

These notes refer to the Preservation of Documents (Historical Institutions) Act (Northern Ireland) 2022 (c.26) which received Royal Assent on 12 May 2022

Preservation of Documents (Historical Institutions) Act (Northern Ireland) 2022

EXPLANATORY NOTES

BACKGROUND AND POLICY OBJECTIVES

3. In January 2021, following the publication of the research by Queen's University Belfast (QUB) and Ulster University (UU) into the operation of Mother and Baby Homes and Magdalene Laundries, the Northern Ireland Executive agreed to undertake an independent investigation into the institutions. It was also agreed that the nature and shape of the investigation would be co-designed with victims/survivors over a six month period.
4. In March 2021, the Department appointed a Panel of experts (Deirdre Mahon, Director of Women and Children's Services and the Executive Director of Social Work in the Western Health and Social Services Trust NI, Professor Phil Scraton, Professor Emeritus, School of Law, Queen's University Belfast and Dr Maeve O'Rourke, Lecturer in Human Rights at the Irish Centre for Human Rights, School of Law, National University of Ireland Galway.) known as the Truth Recovery Design Panel (TDRP), to undertake the co-design process with victims/survivors of these institutions. Locally and internationally, 186 victims/survivors engaged with the Panel during the co-design process and informed the development of the Panel's recommendations.
5. The TDRP published 'Mother and Baby Institutions, Magdalene Laundries and Workhouses in Northern Ireland Truth, Acknowledgement and Accountability Truth Recovery Design Panel Report for the Northern Ireland Executive' on 5 October 2021. The report set out five core recommendations.
 - a) Recommendation 1: Adoption of Guiding Principles;
 - b) Recommendation 2: Responsibilities of The Executive Office;
 - c) Recommendation 3: An Integrated Truth Investigation;
 - d) Recommendation 4: Access to Records; and
 - e) Recommendation 5: Redress, Reparation and Compensation.
6. The Act is intended to give effect to part 1 of recommendation 4 by the TDRP as set out below:

““The Truth Recovery Panel recommends immediate action by the Northern Ireland Executive, supported by the Northern Ireland Assembly, to create a statutory requirement on all relevant record holders to preserve and not destroy any information relating to Mother and Baby Institutions, Magdalene Laundries, Workhouses, adoption-related institutions and ‘baby homes’, and their policies and practices, including personal records. The requirement should extend to all State and non-State institutions and agencies, officials, representatives and professionals that serviced them.”

7. The policy aim is to ensure that records relating to relevant historical institutions are safely maintained and not destroyed. The relevant institutions include Mother and Baby Institutions, and Workhouses – places where women were placed as a result of pregnancy outside of marriage and then gave birth to children, many of whom were adopted and many more of whom were taken into care – either residential care or foster care. They also include Magdalene Laundries – places to which many women from Mother and Baby Institutions were then moved in the absence of anywhere else to go subsequent to giving birth. The records relating to women held by the institutions in which they resided or by the agencies responsible for either placing them there or making arrangements for the adoption and care of their children hold the stories of many children’s early lives. They mark the start of many children’s adoption and/or care journeys.
8. These are the records sought and used by adoption agencies to supplement their own records for the purpose of assisting with tracing and facilitating contact between adopted adults and their birth relatives, where this is agreed.
9. The stated reason within the section for preserving these records is their potential relevance to a future investigation or inquiry. The Northern Ireland Executive has agreed that both – an investigation and an inquiry – will take place in the future and The Executive Office is responsible for taking both forward. However, they are also records of historical significance to individuals and society generally and, on that basis alone, are worthy of preservation. The report of the research by QUB and UU pointed to the poor state of many of these records and the conditions in which they are being held. The Truth Recovery Design Panel also recommended the establishment of a permanent archive, to which these records will be key.