



Judge Yvonne Murphy  
Chairperson  
Commission of Investigation into Mother and Baby Homes  
73 Lower Baggot Street  
Dublin 2

8<sup>th</sup> February 2021

**Re: The retrievability of data and the right to rectification under Article 16 GDPR**

Dear Judge,

I refer to the transfer of the databases and records of the Commission to me as Minister under section 4 of the Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter, Act 2020 (“the Act of 2020”) later this month.

While I fully acknowledge that the Commission of Investigation (COI) is currently the data controller of the personal data contained in the records, I am cognisant of the fact that on transfer of the records to me, I will, as a data controller, have particular obligations under GDPR in respect of that data. These obligations will include giving effect to the right to rectification. At that point, data subjects may seek to exercise the right to rectification in respect of the personal data that has transferred to me under section 4 of the 2020 Act.

In particular, in relation to the obligations arising under Article 16, my understanding is that there are two issues that may be raised on the right to rectification with any data controller, one being (i) inaccurate information and the other being (ii) incomplete information. I am currently giving consideration to how, I, as the data controller of the records on their transfer to me under the Act of 2020 will give effect to the right to rectification under Article 16.

In the light of my impending obligations as a data controller, it would be helpful to know in respect of the recordings and contemporaneous notes of the Confidential Committee whether, with the assistance of specialist technical expertise, it may be that personal data may be retrieved from any source, including the server or from back-up copies that may have been made including where such back-up copies may be stored off-site. This clarification would be hugely helpful in informing how I intend to proceed to give effect to Article 16 as regards incomplete or inaccurate data when the records transfer to me.

The options that may be available to give effect to the right to rectification may well be limited once the data transfers to me under section 4 of the Act of 2020. I have indicated that it is my



intention to publish the Department's policies and procedures later this month in accordance with the principle of transparency. The Department's policies will capture how it is intended to approach the right to rectification. Clarification at this juncture of whether the recordings and notes are recoverable would greatly assist me with how I will address the right to rectification in the Department's policies and procedures.

I look forward to hearing from you.

Yours sincerely,

Roderic O' Gorman, TD

Minister for Children, Equality, Disability, Integration and Youth