



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Advice on the Inquiry (Mother and Baby
Institutions, Magdalene Laundries and
Workhouses) and Redress Scheme Bill**

September 2025

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1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (the NIHRC), pursuant to sections 69(1), 69(3) and 69(4) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). The NIHRC is also required, under section 78A(1) of the Northern Ireland Act 1998, to monitor the implementation of Article 2 of the Windsor Framework, to ensure there is no diminution of rights protected in the “Rights, Safeguards and Equality of Opportunity” chapter of the Belfast (Good Friday) Agreement 1998 as a result of the UK’s withdrawal from the EU.¹ In accordance with these functions, the following advice is submitted to the Committee for the Executive Office regarding its scrutiny of the Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Bill.
- 1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), as incorporated by the Human Rights Act 1998, and treaty obligations of the Council of Europe (CoE) and United Nations (UN). The relevant regional and international treaties in this context include:
- European Convention on Human Rights 1950 (ECHR);²
 - UN Convention on the Elimination of Racial Discrimination 1965 (UN CERD);³
 - UN International Covenant on Civil and Political Rights 1966 (ICCPR);⁴
 - UN Covenant on Economic, Social and Cultural Rights 1966;⁵
 - UN Convention on the Elimination of Discrimination Against Women 1979 (UN CEDAW);⁶
 - UN Convention Against Torture 1984 (UN CAT);⁷
 - UN Convention on the Rights of the Child 1989 (UN CRC);⁸

¹ The Windsor Framework was formerly known as the Protocol on Ireland/Northern Ireland to the UK-EU Withdrawal Agreement and all references to the Protocol in this document have been updated to reflect this change. (see Decision No 1/2023 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework).

² Ratified by the UK in 1951.

³ Ratified by the UK in 1969.

⁴ Ratified by the UK in 1976.

⁵ Ratified by the UK in 1976.

⁶ Ratified by the UK in 1981.

⁷ Ratified by the UK in 1988.

⁸ Ratified by the UK in 1991.

- UN Convention on the Rights of Persons with Disabilities 2006 (UN CRPD);⁹ and
- CoE Convention on Preventing and Combating Violence Against Women and Domestic Violence 2011 (Istanbul Convention).¹⁰

1.3 In addition to these treaty standards, the following declarations and principles provide further guidance in respect of specific areas:

- UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;¹¹
- UN Human Rights Committee General Comment No 18;¹²
- UN Declaration on the Protection of All Persons from Enforced Disappearance;¹³
- UN CERD Committee General Recommendation No 20;¹⁴
- Report of the UN Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms Radhika Coomaraswamy;¹⁵
- UN CRC Committee General Comment No 5;¹⁶
- UN Human Rights Committee General Comment No 31;¹⁷
- UN General Assembly Resolution 60/147;¹⁸
- UN CAT Committee General Comment No 2;¹⁹
- UN ICESCR Committee General Comment No 20;²⁰
- UN CEDAW Committee General Recommendation No 28;²¹
- UN CRC Committee General Comment No 13;²²
- Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff;²³

⁹ Ratified by the UK in 2009.

¹⁰ Ratified by the UK in 2022.

¹¹ UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 29 November 1985.

¹² 'UN Human Rights Committee General Comment No 18: Non-Discrimination', 1989.

¹³ A/RES/47/133, 'Declaration on the Protection of All Persons from Enforced Disappearance', 18 December 1992.

¹⁴ 'UN CERD Committee General Recommendation No 20: Non-Discrimination in the Implementation of Rights', 1996.

¹⁵ E/CN.4/1997/47, 'Report of the UN Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms Radhika Coomaraswamy', 12 February 1997.

¹⁶ CRC/GC/2003/5, 'UN CRC Committee General Comment No 5: General Measures of Implementation', 27 November 2003.

¹⁷ CCPR/c/21/Rev.1/Add.13, 'UN Human Rights Committee General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant', 26 May 2004.

¹⁸ UN General Assembly, 'Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law', 16 December 2005.

¹⁹ CAT/C/GC/2, 'UN CAT Committee General Comment No 2', 24 January 2008.

²⁰ E/C.12/GC/20, 'UN ICESCR Committee General Comment No 20: Non-Discrimination in Economic, Social and Cultural Rights', 2 July 2009.

²¹ CEDAW/C/GC/28, 'UN CEDAW Committee General Recommendation No 28: Core Obligations under Article 2' 16 December 2010.

²² CRC/C/GC/13, 'UN CRC Committee General Comment No 13 on the Right of the Child to Freedom from all Forms of Violence', 18 April 2011.

²³ A/HRC/21/46, 'Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff', 9 August 2012.

- UN CAT Committee General Comment No 3;²⁴
- Report of the Special Rapporteur in the Field of Cultural Rights, Farida Shaheed, Memorialization Processes;²⁵
- Report of the Special Rapporteur in the Field of Cultural Rights, Farida Shaheed;²⁶
- UN CEDAW General Recommendation No 33;²⁷
- Report of the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence Mission to the UK;²⁸
- UN CRPD Committee General Comment No 6;²⁹
- UN Human Rights Committee General Comment No 36;³⁰
- UN CAT Committee Concluding Observations on the UK;³¹ and
- UN OHCHR Manual for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.³²

- 1.4 Additionally, Windsor Framework Article 2 requires the UK Government to ensure that no diminution of rights, safeguards and equality of opportunities contained in the relevant part of the Belfast (Good Friday) Agreement 1998 occurs as a result of the UK's withdrawal from the EU. This is given effect in UK law by section 7A of the EU (Withdrawal) Act 2018. In addition, section 6 of the Northern Ireland Act 1998 provides that the NI Assembly is prohibited from making any law which is incompatible with Windsor Framework Article 2. Section 41 of the Act also requires all acts of the NI Department comply with Windsor Framework Article 2.
- 1.5 As a general comment, before going into the specifics set out below. Within this advice, the NIHRC has had to reiterate much of its previous advice given during the consultation process associated with this legislation.³³ This is an indication of how little has been taken on board in

²⁴ CAT/C/GC/3, 'UN Committee against Torture General Comment No 3', 13 December 2012.

²⁵ /HRC/25/49, 'Report of the Special Rapporteur in the Field of Cultural Rights, Farida Shaheed, Memorialization Processes', 3 January 2014.

²⁶ A/69/286, 'Report of the Special Rapporteur in the Field of Cultural Rights, Farida Shaheed', 8 August 2014.

²⁷ CEDAW/C/GC33, 'UN CEDAW Committee General Recommendation No 33: Women's Access to Justice', 3 August 2015.

²⁸ A/HRC/34/62/Add.1, 'Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff on his Mission to the UK of Great Britain and NI', 17 November 2016.

²⁹ CRPD/C/GC/6, 'UN CRPD Committee General Comment No 6: Equality and Non-Discrimination', 26 April 2018.

³⁰ CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018.

³¹ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 2 June 2019.

³² UN Office of the High Commissioner for Human Rights, 'Manual of the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (OHCHR, 2022).

³³ NI Human Rights Commission, 'Submission to the Executive Office's Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices' (NIHRC, 2024).

the drafting of the Bill and how it is unlikely that in its current form it could be deemed a human rights based approach to the issue it is seeking to address. It is particularly notable that a Human Rights Impact Assessment was not provided alongside the Bill at its introduction to the NI Assembly.³⁴ This has been subsequently published, within which there are several important omissions, particularly regarding Articles 2, 3 and 13 of the ECHR and consideration of broader human rights standards.³⁵ This is particularly concerning as the relevance of these provisions were explained in detail within the Commission's initial advice.³⁶

- 1.6 Additionally, clarity and express statutory requirements are crucial from the outset for a long-awaited inquiry and redress scheme such as this, particularly where up until now there has been a persistent veil of secrecy and deception. Instead, much of the outworkings of the proposed inquiry have been left open to interpretation through subsequent Regulations or the decisions of appointed individuals, such as the inquiry chairperson. This lack of clarity from the outset is not a victim centred or trauma informed approach. It also opens the Executive Office up to legal challenge. Yet, the most disappointing and harrowing aspect of the Bill, is the renewed upset and trauma that it is causing victims and survivors.³⁷ This is despite the First Minister, Michelle O'Neill's statement that "we hope this legislation demonstrates our sincere commitment to respecting and fulfilling the wishes of those who for many decades have suffered and been silenced".³⁸
- 1.7 It is not enough that an inquiry and redress scheme are being established to investigate and remedy violations and abuses that occurred in Mother and Baby Institutions, Magdalene Laundries and Workhouses. At minimum, these measures should be effective and human rights compliant. As an overarching comment, there are positive aspects to the Bill, but concerns remain regarding many of the clauses of the Bill.

³⁴ The Executive Office published a basic Equality Impact Assessment when initially consulting on the proposed inquiry. A human rights impact assessment was not published. The Executive Office has confirmed that an Equality Impact Assessment and Human Rights Impact Assessment were conducted. It is understood that the Executive Office is working on publishing these to go alongside the published Bill, but two months after introduction of the Bill to the NI Assembly, this remained awaited. See Email correspondence between the Executive Office and NI Human Rights Commission, 11 August 2025.

³⁵ The Executive Office, 'Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses – Human Rights Impact Assessment on a Statutory Public Inquiry and Financial Redress' (TEO, 2025).

³⁶ NI Human Rights Commission, 'Submission to the Executive Office's Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices' (NIHRC, 2024).

³⁷ Enda McClafferty, 'Sisters to fight against "unfair" mother-and-baby scheme', *BBC News*, 7 July 2025; 'Mother and baby homes survivors "excluded again" by Executive Bill', *BBC News*, 17 June 2025; 'Stormont urged to remove "cruel clause" in mother and baby homes Bill', 7 July 2025.

³⁸ The Executive Office, 'Press Release: Inquiry and Redress Scheme to be established', 16 June 2025.

2.0 Proposed Approach to Inquiry

- 2.1 The NIHRC has long recommended that the NI Executive ensures victims of historical abuse outside the remit of the Historical Institutional Abuse Inquiry have an effective remedy.³⁹ Thus, the Bill's proposal to establish a Truth Recovery Public Inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses is welcomed. That said, there are concerns that the proposed approach set out within the Bill will not ensure expedient access to thorough and effective independent, human rights compliant investigations that are subject to public scrutiny and meaningful victim participation.

Temporal scope

- 2.2 Clause 1(4) of the Bill proposes that "the inquiry is to cover the period from 1922 to 1995 (inclusive of both those years)". Clause 1(5) of the Bill continues that "nothing in [clause 1(4)]... prevents the inquiry from considering the effect on any person after 1995 of anything that occurred during the period referred to in [clause 1(4)]... in so far as it is relevant to the inquiry's terms of reference".
- 2.3 In its previous advice to the Executive Office, the NIHRC raised concerns that limiting the inquiry's temporal scope to 1995 would prevent practices and pathways that continued beyond from being considered.⁴⁰ The UN Human Rights Committee and the UN CAT Committee have raised concerns with the lack of mechanism to address the abuse of in institutions between 1922 and 1995.⁴¹ However, neither UN Committee specifically recommended that an investigation into these institutions should be limited to 1922 to 1995.
- 2.4 Clause 1(5) of the Bill appears to address these concerns, however this requires careful consideration to ensure that this is the case.
- 2.5 **The NIHRC advises that the Committee for the Executive Office seeks assurances from the Executive Office that the temporal**

³⁹ See for example, NI Human Rights Commission, 'Annual Statement 2024' (NIHRC, 2024), at 183-186.

⁴⁰ NI Human Rights Commission, 'Submission to the Executive Office's Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices' (NIHRC, 2024), at para 2.16.

⁴¹ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 2 June 2019, at para 44.

scope of the public inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI is as expansive as possible and does not directly or inadvertently lead to discrimination towards any victim and survivor. In particular, that clauses 1(4) and 1(5) of the Bill enable the pathways and practices surrounding Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their effects, to be effectively investigated in their entirety, particularly in the context of family separation.

Non-duplication

- 2.6 Clause 1(6) of the Bill proposes that “the inquiry must not inquire into the facts relating to any persons concerning any institution where the Inquiry into Historical Institutional Abuse 1922 to 1995 inquired into such facts in relation to those persons”.
- 2.7 In its previous advice, the NIHRC raised concerns on including the principle of non-duplication without qualification within the Bill. The consultation document itself acknowledged that:
- the inquiry may nevertheless inquire into facts relevant to its purposes if these facts were not established by the Historical Institutional Abuse Inquiry when looking into a given institution, for example, the Historical Institutional Abuse Inquiry only examined the experience of under-18s in the three Good Shepherd Sisters’ Magdalene Laundries.⁴²
- 2.8 Yet, clause 1(6) of the Bill, as currently drafted, does not provide the necessary qualification that duplication should be permitted where it is deemed necessary to ensure an effective investigation can be conducted by the proposed public inquiry. Clause 1(6) of the Bill instead appears to prevent any line of inquiry that is deemed to have been covered by the Inquiry into Historical Institutional Abuse, even if it is from a different line of inquiry or could lead to a new discovery.
- 2.9 It is important to remember that to be effective, an investigation’s conclusions “must be based on thorough, objective and impartial analysis

⁴² The Executive Office, ‘Truth Recovery - Mother and Baby Institutions, Magdalene Laundries and Workhouses, and Their Pathways and Practices’ (TEO, 2024), at 18.

of all relevant elements” and follow “an obvious line of inquiry”.⁴³ Thus, any concern of non-duplication should not prevent the ability for the proposed public inquiry to follow an obvious line of inquiry.

- 2.10 To reiterate a previously provided example,⁴⁴ there may be evidence that was considered by the Historical Institutional Abuse Inquiry to which the new inquiry should have access. For example, the three Good Shepherd Sisters’ Magdalene Laundries, which was already investigated by the Historical Institutional Abuse Inquiry, should be considered by the new inquiry, albeit through a different lens.
- 2.11 **The NIHRC recommends that the Committee of the Executive Office brings forward an amendment to clause 1(6) of the Bill so that, in preventing duplication between the proposed new inquiry and the Historical Institutional Abuse Inquiry, it does not prevent the new inquiry from following any obvious and reasonable line of investigation for the purposes of its consideration of Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI.**

Terms of reference

Scope

- 2.12 Clause 2(1) of the Bill proposes that “the terms of reference of the inquiry are to be prepared and published by the Executive Office”. Clause 2(2) of the Bill proposes that:

the terms of reference must include provision requiring the inquiry to determine whether, and if so to what extent, there were any systematic failings by prescribed institutions, public bodies or other persons –

- a) in their care of relevant persons (during the time while the relevant persons were under the care of the prescribed institutions), or in the admission of relevant persons to, or departure of relevant persons from, prescribed institutions;

⁴³ *Kolevi v Bulgaria* (2009), at para 201; *Armani da Silva v UK* (2016), at para 234.

⁴⁴ NI Human Rights Commission, ‘Submission to the Executive Office’s Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices’ (NIHRC, 2024), at para 3.32.

- b) in the registration, regulation or inspection of prescribed institutions;
- c) in the placement of children for the purposes of care arrangements –
 - i) who were born while their mothers were under the care of prescribed institutions; or
 - ii) whose mothers were under the care of prescribed institutions until immediately before the birth of the children.

2.13 The NIHRC welcomes the approach in clause 2(1) of the Bill. This provision is in line with the Istanbul Protocol, which states that a terms of reference should be “neutrally framed” and “state precisely which events and issues are to be investigated and addressed in the commission’s final report”.⁴⁵

2.14 Clause 2(5) of the Bill proposes that ‘care arrangements’ refers to “adoption, fostering or any other arrangements for the care of a child”, but “does not include placement of a child with a biological parent of that child”.

2.15 The NIHRC welcomes the proposed broad definition of ‘care arrangements’ more generally. However, consideration will need to be given to whether the placement with the biological parent of the child, without question, is an appropriate approach. There may be scenarios where this was a disproportionate and traumatising denial of the biological mother’s right to family life.⁴⁶ There is also the requirement to consider what was in the child’s best interests.⁴⁷ For example, the decision to place a child with their biological father could have been made by an institution or person based on religious or societal views that the biological father was a more respectable choice than the biological mother, rather than considering the rights of the mother and the best interests of the child. The ECtHR has established that such an approach may be deemed a violation of Articles 8 (right to respect for family and private life) and 14 (freedom from non-

⁴⁵ UN Office of the High Commissioner for Human Rights, ‘Manual of the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ (OHCHR, 2022), at para 59.

⁴⁶ *Vojnity v Hungary* (2013) ECHR 426; *Lyubenova v Bulgaria* (2011) ECHR 193; *Palau-Martinez v France* (2003) ECHR 693.

⁴⁷ *Ibid*; Article 3, UN Convention on the Rights of the Child 1989.

discrimination) of the ECHR.⁴⁸ Any such decision to interfere with an individual's right to family life must be proportionate and in pursuit of a legitimate aim, such as the best interests of the child.⁴⁹ Furthermore, where "a very restrictive measure" to an individual's "detriment, without giving due consideration to possible alternatives" is likely to be deemed a disproportionate approach and violate the ECHR.⁵⁰

- 2.16 Additionally, the placement with the biological parent of the child, even where this has worked out to be in the best interests of the child, does not and should not absolve any abuse that was suspected or occurred in the lead up to this outcome from being effectively investigated.⁵¹
- 2.17 **The NIHRC advises that the Committee of the Executive Office encourages the Executive Office to review clause 2(5) of the Bill and ensure that it does not enable the exclusion of a situation where the right to family life of the mother and best interests of the child were disproportionately denied or ignored due to the actions, pathways and practices of prescribed institutions, public bodies or other persons from investigation by the proposed inquiry, even if it involved the biological father.**
- 2.18 **The NIHRC advises that the Committee of the Executive Office encourages the Executive Office to review clause 2(5) of the Bill and ensure that placement with the biological parent of the child does not prevent the effective investigation of abuse that was suspected or occurred in the lead up to this outcome.**
- 2.19 The NIHRC welcomes the proposed approach of considering the failings of prescribed institutions, public bodies and other persons. This is particularly from the perspective of enabling the proposed inquiry to consider organisations and individuals linked to the activities of prescribed institutions, including social workers, General Practitioners, clergy, 'baby homes', private nursing homes, and adoption agencies. The NIHRC also welcomes that consideration will be given not only to the care that women

⁴⁸ *Vojnity v Hungary* (2013) ECHR 426; *Lyubenova v Bulgaria* (2011) ECHR 193; *Palau-Martinez v France* (2003) ECHR 693.

⁴⁹ *Vojnity v Hungary* (2013) ECHR 426, at para 43.

⁵⁰ *Ibid.*

⁵¹ *ROD v Croatia* (2008) ECHR 1048, at Section 1; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *M and Others v Italy and Bulgaria* (2012) ECHR 1967, at para 100; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *Mocanu and Others v Romania* (2014) ECHR 958, at paras 319-325; Articles 12 and 14, UN Convention against Torture 1984; CAT/C/GC/2, 'UN CAT Committee General Comment No 2', 24 January 2008, at paras 5, 17, 18 and 25; CAT/C/GC/3, 'UN Committee against Torture General Comment No 3', 13 December 2012, at para 5.

and children received, but how this care was monitored through considering registration, regulation and inspection arrangements.

- 2.20 However, the inquiry is intended and expected to consider the pathways and practices associated with Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI.⁵² The Explanatory Memorandum even goes as far to state that clause 2(a) of the Bill “ensures the inquiry can take into account the experiences of individuals and organisations associated with the routes, pathways and practices leading into and from the institutions, as well as the care of individuals while in the institutions”.⁵³ Arguably, the pathways and practices are alluded to by reference in clause 2(a) of the Bill to “the admission of relevant persons to, or departure of relevant persons from, prescribed institutions”. However, despite this being the identified purpose of this provision, the words ‘pathways’ and ‘practices’ do not appear within clause 2(a) or anywhere else within the Bill. This could potentially be resolved through express mention within the terms of reference, but without an express requirement to do so within the legislation, this is not guaranteed. Thus, this raises concerns that without express legislative mention and, express legislative commitment to consider these, there is the risk that the pathways and practice elements will be ignored, misinterpreted or not fully investigated by the inquiry.
- 2.21 Clause 2(1) of the Bill refers to “systematic failings” only. Mention of such failings is welcomed. As the former UN Special Rapporteur on the promotion of truth, Pablo de Greiff, has recommended, “the structural and systemic dimension of violence and rights violations and abuses should be examined. A comprehensive understanding of the past requires instruments that do not treat it merely as a series of unconnected events”.⁵⁴ However, the lack of provision within the Bill to make clear that individual cases and experiences can also be considered by the inquiry is an omission. A focus on systemic violations should not be at the expense of considering individual experiences, which ultimately will be crucial in identifying where systemic issues occurred. The consultation document indicated the intention to facilitate consideration of individual’s

⁵² The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 7.

⁵³ Ibid.

⁵⁴ A/HRC/34/62/Add.1, ‘Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff on his Mission to the UK of Great Britain and NI’, 17 November 2016, at para 125.

experiences,⁵⁵ but this has not translated into the Bill. The report of the Truth Recovery Expert Panel also outlines that the purpose of this public inquiry should be, to “investigate issues of individual, institutional, organisational and state departmental/agent responsibility concerning human rights violations experienced in Mother and Baby Institutions, Magdalene Laundries, Workhouses and their pathways and practices”.⁵⁶ This should also be in the context of intragenerational and intergenerational effects.

- 2.22 As the NIHRC has previously highlighted,⁵⁷ the right to life can only be interfered with when “absolutely necessary” in three very specific scenarios – in defence from unlawful violence, to effect a lawful arrest or prevent escape of a person lawfully detained, or to lawfully quell a riot or insurrection.⁵⁸ Freedom from torture or ill-treatment and prohibition of slavery and forced labour are absolute rights, which should not be interfered with under any circumstances.⁵⁹ On that basis it is imperative that the procedural obligation to investigate is taken seriously. This is not only essential from the perspective of dealing with past abuses, but to ensure that similar violations do not occur in the future.
- 2.23 Furthermore, the nature and degree of scrutiny required by an investigation is determined by the circumstances of each case, for example undisputed cases may require a simple investigation, but disputed or suspicious cases will require additional scrutiny.⁶⁰ The NIHRC has previously advised that the finding of a violation for one individual helps to confirm for duty bearers what does or does not constitute a violation within that context, which has far-ranging benefits beyond the individual whose case is being investigated.⁶¹ Additionally, the finding of a similar violation against several individuals can help to expose patterns, including systemic discrimination or disadvantage faced by marginalised groups.⁶²

⁵⁵ The Executive Office, ‘Truth Recovery - Mother and Baby Institutions, Magdalene Laundries and Workhouses, and Their Pathways and Practices’ (TEO, 2024), at 20.

⁵⁶ Deirdre Mahon et al, ‘Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI: Truth, Acknowledgment and Accountability’ (TEO, 2021), at 13.

⁵⁷ NI Human Rights Commission, ‘Submission to the Executive Office’s Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices’ (NIHRC, 2024), at para 3.9

⁵⁸ Articles 2 and 15(2), European Convention on Human Rights 1950; Article 6, UN International Covenant on Civil and Political Rights 1966; Article 6, UN Convention on the Rights of the Child 1989; Article 10, UN Convention on the Rights of Persons with Disabilities 2006.

⁵⁹ Articles 3, 4 and 15(2), European Convention on Human Rights 1950; Article 7 and 8, UN International Covenant on Civil and Political Rights 1966; Article 2(1), UN Convention against Torture 1984; Article 37(a), UN Convention on the Rights of the Child 1989; Articles 15 and 27(2), UN Convention on the Rights of Persons with Disabilities 2006.

⁶⁰ *Velikova v Bulgaria* (2000) ECHR 198, at para 80.

⁶¹ NI Human Rights Commission, ‘Submission to the Executive Office’s Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices’ (NIHRC, 2024), at 2.11.

⁶² *Ibid.*

For example, the ECtHR has identified the specific protection needs of Roma communities, noting that “special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases”.⁶³ Further, in relation to discrimination on the grounds of sex, the ECtHR has noted that such discrimination contrary to Article 14 of the ECHR, can be perpetrated against a “person or a group”.⁶⁴ An investigation into human rights violations must be effective. To be effective an investigation’s conclusions “must be based on thorough, objective and impartial analysis of all relevant elements” and follow “an obvious line of inquiry”.⁶⁵ Thus, there is a requirement on a public inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI to consider individual experiences, where appropriate.

2.24 Additionally, considering that an effective investigation is required to be transparent,⁶⁶ there is also a link to the right to truth.⁶⁷ Thus, a thorough investigation is also important in establishing the truth and gathering accessible information. Therefore, it is important to enable individual cases and the actions of individuals linked to the activities of the institutions to either be brought to the attention of the inquiry and investigated if appropriate, or to be considered of the inquiry’s own motion.

2.25 **The NIHRC advises that the Committee of the Executive Office engages with the Executive Office to ensure that the Bill requires that the focus of a public inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI is to establish what happened, why it happened, who was responsible and what can be done to prevent reoccurrence. This must include a thorough, objective and impartial analysis pursuing all obvious lines of inquiry. It should also include express consideration of the pathways and practices associated with prescribed institutions, public bodies or other persons in this context, including their intragenerational and intergenerational effects.**

⁶³ *Chapman v UK* (2001) ECHR 43, at para 96.

⁶⁴ *Absulaziz, Cabales and Balkandali v UK* (1985) ECHR 7, at para 82.

⁶⁵ *Kolevi v Bulgaria* (2009) ECHR 1838, at para 201; *Armani da Silva v UK* (2016) ECHR 1377, at para 234.

⁶⁶ *Avsar v Turkey* (2001) ECHR 439.

⁶⁷ UN Secretary-General, ‘UN Approach to Transitional Justice’, March 2010, at 3; *El-Masri v The Former Yugoslav Republic of Macedonia* (2012), Application No 39630/09, Judgment of 13 December 2012, at para 191; *Janowiec and Others v Russia* (2013) ECHR 1003, at para 9 of the Joint Partly Dissenting Opinion of Judges Ziemeles, De Gaetano, Laffranque and Keller; *Varnava and Others v Turkey* (2009) ECHR 1313, at paras 200-202; CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at paras 6 and 16.

Amendments

- 2.26 Clause 3 of the Bill proposes that amendments can be made to the terms of reference, with the requirement that “any amendments... are to be prepared and published by the Executive Office”. Clause 4 of the Bill proposes that, before any amendments are made to the terms of reference, that the inquiry’s chairperson must be consulted and consideration given to the Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI Truth, Acknowledgement and Accountability Report that was produced with a panel of experts, working alongside victims and survivors.
- 2.27 The NIHRC welcomes that the Bill includes a provision aimed at enabling the terms of reference to be amended, where necessary. This will help to maintain the integrity of the terms of reference, while also ensuring that the inquiry is empowered to follow every obvious line of inquiry for the purposes of undertaking a thorough investigation.⁶⁸ This is in line with the Istanbul Protocol, which states that the terms of reference should “provide flexibility in the scope of the inquiry to ensure that thorough investigation by the commission is not hampered by overly restrictive or overly broad terms of reference”.⁶⁹ The Istanbul Protocol further notes that necessary flexibility can be ensured by permitting, for example, the terms of reference to be amended.⁷⁰
- 2.28 The NIHRC welcomes that consideration must be given to the work of the panel of experts, however this is not a replacement for engaging directly with and ensuring the meaningful involvement of victims and survivors in this process.
- 2.29 As the NIHRC has previously advised,⁷¹ a victim-centred approach is a requirement through the application of the PANEL Principles and considering best practice. The former UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff, noted that:

⁶⁸ *Kolevi v Bulgaria* (2009) ECHR 1838, at para 201; *Armani da Silva v UK* (2016) ECHR 1377, at para 234.

⁶⁹ UN Office of the High Commissioner for Human Rights, ‘Manual of the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ (OHCHR, 2022), at para 59.

⁷⁰ *Ibid.*

⁷¹ NI Human Rights Commission, ‘Submission to the Executive Office’s Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices’ (NIHRC, 2024), at paras 2.27-2.35.

truth-seeking requires the active participation of individuals who wish to express their grievances and report on the facts and underlying causes of the violations and abuses which occurred. Truth-seeking will only be regarded a justice measure if civil society, in particular victims' organisations, is adequately represented in the composition of a truth commission.⁷²

2.30 Drawing from the PANEL principles, participation is a fundamental element of a human rights-based approach. For participation to be effective, affected individuals and their representative organisations should be involved in every stage of the process – design, development, implementation, monitoring and evaluation.

2.31 Best practice is set by the UN Convention on the Rights of Persons with Disabilities that is grounded in the mantra – “nothing about us, without us” – and requires that:

in the development and implementation of legislation and policies to implement the... [UN CRPD], and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.⁷³

2.32 Critically, participation must be meaningful and not illusory. It is important that victims and survivors are supported in engaging directly with the public inquiry. This includes in consideration of any amendments to the terms of reference. How this fits within the context of the proposed Advisory Panel is addressed below.

2.33 **The NIHRC advises that the Committee for the Executive Office explores with the Executive Office whether the Bill enables the terms of reference to be sufficiently flexible to enable the public inquiry to consider all evidence uncovered by or provided to it that is relevant. Adopting a victim-centred approach, this must involve the meaningful involvement of victims and survivors within**

⁷² A/HRC/21/46, 'Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff', 9 August 2012, at para 54.

⁷³ Article 4(4), UN Convention on the Rights of Persons with Disabilities 2006.

designing, participating in and engaging with the inquiry process, including in the drafting and altering of the terms of reference.

Definitions

Prescribed institution

2.34 Clause 3(1) of the Bill proposes that ‘prescribed institutions’ are defined as:

- a) institutions known as ‘mother and baby institutions’;
- b) institutions known as ‘Magdalene laundries’;
- c) workhouses (within the meaning of Poor Relief Acts (NI) 1838 to 1937);
- d) other institutions (irrespective of whether such institutions are public bodies or not, and whether the activities of such institutions are carried out for, or not for, profit), as may be prescribed in regulations made by the Executive Office.

2.35 Clause 3(2) of the Bill proposes that the chairperson of the inquiry must be consulted on any proposed regulations for the purpose of identifying other institutions as a ‘prescribed institution’. Clause 3(3) of the Bill proposes that a draft of any such regulations must be “laid before, and approved by a resolution of, the [NI] Assembly”.

2.36 The NIHRC welcomes the broad approach to ‘prescribed institutions’, including that there is the ability to expand the institutions that fall within this category and that private institutions can also be included. The NIHRC also welcomes that the expansion of what equates to an ‘other’ prescribed institution is subject to scrutiny from the chairperson of the inquiry. That said, it is notable that there is no requirement to consult with victims and survivors regarding any such expansion. This omission is disappointing from the perspective of providing for effective participation and a victim-centred approach in the context of the proposed inquiry.

2.37 Furthermore, as the NIHRC previously advised, it is concerned that the requirement to seek the approval of the NI Assembly before deciding that an institution can be included within the scope of the inquiry is not an

independent or impartial approach.⁷⁴ Independence from the government, Mother and Baby Institutions, Magdalene Laundries, Workhouses and other linked institutions will be key to ensuring that the public inquiry is independent in law and practice.⁷⁵ The UN Revised Minnesota Protocol states that “investigations must also be free from undue external influence, such as the interests of political parties or powerful social groups”.⁷⁶ To require ‘sign off’ from a political body has implications for the independence and effectiveness of the process.

2.38 The NIHRC recommends that the Committee of the Executive Office amends the Bill to include a requirement to consult with victims and survivors on the expansion of what constitutes a ‘prescribed institution’ for the purposes of the proposed inquiry.

2.39 The NIHRC recommends that the Committee of the Executive Office removes clause 3(3) of the Bill to protect the proposed inquiry’s definition of a ‘prescribed institution’ from undue political influence.

Relevant persons

2.40 Clause 4(1) of the Bill proposes that ‘relevant persons’ for the purposes of the proposed inquiry are:

- a) in relation to a prescribed mother and baby institution or a prescribed Magdalene laundry –
 - i) any person admitted to the institution;
 - ii) any person born while their mother was under the care of the institution;
 - iii) any person whose mother was under the care of the institution until immediately before the person’s birth;
- b) in relation to a prescribed workhouse –

⁷⁴ NI Human Rights Commission, ‘Submission to the Executive Office’s Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices’ (NIHRC, 2024), at 3.19.

⁷⁵ *Ergi v Turkey* (1998), ECHR 59, at paras 83-84; *Hugh Jordan v UK* (2001) ECHR 327, at para 120; *McKerr v UK* (2001) ECHR 329, at para 128.

⁷⁶ *Ibid.*

- i) a pregnant woman or pregnant girl admitted to the workhouse;
 - ii) a woman or girl who had given birth while she was under the care of the workhouse;
 - iii) a person born while their mother was under the care of the workhouse;
 - iv) a person whose mother was under the care of the workhouse until immediately before the persons' birth;
- c) in relation to any other institution that is prescribed in regulations under section 3(1)(d) [of the Bill], any person of such description as may be prescribed in regulations made by the Executive Office.

2.41 Clause 4(2) of the Bill proposes that the Executive Office may introduce regulations that "provide that persons specified in the regulations who would otherwise be 'relevant persons' are to be treated for the purposes of this section as if they were not relevant persons". Clause 4(3) of the Bill also proposes that the Executive Office may introduce regulations that "amend the definition of 'relevant persons'". Clauses 4(4) and 4(5) of the Bill propose that such regulations cannot be made without consulting the chairperson of the inquiry and without a resolution from the NI Assembly.

2.42 A clear definition of 'relevant persons' for the purposes of the proposed inquiry is welcomed. However, there are concerns with the freedom which the Executive Office is afforded to alter and amend this definition and who satisfies this definition, without express justification. The Explanatory Memorandum indicates that clause 4(2) of the Bill aims to provide the Executive Office with "the power to exclude certain individuals who may seem to satisfy the definition of 'relevant persons' but would be outside the intended scope of the inquiry". This is not immediately obvious from the current drafting of this proposed provision. Reading clauses 4(2) and 4(3) of the Bill together, these provisions instead could be interpreted as granting the Executive Office broad discretion to add or remove 'relevant persons' without justification. This may be resolved through clarity provided in subsequent regulations, however, the current drafting of the

legislation unnecessarily opens these powers up to potential abuse or unintended interpretations.

- 2.43 Article 1 of the ECHR requires that the UK “secure[s] to everyone within their jurisdiction the rights and freedoms defined in... [the ECHR]”. Consequently, there must be an effective official investigation conducted whenever “there is reason to believe that an individual has died in suspicious circumstances” and/or it is “arguable” and “raises reasonable suspicion” that an unlawful breach of Articles 2 (right to life) and/or Article 3 (freedom from torture) of the ECHR has occurred.⁷⁷ Investigative obligations also extend to scenarios where there is credible suspicion that an individual’s right under Article 4 of the ECHR (prohibition of slavery and forced labour) has been violated and/or where the State failed to take reasonable steps to address known real and immediate risks of slavery or forced labour.⁷⁸ Such investigations are not limited to State action or inaction, but extend to the resulting actions of non-State actors that the State knew or ought to have known about.⁷⁹ Similar obligations also arise under other international human rights standards.⁸⁰ On this basis, activities of institutions, public bodies or individuals linked to the proposed inquiry that raise Articles 2, 3 or 4 of the ECHR concerns must be thoroughly and effectively investigated. This includes ensuring that any individuals that fall within these parameters are made ‘relevant persons’ for the purposes of the proposed inquiry.
- 2.44 Additionally, the same points are made regarding clauses 4(4) and 4(5) of the Bill that have been made concerning clauses 3(2) and 3(3) of the Bill. It is welcomed that regulations amending the definition of ‘relevant persons’ are subject to scrutiny from the chairperson of the inquiry. However, the NIHRC is concerned that there is no requirement to consult with victims and survivors regarding these changes. The NIHRC is also concerned at the requirement for approval by the NI Assembly.

⁷⁷ *ROD v Croatia* (2008) ECHR 1048, at Section 1; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *M and Others v Italy and Bulgaria* (2012) ECHR 1967, at para 100; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *Mocanu and Others v Romania* (2014) ECHR 958, at paras 319-325; Articles 12 and 14, UN Convention against Torture 1984; CAT/C/GC/2, ‘UN CAT Committee General Comment No 2’, 24 January 2008, at paras 5, 17, 18 and 25; CAT/C/GC/3, ‘UN Committee against Torture General Comment No 3’, 13 December 2012, at para 5.

⁷⁸ *CN v UK* (2012) ECHR 380, at para 67; *VCL and AN v UK* (2021) ECHR 132, at para 152; *Rantsev v Cyprus and Russia* (2010) ECHR 22, at para 288; *SM v Croatia* (2020) ECHR 633, at paras 309-311.

⁷⁹ *Ergi v Turkey* (1998), ECHR 59, at para 82; *SM v Croatia* (2020) ECHR 633, at paras 312-320; *Rantsev v Cyprus and Russia* (2010) ECHR 22, at para 288.

⁸⁰ Such as Articles 6, 7 and 8, UN International Covenant on Civil and Political Rights 1966; Article 2(1), UN Convention against Torture 1984; Articles 6 and 37(a), UN Convention on the Rights of the Child 1989; Articles 10, 15 and 27(2), UN Convention on the Rights of Persons with Disabilities 2006.

- 2.45 **The NIHRC recommends that the Committee of the Executive Office amends the Bill to ensure that implementation of clauses 4(2) and 4(3) are subject to limitations that ensure any individual that was involved in or suspected of being involved in abuses and violations linked to Articles 2, 3 and/or 4 of the ECHR is deemed a 'relevant person' for the purposes of the proposed inquiry and subject to a thorough and effective investigation accordingly. These limitations should be clearly set out within the Bill.**
- 2.46 **The NIHRC recommends that the Committee of the Executive Office amends the Bill to include a requirement to consult with victims and survivors on any amends to what constitutes a 'relevant person' for the purposes of the proposed inquiry.**
- 2.47 **The NIHRC recommends that the Committee of the Executive Office removes clause 4(5) of the Bill to protect the proposed inquiry's definition of a 'relevant person' from undue political influence.**

Inquiry panel

Composition of the inquiry panel

- 2.48 Clause 5 of the Bill proposes that the inquiry panel consists of "either a chairperson alone, or a chairperson with one or more other members". It continues that "the inquiry panel must not rule on, and has not power to determine any person's civil or criminal liability".
- 2.49 The NIHRC welcomes that clause 5 of the Bill aims to provide clarity as to who can form the inquiry panel and its purpose regarding civil or criminal liability. The NIHRC also welcomes "the aim of this clause to provide Ministers with the flexibility to appoint an inquiry panel that is appropriate to the circumstances under investigation".⁸¹ The proposed wording reflects sections 2(1) and 3(1) of the Inquiries Act 2005. However, there is a notable absence of any reference to human rights. There is also the notable omission of replicating section 2(2) of the Inquiries Act 2005 that states "an inquiry is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes".

⁸¹ The Executive Office, 'Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum' (TEO, 2025), at 8.

- 2.50 Under section 6(1) of the Human Rights Act 1998 “it is unlawful for a public authority to act in a way which is incompatible with a [ECHR]... right”. Section 6(3) of the 1998 Act defines a public authority as “any person certain of whose functions are functions of a public nature”. While independent from government, the proposed inquiry is tasked with performing a public function and thus equates to a public authority for the purpose of the 1998 Act. The proposed inquiry is tasked with investigating the violations and abuses committed by prescribed institutions, public bodies and relevant individuals regarding Mother and Baby Institutions, Magdalene Laundries, and Workhouses in NI. Thus, without stating it within the Bill, the inquiry panel is required to adhere to the ECHR. That said, the key is ensuring that the investigations undertaken are human rights compliant and effective in law and practice.⁸² As set out in the NIHRC’s initial advice, a human rights-based approach is a conceptual framework informed by international human rights standards, which aims to put “human rights and corresponding State obligations at the heart of policy making”.⁸³ Thus, applying a visible human rights-based framework is important to safeguard rights for rights-holders, who can be individuals or social groups that have entitlements in relation to duty bearers. It is also important for providing clarity of obligations for duty bearers. Duty bearers are State, or delegated non-State actors, that have an obligation to ensure that the human rights of rights-holders are respected, protected and fulfilled.⁸⁴
- 2.51 Additionally, there is precedent for adopting a human rights-based approach in the present context. For example, human rights are a visible cornerstone in the work of the Truth Recovery Independent Panel, which has been tasked with making recommendations to the public inquiry.⁸⁵ Furthermore, specific to a public inquiry set up under the Inquiries Act 2005, the terms of reference of the Scottish COVID-19 Inquiry refer to a human rights-based approach.⁸⁶
- 2.52 Furthermore, given the range of issues to be investigated by the proposed inquiry and as an additional safeguard against any unconscious

⁸² *Ergi v Turkey* (1998), ECHR 59, at paras 83-84; *Hugh Jordan v UK* (2001) ECHR 327, at para 120; *McKerr v UK* (2001) ECHR 329, at para 128.

⁸³ European Network of National Human Rights Institutions, ‘Human Rights-Based Approach’. Available at: [Human Rights-Based Approach - ENNHRI](#)

⁸⁴ *Ibid.*

⁸⁵ Truth Recovery Independent Panel, ‘Terms of Reference’ (TRIP, 2024).

⁸⁶ Scottish Government, ‘COVID-19 Inquiry: Terms of Reference’ (Scottish Gov, 2022).

institutional thinking or gender-bias, it would be beneficial that the inquiry panel consists of a chairperson and a minimum number of additional inquiry members. This should reflect a gender balance as much as possible and include expertise regarding each aspect of the proposed inquiry. Given the breath of the inquiry, it is unlikely that one additional inquiry panel member will be sufficient. There is also a strong argument, given the level of dereliction that victims and survivors have experienced up to now, for any potential candidates to the inquiry panel to be identified and for there to be meaningful consultation with victims and survivors regarding these appointments, with any identified objections given particular consideration. As with any employment exercise, there are several factors taken into account, with safeguards within the overall system relied on to ensure a fair and impartial decision is reached. The same can be replicated within the proposed inquiry's appointments process, to ensure the most appropriate candidates are selected.

- 2.53 While it is not typical for such considerations to be included within statute, there is also nothing to prevent such an inclusion within the Bill. Whether included in the legislation or not, the first step in guaranteeing that a victim-centred approach and a trauma-informed approach is taken by the proposed inquiry is to ensure that the chairperson, inquiry panel members and staff of the inquiry have received up-to-date, expert training on these approaches. The same applies to a human rights based approach.
- 2.54 **The NIHRC recommends that the Committee for the Executive Office amends the Bill to adopt a human rights-based approach that is expressly stated as a foundation of the public inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI. This can be achieved through using phrasing such as “abuses and human rights violations” in determining the public inquiry’s scope and including express reference to adherence to the ECHR.**
- 2.55 **The NIHRC recommends that the Committee for the Executive Office amends the Bill to include that the inquiry is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.**
- 2.56 **The NIHRC recommends that the Committee for the Executive Office amends clause 5 of the Bill to read “a chairperson with at**

least X other members”. The minimum amount selected should enable a gender balance and cover the full range of expertise required by the proposed inquiry. The selection process for the chairperson and inquiry panel members should involve meaningful consultation with victims and survivors, with particular consideration given to any objections. The selection process should also include sufficient safeguards to guarantee independence and impartiality.

- 2.57 The NIHRC advises that the Committee for the Executive Office confirms with the Executive Office its plans to ensure that the chairperson, panel, staff and expert associates of the inquiry have received up-to-date expert training on a human rights based approach, a victim-centred approach and a trauma-informed approach regarding investigations, and understand how to implement these approaches in practice.**

Independence and impartiality

- 2.58 Concerning appointments to the inquiry panel, clause 6(1) of the Bill proposes that “each member of the inquiry panel is to be appointed by the First Minister and deputy First Minister acting jointly by an instrument in writing”. Clause 6(4) of the Bill proposes that if the inquiry has not yet begun to consider evidence that:

a person may be appointed to membership of the inquiry panel otherwise than as chairperson only if –

a) a chairperson is appointed, and

b) the First Minister and deputy First Minister acting jointly have consulted the chairperson concerning the appointment of the person as a member of the inquiry panel.

- 2.59 Clause 6(6) of the Bill proposes that if the inquiry has begun to consider evidence that:

a person may be appointed to membership of the inquiry panel otherwise than as chairperson only if –

a) a chairperson is appointed, and

- b) the chairperson has consented to the appointment of the person as a member of the inquiry panel.

2.60 Additionally, clause 6(7) of the Bill proposes that “the power to appoint a replacement chairperson may be exercised by appointing a person who is already a member of the inquiry panel”.

2.61 Regarding impartiality, clause 7(1) of the Bill proposes that:

the First Minister and deputy First Minister may not appoint a person as a member of the inquiry panel if it appears to them that the person has –

- a) a direct interest in the matters to which the inquiry relates, or

- b) a close association with an interested party.

2.62 Clause 7(2) of the Bill continues that section 7(1) of the Bill:

does not apply in respect of a person who appears to the First Minister and deputy First Minister to have an interest or association falling within [clause 7(1)(a) or 7(1)(b) of the Bill]... if the appointment of the person could not reasonably be regarded as affecting the impartiality of the inquiry panel.

2.63 Clauses 7(3) and 7(4) of the Bill propose that the First Minister and deputy First Minister must be notified “any matters that... could affect the person’s eligibility for appointment” and “if at any time during the course of the inquiry a member of the inquiry panel becomes aware that he or she has an interest or association falling within [clauses 7(1)(a) or 7(1)(b) of the Bill]”. Clause 7(5) of the Bill also proposes that “a member of the inquiry panel must not undertake any activity that could reasonably be regarded as affecting the person’s suitability to serve as such”.

2.64 Clauses 6 and 7 of the Bill align with the standard approach set out in the Inquiries Act 2005.⁸⁷ The NIHRC welcomes the proposals to differentiate

⁸⁷ Sections 4, 7 and 9, Inquiries Act 2005.

between existing and further appointments to the inquiry, depending on whether the inquiry has started to take evidence or not. The NIHRC also welcomes the requirement for impartiality within the inquiry panel, not only at the point of appointment, but also during the inquiry. These proposals help to maintain the inquiry's independence and impartiality, a key component of a human rights compliant investigation.⁸⁸

- 2.65 The Explanatory Memorandum clarifies that “direct interest in the subject matter of the investigation” by the proposed inquiry “if those matters have directly impacted their personal life”.⁸⁹ The Explanatory Memorandum further states that:

in contrast, ‘close association’ focuses not so much on the interest of the individual, but on the links (whether personal or professional) that the individual has. An ‘interested party’ might be someone who could be affected by the outcome of the inquiry. For example, were an inquiry panel member to have ties with a witness, there might be concerns about how fairly the inquiry panel member would treat evidence provided by that witness.⁹⁰

- 2.66 Nevertheless, the Explanatory Memorandum acknowledges that:

there might be cases in which it would be beneficial to the inquiry to appoint a person with more direct experience of the area under investigation, and [clause 7(2) of the Bill]... allows for this. In some specialised subject areas, for example, it could be difficult to find panel members who did not have some sort of association with those involved, or a general interest in the subject matter. Even if a prospective panel member did have a ‘direct interest’ or ‘close association’ [clause 7(2) of the Bill]... allows Ministers to appoint the individual, provided that the interest or association

⁸⁸ *Hugh Jordan v UK* (2001) ECHR 327; *McKerr v UK* (2001) ECHR 329; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *Mocanu and Others v Romania* (2014) ECHR 958, at paras 319-325; CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at paras 27 and 28; CAT/C/GC/3, ‘UN Committee against Torture General Comment No 3’, 13 December 2012, at para 5; UN General Assembly, ‘Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’, 16 December 2005, at para 3(b).

⁸⁹ The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 9.

⁹⁰ *Ibid.*

could not reasonably be regarded as affecting the impartiality of the panel as a whole.⁹¹

2.67 The NIHRC welcomes that the aim of clauses 6 and 7 of the Bill is that the most appropriate appointments are made to the proposed inquiry. However, this should be approached with caution. As the NIHRC previously advised, there is, for obvious reasons, clear guidance that perpetrators must be excluded from investigation. The ECtHR has stated that for an investigation to be independent it is “necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events”.⁹² This requires a “lack of hierarchical or institutional connection, but also a practical independence”.⁹³ The guidance on the inclusion of victims or survivors in operating investigations that are directly or indirectly related to their own experiences is less clear. The UN Revised Minnesota Protocol offer some further direction.⁹⁴ The UN Revised Minnesota Protocol states that “investigators must be impartial and must act at all times without bias. They must analyse all evidence objectively. They must consider and appropriately pursue exculpatory as well inculpatory evidence”.⁹⁵

2.68 **The NIHRC advises that the Committee of the Executive Office engages with the Executive Office to ensure that clause 7(2) of the Bill cannot be interpreted in such a way that inadvertently compromises the proposed inquiry’s independence and impartiality, particularly regarding the involvement of potential perpetrators.**

Duration of appointment

2.69 Clause 8 of the Bill sets out proposed provision for managing the duration of a member of the inquiry panel’s membership. Clause 8(1) of the Bill proposes that the default is a member of the inquiry panel’s death. Clause 8(2) of the Bill enables a member of the inquiry panel to resign and clause 8(3) of the Bill proposes that the First Minister and Deputy First Minister

⁹¹ The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 9.

⁹² *Ergi v Turkey* (1998), ECHR 59, at paras 83-84; *Hugh Jordan v UK* (2001) ECHR 327, at para 120; *McKerr v UK* (2001) ECHR 329, at para 128.

⁹³ *Ibid.*

⁹⁴ UN Office of the High Commissioner, ‘The Minnesota Protocol on the Investigation of Potentially Unlawful Death’ (OHCHR, 2016), at para 27.

⁹⁵ *Ibid.*

may suspend or terminate an appointment in specific circumstances. Clauses 8(4) to 8(7) of the Bill propose safeguards regarding this power. These provisions reflect the Inquiries Act 2005.⁹⁶ They are an important inclusion for ensuring the independence, impartiality and competency of the inquiry panel.⁹⁷

2.70 The NIHRC advises the Committee for the Executive Office that clause 8 of the Bill is a welcomed inclusion for ensuring the independence, impartiality and competence of the inquiry panel.

Expert views

Assessors

2.71 Clause 9(1) of the Bill proposes that “the chairperson may appoint one or more persons to act as assessors to assist the inquiry panel”. Clause 9(2) of the Bill proposes that “a person may be appointed as an assessor only if it appears to the chairperson that the person has expertise that makes the person a suitable person to provide assistance to the inquiry panel”. Clause 9(3) of the Bill proposes that “the chairperson may at any time suspend or terminate the appointment of an assessor”.

2.72 The Explanatory Memorandum states that:

assessors may be appointed to provide the inquiry with expertise in a particular field whose knowledge, where necessary, can provide the panel with the expertise it needs to fulfil its terms of reference. They are not a member of the inquiry panel, do not have powers under [the Bill]... and are not responsible for the inquiry’s findings or its reports. An assessor may be appointed for all or part of the inquiry.⁹⁸

2.73 The NIHRC welcomes inclusion of provision for assessors to the proposed inquiry, in line with requirements that a thorough investigation is

⁹⁶ Section 12, Inquiries Act 2005.

⁹⁷ *Hugh Jordan v UK* (2001) ECHR 327; *McKerr v UK* (2001) ECHR 329; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *Mocanu and Others v Romania* (2014) ECHR 958, at paras 319-325; CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at paras 27 and 28; CAT/C/GC/3, ‘UN Committee against Torture General Comment No 3’, 13 December 2012, at para 5; UN General Assembly, ‘Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’, 16 December 2005, at para 3(b).

⁹⁸ The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 10.

conducted.⁹⁹ However, to reiterate the NIHRC's previous advice,¹⁰⁰ a human rights compliant investigation is not one that is "half-hearted and dilatory".¹⁰¹ To be human rights compliant, an "investigation's conclusions must be based on thorough, objective and impartial analysis of *all* relevant elements... failing to follow an obvious line of inquiry undermines the investigations' ability to establish the circumstances of the case and the person responsible".¹⁰²

- 2.74 It would be useful to include within clause 9(1) of the Bill that an assessor may be appointed where necessary, to provide the inquiry panel with the expertise its needs to fulfil its terms of reference. It would also be useful to add to clause 9(3) that, where reasonable, the chairperson can suspend or terminate the appointment of an assessor. These additions would help to ensure every obvious line of inquiry is investigated by the inquiry, even in scenarios where the chairperson may not agree with the assessor's advice.
- 2.75 There is the additional consideration as to whether a victim or survivor could be appointed as an assessor. The Advisory Panel option implies that this is the dedicated space within the proposed inquiry for the direct involvement of victims and survivors. However, consideration should be given to enabling a victim or survivor with specific expertise to be appointed as an assessor. There are several individuals and groups, who through the many years of campaigning who have become experts on the full scope or specific aspects of the proposed inquiry. This should be acknowledged. Also adopting a victim-centred approach and an approach centred around ensuring an effective investigation, such experts should not be disregarded due to their lived experience. Such an exclusionary approach not only risks revictimisation and retraumatisation, but could in practice perpetuate the abuses and disenfranchisement of rights that the inquiry has been established to investigate and prevent going forward. In terms of any concerns regarding bias, it falls to the broader structure and safeguards within the inquiry system to ensure independence and impartiality, and to do so in a victim-centred way.

⁹⁹ *Kolevi v Bulgaria* (2009) ECHR 1838, at para 201; *Armani da Silva v UK* (2016), Application No 5878/08, Judgment of 30 March 2016, at para 234.

¹⁰⁰ NI Human Rights Commission, 'Submission to the Executive Office's Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices' (NIHRC, 2024), at para 3.23.

¹⁰¹ *Acar and Others v Turkey* (2005) ECHR 313, at para 91.

¹⁰² *Kolevi v Bulgaria* (2009) ECHR 1838, at para 201; *Armani da Silva v UK* (2016), Application No 5878/08, Judgment of 30 March 2016, at para 234.

- 2.76 **The NIHRC recommends that the Committee for the Executive Office amends clause 9(1) of the Bill to read ‘the chairperson may appoint one or more persons to act as assessors to assist the inquiry panel, where necessary, to provide the inquiry panel with the expertise its needs to fulfil its terms of reference’.**
- 2.77 **The NIHRC recommends that the Committee for the Executive Office amends clause 9(3) of the Bill to read ‘where reasonable, the chairperson may at any time suspend or terminate the appointment of an assessor’.**
- 2.78 **The NIHRC recommends that the Committee for the Executive Office amends the Bill to ensure that a victim or survivor with particular expertise is not excluded from being an assessor and that the necessary safeguards regarding independence and impartiality are in place to support this approach.**

Advisory Panel

- 2.79 Clause 10(1) of the Bill proposes that “the chairperson may appoint a panel of persons to act as advisers to the inquiry panel on such matters as the inquiry panel considers appropriate”. Clause 10(3) of the Bill proposes that:

a person may be appointed to the advisory panel... only if the person –

- a) was admitted to a prescribed institution,
- b) was born while his or her mother was under the care of a prescribed institution,
- c) is or was a relative of a person [admitted to a prescribed institution or was born while his or her mother was under the care of a prescribed institution], or
- d) has experience in providing support to persons specified [[admitted to a prescribed institution or was born while his or her mother was under the care of a prescribed institution].

- 2.80 Clause 10(4) of the Bill proposes that “the chairperson may at any time suspend or terminate the appointment of the advisory panel or of any person appointed to the advisory panel”.
- 2.81 The NIHRC welcomes the inclusion of an Advisory Panel within the proposed inquiry structure. This is important from the perspective of effective participation and a victim-centred approach.¹⁰³ However, consideration should be given to whether this additional mechanism remains framed as a possibility within the Bill, or if it should be legislated for as a requirement. This should be with respect for a trauma-informed approach and the views of victims and survivors, in particular, if victims and survivors do not wish to be directly involved in the inquiry, there should be no onus or pressure on them to be. The amount of activism driven by victims and survivors around this issue indicates that there is an appetite to be directly involved in the proposed inquiry.¹⁰⁴ However, this will be subject to consideration of various factors, including whether there is trust in the inquiry and its panel members.
- 2.82 A provision expressly enabling Advisory Panel members to terminate their involvement of their own accord is also missing from the proposed approach in clause 10 of the Bill.
- 2.83 In the NIHRC’s previous advice, it was suggested that recent examples of good practice should be considered.¹⁰⁵ For example, victims and survivors in the context of the UK COVID-19 inquiry and the Post Office Inquiry have been enabled to group together and become a core participant of the respective inquiry, which enables qualifying individuals to have rights to receive disclosure of documentation, be represented by lawyers and make legal submissions, suggest questions and receive advance notice of the inquiry’s report. There is power for the chairperson of an inquiry to make such a provision.¹⁰⁶ This approach is omitted from the Bill.
- 2.84 Outside of the legislation, but an important step to be forward planning for from a practical perspective, consideration should be given to how to

¹⁰³ European Network of National Human Rights Institutions, ‘Human Rights-Based Approach’. Available at: [Human Rights-Based Approach - ENNHRI](#); A/HRC/21/46, ‘Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff’, 9 August 2012, at para 54; Article 4(4), UN Convention on the Rights of Persons with Disabilities 2006.

¹⁰⁴ ‘Fresh calls for NI mother and baby homes inquiry’, *BBC News*, 13 January 2021; Amnesty International, ‘Press Release: NI – Mother and Baby Home victims call for public inquiry’, 14 June 2017.

¹⁰⁵ NI Human Rights Commission, ‘Submission to the Executive Office’s Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices’ (NIHRC, 2024), at para 2.35.

¹⁰⁶ Rule 5, Inquiry Rules 2006.

create and ensure a continuous safe space for victims, survivors and their relatives to engage with the inquiry free from “threats, attacks and any act of retaliation” and to ensure their “safety, physical and psychological well-being, and privacy”.¹⁰⁷ Many testimonies that are already publicly available have reported physical and psychological abuse, societal institutionalisation and fear that have had a lasting effect.¹⁰⁸ A safe space must be created, which avoids the risk of re-traumatisation as much as possible.

- 2.85 Additionally, clause 10(5) of the Bill proposes that a ‘relative’ for the purposes of the Advisory Panel to the proposed inquiry is defined as “a parent, grandparent, child, grandchild, brother, sister, uncle or aunt (whether by a biological relationship, adoption, marriage or civil partnership)”. This broad definition is welcomed, however it is notable that this does step away from ECtHR jurisprudence by not including nephews and nieces.¹⁰⁹
- 2.86 **The NIHRC recommends that the Committee for the Executive Office amends clause 10(1) of the Bill so that the chairperson ‘must’ appoint an Advisory Panel. This should be framed in a way that respects a trauma-informed approach and the views of victims and survivors, if they do not wish to be directly involved in the inquiry, there should be no onus or pressure on an individual or group to be.**
- 2.87 **The NIHRC recommends that the Committee for the Executive Office includes within clause 10 of the Bill a provision expressly enabling Advisory Panel members to terminate their involvement of their own accord.**
- 2.88 **The NIHRC recommends that the Committee for the Executive Office amends the Bill to include a provision that enables victims,**

¹⁰⁷ CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at para 28; *Hugh Jordan v UK* (2001) ECHR 327, at para 107; UN Office of the High Commissioner for Human Rights, ‘The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions’ (OHCHR, 2016), at paras 27 and 36; A/RES/47/133, ‘Declaration on the Protection of All Persons from Enforced Disappearance’, 18 December 1992.

¹⁰⁸ *Deirdre Mahon et al, ‘Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI: Truth, Acknowledgment and Accountability’* (TEO, 2021), at 32.

¹⁰⁹ *Yasa v Turkey* (1998) ECHR 83; *McCann v UK* (1995) 21 EHRR 97; *Salman v Turkey* (2000) ECHR 357; *Velikova v Bulgaria* (2000) ECHR 198; *Ramsahai and Others v Netherlands* (2007) ECHR 393; *Giuliani and Gaggio v Italy* (2011) ECHR 513; *Andronicou and Constantinou v Cyprus* (1997), Application No 86-1996-705-897, Judgment of 9 October 1997; *McKerr v UK* (2001) ECHR 329.

survivors and their relatives to become core participants of the proposed inquiry, if they so wish.

- 2.89 The NIHRC advises that the Committee for the Executive Office confirms with the Executive Office its plans to ensure that the proposed inquiry includes safeguarding mechanisms for the purposes of creating and maintaining a safe space for victims, survivors and their relatives to participate in and engage with the proposed inquiry.**
- 2.90 The NIHRC recommends that the Committee for the Executive Office amends clause 10(5) of the Bill to include nieces and nephews within the definition of a relative for the purposes of the Advisory Panel to the proposed inquiry.**

Power to suspend inquiry

- 2.91 Clause 11(1) of the Bill proposes that:

the First Minister and deputy First Minister acting jointly may at any time, by notice to the chairperson, suspend the inquiry for such period as appears to them to be necessary to allow for –

- a) the completion of any other investigation relating to any of the matters to which the inquiry relates, or
- b) the determination of any civil or criminal proceedings arising out of any of those matters.

- 2.92 The remaining provisions with clause 11 of the Bill follow the Inquiries Act 2005 in setting the parameters of this power.¹¹⁰ These include that the chairperson of the inquiry must be consulted,¹¹¹ the First Minister and deputy First Minister must provide reasons for the suspension¹¹² and that the notice of suspension must be laid before the NI Assembly.¹¹³

¹¹⁰ Section 13, Inquiries Act 2005.

¹¹¹ Clause 11(3), Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Bill.

¹¹² Clause 11(5), Ibid.

¹¹³ Clause 11(6), Ibid.

- 2.93 Human rights standards require that there must be an effective official investigation conducted whenever “there is reason to believe that an individual has died in suspicious circumstances” and/or it is “arguable” and “raises reasonable suspicion” that an unlawful breach right to life and/or freedom from torture of the ECHR has occurred.¹¹⁴ Human rights standards are not prescriptive on how this is achieved. Thus, if deemed necessary, it is permissible to suspend an on-going investigation, such as the proposed inquiry, where there is reasonable justification.
- 2.94 **The NIHRC advises that the Committee for the Executive Office explores with the Executive Office what safeguards are in place to ensure that implementation of clause 11 of the Bill, and subsequent suspension of the proposed inquiry, does not negatively affect a prompt and effective investigation associated with the scope of the proposed inquiry, be it through the inquiry itself or another human rights complaint form of investigation.**

End of inquiry

- 2.95 Clause 12(1) of the Bill proposes that the proposed inquiry comes to an end:
- a) on the date, after the delivery of the report of the inquiry, on which the chairperson notifies the First Minister and deputy First Minister that the inquiry has fulfilled its terms of reference (which date must be within such time period, if any, as may be provided for by the terms of reference), or
 - b) on any earlier date specified in a notice given to the chairperson by the First Minister and deputy First Minister acting jointly.
- 2.96 If the First Minister and deputy First Minister close the proposed inquiry, it is proposed in the Bill that they must do so jointly, have consulted the chairperson, set out the reasons for bringing the inquiry to an end, and lay

¹¹⁴ *ROD v Croatia* (2008) ECHR 1048, at Section 1; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *M and Others v Italy and Bulgaria* (2012) ECHR 1967, at para 100; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *Mocanu and Others v Romania* (2014) ECHR 958, at paras 319-325; Articles 12 and 14, UN Convention against Torture 1984; CAT/C/GC/2, ‘UN CAT Committee General Comment No 2’, 24 January 2008, at paras 5, 17, 18 and 25; CAT/C/GC/3, ‘UN Committee against Torture General Comment No 3’, 13 December 2012, at para 5.

a copy of the notice “as soon as is reasonably practicable before the [NI] Assembly”.¹¹⁵

2.97 The NIHRC is concerned at the proposed inclusion of a power for the First Minister and deputy First Minister to end the proposed inquiry before it has completed its work. The Explanatory Memorandum provides that this has been included as a safeguard where “circumstances could arise (as yet unforeseen) in which it is no longer necessary or possible for the inquiry to continue”.¹¹⁶ However, the attempt to cover every possible angle is opening the proposed inquiry up to undue political influence and risks creating a fundamental flaw much greater than the rare and minor situation(s) that these provisions are seeking to address. A human rights compliant investigation is one that is thorough and follows obvious lines of inquiry.¹¹⁷ The NI Executive has identified the proposed inquiry as its intended way to achieve this regarding potential abuses and violations that have occurred in Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI. To enable the inquiry to be ended before a human rights compliant investigation has been undertaken runs contrary to a human rights-based approach. It also raises questions of the practical independence and impartiality of the inquiry’s operations,¹¹⁸ with a potential get-out clause for the NI Executive if it is not politically happy with the work or findings of the inquiry panel or the inquiry has become too costly. The joint aspect of this proposed power and the requirement to provide reasons for the closure offer some safeguard against this, but these are insufficient for ensuring that the closing of the proposed inquiry is based on its work being completed, as opposed to a political or financial decision.

2.98 **The NIHRC advises that the Committee for the Executive Office explores with the Executive Office a more appropriate way to deliver what clause 12(1)(b) of the Bill is attempting to achieve. In a manner which ensures that a thorough, independent and impartial investigation can be completed by the proposed inquiry without it being prematurely closed for an undue reason.**

¹¹⁵ Clauses 12(2)-12(5), Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Bill.

¹¹⁶ The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 11.

¹¹⁷ *Kolevi v Bulgaria* (2009), at para 201; *Armani da Silva v UK* (2016), at para 234.

¹¹⁸ *Kamalak v Turkey* (2013), Application No 2251/11, Judgment of 8 October 2013, at para 31; CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at para 28.

Evidence and procedure

2.99 Clause 13(1) of the Bill proposes that the chairperson to the inquiry directs “the procedure and conduct of the inquiry”. Clause 13(2) of the Bill proposes that the Chairperson is empowered to “take evidence on oath, and for that purpose may administer oaths”. Clauses 13(3), 13(5) and 13(6) of the Bill enable live links to be utilised for the purposes of gathering evidence for the proposed inquiry. Clause 13(4) of the Bill proposes that “in making any decision as to the procedure or conduct of the inquiry, the chairperson must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others)”.

2.100 Clauses 23(1)(b) and 23(2) of the Bill propose that it is an offence, by virtue of a fine or a maximum six month imprisonment, for a person to fail to provide, destroy, alter, suppress or conceal evidence that is relevant to the inquiry. That is unless the action has been authorised by the chairperson of the inquiry, or the person involved has immunity. Clause 24 of the Bill also enables the chairperson to seek an enforcement order from the High Court of Justice in NI stating that a notice for evidence must be complied with.

2.101 The NIHRC welcomes these provisions and that there are powers of enforceability through clauses 23 and 24 of the Bill. However, it would be beneficial to expressly state within clause 13 of the Bill that the chairperson be ‘independent and impartial’ regarding decision making. This is an important aspect of a human rights compliant investigation.¹¹⁹

2.102 The NIHRC is concerned at the inclusion that the chairperson should have “regard... to the need to avoid any unnecessary cost”. The Explanatory Memorandum states that this has been included as:

every decision to hold a hearing, to call for evidence, or to grant legal representation may add to the cost of the inquiry. This

¹¹⁹ *Kamalak v Turkey* (2013), Application No 2251/11, Judgment of 8 October 2013, at para 31; CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at para 28.

subsection strengthens the chairperson's ability to defend decisions in which the need to limit the cost of the inquiry is a factor.¹²⁰

2.103 Inquiries are costly and no one wants to see an inquiry that leads to unreasonable spending of public money. However, there will be occasions where a line of inquiry is followed that leads to a dead-end or an unexpected outcome. This can be part of the course of conducting a thorough investigation. Thus, investigators should not be constrained by costs in determining whether following a line of inquiry is justified or necessary, but be able to make this determination objectively. Despite the Explanatory Memorandum's assertion that this aspect of clause 13(4) of the Bill provides the chairperson with justification for decisions, in practice it reads as a constraining factor that puts costs first over ensuring that a thorough inquiry is undertaken. It runs the risk of the chairperson feeling constrained by costs from the outset and making decisions to not follow all obvious lines of inquiry on that basis, as opposed to placing the natural line of investigation as the primary consideration.

2.104 **The NIHRC recommends that the Committee of the Executive Office amends clause 13(4) of the Bill to read "the chairperson must act with fairness, independence and impartiality".**

2.105 **The NIHRC recommends that the Committee of the Executive Office removes the reference to costs in clause 13(4) of the Bill to ensure a thorough investigation can be conducted, without being unduly constrained by financial considerations.**

Public access to inquiry proceedings and information

Access to inquiry proceedings and information

2.106 Clause 14(1) of the Bill proposes that:

the chairperson must take such steps as the chairperson considers reasonable to secure that members of the public (including reporters) are able –

¹²⁰ The Executive Office, 'Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum' (TEO, 2025), at 11.

- a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry, and
- b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel.

2.107 This is a welcomed provision and is reflective of obligations regarding the public scrutiny element of an effective investigation,¹²¹ the right to truth in cases of gross human rights violations,¹²² and right to culture.¹²³ It is also welcomed that there is mention of making the inquiry public in the broader sense with the right to know the truth extending “to society as a whole” and for “other victims of similar crimes or the general public”.¹²⁴ Mention of journalists within clause 14(1) of the Bill is particularly welcomed from the perspective of the right to information element of the right to freedom of expression (Article 10 of the ECHR).¹²⁵ However, there are specific rights for victims, next of kin or close family members regarding the disclosure of information,¹²⁶ which clause 14(1) of the Bill fails to acknowledge. Consequently, there may be occasions when the public can be reasonably restricted from having access to inquiry proceedings and information, but that victims, next of kin or close family members should be permitted access.¹²⁷ A proportionate approach to limitations on information is particularly pertinent in cases where lack of information creates a situation where a child or woman has for all intents purposes become a victim of enforced disappearance.¹²⁸ Furthermore, the focus on steps that the chairperson “considers reasonable” within clause 14(1) of the Bill, as opposed to the requirement to take steps that are objectively

¹²¹ *Al Nashiri v Romania* (2018) ECHR 447, at para 641.

¹²² *El-Masri v The Former Yugoslav Republic of Macedonia* (2012), Application No 39630/09, Judgment of 13 December 2012, at para 191; *Janowiec and Others v Russia* (2013) ECHR 1003, at para 9 of the Joint Partly Dissenting Opinion of Judges Ziemele, De Gaetano, Laffranque and Keller; *Varnava and Others v Turkey* (2009) ECHR 1313, at paras 200-202; CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at paras 6 and 16.

¹²³ A/HRC/25/49, ‘Report of the Special Rapporteur in the Field of Cultural Rights, Farida Shaheed, Memorialization Processes’, 3 January 2014; A/69/286, ‘Report of the Special Rapporteur in the Field of Cultural Rights’, 8 August 2014.

¹²⁴ *El-Masri v The Former Yugoslav Republic of Macedonia* (2012), Application No 39630/09, Judgment of 13 December 2012, at para 191; UN Office of the High Commissioner for Human Rights, ‘The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions’ (OHCHR, 2016), at para 13.

¹²⁵ *Rosianu v Romania* (2014) ECHR 648, at para 61.

¹²⁶ *Tanas v Moldova* (2010), Application No 7/08, Judgment of 27 April 2010, at para 104; *Burden v UK* (2008) ECHR 356, at para 33; *Lambert and Others v France* (2015) ECHR 545, at para 89; CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at para 28; UN Office of the High Commissioner for Human Rights, ‘The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions’ (OHCHR, 2016), at para 11.

¹²⁷ *Ibid.*

¹²⁸ A/RES/47/133, ‘Declaration on the Protection of All Persons from Enforced Disappearance’, 18 December 1992.

reasonable, opens public access regarding the proposed inquiry up to greater opportunities for limitation.

2.108 Additionally, it has been suggested that consideration should be given to ensuring that ground-rule hearings take place at the start of the inquiry process, which would have the purpose of establishing an agreement on how and when victims and survivors will be engaged with and involved in the inquiry process. These hearings could also provide an opportunity to clarify the information which victims and survivors will have access to. This clarity and ability to hear concerns or suggestions offers one practical step that can be taken to help ensure that a victim-centred and trauma-informed approach is taken to the inquiry process. If undertaken properly, it would assist in implementing the principle of effective participation.

2.109 **The NIHRC recommends that the Committee for the Executive Office amends clause 14(1) of the Bill to read “the chairperson must take reasonable steps to secure that, as appropriate and necessary, victims, next of kin, close family members, and members of the public (including reporters) are able” to have access to the inquiry proceedings and information.**

2.110 **The NIHRC recommends that the Committee for the Executive Office includes within the Bill a commitment to undertake ground-rule hearings at the start of the inquiry process, which would have the aim of hearing the views of victims, survivors and experts on what is required to ensure a victim-centred and trauma-informed inquiry process, with a view to establishing how and when victims and survivors will be engaged with and involved in the inquiry process. Also, to clarify the information victims and survivors will have access to.**

Restrictions

2.111 Clause 14(1) of the Bill proposes that public access to inquiry proceedings can be subject to restrictions as set out in clause 15 of the Bill. Proposed permitted restrictions are:

- a) as are required by any statutory provision or rule of law, or

- b) as the chairperson considers to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard in particular to the matters mentioned in [clause 15(4) of the Bill].

2.112 Clause 15(4) of the Bill proposes that the matters are:

- a) the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;
- b) any risk of harm or damage that could be avoided or reduced by any such restriction;
- c) any conditions as to confidentiality subject to which a person acquired information which that person is to give, or has given, to the inquiry;
- d) the extent to which not imposing any particular restriction would be likely –
 - i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or
 - ii) otherwise to result in additional cost (whether to public funds or to witnesses or others).

2.113 Clause 15(2) of the Bill proposes that restrictions are imposed through a restriction order that is “made by the chairperson during the course of the inquiry”. Clause 15(5) of the Bill proposes that “the chairperson may, during the course of the inquiry, vary or revoke a restriction order” by making a further order. Clause 15(6) of the Bill proposes that a restriction order on disclosure or publication of evidence or documents continues “in force indefinitely unless” otherwise stated in the order, the restrictions are removed from the order, the restrictions are varied in the order, or the order is revoked.

2.114 Clause 15(7) of the Bill proposes that “after the end of the inquiry, disclosure restrictions do not apply to a public authority in relation to information held by the authority otherwise than as a result of the breach of disclosure restrictions”. Clause 15(8) of the Bill proposes that:

after the end of the inquiry the Executive Office may by a notice published in a way which it considers appropriate –

- a) revoke, a restriction order containing disclosure restrictions which are still in force, or
- b) vary it so as to remove, relax or increase any of the restrictions.

2.115 Clause 23(1)(a) of the Bill proposes that it is an offence, by virtue of a fine or a maximum six months imprisonment, for a person to contravene a restriction order. That is unless the action has been authorised by the chairperson of the inquiry, or the person involved has immunity.

2.116 It is permissible for public access to an investigation to be restricted where reasonable.¹²⁹ It is welcomed that the terms in which a restriction is imposed are clearly stated and that any restriction put in place can be altered or revoked, if circumstances change. However, the NIHRC is concerned that there is no acknowledgment within clause 15 of the Bill that, compared to the public, different considerations are required for victims, next of kin and close family members regarding access to proceedings and information.¹³⁰

2.117 The ECtHR has established that “the degree of public scrutiny required may well vary from case to case. In all cases, however, the next-of-kin of the victim must be involved in the procedure to the extent necessary to safeguard... [their] legitimate interests”.¹³¹ This does not enable an automatic right to access, but where restrictions are reasonably imposed, access must be provided at “other stages of the available procedures”.¹³² It could be argued that these considerations are covered by clause 15(1) of the Bill, but it is the NIHRC’s view that this is insufficient and the specific rights of victims, next of kin and close family members should be given

¹²⁹ *McKerr v UK* (2001) ECHR 329, at para 115; *Hugh Jordan v UK* (2001) ECHR 327, at paras 122-124.

¹³⁰ *Tanas v Moldova* (2010), Application No 7/08, Judgment of 27 April 2010, at para 104; *Burden v UK* (2008) ECHR 356, at para 33; *Lambert and Others v France* (2015) ECHR 545, at para 89; CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at para 28; UN Office of the High Commissioner for Human Rights, ‘The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions’ (OHCHR, 2016), at para 11.

¹³¹ *McKerr v UK* (2001) ECHR 329, at para 115.

¹³² *Hugh Jordan v UK* (2001) ECHR 327, at paras 122-124.

their place in both the scenarios when restrictions on access can be imposed and the matters to be considered in placing a restriction.

2.118 The NIHRC welcomes that “delay” and “the efficiency or effectiveness of the inquiry” is to be considered when imposing a restriction.¹³³ However, imposing restrictions for the purposes of preventing delay should be approached with caution, as “the duty of promptness does not justify a rushed or unduly hurried investigation”.¹³⁴ Furthermore, costs or concerns about the resources required to conduct an effective investigation are not a justification for inhibiting an effective investigation,¹³⁵ raising concerns regarding clause 15(4)(d)(ii) of the Bill.

2.119 The Explanatory Memorandum states that “nothing in [clause 15 of the Bill]... is intended to prevent witnesses from passing on evidence that they themselves have given to the inquiry, either during the inquiry or after it has ended”.¹³⁶ This is in line with the requirement that victims and their relatives are afforded the opportunity to provide evidence to the investigation.¹³⁷ However, for clarity, this should be stated within the Bill.

2.120 **The NIHRC recommends that the Committee for the Executive Office amends clause 15(4) of the Bill to include the requirement for the specific rights of victims, next of kin and close family members to be considered when establishing whether a restriction on access to inquiry proceedings and information can be imposed.**

2.121 **The NIHRC advises that the Committee for the Executive Office seeks assurances from the Executive Office that there are sufficient safeguards within clause 15 of the Bill to ensure that consideration of delay when establishing whether a restriction is imposed does not lead to a rushed or unduly hurried investigation.**

¹³³ Clause 15(4)(d)(i), Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Bill.

¹³⁴ UN Office of the High Commissioner for Human Rights, ‘The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions’ (OHCHR, 2016), at para 23.

¹³⁵ *Kolevi v Bulgaria* (2009), at para 201; *Armani da Silva v UK* (2016), at para 234; *Mahmut Kaya v Turkey* (2000) ECHR 129.

¹³⁶ The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 13.

¹³⁷ *Gül v Turkey* (2000) ECHR 666, at para 93.

2.122 The NIHRC recommends that the Committee for the Executive Office removes references to costs within clause 15(4)(d)(ii) of the Bill as a justification for introducing restrictions on public access to the inquiry proceedings and information.

2.123 The NIHRC recommends that the Committee for the Executive Office amends clause 15 of the Bill adding that “nothing in this section is intended to prevent witnesses from passing on evidence that they themselves have given to the inquiry, either during the inquiry or after it has ended”.

Broadcasting

2.124 Clause 14(2) of the Bill also proposes that “no recording or broadcast of proceedings at the inquiry may be made except – a) at the request of the chairperson, or b) with the permission of the chairperson and in accordance with any terms on which permission is given”. The Explanatory Memorandum states that “in deciding whether to allow broadcasting during proceedings, the chairperson will need to consider whether it will interfere with the witnesses’ human rights and, in particular, with the right to respect for private and family life”. This is a welcomed clarification, but express mention of human rights considerations is missing from clause 14(2) of the Bill. As a public body, the inquiry will be subject to the Human Rights Act 1998.¹³⁸ Nevertheless, it is useful to expressly state these considerations where appropriate, particularly if this is the intended focus of the proposed provision.

2.125 The NIHRC recommends that the Committee for the Executive Office amends clause 14(2) of the Bill to include express mention that the chairperson must consider the ECHR in its considerations on whether to allow broadcasting during proceedings.

Production of evidence

2.126 Clause 16(1) of the Bill proposes that the chairperson of the inquiry has the power, by notice, to “require a person” to give evidence, produce documents or “any other thing” in the custody or control “of that person” to the inquiry. Clauses 16(1) and 16(2) of the Bill propose that this can

¹³⁸ Section 6, Human Rights Act 1998.

take the form of providing written or oral evidence to the inquiry. Clause 16(6) of the Bill proposes that this applies to evidence that is in a person's "possession or if that person has a right to possession of it".

- 2.127 Clause 16(3) of the Bill proposes that a notice of evidence "must explain the possible consequences of not complying" with a request for evidence by the proposed inquiry. It is also possible for the person on notice to make a case that they are "unable to comply with the notice" or "it is not reasonable in all the circumstances to require that person to comply with the notice".¹³⁹ Clauses 16(4) and 16(5) of the Bill propose that the chairperson determines whether a notice is revoked or varied and that the chairperson "must consider the public interest in the information in question being obtained by the inquiry, having regard to the likely importance of the information".
- 2.128 Clauses 16(7) and 16(8) of the Bill propose that a request for evidence can only be imposed by the inquiry "in respect of evidence, documents or other things which are wholly or primarily concerned with a transferred matter". This implies that it excludes evidence that falls within the category of national security and immigration. Clause 17 of the Bill also proposes that a person cannot be required to provide privileged information to the proposed inquiry.
- 2.129 The NIHRC welcomes the powers set out in clause 16 of the Bill that enable the proposed inquiry to require that evidence is provided. However, while the public interest is mentioned as a factor in determining whether a notice is revoked or varied, mention of the specific rights of victims, next of kin and close family members to information is lacking.¹⁴⁰ Additionally, consideration should be given to who can be issued with a notice. To ensure a victim-centred and trauma-informed approach, typically victims, survivors and relatives will be asked to provide evidence voluntarily, but duty bearers, potential perpetrators of abuses and violations, and persons, organisations or institutions that were conducting a public function in line with the scope of the proposed inquiry would be subject to a notice for evidence. There are benefits to keeping the powers in this regard broad with reference to 'a person' so that they can be used where necessary,

¹³⁹ Clause 16(4), Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Bill.

¹⁴⁰ *Tanas v Moldova* (2010), Application No 7/08, Judgment of 27 April 2010, at para 104; *Burden v UK* (2008) ECHR 356, at para 33; *Lambert and Others v France* (2015) ECHR 545, at para 89; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at para 28; UN Office of the High Commissioner for Human Rights, 'The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions' (OHCHR, 2016), at para 11.

however this may require some clarification to ensure that victims, survivors and relatives are not forced to provide evidence.

2.130 Furthermore, as previously raised with the Committee for the Executive Office,¹⁴¹ it has been explained to the NIHRC that there are occasions where being aware of what information is not available and why not, can be as telling as having access to information.¹⁴² It has also been raised with the NIHRC that it is common for information related to the institutions to be redacted based on it including third party or mixed information.¹⁴³ It is important to have safeguards in place to ensure that these past failings do not continue within the proposed inquiry process, these safeguards are not obvious within the current drafting of clause 16 of the Bill.

2.131 The NIHRC is also concerned at the proposed blanket limitation imposed within clauses 16(7) and 16(8) of the Bill regarding the inquiry's access to information regarding excepted and reserved matters. It is accepted that the UK Government retains responsibility for these issues and that the inquiry is legally constrained in this regard. This is permitted within human rights standards, which provide that the right to receive and impart information can be limited "in the interests of national security" and "territorial integrity".¹⁴⁴ However, any limitations must be necessary and proportionate, with consideration of the individual circumstances.¹⁴⁵ The requirements for ensuring an effective investigation into violations of Articles 2, 3 and 4 of the ECHR also require consideration.¹⁴⁶ Thus, there is a lack of consideration within the Bill as to the alternative approaches that can be legislated for within the inquiry's competency that would set the groundwork for relevant information on reserved or excepted matters to be sought. For example, there is evidence that the pathways and practices element associated with the scope of the proposed inquiry involved international aspects that may engage national security and immigration, particularly in relation to forced adoptions. Therefore, it would be beneficial for the chairperson of the inquiry to have the power to request evidence on reserved and excepted matters where it is deemed necessary and proportionate to do so. It would be up to the relevant authority as to how it responded to the request, but at least the inquiry panel would have the

¹⁴¹ NI Human Rights Commission, 'Briefing Paper: The Right to Information in Relation to Mother and Baby Homes, Magdalene Laundries and Workhouses in NI' (NIHRC, 2024), at para 2.10.

¹⁴² Meeting between NI Human Rights Commission and representative of victims and survivors of Mother and Baby Institutions, Magdalene Laundries and Workhouses, 23 September 2024.

¹⁴³ Ibid.

¹⁴⁴ Articles 8(2) and 10(2), European Convention on Human Rights 1950.

¹⁴⁵ *YG v Russia* (2022) ECHR 632, at para 45; *Frâncu v Romania* (2020), at paras 63-75.

¹⁴⁶ *Kolevi v Bulgaria* (2009), at para 201; *Armani da Silva v UK* (2016), at para 234.

power to make such requests, which without this additional qualification, appear to be prohibited under clauses 16(7) and 16(8) of the Bill. Outside of the legislation, it would also be worth exploring the creation of a Memorandum of Understanding for the purposes of the inquiry with relevant public authorities and organisations that would hold information regarding reserved and excepted matters that are relevant to the inquiry.

2.132 The NIHRC recommends that the Committee for the Executive Office amends clause 16 of the Bill to ensure that the specific rights of victims, next of kin and close family members to information is a factor in determining whether a notice for evidence is revoked or varied.

2.133 The NIHRC recommends that the Committee for the Executive Office amends clause 16 of the Bill to ensure that a victim-centred approach is adopted to who can be put on notice to provide evidence to the proposed inquiry.

2.134 The NIHRC recommends that the Committee for the Executive Office adds a provision to clause 16 of the Bill to remove the blanket limitation on the proposed inquiry accessing evidence that relates to excepted and reserved matters and instead enables the chairperson of the inquiry to have the power to request access to evidence regarding such matters. Outside of the legislation, such a provision could be supported by a Memorandum of Understanding with relevant public authorities and organisations that would hold information regarding reserved and excepted matters that are relevant to the inquiry.

Reports

Submission of reports

2.135 Clause 18(1) of the Bill proposes that the chairperson of the inquiry “must deliver a report to the First Minister and deputy First Minister setting out a) the facts determined by the inquiry panel, and b) the recommendations of the inquiry panel (where the terms of reference require it to make recommendations)”. Clause 18(2) of the Bill proposes that the report of the inquiry “may also contain anything else that the inquiry panel considers to be relevant to the terms of reference (including any recommendations the inquiry panel sees fit to make despite not being

required to do so by the terms of reference)". Clause 18(3) of the Bill proposes that the chairperson of the inquiry can provide an interim report to the First Minister and deputy First Minister, and clause 20 of the Bill requires that a copy of the published inquiry report is laid before the NI Assembly. Clause 18(4) of the Bill also proposes that "if the inquiry panel is unable to produce a unanimous report... the report must reasonably reflect the points of disagreement".

2.136 The NIHRC welcomes the proposal that there is a requirement for the proposed inquiry to produce a report and that this extends not only to the facts determined by the inquiry panel, but also anything else that the inquiry panel considers to be relevant. The NIHRC further welcomes that there is a requirement for transparency in the report with any points of disagreement to be noted. However, in the interests of ensuring that any identified abuses or violations do not happen again,¹⁴⁷ it would be useful if there was a requirement from the outset for the inquiry panel to make recommendations. It is also notable that there is no requirement within clauses 18 or 20 of the Bill for the First Minister and deputy First Minister, or NI Assembly to respond to the report, particularly any resulting recommendations. As previously advised,¹⁴⁸ accountability and effective remedy are a key part of a human-rights based approach.¹⁴⁹ The Istanbul Protocol also provides that States should "reply promptly and publicly to the commission's report and, where appropriate, indicate which steps it intends to take in response to the report, particularly with a view to expeditiously and effectively implementing its recommendations".¹⁵⁰

2.137 The NIHRC recommends that the Committee for the Executive Office amends clause 18 of the Bill to include a requirement that the inquiry panel includes recommendations within its inquiry report.

¹⁴⁷ *Kaya v Turkey* (1998) ECHR 10, at paras 106-107; *Assenov and Others v Bulgaria* (1998) ECHR 98, at para 102; *Mocanu and Others v Romania* (2014) ECHR 958, at paras 319-325; Articles 12 and 14, UN Convention against Torture 1984; CAT/C/GC/2, 'UN CAT Committee General Comment No 2', 24 January 2008, at paras 5, 17, 18 and 25; CAT/C/GC/3, 'UN Committee against Torture General Comment No 3', 13 December 2012, at para 5; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at paras 27 and 28; UN Office of the High Commissioner for Human Rights, 'The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions' (OHCHR, 2016), at para 8(c).

¹⁴⁸ NI Human Rights Commission, 'Submission to the Executive Office's Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices' (NIHRC, 2024), at para 2.6.

¹⁴⁹ Article 13, European Convention on Human Rights 1950; Article 3(a), UN International Covenant on Civil and Political Rights 1966; CAT/C/GC/2, 'UN CAT Committee General Comment No 2 on the Implementation of Article 2', 24 January 2008, at paras 3 and 15; CRC/C/GC/13, 'UN CRC Committee General Comment No 13 on the Right of the Child to Freedom from all Forms of Violence', 18 April 2011, at para 17; European Network of National Human Rights Institutions, 'Human Rights-Based Approach'. Available at: [Human Rights-Based Approach - ENNHRI](#)

¹⁵⁰ UN Office of the High Commissioner, 'Manual of the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (OHCHR, 2022), at para 61.

2.138 The NIHRC recommends that the Committee for the Executive Office amends clauses 18 and 20 of the Bill so that there is a requirement for the First Minister and deputy First Minister and/or NI Assembly to provide a formal response to the inquiry report.

Publication

2.139 Clause 19(1) of the Bill proposes that “the chairperson must make arrangements for [inquiry] reports... to be published”. Clause 19(2) of the Bill proposes that inquiry reports “must be published in full; but this is subject to [clause 19(3) of the Bill]”. Clause 19(3) of the Bill proposes that:

the chairperson may withhold material from publication to such extent –

- a) as is required by any statutory provision or rule of law, or
- b) as the chairperson considers to be necessary in the public interest, having regard in particular to the matters mentioned in [clause 19(4) of the Bill].

2.140 Clause 19(4) of the Bill proposes that:

those matters are –

- a) the extent to which withholding material might inhibit the allaying of public concern;
- b) any risk of harm or damage that could be avoided or reduced by withholding material;
- c) any conditions as to confidentiality subject to which a person acquired information which that person has given to the inquiry.

2.141 Clause 19(5) of the Bill proposes that an inquiry report “may not be published unless at least two weeks has elapsed since the date on which the chairperson delivered it to the First Minister and deputy First Minister (or such period as may be agreed between the First Minister and deputy

First Minister acting jointly and the chairperson)". Clause 19(6) of the Bill also clarifies that restrictions imposed on the content of the inquiry report "does not affect any obligation of a public authority that may arise under the Freedom of Information Act 2000".

2.142 The NIHRC welcomes this approach in line with the best practice set out in the Istanbul Protocol that an inquiry report should be public, be issued within a reasonable period of time and should be "published widely and in a manner that is accessible to the broadest audience possible".¹⁵¹ Nevertheless, there is a lack of clarity within clause 19(5) of the Bill that any agreed delay in publishing the inquiry report should be reasonable.

2.143 Clauses 19(3)(1) and 19(4) of the Bill appear to cover if there are concerns regarding an individual's right to privacy or data protection.¹⁵² However, these clauses do omit consideration of the specific rights of victims, next of kin and close relatives regarding access to information.¹⁵³ The ECtHR has, for example, recognised that next of kin cannot be prohibited outright from access to an investigation and associated documents.¹⁵⁴

2.144 **The NIHRC recommends that the Committee for the Executive Office amends clause 19(5) of the Bill to read 'or such a reasonable period as may be agreed between the First Minister and deputy First Minister acting jointly and the chairperson'.**

2.145 **The NIHRC recommends that the Committee for the Executive Office includes within clauses 19(3) and 19(4) of the Bill a duty to consider the specific rights of victims, survivors and relatives regarding access to information.**

Expenses

2.146 Clauses 21 and 22 of the Bill propose that reasonable expenses, legal costs and compensation for loss of time can be paid to official members of the

¹⁵¹ Ibid.

¹⁵² Article 8, European Convention on Human Rights 1950; Article 17, UN International Covenant on Civil and Political Rights 1966; Article 16, UN Convention on the Rights of the Child 1989; Article 22, UN Convention on the Rights of Persons with Disabilities 2006; UK General Data Protection Regulations; Data Protection Act 2018.

¹⁵³ *Tanas v Moldova* (2010), Application No 7/08, Judgment of 27 April 2010, at para 104; *Burden v UK* (2008) ECHR 356, at para 33; *Lambert and Others v France* (2015) ECHR 545, at para 89; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at para 28; UN Office of the High Commissioner for Human Rights, 'The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions' (OHCHR, 2016), at para 11.

¹⁵⁴ *Ogur v Turkey* (1999) ECHR 30, at para 92.

inquiry, a person providing evidence and information to the inquiry or a person who has a particular interest in the inquiry. The Executive Office must pay any expenses agreed with the chairperson and “must meet any other expenses incurred in holding the inquiry, including the cost of the publication of the report of the inquiry (and any interim reports)”.¹⁵⁵ However, clauses 22(4) and 22(5) of the Bill propose that the Executive Office is not obliged to pay costs that are deemed outside the scope of the inquiry’s terms of reference. Clause 22(6) of the Bill proposes that, on completion of the inquiry, the Executive Office must publish the total cost associated with the inquiry.

2.147 The NIHRC welcomes that there is a requirement for the Executive Office to meet the reasonable costs of the inquiry and to report on these costs. This approach is in line with the human rights principles of effective participation and accountability.¹⁵⁶ However, the concerns raised above regarding clauses 13(4) and 15(4)(d)(ii) of the Bill remain.

2.148 **The NIHRC advises that the Committee for the Executive Office explores with the Executive Office that sufficient safeguards are in place to ensure that the Executive Office’s obligations regarding costs set out within clauses 21 and 22 of the Bill are not enforced or managed in such a way that the inquiry’s investigation becomes constrained and dictated to by costs, as opposed to what is required to ensure a thorough investigation is conducted.**

Legal challenge

2.149 Clause 25 of the Bill proposes that a panel member, official appointees and assistants to the proposed inquiry are immune from a civil action “in respect of any act done or omission made in the execution of that person’s duty as such, or any act done or omission made in good faith in the purported execution of that person’s duty as such” during the course of the inquiry. However, clause 26 of the Bill proposes that a judicial review can be sought regarding an inquiry-related decision of the Executive Office or member of the inquiry panel, except regarding an inquiry report. Though clause 26(1) of the Bill does propose reducing the timeframe for seeking a judicial review to 14 days, instead of the typical three months. This is in

¹⁵⁵ Clauses 22(2) and 22(3), Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Bill.

¹⁵⁶ European Network of National Human Rights Institutions, ‘Human Rights-Based Approach’. Available at: [Human Rights-Based Approach - ENNHRI](#)

line with the Inquiries Act 2005.¹⁵⁷ However, arguably, the reduction is contrary to a victim-centred and trauma-informed approach to the right to an effective remedy.¹⁵⁸

- 2.150 **The NIHRC recommends that the Committee for the Executive Office removes the 14-day limit in seeking a judicial review from clause 26(1) of the Bill and reinstating the typical approach of three months to ensure a victim-centred and trauma-informed approach.**

Rules

- 2.151 Clause 27(1) of the Bill proposes that the Executive Office may make rules dealing with “a) matters of evidence and procedure in relation to the inquiry; b) the return or keeping, after the end of the inquiry, of documents given to or created by the inquiry; c) awards under [clause 21 of the Bill]”. Clause 27(3) of the Bill proposes that if the rules regarding evidence and procedure in relation to the inquiry:

provide that evidence given for the purposes of the inquiry must not be disclosed in any criminal or civil proceedings in NI, the rules must also provide that such provision does not apply where the disclosure is necessary to avoid a breach of [ECHR] rights (within the meaning of the Human Rights Act 1998).

- 2.152 Given that the inquiry is meant to be independent and impartial,¹⁵⁹ the NIHRC does question why the Executive Office would be making rules on matters of evidence and procedure related to the inquiry beyond what is set out within the establishing legislation. However, the NIHRC does welcome reference to the ECHR as a specific safeguard. This offers an example of how mention of the ECHR could be utilised within other aspects of the Bill, such as in clause 14(2) of the Bill.

- 2.153 The NIHRC welcomes that consideration is being given to how to deal with the return or keeping of inquiry documents, after the inquiry ends.

¹⁵⁷ Section 38, Inquiries Act 2005.

¹⁵⁸ Article 13, European Convention on Human Rights 1950; Article 3(a), UN International Covenant on Civil and Political Rights 1966; CAT/C/GC/2, ‘UN CAT Committee General Comment No 2 on the Implementation of Article 2’, 24 January 2008, at paras 3 and 15; CRC/C/GC/13, ‘UN CRC Committee General Comment No 13 on the Right of the Child to Freedom from all Forms of Violence’, 18 April 2011, at para 17.

¹⁵⁹ *Kamalak v Turkey* (2013), Application No 2251/11, Judgment of 8 October 2013, at para 31; CCPR/C/GC/36, ‘UN Human Rights Committee General Comment No 36: Right to Life’, 30 October 2018, at para 28.

However, this is also an opportunity to require that rules are made regarding the creation of an archive of inquiry evidence. As stated in previous advice,¹⁶⁰ once the investigation element has been satisfied, there are many additional steps that can help to prevent similar future violations. In addition to legal reform, improved training and revised guidance, access to information can be a key component.¹⁶¹ Creating a permanent, accessible archive offers the opportunity for research experts to consider and analyse in detail what is uncovered by the public inquiry. It also offers the opportunity for societal learning through educational and awareness raising programmes. A public archive would also help to ensure that there is continued acknowledgement of the violations that occurred. This all contributes to a better knowledge and understanding, with a view to deterring future similar occurrences.

2.154 The NIHRC advises that the Committee of the Executive Office explores with the Executive Office whether it is appropriate, given the need for an independent and impartial inquiry, for the Executive Office to be enabled to make rules on matters of evidence and procedure beyond the Bill that establishes the inquiry as set out in clause 27(1)(a) of the Bill.

2.155 The NIHRC recommends that the Committee of the Executive Office includes within clause 27 of the Bill a requirement on the Executive Office to establish a public archive of inquiry evidence, once the inquiry ends.

3.0 Proposed Approach to Redress Scheme

3.1 The NIHRC has long recommended that the NI Executive ensures victims of historical abuse outside the remit of the Historical Institutional Abuse Inquiry have an effective remedy, including effective redress.¹⁶² Thus, the Bill's proposal to establish a Truth Recovery Redress Service for Mother and Baby Homes, Magdalene Laundries and Workhouses in NI (the Redress Service) is welcomed. That said, there are concerns that the proposed

¹⁶⁰ NI Human Rights Commission, 'Briefing Paper: The Right to Information in Relation to Mother and Baby Homes, Magdalene Laundries and Workhouses in NI' (NIHRC, 2024), at para 2.57; NI Human Rights Commission, 'Submission to the Executive Office's Consultation on Truth Recovery – Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their Pathways and Practices' (NIHRC, 2024), at para 3.54.

¹⁶¹ *Erdogan and Others v Turkey* (2006) ECHR 59; *Abdullah Yasa and Others v Turkey* (2013) ECHR 839; *McShane v UK* (2002) ECHR 469; *Khashiyev and Akayeva v Russia* (2005) ECHR 132; E/CN.4/2006/91, 'Study on the Right to the Truth: Report of the Office of the United Nations High Commissioner for Human Rights', 8 February 2006, para 52; A/HRC/RES/12/12, 'UN General Assembly Resolution on the Right to Truth', 12 October 2009.

¹⁶² See for example, NI Human Rights Commission, 'Annual Statement 2024' (NIHRC, 2024), at 183-186.

approach set out within the Bill will ensure the Redress Service is effective in practice.

Effective redress

- 3.2 Part 2 of the Bill sets out provisions for the establishment of a standardised monetary compensation payment, paid to victims and survivors for harm caused by relevant institutions listed in Schedule 2 of the Bill.
- 3.3 The right to an effective remedy is provided for across several human rights instruments that the UK has ratified.¹⁶³ States are “afforded some discretion as to the manner in which” this right is guaranteed.¹⁶⁴ However, considering Article 13 of the ECHR, the ECtHR is clear that the remedy “must be ‘effective’ in practice as well as in law, in particular its exercise must not be unjustifiably hindered by the acts or the omissions of the [State] authorities”.¹⁶⁵ What is an appropriate remedy in the circumstances depends on the context.¹⁶⁶ Nevertheless, to be effective the remedy must be accessible, capable of providing redress in respect of the complaint, and offer reasonable prospects of success.¹⁶⁷ The establishment of the proposed Redress Service equates to a civil remedy, which aims to return the victims to the position they were in before they were wronged. Civil remedies can also act as a deterrent for future, similar violations. The ECtHR has provided that compensation (or at least the possibility of seeking compensation) for the damage sustained is a required component of an effective remedy.¹⁶⁸ That said it cannot be the only remedy, which is why it is important that the proposed inquiry is also included within this Bill. Yet, it is also important that these two forms of remedy are capable of operating separately. For example, the ECtHR has stated that:

¹⁶³ Article 2, UN International Covenant on Civil and Political Rights; Article 6, UN Convention on the Elimination of Racial Discrimination; Article 14, UN Convention against Torture, and other Cruel, Inhumane or Degrading Treatment or Punishment; Article 39, UN Convention on the Rights of the Child; Article 13, European Convention on Human Rights; CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 5; CEDAW/C/GC33, ‘UN CEDAW Committee General Recommendation No 33: Women’s Access to Justice’, 3 August 2015; CCPR/c/21/Rev.1/Add.13, ‘UN Human Rights Committee General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’, 26 May 2004.

¹⁶⁴ *Orhan v Turkey* (2002) ECHR 497, at para 383; *Akhmadova and Akhmadov v Russia* (2008) ECHR 869, at para 103.

¹⁶⁵ *Orhan v Turkey* (2002) ECHR 497, at para 383; *Aksoy v Turkey* (1996) ECHR 68, at para 95; *Aydin v Turkey* (1997) ECHR 75, at para 103; *Kaya v Turkey* (1998) ECHR 10, at para 89.

¹⁶⁶ *Akhmadova and Akhmadov v Russia* (2008) ECHR 869, at para 103.

¹⁶⁷ *Sejdovic v Italy* (2006) ECHR 620, at para 46; *Paksas v Lithuania* (2011) ECHR 1, at para 75.

¹⁶⁸ *Gäfgen v Germany* (2010) ECHR 759, at paras 118-119.

a Contracting State's obligation under Articles 2 and 3 of the [ECHR]... to conduct an investigation capable of leading to the identification and punishment of those responsible in cases of fatal assault might be rendered illusory if, in respect of complaints under those Articles, an applicant would be required to exhaust an action leading only to an award of damages.¹⁶⁹

- 3.4 The UN CAT Committee supports the ECtHR's view by emphasising that "monetary compensation alone may not be sufficient redress for a victim of torture and ill-treatment... the provision of monetary compensation only is inadequate for a State party to comply with its obligations".¹⁷⁰
- 3.5 In the UN CAT Committee's view effective redress includes five forms of reparation.¹⁷¹ These are restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.¹⁷² Restitution refers to re-establishing the victim's situation before the human rights violation was committed, taking into consideration the specificities of each case, including by ensuring that they are not at risk of repeat victimisation.¹⁷³ The UN CAT Committee has noted that compensation is "multi-layered", and should compensate for any economically assessable damage resulting from ill-treatment, for example medical expenses, loss of earnings and loss of opportunities.¹⁷⁴ Rehabilitation of victims should aim to restore, as far as possible, a victim's independence, physical, mental, social and vocational ability, and full inclusion and participation in society.¹⁷⁵ Satisfaction, aside from effective investigation and criminal prosecution, should include effective measures aimed at the cessation of continuing violations, verification of facts and full and public disclosure of the truth.¹⁷⁶ Additionally, guarantees of non-repetition requires States to take specific preventive measures deemed essential to prevent future ill-treatment.¹⁷⁷

¹⁶⁹ *Estamirov and Others v Russia* (2006) ECHR 860, at paras 77; *Yasa v Turkey* (1998) ECHR 83, at para 74.

¹⁷⁰ CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 9.

¹⁷¹ *Ibid*, at para 6. See also CEDAW/C/GC33, 'UN CEDAW Committee General Recommendation No 33: Women's Access to Justice', 3 August 2015; 'UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law', 16 December 2005, at Principle 9.

¹⁷² CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 6. See also CEDAW/C/GC33, 'UN CEDAW Committee General Recommendation No 33: Women's Access to Justice', 3 August 2015; 'UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law', 16 December 2005, at Principle 9.

¹⁷³ CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 8.

¹⁷⁴ *Ibid*, at para 10.

¹⁷⁵ *Ibid*, at para 11.

¹⁷⁶ *Ibid*, at para 16.

¹⁷⁷ *Ibid*, at para 18.

- 3.6 Specific to the Bill, the CoE Group of Experts on Action against Violence against Women and Domestic Violence strongly encouraged the NI Executive to “take measures to address the long-term consequences of the widespread institutional violence perpetrated against women in Magdalene Homes and similar institutions in the past”.¹⁷⁸
- 3.7 The NIHRC welcomes that Part 2 of the Bill establishes a Truth Recovery Redress Service. However, the Redress Service focuses on monetary compensation which, while an important facet of the right to remedy, does not constitute full and effective redress. The NIHRC notes that there are attempts to address several elements of effective remedy, including satisfaction and non-repetition in Part 1 of the Bill, which are considered above. Yet, the Bill does not address the restorative and rehabilitative aspect of the right to an effective remedy. Most notably, the Bill does not identify any intention to provide support services for victims and survivors pertaining to Mother and Baby Institutions, Magdalene Laundries and Workhouses. As emphasised by the CoE Group of Experts on Action against Violence against Women and Domestic Violence on this very issue,¹⁷⁹ the provision of support services for victims and survivors is an essential part of restoration and rehabilitation. However, this is not currently taken into account within the proposed Redress Scheme. Specifically, the CoE Group of Experts has stated that it:

acknowledges the steps taken towards ensuring more comprehensive policy making on violence against women in NI but notes with concern that the widespread institutional abuse of women and their children previously perpetrated in Magdalene Laundries, Mother and Baby Homes and similar institutions has yet to be addressed in comprehensive policies that would allow victims to recover holistically, including through trauma care and psychological counselling. Efforts must be stepped up in NI to assess the full extent of victimisation, to address its long-term impact on victims and to facilitate their full recovery. As a minimum, such measures and policies should effectively quantify the number of victims of institutional abuse committed in

¹⁷⁸ GREVIO(2025)4, ‘CoE Group of Experts on Action against Violence against Women and Domestic Violence Committee Baseline Evaluation Report of the UK on Legislative and Other Measures Giving Effect to the Provisions of the CoE Istanbul Convention’, 18 June 2025, at para 51.

¹⁷⁹ Ibid, at para 48.

Magdalene Laundries, Mother and Baby Homes and similar institutions. Moreover, they should ensure the provision of necessary support services, including specialist and long-term psychological support to facilitate victims' recovery, by enshrining their rights in law and raising awareness of the existence of such rights and services. Last, victims' access to justice should be facilitated.¹⁸⁰

3.8 Furthermore, the NIHRC is aware that provisions allowing the Executive Office to arrange or facilitate support services for victims and survivors are proposed under clause 6 of the Administrative and Financial Provisions Bill, which specifies that an individual is a victim or survivor if the individual:

- a) is a victim and survivor for the purposes of Part 2 of the Historical Institutional Abuse (NI) Act 2019,
- b) was a resident of a relevant institution within the meaning of section 4 of the Preservation of Documents (Historical Institutions) Act (NI) 2022 in the period between 1922 and 1995 (both inclusive),
- c) is a child of someone within paragraph 6(b) who was born during the person's period of residence in the institution between those dates, or
- d) is within such other description as may be prescribed in regulations made by the Executive Office.

3.9 It is currently unclear how provisions within the Administrative and Financial Provisions Bill relate to victims and survivors for the purposes of the Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Bill.

3.10 **The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the full breadth of the right to an effective remedy is reflected within the Bill and/or additional mechanisms. This includes ensuring that Part 2 of the Bill contains provisions aimed at restoring victims and survivors to**

¹⁸⁰ Ibid.

the situation they were in before any human rights violation occurred. This includes providing for a statutory right to appropriate, effective and accessible rehabilitation services for victims and survivors, including access to physical and mental health services, as required. The need should be established through consideration of the specificities of each individual case.

- 3.11 The NIHRC advises that the Committee for the Executive Office seeks clarity from the Executive Office on how provisions set out in the Administrative and Financial Provisions Bill will relate to victims and survivors of Mother and Baby Institutions, Magdalene Laundries and Workhouses. If these provisions are intended to extend to victims and survivors of Mother and Baby Institutions, Magdalene Laundries and Workhouses, it should be made clear when and in what capacity these services will be made available. If this is not the intention, the Executive Office should provide a clear reason for the differentiation in approach.**

Structure of the Redress Service

- 3.12 Clause 30 of the Bill establishes the Truth Recovery Redress Service, with Schedule 1 making further provision about the service. Clause 1(2) of Schedule 1 stipulates that the Redress Service is not to be regarded “a) as a servant or agent of the Crown, or b) as enjoying any status, immunity or privilege of the Crown”.
- 3.13 Clause 3(1) of Schedule 1 outlines the membership arrangements for the Redress Service, identifying that there will be at least two judicial members and at least one non-judicial member. Clause 3(2) of Schedule 1 identifies that one of the judicial members is to be appointed as the President. Clause 3(3) of Schedule 1 stipulates that additional judicial members can be added as the President deems necessary, subject to NI Executive Office approval. Additionally, clause 3(4) of Schedule 1 stipulates that there “are to be such additional non-judicial members as the Executive Office considers necessary”.
- 3.14 Clauses 5(1) and 5(6) of Schedule 1 identify that the Lady Chief Justice is to appoint the judicial members and select the President, and that the Executive Office will select non-judicial members. Clause 5(7) of Schedule 1 establishes that a person may be appointed a non-judicial member “if

the person has professional qualifications or experience which the Executive Office considers relevant”.

- 3.15 The independence of judicial mechanisms is a key component of the right to an effective remedy.¹⁸¹ The UN CEDAW Committee has emphasised that this is inclusive of specialised or quasi-judicial mechanisms.¹⁸²
- 3.16 The NIHRC welcomes the designation of the Redress Service as a body corporate, and the provision for judicial appointments by the Lady Chief Justice. However, there are concerns that the involvement of the Executive Office in the appointment of non-judicial members and the approval of additional appointments of judicial members of the service may not sufficiently secure the independence of the Redress Service.
- 3.17 **The NIHRC advises that the Committee for the Executive Office explores with the Executive Office what would be considered as professional qualifications or experience under clause 5(7) of Schedule 1 of the Bill. To maintain the independence of the Redress Service, this should either be stated within the Bill itself, or by accompanying guidance as soon as practicable.**
- 3.18 Clause 31(2) of the Bill identifies that a person is eligible for a payment from the Redress Service, if that person was a) admitted to a relevant institution (listed under Schedule 2 of the Bill) at any time during the relevant years for the institution, b) the primary purpose of admission was to receive shelter or maintenance, or c) both. Clause 31(4) of the Bill stipulates that a person is eligible for a payment a) if they were born while their mother was under the care of a relevant institution, or b) their mother was under the care of a relevant institution, until immediately before their birth and during the relevant years for the institution.
- 3.19 Clause 31(3)(b) of the Bill identifies that “the reference to the receipt of shelter or maintenance [under Clause 31(2) of the Bill] does not include the receipt of shelter or maintenance incidental to the provision of medical, surgical or maternity services”. This means that “shelter or maintenance” does not include where it was a by-product of medical services, including

¹⁸¹ See for example, *Jordan v United Kingdom* (2001) ECHR 327; *Mikheyev v Russia* (2006) ECHR 78. CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 5.

¹⁸² CEDAW/C/GC33, 'UN CEDAW Committee General Recommendation No 33: Women's Access to Justice', 3 August 2015, at para 54.

maternity services.¹⁸³ This exclusionary distinction runs contrary to the right to an effective remedy, which requires that where abuse occurs this should be acknowledged and remedied.¹⁸⁴

3.20 The principle of non-discrimination is an additional factor. Discrimination is prohibited under several human rights instruments.¹⁸⁵ The UN CAT Committee has noted that the principle of non-discrimination is “a basic and general principle in the protection of human rights and fundamental to the interpretation and application of [UN CAT]”.¹⁸⁶ The UN CAT Committee has identified that State Parties should “ensure that access to justice and to mechanisms for seeking and obtaining redress are readily available and that positive measures ensure that redress is equally accessible to all persons regardless of... gender... or reason for which the person is detained”.¹⁸⁷

3.21 Principle 11 of the UN Basic Principles and Guidelines of the Right to a Remedy and Reparation of Victims of Gross Violations of International Humanitarian Law stipulates that “the application and interpretation of these Basic Principles and Guidelines must be consistent with international human rights law and international humanitarian law and be without any discrimination of any kind or on any ground, without exception”.¹⁸⁸

¹⁸³ The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 17.

¹⁸⁴ Article 2, UN International Covenant on Civil and Political Rights; Article 6, UN Convention on the Elimination of Racial Discrimination; Article 14, UN Convention against Torture, and other Cruel, Inhumane or Degrading Treatment or Punishment; Article 39, UN Convention on the Rights of the Child; Article 13, European Convention on Human Rights; CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 5; CEDAW/C/GC/33, ‘UN CEDAW Committee General Recommendation No 33: Women’s Access to Justice’, 3 August 2015; CCPR/c/21/Rev.1/Add.13, ‘UN Human Rights Committee General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’, 26 May 2004.

¹⁸⁵ Article 2(2), UN Covenant on Economic, Social and Cultural Rights 1966; Article 2(1), UN Covenant on Civil and Political Rights 1966; Article 2, UN Convention on the Elimination of Racial Discrimination 1965; Article 2, UN Convention on the Elimination of Discrimination against Women 1979; Article 2, UN Convention on the Rights of the Child 1989; Article 5, UN Convention on the Rights of Persons with Disabilities 2006; Article 14, European Convention on Human Rights 1950. See also E/C.12/GC/20, ‘UN ICESCR Committee General Comment No 20: Non-Discrimination in Economic, Social and Cultural Rights’, 2 July 2009, at para 7; ‘UN Human Rights Committee General Comment No 18: Non-Discrimination’, 1989, at para 3; ‘UN CERD Committee General Recommendation No 20: Non-Discrimination in the Implementation of Rights’, 1996, at para 1; CEDAW/C/GC/28, ‘UN CEDAW Committee General Recommendation No 28: Core Obligations under Article 2’ 16 December 2010, at paras 8-13; CRC/GC/2003/5, ‘UN CRC Committee General Comment No 5: General Measures of Implementation’, 27 November 2003, at para 12; CRPD/C/GC/6, ‘UN CRPD Committee General Comment No 6: Equality and Non-Discrimination’, 26 April 2018, at paras 4-7.

¹⁸⁶ CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 32.

¹⁸⁷ Ibid.

¹⁸⁸ UN General Assembly, ‘UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’, 16 December 2005.

- 3.22 The NIHRC is concerned by the inclusion of clause 31(3)(b) in the Bill. It would seem to discriminate between victims and survivors of particular institutions, by proposing that victims and survivors that entered for the purposes of shelter or maintenance will be eligible for a payment, while victims and survivors that entered for purposes of medical treatment will be ineligible. Given the inclusion of maternity services under the umbrella of medical care, it seems that this measure would have a disproportionate effect on unmarried women and girls who entered these institutions for reasons relating to pregnancy.
- 3.23 The exclusion of individuals who entered certain relevant institutions for medical services, including maternity services, has not been explained or justified by the Executive Office.¹⁸⁹ The NIHRC is concerned that individuals who suffered harm in relevant institutions may be excluded as a result of this provision and not captured by eligibility criteria for entitlement to redress payments under other provisions of the Bill. An explanation as to why this decision has been made is required to facilitate effective scrutiny of the measure.
- 3.24 Additionally, clause 31(6) of the Bill allows the Executive Office to make regulations to provide that specified persons who would otherwise be eligible persons under the Bill are to be treated for the purposes of redress, as if they were not eligible. Clause 31(7) of the Bill stipulates that these regulations must be approved by the NI Assembly. While this provides a certain level of protection, the existence of this provision and the breadth of discretion provided to the Executive Office in its drafting are concerning. It is particularly concerning that individuals or groups that would be deemed eligible could be made ineligible for yet to be determined reasons. It would be useful for the Executive Office to provide clarity on why this provision is necessary and also the circumstances that may warrant use of this provision. If such a provision is to be included, there needs to be clear parameters, in line with a human rights-based approach, for when an individual's right to remedy can be denied and ensuring that this is utilised appropriately. Article 8 of the CoE European Convention on the Compensation of Victims of Violent Crimes does provide that:

¹⁸⁹ The Executive Office, 'Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum' (TEO, 2025).

- 1) compensation may be reduced or refused on account of the victim's or the applicant's conduct before, during or after the crime, or in relation to the injury or death.
- 2) compensation may also be reduced or refused on account of the victim's or the applicant's involvement in organised crime or his membership of an organisation which engages in crimes of violence.
- 3) compensation may also be reduced or refused if an award or a full award would be contrary to a sense of justice or to public policy.

3.25 These clarifications provide the NI Executive with discretion. However, while Article 5(5) of the ECHR is the only express mention of "an enforceable right to compensation" within the ECHR,¹⁹⁰ the ECtHR has provided that compensation (or at least the possibility of seeking compensation) for the damage sustained is a required component of an effective remedy.¹⁹¹

3.26 Additionally, the CoE Committee of Ministers has confirmed that victims "should be protected as far as possible from secondary victimisation".¹⁹² This is "the victimisation that occurs not as a direct result of the criminal act, but through the response of institutions and individuals to the victim".¹⁹³ The ECtHR has also been considering secondary victimisation within the context of criminal justice systems, making it clear "the importance of protecting victims' rights".¹⁹⁴ This includes ensuring that there is "diligence" and appropriate "methods" utilised by the State.¹⁹⁵ To do otherwise also risks being deemed contrary to the principle of non-discrimination.¹⁹⁶

3.27 Therefore, any exclusion of a victim or survivor who would otherwise be eligible needs to be approached with caution. For example, there is

¹⁹⁰ Article 5(5) of the ECHR provides that "everyone who has been the victim of arrest or detention in contravention of the provisions of [Article 5 of the ECHR]... shall have an enforceable right to compensation".

¹⁹¹ *Gäfgen v Germany* (2010) ECHR 759, at paras 118-119.

¹⁹² Council of Europe, 'Recommendation Rec(2006)8 of the Committee of Ministers to Member States on the Assistance of Crime Victims', 14 June 2006, at para 3.3.

¹⁹³ *Ibid*, at para 1.3.

¹⁹⁴ *L and Others v France* (2025) ECHR 98, at para 200.

¹⁹⁵ *Ibid*, at para 232.

¹⁹⁶ *Ibid*, at paras 200 and 232.

precedent within other redress schemes of victims and survivors with convictions being excluded from the scheme.¹⁹⁷ This raises concern from the wording of clause 31(6) of the Bill that a similar approach could be adopted here. This raises concerns regarding secondary victimisation, particularly if a victim or survivor is excluded based on the knock-on effects of the abuse that they experienced.

- 3.28 **The NIHRC advises that the Committee for the Executive Office explores with the Executive Office the reasoning for the inclusion of clause 31(3)(b) of the Bill and amending the Bill to ensure that, if clause 31(3)(b) is retained, that its parameters are made clear at this point in the legislative process. There should be sufficient safeguards in place to protect against secondary victimisation.**

Timeframe for redress for relatives of deceased victims

- 3.29 Clause 31(5) of the Bill identifies that a person is eligible to receive a payment if the person is an eligible relative of a deceased person who would (if alive) have been eligible under [Clauses 31(2) or 31(4) of the Bill] and the deceased died on or after 29 September 2011. Schedule 3 of the Bill establishes that an eligible relative will include a partner of the deceased,¹⁹⁸ or a child of the deceased.¹⁹⁹
- 3.30 International human rights standards do not explicitly indicate a time period which should be attributed to the Redress Service. However, it is clear that victims should receive redress, including compensation, for gross violations of international human rights law.²⁰⁰ Moreso, international human rights bodies have identified that the term 'victim' also includes "immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation".²⁰¹ The ECtHR provides some explicit examples, with married

¹⁹⁷ Regulation 6, Victims' Payments Regulations 2020.

¹⁹⁸ Schedule 3 of the Bill elaborates that a partner refers to a spouse or civil partner at the time of the deceased's death or a person who lived together with the deceased for a period of two years before the deceased's death.

¹⁹⁹ Schedule 3 of the Bill elaborates that a child of the deceased includes a child of the deceased who has been adopted by another person.

²⁰⁰ CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 15.

²⁰¹ Ibid, at para 3.

partners,²⁰² unmarried partners,²⁰³ parents,²⁰⁴ siblings,²⁰⁵ children,²⁰⁶ and nephews²⁰⁷ being recognised as victims. The ECtHR has also indicated that nieces, aunts, uncles and grandparents could fall within this category. However, given the various pathways and practices that surrounded Mother and Baby Institutions, Magdalene Laundries and Workhouses, there will need to be consideration given to the surrounding circumstances of how a woman or child found themselves within these institutions, the nature of the abuse that they experienced, and the wishes of a victim or survivor.

3.31 Human rights mechanisms are clear that the right to an effective remedy requires reparation for human rights abuses.²⁰⁸ The ECtHR has observed that exposing individuals to torture and ill-treatment:

requires close and rigorous scrutiny and that, subject to a certain margin of appreciation left to the States, conformity with Article 13 [of the ECHR] requires that the competent body must be able to examine the substance of the complaint and afford proper reparation.²⁰⁹

3.32 The UN Human Rights Committee has also observed that “without reparation to individuals whose [UN ICCPR] rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of Article 2(3) [of the UN ICCPR], is not discharged”.²¹⁰

3.33 The UN CAT Committee reminds States parties that “the procedures for seeking reparation should be transparent”.²¹¹ The lack of an appropriate explanation as to how the Executive Office reached a decision to impose the date of the 29 September 2011 as a cut off point for entitlement to

²⁰² *McCann v UK* (1995) 21 EHRR 97; *Salman v Turkey* (2000) ECHR 357.

²⁰³ *Velikova v Bulgaria* (2000) ECHR 198.

²⁰⁴ *Ramsahai and Others v the Netherlands* (2007) ECHR 393; *Giuliani and Gaggio v Italy* (2011) ECHR 513.

²⁰⁵ *Andronicou and Constantinou v Cyprus* (1997) ECHR 80.

²⁰⁶ *McKerr v UK* (2001) ECHR 329.

²⁰⁷ *Yasa v Turkey* (1998) ECHR 83.

²⁰⁸ CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 5.

²⁰⁹ *MSS v Belgium and Greece* (2011) ECHR 108, at para 387.

²¹⁰ CCPR/c/21/Rev.1/Add.13, ‘UN Human Rights Committee General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’, 26 May 2004, at para 16. See also CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 40.

²¹¹ CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 29.

payments for family members creates difficulty in assessing whether this measure is compatible with human rights standards.

- 3.34 Victims and survivors have identified their concerns that the imposition of this date will exclude “thousands of potential women and girls and their adoptive children who passed away”, noting that no rationale has been provided as to why this date was chosen.²¹² The NIHRC is concerned that the imposition of this particular timeframe seems arbitrary.²¹³
- 3.35 It is unclear how many individuals these measures would affect, but given that the relevant years for several institutions stretch from 1922 onwards, it would be safe to assume that a high number of victims of these institutions died before 29 September 2011. Denying financial redress to relatives who would otherwise be eligible, if the victim had died after the 29 September 2011, is potentially creating a barrier to an effective remedy. If this date is being imposed as a cost saving measure, it is unlikely that this is a valid distinction nor a valid justification for denying relevant family members an effective remedy for gross violations of international human rights law. It is worth repeating that, while broadly within the ECHR there is no right to compensation, it is a required component of the right to an effective remedy.²¹⁴ Additionally, for a remedy to be effective it must be accessible, capable of providing redress in respect of the complaint, and offer reasonable prospects of success.²¹⁵ The UN CEDAW Committee has further stated that systems of redress should be suitably financially resourced to ensure the accessibility of good quality remedies for victims.²¹⁶
- 3.36 **The NIHRC advises that the Committee for the Executive Office explores with the Executive Office its explanation for why a family member is not eligible to access a redress payment if the victim died before 29 September 2011. This includes raising concerns at the suitability and human rights compliance of such an approach.**

²¹² ‘Mother and baby homes survivors “excluded again” by Executive Bill’, *BBC News*, 17 June 2025.

²¹³ *Ibid.*

²¹⁴ *Gäfgen v Germany* (2010) ECHR 759, at paras 118-119.

²¹⁵ *Sejdovic v Italy* (2006) ECHR 620, at para 46; *Paksas v Lithuania* (2011) ECHR 1, at para 75.

²¹⁶ CEDAW/C/GC33, ‘UN CEDAW Committee General Recommendation No 33: Women’s Access to Justice’, 3 August 2015, at para 38.

Standardised payment

- 3.37 Clause 31(9) of the Bill proposes that an eligible person admitted to a listed institution or a person whose birth mother was admitted to an institution is entitled to a £10,000 payment.²¹⁷ Also, that an eligible family member of the deceased is entitled to a £2,000 payment.²¹⁸ Under the proposed legislation, a person could be eligible for both a £10,000 and a £2,000 payment if they meet the required eligibility criteria for each payment.²¹⁹ However, clause 31(8) of the Bill proposes that “a person who was admitted to more than one relevant institution, or who is eligible under both [clauses 31(2) and 31(4) of the Bill], is eligible for one payment”.
- 3.38 The NIHRC welcomes that an individual could be eligible for both a £10,000 payment and a £2,000 payment, if they meet the criteria. However, it is concerning that a victim who was placed in more than one relevant institution and, consequently has potentially experienced repeated harm from these institutions, will only be eligible for one redress payment. Equally, this measure could lead to a situation where, potentially, a child born to a woman held in a relevant institution who then grew up to be placed in a relevant institution themselves as an adult will only receive one redress payment for two very distinct harms. The Executive Office has not explained its rationale for introducing such a measure.²²⁰ Thus, this is a concern if only one standardised payment of £10,000 will be provided to a) an individual who has potentially experienced human rights violations from two separate institutions, b) an individual who has potentially experienced human rights violations by the same institution on more than one occasion, or c) an individual who has potentially experienced harm from these institutions as both a child of a woman who was institutionalised and a woman who was institutionalised herself. The Executive Office identifies that the standardised payment is “an acknowledgement to those impacted by a system of institutions established for women and girls, and its associated shame and stigma”. However, by offering only one standardised payment to victims who have experienced repeated harms, there is a risk

²¹⁷ Eligibility is determined by reference to clauses 31(2) and 31(4) of the Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill.

²¹⁸ Eligibility is determined by reference to clause 31(5) of the Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill.

²¹⁹ The Executive Office, ‘Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouse) and Redress Scheme Bill: Explanatory and Financial Memorandum’ (TEO, 2025), at 18.

²²⁰ Ibid.

that the true extent of human rights violations, and the associated shame and stigma, in relevant institutions will remain hidden.

- 3.39 The NIHRC is aware that the Executive Office has indicated that, in addition to the standardised payments of £10,000 and £2,000, it intends to bring forward an additional Individual Assessed Payment Scheme. This additional payment scheme, which aims to provide redress for a person's individual experience, is to be provided for within separate legislation.²²¹ The NIHRC welcomes this measure in principle. The NIHRC understands that the additional payment scheme is intended to address gaps in human rights compliance within the Redress Service, which intends to focus on the standardised payments. The ECtHR has afforded States the discretion to deliver an effective remedy under Article 13 in the best way it sees fit, and this does not have to be through one payment.²²² However, the ECtHR notes that the right to an effective remedy "must not be unjustifiably hindered by the acts or the omissions of the authorities of the respondent State".²²³ The ECtHR further identifies that an effective remedy must be sufficient so as "to grant appropriate relief".²²⁴ Similarly, Article 30 of the Istanbul Convention requires that States take measures to "ensure the granting of compensation within a reasonable time". The NIHRC is concerned that there is no concrete commitment or timeframe for introducing the proposed additional payment scheme. Victims and survivors have waited long enough and now is the time for clear, solid commitments. Also, given the NI Executive's current financial situation there is an additional concern that such a payment could be deprioritised and not be introduced in practice.
- 3.40 The delayed introduction of the Individually Assessed Payment Scheme, and by extension a delay in an effective human rights compliant remedy, is a continuation of harm. The UN Human Rights Committee has identified that "cessation of an ongoing violation is an essential element of the right to an effective remedy".²²⁵ The UN CAT Committee has observed that "the failure of the State to exercise due diligence to intervene to... provide remedies to victims of torture facilitates and enables non-State actors to

²²¹ Ibid, at 46.

²²² *Kaya v Turkey* (1998) ECHR 10, at para 106.

²²³ Ibid.

²²⁴ *Askoy v Turkey* (1996) ECHR 68, at para 95.

²²⁵ CCPR/C.21/Rev.1/Add.13, 'UN Human Rights Committee General Comment No 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant', 29 March 2004, at para 15.

commit acts impermissible under the Convention with impunity”.²²⁶ This principle has been applied to States Parties failure to prevent gender-based violence.²²⁷ The UN CAT Committee has identified that for many victims, “passage of time does not attenuate the harm and in some cases the harm may increase as a result of post-traumatic stress that requires medical, psychological and social support, which is often inaccessible to those who have not received redress”.²²⁸ The UN CAT Committee has asserted that States must ensure effective redress for all victims of torture or ill-treatment “regardless of when the violation occurred or whether it was carried out by or with the acquiescence of a former regime”.²²⁹ General Principle 1 of the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law also requires States to make available “adequate, effective, prompt and appropriate remedies, including reparation”.²³⁰ Victims and survivors have been waiting for an effective remedy for harms caused by relevant institutions for decades, and delaying effective redress further, is a continuation of that harm.

- 3.41 Furthermore, Article 14 of UN CAT requires that, in the determination of redress awarded to a victim, “the specificities and circumstances of each case must be taken into consideration and redress should be tailored to the particular needs of the victim and be proportionate to the gravity of the violations committed against them”.²³¹ The UN CEDAW Committee has recommended that States ensure that “remedies... [are] proportional to the gravity of the harm suffered”.²³² This is echoed by Principle 9 of the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims.²³³ Thus, redress payments should consider individual circumstances relating to harm caused by human rights violations. The

²²⁶ CAT/C/GC/2, ‘UN CAT Committee General Comment No 2: Implementation of Article 2’, 24 January 2008, at para 18.

²²⁷ Ibid.

²²⁸ CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 40.

²²⁹ Ibid.

²³⁰ UN General Assembly, ‘UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’, 16 December 2005, at para 2(c).

²³¹ CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14’, 13 December 2012, at para 37.

²³² CEDAW/C/GC33, ‘UN CEDAW Committee General Recommendation No 33: Women’s Access to Justice’, 3 August 2015, at para 19(b).

²³³ UN General Assembly, ‘UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’, 16 December 2005.

Redress Service does not afford consideration of individual circumstances. Instead, it appears that the proposed additional payment scheme is intended to plug this gap and provide an individualised approach. The NIHRC is cautious of this approach for the reasons outlined above. However, if the Individually Assessed Payment Scheme is implemented, it should take into account that the purpose of effective redress is to re-establish the victim's situation before the human rights violation was committed, taking into consideration the specificities of each case.²³⁴ This should include ensuring where necessary, the provision of "specialist services for victims of torture or ill-treatment are available, appropriate and readily accessible".²³⁵ The principle of promptness has been emphasised by the ECtHR, which has found that delays in proceedings "cannot properly be described as thorough and effective such as to meet the requirements of Article 13 [of ECHR]".²³⁶

3.42 Additionally, there will be many victims and survivors who have been left with physical or psychological effects due to the abuse that they experienced within Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI that equate to a disability. This engages the right to habilitation and rehabilitation under Articles 16(4) and 26 of the UN CRPD. However, there is broader learning that can be taken from the UN CRPD that can be applied to the Redress Service and/or additional individualised payment more broadly. Effective implementation of the UN CRPD requires assurances that reasonable accommodation will be made where specific needs are identified.²³⁷ This is a principle of best practice that the Redress Service or the additional payment scheme (if that is the chosen way to deal with individualised issues) would benefit from. This start point helps to ensure that an individualised approach will be implemented in practice.

3.43 **The NIHRC recommends that the Committee for the Executive Office removes clause 31(8) of the Bill and replaces it with a provision that ensures that victims of multiple institutions, or the**

²³⁴ CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 8; UN General Assembly, 'UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law', 16 December 2005, at para 16.

²³⁵ CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 13.

²³⁶ *Çelik and İmret v Turkey* (2005) ECHR 548, at para 59.

²³⁷ Articles 2 and 5(3), UN Convention on the Rights of Persons with Disabilities 2006.

same institution on multiple occasions, can avail of the standardised payment scheme for each separate occasion.

- 3.44 **The NIHRC advises that the Committee for the Executive Office seeks confirmation from the Executive Office about the existence and details of concrete plans and timeframes regarding the legislation intended to introduce the Individual Assessed Payment Scheme. It is encouraged that this additional legislation is introduced promptly and works in partnership with the proposed Truth Recovery Redress Service to fill any gaps in promoting and protecting the right to an effective remedy that exists with the proposed approach taken with the standardised payments. It is further advised that this additional legislation takes into account individual circumstances and the needs of each eligible victim and survivor, ensuring that these are reasonably accommodated and that the individual payment offered is proportional to the individual harm caused by the relevant institution(s).**

Time limit for applications for payments

- 3.45 Clause 32(1) of the Bill establishes that an application for a payment must be made to the Redress Service within three years of the date on which the Service is advertised in the Belfast Gazette. Clause 32(2) of the Bill allows the Executive Office to extend this period to a maximum of five years.
- 3.46 In line with the requirement that victims and their families must be adequately informed of their right to pursue redress,²³⁸ the NIHRC welcomes the intention to advertise the Redress Service widely.
- 3.47 The NIHRC welcomes the inclusion of clause 32(2) of the Bill, which allows for an extension for the deadline for applications, if that is deemed necessary by the Executive Office. It is pertinent to note that, given the nature of the stigma attached to these relevant institutions and unmarried motherhood in NI,²³⁹ there may be victims and affected parties who are reluctant to come forward and make an application, or are still not ready to

²³⁸ CAT/C/GC/3, 'UN CAT Committee General Comment No 3: Implementation of Article 14', 13 December 2012, at para 29.

²³⁹ Leanne McCormick et al, 'Mother and Baby Homes and Magdalene Laundries in NI 1922-1990' (DoH, 2021).

do so. Additionally, there may be affected individuals who remain unaware that they are connected to the relevant institutions listed in Schedule 2 of the Bill, particularly individuals who may have been adopted as children.²⁴⁰ As such, it would be useful to ensure concessions for legitimate reasons for late applications can be built into the appeals procedure.

- 3.48 Additionally, given the limited timescale for applications, it is vital that the Redress Service is effectively promoted to ensure that individuals are aware of their right to access redress. Learning should be taken and implemented from the well-documented challenges that the Victims' Payments Board has faced regarding its application and decision-making processes, particularly in relation to accessibility and avoiding unnecessary delays.²⁴¹
- 3.49 **The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the Truth Recovery Redress Service is publicised effectively across NI and through a variety of mediums, including offline channels. Also, that the application process is expeditious and accessible. This includes ensuring that specific needs are identified and reasonably accommodated for the purposes of accessibility and understanding of the initial information and subsequent application process. This requires specific consideration of the needs of groups at high risk of marginalisation, such as people with disabilities, ethnic minorities and people in places of detention.**
- 3.50 **The NIHRC recommends that the Committee for the Executive Office introduces a provision within the Bill that enables the Truth Recovery Redress Service to take account of and reasonably accommodate legitimate reasons for late applications, given the sensitive nature of the proposed inquiry.**

²⁴⁰ Ibid.

²⁴¹ Brendan Hughes, 'Troubles pension: More than 40 applicants die before decisions made', *BBC News*, 4 January 2024; Claudia Savage, 'Could take decade to process applications to Troubles victims' scheme, MPs hear', *Irish News*, 4 December 2023; Jayne McCormack, 'Troubles victims pensions: One third of applicants denied access to scheme', *BBC News*, 28 September 2023.

Victim-centred approach

- 3.51 Clause 35(2) of the Bill allows for a judicial member of the Redress Service to require a person to provide specified records, documents, objects or other items of evidence on or before a specified date or to provide oral evidence under oath, “for the purpose of assisting the judicial member or a panel to determine an application”. The NIHRC welcomes this measure, but cautions that, if requiring information from a victim or survivor of a relevant institution, a victim-centred approach should be applied.
- 3.52 The UN Basic Principles of Justice for Victims of Crime and Abuse of Power state that “victims should be treated with compassion and respect for dignity”.²⁴² The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims also provides that “appropriate measures should be taken to ensure [victims’] safety, physical and psychological well-being and privacy, as well as those of their families” and “that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatisation”.²⁴³ This is also supported by the UN CAT Committee,²⁴⁴ which calls for sensitivity towards marginalised or high risk groups or individuals for the purposes of preventing “re-traumatisation and stigmatisation”.²⁴⁵
- 3.53 Assistance to ensure a victim-centred approach is implemented in practice can be provided in several ways. These include that:
- a) victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means;
 - b) victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them;

²⁴² UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 29 November 1985, at Principle 4.

²⁴³ UN General Assembly, ‘UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’, 16 December 2005, at Principle 10.

²⁴⁴ CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14 by States Parties’, 13 December 2012, at para 21.

²⁴⁵ Ibid, at paras 33, 34 and 36.

- c) police, justice, health, social service and other personnel concerned should receive training to sensitise them to the needs of victims, and guidelines to ensure proper and prompt aid; [and]
- d) in providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as... race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.²⁴⁶

3.54 The failure to provide the appropriate protection for victims poses an obstacle to the right to an effective remedy.²⁴⁷ Article 56 of the Istanbul Convention provides that States must take measures to protect the rights and needs of victims and witnesses at all stages of judicial proceedings, including “providing for their protection, as well as that of their families and witnesses, from intimidation, retaliation and repeat victimisation”. Furthermore, failure to provide the required support for victims involved in mechanisms to access their rights may inhibit victims from making complaints due to the fear of secondary victimisation by the process.²⁴⁸

3.55 The NIHRC notes that there is already a support service offered to victims and survivors of Mother and Baby Institutions, Magdalene Laundries and Workhouses, and that this service is trauma informed and works in partnership with Adopt NI and WAVE Trauma Centre.²⁴⁹ This is commendable. However, the provision of clear pathways between existing services and the proposed Redress Service requires consideration. This includes whether the existing services are sufficiently resourced and equipped to provide the necessary support for engaging with the Redress Service, including legal advice. For example, the National Redress Scheme in Australia offers free, confidential and independent practical and

²⁴⁶ UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 29 November 1985, at Principles 14-17.

²⁴⁷ *L and Others v France* (2025) ECHR 98, at paras 200 and 232; CAT/C/GC/3, ‘UN CAT Committee General Comment No 3: Implementation of Article 14 by States Parties’, 13 December 2012, at para 38; UN General Assembly, ‘UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’, 16 December 2005, at Principle 3.

²⁴⁸ *L and Others v France* (2025) ECHR 98, at paras 200 and 232; Article 56, CoE Istanbul Convention; E/CN.4/1997/47, ‘Report of the UN Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms Radhika Coomaraswamy’, 12 February 1997, at para 22.

²⁴⁹ Victims and Survivors Service, ‘Mother and Baby Institutions, Magdalene Laundries and Workhouses Support Services’. Available at [MBMLW Support Services - Victims and Survivors Service](#)

emotional support.²⁵⁰ There is also a separate legal support service that offers free and confidential support and financial counselling.²⁵¹

- 3.56 **The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the Truth Recovery Redress Service implements a victim-centred approach to the delivery of redress, including by providing training to panel members and all relevant personnel on a human rights based approach, victim centred approach and trauma-informed approach, with a view to sensitising them to the needs of victims and survivors. This includes working closely with victims and survivors and their representative organisations to implement this approach.**
- 3.57 **The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that sufficient support is available and freely accessible to victims and survivors regarding the Truth Recovery Redress Service. This includes, building on and guaranteeing necessary resources to the existing Victims and Survivors Service, that all victims and survivors have access to free, confidential and independent practical and emotional support, as required. Also, that this support is expanded to include a legal support service that offers free and confidential support and financial counselling to all victims and survivors that need it.**

Appeals

- 3.58 Clause 38 of the Bill sets out the proposed procedure for the right to appeal a decision of the service. Clause 38(2) of the Bill proposes that an appeal is made within thirty days of a person receiving a decision, or for an extended period of time determined by the Redress Service in exceptional circumstances. Clause 38(4) of the Bill proposes that, where an appeal is received, the President of the Service must “assign the appeal to a judicial member of the Service”. Clause 38(5) of the Bill proposes that the President may not “assign the appeal to the judicial member who made the decision in question, or to a judicial member who was a member of the panel which made the decision”. Clause 35(8) of the Bill stipulates that a

²⁵⁰ Government of Australia, ‘National Redress Scheme’. Available at: [Homepage | National Redress Scheme](#)

²⁵¹ Ibid.

decision on an appeal is final. Clause 39 of the Bill sets out provisions for the Redress Service to make arrangements for facilitating access to advice or assistance for a person making an application or a person bringing an appeal.

3.59 The NIHRC welcomes the provision of an appeals process and the provision to make arrangements to provide advice and assistance on applications and appeals. The NIHRC notes that the appeals process will be managed by the Redress Service, and not an independent third party. This is not dissimilar to the approach taken by the Historical Institutional Abuse Redress Board.²⁵² However, in relation to policing matters, the ECtHR has stated that the systems for handling complaints must be suitably independent, noting that requisite standards of independence are needed to “constitute sufficient protection against the abuse of authority and thus provide an effective remedy within the meaning of Article 13”.²⁵³ While the appeals procedure for the Redress Service is not a policing issue, the principle of independence is an important consideration. Thus, it may be helpful to consider for example, additional aspects such as enabling victims to request oral hearings for which a victim can have representation.²⁵⁴ Or that the appeal could be transferred to a different appeals panel.²⁵⁵

3.60 Furthermore, as previously stated, consideration should be given to the learning from the Victims’ Payments Board’s challenging experience to ensure that advice and assistance provided is effective.²⁵⁶ The NIHRC also notes that it is imperative that the appeals process adopts victim-centred and trauma-informed approaches, as outlined above.

3.61 **The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the appeals process for the Truth Recovery Redress Service is victim-centred and trauma-informed, including that all legal advisors and other professionals who engage with the Redress Service receive appropriate, specialised training. This includes ensuring that**

²⁵² Section 16, Historical Institutional Abuse (NI) Act 2019.

²⁵³ *Govell v the United Kingdom*, Application No 27237/95, Judgement of 14 January 1998, at paras 68-70.

²⁵⁴ Regulations 39 and 40, Victims Payments Regulations 2020.

²⁵⁵ Regulation 41, *Ibid*.

²⁵⁶ Brendan Hughes, ‘Troubles pension: More than 40 applicants die before decisions made’, *BBC News*, 4 January 2024; Claudia Savage, ‘Could take decade to process applications to Troubles victims’ scheme, MPs hear’, *Irish News*, 4 December 2023; Jayne McCormack, ‘Troubles victims pensions: One third of applicants denied access to scheme’, *BBC News*, 28 September 2023.

victims and survivors and their representative organisations are meaningfully engaged with to ensure this approach is effective.

- 3.62 **The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the appeals process for the Truth Recovery Redress Service is suitably effective in practice, including that it adheres to the principle of independence. This could involve enabling victims and survivors to request oral hearings for which a victim can have representation. Also, that the option is included that the appeal can be transferred to a different appeals panel.**

Orders restricting disclosure of information

- 3.63 Clause 40(1) of the Bill provides that the President of the Redress Service can impose restrictions, by way of a restriction order, on the disclosure or publication of evidence or documents given, produced or provided on the determination of an application or an appeal or the disclosure or publication of the identity of any person. Clause 40(3) of the Bill establishes that a restriction order can only place restrictions as are required by any statutory provision or rule of law or as the President, judicial member or the Panel considers to be necessary in the public interest. Clause 40(4) of the Bill stipulates that restriction orders can expire after a period of time or remain in force indefinitely.
- 3.64 The NIHRC welcomes measures to ensure the protection of people's identity in relation to applications or appeals. This is in line with the right to respect for private life and data protection laws.²⁵⁷ However, restriction orders should not preclude information being shared as part of the Inquiry. The right to respect for private life enables interference with this right where it is necessary and proportionate in pursuit of a legitimate aim.²⁵⁸
- 3.65 **The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that orders restricting**

²⁵⁷ Article 8, European Convention on Human Rights 1950; Article 17, UN International Covenant on Civil and Political Rights 1966; Article 16, UN Convention on the Rights of the Child 1989; Article 22, UN Convention on the Rights of Persons with Disabilities 2006; UK General Data Protection Regulations; Data Protection Act 2018.

²⁵⁸ Article 8, European Convention on Human Rights 1950; Article 17, UN International Covenant on Civil and Political Rights 1966; Article 16, UN Convention on the Rights of the Child 1989; Article 22, UN Convention on the Rights of Persons with Disabilities 2006.

the disclosure of information with regard to the Truth Recovery Redress Service do not hinder the sharing of or access to the information required to advance the work of the Truth Recovery Inquiry.

4.0 Windsor Framework Article 2

- 4.1 The NIHRC notes the relevance of recent judicial consideration of Windsor Framework Article 2 in the context of the rights of victims and survivors. Case law arising from the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 confirms that domestic legislation must not diminish rights retained under the EU Victims' Directive, as protected by Windsor Framework Article 2.²⁵⁹ This is particularly relevant to the Bill.
- 4.2 Both the NI High Court and Court of Appeal affirmed that victims' rights fall within the scope of rights protected by the Belfast (Good Friday) Agreement, as given effect by civil rights, including Articles 2, 3, 6 and 14 of the ECHR.²⁶⁰ The Court of Appeal stated that these rights are "are particularised to some extent and enhanced by the [EU Victims' Directive], specifically by the right to challenge a decision not to prosecute"²⁶¹ and that the EU Victims' Directive "is to be interpreted in accordance with the EU Charter and general principles of EU law."²⁶² The Court of Appeal confirmed that, under Section 7A of the EU (Withdrawal) Act 2018, Article 2 has primacy over conflicting provisions of the 2023 Act, and that disapplication of the offending provisions was the "correct remedy".²⁶³ The courts rejected arguments that disapplication was unnecessary where EU Charter of Fundamental Rights were mirrored in the ECHR, holding instead that any reduction in available remedies constitutes a diminution of rights.²⁶⁴ Windsor Framework Article 2 therefore provides a distinct and stronger remedy of disapplication where diminution is found.
- 4.3 The NIHRC advises that compliance with the EU Victims' Directive should be considered in the design and implementation of the statutory public inquiry and redress scheme. Articles 8 and 9 of the EU Directive require

²⁵⁹ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NIKB 11; *In the Matter of an Application by Martina Dillon and Others* [2024] NICA 59.

²⁶⁰ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, para 117.

²⁶¹ *Ibid*, para 119.

²⁶² *Ibid*, para 126.

²⁶³ *Ibid*, paras 57 and 151-158.

²⁶⁴ *Ibid*, paras 57 and 151-158.

that victims are provided with free, confidential and specialist support services including emotional and psychological assistance.²⁶⁵ Both the inquiry and redress scheme should adopt a trauma-informed approach and ensure that comprehensive support is available to victims before, during and after engagement with these mechanisms.

- 4.4 Article 25 of the EU Directive requires that appropriate training is provided to officials who are likely to engage with victims.²⁶⁶ This training should allow for them to interact with victims in a respectful, professional and non-discriminatory manner. Training of all practitioners involved in the inquiry and redress processes should be prioritised to ensure compliance with these standards and to remove risk of retraumatisation.
- 4.5 Article 16 of the EU Victims' Directive provides victims with the right to obtain a decision on compensation from the offender.²⁶⁷ In addition, Article 47 of the EU Charter of Fundamental Rights guarantees the right to an effective remedy and fair trial. Advice should be provided to victims regarding offender or institution-based compensation.
- 4.6 EU Directive 2004/80/EC required Member States to ensure access to compensation for victims of violent intentional crime. Whereas this measure focuses on cross-border contexts, it presupposes a minimum standard of compensation being available in all relevant jurisdictions.²⁶⁸ Article 12 specifies that "All Member States shall ensure that their national rules provide for the existence of a scheme on compensation to victims of violent intentional crimes committed in their respective territories, which guarantees fair and appropriate compensation to victims." Linked to this are requirements in relation to the provision of information and assistance to potential applicants (Articles 4 and 5). The NIHRC advises that eligibility criteria should not result in the exclusion of survivors who experienced abuse in NI institutions but now reside elsewhere as this may result in a diminution of rights under Windsor Framework Article 2.

4.7 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the Inquiry and

²⁶⁵ Directive 2012/29/EU, 'Directive of the EU Parliament and Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

²⁶⁶ Ibid.

²⁶⁷ Ibid.

²⁶⁸ Directive 2004/80/EC, 'EU Council Directive Relating to Compensation to Crime Victims', 29 April 2004.

Redress Scheme is fully consistent with Windsor Framework Article 2.

- 4.8 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to guarantee victims and survivors access to remedies and redress equal to the minimum standards required under EU law.**
- 4.9 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure exclusionary eligibility criteria that risks diminishing rights is avoided.**

Summary of Recommendations

- 2.5 The NIHRC advises that the Committee for the Executive Office seeks assurances from the Executive Office that the temporal scope of the public inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI is as expansive as possible and does not directly or inadvertently lead to discrimination towards any victim and survivor. In particular, that clauses 1(4) and 1(5) of the Bill enable the pathways and practices surrounding Mother and Baby Institutions, Magdalene Laundries and Workhouses, and their effects, to be effectively investigated in their entirety, particularly in the context of family separation.
- 2.11 The NIHRC recommends that the Committee of the Executive Office brings forward an amendment to clause 1(6) of the Bill so that, in preventing duplication between the proposed new inquiry and the Historical Institutional Abuse Inquiry, it does not prevent the new inquiry from following any obvious and reasonable line of investigation for the purposes of its consideration of Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI.
- 2.17 The NIHRC advises that the Committee of the Executive Office encourages the Executive Office to review clause 2(5) of the Bill and ensure that it does not enable the exclusion of a situation where the right to family life of the mother and best interests of the child were disproportionately denied or ignored due to the actions, pathways and practices of prescribed institutions, public bodies or other persons from investigation by the proposed inquiry, even if it involved the biological father.
- 2.18 The NIHRC advises that the Committee of the Executive Office encourages the Executive Office to review clause 2(5) of the Bill and ensure that placement with the biological parent of the child does not prevent the effective investigation of abuse that was suspected or occurred in the lead up to this outcome.
- 2.25 The NIHRC advises that the Committee of the Executive Office engages with the Executive Office to ensure that the Bill requires that the focus of a public inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI is to establish what happened, why it happened,

who was responsible and what can be done to prevent reoccurrence. This must include a thorough, objective and impartial analysis pursuing all obvious lines of inquiry. It should also include express consideration of the pathways and practices associated with prescribed institutions, public bodies or other persons in this context, including their intragenerational and intergenerational effects.

- 2.33 The NIHRC advises that the Committee for the Executive Office explores with the Executive Office whether the Bill enables the terms of reference to be sufficiently flexible to enable the public inquiry to consider all evidence uncovered by or provided to it that is relevant. Adopting a victim-centred approach, this must involve the meaningful involvement of victims and survivors within designing, participating in and engaging with the inquiry process, including in the drafting and altering of the terms of reference.
- 2.38 The NIHRC recommends that the Committee of the Executive Office amends the Bill to include a requirement to consult with victims and survivors on the expansion of what constitutes a 'prescribed institution' for the purposes of the proposed inquiry.
- 2.39 The NIHRC recommends that the Committee of the Executive Office removes clause 3(3) of the Bill to protect the proposed inquiry's definition of a 'prescribed institution' from undue political influence.
- 2.45 The NIHRC recommends that the Committee of the Executive Office amends the Bill to ensure that implementation of clauses 4(2) and 4(3) are subject to limitations that ensure any individual that was involved in or suspected of being involved in abuses and violations linked to Articles 2, 3 and/or 4 of the ECHR is deemed a 'relevant person' for the purposes of the proposed inquiry and subject to a thorough and effective investigation accordingly. These limitations should be clearly set out within the Bill.
- 2.46 The NIHRC recommends that the Committee of the Executive Office amends the Bill to include a requirement to consult with victims and survivors on any amends to what constitutes a 'relevant person' for the purposes of the proposed inquiry.

- 2.47 The NIHRC recommends that the Committee of the Executive Office removes clause 4(5) of the Bill to protect the proposed inquiry's definition of a 'relevant person' from undue political influence.
- 2.54 The NIHRC recommends that the Committee for the Executive Office amends the Bill to adopt a human rights-based approach that is expressly stated as a foundation of the public inquiry into Mother and Baby Institutions, Magdalene Laundries and Workhouses in NI. This can be achieved through using phrasing such as "abuses and human rights violations" in determining the public inquiry's scope and including express reference to adherence to the ECHR.
- 2.55 The NIHRC recommends that the Committee for the Executive Office amends the Bill to include that the inquiry is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.
- 2.56 The NIHRC recommends that the Committee for the Executive Office amends clause 5 of the Bill to read "a chairperson with at least X other members". The minimum amount selected should enable a gender balance and cover the full range of expertise required by the proposed inquiry. The selection process for the chairperson and inquiry panel members should involve meaningful consultation with victims and survivors, with particular consideration given to any objections. The selection process should also include sufficient safeguards to guarantee independence and impartiality.
- 2.57 The NIHRC advises that the Committee for the Executive Office confirms with the Executive Office its plans to ensure that the chairperson, panel, staff and expert associates of the inquiry have received up-to-date expert training on a human rights based approach, a victim-centred approach and a trauma-informed approach regarding investigations, and understand how to implement these approaches in practice.
- 2.68 The NIHRC advises that the Committee of the Executive Office engages with the Executive Office to ensure that clause 7(2) of the Bill cannot be interpreted in such a way that inadvertently compromises the proposed inquiry's independence and impartiality, particularly regarding the involvement of potential perpetrators.

- 2.70 The NIHRC advises the Committee for the Executive Office that clause 8 of the Bill is a welcomed inclusion for ensuring the independence, impartiality and competence of the inquiry panel.
- 2.76 The NIHRC recommends that the Committee for the Executive Office amends clause 9(1) of the Bill to read 'the chairperson may appoint one or more persons to act as assessors to assist the inquiry panel, where necessary, to provide the inquiry panel with the expertise its needs to fulfil its terms of reference'.
- 2.77 The NIHRC recommends that the Committee for the Executive Office amends clause 9(3) of the Bill to read 'where reasonable, the chairperson may at any time suspend or terminate the appointment of an assessor'.
- 2.78 The NIHRC recommends that the Committee for the Executive Office amends the Bill to ensure that a victim or survivor with particular expertise is not excluded from being an assessor and that the necessary safeguards regarding independence and impartiality are in place to support this approach.
- 2.86 The NIHRC recommends that the Committee for the Executive Office amends clause 10(1) of the Bill so that the chairperson 'must' appoint an Advisory Panel. This should be framed in a way that respects a trauma-informed approach and the views of victims and survivors, if they do not wish to be directly involved in the inquiry, there should be no onus or pressure on an individual or group to be.
- 2.87 The NIHRC recommends that the Committee for the Executive Office includes within clause 10 of the Bill a provision expressly enabling Advisory Panel members to terminate their involvement of their own accord.
- 2.88 The NIHRC recommends that the Committee for the Executive Office amends the Bill to include a provision that enables victims, survivors and their relatives to become core participants of the proposed inquiry, if they so wish.
- 2.89 The NIHRC advises that the Committee for the Executive Office confirms with the Executive Office its plans to ensure that the proposed inquiry

includes safeguarding mechanisms for the purposes of creating and maintaining a safe space for victims, survivors and their relatives to participate in and engage with the proposed inquiry.

- 2.90 The NIHRC recommends that the Committee for the Executive Office amends clause 10(5) of the Bill to include nieces and nephews within the definition of a relative for the purposes of the Advisory Panel to the proposed inquiry.
- 2.94 The NIHRC advises that the Committee for the Executive Office explores with the Executive Office what safeguards are in place to ensure that implementation of clause 11 of the Bill, and subsequent suspension of the proposed inquiry, does not negatively affect a prompt and effective investigation associated with the scope of the proposed inquiry, be it through the inquiry itself or another human rights complaint form of investigation.
- 2.98 The NIHRC advises that the Committee for the Executive Office explores with the Executive Office a more appropriate way to deliver what clause 12(1)(b) of the Bill is attempting to achieve. In a manner which ensures that a thorough, independent and impartial investigation can be completed by the proposed inquiry without it being prematurely closed for an undue reason.
- 2.104 The NIHRC recommends that the Committee of the Executive Office amends clause 13(4) of the Bill to read “the chairperson must act with fairness, independence and impartiality”.
- 2.105 The NIHRC recommends that the Committee of the Executive Office removes the reference to costs in clause 13(4) of the Bill to ensure a thorough investigation can be conducted, without being unduly constrained by financial considerations.
- 2.109 The NIHRC recommends that the Committee for the Executive Office amends clause 14(1) of the Bill to read “the chairperson must take reasonable steps to secure that, as appropriate and necessary, victims, next of kin, close family members, and members of the public (including reporters) are able” to have access to the inquiry proceedings and information.

- 2.110 The NIHRC recommends that the Committee for the Executive Office includes within the Bill a commitment to undertake ground-rule hearings at the start of the inquiry process, which would have the aim of hearing the views of victims, survivors and experts on what is required to ensure a victim-centred and trauma-informed inquiry process, with a view to establishing how and when victims and survivors will be engaged with and involved in the inquiry process. Also, to clarify the information victims and survivors will have access to.
- 2.120 The NIHRC recommends that the Committee for the Executive Office amends clause 15(4) of the Bill to include the requirement for the specific rights of victims, next of kin and close family members to be considered when establishing whether a restriction on access to inquiry proceedings and information can be imposed.
- 2.121 The NIHRC advises that the Committee for the Executive Office seeks assurances from the Executive Office that there are sufficient safeguards within clause 15 of the Bill to ensure that consideration of delay when establishing whether a restriction is imposed does not lead to a rushed or unduly hurried investigation.
- 2.122 The NIHRC recommends that the Committee for the Executive Office removes references to costs within clause 15(4)(d)(ii) of the Bill as a justification for introducing restrictions on public access to the inquiry proceedings and information.
- 2.123 The NIHRC recommends that the Committee for the Executive Office amends clause 15 of the Bill adding that “nothing in this section is intended to prevent witnesses from passing on evidence that they themselves have given to the inquiry, either during the inquiry or after it has ended”.
- 2.124 The NIHRC recommends that the Committee for the Executive Office amends clause 14(2) of the Bill to include express mention that the chairperson must consider the ECHR in its considerations on whether to allow broadcasting during proceedings.
- 2.132 The NIHRC recommends that the Committee for the Executive Office amends clause 16 of the Bill to ensure that the specific rights of victims,

next of kin and close family members to information is a factor in determining whether a notice for evidence is revoked or varied.

- 2.133 The NIHRC recommends that the Committee for the Executive Office amends clause 16 of the Bill to ensure that a victim-centred approach is adopted to who can be put on notice to provide evidence to the proposed inquiry.
- 2.134 The NIHRC recommends that the Committee for the Executive Office adds a provision to clause 16 of the Bill to remove the blanket limitation on the proposed inquiry accessing evidence that relates to excepted and reserved matters and instead enables the chairperson of the inquiry to have the power to request access to evidence regarding such matters. Outside of the legislation, such a provision could be supported by a Memorandum of Understanding with relevant public authorities and organisations that would hold information regarding reserved and excepted matters that are relevant to the inquiry.
- 2.137 The NIHRC recommends that the Committee for the Executive Office amends clause 18 of the Bill to include a requirement that the inquiry panel includes recommendations within its inquiry report.
- 2.138 The NIHRC recommends that the Committee for the Executive Office amends clauses 18 and 20 of the Bill so that there is a requirement for the First Minister and deputy First Minister and/or NI Assembly to provide a formal response to the inquiry report.
- 2.144 The NIHRC recommends that the Committee for the Executive Office amends clause 19(5) of the Bill to read 'or such a reasonable period as may be agreed between the First Minister and deputy First Minister acting jointly and the chairperson'.
- 2.145 The NIHRC recommends that the Committee for the Executive Office includes within clauses 19(3) and 19(4) of the Bill a duty to consider the specific rights of victims, survivors and relatives regarding access to information.
- 2.148 The NIHRC advises that the Committee for the Executive Office explores with the Executive Office that sufficient safeguards are in place to ensure that the Executive Office's obligations regarding costs set out within

clauses 21 and 22 of the Bill are not enforced or managed in such a way that the inquiry's investigation becomes constrained and dictated to by costs, as opposed to what is required to ensure a thorough investigation is conducted.

2.150 The NIHRC recommends that the Committee for the Executive Office removes the 14-day limit in seeking a judicial review from clause 26(1) of the Bill and reinstating the typical approach of three months to ensure a victim-centred and trauma-informed approach.

2.154 The NIHRC advises that the Committee of the Executive Office explores with the Executive Office whether it is appropriate, given the need for an independent and impartial inquiry, for the Executive Office to be enabled to make rules on matters of evidence and procedure beyond the Bill that establishes the inquiry as set out in clause 27(1)(a) of the Bill.

2.155 The NIHRC recommends that the Committee of the Executive Office includes within clause 27 of the Bill a requirement on the Executive Office to establish a public archive of inquiry evidence, once the inquiry ends.

3.10 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the full breadth of the right to an effective remedy is reflected within the Bill and/or additional mechanisms. This includes ensuring that Part 2 of the Bill contains provisions aimed at restoring victims and survivors to the situation they were in before any human rights violation occurred. This includes providing for a statutory right to appropriate, effective and accessible rehabilitation services for victims and survivors, including access to physical and mental health services, as required. The need should be established through consideration of the specificities of each individual case.

3.11 The NIHRC advises that the Committee for the Executive Office seeks clarity from the Executive Office on how provisions set out in the Administrative and Financial Provisions Bill will relate to victims and survivors of Mother and Baby Institutions, Magdalene Laundries and Workhouses. If these provisions are intended to extend to victims and survivors of Mother and Baby Institutions, Magdalene Laundries and Workhouses, it should be made clear when and in what capacity these

services will be made available. If this is not the intention, the Executive Office should provide a clear reason for the differentiation in approach.

- 3.17 The NIHRC advises that the Committee for the Executive Office explores with the Executive Office what would be considered as professional qualifications or experience under clause 5(7) of Schedule 1 of the Bill. To maintain the independence of the Redress Service, this should either be stated within the Bill itself, or by accompanying guidance as soon as practicable.
- 3.28 The NIHRC advises that the Committee for the Executive Office explores with the Executive Office the reasoning for the inclusion of clause 31(3)(b) of the Bill and amending the Bill to ensure that, if clause 31(3)(b) is retained, that its parameters are made clear at this point in the legislative process. There should be sufficient safeguards in place to protect against secondary victimisation.
- 3.36 The NIHRC advises that the Committee for the Executive Office explores with the Executive Office its explanation for why a family member is not eligible to access a redress payment if the victim died before 29 September 2011. This includes raising concerns at the suitability and human rights compliance of such an approach.
- 3.43 The NIHRC recommends that the Committee for the Executive Office removes clause 31(8) of the Bill and replaces it with a provision that ensures that victims of multiple institutions, or the same institution on multiple occasions, can avail of the standardised payment scheme for each separate occasion.
- 3.44 The NIHRC advises that the Committee for the Executive Office seeks confirmation from the Executive Office about the existence and details of concrete plans and timeframes regarding the legislation intended to introduce the Individual Assessed Payment Scheme. It is encouraged that this additional legislation is introduced promptly and works in partnership with the proposed Truth Recovery Redress Service to fill any gaps in promoting and protecting the right to an effective remedy that exists with the proposed approach taken with the standardised payments. It is further advised that this additional legislation takes into account individual circumstances and the needs of each eligible victim and survivor, ensuring that these are reasonably accommodated and

that the individual payment offered is proportional to the individual harm caused by the relevant institution(s).

- 3.49 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the Truth Recovery Redress Service is publicised effectively across NI and through a variety of mediums, including offline channels. Also, that the application process is expeditious and accessible. This includes ensuring that specific needs are identified and reasonably accommodated for the purposes of accessibility and understanding of the initial information and subsequent application process. This requires specific consideration of the needs of groups at high risk of marginalisation, such as people with disabilities, ethnic minorities and people in places of detention.
- 3.50 The NIHRC recommends that the Committee for the Executive Office introduces a provision within the Bill that enables the Truth Recovery Redress Service to take account of and reasonably accommodate legitimate reasons for late applications, given the sensitive nature of the proposed inquiry.
- 3.56 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the Truth Recovery Redress Service implements a victim-centred approach to the delivery of redress, including by providing training to panel members and all relevant personnel on a human rights based approach, victim centred approach and trauma-informed approach, with a view to sensitising them to the needs of victims and survivors. This includes working closely with victims and survivors and their representative organisations to implement this approach.
- 3.57 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that sufficient support is available and freely accessible to victims and survivors regarding the Truth Recovery Redress Service. This includes, building on and guaranteeing necessary resources to the existing Victims and Survivors Service, that all victims and survivors have access to free, confidential and independent practical and emotional support, as required. Also, that this support is expanded to include a legal support service that offers free and confidential support and financial counselling to all victims and survivors that need it.

- 3.61 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the appeals process for the Truth Recovery Redress Service is victim-centred and trauma-informed, including that all legal advisors and other professionals who engage with the Redress Service receive appropriate, specialised training. This includes ensuring that victims and survivors and their representative organisations are meaningfully engaged with to ensure this approach is effective.
- 3.62 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the appeals process for the Truth Recovery Redress Service is suitably effective in practice, including that it adheres to the principle of independence. This could involve enabling victims and survivors to request oral hearings for which a victim can have representation. Also, that the option is included that the appeal can be transferred to a different appeals panel.
- 3.65 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that orders restricting the disclosure of information with regard to the Truth Recovery Redress Service do not hinder the sharing of or access to the information required to advance the work of the Truth Recovery Inquiry.
- 4.7 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure that the Inquiry and Redress Scheme is fully consistent with Windsor Framework Article 2.
- 4.8 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to guarantee victims and survivors access to remedies and redress equal to the minimum standards required under EU law.
- 4.9 The NIHRC advises that the Committee for the Executive Office engages with the Executive Office to ensure exclusionary eligibility criteria that risks diminishing rights is avoided.

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