**Memorial for Victims and Survivors of Historical Institutional Childhood Abuse**

**Summary of Advice**

**August 2023**

**Recommendations**

1. **The *recommendation for a physical memorial as outlined in the Historical Institutional Abuse Inquiry report should be implemented*, without additional delay. This is the responsibility of The Executive Office and the Arts Council of Northern Ireland.**
2. **There should be *ongoing and meaningful engagement with a broad range of victims and survivors* throughout the process of commissioning and developing memorial and the views of victims and survivors should be central to progressing all stages of memorial.**
3. **Active consideration should be given to *establishing a* *memorial programme* in recognition of the diversity of views among victims and survivors regarding memorial and in acknowledgment of the wider range of outcomes that can be achieved by a broader programme approach.** **This reflects established good practice in other jurisdictions where memorial has encompassed a variety of responses, including national, local and different types of memorial.**

**Introduction**

The Commissioner for Survivors of Institutional Childhood Abuse was established by the Historical Institutional Abuse (Northern Ireland) Act 2019.[[1]](#footnote-1) The Commissioner’s principal aim is to promote the interests of any person who suffered abuse while a child and while resident in an institution between 1922 and 1995 (both inclusive). Articles 24 and 25 of the legislation set out the Commissioner’s duties and powers to provide advice on matters concerning the interests of victims and survivors and to make representations and recommendations on such matters.

In providing advice on memorial, the Commissioner highlights that memorial and commemoration form one aspect of government’s reparation and redress obligations to victims and survivors who were subjected to systematic and systemic abuse as children while in the care of state and religious institutions; abuse which the state failed to detect or prevent.

Please note that this paper reflects advice on memorial prepared by the Commissioner and provided to the Historical Institutional Abuse Project Board in November 2022 and The Executive Office in April 2022.

**Memorial in Northern Ireland**

Implementing a memorial for survivors of historical institutional childhood abuse is one of the last outstanding recommendations of the 2017 Historical Institutional Abuse Inquiry report which stated that:

*Physical structures such as sculptures or plaques are valued as visible reminders of past events or individuals whose memory should be commemorated. As in the case of an apology, there were differing views expressed by applicants, many of whom were very strongly of the opinion that a memorial was not appropriate because they did not want to be reminded of their experiences as children in residential institutions. Whilst we respect that view, we are of the opinion that a memorial should be erected to remind legislators and others of what many children experienced in residential homes*.”

The Inquiry therefore recommended that:

“… *a suitable physical memorial should be erected in Parliament Buildings, or in the grounds of the Stormont Estate. The design of such a memorial should be chosen by a competition conducted by the Arts Council of Northern Ireland. The Arts Council should invite representatives of those who were abused as children in residential institutions in Northern Ireland to help in the selection of the successful design. The memorial should be paid for by the Northern Ireland Executive*.” [[2]](#footnote-2)

The Commissioner stresses the importance of bringing forward the memorial project as a matter of priority given the time which has already passed from the initial recommendation being made by the late Sir Anthony Hart in 2017. Many of those who suffered abuse between 1922 and 1995 are entering the later stages of their lives and are yet to see any formal memorial or state commemoration to acknowledge the abuse they suffered. Many survivors may have already died without the state’s responsibility in relation to memorial being fulfilled.

**Background**

As highlighted above, memorial is one of the last outstanding recommendations of the Inquiry. The delayed official public apology to victims and survivors of historical institutional childhood abuse took place on 11 March 2022 and the Commissioner notes that memorial and apology are related and complementary aspects of symbolic reparation which are reflected in the *United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.[[3]](#footnote-3) It is the view of the Commissioner that an acknowledgement regarding the delay in implementing the memorial recommendation should be made, with a commitment to undertaking the memorial process as early as possible. The Office recognises that the absence of Ministers and lack of functioning Executive and Assembly have impacted on elements of progressing memorial. During this period, the Commissioner has engaged with The Executive Office, the Historical Institutional Abuse Project Board, the Arts Council of Northern Ireland and those working on memorial in other jurisdictions to ensure that the issue of memorial has continued to be addressed and that developments in Northern Ireland can learn from memorial initiatives that have been undertaken elsewhere.

**Rights-based Obligations**

The Commissioner underlines the importance of memorial in the fulfilment of the state’s obligation for addressing violations of serious human rights abuses under international law. Memorial is internationally recognised as an important aspect of reparative justice for victims of serious human rights abuses under the United Nation’s Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law which states:

*In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.****[[4]](#footnote-4)***

The United Nations is clear that the right to satisfaction includes commemoration and tributes to victims.[[5]](#footnote-5) The Commissioner also notes that, in addition to state acknowledgement of the experiences of victims and survivors who suffered abuse in institutions in Northern Ireland, memorial can offer recognition that the voices of survivors have been heard and can provide a place for reflection and space where survivors, family members and loved ones can remember and mourn. As well as forming part of a symbolic reparation to victims and survivors of abuse, memorial can also seek to promote awareness and understanding across the wider population about the abuse and failures that occurred and draw attention to the importance of taking steps to avoid any repetition of such failures.

**Engaging with Victims and Survivors**

Work to take forward memorial in Northern Ireland must be informed at all stages by the views of victims and survivors of historic institutional child abuse. Without the views of victims and survivors being central to the process, any memorial project is likely to fail to represent or symbolise their experience, and therefore be less likely to be acceptable to survivors as an appropriate commemoration. In order to assure the robustness of her recommendations, the Commissioner engaged with representatives from the respective governments of Australia, Canada and the Republic of Ireland who have, or are currently, taking forward memorial initiatives. The importance of meaningful and effective engagement with victims and survivors on the part of those developing and commissioning memorial was a constant theme in the Commissioner’s dialogue with these representatives.

While we note that not all victims and survivors may wish to participate in a process regarding memorial and that the decision not to participate or to withdraw at any point must be respected, it is critical that a range of opportunities which allow survivors to choose whether they wish to participate is provided. Engagement should be undertaken with a wide group of survivors and should have regard for the views of the broadest range of victims possible, including for example, by ensuring that opportunities are sought to engage with victims who are not in contact with representative groups and with survivors who live outside of Northern Ireland.

We are also mindful that some victims and survivors will have been subject to abuse in more than one institution, for example, some girls may have been resident in institutions as children, followed by Mother and Baby Homes or Magdalene Laundries and, subsequently for some, their children may then have become resident in institutions. It is therefore important that engagement on memorial is responsive to the full range of victims and survivors’ experiences and that where there is ongoing public discourse across these distinct areas and an intersectionality of experience is identified, that this provides an opportunity for further learning to emerge in implementing memorial for victims and survivors of historical institutional childhood abuse.

Learning from elsewhere highlights that while no single memorial is likely to speak to every survivor, extensive consultation on the part of those with responsibility for developing memorial and, through this, identifying a general consensus on the most important aspects of memorial can mean that a final result is more likely to be acceptable to a greater number of survivors. In line with this, victims and survivors should be involved at all stages of any memorial project, including in relation to the design, commissioning and selection process of any physical memorial.

As highlighted in the Historical Institutional Abuse Inquiry report, victims and survivors shared a wide range of views with the Inquiry regarding memorial and from direct engagement with victims and survivors’ groups, the Commissioner is mindful of this diversity of views on the value, purpose, location and nature of any memorial. It is however important to explore this divergence in views and, as part of this process, to consider where points of shared purpose and commonality may offer a way forward.

**A Memorial Programme**

Following on from this, it would be useful to consider memorial in a broader context and to explore whether, as well as the physical memorial recommended by the Inquiry Report, additional forms of memorial could be progressed to establish a *memorial programme*. This multi-stranded approach which considers more than one form of memorial may serve to both address differing views about commemoration and strengthen the impact and legacy of memorial. In developing such an approach, it may be helpful to draw on work commissioned by the Panel of Experts on Redress in relation to memorial in Northern Ireland which noted that through discussion, participants came to view memorial as being associated with a wide range of aims, such as, acknowledgement, reflection, promoting awareness and understanding.[[6]](#footnote-6)

In seeking to learn from work to implement commitments to memorial in other jurisdictions, it is notable that a range of forms of memorial, which go beyond a single physical memorial are being taken forward globally, following consultation with survivors. Engagement by the Office of the Commissioner with lead officials in Australia, Canada and the Republic of Ireland has highlighted that a broader programme approach can be better placed to meet a range of victims and survivors needs and preferences and allow for greater ownership of and participation in the memorial process.

For example, while some survivors may express no interest in a physical memorial they may wish to engage in oral history or archive projects to tell their story and have this documented on public record and in educational materials. Both forms of memorial are equally valid and may bring about cathartic or healing experiences for a victim or survivor in different ways. In another example, concerns relating to the inclusivity and accessibility of memorial in Australia, particularly when considering the demographic profile of the survivor group in terms of age, health status and emigration patterns, led to the development of a digital walkthrough of the National Monument in Canberra to better promote access to memorial.

In turn, in the Republic of Ireland in addition to the current development of a National Centre for Research and Remembrance in Dublin, victim and survivor commemoration events and local memorial initiatives have been introduced, including through a grant scheme open to survivor-led organisations. The site of the National Centre will provide museum and exhibition space, a records and lived experience repository, and a space for reflection as well as community, early learning and educational facilities and social housing. This illustrates the way in which memorial can not only seek to acknowledge the systemic failings of the past but also give meaning to how the state can put in place initiatives to benefit survivors and their families as a form of reparation for the harm caused to individuals and families affected by transgenerational trauma and disadvantage.[[7]](#footnote-7) This potential for a broader form of memorial to contribute more widely to redress and justice for victims, survivors and their loved ones should not be lost in Northern Ireland.

**Recommendations**

As Commissioner, I recognise the wide range of views held by survivors regarding memorial and highlight that each perspective and opinion is valid. It is however important that the outstanding recommendations of the Historical Institutional Abuse Inquiry report are taken forward, including in relation to memorial. I highlight that the following recommendations should be progressed in Northern Ireland:

1. **The *recommendation for a physical memorial as outlined in the Historical Institutional Abuse Inquiry report should be implemented*, without additional delay. This is the responsibility of The Executive Office and the Arts Council of Northern Ireland.**
2. **There should be *ongoing and meaningful engagement with a broad range of victims and survivors* throughout the process of commissioning and developing memorial and *the views of victims and survivors should be central* to progressing all stages of memorial.**
3. **Active consideration should be given to *establishing a* *memorial programme* in recognition of the diversity of views among victims and survivors regarding memorial and in acknowledgment of the wider range of outcomes that can be achieved by a broader programme approach. This reflects established good practice in other jurisdictions where memorial has encompassed a variety of responses, including national, local and different types of memorial.**

1. [Historical Institutional Abuse (Northern Ireland) Act 2019 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/2019/31/contents/enacted) [↑](#footnote-ref-1)
2. Historical Institutional Abuse Inquiry (2017) Inquiry Report; para 12. Available at: [Historical Institutional Abuse Report, Volume 1 Chapter 4 Recommendations](https://www.hiainquiry.org/sites/hiainquiry/files/media-files/Chapter%204%20-%20Recommendations.pdf) [↑](#footnote-ref-2)
3. UN (2006) UNCHR Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, article 18. Available at:

   [UNCHR Basic Principles and Guidelines](https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation) [↑](#footnote-ref-3)
4. UN (2006) UNCHR Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, article 18. Available at:

   [UNCHR Basic Principles and Guidelines](https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation) [↑](#footnote-ref-4)
5. ibid para 22g [↑](#footnote-ref-5)
6. Professor P. Lundy (2016) Historical Institutional Abuse: What Survivors Want From Redress; Commissioned by the Panel of Experts on Redress: Ulster University. Available at:

   <https://core.ac.uk/download/pdf/287020757.pdf> [↑](#footnote-ref-6)
7. [gov.ie - Working Group on Actions Involving Local Authorities as identified in the Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions (www.gov.ie)](https://www.gov.ie/en/publication/cfc83-working-group-on-actions-involving-local-authorities-as-identified-in-the-action-plan-for-survivors-and-former-residents-of-mother-and-baby-and-county-home-institutions/) [↑](#footnote-ref-7)