

DÁIL ÉIREANN

AN COMHCHOISTE UM LEANAÍ, MÍCHUMAS, COMHIONANNAS AGUS LÁNPHÁIRTÍOCHT

JOINT COMMITTEE ON CHILDREN, DISABILITY, EQUALITY AND INTE- GRATION

Dé Máirt, 27 Aibreán 2021

Tuesday, 27 April 2021

Tháinig an Comhchoiste le chéile ag 3.30 p.m.

The Joint Committee met at 3.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Holly Cairns,*	Erin McGreehan,
Cathal Crowe,	Lynn Ruane,
Alan Dillon,	Mary Seery Kearney.
Jennifer Murnane O'Connor,	
Sean Sherlock,	
Mark Ward.	

* In éagmais / In the absence of Deputy Jennifer Whitmore.

Teachta / Deputy Kathleen Funchion sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: Apologies have been received from Deputy Patrick Costello. Deputy Holly Cairns will substitute at this meeting for Deputy Jennifer Whitmore. Before we begin, I remind members who are participating remotely to keep their device on mute until they are invited to speak, and when they are speaking I would ask, where possible, that they have their camera switched on and be mindful that we are in public session.

In addition, I remind members of the constitutional requirements that members must be physically present within the confines of the place in which Parliament has chosen to sit, namely, Leinster House, in order to participate in public meetings. I will not permit a member to participate where they are not adhering to this constitutional requirement. Therefore, any member who attempts to participate at this meeting from outside the precincts will be refused.

General Scheme of a Certain Institutional Burials (Authorised Interventions) Bill: Discussion (Resumed)

Chairman: The business today is pre-legislative scrutiny of the general scheme of a certain institutional burials (authorised interventions) Bill. We are resuming our consideration and members will recall we had several sessions on 14 April. Before I invite the witnesses to address the committee, I wish to put on record that the committee issued an invitation to the Tuam Mother and Baby Home Alliance. However, a representative of the group confirmed that they are not in a position to attend the proceedings here today. Witnesses in attendance today in the Dáil Chamber and representing the Collaborative Forum of Former Residents of Mother and Baby Homes and Related Institutions are Ms Alice Coughlan, Ms Amanda Larkin and Mr. Sidney Herdman. Ms Alice McEvoy was also invited to attend on behalf of the forum. However, unfortunately, she advised that she had to withdraw from the proceedings. Witnesses appearing virtually before the committee from a location outside of the Leinster House precinct and representing Aitheantas are Ms. Maree Ryan-O'Brien and Mr. Rody Ryan, BL, legal counsel for the group. The witnesses are all very welcome and we are delighted so many could attend our meeting today in regard to the pre-legislative scrutiny of the general scheme. Before we commence the meeting, I want to take this opportunity to thank them for taking the time to prepare their opening statements and to thank those who provided written submissions.

I also want to take the opportunity to set out the purpose of the meeting and how proceedings will be conducted to avoid any confusion during the meeting. While acknowledging the harrowing experiences of survivors during their time in mother and baby homes and county homes, the purpose of our meeting is to consider the policy provisions of the proposed legislation. A discussion will take place on the provisions of the general scheme as they relate to the statutory basis and framework under which Government may decide to authorise interventions at certain sites where manifestly inappropriate burials have taken place, associated with institutions operated by, or on behalf of, the State, or in respect of which the State had clear regulatory or supervisory responsibilities.

I remind members and witnesses that they are expected to strictly adhere to the subject matter scheduled for discussion, and any deviation on these matters will be addressed through the Chair. It is the responsibility of parliamentary committees to consider and discuss topics in a balanced and fair manner. In achieving this goal, it is the committee, and only the committee,

that determines the witnesses it engages with. This level of engagement will greatly assist the members of the committee in finalising its scrutiny report on the general scheme.

At this point, we always like to highlight the support services available to anyone affected by the matters under discussion today. The HSE has a dedicated counselling service for former residents of mother and baby homes, and the telephone number is 1800 817 517.

The committee wishes to have a productive public engagement. However, I must remind witnesses that they should not mention names of individuals or organisations even if that information is already in the public domain, nor should they make charges against anyone by name or in such a way as to make them identifiable. These are normal parliamentary procedures and exist to ensure that engagements are conducted in a constructive way.

Before I invite the witnesses to deliver their opening statements, I will read out the standard text regarding the provisions of the Defamation Act to remind witnesses of their rights and obligations. For the witnesses present in the Dáil Chamber, the following will apply: they are protected by absolute privilege in respect of the presentation they make to the committee. This means they have an absolute defence against any defamation action for anything they say at the meeting. However, they are expected not to abuse this privilege and it is my duty as Chair to ensure that this privilege is not abused. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction.

For the witnesses appearing virtually, I need to point out that there is uncertainty as to whether parliamentary privilege will apply to their evidence from a location outside of the parliamentary precincts of Leinster House. Therefore, if they are directed by me to cease giving evidence on a particular matter, it is also imperative that they comply with any such direction.

We will move on to the opening statements. I will call on the witnesses in the following order; Ms Alice Coughlan, Mr. Sidney Herdman, and Ms. Maree Ryan-O'Brien. Ms Amanda Larkin and Mr. Rody Ryan are available to answer questions. I invite Ms Coughlan to deliver her opening statement.

Ms Alice Coughlan: I thank the committee for inviting us here today to comment on the general scheme of the Bill. I am member of the Collaborative Forum of Former Residents of Mother and Baby Homes and Related Institutions, and a survivor – a mother – of Bessborough mother and baby institution. While the members of the forum are pleased that the Bill is setting out a legal framework to address the issue of identifying children and mothers who died in institutions, and to ensure they have a dignified burial, the Bill itself is divisive. There are members of the forum who are broadly in support of it, and members of the forum who oppose it. For my part, I support the Bill, though not without reservation.

As a survivor of Bessborough mother and baby institution, and as a mother whose child was taken, I can say from experience that to lose a baby, to not know whether your child is alive or dead, is the worst experience anyone can ever imagine. I know my child survived, but so many did not, and for far too many women, the question remains. We have known about the 800 bodies in Tuam since 2017 and yet, four years later, we have made no progress in identifying the children, or in providing closure for the survivors who fear that their child, their brother, their sister, is among the bodies. Four years later, and these babies have yet to receive a proper burial. It is for this reason that I think this Bill must pass into legislation as soon as possible.

I am not a legislator and I have no experience in matters of law, so if I am told that a new legal framework is required to ensure that the children currently rotting in Tuam and other institutions are excavated, then I must trust that this is necessary, and ask that anything that can be done is done, that there are no more delays, and that action will finally be taken to rectify what is yet another betrayal of the women and children of Ireland.

This does not mean that I support the Bill wholeheartedly. I have spoken to other survivors and they agree that there are issues that must be addressed. We believe the Bill should include a list of institutions in Ireland, publicly and privately-owned, Catholic and Protestant. Nothing can be left open to interpretation, there can be no ambiguity and no site can be exempt from investigation. Where there are known or confirmed discrepancies between death records and burial records at any of the listed sites, there should be an investigation. For example, there are approximately 900 bodies, women and children, missing in Bessborough, and this must be addressed.

Ultimately, however, we believe, and I believe, there can be no delay. The longer we wait to excavate the bodies, the more women will die without knowing whether their child is rotting in the ground or in a septic tank.

Chairman: I thank Ms Coughlan very much. We move on now to Mr. Sidney Herdman.

Mr. Sidney Herdman: I am a member of the Collaborative Forum, which was set up roughly three years ago. We discussed all situations in respect of the institutions and the burials as well. We did a report in 2018 and it is there in the Government records. If the committee requires the relevant information, I think it is chapter three which deals with the Bill. We have already made our recommendations, which we all agreed to in the Collaborative Forum. There are 20 people on the Collaborative Forum and we all make independent choices for different groups. If the committee could get that report, it would be helpful for the Bill.

It is a disgrace to our ears to hear what went on in the 1990s in these burial grounds. I refer to human bodies lying in unmarked graves. Any other country would have a full investigation into these unmarked graves of humans. I know the situation with Tuam, where there is a septic tank with bodies in it. In our day and age? Come on. We have an organisation in our country and in our society and it should be called in to oversee all this. The organisation we refer to is the Coroner Service. It is a legal body with backup. Its members can provide reports. Let them stand up and do their work.

I belong to an organisation on the Protestant side of the fence, which is Institutions Out There. We have marked most of the children in these unmarked graves in Dublin. A monument was already put up for them, but we do not know where they are exactly because there are different plots in that ground. We would like to know where they are and that needs a bigger investigation in itself. I am talking about all institutions with burial grounds. The powers already exist to go in there and sort it out. Please sort it out. I might have siblings in a burial ground that I do not know of. I know that my birth mother was in a mother and baby home called the Bethany Home. Subsequently, I was there at the door of the Bethany Home. My older sibling, who lives in England, knows of three other babies, but we do not know where they were born. We do not know if they were born in the Bethany Home or not, if the committee members can see where I am coming from on that issue. I want to make that point.

I thank the committee very much for letting us come here today as the Collaborative Forum and I ask the members to please feel free to read the report. I thank the members of the com-

mittee for their time, and I am only too happy to answer any questions.

Chairman: I thank Mr. Herdman. We move on now to Ms Maree Ryan-O'Brien. There were some technical issues earlier, but I hope she can hear us now. I call Ms Ryan-O'Brien to give her opening statement.

Ms Maree Ryan-O'Brien: I thank the members of the committee for their kind invitation to contribute to the discussion on the Bill and to discuss our submission.

I am an adoptee and founder of Aitheantas - Adoptee Identity Rights. As a recognised key stakeholder group, our primary objective is that reform of the law in this area should be led by victim-survivors and that the principle of 'people before paper' should be at the heart of any legislation. Throughout past processes, victim-survivors have been afforded what can only be described as witness or bystander status on matters directly affecting us. Matters concerning institutions, burials and forced and coercive adoption were constructed and maintained based on good intentions, knowing what was best and professional opinion. We feel that the narrative on this issue should be directed and led by victim-survivors as opposed to those who have not been directly affected. In advocating for an approach led by victim-survivors, we believe firmly in the process of restorative justice and the right of all victim-survivors to participate.

While we welcome this Bill as a first step in addressing urgent issues surrounding burials, in the context of an all-inclusive approach led by victim-survivors, we would like to highlight several key issues regarding the Bill. We believe there is an opportunity for this Bill to introduce an agency with broader functions to fulfil the objectives of this Bill, as per our submission. We question the remit of this agency and its ability to carry out its functions effectively. We are strongly of the view that existing agencies are no longer fit for purpose and should be replaced by a new agency with overall responsibility for these matters on the grounds of constitutional principles of fair procedures and centralisation of the different facets of the same issue in one agency.

The legacy of this issue is still one of shame, stigma and secrecy. While much time has been given over to the form of inquest and establishing the aspects of who, when, where and how, one of the first hurdles any agency must overcome is that due to the piecemeal approach of previous investigations and the limited understanding of this issue, some families are unaware that they have a family member who died in a home as some victim-survivors have yet to engage with this process. While we feel there is a role to be played by a coroner regarding inquests and investigating and establishing causes of death, the coronial system is one with known shortcomings.

As highlighted by other submissions, we also agree that there are fundamental questions in respect of human rights and burials, our obligations in law and the European Convention on Human Rights, ECHR, all of which require a more thorough investigative approach involving inquests, forensic investigations and storage of remains than is provided for in the Bill. We would also like to highlight the ownership of lands and burial grounds. We believe the State should take ownership of all burial grounds, including those identified and those yet to be identified, by means of compulsory purchase order, CPO, an established system under constitutional law, to fulfil its international human rights obligations and to preserve and protect these grounds.

The final key issue we would like to highlight and contribute to is the issue of archives and memorialisation. We are strongly of the view that the appropriateness of certain models and the shape that any future archive or memorialisation take are decisions that must be made by those

directly affected when all the facts are known as part of an evolving and adaptable process.

We welcome questions from the committee members on our submission or our observations.

Chairman: I thank everyone for their opening statements. Everyone observed the time very well. We turn to the committee members now to pose their questions. I remind everybody that they have five minutes. The members should follow the example of our witnesses, who were very good at keeping to their time. When asking their questions, members must remember to allow time for the answers as well. If members wish, I can inform them when they have one minute left. We have a speaking rota. The first thing I will do is ask everybody to confirm his or her location. Our first questioner is Deputy Dillon. I ask him to confirm his location, please.

Deputy Alan Dillon: I am in the Leinster House precinct.

Chairman: The Deputy has five minutes.

Deputy Alan Dillon: I sincerely thank our witnesses for appearing before us today. I recently had the opportunity to meet some of the members of the collaborative forum, namely, Ms Larkin and her mother and others. I welcome them today. Certainly, during my discussions with them, I got an in-depth consideration of the issues at stake from the perspective of victims and survivors with families who are searching for due process to locate loved ones.

The importance of this proposed Bill is such that it receives comprehensive parliamentary scrutiny by the committee. I commend my colleagues, who are committed and united in fulfilling their duties to support the victims and survivors of mother and baby homes and their families in seeking truth and justice. We look forward to engaging with them today and with other groups in future to ensure that we do our job to the best of our ability and provide them with hope of closure within their lifetime. That is hugely important.

Today, I want to hear from all the witnesses in terms of their submissions. I very much welcome them. My question is very open and generic in nature. Regarding the concerns of witnesses on the aspects of the Bill they feel need to be addressed, what basic changes would they like to see to this legislation to satisfy family members and survivors in respect of our international human rights obligation? Each of the witnesses might give us some feedback in that regard.

Chairman: The Deputy wants each person to give a comment on that. We will start with Ms Coughlan.

Ms Alice Coughlan: I would love to see a Bill passed immediately for the babies in Tuam, particularly. They are sitting rotting in a septic tank. We have done nothing for the last four years. It has been going on longer than four years. It is four years since we had architects telling us there were babies down there. That would be my main issue.

If we had to go through the rest, certainly, there are many things we would like to see happening. As far as I am concerned, we need a simple Bill to take the babies and toddlers - imagine, three-year-old children - out of this septic tank.

Ms Amanda Larkin: I will start by explaining who I am and why I am here. My name is Amanda Larkin. I am a member of the collaborative forum and my mother is a survivor of the Tuam mother and baby home. She was born there in 1949 and spent five and a half years of her life there until she was boarded out. My grandmother was coerced into the Tuam mother and

baby home. She was, therefore, imprisoned in the home and she was trafficked to the psychiatric unit in Castlebar in County Mayo, where she reportedly spent 12 years of her life before she passed away and was buried in a mass grave in Castlebar. A stone was only put up at the mass grave approximately ten years ago by the heritage committee in Castlebar.

With regard to Deputy Dillon's question on the Bill before us, one of the main concerns of the group I represent and with which I work would be to have a larger database for potential siblings and close family members whose loved ones were in the Tuam home in order that there is a guarantee that those babies are returned to their relatives, and that no body is left unidentified or left outstanding at the end of this.

Mr. Sidney Herdman: I would say to the Deputy that there is a statutory 30 year information lock away in that Bill. That should not be there. If my granddaughter, who is eight weeks old on Friday, wants to research her family, she cannot because the information will be locked away for 30 years. I am sorry; that cannot happen. I am still looking for parts of my family. I am 57 years old and I do not know where they are. The situation is that it can be done; get it done.

Ms Maree Ryan-O'Brien: I thank the Deputy for the question. What we need to do is look at this in a more holistic manner. One of the shortcomings with this issue is that the focus of it is way too narrow. To put it in context, we put a question to the then Minister for Children and Youth Affairs, Ms Katherine Zappone, approximately two years ago. The reply to the question was essentially that no data exists as to birth mothers who placed more than one child for adoption. We do not know, therefore, in many instances whether adoptees have siblings who are interred on any of these grounds.

This goes to two points. The DNA aspect of it needs to be far broader in that adoptees would be interested in being involved and would be an asset to it. The other point is that public awareness of this as an issue is quite narrow. It seems to be limited to specific remits, even the remit of the commission, and not heard outside that. We need to broaden that remit and broaden the awareness of it, as we touched on in our opening statement. Many families are actually unknowingly involved and do not know that they have a family member who is interred on these grounds. This may need to be addressed when approaching it from an agency point of view.

One other point as regards information retention, I would have thought it was quite clear from when we ran the Repeal the Seal, Open the Archive campaign that any suggestion in respect of retention of data for survivors or victims is completely unacceptable. They have to be available to the people to whom they directly pertain.

I will also highlight the issue that we brought up in our submission, which is the extension of the agency and the compulsory purchase order, CPO, mechanism. We should not be in a position, in this day and age, where there is even the remotest suggestion that a children's burial ground in Cork should be built upon. Those grounds should be under State control and they should be preserved and protected for future generations. That needs to be done in tandem with intervention in Tuam in a timely and expedited manner. As regards the legal aspects of it, I can defer to counsel for further clarification, if it is of any assistance.

Chairman: We will come back to that because we are under a bit of time pressure. I need to move on to our next speaker but we will come back to Mr. Ryan as well later. We will move on to Senator McGreehan.

Senator Erin McGreehan: I thank all the witnesses for appearing before the committee today and for their very considered contributions. Every time we have these conversations, one sees how people have been continuously let down by the State and how we have not taken care of our citizens. We did not even have the consideration to give a baby or a child a proper burial. It is incredibly devastating.

Given that this State has done such wrong to mothers, women and children, I feel that all the answers as to who, what and where are not there anymore. We are not going to find out all the answers on where babies are, who they are or how they got there. We have had 100 years of lies and deceit.

I ask Ms Ryan-O'Brien about her concept of the restorative justice and how best we can investigate, as thoroughly as possible, to provide some justice for women and children. I believe the concept at the previous session was transitional versus restorative. We need to restore faith and as much justice as possible. I would be interested to hear about that point of view.

On head 3 the submission dealt with manifestly inappropriate burials and the Government discretion to decide to exhume remains. Will the witnesses elaborate on that?

Ms Maree Ryan-O'Brien: Transitional justice is usually for large-scale human rights abuses. Restorative justice brings it down to a more individualistic aspect. Given the understanding of what happened as large-scale human rights abuses and criminal abuses, the assistance restorative justice could give to victims of what has been acknowledged as criminal acts would be understood.

I guess the Department has taken the theme of restorative justice as a restorative recognition scheme. We view restorative justice as essentially restoring as much, retrospectively building back in as many ways as we can. That does not mean it would be essentially doughnutting legislation around adoptees to look at different ways that we might restore aspects of identity.

As regards survivors, truth and justice mean different things to different people at different times. What might be one survivor's truth is not the truth for another. What one concept of justice may be for one is not for the other. We have to be very mindful of the different individualistic views of what restorative justice is. It changes as regards each survivor and each victim. It needs to be brought down to that very basic element of what each individual person wants from a process.

As regards head 3, I will defer to Mr. Rody O'Brien.

Mr. Rody O'Brien: On Senator McGreehan's point about the manifestly inappropriate burials, head 3 refers to the discretionary nature of the Minister to refer for excavation a site with manifestly inappropriate burials. We would prefer if that was a little bit more prescribed and not as discretionary as laid out in the Bill.

Head 3(6)(d) refers to the fact the Minister may look for exhumations in circumstances where there are not manifestly appropriate burials. It is quite alarming for many survivors and their families to think that, in certain cases, the Minister has such discretion. Certainly, it could be tightened up with regard to what the Minister really needs in this regard and how it will be prescribed in law.

Chairman: Senator Keogan is next but not here. I call Deputy Cathal Crowe. Will he confirm his location first? Are you there, Deputy Crowe? As there is no response, I call Senator

Lynn Ruane. Will she confirm her location?

Senator Lynn Ruane: I am in Leinster House. I thank all the witnesses for their testimonies. My questions are for Aitheantas. On head 5, the criteria for intervention, the submission-----

Deputy Cathal Crowe: Hello, Chairperson.

Chairman: Sorry, Deputy Crowe, but we have moved on. We will come back to you later.

Deputy Cathal Crowe: May I contribute now because I have to contribute to another committee in two minutes? I just had a glitch here with my headphones.

Chairman: Sorry, but you were not here for your slot. We will come back to you when Senator Ruane finishes her slot.

Deputy Cathal Crowe: I am due to contribute at the health committee. This is impossible for members. I am trying to juggle between two headsets. I ask that you may accommodate me now.

Chairman: Sorry, Deputy, but I did call you twice. You are eating into all of your colleagues' time now. I called you twice. I will come back to you when Senator Ruane is finished.

Deputy Cathal Crowe: I think it is very inflexible, Chairperson.

Chairman: She was in the middle of her contribution. Senator Ruane to continue.

Senator Lynn Ruane: I trust that minute will be added on for me.

Chairman: Yes.

Senator Lynn Ruane: The Bill outlines that the withholding of consent is only deemed unreasonable if the owner was also the owner of the land when the inappropriate burials took place or if they acquired the site on or after the date of publication of the general scheme. The Bill does not address the withholding of consent for landowners who acquired the land in the periods exceeding the burials and preceding the general scheme. How does this affect the investigation process?

Mr. Rody O'Brien: I thank the Senator for her question. It is a point we made in our submission. There appears to be a loophole in how the Bill is drafted in that regard. There is a gap. Head 5(4)(c) sets out where the owner is withdrawing or not allowing consent for the investigation and the Government maintains it is being withheld unreasonably on the basis that the owner of the land was the owner at the time the manifestly inappropriate burials took place or that they acquired the site in question on or after the date of publication of this general scheme. There is a gap there of parties who may have acquired land between those two dates.

I am not sure whether it is appropriate to mention any particular institution. I know of at least one prominent institution, however, with regard to planning and development which would fit into that particular category. That needs to be tightened up to allow the State-----

(Interruptions).

Mr. Rody O'Brien: -----to intervene when they unreasonably withhold consent.

We made a point in our submission on compulsory purchase orders. In the context where there is consent, it is fine. However, where there is no consent and it is being withheld unreasonably by the landowner, in addition to what we said in the other points, we are also recommending the alternative of a compulsory purchase order scheme. This is approved in constitutional law. It is in the interest of the common good. The scheme set out here is a perfect example of what is in the interest of the common good. Nobody would dispute the fact that what the Bill is trying to achieve is in the common good. It is in the realm of the authority of the Oireachtas to decide what is the common good. That is decided in case law in the Article 26 reference of the Planning and Development Bill 1999. That is the common good aspect to this which means the State has the power to do that.

This would also come under our obligations under international human rights law and the rights of people to be buried in a dignified manner. It even involves the investigative approach, which I would like to have the opportunity to discuss later on. In order for us and the State to do that comprehensively, the compulsory purchase order mechanism is something that should be considered and included in this Bill.

Senator Lynn Ruane: My final question relates to the submission that refers to the problematic restrictions stated in the Bill that prevent investigations, including a scenario in which a burial site contains one or more dwellings. Could Mr. O'Brien comment on that part of the submission? How likely is it that this restriction could hinder access to justice? I was referring to head 6.

Mr. Rody O'Brien: Head 6.8 refers to when the land on which the site is located contains one or more dwellings. This is an opt-out for the State in the discretionary nature of investigating these sites where dwellings are in place. There are a number of institutions where dwellings are now in existence on the sites in question so this is the problematic issue. How will that be addressed? Is it just the case that we will just forget about it in the context of dwellings? It is not even clear in the Bill whether it concerns dwellings in the area, beside the site or alleged to be on the site. We need clarity on that. I would be concerned that this would be an opt-out at which we need to look more closely.

Chairman: I call Deputy Cathal Crowe. Could he confirm his location?

Deputy Cathal Crowe: I am in Leinster House. Two or three committees are aligning at the same time today and I am trying to move headphones from one device to another so I thank the Chairman for letting me back in. To concur with what other speakers have said, the past number of weeks at work have involved the Mother and Baby Homes Commission of Investigation and the burials Bill. Listening to opening statements such as that circulated by Ms Alice Coughlan week after week has been harrowing. These are stories from the heart. We can sense the pain and hurt in them. I wish to put my questions to Ms Coughlan because Bessborough has been very much in the news over the past week or so. It is shocking to say that there is a trade-off debate between 179 apartments and over 900 babies whose whereabouts we do not know. It is not fully documented or fully established. A lot more is known about Tuam because there have been four or five years of in-depth archaeological and historical work and a very intense investigation. The Bessborough survivors' group has been bounced into a situation where it has had to fight this *vis-à-vis* an oral hearing with An Bord Pleanála but has the group undertaken any on-site investigation such as those in Tuam?

Ms Alice Coughlan: As a survivor of Bessborough, I am very aware of many women who have not come forward because their families, children or new husbands, etc., do not know.

They have left the institution, possibly got married again, are living in a small town and nobody knows anything about their past and then they are asked to come forward. Surely there should be some way of giving them right to do so without having to make their names public.

Deputy Cathal Crowe: Yes.

Ms Alice Coughlan: I will not go into the Bill relating to adoptees. I am aware that this is a Bill about burials. However, I also believe there are women who are scared stiff sitting in a house wondering whether somebody is going to knock on their door. I am aware that there was incest with regard to Bessborough. Nine hundred bodies are missing. We are not talking about one person. When a group of people, let us say the congregation, cannot tell us where these bodies - women and children - are and then turns around and sells the land, this nation must say that something is wrong. If they are doing it on the site of the one, two or three mother and baby homes of which we are all aware, we must presume that this is what was happening in respect of most mother and baby homes.

Deputy Cathal Crowe: I agree fully with Ms Coughlan. These mother and baby home sites should not be viewed as assets on which to start building bricks and mortar to make money.

Ms Alice Coughlan: Exactly.

Deputy Cathal Crowe: They are sacred ground. People are buried there - certainly in Tuam. We must substantiate whether it is the same in the case of Bessborough. When I started out in politics in 2004, I remember writing to An Bord Pleanála not fully understanding how it worked. I very quickly got a slap on the wrist and was told that it could not be interfered with politically, I could not write to it and it was above politics. In this case, which is something of national interest and fraught with hurt, pain and anguish, our committee should have an opinion on this. My opinion, which I wish to have recorded, is that it would be improper to develop any housing infrastructure on land without knowing what sorry tales in terms of lives lost may be buried under that ground. I have nothing more to say. I have read the witnesses' statements. They speak for themselves and will have the full support of our committee. I apologise as I must return to the Oireachtas Committee on Health. As I said, committees are aligning themselves this evening, which is unfortunate. I apologise to our witnesses for having to depart the meeting.

Chairman: We now move on to Deputy Holly Cairns. Could she confirm her location?

Deputy Holly Cairns: I am in Leinster House. I want to touch on what Ms Coughlan said. Understandably, there is so much fear around people's stories being exposed against their will. This committee will work to balance the right to privacy with the right to access data. In Ireland, this has always been weighed very heavily in favour of privacy but there are international best practice standards we can refer to and ensure that both interests are protected. It is important to note that.

I agree with regard to a compulsory purchase order for Bessborough and I will be pushing for it. It is clearly a site of national importance and for the common good, as Mr. O'Brien referred to it. In respect of all of the sites, particularly Bessborough, the need for a compulsory purchase order, the unmarked graves there and what Mr. O'Brien said about how the Bill leaves itself open to too much discretion around investigations and the need for that to be more prescribed, how do Mr. O'Brien and the other witnesses think it could be improved?

Chairman: We will start with Mr. O'Brien.

Mr. Rody O'Brien: I am delighted to hear that Deputy Cairns sees the importance of acquiring the sites from the point of view of the common good and the hurt and pain caused to so many women and children in these institutions. I know this is only pre-legislative scrutiny, but it is the appropriate time to say that it is very discretionary with regard to the language that is used in the Bill. Senator Ruane asked me previously and I do not want to waste this committee's time by repeating what we said there but there is discretion. If the Minister is reasonably of the opinion that this is a manifestly inappropriate burial, an order will be made - referred to in head 3. After that, there is reference in head 5 to the various different criteria. Again, we believe the language is not prescribed enough. A number of factors are set out in head 5 of the general scheme, particularly in head 5(2). It states that the Government shall consider two or more of these factors to be particularly significant. Head 5(2) refers to:

(a) human remains [that] are uncoffined; (b) the burials would not reasonably be considered to provide a dignified interment; (c) the human remains were not buried at the appropriate depth specified in the Rules and Regulations ... [and] (d) the human remains are buried collectively and in a manner or in a location that is repugnant to common decency and would reasonably have been so considered at the time the burials took place.

It does not prescribe that one of those factors are satisfied; the Government will consider two or more of those factors. This is just not prescribed enough with regard to intervention. The name of the Bill is certain institutional burials and interventions Bill. We need to be a little more clear on that.

There is also scope for the Minister to recommend exhumations where it is not manifestly inappropriate as was mentioned previously in the conversation with Senator Ruane. Section 5(b) of head 5 of the Bill refers to "expert technical reports in respect of the conditions, location and age of [the] relevant burials" and "Evidence in support of the factors [that we mentioned] ... shall include, but may not be limited to", followed by a number of points including the reference to expert reports. We believe that this should be a little more prescribed and detailed. Basically, clarity is needed about when interventions take place and when they do not and what is meant by manifestly inappropriate and what is not. An example of circumstances should be given in which the Government, Minister or me, can say that it is not manifestly inappropriate but we still are looking to exhume remains.

We can foresee many difficulties with survivors and their families regarding the last point, in particular, without some more prescribed language and clarity in the legislation. That was the issue with regard to that. I am happy to speak further on the CPO if there is a requirement to do so.

Chairman: We might come back to that at the end. We will probably have time for everybody to give a few comments at the end. Does anybody in the Chamber want to come in on this point? No. We will move on for now but we should have some time at the end. Deputy Ward is the next speaker. Can he confirm his location?

Deputy Mark Ward: I am in Leinster House. I thank the witnesses for their very poignant and personal life stories. It is not easy to share and I really appreciate that. I have listened to different witnesses as they have come in and it has given me a real insight into a really dark period in our State's history. The intergenerational effect it has had on people who are survivors and victims of mother and baby homes has come up again today. I thank the witnesses for sharing that.

I have two questions and a point of information. I want to pick up on the point made by Ms Ryan-O'Brien on restorative justice. I was involved in this process in a professional capacity in the past. Usually the best outcomes are when victims, survivors and offenders involved in the process focus on ensuring that offenders are held responsible for their actions. What are Ms Ryan-O'Brien's thoughts on that? How does she see this process evolving when it comes to atrocities carried out in the mother and baby homes, given the historical context and how far they go back? I would appreciate her thoughts on that.

Ms Maree Ryan-O'Brien: I thank the Deputy. This probably ties in more with our suggestions regarding the development of an agency that is outside a purely institutional burials remit, and more towards one encompassing all experiences reflective of the history of forced and coercive adoption, incarceration, institutions and so on. One of the main issues with this Bill is that it is, again, very piecemeal. It focuses on one aspect as opposed to a whole, holistic approach. To give the Deputy an example, I am an adoptee but I did not come through the mother and baby home system. As such, I have been outside the remit of the commission of investigation and so on, as have thousands of others.

We also have an ongoing issue with regard to illegal adoptions, which is subject, hopefully, to further investigation. Of course, there have been documented difficulties with the final report of the commission of investigation. We see the restorative element coming in as a holistic element within a stand-alone agency, which would deal with all of these matters in, as I said, a holistic way rather than on a piecemeal basis. Only then can we begin to appreciate how interwoven this is. For example, it would not be unexpected that adoptees who came through one home would have siblings who died in another. We cannot keep looking at it on an isolated basis. We need to look at it more and then develop this restorative aspect where we can incorporate truth telling and supports for victims who came through this system, rather than just looking at it as specific to one home, one agency or one remit. We need to look at it as part of an overall, progressive aspect, which could then build in further legislation around information and tracing, as Deputy Cairns touched on. Truth telling would be an aspect of both restorative and transitional justice. We need to acknowledge this.

In order for us to have legislation that is effective and to be able to have the databases to pull on for identifications, it is entirely foreseeable that we may have bodies who were, sadly, interred on these grounds that we cannot identify. We need to be able to work with families. As Ms Coughlan touched on, there are families who, even now, would not understand that they were somehow included or implicated in these burials, in the institutional abuses that went on and in forced and coercive adoption. We need to be future-forward as regards legislation to see where it will go, not just where we are now but how it will develop in the future.

Deputy Mark Ward: I appreciate that. I have one quick question and one point of information. Mr. Hardiman mentioned a report in his opening statement. I did not pick up on what the report was when he spoke; it is not in his opening statement. I would appreciate it if that report could be shared with us at some stage. We heard previously in other meetings of witnesses who were not informed that the excavation at Tuam was stopped. Was Mr. Hardiman's organisation informed that this excavation was stopped and was it given any reason for that?

Mr. Sidney Herdman: It is Sidney Herdman, not Hardiman.

Deputy Mark Ward: I apologise.

Mr. Sidney Herdman: I do not look that bad. Tuam was mentioned on a very high level in

our report. It is disgusting what went on there. That was the first time I really got in depth with the Tuam instance and what went on there.

My own background is the Bethany Home, which was one of the Protestant organisations. They have other burial grounds that have not even been touched on yet. Our burial grounds are in Mount Jerome, here in Dublin. There are three different plots, if the Deputy understands that. We have erected a memorial there with almost all the names, about 16 of which are still missing. That work was done in 2012 by a man called Niall Meehan. He did the work to find the names and the history of who is buried in those graves. We do not know exactly who is in which plot. We would like to sort that out first and foremost. That is on the Bethany side. On the Collaborative Forum side, all institutions that have burial grounds and the Government does not know who is buried in there. That is ridiculous. We do not live like that in our society today nor did we yesterday. The 19th century for institutions is absolutely disgusting in our society.

Deputy Sean Sherlock: I join in thanking everyone who has come before us again today. It adds to the body of knowledge of people's experience. I am being influenced by what I have heard today and the previous day too.

I am still trying to get my head around the coronial process. I would like to hear Ms Ryan-O'Brien's perspective in light of the submission we received from Professor Phil Scraton on the disapplication of the coroner's existing mandatory jurisdiction. We have a coroner system here. Has Aitheantas considered the effects of the legislation as drafted on the coronial process?

Ms Maree Ryan-O'Brien: I might defer to Mr. O'Brien on the more technical aspects. The coronial process has documented shortcomings. My concern, having been through the glorious experience of dealing with the current institution and agency that adoptees and survivors have to deal with is that we are essentially promising people they will get answers to questions, which are then going to be heaped on what is already a broken system. I am not sure how we are going to do this but I feel the coronial process as it is will not give people the answers they need. It is completely understandable that they feel these answers should be forthcoming quickly. We are going to put this workload on top of a broken system and break it further. I am not disputing that there needs to be a coroner's role in the agency, which Professor Scraton touched on, but it needs to be independent of the existing system unless it is run in tandem with reform of the system or there is a separate role for a coroner or someone of that ilk in the agency itself. What this needs to do is deliver much-needed answers and deliver them quickly. We cannot have it going on for another interminable length of time. My concern is that if it is abrogated to the coronial system those answers will not be forthcoming. The very least we deserve to give people is answers, which are long awaited. We cannot even begin to imagine what they have gone through waiting for these answers. Whether or not it is possible to do in the current system, I do not know but we need to consider having a separate role of that ilk in this agency.

Deputy Sean Sherlock: I thank Ms Ryan-O'Brien for those answers. We are trying to interrogate the whole issue around things such as DNA storage. We know from Mr. Tansey, in a submission to the committee from the group he works with in Tuam, that survivors would have their DNA taken and stored for possible matching with babies' remains that are exhumed. Since then, two of their group have died but no DNA has yet been collected from any survivors who accordingly are increasingly anxious. Therein lies the terrible hurt that can be relieved in the short term. It is about creating a system where evidence gathering is robust such that the restorative justice and the transitional justice that is being spoken about is based on a set of structures and protocols whereby a person has somebody to interface with where things such as DNA are examined and there is an investigatory process that tallies with the law of the land. That is why

I am asking about the coronial process. Perhaps Mr. O'Brien could address that further because I am grappling with it at the moment.

Mr. Rody O'Brien: I thank the Deputy for his probing questions on this which are very important. The role of the coroner is basically bypassed in the general scheme under head 7. Head 31 does allow it back in where there are questions of investigations where gardaí are involved and where the death may be as a result of unnatural causes. The wording is very vague. It refers to exhumation and to the Garda but I do not even understand what it says there. In the case where there is an unnatural death or a death in violent circumstances the coroner is involved. It appears that this scheme bypasses that. Ms Ryan-O'Brien, Ms Coughlan and others made the point that time is really important here but, at the same time, there is a balance between justice and time. Leaving the coroner system out altogether is problematic from the point of view of justice, investigation, and establishing what happened. Under international law and the European Convention on Human Rights we are obliged to investigate these mass deaths and mass burials. There is scope somewhere to include a coroner aspect to the Bill without maybe going down the traditional route as most people involved know about. It is a very long drawn-out process in any event. It may be possible to incorporate a role for the coroner specifically to deal with the issues that are addressed in the Bill and interventions with regard to investigation - which is really the key word - and justice for all those involved so that they can have some sense of closure. I would not rule out the fact that a coroner's role can be bypassed as it appears to be done here.

Senator Mary Seery Kearney: I thank everyone for their contributions. I am mindful and respectful of how sensitive this is. I will ask a couple of questions. I do not mean in any way to be insensitive. I am just trying to figure a way through and some solutions. I will do that at the end.

My first question is for Ms Coughlan. I found her contribution particularly powerful and it reflected experiences I have had with people who have come forward to me. I refer to mothers being fearful of what is going to come out or of being obliged to disclose information under the proposed information and tracing Bill that we anticipate shortly. I see that fear coupled with our need for information and disclosure and to accumulate information. In addition, I see in the submissions the need for us to expand the list of institutions or where there may be burials of this nature.

In a previous session, we talked about how to engage with local knowledge and why it might be difficult for people with that knowledge to come forward. I would be interested to know, therefore, if Ms Coughlan has thought about that aspect and if she has any proposed solutions or ideas in that regard. One of the things I have put on the table regarding information and tracing is to have a confidential line whereby people can verify who they are and their bona fides in giving information, while not being obliged to disclose their identity.

I fully support the idea of compulsory purchase orders, CPOs, depending on the situation with Bessborough. It is my understanding the Minister certainly tuned in to, if he did not actually fully attend, the oral hearing in respect of Bessborough last week. Fair play to him for that. In that context, we await that outcome to see where we need to go from here.

Turning to Mr. O'Brien, from my understanding, I read head 3, combined with several other heads, including head 31, more optimistically. I see it as being discretion to bring in specialist knowledge and to expand powers where it is necessary. Therefore, I see that as perhaps a positive aspect. Tuam is going to be our first experience in this respect, and whoever is going to be

involved in that process is going to have accumulated experience that I would like to see used at other sites, where and when necessary.

Finally, in the Tuam context, and bearing in mind CPOs etc., there are residential dwellings in and around the site and they have been there now for decades. The area where there may be remains might have been inappropriately built upon. How do we marry those difficulties and how can we be sensitive to them? I could take up the whole two hours. I met with Ms Ryan-O'Brien before and I look forward to hearing from her again in the context of information and tracing. I hand over now to whoever wishes to engage with my questions.

Chairman: Am I correct in saying that Senator Seery Kearney's questions are for Ms Coughlan, first, and then for either Ms. Ryan-O'Brien or Mr. O'Brien?

Senator Mary Seery Kearney: Either is fine, whoever wishes to jump in. I think everybody has something to contribute.

Ms Alice Coughlan: I will say just one thing. If a gardener came into your house tomorrow, dug up the garden and three bodies were found, the Garda would be called in immediately. If you owned four more properties outside of that house, gardaí would be there within ten minutes digging everything up. They were able to be at a GAA field yesterday excavating and exhuming a 300-year old body. We know these bodies are in there in these cases. Let us bring this issue down to simple things. We actually know these bodies are buried in a pit in Tuam. The point I make then, and even if this means we must get a separate Bill, is that we need to get these bodies out of the ground now. When we talk about Bessborough, we know there are 900 bodies there. As I said before, most institutions followed the same routine. We can work on that aspect.

The thing is, however, the archaeologist involved in 2017 said these bodies should be taken up within six months. Here we are four years later and we are still discussing it. We are listening. I reiterate that I am not a facilitator or a lawyer and I am not whatever. What I am saying is there are these bodies in Tuam that we know about. Therefore, they should be excavated and exhumed immediately.

Senator Mary Seery Kearney: I agree with Ms Coughlan and I do not doubt that. I fully support that happening as quickly as possible.

Ms Alice Coughlan: I am sitting here and listening to this, that and the other. What I am saying is the important thing is that people, be they sisters, brothers or whoever, are dying. People had to live with this history their entire lives and with the resulting feelings. I refer to giving birth to a child and not knowing - genuinely not knowing - what happened to that child. Then, some 30 years later, we hear that three- and four-year-old toddlers were being put into these septic tanks. I do not mean this to come across in the wrong way. I just get emotionally upset.

Chairman: Yes, of course.

Senator Mary Seery Kearney: Of course.

Ms Alice Coughlan: I hear lawyers talking about this, and it is no wonder none of the survivors are coming through. They would find it very intimidating. It took me a week and I had to go back within myself. This my first time speaking about all this. My daughter knows. I have spoken to my daughter who was adopted and I have got back to her. The point I am making is about actually not knowing. You spend your life hoping that your child who was adopted was

happy and that you have given her a better life.

I will give some information now, and this might be hurtful to everybody. I was told I would not be getting my daughter. I was told I could agree to an adoption. I walked in, I signed a page and I was given a new name. You would not even be given that in Portlaoise or Mountjoy prisons if you were a murderer. I am not going to go into much of it, but I was given a separate name and told if I did not agree to adoption, then my daughter or my son - my child - would be in an institution until he or she was at least 16 years old. Would that be called a free choice?

Senator Mary Seery Kearney: Absolutely not.

Ms Alice Coughlan: I went to the commission and I gave my story. I went for help. My way of getting over what happened was that I blocked my mind off from it for 40 years. I went on and never trusted anyone and never allowed anyone to have control of me again. That was the way I coped. When my mother died in 2015, I went for help. I went in front of the commission. We talk about this aspect, but I went in front of the commission and I have the letter here. If somebody wishes to pass that on to everybody, they more than likely can.

A year later, to the day, I was offered counselling. When I wrote to the judge who was the chair of the commission, I received a three-line letter back. Would that encourage people who might have been hiding things for their entire lives to come forward and talk? There must be an agency. I refer to an agency that was completely independent, so that someone could go into a hospital in Cork or Galway, for example, and give the relevant information and family history to a social worker. That is what I wanted in the forum. I refer to a situation where a person's family might know nothing about a situation, and that person being able to go in and give the medical history-----

Chairman: In confidence.

Senator Mary Seery Kearney: They could have support.

Ms Alice Coughlan: -----in confidence. If a woman then wanted to see her son or daughter, or if the son or daughter wanted to see her, a proper meeting would be arranged with a psychologist who could provide guidance before that meeting with the daughter or son occurred. That would be instead of going into the Catholic Protection & Rescue Society and writing to your daughter for a year through that organisation.

Senator Mary Seery Kearney: That point is incredibly well made.

Ms Alice Coughlan: As I said, I am not a facilitator, but this is just the way I am feeling.

Senator Mary Seery Kearney: We have the benefit of those insights from Ms Coughlan. I also appreciate how difficult it is to share those insights as well.

Ms Alice Coughlan: It is.

Senator Mary Seery Kearney: It is important we create a mechanism whereby people can come forward with information and receive supports.

Ms Alice Coughlan: I had a fall on Sunday and I was in with my doctor. I had two black eyes, even though I did not go through two rounds with Mike Tyson. I wondered then if I should stop and maybe not come in today. Then I said to myself "you've two black eyes" but this is about the Bill and those children in Tuam rotting in a pit. Sorry, I am not-----

Senator Mary Seery Kearney: We are the richer for Ms Coughlan sharing and speaking to us for which I thank her.

Ms Amanda Larkin: The Senator mentioned Tuam in terms of the housing estate, remains in gardens and stuff like that. To be clear, Tuam is a crime scene. The Government has come down and got public opinion in Tuam on what we wanted done in Tuam. It is a crime scene; it is not down to public opinion. The law does not go with public opinion. The law is the law.

The tombs were broken back in the 1970s by children and that is when the coroner and the Garda Síochána should have gone in and investigated Tuam. That is when the babies were let down for the second time. They were let down when they were let die and when they were lowered into a septic tank. Back in the 1970s, they were let down by the State, the coroner and the Garda Síochána that came with the church and covered it up in Tuam, and blessed the grounds. Deputy Cathal Crowe said that the legislation and related matters have been worked on here for weeks. This has been going on for a lifetime for the living witnesses. This has been going on for ten years for the families since Tuam was uncovered, since the news broke. It has been going on seven days a week and 24 hours a day since 12 January when the commission's report was made public.

Tuam is a crime scene and should have been excavated in the 1970s. What we feel about Tuam is not important. If we have to go into the playground and gardens then that is what has to be done but that is not my opinion or the opinion of politicians. That is the law. The law will bring us there if there are anomalies, which is what is believed to be the case.

The tax payers of Ireland paid for an expert team, in 2017, to do a dig and its recommendations have not been acted on. It recommended that a liaison team should be set up to deal directly with the families so that the families hear first what is happening and not through social media, which was brought up here on the last day when Tuam was discussed. That recommendation must be followed and picked up on.

The expert team recommended that the site should be excavated within six months. They said that because air and gases got in when they opened the tanks they have no idea what effect that would have on the remains. We are losing vital DNA and remains plus we have no idea what will have happened to the bones in that time. If extremely simple legislation is required to get the babies out of Tuam then let us do so. Every day that passes we are losing and it is another apology down the road that the Government will have to give to living witnesses saying "we're sorry that that happened and should have moved quicker". Four years have elapsed since the experts went into Tuam. However, my mother has spent 72 years fighting to find out who she is. She has reached the conclusion that she will never know for certain the identity of her mother and will never have a picture of her mother. She now seeks justice for the little ones in the tank because she could have been one of them. She wants their bodies recovered and treated with justice, and respect.

Senator Mary Seery Kearney: I thank Ms Larkin for her very powerful statement.

Chairman: The Senator has questions for Ms Ryan-O'Brien and Mr. O'Brien. Is it okay if we take them at the end?

Senator Mary Seery Kearney: Yes.

Chairman: I do not think Senator Fitzpatrick is here. I call Deputy Murnane O'Connor who swapped with Senator McGreehan. I ask the Deputy to confirm her location.

Deputy Jennifer Murnane O'Connor: I am in Leinster House. I, too, thank all of the witnesses for coming in today. We all feel so bad about the stories and the situation has been very hard. I thank Ms Coughlan for her story.

My first question is for Ms Coughlan and Mr. Herdman. I am conscious that the decision on the application to develop Bessborough has not yet been made, and I am sure that the back and forth is quite upsetting. I agree with everything contained in both of the witnesses' statements. I agree with the many survivors with whom I have spoken. There can be no delay in getting answers. We also need a full list of all of the institutions in which mothers and babies were held, and we must cross-check the details with any records.

I have found myself asking whether we need to consider re-establishing a collaborative forum for the survivors of the mother and baby homes, and Bethany Homes. What do the witnesses think about that? Groups like the Collaborative Forum are vital in any conversation like this one. What engagement has the forum had with Ministers since the report of the commission was published? Today, I have listened to the witnesses and survivors speak and it is apparent that this is all about communication, timing and answers, which is something the witnesses might come back to me on.

There is so much to go through before we even think about a future memorial. It is important, however, to discuss this before someone decides to put something in place that further upsets survivors. Sadly, many of the survivors due to their age may be unable to give their opinions when the time comes in the future.

Last week, a report that was commissioned by the Irish Council for Civil Liberties on the current coronial system was released and the system is in much need of reform. As so much needs to be done to improve the coronial system which, for the most part, is made up of good people such as part-time coroners who only have a limited number of administration staff and there are not enough Garda investigators, which are issues that we really need to address. The coronial system is in urgent of reform in the interests of speed. I can see the merit of establishing a new agency that has the powers that usually rest with coroners. I am interested in the suggestion that a new agency also has a recording and administrative role, which is important.

The Department has established an information management unit. Last week, I suggested that we ought to look at providing a liaison officer in every local authority. Do the witnesses think it would be beneficial for survivors to have a local person or office so they can access information or support in tracing, records and so on? I have worked with some survivors in my area of Carlow and I feel that access to information and records, and working with different groups is so important.

Finally, I thank the witnesses and I know that today has been hard for them too.

Chairman: Did the Deputy say her questions were for Mr. Herdman and Ms Ryan-O'Brien or does she want everybody to reply?

Deputy Jennifer Murnane O'Connor: My first questions are for Ms Coughlan and Mr. Herdman, and my last question is for Ms Ryan-O'Brien but I do not mind who replies.

Chairman: I suggest we first hear from Mr. Herdman and Ms Coughlan, then Ms Larkin if she wishes to add anything, and then Ms Ryan-O'Brien.

Mr. Sidney Herdman: A few questions have been asked. The Deputy wanted to know

more about the Collaborative Forum. It was set up in 2017-2018 so we have been going for three years. The Collaborative Forum, as a group of people, is a fantastic idea and comprises all different types of survivors, victims, mothers, babies and children. It is a good group. Unfortunately, in terms of the Minister and the Department, I asked one question to the top Department and was told that I would have to ask the Minister's office. Does the committee understand where I am coming from there? That is playing the boot one to the other.

The Collaborative Forum was set up but who took charge? It was the former Minister, Katherine Zappone. She was very good at getting the meetings together and everything but she has stepped down. Since the new Minister was appointed we have only had two Zoom meetings with him. I do not think that he is fully aware of the bigger picture. He has brought in another group of people from different Departments who probably do not know anything about institutional abuse or mother and baby homes. I was disgusted to hear that this Bill did not contain our recommendations, which we made in 2018. Ministers, Deputies and Senators should have that information at hand. The legal system did not get our statement of recommendations. It has the burials, the memorials and the compensation in it. We have all suggested all the things we want. It is all there. The tools are there for our community of victims and survivors. We are willing to work with them but when the Department bounces one and the Minister's office bounces two, who do I go to? Is that a good enough answer for the Deputy?

Deputy Jennifer Murnane O'Connor: Yes. That is not fair or right. I thank Mr. Herdman for that answer. It is something we need to talk to the Minister about.

Mr. Sidney Herdman: I think so.

Chairman: Do Ms Coughlan or Ms Larkin wish to come in?

Ms Alice Coughlan: My view is that we are talking about an agency in Dublin or wherever and about people, who are survivors, going into local offices where people can talk and can see them going in. Everybody in the town immediately knows what that office does. Why can these women, especially mothers or children, not go into a hospital and see a social worker? This information can then be sent by fax or whatever to Dublin.

As I said, if the adoptees or the adopted people want to meet, a psychologist can be there to guide both sides. I genuinely believe that in many instances, we put people in a situation years ago where they were forced into giving their babies up for adoption. I am not being funny but many of them were sold. Now, suddenly, the Government is turning around and saying a daughter or a son has every right to know about his or her mother and family. Surely, however, it would be better if we gave people help and anonymity and they were spoken to and somebody sat down and explained to them that they will not be the talk of the town or whatever. Does the Deputy know what I mean? That is very important.

Deputy Jennifer Murnane O'Connor: I thank Ms Coughlan. It is indeed and that is a very good point.

Ms Amanda Larkin: Can I come in on memorialisation? I know the Deputy mentioned it but I do not believe Sidney or Alice covered it. To be clear, the group I represent and with which I work feels it is extremely distressing to visualise memorialisation. It is too difficult right now in Tuam for them to do that. We are not near that path.

With the survivor-centred plan that has been promised by the Government, we feel that we can look at that down the line after the excavation of the illegal burial site. There is time for

that. With the collaborative forum, I know a new structure is being looked at and will be rolled out. There are, therefore, changes coming along that path as well. That is coming quite quickly from the Department; it is not slow.

The Deputy spoke about information and communicating with survivors and families. It is something I have raised for the past four years with anybody who has visited Tuam. I know Deputy Dillon and the Chair will be aware of the idea of a Tuam hub for the mother and baby home.

At the moment if a person finds out that he or she is from the Tuam home, or has anything to do with it, there is no national number for survivors or families to ring. There is no information hotline from the Government that a person can ring and find out information. A person's information centre is Ms Catherine Corless in Tuam. When someone Googles it, that is the only name he or she will find. Ms Corless has become the information centre for everybody. Whether she chose it or wanted it, that is how it is. I have said to Ministers and to everybody that it is not fair to put that pressure on one person. We have thanked her and the Taoiseach stood in this very room and thanked her for the work she has done. He did not acknowledge the ongoing work she is doing, however. The Government has not picked up and put in place something for people.

What I suggest, and I suppose it goes against what Alice said, is the collaborative forum and an information centre in Tuam for the mother and baby home. Let people have one wherever there was a mother and baby home or an institution. It is a one-stop shop for survivors where they can meet and come through different situations together. Facilities and things would be made available to them for accessing records, grants and medical stuff and help filling out forms. Remember, it is easy to say to the survivor that all the information is here. If that survivor cannot read and write, however, it is going nowhere.

That is the main point I am making to the Government at the moment. All the information that comes to survivors comes through email. We are dealing with survivors in their 70s and 80s. They do not have email. If they have email, we are entrusting it to an advocate to then read that email and tell that person his or her opinion of that email. We are actually taking the power from the hands of living witnesses and survivors. That is very unfair. It should be given back to them. The buck should stop with them and they should choose who they want to go to.

An information centre in Tuam for the mother and baby home would really cover that. I do not know if it is something that has to be there for 50 years or for a year but it should certainly be there. There are plenty of buildings in Tuam. I am sure Galway County Council would be more than accommodating in giving us a range of buildings from which to choose. It would have to be a building and not a room, however. It should be an entire building in which people could access different resources.

Deputy Jennifer Murnane O'Connor: I thank Ms Larkin. I will definitely address that with the Minister.

Chairman: I thank Ms Larkin and the Deputy. Ms Ryan-O'Brien and Mr. Ryan may wish to come in on any of these points. We will then have two brief second questions from members. I will pass over to the witnesses first.

Ms Maree Ryan-O'Brien: I will go back to Senator Seery Kearney's point on the legislation. One point I will make is that we have been let down by successive Governments for a

long time, be it either on information and tracing or on the proposed legislation to deal with Tuam. If, therefore, we are asking for prescribed text within legislation, it is usually to ensure there will not be any grey areas and that promises will be acted on. It is fair to say that we are sceptical about the Government's intent. I do not doubt the Senator's intent or that of her colleagues in this regard but we have had very disheartening experiences over quite a long period.

To touch on Tuam, the legislation underestimates the amount of work that needs to be done. Clear provision needs to be made for the storage of data. It is quite foreseeable that when everybody is eventually exhumed, we will not have the technology to identify one of them, be it either through DNA or other means.

A more suitable model for the retrieval and storage of DNA and remains would be something similar to the World Trade Center, where undertakings were essentially given that every victim would be identified following the crash. The approach they took was to decide, in instances where the remains could not be identified, that time and science eventually would catch up and they would be able to identify them. If we take a similar approach to that as regards a repository, hopefully, time and science will eventually enable us to identify who these children were and who their families were.

As well as that, I believe it is quite probable that adoptees had extended family in these homes. We need to be aware of that when we are casting the net on the DNA encatchment to ensure we bring as many people in as possible. We can only do that through education and through explaining the context of this as a wider societal situation as opposed to the piecemeal basis we have with institutions.

I want to touch on both of the questions that have been brought up on the legislation and moving forward. There is a clear stratification with this issue. We have people who were part of the remit for the commission of inquiry and investigation, we have people who were outside the remit of the inquiry and investigation, and we have people who were illegally adopted. Moving forward, we need to have something that addresses all of those issues.

We are probably touching on something to do with information and tracing. As regards information officers, however, I would struggle to see how we could provide people with information that essentially is not there. That is the main issue we have. We do not have an appreciation of how vast this is and how many people it encompasses. Ms Coughlan touched on this as well and I would completely share her view that there are birth mothers who have still to come forward and state that they have children who were interred, who died or who they suspected died. How do we go about building trust with women? How do we reach out and support them? That is something we need to encompass in any legislation or programme moving forward, be it a restorative transition programme or whatever way we choose to describe it. It needs to take as many people on board as possible and support them in a way they have not been supported so far. We need to see that support both in legislation and in practice. We need to see that in society and in the education on this issue. The way the issue has been approached means we are only ever looking at it as one issue, be it institutional burials or mother and baby homes. Even the term mother and baby homes is exclusionary as it excludes people who did not go through that or who were adopted. There is a disconnect because the survivors think this does not involve or affect them when in practice it could. We need to look at all of this as a holistic issue, rather than just as one specific issue.

Mr. Rody O'Brien: I want to address a number of points that Senator Seery Kearney made on compulsory purchase orders. I agree with her on the power of the testimony of Ms Coughlan.

Ms Ryan-O'Brien and Ms Coughlan mentioned that the reform of the law must be survivor-led and must allow survivors to have a voice. As a lawyer I can say it is important that survivors get to speak before the lawyers do and here I am speaking to the committee.

Senator Seery Kearney asked about the dwellings and compulsory purchase orders. She is right that this issue is complicated. There are houses and dwellings on sites that may be burial grounds from the past. That matter is not even clear. As Ms Coughlan rightly pointed out, there may be scenes that require investigation. Some of these are crime scenes and they need to be investigated. As we mentioned before, we have obligations to investigate these mass burial sites of children. It is an issue of investigation to ascertain evidence and information about burial sites. Thereafter we can look at questions about dwellings and carrying out CPOs on land.

Apart from our international obligations, we owe it to survivors and all the people who have been buried on these sites to ascertain the truth and investigate. A level of investigation is glossed over or left out of this Bill. The committee needs to consider that and to go back and look at the investigative role. That would bring in some role for the coroner's court that would not drag it out for too long as the existing system does. The committee can reconsider that with all of the evidence because that is important with regard to investigation. Investigation is the key element that is sadly lacking in the general scheme.

Deputy Holly Cairns: I want to follow on from what Mr. O'Brien said, as well as what Ms Larkin said on the coroner and the existing law being enforced. I agree and I do not understand why it has not been enforced up until now and why this is treated like something different. We know the coroner is obliged to act. The Coroners Act 1962 states that when remains are found in a coroner's district he or she is obliged to act. One of the criterion pertains to a death that occurred in State care or institutions. There is no reason it has not already happened. At present, this Bill disappplies the coroner so I agree that this is very problematic.

If this Bill is not changed, despite our best efforts - and we will be pushing for that to be changed in the Bill - as far as I know that leaves us with one option, namely to push for either the Attorney General or the Minister for Justice to instruct the coroner to act, which they can do. Would the witnesses be in favour of that? If we cannot change this Bill to disapply the coroner, would they be in favour of the Attorney General or the Minister for Justice instructing the coroner to act?

Ms Amanda Larkin: It depends on what is done most quickly. Every day that passes we have no idea what is happening to the remains that are in the septic tank in Tuam. The bodies need to be taken out. It cannot be delayed and it cannot be a question of scrapping this and starting again. If the bodies need to be taken out between now and setting that up then that is fine but the big thing is to take the bodies out. If we leave them in there for another year they might decay to the extent that we might not get any DNA because we do not know what is happening to them. Let us look at the worst-case scenario. Do we want a situation where, in another year's time when we have the coroner and everything, we will not have anything to test? The priority is to get the bodies out of the septic tank in Tuam.

Mr. Sidney Herdman: Do both.

Ms Alice Coughlan: Get those bodies out of the septic tank immediately. If that means making a separate Bill, so be it. Then carry on with the next two years of work but first get those babies and toddlers out of a septic tank.

Mr. Rody O'Brien: I thank Deputy Cairns for bringing up a good question. It begs another question. This is a good and thorough committee and its work is good. If the committee is going to bring recommendations back, it seems baffling why a role for a coroner or a type of coroner could not be incorporated in this general scheme. If the committee made such recommendations, why would those not be followed? From that, the committee's work might get some results more quickly. As the previous speakers have said, time is of the essence and if the committee was to get something on board and get some kind of system in place, it would be more time efficient.

Senator Mary Seery Kearney: The overwhelming message from today is that whatever happens we need to deal with Tuam very quickly and bring the dignity and respect that is owed to the babies, toddlers and mothers. We need to do that very quickly. Thereafter, I hear Mr. O'Brien's comment that there are questions to be answered and that the mechanism for that must not overwhelm the coronial system for decades. Perhaps there can be a combination. That is the point of pre-legislative scrutiny. We can bring in people, listen to what they have to say and make recommendations to the Minister thereafter. It gives us an insight also to lobby the Minister as well.

I am deeply appreciative of the vulnerability, honesty and sheer fact-facing that all of the contributors have had this afternoon and I thank them.

Chairman: I thank Senator Seery Kearney. We have approximately one minute for each person, if he or she wants to add something. I will start with Ms Coughlan, if there is something she wants to add in conclusion.

Ms Alice Coughlan: As I said, the main thing is to get the bodies out of the septic tank. There are so many women who are afraid to come forward, be it for family reasons or whatever. The next thing is - this is where I feel as a mother - to get some way of dealing with them and getting their views on it as well, but not having the whole town, city or whatever knowing their business. To me, that could be important.

Chairman: That is a good point, and really well made.

Ms Amanda Larkin: The facts about the Tuam mother and baby institution are: 769 babies are missing; 2,219 women entered the home; 3,251 children born in the home; the home operated from 1921 to 1961; it was operated by the nuns for all this time; and 30% of all the children born in the home died. That is just Tuam. I am no human rights expert but anybody can see, from briefly looking at the European Convention on Human Rights, that it is hard to find a right that has not been infringed, whether it is the right to life, liberty, privacy, family life or freedom from inhumane and degrading treatment, to name but a few.

Chairman: I thank Ms Larkin. Has Mr. Herdman anything to add?

Mr. Sidney Herdman: On human rights, we are humans. There are 4,000 burials in only four institutions. Get something done, please. It is time now, not 20 years ago, which is gone, and not in 20 years to come.

Chairman: I call Ms Maree Ryan-O'Brien and Mr. O'Brien, if they want to add in anything as well.

Ms Maree Ryan-O'Brien: As regards this issue, moving forward we need to have a more comprehensive view as to the impacts of the practices of forced and coercive adoption and coer-

cive confinement. In every aspect of it that has been dealt with so far, it has been dealt with on a piecemeal basis. We have never looked at it as a complete interwoven issue and that is what we need moving forwards. We need to incorporate as many people as possible. If somebody is involved indirectly, be it either a direct victim or an indirect victim of the system, then he or she deserves a voice and deserves to be heard.

One of the criticisms I would have had of the process in the past is that it was too restrictive. That was something that the special rapporteur highlighted as well with regard to the investigation of the commission, that it was too limited. Therefore, the report was limited and so on. The impacts are limited.

Moving forwards, what we need is a more holistic view of this as an issue. We need to incorporate as many people as possible and we need to educate as to how it impacts. The shame, stigma and secrecy is something that we still live with and we still see on a day-to-day basis. We need to find a way to overcome this so that we can truly achieve what we all want to achieve. We appreciate even more, given the Covid restrictions, the reunification of families so that people can know where their loved ones are buried or even that they had loved ones who are buried. Moving forward, that is what our approach is and what we would like to see.

Chairman: I thank Ms Ryan-O'Brien. Did Mr. O'Brien want to add anything?

Mr. Rody O'Brien: I have just a quick comment to say "well done" to all of the speakers and to thank Deputy Funchion for chairing and all the members for their conscientious, dedicated and explorative work. In seeking answers and listening to the survivors which is so important, and getting that information, I would encourage the committee to keep going and to consider all the recommendations that have been made in the context of the overall picture, apart from the institutional burials, of the reform of the law generally in this area and see how it fits in in the bigger picture. I thank the committee for its invitation for today. I appreciate it.

Chairman: I just want to say a really sincere "thank you" to everybody for coming here today and to Ms Ryan-O'Brien and Mr. O'Brien for virtually dialling in. It is a strange format when one has people speaking from a screen. It was great, given the Covid regulations, that we were still able to have this debate.

It has been good to hear from people so directly impacted, particularly Ms Coughlan, Ms Larkin and Mr. Herdman. Theirs are the real stories. It is so important for us in doing pre-legislative scrutiny that we get the opportunity to hear from as many people as possible. For us, when we are compiling our report on this, it will be invaluable. It probably was not easy for people coming in today but we appreciate it. We would not be able to do the work without them. It has been invaluable. I say a very sincere "thank you".

I just need to get agreement to publish the opening statements to the Oireachtas website. Is it agreed? Agreed.

The joint committee adjourned at 5.27 p.m. until 3.30 p.m. on Tuesday, 11 May 2021.