An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Óige
Department of Children, Equality,
Disability, Integration and Youth

Mother and Baby Institutions Payment Scheme

Government Proposals

1. Introduction

The Government has approved proposals for a Scheme, to be known as the Mother and Baby Institutions Payment Scheme. It has also approved the drafting of legislation to establish this Scheme.

2. Background

The Final Report of the Commission of Investigation into Mother and Baby Homes was published on 12 January 2021. The publication was accompanied by a Government commitment to an Action Plan encompassing a suite of 22 specific measures, and was followed by a State apology, delivered by An Taoiseach on 13 January.

A centrepiece of the Government's Action Plan is the commitment to a Restorative Recognition Scheme. An Interdepartmental Group (IDG) was established and tasked with the development of detailed and costed proposals for a Scheme comprising two broad dimensions:

- the provision of payments which take account of the Commission's recommendations on redress (but are not solely limited to those recommendations), and
- the provision of a form of enhanced medical card to everyone who was resident in a Mother and Baby or County Home Institution for a period of six months or more.

The Group submitted its report to the Minister in November 2021. Its work was informed by a national and international consultation, as well as an Advisory Paper from the Irish Human Rights and Equality Commission, the draft Redress Scheme Guidelines developed by the Department of Public Expenditure and Reform and the lessons learned from previous experience.

Feedback from the consultation process signalled that some of those affected objected to the name 'Restorative Recognition' and wanted a different name for the Scheme. Noting this feedback, the IDG proposed that the Scheme should instead be named the 'Mother and Baby Institutions Payment Scheme' and this was agreed by Government.

The final report of the Interdepartmental Group can be found here.

3. Consultation with Survivors of Mother and Baby and County Home Institutions

In keeping with the commitment to a survivor-centred approach, a public consultation process on the design of the Scheme was undertaken. OAK Conflict Dynamics ('OAK') was appointed to undertake the consultation process on behalf of the IDG. An information campaign was put in place to advertise the process, both in Ireland and abroad. Analysis shows that, through both online and print advertising, this campaign reached 2.5 million people.

The consultation was carried out during March and April and there was a very strong response with approximately 450 written submissions received and 17 online meetings held. OAK submitted the final report of the consultation to the IDG on 17 May 2021.

The input from those who spent time as mothers and children in Mother and Baby and County Home Institutions was invaluable. While recognising all the findings of the consultation process, the IDG and the Government particularly noted the strong calls for a non-adversarial approach, and for kindness and sensitivity to be a defining feature of any processes established as part of the Scheme.

The report of the consultation can be found here.

4. Advisory Paper from Irish Human Rights and Equality Commission (IHREC)

IHREC, as the independent national human rights institution and equality body, was requested by the Minister for Children, Equality, Disability, Integration and Youth to provide an advisory paper to the IDG on the rights and principles pertaining to arrangements of this kind, as well as recommendations in relation to how these could apply in the development of the financial payment. IHREC met with the IDG to discuss its advisory paper. The IHREC Advisory Paper will be published to its website, www.ihrec.ie in accordance with its practice on legislative observations.

5. Scheme Purpose and Context

The purpose of the Mother and Baby Institutions Payment Scheme is to provide financial payments and an enhanced medical card to defined groups in acknowledgement of suffering experienced while resident in Mother and Baby and County Home Institutions. The Government recognises that no financial award or service provision can take back the hurt, loss and distress that has been experienced. Rather, the Scheme represents a measure that the State is taking to recognise that hurt and suffering, provide a degree of support and seek to rebuild trust with persons who were failed as mothers and children in the context of these institutions.

The Scheme will stand as part of a broader and multifaceted Government response to the experiences endured by people who spent time in Mother and Baby and County Home Institutions. This broader response is important because, as the report of the consultation demonstrates, for some people redress is an apology and memorialisation, while for others it lies in access to records. As such, the Scheme must be understood as one of the range of ways in which the State acknowledges the failures and suffering experienced (the Government's Action Plan can be found here.)

6. Basis and Scope of the Scheme

Given its scale and significance, the Mother and Baby Institutions Payment Scheme will be placed on a statutory footing by means of a single, comprehensive and integrated piece of legislation which encompasses both elements of the Scheme – the financial payment and the enhanced medical card. This has the strongest potential to support a user friendly, 'one stop shop' approach, ensure that gaps are avoided and ensure that there is a clear, consistent and coherent approach.

In terms of its scope, the Scheme will encompass the 14 Mother and Baby Homes investigated by the Commission of Investigation and all County Homes. (See Appendices A and B).

7. Eligibility for Financial Payments under the Scheme

The Government noted that a key message from the consultation process was that people wished to be treated with kindness. Similarly, a key message from IHREC was that the Scheme should 'do no harm'. Having carefully considered the findings from the consultation process, and with particular reference to the twin tenets of 'act with kindness' and 'do no harm', payments will be provided to eligible applicants based on proof of residency for a defined period of time and will comprise:

- A general payment to recognise time spent in the institution, harsh conditions, emotional abuse and other forms of mistreatment, stigma and trauma experienced while resident in a Mother and Baby or County Home Institution.
- A work-related payment for mothers who were resident for more than 3 months in Tuam Mother and Baby Home, a County Home Institution or in certain other limited circumstances[1].

[1] The work related payment will also apply to any pregnant or unmarried mother who was required to undertake 'commercial' work without pay outside the grounds or setting of a Mother and Baby Home Institution and was resident in this institution for more than 3 months. 'Commercial' should be understood to include any work undertaken in local institutions (e.g. a local hospital) or in local family homes, other than the woman's own family home or place of residence. Mother and Baby Home should be understood to refer to the list of institutions set out at Appendix A. A sworn affidavit may be required in these circumstances.

Applicants will qualify based on proof of residency, without a need to bring forward any evidence of abuse or any medical evidence or sworn affidavits. In limited circumstances, sworn affidavits may be required, for example, in the case of a person who was resident in a County Home for which records no longer exist.

Where a person would have qualified as an applicant but died on or after the date of An Taoiseach's apology to survivors on 13 January 2021, the spouse or children of that person or their estate may make an application to the scheme for a financial payment on behalf of that deceased person.

The following groups will be eligible for financial payments under the Scheme:

- Pregnant women who were resident in a Mother and Baby or County Home Institution for any period of time, including where they were under 18 years of age at the time of being pregnant,
- Any person who was resident as a child in a Mother and Baby or County Home Institution for a period of six months or more (and who did not receive redress in respect of that institution under the Residential Institutions Redress Scheme)[2].

In establishing a Scheme for the above groups, the Government takes full account of the redress recommendations of the Commission of Investigation but also goes much further through the provision of far broader eligibility criteria.

Financial payments will not extend to those who spent less than six months in one of the institutions as an infant. For those who were adopted as infants from Mother and Baby Institutions, the Government is aware that the key priority and need for many is access to their records and identity information. This points to the importance of the broader Government response to the Commission's Final Report, particularly measures such as the Birth Information and Tracing Legislation which is being progressed at present.

8. Payment Rates

The table below outlines the payment levels have been agreed for the Scheme. The rates were proposed based on a consideration of payment rates in respect of other comparable

[2] The qualification in brackets relates to St. Patrick's Mother and Baby Home (Pelletstown) which was covered by the RIRS and will also be covered by the proposed Mother and Baby Institutions Payment Scheme. The intention is to prevent double-counting by making a second payment in respect of the same institutional experience. No person will be excluded from applying from the proposed Scheme on the basis that they received a payment under the RIRS in respect of their experience in another institution, e.g. The RIRS may have compensated them for experiences in an industrial school, while the proposed Scheme may provide a payment in respect of their time spent in a Mother and Baby or County Home Institution.

schemes nationally. It is acknowledged and agreed by Government that it is not possible to 'monetise' the suffering or the losses experienced. This financial payment represents a contribution, acknowledging the hurt and suffering endured by those who spent a period of time in these institutions.

Having regard to the learning from other schemes nationally and internationally, the IDG did not consider that there was a rationale for differing rates of general payment for mothers and children who were resident for more than 6 months, and noted that differing rates could have an unintended consequence of being damaging and divisive.

The payment will operate similarly to the Magdalen Restorative Justice Ex-Gratia Scheme comprising a general payment, which rises based on length of stay, and a work type payment for certain groups (see above).

Time Spent in a Mother and Baby or County Home Institution	**General Payment for mothers and children (€)**	**Work Payment (for mothers who qualify only) (€)**	**Total Amount if qualifying for general payment and work payment (€)**
Less than 3 months (mothers only)	5,000	0	5,000
Between 3 and 6 months (mothers only)	10,000	1,500	11,500
Between 6 months and 1 Year	12,500	3,000	15,500
Over 1 Year	15,000	6,000	21,000
Over 2 Years	20,000	12,000	32,000
Over 3 Years	25,000	18,000	43,000
Over 4 Years	30,000	24,000	54,000
Over 5 Years	40,000	30,000	70,000
Over 6 Years	45,000	36,000	81,000
Over 7 Years	50,000	42,000	92,000
Over 8 Years	55,000	48,000	103,000
Over 9 Years	60,000	54,000	114,000
Over 10 Years + (MAX)	65,000	60,000	125,000

Legal waiver

Given the proposed scale of the Scheme, Government has also agreed that those who accept financial awards under the Scheme will need to sign a legal waiver which states that they will not then pursue an action against the State through the courts.

It is acknowledged that applicants may be disappointed at the inclusion of a waiver in the Scheme, and some may interpret it as representing a failure to take responsibility or to be

truly accountable. This is not the case. In his apology to survivors of the Mother and Baby Institutions, An Taoiseach stated "the State failed you, the mothers and children in these homes." The Government is acutely aware of the importance of acknowledgement, apology and accountability.

It is important to recognise also that the design of this Scheme means that accepting an award would mean that the applicant would benefit from significantly less burdensome procedures than those used in the courts, has a high degree of certainty regarding the success of their case and does not risk incurring high legal fees if their case is not successful. Furthermore, the legal waiver would be signed at the point where the applicant accepts an offer of a financial 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. Applicants will also be financially supported to avail of independent legal advice at the point of signing a waiver.

9. Eligibility for an Enhanced Medical Card under the Scheme

A form of enhanced medical card will be provided to everybody who was resident in a Mother and Baby or County Home Institution for six months or more. This reflects the earlier Government Decision on the matter and is in line with the approach proposed by the IDG. The card will provide the same full suite of health services and benefits which was provided under the Magdalen Restorative Justice *ex-gratia* Scheme.

Those who are deemed eligible for the card but who live overseas will have the choice to receive an enhanced medical card or a once-off payment of €3,000 in lieu of the card and as a contribution towards their individual health needs.

10. Governance Arrangements for the Scheme

The Scheme will be operated by an independent Executive Office, situated within the Department of Children, Equality, Disability, Integration and Youth. This approach supports the most efficient and speediest establishment of an independent office on a legislative basis.

A person will be able to make a single application to the Executive Office in respect of both the financial payment and the enhanced medical card. The Executive Office will be responsible for administration and decision-making in relation to the Scheme. Where it determines an application for a financial payment, it will arrange for the payment to be issued via the Department to the applicant. Where it determines an application for an enhanced medical card, it will be responsible for providing the HSE with the person's details so that the HSE can issue the card.

Particular attention will be paid to ensuring the Scheme is accessible and that appropriate measures are put in place for applicants who may lack capacity to apply. More generally, all processes will be designed with the principles of 'kindness' and 'do no harm' in mind and will be trauma-informed. In addition, applications from those who are elderly (and other categories as deemed appropriate) will be prioritised.

The Scheme will contain robust review and appeals processes for applicants who are unhappy with the decision in relation to their application.

A robust governance framework will be established for the Scheme which takes full account of data protection and records management requirements, consistent with the provisions of the National Archives (Amendment) Act 2018, the Freedom of Information Act, 2014, the Data Protection Acts 1988-2018 and the General Data Protection Regulation (GDPR). As part of good governance, a first review of the Scheme's operation will commence 12-18 months after its establishment, and a further post evaluation will be conducted on completion of the Scheme.

The proposed duration of the Scheme, as set down in legislation, will be up to five years. A robust communications campaign, nationally and internationally, should ensure that all those eligible for the Scheme will be made aware of its existence from the outset.

Finally, awards and benefits will be discounted for the purposes of determining entitlement to social welfare payments and/or income tax liability. There will also be engagement with relevant authorities overseas, where possible, to recommend consideration of similar provisions in other jurisdictions, while noting that the Irish Government does not have the authority to compel other jurisdictions to make such allowances.

11. Children who were boarded out

The IDG noted the Commission's findings that children who were boarded out in some cases experienced some of the worst abuses but also its finding that systematic evidence relating to boarded out children was scant. According to its Terms of Reference, the focus of the IDG was the development of a Scheme specifically related to time spent in a Mother and Baby or County Home Institution. Children were boarded out in a range of circumstances, in some instances from their own home when a family no longer had the means to care for them and from institutions other than a Mother and Baby or County Home Institution.

The IDG acknowledged the severe and extremely distressing abuse experienced by some of these children. This included neglect, physical and emotional and in some cases sexual abuse. However, such abuses were not experienced by all people who were boarded out as children

and could, therefore, only be fully considered on a case by case basis. By contrast, the payment approach proposed by the IDG does not cater for such individualised assessments.

Considering the IDG's terms of reference, the limited information available, the requirement for an individualised approach in relation to boarded out children who suffered abuse and the fact that the circumstances surrounding boarded out children goes far beyond Mother and Baby or County Home Institutions, with many boarded out children never having spent time in these particular institutions, the IDG did not develop specific proposals in respect of children who were boarded out. It is the case however, given that a significant number of children were boarded out from Mother and Baby Institutions, that they will qualify for payments under the proposed Scheme on grounds of being in a Mother and Baby Institution for more than six months prior to being boarded out.

Recognising that this will be very disappointing for those who may have anticipated their inclusion in this Scheme, the Government is keen to emphasise that the response to the publication of the Final Report of the Commission of Investigation includes other measures which will provide support and assistance to those who were boarded out as children. These measures include:

- Access to birth and early life information as part of the Birth Information and Tracing Legislation which is being advanced.
- Inclusion in the memorialisation initiatives being developed which will afford an opportunity for people to tell their story.
- The provision of an ex-gratia payment to compensate anyone who was boarded out and had to pay inheritance taxes for farms which they inherited from their foster parents.

Furthermore, the Minister for Children, Equality, Disability, Integration and Youth intends to make arrangements for the provision of access to dedicated counselling supports through Tusla for those who were boarded out as children.

12. Publicity and Communication of the Scheme

Clear and respectful communications on the Scheme are essential to ensuring a survivor-centred approach. A communication strategy will be put in place which identifies appropriate and accessible communication tools. A large portion of potential applicants will be based outside of Ireland (in particular in the UK and America) and this will require an international component to any communications strategy.

13. Cost to the Exchequer

It is estimated that 19,000 people will qualify for an enhanced medical card, while 34,000 people will qualify for a financial payment. The total cost of this will be of the order of €800m

over the lifetime of the Scheme. The costs associated with the financial payment are once-off costs, whereas the cost associated with the enhanced medical card are ongoing in nature.

14. Next Steps

Following on from the Government decision, the Minister for Children, Equality, Disability, Integration and Youth will:

- **Develop Draft Legislation-** A General Scheme of a Bill to establish a Mother and Baby Institutions Payment Scheme, will be drafted and submitted for Government approval.

- **Establish an Implementation Steering Group-** An Implementation Steering Group will be established to oversee and drive all aspects of the development of the Scheme. The Implementation Steering Group will prepare a detailed project plan to support clarity on the shortest possible timeframe for delivery of a high-quality Scheme which is accessible, transparent, fair and kind to all those it serves.

- **Engage with the Religious Congregations-** The Minister has already written to the religious authorities involved in the operation of the relevant institutions seeking to meet with them in order to discuss how they might contribute to the Scheme.

Appendix A: Mother and Baby Homes investigated by the Commission

St Patrick's / Pelletstown, Navan Road, Dublin 7
The Tuam Children's Home, Tuam, Co. Galway
Bessborough Mother and Baby Home, Cork
Manor House Castlepollard
Sean Ross Abbey
Árd Mhuire Dunboyne
Bethany Home, Dublin
Denny House, Dublin
Miss Carr's Flatlets, Dublin
The Regina Coeli Hostel, Dublin
The Castle Newtowncunningham, Co. Donegal
The County Clare Nursery, Kilrush, Co. Clare
Belmont Flatlets, Dublin
St. Gerard's, Dublin

Appendix B: County Homes

Location	Other name
Carlow	Sacred Heart Home and Hospital, Carlow
Cavan	St. Felim's County Home and Hospital, Cavan
Clare (Ennis)	St. Joseph's Hospital, Ennis
Cork (City)	Cork County Home and District St. Finbarr's
Cork (Midleton)	Our Lady of Lourdes Home, Midleton
Cork (Clonakilty)	Mount Carmel Home, Clonakilty
Cork (Fermoy)	St. Patrick's Hospital, Fermoy
Donegal (Stranorlar)	St. Joseph's Home, Stranorlar
Dublin (St. Kevin's Institution)	Initially the Dublin Union;
Galway (Loughrea)	St. Brendan's Home, Loughrea
Kerry (Killarney)	St. Columbanus Home, Killarney
Kildare (Athy)	St. Vincent's Hospital, Athy
Kilkenny (Thomastown)	St. Columba's County Home, Thomastown
Laois (Mountmellick)	St. Vincent's Hospital, Mountmellick
Leitrim (Carrick-on-Shannon)	St. Patrick's Home, Carrick-on-Shannon
Limerick (Newcastlewest)	St. Ita's Home, Newcastlewest
Limerick (City Home and Hospital)	St. Camillus Hospital, Limerick
Longford	St. Joseph's Hospital, Longford
Mayo (Castlebar)	Sacred Heart Home, Castlebar
Meath (Trim)	St. Joseph's Home, Trim
Monaghan (Castleblayney)	St. Mary's Hospital, Castleblayney
Offaly (Tullamore)	St. Vincent's Hospital, Tullamore
Roscommon	Sacred Heart Home, Roscommon
Sligo	St. John's Hospital, Sligo
Tipperary North (Thurles)	Hospital of the Assumption, Thurles
Tipperary South (Cashel)	St. Patrick's Hospital, Cashel
Waterford (Dungarvan)	St. John's Hospital, Dungarvan
Westmeath (Mullingar)	St. Mary's Hospital, Mullingar
Wexford (Enniscorthy)	St. John's Hospital, Enniscorthy
Wicklow (Rathdrum)	St. Colman's, Rathdrum