

Appendix 1

Access to Adoption Information in Ireland¹

2001: Draft scheme of a bill on adoption information and post adoption contact

This bill was designed to facilitate access to birth certificates for adopted people. However, it also provided for a ‘contact veto’ mechanism, whereby natural mothers who did not want contact from their adult children could register a veto to this effect. Adopted people acting in breach of the veto would be fined or imprisoned.

2003: Adoption Legislation Consultation

In 2003, that draft scheme was published as part of an *Adoption Legislation Consultation*, established by the late Brian Lenihan, who, following criticisms of the 2001 proposals, announced he was removing the threat of criminalisation. The only concrete outcome of the Consultation was the establishment in 2005 of the *National Adoption Contact Preference Register* (NACPR), which has never been adequately resourced or placed on a statutory footing.

2010 Adoption Act

In 2010, Ireland ratified the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*, but the *Adoption Act 2010* contained no provisions on access to information.

2015: General Scheme and Heads of an Adoption (Information and Tracing) Bill

In July 2015, Minister James Reilly published the *General Scheme and Heads of an Adoption (Information and Tracing) Bill*. The scheme included a requirement for adopted people to sign a Statutory Declaration that they would not attempt to contact their natural parent(s) directly as a condition of obtaining their birth certificate. This proposed scheme also envisaged that there might be ‘a compelling reason, *such as may endanger the life of a person*, for not disclosing... information’ to an adopted person. Minister Reilly referred

¹ See also: McGettrick, C. (2020) “‘Illegitimate’ Knowledge: Transitional Justice and Adopted People,” *Eire-Ireland*, 55(1&2): 181-200. (Enclosed as **Appendix 2**)

the Heads of Bill to the *Joint Oireachtas Committee on Health and Children* for pre-legislative scrutiny. The Committee said that, 'based on the weight of evidence and the legal submissions received from witnesses, the Committee [could] find no convincing reason for the inclusion of a Statutory Declaration in the Bill.'²

2016-2019: Adoption (Information and Tracing) Bill 2016

The provisions in the *Adoption (Information and Tracing) Bill 2016* were virtually identical to the 2015 scheme. In early June 2019, Minister Zappone announced she would amend the bill to provide for a new administrative system whereby Tusla would attempt to contact both natural parents when an adopted person requests access to their birth certificate and other personal data. Under the new proposals, natural parents who opposed the release of information had a right to a hearing before the Adoption Authority of Ireland (AAI), who would then make a decision balancing the rights of everyone concerned. Following an email campaign by Adoption Rights Alliance, on 19 June 2019 the minister announced that Committee Stage of the bill would be deferred, pending a consultation process.

In November 2019, the minister circulated four 'Options for a Legislative Pathway' on the *Adoption (Information and Tracing) Bill 2016*. Under the first two options the bill would proceed in its entirety, with 'a presumption in favour' of the release of information to adopted people under Option Two. The third and fourth options provided for the safeguarding of records, while Option Three also included a statutory tracing service and put the National Adoption Contact Preference Register on a statutory footing. In December 2019, the minister announced her intention to progress with Option Three, on the basis of responses received from stakeholders consulted on the four pathways. The bill progressed no further after this time.

² See Joint Oireachtas Committee on Health and Children, *Report on the Pre-Legislative Scrutiny of the General Scheme and Heads of the Adoption (Information and Tracing) Bill* (Dublin: Stationery Office, 2015), 12.