

12 November 2015

Maeve Doherty  
Solicitor  
Mother and Baby Homes Commission of Investigation  
73 Lower Baggot Street  
Dublin 2  
Ireland

Rod Baker  
Consultant  
rod.baker@hoganlovells.com  
D 020 7296 2829  
  
Our ref 5190453  
Matter ref 157324/000001

Dear Ms Doherty

As I believe you are aware, we are acting on behalf of the Adoption Rights Alliance (ARA) and JFM Research (JFMR) on a pro bono basis in connection with the compilation of their submissions to the Commission. As part of our representation, we are also assisting individuals linked to our clients and who wish to make submissions to the Commission in gathering their evidence and preparing witness statements so that these can be as effective and useful as possible.

We have seen a copy of your letter to Claire McGettrick of ARA and JFMR dated 17 September 2015 and have a number of queries in relation to the Commission's procedures which we would be grateful if you would answer so we can provide appropriate advice to those we are assisting. We set these out below:

1. If an individual wishes to submit a written statement to the Commission setting out their evidence, does that preclude them from also giving their evidence verbally to the Commission? Does any such witness statement need to be attached to an affidavit in the form at Appendix 2 of the Rules and procedures?
2. We note your statement that the Commission may disclose the evidence of a witness to "any person who is affected by it and may allow that person or their legal advisors to cross examine the witness". We would be interested to learn in what circumstances this is likely to happen. For example, does it only apply if a witness names a specific person or would it cover an institution?
3. What factors will be used for determining whether cross examination will be required?
4. Is it correct that if a person gives evidence (orally or by witness statement) and the Commission decides that that individual should be cross examined the Commission will give notice to the witness that they need to re-attend for cross examination?
5. What is the position as regards people who are interested to hear what is said by representatives of a particular institution relevant to their situation? Will they be given the opportunity to cross examine those witnesses?

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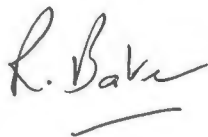
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6. How will the Commission let relevant parties know in advance that a witness that might be of interest to them will be appearing?
7. What is the position if people in contact with ARA/JFMR want to have a legal representative present when someone connected with a particular institution at a particular point in time is giving evidence? In such circumstances, will that representative be allowed to cross examine the witness?
8. How will the Commission ensure that survivors have the ability to comment on evidence in testamentary or documentary form from those involved in the running of institutions that are relevant to them?
9. We note that legal costs will be provided to a witness "where their good name is at issue". It would be helpful if you could explain what that means in practical terms.
10. We note from the Commission's Rules and Procedures the reference to Section 11 of the 2004 Commissions of Investigation Act. That section states that it is a criminal offence for any person to disclose evidence given to the Commission in private. Please would you confirm from the Commission's perspective that this does not prohibit an individual who has given evidence to the Commission repeating his/her own evidence in public.
11. Can individuals who were not in one of the institutions other than the 14 listed in the Commission's terms of reference give evidence to the Confidential Committee or the Commission?
12. What are the protocols for the cross examination of witnesses?
13. What happens after a witness has been cross examined? How will the Commission use the questions asked and responses given by witnesses? Will these exchanges be reflected in the Commission's report? What criteria will the Commission use in examining these materials?
14. If a witness appears before the Commission, can they opt to have their statement considered by the Confidential Committee also, so that their experiences can be reflected in the Confidential Committee report due next August?
15. What provisions are in place for individuals who wish to give evidence to the Commission but who live abroad and cannot travel to Ireland? The Rules contemplate evidence being given and cross examination undertaken by video link. Will the Commission meet the cost of the video link at the witnesses' end??

We look forward to receiving your response.

Yours faithfully

A handwritten signature in black ink, appearing to read "R. Baker", with a horizontal line underneath the name.