

## OPENING REMARKS

### **\*First speaker – JM REILLY\***

We thank the Committee for the opportunity to attend today. Myself and Joanne have been asked and are privileged to take forward this important and complex piece of legislation on behalf of the First Minister and deputy First Minister.

This historic ill treatment, and discrimination against women and girls should be a source of shame and there are many lessons to be learnt in terms of attitudes, behaviours, values and systems which can help shape how we respond to matters today.

We recognise this issue affects many people in our society, and it is important we work together to make this Bill as meaningful as possible.

It is also important to acknowledge there are many elements which have been taken forward outside the Bill like providing the opportunity for victims and survivors to provide oral testimony, for psychological and emotional support services, and preservation of, and support for, access to records.

Notably too, as part of the five core recommendations made by the Truth Recovery Design Panel and developed with victim and survivors, there will be other redress and reparation measures to follow, with a particular focus on non-financial redress including memorialisation and a formal apology.

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The introduction of the Bill in June represented a major milestone, with the Executive providing £80m for the inquiry and redress.

It will provide for a full and independent inquiry with sufficient resources to investigate what happened; why it happened; and who was responsible.

And while we are pleased to bring forward a financial redress scheme, we are acutely aware that no state redress scheme can ever properly atone for what happened to those most affected. However, the Standardised Payment that this legislation will deliver, aims to be a start, with more to follow in the Individually Assessed Payment scheme.

We want to thank the Committee for its work and the opportunity provided to victims, survivors and others to hear their views on the Bill and to do so in a supported way.

Ministers have been in listening mode throughout the Committee Stage which has been very valuable and helped us to identify a number of key areas where we can work constructively with the Committee on potential amendments.

We have paid close attention, especially to the voices of those affected. We have considered some ideas or areas that the Committee has suggested could improve the Bill and also identified some areas that could be amended to bring further clarity or assurance.

Chair, we would like to briefly cover some potential amendments which we are considering, and subject to Executive agreement, that Ministers

may table at Consideration Stage. No doubt there will be other issues which the Committee may wish to raise or discuss today.

We will formally write to the committee on these matters after today, but we wanted to outline the latest position today. We have grouped the potential amendments into three themes which we heard come through during the evidence sessions.

These are:

- Amendments to increase support for victims and survivors;
- Amendments to provide additional assurance;
- Amendments to increase timely access to justice and trust.

I will cover the first two of these and Joanne will cover the latter one before adding some final reflections.

**Firstly, I will deal with potential amendments to increase support for victims and survivors.**

In relation to **Clause 5**, we heard the Committee's strong view that a multidisciplinary panel for the inquiry would greatly support the Inquiry Chair in their role and provide wider expertise on this complex and sensitive area of investigation.

Chair, as you know, the Bill as it stands suggests the possibility of a single Chair, with the potential to have a larger inquiry panel.

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In light of the views expressed by the Committee and others, we are minded to table an amendment to ensure the inquiry panel will comprise of a Chair and at least one other panel member.

I will come next to **Clause 15**. We heard evidence provided at Committee Stage that raised concern about how restrictions may inhibit access to the inquiry for those most directly affected.

With this in mind, we would propose an amendment which would ensure that should a person not have prior access to information related to them, there would be an obligation on the Chair to balance that when making their decision on a restriction order.

In relation to **Clause 38**, we have heard the concerns of both the Committee and the Human Rights Commission on the 30-day window for redress appeals being too short.

We understand this argument and are content to table an amendment that would extend this time period to 90 days, which goes beyond other schemes.

In respect of **Clause 39**, we feel that this provision should make it clear that The Executive Office, not the Redress Service, is responsible for facilitating access to advice and assistance. This makes clear the balance of responsibilities with the aim of providing high quality guidance and support.

With regard to **Schedule 1**, we agree with the Committee's view that the redress scheme should be promoted widely.

With that in mind, Ministers are minded to table a potential amendment to the Bill that will make it explicit that the Redress Service will have responsibility for the promotion of the scheme with the agreed associated funding coming from The Executive Office.

**The second group of amendments that I would like to cover are amendments that we feel would provide assurance or clarity.**

In respect of **Clause 4**, we have noted the concerns raised by the Committee with regards to those who may have become pregnant whilst under the care of an institution. We acknowledge that this experience may not be fully reflected in the Bill and Ministers are content to table an amendment which strengthens the Bill further by ensuring this is explicitly captured. We have asked officials to liaise with the drafters on the wording of this clause.

In so far as **Clause 31** goes, we intend to clarify the eligibility for redress at **Subsection (4)** so that it relates specifically to the children of the women admitted to a Mother and Baby Institution for ‘shelter and maintenance’, and not those whose mothers were admitted for the primary purpose of receiving medical care. This balances with the eligibility at subsection (2) and removes a potential area of unfairness.

In relation to **Clause 33**, we are actively considering and seeking drafting advice on whether some applications can be dealt with administratively rather than requiring all to have Judicial determinations,

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this could mean more straightforward applications can be processed in a more timely way.

Finally, Chair, I would like to speak to **Clause 2** of the Bill which relates to the Inquiry Terms of Reference. We have listened carefully and we are aware that cross-jurisdictional movement of women and children has been raised a number of times at your sessions.

To reassure, this is already covered in the Bill under 'departure' but we are actively considering how to provide more prominence given its obvious importance.

Today, as a minimum, we will commit to this forming part of the external Terms of Reference.

I will pass over to Joanne who will set out the remainder of the amendments that Ministers are considering, subject to Executive agreement.

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### **Second speaker – JM Bunting**

Thank you Aisling. Thank you, Chair.

As Aisling said, I would like to keep our focus on potential areas for amendment so I will turn immediately to that before making some closing remarks.

### **The final group of potential amendments is to increase timely access to justice and trust.**

I will start with **Clause 18**. We have heard and agree that a modular evidence and reporting approach for the inquiry could be beneficial and we will consult with the Chair on this. We would propose to strengthen this clause by tabling an amendment which ensures that the inquiry panel will have the ability to provide a number of interim reports periodically throughout the inquiry.

We noted the points made about the negative resolution Assembly procedure required to extend the redress scheme, as provided for in **Clause 32 (3)**. Ministers are minded to table an amendment to convert this Assembly control from negative resolution to draft affirmative procedure.

Next, I will come to **Clause 40**. Of course, we must expect the highest levels of confidentiality and standards. So as to balance **Part 2** of the Bill with **Part 1**, we wish to amend the Bill to specify that contravening a

restriction order made by the Redress Service President, will have the same penalty as one made by the Inquiry Chair i.e. that it is an offence to break a restriction order and it will broadly look like **Clause 23**.

That outlines some of the potential amendments that we are content to share with the Committee as soon as the draft clauses become available.

More broadly, Chair, I want to take a few minutes to conclude on some elements not covered to date and make some final reflections.

In relation to **Clause 26**, we know the Committee heard concerns about the 14-day limit for judicial review within the Bill, which mirrors the provision within the Inquiry Act 2005.

We recognise that access to justice measures are a key part of the inquiry process and there is already discretion of the court to extend this time period. We will continue to look at this but we need to be careful not to cause long periods of delay in the process and as a result, the overall duration of the inquiry. We need to strike a balance that ensures a timely inquiry for victim and survivors, particularly given the age of many of those affected.

We are also aware of concerns raised at the Committee in relation to **Clause 27** due to the fact that, as drafted, the Rules in support of the Bill are subject to the negative resolution procedure.

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We consider that for largely administrative rules, that negative resolution remains appropriate, similar to rules created under the Inquiries Act.

Of course, there remain important safeguards in place that a debate and vote can be taken if the delegated legislation is prayed on.

We know there are concerns that the Bill is too specific or too prescriptive when it comes to institutions, bodies, agencies or individuals, however, we wish to take this opportunity to ease concerns, particularly those of victims and survivors, by reaffirming that the Bill has been designed to allow the Inquiry Chairperson the flexibility, discretion and agency to complete a full but also timely investigation. For example, **Clause 1 and 18** provides discretion and flexibility to the Inquiry Chair. **Clauses 13-17** provide meaningful provisions to protect and support witnesses to provide information. **Clause 10** provides for active participation for right holders via an Advisory Panel.

In relation to redress, we have benchmarked against other schemes and processes, and the Standardised Payment scheme compares favourably in terms of approach, inclusively, eligibility and support model.

Building on the Ministerial commitments following the Truth Recovery Design Panel recommendations, the redress focuses on a system of institutions established for women and girls who were so unfairly stigmatised by society. It is an ‘admission only’ based scheme with no requirement for applicants to provide a potentially retraumatising statement of experience and with payments being made before a formal investigation. This is an atypical approach in itself and demonstrates our collective commitment to reparations.

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Other benefits include that the scheme will not take any other payments into account; it won't impact a claimant's social security payments and it doesn't require the signing of a waiver.

The scheme seeks to address the historical discrimination suffered by women and girls sent to Mother and Baby Institutions and Magdalene Laundries, but also takes an inclusive approach in that all those admitted for 'shelter and maintenance' and all children, now adults, linked to that admission, are eligible for redress regardless of experience or time spent.

We strongly believe the standardised payment scheme stands on its own merits. No other jurisdiction in the UK has provided redress in this area and the Irish Government's Mother and Baby Institution Payment Scheme has faced challenges. Nor must we forget that in addition a harm-based Individually Assessment Payment scheme will follow with a focus on individual experiences.

The Committee has heard evidence on the need for amendments to **Clause 31** – namely that the posthumous date and level of amount should be backdated and increased, respectively.

It is important to note financial redress is only one form of acknowledgement and we remain committed to delivering a comprehensive programme of non-financial redress, including a formal apology and memorialisation.

The Committee will understand that Ministers and the Executive must balance a large number of factors and pressing priorities.

We appreciate that there will be a shared desire to do more but the scheme that is on the table is a package that the Executive believes is deliverable.

We have a duty to be realistic on what can be delivered now. As elected members, we hear every day about the pressures in Health, Justice and Education and we must consider how best to meet the wider range of needs across our society.

We appreciate this can be a difficult message and we remain in listening mode. All State redress schemes must consider how best to target scarce public monies. This is brought into sharp focus in this context where the Secretary of State, to date, has shown no willingness to contribute to the costs of the bill. For the avoidance of any doubt, the assumption at this moment has to be that the £80 million will have to be funded from the current block grant. I am sure the Committee will agree this is not a good or fair position, but it is where we are at.

We are also conscious of the limited success that other jurisdictions have had in seeking contributions from institutions. No doubt they experienced some of the same legal obstacles that exist here and there is no easy solution for satisfactorily resolving this situation.

We would like to assure the Committee that we will do whatever we can to ensure that those responsible pay their share of contributions towards the redress bill. We are acutely aware of how important this is to many victims and survivors. We are also committed to ensuring a fair and impartial investigation, which is a cornerstone of a human rights-based

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approach and this will be fundamental for securing contributions at the appropriate time.

We are actively considering if any other measures can be included in the Bill but, to be crystal clear, we will not bring any amendment if it affects or even potentially risks the legislative competence of the Bill and our ability to take the inquiry and redress forward. This would not be fair or the right thing to do.

In summation, we would like to be clear that while the amendments we have outlined today are not necessarily a definitive list of amendments that Ministers are considering or inclined to table, we need to re-iterate that this list and any further potential amendments comes with the caveat that Ministerial amendments with any substantive policy change would be subject to Executive agreement.

We know that this process and its outworkings can't undo the past, but we are determined to do the best we can with what we know we can deliver at this time.

We thank all those victims and survivors who have helped get us to this point and to the Committee for your support.

Thank you Chair.