



Irish Council for  
Civil Liberties



sage

Support & Advocacy Service



Mr Charlie Flanagan TD, Minister for Justice and Equality  
Department of Justice and Equality  
51 St Stephen's Green  
Dublin 2  
D02 HK52

By post and by email to [charlie.flanagan@oireachtas.ie](mailto:charlie.flanagan@oireachtas.ie), [info@justice.ie](mailto:info@justice.ie)  
Cc: Peter Tyndall, Ombudsman  
Please direct return correspondence to [maeve.orourke@justice.ie](mailto:maeve.orourke@justice.ie)

11 January 2018

Dear Minister,

We write regarding your Department's administration of the Magdalene 'restorative justice' scheme. The report of the Ombudsman, 'Opportunity Lost', confirmed what we have been highlighting for several years: that Magdalene survivors have been treated unfairly under the scheme and that the scheme has operated in a manner unbecoming of the sentiments expressed by the former Taoiseach, on behalf of the State, in his apology to the women on 19 February 2013.

All of our organisations have advocated for several years on behalf of Magdalene survivors, including in dialogue with your Department, to elected representatives and before United Nations human rights treaty bodies. A number of us are in regular contact with women who were incarcerated in Magdalene Laundries and who have been unable to obtain the redress recommended by Mr Justice John Quirke and promised by the government when it publicly accepted all of Mr Justice Quirke's recommendations 'in full' in 2013.

We are asking you to use your authority as Minister to immediately remedy a number of serious failings in the scheme's administration, which include and go beyond the matters addressed in the Ombudsman's report. We write having considered your response to our statement of 23 November 2017, which your Private Secretary sent by email to the Irish Council for Civil Liberties on 13 December 2017. A full explanation of our requests is contained in the attached memorandum. In summary they are as follows:

First, we request that you fund and support a consultation of all of the women who applied to the scheme so that they can meet each other and discuss the question of memorialisation. As you may be aware, former Magdalene sites in Dublin (Sean McDermott Street and Donnybrook) and Cork (Sunday's Well) are currently subject to plans for redevelopment. Yet, the promise made under the scheme to support the

women to meet each other and to consult on memorialisation has not been met. The women are therefore being disempowered from participating in the planning processes and silenced once again.

Second, we request that you implement all of the Ombudsman's recommendations, and we urge you to take a number of specific steps in so doing:

- a) We request that you ensure that all women who are still living in the custody or care of religious congregations, and all women who have been deemed to lack capacity to manage their financial affairs (whether or not they have yet been made a ward of court), are provided with access to independent advocacy services through the scheme.
- b) We request that you ensure that the Department writes to *all* women who received a payment under the scheme reflecting a shorter duration of stay than stated in their original application, to inform them of their right to have their application re-assessed and of the forms of evidence that the Department will consider and how such evidence may be obtained.
- c) As to the Ombudsman's recommendation regarding women who were forced to work as children in Magdalene institutions while registered on the rolls of other institutions, we urge you to explicitly accept this recommendation.
- d) Regarding the development of guidance for future schemes, we insist that this process must focus on the experiences and voices of Magdalene survivors and others who have attempted to access governmental 'redress' or 'restorative justice' schemes. We request that you announce a public consultation which will support those affected to make their views known.

Third, we request that you rectify the health and community care, pensions and advertising aspects of the scheme:

- a) We request that you ensure that the health and community care provision under the scheme is equivalent to the standard of care provided to HAA cardholders. This recommendation by Judge Quirke his very first recommendation has not been complied with to date.
- b) We request that you take the necessary steps to backdate the women's pension payments under the scheme to the date of retirement age, rather than to the scheme's start date as at present.
- c) We request that you send a revised information note regarding the scheme to all embassies and consulates and that you ask them to periodically send this information to any and all sources of immigrant support and information abroad.

Bearing in mind that the originally estimated cost of the scheme was €58m, and that €25.7m has been spent to date, we sincerely hope that you will see fit to take the measures we outline. It is important to recognise that Magdalene survivors signed waivers of all of their rights of action against the State in return for the scheme recommended by Judge Quirke.

Women who spent months, years and even decades incarcerated and forced into unpaid labour in Magdalene Laundries have waited too long to be treated with the respect and dignity that they are due. Those of us in regular contact with survivors know that the delays and gaps in the scheme's implementation are causing severe distress to many. Each death of a survivor is a particularly painful

reminder of the shortcomings in how we as a society have attempted to atone for the injustices perpetrated.

We look forward to your written responses and we would welcome the opportunity to meet with you and your officials to discuss these urgent issues further.

Yours sincerely,



---

Liam Herrick  
Executive Director  
Irish Council for Civil Liberties



---

Orla O'Connor  
Director  
National Women's Council of Ireland



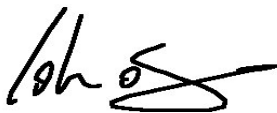
---

Claire McGettrick  
Advisory Committee  
Justice for Magdalenes Research



---

Mary Condell  
Legal Advisor  
Sage Support and Advocacy Service



---

Colm O'Gorman  
Executive Director  
Amnesty International Ireland



Irish Council for  
Civil Liberties



sage

Support & Advocacy Service



## MEMORANDUM

### Requests of the Minister for Justice regarding the Magdalene scheme

11 January 2018

#### 1. Funding and support for the women to meet and consult on memorialisation

We are asking the Minister to immediately fund and support a consultation with all women who applied to the Magdalene scheme so that they can meet each other and discuss the issue of memorialisation. Justice for Magdalenes Research (JFMR) wrote to Minister Frances Fitzgerald in April 2017 and to the Taoiseach in May 2017 with this request and with the information that both Dublin City Council and Respond!, which manages housing units at the former Magdalene site in High Park, Drumcondra, are willing to participate in the consultative process. Dublin City Councillors have since agreed to contribute €50,000 towards such the consultation process. We are requesting that the Minister commits to funding the remainder and to contacting all of the women who applied to the scheme to inform them of the consultation process. It is important to note that the Department holds the contact details of the women who have applied the scheme, and it was the women's expectation that they would be contacted regarding the aspects of the Dedicated Unit promised by Judge Quirke.

The following aspects of the 'Dedicated Unit' recommended by Mr Justice Quirke have not been implemented:

- (a) Practical, and if necessary professional, assistance to enable those women who wish to do so to meet with those members of the Religious Orders who have similar wishes to meet and interact;
- (b) similar practical assistance to meet and interact with other Magdalen women; and
- (c) the acquisition, maintenance and administration of any garden, museum or other form of memorial which the Scheme's administrator, after consultation with an advisory body or committee, has decided to construct or establish.

While the Department is failing to implement the above aspects of the scheme, several former Magdalene buildings and sites have been the subject of planning permission applications and plans for commercial sale. Because the Department has not supported the women to meet each other or to consult on memorialisation, the women have been disempowered from participating in the planning application processes and their experiences in the institutions and wishes regarding memorialisation have been ignored.

---

<sup>1</sup> Magdalen Commission Report, pp 11-12.

Last month, Dublin City Council announced its intention to sell the former Magdalene building on Sean McDermott Street to a budget hotel chain mostly staffed by women.<sup>2</sup> An archaeological assessment of the site carried out for Dublin City Council in 2017 states that 'it is impossible to state with certainty that there are no burials located within the site under assessment'.<sup>3</sup> Also last month, Cork City Council announced its intention to grant planning permission for the partial demolition and redevelopment of the former Magdalene buildings at Sunday's Well, Cork. JFMR made a submission to Cork City Council earlier this year informing it that not all of the women buried at the site are identified.<sup>4</sup> In 2016 a commercial property developer sought planning permission (which appears not yet to have been granted) to demolish the former Magdalene Laundry building in Donnybrook, Dublin 4. Recent video footage of the interior of the Donnybrook Magdalene Laundry building<sup>5</sup> suggests that a large volume of paperwork remains inside, alongside artefacts from its time as a Magdalene Laundry before the Religious Sisters of Charity sold the building in 1992. The archaeological assessment accompanying the planning permission application cautions that women's remains may be buried, unmarked, on the site. It further notes the heritage significance of the laundry site, including the building's internal features and machinery relevant to its past use.<sup>6</sup>

Both Cork City Council and the elected Councillors of Dublin City Council have recognised the need for consultation with Magdalene survivors prior to the development of former Magdalene sites. In its decision of 13 December 2017 regarding the Sunday's Well site, Cork City Council states that planning permission depends (inter alia) on receipt of proposals for the 'interpretation and memorialisation of the site...in consultation with relevant representative groups associated with the history of the Good Shepherd Convent'. In March 2017, Dublin City Councillors agreed a motion requesting 'that Dublin City Council commits to convening and consulting with a committee of Magdalene survivors, with a view to establishing a memorial at the site of the council owned Sean McDermott Street convent, as recommended by the Quirke Commission and promised by the Government as part of the Magdalene restorative justice scheme.'<sup>7</sup>

---

<sup>2</sup> Patsy McGarry, 'Meeting to be held over sale of Magdalene laundry to hotel group' *The Irish Times* (15 December 2017), <https://www.irishtimes.com/news/social-affairs/religion-and-beliefs/meeting-to-be-held-over-sale-of-magdalene-laundry-to-hotel-group-1.3328679>

<sup>3</sup> David Bayley and Faith Bailey, 'Archaeological Assessment at Sean MacDermott Street and Railway Street, Dublin 1, July 2017, <file:///C:/Users/maeve.orourke/Downloads/20171206122517507.pdf>

<sup>4</sup> Justice for Magdalenes Research, 'Submission to Cork City Council regarding the proposed property development at the former Magdalene Laundry at Sundays Well', 20 March 2017, <http://jfmresearch.com/wp-content/uploads/2017/06/JFMR-Submission-to-Cork-City-Council-Re-Sundays-Well.pdf>

<sup>5</sup> <https://www.youtube.com/watch?v=YETH7W0yCBg&t=165s>

<sup>6</sup> Faith Bailey & Brenda Fuller, Irish Archaeological Consultancy Ltd., *Archaeological Assessment at The Crescent, Donnybrook, Dublin 4, on behalf of Pembroke Partnership* (July 2016), Email: [archaeology@iac.ie](mailto:archaeology@iac.ie)

<sup>7</sup> <https://socialdemocrats.ie/2017/03/07/cllr-gary-gannon-calls-halt-magdalene-laundry-redevelopment-seanmcdermott-st/>

## 2. Implementation of the Ombudsman's Recommendations

### a) Women deemed to lack capacity: the need for independent advocates

We welcome the Minister's intention to consider 'whether any further measures can be taken' in respect of women deemed to lack capacity to manage their financial affairs. To this end, we request that the Department provides access under the scheme to independent advocates for (i) all women still in the care of the religious congregations *and* (ii) all women deemed to lack capacity to manage their financial affairs.

JFMR has been requesting for several years that the Department ensure that independent advocacy services are provided to all Magdalene survivors who still live in the care of the religious congregations, including women deemed to lack capacity to manage their financial affairs (whether or not they have been made wards of court already). The Ombudsman's report notes that women deemed to lack capacity were 'effectively forgotten' by the Department, and this is indeed the experience of all of our organisations. The most vulnerable survivors of the Magdalene Laundries, while being deprived of the financial aspects of the scheme, were also denied any other form of assistance under the scheme to make their lives more comfortable.

Independent advocacy is of the utmost importance to ensuring that the women's will and preferences are known and acted upon. Many if not all of the women still living in the care of the religious congregations have few family members or friends to assist them in using their entitlements under the scheme in the way that they wish, and generally to assist them in making their wishes and needs known. We are aware that a number of Magdalene survivors have been living in a nursing home which was found on inspection by HIQA earlier last year to have no daily activities except for morning mass, and to have insufficient staff to ensure safe, appropriate and consistent levels of care.

### b) Women whose 'duration of stay' was disputed: need to write to all women affected

We welcome the Minister's intention to review all cases where there has been a dispute over length of stay. The Ombudsman's report describes 'a flawed administrative process', whereby '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'. Newspaper reports from 2014<sup>8</sup> and 2015<sup>9</sup> attest to the powerlessness that many women felt in the face of the Department's flawed practice, leading to the women's acceptance of financial payments reflecting less time than they spent in the institutions.

The Minister must ensure that the Department writes to *all* women who stated a duration of stay in their application which was longer than that reflected in their eventual payment, to advise them of their right to have their application re-assessed. The Department should inform the women of the various forms of evidence that the Department will consider and how the women may go about obtaining such evidence,

---

<sup>8</sup> Niall O'Sullivan, 'Only 67 British-based Magdalene survivors seek redress despite 'majority' claim', *Irish Post* (21 July 2014), <http://irishpost.co.uk/only-67-british-based-magdalene-survivors-seek-redress-despite-majority-claim/>

<sup>9</sup> Sorcha Pollak, 'Magdalene survivor: They're ignoring my basic human rights', *Irish Times* (19 January 2015), <https://www.irishtimes.com/news/social-affairs/magdalene-survivor-they-re-ignoring-my-basic-human-rights-1.2071627>

bearing in mind that the women do not have access to legal representation under the scheme (e.g. the women should be informed if the Department will accept affidavits, including from corroborating witnesses, and how to obtain these).

**c) Women denied access to the scheme although they worked in the Laundries as children**

We are deeply disappointed that the Minister has not yet explicitly agreed to implement the Ombudsman's first recommendation that where there is evidence that a woman worked as a girl in a Magdalene Laundry while registered on the rolls of another institution, the Department should reconsider her application with a view to admitting her into the scheme. We urge the Minister to recognise the unfairness and re-traumatising nature of refusing admission to the scheme to women whom the Department admits were forced to work as children in Magdalene Laundries while the State was responsible for their care, education and welfare.

We are aware of the previously-expressed opinions of departmental officials that implementing this recommendation would amount to 'adding' institutions to the scheme, and/or would involve 'double recovery' by the women. Neither of these positions is tenable for the following reasons:

First, the recommendation requires the Department to admit women to the scheme on the basis that they were forced to work as children *in the very institutions listed* under the scheme. Therefore the recommendation cannot reasonably be argued to require the addition of institutions to the scheme.

Second, it is not possible for the Department to know and therefore it is not fair to state that admitting to the scheme women who worked in Magdalene Laundries while registered on the rolls of other institutions would 'doubly pay' them for the abuse they suffered in Magdalene Laundries. We are aware that a significant number of women who were eligible to claim awards from the RIRB, including women who have applied to the Magdalene scheme, did not in fact receive awards because they did not realise in time that the RIRB applied to them. In addition, we urge the Minister to consider Judge Quirke's conclusion in the Magdalen Commission report that it would be difficult if not impossible to determine from transcripts and other documentation whether and to what extent any award from the RIRB actually took into account the harm caused by time spent performing forced labour in a Magdalene Laundry. Judge Quirke explicitly recommended that the Magdalene scheme 'should not seek to investigate or consider' the question of previous RIRB awards.

**d) Need for consultation regarding future 'restorative justice' or 'redress' schemes**

We welcome with some caution the Minister's commitment to implementing the Ombudsman's recommendation that guidance should be developed centrally regarding the operation of future 'restorative justice' or 'redress' schemes. We are concerned that any process of developing guidance should place the experiences and viewpoints of individuals who participated in previous schemes at its centre. We say this bearing in mind the Ombudsman's conclusion that in many instances the Department effectively ignored the testimony of Magdalene survivors when assessing their applications to the scheme.

We expect that the Minister will put in place a public consultation process which will support women who spent time in Magdalene Laundries and other individuals who have attempted to access governmental 'restorative justice' and 'redress' schemes to participate. We are eager to know when such a consultation process will be initiated.

### **3. Further shortcomings in the Department's administration of the Magdalene scheme**

#### **a) Health and community care**

We request that the Minister immediately initiates a process to bring the provision of health and community care under the scheme fully into line with the HAA card entitlements. We further request that the Minister establishes the fund for complementary therapies promised by former Minister Frances Fitzgerald.

The women have not received the full health and community care package recommended by Judge Quirke. This has had devastating effects on some women known to us, including those in urgent need of comprehensive mental health care or home care.

Judge Quirke's very first recommendation was 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")'. The HAA card was created in 1996 for those who contracted Hepatitis C through State-provided blood products. It gives access to numerous private (as well as public) healthcare services and wide-ranging access to medicines, drugs and appliances. Judge 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'*.<sup>0</sup>

The NWCI, Amnesty International Ireland and JFMR voiced our concern at the time that the *Redress for Women Resident in Certain Institutions Act 2015* ('RWRCI Act') was being debated in the Dáil and Seanad that it did not provide for healthcare equivalent to the HAA card standard, as recommended by Mr Justice Quirke. It was clear that the RWRCI card for Magdalene women was almost identical to an ordinary medical card, which the majority of the women resident in Ireland already hold.

In August 2015, several dentists confirmed publicly that instead of receiving HAA-standard services as recommended by Judge Quirke and agreed by the government in 2013, Magdalene survivors were 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

---

<sup>10</sup> 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) ('Magdalen Commission Report'), <http://www.justice.ie/en/JELR/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf/Files/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf> p7



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.’

JFMR wrote to the National Director of Primary Care at the HSE on 25 February 2016 to ask for clarification regarding all ways in which the women’s entitlements under the RWRCI card differ from those already available under the standard medical card, as many women in contact with JFMR and indeed our organisations are still struggling to understand this. JFMR asked for a written response so that the information could be easily disseminated to survivors and also for a meeting with the National Director. JFMR has received no substantive response to date.

In 2015, the former Minister for Justice, Frances Fitzgerald TD, promised to establish a fund separate to the RWRCI card to provide access to complementary therapies under the scheme (the HAA card recommended by Judge Quirke provides access to massage, reflexology, acupuncture, aromatherapy and hydrotherapy). This fund has not been established to date. <sup>2</sup>

#### **b) Back-dating of pension payments**

We request that the Minister takes the necessary steps to ensure that the women’s pension entitlements under the scheme are backdated to retirement age, rather than to the scheme’s start date as is currently the case.

Mr Justice Quirke recommended that, under the scheme, Magdalene survivors should be ‘put...in the position that they would have occupied had they acquired sufficient stamps to qualify for the State Contributory Pension’. <sup>3</sup> It is our position that the Department should have read this recommendation as requiring the backdating of pension payments to retirement age, rather than simply to the beginning of the Scheme’s administration.

#### **c) Advertising of the Scheme abroad**

We appreciate the Minister’s statement on 5 December 2017 in response to a parliamentary question from Jim O’Callaghan TD that the scheme remains open to new applications. We request that the Minister sends a revised information note about the scheme to all Irish embassies and consulates with an explicit request that they periodically circulate the information to all immigrant centres and information and support networks known to them.

It appears to us that the scheme has been insufficiently advertised outside of Ireland. We draw the Minister’s attention to the experience of Prof James Smith of JFMR who lives in Boston: in mid-2016 Prof Smith was invited to speak about the Magdalene Laundries to the Coalition of Irish Immigration Centers’

---

<sup>11</sup> Letter to the Editor, Journal of the Irish Dental Association, Aug/Sept 2015: Vol 61(4), p 164

<sup>12</sup> Written Reply from Frances Fitzgerald, TD, Minister for Justice, to Joan Collins, TD, 24 March 2015, <https://www.kildarestreet.com/wrans/?id=2015-03-24a.951&s=magdalen+complementary+therapies+frances+fitzgerald#g953.r> ; See also <http://www.rte.ie/news/2015/0219/681413-magdalone-women/>

<sup>13</sup> Magdalen Commission Report, p40.

(CIIC) social services committee, comprised of social workers with vast experience serving Irish immigrant communities in Chicago, San Francisco, Boston and New York. None of the participants in the meeting knew about the Magdalene scheme. Prof Smith subsequently wrote in *The Irish Times* that 'They had received no instructions, no guide explaining benefits, no application procedures...The group refuted the idea that the 11 US-residents who had applied to the scheme at the time (out of a total of 802 applicants) was the sum-total of Magdalen survivors living in the US. How would survivors know about it, they asked? Why wasn't the scheme advertised here in the US?' <sup>4</sup>

### **In summary**

We are hopeful that the Minister will take the opportunity that the Ombudsman's report presents to revise the approach of the Department of Justice and Equality to the administration of the Magdalene scheme as a whole. While we do not doubt that departmental officials have acted with good intentions and worked hard on administering the scheme, it is imperative for the Department to now reflect on the ways in which the scheme has fallen short and to rectify those shortcomings. The facts acknowledged and the sentiments conveyed in the apologies of the Taoiseach and Tanaiste on 19 February 2013 should not be forgotten:

*In the laundries themselves some women spent weeks, others months, more of them years, but the thread that ran through their many stories was a palpable sense of suffocation, not just physical in that they were incarcerated but psychological, spiritual and social.*

*... I say to all of those women, some of whom are with us today: We have heard you, we believe you and we are profoundly sorry for what was done to you, and that what happened to you, as children or as adults.*

*... Nowhere in any of this did the word or concept of citizenship, personal rights and personal freedoms appear.*

---

<sup>14</sup> James Smith, 'Will Mother and Baby Homes Commission advertise to the hidden Irish diaspora?' *Irish Times* (9 November 2016), <https://www.irishtimes.com/life-and-style/abroad/will-mother-and-baby-homes-commission-advertise-to-the-hidden-irish-diaspora-1.2859793>