Phoenix Law Response to Consultation and briefing paper

Committee October 2025

Phoenix Law Represent 200 survivors from the collective survivor Groups:

Birth Mothers and Their Children for Justice

Birth Mothers and their Children Together

Truth Recovery NI

Committee for the Executive Office Consultation

Inquiry (Mother and baby Institutions, Madgalene Laundries and Workhouses) and Redress Scheme Bill

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Phoenix Law Human Rights lawyers have been acting for survivors of institutional abuse since 2010.

In 2009 survivors of historical institutional abuse began to speak out in Northern Ireland about the wrongs perpetrated on minors in children homes. That campaign achieved cross party support and resulted in the HIA Inquiry that was lead by Anthony Hart and reported in 2017.

At the outset of the HIA it was considered that Mother and baby homes should not be included as the victims were not children at the time they were residents or incarcerated in the institutions and a loose commitment was given by Ministers that they would be looked at separately in a further Inquiry or investigation. This left the survivors in limbo. While the child abuse victims were proceeding with their inquiry and much later the redress scheme the mother and baby homes and Magdalene laundries survivors were closed out, with no mechanism and a campaign began.

We act for survivors from the three groups who are advocating for truth, justice and recompense. They have all been before this committee and given their views which we support fully.

Our clients are affected women and adoptees of Catholic and Protestant backgrounds and those without faith. We represent over 200 survivors who were admitted to Mother and Baby Homes across Northern Ireland and many of our clients provides important support to those within their groups, as some are too damaged by their experiences to come forward. The crimes permitted in the mother and baby homes are among the most serious and grievous human rights violations and they were committed and facilitated by state and church in broad daylight. It's a reflection on our society that this chapter in our very recent history has yet to be investigated to the utmost degree and condemned.

Our clients all these years on, they still await an apology, the truth by investigation and compensation which is commensurate with the pain and suffered they endured. They feel and have good reason to feel that the state would prefer they kept quiet and let it go. Clients of ours have died waiting for Justice.

Our clients describe that they were given no other option by social workers, their families and by the Church than to enter a Mother and Baby Home. They describe referral to social services after finding out from their doctor that they were pregnant. No alternative to admission was given by social workers such as provision of housing assistance and other benefits which were available at the relevant time. Many of the Survivors describe that their babies were adopted without their consent,

or in circumstances where they did not understand the legal process of adoption and they felt they were given no choice . Some of the babies born to Survivors were transferred outside of Northern Ireland to the Republic of Ireland , other babies were either stillborn or died .

Birth Mothers for Justice NI was formed in 2013 by a group of individuals affected who are all survivors of Mother and Baby Homes in Northern Ireland, the last of which was not closed until 1990. Members of this group have been actively and consistently campaigning for a public inquiry into the circumstances of their experiences for more than a decade. In recent years that campaign has grown in strength and voices and we now are instructed by the three groups of survivors advocating for justice to include, Birth Mothers and their Children Together and Truth Recovery NI.

Ultimately, in July 2020 we on a birth mothers behalf and issued a pre-action protocol letter and threatened legal proceedings publicly to the Minister of Health seeking to compel the commissioning of a public inquiry through Judicial Review.

A compelling case was set out against the NI Executive for its failure to satisfy its obligations to investigate abuse under Article 3 of the ECHR – this failing was criticised by the UN committee against torture in its 2019 report.

The Executive then commissioned reports of the QUB and later of the Truth Recovery Design Panel, both of which our clients tirelessly engaged with and worked with.

Our clients lodged a position paper to the Truth Recovery Design Panel in July 2021 on behalf of 200 of those affected and we are aware that the submission that our clients filed was accepted in full by the panel and contributed in full and was an essential part of panels recommendations which were accepted by the OFM DFM in November 2021.

Response

We on behalf of our clients welcome the opportunity to respond and to address the Committee and advocate for the rights of our survivor clients.

Whilst our clients welcome the progress that is being made and the establishment of an Independent Statutory Inquiry under the Inquiries Act 2005, our clients stand by what they articulated to the Truth Recovery Design Panel in 2021 and are disappointed that the draft legislation has not fully reflected their views that were clearly set out previously.

Our clients believe that the proposed Draft Bill falls far short of these expectations and the recommendations of the Truth, Acknowledgement and Accountability Report of October 2021.

The recommendations were accepted in full by the OFM DFM (Paul Givan and Michelle O'Neill) at the Stormont Hotel where they were present.

Our clients have engaged fully and given time and effort in coordinating responses to consultations and have committed over the years to multiple meetings with officials and are of the view that the current draft does not reflect what they have campaigned for. It is important given the serious criminality that occurred that our clients voices are listened to throughout this process and there is an acknowledgement of the State sanctioned hurt and abuse that was meted out and meaningful mechanisms to address such wrongs are implemented.

Posthumous Claims[1] date of 29th September 2011. This issue has caused overwhelming levels of upset and distress to survivors who believe that it is an arbitrary date tied to completely unrelated inquiry into historical institutional child abuse. They view it as a cost cutting exercise.

We were involved in a Judicial Review which amended the arbitrary initial timeframe of the HIA Inquiry bringing it back to 1922, the formation of the state. Judicial Review proceedings would delay matters again for survivors and result in further costs. Exclusions based on a 2011 posthumous date are unjustified and could be challenged through litigation.

The proposed payment of £2,000 to the spouse and ALL children of an eligible mother who is now deceased for a Posthumous Claim is unworkable and poorly thought out. Many children of a deceased parent are unaware of a sibling born while

[1] An eligible person making a direct claim for their own experience would receive a £10k single award while an eligible family member making a posthumous claim on behalf of the deceased would receive £2,000. The claim and cost estimates are based on a 29 September 2011 posthumous date.

their Mother was in a Mother and Baby Institution, Magdalene Laundry or Workhouse. The effect of this is a claim for redress will not be made by them. In a lot of cases the only person with full knowledge is the now adult adoptee. This proposal is already causing family descension and friction amongst adopted children and children born from a subsequent marriage or partnership. A payment of a single amount equal to that paid to living claimants or perhaps 50% could provide a meaningful recompense. One Posthumous Claim. One Payment.

Clause 4 of the Bill should be used to include those who otherwise would be excluded on a case-by-case basis. Those children now adults whose Birth Mothers were not in a Mother and Baby Institution and were moved to a separate establishment after their birth. These children experienced the same loss and trauma as those born in an Institution. Those pathways need to be included. Currently the Draft Bill does not include those mothers and babies that underwent forced separation outside of the Mother and Baby Institutions.

Standardised Payment 54% of those that responded to the Public Consultation disagreed with the proposal of £10,000 Standardised Payment. This has been lifted from HIA Redress Scheme and is long out of date. This sum when looking at the harm that was done and the impact in terms of pain and suffering as a result is insulting to survivors. Minor assault claims attract a higher level of damages.

Cross Border dimensions of institutionalisation and abuse is not dealt with in any detail in the draft bill. This needs to be rigorously followed up to address the cross-border dimension of the institutions practice of moving women/girls and babies across jurisdictions with impunity. Many survivors are concerned that omitting this element will leave many unanswered questions. "Abuse didn't stop at the border" is a common theme.

Clause 14. The Bill allows the Chairperson to decide who can and cannot be present to watch the Inquiry in the room? (have the power to determine public access to the inquiry proceedings and information (including media). This defeats the purpose of a Public Inquiry and discourages scrutiny. Media must be allowed to report so that the public, who will be paying for the Inquiry, can observe the hearings. The Inquiry into COVID 19 had links to the hearings online so that those with work commitments or who live far away from Inquiry hearings rooms can participate and learn from the investigation. This level of access should be fully adopted here.

Exclusion of Fahan in the Bill as well as the other Baby Institutions, St Joseph's Belfast, Nazareth (Portadown), Connywarren Omagh is a cause for concern for our clients. The exclusion of unmarried Mothers and their now adult children from the Workhouse is concerning, they equally deserve recognition and justice.

Access to records is still an ongoing issue. We are instructed that Practice Guidance is not being adhered to and very much depends on which social worker answers the phone to the individual on the day. Survivors were told that further legislation in relation to access to their records would be brought forward but so far this has not happened. They have asked for provision in statute to gain access to all their records. The lack of provision on access to records in the Bill is a significant gap in implementing the Truth Recovery Panel 's recommendations.

International best practice appears to be Australia's Find and Connect Service where direct descendants and close family members have the right to access the records of a relative but only after their death. Survivors in NI are unable to access their own records. Nothing in the draft Bill references access survivors' records. There are also issues about getting access to birth parent medical records to gain an insight into genetic predispositions.

Legal Representation. Our clients require and deserve to be given Core Participation Status to allow them to fully and effectively participate in this legal process and to ensure adequate protection their rights and interests. This process will be distressing and retraumatising for the survivors and their input which is crucial in assisting the Inquiry should be assisted as much as possible. CP status should entitle all survivors engaged in the process to receive legal representation.

Institutions to contribute. Our clients would prefer inclusion of legal mechanism to compel, not ask the Institutions and other Agencies to contribute to the Redress Bill and to provide for the services required by survivors. There is a view that this scheme will indemnify the congregations fully at no cost to them. In the HIA redress scheme there has been limited input from the institutions. HIA recommended recourse to ADR if there was an impasse. We are not aware of any ADR having been convened with any of the institutions who has as yet failed to contribute. This has further distressed survivors.

Clause 31 (2) (b) it states "the primary purpose of admission was for the person to receive shelter or maintenance (or both) For many who were in these Institutions they were places of coercion, punishment, slavery, cruel inhuman degrading treatment, forced servitude and arbitrary detention. Many find this wording inappropriate or reflective of the survivors experience.