any) of its accounts as the Minister may direct, together with a copy of the report of the Comptroller and Auditor General on the accounts, shall be presented by each board to the Minister as soon as may be.

(c) The Minister shall cause copies of each of the documents aforesaid to be laid before each House of the Oireachtas.”

The Board of Management shall approve the audited accounts annually following review and recommendation for approval by the Audit and Risk Committee.

The accounts shall be prepared by the Finance Officer and submitted to the Director for approval in line with agreed requirements set down by the Department of Children, Equality, Disability, Integration and Youth. in consultation with the Comptroller and Auditor General.

The Director has responsibility to maintain proper records and accounts on a day-to-day basis.

Expenditure on capital projects for Oberstown is authorised and processed directly by the Children Detention Schools Unit within the Department of Children, Equality, Disability, Integration & Youth, in consultation with the Director of Oberstown and other bodies such as the Office of Public Works as appropriate. A budget is also allocated to Oberstown to fund other minor capital works. The Board currently has no role in the oversight of or approval of financial expenditure in relation to capital projects.

The Audit and Risk Committee shall recommend the annual audited accounts for approval by the Board.

7.17 Annual Report

The Board of Management is required to submit an annual report in the manner specified by the Minister (s. 174). This shall include information on the performance of its functions during the year to which it relates, information relating to the Campus and other such information as the Board considers appropriate or the Minister may direct (s 174(1)).

The approval of the Annual Report to the Minister rests with the Board. The Report should be submitted to the Minister on behalf of the Board by the Chairperson, in accordance with Section 174 (2). A draft of the report shall issue to the Department for consultation in advance of its finalisation.

7.18 Communication from/by the Board – Internal and External

Communications on behalf of the Board, both internal and external, should be conducted by the Chairperson. A Board report is circulated to staff by the Chairperson after each meeting.

Correspondence with the Minister and with other external bodies/agencies on behalf of the Board should be conducted by the Chairperson.

The Protocol for Civil Servants nominated to the boards of non-commercial State bodies shall apply, where in the view of such Board members a matter of serious concern has arisen regarding the State body. Particular note should be taken of Sections 2 and 3 of the Protocol which sets out the process to be followed in such an eventuality.

7.19 Appointment of staff

While the Minister is the employer of Oberstown staff, the recruitment, appointment and supervision of staff is a matter delegated to the Board of Management and through the Board to the Director [S.180(5)] with the exception of the appointment of the Director him/herself. Where explicitly provided for in legislation, the Board's responsibilities are exercised in consultation with the Minister.

7.20 Payroll Arrangements

The Board of Oberstown may make formal arrangements with the Department of Children, Equality, Disability, Integration and Youth or other external body to manage and process the payroll of Oberstown staff. Such arrangements do not affect the employment relationship.

7.21 Superannuation of Staff

This section requires the advice of DCEDIY regarding pension provision for staff.

7.22 Board Performance Review

The Board shall ensure continuous review of the internal structures so that there are clear lines of accountability for management and effective governance throughout the organisation. In addition to requiring the monitoring and disclosure of corporate governance practices on a regular basis, the Board shall undertake a self-assessment evaluation of its own performance and that of its committees at least once in its four -year term, ideally mid-way in that term. An external review shall be undertaken every three years in accordance with section 4.6c of the Code of Practice.

The Board Self-Assessment Questionnaire based on the Code of Practice for the Governance of State Bodies may be used for the Board’s self-assessment. This Questionnaire is available at:

<https://govacc.per.gov.ie/wp-content/uploads/Board-Self-assessment-Evaluation-Questionnaire.pdf>

7.23

Summary of the Board’s Powers, Functions and Responsibilities	Section of the Act
- Manage Oberstown in accordance with criteria laid down from time to time by the Minister and carry out any such policy in relation to children specified by the Minister	165 (1)(a)
- Co-operate and liaise with other bodies who are interested or engaged in assisting children who have been charged with offences or are at risk	165 (1) (b)
- Keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts (including an income and expenditure account and balance sheet) of the resources of the board and of all moneys received or expended by it	173 (1) (a)
- Keep such special accounts as the Minister may from time to time direct	173(1)(b)
- Submit Accounts to the Comptroller and Auditor General not later than 3 months after the end of each accounting year	173 (2) (a)

<ul style="list-style-type: none"> - Present to the Minister as soon as may be a copy of the income and expenditure account and of the balance sheet and of such other (if any) of its accounts as the Minister may direct, together with a copy of the report of the Comptroller and Auditor General on the accounts 	173 (2) (b)
<ul style="list-style-type: none"> - Submit to the Minister an annual report which shall include information on the performance of its functions during the year to which it relates, information relating to the children detention school under its management and such other information in such form as each board considers appropriate or as the Minister may direct. 	174 (1)
<ul style="list-style-type: none"> - Submit the annual report no later than six months after the end of the year to which it relates 	174(2)
<ul style="list-style-type: none"> - At the request of the Minister, supply the Minister with such information relating to the performance of its functions as the Minister may from time to time specify. 	174 (3)
<ul style="list-style-type: none"> - Hold such and so many meetings as may be necessary for the performance of its functions. 	175 (1)
<ul style="list-style-type: none"> - Board members to comply with section 178 of the Children Act 2001 (non-disclosure of information). 	178
<ul style="list-style-type: none"> - At any time with the consent of the Minister, and whenever so required by the Minister, make rules for the management of the centre under its management and the maintenance of good order generally therein, 	179 (1)
<ul style="list-style-type: none"> - From time to time, as occasion requires, appoint a person to be responsible for the immediate control and supervision of a children detention school and each person so appointed shall be known as the Director 	180 (1) 180(3)

<ul style="list-style-type: none"> - Notify the Minister of the name of the appointee to the position of Director within ten days of his/her appointment. - Designate the functions of a Director that may be performed, during his or her absence or when the post of Director is vacant 	<p>180(7)</p>
<ul style="list-style-type: none"> - Appoint such and so many persons to be members of the staff of the children detention school under its management as the board, with the consent of the Minister and the Minister for Finance, from time to time thinks proper - Determine terms and conditions (including terms and conditions relating to remuneration and superannuation) for a member of the staff of a children detention school to be employed on such as the board of management of the school, with the consent of the Minister and the Minister for Finance, may from time to time determine. - The class or classes of staff of a children detention school, and the number of staff in each class, and the grades in each such class, and the number of staff in each such grade, shall be determined by the board of management of the school with the consent of the Minister and the Minister for Finance. 	<p>181(1)</p> <p>181(2)</p> <p>181(3)</p>
<ul style="list-style-type: none"> - As soon as may be after its appointment, prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such of the staff (including the Director) of the children detention school under its management as it thinks fit. 	<p>184 (1)</p>

7.24 The Secretary to the Board of Management

The Code of Practice for the Governance of State Bodies sets out the requirements for the Secretary to the Board of Management.

Appointment of Secretary

The Secretary is appointed by the Board and it is the duty of the Chairperson to ensure that the Secretary has the necessary skills and support to discharge the duties of the position.

Duties:

The Secretary shall have such functions and duties as assigned or delegated by the Board. This will include:

Act as key support to the Chairperson;

Provide administrative support to the Board and all Board Committees;

Fulfil responsibilities with respect to the Board's duty of disclosure, duty to exercise due care, skill and diligence

Report to the Chairperson on all Board governance matters and assist the Chairperson to ensure relevant information is made available to the Board and its committees.

Advise the Board through the Chairperson on all governance matters and ensure that the Board has a list of all statutory obligations and regulations relevant to the Board.

Under the direction of the Chairperson, ensure good information flows within the Board and its committees and between the Board and management, as well as facilitating induction, mentoring and ongoing professional development as required.

Functions:*Strategic Objectives*

In addition, the Board secretary shall

- Promote and support the Board's compliance with Governance Procedures.
- Communicate with Board Members on behalf of the Chairperson.
- Act as the communication Link between the Board and the Director/ Executive.
- Promote the Board's compliance with law and regulations.
- Support the Induction of new Board members.
- Oversee the process of Board evaluation.
- Support efficient Board performance with clear work programmes.

Planning

The Secretary shall

- Plan the Board diary and that of its Committees twelve months in advance.
- Ensure the Board and Committees are properly constituted.
- Ensure that there is a quorum for meetings of the Board and its Committees.
- Ensure Terms of Reference for Committees are in place and reviewed annually.

Meetings:

- Support the preparation of the Agenda and papers for each meeting with the Chairperson.
- Ensure papers are available seven days in advance of the meeting.
- Confirm attendance of Board members to the Chairperson prior to each meeting.
- Take minutes of Board and Committee meetings and finalise these with the Chairperson.
- Circulate draft minutes to all members for review and comment.
- Ensure follow up actions are completed and provide updates on matters arising at each meeting.

3.10 Access to the secretary of the Board.

All Board members will have access to the advice and services of the Board Secretary, who is responsible to the Board for ensuring that Board procedures are complied with.

8.0 The Director

The Director is the person responsible for the immediate control and supervision of the Children Detention Campus (s. 180).

8.1 Appointment of a Director

The Director is appointed by the Board of Management (s 180(1)).

“180.—(1) A board of management shall, from time to time as occasion requires, appoint a person to be responsible for the immediate control and supervision of a children detention school, or more than one such school under its management, and each person so appointed shall be known as the Director of the school or schools concerned.”

8.2 Director’s Contract

The Board, with the consent of the Minister for Children, Equality, Disability, Integration and Youth and Minister for Finance, will determine the terms and conditions of the Director’s appointment (s.180 (2)).

The Chairperson of the Board should ensure that a signed contract is in place with the Director at the time of appointment, signed by the Chairperson and the Director.

8.3 Direction and Support of the Board

The Director is responsible for performing the functions assigned to him or her by the Board.

The Board has approved the functions reserved to the Director consisting of those matters set down in legislation and those delegated by the Board to the Director. They include:

- Requests for transfer to prison
- Employment contracts with employees
- Consent for medical treatment of young people
- Implementation of Rule 12 of the Children’s Rights Policy Framework
- Specific legal proceedings on behalf of the Campus which name the Director
- Termination of employment contracts on behalf of the Board
- Where agreed procedures have been established naming the Director

The following authority, exercised under sections 200 -211 of the Children Act 2001 as amended:

- Medical attention
- Discipline
- Permitted absences
- Mobility trips
- Temporary leave
- Supervision in the community
- Voluntary aftercare
- Unconditional release
- Early discharge
- Order for the production of a child

The Board is required to support the Director in the exercise of his/her statutory functions in accordance with the Board’s responsibility to ensure good governance.

8.4 Delegation and Deputising

With the consent of the Board, the Director may delegate functions to a member of staff (s.180 (6)).

***180 (6)** “Such functions of a Director as may be specified by him or her from time to time may, with the consent of the board, be performed by such member of the staff of the children detention school concerned as may be authorised in that behalf by the Director.”*

Where the Director is absent, or where the post is vacant, the Director’s functions may be performed by a staff member designated by the Board (s.180 (7)).

180(7) “The functions of a Director may be performed, during his or her absence or when the post of Director is vacant, by such member of the staff of the children detention school concerned as may from time to time be designated for that purpose by its board of management.” [Section 180 (7)]

8.5 Director’s Responsibilities

The Director of the Campus has a responsibility to provide leadership and management to the Campus.

He/she shall: (a) “have like control over the child as if he or she were the child’s parent or guardian, and (b) do what is reasonable (subject to the provisions of this Part) in all the circumstances of the case for the purpose of safeguarding or promoting the child’s education, health, development or welfare.” [S 180(8)].

The Director of the Campus is required to accept any child as ordered by the court, subject to a place being available and unless the order of the court is defective (s. 193).

Summary of Powers and Responsibilities of the Director under the Children Act	
<i>Provision</i>	<i>Section</i>
Obligation of Director to accept Children	193 & 155
Provisions as to religious observance	199
Provision of medical treatment	200
Discipline	201
Permitted absences	202 & 203
Granting of mobility trips	204
Criteria and Conditions for granting and altering Temporary Leave [Subject to Ministerial prerogative]	205 & 206
Supervision in the Community	207
Voluntary Aftercare	208
Unconditional Release – Report from the Director	209
Early Discharge	210
Order for the Production of a Child	211
Duty to notify changes of address to school	213
Lawful custody of detained children	214

The Director also has responsibilities under the

- Children First Act 2015
- Victims Act 2017
- Criminal Justice (Forensic Evidence and DNA Database System) Act 2014.
- National Vetting Bureau (Children and Vulnerable Persons) Act 2012
- Safety, Health and Welfare at Work Act 2005

8.6 Relationship with the Board

The Director is not a member of the Board that appointed him/her (s. 180(4)).

The Director is required *inter alia* to perform functions as assigned to him/her by the Board of Management (s 180(5)).

The Director is required to supply a report to each meeting of the Board of Management that shall reference agreed areas such as young people; staffing; security, any significant incidents involving children in detention including incidences and patterns of the use of restrictive practices; Mobilities, Permitted Absences and Temporary Leave; risks faced by the Campus; financial/budget considerations and any other information considered pertinent to enable the Board to carry out the execution of its statutory functions and in line with the Code of Practice for the Governance of State Bodies.

The Board should have visibility of the use of Director's powers; this is to be included in the Director's report.

The aforementioned report shall be submitted to the Board of Management in a timely fashion and in advance of the meeting.

8.7 General duties of the Director

The Director shall comply with the terms and conditions specified in his/her contract of employment. A mechanism shall be in place to enable the Board of Management to evaluate the performance of the Director of his/her functions.

The duties below are indicative but not exhaustive.

The Director shall ensure that:

- procedures are in place and operating effectively in line with best practice to safeguard the child's education, health and welfare, work on offending behaviour and preparation for leaving;
- the best interests of the child are protected and that the voice of the child is heard and taken into account in decisions made about him/her.
- the child has appropriate access to or input into any data/information held by Oberstown about him/her.
- there is adequate cover in his place when he/she is not on duty and/or absent from the campus for any reason.
- there are clear, written procedures and management frameworks in place to adequately manage staffing, financial resources, capital infrastructure health and safety and emergency planning.
- all children and staff are made aware of all rules, regulations and policies and procedures.
- agreed protocols are in place for working with relevant agencies and external bodies responsible for providing services to or dealing with young people.

In addition, the Director shall:

- Safeguard the safety and welfare of staff and visitors to the Campus;

- Lead delivery of the Campus Strategic Plan, ensure implementation of national law and policy and ensure observance with all relevant regulatory requirements, and
- Be accountable to the Board of Management for all aspects of the Campus operations ensuring that the Board is provided with all relevant information to enable effective oversight.

9.0 Risk Management

In accordance with the Code of Practice for the Governance of State Bodies, the Board shall ensure that risk management is implemented by the Director in accordance with a Risk Management Policy, approved by the Board.

Risk Registers shall be maintained by the Director and a Corporate Risk Register shall be maintained by the Board incorporating the most serious risks from the Management/Operational Risk Register and those risks considered Strategic by the Board.

The Board shall consider two strategic risks, identified by the Director, at each Board meeting.

The Corporate Risk Register shall be on the agenda for each Board meeting with particular consideration to a specific red risk[s]. The underlying Management/Operations Risk Register shall also be considered quarterly by the Board.

The Board shall commit to the establishment and regular review of a Risk Appetite Statement.

The Board of Management shall obtain external review and/advice on the effectiveness of the risk management framework on a periodic basis, as it deems appropriate.

10.0 Oversight, Monitoring and Inspection

10.1 Inspection of Oberstown

It is the responsibility of the Minister to appoint an independent person or persons to inspect Oberstown on an annual basis (s 185-186).

185.—(1) The Minister shall cause each children detention school to be inspected.

(2) An inspection shall be conducted by a person authorised in that behalf by the Minister.

(3) The person so authorised shall have expertise and experience in relation to the Inspection of children’s residential accommodation.

Such persons shall carry out inspections at least every 12 months, paying “particular attention to

(a) the conditions in which the children are detained and the facilities available to them,
(b) their health, safety and well-being,
(c) policies and practice concerning the preservation and development of relationships between them and their families,
(d) policies and practice concerning their discipline, care and protection, and
(e) policies and practice in relation to the normal routine of the school.” (Section 186(2))

In addition, the authorised person may hear complaints by children detained in Oberstown and for this or any other purpose:

“(a) may interview them and any member of the staff in the school concerned and
(b) shall have access to records, whether in legible or non-legible form, relating to the administration of the school and the children detained therein.”

Any interviews with children shall be with their consent and may, if they agree, take place in private. (section 186(3)).

In accordance with the foregoing statutory provisions, inspectors from the **Health and Information Quality Authority (HIQA)** have been authorised by the Minister to carry out inspections of Oberstown.

Action plans arising from those inspections are agreed between the Oberstown Director and HIQA on foot of this process.

These plans are approved and monitored by the Board of Management.

10.2 Investigation of matters arising in relation to children detention schools

Where matters of concern are raised in a report of a person authorised under s 186 or otherwise, the Minister may appoint a person to investigate those matters if it would be desirable to do so (s 186A). The powers of any inspector so appointed are set out in section 186A of the Act.

In addition, Section 192 states:

“192.—Any judge may visit any children detention school or any place provided under section 161 at any time.”

10.3 Other bodies with powers of Inspection or Investigation

The Ombudsman for Children's Office (OCO) promotes the rights and welfare of children and young people up to 18 years old living in Ireland. The OCO deals with complaints made by or on behalf of children, including those in Oberstown, in relation to the actions of public bodies under Section 8 of the Ombudsman for Children Act 2002.

At an international level, the Campus may be inspected by the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

Oberstown is also subject to regulation of a range of other statutory bodies including: the Workplace Relations Commission relating to compliance with employment legislation, Health Service Executive inspection of environment (catering areas and drinking water) by Environmental Health Officers; Health and Safety Authority regarding compliance with the Health and Safety Act 2005. The Fingal County Council inspects the Integrated Constructed Wetlands on Campus. Reports on the findings of this regulation and/or inspections are reported to the Board by the Director. The School on Campus is inspected by the Department of Education's inspectorate under Section 13 of the Education Act.