

The Executive Office Truth Recovery Public
Consultation on a statutory Public Inquiry and Financial
Redress Scheme

**Response from the Truth Recovery
Independent Panel**



Truth Recovery Independent Panel
Seeking the Truth

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1.0 Introduction

1.1 The Truth Recovery Independent Panel (hereafter Independent Panel)

is a central part of the Truth Recovery Process that was designed in **October 2021 by Deirdre Mahon, Maeve O'Rourke, and Phil Scraton who made up the Truth Recovery Design Panel.**¹ In November 2021, **the Northern Ireland Executive accepted all the recommendations that were made in the Truth Recovery Design Panel's Report.**

However, with the Executive collapsing soon after this decision, it was not until **April 2023** that, in the absence of Ministers, **The Executive Office (TEO) appointed a non-statutory Truth Recovery Independent Panel,** for a period of twenty-four months, following a competitive public appointment process.

1.2 The Independent Panel is part of an innovative two-stage method of truth recovery. It is tasked with working in advance of **a statutory Public Inquiry that is likely to begin following the completion of the Independent Panel's Final Report.** In combination, the Independent Panel/Public Inquiry are designed to complete the task of seeking truth, acknowledgment and accountability around Mother and Baby Institutions, Magdalene Laundries and Workhouses. For many years, victims-survivors have campaigned for this process. and it must be acknowledged that without their courage and tenacity the Independent Panel and the Truth Recovery Process would not exist.

1.3 The Independent Panel has a budget of £2million for its two-year life span. The Independent Panel was proposed because **many victims-survivors explained to the Truth Recovery Design Panel that they wanted the opportunity to present their testimonies in a non-adversarial forum.** This means being able to provide testimony in **a safe space that does not involve legal cross-examination.** Research carried out with people who gave testimony to the Historical Institutional Abuse

¹ D. Mahon, M. O'Rourke and P. Scraton, *Mother and Baby Institutions, Magdalene Laundries and Workhouses in Northern Ireland: Truth, Acknowledgement and Accountability* (2021).

Inquiry indicates that many victims-survivors were re-traumatised by that process.² For this reason it was recognised that it is desirable to establish a truth-telling first phase of an overarching truth recovery process that gathers testimony in a non-adversarial form. Testimony collection from victims-survivors needs to be aware of the impact of trauma and also of issues such as disability and gender on the process of giving personal testimony.

1.4 Testimonies gathered by the Independent Panel will be used to inform and guide the work of the statutory Public Inquiry. This task will be most effective if the **Chair of the Public Inquiry is appointed before the Independent Panel completes its work.** In May this year, the **Independent Panel's *Interim Report* urged Ministers to complete the appointment of the Public Inquiry Chair** as soon as possible. To date, there has been no response from Ministers on that issue or on the other recommendations in the Independent Panel's *Interim Report*.

1.5 As well as informing the work of the Public Inquiry, there is a recognition of the potential for the testimonies to educate the general public about the history of Mother and Baby Institutions, Magdalene Laundries, Workhouses and their related pathways and practices.

This will be achieved by a number of means:

- Extracts from some testimonies will be included **in the Independent Panel's Report.**
- **The Independent Panel's website** will feature some of the testimonies that are collected from victims-survivors (with their consent) as well as from others with knowledge of the institutions and their pathways and practices.
- In the long term, some of the testimonies will be preserved in **an Independent Archive and will be available for use after a period of closure (twenty years).**

² P. Lundy, "‘I just want justice’: the impact of historical institutional child abuse inquiries from the survivor's perspective", *Eire-Ireland*, volume 55, numbers 1 & 2 (2020).

1.6 The collection of testimony is not the Independent Panel's only research task. It was also recognised that the Panel should begin work in advance of the **Public Inquiry in terms of prioritising the gathering and cataloguing of historical records** that are accessible immediately. The Public Inquiry will be able to use its **powers of compulsion** to gather records from any institution/organisation or public body that does not make records available to the Panel for its investigation. The Panel has made **good progress, in partnership with the Public Record Office of Northern Ireland (PRONI)**, in identifying relevant institutional records. **Several institutions and religious orders have made their records available** and PRONI has, where necessary, carried out repair and preservation on the paper records before digitising them. Negotiations to achieve the same results with a **small number of other institutions are currently stalled and it may well be the case that the Public Inquiry will have to oversee the work with those records.** This will inevitably come **with much greater costs to the public purse.** Work is also being carried out to survey and identify relevant records from public bodies.

1.7 A further significant function of the Independent Panel arose from the requirement for a **coordinated, fully resourced, expert mechanism to assist victims-survivors and relatives in accessing personal information.** The Independent Panel has noted the consistent frustrations articulated by victims-survivors when they have explained the attempts, they have made to get answers to simple questions that most of us take for granted such as who am I, who are my parents? The Independent Panel has been asked to work on this issue not only because it addresses **a fundamental human right centred on identity but also because to enable full participation in the integrated truth investigation process individuals require full access to the records** that reveal their identity, origins and life pathways and those of their family members. In this area of our work, the Independent Panel's role is to advise on best practice around access to records and to encourage all record holders to adopt best practices that comply with all legal and ethical requirements. The

intention is that victims-survivors are given the opportunity to view any personal records that can inform their testimony to the Panel (and/or the Public Inquiry and/or the Redress Service) and that agencies holding those records have full knowledge of their responsibilities to make them available and full awareness of all current data protection legislation and policy. **The Independent Panel is currently finalising a set of guidance documents that explain how to seek personal records (or those of family members) from the various institutions, religious organisations, Health and Social Care Trusts, and adoption agencies that hold records that relate to Mother and Baby Institutions, Magdalene Laundries and Workhouses and their related pathways and practices.**

1.8 Set out below is the list of institutions that the Independent Panel is tasked with exploring. However, we are aware that we need to be flexible in our approach in the event that other relevant institutions begin to appear either in the testimonies we are recording or in the records that are being digitised for the Independent Panel/Public Inquiry by PRONI. **At this point, we have identified one further institution that we have added to our list and (below) suggest that the TEO also adds to its list of institutions for the purposes of Redress and investigation by the Public Inquiry. This is Clogrennan, in Larne, which appears to have operated as a Mother and Baby Institution for around five years in the early 1970s. It was managed by the local health and social care trust. This particular institution came to the Independent Panel's attention via a victim-survivor who engaged with our testimony process. This is clear evidence of the value of victim-survivor testimony to the Independent Panel's investigation.**

1.9 The Independent Panel is also aware of its remit to examine pathways and practices related to institutions on our list. This includes the relationships the institutions had with **GPs, social services, the police, the courts, clergy and other religious authorities.** It includes the pathways that led into and out of the institutions. In the latter

respect, it includes examining dedicated **baby homes** that were often the first destination for infants following separation from their mother in a Mother and Baby Institution. It also includes **probing the cross-border movement of babies from mother and baby institutions from Northern Ireland into the Republic of Ireland and, in some cases, their return to the North and onwards into adoption, fostering or the care system. Significantly, investigation of the pathways and practices must include examination of the role of public authorities acting on behalf of the state. This includes the Health and Social Care Trusts, the Police, the Courts and all government departments that had official dealings with the institutions. In this context, the Independent Panel understands that Department of Health has suspended disposal of any adoption files, and we want to underline the importance that this suspension is maintained at least until the Public Inquiry has carried out all its work. Adoption files do not have any permanent preservation protections in law and are routinely disposed of after 75 years.** This is the cause of distress to numerous individuals who have struggled to gain access to the adoption records of their deceased relatives and loved ones.

1.10 In probing the pathways and practices, the Independent Panel is also alert to the requirement to examine to what extent family separation, particularly the separation of a baby from their birth mother and the concealment of a pregnancy, was also facilitated by the use of **private nursing homes**. The Independent Panel is also attentive to concerns that **private residential addresses may have been employed systematically to facilitate the concealment of an unmarried girl or woman's pregnancy and her separation from her baby.**

1.11 The Independent Panel's awareness of these issues emerges because of the **participation of victims-survivors. Three members of the Independent Panel are victims-survivors** themselves, and so every aspect of the Independent Panel's work, and every decision we make, is informed by their perspective, their experience and their connections with

the wider community of victims-survivors. Additionally, we have met on multiple occasions with the **Victims and Survivors Consultation Forum** and listened to their concerns and ambitions for the process around legislation and redress that this consultation addresses. Members of the Panel have also **met on numerous occasions with small groups of victims-survivors to discuss these and other issues**. Moreover, in all the testimonies we record victims-survivors are given an opportunity to offer their perspective on issues such as the potential focus of the Public Inquiry, Redress and memorialisation of the institutions and related pathways and practices.

2.0 Membership of Panel

2.1 The Independent Panel is an innovative development in transitional justice because it is the first time that such a body has been set up to build the foundations for a statutory Public Inquiry which will complete the Truth Recovery Programme around Mother and Baby Institutions, Magdalene Laundries, Workhouses and their related pathways and practices. **The second innovative element of the Independent Panel is that three of its members have lived experience/have been directly impacted by these institutions.**

2.2 Roisin McGlone was sent to Marianville mother and baby institution when pregnant as a teenager and her baby was taken for adoption. Maria Cogley's birth mother was placed in Marianville and Maria was adopted soon after her birth. Paul McClarey's mother was also in Marianville when he was separated from her less than three weeks after his birth. His mother subsequently was sent to work in the Good Shepherd Laundry on Ormeau Road Belfast. Paul then entered the care system, was fostered and finally, aged 6, adopted. Roisin, Maria and Paul bring many skillsets and professional experiences to the Panel, which have been heavily utilised. Their input to the Panel ranges across numerous aspects of our work, but they are particularly active in terms of Communications and Engagement and Access to Records and Advocacy.

2.3 The Independent Panel's Co-Chairs are Leanne McCormick and Sean O'Connell. Between 2018-2019 they researched and co-authored *Mother and Baby Homes and Magdalene Laundries in Northern Ireland, 1922-1990* (2021). This report formed the foundations for the Truth Recovery Design Panel. They have been working with victims-survivors of these institutions for six years and are highly committed to ensuring that the Independent Panel and the Truth Recovery Process in general delivers effective and impactful outcomes.

2.4 The remaining Panel members offer skillsets that are essential to the Panel's work. Patricia Canning, a forensic linguist, is part of the Testimony Facilitation team and will focus, in particular, on the analysis of testimony. This will enable the Panel's Final Report to identify significant trends within the testimony and highlight important issues for the attention of the Public Inquiry. Beverley Clarke is also part of the Testimony Facilitation team and has led the training on the Panel's trauma-focused approach to testimony collection. She brings her experience of working on the Redress Board linked to the Historical Institutional Abuse Inquiry. Colin Smith SC is a human rights lawyer and is central to the Independent Panel's work around access to records and advocacy. He has extensive experience representing victim-survivors in the Republic of Ireland in litigation relating to non-recent institutional abuse. His knowledge of human rights law has and will shape the Independent Panel's conclusions around the issue of human rights abuses in relation to the institutions and their pathways and practices. Steven Smyrl is a professional genealogist who leads the Independent Panel's work in relation to exploring issues that relate to birth/death certifications, burials, and family reunification. Mark Farrell is a professional archivist and ensures that all records collected by the Independent Panel are stored securely and shared appropriately. He will also take a lead in discussions around the creation of an Independent Archive in which records collected by the Independent Panel (including the testimony of those who consent) is preserved for future educational and research purposes.

3.0 The Institutions the Independent Panel was Asked to Examine

3.1 Magdalene Laundries

- Good Shepherd Sisters convent / St Mary's Home, 511 Ormeau Rd, Belfast
- Good Shepherd Sisters convent / St Mary's Home, 132 Armagh Rd, Newry
- Good Shepherd Sisters / St Mary's Home, Dungiven Road Derry / Londonderry

3.2 Industrial Home

- Salvation Army / Thorndale Industrial Home, Duncairn Avenue, Belfast

3.3 Mother and Baby Institutions operated by voluntary/religious bodies/charities

- Belfast Midnight Mission / Malone Place Rescue and Maternity Home - Malone Road, Belfast
- Marianville (Good Shepherd Sisters) - 511 Ormeau Rd, Belfast
- Marianvale (Good Shepherd Sisters) - 132 Armagh Rd, Newry
- Hopedene Hostel – 55 Dundela Avenue, Belfast
- Kennedy House (Church of Ireland Rescue League) - 8 Cliftonville Avenue, Belfast
- Mater Dei Hostel (Legion of Mary) - 298 Antrim Road, Belfast
- Thorndal House (Salvation Army) -Duncairn Avenue, Belfast
- Deanery Flats (Barnardo's) -Windsor Avenue, Belfast

3.4 Mother and Baby Institutions / Operated by the State / Health and Social Care Trusts

- Belfast Welfare Hostel – Lisburn Road, Belfast
- Coleraine Welfare Hostel
- Mount Oriel Hostel – 4 Mount Oriel, Belfast

3.5 Workhouses

Workhouses were all closed in 1948. Between 1922 and 1948 they operated in Antrim, Armagh, Ballycastle, Ballymena, Ballymoney, Banbridge, Belfast, Castlederg, Clogher, Coleraine, Cookstown, Derry / Londonderry, Downpatrick, Dungannon, Enniskillen, Irvinestown, Kilkeel, Larne, Limavady, Lisburn, Lisnaskea, Lurgan, Magherafelt, Newry, Newtownards, Omagh, Strabane

4.0 The Truth Recovery Independent Panel's Responses to the Consultation

4.1 The Independent Panel's response to this TEO consultation is guided by several key principles:

- That the proposed legislation and redress is consistent with the **Truth Recovery Design Panel's plans**, which were accepted in full by the Executive in November 2021
- **That our response** to the TEO proposals **reflects the great deal of insight** the Independent Panel has gleaned **from our engagements with victims-survivors** since our establishment in April 2023.
- That our proposals are crafted in the **trauma-centred and non-adversarial spirit of the Truth Recovery Design Panel's programme**.
- In particular, that **the mantra 'do no harm' is applied to any TEO proposal** that we feel has the potential to cause harm to individuals or within family/kinship groups.
- That, **as far as is possible, there is equity between all victims-survivors** impacted by the institutions and pathways and practices.
- That **our response** to the proposals **is based on principles of equity rather than on administrative convenience**.
- That **our response offers constructive, imaginative and realistic proposals** whenever the Independent Panel is dissatisfied with any aspect of the TEO's proposals.
- That **we draw upon the knowledge and expertise of all Independent Panel members**. This includes those with experience of the institutions and their impacts, our human rights lawyer and a panel member with significant experience of working on the Redress Board associated with Historical Institutional Abuse in Northern Ireland.

4.2 In the remainder of this document the Independent Panel responds to those areas of TEO Consultation exercise that are relevant to our remit/status as Panel.

5.0 Composition of the Inquiry

5.1 The Truth Recovery Design Panel recommended that there be victim-survivor participation in the panel conducting the Public Inquiry. However, the Consultation Paper states that '[i]mplementing the recommendation in the Report to include a victim and survivor representative on the public inquiry panel would conflict with the requirement of impartiality and may result in the inquiry being challenged once established, which could delay this important work.' **The Independent Panel respectfully disagrees.** Victim-survivor representation on the Public Inquiry panel would no more conflict with the requirement of impartiality than the appointment of a person (such as a judge) who is associated with the State. The public authorities were not neutral actors in the matters under investigation, but active participants whose actions will be investigated as part of the pathways and practices of the institutions. **In our view, the participation of victim-survivors on the Public Inquiry panel is essential to the credibility and integrity of the process** and entirely consistent with recommendations made in academic research on the successes and failures of other similar inquiries in this and other jurisdictions. For example, a 2023 report recommended that 'victims/survivors, representatives of other parties with primary interest in the topic being investigated, as well as those with legal, social science and other relevant expertise should comprise the panel of commissioners, appointed by open competition.'³

³ P. Shilliday, A-M. McAlinden, J. Gallen, and M. Keenan, M., *Non-recent Institutional Abuses and Inquiries: Truth, Acknowledgement, Accountability and Procedural Justice*, (2023)

6.0 Time Period to be Covered by the Inquiry (Q8)

6.1 The Consultation paper states that the inquiry should include the years between 1922 and 1995. It argues that this covers the date between the foundation of Northern Ireland, following Partition, and goes slightly beyond the closure date of the last institution among those examined by the Queen's/Ulster research report (2021). This institution was Marianville, the mother and baby institution operated by the Good Shepherd Sisters in Belfast. **The Independent Panel does not recommend alteration of these dates, at this juncture.** However, it should be recorded that the Truth Recovery Design Report recommended that the Independent Panel should make recommendations on this issue that should be considered by the Public Inquiry before it begins its deliberations. Therefore, **the Independent Panel proposes that the legislation should incorporate a mechanism to allow the period to be extended to take account of any recommendation to that effect that the Independent Panel may make as its investigation progresses.** Such a measure will allow for the investigation of any institution (or a particular pathway or practice) which operated after 1995 and which has previously not come under public scrutiny.

7.0 The Proposed Focus on Systemic Failings (Q9)

7.1 The Consultation exercise asks if the proposed focus on systemic failings gives the Public Inquiry sufficient leeway to explore the extent of what happened in the institutions and in the associated pathways and practices. The Independent Panel considers that **the focus of the Public Inquiry should be on systemic failings. However, nothing in the legislation should prevent investigation of individual violations of human rights enshrined in the international human rights treaties to which the UK is a party.** Moreover, these rights have long been protected by the common law and by laws enacted by Parliament. The Independent Panel also notes that **the Public Inquiry will be a public authority for the**

purposes of the Human Rights Act 1998, and that it will be obliged to act in a manner compatible with the rights protected by the European Convention on Human Rights, including the right to fair procedures and the prohibition of discrimination.

7.2 The Independent Panel notes that, as recommended by the Truth Recovery Design Panel (and agreed by the Executive in November 2021), one of the purposes of the Public Inquiry is to 'gather, preserve, catalogue and digitise relevant records and archives that the Independent Panel was unable to access, including records concerning personal and family histories and information regarding the whereabouts of deceased relatives.' **Consideration should be given to how this purpose may be achieved through the legislation establishing the Public Inquiry.**

7.3 In light of the observation on page 18 of the Consultation Paper that the Public Inquiry should not duplicate the Historical Institutional Abuse Inquiry's work, **consideration should also be given to ensuring that the Public Inquiry has access to the archive of the Historical Institutional Abuse Inquiry.** Significant numbers of individuals who spent time, as children, in the institutions examined by the work of the Historical Institutional Abuse Inquiry were later placed in Mother and Baby Institutions and/or Magdalene Laundries. There were also children who were removed from Mother and Baby Institutions who were placed subsequently in the residential institutions examined by the Historical Abuse Institutional Inquiry. **A full appreciation of the pathways and practices associated with the latter institutions (such as the movement of teenage girls into Magdalene Laundries) will only be reached if the Historical Institutional Abuse Inquiry archive is available to the Public Inquiry.**

7.4 The Independent Panel also notes that the Truth Recovery Design Panel recommended that the Public Inquiry should 'consider the recommendations of the Independent Panel regarding issues requiring investigation'. **Consideration should therefore be given to including in**

the primary legislation an obligation on the Public Inquiry to consider the Independent Panel's recommendations.

7.5 In summation, the Independent Panel believes that the current proposals are sufficient to meet the needs of all victims-survivors if:

- **The legislation provides for the participation of victim-survivors on the Public Inquiry panel.**
- **The legislation is framed to ensure that it can investigate individual human rights violations.**
- **The recommendations of the Truth Recovery Design Panel (accepted by the Executive in November 2021) that the Independent Panel's recommendations on scale and scope inform the Public Inquiry are included in the final legislation.**

8.0 Institutions Within the Scope of the Inquiry (Q10/Q11/Q12)

8.1 The Consultation asks for views on the list of institutions to be examined by the Public Inquiry. The Truth Recovery Design Report advised that the Public Inquiry should take account of the recommendations of the Independent Panel. The Consultation Paper does anticipate that the list of institutions to be investigated by the Public Inquiry will take into account the findings of the Independent Panel. **The Independent Panel agrees that the legislation should incorporate a mechanism to allow the list of institutions to be investigated to be prescribed by the Northern Ireland Executive and amended in the event that such amendment is recommended by the Independent Panel or by the Public Inquiry itself.**

8.2 Although our research is still ongoing and we are examining this issue, **at this point it is likely that the Independent Panel will recommend the addition of at least one more institution to the current list.**

Clogrennan, in Larne, was brought to our attention by a victim-survivor who engaged with the Independent Panel's testimony team. Further investigation indicates that this was originally a children's home which

operated as a mother and baby institution for around five years in the early 1970s.

8.3 The identification of this institution as a place of interest to the Independent Panel and, via our Final Report, to the Public Inquiry **underscores the value of information that is brought to us via the testimony process.** The Independent Panel will glean much of its understanding of the institutions and their related pathways and practices from those individuals who were resident in them (and from their relatives and loved ones): **they are the ‘experts’ in this process and the Panel is deeply indebted to those who have come forward to offer testimony and to those that will do so in the coming months.**

8.4 In relation to the scope of the institutions that the Public Inquiry should examine, the Consultation asks if ‘other institutions’ should be included. **The Independent Panel is currently investigating other institutions and the extent of their involvement in the separation of girls and women from their newborn babies.** The issue of private nursing homes has been raised by numerous victims-survivors whose experience of family separation/adoption involves time spent in a private nursing home. **The Independent Panel is assessing the extent to which private nursing homes were used for this purpose.**

8.5 The Independent Panel’s **ability to research private nursing homes is limited** by the fact that there appear to be no surviving records for these institutions. Therefore, the Independent **Panel’s testimony team is keen to hear from anyone with information about private nursing homes and their employment as sites at which an unmarried pregnancy was hidden in advance of the subsequent separation of the mother from her child.** Once we have **assessed the testimony** we receive on this topic, the Independent Panel **will decide whether or not** we recommend that any private nursing home should be added to the list of institutions scrutinised by the Public Inquiry.

8.6 The Consultation also asked for responses to the proposal that **the Public Inquiry goes beyond the role of the institutions themselves and to examine their links to the care system. The Independent Panel agrees that this is vital.** Both the Independent Panel and the Public Inquiry should make every effort to examine the role of GPs, social workers, clergy and other professionals. In the previous paragraphs in this section, we have indicated that the Independent Panel is in the process of scrutinising a number of private nursing homes and considering their inclusion of the list of institutions that the Public Inquiry should examine. There is **another category of institution** that we have already identified that must be **added to any list** to be explored by the Public Inquiry. **These are the baby homes** that were first discussed, in this respect, by the **QUB/Ulster report of 2021.** It is vital that the records of these institutions are examined because, as the 2021 report concluded, the **evidence suggests that infant mortality rates in these homes gives great cause for concern.** Unlike their equivalents in the Republic of Ireland, Mother and Baby Institutions in Northern Ireland did not accommodate mothers and their babies for long periods after birth. Both mothers and babies departed within weeks of the birth, often to separate destinations and separate lives. Thousands of babies were moved on to specialist baby homes to meet an uncertain fate: ‘fostering out’, adoption, placement in a residential home or, in the most tragic cases, they became part of the infant mortality data. **It is vital that these institutions are central to the work of the Public Inquiry if it is to understand the pathways and practices related to the institutions.**

8.7 That the Public Inquiry retains a strong focus on these baby homes is also important because the Independent Panel has encountered some **difficulties in assessing a significant number of these records.** There are currently unresolved issues with separate organisations that has prevented PRONI from digitising **two sets of extremely important records from specialist baby homes.** The Independent Panel will continue to attempt to seek digitisation and straightforward access to these datasets, but this is a task that the Public Inquiry may have to resolve by

using its **statutory powers to compel the organisations concerned to allow PRONI to digitise the relevant records.**

9.0 Persons Affected by the Institutions (13a 13b and 13c)

9.1 The Consultation asks a number of questions about the people affected by the various institutions and whether or not the proposals it makes about them are acceptable. On this point, the Independent Panel would repeat that the **legislation should be flexible enough** to allow the Public Inquiry to consider the **inclusion of new institutions and therefore new cohorts of people within the scope of the Public Inquiry.**

9.2 The Independent Panel is content with the statements made in the document about Mother and Baby Institutions and Magdelene Laundries. However, we **are concerned by the statement on Workhouses.** The QUB/Ulster report (2021) makes it clear that many unmarried women gave birth in Workhouse infirmaries and that their babies were then boarded out like those ‘whose mothers had given birth in mother and baby homes’.⁴ **We disagree with the TEO’s statement** that further research is needed to ascertain if unmarried mothers gave birth in Workhouses and that many were, thereafter, separated from their baby. The Workhouse records are not as straightforward to work with as those of Mother and Baby Institutions, but there is **no compelling reason why research cannot take place** that identifies instances of unmarried mothers being separated from their child following a Workhouse infirmary birth. **Surviving relatives of any individual affected potentially by such circumstances could make the appropriate data request to PRONI to clarify if this was indeed the experience of their relative.**

⁴ McCormick and O’Connell, p. 229.

10.0 Deaths and Burials (Q14)

10.1 The Consultation makes a series of points about the potential existence of unmarked burial sites and the possibility of legislating for the commissioning of geophysical surveys and archaeological investigations at former institutional sites to ascertain the presence, or otherwise of unmarked graves. The Independent Panel is in the process **of mapping potentially relevant sites and reviewing geophysical and archaeological investigations performed to date**. This process will inform any recommendations the Independent Panel makes with regard to further investigation of burial sites by the Public Inquiry. We have also discussed this issue with the PSNI and received their appraisal of the situation. **The Independent Panel invites anyone with any evidence of unmarked graves on the site of any of the former institutions to come forward to speak to us.**

11.0 Redress Scheme (Q15, Q16, Q17, Q18, Q19)

11.1 The Independent Panel agrees that the standardised payment should be based on admittance to an institution or being born to a woman or girl admitted to an institution. The Independent Panel agrees that the Individually Assessed Payment should be based on an individual's experience. The advantage of Individually Assessed Payments is that they can reflect individual experience more closely than Standardised Payments. **However, experience in this and other jurisdictions teaches that, unless very carefully designed and administered, they can impose undue psychological burdens on applicants.**

11.2 The Independent Panel suggests that the example of the Historical Institutional Abuse Redress Board should be studied so that **lessons from its experience can be incorporated into the mechanism of assessment for Individually Assessed Payments**. The Independent Panel suggests that measures should be taken to make clear that both

the Standardised Payments and the Individually Assessed Payments are **intended to acknowledge past failings and are not intended to be compensatory**. Making a direct connection between a sum of money and a person's experience risks **compounding rather than redressing harm**. The Independent Panel agrees with the Truth Recovery Design Panel that **financial redress should not require waiver of legal rights**.

11.3 The Independent Panel agrees that the Standardised Payments should be paid in tandem with the Public Inquiry carrying out its duties. It is disappointing that it has not proved possible to fulfil the desire of the Truth Recovery Design Panel that the methodology be found through which interim Standardised Payments could have been paid while work on the creation of the Public Inquiry was stalled during the most recent collapse of the Stormont Executive. With this in mind, **the Independent Panel proposes that the issue of an interim Standardised Payment should be looked at again in the event of any further significant delay to the proposed legislation being tabled.**

11.4 In terms of the scope of the Standardised Payment Scheme the Independent Panel suggests that **women who gave birth in workhouses and were separated from their children should be included, as should the children separated from their mothers.** There was **no less pain and trauma** due to a family separation of a mother and her baby in a Workhouse infirmary than there was in a Mother and Baby Institution. The decision to exclude those mothers and their children who were separated following birth in Workhouses appears to be **based on the dubious premise that this pattern is unproven by research**. As stated above the QUB/UU report (2021) has, **in fact, established it**. The Independent Panel's current research on Workhouse records in PRONI confirms it again.

11.5 In addition, the Independent Panel suggests that the legislation should be sufficiently flexible to allow inclusion of other institutions, and therefore other people, in the scope of the redress scheme, to take account of such recommendations as may be made from time to time by the Independent Panel and the Public Inquiry.

11.6 The Consultation proposes a 24-hour qualification period/residence in an institution period before any individual can apply for a Standardised Payment. The Independent Panel maintains that there should be no minimum temporal eligibility requirement in cases of family separation and no individual should be excluded because of this arbitrary measure.

11.7 The Independent Panel also disagrees with the proposal to exclude from Standardised Payments any victim-survivor (or their child) for whom a private fee-paying arrangement was reached with a Mother and Baby Institution. The Panel's view is that girls/women in this category whose baby was separated from them in the Mother and Baby Institution should be included in Redress arrangements. The TEO's proposal on this matter appears to be based on the premise that because the State did not pay for a girl or woman's time in an institution that it should be absolved of responsibility in these cases. The Independent Panel maintains that these Institutions were **sustained financially by the State** and without this they would not have existed as an option for any family who wanted to reach a private financial arrangement with a Mother and Baby Institution. Moreover, this type of financial payment **did not remove the shame and stigma, or the trauma** suffered by women and girls in this category. Therefore, the Independent Panel suggests that women and girls who paid (or whose family paid) Mother and Baby Institutions privately should be eligible for redress in the form of a Standardised Payment. This recommendation is for cases where the mother was separated from her baby. The children of such mothers should be included also in redress. **How the financial**

costs of a placement were met is not material in the context of redress for family separation. A further grim issue to consider here is that private financial arrangements were a factor in at least some cases where there was a desire to avoid state scrutiny of a pregnancy, such as in cases of incest or child sexual abuse.

12.0 Redress Scheme (Q20)

12.1 The Independent Panel is content that the Redress Service will be an independent body with judicial and non-judicial members. With regard to the appointment of non-judicial members, the participation of victim-survivors is essential.

13.0 Application Process for Standardised Payments/Amount of Award (Q21, Q22)

13.1 The Independent Panel is satisfied broadly with the process outlined for this. We suggest that **a victim or survivor's eligibility for redress ought not to depend on the survival of institutional or official records. The evidence of an applicant, sworn or affirmed, should be accepted as evidence of eligibility in the absence of records or where records are unreliable.** Appropriate civil and criminal sanctions can be put in place to guard against abuse of the system.

13.2 The Independent Panel agrees that **receipt of a Standardised Payment should not entail any waiver of rights or prevent an applicant taking a civil claim.** The Independent Panel notes that under section 12 of the Historical Institutional Abuse (Northern Ireland) Act 2019, the standard payment for victims of historical institutional abuse was set at £10,000. It is suggested that **the Standardised Payment for this redress scheme be increased to take account of inflation and increases in the cost of living since then. A figure of £15,000 should now be the minimum level in our view.**

14.0 Posthumous Claims/Next of Kin (Q23, Q24, Q25, Q26, Q27)

14.1 In this area of the Consultation process, the Independent Panel has been most keenly aware that the whole Truth Recovery Process should be informed by the **principles of doing no harm, causing no re-traumatisation and taking a non-adversarial approach**. While some of these principles might be seen to fall most clearly within other aspects of this whole process – such as the recording of testimony from victims-survivors – it must also apply to the very complex issue of **posthumous claims and next of kin**.

14.2 The Independent Panel is concerned that a next of kin approach is unsuitable for posthumous claims. **We suggest that the next of kin approach proposed in the Consultation Paper would be unworkable**. The Panel's expert on genealogical matters is ideally placed to understand that **the next of kin of a deceased person is often frequently extremely difficult to determine**. Moreover, there is **no obvious reason such a person should be more entitled** to make a posthumous claim on behalf of a deceased victim than another close relative.

14.3 Significantly, in the context of the Truth Recovery Programme's ethical embrace of a non-adversarial, trauma-informed approach, **the arrangement proposed by the TEO will cause friction and trauma for many families** that have already suffered extensively. In the wake of the **family separation** experienced by thousands of those who passed through the institutions, many birth mothers carry **secrets about children** who were taken for adoption, fostering or into the care system. In cases such as these, there is **potential for great harm when multiple individuals, some of whom are not known to each other, come forward as the next of kin**. This is only the most obvious example of the harm that will be done if a next of kin approach is adopted. While this might be an **administratively convenient option** for the proposed Redress Service, it will place the **onus on victims-**

survivors' families to establish who is the next of kin in each case, and how, if at all, any award of redress should be shared. Inevitably, this will create **disagreement** and, in cases that are not easily resolved, **give rise to legal action between the relatives of some deceased victims-survivors.** Self-evidently, this is a risk that should be avoided.

14.4 The Independent Panel suggests that, **in lieu of the next of kin approach, a system of standardised payments for the immediate families of deceased victims should be considered.** The Independent Panel suggests that **these symbolic payments are made in the deceased's name to recognise both what happened to them, and the effects this had on their family.** The standardised family payment could be paid in addition to any claim made by a person on their own behalf. For example, a person whose mother gave birth to them while in a Mother and Baby Institution would be able to access redress to recognise the impact of this institutionalisation on their own life and would also qualify for a symbolic standardised family payment if their mother is deceased.

14.5 On the issue of a cut-off date after which posthumous claims cannot be made, the Independent Panel does not agree with the **TEO proposals.** The proposal to limit posthumous claims to relatives of victims-survivors who died following the date of the Stormont Executive's official acknowledgment or apology for the harms done by Mother and Baby Institutions, Magdalene Laundries, Workhouses and their related pathways and practices between 1922 and 1995 **is ill-conceived.** While such posthumous claim cut-off dates are a regular feature of broadly comparable Redress Schemes, this proposal **does not take into account the unusual circumstances of government in Northern Ireland** where frequent collapses of the Executive have **added further delays and frustrations** to the victims-survivors of these institutions. **That point alone, makes the suggested 2021 cut off point appear arbitrary and, potentially, cruel.**

14.6 The Independent Panel notes that **the Redress Scheme developed following the Historical Institutional Abuse Inquiry was initially time-limited** around the date of the State's acknowledgment of the harms done in these institutions. **After a campaign by victims-survivors this posthumous date was eventually pushed back to 1953**, the date at which an official Inspection Report into one of the children's institutions had been criticised. There are **many examples of comparable evidence of the State's knowledge that Mother and Baby Institutions were separating mothers from their babies (for Thorndale and Malone Place this evidence exists from the 1920s)**. The State was also aware that **girls and women were giving birth in Workhouse infirmaries and that their babies were then being boarded out via the auspices of the State. From 1916 the Salvation Army's Thorndale Industrial Home and the Good Shepherd's Laundries in Derry/Londonderry and Belfast were used by the State to place girls/women on probation orders. The State was well aware of the controversy over Magdalene Laundries and their use of unpaid female labour and consequently aware of these institutions and their functions from the late nineteenth and early twentieth century. The Northern Ireland State was reminded of the labour being carried out by unpaid girls and women in the Belfast and Derry/Londonderry laundries during World War Two when trade unionists representing workers in normal commercial laundries complained that the Good Shepherd Sisters were under-cutting their employers because they had a free labour force confined within their convents. The State did nothing about this and was, at that point, making use of these laundries to fulfil contracts for the laundering of British and US military uniforms etc.**⁵

14.7 The TEO proposal to limit posthumous claims to the relatives of victims-survivors who passed away after November 2021 is prefaced on an

⁵ Evidence on all these points is available in McCormick and O'Connell in the chapters on each of the institutions. See, for example, pages 189; 209-10; 253; 263.

application by a next of kin for the full standardised payment. Because the Independent Panel's proposal is **based on a symbolic standardised payment for immediate family members instead of a next of kin approach, we hope that it will not be necessary to include any posthumous cut-off date in the final Redress regulations.** The Independent Panel is **concerned that asking applicants to nominate single beneficiaries** has the potential to create **unnecessary conflict** in the families of victims-survivors. The Independent Panel suggests that the legislation could provide that awards of redress to applicants who pass away during the process should be **part of their estate, to be distributed in accordance with ordinary rules of succession.**

14.8 The Independent Panel will make further recommendations in relation to redress from time to time as its investigation progresses, particularly in its Final Report. Such recommendations will include proposals for non-financial redress. During each testimony that we record, participants are asked for their thoughts on the issue of non-financial redress, particularly memorialisation and our Final Report will give careful attention and reflection to the perspectives offered on this issue by victims-survivors.