From: Mark Vincent Healy <markvincenthealy@gmail.com>
Date: Friday 10 March 2023 at 17:32
To: Minister for Education <MINISTER@education.gov.ie>, Norma Foley TD, "Newcombe, Derek", John Moore TUSLA
Cc: An Taoiseach, Leo Varadkar TD, Tánaiste, Micheal Martin TD, "Minister for Communications, Climate Action and Environment", Eamon Ryan TD, Minister for Justice, Helen McEntee TD, Minister for Children & Youth Affairs, Roderic O'Gorman TD, Minister for Finance, Pascal Donohoe TD, Minister for Health, Stephen Donnelly TD, Simon Coveney TD, "President Michael D. Higgins", Michael McGrath TD, Members of the Oireachtas, Barry Andrews MEP, Ciarán Cuffe MEP Clare Daly MEP, Frances Fitzgerald MEP, Luke 'Ming' Flanagan MEP, Chris MacManus MEP, Mairead McGuinness MEP, Maria Walsh MEP, Deirdre Clune MEP, Billy Kelleher MEP, Seán Kelly MEP, Grace O'Sullivan MEP, Mick Wallace MEP, Archbishop Jude Thaddeus Okolo - Papal Nuncio to Ireland, Archbishop Eamon Martin Office - President IEC, Archbishop Dermot Farrell - Vice-President IEC, Archbishop Kieran O'Reilly - Episcopal Secretary IEC, Bishop John Fleming - Finance Secretary IEC, "Fr Martin Kelly, Provincial CSSp - AMRI Chair", Archbishop Diarmuid Martin
Subject: 230310 - Commission to Inquiry into Child Sexual Abuse in Primary and Post-Primary Schools in Ireland

Taoiseach Micheál Martin TD, Reference: DOT-TM-14827-2022
Minister for Education, Norma Foley TD, Reference: DES-CU-04237-2022
Minister for Justice, Helen McEntee TD, Reference: DJE-MO-10586-2022

230305 - Commission to Inquiry into Child Sexual Abuse in Primary and Post-Primary Schools in Ireland - https://bit.ly/3yd7shL
230306 - Commission to Inquiry into Child Sexual Abuse in Primary and Post-Primary Schools in Ireland - https://bit.ly/3IVloSz
230307 - RTÉ - Minister announces scoping inquiry into historical abuse in schools – Email to Emma O'Kelly et. al. - https://bit.ly/3Law0Qf
230308 - RTÉ - Minister announces scoping inquiry into historical abuse in schools - https://bit.ly/3F7oodA
230309 - Commission to Inquiry into Child Sexual Abuse in Primary and Post-Primary Schools in Ireland - https://bit.ly/3J5vq3y

TUSLA Document: 230309 - Notification by Designated Liaison Person (DLP) for Spiritan Fathers to Tusla - https://bit.ly/3l9mDFJ

Friday, 10 March 2023

Dear Minister Foley,

Following an email (https://bit.ly/3J5vq3y) to your office yesterday, I have not even received an acknowledgement of it.

I wrote as an urgent call to issue an immediate retraction of the 'scoping exercise' set up not only to establish numbers of victims of child sexual abuse in primary and post-primary school in Ireland, but to attempt to gather personal details and information regarding their sexual abuse experiences.

Your plan places them in an invidious position in desperately wishing to seek justice from the Department of Education of all places, of driving them into making declarations to any one of three mandatory reporting persons under the Children First Act, 2015.

It may be that a DLP, a Designated Reporting Person, is obliged to report allegations of child sexual abuse to An Garda Síochána and Tusla, but they are not authorised to encourage or instruct, through the sharing of personal contact details in breach of GDPR to An Garda Síochána or Tusla, further contact with a complainant.

It is only if the complainant wishes to engage with repeating the whole distressing matter repeatedly in raising the complaint with An Garda Síochána or Tusla, they, the victims, may do so.

Other mandated persons cannot solicit or taut for personal details or further traumatise the victim who has made a report in confidence to a DLP. It is outrageous that Tusla is attempting to invade the privacy of victims in distributing extremely distressing requests for information, where their contact details were given by the DLP to An Garda Síochána or Tusla.

It is the prerogative of the victim to initiate any and all such communications subsequently with either An Garda Síochána or Tusla or indeed anyone else.

The distribution of contact details by the DLP for the Spiritans to Tusla is a breach of confidentiality, where Tusla's Mr John Moore, subsequently foisted requests for further information (https://bit.ly/3l9mDFJ) from survivors under the guise of the 'Minister-Initiated Scoping Inquiry'.

Mr Moore had no right to disturb any survivor of child sexual abuse in this way. The Minister for Education is more than well aware of the enormous negative impact repeated contact, data requests and surveys have on survivors, causing and triggering chronic depression, extreme anxiety, confusion and suffering.

When the Minister's Department attempted to conduct a survey into end of life support for survivors of Redress in 2018, only 35 out of an original population of over 15,500 victims were desperate enough to engage out of the dire necessity of the situation. That Redress survey and consultation process has delivered nothing to those brave enough to have risked once again the health and wellbeing by engaging with two Department Agents drafted into the process against strong survivor protest.

The whole plan regarding an inquiry, demanded by survivors like myself, has not been provided and outlined, showing all points of contact with survivors of child sexual abuse throughout the inquiry, for what purpose, with what safeguards, and for what duration. Because this national inquiry has not been developed with survivor input in all steps and stages, it is unlikely to ensure the safety, welfare and security of those participants. No survivor would define or design such a reckless process or such invasive procedures without careful and prescient planning down to the very last detail.

Demanding such traumatising and retriggering traumatic information from survivors is clearly a breach of their rights, where you, the Department of Education, State and Attorney General have been the named parties in numerous civil actions in the High Court taken to date, over which there has been placed every possible obstacle and barrier at the state's disposal in prohibiting the delivery of a just and moral outcome to any litigant following the state's failures to have protected those very victims of such unspeakable abuse, unless of course a survivor has made it to Strasbourg and the European Court of Human Rights.

Indeed, if one followed the *PD Amicus Curiae Submissions High Court* case in 2021, https://bit.ly/3FcyWbj you would be aware of this very point in the High Court Judicial Review, Record No.: 2021/864 JR (https://bit.ly/3F9PrEP), where in paragraphs 41 and 42 it states:

> 41. On the basis of the review of the case law conducted above, IHREC concludes that proceedings against the State would always have been futile as a matter of domestic law. The conclusion that victims of historic abuse in Irish schools before 1991 do not have — and never have had — any stateable cause of action against the State for its failure to protect them is regrettably unavoidable. In those circumstances, the requirement that to qualify for benefits under the Scheme, victims must have had proceedings in being — proceedings that on the State's own case, would be doomed to fail — before 1 July 2021 is indefensible.
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> 42. In this context, it might be added that the decision in Allen, cited above, reflects that even where victims of historic sexual abuse at school have no effective judicial remedy under national law, redress under a Scheme such as that at issue here may constitute an effective remedy for the purposes of Article 13 ECHR. It follows that the exclusion of people like is discriminatory, because it ensures that their only effective remedy lies in Strasbourg.

The Irish courts have repeatedly impaled those survivors who would dare to seek redress from the Department of Education for their sexual abuse suffered whilst attending school, being obliged under Irish Law to attend school, or face the dire legal consequences of being institutionalised which we know how that turned out for so many children, 15,500 or more to be more precise, as described to us in excruciating detail in the CICA Report, or Ryan Report published in 2009.

The Irish civil legal process, often touted as the means of justice for survivors of child sexual abuse in schools, and presented as such as a pathway to justice by Ireland to the European Court of Human Rights, is in fact a shooting gallery where survivors are picked off, one by one, by the state solicitors who assuaged the fears of any Minister for Education of ever being held to account in Ireland, when the state solicitors confirmed categorically all such cases are 'bound to fail' and cited three in particular for good measure, in a letter by them dated 20 July 2016, https://bit.ly/424iIeg

It is appalling that this scoping mechanism to 'count heads' is being used by others to justify breaches in GDPR, denials to a right to privacy, exposures to repeated recall of ones abuse to a DLP, Tusla, An Garda Síochána, the media, solicitors, barristers through a process that has not provided protection for and from such a horrendous pathway in every detail from the get-go.

I Repeat What Ought To Be

I am calling for or rather demanding as a result of this gross interference in the lives of survivors and their families, the establishment of a survivor forum, to be paid for and funded by the Department of Education, which will compromise survivors and experts to assess and be part of each and every step of the 'survivor-led' independent national inquiry into the culture in Ireland which gave rise to it throughout the schooling system without exclusion, discrimination or loss of parity of esteem to be accorded to all equally cherished children in the schooling system in Ireland.

I would be grateful if the legal advice sought by the minister concurred with and approved the gathering of such criminal data and evidence as may be used in legal proceedings to be taken against it. When was such legal advice sought, from whom and by whom? Can I please be

supplied a copy of same? Was the advice shared with cabinet? Did the cabinet members seek assurances that gathering such sensitive criminal data was lawful? If not, why not? Were any safeguards considered or restrictions envisaged and placed on such sensitive criminal data? What were the stated restrictions placed on access to, processing of, storage of, and duration of the retention of such sensitive criminal and personal data?

This is a scam, a shambles, a disgrace in the wanton disregard, disrespect and deeply distressing gathering of data where its further abuse of this survivor population acted out of the Department of Education's own fears and desire to know only one thing, how many victims are there potentially. Clearly, the Department of Education has gone way beyond trying to answer the question of their fears in abusing those already abused in their childhood.

The gathering of any data into the criminal child sexual abuse experiences of the inquiry called for has not been established or addressed under lawful terms of reference, and this attempt to bypass such provisions and protections cannot be subverted by the process announced on Tuesday, 7 March on the one o'clock RTÉ Radio One news.

Perhaps now I can see why the minister and the department did not inform me of the matter announced. They knew I would never accept this violation of the rights and privacy of survivors to determine their own future actions which may or may not include having to proceed with legal action against the Minster and Department of Education.

This is by no means all that I have to say on this matter but it is sickening what has been devised which would clearly destroy the good faith necessary to delve into these matters and to expose the actors and agents of such diabolical violation of the personal integrity of a child, so many children.

I make one final point which was my first at our meeting on 23 November 2022 - https://bit.ly/3l7EuwN - but not included in my agenda outline was therapeutic support. The overstretched and very under-resourced One in Four do not have the reach to map the scale of support necessary in the independent national inquiry called for. The handful of places with them would fall abysmally short of the real needs for a nationwide network of trauma based therapists that would also be required for the many living throughout the world. I asked that a list to be established when I met with you minister in November and wonder where is it?

The scale of this is far too great and there will be a hesitancy to engage and even less so where safeguards are not in place therapeutically and legally, and where there has been no declaration of guaranteed benefits.

The two-year window on the second Ex Gratia Payment Scheme (https://bit.ly/3Yv4MH3) is closing on 20 July 2023 and any hope of further reparations have been definitely declared closed by the minister for the duration of this 'inquiry', defined and designed by the Department of Education which is supposed to be scrutinised by said 'inquiry'.

A discretionary ministerial decision was sought for an 84 year old survivor to bring his pain and suffering to an end, but he was sent packing and asked by the minister instead to submit all his personal details without any data protections into this unlawful data gathering exercise whose sole purpose was in fact only to head count.

I would appreciate your urgent attention to the matters raised, a termination of the 'scoping' exercise as unlawful and wholly damaging to survivors and their interests. I would ask that you ask RTÉ to issue a notice of retraction immediately. I would ask that you fulfil on my request for a forum of survivors to be established as a matter of urgency to reign in such abusive procedures of survivors, their families and their personal data, and to give credence to any application of the term that this national independent inquiry is a 'survivor-led' inquiry.

Yours sincerely,

Mark-Vincent Healy



Mark-Vincent Healy
Marc Uinseann ÓhÉalaighthe

Survivor Campaigner seeking 'Rescue Services' and 'Safe Space Provisioning' for survivors of clerical child sexual abuse
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