



# Le Chéile



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## **An Comhchoiste um Oideachas, Breisoideachas agus Ardoideachas, Taighde, Nuálaíocht agus Eolaíocht**

Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach ar an mBille  
um Thacaí do Mharthanóirí Drochúsáide i bhForais Chónaithe, 2023

Nollaig 2023

## **Joint Committee on Education, Further and Higher Education, Research, Innovation and Science**

Report on Pre-Legislative Scrutiny of the Supports for  
Survivors of Residential Institutional Abuse Bill, 2023

December 2023



## MEMBERSHIP



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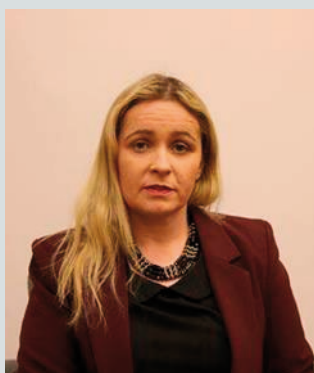
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## CATHAOIRLEACH'S FOREWORD



The General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill, 2023 was published by Ms. Norma Foley, TD, Minister for Education in September 2023. The Bill was subsequently referred to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science for the purposes of Pre-Legislative Scrutiny.

The Committee invited several representative organisations, representing Survivors and Department of Education Officials to give oral evidence before the Committee at public meetings on the 17<sup>th</sup> and 18<sup>th</sup> of October 2023. Commentary Notes were also provided by the Minister for Education and Mr Ned Costello, Chairperson, *Caranua*.

The Committee considers this a seminal Bill that will serve as a blueprint to safeguard Survivors into the future. As outlined by Ms Maeve Lewis, in evidence to the Committee, the *‘Survivors of abuse in institutional care were abysmally failed by the Irish State in their early years. It is incumbent now on us as a society to ensure as they age, that they are afforded the highest quality appropriate services they so richly deserve.’*

The Committee agrees with the remarks made by President Michael D. Higgins during a 2019 address marking the tenth anniversary of the publication of the Ryan Report, where he stated that following the State’s formal apology to Survivors *‘a commitment was made that we, as a society, would do all we could to address the great damage that had been inflicted on generations of children in the name of a State that after all claimed to be a democracy. Fulfilling that commitment remains an obligation.’*

The Committee strongly believes it is incumbent on the State to treat all Survivors with the dignity and respect they deserve and to support them, and their families, into the



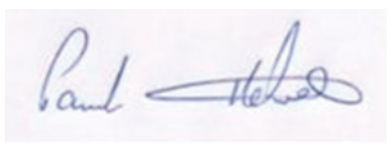
future.

The Committee wishes to extend its deep gratitude to the Survivor groups who came before the Committee. It was fundamentally important to the Committee that the voices and experiences of Survivors were included in this report, and that the recommendations outlined reflect the needs of Survivors.

The Committee would like to state emphatically, that Survivors did nothing wrong. Survivors were the innocent victims of institutional cruelty, neglect, and societal indifference. The Committee would like to note that the Survivors have shown enormous strength, resilience, dignity, and perseverance despite encountering almost insurmountable challenges. They have also demonstrated selflessness and comradeship in seeking to support other Survivors.

The Committee is also very grateful to Ms Caroline Sweeney, Senior Researcher, Oireachtas Library and Research Service, for the extensive research conducted. It assisted greatly in the production of the Report.

On the 12<sup>th</sup> of December 2023, the Joint Committee agreed to publish the report.



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**Paul Kehoe T.D.,**  
**Cathaoirleach,**

**Joint Committee on Education, Further and Higher Education, Research,  
Innovation and Science.**

**December 2023**

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## EXECUTIVE SUMMARY

The General Scheme of the Bill (the “General Scheme”) was published on the 22<sup>nd</sup> of September 2023. It indicates that the Bill’s main purposes are to provide for:<sup>1</sup>

- the provision of supports to survivors of residential institutional abuse;
- the dissolution of the statutory body called the *Residential Institutions Statutory Fund Board* (whose service name is *Caranua*); and
- the transfer of certain functions to the Minister for Education (the “Minister”).

The following issues were identified as requiring further attention (in no particular order):

- Eligibility Criteria for Accessing Supports
- Enhanced Medical Card Provision
- Once-Off Health Support Payment for Survivors Living Overseas
- Personal Data and *Caranua*’s Records
- Supports to Alleviate Fears of Re-Institutionalisation
- Education
- Inter-Departmental Group and Liaison Officers within Public Bodies
- Professional Advocacy Service
- Trauma-Informed Training
- Timely Access to Counselling Services
- Access to a State Pension (Contributory)
- Priority Access to Social Housing
- Supporting Victims to Obtain Justice, including Criminal Accountability
- Memorial and Acknowledgment of Wrongdoing
- Advertising and Engagement with Hard-to-Reach Survivors

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<sup>1</sup> For the full text of the General Scheme please see: <https://www.gov.ie/en/publication/955ee-general-scheme-of-the-supports-for-survivors-of-residential-institutional-abuse-bill/#:~:text=The%20Long%20Title%20of%20the,under%20the%20provisions%20of%20the>

## 10 KEY RECOMMENDATIONS

1. The Legislation should ensure that all Survivors of residential institutions covered by the Bill have equal access to all supports outlined in the Bill, irrespective of whether they have already received an award or settlement from the Residential Institutions Redress Board (*Caranua*) or a similar court award or settlement.
2. The Health Amendment Act Card (HAA Card) provided for under the *Health (Amendment) Act 1996* covers more services and has been identified as a key request from Survivor Groups. Therefore, the Legislation should provide all survivors with a HAA card rather than the proposed Enhanced Medical Card.
3. The Legislation should ensure that Survivors of residential institutions covered by the proposed legislation, who are living abroad, and who also spent time in a Magdalene Institution and received a 'relevant payment' under *the Redress for Women Resident in Certain Institutions Act 2015*, are treated differently to other 'former residents' living overseas under Head 5 (2) of the General Scheme. In practical terms, this means they should be eligible for the payment.
4. The proposed €3,000 once-off payment for former residents living overseas is insufficient. The payment should be Index linked to the cost of living and provide additional payments to Survivors who have complex health needs, on a 'case by case' basis.
5. The Department of Education should liaise with the United Kingdom's *Department of Work and Pensions (DWP)* as an urgent priority to:
  - Seek clarification as to whether the once-off health support payment provided for under Head 5 can be disregarded for the purpose of determining if applicants for mean-tested benefits in the UK are within the applicable capital savings and income limits.

- Ascertain if the once-off payment may be disregarded, and, if so, seek confirmation that this fact has been effectively communicated to staff at the *DWP*.
  - Continue liaising with the *DWP* regarding potential amendments to UK legislation if the once-off payment may not be disregarded. The purpose of such amendments would be to ensure that UK-based survivors obtain the once-off payment without any adverse impact to their mean-tested benefits.
6. The Legislation should provide a mechanism to ensure, insofar as possible, Survivors are not re-institutionalised in older age or because of ill health against their wishes. To this end, HAA cards should provide for home nursing services and home care services.
7. Access to education is critical in terms of addressing the long-term and inter-generational effects of residential institutional abuse. The Legislation should include a provision expressly providing for educational supports for Survivors and their families. In practical terms, the Department of Education should establish a non means tested Bursary to provide individual cash grants up to €3,000 annually to Survivors and their immediate family members engaging in further and higher education.
8. The Legislation should provide for the establishment of a professional Advocacy Service as a Statutory Body. The Terms of Reference should specify:
- The range of services it will provide.
  - The beneficiaries it will engage with (including clarification regarding survivors based overseas).
  - The mechanisms that it will use to advertise services and reach out to survivors with specific reference to hard-to-reach Survivors.
  - Staffing provisions and any requirements surrounding staff training,

including training in trauma-informed practice, reporting lines, evaluation and accountability mechanisms.

9. The High Level Inter-Departmental Group (IDG) should be reconvened by the Department of Education as an urgent priority. In this phase, the IDG should be Chaired by an Assistant Secretary in the Department of Education with Assistant Secretary representation from all the relevant Departments to ensure the full implementation of the support provisions in the Bill.

To this end, a Secretariat headed up by a Principal Officer, should be established in the Department of Education to service the IDG and coordinate all relevant activities. Additional Staff could be seconded from the relevant Departments to the Secretariat. Liaison Officers, at Assistant Principal Officer Level, should be appointed by the participating Departments to act as the main point of contact for the Secretariat.

10. The Legislation should contain provisions for a State Pension (contributory) for all Survivors to acknowledge their years spent working in residential institutions without payment. It would also be in recognition of the long-term adverse ramifications of residential institutional abuse on their career prospects and to ensure sufficient income to live out the remainder of their lives in dignity.

## CHAPTER 1 – INTRODUCTION

The General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill, 2023 (henceforth referred to as the Bill) was published Ms Norma Foley, T.D., Minister for Education, on the 22<sup>nd</sup> of September 2023. The General Scheme of the Bill was subsequently referred to the Oireachtas Joint Committee on Education, Further and Higher Education, Research, Innovation and Science (henceforth referred to as the Committee) for the purpose of Pre-Legislative Scrutiny (PLS), in line with Dáil Standing Order 174 A.

The Committee agreed to undertake PLS in September 2023. Two Committee meetings were subsequently held on the 17<sup>th</sup> and 18<sup>th</sup> of October with a variety of relevant stakeholders. The Committee also received Commentary Notes from the Minister for Education and the Chairperson of Caranua regarding the legislation.

### CONTEXT

The Bill intends to provide for the dissolution of *Caranua* and provide supports to former residents of industrial and reformatory schools and certain other residential institutions. These include orphanages, children's homes, special schools for children with a physical or intellectual disability, and hospitals for people with a physical or mental disability or mental illness in respect of which a public body had a regulatory or inspection function. The full list of residential institutions the Bill proposes to cover is included in the *Schedule to the Residential Institutions Redress Act 2002* (the "2002 Act").<sup>2</sup>

### HISTORICAL CONTEXT

#### *REFORMATORY AND INDUSTRIAL SCHOOLS*

Reformatory and industrial schools were introduced in Ireland in the middle of the 19<sup>th</sup> century under the *Reformatory Schools (Ireland) Act 1858*, and the *Industrial*

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<sup>2</sup> Full text of Act available [here](#).

*Schools (Ireland) Act 1868*. Children found guilty of offences were committed by courts to reformatories while non-offending children who were neglected, orphaned or abandoned were committed to industrial schools. Under the above legislation, several existing schools for destitute children were granted certificates to operate as reformatories and industrial schools. Whilst subject to State approval and inspection, certified schools were independently managed and operated by religious congregations.<sup>3</sup>

The *Children's Act 1908* provided the statutory basis for certified reformatory and industrial schools until 1991. The Act provided that children in certified schools were to receive industrial training, lodging, clothing, food and education and that a certified school was to be inspected at least once annually by State-appointed inspectors.

In 1971, reformatories and industrial schools were reclassified as special schools and residential homes.<sup>4</sup> In 1984, the Department of Health introduced fostering for children in care.<sup>5</sup> *The Child Care Act 1991* repealed the *Children Act 1908* and placed a focus on child welfare. The Act imposed a statutory duty on Health Boards, now the *Health Service Executive (HSE)*, to identify children who were not receiving adequate care and protection.<sup>6</sup> The regulations were designed to ensure that children in residential care were visited, supervised and reviewed on a more systematic basis than had previously been the case.<sup>7</sup>

#### ADMISSION TO CERTIFIED SCHOOLS

*The 1908 Act* permitted District Courts to order the committal of youthful offenders, aged between 12 and 16 years, to reformatories. This age limit was increased to 17 years in 1941. The Act also permitted the courts to commit children charged with less serious offences, who were aged 12 or 13 years (and after 1941, 14 years) to an industrial school instead of a reformatory where '*special circumstances*' existed.

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<sup>3</sup> Ryan Report, Volume 1, chapter 2, p. 38, available [here](#).

<sup>4</sup> Central Statistics Office (CSO), 'That was then, this is now' (2000), p. 52, available [here](#).

<sup>5</sup> *Caranua*, History, available [here](#).

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.



The Act also allowed the courts to commit children aged under 14 years who had not perpetrated an offence to industrial schools (and after 1941, 15 years). For instance, a child could be committed if they were found begging, homeless, without proper guardianship, frequenting the company of a reputed thief or prostitute (other than the child's mother), or destitute in circumstances where the child's parents were in prison or undergoing penal servitude. A child could also be committed upon the request of their parent(s) or guardian(s) where the parents/guardians were unable to control the child and understood the consequences of committal. A girl could be committed if her father had been convicted of sexually abusing his daughters.

In 1929, the *1908 Act* was amended to also permit committal of a destitute child whose parents or guardian could not support them. Parental consent was required for this type of committal except in cases of mental incapacity or desertion. An additional amendment in 1941 permitted committal where the parent or guardian was considered unfit due to reputed criminal or drunken habits. Furthermore, *The School Attendance Act, 1926* allowed for committal where the parent was convicted of two successive offences of failing to send a child to school within a three-month period. Notably, many of the safeguards that apply in criminal proceedings were denied to children involved in committal proceedings. Children typically lacked legal representation and any parents or guardians in attendance tended to be poorly educated. Furthermore, the involvement of courts resulted in committed children being unfairly stigmatised as criminals, both by the general public and by the staff of certified schools.

Children could also be placed in industrial schools by health authorities who were empowered under statute to provide for children lacking shelter and maintenance by boarding them out, sending them to an industrial school or, for children aged at least 14, arranging for their employment. A health authority or board could only exercise this power in respect of orphans, deserted children or children whose parent/guardian had provided their consent. According to the Ryan Report, between the late 1940s and 1970s, health authorities tended to provide for eligible children by placing them in industrial schools.<sup>8</sup>

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<sup>8</sup> Ryan Report, Volume 1, chapter 3, p. 48, available [here](#).

According to the *Report of the Committee on the Reformatory and Industrial Schools System* (the “Kennedy Report”), in 1970 approximately 80 per cent of the children in industrial schools were committed by way of a court order, approximately 16 per cent were placed by health authorities, and approximately 4 per cent were voluntarily placed by parents or guardians.<sup>9</sup>

#### *NUMBER OF CHILDREN DETAINED, AVERAGE PERIODS OF DETENTION, AND CONDITIONS OF RELEASE*

Between 1936 and 1970, 170,000 children and young persons were detained in approximately 50 industrial schools and remained there for an average of seven years.<sup>10</sup> During the same period, approximately 2,000 to 3,000 children and young persons were detained in three reformatories. The average number detained in the three reformatories at any one time fluctuated between 100 and 250, whilst the average stay was one year. The Ryan Report notes that the industrial school population exceeded 6,000 from 1936 to 1952, peaking at 6,800 in 1946.

Under the *1908 Act*, children could be detained in a reformatory for between three and four years, but not beyond the age of 19. This period was shortened to between two and four years in 1941. St Anne’s Reformatory School in Kilmacud was specifically established for girls who were considered to pose a risk to other children in industrial schools because of their so called “sexual experiences”. Included in this category were girls as young as eight years of age who had been raped or abused, and girls who had been in contact with such girls. In contrast to male youthful offenders, girls detained in St Anne’s Reformatory often remained there until they turned 16.<sup>11</sup>

Children were typically committed to industrial schools until they reached the age of 16. However, “needy” children tended to be committed at a very young age and consequently, often spent the longest periods in industrial schools. Indeed, “non-offenders” typically spent a far longer period in certified schools than so-called

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<sup>9</sup> Ibid., p. 48, available [here](#).

<sup>10</sup> Ibid., p. 41, available [here](#).

<sup>11</sup> Ibid., p. 43, available [here](#).

“youthful offenders”. Contact between detained children and their families was strictly curtailed as the home was presumed to be a bad influence.

The *1908 Act* afforded the Minister for Education the discretion to release a child committed by a court to a certified school. From 1957 onwards, the Minister was required to release a child upon receipt of an application from the child’s parent(s) or guardian(s) where the parents/guardians were able to support the child and the circumstances that had given rise to committal had ceased and were unlikely to reoccur. However, this rule did not apply to children who had been committed for involvement in criminality or failure to attend school. Furthermore, the small number of applications received suggests that many parents and guardians were not aware of the early discharge process.

The requirement for an application meant that children and young people without parents or guardians had no way of securing early discharge. Children who were voluntarily placed in an industrial school by their parents or who were placed by a health authority could be removed without recourse to the courts if the family’s circumstances changed.

#### *LINKAGES BETWEEN REFORMATORY AND INDUSTRIAL SCHOOLS AND MAGDALEN LAUNDRIES*

*The McAleese Report (2013)*, which sought to establish the facts of State involvement with the Magdalen Laundries, identified important linkages between reformatory and industrial schools and the Magdalen Laundries.<sup>12</sup> In accordance with the *1908 Act*, any child/young person discharged from an industrial school before they reached 18 years of age, and from a reformatory before they reached 19 years of age, remained under the supervision of the school’s managers until they turned 18 and 19 years respectively. The age limits for post-discharge supervision of children were increased to 21 years in respect of both types of school in 1941. Sometimes, girls who were discharged from industrial or reformatory schools were referred directly to Magdalen Laundries where they were detained until the expiration of their post-discharge supervision period. The *1908 Act* also permitted girls under the age of 16 years to be released on license to a named “fit person” who acquired all of the powers and

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<sup>12</sup> *McAleese Report (2013)*, Executive Summary, pp xvii-xviii, available [here](#).

responsibilities in relation to the child. This provision effectively allowed for the transfer of girls under the age of 16 years from industrial or reformatory schools to Magdalen Laundries.

#### *TREATMENT OF CHILDREN AND YOUNG PEOPLE IN REFORMATORY AND INDUSTRIAL SCHOOLS*

The mistreatment and abuse of children and young people detained in reformatories, industrial schools and certain other residential institutions subject to State inspection has been well documented for over a century.

Throughout the 20<sup>th</sup> century, reports such as *The Report of the Commission into the Reformatory and Industrial School System 1934 - 1936* and the *Committee on the Reformatory and Industrial System 1967* highlighted concerns regarding the wellbeing of children and effectiveness of inspections. Throughout the 1980's and 1990's numerous books and documentaries outlined the experience of physical, mental, and sexual abuse endured by residents of certified schools and certain other residential institutions. Furthermore, by the mid-1990s several priests had been convicted for abusing children, both physically and sexually.

The ongoing revelations prompted the Government to establish multiple commissions of inquiry into clerical abuse and residential institutional abuse. Of most relevance for present purposes, the *Commission to Inquire into Child Abuse* was created under the *2000 Act* of the same name. It was chaired by the High Court judge, Mr. Justice Ryan. The Commission's five-volume *Ryan Report* was published in May 2009 and detailed extensively the systematic abuse perpetrated against children in residential institutions run by 18 religious' congregations. It also documented the failure of the Department of Education to fulfil its statutory obligation to inspect the institutions and to properly investigate complaints by parents and others.

The Ryan Report's found that in relation to the system industrial and reformatory schools there was '*a fundamentally flawed system of inspection*', '*systemic use of "corporal punishment"*', '*endemic sexual abuse in boys' institutions and predatory sexual abuse against girls*', '*neglect*', and '*emotional abuse*'.<sup>13</sup>

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<sup>13</sup> Ryan Report, Volume 4, chapter 6, available [here](#).

## STATE APOLOGY

In May 1999, Taoiseach Bertie Ahern apologised on behalf of the State to Survivors of abuse in residential institutional settings:<sup>14</sup>

*‘On behalf of the State and all citizens of the State, the government wishes to make a sincere and long overdue apology to the victims of childhood abuse for our collective failure to intervene, to detect their pain and to come to their rescue’.*

In the official apology, the Taoiseach announced the establishment of a *Commission of Enquiry into Childhood Abuse* to provide survivors with an opportunity to tell their stories and to establish, as far as possible, the causes, nature and extent of the physical and sexual abuse of children.

Following the Taoiseach's apology, *the Commission to Inquire into Child Abuse Act 2000* established a commission to investigate child abuse in residential institutions in the State. It resulted in the publication of the five-volume *Ryan Report* in 2009.

## SCOPE OF REPORT

Due to time constraints imposed on the Committee under *Dáil* Standing Order 174 A, this report will not cover every Head in the General Scheme. Rather, this report will focus on the key areas as identified by the evidence heard by the Committee in its public meetings and the Commentary Notes received.

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<sup>14</sup> Taoiseach Bertie Ahern's Speech of Apology (11 May 1999), available [here](#).

## CHAPTER 2 – BACKGROUND TO THE GENERAL SCHEME OF THE BILL

On the 27<sup>th</sup> of June 2023 the Government approved the delivery of a package of supports to Survivors of abuse in residential institutions. Health, education, professional advocacy, and trauma-informed practice were among the supports outlined in the package. The proposed supports were developed following consideration of the final report of the Survivor-led Consultative Forum alongside other relevant reports and submissions. The Government also approved the dissolution of the *Residential Institutions Statutory Fund Board (Caranua)*.

The General Scheme of the Bill was published on the 22<sup>nd</sup> of September 2023.<sup>15</sup> The Bill intends to provide for the dissolution of *Caranua* and provide supports to former residents of industrial and reformatory schools and certain other residential institutions.

The main objectives of the draft legislation of the Bill are to provide for:

- The provision of supports to survivors of residential institutional abuse;
- The dissolution of the statutory body called the Residential Institutions Statutory Fund Board (whose service name is *Caranua*); and
- The transfer of certain functions to the Minister for Education (the “Minister”)

Following the publication of the General Scheme of the Bill, Ms Norma Foley TD, Minister for Education stated that:<sup>16</sup>

*‘I am very pleased that the government has approved the draft of the Supports for Survivors of Residential Institutional Abuse Bill along the lines*

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<sup>15</sup> [gov.ie](https://www.gov.ie) - General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill ([www.gov.ie](https://www.gov.ie))

<sup>16</sup> [gov.ie](https://www.gov.ie) - General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill ([www.gov.ie](https://www.gov.ie))



*of the General Scheme. In particular, it will provide for a new phase of supports for those who suffered abuse in industrial schools, reformatories, and related institutions. The drafting of this legislation is a priority for me and I hope to bring it through the Houses of the Oireachtas as soon as possible.'*

The Department of Education has outlined that while the provision of health and educational supports to Survivors and the dissolution of *Carnua* require the passage of legislation, many of the other initiatives relating to Survivor supports do not.

## LEGISLATIVE CONTEXT

The State's response to the revelations of abuse in residential institutions has so far amounted to approximately €1.5 billion. When legal costs and the cost of the *Commission to Inquire Into Child Abuse* (also known as the Ryan Report) are excluded, the redress payments and other supports offered to Survivors amount to approximately €1.1 billion.

### RESIDENTIAL INSTITUTIONAL REDRESS BOARD (RIRB)

Following the Taoiseach's 1999 apology, the *Residential Institutions Redress Act 2002* provided for the establishment of the *Residential Institutions Redress Board (RIRB)* and a compensation scheme for Survivors of residential institutional abuse as children.

The RIRB's core purpose was to receive applications for compensation from individuals who had been subjected to abuse in reformatory and industrial schools and other institutions that were subject to State regulation or inspection. It determined whether applicants were eligible to receive a payment and to make such awards. The scheme was limited to 139 institutions, which were listed in a schedule appended to the Act.

The RIRB redress scheme has been described as '*a highly legalistic programme*' whose complexity prompted 98 per cent of applicants to retain legal counsel. By the end of 2021, total legal costs stood at €194,654,893. The Report of the 2019 Government-commissioned Consultation with Survivors states that '*[m]any survivors described their experiences of the Redress process as adversarial, difficult, traumatic*

*and negative*.<sup>17</sup> Several other sources note that some Survivors found the oral hearings to be distressing and re-traumatising, particularly when the religious congregations implicated in the abuse were permitted to cross-examine survivors or when their letters were read out denying the allegations against them. Some Survivors indicated that they had suicidal thoughts following cross-examination at oral hearings.<sup>18</sup>

Notably, the RIRB would only cover the Survivor's legal costs in making the application if the Survivor accepted a settlement. This provided a strong incentive for Survivors to accept the settlement offered. Furthermore, the statutory requirement to sign a waiver meant that Survivors who accepted a settlement couldn't pursue a civil action through the courts.

Along with the requirement to sign a waiver, 2002 Act also prohibited Survivors from publishing any information concerning an application or an award made under the *Act*, which referred to any relevant person or institution by name, or which could reasonably lead to their identification. Some Survivors viewed the non-disclosure and waiver provisions as a *de facto* "gagging order", which prevented them from speaking about and reporting the abuse to An Garda Síochána.

The RIRB accepted applications until the 17<sup>th</sup> of September 2011. Slightly over 15,000 individuals received awards ranging from €2,000 to €300,500. The total amount paid under the Scheme was €971 million, with the average award of redress amounting to just over €62,000. Approximately 39 per cent of the applications were received from expatriates, of whom approximately 85 per cent were based in the UK. The main reason that applications were refused was because they did not relate to institutions listed in the Schedule to the 2002 *Act*.

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<sup>17</sup> Barbara Walshe and Catherine O'Connell, 'Consultations with Survivors of Institutional Abuse on Themes and Issues to be addressed by a Survivor Led Consultation Group' (July 2019), p. 4, available [here](#).

<sup>18</sup> Report of Consultations with Survivors (2019), available [here](#).

## EDUCATION FINANCE BOARD (EFB)

The EFB was established in 2006 with the purpose of paying grants to Survivors and to their relatives to '*assist them in the availing of educational services*'. Grants were made in respect of fees or for '*education assistance*', and Survivors, their spouses, children and grandchildren were eligible. The scheme was initially established on an administrative basis in 2003 and operated on a statutory basis from 2006.

Funding was provided from a contribution of €12.7m from the congregations under the 2002 Indemnity Agreement. This funding was essentially exhausted in 2011 and the EFB was formally dissolved upon the establishment of *Caranua*.

## CARANUA

*Caranua*, the service name for the Residential Institutions Statutory Fund Board, was established in in 2013 under the *Residential Institutions Fund Act 2012*. *Caranua*'s purpose was to disburse funding supports to Survivors in areas such as health, housing, and education. These supports were funded from a total fund of €110 million (plus interest of €1.38 million) provided by religious congregations following the publication of the Ryan Report in 2009.

In order to apply to *Caranua* Survivors must have already been in receipt of an award of redress from either the *Residential Institutions Redress Scheme* or a similar court award or settlement. Of the 12,000 eligible Survivors, only slightly more than half made applications to *Caranua*.

Eligible applicants were assigned an advisor from *Caranua* to discuss their needs, help them through the application process, and advocate for public services on their behalf. *Caranua* could also refuse applications where the item or service requested did not adhere to *Caranua*'s guidelines or criteria.

In accordance with *sections 7 and 8 of the 2012 Act*, *Caranua*'s core functions were to:<sup>19</sup>

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<sup>19</sup> See also: Caranua, 2013 Annual Report (2014), p.2, available [here](#).

- Make arrangements, and pay grants, for the provision of approved services to survivors;
- Help survivors to engage with publicly available services;
- Promote understanding amongst service providers regarding the effects of abuse;
- Decide the range of “approved” services and set criteria for the approval of applications;
- Consult persons who may be affected by the Board and its functions; and
- Evaluate the effectiveness of approved services in meeting survivors’ needs.

*Section 8* of the *2012 Act* permitted *Caranua* to provide “approved services” to eligible applicants within the following categories: mental health; health and personal social services; education; and housing supports (for example, property improvements and disability modifications). *Caranua* was required to draw up a list of “approved services” within these categories. *Caranua*’s Board was also required to develop and publish criteria for determining whether to approve applications.

In 2014, *Caranua*’s criteria stipulated that:

- Some services, such as home improvements and medical interventions, had to be based on evidence of need and a recommendation from a professional;
- All service providers had to be approved by *Caranua*, qualified, registered and tax compliant;
- Services had to be approved in advance; and
- Some services were subject to financial limits, in accordance with *Caranua*’s guidelines and relevant limits imposed by local health and housing authorities.

In 2015 *Caranua* reviewed the above criteria and its list of “approved services”, taking account of Survivors’ feedback and patterns of expenditure. Based on this review, the list of approved services was extended to include furniture and white goods in order to ensure fairness to individuals who rented, as opposed to owned,

their homes. Funeral costs and family tracing were also added.

*Caranua* began accepting applications in January 2014 and stopped providing payments on standard applications in December 2020. During its lifetime, *Caranua* received applications from 6,181 eligible survivors and, by 2022, it had made over 57,000 funding support payments amounting to €97.9 million. The highest provision of funding supports was in the area of home improvements, at €68.7m, followed by health (€27.4m), education (€1.4m) and exceptional needs (€0.4m). On average, each applicant received funding supports of over €15,000. The legislation also required that all operational costs be met from the Fund, which amounted to €13.7m. *Caranua* finalised all outstanding applications in March 2021 and essentially closed as an operational organisation at that time.

## CONSULTATION

The Department of Education has been engaged in a structured process of consultation with Survivors and Survivor groups over a number of years.

This process began with the engagement, by the Department, of professionally qualified facilitators to undertake a series of consultations with Survivors on the themes and issues of most concern to them. The facilitators engaged with over 100 people and held over 30 meetings. These meetings intended to enable Survivors to reflect on their experiences, the State's response to the issue of institutional abuse and to put forward any recommendations they wished to make.

This phase of the process resulted in a report entitled *Consultations with Survivors of Institutional Abuse on Themes and Issues to be addressed by a Survivor Led Consultation Group* being submitted to the Department. The report identified a number of priority issues for Survivors, including the health needs of an aging population and the need to make services easier to access.<sup>20</sup>

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<sup>20</sup> Full report available [here](#).

Phase 2 of the process involved the establishment in 2020 of a Survivor-led *Consultative Forum* to further consider the themes and issues identified. This was again supported by the facilitators who were engaged by the Department.

The Minister met with the Forum to personally engage with Survivors both in Ireland and the United Kingdom and to hear directly from them. Officials from the Department also met with the Forum on a number of occasions to discuss its work.

The final report of the Forum, alongside other relevant reports and submissions was considered by the Department with input from colleagues from other Departments and fed into the preparation of proposals for Government.

The Minister engaged with the Consultative Forum on the 27<sup>th</sup> of June, following the approval of Cabinet for the package of supports for Survivors.

## **INTER-DEPARTMENTAL GROUP**

In 2018, and in the context of the impending exhaustion of the Residential institutions Statutory Fund, an Inter-Departmental Group (IDG) comprised of representatives of the following Departments was convened –

- Education,
- Children and Youth Affairs,
- Employment Affairs and Social Protection,
- Housing, Planning and Local Government,
- Foreign Affairs and Trade,
- Justice and Equality,
- Health, and
- Public Expenditure and Reform.

The IDG's Terms of Reference were to –

- Identify those mainstream services which are relevant to providing supports for former residents of the residential institutions;



- Consider the accessibility of those services by Survivors;
- In the context of the exhaustion of the *Residential Institutions Statutory Fund* and consequent wind down of *Caranua*, examine how Survivors can transition from a one-to-one relationship with application advisors in *Caranua* to other advocacy services;
- Consider any other issues the group agrees are relevant;
- Report on findings.

The IDG has met on a number of occasions. The deliberations of the IDG were taken into account in preparing proposals for Government.

## CHAPTER 3 – OVERVIEW AND ASSESSMENT OF THE GENERAL SCHEME

The General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023* is comprised of 18 Heads. Considering the diverse nature of the General Scheme and the limited time available for PLS, the Committee's assessment will focus solely on certain key themes relevant to the draft Bill's policy principles. The following overview draws upon evidence presented during Committee hearings, relevant submissions made to the Committee, and is supplemented with supporting information provided by the Oireachtas Library and Research Service (L&RS).

By means of summary, the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023* provides for the dissolution of *Carnua* and provides supports to former residents of industrial and reformatory schools and certain other residential institutions.

The key policy objectives the General Scheme sets out are as follows:

- The provision of supports to survivors of residential institutional abuse;
- The dissolution of the statutory body called the Residential Institutions Statutory Fund Board (whose service name is *Caranua*); and
- The transfer of certain functions to the Minister for Education (the “Minister”)

A Commentary Note provided by the Minister for Education to the Committee, on the General Scheme, indicated that the package of supports for Survivors was developed, as outlined in Chapter 2, ‘*following consideration of the final report of the Survivor-led Consultative Forum, along with other reports and submissions, and in consultation with colleagues from other Government departments, where necessary*’.<sup>21</sup>

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<sup>21</sup> Department of Education, ‘Briefing Material on the General Scheme’ (25 September 2023) p. 1.

## HEAD 2 – DEFINITIONS

Head 2 sets out the definitions of certain terms used in the Bill. A number of submissions drew attention to the definition of *'former residents.'* As it stands in the General Scheme, *'former residents'* are defined in terms of the *'the meaning ascribed to it in Section 3 of the Act of 2012.'*<sup>22</sup> Section 3 of the Act of 2012 defines *'former residents'* as a person who has received an award from the RIRB or a similar court award or settlement regardless of whether they are currently resident in the State or not.

The Briefing Material from the Department of Education further clarifies that the definition of *'former residents'* in Head 2 effectively determines *'to whom the new ongoing supports will be provided.'*<sup>23</sup> It notes that this group is the same group, which was eligible to receive supports from *Caranua*. It estimates that this group currently amounts to approximately 10,000 individuals, of whom approximately one-third are resident outside the State, mainly in the UK.

In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit, Assistant Secretary General, Department of Education, stated that the Department did *'did not envisage an eligibility process or application process for people who did not apply under the redress scheme.'*<sup>24</sup> Ms Conduit also outlined it would not be possible to *'reopen the redress scheme.'*<sup>25</sup> However, she clarified that *'there will not be an eligibility list for the proposed Sage Advocacy service.. If somebody rings up and says they were resident in an institution, the service will help them. It is the same with the national counselling service the HSE put in place for former residents of institutions.'*<sup>26</sup>

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<sup>22</sup> [gov.ie - General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill \(www.gov.ie\)](http://www.gov.ie)

<sup>23</sup> Department of Education, 'Briefing Material on the General Scheme' (25 September 2023) p. 3.

<sup>24</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [18/10/2023](#)

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Carmel McDonnell Byrne, Co-Founder and Board Member of the Christine Buckley Centre for Education and Support, stated that:<sup>27</sup>

*‘We have to be mindful not to exclude people who did not apply for redress. We discovered after the redress closing date that a lot of Survivors had thought the redress was just to do with sexual abuse and not emotional or physical abuse. They could not apply to Caranua, for example, for some of the excellent services that were being provided or to the Education Finance Board. It is important they all be included, and we should not separate the individual groups, because we are all institutionalised, and we have to be mindful of that all the time.’*

Similarly, the *Report of the 2019 Consultation with Survivors* stressed the importance of ensuring that any new supports are fully inclusive and do not exclude Survivors who did not receive redress via the RIRB or the courts. The Report noted that there are many Survivors living in Ireland and the UK who did not seek financial compensation from the RIRB for various reasons, including because they felt unable to mentally engage with the scheme at the time or were unaware that it existed.<sup>28</sup>

The report also noted that:<sup>29</sup>

*‘[I]t is a source of much anger in both Ireland and the UK that survivors who had not received compensation through the Redress Board or the Courts were then excluded from the Residential Institutions Statutory Fund (Caranua) established in March 2013. This was seen as a further injustice and a sort of ‘double punishment.’*

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<sup>27</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)

<sup>28</sup> Report of Consultations with Survivors (2019), p. 16 available [here](#)

<sup>29</sup> Ibid.

## RECOMMENDATIONS FOR HEAD 2 – DEFINITIONS (ELIGIBILITY CRITERIA FOR ACCESSING SUPPORTS)

1. The Legislation should ensure that all Survivors of residential institutions covered by the Bill have equal access to all supports outlined in the Bill, irrespective of whether they have already received an award or settlement from the Residential Institutions Redress Board (*Caranua*) or a similar court award or settlement.

## HEAD 4 – PROVISION OF HEALTH SERVICES WITHOUT CHARGE TO FORMER RESIDENTS

Head 4 provides for the provision without charge of certain health services to “former residents” as defined under Head 2. Head 4 provides for an enhanced range of health services for former residents on the same basis as those provided to both Survivors of the Magdalen laundries and former residents of Mother and Baby and County Home institutions. Ms Aoife Conduit explained that the package of health supports is commonly referred to as an ‘*enhanced medical card*’ and will ‘*allow Survivors to access GP services, drugs, medicines, home nursing and home helps, dental, ophthalmic and aural services, counselling, chiropody, podiatry and physiotherapy*’.<sup>30</sup>

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Siobhán Byrne, Regional Outreach Officer at Right of Place Second Chance, and Ms Carmel McDonnell Byrne both stressed the extensive health related challenges experienced by Survivors.<sup>31</sup> Ms McDonnell Byrne noted how Survivors struggle with health expenses. Specifically, she explained how Survivors ‘*often have to pay for things like important blood tests and extra medical treatments that are not covered by their regular GP*’ and how ‘*Survivors, who often deal with poor health, end up being further disadvantaged... sometimes, they cannot even afford all of the costs of their medical needs.*’<sup>32</sup>

<sup>30</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [18/10/2023](#)

<sup>31</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)

<sup>32</sup> Ibid.

Both Ms Siobhán Byrne and Ms Carmel McDonnell Byrne explained how the granting of medical card under the Health (Amendment) Act (HAA cards) designed for Survivors of institutional abuse, Magdalen Laundries, and Mother and Baby Homes would enable Survivors to access all of the health supports they require.<sup>33</sup> Both cited the fact that HAA cards are granted to haemophiliacs who contracted Hepatitis C from the administration within the State of contaminated blood or blood products. The card covers more services than the proposed enhanced medical card provided for under the General Scheme and includes alternative therapies, free counselling services for both survivors and their immediate family members, and the establishment of liaison officers for local areas who are responsible for coordinating and assisting the card holder to access care services.<sup>34</sup> Ms McDonnell Byrne further outlined how this provision for extra care would be hugely beneficial for Survivors, particularly those with literacy problems who don't always fully understand their prescriptions. Furthermore, liaison officers could serve to enhance the accessibility of the health supports available to Survivors, which could be particularly beneficial for Survivors who are socially isolated and/or lacking confidence.

Ms McDonnell Byrne also indicated that the home nursing services offered under the HAA card could help survivors to live out the remainder of their days at home. She indicated that this was very important to survivors given their fear of re-institutionalisation in their old age.<sup>35</sup>

In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit was queried by members whether all Survivors of institutional abuse could be afforded a statutory right to a HAA card. Ms Conduit advised that the enhanced medical card had already been provided to Magdalen Survivors and would be provided to former residents of Mother and Baby Homes. Ms Conduit indicated that the Department was endeavouring to

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<sup>33</sup> Ibid.

<sup>34</sup> Affording counselling services to both ex-residents and their families was a recommendation of the Ryan Report, which recognised that '*counselling and mental health services have a significant role in alleviating the effects of childhood abuse and its legacy on following generations*'.

<sup>35</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)



ensure equity of treatment, whilst recognising that the enhanced medical card ‘*does not cover absolutely everything*’.<sup>36</sup>

Whilst acknowledging that amendments of existing legislation would be required, it would appear that equity of treatment could potentially be achieved by affording survivors of all residential institutions, including institutions covered by the proposed legislation, the Magdalen Laundries, and the Mother and Baby and County Homes, access to the HAA. This would be in line with the stated preferences of all groups of Survivors. It should be noted that Survivors of Magdalen laundries and of Mother and Baby and County Homes have also requested access to a HAA card. Following a report authored by Justice Quirke on the *Establishment of a Redress Scheme for Survivors of Magdalen Laundries* it was recommended ‘*that Magdalen women should have access to the full range of services currently enjoyed by holders of Health (Amendment) Act 1996 Card (“the HAA card”)*’.<sup>37</sup>

## RECOMMENDATIONS FOR HEAD 4 – PROVISION OF HEALTH SERVICES WITHOUT CHARGE TO SURVIVORS

2. The Health Amendment Act Card (HAA Card) provided for under the *Health (Amendment) Act 1996* covers more services and has been identified as a key request from Survivor Groups. Therefore, the Legislation should provide all survivors with a HAA card rather than the proposed Enhanced Medical Card.

<sup>36</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [18/10/2023](#)

<sup>37</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), p.35, available [here](#).

## HEAD 5 – HEALTH SUPPORT PAYMENTS FOR FORMER RESIDENTS ORDINARILY RESIDENT OUTSIDE THE STATE

Head 5 provides for the making by the Minister, upon receipt of an application, of a once-off health support payment of €3,000 to former residents who live overseas. In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit outlined that the once-off payments were:<sup>38</sup>

*‘In recognition of the fact that approximately one third of Survivors of abuse in residential institutions now live outside of the State, the Bill also provides for the making of a once-off health support payment of €3,000 to Survivors who are resident abroad, in lieu of the enhanced medical card, to support their health needs. This is the same approach as that taken in the Mother and Baby Institutions Payment Scheme Act 2023.’*

In oral evidence, on the 17<sup>th</sup> of October 2023, Mr Patrick Rodgers, Regional Manager Fréa, outlined his concerns that a once-off payment may end up unfairly penalising UK-based survivors who are in receipt of means-tested benefits from the UK Department for Work and Pensions. Mr Rodgers stated that:<sup>39</sup>

*‘Means-tested benefits from the Department for Work and Pensions in the UK are universal credit, pension credit, jobseeker’s allowance, employment support allowance, housing benefit and council tax support. In order to access means-tested benefits, certain criteria regarding capital have to be met. These can be broken down into two parts, namely, capital and income. To deal first with capital, the lower capital limits for benefits in Britain are £6,000 for benefits claimed by people aged under 66 and £10,000 for people aged over 66. After a person’s capital exceeds this amount, the benefit is reduced by £1 for every £500 the person has in savings. A person with capital in excess of £16,000 is no longer entitled to means-tested benefits, with certain exceptions. Any large*

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<sup>38</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [18/10/2023](#)

<sup>39</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [17/10/2023](#)

*one-off payment can adversely affect claimants as it has the effect of bringing them over the capital savings limits.'*

Mr. Rodgers explained that there is scope to disregard certain payments for the purposes of the capital and income limits. For example, payments to persons who have been subject to historical institutional child abuse in the UK do not count as accrued capital. Mr. Rodgers advised that, according to the UK's *Department for Work and Pensions* decision-maker guidance, capital can be disregarded in circumstances where a person was awarded a sum for a personal injury and that sum is held in a trust fund. However, he indicated that it is unclear if this "disregard" would be feasible for present purposes as the relevant rules stipulate that '*payments can only come within this disregard where the claimant or partner for whom the payment was made themselves suffered a physical and/or psychological injury*'. Furthermore, he indicated that establishing a trust fund would be costly for survivors (a minimum of £1,000).<sup>40</sup>

Mr. Rodgers stated that clarification is required from the UK Department for Work and Pensions (DWP) as a matter of the utmost urgency regarding whether or not the once-off payment of €3,000 can be disregarded for the purpose of determining whether Survivors are within the applicable capital savings and income limits for mean-tested benefits. He stressed that, if these once-off payments are exempted, this needs to be communicated to the staff of the DWP. He indicated that if the once-off payments are not exempted, then the Department of Education should liaise with the UK's DWP regarding any amendments to UK legislation necessary to ensure that UK-based Survivors can obtain the once-off payment without any adverse ramifications for their mean-tested benefits.

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Maeve Lewis, CEO of One in Four, also expressed reservations about the figure of €3,000 being specified in legislation. Ms Lewis noted that that €3,000 is '*a relatively small figure sum and may not cover the costs of the health services in other jurisdictions*' and '*that it will reduce in value over the coming years due to inflation*'.<sup>41</sup>

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<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit advised that the Department had been engaging with the Department of Children, Equality, Disability, Integration and Youth in relation to the issue highlighted by Mr. Rodgers as the same issue had arisen in relation to the once-off payment for UK-based former residents of Mother and Baby Homes. Ms Conduit confirmed that the Department of Education ‘are going to work with the Department to contact our counterparts in the UK Department for Work and Pensions to talk through with them what can be done... it is something on our radar’.<sup>42</sup>

### RECOMMENDATIONS FOR HEAD 5 – HEALTH SUPPORT PAYMENTS FOR FORMER RESIDENTS ORDINARILY RESIDENT OUTSIDE THE STATE

3. The Legislation should ensure that Survivors of residential institutions covered by the proposed legislation, who are living abroad, and who also spent time in a Magdalene Institution and received a “relevant payment” under *the Redress for Women Resident in Certain Institutions Act 2015*, are treated differently to other “former residents” living overseas under Head 5 (2) of the General Scheme. In practical terms, this means they should be eligible for the payment.
4. The proposed €3,000 once-off payment for former residents living overseas is insufficient. The payment should be Index linked to the cost of living and provide additional payments to Survivors who have complex health needs, on a ‘case by case’ basis.
5. The Department of Education should liaise with the United Kingdom’s Department of Work and Pensions (DWP) as an urgent priority to:
  - Seek clarification as to whether the once-off health support payment provided for under Head 5 can be disregarded for the purpose of determining if applicants for mean-tested benefits in the UK are within the applicable capital savings and income limits.

<sup>42</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [18/10/2023](#)

- Ascertain if the once-off payment may be disregarded, and, if so, seek confirmation that this fact has been effectively communicated to staff at the DWP.
- Continue liaising with the DWP regarding potential amendments to UK legislation if the once-off payment may not be disregarded. The purpose of such amendments would be to ensure that UK-based survivors obtain the once-off payment without any adverse impact to their mean-tested benefits.

## HEADS 12,16, AND 18 – RECORDS AND DATA

Heads 12, 16 and 18 concern records and data maintained by *Caranua*. Head 12 provides that any records held by the Board of *Caranua* will, on its dissolution, become records of the Minister. Head 12 also authorises the Minister to process personal data contained in the records, where necessary and proportionate for the performance of certain functions as outlined in the Head. The listed functions include determining former residents' eligibility to access the health services and one-off health support payment provided for in Heads 4 and 5 respectively, and determining former residents' eligibility to access certain ancillary supports for former residents engaging in education. It also provides for the disclosure by the Minister to the HSE of relevant personal data in connection with the provision of health supports to former residents, where necessary and proportionate.

Head 16 requires the RIRB to transfer certain personal data of '*former residents*' (their name, address and date of birth) to the Minister for the purpose of confirming their eligibility to access the health supports and one-off payment referred to in Heads 4 and 5 respectively, and their eligibility to access certain ancillary supports for former residents engaging in education. Head 16 also provides for the disclosure by the Minister to the HSE, where necessary and proportionate, of relevant personal data received from the RIRB. The accompanying explanatory note in the General Scheme

indicates that this data may be disclosed to the HSE in connection with the provision of health supports to former residents.

Head 18 empowers the Minister to make regulations prescribing additional bodies or classes of bodies to which personal data may be disclosed, where necessary and proportionate, for the provision of the health services set out in Head 4, or the provision of the ancillary supports to former residents engaging in education referred to in Head 12(2)(vii). Head 18 also permits the Minister to make regulations prescribing suitable and specific measures for the processing of personal data and special categories of data, including measures set out in *section 36(1) of the Data Protection Act 2018*.

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Maeve Lewis outlined that *‘privacy concerns are very salient for Survivors and every thought needs to be given to the security of sensitive data’*.<sup>43</sup> Ms Siobhán Byrne also stressed the importance of ensuring that *Caranua*’s records are preserved and available for use for academic and other research purposes so that anybody who wishes to understand the relevant history can do so.<sup>44 45</sup>

In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit outlined that *Caranua*’s records do not include detailed testimony or accounts of Survivors’ experiences of abuse akin to those held by the *Commission to Inquire into Child Abuse* or the *RIRB*. She outlined that the records are primarily administrative and relate to *Caranua*’s role in processing applications and disbursing funding supports to survivors. She advised that the relevant data and records will continue to be subject to both GDPR and freedom of information provisions. She confirmed that survivors will be entitled to exercise their GDPR and freedom of information rights, including their right to obtain a copy of their data.

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<sup>43</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)

<sup>44</sup> *Ibid*

<sup>45</sup> Notably, several survivors opposed the proposed Retention of Records Bill (now lapsed), which, if adopted, would have resulted in the records of the Commission to Inquire into Child Abuse and the RIRB being put into the National Archives of Ireland and sealed for over 75 years. The Ryan Report included a recommendation that the right of access to personal documents and information be recognised and afforded to ex-residents of institutions.

Ms Conduit advised that the Department has engaged closely with The Office of the Attorney General in relation to the transfer and processing of both sets of data (the data from *Caranua* and the *RIRB*) and will continue to engage with counsel throughout the drafting process. Ms Conduit advised that, when preparing the General Scheme, the Department had engaged in a formal consultation process with the Data Protection Commission (DPC) in accordance with *Article 36(4) of the General Data Protection Regulation (GDPR)*. She confirmed that this process had not identified any issues of concern. Ms Conduit advised that appropriate safeguards would be put in place, in consultation with the DPC, to ensure compliance with all data protection requirements. Ms Conduit also confirmed that *Caranua's* records would become departmental records and, as such, will be subject to the provisions of the *National Archives Act*.

#### RECOMMENDATIONS FOR HEADS 12, 16 AND 18 – RECORDS AND DATA

6. The provisions of Heads 12, 16 and 18 (1) should be strengthened to safeguard Survivors' personal data and to ensure Survivors' right to privacy. It should explicitly refer to the need to adhere to all relevant obligations under the General Data Protection Regulation (GDPR) and relevant domestic data protection legislation in the provisions of Heads 12, 16 and 18 (1).
7. The Legislation should include an express provision confirming that Survivors' will be entitled to exercise their GDPR and freedom of information rights, including their right to obtain a copy of any of their personal data, which was formerly retained by *Caranua*.
8. The Legislation should include provisions that would ensure all *Caranua* records are sensitively preserved and available for academic and other research purposes.



## HEAD 17 – AMENDMENT OF NURSING HOMES SUPPORT SCHEME ACT 2009

Head 17 seeks to amend *Part 3 of Schedule 1 of the Nursing Homes Supports Scheme Act 2009* to ensure that awards made by the *RIRB* or similar court awards or settlements are not included in any financial assessment of means under the fair deal scheme.

In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit outlined that:<sup>46</sup>

*‘The general scheme includes the amendment of the Nursing Homes Support Scheme Act 2009 to ensure that payments made by the Residential Institutions Redress Board, which made awards of redress to approximately 16,000 survivors of abuse in residential institutions, are no longer taken into account when making financial assessments under the fair deal scheme.’*

Survivors who participated in the 2019 Consultation expressed a ‘*huge fear*’ of being institutionalised again toward the end of their lives and forced into a care home.<sup>47</sup> They requested home care packages that take account of their circumstances, consultations about how to meet end of life needs and assurances that funeral expenses would be available.<sup>48</sup>

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Maeve Lewis stated that:<sup>49</sup>

*‘Many survivors dread the possibility of ending their lives in a care home, provoking, as it might, traumatic memories of their childhoods in institutions. It would be useful if the Bill could include a section stressing that every effort*

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<sup>46</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [18/10/2023](#)

<sup>47</sup> Barbara Walshe and Catherine O’Connell, ‘Consultations with Survivors of Institutional Abuse on Themes and Issues to be addressed by a Survivor Led Consultation Group’ (July 2019), p. 18, available [here](#).

<sup>48</sup> Ibid.

<sup>49</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)

*would be made to ensure that, insofar as possible, home help and nursing care would be provided for survivors in their own homes.'*

At the same meeting, Ms Carmel McDonnell Byrne also stated that:<sup>50</sup>

*'The biggest worry many have, and one which I share, is that they will be institutionalised again and will not be allowed to stay at home. The health (amendment) Act card could help with having systems in place that would enable us to live out our lives. Some people who have had their redress are terrified to touch it because of that fear. They want to keep that little bit of money. We know what institutional life was like. We do not know whether it will be the same, but we have that fear. All the counselling that we had done would go out the window just thinking about it.'*

Ms McDonnell Byrne outlined that the extensive home nursing and home care package afforded under the HAA card could help alleviate Survivors' fears by ensuring that systems are in place to enable Survivors to live out the remainder of their lives in their own homes. According to the Information Guide for HAA cards:<sup>51</sup>

*'The aim of the care plan is to provide and support client focused care in the community to enable the individual to be cared for at home where possible and to reduce unnecessary admissions to hospital and facilitate early discharges from hospital.'*

*From time to time it may arise that the circumstances of referral may not give ample time for a full care at home plan to be put in place immediately, and in such a case, services will be put in place as quickly as possible. Each home care plan will be monitored by the clinical nurse coordinator or designated nurse with responsibility for arranging home nursing care and will be reviewed at regular intervals and as client's needs change.'*

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<sup>50</sup> Ibid.

<sup>51</sup> HAA Card Information Guide, p. 17, available [here](#).

*HAA cardholders are also entitled to respite care, convalescent care and where clinically recommended long term nursing home care.'*

Regarding the home care service, the Information Guide for the HAA card states that:<sup>52</sup>

*'If as a result of your condition, you are having difficulty in carrying out normal household chores, you are eligible for home support services. If your normal household responsibilities include cooking for a family, cleaning the family home or looking after children, the home support service can cover any or all of these duties.'*

## **RECOMMENDATIONS FOR HEAD 17– AMENDMENT OF NURSING HOMES SUPPORT SCHEME ACT 2009**

9. The Legislation should provide a mechanism to ensure, insofar as possible, Survivors are not re-institutionalised in older age or because of ill health, if that is against their wishes. To this end, HAA cards should provide for home nursing services and home care services.

## **ADDITIONAL ANCILLARY SUPPORTS AND PRIORITY NEEDS**

Outside of the General Scheme of the Bill, the Department of Education proposes to provide Survivors with additional schemes and supports on an administrative basis. These include educational supports and initiatives relating to Survivor advocacy and trauma-informed practice.<sup>53</sup>

In oral evidence, on the 18<sup>th</sup> of October, Ms Aoife Conduit stated that:<sup>54</sup>

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<sup>52</sup> Ibid., p. 18.

<sup>53</sup> The provision of educational supports itself is not provided for in the legislation, however the General Scheme of the Bill provides a legal basis for the processing of certain data to confirm Survivor eligibility for educational supports.

<sup>54</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [18/10/2023](#)

*‘The Government also approved initiatives relating to advocacy and trauma-informed practice. Although these do not require a legislative basis and are therefore not reflected in the general scheme, they represent critical elements of the overall package.’*

## EDUCATIONAL SUPPORTS

In oral evidence, on the 18<sup>th</sup> of October, Ms Aoife Conduit outlined that the Department of Education will:<sup>55</sup>

*‘Establish a new administrative scheme involving the payment of cash grants ranging from €500 to €2,000 to Survivors who are engaging in further and higher education. This scheme will also ensure that Survivors are no longer required to pay the student contribution charge where this would otherwise apply.’*

Ms Conduit further advised that the Department would consider applications from *‘Survivors in the UK or elsewhere if they are doing a recognised programme and want to avail of it as well’*.<sup>56</sup> Ms Conduit stressed that the Department would endeavour to make the scheme as easy to access and unbureaucratic as possible. She indicated that it would involve an additional cash payment to assist with expenses and would not displace any of the supports already available for people accessing education.

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Siobhán Byrne outlined that one of the *‘key recommendations of the Commission to Inquire into Child Abuse stated that educational supports for Survivors and their families should continue to help address many of the disadvantages suffered.’*<sup>57</sup> Ms Byrne also requested *‘that the State provide access to funding for education, training, and supports which would enable families of Survivors, many of whom are typically from lower socioeconomic backgrounds, to break the cycle of poverty which was in part, caused by institutionalisation.’*<sup>58</sup> Ms

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [17/10/2023](#)

<sup>58</sup> Ibid.

Carmel McDonnell Byrne reiterated this point. Ms McDonnell Byrne noted that the children of Survivors were sometimes not encouraged to progress in the education system, which meant that they never learned to read or write. She advised that some of the children of Survivors had gained confidence through educational supports.

As recorded in the Ryan Report, the level of education that Survivors received in institutions was very poor. In its recommendations, the Ryan Report stated that *‘Educational services to help alleviate the disadvantages experienced by children in care are also essential.’*<sup>59</sup> Institutional abuse also impacted the educational opportunities available to Survivors’ children and grandchildren. Many Survivors who participated in the 2019 consultation said that they were unable to support their children in obtaining education either because they had none themselves or were unable to parent sufficiently.<sup>60</sup>

The Education Finance Board’s supports were available to survivors and their immediate family members, including spouses, children, stepchildren, and grandchildren. The Report of the 2019 Consultation states that, *‘Survivors expressed regret at the closure of the Education Finance Board which was generally reported as being easy and straightforward to access.’*<sup>61</sup> The Report notes: *‘Education is seen as a very important pathway to break the inter-generational legacy of institutional abuse.’*<sup>62</sup>

## INTER-DEPARTMENTAL GROUP AND DESIGNATED LIAISON OFFICERS

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Maeve Lewis queried *‘how people will know about their entitlements and who will act as an advocate to make sure they have access to their entitlements. Now that Caranua is gone, the Department needs to consider very carefully who will take on that role and how they will manage it’.*<sup>63</sup> It

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<sup>59</sup> Ryan Report, Volume 4, chapter 7, p. 461, available [here](#).

<sup>60</sup> Barbara Walshe and Catherine O’Connell, ‘Consultations with Survivors of Institutional Abuse on Themes and Issues to be addressed by a Survivor Led Consultation Group’ (July 2019), p. 20, available [here](#).

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [17/10/2023](#)

was outlined how many Survivors face challenges dealing with multiple departments, state agencies, and other bureaucracies.

The point was raised by Members as to whether the Department intended to establish a high-level interdepartmental group to ensure that all of the supports proposed in the General Scheme and any additional supports provided on an administrative basis are implemented in a collaborative way between all the relevant Departments and agencies involved.

In oral evidence, on the 18<sup>th</sup> of October, Ms Aoife Conduit stated that:<sup>64</sup>

*‘We had an interdepartmental group with all the relevant Departments on it in terms of drawing up these proposals and the Bill. We will certainly have to have a bilateral working group with the Department of Health and the HSE on the implementation of the stuff around the medical card, eligibility and all of that. We will work closely, as we do anyway, with the Department of Children, Equality, Disability, Integration and Youth on the national centre for research and remembrance, NCRR, and other aspects of the package of proposals. We are used to working across government in these areas and will continue to do so. It was clear to us in developing these packages how dependent and interdependent we are on other Departments and agencies. In its implementation, we will work closely with them.’*

## PROFESSIONAL ADVOCACY SERVICE

The Report of the 2019 Consultation with Survivors (2019) noted that:<sup>65</sup>

*‘Both Ireland and UK Survivors and advocates also stressed the need for clear pathways to access medical, housing, financial and others supports and again highlighted the need for designated liaison personnel who have had training in Survivor specific circumstances.’*

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<sup>64</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [18/10/2023](#)

<sup>65</sup> Ibid.

It recommended the establishment of a special provision's agency as a type of 'one-stop shop' to signpost Survivors to necessary services. The report stressed that the agency's staff should have trauma-informed training, access to specific designated funding and not be affiliated with any religious organisation.

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Maeve Lewis outlined how:<sup>66</sup>

*'In the absence of a designated support agency, many Survivors will have difficulty in accessing information about their entitlements, negotiating any roadblocks they may encounter and identifying appropriate services. Some survivors have a low educational attainment and may be suffering from chronic complex post-traumatic stress disorder, PTSD. Some will not have the confidence to be assertive in claiming their entitlement. Thus, there is a vital need to provide for a professional advocacy service to assist survivors in availing of the proposed supports.'*

At the same meeting, Ms Carmel McDonell Byrne stated that:<sup>67</sup>

*'We need a State-run advocacy service exclusively for survivors, similar to the national advocacy service model for people with disabilities. Survivors should be able to access an advocate service solely designed to support them.'*

The importance of a State-run advocacy service is of particular importance as *Caranua* is being dissolved and there is a clear for there to be a seamless transition for Survivors with simple, inclusive language used. During oral evidence, on the 18<sup>th</sup> of October, Ms Aoife Conduit advised that the Government has approved initiatives relating to advocacy and trauma-informed practice. Ms Conduit noted that, although these supports do not require a legislative basis and are therefore not reflected in the General Scheme, they represent critical elements of the overall package of supports for survivors. Ms Conduit stated that:<sup>68</sup>

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<sup>66</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)

<sup>67</sup> Ibid.

<sup>68</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [18/10/2023](#)



*'The Department is engaging with an independent, professional advocacy organisation, Sage Advocacy, which has a strong track record in empowerment advocacy, to establish a specific advocacy service for survivors of abuse in residential institutions which will be resourced by a dedicated team and ring-fenced funding. This service will assist survivors in engaging with and accessing mainstream public services. Discussions with Sage Advocacy are at a very advanced stage and work is under way to ensure the service can begin to support survivors as soon as possible.'*

Ms Conduit indicated that Sage Advocacy was used to working with vulnerable people and helping and empowering them to access services and navigate any associated bureaucracy insofar as it can. Ms Conduit outlined that the Sage Advocacy *'is not an advocate in the sense of lobbying on government policy or any of those matters.'* Ms Conduit added that by the end of 2023, the Department intended to bring its Survivors' consultative forum together to explain to them how the service will work and to disseminate that information more widely. Ms Conduit advised that the exact services that Sage Advocacy will provide have yet to be clarified; however, she indicated that it is not going to just offer an information dissemination service and *'will provide a regionally based service that will provide a face-to-face or one-to-one contact point for survivors.'*<sup>69</sup> Ms Conduit did not specify whether Sage Advocacy would be responsible for identifying, reaching out to, and assisting survivors in the UK.

## **TRAUMA-INFORMED TRAINING FOR STAFF DEALING WITH SURVIVORS**

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Maeve Lewis stated that:<sup>70</sup>

*'Many survivors still experience shame and stigma associated with their childhood experiences and will not always feel able to identify themselves as survivors to front-facing staff in the health services. All medical and public service staff working in front-line roles, therefore, should be afforded trauma-*

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<sup>69</sup> Ibid.

<sup>70</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [17/10/2023](#)

*informed practice training so they can identify survivors and be aware of the different specialist supports they may need.'*

In oral evidence, on the 18<sup>th</sup> of October, Ms Aoife Conduit advised that the Department would arrange for the development of a training course on trauma-informed practice and for related training materials to be disseminated to service providers across the civil and public service.

### **TIMELY ACCESS TO COUNSELLING**

In oral evidence, on the 17<sup>th</sup> of October, Ms Maeve Lewis welcomed the fact that counselling services had been identified as a necessary support. However, Ms Lewis noted that all specialised counselling and psychotherapy organisations are under-resourced, have long waiting lists and are unable to meet demands for services. Ms Lewis outlined how *'Survivors of institutional abuse deserve to have timely access to well-trained, experienced trauma psychotherapists and counsellors and no provision is made for this in the Bill'*.<sup>71</sup> Ms Lewis advised that, as a practising psychotherapist, she had witnessed first-hand the impact of childhood trauma on parenting skills and the lives of children of survivors. Ms Lewis stated that:<sup>72</sup>

*'I see the impact of childhood trauma on a person's parenting skills. Very often people struggle despite their best efforts. They have issues with attachment or physical contact with their children and may be terrified that a hug could be abusive - what is abuse and so on and so forth. That has an ongoing impact on their children's lives. I believe profoundly that with good trauma therapy those issues can be overcome to some extent but not totally. The provision of expert trauma psychotherapy would address that issue in the Bill'*

In oral evidence, on the 18<sup>th</sup> of October, Ms Aoife Conduit indicated that she would seek to clarify if the HSE's free counselling service for survivors was open to children

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

of survivors and revert to the Committee. It is worth recalling that psychological counselling services are available to HAA cardholders and their immediate family members under the terms of the Health (Amendment) Act 1996.<sup>73</sup>

## FUNDING FOR SOCIAL SUPPORTS AND SURVIVORS' GROUPS

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Carmel McDonnell Byrne stressed that Survivors' groups are in acute need of funding. She informed the Committee that the *Christine Buckley Centre* currently only has one Manager working five days, an Assistant Manager working two days, and two part-time workers. She explained that the organisation has had to move premises on several occasions in order to reduce rental costs and continue to pay its staff. Most recently, the Centre has had to move from a convenient city centre location to Dundrum making it harder to access for Survivors travelling from outside of Dublin. Ms McDonnell Byrne outlined that her organisation receives €227,000 in funding from the Government and that the Centre doesn't have capacity to fundraise due to staffing shortages.

At the same meeting, Ms Lewis advised that it costs approximately €1.6 million per year to operate One in Four, of which approximately 75 per cent is provided by the HSE, Tusla and the Department of Justice. She advised that the remainder derives from fundraising. She indicated that approximately 90 per cent of the €1.6 million is used for staffing costs. Ms Byrne also advised that whilst she didn't have exact figures to hand, a lack of funding, staff and resources is a big issue for Right of Place Second Chance.

## ACCESS TO A STATE PENSION (CONTRIBUTORY)

*The Report of the 2019 Consultation with Survivors* indicated that urgent action is needed to address Survivors' priority concerns surrounding the need for sufficient income to live in dignity.<sup>74</sup> The Report observed Irish '*Survivors wished to obtain a*

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<sup>73</sup> HAA Card, see the Guidance Booklet, p. 12, available [here](#).

<sup>74</sup> Barbara Walshe and Catherine O'Connell, 'Consultations with Survivors of Institutional Abuse on Themes and Issues to be addressed by a Survivor Led Consultation Group' (July 2019), p. 15, available [here](#).

*contributory pension to acknowledge the years spent working in Irish institutions without payment.*<sup>75</sup> The *Report of the Survivor-led Forum* that participated in Phase 2 of the Consultation reiterated this as a priority need and noted that the poor education and trauma experienced by Survivors in institutions had deprived many Survivors of good career prospects.<sup>76</sup>

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Siobhán Byrne requested that *‘the Government make available to Survivors the automatic entitlement to the contributory State pension upon reaching pensionable age’*<sup>77</sup> It was outlined that this would go some way towards recognising the life-long negative impact, which institutionalisation has had on the lives of Survivors, and their families.

## PRIORITY ACCESS TO SOCIAL HOUSING

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Siobhán Byrne requested that Survivors to be afforded priority access to social housing by councils in recognition of the adverse effects of the residential institutional abuse they experienced as children. She stated that:<sup>78</sup>

*‘Social housing and giving precedence to survivors regarding its allocation would recognise the adverse effects of their institutionalisation and abuse as children, which has led to low levels of home ownership and homelessness. The housing inequality experienced by survivors must be recognised and amended.’*

Ms Byrne advised that these adverse effects include low levels of home ownership; homelessness, particularly amongst men; and complex medical problems, both physical and mental health. Ms Byrne outlined that Survivors have complex mental health issues, which have contributed to alcohol dependency problems amongst some

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<sup>75</sup> Ibid.

<sup>76</sup> Similarly, in his report on the proposed establishment of an ex-gratia scheme for survivors of Magdalen Laundries, Justice Quirke recommended that survivors be afforded access to a payment equivalent to the State pension (Contributory) for life in recognition of the work they completed in the laundries.

<sup>77</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)

<sup>78</sup> Ibid.

Survivors. Ms Byrne indicated that some Survivors never acquired the skills necessary to properly look after themselves, which in turn increased their susceptibility to long-term illnesses. Ms Byrne observed that the awards the survivors received from the RIRB were not sufficient to enable many survivors to purchase a house.

## **SUPPORTING VICTIMS TO OBTAIN JUSTICE, INCLUDING CRIMINAL ACCOUNTABILITY**

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Maeve Lewis called for the Bill to include provisions providing for professional support for Survivors who may be engaging with criminal or civil justice processes in relation to their alleged abuser. Ms Lewis stated that:<sup>79</sup>

*‘We in One in Four support people through 60 or 70 criminal trials a year. That support is there, and it is a growing need. On the volume of people involved with regard to institutional survivors, the advocacy support we have been talking about could, perhaps, also support people through these processes because, inevitably, all the clients we support through the criminal justice trial find that process shaming, demeaning, dehumanising and retraumatising.’*

In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit stated that:<sup>80</sup>

*‘The point made by One in Four about seeking justice in the courts system has been made before. There are difficulties with the State, through one Government Department, supporting civil or criminal actions. I am not sure it is possible to address that in this particular Bill, but we are certainly engaging with One in Four as we go forward.’*

Following the publication of the Ryan Report, Taoiseach Brian Cowen T.D., stressed that those who perpetrated crimes against survivors must be held to account.<sup>81</sup> United Nations’ human rights treaty monitoring bodies have voiced serious concerns

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<sup>79</sup> Ibid.

<sup>80</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the Supports for Survivors of Residential Institutional Abuse Bill 2023, [18/10/2023](#)

<sup>81</sup> Dáil Éireann debate, ‘Institutional Child Abuse’ (2 July 2009) available [here](#).

regarding the ‘*climate of impunity*’ in relation to residential institutional abuse, and the ‘*limited number of investigations carried out by An Garda Síochána and the lack of prosecutions*’.<sup>82</sup>

## MEMORIAL AND ACKNOWLEDGEMENT OF WRONGDOING

Redress mechanisms can include non-financial ‘*recognition*’ measures that include a public acknowledgement of wrongdoing and commemorative measures, which affirm suffering, humanity and resilience of victims.

In oral evidence, on the 17<sup>th</sup> of October 2023, Ms Carmel McDonnell Byrne outlined that, in order to alleviate the sense of shame that some survivors feel, a few sentences should be included in the Bill reiterating that survivors did nothing wrong.<sup>83</sup>

*‘We would like even a few sentences just to say that our people did nothing wrong. We actually did nothing wrong, but we are paying a huge price. It never goes away.’*

In oral evidence, on the 18<sup>th</sup> of October 2023, Ms Aoife Conduit stated that:<sup>84</sup>

*‘The work on the national centre for research and remembrance is well under way... a memo for Government was issued during the summer, outlining the five-year plan. The centre will be on the site of the former Magdalen laundry on Seán MacDermott Street. It is important to say that a national and State approach is being taken. The National Museum of Ireland is very heavily involved, along with the National Archives of Ireland. From the Department’s perspective, we are interested in two things, one of which is memorialisation. We want this to be a site of conscience for the State, for all those who suffered*

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<sup>82</sup> Human Rights Committee, ‘Concluding Observations to Ireland’s fifth periodic Report’ (26 January 2023) UN Doc. CPMR/C/IRL/CO/5, para. 11, available [here](#).

<sup>83</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [17/10/2023](#)

<sup>84</sup> Oireachtas Joint Committee on EFHERIS, Pre-Legislative Scrutiny of the General Scheme of the *Supports for Survivors of Residential Institutional Abuse Bill 2023*, [18/10/2023](#)

*in these institutions. It will also be a very important national archive where the records and testimonies of survivors remain safe for posterity. We are working very closely with the National Archives of Ireland and with the legislative subgroup to determine what might be needed in terms of legislation to bring that forward for the national centre.'*

## ADVERTISING AND ENGAGEMENT WITH HARD-TO-REACH SURVIVORS

Several witnesses noted the importance of the supports provided to Survivors being accessible and inclusive of all Survivors, particularly those residing overseas. In oral evidence, on the 17<sup>th</sup> of October 2023, Mr Patrick Rodgers advised that radio, television, Zoom events during Irish festivals, and Irish societies and centres such as the *Coventry Irish Society* and the *London Irish Centre* could be used to reach out to survivors living in the UK. Mr Rodgers also suggested that the Department of Foreign Affairs, embassies and consulates could play a role in promoting the supports among Comhaltas groups, the GAA, local charities, statutory sectoral organisations and other organisations.

At the same meeting, Ms Carmel McDonnell Byrne recommended advertising in places used by Survivors such as GP practices and stressed the need for simple formats to overcome any language or processing difficulties. Mr Rodgers added that special efforts would be necessary to reach out to individuals who have suffered severe trauma and withdrawn from wider Irish society in the UK. Mr Rodgers indicated that *Freá* was looking to service-map local areas and inform mental health services, GPs and probation services regarding the scheme.

## RECOMMENDATIONS FOR ANCILLARY SUPPORTS AND PRIORITY NEEDS

10. Access to education is critical in terms of addressing the long-term and inter-generational effects of residential institutional abuse. The Legislation should include a provision expressly providing for educational supports for survivors and their families. In practical terms, the Department of Education should establish a non means tested Bursary to provide individual cash grants up to



€3,000 annually to Survivors and their immediate family members engaging in further and higher education.

11. The Legislation should provide for the establishment of a professional Advocacy Service as a Statutory Body. The Terms of Reference should specify:

- The range of services it will provide.
- The beneficiaries it will engage with (including clarification regarding survivors based overseas).
- The mechanisms that it will use to advertise services and reach out to survivors with specific reference to hard-to-reach survivors.
- Staffing provisions and any requirements surrounding staff training, including training in trauma-informed practice; reporting lines, evaluation and accountability mechanisms.

12. A High Level Inter-Departmental Group (IDG) should be reconvened by the Department of Education as an urgent priority. In this phase, the IDG should be Chaired by an Assistant Secretary in the Department of Education with Assistant Secretary representation from all the relevant Departments to ensure the full implementation of the support Provisions in the Bill.

To this end, a Secretariat headed up by a Principal Officer, should be established in the Department of Education to service the IDG and coordinate all relevant activities. Additional Staff could be seconded from the relevant Departments to the Secretariat. Liaison Officers, at Assistant Principal Officer Level, should be appointed by the participating Departments to act as the main point of contact for the Secretariat.

13. The Legislation should contain provisions for a State Pension (Contributory) for all Survivors to acknowledge their years spent working in residential institutions without payment. It would also be in recognition of the long-term adverse ramifications of residential institutional abuse on their career prospects and to

ensure sufficient income to live out the remainder of their lives in dignity.

14. There should be provisions for professional support for Survivors who may be engaging with criminal or civil justice processes in relation to their alleged abuser.
15. The Legislation should include provisions detailing how the Department of Education intends to keep Survivors and their representative groups involved in the process surrounding the establishment of a memorial on the site of the former Magdalen laundry on Seán MacDermott Street and any other potential memorials, to ensure that survivors' preferences are reflected in all decisions taken.
16. The Legislation should also state clearly and unambiguously that Survivors are the innocent victims of institutional cruelty, neglect and societal indifference.
17. The Legislation should specify that there will be a Communications Campaign with budgetary funding to publicise the Supports Package to Survivors. The Campaign should include measures to communicate with hard-to-reach Survivors and Survivors living abroad. The Department of Education should engage with the Department of Foreign Affairs in terms of the role Irish Embassies can play in reaching out to Survivors living abroad.

## APPENDIX 1: ORAL EVIDENCE

Link to meeting held on the 17<sup>th</sup> of October 2023 is available [here](#).

Link to meeting held on 18<sup>th</sup> of October 2023 is available [here](#).

## APPENDIX 2: COMMENTARY NOTES

1. Ms Norma Foley T.D., *Minister for Education*
2. Mr Ned Costello, *Chairperson, Caranua*







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