

## Chapter 2:

### Establishment, membership and mandate of the Committee

**Summary:**

*This Chapter sets out key structural and procedural issues in relation to the Committee.*

*The Committee was established by Government in July 2011. Its membership consisted of senior representatives from 6 centrally relevant Government Departments and an Independent Chair, Senator Martin McAleese.*

*The Government-established mandate was broad – “to establish the facts of State involvement with the Magdalen Laundries”, which were identified by Government as 10 named institutions, and to write a Narrative Report thereon.*

*Working methods, procedures and the exact nature of the mandate were decided by the Committee itself. The Committee interpreted its mandate in the broadest sense, in light of the strong public interest in establishing as comprehensive a picture as possible of the interaction of the State with the Magdalen Laundries.*

- *The date-range chosen by the Committee for its primary enquiries was from 1922 (foundation of the State) to 1996 (closure of the last Magdalen Laundry). Events before and after this period were examined and reported upon where appropriate.*
- *The Committee adopted the full meaning of “the State”, to refer to a body, whatever its legal form, which is or was responsible for provision of a public service under the control of the State and with special powers for that purpose. This encompassed not only Government Departments but a whole range of bodies, agencies and organisations, detailed throughout the Report.*

- *The Committee interpreted “involvement” broadly, addressing all possible connections, interactions or overlaps between the State and the Magdalen Laundries. It did not make assessments of liability or potential liability.*
- *The fact-finding mandate of the Committee meant it was not a mechanism for determination of individual complaints. The Committee did, however, hold a series of meetings to allow the women directly concerned to share their experiences and input to the process.*

*The Committee was also conscious of the broader context in which these facts arose. For reasons of public interest, the Report includes material in relation to a number of issues consequential on or ancillary to the Committee’s principal areas of inquiry including:*

- *Non-State referrals of girls and women to the Magdalen Laundries;*
- *Statistical information on the background and profile of all those admitted;*
- *Living and working conditions;*
- *Financial viability of the Magdalen Laundries.*

### **Establishment and membership of the Committee**

1. The Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries (“the Committee”) was established pursuant to a Government decision in June 2011.
2. The Government tasked the Committee with a mandate to establish the facts of State involvement with the Magdalen Laundries and produce a Narrative Report thereon. The Government further decided the Committee should be chaired by an independent person, together with representatives of six Government Departments, as follows:
  - Department of Justice and Equality;
  - Department of Health;
  - Department of Environment, Community and Local Government;

- Department of Education and Skills;
  - Department of Enterprise, Jobs and Innovation; and
  - Department of Children and Youth Affairs.
3. Senator Martin McAleese was appointed as Independent Chair of the Committee, by letter dated 14 July 2011 signed by the Minister for Justice and Equality, Alan Shatter T.D. Senator McAleese accepted his appointment by letter of the same date.
4. At the request of Senator McAleese, each Department forming part of the Committee nominated a senior official to sit as a member of the Committee. The final membership of the Committee was as follows:
- Mr Jimmy Martin, Department of Justice and Equality;
  - Mr Barry Murphy, Department of Health;<sup>1</sup>
  - Ms Mary Moylan, Department of Environment, Community and Local Government;
  - Ms Mary McGarry, Department of Education and Skills;
  - Mr Francis Rochford, Department of Enterprise, Jobs and Innovation;<sup>2</sup>
  - Mr Denis O’Sullivan, Department of Children and Youth Affairs.
5. In addition, Ms Nuala Ní Mhuircheartaigh (seconded from the Department of Foreign Affairs and Trade) acted as adviser to Senator McAleese in his role as Independent Chair and as analyst and drafter for the Committee.
6. In establishing the Committee, the Government did not prescribe the manner in which the Committee should conduct its investigations. The Minister for Justice and Equality, in the Chair’s letter of appointment, further confirmed that it was for the Committee to decide on its working methods. Accordingly, the Committee itself decided upon its procedures, working

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<sup>1</sup> Nominated to replace Ms Bairbre Nic Aongusa, Department of Health, who served as a member of the Committee from the outset of the process until February 2012

<sup>2</sup> Mr Philip Kelly, Department of Enterprise, Jobs and Innovation, also served as a member of the Committee from the outset of the process until November 2011

methods and determined the exact nature of the mandate given to it by Government.

7. The general approach of the Committee to its mandate and procedures were set out in the Interim Progress Report, dated 20 October 2011 (attached in the Appendices to this Report). These were further refined in the course of the Committee's work and are set out in greater detail in this Part of the Report.

### **Mandate**

8. The mandate of the Committee was defined only in a general way by the Government – the terms of reference were to “establish the facts of State involvement with the Magdalen Laundries”, which institutions were identified by name and location. Beyond that headline mandate, the Committee was given the power to define its precise Terms of Reference and the appropriate range for its investigations.
9. The Committee purposely interpreted its mandate in an expansive and flexible way, in light of the strong public interest in establishing as comprehensive a picture as possible of the interaction of the State with the Magdalen Laundries. A significant factor in this decision was the fact that, despite long-standing public controversy on the subject, relatively little factual or verified information was in the public domain before the work of the Committee commenced.
10. It was necessary for the Committee to consider and decide on a working definition for four key elements of the mandate:
  - a. applicable date-range;
  - b. definition of ‘State’;
  - c. definition of ‘involvement’; and
  - d. the general nature of a fact-finding mandate.

**a. Applicable Date-Range**

11. The Government left to the Committee's own discretion the determination of what time period its investigations should cover.
12. All ten of the Magdalen Laundries which fall within the scope of this Report were established and had been operational for a considerable time prior to the foundation of the State. However, as the Committee was established to clarify the facts of State involvement with these institutions, it was decided to take the date of foundation of the State as the appropriate general start-date for inquiries.
13. There are a number of differing dates which are, from time to time, contended to represent the date of establishment of the State. These include, for example, signature of the "Articles of Agreement for a Treaty between Great Britain and Ireland" on 6 December 1921 or approval of the Treaty by the second Dáil<sup>3</sup> on 7 January 1922. However the Committee considered the date of adoption and enactment of the Constitution of the Irish Free State – 6 December 1922 – as the most appropriate general start-date for its investigations.
14. This is not to say that events prior to 1922 were irrelevant to the Committee's work: the Report includes information on the operation of the Magdalen Laundries in the territory of the State prior to 1922, by way of context. It also deals with what can be called 'legacy' cases – that is, women who had already been admitted to a Magdalen Laundry *prior* to the foundation of the State and who continued to live and work there *after* the foundation of the State.
15. Regarding the most appropriate end-date for the Committee's work, the first consideration was the closing dates of the Magdalen Laundries. The 10 Laundries within the scope of this Report closed at different points between 1963 and 1996. The year 1996, when the last Magdalen Laundry in the

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<sup>3</sup> Dáil Éireann as it convened from 16 August 1921 to 8 June 1922

State closed, was accordingly decided to be an appropriate general end-date for the Committee's work.

16. However, similar to the flexible approach adopted in relation to starting dates, the Committee also decided that it would consider and examine events occurring after 1996, where relevant. Issues occurring after 1996 which are covered by the Report include in particular the question of interaction with the State in relation to exhumations.
17. It can accordingly be said that the Committee's primary enquiries into the State's involvement with the Magdalen Laundries was for the period 1922 to 1996, but that events both before 1922 and after 1996 were considered, examined and are reported upon where they add further clarity either to the question of State involvement, or to the overall operation in Ireland of the Magdalen Laundries.

### ***b. Approach taken to the definition of the State***

18. The term 'the State' is one which is often instinctively understood by the public as referring to the Government and Government Departments. However the meaning of the term is and has always been considerably broader, covering a wide range of bodies and agencies far beyond these.
19. This principle is so clearly established in law as to be beyond doubt. Perhaps the clearest assessment of what constitutes an emanation of the State is contained in a judgment of the European Court of Justice, which defines it as:

"a body, whatever its legal form, which has been made responsible, pursuant to a measure adopted by the state, for providing a public service under the control of the state and has for that purpose special powers beyond that which result from the normal rules applicable in relations between individuals".<sup>4</sup>

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<sup>4</sup> *Foster, A. and others v British Gas*, Case C-188/89 (1990)

20. This broad statement, which captures in clear form a general legal principle of longer-standing, informed the approach of the Committee to its work. As a result, there was a close focus in the Committee's investigations on the activities of a whole range of bodies, agencies and organisations ranging from Government Departments, to local authorities, health authorities, social services, An Garda Síochána, the Probation Service, the Prison Service, the Courts Service, the General Register's Office, Industrial and Reformatory Schools, the institutions known as County and City Homes and so on.
21. As set out more fully in Part III of the Report, the Committee also had regard to this test in considering the status of a number of organisations which historically held a role in the performance of official functions or public services. These include the performance by officers of the Legion of Mary, the Salvation Army and the Society of the Vincent de Paul of the role of Voluntary Probation Officers in and for the Courts; as well as the historic role of the "cruelty man", that is, the Inspectors of the National Society for Prevention of Cruelty to Children<sup>5</sup>.

### ***c. Approach taken to the definition of "involvement"***

22. In the public interest, a broad approach was also taken to the definition of "involvement", with the same goal of providing the fullest possible picture of the operation of the Magdalen Laundries.
23. Accordingly, the Committee undertook through its work to identify all connections, interactions and overlaps between the State and the Magdalen Laundries. Where possible, the Committee also sought to quantify the levels of State involvement it found.
24. The connections and interactions found by the Committee are detailed in this Report. Some of the areas of State involvement identified in the Report

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<sup>5</sup> Renamed in 1956 as the Irish Society for the Prevention of Cruelty to Children

are direct and clear, including State referrals of girls and women to the Magdalen Laundries, State inspections of the Magdalen Laundries, and State funding of the Magdalen Laundries.

25. However, other issues among those included in the Report are simple interactions, for instance by way of compilation of electoral registers, registration of deaths with the General Register Office (GRO), assessments for commercial rates, or interactions with the Office of the Revenue Commissioners and Charity Commissioners. All such interactions found by the Committee are included in the Report.
26. This investigation and assessment of involvement is not equivalent to an assessment of responsibility or culpability. The Committee, in its work, made factual findings only, and nothing in the Report purports to be an assessment of liability or potential liability.

### ***d. Nature of the mandate: fact-finding role***

27. The Committee was also required to consider the exact nature of its mandate. It was established by Government as a fact-finding mechanism. It was not intended as a forum for determination of individual complaints, nor was the Committee intended to make recommendations or provide redress in individual cases. This fact-finding role also meant that it was not for the Committee to recommend or issue an apology or apologies.
28. However, the Committee considered it critical to nonetheless ensure that the process included space for the women who were admitted to and worked in the Magdalen Laundries to make an input, if they wished to do so.
29. As a result, the Chair arranged a series of meetings to allow the women directly concerned to share their experiences. Some women came forward through representative groups, while others made direct contact with him through his office in Seanad Éireann. With the agreement of the

Committee, he and his adviser met with these women on a number of occasions, to ensure their voices and experiences would be reflected in the Committee's Report, while fully protecting their privacy and identities.

30. The Committee is grateful to the women who came forward and assisted in this way. They were courageous to do so and generous with their time. The stories they shared were of real assistance to the process, suggesting valuable leads for follow-up by the Committee, as well as providing the clarity of direct experience which, in some cases, made sense of the general or policy records already identified by the Committee through its file searches.
31. It can also be noted that the fact-finding nature of its mandate did not prevent the Committee from engaging broadly with people with direct experience of the Magdalen Laundries, as well as with a number of historians, as set out in greater detail below.

### **Ancillary and consequential issues**

32. The mandate of the Committee was to establish the facts of State involvement with the Magdalen Laundries. In carrying out its work, the Committee was, however, conscious of the context in which these facts arise and came to the view that its work would not be complete without seeking to understand and reflect that context in this Report. For instance, the findings of this Report suggest that the Magdalen Laundries were part of a broader institutional landscape and to fully capture their story, it is necessary to understand how they related to and interacted with other institutions such as Industrial and Reformatory Schools.
33. In the course of its work, the Committee also identified information which bears on issues of considerable public interest and which is capable of answering many frequently arising questions in relation to the Magdalen Laundries. While mindful of its Terms of Reference, the Committee considered these issues to be ancillary to and consequential on its principal findings and decided, in the public interest, to report on them.

34. Although the Committee was under no obligation to include this material, it decided that to do otherwise would limit the Report. It would also fail to provide answers to many frequently arising questions, which the Committee had the records and data to answer. Omitting this material could also have led to a partial or distorted picture, and to an outcome to this process which would not have been full or satisfactory for many of the women concerned. This material, and in particular the detailed statistics provided, may also contribute to future historical study and research, without in any way breaching the trust or privacy of the women referred to.
35. The issues addressed in this way include:
- non-State referrals of girls and women to the Magdalen Laundries;
  - statistical information on the background and profile of all women;
  - living and working conditions; and
  - the financial viability of the Magdalen Laundries.
36. The status of the Committee as an Inter-Departmental Committee rather than a statutory inquiry was a significant advantage in this respect. That status afforded the Committee the latitude to interpret its Terms of Reference in a flexible way so as to analyse the broader context of the Magdalen Laundries and to record and report on these issues, in the public interest.
37. The first such issue, addressed in the public interest, was that of non-State referrals of girls and women to the Magdalen Laundries. These include referrals of girls or women to Magdalen Laundries by members of their families or by priests, as well as voluntary admissions. Cases such as these are analysed and included in the Report.
38. More generally, the Report also contains a substantial body of anonymised statistical information on the background and profile of all women who entered and worked in the Magdalen Laundries and their duration of stay, regardless of their route of entry.

39. The Report also addresses the conditions within the Magdalen Laundries and the treatment of the women who lived and worked there. Information on this sensitive issue was brought to the attention of the Committee by the women who lived and worked there, the Sisters who worked there and others with direct experience of the Magdalen Laundries, including the General Medical Practitioners who attended the women.
40. The financial viability of the Magdalen Laundries is also addressed in the Report. For this purpose and at the request of the Committee, the available financial records prepared contemporaneously by the relevant Religious Congregations were professionally analysed and summarised.
41. These ancillary and consequential issues are addressed in Part IV of the Report.