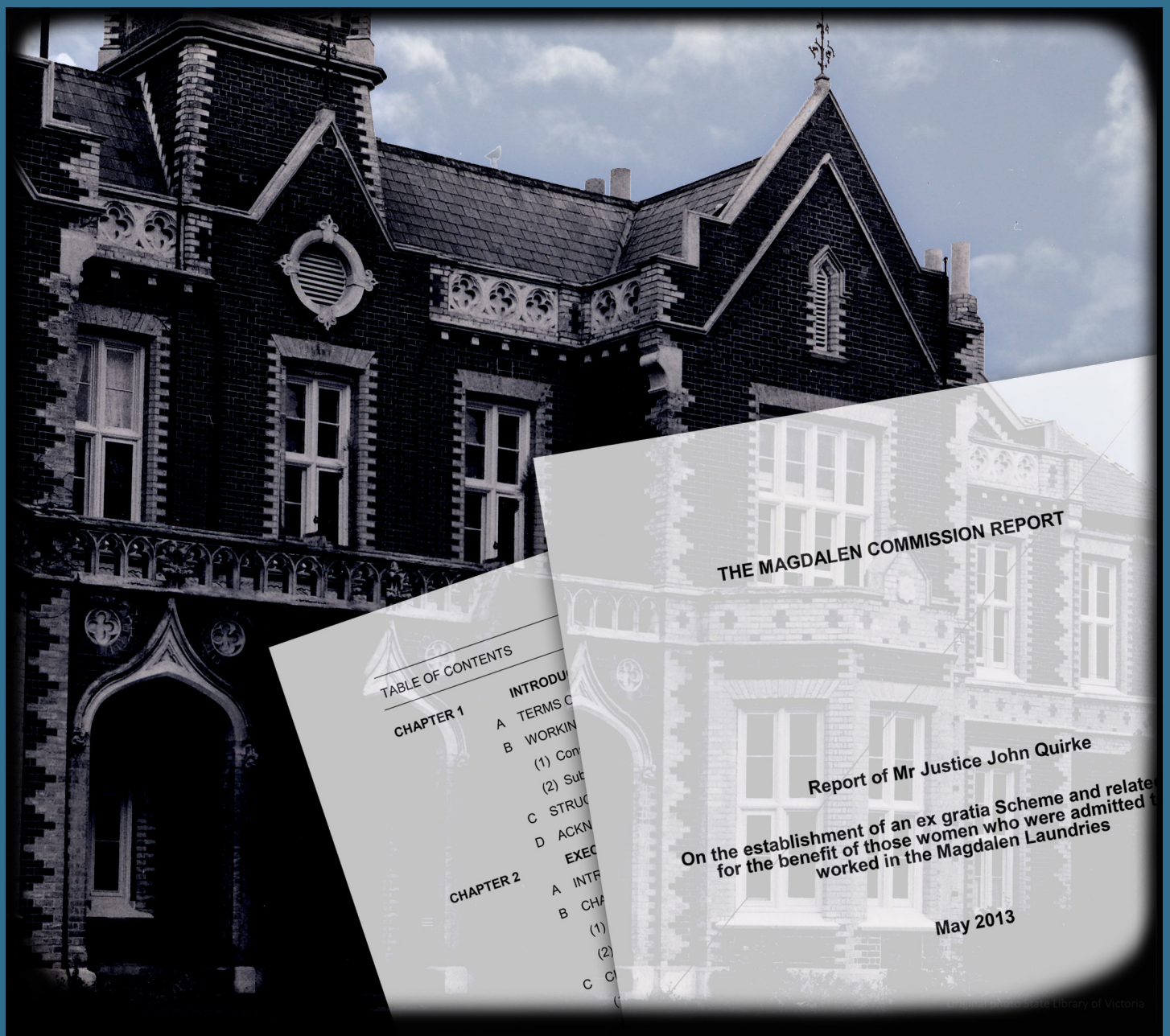


# Opportunity Lost



Ombudsman

An investigation by the Ombudsman  
into the administration of the  
**Magdalen Restorative Justice Scheme**





**Ombudsman**

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Ombudsman

# *Opportunity Lost*

An investigation by the Ombudsman into the administration of the  
**Magdalen Restorative Justice Scheme**

(Under Section 4 of the Ombudsman Act 1980, as amended)

November 2017

# Foreword

*The incarceration of women in the Magdalen laundries and the forced labour to which they were subjected is one of the sorriest episodes in our history. It was exacerbated by the failure of Irish society to act over many years to highlight and tackle the injustice suffered by these women. The heartfelt apology of former Taoiseach Enda Kenny and the creation of a restorative justice scheme were intended to reflect the shame of the nation and offer some acknowledgement and recompense to the women.*

This report looks at the administration of that restorative justice scheme. When I first began my investigation, my focus was primarily on the way in which the eligibility criteria for the Scheme were interpreted. As a result of the Department's narrow interpretation some women who lived in the convents and worked in the laundries were excluded from admission to the Scheme. I should stress that I am not seeking to add new institutions to the Scheme. However, I have seen a significant amount of evidence which shows that some of the Magdalen laundries were inextricably linked with other units attached to the laundries or located on the same grounds and should be considered to be one and the same institution.

As my investigation progressed, however, I also discovered a flawed administrative process. I uncovered a process where the women had to apply for the scheme without being told what the criteria were and where great reliance was placed on the congregations' records to the exclusion of other evidence.

Perhaps of most concern, I learnt how the Department failed to provide for those women who lack capacity to look after their own affairs and who are still waiting to receive payments under the Scheme. A significant number of these women remain in the care of the congregations. They may not have been able to be in the Dáil the evening the Taoiseach delivered his apology and may never have had an opportunity to tell their story. They matter no less for this.

This investigation is not about extending the Scheme beyond what was approved by Government. At its heart is a restorative justice scheme which was much-welcomed and with the stated purpose of contributing, insofar as was possible, towards healing and reconciliation. Such a scheme must be interpreted and applied as widely and as generously as possible with no place for exclusion on narrow or technical grounds.



Unfortunately, a scheme intended to bring healing and reconciliation has, for some, served instead to cause further distress. This needs to be put right. The women who worked in the laundries covered by the Scheme should be admitted to it. All evidence about whether, and for how long, women were working in the laundries should be pursued and taken into account. Those who have already been deemed eligible but who do not have the capacity to engage with the Scheme should receive their payments as a matter of urgency.

The existence and use of the Magdalen laundries was a scandal. The restorative justice scheme created an opportunity to belatedly offer some redress to the women who lived and worked in the laundries. This opportunity was lost in respect of some of those women whose cases I considered. It is now time for the State in administering the scheme to reflect the generosity of spirit which characterised the official apology.



A handwritten signature in black ink, appearing to read 'Peter Tyndall', written on a light-colored background.

**Peter Tyndall**  
**Ombudsman**  
**November 2017**

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## Abbreviations used in this report

**the Department** – Department of Justice and Equality

**HSE** – Health Service Executive

**JFM** – Justice for Magdalenes

**McAleese Committee** – Inter-Departmental Committee to establish the facts of State involvement with the Magdalen laundries

**McAleese Report** – Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen laundries

**Quirke Report** – Report of Mr. Justice John Quirke on the establishment of an ex gratia Scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen Laundries

**RIRB** – Residential Institutions Redress Board

**the Scheme** – Magdalen Restorative Justice Scheme

# *Executive Summary*

This is an investigation into how the Magdalen Restorative Justice Scheme was administered by the Department of Justice and Equality. The investigation commenced in December 2016 following a period of engagement between my Office and the Department on some of the salient issues. It arose as a result of 27 complaints to my Office relating primarily to admission to the Scheme and the assessment of the duration of stay by the administrator of the Scheme (the Department).

My investigation focused on how eligibility was determined, and the process undertaken for assessing applications. In the course of the investigation, the manner in which women deemed to lack capacity were dealt with, or rather were not dealt with, surfaced as a further administrative issue.

In simple terms, a restorative justice scheme was announced based on recommendations contained in a publically available report that used imprecise terms which were capable of being interpreted in different ways. It was a scheme for the benefit of those women who were admitted to and worked in the Magdalen laundries. Twelve named institutions were listed as being covered by the Scheme. A preliminary expression of interest registration form was available from the Department from February 2013 and referred to time spent in a Magdalen Laundry. It appears however that the Department administering the Scheme was operating to additional criteria that were not known or made explicit as part of either an information campaign or the application process. It was only at the end of the process that an applicant was informed of the criterion by which they were excluded.

The phrase “admitted to and worked in” is the most problematic of the phraseology used. It was contained in the terms of reference provided to Mr. Justice Quirke and continued to be used by him, the Government, the Department and others without anyone ever defining (at least publically) what that phrase meant *to them* or was intended to mean. My investigation was not concerned with ascertaining the correct legal interpretation of this phrase as that is not at the heart of the administrative actions under scrutiny. Rather I make the point to illustrate the asymmetry in understanding that existed between the Department and the applicant women from its very inception as to whom the Scheme applied to. This was a significant failing from an administrative point of view.

This failing was compounded by the narrow interpretation given by the administrators to the eligibility criteria. In short, the Department operated on the basis that only women who could demonstrate through available records that they had been officially recorded as admitted to one of the 12 named institutions were eligible. The practical reality was that while these were administratively separate institutions they were housed on a single site and may have been in the same building as other *institutions* run by the same nuns. The nuns themselves on occasion referred to them as *sections*. The manager of an industrial school could also be the manager of the laundry. Separate registers were kept. Young and teenage girls in particular could be moved around different sections or institutions within the confines of the convent to which they were admitted without this being officially recorded or reflected in the records.

The convents and the institutions run by the nuns within the convent grounds evolved over time in accordance with need and available resources and they did become more distinct in later years. However, from the perspective of many of the girls and young women they were residing in a particular convent rather than a specific section or institution within it. The fact that they slept in a different room from the older women was irrelevant to them. The common denominator was that they worked in the same laundry under the authority and supervision of the same nuns. The understanding of these applicants was that they worked in one of the 12 listed institutions and therefore should be admitted to the Scheme.

Furthermore, my investigation found a serious inconsistency in the application of the eligibility criteria in that women were admitted to the Scheme who were recorded as admitted to one particular institution closely associated to a named laundry while women who were recorded as admitted to different institution closely associated with another named laundry, were refused admission to the Scheme. This was despite the almost identical profile, characteristics and relationship with the associated laundry both institutions shared.

A curious and questionable footnote to the list of 12 institutions covered under the Scheme contained in Appendix 1 of the Terms of the Scheme is used by the Department to justify these decisions. The note, introduced in December 2013, when in excess of 600 applications had already been received and some already decided on, stated that *institutions listed in the Schedule to the Residential Institutions Redress Act 2002 are not covered by this Scheme*. This was contrary to the recommendation of Mr. Justice Quirke who had looked at the issue of the possibility of double recovery. Incredibly, the Terms of the Scheme were only issued with formal letters of approval only, at the end of the application process.

This was a difficult scheme to administer due to the lack of records, both in terms of their availability and the level of detail the available records contained. It posed challenges for the administrators and the applicants but it is not something that was unanticipated and should have and could have been properly planned and accounted for. Mr. Justice Quirke said in his report

*"I am strongly of the opinion and recommend that, if the proposed Scheme is to be successfully implemented, it will be imperative for the Scheme's administrator to apply a fair and robust eligibility or qualification process so that eligible applicants will have access to institutional and other relevant records and receive such additional and other co-operation and assistance from State and other agencies as they may require in order to enable them to properly record and verify the work which they have done and the periods(s) of time which they have spent within the laundries."*

I should make it clear that the congregations made relevant records available to the Department and to individual applicants on request. It is the manner in which the history of the individual applicant and the available information was interrogated and followed up on by the Department that is at issue. It was ad hoc and at times incomplete, with gaps, questions, or inconsistencies left unanswered. There was an over reliance on the records of the congregations and it is not apparent what weight if any was afforded to the testimony of the women and/or their relatives. Interviews with applicants were a last resort and were only undertaken late in the day and in a small number of cases which were not resolved one way or the other. In other words, an applicant could be excluded on the basis of a record showing she was not admitted to one of the 12 named institutions and she was not interviewed as part of the process.

In the majority of the individual files examined as part of the investigation (those from whom I had

received a complaint), the checking of records with the relevant congregation consisted of simply asking if there was a record of a named individual admitted to XY institution. The actual records or extracts were not sought or obtained from the congregation in many instances. A response that there was or was not a record and the detail was accepted. A further check with the congregation sometimes entailed simply asking them to confirm. Queries tended to be quite limited as were the responses. Availing of other sources of information to try to corroborate records and/or testimony evolved over time and with experience, but there is no evidence of earlier applications being revisited to test the evidence with the newfound knowledge of other possible sources, e.g. school records, electoral registers, social insurance records. Applicants better able to pursue their application and suggest avenues of research fared better. It should have been a consistent and robust process for all applicants. Primacy was given to written records which automatically put some women at a disadvantage and was contrary to what had been recommended. The Department may have been entitled and indeed obliged to protect against fraudulent claims but this could have been achieved in a fairer manner.

It was supposed to contribute to healing and reconciliation, but unfortunately for some women these failings in how the Scheme was administered served to reinforce their feelings of marginalisation and deep hurt, and to undermine the restorative effect of the emotional apology delivered by Taoiseach Enda Kenny in February 2013 when the McAleese Report was published.

Another cohort of women have effectively been forgotten. Those women who were deemed to lack capacity to look after their own affairs but who were eligible for inclusion in the Scheme and therefore entitled to a lump sum payment, have been left, since 2013, without any money being paid or in fact any steps being taken to put in place a mechanism whereby it could be paid out for their benefit. This issue was specifically addressed by Mr. Justice Quirke in his report and even if it was ultimately decided that it was not feasible to follow through on his specific recommendation, something should have been done. Four years later, following enquires to it as part of this investigation, the Department has written to the congregations asking them to take steps to have the women in their care who lack capacity made Wards of Court. This is the least favourable option for protecting the rights of these women but with reluctance I find that it represents the best course for ensuring that they receive their payments as soon as possible. There are 18 women in this position, there were some 40 back in 2013.

I therefore find that the manner in which the Scheme was administered by the Department constitutes maladministration within the meaning of section 4 of the Ombudsman Act 1980, as amended. I have made a number of recommendations, three of which are directed at the Department. I have also taken the unusual step of making a general recommendation, not solely addressed to the Department.



## **My recommendations are as follows:**

### *Eligibility for admission to the Scheme*

- Where there is evidence that a woman worked in one of the listed laundries but was officially recorded as having been “admitted to” a training centre or industrial school located in the same building, attached to or located on the grounds of one of the laundries, the Department should fully reconsider their application with a view to admitting them to the Scheme. The Department should commence these reviews immediately and provide an estimate of the numbers involved and the anticipated timeframe for completion. The Department should also provide my Office with a report on the outcome of this reconsideration within 3 months at the latest.

### *Application Process*

- In light of the concerns raised in this report and, in particular, the concerns outlined in Chapter 4, the Department should review any cases where there has been a dispute over the length of stay. All available sources of evidence and information should be pursued and considered. The Department should provide my Office with its proposal for this review within 6 weeks and, ultimately, a report on the outcome within 6 months.

### *Capacity*

- It is with the greatest reluctance that I must accept that the Department’s current proposal (to request that the women who lack capacity be made Wards of Court) is at this stage the most realistic option. This is in light of the long delays that have occurred in making payments to this group of women and despite the informed comments of Mr. Justice Quirke in May 2013 about the unsuitability of the Wards of Court system. The Department should work closely with the Courts Service to ensure that any wardship applications are processed in a timely and sensitive manner with paramount consideration given to the needs and circumstances of each of the women concerned. In addition, I expect the Department to proactively provide practical support to the appropriate persons to ensure these applications are made. Merely writing to those who now care for the women is not enough. The Department should provide my Office with interim reports on progress in this regard – the first such report to be provided within 6 weeks.

### *Developing Future Schemes*

- In order to ensure that any future restorative justice or redress schemes benefit from the learning from the operation of this and other schemes, guidance should be produced in respect of the development and operation of such schemes generally. Such guidance should be developed centrally but should be applicable across all government departments and public bodies.

# *Chapter 1*

## *Introduction*

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# *Introduction*

## **What this report is about**

This report sets out the results of my investigation into a number of complaints about aspects of the administration of the Magdalen Restorative Justice Scheme (the Scheme). The Scheme was administered by the Department of Justice and Equality (the Department).

## **The investigation**

Between February 2014 and June 2016, my Office received 27 substantive complaints about the administration of the Scheme. All of the complaints received centred on two main issues – eligibility for admission to the Scheme and disputes over the alleged length of stay in one of the institutions. Each of these complaints was the subject of a preliminary examination in my Office and many of these complaints were closed at this stage as Not Upheld. However, judicial review proceedings were subsequently initiated in respect of my decisions in a small number of these complaints. This prompted further consideration of the issues within my Office. Following this consideration, and in particular having regard to further information provided in respect of the circumstances arising in individual cases, it was decided that these issues should be looked at again.

My Office therefore decided to re-engage with the Department about a number of these complaints. A redacted version of this correspondence is available as part of the report on my Office's website ([www.ombudsman.ie](http://www.ombudsman.ie)). As can be seen from this correspondence, the focus of the communication at this stage was primarily on the eligibility issue. In this correspondence, I also consistently maintained that I was not seeking to add new institutions to the Scheme. While the Department subsequently decided to review its decision in a small number of complaints (four in all – this is discussed in greater detail later in this report), it refused to review its decisions in respect of the other complaints.

I took the view that the complainants may have been adversely affected by the actions of the Department on the basis of one or more of the grounds of maladministration identified at section 4(2)(b) of the Ombudsman Acts 1980, as amended. Accordingly, I decided to investigate the complaints under section 4 of that Act.

On 20 December 2016, I notified the Department of the decision to investigate. A redacted version of this notification is also available on my Office's website. In this correspondence, I indicated that the investigation would broadly cover the administration of the Scheme and could incorporate elements not explicitly raised by the complainants. I signalled that the issues likely to be considered in the course of the investigation included the following –

- whether the application process operated in a clear, open, fair and consistent manner;
- whether the Department relied on irrelevant and/or incomplete information when deciding on a person's eligibility under the Scheme
- the practices of the Department in sourcing, gathering and evaluating information on the institutions covered by the Scheme.

In line with usual Ombudsman procedures when an investigation is commenced, the Department was invited to make a submission in relation to the matter. The Department declined to do so. The Department was also subsequently provided with a copy of my draft investigation report and invited to make submissions in relation to it. Its submission (and my response) is attached to this report as Appendix 1.

This investigation involved detailed scrutiny of the records held by the Department in relation to the administration of the Scheme. It also involved examination of records provided by other Government departments and agencies (including the Department of Education and Skills, the Department of Health, the Department of Children and Youth Affairs and the Health Service Executive / TUSLA) and the four religious congregations to the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen laundries (the McAleese Committee). In addition, my Office met with the campaign group Justice for Magdalens (JFM) and, in order to get a greater insight into the running of the institutions, my Office also met with three of the four congregations. I am grateful to all of the above for their co-operation and assistance with this investigation.

I am very conscious that some of the complainants first contacted my Office nearly four years ago and they have been waiting a considerable time for a resolution. I sincerely regret the length of time it has taken to bring the matter to this stage. I am deeply aware that many of the women affected by the subject matter of this investigation are older and may have been distressed by events. I am grateful to all of the women and their representatives for the patience they have shown.



# *Chapter 2*

## *The Magdalen Restorative Justice Scheme*



# *The Magdalen Restorative Justice Scheme*

## **The Magdalen laundries**

The concept of a Magdalen laundry first developed in the 18th century as a place of asylum for women and, in particular, for women who worked in prostitution. They were not exclusive to Ireland or indeed the Catholic Church. The first Magdalen laundry (known as the Dublin Magdalen Asylum) opened on Leeson Street in 1767 as a refuge for “fallen women”. As the concept became more widespread, it extended beyond prostitution to women who had given birth outside marriage, developmentally challenged women, abused girls and even girls who were considered just a little too boisterous.

The existence of Magdalen laundries was well known within Irish society. Until well into the second half of the 20th century, they were a generally accepted social institution. Society at large (though perhaps not the women themselves) may have seen them as “charitable” institutions providing shelter and rehabilitation to women who may otherwise have found themselves homeless or in prison. This is no longer the accepted view.

The last Magdalen laundry (located on Sean McDermott Street) closed in 1996. With one exception, the laundries had no statutory basis and there were no legislative provisions specifically relating to them (the laundry located on Sean McDermott Street was designated as a remand centre for females (16-21 years old) in 1960). However, it would appear that certain of the institutions were availed of by the criminal justice system either to avoid sending women to prison or as a “step-down” facility from prison. For example, court records have shown that, on occasion, the Courts imposed conditions in some probation orders requiring the accused woman to reside in a Magdalen laundry for a specified period.

Entrants to Magdalen laundries worked without pay (other than food and lodgings) under conditions that would be considered by any standards to be harsh.

## **Origins of the Scheme**

In June 2010 the campaign group JFM formally requested the then Irish Human Rights Commission to conduct an enquiry pursuant to section 9(1)(b) of the Human Rights Commission Act 2002 into the treatment of women and girls who resided in Magdalen laundries. While the Irish Human Rights Commission declined to conduct an enquiry, it did nevertheless publish a report in November 2010 on the human rights issues arising in respect of the laundries. It also recommended that a statutory mechanism be established to investigate the issues raised and, in appropriate cases, to offer redress.

A few months later, the United Nations Committee Against Torture also considered this issue as part of its periodic review under the United Nations Convention against Torture (UNCAT). The resulting observations (May 2011), included, at paragraph 21, the following recommendations -

*“the State party should institute prompt, independent and thorough investigations into all allegations of torture, and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene Laundries...”*

*“ensure that all victims obtain redress and have an enforceable right to compensation, including the means for as full rehabilitation as possible”*

In June 2011 the Government established an Inter-Departmental Committee, independently chaired by Senator Martin McAleese and charged with establishing the facts of the State’s involvement with the Magdalen laundries. Ten Magdalen laundries were identified by the Government and included in the mandate conferred to the Committee. According to the Department, the Government decided on the ten Magdalen laundries as they were clearly identifiable and the four religious orders that ran the institutions still had a presence in this jurisdiction. The decision was based on a number of sources such as submissions made to the Commission to Report into Child Abuse (the Ryan Commission) and academic research, including research by JFM. Although representations were made that other institutions should be included, the Committee’s mandate was not extended beyond the ten identified laundries.

The resulting report (known as the McAleese Report) was published in February 2013 and ran to over 1,000 pages. Speaking in the Dáil on 19 February 2013 about the report, the then Taoiseach, Enda Kenny, TD apologised to the affected women on behalf of the State and the Government for the hurt done and any stigma suffered as a result of time spent in a Magdalen laundry. The Taoiseach also announced that the Government intended to establish a restorative justice scheme to help the women. It would appear that, on that day also, the Government made a decision to add St. Mary’s Training Centre, Stanhope Street to the list of institutions to be covered by the proposed scheme.

## Development of the Scheme

On 20 February 2013, it was announced that Mr Justice John Quirke, a retired High Court Judge and President of the Law Reform Commission, had been tasked to advise on the establishment of a non-adversarial restorative justice scheme and to recommend what type of financial and other supports should be provided to the women. On that same day, a preliminary expression of interest form was placed on the Department’s website (a copy of which can be found at Appendix 2 to this report). The form referred to the establishment of a *“fund for the benefit of those who spent time in a Magdalen laundry or St. Mary’s, Stanhope Street”*. According to media reports, by 27 February 2013, the Department had received 790 inquiries about the proposed scheme.

Mr. Justice Quirke forwarded his report to the Minister for Justice and Equality at the end of May 2013. On 25 June 2013, the Government decided to accept the recommendations made by Mr. Justice Quirke. It also decided to add the House of Mercy Training School, Summerhill, Co. Wexford to the list of institutions included within the proposed scheme. On that day also, the Department issued an application form along with a copy of the Quirke Report to each of the women who had completed a preliminary expression of interest form. A copy of this application form along with the letter which accompanied it can be found at Appendix 3 to this report.

The Quirke Report was published on 26 June 2013 and contained twelve recommendations. Perhaps one of the most significant of these recommendations was that women admitted to the Scheme should all receive cash payments in the range €11,500 (corresponding to a duration of stay of 3 months or less)

to €100,000 (corresponding to a duration of stay of 10 years or more). If the cash payment due was above €50,000, Mr. Justice Quirke recommended that the payment be made in the form of a lump sum of €50,000 together with an annual payment calculated from the remaining sum to be paid weekly.

Mr. Justice Quirke also made a number of other recommendations including that the women should be granted access without charge to a wide range of medical services, the women should receive an income equivalent to the State Contributory Pension and a dedicated unit should be created to provide advice and support. He also recommended that, in response to a specific query posed in his terms of reference, any previous payments made to the women under the Residential Institutions Redress Scheme should not be taken into account.

On that day (26 June 2013), the then Minister for Justice and Equality announced that the Government had decided to accept all of the recommendations contained in the Quirke Report. (The most significant public announcements in relation to the Scheme are attached as Appendix 4 to this report). The Minister also announced the establishment of the Scheme and that the Department would be able to accept applications for admission to the Scheme from that day. By this time, a Restorative Justice Implementation Unit had been established in the Department to process applications and payments made under the Scheme.

As it was felt that implementation of some of the recommendations contained in the Quirke Report might be complicated and might require legislation, it was also decided at this time to establish an Inter-Departmental Group to consider how best to implement the recommendations. This Inter-Departmental Group was comprised of representatives from key Departments (and chaired by the Department of Justice and Equality) as well as the Office of the Attorney General. The Inter-Departmental Group met for the first time on 4 July 2013.

During the months of July and August 2013, members of this Inter-Departmental Group continued to correspond in relation to the drafting of its report on the implementation of the recommendations from the Quirke Report. On 29 August 2013, a briefing note was sent to the Minister which provided an update on various aspects of this work, including in particular, the need for a decision on the status of “*associated institutions*” (in other words meaning training centres or industrial schools located on the same grounds of the laundries) within the Scheme.

On 13 September 2013, the Inter-Departmental Group met for the second and final time. A draft of the Group’s report was circulated for discussion at the meeting. The minutes of this meeting record that it was decided that An Grianán Training Centre, High Park would be excluded from the Scheme and that it would be necessary to consider the status of other similar institutions. At the same time it was also recorded that “*no further action*” was necessary in relation to the recommendation that any previous payments made under the Residential Institutions Redress Scheme should not be taken into account.

Following this meeting, the report of the Inter-Departmental Group was finalised and a draft Memorandum for Government was prepared. The draft Memorandum asked the Government to note the report of the Inter-Departmental Group and to agree to proceed with implementation of the remaining recommendations of Mr. Justice Quirke subject to associated recommended changes contained in the report. This draft Memorandum did not refer to the payments made under the Residential Institutions Redress Scheme.

The subsequent Government decision (noting the report and agreeing to proceed with the implementation of the remaining recommendations in line with the report) issued on 5 November 2013.

By that date, the Department had received 600 applications for admission to the Scheme, 200 of which were “at an advanced stage”. On 13 December 2013, the Terms of the Scheme were finalised. By that date some letters of provisional assessment had already issued to applicants - including to two of the complainants to my Office who received their letters of provisional assessment nearly a month before the Terms of the Scheme were finalised.

## The Terms of the Scheme

The Terms of the Scheme were finalised in December 2013 on an administrative (non-statutory) basis. It set out a scheme of payments and benefits for women who had been admitted to and worked in one of twelve listed institutions. It was decided that the Scheme would apply to any eligible applicant who was alive on 19 February 2013.

The Terms of the Scheme provide for various aspects of the administration of the Scheme including the application process itself, the making of an offer and the review process. Under the Terms of the Scheme, the first phase in the process is the making of a provisional assessment as to whether the applicant comes within the scope of the Scheme. The provisional assessment is set out in a letter and the applicant is asked whether she agrees with the provisional assessment. If she agrees with the provisional assessment, she is required to notify the Department of her agreement within two months of the date of the letter. A formal offer in the same terms will then be made and the applicant is given six months to make a decision on this formal offer. If an applicant disagrees with the provisional assessment, she can seek a review within two months of the date of the provisional assessment.

The institutions included within the Scheme are listed in Appendix 1 to the Terms of the Scheme as follows (reproduced from the Terms of the Scheme).

### THE TEN MAGDALEN LAUNDRIES

#### *Good Shepherd Sisters*

The Magdalen Laundries at

- St. Mary's Cork Road, Waterford
- St. Mary's New Ross, Wexford
- St. Mary's Pennywell Road, Limerick
- St. Mary's Sunday's Well, Cork

#### *Sisters of Our Lady of Charity*

The Magdalen Laundries at

- St. Mary's Refuge High Park, Gracepark Road, Drumcondra, Dublin 9
- Monastery of Our Lady of Charity Sean McDermott Street (formerly Gloucester Street), Dublin 1

### *Sisters of Mercy*

The Magdalen Laundries at

- Magdalen Home (formerly Magdalen Asylum), 47 Forster Street, Galway
- St. Patrick's Refuge, Crofton Road, Dun Laoghaire, Co. Dublin

### *Religious Sisters of Charity*

The Magdalen Laundries at

- St. Mary Magdalen's, Floraville Road, Donnybrook, Dublin
- St. Vincent's, St. Mary's Road, Peacock Lane, Cork

## TWO OTHER INSTITUTIONS

### *Sisters of Mercy*

House of Mercy Training School Summerhill, Wexford (Laundry operated in the Training School)

### *Sisters of Charity*

St. Mary's Training Centre Stanhope Street (Laundry operated in the Training Centre)

At the end of Appendix 1 to the Terms of the Scheme there is a note in bold which states as follows:

**Institutions listed in the Schedule to the Residential Institutions Redress Act 2002 are not covered by this Scheme.**

As well as listing the institutions which were included under the Scheme, the Terms of the Scheme also included some details on payments to be made under the Scheme. These comprised two elements – a general payment of a lump sum amount relating to the length of time spent in the Magdalen laundries and payment specifically for loss of earnings. Each of the women admitted to the Scheme are also, on attaining State pension age, entitled to receive the equivalent of a State Contributory Pension.

Under the terms of the Scheme, payments and benefits would only be made to those women who complied with all of the terms of the Scheme and who waived any right of action against the State or against any public or statutory body or agency arising out of their admission to and work within one of the twelve listed institutions. Relatives of deceased women who were admitted to and worked in one of the twelve listed institutions are not covered by the Scheme with the exception of relatives of women who died after 19 February 2013 and where an expression of interest had been received by the Department before her death.

The Terms of the Scheme are reproduced in full at Appendix 5 to this report.



# *Chapter 3*

## *Eligibility for admission to the Scheme*

# Eligibility for admission to the Scheme

*“The Government has decided to accept all recommendations in Judge Quirke’s report” – Kathleen Lynch, T.D., Minister for State at the Department of Justice and Equality*

Fifteen of the complaints under consideration in this investigation concern refusal of applications for admission to the Scheme on the basis that they had resided in an institution which was not one of the twelve listed Magdalen laundries included within the Scheme. In previous correspondence with my Office (and prior to initiating this investigation), the Department stated that any suggestion to nominate new institutions or to change the nature of the scope of the Scheme is to question the underlying policy and is ultra vires the Ombudsman’s role.

However, it has consistently been my view that I am not seeking to nominate new institutions or change the scope of the Scheme. In fifteen of the complaints received on this issue, the complainant resided in a training centre or industrial school in the same building, attached to or located on the same grounds as one of the listed Magdalen laundries. In every one of these complaints, there is some evidence that they had worked in at least one of the laundries.

In these circumstances, I have considered whether the actions of the Department, in excluding women who resided in these training centres or industrial schools and worked in the laundries, constitutes maladministration.

## The twelve listed institutions – a brief history

**St. Mary’s, Waterford** was originally founded in 1799 and taken over by the Good Shepherd Sisters in 1858. The laundry was closed in 1982. An industrial school (St. Dominick’s Industrial School) and a training centre (Gracepark Training Centre) were also located on the grounds.

**St. Mary’s New Ross, Wexford** was founded in 1860 with funding from two lay persons. Later that year, the Good Shepherd Sisters arrived to assist in its operation and subsequently assumed responsibility for it. It closed in 1967. An industrial school (St. Aidan’s Industrial School) was also located on the grounds.

**St. Mary’s Pennywell Road, Limerick** was originally founded in 1826 by a priest and a layperson. It was taken over by the Good Shepherd Sisters in 1842. An industrial school (St. George’s Industrial School), a Reformatory School for Girls (St. Joseph’s School) and a training centre (Rosemount Training Centre) were also located on the same site. The laundry closed in 1982.

**St. Mary’s Sunday’s Well, Cork** was established in 1870 by the Good Shepherd Sisters. An industrial school (St. Finbarr’s Industrial School) and a training centre (Marymount Training Centre) was also located on the site. The laundry closed in 1977.



**St. Mary's Refuge, High Park, Gracepark Road, Drumcondra** was established in 1856. (An asylum called Mary Magdalen Asylum was in operation in Drumcondra from 1831 which was taken over by the Sisters of Our Lady of Charity in 1853). A training centre (known as An Grianán Training Unit) was located in the same building as the laundry and living quarters. The laundry closed in 1990.

**Monastery of Our Lady of Charity, Sean McDermott Street** (formerly Gloucester Street) was established in 1821 by a layperson and was initially managed by a lay voluntary committee. The Sisters of Mercy managed the laundry between 1873 and 1887. In 1887 the Sisters of Our Lady of Charity took over the running of the laundry. In October 1960, it was also approved as a remand centre for females not less than 16 and not more than 21 years of age. A training centre (known as Ri Villa Training Centre) was located on the same site. A hostel known St. Anne's Hostel was also attached. The laundry closed in 1996.

**Magdalen Home (formerly Magdalen Asylum), Forster Street, Galway** was founded in 1824 and originally managed by a society known as the Association of Ladies of Saint Magdalen Society. The Sisters of Mercy took over the operation of the institution in 1845. The premises consisted of a laundry and living quarters. The laundry closed in 1984.

**St. Patrick's Refuge, Crofton Road, Dun Laoghaire** was founded in Bow Street in 1790 and moved to Dun Laoghaire in 1880. The laundry and living quarters were located on the grounds of St. Michael's Hospital. The laundry closed in 1963.

**St. Mary Magdalen's, Floraville Road, Donnybrook** was founded as St. Mary Magdalen's Care Centre at Townsend Street in 1798. It was taken over by the Religious Sisters of Charity in 1833 and moved to Donnybrook in 1837. The laundry was sold to a private company in 1992.

**St. Vincent's, St. Mary's Road Peacock Lane, Cork** (otherwise known as St. Mary Magdalen's Asylum) was established by a layperson in 1809. It was taken over by the Religious Sisters of Charity in 1845. The laundry closed in 1991.

**House of Mercy Training School, Summerhill, Wexford** was established in 1865 by the Sisters of Mercy. A laundry was attached to the House of Mercy. A number of schools were also located on the grounds including St. Michael's Industrial School. The House of Mercy and laundry closed in 1973.

**St. Mary's Training Centre, Stanhope Street** was established by a layperson as a "House of Refuge" in Ashe St. in 1811. In 1814 it transferred to Stanhope Street. It was taken over by the Religious Sisters of Charity in 1819 who in later years operated a domestic training course of two years duration. The Training Centre closed in 1967.

## "Admitted to and worked in"

In its decision letters to applicants to the Scheme, the Department refers to the ex-gratia scheme for the benefit of those women who were admitted to and worked in Magdalen laundries. This phrase appears to have its genesis in the McAleese Report. Indeed Chapter 1 of that report concerns the use of terminology and makes it clear that the use of the term "women who were admitted to the Magdalen laundries" (as opposed to the use of terms such as inmate or penitent) was chosen so as not to cause distress or offence to those reading the report. It is also clear that the description of the women involved was the subject of much consideration by Mr. Justice Quirke for similar reasons. For example,

a meeting chaired by Mr. Justice Quirke in February 2013 records that as some *“react negatively to the term “survivor”. The description of women who lived or worked in a Magdalen laundry is preferred”*.

The phrase “admitted to and worked in” does not appear in the preliminary expression of interest form which issued around the same time – instead the phrase “those who spent time in a Magdalen laundry” was preferred for this purpose. Likewise, in his letter (dated March 2013) to women who had completed a preliminary expression of interest form, Mr. Justice Quirke asks for views as to how to proceed *“if you were admitted to or worked in any of these laundries....”*. It would appear that it was only when the administration of the Scheme itself commenced that the term “admitted to and worked in” began being used as a decisive factor in determining eligibility for admission to the Scheme.

However, at no point did the Department publicly clarify or set out what this meant in practice. It would even seem that the Department itself struggled to determine what this meant. For example, in a letter to an applicant’s solicitor dated October 2013, an official referred to the Scheme being for the benefit of those *“who resided in any of the 12 specified institutions and worked for no pay in the laundries attached”*, while the Department informed my Office on 5 June 2014 that the *“intention behind the scheme is that it is for women who were admitted to and resided in the relevant institutions”*. Likewise, in correspondence with the congregations there is reference to residency – for example, in correspondence dated 29 July 2013, the congregations are advised that *“a vital part of the processing is proper verification that the applicant resided in a relevant institution and worked in the laundry attached to that institution”*.

## Industrial schools / Training centres and the Magdalen laundries

The system of industrial schools in Ireland was provided for by statute (the Children Act 1908, as amended). Children under the age of 15 years of age were ordinarily committed to industrial schools by court order - section 58 of the Children Act 1908 provided that if a child was found destitute or not being subject to proper care, a court could order that the child be sent to an industrial school. A court order could not require a child to remain in an industrial school beyond the age of 16. However, many children were also sent to industrial schools by the local health authority (principally due to family or social upheaval) or, on rare occasions, were considered to be voluntary admissions. Section 68(2) of the 1908 Act, as amended by the Children Act 1941 provided that *“every child sent to an industrial school shall, from the expiration of the period of his detention, remain up to the age of eighteen under the supervision of the managers of the school and if the Minister for Education, after consultation with the managers, directs that it is necessary for the protection and welfare of the child that the period of his supervision be extended for a period specified in such direction not exceeding three years, he shall after attaining the age of eighteen remain under the supervision of the managers for the period so specified”*.

Industrial schools were funded by the State but were not run directly by it. Day-to-day control was left to the religious congregations. According to the Department of Education and Skills report to the McAleese Committee, it generally had limited involvement with the decisions about which locations children were referred to after the court process. The policy regarding the category of child admitted to and detained within a particular school was a matter for the congregation concerned.

Therefore, although a child was in effect in the custody of the State, the managers of the industrial schools (and indeed reformatory schools) had a number of powers. For example, they could place a child under licence with a trustworthy person while they could also revoke a licence and recall a child

back to the school. In addition, and as mentioned earlier, children, on the expiration of their period of detention could potentially remain under the supervision of the manager of the school up to the age of 21. During this period of supervision, these children and young people remained liable to recall by the manager of the school. While the Department of Education was required to be informed of such recalls, according to that Department, there is no evidence on some of the files whether it had any knowledge of these recalls or whether such information was sent to the Department by the school manager.

Six of the listed Magdalen laundries were located on the same grounds as an industrial school. As noted by the Department in an internal note dated March 2012, it was *“not uncommon for an industrial school and a Magdalen laundry to be on the same campus and run by the same order of nuns and the nun in charge of the Magdalen laundry may have been a manager of the industrial school”*. This close relationship (and indeed the probability of frequent interaction) between these various units is also acknowledged by the fact that an amendment to the Residential Institutions Redress Bill extended the scope of that redress scheme to those *“who, as children, were sent to Magdalen laundries from an institution already covered by the scheme such as an industrial school....”*. The Residential Institutions Redress Scheme is discussed in more detail later on in this Chapter.

At the beginning of the 1970s, and following on from the Reformatory and Industrial School Systems Report 1970 (the Kennedy Report), there was an increase in provision of hostels for young people. In addition, and perhaps more significantly, this period also marked the beginning of the development of training centres. A number of the congregations, and in particular, the Good Shepherd Sisters and the Sisters of Our Lady of Charity, ran training centres (sometimes referred to in the records as St. Mary's Class) attached to or located on the same grounds as Magdalen laundries and which developed from the laundries. According to the report of the Health Service Executive (HSE) to the McAleese Committee, frequent referrals of girls and young women were made by health authority social workers to certain Magdalen campuses while the Department of Education and Skills holds records of girls who were sent “on licence” to these units.

The particular circumstances of some of the training centres and industrial schools (as referenced in complaints to my Office) are now considered in greater detail as follows -

## An Grianán Training Centre, High Park, Drumcondra

A training centre (known as An Grianán) was located in the same building as St. Mary's Refuge, High Park. My Office received eight complaints from women who had been refused admission to the Scheme on the grounds that they had been admitted to An Grianán rather than St. Mary's Refuge. Four of these women had left An Grianán before 1972, the other four resided there between 1972 and 1980. Initially the decision letters from the Department refusing admission to the Scheme advised as follows - *“although An Grianán was located in the High Park complex it was recognised as a separate and specific institution in itself...”*. However, in other decision letters this statement was removed and instead applicants were simply informed that *“the institution at High Park known as An Grianán was provided for under the terms of the Residential Institutions Redress Scheme and therefore remains outside the Restorative Justice Scheme”*.

It is not clear as to when a part of St. Mary's Refuge began to be known as An Grianán. In correspondence with the Department, the Sisters of Our Lady of Charity has advised that *“it was an organic process responding to the needs as they arose and making the necessary physical changes and improvements to facilitate that”*. The congregation, in their correspondence with the Department, also



makes it clear that the girls who officially resided in An Grianán continued to work for at least some hours in the laundry up until 1980.

The Department's own records acknowledge that the situation up to 1972 was not "*clearcut*" and that the separation of An Grianán from St. Mary's was a "*grey area*". For example, an internal note for information dated 9 May 2013 which refers to both An Grianán and Ri Villa (the training centre attached to the Monastery of Our Lady of Charity, Sean McDermott Street and discussed in a little more detail below), states that "*at a certain stage in their evolution, they were in effect a sub section of the Magdalen institution and there might be a grey area before they became completely separate institutions*".

Nevertheless, and despite these observations, all applicants to the Scheme who were considered to have been admitted to An Grianán (both before and after 1972) were refused admission to the Scheme. In doing so, the Department held to the view that An Grianán was a separate entity and was recognised as such for the full period of time between the mid-1960s to the 1980s. It was only after the intervention of my Office that the Department agreed to review its decisions in respect of those who were resident in An Grianán prior to 1972 and subsequently admitted them to the Scheme. In notifying my Office of this (by letter dated 4 May 2016), the Department advised that "*it is accepted regarding the evolution of An Grianán Training Centre that the period between 1965 and 1970 is blurred. Although training and classes for the teenagers had started, it is reasonable to accept that they could be considered as being in St. Mary's up to 1971*". The Department subsequently confirmed that, as result of this revised decision, eleven applicants were admitted to the Scheme having previously been refused admission.

However, the Department, while it did not dispute that all of the women (as young girls) worked in the Magdalen laundry, refused to review its decisions in respect of those applicants who were resident there after 1972. Instead these applications were refused on the basis that An Grianán was a separate entity and was provided for under the terms of the Residential Institutions Redress Scheme.

An Grianán was located in the same building as St. Mary's Refuge. It would appear, from documents provided by the congregation that alterations were carried out in 1971 by partitioning off a second floor of St. Mary's Refuge. However, in correspondence with the Department, the Sisters of Our Lady of Charity never refer to it as a separate entity. Likewise, in contemporary correspondence, the congregation refers to An Grianán as a "*self-contained unit within St. Mary's Institution*". The women (known as the "senior ladies") and girls continued to share the same building after the alteration work was carried out and had to automatically spend a portion of their day working in the laundry, regardless of which part of the building they slept in. It was only in 1980 that the girls stopped working in the laundry completely and instead were able to avail of full-time education. In 1990 An Grianán was moved to a purpose built residential home located on former convent grounds at Collins Avenue.

In May 1971, the Department of Health approved a proposal for health boards to accept financial responsibility for the maintenance in An Grianán of girls under the age of 16. An Grianán was certified as a remand centre for a small number of girls in 1972. The Department has referred to this in support of its (revised) stance that An Grianán was a separate entity from 1972 onwards.

However, a report of an inspection of An Grianán from around this time refers to reserving "*one bedroom for remand girls accommodating about four*". The available documentation would suggest that there were up to 15 girls there at any one time - most of whom were apparently not there "on remand". For example, a record provided by the HSE states that, out of 16 girls referred to An Grianán during a period in 1975, eight were referred by the then Health Boards; three by school principals or the Department of Education, two by other religious orders, two self-referrals and only one by court order.

The contemporary correspondence from the Sisters of Our Lady of Charity also makes it clear that, while An Grianán was a remand centre for a small number of girls, it continued to accept girls referred by other means, including from the Health Boards. For example, a letter from the congregation dated 31 July 1972 requests an increase in the maintenance rate paid by the Department of Justice to bring it at least in line with the maintenance paid by the Health Boards and advised that *“we have here a Training Centre for problem girls. Our Centre has also been certified as a Remand Home”*. According to a 1973 report on the remand home system, the number of girls received “on remand” rarely exceeded two. Indeed, according to some contemporary records, it would appear that, towards the latter end of that decade, none of the girls in An Grianán were there “on remand”.

An Grianán bears many striking similarities to a training centre operated by the same religious order in Sean McDermott Street – Ri Villa training centre (sometimes referred to as Re Villa or RyVilla and called after the birthplace of the congregation’s founder). Indeed in much of the contemporary correspondence, An Grianán and Ri Villa are mentioned and discussed together. For example, a letter from the Sisters of Our Lady of Charity dated 11 January 1974 refers to a suggestion that *“the present centres at High Park and Sean McDermott Street be known as Senior Training Centres”*. Both training centres were run by the same congregation and both were certified (in June 1972) to accept a small number of girls “on remand”. It would also appear that, in similar circumstances to An Grianán, Ri Villa underwent some evolution over a number of years. According to contemporary correspondence from the congregation to the then Department of Education, in 1966 the girls were *“semi-separated into a special group with their own recreational facilities”* while in 1972 the girls were moved into *“completely separate quarters which were reconstructed and newly decorated and self-contained”*. As in An Grianán, the girls continued to work a number of hours in the laundry each day.

However, unlike An Grianán, Ri Villa was not excluded from the Scheme but was instead considered to be part of the laundry. In correspondence with my Office, the Department has stated that the reason for the inclusion of Ri Villa in the Scheme was twofold – the Sean McDermott Street site was considered to be a single entity (despite having separate quarters from 1972 onwards) while it was also deemed appropriate, given that it was excluded from the Residential Institutions Redress Scheme, that Ri Villa would be included in this Scheme.

## Gracepark Training Centre, Waterford

Gracepark Training Centre was a teenage unit which was operated by the Good Shepherd Sisters for girls aged between 12 and 16 year of age who were seen to be “at risk”. It was located on the grounds of St. Mary’s, Waterford and developed from St. Mary’s. It was in fact originally located in the same building as the laundry. According to a document prepared by the Good Shepherd Sisters on the history of St. Mary’s, Waterford, the internal structure of St. Mary’s was adapted to the needs of three different groups – *“the elderly, the not-so-young and the teenagers. The latter eventually went to a separate building”*. Prior to receiving grants from the Health Boards, the training centre was, according to the congregation, financed entirely from the proceeds of the laundry.

In 1971 Gracepark moved to a separate building within the same complex. However, it would appear that at least some of the girls continued to work in the laundry for at least part of each day of the week. For example, a letter from the Good Shepherd Sisters to the Chief Inspector, Department of Education dated November 1971 advises that *“between 1.00 and 3.45 each weekday, the girls are engaged in manual work, mainly in the laundry”*. It would also appear that subsequently at least some of the girls went out to school but continued to work in the laundry after school and during school holidays.

Though run by a different congregation, Gracepark appears to have served a similar purpose to the training centres run by the Sisters of Our Lady of Charity and was in receipt of the same source of funding. For example, correspondence between the Department of Education and the Department of Health in 1972 regarding the status of Ri Villa advises that the Department of Education is not “providing assistance to the Centre.... The approval of the Centre is similar to that accorded to the Training Centre conducted by the Good Shepherd nuns in Waterford which receives certain grants from the Health Authority”. Gracepark was not included in the Residential Institutions Redress Scheme but, unlike Ri Villa, was also excluded from this Scheme.

My Office received a complaint from a woman who was refused admission to the Scheme on the grounds that she had been admitted to Gracepark instead of St. Mary’s laundry. Interestingly, however, it would appear from the available information that the applicant was actually admitted (by District Court Order) to St. Mary’s but “transferred” by the congregation to Gracepark on the same day. The very close links between the two is highlighted by the fact that it was apparently not deemed necessary to apply to the District Court for an amendment of the court order to allow this to happen. As noted earlier in this Chapter, the internal management of these campuses (run by the same congregation with often the same nun in charge of all units within it) would also have facilitated this.

This complaint concerned a period in the 1970s – some 5 years after Gracepark was moved to a separate building on the convent grounds. However, in its correspondence with the Department about this complaint, the congregation advised that this time (the mid-1970s) was still a “time of transition” for teenagers from St. Mary’s to transfer to Gracepark. (It is also interesting to note that, in correspondence with the Department, the congregation refers to St. Mary’s and Gracepark as “sections” rather than institutions although this was not followed up with the congregation). It does not appear that the Department made any further enquiries at this stage about the interaction between the training centre and St. Mary’s.

## St. Joseph’s Reformatory School / St. Mary’s Training Centre (subsequently known as Rosemount Training Centre), Pennywell Road Limerick

There were a number of buildings situated in the Pennywell Road complex. These included an industrial school (St. George’s Industrial School), a reformatory school (St. Joseph’s Reformatory School) and in later years a training centre (initially also known as St. Mary’s but later called Rosemount Training Centre – another unit called Sonas Training Centre also operated on the same premises for a short period in the early 1970s). As with other training centres such as An Grianán, Ri Villa and Gracepark, Rosemount received grants from the health boards.

It would appear from contemporary descriptions that the training centre was attached to the laundry with some of the facilities such as the kitchen being shared by both. It would also appear that at least some of the girls in the training centre worked in the laundry for a period of time. According to the transcript of a 2011 interview with the man who took over the running of the laundry in the 1980s, the congregation “tried to give them [the girls in the Training Centre] jobs some of them in the laundry and some of them around and stuff but it didn’t work out. I can’t tell you exactly for how many years it was opened”.

St. Joseph’s Reformatory School was located on the same grounds as the laundry. Contemporary reports indicate that at least some of the girls in St. Joseph’s were sent to the laundry each day.

For example, a Department of Education report of an inspection of St. Joseph (from May 1972) states as follows –

*“Some of these girls go to the laundry (also run by these Sisters and housed in the same grounds) every day for training – in the mornings 9.30 – 11.30 a.m. and afternoons 4 – 6 p.m.”*

The apparent close relationship between the various units located within the complex is also indicated in the following observation from a Probation Officer in 1941 -

*“If and when they have been committed to the Reformatory School [St. Joseph’s Limerick], the Manager learns that they have spent even a week in High Park.....they are no longer considered suitable subjects for St. Joseph’s and they are immediately transferred to the Good Shepherd Convent adjoining”.*

While St. Joseph’s Reformatory School was included in the Residential Institutions Redress Scheme, St. Mary’s (Rosemount) Training Centre was not. Both were excluded from this Scheme.

My Office received a complaint from a woman who resided in St. Joseph’s Reformatory School. In her application to the Scheme, the woman provided a testimony of her memories of working in St. Mary’s laundry. The Department consulted records from the Department of Education and relevant court orders. It also contacted the Good Shepherd Sisters who verified that the woman was resident in St. Joseph’s. The Department refused the woman’s application on this basis. However, following a request for a review by the woman, the Department contacted the congregation again and, at this point, the congregation indicated that the woman may have “*spent some time each day*” working in the laundry (i.e.: St. Mary’s laundry). Despite this, the Department upheld its original decision on the basis that there was no evidence that she “had been admitted” to St. Mary’s. Although the Department was aware of the often close relationship between the various units sharing one campus (as outlined in the Department of Education and Skill’s report for the McAleese Committee), it does not appear to have made any further enquiries about the interaction between the reformatory school and St. Mary’s or indeed why the woman worked in the laundry at all.

## St. Aidan’s Industrial School, / Teenage Training Unit New Ross, Wexford

St. Aidan’s Industrial School was located on the same grounds as St. Mary’s, New Ross. It would appear that the two buildings were connected by way of an underground passageway or tunnel. It would also appear from contemporary documents that there was a teenage training unit located at New Ross (in common with the practice of the Good Shepherd Sisters at their other locations in Waterford, Limerick and Cork). This is referred to in correspondence as a “re-education class” where training in laundry, needlework and domestic science was provided as well as English and Arithmetic. Any such work was apparently unpaid – in a letter from the congregation to the Inspector of Reformatory and Industrial Schools (February 1965) regarding a particular girl, the Inspector is assured that the girl in question is “*at present in the re-education class. She is of course not receiving any wages*”.

My Office has not received a complaint from anyone who states that they worked in St. Mary’s laundry but was refused admission to the Scheme on the grounds that they had been admitted to St. Aidan’s. However, my Office did receive a complaint from a woman who had been admitted to the Scheme - the complaint concerned another matter relating to the Scheme, namely a dispute about length of stay. She had been admitted to the Scheme as it was accepted that she had worked in St. Mary’s as a teenager despite having resided in St. Aidan’s Industrial School (insofar as she slept there each night). St. Aidan’s



Industrial School was included in the Residential Institutions Redress Scheme and the woman had previously received an award under that scheme.

## St. Finbarr's Industrial School / Teenage Training Unit, (subsequently known as Marymount), Sundays Well, Cork

St. Finbarr's Industrial School was located on the grounds of St. Mary's laundry, Sunday's Well, Cork. According to correspondence from the Good Shepherd Sisters to the Department, from around 1972 onwards, there was also a teenage training unit attached to the laundry but located in a "separate section". From contemporary correspondence, it would appear that the girls in the teenage unit worked in the laundry. For example, a letter from the Manager of St. Finbarr's School to the Inspector of Reformatory and Industrial Schools dated 15 April 1972, refers to the Inspector having agreed to a girl being "transferred to our teenage section and work in the laundry". The teenage unit subsequently moved to a separate building known as Marymount Training Centre and was financially supported by the health boards.

St. Finbarr's Industrial School was included in the Residential Institutions Redress Scheme. Marymount Training Centre was not. Both were excluded from this Scheme.

My Office received a complaint on behalf of a woman who stated that she worked in the Magdalen laundry. The Department was of the view that the woman had resided in St. Finbarr's Industrial School and so was not eligible for admission to the Scheme. The Department formed this view based on the recollection of the congregation (who were of the view that the woman worked in the laundry attached to the industrial school) but did not seek any original records to confirm this. It also does not appear that the Department made any further enquiries about the interaction between the industrial school and the laundry or indeed whether it was possible that some of the girls in the industrial school may have worked in the Magdalen laundry. It is also interesting to note that, as with Gracepark, the Department did not seek to follow-up on the description (as used by the congregation in correspondence with the woman) of the industrial school as a separate "section" to the laundry.

## St. Michael's Industrial School, Summerhill, Wexford

St. Michael's Industrial School was part of a complex run by the Sisters of Mercy which also included Summerhill Training Centre. According to correspondence between the congregation and the Department "both the industrial school and training centre were attached to St. Michael's Convent of Mercy, Wexford".

My Office received a complaint from a woman who alleged that she had been in the industrial school and had worked in the laundry attached to the Training Centre. Following receipt of her application, the Department had contacted the relevant congregation (the Sisters of Mercy) and asked for clarification as to whether the industrial school formed part of Summerhill Training Centre. The Sisters of Mercy advised that St. Michael's Industrial School was not part of the Summerhill Training Centre. Again, there is no evidence on file that the Department made any further enquiries about the interaction between the industrial school and the Training Centre or indeed whether it was possible that some of the girls in the industrial school may have worked in the laundry. St. Michael's Industrial School was included in the Residential Institutions Redress Scheme.



## St. Anne's Hostel, Sean McDermott Street

In a letter from the Sisters of Our Lady of Charity to the Eastern Health Board dated June 1980, St. Anne's Hostel is referred to as a transition hostel *"where young girls live in and work or train in outside employment... The Hostel is a continuation – an after-care unit for the Teenage Training Centre which was running here for many years"*.

The Teenage Training Centre referred to is Ri Villa which was located in the same building as St. Anne's. Applicants who were admitted to Ri Villa were admitted to the Scheme. However, applicants who were resident in St. Anne's Hostel were not despite being part of the single entity on the Sean McDermott Street site.

While the hostel may have been envisaged as a place to stay for young women beginning outside employment, the Sisters of Our Lady of Charity have advised the Department that they were not in a position to *"state definitively that a resident of St. Anne's Hostel did or did not ever work in the laundry"*. St. Anne's Hostel was not included in the Residential Institutions Redress Scheme.

My Office received two complaints from applicants who were in St. Anne's Hostel. In one of these complaints, the evidence suggested a fairly short stay - approximately two weeks duration. In the other complaint, the woman alleged that she lived in St. Anne's Hostel for a number of years and had worked in the laundry for a period of time. While she had a fairly substantial social insurance record which would suggest that she was in paid employment, there were nevertheless a number of significant gaps in her record which could also potentially suggest that she worked in the laundry for some periods. However, this was not followed up on by the Department.

## Findings

### *Training centres and industrial schools*

In correspondence with my Office and elsewhere, the Department has maintained that to include any of the above training centres and/or industrial schools within the Scheme would be adding new institutions and changing the Government decision on the scope of the Scheme, something which it is precluded from doing. I have consistently maintained that I am not seeking to add new institutions to the Scheme. Instead, and as outlined above, my Office has had sight of a significant amount of evidence which shows that these units and the Magdalen laundries were inextricably linked and should be considered to be one and the same institutions. It is also clear that the Department would have been aware from an early stage of these close links – the information contained in the completed preliminary expression of interest forms alone would have signalled this.

In making a decision as to the status of these units in the context of the Scheme, it is my view that the Department did not seek to obtain or consider this evidence (all of which would have been available to it) or else gave it just cursory consideration. Instead, it appears to have relied on general information provided by the congregations some of which was requested and obtained after the decision to exclude was made - for example, the Department received a profile of High Park on 22 November 2013 but the decision to exclude An Grianán had been made a number of months earlier while a detailed profile on Gracepark Training Centre was requested by the Department in July 2017 and only for the purposes of this investigation. It also frequently failed to follow up on issues raised by individual cases which

appeared to suggest a closer relationship between the units and the laundries than may have first appeared. In these circumstances, my Office is of the view that the actions of the Department in this regard constitute maladministration being actions based on erroneous or incomplete information and an undesirable administrative practice.

It is my view that there is enough evidence available in the general information relied upon by the Department to show that An Grianán and St. Mary's were one and the same up to at least the end of 1971. It is also clear that the Department were aware of this prior to the first application being received and at the time the decision was made to specifically exclude this particular "institution". This issue was conceded by the Department following my Office's intervention and eleven applicants were subsequently admitted to the Scheme. However, the fact that these applicants were initially refused admission to the Scheme despite the evidence to the contrary caused undoubted distress and anxiety to the women concerned. It is therefore my view that the actions of the Department in this regard constitute maladministration on the grounds that they were based on erroneous or incomplete information, were improperly discriminatory and were otherwise contrary to fair or sound administration.

A Scheme administered in accordance with the principles of good administration should demonstrably not produce inconsistent outcomes. It is my view that the actions of the Department, in deciding which of the units attached to eligible institutions to include in the Scheme and which to exclude lacked consistency. In particular, the decision to include Ri Villa within the Scheme and exclude An Grianán (which operated on almost identical lines) and other training centres (which were very similar in function and funding) as well as St. Anne's Hostel (which occupied the same building) is based, in my view, on very tenuous grounds. While the Department advises that Ri Villa was included as it was considered to be the "single entity" occupying the same site on Sean McDermott Street, the facts indicate that the same was true for An Grianán (which was located in the same building as the laundry) and, in the early years at least, for some of the other training centres, for example Gracepark Training Centre and Rosemount Training Centre. It should also be noted that St. Anne's Hostel was also part of this "single entity" on the Sean McDermott Street site but was nevertheless excluded from the Scheme.

Likewise, if the exclusion of Ri Villa from the Residential Institutions Redress Scheme (which is discussed in greater detail in the next section) was one of the deciding factors, then it is unreasonable and inconsistent that other training centres such as Gracepark with similar characteristics which were similarly excluded from the Residential Institutions Redress Scheme were not treated in the same way and included within this Scheme. In these circumstances, it is my view that the actions of the Department in including Ri Villa within the Scheme and excluding similar training centres constitutes maladministration on the grounds that the actions were improperly discriminatory and otherwise contrary to fair and sound administration.

## The Residential Institutions Redress Scheme

The Residential Institutions Redress Scheme was set up under the Residential Institutions Redress Act 2002 to compensate persons who had suffered an injury as a result of being abused while a child and resident in an industrial school, reformatory or other institution subject to State regulation and inspection. It was administered by the Residential Institutions Redress Board (RIRB). The institutions under the remit of the RIRB are listed in a Schedule to the 2002 Act.

As mentioned above, the Appendix to the Terms of the Scheme finalised in December 2013 includes a note in bold which states as follows:

**Institutions listed in the Schedule to the Residential Institutions Redress Act 2002 are not covered by this Scheme.**

This exclusion was applied regardless of whether the applicant actually applied for and/or received an award from the RIRB.

To qualify for an award, an applicant before the RIRB must have established that he or she was suffering or had suffered some significant injury, physical or psychological. The applicant must also have established that the injury was consistent with abuse as alleged. This often involved significant medical and psychiatric evidence. Any award offered was considered to include loss of opportunity but not loss of earnings. It applied to children under the age of 18.

There are 139 specified institutions covered by the RIRB. There was no specified criteria or requirements for inclusion other than being subject to State regulation or inspection. In some cases, inclusion of an institution may have depended on whether it came to the attention of the Department of Education when the RIRB was being established. For example, the submission from the Sisters of Our Lady of Charity to the RIRB's assessment panel makes reference to An Grianán but not Ri Villa while the submission from the Good Shepherd Sisters makes no reference to its training centres. This led to some institutions such as An Grianán (although not a certified industrial school) being included within the remit of the RIRB while other very similar (indeed almost identical) institutions such as Ri Villa were not. This has also led to significant implications in terms of admission to this Scheme.

The 2002 Act and the establishment of the RIRB was the subject of much debate at the time. In his speech introducing the legislation in November 2001, the then Minister for Education stated that it was not *"and was never intended to be, a panacea for every injustice committed on children"* Subsequently, following a proposal to include foster homes, orthopaedic hospitals and indeed Magdalen laundries within its terms, the Minister urged against this and referred to the proposed legislation as *"a proposal addressed to a particular set of circumstances, not as a vehicle for dealing with every injustice and abuse committed on children and young people in the past"*.

Notwithstanding this, it was subsequently decided, and at a time when the majority of applications had been received, that institutions covered by the 2002 Act were to be excluded from the Scheme. This approach appears to have developed over time. In February 2012, and following the publication of the McAleese report, the then Minister for State at the Department stated as follows –

*"I also want to be clear that women who have already received payments under the Redress Scheme are not being excluded in any way".*

In February 2013, the Terms of Reference for the work to be undertaken by Mr. Justice Quirke were published. As part of the Terms of Reference, Mr. Justice Quirke was asked to consider just one issue relating to the RIRB – namely the approach to be taken in circumstances in which a payment has already been made by the RIRB by way of redress to a former resident of an industrial school, where such payment included a sum specifically due to the direct transfer of that person from an industrial school to a relevant laundry and their time or part of their time spent in a laundry or laundries. This was because of a specific provision contained in the 2002 Act which, as mentioned earlier, provided for redress in

circumstances where a person who was resident in an institution and then transferred to another place “which carried on the business of a laundry” suffered abuse in that laundry (section 1(3) of the Act).

Mr. Justice Quirke saw this Term of Reference as contemplating the potential for “double recovery” where an applicant for inclusion in the proposed Scheme had already received an award from the RIRB which specifically took account of a transfer to a named institution. He considered that, despite the extensive confidentiality provisions, the administrators of the Scheme would be entitled to enquire of the applicants whether or not they had received an award from the RIRB and the amount of such award. However, he also formed the view that the administrators would be required to engage in a “cross referencing” exercise to some extent including in order to ascertain whether the RIRB award included a sum specifically due to the direct transfer of a person from an industrial school to a relevant laundry and their time or part of their time spent in a laundry or laundries – a task which in his view would be difficult if not impossible to do. As a result, Mr. Justice Quirke made the following recommendation –

*“I do not consider that the enactment of further legislation and the time and expense which disclosure, perusal and investigation of Redress Board Orders, transcripts and remaining evidence would require is warranted since such measures are very unlikely to provide for the Scheme Administrators evidential or other information which would be of relevance to the proposed Scheme.*

*That is because detailed examination of Redress Board orders, transcripts and other documents is very unlikely to identify and measure that part of an award which has been made because it is “specifically due to the direct transfer of that person from an industrial school to a relevant Laundry and their time or part of their time spent in a Laundry or Laundries”*

*I am therefore recommending that the Scheme should not seek to investigate or consider this matter further”.*

This was one of his recommendations which was accepted by Government. In July 2013, the minutes of the first meeting of the Inter-Departmental Group on the implementation of recommendations contained in the Quirke Report noted that payments from the RIRB “are to be disregarded for the purpose of administering the Restorative Justice Scheme”. Likewise, this issue was also discussed at the second meeting of the Inter-Departmental Group held on 13 September 2013 – according to the official representing the Department of Education, there was a matrix used to determine an award made by the RIRB and “it would not be possible to break that award down by time or institution”. It was also again noted that “Judge Quirke recommended against identifying payments previously received from the RIRB”.

Notwithstanding this, a decision was subsequently made, apparently within the Department, to exclude any institutions listed in the Schedule to the 2002 Act from the Scheme. This operated as a blanket exclusion regardless of whether the applicant worked in a laundry, whether the award from the RIRB included a sum for work performed in the laundry or indeed whether the applicants even made a claim to the RIRB in the first place.

## Findings

### *Inclusion within the Residential Institutions Redress Scheme*

The footnote provision permitting the exclusion of institutions covered by the RIRB does not stem from the recommendations of Mr. Justice Quirke or indeed any Government decision. It was a purely administrative arrangement inserted into the Scheme some months after the Scheme was established. However, it nevertheless had the effect of significantly reducing the number of applicants who were admitted to the Scheme.

As the then Minister for Education commented in 2001, the establishment of the RIRB was never intended to be a vehicle for dealing with every injustice committed on children and young people. The RIRB and this Scheme were established over ten years apart and in order to try and redress two quite different injustices. While the RIRB was set up to compensate for an injury sustained as a result of abuse suffered while in certain institutions, this Scheme is a restorative justice scheme, one aspect of which is to offer some element of redress for those who spent time working in very harsh conditions for no pay. The recommendations contained in the Quirke Report in relation to a work payment and entitlement to a State Contributory Pension is clear evidence of this. This was also acknowledged by the Department in an email to this Office which advised as follows:

*“It is also the intention behind the scheme that it is for women who worked in the institutions for no pay. Part of the lump sum payment refers to a “work payment” to reflect the work that was done in the institutions for no pay”.*

It is therefore, in my view, manifestly unfair to exclude some women from admission to the Scheme on the basis that they may have been eligible to apply for a payment from the RIRB.

Of the complaints made to my Office, four applicants to the Scheme had not applied to the RIRB despite being resident in an institution covered by the RIRB (it should also be noted in this regard, and as outlined above, that a number of the training centres, including Gracepark and Marymount were not included within the remit of the RIRB but were still nevertheless excluded from this Scheme). They were also out of time to do so - the closing date for receipt of new applications was 15 December 2005 while the power of the RIRB to accept late applications was removed in September 2011. The complete exclusion of institutions covered by the RIRB did not allow for any flexibility to provide for such circumstances. Instead, and despite having not made an application to the RIRB, the very fact that the institution was included in that scheme was enough to exclude them from admission to this Scheme. One of the decision letters from the Department to a complainant to my Office quite neatly encapsulates the obvious unfairness of this and leaves little room for common sense or compassion.

*“St. Finbar’s Industrial School was provided for under the Residential Institutions Redress Act 2002.... It is my understanding that the RIRB is closed for new applications but in any event, that would be the appropriate forum to consider your application”.*



If, as the Terms of Reference to Mr. Justice Quirke suggest, there was a concern to prevent the potential for double recovery, the operation of the blanket exclusion went beyond that legitimate interest. It is my view that the actions of the Department in denying a remedy to these applicants constitutes maladministration being actions that are based on an undesirable administrative practice, taken on irrelevant grounds, are improperly discriminatory and otherwise contrary to fair or sound administration.

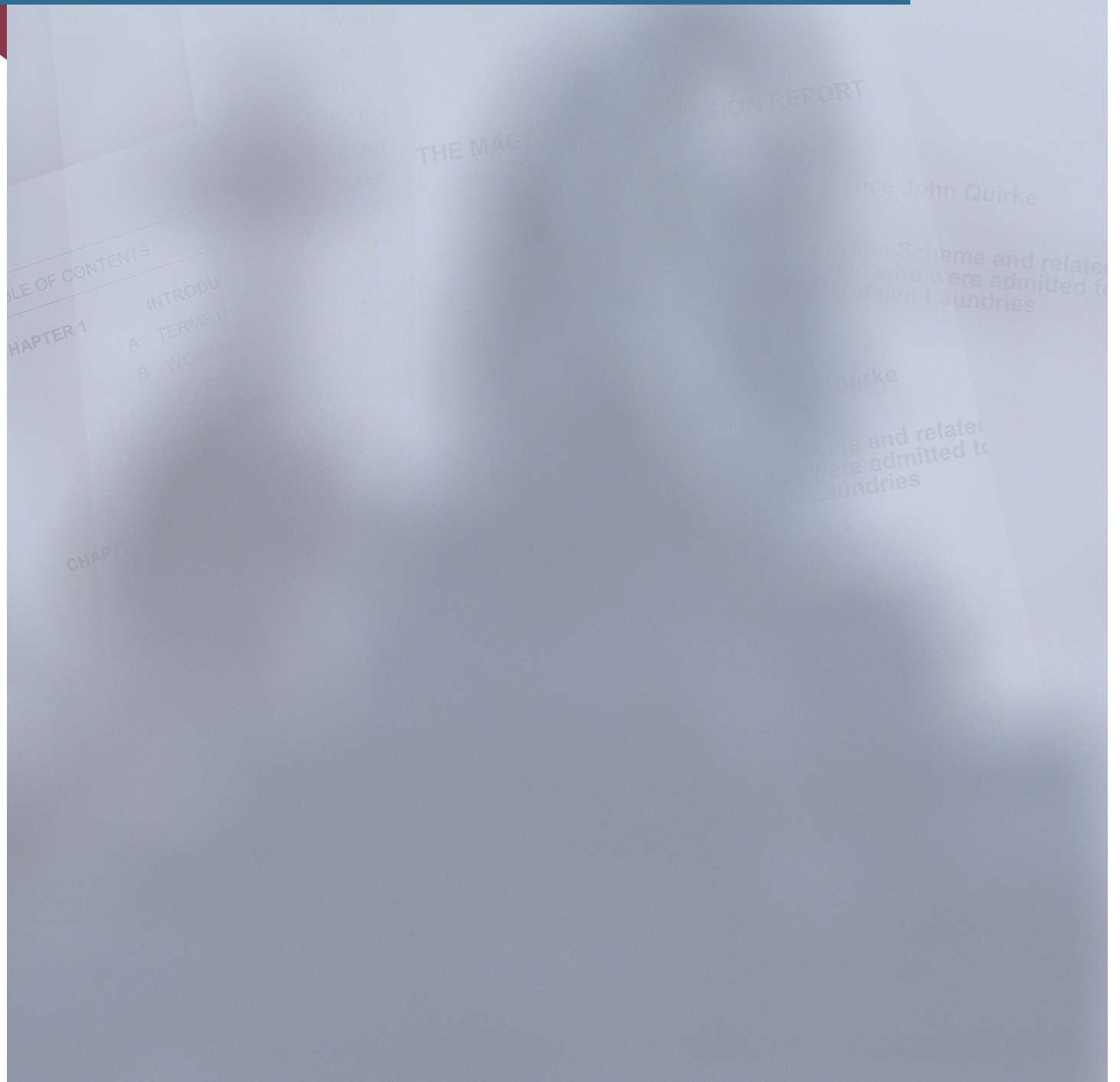
## *Recommendation*

### *Eligibility for admission to the Scheme*

Where there is evidence that a woman worked in one of the listed laundries but was officially recorded as having been “admitted to” a training centre or industrial school located in the same building, attached to or located on the grounds of one of the laundries, the Department should fully reconsider their application with a view to admitting them to the Scheme. The Department should commence these reviews immediately and provide an estimate of the numbers involved and the anticipated timeframe for completion. The Department should also provide my Office with a report on the outcome of this reconsideration within 3 months at the latest.

# *Chapter 4*

## *The application process*





# The application process

*“It is important not only to acknowledge the experiences of many of the women in the laundries, but also to consider how to address their future needs. It is especially important to pursue measures that will promote healing and reconciliation and will, as far as possible, provide closure to them” – Alan Shatter, T.D., Minister for Justice and Equality*

## The application form

A preliminary expression of interest form in relation to a restorative justice scheme was published in February 2013. This included a list of the ten Magdalen laundries and St. Mary’s Stanhope Street (the House of Mercy Training School, Summerhill was added at a later date). The purpose of the form was to allow potential applicants to register an interest in being considered for benefits from a fund. There were a number of questions on the form including the following – *“Have you previously received compensation for a period spent in an institution?”*. The form also made it clear that no decisions would be made on the detailed operation of the fund until after Mr. Justice Quirke submitted his report. The preliminary expression of interest form is at Appendix 2 to this report.

At the end of June 2013, and following publication of the Quirke Report, the Department wrote to all the women who had returned expression of interest forms and informed them that the Government had decided to implement the recommendation on the payment of a lump sum to women who were admitted to a designated laundry and worked there. The Department also enclosed an application form for admission to the Scheme with this letter (along with a copy of the Quirke Report) and stated that its purpose was to verify residence in a relevant institution and assess eligibility for the lump sum. The Department advised that this form should be fully completed, signed and returned to the Department (the newly established Restorative Justice Implementation Team) along with any supporting documentation.

Applicants were informed that it was not necessary to incur the expense of legal or other assistance to complete the application form. The Department advised that assistance at the application stage is *“available to you free of charge from the Citizens Information Board or from any member of the Restorative Justice Implementation Team”*. This point was reiterated to potential applicants in a follow-up “reminder” letter which issued in September 2013 to those who had not yet returned their application forms.

The application form, and a copy of the accompanying letter, can be found at Appendix 3 to this report. The form looked for information relating to residence in one or more of the institutions, for example dates of residence and a copy of any records relating to time spent in the institution. It did not, however, refer to or request any information in respect of compensation received from the RIRB or elsewhere. This question had already been asked and answered in the preliminary expression of interest form.

There was also nothing to indicate that admission to or residence in an institution covered by the RIRB would be a basis for refusing admission to the Scheme. This is perhaps not surprising in view of the fact that the Terms of Scheme (including the exclusion relating to institutions covered by the Residential Institutions Redress Act 2002) were not finalised until December 2013 – 10 months after the preliminary expression of interest form was placed on the Department’s website and nearly 6 months after the applications forms issued. According to the Department, applicants to the Scheme were not provided with the Terms of the Scheme until a formal letter granting admission to the Scheme, and a provisional offer of a financial payment, issued. (In fact, and as mentioned earlier in this report, it would appear that some provisional assessments issued before the Terms of the Scheme had even been finalised). Applicants who were refused admission to the Scheme did not therefore at any stage receive a copy of the Terms of the Scheme despite it containing the operative provision on the basis of which some of them were excluded.

## Findings

### *The Application Form*

The vast majority of the women who were refused admission to the Scheme and who subsequently made a complaint to my Office had completed a preliminary expression of interest form. They were subsequently encouraged to apply for admission to the Scheme (by virtue of receiving an application form and, in some cases, a “reminder” letter) but were refused admission. This was because of eligibility criteria which were introduced months after the Scheme was established (and indeed after the first provisional assessments were made) and which were not disclosed to them at the time of application.

It is, in my view, unacceptable for schemes to be established and advertised before decisions have been taken on key issues such as eligibility. I am satisfied that the delay in finalising the Terms of the Scheme (nearly six months after the first application was received) and, in particular the eligibility criteria, created, at best, a misleading impression for some applicants. For those who had completed the preliminary expression of interest form and subsequently received an application form as result, it would be understandable if they presumed that the eligibility criteria for admission to the Scheme had been agreed and they were not excluded by virtue of being in an institution included in the schedule to the 2002 Act.

This was not the case however. Those adversely affected by the subsequent inclusion of additional eligibility criteria did not have the position explained to them in any way until their application for admission to the Scheme was refused. They never received a copy of the Terms of the Scheme.

Good administration of schemes, and, in particular, non-statutory schemes requires certainty and clarity around eligibility. This is so that potential applicants are not put to unnecessary distress or inconvenience in applying for something for which they may not be eligible. It is clear that this did not occur in this instance. This failure to provide certainty and clarity around what was meant by “admitted to and worked in” as well as the more specific eligibility criteria fell far short of the standards of administration that people are entitled to expect. I am of the view therefore that the actions of the Department constitute maladministration being actions taken as a result of negligence or carelessness, based on an undesirable administrative practice and otherwise contrary to fair or sound administration.



## Incomplete or disputed information – Records

The Department has, on a number of occasions, publicly stated that each application for admission to the Scheme was assessed on an individual basis taking into account any available records, documents and statements including the applicant's testimony. According to the Department, processing of all applications under the Scheme operated on the basis that the testimony of the applicant was correct. If a discrepancy arose, the Department was obliged to carry out a thorough examination, checking whatever records were available from other Government departments, agencies and institutions to support the application. According to the Department, the records of the religious congregations were not regarded as decisive but instead just one factor to be taken into consideration.

My Office has received 27 substantive complaints about the administration of the Scheme. While many of the complaints received in this Office were (as discussed above) from women who had been refused admission to the Scheme on the basis that they had resided in a training centre or industrial school attached or adjacent to that laundry, a significant number of the complaints received concerned a dispute over length of stay in one of the listed institutions or at least some confusion over aspects of the information provided as part of the application process.

In the case of some applications to the Scheme, information (as provided by the applicants) regarding where they worked or indeed for how long was incomplete and unclear. This is not surprising in view of the fact that some records relating to the institutions no longer exist – for example, there are no records in existence in relation to St. Patrick's Refuge, Dun Laoghaire. The age of some of the applicants when they were admitted and the length of time that has passed since then is also a factor in this regard.

However, the lack of records was not unexpected and had been flagged as an issue prior to the publication of the McAleese report – for example the Department of Education and Skills in its report to the McAleese Committee advised as follows-

*“in a small number of instances there are some references to the pupil being referred “on licence” to the various orders that ran the Magdalen laundries or the addresses where the laundries are situated. It is, therefore impossible in almost all of these cases for the Department to provide any further information on these individuals....Furthermore, it is impossible to state categorically whether these individuals were resident at the Magdalen laundries or for what length of time they resided there or whether they were employed in any capacity while they resided there...”*

The Department therefore developed a number of procedures and protocols to deal with such situations where there was incomplete or unclear information. The Department proposed to categorise the cases where there was an issue over evidence to support the claim. Category 1 referred to cases where there was an entry date from the religious record but not enough information to make a decision on length of stay. Category 2 referred to cases where there was an official document to place the applicant in the institution but not enough information to make a decision on length of stay. Category 3 referred to cases where there was no religious order record or other documentary evidence to support the claim.

The Department also drafted a protocol on how to deal with cases where the congregations had only partial records or no records at all in respect of an applicant (upon receipt of an application form, it was the practice of the Department to ask the applicant to write to the relevant congregation for any records they might have). According to this protocol, procedures were established and liaison people identified in the Department of Social Protection and the Department of Education and Skills to establish if they

had any relevant records in relation to an applicant (the application forms requested applicants to consent to the provision of personal information to the Department by any Government agency, health or educational institution as well as the congregations for the purpose of verifying their applications). From my examination of complaints, it was a notable feature, however, that the Department did not usually seek or receive copies from the congregations of the original records and/or registers to confirm an applicant's length of stay. Instead, the Department frequently just sought confirmation by email from the congregation or agency without looking for a copy of the actual record(s) or supporting documentation or evidence.

The applicant was also asked to provide any relevant information that could corroborate her claim that she was in a specific institution for a period of time. The Department stated publicly that it would act on the basis that the testimony of the women was correct. In a number of complaints, the applicants understandably provided such testimony as well as letters and statements from family and friends supporting their account of events. However, in reality, such testimony does not appear to have been given much weight. From correspondence and documents seen by my Office, the Department advised applicants during the process that testimony would not be taken into account as consideration was purely "records based". For example, a file note in relation to an application received from one woman dated 23 April 2014 records that *"she asked had we received the sworn affidavits from her mother's siblings? I stated that we did not and that these testimonies are not taken into account as we are records based"*. This strict adherence to the records applied even in circumstances when the records turned out to be incomplete or incorrect (as was the case in at least one complaint to my Office where the social insurance records turned out to be incorrect).

From my examination of complaints received, failure to follow up appropriately on possible sources of evidence appeared to be a feature of the Department's consideration of the applications. Notable gaps in social insurance records is an obvious example which would at least suggest some time spent working in a laundry and prompt further investigation. For example, in one complaint to my Office, and despite the Department referring to the applicant as having a "continuous" social insurance record, there were in fact a number of gaps in the social insurance, not all of which could be explained by illness or other factors.

Social insurance records notwithstanding, it would also appear that, when other possible sources of evidence presented, these were often not acted on or properly followed up. For example, access to primary school records was apparently not requested by the Department until prompted to do so by my Office during the examination of one complaint. This was in September 2014 – by this date, according to an answer to a parliamentary question from this time, 770 applications for admission to the Scheme had been received and decisions had been made in 80% of these cases. The Department subsequently began to request access to such records on a frequent basis and advised (in a letter to a national school dated April 2015) it *"found that the school records are often helpful in assisting us to establish a time line and they very often record where the child went when she was removed from the school roll"*. However, there is no evidence of earlier applications being revisited in order to test whether these new-found sources of evidence could impact on the decisions made in those cases.

In one complaint, the applicant refers to having had tuberculosis while working in a laundry and being admitted to hospital as a result. However, according to the information on file, at no point is this issue followed up or the possibility of obtaining medical records considered. In another case, a provisional offer was issued to the applicant based on a stay of three years in one of the institutions. The applicant had insisted that she was there for a longer period. Eventually, her advocate sourced and provided

copies of electoral records from the relevant period. This resulted in an extra year being added to her award. As with school records, there is nothing to suggest that the possibility of consulting electoral records was previously considered by the Department and there is nothing to suggest that earlier applications were revisited in light of this possible new source of evidence.

In another complaint to my Office, information was received from the Department of Education that the applicant had, when the time came for her to be discharged from one of the industrial schools located beside a Magdalen laundry, been “retained” and sent to another convent (not one of the 12 listed institutions). The Department initially tried to follow up on this and contacted the congregation for further information and confirmation of dates of residence. However, when that congregation responded stating that they had no record of the woman as either a resident or employee, the Department decided not to pursue this avenue of enquiry any further. Instead of giving her the benefit of the doubt, the question as to where the woman was (and she must have been somewhere) or indeed whether she could have been “retained” to work in the Magdalen laundry was simply just not followed up.

Likewise, in another complaint, the Department of Education provided, again in response to a request from the Department, further detail on time spent in industrial schools and stated as follows – *“as per her application to Dept of Justice she was in Magdalen Laundry from 1968 to 1971”*. However, at no point does it appear that the Department followed up with the Department of Education as to what it meant by this statement. Instead it made a decision based on the information provided by the congregation (and without having sight of the original records) – amounting to a total stay of 3 months. According to the Department, this statement constituted a standard line in all responses from the Department of Education.

Finally on this point, and despite public assurances that the records of the religious congregations would be just one factor to be taken into consideration, it would appear that the information provided by the religious congregations was given considerable weight. Correspondence to the women is filled with phrases as *the Sisters have confirmed...the Sisters have verified...* There is also evidence of supremacy given to these records over others. For example, in one case the congregation advised (and without providing a copy of the original register) that while the *“discharge date is not recorded in the register”*, they were nevertheless “satisfied” that she was in their care for a certain period of time. The Department made no further enquiries of the congregation as to why they were “satisfied”. It was only at internal review stage that the congregation elaborated a little further on the dates – it is interesting to note that this was not at the request of the Department but instead was contained in an unsolicited copy of an email sent by the congregation to the applicant.

## Findings

### *Assessment of Records*

At the outset, it is important to state that I have formed no definitive view as to the veracity of the accounts provided by applicants to the Scheme or by others. I also do not seek to criticise individual officials who administered the Scheme on a daily basis. I am aware that some applicants to the Scheme found these officials very helpful and indeed I have seen some complimentary comments about named officials which should be acknowledged. However, in my role as Ombudsman, I look at the administration as a whole.

It is acknowledged that the Department did indeed recognise that there may be issues around unclear or incomplete information. It made attempts to address these issues by developing protocols and procedures. However, the apparent delay or failure to follow up on discrepancies in records or on possible sources of evidence is a matter of concern. Good administration requires that decision makers should not only be able to take account of all relevant information but should also be able to identify from the outset all possible sources for this information and subject it to a rigorous and objective assessment. From the files my Office has had sight of, and as outlined above, this did not appear to have always been the case. Instead there seemed to be a reliance on certain records (and particularly the records held by the congregations) to the exclusion of almost anything else.

There is no doubt that the records held by the congregations were an important source of information. However the apparent weight given to this evidence over other sources, including the women's own testimony, is not in line with the principles of good administration which requires that evidence should be balanced appropriately. It is also not in the spirit of this restorative justice scheme. In addition, the use of phrases such as "*the Sisters have confirmed...*" has, at the very least, the potential to create the perception that the congregation's account was, in reality, the determining factor when considering an application.

That said, the Department did not usually seek or receive copies of the original records and/or registers from the congregations concerned. While there is nothing to suggest that incorrect information was provided to the Department by any of the congregations, the possibility of human error at least (for example, the wrong date being transcribed from the original record) as well as the requirements of good administration should have mandated that copies of the original registers and records should also have been sought. In this regard, and from correspondence seen by my Office between the Department and the congregations, it also appears that the Department tended to ask quite restricted questions about the length of stay and, in cases where there was no admission and/or discharge dates available for individuals, did not seek to clarify whether such records were available in relation to other people in the institution from the same period.

In these circumstances, it is my view that the actions of the Department in this regard constitute maladministration being actions based on an undesirable administrative practice and otherwise contrary to fair or sound administration.

## **Incomplete or disputed information – the interview process**

In August 2014 the Department developed a process for interviewing applicants in circumstances where there was an issue around records. This process began shortly afterwards – around fourteen months after the Scheme was set up and the first applications were received. By this stage, according to an internal Departmental note, a decision had been made on 80% of the 764 applications received. Of these 764 applications, 84 were deemed not to be in a relevant institution. 78 cases were identified as requiring the applicant to be interviewed.

In an internal note on the matter from August 2014, the Department stated that, while in most schemes the onus is on the applicants to prove that they are eligible, this would not work for this Scheme. This was because, in the case of a number of eligible institutions, there were either no records



or incomplete records, a number of women lack the competence to present a proper case while the imperative was to facilitate the women in question as much as possible.

As a result, the Department concluded that the onus was on the Department to “*actively inquire*” by interviewing the applicants to facilitate a fairer assessment of applications.

The following process was therefore developed -

- Two interviewers should be present to ensure consistency and lack of bias. The lead interviewer to be at Higher Executive Officer (HEO) grade and assisted by an Executive Officer (EO) or Clerical Officer (CO).
- It will be established and recorded that the interviewers have no link with the applicant.
- The interviewers will make a report of the interview and will provide a recommendation which will then be considered by a separate designated decision-maker at Assistant Principal Officer grade. It will be established and recorded that the decision-maker has no links to the applicant.
- The designated decision-maker will review the case file, all of the available documentation and the report of the interviewers. A decision will be made as to whether, on the balance of probabilities 1) it is reasonable to assess that the woman was in a relevant institution and 2) for what period of time. In making a decision on length of stay there will be cognisance of the fact that the training courses that were run in Stanhope Street and in Summerhill were up to two years duration and based on payments to date the average length of stay in a Magdalen laundry was four years.

It was up to the Department to identify the applicants to be interviewed. The Department drafted a template questionnaire to be used during the interview. However, the interviewer also had discretion to ask additional probing questions based on the individual case files. The Department also drafted a report to assist in the interview process drawing together information on the relevant institutions. This information was gleaned from a number of sources including from the McAleese Report and from testimony provided by some of the applicants and verified by the congregations. This report refers to industrial schools located on the grounds of some of the Magdalen laundries but does not name them or refer to whether the girls also worked in the laundry (with the exception of An Grianán and Ri Villa).

The Department acknowledged that there would be concern that some applicants would receive payments based on the interview process alone. However, the Department believed that this would be mitigated somewhat by the fact that all cases would be subject to a robust investigative stage before progressing to interview stage. In addition, all applicants had to sign a legal document swearing the truth of their claim before any payment was made.

## Findings

### *The interview process*

It is acknowledged that the Department recognised the importance of conducting interviews with the applicants and hearing their testimony first hand. However, I am concerned that the interview process was not established until well over a year after the first applications to the Scheme were received and at a point where decisions on the vast number of cases had already been made. It is therefore very likely that decisions had already been made on cases where the applicants would have benefitted from being interviewed and having the opportunity to share their account in their own words. Good administration requires that public bodies should always be able to respond flexibly to the circumstances of a case. Providing for an interview process so late in the Scheme's operation cannot be considered to be in keeping with this.

In view of the length of time it took to begin the interview process, I am also concerned that many applicants to the Scheme encountered long delays in being interviewed by the Department and in providing their own testimony. This is all the more pertinent in view of the fact that many of the women are now getting older. Good administration requires that public bodies deal with people helpfully and promptly bearing in mind their individual circumstances. It is my view therefore that the delay in initiating the interview process constitutes maladministration being an action (or inaction) based on an undesirable administrative practice and a failure to comply with section 4A of the Ombudsman Act 1980, as amended (that is a failure to ensure that the business of the person with the agency in relation to that action is dealt with properly, fairly, impartially and in a timely manner).

### **Incomplete or disputed information – St. Mary's Training Centre, Stanhope Street**

As noted in the interview process protocol, decision-makers were told to be cognisant of the fact that the training course in Stanhope Street was up to two years duration (based on information provided by the congregation prior to the decision to include Stanhope Street within the Scheme). In an internal note on the decision-making process from May 2014, it was also noted that, as the Religious Sisters of Charity confirmed that the applicant would have completed a two year training course "*we make an offer of a 2 year stay (even in some cases where the applicant has said they were there longer)*". (A similar approach was adopted in relation to Summerhill, however, my Office has not had sight of any complaints to make a finding in respect of this).

A small number of complaints received by my Office concern St. Mary's Training Centre, Stanhope Street. In two of these cases, there was no record of the women having been there. However, in the absence of any direct documentary evidence, the Department looked instead at the relevant school and social insurance record, the testimony the women provided and the observations of the congregation concerned – the Religious Sisters of Charity. As a result, the Department made an assessment that the women were in the training centre and made provisional offers based on a two year stay. This corresponded with the stated duration of the domestic training course operated in Stanhope Street.

However, while this approach may have benefitted some applicants, the almost universal acceptance of a two year stay in cases involving Stanhope Street may have disadvantaged others. It should be noted in this regard that the register covering the period from 17 August 1952 to 1967 (the year the school closed)

has not been located. The Department has acknowledged that the bulk of the applications received from persons who claimed to have been resident in Stanhope Street would have been recorded in that missing register.

In one complaint received by my Office, there was confusion as to whether the applicant was there for up to four years in total. The evidence in support of the applicant (for example, having been taken off the primary school roll and her account (subsequently verified by the congregation) of another girl giving birth in Stanhope Street while she was there was seemingly not given any credence and therefore not followed up. Instead the applicant was assessed and offered a payment on the basis of the two year stay, despite apparently conflicting evidence that she was there for longer.

## Findings

### *Length of stay in St. Mary's Training Centre, Stanhope Street*

It is clear, from the individual applications, the interview process protocol and internal notes on the matter, that the testimony provided by the congregation about the training course in Stanhope Street (and, in particular, regarding its duration) was given significant weight. This is despite the fact that this testimony was actually provided long before a decision was taken to include St. Mary's Training Centre Stanhope Street within the Scheme – over fifteen months previously. It also does not appear that the Department requested further information about this at a later date (and after the training centre had been included) or clarified whether it was possible for a girl to be there longer than two years.

While it is accepted that this adherence to the two year stay may have benefitted some applicants, it may also have disadvantaged others. Public bodies should ensure that rules or procedures are not applied so rigidly or inflexibly as to run the risk of creating an inequity or lead to an unfair result for an individual. For this reason, it is my view that the action of the Department in this regard constitutes maladministration being an action taken on irrelevant grounds, based on erroneous or incomplete information and is otherwise contrary to fair or sound administration.

## Recommendations

### *Application process*

In light of the concerns raised in this report and, in particular, the concerns outlined in Chapter 4, the Department should review any cases where there has been a dispute over the length of stay. All available sources of evidence and information should be pursued and considered. The Department should provide my Office with its proposal for this review within 6 weeks and, ultimately, a report on the outcome within 6 months.

### *Developing future schemes*

In order to ensure that any future restorative justice or redress schemes benefit from the learning from the operation of this and other schemes, guidance should be produced in respect of the development and operation of such schemes generally. Such guidance should be developed centrally but should be applicable across all government departments and public bodies.



# Chapter 5

## Capacity



# Capacity

*Their rights to participate and benefit from the proposed Scheme must remain identical to the rights which will attach to all of the other women who participate in it” – Mr. Justice John Quirke*

The majority of the women who applied for admission to the Scheme had full capacity to make decisions on their own behalf. However, a significant minority faced difficulties in managing their own affairs but had not been made a Ward of Court or had no enduring power of attorney in place. Some of these women may not have been able to understand the information contained in the decision letters or the implications of signing the agreements and undertakings required by the Department for admission to the Scheme. This has presented problems both in processing applications from women whose capacity may be in doubt and in making payments to women who lack capacity.

In an attempt to address the first issue, the Department drafted a protocol in respect of processing applications. This protocol advised that, while the presumption was that the applicants had capacity to make decisions regarding the Scheme, if there were reasons to suspect that an applicant lacks capacity to understand the Scheme and/or sign legal documents, it would be appropriate to make enquiries such as requiring a medical certificate or other evidence. According to the Department, any medical reports were provided by the applicant’s family and/or carer as the Department did not carry out any medical assessments.

According to the protocol, and in order to assist in identifying applicants who may have capacity issues, the Department of Social Protection agreed to check applicants against its “agency” list – i.e.: a list of those who had nominated an agent to collect their State pension or other social welfare payment on their behalf. The Department also used the Department of Social Protection’s categorisations of Type 1 (physical disability) and Type 2 (person lacks mental capacity). According to the Department, if an applicant is assessed as Type 2, the applicant’s family are informed of this.

The issue of capacity was specifically addressed by Mr. Justice Quirke. In his report, he emphasised that safeguards must be put in place to ensure that payments made to these vulnerable women are secured and protected. During the course of his considerations, Mr. Justice Quirke had met with 40 women with capacity issues while, at the time of the publication of the Quirke Report (June 2013), it was estimated that there were about 116 women living with or in the care of the religious congregations. Mr. Justice Quirke also stressed that their rights to participate and benefit from the proposed Scheme must remain identical to the rights which attach to all the other women. He considered the various options available to address this issue including the Wards of Court system. However, in rejecting this option, he noted that this system has been the subject of criticism for many years and appeared outdated and incapable of adapting to a modern understanding of capacity.

Mr. Justice Quirke therefore recommended that the scheme established under the Nursing Homes Support Scheme Act 2009 (and, in particular, the aspects of that scheme that allows for the appointment of certain persons who are bound to act in the best interests of the vulnerable person and who are subject to supervision and accountable to the court for their actions) should be extended and should apply to the vulnerable women who may benefit under the Scheme. He was of the view that the

provisions contained in this Act, and in particular, the provisions concerning the appointment of care representatives, would enable a balance to be struck between oversight and supervision on the one hand and flexibility on the other.

However, it was the Department's view that an amendment to the Nursing Homes Support Scheme Act was not the most appropriate mechanism to achieve what was intended by this recommendation. In particular, it was felt that the provisions regarding capacity in this Act was designed to facilitate access to financial support but only in respect of certain actions such as the making of the application or consenting to a charge in relation to an interest in land. As it was felt that the recommendation of Mr. Justice Quirke went beyond the scope of the Nursing Homes Support Scheme Act, the Department instead initially signalled its intention to introduce new legislation to provide for the appointment of a person by a court to act on behalf of the applicant including accepting an offer and signing a waiver. For example, in a briefing note to the Minister (undated) entitled Update on the Magdalen Scheme, the Minister is advised as follows –

*"New legislation is required to deal with persons who lack capacity to sign a waiver. To implement Recommendation 10 it may be necessary to prepare a limited statutory provision drawing from the models provided by the NHSS Act 2009 and the Assisted Decision Making (Capacity) Bill 2013 to provide for the appointment by the Circuit Court of a person who will act on behalf of the applicant taking into account her will and preferences and may manage monies received under the scheme until the Assisted Decision Making (Capacity) Bill 2013 is enacted and commenced".*

The possible delay in commencing the relevant provisions of the Assisted Decision Making (Capacity) Act was flagged within the Department. For example, an internal email from July 2013 refers to the "likely time lapse" – at which stage it was anticipated that the Act would be fully commenced by the end of 2014. Extracts from a draft report of the Inter-Departmental Group on the implementation of the recommendations contained in the Quirke Report (from August 2013) also refers to this issue and advises that *"the Assisted Decision Making (Capacity) Bill 2013 has since been published and when enacted would address the issues raised by Judge Quirke. However, it is a large Bill with over 114 sections (140 pages) and it is not clear that it will be enacted and commenced within a time frame that would facilitate its use in the implementation of the Quirke Scheme"*.

However, following consultation within the Department and with other Government departments, this proposal was dropped. Instead, it was decided that the Department would wait for the commencement of the Assisted Decision-Making (Capacity) Act. This meant that no payments under the Scheme would be made to those women who lacked capacity until that time. The relevant provisions in the Assisted Decision-Making (Capacity) Act have not yet come into force.

When my Office became aware of this issue (and, in particular, the fact that some vulnerable women had not yet received any payment), we wrote to the Department and asked them to comment on this.

In its response the Department confirmed that there are currently 18 women affected by this delay – 16 of whom live in nursing homes. At the end of March 2017 there were 19 women in this position - nine of whom had spent more than a decade in the institutions and were therefore entitled to the maximum payment of €100,000.

According to the Department, no woman was refused admission to the Scheme by virtue of a lack of capacity and award offers have been made to the women who lack the necessary capacity. The Department has stated that to provide for the circumstances of these women as well as other people

whose decision-making capacity is at issue, the Assisted Decision-Making (Capacity) Act was signed into law on 30 December 2015. However, new administrative process and support measures must be put in place before the substantive provisions of the Act come into force.

The Department accepted that dealing with this issue is taking longer than it would have wished. The Department informed this Office that it had therefore decided to write to the family members/carers of the women concerned (including the managers of the nursing homes) to ask them to consider making the women Wards of Court in order to facilitate payment.

The Department also stated that, as Mr. Justice Quirke was clear that any payments were solely for the benefit of the women concerned, in the event that an eligible woman should die before her ex-gratia payment issued, only the ex-gratia payment should issue to her estate to a maximum of €50,000.

## Findings

### *Delay in payments to those who lacked capacity*

It is clear that there has been a very long delay in making payments to a small but very important group of women. This is despite the recommendation contained in the Quirke Report that a legislative scheme should be developed to address this issue. The delay and then failure to do this is very regrettable in view of the advanced age of many of these vulnerable women.

It is also, in my view, inexcusable. The length of time required to fully enact the Assisted Decision-Making (Capacity) Act (which is also the responsibility of the Department) was known from the outset – Mr. Justice Quirke alluded to it in his report while it was also flagged in internal communications within the Department. Despite this, the Department failed to consider other options to address this issue and facilitate payments to the women concerned. It is therefore my view that the actions (and inactions) of the Department in this regard constitute maladministration as being the result of negligence and carelessness, improperly discriminatory and otherwise contrary to fair or sound administration.

## Recommendation

### *Capacity*

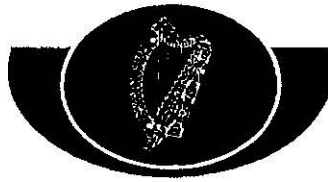
It is with the greatest reluctance that I must accept that the Department's current proposal (to request that the women who lack capacity be made Wards of Court) is at this stage the most realistic option. This is in light of the long delays that have occurred in making payments to this group of women and despite the informed comments of Mr. Justice Quirke in May 2013 about the unsuitability of the Wards of Court system. The Department should work closely with the Courts Service to ensure that any wardship applications are processed in a timely and sensitive manner with paramount consideration given to the needs and circumstances of each of the women concerned. In addition, I expect the Department to proactively provide practical support to the appropriate persons to ensure these applications are made. Merely writing to those who now care for the women is not enough. The Department should provide my Office with interim reports on progress in this regard – the first such report to be provided within 6 weeks.

# *Appendices*

## *Appendix 1*

The Department's submission in response to the draft report and the Ombudsman's response to that submission

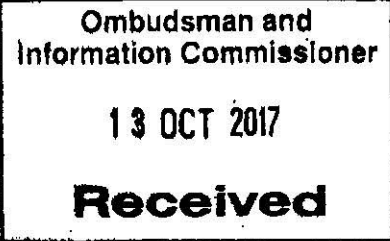




**OIFIG AN ARD-RUNAÍ, AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS  
OFFICE OF THE SECRETARY GENERAL, DEPARTMENT OF JUSTICE AND EQUALITY**

Mr. Peter Tyndall,  
Ombudsman,  
18 Lower Leeson Street,  
Dublin 2

Dear Ombudsman



**Ombudsman Investigation – the administration of the Magdalen Restorative  
Justice Scheme**

I have your letter of 15 September 2017 enclosing your draft report on the above and seeking my observations thereon.

Firstly, I acknowledge your thanks for the cooperation you received from my staff who gave you unrestricted access to all our policy files on this issue and to the personal files of those applicants who had complained to your office. Although you had in earlier correspondence indicated that you may do so, this letter should record that you did not interview any staff who administer this scheme.

Such direct conversations with my staff would have benefitted your report as I believe it may be based on a fundamental misunderstanding of the scheme.

The thrust of your report and the majority of criticisms contained therein derive from your belief that there was a restricted interpretation of the scheme by officials in my Department. I cannot agree with that interpretation. The officials involved in the scheme operated with integrity and in good faith in applying the terms of the scheme as decided by Government. It is simply not open to those officials, nor to any civil servant, to make a recommendation for payment to an applicant who does not fall within the terms of a scheme as decided upon by the Government.

The principal recommendation in your report is that the scheme should apply to persons who were admitted to industrial schools located on the same campus as one of Magdalen institution covered by the scheme and who may have worked in the laundry at some stage. This would not only involve double payments, as persons in industrial schools have had a separate compensation scheme; moreover, it would involve a very significant increase in the number of potential applicants, way beyond the number envisaged by the Government when the scheme was approved. This amounts to a major change in the scope of the scheme, which only the Government can decide upon

It is clear that the judgment of 28 July 2017 in the judicial review titled “MKL and DC –v-Minister for Justice and Equality [2017] IEHC 389” also took the view that what was being sought by the applicant was an extension of the scheme

Following the publication of the McAleese Report, the then Taoiseach on 19 February 2013 gave an apology in the Dáil, on behalf of the State, to all the women for the hurt that was done to them, and for any stigma they suffered, as a result of the time they spent in a Magdalen Institutions. The Taoiseach went on to say that the Government had asked Judge John Quirke to undertake a review and to make recommendations on the help that the government can provide in the areas of payments and other supports, including medical cards, psychological and counselling services and other welfare needs.

The scheme that resulted from Judge Quirke’s subsequent report is an *ex gratia* one. That is to say, there is no statutory basis for the scheme and the Government approved it on the understanding that the State had no obligation in law to provide compensation to the women concerned. The Scheme was introduced at short notice. Because the Scheme dealt with the actions of non-State institutions during a period going back decades when there were limited records, it was impossible to know with any certainty the difficulties there would be in its administration.

The officials operating the scheme from the beginning took an exceptionally proactive and helpful approach to applicants, most of whom were vulnerable. The officials worked to ensure that applicants would receive payments if there were any reasonable grounds for making such payments. As a result of their work, € 25.7 m has been paid out to 682 women. There were, of course, expressions of dissatisfaction in certain cases where applicants were refused under the scheme. That said, in the vast majority of cases applicants have been very appreciative of the way the scheme has worked and the manner of those officials from the Department who have dealt with them.

The commonly used term ‘Magdalen Laundry’ may have given rise to confusion. The *ex-gratia* scheme is intended to address the needs of the women in the ten specified Magdalen Laundries and the two named Training Schools. The Government was aware that there were many other religious institutions throughout the country which had laundries attached to them. The scheme does not apply to these other institutions nor is it intended to be a form of recompense for women who worked without pay in any laundry in those institutions. Furthermore the Government was aware that not all those admitted to Magdalen institutions worked in a laundry (but did other work) and there was never any intention to exclude such women from the scheme.

The phrase “admitted to and worked in” was intended to apply only to women who were both admitted to a named institution and were expected to work there or else the phrase would have been “admitted to or worked in”. In particular, the phrase was intended to limit the scope of the scheme. The interpretation proposed by your report would mean, for example, that the nuns themselves would fall within the definition and be eligible for compensation.

Furthermore, the scheme was introduced by the Government on the understanding that it would apply to women who were not eligible for other State schemes e.g. those



covered by the Residential Redress scheme. Indeed, it was for this reason that Judge Quirke was asked to look specifically at the question of women who had been admitted to industrial schools and subsequently transferred to a Magdalen institution and who were entitled to compensation under the Residential Institutions Redress Scheme for the period in the Magdalen institution up to the age of 18. There was concern over the payment of such double compensation but Judge Quirke for practical reasons recommended that the double payment in these limited number of cases should be ignored and that recommendation was accepted as an exception to the general approach.

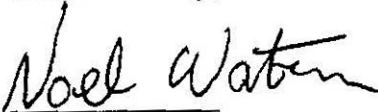
I do accept that because the circumstances of all the women were not known when the scheme was introduced, a number of grey areas arose which the Department has taken time to resolve. It may not always have been sufficiently clear in a small number of cases the detailed reason why an application was refused. The Department is taking measures to address that.

In summary, the key points from the Department's perspective are as follows:

- A total of €25.7m has been paid out to 682 women.
- The terms of the scheme as clearly decided upon by Government (which carefully considered all the issues when it made its decision to authorise payments through the scheme) have been properly adhered to by the Department.
- Any significant departure from these terms could not be countenanced without appropriate Government approval.

A more detailed response to the individual points raised is given in the attached annex.

Yours sincerely,



Noel Waters  
Secretary General

13 October 2017

## **Annex**

### **Detailed response to draft report dated 15 September 2017 of Ombudsman Investigation into the administration of the Magdalen Restorative Justice Scheme**

In his executive summary, the Ombudsman records that 27 applicants to the scheme complained to your office. Of those 27, 13 had awards made to them under the scheme, 13 are refused as they were not in a relevant institution as defined in the scheme, and the remaining one is in the process of having her case considered again in the light of new information provided.

The administration of a compensation scheme of this type presents particular administrative challenges. Much of the criticism in the draft report appears to operate on the assumption that an existing administrative template existed. This is not the case. Procedures had to evolve over time to deal with challenges in operating the scheme. It is incorrect to characterise this necessary evolution as in some way a change of mind or a shifting of ground as to whom the scheme applied to. The basis of the scheme was clear from the start.

#### **Response to charges of maladministration**

At the outset:

- 1) The Department does not agree with the findings of maladministration particularly leading to the first recommendation. The Scheme administered is that approved by Government and which provided for the exclusion of the RIRB institutions. It is not within the competence of officials administering such a scheme to depart from its government approved terms, and .
- 2) It is the Department's view that the grounds for a finding of 'maladministration' provided for in section 4(2)(b) of the Ombudsman Act 1980 (as amended) are not met.

#### **Extension of schemes to other institutions**

The Ombudsman's first and principal recommendation concerns the extension of the applicability of the Magdalen Scheme to certain institutions. Specifically, he recommends that where there is evidence that a woman worked in one of the listed institutions, but was officially recorded as having been "admitted to" a training centre or industrial school located in the same building, attached to or located on the grounds of one of these institutions, then the Department should fully reconsider their application with a view to admitting them to the Scheme.

At the risk of over-simplifying the position, the basis of this recommendation is:

- a) That the phrase in the Scheme "admitted to and worked in" is being misinterpreted by the Department and;
- b) Relatedly, the Government did not approve the specific exclusion from the Magdalen Scheme of any institutions listed in the Schedule to the 2002 (Residential Institutions Redress Board) Act.



This recommendation speaks to the issue of policy formation, which is the preserve of the Executive, rather than to the issue of administration. To come to the recommendation and the reasons for it, the report:

- (i) seeks to place an unusual construction on specific phrases used in the scheme;
- (ii) provides no explanation as to how the extended scheme could logically apply to the cohort involved and
- (iii) fails to address the logical consequence of the recommendation.

### De-linking of phrase

In relation to point (i) the report acknowledges that the scheme is limited to those who “were admitted to and worked in” the 12 institutions specified in the scheme. You correctly point out that the phrase was provided in the Terms of Reference to Judge Quirke, and was used by all who subsequently were involved in the development of the Magdalen Restorative Justice Scheme. Nonetheless, your report holds that the two components of that phrase should be de-linked, so that the scheme can apply to someone who worked in the institution but who hadn’t been admitted there.

In arriving at that position, the report argues that the phrase “were admitted to and worked in” was not defined at any point and that there was an ‘asymmetry in understanding’ in relation to this phrase between the Department and the applicant women as to whom this Scheme applied to. There is no evidence in the report that such an ‘asymmetry of understanding’ existed at all among potential applicants to the Scheme. The phrase clearly means that both elements of the phrase “were admitted to and worked in” must be satisfied in order to qualify under the scheme. At no point was the Department or anyone else involved in the scheme unsure as to what the phrase meant. The examples of different phraseology used in the paragraph on page 16 of the draft report are simply that – different phraseology. They illustrate no confusion or struggle as to the meaning of the phrase. The ‘asymmetry’ referred to was raised only as a legal argument in the Judicial Review titled “MKL and DC –v- Minister for Justice”, the judgment on which was finalised on 28 July 2017.

That judgement also addressed, inter alia, the related question as to whether persons who qualified for redress under the 2002 Residential Institutions Redress Scheme are also able to seek redress under the Magdalen Restorative Justice scheme for any work done in the specified institutions during the same period. Although the judgement should be read in its totality, one of its findings is that. “... *It is not appropriate that any applicant under the ex gratia scheme (i.e. Magdalen) should receive compensation, however described from the (Residential) Redress Board Scheme and the ex gratia scheme covering the same wrong.*” Nonetheless, that is essentially what the report recommends.

### How can ‘work’ solely be compensated under the Scheme?

This brings us to point (ii) above i.e. how could the Magdalen scheme as determined by Government logically apply to those who were not “admitted to” one of the twelve institutions involved? The Ombudsman says that he is not seeking to change the scope of the scheme but his recommendation would require just that.



The Scheme was not intended to be (or designed as) a labour compensation scheme. The purpose of the ex gratia scheme is to contribute to a healing and reconciliation process for the women concerned. The ex gratia scheme was not established to compensate women who entered Magdalen institutions for unpaid work there. The work done was not for or on behalf of the State and if compensation is sought that is a matter for the religious congregations.

One of the grievances of the women who were active in campaigning was that they had not been compensated for working without pay. In order to address that grievance, the terms of reference for Mr Justice Quirke refer to *"taking into account criteria determined to be relevant, including work undertaken and other matters as considered appropriate to contribute to a healing and reconciliation process"*. Judge Quirke does provide for the payment of amounts of money to reflect the work undertaken by the women. However these amounts are purely notional and to the best of our knowledge are not intended to be an accurate reflection of the value of the work done, either measured by the wages paid at the time (adjusted for inflation) or the value to the institutions.

In page 30 of the draft Report the Ombudsman cites a sentence in an email from this Department to his office where we say that part of an award under the Scheme refers to a 'work payment' to reflect the work that was done in the institutions for no pay. But clearly this does not imply that it is a work compensation scheme in its entirety and the recommendations in Judge Quirke's report does not lend itself to that interpretation either. The operation of the Magdalen scheme relies on two very simple pieces of information that underscore the correctness of the Department's interpretation of the scheme. They are: (i) was the applicant in one of the 12 institutions concerned identified in the Magdalen Scheme and (ii) how long was she there? Based on these two pieces of information, we make a standardised award.

The Magdalen Scheme makes no attempt to qualify or quantify the type of work that was done in the laundry. Such information would be needed in the context of adding industrial school or training centre applicants to the scheme given that, by definition, they were not 'admitted to' the institution concerned. In reality, a new scheme would need to be drawn up which would involve an assessment, if such is now possible, of how many residents in the Industrial Schools or Training Centres cited by the Ombudsman worked in a Magdalen institution and what was the extent of that work. That is a separate scheme to the Magdalen Scheme, the administration of which is the subject of the Ombudsman's report. In short, that is a matter of future Government policy, not the administration of any current policy.

### **Logic behind recommendation**

As to (iii) above, the implicit principle behind the Ombudsman's recommendation is that those who were resident in Industrial Schools or Training Centres and who performed work outside should be compensated separately for that work. That being the case, the proximity to a Magdalen institution of the Training Centre or Industrial School involved should have no bearing on the matter. At all events, implementation of the Ombudsman's recommendation would involve the effective re-opening of the Residential Institutions Redress Board (RIRB) scheme.

## **Development of Scheme**

This brings us to that substantial section of the Ombudsman's report dealing with the development of the Magdalen Restorative Justice Scheme in which it is implied that the Scheme as finally established was not in accordance with the Governments' wishes. In his report the Ombudsman recounts:

- (i) the establishment in 2011 of the Inter-Departmental Committee charged with establishing the facts of the State's involvement with the Magdalen institutions and the publication of its report in February 2013 – otherwise known as the McAleese Report
- (ii) the subsequent appointment on 20 February 2013 of Judge Quirke to advise on the establishment of a restorative justice scheme
- (iii) the publication on the same day of the preliminary expression of interest form on the Department's website
- (iv) The publication of the Quirke Report on 26 June 2013
- (v) The issuance by the Department of an application form along with a copy of the Quirke Report to each of the women who had completed a preliminary expression of interest form.
- (vi) The establishment of an Inter-Departmental Group to consider how best to implement the recommendations of the Quirke Report and the submission of that Group's report to Government on 5 November 2013.

As summarised above, deciding how the State should provide redress to persons who had been in Magdalen institutions was an iterative process. The draft report implies that actions and decisions taken during this period, in advance of the Government's final decision on the scheme in November 2013, were either premature or served to lessen the entitlements of the women concerned.

The Ombudsman argues that it is unacceptable for schemes to be established and advertised before decisions are made on key issues as to eligibility. He describes the six month period between the publication in February 2013 on the website of an invitation for preliminary expressions of interest and the Government's approval of a scheme in November 2013 as a 'delay'. He then goes on to say that failure in the intervening period to provide certainty and clarity around what is meant by the phrase "admitted to and worked in" constitutes 'maladministration'.

As stated already, we do not accept that there was any general misunderstanding of the phrase. Moreover, it would surely have been 'maladministration' to have delayed for six months the invitation of expressions of interest once the McAleese Report had been published and Judge Quirke appointed to advise on a suitable compensation scheme. It needs to be emphasised that the Government decision of 19 February 2013 was as follows:

..... the establishment of a fund in a sum sufficient to meet the recommendations of Mr. Justice Quirke for the benefit of women who were admitted to and worked in the Magdalen Laundries, the subject matter of the McAleese Report and the residential/institutional laundry in the training centre at Stanhope Street, Dublin.....



In other words, from the start it was known that a compensation scheme would apply only to applicants who “were admitted to and worked in” the institutions concerned.

This annex should record that there was an urgency attached to getting applications processed as quickly as possible as many of the women who had been in the Magdalen institutions were quite elderly and frail. No provisional offer issued until after the Government Decision of 5 November, 2013 which clarified the commencement date of the scheme – 1 August, 2013. The provisional letter of offer clearly stated that *“This provisional assessment is indicative only and does not give rise to any entitlement to a payment or benefit under the Scheme”*. It is important to note that no formal letter of offer issued until 31 December, 2013. We cannot stop people applying for something for which they are not eligible. Often those who asked for a form to apply were told that the institution they had been in was not covered by the scheme, but they sought the form nonetheless.

### **Exclusion of RIRB institutions and ‘double payment’**

On page 29 of the draft Report, the Ombudsman noted that “Judge Quirke recommended against identifying payments previously received from the RIRB”. He then goes on to say:

“Notwithstanding this, a decision was subsequently made, apparently with the Department of Justice, that it would be appropriate to exclude any institutions listed in the Schedule to the 2002 (Residential Institutions Redress Board) Act. This operated as a blanket exclusion regardless of whether the applicant worked in a laundry or indeed whether the applicants even made a claim to the RIRB in the first place”

He says further that:

“The footnote provision permitting the exclusion of institutions covered by the RIRB does not stem from the recommendations of Mr. Justice Quirke or indeed of any Government decision. It was a purely administrative arrangement inserted into the Scheme some months after the Scheme was established. However, it nevertheless had the effect of significantly reducing the number of applicants who were admitted to the Scheme.”

The clear implication of these paragraphs is that the Department of Justice and Equality – in isolation from other relevant Departments and in contravention of the wishes of the Government – arbitrarily limited the scope of the scheme to exclude persons who had worked in Industrial Schools. This misrepresents the position. There are a number of points to be made, viz.:

- (i) The exclusion from the Magdalen Scheme of any institutions listed in the Schedule to the 2002 (Residential Institutions Redress Board) Act was a recommendation of the Inter-Departmental Group, which was established to consider how best to implement the recommendations of the Quirke Report. That report was approved by Government. It was not a decision ‘apparently’ made by this Department alone. Moreover, it is entirely consistent with the recommendations of the Quirke Report as explained further in point (ii) immediately below.



- (ii) The Magdalen Redress Scheme is an ex-gratia one and its terms are as agreed by Government. It is a commonly understood and accepted concept that compensation is not paid 'on the double'. Neither Judge Quirke, whose report forms the basis of Magdalen Scheme, nor the Government, operated under any other assumption. Indeed, it was precisely because of such an understanding that Judge Quirke specifically addresses one circumstance where a double payment could in fact be made. This relates to females who were initially admitted to Industrial schools and who were subsequently transferred to a Magdalen institution. Arising from the Quirke recommendation, they are entitled to payments under the Residential Institutions Redress Scheme for the period up to their 18th birthday and no account is taken of that payment when granting redress under the Magdalen scheme.

This is illustrated by the following example. A girl goes to an Industrial school at age 12 and she is then transferred to a Magdalen institution at age 16 where she stays until she is 21. She will be paid under the Residential Institutions Redress Scheme for the period when she is 16-18 years of age. She will also be entitled to redress under the Magdalen scheme for the period when is 16 – 21 years of age. Therefore, in this case there is a double payment for the age period 16-18 years of age.

- (iii) Awards made under the RIRB scheme are, by legislation, confidential and not made public. As a consequence, administrators of the Magdalen scheme cannot know if an applicant 'even made a claim to the RIRB scheme in the first place.'
- (iv) As noted in your draft Report, the report of the Inter-Departmental Group to consider how best to implement the recommendations of the Quirke Report was considered and agreed by Government. That Report made clear who was covered by the Scheme – i.e. those "were admitted to and worked in" the 12 specified institutions concerned. Additionally, and what amounts to the same thing, is that excluded from the remit of the Scheme are any institutions listed in the Schedule to the 2002 (Residential Institutions Redress Board) Act.

From an administration perspective, this is the heart of the matter. It is not within the legal competence of officials administering such a scheme to depart from its Government-approved terms. Civil servants would indeed be engaged in 'maladministration' in the absence of any Government decision to that effect.

This point is best illustrated in that section on page 30 of the draft report where the Ombudsman cites four former residents of Industrial Schools who were eligible to apply for compensation under the RIRB scheme but who did not do so before the closing date for that scheme. The case that seems to be made by the Ombudsman is that this Department should have provided a 'remedy' for these applicants by compensating them under the Magdalen Scheme, despite the latter scheme being of an entirely different nature to the RIRB Scheme. The Ombudsman goes on to describe this 'lack of flexibility' as constituting 'maladministration'. From an objective perspective, surely a Government Department acting unilaterally as a generic 'sweeper' compensation provider, in the absence of any authority to do so, would more properly be described as engaging in 'maladministration'? Again, to make the



point, extending the deadline for the RIRB Scheme or including RIRB institutions within the terms of the Magdalen Scheme are matters of policy, not administration, and describing the actions of civil servants in adhering to existing Government policy cannot be properly described as 'maladministration'.

### **Specific institutions**

The draft report details some of the training centres and industrial schools as referenced in complaints to your office. The one that features most heavily is An Grianán Training Centre, High Park, Drumcondra. This was the subject of detailed correspondence between the Department and the Ombudsman's office. There was indeed, as noted in the draft report, a 'grey area' as regards this entity's exact relationship with the adjoining High Park Magdalen Laundry, which is one of the twelve institutions specified in the Scheme. The Ombudsman is indeed correct to say that, initially, all applicants under the Scheme who were admitted to An Grianán at any point were refused admission to the Scheme. However, as a result of the dialogue with his Office, we reviewed the issue regarding An Grianan and accepted that those in the Institution prior to 1971 could be considered as being in St Mary's Refuge and thus within the Magdalen Scheme.

The Department holds, however, that An Grianan Training Centre is not an institution covered under the Scheme.

In that section of its report dealing with "associated institutions" the Inter Departmental Group specifically references An Grianan as being one of the institutions listed in the Schedule to the Residential Institutions Redress Act and that it proposes to specifically exclude An Grianan from the Magdalen Scheme. The Report goes on to say that the basis of the exclusion is that "otherwise a person who was in such an institution could claim twice".

Ri Villa was a Teenage Unit within the Sean McDermott Street complex. There were two reasons why it was decided to include it in the Magdalen Scheme.

Firstly, we had regard to the fact that - unlike the High Park site, which had a number of units within its complex - the Sean McDermott Street site was a single entity. The description of both sites in the McAleese Report – Chapter 3, page 21, paragraph 23 and page 23, paragraph 28 – bears this out. McAleese advises that there were a number of buildings in the High Park site in addition to the Laundry and living quarters for the women who worked there. These consisted of a Convent, an industrial school, a farm and for a number of years a lodging house for paying guests known as St. Michael's. The Sean McDermott Street complex is described as a single entity i.e. "there were no other institutions on site other than the laundry, living quarters for the women and the Convent".

Secondly, it was accepted that the girls who resided in Ri Villa also worked some hours in the laundry. Therefore, it was deemed appropriate, given that it was excluded from the Residential Institutions Redress Scheme, that Ri Villa would be included in the Magdalen Ex-Gratia scheme.

In relation to the other institutions mentioned in the draft report, the position is again that the Ombudsman wishes to expand the terms of the Scheme, either by adding on institutions to the 12 specified under the scheme or by seeking the inclusion of institutions provided for under the 2002 RIRS that are specifically excluded under the Scheme. Without going into unnecessary detail in this respect the position in relation to each of the centres you cite is as follows:

Gracepark Training Centre Waterford

This was considered in the McAleese Report – Chapter 3 page 31 – and was deemed not to be a Magdalen institution.

The site included the laundry, living quarters for the women who worked there, a convent and an industrial school.

Page 22

St. Joseph's Reformatory School, St. Mary's Training Centre, (Rosemount Training Centre) Pennywell Road, Limerick

All are excluded from the scheme. The reformatory school and industrial school were provided for under the 2002 RIRS. The site at Clare Street/Pennywell Road included a laundry, living quarters for the women who worked there, a convent, an industrial school and a reformatory school for girls.

Page 23

St. Aidan's Industrial School and the Teenage Training Unit New Ross

The applicant you refer to here was admitted to the scheme because the Good Shepherd Sisters provided verification that she was admitted to St. Mary's New Ross on 10 March 1965 and remained there until 20 April, 1966 and not St. Aidan's industrial school as stated in the draft report.

The industrial school was included in the 2002 scheme

Page 23 para 4

St. Finbarr's industrial school and Teenage Unit known as Marymount, Sunday's Well

My office received a complaint from a woman who stated that she worked in the laundry. The Department was of the view that she had resided in St. Finbarr's

.....

The applicant referred to in your report was in St. Finbarr's which was provided for under the 2002 RIRS.

Page 24 para 4

St Michael's industrial school Summerhill, Wexford

St. Michael's was provided for under the 2002 RIRS



Page 25 & 25

**St. Anne's Hostel**

My office received 2 complaints from applicants who were in St. Anne's .....

St. Anne's is the subject of Judicial Review proceedings

In relation to St. Anne's Hostel, the Sisters of Our Lady of Charity have stated that girls in the hostel were for the most part in outside employment and they were not required to work in the laundry. They stated that "they were free to enter the premises of the laundry and many frequently did"

The draft report makes reference to a particular case in respect of an applicant who was in almost full outside employment while resident in the hostel. While it is accepted that there are some gaps in her employment this does not automatically mean that she was required to work in the laundry to pay towards her keep. During those periods of unemployment, some as long as 10 weeks, she had two hospital admissions and many day visits to the out patient section of the Mater Hospital. She was also in receipt of unemployment benefit which she could use to meet her commitments in the hostel. We are reviewing this case.

**Reliance on religious records**

I will now turn to that section of your report dealing with 'over reliance' on the religious records and a failure to follow up on discrepancies in records.

It is critical to understand that the core function of my Department was to establish whether the applicants to the Scheme had been "admitted to and worked" in any of the 12 institutions involved. We had full co-operation from the religious congregations involved. Their records were accepted as evidence that an applicant was admitted to an institution. When entry and exit dates were recorded they were generally accepted by the applicants as correct. These records were historical and the religious had nothing to gain by providing incorrect or false details. Many of the applicants did not have clear memories of that period in their lives and, indeed, some were surprised to learn that they had been longer in an institution than they had remembered.

On pages 34, 35 & 36 of the draft report the Ombudsman deals with religious records and how we managed to arrive at a length of stay in a relevant institution. The impression given in the report is that we accepted the word of the religious orders over that of others and that, as a consequence, women were disadvantaged. This misrepresents the situation.

It is important to record here in this annex that when complete religious records were available to support an application they were for the most part accepted as correct by the women concerned. This situation was welcomed by everyone involved. It meant that the application could be processed quickly and an ex-gratia award issued within weeks.

If there was ever any doubt in the woman's mind, my officials requested further confirmation from the religious and then, if necessary checked school records,



employment records, Tusla records and others as an additional check to eliminate or otherwise any possibility that the applicant was in the institution for a longer period. If the woman was satisfied with the length of stay provided arising from these further checks we did not invade her privacy further. If a dispute remained unresolved, further enquires were made including a reference back to the religious.

In some cases, the religious were able to provide confirmation that the applicant was admitted to a relevant institution but while an entry date was recorded an exit date was not. In those cases, the woman's testimony was crucial and this, alongside her employment record, would testify to her exit date from the institution. If she did not enter employment her testimony and that of her family members was accepted.

A very small number of women disputed the religious records when they were available. These applicants are referenced in the draft report. When further checks were carried out for those applicants it was found that the religious records were supported by other official non-religious records. The woman's testimony was always taken into account but alongside official records. It would have been wrong to ignore religious records and other official records completely in favour of the woman's testimony.

There were two applicants who provided religious documents in support of their application which had been altered. For that reason, when an applicant provided a photo copy of their religious records the relevant religious congregation was asked to verify the details of the photocopied document.

Protocols were agreed to assist the Unit to deal with applicants who had no records. The absence of records for the most part arose for the two training schools. The last and final register opened could not be located. The religious congregations for both schools engaged with the Unit and provided details and verifications on a range of issues as they arose. They advised that the training courses on offer were generally two years in duration and girls were placed in employment at the end of the training. The girls were placed in the training school by their parents once they had completed their primary education. At that time a child was legally required to remain in education until age 14 years and insurable employment commenced at 16 years. Therefore, in the absence of records, a two year stay was the maximum allowed.

In relation to the Magdalen institutions, the numbers who did not have records were fewer and related to the institutions in Galway and Dun Laoghaire. A total of 25 applications were received relevant to those two institutions. Some did have records and as these were older women – 21 years and older - we were able to identify them from the electoral registers. It was agreed that in the absence of religious records and having considered all other available records that a 4 year stay was reasonable – this represented the average stay in the Magdalen institutions based on the applications received.

The report acknowledges that the Department had an interview process in place in respect of a woman whose claim could not be verified by records that were missing or otherwise unavailable. It goes on to say that this interview process was initiated almost a year after the scheme began operation, and that this may have adversely affected women whose cases had been decided earlier. But the report fails to note that



those cases which were decided earlier did not require an interview process as there was sufficient written records to decide their claims. We did indeed prioritise these cases over those for whom additional interviews were required. This Department believes that this prioritisation process was sensible and does not amount to maladministration.

It would be pointless to provide detail of the processes gone through in all of the individual cases cited in the draft report. But we should take just one example - that of \_\_\_\_\_ – to rebut the arguments of the Ombudsman as to how individual applicants were treated.

On page 36 of the draft the Ombudsman states in summary the following in respect of \_\_\_\_\_

*The Department of Education provided in response to a request from the Department, further details on time spent in industrial schools and stated as follows “as per her application to Dept. of Justice she was in Magdalen institution from 1968 to 1971” ...at no point does it appear that the Department followed up with the Department of Education as to what it meant by this statement. Instead it makes a decision based on the information provided by the congregation (and without having sight of the original records ) amounting to a total stay of 3 months.*

Firstly, the words in quotes constituted a standard line in all responses from the Department of Education. Effectively, the line repeated what the applicant herself had stated on her Magdalen application scheme form. This was used by Department of Education simply as a reference phrase when they were searching for records for this Department. It has no other relevance and this was clearly understood by the staff of the Magdalen Unit. It did not amount to the Department of Education telling us something that we didn't already know and which we failed to check out any further.

The interpretation of this phrase by the Ombudsman, who had full access to our file on this case, and his account of how \_\_\_\_\_ application was dealt with, can only be described as misleading. The religious records indicated \_\_\_\_\_ had committed offences and that a Probation Officer had been assigned to her. Numerous queries were sent to the Sisters of Our Lady of Charity and to the Probation Service to establish the facts of this case. Records also indicated that she was at times a “child at risk” on which basis enquiries were sent to the ISPCC. We made every effort to locate her school records. We contacted four schools but to no avail. \_\_\_\_\_ called in to the Department unannounced on 31 May, 2016 where she was brought her to the conference room and given as much time as she needed to explain her situation. The official note of the interview indicated her to be very confused.

The facts above rebut the findings of the Ombudsman in this case and a similar rebutal would apply to any of the other cases cited by him.

### **Women lacking capacity**

The draft report criticises the delay in making payments to these women – of whom there are now 18, 16 of whom reside in nursing homes. Payment to these 18 women had been delayed pending the commencement of the Assisted Decision-Making

(Capacity) Act 2015 which was signed into law on 30 December 2015. The Act provides a modern statutory framework to support decision-making by adults with capacity difficulties. New administrative processes and support measures, including the Decision Support Service, must be put in place before the substantive provisions of Act can be commenced. These are outside the control of the administrators of the redress scheme and, as noted in your report, we accepted that dealing with this issue through that Act was taking longer than we wished. We have now gone down the road of requesting the women's guardians to make them Wards of Court that will allow them get the awards made under the Magdalen Scheme. Plainly, had we known in advance of the delays in implementing that Act we would have gone down the alternative route sooner. To that extent, we accept the criticism in your report but we do not accept that this amounts to maladministration.

### **Guidance on future schemes**

We accept the Ombudsman's recommendation that any future restorative justice or redress schemes benefit from the learning from the operation of this scheme. It is unlikely that the Magdalen scheme will be the last of its kind and that the State should be a learning entity.

— — —  
**Oifig an Ombudsman  
Office of the Ombudsman**

9 November 2017

Mr. Noel Waters  
Secretary General  
Department of Justice and Equality  
51 St. Stephen's Green  
Dublin 2

**Ombudsman Investigation – the administration of the Magdalen Restorative Justice Scheme**

Dear Mr. Waters,

I refer to your letter dated 13 October 2017 and enclosures regarding the above investigation. Thank you for this response which I have now had an opportunity to fully consider.

I am attaching a detailed response to some of the issues which you have raised. However, at the outset, I would like to make the following observations –

I cannot agree that the report is based on a “*fundamental misunderstanding*” of the Scheme. It is instead based on a very thorough examination of all available records (including those held by the congregations), all of which were available to the Department. I am not seeking to add new institutions to the Scheme.

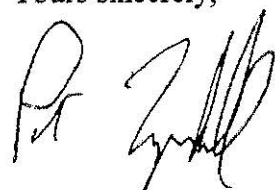
You refer to the recent judgment in *MKL and DC v Minister for Justice and Equality*. I also make reference to this judgment in my attached response. However, at this point I would like to stress that I am of the view that the judge in that case did not make any finding that what was being sought by the applicants was an extension of the Scheme.

I note that a total of €25.7m has been paid out to 682 women. I also note that the total overall estimated cost for the Scheme was originally between €34.5m and €58m based on an estimate of 555 to 1000 applicants.

Your response to the draft report and this reply will be attached as an appendix to my report which I intend to publish within the next few weeks.

Once again I would like to thank you and your staff for your co-operation and courtesy throughout the investigation which was much appreciated.

Yours sincerely,



Peter Tyndall  
Ombudsman



## **Ombudsman investigation – the administration of the Magdalen Restorative Justice Scheme**

**Note on the response from the Department of Justice on the draft report (received 13 October 2017)**

### **De-linking of phrase “admitted to and worked in” (p. 2 of Annex)**

*"Your report holds that the two components of that phrase should be de-linked so that the scheme can apply to someone who worked in the institution but who hadn't been admitted to".*

Nowhere in the report do I hold this and to state otherwise misses the point of my argument. In fact, I deliberately stay away from this argument. I state as follows – *"I have consistently maintained that I am not seeking to add new institutions to the Scheme. Instead, and as outlined above, my Office has had sight of a significant amount of evidence which, at the very least, suggests that these units and the Magdalen laundries were inextricably linked and could be considered to be one and the same institutions.*

In relation to "admitted to and worked in", my argument has always been that the women were admitted to these institutions as the laundry/training centre/industrial school was one and the same for the purposes of this Scheme. That is why I went into such detail in relation to each of the institutions to highlight the close relationship between the laundry and training centres (and sometimes industrial schools) located in the same building or on the same grounds. I have never sought to de-link the phrase.

I do not make any finding in relation to the phrase “admitted to and worked in”. Instead I highlight inconsistencies such as the fact that the phrase does not appear in the preliminary expression of interest form and that Mr. Justice Quirke delinked the phrase in correspondence with the women. Both of these are statements of fact. I also highlighted the fact that at no point did the Department publicly clarify or set out what the phrase meant and instead sometimes confused it with residency.

### **Compensation for work without pay (p. 2-3)**

The Department has stated that the Scheme was not intended to be a labour compensation scheme. *"The purpose of the ex gratia scheme is to contribute to a healing and reconciliation process for the women involved...In order to address that grievance (that the women had not been compensated for working without pay), the terms of reference for Mr. Justice Quirke refer to "taking into account criteria determined to be relevant, including work undertaken and other matters as considered appropriate to contribute to a healing and reconciliation process. Judge Quirke does provide for the payments of amounts of money to reflect the work undertaken by the women".*

I have no issue with the above statements. Mr. Justice Quirke is indeed clear that the award is not about actual work done but instead is to reflect the expression of reconciliatory intent. My report says much the same thing – *"this Scheme is a restorative justice scheme, one aspect of which is to offer some element of redress for those who spent time working in very harsh conditions for no pay"*). Nowhere in the report is it implied that it is a work compensation scheme in its entirety - it was a factor to be taken into consideration.

*in reality, a new scheme would need to be drawn up which would involve an assessment, if such is now possible, of how many residents in the Industrial Schools or Training Centres cited by the Ombudsman worked in a Magdalen institution and what was the extent of the work”.*

To a large extent this information is readily available and held by the congregations. For example, from looking at records held by the Good Shepherd Sisters, it is evident that between 1.00 and 3.45 each weekday, the girls in Gracepark worked in the laundry.

### **Development of the Scheme (p. 4 5)**

*“The Ombudsman argues that it is unacceptable for schemes to be established and advertised before decisions are made on key issues as to eligibility”.*

*“He [the Ombudsman] describes the six month period between the publication in February 2013....and the Government’s approval of a scheme in November 2013 as a delay....Surely it would have been maladministration to have delayed for six months the invitation of expressions of interest once and the McAleese Report had been published and Judge Quirke appointed to advise on a suitable compensation scheme “.*

It is quite clear in my report that the “delay” referred to is in relation to the delay between receiving the first application forms and finalising the Terms of Scheme – that is the period between June and December 2013. It does not relate to the period from when the preliminary expression of interest was published on the website. I am not criticising the Department for the delay itself. Instead my finding is that the delay in finalising the Terms of the Scheme (nearly 6 months after the first application was received) and, in particular the eligibility criteria, created, at best, a misleading impression for some applicants.

*“It is important to note that no formal letter of offer issued until 31 December 2013” – in other words after the terms of Scheme were finalised. This may be correct, however, the Department does not indicate how many formal offers differed from the provisional offers made before the Terms of the Scheme were finalised. Also, it should of course be noted that no formal letters of offer issued to those who were deemed not to be eligible.*

*The Department argues - “Often those who asked for a form to apply were told that the institution they had been in was not covered by the Scheme but they sought the form nonetheless”. Any woman who completed the preliminary expression of interest form was sent out the application form. They did not seek the form themselves.*

### **Exclusion of RIRB institutions and “double payment” (p. 5-7)**

I cannot agree that Mr. Justice Quirke did not recommend that double payment “in these limited number of cases” should be ignored. Mr. Justice Quirke was asked to make a recommendation in relation to one circumstance - he was not asked for nor did he express a view in relation to any other circumstances apart from this one. This is also pointed out by the High Court in *MKL* – (para 18) *“the report did not consider the position of applicants, who were in other institutions on the same campus as the laundries but who were forced to work in the laundries as children”.*



The Department quotes from the judgment in *MKL* that “it is not appropriate that any applicant under the ex-gratia scheme should receive compensation, however, described from the Residential Redress Board Scheme and the ex gratia scheme covering the same wrong”. The key words here are covering the same wrong. The Department does not address the arguments in relation to the different features of the two schemes. In its reply, the Department itself refers to the Magdalen scheme being “of an entirely different nature to the RIRB scheme. It also does not include the High Court’s other comments in relation to this issue – for example (para. 30) – “the respondent is quite correct to ensure that there is no double recovery by way of payment under the scheme for that which the applicant has already been compensated under the redress scheme. The court appreciates that this exercise in differentiating the two may be difficult but not impossible”.

Contrary to what the Department is now trying to assert, the exclusion from the Scheme of any institutions listed in the Schedule to the 2002 Act was not a recommendation of the Inter-Departmental Group (a report which was “noted” not “approved” by Government). There is absolutely nothing in what I have seen to suggest that the decision was taken by anyone other than the officials in the Department. Furthermore, it is not, as asserted by the Department, entirely consistent with the recommendations of the Quirke report,

*“Awards made under the RIRB scheme are, by legislation, confidential and not made public. As a consequence, administrators of the Magdalen scheme cannot know if an applicant even made a claim to the RIRB scheme in the first place”.* This statement is disingenuous. One of the questions on the preliminary expression of interest form asks whether the applicant had ever previously received compensation for a period spent in an institution. The RIRB scheme was the only compensation scheme for those who spent time in an institution, so there is no way that the Department could not foresee that the applicant would provide details of compensation received from the RIRB.

The Department alludes, throughout its response, to the fact that it was a Government decision to exclude institutions covered by the RIRB and that therefore there is nothing they can do – “from an administrative perspective, this is the heart of the matter. It is not within the legal competence of officials administering such a scheme to depart from its Government-approved terms. Civil servants would indeed be engaged in maladministration in the absence of any Government decision to that effect”.

But the evidence suggests that this is precisely what happened. It was an administrative decision to exclude institutions covered by the 2002 Act – the administrative note excluding these institutions and added on to the end of the Terms of Scheme (dated 13 December 2013) was after the Government decision on the implementation of the Quirke recommendations (dated 5 November 2013).

*“The case that seems to be made by the Ombudsman is that this Department should have provided a “remedy” for these applicants by compensating them under the Magdalen Scheme, despite the latter scheme being of an entirely different nature to the RIRB Scheme”.*

That is not the case being made. These cases were highlighted primarily to show that double-recovery was not actually a live issue in all the cases, i.e.: although a number of applicants were in an institution listed in the Schedule, they did not apply to the RIRB.

### Specific institutions (p. 7-9)



## Ri Villa

The part of the response referring to Ri Villa is word for word the same as a previous response from the Department on the issue – a response I addressed in the report (but not referred to in the Department’s response). The section from my report dealing with this is reproduced below. I don’t think it is necessary to add anything further

*“While the Department advises that Ri Villa was included as it was considered to be the “single entity” occupying the same site on Sean McDermott Street, the facts indicate that the same was true for An Grianán (which was located in the same building as the laundry) and, in the early years at least, for some of the other training centres, for example Gracepark Training Centre and Rosemount Training Centre. It should also be noted that St. Anne’s Hostel was also part of this “single entity” on the Sean McDermott Street site but was nevertheless excluded from the Scheme.*

*Likewise, if the exclusion of Ri Villa from the Residential Institutions Redress Scheme (which is discussed in greater detail in the next section) was one of the deciding factors, then it is unreasonable and inconsistent that other training centres with similar characteristics which were similarly excluded from the Residential Institutions Redress Scheme were not treated in the same way and included within this Scheme. In these circumstances, it is my view that the actions of the Department in including Ri Villa within the Scheme and excluding similar training centres constitutes maladministration on the grounds that the actions were improperly discriminatory and otherwise contrary to fair and sound administration”.*

I must note the use of the word “we” in its response on this issue (in other words “we” decided to include Ri Villa) when the Department has been at pains elsewhere to stress that in no circumstances could it ever depart from a Government decision.

## Gracepark Training Centre

*“This was considered in the McAleese Report and was deemed not to be a Magdalen institution”. It was not the role of McAleese to determine what was and was not a Magdalen institution. In fact, it was specifically prohibited from doing so. This response also fails to address the fact that the relevant complainant to this Office was actually “admitted” to St. Mary’s.*

St. Joseph’s Reformatory School, St. Mary’s Training Centre (Rosemount), Pennywell Road, Limerick

*“All are excluded from the scheme”. The reformatory school and industrial school were provided for under the 2002 RIRS”. That may be true but the Department is silent as to why the training centre is excluded.*

St. Aidan’s Industrial School and the Teenage Training Unit New Ross.

*“The applicant you refer to here was admitted to the Scheme because the Good Shepherd Sisters provided verification that she was admitted to St. Mary’s New Ross....and not St. Aidan’s Industrial School”. This is not correct. The applicant was admitted to St. Aidan’s*

Industrial School and slept in St. Aidan's every night. She was sent over to work in the laundry every day.

St. Finbarr's Industrial School and Teenage Unit (Marymount), Sundays Well, Cork.

*"The applicant referred to in your report was in St. Finbarr's which was provided for under the 2002 RIRS".* As with Limerick, this is true. However, again the Department is silent in respect of the Teenage Unit.

St. Michael's Industrial School, Summerhill, Co. Wexford.

*"St. Michael's was provided for under the 2002 RIRB".* This is true.

St. Anne's Hostel, Sean McDermott St.

The Department does not provide a view on this – it is the subject of judicial review proceedings. However, it now appears to be reviewing one of the cases mentioned in the report on the basis of "new information". While I welcome this, As far as I can ascertain, this new information is my report pointing out that a so-called "continuous" employment record (which was cited as conclusive proof that she couldn't have worked in the laundry) actually had a number of unexplained gaps in it. This was at all times evident from the file and therefore begs the question whether there are more cases like this.

### **Reliance on religious records (p. 9-11)**

*"It is important to record here in this annex that when complete religious records were available to support an application they were for the most part accepted as correct by the women concerned".* However mistakes were still made – for example, in the case of the late electoral registers showed that she was in St. Mary's High Park for at least a year longer than the official record showed.

*"If there was ever any doubt in the woman's mind, my officials requested further confirmation from the religious and then, if necessary checked school records...."* The Department only began checking school records following this Office's intervention in a case. This was made clear in my report. (A similar issue arises in relation to the electoral registers).

*"In some cases, the religious were able to provide confirmation that the applicant was admitted to a relevant institution but while an entry date was recorded an exit date was not. In those cases, the woman's testimony was crucial...."*

I saw no evidence of this from the cases I examined. Instead I refer in my report to a case where the Department refused to accept testimony on the basis that the Department's consideration was "records-based". The Department does not refer to this in its response. Furthermore, the Department are still viewing the congregations as providing "confirmation" on a point as opposed to just being a possible source of information.

*"[The report] goes on to say that this interview process was initiated almost a year after the scheme began operation and that this may have adversely affected women whose cases had been decided earlier. But the report fails to note that those cases which were decided earlier*



*did not require an interview process as there was sufficient written records to decide their claims”.*

There are two points to make here. Firstly, it was actually 14 months before the interview process commenced. Secondly, it was the Department who decided whether the written records were “sufficient” or not and therefore which cases required an interview process.

It is important to state that I am not automatically taking account of events as fact. The inclusion of this case was to highlight that some potentially conflicting information was received from another Department which was not followed up on – “*as per her application...she was in Magdalen institution from 1968 to 1971*”. I took *as per* on its usual meaning – in accordance with – and thought that at least this statement should have been checked. The Department has stated that the words in quotes constituted a standard line in all responses from the Department of Education, was used as a reference phrase and was clearly understood by the staff of the Magdalen Unit. The Department did not provide any evidence of this. I have also not seen another example of this phrase being used in correspondence with the Department of Education

I have included an additional statement from the Department in the body of the report to clarify this. It may be simply a case of awkward language use. In any event, my point is that even if the phrase was incorrect or did not mean what it appeared to mean, this should have been checked with the Department of Education. The other records referred to by the Department in relation to this case were not definitive either way.

*“The facts above rebut the findings of the Ombudsman in this case and a similar rebuttal would apply to any of the other cases cited by him”.*

The Department has not however provided a rebuttal to any of the other cases.

### **Women lacking capacity (p. 11-12)**

*“Plainly had we known in advance of the delays in implementing that Act (the assisted decision-making (Capacity) Act, we would have gone down the alternative route sooner”.*

The delay was flagged from the outset – not just by Mr. Justice Quirke but also by the Inter-Departmental Group and by officials within the Department itself. This is made clear in the report.



# *Appendix 2*

Preliminary Expression of Interest Form

**Registration of preliminary expression of interest in the receipt of benefits from the Magdalen Laundry Fund**

The Government decided on 19 February 2013 to establish a Fund for the benefit of those who spent time in a Magdalen Laundry or St Mary's Stanhope Street.

Mr Justice Quirke has been asked to advise on the establishment of a Scheme under the Fund (to operate on a non-adversarial basis) including identifying the criteria and factors to be taken into account (such as work undertaken in the Laundries for no remuneration). He will advise on the operation of the Fund and, in particular, the nature and amount of payments to be made out of the Fund. Until he reports back to the Government, no decisions will be made on the detailed operation of the fund.

The purpose of this form is to allow you to register an interest in being considered for benefits from the fund in due course. If you complete the form below, you will be contacted as soon as a decision has been on the nature of the Scheme.

This form is not a legal document nor should it be construed as giving any person an automatic entitlement to benefit from the fund.

Please return the form to:

Magdalen Fund, 3<sup>rd</sup> Floor, Montague Court, 7-11 Montague Street, Dublin 2

or by e-mail to [info@idcmagdalen.ie](mailto:info@idcmagdalen.ie)

In due course applicants will be required to produce documentary evidence, such as a birth certificate, official photographic identification (passport, driving licence) and any records pertaining to their stay in the relevant institution.

Please note that an application will only be considered if it relates to an individual, who is still alive, who spent time in a Magdalen Laundry a list of which is below or St. Mary's Stanhope Street.

<b>Personal Details</b>	
<b>First Name</b>	
<b>Family Name</b>	
<b>Maiden name (if different)</b>	
<b>Date of birth</b>	

Registration of preliminary expression of interest in the receipt of benefits from the Magdalen Laundry fund

<b>PPSN</b> (or equivalent)	
<b>Postal address</b>	
<b>Telephone Number</b>	
<b>E-mail address</b>	

<b>Information relevant to registration</b>	
<b>Name of Institution*</b>	
<b>Date of entry</b>	
<b>Length of stay</b>	
<b>Date of exit</b>	
<b>Age at entry</b>	
<b>Where were you before entry</b>	
<b>How did you come to be there</b>	
<b>Where did you go to following exit</b>	
<b>Do you have records from the Institution</b>	
<b>Have you previously received compensation for a period spent in an Institution</b>	



\* The Institutions considered relevant to this expression of interest are:

*Sisters of Our Lady of Charity of Refuge:*

St Mary's Refuge, High Park, Grace Park Road, Drumcondra, Dublin;  
Monastery of Our Lady of Charity Sean McDermott Street (formerly  
Gloucester Street), Dublin 1;

*Congregation of the Sisters of Mercy:*

Magdalen Asylum / Magdalen Home, No. 47 Forster Street, Galway;  
St Patrick's Refuge, Crofton Road, Dun Laoghaire, Co. Dublin;

*Religious Sisters of Charity:*

St Mary Magdalen's, Floraville Road, Donnybrook, Dublin;  
St Vincent's, St Mary's Road, Peacock Lane, Cork;

*Sisters of the Good Shepherd:*

St Mary's, Cork Road, Waterford;  
St Mary's, New Ross, Wexford;  
St Mary's, Pennywell Road, Limerick;  
St Mary's, Sunday's Well, Cork.

And while not a Magdalen Laundry but included in the Fund:

*Religious Sisters of Charity:*

St Mary's, Stanhope Street, Dublin 7 (laundry operated in the Training Centre)

Contact details:

Magdalen Fund, 3<sup>rd</sup> Floor, Montague Court, 7-11 Montague Street, Dublin 2

e-mail: [info@idcmagdalen.ie](mailto:info@idcmagdalen.ie)

phone: 01 – 476 8649

# *Appendix 3*

Application Form and Covering Letter for admission to the  
Magdalen Restorative Justice Scheme

AN ROINN DLÍ agus CIRT  
agus COMHIONANNAIS  
*Cúirt Mhic Thaidhg*  
*Sráid Mhic Thaidhg*  
*Baile Átha Cliath 2*  
Teileafón/Telephone: 01-  
4768660  
Ríomhphoist/e-mail:  
info@idcmagdalen.ie



DEPARTMENT OF  
JUSTICE and EQUALITY  
*Montague Court*  
*Montague Street*  
*Dublin 2*  
Facsimilir/Fax: 01-4768665

### **Restorative Justice Scheme**

The Government has decided to implement the recommendation on the payment of a lump sum to the women who were admitted to a designated laundry and worked there (Recommendation 3, pages 42 to 43) and that the recommendations made in the report also apply to women who resided in and worked in the laundries at St Marys Training Centre, Stanhope Street; and House of Mercy Training School, Summerhill, Wexford. The report sets out the amounts which may be paid which vary between €11,500 and €100,000. You can apply for these monies straight away.

The Government has also agreed to implement the other recommendations contained in the report subject to an Interdepartmental Group addressing the steps necessary to implement the recommendations made. **Further contact will be made at a later stage regarding these other recommendations.**

#### **What should you do now ?**

The application form should be fully completed, signed and returned to the Restorative Justice Implementation Team, Department of Justice and Equality, Montague Court, Montague Street, Dublin 2 along with the requested support documentation. If you need help in completing the form you are welcome to contact the Team at 01-4768660 or call to your Citizens Information Centre. It is important to complete all sections of the form as an incomplete form will be returned and may cause a delay in processing your application.

You may have nominated a third party as a contact person. However, it is important that you include on your application form, if you have not already done so, a current home address at which you normally reside.

#### **Support Documentation**

Along with the completed application form you will need to provide some support documentation:

- Proof of your current place of residence – a Gas bill or Electricity bill or Telephone bill will suffice.
- Proof of your identity – for example a photocopy of your Passport, or of your Driving Licence (Photo ID)
- Proof of your PPS Number – for example a photocopy of your Social Welfare Card or of your Medical Card



- Photocopies of records or other evidence of residence in one of the relevant Magdalen institutions; or in St Marys Training Centre, Stanhope Street; or in House of Mercy Training School, Summerhill, Wexford.
- A recent passport size photograph.

At this point you don't need to seek legal advice. The purpose of this application is to verify your residence in a relevant institution and assess your eligibility for the lump sum payment.

You will be contacted again once that process is completed and at that point you may decide to seek legal advice.

If you don't have records or evidence of your residence in one of the relevant institutions you will need to contact the religious order to request a copy of whatever documents they hold in relation to your time in residence with them (see list of religious institutions).

If the religious congregation have no record or incomplete records for you, all you need to do is forward us a copy of your request to the religious congregation and their response. We will then be in touch with you to see how we can best confirm that you resided and worked in the designated institution in question.

Restorative Justice Implementation Team  
26 June, 2013

Religious Institutions

<b>Contact Persons for the Religious Orders who operated the Laundries relevant to the Mr. Justice Quirke's report</b>	
<b>Religious Order</b>	<b>Relevant institution/Laundry</b>
<b><u>Good Shepherd Sisters</u></b>  <u>Write to:</u> Sr. Brid Mullins Good Shepherd Sisters Hennessy's Road Waterford  <u>Ring:</u> Sr. Brid Mullins 051-873241 Office 051-874294 Convent <a href="mailto:mbridmullins@eircom.net">mbridmullins@eircom.net</a>	St Mary's Cork Road, Waterford  St Mary's New Ross, Wexford  St Mary's Pennywell Road, Limerick  St Mary's Sunday's Well, Cork.
<b><u>Sisters of Our Lady of Charity</u></b>  <u>Write to:</u> The Ministries Desk Sisters of Our Lady of Charity 63 Lower Sean McDermott Street Dublin 1  <u>Ring:</u> Ms Valerie Coonagh Tel: 01 8711109 or 087 7719723 <a href="mailto:ministriesdesk@olc.ie">ministriesdesk@olc.ie</a>	St Mary's Refuge, High Park, Grace Park Road, Drumcondra, Dublin 9  Monastery of Our Lady of Charity Sean McDermott Street (formerly Gloucester Street), Dublin 1;
<b><u>Sisters of Mercy</u></b>  <u>Write to:</u> Ms. Marianne Cosgrave Catherine McAuley Centre 23 Herbert Street Dublin 2  <u>Ring:</u> Ms. Marianne Cosgrave 01-6387521 <a href="mailto:info@mercyarchives.ie">info@mercyarchives.ie</a>	Magdalen Asylum / Magdalen Home, 47 Forster Street, Galway  St Patrick's Refuge, Crofton Road, Dun Laoghaire, Co. Dublin  Summerhill Training Centre, Wexford (Laundry operated in the Training Centre)
<b><u>Sisters of Charity</u></b>  <u>Write to:</u> Sr. Christina Gorman Mary Aikenhead House St. Mary's Donnybrook Dublin 4  <u>Ring:</u> Sr. Christina Gorman 01-2698744 or 087-2127245 <a href="mailto:generalate@rsccharitas.com">generalate@rsccharitas.com</a>	St Mary Magdalen's, Floraville Road, Donnybrook, Dublin  St Vincent's, St Mary's Road, Peacock Lane, Cork  St Mary's Stanhope Street (Laundry operated in the Training Centre)

## Application Form

- Please complete this form using BLOCK CAPITALS
- Please tick all boxes as appropriate
- Please note that failure to complete this form as fully as possible may delay consideration of your application
- An acknowledgment will automatically issue within three weeks of receipt of your application
- Please send the completed form to the following address:

Department of Justice and Equality, 3<sup>rd</sup> Floor, Montague Court,  
7-11 Montague Street, Dublin 2

### 1. Personal Information

Surname: .....

Maiden name: .....

First name(s): .....

Any other first or  
last name(s) used: .....

Any other name(s) by which you  
were known in the Institution: .....

Date of birth:

Day	Month	Year
-----	-------	------

Current Address: .....

.....

.....

Daytime telephone no: .....

Email address: .....

P.P.S./National Insurance no.\* .....

\*mandatory



## 2. Evidence of Identity

- Please forward a photocopy of each of the following
  - a) Birth Certificate (long version)
  - b) Proof of your PPS number
  - c) Proof of your address e.g. utility bill etc.
  - d) Official photographic ID e.g. passport, driving licence, travel pass etc.
  - e) A passport size photo of the applicant.
- Please state your home address when you were first placed in the Institution:

.....

.....

.....

## 3. Details of person applying on behalf of an applicant who needs assistance completing the application

- This section should only be completed where you are applying on behalf of another person.
- An application may be made on behalf of an applicant if the applicant is incapable of managing her own affairs at the time of the application.
- This Scheme will only apply to persons who were in the Magdalen laundries, St. Mary's Training Centre Stanhope Street and House of Mercy Training School, Summerhill, Wexford. Relatives of deceased women are not covered by the Scheme with one exception. Where a woman was alive on 19 February 2013 and an expression of interest has been registered, an application will be processed to finality even if the woman passes away before a payment can be made.

My surname(s): .....

First name(s): .....

Relationship to the applicant: .....

Address: .....

.....

.....

Daytime telephone no.: .....

Email address: .....

**4. Institution(s) in which the applicant was resident**

- Please give the names and addresses of the institution(s) in which you, or the person on whose behalf you are applying, were resident and the dates of residence as precisely as possible. A list of the institutions considered relevant to the Scheme is attached for reference.
- Please also state any name or number given to the applicant in the institution.
- Please forward a copy of any records relating to your time in the institution with your application. If you have not previously requested records, information on how to proceed is attached. If you have not been able to obtain records relating to your time in the institution, copies of correspondence with the religious congregations seeking records and their reply should be included.

Name of Institution	Address	Dates of residence		Name/ number given in the institution
		From:	To:	

**5. If you wish to add anything to the information you have given above, please do so in the space below:**

.....

.....

.....

.....

.....

.....

.....

## 6. Declaration

PLEASE READ THIS SECTION CAREFULLY BEFORE YOU SIGN THIS FORM

- I declare that the information which I have given in this form is true to the best of my knowledge, and understand that I am personally responsible for it.
- I understand that the Department of Justice and Equality may request any person to produce to it any document which may relate to this application
- I agree to tell the Department of Justice and Equality in writing if there are any changes either in my circumstances or those of the person on whose behalf I am applying before any settlement or making of an award.
- I agree to give the Department of Justice and Equality full assistance in the conduct of this application.
- I understand that this application and all attachments may be provided to any person and to the representative of any institution named in this application.
- I consent to the provision of personal information to the Department of Justice and Equality by any Government Department, agency, health or educational institution and the religious congregations for the purpose of verification in relation to my application.

\*Signature of applicant:

---

\*Signature of person applying  
on behalf of an applicant:

---

Date:

---

\*As applicable



## **7. Documents enclosed with this application**

Checklist:

- Please tick the relevant box to indicate which documents are enclosed with this application.

Photocopies of the following documents are enclosed with this application:

1. ☐ Birth Certificate
  2. ☐ Proof of PPS number
  3. ☐ Proof of Address e.g. utility bill
  4. ☐ Official photographic ID e.g. passport, driving licence, travel pass
  5. ☐ Records or other evidence of residence in institution
  6. ☐ Passport size photograph of the Applicant
  7. ☐ Other (please specify):
- If it is not possible for you to make a photocopy of the original document, please forward your application, and original documents, by registered post or delivery. The Department of Justice and Equality will photocopy the original of any of the documents received by it, and return them to you by registered post as soon as possible.
  - Please note that documents are sent at your own risk and while the Department of Justice and Equality will take all reasonable steps to safeguard them while in its possession, the Department cannot be held liable in the event of any loss or damage which may arise.

**PLEASE AFFIX A CURRENT PASSPORT SIZED PHOTOGRAPH OF THE APPLICANT TO THE BOX BELOW.**

PHOTOGRAPH

# *Appendix 4*

Public Statements on the Magdalen Restorative Justice Scheme

# *Appendix 4*

## Public Statements on the Magdalen Restorative Justice Scheme

Appendix 4 is available on the digital version of this Report. This can be accessed from our website at [www.ombudsman.ie/en/Publications/Investigation-Reports/](http://www.ombudsman.ie/en/Publications/Investigation-Reports/)



# *Appendix 5*

Terms of the Magdalen Restorative Justice Scheme

**TERMS OF AN EX GRATIA SCHEME  
FOR WOMEN WHO WERE ADMITTED TO AND  
WORKED IN MAGDALEN LAUNDRIES,  
ST MARY’S TRAINING CENTRE STANHOPE  
STREET  
AND  
HOUSE OF MERCY TRAINING SCHOOL  
SUMMERHILL, WEXFORD**

**December 2013**

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## **INTRODUCTION**

1. The Government has decided to provide, on an *ex gratia* basis, a scheme of payments and benefits for those women who are determined, under the application process set out below, to have been admitted to and worked in one of the 12 institutions listed at Appendix 1. Payments and benefits under the scheme will only be made to those women who comply with all of the terms of this Scheme (including the signing of the Form and Declaration at Appendix 2) and who waive any right of action against the State or against any public or statutory body or agency arising out of their admission to and work within one of the 12 institutions concerned.
2. The scheme is informed by the Report of Mr Justice John Quirke "On the establishment of an *ex gratia* Scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen Laundries" May 2013 which is referred to in this scheme as the Quirke Report.
3. A Restorative Justice Implementation Unit has been set up in the Department of Justice and Equality, for a limited period, to process applications and payments under the Scheme.

## **APPLICATION PROCESS**

### ***Application forms***

4. Where a person is applying on their own behalf, an application form must be completed. Applications forms can be requested from the Restorative Justice Implementation Unit in the Department of Justice and Equality at telephone number + 353 1 4768660.
5. Completed application forms must be accompanied by:
  - Proof of residence (e.g. a household bill)
  - Proof of Identity (e.g. Birth Certificate (long version), Passport, Driving Licence, Marriage Certificate or Pension card)
  - Proof of your Personal Public Service Number (PPSN number) (e.g. your Social Welfare Card or Medical Card). For those resident outside the State, your Tax File Number or your National Social Insurance Number.
  - Photocopy of your records from the Institution that you resided in and worked in stating the period of time you were there.
6. Incomplete forms will be returned and if all the necessary support documents have not been provided a further written request will issue requesting those documents. This letter may be supplemented by a telephone call if telephone contact details have been provided. The applicant will be advised that the processing of their application is suspended pending receipt of the outstanding information/documents.
7. The application forms also request applicants to consent to the provision of personal information to the Department of Justice and Equality by any

Government Department, agency, health or educational institution and the religious congregations for the purpose of verification in relation to their application.

8. At any stage of the application process, the Restorative Justice Implementation Unit may request an applicant to meet with a staff member of the Unit for any purpose connected with her application including the verification of any matter relevant to the application or required under the scheme or the confirmation of the applicant's identity or capacity.
9. It is the responsibility of the applicant to notify the Restorative Justice Implementation Unit of any changes of address or contact details.

#### ***Acknowledgement of application***

10. A written acknowledgment of receipt of the application will be sent to the applicant normally within 5 days of receipt of application. Original documents once copied will be returned to the applicant by registered post.

#### ***Term of the Scheme***

11. The Scheme will run to at least the end of December 2014. When a decision is made to close the Scheme to new applications after that date, advance public notice will be given.

#### ***Applications on behalf of eligible women unable to make an application***

12. Where a woman who was in one of the 12 institutions listed at Appendix 1 lacks the capacity to make an application, the application can be made on her behalf by a person properly authorised to do so. The Restorative Justice Implementation Unit will accept that a person is so authorised only where he or she provides the appropriate evidence –
  - a) as to the identity of the applicant;
  - b) that the woman who was in one of the relevant institutions is incapable of making an application, and
  - c) that the applicant is authorised to act on behalf of the woman who was in one of the relevant institutions for the purpose of the application.

#### ***Processing of Applications on behalf of eligible women who have died***

13. Relatives of deceased women who were admitted to and worked in one of the 12 institutions are not covered by the Scheme with one exception. As recommended by Judge Quirke, where a woman who comes within the scheme was alive on 19 February 2013 and an expression of interest was or is received by the Department of Justice and Equality before her death, an application may be made on behalf of her estate. Such an application will be processed to finality even if the woman is now deceased or passes away before a payment can be made.



14. The lump sum to which the deceased person would have been granted under this Scheme will be paid to the estate of the deceased person. No weekly instalments, payments or other benefits will be made in respect of a deceased woman.

#### ***Commencement Date for Scheme***

15. On 5<sup>th</sup> November 2013, the Government decided that the 1<sup>st</sup> August 2013 was to be the commencement date for the Scheme. Where a woman is determined to be eligible for the scheme, any weekly instalments on the lump sum and weekly payment due from the Department of Social Protection will be backdated to the 1<sup>st</sup> August 2013.

### **DECIDING WHETHER A PERSON FALLS WITHIN THE SCOPE OF THE SCHEME**

#### ***Notification of Provisional Assessment***

16. The first phase of processing a properly completed application will be the making of a provisional assessment as to whether the applicant comes within the scope of the scheme. This assessment will be made on the basis of the records of the institutions concerned and any other records or statements available. On this basis, a decision will be made as to whether, on the balance of probabilities the applicant was admitted to and worked in one of the 12 institutions covered by the scheme and, if so, an assessment will be made of the length of time which she spent in the relevant institution. This provisional assessment will be set out in a letter to the applicant. An estimate of the lump sum payment which will be paid to the applicant subject to the requirements set out below will also be provided for information purposes. (The lump sum payment is just one of the benefits under the scheme but some of the other benefits which may be offered will depend on personal circumstances and a further process is required to determine exactly what other benefits will be due to persons under the scheme.)
17. The applicant will be asked whether she agrees with the provisional assessment. If she agrees with the provisional assessment, an applicant is required to notify the Restorative Justice Implementation Unit of her agreement within 2 months of the date of the letter. A formal offer in the same terms and subject to the signing of an Acceptance Form and statutory declaration will then be made, see below. If an applicant disagrees with the provisional assessment, she can seek a review of the assessment and should state the reasons why she disagrees with it and what evidence she has to support her view. If an applicant disagrees with the provisional assessment and seeks a review, she must notify the Restorative Justice Implementation Unit within 2 months of the letter. If an applicant fails to indicate her agreement or disagreement with the provisional assessment within 2 months of the date of the letter, her application will be deemed to have been withdrawn.
18. Where the Applicant has been determined to be eligible under the Scheme, as a condition precedent to the making of any payment or provision of any other benefit under this Scheme, she will be required to sign an Acceptance Form and complete a Statutory Declaration (see paragraphs 24 - 31 below) . (An applicant



can indicate in writing that she only wishes to receive specified parts of the payments and benefits under the scheme.)

### **REVIEW/Appeal PROCESS**

19. If an applicant does not agree with a provisional assessment made by the Restorative Justice Implementation Unit, on whether she comes within the scope of the scheme or the duration of her stay in one of the relevant institutions, she can seek a review of that assessment within 2 months of the date of the letter of provisional assessment setting out her reasons. The application will be reviewed by an officer of a higher grade in the Department of Justice & Equality who will, having considered the matter, make a decision on the case and give written reasons for that decision. The applicant will be informed in writing of the decision, and the reasons for the decision and will also be advised that if she is not satisfied with the review decision, she may appeal that decision to the Office of the Ombudsman.

### **CALCULATION OF LUMP SUM PAYMENT**

20. The lump sum payment includes a general payment and a payment to reflect the work done in the laundries. These payments will be made after a formal offer has been made and accepted and the Acceptance Form and statutory declaration have been signed. The amount to be paid and how it is to be paid will be calculated in accordance with recommendations 3 and 4 and Appendix A of the Quirke report and is based on the time spent in the laundries. The Quirke Report provides a number of tables (Pages 65 – 67) showing precise calculations, for example, a woman who spent 5 months in the laundry will receive a general payment of €11,000 plus a work payment of €2,500 which will give her a total payment of €13,500. If a woman was in the laundry for 10 years or more she will receive a general payment of €40,000 and a work payment of €60,000 which would give her a total of €100,000.
21. However, Judge Quirke has also recommended (Recommendation 4) that if an applicant is to be given a cash payment above €50,000 it should be paid in the form of a lump sum of €50,000 plus an annual instalment related to the notional remaining lump sum to be paid weekly on the following basis:
  - If the applicant is 66 years of age or older annual instalments will be calculated on the basis of Appendix D.1, page 75 of the Quirke Report.
  - If the applicant is under 66 years of age the instalments will be calculated on a two part basis:
    - (a) an instalment to be made until the applicant reaches the age of 66 calculated on the basis of Appendix D.2 page 76 (but not to exceed €130 per week) and

- (b) any part of that portion of the lump sum exceeding €50,000 remaining after the payments in paragraph (a) above to be paid in instalments calculated on the basis of Appendix D.1, page 75 .
22. Depending on the amounts involved, smaller weekly instalments will be accumulated and be paid on a monthly basis. If calculations give rise to potentially very small weekly instalments (e.g. less than €5 per week) the lump sum amount will not be converted to weekly instalments but will be paid as part of the lump sum.
23. Payments under this element of the scheme are not liable to Irish income tax or capital gains tax.

### **FORMAL OFFER**

24. If the applicant confirms in writing that she will accept the provisional determination, then a formal offer in the same terms as the provisional assessment will be made in writing and payment will be conditional on the signing of an Acceptance Form and a statutory declaration:
- a) agreeing to participate in the scheme,
  - b) accepting its terms,
  - c) attesting to the truth and accuracy of the information and documentation submitted in her application and on foot of which the offer is made;
  - d) confirming that she is of sound mind (subject to paragraph 27 below)
  - e) accepting the offer made;
  - f) waiving any right of action against the State or any public or statutory body or agency arising out of her admission to and work in the institution or institutions concerned.
  - g) agreeing to discontinue any proceedings instituted by her against the State or any public or statutory body or agency arising out of the circumstances of her application
  - h) acknowledging the implications of making a false or misleading application including the acknowledgement that the making of a false statement in a statutory declaration is an offence.
25. This Acceptance Form must be witnessed by a practising solicitor and the Statutory Declaration must be witnessed by one of the persons specified under section 1 of the Statutory Declarations Act 1938 and set out in the template declaration form attached at Appendix 2.
26. If a solicitor witnesses the declaration, his or her fee for this service may be included in the fee for legal advice referred to below and, if so included, will be discharged by the Restorative Justice Implementation Unit and subject to the overall cap on the contribution which will be made towards legal fees outlined below.



27. Fees incurred by an applicant if the statutory declaration is witnessed by any other category of witness will not be discharged by the Restorative Justice Implementation Unit.
28. Before signing the Acceptance Form and statutory declaration the applicant is strongly advised to obtain legal advice. A contribution of up to a maximum of €500 + VAT will be made available to applicants residing either in Ireland or abroad towards the cost of obtaining their own legal advice. Any legal costs incurred by an applicant in excess of €500 + VAT will not be paid for by the State.
29. The applicant will be given 6 months from the date of the letter of formal offer to make a decision on the offer and to sign and return the properly completed and witnessed Acceptance Form and statutory declaration. However if it is established within that period that the applicant lacks the capacity to make the decision and there is no person with lawful authority to act on her behalf, that 6 month period will be extended until after the necessary legislation referred to below is enacted and commenced. The Restorative Justice Implementation Unit may ask for proof as to the capacity of an applicant and a medical certificate or other evidence may be required to be produced to the Unit before any payment can be made.
30. If the applicant accepts the offer and signs the Acceptance Form and statutory declaration, the applicant will be deemed to fall within the scheme.
31. If, on receipt of the letter of formal offer and prior to its acceptance, the applicant identifies any factual or methodological or other substantive error which has been made in the provisional assessment (and repeated in the letter of formal offer) and notifies the Restorative Justice Implementation Unit of that error and provides information to the Unit setting out what the applicant understands to be or maintains is the correct position then, notwithstanding her earlier indication of acceptance of the provisional assessment, that assessment will be reviewed in accordance with paragraph 20 above.

### **WOMEN LACKING CAPACITY**

32. Special arrangements have to be made for a woman who does not have the capacity to apply, to make a decision regarding acceptance of the offer or to sign an Acceptance Form or statutory declaration. In such a case, only a person who has a legal power to act on behalf of the applicant may make the decision to accept an offer and sign an Acceptance Form or statutory declaration on her behalf. The fact that a person has made an application on behalf of a woman who may be eligible under the scheme does not mean that person has a legal right to act on behalf of the applicant. Where the applicant is a ward of court or has signed an enduring power of attorney, the relevant person or body appointed by the Court or empowered under that instrument will be entitled to act on behalf of the applicant. For other cases, as recommended by Judge Quirke, legislation is being introduced to cater for these cases where an applicant lacks capacity. It will provide for the appointment of a person by a court to act on behalf of the applicant



for the purposes of this Scheme, including accepting an offer and signing an Acceptance Form and statutory declaration on her behalf.

### **PAYMENT**

33. When a person has accepted the offer and signed the Acceptance Form and statutory declaration, arrangements will be made to process the lump sum payment. Such payment will only be paid into an account in a financial institution held in the sole name of the applicant. As referred to above, the Restorative Justice Implementation Unit may ask for proof as to the capacity of an applicant and a medical certificate or other evidence may be required to be produced to the Unit before any payment will be made.

### **OTHER SUPPORTS UNDER THE SCHEME**

34. The Department of Justice and Equality will notify the other relevant Departments and agencies that a decision has been made that the applicant is eligible for benefits under the scheme once the offer has been accepted and the Acceptance Form and statutory declaration have been signed. In the case of weekly payments to be made by the Department of Social Protection, that Department may require further details to enable the payments to be calculated and paid. Similarly additional information may be required before a card providing access to medical services can be provided. The relevant Department or agency will contact the applicant to obtain the necessary information.

### **ACCESS TO MEDICAL SERVICES**

35. Applicants who are determined to be eligible under the scheme and who have accepted the offer made to them and signed the Acceptance Form and statutory declaration will be granted access to a range of public health services within the State once the necessary legislation is in place.
36. The range of public health services offered will (subject to Oireachtas approval) depend on the needs of the Applicant and may include general practitioner services, prescribed drugs and medicines (subject to the prescription charge), all in-patient public hospital services in public wards including consultants services, all out-patient public hospital services including consultants services, dental, ophthalmic and aural services and appliances.
37. Legislation is required to provide this benefit. As a result this benefit will not become available until after the legislation is enacted and commenced.

### **WEEKLY PAYMENT**

38. Applicants who are determined to be eligible under the scheme for a payment in excess of €50,000 and who have accepted the offer made to them and signed the Acceptance Form and the statutory declaration will in addition and without regard to the lump sum payments receive **weekly top up payments** of up to €100 if under 66 and up to the equivalent of the State Contributory pension - €230.30 - if

over 66. These payments are to be calculated net of other Irish State benefits, see examples below.

- A person over 66 years of age receiving only a State non contributory pension of €219 would receive an additional €11.30 a week to bring her up to the figure recommended by Judge Quirke (if over 80 years of age the difference would be an additional €1.30 per week).
- A person receiving primary State benefits in excess of the threshold recommended by Judge Quirke would receive no additional weekly payment.
- A person who has for example a private pension or income and is not receiving any State benefits would receive the full amount of €230.30 if over 66 and €100 if under 66 years of age.

39. Only primary benefits will be taken in to account when calculating what amount an applicant is receiving from the State above the minimum threshold (€100/€230.30) specified by Judge Quirke. Therefore, for example, an applicant on a non contributory pension who has living alone and rent supplement might be receiving in excess of €230.30 in State benefits but for the purpose of this scheme only her primary benefit - i.e. her non contributory pension of €219 - will be taken into account so she will receive a weekly top up of €11.30 to bring her up to €230.30. This will not affect her other benefits.

40. Weekly payments to women, under the Scheme, from the Department of Social Protection will date from 1<sup>st</sup> August 2013. These payments will not be liable for assessment for income tax purposes.

41. It should be noted that the Department of Social Protection may not be in a position to commence these payments until early 2014. Applicants will be paid the arrears dating back to 1<sup>st</sup> August 2013.

## **UK RESIDENTS**

42. Provision will be made for the additional payment of a maximum of STG£1,000 in the case of an applicant who is determined to be eligible under the scheme and who has accepted the offer made to her and signed the Acceptance Form and statutory declaration and who resides in the UK towards the cost of establishing a personal injury trust fund, if they wish to establish such a fund. Contact should be made with the Restorative Justice Implementation Unit before incurring any expenditure on the establishment of such a trust fund.

## **APPENDIX 1**

The twelve institutions covered under the Magdalen Scheme

### **• THE TEN MAGDALEN LAUNDRIES**

#### Good Shepherd Sisters

The Magdalen Laundries at

- St Mary's Cork Road, Waterford
- St Mary's New Ross, Wexford
- St Mary's Pennywell Road, Limerick
- St Mary's Sunday's Well, Cork.

#### Sisters of Our Lady of Charity

The Magdalen Laundries at

- St Mary's Refuge, High Park, Grace Park Road, Drumcondra, Dublin 9
- Monastery of Our Lady of Charity Sean McDermott Street (formerly Gloucester Street), D1;

#### Sisters of Mercy

The Magdalen Laundries at

- Magdalen Home (formerly Magdalen Asylum), 47 Forster Street, Galway
- St Patrick's Refuge, Crofton Road, Dun Laoghaire, Co. Dublin

#### Sisters of Charity

The Magdalen Laundries at

- St Mary Magdalen's, Floraville Road, Donnybrook, Dublin
- St Vincent's, St Mary's Road, Peacock Lane, Cork

### **• TWO OTHER INSTITUTIONS**

#### Sisters of Mercy

House of Mercy Training School Summerhill, Wexford (Laundry operated in the Training School)

#### Sisters of Charity

St Mary's Training Centre Stanhope Street (Laundry operated in the Training Centre)

#### **Note**

**Institutions listed in the Schedule to the Residential Institutions Redress Act 2002 are not covered by this Scheme.**



## **APPENDIX 2**

### **Template – Acceptance Form and Statutory Declaration**

#### **ACCEPTANCE FORM**

#### **EX GRATIA SCHEME FOR WOMEN WHO WERE ADMITTED TO AND WORKED IN MAGDALEN LAUNDRIES, ST MARY'S TRAINING CENTRE STANHOPE STREET AND HOUSE OF MERCY TRAINING SCHOOL SUMMERHILL, WEXFORD**

I, A.B., of *[insert address]* having made an application under the above Scheme hereby:-

43. agree to participate in the above Scheme and I accept all of the terms of the Scheme as set out in the document entitled *"Terms of Ex Gratia Scheme for Women who were admitted to and worked in Magdalen Laundries, St. Mary's Training Centre Stanhope Street and House of Mercy Training School Summerhill, Wexford."*
44. accept the offer made to me by the Restorative Justice Implementation Unit by letter dated *[insert date of letter]*.
45. waive any right of action against the State or any public or statutory body or agency arising out of my admission to and work in *[insert name of institution or institutions concerned]*.\*
46. agree to discontinue any proceedings instituted by me against the State or any public or statutory body or agency arising out of the circumstances of my application.
47. confirm that I understand and acknowledge that any false or misleading documentation or information submitted by me in relation to this application will result in a withdrawal of the offer or, if the offer has been accepted, will result in a requirement to repay all monies received by me under this Scheme and all benefits granted to me under this Scheme will be withdrawn. Further, I understand that the making a false statement in a statutory declaration is an offence.
48. acknowledge that, prior to signing this document, I have been advised by the Restorative Justice Implementation Unit in the Department of Justice and Equality of my entitlement to obtain my own legal advice as to its meaning and effect in law and I understand that it would be in my best interest to obtain such advice. *[I further acknowledge that I have received such advice before signing this document] (delete as appropriate)*

Signed: *[A.B.]*

Witnessed: *[name and address of solicitor]*

Date: *[insert]*

FORM OF STATUTORY DECLARATION

**EX GRATIA SCHEME FOR WOMEN WHO WERE ADMITTED TO  
AND WORKED IN MAGDALEN LAUNDRIES, ST MARY'S TRAINING  
CENTRE STANHOPE STREET AND HOUSE OF MERCY TRAINING  
SCHOOL SUMMERHILL, WEXFORD**

I, A.B., of *[insert address]* and being of sound mind do solemnly and sincerely  
declare that:-

- i. I have made an honest and truthful application under this Scheme;
- ii. The documents which I have submitted, and on foot of which an offer  
has been made to me under the Scheme, are true and genuine  
documents and, where copies of documents have been furnished by  
me, they are true copies of the relevant document;
- iii. The details set forth in those documents and any other material  
submitted by me in relation to this application (including the details  
on the application form submitted) are true and accurate;
- iv. I have waived any right of action against the State or any public or  
statutory body or agency arising out of my admission to and work in  
*[insert name of institution or institutions concerned]*.\*

and I make this solemn declaration conscientiously believing the same to be true  
and by virtue of the Statutory Declarations Act 1938.

*[Signed]* A.B.

*[Address]*

Declared before me.....*[name in capitals]* a [solicitor]  
[notary public] [commissioner for oaths] [peace commissioner] [person  
authorised by *[insert authorising statutory provision]*.....  
to take and receive statutory declarations] by A.B.

[who is personally known to me],

or

[who is identified to me by C.D. who is personally known to me]

or

[whose identity has been established to me before the taking of this Declaration  
by the production to me of

passport no. *[passport number]* issued on *[date of issue]* by the authorities of  
*[issuing state]*, which is an authority recognised by the Irish Government]

or

national identity card no. [*identity card number*] issued on [*date of issue*] by the authorities of [*issuing state*] [which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement]

at.....[*place of signature*] this.....day  
of.....[*date*]

.....  
[*signature of witness*]”.





**Ombudsman**

2017 Office of the Ombudsman

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