

Grandson calls for the Dáil to urgently meet & debate the Mother & baby Homes Commission

Frank Brehany has noted that yesterday, the Irish Dáil met to debate an opposition motion to extend the Mother & Baby Home's Commission (MBHC) which is close on 28 February 2021.

The coalition government did not oppose the motion but did not extend their 'acceptance' of the motion to a full debate and, a vote on the proposition that the tenure of the MBHC should be extended.

As we have seen over many months, the final report of the MBHC has produced controversy and u-turns. The final report was supposed to have delivered a thorough analysis and conclusions, designed to bring justice and closure to so many victims, survivors and their extended families.

Whilst the debate rages on the quality of the MBHC report, voices have been raised against those same victims, survivors and campaigning groups. These voices are necessary in any Civil Society as they act as an important barometer on the excesses or failures of a State or its Institutions, including the Catholic Church which is central to this story.

In the debate of extending the tenure of the MBHC, it was reported that the Minister, Roderic O'Gorman was concerned that no 'practical purpose' could be achieved by extending the tenure of the MBHC.

Minister Anne Rabbitte spoke in the Dáil and stated:

"For anyone to bunch survivors together once again for questionable political gains, with catchy hashtags and headline-grabbing sound bites, is disheartening. Nobody should be trying to utilise or weaponise survivors' trauma for their own gain, whether in politics, academia or otherwise".

The Taoiseach, Micheál Martin is reported to have expressed concern about the potential for division, apparently arising from the motion adding a further concern that '*some are more virtuous than others*'.

By any measure, these are shocking public comments and reveals the impasse that many families have endured for many years.

It is Frank Brehany's opinion that the Dáil should be **urgently** asked to formally extend the period of operation of the MBHC beyond the 28 February 2021.

In considering this action, Members of the Oireachtas should consider the following:

1. Recognition should be given to the important fact that MBHC members allegedly refused to attend before an Oireachtas Committee, to answer questions on its inquiry and actions. Is it acceptable in a modern society, that the will of the Oireachtas should be ignored and treated with contempt? Could the Commission have been compelled to attend?
2. That there is considerable controversy over the quality and construction of the report. Any reasonable legislature or measure would want to deal with these not insubstantial concerns;
3. The debacle over the recordings. The Irish people were told they were destroyed and now the recordings have been found. It has been unedifying in the extreme and should cause any TD to stop and ask questions; it has not presented the MBHC in a good light, whatever of government responses;
4. Then there is the narrative coming from the MBHC 'supporters' which is accusatory and seeks to blame the people and indeed those who operate legitimately to challenge democratic elements in a civil society. Does the MBHC really need this third party narrative? On the question of narrative, in recent days the MBHC's own public comments

has revealed an angry, fearful and pithy response to criticism. In Frank's opinion the response from the MBHC has been ill-advised and certainly done without due regard to the feelings of the audience it seeks to reach. TD's should in his opinion be carefully and objectively examining the rationale for this narrative;

5. It has also been clear, certainly since last October (and arguably in the years previous), that there is a spectacular failure to understand the basics on data. For example the MBHC claims that it had to destroy the recordings and so therefore the debate on data ends. However, they have failed to understand Section 43 (2) of the Commissions of Investigation Act 2004. This section obligated the MBHC to deposit with the Minister '**all evidence**'; it was not a subjective choice. Even if you follow the MBHC logic, we now hear that out of the 550 recordings, only 80 required confidentiality, therefore even if they could 'destroy' 80 records, that still left a considerable amount of evidence that should be passed to the Minister. Equally, Frank fears that both government and the MBHC have failed to grasp the extensive obligations and rights contained within the GDPR; this is probably the greatest failure. This has been compounded by the failure of these government & the MBHC to understand that the GDPR has primacy over and above national laws; their provisions should follow and reflect the GDPR. Reflection is required to consider this data context against the final report and the action of the MBHC;
6. The Dáil should consider urgently the consequences of failing to extend the tenure of the MBHC. Will it prevent victims or survivors from challenging the report and the MBHC, from ultimately engaging in a Judicial Review? Will it frustrate many of the Victims & Survivors from not being able to ensure that their story and the State's story is told accurately? Is the MBHC final report truly fit for purpose? Given the Irish government's desire to deliver a fair outcome for the Victims and Survivors, are they perversely creating an unintentional litigation trail with the possibility that the government's own failure of open and due process to adequately debate this issue, could itself be challenged by Judicial Review?
7. There are those who say that if you question the MBHC, extend their operations or override their actions, that you will negate the 2004 Commissions Act and, prevent engagement either by Judges or Victims or Survivors, in future Inquiries. This is a simplistic argument in the extreme. The Dáil exists to scrutinise laws and to correct anomalies in laws. It is entirely possible to correct the defects in the 2004 Act and **it is entirely possible still for the Dáil to take action before 28 February 2021**. Frank considers that if you disagree, then you are reflecting the view that the Dáil has no real power at all.

Frank Brehany states:

"These are vital issues for so many. Narrative, ill-judged public comment and insult provides no value and frankly, they should not replace the humility and reconciliation that is so badly needed".

He adds:

"I am of the opinion that if the Irish government fails to allow time in the Dáil, then it will commit the Irish State and the Irish people to further Commissions on this subject matter, it would deliver a system of 'Commissions without end'; that surely cannot be a good outcome for the victims and survivors of this appalling system, whatever about the Irish people as a whole?

He concludes:

"Therefore it is now imperative that the Irish government and the Dáil urgently consider my rationale and for the Dáil to meet and allow time for the Dáil to debate and be given the opportunity to extend the tenure of the MBHC. Given the time pressure on this matter, **I would strongly suggest that it would be appropriate, if necessary, for the Dáil to hold an urgent sitting either on Saturday 27 February 2021 or Sunday 28 February 2021, if matters cannot be dealt with either today or tomorrow**".

Media Notes:

1. Frank Brehany is a surviving Grandson of a woman who was incarcerated for 42 years, until her death in 1972. His Father had to face a life carrying with him the stigma of his birth, being boarded out and never knowing his Mother or Father. Frank has spent over 11 years, painstakingly researching his family secret and discovering the remarkable story of his family.
2. 'Commission of Investigation (Mother and Baby Homes and Certain related Matters) Records Bill 2020' can be found here: <https://www.oireachtas.ie/en/bills/bill/2020/38/?tab=bill-text>
3. Frank's Open Letter to Minister O'Gorman can be found here: <http://frankbrehany.com/blog/open-letter-minister-o-gorman-don-t-bury-the-mother-and-baby-homes-commission-archive/>
4. Frank has seen no convincing measure within the Commissions of Investigation Act, that would have caused concerns as to the database created by the Commission. A clear obligation exists under Section 43 to hand over **all** evidence to the Minister. It would be more convincing if sight of any Legal Advices to the Commission were released.
5. In considering the subject matter of this release please refer to the Commissions of Investigation Act 2004 and in particular, Section 43 - <http://www.irishstatutebook.ie/eli/2004/act/23/section/43/enacted/en/html#sec43>

To aid consideration, Section 43 (2) of the Act is recited; it states:

*"Before the dissolution of a commission, the chairperson or, if the commission consists of only one member, the sole member shall deposit with the specified Minister **all evidence** received by and all documents created by or for the commission".*

6. Frank Brehany is based in Wales and is an Irish Citizen. Frank has extensive Media Experience, primarily dealing with Consumer & Rights issues. Frank's CV can be found here: <http://frankbrehany.com/media/1151/fbs-cv-24220.pdf>