4

Irish Redress

4.1 Introduction

This chapter describes three very different Irish redress programmes. The Industrial Schools programme operated by the Residential Institutions Redress Board (RIRB) emphasised interactional injuries, had many applicants, a large budget, and high public profile. The RIRB was followed by Caranua, an ancillary programme that redressed the consequences of injurious care. The third programme responded to survivors of Ireland's Magdalene laundries by addressing structural injuries. Its designers were told, in short, to avoid creating anything like the RIRB.

4.2 The Industrial Schools Programme

In 1999, the television series *States of Fear*[1] exposed systemic abuse in Ireland's residential industrial schools. Responding to the resulting public uproar, Taoiseach Bertie Ahern made a public apology on 11 May 1999 in which he announced his intention to set up the Commission to Inquire into Child Abuse (the Laffoy/Ryan Commission). The commission consisted of two bodies, the Confidential and Investigation Committees. The Confidential Committee heard testimony from survivors in private and without judgement, while the Investigation Committee held inquisitorial public hearings. Almost immediately, solicitors representing large numbers of survivors refused to participate in the Investigation Committee until they were guaranteed a monetary redress programme (Laffoy 2001: 13).

Acceding to that demand, the Irish government appointed the three-person Compensation Advisory Committee to design a redress programme. No survivor served on the committee. Its 2002 report (The Compensation Advisory Committee 2002) was adopted into statute

[1] The three-part documentary *States of Fear* (1999) is discussed in Smith (2001).

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('Residential Institutions Redress Act' 2002). That Act established the Residential Institutions Redress Board (RIRB) to operate the programme, securing its independence. While the Advisory Committee proceeded, the government negotiated an agreement with the religious orders that operated most industrial schools. The orders paid €128 million in cash and property to the state in exchange for indemnities against survivors who obtained redress. That figure was expected to fund approximately half of the programme's cost (Committee of Public Accounts 2005: unpaginated). That estimate proved grossly erroneous and politically calamitous.

The RIRB received survivor applications, arranged support for applicants, and adjudicated settlements. Chaired by Justice Esmond Smyth, the RIRB's twelve board members came from different backgrounds, including law, academia, and social work. Board members were not public servants and membership varied over time. In addition, the RIRB had, at full complement, two full-time and four part-time lawyers and approximately thirty seconded civil servants as administrators. There was no effort to include survivors.

The RIRB's outreach strategy focussed on broadcast media. Irish news regularly reported on the redress programme and, in addition, the RIRB advertised on television (with an emphasis on sporting events), local radio and newspapers, and tabloid publications (IR Interview 3). The RIRB held early meetings with survivor groups, including émigrés in the United Kingdom. The RIRB developed a well-run website on which the RIRB irregularly published newsletters alongside its annual reports (Residential Institutions Redress Board Undated). To help participants, the RIRB published both short and long guides to the application process. The long guide provided a consistent and authoritative reference, while the shorter version was a more accessible web resource (Residential Institutions Redress Board 2005b, 2003).

The RIRB originally expected 6,500–7,000 applications (Committee of Public Accounts 2005). By September 2015 there were 16,649, of which 15,579 resulted in payment offers (McCarthy 2016: 27). An eligible application needed to meet five conditions: survivors must apply; be alive on 11 May 1999 (the date of the Taoiseach's apology); provide identification; evidence of institutional residence; and evidence of injury. Concerning residence, eligible applicants must have stayed at a scheduled institution. Originally 123 institutions were scheduled, the minister of education would add 16 more, bringing the total to 139. Survivors without formal identification could swear an affidavit confirming their

identity. Nine cases of apparent misrepresentation were referred to the police, resulting in one prosecution. Men submitted 9,981 applications and women submitted 6,668: a ratio of nearly 60:40 (Residential Institutions Redress Board 2017: 29). That difference might reflect the survivor population, there were more boys than girls in scheduled institutions (O'Sullivan 2009). Expatriates lodged nearly 40 per cent of applications.

The programme was open to applicants from January 2003 until December 2005 (thirty-five months). In 2003 and 2004, the RIRB received 2,573 and 2,539 applications, respectively (Residential Institutions Redress Board 2004: 8 and 2005a: 9). Then, in 2005, applications rose to 9,432, of which 3,700 arrived in the two weeks before the closing deadline of 15 December (Residential Institutions Redress Board 2006: 23). The enabling statute provided for late applications under 'exceptional circumstances' ('Residential Institutions Redress Act' 2002: paragraph 8.2). The courts compelled the RIRB to apply that provision broadly and the RIRB accepted 2,210 late applications. This included a 2009–2010 spike corresponding to the publication of the Commission of Inquiry's final report and increasing awareness of the lax provisions for late applications (Residential Institutions Redress Board 2010, 2011). The RIRB petitioned the government to legislate the programme's closure, which it did as of 17 September 2011.

Successful applicants must have experienced one or more of three types of interactional sexual, physical, and emotional abuse. Any act of sexual abuse constituted a basis for claim. Eligible physical abuse must have caused serious damage – explanatory examples include broken limbs, serious scarring, or long-term medical problems. Emotional abuse included sustained fear and verbal denigration and depersonalisation – damaging the survivor's family relations by, for example, lying to them about their birth names. The programme also redressed structural injuries of wrongful neglect, including impediments to the survivor's physical, mental, and emotional development such as malnutrition, inadequate education, and insufficient clothing and bedding. For claims of emotional abuse and wrongful neglect, applicants needed to show that abuse caused further physical or psychological harms. Survivors could also claim for 'loss of opportunity', which encompassed failing to provide the survivor with the legal minimum of education. Eligibility for loss of opportunity changed depending upon when the applicant was in residence. For example, a failure to receive secondary education became compensable only after free secondary education became available in 1967. Loss of

opportunity also encompassed how care experiences damaged the survivors' career.

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The RIRB assigned each application to a case officer. The officer assessed the application for completeness and checked to see if an interim payment was appropriate. Interim payments were available for applicants with dementia, a life-threatening disease or similar illness, and for elderly applicants who were born prior to 1 January 1931 (1 January 1933 after 2006). The maximum interim award was €10,000 and its value was deducted from any final award. Those applications were also prioritised for prompt resolution. The RIRB fast-tracked 3,284 applications; 2,886 due to age, 398 on medical or psychiatric grounds (Residential Institutions Redress Board 2017: 31).

The RIRB contacted any person or institution named in the application as an offender. Institutions (usually a religious order) were informed of the identity of the survivor, their claims, and the names of alleged offending persons associated with the institution. Respondent institutions were asked for the contact details of offending persons, who the RIRB would then notify. Named persons or institutions could request a copy of the redress application, excepting medical reports. Institutions would normally provide the RIRB with a written response, which became part of the case file. Alleged offenders and institutional representatives could request a hearing to contest or correct facts alleged in the application. Written responses were normal, but few attended interviews. The findings of the RIRB were confidential and inadmissible in court. Its processes had no legal consequences for offenders.

Most survivors needed care records to compile their application. The industrial schools were supposed to have kept a register of entry. Where those records were missing or inadequate, applicants needed other evidence of residence. Survivors could authorise their lawyers, the RIRB, or another party to search for relevant documents. In cases where no direct documentary evidence of residence was available, applicants could offer corroborating evidence, including memories of institutional personnel, the presence of other survivors, and/or swear an affidavit describing the period of residency.

Written testimony was the primary evidence of abuse, sometimes supplemented by oral testimony at an interview. The application form

provided tables for listing injurious incidences (where and why they occurred and who committed them) along with any consequent damage suffered. However, most survivors supplied written narratives. Whatever the format, applicants needed to provide detailed information because the programme assessed severity according to the frequency and duration of abuse and whether different forms of abuse were combined. Claims for damage required medical evidence; therefore, most applications included reports from one or more medical professionals. These reports cost the RIRB around €6 million (McCarthy 2016: 25). Reports needed to demonstrate that specific illnesses and sequelae were a consequence of experiences in an industrial school. The RIRB contracted medical advisors to review the survivor's medical evidence. If the advisor disagreed with the applicant's material, the RIRB would ask for a medical report from a different professional.

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This was a highly legalistic programme that reflects the influence of some survivors' lawyers in its development. As related above, the redress programme originated as a response to legal pressure on the Laffoy/Ryan Commission. Those lawyers made influential submissions to the Compensation Advisory Committee (The Compensation Advisory Committee 2002: 7). In effect, the redress programme's success depended upon its acceptance by lawyers. The scheme reflects their influence: the programme is a structured settlement process modelled on Irish civil law.

The complexity of the redress scheme led the RIRB to encourage applicants to retain legal counsel, which 98 per cent did (McCarthy 2016: 10). Lawyers mediated most communications between the survivor, record-holding bodies, medical consultants, and the RIRB. The remuneration obtained by lawyers reflects the centrality of their role: the mean average legal fee paid by the RIRB per claim was €12,193[2] per application, 20 per cent of the average award (Residential Institutions Redress Board 2017: 34). These costs reflect the lawyers' ability to bill the publicly funded RIRB for any expenses, unconstrained by the usual limits of a private client's willingness or ability to pay. Yet, the RIRB would only defray the survivor's legal costs if the survivor accepted a settlement. Survivors who rejected the RIRB's offer became responsible for their own legal costs – a noteworthy incentive.

[2] The figure includes costs incurred by lawyers in obtaining medical reports.

Confidential services helped survivors access their records and search for family members. In addition to developing a unit within the Department of Education, the state contracted with Barnardos Ireland to provide the Origins Tracing Services. Origins was built on capacities that Barnardos had developed delivering post-adoption services. As a Protestant organisation, Barnardos had not operated a scheduled institution – it was not an offender. Origins provided records for around 5,000 redress applicants. Some applicants obtained records directly from the religious orders that ran the schools. However, most received their residential records from the Department of Education's designated unit, via their lawyers. In the early 2000s, the department digitalised all its care records, creating a searchable database. To access their records, the survivor (or their agent) filed a Freedom of Information application asking for a 'Report by School Number and Pupil Number' with proof of identification, a privacy authorisation, and whatever information the applicant could provide about their family, their birth identity and date, and the dates of their institutional residence (IR Interview 11). If records were needed quickly, as was the case in the lead up to the programme's closure in late 2005, the applicant could obtain a provisional indication of residence. In the period 2005–2006, both Origins and the department developed lengthy waiting lists.

In September 2000, the Department of Health established the National Counselling Service for survivors, employing approximately sixty counsellors by November 2001 (The Compensation Advisory Committee 2002: 65). The Catholic Church also provided counselling through its Faoiseamh service, which became Towards Healing in 2011. These services combined direct counselling, by phone or in person, with funding for external therapy. Survivor-led organisations such as One in Four, Aislinn, and Right of Place also offered counselling. In 2001, the state set up a National Office for Victims of Abuse to act as an umbrella organisation to assist survivors, and co-ordinate the work of survivor groups (Department of Education and Skills 2010: 112). However, few groups joined and the office closed in 2006. Funding for survivor support groups continued and totalled around €42 million by the end of 2015 (McCarthy 2016: 36). The RIRB actively engaged with survivor groups, holding regular consultation meetings. When asked, workers from support agencies attended the board's interviews with survivors and provided advice and logistical support. For example, Right of Place operated a bed and breakfast facility for survivors who travelled to Cork to meet with lawyers or to attend an interview or settlement conference. The RIRB arranged

for Finglas Money Advice and Budgeting Service to provide financial advice to applicants. After 2008, applicants were also referred to Ireland's Money Advice and Budgeting Service.

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Applications were assessed by a panel of two board members. The composition of the panel for each application was chosen by lot to help ensure consistency. Panellists held evidentiary interviews with 3,325 applicants – 20 per cent. Interviews were required in any case requiring verbal testimony or to clarify conflicting evidence. An applicant might also request an interview to testify in person. In a small number of cases, and only with the permission of the board, alleged offenders cross-examined applicants. Interviews averaged around two hours in length. Most were held in the RIRB's offices in southern Dublin. These offices were well-served by public transport and pleasantly mundane in appearance. The RIRB tried to keep interviews informal, although lawyers for the RIRB and the survivor usually attended. The RIRB defrayed the attendance costs for the applicant, counsel, and any support person. Panellists travelled to hold interviews with ill or very elderly applicants. In some cases, the RIRB held interviews in prisons and in psychiatric hospitals; however, this was not the preferred option and the RIRB worked with prisons to enable applicants to attend the RIRB's more hospitable offices. RIRB held interviews in the United Kingdom for applicants who could not travel to Ireland.

The panel's first task was to establish the facts of the application. Here, the standard of evidence was a loose plausibility test: if the injuries described by the application were plausible, the RIRB did not interrogate them further (IR Interview 3). However, if the file contained disconfirming evidence, or parts of the application were disputed, the test became the balance of probability and the case would require an evidentiary interview. Panellists used the standards of the day – acts had to be illegal or against policy if they were to be redressable.

Settlement values depended upon both the experience of abuse and the damage caused by that abuse. Panellists assessed the evidence using a fourfold taxonomy of injuries, looking for evidence of abuse, medically verified physical/psychiatric illness, psycho-social damage, and loss of opportunity. Having assessed the evidence, the two-member panel would agree on a provisional numerical score for each component using the ranges indicated in Appendix 3.1. Having scored each component,

panellists then tallied the component scores to produce an overall total, using the matrix in Appendix 3.2 to convert the application's score into euros. The panellists would consider the result. If they thought it inappropriate, they might recalculate the provisional score or, in exceptional cases (fewer than ten), add extra monies up to the value of 20 per cent.

With a provisional value in hand, the RIRB would call a settlement meeting. Settlement meetings were conducted between counsel for the RIRB and the survivor. Although the survivor would usually be present at the office, they were rarely part of the actual negotiations, which were handled by their lawyer. As with evidentiary interviews, the RIRB was responsible for expenses. Originally, the meeting began with the board's lawyer explaining their provisional assessment. However, after consultation with survivor groups counsel for the applicant were permitted to open negotiations. Negotiations could, and often did, change the provisional assessment, leading to a changed payment offer (IR Interview 3). Most meetings ended with an agreed award value. Once that was complete, the RIRB formally notified the applicant of their settlement offer. Applicants had twenty-eight days to accept or decline the offer or appeal to the Redress Review Committee (appointed by the minister for education). By 2014, the committee had made 571 awards following a review, which increased the original award by an average of 39 per cent (McCarthy 2016: 26). Applicants could also appeal to the ordinary courts on procedural matters.

Funding for awards came from the Ministry of Education. That funding was not capped. The minister of education approved all awards, but that was a formality; the minister approved RIRB's every recommendation. Awards were not taxable as income, nor were they intended to affect the survivors' eligibility for any means-tested benefit. The Act empowered the RIRB to pay the settlement in instalments or place the funds in trust with the courts if they judged the applicant incapable of managing the money.

One interviewee estimated an average (mean) processing time as between eighteen to twenty-four months (Interview 3). However, this depended on the time of submission. In the months leading up to the end of 2005, the programme developed a backlog that took several years to clear. The time it took also depended upon how complicated the application was, the nature of the claims involved, and the evidence available. The programme settled 90 per cent of received applications by 2010. By September 2015, the few remaining cases were no longer in contact with

the RIRB. Unable to either pay a settlement or get the claimant to withdraw their application, the RIRB sought and obtained permission from the courts to close those files unilaterally. The last settlements were paid in 2016. Seventeen applicants rejected their awards. There were 1,069 applications withdrawn by applicants, refused by the RIRB, or that resulted in a zero-value award. The average payment was €62,250: 21 per cent of the €300,000 maximum.[3] The total value of all settlements was €970 million. Legal fees for applicants cost the programme €192.9 million and were paid to 991 legal firms (McCarthy 2016: 31). Administrative expenses were €69 million (€4,144 per applicant), including internal legal costs. The €1.52 billion total cost of the redress programme was over 600 per cent of the original budget estimate of €250 million.

As a last note, all of the RIRB's proceedings, including information about awards, were private. The 2002 Act prohibits the publication of 'any information concerning an application or an award' in a way that would permit the identification of a person or institution, including survivors ('Residential Institutions Redress Act' 2002: §28). This was understood by many survivors to prohibit them from speaking publicly about their experience with the redress programme (Ring 2017: 97). However, there have been no prosecutions relating to this provision and it is apparently a legal dead letter.

4.3 Caranua

The Laffoy/Ryan Commission published its final report in 2009. As Ireland suffered through the global financial crisis, the publicity surrounding the report cast light on the RIRB's burgeoning budgetary exorbitance. Those significant cost overruns triggered vociferous criticism of the 2003 indemnity agreement with religious organisations. Recall that religious organisations had paid €128 million towards the redress scheme, which was estimated at the time to be 50 per cent of the redress programme's costs. In 2009, the Irish government negotiated an additional €110 million[4] from religious orders to endow an ancillary programme. Caranua would supersede an existing fund of €12.7 million providing educational grants to survivors. Unlike the RIRB, Caranua's funding would be capped, and the programme would close when it exhausted its endowment.

[3] Values in this paragraph derive from year-end 2015 figures given in McCarthy (2016).
[4] By December 2019, €111,382,011 had been received (Caranua 2020b: 18).

Caranua opened in 2014. It was administratively independent, although the minister of education appointed the nine-member board, four of which were survivors. The board set administrative and staffing policy. In early 2017, Caranua had approximately twenty-three staff, of which eleven were advisors working directly with applicants. This proved inadequate, leading to 'appalling' backlogs (Committee of Public Accounts 2017). Most staff had social work and social care backgrounds and were hired directly: they were not public servant secondments (IR Interview 4). Understaffing and the use of temporary contractors led to high levels of turnover between 2014 and 2016.

There was a two-stage application process. First, the survivor applied to verify their eligibility. Eligible survivors must have received a settlement from the RIRB. Caranua had a list of successful claimants; therefore, the initial assessment merely cross-referenced the applicant with that list. The process was simple and quick. Caranua received 6,646 applications to verify eligibility, 6,158 would receive some funding (Caranua 2020a: 17, 3).

The second stage was much more complicated. Caranua sought to assess survivors' needs holistically and match them with appropriate services. Caranua provided direct funding in three different areas: health and well-being; housing support; and education, learning, and development. As examples, health and well-being services might include optometry or dental work; housing support could include disability modifications, repairs, and home improvements; and education included fees for tertiary education and training. The programme did not fund services available through the public system; therefore, Caranua's advisors often helped facilitate survivors' engagement with existing services. Successful applicants had to explain how their application related to injuries that they had experienced while in care. Then an advisor would assess if the service was appropriate to the survivor's needs and reasonable in terms of cost (Caranua 2016: 11). Where relevant (as in medical services) applications required a professional recommendation and/or a cost quote. Survivors could make multiple applications, repeating the comprehensive assessment each time. Most of Caranua's money was spent on housing support (e.g. repairs and home improvements), which consumed slightly less than 70 per cent of disbursed funds (Caranua c2019: 3). This created inequities between homeowning survivors and those who were tenants or homeless. Education was the least used category, with grants of around €1.4 million. In total, Caranua paid

€97,425,226 million in support for applicants (Caranua c2019: 3), €13,492,282 million was spent on administration (Caranua c2019: 3).

Caranua was a troubled organisation opposed by a vocal group of survivors, many of whom wished to receive the monies directly from the churches (and not pay administrators' salaries). Conflicts of interest emerged as board members, who were survivors, were also potential beneficiaries of the programme. Some board members became advocates for certain applicants (Interview 4). The programme was launched without any operative regulations and, consequently, the board developed its policy and procedures while in progress, which led to false starts and inconsistencies. Although the programme published guidelines on its website, programme staff were reported to use secret policy documents (Reclaiming Self 2017: Appendix 1). Significant policy changes included expanding the programme to include household goods, funeral costs, and family tracing. In 2016, applicants were given a lifetime limit of €15,000 to prevent a minority of survivors from consuming a disproportionate amount of funding. Continuing criticism led to a major review and in 2017 the government replaced several board members. In 2018, two of the new members left the board while publicly criticising its operations as inefficient and uncaring (Holland 2018). The programme closed to new applicants on 1 August 2018 and final payments were made in 2020.

4.4 Magdalene Laundries

The third Irish programme emerged as a reaction to adverse findings in a 2011 UN report (UN Committee Against Torture 2011). Operated by religious orders, Ireland's Magdalene laundries were workhouses for women. In some cases, the laundries were used as remand facilities (McCarthy 2010; Finnegan 2001). All residents were women, and most were young – the median age was twenty (McAleese 2012: xiii). Many residents experienced the laundry as a prison in which they were forced to labour in poor conditions (Smith et al. 2013: 9). Because the laundries did not admit children, single mothers had to relinquish their children, often to an industrial school.

Ireland responded to the UN's 2011 report by empanelling an Inter-Departmental Committee chaired by (former) Senator Martin McAleese. The committee reported that approximately 11,198 women resided in a laundry between 1922 and mid-1990s (McAleese 2012: 161). Taoiseach Edna Kenny responded to the committee's report with a public apology to all Magdalene survivors on 19 February 2013 (Kenny 2013). Kenny's speech announced that Justice John Quirke would head a commission to

design a monetary redress scheme. Quirke's remit reflected criticisms of the RIRB's capture by the legal profession. The terms of reference specified that redress funds must be 'directed only to the benefit of eligible applicants' and prohibited funding for 'legal fees and expenses' (Quirke 2013: 1). Quirke was to report within three months. During that period, survivors could lodge an expression of interest so that they would be informed when the programme opened.

The Magdalene redress programme opened in June 2013 and remains open at the time of writing. The Restorative Justice Implementation Team delivers the programme. Originally housed within the Department of Justice and Equality, the team moved to the Department of Children, Equality, Disability, Integration and Youth in 2020. Its budget is authorised by a vote of the Oireachtas that provides the programme some financial security against intra-ministerial reprioritisation. Operating from a Dublin office, the team was staffed by around nine seconded civil servants. It was initially entirely female, matching the gender profile of the applicants. The team advertised the programme through survivor groups, the departmental website, and Irish embassies. The programme received some media attention; however, the contrast with the high-profile RIRB is clear: before 2018, the Magdalene programme did not have a dedicated website, online information was housed on a subordinate page on a departmental website. Team members did not regularly meet with survivor groups. The programme did not produce annual reports or newsletters, and detailed procedural guidelines were only made public in 2018.

Quirke's report proposes two bases for monetary payment – residence and unpaid forced labour. Valid applications must satisfy four conditions. Applicants must apply; be alive on 19 February 2013 – the date of Kenny's apology; provide personal identification; and furnish evidence of residence at a scheduled institution. Posthumous claims are possible if the survivor lodged an application prior to their death. Originally, eligible applicants must have resided in one of ten Magdalene laundries or two 'training schools'; however, a supplementary process for fourteen further institutions was added after the Ombudsman published a critical programme review (Office of the Ombudsman 2017).

Opened in June 2013, the rate of applications slowed following the first year intake of 756 applications.[5] Thirty-one were received in the next year and a further twenty the year after. By December 2016, there had

[5] These numbers are derived from online records of the Oireachtas.

been 830 applications. After 2018, the scheme had two streams, the original and the supplementary processes, and fifty-two claims were reassigned to the supplemental process and a review of previously denied claims began. As of 13 December 2019, the original programme had 791 applications and the supplemental process had 115 claims (The Restorative Justice Implementation Team 2021).

Each application was assigned to a case worker, who conducted research and managed contact with the applicant (usually by phone). The application asked for copies of the survivor's birth certificate, photographic identification, a passport photograph, and their Personal Public Service Number. Survivors were also asked to contact religious orders for documentary evidence of residence. The laundry's register of entry should record the date, name, and age of the survivor at the time of entry and, sometimes, a release date. For around 50 per cent of applicants, institutional records were insufficient to establish the duration of residence (IR Interview 8). The team divided those applications into three categories (Office of the Ombudsman 2017: 39). Category 1 had a start date of residency, but insufficient information to determine the length of stay. In Category 2 there was evidence of residence, but neither a beginning nor end date. Category 3 had no documentary evidence of residence. Looking more broadly, the team would explore information from multiple sources, including voting, health, education, social insurance, and employment records (IR Interview 8). In cases where documents proved inadequate, the team accepted witness statements and some applicants were invited to informal interviews. Beginning in August 2014, two team members conducted these interviews and produced a report. As of mid-2017, there had been seventy-eight interviews, a little more than 10 per cent of the total.

Applications failed when there was no evidence of residence in a scheduled institution. But that requirement was only publicised in December 2013, after the team had processed several applications. This was one of several gaps between programme design and implementation. The Magdalene laundries were often part of large religious complexes that included several institutions, with people moving around the complex according to the practical demands of the moment. A survivor who, for example, resided in an industrial school and laboured in a laundry might be denied redress. The Ombudsman criticised the post hoc decision to make residence necessary for eligibility (Office of the Ombudsman 2017: 7). Compounding this unfairness, concerns with survivors' receiving redress twice – from both the RIRB and the

Magdalene programme – led policymakers to exclude laundries that had been scheduled in the RIRB (Office of the Ombudsman 2017: 8). However, the conditions of eligibility for the two programmes differ significantly. Unlike the RIRB, the Magdalene programme did not require evidence of abuse or neglect. Therefore, survivors who could not, or did not, tell the RIRB that they were abused were excluded if they had resided and/or worked in an RIRB scheduled laundry. As previously stated, the supplementary programme that started in 2018 added fourteen institutions. It also permitted applications by those who worked in a laundry without having resided in one.

Finally, there were serious concerns regarding the quality of the investigation into cases where there was no documentary evidence of residence. Despite provisions for interviews, in the judgment of the Ombudsman, the programme

> ... operated on the basis that only women who could demonstrate through available records that they had been officially recorded as admitted to one of the 12 named institutions were eligible. (Office of the Ombudsman 2017: 7)

Personal testimony was not given appropriate weight. While public statements indicated that the survivors' testimony would be accepted as true, in many cases, testimony that lacked documentary support was rejected by the programme (IR Interview 2; Office of the Ombudsman 2017: 40). Responding to this criticism, in 2018, a barrister, Mary O'Toole, was appointed to review all the cases. She opened a reinvestigation into 214 cases (Ó Fátharta 2016).

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To receive a redress payment the applicant must waive all claims against the state.[6] Applicants were eligible for €500 (plus VAT) for legal advice at the point of settlement. The modest provision reflects criticism of RIRB's legal costs. Indeed, the Quirke Commission had difficulties getting the government to agree to fund any legal advice (IR Interview 10). While applicants could self-fund legal representation earlier in the application process, for the most part, '[t]he only time a solicitor is involved, with the Magdalene[s], is when they're actually at the end of the process and they are signing the waiver' (IR Interview 9). The timing is important. Funded

[6] Applicants remained free to sue the religious orders responsible for running the laundries.

legal advice was only available after the applicant receives the final payment offer. By that point they would have already agreed to the provisional offer and the lawyer's task was to check that the survivor understood the consequences of that decision.

There was no specific provision for counselling associated with the scheme. Redress responded to the experience of labour in the laundries, and it was not assumed that participants were thereby traumatised (IR Interview 8). Some survivor groups offered counselling support (IR Interview 9) and any survivor could contact the National Counselling Service; however, there was no extra funding to counsel survivors participating in the scheme. Moreover, the advanced age of many survivors created problems. Unsupported survivors who did not have the capacity to sign legal documents were, in the words of the Ombudsman, 'forgotten' (Office of the Ombudsman 2017: 9). Several women died before they were made 'Wards of Court' and legally enabled to proceed.

The Quirke report advocates for a dedicated unit to assist Magdalene survivors in perpetuity (Quirke 2013: 45). That never eventuated. The Restorative Justice Team was the primary support, providing personal and logistical support, including records access. The team helped applicants complete their applications, usually by telephone. When survivors received written material from the programme, they could call the team for explanations or seek ad hoc support elsewhere. Some applicants obtained assistance from the Citizens Advice Bureau, either by phone or in person. However, the bureau did not offer a specific service for Magdalene laundry survivors. Although a network of survivor-support agencies volunteered support, none of these organisations received specific funding. Some interviewees observed that the support provided was inadequate (IR Interviews 2 & 9).

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Case workers with the team decided payment values. Their decisions were approved or revised by a senior officer within the team, and then a manager. The offer was then made to the applicant on a provisional basis. If the applicant agreed, the team issued a formal offer. There was no negotiation, although an applicant who disagreed with the offer could provide further information or appeal. The first level of appeal was inside the department, but outside the team. If the applicant remained unsatisfied, they could appeal to the Ombudsman and/or to the ordinary courts.

Appendix 3.3 describes how claims were assessed for both time in residence and the experience of coerced labour. The redress payments were separate, but not severable – all validated applicants received both payments and the values of both were set by the time they spent living in the institution. The lowest available payment was €11,500 and the highest €100,000. However, policymakers built in protection for survivors that they thought were vulnerable because of their gender, age, (mis)education, and illness (Quirke 2013: 7; IR Interview 5; IR Interview 8). To ensure continuing benefits from the programme, the team converted any lump sum monies in excess of €50,000 to a weekly pension payable for life. Further, because unpaid labour in the laundries did not accrue credit towards Ireland's contributory pension, the programme provided those who were fifty years or older a pension starting at €100 per week that increased in value each year until the age of sixty-five at which point they move to a value commensurate with the top standard state contributory pension, worth €243.30 per week in 2018. Once settlement was agreed, the pension was payable from 1 August 2013 until the applicant's death. Lump sum payments are tax exempt and not treated as income, but the contributory pension is reduced by the value of any primary benefits such as housing allowances or similar public support received by the survivor (Shatter 2013). And because the programme is designed to provide stable lifetime support, eligible survivors can access a range of medical and other services through special statutory provision. In another example of a gap between programme design and implementation, the provision of augmented medical services was delayed until 2015. Moreover, the augmented access is less than what Quirke recommended.

The programme aimed to operate as quickly as possible. An application submitted with sufficient documentary evidence of residence could result in a payment offer within weeks (IR Interview 8). By June 2014, the programme had made 369 payments – nearly half the eventual total.[7] The programme paid 164 claims the next year and 91 in the following. By December 2017 it had made 684 payments. As of November 2020, the original programme had received 791 applications and paid 719 claims, while the supplemental process had received 115 claims and paid 78 (Department of Children 2020). By 2020, €30.128 million had been paid to 788 survivors, a mean average of €38,234.

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[7] These numbers are derived from online records of the Oireachtas.

The three Irish redress programmes are a study in contrasts. The RIRB's massive budgetary overrun constrained subsequent policymakers to design programmes that would avoid similar problems. Caruana's funding was capped and provided by religious orders. The Magdalene programme worked with a short (until 2017) schedule of twelve institutions and limited lump sum payments to a third of the RIRB's maximum figure, resulting in a mean average payment that was a little more than half the value of the RIRB's. The comparative difference in legal fees is even sharper, the €500 maximum in the Magdalene programme is 4 per cent of the RIRB's €12,193 average. Caranua did not pay for legal fees. Interestingly, one of the Australian programmes considered in the next chapter worked in a very similar manner to Caranua, but largely without criticism. However, the Australians would anticipate the Irish lesson in budgetary exorbitance by capping redress funding.