

**An Taoiseach, Leo Varadkar TD,  
c/o Mr Philip O'Callaghan (Special Adviser),  
Department of the Taoiseach,  
Government Buildings,  
Upper Merrion Street,  
Dublin 2.**

**16 February 2018**

**Re: Implementation of the Magdalene Laundries Restorative Justice Scheme**

Dear Taoiseach,

We write on behalf of Justice for Magdalenes Research to bring your attention to the failures of the Department of Justice and Equality in the implementation of the Government's Magdalene Laundries Restorative Justice Scheme. We believe that your intervention would be decisive in securing the Scheme's full implementation and in that regard we would like to request a meeting with you at your earliest convenience.

You will recall that on 19 February 2013, following the publication of the McAleese Report into the State's role in the Magdalene Laundries, your predecessor, Enda Kenny TD, made an emotional apology in the Dáil on behalf of the State to women who had been exploited in the Magdalen Laundries. The then-Taoiseach asked Mr Justice John Quirke to recommend a scheme of redress for the women concerned.

In his subsequent report, Judge Quirke recommended that Magdalene women be provided, inter alia, with access to a full range of health services, the state pension (contributory), and compensatory payments. These benefits were to be accessible by way of a Restorative Justice Scheme administered by the Department of Justice and Equality which came into operation in late 2013.

Unfortunately, the Department has failed to implement the Scheme in the manner in which the Government intended. The Magdalene Women have been denied the HAA card that Judge Quirke recommended in the Women Resident in Certain Institutions Act 2015 which the Department drafted and presented. Their pensions have not been back-dated to the date of their retirement. No mechanism whereby they can make contact with each other has been established, nor any monument to their suffering constructed. Women with capacity issues have been required to become wards of court in order to obtain redress.

Worst of all, there remains, even to this day, a small number of Magdalene Women who have been refused redress under the Scheme entirely. These are the women who worked in the Laundries as children while placed in industrial schools in or near the Laundry buildings. The experience of these women was the same or worse than the adult women, yet they have been excluded from the Scheme by the Department on the basis that they were technically 'admitted to' the industrial school, not the Magdalene Laundry.

The women affected by this grave injustice have complained about their exclusion from the Scheme to the Ombudsman. Under the terms of the Scheme, the

Ombudsman is to act as an appeal body. On 23 November 2017, the Office of the Ombudsman published a report entitled “*Opportunity Lost: An investigation by the Ombudsman into the administration of the Magdalen Restorative Justice Scheme*”. In that report, the Ombudsman harshly criticised the Department’s administration of the Scheme. He was scathing of the Department’s treatment of women with capacity issues and of the admission process generally. On the subject of the exclusion of the women who worked in the Laundries as children, he found:

*[T]he 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 [...]*

*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.*

*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.* [emphasis added].

On the basis of the findings of his investigation, the Ombudsman recommended reform of the application process and more support for women with capacity issues. With regard to the women excluded from the Scheme, he expressly recommended:

*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. A report on the outcome of reconsideration should be furnished to the Ombudsman within 3 months at the latest (that being, February 2018).*

On 31 January 2018, the Ombudsman appeared before the Joint Oireachtas Committee on Justice. He told the Committee of his exasperation with the refusal of the officials in the implementation unit in the Department of Justice and Equality to engage with his recommendations, saying:

*“I’m before you today in very unusual circumstances for me. I’ve been ombudsman for 10 years, 4 in Ireland, 6 previously. During that time I have never reached the point where the department has absolutely categorically prior to publication of my report refused to engage with the process around accepting and implementing my recommendations. I am very, very disappointed.”*

The Ombudsman noted that less than half of the €54 million originally allocated for redress has been paid out, and that compensating the women improperly excluded from the Scheme would cost less than €5 million. The women in question have, after all, already been identified, and the Scheme has already been open for five years.

Responding to the Ombudsman’s statement, Assistant Secretary General Jimmy Martin said that in order to have been ‘admitted to’ a Magdalene Laundry a woman would have to have been resident in the Laundry for at least 24 hours. He said that such women would have been eligible for redress under the Residential Institutions Redress Scheme, ignoring the fact that Judge Quirke expressly recommended that this should not be a consideration and that the Government accepted this recommendation. He insisted that the women exploited as children in the Laundries could not be admitted to Scheme unless its terms were amended by the Government.

The current situation, therefore, is that some of the most vulnerable Magdalene Women – those exploited as children – are being denied redress. The recommendations of the Ombudsman that they be included in the State’s reconciliatory response are being ignored. You will naturally appreciate, we feel sure, the level of hurt and shame that this situation causes the women concerned.

The Department’s interpretation of the Scheme cannot be correct. It is plainly at odds with the terms of the Scheme and with the Government’s purpose in establishing the Scheme in the first place. In our view, the word ‘admitted’ simply means ‘allowed to enter.’ Clearly, the women in question were not only allowed to enter the Magdalen laundries where they worked but were in fact forced to enter them as children against

their will by the people who were supposed to be protecting them. The use of the dual criteria 'admitted to and worked in' in the Scheme was adopted only to prevent Laundry staff making claims.

It is very clear from the proceedings of the Joint Oireachtas Committee and from diverse public statements made thereafter by elected representatives of the People that politicians of all parties agree that the refusal of the Department of Justice and Equality fully to implement the Restorative Justice Scheme is grotesquely unjust and that the recommendations of the Ombudsman must be implemented in full. Yet somehow a resolution eludes us.

Again, we believe that your intervention on the side of the Magdalene Women would be decisive in securing the redress they were promised. If it would be useful, we will be very happy to meet with you at your earliest convenience to brief you further.

Most of the Magdalene Women are now in the twilight of their lives. With every passing week their numbers are fewer. Many go to their graves with a sense of bitterness toward their country at its betrayal of Enda Kenny's promise. There is still time to renew the State's commitment to the process of reconciliation. But time is running out.

Yours sincerely,

Prof Katherine O'Donnell;  
Mari Steed;  
Prof James Smith;  
Claire McGettrick;  
Dr Maeve O'Rourke; and  
Colin Smith BL.

On behalf of JFM Research