



Aitheantas
Adoptee Identity Rights

Assisted By



#RepealtheSeal

Adoptee Voices

**Report on survey results carried out by
Aitheantas - Adoptee Identity Rights**



**“History, despite its wrenching pain, cannot be unlived;
but if faced with courage, need not be lived again.”**

– Maya Angelou

FOREWORD

I am honoured and privileged to contribute this foreword to this important report from Aitheantas - Adoptee Identity Rights. I write as an ally and a supporter of adoptees struggling to realise their rights. This timely report sets out the findings of recent research conducted with adoptees and their families during late 2019, through 2020 and in early 2021.

The report goes to the heart of an existential question that people have always asked “where do I come from”? My children asked me and I was able to tell them. Answering this most fundamental question is core to a person having a clear sense of their identity, to which we have a right. It is also important for practical matters relating to health and wellbeing including having knowledge of hereditary health conditions like breast cancer where screening and early detection can save lives.

Yet today people in Ireland, through no fault of their own and because they were adopted, continue to be denied the information they need to answer that most basic of questions “where do I come from”? Their children and their children’s children are also so deprived, adding intergenerational insult to injury. The stigma experienced by adoptees and their families endures and is well articulated in this report.

The current challenges for adoptees in accessing information about themselves, arises in the main from the closed adoption system pursued in Ireland from the 1950’s onward. Views have changed over time and adoptees’ right to their personal information has begun to be recognised. The European Court of Human Rights has recognised the right to identity as a fundamental right in numerous judgements.

In Ireland constitutional rights to identity were first recognised in a Supreme Court decision *IOT v B* in 1998. The Court held that the right to know the identity of one’s “natural mother” was an unenumerated right under article 40.3.1 in *Bunreacht na hEireann*.

Yet almost a quarter century on from that Supreme Court decision, Ireland is and remains out of step with progressive norms now in place in many other countries relating to adoptees rights to and access to information about who they are. There is evidence that Ireland has the most restrictive system in the European Union when it comes to accessing information on adoptees’ personal health, history and heritage.

Ireland is also out of step with public perceptions. More than 90% of respondents to a recent survey believed that adoptees have an automatic right to their birth certificate. This is not the case. As a result of Ireland’s highly restrictive approach, today access to birth details and other information remains extremely difficult for adoptees. This is not fair. This is discriminatory. It can and must be put right.

The State has successively failed to legislate on this matter. It would seem that the voices of direct experience have not been heard and not adequately or appropriately responded to as yet. Issues have been flagged by Aitheantas and other groups about very real concerns relating to the Birth Information and Tracing Bill 2021, now under consideration in the Oireachtas.

This report shows how some of the assigned agencies involved have lost the trust and confidence of adoptees. There are calls in this report for a new agency to be established.

The Black Civil Rights Activist James Baldwin once said “Not everything that is faced can be changed, but nothing can be changed until it's faced”. I am calling on legislators and others to face up to the unnecessary and harmful challenges adoptees and their families continue to face and to listen to them. And to take note of this important report by Aitheantas and deepen your understanding. Hear the voices of adoptees and their families. Feel their pain. Acknowledge their anger and frustration. Above all listen to them and act.

When we know better we can do better according to Maya Angelou. Do better by adoptees. Vindicate their rights to know who they are. You can make a good start by reading this report. The time for action is now.

A handwritten signature in blue ink, appearing to read 'Colette Kelleher', with a stylized, cursive script.

Colette Kelleher

July 2021

ACKNOWLEDGMENTS

Aitheantas dedicates this report to all affected by the legacy of forced and coercive adoption in Ireland, particularly the Adoptees, the Children of Adoptees and Spouses/Partners of Adoptees who shared their stories and experiences with us.

We gratefully acknowledge the support of Uplift and their members, especially with our historic **#RepealtheSeal** campaign, but also with our **#PasstheBill** and **#SupportOurSurvivors** campaigns, as well as their advice, assistance in hosting our survey and support in compiling this report, in particular the ever patient Siobhan O'Donoghue, Emily Duffy and Michelle Byrne. Thank you from the bottom of our hearts.

Thanks to Colette Kelleher, a trailblazer and a dedicated campaigner for social justice and equality in the Seanad and beyond. We are honoured to have Colette write the Foreword to our report.

Sincere thanks to Rody O'Brien BL who co-authored this report, to Dr. Ian Marder, Maynooth University for his time and much valued contribution to this report on Restorative Justice. and Dr. Cheryl Lawther, Queens University, Belfast for her time in reviewing this report.

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Thanks and gratitude to the Aitheantas members who assisted with our Council motions, to Patrick for his amazing backup -we could not have done this without you - and to William, Cate, Esme and Kate M. for their support with our **#RepealtheSeal** campaign.

As this report details, Adoptees and their families still live with the hidden legacy of forced and coercive adoption, a legacy that is part of our collective history. We need to face the depth and breadth of this history, acknowledge the social harm it has caused with courage and repair the harm these failed policies have caused.

Aitheantas means Identity and we hope, with the publication of this report, that Adoptees in Ireland are a step closer to securing all aspects of theirs.

Maree Ryan-O'Brien
Aitheantas - Adoptee Identity Rights

July 2021

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INTRODUCTION

This report sets out the details of research conducted with adoptees and their families during late 2019, through 2020 and early 2021 hosted on the Uplift platform.

The report also includes the findings of two small additional context surveys carried out by Aitheantas following the publication of the Mother and Baby Commission Report and with Genealogists and Family History Researchers.

Please note that names have been changed and identifying information has been omitted to ensure respondents anonymity.

About Aitheantas

Aitheantas - Adoptee Identity Rights is an advocacy group with an Adoptee led focus, formed in 2018 to advocate for legislative reform and equality for Irish Adoptees.

Aitheantas charts the social harm and intergenerational impacts caused by the legacy of forced and coercive adoption in Ireland. Through a restorative focus and the core policy of 'People before Paper', Aitheantas advocates for adoptee welfare being at the forefront of legislation and provision of supports.

Aitheantas has campaigned through supporting Council motions, the **#RepealtheSeal** campaign which saw unprecedented levels of public support for survivors accessing their own information, **#PasstheBill** supporting the passing of an amendment to the Civil Registration Bill allowing adoptees access their birth certificate, and **#SupportOurSurvivors** which supports a full investigation into all agencies, homes and institutions connected to historic, domestic adoption.

About Uplift

Uplift is a people-powered community of over 350,000 people in Ireland. Each day hundreds of people take small actions together for a more equal, sustainable and just Ireland.

Methodology

The Aitheantas *Identity Rights for Adoptees* online survey was hosted on behalf of Aitheantas by Uplift. The survey asked questions about adoptee rights and the intergenerational impact of closed adoption, interaction with the relevant agencies, societal view of adoptions, terminology as well as attitudes to legislation and memorialisation.

The design of the survey focused on areas where there were knowledge gaps as to Adoptees opinions and views on specific issues and their overall experience of the closed adoption system in the Irish context. These areas were used as a basis for some of the questions put to participants. Aitheantas worked with Uplift to ensure that the survey questions were objective.

The survey was shared with Uplift members and on the Aitheantas social media accounts. Participants were also made aware of the survey through the Aitheantas' website, *adopteerights.ie* and through their emailed campaign updates/newsletter.

The survey had a total of **468** participants, most of whom were adoptees. Other participants were children or family members of adoptees. Questions put to participants can be found in **Appendix A**.

Background

Closed adoption in Ireland

The Adoption Act 1952 provided for formalised, legal adoption in Ireland using the ‘clean break’ or closed adoption model. This model was standard practice at the time in several countries. The closed adoption model meant that once a child was adopted they were not legally recognised as the child of their birth parents.

Views about the closed adoption approach have changed over time and adoptees’ right to their personal information has begun to be recognised. Legislation has been amended in many countries, allowing adoptees access to all or part of this information. However there has been no equivalent changes to legislation in Ireland. As a result access to birth details and other information remains extremely difficult for adoptees.

This report will examine surveys undertaken by Aitheantas, hosted by Uplift, which outline both the effects of closed adoption on the adoptee themselves, and the intergenerational impact of adoption.

The inability to access files and information has always been a significant issue for adoptees, but the surveys make clear that there is also a ripple effect, both physically and mentally, on adoptees and their families. Due to the inaction of successive governments this loss of identity is now intergenerational, affecting not just adoptees but their children and grandchildren.

Changing social attitudes

The constitutional right to identity was first recognised in Ireland in the Supreme Court decision in *IOT v B*.¹ In this case, the Supreme Court held that the right to know the identity of one’s “natural mother” was an unenumerated personal right under Article 40.3.1 of the Constitution, following on from the natural and special relationship between the mother and the child. Hamilton CJ found that the exercise of this right to identity might conflict with the mother’s constitutional right to privacy.

Significantly, Hamilton CJ held that in such instances the mother did not have an absolute constitutional right to have her anonymity guaranteed at the time she placed her child for adoption. Accordingly, the Supreme Court held that there were two conflicting constitutional rights.

It is the role of the Oireachtas, pursuant to Article 15.2.1 of the Constitution, to legislate. Keane J, in *IOT v B*, stated robustly that the whole matter was one that was required to be regulated by legislation. Keane J said that the fact that the Oireachtas had failed to regulate by legislation did not “... justify the courts in undertaking such a task for which they lack, not merely the expert guidance available to the legislative arm but also and more crucially the democratic mandate.” Hamilton CJ had similar reservations on the role of the Court in this regard.

¹ *IOT v B* [1998] 2 IR 321(SC)

It is quite clear from the different decisions in the Supreme Court in *IOT v B* of the need for legislation to regulate the exercise of the unenumerated right to identity and to reconcile it with the sometimes conflicting right to privacy of the birth mother. Attempts by the Oireachtas since the *IOT* case in the past twenty three years, to legislate for the exercise of adoptees of their constitutional right to identity, have been seldom and unsuccessful.

In 2016, the Adoption (Information and Tracing) Bill 2016 was brought before the Oireachtas to allow adoptees to seek out personal details that were previously impossible to obtain under existing laws. The Adoption (Information and Tracing Bill) 2016 was stalled by the Attorney General on the grounds that allowing adoptees unrestricted access to their birth information was unconstitutional.²

The government attempted to progress the other aspects of the Bill, with a number of amendments being added, until it lapsed in 2019 with the end of that last government. Many legal professionals and legal academics strongly disagreed with the Attorney General's opinion in this matter.³

At the time of writing, the Birth Information and Tracing Bill 2021 is at the pre-legislative scrutiny stage. Yet again, the mistakes of the past are being repeated in the General Scheme of this Bill, despite the best intentions of the Minister. Attempts to allow adoptees access to information and in so doing to exercise their constitutional right to identity are qualified and limited. The constitutional right to privacy of the birth parent is prioritised over the constitutional right to identity.

This is seen in providing for circumstances in which the birth parent states preference for no contact, the adoptee must attend an information session with a social worker in order for the adoptee to be given access to their own birth certificate and/or their own birth information. There are other instances in this Bill which also limit or restrict the information available to adoptees, for example, giving discretion to the AAI in the process of releasing information or in the amount of information deemed suitable or necessary.

Both Tusla and the AAI are the assigned agencies in this Bill in the release of information pursuant to the right to identity. Adoptees' views on the further involvement of these two agencies in the context of information and tracing are clear from the results of the Aitheantas surveys - these agencies are no longer fit for purpose. Similar views have been expressed and are published in the findings of the Commission of Inquiry into Mother and Baby Homes. It is Aitheantas strong contention, based on the shared experiences as demonstrated in the results of our surveys, that there should be a new agency.

² 'Adoption tracing bill shelved as unworkable' Law Society Gazette, 12 December 2019

³ O'Mahony et.al, 'Opinion on the application of the Irish Constitution and EU General Data Protection Regulation to the Adoption (Information and Tracing) Bill 2016 and the Government's "Options for Consideration"', 5 November 2019

Developments on adoptees' right to identity have not been limited to the Irish courts. The European Court of Human Rights (ECHR) have recognised the right to identity as a fundamental right in numerous judgements.⁴

Aitheantas have delivered briefings and made submissions to the Oireachtas on this issue, advocating for open access for adoptees to their own information and for health supports for Adoptees and their families.

The changing view as regards the 'benefits' of closed adoption was illustrated in May 2019 at the Department of Children, Equality, Disability, Integration and Youth Open Policy debate into the introduction of open or semi-open adoption for under 18s.⁵ This debate revealed how much attitudes have changed as to the previously assumed 'benefits' of closed adoption. Participants in the debate, including Aitheantas, struggled to identify any benefits in the closed adoption system. However, this change in attitude has not led to any legislative progress.

⁴ 'Council of Europe: European Court of Human Rights, Guide on Article 8 of the European Convention on Human Rights - Right to respect for private and family life, 31 August 2020, available at: <https://www.refworld.org/docid/5a016ebe4.html>

⁵ Department of Children, Equality, Disability, Integration and Youth: Open Policy Debate: The Potential Introduction of Open or Semi-Open Adoption in Ireland. 13 May 2019, report available at: <https://assets.gov.ie/35523/b578c2f293c74ae49229fb569459ca2d.pdf>

Access to information

Ireland is the only EU country that does not grant adoptees the right to access their adoption files, personal information, contained within them and information regarding biological family history and health history.⁶

Neither is there an automatic right for adoptees to access their own birth certificate. Participants in the surveys outlined in this report frequently talked about how much the denial of these rights affected them, as outlined in the quote below.

“Not knowing who you are, your predetermined DNA make up, personality traits, growing up in an environment where you are a square peg trying to fit into a round hole, not knowing or able to understand why you don't fit in. This can lead to anxiety, self-doubt, low self-worth, depression, alcohol dependency etc.”

The inability to access files and information has always been a significant issue.

When it was enacted, the legislation setting up Commissions of Investigation attempted to restrict the prior Data Protection Act of 1998. The Commission of Investigation Act 2004 provides for powers relating to investigations “to investigate into and report on matters considered to be of significant public concern, to provide for the powers of such commissions and to make provision for related matters”.⁷ These powers include: the preservation of documents, the availability of records for inspection by the public under the National Archives Act 1986, and the protection of identifying information by tribunals.

As part of its powers, the 2004 Act also attempts to restrict the Data Protection Act 1988, which of course, predates the 2018 data protection legislation, the EU General Data Protection Regulation (GDPR), enacted in Ireland in May 2018. GDPR was intended to reform how organisations approach the issue of data privacy. Unfortunately, many organisations and state bodies cite GDPR as a reason for restricting access to background information of adoptees. Tusla, for example, states that because of GDPR the provision of information to adoptees would breach the biological mother’s right to privacy.⁸ This interpretation ignores the fact that under GDPR, adoptees have a right to any information or records where they are the subject of said data.⁹

Adoption records contain personal data of adoptees, including information about their birth (in some instances details on weight, time of birth, location), the circumstances prior to their adoption such as information on fostering, familial health, family history and heritage, including their name at birth.

⁶ European Parliamentary Research Service, *EPRS on Adoptee Rights (2019)*, available at: <https://cdn.adopteevoices.ie/references/EPRS-on-Adoptee+Rights.pdf>

⁷ Commissions of Investigations Act 2004

⁸ Tusla relying on “flimsy grounds” to justify redacting records and birth certs’ *Irish Examiner*, 7 October 2019

⁹ EU General Data Protection Regulation (GDPR) 2018. Article 15: Right of access by the data subject

The government, Tusla and other organisations involved in the guarding of adoptees' personal data are therefore interpreting an adoptee's personal data as 'third party data' under GDPR. This has led to records released to adoptees being heavily redacted.

This misuse of GDPR follows on from the 2004 Act's practice of controlling and restricting access to personal information in the context of commissions of investigation. This has had grave repercussions for survivors and adoptees in instances such as the Commission of Inquiry into Mother and Baby Homes, as their own personal information is not accessible to them. This further restricts and encroaches upon their constitutional rights of identity.

The surveys in this report show that this has a compound effect, both physically and mentally, on adoptees and their immediate families. Due to the inaction of successive governments this loss of identity is now intergenerational, affecting not just adoptees but their children and grandchildren.

The approach in legislation to data protection and privacy can be best described as an à la carte approach to GDPR. This approach is continuing in the present proposed legislation, the Birth Information and Tracing Bill 2021. Head 13 of the 2021 Bill, Agency and Authority may request information, is providing exemptions in the General Scheme to the operation of provisions of GDPR whilst at the same time Head 10 of the 2021 Bill, Relevant body to provide medical information, is providing restrictions in the release of information following the provisions of GDPR.

The inconsistent application of GDPR to adoptees' request for information, pursuant to the exercise of their constitutional right to identity is of great concern. Article 49 GDPR - 'Derogations for specific situations' provides options for the State on the grounds of the public interest. It is our contention that with the political will, GDPR should not restrict or limit the information given to adoptees in exercising their constitutional right to identity.

Genealogy research

This report will also examine the use by adoptees of genealogy research and commercially available DNA tests, such as Ancestry DNA or 23andMe. In the absence of any contemporary legislation regarding information and tracing, these services have filled a lacuna of information and become profoundly useful to adoptees and their families, enabling some adoptees to contact biological relatives and identify birth parents. This report will make recommendations based on these findings.

Systemic failures

As illustrated in this report, the closed adoption system combined with the failure by successive governments to bring in appropriate legislation has had a negative impact on the identity formation of adoptees. This impacts on adoptees' mental and physical health and that of their children, as these quotes from the survey reveal.

"I feel criminalised, as if I have done something wrong"

"The not knowing"

"It makes a person powerless and confused"

Aitheantas has established through the European Parliament Research Service that Ireland has the most restrictive system in the European Union when it comes to accessing information on adoptees' personal health, history and heritage.¹⁰

Health information

The majority of adoptions in Ireland took place in the 1970's. Between 1970 and 1979, 12,712 adoption orders were granted. Children adopted during this heyday for adoption in Ireland are now middle-aged and are an aging demographic, one with no access to information regarding their or their children's risks of hereditary health issues.

Table: Number of adoption orders issued 1953 - 1995¹¹

1953 - 1959	4,465
1960 - 1969	9,882
1970 - 1979	12,712
1980 - 1989	9,537
1990 - 1995	3,175

This information is vital both for adoptees' own wellbeing but also to ensure that medical professionals can provide adequate and appropriate care and treatment. Adoptees' frequently mentioned the issues caused by not having access to their health information, as illuminated in the quotes below.

"Every time I am asked if there is a history of [any] disease, I cannot answer"

"I had breast cancer, it would have [been] nice to know if it ran in the family."

"I have had huge health issues and had I [sic] of been aware of hereditary ones I could have been screened and treated."

¹⁰ European Parliamentary Research Service, *EPRS on Adoptee Rights (2019)*, available at: <https://cdn.adopteevoices.ie/references/EPRS-on-Adoptee-Rights.pdf>

¹¹ Adoption Authority of Ireland, *Adoption Authority of Ireland Annual Report 2019 - Statistics, Birth and Domestic Adoption Trends in Ireland 1953-2019* (2019), available from: <https://cdn.adopteevoices.ie/references/Stats+from+2019+AAI+Annual+Report.pdf>

“Each time a Dr asks me a medical history question, I have to say I don't know, that I'm adopted, which makes me uncomfortable.”

Issues affecting adoptees in Ireland

Summary

Adoptees in Ireland who seek information on their own health, history and heritage are denied this most basic knowledge of themselves. Ireland has the most restrictive system in the European Union when it comes to adoptees accessing information. This is contrary to what is the norm in Europe and goes against what is deemed medical best practice. The lack of identity rights that adoptees have is in stark contrast to the progresses that society as a whole has made on this issue.

Adoptees have no automatic access to their own birth certificate, no automatic right to know if they have siblings or whether they have siblings who were also placed for adoption, no right to know who their biological parents are and no access to knowledge on any potential hereditary medical conditions.

Birth Certificate Access

Adoptees have a drastically different relationship to their birth certificates than non-adoptees, something which is not always fully understood by the general public. For adoptees, access to birth certificates is a nuanced and complicated issue, as illuminated by these quotes from the survey.

“Growing up without a proper birth certificate is unsettling. You constantly feel that information is being withheld and this leaves you feeling very insecure.”

“I have a lot of unanswered questions and every little bit of information is vital. It hurts me deeply that total strangers who have nothing to do with me or my mother have access to information on us which we do not.”

Table: Applications for birth certificates to the Adoption Authority of Ireland

Year	Applications	Granted	Refused	Undetermined
2016 ¹²	70	23	15	32
2017 ¹³	100	39	9	52
2018 ¹⁴	121	43	6	49
2019 ¹⁵	71	37	9	25

¹² Adoption Authority of Ireland Annual Report 2016, available from: <https://aai.gov.ie/images/Annual-Report-2016.pdf>

¹³ Adoption Authority of Ireland Annual Report 2017, available from: <https://aai.gov.ie/images/Annual-Report-2017.pdf>

¹⁴ Adoption Authority of Ireland Annual Report 2018, available from: <https://aai.gov.ie/images/AAI Annual Report 2018.pdf>

¹⁵ Adoption Authority of Ireland Annual Report 2019, available from: <https://aai.gov.ie/images/AAI Annual Report 2019 FINAL.pdf>

Adoptees' birth certificates are one of their main links to their biological and genealogical heritage. The birth certificate provides the adoptee's birth name, a name often given to them by their birth mother, and not generally known to adoptees prior to accessing their birth certificate. This document is an acknowledgement that the adoptee existed prior to their adoption, with a different identity, as the child of their birth parents. It has significance far beyond its written form.

"I need to know who I am, please."

This is reflected in the findings of the Aitheantas 'Identity Rights for Adoptees' survey, in which 94.5% of respondents stated that they believe that adoptees have an automatic right to their birth certificate. However, under the current Irish system, this is a document that adoptees have no autonomy over.

Aitheantas believes that there needs to be full disclosure regarding this issue, as it is relevant to adoptees' right to identity information.

Discrimination in documentation

There is distinct discrimination against adoptees, as opposed to citizens who are not adopted, by the State in its separate treatment of adoptees in accessing and processing their birth certificate. In its statement issued on the publication of the report of the Commission of Inquiry into Mother and Baby Homes in January 2021, Aitheantas calls for legislation that restoratively ratifies adoptees' right to their own identity and provides birth certificates that are as legally, historically and genealogically correct as possible.¹⁶

Adoptees' birth certificates are notable for the absence of fathers' names, even in instances where the father's name was provided by the birth mother. It was generally 'custom and practice' in adoption and state agencies that the father's name was not included on the birth certificate but was recorded separately in a file.

The incomplete nature of adoptees' birth certificate is in direct conflict with the Status of Children Act, 1987,¹⁷ as it perpetuates illegitimacy. This is contrary to the Act and also adoption legislation, which sought to legitimise adoptees. Access to an accurate birth certificate is a matter of equality for adoptees. For that reason, the father's name - whether recorded separately on a file or established subsequently via DNA testing - must be included on adoptees 'original' birth certificates.

Provision must also be made in legislation for the inclusion of fathers' names in instances where one or either birth parents have passed away. Currently, in cases where the parents were not married to each other at the time of birth, and the biological father is now deceased, the only option to re-register the birth is by obtaining a court order under Section 35 of the Status of

¹⁶ Statement ref Mother and Baby Homes Report and future legislation regarding Adoptee access to birth information (2021), available at: <https://www.adopteerights.ie/2021/01/17/statement-ref-mother-and-baby-homes-report-and-future-legislation-regarding-adoptee-access-to-birth-information/>

¹⁷ Status of Children Act (1987) Section 44

Children Act 1987 (Declaration of Parentage). However, the legislation specifically states that this option does not apply to adoptees.

These inequalities are among the reasons that Aitheantas' statement on the publication of the report of the Commission of Inquiry into Mother and Baby Homes and related matters emphasised the importance of legislation that restoratively ratifies adoptees' right to their own identity, including access to accurate birth certificates.

Adoption certificates

Under the Adoption Act 1952, an adoption order (which is a High Court Order), set out the legal status of an adoptee. This document included the name of the adoptee and the names of their adoptive parents, and confirmed the adoptee as the legal child of the adoptive parents. Adoption orders have served as the unofficial birth certificate for adoptees - this is the document which adoptees receive upon request for their birth certificate. However, an adoption certificate is not a birth certificate as most people would understand it to be.

Adoptees have no autonomy over this document - as it is the subject of a court order it is deemed to be immutable and cannot be changed.¹⁸

This has posed difficulties for adoptees. In cases where adoptees' names are recorded incorrectly due to human error, the document cannot be changed. There is currently no specific process for adoptees to address this issue.

As part of a process of restorative legislation Aitheantas wants a specific, simple and private application process that allows adoptees to amend and correct their names or to include their birth names on their adoption certificates. This service should be provided at no cost to adoptees.

Tusla and the Adoption Authority of Ireland

Aitheantas notes that the report of the Commission of Inquiry into Mother and Baby Homes and Related Matters stated that former residents who came before the Commission had 'vitriolic' criticisms of Tusla, the Child and Family Agency.¹⁹ Tusla is one of the two agencies that currently maintain adoptees' files that have been transferred there from several historical adoption agencies across different regions in the country.

According to Aitheantas' Identity Rights for Adoptees survey, very few respondents to this survey have had a positive interaction with agencies.

Participants in the survey have detailed their experiences attempting to access information. The quotes below illustrate that obstruction in accessing information is not just caused by lack of legislation, but reveals an endemic attitude to secrecy within these agencies.

¹⁸ Status of Children Act (1987) Section 35

¹⁹ Final Report of the Commission of Investigation into Mother and Baby Homes (2021). Recommendations: Information and tracing p.1, available from: <https://www.gov.ie/pdf/?file=https://assets.gov.ie/118592/61720c04-5b16-4390-a04b-f8517f434974.pdf>

“Extremely painful. A social worker sitting with a file and won’t tell you anything. Months of delay, each [sic] time had to [sic] phone social worker to [sic] try get update. Dreadful process.”

“Next to impossible!!”

“Dreadful, doors constantly closed to me”

“Not a nice feeling I was told I was too emotional and to relax”

“The Social Worker had all the information in the file she dangled in front of me and then smugly closed the folder and started asking [sic] e all sorts of personal [sic] question about my marriage and job etc, to this day I still have nothing.”

“Mostly negative, lazy, unprofessional, controlling”

“An absolute nightmare... Stonewalled and lied to at every turn...”

“Excruciating, demeaning, frustrating, delayed, redacted, upsetting and discriminating. It took a year from application to meeting a social worker at AAI headquarters.”

The Commission of Investigation (Mother and Baby Homes and certain related matters) Records, and Another Matter, Act 2020, provides for the deposit with the agency (Child and Family Agency, also known as Tusla) of the database and all related records from the Commission of Inquiry into Mother and Baby Homes.

In light of existing significant, and often insurmountable, obstacles encountered by adoptees seeking access to their information from Tusla, the deposit of records from the Commission of Inquiry with Tusla is a very unwelcome development from adoptees’ perspective.

Overall, the State’s legislation continues its restrictive approach to providing adoptees and survivors with their own information (which is in the possession of the State) rather than open, or ‘clean’, access.

Aitheantas has repeatedly called for the creation of a new agency for all matters relating to historic, domestic adoption and for the removal of all files and information concerning adult adoptees from both Tusla and the Adoption Authority of Ireland.

While enacting new legislation regarding access to information is very much welcomed by Aitheantas, this cannot be carried out by the two existing agencies.

It is clear from the comments of adoptees and their families that there is an issue with these two agencies in particular which will make it difficult to engage with them again.

There is also a potential constitutional impediment in allowing the above agencies, who have previously made decisions on these cases, to make determinations again.

The constitutional principles of fair procedures, in particular the principle of '*nemo iudex in causa sua*' (no-one is a judge in his own cause), concerns bias or the perception of bias of the decision maker. The fact that both the AAI and Tusla have decided on the release of identity information before is prima facie evidence of bias or perceived bias and as such it is constitutionally questionable to have these agencies deliberate or involved in any way regarding access to identity information in the future. The Supreme Court has recently clarified the test for objective bias in *O'Driscoll (a minor) v Hurley*.²⁰

Dunne J. in the Supreme Court stated that the established test²¹ for objective or perceived bias is " ... whether a reasonable person, in all the circumstances of the case, would have a reasonable apprehension that there would not be a fair trial from an impartial judge. As it is an objective test, it does not invoke the apprehension of a judge, or any party; it invokes the reasonable apprehension of a reasonable person, who is in possession of all the relevant facts.

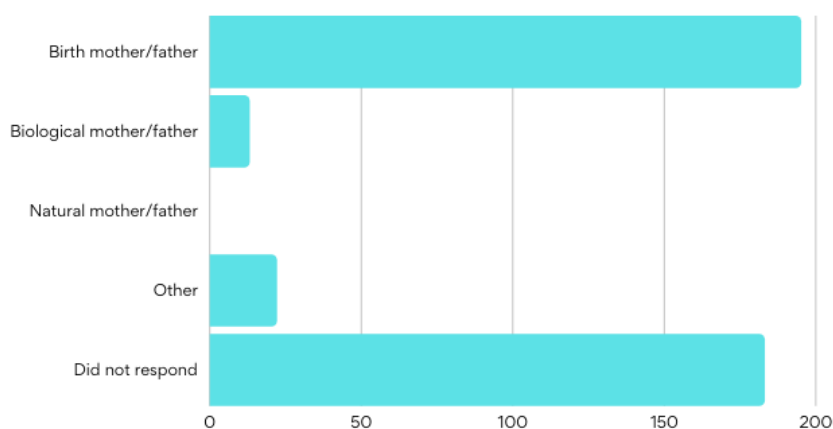
²⁰ *O'Driscoll (a minor) v Hurley* [2016] IESC 32

²¹ *Goode Concrete v CRH plc* [2015] 2 ILRM 289, *O'Callaghan v Mahon* [2008] 2 IR 514, *Bula Ltd v Tara Mines Ltd (No. 6)* [2000] 4 IR 412

Terminology

An important aspect of the Aitheantas/Uplift survey was the section asking respondents what their preferred terms are. The graph below outlines the preferred terms of the respondents to the survey who answered this question.

What terms do you prefer to use?



285 out of 468 respondents answered this question.

Birth mother/father: 195
Biological mother/father: 49
Natural mother/father: 19
Other: 22
Did not respond: 183



Legislative changes

In order to address these issues, there needs to be a holistic and comprehensive approach in regard to legislation surrounding adoptee rights and the right to background information. Adoptee and survivor voices need to be at the centre of decisions made by the Government.

Simply replicating legislation providing information access that was enacted in other countries many decades ago is not enough. Ireland has an opportunity to enact truly progressive legislation which places the needs of adoptees and survivors at its heart. It is essential that it affords adoptees the same rights as other citizens in matters of identity, health, history and heritage. To do less is to perpetuate inequality further.

AITHEANTAS /UPLIFT ADOPTEE VOICES SURVEY: 'IDENTITY RIGHTS FOR ADOPTEES'

Overview of survey

This survey, carried out in conjunction with Uplift, consisted of questions put to adoptees, to their spouses/partners, and to their children (where applicable). The questions asked about adoptees' interactions with state and private agencies, with a particular focus on the issues of family tracing, terminology, how adoptees feel they are perceived and information retrieval. There were also questions about adoptees' views on the wider societal context of adoption in Ireland, as well as questions about the experiences of spouses, partners and children. The questions put to adoptees' spouses, partners and children were intended to highlight the intergenerational impact of adoption in Ireland.

Aitheantas is firmly of the view that the effects of adoption are not limited to a specific home, remit or agency, but that they are experienced to some extent by all adoptees, regardless of how they came to be adopted. As such Aitheantas advocates for a more inclusive approach to support for Adoptees as opposed to a narrow view specific to remits, homes or institutions.

The aim of Aitheantas' research, summarised in this report, is to show the impact of adoption on adoptees and their spouses/partners, the intergenerational impact on their children and the necessity for mental and physical health support for adoptees and their families.

A full summary of questions asked in the survey can be found in Appendix A.

Key findings

Health information

One of the main issues for adoptees in Ireland is the lack of knowledge of their medical background. The largest proportion of adoptees in Ireland were adopted in the 1970s. This cohort are entering middle age largely without background medical information and have no knowledge of their possible hereditary risks of diseases such as cancer, diabetes etc. Therefore, the information sought by adoptees was primarily biological health information, which adoptees sought out because they wanted to be aware of any hereditary illnesses they or their children may be susceptible to.

The survey responses make clear that the current lack of clear pathways to access adoptees' identity information, including health information, continues to cause distress and embarrassment to many adoptees.

A trip to the GP, a normal experience for citizens who are not adopted, can in many cases become a source of upset and concern for adoptees, as they are unable to provide information about their hereditary medical history. The quotes below highlight how distressing this experience can be.

“When doctors ask you about family medical history all you can say is ‘I don't know anything’. We should be automatically given medical records so we can be aware of genetic problems and have annual tests and check-ups”.

“I have no idea the medical background, risks etc. in my genes, this also passes on to my children, they too are affected by this lack of medical history”.

“When I was younger I just answered ‘I'm adopted’ to questions about my medical history and never really thought of the implications this might have for my medical care. But now that I have gotten older and have my own children it actually is very concerning not to have any genetic family medical history. Really with advances in medical screening, in the absence of any history, adopted adults and the surviving children of deceased Adoptees should have access to free genetic screening to help fill in the gaps”.

“Not knowing who you are, where you came from, who you are related to, resemblances. Ireland is a very small country. Not knowing your natural family can be very complicated here”.

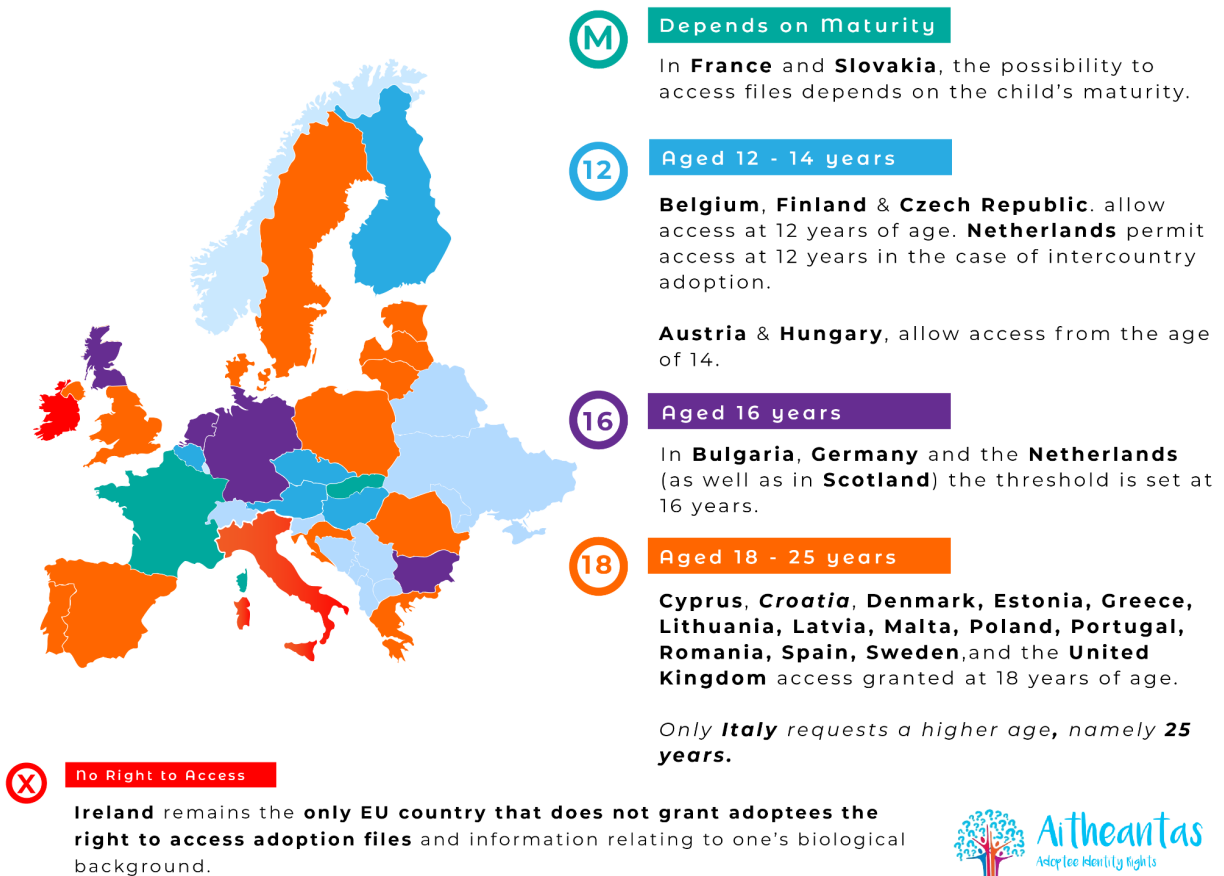
“Not knowing your family's health history means you cannot take any preventative steps other people can. Mentally, it is cruel to deprive a person of a critical piece of their identity”.

The importance of health information to adoptees highlights the necessity for any legislation passed by the Oireachtas to include provisions for assisting adoptees with accessing health information on hereditary risks of illness as well as early access to health screening.

Legislation and identity information

Historical adoption has a greater impact on adoptees and their families in Ireland than in other European countries. This is because of the lack of legislative and social progress on this issue over many years. Prevarication and delay with regard to information and tracing legislation continues to leave adoptees and their families in limbo. Supportive and expansive legislation, including provisions for enhanced medical screening and mental health support for adoptees, is an urgent necessity.

Right to Access Adoption Files and Information Relating to Biological Background



Source: EPRS on Adoptee Rights

Access to Information on Health, Heritage and History



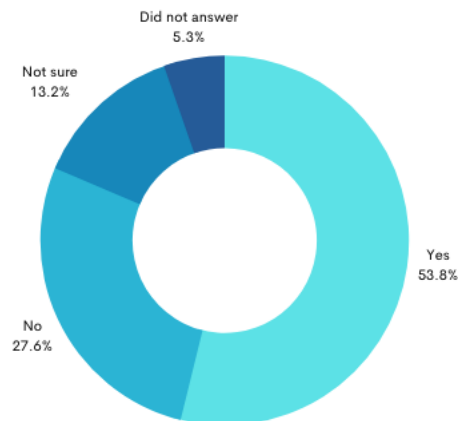
Aitheantas has repeatedly asked for “*legislation for the country we have, not the country we had*”. Adoptees still live with attitudes of shame and secrecy representative of “old Ireland”. The lack of access to birth information and lack of autonomy over their own identity information has a profound effect on the mental health of adoptees, and a knock-on effect on their families.

The standard operating practices of state and private agencies have usually focused on the dynamic between an adoptee and their birth mother. However, this accounts for only 50% of an adoptee's biological background. Information and tracing legislation must take into account these knowledge gaps and provide enhanced medical screening for adoptees, as well as entry to existing screening programmes at an earlier age than the general population.

Cultural attitudes

The survey also revealed that cultural attitudes of shame and secrecy around adoption in Ireland still persist. Over 47.4% of the survey respondents stated that they are treated differently in Irish society as a result of being adopted. Almost half of the respondents feel that there is still a social stigma surrounding adoption in Ireland.

Do you feel you are treated or perceived differently if you disclose that you are an adoptee or the child of an Adoptee?



443 respondents out of 468 answered this question.

Yes: 252
No: 129
Not sure: 62



The majority of respondents also felt that they are treated or perceived differently by others if they disclose that they are adopted.

Experiences with agencies

The agencies entrusted with assisting adoptees with information and tracing have caused considerable distress to adoptees, distress which is augmented by adoptees' obligation to interact with these agencies in order to access vital background information. Most respondents spoke of negative experiences with state and private agencies currently tasked with supporting adoptees in their attempts to retrieve personal information.

Adoptees do not enter into the process of tracing their personal information lightly. The decision often follows months, if not years, of careful thought and consideration. However, many adoptees and their families recount experiences of "coming up against a wall" when trying to access information via state and private agencies.

Respondents agreed that the information and tracing system used by agencies is too invasive and controlling. This approach leaves adoptees with feelings of depression, helplessness and mistrust of the agencies involved.

Common experiences included frustration at the detached way in which State agencies interact with adoptees, as illustrated in the quotes below.

“Awful, frustrating, not very helpful or supportive and left hanging for long periods of time as I searched patiently. Very upsetting experience”.

“Awful, traumatic, lack of support, very cold approach. A clip board job completed by an emotional journey [which is] not respected or supported along the way of tracing [during] over 4 years with Tusla”.

These upsetting interactions are not simply a result of insufficient information and tracing legislation, but are indicative of a larger issue with the entire model of how state and private agencies interact with adoptees. Even if new legislation is passed, these structural issues will still form a barrier to participation by adoptees with the agencies tasked with assisting them with information retrieval. For these reasons, Aitheantas strongly recommends that a new agency be created to support adoptees accessing their identity information, and to handle all matters concerning historical, domestic adoption.

Experience with social workers

A common and recurring thread in the experiences outlined in this survey has been the upset caused to adoptees by the often insensitive and dismissive attitude of some social workers. Adoptees are obliged to engage with social workers as part of the process to access their own information, but all too often these experiences are upsetting for adoptees. For example, many respondents have recounted experiences of meeting with social workers who have placed files on the desk before the adoptee, without indicating if these files contain information about the adoptee or not. This experience can cause anguish and upset for adoptees, and adds to their sense that information is within reach while simultaneously being withheld from them.

Trauma

While it was outside the scope of this report to quantify the trauma experienced by adoptees as a result of being adopted, but it is clear from respondents' insights that adoptees' mental health is affected by the ongoing lack of access to birth and identity information. Often a triggering event, such as the birth of a child or the death of an adoptive parent, acts as the impetus for an adoptee to seek out their personal information.

Survey results show that many adoptees describe feeling a “void” or as if something was “missing” in their lives, which drives them to engage with the relevant agencies to enquire further about their backgrounds, as highlighted by the quotes below. What has repeatedly been described as “stonewalling” by agencies has resulted in adoptees using commercially available DNA tests as a faster, accurate and more reliable means of tracing their personal histories.

“It is hard enough to deal with the trauma of dealing with adoption without being ignored and disregarded by our country. I have had no support with [my] mental health, no social worker or anyone to keep an eye on my adoption, no one to confide in. I’ve only met two adult adoptees in my life. I had nobody around me growing up who could relate [to me] and no one tried to relate to me as I struggled desperately, especially in my teens”.

“Not having knowledge of one's background, history or roots, causes a person to be insecure and doubting [of their] self-worth. Coupled with deep seated issues of abandonment [this] can cause serious issues for one's well-being”.

“I have struggled with unanswered questions all of my life and as a direct result have never felt a sense of belonging. I have also struggled with depression and anxiety and I would absolutely associate this with feeling like I was lucky to have survived in one of these homes and not ended up in an unused septic tank. This weighs heavily on my [mind] daily”.

“There are pieces of meat in the supermarket with more rights to tracking & information of origin than me”.

Identity documents

Many survey respondents experienced practical administrative challenges as a result of being adopted, such as problems accessing public service cards and passports. In some cases, the validity of adoptees’ existing identity documents was questioned, as highlighted in the quotes below.

“When I got married I was unable to get access to my full birth cert and this really upset me. Also at all religious sacraments where a birth cert was required I always felt sad as mine was not the same as everyone else’s”.

“Getting married in [named EU country] I was told an adoption certificate is not good enough and I would not be allowed marry until I could get my original birth certificate”.

The majority of survey respondents believed that adoptees have a right to their original birth certificates by default.

“It would mean the world to me if I could have access to my original birth certificate. I would feel I have equal rights to everyone else. It’s important also for my children; If I could pass on something of my heritage and family medical history to them”.

“The birth certificate should always belong to the named person. A copy can be left with the Adoptee”.

“[...] Adoptees do not have basic information about themselves because the State refuse[s] to give it to them, information on their birth parents, biological medical information, birth certificate. Not because the State agencies do not have this information, most of the time this information is in a file but it is withheld by the State. This is shocking and shameful and I don't think most people understand this”.

Archiving and memorialisation

When responding to questions about their preferences for how their personal information should be stored, respondents showed no clear preference for an independent archive. Aitheantas concluded that many respondents have not been provided with much information on the issue of archiving their records, and that further investigation into adoptees’ opinions on this issue would be useful. With that in mind, Aitheantas carried out a ‘Participation, Validation and Memorialisation’ survey following the publication of the final report by the Commission of Inquiry into Mother and Baby Homes and Related Matters in January 2021. The results of this survey are outlined later in this report.

Adoptees' families

The spouses/partners and children of adoptees that responded to the survey shared their loved ones' frustration at the lack of access to health and identity information, as the below quotes make clear. Many also commented on the impact of adoption on their own lives, and the costs of unresolved and multi-generational trauma.

"My wife as an adoptee has practically no biological medical information. She was diagnosed with a debilitating autoimmune condition [...] and she has been living with this for [...] years now. If she had her biological medical information this condition could have been pre-empted and dealt with and prevented as it is a genetic disease. Now she will have to live with this for the rest of her life. She obviously is unaware of any other genetic medical conditions and cannot take preventative measures. We have children that are missing 50% of their biological medical information and they are facing an unacceptable lack of information on their health into the future. This issue has affected us hugely as a family".

"I have lived with someone for [...] years who often seemed to feel like a second-class citizen, even in her adopted family".

"My children and wife do not know their medical history. This is critical information for any human being and is a basic human right".

"I feel as a child of an adoptee, that I should have the right to take the government to court over the death of my father as he committed suicide because he searched for his mother his entire life and nobody would help him. He was a great father but there was an empty hole that could never be filled unless he found out who his mother and father [were], all he wanted was answers and the government withheld that from him, as such, I grew up in a home without a father, ended up homeless with my mother, lost our house as my father was the main income provider, from the age of 8 until now. I have suffered greatly because of the loss of my father and this could all have been avoided if only my dad got the answers he needed, not wanted but needed. So I feel it should be granted some confirmation for the pain and suffering I have endured over the years, not to mention the hell I went through during the homeless years with my mother. I hold the government responsible for this".

"My mother has suffered years of depression and anxiety not knowing who she is, feeling like she has been rejected over and over again. Feeling like nobody recognises her rights as a human being. It's heartbreaking to watch".

"I'm the child of an adoptee. I want people to know that adoption is multi-generational. It impacts the lives and futures of children of adoptees, siblings and half-siblings of adoptees, grandparents, aunts, uncles, etc. Without DNA testing and the recent opening of adoption records in New York, my family would have never known who and where we came from and we would not have been able to discover medical information and claim/obtain Irish citizenship-- which provides enormous economic and educational benefits".

One of the aims of Aitheantas' research was to show the impact of adoption on adoptees and their spouses/partners, the intergenerational impact on their children and the necessity for mental and physical health support for adoptees and their families.

Impact of DNA testing

While there has been little progress with information and tracing legislation in Ireland, time and science have moved on. Many adoptees now use commercially available DNA tests to identify biological relatives. They often take this approach after they have exhausted all avenues to access information through state and private agencies, and feel they have no choice other than to take a DNA test. A high proportion of adoptees expressed the view that if they had been able to access their information any other way they would not have taken a DNA test.

AITHEANTAS GENEALOGY SURVEY

Overview of survey

In the absence of adequate information and tracing legislation in Ireland, and the chronic difficulties in accessing background information, adoptees have taken advantage of scientific progress and are increasingly turning to DNA platforms in order to accurately identify and contact their biological relatives. Adoptees also frequently engage genealogists and family history researchers to assist them with their information search.

Aitheantas believe that the perspective of researchers that have assisted adoptees with information tracing provides a valuable perspective on the experiences of adoptees in Ireland. To that end, Aitheantas carried out a short context survey of genealogists and family history researchers.

The survey was focused on the use of records and DNA testing in the process of family tracing. The aim of the survey was to illustrate not only that engaging researchers is becoming a preferred pathway to information for adoptees, but also to establish whether this method is an effective, supportive way to access identity information. Aitheantas also conducted further research as to how Adoptees would prefer that Genealogical supports were delivered in the Participation, Validation and Memorialisation Survey.

Aitheantas distributed this survey to individual genealogists and to genealogy/family history forums and groups, via email and social media platforms. The survey respondents were a mixture of professional genealogists and family history researchers.

Questions put to participants can be found in **Appendix C**.

Key Findings

Participants

19 genealogists and family researchers responded to the survey. The majority assisted adoptees in a personal capacity rather than a professional one. They indicated that gathering background information on adoptees was more difficult than other kinds of family history research.

The majority of respondents helped between one and five adoptees. Over 15% of respondents helped between 10-20 adoptees in accessing information, identifying biological family members and facilitating contact.

Research Methods

Overall, the most common method used for obtaining information was a combination of records-based search and DNA test results. 63.2% of respondents said they used both resources, while 31.6% used records only and 5.2% used DNA platforms only.

DNA Platforms

Of the respondents who used DNA platforms, all had used AncestryDNA at some stage in their research, while many also used 23andMe, MyHeritage, GEDmatch and Family Tree DNA.

Reunions

The survey results indicated that as a result of records-based research conducted by genealogists and family history researchers on behalf of adoptees, over 40% of cases led to reunions between adoptees and members of their biological families, and that 70% of the people reunited remained in long term contact. Aitheantas believes that this illustrates that reunions can be successful when the emphasis is on supporting the Adoptee, with a supportive light-touch approach and minimum intervention. This is a useful mode in developing a successful model moving forwards.

Health Information

Nearly 95% of respondents felt that it was harder for adoptees to get information on their biological heritage than people who are not adopted. Respondents also thought that information and tracing legislation needed to change in specific ways.

“A birth child lives in solid ground with roots. An adoptee lives in shifting sands, and with little or no knowledge of their ancestry they can’t be rooted. Knowing your family history gives one a sense of identity, belonging and inclusivity. Being denied access [to information] is simply cruel”.

“Access to records, [the law needs to] understand that adoptees are coming from a trauma and need extra understanding, not more rejection of their needs”.

“They [adoptees] must be at the forefront of any law. Ultimately it’s their rights above anyone else’s that must be guarded & protected. They should have an absolute right to their birth information”.

Information access

Every genealogist and family history researcher who participated in the survey acknowledged the difficulties adoptees face when trying to access information on their own identities. The significance of DNA testing was also acknowledged. Respondents suggested that information and tracing legislation needs to ‘catch up’ with adoptees’ needs, and that it needs to incorporate and support these new, evolving methods of tracing.

Many respondents commented on the importance of retrieving personal information, as the quotes below show:

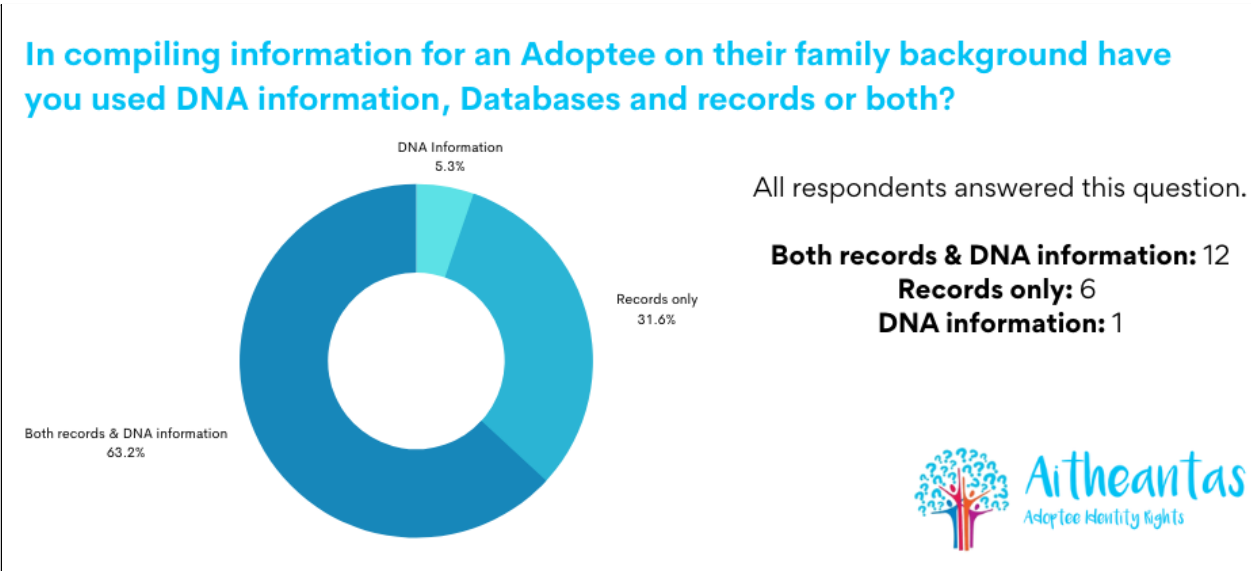
“To know where we are going, we need to know where you came from.”

“[...]sometimes a little piece of information means so much to someone who has no information at all”.

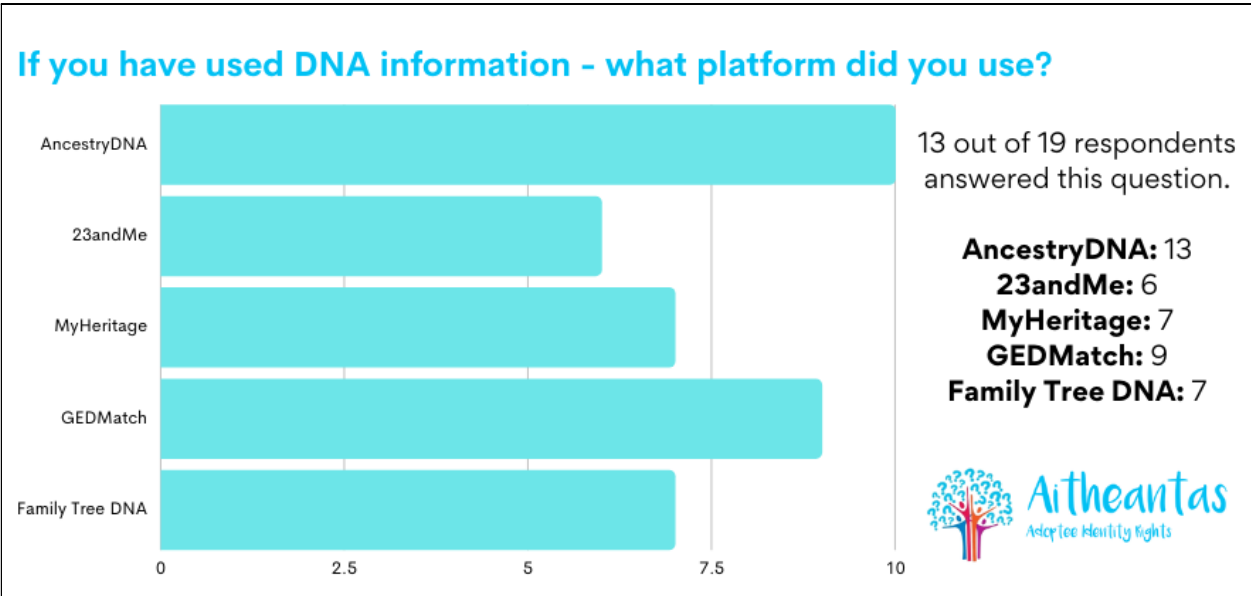
“Everyone needs to validate their own identity and have a sense of their family history. It matters medically too, to know what conditions run in a family. Forewarned is forearmed”.

Diagrams

Research Methods

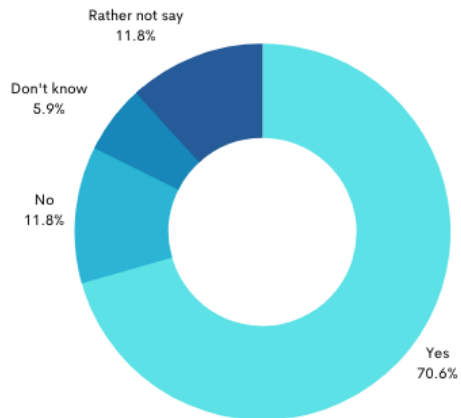


DNA Platforms



Reunions

To the best of your knowledge have any of these contacts or reunions been successful with parties maintaining long term contact?



17 out of 19 respondents answered this question.

Yes: 12
No: 2
Don't know: 1
Rather not say: 2



AITHEANTAS PARTICIPATION, VALIDATION AND MEMORIALISATION SURVEY

Overview of survey

Following the publication of the Final Report of the Commission of Inquiry into Mother and Baby Homes and Related Matters in January 2021, Aitheantas ran a short context survey of adoptees' opinions and views on the report. The survey was shared to adoptee related support groups and on social media platforms.

Key Findings

Inclusion and exclusion

Respondents were evenly divided between those within the remit of the Investigation and those who were not within the remit. There is a shared dissatisfaction between those who could participate in the Commission of Inquiry and those who could not. Neither group was satisfied by the Commission of Inquiry nor its final report.

When participants were asked their opinion on the fact that they were not eligible to participate in the Commission of Inquiry, many expressed feelings of rejection and frustration, as evidenced by the quotes below:

"[I felt] that my experience did not matter, that I did not matter, that I had nothing useful to contribute".

"I felt that it excluded me and other people that should have been given the chance to have our [mother and baby] home examined".

"Rejected once again".

"I would have valued an opportunity to participate. My voice would have been heard. [I was] upset about it at the time".

“Excluded, silenced, discriminated against, unrepresented, ignored and forgotten. Nothing new there then!”

“I feel my opinion, my experiences and my issues are ignored due to an arbitrary decision yet another stranger made about me, without me, but completely affecting me”.

“I feel strongly that the investigation, the report's findings, the apology and any reparations, further exclude me”.

“It's a whitewash”.

“[I] asked for a copy [of the final report], still waiting. My part was not included under the [section about] the [mother and baby] home I was in. But my story was symilar [sic] to what came out in report. I was there under X months [,] I wasn't [sic] treated great in [the] home. But it was one of the best run [homes]. Just because my mother was in the same time as me, I was lucky to see her for a short time during the day.”

One respondent who was within the remit of the Commission on Inquiry, but who did not have an opportunity to participate, noted:

“It was difficult, I thought when the [mother and baby] home I was in was included that I could go to talk to them [the Commission]”

Opinions on report

All respondents were disappointed and frustrated by the final report of the Commission. The quotes below highlight respondents' anger at the report's style and content:

"It is an unmitigated insult and the whole thing from beginning to end has been extremely abusive, even by going under the 2004 [Commissions of Investigation] act".

[..] I think the report was also poorly written and poorly presented. The recommendations were badly set out. The tone of the report was condescending".

"All that time, money and effort for what?"

"The untimely apologies, despite our protestations, the inexplicable exclusion of so many from so many institutions, the sheer lack of even the bare minimum of respect and therefore the blatant contempt shown to a vulnerable and traumatised marginalised community, are all a resounding shame and an utter disgrace!"

The use of the report's findings for academic research was noted, but its inadequacy for victims was emphasised.

"Some of its findings are of benefit, probably to academics, the media and historians, but of little benefit to victims and survivors. The language, the press leaks from the Dept, the conclusions of 'No evidence', the contradictions, the destruction of testimonies, the way the Minister mishandled the database sage [sic] in Oct '20, the fact [that] testimonies are not word for word and incorrect, the way people did not receive a hard copy of the report, the webinar, the rhetoric & the whitewash, the phenomenal cost, the Commission's doubling down and lack of communication, the societal blame and the already ignored recommendations... survivor centred approach my adopted xxx!"

Respondents noted that the limited nature of the Commission's remit affected its ability to effectively carry out an investigation, as elaborated in this quote:

“If it were a scoping exercise to check the viability of further investigations then to some extent it would have been understandable, but as a stand-alone investigation it makes no sense. The Commission covered so little and interviewed so few that it is hard to see the sense of it, it effectively shut out so many people. Then proceeding as if it were done and dusted, we have all the answers and we'll move on focusing on the tiny section that the commission focused on is upsetting, it's like a loss of franchise all over again.”

Taoiseach's apology

The full text and a video of An Taoiseach's apology was provided in the survey. However, the apology delivered by An Taoiseach was seen as being insufficient by all respondents. It was felt that the commission excluded far too many who were directly affected, a fact the respondents believe An Taoiseach should have acknowledged.

Independent investigation

All respondents felt that there needed to be a full investigation into the practices of forced and coercive adoption in Ireland, and that this investigation should include all mother and baby homes, agencies and institutions. They also agreed that the history of mother and baby homes and forced and coercive adoption should be taught in schools and colleges at secondary and third level.

Museum/repository

The majority of respondents felt that the focus of any museum or repository of records should be adoptee/survivor-led with priority access for adoptees/survivors and their families.

A majority also felt that any future repository or museum should be in a neutral location that had no prior association with this past.

There was also a clear preference for an interpretative-based, survivor-led model which gives the social context of mother and baby homes, features permanent exhibitions and provides priority access to records for adoptees, survivors and their families.

Survey results indicated that adoptees who had taken a DNA test were more likely to prefer an interpretive-based model as opposed to a records-based model, whereas adoptees who had not taken a DNA test were more likely to prefer a records-based model.

Based on the result of this and other surveys, Aitheantas believes that adoptees who have taken DNA tests are further along in their information tracing process and now see the practices of adoption in a wider societal context.

As the numbers of adoptees taking DNA tests and conducting their own information tracing increases, Aitheantas believes that an interpretive-based model that gives the wider societal context is the most appropriate and suitable model for any repository/museum.

Respondents had many thoughts on the potential location and model of such a museum/repository, as highlighted in the quotes below:

"I think having something in Galway would be good, Tuam is there and even if the home is long gone there should be something there to remember them, I don't know that a centre would be a good idea [...] far too painful for people to go back [...] so something new and modern [would be good]".

"I think there are a few good ideas here that I have not heard before. The [one-off genealogy support] grant is a good idea for people who have already had to pay a lot of money to find records or documents and are further along. The museum focused on survivors [is] a good idea because we can see from the commission what happens when it is records based and [carried out] by people who do not know the background".

"We need something for the mothers and children in the north [Northern Ireland], no one remembers the homes in the north".

Genealogy supports

Respondents were strongly in favour of a one-off grant for adoptees to support genealogical research, as opposed to this service being made available through a centre or museum. Genealogists and family history researchers have proven to be an ongoing and useful support for adoptees.

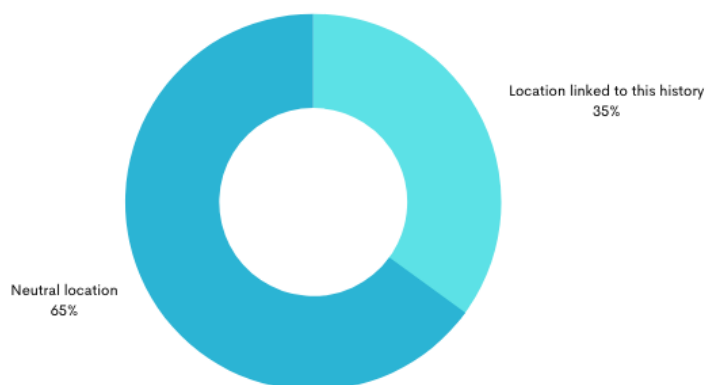
This is reflected in the majority of responses that wanted this help supported and acknowledged in the form of a one-off grant to support information tracing. Individuals who responded to the survey are at different stages in their own tracing journey and in need of different supports at different times. A one-off grant was seen as fairest and meeting all needs while also providing autonomy.

“[I] especially agree with the grant aspect for tracing as a lot of adoptees, myself included, would have already paid to have a lot of research work done or paid for ancestry test which being quite honest I would never have done if there had been any other way to get the information”.

Diagrams

Location of museum/repository

Do you feel that any permanent repository of records should be housed in a location linked to this history such as a former home or in a neutral location that had no prior association with this past?



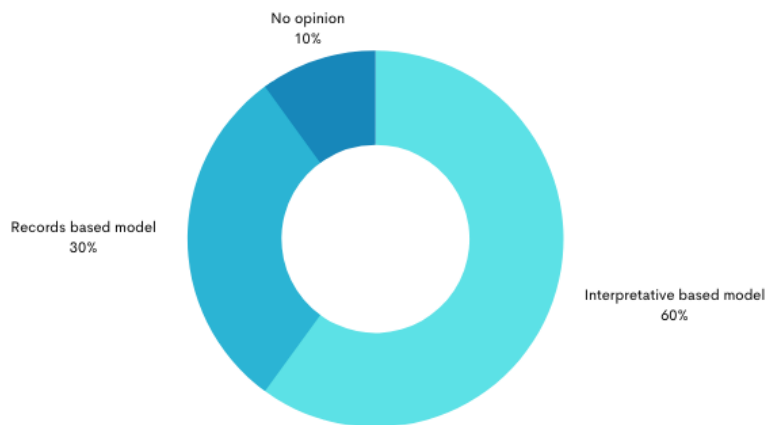
All respondents answered this question.

Location linked to this history such as a former home: 7
Neutral location: 13



Model of museum/repository

Different types of model of archive/repository has been suggested - which do you feel would be most appropriate?



All respondents answered this question.

Interpretative based model: 12

Records based model: 6

No opinion: 2



CASE STUDIES

Overview

These three case studies were taken from the Identity Rights for Adoptees survey and the Participation, Validation and Memorialisation survey.

Person A

Person A is an adoptee from Dublin who was adopted from Magdalene Asylum/Denny House on Eglinton Road, Donnybrook via the PACT adoption agency (formerly Protestant Adoption Society). When Person A decided to seek out their personal information, they approached PACT and their sister organisation, the crisis pregnancy service Here2Help. Person A prefers the terms birth mother/father.

Summary of responses

- When asked about their experiences with accessing their personal information from PACT and Here2Help, Person A described a difficult and painful process:

“Extremely painful. A social worker sitting with a file and won’t tell you anything. Months of delay, each time [I] had to phone [a] social worker to try [to] get [an] update. Dreadful process”.

- When asked if they felt that lack of access to identity information and lack of access to health information had affected them Person A indicated ‘Yes’, further elaborating:

“As a teenager, young adult, always looking for someone who looked like you. When dating always afraid they could be related. Not knowing background etc etc. A friend died from inherited breast cancer. Always afraid there was something in my background. So sick of [doctors] asking for medical family history and having to say I don’t know”.

- When asked if they have ever had difficulty accessing public services as a result of being adopted Person A indicated that they have experienced difficulty in accessing their public services card (PSC).

- When asked if they felt they were treated or perceived differently as a result of being adopted, Person A replied that they were not sure.
- When asked about their opinion on the legal status of birth certificates, Person A responded that they believe that ownership of a birth certificate should be equally shared between an adoptee and a birth mother, with the state having no ownership claim over the document.
- When asked about the prospect of an independent archive, Person A offered no opinion.
- When asked what they would like people who are not adopted to understand about the experience of being adopted, Person A stated they wanted people who not adopted to understand the difficulty of the present system:

“Total unfairness of the system. The [adopted] child should come first, and have full access [to personal information] at age 18”.

Analysis of responses

Person A’s story shows that the difficulties faced by adoptees trying to access their personal information are not just specific to state agencies like TUSLA or the Adoption Authority of Ireland. There are issues with accessing information present in all agencies who are currently tasked with assisting adoptees. Being unable to access information causes emotional distress to adoptees, and impedes their ability to understand hereditary health risks or to identify biological relatives.

Person B

Person B is from Westmeath and was adopted from a mother and baby home there. Person B sought their personal information via Tusla (the Child and Family Agency) and Cúnamh (formerly the Catholic Protection and Rescue Society of Ireland). They prefer the term birth mother/father.

Summary of responses

- When asked about their experiences with accessing their personal information from Tusla and Cúnamh, Person A described it as:

“Very very difficult”.

- When asked if they felt that lack of access to identity information and lack of access to health information had affected them Person A indicated ‘Yes’, further elaborating:

“Medically I had a stroke which was genetic and could possibly have been prevented if I had the information [...] my health is impacted for life due to this stroke”.

- When asked if they have ever had difficulty accessing public services as a result of being adopted, Person B responded with “other” and elaborated:

“Having to explain when seeking admittance to [named occupational body] as to why I don’t have a long [form] birth certificate”.

- When asked if they were treated or perceived differently as a result of being adopted, Person B replied that they have, and that there is still a social stigma in being an adoptee.
- When asked about the prospect of an independent archive, Person B strongly disagreed with the Government proposals to create such an archive. They also disagreed with proposals to make administrative and other anonymised adoption records available to researchers and members of the public.

- When asked for a general comment, Person B stated:

“We are denied a basic human right [...] we should be given our original documents and medical records which could be redacted as a very minimum”.

Analysis of responses

Person B’s story highlights how the lack of access to biological health information, particularly about hereditary health risks, can be detrimental to adoptees’ overall health and wellbeing. Adoptees are also concerned for their own children’s health as a result of not being aware of their own hereditary risks.

Practical and professional consequences to not having access to their personal information is also evident in Person B’s story. They were delayed admittance to a professional body, which was vital to their work, due to not having access to their original (“long form”) birth certificate. This caused Person B distress and embarrassment, as well as impeding their ability to do their job.

Person B’s description of trying to access their information as “*very difficult*” highlights a recurring theme from survey respondents. The difficult tracing process and the withholding of information affects many adoptees emotionally and physically, with many still experiencing depression several years later and a reluctance to enquire further.

Person C

Person C is an adoptee who responded to Aitheantas' Participation, Validation and Memorialisation Survey. They were not within the remit of the Commission of Inquiry, due to the Commission only investigating a limited number of Mother and Baby and County Homes, and not examining the issue of adoption in Ireland as a whole. For these reasons, Person C could not participate in the investigations of the Commission of Inquiry and was unable to give testimony or make a submission.

Summary of responses

- When asked how they felt about not being able to participate in the Commission, Person C said:

"[I feel] rubbish, I have fought for Adoptee voices to be heard & I feel ignored now, spoken over, with no opportunity to give voice to our situation, a place at the table [...] Ireland is still disregarding Adoptees".

- When asked their opinion on the Commission's final report, Person C was unequivocal in their condemnation:

"Slapdash, shoddy, shallow, dehumanising, disrespectful, shameful, shockingly poor quality, ignorant".

- Person C did not believe that An Taoiseach's apology to survivors, made on 13 January 2021, sufficiently acknowledges the experiences of birth mothers, adoptees or stakeholders in these homes or acknowledges those that could not participate in the Commission's inquiry.
- They also believed that there needs to be a full, open investigation into all agencies/homes/institutions connected to adoption and unmarried mothers in Ireland.
- When asked why they think the general public are so shocked by the Commission's report and survivors' testimonies, even though the last few years have seen many news reports and books about the treatment of unmarried mothers in Ireland, the prevalence of illegal and coerced adoptions and the conditions in mother and baby homes, Person C responded:

“The government’s own appalling mishandling of the report has brought this injustice into the public eye. Ireland without institutions/govt interference now stands with our fellow human (e.g. Mar Ref, 8th Amendment [sic]). The Irish State’s position in relation to Adoptees & survivors is indefensible. The people of Ireland are [aware of] that”.

- Person C agreed that the social history of mother and baby homes, as well as the history of forced and coerced adoption, should be taught in schools at secondary level and in universities.
- On the subject of a permanent museum or repository of records relating to mother and baby homes, as suggested by An Taoiseach, Person C believed such a museum or repository should be shared across several different locations, that its location(s) should be neutral and not in locations associated with former mother and baby homes, and that its focus should be adoptee/survivor-led with priority access for them and their families. They suggested Limerick, Westmeath or the Midlands as possible locations. They also believed that the model of museum/repository should be interpretative-based, giving the social context of mother and baby homes via permanent exhibitions.
- When asked what supports could be offered to adoptees and survivors who have used genealogy services and DNA tests to assist in their information tracing, Person C preferred the option of a one-off grant made available independently of any centre or museum and a recommended panel of genealogists to choose from to assist with tracing. Person C confirmed that they had taken a DNA test themselves from a commercial platform, and that they would not have taken this test had they been able to access information about their past via official records.
- When asked if there were any particular observation they would like to add, Person C said:

“Give me my rights! I have lived with rejection for long enough, I don’t need my country rejecting me any longer. Learn about our pain & tell me we don’t deserve the human right to identity”.

Analysis of responses

As a result of being outside the remit of the Commission on Inquiry, and unable to participate or give testimony to it, Person C felt overlooked and ignored and that their contribution was felt to be of little worth.

They believed that there needed to be a full, open investigation into all agencies/homes/institutions connected to forced and coercive adoption and unmarried mothers in Ireland, and that the limited remit of the Commission of Inquiry and its unsatisfactory findings made the need for a full investigation all the greater.

RECOMMENDATIONS

"We realize the importance of our voices only when we are silenced."

- Malala Yousafazi

Participation in a process that directly affects adoptees is a vital component of any future process, particularly those adoptees who were outside the remit of the Commission of Inquiry into Mother and Baby Homes.

Any future process must have the full involvement of all of those who are direct victims of the injustices of the past. The impacts and effects of adoption are not limited to a specific remit, a specific home or a specific set of circumstances. Throughout the investigation of the Commission of Inquiry into Mother and Baby Homes and Related Matters, direct victims of the adoption system have been left outside the process.

As has been evidenced by the Aitheantas Participation, Validation and Memorialisation Survey, out of the 50% of respondents who were within the remit of the commission, only 5% participated. 95% of those who were directly affected could not participate.

If we are truly to move forwards as a nation, we can only do this when we are in full possession of the facts, what was intended to be '*nothing about us, without us*' left far too many behind.

Those who were outside the remit were subjected to arbitrary exclusion from a process they were directly affected by and should be included within any further process as a priority.

Attempts to allow adoptees access to information and in so doing to exercise their constitutional right to identity are qualified and limited. The constitutional right to privacy of the birth parent is prioritised over the constitutional right to identity.

The key recommendations of this report are as follows:

1. International best practice

Identify evolving and innovative practices internationally in enabling stakeholders to participate in the response to institutional abuses.

The survey findings, alongside the general response to the Mother and Baby Homes report and government apology, clearly indicate that many survivors and adoptees were excluded from the process. It is essential to give as many stakeholders as possible a voice in identifying needs and making decisions as to how these needs can be met, and in addressing and repairing the harm done.

To focus on both stakeholder participation (as the inclusive process through which voices are heard and decisions are made) and repairing harm (as a core outcome which the response should aim to achieve) would be to take seriously and make good on the proposal that 'restorative recognition'²² take centre-stage in the response.

There are many innovations at home and abroad from which learnings can be drawn and modern technologies applied to develop a bespoke inclusive process for the response. In New Zealand in 2019, the government funded restorative practitioners to include over 600 survivors of surgical mesh surgery and other stakeholders in addressing and repairing the harm done, through both face-to-face forums and an online database.²³

Also in 2019, Nova Scotia published reports, videos and summaries from its Restorative Inquiry into the 'Home for Colored Children', designed and delivered according to a restorative process.²⁴ In the UK, the Independent Inquiry into Child Sexual Abuse has incorporated a 'Truth Project'²⁵ to maximise the number of voices heard, while Dutch restorative practitioners have developed and piloted community processing, a process by which significant numbers of (even conflicting) parties can be brought together to arrive at a consensus as to how to move forward²⁶. In sum, there is no shortage of international innovations from which Ireland could learn.

Here in Ireland, another 2019 report showed how restorative approaches – in particular, circle processes – could be used successfully to engage survivors of institutional abuse; this work

²² 'Minister O'Gorman launches Consultation Process on the development of a Restorative Recognition Scheme for Former Residents of Mother and Baby Homes and County Homes' Department of Children, Equality, Disability, Integration and Youth, 12 March 2021, available from: <https://www.gov.ie/en/press-release/2a622-minister-ogorman-launches-consultation-process-on-the-development-of-a-restorative-recognition-scheme-for-former-residents-of-mother-and-baby-homes-and-county-homes/>

²³ Wailling, Marshall and Wilkinson, 'Hearing and Responding to the Stories of Survivors of Surgical Mesh', New Zealand Ministry of Health, December 2019.

²⁴ Journey to Light: A Different Way Forward. Final Report of the Restorative Inquiry – Nova Scotia Home for Colored Children, Province of Nova Scotia, 2019

²⁵ The Truth Project: <https://www.truthproject.org.uk>

²⁶ Wolthuis, Annemieke & Claessen, Jacques & Slump, Gert & van Hoek, Anneke. (2019). Dutch developments: restorative justice in legislation and in practice. The International Journal of Restorative Justice. 2. 118-134.

was funded by the Department of Education and Skills.²⁷ This is indicative of the substantial capacity Ireland has when it comes to restorative practitioners with the experience needed to operate in the institutional abuses and transitional justice arena. Ireland additionally has internationally-renowned capacities in human-centred design and Citizen's Assemblies²⁸ – both of which are inclusive processes and philosophies applicable in this context. It is essential that all of this learning is taken into account when considering how to maximise stakeholder participation and repair harm, so as to meet the needs of survivors in a fair, just and inclusive manner.

- [Dr Ian Marder](#), Assistant Professor - Department of Law, Maynooth University

2. New agency

Agencies that were part of the problem cannot be part of the solution. A new agency to replace the Adoption Authority of Ireland and Tusla must be formed, to improve interactions with adult adoptees and allow for cross-referencing of files to identify illegal adoptions and sibling relationships.

As has been shown by the responses to the Aitheantas surveys, the interaction with representatives of these agencies has been an overwhelmingly negative experience for adoptees. Aitheantas recommends that there be a new agency formed, to replace the Adoption Authority of Ireland and TUSLA, to take responsibility for front-facing interaction with adoptees.

Aitheantas has outlined the legal difficulties in having agencies that have previously adjudicated on adoptees' cases hearing those cases again. The result of which is simply that adoptees do not trust either of these two agencies. The experiences as outlined in these surveys have impacted upon the respondents to such an extent that Aitheantas believes that negative association with these agencies could be a barrier to participation by adoptees in any future tracing or access of personal data, if it were still entrusted to these same agencies.

Following the success of the Aitheantas #RepealtheSeal campaign,²⁹ access was given to the files and testimony given by survivors to the Confidential Committee of the Commission of Inquiry into Mother and Baby Homes. The Commission's files and testimony are currently held by the Minister in an Information Management Unit within the Department of Children, Equality, Disability, Inclusion and Youth. Aitheantas believes that all files should be held within one agency and subject to a higher and more transparent standard of data access. There is no confidence in existing agencies to sufficiently deliver on that obligation.

²⁷ Walshe and O'Connell: 'Consultations with Survivors of Institutional Abuse on Themes and Issues to be addressed by a Survivor Led Consultation Group', Department of Education, July 2019

²⁸ Citizens' Assembly <https://www.citizensassembly.ie/en/>

²⁹ Aitheantas - Adoption Identity Rights: Repeal the Seal, Open the Archive petition, Uplift, January 2021

This recommendation is further reinforced by the words of the AAI themselves earlier this year, whereby they admit that they do not have the resources, in terms of costs and staff, to carry out a full review of files in which the State's adoption agencies do not know what happened to thousands of babies for whom adoption files were opened but never completed.³⁰

It is not acceptable for the AAI to assert that an investigation is not feasible when it is required by our commitments to European and human rights conventions. Costs should not be an obstacle in this regard.³¹

Unquestionably, the constitutional right to identity recognised under Article 40.3.1 would include the right to know the identity of one's siblings yet for various reasons this fundamental personal right is still denied to many adoptees/survivors.

Quite clearly, the AAI and Tusla are no longer fit for purpose in this aspect of their functions.

3. Review of legislation

Any future legislation must prioritise Adoptees access to information within a supportive and information based model. The Birth Information and Tracing Bill 2021 is at the pre-legislative scrutiny stage. Yet again, the mistakes of the past are being repeated in the General Scheme of this Bill, despite the best intentions of the Minister.

Going forward in any future legislation in this area, a review phase is essential. Periodic reviews of the workings of legislation is an increasing and welcome development in recent acts, for instance the Judicial Counsel Act 2019 provides for review periods of the workings of the personal injuries guidelines every three years.

Aitheantas strongly recommends a similar review period in any reform of the law on access to information for adoptees. For far too long this area has suffered from a dearth of legislation and lacking a review provision on the rare occasions that legislation was attempted, resulting in the issue being left in abeyance for decades.

³⁰ 'Not possible' to say what happened to thousands of babies with incomplete adoption files" *Irish Examiner*, 26 March 2021, available at: <https://www.irishexaminer.com/news/arid-40251569.html>

³¹ 'Spend the leftover €11.5m on investigation into adoption files', *Irish Examiner*, 27 March 2021, available at: <https://www.irishexaminer.com/news/arid-40252538.html>

4. Investigation

A full investigation into all homes, agencies and institutions involved in historic, domestic adoption, to include practices within the Adoption Authority of Ireland and TUSLA, the Child and Family Agency.

The remit of the Commission of Inquiry was too limited and omitted direct victims of this system.

The fact that Maud de Boer-Buquicchio, the UN Special Rapporteur on the Sale and Sexual Exploitation of Children made comments and observations on the workings and remit of the Commission of Inquiry into Mother and Baby Homes and Related Matters in November 2019 is telling and significant in itself.

‘However, the Special Rapporteur is concerned that the limited scope of the Commission’s work—as with those of other commissions examining abuses in institutions before it—will mean its investigation is not broad enough to uncover the full scale of illegal adoptions, which still affect Irish citizens today.’³²

Allegations of physical, emotional and sexual abuse, as well as the circumstances surrounding alleged vaccine trials in testimonies are extremely serious and must be fully investigated by the Gardaí.

Testimonies reveal allegations of serious violations of constitutional rights and international human rights. These demand further investigations or inquiries pursuant to the State’s obligations in domestic law and its obligations under international law as a signatory to the European Convention on Human Rights.

The scope of such inquiries must be comprehensive and have a broader remit to include all institutions, homes and agencies involved in all adoption practices, both public and private, to comply with the State’s obligations in international law.

It is Aitheantas’ view that the Commission of Inquiry into Mother and Baby Homes and Related Matters was too narrow in its remit to comply with these obligations in light of its findings and recommendations. Quotes from survey participants emphasise this point.

“I think the terms of reference was [sic] designed to look at homes where they knew there was problems [...] they are afraid to dig deeper because they know there’s serious malpractice.”

³²Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Visit to Ireland (2019), available from: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_51_Add.2.docx&action=default&DefaultItemOpen=1

5. Apology

An Taoiseach's apology was felt by all respondents to the Aitheantas survey not to have sufficiently acknowledged the experiences of birth mothers, adoptees or stakeholders in the homes within the remit of the Commission, or to have acknowledged those that could not participate in the Commission's inquiry as they were outside its remit.

The impacts of adoption are not limited to a specific home or institution but are broadly experienced by adoptees as a whole. Adoptees who were not within the remit of the Commission of Inquiry into Mother and Baby Homes and Related Matters could not participate in this investigation and have subsequently been omitted from the apology issued on this matter by An Taoiseach.

The apology could have addressed the omissions within the remit of the Commission by including stakeholders who are affected by this issue but who could not participate in the Commission's inquiry.

In issuing such a limited, and rushed, apology, An Taoiseach stratified, and minimised, the experience of adoptees, birth parents and survivors who have yet to be heard and are still awaiting acknowledgement. The commission excluded far too many who are directly affected, a fact An Taoiseach should have also acknowledged.

Aitheantas believes that this omission and oversight would be best addressed in a specific ceremony for adoptees, acknowledging the social and moral wrong they were subjected to and the effects of which they and their families still live with daily.

An apology is viewed by adoptees as a vital part of a restorative recognition process. This issue needs to be revisited, incorporating a broader vision acknowledging the losses suffered by all parties involved. Respondents to the surveys emphasised the importance of a proper State apology.

“Adoption needs to be recognised as trauma to the baby that’s enduring and has huge consequences for all future relationships”.

“If I had history of x illness and was showing symptoms I would immediately be fast tracked for tests etc. I feel Adoptees should be presumed automatic at risk of everything or at least given frequent free scans/tests/screenings etc. for common illnesses”.

“Really with advances in medical screening in the absence of any history adopted adults and the surviving children of deceased Adoptees should have access to free genetic screening to help fill in the gaps”.

6. Autonomy over identity

Adoptees' birth certificates and the original names they were given, as established by Aitheantas through this research, have significance far beyond the document itself. Adoptees view this document and autonomy over their own name and identity as a restorative means of acknowledging past wrongs.

Aitheantas has already called for adoptees' birth certificates to be historically and genealogically correct as part of a restorative recognition process. The birth certificates should include both birth parents' names, and also have a specific mechanism for inclusion of birth parents' names in instances where one or either birth parent has passed away.

Aitheantas also believes that errors on adoption certificates, which are currently deemed to be immutable, is a significant issue that speaks the lack of dignity afforded Adoptees also needs to be addressed.

Aitheantas recommends that this is addressed within a specific, private, application process for amendment that allows for corrections or additions to be made into these documents, in order to allow adoptees autonomy over their own identities.

Given the social sensitivities that adoptees still feel exist with this issue, a process of amending or correcting the adoption certificate should not be public, or involve any financial cost to adoptees. Respondents to the survey noted the importance of adoptees' autonomy over their own personal information.

"Access to information is one thing. Contact with genetic family members is a separate issue. The biggest flaw in the currently proposed legislation is that this has not been taken into consideration".

"Whilst legislation continues to deny access to identity information for Adoptees it causes a collective psychology that views Adoptees as 'less than' and perpetuates a view of illegitimate[acy] in its legal sense".

7. Terminology

The results of these surveys make it clear that the issue of terminology around adoption is important to adoptees.

For instance, it is common for agencies and the media to use terms such as “natural mother/father” when the question in the survey about preferred terms section shows that most adoptees prefer the term “birth mother/father”. This discrepancy indicates that all stakeholders understand the importance of consistent and sympathetic language. Any research on this issue must be adoptee/survivor-led and not carried out by academics or specific to an institution.

Further to and separate to the surveys contained in this report, Aitheantas is continuing to conduct research in the area of terminology and language usage. This research is designed to address knowledge gaps and to lead reform on the issue of terminology surrounding matters of historical, domestic adoption in Ireland.

“Right to identity should move with the times. Start listening to the voice of the baby who is now an adult and deserves a voice, an identity and a right to know birth parents”.

8. Medical supports

Concerns over lack of knowledge regarding hereditary health concerns remains a significant, if not the main concern, and an ongoing issue for adoptees.

An aging demographic, adoptees are concerned not just how lack of knowledge about their genetic medical history impacts on themselves, but also on their children.

Aitheantas recommends comprehensive health screening programmes for adoptees and earlier entry to existing screening programmes for adoptees and their children.

“When I found my birth father (through DNA), the first thing he told me was to be careful of my heart. I also have developed Type 2 Diabetes”.

9. Mental health supports

The long-lasting social stigma around adoption in Ireland has caused feelings of marginalisation among many adoptees, affecting their mental health.

The majority of respondents to the Aitheantas survey stated that they are perceived differently if they state they are adopted, and that there is still a social stigma to being adopted in Ireland. Adoptees and their children frequently feel marginalised as a result of being adopted. This has clear implications for the provision of mental health services.

Aitheantas recommends that mental health supports, such as access to counselling, be made available to all adoptees, not limited to a specific remit, and that this service also be extended to the children of adoptees.

10. Changing language

A recurring problem over the years has been the way that adoptees are described as a “threat” to their birth parents, by the media, government and agencies.

As recently as 2019 then-Minister Katherine Zappone referred to her wish to ‘protect a potentially vulnerable cohort of birth parents’ in response to a Parliamentary question raised in relation to the Adoption (Information and Tracing) Bill 2016.³³ Language such as ‘protect’ and ‘vulnerable’ presents adoptees as a threat to be protected from.

The pervasiveness of this language reveals how deep-seated the false idea is that adoptees and birth parents have conflicting interests by default. This is not the case.

This problematic mindset, reinforced over decades, is clearly reflected in the survey which shows a majority of adoptees still feel there is a social stigma to being adopted in Ireland. They also feel that if they state they are adopted they are perceived and treated differently by others.

The language that portrays adoptees as a “threat” needs to change and not reinforce ‘othering’ or social stigma. Aitheantas recommends that the language used by media, government and agencies surrounding adoption needs to change. Given our raw - and largely unknown history - with regard to this area and the sensitivities around these issues in Ireland, Aitheantas recommends that damaging stereotypes are no longer reinforced and the use of ‘adoption’ and ‘fostering’ needs to be limited to the correct, legal definition.

³³ Parliamentary Questions, Oral (Minister for Children and Youth Affairs) - Adoption Legislation (2019) available at: https://www.oireachtas.ie/en/debates/debate/dail/2019-03-28/9/#spk_72/#:~:text=maintaining%20protections%20for%20a%20small%20cohort%20of%20potentially%20vulnerable%20birth%20parents.

11. Genealogy support grant

Genealogy supports have proven to be an ongoing and effective support for Adoptees in filling the lacuna by lack of support and Tracing and Information Legislation with a high degree of accuracy and success. Any future Legislation needs to reflect this fact.

Aitheantas recommends that any future legislation incorporate this support by providing a one-off grant to allow adoptees to conduct and support their own tracing.

This grant would acknowledge the significant costs incurred by adoptees in order to establish information which the State now acknowledges should not have been withheld from them.

As evidenced in this report, information and control of it remains a sensitive issue for Adoptees. Adoptees therefore wish to remain in control of their own information and research on this issue and prefer a grant over this service being provided for them.

“We have to depend on services like AncestryDNA to find out the truth”.

“Through DNA, I found my family, but the mother I had longed for all my life was dead 14 years by the time I found her. I have spent a fortune on searching and trying to address the years of trauma involved in being adopted and in not being able to have access to my true family”.

12. Commemoration

Adoptees are the custodians of their own history. They view this history as being primarily their own and that of their immediate families. This must be acknowledged and supported in any future commemoration of the history of forced and coercive adoption.

According to the survey results, adoptees envisaged the most suitable model of commemoration as an interpretative centre which is Adoptee/Survivor led and gives the historical context of Mother and Baby Homes and how they related to the State, the Church and Irish society. Such a centre should also feature permanent exhibitions, with priority access to records given to adoptees, survivors and their families.

There was a preference for the future site of such a centre being a neutral location and not one linked to the previous history (e.g. a former Mother and Baby Home building). There was also preference for the centre to be shared across several sites to enable widespread access.

Aitheantas recommends that there should be extensive consultation with all direct victims on this issue, with numerous models of interpretation and types of site considered.

Given the sensitivities surrounding this issue it would be essential that all who are directly affected have input and that they be clearly facilitated with regard to their views.

Another key consideration under the heading of Commemoration is institutional burial grounds and preservation of same. This issue has arisen in the pre-legislative scrutiny stage of the Certain Institutional Burials (Authorised Interventions) Bill earlier this year. Following submissions to the Joint Oireachtas Committee on Children, Equality, Disability, Integration and Youth concerning the above bill, Aitheantas was invited to appear before the Committee as expert witnesses.

Evidence was given to the Committee on 27 April 2021 and Aitheantas recommended the use of Compulsory Purchase Orders (CPO's) in instances where the land in which the institutional burial was located was not owned by the State and/or the landowner was not amenable to the transfer of the relevant part of the property to the State in order to preserve and commemorate the site.

While suggestions have also been made regarding a national holiday or day of commemoration, Aitheantas feels that given the strong feelings regarding the involvement of the church in the issue of forced and coercive adoption that consultation with direct victims on this matter is vital.

13. Education about adoption

Adoptees want the history of forced and coerced adoption within the wider societal context to be taught at both secondary and third level education in Ireland. This was supported by every respondent to this survey.

This speaks to adoptees' understanding of themselves as the custodians of their own history. Teaching the history of forced and coercive adoption, and adoptees' role as direct victims of this system, would acknowledge and understand adoptees' and survivors' experiences outside of the narrow confines, or remit, within which this history is currently understood.

From these findings, Aitheantas recommends that the history of forced and coercive adoption be incorporated as part of the curriculum for secondary and third level.

Aitheantas further recommends that this progresses within a reasonable timeframe.

14. Adoptees as Educators

Aitheantas recommends that adoptees, survivors and their children are supported in becoming educators of their own history and not the subjects of academic study.

Respondents to all of these surveys, both adoptees and their children, have shown that they understand and appreciate the significance of the social history of adoption and their own place within it. Adoption, the issues surrounding it and numerous decades of inaction has had a profoundly negative impact on both adoptees and their families.

The fact that a majority of respondents have stated that there is still a social stigma attached to being adopted not only means that this has impacted on them negatively but that it has also become an intergenerational issue.

Adoptees and survivors are the experts on their own experience and should be empowered to claim it as such through education supports.

Aitheantas recommends that all colleges and universities with these areas as a source of study or research provide scholarships specific to adoptees, survivors and their children in instances where this is not already the case.

Aitheantas further recommends that any funding for further education as outlined in the Commission's Key Recommendations is specifically directed to adoptees, survivors and their children.

15. We need to face our history with courage and not repeat the errors of the past.

1. Aitheantas recommends a full review of all practices surrounding domestic intercountry adoption in line with current investigations in Belgium, The Netherlands and Sweden.³⁴
2. Aitheantas recommends that greater and more targeted supports as regards single parents and marginalised families be put in place to show that we have truly 'learned from the past'.
3. The involvement of the Church in past practices of forced and coercive adoption remains a source of deep hurt for some respondents.

"influence over the State with their attitudes to unmarried women having babies"

"what [the] church and state [have] done [is] not right. We are paying [for it]"

"Not happy with [the] church and state the way they have dealt with it. So many lives destroyed. [sic] An apology from [the] Catholic Church.. Removal [of the Church] from all schools. Atonement assets ceased [sic] by state."

The tone of the report of the Commission of Investigation into Mother and Baby Homes and related matters was felt by Adoptees to have been excusatory and to have pushed responsibility for these institutions, and their failings, back on society at large. This was a society whose views and morals were shaped by the Church and the State. A society whose adults of 1950's were the children of the new Free State, who were educated, shaped and dictated to by the Church, whose views were enshrined in our laws and wider society, a society hamstrung by propriety and paternalism, all of which occurred with the full permission of the State.

This was a society which utterly failed the women and children who still suffer as a result of the legacy of forced and coercive adoption. History is repeating itself even today with the controversy over the new National Maternity Hospital.

Aitheantas fully supports the campaign for a publicly-owned and secular National Maternity Hospital as a vital first step in acknowledging past wrongs.

³⁴ Human Rights Watch - Sweden To Investigate Illegal Intercountry Adoptions (2021), available at: <https://www.hrw.org/news/2021/02/22/sweden-investigate-illegal-intercountry-adoptions>

APPENDIX A

Questions put to participants in the Uplift 'Identity Rights for Adoptees' survey

1. Can you confirm that you are an Adoptee or the child of an Adoptee?

Options: I am an adoptee/Child of an adoptee/Other

2. I give permission to share the information I am providing in this survey with the Adoptee identity rights group, Aitheantas.

Options: Yes/No.

3. If you are an adoptee where were you placed?

Options: Mother and Baby Home/Adoption Agency/Other.

4. Have you accessed or tried to access information about your adoption through any of the following bodies?

Options: Tusla/Adoption Authority of Ireland/Other

5. If you answered 'other' can you explain?

6. How would you describe the experience of seeking information about your adoption?

7. What terms do you prefer to use?

Options: Birth mother, father/natural mother, father/ biological mother, father/other

8. If you said 'other' can you explain?

9. Do you feel that lack of access to identity information has affected you?

Options: Yes/No

10. Do you feel lack of access to biological medical information has affected you?

Options: Yes/No

11. Can you explain your answer?

12. Have you ever had difficulty accessing services as a result of being adopted?

Options: Applying for a passport/ Applying for a public services card/ Accessing employment records/ Other

13. If you said 'other' can you explain further?

14. Do you feel there is still a social stigma to being adopted?

Options: Yes/No

15. Do you feel you are treated or perceived differently if you disclose that you are an adoptee or the child of an Adoptee?

Options: Yes/ No/ Not sure

16. On a scale of 0 to 9 how do you feel about the following proposals the Government is currently considering? 0=extremely unhappy 9=very happy

Options: The State shall establish an Independent Archive to retain Adoption records / To make the administrative and other anonymised records available to researchers and members of the public.

17. What would be the one thing that you want people who are not adopted to understand about being adopted (or being the child of an adoptee) and not having open access to your files or information?

18. On a scale of 0 - 9 who do you feel Adoptees original birth certificate belongs to?

Options: The Adoptee/ The Birth Mother/ The State

19. Do you have anything to add before we finish?

APPENDIX B

Breakdown of 'Identity Rights for Adoptees' survey results

Can you confirm that you are an Adoptee or the child of an Adoptee?

Adoptees	81.4%
Children of adoptees	9.0%
Other	6.8%
Did not answer	2.8%
Total number of respondents:	468

If you are an adoptee, where were you placed?

Mother and baby home	39.1%
Adoption agency	40.8%
Other	13.0%
Did not answer	7.1%

Do you feel that lack of access to identity information has affected you?

Affected	53.2%
Not affected	8.5%
Not sure	3.6%
Did not answer	34.6%

Have you accessed or tried to access information about your adoption through any of the following bodies?

Adoption Authority of Ireland	27.4%
Tusla	25.0%
Other	34.2%
Did not know	5.1%
Did not respond	8.3%

What terms do you prefer to use?

Birth mother/father	41.7%
Biological mother/father	10.5%
Natural mother/father	4.0%
Other	4.7%
Did not respond	39.1%

Do you feel lack of access to biological medical information has affected you?

Affected	50.5%
Not affected	11.2%
Not sure	5.6%
Did not respond	32.7%

Have you ever had difficulty accessing services as a result of being adopted?

Passport	12.8%
Public services card (PSC)	12.6%
Employment records	1.7%
Other	12.6%
Did not respond	60.3%

Do you feel there is still a social stigma to being adopted?

There is still stigma	47.5%
There is not stigma	24.1%
Not sure	15.4%
Did not respond	13.0%

Do you feel you are treated or perceived differently if you disclose that you are an adoptee or the child of an adoptee?

Perceived differently	53.8%
Not perceived differently	27.6%
Not sure	13.2%
Did not respond	5.3%

On the proposal: "The State shall establish an Independent Archive to retain Adoption records / of an Independent Archive". Respondents were asked to mark a scale between 1-9 (1 being totally against and 9 being totally in favour)

0-5 (Not in favour)	36.3%
6-9 (Somewhat in favour)	44.0%
Did not respond	19.7%

On the proposal: "To make the administrative and other anonymised records available to researchers and members of the public". Respondents were asked to mark a scale between 1-9 (1 being totally against and 9 being totally in favour)

0-5 (Not in favour)	26.9%
6-9 (Somewhat in favour)	54.3%
Did not respond	18.8%

On a scale of 0 - 9 who do you feel adoptees' original birth certificate belongs to?
Respondents were asked to rate between 0-9 who they felt adoptees' birth certificate belonged to. The options were adoptee, birth mother and State.

Belongs to adoptee	94.5%
Does not belong to adoptee	5.5%

Belongs to birth mother	51.0%
Does not belong to birth mother	49.0%

Belongs to state	8.6%
Does not belong to state	91.4%

APPENDIX C

Questions put to participants in the Aitheantas Genealogy survey

1. Are you a genealogist or a family history researcher?
2. Have you assisted adoptees in tracing their family tree?
3. If you answered 'Yes' to Q2, have you assisted an adoptee in a professional or personal capacity?
4. In compiling information for an adoptee on their family background have you used DNA information, databases and records or both?
5. If you have used DNA information - what platform did you use?
6. How many adoptees have you assisted?
7. Has your work led to adoptees being able to contact or reunite with their biological relatives?
8. Were you involved in facilitating or assisting contact or a reunion?
9. If 'yes' - given the nature of adoption, complexity of the relationships as a result of adoption and the associated psychological impact on all parties, was it a role you felt comfortable with?
10. In your considered opinion - do you feel that once a living relative becomes aware that they have a previously unknown biological relative who is an adoptee who wishes to get information on their family tree - are they less likely or more likely to disclose or share information on biological ancestors, heritage or relatives to the adoptee?
11. Do you feel that it is harder or easier for Adoptees to get information on their biological heritage?

APPENDIX D

Breakdown of Genealogy survey results

Are you a genealogist or a family history researcher?

Genealogist	57.9%
Family history researcher	42.1%

Have you assisted adoptees in tracing their family tree?

Yes	100%
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If you answered 'Yes' to Q2, have you assisted an adoptee in a professional or personal capacity?

Personal capacity	57.9%
Professional capacity	42.1%

In compiling information for an adoptee on their family background have you used DNA information, databases and records or both?

Both - DNA information and records	63.2%
Records only	31.6%
DNA information	5.3%

If you have used DNA information - what platform did you use?

(Respondents were given the functionality to select more than one option)

AncestryDNA	100%
GEDmatch	69.2%
MyHeritage	53.8%
Family Tree DNA	53.8%
23andMe	46.2%

How many adoptees have you assisted?

1-5 adoptees	78.9%
5-10 adoptees	5.3%
10-20 adoptees	15.8%

Has your work led to adoptees being able to contact or reunite with their biological relatives?

Yes	78.9%
No	21.1%

Were you involved in facilitating or assisting contact or a reunion?

Yes	42.1%
No	47.4%
Rather not say	10.5%

If yes, was it a close relative (such as brother, sister, mother father) or a more distant relative (such as first or second cousin)?

Close relative	50%
Distant relative	20%
Other	30%

If 'yes' - given the nature of adoption, complexity of the relationships as a result of adoption and the associated psychological impact on all parties, was it a role you felt comfortable with?

(Respondents were given the opportunity to add their own responses.)

Yes and I would do it again	50%
Haven't really thought about it	9.1%
My aid was indirect	9.1%
Not applicable	9.1%
Not comfortable with direct contact to birth parent	9.1%

To the best of your knowledge have any of these contacts or reunions been successful with parties maintaining long term contact?

Yes	70.6%
No	11.8%
Rather not say	11.8%
Don't know	5.9%

In your considered opinion - do you feel that once a living relative becomes aware that they have a previously unknown biological relative who is an Adoptee who wishes to get information on their family tree - are they less likely or more likely to disclose or share information on biological ancestors, heritage or relatives to the adoptee?

Same likelihood as everyone else	52.6%
Don't know	26.3%
More likely	10.5%
Less likely	10.5%

Do you feel that it is harder or easier for Adoptees to get information on their biological heritage?

Harder	94.7%
Easier	5.3%

APPENDIX E

Questions put to participants in the Aitheantas Participation, Validation and Memorialisation Survey

- Respondents were asked whether they were within the remit of the Commission's inquiry. Although many respondents were technically within the remit, only 5% were actually able to participate. This clearly shows the practical and emotional difficulties of participating in the inquiry faced even by those who were within its remit, while those who were not within the remit of the Commission have had no opportunity to give testimony or evidence.
- Respondents were asked their opinion on the final report of the Commission. All of the respondents were unhappy with the report and its findings.
- Respondents were asked if they believed that An Taoiseach's apology to survivors, made on 13 January 2021, sufficiently acknowledges the experiences of birth mothers, adoptees or stakeholders in these homes or acknowledges those that could not participate in the Commission's inquiry. Two links providing the full text of the apology and a video of An Taoiseach delivering the apology were linked with the question. All of the respondents did not believe that the apology was sufficient.
- Respondents were asked if they believed that there needs to be a full, open investigation into all agencies/homes/institutions connected to adoption and unmarried mothers in Ireland. All of the respondents agreed that an investigation is needed.
- Respondents were asked their opinions on the Taoiseach's proposal to set up a permanent museum or repository of records relating to mother and baby homes. They were asked if they thought such a museum/repository should be located somewhere neutral, or in locations associated with former mother and baby homes. They were also asked their opinions on the model of remembrance that such a museum/repository should use - whether it should be an interpretative based model with permanent exhibitions and priority access to records for adoptees, survivors and their families, or a records-based model with access for researchers, the general public, adoptees and survivors. Opinions were mixed on these questions, but a slight majority preferred a neutral location and an interpretative-based model.
- Respondents were asked what supports could be offered to adoptees and survivors who have used genealogy services and DNA tests to assist in their information tracing. The options presented were:

- A one-off grant for survivors, independent of any centre or museum, and a recommended panel of genealogists to choose from to assist with tracing.
- Genealogists being made available to adoptees in a museum or heritage institution context.

Most respondents preferred the option of the one-off grant.

- Respondents were asked if they had already taken a DNA test using commercial platforms such as AncestryDNA, 23andMe or MyHeritage. The majority confirmed that they had.
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