



Data Protection Impact Assessment (DPIA) for Mother and Baby Institutions Payment Scheme Bill, 2022

Version number		Date
Version 1	Submitted to DCEDIY Data Protection Officer for review 12/09/2022.	12/09/2022
Version 2	Submitted to Data Protection Commission for review on 30/09/2022.	30/09/2022
Version 3	Published to website – www.gov.ie/DCEDIY	31/03/2023

Drafting of the DPIA

The drafting of this Data Protection Impact Assessment is an iterative process and this document will continue to be reviewed and updated depending on the stage of the legislative process being completed.

Related Publications

- [“General Scheme of a Mother and Baby Institutions Payment Scheme Bill”](#) (2022)
- [“Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions”](#) (2021)
- [“Report of the Interdepartmental Group \(IDG\) on the development of the Mother and Baby Institutions Payment Scheme”](#) (2021)
- [“Report of the findings of the Consultation with Survivors of Mother and Baby Homes and County Homes”](#) (2021)
- [“Final Report of the Commission of Investigation into Mother and Baby Homes \(and certain related matters\)”](#) (2020)



High level description of Project

The Mother and Baby Institutions Payment Scheme is a key commitment in the *Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions* published in November 2021. The aim of the Action Plan is to support the implementation of the 22 commitments made by Government in January 2021, to respond to the priority needs and concerns of those who spent time in those institutions.

The objective of the Mother and Baby Institutions Payment Scheme is to provide financial payments and a form of Enhanced Medical Card to defined groups in acknowledgement of suffering experienced while resident in Mother and Baby and County Home Institutions. An estimated 34,000 people will be eligible to apply.

This Bill has been developed based on proposals brought to Government in November 2021, which were then outlined in a General Scheme approved by Government in March 2022. These proposals were informed by the Report of the Interdepartmental Group (IDG) on the development of the Mother and Baby Institutions Payment Scheme and consultation with survivors of Mother and Baby and County Home Institutions.

The benefits available under the Scheme are:

- A General Payment: This will be paid to the eligible applicants in recognition of time spent, harsh conditions, emotional abuse and all other forms of harm, mistreatment, stigma and trauma experienced while resident in a Mother and Baby or County Home Institution. The rate of payment will increase in line with the amount of time spent in an institution.
- A Work-Related Payment: This will be paid to eligible applicants in recognition of commercial work undertaken without pay.
- An Enhanced Medical Card: This will provide access to the same services as the medical card provided to women under the Magdalen Restorative Justice Ex-Gratia Scheme.
- A Health Support Payment: Applicants who are deemed eligible for an Enhanced Medical Card but live outside of Ireland may opt to receive a once-off payment of €3,000 instead of the card.

A person may apply to the Scheme if they were resident as a child or a mother in one of the institutions listed in the Schedule to the Bill, namely the 14 Mother and Baby Institutions investigated by the Commission of Investigation into Mother and Baby Homes and 29 County Homes.

The Scheme will be administered through an Office which will be situated in the Department of Children, Equality, Disability, Integration and Youth, to be known as the Office of the Chief Deciding Officer of the Mother and Baby Institutions Payment Scheme ("Office of the CDO"). The Bill provides for the Chief Deciding Officer (CDO) to be independent in the performance of the functions assigned to him or her under the legislation. The person appointed and those acting on the instruction of the CDO will make determinations on applicants' eligibility to the Scheme, in accordance with the eligibility criteria and processes set out in the Bill and related regulations.



The operating model provides that the Office of the CDO will be staffed by civil servants who will undertake core reserved functions, including searches of the Commission database, and management of special cases, while a third party provider will be engaged to undertake bulk processing of applications and payments processing. The Office of the CDO will closely manage the arrangement with the third party provider by way of a contract for services, service level agreements, meetings on a daily, weekly and monthly basis, and a data processing agreement.

The functions of the CDO are set out in the Bill along with the authority to delegate his or her functions to the staff of the Office of the CDO. In respect of the planned operating model and engagement of third party support, Section 11 of the Bill provides that the Minister can enter into an agreement with any person to provide for the performance of the functions conferred on the CDO. In addition, the functions reserved to the CDO are set out. These relate to the preparation of an Annual Report, the appointment of an Appeals Officer to consider an applicant's appeal, and accessing the database and records of the Commission of Investigation.

Given the scale of the Scheme, it is essential that the CDO can delegate administrative and decision-making activities associated with the Scheme across his or her staff and that of the third party. The CDO, however, will be the person ultimately accountable for the overall administration of the Scheme and operation of the Office of the CDO.

It will also be the CDO's responsibility to undertake a public awareness campaign, in Ireland and abroad, as well as to prepare an Annual Report on the operation of the Scheme. A report of the CDO shall not identify any applicant or person referred to in an application.

Importantly, the CDO will have the authority to delegate his or her functions to the staff of the Office of the CDO. The proposed legislation stipulates that the Scheme will operate for up to five years after the date of its establishment. The legislation makes provision for a cessation date for the Scheme. Following the cessation date, on a date appointed by the Minister, the Office of the CDO will be dissolved and all functions will transfer to the Minister. All records in the possession of the Chief Deciding Officer will be deposited with the Minister and shall become departmental records.

The overall determination of an applicant's eligibility for benefits under the Scheme hinges on his or her period of residence in one of the institutions. A General Payment may be made to an applicant who was resident as a child in a relevant institution for six months or more, and to an applicant who spent at least one night as a mother in a relevant institution. All mothers who were resident in Tuam Mother and Baby Home, Sean Ross Mother and Baby Home or a County Home Institution for three months or more will also receive a Work-Related Payment.

Applicants who were resident in a relevant institution for a minimum of six months will be entitled to an Enhanced Medical Card. Applicants who are deemed eligible for an Enhanced Medical Card but live outside of Ireland may opt to receive a once-off financial payment of €3,000 instead of the card.

In order to ensure efficiency and a user-friendly process, the Bill provides that the staff of the Office of the CDO may perform searches of the Commission's database and related records to access



information related to an applicant's period of residence in one of the institutions. In a minority of cases, it is anticipated that no records may be found or may exist. For this reason, the Bill provides that an applicant may submit an affidavit, which the CDO is to consider and make an assessment of to determine eligibility for the Scheme.

A person will apply to the Scheme on the basis that they believe themselves to be a 'relevant person' as per the definition provided in the legislation. The Bill also provides that a person can apply on behalf of a 'relevant person' in certain circumstances. This is possible where a 'relevant person' does not have the capacity to apply and also where a person who would have been eligible to apply has died since the date of the State Apology, i.e. since 13 January 2021. In most circumstances, only one application will be accepted per 'relevant person', albeit that it may cover multiple periods of residence by the relevant person in qualifying institutions. The exception to this, which is provided for in the draft Bill, is where an additional institution is added to the Scheme. A person who previously applied to the Scheme in respect of other qualifying institutions who wishes to make another application in respect of the institution that has been added may do so. In the case of a deceased applicant, the payment will be made to the personal representative of the deceased person as part of their estate.

The Bill sets out that payments made under the Scheme will be disregarded for the purposes of income tax assessment and work is being undertaken with the Department of Finance and Revenue in that regard. Work is also ongoing with the Department of Social Protection in terms of ensuring that payments are disregarded for the purposes of means assessments for social welfare payments.

The Bill provides that in order to accept a General Payment or a Work-Related Payment from the Scheme, an applicant will be required to waive any right of action against the State. The waiver would be signed at the point where the applicant accepts an offer of a payment under the Scheme, so the applicant will have full knowledge of what they are being offered prior to signing a waiver that precludes them from pursuing action against the State in court. Until the point where an offer is accepted, an applicant will have the right to pursue a case through the courts. An applicant who has previously received an award of Court, or settlement, in respect of their period of residence in a Scheduled Institution will be declared ineligible for an award under the Scheme. This is established through a self-declaration on their application form.

Provision is made in the Bill for applicants to be financially supported in obtaining legal advice before signing a waiver. A contribution to legal costs will also be provided in cases where an applicant makes an affidavit to apply to the Scheme. The details of this support will be laid out in Ministerial Guidelines and regulations by the Minister.

The Bill allows for a number of matters related to the Scheme to be set out in regulation including: additional functions of the Chief Deciding Officer in relation to the administration of the Payment Scheme; procedures for examining applications and making determinations; procedures in respect of the conduct of reviews and appeals; the means of covering reasonable costs and expenses related to the provision of independent legal advice to applicants; and procedures for the processing of personal data and special categories of personal data.



The processing of special categories of personal data, specifically health data is relevant for two reasons. Firstly, it is anticipated that temporary absences for periods of up to 180 days (6 months) will be recognised as reckonable periods of time for the purposes of determining an applicant's eligibility for benefits. This may include cases where an applicant spent time in a hospital during their period of residency, and this may be evidenced in the institutional records. Therefore, if records are accessed which refer to such historic health data, this will fall under the definition of special category data. Secondly, the Bill provides that applicants may be prioritised, where practicable, on the basis of their age and health status. In this regard, a person will be required to submit a medical report to support his or her request for priority treatment on health grounds.

The Bill provides for a number of other matters such as a right of internal review, recourse to an independent appeals process for those who are unhappy with the outcome of the internal review process; the establishment of a panel of independent Appeals Officers who can be appointed to consider appeals; recourse to the High Court on a point of law; a prohibition on the disclosure of confidential information for those involved in operating the Scheme and the carrying out of independent reviews after the Scheme's first year of operation and after the Scheme's closing.

Finally, the Office of the CDO will have the authority to share applicants' personal data, as deemed relevant and proportionate, with others for the purposes of fulfilling functions set out in the Bill. This may arise, in particular, in terms of making payments to applicants, when notifying the HSE of an applicant's entitlement to an Enhanced Medical Card and when an Appeals Officer requires access to data in order to determine an appeal. Appropriate data sharing agreements will be put in place.

Summary: scope of processing and purposes for which processing will occur

Data will be collected and processed by the Office of the CDO for the purpose of administering the Mother and Baby Institutions Payment Scheme. The Scheme will see an estimated 34,000 people qualify for financial payments and 19,000 people benefit from an Enhanced Medical Card. The Bill does not determine how this will take place and detailed considerations in respect of the operational elements of the Scheme will be set out in a separate end to end operational Data Protection Impact Assessment.

Data required for application processing

The following information may be required to allow for the general processing of an application: An applicant's name or former names if applicable, address, date of birth, contact telephone number, email address, proof of identification (e.g. copy of passport, driver's licence or public services card), signature. Where an application has been deemed successful and the waiver has been signed in relevant circumstances, bank details will be required in order to make the relevant payment. An applicant's PPSN may also be requested in order to make arrangements for the provision of an Enhanced Medical Card.

In order to make an application to the Scheme, applicants will not be required or requested to submit records or evidence in respect of the time they spent in an institution. Where an applicant has their own records they may submit these if they wish. However, in all cases the Office of the CDO will undertake institutional records searches and so it is not necessary to submit records. If it



transpires following searches undertaken by the Office of the CDO, that records for the institution concerned are not available or are limited, the Office of the CDO will engage further with the applicant and may request an affidavit to support their application. This will not be a requirement for all applications and will be decided by the CDO on a case by case basis.

If an applicant has received a medical card from the Magdalen Restorative Justice Ex-Gratia Scheme they will not be entitled to an Enhanced Medical Card from this Scheme. This is because both cards carry the same entitlement to health services without charge, so there is no additional value arising in receiving an Enhanced Medical Card in this Scheme.

In order to apply for the payment in lieu of the Enhanced Medical Card, an applicant will need to provide documentary evidence that they are not ordinarily resident in Ireland.

The Office of the CDO may also request relevant records in respect of the applicant from a number of designated 'information sources' set out in the Bill including Local Authorities; the Health Service Executive; the Child and Family Agency or any source prescribed by the Minister for the purposes of establishing or verifying an applicant's period of residence in a relevant institution.

This legislation provides for the Office of the CDO to have the option to prioritise applications on the basis of the age and health of the applicant, to the extent practicable. If such a process is undertaken, the applicant may need to provide medical reports relating to their health status. This would constitute the processing of special category data.

In certain circumstances applicants will be able to apply on behalf of a deceased relative. Regardless of who makes the application the award will only be paid to the deceased's personal representative for their estate. The person applying will be required to provide the details of the deceased's personal representative.

A person may also apply on behalf of somebody who meets the eligibility criteria where they are duly authorised to act on behalf of that person under an enactment or order of the court, for example under an Enduring Power of Attorney or Ward of Court arrangement. In these instances the applicant would need to provide the relevant documentation. Personal data relating to the person acting on behalf of the relevant person may be requested in the interest of verifying that person's identity.

The Scheme may provide financial support to applicants to seek legal assistance in providing an affidavit to apply to the Scheme, and where relevant, avail of independent legal advice at the point of accepting payment under the Scheme. While the details of this process will be outlined in future regulations it will involve data processing of some kind.

As part of a review of the Scheme applicants may be asked if they would accept to be contacted to give feedback on their engagement with the Scheme.



Summary: intended benefits for data subjects, third parties and the organisation

Benefits for Data Subjects:

- The proposed Scheme is designed to be non-adversarial and wishes to avoid re-traumatising survivors. In order to achieve this aim applicants will not have to retell their story and potentially relive trauma in order to avail of the Scheme's benefits.
- The Scheme is being designed to be as simple as possible to navigate for applicants.
- The Scheme is being designed to be transparent in its operations and ensure fairness to applicants through the CDO's independence, an internal review mechanism and an independent appeals process.
- Arrangements are being put in place to ensure that that any award from the Scheme does not negatively affect applicants' eligibility for social welfare or other means tested benefits or attract tax obligations.

Benefits for Organisation

The benefits of the Scheme and its required data processing include:

- ensuring that the Scheme is efficient to administer.
- ensuring that the Office of the CDO will have access to all necessary data to assist applicants and verify claims.

Summary: rationale as to why a DPIA is required

This DPIA is required as many of the provisions of the proposed Mother and Baby Institutions Payment Scheme Bill involve the collection and processing of personal data.

The aspects of the legislation relevant to this DPIA are:

The establishment of an Office of the CDO that will administer the Scheme:

The legislation provides for the establishment of an Office of the CDO situated in the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), to be known as the Office of the Chief Deciding Officer of the Mother and Baby Institutions Payment Scheme. This Office will administer the Payment Scheme. The functions of the Chief Deciding Officer are set out in the Bill and the Chief Deciding Officer will be independent from the Minister in carrying out these functions. The Chief Deciding Officer will have the authority to delegate these functions and in this regard it is intended that functions will be delegated to staff acting on his or her behalf either within a core Office of the CDO team in DCEDIY or by a third party provider operating under a contract for services. The legislation will also provide for the appointment of a Deputy Chief Deciding Officer who will perform all of the functions of the CDO in the event that the CDO is unable to do so. The Office of the CDO will be required to collect and process a large amount of personal data in order to process the anticipated 34,000 applications to the Payment Scheme.

Access to information:

This legislation provides for the Office of the CDO to access the database of the Mother and Baby Homes Commission of Investigation for the purposes of verifying the contents of an application that



is being processed. The legislation also provides for the Office of the CDO to request relevant records from other information sources including a Local Authority; the Health Service Executive; the Child and Family Agency or any source prescribed by the Minister for the same purposes.

Sharing of data with other bodies for relevant purposes:

In order to effectively administer the Scheme, data will need to be shared with bodies outside of the Office of the CDO.

If an applicant is deemed eligible by the Office of the CDO for an Enhanced Medical Card the Health Service Executive (HSE) will be informed of the applicant's eligibility and they will make it available to them. Data will also need to be shared with the independent Appeals Officers appointed by the Minister to enable them to process an appeal that has been lodged. An Appeals Officer will not have access to any databases but may be provided with copies of relevant records by the Office of the CDO.

The Collection and processing of Special Category Data:

The Scheme allows for the collection and processing of special category data. Special categories of personal data may be processed in order to facilitate any prioritisation of applicants on age or health grounds, which may be deemed appropriate, in order to verify temporary absences including time spent in hospital while an applicant was resident in an institution and incidentally, through processing applicants' personal data in relation to the time they spent in one of the relevant institutions.



Step 1a: DPIA Screening Checklist

Does your project involve:	Yes	No
Evaluation or scoring of personal data (including profiling and predicting)		x
Automated decision-making with legal or similar significant effects	x	
Systematic monitoring including through a publicly accessible place on a large scale		x
Sensitive data or data of a highly personal nature (including special categories of data and criminal data)	x	
Data processed on a large scale	x	
Datasets that have been matched or combined	x	
Data concerning vulnerable individuals (including children)	x	
Innovative use or applying technological or organisational solutions		x
Data transfers across borders outside the European Union	x	
Processing that restricts data subjects from exercising a right		x
If you have answered 'Yes' to any of the above questions, you must carry out a DPIA.		

Step 1b: Need for a DPIA

Explain broadly the business context – what the overall project aims to achieve and what type of processing of personal data it involves. It would be useful to list the categories of personal data and the data subjects affected (although this is provided for further below). You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA (this can draw on your answers to the screening questions).

Following the publication of the Final Report of the Commission of Investigation into Mother and Baby Homes and certain related matters on 12th January 2021, the Government committed to the development of an ex-gratia Scheme to provide financial awards and other benefits to defined groups that spent time in Mother and Baby and County Home Institutions.

An Interdepartmental Group was established to develop detailed policy proposals for the Scheme and on the 16th November 2021 Minister O’Gorman brought a Memorandum to Government with proposals for a Scheme to be known as the Mother and Baby Institutions Payment Scheme. The Government approved the proposals and the drafting of legislation to establish the Scheme and on the 23rd March 2022 Government approved the Heads of Bill for the Scheme.

The overarching objectives of this legislation are:



- that the Scheme will provide payments and a form of Enhanced Medical Card to eligible applicants based on the criteria established in terms of periods of residency;
- that the Scheme will be operated on a non-adversarial basis so that eligibility will be determined based on proof of residency in one of the institutions for a defined period of time rather than proof that abuse was suffered;
- that an Office of the CDO in the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) will be established to administer the Scheme and that decision-making in terms of the eligibility of applicants will be made independently by that Office;
- that the application process will be straightforward and applicants will be assisted as much as possible in terms of providing proof of their residency, in the form of relevant records, in one of the institutions;
- that applicants may be prioritised, where possible, based on age and exceptional health circumstances;
- that those who receive an Enhanced Medical Card will not be liable for charges for acute in-patient services in hospitals and that payments under the Scheme will not be included in the assessment of means under the Nursing Homes Support Scheme Act 2009, also known as the *Fair Deal* scheme;
- that applicants who are deemed entitled to an Enhanced Medical Card but live outside of Ireland will have the option of choosing a once-off health support payment instead;
- that the Scheme will be established as quickly as possible, given the age and health status of many of the intended applicants;
- that applicants to the Scheme will have recourse to an independent appeals process if they are unhappy with decisions made regarding their eligibility for benefits under the Scheme;
- that payments made under the Scheme will be discounted for the purposes of determining entitlement to social welfare benefits, medical and GP visit cards and/or income tax liability ; and
- that the Scheme will encompass a legal waiver so that eligible applicants will not be entitled to bring a case to court if they accept a payment under the Scheme.

Personal data will be processed by the Office of the CDO for the purposes of assisting applicants in making applications, verifying applications, processing applications, sharing data with other Departments and agencies and making payments to successful applicants.

Relationship between the DPIA and the Project:

The Data Protection Impact Assessment will be a living document that will inform the drafting of the required legislation. The DPIA will be updated to include any future legislative advancements. It is anticipated that additional DPIA's will be prepared in respect of the end-to-end operational aspects of the Payment Scheme and in respect of the ICT Case Management System that is required for the Scheme.

Rationale as to why a DPIA is involved:

This DPIA is required as many of the provisions of the Mother and Baby Institutions Payment Scheme Bill concern the processing of personal data. The legislation includes in particular:



- the creation of an Office of the CDO, led by a Chief Deciding Officer that will process large amounts of personal data.
- the independence of the Chief Deciding Officer in carrying out specific functions and the delegation of these functions to the staff of the Office of the CDO and to a third party provider;
- a provision providing the Office of the CDO with access to the Commission's archive and database for the purpose of verifying applicant's eligibility for the Scheme;
- a provision allowing the Office of the CDO to seek personal data of an applicant from a number of specified information sources;
- the collection and processing of special category data;

Conducting a Data Protection Impact Assessment will address and mitigate data protection risks associated with the Bill which is a requirement given the nature of the data involved and the context of the processing.

Step 2: Describe the Processing

2.1 Nature of the processing:

2.1.1 - What are the sources of the data?

Sources of data that will be processed by the Office of the CDO include:

The applicant

The applicant will be required to provide prescribed data, including personal data to the Office of the CDO in course of making an application to the Scheme.

The Mother and Baby Home Commission archive and database;

The legislation provides for the Office of the CDO to access and process personal data contained in the copy of the database and copy of the related records of the Commission deposited with the Minister under section 4(1) of the Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020, for the purpose of the performance of his or her functions under this Bill.

The database contains information relating to the mothers and children who were resident in 15 of the 18 institutions investigated by the Commission¹. The Commission compiled the database for the purposes of its work, in particular to assist in examining the pathways of mothers and children into and out of these institutions as required by its terms of reference. The database includes information extracted from the original administrative records of:

- Bessborough
- Manor House, Castlepollard

¹ St Patrick's/Pelletstown, was one of the Mother and Baby Institutions which the Commission was specifically mandated by its Terms of Reference to investigate. In accordance with its Terms of Reference and the criteria set out there, the Commission chose the Dublin Union as one of the County Homes to be investigated as a representative sample of all County Homes. In practice, Pelletstown and the Dublin Union were really one institution with separate premises.



- Sean Ross
- St Patrick's Navan Road/Pelletstown/Dublin Union/Eglinton Road
- Tuam Children's Home
- Bethany Home
- Denny House, formerly the Magdalen Asylum
- Dunboyne (Árd Mhuire)
- Cork County Home
- Stranorlar County Home
- Thomastown County Home
- The Castle
- Regina Coeli,
- Ms. Carr's,

Institutional records under the custody of Tusla

Other sources of data:

The legislation provides for the Office of the CDO to request records from information sources specified in the Bill including Local Authorities; the Health Service Executive; the Child and Family Agency and any source prescribed by the Minister for the purposes of establishing or verifying an applicant's residence and period of residency in a qualifying institution or verifying personal data provided in an application.

2.1.2 - Data flows. Will you be sharing data with anyone?

Data sharing will take place between:

- The Office of the CDO and the applicant;
- The Office of the CDO and an appointed third party provider who will be a data processor operating under agreement;
- The Office of the CDO and specified information sources e.g. Local Authorities, the Health Service Executive, the Child and Family Agency or any source prescribed by the Minister for the relevant purposes;
- The Office of the CDO and a panel of Appeals Officers appointed by the Minister for the purposes processing independent appeals under the Scheme;
- The Office of the CDO and the Health Service Executive in relation to the provision of Enhanced Medical Cards.
- Internal and external auditors will have access to Scheme information.



2.1.3 - What types of processing identified as likely high risk are involved?

None of the envisaged data processing processes that will be undertaken by the Office of the CDO are inherently high risk. However, due to the volume of personal data being collected, processed and stored, robust data protection and security controls will need to be in place.

2.1.4 - Are there multiple sets of data processing operations involved?

All data will be processed for the purposes of administering the Scheme. It is envisaged that in processing an application a number of steps will be taken including:

- Assigning a unique case ID to each applicant/application and populating the case management system with the details on the application form;
- Using the information provided in the application to undertake searches of the Commission's archive and database or to request information from an 'information source' in order to establish if an applicant spent time in a relevant institution and the period of time concerned;
- Engaging with the applicant in relation to their application as required, to request further information or a sworn affidavit in the event that there are no records by which to verify residence and or duration of residence;
- Establishing an applicant's entitlement, if any, to the benefits under the Scheme. It is intended that once an applicant's date of entry and exit from an institution are established, the Case Management System will be able to calculate the financial payments (General Payment and Work-related Payment) that an applicant will be entitled to in accordance with the payment rates set out for the Scheme.
- Informing the applicant of the decision in relation to their application and next steps.
- Facilitating an applicant's recourse to a review of this decision or the independent appeals process.
- Arranging for the benefits under the Scheme to be made to the applicant – financial payments, an Enhanced Medical Card or a Health Support Payment (if the applicant is resident abroad).

2.2 Scope of the processing:

2.2.1 - How will you collect, use, store and delete data?

Personal data will be collected on the application form for the Scheme submitted to the third party provider by applicants to the Scheme. This information will be used solely for the purposes of processing the application and providing awards under the Scheme where an applicant is eligible. The information will be stored on a Case Management system which is currently being developed. Data will only be obtained and retained for the specific purpose of processing applications to the Scheme. It will be stored securely and not retained for longer than is necessary. The above will be addressed in more detail in a separate operational DPIA and the DPIA for the ICT Case Management System.

2.2.2 - What types of data subject are involved?

The data subjects will be the Scheme applicants.

2.2.3 - What categories/types of personal data will be used?

Categories of data will include identifying and non-identifying information, including special category data.

The categories/types of data involved will include:



- Institutional records of Mother and Baby Institutions and County homes. These may incorporate historic health data and hospital records;
- Personal data provided by applicant (name, address, contact details, date of birth, bank account details, birth certificates, death certificates,)
- PPS Number may be requested in order to make available benefits under the Scheme.
- Medical records (special category data);
- Legal documents such as affidavits and waivers.

2.2.4 - Frequency / How often will the data be collected?

It is envisaged that data will be collected once and only be collected for the purposes of processing an application for the Scheme. These processes will be further addressed in the separate operational DPIA.

2.2.5 - How long will you keep it?

It is envisaged that information will only be retained for as long as it is necessary and in accordance with Article 5 of the GDPR and that a records retention policy will be developed for the Scheme. This will be addressed further in the separate operational DPIA.

2.2.6 - How many individuals are affected?

It is projected that the Scheme will see an estimated 34,000 people qualifying for financial payments and 19,000 people benefiting from an Enhanced Medical Card under the Scheme.

2.2.7 - What geographical area does the project cover?

The Scheme concerns institutions which were situated in Ireland but applicants may now be living outside of Ireland. It is estimated that in the region of 30-40% of applicants could be resident abroad with the vast majority of these applicants residing in the UK.

2.2.8 - Assets/technology involved with processing the data:

It is not anticipated that any innovative technology or novel processing applications will be used. An ICT Case Management System is being developed for the Payment Scheme, and a separate DPIA will be prepared for that system.

2.3 Context of the processing:

2.3.1 What is the nature of your relationship with the individuals (whose data is being processed)?

The individuals whose data will be processed will be applicants to the Mother and Baby Institutions Payment Scheme.

An individual may make an application on their own behalf. In addition applications will also be accepted from individuals applying on behalf of a deceased relative or on behalf of an individual where they are authorised under an enactment or order of a court to do so. In these cases the personal data processed will concern both the individual who has made the application and the individual on whose behalf the application is being made.

2.3.2 How much control will they have over their data?

Applicants will be able to assert their GDPR rights to access and rectification under the GDPR. While the Office of the CDO will be independent in terms of the functions carried out to process applications to the Scheme, the Office will be situated in the DCEDIY and so the DCEDIY will remain the Data Controller. Applicants will be able to exercise their Article 15 right of access by submitting a data subject access request to the DCEDIY. It will be made clear to data subjects how to contact



the Data Protection Officer in order to exercise their rights. The Office of the CDO will be responsible for ensuring that the personal data retained is accurate and to ensuring that a data subject's right to rectification is addressed without delay. These matters will be addressed in more detail in the separate operational DPIA.

2.3.3 Would they expect you to use their data in this way?

Yes. Data subjects will be informed at the outset of an application of the provisions of the Scheme and any implications for their data.

2.3.4 Are there prior concerns over this type of processing (e.g. security flaws)?

There are no prior concerns over this type of processing.

2.3.5 Is the processing novel in any way?

It is not foreseen that the processing is novel.

2.3.6 What is the current state of technology in this area?

An ICT Case Management System is currently being developed for the Scheme and a separate DPIA will be prepared in this context.

2.3.7 Are there any current issues of public concern that you should factor in?

There will be significant interest in the scheme due to the numbers involved and the highly sensitive subject matter. There is likely to be further public debate around the details of the Scheme (e.g. eligibility, payment levels, signing of waiver) however these issues do not relate to data and processing. However, this Scheme is awaited by survivors and it is anticipated that applications will be received in significant numbers when the Scheme opens.

2.3.8 Are you signed up to any approved code of conduct or certification scheme (incl. any awaiting approval)?

N/A

2.4 Purposes of the processing:

2.4.1 What do you want to achieve?

The overarching objectives of this legislation are:

- a) the provision of financial payments and a form of Enhanced Medical Card to eligible applicants based on the criteria established in terms of periods of residency in a scheduled institution;
- b) the establishment of an Office of the CDO in the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), headed by the Chief Deciding Officer, to administer the Scheme.

2.4.2 What is the intended effect on individuals?

The aim of this legislation is to establish a non-adversarial scheme that is quick, effective and easy to navigate for applicants in order to make financial payments and other benefits available in recognition of time spent in a Mother and Baby or County Home Institution.

2.4.3 What are the benefits of the processing?

- This Scheme is being established in order to provide financial payments and other benefits to eligible applicants in recognition of time spent, harsh conditions, emotional abuse and all other forms of harm, mistreatment, stigma and trauma experienced while resident in a Mother and Baby or County Home Institution.



- The collection and processing of data will enable the Office of the CDO to determine whether an applicant is eligible for any benefits under the Scheme and to make those benefits available to the eligible applicant.
- Allowing the Office of the CDO access to the Commission's Database will enable staff to assist applicants in securing the necessary documentary records to prove eligibility, therefore allowing the State, where possible to shoulder the burden of proof in relation to the Scheme. While the Database is already accessible to applicants through Subject Access Requests, providing access to the Office of the CDO would allow it to act as a one stop shop for many applicants. This access will also allow the Office of the CDO to verify applications and mitigate against acts of fraud.

2.5 Describe the Technical and Organisational Measures for securing personal data:

2.5.1 - What security arrangements will be in place to secure the data?

An ICT Case Management System is being developed for the Scheme. Data processing and data sharing agreements will also be put in place. The necessary security arrangements will be carefully considered and addressed in full in the separate operational and ICT DPIAs.

2.5.2 - What organisational measures will be in place?

Section 34 of the Bill provides for robust prohibition on disclosure of confidential information for the Office of the CDO or a person with whom the Office of the CDO has made an arrangement for the provision of approved services. This will be further addressed in a separate operational DPIA.

Step 3: Assessment of Necessity and Proportionality of Processing

Describe compliance and proportionality measures, in particular:

3.1 - What is your lawful basis for processing?

The Mother and Baby Institutions Payment Scheme Bill and regulations will provide the lawful basis for data processing and this is in accordance with Article 6 (1) (e) of the GDPR. The legislation will give powers to the Chief Deciding Officer, who can further delegate such powers to his or her staff or another person (third party provider) by way of agreement.

3.2 - Does the processing actually achieve your purpose?

The processing of the personal data outlined is integral to the implementation of the Scheme. In further developing the operation of the Scheme the proportionality of all processing will be carefully considered to ensure that any data collected is necessary to the administration of the Scheme.

3.3 - Is there another way to achieve the same outcome?

No. It is necessary to collect and process the data outlined in this DPIA in order to administer this Scheme. Data will only be collected and processed where required.

3.4 - How will you prevent purpose/function creep?

Data can only be processed in line with this legislation and other statutory functions and obligations.

3.5 - How will you ensure data quality and data minimisation?



Data will only be collected and processed where necessary to administer the Scheme. Data can only be processed in line with legislation. The matters of ensuring data quality and data minimisation in respect of the operation of the Scheme will be outlined in the separate operational DPIA.

3.6 - What information will you give individuals about the processing of their data (e.g. in the context of a Privacy Notice)?

Information on data processing will form part of the statutory information campaign, as well as the communications and messaging around the opening of the Scheme. While the DCEDIY remains the Data Controller it is planned that the Office of the CDO will publish a separate privacy notice outlining all data rights and responsibilities in respect of the Payment Scheme.

3.7 - How will you help to support individual rights (e.g. to access/rectify their data)?

A detailed national and international information strategy is currently being developed for the Scheme and the matter of providing support to applicants at all stages of this process is fundamental to this campaign. It is intended that as part of the information campaign for the Payment Scheme, data subjects will be advised of the implications of this legislation, how their data will be collected and used and their right of access their personal data or to have it rectified.

3.8 - What measures do you take to ensure processors comply (e.g. Contract arrangements)?

The legislation provides for a prohibition on disclosure of information for:

- Office of the CDO staff;
- a person, including their staff, engaged by the Office of the CDO to provide consultancy;
- a person, including their staff, with whom the Office of the CDO has made an arrangement for the provision of approved services;
- an appeals officer or any of their staff;

Data processing agreements will be put in place with all data processors. Data sharing agreements will also be put in place as required. This will be outlined further in the separate operational DPIA.

3.9 - Are any international transfers envisaged? If so, how do you safeguard such transfers? What mechanisms do you intend to utilise in the event of transfers to third countries? Prior consultation required?

Applications will be accepted from individuals who live in other jurisdictions. While it may be necessary to transfer data internationally, such transfers will be in the context of processing an application/making a payment.

Step 4: Consult with Stakeholders

Consider how to consult with relevant stakeholders:

4.1 - Describe when and how you will seek individuals' (data subjects) views or justify why it's not appropriate to do so. How would such consultations improve your understanding of the impact of the processing?

The Department acknowledges and recognises the importance of stakeholder consultation. The Department has engaged extensively with stakeholders in the creation of this Scheme. In March 2021 a public consultation was launched which, among other things, sought views on the application process and administration of the Scheme. The views collected through this consultation have informed the design of this Scheme. The OAK Report of the findings of the



Consultation with Survivors of Mother and Baby Homes and County Homes can be viewed on the DCEDIY website [here](#).

In addition to this, submissions have been invited by the Joint Oireachtas Committee on Children, Equality, Disability, Integration and Youth as part of the pre-legislative scrutiny process on the Heads of Bill. Information on the Joint Oireachtas Committee can be found on the Oireachtas website [here](#).

The Bill will be debated in the Houses as part of the legislative process.

As part of the Communications and Engagement Strategy currently being developed for the Payment Scheme, it is intended to establish a Stakeholder Reference Group of scheme applicants, which will help to ensure the implementation of the Payment Scheme is informed by the voices and views of those who are eligible for it. This will involve obtaining feedback on: the information materials; the public information campaign; and the application processes and form.

4.3 - Do you need to ask your processors to assist?

No.

4.4 - Do you plan to consult information security experts, or any other experts?

It is envisaged that we will seek data protection advice in the design of the Scheme and in operationalising the Scheme. DCEDIY is scoping such advice at present. A dedicated GDPR and Institutional Records team will be concerned with ensuring that advice procured is implemented effectively.

Legal advice has been provided by the Office of the Attorney General throughout the process of drafting the Bill of the Bill. The Department will now work closely with the Office of the Parliamentary Counsel as they draft the Bill.

During the drafting of the Bill the Department's Data Protection Unit and Information Management Unit were consulted. The role of the information Management Unit is data protection and records and content management. A preliminary meeting was also held with the Data Protection Commission and it is planned to consult further with the DPC in relation to this DPIA and over the course of the establishment of the Scheme.

The Department's IT Unit will be involved in ensuring that IT systems have the requisite capacity to allow for the processing of data as envisaged by the legislation and that all data is handled in the appropriate manner to minimise risk.

4.5 - What other stakeholders should be consulted (who may have a practical knowledge of the operations)? This may include external partners, to whom information might be disclosed.

The Government asked an Interdepartmental Group (IDG) to develop proposals for this Scheme. The IDG was instructed to take account of the recommendations of the Commission of Investigation, but was not limited to these recommendations.

An Implementation Steering Group has been established (chaired by the Secretary General of the DCEDIY) to provide strategic advice, support and oversight on all aspects of the development and operation of the Mother and Baby Institutions Payment Scheme. This will include providing advice, as needed, in relation to Governance policies and procedures,



Standard Operating Processes, Data Protection policies and procedures, application forms and other templates developed in relation to the Office of the CDO or administration of the Scheme. A detailed Programme Plan for the Payment Scheme has been developed and approved by the Implementation Steering Group and a Project Manager has been appointed.

The steering group includes representatives from the:

- Department of Children, Equality, Disability, Integration and Youth
- Department of Health
- Health Service Executive
- Department of Foreign Affairs

4.6 - How will stakeholder input be sought?

The Minister will continue to update stakeholders through a quarterly update (available on the Department's website), email to the mailing list as required, and will continue to meet with stakeholders when appropriate.

In respect of the Payment Scheme specifically, as outlined above a Communications and Engagement Strategy is currently being developed and a Stakeholder Reference Group will be established. Further detail in respect of this will be outlined in the operational DPIA.

Steps 5 and 6: Risk Assessment - Identifying Privacy Risks and Evaluating Privacy Solutions

	Name of Project/Scheme/Service: Mother and Baby Institutions Payment Scheme Bill								Risk Register Owner: Caitríona O'Connor
Risk Type (F – Financial) (S – Strategic) (O – Operational) (R – Reputational) (L – Legal) (Reg – Regulatory)	Risk Description	Consequence	Risk Owner (Name) (Unit)		Actions / Controls / Mitigations in place (provide details of how you currently manage the risk)	Assessment of Risk			Suggestions on additional Actions / Controls / Mitigations (to further reduce or limit the risk)
						Likelihood (1,2,3,4,5)	Consequence (1,2,3,4,5)	Risk Score	
O/R/L	Unlawful processing of personal data or special category data by the Chief Deciding Officer, his or her staff or third party provider acting on behalf of the Chief Deciding Officer	Breach of the fundamental rights of data subjects under the GDPR	Caitríona O'Connor	Restorative Recognition Unit	Sections 7, 8 and 9 of the draft Bill set out the appointment and functions of the CDO. Section 11 sets out that the CDO may enter into agreements. Sections 39 of the draft Bill provide for processing of personal data and special category data in order to administer the Scheme and Section 40 provides for the use of the database and records of the Commission of Investigation into	1	5	5	

					<p>Mother and Baby Homes.</p> <p>Data processing and data sharing agreements will be put in place.</p>				
O/R/L/F	<p>Availability breach whereby accidental or unauthorised access to personal data takes place.</p>	<p>Data breaches could impact the rights and freedoms of data subjects, have legal repercussions, cause reputational damage and a loss of confidence in the Scheme from applicants.</p>			<p>Section 34 of the Bill provides a prohibition on disclosure of information for all associated with the administration of the Scheme.</p> <p>Data Processing and Data Sharing Agreements will be developed and implemented.</p> <p>Safeguards will be developed and utilised in the operation of the Scheme.</p> <p>Data Protection and GDPR training and guidance will be provided to all personnel involved with the Scheme.</p>	4	4	16	

					The Case Management System will only be accessible only by those authorised.				
O/R/L/F	Personal data breaches due to a failure to secure the data adequately.	Data breaches could impact the rights and freedoms of data subjects, have legal repercussions, cause reputational damage and a loss of confidence in the Scheme from applicants.			<p>Section 34 of the Bill provides a prohibition on disclosure of information for all associated with the administration of the Scheme.</p> <p>Data Processing and Data Sharing Agreements will be developed and implemented.</p> <p>Safeguards will be developed and utilised in the operation of the Scheme.</p> <p>Data Protection and GDPR training and guidance will be provided to all</p>	2	5	10	

					<p>personnel involved with the Scheme.</p> <p>The Case Management System will only be accessible only by those authorised.</p>				
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Step 7: Document DPIA Actions/Outcomes

Item	Name/date	Notes
Actions to further reduce risk approved by:	N/A	
DPO advice provided:	Alan Savage, DPO, 29 th September 2022	
Summary of DPO advice: <i>“Overall I have no issues with the DPIA, and it is well laid out and comprehensive. One comment on the risks, is that the risks seem more appropriate to the operation of the scheme itself (and not the legislation). For example, the second risk (‘Personal data breaches...’) will only materialise once the scheme is operating, so therefore may be more appropriate to one of the future DPIAs.”</i>		
DPO advice accepted or overruled by:	Caitríona O’ Connor	Note that a detailed operational DPIA is currently being developed which will take on board comments of the Data Protection Officer with regard to risks.
Data Protection Commission advice provided:	David Murphy, DPC, 5 th October 2022	
Summary of DPC advice: <i>“Briefly, this DPIA represents a comprehensive outlining of the scheme and the data processing that will be required in its implementation. The objectives of general public interest are clear, and the necessity and proportionality of data processing are understood. In particular the level of consultation with affected data subjects, and the centrality of their needs to the whole project, are clear and welcome. In terms of the assessment of risk, the DPC understands that at this juncture the technical and operational measures to be implemented are not considered in detail and that subsequent assessments will address these in detail. The attached document has some minor observations and recommendations, but in general, this DPIA indicates a positive, risk-based approach on the behalf of the Department to the processing of personal data in the scheme, in line, in particular, with the principles of data protection by design and data minimisation.”</i>		
This DPIA will be kept under review by:	Caitríona O’ Connor, DCEDIY	