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Nick Mitford
Clerk
Committee for the Executive Office
Parliament Buildings
Stormont
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03 December 2025

Dear Nick,

Following on from the Committee meeting on 8 October 2025 and the subsequent letters, the Department has provided a response (Annex 1– Annex 4) for the following areas;

Annex 1 - Follow up queries from the legal panel

i. Rationale for the 14 day timeframe for judicial review
ii. Consideration of 'core participant' status
iii. Alternative means of deploying measures other than Public Interest Immunity
iv. Cost implications of 1922 date for posthumous claims

Annex 2 – Institutional focus and definition of an institution
Annex 3 – Extension of class action rules and civil litigation provisions
Annex 4 – Covid Inquiry Structure

Yours sincerely,

[redacted]
TEO Departmental Assembly Liaison Officer

ANNEX 1 - FOLLOW UP QUERIES FROM THE LEGAL PANEL

i. Rationale for 14 day timeframe for judicial review

A 14 day timeframe for judicial review in a public inquiry is standard. It mirrors both the Inquiries Act 2005 and HIA inquiry.

In more detail, the TRDP Report recommended that the public inquiry should have powers equivalent to the Inquiries Act 2005. Clause 26 provides powers equivalent to section 38 in the Inquiries Act 2005, including in relation to the time period within which an application for judicial review must be brought. This should be within 14 days after the day on which the applicant becomes aware of the decision, rather than when the decision was made. Section 19 of the HIA (NI) 2013 Act has the same 14 day time limit.

Order 53, Rule 4(1) of the Rules of the Court of Judicature (Northern Ireland) 1980 state an application for judicial review should be made within three months from the date when grounds for the application first arose. Clause 26 refers instead to 14 days after the day on which the applicant became aware of the decision, which could be longer than three months after the grounds for the review arose.

Core participants will also have access to inquiry evidence and documentation, subject to their obligations to treat this confidentially, and will be provided with legal representation. This will facilitate their ability to raise any issues with the inquiry chair. This should limit the need for judicial review but this remains a route.

The Department understand that maximising access to justice is very important and while a 14 day time limit is the standard within other inquiries the Department are exploring what the impact of extending this time period may be.

ii. Consideration of 'core participant' status

Core participant status is decision for the Inquiry Chair and the detail will be inquiry rules. Clause 27 of the Bill provides that the Executive Office may make rules dealing with matters of evidence and procedure in relation to the inquiry and with awards under clause 21, including costs in respect of legal representation.

It is intended such rules will address the issue of core participant status and will likely be based on the Inquiry Rules 2006. The following example from the 2006 Rules allow

the chairperson to designate a person (potentially including victims and survivors), body, organisation or institution as a core participant after considering whether they:-

(i) may have played a direct and significant role in relation to the matters to which the inquiry relates;

(ii) have a significant interest in an important aspect of the matters to which the inquiry relates; or

(iii) may be subject to explicit or significant criticism during the inquiry proceedings or in any report.

It is also noted that under the Inquiry Rules 2006, such core participants are entitled to legal representation and to joint representation if the chairperson considers that:-

(i) their interests in the outcome of the inquiry are similar

(ii) the facts that they are likely to rely on in the course of the inquiry are similar

(iii) it is fair and proper for them to be jointly represented

The Department recognises the value of victims and survivors having early and full access to information such as that provided to core participants. When the inquiry rules have been drafted these will be subject to public consultation, after the primary legislation has been agreed by the Assembly.

Placing the power to designate core participants within regulations is in line with the approach adopted by the Inquiries Act 2005, where core participants are legislated for in section 5 of the Inquiry Rules 2006 and not on the face of the primary legislation.

iii. Alternative means of deploying measures other than Public Interest Immunity

Clause 14 of the Bill outlines that inquiry proceedings should be open to the public and that they should be able to view a record of evidence and information provided to the inquiry.

There are currently several alternative means of protecting the identity of witnesses in the Bill, including Clause 15, whereby the chairperson can place some restrictions on attendance, information or evidence being made available in a public setting. This is done via restriction orders which are issued by the chairperson of the Inquiry, if

considered necessary to fulfil the inquiry terms of reference and if it is in the public interest.

The ‘criteria’ the chairperson must take account of when considering such matters are laid out in Clause 15(4)(a) to 15 (4)(d):

(a) the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;

(b) any risk of harm or damage that could be avoided or reduced by any such restriction;

(c) any conditions as to confidentiality subject to which a person acquired information which that person is to give, or has given, to the inquiry;

(d) the extent to which not imposing any particular restriction would be likely—

(i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or

(ii) otherwise, to result in additional cost (whether to public funds or to witnesses or others).

It is noted that the majority of victims and survivors were granted anonymity in the Inquiry into Historical Institutional Abuse using such restriction orders. It was always open to a participant to waive their anonymity, but the great majority chose to retain it. Clause 27(2) provides another means of protection whereby the Executive Office may make provision for witness anonymity orders similar to those in section 86 of the Coroners and Justice Act 2009.

A local Minister may apply to the inquiry chairperson to restrict disclosure or public hearings of evidence, on the grounds of public interest immunity (clause 17(2)). It is, however, for the inquiry chairperson to decide whether or not such requests should be granted. This is designed to protect the sensitivity of certain types of material rather than interfere with the independence of the Inquiry, as the chairperson will have access to such materials.

It is very difficult to be certain of the circumstances when public interest immunity would be sought, but it is recognised this can provide valuable additional protections to those outlined above including witnesses (e.g. whistleblowers or those reporting a

crime). We are committed to carefully considering this clause. As context, this provision was available in HIA Inquiry but was not used.

iv. Cost implications of 1922 date for posthumous claims

Estimated number of people who could claim

The Department's letter of 4th August provided information on the potential application numbers and costs for moving the posthumous date, as well as the rationale for using September 2011. For ease, we have included some of the same information below with additional explanation.

The Department sought independent actuarial advice on the potential number of applications, taking into account factors like fertility rates, mortality, propensity to claim etc. Low, medium and high scenarios were provided as well as the application of different sensitivities, such as moving the posthumous date (as seen in Figure 1).

The costs outlined in the Bill EFM are based on the medium scenario. However, as noted in the EFM, it is difficult to provide accurate estimates on a demand-led scheme and the numbers could be significantly higher or lower than predicted.

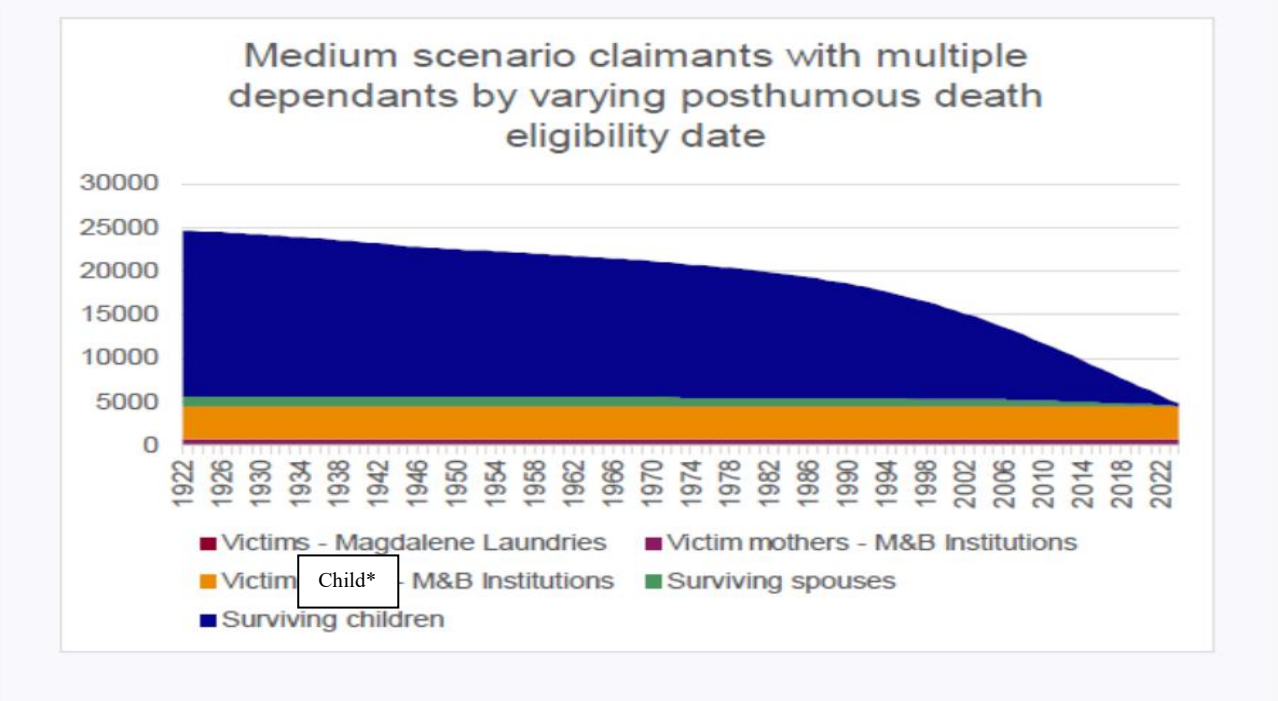
Independent advice was also sought to estimate application numbers for the Historical Institutional Abuse (HIA) scheme. While the total amount of applications received ended up being closer to the low scenario, HIA is a different type of scheme to the Standardised Payment, which has a much lower evidential bar and allows multiple posthumous claims.

As the Committee will be aware, compelling contributions for a redress scheme taking place before a formal investigation, with no legal waiver and where an applicant does not have to prove harm, is difficult and may face significant legal barriers which may impact legislative competence and the ability to pass the Bill. A reasonable planning assumption at this stage is that the redress scheme will have to be funded entirely by the NI Executive from its block grant. The intention is, of course, to seek contributions

at the appropriate time but, as the Committee will be aware, this is a challenging area with substantial legal complexity.

Potential posthumous applications

Figure 1: Estimated application numbers for posthumous claims back to 1922 (MLs and MBIs only)



*Victim – Children, is those Children, now adults born to a Birth Mother while in an institution.

If the posthumous date is moved, the number of victims and survivors remains constant but the eligible family members increase significantly to become an estimated 4/5 of all applications.

It is important to remember that it is not only the families of the women admitted to an institution who are eligible relatives. The families of the children, now adults, born to women in these institutions are also eligible to make a posthumous claim and a person born in 1922 could easily have multiple living descendants.

Table 1: Cost implications of various posthumous date (not including workhouses or other institutions)

Posthumous Date	£10K Surviving Victims Payment (BASE)	£2k posthumous payments to spouses	Total	Difference from current Bill

		and all children FROM BASE		
Nov 2021	**£45.1m**	**+£3.4m**	**£48.5m**	**- £9.9m**
2013	**£45.1m**	**+£11.3m**	**£56.4m**	**- £2m**
2011	**£45.1m**	**+£13.3m**	**£58.4m**	
1953	**£45.1m**	**+£35.8m**	**£80.9m**	**+£22.5m**
1922	**£45.1m**	**+£40.5m**	**£85.6m**	**+£27.2m**

Moving the posthumous date back to 1922 adds an estimated additional **£27m** to the costs of redress payment.

The processing costs of an additional 14,000 applications are difficult to predict, particularly as verifying posthumous claims can be difficult and time-consuming. There would also be resourcing implications for other Departments who may be asked to help verify thousands of applications, potentially dating back 100 years. This could have a significant impact on the affordability and deliverability of the scheme.

These estimates are based on £10k SP and £2k posthumous payments for Mother and Baby Institutions and Magdalene Laundries only.

If the payment amounts are increased, or if other types of institutions are added, then the costs will increase exponentially.

For example, based on a 2011 posthumous date and MLs/MBIs only, every £1k added to the Standardised Payment will see an **estimated £5-6m** added to the total cost of redress payments.

Therefore, a £15k SP and a £3k posthumous payment would add an estimated **£30m** to the £58.4m estimate in the EFM. If the date is then moved back to 1922 as well, this would be an additional **£70m on top of the £58m**.

ANNEX 2 - INSTITUTIONAL FOCUS AND DEFINITION OF AN INSTITUTION

Inquiry – institutional focus

The focus of the inquiry follows the recommendation of the TRDP report which indicates that the inquiry should examine experiences within Mother and Baby Institutions, Magdalene Laundries, Workhouses and their pathways and practices.

The Bill indicates what is meant by 'prescribed institutions' in clause 3. This is intended to provide the framework for the inquiry to focus its investigations on the following four groups, namely;

i. institutions know as 'Mother and Baby Institutions';
ii. institutions know as 'Magdalene Laundries';
iii. workhouses (within the meaning of the Poor Relief Acts (Northern Ireland) 1838 to 1937); and
iv. 'other institutions' as may be prescribed by the Executive Office.

The inclusion of 'other institutions' within this clause allows the inquiry more flexibility to include other institutions identified by the Independent Panel, others, or through the work of the inquiry itself.

Recommendations for other institutions to be added in regulations will be considered by the Executive Office, in consultation with the chairperson and are subject to the approval of the Assembly.

Definition of institution

The Bill does not include a definition of the term 'institution'. In statutory interpretation, a word that is not specifically defined in legislation takes its ordinary meaning.

In relation to the inquiry, the provisions of the Bill provide a framework for the investigation (Clause 3 defines the types of prescribed institutions). This means there should be sufficient flexibility and discretion for an inquiry chair to recommend any amendments to the list, which are then subject to Ministerial and Assembly approval.

Redress - institutional focus

The Standardised Payment scheme is a mechanism through which some redress can be paid out to a core group of victim and survivors based on the available evidence. It differs from other schemes, such as HIA, in that it is happening before a formal investigation and does not require an applicant to provide a potentially retraumatising statement of experience.

As it is not based on the experience of the individual, there must be clear parameters put in place around eligibility. The scheme, therefore, focuses on the Mother and Baby Institutions and Magdalene Laundries researched in the QUB/UU report. These were institutions established specifically for women and girls whom society had unfairly stigmatised and there were no equivalents for men. Adopting a gender lens allows the scheme to take in inclusive approach in that **all** those admitted (or whose mother was admitted) for 'shelter and maintenance' are eligible for redress, regardless of experience or time spent there. Adding a different type of institution, such as a children's home, to the SP list could undermine the gender-based rationale for the scheme. It also risks drawing in the entire care system and widening the scope beyond what is deliverable and drawing the focus from the Birth Mothers who have campaigned for justice.

Trying to isolate single experiences outside of institutions for a general payment scheme dating back 100 years would also be very difficult and could have significant equality and repercussive effects.

It is intended that the Individually Assessed Payment will take a more holistic approach and will be tailored to the individual experience of an applicant.

ANNEX 3 - EXTENSION OF CLASS ACTION RULES AND CIVIL LITIGATION PROVISIONS

The Bill provides for the establishment of a Public Inquiry and a redress scheme consisting of initial standardised payments based on admission.

Unlike civil court proceedings, the Standardised Payment does not require an applicant to produce evidence of harm or abuse and the straightforward application process will allow payments to be made in a supported and timely manner.

The Bill does not cover civil court proceedings and it would be outside the scope of the legislation to amend provisions relating to the wider justice system.

ANNEX 4 – COVID INQUIRY STRUCTURES AND LESSONS

The COVID-19 Sponsor team have provided some information on the structure of the Covid-19 Inquiry and initial views on some learnings from the process – this should be treated in confidence as only an initial view.

Structure of the Covid-19 Inquiry

- The Chair announced from the outset that the Covid-19 Inquiry would be taken forward in thematic modules.
- The Covid-19 Inquiry is made up of 10 modules.
- Module 2 (Core UK decision-making and political governance) was divided into 4 sub-modules (2, 2A, 2B and 2C), one for each jurisdiction of the UK.
- Module 2C was specific to decision-making and political governance here.
- The remaining modules were conducted on a UK-wide basis.
- The Chair published strict protocols on various issues, for example, Core Participants, disclosure, financial support and redactions amongst others.
- The Chair also announced early on that each module would provide a report once it was complete to enable recommendations to be taken forward on an ongoing basis instead of waiting until all investigations were concluded.
- Modules 1-9 consisted of intense written evidence gathering followed by Public Hearings at which oral evidence was provided.
- Each module convened Preliminary Hearings as required.
- Module 10 (Impact) has been conducted differently from the other modules – evidence in advance of the Public Hearings scheduled for early 2026 has been gathered via round table discussions with sectors impacted by the pandemic and the decisions made to reduce the spread of the virus. The Inquiry has not involved government departments in this module, which means that departments are not aware of the evidence being presented to the Inquiry and have no right of response in advance of the Public Hearings. This has been raised as an area of concern with the Inquiry.

Key learning points for consideration – *TREAT IN CONFIDENCE*

- Given the extent of the issues to be considered and the broad reach of the Covid-19 Inquiry, the Modular approach made sense. Each module is handled by a separate UK Covid-19 Inquiry team and were launched in succession. However, there is evidence of lack of engagement between the UK Covid-19 Inquiry modular teams, which meant the approach to some processes, for example, redactions, could be inconsistent and resulted in additional work. Also, although the modules were initiated sequentially, they were done so within relatively short periods, which meant that evidence gathering in terms of disclosure and preparing written statements overlapped between modules significantly. Each module considered its deadlines to be the most important, which resulted in extremely high workloads for participants and created competing priorities.

- Only one modular report has been published to date so the effect of responding to multiple reports is unknown, although a process for streamlining the production of published reports has been developed and will be tested next year.

- In terms of departmental engagement with and responding to requests from the Covid-19 Inquiry, there has been helpful and collective learning across all NICS departments, which has been collated into a paper that will be submitted to the NICS Board for consideration. The intention is to capture what worked as well as areas for improvement that could be used when feeding into future Inquiries.

Northern Ireland Assembly

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9 October 2025

Dear [redacted]

Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and the Redress Scheme Bill – Law Panel follow up queries

At its meeting on 8 October 2025, the Committee for the Executive Office received a briefing from Law Society NI, KRW Law and Phoenix Law in relation to the Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and the Redress Scheme Bill.

Following the oral briefing, the Committee agreed to write to the Department to request clarification on the following matters in relation to Bill:

- the rationale for the 14-day timeframe for Judicial Review as set out in the Bill;
- whether 'Core Participant' status was considered, and if not, why
- whether alternative means of deploying measures were explored other than through the use of Public Interest Immunity and;
- the cost implications of setting 1922 as the date in terms of posthumous claims.

I would appreciate a response by Wednesday 22 October 2025.

Yours sincerely

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