



JUSTICE FOR MAGDALENES RESEARCH

JFMR Briefing Note on the Archive of *the Inter-Departmental Committee to Establish the Facts of State Involvement with the Magdalen Laundries*

1. BACKGROUND

In August 2012, Justice for Magdalenes (JFM, now JFM Research) made its Principal Submission, *State Involvement with the Magdalene Laundries* to the *Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries* (IDC). The submission consisted of a 145-page document which was supported by 795 pages of survivor testimony and 3,707 pages of archival evidence and legislative documentation. It outlined comprehensive evidence of State complicity in the abuses experienced by girls and women in Ireland's Magdalene Laundries.¹

On 5th February 2013, the *Report of the Inter-Departmental Committee to Establish the Facts of State Involvement with the Magdalen Laundries* (IDC) was published. As expected, it concluded that there was extensive State collusion in referring women and girls to the Magdalene Laundries. However, the IDC Report completely ignores the 795 pages of survivor testimony and disregards most of the legal issues raised in JFM's principal submission. Most concerning was the Report's contention that a very small level of physical abuse took place in the laundries.² This assertion is made even as the Report gives detail of: women and girls being returned by the Gardaí, being forced to wear a cup on a string for three days and three nights, being put in a padded

¹ JFMR has donated this archival material to the Irish Research Council project *Magdalene Institutions: Recording an Archival and Oral History*, conducted at University College Dublin (UCD) and to the *Waterford Memories Project* at Waterford Institute of Technology (WIT). The archive has been digitised by WIT, which will host a copy of the digitised materials, available at the following link: <http://repository.wit.ie/JFMA/>. The original archive will be stored at *UCD Archives*, where a copy of the digitised archive will also be made available.

² IDC Report, Chapter 19, Section 33 states that '[a] large majority of the women who shared their stories with the Committee said that they had neither experienced nor seen other girls or women suffer physical abuse in the Magdalen Laundries.'

cell, food deprivation, being made to lie on the ground and kiss the floor, being made to kneel for two hours and having a wet sheet pinned to one's back.³ Chapter 19 asserts that these punishments were 'non-physical'. The survivor testimony provided to the IDC by JFM clearly outlined individual instances of physical assault and similar offences, as well as a prevailing culture of abuse in these institutions.⁴ Furthermore, in alleging a small level of physical abuse, the IDC completely ignores the fact that deprivation of liberty and forced labour are grave physical abuses in themselves.

Thankfully, the Irish public was steadfast in its support of the Magdalene women and on 19th February 2013, Taoiseach Enda Kenny honoured the wishes of the people and delivered an apology to them on behalf of the Irish State. On 26th June 2013 the Report of the Magdalene Commission under Mr Justice John Quirke which outlined a comprehensive State redress scheme was published. The government announced that it was accepting the recommendations in full.

On the surface, the women had been vindicated. Beneath however, there is the inescapable reality that the official State record on the experiences of Magdalene women is neither accurate nor respectful of what they endured.⁵ Moreover, despite agreeing to implement Judge Quirke's recommendations in full, the State has delivered a redress scheme which falls far short of what was promised.⁶

³ IDC Report, Chapter 19, Section 38

⁴ In its [Principal Submission](#), JFM pointed out to the IDC that survivors are absolutely unanimous that they were locked up against their will in the laundries and forced to work unpaid. See Section 8 (a)

⁵ In a response to the United Nations Committee against Torture, the government stated that '*[n]o factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found*' by the IDC and '*in light of facts uncovered by the McAleese Committee and in absence of any credible evidence of systematic torture or criminal abuse being committed in the Magdalene Laundries, the Irish Government does not propose to set up a specific Magdalen inquiry body*'. Letter of 8th August 2013 from Gerard Corr, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the United Nations Office at Geneva to Felice D. Gaer, Rapporteur, Office of the United Nations High Commissioner of Human Rights, Committee Against Torture. Available at: http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/CAT_C_IRL_CO_1_Add-2_14838_E.pdf

⁶ For further information see: <http://jfmresearch.com/home/restorative-justice/magdalene-restorative-justice-scheme/>

JFMR's core ethos stipulates that we 'first do no harm', which means that we will always put the needs of survivors first and act in their best interests. The notion – as alleged by the Irish State – that the IDC Report is '*comprehensive, objective*' and that it '*established the facts*'⁷ is not in keeping with that ethos. Thus, in 2015 JFMR began compiling a series of critiques of the IDC Report and our work continues in this regard.⁸

Also in 2015, we began the process of attempting to secure access to the IDC archive. In relation to the Committee's archive, the Report of the IDC states that:

*The archive of the Committee's work will include copies of such official records identified from across all Departments, State agencies and bodies (the originals remaining in their original files and locations) and certain materials generated by or for the Committee. It was decided that the archive of its work would be stored centrally at the Department of An Taoiseach. Restrictions will apply in relation to access to the archive, as is standard for material containing sensitive personal data.*⁹

For JFMR, access to the IDC archive is crucial, not least because of the IDC Report's conclusions on physical abuse, but also because the Report does not provide adequate information in relation to admissions into the Magdalene Laundries and deaths in the institutions. Unfortunately, the IDC failed to produce a breakdown by institution of how many women entered each Magdalene Laundry, even after eighteen months with unparalleled access to the records of the religious orders. The IDC also failed to provide a breakdown of deaths by institution. The exclusion of this vital information complicates our efforts to understand how the IDC calculated various figures on admissions and duration of stay, and it further makes it impossible to calculate the mortality rate for each laundry.

⁷ http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/CAT_C_IRL_Q_2_13042_E.doc

⁸ The first of which is available at the following link:
http://jfmresearch.com/wp-content/uploads/2017/03/JFMR_Critique_190215.pdf

⁹ IDC Report, Chapter 6, Summary

2. SURVIVOR TESTIMONIES SUBMITTED TO THE IDC BY JFM

In addition to our aim to ensure that the official record on the Magdalene Laundries is accurate, JFMR also has another crucial motive in seeking access to the IDC archive. Specifically, we wish to honour our commitment to survivors in relation to how their testimonies are dealt with in the IDC archive. In March 2012, JFM first began the process of gathering testimonies from survivors for submission to the IDC. In total, 22 testimonies were gathered from survivors, relatives and key informants. These testimonies were gathered under strict ethical protocols which had been developed for the Irish Research Council project *Magdalene Institutions: Recording an Oral and Archival History*. Because trust and confidentiality are key issues for Magdalene survivors, JFM ensured that informed consent was obtained from each witness, and any specific wishes regarding the handling of testimonies were carefully recorded.

JFM submitted the first tranche of these testimonies to the IDC on 28th May 2012. On 14th August 2012, we submitted further testimonies as part of our Principal Submission to the IDC. The Principal Submission consisted of a 145-page document, which was accompanied by documentary evidence contained in twelve lever arch files, comprising of two red files containing testimonies and ten green files containing supporting documentation. We supplied a total of eight copies of the Principal Submission to the IDC: one for Senator Martin McAleese and one for each member of the Committee.

In a letter¹⁰ accompanying the Principal Submission, we stated our wish that the Submission, redacted testimonies and the contents of the green lever arch files should be made available to the IDC's archive, but in a way that respects the dignity and privacy of survivors. To that end, and to facilitate a process whereby JFM could redact all materials and return them to the IDC for inclusion in its archive, we asked the IDC to return the first tranche testimonies submitted in May 2012, the red lever arch files and the Principal Submission. We also asked that each member of the IDC return their

¹⁰ Appendix 1: Cover Letter, 14-08-2012

copy of the Principal Submission. In our letter of 28th May 2012¹¹ which accompanied the first tranche of testimonies submitted to the IDC, we asked that records submitted on behalf of one survivor pertaining to her admission to a psychiatric hospital be destroyed once the IDC had completed its work. In the same letter, we reserved the right to inspect copies of any other documentation submitted by survivors to ensure that they had been sufficiently anonymised.

JFM has never received a written response from the IDC in relation to the conditions we set out in 2012, however other correspondence with Nuala Ní Mhuircheartaigh (legal adviser to the IDC) in relation to similar concerns around survivor meetings with Senator McAleese demonstrates that the IDC was very much aware of (and acknowledged) our position on survivor confidentiality.

3. TIMELINE OF EVENTS

The following timeline of events has been compiled from JFMR's own archive of materials, and other records obtained under Freedom of Information (FOI) which we applied for from February 2016 onwards.

3rd March 2015

Janet Lacey of the Restorative Justice Implementation Team at the Department of Justice and Equality (DoJ) emailed Eileen Kehoe of the Department of the Taoiseach (DoT) attaching a schedule¹² for the IDC archive.¹³

4th March 2015

Eileen Kehoe emailed Denis Breen of the DoT, forwarding Janet Lacey's email from the previous day, and noted that there seemed to be '*a lot of sensitive material*' in the IDC archive.¹⁴

¹¹ Appendix 2: Cover Letter, 28-05-2012

¹² Record 2, Folder 2. Response to FOI No. 2016/2443

¹³ Record 1, Folder 2. Response to FOI No. 2016/2443

¹⁴ Record 3, Folder 2. Response to FOI No. 2016/2443

27th April 2015

Janet Lacey emailed Denis Breen stating that Martin McAleese had been in touch with Jimmy Martin of the DoJ enquiring as to when the IDC archive would be moved to the DoT, as previously agreed. Ms Lacey asked Mr Breen if he could advise when the DoT would be in a position to receive the archive.¹⁵

27th May 2015, 16.02

Denis Breen emailed Janet Lacey and said *'the way [was] clear'* for the transfer of the IDC archive to happen, and suggested that she should phone Joseph Goode who was responsible for the DoT archives.¹⁶

27th May 2015, 19.10

Joseph Goode of the Registry, Archive and Payroll, Corporate Affairs Division of the DoT emailed Denis Breen regarding the transfer of the IDC archive from the DoJ. Mr Goode said that the DoT would accept the archive *'as the Sec Gen has already agreed'*, however he noted that the matter would cause *'difficulties'* for the DoT. Mr Goode expressed concern about the lack of space at the DoT and reasoned that it was likely that the archive would have to be *'moved straight into secure off-site storage at a cost to this Department'*. In relation to the *'difficulties'* posed by the archive, Mr Goode also noted that the DoT would have to deal with the issue of releasing documentation with no knowledge of the archive's contents or the conditions set out for each item.¹⁷

28th May 2015

Janet Lacey emailed Joseph Goode with an index to the IDC archive. She stated that the archive consisted of 25 boxes (however an earlier email suggested that there may

¹⁵ Record 4, Folder 2. Response to FOI No. 2016/2443

¹⁶ Record 6, Folder 2. Response to FOI No. 2016/2443

¹⁷ Record 5, Folder 2. Response to FOI No. 2016/2443

be 27 boxes¹⁸) and that the materials had also been scanned and could be provided on a USB key.¹⁹

26th August 2015

As we had received no communication from the IDC and we were conscious of our commitment to survivors, on 26th August 2015 JFMR decided to write to Minister Frances Fitzgerald to enquire about the return of survivor testimonies and other materials which had been submitted to the IDC.²⁰ We explained to the Minister that these materials had been submitted with strict conditions relating to the confidentiality of survivors. Thus, JFMR asked the Minister:

- *To arrange the return of the first tranche testimonies submitted in May 2012*
- *To arrange the return of the two red lever arch files*
- *To arrange the return of the eight copies of the Final Submission*
- *To arrange for the return of the psychiatric records for the survivor referred to above if they have not yet been destroyed*
- *To arrange for JFMR to inspect records submitted on behalf of survivors to ensure that they have been sufficiently redacted*

Once we received the materials, JFMR intended to redact them and submit anonymised versions for inclusion in the IDC's archive. We were not aware at this point that discussions had already begun in relation to the transfer of the archive to the DoT. From the records made available to JFMR under FOI, it appears that no communication took place between the DoJ and the DoT in relation to the IDC archive between 28th May and 4th September 2015, which was nine days after JFMR's letter to Minister Fitzgerald.

¹⁸ Record 3, Folder 2. Response to FOI No. 2016/2443

¹⁹ Record 7, Folder 2. Response to FOI No. 2016/2443

²⁰ Appendix 3: JFMR Letter to Minister Frances Fitzgerald, 26-08-15

4th September 2015, 10.27

On 4th September 2015, Janet Lacey emailed Joseph Goode stating that she can arrange for the IDC archive to be transferred to the DoT *'in the next week or two'*, and asked Mr Goode to confirm a suitable date.²¹

4th September 2015, 10.47

Joseph Goode responded to Janet Lacey requesting *'a detailed description of the files, the file numbers, a brief description of the contents of the files and guidance/advice as to whether or not the files are suitable for viewing'*. Mr Goode added that the DoT had already received requests for access to the materials. Mr Goode also requested the names of admin staff who worked on the material.²²

11th September 2015

The IDC archive is transferred from the DoJ to the DoT.²³

22nd September 2015

On 22nd September 2015, JFMR received a letter from the DoJ stating that the IDC archive had been deposited with the DoT and that our request should be directed to that Department.²⁴ The IDC archive had been in the possession of the DoJ at the time JFMR wrote to Minister Fitzgerald, and the DoJ would have been in a position to respond to JFMR's request at that time, however no response issued from the DoJ until after the archive had been moved.

19th October 2015

On 19th October 2015, JFMR wrote to Minister Fitzgerald to put on record our deep disappointment with how the IDC and the DoJ had dealt with the extremely sensitive

²¹ Record 8, Folder 2. Response to FOI No. 2016/2443

²² Record 8, Folder 2. Response to FOI No. 2016/2443

²³ Record 18, Folder 6. DoT Response to FOI No 2016/2551 (Re FOI No. 2016/2443)

²⁴ Appendix 4: DOJ Letter, 22-09-15

materials which we had submitted in good faith.²⁵ No response was received to this letter. Also on 19th October 2015, JFMR wrote to then Taoiseach, Enda Kenny. We asked the Taoiseach to return the materials to us so that we could redact them and submit anonymised versions for inclusion in the IDC archive.²⁶

25th February 2016

In light of the fact that the DoT was in possession of the IDC archive, on 25th February 2016, JFMR submitted the following FOI request (No. 2016/2443)²⁷ to the DoT for the following:

1. All records held by the DoT in relation to exhumations carried out at the former Magdalene Laundry at High Park, Drumcondra.
2. All records held by the DoT in relation to the deposit of the archive of the work of the IDC with that department.
3. All records held by the DoT in relation to the IDC's investigation of exhumations carried out at the former Magdalene Laundry at High Park, Drumcondra.
4. All records held by the DoT in relation to the IDC's investigation of the number of deaths in Magdalene Laundries.
5. All records held by the DoT in relation to the IDC's investigation of the identities and gravesites of women who died in Magdalene Laundries.
6. All records held by the DoT in relation to the IDC's investigation of women who died the in the care of the religious orders after the closure of each Magdalene Laundry.
7. All records held by the DoT in relation to the IDC's investigation of the number of women confined in each Magdalene Laundry.
8. All records held by the DoT in relation to the IDC's investigation of the level of physical, sexual and psychological abuse in each Magdalene Laundry.

²⁵ Appendix 5: JFMR Letter to Minister Frances Fitzgerald, 19-10-15

²⁶ Appendix 6: JFMR Letter to Taoiseach, 19-10-15

²⁷ Folder 1. JFMR FOI FOI No. 2016/2443 Feb 2016

9. All records held by the DoT in relation to the IDC's investigation of the finances and accounts for each Magdalene Laundry.

7th March 2016

On 7th March 2016, Eileen Kehoe of the DoT wrote to Nuala Ní Mhuircheartaigh (former legal adviser to the IDC) in relation to JFMR's FOI request (No. 2016/2443) of 25th February 2016. Ms Kehoe stated that she had spoken to Martin McAleese about the matter and asked if she could also speak to Ms Ní Muircheartaigh.²⁸ No record of either conversation has been supplied to JFMR, despite a request for all notes or memos in relation to meetings or telephone calls.

29th March 2016

On 29th March 2016, the DoT issued a response to FOI No. 2016/2443. A record relating to Request No. 1 was refused on the grounds that it was a record created for a meeting of the Government. Eight records were released (or part released) under Request No. 2, while Requests No. 3-9 were refused because they *'are not held nor within the control of [the DoT] for the purposes of the FOI Act'*. This response is deeply frustrating; as pointed out above, had Minister Fitzgerald responded to JFMR's letter before the transfer of the IDC archive, this situation could possibly have been avoided.

6th April 2016

On 6th April 2016, the DoT wrote to JFMR and declined our request of 19th October 2015 to inspect and redact the materials submitted by JFM in 2012, as *'[r]emoving or replacing any of the material would in effect amount to dismantling the Archive and it would not therefore be a true reflection of the Committee's work'*. The letter also noted that it was *'of paramount importance'* to the DoT *'never to take any actions that would cause any of the Magdalen women to have doubts or uncertainties about the confidentiality of their engagement with the Committee and of the information provided'*. This logic completely ignores the fact that the survivors in question engaged

²⁸ Record 3, Folder 6. DoT Response to FOI No 2016/2551 (Re FOI No. 2016/2443)

with the IDC *through JFM*, and most of the women were quite insistent about this.²⁹ The letter from the DoT clarified that only one copy of the materials supplied by JFM had been retained in the IDC archive, and that duplicates had been shredded, along with the psychiatric record referred to above. Finally, the letter also said that consultations may be necessary in order for the IDC archive to be made available.

25th April 2016

On 25th April 2016, JFMR submitted a detailed request to the DoT for an internal review of the decisions on FOI No. 2016/2443.³⁰

17th May 2016

On 17th May 2016, the DoT responded to JFMR's request for an internal review of the decisions on FOI No. 2016/2443. All decisions were upheld, and in relation to the IDC archive, we were informed that the matter would be reviewed in five years.³¹

6th July 2016

On 6th July 2016, JFMR submitted FOI requests³² to both the DoT and the DoJ (FOI No. 156/304/2016) for all records held regarding JFMR's FOI request No. 2016/2443 of February 2016.

Also on 6th July 2016, JFMR also submitted two additional FOI requests³³ to the DoJ for the following:

²⁹ For example, in a meeting between survivors and Senator McAleese in June 2012, although the Senator wanted to meet the women alone, many survivors insisted that a JFM representative remain in the room. Moreover, another survivor was extremely distressed when the legal adviser to the IDC contacted her directly in February 2013. The survivor had given the legal adviser her contact details in relation to a different matter, and she was very upset that an attempt had been made to bypass JFM, who she had authorised to speak on her behalf.

³⁰ Folder 3. Request for Internal Review of FOI No. 2016/2443/April 2016

³¹ Folder 4. Response to Internal Review of FOI No. 2016/2443

³² Folder 5. JFMR FOI Requests July 2016

³³ Folder 5. JFMR FOI Requests July 2016

Request No. 156/303/2016 (IDC archive)

- All records held by the DoJ in relation to the deposit of the archive of the work of the Inter- Departmental Committee on the Magdalene Laundries (IDC) with the Department of the Taoiseach.
- All records held by the DoJ in relation to a request from JFM Research dated 26th August 2015 regarding the return of materials submitted to the IDC.

Request No. 156/302/2016 (parliamentary questions)

- All records held by the DoJ in relation to Dáil Question Numbers 512 to 519, 524, 525, 526 and 563 addressed to the Minister for Justice and Equality on Tuesday, 3rd November, 2015.

JFMR decided to submit FOI request No. 156/302/2016 regarding the parliamentary questions of 3rd November 2015, because the questions themselves had been asked with the purpose of ascertaining more detailed (yet basic) information than what was supplied in the IDC Report. For example, as discussed above, the IDC report provides a breakdown of entries into the Magdalene Laundries by decade but not by institution. Moreover, the IDC report does not provide a breakdown of the number of deaths which occurred in each laundry, which makes it impossible to calculate mortality rates. However, the Minister's response was of little assistance, and thus JFMR sought to gain an insight into how the Minister arrived at this position.

4th August 2016

On 4th August 2016, the DoT issued a response to JFMR's FOI request No FOI/2016/2551 of July 2016.³⁴

9th August 2016

On 9th August 2016, the DoJ issued the following responses to JFMR's FOI requests of July 2016:

³⁴ Folder 6. DoT Response to FOI No 2016/2551 (Re FOI No. 2016/2443)

Request No. 156/302/2016 (parliamentary questions)³⁵

The only record released under this request was a copy of the parliamentary questions of 3rd November 2015 (though these had been supplied by JFMR as part of the original request). The DoJ alleged that no other records exist in relation to the parliamentary questions. Thus, we have no insight as to how the Minister arrived at her position in response to the parliamentary questions, and we are still awaiting a more comprehensive breakdown of the figures supplied in the IDC report.

Request No. 156/303/2016 (IDC archive)³⁶

Four of the records relate to a small number of emails between the DoJ and the DoT were released, and the remaining five records are correspondence (including acknowledgements) between JFMR and the DoJ.

Request No. 156/304/2016 (Re FOI No. 2016/2443 of February 2016)³⁷

This request was refused as the DoJ alleges there were no records at the DoJ in relation to FOI request No. 2016/2443 which was made to the DoT.

14th November 2016

On 14th November 2016, JFMR submitted an appeal to the Information Commissioner regarding FOI Request No. 2016/2443 of February 2016.³⁸ To date, no response has been received from the Information Commissioner.

³⁵ Folder 7. DoJ Response to FOI No 156/302/2016 (Re PQs)

³⁶ Folder 8. DoJ Response to FOI No 156/303/2016 (Re IDC Archive)

³⁷ Folder 9. DoJ Response to FOI No 156/304/2016 (Re FOI No. 2016/2443)

³⁸ Unfortunately, JFMR does not have a copy of this request for an appeal, however our bank records indicate that the cheque for €50 in respect of the Information Commissioner's fee was lodged.