

Retention of Records Bill 2019

SURVIVOR ADVOCATE

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INTRODUCTION

I am a Survivor of institutional child abuse. I am also the co-founder of the Christine Buckley Centre which is a registered charity dedicated to the Education and Support of Survivors. Before it became a charity it was known as the Aislinn Centre and it was founded by Christine and I in 1999. I was part of the Survivor delegation who met with officials and Government representatives to establish the Commission to Inquire into Child Abuse (“the Commission”) and the Residential Institutions Redress Board (“the Board”). Both these measures were established to meet the needs of Survivors. I have spent the last 23 years working for and on behalf of Survivors. I was Chair of the Christine Buckley Centre for four years until earlier this year when I retired but I continue to play an active role in supporting survivors as part of my outreach and advocacy.

The Retention of Records Bill 2019 (hereinafter the “Bill”) is likely to have a detrimental impact on Survivor recovery as it effectively says that their pain and suffering must be buried for decades until after their deaths. This form of suppression can be harmful to the health and wellbeing of people.

The Bill is neither supportive nor educational because survivors must continue to have access to their records. At least one major overseas Government continues this type of abuse and Governments need to be reminded of the effects of the abuse and why it should not continue.

Specifically, I oppose the Bill for the following reasons

1. The Bill does not meet the needs of Survivors. It does not “address the continuing effects of child abuse.”¹
2. Survivors have a legitimate expectation that they would retain the right to access their information. The Bill removes those rights.
3. Survivors did not agree to the destruction or sealing of their records when they agreed to participate in the Commission and or when they applied to the Redress Board and their understanding of the “Acceptance and Waiver Following Award Form” (the “Waiver”) has been misrepresented.

¹ Commission to Inquire into Child Abuse Act 2000 Preamble

4. The Bill does not reflect the wishes of Survivors.

1. MEETING SURVIVOR NEEDS

I. Survivors desires for openness and education was a motivation for applying to appear before the Commission to Inquire into Child Abuse and for applying for Redress

I supported many Survivors when they appeared before the Commission and helped many others apply to the Redress Board. Survivors believed that by doing so they would help educate others and each other and they would play a role in stopping such atrocities ever happening again.

II. Impact of the Bill on the wellbeing and health of Survivors

The sense of shame amongst Survivors still exists. Such continued secrecy and feelings of shame are compounded by the sealing of records. The sealing of the records is perceived by Survivors as a repressive measure and a further loss. The decision to seal for 75 years continues the sense of shame and the secrecy associated with that is detrimental to the health and wellbeing of Survivors.

III. Records as a means to establish identity, family reunification and truth

These records are also an invaluable tool to assist Survivors establish their identity and family reunification.

They also are a means by which Survivors establish the truth about their family. Sadly, as part of the process of abuse Survivors were often given incorrect and at times derogatory information about their background and their parents. In a powerful piece before her death Christine Buckley spoke openly about the misinformation she had been given about her parents.²

Many placed in institutions were given a number which you inherited from the last person. You were also given their clothes whether they fitted you or not.

Some were given a new name which they only discovered on their journey of trying to discover their family. Thanks to Barnardos Origins & Tracing Services, approximately 50% of the cases which they dealt with have led to a reunion of survivors with their family of origin³.

Many of these cases involved reuniting sisters and brothers who were separated as children.

² <https://www.youtube.com/watch?v=FvNmrllyC838>

³ <https://www.barnardos.ie/our-services/origins-service>

The trauma suffered through uncertainty of who they are and their loss of family links, was a key aspect of the abuse and the Bill will deny Survivors and their immediate family access to the truth thus causing further harm and in this context amount to further repression and abuse.

- I think it's important that survivors' families should have access to this information as it can help them understand how their childhood impacted their lives. As a co-founder/director of Christine Buckley Centre I have heard so many survivors relay that they loved their children but were unable to show it because of the awful shame etc they carried. They have often said in the early days they did not want to discuss their past but in the latter years/months many have said they would like family to know after they die.
- If a survivor has requested they do not want their records made available to family members then I do believe this should be respected as we are all on different journeys of healing and recovery. Again I would reiterate that this empowers a survivor to make choices to suit their own needs.
- I believe information pertaining to survivors who have died should be available to family members. It's an important part of who they are and it may fill in gaps relating to the survivors life. It will be especially relevant to those children of survivors who may have to deal with transgenerational trauma and also in some cases trauma arising from parental behaviour.

2. SURVIVORS LEGITIMATE EXPECTATION TO RETAIN THE RIGHT TO ACCESS THEIR INFORMATION.

Survivors successfully petitioned the Government to ensure that the Commission and the Redress Board did allow applications to it under the Freedom of Information Act. Those who gave evidence to the Commission and who applied for Redress did so with such provisions in place. This Bill seeks to remove such rights. To remove such rights would fundamentally breach the express and implied agreement made with Survivors.

3. SURVIVORS DID NOT AGREE TO THE DESTRUCTION OR SEALING OF RECORDS AND THEIR UNDERSTANDING OF THE WAIVER OR CONFIDENTIALITY AGREEMENT

Survivors did not agree to the destruction or sealing of their records when they agreed to appear before the Commission. Nor did they agree to the destruction or sealing of their records when they applied to the Redress Board.

The Redress Board did ask applicants to sign an “Acceptance and Waiver Following Award”. However, the Waiver was presented to Survivors to sign only after the Redress Board process and signing was made a condition of them receiving the award. The Waiver contained the following statement

“Confidentiality is of the utmost importance in the Redress Scheme, and the provisions of Section 28 subsections (6) and (9) of the Act are brought to the applicant’s attention.

S.28 (6) A person shall not publish any information concerning an application or an award made under this Act that refers to any other person (including an applicant), relevant person or institution by name or which could reasonably lead to the identification of any other person (including an applicant), a relevant person or an institution referred to in an application made under this Act.

S.28 (9) A person who contravenes subsection (1) or subsection (6) shall be guilty of an offence.

Survivors were not aware of the existence of the waiver prior to their Redress application. The Waiver was a shock to many and a cause for further distress. Amongst Survivors and their legal representatives, the view was that it is best to sign it and to do so as quickly as possible. I can attest from own personal experience and engaging with hundreds of Survivors that this time was probably the most stressful aspect of the entire process. I could not fully comprehend what I was signing. The overriding feeling was the desperate wish to get the process over and done with mainly due to trauma. I also believe there was little understanding of the ramifications of signing the Waiver because of the effect of trauma. Survivors who signed the Waiver have been denied or feel they have been denied the right to talk about their experiences. The United Nations Committee on Torture raised concerns about this in July 2017. The matter had also been raised in the Dáil in 2009.⁴

I believe people were led astray during the whole process and the Waiver was one of the most damaging aspects. It would be a travesty if the Waiver was the justification for the sealing of the records. That is not to undermine or detract from the work of the Government to establish such measures. I acknowledge their role in bringing these matters to the fore.

Also, to my knowledge no directions were given for the disposal of records as part of the Redress Board’s processes.

⁴ <https://www.oireachtas.ie/en/debates/debate/dail/2009-07-07/29/>

4. THE BILL DOES NOT REFLECT THE WISHES OF SURVIVORS.

I. Survivors changing perception

Survivors views also evolve on such matters and the sealing of the records does not allow for that. Sealing of records denies Survivor's the opportunity to change their minds. There have been many events held recently where that has been very evident.

- Dublin Honours Magdalene's, an event held in June 2018, Survivors who initially did not want to appear in any press photographers perhaps still feeling the same sense of shame, were soon eager to do so when they saw the welcome and feeling of celebration. This transfer from a place of shame to heroic status (in the eyes of the public waiting to meet them) was hugely significant and made I believe a contribution to their recovery.
- The event to mark the 20th year anniversary of the State's apology held at Áras an Uachtaráin, Survivors who had initially indicated an unwillingness to be photographed were soon eager to do so and it was a really joyous moment to witness them almost being freed from the shackles of shame.
- The Survivor Stories Project, in collaboration with UCD, published earlier this year again saw Survivors who initially were reluctant to take part be encouraged to tell their stories by seeing the positive impact on those who had done so. I would welcome the continuation of such projects and that they be extended to include family members if that was the wish of survivors.

Many of those who took part in those events and the storytelling project had not told their family. Many were able to do so as a consequence of taking part.

II. Survivor Consultation

When the Bill was published the Government did not have the benefit of the Report on Consultations with Survivors of Abuse in Residential Institutions. The results of that consultation process should inform any decision about the Bill and the records.

- I think all survivors should have the right to decide for themselves if they would like to access any records pertaining to them. It's very important on our healing journey that we are empowered to make decisions and choices something denied us as children. Survivors deserve the right to own a copy of their testimony if they want it. I have no problem in having my own testimony available to the public.

- I have told the truth and it is important for my children/grandchildren and future generations to understand what happened in Ireland and how thousands survived this very harsh and shameful regime.

- I hope all of the records could be held in an interactive museum along with memorabilia such as the pliers used for making the rosary beads, samples of the type of clothing used throughout Ireland's industrial schools, poetry, books and art all by survivors. Some of these depict their own personal journeys and the pain they have endured especially any letters to and from families at the time etc. I would offer all my records to this museum.

- We cannot forget what happened to the 165,000 children that were incarcerated into 200 institutions run by church and state.