

Commission of Investigation into Mother and Baby Homes Final Report

Frequently Asked Questions

12th January 2021

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Section 1 Commission of Investigation into Mother and Baby Homes final report

1.1 Why was the Commission established and what did it investigate?

The Commission of Investigation into Mother and Baby Homes and certain related matters was established by the Irish Government in February 2015 to provide a full account of what happened to vulnerable women and children in these institutions during the period 1922 to 1998. Its terms of reference are set out in [S.I. No. 57 of 2015](#). The Commission was tasked with investigating the practices and procedures regarding the care and welfare of residents in these institutions and the entry arrangements and exit pathways for mothers and their children. All institutions which were identified as meeting the relevant criteria were included within the scope of the inquiry. The Commission also investigated a representative sample of those County Homes (4 were selected by the Commission) which provided mother and baby type services as a considerable focus of their operations.

1.2 Where can I access the reports of the Commission of Investigation on Mother and Baby Homes and certain related matters?

The Final Report is available on the Departments website at www.gov.ie/dcediy. The Commission's full suite of seven interim reports (including the Sixth Interim Report which has been published with the Final report) can also be accessed here. The Commission's reports provide an independent, comprehensive, and factual account of the institutions under investigation, and the experiences of those who resided there for a period.

1.3 How is the report structured?

The report is structured in five parts which broadly mirror the structure of the Commission's terms of reference:

- Part 1-Social History.
- Part 2-Individual Institutions.
- Part 3-Specific Issues.
- Part 4- Confidential Committee.
- Part 5- Archive.

The report comprises a total of almost 3,000 pages incorporated into 39 chapters - some with multiple parts. This is the full report as presented by the Commission on the 30th October 2020 to the Minister. No part of the report has been edited or redacted. The Commission also includes an extensive executive summary and a comprehensive index. Reviews of the circumstances of unmarried mothers in Scotland and the Netherlands are included as international comparators. Finally, the Commission makes a series of recommendations which are outlined below.

1.4 Does the Commission's report contain an index?

Yes, the Commission's report contains an index to facilitate searches.

1.5 What Individual Institutions does the Commission report on?

- The Commission reports on Dublin Union/Pelletstown/St Patrick's, Navan Road/Eglinton Road in Chapter 13.
- The Commission reports on the Belmont Flatlets in Chapter 14.
- The Commission reports on the Tuam Children's Home in Chapter 15.
- The Commission reports on the County Clare Nursery, Kilrush in Chapter 16.
- The Commission reports on the Sacred Heart mother and baby homes in Chapter 17.

- The Commission reports on Bessborough in Chapter 18.
- The Commission reports on Sean Ross in Chapter 19.
- The Commission reports on Castlepollard in Chapter 20.
- The Commission reports on Regina Coeli in Chapter 21.
- The Commission reports on Bethany Home in Chapter 22.
- The Commission reports on Denny House, formerly the Magdalen Asylum in Chapter 23.
- The Commission reports on Dunboyne (Árd Mhuire) in Chapter 24.
- The Commission reports on Miss Carr's in Chapter 25.
- The Commission reports on the Castle in Chapter 26.
- The Commission reports on St Gerard's in Chapter 27.
- The Commission reports on Cork County Home in Chapter 28.
- The Commission reports on Stranorlar county home in Chapter 29.
- The Commission reports on Thomastown county home in Chapter 30.

1.6 What Specific themes does the report focus on?

- The Commission report on Discrimination in Chapter 31.
- The Commission reports on Adoption in Chapter 32.
- The Commission reports on Deaths in Chapter 33.
- The Commission reports on Vaccine trials in Chapter 34.
- The Commission reports on Finance in Chapter 35.
- The Commission reports on Human Rights in Chapter 36.
- The Commission reports on The Netherlands and Scotland in Chapter 37.
- The Commission reports on burials in Chapter 38.

1.7 Does the Commission identify other mother and baby homes comparable to the ones it has examined?

The Commission's Terms of Reference require it to detail the types of institutional settings (e.g. mother and baby homes, county homes, private nursing homes, homes for infants or children) where single women and their children, or other children, were accommodated. The Commission was required to examine the interrelationships between these different types of institutions, their organisational arrangements and involvement with State authorities. The Commission describes the various types of institutions in Chapter 2 and addresses related issues in the relevant Chapter on each institution.

In relation to maternity homes, the Commission reports that there were a large number of private maternity homes in existence for most of the period. Some were very small and tended to be run by a nurse, sometimes in her own home. Some have been described as private mother and baby homes but the evidence available suggests that most were simply maternity homes and mothers and babies left soon after the birth. The Commission does not identify any additional institutions as being comparable to the 14 institutions specified in its terms of reference.

It is clear from the Final Report that the institutions examined, while collectively termed "Mother and Baby Homes", were not homogenous in terms of governance arrangements, administrative structures or operational practices. Furthermore, these characteristics were not fixed and evolved over the time period examined by the Commission.

1.8 Does the Commission examine infant mortality rates?

The Commission's report examines the matter of infant mortality rates in great detail and reports that the very high rate of infant mortality "*is probably the most disquieting feature of these institutions*". .

The Commission reports that a total of about 9,000 children died in the institutions under investigation - about 15% of all the children who were in the institutions. The death rate among 'illegitimate' children was always higher than that among 'legitimate' children but it was higher still in mother and baby homes: in the years 1945-46, the death rate among infants in Mother and Baby Homes was almost twice that of the national average for 'illegitimate' children. This was known to local and national authorities but the Commission says there is little evidence that politicians or the public were concerned about conditions in these homes or the appalling mortality rate among children born there.

1.9 What does the Commission say about burial arrangements for those who died while resident in these institutions?

The Commission's Fifth Interim report (the Burials report), which was finalised in March 2019, described all that the Commission then knew about the burials of children who died in the main mother and baby homes. Since then, a number of individuals and organisations have contacted the Commission with information and submissions about the issues raised. The Final Report includes an addendum to the Fifth Interim Report on the basis of this additional information and the Commission's further inquiries since March 2019. Notably, the Commission confirms that most of the information provided was already known to the Commission or is entirely anecdotal and impossible to prove.

1.10 How many mothers and children were in these institutions and is data on former residents provided in the report?

The Commission reports that there were about 56,000 unmarried mothers and about 57,000 children in the mother and baby homes and county homes that it investigated and estimates a further 25,000 unmarried mothers and a larger number of children in the county homes which were not investigated. The Commission's report includes a statistical breakdown for every institution it investigated. No personal information is included and individuals are not identified in the reported data.

1.11 Does the Commission identify the sources of information for its work?

Yes, in order to assist public understanding the Commission was required to provide an outline of the sources of information of most relevance to these issues. Part 5 of the Report is a detailed list of the sources used by the Commission to compile its report. In addition, each Chapter cites the relevant sources of information for the matters addressed in that section.

1.12 Does the report include the voice and testimony of former residents?

Yes, evidence provided by individuals is referenced throughout the report in particular the 190 page Confidential Committee Report which details the personal stories of former residents as told in their own words. The personal narratives provided by the 550 witnesses who met the Committee have allowed the Commission to ground its work in the reality of the lived experience of mothers and children. Most importantly, by having the opportunity to recount their experiences, former residents and their families can hopefully feel that they have been heard and their experiences are now documented for generations to come.

1.13 Does the Commission examine Vaccine trials on children?

Yes. The Commission identified a total of seven vaccine trials which took place in the institutions under investigation in the period 1934-1973 and has identified a number of the children involved. It is clear that there was not compliance with the relevant regulatory and ethical standards of the time as consent was not obtained from either the mothers of the children or their guardians and the necessary licences were not in place. The Commission has not found evidence of injury to the children involved as a result of the vaccines.

1.14 What does the Commission say about the experiences of unmarried mothers and their children during the period in question?

The Commission reports that the *“story of mother and baby homes in Ireland is complex and its nuances cannot easily be captured in a summary”*. The Commission recognises that there was great change during the 76 year period it examined with *“massive improvements in living conditions and changes in attitudes to religion and morals”*. Similarly, the institutions being examined *“changed considerably over the period”*.

The Commission outlines how Ireland was a cold harsh environment for many, probably the majority, of its residents during the earlier half of the period under its remit. It states that this was especially the case for women who suffered serious and systematic discrimination. Particularly harsh treatment was reserved for women who gave birth outside of marriage who frequently had no alternative to the institutional care regimes. The Commission believes that responsibility for that harsh treatment rests mainly with the fathers of their children and their own immediate families. It was supported by, contributed to, and condoned by, the institutions of the State and the Churches. The Commission asserts that *“it must be acknowledged that the institutions under investigation provided a refuge – a harsh refuge in some cases - when the families provided no refuge at all”*.

The Commission describes how the general improvements in the community and in the institutions came gradually. Alongside broader societal change in attitudes, significant changes included the introduction of free secondary education in 1960s, joining the EEC in 1973 and the introduction of the Unmarried Mother’s Allowance (as the first support available for unmarried mothers in the community). This significant theme of gradual improvements over time, in addition to the milestone developments which brought about more substantial changes, underpins the Commission’s analysis. Living conditions in Irish homes were generally poor before the 1960s. However, poor sanitary conditions in congregated settings had much more serious consequences in terms of disease outbreak and infection control. There was no evidence of major shortcomings in any of the homes or flatlets that were operating in the 1970s-1990s.

1.15 Does the Commission identify evidence of abuse in these institutions?

While conditions were regimented and institutional, there is no evidence of the sort of gross abuse that occurred in industrial schools. The Commission reports a small number of complaints of physical abuse of mothers but no evidence of sexual abuse in the institutions. Women generally did the sort of work that they would have done at home for example, cleaning their living quarters, doing their own laundry, cooking, carrying out farm work; in limited cases women did arduous or commercial work for which they should have been remunerated.

The Commission reports that many of the women did suffer emotional abuse and were often subject to denigration and derogatory remarks, particularly when they were giving birth. As first-time mothers, many of the women found childbirth to be a traumatic experience.

There is no evidence that women were forced to enter mother and baby homes by the church or State authorities. Women were brought by their parents or other family members and many simply had no alternative. The Commission finds that women were not *‘incarcerated’* in the strict meaning of the word but, in the earlier years at least, with some justification, they thought they were. The

Commission concludes that they were always free to leave if they took their child; some did leave before the child was born and some left without their child. It could be argued that those women who had to stay for two years or more because alternative arrangements had not been made for their children could be regarded as *'incarcerated'* in the same way as women in Magdalen laundries. However, the Commission notes that it can also be argued that women did have responsibilities towards their children and the only way in which they could fulfil those responsibilities was by remaining in the institutions.

The Commission heard some evidence of physical and emotional abuse of children in the homes which, while unacceptable in any form, did not compare in scale to the abuse documented in the Ryan Report. The Commission did not hear any evidence of sexual abuse of child residents. The most significant concerns arise from experiences of some children in their placements upon leaving these institutions.

1.16 What does the report say in relation to the Adoption of Children born in these institution?

Ireland was relatively late in introducing formal legal adoption in 1953. Prior to legal adoption, the word adoption was often used to describe informal and non-legally binding arrangements whereby families took responsibility for children. Once legal adoption came into effect, it became the most significant exit pathway for children from these homes. Politicians and others considered that adoption would give an 'illegitimate' child a better life. The rights of the mother were recognised but greater emphasis was placed on the needs of the adoptive parents.

The Commission received evidence from some mothers who stated that they signed forms consenting to adoption because they had no alternative, because of family circumstances and/or insufficient means to support a baby. Some women are of the opinion that their consent was not full, free and informed. However, with the exception of a small number of legal cases, there is no evidence that this was their view at the time of the adoption.

Records examined by the Commission show that 1,638 children who were resident in the mother and baby homes and county homes under investigation were placed for foreign adoption. The vast majority, 1,427 were placed for adoption in the United States of America. The Adoption Act 1952 did not regulate foreign adoptions. The only informal supervision related to the issuing of passports for the children to travel to the USA. Archbishop McQuaid and Fr Cecil Barrett were actively involved and did manage to have some standards and protocols applied. These rules were observed and exceptions were rarely made. Allegations have been made that large sums of money were given to the institutions and agencies in Ireland that arranged foreign adoptions. The Commission states that such allegations are impossible to prove and impossible to disprove. Similarly, donations were not illegal and could not be described as unethical unless the adoptive parents were trying to adopt another child.

For the most part, US adoption orders relating to these children were made by the Courts in the US state where the Irish-born child was adopted. The Commission examined a number of these orders and the supporting documentation and was impressed by the scrutiny taken by the US Courts to such applications. In many cases the Court appointed a guardian ad litem to represent the child's interests.

1.17 What does the Commission say about access to Birth Information?

The Commission notes that adopted people do not currently have a right to access their original birth certificate or information on their families of origin. It notes that there has been quite vitriolic criticism of the Child and Family Agency (Tusla) in this regard. Notably, the Commission states that this criticism is unfair and misplaced. The Commission states that Tusla is implementing the law and has no choice about doing so, noting that: *“The problem is not with Tusla; it is with the law. Any other agency providing information and tracing services would be in the same position.”* The Commission also reports that many adopted people think there is considerably more information about them in institutional and other records than is actually the case. The Commission’s recommendations in this area are detailed below.

1.18 What has the Commission recommended?

The Commission has made a number of recommendations as outlined in the table below:

	Personal Information (paragraphs 3- 8 of Recommendations)
1.	The Commission considers that there should be a right of access to original birth records and associated birth information. A person’s right to his or her identity should only be denied in very exceptional circumstances. Medical information and records compiled at the time of the adoption should also be available. A mechanism could be put in place to allow a birth mother to argue that her privacy rights are being eroded.
2.	The Commission considers that there should be a central repository of the records of institutions and adoption societies so that information can be obtained from one place. The Commission’s database could be expanded by adding further records to it.
	Information about burials (paragraphs 9- 12 of Recommendations)
3.	The Commission appreciates that the Government is trying to establish an agency to deal with the matter of the inappropriate burials at Tuam. With regard to information about burials of children who died in mother and baby homes, the Commission considers that a right to information of this nature should be confined to parents and siblings.
	Redress (paragraphs 13- 33)
4.	Redress can be financial or can be in the form of enhanced services. The Commission considers that services such as counselling and a form of enhanced medical cards should be made available to those former residents who need them. It also wishes to make clear that many, probably most, former residents are managing their lives very well and it should not be assumed they are in need of dedicated State support.
5.	A number of former residents have also expressed the view that an apology would be appropriate.
6.	The State does have an obligation not to discriminate between people in similar situations. If redress is being considered for former residents of mother and baby homes, the relevant comparable redress schemes are: (a) the Residential Institutions Redress Scheme (for the children) and (b) the Magdalen laundries scheme (for the mothers).

	<p>(a) With regard to the Residential Institutions Redress Scheme (RIRS), the administrative arrangements are still in place and could be used or a different but equivalent scheme could be drawn up. Everyone who received an award under this scheme was also eligible for funding from the Residential Institutions Statutory Fund (CARANUA). The criterion for inclusion in the scheme was whether a public body had a regulatory or inspection function in respect of the institution. All institutions investigated by the Commission meet this criterion. There may be other institutions not investigated by the Commission which were unfairly excluded from the scheme (eg. Westbank). The inclusion of institutions in the scheme was not based on knowledge of abuse so knowledge of abuse within the institutions ought not to be a criterion. The scheme applied to children under the age of 18. This means that young mothers in institutions under the Commission’s remit would be eligible.</p> <p>(b) With regard to the Magdalen laundries scheme, it provides for a general payment and a work payment; both are related to length of residence. The Commission considers that women who entered Mother and Baby Homes after 1973 do not have a case for financial redress. The Commission recommends that three groups be eligible for a redress scheme similar to the Magdalen scheme on the basis that they did carry out what might be termed ‘commercial work’:</p> <ul style="list-style-type: none"> • Women in county homes • Women in Tuam Mother and Baby Home • Women who worked outside the institutions without pay <p>Women who spent lengthy periods (for example, in excess of six months) in mother and baby homes before 1974 should also be considered for redress along the lines of the Magdalen basic payment related to time spent.</p>
	<p>Memorialisation (paragraph 36)</p>
7	<p>It is a matter for former residents as to what type of memorial they would like to see. Local authorities should be in a position to provide some funding for local memorialisation projects.</p>
8	<p>The question of an all- Ireland memorial should be a matter for the various groups involved who should be consulted before any funding is made available for such a project.</p>
9	<p>The Government should consider earmarking a specific fund for current disadvantaged children (for example, children in direct provision, or children with special needs) and naming it in honour of, say, the children who died in Tuam.</p>
	<p>Education (paragraphs 37 and 38)</p>
10	<p>The Commission’s short video on the experiences of women and children who spent time in the institutions forms part of the report being submitted. It is hoped the Minister will engage with his counterpart in D/Education to have it made available to second level schools (aimed at 14-16 year olds).</p>

11	A number of scholarships should be created for further research in memory of all the children who died, with preference given to children from disadvantaged households.
Boarded out children (paragraph 39)	
12	Some children who were boarded out inherited farms from their foster parents but they had to pay taxes for which birth and adopted children are not liable. The Commission considers that an ex-gratia payment could be made to compensate for this.
Archives (paragraphs 40- 53)	
13	The original files held by the D/ Health and D/CEDIY should be publicly available in the National Archives of Ireland (NAI) in accordance with the terms of the National Archives Act 1986. The Commission recommends that digital copies, together with a descriptive list, be made available within six months to readers in the NAI. Files should be made available as they are cleared, and the work should be completed within 12 months.
14	Files on boarded out children and files on women who contacted DLGPH seeking assistance should be used to create two databases, by name, one relating to the foster children and one relating to the women. They could be linked with the Commission's electronic database of individuals where possible. This information should be made available to the individuals or their immediate family under the normal FOI and data protection rules.
15	The Commission database could also be expanded by incorporating information collected by the Ryan Commission about the children in industrial schools, records held by the Department of Education about industrial schools and records held by the Adoption Authority of Ireland. This would provide a more comprehensive picture of the longer-term outcomes for children born in mother and baby homes.
16	Consideration should also be given to examining death registration records of the children who were born in mother and baby homes in the 1920s and 1930s and who subsequently lived in the community or in institutions with a view to establishing their age at death and causes of death. It would be necessary to check UK death registers.
17	The Commission recommends that local authorities should examine their archives, with a view to identifying all material that is relevant to the issues investigated by this Commission, and they should make these files available to the public, subject to the requirement to withhold or redact.
18	The Commission recommends legislation requiring the HSE and other State bodies (including, for example, the Child and Family Agency) to maintain records in broadly the same way as local authorities.
19	The Commission would encourage relevant religious orders to make more documentation publicly available.

20	The Commission recommends that DCEDIY appoint a qualified archivist to draft a guide to the records that are of interest to those who have either a personal or academic interest in the history of women and children in residential institutions.
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Section 2 Government Response to the Report

2.1 What is the Government doing in response to the findings of the Commission’s report?

Over the weeks and months ahead, the Government will give very careful and detailed consideration to the report. Clearly, this will be a hugely important process for all connected to these institutions. The Minister for Children, Equality, Disability, Integration and Youth is committed to a survivor-centred approach and will be working with colleagues and survivors to advance these matters as a priority. This will be done with a view to developing a comprehensive Government Action Plan spanning 8 themes, as follows:

- A survivor-centred approach
- Apology
- Access to Personal Information
- Archiving and Databases
- Education and Research
- Memorialisation
- Restorative Recognition
- Dignified Burial

Under these themes, the Government will seek to plan and advance a wide range of actions, as follows:

A Survivor-Centred Approach
<p>1. Development of a Strategic Action Plan and Engagement with Former Residents: In responding to the Final Report of the Commission of Investigation and to the concerns of former residents, the Government will prepare a Strategic Action Plan encompassing the suite of actions set out below. The Action Plan will also consider the need for any potential liaison support in relation to local authority services and other State services, as well as support for smaller survivor support groups. We will take a survivor-centred approach, characterised by continuous engagement with former residents and their representative groups on the development and implementation of the strategic plan and associated policy responses. An enhanced model of engagement will be established, following consultation with the Collaborative Forum.</p>
<p>2. Immediate Counselling Support: Counselling support is available through the National Counselling Service, ensuring former residents have access to this support at the time of publication of the report and thereafter (see action 19 below for information on the full package of planned health supports).</p>
Apology

3. Apology: An Taoiseach will issue a formal apology on behalf of the State for the hurt experienced by many former residents of Mother and Baby Institutions and County Homes.

Access to Personal Information

4. Information and Tracing Legislation: We will advance Information and Tracing Legislation to pre-legislative scrutiny in 2021 in respect of birth and early life information for those who seek it, including adopted and boarded out individuals. To supplement access to historic information contained in records, we will provide a legislative basis to support the exchange of contemporaneous information, on a consent basis, between individuals and their birth families, including in relation to medical information.

5. GDPR Right of Access to Commission Records: We will ensure that people can access personal information contained within the Commission's records in line with GDPR. We have already provided for the Commission's database and related records on former residents, to be transferred to Tusla. We will also ensure that resources are in place to deal with Subject Access Requests in respect of the records which will be deposited with the Minister on 28 February 2021. The Minister for Children, Equality, Disability, Integration and Youth and his Department are engaging with the Office of the Attorney General and the Data Protection Commission on this matter, and have also met with independent experts in the area of GDPR.

6. Central repository of institutional records: We will bring together institutional records (or digitised copies of records) relating to Mother and Baby Homes, County Homes and Adoption Societies in a single, central repository to which individuals can apply for their personal information. We will consider expansion of this repository over time to encompass other relevant institutional records. There will be strong engagement with survivors so that there is clarity on how information will be accessed and reassurance regarding the protection of survivors' private information. In recognition of the significant survivor diaspora, the opportunities of a digital repository which can be accessed from anywhere in the world will be explored.

Archives and Databases

7. National Memorial and Records Centre: The Government will work to establish, on a formal, national basis, a national memorial and records centre related to institutional trauma during the 20th century. This will build on the commitment to a central repository of institutional records and will include archiving relevant records and witness testimony by victims and survivors as well as presenting the historical and social context. It will be developed at a suitable site and operated in accordance with the highest international standards. It will be designed in cooperation with professional archivists and historians, as well as with victims, survivors and their advocates. There will be strong engagement with survivors so that there is clarity on how information will be presented and reassurance regarding the protection of survivors' private information. In order to progress this commitment, officials will undertake a rapid scoping exercise and, following this, Government will appoint a wide-ranging, cross sectoral group comprising experts and survivors to examine and recommend to Government the most appropriate means of developing and maintaining a national centre.

8. Public Access to Original State Files: The Government will require that relevant Government Departments and State bodies prioritise ensuring that relevant original files are made publicly available in the National Archives of Ireland (NAI) in accordance with the terms of the National Archives Act 1986. As part of this, it will consider legislation requiring the HSE and other State bodies (including, for example, the Child and Family Agency) to maintain records in broadly the same way as local authorities.

<p>9. Expansion of the database: Government will consider a plan for further expansion of the Commission database through the creation of linked databases on boarded out children and children who transferred from mother and baby homes to industrial schools. This will be with a view to supporting both increased access to personal information and the development of a rich resource for future research on the longer-term outcomes for children born in mother and baby homes.</p>
<p>10. Appointment of an archivist: To lead work on preservation of, and public access to, the records which it holds, the Department of Children, Equality, Disability, Integration and Youth will appoint a qualified archivist. This appointment will also lead and support work on a plan for further expansion of the Commission database, in consultation with Tusla and others.</p>
<p>Education and Research</p>
<p>11. Second-level Curriculum: We will ask the NCCA to consider how the Commission’s short video on the experiences of women and children who spent time in the institutions can be incorporated into the second-level curriculum.</p>
<p>12. Research Scholarships: We will create and fund a number of scholarships in memory of all the children who died in institutions. The scholarships will cover research in the area of childhood disadvantage.</p>
<p>13. Research on Terminology: We will advance the Research on Terminology, Representation and Mis-representation with NUIG and will ensure that this informs projects in the areas of memorialisation and the development of archives.</p>
<p>14. Further Research on Death Registration Records: Government will commission further research on the death registration records of the children who were born in mother and baby homes in the 1920s and 1930s and who subsequently lived in the community or in institutions with a view to establishing their age at death and causes of death.</p>
<p>Memorialisation</p>
<p>15. National Memorial: We will develop an all-Ireland memorial in consultation with former residents and other key stakeholders. (Please see action 7 above in relation to the commitment to establishing a National Memorial and Records Centre.)</p>
<p>16. Local Memorials: We will support local memorialisation projects, funded by local authorities, in line with the wishes of former residents.</p>
<p>17. Survivor-led annual Commemoration: We will continue the Commemoration Grant Scheme established in December 2019 to support survivor centred advocacy organisations in commemorating their experiences in a manner of their choosing which fits their own specific needs and wants.</p>
<p>18. Children’s Fund: We will honour the memory of the children who died in Mother and Baby Homes through the creation of a specific fund which supports children who experience disadvantage in the present day.</p>
<p>Restorative Recognition</p>
<p>19. Health Supports: We are committed to a suite of supports as outlined below.</p>

We will provide all former residents with access to counselling support through the National Counselling Service in the HSE. This will include telephone and face-to-face counselling through an established nationwide network of counselling locations. Additional resources will be made available to the National Counselling Service to support this commitment (see action 2 above).

All former residents will also have access to a Patient Advocacy Liaison Support service. Delivered via an expansion of HSE Live, this service will help ensure that individuals can have an appropriate point of contact within the health system and can be signposted and supported to access necessary health services.

A targeted programme of health research is being undertaken to assist and inform the development of future service provision for former residents. Preparatory work on this research study has already commenced.

In addition, through the restorative recognition scheme, a form of enhanced medical card similar to the Magdalenes will be provided to all former residents of Mother and Baby Homes and County Homes (where they were resident for a period of more than six months).

20. Financial Recognition: Government is committed to providing a bespoke ex-gratia Restorative Recognition Scheme to provide financial recognition to specific groups identified by the Commission of Investigation. An Inter Departmental Group will design proposals to be brought back to Government

21. Inheritance Tax: The Commission has noted that some children who were boarded out inherited farms from their foster parents but had to pay taxes for which birth and adopted children are not liable. It raises the possibility of an ex-gratia payment to compensate for this. The Department of Finance will engage directly with the Department of Children, Equality, Disability, Integration and Youth to explore the issues raised and consider the recommendation of the Commission.

Dignified Burial

22. Burials Legislation: We will advance burials legislation to support the excavation, exhumation and, where possible, identification of remains, and their dignified reburial. This legislation will support intervention at the Tuam site and any other site where intervention is reasonably required by virtue of the manifestly inappropriate nature of the interments. Separately, we will engage with former residents and their advocacy groups on the question of appropriate, dignified local memorialisation of known or agreed burial sites where this is not already the case.

2.2 Will survivors be consulted on this Action Plan?

Yes, the design and delivery of these measures must be informed by the views of survivors, their families and supporters. The Minister has stated his commitment to inclusive, constructive and collaborative engagement with stakeholders on issues of concern to them and their families. Innovative methods and creative solutions are required to achieve this objective, especially given the continuing challenges presented by the restrictions necessary to reduce the public health risks associated with Covid-19.

It is also clear that new demands emerge in seeking to support strong survivor-centred engagement and consultation on the overall Government Strategic Action Plan, as well as on each of the individual

actions. For these reasons, the Minister wishes to develop an enhanced model of engagement and will consult with former residents in this regard. The Minister proposes to design a new process building on the experience from previous consultations, including, most significantly, the work of the Collaborative Forum of Former residents of Mother and Baby Homes and related Institutions.

Section 3 Database and records matters

3.1 What records are due to transfer to the Department from the Commission?

Under the terms of the Commissions of Investigation Act 2004, as modified by the Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter, Act 2020 ('the Act' of 2020), the Commission is required to deposit records, evidence and documents with the Minister by 28 February 2020. This material may be referred to as the Commission's archive.

Under the Act of 2020, the Commission is also required to deposit a database with information on individuals who passed through Mother and Baby institutions, and related records, with Tusla. The ultimate purpose of this deposit is to assist Tusla for information and tracing purposes when information and tracing legislation is in place.

Under the Act of 2020, the Commission must also make a copy of this database and all related records and deposit those with the Minister. Alongside the 'individuals database' to be deposited with the Minister, there is a second database, referred to as the 'researchers' database' which will form part of the Commission archive to be deposited with the Minister.

3.2 Will GDPR apply to the records?

The fundamental principles of GDPR will apply to these records as they do to any others: a person has a right to access their personal data, but this is not an unqualified right. The release of that data must also not adversely affect the rights and freedoms of others. Officials in the Department are liaising with the Office of the Attorney General to clarify the nature of the balancing tests which must apply to the release of personal information.

The right to personal data is not an unqualified one, and it is vital that in providing a person with information, we do not adversely affect the rights and freedoms of others as protected by law. In addition, the particular legal regime applying to a Commission of Investigation requires us to consider whether release of personal data may prejudice the effective operation of commissions and the future cooperation of witnesses.

The Minister is committed to ensuring that information is made available as freely as possible, within the confines of the law. Whilst respecting the ultimate Constitutional role of the Attorney General as the Government's legal adviser, the Minister has also consulted with independent experts in the area of GDPR. Officials are in ongoing consultations with the Office of the Attorney General and with the Office of the Data Protection Commissioner to ensure personal data can be made available to individuals to the greatest extent possible while at the same time having regard to the data protection framework.

3.3 What steps has the Department taken to respond to Subject Access Requests (SARs)?

The Department is working intensively to ensure that it is properly resourced to handle subject access requests from possibly very large numbers of people who were resident in mother and baby homes. In this regard, a new Unit has been established to look after this hugely important and potentially significant volume of work.

There is a considerable amount of work including from an ICT perspective to enable the transfer of the Commission's databases and records. Furthermore, there is considerable preparatory work being undertaken to establish systems and procedures to prepare for the potentially large number of subject access requests which may be made and to ensure that they can be managed in a timely and effective manner. This involves the engagement of suitable in-house expertise, consultation with the Attorney General and the Data Protection Commission.

Department officials are dedicating significant efforts to ensuring the Department is prepared for the transfer of the archives and for the handling of subject access requests in an efficient, effective and transparent manner. The Department is committed to ensuring transparency and compliance with the Data Protection Regulatory Framework.

Section 4 Adoption Policy

4.1 What is Minister's intention regarding information and tracing legislation?

The Minister is committed to developing legislative proposals on access to birth information for adopted people. It is important to acknowledge that this process will take some time, as there are complex and sensitive issues at play, involving the balancing of rights and interests of both parties. However, the Minister's intention is to bring forward proposals as early as possible this year

4.2 What were the Commission's findings in relation to the consent to adoption?

Chapter 32 deals with Adoption and part of that is the consideration of consent. The various iterations of the statutory consent form are set out in detail as well as the views on consent of various parties including professionals working in the area. It may be interesting to some people to know that the executive summary finds that at least from the 1970/1980s that the Adoption Board and adoption agencies had adequate procedures in place for ensuring that consent was full free and informed. Prior to that *'some mothers who signed forms consenting to adoption because they had no alternative, because of family circumstances and/or insufficient means to support a baby. Some of this cohort of women are of the opinion that their consent was not full, free and informed. However, with the exception of a small number of legal cases, there is no evidence that this was their view at the time of the adoption'*.

4.3 I was born in Ireland and adopted abroad, can I access a service?

Yes you can. Individuals sent abroad for adoption can currently access the information and tracing service and it is the Minister's intention to ensure that this continues and that these individuals will be included in any legislative proposals.

If you were born in Ireland and adopted abroad and would like to access to an information and tracing service, you can do this in the following way:

If you know which adoption society or private home arranged the adoption, this Tusla webpage will direct you towards where the records are now held and where you can apply for a service:

<https://www.tusla.ie/services/alternative-care/adoption-services/tracing-service/where-are-records-held/>

or

If you do not know the name of the agency that arranged the adoption, you can make contact with the Adoption Authority of Ireland and they will endeavour to support your request.

The Adoption Authority of Ireland,

Shelbourne House,

Shelbourne Road,

Ballsbridge,

Dublin 4

DO4 H6F6

Tel: 1800 309 300 / 01 230 9300

Website: <https://aai.gov.ie/en/contact-us.html>

You can also make an application to the Adoption Authority to be put on the National Adoption Contact Preference Register (NACPR). This register was set up in 2005 as a way for adopted people to connect with birth family and vice versa and to allow all parties to make their wishes known about what level of contact, if any, they would like.

4.4 My birth was illegally registered through St Patricks Guild, does the report make any recommendations in relation illegal birth registrations?

Chapter 32 on Adoption references the St Patrick Guild files and comments that the Commission states that it saw no evidence or connection between the St Patrick Guild illegal birth registrations and the institutions under investigation.

In relation to the St Patricks Guild files seen by the Commission it observes that almost all the births were in private nursing homes rather than mother and baby homes and that while St Patrick Guild arranged for the child to be placed and they were aware of the practice of illegally registering the births, the staff themselves were not directly involved in the act of registering the birth, this seems to have been done primarily by the head of the nursing home or the registering parents themselves.

4.5 Did the Commission find evidence of illegal birth registration in the institutions under investigation?

In Chapter 32 on Adoption, the Commission states that it *'has not seen evidence of illegal registration of births which occurred in the mother and baby homes and county homes under investigation.'* It comments that while it is not possible to say that this did not occur, neither the institutional records nor the Department of Health records reveal any such evidence.

Section 5 Burials Legislation/Tuam Site

5.1 A General Scheme of this Bill was approved in December 2019. What developments have taken place since then?

The General Scheme of the Certain Institutional Burials (Authorised Interventions) Bill received the approval of the previous Government in December 2019. It was due to undergo pre-legislative scrutiny by the Joint Oireachtas Committee on Children and Youth Affairs in January and February 2020. However, the calling of a General Election had the effect of dissolving that Committee before pre-legislative scrutiny could take place.

Notwithstanding this, work on developing the proposed legislation has continued throughout 2020, leading to the new provisions approved by Government this week.

Following the establishment of new Oireachtas Committees and now, the approval of Government for drafting of additional provisions, the General Scheme and the additional provisions will be referred for pre-legislative scrutiny to the current Joint Oireachtas Committee on Children, Disability, Equality and Integration.

5.2 What new provisions have been approved by Government?

New Heads 27A and 28A have been approved by Government.

Work on developing this complex legislation has continued throughout 2020. Arising from that work, a need for additional provisions providing greater clarity on land access procedures was identified and these have now been approved by Government. These new provisions do not alter the fundamental policy of the General Scheme approved in 2019 but will provide for greater detail and clarity in the final legislation.

5.3 What are the main aspects of the General Scheme?

The General Scheme has been drafted to take account of the Government's decision of 23 October 2018 to provide for the phased, forensic standard excavation, exhumation and identification of the juvenile human remains at the site of the former Mother and Baby Home in Tuam. The General Scheme also provides for interventions to be permitted at institutional sites other than in Tuam, owned or operated by or on behalf of the State or in respect of which the State had oversight or regulatory responsibilities, if Government deemed intervention necessary in a specific context. This is to ensure that if a similar situation to Tuam emerged, where manifestly inappropriate burials are found, Government will be able to act quickly without the need to develop further legislation. The General Scheme has been drafted to provide guidance for the circumstances in which an intervention under this legislation would be justified.

Bearing in mind that the conditions in Tuam have, to date, proved unique in their failure to provide for the dignified interment of human remains, the main aspects of the General Scheme to note in relation to what it seeks to provide for at that site are as follows:

- The creation of a legal basis to carry out a programme of phased, forensic standard excavation and exhumation of the juvenile human remains located there;
- The creation of a legal basis to establish an Agency to manage intervention at the site and act as a dedicated and responsive authority. Such an Agency would operate for a specific and limited duration and would cease to exist following completion of the necessary works;

- The creation of a legal basis for a programme of forensic analysis of any human remains, which will allow for samples to be taken from the remains as well as from close relatives of the deceased for the purpose of DNA based identification, if such a programme should prove scientifically viable.

5.4 Does the approval of the General Scheme mean that work can begin immediately in Tuam?

What are the next steps?

It is not possible for work to begin immediately at the Tuam site. The General Scheme, also known as the Heads of the Bill, has been drafted based on agreed policy positions and gives a strong indication of what the Certain Institutional Burials (Authorised Interventions) Bill will look like. Now that the General Scheme and additional provisions have been approved by Government, work will continue on the development of the text of the Bill being drafted by the Office of Parliamentary Counsel (OPC) along the lines of the General Scheme. The General Scheme will also be referred to the Joint Committee on Children, Disability, Equality and Integration for pre-legislative scrutiny before the text of the Bill is finalised. At the end of the pre-legislative scrutiny, the Committee produces a report and lays it before the Houses of the Oireachtas. The report may make recommendations on the Bill based on the scrutiny carried out by the Committee.

Before it is enacted, the Bill must be passed by both the Dáil and the Seanad. In order to be passed, a Bill must go through a number of distinct Stages in each of the Houses. Only when both Houses have passed a Bill can the President sign it into law. It then becomes an Act and is added to the Statute Book.

Once the legislation is in place, it will be possible to establish the Agency to manage the intervention at the Tuam site and the appropriate expertise can then be procured to carry out the necessary work.

5.5 If the Bill is drafted along the lines of the General Scheme, does this mean work can also take place at burial sites other than Tuam once the Bill has passed?

The General Scheme has been drafted so that intervention could be permitted to take place at institutional burial sites other than at Tuam, if the institution in question has been run by the State or the State had an oversight or regulatory role in relation to it, and if a set of defined criteria are met. Government will also assess whether intervention is, on balance, in the public interest, and whether certain restrictions apply which would indicate that intervention is not appropriate. If the Government decides that an intervention is warranted, based on evidence that manifestly inappropriate burials are located at the site in question, and it is satisfied that it is, on balance, in the public interest to intervene, the General Scheme outlines the steps that should then be taken in respect of the site.

Designing the General Scheme in this way means that it is efficient and fair. If Government decides in the future that it is necessary to intervene at another site, and if the conditions outlined in this General Scheme are met, then it means that an intervention can be carried out without the need to enact new legislation.

5.6 Does this mean that lots of burial sites could be subject to intervention?

The General Scheme does not allow for lots of burial sites to be subject to intervention. It is generally accepted that exhumations should only be carried out in exceptional circumstances, and this General Scheme has been carefully drafted to respect that view. Head 5 outlines a number of conditions which Government must be satisfied apply before making an order to establish an Agency to manage

intervention at a burial site under this legislation. This includes that the burial site must be associated with a current or former institutional setting for which the State had some level of responsibility, as well as a list of factors which indicate whether or not burials are manifestly inappropriate. The Head also requires that certain kinds of evidence must be available to corroborate that the criteria outlined have been met.

Head 6 outlines a number of restrictions which, if they apply, would indicate that there should not be intervention at a burial site under this legislation. These include that there must be no evidence that human remains at the site in question were buried there following death in violent or unnatural circumstances: exhumation in such a case should fall under coronial jurisdiction. Head 6 also stipulates that a burial site which public opinion might deem inappropriate now, but which was not contrary to the traditions and practices of the time the burial took place, does not justify intervention. An example of this would be a cillín, of which there are many throughout Ireland, which was used as an unconsecrated burial ground for stillborn and unbaptised children, as well as others not seen as eligible for a Christian burial. While burial in a cillín would generally be considered inappropriate now, their use was relatively widespread in Ireland in the past and is believed not to have ended until at least the 1960s. A cillín would therefore not merit intervention under this General Scheme.

5.7 Why is a new Agency required?

A new and independent organisation is required to lead on intervention at the site in Tuam so that it can focus solely on the activities needed to manage and complete the project. This new organisation will not have existing and competing priorities to distract it from the functions which will be assigned to it by Government in relation to the Tuam site. Therefore, work should be able to proceed as quickly as possible.

5.8 When will the Agency to manage the Tuam site be set up?

The Agency will be set up once the legislation is in place. At that point, Government will be able to make an order under the legislation to establish an Agency to manage the intervention at the site.

5.9 Where will the Agency set up to manage the Tuam site be located?

A location for the Agency has not yet been decided on and will depend on certain factors, such as the availability of the required expertise and of office accommodation. Ideally, the Agency will be located reasonably close to the burial site at Tuam.

5.10 What will the Agency set up to manage the Tuam site do?

Government will assign specific functions to the Agency in the Government order that it will make under the new legislation. It is expected that the Agency will have at least the following functions:

- excavating the site on a phased basis;
- exhuming the human remains found;
- subject to a successful pilot programme, managing a programme of identification in respect of the exhumed human remains;
- organising the reinterment of human remains;
- reinstating the prescribed site to its previous condition or an equivalent state.

5.11 How long will the Agency operate for?

The Agency will operate for a limited duration, until the work programme is completed.

5.12 If Government decides that intervention is required at another burial site, will the same Agency be used to manage the work required?

The Agency that will be set up to manage the works at the Tuam site will operate for the duration of the works. If Government decided during that time that it was in the public interest to intervene at another site, it would be feasible to vest those functions in the Agency established to manage the Tuam site. However, if Government directed intervention at another site after the Tuam Agency had completed its work and been wound up, then an order would be made to establish a new Agency.

5.13 What happens if intervention is directed at a site which is not in public ownership?

Under the General Scheme, the Agency will be responsible for accessing land and overseeing excavation works. While it is envisaged that access to land will be mostly enabled through the consent of the relevant parties or the fact that the land is in public ownership, the General Scheme also allows the Agency to seek a court order to access the land in circumstances where the relevant parties do not consent and Government has deemed the withholding of consent to be unreasonable.

It is intended that any access will be of a temporary nature and that an Agency will return land to its original use and condition upon completion of any necessary work.

5.14 Will land or property beside an excavation site be interfered with, such as residential property beside the Tuam site?

It may be necessary to access land adjacent to an excavation site during the course of works. While it is envisaged that access arrangements will be mostly enabled through the consent of the relevant parties, an Agency will be able to seek a court order to receive limited compulsory access rights. This will only be permitted where there is no reasonable alternative course of action.

Access could be sought to adjacent land to enable excavation works at the primary site, if the excavation could not otherwise proceed. Access may also be sought where remains are discovered on or across the boundary between an excavation site and adjacent land.

It is intended that any access will be of a temporary nature and that an Agency will return land to its original use and condition upon completion of any necessary work.

5.15 Why is a pilot scheme required for the identification programme?

The purpose of the pilot programme is to enable the Agency to determine whether DNA profiles of sufficient quality can be generated from the juvenile human remains to give a reasonable prospect of identifying the deceased. The importance of undertaking a pilot programme was underlined in the Expert Technical Group report on the Tuam site.

5.16 What is the role of Forensic Science Ireland (FSI)?

The General Scheme vests responsibility in Forensic Science Ireland (FSI) to store all biological material and personal information transferred to them by the Agency. It also provides for FSI to use a DNA database to store DNA profiles created under or in accordance with the General Scheme. The data obtained can only be used for familial identification purposes.

5.17 Will exhumed human remains be returned to family members if identified?

The purpose of the identification programme is to enable assurance to be given to family members on respectful re-interment or to return remains to family members. While it is the intention to return remains to family members if they wish it, it must be acknowledged that this is unlikely to be possible.

The difficulties arise because the juvenile remains are fragmentary and extensively commingled at the site. It is unclear if it will be possible to generate DNA profiles from the remains and, even if it does prove possible, individualising full sets of remains is not likely to be possible.

5.18 Who will be eligible to provide biological samples for DNA testing?

The issue of privacy is a significant one and has been prioritised in the drafting of the General Scheme. Participation of family members in an identification programme will be on an entirely voluntary basis and participants will have the right to withdraw their consent to participate at any time. The concept of informed consent is deemed extremely important and prospective participants must be provided with all relevant information before their consent is accepted.

It must also be acknowledged that DNA matching is a powerful tool and in some instances the provision of a sample for DNA analysis by one person may inevitably yield personal information about another person, which could lead to an unacceptable intrusion on their privacy rights. Participation in a familial matching programme in accordance with this General Scheme is, therefore, confined to close blood relatives of the deceased in question. A hierarchy will be applied, so the rights to participate of some will take precedence over others who will not be able to participate unless the consent of those higher in the chain of hierarchy is provided. In the case of Tuam, therefore, parents, full siblings and half siblings of children who may be interred at the site would be allowed to participate. However, within this context, the privacy rights of a parent are protected. Ultimately, authority will be vested in the Agency to determine the eligibility of a specified family member to participate in an identification programme.

5.19 What will happen if a family member who has provided a biological sample for DNA testing dies before the results are known?

Participants in an identification programme will have the option of nominating up to two individuals who, in the event of the participant's death, will be provided with a notification of a familial match. Nominees will also be required to provide consent to participate in the identification programme in this way and will also have the right to withdraw consent at any time.

Section 6 Interim Reports of the Commission

6.1 Where can I access the interim reports of the Commission?

The Commission has also produced seven Interim Reports. All the Commission's reports can be accessed on the Department's website [here](#).

Section 7 Accessing Information and Support

7.1 Can I access a physical copy of the Commission's final report?

The Report is being published as a digital document to ensure everyone has access to the report at the same time. This is the format in which it was produced by the Commission and submitted to the Minister. Given the size of the report (circa 3,000 pages) a limited number of hard copies have been produced and the Department is endeavouring to make these copies available using existing publicly funded facilities in the community. This is complicated by the necessary public health restrictions in place to combat the spread of Covid-19 and further announcements will be made on these

arrangements in due course. Those wishing to access the report, or seeking additional information, are requested not to visit the Department's offices but to use the contact details below.

7.2 Where can I access practical information regarding the Commission's Report and the Government response?

There is a dedicated telephone Information line available for people seeking further information about the publication of the Report. The Department's Information Line can be contacted on 01-6473200 from Monday to Friday 9.30am to 6pm or by email at: motherandbabyhomes@equality.gov.ie. We will be able to assist by signposting to specific parts of the report and providing information on available supports. Frequently Asked Questions will be posted on-line with the report and updated regularly as matters progress.

7.3 What Supports are in place?

For any former residents of Mother and Baby Homes seeking counselling support, the HSE National Counselling Service (NCS) is available to provide a counselling service from Monday to Friday between 9.30am and 5pm.

Access to the National Counselling Service for former residents may be made by direct self-referral. You can do this by referring yourself to the service that is nearest to you. Written referral can also be made by health care professionals such as GPs.

Details of the National Counselling Service and contact details for each area are listed below.

HSE Region	Area covered	Telephone number
CHO Area 1	Donegal, Sligo & Leitrim	1800 234 119
CHO Area 2	Galway, Mayo & Roscommon	1800 234 114
CHO Area 3	Limerick, Clare & North Tipperary	1800 234 115
CH Cork, Kerry	Cork & Kerry	1800 234 116
CHO Area 5	Waterford, Wexford, Kilkenny, Carlow & South Tipperary	1800 234 118
CH East	South Dublin, South East Dublin & East Wicklow	1800 234 111
CH Dublin South, Kildare & West Wicklow	South West Dublin, Kildare & West Wicklow	1800 234 112
CHO Area 8	Midlands: Laois, Offaly, Longford & Westmeath	1800 234 113
CHO Area 1/8	Louth, Meath, Cavan & Monaghan	1800 234 117
CHO Area 9	Dublin North & Dublin North City	1800 234 110

Outside of office hours, Connect Counselling provides telephone support. This service is available between 6pm and 10pm each day (7 days a week) on 1800 477 477.

A new webpage with information specifically for former residents of Mother and Baby Homes has been set up at:

www.hse.ie/eng/services/list/4/mental-health-services/national-counselling-service/counselling-service-for-former-residents-of-mother-and-baby-homes.

Additional mental health supports provided/funded by the HSE are also available to former residents. Details of these supports are available on www.yourmentalhealth.ie.

For those living in the UK there are a number of organisations that offer support to survivors:

- [ICAP](http://www.icap.org.uk) (Immigrant Counselling & Psychotherapy) 0207 272 7906 www.icap.org.uk
- The [London Irish Centre](http://www.londonirishcentre.org), 0207 916 2222 www.londonirishcentre.org
- [Irish Community Services](http://www.irishcommunityservices.org) 0208 854 4466 www.irishcommunityservices.org
- [Leeds Irish Health and Homes](http://www.lihh.org) 0113 262 5614 www.lihh.org

For those based in the United States the Coalition of Irish Immigration Centers can be contacted for support. Contact details for local centres can be found at <https://ciic-usa.org/find-your-local-irish-center/>.

7.4 Where can I access current Information & Tracing services?

Any person seeking adoption information and tracing services may wish to contact [TUSLA](http://tusla.ie) by phone at 01 7718500 or by email at info@tusla.ie.