



Re: The Birth (Information and Tracing) Bill 2021

11th January 2022

Dear TDs and Senators,

Minister Roderic O’Gorman has this evening announced that the Birth (Information and Tracing) Bill will be published by tomorrow morning.

While we digest the Bill over the coming days, we ask that you read and respond to it bearing in mind the minimum standards that must be met in order to ensure that this Bill represents a true measure of justice for people affected by forced family separation in Ireland.

We strongly urge you to read the Bill alongside the [pre-legislative scrutiny report](#) published by the Joint Oireachtas Committee on Children, Equality, Disability, Integration and Youth on 14th December 2021. **The Joint Committee made 83 recommendations for amendments to the General Scheme of Bill.** These recommendations, which are based on the Joint Committee’s engagement with affected people and other experts, **must be implemented in full.**

At a minimum, the Bill published tomorrow should contain the following:

1. **Unconditional access to birth certificates and ‘birth information’ for everyone, regardless of natural parents’ contact preferences. Nobody can be left behind.**
2. **A clear statutory right of access to one’s own ‘care’ or adoption file** (including as a mother) including one’s personal data that is also the personal data of another, and to records concerning a family member who died in ‘care’ or adoption.
3. **The file, the whole file and nothing but the file:** No discrimination when accessing personal data, and a strong presumption towards openness, in light of the fact that the personal data in question relates to injustices to which mothers, adopted people, others placed in ‘care’ and families were subjected.

4. A statutory right of access to the administrative records, wherever they are held, of all adoption agencies, institutions, State bodies and others involved with forced family separation for natural mothers, survivors, adopted people and others placed in 'care'.
5. A clear commitment in the legislation to the safeguarding and centralisation of all relevant records in the National Memorial and Records Centre.
6. An enhanced tracing service, run by independent genealogists, to include a robust complaints mechanism and training for social workers and others involved in the service.
7. The new statutory based Contact Preference Register should include all registrations from the National Adoption Contact Preference Register (NACPR), and the contact preference options from the NACPR should be reinstated.
8. The right to know you are adopted.
9. Repeal of statutory 'gagging orders' imposed on people who gave evidence to the Residential Institutions Redress Board and those who gave evidence to Mother and Baby Homes Commission of Investigation.
10. Information rights for adopted children and their natural parents.

To date, the General Scheme of Bill has not promised justice; therefore the Bill proper which is published tomorrow **must be dramatically different**. The May 2021 [General Scheme of the Birth Information and Tracing Bill 2021](#) would not grant information access to mothers or to relatives of the deceased, and the Bill would deny adopted people and those subjected to illegal birth registration access to any identifying information about their siblings or information about a parent's or guardian's care of them. The General Scheme of Bill would require a person's medical information to be given to a health professional rather than directly to them. The General Scheme of Bill does not mandate information disclosure by any data controllers other than TUSLA (the Child and Family Agency) and the Adoption Authority of Ireland. Furthermore, the General Scheme of Bill would restrict the right to birth identity by requiring people whose parent has expressed a 'no contact' preference to attend a discriminatory and unnecessary Information Session at which they will be informed not of their own entitlements but of their parent's 'privacy rights, and...the importance of respecting their contact preferences.'

It is imperative that the Bill to be published tomorrow demonstrates a complete shift away from the profoundly harmful and unsubstantiated conclusions of the Mother and Baby Homes Commission of Investigation, which [the Government has accepted were](#)

reached following an unlawful process. Compounding the abuses already suffered, the Commission claims among other things that: criticisms of TUSLA regarding information and tracing have been 'unfair and misplaced'; religious-held records 'are the property of the holders and they have the right to determine who gets access'; where babies died 'it is possible that [their mother] knew the burial arrangements or would have been told if they asked. It is arguable that no other family member is entitled to that information'; and there is 'very little evidence that children were forcibly taken from their mothers'.

For the Clann Project's previous analysis of the May 2021 General Scheme of the Birth Information and Tracing Bill 2021 see: 1) a short note on the on the General Scheme of the Bill, and 2) the Clann Project's submission to the Children's Committee, which sets out the issues in greater detail. **We also urge TDs and Senators to read the Bill published tomorrow alongside the Clann Project's analysis.**

After we have had time to consider the Bill we will contact you with further analysis and amendments.

Yours sincerely,

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