

**Annual Report of
The Residential
Institutions
Redress Board
2018**

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FOREWORD

The Board is now discharging its final duties. The Board is working with a reduced staff of (currently) six civil servants. The Board would like to express its appreciation to the staff of the Board and in particular to Ms. Mary O'Reilly, Acting Secretary to the Board until the 15th June 2018. Ms. Elizabeth Neary took over the position of Secretary to the Board from Ms. O'Reilly. The Board would like to thank Ms. Sharon Moohan who acts as Solicitor to the Board. Ms. Moohan, along with Mr. Fintan Valentine B.L., continued to provide legal advice to the Board throughout 2018.

The Board enjoys a good relationship with the appropriate section of the Department of Education and Skills and notes that the independence of the Board in fulfilling its independent statutory mandate continues to be respected in any necessary contact.

In accordance with the provisions of Section 1 of The Residential Institutions Redress (Amendment) Act 2011 the Board's power to accept late applications under Sections 8(2) and 8(3) of the 2002 Redress Act ceased on the 17th of September 2011.

In June 2013 the Minister for Education and Skills informed the Board that the Government had agreed in principle to bring forward legislative proposals to allow for the retention of documents concerning applications made to it. In 2015 the Department of Education and Skills brought the General Scheme of the legislation to Government. We have been informed that the Scheme, which provides for the Board's records being retained, is currently progressing through the legislative process.

From the 14th April 2015, the Residential Institutions Redress Board became subject to the Freedom of Information Act 2014, in relation to administrative matters only. The files of individual applicants are governed by the confidentiality provisions of Section 28(6) of the Residential Institutions Redress Act 2002, and are not subject to the Freedom of Information Act 2014.

The Board is completing its work but some matters remain to be finalised. The Board was party to an appeal to a decision of the High Court which was heard by the Supreme Court on 8th May 2018. Judgment was delivered on the 6th December 2018.

The Board processed one award in 2018 which was related to an award made by the Review Committee. The total number of awards processed by the Board is 16,650. Legal costs relating to a Board application and three High Court and Circuit Court cases were finalised in 2018. Generic legal costs and outlays incurred in respect of the first late application oral hearing which took place at the Board in or about October 2008 were finalised in 2018. They are a special category of costs which are not attributable to any particular application.

The Board continues to deal with inquiries from the public and with legal matters arising from the operation of the Statute and the Redress Scheme.

The Board's Mission

The Residential Institutions Redress Board was established under the Residential Institutions Redress Act 2002 to make financial awards to assist in the recovery of certain persons who as children were abused while resident in certain institutions in the State and who have or have had injuries that are consistent with that abuse.

Membership & Functions of the Board

The Redress Board, which was established on 16th December 2002 under the provisions of Section 3 of the Residential Institutions Redress Act 2002 (The Act), consists of a Chairperson and 10 ordinary members appointed by the Minister for Education & Skills. These are:

Mr. Justice Esmond Smyth	appointed 3 rd January 2008
Dr. Helen Cummiskey	appointed 16 th December 2002
Dr. Ruth Pilkington	appointed 16 th December 2002
Ms. Anne O'Brien B.L.	appointed 23 rd May 2003
Dr. Mary Bluett	appointed 25 th September 2003
Ms. Dariona Conlon, Solicitor	appointed 8 th January 2004
Dr. Fionnuala O'Loughlin	appointed 27 th April 2004
Mr. John A. Campbell, Solicitor	appointed 27 th April 2004
Dr. Harry Bugler	appointed 15 th December 2004
Ms. Samantha Cruess Callaghan B.L.	appointed 20 th October 2005
Dr. William Delaney	appointed 27 th February 2006

As provided in the Act, the Board and its members are wholly independent in the performance of their duties.

Section 5 of the Act sets out the Boards' main functions. The first was to make all reasonable efforts through public advertisement, direct correspondence and otherwise, to ensure that persons who were residents of an institution listed in the Act were made aware of the existence of the Board, so that they could consider making an application for redress.

The Board's second function, in relation to each case in which an application is made, is to determine whether the applicant is entitled to an award, and, if so, to make an award in accordance

with the Act which is fair and reasonable having regard to the unique circumstances of the applicant.

In the performance of these functions, the members of the Board were assisted in 2018 by –

- (a) 6 administrative staff.
- (b) 1 part-time Counsel.
- (c) 1 part time solicitor.

The Work of the Board

In accordance with its remit under Section 5 (b) of the Residential Institutions Redress Act 2002 to “make all reasonable efforts, through public advertisement, direct correspondence with persons who were residents of an institution and otherwise, to ensure that persons who were residents of an institution are made aware of the function.....of the Board” an extensive advertising campaign was undertaken by the Board up to the end of 2005.

Advertisements were placed in all the national broadsheet and tabloid newspapers as well as the main provincial newspapers. Advertisements have also been placed on RTE 1 television, Network 2, Sky 1, Sky News, TV3 and TG 4. The Board has also placed advertisements on all national and major local radio stations. The Board held 12 information days throughout England in 2004 as well as placing advertisements in Sunday newspapers, daily newspapers and publications aimed specifically at the Irish community in Britain. The Board also distributed 7,500 leaflets and 7,500 pamphlets to the network of Irish Societies. The Board placed advertisements in all Irish daily newspapers and selected newspapers in the United Kingdom highlighting each Ministerial Order which added institutions to the schedule to the Redress Act. In November 2005 the Board placed advertisements highlighting the closing date for receipt of applications in the main Irish newspapers, selected United Kingdom publications and Irish publications in the U.S.A. and Australia. In total the Board placed 1,492 advertisements since it was established. The closing date for applications being 15th December 2005, this campaign is now finished.

In addition, the Department of Foreign Affairs, at the request of the Board, sent information on the role and functions of the Board, as well as highlighting the closing date for receipt of applications, to its embassies asking them to forward this information to all relevant Irish bodies with whom they have contact.

This campaign, the Board’s newsletters, annual reports and subsequent media reports ensured that the Board had a high public profile. In addition, various public discussions concerning the redress scheme raised the profile of the process, as did the frequency with which the Board was mentioned on talk and news programmes on both radio and television as well as in the Oireachtas.

The Board is also aware that there was extensive advertising by third parties here in Ireland as well as abroad which served to inform people of its existence. This advertising was predominantly in the print media.

The Board's web-site (www.rirb.ie) is used as the conduit for newsletters and statements. The site contains detailed information on the work of the Board such as a lengthy guide to the redress scheme, statements relating to the Board's procedures and the Board's Annual Reports.

The procedure followed by the Board for the processing of applications is largely prescribed by the Residential Institutions Redress Act 2002, as amended by Part 4 of the Commission to Inquire into Child Abuse (Amendment) Act, 2005, the Residential Institutions Redress (Amendment) Act 2011, Section 44 of the Residential Institutions Statutory Fund Act 2012 and by Regulations made by the Minister for Education and Skills in accordance with the Act. These Regulations and Acts are available from the Board's office free of charge or may be viewed on the Board's website.

Applications for redress were submitted on a standard application form and in order to facilitate applicants the Board issued the following publications:

- *"A Guide to the Redress Scheme under the Residential Institutions Redress Act 2002". A fully updated and revised third edition of the Guide, which incorporates changes necessitated by the Commission to Inquire into Child Abuse (Amendment) Act 2005, was issued by the Board in December 2005.*
- *"A Short Guide to the Redress Scheme under the Residential Institutions Redress Act 2002".*
- *"The Residential Institutions Redress Board Guide to Hearing Procedures".*
- *Newsletters and statements (in order to keep applicants and their legal advisers updated on procedures and developments). The newsletters and statements may be viewed on the Board's website www.rirb.ie.*
- *A Board Decision on its procedures for dealing with applications from outside Ireland.*

Number of Applications

The closing date for receipt of applications was the 15th December 2005 by which time the Board had received 14,439 applications.

The Residential Institutions Redress Act, 2002 sections 8(2) and 8(3) state;

“8 - (2) The Board may, at its discretion and where it considers there are exceptional circumstances extend the period referred to in subsection (1).

8 - (3) The Board shall extend the period referred to in subsection (1) where it is satisfied that an applicant was under a legal disability by reason of unsound mind at the time when such application should otherwise have been made and the applicant concerned makes an application to the Board within 3 years of the cessation of that disability.”

By 31st December 2016 the Board had received 2,766 such submissions. The Board has considered each such submission individually and has ruled as follows;

- 2,224 submissions for new applications were accepted by the Board
- 341 submissions were disallowed by the Board
- 162 submission were withdrawn or had their files closed
- 39 submissions were not valid

Accordingly, the Board received a total of 16,650 applications (including 2,211 late applications). There was one award processed in 2018. This was an award made by the Review Committee and this award was previously accounted for in statistics before 2016 at the time the original award was made. The number of applications received remains at 16,650 which is the figure published in the 2016 Annual Report of the Board.

In accordance with the provisions of Section 1 of The Residential Institutions Redress (Amendment) Act 2011 the Board’s power to accept late applications under Sections 8(2) and 8(3)

of the 2002 Redress Act ceased on the 17th of September 2011. Any such late applications received on or after that date cannot be accepted by the Board. This means that the Board cannot accept late applications received after midnight on Friday 16th September 2011.

Number and Amounts of Awards

The Board commenced making awards in May 2003 and by 31st December 2018 had completed the process in 16,650 cases as detailed below:

- 12,016 offers/awards made following settlement
- 2,994 awards made following hearings (12 awards rejected by applicants)
- 571 awards following Review (5 awards rejected by applicants)
- 1,069 applications withdrawn, refused or resulted in a nil or no award

The total awards made to 31st December 2018 amounts to €970.03m. The average value of awards is €62,253, the largest award being €300,500.

- The average award following a successful settlement is €61,555
- The average award following a hearing by the Board is €63,575
- The average award following an unsuccessful attempt to settle which therefore went to hearing is €66,390

Legal Costs

To date costs have been finalised in 15,370 applications. €180,727,861.36 has been paid in respect of applications to the Board. In 2,644 of these applications a further €13,227,853.83 has been paid in respect of the costs of associated court proceedings. This makes a total of €193,955,715.19. Further details are given in the following table.

Legal Costs			
	To end 2017	2018	Total
<i>Finalised Applications</i>	15,367	3	15,370
<i>Costs of Applications to the Board</i>	€180,705,335.29	€22,526.07	€180,727,861.36
<i>Costs of Associated Court Proceedings</i>	€12,936,886.74 (2,640 cases)	€141,763.95 (3 cases)	€13,078,650.69 (2,643 cases)
<i>Late Application Oral Hearings Generic Legal Costs and Outlays *</i>		€149,203.14	€149,203.14
<i>Total Costs</i>	€193,642,222.03	€313,493.16	€193,955,715.19

These costs are net of any payments made by the Board for medical reports received prior to the completion of an application with respect to the injuries suffered by applicants.

* These Late Application Oral Hearings Generic Costs and Outlays were incurred in respect of the first late application oral hearings which took place at the Board in or about October 2008 and were finalised in 2018. They are a special category of costs which are not attributable to any particular application.

Audit

During the year, the Board once again invited the Comptroller and Auditor General to conduct an audit and report to the Board on whether

- The processing and payment of awards and associated legal costs are duly effected on foot of determinations by the Board.
- The associated administrative systems, procedures and practices of the Board are adequate and applied in practice.

This audit was completed in November 2019 and the Comptroller's certificate of satisfaction dated 21st November 2019 is attached at Appendix (a).

Publications

The following publications have been issued by the Board.

- A Guide to the Redress Scheme under the Residential Institutions Redress Act 2002 (Revised and updated in December 2005)
- A Short Guide to the Redress Scheme under the Residential Institutions Redress Act 2002
- The Residential Institutions Redress Board Guide to Hearing Procedures.
- Newsletters. The newsletters and statements can also be viewed on the Board's website www.rirb.ie
- A Board Decision on procedures for dealing with applications from outside Ireland.
- 16 Annual Reports of the Board's activities.

These publications may be viewed on the Board's website and are also available from the Board's office free of charge.

The Annual Reports are submitted to the Minister for Education and Skills and published pursuant to Section 26 (1) of the Residential Institutions Redress Act, 2002.

Expenditure data for the year 2018

CATEGORY	Amount €
ADVERTISING	0.00
STENOGRAPHY SERVICES	€429.99
SIGN LANGUAGE SERVICES	0.00
PHONES (SERVICE)	€8,752.90
PHONES (EQUIPMENT)	0.00
POSTAGE	€2,200.00
POSTAGE – RENTAL & SERVICES	€2,049.52
COMPUTER HARDWARE/SOFTWARE	€8,294.72
COMPUTER SUPPORT SERVICES	€47,759.48
PHOTOCOPYING	€318.16
OFFICE MACHINERY	0.00

POWER & LIGHT ¹	€11,413.34
CONTRACT CLEANING	€14,011.71
OFFICE SUPPLIES	€3,381.74
PRINTING	€559.65
FURNITURE & FITTINGS	€29.77
TRAVEL & SUBSISTENCE	€8,853.52
TAXI/COURIER SERVICE	€3,181.24
VENDING MACHINE & WATER SUPPLIES ²	€1,739.96
MAINTENANCE	€404.85
HOTEL ROOM HIRE	0.00
MEDICAL FEES ³	0.00
MEDICAL PAYMENTS ⁴	0.00

¹There was an overhead refund on utilities of €5,684.11 in 2018

² There was an overhead refund on bottled water of €709.11 in 2018

³ These fees are for medical reports prepared by doctors appointed by the Board under Section 11 of The Residential Institutions Redress Act 2002

⁴ These figures represent payments made by the Board for medical reports received prior to the completion of an application with respect to the injuries suffered by applicants.

LEGAL FEES ⁵	€125,158.94
ADVICE AS TO FINANCIAL MANAGEMENT OF THE AWARD	0.00
ADMINISTRATIVE SALARIES	€343,225.54
BOARD MEMBERS FEES	€69,037.50
TRAINING	€4,790.00
PUBLICATIONS	0.00
SECURITY ⁶	€77,489.65
BOARD CATERING	0.00
AGENCY STAFF	0.00
MISCELLANEOUS	€3,358.83
TOTAL	€736,441.01

⁵ These fees relate to Counsel employed by the Board and other legally related services.

⁶ This includes secure off-site storage

Summary cost of Redress Scheme*

	2018	2017
Awards made**	€130,000.00	€0
Legal costs paid in respect of applications	€22,526.07	€0
Related High Court and Circuit Court costs	€141,763.95	€103,098.00
Generic Costs***	€149,203.14	€0
Board expenditure	€736,441.01	€784,103.42
Total	€1,179,934.17	€887,201.42

* The figures reflect payments approved by the Board and not actual disbursements from the Special Account.

** One award was processed for payment in 2018. This related to an award by the Review Committee.

*** These Late Application Oral Hearings Generic Costs and Outlays were incurred in respect of the first late application oral hearings which took place at the Board in or about October 2008 and were finalised in 2018. They are a special category of costs which are not attributable to any particular application.

Legal Representation

Applicants are represented by a total of 991 firms of solicitors and costs have been paid to date in respect of 15,370 applications. The costs payments made by the Board in 2018 are listed below.

These costs are divided into two categories:

- (a) Costs in respect of the application to the Board and associated High Court and Circuit Court proceedings.
- (b) Costs in respect of once off generic costs relating to late applications

Name of Solicitor	Number of applications in which costs have been paid in 2018	Board costs paid in 2018	Related High Court and Circuit Court costs paid in 2018	Generic Costs*	2018 Total
McMahon Solicitors Limited	1	€22,526.07	€122,659.25	€149,203.14	€294,388.46
Spelman Callaghan Solicitors	2		€19,104.70		€19,104.70
Total	3	€22,526.07	€141,763.95	€149,203.14	€313,493.16

* These Late Application Oral Hearings Generic Costs and Outlays were incurred in respect of the first late application oral hearings which took place at the Board in or about October 2008 and were finalised in 2018. They are a special category of costs which are not attributable to any particular application.

Comparative Analysis of Costs from Establishment to 31st December 2018

On average, costs and expenses paid to applicants' solicitors amount to €12,223.66* per successful application, or 19.6% of the award. A once off Legal Costs payment was made in 2018 and this was in respect of the legal costs and outlays incurred as a result of the first late application oral hearings which took place at the Board in or about October 2008. They are a special category of costs which are not attributable to any particular application. This payment is not included in the average calculation as it does not relate to a single application.

The average costs and expenses incurred by the Board in respect of an application amount to €3,572**) or 5.7% of the award.

* This figure has been calculated by dividing the total amount of costs paid to date by the number of applications in which costs were paid. The figure does not include costs paid in respect of associated Court proceedings; these costs average €4,948.41 per case in which such costs have been paid.

** This figure has been calculated by dividing the total cost of running the Board (excluding awards and applicants' legal costs) by the total number of applications finalised at the end of 2018.

(Appendix a) Audit Cert

Residential Institutions Redress Board

By agreement with the Residential Institutions Redress Board (the Board), I am reporting the results of my examination of the processing for payment of awards made by the Board and their payment from a Special Account established under the Residential Institutions Redress Acts 2002 to 2011. The Special Account is maintained jointly by the Department of Education and Skills and the Department of Public Expenditure and Reform (the Departments).

This report covers the period 1 January to 31 December 2018.

Basis of Report

The report is based on the results of audit testing which formed part of my audit of the Special Account. I conducted my audit of the financial statements in accordance with the International Standards on Auditing (ISAs) as promulgated by the International Organisation of Supreme Audit Institutions. I have obtained all the information and explanations that I consider necessary for the purposes of my report.

Awards and Costs discharged by the Board

Awards made by the Board are notified to applicants, who are allowed up to 28 days to accept or decline the sum offered. If the initial award is declined, the applicant may seek a review, which may result in a variation in the award amount. When an applicant accepts an award sum, the Board issues instructions to the Department of Education and Skills for payment of the award. The associated costs are paid following consideration of invoices submitted.

The awards and costs payments disbursed in the year were as follows.

	2018	2017
	€	€
Awards paid	130,000	-
Costs paid	313,493	103,098
Total award related expenditure	<u>443,493</u>	<u>103,098</u>

All instructions for payment issued by the Board were processed in the year.

In certain circumstances, the Board may direct that some or all of the award shall be paid to the applicant by instalments or in another manner (other than in a single payment). In such cases, where the Board applies to the High Court, the High Court may order that the outstanding amount of the award be paid into the High Court and dealt with by it for the benefit of the applicant. At the end of 2018, there were no awards awaiting transfer to the High Court.

Opinion

In my opinion

- proper records were maintained by the Board and by the Departments
- payments made during 2018 were duly made on foot of valid awards
- all awards that came in the course of payment were discharged
- the system of internal control employed by the Board is adequate and operated effectively during the period covered by the report.

Patricia Sheehan
for and on behalf of the
Comptroller and Auditor General
21 November 2019

(Appendix b)
Website Notice

UPDATE

Friday 21st July 2017

**ANNUAL REPORT OF THE RESIDENTIAL INSTITUTIONS REDRESS BOARD IN
ACCORDANCE WITH SECTION 22 OF THE PROTECTED DISCLOSURES ACT 2014**

Under Section 22 of the Protected Disclosures Act 2014 each public body is required to publish an annual report setting out the number of protected disclosures received in the preceding year and the action taken (if any). This report must not result in persons making disclosures being identifiable.

(See below table for the relevant year).

Protected Disclosures by Year

2014 Nil

2015 Nil

2016 Nil

2017 Nil

2018 Nil

(Appendix c)
Website Notice

CLARIFICATION

Friday 21st July 2017

Please be advised that the Redress Board and Caranua are separate and distinct organisations both in different locations

We cannot connect you to and/or make contact with Caranua on your behalf.

If you need to contact Caranua the numbers to call are:

Freephone from Ireland 1800 212477

Freephone from UK 0808 234 1303 (charges may apply from some mobile networks)

From anywhere +353 1 8742277 (not a freephone number from outside Ireland and the UK)