



Maeve O'Rourke

Redress for Women Resident in Certain Institutions (Amendment) Bill 2019

JFM Research <justiceformagdalenes@gmail.com>

24 June 2019 at 22:48

To: catherine.ardagh@oireachtas.ie, ivana.bacik@oireachtas.ie, frances.black@oireachtas.ie, victor.boyhan@oireachtas.ie, colm.burke@oireachtas.ie, paddy.burke@oireachtas.ie, ray.butler@oireachtas.ie, jerry.buttimer@oireachtas.ie, maria.byrne@oireachtas.ie, lorraine.cliffordlee@oireachtas.ie, paudie.coffey@oireachtas.ie, paul.coghlan@oireachtas.ie, martin.conway@oireachtas.ie, rose.conwaywalsh@oireachtas.ie, Senator Gerard Craughwell <gerard.craughwell@oireachtas.ie>, paul.daly@oireachtas.ie, mark.daly@oireachtas.ie, aidan.davitt@oireachtas.ie, maire.devine@oireachtas.ie, john.dolan@oireachtas.ie, frank.feighan@oireachtas.ie, joan.freeman@oireachtas.ie, robbie.gallagher@oireachtas.ie, paul.gavan@oireachtas.ie, alicemary.higgins@oireachtas.ie, maura.hopkins@oireachtas.ie, gerry.horkan@oireachtas.ie, kevin.humphreys@oireachtas.ie, colette.kelleher@oireachtas.ie, denis.landy@oireachtas.ie, billy.lawless@oireachtas.ie, terry.leyden@oireachtas.ie, tim.lombard@oireachtas.ie, padraig.maclochlainn@oireachtas.ie, michael.mcdowell@oireachtas.ie, gabrielle.mcfadden@oireachtas.ie, michelle.mulherin@oireachtas.ie, ronan.mullen@oireachtas.ie, jennifer.murnaneconnor@oireachtas.ie, gerald.nash@oireachtas.ie, Catherine Noone <catherine.noone@oireachtas.ie>, david.norris@oireachtas.ie, padraig.oceidigh@oireachtas.ie, trevor.oclochartaigh@oireachtas.ie, brian.odomhnaill@oireachtas.ie, niall.odonnghaile@oireachtas.ie, aodhan.oriordain@oireachtas.ie, kieran.odonnell@oireachtas.ie, marielouise.odonnell@oireachtas.ie, denis.odonovan@oireachtas.ie, john.omahony@oireachtas.ie, joe.oreilly@oireachtas.ie, ned.osullivan@oireachtas.ie, grace.osullivan@oireachtas.ie, James Reilly <james.reilly@oireachtas.ie>, neale.richmond@oireachtas.ie, lynn.ruane@oireachtas.ie, keith.swanick@oireachtas.ie, fintan.warfield@oireachtas.ie, diarmuid.wilson@oireachtas.ie

Cc: James Smith, Maeve O'Rourke, Katherine O'Donnell

Claire McGettrick

Mari Steed

Dear Senators,

Tomorrow evening at 7pm the Government will put before the Seanad (at second stage) the Redress for Women Resident in Certain Institutions (Amendment) Bill 2019.

We in Justice for Magdalenes Research (JFMR) are writing to express our concerns about the serious shortcomings in the health and social care provided to Magdalene survivors to date and to suggest that the Seanad use this legislative opportunity to fundamentally amend the *Redress for Women Resident in Certain Institutions (RWRCI) Act 2015* (in more ways than the Government proposes) so that the health and social care recommended by Judge John Quirke in 2013 is actually provided to all survivors under the Magdalene ex gratia scheme.

The Government's Bill simply seeks to add women who worked as children in Magdalene Laundries while registered on the rolls of adjacent institutions to the existing health and social care aspects of the Magdalene ex gratia scheme. However, we in JFMR have repeatedly pointed out - and we have been joined by healthcare professionals in so doing - that the care services currently provided under the *RWRCI Act 2015* are not compliant with Judge Quirke's recommendations.

We have raised the problem of healthcare provision to Magdalene survivors numerous times since the *RWRCI Act 2015* was enacted, including in writing to Ministers for Justice and Department of Justice officials on 27 July 2016, 11 January 2018 and 26 April 2019; in writing to the Ombudsman on 16 February 2017 and 6 June 2019; in writing to the Taoiseach on 16 February 2018; and to the Government through our written submissions to several UN human rights bodies, including CESCR in 2015, CEDAW in 2017, and CAT in 2017.

On 25th February 2016 JFMR wrote to the National Director of Primary Care at the HSE to ask for written clarification of all ways in which Magdalene survivors' entitlements under the *RWRCI Act* card differ from those already available under the standard medical card. We received an acknowledgement letter on 15th March 2016 but have received no substantive response to date.

It is essential to note that Magdalene survivors signed away all rights of action against the State in good faith,

expecting and being promised that they would receive all elements of Mr Justice Quirke's promised scheme. The failure to provide them with the same suite of health and social care services as HAA cardholders are entitled to is, in our view, a gross breach of trust and further abuse of a small group of older women who experienced massive human rights violations in the past. We call on you to please put this matter right.

Background: Judge Quirke's recommendations

In May 2013, Mr Justice John Quirke delivered a report to government recommending the contents of an ex gratia restorative justice scheme for Magdalene survivors (the 'Magdalen Commission report'). This report was published and sent to all survivors, and in June 2013 the government agreed in a press statement and on the Dáil record to accept all of Mr Justice Quirke's recommendations "in full" (see Department of Justice, Press Release, 26 June 2013 <http://www.justice.ie/en/JELR/Pages/PR13000256>; Statement by Minister for Justice, Alan Shatter, TD, in response to PQ from Eamonn Maloney, TD, on 27 June 2013 <https://www.kildarestreet.com/debates/?id=2013-06-27a.384&s>)

Mr Justice Quirke recommended that 'Magdalen women should have access to the full range of services currently enjoyed by holders of the *Health (Amendment) Act 1996* Card ("the HAA card")' (see page 7 of the Magdalen Commission report).

The HAA card was created in 1996 for those who contracted Hepatitis C through State-provided blood products. It provides numerous private as well as public healthcare services and wide-ranging access to medicines, drugs and appliances. Mr Justice Quirke included a guide to the full range of services available to HAA cardholders at Appendix G of his report. His first recommendation states: "Details of the range, extent and diversity of the community services to be provided to the Magdalen women are described within Appendix G".

We attach to this email (1) the Guide to services for Magdalene survivors under the RWRCI Act 2015, and (2) Appendix G to Mr Justice Quirke's 'Magdalen Commission' report, which explains the services that HAA cardholders receive and that Mr Justice Quirke recommended for Magdalene survivors.

What are the differences between the service provided at present under the RWRCI Act 2015 and Judge Quirke's recommendations?

1. Dental, ophthalmic and aural services

In August 2015, several dentists confirmed publicly that, instead of receiving HAA card standard services, as recommended by Judge Quirke and agreed by the government in 2013, Magdalene survivors have been given a card that entitles them only to the 'limited and incomplete treatment...for most medical card holders.' The dentists called on the Council of the Irish Dental Association 'to publicly disassociate itself from this act by the Government and to speak out publicly on behalf of its members who do not accept the injustice we are expected to support.' (see Letter to the Editor, Journal of the Irish Dental Association, Aug/Sept 2015: Vol 61(4), p 164)

Section 2(1)(e) of the *RWRCI Act 2015* restricts the dental, ophthalmic and aural services which Magdalene survivors receive to those "specified in section 67 of the Act of 1970" (which is the ordinary medical card standard).

On the other hand, the *Health (Amendment) Act 1996*, which established the HAA card, did not limit dental, ophthalmic and aural services in this way. Appendix G of Mr Justice Quirke's report states that HAA cardholders may visit any private practitioner and are freely entitled to any medically necessary treatment or appliance. When referred for hospital ophthalmic or aural treatment they are entitled to an appointment within 2 weeks.

2. Psychotherapy for survivors and access to counselling and psychotherapy for family members

The *RWRCI Act 2015* provides for Magdalene survivors to receive counselling, following a referral by a registered medical practitioner. The government made clear during parliamentary debates on the Bill that counselling would not be available to any family members of Magdalene survivors.

By contrast, according to Appendix G of Mr Justice Quirke's report, partners and children (and under certain circumstances, other close family members) of HAA cardholders are entitled to counselling and psychotherapy, regardless of whether or not they have contracted Hepatitis C. In addition, HAA cardholders may access counselling and psychotherapy without a referral from a GP or consultant

3. Complementary therapies (massage, reflexology, acupuncture, aromatherapy and hydrotherapy)

HAA cardholders are entitled to complementary therapies (massage, reflexology, acupuncture, aromatherapy and hydrotherapy) and Mr Justice Quirke recommended HAA-standard healthcare for Magdalene survivors under the

scheme.

During the parliamentary debate on the 2015 Bill, the Minister for Justice, Frances Fitzgerald TD, stated that the full range of complementary therapies available to HAA cardholders would not be provided to Magdalene survivors under the RWRCI Act 2015 medical card.

The Minister stated: “the Minister for Health has serious reservations about such therapies being provided and funded through the health service...In principle, I am committed to finding a way to respond and set up a scheme under which we would provide some funding, albeit limited, to provide such therapies”. (Statement by Minister for Justice, Frances Fitzgerald TD, Redress for Women Resident in Certain Institutions Bill 2014: Report Stage (Resumed), Dail Debates (17 February 2015),

<https://www.kildarestreet.com/debates/?id=2015-02-17a.445&s=magdalen+quirke+fitzgerald+counselling+relatives#g447>

The Department of Justice has not established a fund for Magdalene survivors to obtain complementary therapies, despite such therapies being of obvious benefit to people experiencing Post-Traumatic Stress Disorder.

4. Home care

You are no doubt aware of the major deficiencies in home care provision for older people nationwide. It is of major concern to us that survivors of institutional abuse in Magdalene Laundries should not be re-institutionalised unnecessarily because home care is not available to them. It would be helpful if Senators could inquire into the extent to which Magdalene survivors have been requesting home care services under the existing *RWRCI Act* card and what the waiting times are, and what level of care has been provided compared to what women or their families have requested. It may be that this Bill needs to make more specific provision for home care for Magdalene survivors.

5. Health and community care for survivors abroad

We in JFMR understand that the Department of Justice and/or the Department of Health have begun to operate an administrative ad hoc scheme for reimbursing healthcare costs of survivors living abroad. However, many women are not in a position to pay out-of-pocket for medical expenses. We believe it is essential that the Government changes its approach to pay up-front for health and social care for survivors living abroad.

Kind regards,

Claire McGettrick, JFMR Coordinating Committee
Mari Steed, JFMR Coordinating Committee
Dr Maeve O'Rourke, Irish Centre for Human Rights, NUI Galway
Dr Katherine O'Donnell, UCD School of Philosophy
Dr James M Smith, English Department, Boston College

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JFM Research
Crocknahattina
Baillieborough
Co. Cavan

www.jfmresearch.com
info@jfmresearch.com

2 attachments

 **RWRCI Act card guide.pdf**
357K

 **Appendix G to THE MAGDALEN COMMISSION REPORT.pdf**
219K