

**Introduction**

- 1.1 The Dublin Archdiocese Commission of Investigation was established to report on the handling by Church and State authorities of a representative sample of allegations and suspicions of child sexual abuse against clerics operating under the aegis of the Archdiocese of Dublin over the period 1975 to 2004. The report of the Commission is in two parts.
- 1.2 In Part 1, the report outlines the organisational structures of the Archdiocese and the relevant State authorities, that is, the Gardaí, the Director of Public Prosecutions (DPP) and the health authorities. This part also covers the general background to the handling of complaints and includes information on the arrangements made for insurance cover and for financing the costs involved in clerical child sexual abuse. It covers the canon law and the procedures set out by the Roman Catholic Church for dealing with complaints of what Church law describes as the “*worst crime*”, that is, sexual interference with a minor.
- 1.3 Part 2 reports on the cases of the 46 priests who form the representative sample. Below, the Commission gives an overview of what these cases show.
- 1.4 It is important to realise that it was not the function of the Commission to establish whether or not child sexual abuse actually took place but rather to record the manner in which complaints were dealt with by Church and State authorities.

**The Ryan Report**

- 1.5 The Dublin Archdiocese Commission of Investigation report was completed shortly after the publication of the *Report of the Commission to Inquire into Child Abuse*, generally known as the *Ryan Report*. Because of this, and because the abuse of children by clerics and religious was the underlying reason for both reports, there has been a tendency to assimilate the two reports in public and journalistic commentary. They are, in fact, quite different in subject, scale and nature.

1.6 The Commission to Inquire into Child Abuse was primarily an investigation of the treatment of many thousands of children, over many decades, in residential institutions, including industrial schools, run by various religious orders and congregations. This report is much more restricted in scale and is concerned only with the response of Church and State authorities to a representative sample of complaints and suspicions of child sexual abuse by priests in the Archdiocese of Dublin between the years 1975 and 2004.

1.7 The *Ryan Report* was concerned with establishing whether or not abuse occurred and the nature and scale of that abuse. It was not confined to sexual abuse. This Commission had no remit to establish whether or not abuse occurred although it is abundantly clear, from the Commission's investigation as revealed in the cases of the 46 priests in the representative sample (see Chapters 11 to 57), that child sexual abuse by clerics was widespread throughout the period under review. This Commission's investigation is concerned only with the institutional response to complaints, suspicions and knowledge of child sexual abuse. The Ryan Commission was required to make recommendations. The Dublin Commission has no specific remit to make recommendations but the Commission has given its views on a range of matters which it considers significant at various stages in the report.

### **Number of Complaints**

1.8 The Commission received information about complaints, suspicions or knowledge of child sexual abuse in respect of 172 named priests and 11 unnamed priests. (Some or all of the 11 unnamed priests may, of course, be included in the 172 named priests.) After a preliminary examination, the Commission concluded that 102 of these priests were within remit.

1.9 It is important in the Commission's view not to equate the number of complaints with the actual instances of child sexual abuse. While a significant number of the priests against whom allegations were made admitted child sexual abuse, some denied it. Of those investigated by the Commission, one priest admitted to sexually abusing over 100 children, while another accepted that he had abused on a fortnightly basis during the currency of his ministry which lasted for over 25 years. The total number of documented complaints recorded against those two priests is just over 70. In another case, there is

only one complaint but the priest has admitted to abusing at least six other children.

1.10 The Commission examined complaints in respect of over 320 children against the 46 priests in the representative sample. Substantially more of the complaints relate to boys – the ratio is 2.3 boys to 1 girl.

1.11 Of the 46 priests examined, 11 pleaded guilty to or were convicted in the criminal courts of sexual assaults on children.

1.12 There is one clear case of a false accusation of child sexual abuse – Fr Ricardus\*<sup>1</sup> (see Chapter 55). There are two cases where there were suspicions or concerns but no actual complaint of child sexual abuse – Fr Guido\* (see Chapter 51) and Fr Magnus\* (see Chapter 49).

#### **The priests – where they are now**

1.13 Of the 46 priests in the representative sample, 11 are or were members of religious orders. Four of these are dead; four are living within their orders with restrictions on their ministry and activities; two are living within their orders without restrictions and one has become estranged from his order and is living without restriction in another diocese. One priest belongs to a UK diocese and his whereabouts are unknown. Of the 34 priests from the Dublin Archdiocese, ten are dead, 20 are out of ministry and four are in ministry. Of the 20 who are out of ministry, 11 are being financially supported by the Archdiocese and are living under restrictions imposed by Archbishop Martin; nine are laicised.

#### **The Archdiocese and Church authorities**

1.14 The volume of revelations of child sexual abuse by clergy over the past 35 years or so has been described by a Church source as a “*tsunami*” of sexual abuse.<sup>2</sup> He went on to describe the “*tsunami*” as “*an earthquake deep beneath the surface hidden from view*”. The clear implication of that statement is that the Church, in common with the general public, was somehow taken by surprise by the volume of the revelations. Officials of the

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<sup>1</sup> \* Names marked with an asterisk are pseudonyms.

<sup>2</sup> Mc Grady, A., Registrar of the Mater Dei Institute Dublin, “Brokenness of the Irish Church” in Liam Bergin (ed) *According to Your Word*, (Dublin: Four Courts Press, 2007).

Archdiocese of Dublin and other Church authorities have repeatedly claimed to have been, prior to the late 1990s, on ‘a learning curve’ in relation to the matter. Having completed its investigation, the Commission does not accept the truth of such claims and assertions.

1.15 The Dublin Archdiocese’s pre-occupations in dealing with cases of child sexual abuse, at least until the mid 1990s, were the maintenance of secrecy, the avoidance of scandal, the protection of the reputation of the Church, and the preservation of its assets. All other considerations, including the welfare of children and justice for victims, were subordinated to these priorities. The Archdiocese did not implement its own canon law rules and did its best to avoid any application of the law of the State.

1.16 The situation improved from the start of the implementation of the *Framework Document*<sup>3</sup> in 1996. However, it took some time for the structures and procedures outlined in that document to be fully implemented. In particular, its provisions on support services for complainants were not fully implemented until the establishment of the Child Protection Service within the Archdiocese in 2003. This failure caused added distress to complainants. The Commission is satisfied that there are effective structures and procedures currently in operation. In particular, the Commission is satisfied that all complaints of clerical child sexual abuse made to the Archdiocese and other Church authorities are now reported to the Gardaí. There is no legal requirement for such reporting but the Commission considers that the Gardaí are the appropriate people to deal with complaints. While acknowledging that the current archdiocesan structures and procedures are working well, the Commission is concerned that those structures and procedures are heavily dependent on the commitment and effectiveness of two people – the Archbishop and the Director of the Child Protection Service. The current Archbishop and Director are clearly committed and effective but institutional structures need to be sufficiently embedded to ensure that they survive uncommitted or ineffective personnel.

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<sup>3</sup> Irish Catholic Bishops’ Advisory Committee on Child Sexual Abuse: *Child Sexual Abuse: Framework for a Church Response*, (Dublin: Veritas Publications, 1996).

## **Knowledge of clerical child sexual abuse**

- 1.17 The authorities in the Archdiocese of Dublin and the religious orders who were dealing with complaints of child sexual abuse were all very well educated people. Many had qualifications in canon law and quite a few also had qualifications in civil law. This makes their claims of ignorance very difficult to accept. Child sexual abuse did not start in the 20<sup>th</sup> century. Since time immemorial it has been a “*delict*” under canon law, a sin in ordinary religious terms and a crime in the law of the State. Ignorance of the law is not a defence under the law of the State. It is difficult for the Commission to accept that ignorance of either the canon law or the civil law can be a defence for officials of the Church.
- 1.18 There is a two thousand year history of Biblical, Papal and Holy See statements showing awareness of clerical child sex abuse. Over the centuries, strong denunciation of clerical child sexual abuse came from Popes, Church councils and other Church sources. A list covering the period 153 AD to 2001 is included in an article by the Promoter of Justice in the Congregation for the Doctrine of the Faith.<sup>4</sup> These denunciations are particularly strong on ‘offences against nature’ and offences committed with or against juveniles. The 1917 code of canon law decreed deprivation of office and/or benefice, or expulsion from the clerical state for such offences. In the 20<sup>th</sup> century two separate documents on dealing with child sexual abuse were promulgated by Vatican authorities (see Chapter 4) but little observed in Dublin.
- 1.19 The controversy and drama surrounding the Fr Brendan Smyth case in 1994 (see Chapter 7) brought clerical child sexual abuse to public attention. It is probable that this was the first time that many members of the public became aware of the possibility of clerical child sexual abuse. The claim that bishops and senior church officials were on ‘a learning curve’ about child sexual abuse rings hollow when it is clear that cases were dealt with by Archbishop McQuaid in the 1950s and 1960s and that, although the majority of complaints emerged from 1995 onwards, many of the complaints described

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<sup>4</sup> Scicluna, Charles J., “Sexual Abuse of Children and Young People by Catholic Priests and religious: Description of the Problem from a Church perspective” in Hanson, Pfäfflin and Lütz (eds) *Sexual Abuse in the Catholic Church: Scientific and Legal Perspectives* (Rome: Libreria Editrice Vaticana 2003).

in this report first came to the attention of the Archdiocese in the 1970s and 1980s. The Commission examined complaints in respect of approximately 320 complainants against the 46 priests in the representative sample. Of the complaints examined by the Commission,

- three were made in the 1960s;
- 11 were made in the 1970s and there were two suspicions/concerns;
- 64 were made in the 1980s and there were 24 suspicions/concerns;
- 135 were made in the 1990s and there were 23 suspicions/concerns;
- 112 were made in the 2000s (mainly between January 2000 and 1 May 2004) and there were 10 suspicions/concerns.

1.20 In 1981, Archbishop Ryan showed a clear understanding of both the recidivist nature of child sexual abusers and the effects of such abuse on children when he was referring Fr [redacted] to Stroud (a therapeutic facility in the UK – see Chapter 11). The Archdiocese first made inquiries about insurance cover for compensation claims in the mid 1980s and such cover was put in place in 1987 (see Chapter 9).

1.21 All the Archbishops of Dublin in the period covered by the Commission were aware of some complaints. This is true of many of the auxiliary bishops also. At the time the Archdiocese took out insurance in 1987, Archbishop Kevin McNamara, Archbishop Dermot Ryan and Archbishop John Charles McQuaid had had, between them, available information on complaints against at least 17 priests operating under the aegis of the Dublin Archdiocese. The taking out of insurance was an act proving knowledge of child sexual abuse as a potential major cost to the Archdiocese and is inconsistent with the view that Archdiocesan officials were still ‘on a learning curve’ at a much later date, or were lacking in an appreciation of the phenomenon of clerical child sex abuse.

1.22 Many of the auxiliary bishops also knew of the fact of abuse as did officials such as Monsignor Gerard Sheehy and Monsignor Alex Stenson who worked in the Chancellery. Bishop James Kavanagh, Bishop Dermot O’Mahony, Bishop Laurence Forristal, Bishop Donal Murray and Bishop Brendan Comiskey were aware for many years of complaints and/or suspicions of clerical child sexual abuse in the Archdiocese. Religious orders

were also aware. For example, the Columban order had clear knowledge of complaints against Fr Patrick Maguire in the early 1970s.

1.23 In addition to their clerical education, many of those in authority in the Archdiocese had civil law degrees or occupied prestigious appointments in third level education. Monsignor Sheehy, Bishop O'Mahony and Bishop Raymond Field were qualified barristers. Bishop Kavanagh was Professor of Social Science in University College Dublin where both Archbishop Ryan and Archbishop Connell held high ranking academic posts. Despite their participation in civil society, it was not until late 1995 that officials of the Archdiocese first began to notify the civil authorities of complaints of clerical child sexual abuse. In this context it is significant, in the Commission's view, that every bishop's primary loyalty is to the Church itself. At his consecration every bishop, as well as making a profession of faith, must take an oath of fidelity to the Apostolic See.

1.24 Some priests were aware that particular instances of abuse had occurred. A few were courageous and brought complaints to the attention of their superiors. The vast majority simply chose to turn a blind eye. The cases show that several instances of suspicion were never acted upon until inquiries were made. Some priest witnesses admitted to the Commission that they had heard various reports 'on the grapevine'.

### **The Church's failure to implement its own rules**

1.25 The Church authorities failed to implement most of their own canon law rules on dealing with clerical child sexual abuse. This was in spite of the fact that a number of them were qualified canon and civil lawyers. As is shown in Chapter 4, canon law appears to have fallen into disuse and disrespect during the mid 20<sup>th</sup> century. In particular, there was little or no experience of operating the penal (that is, the criminal) provisions of that law. The collapse of respect for the canon law in Archdiocesan circles is covered in some detail in Chapter 4. For many years offenders were neither prosecuted nor made accountable within the Church. Archbishop McQuaid was well aware of the canon law requirements and even set the processes in motion but did not complete them. Archbishops Ryan and McNamara do not seem to have ever applied the canon law.

1.26 Only two canonical trials took place over the 30-year period. Both were at the instigation of Archbishop Connell and the Commission gives him credit for initiating the two penal processes which led to the dismissal of Fr Bill Carney in 1990 . The Commission recognises that he did this in the face of strong opposition from one of the most powerful canonists in the Archdiocese, Monsignor Sheehy. Monsignor Sheehy, who had very extensive knowledge of canon and civil law and argued strongly that canon law was capable of dealing with all cases involving allegations of child sexual abuse, actually considered that the penal aspects of that law should rarely be invoked.

### **Secrecy in canon law**

1.27 Most officials in the Archdiocese were, however, greatly exercised by the provisions of canon law which deal with secrecy. It was often spoken of as a reason for not informing the Gardaí about known criminal offences.

1.28 A similar ‘culture of secrecy’ was identified by the Attorney General for Massachusetts in his report on child sexual abuse in the Boston Archdiocese.<sup>5</sup> In the case of that diocese, as in the case of Dublin, secrecy “*protected the institution at the expense of children.*”

1.29 One aspect of this was the refusal to acknowledge or recognise an allegation of child sexual abuse unless it was made in strong and explicit terms. There were some anonymous reports which were ignored. A number of bishops heard suspicions and concerns but they did not take the obvious steps of asking precisely what was involved or challenging the priest concerned. A mother who contacted the Archdiocese to report that her daughter had been abused as a child was told that the daughter would have to make the complaint. When the mother made it clear that the daughter was unlikely to be able to make such a complaint, she was not even asked for the name of the priest.

1.30 The Commission is satisfied that Church law demanded serious penalties for clerics who abused children. In Dublin from the 1970s onwards

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<sup>5</sup> Office of the Attorney General Commonwealth of Massachusetts: *The Sexual Abuse of Children in the Roman Catholic Archdiocese of Boston* (Boston: Office of the Attorney General Commonwealth of Massachusetts, 2003).



this was ignored; the highest priority was the protection of the reputation of the institution and the reputation of priests. The moving around of offending clerics with little or no disclosure of their past is illustrative of this.

1.31 The American phrase, ‘don’t ask, don’t tell’ is appropriate to describe the attitude of the Dublin Archdiocese to clerical sex abuse for most of the period covered by the report. The problem as a whole never seems to have been discussed openly by the Archbishop and his auxiliaries, at least until the 1990s. Complainants were told as little as possible. The note ‘Gain his knowledge, tell him nothing’ for dealing with complainants and witnesses, discussed in Chapter 4, typifies the attitudes of the Archdiocese.

1.32 Another consequence of the obsessive concern with secrecy and the avoidance of scandal was the failure of successive Archbishops and bishops to report complaints to the Gardaí prior to 1996. The Archbishops, bishops and other officials cannot claim that they did not know that child sexual abuse was a crime. As citizens of the State, they have the same obligations as all other citizens to uphold the law and report serious crimes to the authorities.

1.33 Complainants, too, were required by canon law to observe secrecy in their dealings with the Church. In late 1995, the Archdiocese gave the Gardaí the names of 17 priests against whom complaints had been made. The *Framework Document* provided for the reporting of all complaints. It is clear that Archbishop Connell remained troubled by the requirement of secrecy. In 2002, he allowed the Gardaí access to the archdiocesan files. The decision to do that, he told the Commission, “*created the greatest crisis in my position as Archbishop*” because he considered it conflicted with his duty as a bishop, to his priests. When asked why, he explained:

*“Was I betraying my consecration oath in rendering the files accessible to the guards? I think you've got to remember, and this is something that you may not have reflected on, you've got to remember that confidentiality is absolutely essential to the working of the bishop because if people cannot have confidence that he will keep information that they give him confidential, they won't come to him. And the same is true of priests”.*

### **Responsibility for clerical child sexual abuse**

- 1.34 Priests who abuse children are directly responsible for their actions. That responsibility cannot be transferred to their bishops or the heads of their orders or societies. However their superiors are responsible for ensuring that they are not protected by their status and that they do not get special treatment. Their superiors are also responsible for ensuring that offending priests are not protected from the normal processes of the civil law nor facilitated in their privileged access to children and that they are not facilitated in re-offending.

### **Cover-up**

- 1.35 As can be seen clearly from the case histories, there is no doubt that the reaction of Church authorities to reports of clerical child sexual abuse in the early years of the Commission's remit was to ensure that as few people as possible knew of the individual priest's problem. There was little or no concern for the welfare of the abused child or for the welfare of other children who might come into contact with the priest. Complainants were often met with denial, arrogance and cover-up and with incompetence and incomprehension in some cases. Suspicions were rarely acted on. Typically complainants were not told that other instances of child sexual abuse by their abuser had been proved or admitted. The attitude to individual complainants was overbearing and in some cases underhand (see Chapter 58).

### **Individual Archbishops and bishops**

- 1.36 All the Archbishops and many of the auxiliary bishops in the period covered by the Commission handled child sexual abuse complaints badly. During the period under review, there were four Archbishops – Archbishops McQuaid, Ryan, McNamara and Connell. Not one of them reported his knowledge of child sexual abuse to the Gardaí throughout the 1960s, 1970s, or 1980s. It was not until November 1995 that Archbishop Connell allowed the names of 17 priests about whom the Archdiocese had received complaints to be given to the Gardaí. This figure was not complete. At that time there was knowledge within the Archdiocese of at least 28 priests against whom there had been complaints.

#### *Archbishop McQuaid*

- 1.37 Archbishop McQuaid was familiar with the requirements of canon law but did not apply them fully. It is clear that his dealings with Fr Edmondus\* in 1960 were aimed at the avoidance of scandal and showed no concern for the welfare of children.

#### *Archbishop Ryan*

- 1.38 Archbishop Ryan failed to properly investigate complaints, among others, against Fr McNamee, Fr Maguire, Fr Ioannes\*, , Fr Septimus\* and Fr Carney. He also ignored the advice given by a psychiatrist in the case of Fr Moore that he should not be placed in a parish setting. Fr Moore was subsequently convicted of a serious sexual assault on a young teenager while working as a parish curate.

- 1.39 As problems emerged, Archbishop Ryan got different people to deal with them. This seems to have been a deliberate policy to ensure that knowledge of the problems was as restricted as possible. This resulted in a disastrous lack of co-ordination in responding to problems.

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#### *Archbishop McNamara*

- 1.41 Archbishop McNamara was seriously ill when he was appointed Archbishop of Dublin in 1984. He restored priestly faculties to Fr Carney despite his having pleaded guilty to charges of child sexual abuse in 1983 and despite the fact that there were suspicions about him in relation to numerous other children. He failed to ensure that Fr Carney obeyed instructions and allowed him, in effect, to flout the wishes of his superiors. He also promoted Fr Payne to the position of Vice-Officialis of the Marriage Tribunal despite the previous refusal of Archbishop Ryan to do so. He saw the need for insurance cover and started the process of getting it.

### *Archbishop Connell*

1.42 The appointment of Archbishop Connell in 1988 was a surprise. He was an academic with virtually no experience of parish work or of management of an organisation. He was aware that Fr [redacted] had a problem before he became Archbishop. He was immediately faced with the problems of Fr Carney and [redacted]. The Commission has no doubt that he was stunned not by the fact but by the extent of the clerical child sexual abuse with which he had to deal. Bishop O'Mahony told the Commission that, of the three Archbishops he served as an auxiliary bishop, it seemed to him that Archbishop Connell was *"the most deeply affected by the harm of clerical sex abuse. He was also the most proactive in seeking improvement in the church management of the issue"*.

1.43 The Commission considers that Archbishop Connell was slow to recognise the seriousness of the situation when he took over in 1988. He was over-reliant on advice from other people, including his auxiliary bishops and legal and medical experts. He was clearly personally appalled by the abuse but it took him some time to realise that it could not be dealt with by keeping it secret and protecting priests from the normal civil processes.

1.44 It is the responsibility of the Archbishop to make decisions. It is entirely appropriate to take account of professional advice but the weight to be given to that advice is a matter for the Archbishop to decide. In spite of his knowledge of the recidivist nature of abusers such as Fr [redacted], and Fr Carney, Archbishop Connell still allowed Fr Payne to continue in ministry when the complaint against him became known in 1991.

1.45 The Commission recognises that the current structures and procedures were put in place by Archbishop Connell.

1.46 On the evidence Archbishop Connell personally saw very few complainants. (His predecessors do not appear to have seen any). Of those he did see, some found him sympathetic and kind but with little understanding of the overall plight of victims. Others found him to be remote and aloof. On the other hand he did take an active interest in their civil litigation against the Archdiocese and personally approved the defences which were filed by the Archdiocese. Archdiocesan liability for injury and damage caused was never

admitted. The Archbishop's strategies in the civil cases, while legally acceptable, often added to the hurt and grief of many complainants.

### **Auxiliary bishops**

- 1.47 A number of auxiliary bishops were made aware of complaints of child sexual abuse by priests in their geographical areas. Others found out about such priests through the regular monthly meetings involving the Archbishop and the auxiliaries. One of the principal tasks of the auxiliary bishops was the assignment of priests to parishes, subject to final approval by the Archbishop. In the Dublin Archdiocese priests were reassigned approximately every five years. The evidence shows that these appointments were often made without any reference to child sexual abuse issues. The auxiliary bishops who dealt particularly badly with complaints were Bishops O'Mahony and Kavanagh. Bishop Murray also dealt badly with a number of complaints. (A full list of auxiliary bishops is given in Chapter 11.)

### ***Bishop O'Mahony***

- 1.48 Bishop O'Mahony told the Commission that Archbishop Ryan had given him pastoral responsibility for priests, especially the younger priests. This appointment was not in writing. Bishop Comiskey told the Commission that Bishop O' Mahony because of his "*nature and intelligence and kindness, he was often given a mandate to speak to a priest in trouble*".
- 1.49 Bishop O'Mahony's handling of complaints and suspicions of child sexual abuse was particularly bad. He is one of the longest serving auxiliary bishops of Dublin (from 1975 to 1996). The Commission has established that he was aware of 13 priests from within the representative sample (and a number of others) against whom there had been allegations/suspicions by 1995. The full details of his involvement are detailed in the chapters on individual priests. As chancellor (he was a bishop while he was the chancellor), he dealt with one complaint and he did not inform the Archbishop about it. When he ceased to be chancellor, he failed to tell Archbishop Ryan about a number of complaints, for example, the complaint relating to Fr Vidal\* on whose behalf he gave a reference to the diocese of Sacramento in California without giving details of his past history (see Chapter 15).

1.50 In the case of Fr Payne he allowed a psychiatric report which was clearly based on inaccurate information to be relied on by Archbishop Ryan and subsequently by Archbishop Connell (see Chapter 24).

1.51 He failed to tell either the National Rehabilitation Hospital, Archdiocesan authorities or the Gardaí that Fr Reynolds, who was chaplain to the hospital at the time, might have a problem with child sexual abuse (see Chapter 35).

#### *Bishop Kavanagh*

1.52 Bishop Kavanagh was the longest serving auxiliary bishop (from 1972 to 1998). He failed to deal properly with Fr Carney even when he had pleaded guilty to child sexual abuse. He tried to influence the Garda handling of the criminal complaints against Fr Carney. He persuaded a family to drop a complaint they had made to the Gardaí in relation to Fr

#### *Bishop Murray*

1.53 Bishop Murray was another long serving auxiliary bishop (from 1982 to 1996). He handled a number of complaints and suspicions badly. For example, he did not deal properly with the suspicions and concerns that were expressed to him in relation to Fr Naughton (see Chapter 29). When, a short time later, factual evidence of Fr Naughton's abusing emerged in another parish Bishop Murray's failure to reinvestigate the earlier suspicions was inexcusable. Bishop Murray did, however, accept in 2002 that he had not dealt well with the situation.

#### *Bishop Forristal*

1.54 Bishop Forristal was the only bishop to unequivocally admit in evidence to the Commission that he may not have handled matters satisfactorily. He cited the Fr Cicero\* case as an example and also the Fr Hugo\* case.

### **Management of the Archdiocese**

1.55 The Church is not only a religious organisation but also a human/civil instrument of control and power. The Church is a significant secular power with major involvement in education and health and is a major property

owner. As an organisation operating within society, it seems to the Commission that the Church ought to have some regard to secular requirements in its choice of leader. The Archbishop is the manager of the Archdiocese as well, of course, as being its spiritual leader. The Church is not a democracy and does not have transparent selection procedures so it is not known what criteria are used when Archbishops are being chosen. Appointments to positions as Archbishops and bishops seem to have been made primarily on the basis of doctrinal orthodoxy. Management ability does not seem to have been a relevant criterion.

1.56 For most of the time covered by the Commission's remit, there was nothing resembling a management structure in the Archdiocese. Auxiliary bishops were appointed – initially there was one auxiliary for most of Archbishop McQuaid's time. The numbers of auxiliary bishops was increased substantially by Archbishop Ryan. However, there was no clear job description for the auxiliary bishops. They were required to deputise for the Archbishop at ceremonies such as confirmation but they had no clear delegated authority to deal with specific problems as they arose. They had designated geographical areas of responsibility but no delegated power to make decisions. They were involved in decisions about the appointments of priests but might not be aware of the full background of each priest. Bishop Comiskey told the Commission that the auxiliary bishops had a significant involvement in appointments of priests to parishes: *"those appointments were made by the auxiliaries and the Archbishop sometimes sitting in"*; *"It was the only little bit of power that we had if you could call it that"*.

1.57 The auxiliary bishops appeared to have had a role akin to that of deputy chief executives but they did not have the clarity of responsibility or power that such a position would normally entail.

1.58 Each auxiliary bishop seems to have interpreted his role in his own way. He did not always report significant information to the Archbishop. When asked by the Commission, Bishop Murray agreed that the management of the diocese was not well organised. Most of the auxiliary bishops regarded the Archbishop as the only person who had knowledge of everything. Bishop Murray said: *"But I think we would have seen the Archbishop as a person who was the repository of the overall perspective"*. However, as some bishops did

not report all complaints, or gave inaccurate accounts of complaints, it was the case that the Archbishop sometimes had the responsibility without the necessary information.

- 1.59 The Commission noted that, apart from Bishop Forristal, there was a disturbing failure to accept responsibility on the part of some of the bishops who gave evidence. There was also a tendency to blame the Archbishop and/or the chancellor and, in the case of Archbishop Connell, to regard auxiliary bishops and the chancellor as having more delegated authority than they actually had.

### **Chancellor**

- 1.60 Considerable reliance was placed on the chancellor to deal with issues of child sexual abuse. It must be pointed out that the chancellor has no decision making powers in this area. He was often the person who met the complainants, who arranged for assessment and/or treatment of priests and who delivered the decisions of the Archbishop to the priests against whom complaints were made. He was also frequently involved in warning priests about their behaviour. He was often the only official of the Archdiocese who met the complainants and they, not unreasonably, often assumed that he had greater powers than was actually the case. Monsignor Alex Stenson was the chancellor from the early 1980s to 1997.

### *Monsignor Stenson*

- 1.61 It is the Commission's view that Monsignor Stenson carried out the investigation of complaints superbly but was less successful in dealing with the complainants. It is clear that he did generally believe the complainants but, unfortunately, he did not tell them that. The Commission is critical of his failure to validate complainants by not telling them that there were other complaints about the priest in question. The Commission also criticises certain of his actions in specific cases. Many complainants found Monsignor Stenson to be personally kind while a number were severely critical of his approach to them. It is notable that some of the priests about whom the complaints were made clearly considered that Monsignor Stenson was their scourge. He was conscious of the need for monitoring but was not himself in a position to require or enforce such monitoring unless given specific authority. When he was given the authority to do so, he did try to ensure that



the priest abided by the restrictions placed on him. Overall, the Commission considers that Monsignor Stenson performed his task better than other office holders in the Archdiocese.

#### *Monsignor Sheehy*

- 1.62 Monsignor Sheehy was one of the leading canon lawyers of the Archdiocese. According to the evidence, Monsignor Sheehy exercised a good deal of influence in relation to how child abuse cases should be handled even though he had no specific role in handling them. He rejected the view that the Archdiocese had any responsibility to report child sexual abuse to the state authorities. He thought the Church's internal processes should be used but, in fact, he was totally opposed to the use of the Church penal process. He interfered, and was allowed to interfere, in the management of a number of the cases, notably Fr Payne and Fr Cicero\*.

#### **Communications between Church authorities**

- 1.63 The cases examined by the Commission are littered with examples of poor or non-existent communication both internally in the Archdiocese and between it and other church authorities.

#### *Internal communications*

- 1.64 As already described, the overriding requirement of secrecy meant that the Archbishop communicated with a very small number of people. Sometimes the priest or bishop to whom the alleged abuse was reported did not then report to the Archbishop. When complaints were made to the Archbishop, he frequently told only one other person. This meant that the auxiliary bishop for the area might not know. When another complaint was made, a different person might be asked to investigate. People who needed to know were frequently not told. For example, the Marist Fathers were not told why Fr Carney was staying with them even though they asked. Archbishop Ryan did tell a number of relevant people about Fr Horatio\* but this was highly unusual for him.
- 1.65 The extent of the lack of internal communication is clear from the fact that it was only when they were preparing to give evidence to the Commission that a number of bishops saw documentation in relation to priests with whom they had dealt. For example, Bishop Murray saw medical reports about Fr

Moore with whom he had extensive dealings for the first time when he gave evidence to the Commission. Bishop Field found out about various decisions in relation to Fr Benito\* when he received the first draft of this report.

1.66 One of the greatest failures of communication was the information that was conveyed to fellow priests when a known abuser was being transferred to a new parish. For example, priests in Sutton were not told of Fr Payne's past. The priest occupying the house to which Fr Naughton moved after abusing in Donnycarney was not told of his past. Archbishop Connell failed to inform personnel at the National Rehabilitation Hospital about suspicions relating to Fr Reynolds. Despite having issued a preliminary investigation into an alleged child sexual abuse case against Fr McNamee and being aware of his past he did not inform the nuns in Delgany, to whom he was appointed as chaplain, about him.

1.67 Again, there was a lack of clarity about who was supposed to tell the other priests. Bishop O'Mahony regarded it as the Archbishop's job to tell parish priests about the priests who were being sent to the parish. This may have been the case but it did not preclude the auxiliary bishops from using their initiative. Bishop O'Mahony accepted that the policy of giving little or no information to the parish priest was probably there in order to protect the reputation of the priest and that it was a "*wrong policy*".

#### *Communications with other dioceses*

1.68 In some cases, known abusers were sent to other dioceses with untrue or misleading information about them. It seems likely that bishops communicated problems orally but gave written references which did not refer to these problems.

#### *Communications between the Archdiocese and religious orders*

1.69 Another major gap in communication identified by the Commission is that between the Archbishop of Dublin and the heads of religious orders and societies. There are several cases - especially those of Fr Maguire, Fr Boland and Fr Gallagher - which illustrate this. It is clearly the case that the major fault here lies with the religious orders.

### **Psychiatric and psychological treatment**

1.70 In the 1960s and 1970s, priests were sent for assessment to a number of psychiatrists and psychologists. In the 1980s the Archdiocese began to realise that priests who had committed child sexual abuse needed lengthy treatment and therapy. Of the 46 priests in the representative sample, 12 received no form of treatment (five of these had already died when the complaint was made). Twenty five of the priests were assessed or treated by the Granada Institute (see Chapter 11) and eight attended Stroud (see Chapter 11). Some attended both facilities. A small number attended other assessment and/or treatment facilities. Some priests attended more than two therapeutic facilities.

1.71 The Commission is very concerned at the fact that, in some cases, full information was not given to the professionals or the treatment facility about the priest's history. This inevitably resulted in useless reports. Nevertheless, these reports were sometimes used as an excuse to allow priests back to unsupervised ministry.

1.72 Sometimes psychiatric and/or psychological reports were used to justify decisions and sometimes they were just ignored. Ultimately it was a matter for the Archbishop in office to decide the weight he gave to such reports. The Commission accepts that the therapy available to perpetrators may well have been of assistance to them. The question of returning a priest to pastoral ministry following treatment is a judgement which ultimately falls on the Archbishop.

### **Allowing alleged abusers back to ministry**

1.73 The evidence of the Granada Institute was that there is no treatment which will guarantee that a child sex abuser will not re-offend. However, they state that the recidivism rate for those who have received treatment is between 1% and 8% for low risk offenders and up to 25% for high risk offenders. For untreated offenders the Institute says that the risk of recidivism is between 15% and 50%. The Commission does not have the expertise to either question or endorse this assessment.

1.74 The Institute has pointed out that in all the cases where they recommended a limited form of ministry their clinical judgment was that the

priest in question was low risk. He had not abused for many years and/or the circumstances in which he had abused had changed. They stated that a priest's status as a cleric in no way influenced their recommendation as to whether he remained in his professional role. However, in most cases, they considered that such a solution would be helpful in continuing rehabilitation of the priest.

- 1.75 While the Commission recognises that some form of work may indeed be of help in rehabilitating sexual offenders, it is concerned that any form of pastoral work will almost inevitably include contact with children. Equally, pastoral work by a child abuser, no matter how many years ago the offences occurred, is impossible if the offender's proclivities are widely known. If however the proclivities are not widely known, supervision of the offender becomes almost impossible. There is also the fact that a priest is still a priest and by his very status, if he wishes to commit child sexual abuse, he will find it easier to do so than if he were a layman. The Commission recognises that these are conflicting problems which do not easily admit of a solution.

#### **Contact between the abusers**

- 1.76 The Commission could find no direct evidence to show that a paedophile ring existed among priests in the Dublin Archdiocese. However, as can be seen from the chapters on the 46 priests, there were some worrying connections.
- 1.77 Fr Carney and Fr McCarthy abused children during their visits to children's homes. They also brought children on holidays and shared accommodation with two separate complainants. A boy who was initially abused by Fr McCarthy was subsequently abused by Fr Carney. Fr Carney abused children at swimming pools and was sometimes accompanied to swimming pools by Fr Maguire.

- 1.78 When Fr Ioannes\* was being investigated for the abuse of a young boy, Fr Boland, who was not a priest in the diocese at the time, turned up at

the young boy's home offering comfort and took the opportunity to abuse the young boy himself. There is nothing in the evidence available to the Commission to show how Fr Boland became aware of this young boy. A witness told the Commission that Fr Ioannes used to recruit altar boys for the Pro-Cathedral in the parish of North William Street and its surrounding area.

1.79 Another connection of relevance was the fact that Fr Horatio\* was given the key to a holiday cottage by Fr Sean Fortune, the notorious child sex abuser from the diocese of Ferns. It is alleged that abuse of a young girl took place at that cottage. Fr Horatio claims that the only link between them was that they lived in the same area.

1.80 The Commission is aware that Archbishop Martin has referred some of these matters to the Gardaí in recent times.

#### **Dealing with offending priests**

1.81 One of the aims of the Archdiocese and the religious orders was not to punish the priest but to help him towards recovery or rehabilitation. The Commission considers this to be reasonable provided he is not at liberty to commit other abuses.

1.82 Until the mid to late 1990s, there was generally very poor monitoring of priests against whom allegations were made even when those allegations were admitted. No one was appointed to be in charge of monitoring. Sometimes, the treating psychologist or psychiatrist was regarded by the Archdiocese as having some limited monitoring role, a role which that person could not reasonably fulfil.

1.83 Since the late 1990s, the level of monitoring of clerical offenders, while it may not be considered satisfactory, is generally far greater than the limited or non-existent monitoring that is provided for non clerical offenders. Sex offenders who have served their sentences are generally released into the community without supervision although some may be under the supervision of the Probation and Welfare Service. The requirements of the *Sex Offenders Act 2001* (see Appendix 2) do not mean that there is any real supervision.

1.84 Religious orders and societies can and do provide a supervised setting for their members who have abused children. This could be seen as a form of house arrest and, indeed, some of the priests being supervised have so described it. However, they are free to leave if they are prepared to leave the order or society. A number of priests in the representative sample are living with their religious orders under supervised conditions. The Commission acknowledges that this provides much greater supervision than applies to non clerical sex offenders.

1.85 Diocesan priests cannot be kept in the same conditions. The Archdiocese does not have the facilities which are available to religious orders. The Archdiocese has recently appointed a person to look after offenders but there are limits to the supervision that can be exercised.

1.86 Clerical sex abusers receive far more counselling and care than sex offenders generally. The Archdiocese and religious orders spent a great deal of money on treatment for offending priests. The same level of treatment is rarely available to other sex offenders.

#### **Co-operation by the Archdiocese and religious orders**

1.87 The Commission would like to acknowledge the co-operation given by Archbishop Martin and by the relevant religious orders. Without this co-operation it would have been impossible for the Commission to give a comprehensive picture of the handling of clerical child sexual abuse cases.

1.88 The documentation provided by the Archdiocese and religious orders was generally of a very high quality. It included a significant amount of contemporaneous documentation. The Commission regards the contemporaneous documentation as being inherently more reliable than later recollections. This is because these documents were originally compiled exclusively for internal purposes and with no expectation that they would ever be read by any non Church personnel, let alone the members of a State investigation.

1.89 Since the implementation of the *Framework Document*, starting in 1996, complaints, suspicions and actions taken as a result of them are all

comprehensively recorded. Prior to that, inevitably, there is some variation in the quality of documentation compiled by different individuals. Monsignor Stenson, who recorded and investigated many of the complaints/suspensions, consistently produced very high quality, comprehensive accounts. He seems to have made a detailed written record of virtually every discussion, whether held in person or on the telephone, which was related to the complaint or suspicion. Canon McMahon, who was involved in investigating a small number of the cases in the report, also produced comprehensive reports. Archbishop McQuaid made a comprehensive handwritten record of his dealings with Fr Edmondus\* in 1960. Unfortunately, a number of other Archdiocesan personnel compiled virtually no contemporaneous written reports. For example, the Commission has seen only one contemporaneous written report by Bishop Kavanagh (in the Fr case) even though Bishop Kavanagh played a major role in the handling of several cases. It is clear that he was the recipient of subsequent complaints against Fr but there is no evidence that he made a written record. There are no notes of his dealings with Fr Carney even though he had a significant involvement in that case. Bishop Murray told the Commission that he did make contemporaneous written notes of the concerns expressed to him by Vallemount parishioners in respect of Fr Naughton. However, there is no contemporaneous record of these notes on the Archdiocesan files. There is no evidence that Monsignor Glennon compiled a written record of the complaint against Fr Ioannes\* in 1973.

### **The role of the Church in Irish life**

1.90 The Commission recognises that the Archdiocese of Dublin and the many religious orders that operate within it have made and continue to make a major contribution to the lives of the citizens of Ireland by providing various social services including schools, hospitals and services to socially excluded people. The majority of the priests of the Archdiocese and religious orders carry out their spiritual and moral role within the Church properly. Unfortunately, it may be that the very prominent role which the Church has played in Irish life is the very reason why abuses by a minority of its members were allowed to go unchecked.

1.91 Institutions and individuals, no matter how august, should never be considered to be immune from criticism or from external oversight of their

actions. In particular, no institution or individual should be allowed such a pre-eminent status that the State, in effect, is stymied in taking action against it or them should there be breaches of the State's laws.

### **State authorities**

#### *The Gardaí*

- 1.92 There were a number of inappropriate contacts between the Gardaí and the Archdiocese. Clearly the handing over of the Fr Edmondus\* case to Archbishop McQuaid by Commissioner Costigan was totally inappropriate. The relationship between some senior Gardaí and some priests and bishops was also inappropriate – in particular, in the Fr Carney and Fr cases.
- 1.93 A number of very senior members of the Gardaí, including the Commissioner in 1960, clearly regarded priests as being outside their remit. There are some examples of Gardaí actually reporting complaints to the Archdiocese instead of investigating them. It is fortunate that some junior members of the force did not take the same view.
- 1.94 The Commission was impressed with those directly involved in the prosecution of Fr Carney in the early 1980s. The Commission was not impressed by the delay that occurred (over 20 years) in reaching a decision to bring charges against Fr .
- 1.95 The Garda investigation into the various complaints was sometimes very comprehensive and, in other cases, was cursory. Many of the complainants who gave evidence to the Commission praised the professionalism and courtesy which they encountered when making complaints to the Gardaí operating within the specialist child sex abuse unit at Harcourt Square, Dublin. The Commission notes that investigations carried out by this unit are generally very well conducted. The Commission was minded to suggest that, because of the expertise which it has developed, this unit should have responsibility for investigating all child abuse complaints. However, the Garda Commissioner has pointed out that a number of initiatives have been put in place in recent years in order to bring the garda practices into line with international best practice and in order to implement



the recommendations in the *Ferns Report*.<sup>6</sup> The Commission will look again at this issue when it is conducting its investigation into the diocese of Cloyne.

- 1.96 As already stated, the Church did not start to report complaints of child sexual abuse to the Gardaí until late 1995. The Commission notes that the Gardaí were happy with the co-operation they received from Archbishop Connell in 2002. For many complainants it was a gesture that came too late.

#### *The health authorities*

- 1.97 As is described in Chapter 6, the health authorities have a very minor role in dealing with child sexual abuse by non family members. The Commission is concerned that the legislation governing the role of the HSE is inadequate even for that limited role. There is a need to clarify exactly what the role of the HSE is in relation to non family abusers and to set out clearly the powers it has to implement that role. The HSE and the health boards have given the impression to Church authorities and the Gardaí that they can do more in the area than they actually have the power to do.

- 1.98 The health boards and the HSE do not properly record cases of clerical child sexual abuse.

#### **State responsibility for child protection**

- 1.99 The Commission notes that there was an extraordinary delay in introducing child protection legislation. The need for new legislation was clearly recognised in the early 1970s but it was not actually passed until 1991 and not fully implemented until 1996. That new legislation, the *Child Care Act 1991*, does not sufficiently clarify the powers and duties of the health authorities.

- 1.100 The primary responsibility for child protection must rest with the State. In enforcing child protection rules and practices, organisations such as the Church cannot be equal partners with the state institutions such as the Gardaí and health authorities. The Church can certainly work in co-operation with the State authorities in promoting child welfare and protection as, for example,

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<sup>6</sup> The report of the inquiry into the handling of clerical child sexual abuse allegations in the diocese of Ferns was published in October 2005.

the sports bodies do, but it must be remembered that it is not an agency with equal standing.

### **Communications between Church and State authorities**

- 1.101 Such communications as took place between the Archdiocese and the Gardaí prior to 1995 were largely inappropriate. Since the implementation of the *Framework Document*, the Archdiocese and other Church authorities report complaints of clerical child sexual abuse to the Gardaí – this is appropriate communication.

### **The complainants**

- 1.102 The Commission would like to pay special tribute to the complainants who gave evidence before the Commission. Reliving their experiences was extremely painful, and the Commission was left in no doubt about the devastating effect child sexual abuse can have not just on victims but also on their families of origin and the families they create subsequently. Their evidence was also instrumental in helping the Commission to properly examine the catalogue of secrecy, cover-up and inaction which the Church authorities indulged in during the vast majority of the period covered by this investigation.
- 1.103 The vast majority of those who were abused as children complained when they were adults. In almost all cases they said that they did not complain as children because they did not think they would be believed or because the abuser had told them not to tell anyone. It is striking that, of the relatively small number who complained at the time, the majority were in fact believed. They were believed by their parents and they were believed by the authorities to whom the abuse was reported. This makes the failure by the authorities all the more egregious.
- 1.104 It is also striking that the main concern of complainants when they report abuse is the protection of other children. When dealing with Church authorities, the complainants almost invariably inquire about the whereabouts of the abuser and whether or not he has access to other children. In a number of cases, this was the only concern of the complainants.

1.105 The Commission has been impressed by the extraordinary charity shown by complainants and their families towards offenders. It is very clear to the Commission that complainants and their families frequently behaved in a much more Christian and charitable way than the Church authorities did. Many indeed expressed concern for the welfare of the priest concerned.

1.106 A relatively small number of complainants actually sought compensation and, as is outlined in Chapter 58, they were often driven to do so because of the failure of the Church authorities to engage with them.

### **Archdiocese of Dublin compared to other dioceses**

1.107 This report deals only with the Archdiocese of Dublin but reports are also available from other comparable dioceses. The *Ferns Report* identified approximately 100 allegations or complaints of child sexual abuse that were made between 1966 - 2005 against 21 priests operating under the aegis of the diocese of Ferns.

1.108 The Attorney General of Massachusetts report into the Boston Archdiocese, which had a Catholic population of just over 2 million, identified 250 priests and other Archdiocesan workers who were alleged to have sexually abused at least 789 children since 1940.

1.109 Of the 46 priests (which, of course, is a representative sample of 102 within remit) examined for this report, the Commission has identified approximately 320 people who complained of child sexual abuse during the period 1975 - 2004. A further 130 complaints against priests operating under the aegis of the Dublin Archdiocese have been made since May 2004 (the end date of the Commission's remit).

1.110 The conclusion reached by the Attorney General in Massachusetts was that:

*"The widespread sexual abuse of children in the Archdiocese of Boston was due to an institutional acceptance of abuse and a massive and pervasive failure of leadership. For at least six decades, three successive Archbishops, Bishops and others in positions of authority within the Archdiocese operated with tragically misguided priorities. They chose to protect the image*

*and reputation of their institution rather than the safety and well being of the children entrusted to their care. They acted with misguided devotion to secrecy”.*<sup>7</sup>

1.111 Unfortunately the same conclusion could be reached about the Archdiocese of Dublin up until the adoption of the *Framework Document* in 1996. While proper support structures were not put in place for victims until much later the Archdiocese began to report complaints received after January 1996 to the Garda authorities.

1.112 Since Archbishop Martin took over in 2004 he has published full details annually of all settlements made by the Archdiocese.

### **Conclusion**

1.113 The Commission has no doubt that clerical child sexual abuse was covered up by the Archdiocese of Dublin and other Church authorities over much of the period covered by the Commission’s remit. The structures and rules of the Catholic Church facilitated that cover-up. The State authorities facilitated the cover up by not fulfilling their responsibilities to ensure that the law was applied equally to all and allowing the Church institutions to be beyond the reach of the normal law enforcement processes. The welfare of children, which should have been the first priority, was not even a factor to be considered in the early stages. Instead the focus was on the avoidance of scandal and the preservation of the good name, status and assets of the institution and of what the institution regarded as its most important members – the priests. In the mid 1990s, a light began to be shone on the scandal and the cover up. Gradually, the story has unfolded. It is the responsibility of the State to ensure that no similar institutional immunity is ever allowed to occur again. This can be ensured only if all institutions are open to scrutiny and not accorded an exempted status by any organs of the State.

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<sup>7</sup> Office of the Attorney General Commonwealth of Massachusetts *Ibid* at page 5.

**Appointment**

- 2.1 The Dublin Archdiocese Commission of Investigation was appointed by Instrument of the Minister for Justice, Equality and Law Reform on 28 March 2006, pursuant to the *Commissions of Investigation Act 2004*. Notice of the order of the Government setting up the Commission was published in *Iris Oifigiúil* on 7 April 2006.

**Terms of reference**

- 2.2 The terms of reference of the Commission were to:
- (a) select a representative sample of complaints or allegations of child sexual abuse made to the archdiocesan and other Catholic Church authorities and public and State authorities in the period 1 January 1975 to 1 May 2004 against Catholic clergy operating under the aegis of the Catholic archdiocese of Dublin;
  - (b) examine and report on the nature of the response to those sample complaints or allegations on the part of the authorities to which those sample complaints or allegations were reported, including whether there is any evidence of attempts on the part of those authorities to obstruct, prevent or interfere with the proper investigation of such complaints;
  - (c) in the case of complaints or allegations being examined, examine and report also on the nature of the response to any other complaints or allegations made by the complainant or against the person in respect of whom those complaints or allegations were made, including any such complaints or allegations made before 1 January 1975;
  - (d) select a representative sample of cases where the archdiocesan and other Catholic Church and public and State authorities had in the period 1 January 1975 to 1 May 2004 knowledge of or strong and clear suspicion of or reasonable concern regarding sexual abuse involving Catholic clergy operating under the aegis of the Catholic archdiocese of Dublin;

(e) establish the response of the archdiocesan and other Catholic Church and public and State authorities to those sample cases;

(f) establish the levels of communication that prevailed between the archdiocesan and other Catholic Church authorities and public and State authorities with regard to those sample complaints, allegations, knowledge, reasonable concern or strong and clear suspicion;

(g) examine, following a notification from the Minister for Health and Children that a Catholic diocese in the State may not have established the structures or may not be operating satisfactorily the procedures set out in the Report of the Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious, Child Sexual Abuse: Framework for a Church Response (1996) and any subsequent similar document, the position in that diocese;

(h) examine, following a notification from the Minister for Health and Children that a Catholic diocese in the State may not be implementing satisfactorily the recommendations of the Ferns Report delivered to the Minister for Health and Children on 25 October, 2005, the position in that diocese; and make a report on these matters considered by the Government to be of significant public concern.

2.3 In January 2009, the Government amended the Commission's terms of reference pursuant to Section 6 of the *Commissions of Investigation Act 2004* to provide for an investigation into the diocese of Cloyne.

2.4 This report deals only with the Commission's investigation into the Archdiocese of Dublin.

### **Establishment**

2.5 The Minister for Justice, Equality and Law Reform appointed Judge Yvonne Murphy, Judge of the Circuit Court as Chair of the Commission, and appointed Ms Ita Mangan, Barrister, and Mr Hugh O'Neill, Solicitor, to act as part-time Commissioners.

2.6 The Secretary General of the Department of Justice, Equality and Law Reform, Mr. Sean Aylward, procured office accommodation for the Commission at Fitzwilliam Square, Dublin and assigned five officers from the department to act as administrative staff to the Commission. The Commission appointed a full time solicitor, Ms Maeve Doherty; a Senior Counsel, Ms Deirdre Murphy SC; a Junior Counsel, Mr Donal McGuinness BL and three legal researchers to assist the investigation. A full list of the Commission's staff is in Appendix 6.

2.7 The premises at Fitzwilliam Square required complete renovation and this was overseen by Ms Nóra Ní Dhomhnaill, HEO of the Department of Justice, Equality and Law Reform. Having taken possession of the offices it was necessary for the Commission to seek expert advice and assistance in installing in its offices appropriate electronic and other security systems to protect the sensitive documentation and information which it was likely to receive in the course of its work. Suitable computer systems capable of processing large quantities of information were also procured and installed.

### **The Commission's interpretation of its terms of reference**

2.8 Having considered its terms of reference as contained in the instrument creating it, the Commission took the view that its task was as follows:

- To ascertain the full extent of complaints or allegations of child sexual abuse made to the Archdiocesan and other Catholic Church authorities and public and State authorities in the period 1 January 1975 to 1 May 2004 against Catholic clergy operating under the aegis of the Catholic Archdiocese of Dublin.
- To ascertain all of the cases during the relevant period in which the Archdiocesan and other Church authorities and/or public and State authorities:
  - knew of sexual abuse involving Catholic clergy;
  - had strong and clear suspicion of sexual abuse; or
  - had reasonable concern.
- Ancillary to its primary tasks set out above, the Commission was mandated to establish the levels of communication that prevailed between all relevant authorities relating to the sample complaints or allegations of child sexual abuse, incidents of known abuse, incidents

of strong and clear suspicion of sexual abuse and incidents giving rise to reasonable concern that there may have been sexual abuse.

- Having ascertained the full extent of such complaints and allegations, knowledge, suspicions or concerns of child sexual abuse, to select a representative sample of same for the purpose of examining them in detail in order to report on the nature of the response to those complaints and allegations by the Archdiocese and other Church authorities and by public and State authorities.
- In examining the chosen sample, the Commission was specifically asked to ascertain whether there was any evidence of attempts on the part of the Archdiocese or other Church authorities or on the part of public or State authorities to obstruct, prevent or interfere with the proper investigation of such complaints. In choosing its representative sample the Commission has had specific regard to this requirement.

#### **What is child sexual abuse?**

2.9 The Commission adopted the definition of child sexual abuse which had already been adopted by the *Ferns Report*. The following is the relevant extract from that report:

*“While definitions of child sexual abuse vary according to context, probably the most useful definition and broadest for the purposes of this Report was that which was adopted by the Law Reform Commission in 1990<sup>8</sup> and later developed in Children First, National Guidelines for the Protection and Welfare of Children (Department of Health and Children, 1999) which state that ‘child sexual abuse occurs when a child is used by another person for his or her gratification or sexual arousal or that of others’. Examples of child sexual abuse include the following:*

- *exposure of the sexual organs or any sexual act intentionally performed in the presence of a child;*
- *intentional touching or molesting of the body of a child whether by person or object for the purpose of sexual arousal or gratification;*

<sup>8</sup>

This definition was originally proposed by the Western Australia Task Force on Child Sexual Abuse, 1987 and is adopted by the Law Reform Commission (1990) *Report on Child Sexual Abuse*, p.8.



- *masturbation in the presence of the child or the involvement of the child in an act of masturbation;*
- *sexual intercourse with the child whether oral, vaginal or anal;*
- *sexual exploitation of a child which includes inciting, encouraging, propositioning, requiring or permitting a child to solicit for, or to engage in prostitution or other sexual acts. Sexual exploitation also occurs when a child is involved in exhibition, modelling or posing for the purpose of sexual arousal, gratification or sexual act, including its recording (on film, video tape, or other media) or the manipulation for those purposes of the image by computer or other means. It may also include showing sexually explicit material to children which is often a feature of the ‘grooming’ process by perpetrators of abuse.”*

### **Preliminary inquiries**

2.10 The Commission first sought to identify all potential sources of information and documentation necessary to the discharge of its remit. Bearing in mind the requirements of Section 10(2) of the *Commissions of Investigation Act 2004*, that a Commission seek the voluntary cooperation of persons whose evidence is desired, the Commission had numerous meetings and contacts with Church and State authorities, as well as with individuals whom it considered might have evidence relevant to its work. Inquiries were made of the Archbishop of Dublin, former bishops of the Dublin Archdiocese, a number of other diocesan authorities, 38 religious orders operating within the area of the Dublin Archdiocese, the Health Service Executive, an Garda Síochána, the Director of Public Prosecutions, Our Lady’s Hospital for Sick Children, Crumlin, Children’s University Hospital, Temple St., the Department of Education and Science, the Department of Health and Children and a number of individuals who the Commission considered might have information relevant to its work.

### **Complainants of child sexual abuse**

2.11 In tandem with these preliminary inquiries, the Commission launched an advertising/information campaign to alert complainants of child sexual abuse and those with relevant information as to its existence and to invite contributions from those who wished to assist the Commission in its work.

This campaign covered the entire area of the Archdiocese of Dublin. Advertisements were placed in many local newspapers and a number of national newspapers together with many local radio stations and RTE Radio 1. Information was provided through churches, doctors' surgeries and information centres in order to encourage those who wished to be heard to come forward.

- 2.12 All of those who came forward who appeared to be within the Commission's remit were interviewed by the Commission's counsel and many gave formal evidence to the Commission. Some of those who were interviewed made complaints which were outside the terms of reference of the Commission, for example, because their complaint had not been made during the relevant period between 1975 and 2004, or because the cleric in respect of whom they made a complaint was not acting under the aegis of the Dublin Archdiocese. In such circumstances the Commission thought it appropriate to listen to the complaints made and where necessary to refer people to the available support services.

### **Practice, procedures and protocols**

- 2.13 In order to facilitate formal hearings as well as the gathering of evidence generally, the Commission developed procedures and protocols, for example, relating to the taking of evidence and the rights of witnesses giving evidence before the Commission. A formal book of procedures was compiled to comply with the terms of the *Commission of Investigations Act 2004*. Given the sensitive and confidential nature of much of the information being furnished to it, the Commission devised a Memorandum on Confidentiality for parties involved in the Commission's work as well as protocols on confidentiality and conflicts of interest for its own staff.

### **Formal hearings**

- 2.14 Following its preliminary inquiries, it became clear to the Commission that it needed to hear oral evidence in relation to administrative structures of Church, public and State authorities within its remit during the relevant period. The focus of these hearings was on how complaints, allegations or suspicions of child sexual abuse were handled generally by the various authorities throughout the relevant period. The purpose of these hearings was:

- (a) to inform the Commission of the way in which specific complaints were handled and
- (b) to identify potential sources of evidence, within each body, documentary and otherwise as well as the places where such evidence might be located.

2.15 During this phase, the Commission also heard evidence from an expert on canon law, so as to understand the Catholic Church's perspective on what it considered its duties and obligations.

2.16 In all, between the preliminary phase and the hearings into the individual cases, 145 formal hearings took place at the Commission's offices and a stenographer recorded all hearings. In addition to the formal hearings a significant number of informal hearings took place.

#### **Discovery of documents**

2.17 The Commission issued formal Orders of Discovery against the Dublin Archdiocese, the Health Service Executive (HSE), an Garda Síochána, the Director of Public Prosecutions (DPP), a number of religious orders whose priests worked under the aegis of the Catholic Archdiocese of Dublin and a number of other organisations. This should not be taken as an indication of a lack of co-operation on the part of those to whom the orders were directed. The reasons for issuing formal Orders of Discovery were, first, that the Commission had to be satisfied that it had received all relevant information and, secondly, to protect those who were furnishing to the Commission confidential information on third parties. The Commission considered that it would be unreasonable to expect people to furnish such confidential information without giving them the statutory protection afforded by Section 16 of the *Commissions of Investigation Act 2004*. Without information obtained through discovery, the Commission could not have effectively discharged its remit.

2.18 The discovery process was protracted by a number of factors. In the case of the Dublin Archdiocese, the sheer volume of material to be discovered - over 70,000 documents - was hugely time consuming. The Commission was fortunate in that the Archdiocese had assembled a good deal of its documentation in connection with a Garda investigation that took

place subsequent to the Prime Time programme *Cardinal Secrets* which was broadcast in 2002 (see Chapter 5). The Archdiocese had transferred that information onto a computer program much of which was transferred to the Commission.

#### *HSE discovery*

- 2.19 In the case of the HSE, it transpired from early hearings that it had, in effect, insuperable difficulties in identifying relevant information in its files. The Commission was told that, because the HSE files were filed by reference to the name of the abused and were not in any way cross-referenced to the alleged abuser, it would have to examine individually up to 180,000 files in order to ascertain whether an alleged abuser was a priest in the Dublin Archdiocese. On the basis of this, the Commission calculated that it could take up to ten years to carry out such an exercise. In the light of this information, and bearing in mind the time allotted to its investigation, the Commission decided to take a pragmatic approach to the problem. The Commission asked the HSE to contact all relevant current and former staff including directors of community care, senior social workers and childcare managers, who had been employed in the area of the Dublin Archdiocese during the relevant period, to ascertain their knowledge of complaints of child sexual abuse by clerics. It heard evidence from senior social workers, childcare managers and senior managers. Subsequently, an affidavit of discovery was filed by the HSE. This was unfortunately incomplete as the Commission continued to receive material from the HSE after it sent parts of the draft report to the HSE for its consideration.

#### *Garda discovery*

- 2.20 The Garda Síochaná gave what documentation they had. This documentation was quite extensive for the period after 1995. They were unable to supply files in relation to some of their activities in the 1960s, 1970s, or 1980s as these had been destroyed or mislaid. Members of the force who had been involved in cases about which the Commission had queries and for which the files were missing or destroyed gave evidence of their recollections of those cases.

- 2.21 The Commission agreed with the main parties that documents generated up to 31 March 2006 would be covered by the Orders for

Discovery. In practice, as the investigation got under way, later documents were provided by the Archdiocese, the religious orders and the Gardaí. This happened both at the instigation of the parties and on request from the Commission. The Commission is grateful for this flexibility as it allowed a number of the individual cases to be completed.

- 2.22 The discovery process has to date yielded almost 100,000 documents, the bulk of which have been supplied by the Dublin Archdiocese. By far the largest proportion of the Commission's time over its first year was spent in reading, collating and analysing this large volume of documentation.

### **Documents held by Rome**

- 2.23 The Commission wrote to the Congregation for the Doctrine of the Faith (CDF) in Rome in September 2006 asking for information on the promulgation of the document *Crimen Sollicitationis* (see Chapter 4) as well as information on reports of clerical child sexual abuse which had been conveyed to the Congregation by the Archdiocese of Dublin in the period covered by the Commission. The CDF did not reply. However, it did contact the Department of Foreign Affairs stating that the Commission had not gone through appropriate diplomatic channels. The Commission is a body independent of government and does not consider it appropriate for it to use diplomatic channels.

- 2.24 The Commission wrote to the Papal Nuncio in February 2007 requesting that he forward to the Commission all documents in his possession relevant to the Commission's terms of reference, "*which documents have not already been produced or will not be produced by Archbishop Martin*". The letter further requested the Papal Nuncio, if he had no such documentation, to confirm this. No reply was received. The Commission does not have the power to compel the production of documents by the Papal Nuncio or the Congregation for the Doctrine of the Faith. The Commission again wrote to the Papal Nuncio in 2009 enclosing extracts from the draft report which referred to him and his office as it was required to do. Again, no reply was received.

### **Legal privilege**

2.25 Of the 100,000 documents received from all parties, there were approximately 5,000 over which the Archdiocese initially claimed legal privilege. Generally speaking, a document is legally privileged if it either seeks or contains legal advice and people cannot be compelled to show such documents to any legal forum. The *Commissions of Investigation Act 2004* provides a mechanism for determining whether a document is legally privileged which involves an examination of the document by the Commission. In an attempt to expedite the discovery process and mindful of the sensitivities and concerns of the Archdiocese in respect of documents which might transpire to be legally privileged and equally mindful of the fact that it should make every effort to conduct its affairs by agreement as set out in Section 10 of the *Commission of Investigation Act 2004* the Commission's legal team engaged in discussions with lawyers for the Archdiocese to settle the question of how it might be determined whether specific documents were or were not legally privileged in a fair, fast and efficient manner. The Commission's legal team proposed to the Archdiocese that all of the documents over which legal privilege was claimed would be examined by an eminent third party (a former Supreme Court Judge) for his opinion as to whether or not the documents were legally privileged. The Commission proposed to act on his opinion and to read only those documents which he, in his expert opinion, considered not to be legally privileged. The Archdiocese, on the other hand, would not be bound by his opinion and was free to challenge, both before the Commission and if it had deemed it necessary before the High Court, any conclusion that a document was not legally privileged. That proposal was formally made to the Archdiocese on 7 September 2007.

2.26 As this proposal did not derive from the statutory investigation scheme laid down in the *Commission of Investigations Act 2004*, it could be implemented only with the consent of the parties and not otherwise. On 22 October 2007, the Archdiocese approached the Commission with a suggestion about how to resolve the matter. The essence of this suggestion from the Archdiocese was:

- That the current Archbishop, having regard to the public importance of the Commission's work and the value which he placed on the Commission having the broadest possible

base of information in which to situate the facets of the archdiocesan response, wished to give the Commission access to legal advice which was made available to the Archdiocese at different times in relation to complaints of child sexual abuse.

- That in Archbishop Martin's view there were other parties who had an interest in the privilege attaching to the legal advice in question and that it was his intention to explore with them whether releases would be forthcoming.
- That privilege would not be waived in respect of the legal advices touching directly on liability and quantum<sup>9</sup> in specific or prospective cases.
- It was Archbishop Martin's hope that, to a very great extent, the task that had been envisaged for the eminent third party would in fact be obviated by this mechanism which he hoped, having consulted with others, to be in a position to propose. A strong indication was given that the Commission would be made a firm proposal within a week or so of that October date.

2.27 This proposal was volunteered by Archbishop Martin and was not imposed by any order of the Commission.

2.28 No progress was made but the proposal was again put at a meeting of the Commission on 8 November 2007. It was, of course, subject to the original caveat of obtaining the consent of certain third parties of whom Cardinal Connell was one.

2.29 Almost six weeks passed and, although a small number of documents were received, there was no indication that all the documents would be forthcoming in accordance with the archdiocesan proposal within any reasonable timeframe. Whereas the Commission fully accepted Archbishop Martin's *bona fides* in making his proposal of 22 October 2007, the fact is that in reality it resulted in further delays in furnishing the documents over which legal privilege was claimed because he was unable to deliver the

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<sup>9</sup> Liability for damages and the amount of such damages.

consents of third parties, in particular Cardinal Connell's consent which he considered a necessary requirement.

2.30 In the circumstances the Commission had no option but to have recourse to its statutory powers under Section 21 of the *Commissions of Investigation Act 2004* to determine whether or not those documents over which legal privilege had been claimed were, in the determination of the Commission, so privileged.

2.31 As a result of issuing an order to produce under Section 21 of the Act the Archdiocese furnished the Commission with all privileged documents. They consisted of approximately 5000 documents some of which were over 100 pages in length. In early January 2008 the Commission members together with its legal advisors set about reading each and every document as was required by the Act in order to give a preliminary view on whether the documents were privileged or not.

2.32 This process was fully explained to Cardinal Connell's legal representatives and submissions from them were heard in early January.

### **Legal challenge**

2.33 As soon as the Commission members commenced to read the privileged documents Cardinal Connell's legal team sought and were granted injunctive relief in the High Court against the Commission's work. Under the circumstances, the Commission gave an undertaking not to proceed with its plans to read the privileged material. The Cardinal was also granted leave to apply for judicial review. Though the Cardinal later withdrew his action and agreed that the Commission should have its costs, his conduct of the case was gravely disruptive of the Commission's work.

2.34 It is important to note that the issue in the case was legal professional privilege. The documents in issue were those in which the Archdiocese had sought legal advice and documents containing legal advice to the Archdiocese. The issue did not concern the confidentiality of disclosures made by either complainants or priests.



2.35 Even though the case was eventually withdrawn by Cardinal Connell, it cost the Commission valuable working time estimated at about four months. The Commission members themselves, as already stated, then had to read all the documents over which privilege was claimed before it could pronounce on the validity of the privilege claim asserted. The Archdiocese waived privilege over a substantial number of documents. The Commission is satisfied that it had access to all documents over which privilege was claimed for the purpose of compiling its report.

#### **Religious orders discovery**

2.36 A number of the priests in the representative sample are there because, although they belong to a religious order or society, they worked in the Dublin Archdiocese. Orders for discovery were issued to the relevant religious orders and a significant volume of documentation was received. Documents over which privilege and/or confidentiality were claimed were provided to the Commission and were read by the Commission members. A number of religious orders made no claim of privilege; others waived privilege over the documents identified by the Commission as being necessary for the completion of its report. As with the Archdiocese, the Commission is satisfied that it had access to all documents over which privilege was claimed by religious orders and societies for the purpose of compiling its report.

#### **Investigating the representative sample**

2.37 The process by which the representative sample was chosen is described in Chapter 11. The Commission conducted its investigation by means of oral evidence and in-depth analysis of the documentation supplied by all parties. Where gaps in the evidence were apparent, the Commission filled them, where appropriate and possible, with questionnaires and follow-up interviews. Follow-up was not always possible because a number of the significant participants had either died or were too ill to be interviewed.

#### **Research**

2.38 In addition to the foregoing, the Commission carried out research into canon law, the law relating to child abuse and the law relating to discovery, confidentiality and other relevant legal topics.

2.39 The Commission has also considered a range of reports of similar investigations from Ireland, the UK and the USA.

### **The report**

2.40 The report was drafted mainly in the later part of 2008 and the early part of 2009. As required by the *Commissions of Investigation Act*, relevant parts of the report were sent to people who are identified or identifiable and who could be contacted. A large number of submissions were received from the relevant parties. These were considered by the Commission and amendments were made as the Commission considered appropriate. A second draft was then sent to the parties who had made submissions and to others affected by any amendments made. All relevant parties were then invited to provide any further information or make any further submissions which they considered appropriate. The final draft was completed in July 2009.

### **Acknowledgements**

2.41 The Commission would like to acknowledge the considerable assistance it has received from Mr Justice Francis D Murphy and his team who produced the *Ferns Report* and Mr Justice Sean Ryan and his team of the Commission to Inquire into Child Abuse.

### **Costs to date**

2.42 The total cost of the Commission's work to 30 April 2009 was €3.6 million. This does not include third party costs. Guidelines on legal costs have been prepared in accordance with Section 23 of the *Commissions of Investigation Act 2004* and given to the relevant parties.

### **Additional information**

In June and July 2009, just as this report was being finalised, the Commission became aware of additional information which may require further investigation and, if necessary, the preparation of a further report.

**Introduction**

- 3.1 The Diocese of Dublin was founded in 633 AD and was elevated to the status of Archdiocese in 1152 AD. It includes the city and county of Dublin, nearly all of Co Wicklow and portions of counties Kildare, Carlow, Wexford and Laois. A map of the Archdiocese is in Appendix 5.
- 3.2 In 1975, according to statistics supplied by the Archdiocese, its Catholic population was 900,000. At that time, it comprised 163 parishes, served by almost 900 diocesan priests.
- 3.3 There are now (2009) more than one million Catholics in the Archdiocese and the number of parishes has risen to 200. (One of these parishes is non-territorial: it provides services to the Traveller community.) There are more than 650 active priests serving in parishes. Of the 200 parishes, 42 are in the care of religious orders, one is in the care of the priests of the Archdiocese of Cashel and one is in the care of the Personal Prelature of Opus Dei.
- 3.4 Since 1940, about 1,350 priests were ordained for the Archdiocese of Dublin and about 1,450 members of religious orders and societies held appointments in the Archdiocese. An unquantifiable number of priests did supply work.
- 3.5 The Archdiocese engages in many activities. Its main activities are the running of parishes, the patronage of 477 national schools, the provision of services to these schools and to 189 post-primary schools, and the provision of services through its Catholic Youth Care programme and its Crosscare programme, which provides social services for less well-off people. Its many other activities include agencies to assist marriage and families and chaplaincy services to prisons, the defence forces and almost 50 hospitals. The Archbishop is involved in appointing members of the boards of a number of hospitals.

### **Legal status**

- 3.6 Despite its level of activity, the Archdiocese has never become an incorporated entity under the *Companies Acts* or otherwise, nor does it have to comply with any regulations or norms that are supervised by the Office of the Director of Corporate Enforcement.
- 3.7 From a financial point of view, it would appear that the Archdiocese's assets are managed through a variety of trusts. One such trust, the St Laurence O'Toole Trust, which is a holding entity for many of its properties, is incorporated as a limited company and is therefore subject to the normal requirements of company law.
- 3.8 In the USA, some bishops, for example, the Archbishop of Boston, have been legally established as corporations sole. The precise legal status of the Archbishop of Dublin has yet to be determined by the Irish courts but, according to his legal advisors, it is not open to the Archbishop to establish himself as a corporation sole. (A corporation sole is a legal entity consisting of a single person, so that the corporation passes from one holder of a position to the next, giving the position legal continuity, with each subsequent office holder having identical powers to his predecessor.)
- 3.9 The imprecision of the legal status of the Archbishop and the Archdiocese has presented some difficulties for those attempting to initiate legal action against the Archdiocese or the Archbishop in respect of claims for clerical child sexual abuse.

### **Managerial structure of the Archdiocese**

- 3.10 The Archdiocese is headed by the Archbishop. He appoints a vicar or vicars general to assist him in the governance of the Archdiocese. Their authority is the same as that of the Archbishop, although it has to be exercised in his name.
- 3.11 According to canon 479 of the code of canon law,  
*"In virtue of his office, the Vicar general has the same executive power throughout the whole diocese as that which belongs by law to the diocesan Bishop: that is, he can perform all administrative acts, with*

*the exception however of those which the Bishop has reserved to himself, or which by law requires special mandate of the Bishop”.*

3.12 In addition to the office of vicar general, there also exists the office of episcopal vicar. The episcopal vicar has the same authority as a vicar general “*but only for that determined part of the territory or type of activity ...for which he was appointed*” (canon 479).

3.13 In the Roman Catholic hierarchy, the rank of metropolitan bishop, or simply metropolitan, is that of a diocesan bishop or archbishop (then more precisely metropolitan archbishop) of a ‘metropolis’, that is, the chief city of an old Roman province or a regional capital.

3.14 The Archbishop of Dublin is a metropolitan archbishop and has authority over the other bishops in his ecclesiastical province, that is, the Bishop of Ferns, the Bishop of Kildare and Leighlin and the Bishop of Ossory. These three bishops are known as suffragen bishops.

3.15 The supervisory role of an archbishop over suffragen bishops has been described by canon lawyers as “*very, very minor*”. As can be seen from the *Ferns Report*, there was no evidence that the metropolitan exercised any jurisdiction over Bishop Herlihy or Bishop Comiskey in their running of the diocese of Ferns.

3.16 A bishop in his diocese is autonomous and every bishop is accountable directly to the Holy See. According to canon law, the diocesan bishop governs the particular Church entrusted to him with legislative, executive and judicial power, in accordance with the law (canon 391).

3.17 As long as he operates within the canon law, the bishop is free to organise the day-to-day running of his diocese as he sees fit. The Ferns Inquiry learned that the way in which a bishop managed his diocese was to a certain extent dependant on his personality. The Commission agrees that this is so.

### **Auxiliary bishops**

- 3.18 During the period under investigation by the Commission, the Archbishop of Dublin was assisted by a varying number of auxiliary bishops. (There is a full list of auxiliary bishops in Chapter 11). Auxiliary bishops are appointed by the Pope. They are generally assigned geographic or thematic areas of responsibility by the Archbishop. All the present auxiliary bishops are also vicars general. Any cleric may be appointed as coadjutor bishop, giving him the automatic right of succession when the diocesan bishop dies, retires, resigns or is reassigned. For example, Archbishop Martin was initially appointed as a coadjutor bishop on 3 May 2003 and he succeeded Cardinal Connell as Archbishop on 26 April 2004. There is currently no coadjutor bishop in the Dublin Archdiocese.

### **Dealing with complaints of clerical child sexual abuse**

- 3.19 The precise role of the Archbishop and the auxiliary bishops in dealing with complaints of clerical child sexual abuse varied over time. During his time as Archbishop (1940 – 1972), Archbishop McQuaid dealt personally with complaints of child sexual abuse and, as can be seen from the Fr Edmondus\* case (see Chapter 13), there was tight control over who became aware of such matters. Archbishop McQuaid had one auxiliary bishop for most of his tenure and in 1968, a second auxiliary was appointed.
- 3.20 During Archbishop Ryan's term of office (1972 - 1984), the number of parishes increased by 47 and the number of auxiliary bishops was increased from two to five. Each of them was given an area of geographical or pastoral responsibility. This, the Commission heard, led to much greater fragmentation in the way child sexual abuse cases were managed.
- 3.21 Archbishop Ryan set up a general secretariat, a financial secretariat and an education secretariat. He was the co-ordinating figure and, as one bishop has told the Commission, he often delegated in a piecemeal manner in relation to abuse cases, so that one auxiliary bishop might not be aware of the participation of another in the same case.
- 3.22 Bishop Comiskey, referring to Archbishop Ryan, stated:  
*"When he appointed area bishops, there was no discussion of it nor was there any document or mandate given to us. It evolved gradually."*

*How would I describe it? We were more or less an episcopal presence in the four areas of the diocese devoted to helping and promoting the priests and looking after them pastorally, in whatever way they asked us to do.”*

3.23 Bishop Murray, who served under Archbishops McNamara and Connell, stated:

*“I mean, I think the one thing that was clear was that the Archbishop was in charge. Canon law says that auxiliary bishops work according to the mind of the Archbishop. I think the division into territorial areas was a strange thing in some ways, because you were the person that went and did the confirmations and dealt with the priests and so on, but you weren’t the person in charge.”*

3.24 His view was that the auxiliary bishops were “*informed rather than consulted*” on the issue of child sexual abuse.

3.25 The Commission has noted that, in addition to their clerical education, many of those in authority in the Archdiocese had civil law degrees or occupied prestigious appointments in third level education. Bishop O’Mahony and Bishop Field were qualified barristers. So also was Monsignor Sheehy. Bishop Kavanagh was Professor of Social Science in University College Dublin where both Archbishop Ryan and Archbishop Connell held high ranking academic posts.

### **Vicars Forane (Deans)**

3.26 A number of parishes may be designated as a vicariate forane or deanery. Priests are appointed as vicars forane or deans. In the Archdiocese of Dublin, they are appointed by the Archbishop and their job is to see that clerics in their districts lead a life befitting the clerical state. They also have the job of easing the administrative burden on the Archbishop. There were 16 deaneries in the Archdiocese of Dublin in 2004. Pastoral responsibility for the deaneries rests with a number of the auxiliary bishops.

### **Parish priests and curates**

3.27 Next in the structure of the Archdiocese comes the parish priest, who is in charge of a parish, subject to the authority of the Archbishop. He is

appointed by the Archbishop and has responsibility and canonical authority within his parish.

3.28 The parish priest is assisted in his parish by the assistant priest or curate who is appointed by the Archbishop, who may consult with the parish priest or the vicar forane in relation to the appointment.

3.29 Priests have a duty of obedience to and respect for their bishop. At his ordination a diocesan priest is required to answer the following question from his bishop in the affirmative: *“Do you promise respect and obedience to me and my successors?”*. Bishops must take an oath of fidelity to the *“Holy Apostolic Roman Church”* and the Pope.

### **Consultative bodies**

#### *Council of Priests*

3.30 One of the principal consultative bodies in the Archdiocese of Dublin is the Council of Priests. The role of the Council of Priests in a diocese is to assist the bishop in the governance of that diocese. The bishop is obliged to consult with the council on a range of matters, for example, the alteration to parishes, offerings made by the faithful, the building of churches and the use of churches for secular purposes. The council consists of priests selected by their peers, as well as those nominated by the Archbishop and also some ex-officio members.

#### *College of Consultors*

3.31 The College of Consultors is a body of no fewer than six and no more than 12 priests appointed by the bishop of a diocese for a five year term of office. A bishop is obliged to obtain the consent of this body when making decisions about certain financial matters.

### **Other diocesan priests and priests from religious orders**

3.32 Diocesan priests who are ordained for the service of a diocese are said to belong to that diocese. Priests who are ordained for other dioceses may apply to become a priest in the Archdiocese of Dublin. If that happens the priest's suitability is assessed and, if that is satisfactory, he may then be given an appointment in the Archdiocese. The two dioceses agree the terms of the transfer but the priest continues to 'belong' to his original diocese. After



a period working in the Archdiocese, the priest may apply to be 'incardinated' into the Archdiocese. If this is agreed between the two dioceses, he is 'excardinated' from his original diocese and 'incardinated' into the Archdiocese. He is then in the same situation as a priest who was ordained for the Archdiocese and continues to serve in it.

3.33 There are many clergy other than diocesan priests living and working in the Archdiocese of Dublin - priests belonging to religious institutions, societies of apostolic life<sup>10</sup> and those who belong to personal prelatures. (A personal prelature is an institution having clergy and (possibly) lay members which carries out specific pastoral activities. Currently, the only personal prelature in the Catholic Church is Opus Dei.) While such priests are not under the direct supervision of the Archbishop in those matters that concern their ordinary living, they are subject to his jurisdiction in all matters pertaining to public worship, ministry and other apostolic activity. Sometimes such priests are appointed to parishes and other positions in the Archdiocese but they remain as members of their congregations. They may apply for incardination in the Archdiocese in broadly the same way as priests from other dioceses.

3.34 Although a bishop is bound to respect and defend the external autonomy and governance of religious institutions, he can draw the attention of religious superiors to situations of lack of discipline or abuses uncovered by him in the course of visitation. In the latter case, if the superior fails to act, the bishop is authorised to take action.

### **The chancellery**

3.35 Canon 482 s.1 provides that each diocese is to have a chancellor "*whose principal office... is to ensure that the acts of the curia are drawn up and dispatched, and that they are kept safe in the archive of the curia*".<sup>11</sup>

3.36 Other canons outline other roles and functions as follows:

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<sup>10</sup> In this report, the term 'religious order' is used to cover all such orders, institutes and societies in respect of those cases where the priest is not named.

<sup>11</sup> The curia in a diocese is the offices supporting the bishop in the administration of the diocese. The Roman Curia is the ensemble of departments or ministries which assist the Pope in the government of the Church.

*“Besides the chancellor, other notaries may be appointed, whose writing or signature authenticates public documents...” (canon 483 s1).*

*“In each curia there is to be established in a safe place a diocesan archive where documents and writings concerning both spiritual and the temporal affairs of the diocese are to be properly filed and carefully kept...”(canon 486 s2).*

*“In the diocesan curia there is also to be a secret archive... In this archive documents which are to be kept under secrecy are to be most carefully guarded. Each year documents of criminal cases concerning moral matters are to be destroyed whenever the guilty parties have died, or ten years have elapsed since a condemnatory sentence concluded the affair. A short summary of the facts is to be kept, together with the text of the definitive judgement.” (canon 489 s1 and s2).*

3.37 Although not directly part of the managerial structure, the chancellor of the Dublin Archdiocese and his assistants played a vital role in advising the Archbishop of the applicability of canon law to the handling of complaints of child sexual abuse.

3.38 Monsignor Alex Stenson (Chancellor 1981 - 1997) told the Commission that in the earlier period of the Commission’s remit, the chancellery had two distinct functions. One was administrative - it dealt with pre-marriage queries, dispensations for mixed marriages and laicisations among other matters. The second function was judicial, in that it housed the Marriage Tribunal which dealt with annulments. In later years, before the setting up of the Child Protection Service of the Dublin Archdiocese in 2003, it played a major role in dealing with complaints of child sexual abuse.

### **The Bishops’ Conference**

3.39 On the island of Ireland, there are 26 Roman Catholic dioceses and 33 bishops, including seven auxiliary bishops. These bishops meet as the Irish Bishops’ Conference (sometimes called the Episcopal Conference) four times a year. While all of the bishops who formed part of the Conference had

taken out insurance between 1987 and 1990 to protect them against claims that could result from clerical child sexual abuse, it was not until 1994 that they established a committee to advise on the appropriate responses to an accusation, suspicion or knowledge of a priest or religious having sexually abused a child.

3.40 It took that committee until 1996 to produce the document entitled *Child Sexual Abuse: Framework for a Church Response* (generally described as the *Framework Document* in this report). This document was endorsed by the Irish Bishops' Conference and by the Conference of Major Religious Superiors<sup>12</sup> that year. In effect, it became the first written policy which the Dublin Archdiocese had on the handling of complaints of clerical sexual abuse of children.

3.41 Bishops are not bound by the decisions of the Bishops' Conference either in canon law or by convention. The conference cannot set aside the proper authority of the bishop to govern his diocese. Canon law does, however, empower an episcopal conference to declare binding norms in certain circumstances and after approval from the Holy See. Examples of such norms include those dealing with seminary formation and with the duration of the appointment of parish priests.

3.42 The *Framework Document* was not a norm and therefore was not binding on individual bishops. The Holy See did not formally recognise it either. Victims have expressed disappointment that neither the *Framework Document* nor its successor, *Our Children Our Church*, received recognition from Rome, thus leaving both documents without legal status under canon law.

3.43 This was in direct contrast to the approach adopted by the Holy See to the request of the American Conference of Bishops, who sought and received recognition for their 2002 and 2006 norms. The fact that a number of the bishops in the USA disagreed with the norms was probably a factor in Rome granting recognition to the USA norms and thus making them binding in canon law.

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<sup>12</sup> This is now known as the Conference of Religious of Ireland (CORI).

3.44 Witnesses have told the Commission that the Irish Bishops' Conference is not seen as having the strength of other episcopal conferences. One bishop has suggested to the Commission that its *modus operandi*, which is to try and achieve consensus, may be a contributory factor: *"When you are asked about consensus you can find very easily that different people may have slightly different interpretations of what they actually agreed to."*

### **The Relationship of the Archdiocese with Rome**

3.45 The structures and organisation of the Catholic Church are governed by the code of canon law – see Chapter 4. The Pope is the supreme legislator for the Catholic Church and all its members. Only he can create and change Church law on a worldwide level. Many of these laws are found in legal codes or in papal decrees.

3.46 To assist him, the Pope is supported by a number of bodies which are akin to government departments. The most relevant of these bodies to the Commission's investigation are the Congregation for the Doctrine of the Faith, the Congregation for the Clergy and the Roman Rota. Cardinal Connell served as a member of the Congregation for the Doctrine of the Faith for 12 years from 1992 to 2004 under the prefecture of Cardinal Ratzinger, now Pope Benedict XVI. The discussions and deliberations of that congregation are secret. Cardinal Connell, explaining why he could not discuss the affairs of that body, stated:

*"Well, I think the Commission will have to accept that on my first meeting of the Congregation for the Doctrine of the Faith, I took an oath that I would not reveal what was discussed at meetings of the Congregation and I will of course be as true to that oath as I am to the oath I have taken here."*

3.47 One witness told the Commission that *"it is important to realise that the bishop is not the vicar of the Pope and that the dioceses are not branch offices of Rome."*

3.48 The Archbishop must make a report every five years to Rome. This is known as the *Ad Limina* or Quinquennial Report. The latest report was

delivered in October 2006, almost seven years after the previous report. This gap arose because of the ill-health of the late Pope John Paul II.

3.49 The purpose of the report is to inform Rome on the running of the Church in Ireland and, in the case of Dublin, how the Archdiocese is faring. Archbishop Martin has told the Commission that these reports were effectively in response to questionnaires that Rome presented to the Archbishop. He said he had looked at a number of these reports which went from the Dublin Archdiocese to Rome. The first reference to child sexual abuse which he discovered was contained in the last report of Archbishop Connell, which was written in 1999. Archbishop Martin told the Commission that, in a 100 page document, there were ten lines that dealt with the question of child sexual abuse in the Archdiocese. It was a very simple statement that the Archdiocese had gone through a difficult time, that there had been allegations of child sexual abuse and that priests had been convicted. He said that no statistics on child sexual abuse were furnished in the report.

3.50 Archbishop Martin said that the current policy, as far as he is concerned, is that at the conclusion of a preliminary investigation into an allegation of child sexual abuse, he sends a summary of the facts to the Congregation for the Doctrine of the Faith (CDF), asking how it should be dealt with canonically. This was not the practice of previous Archbishops even though it appears to have been a mandatory requirement of canon law at least since 1917. This mandatory requirement was re-iterated in the 2002 document *Sacramentorum Sanctitatis Tutela* (see Chapter 4).

### **The Papal Nuncio**

3.51 The Papal Nuncio has two distinct roles. He is the diplomatic representative of the Holy See in Ireland and he is the papal legate to the island of Ireland. Canon 364 sets out his papal legate functions as follows:

*“The principal task of a Papal Legate is continually to make more firm and effective the bonds of unity which exist between the Holy See and the particular Churches. Within the territory assigned to him, it is therefore the responsibility of a Legate:*

*1° to inform the Apostolic See about the conditions in which the particular Churches find themselves, as well as about all matters which affect the life of the Church and the good of souls;*

*2° to assist the Bishops by action and advice, while leaving intact the exercise of their lawful power;*

*3° to foster close relations with the Episcopal Conference, offering it every assistance;*

*4° in connection with the appointment of Bishops, to send or propose names of candidates to the Apostolic See, as well as to prepare the informative process about those who may be promoted, in accordance with the norms issued by the Apostolic See;*

*5° to take pains to promote whatever may contribute to peace, progress and the united efforts of peoples;*

*6° to work with the Bishops to foster appropriate exchanges between the Catholic Church and other Churches or ecclesial communities, and indeed with non-Christian religions;*

*7° to work with the Bishops to safeguard, so far as the rulers of the State are concerned, those things which relate to the mission of the Church and of the Apostolic See;*

*8° to exercise the faculties and carry out the other instructions which are given to him by the Apostolic See”.*

### **Child Protection Service**

- 3.52 The Archdiocese established a Child Protection Service in September 2003.
- 3.53 Its function is to assist the Archdiocese in the implementation of child protection policies and procedures, both in terms of prevention and in response to allegations. It also provides pastoral outreach and support for victims of child abuse.
- 3.54 The Child Protection Service is responsible to the Archbishop of Dublin and reports directly to him. It has the support of the child protection advisory panel.
- 3.55 The child protection advisory panel has responsibility for reviewing individual cases of child abuse by priests. It makes recommendations to the

Archbishop. Its recommendations have been acted on in every case to date. The panel's membership includes people with expertise in a variety of fields relevant to its work.

3.56 The first (and current) director of the service, Mr Philip Garland, told the Commission that his role is:

- to implement diocesan policies and procedures in relation to child protection and in response to allegations: in particular, to assist in promoting best practice throughout the diocese in relation to the prevention of abuse as well as the response to allegations at a diocesan and local level;
- to be the first point of contact for all those who wish to make allegations of child abuse against clergy, employees and volunteers;
- to be responsible for the overall management of the child protection service;
- to be of assistance to the priest delegate in the discharge of his responsibility in relation to allegations against priests;
- to liaise with the director of the Church's National Child Protection Office in Maynooth;
- to establish and maintain contact with relevant statutory and voluntary organisations and;
- to assist and, where needs be, lead responses to media inquiries.

3.57 In addition to Mr Garland, there is a support co-ordinator who provides a separate support for victims and their families. He also provides assistance in the making of complaints, in facilitating access to information and assistance and in representing the concerns of victims and families to the director.

3.58 The priest delegate is responsible for the management of the pastoral response to the priest accused of child abuse. A number of priest advisors provide support for accused priests and their families and can be contacted through the priest delegate.

3.59 The child protection training and development co-ordinator is responsible for the implementation of parish and diocesan child protection structures. This consists of assisting the development of diocesan policies

and procedures, the selection and recruitment of parish child protection representatives and the provision of support to parishes and other groups in relation to best practice in child protection.

3.60 In so far as the Commission is aware, the Child Protection Service has aimed to keep in contact with and to assist all victims who wish to avail of their service.

3.61 The Child Protection Service is at:

Diocesan Offices,  
Archbishop's House,  
Drumcondra,  
Dublin 9.

Tel: +1 836 0314

Fax: +1 884 2599

Email: [cps@dublindiocese.ie](mailto:cps@dublindiocese.ie)

Website: [www.cps.dublindiocese.ie](http://www.cps.dublindiocese.ie)



**Introduction**

- 4.1 This Commission is established under the law of Ireland and it is therefore arguable that this is the only law relevant to its work. However, an understanding of aspects of canon law and internal Church procedural rules is essential to understanding how allegations and suspicions of clerical child sexual abuse were handled by Church authorities. The fact is that Catholic Church authorities, in dealing with complaints against its clerics, gave primacy to its own laws. Therefore, since no matter what penalties are imposed on a clerical abuser by the State, only a canon law process can affect his status as a cleric or a priest, an understanding of the role of canon law is necessary in order to fully understand the response of the Church authorities to complaints of child sexual abuse.
- 4.2 It is very clear from the accounts given by victims and from the reports of psychologists and psychiatrists that offending priests used their status as clerics and their privileged access in order to groom and abuse children. It is notable that a major concern of virtually all victims, when they first made a complaint to Church authorities about an alleged priest abuser, was that he be removed from ministry so that he could no longer use his status to gain access to children. Parents frequently made the point to the Archdiocesan authorities that this was their major concern. It was the failure to deal with that concern that distressed many of those parents. It is clear that the suffering and the stress of victims was often related to the fact that their abuser was still functioning as a cleric and might therefore be a threat to other children. This is specifically acknowledged in the evidence of Monsignor John Dolan, the current chancellor of the Dublin Archdiocese, and was mentioned by many others who gave evidence to the Commission.
- 4.3 Canon law provides the Church authorities with a means not only of dealing with offending clergy, but also with a means of doing justice to victims, including paying compensation to them. In practice, it appears to the Commission that, for a significant part of the period covered by the Commission, canon law was used selectively when dealing with offending clergy, to the benefit of the cleric and the consequent disadvantage of his

victims. The Commission has not encountered a case where canon law was invoked as a means of doing justice to victims.

### **What is canon law?**

4.4 The body of canon law in question in this report is the law of the Latin Church – in effect, the Roman Catholic Church. The canonical system is said to consist of three bodies of law: divine law, ecclesiastical law and civil law.<sup>13</sup> Divine law consists of certain truths of the faith both dogmatic and moral which cannot be changed by human beings. Ecclesiastical law, on the other hand, is human in origin and can be created, reformed and abolished by competent legislative authorities of the Church. It concerns the internal regulation of the Church and binds only those who have been baptised in the Catholic Church or received into it.<sup>14</sup> The requirement of clerical celibacy is an example of this type of law.

4.5 Canon law can defer or yield to civil laws.<sup>15</sup> Canon 22 of the 1983 code states: “*When the law of the Church remits some issue to the civil law, the latter is to be observed with the same effects in canon law, insofar as it is not contrary to divine Law, and provided it is not otherwise stipulated in canon law*”.

4.6 It is not easy to provide a coherent description of the relevant parts of canon law because, since the 1960s, canon law itself has been in a state of flux and considerable confusion, making it difficult even for experts to know what the law is or where it is to be found. This is the case, not only with local canonists, but also, it appears, even with spokesmen for the Holy See itself. A Vatican spokesman believed the 1962 instruction, *Crimen Solicitationis*, had been superceded by the 1983 *Code of Canon Law* when its existence in the late 1990s was being referred to by others.

4.7 An eminent English canon lawyer, Monsignor Gordon Read, chancellor of the diocese of Brentwood, whom the Commission heard as an independent expert, explained to the Commission that canon law was not

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<sup>13</sup> Huels, “Introduction” in J Beal et al (eds) *New Commentary on the Code of Canon Law* (New York: Paulist Press, 2000).

<sup>14</sup> Canon 11.

<sup>15</sup> It should be noted that “civil law” in this context refers to the entire law of the State and is not used to refer to civil law as distinct from criminal law.

codified until the beginning of the twentieth century. Previously it was found in a complex series of books, volumes of decrees of councils and letters of popes. At times it was very hard even for a canonist to determine the actual content of the law or the authoritative source of law on a particular matter.

4.8 At the end of the nineteenth century, the Church decided to produce a code of canon law along the lines of the (Napoleonic) continental civil codes. The intention was that the law would be found in one book with numbered canons that could be cross referenced. If these were changed, any new edition would contain the changed text. It took rather a long time to produce but the code of canon law was eventually published in 1917. While amendments were made, the code as a whole was not updated until the 1980s.

4.9 By the 1950s, a mass of legislation had accumulated outside the published code and few Church members knew where to find it. Pope John XXIII decided to revise the canon law. In the meantime, the same Pope convened the second Vatican Council in 1961. The revision of the 1917 code was deferred as it was thought that it might be appropriate to incorporate some of the decisions of Vatican II into the legal system of the Church.

4.10 Pope Paul VI, who became Pope in 1963, set up a Commission for the Revision of the 1917 code of canon law during the Vatican Council (1961 – 1965). This revision work took almost two decades to complete, decades during which the older system it was replacing was either discredited or unused. The new code of canon law was eventually finalised in 1983 and took effect on the first Sunday of Advent in that year. So, during the time relevant to the Commission's terms of reference, there were successive codes of canon law in effect, the 1917 code and the 1983 code.

4.11 It is clear to the Commission that canon law was, for many centuries, the prime instrument of governance in the Church. Priests were governed by it. There was, up to the time when the new code was promulgated in 1983, an extensive penal and criminal content in canon law; priests and others under its jurisdiction could be accused of offences and subjected to an extensive range of penalties on conviction. However, it is also clear that this system suffered an enormous loss of confidence in the 1960s and seems to

have fallen into disuse. The Commission heard evidence from canon law experts that the status of canon law as an instrument of Church governance declined hugely during Vatican II and in the decades immediately after it. The Church courts, according to Monsignor Dolan, became little more than marriage tribunals; the penal (criminal) law of the Church fell into disuse; and the modern generation of canonists lacked any experience of it. This was an obvious problem in an era when a large number of clerics were being accused of criminal offences.

4.12 In the words of Monsignor Dolan, canon law *“had been judged by many, rightly or wrongly to have had a significantly negative impact on the mission of the Church, this attitude could perhaps best be summed up by the following: that many placed more faith in the code than in the Gospel”*.

4.13 The second Vatican Council brought about a reassessment of the place of canon law in the Church. Accordingly, by the time the new code was published in 1983 canon law's influence in and on the Church had significantly diminished particularly in relation to disciplinary actions.

4.14 Monsignor Dolan, in his evidence, analysed the reasons for this state of affairs as he saw it. The Commission is satisfied that this analysis was offered in an effort to be helpful and in total good faith. The view was taken that *“It remains true that law and authority had a role in the church that was often overstated which could tend to stifle other values which could be harmful to individuals”*.

4.15 This development is perhaps not unrelated to broader developments in western society, featuring an increased emphasis on the rights of individuals and an attitude of suspicion of ‘heavy’ regulation or control. Monsignor Dolan freely stated that pre-Vatican II, the tendency in the Church had been to subordinate the individual to the institution. It may be that there was so strong a reaction against this that it left the institution in a condition of near powerlessness when faced by the numerous and gross misdeeds of individual priests. However, it should be noted that this attitude extended only to priests; it did not extend to lay people and particularly, it did not extend to lay complainants of child sexual abuse.

4.16 When the new system came into being in 1983, it was not clear by any means, even to canonists, what its effect was on older decrees or sources of law. These included the procedural rules on dealing with child sexual abuse issued in 1922 and 1962.

#### **Procedural rules regarding child sexual abuse**

4.17 As well as the codes of canon law, there are procedural laws or instructions issued by the Vatican which are relevant to the Commission's work. These are documents dealing with the manner in which allegations either of "*crimen sollicitationis*" (solicitation within the confessional) or of sexual abuse of minors by clergy were to be handled.

4.18 The first relevant set of instructions was promulgated in 1922 and was entitled *Crimen Sollicitationis*. It sets out procedures for dealing with solicitation in the confessional (*crimen sollicitationis*) and it also dealt with what it described as the "*worst crime*". This term includes any obscene external gravely sinful act committed in any way by a cleric with young people of either sex – in other words, child sexual abuse by priests.

4.19 This document was issued in Latin and no definitive English text was or is available. A new version of this instruction was issued in 1962; it, too, is in Latin. The Commission is grateful to Fr Aidan McGrath, the judicial vicar of the Archdiocese of Dublin and Monsignor Read of the diocese of Brentwood (England) for providing it with translations of the 1962 document.

4.20 The instructions contained in the two documents appear to be identical. The main difference between the 1922 and the 1962 documents is that the latter extended the instructions contained in the 1922 document to members of religious orders.

4.21 The main problem with these procedural rules was that virtually no one appears to have known anything about them – including the people who were supposed to implement them. It appears that both documents were circulated only to bishops and under terms of secrecy. Each document stated that it was to be kept in the secret archive to which only the bishop had access. The Commission has evidence that the 1922 document was known to senior figures in the Archdiocese of Dublin, especially during the time of

Archbishop John Charles McQuaid and that, in the words of one witness, it was a “*well thumbed*” document. The Commission could find no evidence that the 1962 document was ever received by the Archdiocese of Dublin and it certainly was unknown to the officials of the Archdiocese until sometime in the late 1990s. The 1922 document was used by Archbishop McQuaid in the case of Fr Edmondus\* (see Chapter 13). It is not clear if it was ever used by Archbishop Dermot Ryan or Archbishop Kevin McNamara. Cardinal Connell told the Commission that he did not become aware of the 1922 instruction immediately on becoming Archbishop of Dublin (in 1988), but at some later stage he did become aware of it. He said he “*could not recall ever being acquainted with it ...the technical details of what a particular document had to say on the matter was something I wasn’t involved in. This was a matter for the chancellery to deal with and to present recommendations to me*”. He told the Commission that he had never read, and he had never seen, the 1962 document nor had he met anyone who had seen it. He told the Commission that he relied on his canonists to advise him on canon law – his principal canonical advisors were Monsignor Gerard Sheehy (then the judicial vicar of the Archdiocese and a former chancellor), Monsignor Alex Stenson (then the chancellor of the Archdiocese) and Monsignor Dolan.

4.22 Monsignor Stenson worked at the chancellery from 1967-1997; he was chancellor from 1981 to 1997. He lectured in canon law in Clonliffe College from 1972 until 1997. He gave evidence that he never saw the 1922 document until the end of his time as chancellor.

4.23 Monsignor Dolan told the Commission that he only became aware of the 1922 document after he became chancellor in 1997. He thought that it only dealt with the crime of solicitation in the confessional: “*I didn’t know that lurking in the very end at the very back was a little paragraph on the worst crime [child sexual abuse by clerics]*”. He too was unaware of the 1962 document until an Australian bishop discovered towards the end of the 1990s that it was still valid. Monsignor Dolan told the Commission that this bishop wrote to Rome to ask if the law in this document was still valid. He was told that it was. Monsignor Dolan’s evidence was that for the first time they had an acknowledgment that “*we have some guidelines*”. Bishops wanted procedures that they could be certain of; they felt extremely vulnerable because in 1996 (the year the *Framework Document*, which set out

guidelines for dealing with allegations of abuse, was published) “*they did not feel Rome was supporting them in dealing with this issue [of child sexual abuse]...they were meeting an onslaught of complaints and Rome was pulling any particular solid ground that they had from under them*”.

- 4.24 So, an unusual situation had existed whereby a document setting out the procedure for dealing with clerical child sexual abuse was in existence but virtually no one knew about it or used it.

#### **The 1922/1962 procedural requirements**

- 4.25 The 1922 and 1962 instructions covered how the investigation into an allegation of solicitation or “*the worst crime*”, including child sexual abuse, was to be conducted; they also covered what was to happen after the investigation process had closed. The entire process was permeated by a requirement of secrecy. For example, the accuser was required to take an oath of secrecy. The penalty for breach of that oath could extend to excommunication.

- 4.26 The instructions stated that the bishop was to proceed as follows:

- (a) If it was proved that the accusation was without any foundation whatsoever, he was to order that this be declared and the documents of the accusation be destroyed.
- (b) If there were vague and undetermined or uncertain indications of the crime he was to order that the documents be placed in the archive to be taken up again if anything should occur at a later date.
- (c) If there were indications in relation to the crime that were quite serious but not yet sufficient to warrant establishing an accusatory process, the bishop had to order that the accused be warned in a fatherly manner or most gravely adding, if necessary “*an explicit threat of a process if a new accusation is made*”. This material was to be kept in the archives, and the behaviour of the accused monitored.
- (d) If there were arguments to hand that there were certain, or at least probable, reasons for the setting up of an

accusatory process he was to order that the accused should be cited.

4.27 The element of secrecy in this process was very prominent. The warning mentioned at c) above was always to be made in secret. It was to be done either by or through an intermediate person. No matter how it was done, there was to be proof kept in the secret archives that it was done and that the accused had received it.

4.28 The document then went on to deal with bringing the accused to trial, the sentence and the appeal process. The document contained instructions as to what was to happen if a priest who was found guilty of the alleged crime, or had even received a warning, was transferred to another territory. The bishop of the place to which he was being transferred was to be warned as soon as possible about the priest's history and juridical status.

#### **The 2001 procedural rules**

4.29 A further instruction came from the Vatican in May 2001 entitled *Sacramentorum Sanctitatis Tutela*. Unlike the 1922 and 1962 documents, this document was made widely available. This initiative represented a major change in Vatican policy. It provided that all allegations of child sexual abuse, which have reached the threshold of “a *semblance of truth*” should be referred directly to the Congregation for the Doctrine of the Faith (CDF) in Rome. That body would either elect to deal with the matter itself or would advise the bishop on the appropriate action to take in canon law. The Commission has been informed that this policy was adopted in order to ensure a co-ordinated and uniform response to allegations of child sexual abuse against clergy throughout the Roman Catholic world. The chancellor, Monsignor Dolan, gave evidence that the policy was subsequently modified as Rome was unable to deal with the vast numbers of referrals. The position now, he said, is that all cases brought to the attention of the Archdiocese before April 2001 and which were outside prescription (see below) were not going to be dealt with by the CDF. It was up to the bishop to apply disciplinary measures to the management of those priests. Monsignor Dolan told the Commission that, up until 2007, 19 cases had been referred by the Archdiocese of Dublin to the CDF. These did not include most of the very serious cases such as those of Fr Bill Carney (Chapter 28), , Fr Ivan Payne (Chapter



24), Fr or others that had already been dealt with by the Archdiocese.

### **Canon law on investigating complaints**

4.30 Both the 1917 and the 1983 codes of canon law included rules for dealing with clerics who are accused of child sexual abuse. The vast majority of the complaints of child sexual abuse dealt with by the Commission were made after 1983 so we concentrate on that code here. Monsignor Stenson has told the Commission that, for the bulk of the period during which he was dealing with clerical child sexual abuse, he relied on the 1983 code. He had encountered two cases prior to 1983 but the investigation of these cases was dealt with by others.

4.31 The Commission has used the text of the 1983 code as set out in *The Canon Law: Letter & Spirit* prepared by the Canon Law Society of Great Britain and Ireland in association with the Canadian Canon Law Society.<sup>16</sup> The translation into English of the text of the code of canon law in this publication is approved by the Bishops' Conferences of Australia, Canada, England and Wales, India, Ireland, New Zealand, Scotland and Southern Africa. The editorial board for this text included Fr Aidan McGrath, the current judicial vicar of the Archdiocese of Dublin, his predecessor and former chancellor Monsignor Sheehy and one other canonist, Fr Donal Kelly, associated with the Archdiocese of Dublin. It should be noted that the American Canon Law Association translation of the code is slightly different from that used in the publication being quoted.

4.32 Canon 1395:2 of the 1983 code states "*A cleric who has offended ... against the sixth commandment of the Decalogue,<sup>17</sup> if the crime was committed... with a minor under the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.*" The age limit was raised to 18 in 1996.

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<sup>16</sup> Canon Law Society of Great Britain and Ireland *Canon Law: Letter & Spirit: A Practical Guide to the Code of Canon Law* (London: Geoffrey Chapman, 1995).

<sup>17</sup> The Decalogue is the Ten Commandments. Section one of canon 1395 deals with clerics living in concubinage whereas section two deals with child sexual abuse.

4.33 The procedure for handling such accusations is set out. It is very clear that the responsibility for dealing with complaints rests with the bishop (or the head of the order in the case of religious orders). While aspects of the investigation may be delegated to others, it is the bishop who is required to make the decisions.

4.34 Canon 1717:1 states that whenever an ordinary (bishop) receives information which has at least *“the semblance of truth”* about an offence, he is to inquire carefully, either personally or through some suitable person about the facts and circumstances and about the imputability (guilt) of the offender unless such an inquiry would appear to be entirely superfluous.

4.35 The issue arises as to whether an anonymous complaint should be investigated. In practice, complaints are made by victims, by parents, or a third party who may or may not be an anonymous complainant. Speaking to the episcopal conference in 1994, Monsignor Stenson stated that it would be inadvisable to ignore an anonymous complaint. He told the conference that

*“A person may have a genuine complaint and be anxious to communicate it to the Church authorities if only to alert them and prevent further abuse while not wishing to be involved. There may sometimes be a genuine concern that the priest gets help. It would seem wise to at least record such complaints, inform the alleged perpetrator of the fact of the complaint and note his response. To do nothing on the basis that its source was unknown would seem to be a precarious practise nowadays”.*

4.36 It is clear that Archbishop Ryan certainly did not agree with this as he refused to deal with anonymous complaints (see Chapter 16 in relation to Fr Maguire). Monsignor Sheehy also considered that such complaints should not be entertained (see Chapter 24 in relation to Fr Payne). The Commission accepts that it could be difficult to investigate a complaint without the co-operation of the victim.

4.37 According to Monsignor Stenson, all complaints were to be recorded and investigated since they arose from various sources and the information often differed greatly both in quality and detail. He considered that the matter

should be investigated in a discreet manner, as soon as possible, certainly within 48 hours.

#### *Initial inquiry*

- 4.38 The purpose of the initial inquiry is to decide whether the accusation has a “*semblance of truth*” – in effect, is it a genuine complaint that could not be ignored.

#### *Preliminary Investigation*

- 4.39 Once the allegation has been found to have at least “*a semblance of truth*”, the bishop, either personally or through some suitable person, is obliged to start a formal investigation known as the preliminary investigation. This, as outlined in Canon 1717:1, requires the bishop to inquire about the facts and circumstances and about the imputability (guilt) of the offender.

#### *Delegate*

- 4.40 The preliminary investigation is to be conducted by a person known as the delegate. The delegate was usually a priest but is now a lay person in the Archdiocese of Dublin. This person is appointed by decree and must be a suitable person. A person appointed a delegate cannot subsequently act as a judge in the case if it is decided to establish a penal process.

- 4.41 For the bulk of the time within the Commission’s remit, the delegate was either Monsignor Stenson or Monsignor Dolan. Fr Paddy Gleeson and Fr Cyril Mangan were delegates for some of the time.

- 4.42 A delegate has the same powers and obligations as an auditor. An auditor in canon law may be either a cleric or a lay person endowed with good morals, prudence and doctrine, but it was thought for clerical sexual abuse cases that they were better investigated by a priest. It is up to the delegate to decide what evidence is to be collected and how. His responsibilities include not only evaluating the complaint but assessing the credibility of the complainant and any other witnesses who might have information. He also has responsibility for compiling a report for the bishop.

- 4.43 Canon 1717:2 requires that “*care is to be taken that this investigation does not call into question anyone’s good name*”. This seems to be the

reason why the processes set out in the procedural rules require such a degree of secrecy.

4.44 Anyone accused of a crime at canon law (or in civil law) has a right to an impartial investigation. The complainant and his/her family also have a right to an impartial investigation. The accused cleric is to be informed about his right to obtain legal advice and, if necessary, to be accompanied by a lawyer if being interviewed during the process of the preliminary investigation. There is no requirement on the priest to respond to the allegation; he is entitled to remain silent and is not required to take an oath or explain his situation. No adverse inference can be drawn by the delegate if the accused exercises his right to silence.

#### **Status of an accused person during the preliminary investigation**

4.45 Administrative leave is a well accepted and standard procedure for lay people accused of child sexual abuse. Such leave involves the temporary removal of individuals from their duties, with pay, during the course of an investigation of their behaviour. There is no presumption of guilt involved. The procedure is designed to:

- protect the individual from further accusations pending the outcome of an investigation;
- protect the public from the possibility of further wrong doing;
- ensure the integrity of the investigative or judicial process is not compromised.

4.46 This procedure is followed in many workplaces and institutions where workers have been accused of child sexual abuse.

4.47 Monsignor Stenson was of the view that during the course of much of his tenure as chancellor, there was no such equivalent to administrative leave within the canon law process unless a process to impose a penalty was directed by the bishop. It was his view that a bishop would have to ask a priest to step aside voluntarily and temporarily while the preliminary investigation was going on. If the priest failed to do so then a real dilemma was created.

4.48 Other canonists hold a different view. Fr Thomas Doyle,<sup>18</sup> an American expert, is of the view that Canon 1722 enabled the bishop to compel an accused to cease public ministry or refrain from the administration of the sacraments. The bishop could compel him to change his residence or even refrain from celebrating the Eucharist. Fr Doyle fairly acknowledged that there were two schools of thought concerning the applicability of Canon 1722. Monsignor Stenson's view, while shared with many canonists, would accord with the more narrow interpretation, that this canon could only be invoked during the more formal judicial process and not during the preliminary investigation. A contrary view is that administrative leave could be imposed as soon as the bishop had reason to believe that it was needed. That view stems from the fact that formal judicial proceedings were rare and canon 1722 would be useless to bishops if the narrow interpretation were followed.

4.49 It should be noted that, under canon 552, the bishop or diocesan administrator may move an assistant priest for "*just reason*". On the other hand a parish priest can be removed only for a "*grave reason*".

4.50 In giving evidence to the Ferns Inquiry, Bishop Eamonn Walsh said that the criterion for removing a parish priest (a grave cause) or a curate (a just cause) would be met by a credible allegation or a reasonable suspicion of child sexual abuse. He told that inquiry that the same standards applied to all priests in the diocese of Ferns. Most of the priests in the Archdiocese of Dublin who were confronted with the allegation of child sexual abuse agreed to take administrative leave on request. They did this without admission of guilt and they were entitled to be provided with a residence and a "*proper income*" until the matter could be fully investigated.

### **Removal of faculties**

4.51 In certain circumstances, a priest may be subject to various forms of censure. One such is removal of faculties which can prevent the priest from carrying out some or all of his priestly functions. The bishop issues a precept; this is effectively a ruling about what the priest is allowed to do. So, for example, he may be forbidden to say mass in public and/or to wear clerical dress and/or to be seen in the company of any young person less than 18

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<sup>18</sup>

Author of "The Canonical Rights of Priests Accused of Sexual Abuse" (1990) 24 (2) *Studia Canonica* 335 – 336.

years of age. Many such precepts are described in the chapters on individual priests. Such precepts cannot be perpetual and must be renewed if they are to remain in place.

### **The Application of penalties**

4.52 When the preliminary investigation is complete, canon 1718:1 requires that the bishop must decide:

- whether a process to impose a penalty can be initiated;
- whether this would be expedient, bearing in mind canon 1341;
- whether a judicial process is to be used or whether the matter is to proceed by means of an extra judicial decree.

4.53 Canon 1341 states that the bishop is to “*start a judicial or administrative procedure for the imposition or the declaration of penalties only when he perceives that neither by fraternal correction or reproof, nor by any methods of pastoral care, can the scandal be sufficiently repaired, justice restored and the offender reformed*”.

4.54 This canon was interpreted to mean that bishops are required to attempt to reform the abusers in the first instance. In the Archdiocese of Dublin, significant efforts were made to reform abusers. They were sent to therapeutic facilities, very often at considerable expense. In a number of the earlier cases in particular, the Archdiocese seems to have been reluctant to go beyond the reform process even when it was abundantly clear that the reform process had failed. In fact, when a penal process was finally initiated in the case of Fr Carney (Chapter 28), the judges in that process were severely critical of the delay in starting it.

4.55 The Commission could find very little evidence, particularly in the early decades of the Commission’s remit, of any attempt by Church authorities to restore justice to the victims. The main emphasis was on the reform of the priest and the repair of scandal. Under canon 1718:4, it is open to the bishop to decide if in order “*to avoid useless trials, it would be expedient, with the parties’ consent, for himself or the investigator to make a decision, according to what is good and equitable, about the question of harm*”. This does not ever seem to have been considered by the Archdiocese.

### **Imputability**

4.56 Canon 1395 allows for just penalties, not excluding dismissal from the clerical state, to be imposed if a cleric is found to have committed child sexual abuse. The concept of imputability (guilt) is of fundamental importance in canon law when considering the offence of child sexual abuse. Before imposing any penalty for such offence, the ecclesiastical authority must be morally certain that there has been an offence which is gravely imputable in the sense explained at canon 1321.

4.57 Canon 1321 states that no one can be punished for an offence unless it is *“gravely imputable by reason of malice or of culpability”*.

4.58 It goes on to state *“A person who deliberately violated a law or precept is bound by the penalty prescribed in the law or precept. If, however, the violation was due to the omission of due diligence, the person is not punished unless the law or precept provides otherwise. When there has been an external violation, imputability is presumed, unless it appears otherwise”*.

4.59 The Canon Law Society of Great Britain and Ireland’s commentary on canon 1395 states that:

*“Among the factors which may seriously diminish their imputability in such cases is paedophilia. This is described as ‘the act or fantasy or engaging in sexual activity with pre-pubertal children as a repeatedly preferred or exclusive method of achieving sexual excitement.’ Those who have studied this matter in detail have concluded that proven paedophiles are often subject to urges and impulses which are in effect beyond their control.*

*When the facts of a particular case are examined carefully it may well emerge that the cleric did indeed commit a sexual offence or a number of them with a minor; as such he may be subject to punishment by the criminal law of the state; nevertheless because of the influence of paedophilia he may not be liable by reason of at least diminished imputability to any canonical penalty or perhaps to only a mild penalty, to a formal warning or reproof, or to a penal remedy. Dealing with such cases the ecclesiastical authority must tread very carefully, balancing the harm*

*done to the victims, the rights of the cleric in Canon law and the overall good of the Church in its striving for justice for all.*<sup>19</sup>

This is a major point of difference between the Church and the State law. In the former, it appears that paedophilia may be an actual defence to a claim of child sexual abuse just as insanity would be in the law of the State.

4.60 It must be noted that two of the three priests in the representative sample (see Chapters 16 and 19) who were dismissed from the priesthood following canonical trials appealed their dismissals to Rome and had their sentences varied by Rome. They were both child sexual abusers and both were diagnosed as paedophiles.

4.61 This Commission finds it a matter of grave concern that, under canon law, a serial child sexual abuser might receive more favourable treatment from the Archdiocese or from Rome by reason of the fact that he was diagnosed as a paedophile.

#### **Periods of prescription/Limitation periods**

4.62 Many of the complaints investigated by the Commission could be classified as historical complaints. Here the canon law and the civil law differ considerably. In Ireland there is no general statute of limitations with regard to serious criminal offences. In canon law, criminal actions, even of the most serious kind, were time barred after a certain period. Under canon law, this period was five years for most of the time with which the Commission is concerned (1975-2004). This is known as the period of prescription. This meant that, in canon law, many of the complaints made to the Church were time barred and could not be properly investigated.

4.63 In 2001, Rome extended the time for making a complaint to ten years. In the case of a minor, this ran, not from the last offence, but from the victim's 18<sup>th</sup> birthday. The preliminary Church investigation, therefore, now has first to establish the dates of the alleged offences and especially the last occasion, and also the age of the victim both at the time the offences were committed and at the time of the investigation.

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Canon Law Society of Great Britain and Ireland, *supra* note 16, p 805.



4.64 A further concession was made by the Pope in 2002 when he granted to the Congregation of the Doctrine of the Faith (CDF) the faculty to derogate from the period of prescription on a case-by-case basis. This meant that a complaint dating back a period of ten years or more could be investigated on a discretionary basis.

### **The canonical penal process**

4.65 Archbishop Connell was one of the first bishops in the world to initiate canonical trials in the modern era. He did so in relation to Fr Bill Carney in 1990 (Chapter 28). A canonical trial was also held in the case of Fr Patrick Maguire (Chapter 16); this was initiated by his religious society in 1999. The canonical penal process is governed by canons 1717 – 1728.

#### *Decision to start a penal process*

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*Conduct of canonical trials*

4.69 The trials which were conducted in the Archdiocese of Dublin were presided over by a canonical tribunal. All three judges were priests and all had qualifications in canon law. Until February 2003, the officers of the court had to be priests. From that date the Pope authorised the Congregation for the Doctrine of the Faith to dispense (in individual cases) with the requirement of priesthood and with the requirement of a doctorate in canon law.

4.70 Each case was presented by a priest who was designated to be the Promoter of Justice for the trial – this is the equivalent of the prosecutor in a criminal trial. The defendant priest was represented by a person known as the Advocate for the defendant. The canonical judges heard the evidence of the witnesses put forward by the Promoter of Justice. Evidence from the preliminary inquiry was permitted as was all data collected by the chancellery. It appears to the Commission that proceedings were more akin to a European model of law, in other words an inquisitorial rather than an adversarial model.

4.71 A number of the witnesses who attended the trials in Dublin told the Commission they had only a vague idea why their evidence was needed. The process and their role in it were not explained to them.

4.72 Once the judges heard the evidence, they then issued their determination. The decision can be appealed.

, Fr Carney,

who did not attend the trial, accepted the determination that he be dismissed from the clerical state. Overall, it seems to the Commission that these trials were conducted carefully and

diligently.

#### *Damages*

4.73 Under canon 1729, a party who has suffered harm can bring a “*contentious action*” for damages in the course of the penal case. The victims who gave evidence to the Dublin canonical trials were not told of this option for reasons which have never been explained.

#### *The appeal to Rome*

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4.78 Two further canonical trials were held in respect of priests in the representative sample and both priest defendants appealed the outcomes to Rome. One of the trials was initiated at the behest of the Society of St Columban in 1999. The trial and appeal of the other priest was post 2004 and has not been disposed of at the time of this report.

4.79 In the case of the Columban priest, Fr Patrick Maguire (see Chapter 16), once again Rome directed that the decision of the diocesan tribunal to dismiss Fr Maguire should be changed to a “*penalty of the censure of suspension from all public acts of the exercise of the powers of orders and jurisdiction for nine years and an expiatory penalty of residing in a designated house of the Institute of St. Columban under the direction and vigilance of the superior for an indefinite time*”.<sup>20</sup>

4.80 In the case of Fr Maguire, because he was a Columban priest, it clearly was easier for the order to facilitate the decree from Rome as they could accept him into one of their houses where they could monitor him and supervise him.

#### **Penalties for ecclesiastical authorities who fail to apply the canon law**

4.81 Canon 1389 provides for a penalty, including deprivation of office, for an official who abuses ecclesiastical power or who omits through “*culpable negligence*” to perform an act of ecclesiastical governance. A bishop who fails to impose the provisions available to him in canon law in a case of sexual abuse of a child is liable to penal sanctions imposed by Rome. The Commission is not aware of any bishop who was subjected to such penalty in the period covered by its remit.

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This translation from the Latin of the Roman order was provided by the Missionary Society of St Columban.

### **Confidentiality**

- 4.82 There is no doubt that the code of canon law places a very high value on the secrecy of the canonical process. This obligation of secrecy was described as a “*secret of the Holy Office*” in the 1922/1962 documents, the penalty for breach of which was excommunication and which breach was a sin which could only be absolved by a bishop. In hearings before the Commission, it was notable that Church officials preferred to refer to it now as a duty of confidentiality. Whichever it be, it is in stark contrast to the civil law which requires the public administration of justice. Moreover, an obligation to secrecy/confidentiality on the part of participants in a canonical process could undoubtedly constitute an inhibition on reporting child sexual abuse to the civil authorities or others.
- 4.83 It is not clear from the evidence or the documents available to the Commission whether the obligation of confidentiality relates only to what takes place during the canonical process or whether it extends to the underlying details of complaint.
- 4.84 A number of complainants, however, spoke of being urged, when making a complaint outside the canonical process, to keep it confidential. According to the evidence of Monsignor Dolan, which the Commission regards as truthful and helpful, a number of complainants wished to make complaints to the church authorities only because, ironically, they did not trust the confidentiality of the civil authorities.
- 4.85 Another aspect of the emphasis on the secrecy of the canonical process is that it was very definitely a process in which the complainant (like the accused) was subjected to questioning but no information was given to the complainant. This is illustrated graphically in a handwritten note made by Fr Dolan (before he became chancellor) while attending a lecture by another canon lawyer entitled “Preliminary Investigation, Canonical responses and Processes in Cases of sexual misconduct by Church personnel with minors”. Fr Dolan’s handwritten note records in relation to the examination of the witness: “*gain his knowledge/tell him nothing*”. It is important to emphasise that this statement may not be as sinister as it might be made to appear but it does indicate that the mode of procedure was to extract from the complainant

what he knew without in any way informing him as to the process, the other evidence available, the standing of the accused or other matters.

- 4.86 While, strictly speaking, these notes related to the examination of a witness for canonical purposes it seems likely that this attitude informed the examination of witnesses generally and the receipt of complaints, even outside the canonical process or investigation.

### **Conclusion**

- 4.87 The Commission finds the lack of precision and the difficulties of finding the exact content of canon law very difficult to understand. The Archdiocese of Dublin was, in the period relevant to the Commission's inquiry, apparently ignorant of many of the laws relating to the Church's self governance and sought to justify its actions and inactions by reference to canon 1341 which, as we have seen, provides for fraternal rebuke and reform rather than legal process. Even the best attempts of competent people to discover the norms which, according to canon law, should be applied to cases of sexual abuse were in vain. The Commission is quite satisfied that the evidence of the present chancellor of the Dublin Archdiocese, Monsignor Dolan, as to the general canon law background is truthful and accurate. More than that, this witness made every attempt to render what he had to say comprehensible insofar as he could and did not shrink from painting a picture on occasion of chaos and confusion within the Archdiocese and between the Archdiocese and Rome.

- 4.88 There seems to have been a total absence of any straightforward, easily verifiable system for ascertaining which decrees or statements had the force of canon law and which had not, and what the effects of new canonical instruments, such as the code of 1983, or the 2001 procedural rules, had on previous instruments which had been treated as having the force of law. The Commission was surprised to discover that the 1962 instrument referred to above and its predecessor in 1922 were circulated under terms of secrecy, were kept in a secret archive and, in the case of the latter, apparently never translated from the original Latin. Even more astonishing, Monsignor Stenson, a former chancellor and long term advisor to successive Archbishops did not see the 1922 document until the end of his time in Archbishop's House. There was no evidence that Archbishops Ryan or

McNamara ever applied that document or even read it and the most recent former Archbishop, Cardinal Connell, told the Commission that he did not become aware of the 1922 instruction for some time after becoming Archbishop and that he had never read or seen the 1962 document or met anyone who had seen it.

4.89 It is a basic feature of every coherent legal system that there is a firm, simple and unmistakeable procedure for the promulgation of a law. The absence of any such procedure within Church law, in the Commission's view, makes that law difficult to access, and very difficult to implement and to monitor compliance.

4.90 The Commission considers that clear and precise rules are required to ensure that priests suspected of abusing children are not allowed to use their status to give them privileged access to children. This requires that they be removed from ministry. The Commission does not consider that an order to stay away from children, or to minister only to adults, or to meet children only when accompanied by another adult, is adequate. It is virtually impossible for such orders to be enforced. The power to remove priests from ministry is available only from canon law. The penal process of canon law was for a period of years set aside in favour of a purely 'pastoral' approach which was, in the Commission's view, wholly ineffective as a means of controlling clerical child sexual abuse. The abuse of children in Dublin was a scandal. The failure of the Archdiocesan authorities to penalise the perpetrators is also a scandal.

4.91 The Commission is, therefore, very concerned about the lack of precision in canon law about the power of bishops to exercise control over offending priests.

4.92 In particular, the Commission is concerned that canon law is not clear on the power of a bishop to require a priest to stand aside from ministry. At the present time, it appears that standing aside is done on a voluntary basis due to a lack of confidence in the canonical powers available to enforce it. It must also be acknowledged that this 'standing aside' raises considerable questions from the point of view of the rights of the accused. It is clear to the Commission that this aspect of the present procedure is greatly resented by

many priests. However, the Commission is strongly of the view that there needs to be clear, unequivocal power available to bishops to require priests to stand aside.

4.93 The Commission is also concerned about the uncertainty which exists as to whether a person who has been diagnosed as a paedophile could ever be guilty of a canonical offence. If it is to be the case that, because of their psychiatric or psychological condition, paedophiles cannot be guilty of offences, then canon law needs to provide for alternative means of dealing with paedophile priests.

4.94 As the Roman Catholic Church is a private organisation, it appears to the Commission that the status of priests within that organization is a matter over which the State has no power. Accordingly, if these particular concerns are to be addressed, it is for the Church rather than the State to address them.



## **Chapter 5                      Investigation and prosecution of child sexual abuse**

### **Introduction**

- 5.1            Allegations of child sexual abuse, like all allegations of breaches of the criminal law, are investigated by An Garda Síochána. The decision to prosecute in child sexual abuse cases is made by the Director of Public Prosecutions (DPP).

### **An Garda Síochána**

- 5.2            The Garda Commissioner as head of An Garda Síochána is responsible to the government through the Minister for Justice, Equality and Law Reform. The commissioner has two deputy commissioners. In addition, there are ten assistant commissioners; four have responsibility for issues that concern the force on a national basis while each of the remaining six has responsibility for a designated region within the State. One of those regions is the Dublin Metropolitan Region.

### **The Dublin Metropolitan Region**

- 5.3            The Dublin Metropolitan Region (DMR) is made up of Dublin City and County and also includes small portions of counties Kildare, Meath and Wicklow. The boundaries of the DMR have changed only minimally since 1975. In 1998 Rathcoole Garda Station was subsumed into the DMR. In 2002, the Leixlip Garda sub district extended the boundaries of the DMR slightly into counties Kildare and Meath. Leixlip became a garda district in 2008. The DMR is divided into six divisions, each of which is commanded by a chief superintendent. These divisions are subdivided into districts commanded by a superintendent who is assisted by Inspectors. The DMR contains 18 garda districts and a total of 45 garda stations.

### **Investigation of complaints**

- 5.4            The normal procedure of investigation by the Gardaí begins once a formal complaint is received by a member of An Garda Síochána from a person claiming injury. This usually involves the provision of a statement of the allegations by that person. It is apparent, from many of the complaints considered by the Commission, that historically a single garda often conducted the entire investigation. Today, however, it is likely that, in the case of clerical child sexual abuse, an investigation team is formed to assist in the

investigation. That team then normally seeks out corroborating evidence to substantiate matters arising from the complainant's statement. During the course of the investigation, the priest concerned would, at some stage, be invited to attend the garda station for questioning or be arrested for that purpose. The file containing the various statements and any other evidence would in normal circumstances be reviewed by a superintendent or an inspector acting for a superintendent. Arising from that review, further work might be directed prior to submission of the file to the DPP.

5.5 Prior to 1980, the usual protocol was that a superintendent decided whether or not to refer the file to the DPP. In April 1980, the Garda Commissioner sent a directive to garda officers that in cases of murder, attempted murder, manslaughter and sexual offences, the file must in all cases be sent to the DPP for directions. This practice remains in operation but has now been put on a statutory footing. Under section 8 of the *Garda Síochána Act 2005*, the DPP may issue general or specific directions to An Garda Síochána in relation to prosecution work. The DPP issued a general direction under this section in January 2007. This general direction provides, among other things, for a continuation of the requirement that decisions on prosecution in cases of sexual offences must be taken by the DPP. Once a garda investigation is completed and a file is sent to the DPP, all further action in relation to the criminal investigation and prosecution is done at the direction of the DPP.

5.6 A detective superintendent from the Domestic Violence/Sexual Assault Investigation Unit (DVSAIU) in the National Bureau of Criminal Investigation (NBCI) confirmed to the Commission that all child sexual abuse cases are now sent to the DPP.

5.7 In 1999, the Department of Justice, Equality and Law Reform published a victim charter. This charter calls for the notification to all complainants of the decision of the DPP and of the need to keep complainants updated with the progress and outcome of the criminal investigation.

## **PULSE**

- 5.8 The computer system known as 'PULSE' electronically records all work carried out during the course of an investigation. In June 2006, following the publication of the *Ferns Report*, a directive was issued from garda headquarters requiring that all complaints of child sexual abuse must be recorded on the PULSE system and that the investigation of such cases was to be subject to review and scrutiny by supervisory ranks.

## **The Woman and Child Unit**

- 5.9 The Woman and Child Unit was set up in March 1993 within the Central Detective Unit (CDU). It was run by a sergeant and assisted by three gardaí at the Serious Crime Section, Harcourt Square. The Woman and Child Unit was under the control of a detective chief superintendent. The purpose of the Woman and Child Unit was to oversee cases of sexual violence or assaults and to assist, when necessary, in the investigation of more complex cases. A decision to take over the investigation of a particular case rested with the detective chief superintendent in the unit. The CDU subsequently became the National Bureau of Criminal Investigation (NBCI). The role of the Woman and Child Unit is now undertaken by the Domestic Violence/Sexual Assault Investigation Unit.

## **Domestic violence /sexual assault investigation unit (DVSAIU)**

- 5.10 This unit was established in 1997 and is based in Harcourt Square in Dublin. It is attached to the NBCI. The unit is supervised by a detective superintendent, managed by a detective inspector and is staffed by three detective sergeants and 12 detective gardaí. The Commission has been informed by An Garda Síochána that many of the officers in the unit have been sponsored by the force to complete a diploma in child protection and welfare at Trinity College Dublin.
- 5.11 The Commission has been told that this unit operates as a central unit and is available to assist gardaí nationwide, giving guidance and assistance on complaints of a sexual nature. The unit works in conjunction with the local gardaí. The unit may also offer guidance and assistance by way of the supply of members to assist with an investigation (for example making inquiries, taking statements). In exceptional circumstances, for example, if a complainant does not want local gardaí to become aware of his or her

complaint, this unit may carry out its own investigation while only notifying the local superintendent of the progress. The unit is also in a position to refer cases to the DPP for decisions on prosecutions.

- 5.12 Following the Prime Time programme, *Cardinal Secrets*, on RTE television in October 2002, a major investigation was undertaken by the DVSAIU into all clerical child sexual abuse complaints including those relating to clerics in the Archdiocese of Dublin. Details of this investigation are set out below.

### **Contact between the Archdiocese and An Garda Síochána**

- 5.13 Although the documents considered by the Commission illustrate many instances of contact between members of the Gardaí and the Dublin Archdiocese relating to specific allegations against priests of child sexual abuse, the first formal structured and non-case specific contact between the Archdiocese and An Garda Síochána was in 1995. In January and February of 1995, the Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious held a number of 'listening days' for statutory sectors involved in child protection and welfare. The Commission understands that An Garda Síochána sent a representative to at least one such meeting. The product of this advisory committee was a document entitled *Child Sexual Abuse: Framework for a Church Response* published in early 1996 (generally described in this report as the *Framework Document* – see Chapter 7).

- 5.14 The *Framework Document* contained detailed provisions relating to the manner in which child sexual abuse complaints should be handled by the Church. The *Framework Document* states:

*“2.2.1 In all instances where it is **known or suspected** that a child has been, or is being, sexually abused by a priest or religious the matter should be reported to the civil authorities. Where the suspicion or knowledge results from the complaint of an adult of abuse during his or her childhood, this should also be reported to the civil authorities.*

2.2.2 *The report should be made without delay to the senior ranking police officer for the area in which the abuse is alleged to have occurred...*” (Emphasis added).

5.15 In anticipation of the publication of the *Framework Document*, a meeting was arranged at the request of Archbishop Connell with a representative of An Garda Síochána. A detective inspector and a detective garda met a representative of the Archdiocese at Archbishop’s House on 17 November 1995. The representative delivered details of “*all persons who had made allegations of sexual abuse against members of the clergy that were in his possession*”. These details comprised the names of 17 alleged clerical abusers together with the names of each complainant and brief details of the allegations. The Commission does not consider that the reporting carried out in this instance by the Archdiocese was in fact in compliance with the standards of the *Framework Document*. Within the collective knowledge of priests and officials of the Archdiocese, there was an awareness of complaints concerning a total of at least 28 priests or former priests (at least 12 more than were named on the list).

5.16 When Cardinal Connell was asked by the Commission about the absence of any reference on this list to a particular named priest, his reply was that this priest’s name was possibly not on the list because he had been laicised at the time the list was produced and consequently was not a member of the clergy. In further evidence before the Commission, the Cardinal responded that the disclosure “*was a beginning and it was a very big beginning because nothing of the kind had ever happened before*”.

5.17 Six of the cases referred to on the list supplied by the Archdiocese were the subject of ongoing investigations. In other cases, investigations or prosecutions had been concluded. Five new statements were obtained from complainants and nine new investigations were commenced following receipt of this notification.

5.18 More recent Church guidelines that have been published on behalf of the Catholic Church in Ireland are set out in the document entitled *Our Children Our Church*. While not altering the imperative of reporting all complaints of child sexual abuse to the civil authorities, a small change to the

requirement of reporting to An Garda Síochána and the health authorities was made in this document. These guidelines direct the Church, in circumstances where it is established that there are “*reasonable grounds for concern*”, to report the allegation to the civil authorities immediately. Paragraph 6.5 gives a number of examples that would constitute reasonable grounds for concern. One of those grounds is “*specific indication from the child that (s)he was abused*”.

### **Continued inter agency cooperation**

5.19 The Commission understands that, as a result of recommendations in the *Ferns Report*, a committee was established by the HSE to implement the formation of inter agency review committees. A committee was convened in October 2005 and included representatives of the Health Service Executive (HSE), the chief superintendent of crime policy and administration on behalf of the garda commissioner and representatives of the Catholic Church. The proposal was to begin the process of setting up inter agency review committees on a national basis. The Commission has been advised by An Garda Síochána that they nominated and forwarded to the HSE a list of superintendents to sit on the proposed committees but that the HSE has informed participants that it was not proceeding with the committees due to difficulties that arose surrounding the legality of the discussion and use of information that amounts to rumour, suspicion, innuendo or allegations of abuse (so called ‘soft information’).

5.20 Separately, in accordance with the terms of *Our Children Our Church*, the Archdiocese appointed a liaison person to communicate directly with An Garda Síochána on matters of alleged abuse of children by clerics.

### **The HSE and the Gardaí**

5.21 Under the child abuse guidelines issued by the Department of Health in 1987 (see Chapter 6), a health board was expected to notify the Gardaí of any alleged case of child abuse where it was suspected that a crime had been committed. Those guidelines were not specific as to when the referral ought to be made. The 1995 guidelines published by the Department amended the 1987 guidelines in relation to the circumstances requiring notification. The 1995 guidelines established a procedure in line with a recommendation of the *Report of the Kilkenny Incest Investigation*. The

process required that where either agency suspected that child abuse has taken place, it must notify the other in accordance with the specific terms of those guidelines. The procedure involved the use of notification forms by the health boards to the local garda superintendent. Once that notification form is received, the Superintendent is required to assign the case to a garda and to notify the designated officer in the health board of the details of that garda. The Garda in charge is, in turn, obliged to make early contact with the social worker handling the case in order to obtain details of the case. The guidelines also detail when the Gardaí must notify the health boards, namely in circumstances “*where the Gardai suspect that a child has been the victim of emotional, physical or sexual abuse or neglect (whether wilful or unintentional)...*”. It is specifically stated that the Gardaí need not have sufficient evidence to support a criminal prosecution before notifying the health board. The notification procedure is similar to the health board notification procedure: the garda superintendent sends a notification form to a designated officer in the health board which in turn appoints a social worker. The social worker then makes direct contact with the garda in charge of the case. The guidelines envisage both the garda in charge and the social worker agreeing a strategy for the investigation and an ongoing liaison in the matter.

5.22 The *Children First* guidelines published by the Department of Health and Children in 1999 restate the necessity for early notification between the Gardaí and the health boards. The guidelines revised the procedures to a degree. The changes included the introduction of new forms for notification. The Commission was advised by An Garda Síochána that specialist training in relation to the *Children First* guidelines is undertaken by trainees at Garda College.

5.23 An Garda Síochána has indicated to the Commission that it has sought to operate in accordance with the various guidelines referred to above in its relations with the health services.

#### **Garda Investigations from 2002**

5.24 The management of some of the individual garda investigations is referred to in the individual chapters on the representative sample of cases selected by the Commission in this report. Up until 2002, so far as the Commission can ascertain, the general practice was that most investigations

into child sexual abuse allegations against priests in the Archdiocese of Dublin were handled by gardaí local to the complainant or at the garda station where complaints were made.

5.25 In October 2002, following the Prime Time broadcast on RTE which referred to nine priests in the Dublin Archdiocese, the Gardaí established an incident room at the NBCI. A dedicated hotline was allocated to receive complaints. The incident room was managed by an inspector and staffed by other senior gardaí.

5.26 In October 2002, Detective Chief Superintendent Sean Camon was appointed to head a team to conduct what was termed an “*analytical overview*” of clerical abuse cases previously investigated by An Garda Síochána. The task assigned by garda headquarters to the team was both to review all clerical sexual abuse cases previously investigated and to carry out a comprehensive investigation of all new complaints of clerical sexual abuse wherever they occurred. The instructions were to:

*“review the cases and establish if further lines of inquiry were available which could lead to the preferring of criminal charges; pursue additional evidence; fully investigate new complaints ; establish the number of cases investigated by the Garda, the number of cases where no further action was taken and the results of those investigations”.*

This initiative set up what was most probably the most comprehensive Garda investigation into clerical child sexual abuse ever undertaken in the State.

5.27 The strategy proposed obtaining all files previously forwarded to the DPP in order to review them. A designated telephone number was set up to receive new complaints. An analysis of the recent media programmes, Prime Time and Liveline, and all calls to the media was undertaken with all callers to be identified and complaints to be investigated. Inquiries were then to be carried out to establish if there was evidence to substantiate the complaints. This process involved looking at the Church files, interviewing the hierarchy of the Church, checking health board records and interviewing gardaí who had previously investigated complaints.



5.28 A request was made shortly thereafter by Detective Chief Superintendent Camon to Archbishop Connell seeking access to archdiocesan files on named individuals and on other clerics against whom allegations had been made to the Archdiocese. Copies of the relevant programmes were obtained from RTE and transcribed.

5.29 In December 2002, following a meeting between garda officers and legal representatives from the Archdiocese, the Archdiocese's solicitors outlined the basis on which access to the diocesan documents would be permitted.

*Legal privilege*

5.30 The Archdiocese was prepared to allow the Gardaí access to all files with the exception of documents that it asserted were legally privileged. Legal privilege is a long standing legal status that is given to certain documents that were created in the context of giving or receiving legal advice or in anticipation of formal court proceedings. The law has traditionally regarded those documents as private to the person who sought the advice as it is considered by the courts that it is in the common good that people can freely seek legal advice without having to be concerned that the written record of the advice sought will ever be seen by anyone else. It is however always open to the person or organisation for whose benefit those documents were created to waive their legal privilege.

5.31 A barrister was appointed by the Archdiocese to decide which documents were legally privileged. Detective Chief Superintendent Camon recalls that there were over 1500 documents over which privilege was claimed. Following a review by lawyers for the Archdiocese of the claims of legal privilege, additional documents were delivered to the Gardaí, the claim for privilege having been withdrawn with respect to those documents. Privilege was however still being asserted over "*a considerable number of documents*" and he recalls that the issue of privilege was always a "*live one*" throughout the investigation. The records discovered to the Gardaí illustrate this to some degree as Archbishop Martin agreed in 2004 that a description of each document over which privilege was being claimed would be provided by the Archdiocese by way of justification for any continuing claim.

*Material considered*

5.32 In January 2003, members of the garda investigation team started reading the Archdiocese's files in a room set aside at church property at Clonliffe in Dublin. Synopsised files were created and stored at the incident room at the NBCI. By January 2004, the files were still being considered by the Gardaí.

5.33 Cardinal Connell wrote to all former chancellors, bishops and priests who had dealings with chancellery files to check if they had any documents that could form part of the Archdiocese records. Records from the secret archives of the Archdiocese were produced. Retired Detective Chief Superintendent Camon confirmed to the Commission that he found the Archdiocese of Dublin co-operative throughout this investigation and that the Gardaí did not feel in any way obstructed in their investigation. The Archdiocese assisted the Gardaí in locating a number of priests against whom complaints had been made.

5.34 In May 2004, a detective garda forwarded an analytical overview of RTE's Prime Time and subsequent Liveline programmes to a detective superintendent in the NBCI. This report focused on the detail contained in the TV programmes. The author of the report concluded that the Prime Time programme left viewers with the impression that the Archdiocese had not properly dealt with complaints of child sexual abuse and that the Archdiocese had, in letting the priests return to ministry, facilitated further access by these priests to children and that some of them continued to abuse children. The analysis included an overview of the Liveline programmes on RTE radio and the calls that were made to the radio station following the Prime Time programme. Many of the callers identified the priests who, they said, had abused them.

*Misprision of felony investigation*

5.35 In addition to investigating the individual complaints, the investigating Gardaí were requested to consider the possibility of bringing a charge against any relevant people in the Archdiocese for the offence of 'misprision of felony' arising out of the alleged abuse by the nine priests to whom reference was made in the Prime Time programme.

5.36 The offence of misprision of felony was an offence at common law.<sup>21</sup> Briefly described, a person who knew that a felony had been committed and, although not a party to it, concealed it from the authorities, was thereby guilty of misprision of felony.

5.37 The expression 'felony' was used to distinguish very serious offences from lesser ones and was originally applied to offences that carried the death penalty such as murder, treason, rape and kidnapping. The term 'misdemeanour' was then used to describe lesser offences that carried penalties of imprisonment or fine. Aside from the penalty, an important distinction between felonies and misdemeanours was that one could be arrested for a felony without a warrant. Furthermore, misprision of felony (referred to above) and compounding a felony (inducing someone not to prosecute a felony in return for a bribe) were two offences that could only occur once a felony had been committed.

5.38 There were some problems with the prospect of such a charge. In the first instance, relatively few of the complaints related to criminal charges that were classified as felonies at the time of the alleged commission of the offence. Furthermore, the distinction between felonies and misdemeanours had been abolished by section 3 of the *Criminal Law Act 1997*.

5.39 In the event, no file was sent to the DPP recommending prosecution for this offence. The charge of misprision of felony was rare in occurrence and one that would have been unlikely to have been previously encountered to any significant degree by the investigating gardaí. There would have been some legal difficulties caused by the abolition of the distinction between felony and misdemeanour. No legal advice was sought on the matter. No recommendation to prosecute anyone within the Archdiocese was made, nor was any file submitted to the DPP recommending prosecution for this offence. Finally, as previously stated, the vast majority of complaints related to alleged offences that were misdemeanours rather than felonies. In all the circumstances, it is considered by the Commission that the misprision of felony investigations were carried out more for the sake of completeness than from any substantial belief that there would ever be such a prosecution.

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<sup>21</sup> That is, behaviour that has always been regarded by the courts as an offence, as opposed to an offence that was created by a statutory provision.

### **The outcome of the investigations**

5.40 The garda database established at the incident rooms recorded over 800 incidents of a sexual nature nationwide where the suspect is or was a cleric or connected with a religious community.

5.41 By January 2006, the investigation unit had forwarded 40 files regarding clerics to the office of the DPP. Twenty five of those related to the Dublin Archdiocese.

5.42 Prior to 2002, complaints into child sexual abuse were handled locally by the Gardaí. Consequently, there was no co-ordinated approach taken by the Gardaí in relation to the investigation of complaints of child sexual abuse by clerics. There is therefore considerable variation in the manner in which those investigations were undertaken and in the results achieved. Some of those garda investigations have been considered as part of the representative sample of cases outlined in this report. To the extent possible from a consideration of the evidence received, comments have been made on the quality of those investigations in the relevant sections of the report.

5.43 The garda investigation undertaken into clerical sexual abuse in the Archdiocese of Dublin which commenced in October 2002 was, in the opinion of the Commission, an effective, co-ordinated and comprehensive inquiry. It established a database recording complaints and valuable information which continues to be maintained. The concentration of the investigation in a centrally based team in itself equipped those investigators with the knowledge and skills necessary to properly investigate complaints of child sexual abuse. The Commission would like to note the considerable praise heaped by many of the complainants who came forward to the Commission on members of the specialist unit in the NBCI who carried out individual investigations.

### **Director of Public Prosecutions**

5.44 The role of the Director of Public Prosecutions (DPP) is to decide whether or not a person is to be prosecuted in respect of an alleged criminal offence. The DPP makes that decision after receiving a file on the matter from the Gardaí.

5.45 Many victims of child sexual abuse have expressed concern about the failure of the DPP to prosecute in certain cases. During the period covered by this report, the DPP, as a matter of policy, did not explain to the alleged victims his reasons for deciding not to prosecute.<sup>22</sup> The DPP's decision is issued to the investigating gardaí. Reasons for the decision are almost invariably given to the gardaí; these reasons are quoted in a number of cases described in this report. The DPP has pointed out to the Commission that these reasons are almost always expressed in legal short-hand because they are being issued to the gardaí and not to the public.

5.46 In examining these cases, the Commission noted that the most frequent reason for deciding not to prosecute was the perceived delay in making the complaints. The Commission also noted that the DPP's approach to the time period that would be regarded as undue delay changed considerably over the period. In the 1980s, a delay of as little as a year might be considered to be a bar to prosecution whereas, in the 2000s, delays of up to 40 years are not considered a bar to prosecutions. The DPP and his Deputy gave evidence to the Commission which explained the evolution of the Office's approach to the question of delay.

5.47 Before examining the issue of delay in child sexual abuse cases, it is important to understand the status of the DPP and the general effect of delay on fair procedures.

#### *Independence*

5.48 The office of the DPP was established under the *Prosecutions of Offences Act 1974*. Under section 2 of the Act, the director is independent in the performance of his functions. Because of that independence, neither the Government nor the Garda Síochána nor, indeed, any other person or organisation, can either force the DPP to prosecute a particular case or prevent him from doing so. The DPP is a statutory officer so his actions may be subject to judicial review by the courts. However, where the courts have intervened in the decision making process of the DPP, they have done so

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The reasons for this policy are explained on the DPP's website. In October 2008, the DPP announced the introduction of a gradual change in that policy: [www.dpp.ie](http://www.dpp.ie).

only when satisfied that there has been a breach of fundamental fairness or a breach of some other constitutionally enshrined principle.

### **Decision to prosecute**

5.49 Once a garda investigation is completed, a file is sent by the investigating garda or his superior officer to the DPP. A legal officer in the office of the DPP considers the file and may recommend that further investigative steps be undertaken by the Gardaí. Alternatively, the legal officer may make a decision to prosecute or not to prosecute or submit the file to a more senior officer for a second opinion. Once a decision to prosecute has been made, the DPP's office also directs what charges are appropriate. Once a direction to prosecute has been issued, the DPP's office is in charge of the prosecution case from then on.

### **Delay and fair procedures**

5.50 It is a firmly established principle of Irish law that fair procedures require that an accused person ought to be brought to court at the earliest opportunity. If there has been a delay in bringing an accused person to court, the accused can, in appropriate cases, apply to the High Court to stop the prosecution. While the Constitution of Ireland does not expressly state that there is a right to a speedy trial, our courts have held that such a right is implicit in Article 38.1 of the Constitution which provides that no person shall be tried on any criminal charge except "*in due course of law*". A trial in due course of law entitles any person charged with a criminal offence to a trial with reasonable expedition. Furthermore, Article 40.3 of the Constitution imposes certain other duties on the State, such as the duty to afford any accused person fair procedures.

5.51 There are essentially two types of delay which can affect the fairness of a criminal trial – complainant delay and prosecutorial delay. Complainant delay means that the alleged victim delayed in making a complaint to the Gardaí. Where a person delays in reporting an alleged crime, valuable evidence relating to the crime may be lost. If this occurs, it may well be unfair to the accused person to put him on trial when important evidence is missing through no fault of his own. Prosecutorial delay is delay by the authorities in either the investigation or the prosecution of offences after a complaint has

been made. Such delays can also result in evidence being lost or mislaid such as to make it unfair to put an accused person on trial.

*Complainant delay in child sexual abuse cases*

5.52 The DPP explained to the Commission that, prior to the mid 1990s, when considering whether or not there was a delay by a complainant such as to lead to a decision not to prosecute, his office and the courts treated all alleged offences in the same way. In effect, the DPP and the courts applied the same principles to all cases without any special treatment of child sexual abuse cases.

5.53 That policy changed in the mid 1990s when it was accepted by the courts that delay in bringing a complaint of sexual abuse relating to incidents that occurred when the complainant was a child was in a different category to delay in making a complaint in other types of cases.

5.54 The issue of delay by a child sexual abuse complainant was considered by the Supreme Court and a decision was delivered in February 1997.<sup>23</sup> The accused had sought a judicial review seeking to stop the DPP from proceeding further with a criminal prosecution against him. The charges concerned related to alleged sexual abuse by the accused against three of his daughters. The alleged offences occurred in 1963 and the complainants first approached the authorities in 1992.

5.55 The court considered that statute law had put no time limitation on the prosecution of the alleged offences but the Constitution of Ireland did place certain restrictions on a criminal trial in cases where there was unreasonable delay. The court held that it must look at the circumstances in each individual case, including the constitutional issues at stake, in order to determine whether it was appropriate to proceed with a trial. The court indicated that there was no definitive time limit or indeed any exhaustive list of factors that were to be taken into account in reaching a decision on whether or not it was appropriate to allow a prosecution to proceed. Delay and the reasons for it were factors to be taken into account, but so also were the actual prejudice to

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*B v DPP* [1997] 3 IR 140; Supreme Court Decision of Denham J delivered 19 February 1997.

the accused, any special circumstances and the community's right to have offences prosecuted.

5.56 The court held that the key factor in this particular case was the relationship between the accuser and the accused. The court found that the reason for the delay in reporting the alleged crime was the dominion exercised by the accused over his three daughters, and that that dominion existed until the complainant's mother died.

5.57 Following that case, prior to deciding whether or not to prosecute where there had been complainant delay in reporting the alleged offence, the DPP developed a policy of assessing the state of mind of the complainant during the period of delay. The analysis considered whether or not, during that period, there were any factors that existed which prevented the complainant from coming forward.

5.58 That approach remained a significant factor in the deliberations of the DPP in sexual abuse cases until 2006 when the Supreme Court delivered a further judgement on the issue.<sup>24</sup> In the 2006 case, the Supreme Court reviewed the extensive case law which had evolved since the mid-1990s around the issue of delay by complainants in reporting child sexual abuse to the Gardaí. In reaching its decision, the court recognised developments in the 1990s which reflected changes in society. The issue of child sexual abuse was discussed widely and openly for the first time. As a result, prosecutions were brought in great numbers in relation to events which had occurred many years previously. The Supreme Court considered, in the context of cases of alleged abuse when the complainant was a child, that there was no longer a necessity to inquire into the reason for the delay in making a complaint. The court took judicial knowledge of the fact that young victims of sexual abuse were reluctant, or found it impossible, to come forward to disclose the abuse to others. The court was satisfied that, in future, it would no longer be necessary to establish the precise reasons for the delay in making the complaint. The issue for a court to determine is whether or not the delay has resulted in prejudice to an accused – that is, whether or not the delay gives rise to a real or serious risk of an unfair trial.

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*H v DPP* [2000] IESC 55; Supreme Court decision of Murray CJ delivered 31 July 2006.



5.59 The court indicated that the proper test to be applied was “*whether there is a real or serious risk that the applicant, by reason of the delay, would not obtain a fair trial, or that a trial would be unfair as a consequence of the delay. The test is to be applied in light of the circumstances of the case*”.

5.60 Following that case, therefore, the DPP no longer considers the mere fact of delay as a reason that might inhibit a prosecution for child sexual abuse. The Commission was told that the DPP now analyses in each case whether or not there is any prejudice caused to the accused in conducting his defence arising from the delay.

#### *Prosecutorial delay*

5.61 Prosecutorial delay can also affect the fairness of a trial. The Supreme Court has stated:<sup>25</sup>

*“[It] ... is not acceptable and in my view is a breach of the defendants’ rights under Article 38.1 of the Constitution for the prosecution authorities to allow unnecessary delay to occur. In a case such as this, involving sexual offences many years ago, the unnecessarily delayed trial is most unfortunate, but it is wholly intolerable that it should be postponed still further due to unnecessary delays on the part of the prosecuting authorities. I’m using this expression ‘prosecuting authorities’ to cover the Director of Public Prosecutions and the Garda Síochána.*

*...*

*I think that where there has been a long lapse of time, as in these prosecutions for sexual offences, between the alleged offences and the date of complaint to the Guards, it is of paramount importance, if the accused’s constitutional rights are to be protected that there is no blameworthy delay on the part of either the Guards or the Director of Public Prosecutions. If there is such a delay, the Court should not allow the case to proceed and additional actual prejudice need not be proved.”*

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In *PP v DPP* [2000] 1 IR 403.

5.62 The DPP told the Commission that when an issue of alleged prosecutorial delay is raised, an analysis of the delay and the reasons for it are carried out. The deputy director of the DPP's office stated that it is very difficult to be definitive about the length of time that would be regarded as so excessive that it would lead to a case being stopped. He indicated that it is very difficult to predict what cases would ultimately be stopped by the courts on account of prosecutorial delay.

#### **Other causes of prejudice**

5.63 The DPP must also decide before prosecuting whether or not an accused person is prejudiced in his defence for any other reason. An example of this type of prejudice could be where a witness has died or there is some other factor which results in the accused being inhibited in conducting a full defence to the charge brought against him.

5.64 The DPP told the Commission that sometimes it is difficult to make an assessment of actual prejudice as, very often, an accused person does not indicate, when interviewed, what the nature of his defence will be. It is therefore very often the case that the DPP will only become aware of issues of potential prejudice when or if the accused applies to the courts to try and prohibit the trial from taking place.

#### **Change of mind by the DPP**

5.65 Depending on the circumstances, it is possible for the DPP to reverse an earlier decision not to prosecute in a particular case. Complainants may ask the DPP to review a previous decision. Ultimately the DPP must decide whether or not it would be fair and in accordance with fair procedures to proceed to charge the accused with an offence in circumstances where the accused may have previously been advised that he would not be so charged. The Commission was told that, in general, it is unlikely that the DPP would change his mind in a particular case in the absence of new evidence.

**Introduction**

- 6.1 Very few of the complaints of clerical child sexual abuse which the Commission has examined were made initially to the health authorities. The vast majority were made, initially, either to the Church authorities or to the Gardaí. The health authorities had relatively little involvement in the complaints which were made prior to the mid 1990s.
- 6.2 They did have an involvement in the 1988 complaint in relation to Fr Thomas Naughton. As is noted in Chapter 29, this is one of the few cases examined by the Commission in which the health board personnel took a proactive role in trying to prevent abuse. Their involvement in subsequent complaints was limited. Other people who were handling complaints, particularly the Archdiocese and the heads of religious orders, were under the impression that the health authorities had a much wider remit than they actually had.
- 6.3 The majority of complaints examined by the Commission were made by adults. This meant that, to a large extent, the role of the health authorities has been limited to offering complainants counselling and support services.
- 6.4 During the 1970s and 1980s, the government was well aware that the law on child protection was inadequate. The delay in devising and implementing amending legislation is quite extraordinary. When new legislation was finally implemented in 1996, it did not make any significant change in the role the health authorities could play in cases of extra-familial child sexual abuse. Guidelines for dealing with child sexual abuse have existed since 1983 but, again, they are not of major relevance to cases of extra-familial abuse or, indeed, to the reporting by adults of childhood abuse.
- 6.5 Major changes to the structure of the health authorities were made in 1970 and again in 2005 when the Health Service Executive (HSE) was established. Child protection services were developed over this period. They were mainly concerned with abuse within families and with trying to prevent children being put into residential care.

6.6 The HSE had considerable difficulties in providing the Commission with information relevant to its remit. This may be explained by the relatively minor role the health authorities played in dealing with clerical child abuse. However, the Commission is concerned that the information available to the HSE is not maintained in a manner which would facilitate a more active role. It is also concerned that other agencies rely on the HSE in circumstances where it does not have the capacity to respond.

### **The law on child protection<sup>26</sup>**

6.7 The need to update the law on child protection was clearly recognised well before the start of the period covered by this Commission, that is, 1975. However, no significant change took place until the 1990s. The delay in devising and implementing appropriate legislation, when the need for that legislation was widely recognised, was extraordinary. In the Commission's view, the law as it stands at present does not provide adequate powers to the health authorities to promote the welfare of children who are abused, or in danger of being abused, by people outside the family and, in particular, by people who have privileged access to children.

#### *Children Act 1908*

6.8 Until the *Child Care Act 1991* was fully implemented in 1996, the main legislation dealing with child protection issues was the *Children Act 1908* as amended.<sup>27</sup> The Children Acts provided the statutory framework for the industrial and reformatory school system. Under the Acts, the state was responsible for child welfare in cases where the parents or guardians were found not to be providing proper guardianship. This included physical neglect and abuse of children. In 1970, the Committee on Industrial and Reformatory Schools (generally known as the *Kennedy Report*) recommended, among other things, that a new updated Children Act be introduced but this was not done for over 20 years.

6.9 The *Health Act 1970* introduced changes to the structures for the delivery of health and social services but did not make any substantive

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<sup>26</sup> A comprehensive description of the development of policy in relation to child protection is given in O'Sullivan Eoin, "Residential Child Welfare in Ireland 1965 – 2008" in *Report of the Commission to Inquire into Child Abuse* (Dublin: Stationery Office, 2009) (The Ryan Report).

<sup>27</sup> It was amended by the Children Acts of 1910, 1929, 1934, 1941 and 1957.

change to the law on child protection. It did not set out the powers of the health boards in relation to child protection. It was, wrongly, assumed by government and the boards themselves that they had powers to act as ‘fit persons’ for the purposes of taking children into care. It provided that the health boards were to carry out the functions conferred by the Act and the health functions which were formerly carried out by the local authorities but it did not enumerate these functions or the powers available to carry out such functions.

*Attempts to change the law*

- 6.10 The government was conscious of the need to update the law. The then Minister for Health told the Dáil on 23 October 1974 that the government had recently decided that the Minister for Health should have the main responsibility for children's services. He went on:

*“I am immediately setting up a full-time task force, to report to me as soon as possible, on the necessary updating and reform of child care legislation and of the child care services. The group will comprise a number of outside experts and representatives from each of the Government Departments concerned with child care— Health, Education and Justice.”*

- 6.11 Three years later, that task force had not reported. The Minister for Health, when asked if he intended to amend the *Children Act 1908*, replied on 5 April 1978 that *“The Task Force on Child Care Services will consider the up-dating and modernisation of the law in relation to children. This is likely to lead to new legislation which will involve replacement or amendment of the Children Act, 1908”*. The Minister went on to agree that there was a need for a new Act and that there was a degree of urgency about this.

- 6.12 On 28 June 1978, the Minister for Health said he was not aware that the validity of the ‘fit person order’ procedure under the *Children Act 1908* was in doubt. The opposition spokesman outlined the difficulty. Even though the problem was recognised, it was not addressed until 1989.

- 6.13 The task force which had been established in 1974 reported in 1980. Its report was published in 1981.

6.14 On 17 December 1981, the Minister for Health acknowledged to the Seanad that “*The Department and the health boards run into difficulties in that the existing legal remedies for protecting children at risk are not entirely satisfactory. We intend to improve this situation under the proposed new children's legislation*”.

6.15 A draft Bill was prepared in 1982/3 which, among other things, proposed to give the health boards clear responsibility for the welfare of children but this was never brought before the Oireachtas.

6.16 In the 1980s there were two attempts to introduce legislation dealing with child protection. In 1985, the *Children (Care and Protection) Bill* was published. This Bill proposed a clear obligation on health boards to promote the welfare of children in their area. It included sexual abuse as a criterion for care proceedings. This Bill was at committee stage when the government resigned in 1987. The *Child Care Bill 1988* was introduced by the new government. It eventually became the *Child Care Act 1991*. The main parts of this were not implemented until 1996.

6.17 While the *Child Care Bill 1988* was before the Oireachtas, the *Children Act 1989* was passed to deal with the consequences of a Supreme Court decision<sup>28</sup> in relation to the powers of health boards to act as ‘fit persons’ under the *Children Act 1908* – the issue which had been aired in the Dáil in 1978 but on which no action had been taken. The Minister for Health said that the legal advice available to the Department of Health in 1970 was that health boards could act as ‘fit persons’ for the purpose of taking deprived children into care.<sup>29</sup> According to the minister, it was considered that such work formed an integral part of the community care and social work services that were beginning to be built up under the health boards:

*“Increasingly, health boards got involved in dealing with child abuse and neglect, bringing cases before the court and offering themselves as fit persons. This practice has been endorsed by successive Governments to the extent that the health boards are now recognised,*

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<sup>28</sup> *The State (D and D) v G and others* [1990] IRLM 130.

<sup>29</sup> Minister for Health, 2<sup>nd</sup> stage speech, *Children Bill 1989*; Dáil Reports, 7 November 1989.

*in fact if not in law, as the State's child care and child protection agencies".*<sup>30</sup>

- 6.18 The Minister went on to acknowledge that "*doubts were expressed by some lawyers and others about the legal authority of health boards to involve themselves in child care. However, the general view was, and is, that this is essential work which must be done in the interests of the children concerned and that the most appropriate agencies to perform it are the health boards*".

*Children in institutional care*

- 6.19 A number of children who were abused by the priests investigated by this Commission lived in children's residential centres. The *Report of the Commission to Inquire into Child Abuse* (The Ryan Report) deals in detail with abuse in such centres. This report is concerned only with a small number of such institutions and the role of the health authorities within them. In 1988, there were 24 residential homes (industrial schools) which were, as the Minister for Health described it, "*subject to certain limited controls*" under the *Children Act 1908* and 17 homes approved under the *Health Act 1953*. The 17 approved homes were not subject to "*specific statutory regulation*".<sup>31</sup> They did not become subject to statutory regulation until the relevant sections of the *Child Care Act 1991* were implemented in 1996.<sup>32</sup>

- 6.20 This means that, before 1996, the health board social workers had no statutory responsibility for monitoring residential institutions even though they were placing children in these institutions and the health board was paying for their care. The abuse in the institutions which is relevant to this report all occurred in the 1970s and 1980s. Social workers gave evidence to the Commission that they did try to encourage better standards. Their role was accepted and welcomed by some residential institutions but they were effectively excluded by some other institutions. The health boards did have responsibility for placing many of the children in the institutions and were involved to a considerable extent with these children – see Chapters 28 and 41. The health boards' responsibility ended when the child reached the age of 16 but sometimes the social workers remained in contact and helped

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<sup>30</sup>

*Ibid*

<sup>31</sup>

Minister for Health, 2nd Stage speech, *Child Care Bill 1988*; Dáil Reports 14 June 1988

<sup>32</sup>

Statutory Instrument 397/1996

former residents. The resident managers in the industrial schools and the managers in the other children's homes were responsible for the day to day care and management of the residents.

#### *Child Care Act 1991*

6.21 The *Child Care Act 1991* was the first Act to place statutory responsibility on the health boards to promote the welfare of children not receiving adequate care and protection. Its only reference to child sexual abuse was to provide that sexual abuse of children would be among the criteria for seeking court orders.

6.22 The stated purpose of the *Child Care Act 1991* is "*to provide for the care and protection of children and for related matters*". Section 3 of the Act places a statutory duty on health boards to promote the welfare of children who are not receiving adequate care and protection. This section came into effect in December 1992.<sup>33</sup>

6.23 The main part of Section 3 is as follows:

*"(1) It shall be a function of every health board to promote the welfare of children in its area who are not receiving adequate care and protection.*

*(2) In the performance of this function, a health board shall—*

*(a) take such steps as it considers requisite to identify children who are not receiving adequate care and protection and co-ordinate information from all relevant sources relating to children in its area;*

*(b) having regard to the rights and duties of parents, whether under the Constitution or otherwise—*

*(i) regard the welfare of the child as the first and paramount consideration, and*

*(ii) in so far as is practicable, give due consideration, having regard to his age and understanding, to the wishes of the child; and*

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<sup>33</sup>

Statutory Instrument 349/1992



(c) *have regard to the principle that it is generally in the best interests of a child to be brought up in his own family.*

*(3) A health board shall, in addition to any other function assigned to it under this Act or any other enactment, provide child care and family support services, and may provide and maintain premises and make such other provision as it considers necessary or desirable for such purposes, subject to any general directions given by the Minister under section 69."*

6.24 Section 69 provides that "*The Minister may give general directions to a health board in relation to the performance of the functions assigned to it by or under this Act and the health board shall comply with any such direction*". No such direction has been issued.

6.25 As is pointed out in the *Ferns Report*, this new obligation was not accompanied by new powers to intervene in specific situations. When introducing the Bill in 1988, the Minister for Health talked about the "*imaginative use*" of the new provisions. Legal provisions need to be clear and unambiguous with little scope for, and no requirement to use, imagination.

6.26 As already stated, the *Health Act 1970* did not enumerate all the functions of the health boards. The *Health Act 2004* which established the Health Service Executive (HSE) is drafted in a similar way: it confers on the HSE those functions which were formerly carried out by the health boards. The Commission considers that it would be preferable if there was a clear unambiguous listing of the statutory functions and powers of the HSE so that there could be no doubt about the extent of its power to intervene in child protection issues.

*What is the role of the health authorities in relation to clerical child sex abuse?*

6.27 Under the *Child Care Act 1991*, the health boards, and now the HSE, have a general duty to promote the welfare of children who are not receiving adequate care and protection. The Commission agrees with the *Ferns Report* analysis of the powers of the health boards. The *Ferns Report* takes the view that the powers conferred on the health boards by the 1991 Act are

designed to protect a child from an abusive family situation. It is the parents or guardians who are responsible for dealing with the matter in cases of third party or extra-familial abuse. The *Ferns Report* also points out that the powers available to the health boards under the 1991 Act are not significantly greater than those available under the 1908 Act.

6.28 Notification to the health board of alleged abuse by priests does not seem to serve any useful purpose if the health boards do not have any power to do anything about it.

6.29 The method by which the boards recorded such notifications, that is, by the name of the child, while appropriate for family abuse, is not appropriate for extra-familial abuse. There is no point in recording alleged abuse by a person who is in a public position, for example, a priest, a teacher, sports coach, by the name of the abused person. This information needs to be recorded by the name of the alleged abuser and by the school, parish, sports club or other relevant body. The Commission is not aware of any legal reason why this information could not be collated and classified in this way by the HSE. For the avoidance of doubt, the Commission considers that the HSE should be given specific statutory power to maintain such a record.

6.30 The Commission is not suggesting that it would be appropriate for the HSE to have the power to intervene where the child is being appropriately cared for by parents or guardians. It is concerned about the lack of clear power to collate and maintain relevant information and to share that information with other relevant authorities.

6.31 In the case of *MQ v Robert Gleeson and others*,<sup>34</sup> Mr Justice Barr took the view that health boards had an implied right and duty to communicate information about a possible child abuser if, by failing to do so, the safety of some children might be put at risk. Before making such a communication, the health boards had certain duties to the alleged perpetrator. This judgement has been viewed quite differently by the *Ferns Report* and the health boards/HSE. The *Ferns Report* was clearly concerned about the legislative basis for this wide ranging duty to communicate while the health boards/HSE

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<sup>34</sup>

[1997] IEHE 26

concerns relate to restrictions on their ability to communicate because of the requirements to inform the perpetrator. The *Ferns Report* took the view that the only power available to health boards to inform parties that allegations of child sexual abuse have been made against a particular person is “one inferred from the wide ranging objective of child protection” imposed on health boards by the *Child Care Act 1991*. It went on to express the view that the implication of such a duty on health boards without any express legislative powers is an issue which should be carefully considered by the Legislature. The HSE told the Commission that the judgement in this case (generally known as the Barr judgement) had

*“significant implication for the management of child sexual abuse cases by the Health Boards/HSE. It provided that the Health Boards/HSE (except in cases where a child is believed to be at immediate risk of suspected child sexual abuse) before passing on any information with regard to a suspected child abuser to a third party, must give the allegations in writing to the alleged perpetrator. The alleged perpetrator must then be given the opportunity to respond in person to the HSE before the HSE makes its decision on whether or not to pass on the information to a third party. Recent legal advice is that the opportunity to appeal the decision of the HSE to pass on information to a third party must also be given to the alleged perpetrator.”*

- 6.32 The Commission considers that the law should be clarified in order to confer on the HSE a duty to communicate to relevant parties, such as schools and sports clubs, concerns about a possible child abuser. The extent of the HSE obligation to notify the alleged perpetrator, if any, should also be clarified.

### **Structure of health authorities**

- 6.33 The structures for the delivery of health and social services have changed considerably during the period covered by this Commission of Investigation. Prior to the establishment of the health boards in the early 1970s, health and personal social services were the responsibility of the local authorities. In Dublin, the Dublin Health Authority constituted the combined health departments of the then Dublin County Council and Dublin

Corporation. The Dublin Health Authority was dissolved in 1971.<sup>35</sup> The *Health Act 1970* provided for the establishment of eight health boards. The Eastern Health Board (EHB) covered the counties of Dublin, Kildare and Wicklow. The Archdiocese of Dublin is largely within the area covered by the EHB. There are small parts of the Archdiocese in the South Eastern Health Board region (in counties Carlow and Wexford) and a small part in the Midland Health Board region (Co Laois).

6.34 In 2000, the Eastern Regional Health Authority (ERHA)<sup>36</sup> was established. It was the overarching authority for the three health boards which were formed within the former EHB area. These three boards were the Northern Area Health Board, the East Coast Area Health Board and the South-Western Area Health Board.

6.35 In January 2005, the Health Services Executive (HSE) was established.<sup>37</sup> It took over all the functions of all the health boards.

6.36 For most of the cases covered by this report, the relevant health authority was either the Eastern Health Board (EHB) or one of the three health boards under the ERHA structure. Other health boards did have some involvement because some of the abuse occurred outside the Archdiocese and because priests moved to live in other health board areas. In general, we refer to the 'health board' or 'health boards' throughout the report without always identifying the specific board or boards involved.

#### *Development of Child Protection Services*<sup>38</sup>

6.37 At the start of the period covered by this report, the statutory duties of health authorities in relation to children were mainly concerned with the provision of a school medical service, adoption services and residential or foster care for those whose parents or guardians were unable or unwilling to care for them.

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<sup>35</sup> Statutory Instrument 117/1971.

<sup>36</sup> *Health (Eastern Regional Health Authority) Act 1999*; Statutory Instrument 68/2000.

<sup>37</sup> *Health Act 2004*; the relevant parts came into effect on 1 January 2005.

<sup>38</sup> The HSE provided the Commission with a very helpful Report on the *Context of Development and Operation of Social Work Services in Dublin, Kildare and Wicklow*. This description is based on that report and on evidence given to the Commission by a number of social workers.

6.38 Professionally qualified social workers began to be recruited to work in child care and family work in Ireland in the 1970s. The first professional qualification course for social workers in Ireland was introduced in 1968. Some social workers were being employed in voluntary hospitals - they were known as lady almoners.

6.39 At that time, child protection was generally considered to be the responsibility of the Irish Society for the Prevention of Cruelty to Children (ISPCC). The ISPCC did not have statutory responsibility for the protection of children. It did have a role in relation to removing children from their families if they were being abused or neglected and it was regarded as 'a fit person' under the *Children Act 1908*. It only started to get state financing in 1963 even though there was statutory provision for such funding at least since the *Public Assistance Act 1939*. In 1968 the ISPCC decided to recruit qualified social workers.

#### *Dublin Health Authority 1960 - 1971*

6.40 The Dublin Health Authority had a central Children's Section where two children's officers (qualified nurses) dealt with statutory child care work such as adoption and fostering and, in particular, the physical health of fostered children. In the early 1960s, the work of the Children's Section was broadened in order to address concerns about the number of children being admitted to industrial schools. In 1966, the Dublin Health Authority created a third post of children's officer in its children's section as well as the country's first post of social worker in the statutory health service.

6.41 In 1968, two further social workers were appointed. They were based in the community. By 1971, there were 11 social workers employed but they did not all have professional qualifications. The central Children's Section continued in existence for some time after the establishment of the health boards but the social workers who were employed there were gradually moved to the community care areas as they became established and organised. In 1974 there were just three social workers employed in community services for the EHB area.

### *Health boards 1972 - 2004*

6.42 The *Health Act 1970* provided for the establishment of eight health boards. The operating structure of the health boards was not set out in legislation but was decided after recommendations by management consultants. Each health board had three distinct programmes with a programme manager for each programme. These were the general hospitals programme, the special hospitals programme<sup>39</sup> and the community care programme<sup>40</sup>. The community care programme was delivered through community care areas. There were ten community care areas in the EHB – each had a population of approximately 100,000 in 1972. Each community care area was managed by a director of community care/medical officer of health (DCC) who reported to the programme manager, community care. It was a requirement that the DCC be a medical doctor. When the social work service became established, the senior social worker reported to the DCC and managed a team of social workers.

6.43 Between 1974 and 1978 community care teams were established in each of the ten community care areas. As each team became established a senior social worker was appointed and the social workers from the central children's section were decentralised and reported to the senior social worker. Additional social work posts were also created and filled.

6.44 In the mid 1980s, and unrelated to the issuing of the 1987 guidelines (see below), a new structure was introduced in the five largest community care areas. This structure involved social workers reporting to a team leader who, in turn, reported to a head social worker who reported to the DCC. In effect, a new layer of management was added. However, there was not a corresponding increase in the number of social workers.

6.45 In 1995, the EHB<sup>41</sup> appointed two directors of childcare and family support services. They each had a strategic planning role<sup>42</sup> as well as being

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<sup>39</sup> This mainly dealt with psychiatric hospitals.

<sup>40</sup> Community care covered a range of services including child developmental health services, immunisation, school health services, the Public Health Nursing service, Home Helps, community services for older people and people with disabilities as well as social work services.

<sup>41</sup> This did not happen in other health board areas.

<sup>42</sup> One of the managers told the Commission that, in practice, they spent more time on urgent matters relating to individual cases.

line managers for some specific services. Their appointment did not change the management structure for social workers dealing with child abuse.

6.46 In 1997, the EHB<sup>43</sup> appointed a programme manager to deal specifically with children and families. In an unrelated move, the DCC position was phased out, and abolished in 1998, and replaced by general managers who did not have to be doctors.<sup>44</sup> From there on the reporting relationship was to the newly appointed general managers (a post open to all disciplines, including social workers, although in practice no social worker held such a post). The general manager in turn reported to the assistant chief executive dealing with community care services. The programme manager for children and families became an assistant chief executive and the general managers reported to her in respect of their activities in relation to services for children and families.

6.47 Around this time, the position of childcare manager was created in each community care area. This position could be filled by a social worker but this was not a requirement and, in practice, a number of other professionals were appointed. The role of the childcare manager was to co-ordinate child abuse cases and to develop a more strategic approach to childcare planning at local level. All abuse cases were notified to the childcare manager who then co-ordinated the response. The childcare manager had no supervisory role in relation to the social workers.<sup>45</sup> The childcare manager reported to the general manager, community care and not to the programme manager/assistant chief executive for children and families.

6.48 There seems to have been a degree of duplication of, or at least lack of clarity about the role of the childcare manager relative to the senior social worker.

6.49 Shortly after the establishment of the ERHA (in 2000) and the three area health boards, an assistant chief executive was appointed in each board with responsibility for services for children and families.

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<sup>43</sup> This did not happen in other health board areas; child abuse continued to be the responsibility of the programme manager, community care in the other seven health boards.

<sup>44</sup> This happened throughout the country.

<sup>45</sup> The Commission understands that the Southern Health Board adopted a different practice; childcare managers there did manage social workers.

6.50 Reporting relationships remained the same within community care areas, with principal social workers reporting to the general manager, who in turn reported to the assistant chief executive.

#### *HSE 2005*

6.51 When the HSE was established in January 2005, the former community care offices became local health offices (LHOs). One LHO manager in each HSE region had 'lead responsibility' for childcare.

#### *Development of awareness of child sexual abuse*

6.52 Initially, the main activity of the social work service was in the area of child protection – specifically cases of physical abuse and neglect of children within their families. The role of the social workers was mainly to support families with problems with the aim of avoiding placing children in care.

6.53 Social workers told the Commission that awareness and knowledge of child sexual abuse did not emerge in Ireland until about the early 1980s. The HSE told the Commission that *"In the mid 1970s there was no public, professional or Government perception either in Ireland or internationally that child sexual abuse constituted a societal problem or was a major risk to children"*.

6.54 In 1982, some social workers from the EHB area visited California to work with people dealing with sexual abuse there. In 1983 the Irish Association of Social Workers held a conference on child sexual abuse in Dublin. In 1988, child sexual abuse assessment units were established in Our Lady's Hospital for Sick Children, Crumlin (the St Louise Unit) and in Children's University Hospital, Temple Street (the St Claire's Unit).

#### *How complaints of child abuse were dealt with*

6.55 From the introduction of the 1983 guidelines, cases of alleged child abuse or neglect were reported to the senior social worker who then allocated the case to a social worker and reported it, in writing, to the director of community care (DCC). There were some standard forms for recording allegations and for reporting to the DCC. A similar but informal arrangement (with possibly more oral than written reports) seems to have applied, at least



in some areas, prior to the introduction of the guidelines. In some cases, senior social workers developed their own forms and their own recording systems. The Department of Health started to collect statistical data on child abuse and neglect from 1978. This data was provided by the various DCCs. The DCC, or a senior medical officer designated by the DCC, might convene a case conference to discuss a particular child or family. In some cases, the DCC appointed one of the senior medical officers to deal with all child abuse issues. A social work file was created and, in some cases, it appears that the DCC might have had another file.

6.56 The EHB conducted a review of child abuse procedures in its area in 1993. Among other things, the review noted that there was considerable variation in how the different community care areas liaised with the Gardaí in relation to child sexual abuse. Confirmed cases were referred to the Gardaí; this was frequently done by the assessment units (St Louise's Unit, Crumlin and St Claire's Unit, Temple Street). These units also notified the community care area of any referrals which came directly to them. Some community care areas notified the Gardaí of suspected cases but Gardaí rarely referred cases to the health board. There were different arrangements for case conferences in the different areas. The report refers to a "*severe shortage of appropriate services*" for victims, families and perpetrators. The emphasis seemed to be on the investigation/validation of an allegation rather than on providing services. There was also a lack of uniformity in data collection and recording.

6.57 The HSE told the Commission that, by the late 1990s, health boards experienced serious difficulties in recruiting enough qualified social workers and child care workers.

*"These staff shortages affected the time social workers could spend on training opportunities, the recruitment of foster carers, attending to children in care and court appearances. Social work managers prioritised workloads whereby child protection duties were given top priority."*

6.58 This shortage continued into the 2000s and does not seem to have been resolved.

### **The Commission's dealings with the HSE**

6.59 The HSE appointed a senior social worker as the liaison person with the Commission on its establishment in March 2006. The Commission wrote formally to the HSE on 2 May requesting copies of all documents held by the HSE which were relevant to the Commission's work. A number of informal discussions were held in order to clarify the Commission's requirements. The HSE explained that it would have difficulties finding information on clerical child sexual abuse as the social work records were held in the names of the children. The Commission had further correspondence with the HSE's legal advisors in relation to the terms of reference and issues of confidentiality.

6.60 As no documents had been received, the Commission told the HSE, on 4 September 2006, that it intended to issue an Order for Discovery. The HSE legal advisors replied outlining the difficulties being experienced in finding relevant files. The main problems related to:

- the fact that files were kept by the name of the child;
- manual searches were required;
- the size and the various changes in structure of the EHB area;
- the absence of any central filing system, even when files were archived.

6.61 The HSE asked the Commission to provide a list of alleged victims. The Commission could not do this. The Commission saw its task as establishing the totality of the complaints which had been made to the relevant authorities in the period covered by the Commission's remit. Providing the names of alleged victims who were already known to the Commission to the HSE would establish only that the HSE had or had not received a complaint about that victim. The Commission needed to know if the HSE had received complaints from people who were not known to the Commission – people who had not complained to the Archdiocese or the Gardaí or directly to the Commission itself.

6.62 On 14 September 2006, the Commission itemised a number of documents of a general nature which it wished the HSE to provide. On 4

October 2006, the Commission asked the HSE to nominate people to give evidence on the structures of the health board, the role and functions of the personnel involved in childcare issues, training of such personnel, general procedures for dealing with allegations of child sexual abuse and the liaison arrangements with other authorities. On 27 October, the Commission told the HSE that it was willing to further delay the issuing of an Order for Discovery provided substantive proposals including a time scale for the delivery of documents were put before the Commission by 3 November 2006. The HSE informed the Commission on 3 November 2006 that there were 114,000 social work files covering the period of the Commission's remit and that these were in up to 50 different locations. It was estimated that it would take half a day to read and consider each file. The Commission concluded that it would take nearly ten years to complete this process.

6.63 The HSE liaison person gave evidence to the Commission on 21 November 2006 on how the HSE was endeavouring to find the information which the Commission required. She explained that she had met all the then current managers, principal social workers and child care managers in May 2006 to discuss the best approach to gathering information for the Commission. The major difficulty for the HSE was that records in relation to child abuse were held by victim rather than by perpetrator. She asked the relevant people to make every effort to look within their area for records and to speak to former staff about their recollections of dealing with clerical child sexual abuse.

6.64 The Commission formed the impression that the HSE was not adopting a systematic approach to locating records. There was an identifiable group in each community care area dealing with child abuse issues and there was, at this stage, no listing of the relevant people or no written reports on what steps had been taken to try to find files.

6.65 Social workers and managers from the HSE gave evidence to the Commission in late 2006, about health board structures and, in particular, structures for dealing with complaints of child sexual abuse.

6.66 The Commission issued an Order for Discovery in February 2007 and the affidavit of discovery was delivered in March 2007. This was not

complete and further documentation was supplied at later stages as the Commission became aware, through its own investigations, that the health boards had been involved in various cases. Initially, the HSE provided the Commission with documentation in relation to 12 priests in the representative sample. The documentation which had been provided by the Archdiocese of Dublin showed there had been contact with the health boards in relation to eight others. Subsequently, documentation received from the religious orders showed contacts with the health boards in at least three other cases. Some of the documentation received from the HSE was provided as late as 2009 when the Commission forwarded extracts from the draft report to the HSE. Indeed, the Commission heard of a complaint in June 2009 just as this report was being finalised. This complaint was made to the health board in 2002 and reported by the HSE to the Archdiocese in May 2009. The fact of this complaint was not notified by the HSE to the Commission although it was clearly within the Commission's remit.

6.67 In March 2007, the Commission heard evidence from a number of current and former senior social workers about the child protection system generally. From October 2007, they gave evidence in relation to individual cases. The Commission was impressed by the social workers' commitment and concern. They were clearly trying to do the best they could in circumstances where their powers were unclear and their resources limited. The Commission did not inquire in any detailed way into the resources available to social workers but it notes that, until the late 1990s, virtually all their notes were handwritten.

#### **Guidelines for dealing with child sexual abuse**

6.68 Over the period covered by the Commission's remit, there have been a number of guidelines issued by the Department of Health and procedures agreed between the health authorities and the Gardai in relation to suspected child sexual abuse. None of these is legally binding. The Commission examined these guidelines in order to establish how complaints of child sexual abuse were handled and to establish the level of communication that existed between the various authorities. As the *Ferns Report* has noted, the guidelines "*have little application to the case where a person (whether an adult or child) made a specific allegation that he or she was sexually abused*

*as a child other than by, or with the connivance of, his or her parents or guardians”.*

*1977 – 1983: Guidelines on non accidental injury to children*

6.69 The Department of Health issued a *Memorandum on Non Accidental Injury to Children* in 1977. This set out the procedures to be followed and provided guidance for social workers and others on the identification, monitoring, management of cases and co-ordination and exchange of information on cases of neglect or non accidental injury to children. It did not mention child sexual abuse. It recommended that the Gardaí be informed in cases where a criminal offence might have been committed.

6.70 In 1980, the 1977 guidelines were replaced by more specific guidelines - *Guidelines on the Identification and Management of Non-Accidental Injury to Children 1980* - but, again, there was no mention of child sexual abuse. The *Guidelines on Procedures for Identification and Investigation on Non-Accidental Injury to Children 1983* do refer to child sexual abuse.

*1987 Child Abuse Guidelines*

6.71 The *Child Abuse Guidelines* issued in 1987 include a section on child sexual abuse. The guidelines set out procedures for validation and management of allegations of child sexual abuse. Among other things, they provided that, if the Gardaí were not already involved, they should be notified by the director of community care where there were reasonable grounds for suspecting child sexual abuse. They also provided that cases of child sexual abuse which came to the attention of the Gardaí should be reported to the local director of community care.

*1995 Notification of Suspected Cases between health boards and Gardaí*

6.72 This set out the procedures to be followed by the health boards and the Gardaí in cases of physical and sexual abuse of children. It provided that each was obliged to notify the other of such cases.

*1999 Children First Guidelines*

6.73 These guidelines set out new definitions for each category of abuse including sexual abuse and provided how different agencies such as health

boards, hospitals, voluntary agencies and the Gardaí should respond to complaints. They provided for specific arrangements for exchange of information between the health boards and the Gardaí.

6.74 The *Children First* guidelines provide for a Child Protection Notification System (CPNS). This is a record of every child about whom, following a preliminary assessment, there is a child protection concern. At present, names are placed on the CPNS list held by the child care manager in each local health area following a multidisciplinary discussion between the principal professionals involved. Names remain on the list with the file marked as open or closed.

6.75 *Our Duty to Care* was published by the Department of Health and Children in 2002. It provides guidance to voluntary and community organisations that offer services to children on the promotion of child welfare and the development of safe practices in work with children. Many of these organisations come under the broad description of Catholic Church authorities.

6.76 *Trust in Care* was published in 2005. It is a policy for health service employers on, among other things, managing allegations of abuse against staff. Again, many health service employers are Catholic Church authorities.

### Introduction

- 7.1 Under canon law, a bishop has full power of governance in his diocese; ultimately it is he who must take responsibility for the future ministry of all priests under his care. As outlined in Chapter 4, during the time period covered by this report there was considerable confusion over exactly what powers, particularly under canon law, bishops had when it came to disciplining priests against whom credible allegations of clerical child sexual abuse had been made.
- 7.2 According to Monsignor Dolan, the present chancellor, by September 1990 the Irish bishops decided that a small group would prepare guidelines about procedures which bishops might follow in particular instances. The document was to be ready for the March 1991 general meeting of the Irish Catholic Bishops' Conference. Despite a number of meetings, nothing of note happened and in 1993 a re-formed group was asked to investigate the possibility of drawing up a series of draft guidelines for the bishops. This group was known as the Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious. It convened for the first time in April 1994 under the chairmanship of Bishop Laurence Forristal.
- 7.3 Cardinal Connell told the Commission that perhaps a major catalyst for developing guidelines for dealing with clerical child sexual abuse was the Fr Brendan Smyth case. Fr Smyth was a Norbertine priest who, in 1994, pleaded guilty to 74 charges of indecent and sexual assault and was sentenced to 12 years in prison. This case caused a major political controversy in Ireland which resulted in a change of government in December 1994. According to research published in 2003<sup>46</sup>: *"The case focused public attention on the relationship between the Catholic Church and the State and on the protection seen to be afforded to the Church when one of its representatives was accused of serious crimes"*.

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Goode, McGee, O'Boyle: *Time To Listen: Confronting Child Sexual Abuse by Catholic Clergy in Ireland* (Dublin: The Liffey Press, 2003)

7.4 Another factor in precipitating action was that Andrew Madden, who had been abused by Fr Payne in 1981, had gone public with details of his abuse – see Chapter 24.

7.5 *Child Sexual Abuse: Framework for a Church Response*, the report of the Advisory Committee, was published in 1996. It is commonly referred to as the “1996 Guidelines” or the “Framework Document” or the “Green Book”. In this report, we refer to it as the “Framework Document”. The document provided a framework within which the bishops could fulfil their canon law obligations but it was not mandatory.

7.6 The *Framework Document* recognised the evils of child sexual abuse and the serious damage it causes. It set out eight guidelines which should underline the response of Church authorities to allegations of child sexual abuse. Those guidelines are:

- The safety and welfare of children should be the first and paramount consideration following an allegation of child sexual abuse.
- A prompt response should be given to all allegations of child sexual abuse.
- In all instances where it is known or suspected that a priest or religious has sexually abused a child, the matter should be reported to the civil authorities.
- Care should be given to the emotional and spiritual well-being of those who have suffered abuse and their families.
- There should be immediate consideration, following a complaint, of all child protection issues which arise, including whether the accused priest or religious should continue in ministry during the investigation.
- The rights under natural justice, civil law and canon law of an accused priest or religious should be respected.
- An appropriate pastoral response to the parish and wider community should be provided, with due regard to the right of privacy of those directly involved, and to the administration of justice.
- Adequate positive steps should be taken to restore the good name and reputation of a priest or religious who has been wrongly accused of child sexual abuse.



## **Reporting policy**

- 7.7 The *Framework Document* sets out the recommended reporting policy as follows:

*“In all instances where it is known or suspected that a child has been, or is being, sexually abused by a priest or religious the matter should be reported to the civil authorities. Where the suspicion or knowledge results from the complaint of an adult of abuse during his or her childhood, this should also be reported to the civil authorities;*

*The report should be made without delay to the senior ranking police officer for the area in which the abuse is alleged to have occurred. Where the suspected victim is a child, or where a complaint by an adult gives rise to child protection questions the designated person within the appropriate health board [...] should also be informed. A child protection question arises in the case of a complaint by an adult, where an accused priest or religious holds or has held a position which has afforded him or her unsupervised access to children.”*

- 7.8 The advisory committee recognised that this recommended reporting policy could cause difficulties if people who were complaining of child sexual abuse sought undertakings of confidentiality. It was recognised that some people come forward, not primarily to report their own abuse, but to warn Church authorities of a priest or religious who is a risk to children. Nevertheless, the policy is clear that undertakings of absolute confidentiality should not be given and the information should be received on the basis that only those who need to know would be told.

## **Structures and procedures**

- 7.9 The *Framework Document* set out in detail the recommended structure and procedures for dealing with allegations of child sexual abuse. Each bishop (or religious superior) should make the following appointments:

- a delegate and deputy delegate to oversee and implement the procedures for handling the allegations. It was specifically mandated that every complaint be recorded and carefully examined. The duty of promoting awareness and understanding of child sexual abuse among the priests of the diocese was expressly conferred on the delegate;

- a support person to assist and advise victims or persons who made complaints;
- an advisor to a priest accused of sexual abuse;
- an advisory panel would include lay people with relevant qualifications and expertise to offer their advice on a confidential basis to the bishop or religious superior.

7.10 The manner in which each of the people appointed was to carry out his or her task is outlined in detail.

### **Status of the *Framework Document***

7.11 The *Framework Document* was launched in January 1996 by the Irish Bishops' Conference and the Conference of Religious of Ireland. Meetings were held with priests and details of the document were circulated.

7.12 Training days took place during 1996. Monsignor Dolan told the Commission: "*The personnel involved were at this time trying to learn about child sexual abuse and the process of response; at the same time, they were at the heart of responding to emerging complaints*".

7.13 Monsignor Dolan went on to say that understanding behind the *Framework Document*, was that each diocese or religious institute would enact its own particular protocol for dealing with complaints. This in fact never took place because of the response of Rome to the *Framework Document*. According to Monsignor Stenson, Rome had reservations about its policy of reporting to the civil authorities. The basis of the reservation was that the making of a report put the reputation and good name of a priest at risk. Monsignor Dolan told the Commission that the Congregation for the Clergy in Rome had studied the document in detail and emphasised to the Irish bishops that it must conform to the canonical norms in force. The congregation indicated that "*the text contains procedures and dispositions which are contrary to canonical discipline. In particular 'mandatory reporting' gives rise to serious reservations of both a moral and canonical nature*". Monsignor Dolan said that the congregation regarded the document as "*merely a study document*".

7.14 Monsignor Dolan's view was that this placed the bishops in an invidious position because, if they did seek to operate the *Framework Document*, then any priest against whom disciplinary or penal measures were taken had a right of appeal to Rome and was most likely to succeed. The bishops, on the other hand, were not in a position to strengthen the *Framework Document* by enacting it into law. It was his view that the only way a bishop could properly proceed canonically was with the accused priest's co-operation.

#### **Implementation by the Dublin Archdiocese**

7.15 Despite the fact that the *Framework Document* did not receive recognition from Rome, Cardinal Connell told the Commission that he made the guidelines the policy of his Archdiocese. He said that there was no tradition prior to 1995 of the Archdiocese notifying the civil authorities of any complaints of child sexual abuse. He said that the civil authorities, insofar as one could gather, were not in particular instances anxious about receiving this kind of information.

7.16 He said that, in late 1995, he did give the names of 17 priests against whom complaints had been received by the Archdiocese to the Gardaí.

7.17 During the 1996 - 1997 period, the Dublin Archdiocese operated the *Framework Document* mainly through Monsignor Alex Stenson and Monsignor John Dolan. Monsignor Stenson left the positions of chancellor and delegate in the summer of 1997. Monsignor Dolan was subsequently appointed chancellor. He was provided with no full time assistant. Fr Paul Churchill was appointed assistant chancellor and Fr Paddy Gleeson and Fr Cyril Mangan were appointed as part time assistant delegates.

7.18 There were concerns within the chancellery at this time. Monsignor Dolan told the Commission that, in the course of investigating complaints and trying to respect the rights of both the complainant and the accused, it was

inevitable that from time to time tensions and difficulties arose. Victims have told the Commission that they felt very much left out of the whole process and that those to whom they complained failed to understand the nature of their abuse. Both Monsignor Stenson and Monsignor Dolan have acknowledged to this Commission that the Dublin Archdiocese's response to victims was inadequate at this time.

7.19 There was also concern among victims at the potential conflict of roles of the small number of priests who worked within the chancellery. Monsignor Dolan accepts that this was a legitimate concern of victims and has told the Commission that those working within the chancellor's office were also concerned about this conflict of roles. This, he felt, was resolved only with the establishment of the Dublin Archdiocese Child Protection Service in 2002.

7.20 Towards the end of 1999, the Dublin Archdiocese became part of the Faoiseamh Helpline and that became an invaluable source of competent counsellors for the Archdiocese. At times, the Archdiocese provided financial assistance for private counsellors for victims.

### **The advisory panel**

7.21 Cardinal Connell told the Commission that the appointment of an advisory panel for the Dublin Archdiocese was an important innovation from his point of view. The panel's role included advising on how a bishop or religious superior should consider the following:

- the complaint itself;
- the appropriateness of providing help, if needed, to a person making a complaint and the family of the person;
- the appropriateness of the accused priest or religious continuing his or her present pastoral assignment having regard to the paramount need to protect children; care needed to be taken that a decision by a priest or religious to take leave of absence from a ministry would not be construed as denoting guilt on his or her part;
- how the right of the accused priest or religious to a fair trial on any criminal charge could be preserved and his or her good name and reputation appropriately safeguarded;

- whether a specialist professional evaluation of an accused priest or religious should be sought at this stage;
- the needs of a parish or other community where an accused priest or religious has served;
- the needs of the wider community including the appropriateness or timing of any public statement.

7.22 The inaugural meeting of the Dublin Archdiocese's advisory panel took place in April 1996. The Archbishop had invited Mr David Kennedy, a prominent businessman, to chair the panel. The panel included men and women from the psychiatric, social work, legal and business communities. Membership also included three clerical representatives: the assistant chancellor at the time, Fr Paul Churchill, an auxiliary bishop, Bishop Eamonn Walsh and one other. The panel was divided evenly between men and women. The majority of the lay members were parents and all members gave their service on a voluntary basis. The panel met on a monthly basis in 1996 and 1997 and slightly less frequently thereafter, averaging about eight to ten meetings every year.

7.23 Mr Kennedy emphasised, in evidence to the Commission, that the role of the panel was advisory, rather than judicial. He told the Commission that the panel had considered 50 cases by 2007. The panel considered 27 of the cases in the Commission's representative sample.

*Advisory panel procedure*

7.24 Each case of alleged or suspected child sexual abuse which came to the attention of the Archdiocese was presented to the panel by an official of the diocese who was appointed by the Archbishop to oversee and implement the various protocols recommended in the 1996 guidelines. The panel then reviewed the case and, when necessary, made a written recommendation to the Archbishop on any aspect of the case on which it wished to comment.

7.25 The main principle guiding the panel's recommendations was the safety and welfare of children. The panel was required to strike a balance in forming judgements which would minimise the risk of future offending while at the same time not infringing on the individual's natural rights. To ensure the achievement of this the panel committed itself to the following tasks:

- a prompt investigation of all allegations;
- careful, confidential and professional attention to each case;
- implementation of the guidelines approved by the Bishops' Conference;
- reviewing of diocesan procedures and protocols in relation to the issue of child sexual abuse.

*Advisory panel guidelines*

- 7.26 As already noted, the Advisory Panel guidelines stated that  
*“in all instances where it is known or suspected that a child has been, or is being, sexually abused by a priest or religious, the matter should be reported to the civil authorities. Where the suspicion or knowledge results from the complaint of an adult of abuse during his or her childhood, this should also be reported to the civil authorities”.*
- 7.27 The identity of the priest against whom an allegation had been made was not made known to the panel members. Mr Kennedy told the Commission that a system of pseudonyms was used as far as practical, to protect the confidentiality both of the priest and the complainant. He said he felt this was also necessary to protect the impartiality and independence of the panel's deliberations.
- 7.28 From the beginning, a protocol was reached with the Archbishop that he would respond formally to every recommendation made by the panel. These recommendations were communicated directly to the Archbishop.
- 7.29 Cardinal Connell said that every case that came to him from 1996 onwards was sent to the panel and that he accepted and implemented every recommendation. The chairman of the panel supported Cardinal Connell's evidence in this respect. The Commission agrees that he did so in respect of the cases it has examined.
- 7.30 Cardinal Connell stated that the way the process worked in practice was that, if a complaint came to his attention, he would refer it to the chancellor whom he had appointed the delegate at that time. The delegate would then prepare a report for the advisory panel. When assistant delegates were appointed, they usually prepared the reports.

7.31 The Archdiocese was slow to let victims know of the existence of the advisory panel or its membership. This was unfortunate as it created a climate of mistrust among victims about its activities. Their complaints and the responses of the accused priests were presented to the panel by a priest delegate. One of the victims who gave evidence to the Commission expressed concerns that the delegate presenting the case to the panel was a member of the panel. In fact that was not the case.

#### **Guidelines for possible re-admission to limited ministry**

7.32 The key determining factor in the panel's decision-making process was the potential future risk to children. However, the panel recognised that an important element in the prevention of abuse and the protection of children is a process of renewal and reform of the offender. It advocated that an offender should be supported in whatever efforts he makes to change his behaviour so that he can live a life free of abusive behaviour. The offering of therapeutic help is considered vital in respect of this process.

7.33 The options outlined by the panel for a priest who has offended are: retirement under monitored conditions, laicisation, a penal process with a view to dismissal from the clerical state or assignment to an appointment of limited ministry that does not involve unsupervised contact with children. These options were developed from the following concerns:

- The responsibility for decision making in this area rests solely with the Archbishop, irrespective of the panel's recommendations.
- The panel recognises that there will always be severe practical limitations to any possible return to ministry and despite not adopting an absolute position that no form of ministry can ever be possible for a priest who has offended, the reality is that a return to ministry will not normally be considered as a realistic option by the panel.
- Apart from future risk, the other issues for consideration are the interest of the victim(s), the good of the Church, the good of the priest concerned and the expectations of the faithful.
- In reviewing the possibility of a return to ministry the Advisory Panel must consider the following information: statements of evidence, penalties imposed by the court (if any), any civil

proceedings pending or settled in relation to the offender and, finally, any penalties imposed under canon law.

- A return to ministry will require all of the following conditions to be met:
  - completion of an appropriate investigation of the issues and allegations leading to virtual certainty that all possible allegations are known;
  - psychological assessment that reveals minimal or no risk;
  - full compliance and co-operation on the part of the priest throughout the process;
  - openness on the part of the priest to disclose information to those who need to know including, but not limited to, those in a position of responsibility over him;
  - the passage of sufficient time since the offence occurred, to permit a mature judgment about the priest's disposition;
  - introduction of a constant monitoring programme including an after-care programme as prescribed by a professional adviser.
  - no outstanding criminal charge or period of suspended sentence.
  - the panel must also consider the nature and frequency of any offences, the appropriateness of the offender's response to the allegations, the age of the victim(s), the clinical diagnosis of sexual orientation towards children and whether there are ongoing civil actions.

7.34 A crucial condition for re-admission is a full and comprehensive psychological assessment whose primary focus is risk assessment. Unless such an assessment indicates minimal or no risk, then a priest will never be in a position to exercise publicly any priestly ministry. When such concerns continue to exist the following options are available: retirement, laicisation or dismissal.

7.35 If a priest has been assessed as posing minimal or no risk then this must be verified through the experience of the advisory panel and the delegate, particularly in respect of compliance and co-operation in the



process. He is also required to show compliance with any process prescribed as well as continuing to show a manifest spiritual dimension.

- 7.36 Practical implications of a return to work are broken into three phases:
- Phase 1 - Generally the priest will not have a sacramental ministry of any kind but may be engaged in some administration work on behalf of the diocese;
  - Phase 2 - When there is no pending criminal action then in time the priest may be allowed engage in limited sacramental ministry, such as to a convent of retired nuns;
  - Phase 3 – The priest may be allowed a limited parish chaplaincy or full chaplaincy to a retirement home or nursing home.

7.37 There is an onus on any priest in this situation to find identifiable employment or constructive work. Inability to do so may result in him having to consider laicisation.

7.38 It is essential to ensure that an appropriate monitoring programme is put in place including continued psychological assessment, spiritual support and vigilance on the part of those in a position of responsibility, which will have to continue as long as the priest remains in the clerical state. Victims would also need to be advised of the priest's possible return to ministry.

7.39 Laicised priests should not be in a position to misrepresent their status as a means of relating to young people.

7.40 In the Commission's view, while recognising that the advisory panel was not totally independent in that its members were appointed by the Archbishop, it did a great deal of valuable work. Not only did it advise on what should be done initially following the referral of a complaint but it also sought regular updates on the implementation of its recommendations. What it did not appreciate, and the Commission would not expect it to do so given the voluntary and part-time nature of its role, was that the monitoring system for many of the abusing priests was very poor.

7.41 It was unfortunate, in the view of the Commission, that the panel did not have an opportunity to hear from some of the individual complainants

early on in its activities. While the Commission is satisfied from documents it has seen that support for victims was a major concern of the panel, nevertheless, it seemed to some complainants who gave evidence to the Commission that the whole focus of the panel was on the accused priest with little or no consideration being given to the suffering of victims. An opportunity was given to two complainants to speak at a one-day seminar which the panel members attended and that appeared to be the extent of the panel's involvement with victims. This encounter did not take place until 2003. Mr Kennedy told the Commission that the meeting with victims *"confirmed our views that, insofar as providing an adequate service to victims, there were a number of things that could be done better and should be improved...the diocese was not delivering all that it should under this heading"*.

7.42 The Commission is aware that the panel recommended to the Archdiocese that it should avail of the helpline and counselling service provided by Faoiseamh and that its use of Faoiseamh as a referral agency should be publicised in future media briefings.

7.43 Monsignor Dolan's analysis that the establishment of an independent Child Protection Service for the Archdiocese, with a victim support person in place, was a very necessary step in gaining victim confidence was correct. His analysis was supported by the advisory panel who also recommended an independent Child Protection Service for the Archdiocese.

#### **Other initiatives by Church authorities**

7.44 During the process of attempting to implement the *Framework Document* a number of other initiatives were undertaken by the Irish Bishops' Conference around the issue of child sexual abuse.

#### *Committee on child abuse*

7.45 In 1999, a committee on child abuse was established under the chairmanship of Bishop Eamonn Walsh. Its principal role was to liaise with the government's Commission to Inquire into Child Abuse (the Laffoy Commission, subsequently the Ryan Commission). Members of the committee included representatives from the professions of psychology, canon law, counselling, education, clergy and religious.

### *Research into child abuse*

7.46 In 2001, the committee on child abuse commissioned an independent research study on child sexual abuse by clergy. The Health Services Research Centre of the Department of Psychology, Royal College of Surgeons in Ireland conducted the study.<sup>47</sup>

7.47 The overall aim of the study was twofold. First, since this was an issue with international relevance, an important aim was to extend scientific knowledge about the impact of child sexual abuse by clergy beyond the individual in order to assess its impact on all of those likely to be affected. These range from the family of the abused, convicted members of the clergy and their families and colleagues, clergy and church personnel and the wider church community. Secondly, the broad aim was to understand clerical child sexual abuse in the Irish context: what were the salient factors concerning its occurrence and management and how can this information be used to inform practice in the future. This study was published in December 2003. In the Commission's view this was a very valuable contribution to the debate on child sexual abuse by clergy.

7.48 The Bishops' Conference and two religious orders have also contributed some funding towards research being carried out by UCD university lecturer Marie Keenan into why priests abuse.

### *Child protection office*

7.49 In July 2001 the child protection office of the Irish Bishops' Conference was established. This served all the dioceses of Ireland and is not to be confused with the Dublin Archdiocese's Child Protection Service – see Chapter 3.

### *Independent audit*

7.50 In April 2002, the Irish Bishops' Conference announced a nationwide independent audit into the handling of all complaints of child sexual abuse by diocesan priests or religious in diocesan appointments dating back to 1940. Judge Gillian Hussey was appointed to chair the audit. In December 2002,

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<sup>47</sup> Goode, McGee, O'Boyle: *Time To Listen: Confronting Child Sexual Abuse by Catholic Clergy in Ireland* (Dublin: The Liffey Press, 2003).

Judge Hussey decided to cease work on this audit as the Minister for Justice, Equality and Law Reform had announced that he was preparing legislation which would provide a statutory basis for a new mechanism for investigating matters of significant and urgent public importance and it was his intention that such a scheme would include the handling of clerical sexual abuse. Judge Hussey believed her audit would be duplicating the work of the state.

- 7.51 The Commission believes that it is unlikely that this initiative by church authorities would have succeeded since some bishops claimed in 2008/9 that, for legal reasons, they were unable to comply with the Health Services Executive audit.

*Child protection trainers*

- 7.52 The Bishops' child protection office in conjunction with St Patrick's College, Maynooth commenced a national training initiative. The first 19 graduates received their certificates in December 2005. Following their accreditation they were to act as training facilitators in their own dioceses and provide information and support in developing safe practices and procedures for dealing with young people in parishes. A further group of 25 students were in training during the currency of the Commission. One of the purposes of the training was to prepare for the introduction of *Our Children Our Church* (see below).

*New guidelines for dealing with child sexual abuse*

- 7.53 The Framework Document was subsequently reviewed and replaced by a document entitled *Our Children Our Church*.<sup>48</sup> This was published amid controversy in late 2005. The Committee charged with developing it had been abandoned in 2005 as it failed to reach agreement on the contents of the document. This was because some of the groups who were represented on the committee were unhappy with some proposals being made. Eventually a document was put together by the former chairperson of the Committee with the assistance of two child protection experts.

- 7.54 The Commission's terms of reference do not extend to examining the application of the policies set out in *Our Children Our Church* by the Dublin

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<sup>48</sup> The Irish Bishops' Conference, The Conference of Religious of Ireland, The Irish Missionary Union: *Our Children, Our Church: Child Protection Policies and Procedures for the Catholic Church in Ireland*; (Dublin: Veritas Publications, 2005)

Archdiocese. The Commission will examine them in the context of its inquiry into the diocese of Cloyne.

7.55 New guidelines were introduced in 2009 by the National Board for Safeguarding Children. This board was set up in 2006 and replaced the bishops' child protection office. Mr Ian Elliot, the chief executive of the National Board which covers all 32 dioceses in the island of Ireland, told the Commission that all dioceses, religious congregations and other parts of the Church that wish to be part of a new child protection policy will have to sign a commitment to implement the policy.

7.56 The names of those church authorities who fail to sign will be made known to the public.

7.57 Again, the Commission will examine these guidelines in the course of its inquiry into the diocese of Cloyne.

**Introduction**

8.1 The finance secretariat of the Archdiocese deals with two main areas - finance and building. Bishop Desmond Williams was episcopal vicar for finance and pastoral development from 1972 until 1990. During most of that time, he was also head of finance. Fr Patrick Carroll worked with him from 1979 to 1987 and was head of finance from 1985 to 1987. For the bulk of the period under investigation by the Commission, Monsignor John Wilson worked in the finance secretariat. In 1988, he was appointed head of the finance secretariat. From September 1990 he succeeded Bishop Williams under the new title of financial administrator. He left that position in February 2005 and he became a parish priest in 2006. The current financial administrator and most of the staff of the finance secretariat are lay people.

8.2 Fr Carroll and Monsignor Wilson gave evidence to the Commission about those aspects of the finances of the Archdiocese which are relevant to the Commission's terms of reference. The Commission was particularly interested in how the Archdiocese financed the following:

- compensation awards to victims of child sexual abuse;
- support services for victims of child sexual abuse;
- income and other support for those priests who were laicised, dismissed or had their faculties removed as a result of complaints of clerical child sexual abuse.

**Compensation to victims**

8.3 The first compensation payment which was made directly to a victim of clerical child sexual abuse was made by the Archdiocese in 1998. The payment made to Andrew Madden in 1993 was made directly by Fr Payne with the help of a loan from the Archdiocese – this is described in Chapter 24. Prior to 1998, there were some payments made by individual priests and financed directly by them and not by the Archdiocese. The Archdiocese arranged insurance cover against such claims in the 1980s – the history of this cover is outlined in Chapter 9. As described there, the lump sums paid by the insurance company to the bishops of Ireland under the 1996 and 2001 agreements were placed in the Stewardship Trust. From 1998 until 2005, compensation payments by the Archdiocese to victims of clerical child sexual

abuse were paid from the Curial Trust and partial reimbursement of those payments was received from the Stewardship Trust. A small number of individual priests paid some or all of the compensation personally. Since 2005, the Archdiocese has funded all of such compensation from the Curial Trust unless the claims are covered by the 1996 insurance policy.

- 8.4 Compensation was paid to a total of 77 complainants in respect of 16 priests in the representative sample. (Of the total of 46 priests in the representative sample, 34 are priests of the Archdiocese, 11 are members of religious orders and one belongs to a UK diocese.) The total paid to the complainants up to July 2008 was just under €7 million. In addition, legal costs were just under €3 million. The net cost to the Archdiocese, taking account of contributions to, and reimbursements from, the Stewardship Trust, was €7 million.

#### *The Stewardship Trust*

- 8.5 The Stewardship Trust was established in 1996 utilising, in the first instance, the lump sum received from the insurance company under the 1996 agreement with the bishops, together with annual subscriptions from each of the dioceses. The proceeds of the 2001 agreement with the insurance company were also placed in the trust. The objects of the trust are:

- to fund and enable protection measures against child sexual abuse in the individual dioceses;
- to assist the health and wellbeing of people who have been the victims of child sexual abuse;
- to assist bishops with the liabilities incurred by their dioceses as a result of child sexual abuse.

- 8.6 The trustees of the fund are the four archbishops of Ireland.

#### *The Stewardships Trust's interaction with the Archdiocese of Dublin*

- 8.7 Claims by complainants were almost always made against the individual priest, the Archbishop personally and the Archdiocese. The handling of these claims was dealt with by the Archdiocese's solicitors. In the vast majority of cases, the individual priests had no assets with which to meet any claims. When a case was settled, the solicitors presented the case to the claims advisory committee of the trust. That committee then recommended to

the trustees of the Stewardship Trust whether or not to refund the Archdiocese. In every instance known to the Commission, the recommendation was positive. The Stewardship Trust had no role in determining whether or not compensation would be paid to the complainant or the amount of that compensation.

8.8 The Archdiocese of Dublin was both the largest contributor to, and beneficiary of, the Stewardship Trust. The contribution of each diocese to the trust was assessed on the basis of population. The Dublin Archdiocese has, by far, the largest population of any diocese. It also had the greatest number of claims related to child sexual abuse and was also, therefore, the greatest beneficiary of the Stewardship Trust. Between 1997 and 2005, the Archdiocese of Dublin made contributions of approximately €2.5 million to the Stewardship Trust. The Trust reimbursed the Archdiocese almost €5.5 million in order to pay compensation to the victims of child sexual abuse. In most of the cases, it appears that 90% of the compensation and the legal fees associated with individual cases came from the Stewardship Trust. All the money paid by the Archdiocese of Dublin into the Stewardship Trust came from the Curial Trust (see below). The balance of the compensation payments also came from the Curial Trust.

8.9 The existence of the Stewardship Trust did not in general become known to the public until the Archdiocese issued a press release in 2003. It would appear that the bishops were concerned that publicity about the existence of the trust would result in more claims against dioceses.

8.10 From December 2005, the Stewardship Trust ceased to provide financial support to dioceses with their compensation payments. The Archdiocese independently funds claims which arise unless they are covered by insurance (see Chapter 9). The compensation payments are made from the Curial Trust.

### **Support services for victims**

8.11 The Child Protection Service of the Dublin Archdiocese was established in 2002. It is funded from the Pastoral Services Fund which in turn receives its funds through the Share collection. This is one of the collections taken up at Sunday masses throughout the Dublin Archdiocese.



In its first full year of operation, 2003/2004, the expenditure on the Child Protection Service was just over €164,000. It currently costs about €260,000 a year.

- 8.12 The Curial Trust funds payments for the treatment of victims of child sexual abuse. Between 1996 and 2008, almost €700,000 had been spent on such treatment. This includes the Archdiocese's contribution to Faoiseamh. Faoiseamh is an organisation which provides telephone counselling and a counselling and psychotherapy referral service for people who have been sexually, physically or emotionally abused by priests or religious. It is funded by the Conference of Religious of Ireland (CORI) and by a number of Catholic dioceses including the Archdiocese of Dublin.

### **Supports for priests**

#### *General Income of priests - the Common Fund*

- 8.13 Priests who are working in the Archdiocese receive their individual income (called a common stipend) from the Common Fund. This is a central diocesan fund which was established in 1967 to:
- equalise the incomes of priests who are working in the parishes of the Archdiocese;
  - pay priests who hold diocesan appointments but who are not attached to any particular parish;
  - assist the Dublin Diocesan Clerical Fund Society which looks after sick and retired priests.
- 8.14 The fund receives its money from the collections which are made at weekend masses, from Christmas, Easter and other dues, from stole fees (that is, contributions at events such as weddings and funerals) and from other income generated in the parishes. Costs such as the support grant to the Clerical Fund Society, administration and the costs of private health insurance premiums for all the priests are taken into account. The amount which is paid to the individual priest is dependent on the income from all these sources less the costs. Priests are paid the same basic payment with an increment based on years of service. The standard stipend for a curate in 2008 was €27,000.

- 8.15 Priests are liable to pay tax and PRSI and are eligible for social welfare pensions such as the State Pension (Contributory) in the same way as other residents of Ireland.

*Termination payments*

- 8.16 A number of priests who have left the priesthood have received a lump sum termination payment from the Common Fund. At present (2009), the amount of the lump sum is calculated on the basis of a number of weeks' income per year of service; this is similar to the statutory redundancy payments scheme. Such payments are not confined to priests who leave for reasons associated with child sexual abuse.

- 8.17 Three priests in the representative sample (two of whom were convicted of clerical child sex abuse) received lump sums from the Common Fund. The Common Fund has been reimbursed from the Curial Trust in respect of the two convicted priests.

*Dublin Diocesan Clerical Fund Society*

- 8.18 The Dublin Diocesan Clerical Fund Society was established in 1861 to support priests who are unable to hold an appointment due to illness and priests who are retired. As already stated, it receives a support grant from the Common Fund and it also has income from some investments. It pays ill and retired priests a monthly grant which is equivalent to the stipend paid to curates in active service. As already noted, the Archdiocese also pays private health insurance premiums for its priests. Any priest who incurs medical costs of a significant nature not covered by private health insurance is supported by the Clerical Fund in meeting the costs involved.

- 8.19 The Clerical Fund Society has also supported priests who are accused of child sexual abuse. When such a priest was removed from office and/or was undergoing treatment, the income support payments to him were in general made from the Clerical Fund Society. The amount paid was broadly similar to the income of active priests.

- 8.20 The costs of treatment courses undertaken by priests who were accused or convicted of child sexual abuse were also paid by the Clerical

Fund Society. Eight priests in the representative sample are currently being supported by this fund; three of these are convicted child sexual abusers.

- 8.21 In November 2007, Archbishop Martin asked the management committee of this fund to examine the grants being given to priests who had been convicted of child sexual abuse or who had admitted to such behaviour. The committee expressed concern that priests in this category were receiving the same charitable grant as priests in good standing. It was agreed that such individuals would be approached by a competent assessor and someone who knew their child sexual abuse history to invite them to make a contribution to ameliorate the damage caused to the Archdiocese. If they had the means, the assessor could determine that a reduced amount should be paid to them in future.

#### *The Curial Trust*

- 8.22 The Curial Trust resulted from a merger in 1986 of the Archbishop McQuaid Curial Trust, the Archbishop McQuaid Charitable Trust, the Archbishop Walsh Charitable Trust, the General Charities Fund and the Education Fund. This trust receives funding from a number of sources, including from individual archbishops, but in the main is composed of bequests and donations which were or are given to the Church, not for a specified purpose, but for the general charitable purposes of the diocese and charitable purposes at the Archbishop's discretion.

- 8.23 The Archdiocesan contribution to the Stewardship Trust came from the Curial Trust. This trust also funded the part of the compensation payments to victims which was not financed by the Stewardship Trust. In addition, this trust was used to make payments to individual priests in order to enable them to reintegrate into society after laicisation. The Curial Trust also funded payments for the treatment of victims of child sexual abuse.

- 8.24 It was from this fund that the loan to Fr Payne was made in 1993 (see Chapter 24).

- 8.25 Two convicted clerical sex abusers are currently being supported from this fund.

#### *The Poor of Dublin Fund*

- 8.26 The Poor of Dublin Fund is a fund accumulated from bequests to Archbishops of Dublin for relief of the poor of the diocese. It was used to provide an income for Fr Ivan Payne when he was laicised in 2004. The fund has now been reimbursed from the Curial Trust – see Chapter 24 for details.

#### *The Post Graduate Fund*

- 8.27 The Post Graduate Fund was established for the purposes of paying the fees and expenses incurred by priests in undertaking further courses of study. It has been diocesan policy that, if it is considered likely to be beneficial, priests who resign from ministry are offered the possibility of the diocese paying the fees of courses that they may wish to undertake in order to prepare them for transition to lay life.

- 8.28 This policy has also been applied to priests accused of or convicted of child sexual abuse. Such opportunities are funded by the Post Graduate Fund.

- 8.29 Ten diocesan priests in the representative sample received money from the Post Graduate Trust. Most of the amounts were modest; the highest was just over €18,000 but most were between €1,000 and €3,000. One priest also received €10,000 from the Clerical Fund for educational purposes.

#### *Legal fees*

- 8.30 Priests who are accused of child sexual abuse have legal representation of their choice. Legal fees were paid on behalf of 16 diocesan priests by the Archdiocese. The total cost of this to July 2008 was just over €77,000. It is the policy of the Archdiocese that priests pay their own legal fees if they are charged with an offence. Some priests were granted criminal legal aid by the courts.

#### *Treatment costs*

- 8.31 The Archdiocese spent almost €564,000 on the treatment of diocesan priests. Up to July 2008, over €340,000 of this was spent on the 34 diocesan priests in the representative sample. In some cases where the Archdiocese referred priests for treatment, the Archdiocese did not receive bills – it could be that these were paid by way of private health insurance or were paid

directly by the priests themselves. The amount spent on each priest varied hugely. It is difficult to provide meaningful comparisons as the value of money changed considerably over the time period covered. The largest amount, in absolute terms, was the €85,000 spent on Fr Guido\*<sup>49</sup> between 2003 and 2005. The largest, in real terms, was probably the £29,000 (€37,000) spent on Fr between 1981 and 1987.

### **Summary of current financial provisions for priests in the representative sample**

There are 46 priests in the representative sample. The following is the position as of July 2008:

Eleven are or were members of religious orders; four of these are dead; the others are being supported by their orders. One priest belongs to a UK diocese.

Of the 34 priests from the Dublin Archdiocese:

- ten are dead;
- eight are supported by the Clerical Fund Society; three of these are convicted child sex abusers. One, Fr Naughton, is not being directly supported; a payment is made to St Patrick's Missionary Society in respect of him (see Chapter 29);
- two are supported by the Curial Trust; both have been laicised and both are convicted child sex abusers;
- nine are not supported by the Archdiocese and are not in ministry; five of these are laicised; two are convicted child abusers;
- five are supported by the Common Fund; four are in ministry in parishes and one is not in ministry.

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\* Names marked with an asterisk are pseudonyms.

**Introduction**

9.1 The principal insurers for the Archdiocese of Dublin and most, if not all, parishes and Catholic schools in Ireland during the period under investigation by this Commission was Church & General Insurance Company. The company was originally formed principally to provide insurance cover for parishes, religious orders and Catholic schools. It was initially named the Irish Catholic Property Insurance Company Limited and was founded by the Catholic Hierarchy in 1902. The business of the company developed so that, by the 1960s, it had begun to underwrite mainstream general insurance business. In order to accommodate this development, the company changed its name to Church & General Insurance Company (in this report referred to as Church & General). In 1998, the company became part of the Allianz Group.

**The need for insurance**

9.2 The evidence reviewed by the Commission suggests that serious consideration was first given in 1986 to obtaining specific insurance cover for the benefit of the Archdiocese of Dublin for any potential liability falling upon it arising out of child sexual abuse by a priest of the Archdiocese. The timing is significant because the date of seeking insurance cover is clearly a date by which the Archdiocese had developed a realisation that child sexual abuse was a serious problem for it.

9.3 A central consideration in determining the necessity for obtaining such cover was an exploration by the Archdiocese of its potential vicarious liability for the actions of its priests. A legal opinion on the law of Ireland at the time was obtained by the Archdiocese from a senior counsel.

9.4 Following a brief period of consultation, an approach was made on behalf of the Archdiocese to Church & General with a view to securing insurance cover for liability arising out of claims against the Archdiocese alleging child sexual abuse by priests. Church & General understood that the impetus for this approach came from a visit by Archbishop Kevin McNamara to the USA where he learned of difficulties in an American diocese arising from allegations of sexual abuse by priests of that diocese. It need hardly be

pointed out by this Commission that the Archbishop's understanding of the need for insurance came from events much closer to home than the USA. At this time, the Archdiocese had knowledge of approximately 20 priests against whom allegations of child sexual abuse had been made, or about whom there were suspicions or concerns.

9.5 At that time, consideration was also given to obtaining a policy that would provide insurance cover for criminal defence costs arising from the prosecution of priests for alleged child sexual abuse. In the end, this additional cover was not sought.

#### **The first special policy**

9.6 On 2 March 1987, Church & General issued a policy for the benefit of the Archdiocese of Dublin (in this report referred to as 'the special policy'). The stated insured was Archbishop McNamara and "*his predecessors or successors in that office*". The initial premium was £515, with a limit on any single claim of £50,000. There was a stated limit of aggregate cover of £200,000 for all claims during the period of cover. The first period of cover was between 2 March 1987 and 1 March 1988. The then general insurance manager in Church & General told the Commission that he did not believe that he would have offered this type of cover to the general market at the time.

9.7 The policy mandated that immediately the insured (the Archbishop) became aware of a priest behaving in such a way as would be likely to give rise to a claim under the policy, or immediately an investigation revealed substantial grounds for believing that a priest was behaving in such a way as would be likely to give rise to a claim under the policy, the Archbishop was required to:

- remove that priest from the duty in the course of which the misconduct occurred and from all other duties as appropriate having regard to the misconduct;
- arrange for medical treatment;
- not permit such an individual to resume duty without professional opinion that the resumption was appropriate and timely.

9.8 The former general manager told the Commission that no proposal form was completed by the Archdiocese of Dublin before the inception of this policy. There was no questionnaire completed nor was any form of risk assessment undertaken by Church & General of the possible financial exposure that such a policy might bring. The evidence given to the Commission was that there was no indication given by the Archdiocese during the negotiations for the policy of any facts that would indicate that the Archdiocese had any prior experience of allegations of child sexual abuse by priests. The former general manager stated that he had no specific recollection of asking the Archdiocese specific questions about its knowledge of the possibility of such claims against it. He did indicate that he would have been interested in receiving *“any information which would have had relevance to the policy”*.

9.9 The indemnity was provided by Church & General was on the basis of ‘claims made’ and/or ‘claims notified’ during the period of insurance cover. This was the first policy written by Church & General on a ‘claims made’ basis. This meant that the insurance cover was provided for the date when the claim was made to the Archdiocese and notified to Church & General rather than for the date of the alleged occurrence of the abuse. An exclusion clause provided that cover would not extend to: *“any claim arising from circumstances which at the inception of the policy were known to the Insured and might reasonably be expected to give rise to a claim”*.

9.10 The former general manager told the Commission that the decision to insure on a ‘claims made’ basis was his and did not arise out of any request by the Archdiocese.

#### **Information known to the Archdiocese**

9.11 At the time of the inception of the policy, the authorities within the Archdiocese were aware of child abuse allegations involving about 20 priests. Information such as this would undoubtedly have led to difficulties in seeking to recover funds by way of indemnity from Church & General with respect to some of these cases, arising from the wording of the exclusion clause previously referred to.



### **Policy limits and wording**

9.12 On the first renewal of the policy, the limit of liability cover on any one claim was increased from £50,000 to £125,000, with an annual aggregate cover not exceeding £250,000. The annual premium was increased to £800. The special policy was made available to all dioceses in Ireland. All but one of the dioceses purchased special policy cover. Premiums in the range of £35,000 - £40,000 were collected by Church & General from dioceses in 1989 and 1990 with respect to special policies. After 1990, no renewal notices were issued and no premiums were collected.

### **The parish protection policies**

9.13 Church & General, prior to offering the various dioceses the special policy, had for a considerable period of time looked after the public liability requirements of most of the parishes in Ireland by way of a 'general' insurance policy known as the 'parish protection policies'. These policies provided that "*in the event of any accident happening*" the insured was indemnified "*against liability at law for damages in respect of accidental bodily injury or illness to any person*". There was no mention of child abuse in this policy.

9.14 Shortly after the inception of the first special policy for the Archdiocese of Dublin, Church & General was contemplating a specific exclusion of liability for sexual abuse from the general parish protection policies. This was not pursued by Church & General, at least in part because of a fear that such an action might raise the profile of the issue and might "*innocently or maliciously be construed as a response to a proliferation of claims*". However, without mentioning child sexual abuse, an amendment was made in 1989 to the parish protection policies by way of the incorporation of criminal act exclusion. The effect of this exclusion was such that Church & General was protected against the possibility of any liability to indemnify parishes arising from the criminal acts of priests. As child sexual abuse is punishable under the criminal laws, this exclusion operated to insulate Church & General from liability under the parish protection policies from 1989 onwards with respect to any claims arising from child sexual abuse.

9.15 In 1989, Church & General issued a circular to the bishops in Ireland (other than Dublin) which, firstly, warned that then existing parish insurances

did not provide cover for child molestation by a priest and, secondly, announced the availability of a special policy that provided that type of indemnity. The circular cautioned that the existence of such a policy ought to be revealed only on a need to know basis lest its existence give rise to a proliferation of claims.

- 9.16 Church & General did not collect premiums due from the Archdiocese of Dublin in the years 1991 or 1992, apparently because of an internal review by Church & General into the nature of the cover that it would continue to provide. The Chancellor of the Archdiocese, Monsignor Alex Stenson, did, however, seek and obtain an assurance from the company that cover was still in place during this period of review in the absence of payment.

#### **Church & General reassessment**

- 9.17 By 1993, the position of Church & General regarding exclusions in the wording of policies was becoming more robust. An internal memorandum recommended:

*“In the past we have stood back from issuing ‘excluding’ endorsements on all liability policies and sections, except in the case of the parish protection policy which, when drafted and reissued in 1989, included what Senior Counsel believes to be an effective exclusion without actually mentioning sexual abuse. At this stage, I think it is imperative and probably ‘politically’ acceptable to add specific exclusion to all liability policies/sections. In issuing endorsements for attachment to existing covers, we probably need to make the point that the introduction of endorsement does not imply that coverage previously existed.”*

- 9.18 The evidence suggests that, by 1994, Church & General was becoming concerned about its financial exposure arising from civil claims against the various dioceses by people alleging child abuse by priests.

- 9.19 In February 1995, Church & General prepared a discussion paper which was used for the purposes of negotiating, without prejudice to the legal rights of Church & General, the extent of the liability of Church & General to indemnify the Church for child sexual abuse claims. The document proposed the establishment by the bishops of a global fund that would meet any such

claims and, among other things, that Church & General would contribute a “sizable opening contribution”. The discussion paper contained the following paragraph:

*“One option open to the Company is to specifically exclude all cover for future claims arising from sexual abuse and to deny any entitlement to indemnity in respect of claims arising out of past events. However we do not believe that such an action would be in the interests of the Company or it’s policyholders. Since it’s foundation in 1902 the Company has forged close working relationships with ‘the Church’ and is universally recognised as the ‘Church Insurer’. Over the years we have developed products matching the unique insurance needs of a Diocese. The current crisis presents a new challenge which we are totally committed to meeting. However we can only do so on terms which reflect the exposure. In an effort to assist you we have looked at every possible alternative and we feel the setting up of a fund in the manner suggested hereafter will help to resolve your past and future problems in dealing with the issue of sexual abuse and it will also remove the uncertainty and potential cover disputes in many individual cases. That being said it will be appreciated that insurance cannot provide the total answer to the problems which a Diocese faces in the area under review”.*

9.20 Representatives of Church & General met a special sub-committee of the Irish hierarchy’s finance and general purposes committee which was established in March 1995. The view within Church & General in September 1995 was that *“a number of the high profile cases are not covered by the special policy because of prior knowledge on the part of the diocese concerned”*. This comment is not confined to the Archdiocese of Dublin but it did have a number of high profile cases at the time.

9.21 Church & General was trying to introduce a new version of the special policy that would be more restricted in its cover. Due to delays in reaching an agreement with the sub-committee, Church & General told the Archdiocese of Dublin that it would formally cancel the special policy from 31 January 1996. The proposed cancellation date was subsequently extended while negotiations proceeded between representatives of the bishops and Church &

General. Those negotiations centred on the establishment of a central fund to cater for civil claims arising out of child molestation by priests throughout the island of Ireland. It was envisaged that the money to be paid into the proposed central fund was to come from both Church funds and Church & General.

### **Lump sum agreement**

9.22 Eventually an agreement was reached and executed on 2 July 1996, whereby Church & General agreed to pay to the Archbishops and Bishops of Ireland the sum of £3.4 million in settlement of any indemnity under any of its policies throughout the island of Ireland for all child sexual abuse claims arising from instances of abuse prior to 1996. The essential terms of the agreement are summarised as follows:

- All outstanding premiums were waived.
- Church & General agreed to provide a claims advisory service for all child sexual abuse cases for a period of five years, free of charge, which service would exclude the provision of legal services.
- Church & General would have no further liability under the special policy or under the general parish protection policies in respect of child sexual abuse by priests.
- Disputes under the agreement would be resolved by an arbitrator appointed by the President of the Law Society.
- A confidentiality provision stated: *“the contents of this agreement shall be confidential as between the parties hereto and none of the parties shall disclose the existence of or the contents hereof to any third party save as may be required by law.”*

9.23 Arising from the resolution of issues with Church & General, any civil claim for damages against any of the dioceses that relate to incidences of child abuse (as defined in that agreement) which occurred prior to 1996 would be satisfied out of this new central fund which was managed by the Church, without recourse to Church & General.

## **Negotiations reopened**

9.24 Claims for compensation for child sexual abuse started to be received by the Archdiocese in the mid 1990s. There was considerable publicity about the loan provided by Archbishop Connell to Fr Ivan Payne to facilitate a settlement with Andrew Madden – see Chapter 24. Clearly, the Archdiocese of Dublin and the other dioceses were concerned about future liabilities.

9.25 In March 1999, the Archdiocese's legal representatives sought to reopen negotiations with Church & General based on perceived differences between a memorandum furnished to bishops in 1995 by the former general manager of Church & General and an earlier memorandum also produced by him to the bishops in 1987 which, it was claimed, affected the agreement concluded in 1996. The 1987 memorandum was important in that it had been circulated to the Irish bishops in the Episcopal Conference of 1987 and was stated by the Church advisors to be contradictory to the subsequent one of 1995 in terms of the understanding as to the liability of Church & General to indemnify the various dioceses under the parish protection policies. The 1987 memorandum stated:

*"It is not the intention of the policy to deny an insured indemnity for deliberate acts by a person for whose actions the insured might be responsible.*

*Without a specific 'sexual abuse exclusion' our policies provide indemnity to the employer/principal...for claims arising out of actions committed by employees or agents".*

9.26 That 1987 memorandum went on to consider whether, in the provision of certain policies, liability arising from sexual abuse by the insured's employees ought to be specifically excluded. The 1987 memorandum also noted that in the USA, there was a specific exclusion of such cover, because no reinsurance cover was available in that jurisdiction. As previously mentioned in this chapter, the suggested specific exclusion of indemnity cover for liability arising as a result of sexual abuse by priests was not, as events transpired, incorporated into the parish protection policies at that time.

9.27 In a letter from the Archdiocese's solicitors to Church & General, the writer put the matter as follows:

*“Our clients were not aware of the 1987 memorandum when considering your 1995 memorandum. They were not aware of the 1987 memorandum when instructing this firm and others about the request from Church & General to them to enter negotiations about the totality of the insurance arrangements then in place against the risk of child sexual abuse claims. Had they been aware of the 1987 memorandum our clients would not have commenced negotiations about the parish policies and would not have entered the 1996 Agreement.”*

9.28 Church & General strongly countered any suggestion that they had misrepresented, innocently or otherwise, matters in the 1995 memorandum. The solicitors for Church & General wrote:

*“We do not know how you can assert this proposition on behalf of your clients. The fact is that the July 1987 memorandum was addressed to your clients, was circulated at the Episcopal Conference in November 1987 and was therefore at all material times known to your clients. It is absurd to suggest that your clients only learned of something in 1998 when in fact they have had the 1987 Memorandum since July 1987.*

*Secondly, your letter states that had the 1987 memorandum not defined the extent of the cover under the parish protection policies, your clients would have put in place insurance cover against the risk. The fact is that your clients did put in place special policies dealing with these risks because of the doubt and confusion concerning the extent of the cover provided by the Parish Protection Policies.*

*Thirdly, your letter overlooks the fact that the specific purpose of the 1996 Agreement was to compromise the parties’ assertions in relation to their respective rights and liabilities pursuant to the 1996 Agreement. Indeed, the record of the negotiations leading up to the 1996 agreement demonstrates that your clients asserted that they had very significant entitlements under the Parish Protection Policies”.*

9.29 Despite the strong position adopted in this correspondence, negotiations were reopened between the bishops and Church & General.

These negotiations resulted in a further agreement between the bishops and Church & General which was executed in July 2000. There is no doubt that commercial forces played a significant role in the outcome of those negotiations as Church & General was anxious to ensure that it retained as much of the general Church insurance business as it could.

- 9.30 The main provisions of this second agreement were as follows:
- The claims advisory service was extended for a further period of ten years from April 2001.
  - The liabilities of Church & General were crystallized so that, if the aggregate cost of child sexual abuse claims (including legal and other costs) was greater than £7.5 million, Church & General would contribute 50% of the costs between £7.5 million and £13.5 million and 33.33% of the costs between £13.5 million and £19.5 million.
  - The payments between the limits of £7.5 million and £13.5 million were conditional on Church & General retaining all of the general insurance business of the Church (excluding motor insurance) between 2001 and 2004. The payments in excess of the £13.5 million threshold were conditional on Church & General retaining 50% of the general insurance business of the Church.
  - Three 'donations' of £120,000, £60,000 and £60,000 were made by Church & General to "*A Trust nominated by the Archbishops and Bishops*". The Commission considers that the word 'donations' is a misnomer as the three payments were negotiated as a payback to the Church arising from profits made by Church & General from premiums collected from Church-related policies.
- 9.31 The bulk of the money received from Church & General was placed in a trust fund called the Stewardship Trust. The trustees of the Stewardship Trust were the four Archbishops of Ireland. The manner of operation and funding of the Stewardship Trust is considered in more detail in Chapter 8.
- 9.32 Church & General was under no illusion at the time of this second agreement that it would be called upon to pay its contribution on the band between £13.5 million and £19 million. A former claims director of Church & General told the Commission: "*We had resigned ourselves and the money*

*was set aside in our accounts from the time of the agreement...it was just a question of when it was going to be paid after that”.*

### **Cover for liability arising from 1996 onwards**

9.33 Following the conclusion of negotiations between Church & General and the bishops in Ireland, each diocese sought its own policy of insurance with respect to liability in law arising for damages caused by incidents of child sexual abuse occurring after 1996 perpetrated by priests about whom the insured had no knowledge or suspicion of such wrongdoing prior to the incident giving rise to the claim. It is understood by the Commission that the premiums payable with respect to this policy were substantially greater than the premium payable for the first policy. The premium currently (2009) paid by the Archdiocese is €53,371.

9.34 Following the settlement with the Church in 1996, Church & General shredded all of its files relating to the notification of claims in order to ensure that confidentiality was preserved and to avoid the possibility of any leaking of information into the public domain. Church & General had no further need to refer to the material contained in those files by virtue of the terms of the settlement.

### **The Commission’s assessment**

9.35 The early consideration by the Archdiocese of Dublin in 1986 of the matter of obtaining insurance indemnity signalled a significant realisation at that time of the potential exposure of the Archdiocese to civil claims arising from the abuse of children by priests. At that stage, there were no actual claims, but there was knowledge within the Archdiocese of about 20 priests against whom child abuse allegations had been made or about whom there were suspicions or concerns.

9.36 The Archdiocese of Dublin and Church & General agreed a policy of insurance in 1987 (the ‘special policy’) without most of the normal commercial requirements for insurance policies – there was no proposal form nor risk assessment and the policy was on a ‘claims made’ basis. This policy was subsequently made available to the other dioceses on the same basis. No renewal notices were issued in respect of this policy after 1990 and no premiums were paid. This policy, and the subsequent agreements in 1996



and 2000, proved to be extraordinarily good value for the Church. In return for trivial premiums amounting to £40,000 (approximately €50,800) the dioceses of Ireland received approximately €12.9 million by way of indemnity.

9.37 Church & General's actual liability under the 1987 insurance policy was reduced because the Archdiocese had, at the time of the inception of the policy, significant information concerning the actions of certain priests. That information, in certain cases, would have been sufficient to permit Church & General to deny liability to indemnify the Archdiocese under the special policy with respect to certain claims arising from child sexual abuse by priests of the Archdiocese.

9.38 Notwithstanding the above, Church & General still had potentially significant exposure to the various dioceses in Ireland, including the Archdiocese of Dublin, under its parish protection policy, because of the absence of an exclusion of indemnity for sexual abuse by priests, together with significant exposure under the terms of the special policy agreed in 1987.

9.39 The Catholic Church in Ireland, including the Archdiocese of Dublin, is a major client of Church & General. Church & General representatives told the Commission that it was a commercial decision to extend this level of indemnity, having regard to the overall value of the Church's business.

**Introduction**

10.1 The principal college for the education of diocesan priests, or what the Church itself calls “formation”, in the Archdiocese of Dublin during the period under investigation by the Commission, was Holy Cross College, situated at Clonliffe Road in Drumcondra, Dublin and generally known as Clonliffe College. There were a number of alternatives to Clonliffe as a means of achieving admission to diocesan ministry during this period, namely, St Patrick’s College, Maynooth, Co Kildare; the Irish College in Rome and the Propaganda College in Rome. Clonliffe College was founded in 1859 and ceased operating as a seminary in June 2000. It had two boards, the college council and the college finance committee. The college council was made up of priests appointed to the staff of the college by the Archbishop of Dublin and this council was responsible for advising the college president with regard to policy and its implementation. The college finance committee was made up of the college president, the vice-president, the director of formation, the college bursar, the diocesan financial administrator and a number of other priests of the diocese appointed by the Archbishop. The function of that committee was to advise the college president on financial policy, its implementation and oversight.

10.2 From the 1960s, the programme for a candidate attending Clonliffe consisted of seven years training. The first three years were typically taken up with philosophical studies at University College Dublin, at the conclusion of which the successful student would obtain a Bachelor of Arts degree. The remaining four years of training were taken up with theological studies in Clonliffe College itself. It was also possible to complete the first phase of training in philosophical studies at the Milltown Institute of Theology and Philosophy, initially by way of the award of a National Diploma in Humanities recognised by the National Council for Education Awards (now the Higher Education and Training Awards Council - HETAC) and, later, by a Bachelor of Arts in philosophy.

**Eligibility and application**

10.3 Canon 241 of the code of canon law states: *“The diocesan bishop is to admit to the major seminary only those whose human, moral, spiritual and*

*intellectual gifts, as well as physical and psychological health and right intention, show that they are capable of dedicating themselves permanently to the sacred ministries.”*

10.4 Canon 1041 excludes from formation as a priest those suffering from “*insanity and psychological infirmity*”, where such infirmity results in the priest being incapable of properly fulfilling his ministry. The faithful are obliged by canon 1043 to reveal to their priest or bishop any irregularities in the make-up of a candidate, so that those irregularities may be properly investigated. Even if those irregularities are discovered after the process of formation commences in a seminary, the bishop retains the discretion to exclude the candidate from continuing his formation for the priesthood.

10.5 A minimum requirement for entry into Clonliffe College was that the candidate had passed the Leaving Certificate and/or Matriculation.

10.6 An application form was completed by the candidate, supported by a letter of recommendation from his parish priest. Clonliffe College then dispatched a questionnaire directly to the parish priest, which sought information on certain aspects of the candidate’s personality and background, such as his mental health, any history of crime, his general suitability for the priesthood and whether or not he was under any undue influence that led him to his application. At this stage, the director of vocations of the college decided whether or not a candidate was suitable for further assessment by the college.

10.7 The candidate then underwent a medical examination. The next step was an in-depth interview between the candidate and a member of the college staff.

### **Psychological assessment**

10.8 Sometime around the early 1970s, psychological assessments of candidates began. The psychological assessment would typically address such areas as personal background, social background, general intelligence, special aptitudes, vocation interests, personality and sexuality.

10.9 Following the initial assessment, the candidate met his assessors who would provide the candidate with feedback on the outcome of his assessment. The assessors in turn typically met the president of Clonliffe College, the director of formation and the director of vocations, before a final decision was taken on admittance. Monsignor Peter Briscoe, who was first appointed to the college in 1978 and was president from 1989 until its closure in 2000, indicated to the Commission that he had no specific recollection that anyone was ever excluded as a result of concerns arising from the psychological assessment about sexual predilections involving children. Most of the priests in the representative sample had completed their formation before this time period.

### **Garda vetting**

10.10 There was apparently no process whereby potential candidates for the priesthood were vetted by An Garda Síochána. In December 2000, the then director of vocations for the Archdiocese of Dublin, Fr Kevin Doran, commenced correspondence with An Garda Síochána in an attempt to open an avenue to allow the director to have potential candidates screened for any police history. At that time, Fr Doran was informed by An Garda Síochána that it dealt with clearance applications only with respect to prospective full-time employees of certain designated organisations operating within the health board areas, where such employees would have access to children and vulnerable adults. As of 2002, the Catholic Church was not one of those designated agencies. In August 2002, the National Child Protection Office of the Irish Bishops' Conference lobbied the then Minister for Justice, Equality and Law Reform, seeking to have the Church designated as a body that could seek vetting of prospective priests through a priests-clearance procedure. The Commission understands that the current position is that the prospective candidate supplies the diocese with a written authority to An Garda Síochána authorising them to supply the diocese with a note of any criminal convictions recorded against him.

### **Evaluation during formation**

10.11 Bishop Eamonn Walsh was Dean of Clonliffe College from 1977 to 1985. He told the Commission that the college council evaluated the students on an ongoing basis. Monsignor Alex Stenson, who was a member of the staff at Clonliffe College for 25 years, told the Commission that evaluation

meetings would occur approximately once a month. The Commission was unable to obtain any records of any evaluations carried out on any of the priests in the representative sample. The absence of this information was in part explained by Bishop Walsh:

*"I always recall ... Brendan Houlihan, as President saying to me when a priest is ordained he should leave the college with a clean record. If we have approved him for ordination, he should start from scratch and maybe that accounts for the attitude towards records, that once you promoted the person for ordination then he is a graduate and let the file begin from that day forward".*

### **Pastoral placement**

10.12 During each year of formation, a student was assigned a pastoral placement. In addition, the student was placed in a group which was formed for the purposes of considering the pastoral, social and theological aspects of the placement. These pastoral reflection groups were led either by the director of formation of the college or by someone else with specialist qualifications in this area within the College staff. The student was expected to write a half-yearly report of his progress in the pastoral setting, which would be presented to the director of formation and to his own supervisor.

10.13 Monsignor Briscoe outlined to the Commission the type of pastoral experience that a candidate was likely to attain during his period at Clonliffe College. In his first two years in the seminary, he would typically visit poor and disadvantaged people in special centres. The third year involved youth work and in years four and five, respectively, the candidate would be assigned to work with seriously ill people and in prison chaplaincy. In the final two years at the college, the student was placed in a parish and was usually maintained in the same parish.

10.14 During the first six years in the seminary, pastoral experience typically took place during an afternoon or an evening each week. In his final year, the student would normally be ordained as a deacon and it was also normal for him to spend an extended period of his summer vacation working in a parish in the south of England.

### **Spiritual director**

10.15 Once admitted to the College, all candidates were required to have a spiritual director. It was a matter for the candidate himself to choose his spiritual director, but his choice was subject to ratification by staff at the College. The role of the spiritual director is as a spiritual mentor and as a confessor.

10.16 Canon 246-4 states: *“The students are to become accustomed to approach the sacrament of penance frequently. It is recommended that each should have a director of spiritual life, freely chosen, to whom he can trustfully reveal his conscience.”*

Canon 240 states: *“Besides ordinary confessors, other confessors are to come regularly to the seminary; while maintaining seminary discipline, the students are always free to approach any confessor, whether inside or outside the seminary...in deciding about the admission to orders, or their dismissal from the seminary the vote of the spiritual director and the confessors may never be sought.”*

10.17 This canon enshrines a principle in canon law that whatever discussions the candidate has with his spiritual director are absolutely confidential and may not be revealed to anyone other than the candidate. Monsignor Briscoe told the Commission that the spiritual director’s function was to work exclusively with the students, so that the students gained discernment as to whether they were suitable for a life in the priesthood or not. He confirmed that the work was entirely confidential and that the spiritual director could not breach that seal of confidentiality.

### **Sexuality, celibacy and child sexual abuse**

10.18 Evidence received by the Commission confirmed that during the formation process there was some training in the demands of celibacy. The matter was usually addressed in courses and talks organised by the college. Some of those courses and talks also addressed the issue of sexuality. Monsignor Briscoe indicated to the Commission that the issues of a student’s own sexuality and celibacy were matters for the student to deal with in conjunction with his spiritual director. From the 1980s onwards, there was a series of sexuality seminars held on an annual basis. The Commission was

advised that the purpose behind the seminars was largely to emphasise the importance of the issue of sexuality and to provide a means for the students to reflect upon, and to become aware of, personal issues that they needed to address in this area. The seminars were provided by personnel who were trained as counsellors with expertise in the psycho-sexual area. An extra emphasis was placed on the understanding of celibacy in the final years leading up to ordination.

### **Training on the issue of child sexual abuse**

10.19 The Commission has concluded, on the basis of its investigations, that in the years 1970-1995, there was no structured training on matters concerning child sexual abuse by priests or others. It is not apparent that the issue of child sexual abuse was a matter within the contemplation of the psychological assessors during that time.

10.20 The evidence suggests that the issue of child sexual abuse as a relevant factor in the screening and training of priests became a matter of some relevance in the mid-1990s. The document *Child Sexual Abuse: Framework for a Church Response* (generally referred to in this report as the *Framework Document* – see Chapter 7) was published in 1996. The Commission is of the view that this publication reflected a marked awareness of the existence of the problem of child sexual abuse and, in many ways, was a positive attempt to identify ways in which this problem could be addressed.

10.21 Chapter 8 of the *Framework Document* deals specifically with the selection and formation for the diocesan priesthood and for religious life. It recommends the screening of candidates, including a full psychological assessment by an experienced psychologist who is well versed in the Church's expectations of the candidates, with particular attention to celibacy. Paragraph 8.2.2 of the document states:

*“Formation is progressive, and must be evenly balanced between the human, spiritual, intellectual and pastoral. The whole process of formation of candidates for the priesthood and religious life should foster an integration of human sexuality and the development of healthy human relationships within the context of celibate living.”*

- 10.22 Chapter 8 goes on to recommend that lay men and women should be involved in the training of priests and religious and that those in formation should have reasonable access to counsellors. It cautions that in the pastoral placement of students, the candidates must expect and receive the same formal supervision as other trainee staff in those pastoral settings.
- 10.23 At paragraph 8.2.6, it is stated:  
*“Since candidates for priesthood and the religious life are being prepared for ministries in which they will be in a position of sacred trust in regard to children, they must be made aware of what are appropriate boundaries in relating to children and of the absolute importance of respecting these boundaries.”*
- 10.24 At paragraph 8.3.1, it is stated:  
*“Since a genuine spirituality is central to all personal life, good spiritual direction and counseling are invaluable for priests and religious. Serious personal inadequacies can hide behind questionable spirituality. Ongoing education promoting psycho-sexual maturity, healthy living and human wholeness is essential. Good practice guidelines should be developed in order to promote awareness of the need for appropriate pastoral boundaries.”*
- 10.25 In chapter 9, paragraph 9.2.1 states:  
*“Priests and religious should receive ongoing education and in-service training in regard to the nature and effect of child sexual abuse. This is necessary to ensure that they reach out with competence and compassion to all victims of child sexual abuse whom they may encounter in the course of their ministry. Furthermore, such education and training should help towards ensuring that proper procedures for the protection of children are put in place in respect of all institutions that they are involved in managing – schools, youth facilities, for example.”*
- 10.26 At paragraph 9.2.2 it is recommended that:  
*“Information days or seminars on child sexual abuse continue to be arranged for priests and religious. These information days and seminars should be followed up by the provision of new and additional*



*information as and when it becomes available. It would be particularly appropriate if practitioners from the health authorities, the police, and other professional bodies were contributors to this educational process.”*

10.27 Paragraph 9.2.4 states: *“Education in the area of child sexual abuse needs to be provided on an ongoing basis to all involved in the formation of students to the priesthood and religious life.”*

10.28 Paragraph 9.2.5 states:  
*“Candidates for the priesthood and religious life need to continue to be made aware of the nature of child sexual abuse and its effects on victims and their families. In the course of their future ministry they may well come across situations of child sexual abuse, and so it is important to help them gain knowledge as to how to respond properly to these. Particular attention should be paid to the issue of child sexual abuse by priests and religious. Candidates should be made aware of the implications and consequences of this in civil law and canon law and of the procedures for dealing with it.”*

10.29 The document *Our Children, Our Church* was published in 2005. The purpose of *Our Children, Our Church* was stated to be the provision of a set of policies and procedures for those who have responsibility for the protection of children and young people in the life of the Catholic Church in Ireland. In its introduction, it is stated that this document is intended to provide a more comprehensive and unified approach to child protection across the Catholic Church in Ireland than was previously indicated in the *Framework Document*. Its aim was to bring greater clarity and consistency to the Church’s procedures in relation to child protection.

10.30 Chapter 5 of *Our Children Our Church* deals with the selection and formation of candidates for the priesthood and religious life. It recommends that formation personnel are satisfied that the future priest or religious can relate appropriately both to children and adults before presenting him/her for ordination or final vows.

10.31 It is also recommended that those engaged in formation provide comprehensive training in safe and best practice in working with children and young people. There was a recommendation that during formation, essential matters to be addressed should include:

- the absolute importance of respecting appropriate boundaries in the interaction with children;
- knowledge of the theories associated with sexual abuse;
- how abusers operate and the elements of treatment for abusers;
- Awareness of the immediate and long term impact of abuse of all kinds;
- The pastoral needs of all those affected by child abuse.

### **Current position**

10.32 Since 2000, Clonliffe College has ceased to operate as a seminary. At present, candidates for the diocesan priesthood in Ireland may attend St Patrick's College, Maynooth; St Malachy's College, Belfast and the Pontifical Irish College in Rome. Today, the sexual history of a candidate is relevant in his assessment for admission to the seminary. The *Ferns Report*, which was published in 2005, identified areas of sexual history that the Church at that time regarded as necessary to consider when assessing the suitability of seminarians. For convenience, the section of the *Ferns Report* is reproduced below:

*"With regard to sexual history, the following issues are addressed:*

*An applicant who has been in a prior relationship should have concluded that relationship and have allowed for a significant period of time before being accepted by a Diocese. In the case of a candidate who has had a sexual relationship (heterosexual), a substantial period of celibate living should precede entry into the seminary;*

*In a recently expressed judgement of the Congregation for Divine Worship and Discipline of the Sacraments, the Cardinal Prefect stated "The ordination to the Diaconate or to the priesthood of homosexual persons or those with a homosexual tendency is absolutely*

*inadvisable and imprudent and, from a pastoral point of view, very risky... A person who is homosexual or who has homosexual tendencies is not, therefore, suitable to receive the sacrament of sacred orders.” (Congregations Bulletin, December 2002). According to Dr Farrell, the College of Maynooth accepts the force of this reasoning and advice;*

*If it becomes known that a seminarian is engaging in physical genital activity with another person while he is in formation, he is asked to leave immediately. Certain other kinds of behaviour are also inconsistent with celibate chastity e.g. engaging in flirtatious or seductive behaviour and dating. It goes without saying that being in possession of, or accessing, pornographic material (whether print, video, electronic, digital etc.) is completely incompatible with being a seminarian. It is also unacceptable to participate in or to advocate the gay subculture by which is meant allowing a seminarian to define his personality, outlook or self-understanding by virtue of same-sex attraction;*

*Insofar as it is possible to determine, the older applicant should have achieved a successful integration of his sexuality and the younger applicant should have the capacity for such integration. Where there are clear contrary indications, the applicant should not be accepted;*

*A competent person should take a full history of the candidate. Particular attention should be paid to the presence of sexual abuse, sexual acting out or sexual orientation problems etc;*

*The child protection policy as set down by the Episcopal Conference should be fully complied with.”*

The Ferns Report concluded:

*“Thus, much has changed in the screening process and in the overall formation of seminarians in the aftermath of the Second Vatican Council. Today a much greater emphasis is placed on screening for men who are able to live a life of chaste celibacy. In order to ensure that candidates possess the psycho-sexual-socio maturity necessary*

*for priests today, Maynooth College has been providing more resources for students, which is a vast contrast to the situation 40 years ago. Celibacy formation is integrated into the entire seminary programme through conferences, formal lectures and advice from formation personnel, spiritual direction and the fulltime availability of professional counselling.”*

*“Whilst the rigorous standards now in place in Maynooth would be of assistance in ensuring that only men who are emotionally, intellectually and sexually mature are admitted for ordination, the reality is that very few diocesan priests are ordained in Ireland in any year. Increasingly, parishes are welcoming priests ordained abroad to replace retiring clergy. Priests who are ordained in seminaries outside Ireland should be subject to the same level of assessment as has been undertaken by seminaries such as Maynooth.”*

10.33 Archbishop Martin confirmed to the Commission that the rector of the Irish College in Rome reports annually to the bishops in Ireland. He confirmed that issues of training and sexuality are managed in a similar way to the current approach in St Patrick’s College, Maynooth. The Archbishop also receives from St Patrick’s College twice yearly reports on each student from the Archdiocese of Dublin. Archbishop Martin confirmed to the Commission that a final psychological assessment is carried out on all students in the later part of their studies before ordination.

10.34 This practice and previous psychological testing requirements in Ireland appear to have been adopted independently of any formal directions from Rome on the issue of mandatory testing. The position of the universal Church was clarified on 30 October 2008, when the Congregation for Catholic Education for Seminaries and Educational Institutions (a congregation of the Roman Curia with responsibility, among other matters, for the regulation of seminaries) presented a document entitled *Guidelines for the use of psychology in the admission and formation of candidates for the priesthood*. This document advises that the early detection of “*sometimes pathological*” psychological defects of men before they become priests would help avoid tragic experiences. The document recommends that seminary rectors and other officials should use outside experts if they cannot handle the screening

themselves. The testing is to be directed at areas of immaturity in development. It states:

*"Such areas of immaturity would include strong affective dependencies; notable lack of freedom in relations; excessive rigidity of character; lack of loyalty; uncertain sexual identity; deep-seated homosexual tendencies, etc. If this should be the case, the path of formation will have to be interrupted."*

- 10.35 Vatican officials, when introducing the document to the press, said that the tests would not be obligatory, but would be decided on a case-by-case basis when seminary rectors wanted to be sure that a man was qualified for the priesthood.

#### **The views of others**

- 10.36 Fr Desmond O' Donnell, a psychologist who is a diagnostic tester for admission to ministry for the Church of Ireland and the Catholic Church, gave expert evidence to the Commission. He has been carrying out such testing in Ireland for more than ten years. He suggested to the Commission that a practice adopted by the Church of Ireland, in having prospective candidates carry out ministry work in their own parish for a period of three years before application and professional assessment, is a good way of identifying those candidates with personalities inconsistent with ministry.

- 10.37 Dr Marie Keenan, a lecturer and psychotherapist, who has a particular interest in therapeutic work with victims and perpetrators of sexual abuse, gave expert evidence to the Commission. She believes the system of training currently in place at Maynooth does not achieve openness on the part of seminarians on issues of sexuality. The principal reason why this arises, she articulates, is fear of expulsion arising from disclosures which might be regarded as inconsistent with life in the priesthood. Dr Keenan told the Commission that her experience is that seminarians believe that any disclosures about homosexual ideation would result in the student being required to leave the seminary. Dr Keenan wanted to stress that there are some exceptional bishops and church leaders in the Catholic Church in Ireland who foster opportunities for a true spirit of openness and honesty among their priests by providing true mentoring and honest leadership, despite what she considers to be a closed clerical culture that operates within

the Catholic Church on the issues of sexuality and celibacy. Dr Keenan argues that, at the very least, the seminary structure and programme content are in need of serious independent review if the aim is to produce emotionally and sexually healthy men, ready for the challenges involved in the life of dedicated priesthood.

10.38 Monsignor Connolly, the President of St Patrick's College, Maynooth is of the view that Dr Keenan's assertion that disclosures about homosexual ideation would lead to expulsion is too terse and un-nuanced. He considers that the issue is neither ideation nor orientation but rather is of a tendency to a particular form of sexual behaviour. He points out that the position of the Holy See represents a much more differentiated position than that summarised by Dr Keenan. He describes the approach of the College in the following terms:

*"When a candidate is selected as a seminarian for a Diocese, he enters a process of formation at a seminary or a propaedeutic<sup>50</sup> course of formation elsewhere. In keeping with the Church's vision of candidates in this process, the seminary is a formation community where 'the candidate himself is a necessary and irreplaceable agent of his own formation. Nobody can replace the responsible freedom of individual persons' (Pastores dabo vobis no. 69)<sup>51</sup>. An aim of seminary formation is that the student, by the time he will be ordained for ministry, will have a secure sense of his human and priestly identity; able to hold the ambiguities and complexities of his life in a wholesome tension with Gospel and ministerial values.*

*The formation staff at St. Patrick's College Maynooth endeavours to facilitate an environment where that goal can be achieved and the concomitant level of responsibility in the individual can be supported and promoted. In the course of formation, there are a number of fora where, in a confidential way, the seminarian can explore and arrive at a satisfactory resolution of those areas of his life that he discovers present as inconsistent with priestly ministry.*

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<sup>50</sup> Providing preparatory or introductory teaching.

<sup>51</sup> *Apostolic Exhortation on the Formation of Priests in the Circumstances of the Present Day* promulgated in March 1992 by Pope John Paul II.

*Throughout the entire process of formation for ministry, the Church is moved by two concerns: to safeguard the good of her own mission, and at the same time, the good of the candidates. To this end, one of the necessary aspects of the process of formation is the on-going evaluation of the human and ministerial identity as it takes shape in the candidate. This includes the suitability of a candidate for ministry in an increasingly demanding culture.*

*The seminarian is fully engaged in this process with his Formation Director and any decisions taken in this regard are made with his co-operative collaboration. A man who is wholesome, aware of his strengths and limitations and able to support his commitment with a solid spiritual life is always the best prospect for a fulfilled and effective priestly ministry.”*





## **Part 2**



**Selecting the representative sample**

11.1 The Commission received information about complaints, suspicions or knowledge of child sexual abuse in respect of 172 named priests and 11 unnamed priests. (Some or all of the 11 unnamed priests may, of course, be included in the 172 named priests.) After a preliminary examination, the Commission concluded that 102 of these priests were within remit. Of those priests who were not within the Commission's terms of reference, two main reasons for their exclusion were identified:

- the complaint was made outside the time period 1975 – 2004;
- the priest was not operating under the aegis of the Archdiocese of Dublin at the time of the alleged abuse. The priests in question here were mainly priests belonging to religious orders and societies who were working in Dublin but not on behalf of the Archdiocese.

11.2 The Commission decided that the only realistic way in which it could select and report on a representative sample of those complaints and suspicions was to select a representative sample of the priests concerned. Otherwise, the Commission may have had to investigate every priest within remit. The representative sample was chosen from the group of 102 priests who were within remit. The Commission took the view that it was impractical to make two separate samples for those against whom complaints were made and those about whom there were suspicions or concerns. Almost invariably, there were suspicions or concerns expressed about those against whom complaints were made. There was a very small number of priests about whom suspicions or concerns were expressed but about whom no actual complaints were made.

11.3 From the outset, the Commission was of the view that the purpose of sampling was to allow the Commission to examine and report on the complete picture in an efficient and expeditious manner. Accordingly, the sample selected had to ensure coverage of the entire of the relevant period, being January 1975 to May 2004. It had to encompass single abusers and multiple abusers to allow examination of differences in treatment (if any). It had to include instances where there was interaction between Church and State authorities in respect of complaints, knowledge, suspicions or concerns

of child sexual abuse so that the Commission could discharge its function of reporting on the levels of communication that prevailed between all relevant authorities and indeed whether there was any evidence of attempts on the part of the Archdiocese or other Church authorities or on the part of public or State authorities to obstruct, prevent or interfere with the proper investigation of such complaints. Another factor to be borne in mind is the volume of information available on each case. This led the Commission to conclude that it should examine every case in which the relevant priest had been convicted in the criminal courts. Furthermore, issues such as confidentiality and damage to reputation or good name are less difficult in such cases.

11.4 While bearing these criteria in mind, the Commission engaged the services of a prominent statistician, Dr Teresa Brannick of University College Dublin to devise the sampling method so as to ensure that the sample selected was genuinely representative. She compiled a list of 47 priests spread over the three decades about whom there had been complaints or suspicions relating to child sexual abuse.

11.5 Documentary research into all priests in the representative sample was completed. As a result of this research one priest was found not to have been within the Commission's terms of reference leaving a total of 46 priests to be examined. Later on, the Commission became aware of a small number of other complaints which would have brought the cleric concerned within remit. It would have been impossible for the Commission to revise the representative sample when it became aware of these complaints and, in any event, Dr Brannick was satisfied that the original sample selected was an adequate representative sample even for the larger group.

11.6 The Commission conducted its investigation by means of oral evidence and in-depth analysis of the documentation supplied by all parties. Where gaps in the evidence were apparent, the Commission filled them, where appropriate and possible, with questionnaires and follow up interviews. Follow up was not always possible because a number of the significant participants are dead or too ill to be interviewed.

### **The priests**

11.7 Of the 46 priests in the representative sample, 11 are or were members of religious orders; four of these are dead. One priest belongs to a UK diocese. Of the 34 priests from the Dublin Archdiocese, ten are dead, 20 are out of ministry and four are in ministry. Of the 20 who are out of ministry, 11 are being financially supported by the Archdiocese; nine are laicised.

11.8 Of the 46 priests whose cases were examined by the Commission, 17 were 40 years of age or older when complainants indicated that the first incidence of abuse had taken place. This is a worrying feature in the view of the members of the Commission. Although there is no evidence that any of these priests abused prior to age 40, the Commission, given the evidence it has uncovered, would be reluctant to conclude that no abuse took place prior to the age of 40.

### **The complaints**

11.9 It is important to realise that it was not the function of the Commission to establish whether child sexual abuse actually took place but rather to record the manner in which complaints were dealt with by Church and State authorities. While a significant number of the priests against whom allegations were made admitted child sexual abuse, some denied it. It is also important in the Commission's view not to equate the number of complaints with the actual instances of child sexual abuse. Of those investigated by the Commission, one priest admitted to sexually abusing over 100 children, while another accepted that he had abused on a fortnightly basis during the currency of his ministry which lasted for over 25 years. The total number of documented complaints recorded against those two priests is only just over 70.

11.10 Of the 46 priests surveyed, 11 pleaded guilty to or were convicted in the criminal courts of sexual assaults on children.

11.11 There is one clear case of a false accusation of child sexual abuse – Fr Ricardus\*.<sup>52</sup> There are two cases where there were suspicions or

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<sup>52</sup> Names marked with an asterisk are pseudonyms.

concerns but no actual complaint of child sexual abuse – Fr Guido\* and Fr Magnus\*.

11.12 Of the 320 plus complaints that the Commission is aware of from its representative sample the ratio of boys to girls is 2.3 boys: 1 girl.

### **Personnel in Dublin Archdiocese who dealt with complaints**

11.13 The following were the main people in the Dublin Archdiocese who dealt with complaints of child sexual abuse over the period covered by the Commission:

<b><i>Archbishops</i></b>	<b><i>Period in Office</i></b>
Archbishop John Charles McQuaid	1940 – 1972 (deceased)
Archbishop Dermot Ryan	1972 – 1984 (deceased)
Archbishop Kevin McNamara	1985 – 1987 (deceased)
Archbishop Desmond Connell	1988 – 2004 (retired)
(Archbishop Connell became a Cardinal in 2001.)	
Archbishop Diarmuid Martin	2004 – present
<b><i>Auxiliary bishops</i></b>	<b><i>Period in Office</i></b>
Bishop Joseph Carroll	1968 – 1989 (deceased)
(Bishop Carroll was Administrator of the Archdiocese from September 1984 when Archbishop Ryan departed for Rome to January 1985 when Archbishop McNamara was appointed and again from the death of Archbishop McNamara in April 1987 to the appointment of Archbishop Connell in March 1988.)	
Bishop Brendan Comiskey	1980 – 1984
(Bishop Comiskey was appointed bishop of Ferns in April 1984 and resigned from that position in April 2002.)	
Bishop Martin Drennan	1997 – 2005
(Bishop Drennan is currently bishop of Galway.)	
Bishop Patrick Dunne	1946 – 1984 (deceased)
Bishop Raymond Field	1997 - present
Bishop Laurence Forristal	1980 – 1981
(Bishop Forristal was appointed bishop of Ossory in 1981 and retired in 2007.)	
Bishop James Kavanagh	1972 - 1998 (deceased)

Bishop James Moriarty	1991 - 2002
(Bishop Moriarty is currently bishop of Kildare & Leighlin.)	
Bishop Donal Murray	1982 - 1996
(Bishop Murray is currently bishop of Limerick.)	
Bishop Dermot O'Mahony	1975 – 1996 (retired)
(Bishop O'Mahony also served as chancellor from 1975 to 1981)	
Bishop Fiachra Ó Ceallaigh	1994 – present
Bishop Eamonn Walsh	1990 – present
(Bishop Walsh was dean of Clonliffe College from 1977 to 1985 and also served as priest secretary to the Archbishop from 1985 to 1990; he was Apostolic Administrator of the Ferns diocese from 2002 to 2006.)	
Bishop Desmond Williams	1984 – 1993 (deceased)

### ***Chancellors***

### ***Period in office***

Monsignor Gerard Sheehy	1965 –1975 (deceased)
Bishop Dermot O'Mahony	1975 – 1981 (retired)
Monsignor Alex Stenson	1981 – 1997
(Monsignor Stenson is now a parish priest in the Archdiocese.)	
Monsignor John Dolan	1997 - present

### ***Director of the Child Protection Service***

Mr Philip Garland	2003 – present
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### ***Others***

A number of senior priests who did not have an official role in the area but who were clearly held in high regard by the Archbishop of the time were asked to help investigate individual complaints of child sexual abuse. They included:

- Monsignor Richard Glennon who had been chancellor from 1945 to 1955 and was subsequently a vicar general (deceased);
- Monsignor James Ardlie MacMahon, who was Archbishop McQuaid's secretary from 1954 until 1972 and subsequently an episcopal vicar for religious and a parish priest (retired);
- Monsignor Jerome Curtin, who had been an assistant chancellor, a vicar general, the episcopal vicar for religious and a parish priest (retired);
- Monsignor John O'Regan who had been chancellor from 1955 to 1965 and subsequently a vicar general and a parish priest (deceased).

Once their investigations were complete these men did not generally have any further role in dealing with either the priest or the complainants.

The various secretaries to the archbishops, while they had no official direct role in dealing with child sexual abuse cases, were frequently the conduit for complaints, for receiving professional reports and for communicating with bishops and priests.

### **Treatment centres**

11.14 Priests were sent for assessment and sometimes for treatment to various psychiatrists and psychologists. Long-term treatment was provided in a number of treatment centres of which the most important for the purposes of this report were the centres run by the Servants of the Paraclete and the Hospitaller Order of St John of God. These two organisations are Church authorities.

11.15 The Servants of the Paracletes is a religious order established in New Mexico, USA in 1947, with a stated mission of ministering to troubled priests. In its early years the order treated priests suffering disorders primarily relating to alcohol, but from the 1970s, it began treating priests who had sexually abused children. Because of the nature of its work, its existence was not widely trumpeted, but was known to Church authorities who needed to avail of its services. The order is affiliated with the Discalced Carmelites. Having been established in Jemez Springs, New Mexico in 1947, it expanded rapidly and within 12 years it had 11 houses around the globe, including houses in England and Scotland. One of those houses was in Stroud. Eight of the priests in the representative sample were sent to Stroud.

11.16 The Granada Institute was established in Dublin in 1994 by the Hospitaller Order of St John of God. Its remit is “*to provide assessment and treatment services to those who have committed sexual offences involving children and, where appropriate, to advise on the management of this client population*”. It provides services to lay people as well as clerics. It has seen 25 of the priests in the representative sample.



**Introduction**

12.1 *"We would always be hovering around the late James McNamee when he arrived at the school because he had this very charismatic presence. I would say he was like St. Francis of Assisi, you know, the kids would come around him like pigeons used to come around".*

12.2 This is how a young man described Fr James McNamee to the Commission.

12.3 Fr McNamee was born in 1917, was ordained in 1942, retired to become a convent chaplain in 1979 and died in 2002.

12.4 At least 21 people have made complaints of sexual abuse against Fr McNamee. These complaints date back to his period as a curate in Rolestown between 1950 and 1952, as a curate in Halston Street and Arran Quay between 1952 and 1960, as a curate in Harrington Street from 1960 to 1968 and in Crumlin, both as a curate between 1968 and 1973 and as parish priest between 1973 and 1979.

**Stella Maris Football Club**

12.5 The first allegation about Fr McNamee arose in January 1960, when a former altar boy, on the advice of a priest in Rathfarnham, spoke to a priest in relation to Fr McNamee's behaviour. The former altar boy informed the priest that he had heard from two former members of a football club with which Fr McNamee was associated, Stella Maris, that Fr McNamee had acted in an inappropriate manner when the boys had showered after returning from a trip to the seaside. The former altar boy also stated that he had witnessed Fr McNamee bathing with naked adolescent boys and placing the boys on his shoulders.

12.6 These matters were investigated by the auxiliary bishop, Bishop Dunne. Fr McNamee denied the allegations and stated that he had merely permitted the boys to use the showers after returning from the seaside. Bishop Dunne believed Fr McNamee's version of events, as did Archbishop

McQuaid when it was reported to him. The Archbishop noted that “*as he is a worthy priest I agree that we could not refuse to accept his word*”.

12.7 Fr McNamee informed the Archbishop that he would like to withdraw from the Stella Maris club, the football club from where the allegations emanated, as he was tired, having worked there for a number of years. The Archbishop was willing to let him withdraw but not at once “*lest he be defamed*”.

12.8 On meeting Fr McNamee, Archbishop McQuaid told him to forget about it. Archbishop McQuaid noted that he himself was convinced that the man was quite without blame.

12.9 Subsequently, there were a number of complaints from members of the Stella Maris football club who recalled Fr McNamee swimming nude with other team members.

#### **Swimming pool complaint, 1978**

12.10 The first specific recorded complaint about Fr McNamee and his activities in his home built swimming pool in Crumlin was made in March 1978. However, it is clear that the Archdiocese was aware of suspicions and concerns about his activities before this. A file note of an interview conducted with Bishop Forristal in February 2006 indicated that he remembered a meeting of vicars general in or around the autumn of 1977, at which Archbishop Ryan noted that there had been a lot of incidents involving a swimming pool and Fr McNamee and that consequently Archbishop Ryan expressed the view: “*This fellow has to go. He can’t work in parish work anymore*”. Bishop Forristal told the Commission in 2009 that he accepts that he did say this in 2006 but he is now unsure when Archbishop Ryan made that remark. It may have been sometime after the autumn of 1977. The Commission notes that there was a meeting of the vicars general in the winter of 1977.

12.11 In March 1978, a parishioner complained to a nun that her eldest son had reported that Fr McNamee and a number of boys were swimming and exercising in the nude in a swimming pool in the garden of the priest’s house. It was also alleged that a nude boy sat on the priest’s knee for a chat.

12.12 The nun told the complainant to get in touch with the Archbishop and not to mention it to anybody else. Archbishop Ryan directed Monsignor O'Regan, the parish priest of Sandymount and a former chancellor, to conduct an inquiry.

12.13 Monsignor O'Regan met the mother promptly and took an account of what she had to say. He found her to be a credible witness. He also made inquiries about her two sons and was told that they were truthful boys. His conclusion was that *"a possibly explosive situation exists locally, which could be very scandalous indeed"*. He also stated that *"even now, many innocent boys may be safeguarded, and the whole adult Catholic population spared the hurt of a real scandal in Crumlin"*. There is no evidence as to whether or not Monsignor O'Regan was aware of the 1960 complaint but the Commission considers that he is unlikely to have been told about it. He may, however, have been told of the suspicions and concerns of which the vicars general were aware but this cannot be established.

12.14 Monsignor O'Regan consulted with the local curate and other priests who knew Fr McNamee. The local curate was full of praise for Fr McNamee, stating that he was a good priest and had a real interest in the boys of the parish. One priest, however, accepted the allegations against Fr McNamee and indicated that they confirmed an unproven suspicion he had in the past. He recommended that Fr McNamee should be made to retire and that the pool should be handed over to a parish organisation.

12.15 Monsignor O'Regan elicited further disturbing information from the priests he interviewed about Fr McNamee's activities. He was told that Fr McNamee had built an outdoor swimming pool himself in 1969 and later built an indoor pool. Adults in general were excluded from using the pool and only a small group of boys were selected to use it. The fact that only selected boys were allowed use the pool was resented locally. Fr McNamee spent school break time holding the hands of young boys in the playground and he took young boys for spins in his car. It had also been noted that he had a total aversion and hostility towards all women.

12.16 Some five weeks after the mother's complaint, Monsignor O'Regan and Monsignor Curtin met Fr McNamee concerning the complaints. Fr

McNamee confirmed that he had built the swimming pool himself and acknowledged that adults were excluded from using the pool. He stated that, owing to space constraints, only six boys were permitted in the pool at any one time. He also indicated that, although not common practise, nude bathing did occasionally occur and he did not see anything morally wrong with this.

12.17 Fr McNamee communicated to Monsignor O'Regan his desire to retire from active ministry but the Monsignor encouraged him to stay for a further six months in order to avoid any damage to his reputation.

12.18 Fr McNamee was allowed to remain in his job as parish priest until May 1979. This was despite the fact that the Archdiocese was aware of complaints made in 1960 and of similar types of complaints made in the 1970s. When Archbishop Ryan went to Crumlin for the confirmation ceremonies in May 1979, a former parish priest spoke to the Archbishop of the increasing rumours and gossip about Fr McNamee, but the Archbishop indicated to him that he should leave the matter rest and gave no indication of what he planned to do.

12.19 A complainant gave evidence to the Commission which shows that, as well as abusing boys in the swimming pool, Fr McNamee also abused in his car. This complainant's evidence also illustrates the level of local knowledge and rumours in Crumlin in the 1970s. This complainant told the Commission that between the years 1972 and 1975, Fr McNamee would pick him up from outside the local school. The witness was between the ages of seven and ten at that time. The witness stated that whenever the older boys in the area saw Fr McNamee, they either ran away or started throwing things and shouting insults at Fr McNamee. Apparently he was known as "*Father smack my gee*"<sup>53</sup>. The older boys, some of whom later told the witness that they had been abused by Fr McNamee, did not tell their parents or the younger boys what was going on at the time. As a result, Fr McNamee who, as the witness recalled, drove a green Lancia Delta, picked up boys regularly in the car and abused them.

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Gee is Dublin slang for female genitalia.

12.20 The existence of a swimming pool in a garden in Crumlin in the 1960s and 1970s must, inevitably, have been the subject of much local discussion.

### **Delgany, 1979**

12.21 In June 1979, Fr McNamee's resignation from Crumlin was accepted and in July 1979 he was appointed chaplain to the Carmelite monastery in Delgany, Co Wicklow. The Carmelites were told that he was appointed there for health reasons. Part of his duties in that job was to say mass every morning. While saying mass, he was assisted by various local altar boys. The evidence of a mother of one of the altar boys was that, in fine weather, Fr McNamee would regularly bring a number of the boys to swim at Brittas Bay. When she found out about Fr McNamee and his proclivities, she questioned her son but he said the priest had behaved properly towards them. There was no monitoring of his activities by the Archdiocese and, since the nuns were not told anything of his background, they could not have been expected to take on a monitoring role. The first the nuns knew about concerns relating to Fr McNamee was in 2002, when they were approached by a reporter from RTE who explained that they were investigating Fr McNamee's activities while he was in Crumlin and requesting the nuns' state of knowledge when he came to stay with them.

### **1994 – 1995 Complaints**

12.22 In 1994, a report was received from a young man that he had been abused by Fr McNamee while in Crumlin parish. This young man did not name Fr McNamee but Monsignor Stenson immediately deduced that it was likely to be Fr McNamee. Archbishop Connell instituted a preliminary investigation in November 1994. In the same year, Monsignor Stenson received reports that Fr McNamee was driving around with young children in his car in the Wicklow area, a fact that was independently confirmed by the mother of an altar boy. Having consulted with Dr Patrick Walsh of the Granada Institute, who had seen the files on Fr McNamee, it was decided that Bishop Donal Murray would speak to Fr McNamee about his behavioural difficulties relating to children in order to assess how he had been dealing with these problems. Bishop Murray's purpose would be to inform Fr McNamee that the Archdiocese wished to ensure that there was no "*unfinished business*", particularly at this time. (The Fr Brendan Smyth controversy was raging at the time – see Chapter 7). Bishop Murray told the

Commission that he was unaware of the 1994 complaint to Monsignor Stenson.

12.23 At this stage Fr McNamee was 77 years of age. Bishop Murray called to see him shortly before Christmas 1994. He inquired with the superior as to Fr McNamee's health and general well-being. He failed to mention to the superior the real purpose of his visit and the concerns which the Archdiocese had in regard to Fr McNamee and his behaviour with young people.

12.24 Bishop Murray then saw Fr McNamee and, in the course of a general conversation, asked whether he had any concerns about the recent scandals relating to child sexual abuse. Fr McNamee claimed that he was not personally affected. The bishop said that there had been some things suggested about him in this area in the past but Fr McNamee replied that this was: *"just talk, talk, talk. There is a kind of conspiracy going on: people seeing evil where there is none. A lot of what is been [sic] said is evil and mischievous. The people who make false allegations are themselves evil"*.

12.25 Bishop Murray accepted Fr McNamee's denials that he had young people in the car. This was the extent of his inquiries. The bishop did think that there was some unresolved anger and some denial about the earlier situation, of which Bishop Murray said he had no detailed knowledge. According to Bishop Murray, Archbishop Connell also visited Fr McNamee in December 1994. Archbishop Connell did not inform the nuns about the child sexual abuse concerns even though he had initiated a preliminary investigation into a recent complaint.

12.26 In March 1995, another complainant made an allegation to the Gardaí. This related to the years 1973 – 1975 and concerned nude bathing in the Crumlin swimming pool and handling of the genitalia while drying the young boy off after swimming.

#### **Garda investigation, 1995**

12.27 The garda who took the man's statement at the central detective unit on 1 March prepared a letter on 21 March requesting that the matter be investigated by "G" division, that is, Crumlin, where the offences had occurred. Unfortunately, Crumlin did not receive the file until 7 July, nearly

four months after the complaint was made. There is no explanation on the file for this delay. Once Crumlin received the file, matters were moved along swiftly. On 10 July 1995, the Gardaí contacted Archbishop's House and Monsignor Stenson gave them Fr McNamee's address. Monsignor Stenson immediately contacted Fr McNamee to advise him that a garda investigation was under way and that he should get legal representation. Fr McNamee was interviewed on 14 July in the presence of his solicitor. He made no response to the allegations at that time but in a subsequent statement delivered on 15 August he categorically denied them.

12.28 The file was then sent to the Director of Public Prosecutions (DPP), who because of the delay between the abuse and the complaint, declined to prosecute. The abuse had occurred between 1973 and 1975 and the complaint was made in 1995.

12.29 The complainant subsequently issued civil proceedings and three years later the priest personally made a substantial settlement with the young man in question.

12.30 Fr McNamee's name was one of the names given to the Gardaí by Monsignor Stenson in November 1995 when he handed over the names of 17 priests about whom the Archdiocese had received complaints. Also in November 1995, Archbishop Connell wrote to Fr McNamee relieving him of his duties as chaplain to the Carmelite Sisters.

#### **1995 - 2001**

12.31 Fr McNamee was accommodated in a nursing home in Co Meath. He was opposed to any assessment being done on him by any medical advisor and was also opposed to the nursing home being informed of any past allegations. He himself did inform the nursing home sometime in late 1995 of the allegations. Early the following year, the man who had complained to the Archdiocese in 1994 made a formal statement to Monsignor Stenson. The reporting procedures of the Archdiocese had changed in the previous year and accordingly Monsignor Stenson informed the Gardaí immediately. Some two months later, the Gardaí informed the Archdiocese that no formal complaint had been made by the man. No further action was taken in relation to this matter. It is perhaps surprising that the Gardaí did not consider it

necessary to make further inquiries, especially in view of the fact that they were aware of previous complaints.

12.32 In March 1997, the case of Fr McNamee was referred to the advisory panel (see Chapter 7). The panel was informed of all the allegations received to date.

12.33 In April and May 1997, two further allegations were made. One was made anonymously and the other was made by a man who at the time was suffering from a psychiatric illness.

12.34 Having examined the case, the view of the advisory panel was that there was enough substance in the allegations to create a strong suspicion that they might be true.

12.35 They recommended that a canonical precept (an order from the Archbishop restricting Fr McNamee's ministry) be put in place. In August 1997, the canonical precept was put in place restricting Fr McNamee to celebration of mass at the retirement home in Meath only, forbidding him from visiting his past parishes and forbidding him having any contact with children on his own.

12.36 In 2001, another civil legal action was initiated against Fr McNamee and the Archdiocese. Fr McNamee died in September 2002, just before a number of media reports surfaced regarding allegations of child sexual abuse against him.

### **Media reports**

12.37 In October 2002, following the Prime Time programme *Cardinal Secrets*, the young man who had settled his case with Fr McNamee in 1998 went on the RTE radio programme *Liveline* and spoke about his abuse by Fr McNamee. By the end of October, at least eight men had made complaints of abuse using the garda hotline. The alleged abuses dated back to the 1950s. Many included allegations of requiring the boys to swim naked, under the guise of teaching them how to swim, and then touching them inappropriately. Other allegations related to him drying the boys off after swimming, placing them naked on his knee and once again touching their genitalia or digitally penetrating them.



12.38 It should be said that despite Fr McNamee carrying on the type of behaviour which had characterised his time in Crumlin, there are no allegations of child sexual abuse arising from the 16 years he spent in Delgany. When the Carmelite nuns were informed of the allegations against Fr McNamee by an RTE reporter in 2002, the superior made inquiries from a former altar boy as to whether he had any knowledge of impropriety on the part of Fr McNamee and was informed that he did not.

12.39 In addition to the complainants mentioned above, 21 men have come forward claiming abuse by Fr McNamee during his many appointments. The Commission is of the view that many more were abused. A significant number of complainants are claiming civil damages. To date, a number of cases have been settled and at the time of writing this report a further three are outstanding.

12.40 Those complainants who met archdiocesan officials in recent times, including Archbishop Martin, were satisfied with how the Archdiocese dealt with their complaints. Many were relieved to hear from the Archbishop that they were not alone in their complaints, and victims also expressed gratitude for counselling when it was arranged for them.

12.41 Some expressed sadness at the fact that they had not reported matters earlier to the Church, particularly when the priest was alive, as they thought that might have prevented abuse of others.

#### **The Commission's assessment**

12.42 Overall, the case is an example of how, throughout the 1970s, the Church authorities were much more concerned with the scandal that would be created by revealing Fr McNamee's abuse rather than any concern for the abused.

12.43 Archbishop McQuaid's view, in the early 1960s, that he could not refuse to accept the denials of such a worthy priest was sadly misguided. If action had been taken then, the abuse of a large number of boys could have been prevented. It is quite clear from Bishop Forristal's recollections and from the interview that Monsignor O'Regan conducted with Fr McNamee's colleagues that, in the 1970s, there was significant knowledge of the type of

activities that Fr McNamee was up to with children in his own swimming pool and elsewhere. However, even though he knew there was a problem, the Archbishop did not take any action.

12.44 When a specific complaint was made in 1978, Monsignor O'Regan carried out a thorough investigation and came to the clear conclusion that Fr McNamee was a danger to children. Yet again, the emphasis was on the avoidance of scandal and the protection of the priest's reputation rather than the protection of children. It is particularly shocking that Fr McNamee was encouraged to stay on in the parish in order to avoid any damage to his reputation. The very idea that a priest should have a private swimming pool to which only young boys had access, even in the mid to late 1970s, coupled with his other actions should have caused the archdiocesan authorities to take action far earlier than they did.

12.45 While Monsignor O'Regan did state that perhaps further damage to innocent children might be avoided, not once did he or indeed any of the archdiocesan authorities consider the enormous damage that might already have been done to innocent children.

12.46 Archbishop Ryan, when he discovered that there had been many incidents in the swimming pool with Fr McNamee, should have taken immediate action. The fact that the archives contained a report about similar type activities relating to boys attending Stella Maris football club, albeit not believed at the time, should have given rise to the reopening of that investigation and to an investigation of his activities in the intervening years.

12.47 The fact that he allowed Fr McNamee to stay in Crumlin for a further 15 months was wrong. This wrong was compounded by his transfer to a convent where again he was given access to young altar boys.

12.48 The failure to inform the nuns that the reason for his transfer to their convent was because of concerns about his activities in Crumlin was inexplicable and left them in a very difficult situation when they were questioned by RTE many years later. No attempt was made to monitor his activities while he was associated with the convent and the nuns knew of no reason for monitoring.

12.49 Bishop Murray and Archbishop Connell must accept responsibility for not communicating fully with the nuns in Co Wicklow. When complaints surfaced in the 1990s about Fr McNamee, Bishop Murray visited the convent but did not explain fully the circumstances surrounding Fr McNamee's placement there. He claims he was not fully informed about the details. However it was clear from his memo of the meeting that he was aware that there was an allegation of child sexual abuse made against Fr McNamee in the late 1970s. It seems incredible to the Commission that, when he was asked in December 1994 to talk to Fr McNamee about behavioural difficulties with children, he was not informed that Archbishop Connell had issued a decree initiating a preliminary investigation into the 1994 allegation on 28 November. Once again this highlights the very poor communication that existed within the Archdiocese. Bishop Murray has pointed out to the Commission that Archbishop Connell visited Delgany on 11 December and did not inform the nuns about Fr McNamee's background. This was despite the fact that he had launched a preliminary investigation into a complaint of child sexual abuse against him less than two weeks previously. In the Commission's view neither the bishop nor the Archbishop seemed to have given any consideration to the risk Fr McNamee might have posed to the altar boys attending the convent. Both were aware of his abusive past and that no monitoring system had been put in place in relation to him.

12.50 Nearly all the complainants who reported to the Gardaí were happy with the way the Gardaí dealt with the complaints. As many of the complaints arose after the death of Fr McNamee there was no possibility of a prosecution. Nevertheless the complainants reported that the Gardaí had listened sympathetically to them. The Gardaí also took full and comprehensive statements from them.

12.51 The development of the DPP's approach to cases involving delay is outlined in Chapter 5.

### Introduction

- 13.1 Marie Collins, one of the many people abused by Fr Edmondus, and who was severely affected by the abuse, stated in the documents submitted by her to the Commission:

*“Father [Edmondus] betrayed the trust invested in him by his religious superiors. He betrayed the trust of the hospital authorities. He betrayed my parents’ trust. All had given me into his care. He betrayed my trust and my innocence. He abused his power and used my respect for his religious position to abuse and degrade me - a child - not just a child but a sick child. How much lower than that can you sink? **A man like that deserves our prayers but not our protection**”.* (Emphasis in original)

- 13.2 The Fr Edmondus case is being dealt with by the Commission because it involves a priest who committed a number of sexual assaults on young patients aged between eight and 11 years in Our Lady’s Hospital for Sick Children, Crumlin in the late 1950s and early 1960s. Sixteen years later, when he was based in Co Wicklow, he committed a sexual assault on a nine-year-old child.

- 13.3 The case also falls to be considered by the Commission because, in the 1990s, suspicions about his behaviour while he was a curate in a North Dublin parish were brought to the attention of the Archdiocese.

- 13.4 Fr Edmondus was born in 1931 and ordained in 1957. He was chaplain to Our Lady’s Hospital for Sick Children from 1958 to 1960. He subsequently held a number of appointments in the Archdiocese. His faculties were withdrawn in 1997. In that same year, he was convicted of indecent assault against two girls and served a term of nine months imprisonment. He remains a priest but is prohibited from exercising ministry and is not allowed to wear clerical garb. He currently lives in Dublin.

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<sup>54</sup>

This is a pseudonym.

## Complaint, 1960

13.5 In August 1960, Archbishop McQuaid was informed that a security officer at a photographic film company in the UK had referred colour film, sent to them for developing by Fr Edmondus, to Scotland Yard. Scotland Yard referred the matter to the Commissioner of the Gardaí. There is no evidence of any Garda investigation. However Garda Commissioner Costigan met Archbishop McQuaid and, according to Archbishop McQuaid's note of the meeting, told him that the photographic company had "*handed to Scotland Yard a colour film with label Rev. [Edmondus], Childrens Hospital, Crumlin, Dublin, of which 26 transparencies were of the private parts of two small girls, aged 10 or 11 years*". The Garda Commissioner asked Archbishop McQuaid to take over the case because a priest was in question and the Gardaí "*could prove nothing*". The Commissioner told Archbishop McQuaid that he would do nothing further. No attempt seems to have been made to establish who the two girls in the photographs were. The Commission would like to point out that neither the Dublin Archdiocese nor the Gardaí made discovery of the colour film so the Commission is not in a position to say what happened to it.

13.6 Archbishop McQuaid immediately referred the case to his auxiliary bishop, Bishop Dunne. It is clear that the Archbishop was using the procedures outlined in the 1922 instruction (see Chapter 4). Bishop Dunne expressed the view that a *crimen pessimum* (the worst crime, which includes child sexual abuse) had been committed.

13.7 The next day, Archbishop McQuaid met Fr Edmondus who admitted photographing the children in sexual postures alone and in groups. These photographs were taken in Crumlin hospital. The Archbishop recorded as follows:

*"The children were playing about, lifting their clothes. He rebuked them. Seeing this was a chance of discovering what the genitals were like, he pretended there was no film in the camera he was carrying and photographed them in sexual postures, alone and seated together, chiefly in a way or posture that opened up the parts. He declared that he had done so, as one would take an art photo., seeing no grave sin at all and suffering no physical disturbance in himself. He was puzzled, though he had seen line drawings, as to structure and functions of female. In questioning, I discovered that he had been*

*reared with brothers,<sup>55</sup> had never moved about socially with girls and tended to avoid them as in the hospital with the nurses. I suggested I would get [a doctor] a good Catholic to instruct him and thus end his wonderment.”*

Archbishop McQuaid also recorded: *“I felt that he clearly understood the nature of the sinful act involved and to send him on retreat would defame him”.*

13.8 Archbishop McQuaid and Bishop Dunne then agreed that there was not an objective and subjective crime of the type envisaged in the 1922 instruction and consequently that there was no need to refer the matter to the Holy Office in Rome.

13.9 Later, Fr Edmondus saw the doctor on three occasions. There is no report from the doctor on the Church files.

13.10 While Archbishop McQuaid investigated the matter promptly, he limited his activity to dealing with the priest’s problem. He does not seem to have made any effort to establish who the children involved were, nor did he contact Crumlin hospital nor did he put in place any protocols for future chaplains to the children in that hospital. In view of the fact that he was chairman of the board of directors of the hospital, this was a particular omission. At this stage, Fr Edmondus was no longer the chaplain to the hospital. This failure to contact the hospital or put any protocol in place meant that, when Fr Ivan Payne (see Chapter 24) became chaplain to the same hospital, the hospital had no knowledge of previous wrongdoing by a chaplain. Archbishop Martin, on behalf of the Archdiocese, has suggested to the Commission that what Archbishop McQuaid was trying to establish was whether the subjective and objective elements of a canonical crime had been committed and that he found that no crime had been committed.

13.11 Given that these photographs were taken by deception, when a nurse was absent, given the nature of the photographs and the fact that the film was sent to the UK for development, any reasonable person would imply *mens rea*

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<sup>55</sup> In fact, Fr Edmondus had a sister so either he was clearly not telling the whole truth to the Archbishop or the Archbishop chose to ignore it.

or criminal intent from the circumstances. The conclusion of the Archbishop and Bishop Dunne that this was not an objective and subjective crime within the meaning of canon law is, in the Commission's view, unreasonable and contrary to common sense now and in 1960. It is totally at variance with Bishop Dunne's original opinion as recorded by Archbishop McQuaid a few days earlier. The Commission believes that Archbishop McQuaid acted as he did to avoid scandal in both Ireland and Rome and without regard to the protection of children in Crumlin hospital. Archbishop Martin accepts that the conclusion reached by Archbishop McQuaid and Bishop Dunne was wrong and that the measures taken were inadequate but he does not agree with the Commission's conclusion that Archbishop McQuaid acted the way he did to avoid scandal both here and in Rome.

### **Reporting of abuse, 1985**

- 13.12 Marie Collins, who was one of a number of young people sexually abused by Fr Edmondus at Crumlin hospital, approached her local curate, Fr Eddie Griffin, in November 1985 and told him about her abuse. She had been sexually abused and photographed by Fr Edmondus in Crumlin hospital in 1960 when she was aged 13. The curate indicated to her that he did not want to know the name of her abuser as he would have to do something about it. According to a statement which he gave to the Gardaí in 2004, he said that he explained to Mrs Collins that *"I didn't want to know the name of the priest. If she told me the name of the priest I had to do something about it"*. He went on to say in his Garda statement:

*"We as priests had been advised while in college not to seek the name of priests that allegations were being made against. Marie Collins didn't tell me that name of the priest. I told her not to feel any guilt about what had happened and that the priest had done wrong and if she had guilt I could give her absolution."*

Despite having told Mrs Collins he did not wish to know the name of the priest, he went on to say in his garda statement *"when she didn't tell me his name I wondered why she was there and thought she might be feeling guilty and I told her I could do away with her guilt by giving her absolution"*.

- 13.13 Although Fr Griffin contends that he was approaching the matter in a 'pastoral' manner which would not require him to seek the identity of the priest, the fact is that a criminal offence was disclosed to him and his

response was, in the Commission's view, inadequate. It was to be another ten years before Mrs Collins plucked up the courage to report the matter to Archbishop's House.

### **Suspicious, 1993**

13.14 In 1993, while Fr Edmondus was a curate in Edenmore in north Dublin, a complaint was made by a parishioner regarding his contact with young children. This complaint, which appears to have come initially from youth workers, was made to a local priest who reported it to Bishop James Moriarty, who was the auxiliary bishop for that area. Bishop Moriarty summarised the reported inappropriate behaviour of Fr Edmondus as follows:

- young girls driving around in his car and allegations that the girls had sometimes changed in his house before going swimming;
- giving young children money;
- group of youngsters who were very poor attenders at school spending time with him;
- no adults allowed into his house; the only people allowed in were the very old or young.

13.15 Bishop Moriarty discussed the problem with the local priests and with Archbishop Connell. He then warned Fr Edmondus about his behaviour and advised him to desist from the activities mentioned. After this, the parish priest noted a change in his behaviour but others felt he still surrounded himself with children quite a bit. No attempt was made by the archdiocesan authorities to check the archives or other files relating to Fr Edmondus when these complaints were received. Bishop Moriarty pointed out to the Commission that he did not have access to the archives but he could have asked the Archbishop to conduct such a search. Information was also received about Fr Edmondus recording the children's voices and he himself admitted to photographing them.

### **Letters of complaint from Marie Collins, 1995**

13.16 In October 1995, Marie Collins wrote to Archbishop Connell regarding her abuse by Fr Edmondus. She also told him of her attempts to tell her local curate about the abuse. Around the same time she wrote a letter of complaint



to Our Lady's Hospital for Sick Children, Crumlin and offered to talk to a secretary/manager about the abuse.

13.17 A few days after her complaint to Archbishop Connell, he initiated a preliminary investigation under canon 1717 and appointed Monsignor Alex Stenson as the delegate. By this time, October 1995, the Church authorities were familiar with many aspects of clerical child abuse. Not only was work on the *Framework Document* (see Chapter 7) well advanced but several Church personnel had travelled to dioceses in the USA to learn from their experiences. In addition there had been the fall out of the Fr Brendan Smyth case (see Chapter 7) and the Archdiocese itself had received a significant number of complaints of child sexual abuse by priests of the Archdiocese.

13.18 In October 1995, following receipt of Mrs Collins's complaint, a trawl was done in the secret archives and the 1960 complaint became known to Archbishop Connell and Monsignor Stenson. Monsignor Stenson, though chancellor of the Archdiocese since 1981, only became aware of the 1993 Edenmore concerns in the course of his investigation. Cardinal Connell told the Commission that he referred all complaints of sexual abuse to the chancellor. He did not feel it necessary to refer the concerns about inappropriate behaviour on the part of Fr Edmondus to Monsignor Stenson.

#### **Evidence of Mrs Collins and Fr Norman**

13.19 Both Mrs Collins and her support priest, Fr James Norman, gave extensive evidence to the Commission. Her evidence related not only to her complaint against Fr Edmondus but also covered steps taken by her and others to get support services for victims of clerical sex abuse.

13.20 Her evidence was very helpful to the Commission in understanding how the *Framework Document* was being implemented. It was also helpful in attempting to assess the attitude of Church officials to cases in which they accepted that abuse had taken place.

13.21 Mrs Collins was extremely unhappy with the way her complaint was dealt with by the Church authorities. In addition to writing to Archbishop Connell in October 1995, she had also written to Bishop Forristal (the chair of the committee drafting the *Framework Document*), Crumlin hospital and the

local priest to whom she had earlier complained, to let them know that she was making a complaint to the Archdiocese. Bishop Forristal replied personally and sympathetically. The hospital authorities responded immediately and arranged to meet her. She found them very sympathetic. They offered counselling and told her that they would be reporting the matter to the Gardaí, which they did.

- 13.22 Archbishop Connell passed the letter from Mrs Collins to Monsignor Stenson and did not reply directly himself. The local priest did not reply at all. Monsignor Stenson replied, apologised on behalf of Archbishop Connell and made arrangements to meet Mrs Collins.

### **Monsignor Stenson's meeting with Mrs Collins**

- 13.23 Monsignor Stenson met Mrs Collins in October 1995. He indicated that he would have to notify the Gardaí in relation to her complaints. He noted in the memorandum of their meeting that she had met a representative from Crumlin hospital who had also indicated that the Gardaí would be notified.

- 13.24 Mrs Collins felt that Monsignor Stenson had listened very sympathetically to her and indeed acknowledged this in a letter to him subsequently. It is very clear that Monsignor Stenson believed Mrs Collins. However, he did not tell her that there were other incidents and concerns in respect of Fr Edmondus's time at Crumlin hospital and she was very annoyed about this when she subsequently discovered it. Cardinal Connell has told the Commission that there was no legal obligation on him or the Archdiocese to inform Mrs Collins of other incidents or concerns. While this is true, the Commission believes that Mrs Collins was justified in her annoyance at not being told of the 1960 incidents at her first meeting with Monsignor Stenson. The Commission is aware that Monsignor Stenson told the Gardaí of the 1960 incidents in November 1995 but waited until March 1996 to tell Mrs Collins. Monsignor Stenson has told the Commission that he did not regard himself as free to tell Mrs Collins about the Crumlin incidents. He was constrained by the oath of secrecy which he took when he became chancellor and he could not reveal that information without the consent of Archbishop Connell. He said he made the November 1995 statement to the Gardaí with the permission of Archbishop Connell. He said the same oath of secrecy

prevented him from making a further statement to the Gardaí about his preliminary investigation of the Fr Edmondus case.

- 13.25 As was his practice, Monsignor Stenson made a comprehensive note of the meeting. The note revealed Mrs Collins to have been severely psychologically damaged by the abuse. Except for her revelation to her local curate in 1985, which unfortunately succeeded only in exacerbating the trauma she suffered, it had taken her almost 35 years to summon up the courage to approach the Church authorities and discuss in detail her abuse by Fr Edmondus. She also expressed worry that other children might have been abused by him and wanted reassurance that he was not left in a position to abuse children.

#### **Monsignor Stenson's meeting with Fr Edmondus**

- 13.26 Shortly after meeting Mrs Collins, Monsignor Stenson met Fr Edmondus. Monsignor Stenson told him that the Gardaí had been in contact and wanted to meet him in relation to the complaint of Mrs Collins. Monsignor Stenson outlined the complaint and Fr Edmondus replied "*I cannot place the girl*" but he accepted that inappropriate touching could have happened. He was clear that it was a separate allegation from the matters that had been reported to Archbishop McQuaid in 1960. He accepted that a Christmas card which Mrs Collins claimed he had sent her bore his signature. Mrs Collins had given the Christmas card to Monsignor Stenson. Fr Edmondus said that he had no problem with little boys but, "*if he had a problem, it was with little girls*". He told Monsignor Stenson that the meeting with Archbishop McQuaid had scared him and had made him very careful.

- 13.27 Fr Edmondus said that he would have no problem making an apology to Mrs Collins and claimed that nothing of this nature had ever happened in any of his subsequent appointments.

- 13.28 In November 1995, Monsignor Stenson provided the Gardaí with an address for Fr Edmondus and gave them some information about the 1960 complaint.

### **Medical assessment**

13.29 Fr Edmondus was referred for an assessment to the Granada Institute. A December 1995 report from Granada recommended that he “*be removed from ministry as it is presently constituted*” even though Fr Edmondus had said that he had very little exposure to children. This assessment was based on “*the escalatory nature of the alleged abuse... the alleged abusive pattern started with what appeared to be good natured innocent fun but was then followed by more sinister demands on the child*”.

### **Garda investigation**

13.30 In January 1996 a garda report on the complaint by Mrs Collins concluded: “*Unfortunately while I would be of the opinion that the events as described by Marie did happen, there is very little evidence available to us to corroborate her allegations apart from Monsignor Stenson’s statement about the slides. It would be for this reason as well as the considerable time delay in this case that I feel a prosecution against Fr [Edmondus] would be fruitless*”.

13.31 This view was shared by the investigating garda, the sergeant, the detective inspector and the detective superintendent. The file was forwarded to the office of the Director of Public Prosecutions (DPP).

### **Further meeting with Monsignor Stenson, 1996**

13.32 In March 1996, Mrs Collins met Monsignor Stenson again. Mrs Collins was anxious to know whether or not Fr Edmondus had admitted to the allegation which she had made. Monsignor Stenson confirmed that he had. In fact, what Fr Edmondus had said could not be regarded as a clear admission. Monsignor Stenson informed Mrs Collins that Fr Edmondus was not in a parish, was living in a religious house and was receiving therapy. Monsignor Stenson also noted in his record of their meeting that he was “*satisfied that she is not out to make difficulties for Fr [Edmondus] or indeed for the Church*”.

13.33 Mrs Collins said that at this meeting, Monsignor Stenson indicated that following treatment Fr Edmondus might be returned to a parish. In a subsequent letter, she told Monsignor Stenson that this should not happen. She was also extremely concerned that Monsignor Stenson had not told her

earlier that Fr Edmondus had admitted her abuse. She said she should not have been left waiting for five months to find out.

- 13.34 Fr Edmondus was in fact, contrary to assurances given to Mrs Collins, still a curate in Edenmore and was not immediately removed from ministry. Cardinal Connell told the Commission that

*“In the case of [Edmondus] I did not remove him from his parish immediately. I told him he was not to live there and he wasn’t to minister there. In that sense I took him out of his parish. I left him officially in his position. This gave rise to a lot of trouble from one of the victims there. But the reason I did that of course was because there had been nothing against [Edmondus] for something like 30 years, and it seemed to me a bit too harsh. I did, in the interest of children, I did instruct him not to live there and he was not to minister there”.*

The ‘trouble from one of the victims’ to which the Cardinal referred relates to Mrs Collins’s campaign to have Fr Edmondus removed from ministry. It should also be noted that it is not correct to say that there had been nothing against Fr Edmondus for 30 years; there had been the concerns expressed in 1993.

- 13.35 Despite the Archbishop’s instructions, Fr Edmondus continued to visit the parish frequently and dressed in clerical attire for a number of months. His name remained on the confessional box for a number of months. Cardinal Connell told the Commission that he admonished Fr Edmondus for attending at the parish and not obeying his instructions. The Commission could find no evidence of any monitoring of his activities. His faculties were not formally withdrawn by Archbishop Connell until January 1997. His name remained in the *Dublin Diocesan Guidebook*<sup>56</sup> and he was described as a curate in Edenmore throughout 1996 and 1997.

### **A new complaint, 1996**

- 13.36 In March 1996, a notification was sent from the Eastern Health Board to the local garda superintendent regarding the alleged sexual abuse by Fr

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<sup>56</sup>

This is published annually by the Archdiocese and includes, among other things, the names of the priests serving in the various parishes and other services of the Archdiocese.

Edmondus of a woman in a Co Wicklow parish when she was a nine year old child. This complainant did not complain to the Archdiocese at this time.

13.37 The Gardaí carried out a thorough investigation of her complaints. They took statements from people whom the woman claimed she had told about the abuse many years previously. Fr Edmondus was interviewed about the allegations and he gave the standard reply that, on the advice of his solicitor, he had nothing to say.

13.38 The Gardaí then looked afresh at the Marie Collins case. She had contacted them further about her case. They felt a number of matters would have to be further investigated:

- the question of identification of Fr Edmondus as the person who allegedly assaulted Marie Collins in 1960;
- the question of establishing what was contained in the record of the 1960 complaint;
- re-interviewing Marie Collins regarding the reference in her statement to slides having been processed in the UK;
- putting the claim to Monsignor Stenson that Fr Edmondus admitted the offence to him.

13.39 The Gardaí met Monsignor Stenson in May 1996. They asked him for a copy of the Fr Edmondus file or at least for an opportunity to look at it. He refused stating he would need legal advice first. He said that canon law did not permit him to give permission for the file to be read.

13.40 Monsignor Stenson was also asked about the claim that Fr Edmondus had admitted the offence to him and a letter he wrote to Mrs Collins was shown to him. Monsignor Stenson expressed dismay on seeing the letter, saying that he would not have written that had he known that she would be handing over the letter to the Gardaí.

13.41 Despite having told Mrs Collins that Fr Edmondus had admitted to her abuse Monsignor Stenson refused to make a statement to that effect to the Gardaí.

13.42 In June 1996, Mrs Collins wrote to Archbishop Connell asking him to inform all the parishes in which Fr Edmondus had served that he had admitted child sexual abuse. Nothing was done about this until after his conviction.

### **Edenmore concerns**

13.43 In October 1996, Monsignor Stenson spoke to the priest to whom the original concerns about children in Edenmore had been expressed and which were reported to Bishop Moriarty in 1993. This priest told Monsignor Stenson that Fr Edmondus had an extensive involvement with children and he had a “disastrous” relationship with adults and his fellow priests.

13.44 Monsignor Stenson then interviewed Fr Edmondus about his involvement with these children. Fr Edmondus told him that children aged ten to 12 used to change in his house. He said he did take photographs of them but there was nothing questionable in them. He said that there was absolutely no snooping or touching whatsoever. He said he stopped allowing them to change in his house after Bishop Moriarty spoke to him. It appears that Monsignor Stenson did not ask Fr Edmondus for the photographs.

### **Health board involvement, 1996**

13.45 In November 1996 a meeting between health board officials and Monsignor Stenson took place in Archbishop’s House. The health board memo notes:

*“the meeting was convened by Monsignor Stenson to convey to us concerns he had about children in the Edenmore Parish. Monsignor Stenson did not have hard information on these children, but he wished to share his concerns with us. These concerns centred around possible inappropriate behaviour on behalf of a priest Fr [Edmondus], who used to bring young girls from the Edenmore parish swimming. These girls used to change for swimming in his house and he then brought them swimming...No allegations of any inappropriate behaviour were ever made by these girls or their parents”.*

These events are said to have happened in the year 1990.

13.46 A number of girls were identified and the health board's note stated that: "*given the vague nature of this referral, it was agreed that the Eastern Health Board would approach the parents of the girls and make discreet enquiries given the present climate*". However in December 1996 the senior social worker informed Monsignor Stenson that the Eastern Health Board was not able to follow up because of the vagueness of the addresses provided. The girls' names were known but their precise addresses were not.

### **Advisory panel**

13.47 In December 1996, the case of Fr Edmondus was referred to the advisory panel. The panel recommended the following:

- His faculties should be withdrawn.
- All priests who served with him should be sounded out in relation to his past behaviour.
- The Archbishop should meet Marie Collins and offer a support person.
- The correct addresses for the children in Edenmore were to be sent to the health board when they became available; there should be a further meeting with the health board in January 1997 to discuss communication of information policy between the Archdiocese and the health board.

### **Meeting with Archbishop**

13.48 In December 1996, Archbishop Connell met Mrs Collins and her support priest, Fr James Norman. Mrs Collins had approached this priest herself and he generously and selflessly agreed to assist her without seeking prior approval from the Archbishop and notwithstanding the fact that such assistance might put him in conflict with his diocese. When he first began to assist her he was not aware that the *Framework Document* provided for the assignment of support priests to those who had been abused. Eventually, in November 1996, he was formally appointed to that role in respect of Mrs Collins.

13.49 During this meeting, Archbishop Connell apologised to Mrs Collins for the hurt caused to her. In addition to giving evidence about that meeting, Fr Norman kept a note of it:

*"During the meeting Marie raised a letter she sent to the Archbishop on the 4<sup>th</sup> of June [1996] concerning [Edmondus's] future. The*



*Archbishop failed to give an explanation of why he did not reply to this letter except to say that it had raised very difficult questions.*

*When Marie asked the Archbishop why he had not given a statement to the Gardai confirming that there was another case on file from the 1960s the Archbishop replied that it would undermine people's confidence in the Church if they thought that files were being passed to the Gardai, i.e. annulment cases. He also said that the previous case was not serious as it only involved the taking of photographs. Marie outlined in detail how having that type of photograph taken had hurt and damaged her. The Archbishop was very shocked and upset by the story Marie told him [...] One of the matters that upset Marie most was the statement by Cardinal Connell that the Framework document was not binding in canon or civil law<sup>57</sup> and that therefore he could follow what parts of it he wanted to follow. He claimed the Cardinal told her he had to protect the good name of the priest who had abused her".*

The overall conclusion that Fr Norman reached regarding that meeting was that the Archbishop came across as someone who really cared for the victim but had not “got a clue” about how to go about dealing with the reality of the problem.

13.50 In January 1997, Fr Edmondus's faculties were withdrawn and he was formally released from the parish. He became a beneficiary of the Diocesan Clerical Fund (see Chapter 8).

13.51 In the meantime Monsignor Stenson was making further inquiries in the parishes where Fr Edmondus had served. He met the two youth workers who had brought their concerns about the activities of Fr Edmondus in Edenmore to the attention of the local priest in 1993. This priest did report to Bishop Moriarty as described above. The youth workers described children saying how “everyone knew about” Fr Edmondus; he hugged children and gave them money. The youth workers felt that the local priest had been dismissive of them when they went back to him. He had said to them that he

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<sup>57</sup>

This is an accurate statement (see Chapter 7).

had done something and there was nothing more he could do. Monsignor Stenson reported this to the health board in February 1997.

- 13.52 Mrs Collins continued to write to the Archbishop and Monsignor Stenson seeking to have other parishes informed of the activities of Fr Edmondus. She was concerned about the possibility of other victims.

### **Criminal charges, 1997**

- 13.53 In March 1997 Fr Edmondus was arrested and charged with offences relating to the abuse of a child in a Co Wicklow parish and also the sexual abuse of Mrs Collins. The advisory panel noted that *“In the event that these charges are proven the Panel recommends not only that a public statement be made by the Diocese expressing its regret, but also that a proactive programme be developed to alert the parishes in which [Fr Edmondus] had previously worked”*.

- 13.54 In June 1997, Fr Edmondus pleaded guilty to two counts of indecent assault on Mrs Collins. Some days later he pleaded guilty to two counts of indecent assault on the girl in the Co Wicklow parish. He was sentenced to 18 months imprisonment in respect of the assaults on Mrs Collins and nine months imprisonment to run concurrently in respect of the Co Wicklow assaults. In November 1997 the total sentence was reduced on appeal to nine months. Prior to the court case he had met Mrs Collins and he had apologised to her and offered to make a financial contribution to her.

- 13.55 Following the conviction, in a statement to the media, Archbishop Connell said that the abuse of a child is wrong and evil. He also said that the diocese had been co-operating with the Gardaí. Fr Norman, Mrs Collins’s priest advisor, told Gardaí that Monsignor Stenson claimed that the diocese never claimed it had co-operated fully, with the emphasis on the word ‘fully’, with the Gardaí.

- 13.56 There were further meetings between the Archdiocese and the health board in respect of the Edenmore concerns but the relevant families were not contacted by the health board even though the Archdiocese was given the impression that they would be. A social worker explained to the Commission that the health board could not go around the area making inquiries as to

whether or not a child had been abused. The Gardaí could do that but “*the health board has to be extraordinarily careful about invading people's privacy and having as many facts as you can before you broach anything*”. In effect it appears that the health board felt unable to take action at the time it was first reported to them. The social worker did contact the Gardaí involved in the criminal cases and was assured that there were no complaints from this area.

- 13.57 In January 1998, Archbishop Connell explained to Mrs Collins the procedures and factors to be taken into account by the Archdiocese when deciding what should be done with a priest convicted of child abuse. He explained that:

*"as long as a priest who has offended remains incardinated in the Diocese, even if removed from ministry, he can receive the supervision and care which he will need to live a life free from further offence. This supervision would involve conditions regarding residence and life-style which would preclude the danger of relapses. In the case of a priest who is dismissed from the clerical state, that care and supervision is no longer possible".*

- 13.58 Marie Collins replied, thanking Archbishop Connell for his letter and commented that the problem was a great deal more involved than she had first imagined. She stated that the letter had helped to ease her mind.

#### **1998 - 2006**

- 13.59 In May 1998, Fr Edmondus was released from prison. A letter from the Archdiocese to the Granada Institute stated that: “*The Archbishop has given clear indication that he does not envisage a return to ministry in this case, and so Fr [Edmondus] will be retired under monitored conditions*”. It is clear that Fr Edmondus did not return to ministry but it is not clear precisely what the monitored conditions were. He was attending the Granada Institute and he was living with members of his family. According to the Granada Institute, part of the monitored conditions were that he was to continue to attend the Granada Institute on a quarterly basis for review, which he did.

- 13.60 In February 1999, the health board contacted the Archdiocese regarding Fr Edmondus because it was closing old files. The chancellor,

Monsignor Dolan and the social worker agreed that "*there was very little to be gained in our pursuit of the people in question*".

13.61 In February 2001, the *Would You Believe* programme on RTE television raised the issue of the handling of Mrs Collins's complaint and the current arrangements for monitoring Fr Edmondus. Her priest advisor told the Commission that the Archdiocese had been given every opportunity to have a representative go on the programme but would not do so unless the Archdiocese retained editorial control which was not given to it. It issued no apology on the programme to Mrs Collins. This caused her further upset.

13.62 In June 2001, the Archdiocese asked the Granada Institute for a report on Fr Edmondus. Granada reported that he was to receive therapeutic review sessions. The report also stated that "[o]ccasionally he accompanies his sister on shopping trips. He is very much aware of his need to stay away from contact with children and he is meticulous in observing this". It is not at all clear how Granada could have known this other than by accepting what they were told by Fr Edmondus.

13.63 In July 2002, a health board social worker telephoned the Archdiocese to inquire whether *Prime Time* had been in contact with the diocese regarding a programme which was to focus on the activities of Fr Edmondus in Edenmore. According to a note of the conversation made by the Archdiocese at the time, the social worker told the Archdiocese that she had told *Prime Time* that the health board had no contact other than conversations with the diocese. Again, according to the archdiocesan note, she also told the Archdiocese that she "*wanted to make sure that the Diocese and the Health Board were singing from the same hymn sheet*". She confirmed to the Archdiocese that nothing surfaced from the health board inquiries of that time and nothing had come to their attention since. In fact, no health board inquiries were made at the earlier stage. The social worker concerned emphatically denied, in an affidavit supplied to the Commission, that she had ever used the words quoted. She said the health board file shows that it was intended that she would contact the Archdiocese "*to establish the state of information given to Prime Time*".

13.64 At this stage, some five years after they had first been notified, and, it appears to the Commission, solely because of the publicity engendered by

the *Prime Time* programme, the senior officials in the health board decided to write to three girls from Edenmore – all of whom were now adults. One replied and told the health board that she had not been abused. The others did not reply. Again, the social worker has taken issue with the Commission's view that the decision to write to the girls was motivated by the publicity. It appears to the Commission that that decision was taken, not by the social worker, but by the health board management.

13.65 It is notable that senior health board managers, including the chief executive of the Northern Area Health Board, only became involved in dealing with the issues in Edenmore after those issues were raised by *Prime Time*.

13.66 Similarly, after the *Prime Time* programme, the Gardaí made further inquiries in Edenmore.

#### **Subsequent complaints**

13.67 Complaints in relation to Fr Edmondus continued to emerge.

#### **Civil claims**

13.68 After a considerable delay and much annoyance to her, Mrs Collins's civil claim, which was principally related to medical expenses, was settled by the Archdiocese. A settlement was also reached with the victim from Co Wicklow. Fr Edmondus made a personal contribution to the second settlement.

#### **The Commission's assessment**

##### *The Archdiocese*

13.69 This case was very badly handled by Archbishop McQuaid. Archbishop McQuaid's conclusion that Fr Edmondus's actions arose merely from a "*wonderment*" about the female anatomy is risible. The Commission considers there are two possible explanations for this stated view. Either Archbishop McQuaid could not deal with the fact that a priest who was in a privileged position of chaplain to a children's hospital fundamentally abused that position and sexually exploited vulnerable young children awaiting treatment or he needed an explanation which would deal with Bishop Dunne's justifiable concern and which would also justify not reporting the matter to

Rome. The Commission considers that the second explanation is the more likely one.

13.70 This case has a special significance because it was one of the earliest in the Commission's remit. The apparent cancellation by Archbishop McQuaid of his original plan to pursue the priest through the procedures of canon law was a disaster. It established a pattern of not holding abusers accountable which lasted for decades. Firmer treatment of this priest might have avoided much abuse in the future. The Archbishop and Bishop Dunne had no doubt that a serious crime had been committed but avoided taking any action as that would have involved Rome becoming involved in the case. The Archbishop appointed Bishop Dunne to investigate the case and, in the Commission's view, promptly undermined him in his position.

13.71 In the Commission's view, Archbishop McQuaid's actions fell very short of what should have been done. Given that he was fully aware of the 1922 instruction, there was no justification for his failure to set up a proper canonical process to deal with the matter. In fact, he deliberately manipulated the situation in a manner that did not involve him reporting the matter to Rome. No attempt was made to put protocols in place for chaplains throughout the many hospitals in which they were working in the Dublin Archdiocese and no attempt was made to monitor Fr Edmondus in other placements.

13.72 Archbishop Connell and several other priests also handled the case badly. The reaction of the local curate to the revelation of abuse by Mrs Collins in 1985 was inadequate. How he could have formed a view that she might be feeling guilty and in need of absolution when, in fact, she was disclosing abuse is difficult for the Commission to understand.

13.73 His assertion that, as priests, they had been advised in college not to seek the names of priests against whom allegations were being made in a spiritual or counselling context is a cause of great concern to the Commission. Such an attitude would explain in large measure the many appalling deficiencies in the Church's handling of complaints of child sexual abuse over the years. Even if he himself did not wish to hear the full details

of her complaint, he should have arranged for her to see his parish priest or another person who was in a position to deal with the complaint.

13.74 When concerns emerged from Edenmore in 1993, Archbishop Connell did not check if there were other complaints. This failure meant that the concerns were not taken as seriously as they should have been. There was no proper investigation of these concerns. For example, the youth workers who first raised them were not even interviewed at the time.

13.75 Archbishop Connell and Monsignor Stenson, while they were personally kind in their dealings with Mrs Collins, were not initially open with her. They failed to tell her that there was a pre-existing complaint and other concerns. Like many of those abused, she was thus isolated and left to believe that she was the only one who had complained.

13.76 Monsignor Stenson's failure to disclose all available information to the Gardaí is a cause of concern to the Commission. There was no doubt that Monsignor Stenson believed that Mrs Collins had been abused by Fr Edmondus. In the Commission's view, he should have been far more forthright with the Gardaí, but felt precluded from doing so by canon law. He left Mrs Collins in a difficult situation by telling her that the priest had admitted her abuse and then not acknowledging that to the Gardaí.

13.77 The Marie Collins case was reported to the diocese at the same time as the *Framework Document* was being implemented. The handling of this case by the Archdiocese demonstrates that the church guidelines which were set out in the *Framework Document* were not being implemented at this time by the Dublin Archdiocese. In particular the Archdiocese failed to notify her of her entitlement to have a support person to assist her in her dealings with the Archdiocese, nor did they provide a support priest for her. It was 11 months after the date for implementing the *Framework Document* before Fr Norman, whom she herself had approached to help her with her faith, was formally appointed as her priest support. Even when appointed, little information and no training on the role of support priest was given to Fr Norman. Monsignor Stenson points out that the *Framework Document* was not published until January 1996. He accepts that a support structure was not put in place in accordance with that document until sometime between November 1996 and

February 1997. He said he was satisfied from conversations that he had with Fr Norman that he was providing, albeit at an informal level, support for Mrs Collins.

13.78 The Commission is particularly concerned that the Archdiocese seems to have been in breach of the guideline which states: *“If the bishop or religious superior is satisfied that child sexual abuse has occurred, appropriate steps should be taken to ensure that the accused priest or religious does not remain in any pastoral appointment which affords access to children”*. The fact that Fr Edmondus was allowed to wear clerical attire, attend at the parish frequently and fulfil parish functions, despite having been allegedly removed from the parish by the Archbishop, was particularly worrying. Cardinal Connell told the Commission that it was not his fault that Fr Edmondus did not obey instructions. Unfortunately this comment again underlines the failure of the Archdiocese to properly monitor priests who are disciplined.

13.79 Everything that Mrs Collins managed to extract from the Archdiocese over the years in relation to the handling of child sexual abuse was given grudgingly and always after a struggle. Mrs Collins now believes, on the basis of bitter experience, that her Church cannot be trusted to deal properly with complaints of child sexual abuse and that legal measures are required to ensure compliance by the Church with proper standards of child protection. The Commission also notes that, notwithstanding her own reservations in the matter, there is no doubt that Mrs Collins, in her brave and often lonely campaign to show the Archdiocese how it had erred in its handling of child sexual abuse cases, was instrumental in changing the Archdiocese’s understanding and handling of these cases and of bringing about a far greater atmosphere of openness about the incidence and handling of child sexual abuse.

#### *The Gardaí*

13.80 There is no evidence that the Garda Commissioner investigated the initial complaint that was forwarded to him from the UK authorities in 1960. The Commission considers that it was totally inappropriate and a breach of duty for the Garda Commissioner to simply hand over the complaint to Archbishop McQuaid without carrying out any thorough investigation.



13.81 The Gardaí handled the subsequent complaints properly. They took great care and patience with their investigations.

*Health board*

13.82 The first complaint that came to the attention of the health board was the complaint from Co Wicklow. The health board in that area acted appropriately by reporting the matter to the Gardaí.

13.83 The health board's promises to act and subsequent failure to do so in relation to the Edenmore concerns are worrying. The health board may not have had the power to make further inquiries in Edenmore but the impression that further inquiries would be made was undoubtedly given to the Archdiocese. It is extraordinary that the health board did find the will and the capacity to act, and act at the highest level, when the *Prime Time* programme began to inquire about the matter.

**Introduction**

14.1 Fr Phineas served in the Archdiocese of Dublin in the 1960s and 1970s. He has been laicised for over 20 years. There are two allegations of child sexual abuse against him. These were made in 2005. However, there is evidence that concerns were expressed to the diocesan authorities and to a religious order at the time of the alleged abuse in the 1960s. Fr Phineas strenuously denies the allegations.

**The allegations**

14.2 Two women together made allegations to a priest in June 2005. These allegations concerned a number of priests. The priest to whom the allegations were reported contacted the Archdiocese.

**First complainant**

14.3 The allegations made by this complainant are not very clear. She alleged that Fr Phineas “*abused all the girls and got a nun pregnant*”. She alleged that the then parish priest of the area where the abuse allegedly occurred was aware of her abuse by Fr Phineas and was instrumental in her committal into state care. She also alleged that the nun responsible for sending children to institutional care knew about the abuse. Philip Garland, the director of the Child Protection Service in the Archdiocese met the complainant. She stated that the abuse occurred when she was six years old in the early 1970s.

14.4 The veracity of this complainant was later seriously undermined when it emerged in a later interview with the second complainant, that the first complainant had been pressuring the second complainant to say that they were both in the priest’s car when the priest abused the second complainant.

**Second complainant**

14.5 The second complainant alleged that she had been abused by Fr Phineas approximately 40 years previously (in the 1960s). After making her initial complaint in June 2005 she returned to the UK and was not in contact

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<sup>58</sup>

This is a pseudonym.

for a number of months. She contacted the Archdiocese again in November 2005. She said that the priest to whom she had reported in June 2005 had given her the number of the Church's counselling service, Faoiseamh, but that she was having trouble contacting the organisation. She also said she had made a statement to the Gardaí. Mr Garland maintained contact with her and she told him later that she was now having counselling through Faoiseamh. She also spoke of the abuse which involved touching and said it would have occurred around 1969.

14.6 In April 2006, Mr Garland met this complainant in the UK. She told Mr Garland that she had gone to the Garda Station to make a statement. She had not, in fact, made the statement as she was not ready to do so.

14.7 The Archdiocese reported the case to the Gardaí and the HSE. The matters had not been resolved by the end of 2007.

#### **The Commission's Assessment**

14.8 The priest to whom the allegations were reported and the Archdiocese dealt properly with these complaints.

**Introduction**

15.1 Fr Vidal was ordained in the 1960s for a diocese in the UK. He served in the Archdiocese of Dublin for approximately ten years in the 1960s and 1970s. He died in 2004.

15.2 Almost immediately after he was ordained Fr Vidal began to experience problems with celibacy and he had affairs with a number of women. He moved away from the UK diocese apparently to try to escape one of his entanglements. He applied for laicisation in the late 1960s but did not go through with the process. He then decided that he wished to remain a priest.

15.3 He contacted Archbishop McQuaid to see if he could get work as a priest in the Archdiocese of Dublin. His bishop wrote to Archbishop McQuaid saying “*As you will appreciate, it will not be advisable for him to work in this diocese again*”. He did not elaborate on the reason but it would seem that the Archbishop McQuaid was aware of a problem and the nature of it. It was hoped that he could eventually be incardinated in Dublin but that never happened.

**First complaint, 1973**

15.4 Fr Vidal began work as a priest in the Dublin Archdiocese in 1968. In 1973, a nun reported to the Archdiocese that Fr Vidal was involved with both an adult woman, who was a teacher, and a girl aged 12 – 14. He had started these relationships sometime between 1968 and 1971. The nun had letters which suggested that the relationship with the young girl was sexual. In an undated letter to another nun, with whom it appears that the priest was also friendly, the girl said she was in love with Fr Vidal. During his laicisation process in 1979, Fr Vidal accepted that there was a physical relationship with this girl from the time she was about 13.

15.5 When this report came to the Archdiocese, the Archbishop's secretary, Canon McMahon, correctly noted that “*the most serious aspect is the age of [the girl]*”. It would appear that Archbishop Ryan asked a parish priest to

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This is a pseudonym.

investigate. In his report, the parish priest said: *“Basically, I think we must accept that [Fr Vidal] has been at least guilty of conduct which was indiscreet, improper and open to grave scandal”. He went on to say: “It is not necessary to accept everything that has been said against him – the details are of little account - but there is sufficient evidence to justify a warning to a priest accused of such attitudes and conduct that he would seem to have gravely compromised his priesthood.”*

- 15.6 The parish priest then set out his views as to how the matter should be dealt with. Fr Vidal

*“should be seen and informed that His Grace the Archbishop has received a report concerning his conduct with a very young girl. No charge should be made, no details given and the source of the information should not be disclosed... No matter how the interview goes or how he reacts, he needs to be handled firmly, but with kindness and patience...he has been accepted on a temporary basis in this Diocese, which in itself is a great kindness. Finally, he should be instructed 1, not to visit the [young girl’s] home ever again or to meet [the young girl] and 2, that he must be extremely careful in future with his relations with women.”*

- 15.7 The parish priest then met Fr Vidal. Fr Vidal denied any impropriety. He stated that he was fully aware that the young girl had a crush on him but that it had not been reciprocated and that his relationship with the teacher was entirely platonic. He agreed to keep away from the young girl. The parish priest told him that he expected that his assurances about his future conduct would be accepted by the Archbishop. It does appear that these assurances were accepted as nothing further was done.

### **Application for laicisation**

- 15.8 In 1977, Fr Vidal was granted leave of absence because of a *“growing spiritual and vocational crisis”*. About a year later he decided to apply for laicisation. Bishop O’Mahony sent him for a psychological assessment. This assessment was unequivocal. It recognised that he was promiscuous and that he *“never did, never could and never will”* sustain a life of celibacy. The psychologist recommended that it would be in the best interests of the Church for him to be laicised.

15.9 Accordingly in 1979 the petition for laicisation was put in motion. The process was handled by Bishop O'Mahony. During the laicisation process, Fr Vidal admitted to his various relationships with women. He said that he had never ended the relationship with the young girl. She was now in her early 20s and he was planning to marry her. Despite his earlier denials to the Church inquiry, he admitted that they had had a physical relationship since she was about 13.

15.10 The laicisation petition was sent to Rome in October 1980. No decision was made because, when Rome sought further information, the circumstances had changed.

15.11 The couple did marry in 1980. The ceremony was conducted by a priest of the Archdiocese even though it would appear that Fr Vidal was not free to enter into a Catholic marriage. It was, however, a valid civil marriage.

#### **Return to ministry**

15.12 In 1985, Fr Vidal contacted Bishop O'Mahony and told him that the marriage had broken down and that he wished to return to ministry. Bishop O'Mahony told the Commission that he shredded his file on Fr Vidal after the priest's death so there is no documentation available about his dealings with Fr Vidal in the 1980s. In 2006, Bishop O'Mahony recounted what had happened to the priest delegate of the Archdiocese. The bishop said that he sent Fr Vidal to a monastery to consider his situation. After a month there, the monks were supportive of his wish to return to ministry. Bishop O'Mahony then sent Fr Vidal and his wife for counselling and they formally separated.

#### **Diocese of Sacramento**

15.13 Bishop O'Mahony arranged for Fr Vidal to go to the diocese of Sacramento, California. He wrote a letter of commendation to that diocese. The diocese of Sacramento has confirmed to the Commission that this letter made no mention whatsoever of Fr Vidal's previous activities. There is no evidence that Bishop O'Mahony told anyone else in the Archdiocese of Dublin about the arrangements he had made at the time (1985) nor that he was in contact with Fr Vidal's UK diocese. Such evidence may have been in Bishop O'Mahony's shredded file. Subsequent letters from Fr Vidal's UK diocese suggest that it was not aware of his going to Sacramento but this is not

absolutely certain. The decision to allow him to resume ministry was made in spite of the earlier unequivocal view of the psychologist about his incapacity to maintain celibacy.

15.14 Fr Vidal's wife subsequently married another man in a Catholic Church ceremony. In order to allow her to have a church ceremony, she was given a statement in 1991 by Monsignor Stenson that the 1980 marriage was not, in fact, a valid Catholic marriage. She got a divorce from Fr Vidal after the divorce laws were introduced in Ireland in 1996.

15.15 Bishop O'Mahony remained in contact with Fr Vidal. In 1991, the bishop of the UK diocese was in contact with the Archdiocese because Fr Vidal now sought to be incardinated into the Sacramento diocese. There is a series of correspondence in the archdiocesan files between Sacramento, Dublin and the UK diocese as to how and when Fr Vidal should be incardinated as he had never been incardinated in Dublin. Finally it was decided that the UK diocese would excardinate him and that Sacramento would incardinate him directly. The Archdiocese provided Fr Vidal with a statement outlining his involvement in the Archdiocese. This statement included the information that he had become involved with a girl whom he had civilly married. It did not mention her age when he first became sexually involved with her.

15.16 Fr Vidal got a divorce in California in 1992. The diocese of Sacramento was unaware that he was civilly married when he went there. He continued to minister as a priest in Sacramento. There were no complaints of child sexual abuse against him in this diocese. He retired to Ireland in 2003 and he died in 2004.

### **Bishop O'Mahony documents**

15.17 The Commission's analysis of this case was hampered by the absence of records of the communications between Bishop O'Mahony and Fr Vidal.

15.18 Bishop O'Mahony told the Commission that he started to shred documents in 2001 when he was ill. These were documents which had arisen while he was dealing with a confidential matter: "*Any document that a*

*priest came and spoke to me in a private, confidential capacity, about a spiritual matter of conscience, I felt that no one had a right after I was dead to see those documents. I shred them”.*

15.19 He also told the Commission that the only documents in relation to child sexual abuse that he shredded were the documents relating to Fr Vidal. He shredded these because the priest had died:

*“I felt that I had a duty to protect his good name and protect the good name of [the girl he married], who had subsequently married. Her marriage is recognised by Church and State. So I regarded the [Fr Vidal] case as very much a good news story. That the priest went back into active ministry and the girl in question, who was a young woman when I met her, married happily and her marriage is recognised civilly and canonically. [This reference is to her second marriage.] So for me that was a good news story”.*

#### **The Commission’s assessment**

15.20 The Commission does not consider that this is a “good news story”. The Commission finds it extraordinary that nothing was done about Fr Vidal’s relationship with a teenage girl other than to ask for an assurance that he would end it.

15.21 The Commission is very concerned that Fr Vidal was allowed to return to ministry in spite of his admission of child sexual abuse. It is particularly concerned that Bishop O’Mahony did not provide the diocese of Sacramento with any information about Fr Vidal’s adverse history. It also has concerns that little weight seems to have been given to the fact that he was civilly married and had responsibilities associated with that state. The fact that there are no further reports of abuse and that he subsequently divorced his wife without the knowledge of the diocese of Sacramento and reached an amicable settlement with her does not detract from these concerns.



**Introduction**

16.1 Fr Patrick Maguire is a member of the Missionary Society of St Columban (generally known as the Columban Fathers). He was born in 1936 and ordained in 1960. He served in Japan for a number of years between 1961 and 1974. During this time he had lengthy holidays in Ireland. He then worked in the UK and in Ireland, including, for a brief period in 1983/4, as an assistant priest in a parish of the Archdiocese of Dublin.

16.2 Fr Maguire is a convicted serial child sexual abuser. He has been convicted of indecent assault in the UK and in Ireland and has served prison sentences in both countries. In 1997, he admitted to having abused about 70 young boys in a number of countries and he abused at least one young girl as well. When he was subsequently charged he told his Society that about 100 victims might emerge in Ireland when his name became known. His pattern of abuse is such that it is likely that he abused hundreds of children in all parts of Ireland as well as in the UK and Japan. There can be no doubt that he used his position as a priest to access children. He was associated with another serial abuser – Fr Bill Carney (see Chapter 28) – around the time he was working in the Archdiocese. The Society of St Columban has pointed out, and the Commission accepts, that it had no knowledge of Bill Carney or of his association with Patrick Maguire. Fr Maguire was suspended from the clerical state in 2000. He remains a member of the Society and lives within the Society under strict conditions.

16.3 Fr Maguire's way of operating was described by one of his therapists in the following words:

*"PM typically employed an elaborate 'planning' and 'grooming' process, involving the children and adults around them, for example; 'I thought of ways of meeting boys, engaging in conversation, ways of seeing them with their family and seeing how they related with their parents - I planned ways of seeing them with other boys, and eventually ways of being alone with them in places where they felt safe - I planned ways of getting them alone where no one else could observe and where undressing would not be thought out of place, like bathing together, changing at the pool, showering after a swim, and*

*eventually ways of getting them to spend the night, and sleep with me in bed.’ [...] He employed a well practised ‘formula’ to get his victim to comply with what he wanted to do to him, plus the fact that he held a position of authority, making the victim powerless in this situation. [...] PM has described abusing his victims, by being naked with them in bed and ‘touching’ and ‘caressing’ their bodies and genitals.”*

### **History of abuse**

16.4 Fr Maguire admitted to a therapist in 1997 that he had abused a child and groomed others before he became a priest. He also told this therapist that he wanted to escape from the sexual confusion he felt by becoming a Roman Catholic missionary priest. He told the Commission that he had reasoned that *“since priests don’t have sex, it wouldn’t matter whether he was attracted to boys or girls”*.

16.5 In 1997, he admitted to the following abuses:

- Before he became a priest: one boy; he also admitted to having sex with a boy of his own age while a teenager and to having groomed two other boys.
- 1963 – 1966: three boys in Japan; he also groomed others.
- 1967: six or seven boys while in Ireland.
- 1968 – 1972: two boys.
- 1973: ten boys in Ireland and ten in Japan.
- 1974/75: eight boys in Ireland.
- 1976 – 1979: eight boys and one girl; he also admitted that he set up a network of victims and families where he could abuse.
- 1984: three boys.
- 1984 – 1989: two boys; he also continued his relationship with other victims and families.
- 1992- 1994: a vulnerable adult (21 years old).
- 1996: grooming.

He told the Commission that this list is not complete.

16.6 In 1998, he described his activities up to 1985 as being *“hands-on”* with some children while encouraging others to bathe with him or be naked in his presence.

### Japan, 1961 – 1974

16.7 Fr Maguire admits that he groomed and abused boys while in Japan in the period 1961 - 1974. He also admits that he abused boys while he was on holidays in Ireland from Japan. There is evidence that the Society had some concerns about him in 1968. The minutes of a meeting of the General Council of the Society record that *“The advisability of [...] Patrick Maguire returning to Japan was discussed as it was felt that this might prove a danger to them. No decision was made”*. The members of the council are all dead so it has not been possible to establish what exactly these concerns were.

16.8 He was sent back to Ireland from Japan in 1974 after a nun there complained to the bishop about his inappropriate conduct with young males. The letter from a member of the Society in Japan to the head of the Society<sup>60</sup> in Ireland shows how the issue was viewed at the time:

*“I am writing to you about PM who is leaving Japan tomorrow evening for Ireland. Just about a week ago, one of the sisters in the parish where Pat works alerted me to a problem that Pat has. The problem involves young male children. The incidents she quoted weren’t that serious, but, I felt serious enough to warrant immediate attention. I went down to talk to Pat last week. I talked to Bishop Hirata first, because the sister had been to see him before she came to me. Bishop Hirata was most understanding but said that it would be best that Pat slip out of Japan quietly. There is always a danger that the weekly magazines would latch onto a thing like that and blow it up out of all proportions. The good name of the Church would suffer, not to mention Pat’s. The Bishop also said that there could be a danger of a law case, as the parents of the children involved know of the incidents. I think that there is hardly any likelihood, as the incidents referred to are three or four months old.*

*I talked with Pat on Wed. last. He freely admitted to the accusations of the sister, but they didn’t seem to be quite as serious as the sister painted them, and I believe Pat. However Pat also admitted that he*

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The term ‘head of the Society’ is used to describe anyone in authority in the Society.

*has had this problem or tendency for years, and off and on over the years he had gone to psychiatrists privately about it. Loneliness, he puts down as the root cause of his problem.*

*He had the tendency more or less under control, but is really scared of it himself. I think that it is Divine Providence that the problem came into the open at this stage. If Pat were to stay on until he was due for his next holiday in two years, he, more than likely, would go home a wreck [...]*

*Pat is going home, ostensibly, because his mother is sick. It may sound deceitful to you, but it is the only way that I can think of that would release Pat from the obligation of having going away parties and all the attendant publicity”.*

16.9 It appears that the real reason for Fr Maguire's departure from Japan was known only to a few members of the Society in Ireland. The General Council “*Agreed that pro tem Patrick Maguire, Japan, be considered as on compassionate leave in Ireland*”. It is not clear that those who did know understood the nature and/or extent of the problem. It was never referred to as child sexual abuse. Nevertheless, they were aware that Fr Maguire's problem ought not be widely known or acknowledged.

16.10 On his return from Japan in 1974, Fr Maguire attended a priest for counselling and he also attended a psychiatrist. The Society did not brief the psychiatrist in writing. It is not clear exactly what problem the psychiatrist thought Fr Maguire had but it would appear that either he did not know what had happened or he had no knowledge of child sexual abuse. In his report, the psychiatrist stated that Fr Maguire was a shy man who found himself in a difficult cultural situation and gradually became isolated. The psychiatrist felt that the actual physical manifestation of his problem was related to his isolation and could, in a number of instances, be regarded as almost coincidental. It is clear from later statements to therapists that Fr Maguire considered there was little sexuality in his relationships with children – he liked “*physical intimacy*” with children. The psychiatrist reported to the Society that he did not think that Fr Maguire “*should cut himself off completely*

*from young people...he will begin to relate better with his peers as he grows older”.*

(After Fr Maguire’s conviction in the UK in 1998, the Society issued a statement in which it acknowledged that this advice proved incorrect.)

- 16.11 Fr Maguire worked in the UK for some months in 1974 and was then assigned to Ireland for a year. His superior wrote to him saying that the Society was very happy with the progress he had made – this was based on the psychiatrist’s reports. The letter went on to say: *“The difficulties that you have encountered in Japan are not that unusual. You have always been an excellent priest, a very capable one and a hard worker. I am confident that given time at home in a more relaxed situation where you can see the results of your priestly activity that you will be all the better for any difficulties that you may have incurred in Japan”.*

#### **Diocese of Raphoe, 1974 - 1975**

- 16.12 Fr Maguire was assigned to work in the diocese of Raphoe in September 1974. While there, he requested to say the early morning mass; he then had an excuse for getting the altar boys to stay overnight so they would be in time in the morning. He engaged in his usual practice of grooming children by inviting them to stay in his house and bringing them swimming. One victim said later that *“We all had an idea about what went on but none of us spoke”.* A priest who served with him stated in 1997 that he thought Fr Maguire had abused about eight or nine boys while there.

- 16.13 At this stage, Fr Maguire became astonishingly brazen. He reported to the parents of a boy who had stayed overnight in his house that the boy had a problem with his testicles. Not surprisingly, the parents wondered how he had discovered that. The parents of this boy and others complained to the Bishop of Raphoe, Bishop McFeely, who immediately asked the Society to remove Fr Maguire from his diocese. His letter of December 1975 to the Society well illustrates the episcopal thinking of the time:

*“Earlier this year I had a well substantiated complaint from one set of parents about PM having homosexual relations with a son of theirs who was an altar server. We agreed not to take any action at that time but to keep a look out for any repetition. I regret to say that*

*another case has cropped up in the past few days. I am fairly certain that the two sets of parents involved are each unaware of the other complaint and I cannot doubt the truth of their report. I do not wish to go into details but briefly PM had these boys in his room all night and would seem to have interfered sexually with them. He informed the parents of one of the boys that the son had an abnormality of the testicles.*

*I intend to speak to PM tomorrow or Sunday and no matter what transpires in my interview with him, I will insist on him leaving here as quickly and as quietly as possible. ... If PM were to remain here even for a short time, there would be grave danger of the affair becoming public. One of the parents has consulted a doctor. If news of PM's departure were to leak out, there might well be a proposal to have some kind of send-off for him and that could lead to unforeseen dangers.*

*Of course, I will be as helpful as I can and be as sympathetic as I can. We can easily say that you found it necessary to recall him urgently for other duties and I should think there will be no untoward surprise”.*

16.14 Fr Maguire was removed from Raphoe immediately. He attended a psychologist in Dublin who according to Fr Maguire was “very aggressive” with him but who clearly recognised the problem. Fr Maguire was sent to Stroud in February 1976. The head of the Society in Ireland told Stroud that “*If people enquire about him I’m saying that he’s on a renewal course in England – somewhere in Gloucestershire as Stroud will have connotations for many!*”. Fr Maguire spent three months in Stroud. Again, it is not clear what Stroud was told but it is clear that his problem was diagnosed as “*paederasty coupled with an almost unbelievable imprudence and lack of understanding of the danger he can be to boys*”. Stroud considered that Fr Maguire was in certain respects immature. There was danger but “*this does not mean that he cannot practice in the long term as a valuable priest*”. It was recognised that he had become “*too intimate*” with boys but that “*can be made too much of as I cannot believe that he was in any way cruel or ruthless with the boys in question*”.

16.15 Fr Maguire said later (in 1992) that, other than seeing a psychiatrist on six occasions, he did not receive any specific treatment for his difficulties in Stroud. He said that everyone was treated as an alcoholic and the area of sexuality was denied. It is clearly not the case that the area of sexuality was denied. However, there seems to have been a diagnosis or assessment only and no treatment and there also seems to have been a very limited understanding of the nature and consequences of being “*too intimate*” with boys. Fr Maguire also said (in evidence to the Church penal process in 2000) that he did supply work locally while he was in Stroud.

16.16 The Society seems to have noted only the optimistic parts of the assessment from Stroud and admitted as much in 1998.

16.17 Fr Maguire started pastoral work in the UK later in 1976. During this time he committed the abuse for which he was subsequently convicted in the UK. This abuse was not reported to the Society at the time.

#### **Mission promotion in Ireland 1976 - 1979**

16.18 On the basis that the report from Stroud was “*encouraging*”, the Society decided that Fr Maguire should go on mission promotion work in Ireland as he would move from parish to parish and would not have enough time to “*establish relationships which might be dangerous*”. He did this from September 1976 to 1979. This involved preaching at all masses in a parish on a Sunday and spending the weekdays in the schools telling the children about the missions. He would look to the congregation for a place to stay; he seems to have been particularly adept at staying in houses where there were no adult males. At least four of the boys he abused during this period lived in the Archdiocese of Dublin. He also abused in other parts of the country. There seems to have been absolutely no supervision of him during this period. The Society has explained to the Commission that mission promotion work was organised in the following way:

*“As a matter of practice each congregation was assigned a diocese. Each year the congregation would be aware of what work was being done by whom in what diocese in general terms but not of the details as to the schedules of any of the individuals carrying out that work. Generally the persons working the diocese would split it up amongst themselves as members of the promotional team. At the same time*

*there would have been direct liaison with individual Parish Priests, in relation to availability etc.*

*Patrick Maguire's schedule would have been derived through the process described above. The Society would know which diocese he was attached to but not the details of his schedule".*

16.19 He spent some time doing supply work in the UK during this period. This was unknown to his superior in Ireland until Fr Maguire wrote a letter to him about an unrelated matter.

16.20 A further complaint was made to the Society and it was decided to give Fr Maguire an office job. In May 1979, he was appointed as secretary to the central administration of the Society – this included being the private secretary to the Superior General. He was based in Dublin. While doing this job, he also did what the Society describes as *"ad hoc supply as and when requested in different churches. This usually took the form of saying one or two masses usually on weekends when vacancies arose in the local area from time to time"*.

#### **First complaint to Archdiocese, 1979**

16.21 In 1979, a woman complained to a priest of the Archdiocese that she had found Fr Maguire in bed with her two sons. She had provided Fr Maguire with a bed for the night after he had preached in her local church. She noticed that he was not in the bed allocated and found him in her sons' bed. His excuse was that he was cold. She provided him with a hot water bottle and sent him back to his allocated bed. She subsequently found him back in her sons' bed. In a statement made in 1997, the priest to whom she reported this allegation at the time said that he had reported it to his parish priest. Unfortunately, the parish priest was dead by then and so could not be asked about it. It seems that nothing further happened.

16.22 There is no doubt that the complaint was made in 1979. The priest's description (in 1997) of the complaint he received (in 1979) totally corroborates the statements of the boys and their mother. Neither the Archdiocese nor the Society has a contemporaneous record of this complaint. The Archdiocese did investigate the complaint in 1997 after the boys in



question (who were then young adults) made complaints to the Gardaí – see below.

16.23 Fr Maguire went to a treatment centre in the UK for six months in 1982 at his own instigation. He told his therapist that he felt sad and lonely after his mother died and sought therapy. He returned to work as secretary to the Society in September 1982. In January 1983, he was complaining to his superior about lack of support. He saw his current job as “*a form of ‘house arrest’*”. In fact, it was not even remotely akin to house arrest because he continued to do supply work in local churches in Dublin, he was taking children swimming and he also managed to go to the UK and access children whom he had previously abused.

#### **Working in the Archdiocese, 1983 - 1984**

16.24 Fr Maguire was appointed to the Archdiocese of Dublin in October 1983. He was appointed to a parish for which the Society had a contract with the Archdiocese – Balcurris, Ballymun. The appointment was to be for two years. The superior of the Society in Ireland wrote a letter to Archbishop Ryan in which he “*highly*” recommended Fr Maguire. He told the Archbishop that Fr Maguire had served in Japan and more recently as secretary to the central administration. There was no mention of his service in Raphoe or of his missionary promotion work. There was no mention of any problems even though it is clear that the superior did know that there were problems. He may not have known the full extent of the problems but he ought to have mentioned those of which he did have knowledge. Fr Maguire also continued with his job as secretary until a new appointment was made.

16.25 In November 1983, the Archdiocese was investigating a complaint against Fr Bill Carney (see Chapter 28). During the church investigation of this complaint, Fr Carney told Monsignor Alex Stenson and Canon Ardle McMahon that he (Fr Carney) used to bring boys swimming and was accompanied by two adults, one of whom was “*a Fr Pat Maguire (a Columban)*”. Fr Carney said these adults were prepared to vouch for him if the matter went to court. Neither Monsignor Stenson nor Canon McMahon nor the people to whom they reported, Bishop Kavanagh and Archbishop Ryan, noted that Fr Maguire was, in fact, attached to the Archdiocese of Dublin at this stage. No effort was made to contact Fr Maguire in respect of

the Fr Carney complaint. However it must be said that, at this stage, the Archdiocese had no notice that Fr Maguire was a child abuser and there was no reason why Monsignor Stenson or Canon McMahon would have had any suspicions about him.

- 16.26 In 1984, Fr Maguire was still visiting former victims' families in the diocese of Raphoe and officiated at a wedding there. This was known to the Society but they did not do anything about it.

### **Second complaint to Archdiocese**

- 16.27 In April 1984, Archbishop Ryan's secretary informed the head of the Society in Ireland of three complaints about Fr Maguire's behaviour with children. The first had been reported to the Archdiocese some time earlier by the parish priest of Ayrfield. He reported a complaint by parents that Fr Maguire was too intimate with their children at a swimming pool. Again, Fr Maguire had told parents that a child had problems with his testicles. It appears that the Archbishop's secretary told the Society that the Archbishop did not act on this information because of the "*delicate position*" of Fr Maguire as the Superior General's secretary. Then, an anonymous caller reported similar incidents but, because of the caller's wish to remain anonymous, the Archbishop did not pursue the case. The third complaint had been made the day before the secretary reported to the Society. Another parent had complained about Fr Maguire's involvement with children. The head of the Society said that there could be substance to these complaints. The Society then contacted the local curate (who was one of its members) and was told that he and the other priests were disturbed by so many youths calling to Fr Maguire's room. They had confronted Fr Maguire and advised him to be more prudent, but he defended his position and said he was "*showing loving care to those who have been deprived of it*".

- 16.28 Fr Maguire was withdrawn from the Archdiocese in May 1984. Archbishop Ryan sent him the standard letter of thanks for his service in the Archdiocese.

- 16.29 There is no record of this complaint in the files of the Archdiocese. When asked about it in 2000, the former secretary remembered that there had been a complaint and that Fr Maguire was removed but did not

remember the details. He told the Commission that he did not remember meeting the head of the Society but he accepted that the meeting had taken place. He had not discussed the complaint with Monsignor Alex Stenson who, had he been informed, might have linked it with the earlier Fr Carney complaint. Internal communication within the Archdiocese was clearly inadequate in this case.

### **UK, 1984 - 1992**

16.30 Fr Maguire was sent to the UK for therapy. After some discussion of what form of therapy he would undergo, it was decided that he would have a job as bursar in one of the Society's houses in the UK and have therapy at the therapeutic centre which he had attended in 1982. The local head of the Society had reservations about the wisdom of assigning him to the UK. Fr Maguire had reservations about the type of therapy being proposed. The therapeutic facility had reservations about having Fr Maguire because he was likely to re-offend and *"the chances of smoothing over such cases in which a clergyman is involved would be much less here than in Ireland"*. Fr Maguire then received daily intensive therapy for over two years. He was in touch with his superior in Ireland about his therapy and his progress generally. He was considering leaving the priesthood and marrying. One letter from the superior throws light on the Society's views of the role of priests:

*"Without in any way impinging on your freedom, I offer the advice that you don't surrender that freedom of decision to any therapist. You are a priest and you should not allow any person other than yourself to conclude that you ought not remain in ministry, albeit a limited one. I am distrustful of the capacity of any layman or woman to know what it means to be a priest. A priest counsellor is in a better position to do so. Do you have a spiritual director as well as a therapist? I know that you are probably fed up to the back teeth with the therapy and I don't want in any way to throw doubt on what the therapist is finding, but he isn't God. Don't let him decide for you".*

The Society told the Commission that this letter should not be taken as a general comment on the Society's views of the role of priests or the nature of a vocation but rather as a specific response to a letter written by Fr Maguire in which he communicated some serious personal problems.

16.31 Fr Maguire left this therapy arrangement in anger as he felt it was not helping him. He was in the USA for six months in 1988/89 pursuing a clinical pastoral education course. The Society considered his situation in 1989 and concluded that they “*must be cautious in his appointment but also we have to ‘take a risk’ with him at some stage*”. He was given a parish and hospital appointment in London. This also involved being a school chaplain. He was involved in a school trip where he supervised boys washing and getting ready for bed. It is not clear what, if anything, members of his Society with whom he was living knew of his background.

16.32 He was asked to leave his parish appointment in May 1992 when the parents of a 21-year-old man complained that Fr Maguire was in an abusive sexual relationship with their son who suffered from a mental illness. A head teacher had already asked that Fr Maguire stay away from the school. He was sent back to the therapeutic facility. The Society had finally reached the conclusion that he could not have public ministry for the foreseeable future. The therapeutic facility was very clear that Fr Maguire posed a danger to any child with whom he came in contact.

16.33 A manager of a pharmacy reported that Fr Maguire had left in photographs to be developed which were a cause of concern as they involved nudity. In the light of all the issues which had arisen, the Society decided to get him out of the UK before he was arrested. He was immediately sent to Ireland.

#### **Ireland, 1992 - 1996**

16.34 The superior of the Society in the UK wrote to the Society in Ireland saying that Fr Maguire should be formally suspended in order to remove “*the priestly safety net*”, that his counsellor described him as a “*walking time bomb*” and that the Columbans should have a written policy on child sexual abusers. He also said that the family of the children involved in the photographs (who were in Ireland) should be informed. This is the first time in the lengthy dealings with Fr Maguire that some concern is expressed for the safety of children.

16.35 The reports from the therapeutic facility at this stage were very clear that Fr Maguire was a risk to children and should not be allowed any pastoral

ministry. It was very clear that he used his pastoral role to gain access to victims and to groom families of potential victims. The therapeutic facility recommended that he be placed in a residential treatment programme.

16.36 The council of the Society in the UK formally recommended to its Irish equivalent that Fr Maguire have residential treatment for his paedophilia and be compulsorily suspended from the priesthood until further notice. The UK Society head noted that:

*“As far as I can work out, on three occasions the Society has recommended PM for pastoral work when as a Society we have collectively had sufficient knowledge to have known better and not to have appointed him to a parish or hospital. Maybe for lack of knowledge of all the facts from Japan, Ireland and England, PM was allowed back into ministry, with I am sad to say disastrous consequences, damaging people and leaving us in a delicate situation with both the Archdioceses of Westminster and Birmingham”.*

16.37 It is not clear if he was aware that they were also “*in a delicate situation*” with a number of dioceses in Ireland.

16.38 In December 1992, Fr Maguire was living in one of the Society’s houses in Ireland and his liturgical and pastoral activity was restricted to there. He could stay a night away from there very occasionally but only with specific permission. He could be away during the day but was required to inform the local superior and to be back by midnight. He could ask for permission to say mass for his family or officiate at funerals or weddings. He was allowed go to his family home for an occasional overnight stay during which his brother was to accept responsibility for him. The local parish priest in his home area was informed and told that Fr Maguire was forbidden to say mass, even in an emergency. Fr Maguire started individual and group therapy in Dublin. The Society in the UK was concerned that he had not been suspended. In general, the head of the Society in the UK seemed to be more conscious of the risk Fr Maguire presented than was his Irish counterpart.

16.39 The local bishop was not told in writing of Fr Maguire’s problems or of his presence in his diocese but the Society told the Commission that he may have been told informally as he was a regular visitor to this house at the time.

In fact, the local bishop has told the Commission that he was briefed on a number of occasions on developments in the case and on the ongoing arrangements for supervision and monitoring. He said (in 2009) that he was and continues to be satisfied with the arrangements. Neither the Archbishop of Dublin nor the Bishop of Raphoe was informed of the complaints or of Fr Maguire's whereabouts.

16.40 The Society developed a *Policy on Sexual Abuse of Minors* – it got final approval in September 1994. This included provision for on-going education for members on the nature of sexual abuse and its effects on minors and also included a provision that candidates for membership would undergo psychological testing. This would seek to identify tendencies to paedophilia and ephebophilia<sup>61</sup>.

16.41 In 1994, complaints were made to the Society about abuse which had occurred in Ireland in 1977. The complainants were told that Fr Maguire was no longer in ministry and did not have access to children. They were also encouraged by the Society to lodge a complaint with the Gardaí.

16.42 In 1995, it was clear that Fr Maguire was not abiding by the restrictions imposed. A local priest reported to the Society that he was concerned that Fr Maguire was staying in his own accommodation at his brother's place and that he might have a relationship with a 15-year-old boy. The Society forbade Fr Maguire to stay overnight away from the Society house. The Society in the UK expressed concern at the fact that Fr Maguire was celebrating private masses in his home parish and had organised a holiday for a family from the UK including children under 16. The Society in the UK wrote:

*"My motives for writing come only from a genuine concern for possible victims as well as for the good name of our Society. If anything serious became public and the Society was found in any way negligent, and in my judgment we have been on various occasions down through the years, then the result, with regard to the financial support given to the Columbans by our benefactors, both in Ireland and Britain, would in my opinion be catastrophic [...]"*

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<sup>61</sup>

Sexual attraction to adolescents.

16.43 The UK regional director clearly had a good understanding of Fr Maguire's methods. Fr Maguire was quite annoyed at what he saw as the unjust assumption that he was abusing the boy. The Society visited the family of the boy who had stayed with Fr Maguire and the family had no complaints. The local health board was informed of the situation by the Society. In September 1995, the restrictions were more stringently imposed.

16.44 In 1996, complaints of abuse from the Raphoe diocese were made to Monsignor Stenson, chancellor of the Archdiocese of Dublin and to the Society. Monsignor Stenson reported the complaints to the Society. Monsignor Stenson told the Commission that Fr Maguire's name had not registered in his memory and he had made no connection between this complaint and the 1983 Fr Carney complaint. The Society informed the Gardaí and the local bishop.

#### **Further treatment, admissions and arrest, 1997**

16.45 The Society started a canon law investigation of the Raphoe complaints. Fr Maguire was placed under further restrictions including being forbidden to drive, to stay away from the Society house or to holiday abroad. He was sent to another therapeutic facility in the UK for assessment and treatment; this went on for over a year and was quite expensive. It was during this treatment that he admitted to the range of child sexual abuse offences which are listed above.

16.46 The Society started to build up a full profile of Fr Maguire. It was recognised that, because he had moved between provinces, no one in the Society seemed to know the full story. In fact, the Society told the Commission that the first time all the documentation which it has in relation to Fr Maguire was brought together in one location was in preparation for the work of this Commission.

16.47 As information was gathered from the various superiors who had dealt with Fr Maguire, it did become clear that none of them had full knowledge of all the complaints and suspicions which had been reported; each had a certain amount of knowledge. A number of members of the Society who were, nominally at least, Fr Maguire's superiors, said in 1997 that they were

not aware of the problem for which Fr Maguire was being sent for treatment. The general view of the people who did know about some of the complaints was that his behaviour was *“imprudent”*. The superior who had recommended Fr Maguire to the Archdiocese of Dublin, wrote: *“Even in the 1970s it was regarded as contrary to the rule of charity to put in writing details of a member’s sexual misbehaviour. When there were such incidents they were shared by word-of-mouth between as few as possible in authority”*. He said he should not have highly recommended Fr Maguire to the Archbishop of Dublin because he found him difficult and contrary but that he did so because of positive medical reports and not knowing why he had been removed from the diocese of Raphoe. He also said that he did not know about the incidents in Japan, Raphoe, the UK and Dublin until 1995. He also did not know why Fr Maguire had been sent to Stroud, although he was his local superior and visited him there: *“since no information was proffered to me, I respected the confidentiality of the case”*. Others referred to similar considerations of confidentiality. The Society’s structure also meant that information was kept in different locations, for example, the central headquarters in Ireland is separate from the Irish regional headquarters and separate files were kept in each place.

16.48 Fr Maguire was arrested while at the therapeutic facility in July 1997 and charged with indecent assault in relation to incidents in 1976 and 1977 in the UK. He remained in the facility while awaiting trial. Meanwhile, a garda investigation had been proceeding in Ireland. Fr Maguire told his superior while he was awaiting trial in the UK in 1997 that 100 cases could be expected if his name became public in Ireland.

16.49 When he was arrested in the UK, the Society informed the dioceses in Ireland in which he had served, including the Archdiocese of Dublin. The Society told the Archdiocese that there had been a complaint in respect of Fr Maguire’s time in the Archdiocese and that it had documentation about the 1984 meeting.

16.50 The young men, who, as boys, had been involved in the first complaint to the Archdiocese (in 1979) made a complaint to the Gardaí and wrote to the Archdiocese to find out why their mother’s complaint in 1979 had not been investigated and why no action had been taken in respect of Fr Maguire.



16.51 The Society withdrew Fr Maguire's faculties to hear confession, offer a public mass and preach. It contacted all the relevant health boards in Ireland and had meetings with the director of community care and senior social workers in the health board area where he had been recently living.

16.52 The Archdiocese of Dublin tried to establish what had happened in relation to the 1979 and 1984 complaints to them. The chancellor, Monsignor John Dolan, spoke to the priest to whom the 1979 complaint was made and he outlined what he had been told and what he had done. The Columbans told Monsignor Dolan that they had no record of the 1979 complaint. Monsignor Dolan then told the young men involved that there was no record of the complaint. Fr Maguire admitted to abusing the boys involved in the 1979 complaint.

16.53 The Society raised the question of voluntary laicisation with Fr Maguire while he was awaiting his trial in the UK. The Society encouraged him to plead guilty. He was told that the Society had empathy for him but it was being open with the civil authorities and that *"there was and will not be any cover-up"*. The Society did co-operate with both the UK police and the Gardaí.

16.54 In October 1997, the Society told Fr Dolan that the relevant superior now wished to apologise to Archbishop Connell for highly recommending Fr Maguire to the Archdiocese. Fr Dolan, who knew very little about Fr Maguire's activities, assured the Society that there was no need as he considered that the superior had made the original recommendation in good faith. There was extensive communication between the solicitors for the Archdiocese and the solicitors for the Society at this time.

16.55 The Society continued to examine the question of laicisation. They were advised by a canon lawyer that *"Compulsory Laicisation is a difficult path to take and Rome are reluctant to go along with it"*.

#### **UK conviction 1998**

16.56 In June 1998, Fr Maguire pleaded guilty in the UK courts to four counts of indecent assault in 1976 and 1977 on two boys. He was sentenced

to 18 months imprisonment – nine months to be served and nine months on licence.

- 16.57 When he was convicted, the Society in the UK issued a statement in which it expressed its regret. The statement included the following points:

*“(2) In 1974, because of doubts that had arisen about PM, medical assessment and recommendations were sought in Ireland. The advice received was that he seemed to be improving and coming to terms with problems. In the report, future involvement with young people was not seen as a source of concern. With hindsight, this advice proved incorrect and, tragically, the significance of a more pessimistic medical opinion in 1976 was not always appreciated or sufficiently taken into account in the years following.*

*(3) For the greater part of the time since then, PM has been assigned to internal posts which did not involve contact with young people. Because of the confidentiality observed in the handling of personal records, succeeding superiors were not always aware of the medical reports referred to above. As a result, PM was on occasions authorised to engage in pastoral work. In retrospect, the Society should have been more vigilant and we regret those failures in communication. We apologise unreservedly for the mistakes we have made”.*

- 16.58 The Society in Ireland also issued a statement, in which it expressed its regret, reiterated the apology offered by the Society in the UK and gave a helpline number. It stated *“For the past six years Patrick Maguire has been suspended from pastoral duties and may not now minister as a priest”.*

- 16.59 In June 1998, Fr Maguire was assessed by the therapeutic facility as being at significant risk of re-offending.

#### **Ireland: conviction and laicisation 1999 - 2008**

- 16.60 Fr Maguire was released from prison in the UK in March 1999. He was immediately arrested and extradited to Ireland on ten charges of indecent assault and two charges of buggery. Two of the indecent assault charges

related to the boys whose mother had complained in 1979. The Society provided the surety for bail. One of the conditions of the bail was that Fr Maguire live in a specified Society house. The Society laid down strict conditions which meant that he was not allowed to leave the grounds without being accompanied by another Society member and then only for specific purposes; he could not speak to anyone under the age of 20 and could not celebrate mass either publicly or privately.

16.61 In July 1999, the Society started the formal process of compulsory laicisation. The Society made it clear that it did not want to dismiss Fr Maguire from membership of the Society. It recognised that: *“As the priesthood provides the principal access to children we have been advised that his laicisation would not only safeguard possible future victims but may also mean that if PM is found guilty of offences in Ireland he may receive a lighter sentence”*. Archbishop Connell was informed and the process was handled by the Dublin Metropolitan Tribunal (see Chapter 4).

16.62 In January 2000, Fr Maguire pleaded guilty to ten charges of indecent assault – assaulting five boys in Sligo, Dublin and Louth from January 1972 to June 1980. The complainant who alleged buggery decided not to give evidence, so those charges were withdrawn. He was convicted in March 2000 and sentenced to six years imprisonment on each charge, to run concurrently, with a review after three years with the possibility of release provided there were suitable therapeutic facilities available to receive him.

16.63 Another complaint emerged from Dublin in August 2000. A parent complained to the Gardaí but the young man did not follow up with a statement because he did not believe he could follow through with a prosecution and give evidence in court. The parent contacted the Society and reported that Fr Maguire had become very friendly with the family and particularly the son. The parent said that *“comments were made by neighbours to the effect that the relationship was strange and had sexual overtones”* but the parent *“totally disbelieved this at the time”*.

16.64 In September 2000, the Dublin Metropolitan Tribunal decided that Fr Maguire should be dismissed from the clerical state. He appealed to Rome on the grounds that he had not been fully informed of the specific charges

against him or given adequate time or opportunity to defend himself. In June 2002, the Roman Rota tribunal decided that, rather than be dismissed from the clerical state, Fr Maguire should be suspended from the priesthood for nine years. The precise meaning of this decision was not totally clear to the Society or, indeed, to canon lawyers. It was not clear, for example, whether he would be allowed say mass privately. One canon lawyer took the view that the Society could still make its own decision about his fitness to exercise ministry. The Society has taken the view that the suspension precludes him from saying private masses. Fr Maguire considers that he is entitled to do so.

16.65 Fr Maguire was released from prison in March 2003 having served half of his sentence. The judge directed that he live in secure accommodation in the Society's house. There was some discussion about the conditions imposed by the judge and the conditions that the Society felt it could enforce. There are Church guidelines for religious groups who are accepting convicted sex offenders back into their communities.

16.66 In its report to the court dealing with post release supervision, the Probation and Welfare Service (PWS) reported that, among other things, they had met the superiors of the Society in the house where Fr Maguire was to live. The PWS recommended various supervision conditions including that Fr Maguire live under the care of the Society and that he comply with the directions of the Society.

16.67 The Society set up a circle of support and accountability. The PWS was involved in monitoring him. It was agreed in 2004 that he could work alone anywhere in the grounds and that he could visit Dublin twice a month, having given notice to his superiors. He was allowed to buy a car in February 2005.

16.68 In 2004, two boys from Dublin complained to the Gardaí that they had been abused by Fr Maguire in the late 1970s. Fr Maguire admitted that he had abused them. He was charged with indecent assault and convicted in February 2007. He received a three year sentence which was suspended for six years (until 2013) on condition that he remain under the supervision of the Probation and Welfare Service.

16.69 The Society of St Columban made civil settlements with a number of complainants in Ireland and the UK. None of these was from the Archdiocese of Dublin.

### **The Commission's assessment**

#### *Church authorities*

16.70 Complaints about Fr Maguire were handled very badly by his Society over a period of about 20 years. Specific complaints to the bishop of Raphoe in 1975, to a priest in the Archdiocese of Dublin in 1979 and to the Archbishop of Dublin in 1984 were also very badly handled. A number of complaints seem to have been largely ignored or avoided; in other cases, the response was to move him somewhere else. The Society knew at a relatively early stage - at least in 1974 - that there was a problem. The Society paid for extensive and expensive assessment and treatment for Fr Maguire between 1974 and 1996. However, for about 20 years, it did absolutely nothing to prevent his access to children. In a particularly disastrous move by the Society, he was assigned to go around Ireland promoting the Columbans. He did this by visiting schools and preaching at masses. This gave him access to every Catholic Church congregation and to every Catholic school in the country, in effect, to virtually every child in the country. He duly took advantage of that access. Several Church authorities in Ireland and the UK including the superiors of the Columbans and a number of bishops knew that he was an abuser but it was more than 20 years after the first complaint that appropriate action was taken to prevent his access to children. In recent years the Society has taken steps to ensure that he does not have access to children and is to be commended for supervising him and not expelling him from the Society.

16.71 The Society told the Commission that it *“fully accepts that very serious mistakes were made”* in its dealings with Fr Maguire. The Commission accepts that the structure of the Society militated against or, at least, did not facilitate co-ordinated handling of the problem. However, it appears that the culture of confidentiality, the over-arching concern for the welfare of the priest and the avoidance of scandal were the major contributory factors to the quite disastrous way in which this case was handled.

16.72 Archbishop Ryan was negligent in his dealings with Fr Maguire. It is not clear who precisely was at fault for the failure to deal with the first complaint to the Archdiocese in 1979 but it was someone from the Archdiocese. Archbishop Ryan's stated reason, as contemporaneously reported to the Society by his secretary, for not following up complaints received in 1984, that is, Fr Maguire's delicate position as secretary to the Superior-General, is quite shocking. It appears that Archbishop Ryan got different people within his administration to deal with child sexual abuse complaints as they arose and, as a result, no one person knew the extent of the problem. Bishop McFeely of Raphoe did report the problem accurately but dealt with it by having Fr Maguire removed as quickly as possible.

16.73 It is the Commission's view that the Society acted properly in seeking to laicise Fr Maguire while, at the same time, making it very clear that it intended to retain, maintain and supervise him as a member of the Society. The decision of the Roman Rota tribunal to change the decision of the Dublin Metropolitan Tribunal from dismissal from the clerical state to nine years suspension was, to put it at its mildest, unhelpful. It left the Society in a position where his precise status was unclear.

*Communication between Church authorities*

16.74 Prior to 1997, there was inadequate communication between the different parts of the Society. There was inadequate communication between the Society and the Archdiocese. The bishop of Raphoe, while he immediately removed the problem from his diocese, did clearly and unambiguously tell the Society what the problem was. However, through no fault of his, his letter was not made available to the relevant people in the Society who were supposed to be Fr Maguire's superiors.

*State authorities*

16.75 The Gardaí and the health boards acted appropriately in this case.

**Introduction**

17.1 Fr Ioannes was born in 1927 and ordained in June 1953. He served in parishes in the Archdiocese from 1953 to 1988. He was in the USA from 1988 until 1993 when he was summoned home to deal with a complaint of child sexual abuse. He has not been in ministry since then.

17.2 The Commission is aware of three complaints of child sexual abuse and one of physical abuse against Fr Ioannes. These complaints all relate to incidents in the 1960s, 1970s and 1980s. He has admitted to sexually abusing three others but it is likely that there are more victims of both sexual and physical abuse. In 2009, he pleaded guilty to a number of charges. The Archdiocese has made a civil settlement with one victim and Fr Ioannes personally paid compensation to another.

**First Complaint, 1974**

17.3 The first complaint against Fr Ioannes was made in 1974. There are no records in the archdiocesan files about this complaint but there is no doubt that it was made. The complaint was made by the parents of a young boy.

17.4 The mother of the boy told the Commission that she and her husband discussed reporting the matter to the Gardaí at the time but decided against it in their son's interest. *"It would have been better not to go to the guards because we never heard of anything like that before, neither of us and we thought that we were the only ones"*. They also wanted to protect the priest: *"in case it was scandal I suppose. That's the way we were instructed in those days, you didn't give scandal and we went out of our way not to let anybody know who it was"*. They then decided that they had to report it to the Church in the interest of other children.

17.5 The parents complained to a local priest who wrote a letter to the Archbishop. This letter is not in the files of the Archdiocese but it was seen by the complainant's father. Monsignor Glennon was asked to investigate the matter. Monsignor Glennon met the boy's father. He then met Fr Ioannes.

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<sup>62</sup>

This is a pseudonym.

He met the boy's father again and told him that Fr Ioannes admitted the allegations and wanted to meet the family. The parents did not want to meet him. Monsignor Glennon also told the parents that Fr Ioannes was being sent for treatment. The mother thinks this did not happen as she saw him locally very soon after. She did not tell anyone else about what had happened.

- 17.6 In fact, Fr Ioannes had been sent for a psychiatric assessment by Monsignor Glennon, but not for treatment. The psychiatrist was told that the allegation against Fr Ioannes was that he had taken an altar boy to the pictures and later to his room where he was alleged to have indulged in indecent behaviour and to have taken photographs. Monsignor Glennon had spoken to Fr Ioannes who had admitted that there had been some "*handling of the organ*". Fr Ioannes told the psychiatrist that he had had no previous difficulties in his relationships with altar boys and "*did not think anything like this could happen to me*". (This subsequently transpired to be untrue and Fr Ioannes later admitted that he had misled the psychiatrist). Based on what he was told and on his own evaluation, the psychiatrist reported that he could not find any evidence of serious psychiatric disorder or of any serious psycho-sexual maladjustment. He was of the opinion that the incident appeared to have been an isolated aberration.

### **Complaints of physical abuse, 1978**

- 17.7 Sometime in 1978, complaints about Fr Ioannes behaving in a violent or aggressive manner were made to his parish priest. In one incident Fr Ioannes had knocked a young boy unconscious. The parish priest reported to the Archbishop who asked Bishop O'Mahony to deal with the matter. The parish priest said that he thought that Fr Ioannes was subject to an uncontrollable impulse and had psychotic tendencies. He was aware of other incidents of violent/aggressive behaviour.
- 17.8 Bishop O'Mahony sent Fr Ioannes back to the psychiatrist who had assessed him in 1974. Fr Ioannes attended the psychiatrist on several occasions between September and December 1978. Fr Ioannes assured him that there had not been any sexual problems since they had last met in 1974. The psychiatrist reported to Archbishop Ryan that Fr Ioannes had a tendency to act impulsively but, after acting impulsively, he recognised his aberration and tried to make amends. The psychiatrist was satisfied that "*it*



*should therefore be safe and in fact advisable*" to leave Fr Ioannes where he was.

17.9 In 1979, Archbishop Ryan made inquiries about Fr Ioannes. His parish priest expressed concern that he was still behaving in an aggressive manner. Bishop O'Mahony met Fr Ioannes and it was agreed that he would go back to the psychiatrist. Fr Ioannes saw the psychiatrist twice in 1980. It is clear from the reports that the issue being addressed was his aggressive behaviour and not child sexual abuse. There was further correspondence between the parish priest and the Archbishop over the next few years. In 1985, it seems that the parish priest thought that Fr Ioannes no longer had a major problem with aggression. Fr Ioannes expressed his disappointment at not being made a parish priest and he began to look for an appointment in the USA. He had done holiday work in the USA a few times.

17.10 In October 1986, his parish priest prepared a draft reference for use by the Archdiocese. This included information on his problems with aggression but did not mention the admitted incident of child sexual abuse in 1974. There is no evidence that the parish priest had any knowledge of the 1974 complaint, although it was known to the Archdiocese. The reference was sent by Archbishop McNamara to an American diocese. Fr Ioannes was not offered a position by this diocese.

### **San Diego, 1988**

17.11 In June 1988, the Bishop of San Diego wrote to Archbishop Connell asking him for a reference in respect of Fr Ioannes. The reference which was sent described Fr Ioannes as "*an excellent priest in many ways*". It did not mention the allegation of child sexual abuse or, indeed, the problems with aggressive behaviour. In a later letter about the practical details of the arrangements, the Archbishop recommended Fr Ioannes as "*a priest in good standing.*"

17.12 Fr Ioannes worked in San Diego from 1988 to 1992. On his return, Monsignor Stenson made inquiries about how he had fared in San Diego. The report was less than flattering but there was no suggestion of any child sexual abuse or aggressive behaviour. The Bishop of San Diego did not want him back.

## **Seattle**

17.13 Fr Ioannes then sought an appointment in the archdiocese of Seattle. This diocese asked the Archdiocese of Dublin for a comprehensive letter of recommendation indicating, among other things, that he *“is a priest in good standing, and there has never been any charge of misconduct against him. Please also indicate that you do not know of any behaviour on his part that could cause scandal in your diocese, or in the Archdiocese of Seattle, if it were to become publicly known”*.

17.14 In June 1992, Monsignor Stenson replied to the Archbishop of Seattle stating that Fr Ioannes was a priest in good standing but there was no mention of misconduct or scandal. A further letter from Seattle in July 1992 asked for a description and some examples of Fr Ioannes’s *“relationships with others: men, women, youth, children”*. The letter continued: *“Did you ever hear any criticism about the way he relates with others? Have questions, rumor regarding celibacy or his relationship with others been raised? If so please explain”*. In reply, Monsignor Stenson said that, in the past, there had been some outbursts of temper with altar boys but *“there has never been any suggestion whatever of improper or immoral behaviour”*.

## **Civil claim, 1993**

17.15 In March 1993, the boy involved in the 1974 complaint, who was now a young man, started a civil claim against the Archdiocese and Fr Ioannes. He alleged that the sexual abuse he suffered had included buggery. Fr Ioannes was asked to come home from Seattle to deal with the allegation. He was referred to Dr Patrick Walsh, director of psychological services, Hospitaller Order of St John of God. In his letter to Dr Walsh, Monsignor Stenson said:

*“It appears now that he has had a history of paedophilia, beginning when a curate in [...] with one boy. Subsequently, he had involvement with boys in [three other parishes]. As far as can be determined there have been five or six boys in all. All that was known to us up to very recently was one incident involving unseemly photographs of a boy and occasional outbursts of physical violence with altar boys.”*

17.16 Monsignor Stenson had discovered this information when he attended a meeting with Fr Ioannes and the Archdiocesan solicitors. Fr Ioannes had told them that the first abuse had occurred around 1961 and the last abuse in 1986. He admitted that he had abused the 1974 complainant but denied that this had involved buggery. He had not told the psychiatrist about the pre-1974 incidents, either when being assessed in relation to that incident or when being assessed in respect of his unduly aggressive behaviour.

17.17 Fr Ioannes did not have an appointment in Dublin at this time. He was living with a religious order. He was removed from ministry and was made a beneficiary of the Clerical Fund Society (see Chapter 8).

17.18 Dr Walsh issued a report in June 1993. Fr Ioannes had admitted abusing four boys. Dr Walsh considered that, because of his tendency to deny and minimise, it was safer to leave open the possibility that he may have abused others. He concluded that Fr Ioannes would require a therapeutic programme which would need to involve some residential component and eventually a long term plan for the future.

17.19 Fr Ioannes continued to live with the religious order. Suggestions that he be appointed to a limited ministry were rejected by Archbishop Connell.

17.20 Fr Ioannes paid compensation to the 1974 complainant in July 1993. The claim against the Archdiocese was withdrawn.

#### **Garda investigation, 1994**

17.21 In March 1994 the young man who had first complained in 1974 and who had reached the civil settlement in 1993 made a complaint to the Gardaí. He described how the complaint had been made in 1974 and his subsequent dealings with Fr Ioannes and the Archdiocese. He also complained that he had been indecently assaulted by a priest who his family thought was involved in investigating the complaint against Fr Ioannes. This priest was Fr Dominic Savio Boland (see Chapter 32).

17.22 The Gardaí contacted Monsignor Stenson who gave them Fr Ioannes's address. Fr Ioannes was arrested in May 1994. He declined to comment on the allegations. The Gardaí interviewed Monsignor Stenson who

told them that he *“was not at liberty as Chancellor to disclose what files we may or may not have on individual priests”*. The garda investigations concluded that the complainant was genuine and sincere in his complaint. It was noted by the Gardaí that Fr Ioannes and the Church authorities had offered little or no assistance to the Garda investigation. In August 1994, the DPP decided not to prosecute. The DPP’s office stated that *“This Office is not prepared to look beyond the delay aspect”* in the case. The complainant was described as being *“guilty of wholly unjustified and excessive delay as far as a criminal charge is concerned and his allegations cannot now be considered”*.

- 17.23      Meanwhile, Fr Ioannes was attending Dr Walsh for individual therapy. Dr Walsh reported in December 1994 that it might be possible for Fr Ioannes to be appointed to a chaplaincy under certain conditions. Consideration was again given to finding a limited ministry for Fr Ioannes. In February 1995 Monsignor Stenson consulted Dr Walsh about a possible appointment to a parish. Dr Walsh did not think this was advisable. Before any decision was made on an appointment to a convent or hostel, another complaint was received.

### **Second complaint, 1995**

- 17.24      Another young man made a complaint to the Gardaí in October 1995. His initial statement was misplaced or lost. He alleged that he had been sexually abused by Fr Ioannes during the late 1970s/early 1980s.
- 17.25      Around this time there was media coverage of the civil settlement which Fr Ioannes had made in 1993. Both Fr Ioannes and the complainant were named in the media. The Archdiocese issued a statement explaining that the settlement had been paid by the priest and not by the Archdiocese. It seems that Fr Ioannes moved out of the religious order’s house where he was living when the story broke.
- 17.26      The Gardaí were unable to contact Fr Ioannes. They were told – it is not clear by whom – that he had been sent to live in St John of God’s. This was not the case. According to the Garda files, they contacted St John of God’s and were told that Fr Ioannes had gone to the USA for treatment. St. John of God’s was requested to contact the Gardaí when Fr Ioannes returned

from the USA. St John of God's has no record of this interaction with the Gardaí and told the Commission that this request was "*not formalised to the superior of the house*".

17.27 Fr Ioannes had admitted to abusing the young man who made this criminal complaint when he made admissions to Monsignor Stenson and the archdiocesan legal advisors in 1993. Nothing further happened.

17.28 In late 2002, the complainant looked for information on the state of the investigation. As the original statement had been mislaid, a new statement of complaint was taken in January 2003. He stated that there were about six incidents of abuse over a three-year period when he was between 11 and 14 years old. The abuse involved fondling of the genitals.

17.29 In November 1995, Fr Ioannes's name was one of the 17 given to the Gardaí by the Archdiocese (see Chapter 5).

## **1996**

17.30 From November 1995 to May 1996, Fr Ioannes was in a therapeutic facility in the USA. In February 1996, this facility reported that Fr Ioannes was "*making excellent progress*" and "*possesses a good level of insight to have realized these psychological dynamics*". It was recommended that he remain in treatment so as not to lose "*his current therapeutic momentum*". In March 1996, Fr Ioannes wrote to Archbishop Connell asking questions about his future. He said that he wished to serve as chaplain to a nursing home and suggested that he remain in the therapeutic facility to prepare for retirement. In March 1996, the facility said that Fr Ioannes continued to make progress and had been encouraged to write and seek a limited ministry.

17.31 The second complainant, whose complaint to the Gardaí ran into the sand when the Gardaí were told that Fr Ioannes had been transferred to a therapeutic centre in the USA, began a civil claim against the Archdiocese in April 1996. The Archdiocese told the therapeutic facility that "*it would be very unwise to give [Fr Ioannes] any kind of limited pastoral assignment on his return*".

17.32 In June 1996, the therapeutic facility, in a somewhat surprising development, having regard to its earlier reports, stated that Fr Ioannes was a “*fixated pedophile*” and recommended that he attend individual therapy once a week for some time. The Archbishop was advised to identify someone from his office to whom Fr Ioannes would be accountable. The conclusion was that, if his internal work was supported by external supports, the likelihood of his re-offending “*is almost nil*”.

17.33 Fr Ioannes returned from the USA in June 1996 and, at the request of the Archdiocese, was given temporary accommodation in the St John of God’s community house in the hospital grounds. The Gardaí were not notified by St John of God’s. The Archdiocese did not know the Gardaí were looking for him at this stage. The advisory panel advised the Archbishop that Fr Ioannes should be requested to maintain a low profile. When it came to the attention of the advisory panel later that month that Fr Ioannes had left his supervised accommodation and that his whereabouts were unknown, it advised that the Gardaí be notified immediately. Fr Ioannes wrote to Archbishop Connell in respect of his hasty departure and requested leave of absence for a year. It appears that efforts were being made by the Archdiocese to contact Fr Ioannes. In early July 1996, the Gardaí were notified that he had left Ireland. The Archdiocese withdrew his financial support in August 1996.

## **1997**

17.34 In July 1997 Fr Ioannes contacted Monsignor Stenson setting out his reasons for fleeing and promising to return and co-operate fully. When he returned to Ireland he again lived at the community centre in St John of God’s. It was decided that Dr Walsh of the Granada Institute would resume responsibility for his therapy and that Fr Ioannes himself would contact the Gardaí to advise of his return. Monsignor Dolan wrote to the Gardaí to tell them of his return. Unfortunately, the Gardaí did not pursue their inquiries into the second complainant’s complaint at this time. It appears that the original investigating garda had retired and, somehow, the file on the complaint was lost. The Archdiocese reinstated financial support for Fr Ioannes in August 1997.

17.35 In October 1997, the issue of Fr Ioannes's aftercare was discussed. He was adamant that it was within the remit of the USA therapeutic facility but the Archdiocese had made a decision to put the Granada Institute in charge. This meeting became fraught and ended with an agreement that Monsignor Dolan would contact the USA facility to indicate what the Archdiocese had decided and to request their help. Accommodation was found for Fr Ioannes in an apartment which was previously occupied by Fr Ivan Payne (see Chapter 24). When Fr Ioannes found out that the furniture in the apartment had been previously owned by Fr Payne, he demanded that it be removed and fresh furniture obtained. The Archdiocese agreed to this request. He lived alone in the apartment. A support team was put in place and he was to remain in touch with the Archdiocese. He was treated as a retired priest. He remained there until October 2002.

17.36 In April 2002, the diocese of San Diego issued a statement to RTE in which it quoted Archbishop Connell's 1988 recommendation of Fr Ioannes. In October 2002, the Archdiocese issued a statement about this. The Archdiocese said that when Archbishop Connell gave the recommendation to the diocese of San Diego in 1988, he had no knowledge of the 1974 complaint. There was no record of such a complaint in the Archdiocesan files. The statement accepted that the absence of a record was a serious deficiency. The Prime Time programme *Cardinal Secrets* was transmitted in October 2002 and featured the story of Fr Ioannes. Fr Ioannes left the country just before the programme was transmitted.

### **Physical abuse complaint**

17.37 In November 2002, another complaint was made. This time the complainant was the young man who had been seriously physically assaulted by Fr Ioannes in 1978 and about whom the parish priest had reported to the Archdiocese. The young man said that the incident occurred around March or April 1978. Fr Ioannes had kicked and punched him causing him to lose consciousness. He was seen by his GP at the time and was off school for a week. The parish priest had visited him. His father had gone to the garda station to make a complaint but, having had a conversation with a sergeant he knew there, it was decided not to pursue the matter.

17.38 Once again, the Gardaí could not contact Fr Ioannes because he had left the country. Various attempts were made by the Archdiocese to try to find him. His diocesan allowance was cut off in January 2003.

17.39 In January 2003, the second complainant made a fresh statement to the Gardaí as his original statement could not be found. His brother also made a statement alleging that he had been sexually abused by Fr Ioannes.

17.40 Fr Ioannes returned to Dublin in August 2003 and took up residence at his previous accommodation. He agreed to be interviewed by the Gardaí but did not turn up. He went to Bundoran towards the end of August 2003 and then went abroad again.

17.41 He returned to Dublin in 2008. In May 2009, just as this report was being finalised, he pleaded guilty to a number of charges of sexual assault.

### **The Commission's assessment**

#### *Archdiocese*

17.42 The handling of the initial complaint in 1974 was quite simply disastrous and typical of its time. Nothing was done even though Fr Ioannes admitted his guilt. He was free to commit other offences and this he duly did. The failure to do anything was compounded by the failure to maintain any proper record of the complaint.

17.43 All of the letters recommending Fr Ioannes to dioceses in the USA in the 1980s either do not mention or gloss over the problem of his violence and aggression.

17.44 Cardinal Connell has stated that he had no knowledge of the 1974 complaint when he wrote the reference for the bishop of San Diego in 1988. The Commission accepts that this is so. The details of that complaint and the report of the psychiatrist were not in the archives. A copy of the psychiatrist's report was provided to the Archdiocese in 1993.

17.45 The Commission also accepts that Monsignor Stenson had no knowledge of the 1974 complaint when he wrote to the Archbishop of Seattle. It is notable that the diocese of Seattle was, in 1992, diligent in looking for



detailed information about priests coming to work there. Effectively, that diocese did force the Dublin Archdiocese to admit the problems about physical aggression.

*Gardaí*

17.46 The Gardaí dealt properly with the 1994 complaint. However, the Garda handling of the 1995 complaint was most unsatisfactory. The prosecution of the investigation was haphazard and desultory. The statement made by the complainant appears to have been lost and no attempt to redress the situation was made until the complainant returned to the Gardaí to inquire as to the status of the investigation in 2002. No steps were taken on either of the occasions when Fr Ioannes returned to the country, even though the Gardaí were notified of his presence by the Archdiocese. Despite the re-activation of the complaint in 2002/2003, Fr Ioannes lived in Ireland untroubled by the law for a considerable period before he left the jurisdiction.

**Introduction**

- 18.1 Fr Tyrus was ordained in the 1960s and had a problem with celibacy from the start of his priesthood. He sought laicisation in the 1970s due to his inability to adhere to the obligations of celibacy.

**Psychological report**

- 18.2 Fr Tyrus was interviewed by a priest psychologist in the 1970s. The psychologist sent a report to Bishop O'Mahony. The psychologist concluded:

*"It would seem to me that [Fr Tyrus] has not at this time any final and total commitment to celibacy. It is also my opinion that his undertaking of celibacy in the first instance was in some sense, perhaps even unconsciously, a conditional undertaking..."*

*He told me that he was reprimanded by the Principal of a school in which he was teaching for his relationship with a seventeen year old, and he is currently deeply involved with a twenty-one year old. There were apparently other liaisons also. The most surprising aspect of his own accounts of these matters is his apparent lack of concern for the girls involved."*

The psychologist expressed the view that the priest would not be able to sustain celibacy because of almost nine years of "rather frequent breaches".

- 18.3 Following this meeting Fr Tyrus applied for and was given a year's leave of absence. During this time he applied for a job as a youth worker. In order to obtain this job he needed a reference and he approached Bishop O'Mahony for this. Bishop O'Mahony gave him one in which he said:

*"I am happy to recommend [Fr Tyrus] as a person suitable for appointment; [Fr Tyrus] has wide experience in dealing with young people. I have no doubt he possesses the requisite qualities and personality for youth work. He should prove particularly successful in coping with young persons with serious behavioural and/or relationship problems".*

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<sup>63</sup>

This is a pseudonym.

18.4 Subsequently, in April 1978 a public sector organisation wrote to Archbishop Ryan regarding Fr Tyrus's suitability to work in an area of the public services that was not related to youth work. The organisation supplied the Archbishop with a questionnaire to be completed. Bishop O'Mahony advised the Archbishop to return the questionnaire unfilled and to inform the organisation that a reference would be supplied by him. Subsequently, Fr Tyrus was employed by this organisation.

18.5 In July 1978, Fr Tyrus sought to be laicised. His request for laicisation referred to his difficulty in keeping the vow of celibacy. One of his witnesses who gave evidence in the laicisation process referred to his relationship with girls. In 1980 his petition for laicisation was granted.

18.6 In 2007 the Child Protection Service notified the Gardaí and the HSE of Fr Tyrus's background. The Gardaí indicated that there was no evidence of behaviour of a criminal nature.

#### **The Commission's assessment**

18.7 The Commission has grave concerns about the fact that Bishop O'Mahony gave a reference about Fr Tyrus when he sought a job working with young people at a time when Bishop O'Mahony was aware that Fr Tyrus had had a relationship with a 17-year-old girl when he was a teacher. Bishop O'Mahony told the Commission that there was nothing to indicate that the relationship with the 17 year old was a sexual one. The Commission considers that the description provided by the priest psychologist makes it abundantly clear that the relationship was sexual.

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**Introduction**

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20.2 66

**Pro-Cathedral, 1971 - 1978**

20.3 Fr served in a number of parishes and was a curate in the Pro-Cathedral at the time of the first formal complaint.

20.4 The Commission has received information from non-Church sources alleging that he sexually abused at least one altar boy prior to this complaint being received. In very recent years, two men have come forward to both the Church and the Gardaí complaining of having been singled out, groomed and sexually assaulted, in one instance to the extent of buggery, by him in the presbytery and the altar boys' changing rooms during his time as curate in the Pro-Cathedral.

20.5 Initially Fr lived in the main presbytery attached to the Pro-Cathedral. He shared this house with the Diocesan Administrator and other priests. Later he moved into a presbytery where he had his own self-contained accommodation. While there he installed an oratory on the ground floor at the back of the house. During his time in the Pro-Cathedral, Fr was in charge of the altar boys, a task which he had also performed

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in his previous parishes. The Pro-Cathedral is the diocesan Church. Because of the volume and complexity of services in the Pro-Cathedral, it needed a large number of altar boys and those selected tended to stay on for longer than most altar boys did in other parishes. Fr                      held prayer meetings with altar boys in the oratory which he had installed and boys frequently visited him in the presbytery

20.6            A former altar boy from the Pro-Cathedral gave the Commission the following description of Fr                      activities with altar boys:

*"I suppose there were about 20 of us as altar boys, and I don't think it's exaggerated to say that for the most part we loved Fr                      . He just seemed to be a great priest, very interested in young people - this all sounds very sinister looking back now - whereas the other priests - there were some priests we liked, some we didn't. He organised games. He organised holidays. And I suppose a lot of boys who were there would have been from the inner city. I lived in the Pro-Cathedral Parish at the time. ... a lot of the kids would never have had a holiday and most people around there wouldn't have had a car.*

*Fr.                      kept his connection to Eadestown<sup>67</sup> where he seemed to be very friendly with many families there, and often on Sundays he'd take a combination of the altar boys and some of the local kids from the parish beagling - I presume you know what beagling is, running after an unfortunate hare with hounds. But it was great exercise. It was getting into the country for kids who some of them would never have been out of the city before.*

*So he was in charge of the altar boys, as I said, and I suppose there would have been a group of us who were older than the younger ones and I never was aware at that time of anything untoward. He certainly was never in any way inappropriate in his behaviour towards me. I have asked one of my brothers and apart from now looking back ,as I look back as an adult, I would say that he spent an inappropriate amount of his time with children most definitely ... But to us as boys it seemed, it really seemed wonderful actually...*

*My memory is, and he'd do it, people would get a turn at going beagling so he was very fair in that way. But I remember in our house*

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<sup>67</sup>

A parish in which he had earlier been a curate.

*it would mean having early lunch on Sunday and being in a rush to get out by maybe 1:00 o'clock down to the beagling, which was always around Punchestown, Eadestown. Maybe five or six children, they were children that would probably be from about eight or nine to maybe 16. The beagling would happen and then it would be back to some of his former parishioners' houses, a change of clothes and I'd say now that he imposed on some of those people to feed all these kids from the city. So that's what it was, that's my memory of it...*

*I would have been on one holiday in Kerry, which would have been his first from the Pro-Cathedral, his first to organise. So that was probably 1972. He had an arrangement with ...there was a farm ...near Tralee. A lady there [...] and she had, I think it was a bungalow on her farm and she rented it out as a holiday home.*

*would have had a committee of people from Palmerstown. He was in Palmerstown in a previous appointment and there was [...] a married couple...There was somebody else [...] from Palmerstown and I can't remember his first name. And they would have helped - they would have accompanied and they would have run the kind of catering side of the holiday. I think it was for a week and I don't know how many years but Fr                      would have done that over a number of years... Fr                      always had kind of somewhere outside the Pro-Cathedral to [go to]; at one stage he had a caravan, at another stage he had a trailer tent."*

20.7        The same witness recalled a number of incidents some of which were reported to him by others and which in hindsight struck him as strange or odd.

*" at one stage a number of the boys, I think it was to Brittas Bay they went, and it was around the time when streaking was fairly common at football matches... Fr.                      said at midnight come on let's have a midnight streak. But, again, that was it and none of the boys at the time paid too much attention to it."*

20.8        He spoke of another occasion when his brother and his brother's friend were on holiday with Fr                      :

*"they would have been probably 12 or 13 at the time, they shared a room and after they went to bed, they left the light on and they were*

*talking and messing. And he said just at one stage they saw Fr  
looking in the window and wondered how long he had been  
there... he just thought that that was a bit kind of weird.*

*Then there was another time when I think it was a group of them  
together and Fr started to wrestle with them and he thought  
that there was something just not quite right about it. But it didn't go  
any - it was some kind of wrestling or tickling or something."*

**First formal complaint,**

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**Second complaint, 1978**

20.14 The following year, 1978, there was another complaint. This complaint was handled on behalf of the Archdiocese by Bishop James Kavanagh. The only evidence available to the Commission is Bishop Kavanagh's handwritten memo of his interview with the young complainant.

20.15 The memo records that the young boy came from another parish to take part in the Easter ceremonies as an altar server. He was abused while taking part in practice for the ceremonies. The boy described how he was separated from his friends and brought to the priest's room. The abuse followed a very similar pattern to that which occurred to the first complainant.



20.16 Afterwards, Fr invited the boy to be an altar boy in the Pro-Cathedral. He told him about hunting and catching hares and rabbits with beagle hounds. He took his photograph and his contact details. All the boy's friends had left the church by the time he left the priest's room and he went back to school alone.

20.17 It is not clear how this matter came to the notice of the Archdiocese but it is likely that the boy reported the incident to someone in his school. There is much in the boy's account which was capable of independent verification:

- the fact of his attendance on the particular day in the Pro-Cathedral;
- his late and lone return to his school;
- his presence in Fr private quarters;
- the piece of paper on which Fr noted his details;
- the taking of his photograph.

There is no evidence that any such inquiries were undertaken. Indeed the documents suggest that Fr was not even questioned about the matter at that time. The boy's account was forwarded to Archbishop Ryan by Bishop Kavanagh with the comment, *"I presume we can have a word about this sometime"*.

### **Third complaint, 1978**

20.18 The third complaint came to the Archdiocese by a somewhat circuitous route. In late 1977, a woman phoned Dr Maurice Reidy, a former staff member of Clonliffe College, and told him that an unnamed priest had sexually assaulted her six-year-old son. Dr Reidy's recollection, when asked about the matter a year after the complaint was made, was that her complaint was that the priest had lain with her son and there was heavy breathing. Dr Reidy's explanation for his failure to do anything about the complaint at the time he received it was that he had reservations about the woman's capability as a witness. She was, in his estimation, nervous, highly strung, and very innocent of sexual matters for a married woman. He told the Archdiocese in November 1978 that he advised the woman not to let the priest into her home

again. As the woman did not mention the matter to him on two subsequent occasions when he met her, he considered the matter at an end.

20.19 Contrary to Dr Reidy's assumptions, the woman continued to have concerns and, in July 1978 and again in September 1978, she confided in a female friend the nature of the complaint. Fr had visited her home on a number of occasions. The last time he was in her home, a female helper employed in the house entered her six-year-old son's bedroom and found Fr lying on the child who was naked on his bed. Fr tried to pass it off as a game. It was reported that the little boy later remarked that Fr was choking him and that he thought priests were holy.

20.20 It is not clear from the papers precisely how the Archdiocesan authorities came to investigate this incident; perhaps the second woman had more standing within the Church hierarchy than the woman about whom Dr Reidy was so dismissive. In any event, in November 1978, Canon McMahon was once again sent out to inquire. Interestingly, he did not interview either the boy or his mother or indeed the female employee who had witnessed the event. He did interview Dr Reidy to whom the complaint had first been made and the woman to whom the complaint had subsequently been made, but not those who had direct knowledge of the incident. Canon McMahon reported to Archbishop Ryan:

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20.24 Canon McMahon assured Fr [redacted] that the Archbishop was anxious to help him. He advised him that he should see a psychiatrist who would forward a report to Archbishop Ryan. Fr [redacted] was not enthusiastic about the prospect of attending a psychiatrist. He mentioned that he had had a previous unhelpful meeting with a psychiatrist. In the circumstances, it was strange that he was not asked about the context in which he had had a previous need to see a psychiatrist. He suggested to Canon McMahon that he would ask the unnamed priest psychologist to furnish a report to the Archbishop. On Canon McMahon's insistence he agreed to see a psychiatrist. Canon McMahon arranged for Fr [redacted] to see Professor Noel Walsh, Consultant Psychiatrist, at St Vincent's Hospital. Canon McMahon called on Professor Walsh to fill him in on the background.

20.25 Professor Walsh's report to Canon McMahon makes no reference to a history of events given to him by Canon McMahon. The history given by Fr [redacted]

was of the onset of a problem three years earlier, which would indicate 1975 or 1976,

Professor Walsh characterised the history given by Fr as “*an atypical factor in this man’s history in that patients who present with this problem usually do so much earlier in their lives and they tend to have a persistent pattern*”. The incidents were attributed to depression. Professor Walsh concluded that Fr should be allowed to continue in pastoral work and to continue to attend him at six-to-eight-weekly intervals on a follow-up basis for six months to a year. The contents of Professor Walsh’s report raise the question, once more, as to whether or not Fr was telling the truth about his history of offending, yet there is no evidence that this question was ever asked. Furthermore, there is no evidence to suggest that Fr continued to attend Professor Walsh as recommended.

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**Stroud, 1981**

20.33 It took a complaint from the parents of one boy to the Gardaí in March 1981 to bring matters to a head. The Commission has not been able to locate any of the details of this complaint in either garda or archdiocesan files. However Archbishop Ryan records that Bishop Kavanagh called to the parents and asked them not to press charges against Fr on the basis that he would be withdrawn from the parish to get treatment. Apparently, the parents eventually agreed to this and the complaint to the Gardaí was not pursued.

20.34 Archbishop Ryan then did withdraw Fr [redacted] from the parish. He asked Bishop Brendan Comiskey to make contact with the Servants of the Paraclete.

20.35 Bishop Comiskey believes he became involved in the Fr [redacted] case because he knew something about the Servants of the Paraclete's house in Stroud in England from his previous position as secretary general of the Conference of Major Religious Superiors, (now known as the Conference of Religious of Ireland - CORI), a position which he held until his appointment as auxiliary bishop of Dublin in 1979. Though Bishop Comiskey knew that there were serious allegations being made against Fr [redacted], he told the Commission that he was not told the details or the extent of the problem. The discrete task given to Bishop Comiskey was to find out from Stroud whether or not they would be able to treat this man and if so, what they would require in order to accept him. Bishop Comiskey established that there were three preconditions to Fr [redacted] acceptance by the Servants of the Paraclete:

- They required a "*letter of support*" from the Archdiocese stating that Fr [redacted] was a priest of the diocese and that the Archdiocese would be willing to receive him back as soon as he was judged fit to resume ministry.
- They required a description of his difficulties with some emphasis on "*external damage*" done in his ministry. The purpose of this document was to enable them to confront Fr [redacted] with tangible evidence of the effect of his misconduct on his ministry.
- They required the name, address and telephone number of his psychiatrist so as to enable their psychiatrist to make contact with him.

20.36 Archbishop Ryan met Fr [redacted] and told him that he was being withdrawn from ministry and being sent to Stroud. Archbishop Ryan sent a "*letter of support*" to Stroud as requested. He also sent a three-page confidential memo setting out Fr [redacted] difficulties, as Archbishop Ryan saw them, as well as the "*external damage*" caused by his misconduct. This reveals that Archbishop Ryan was fully aware, at that time, of the criminal nature of Fr [redacted] misconduct and, further, he was aware that such misconduct was damaging to children. He summarised the damage done as follows:

- “1. *The most distressing feature of Father [redacted] failures is the effect they are likely to have on the young people involved. Apparently their ages range, in so far as I know, from 6 – 16.*
2. *The parents involved have, for the most part, reacted with what can only be described as incredible charity. In several cases, they were quite apologetic about having to discuss the matter and were as much concerned for the priest’s welfare as for their child and other children.*
3. *A particularly disconcerting feature was that access to the families was usually through acquaintanceship based on a variety of good works, whether of the parents or the children in question, e.g., altar boys; one or other parent involved in the management of a school (a father felt bound to withdraw his children from the local school because of what happened to one of his children); in another case, the mother was involved in charitable work in the parish. Having got access to the home through this acquaintanceship, Father [redacted] abused a young son of six years of age.”*

20.37 The Archdiocese provided Stroud with the name of the psychologist. Stroud asked him for a report which he provided. Fr [redacted] left his house in [redacted] at the end of March 1981. Another curate working in [redacted] at the time gave evidence to the Commission. He said he helped Fr [redacted] to pack. Fr [redacted] told this curate that he was being sent away and that he felt he was being badly treated.

20.38 Archbishop Ryan told this curate that Fr [redacted] was being taken out of the parish because of his activities. The Archbishop was not specific but the curate was left in no doubt that it had something to do with child sexual abuse. The removal of Fr [redacted] meant that this priest was now alone in the parish as the parish priest was away. When the parish priest returned, he was met by his young curate, who told him of the events which in the curate’s view, were “*a real bombshell*”. The parish priest’s main reaction was one of relief. He told the curate that he had had complaints about Fr [redacted] and his behaviour with young people. There were no names mentioned but he had referred them to a vicar general of the diocese, Monsignor Glennon. The parish priest did not say what, if anything, had been done as a result of that, but he said that he had received another complaint or complaints, and, on that second occasion, he had gone to Bishop Kavanagh.



20.39 The Archdiocese told those who inquired about Fr sudden disappearance that he had gone away for treatment for throat cancer and to ask for prayers for him. This was a plausible explanation as Fr had had problems with throat polyps which frequently led him to interrupt his celebration of mass to drink water.

20.40 Fr was brought to Stroud by his brother, Fr in April 1981. He spent four months there. The programme undertaken was apparently designed to enable him to come to understand the factors which led to his sexual abuse of boys so as to enable him to control his urges. In the early part of his course, his doctors were of the view that he was merely going through the motions so as to get out of Stroud and back to Dublin as soon as possible. His problem was identified as being a need to dominate and control, particularly at times when he had been put down or made to feel inferior and useless in his work. In an interim report sent to Archbishop Ryan in July 1981, Stroud summarised the position:

*“In conclusion I would say that Fr. shows a marked improvement over the time he came here. His self-possession and sensitivity has increased and he seems far more mature in his relationships with others. He is much more aware of his weakness and its power over him and wants very much to learn increasing control over it. The extent to which this is still a cerebral understanding and control and to what extent it is a real deep realisation and commitment only time will show.”*

20.41 During his period in Stroud, Fr wrote on three occasions to Archbishop Ryan. The letters do not show any remorse for the damage he had inflicted on numerous children as well as on his Church. The over-familiarity in tone and the self-serving pieties are striking. For example, he addressed the Archbishop as ‘Dermot’ which is very unusual. In one letter he compares his experience in Stroud to “*Christ’s victimhood experience*”. He also tellingly refers to his stay in Stroud as a “*retreat*” rather than a course of treatment.

20.42 Following four months of treatment, a final report was issued by Stroud in July 1981. It stated:

*“We feel reasonably confident that he now has the necessary awareness of his particular difficulty and both the knowledge of himself and the resources necessary to make a new and fruitful start on his priestly ministry.*

*He will undoubtedly need a support system to enable him to continue and deepen the growth that he has begun here, and a work environment that does not pose too much of a stress in terms of his particular weakness. While not wanting to appear over confident with regards to this, we do feel that Fr. has shown a real desire and determination to take the necessary steps to ensure that it will not continue to pose a real threat to his carrying out of his priestly ministry to which he is clearly deeply committed and called.”*

### **Clogher Road, 1981 - 1983**

20.43 In September 1981, Archbishop Ryan appointed Fr as curate in Clogher Road parish. This letter of appointment, like the letter in respect of , makes no reference to his previous difficulties or to his recent treatment for them. Fr thanked the Archbishop for his appointment and for his “*kindness to me when I was sick*”. Once again, there is nothing to indicate that Fr had any insight into his condition nor was there any discernible ‘firm purpose of amendment’, to use the Church’s own words in relation to remorse and contrition.

20.44 This time, however, his new parish priest was given some limited information about his problems. Archbishop Ryan told Fr James Kelly that, while Fr was in the Pro-Cathedral, he was in the habit of inviting young boys into his private oratory. Fr Kelly was not told anything about his recent misbehaviour in . Fr Kelly told the Commission that the instructions given to him by Archbishop Ryan were:

- to ensure that Fr did not create an oratory in his house in Clogher Road, and
- to contact the Archbishop immediately in the event that Fr stepped out of line in any respect.

20.45 No other steps appear to have been put in place for the monitoring of Fr . While he maintained he had a support team in place consisting of a spiritual advisor, a psychiatrist and two priest friends, he was never required to identify these people to the Archdiocese. He was once again allowed to occupy a house on his own. His parish priest specifically told the Commission that he did not consider it his duty to monitor who was going in and out of the house. stepped into the role of the previous curate and in that capacity was given free access to the schools of the parish. No information was given to the three other priests who were ministering in the parish. Fr was given charge of the confirmation class in one of the schools and it was from that source that the next official complaint arose.

20.46 Before that formal complaint was made in or about May 1982, there was a series of events in January and February 1982 which should have caused serious concern, if not alarm, within the Church authorities. Fr was due to return to Stroud for an up-to-date assessment. He decided not to go and it took strenuous efforts by a number of people, including the Archbishop, to persuade him to go for a few days. Stroud considered a longer stay was needed.

20.47 The report from Stroud must have been a source of worry for Archbishop Ryan because, notwithstanding the four months of treatment that he had undergone in 1981, Fr now, in early 1982, was showing resentment at having to attend Stroud and was intent on presenting the best possible picture of himself rather than facing the problems which he had. Stroud's overall impression was that Fr did not want any long term supervision over him. He was in fact working for effect, attempting to give the right impression, rather than being honest about where he was. He was asked to give the team in Stroud the names of his psychiatrist and spiritual director and a release of information so that they could forward to his psychiatrist a copy of the report and other information that they felt might be necessary to assist him in his work. Fr refused to divulge their names ostensibly because he was not sure that they would be willing to have their names known to Stroud. It is a remarkable fact that throughout this period Fr was never obliged to disclose to anyone the identities of the support team which he claimed to have put in place.

20.48 Stroud drew up a contract for Fr to sign which detailed the sort of provisions that they felt were necessary “*to enable him to function fully and happily as a priest and to grow and develop as a person*”. It was planned that the contract would be signed on Fr next visit to Stroud which was due to take place in April 1982. The contract was never signed. The draft contract had five main provisions; the two which were always likely to cause most difficulty for Fr were those which required that the two priest friends who were to supervise his adherence to the contract were to be identified to the Archdiocese and that any group of priests with whom he worked would be required to be made aware of his weakness so as to assist him in avoiding what might be termed ‘occasions of sin’.

20.49 As the time approached for his return visit to Stroud in April 1982, Fr again tried to avoid returning despite having agreed to do so in February 1982. He told Archbishop Ryan:

*“I have a support team set up here since October. I frequently visit a very well qualified, compassionate and helpful psychiatrist. Also frequently I visit a highly trained and spiritual, spiritual director. Both of them know each other and live within fifteen minutes of me, and they have read my case history which I gave them in October. I have a few priests who keep constant contact with me. I feel that these people understand the scene in which I live. I have trust in them. They are challenging and helpful.*

*My English therapist and lecturer helped me to come to the stage where I am at now. I must be grateful to them for that.*

*I feel that the people who can help me best now are the team that I refer to. Thank you for your trust.”*

20.50 Once again, Fr failed to name the people who he claims constitute his support team. In this connection, the Commission questioned all living priests known to have been friendly with Fr during this time, and each of them denied being a member of his support team. Each of them also denied any knowledge of the identity of any priest who might have been a member of that team. The unnamed psychiatrist was never asked for a report.

20.51 There is no evidence that Fr [redacted] was instructed to attend or did, in fact, attend Stroud as planned in April 1982.

20.52 Within weeks there was another complaint. The complaint was of sexual interference with a boy in the confirmation class. According to Fr Kelly, following the confirmation ceremony, Fr [redacted] invited a young lad into his house and *“seemingly handled his clothes and straightened his tie and all that and the parents obviously were a bit annoyed and a bit worried when they heard this, so much so that they decided they’d have a word with me ”*. While the parents, according to Fr Kelly, never mentioned the phrase sexual abuse, Fr Kelly was clear that their annoyance stemmed from the intimate handling by Fr [redacted] of their son.

20.53 Fr Kelly told Archbishop Ryan about the complaint. Fr Kelly stated that Archbishop Ryan remarked that the incident was *“more or less the same as what used to happen in the Pro-Cathedral”*. Fr Kelly got the impression that Archbishop Ryan was troubled by his report on Fr [redacted]. He recalls the Archbishop musing out loud: *“In the name of God, what does one do with a man like that? And to suggest sending him away, he’s quite liable to say no. And what does one do then?”*.

20.54 The Archbishop met Fr [redacted] immediately and then formally removed his faculties to preach, hear confessions or celebrate mass in public. He told him that Bishop Comiskey would make arrangements for him and he was to follow the bishop’s instructions.

20.55 The new arrangement was to send Fr [redacted] to the Servants of the Paraclete at Jemez Springs, New Mexico where, since the 1970s, they had been running *“a renewal program”* in respect of priests who had sexually abused. The primary inquiries and the arrangements once again appear to have been made by Bishop Comiskey. According to Bishop Comiskey, Archbishop Ryan may not have had any great belief that the Servants of the Paraclete in New Mexico could achieve what their brethren in Stroud had failed to achieve, namely, the rehabilitation of Fr [redacted], but in deference to the great friendship and respect he had for Fr [redacted] brother, he was willing to allow him to undergo a further course of treatment.

### **Jemez Springs, 1982**

- 20.56 Fr [redacted] was extremely reluctant to go to New Mexico and made every effort to avoid going. He pleaded inability to get a visa, which in 1982 was a credible excuse as visas for a stay in the USA were difficult to obtain. Bishop Comiskey, as an American citizen, liaised with the US embassy and a visa for the purpose of obtaining medical treatment in the US was obtained. Fr [redacted] continued to prevaricate. He pleaded lack of funds and was advanced £500. In a last ditch effort to avoid the inevitable, he claimed to have lost the visa, that it had gone in his clothing to the dry cleaners. To ensure that he arrived at his destination his brother, Fr [redacted], accompanied him to New Mexico.
- 20.57 The cover story in Fr [redacted] personnel file in the Archdiocese recorded that *“with effect from May 26<sup>th</sup> 1982, Father [redacted] has transferred to study further in U.S.A”*.
- 20.58 The course in Jemez Springs, which is in a fairly remote rural part of New Mexico, was of a different order both in intensity and indeed in expense. (The Archdiocese spent a total of about £29,000 (€37,000) in treatment and ancillary costs for Fr [redacted] between the years 1981 and 1987). The programme at Foundation House, Jemez Springs was a 20 week programme with a follow up programme designed to reintegrate the client with the significant people in his life so as to facilitate his re-entry into the Archdiocese. It involved physical, psychological, spiritual, psycho-sexual, intellectual and social modules.
- 20.59 Fr [redacted] started the programme in July 1982 and completed it in December 1982. Archbishop Ryan wrote to the director of the programme and enclosed the February 1982 report from Stroud. Unfortunately, the Commission did not receive a copy of Archbishop Ryan’s letter and so is not aware of what other information was supplied to them. The first detailed report from Jemez Springs was sent in August 1982. It is noticeable that the report identifies many of the traits that had been earlier identified by Stroud.
- 20.60 By November 1982, Fr [redacted] was coming towards the end of his treatment. A decision needed to be taken as to what was to happen next. He wanted to return to Ireland, but the psychiatrist in charge of his treatment had

reservations because “he only feels 70% sure that                      will not get sexually involved with children again. The recidivism rate for people involved with children is very high and also                      recidivism history is not good”.

20.61        The course director was of the view that Fr                      should stay in the USA for another six months in an extended care facility. In a report in November 1982 he stated:

*“Basically, Archbishop, it seems to me that                      does need to remain here for a period of time after completing the program. Since the recidivism rate for people involved with children is very high, we would feel much more comfortable if                      could be involved with some halfway setting whereby he could also meet with a therapist to discuss experience that he has, particularly around young children. We have several possibilities in mind for this, including our house in Cherry Valley, California or our house in St. Louis Missouri. In addition it might also be possible for                      to remain here in Albuquerque and participate in a halfway program...”*

*In the beginning of June, 1983,                      will be expected to return here to Foundation House for a follow up workshop. At that time, we could reevaluate his situation and I feel that this might be a better time for him to return to Ireland. After an experience in a halfway setting, we would have a better handle on                      experiences in ministry and could be able to determine whether or not he has a grip on his problem.”*

20.62        Archbishop Ryan accepted this recommendation. In November 1982, Jemez Springs wrote to the Archbishop of Santa Fe seeking permission to have Fr                      work with priests who knew his history in a parish in Alameda, a suburb of Albuquerque. Archbishop Ryan formally wrote to the Archbishop of Santa Fe giving permission for Fr                      to pursue a six month ministry in Alameda parish.

### **Christmas, 1982**

20.63        Meanwhile, Fr                      came back to Ireland for his Christmas holidays. He was not placed under any supervision during his stay. He had access to a car and frequented a number of his old haunts in Palmerstown and Clogher Road.

20.64 On 20 December he is alleged to have made sexual advances to a sixteen-year-old boy whom he had sought out and to whom he had offered a lift in his car.

The following day, the boy's parents complained to the parish priest, Fr Con Curley. Apparently Fr Curley explained to the parents that Fr was a sick man and had been away for treatment. The Archbishop's memo of these events notes that the parents did not make any reference to civil proceedings. Fr Curley offered to see the boy.

20.65 On 21 December 1982, Fr , presumably having learned of the complaint, called to see the boy's parents and tried to explain the incident away by saying that this was the way it happened in America, where the men kiss one another. Archbishop Ryan's memo of these events also records that Fr wrote a personal letter to Fr Curley to assure him that there was nothing wrong. It appears that the Archbishop learned of the incident in a telephone call from Bishop Comiskey on the evening of 21 December 1982. He appears to have discussed the problem with Monsignor Gerard Sheehy, one of the foremost canon lawyers in the Archdiocese and the judicial vicar at the time. The following day, Monsignor Sheehy wrote to the Archbishop:

*"I do not know anything like all the facts about yesterday evening's problem. So, for the moment, I can advise only tentatively.*

*But I did think about it anxiously, last night. My one clear thought is that, whatever the immediate action (and I agree that some positive action has to be taken) it must not be suspension. Suspension would bring you straight into the realm of penal law, with all its implications of crime, and culpability. From what you told me, my strong impression is that one is dealing with a very sick man, not with a "criminal".*

*I do think it is possible to work out another solution, allowing that the Archbishop must take firm action. I am sorry that, on the eve of Christmas you should be saddled with this anxiety. If I can help in any way, I most certainly shall."*



20.66 On the morning of Christmas Eve, Archbishop Ryan first met Fr Curley and later met Fr [redacted] and his brother Fr [redacted]. More than one witness told the Commission that the Archbishop, who was usually very punctual, was so exhausted by the end of that Christmas Eve that he fell asleep at home and was late for midnight mass in the Pro-Cathedral.

### **Return to Jemez Springs, 1983**

20.67 The records do not show, and none of the witnesses interviewed by the Commission has been able to explain, what happened in the immediate aftermath of these events. However, we do know that by 5 January 1983, Fr [redacted] was back in Jemez Springs. He was now deemed by the Servants of the Paraclete to be a paedophile and the treatment to be afforded to him was for paedophilia. He was removed from the renewal and reorientation course which had been conducted in Foundation House to another area of their campus called Villa Louis Martin. There he came under the care and supervision of Fr Benedict Livingstone SP, who was director of Villa Louis Martin. On the day of his arrival, he entered a contract with the Servants of the Paraclete which, in effect, placed him under house arrest and in which he consented to undergo assessment for treatment with the drug Depo-Provera.

20.68 Depo-Provera, primarily used as a long acting contraceptive, had been shown in studies in the USA to lessen the testosterone level and consequently the libido, and therefore was helpful in controlling the urges of sexual deviants. Information on the drug and its use in treating sex offenders was sent to Archbishop Ryan by Jemez Springs.

20.69 Fr [redacted] was started on Depo-Provera in February 1983. A progress report was sent to Archbishop Ryan in March 1983. Tests had shown a demonstrable reduction in his libido. As a result, the restrictions on his movements were relaxed and he was allowed into the city of Albuquerque.

20.70 The Archbishop was asked for advice on what was to happen next. Jemez Springs put forward a number of possibilities. The first was that Fr [redacted] should remain in Jemez Springs until the follow-up workshop which was scheduled for June 1983. If this course was adopted, it was suggested that he should become involved in some ministry outside the treatment centre. It was acknowledged that there was something of a risk attached to

this but the true results of the drug therapy treatment could not be assessed until he returned to ministry. An alternative suggestion was that Fr would move to some of the other Servants of the Paraclete houses in the USA, where he could begin to do some ministry and where they could still monitor his behaviour and the effects of the drug therapy.

20.71 Archbishop Ryan was asked about the possible return of Fr to the Archdiocese of Dublin. It was pointed out that, if and when Fr returned to Dublin, he would need to remain on Depo-Provera. The question of the drug's availability in Ireland and the possible monitoring arrangements were raised. There is an undated, unsigned memo on the Archdiocesan file which appears to be in the handwriting of Archbishop Ryan which suggests that he made some enquiries as to the possibility of ongoing treatment for Fr , in Ireland. It states: *"Tried 2 Dr's [doctors] Prognosis good if on drug Visa runs out mid June"*.

20.72 In April 1983, Archbishop Ryan agreed to Fr involvement in ministry in the Santa Fe Archdiocese and cautioned that the archbishop of that diocese would need to be fully briefed as to his circumstances. Archbishop Ryan said he would discuss Fr possible return to Dublin on the telephone. This telephone conversation took place in mid May 1983. There is no direct record of the contents of the conversation. However, a letter from Jemez Springs in May 1983 shows clearly that Archbishop Ryan did not want Fr back in the Archdiocese of Dublin and was very concerned about the use of Depo-Provera in Ireland. The Director of the programme wrote:

*"When Father returned here in January, after the incident with a young man while he was visiting home during December, I thought that it was understood by all that we would begin the drug treatment with Depo-Provera. Because of this, we began the initial procedures and blood tests and then initiated this drug treatment. Over these months, Father has been receiving Depo-Provera on a regular basis. It has, in our opinion, greatly decreased his compulsive behavior in the area of pedophilia. I also thought that it was understood that Father would need to remain on this drug for the remainder of his life if he were to control this compulsive*

*sexual acting out. I believe that I sent you the information concerning this drug sometime in January...*

*We feel confident, if Father                      remains on this drug therapy, that he can continue to function in the active ministry. As you may know, as a result of the Depo-Provera treatment, one's blood testosterone level goes almost to zero and one loses [sic] the inclination towards any sexual fantasies. Also, if this drug is given on a regular basis, one becomes impotent. Compliance with the treatment can be checked by periodic blood testosterone level tests.*

*This drug has been used in Scandinavia, West Germany, the British Commonwealth and in the United States for a number of years in treating a variety of sex offenders. When someone is on the drug the chances of repeating the sexual acting out is greatly reduced. The success in using Depo-Provera is close to 100%.*

*In the professional opinion of our psychiatrist and the staff, as long as Father                      continues taking this drug, the probability that he will become sexually inappropriate with adolescent males is extremely low. [His psychiatrist] has been meeting with Father                      regularly since he began receiving the Depo-Provera and has monitored its effects...*

*I did explain to you on the telephone that we could not find an assignment for Father                      here in the United States. Of course, Bishops are very cautious in terms of taking a strange priest who has had such a difficulty. However, this does not mean that you could not give him another opportunity to prove himself, as his own Archbishop. I do understand that there may be some ethical or moral problems with the use of this drug in Ireland. However, I would like to mention here the theological ramifications of Double Effect. It would seem to me that it is far better for Father                      to continue in the active ministry, if at all possible, while using this drug rather than to leave the priesthood or be urged to give up his active ministry. As I also stated before, this was the understanding that I had when we began the treatment with Depo-Provera.*

*If it is not possible to obtain or use Depo-Provera in Ireland, there is another drug that has similar effects that can be obtained in Great Britain. It is called Cyproterone Acetate. This drug is also an anti-androgen but is not used for birth control. It is basically used for males and for treating tumors of the prostate gland. This drug also lowers the testosterone level in the same manner as Depo-Provera.*

*Father                      agrees that he needs to remain on this drug. He has been able to observe the significant changes in his own bodily reactions and in his sexual attractions. I do believe that he will take the responsibility in terms of obtaining the drug for himself and will find a physician who can administer and monitor it.*

*I spoke with Father                      for three hours after our telephone conversation. I did mention to him that you had suggested the possibility of sending him to a monastery. After consultation with [his psychiatrist] and the other staff people here, we do not recommend this at the present time. I do understand that you are having difficulties in terms of finding an assignment for Father                      in the Archdiocese of Dublin. Perhaps too many people know of the past incidents. However, we do believe that he should be given another chance while on the drug treatment. Perhaps you could help Father                      in terms of locating in another Diocese, at least temporarily. In this way, his behavior could be monitored and the success of the drug treatment could be assessed.*

*I know that this situation causes many difficulties for you. However, Father                      has complied with the treatment here which has, at times, been painful and harsh. Also, he does have many talents and abilities that can be of service in the active priesthood. Further, we do not feel that he has the personality to remain for a long period of time in a monastic setting. Finally, and most importantly, he feels very strong concerning his commitment to priesthood and wants to continue functioning as an active priest.*

*I am hopeful that this information will help you in making some type of decision concerning Father . He is going to remain here for the follow-up workshop that will be held from June 6 through June 11. After this, he will be returning to Dublin at my request. We feel that we have done everything that is humanly and spiritually possible to be of service to Father and to you. I hope that you will be able to discover some possible ministerial setting for Father after talking with him.”*

20.73 In June 1983, Bishop Comiskey was asked to make inquiries about extending Fr American visa. Even though a visa extension could have been obtained in the USA, Fr arrived back in Dublin in the summer of 1983, and stayed with his brother.

#### **Santa Rosa diocese, 1983 - 1986**

20.74 The Archbishop, meanwhile, was making efforts to ensure that Fr stay in Dublin would be brief. He contacted Bishop Mark Hurley, of the diocese of Santa Rosa, California, who clearly was known to him. It appears that Archbishop Ryan asked him to, as it were, ‘rid me of this troublesome priest’,<sup>69</sup> and Bishop Hurley agreed. Presumably Fr full history was made known to Bishop Hurley. The Commission did not seek confirmation on this point from the Santa Rosa Diocese as it is aware that in 1995, when issues of child sex abuse were being investigated in the Santa Rosa Diocese, Bishop Hurley, who was then assigned to Rome, swore a deposition to the effect that he had torn up all confidential personnel records before his resignation in 1987.<sup>70</sup>

20.75 In 1995, Monsignor John Wilson, who was Archbishop Ryan’s secretary in 1983, recalled that he was in Archbishop Ryan’s study while the Archbishop spoke by telephone to Bishop Hurley. Monsignor Wilson’s recollection was that Archbishop Ryan explained to Bishop Hurley the personal difficulties that Fr had been treated for and, to the best of his recollection, the nature of the treatment.

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<sup>69</sup> As reported to have been said by Henry II in respect of Thomas Becket, Archbishop of Canterbury (later St Thomas) in the 12<sup>th</sup> century.

<sup>70</sup> [www.bishopaccountability.org](http://www.bishopaccountability.org)

20.76 In June 1983, Archbishop Ryan wrote to Bishop Hurley confirming in writing the arrangements made earlier with him regarding Fr [redacted] and he provided the following statement to the diocese of Santa Rosa:

*"I understand that Father [redacted] has applied for a visa to work as a diocesan priest in the diocese of Santa Rosa, California, U.S.A., on a temporary basis. I am aware of this application and approve of his going to work as a priest in your diocese in view of the pastoral needs of the immigrants from Ireland and other English-speaking countries..."*

*When Father [redacted] has completed his temporary service in the diocese of Santa Rosa, he will be accepted back into this Archdiocese of Dublin, Ireland, in which he has been incardinated from the time of his ordination."*

20.77 It was almost three years before Fr [redacted] next surfaced as a problem for the Dublin Archdiocese. By then, Archbishop Ryan was dead, and his successor, Archbishop Kevin McNamara, was seriously ill.

20.78 On his arrival in Santa Rosa diocese, Fr [redacted] had been assigned as a curate to Eureka, Northern California. The Commission does not know whether Santa Rosa diocese monitored Fr [redacted] to ensure that he continued to adhere to the drug therapy prescribed for him. Initially however, he appears to have got on well. In January 1985, Bishop Hurley wrote to Archbishop McNamara to congratulate him and to wish him well on his recent appointment and in the course of the letter stated:

*"At the request of Archbishop Ryan I accepted into the diocese on a trial basis Fr. [redacted] of the Archdiocese of Dublin. I am happy to report that he seems to be very happy and doing quite well in St. Bernard's Parish in Eureka California."*

20.79 By the end of 1985, however, things had changed. Stories of inappropriate conduct began to emerge from Eureka. Bishop Hurley removed him from there and, following a brief locum appointment in another town, declined to offer him any further appointment. In March 1986 Fr [redacted] wrote to Archbishop McNamara setting out the position as he saw it:

*"I write to you about my present position, and to keep you informed."*

*I was very happy and fulfilled in my ministry in Eureka C.A. (Santa Rosa Diocese) for the past few years. I was liked by the people, and I liked them, and I made many friends. My health, T.G. is also very good. I continue to take the help and the support I need. I have grown away from the problems that entered my life surprisingly and abruptly some years ago. It happened during the time of my long Dublin Pro-Cathedral (8 McDermott St.) ministry with the centre-city bombings, and later my involvement with the aftermath of the Stardust disaster in Coolock. I have tried to put into practice what I learned in therapy and the great services that Dr. Ryan put at my disposal.*

*Though my dealings with young people has to be monitored and controlled I feel that I can effectively minister to them at school and in the family circle as effectively as I did in my ministry, before this, in the past. I did help a number of young people in my Dublin parishes who are now priests of the diocese.*

*It came as a great disappointment to me when Bishop Hurley, whom I always found very friendly and helpful, whom I trusted, said that he was to discontinue my services. He has made it clear that I did not do anything wrong, but he received some complaint or complaints from a person or persons, who were uncomfortable in their observation of me. I was not told the nature or source of the complaint. Because of recent publicity here in the media and the legal implications about child abuse Bishop Hurley reacted very strongly. A great number of parishioners wrote to the Bishop, especially those with families, and many in posts of responsibility with whom I worked closely. They endorsed my ministry in general and many said that they were comfortable with my relationship with them, and the members of their families. The Bishop sent them a circular letter and said that "my good work at St. Bernard's was not at issue", which they, nor I could not [sic] understand.*

*He asked Bp. Hurley if I was willing to fill a vacancy in another parish until the "new pastor was appointed and established" and that I have done and completed. (The entire town was flooded two weeks ago*

*and the church on the hill became the refuge of 400 people) The Bishop now says that he has no appointment for me”.*

20.80 It is striking that there is no mention in this letter of the medication and blood tests which, only three years earlier, had been deemed essential to curb his paedophile tendencies. Indeed, not once in the ensuing years is there any evidence that Fr [redacted] was asked by any official of the Dublin Archdiocese whether or not he was still taking the necessary medication or undergoing the blood tests necessary to monitor the medication's effectiveness.

20.81 Despite Archbishop Ryan's undertaking to Bishop Hurley in 1983 that Fr [redacted] would be accepted back into the Archdiocese of Dublin when he had completed his temporary assignment, it is clear from the limited documentation available that he was not welcome back in Dublin. Archbishop McNamara replied to Fr [redacted] letter in May 1986. This makes it clear that Archbishop McNamara had discussed with Bishop Hurley the circumstances in which Fr [redacted] appointment had been ended. Archbishop McNamara, in his reply, recites the fact of the previous difficulties and states that, having discussed the matter fully with the council of the diocese, he regretted to have to say that he felt unable in the light of the advice given to him, to offer him an appointment in the diocese. He went on to suggest that, if Fr [redacted] was successful in obtaining another appointment in the USA, that would enable him to continue in his priestly ministry.

### **Back in Dublin, 1986**

20.82 Out of work, and with no immediate prospect of another appointment, Fr [redacted] came home to Dublin in May 1986. The ostensible reason for his return was the celebration of the 25<sup>th</sup> anniversary of his ordination. He stayed, at least initially, at an address in Clontarf, where Archbishop McNamara wrote to him to congratulate him on the occasion of his silver jubilee and enclosed a copy of his earlier letter refusing him an appointment in Dublin. He met Fr [redacted]. A memo of that meeting suggests that Fr [redacted] accepted that the Archbishop could not offer him an appointment in the Dublin Archdiocese. He requested the Archbishop to provide him with a letter of introduction which he could use in approaching an American diocese.



The Archbishop agreed to provide such a letter and he further agreed that he would arrange for Fr [redacted] to receive financial assistance until such time as he managed to obtain an appointment in the USA.

20.83 To the knowledge of the Archdiocese, Fr [redacted] stayed on in Dublin for the summer of 1986. His activities appear to have been entirely unmonitored, despite the Archdiocese's knowledge that he had been declared a paedophile and despite its knowledge of many complaints against him. He moved from house to house and he had the use of a car. In July 1986, he moved into a house in Palmerstown, the property of a garda chief superintendent.

20.84 Fr [redacted] appears to have applied immediately to the diocese of Los Angeles for work as a priest. In July 1986, Archbishop McNamara wrote to Archbishop Mahony of Los Angeles, stating that, from June 1983 to May 1986, Fr [redacted] had worked in the diocese of Santa Rosa on a temporary basis with the approval of the Archdiocese. He described Fr [redacted] as a good worker who was prayerful and very attentive to his priestly duties. He explained that, because of his over involvement with young people, it was felt, following a series of courses and counselling, that it would be advisable for Fr [redacted] to work outside Ireland. Archbishop Mahony was told that Bishop Hurley of Santa Rosa would be able to advise him on how Fr [redacted] had fared in his ministry during his three years there. The letter concludes: *"I would appreciate it if you would give Fr. [redacted] application a favourable consideration. If I can be of any further assistance to you in considering Father [redacted] request for work please contact me".*

20.85 To those in the know, this carefully worded letter constituted sufficient warning as to Fr [redacted] tendencies. The Dublin Archdiocese, while representing to Fr [redacted] that it was amenable to his securing another position in the USA, was at the same time ensuring that he had little chance of actually getting such a position. Telephone calls appear to have been exchanged between Archbishop McNamara and Archbishop Mahony, and Fr [redacted] does not appear to have been offered work in the Los Angeles diocese.

20.86 While this was happening, Fr [redacted] was free to move as he pleased, without supervision. He visited a priest friend in a rural part of the Archdiocese where he spotted a young boy who, unfortunately, he is alleged to have sought out to molest a year and a half later, in January 1988. He put out the word among his former classmates that he was available for supply work during the holiday period, and though by now, numbers of his classmates were aware of the fact, if not the extent, of his problems, they also knew that he had concelebrated mass with them in Clonliffe at the silver jubilee celebrations, and so assumed, not unreasonably, that he was in good standing in the Archdiocese.

### **A week in August 1986**

20.87 Through a classmate, Fr [redacted] learned that a particular priest was urgently looking for someone to stand in for him while he was on holidays. As Fr [redacted] had been recommended to him by another priest in the Dublin Archdiocese, the priest did not consider it necessary to make any inquiries as to Fr [redacted] suitability to do supply work. In the space of one week in August 1986, the following events occurred.

20.88 On Sunday, Fr [redacted] turned up to say mass in the parish. A nine year old boy was asked by a local nun to serve mass, as there was no one else available. The following day, Fr [redacted] called to the boy's house and asked him to serve mass again. He did so and, after mass, it is alleged that Fr [redacted] abused him. The abuse described was broadly similar to that described by previous complainants. Fr [redacted] gave the boy a T-shirt and a prayer book.

20.89 The boy went home and told his mother what had happened. His parents brought him to the sexual assault treatment unit in the Rotunda hospital and immediately afterwards went to their local garda station to make a complaint. The initial garda reaction was exemplary. The garda who received the complaint arranged for a colleague to attend at the boy's house that very evening to take his statement. A detective garda took a comprehensive statement which included a lot of surrounding detail capable of independent verification, and had the statement witnessed by the boy's mother. The detective garda took possession of the prayer book and T-shirt given to the boy by Fr [redacted]. The garda held on to these potential

exhibits, in case this matter ever came before the courts. He still had these items in his possession at the time of his retirement from the Gardaí in 2002. This garda took no further part in the investigation. The following morning, the investigating garda went to the local presbytery to inform Fr [redacted] of the complaint made against him and to invite him to attend at the local station for interview. The Commission is of the view that when the investigating garda arrived at the presbytery, the irate father of the boy was already there confronting Fr [redacted] in relation to the assault. Fr [redacted] later characterised this confrontation as an over-reaction by the father to the situation.

20.90 According to Fr [redacted], on being informed by the investigating garda of the complaint made against him of indecent assault, he offered to make a statement on the matter but was advised by the garda not to do so. This was denied by the garda, who told the Commission that his recollection was that Fr [redacted] wished to conduct the interview there and then and that he (the garda) wanted to conduct it in the more formal setting of the garda station.

20.91 In any event, Fr [redacted] did attend at the garda station later that same day in the company of a friend who was a retired garda sergeant who had served in that district. According to the two gardaí who conducted the interview, which was a voluntary interview, they put each of the allegations contained in the boy's statement to Fr [redacted]. Each garda told the Commission that he took no notes of Fr [redacted] responses, although each formed the view that Fr [redacted] was lying. It strikes the Commission as extraordinary that no notes were taken during the course of this interview as the very purpose of the interview was to ascertain and note the response of Fr [redacted] to the complaint being made against him. Unfortunately, as the garda file on this investigation is missing, the Commission has no means of crosschecking the gardaí's evidence in this respect.

20.92 One of the gardaí spoke with the retired garda sergeant who had accompanied Fr [redacted] to the station. This retired garda sergeant was disinclined to believe any wrong of Fr [redacted]. That same evening, Fr [redacted] went to the home of Garda Chief Superintendent Joe McGovern. Fr [redacted] had been staying in a house belonging to the chief superintendent since July. He made certain limited admissions to the chief superintendent

who did not convey them to the investigating garda, but who did convey them and the fact of the garda investigation to his local parish priest, Fr Curley. When asked by the Commission why he took this course, the chief superintendent replied that he considered Fr behaviour to be a matter for the Church to deal with. This was despite his knowledge that an investigation had just commenced into an allegation of indecent assault. When asked why he did not consider it appropriate to notify anybody in the civil authorities about the admission made to him by Fr , the chief superintendent responded:

*“I didn’t report - I didn’t consider it appropriate to notify the local gardaí in case - they could even think I was meddling. I took the course that I thought was the proper course at the time. I contacted the local curate who was a very conscientious person and I knew who would take it on board and he did take it on board and he got onto the Archbishops House about the matter and he subsequently told me that he got onto the superintendent in Ballyfermot. So I think there was no omission on my part there.”*

20.93 When pressed on the point, the chief superintendent stated that the question of disciplining the priest was a matter for Archbishop’s House who were in the main responsible for the priest.

20.94 The following day, the Archdiocese, having been notified of the investigation by the chief superintendent, got involved in the matter. The detective garda handling the investigation contacted an official in the office of the Director of Public Prosecutions (DPP) seeking advice. The investigation stopped. No further inquiries were made by the Gardaí. The boy’s statement was full of detail which could have been independently verified by taking statements from third parties. No such statements were taken. No statements were taken from the boy’s parents. The boy’s father, in particular, had useful evidence to offer. He later told a Church official that Fr , when confronted by him, said that “this” had happened several times before and that he got carried away with children. Even though the Gardaí knew that Fr intended to return to the USA, no warrant was sought for his arrest. The explanation given to the Commission by the investigating garda for the failure to take additional statements was that he did not want to expose the boy within the community as having been indecently assaulted by

a priest. The Commission does not find this explanation convincing, plausible or acceptable.

20.95 As the garda investigation stopped, the Archdiocesan investigation got underway. The Archdiocese's handling of events was facilitated in significant ways by the Gardaí. As already described, Fr [redacted] visited Chief Superintendent McGovern who rang Fr Curley. According to his contemporaneous account, Fr Curley went to see another superintendent in a garda station. While there, he was given the boy's statement to read. This superintendent denied to the Commission that he had met Fr Curley at all. He stated that sometime later he met another priest from Archbishop's House in relation to the matter. While there was a priest with this name in the Archdiocese, he did not serve in the archdiocesan administration and had not been asked to take any steps on behalf of the Archdiocese in the matter. The superintendent further denied that he allowed Fr Curley to read the complainant's statement or facilitated his reading of it in any manner. While the Commission cannot fully determine the issue in the absence of some of the relevant parties, it prefers the evidence contained in the contemporaneous memo of Fr Curley. This was prepared by Fr Curley for his superiors in the Dublin Archdiocese and he would never have expected it to enter the public domain. Further, the Commission cannot conceive of any reason why Fr Curley would state that such a meeting had happened if such were not the case. The Commission's view in this regard is supported by the evidence of Chief Superintendent McGovern who told the Commission that, after the event, Fr Curley had confirmed to him that he had met the superintendent. It also appears clear to the Commission that someone told Fr [redacted] that he was out of the woods in respect of this complaint because, in early 1988, when taxed with yet another sexual assault by the Church authorities, he commented that the warrant in respect of this incident had expired. In fact, no such warrant had been issued. The Commission is of the view that this particular garda investigation was marred by Church interference which was facilitated by the Gardaí and which was material in allowing Fr [redacted] to evade justice.

20.96 After his meeting with the superintendent, Fr Curley met Bishop Williams. It was decided that Fr Curley should contact the boy's parents as soon as possible in an "*unofficial capacity*". That meeting was arranged to

take place in the garda station where the complaint had been made. According to Fr Curley, this arrangement was facilitated by the Gardaí. The investigating garda told the Commission that he had no recollection of arranging this meeting but he did not deny that it had occurred. Fr Curley got the boy's statement and agreed to send it to Archbishop's House.

20.97 The Commission interviewed the superintendent of the district, the detective inspector in charge of investigations and the three gardaí involved in the investigation in relation to this matter. Each of the five agreed that it was entirely improper that the church authorities should have been given a copy of the complainant's statement. The detective inspector went so far as to state that he would view the handing over of the statement as a serious disciplinary matter. Each of the five denied that he had been responsible for giving the complainant's statement to the Church authorities. The Commission is, however, satisfied that the Church authorities received the statement from the Gardaí but is not in a position to identify with certainty who was responsible.

20.98 Meanwhile, Fr                      prepared a statement of his version of events. This was given to Archbishop's House but not to the Gardaí. In it, he said that he and the boy *"exchanged the kiss of peace during mass with an embrace"*. He said he gave the boy a T-shirt and a prayer book but *"At no time did I interfere with him privately"*.

20.99 Bishop Carroll (who was in charge of the Archdiocese in the interregnum between Archbishop McNamara's death and the appointment of Archbishop Connell) and Bishop Williams (who was in charge of the archdiocesan finances) met Fr                      and compiled this report:

*"He                      denied any sexual assault, but made vague references to hugging and petting and included some reference to offering the child a change of clothes. He admitted that it was the first and only occasion on which he has broken his rule of never being alone with young people, since he had problems previously. He resisted strong pressure to consult the Servants of the Paraclete in California, when he returns there, in the light of his previous treatment with them. He indicated an intention of travelling to California to take up a course in Pastoral Training in Hospital Work, commencing in October. Out of this, he would hope to obtain a post in Pastoral*

*Ministry in hospitals in America. He also indicated a feeling of hurt at the fact that the Archbishop had indicated to him on his return in June that he would not get an appointment in this diocese. When asked why his appointment in America had ceased, he said that his contract had been for three years and the Bishop had indicated that he was not renewing it, but had given him no specific reason. Under questioning, he did admit that during the three-year period the Bishop had, on a number of occasions, expressed unease at Father [redacted] over familiarity with young people”.*

20.100 At the conclusion of that meeting, Bishop Williams gave Fr [redacted] a cheque. In his memo of the event, he also raised the issue of insurance for the diocese *“in matters of this sort”*, which had been under active consideration by the Archdiocese for some time. Approximately one month later the Archbishop met the Church and General Insurance Company to expedite the question of insurance. An insurance policy was issued in March 1987 (see Chapter 9).

20.101 The Friday after the alleged abuse of the altar boy occurred, Fr [redacted] returned to the USA.

#### **Further Church activities in relation to 1986 complaint**

20.102 Fr Curley continued his efforts to deal with the fall out from the incident. He met the boy’s parents at their local garda station. His account of the meeting is as follows:

*“As far as both parents were concerned I was a friend of [local priest], we worked together, and as he was away on holiday, I explained I wanted to help them to discuss the incident and more so out of concern for their child. The parents made the following points:*

- Fr. [redacted] told the father that “this” happened several times before- he gets carried away with children.*
- They said they do not want him to get away with it. He should be charged and disciplined.*
- The matter was not to be swept under the carpet and threaten (sic) to expose the problem in the newspapers if something is not done about it.*





*to write a letter of assurance". He also told the bishop that rumour of the alleged incident had not spread very much in the community.*

20.106 It appears that Bishop O'Mahony was still concerned that this matter might give rise to scandal because a later meeting was organised at Bishop O'Mahony's house with the local priest and the mother of the boy. Bishop O'Mahony noted that the mother:

*"was calm and impressive in her response to the traumatic incident but upset and angry that:*

- 1. The priest had the opportunity of working [...] with young boys.*
- 2. He got away without any charge being made against him – "one law for the rich, the other for the poor"!*
- 3. He could have the opportunity of doing similar damage back in the USA.*

*She wants assurance that he would have treatment and no appointment that would involve contact with young boys.*

*I told her that the necessary steps would be taken to ensure that her reasonable requests would be carried out and promised to make contact again with more specific information of the steps taken."*

Bishop O'Mahony disputes the characterisation of his motivation as being the avoidance of scandal. He told the Commission that his motivation was pastoral support for the family and the priest. However, the Commission considers that his notes and those of the local priest suggest that the avoidance of scandal was the primary consideration. Furthermore, there is no evidence of any ongoing Church support for the family once the immediate threat of scandal had passed.

#### **Further garda activities in relation to 1986 complaint**

20.107 In early September 1986, the investigating garda received a report from the sexual assault unit in the Rotunda hospital. Having regard to the nature of the assault complained of, not surprisingly, there was little physical evidence found of the assault on the boy. Later in September, the investigating garda forwarded the file to his district office. The file consisted of a covering letter from the garda, the statement of the boy, the report from the sexual assault unit and a request that the file be forwarded to the DPP's office. The superintendent of the district attached his note to the file stating:

*"I understand that Fr. \_\_\_\_\_ was transferred to America approximately six years ago arising out of an incident of a similar nature. He had no authority to minister in Dublin at present and was in fact on holidays. I now understand that he has again returned to America."*

20.108 When a garda file is submitted to the office of the DPP for directions as to charges, if any, it is usual for the Gardaí to submit a report with the file outlining the nature of their investigation, the evidence which has been gathered and their conclusions as to the charges, if any, which should be brought. No such report was submitted nor directions sought with this file when it was submitted to the DPP's office. The garda evidence to the Commission was to the effect that the file was being forwarded more for the information of the DPP than for any other purpose.

20.109 The DPP's office, in an internal memorandum, expressed the view that Fr \_\_\_\_\_ should be prosecuted, were he available to be prosecuted, on the basis that the boy's statement of events was clear and convincing. The office commented on the incomplete nature of the investigation, for example, the failure to take statements from other children and the parents, but the ultimate conclusion was: *"Even if one could, I wouldn't bother extraditing him."*

20.110 The DPP's office does not appear to have adverted in any way to the information given to them in the brief letter from the superintendent, which suggested that Fr \_\_\_\_\_ had a previous history of this type of offence. This was a very brief file and one might have expected that further investigation or information would have been sought from the Gardaí as to this man's previous history.

20.111 Whereas there is no documentary evidence available that the DPP's decision was communicated by the Chief State Solicitor's Office to the Gardaí, the garda superintendent of the district in which the event occurred told the Commission that he was aware that there was to be no prosecution.

## USA, 1986

20.112 Fr                    had told Bishops Carroll and Williams that he intended to enrol in a hospital chaplaincy course at a hospital in Orange, California. An official from Archbishop's House telephoned Los Angeles diocese advising *"that a further incident was reported during Father                    recent vacation in Ireland"*. Los Angeles diocese replied that, while they had received Fr                    application for work, they had not offered him any post due to the circumstances of his case. The Archdiocese also telephoned the diocese of Orange alerting them to the fact that Fr                    was enrolled on a hospital chaplaincy course there and that background information on Fr                    could be obtained from the Santa Rosa diocese. The most recent complaint about Fr                    was also mentioned.

20.113 Fr                    meanwhile was looking for funding from the Archdiocese for his activities in Orange. Bishop Williams directed that the course fees be paid and that he also get an allowance. A bank draft for in excess of \$2,000 for tuition fees and incidental expenses for the months of October to December 1986 was forwarded to Fr                    . A further cheque was promised for early January 1987. Once again no one appears to have inquired as to whether or not he was taking his medication.

20.114 Fr                    did not start the hospital chaplaincy course. It is not clear why but it is likely that the warning given to Orange diocese by the Archdiocese of Dublin was responsible for this change of plan. Fr                    was living in Sebastapol, California and Bishop Williams wrote to him there in October 1986 seeking details of the new course which he proposed to embark on. The bishop also reminded him that, at their August 1986 meeting, both he and Bishop Carroll had stressed that they would expect a report either from the residential centre he had previously attended, Jemez Springs, or from some other competent professional source, to show that he had fully disclosed recent events in Dublin and had been treated in respect of them. The bishop expressed dissatisfaction that the report had not been received by him and stated that, pending receipt of the information required, he would keep his application for further financial assistance under review.

20.115 Fr                    replied saying he now intended to begin a clinical pastoral education course at another hospital, this time in the diocese of Sacramento.

He looked for further money to cover his tuition even though he had already received \$2,000 to cover his course and keep. He dealt with the professional report as follows:

*"I gave a full account to [solicitor] before I left Dublin. I also gave the same report [to] the priest psychologist whom I told you about. We have teased this out several times and I increased the frequency of my visits for that purpose. I asked him if he was willing to give a professional report and he said that as his clients come to him voluntarily (and not referred) and because he is also my confessor, he believes in keeping his professional services confidential.*

*...*

*I have grown from the incidents of some years ago and thank God have returned happily to ministry again. I am helping out at weekends and preaching."*

20.116 Once again, when asked to account for himself, Fr                      relied on self-serving pieties together with assurances of personal growth and development. Bishop Williams's response to this letter is remarkable in the context of all that had gone before and particularly given that the Archdiocese had knowledge that Fr                      had been diagnosed as a paedophile whose tendency could only be controlled by medication:

*"Please be assured that you have my help and that I will provide every co-operation in your training and renewal. I would hope that it would go without question that just treatment will be ensured at all times for a priest of the diocese.*

*However, having said that, I must come back to the question of the request which Bishop Carroll and I made to you that we should have a professional report from a qualified advisor, arising from our discussion before you left Dublin. If your priest/psychologist feels that because of his relationship to you as a confessor, he is unable to provide such a report, then I would have to ask you to consult some other psychologist or medical advisor, who will give us a comprehensive report.*

*I am sure that, on reflection, you will see the justice and the wisdom of our asking for this firm evidence that medical advice concurs with your*

*opinion of the situation. It is in your own interest to let us have this firm evidence, so that the written and documented allegations will not remain unanswered.”*

20.117 It is difficult to avoid the impression that Bishop Williams was more intent on keeping the file right by having on it a medical report which might exculpate the Archdiocese, rather than dealing appropriately with the ongoing threat that Fr                      posed to boys whom he might encounter. There is no evidence that the diocese of Sacramento was contacted about Fr                      presence there.

20.118 In January 1987, a decision appears to have been reached that the Archdiocese of Dublin would continue to fund Fr                      on his clinical pastoral education course in Sacramento, notwithstanding his repeated failure to comply with the request for a comprehensive medical report. There is a note on file advising the finance secretariat to send him a salary for three months.

**First complainant comes forward again, 1987**

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## More problems in the USA

20.124 Meanwhile, the supervisor of the course which Fr [REDACTED] was pursuing in Sacramento, a nun, wrote to the Archdiocese concerning his status. This course was in a different hospital to the one Fr [REDACTED] had told the bishops about earlier. The supervisor told the Archdiocese that, when Fr [REDACTED] applied for the course in November 1986, he had provided a letter giving him release from the Dublin Archdiocese, an acceptance letter giving him faculties in Sacramento diocese and several letters which recommended

him. He had also provided a reference from a nun who ran a similar course in Ireland. The supervisor said that there had been no problems with Fr [redacted] but they had recently heard *“rather ugly rumours about his reasons for leaving the diocese of Dublin and that of Santa Rosa. These rumours implied that he seeks out young boys for all the wrong reasons”*. She went on to say that she was writing *“at the suggestion of Bishop Hurley from Santa Rosa and am most anxious to clear this as soon as possible, because, if these rumours are true, Father will be asked to leave the programme after I have confronted him. We have had experience of this before and cannot countenance this.”*

20.125 Bishop Williams telephoned the supervisor. Archbishop McNamara was ill in hospital. There are no notes of the contents of the telephone call but a subsequent letter to the supervisor suggests that Bishop Williams did confirm that the *“rather ugly rumours”* were true. The bishop then wrote to Fr [redacted] telling him about the inquiry from the course supervisor and mildly upbraiding him for undertaking a course other than the one agreed and for not providing the professional assessment sought.

20.126 While Dublin failed to address the issues, Sacramento acted. After speaking to Bishop Williams, the diocese of Sacramento gave him two weeks to leave. He was ordered, initially orally, and the following day, in writing, not to exercise any ministry within the territory of the diocese. He was forbidden to participate further in the course in which he was enrolled. He was also ordered to submit himself to the care of the Archdiocese of Dublin.

20.127 Fr [redacted], as usual, did not do as he was directed. He did not submit himself to the care of the Dublin Archdiocese. Instead, he set about obtaining a medical report from a psychologist whom he had met in the context of the course. He also, somewhat surprisingly, managed to obtain an extremely favourable evaluation of his participation in the first quarter of this course. No doubt this favourable evaluation was assisted by the various untruths that Fr [redacted] had conveyed to the course participants and directors. According to the evaluation:

*“At age 48, Father left his country and came to the United States to settle down in a new country and culture. He said he had a suppressed longing to work abroad since he was very young. This*



move afforded him the opportunity to meet new challenges and break away from his old ruts<sup>71</sup>. This decision was very significant in his life, especially since his mother was not in favor of him leaving home. He has not regretted this change, but rather feels that it has helped him to better self acceptance and has stimulated his inner freedom and autonomy. He has said that in recent years his priest friends and other friends in Ireland have accused him of selfishness and that this hurt him very much, but in the process of his renewal, he has become convinced that he needs to be somewhat selfish in order to fulfil his own needs. I believe he is a well balanced person giving proper time and attention to all the facets of his life. This shows in his behaviour and interaction with those around him. His vital energies are used in affirmative and responsible ways to himself and others. He loves music and the arts. He has taken oil painting lessons and paints very well. He is a member of a health spa and is aware of diet and exercise for his well being. He seems to be in good health, taking primary responsibility for his own wellness. He is quick to use the healing energy of laughter and play. He has dressed up as a clown, looking very professional from the pictures he has shown us. He did this for grammar school children in Eureka at Halloween time a few years ago.

Another significant emotional event in Fr. \_\_\_\_\_ life was when a fire broke out in a school<sup>72</sup> where he was teaching and 48 teenagers burned to death. This effected [sic] him very personally. This had to have made a very deep wound of grief and it seems he has worked through the agony of such a tragedy but I'm not sure his healing process is as complete as it should be.

Fr. \_\_\_\_\_ has travelled extensively in the past years before coming to the United States. He visited Irish Missionaries in Africa, Brazil and India<sup>73</sup>. Because of these opportunities, he said it has broadened his mind and spiritual life."

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<sup>71</sup> Note that there is no reference to his stay in Jemez Springs in 1982 and again in 1983.

<sup>72</sup> This is a reference to the Stardust fire which, of course, took place in a night club, not a school. Fr. \_\_\_\_\_ had never been a teacher.

<sup>73</sup> This is untrue to the best of the Commission's knowledge.

20.128 This evaluation was signed by Fr \_\_\_\_\_ supervisor, a lay woman, and by the religious sister who was the course supervisor. It is not known why the course supervisor was willing to endorse such a misleading evaluation. Perhaps it was because the lay supervisor who prepared the evaluation could not be brought into the confidence of the inner Church circle who knew the truth about Fr \_\_\_\_\_. Fr \_\_\_\_\_ made extensive use of this evaluation when applying for work in the USA.

20.129 He succeeded in getting a favourable report from the psychologist whom he had met on the course. The psychologist reported that he had conducted five hours face to face interviewing and five hours of psychological testing. He concluded that Fr \_\_\_\_\_ was in the correct career path. Additionally, he noted that Fr \_\_\_\_\_ *“is capable of and is actively using individual psychotherapy”*. He was of the view that psychotherapy would continue to help him become more aware of himself. The psychologist also conducted a psychological evaluation of Fr \_\_\_\_\_. The history given by Fr \_\_\_\_\_ to the psychologist was untruthful and full of glaring omissions. He failed to disclose the various complaints against him, he said he had been accused of being over familiar with young people but there were no specific complaints, he did not mention his time in Jemez Springs or in Stroud, he did not tell the psychologist that he had been diagnosed as a paedophile whose tendencies could only be controlled by anti-androgenic drug therapy. He said he had been traumatised by *“the burning of 48 teenagers that came from a bomb that went off in the parish where Father \_\_\_\_\_ was ministering in”*. This presumably is an amalgamation of the Dublin bombings of 1974 and the Stardust disaster of 1981.

20.130 On the basis of the history given, the psychologist's report was clearly worthless. It, too, was used extensively by Fr \_\_\_\_\_ when he sought work in the USA.

20.131 Fr \_\_\_\_\_ sent this report and the course evaluation to Bishop Williams in March 1987. Fr \_\_\_\_\_ made no reference to the fact that his faculties had been withdrawn by the diocese of Sacramento, nor to the fact that he had been ordered to leave the territory of that diocese. He said he was looking for suitable ministry.

20.132 Bishop Williams must have known that the psychological evaluation was worthless as it was based on an inaccurate, misleading and untruthful history given by Fr . Fr was not confronted by the inaccuracy of the history, nor does it appear from the documents that the psychologist was notified of the false basis upon which his report rested.

20.133 There is evidence that, at this stage, Bishop Williams was finally losing patience. In the archdiocesan documents is a memorandum on “Dismissal from the Clerical State” prepared by Monsignor Alex Stenson for Bishop Williams. Monsignor Stenson cannot remember whether this was prepared in the context of Fr or Fr Carney (see Chapter 28). Monsignor Stenson listed the three ways in which an ordained cleric can lose the clerical state being:

- by a judgment of a court or an administrative decree, declaring his ordination invalid;
- by the penalty of dismissal lawfully imposed;
- by a rescript of the Apostolic See.

20.134 However, nothing was done to institute a process of dismissal in the case of Fr .

20.135 Between March and June 1987, Fr applied for chaplaincy posts in a number of dioceses in the USA and Canada. He made initial progress but each application ultimately foundered when inquiries were made of either Dublin, Sacramento or Santa Rosa dioceses. During this period, Fr also made himself available to do supply work. In May 1987, he somehow managed to get a letter granting him priestly faculties in the diocese of Grand Rapids, Michigan.

20.136 Back in Dublin, Archbishop McNamara died in April 1987 and Bishop Carroll took over as Diocesan Administrator for a second time. Bishop Williams wrote to Fr asking for a briefing on his current circumstances so that he could advise Bishop Carroll. In May 1987, Fr replied that he had been ministering and had just completed a long retreat in a Jesuit retreat house. He said that he was continuing therapy and

was being helped and advised to seek permanent work. He asked for a reference from the Archdiocese.

20.137 In June 1987 an official from the diocese of Sacramento spoke to Monsignor Stenson on the telephone. The official gave a summary of Fr activities throughout the American west and mid-west during the month of May and was quoted by Monsignor Stenson as saying *“Urgent to get him out of the USA – to anywhere.”*

### **Withdrawal of faculties**

20.138 Bishop Williams wrote to Fr declining to give him the letter of reference. Bishop Carroll wrote to him to say he had consulted with the auxiliary bishops and had decided to withdraw his faculties with effect from June 1987. He further withdrew permission to seek pastoral work in the USA. He recalled him to a residential course in Stroud. He said that any failure to comply with these instructions would mean that he (Bishop Carroll) would start a canon law penal process under canon 1395 (see Chapter 4).

20.139 This was undoubtedly the most direct letter sent by the Archdiocese to Fr in the ten years that the Archdiocese had been dealing with the fall-out from his sexual molestation of boys. Not surprisingly, Fr was shocked by this new direct approach. Nevertheless, he still made a last ditch effort to avoid returning to Stroud. This did not succeed.

20.140 Fr arrived back in Stroud in July 1987. By coincidence the priest now in charge of Stroud, Fr Livingstone, was the same man who had been in charge in Jemez Springs when Fr was there in 1983 and when he was diagnosed as a paedophile whose tendencies could only be controlled by anti-androgenic medication. Interestingly, this man’s report to the Archdiocese in July 1987 makes absolutely no reference to that crucially important diagnosis, or to Fr adherence or otherwise to the drug treatment regime that had been prescribed. The report did state that Fr was being evasive and perhaps deliberately dishonest. Stroud had no confidence in his ability to control his psychosexual urges at that time. They did not think that a longer period of treatment would improve the situation as they would not be willing to risk recommending him for active work in the priesthood. The attending psychiatrist in Stroud raised the

possibility of Fr being given permanent care in a supervised setting. At Stroud's request, Monsignor Stenson travelled there to discuss the future with Fr . Monsignor Stenson noted that Fr tended to gloss over his history in the Dublin Archdiocese but he acknowledged the problem there would be in recommending him elsewhere

. A number of possibilities were discussed:

- Laicisation - Fr did not like this as he still had ambitions for a return to active ministry when his problem was solved.
- Dismissal – he would prefer this not to happen.
- Early retirement and/or resignation: this seemed the most attractive proposal from Fr point of view because it would be seen as a voluntary act on his part and not something imposed by the diocese.

20.141 At the conclusion of the meeting, Monsignor Stenson felt sorry for Fr and compared him to the fugitive who did not quite know where to turn. Monsignor Stenson's own view was that the psychiatrist's suggestion of viewing Fr as a disabled priest in need of custodial care with a very limited ministry might be given further consideration but he recognised that it was questionable if Fr would be able or willing to do that.

20.142 After this meeting Fr wrote to Bishop Carroll saying that Monsignor Stenson was "*realistic in his presentation of my case, but I thought that all of it was very negative*". Having pointed out some of the positive features of his recent life, as he saw it, he concluded:

*"If necessary, I would envisage resignation from the active ministry, and that would include not involving myself actively in public ministry, and that the diocese would have no responsibility for my future conduct. That I would be given financial support in order to set myself up and find work, (in justice because of my years of service). That the diocese could say that I was a priest who had resigned from the active ministry. These are my wishes in order of preference. I need trust, compassion, justice and charity, I will be moving to my cousin's home 70 miles away".*

20.143 Bishop Carroll became anxious to ensure that Fr was in a monitored situation pending a decision in his regard. Stroud was prepared to

provide a room for him but he had already left Stroud and had gone to relatives. He refused to go back. In August 1987, Bishop Carroll suspended him from ministry. This suspension decreed that he could not say mass, preach, hear confessions or receive stipends. He was also prohibited from presenting himself as a priest, wearing clerical dress or seeking or engaging in any form of pastoral ministry. Priests in the Archdiocese were not told of this suspension.

20.144 Sometime in August 1987, Fr moved to a centre in London which specialises in therapy and reflection for members of religious orders and clerics. Monsignor Stenson visited him there to tell him the terms of the decree of suspension. In September 1987, Fr applied for laicisation.

### **Laicisation**

20.145 Monsignor Stenson prepared the documents necessary for laicisation and these were transmitted to the Congregation for the Doctrine of the Faith in Rome in October 1987. The application was accompanied by medical reports prepared over the years in relation to Fr . The reports received from Jemez Springs in 1983 which diagnosed him as a paedophile were not included. The Commission asked Monsignor Stenson about this and he explained that there were enough other reports to serve the purposes of the process. He said that all the documents were not included: “*you simply make a succinct statement*” in order to give Rome adequate information on which to make a decision.

20.146 In November 1987, Bishop Carroll was not pleased to hear that Fr intended to come back to Ireland. One of his secretaries sent a memo to Monsignor Stenson stating that Bishop Carroll wanted to send a letter to Fr indicating Bishop Carroll’s wish that Fr remain in England. The memo concluded “*Even if the letter arrives after his departure it would in some way cover the Diocese*”.

20.147 Unfortunately for the Archdiocese, Fr was already in Ireland. He had managed to get a live-in job in a rural college as a supervisor of studies. Monsignor Stenson contacted priest friends of Fr in order to locate him. He then wrote to Fr addressing him as “Mr

" and stating Bishop Carroll's regret that he had not seen fit to inform Bishop Carroll of his plans to return to Ireland nor indeed to seek his permission to return to Ireland. Monsignor Stenson also rang Fr [redacted] new employers and advised them that *"we have found him not to be a suitable person working with young people"*. The employment was terminated.

## 1988

20.148 The documents do not reveal, and the Commission has been unable to ascertain, where Fr [redacted] went after he lost this post. It is known that a number of lay people and clerics were supportive of him in the various parishes in which he had worked. He was still in the country in January 1988 when Monsignor Desmond Connell was announced as the Archbishop-elect of the Dublin Archdiocese. At a meeting of the auxiliary bishops in January 1988, which the Archbishop-elect attended, Bishop O'Mahony reported to his colleagues that there was a complaint that Fr [redacted] had, once more, committed a sexual assault. The assault had taken place in a school outside the diocese and was perpetrated on a 14 year-old-boy who Fr [redacted] had first spotted a year and a half earlier when on holiday in a priest's house in a rural part of the diocese. Fr [redacted] had gone to the boy's school, had celebrated mass despite the decree suspending him from doing so, and had then sexually assaulted the boy. It is not known how Fr [redacted] managed to get to say mass at this school but it is rather astonishing to note that the headmaster of this school was also subsequently convicted of child sexual abuse. The bishops decided to locate Fr [redacted], to send word to the Congregation for the Doctrine of the Faith immediately and to contact a psychiatrist.

20.149 Cardinal Connell told the Commission that he had no memory of that meeting but he was already aware that Fr [redacted] had problems because Archbishop Ryan, who was a good friend, had told him so some years earlier.

20.150 Bishop Carroll immediately wrote to the Congregation for the Doctrine of the Faith telling them of the most recent incident and asking that Fr [redacted] be reduced to the lay state as quickly as possible *"otherwise immense scandal and damage will ensue both for the Church and the priesthood in this Diocese"*.

20.151 When Fr [redacted] was located, he was sent to St Patrick's Hospital under the care of Dr John Cooney in late January 1988. It appears that all of the medical reports held by the Archdiocese were forwarded to Dr Cooney. Dr Cooney told Monsignor Stenson that Fr [redacted] had very little insight and very little motivation. He suggested that he be put on a drug called Anquil, a drug frequently used to control deviant, anti-social sexual behaviour. In February 1988, Dr Cooney told Monsignor Stenson that Fr [redacted] was full of "*psycho-therapy*" and that the psychotherapy was deemed counter productive, in the sense that it had given Fr [redacted] a language to provide more elaborate rationalisations for his behaviour. Dr Cooney was of the view that psycho-therapy at this point for Fr [redacted] would be more "*codology*".

20.152 While in hospital, Fr [redacted] told Dr Cooney that he was in the process of obtaining a green card for the USA and that he already had a job lined up there. Fr [redacted] told Monsignor Stenson that he had a job offer in Stockton, California, to work with the homeless. Stockton was the only one of the Californian dioceses that had not been warned about Fr [redacted]. The bishops wanted to know more about this job offer. Fr [redacted] refused further information. He considered that it was not the business of the Archdiocese and he was adamant that the diocese would not once again prevent him obtaining employment in the USA. He also stated that he did not wish the hospital to have any further communication with the diocese and indicated that he would refuse treatment for so long as the hospital continued to communicate with the Archdiocese. He also told Monsignor Stenson that he was making great progress in the hospital and that after his stay there he would be cured. This self diagnosis was completely at odds with the view expressed by Dr Cooney.

20.153 Monsignor Stenson made inquiries of the Church authorities in Stockton about the proposed employment. He discovered that the job involved the housing of homeless people and research into its causes. The community which was proposing to employ him consisted of six people all of whom were adults. There was no Church link or connection.

20.154 The matter of Fr [redacted] was on the agenda at all the auxiliary bishops' meetings in early 1988. Fr [redacted] left the hospital sometime in



February 1988 and appeared to be staying in Co Wexford, as a priest friend had received a card from him from there. He was, however, in contact with the Archdiocese as he was looking for the keys of his car which Bishop O'Mahony was refusing to return to him. As far as the bishops were concerned, their options were either to let him go to the USA, where according to the note of the bishops' meeting, "*he could take medication and therapy, or stay in Ireland and end up in Mountjoy*".

20.155 The bishops decided to let him go to the USA. They, in effect, set him loose on the unsuspecting population of Stockton, California. There is no record that they notified the bishop of Stockton of his arrival. They did get a report from Dr Cooney which is misleading

. It refers to Fr continuing to receive therapy (which had previously been described as more 'codology') and medication in America in circumstances where, given his history, both the doctor and Bishop O'Mahony should have known that he was unlikely to continue to take any libido-suppressing medication. Bishop O'Mahony wrote to the psychiatrist to thank him for his "*valuable*" report.

20.156 Archbishop Connell was consecrated Archbishop of Dublin in March 1988. That same month, Fr rescript of laicisation came through from Rome. Cardinal Connell told the Commission that he was relieved when this came through. When asked by the Commission if he felt he had any further responsibility for this now former priest, Cardinal Connell said: "*I think that that was a matter that Monsignor Stenson was looking after in the chancellery*". Cardinal Connell went on to point out that, as he was laicised, the Archdiocese now had no control over him.

20.157 Just a week after Mr was laicised, a garda inspector telephoned Archbishop's House asking about his whereabouts. He explained to Monsignor Stenson that he was following the DPP's instructions to investigate the original complaint . Monsignor Stenson noted in a contemporaneous memo that the garda inspector, on being informed that Mr was in the USA, commented that this made his task much easier in that "*they will hardly send me to America for him*". That same afternoon, the inspector called to Archbishop's House and, according to Monsignor Stenson's contemporaneous notes,

informed Monsignor Stenson “*the Guards are aware that should the matter surface in the Sunday World in two or three years time it is important for them to have covered their tracks. Hence the present enquiry*”.

20.158

20.159 There the garda investigation ended. No inquiries were made as to whether or not Mr had on-going connections with Ireland and was likely to return, or as to whether or not he had friends or acquaintances in the Archdiocese with whom he was likely to remain in contact.

#### **Back in the USA**

20.160 In May 1988, the diocese of Sacramento wrote to Bishop Williams expressing surprise that , whom less than a year earlier they had advised should be removed from the USA to anywhere, was now back in their region. Sacramento diocese had learned of his presence because he had applied for a teaching job and the school had contacted them. The diocese of Sacramento assumed, wrongly of course, that the Dublin Archdiocese might not have been aware of his presence in Stockton. They informed the Dublin Archdiocese that they had a duty which they intended to fulfil, to notify Stockton diocese of the presence of Mr . The Archdiocese had an address for him because he had earlier written to Bishop O’Mahony. Bishop O’Mahony undertook to send him a copy of his rescript of laicisation. The Commission has not seen any evidence that it was in fact sent at this time but Bishop O’Mahony told the Commission that he did send it. A copy was sent to Sacramento diocese.

#### **Dublin visits**

20.161 There were no more inquiries from American dioceses and no fresh complaints of sexual abuse were emerging in Dublin. Mr kept in regular contact with friends in the Dublin Archdiocese. Though officially a wanted man, he returned to Dublin on a number of occasions. The Commission is aware that he attended the funeral service for one of his brothers, which appears to have occurred in 1992. The Gardaí were not

notified of his attendance, but given the garda approach to the matter in 1988, the Commission is not convinced that any notification would have been acted upon.

20.162 Mr file was revisited by the Archdiocese in 1994/1995 when clerical child sexual abuse was frequently in the headlines. In October 1995, a priest of the Archdiocese wrote to tell the Archbishop that Mr would arrive in Dublin in October 1995 and intended remaining for ten days. The priest was told that the information had been passed on to the Archbishop and that nothing further was required of him. While Mr was in the country visiting his friends, some of whom were priests of the Dublin Archdiocese, the first claim for civil damages arising out of his sexual abuse of boys arrived in Archbishop's House. This was made by the boy who claimed to have been sexually molested in 1986 and whose parents had immediately made a complaint to the Gardaí. The Archdiocese did not tell the Gardaí that Mr was in Dublin in October 1995.

20.163 In November 1995, Monsignor Stenson forwarded a copy of his laicisation rescript to Mr in California. He also informed him about the claim for compensation.

20.164 In November 1995, the Archdiocese disclosed to the Gardaí the names of 17 priests against whom complaints of sexual assault had been received. The name of was not on that list. Monsignor Stenson told the Commission that this was because he was no longer a priest of the Archdiocese. The Commission asked Cardinal Connell why this was and he stated: *"because he was laicised, I presume"*.

### **After 1995**

20.165 After 1995, more complainants came forward. The Commission is aware of 21 people who have made complaints.

20.166 In 1997, the case was brought before the advisory panel. The panel recommended that the civil case should not be contested. It further recommended that the parish priests of Mr former parishes be gathered together to be briefed on what to do if anyone came in seeking help or who might need help in the future. This recommendation does not

appear to have been acted on. As individual complaints came in, the parish priests appear to have been informed on a need to know basis. Similarly, the abused who came forward were not told the truth. Their accounts were listened to and counselling was offered, but they were not validated or vindicated by the Archdiocese by being given the truth as the Archdiocese knew it. There was one exception to that approach. Fr Cyril Mangan, as assistant delegate, did tell one of Mr [redacted] victims of his history, to the extent that it was known to Fr Mangan.

20.167 Mr [redacted] planned yet another visit to Dublin for June 1998. Archbishop's House was informed of his plans by a priest friend in January 1998. There is a memo on file which states that Monsignor Dolan, having taken legal advice, phoned the priest friend of Mr [redacted] and told him:

*"Because [redacted] had been laicised, it would not be appropriate for the diocese to take any active part. However, I outlined the perspective in respect of the following:*

- (i) He is suspect of serious crime;*
- (ii) If [name of priest] becomes aware of his presence in Dublin, the Gardaí should be informed;*
- (iii) If we become aware of his presence in Dublin we will inform the Gardaí."*

20.168 The Commission questioned Mr [redacted] friend about this memo and he was adamant that precise instructions of the type outlined were not given to him by the Archdiocese. As far as he was concerned he had given them the relevant information to allow them to act. Monsignor Dolan disputes this and maintains that his memos are an accurate reflection of what occurred. Nonetheless, the fact is that the Archdiocese did not act on this information nor, indeed, did Mr [redacted] priest friend. They chose not to do so despite the fact that they were given specific dates when he would be in Dublin and the specific function that he was travelling to attend.

20.169 Mr [redacted] did arrive in Dublin in June 1998. He held a function in a hotel to which his various clerical and lay friends and family were invited. The Gardaí were not notified of his presence.

20.170 Insofar as the Commission has been able to establish, Mr [redacted] has not been back to Ireland since 1998. However, the Commission has established that he is in regular contact by way of letter or Christmas card with a number of clerical friends in the Archdiocese who have been aware of his whereabouts since his departure in 1988. He wrote to Bishop O'Mahony on one occasion in 1995. One of these friends visited him in California in the late 1990s. It appears that he has been able to secure employment as a lay minister officiating at removals and burials.

20.171 New complainants continued to emerge and further civil proceedings were issued against the Archdiocese. The diocese adopted a legalistic and defensive position in relation to the civil proceedings while at the same time offering what was described as 'pastoral support' to the victims. Despite the growing evidence of the extent of Mr [redacted] criminal behaviour and despite the Archdiocese's declared policy of not protecting abusers and despite the fact that his location was known within the Archdiocese, and was readily ascertainable on inquiry, the Gardaí were not notified of Mr [redacted] whereabouts.

#### **Further garda inquiries**

20.172 As already described, the garda investigation came to an end when it was established that Mr [redacted] had left Ireland in 1988. The garda inspector involved was interviewed by the Commission and stated that from then on, he checked the *Dublin Diocesan Guidebook*<sup>74</sup> each year to see if there was a mention of [redacted]. It appears to the Commission that this was a rather futile and useless exercise in circumstances where he had been informed that Mr [redacted] had been laicised.

20.173 In 2003, the inspector, who was by then a senior officer in the Gardaí, did re-visit the issue. In February 2003, he wrote to Archbishop Connell setting out the fact of his previous inquiry in 1988 and asking if the Archdiocese had an address for Mr [redacted].

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This is an annual publication published by the Archdiocese listing, among other things, the names of the priests serving in the Archdiocese.

20.174 Between 1988 and 2003 not a single inquiry had been made by the Gardaí in relation to this matter. In the Commission's view, it is difficult not to conclude that the renewed interest in the complaint in 2003 was prompted more by a fear of public opprobrium than by any realistic prospect of successfully concluding the investigation.

20.175

### **The Commission's assessment**

20.176 This case encapsulates everything that was wrong with the archdiocesan handling of child sexual abuse cases. The story speaks for itself. Archbishop Ryan not only knew about the complaints against Fr [redacted], he had a considerable understanding of the effects of abuse on children. This is one of the few cases in which he took a close personal interest. He protected Fr [redacted] to an extraordinary extent; he ensured, as far as he could, that very few people knew about his activities; it seems that the welfare of children simply did not play any part in his decisions.

20.177 Monsignor Stenson told the Commission that *"this case was dreadfully, very poorly handled"* and *"a much more decisive decision should have been made earlier"*. That, in the Commission's view, is a considerable understatement.

20.178 In a saga in which there are very few participants who can be commended, the Commission notes the thorough investigation [redacted] carried out by Canon McMahon and the decisiveness of Bishop Carroll.

20.179 The connivance by the Gardaí in effectively stifling one complaint and failing to investigate another, and in allowing Fr [redacted] to leave the country is shocking. It is noteworthy that the Commission would not have been aware of the Garda activity in question were it not for the information contained in the Church files.

**Introduction**

21.1 Fr Horatio was born in the 1940s and ordained in the 1960s. He served in a number of parishes and eventually became a parish priest. He is now retired from ministry.

**First complaint, 1980**

21.2 In 1980 the parents of a 15-year-old boy complained to the Archdiocese that Fr Horatio had abused their son after he had met him in a gay club. Monsignor Glennon and Bishop Forristal met the boy and his parents and subsequently met the priest. Fr Horatio said he had thought the boy was over 18 and that the boy had touched him first. Fr Horatio told them that, two years earlier, he had volunteered to be part of the apostolate of the Church to homosexuals. He had consulted Bishop Kavanagh who had consented. It was through this ministry that he had met the boy. Monsignor Glennon concluded that Fr Horatio spoke *“convincingly and with restraint”*. He *“confessed that he had been foolish on several occasions”*. In his covering letter to the Archbishop, Monsignor Glennon said that this *“young man”* (meaning Fr Horatio) had got a *“fright”* and that he and Bishop Forristal thought the priest *“candid and clear”*.

21.3 At the time of this complaint, Fr Horatio was involved in marriage counselling and in teaching adults. It is clear that Archbishop Ryan consulted the two priests who were Fr Horatio's superiors in these activities and he also consulted Bishop O'Mahony. The marriage counselling superior suggested that Fr Horatio be allowed to continue his marriage counselling work as this would *“save him embarrassment and loss of face with counsellor and priest colleagues”* as *“a sudden change to a curacy in the more immediate future would, I think, raise unhelpful questions and be an occasion for unwelcome comment”*. He should also be moved from his present *“too easy”* chaplaincy which would ensure that he would be *“usefully occupied”* at weekends and put him in touch with the *“mainstream”*. On the occasion of his appointment as parish chaplain, the Archbishop should explain to him *“how delicate and how very dangerous is the work of counselling homosexuals”*. He should be

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<sup>75</sup>

This is a pseudonym.



told that a number of priests and laypeople now regarded him as someone *“closely associated with the ‘Gay Rights’ people. To what extent he is involved, I cannot say, but one must ask the question, ‘What effect does all this have on his credibility as a marriage counsellor?’”*.

21.4 Apparently, Fr Horatio had come away from the meeting with Monsignor Glennon and Bishop Forristal with the *“impression that what he was doing was all right and he could continue to help ‘GR’ as he had been doing. It seems to me that there is need for clarification of his role in respect of ‘GR’.”*

21.5 Neither his superior in his teaching position nor Bishop O'Mahony saw any reason why he should be moved from his teaching position at that stage. He was moved to another chaplaincy.

#### **1989**

21.6 In 1989, Fr Horatio approached Bishop Murray and told him that he was attracted to a young girl in a family to which he was close. He said there was no physical relationship but he had emotional difficulties. It was decided to move him to another parish. It subsequently became apparent that there was more to this attachment than had been told to Bishop Murray.

#### **Report to Gardaí, 1995**

21.7 In 1995, as a result of the Archdiocesan review of all relevant files, it was decided that the 1980 complaint should be reported to the Gardaí and that Fr Horatio should have a fitness for ministry review. Fr Horatio was named in the first list of priests given to the Gardaí by the Archdiocese in November 1995. The boy was contacted by the Gardaí but he did not wish to make a complaint. A file was sent to the Director of Public Prosecutions (DPP) for instructions in February 1996. Monsignor Stenson queried with the Gardaí why a file had been sent to the DPP even though there had been no formal complaint. He noted in March 1996 that he had been informed that the Garda procedure in such cases was to complete the file and send it to the DPP, even though no action could be taken, unless the person withdrew the complaint and said there was no substance to it. If the complaint was not withdrawn, it was interpreted as having been lodged but that the party involved did not wish to pursue it at that moment.

21.8 In March 1996 the DPP stated that directions could not be given regarding prosecution as the question had never been a live issue. They could only *“note that there was no evidence against the suspect at present”*.

**Anonymous complaint, 1996**

21.9 In January 1996, Archbishop Connell received an anonymous letter alleging that Fr Horatio had had a sexual relationship with the writer when he was 19 years old and that Fr Horatio had also had a sexual relationship with a 15-year-old and that he was continuing to have homosexual relationships. Bishop O'Mahony dealt with the matter. Fr Horatio told Bishop O'Mahony that he thought this complaint related to the 1980 incident. It is clear to the Commission, from other documentation, that he was correct in his assessment. The complaint did refer to the 1980 incident. Bishop O'Mahony arranged for an assessment at the Granada Institute.

21.10 Fr Horatio told Granada that he had had a sexual relationship with a married man. He admitted touching and hugging the 15-year-old who had complained in 1980, whom he had presumed was over 18. In June 1996, Granada concluded that Fr Horatio was predominantly heterosexual but with some capacity to respond emotionally and sexually to adult males. He did not have a high sexual drive and there was no evidence of attraction to children or adolescents. He showed no signs of a *“compulsive tendency to act out sexually”* and was unlikely to become involved in *“homosexual encounters”* in the future. From a clinical point of view, there were no substantive reasons to restrict his ministry, other than to the gay community.

21.11 In July 1996, Dr Patrick Walsh of Granada attended a meeting of the advisory panel to discuss this case. At the start, the chairman of the advisory panel asked Dr Walsh if it were possible to make an informed judgment after three meetings. Dr Walsh replied that he judged Fr Horatio to be very open and honest: *“Usually and obviously dealing in this area we get denial and minimalisation but one gets a sense over the course of interviews”*. He pointed out that it was critical to have as much information as possible about any complaints or concerns.

21.12 In terms of treatment and assessment, Dr Walsh said:

*“From the beginning of the assessment one is involved in treatment. There is an invitation to individuals to take responsibility for past actions and that is how we try to connect with them. We are surprised by the level of co-operation of clerical abusers. Quite a number of people have been compliant with the process and that is a start. We also take for granted that there is a lot more. It takes time for full openness to develop - but that is down the road in the process”.*

21.13 In relation to Fr Horatio, Dr Walsh told the advisory panel that he had not included in his report the priest’s admission of a relationship with a woman whom he had wanted to marry. It is clear that the members of the panel had no idea of the woman’s age at the time the relationship began and assumed that she was in the priest’s age group. It subsequently became clear that this was not the case. Dr Walsh told the Commission that the priest did not tell him the truth about this relationship. Dr Walsh understood that she was an adult, that the relationship had ended and had been divulged to and dealt with by his bishop.

21.14 In response to a question from a panel member that, if Fr Horatio was predominantly heterosexual, why his ministry should be confined in relation to homosexuals, Dr Walsh replied that it was *“precautionary and to prevent people drawing conclusions”*.

21.15 Dr Walsh recommended that Fr Horatio stay in treatment for 12 months and meet Monsignor Dolan every four months. The panel supported Dr Walsh’s recommendations and they were accepted by Archbishop Connell. Monsignor Dolan met Fr Horatio and reassured him that he was not considered to be in the child sexual abuse category: *“if he was, he might not still be in ministry and there would be a greater level of supervision on him”*.

21.16 In subsequent reports in December 1996 and in April 1997, Dr Walsh said that Fr Horatio was no longer in need of individual therapy. He reported that Fr Horatio remained very aware that he needed to avoid involvement with gay men. However, he had not experienced any need or desire to establish such an involvement or to act out sexually in any way. Dr Walsh concluded

that he was stable and conscientious and could continue in his work as a priest without restrictions.

21.17 In August 1997, Fr Horatio became a parish priest. In September 1997 the advisory panel recommended to the Archbishop that the case should be concluded.

#### **Adult complainant**

21.18 In November 1997, the previously anonymous complainant, who had contacted Archbishop Connell in January 1996, made a signed complaint that Fr Horatio had sexually assaulted him on several occasions when he was 19 years old. As this is not a complaint of child sexual abuse, the Commission did not examine its handling in detail. However, it was connected to the child sexual abuse complaint which had been made in 1980. Many attempts were made by the Archdiocese to meet the complainant to discuss his allegations but he was reluctant to meet. In 1999, the Archbishop requested the convening of an emergency meeting of the advisory panel to discuss the case. In advance of this, Dr Walsh's views were sought and he wrote that there was insufficient reason to remove Fr Horatio from ministry on the basis of the second complainant's communications as it appeared that Fr Horatio had resolved the issues that had affected him previously. He did say that it would be useful for the priest to have a review assessment, "*to document his current level of functioning and level of risk for acting inappropriately*", but this never occurred. In June 1999, the advisory panel concluded there was no reason to change its conclusions reached in 1996 and 1997 that there was no "*substantive risk to minors*" if Fr Horatio continued in ministry. However, "*with hindsight*", it was "*possible that the panel might have had reservations*" about appointing Fr Horatio as a parish priest.

21.19 The panel recommended that Fr Horatio should meet Dr Walsh again with a view to assessing the need for ongoing therapy and that the delegate should explore with him the possibility of voluntary early retirement "*both to reduce the risk of scandal and also for his own sake*".

21.20 Meanwhile, Fr Horatio had told his curate about this complaint. The curate was angry about the situation because he had already been in a parish with an abuser. The curate was not told of the 1980 complaint. In a letter to

Monsignor Dolan, the curate said that while he was aware it was not looked upon as a case of child sexual abuse, “*even though this may be debated in other circles*”, it was inappropriate to appoint him to the same parish as Fr Horatio, given his (the curate’s) “*circumstances in previous appointments*”. Monsignor Dolan, of course, was not involved in or consulted about Fr Horatio’s appointment as a parish priest.

21.21 Monsignor Dolan had agreed with Fr Horatio that he should meet Dr Walsh annually but this did not happen. The advisory panel’s suggestion in relation to Fr Horatio, namely that the delegate discuss the possibility of early retirement with him was not pursued. In 2005, in the course of investigating this case, Fr Aquinas Duffy spoke to Bishop Field, the area bishop, who said he was not aware that a formal complaint had been made in 1980. He thought that the only issue was in relation to the adult who had complained. Bishop Field suggested at that stage that Fr Horatio meet Dr Walsh again. In January 2005, Dr Walsh confirmed that he had not seen Fr Horatio since 1999. He stated that the advice he had offered in his 1997 report that Fr Horatio did not require therapy continued to be appropriate. The advisory panel was told this in January 2005 and it agreed that the file on Fr Horatio was closed: “*The only issue of concern is always the threat of public scandal*”.

#### **Further complaint, 2005**

21.22 In September 2005, Archbishop Martin received a letter from a woman’s solicitor seeking compensation for “*repeated and wanton acts of sexual abuse perpetrated on her as a young girl*” by Fr Horatio between 1987 and 1990 when she was aged 16 to 19 years. The alleged abuse was stated to have taken place in a number of locations, including holiday homes which were available to Fr Horatio. The key to one such holiday home was given to him by Fr Sean Fortune, a notorious child sexual abuser from the diocese of Ferns. Fr Horatio said that the only link between him and Fr Fortune was that they both lived in the same area at the time.

21.23 This woman said that Fr Horatio began to talk of marriage in 1989. Fr Horatio told the Archdiocese that he went to see Bishop Donal Murray in 1989, told him the “*whole story*” and asked to be released from the priesthood and laicised. He said that Bishop Murray responded that he should take some time to consider it and that he would be moved to another parish. Fr

Horatio began to make provision for earning a living. He moved parishes as already described. The relationship continued for some months. He said that the woman ended the relationship in 1990.

21.24 Bishop Murray's evidence to the Commission is that he was not told the whole story (in 1989) about Fr Horatio's relationship with the woman. The bishop was not aware that there was a sexual relationship nor was he aware of her age when the relationship began.

21.25 Archbishop Martin asked Fr Horatio to step down from ministry. The Archdiocese made extensive inquiries. It transpired that a number of priests were aware of the relationship between Fr Horatio and the girl at the time and it was thought that he had intended to leave the priesthood and marry her. There did not seem to be a great awareness of her age at the time.

21.26 In the course of the inquiries, Fr Horatio admitted for the first time that he had abused a boy of about 15 in 1983/4. He had never told anyone about the incident. He said that he did not tell Dr Walsh about that boy during his assessment in the mid-1990s because he felt he was in enough trouble. He had told Dr Walsh about the woman but did not discuss it fully.

21.27 The Archdiocese reported to the HSE and the Gardaí in accordance with the procedures. The woman complainant was offered counselling.

21.28 A draft statement to be read out at Sunday masses in Fr Horatio's parish was read to him. He was unhappy about the use of the phrase "*child sexual abuse*" as people would think he had abused a small child. The statement was re-worded to say that he was temporarily standing aside as parish priest because of an inquiry into an allegation of the "*sexual abuse of a minor*". When the statement was being read out, an explanation was given that a minor is a person under the age of 18 and not necessarily a young child. Some weeks later, Bishop Field reported that there was some anger in the parish about the statement and that a nun had told him it should have been made clearer that it was not a case of paedophilia.

21.29 Fr Horatio was again sent for assessment to the Granada Institute. In October 2005, the advisory panel recommended that a canonical precept be

imposed on him and said it did not see “*any prospect of a return to ministry*” by him. It recommended that he continue therapy on an active basis and that appropriate monitoring be provided. In November 2005, Archbishop Martin accepted his resignation as parish priest and he was nominated as a beneficiary of the Clerical Fund Society. A precept decreed that he was not to celebrate mass in public and that only those who knew the reason for the decree could attend any private mass; he was to have no unsupervised contact with minors, including all informal contact such as being alone with them in their homes or any other setting; he was not to wear clerical garb and he was to continue to consult on an ongoing basis with the Granada Institute.

21.30 The Archdiocese gave all the information which it had concerning Fr Horatio to the Gardaí.

#### **The Commission’s assessment**

21.31 Nothing happened as a result of the initial complaint even though Fr Horatio accepted that the incident had occurred, even if he said he thought the complainant was an adult. This follows the usual pattern of such complaints in the 1970s and 1980s. There is one unusual aspect to the handling of this complaint: Archbishop Ryan did tell a number of other people and sought their views on what to do. The apostolate to the gay community seems to have been an informal arrangement. The Commission considers that it is quite appropriate to have such an apostolate but that it should have been more formal and the priests delivering it should have been more carefully chosen and monitored.

21.32 It is clear that quite a few people knew about the relationship between Fr Horatio and the girl while it was going on. The Commission accepts that they may not have known her age but it is astonished that, in this and many other cases, the Church authorities seem to have turned a blind eye to behaviour by priests which is clearly in breach of its laws, both moral and canonical.

21.33 The Archdiocese dealt appropriately with the woman’s complaint in 2005 and followed the agreed procedures. However, the Commission is concerned that the wording of the statement to the parish did try to minimise the seriousness of the allegation. The allegation was of child sexual abuse –

the girl was 16 when the sexual activity began. Furthermore, Fr Horatio had also admitted to abusing two 15-year-old boys.



**Introduction**

22.1 Fr Donal Gallagher was a member of the religious order of the Vincentians. He was born in 1936, ordained in 1962 and died in 1994. He served in a parish in the Archdiocese of Dublin, St Peter's Phibsborough, from 1975 to 1979. This parish is run by the Vincentians by agreement with the Archdiocese. He was a teacher and chaplain at a secondary school in the Archdiocese from 1980 to 1983 and he served in the parish again from 1983 to 1994.

22.2 There are 14 complaints of child sexual abuse against Fr Gallagher known to the Commission. It is likely, on the basis of evidence reviewed by the Commission, that he abused many more children.

22.3 Fr Gallagher was an alcoholic. A letter written by the provincial of his order in 1989 shows that, in 1974, while director of vocations, he was indulging in inappropriate behaviour with seminarians and altar boys. The provincial said that he was shocked at the way Fr Gallagher used his hands on them. There is no evidence that any action was taken by the order at the time this was going on or, indeed, on foot of this letter.

**First complaints**

22.4 The first external complaint of child sexual abuse against Fr Gallagher was made in 1981. Two young boys complained to the order that they had been sexually assaulted while they were attending an international camp for young people in north Dublin. This camp was run by a friend of Fr Gallagher's and was not connected with the Vincentians. The order told the Commission that there are no written records of what happened but "*it is likely that these complaints were instrumental in his move*" from teaching to the parish of St Peter's in 1983. Fr Gallagher was not attached to the Archdiocese at the time these complaints were made. There is no evidence that the order told the Archdiocese about these complaints when he returned to parish work. In effect, nothing at all seems to have been done about the complaints other than to move him on.

22.5        Around this time, during the course of a retreat in the school to which Fr Gallagher was attached, a member of the order asked the class in question for their opinion of Fr Gallagher. The boys said they did not have much time for the priest. One of the boys said *"If Gallagher was in a room you made sure to keep your back to the wall"*.

22.6        Despite this, Fr Gallagher was allowed to remain as a priest teacher in that school until he was transferred in the summer of 1983 to the parish of St Peter's. Extraordinarily, in the circumstances, in September 1983 he was appointed chaplain to St Mary's School for the Deaf.

### **St Mary's School for the Deaf**

22.7        Fr Gallagher started abusing girls as soon as he was appointed to St Mary's. A report was compiled in April 1985 by another member of the Vincentians who was also a chaplain at the school. This report shows that a complaint was made within a month of Fr Gallagher's arrival at the school. In October 1983, in confession, Fr Gallagher embraced a 15 year old girl and started plucking at her bra strap. This came to the attention of the other chaplain who reported it to the principal. She spoke to Fr Gallagher and told him that the pupil was upset by his behaviour. At the same time, some of the senior girls complained to the other chaplain that Fr Gallagher was kissing them in confession. The other chaplain assumed that the warning from the school principal would suffice and took no further action. One complainant told the Commission that Fr Gallagher would abuse her in confession by putting his hand down her trousers. She was nine years old at the time. He would have an altar bowl and a napkin at one side. When he had finished abusing her he would wash his hands in the altar bowl and dry them with the napkin.

22.8        In December 1984, there was *"general fuss and skittishness"* when one of the classes in St Mary's were going to confession. The principal investigated the cause of this fuss and was told by the girls that Fr Gallagher kissed each of them after confession. What the girls did not tell her at that time was that during confession he used to run his hands all over their bodies inside their clothing and then kissed them all on the lips at the end of confession. The principal again spoke about the matter to Fr Gallagher who said that, if the behaviour offended the girls, he would stop. The principal,

incredibly, felt that perhaps Fr Gallagher's approach reflected the newer approach to the sacrament of reconciliation (confession) and took the matter no further. The principal told the Commission that, when she read the draft of this section of the report, she wondered how she *"could have been so blind. Abuse would not have entered my mind; I could not imagine a priest doing anything like that."*

22.9 In February 1985, a number of parents complained to the principal about Fr Gallagher's behaviour. They urgently requested that he be removed from his chaplaincy. The principal told the Commission that, initially, she had difficulty in believing them. She approached the other chaplain about the problem and he talked to the provincial of the order. An investigation was carried out by another Vincentian, Fr Cleary. He told the parents that Fr Gallagher would be removed from the school and sent to a home in the country. He was not sent to a home in the country. The school principal was not informed about this investigation. In May 1985, Fr Gallagher attended a school play staged by the pupils of St Mary's at a venue outside the school. Subsequently, complaints were made by a number of other parents and, in May 1985, a parent complained that her daughter had been sexually abused in the kitchen by Fr Gallagher. The school principal was not aware of this complaint and considers that the incident could not have occurred in the school kitchen. Fr Cleary spoke to the parents who had made new complaints and compiled a report on all the complaints that had emerged.

22.10 Following Fr Cleary's report, it appears that Fr Gallagher may have been sent for some sort of therapy but the Commission has been unable to establish whether this therapy took place, and if it did, the nature of the therapy. In any event, he continued to minister in St Peter's and this meant the children in that school had some exposure to him (as, indeed did children of other local schools).

22.11 One complainant's mother, in her evidence to the Commission, stated that, when her daughter made her confirmation a year or two later, Fr Gallagher was one of the priests on the altar and that this upset her greatly. The school principal has told the Commission that the confirmation took place in St Peter's, and that Fr Gallagher was the master of ceremonies for the confirmation. This mother also told the Commission that she wrote to

Archbishop McNamara in 1985 to complain about Fr Gallagher but there is no record of any such correspondence in either the Archdiocesan or the Vincentian files.

22.12 In spite of the overwhelming evidence, and the knowledge of his Vincentian superiors, that Fr Gallagher was an abuser, he was allowed to continue as a curate in St Peter's for the next four years.

### **Stroud, 1989**

22.13 In February 1989, Fr Gallagher was admitted to Stroud. The reasons for his admission are not clear but the emphasis in the correspondence from Stroud is on his alcoholism. A letter written by a parishioner in May 1989 makes it clear that his drinking had become uncontrollable. He would wander the streets at night looking for houses prepared to take him in and offer him drink. He was constantly at the bar of a local football club and quite often had to be taken back to the presbytery by the club members.

22.14 Stroud asked a number of Fr Gallagher's friends to write to him telling him how his behaviour affected them. One letter written by Fr Mark Noonan, who had been appointed provincial of the Vincentians in 1986, detailed a history of abuse going back almost 15 years. In that letter Fr Noonan referred to:

- Fr Gallagher using his hands on seminarians and altar boys in a "*shocking*" manner when he was Director of Vocations;
- his consistent drunkenness;
- the view held by the school boys about him;
- the abuse of the girls in the School for the Deaf.

22.15 He remained in Stroud for almost six months. The correspondence from Stroud made it clear that his problem was not under control. The underlying tone was that alcohol was the primary problem. Nevertheless he was returned to full duties. There is no record that any attempt was made to monitor or control him, but his fellow priests in St Peter's were aware of his history. The Archdiocese of Dublin had still not been informed.

22.16 He returned to Stroud in September 1989. The staff in Stroud at that time were quite alarmed at his attitude and they suggested a further visit.

22.17 During a further visit in November the staff at Stroud stated: *"It is quite essential that he bring his anxieties about his perceived sexual orientation out in the open and on the table"*.

22.18 A behavioural contract was drawn up with him in December 1989. The first four clauses dealt with his alcoholism. In the next three he undertook to avoid all contact with altar boys, to avoid being alone with children and never to touch a child.

22.19 Fr Gallagher returned to St Peter's as curate and was allowed to remain there unsupervised for the next four years. His order has confirmed to the Commission that, in all that time, they did nothing to see if he was keeping to the terms of the behavioural contract.

### **Garda investigation, 1993**

22.20 Early in 1993 a social worker was taking a group therapy session for deaf girls in a training centre. Three of the girls who had been pupils in St Mary's told her of the abuse. She contacted the Gardaí who initiated an investigation. Statements were taken from the three complainants. No parents were interviewed, and no inquiries were made either at the school or with the Vincentians. The Gardaí interviewed Fr Gallagher who denied the accusation completely. The sergeant who conducted the investigation stated in his report: *"Fr Gallagher is a professional man and strikes me as a sincere and genuine individual. I can see no useful purpose to be gained by the prosecution of Fr. Gallagher at this late stage"*. It was the view of the sergeant that, due to the passage of time and the fact that the abuse had been disclosed in a group therapy session, the chances of a successful prosecution were slim. Whatever the chances, they were certainly not helped by the decision not to seek any corroborating evidence.

22.21 A file was sent to the Director of Public Prosecutions (DPP) who, on the basis of the paucity of the information, the lack of corroboration and the fact that the girls did not have completely accurate recall of events, decided not to prosecute. The DPP went on to say: *"I make this decision on the*

*evidence on file, and on the assumption that this is the only available evidence".* The DPP also said that the Superintendent had asked for directions as to how the Gardaí should proceed with the investigation. The DPP said that he would not presume to direct the superintendent in this matter: "... *if the Gardaí consider that further investigation is warranted, such investigations should be carried out*".

22.22 There is no doubt that further investigation was warranted. Corroboration and detail could have been provided by the parents and the school authorities if such had been sought by the Gardaí.

22.23 The direction of the DPP was sent to the Gardaí in June 1993. Around this time, there were newspaper reports about Fr Gallagher and the way in which the parents who complained had been treated. Fr Gallagher was not named. The head of the order told Archbishop Connell that Fr Gallagher was the person being referred to. This seems to be the first time the order contacted the Archdiocese about Fr Gallagher. In June 1993, a mother contacted the Archdiocese and told them that her daughter was the complainant mentioned in the newspaper reports. She met Monsignor Stenson and the Archbishop. She told the Commission that neither the order nor the Archdiocese had offered her daughter any form of counselling or therapy.

22.24 Later in June 1993, Fr Noonan asked Fr Gallagher to abstain from all public exercise of his ministry until the DPP had reached a decision. In fact, the DPP had given his direction at this time but clearly Fr Noonan was not aware of this.

## **1994**

22.25 There is no evidence that the order to abstain from public ministry was rescinded but it clearly was not being implemented. In May 1994, it was alleged that Fr Gallagher was drunk while officiating at a baptism ceremony and that, at a reception afterwards, he slapped one of the young men attending on the backside and made advances towards two more young men and a young girl. He was then suspended from all duties. Shortly afterwards he was readmitted to Stroud where he died in June 1994.

22.26 The Gardaí revisited the file in 2003. This time, they got a statement from the school authorities which confirmed that the complaints had been made in 1984. Of course, it was now too late to do anything about this.

### **The Commission's assessment**

#### *Church authorities*

22.27 Fr Gallagher's victims were sadly failed by the Vincentians. Despite the fact that there were suspicions about his behaviour as far back as 1974 he continued abusing both boys and girls over the next 20 years and, apart from the period he spent in Stroud, no real efforts were made to curb his behaviour. It appears that his alcoholism was presented as an excuse and accepted.

22.28 It is astonishing that Fr Gallagher was appointed as a school chaplain in 1983 given what was then known about him.

22.29 It seems from the files that the Archdiocese was not aware of Fr Gallagher's activities before 1993. The letter which the mother wrote in 1985 is not in the files. The Commission finds it surprising that the Archdiocese did not hear something, even on the grapevine, of Fr Gallagher's problems given that he was attached to a parish. The Commission is astounded that these problems were not brought to the Archdiocese's attention by the Vincentians. The Vincentians communicated with the Archdiocese only when the newspaper reports appeared in 1993.

22.30 In spite of the knowledge available to both the Archdiocese and the Vincentians, Fr Gallagher seems to have been left in place for a further year.

#### *Gardaí*

22.31 The investigating garda sergeant accepts that there were shortcomings in the investigation but submits that these arose due to the nature of the offence and the manner of its reporting. The social worker who brought the incidents of abuse in St Mary's to the attention of the Gardaí acted promptly and appropriately.

**Introduction**

23.1 Fr Hugo was born in 1909 and ordained in 1935. He died in 1988. He had various appointments throughout the Archdiocese of Dublin, ending up as parish priest in Blessington, following a period as a curate in Drimnagh.

**Complaint, 1981**

23.2 There is one complaint of abuse against Fr Hugo. This complaint was initially made to the Archdiocese in 1981 but was not actually investigated until 1995. The complaint relates to Fr Hugo's time in Drimnagh. He is alleged to have abused a child from 1959, when the child was about 11 years old, until 1976 when she was in her mid-twenties.

23.3 In 1978 the complainant told her sister about the abuse. She said that Fr Hugo had been sexually abusing her continuously between 1959 and 1976 and the abuse included full sexual intercourse from the time she was a child. At first she did not know what was happening to her. Fr Hugo sent her to a nun to explain the facts of life. He also told her what to say in confession.

23.4 Fr Hugo lived alone in Drimnagh. He was very involved with the complainant's family and was a regular visitor to their house. He was very popular and used to holiday with the family.

23.5 In 1981, the complainant's sister informed Bishop Forristal who was then an auxiliary bishop of Dublin. A meeting with the bishop was arranged and she was accompanied to that meeting by another priest. At this meeting, the sister gave details of the abuse to Bishop Forristal. There was no follow-up of the complaint which she had made.

23.6 In evidence, Bishop Forristal agreed that he did meet the sister in 1981. Bishop Forristal said he had passed on the complaint either directly to Archbishop Ryan or to one of his secretaries, but there are no details in the Archdiocesan files of that complaint.

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This is a pseudonym.



23.7 In February 1995, the sister wrote to Bishop Forristal referring to the 1981 meeting and asking why there had been no follow-up. She was aware that Bishop Forristal had been the chair of a committee which was responsible for drafting the *Framework Document*. She was anxious to know why they had been let down and why nothing was done about their complaint.

23.8 Bishop Forristal replied indicating that he remembered her visit to him in spring or early summer of 1981 and he remembered the priest who had accompanied her. He was certain that he had informed Archbishop Ryan or his secretaries of the complaint. He said that “*as Auxiliary Bishop, I would have regarded the Archbishop as the only person in the diocese who was competent to deal with the priest and to pursue the case*”. He told her that he had been unable to follow-up the matter as he had been appointed Bishop of Ossory in July 1981 and his jurisdiction in Dublin had ceased. He advised her to contact Archbishop Connell as he could no longer deal with cases outside his diocese.

23.9 In March 1995, both the sister and Bishop Forristal contacted Archbishop Connell to inform him of the complaints. Archbishop Connell asked Monsignor Stenson to investigate. Bishop Forristal confirmed the fact that he had had the meeting in 1981 and he also said to Monsignor Stenson that he had been told that Bishop O’Mahony was looking after it.

23.10 At this stage, the priest who had accompanied the complainant had moved abroad but Monsignor Stenson made contact with him and he confirmed the meeting, and confirmed that Bishop O’Mahony knew about the complaint. Monsignor Stenson met the sister. She gave him the details of the complaint and she mentioned that her sister had named others whom she suspected had been abused by this priest. Monsignor Stenson checked with Archbishop Ryan’s secretary but he had no recollection of the 1981 complaint. The investigation did not go any further. In particular, Bishop O’Mahony does not seem to have been asked about his involvement. Fr Hugo was dead at this stage.

23.11 Monsignor Stenson and Monsignor Dolan were in touch with the sister on a number of occasions and offered counselling and an apology. The sister was never asked to suggest that the alleged victim make a formal complaint

herself and no questions were asked about the others who may have been abused. In response to this criticism, Monsignor Dolan said that, during the course of his work as a delegate, he had gained considerable awareness of the complex and sensitive issues relating to outreach to other possible victims. In particular, he observed that victims have a guilt when they discover that others have been abused. His experience was that, as the abuse involved an uninvited violation of a person, victims were sensitive to unexpected and uninvited approaches from the Church. The Commission could find very little evidence to support this contention by Monsignor Dolan.

23.12 The sister asked for and got a meeting with Bishop Forristal.

#### **The Commission's assessment**

23.13 No attempts were made to deal with the original complaint made in 1981 even though it was made to an auxiliary bishop of the Archdiocese. Fr Hugo was then occupying a prestigious position as a parish priest and there is no record of him having been spoken to in relation to these matters. He remained in his position as parish priest for a further three years.

23.14 Efforts were certainly made to deal with the matter when her sister re-activated the complaint in 1995. However, at that stage, Fr Hugo was dead. Counselling was offered to both the complainant and her sister. There was no follow up in respect of the others whom the complainant believed to have been abused. The sister was satisfied with the response she received in 1995/1996. She was satisfied that her assertion that the original complaint was not properly investigated was found to be valid. She felt that, had the matter been more thoroughly investigated in the 1980s, some closure might have been brought earlier to a very painful episode in her and her sister's life.

23.15 There is no record in the garda files of notification of the complaint to them by the victim or the Church authorities.

**Introduction**

24.1 Ivan Payne was born in 1942 and ordained a priest of the Archdiocese of Dublin in 1967. He was chaplain to Our Lady's Hospital for Sick Children, Crumlin<sup>77</sup> for a number of years. The Archbishop of Dublin was then, and continues to be, the Chairman of the Board of Directors of the hospital. Appointments in the Archdiocese of Dublin are generally clear and well recorded. Priests are notified in writing of new appointments. However, Fr Payne's status in relation to Crumlin hospital is not clear for all of the years during which he was associated with it. He was appointed as chaplain to the hospital in February 1968. In October 1970 he started studies in University College Dublin and was appointed as assistant priest in Mourne Road parish. Crumlin hospital is located within the boundaries of that parish. It is not clear if he was meant to continue in his role as chaplain to the hospital but he clearly had access as such until 1974. Hospital records show that he did most of the baptisms there in 1970/71 and continued to do baptisms until 1974. Fr Payne explained to Monsignor Stenson in 1995 that, as there was no residential accommodation for a chaplain in the hospital, he lived with his parents in Drimnagh until appointed to Mourne Road and continued nominally as chaplain while in Mourne Road but the job was shared between the Mourne Road priests. He was appointed curate in Mourne Road in August 1972 and continued his involvement with the hospital. He left there in August 1974 and studied abroad for two years.

24.2 Fr Payne was appointed to the Dublin Regional Marriage Tribunal in 1976 and he remained there until 1995. During this time he was also assigned to parishes and he lived in the parish accommodation. He was appointed as parish chaplain in Cabra in 1976 and subsequently in Sutton in 1983. He was regarded in the Archdiocese as being intellectually capable and was generally held in high regard. Consequently, his case was particularly shocking for the people who worked in Archbishop's House.

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This hospital is now called Our Lady's Children's Hospital, Crumlin.

### **Extent of abuse**

24.3 Ivan Payne is a convicted serial child sexual abuser. The Commission is aware of a total of 31 people who have made allegations of child sexual abuse against him; 16 of these people allege they were abused during his time as chaplain in Our Lady's Hospital for Sick Children, Crumlin and the vast majority are male. There are concerns or suspicions that a number of other children were abused by him. He was convicted of indecent assault in respect of ten victims and he served a prison sentence. Compensation has been paid by the Archdiocese to nine<sup>78</sup> of the victims in respect of whom he was convicted and to three other victims. It is likely that some other victims made claims to the Residential Institutions Redress Board<sup>79</sup>. The Archdiocese first heard a complaint about Fr Payne in 1981. The rest of the victims came forward in the period from 1995 onwards – the majority in the years 1995 and 1996; of these, seven were abused after the first complaint had been made to the Archdiocese.

### **First complaint to the Archdiocese**

24.4 The first complaint to the Archdiocese about Fr Payne was made in November 1981. The complaint concerned the abuse of Andrew Madden.<sup>80</sup> It was made by Andrew Madden's school guidance counsellor to Monsignor Alex Stenson who had been appointed chancellor of the Archdiocese a month earlier. Monsignor Stenson compiled a comprehensive contemporaneous written account of the allegations being made. The abuse took place in the house in which Fr Payne lived while attached to Cabra parish. Fr Payne was also working in the Regional Marriage Tribunal at the time. The abuse started when Andrew Madden was about 12 years old (about 1976) and continued until 1981. Andrew Madden visited Fr Payne's house every Saturday. The abuse involved fondling and masturbation. Fr Payne described the abuse (in 1993) as "*going as far as was necessary to get satisfied without unnecessary violation*". Andrew Madden also mentioned that there was another boy who

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<sup>78</sup> Including Andrew Madden; technically, this compensation was paid by Fr Payne himself but it was largely financed by the Archdiocese – see below.

<sup>79</sup> Our Lady's Hospital for Sick Children, Crumlin is a scheduled institution for the purposes of the *Residential Institutions Redress Act 2002*. All dealings with the Residential Institutions Redress Board are strictly confidential and it is an offence under Section 28 of the Act to disclose information about claims under the Act.

<sup>80</sup> Andrew Madden has described his experiences in his book *Altar Boy: A Story of Life after Abuse* (Dublin: Penguin Books, 2004).

seemed to have a relationship with Fr Payne and who was particularly vulnerable because of his home situation.

24.5 Monsignor Stenson was a part time chancellor. This was his first case of this kind. Monsignor Stenson told the Commission that he went to Monsignor Gerard Sheehy for advice because Monsignor Sheehy was a former Chancellor and he was the head of the Marriage Tribunal where both Fr Payne and Monsignor Stenson worked at the time. Monsignor Sheehy advised him to make detailed notes and to tell Archbishop Ryan. Monsignor Stenson then told Archbishop Ryan who instructed him to ask Bishop O'Mahony to deal with it.

#### **Role of Bishop O'Mahony**

24.6 Bishop O'Mahony told the Commission that, when he was appointed as an auxiliary bishop (in April 1975), Archbishop Ryan gave him responsibility for the pastoral care of priests, particularly younger priests. This was not a written or formal appointment but it became known over a period of time by the priests of the Archdiocese. He says that this appointment was the *"source of my responsibility for the pastoral care of Fr Ivan Payne at a very difficult time in his life"*.

24.7 Bishop O'Mahony told the Commission that he was contacted by the newly appointed Chancellor, Monsignor Stenson, sometime in November 1981 to say that there was a complaint against Fr Payne. Monsignor Stenson told him that he (Monsignor Stenson) was not the right person to deal with it as he and Fr Payne had been classmates and were currently working together in the Marriage Tribunal. Monsignor Stenson gave Bishop O'Mahony some background information. Bishop O'Mahony says that he believed that Archbishop Ryan was aware of and approved of Monsignor Stenson giving him responsibility for the case. However, Bishop O'Mahony *"never received any instructions or brief to act on behalf of Archbishop Ryan other than to deal with Fr Payne"*. Bishop O'Mahony described his role as that of a *"priest helper"*, that is, he was required to *"express the pastoral care of the diocese rather than to be involved in the process of the case either civilly or canonically"*.

24.8 This absence of clear lines of authority is one of many reasons why this case was badly handled at the time. Bishop O'Mahony saw himself as having a pastoral role only. It is not at all clear that this is what Archbishop Ryan meant him to do because Archbishop Ryan did not talk to him about it and did not issue written instructions. The records suggest that Archbishop Ryan did not take an active role in dealing with the complaint but left it largely in the hands of Bishop O'Mahony.

24.9 Bishop O'Mahony met the school guidance counsellor who had made the complaint. He then spoke to Archbishop Ryan who indicated that he was considering removing Fr Payne from the Marriage Tribunal. Bishop O'Mahony said that he thought it would be appropriate to have an assessment of Fr Payne before that decision was made.

24.10 Bishop O'Mahony met Fr Payne in December 1981. Fr Payne admitted guilt. Bishop O'Mahony was *"inclined to accept"* that Fr Payne had no other attachments. It is clear that Bishop O'Mahony knew the extent of the abuse and the age of the victim at the time of the abuse. Fr Payne said in 1993 that he had been assured by Bishop O'Mahony that prosecution was unlikely.

24.11 Bishop O'Mahony went to see Professor Noel Walsh, Professor of Psychiatry in UCD and a consultant psychiatrist, in his rooms in St Vincent's Hospital. He told the Commission that he *"thoroughly briefed"* Professor Walsh about *"the nature and circumstances of Andrew Madden's allegations against Fr Ivan Payne"*. He informed Professor Walsh that the *"complainant was male and a minor"*.

24.12 Fr Payne was then sent to Professor Walsh for assessment. In his report, Professor Walsh described Fr Payne as having *"successfully overcome the crisis in question"*. The report identifies this *"crisis"* as a blurring of the boundaries between pastoral and personal with a 17-year-old boy. The report states:

*"His basic psychological difficulties centre around a friendship which developed between himself and a seventeen year old youth in whom Father Payne took an interest, initially in the hope of helping him with his problems. Gradually as the relationship developed it became*

*increasingly difficult to define the pastoral and counselling boundaries and the relationship became more of a special friendship”.*

24.13 Bishop O'Mahony contends that the report is unclear as to whether the complainant was 17 at the time Professor Walsh saw him or at the time the “*friendship*” started. The Commission thinks it is quite clear that Professor Walsh thought that the boy was 17 when the “*friendship*” started.

24.14 When Bishop O'Mahony received Professor Walsh's report, he informed Archbishop Ryan of its contents, gave his view that the report was positive and recommended that Fr Payne's position be kept under review. The report was not sent to Archbishop Ryan nor did he ask to see it. There were no further communications between Archbishop Ryan and Bishop O'Mahony about Fr Payne. Archbishop Ryan did not consult Bishop O'Mahony about moving Fr Payne to Sutton. Bishop O'Mahony did not know that Fr Payne had any involvement with a children's holiday home where he had no official appointment. Archbishop Ryan retired as Archbishop in September 1984 in order to take up an appointment in Rome.

24.15 Bishop O'Mahony made no contact with Andrew Madden or his family at the time the complaint was made. He described this in 1996 as “*a definite pastoral omission and hard to understand as it ran contrary to Diocesan policy even at that time*”. Nobody seems to have made any effort to establish who the other boy mentioned by Andrew Madden was.

#### **Role of Professor Noel Walsh**

24.16 Professor Walsh gave evidence to the Commission in July 2007. He is now retired and he had destroyed the medical notes and records of all his private patients in September 2006 in accordance with legal guidelines on the retention and destruction of medical records.

24.17 He gave general evidence about his role in dealing with child sexual abuse and then dealt with his involvement with Fr Payne. In general, he made a distinction between clinical psychiatry and forensic psychiatry; he did not regard his role as forensic. He was not there to judge his patient but to see what he could do to help. He “*was given no data as far as I can recall by any of the bishops. They didn't send me letters from parents who had*

*complained or anything. So I did not have the data which presumably led the bishop or whoever to refer these patients to me". As far as he can remember, he did not get any written brief. Words like paedophile or child abuser were never used; the priest "might have crossed a boundary" was a likely expression. The priests he saw never admitted sexual activity. They might have said that they had been over affectionate. His task was to determine if they had psychiatric problems (whether they suffered from mental illness or not); he was not there to judge whether or not they had done something wrong.*

24.18 He is adamant that he did not hear the specific allegations against the priests. Bishop O'Mahony and/or Canon McMahon would say: *"we are concerned about this priest, there have been certain complaints against him and we would like you to assess him...[T]he communication to me would have been minimal"... [T]here was no such thing as a specific statement Fr X has been accused of this, that or the other".*

24.19 Professor Walsh was asked what was the purpose of the psychiatric assessment which he was doing. He said: *"It's a good question. I mean, you'd have to really ask the Church or its representatives. I mean, I think at the time there was a sense that perhaps they were mentally disturbed and this is why they were behaving that way. That isn't so in fact. The explanation for paedophilia is not a psychiatric one. It may be a factor but only a factor".*

24.20 Specifically on Fr Payne, Professor Walsh described him as *"a very smooth person. I didn't believe him, even though he was a very interesting man to talk to and interview".*

24.21 Bishop O'Mahony did not *"reveal to me the degree of interference with the victims"*. Professor Walsh thought that Fr Payne was conducting an inappropriate relationship with a 17 year old. Professor Walsh did not know why Fr Payne was sent to him again in 1991 and 1994. He was not given any extra information on these occasions.

24.22 Cardinal Connell told the Commission that he did not feel well served by the experts, including medical experts. This was put to Professor Walsh



by the Commission. Professor Walsh said that the medical or psychiatric element is only one aspect of the problem: *“if you say that the psychiatrist is the expert who can give the answer, that is to simplify the nature of paedophilia”*. Effectively, he said that the Church put too much faith in psychiatry.

24.23 Bishop O'Mahony agreed that psychiatrists were not generally given written briefings. In the case of Fr Payne, he told the Commission that he went to Professor Walsh's rooms and briefed him on the *“actual nature and circumstances of the case”*. He told the Commission that oral briefings were preferable as *“I can be much more nuanced”*. He imagined that any psychiatrist would have taken notes of what he was being told.

24.24 It is clear to the Commission that Professor Walsh cannot have been told the precise nature of the complaint against Fr Payne. It is obvious from his report, and he confirmed to the Commission, that he considered that the complainant was 17 years old when some inappropriate relationship was being conducted. (In 1982, all male homosexual relationships were illegal in Ireland but 17 was the age of consent for heterosexual relationships.) The report is clearly based on incorrect information.

24.25 It seems that Bishop O'Mahony was the only person who read Professor Walsh's 1982 report. It must have been obvious to him that Professor Walsh was making a report based on false information. Such reports are, of course, useless.

### **Developments 1982 - 1993**

24.26 In September 1982, Fr Payne was appointed to Sutton parish as parish chaplain. It seems that the other clergy serving there, or subsequently appointed there, were not informed of his background. No supervisory arrangements were put in place. The formal letter of appointment is from Archbishop Ryan with the usual words of thanks for previous service.

24.27 Sometime before September 1984, Monsignor Sheehy asked Archbishop Ryan to appoint Fr Payne as Vice Officialis<sup>81</sup>. The Archbishop resolutely refused this request. In June 1985, Monsignor Sheehy wrote to Archbishop McNamara, who had succeeded Archbishop Ryan, suggesting that Fr Payne be appointed Vice Officialis. Bishop Eamonn Walsh, who was the Archbishop's secretary at the time, gave evidence to the Commission that he did not know if Archbishop McNamara was aware of the complaint against Fr Payne. Fr Payne was appointed as Vice Officialis that month. Monsignor Sheehy said in 1997 that Archbishop McNamara did know of the complaint and further said that Archbishop McNamara had spoken to Bishop O'Mahony about it.

24.28 In 1989, Andrew Madden rang Bishop O'Mahony and asked to meet him. He found the bishop "*very personable and very nice and very warm*". He raised the question of Fr Payne's presence in Sutton. Bishop O'Mahony told him that he had no reason to believe Fr Payne was sexually abusing children in Sutton. Mr Madden replied that he (Bishop O'Mahony) had no reason to believe that Fr Payne had been sexually abusing him (Andrew Madden) in Cabra at the time it was happening. Mr Madden found himself "*very un-reassured by his response. I thought it was very casual given the serious nature of the risk to children at the time*". Mr Madden had been refused entry to Clonliffe College to train for the priesthood and was convinced that this was because of his complaint in relation to Fr Payne. Bishop O'Mahony tried to reassure him that this was not so, but Mr Madden did not believe him. Bishop O'Mahony told the Commission that he subsequently tried to contact Mr Madden a number of times but was unable to do so. He met Mr Madden again in 1995 and it was, according to Bishop O'Mahony, "*a friendly meeting*".

24.29 Fr Payne first came to the attention of Archbishop Connell in October 1991 when a question arose about promoting him from the Dublin Regional Marriage Tribunal to be the President of the National Marriage Appeal

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In canon law, 'Officialis' is the title of a diocesan bishop's judicial vicar. The title 'Judicial Vicar' is now more generally used. The Judicial Vicar shares the bishop's judicial power over the diocese and presides over the diocesan ecclesiastical court. The Vice Officialis is the assistant or associate Judicial Vicar.

Tribunal. Archbishop Connell consulted the auxiliary bishops and was told by Bishop O'Mahony to look at Fr Payne's file in the secret archive. Having discovered what had happened in 1981, Archbishop Connell decided not to agree to his promotion. He satisfied himself that Fr Payne was not a danger to children, but considered he could not agree to the promotion as he would have to inform the other members of the Bishops' Conference about the complaint. This would, Cardinal Connell told the Commission, involve "defaming" Fr Payne. He explained that defamation involved both the sin of calumny and the sin of detraction. Calumny is the "*unjust damaging of the good name of another by imputing to him a crime or fault of which he is not guilty*"<sup>82</sup>. Detraction is the "*unjust damaging of another's good name by the revelation of some fault or crime of which that other is really guilty or at any rate is seriously believed to be guilty by the defamer*".<sup>83</sup> So, defamation in church law includes both true and untrue statements. Defamation in civil law involves only untrue statements: "*Defamation is committed by the wrongful publication of a false statement about a person, which tends to lower that person in the eyes of right-thinking members of society or tends to hold that person up to hatred, ridicule or contempt, or causes that person to be shunned or avoided by right-thinking members of society*".<sup>84</sup> Many of the failures to report appalling behaviour by clergy may well be attributable to a wish to avoid committing the sin of detraction.

24.30 At this stage, Bishop O'Mahony again sent Fr Payne to Professor Walsh for assessment. There is no written report of this assessment, but it appears from a subsequent report that Professor Walsh considered Fr Payne not to be a risk. This, of course, was still based on Professor Walsh's misapprehension about the nature of the complaint.

24.31 Cardinal Connell was questioned by the Commission on how he reached the conclusion that Fr Payne was not a risk. He said he "*relied on Professor Walsh's assessment and opinion*". When questioned on this, he clarified that he did not read Professor Walsh's reports but instead relied on Bishop O'Mahony's version of Professor Walsh's assessment and opinion.

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<sup>82</sup> Catholic Online: *Catholic Encyclopedia*: <http://www.catholic.org/encyclopedia>

<sup>83</sup> *Op cit*

<sup>84</sup> McMahon and Binchy, *Law of Torts*, (Dublin: Butterworths, 2000)

24.32 Fr Payne became President of the Canon Law Association of Great Britain and Ireland.

24.33 In March 1992, Mr Madden wrote to Fr Payne looking for compensation; he did not seek compensation from the Archdiocese. Fr Payne seems to have told Bishop O'Mahony about this. Archbishop Connell first heard of this when Mr Madden wrote to him in April 1993 complaining about the delay in settling his claim. The diocesan solicitors were acting for Fr Payne. They thought that Fr Payne had been referred to them by the Archdiocese. When Archbishop Connell received Mr Madden's letter, Monsignor Stenson spoke to Mr Madden and gave him Bishop O'Mahony's phone number. The diocesan solicitors were instructed by Archbishop Connell to offer Fr Payne financial assistance in disposing of the case. Fr Payne was advised to get separate representation. A settlement was reached between Mr Madden and Fr Payne in May 1993. The financing of that settlement was later to prove very controversial and is dealt with further below.

24.34 In the context of these proceedings, Fr Payne admitted that he had experienced sexual desire towards youngsters prior to Mr Madden and had made moves on two boys and these were rejected. He claimed that he had not interfered with children since.

#### **Public knowledge of complaint, 1994**

24.35 From August 1994, Mr Madden began speaking to a number of journalists and the first media references to the payment began to appear. Mr Madden was angry that the Church continued to deny that anyone had received a payment as a result of clerical child sexual abuse. There were no names in the public domain at this stage.

24.36 Fr Payne was sent for a third assessment to Professor Walsh. It is clear from his report, issued in September 1994, that Professor Walsh was still operating under a misunderstanding about the nature of the complaint.

24.37 In November 1994, Mr Madden wrote letters to the papers under a pseudonym describing how his case had been handled. Archbishop Connell discussed this development with Monsignor Sheehy and suggested Fr Payne

be sent for treatment. Monsignor Sheehy was the Judicial Vicar and so, was Fr Payne's superior, but he had no official role in dealing with priests who were abusing. He had been a close friend of Archbishop Connell since boyhood and was very influential. Cardinal Connell told the Commission that, as knowledge emerged about the wrongdoing of Fr Brendan Smyth in October 1994, he developed a greater understanding of what abusers were capable of. Even though there were no new complaints, he considered that prudence indicated that Fr Payne should be further evaluated. Monsignor Sheehy wrote, unsolicited, what can only be described as a tirade about anonymous letters and the unjust treatment of priests. Monsignor Sheehy's concerns, as expressed in letters to Monsignor Stenson and Archbishop Connell, were entirely related to the rights of the priest and the autonomy of the Church. He considered that sending Fr Payne for treatment was unwise and unjust and "*a manifest invasion of his rights under the law of the Church*". He believed that Fr Payne had not re-offended (it is not clear what basis he had for this belief) and taking any action against him "*could well destroy both him and his priesthood*". He went on to comment generally on the Church's approach to clerical child abusers:

*"It is my opinion that there is a gross over-reaction on the part of many of our Church authorities to this whole 'paedophile crisis'. I heard the Cardinal<sup>85</sup> on yesterday's radio specifically saying that, if there is a reasonable suspicion against a priest in this area, he should be turned over to the police for investigation and for whatever may follow from that. This is panic; it is also wrong. It takes no account whatever of the Church's own canonical procedures in dealing with situations of this kind – procedures which long have been acknowledged and accepted by the civil courts. There is, in my view, a real danger in all of this that some of the local churches may, unthinkingly, try to solve their problems at the risk of abandoning the autonomy which the Code of Canon Law, now clearly based on Vatican II, has established for the Church itself".*

## 1995

- 24.38 Fr Payne was sent to a therapeutic facility in the USA for a further assessment. Fr Payne told the therapists there Mr Madden was 13 when the

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<sup>85</sup> Cardinal Daly, Archbishop of Armagh; the Fr Brendan Smyth controversy was raging at this time.

abuse first started. A lengthy report was issued in January 1995 which showed, among other things, that Fr Payne:

- *“learned about sex in the seminary from the Archbishop of Dublin who called in seminarians for discussions”;*
- denied sexual contact with anyone other than Mr Madden;
- was sexually attracted to adolescent boys but was also sexually attracted to adult men and women.

24.39 The therapeutic facility was inclined to believe that he had not engaged in sexual activity with adolescents other than Mr Madden, but recommended that he should have no unsupervised contact with minors. It also recommended that he undergo residential treatment.

24.40 Cardinal Connell told the Commission that he did read this report. Fr Payne was not sent for residential treatment – it is not clear why. He did start to attend the Granada Institute in Dublin. He was continuing to work in Sutton parish (until June 1995) and in the Marriage Tribunal.

24.41 Mr Madden told his story on the Gay Byrne Show on RTE Radio 1 in April 1995. There were other media reports about the case. The Archdiocese issued a statement expressing regret and sorrow and a wish to be involved in the healing process. The statement went on to deal with the issues of the continuation in ministry by a priest who has offended and with the financial settlement.

24.42 The statement said that:

*“While the presumption where child abuse has taken place is that the abuser will be removed and not be re-admitted to parish ministry, situations can arise where ministry may be possible. A core concern in such situations will be an evaluation of the potential risk to children. Decisions of this nature are made on grounds which are carefully considered and with the help of independent professional advice”.*

On the finance issue, it stated:

*“As reported in recent days, a priest settled a claim in respect of such abuse. It has been suggested that this settlement was made by the diocese. Save for assistance as herein described, it was not. It is not*

*and never has been the practice of the diocese to accept responsibility for any such settlement by a priest. The priest did receive financial assistance from the diocese to enable him to meet such claim, on the basis that this would be repaid, and a substantial portion in fact has already been repaid. The amount of the assistance is actually less than amounts donated to the diocese by the Archbishop himself out of his personal resources”.*

24.43 During the early part of 1995, Monsignor Stenson heard reports from Sutton of inappropriate behaviour by Fr Payne and told Bishop O'Mahony. There is no evidence that this was followed up. In June 1995, Fr Payne was released from Sutton (he had asked for this as he felt he had too much work), with the usual letter of thanks, and appointed chaplain to a convent. He did not in fact move to the convent but moved to a flat in the grounds of Archbishop's House instead. He did not get any subsequent appointment but he does not seem to have been formally removed from ministry. It would appear he had an agreement with Bishop O'Mahony not to say mass in public. However, Monsignor Sheehy said he was doing supply work, including some arranged by Monsignor Sheehy himself. Monsignor Sheehy continued to campaign for him to be appointed to a chaplaincy. Cardinal Connell told the Commission this supply work was not being done with his knowledge or approval.

24.44 In July 1995, Mr Madden went public under his own name. Another complainant then came forward; he had been speaking to Bishop O'Mahony since April but only named Fr Payne in July 1995. He claimed to have been abused while in Our Lady's Hospital for Sick Children, Crumlin. He was advised by Bishop O'Mahony to report the matter to the Gardaí. Bishop O'Mahony explained to him that he could not guarantee confidentiality. The complainant was very unwilling to report to the Gardaí and, in fact, never did. He did not want to be the “*cause of further bad publicity for the church*”. He did not make a civil claim either. He did not report his complaint to the hospital and the hospital was not told by the Archdiocese even though the Archbishop is the Chairman of its Board of Directors.

24.45 The second complainant described how he was abused while a patient in Crumlin Hospital. The abuse involved Fr Payne coming to his bed

late at night and fondling him while ostensibly checking to see if he was comfortable. Monsignor Stenson interviewed the complainant and compiled a comprehensive report. Monsignor Stenson then met Fr Payne who said he did not remember the alleged incidents but *“it’s not impossible that there was some contact which was misinterpreted”*. Later, the second complainant was told that Fr Payne did not deny the possibility that there was truth in the allegation and that Fr Payne was going for therapy. The complainant accepted this as an apology. This was extraordinarily charitable of him since it does not, in the Commission’s view, constitute even a half hearted apology.

24.46 Also in July 1995, two boys from Sutton made statements to the Gardaí alleging abuse by Fr Payne. The boys were altar boys and the abuse involved fondling. It occurred in the sacristy. They did not complain to the Archdiocese at this time. The Gardaí conducted an investigation which included interviewing other altar boys from the area. The local priests co-operated by providing lists of altar boys to the Gardaí. The Archdiocese heard about this investigation in August 1995.

24.47 In August 1995, the meeting of the Archbishop and auxiliary bishops considered removing Fr Payne from the Marriage Tribunal. In letters to Archbishop Connell, Monsignor Sheehy argued strongly against this: *“It would be disastrous not only as a public act – which it would obviously be, and at once portrayed to be – but, far worse, as an act which would very likely be the final destruction of a good priest of this diocese”*. In September, Fr Payne resigned as Vice Officialis but seems to have remained working for the Marriage Tribunal. From then until the end of the year there was extensive media coverage of the case and of child sexual abuse generally; the allegations of abuse in the diocese of Ferns were also being aired. The issue of the loan to Fr Payne was widely covered in the media – see below. More complainants came forward; most were from Crumlin and some were from Sutton.

24.48 In September 1995, the father of a boy in Sutton complained to the Archdiocese. The father questioned his son about Fr Payne after the father had got inquiries from a journalist. The father questioned why the Church authorities had not initiated some inquiries in the area. Also in September another man who alleged that he had been abused while a child in Crumlin



hospital complained to the Archdiocese. His allegations were similar to those of the second complainant and he did not want to go to the Gardaí either. He did not complain to the hospital.

24.49 A priest who had served with Fr Payne in Sutton reported to Monsignor Stenson that he had not been aware of the complaints against Fr Payne while he was there. Now, in hindsight, Fr Payne's behaviour would give him cause for concern. He specifically mentioned a young foreign student who used to stay with Fr Payne and that this particular friendship gave rise to some critical comments at the time.

24.50 In October 1995, other former Crumlin patients came forward alleging abuse by Fr Payne. One of these said he had told his parents about the abuse at the time but was told not to be talking like that about a priest. His mother was now very upset when he reminded her that she had been told about it at the time.

24.51 The Secretary/Manager of Crumlin Hospital told Monsignor Stenson that some nursing people had a problem with Fr Payne while he was there. One complainant told the Commission that she complained to a physiotherapist and a person whom she thinks was a nurse about the abuse at the time.

24.52 Another complainant from Sutton complained that he had been abused over a number of years by Fr Payne in Sutton and in a children's holiday home. Fr Payne did not have an official appointment to this holiday home but, according to this complainant, he used to take care of some boys there. This complainant met Fr Payne in the holiday home and was abused while there and also at Fr Payne's house in Sutton. The abuse mainly involved fondling and mutual masturbation. This complainant also alleged that there was oral sex, digital penetration and attempted penile penetration.

24.53 Monsignor Sheehy continued to support Fr Payne's position in the Marriage Tribunal and railed against Archbishop Connell's proposal that he be removed: "[I] ... could not but regard such a precipitate and so-called 'public opinion'-motivated decision as a grave mistake, pregnant with the possibility of even more grave injustice". Monsignor Sheehy was very critical

of a trip to the USA undertaken by Monsignor Stenson and “*some civil-law associates*”. This was a trip undertaken in 1994 to find out more about how the American bishops were dealing with cases of child sexual abuse.

24.54 Fr Payne resigned from the Marriage Tribunal in October following a meeting with Bishop O'Mahony. It was clear that he felt there was no choice and he stipulated that his resignation was conditional on being given more appropriate accommodation and an assigned place in which to say mass daily.

24.55 Fr Payne became a beneficiary of the Diocesan Clerical Fund. He was attending the Granada Institute and he continued to attend for the next three years. The Garda investigation was continuing. Initially this was mainly concentrated on Sutton as the first complaints to the Gardaí came from there. The Archdiocese held a public meeting in Sutton to reassure the parishioners there.

24.56 Another Crumlin patient made a complaint followed soon afterwards by a Cabra complainant. It is clear from the various statements made to the Gardaí by children abused in Crumlin that other children may also have been abused in their presence.

24.57 In November 1995, another person from Crumlin complained to the Archdiocese. Unlike all the other Crumlin complainants to date, he had not been a patient in Crumlin hospital but was an altar boy there and lived locally. He told Monsignor Stenson that it was “*common knowledge*” what Fr Payne was doing. In December, another former Crumlin hospital patient complained.

24.58 Monsignor Sheehy continued to argue against the way the Archbishop was handling the allegations. Monsignor Sheehy's main concerns were:

- The public naming of priests against whom allegations had been made – he cited Fr Francis McCarthy (see Chapter 41) – when no formal charges had been made either in the ecclesiastical or the civil forum nor had there been any serious inquiry made in the ecclesiastical forum.

- The priest could take an action for defamation against the Church authorities.
- The public impression was that the bishops were being media driven.
- There was a growing impression that the church had no means of dealing with these problems and that the problem could only be handled by the state. This impression had been *“fuelled by some episcopal statements and actions”*. He cited canons 204, 747, 794.1, and 1254.1 as showing that the canon law recognises the separation of Church and state. The Church should concern itself solely with applying its own law and it was up to the state to act in accordance with its laws. He questioned whether the state was doing that when it, in the case of Fr Payne, was *“trawling”* the homes of altar boys in the parish.

24.59 Archbishop Connell replied to Monsignor Sheehy:

*“I am afraid that the ‘growing impression that the Church has itself no means of dealing seriously with a problem such as the current one’ is not half so acute as the widespread belief that the means hitherto employed by the Church have failed to deal with the problems. ... It is clear to me, for example, that if the recently published allegation against Father Payne is true, the ground upon which I and others have been standing in supporting him – at so terrible a cost – will have completely collapsed”.*

#### **More complaints and prosecution, 1996 - 1997**

24.60 Fr Payne was questioned by the Gardaí in February 1996. Another former Crumlin hospital patient complained to the Gardaí. In his statement to the Gardaí he said that he told the nurses that he did not want Fr Payne coming near him but they had paid no attention to him. Fr Payne was later convicted in relation to the abuse of this complainant.

24.61 It is clear that there was no serious monitoring of Fr Payne’s whereabouts at this time. In February 1996, he was seen in Northern Ireland with *“two lads”*; when asked, Fr Payne said they were two Austrians and one was a girl – nothing further was done even though concerns had already been expressed about his relationship with an Austrian.

24.62 Archbishop Connell seems to have held the view that Bishop O'Mahony was responsible for monitoring Fr Payne but it is not clear that this responsibility was ever explicitly given to Bishop O'Mahony. Bishop O'Mahony resigned as an auxiliary bishop in 1996; he was ill for much of the period 1996 – 1998 and was abroad for treatment for some of this time.

24.63 Cardinal Connell told the Commission that, to the best of his recollection, he did not meet Fr Payne until he visited him in prison. There is evidence of an appointment with Fr Payne in the Archbishop's diary for 1996; the Cardinal accepts that that meeting took place but he has no recollection of it.

24.64 Cardinal Connell told the Commission that he did not know what was being done about Fr Payne in the period 1996 – 98: "*it was a matter for the Chancellery*". It is quite clear that it was not a matter for the chancellor as the chancellor has no powers to reprimand or sanction a priest. Cardinal Connell also said that he was not aware of the ongoing arrangements for Fr Payne's financial support during this period.

24.65 Fr Payne was attending Granada and Bishop O'Mahony was "*very good to him*". Another former Crumlin hospital patient complained in early 1997.

24.66 The Director of Public Prosecutions (DPP) decided to prosecute in respect of some of the complaints. There was no prosecution in respect of several of the cases from Crumlin because the complainants were unable to provide a clear description of Fr Payne.

24.67 In March 1997, Fr Payne was charged with 13 counts of indecent assault on nine of the complainants. Later he was charged with 29 counts of indecent assault on Andrew Madden. There were a number of court appearances during 1997. His support priest accompanied him to court. He was continuing to attend the Granada Institute. Monsignor Dolan (who was now the chancellor) and Fr Payne's support priest attended meetings with Granada. In October 1997, Monsignor Dolan had intended raising the issue of the formal removal of faculties from Fr Payne but did not do so when he was told of Fr Payne's non-involvement in pastoral ministry.

24.68 As part of their ongoing inquiries, the Gardaí made various attempts to interview Bishop O'Mahony during 1997. Bishop O'Mahony issued a statement in 1998 saying that the Gardaí had tried to contact him in 1997 but that he was unavailable due to convalescence in the USA.

### **Conviction and imprisonment, 1998**

24.69 Fr Payne pleaded guilty in January 1998 to charges of indecent assault on ten victims and was sentenced in June 1998 to six years' imprisonment. He remained in prison until October 2002. He was visited in prison by Archbishop Connell in 2000 and 2002. The Commission considers that this is to Archbishop Connell's credit. He was visited regularly by his support priest who also brought his (Fr Payne's) mother to visit him in prison.

24.70 Archbishop Connell wrote a kind letter to Fr Payne's mother immediately after he was convicted. Fr Payne wrote to the Archbishop just before his sentencing expressing his regret and sorrow for the suffering the Archbishop had endured following the revelation of his abusive behaviour and to thank him for his support.

24.71 In February 1998, one complainant complained that he never received an apology despite the fact that it had been more than two years since he had met Monsignor Stenson and reported the abuse. He is one of the complainants who did not complain to Gardaí and did not make a civil claim. There does not appear to have been much follow up for this particular complainant. Another complainant complained that there had been no follow up from the diocese. In June 1998, the Archdiocese agreed to pay for therapy for one complainant. The policy was to pay for therapy for six months and then review the situation. Therapy was subsequently provided for a number of the complainants who sought it. Compensation was agreed with those who sought it.

### **Laicisation**

24.72 In 2001, the Archdiocese asked Fr Payne to apply for laicisation. Fr Payne was shocked but eventually agreed. He was laicised in 2002. When he was released from prison, he went to live in the inner city. Some limited arrangements were made for his supervision while there but the local clergy

do not seem to have been informed that he was living among them. He was visited by his therapist, his support priest and Monsignor Dolan. Monsignor Dolan told the Commission that he liaised with the Gardaí about the suitability of the accommodation. Fr Payne's whereabouts became known and there was a campaign to remove him. He moved to the UK in 2003. He has since moved a few times. At present, the Commission understands that he lives outside Ireland, but he has a convenience address in Ireland.

24.73 After his release from prison he was supported by the Clerical Fund Society. His entitlement to this support ceased on laicisation. The Archdiocese decided that, in view of his low employment prospects and his risk of becoming destitute, he should be supported at least until he qualified for the State Pension in 2009. This support was provided from the Poor of Dublin Fund (see Chapter 8) for the period until June 2007. He is now supported from the Curial Trust and money paid from the Poor of Dublin Fund has been reimbursed from the Curial Trust.

24.74 More allegations continued to emerge up to 2008.

### **The loan**

24.75 The Archdiocese issued a statement about the loan to Fr Payne in 1995. In this, Archbishop Connell said that he had been approached by Fr Payne about a loan. It appears from other evidence that Archbishop Connell instructed the diocesan solicitors to offer Fr Payne a loan. Archbishop Connell said that he was motivated by a desire to see Andrew Madden *"recompensed without undue delay"* and that Fr Payne was functioning *"more than satisfactorily"* in his ministry and there was nothing to suggest that children were at risk.

24.76 In May 1995 Archbishop Connell said on RTE television: *"I have compensated nobody. I have paid out nothing whatever in compensation. It is my policy that if a priest is guilty and he wishes to make an out-of-court settlement that is his responsibility. The diocese does not pay for that"*.

24.77 Cardinal Connell told the Commission that Mr Madden was entitled to compensation as Fr Payne had admitted the abuse. His decision to lend money to Fr Payne to pay the compensation was also based on his pastoral

concern for Fr Payne as a man who it seemed, on the evidence available to him, *“had reformed and would be able to live his life free of all that concern”*.

24.78 The loan was given from money in the Curial Trust. In evidence to the Commission, Cardinal Connell said that he did not know if he was a trustee of the fund: *“I would have left all that kind of thing to the Finance Secretariat”*. Fr Payne repaid £5,000 in 1994. There is documentary evidence that Archbishop Connell personally paid £3,000 off the loan but he had no recollection of that when giving evidence to the Commission. Clearly, Fr Payne considered that the Archbishop had given a personal loan as he tried to repay £1,500 of this in September 1996. This was treated as a repayment of part of the diocesan loan. During 1996 and 1997, Fr Payne made further repayments. Fr Payne had no income while he was in prison so no further repayments were made. The outstanding loan to Fr Payne – approximately €14,000 – was written off in the accounts in 2004 when Mr Payne, as he then was, was receiving only a charitable donation from the Archdiocese.

### **The Commission’s assessment**

#### *The Archdiocese*

24.79 The initial complaint against Fr Payne was handled very badly and, as a result of the failure to deal with it properly, many other children were abused or potentially exposed to abuse. Archbishop Ryan and Bishop O’Mahony were particularly culpable. Archbishop Ryan did not properly address the complaint at all. He left it to Bishop O’Mahony but did not specify what was to be done. Bishop O’Mahony sent Fr Payne for psychiatric assessment but did not brief the psychiatrist properly. He then received a report from which it is clear that the psychiatrist was under a misapprehension about the age of the victim when the abuse occurred and he did nothing to rectify that misapprehension. He reported to Archbishop Ryan that there was a favourable assessment. Archbishop Ryan did not even read the report; if he had, he might have discovered its complete uselessness as it was based on erroneous information. Nobody contacted the victim or made any attempt to find out about the other boy mentioned by the victim. When they eventually met, Andrew Madden thought that Bishop O’Mahony was sympathetic and generally a nice man but was very clear that the bishop was not really addressing the issue of the safety of children.

24.80 When Archbishop Connell first became aware of the problem, he did not inform himself properly. He took a very hands off approach to this case. The Archbishop seems to have met Fr Payne only once before Fr Payne went to prison. He regarded Bishop O'Mahony as being in charge even though Bishop O'Mahony was retired, abroad and ill for some of the relevant time. He nevertheless was financially kind to Fr Payne and visited him in prison. He was also kind to Fr Payne's mother. Cardinal Connell disputes the assessment that he took a hands off approach. He points out that he declined to promote Fr Payne in 1991, that he sent him to the USA for an assessment in 1994 and, as a result of that assessment, he removed him from Sutton parish. He argues that he was poorly advised in that he relied on Bishop O'Mahony's report of Professor Walsh's assessment and on the report from the USA therapeutic facility which incorrectly concluded that Fr Payne had not offended since his abuse of Andrew Madden. The Commission notes that Fr Payne was not removed from Sutton for six months after the USA report. The USA report also recommended residential treatment and this was not implemented. The Commission agrees that Archbishop Connell was poorly advised but, ultimately, as Archbishop, he had responsibility for the appointment and removal of priests and so should have been more directly involved.

24.81 Monsignor Sheehy was not directly involved in handling this case but he was an influential background figure. He believed in Fr Payne's innocence even when it became abundantly clear that there was no basis for such a belief. He took the view that handing over a priest to the civil authorities for investigation was wrong and was contrary to canon law. The Archdiocese did not "hand over" Fr Payne for investigation by the civil authorities. A complaint was made to the Gardaí and they investigated it as they are required to do. Monsignor Sheehy wrote eloquently on the subject of the rights of priests without ever managing to refer to, or consider, the rights of children. He acted in an entirely irresponsible manner in arranging supply work for Fr Payne when Archbishop Connell had effectively, but not formally, removed him from ministry.



*State authorities*

24.82 Neither the health board nor the Gardaí was informed of the first complaint at the time. The Gardaí first received a complaint about Fr Payne in 1995 and dealt appropriately with this and subsequent complaints.

24.83 The health board does not seem to have been formally notified of complaints about Fr Payne at any stage. However, his name was in the public domain from 1994 onwards. It was notified of the fact that he was being released from prison in 2002.

**Introduction**

- 25.1 In July 1995, the Gardaí received a complaint from a young woman who claimed that she had been sexually abused by Fr Donato in the early 1980s when she was a school-girl. She claimed she had been seeing him for some time in relation to some personal problems. On a particular day, he asked her to come and sit on his lap. She claimed he spread her legs apart and then he slowly put one leg over the arm of the chair. She said he put his hand up her skirt and into her pants and, while he was doing this, he asked her had anyone else done it to her.
- 25.2 She said she went to see the parish priest that same day in the early 1980s. She claimed that he told her it was her own fault; that she should not dress the way she did and she should not say things about Fr Donato who was one of his best friends.
- 25.3 The young girl reported the matter to her teacher. The school principal was informed. The principal spoke to the girl's mother.
- 25.4 The parents of the young girl went to see the parish priest who told them that Fr Donato was a very affectionate young man. He said he had spoken to him and that he had felt that something had happened. He had warned Fr Donato to stay away from the young girl and assured the parents that it would never happen again. There is no evidence that the parish priest ever reported the matter to the archdiocesan authorities.
- 25.5 When the complaint was made to them in 1995, the Gardaí interviewed a number of the young girl's friends, her brother and Fr Donato himself in October 1995. Fr Donato recalled embracing her on the last day they had met in order to comfort her but he stated that there was no sexual element to it. He said that any touching that occurred "*was done through emotion and care for her and was not of a sexual nature*". He told Gardaí he did recall the parish priest receiving a complaint.

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<sup>86</sup>

This is a pseudonym.

25.6 The case did not result in a prosecution as the DPP considered there was insufficient evidence.

### **Priest's background**

25.7 Fr Donato was born in 1940 and ordained in 1970 for a foreign diocese. He initially worked in that diocese but, according to his local bishop, he got into difficulty with gambling debts and the bishop advised him to return to Ireland. In 1977, Archbishop Ryan considered his request for a pastoral appointment in Dublin and gave him an appointment in January 1978. Fr Donato's gambling difficulties were disclosed to Archbishop Ryan by his previous bishop. In 1981 he was formally incardinated (see Chapter 3) into the Archdiocese of Dublin. The committee which advised the Archbishop on matters of incardination had no reservation about his incardination.

25.8 In 1983 he was appointed to a new parish. It was during his period in this parish that the alleged indecent assault of the young schoolgirl occurred. He was subsequently appointed to other positions in the Archdiocese.

25.9 As already stated, a complaint had been made to the parish priest in 1984 but he did not inform the Archdiocesan authorities. The Archdiocese became aware of this complaint when the Gardaí told Monsignor Stenson about it in December 1995.

### **Adult complainant**

25.10 The Archdiocese was, however, aware of a different complaint about Fr Donato in October 1992. This did not involve child sexual abuse. The mother of a 20 year old woman complained that her daughter was the victim of very unwelcome attentions from Fr Donato. She threatened to go to the media if nothing was done about him. With great haste a full investigation had been set in motion by the end of October. Canon Ardlie McMahon was put in charge of the investigation. By early December, Canon McMahon had concluded his investigation stating that:

- Both the priest and the young woman in question denied any sexual irregularity.
- The relationship had lasted less than three months.
- The priest admitted some errors in judgment.

- The situation called for an expeditious solution: the report did not suggest what should be done.

Even though this was not a case of child sexual abuse, the young woman and her mother were adamant that Fr Donato should be removed. They reported the matter to the Gardaí who investigated whether an offence had been committed. No prosecution ensued.

25.11 Other problems, apart from the complaint of sexual harassment, arose about Fr Donato's ministry. Archbishop Connell met Fr Donato in June 1994 and suggested a sabbatical. In August 1994, he approved a year's sabbatical for him. This was to be spent attending a third level course. By the end of 1994 it was clear that Fr Donato was not actually attending the course.

25.12 In May 1995, Fr Donato stated that he wished to be released from ministerial priesthood. At the end of June, Archbishop Connell released him from ministry. This occurred 14 days before the young woman who had made the 1984 complaint went to the Gardaí. The request to be laicised from the priesthood was left in abeyance until August 1998 when Monsignor Dolan wrote to Fr Donato asking whether he still wished to be laicised. At this stage the Archdiocese had had little or no contact with Fr Donato for over three years. In September 1998, as no response had been received from him, Archbishop Connell withdrew his faculties. In December 1998, Fr Donato wrote to Archbishop Connell and told him that he was married; however, he did not wish to be laicised.

25.13 On further investigation, it transpired that Fr Donato had commenced a long-term relationship with a woman in or around 1977, the year he was first appointed to a position in Dublin, and they had had a daughter in 1979. They subsequently married in or around 1997. The Archdiocese had not been aware of this relationship.

### **The Commission's assessment**

25.14 The only complaint of child sexual abuse of which the Archdiocese became aware was the one involving the school girl who complained to the parish priest in 1984 and to the Gardaí in 1995. The parish priest was remiss in not reporting the matter to the Archdiocese.

25.15 It would appear that for the entire time this priest was working in the Archdiocese of Dublin, he had a relationship with a woman who bore him a child in 1979 yet the Archdiocese seems to have been totally unaware of this. Although he explained in a letter to Archbishop Connell in December 1998 that he was now married, it appears that he was not laicised until 2007.

25.16 No one in the Archdiocese knew anything about him for the years between 1995 and 1998 or tried to find out where he was, even though he was still a priest of the diocese and one against whom a complaint of child sexual abuse had been made.

25.17 The Gardaí carried out the investigations appropriately.

### Introduction

26.1 In March 1982, Archbishop Ryan received the following letter:

*“At 4am approx. on Sat., February 27<sup>th</sup> 1982, I was indecently assaulted by Fr. H. Moore C.C. of St. Josephs parish, Glasthule Co. Dublin. Inquiries subsequently conducted by me lead me to believe that this was by no means an isolated incident. I therefore earnestly request that appropriate action be taken without delay”.*

26.2 The sender of this letter identified himself and his address. However, he did not give his age but he is likely to have been in his late teens. The response of Archbishop Ryan was as follows: *“In view of the fact that your letter of the 8<sup>th</sup> March was marked “Private and Confidential”, there is little I could do about the matter. If, however, you wish to discuss the matter further, I would ask that you get in touch with Monsignor Jerome Curtin, who is a Vicar General of the Diocese”.*

### Priest's history

26.3 At the time of this complaint Fr Harry Moore was a curate in Glasthule parish and the alleged assault was said to have taken place in the presbytery. Fr Moore was born in 1936 and was ordained in 1960. His first appointment was as chaplain to Artane Industrial School from 1960 - 1967. During his time there he compiled a report at the request of Archbishop McQuaid on the conditions under which the boys lived in Artane. This report was handed over by the current Archbishop of Dublin to the Commission to Inquire into Child Abuse.<sup>87</sup>

26.4 His next appointment after Artane was as a curate in Ringsend parish until 1975. He was then sent to Kilquade parish for one year. He asked to be

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<sup>87</sup>

The Commission to Inquire into Child Abuse was established under the *Commission to Inquire into Child Abuse Act 2000* to investigate abuse in residential institutions for children. It issued its report in May 2009.

reassigned because of loneliness and he was given a position as assistant priest in a Catholic youth organisation.

26.5 During this period Fr Moore developed a serious alcohol abuse problem and was admitted to St John of God Hospital in 1977. A comprehensive medical report from this hospital was provided to Archbishop Ryan in March 1977. This report stated that Fr Moore was admitted “*ostensibly because he had a problem with alcohol*” which he said started about three years earlier and had progressively become worse over the years.

26.6 The report stated that Fr Moore had begun to drink heavily in his early curacy and was consequently sent to a parish in Wicklow for six months where, owing to maladjustment, he was removed to the Catholic youth organisation for another six month stint. This in turn was followed by a year’s sabbatical to study theology. By this time, the report noted, he had had two hospital stays for alcohol addiction.

26.7 He underwent various psychiatric and personality tests while in the hospital. The doctor noted that he had real concerns about Fr Moore’s sexual functioning as he had “*difficulty in satisfying his strong affectionate needs because of his inability to establish mature adult relationships*”. His was described as a personality with “*a very strong element of psychopathy and hysteria*”. He recommended Fr Moore for team-based occupations if supervised correctly, but he did not recommend him for parish work.

26.8 Despite this medical report, Archbishop Ryan returned Fr Moore to active parish ministry, appointing him a curate in Edenmore parish in November 1977.

26.9 Over the next two years he is recorded as receiving treatment for alcohol dependency. Despite leaving one of the facilities without completing his therapy, he was appointed a curate in Glathule in February 1980. It is while he was assigned to Glathule that the complaint of indecent assault noted above was conveyed to the Archdiocese (in March 1982).

26.10 In August 1982, it was suggested to Archbishop Ryan, by his auxiliary bishop, Bishop Comiskey, that Fr Moore needed treatment in Stroud. Fr

Moore himself reacted negatively to that proposition. Within hours of having been informed of this proposal he was reported as having been discovered drunk and “*with some young lay men*”. He had to be admitted to hospital suffering from an ulcer.

### **Treatment**

26.11 In September 1982, Fr Moore was sent to a therapeutic facility in the UK (not Stroud). Archbishop Ryan wrote to the administrator outlining Fr Moore’s situation. He explained that various attempts had been made to rehabilitate him but all had failed. He stated that in addition to his alcoholism “*there is some evidence of sexual indiscretions during Fr Moore’s drinking bouts but it has been rather difficult to collect evidence concerning the nature and extent of these activities*”.

26.12 Of particular significance is the fact that Archbishop Ryan does not appear to have sent the report from the St John of God’s doctor although he did send a confidential letter from a friend of Fr Moore.

26.13 Fr Moore was relieved of his curacy in Glashule due to ill health. He remained at the UK facility until March 1983. The final report from the facility said that Fr Moore had explored his use of alcohol “*as a means of covering his confused sexual identity, his way of evading responsibility...*”. Further therapy was advised.

26.14 In June 1983 Fr Moore was appointed curate in Bayside parish. It was while he was there that he committed a number of very serious sexual assaults, including buggery, on a young teenager. Complaints in relation to these assaults were not received by the Archdiocese until 1999. The Archdiocese was, however, aware of his escalating alcohol problem while in Bayside. In 1985 he had become unmanageable because of his alcoholism and the parish priest had asked for him to be removed. He was then appointed to Francis Street but relapsed again.

26.15 Despite the 1982 complaint from Glashule and his prior history, Fr Moore was appointed chaplain to a secondary school for boys in October 1986. He also had an appointment in Cabinteely parish. He complained in 1992 about the lack of an official appointment to the secondary school. It was



noted in September 1993 that he was angry, upset and annoyed at having to attend a psychologist for assessment. It was noted by the psychologist, Dr Patrick Walsh, that *“he is relieved to have given up his position as chaplain to the school but that he is happy to continue his work of giving school retreats”*. In a submission to the Commission, Fr Moore said that he did not give school retreats but gave parish retreats.

#### **Adverse reports. 1993 and 1995**

26.16 In 1993 and again in 1995 there were adverse reports about Fr Moore’s behaviour with young adults. There was an allegation of sexual assault. He was allegedly supplying young people with alcohol and hash and allowing them to watch blue movies in his home. There were also complaints of a very unsuitable phrase used in a school homily. The person who made the majority of those complaints stated in 2002 that she felt alienated by diocesan officials who did not *“listen or didn’t hear how serious [it] was”*. There was confusion as to whether the 1993 complaint was formally noted at the time.

26.17 In December 1994, Monsignor Dolan conducted a preliminary review of Fr Moore’s file in order to assess his suitability for an appointment. He noted that the file contained no reference to the fact that Fr Moore had been chaplain at Artane Industrial School from 1960 to 1967. Monsignor Dolan concluded in his report that *“the period 1983 - 89 remains tricky if there was no investigation of the allegation and H. M. had an open-ended unmonitored appointment. This should be reviewed immediately”*. The allegation referred to is the Glashule allegation.

26.18 In January 1995 Archbishop Connell, finding that circumstances satisfying the requisite *“semblance of truth”* requirement existed, started a canon law penal process. He appointed Monsignor Alex Stenson as delegate to investigate *“both the allegation and the priest’s imputability”*. It is unclear from the documents what allegation was being investigated at the time. Subsequently, it transpired that this process was not proceeded with.

26.19 In January 1995 Fr Moore’s situation was discussed by Bishop Murray and the Archbishop. Bishop Murray noted that Fr Moore was looking for a parish and that *“we need to give thought to his future”*. In March 1995, Dr

Patrick Walsh was approached for a further assessment of Fr Moore, after he had been reported to have made inappropriate remarks to parents at a school function.

26.20 Dr Walsh informed Monsignor Stenson that Fr Moore *“shows every sign of gravitating towards young people, especially males, as objects of affection”*. He also warned the authorities to be vigilant in their supervision of him and stated *“unless he was prepared to engage over a long period of time with a therapeutic programme and with a system of supervision and regular reviews, I believe there are considerable risks of a return to alcohol abuse or to inappropriate behaviour, particularly towards young people”*.

26.21 In May 1995, at a meeting in Archbishop’s House attended by the auxiliary bishops, the conclusion was reached that the only alternatives left to the Archbishop were:

- a) the complete removal of Fr Moore from ministry for life;
- b) that the Archbishop receive a report that would enable him to give Fr Moore an appointment.

26.22 In the end, Archbishop Connell terminated Fr Moore’s tenure in Cabinteely and released him from all priestly duties. Fr Moore was still attending Dr Walsh at this stage and was recorded as making progress.

26.23 In October 1995, Dr Walsh wrote to Archbishop Connell stating that the medical professionals were more optimistic of a meaningful recovery. He said: *“as long as he remains sober, he will not, I believe, act out”* and added that Fr Moore was adamant that *“he has never sexually abused children or adolescents”*. In light of his known history, Fr Moore’s assertion should have been troubling to the Archdiocese.

26.24 Fr Moore expressed worry about the newly stated policy of the bishops of reporting all cases of child sexual abuse whether current or past. In November 1995, the Archdiocese did report the Glasthule incident to the Gardaí. When contacted by the Gardaí, the complainant did not want to make a formal complaint at that particular time but the matter was left open. Somewhat late in the day, in 2002, the suspicions that arose in 1993 and 1995 were notified to the Gardaí.

26.25 Fr Moore was very annoyed about the reporting to the Gardaí and claimed that his recovery had been sabotaged and retarded by the disclosure. Monsignor Curtin, who had spoken to Fr Moore at the time of the Glashule complaint and again in May 1995 about the 1995 adverse reports, was also annoyed about the matter, condemning what he saw as “*a grave violation of justice and charity*”. In February 1996, there was some discussion about whether Fr Moore might have some sort of informal chaplaincy with the Alcoholics Anonymous (AA) group, with which he was already involved.

### **The advisory panel**

26.26 In April 1996, the file was passed to the recently established advisory panel who noted that the file is “*light on certain important facts, particularly the ages of the young people involved*”. The panel expressed reservations on the proposed appointment of Fr Moore as chaplain to the AA until there was a comprehensive assessment and treatment programme establishing whether there existed “*significant danger of inappropriate behaviour occurring other than in an alcohol related situation*”.

26.27 Fr Moore decided not to be further assessed and to retire on health grounds. He retained his clerical faculties. He was allowed to say mass and hear confessions whenever there was a need, for example, if a priest was sick or on holidays. In April 1997, he signed the following document but it was noted that he expressed “*unhappiness in relation to the need for signing the document*” and “*unhappiness about the manner of the process*”. The document reads as follows:

#### ***“DUBLIN DIOCESAN CURIA***

*I, Father Harry Moore, a priest of the Archdiocese of Dublin, now retiring on grounds of health from holding any priestly office in the said Archdiocese, hereby declare in reference to my diocesan faculties which I continue to enjoy:*

*1. I will confine the exercise of my sacramental ministry within Churches and Oratories;*

*2. I will not be available for any ministry outside of the above except for the administration of the sacraments of penance and the anointing of sick in situations of grave need.*

*I further declare:*

*1. I will attend for review meetings with Doctor Walsh on a basis to be agreed with him;*

*2. I will maintain contact on a regular basis with Monsignor Jerome Curtin and [another named priest]*

*3. I will maintain my regular involvement with A.A.;*

*4. To avoid even the suspicion of any possible impropriety, I shall avoid being alone with any person under 18 years of age.”*

This document is signed by Monsignor John Dolan as a witness and Fr Moore, and is dated 29 April 1997.

## **1998**

26.28 In 1998, following a visit to Medjugorje, Fr Moore attempted to book a catholic youth hall for a weekend retreat for a number of adults and young persons whom he had met on that trip. The diocese instructed the youth organisation not to give him the hall. It was pointed out to Fr Moore that this activity was in breach of his contract with the diocese.

## **Bayside complaint, 1999**

26.29 In February 1999, a man complained to the Gardaí that, while he was a teenager, he had been sexually abused by Fr Moore while Fr Moore was attached to Bayside parish between 1983 and 1985. The complainant had also complained to a bishop in the UK about this abuse. The UK bishop contacted Archbishop Connell. The complainant travelled to Dublin in March 1999 to make a formal statement to the Gardaí. He told how he and a group of his friends used to drink with Fr Moore. On one occasion he poured out his soul to the priest because he had problems at school and at home. The priest brought him to his own house and plied him with several kinds of drink. He woke from a semi-conscious state to find Fr Moore performing oral sex on him. He alleged that there was anal and oral sex frequently at Fr Moore's house during 1983 and 1984.

26.30 When interviewed by the Gardaí, Fr Moore admitted that they had oral and anal sex but said that it was consensual and that it had occurred on only two occasions.

26.31 In September 1999, the 1997 declaration (see above) was amended and he agreed not to “*exercise any public sacramental ministry within churches and oratories*”.

### **Criminal charges, 2000**

26.32 In 2000, Fr Moore was charged with 18 counts of sexual assault including buggery in respect of the Bayside victim. He sought a judicial review on the grounds of delay and was unsuccessful.

26.33 The charges were reduced to four and in July 2004, Fr Moore pleaded guilty to two charges of indecent assault and two charges of buggery while a curate in Bayside. Sentencing eventually took place in May 2005 and on that date he was sentenced to seven years in respect of each of the buggery charges and three years in respect of each of the sexual assault charges. These sentences were suspended for a period of ten years and he was put under the supervision of the probation services. He was also ordered to abide by the provisions of the Sex Offenders Act 2001. This is generally described as ‘being placed on the sex offenders’ register’ – see Appendix 2.

26.34 While awaiting trial it was reported to Bishop Murray (who was no longer an auxiliary bishop of Dublin) in 2002 that Fr Moore had resumed giving school retreats. Fr Moore told the Commission that this was untrue. Bishop Murray informed the Archdiocese of this report.

26.35 In 2004, the Archdiocese notified the health board about the complaints. Social workers from the area where Fr Moore lived met him to discuss the advisability of refraining from contact with children. This information was not produced in the initial HSE discovery (see Chapter 6) and was brought to the Commission’s attention only after the HSE received the draft of this chapter.

## **The Commission's assessment**

### *Church authorities*

26.36 The reaction of Archbishop Ryan to the 1982 complaint was totally inadequate. The Archbishop had a comprehensive psychiatric report detailing Fr Moore's problems with alcohol and with his sexuality. Given that the Archbishop had already ignored the advice of the psychiatrist (in 1977) about not locating Fr Moore in a parish setting, the Archbishop's response to the 1982 complaint was inexcusable.

26.37 Here was a priest whom he knew, from the 1977 psychiatric report, had many problems. There was a complete failure on his part to comprehensively investigate a complaint of actual sexual abuse and possible other incidents of sexual abuse as reported in the letter. His excuse, that there was little he could do since the letter was marked private and confidential, is deemed by the Commission to be unacceptable. Had he acted appropriately in relation to this complaint, it might have prevented the very serious assaults that took place some years later on a teenager for which Fr Moore was convicted.

26.38 The Archbishop did not forward the 1977 psychiatrist's report to the UK therapeutic facility in May 1982, when he sent Fr Moore for treatment there. He did however tell that facility that there had been sexual indiscretions during Fr Moore's drinking bouts. He also gave permission to that facility, subject to Fr Moore's consent, to contact St John of God Hospital directly.

26.39 One of the features of the handling of this case was the number of different doctors to whom Fr Moore was sent. There was a failure to coordinate their efforts, diagnoses and recommendations until very late in the day.

26.40 The Commission's view is that it was unacceptable for the Archdiocese to leave Fr Moore unmonitored for a period of six years in the 1980s.

26.41 There was good communication between the UK bishop (to whose diocese the Bayside complaint was initially made) and the Archdiocese. The

English bishop notified the Archdiocese. Archbishop Connell replied promptly that he was nominating Monsignor Dolan to deal with it. The UK bishop met the complainant and told him this. He also notified the Archdiocese that he had done so and told them that the complainant had gone to the police in the UK with his complaint.

*Gardaí*

26.42 The Gardaí handled the case appropriately and their efforts resulted in a successful prosecution.

**Introduction**

27.1 Fr Septimus was ordained in the 1950s. He served in a number of parishes of the Archdiocese and ultimately became a parish priest. In 1997, Archbishop Connell imposed a canonical precept placing certain restrictions on his contact with children and imposing other conditions. His active ministry effectively ended in 2002 when he was forced to step down as a parish priest by Archbishop Connell. He has not resumed ministry since then.

27.2 The Commission is aware of 17 complaints of child abuse in relation to Fr Septimus. The nature of the abuse alleged against him predominantly involved the administration of severe beatings to boys on their bare buttocks, sometimes using a strap or other implement. Following the beatings, the boys would then be forced to stand facing away from Fr Septimus in a state of undress. Sometimes the beatings resumed. There was one allegation of Fr Septimus masturbating following a beating while the beaten boy was in the room and facing away from him. The Commission is satisfied from the evidence considered that the beatings were for the sexual gratification of Fr Septimus and that the abuse constituted child sexual abuse.

**First complaints, 1982**

27.3 The first recorded allegations to the Archdiocese against Fr Septimus were made in October 1982. A woman contacted Bishop O'Mahony and reported on behalf of three named people. One was a witness to the beating of altar boys "*with their pants down*". Another was a mother whose son was made to remove his underwear for misbehaving and the third was a mother whose son was refusing to serve mass because he did not want the priest "*putting his hands up my pants anymore*". In 1983, she reported, on behalf of a mother, about a further incident of a boy being beaten with his pants down. There is no evidence that Bishop O'Mahony spoke to the named people or made any further inquiries. He did not report the complaints to Archbishop Ryan.

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This is a pseudonym.



27.4 In February 1983, Fr Septimus was admitted to St John of God hospital in a state of “*acute anxiety and depression*” which, according to the psychiatrist who treated him there, had been brought on by an allegation that he had assaulted a boy. It seems that this had occurred while on a camp and was not related to the allegations made by the woman to Bishop O’Mahony. This psychiatrist had treated him 20 years earlier when Fr Septimus had had a breakdown “*brought about through intense psychological stress*”. In March 1983, Bishop O’Mahony recorded a discussion between himself and the psychiatrist as follows:

*“The priest has made a very good recovery and has come to terms with his sexuality. Homosexuality is covert rather than overt. The beatings are a moderated manifestation of the tendency. He should be able to minister without too much difficulty. “It is not a very serious problem”. He should avoid boys’ clubs/camps etc. No change is recommended provided there is no scandal”.*

27.5 All the discussions between Bishop O’Mahony and the psychiatrist in 1983 are not recorded. However, in a report in 1995, the psychiatrist indicated that he had discussed the matter with Bishop O’Mahony at the time and had “*agreed that it would be best to leave him in the parish but to ensure that he did not continue to work with young boys*”.

27.6 At this stage, Bishop O’Mahony seems to have made further inquiries about the complaints. There is no evidence that he spoke to the people who had been named by the woman who had approached him. He did speak to the principal of the local school and another person associated with the school. There is no obvious connection between these people and the complaints. They were dismissive of the woman and said she had made a similar complaint against a former principal. Bishop O’Mahony decided that “*the entire matter would be dropped*”.

#### **Complaints reconsidered, 1995**

27.7 Fr Septimus was appointed a parish priest in the early 1990s and there seems to have been no consideration of the complaints against him at the time of his appointment. In 1995, these issues were addressed again in the context of a general review of all child abuse cases. In April 1995, Bishop O’Mahony made a note about the case. This note stated that the incidents

complained of by the woman had never taken place and *“people then saw through her and no longer tolerated her gossip”*. It also noted that the complainant was reconciled with the priest and *“she is now paying her dues.”* The note also stated that the incidents referred to by the psychiatrist took place on a camp. Bishop O’Mahony had advised Fr Septimus not to go on further camps and he had not done so. Bishop O’Mahony, in an affidavit provided to the Commission, said that the woman contacted him in April 1995 and *“indicated that none of the incidents reported by her”* had occurred. Bishop O’Mahony’s April 1995 note does not mention that the woman was in contact with him at that stage. His April 1995 note appears to deal only with reports from other people.

27.8 Bishop O’Mahony discussed the case with the Granada Institute and, on the basis of that discussion, a report was issued in May 1995. The Granada report expressed the view that the woman’s complaints on behalf of others related to inappropriate punishment rather than sexual gratification and that there were currently no grounds for believing that Fr Septimus was a danger to others. Interestingly, the Granada Institute, unlike Bishop O’Mahony, seemed to accept that there was a basis for the woman’s complaints. Granada recommended that the complainant not be contacted as she might not welcome such an approach and this would place extra stress on Fr Septimus.

### **Further complaints, 1995**

27.9 In October 1995, a complaint was received by the Archdiocese from a named woman on behalf of an unnamed woman who alleged that her son had been a victim of buggery 21 years previously, in 1974. Archbishop Connell initiated a preliminary investigation under canon law and appointed Monsignor Alex Stenson as the delegate to investigate. Shortly after that, another complaint was received with an allegation of abuse 35 years previously – in 1960. Monsignor Stenson met this most recent complainant and told him that he might have to report the matter to the Gardaí. The complainant was accompanied by his sister who verified his account of what had happened. The nature of the abuse alleged was similar to that reported in the first complaints made in 1982, namely of being severely beaten while undressed. The severity of the beating was so bad that the child had to stay in bed for three weeks following the assault. He claimed that school mates

had suffered similar treatment. The abuse happened in the school, after school hours. Fr Septimus had a key to the school.

27.10 Monsignor Stenson met Fr Septimus in October 1995, as part of his preliminary investigation. Monsignor Stenson made a detailed note of their conversation and this was signed by the priest. Fr Septimus told Monsignor Stenson that the account of the most recent complainant was “*highly coloured but basically true*”. He said that “*I went into a coma for twelve days at the time of the Cuban war ... I thought the Atom Bomb had fallen*”. It is not clear if this refers to the Bay of Pigs invasion in 1961 or the Cuban missile crisis in 1962. He offered to pay for counselling “*within reason*”. He went on to say that he was “*rough with kids*” during that period of his life but that he was now “*great with kids*”. He went on to talk about the 1980s complaints and told Monsignor Stenson that he could speak to Bishop O’Mahony about that. Monsignor Stenson’s note further records Fr Septimus saying:

*“On a few occasions there would have been similar outbursts in the other appointments - always with young boys - never girls. I did get them to take off some of their clothes and would hit them. I usually used my hand. I would place them across my knees and smack them on their naked behinds.*

*...*

*I did this as a form of punishment. It occasionally generated in me a sexual movement. But I never touched them in the private parts nor got them to touch me. Never - that’s sexual abuse. Sometimes it gave me sexual pleasure. This pattern would have continued elsewhere until I got treatment in St John of Gods. There might have been four boys in each place up to and including [the parish he was in when the 1980s complaints were made].*

*After my treatment it has never happened again. Some of those boys were altar boys. A lot would happen on Summer Camps - if boys went missing they got a warning and if it happened a second time they had a choice - no pocket money or a spanking and they chose the spanking... Bishop O’ Mahony knows all about that...*

*[Fr Septimus] apologises for what happened to [the latest complainant] and asked me to convey this...”*

27.11 Later on, Fr Septimus denied that he had made any of the admissions contained in this statement and alleged that his signature had been forged. Later still, he said that he had signed a blank piece of paper and that the statement was not shown to him or read to him. If either of these allegations were true, one would have expected the priest to have taken vigorous action against the Church authorities either in canon or civil law to vindicate his good name and to ensure that the perpetrators of a most grievous wrong were appropriately punished. Despite some posturing, he did neither. The Commission has absolutely no doubt that the statement is accurate.

27.12 In November 1995, Monsignor Alex Stenson notified the Gardaí of the most recent complaint (the one relating to the 1960 incident). Fr Septimus was one of the priests named on the first list of priests given to the Gardaí in November 1995 (see Chapter 5). Monsignor Stenson noted “*The assault was seen in terms of spanking.*”

### **Medical opinion**

27.13 Fr Septimus was referred to the psychiatrist who had treated him in the 1980s. The psychiatrist told Monsignor Stenson that the priest would appear to pose no risk as there had been no problems in the last 12 years. He should, however, “*maintain a low profile for the moment, not least for his own sake*”. The psychiatrist also referred him to the Granada Institute (Granada had reported to Bishop O’Mahony in May 1995 but had not seen Fr Septimus at that stage.) The psychiatrist issued a written report in November 1995 to the Archdiocese. This report included his own assessment and a summary of the Granada assessment provided by Dr Patrick Walsh. It stated:

*“It should perhaps be stressed that at all times [Fr Septimus] has denied any frank sexual element in his activities and maintains that he was merely being a strict disciplinarian. He now recognises that his behaviour was unwise and open to other interpretations. He insists that he has not engaged in any such activities since 1983*

*...*

*I would agree with Dr Walsh that the question of the advisability of allowing him to resume his parochial duties is one which must be made by the Diocesan authorities, taking all the circumstances into*

*account. From the strictly psychiatric viewpoint , and on the strict assumption that there has been no evidence of misconduct since at least 1983, it would be reasonable to allow him to resume his duties with the strict proviso that he does not have unsupervised contact with children or male youths.”*

Granada’s report to which the psychiatrist refers was also sent to the Archdiocese.

27.14 In February 1996, Fr Septimus denied that he had made admissions to Monsignor Stenson as described above. In March 1996, he was instructed by Bishop Ó Ceallaigh not to have any contact with children or young people. The bishop met the senior curate in the parish and arranged a reallocation of responsibilities in order to ensure this. Monsignor Stenson arranged therapy for the complainant.

27.15 Meanwhile, the Gardaí were investigating the October 1995 complaint (the complaint relating to the 1960 incident). They told the Archdiocese in March 1996, as recorded by Monsignor Stenson that: *“...the issue seemed to be more corporal punishment and physical assault. Nevertheless, they intend to speak with [Fr Septimus] in the near future. They believe the case will go to the D.P.P. but it is highly unlikely that it will be seen as anything other than physical assault”*.

27.16 The file was sent to the Director of Public Prosecutions (DPP) in June 1996 and he directed that there should be no prosecution.

#### **Referral to advisory panel**

27.17 Fr Septimus’s case was referred to the advisory panel in April 1996. At the request of the panel, Monsignor Stenson sought clarification as to the meaning of *“unsupervised contact”*, as such a prohibition does not sit easily with the responsibilities of a parish priest. The psychiatrist and Dr Walsh of Granada each provided some clarification – it meant not being alone with children and restricting the priest’s ministry to children in *“substantial”* ways to avoid suspicion and this included informal contact such as scouts, home visits and playgrounds.

27.18 The panel made a recommendation in June 1996. Having considered *“one specific allegation of extreme physical abuse on a young boy carried out in the early 1960s and two separate accusations of somewhat uncertain reliability”*, it considered that Fr Septimus was in the category of people about whom there were insufficient grounds *“in justice”* to remove from ministry.

*“The Panel has concluded that in justice there is not a case for removing [Fr Septimus] from his present ministry. It does however believe that the restrictions outlined above by Dr Walsh should be enforced and carefully monitored. In addition it is the view of the Panel supported by [an expert] that in the interests of prudence a formal assessment could be conducted to rule out any risk that [Fr Septimus] may be a latent paedophile...”*

27.19 The panel's recommendations were accepted. Archbishop Connell met Fr Septimus and outlined the restrictions that were to be observed in relation to children. He also told Fr Septimus that arrangements would be made for a formal assessment.

27.20 Meanwhile, the Gardaí reported in May 1996 in respect of the complaint made in October 1995 of a severe beating in 1960: *“the assaults alleged by [the complainant] do not in my opinion amount to a sexual assault. They amount perhaps if proven to common assault maybe bordering on actual bodily harm. However, they are totally uncorroborated and there is only [the complainant's] word that they occurred. [Fr Septimus] did not totally deny that they happened”*. The Gardaí recommended that, owing to the time delay in reporting the matter and the differences between the versions of events of the complainant and the school principal, no further action be taken on the file.

27.21 In January 1997, the curate in Fr Septimus's parish who now had responsibility for dealing with any matters involving children, including altar boys, arrived at the church to find Fr Septimus training a number of altar boys. The curate challenged him and he replied that the allegations had come to nothing and that the Archbishop had brought him in more or less to apologise to him. This was not true – the Archbishop brought him in to outline the restrictions. The curate reported the matter to Monsignor Stenson who immediately reported the matter to Bishop Ó Ceallaigh.

27.22 On a date unknown in 1997, Archbishop Connell imposed a canonical precept on Fr Septimus with the following conditions:

- that he reside in the presbytery;
- that he was forbidden to be alone with children or assume responsibility for assignments that have primary responsibility for them;
- that he continue to see his therapist;
- that he attend weekly group therapy;
- that he maintain regular contact with his spiritual director;
- that he be supervised/ monitored.

#### **Another complaint, 1997**

27.23 Another complainant came forward in August 1997. The type of abuse alleged was of corporal punishment on his bare buttocks. It was decided in the Archdiocese that the nature of the complaint did not involve sexual abuse; consequently it concluded that there was no obligation under Church policy at the time to refer the matter to the Gardaí. The complainant was advised of this view and it was suggested that he might wish to complain directly to the Gardaí. It was however decided to refer the matter to the advisory panel again. Fr Septimus denied this complainant's allegations and was reluctant to undergo a formal assessment as requested by the Archdiocese.

27.24 In December 1997, the Gardaí recommended in relation to the August 1997 complaint:

*"... the Accused's conduct in this case was vile, despicable and probably sadistic.*

*It comprised all but the worst elements of a bad assault in that it was brutal and had sado-sexual connotations.*

*By stripping or partially disrobing these children they were made feel dirty, vulnerable and above all extremely ashamed.*

*I also hold the view that the act of disrobing (and thereby indecently exposing) anyone –child or adult- amounts to an indecent assault.*

...

*In those circumstances I would recommend a charge (or charges) of indecent assault”.*

27.25 Despite this recommendation, the Commission has not found a record of this file being sent to the DPP.

#### **Fr Septimus and Monsignor Stenson**

27.26 Fr Septimus expressed his dissatisfaction with how Monsignor Stenson was handling his case. He continued to deny having made the statement in relation to the 1995 complaint. He demanded an apology from Monsignor Stenson which *“acknowledges fully and explicitly the injustice he did to me”*. Fr Septimus’s solicitor was in contact with the Archdiocese looking for copies of statements. The priest saw himself as being a *“priest-victim”*. Eventually, after much discussion, Fr Septimus agreed to go for formal assessment in November 1997.

27.27 Granada reported in May 1998 that Fr Septimus was so focused on the way he was treated by Monsignor Stenson that it had been unable to carry out the proposed assessment. In September 1998, Granada reported:

*“Difficulties remain in relation to the complaints made against [Fr Septimus], in that, they have been either made anonymously or the people making them have refused to formalise them<sup>89</sup>. As a result it has not been possible to act on the complaints. Furthermore, [Fr Septimus’s] own position is that while he acknowledges physical complaints, he has denied sexual abuse. Given this set of circumstances it is concluded that unless the diocese can verify and substantiate the complaints, [Fr Septimus] should remain in ministry. Continuing in ministry, however, should be with the explicit proviso that he has no formal contact with children or young people and that he agrees to avoid informal contact with them also.”*

27.28 A further canonical precept was issued by Archbishop Connell in October 1998 which decreed that:

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It is not clear to the Commission that the relevant people were ever contacted.



- Fr Septimus was to have neither unsupervised involvement with minors nor any direct ministry to minors except in the public celebration of mass.
- He was to continue to consult with the Granada Institute (or similar institute) on an ongoing basis.
- The curate would have direct responsibility for altar servers in the parish.

27.29 Fr Septimus wrote to the Archbishop claiming that Monsignor Stenson had defamed him and that under canon law he was entitled to challenge assertions made by him. He rejected any suggestion that he might have been involved in child sexual abuse or that he had “*beaten up*” anyone, though he found his attendance at the Granada Institute helpful “*in assisting me over the traumas imposed on me by Monsignor Stenson...which were inflicted in your name*”.<sup>90</sup> He took offence at the canonical decree and sought to have it set aside. He continued with this campaign through his solicitors, seeking the destruction of the statement attributed to him which he had said was falsified.

27.30 Following a meeting in March 1999, Fr Septimus finally agreed to withdraw from ministry involving children by discontinuing his connection with the local national school and agreed that the curate and a lay person would have responsibility for altar servers.

27.31 There was some monitoring of compliance with the conditions. Monsignor John Dolan met Fr Septimus in October 2001. Monsignor Dolan advised him of the mandatory direction for his continued attendance at Granada with which he had not been complying. By December 2001, he was attending Granada again. The precept was extended for a further period of two years.

### **Further complaints, 2002**

27.32 Another complainant emerged in July 2002. This man made his complaint to a priest of the Archdiocese, who brought it to the attention of the archdiocesan authorities. The priest was asked to encourage the man

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The Granada Institute has pointed out to the Commission that it never assumed that Fr Septimus’s accusations against Monsignor Stenson were valid.

concerned to make a formal complaint about the matter so that the Archdiocese could pursue it and report it to the Gardaí. The complaint was of sexual abuse in the 1970s. The nature of the abuse alleged was similar to that alleged in the other complaints but this time, there was little room for doubt that the acts were carried out for sexual gratification. The complainant said he saw Fr Septimus masturbating immediately after he was beaten.

27.33 This complainant also informed the Archdiocese about his knowledge of abuse of three other boys. One of these had already complained to the Archdiocese. This complainant said one of the others had since committed suicide. Monsignor Dolan asked this complainant to encourage the third person to contact the Archdiocese. This man did so in August 2002. His complaint was similar to the others in many respects.

27.34 Fr Septimus denied the allegations made by these two complainants. The Archdiocese informed the Gardaí.

27.35 Fr Septimus initially declined to resign as parish priest. Subsequently, following a telephone conversation with Archbishop Connell in August 2002, he agreed to retire on the grounds of ill health. The Archdiocese insisted that he move away from the parish and he was not permitted to carry out any public ministry. He was informed that, although he could resign on the grounds of ill health, the Archdiocese would not mislead as to the real reason behind the resignation if it was asked for an explanation.

27.36 In November 2002, Archbishop Connell revoked the faculties of the Archdiocese from Fr Septimus although he was permitted to continue to say mass privately. The other conditions regarding continued attendance at Granada and a ban on unsupervised contact with children continued to apply. Fr Septimus appealed against the precept to the Congregation for the Doctrine of the Faith in Rome. The Congregation confirmed the Archbishop's decree. It was pointed out by the Prefect of the Congregation, Cardinal Joseph Ratzinger (now Pope Benedict XVI), that the imposition of a precept in canon law was only valid in the short term pending the formal outcome of a canonical process. The type of process envisaged is either a penal process, the outcome of which may lead to laicisation or simply a process seeking to impede the priest from ministry.

### **Bishop O'Mahony and the 1980s complaints**

27.37 In March 2003, Bishop O'Mahony prepared a statement referring to his investigation of this matter in the early 1980s. He stated:

*"To the best of my recollection [Fr Septimus] resumed his ministry at [the parish] following the discharge from hospital. I judged the situation as one in which the information relayed by [the complainant] was not reliable. I believe that I emphasised to [Fr Septimus] the importance of following the advice of [the psychiatrist].*

*I did not inform Archbishop Dermot Ryan of the complaint. Sensitivity towards [Fr Septimus's] mental state, particularly as he recovered from his nervous breakdown caused me to treat the matter as confidential".*

27.38 In this statement, Bishop O'Mahony also said that the complainant had returned to him in 2002 and told him that she had since discovered the allegation that she had made was untrue. He did not mention anything about her saying this to him in 1995. He reported that she stated: *"She had been ostracised by the community when it became known that she had reported the priest to the Bishop with a false allegation"* and he further stated that she had told an investigating Garda of this fact. This 2003 statement does not address the fact that the treating psychiatrist clearly believed that there were sustainable allegations about Fr Septimus in the early 1980s. Bishop O'Mahony also clearly believed at the time that there were sustainable allegations about beatings on holiday camps. His emphasis, in 2003, on the veracity of this particular complainant neatly allows him to avoid addressing the fact that there were sustainable complaints similar in nature to those reported by this complainant and that child protection measures were not put in place.

27.39 In August 2003, Cardinal Connell initiated the canonical process to impede Fr Septimus's ministry under Canon 1044.<sup>91</sup> In October 2004, Archbishop Martin wrote to Fr Septimus telling him that he had witnessed him

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<sup>91</sup> This canon refers to a priest being impeded by reason of insanity or some other psychological infirmity.

wearing clerical garb in violation of the precept and warning him to abide by the terms of the precept until the determination of the administrative process.

27.40 The canonical process was still continuing in 2007.

27.41 Between 2003 and 2005, five further complaints were made to the Gardaí against Fr Septimus.

### **The garda investigations**

27.42 The DPP decided not to prosecute in the case of the 1995 complaint – the complaint that related to the 1960 incident. A file does not appear to have been sent to the DPP in relation to the 1997 complaint.

27.43 The fact that the files were reviewed in January 2002 suggests that the files were not submitted at the conclusion of the investigations in the late 1990s in relation to the 1997 complaint. The detective inspector who reviewed the files stated: *“As I would not deem the assaults as sexual assaults but common assault, I respectfully suggest that no further action be taken in the case”*.

27.44 The files were finally submitted to the DPP’s office in 2005. The DPP directed no prosecution in relation to these complaints or in relation to the two complaints which were made in 2002 or in relation to the five further complaints which emerged between 2003 and 2005. All cases were stated to be compromised because of the lapse of time since the offences allegedly took place (most of the complaints dated back as far as the 1960s), some inconsistencies in relation to statements taken, lack of corroboration, and difficulties which were anticipated because individual complainants had consulted each other prior to making formal complaints to the Gardaí.

27.45 Two different explanations were offered by Gardaí in 2006 as to why the file in the 1997 complaint was not sent to the DPP much earlier. One explanation was that the decision was deferred pending the outcome of investigations into other complaints. Another explanation was that Fr Septimus had never been interviewed about the complaint.

### **The Commission's assessment**

27.46 The Commission is of the view that, had a thorough investigation of the allegations been undertaken at the time of the first complaints in 1982 and 1983, at the very least by approaching the parents of the children concerned, the truth of the matter could easily have been ascertained. The Commission considers that the purported investigation of these events at the time was inadequate and could never have got to the truth of the matter.

27.47 It is quite astonishing that Bishop O'Mahony did not report the complaints to Archbishop Ryan.

27.48 The Commission is concerned that nobody in the Archdiocese, other than Bishop O'Mahony, contacted the woman who made the 1982 complaints and nobody at all contacted the people whom she alleged were abused.

**Introduction**

- 28.1 William (Bill) Carney was born in 1950 and was ordained for the Archdiocese of Dublin in 1974. He served in the Archdiocese from ordination until 1989. He was suspended from or had restricted ministry during some of this time. He was dismissed from the clerical state in 1992.
- 28.2 Bill Carney is a serial sexual abuser of children, male and female. The Commission is aware of complaints or suspicions of child sexual abuse against him in respect of 32 named individuals. There is evidence that he abused many more children. He had access to numerous children in residential care; he took groups of children on holiday; he went swimming with groups of children. He pleaded guilty to two counts of indecent assault in 1983. The Archdiocese paid compensation to six of his victims. He was one of the most serious serial abusers investigated by the Commission. There is some evidence suggesting that, on separate occasions, he may have acted in concert with other convicted clerical child sexual abusers - Fr Francis McCarthy (see Chapter 41) and Fr Patrick Maguire (see Chapter 16).
- 28.3 A number of witnesses who gave evidence to the Commission, including priests of the diocese, described Bill Carney as crude and loutish. Virtually all referred to his crude language and unsavoury personal habits. One parent told the Commission that the family had complained to the parish priest about his behaviour but the parish priest said there was nothing he could do.
- 28.4 In 1974, the year Fr Carney was ordained, the President of Clonliffe College, when assessing him for teaching, reported to Archbishop Dermot Ryan that Fr Carney was “*very interested in child care*” and was “*best with the less intelligent*”. His first appointment was as a teacher in Ballyfermot Vocational School while also being chaplain to a convent in Walkinstown. The following year, Fr Carney asked Archbishop Ryan to transfer him from Walkinstown (he was living in the convent) to Ballyfermot “*to be more available to the boys and their parents*” in Ballyfermot school.

### **Attempts to foster children**

28.5 In 1977/78, Fr Carney made inquiries about fostering children. A social worker in the Eastern Health Board (EHB) told the Commission that she thought the inquiry was odd because “*generally priests don’t parent children*”. At the time, single men were not allowed to foster so the inquiry went no further at that stage. Fr Carney discussed the idea with Archbishop Ryan who does not seem to have encouraged him.

28.6 In 1980, Fr Carney again explored the possibility of fostering. He discussed the matter with Bishop James Kavanagh and, according to himself, was told by Bishop Kavanagh that the idea was basically “*good and sound*”. In a letter to Archbishop Ryan, Fr Carney told him he had had lunch with the Minister for Health, Dr. Michael Woods TD, who, he said, assured him that “*as far as he knew there would be no difficulty from the Eastern Health Board*”. Dr Woods told the Commission that he has no recollection of meeting Fr Carney but that, if he had been asked about fostering, he would have referred him to the Eastern Health Board. Fr Carney’s letter was sent to Bishop Dermot O’Mahony for comment and Bishop Kavanagh for handling but there is no record of their reactions. Around the same time, Fr Carney set out his proposal in writing to the minister following on previous discussions about the matter. He told the minister about his involvement in children’s homes (see below). He said he had a “*housemother*” available and that his parish priest was in “*full support*”. There is no evidence that the proposal progressed any further.

28.7 Fr Carney specifically inquired about fostering a particular boy from an institution when the Ten Plus<sup>92</sup> programme got under way around 1982/3. This boy subsequently alleged that Fr Carney had abused him (see below).

### **Children in or from children’s homes**

28.8 During his time in Clonliffe College (1968 – 1974), Bill Carney and a number of other students were regular visitors to a number of children’s homes. The children’s homes visited by Bill Carney were St Joseph’s, Tivoli Road; St Vincent’s, Drogheda; Lakelands, Sandymount and The Grange, Kill O The Grange. The Clonliffe students took children away for holidays during

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This was a programme to encourage the fostering of children over the age of ten.

the summers. Bill Carney's involvement with St Joseph's and The Grange was more extensive than with the other institutions and continued after his ordination. The Commission is aware of complaints by three former residents of St Vincent's, one former resident of St Joseph's and one former resident of The Grange that Bill Carney sexually abused them. There is a strong suspicion that one other resident of St Joseph's was abused and there are suspicions that other residents of all the institutions he visited were also abused.

- 28.9 In the 1970s, care workers in some of the children's homes visited by Fr Carney clearly did not regard him as a good influence and there were also concerns among health board social workers. At least one care worker in The Grange seems to have had suspicions of inappropriate behaviour but the Commission was unable to contact this person to verify this. Health board social workers gave evidence to the Commission that they were concerned about Fr Carney's influence on some residents of the homes but they did not suspect sexual abuse. Their main concern was that he was creating unrealistic expectations among the children including expectations that he could provide them with a home.

#### *St Vincent's, Drogheda*

- 28.10 St Vincent's was an industrial school and, as such, was governed by the provisions of the Children Acts. Bill Carney and other deacons and/or priests took some of the residents away on holidays. Three boys complained they were abused by Bill Carney on these holidays. Another priest, who accompanied Bill Carney and some boys on holidays in 1973, gave evidence to the Gardaí that, while he never saw any sexual abuse on that holiday, Bill Carney did say to him that *"you have to sleep with them because they are insecure"*.

#### *St Joseph's, Tivoli Rd*

- 28.11 This orphanage was run by the Daughters of the Heart of Mary. It was a private orphanage which received some state support (see Chapter 6) and so was not subject to any statutory rules. The health authorities – the Dublin Health Authority and subsequently the Eastern Health Board - did place some children in the home and these children were visited by social workers.



28.12 The religious order which ran the orphanage told the Commission that, up until the 1960s, children were not taken outside the home by outsiders. During the 1960s, it became the practice to allow children to be taken to selected family homes for the weekend or on holidays. It was considered that this would be a good experience for children raised in institutions. The order says that the families chosen for this purpose were well known to the order and vetted for suitability.

28.13 The student priests from Clonliffe - Bill Carney and Francis McCarthy - started to visit this home in 1973. They were deacons at this stage and they approached the home to ask if they could help the children by engaging in activities with them. Their offer was accepted as "*they came from Clonliffe College which was highly respected*". They were in the final stage of preparation for priesthood and had skills from which the children could benefit. The visits continued after they were ordained. They took the children on holidays. They were usually accompanied on holidays by members of the order and/or a childcare worker but on one occasion the children were accompanied only by the priests. They were "*fully trusted*" by the order to take responsibility for the care and safety of the children. Some of the boys were allowed visit one priest in his parish – Fr Francis McCarthy in Dunlavin (see Chapter 41).

#### *Concerns about a girl in St Joseph's*

28.14 There are serious suspicions that a girl in St Joseph's was abused by Fr Carney but no complaint has been made by her. In 1977, a senior social worker noted, following a discussion with a nun in charge, "*[name of girl] fantasy relationship with Fr Bill is still all consuming and I agreed ... unhealthy*". The note further states "*Her thoughts, conversations and her artistic attempts concern going to bed with Fr. Bill*". This girl was 14 years old at the time and had come to the orphanage with severe behavioural difficulties. She had been placed in the home by the health board and there was quite extensive social worker involvement with her. The order running the home found it very difficult to cope with her. It is clear that Fr Carney was regarded as a significant person in her life as he was invited to a case conference about her.

28.15 This girl's social worker gave evidence to the Commission that she had concerns about Fr Carney; she described how the girl was besotted with him. He was always in and out of St Joseph's and the social worker felt that his efforts to build up a special trusting relationship with her were inappropriate. She did not take the matter up with the authorities in the home. Her senior social worker did discuss it with the authorities in the home. She never suspected sexual abuse – it never occurred to her at the time (1977).

28.16 The nun in charge of this girl's group also had concerns about this girl's behaviour and reported these concerns to her superior. The girl was writing Fr Carney's name on walls and was behaving strangely. It was considered that she had a crush on him. The superior spoke to Fr Carney and discouraged him from having any dealings with the girl. The nuns did not suspect child abuse.

#### *Boy in St Joseph's*

28.17 A boy in St Joseph's complained that he was abused by Fr Carney while he was a resident in this home. The religious order has told the Commission that it had no knowledge of any allegation or suspicion of abuse in his case. Fr Carney was named as a significant contact in this boy's life in a social work report in 1983. In 1982, the nun in charge and a care worker were concerned about the frequency of Fr Carney's visits to him. A social worker did have concerns about Fr Carney befriending him and asked Fr Carney to stay away. The concerns did not extend to sexual abuse. Social workers visited this boy monthly. He went to stay with Fr Carney in Ayrfield (the parish to which Fr Carney was appointed in 1977) on a number of occasions and this is where the abuse occurred, according to the boy. A social worker told the Commission that she collected the boy from Fr Carney's house and was concerned about the behaviour of Fr Carney towards him – this boy was then 12 years old and Fr Carney seemed to be helping him to dress. She considered that Fr Carney was creating an expectation in the boy of being a parent to him but she did not suspect any sexual abuse. She reported her concerns to her senior social worker. In February 1983, this boy told a care worker that he had been left alone in Fr Carney's house until very late or until the morning. The care worker stopped the boy's visits at this stage. Fr Carney was very angry with her. Subsequently, she and a social worker met him and it was agreed that he

would reduce his contact and that there would be no overnight visits except on special occasions. The care worker felt the relationship was unhealthy but did not suspect abuse.

*The Grange, Kill O The Grange*

28.18 The Grange was run by the Sisters of Our Lady of Charity. It was a private orphanage. The nun in charge of the institution from 1972 to 1980 said, in a statement to the Commission, that Fr Carney was a frequent visitor to the Grange. He took children out for drives and day trips and sometimes children would stay with him for the weekend. He sometimes stayed overnight in the home. She believed his involvement was in the interests of the children as it provided them with an extra means of recreation. There were discussions at the time about getting male staff and having the clerical students/priests was seen as a stepping stone to this. They were regarded as safe and trustworthy. She said that at no time did she have “*any cause to be suspicious*” of Fr Carney’s conduct. A girl who subsequently alleged that she had been abused by Fr Carney was described by this nun as being “*crazy*” about him and he always gave her special attention. This nun said that the children were not regularly visited by social workers. A social worker who was involved with this girl told the Commission that she met or visited the girl several times a year and that there were review meetings involving social workers and the care staff about twice a year. Sometimes the management of the home was involved as well.

28.19 A staff member told Fr Carney in 1981 to stop seeing this girl. Contact between him and the girl was resumed in 1982 and this caused concern to the home and to the social worker.

28.20 The social worker spoke to Fr Carney in 1982 and told him she thought he should not have any further contact with the girl as she felt “*her expectations of their relationship were inappropriate*”. Fr Carney had told this girl that he would look after her if she was pregnant. The social worker thought that this was completely inappropriate. Fr Carney asked if she was telling him not to see this girl and she said ‘yes’. Fr Carney subsequently phoned the care worker to ask if he should send roses to this girl for her birthday. The care worker and social worker thought this was inappropriate

but did not put it any further than that. The social worker did not suspect sexual abuse.

28.21 It seems that around 1983, it was decided that the children could not go and stay with Fr Carney, as a care worker had some suspicions about the relationship between a boy and Fr Carney. A nun from The Grange told the canonical church penal process taken against Fr Carney in 1991/92 (see Chapter 4) that people did not specify what the problem was but she understood that he was showing an “*unhealthy interest*” in young boys.

28.22 The Grange closed in or around 1982/1983. The girl who later alleged she had been abused by Fr Carney moved to An Grianán (see below) in 1982.

28.23 In 1989, when she was an adult, this girl told the social worker who had been dealing with her while she was in The Grange that she had been sexually abused by Fr Carney while in The Grange and that the abuse included full intercourse.

28.24 A nun from The Grange told the church penal process that she was aware of concerns about Fr Carney in The Grange. She did not have direct contact with him there but she reported that former residents of the Grange stayed with him when he was in Clogher Road (the parish to which he was appointed in 1986). She took one of them away from there in 1987 because of the condition of the house – it was full of empty alcohol bottles and was not, in her view, fit to live in.

#### *An Grianán*

28.25 An Grianán was also run by the Sisters of Our Lady of Charity. It catered for girls aged 12 to 18. Both the girl from St Joseph’s and the girl from The Grange moved to An Grianán when they were aged about 16. The health board was no longer responsible for children in care once they reached 16 but the social worker told the Commission that she did visit the girl from The Grange while she was in An Grianán. The nun in charge said in 1999 that, to the best of her knowledge, Fr Carney did not visit the girl from The Grange in An Grianán. The girl says that he did and that he took her out for the day on a number of occasions. The nun accepted that Fr Carney did call

to visit another former resident of The Grange after this particular girl had left. The nun also stated that she heard rumours about Fr Carney in the mid 1980s “*that were not positive*”. A girl in An Grianán told her that she used to visit Fr Carney in Ayrfield while she was living in a children’s home and she never wanted to visit him again as he had tried to molest her. The nun does not appear to have done anything about this. It is not clear whether the girl was alleging that this happened when she was underage.

- 28.26 The social worker was told by An Grianán that the girl from The Grange was writing to Fr Carney while she was there. She also noted that he had called to see her in An Grianán and did see her there at Christmas 1982. This girl said that she was not abused in An Grianán. She thought the nun in charge suspected Fr Carney and did not like him. It is clear that the nun in charge did not like Fr Carney but it is not clear if she suspected him of abuse while this girl was in An Grianán.

### **First recorded complaints to the Archdiocese, 1983**

- 28.27 Fr Carney was appointed a curate in Ayrfield parish in 1977. At that time he was a regular visitor to various homes and during his time in Ayrfield brought many children from those homes to stay with him. There is a suggestion that the Archdiocese may have had a complaint or suspicions about inappropriate behaviour by Fr Carney as early as 1978 but this cannot now be established.

- 28.28 The first documented complaint about Fr Carney was made to the Gardaí in July 1983 by altar boys; the altar boys did not complain to the Archdiocese at this time. Complaints by boys who he took swimming were made to the Archdiocese in September 1983; some of the swimming pool complainants also complained to the Gardaí.

#### *The altar boy complaints*

- 28.29 In July 1983, two brothers went with their father to a Garda station and complained that they had been abused by Fr Carney. Garda Finbar Garland was a young garda with just under a year’s experience when this complaint was made to him. He told the Commission that, while he had experience in taking statements, he had no training in taking statements from children. The garda had a clear recollection of the young boys and their father coming to

the Garda Station. He said he was shocked and disgusted by what he heard. He consulted his immediate superior, Sergeant Kiernan. Garda Garland went to the boys' home later that day to take statements. The boys told him that they were altar boys and had slept in Fr Carney's house on a number of occasions and had gone on holidays with him. While in his house, one boy would usually sleep in Fr Carney's bed and Fr Carney would fondle him. The boys told the Garda of other boys who had spent time in Fr Carney's house. He contacted the parents and took statements from three more boys the next day and from two more boys at a later stage. Some parents whom he contacted told him to go away and not say such things about Fr Carney. In all, he contacted the parents of about 16 boys. Sergeant Kiernan told the Commission that he was conscious of the need for a speedy investigation in case anyone would influence what the boys might say or not say.

28.30 The day after this complaint was made, Fr Carney and the parish priest of Ayrfield, Fr Ó Saorai, called to the Garda Station. Neither had been asked to do so. It seems they had heard about the garda activity. In spite of this, Fr Ó Saorai did not contact Archbishop's House. They were met by Inspector Murphy and Sergeant Kiernan. Garda Garland was in the station at the time but does not think he was at the meeting. Fr Carney was cautioned and the boys' statements were read to him. He denied the allegations.

28.31 Sergeant Kiernan told the Commission that Fr Carney was "*somewhat agitated and indignant*" and suggested that there were sinister or vindictive motives behind the complaints and there was no basis for them. When told by the Sergeant that there was more than one complaint, Fr Carney was taken aback. Inspector Murphy said he removed his collar but Sergeant Kiernan does not remember that. At this stage Fr Ó Saorai seemed to be under pressure – Sergeant Kiernan thinks Fr Ó Saorai was not fully aware of the nature of the complaints until he saw the statements made by the boys.

28.32 Garda Garland took statements from two other boys in August 1983. The criminal investigation into the altar boy complaints was completed on 30 August 1983 and the file was sent to the Director of Public Prosecutions (DPP).

### *The swimming pool complaints*

28.33 In September 1983 two sets of parents wrote to the Archbishop to complain that their sons had been abused by Fr Carney in a swimming pool. They went initially to the parish priest, Fr Ó Saorai. Fr Ó Saorai was reluctant to go to the Archbishop even though the parents indicated they were going to the Gardaí and even though Fr Ó Saorai was well aware that there was an existing Garda investigation going on into the altar boy complaints. Fr Ó Saorai told the parents that there were other allegations. The parents were shocked and could not understand why the parish priest would not act. He said that if they went to the Archbishop he would vouch for their truthfulness.

28.34 One of these parents then contacted Bishop Kavanagh. She described her approach to the Bishop as a waste of time as he never had time and he always ended the conversation with “*pray for him*”. The parents wrote to the Archbishop asking him to remove Fr Carney from their parish “*but not into another parish where he can continue his actions*”. The Archbishop’s secretary acknowledged this letter as the Archbishop was away.

28.35 One set of parents of the swimming pool complainants made statements to the Gardaí at around this time. The other set of parents did not report to the Gardaí. The mother told the Commission that she was afraid to do so as she was ostracised by some of her neighbours for making a complaint to the Church. In November 1983 this same mother phoned Archbishop’s House to complain that Fr Carney was still around Ayrfield.

28.36 Shortly after this, Fr Ó Saorai contacted the Archdiocese when he discovered that money was missing and may have been taken by a boy who was staying with Fr Carney.

### **The Church investigation**

28.37 On 12 November 1983, Archbishop Ryan asked Monsignor Alex Stenson and Canon Ardle McMahon to investigate the swimming pool complaints – this was two months after the complaints were received. Monsignor Stenson and Canon McMahon compiled a comprehensive report.

28.38 Fr John Wilson, the Archbishop’s secretary, told the Church investigators that he had been approached by a classmate of Fr Carney who

was concerned about Fr Carney's drinking and his non-attendance at retreats and class gatherings. Fr Ó Saorai had been in touch with Fr Wilson and had indicated that people had complained about Fr Carney. Fr Ó Saorai had interviewed two sets of parents who had complained to him and he was aware that there had been other allegations and that parents had already gone to the Gardaí.

28.39 Bishop Kavanagh was informed of the difficulties and was in touch with Chief Superintendent Maurice O'Connor of Whitehall. Fr Wilson was aware that the accusations were at that stage in the DPP's office. Bishop Kavanagh had recommended that Fr Carney leave the parish for a month; it was also indicated that he should not go back to Ayrfield nor should he have children around the house. In fact, Fr Carney was still around the parish and was involved with young people. It seems that Fr Carney had moved to stay with Fr Francis McCarthy in Enniskerry but returned to Ayrfield frequently.

28.40 Bishop Kavanagh told the Church investigators that he had been alerted to problems in early September and had spoken to Fr Ó Saorai. The report does not say who first alerted him but the Commission thinks it likely that it was Chief Superintendent O'Connor. The chief superintendent told the Commission that he considered it his duty to inform Bishop Kavanagh. Fr Ó Saorai told Bishop Kavanagh that he had heard rumours earlier and had received an anonymous call in about 1981 alleging that Fr Carney had invited a young boy to sleep with him. At this stage Fr Carney had a 19-year-old former resident of an institution staying with him. Bishop Kavanagh said he had been in touch with Chief Superintendent O'Connor who was the senior garda officer in the area. The chief superintendent told him it was unlikely that charges would be brought.

28.41 Fr Ó Saorai confirmed what Bishop Kavanagh had told the Church investigators and reported on his and Fr Carney's visit to the garda station.

28.42 The parents were also interviewed by the Church investigators. They were angry at the delay in dealing with the matter; they believed the children's accounts; they also complained of other aspects of Fr Carney's behaviour including foul language, always playing golf, unkempt appearance and inappropriate jokes. One parent asked that Fr Carney not only be removed



from the parish but also that no other parish or children be put at risk by his reappointment elsewhere. The parent also asked to be informed of whatever decision was made about Fr Carney. The report remarks about the parents' statements: *"Allowing for a certain bias in their account in view of what these parents believe had happened to their children there was nevertheless an amount of information forthcoming which was disturbing"*.

28.43 The Church investigators then put the swimming pool allegations to Fr Carney. He denied them. He agreed he got on well with children and did take the two boys (and others) swimming; he was usually accompanied by two adults (one of whom was Fr Patrick Maguire, a Columban priest who was actually serving in the Archdiocese of Dublin at the time but no one in Archbishop's House seems to have adverted to this. Fr Maguire is also a convicted serial child sexual abuser – see Chapter 16). In what the investigators described as a *"turning point"* in the interview, Fr Carney acknowledged *"horseplay"* in the swimming pool which the children could have misinterpreted. He thought that a recent allegation involving an actor from *Coronation Street*<sup>93</sup> had caused an over reaction among the parents and the children. Fr Carney also told them of a parish meeting held two years earlier where various *"wild allegations"* were made about him. These included getting the scoutmaster's 15-year-old daughter pregnant, assaulting a seven-year-old girl who was treated in intensive care, excessive drinking and always golfing. *"Some of these were obviously untrue and had been shown to be"*, he claimed. To the surprise of the investigators, Fr Carney raised the question of whether or not he was entitled to the November mass offerings. The investigators said it was their understanding that he was still appointed as curate in Ayrfield and so was entitled to the offerings. They emphasised that his recent visit to the parish had not been welcomed and that he should stay away pending the findings of this inquiry (he had turned up at a school board meeting).

28.44 Following the formal interview, Fr Carney asked to see Monsignor Stenson. He told Monsignor Stenson that he believed Fr Ó Saorai was prejudiced against him; other people and priests would speak well of him – he cited the names of some who would; he had taken hundreds of children

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Apparently there were allegations about an actor in *Coronation Street* that he had abused young girls in a swimming pool.

swimming over the years and there were no allegations; the adults who were with him should be approached; he was “*slightly less absolute about his vow of obedience*” to the Archbishop as he must defend his own personal integrity and reputation.

28.45 The Church investigators carried out the investigations quickly and thoroughly. They did not interview the children but they were well represented by their parents. They issued their report on 24 November 1983. It concluded:

- “1. We are satisfied that we got as close to the truth as we can. Fr C is sincere and believes what he tells but there seems to be a gap between what he perceives and what in fact the case may be.*
- 2. He did acknowledge “horseplay” and agreed that physical contact occurred which was open to the suggestion of sexual molestation. However, he categorically denied any attempt to sexually interfere with children.*
- 3. Fr C is in need of guidance, help and education in interpersonal relations. (Perhaps a stay in The Servants of the Paraclete, Stroud, for therapeutic and spiritual renewal might help). At present he is not suitable for Parish; nor should he be appointed to an Institution with children.*
- 4. Fr Carney has indicated his readiness to obey the Archbishop’s directives in his regard.*

*Recommendations:*

- 1. Fr Carney should be taken out of Parish ministry for some time until he has sorted out his capacity to relate with respect to others*
- 2. Fr Carney should be given immediate legal advice. Should the DPP proceed might it be advisable to have Fr C out of the jurisdiction?<sup>94</sup> Fr C has many friends and the question of financing his legal expenses should be considered. It would be a pity if we were seen to be apparently “washing our hands” in this regard*
- 3. Action should be taken immediately”.*

<sup>94</sup>

Monsignor Stenson has asked the Commission to point out that the question of sending Fr Carney to Stroud was being considered and there were concerns about whether or not this would be appropriate as a DPP decision was pending.

28.46 This report was sent to Archbishop Ryan who asked a series of questions for clarification. The replies from Monsignor Stenson reiterated Fr Carney's denial of any wrongdoing and his denial that anything could have happened which he could not remember because he was drunk.

28.47 In December 1983, Monsignor Stenson wrote to the parents of the swimming pool complainants to convey the gratitude of Archbishop Ryan and to assure them "*he is taking every measure possible to ensure that there will be no recurrence of the problem*".

#### **Interaction between Bishop Kavanagh and Chief Superintendent O'Connor**

28.48 As already described, it is clear that Bishop Kavanagh and Chief Superintendent O'Connor were in touch with each other about the complaints against Fr Carney. The contemporaneous statement of Bishop Kavanagh states that the chief superintendent told him it was unlikely that charges would be brought against Fr Carney. Chief Superintendent O'Connor told the Commission that he did tell Bishop Kavanagh that the complaints were being investigated; he said that he himself did not read the file and he denied that he told the Bishop that prosecution was unlikely. The Commission finds the contents of the contemporaneous Church documents more persuasive than the evidence of Chief Superintendent O'Connor.

28.49 Chief Superintendent O'Connor told the Commission that Bishop Kavanagh lived up the road from where he had his office (in Whitehall Garda Station) and he (the bishop) used to call into the office "*for an ordinary conversation*" maybe once or twice a month. The chief superintendent did not find this unusual and did not ask the bishop why he was coming in: "*he came in as an ordinary visitor and he'd come in, walk into my office*". They were not personally friendly. There were no particular purposes for the visits. The Commission finds this strange. People, bishops included, do not normally just walk into garda stations and then into the office of a chief superintendent without some purpose.

#### **Prosecution and court case**

28.50 There might well have been no prosecution if the altar boy complainants had gone to the Archdiocese or, indeed, if Fr Ó Saorai had

reported the swimming pool complaints to the Archdiocese when he first knew of them. The file in the case of the altar boy complaints had already gone to the DPP (in August 1983) before the Archdiocese became aware (in September 1983) that there were complaints against Fr Carney.

28.51 Chief Superintendent O'Connor was told of the case by Superintendent Byrne. The file was sent to the DPP by Superintendent Byrne in the usual way. The Commission was told by the Gardaí that it would not be normal practice to submit it first to the chief superintendent.

28.52 The Archdiocese had in its possession a copy of the report prepared for the DPP by Sergeant Kiernan. Inspector Murphy was surprised when this was pointed out to him by the Commission. It is not clear how this was acquired by the Archdiocese. In the events that happened, and given Bishop Kavanagh's privileged access to the Gardaí, the Commission considers it reasonable to infer that the Archdiocese received this document from the Gardaí.

28.53 In November 1983, the DPP issued directions to prosecute in the District Court in respect of six boys. Garda Garland was in touch with the parents to keep them updated about developments. The court date was set for 9 December. The Gardaí did not expect the case to be dealt with on that day as they thought that Fr Carney was going to plead not guilty and the question of whether or not the District Court could deal with it would have been an issue.

28.54 Bishop Kavanagh continued to be in touch with Chief Superintendent O'Connor. The Chief Superintendent told him that *"as a result of meeting in Swords with Supt Byrne, case will be held on 9 Dec at 2.00 pm in camera"*. Monsignor Stenson said in 1991 that *"to avoid publicity the Court case was moved from Howth to Sutton Golf Club"* and *"B Kavanagh did a lot to ensure the matter was kept low key and may have been instrumental in having the court case moved..."*.

28.55 In fact, the case was held at the then regular venue but it is not clear if it was dealt with in a regular manner.

28.56 Monsignor Stenson was under the impression that the court venue was moved from Howth to Sutton Golf Club to avoid publicity and that Bishop Kavanagh may have been instrumental in having it moved. In fact, the normal venue at the time for Howth District Court was Suttonians Rugby Club and this is where the case was held.

28.57 Garda Garland, Sergeant Kiernan and Inspector Murphy attended the court. One of the mothers was present. There were no other witnesses. Fr Carney was accompanied by a priest friend and a lawyer.

28.58 The case was held *in camera* – this was not unusual because it involved a minor. Fr Carney's priest friend, who accompanied him to the court, told the Commission that Fr Carney's case was set to be heard last thing in the afternoon. He was waiting for it to be held when the judge indicated that he "*was finished with all cases for the day. The court was cleared*". This priest was about to leave when a Garda indicated that he should stay. The judge then returned and the case proceeded. It is normal practice in criminal *in camera* cases to clear the court but the press are allowed to stay. It is not known if any members of the press were present at this case.

28.59 Fr Carney pleaded guilty to two counts of indecent assault against the altar boy complainants and the other four charges were withdrawn. The judge granted the Probation Act, having heard evidence that Fr Carney was receiving psychiatric treatment. Sergeant Kiernan told the Commission that the court was given a report outlining the treatment which Fr Carney had begun and it was submitted on his behalf that he would not be involved in future ministry with children. The statement from his solicitor that he was receiving medical care seems to have been a major factor in the judge's decision. In fact, he had not yet started medical treatment. Garda Garland recalled that the mother who was present was very upset by the leniency of the sentence. The garda was also disappointed.

28.60 Fr Carney's priest friend who was in court said that what saved Fr Carney was a letter from Dr John Cooney of St Patrick's Hospital. Afterwards, Fr Carney wanted a celebration with "*the lads*". His priest friend

stopped this. He told Fr Wilson that Fr Carney should go to St Patrick's immediately; Fr Wilson agreed.

#### **After the court case**

28.61 Bishop Kavanagh wanted to have Fr Carney admitted to St Patrick's Hospital immediately but Fr Carney wanted to wait until after Christmas. Bishop Kavanagh told Fr Carney to stay away from the northside.

28.62 Fr Carney's priest friend reported to Fr Wilson that Fr Carney was drinking a lot, was in debt and his car was not taxed. He thought Fr Carney should really be reduced to the lay state because of his behaviour: "*Fr C does not seem to realise the seriousness of the situation. He considers himself innocent of the charges*". He said that Fr Carney had to be restrained from visiting a complainant's home the night before the court case; he invited people from Ayrfield to the friend's house the night before; this priest said he would exercise as much control as he could but could not promise much success.

28.63 It seems that everyone dealing with Fr Carney at this stage, including Archbishop Ryan, thought he should be in hospital but Bishop Kavanagh seems to have been reluctant to insist and he decided not to take further action until after Christmas.

28.64 Archbishop Ryan wrote to Fr Carney, ending his appointment at Ayrfield. The letter said "*I must ask you to sever all links with the Parish of Ayrfield and avoid those places and persons which have been the occasion of your difficulties*". It also referred to Fr Carney being in Dr Cooney's care for treatment (which he was not at that stage). Fr Carney had gone to stay with another priest in spite of the fact that Bishop Kavanagh had specifically forbidden him to stay there.

28.65 Later in December 1983, Fr Carney wrote to Archbishop Ryan telling him that he had arranged with Dr Cooney to go to St Patrick's Hospital on 6 January 1984. He was going away with a friend for a few days before that. He said he had been "*dry*" for two weeks and he apologised for the upset he may have caused the Archbishop.

28.66 Inspector Murphy told the Commission that there were no discussions with other authorities about the danger posed by Fr Carney to children. “*I suppose looking at it we depended on the Church authority to deal with that aspect of it*”. Sergeant Kiernan told the Commission that he now thinks he should have contacted Archbishop’s House after the court case to try to ensure that Fr Carney was not ministering to children and that he should have contacted the health board.

#### **1984**

28.67 Fr Carney was treated in St Patrick’s Hospital from January 1984 until March 1984. He was then given a temporary assignment in Clonskeagh parish under the direction of Monsignor Michael Browne PP. While in Clonskeagh, Fr Carney was to live with the Marist Fathers in Milltown and from April to July 1984, he was to attend a residential retreat for priests. The Marist Fathers have told the Commission that, even though they asked, they were not made aware of the reason for Fr Carney’s stay with them.

28.68 Monsignor Browne was told by Monsignor Jerome Curtin “*in outline only*” some features of Fr Carney’s time in Ayrfield; he was given further information by two other priests, one of whom was Fr Francis McCarthy. Monsignor Stenson told the Commission that he was under the impression Monsignor Browne had been briefed. Monsignor Browne told the Church penal process in 1990 that he was told that Fr Carney had an alcohol problem. He had heard some rumours about complaints in his previous parish. It is clear that Monsignor Browne was not fully informed as he did not make any effort to keep Fr Carney away from children. In April, Monsignor Browne reported to the Archbishop that Fr Carney was “*reliable, punctual, always available for more work than he had been assigned*”. His celebration of mass was commended; he celebrated class masses in local schools and the teachers felt this was a priest who could “*really communicate with the children*”. He maintained contact with St Patrick’s Hospital and with Alcoholics Anonymous (AA). Nothing was done as a result of this report, even though it contained a clear account of Fr Carney’s continuing involvement with children. In fact, it would appear that it was regarded as a good report.

28.69 At some stage, the head of the Marist house told Monsignor Browne that Fr Carney was not staying there all the time and that he had had to reprimand him for his coarse language.

28.70 It is not clear if Fr Carney ever attended the residential retreat. He certainly did not stay very long, if he attended at all. He told Archbishop Ryan in July that he had told Bishop Kavanagh in advance that he would not be attending – this cannot be established. His non-attendance or partial attendance seems to have come to the attention of the Archbishop only when the retreat was over – in effect, no one was monitoring him for that three month period.

28.71 In July 1984, Archbishop Ryan met Fr Carney who said he had adhered to his doctor's instructions and had not consumed alcohol since December 1983.

28.72 There is no written report from Dr Cooney at this stage but he did tell the Archbishop's secretary in July that Fr Carney should be given a diocesan appointment but that he would need to be supervised by the parish priest. Dr Cooney requested Fr Carney to report to him on a weekly basis for six to nine months and said that this should be a condition on which Fr Carney was to be offered a pastoral position. While Stroud was a possibility, Dr Cooney felt that, because of the immaturity and vulnerability of Fr Carney, he would be better to remain in his own environment in the conditions outlined. A place which had been booked for Fr Carney in Stroud was cancelled.

28.73 Monsignor Browne was asked to take Fr Carney on the same conditions as before – that is, he had to live in the Marist house and be under supervision. Monsignor Browne expressed every willingness to co-operate but did say he was gravely disappointed with Fr Carney's behaviour as he had heard some reports which were not good; these were not specified. Fr Carney was sent to Clonskeagh on the same conditions as before. Bishop Carroll met Fr Carney who was unhappy that he did not get a permanent appointment. Bishop Carroll walked Fr Carney to his car and reported that there was a young boy (he used the Latin word "*puer*") in the car.



28.74 A parent of one of the victims wrote to Monsignor Stenson pointing out that it was nine months since their meeting. He had asked then to be kept informed of “*ensuing events*”, and he had heard nothing. He had had to move his family from Ayrfield out of duty to his children, to get away from Fr Carney who he described as being “*free and unbridled*” and was seen swimming in Portmarnock Community Centre with children. Monsignor Stenson sent a holding letter to him and then wrote to Archbishop Ryan for advice on how to deal with the letter from the parent. Monsignor Stenson pointed out to Archbishop Ryan that he was “*not au fait*” with Fr Carney’s progress or treatment. He was not happy that the parent was setting himself up as “*a moral watchdog on this priest’s future activities and appointments*” and did not think he had a right to be kept informed of “*ensuing events*”. This neatly encapsulates the Church’s attitude to lay members during this period. In evidence to the Commission, Monsignor Stenson said he regretted the tone of this letter but he thought that the initial complaint had been reasonably well handled and he had written to this parent in December 1983. Monsignor Stenson also asked the Archbishop what person was monitoring Fr Carney’s present involvement with youth and whether Fr Carney was still swimming with children.

28.75 In August, the Archbishop’s secretary asked Monsignor Stenson to see Fr Carney and discuss the allegations made in the letter from the parent. Monsignor Stenson did so immediately and reported as follows:

*“I contacted Fr. Carney at the Marists and asked if he would come and see me. He could not come at 2.30 as he had to see Dr. Cooney. I suggested 3.45 and it was agreed. Within a short time he was back on the ‘phone indicating that he had cancelled Dr. Cooney and would come to see me immediately. I impressed on him the importance of seeing Dr. Cooney and that our meeting would follow on that.*

*When he arrived at 3.45 he indicated that he had been to Dr. Cooney and was seeing him twice weekly? I explained that a letter had been received and read it for him but did not reveal where [the parent who had complained] was now living. Fr. Carney admitted that he had been swimming in Portmarnock with a man and his two children - one of whom is Fr. Carney’s godchild. This is a different godchild to the one involved in the earlier allegations. He also admitted that he had visited one or two*

places in Ayrfield. He indicated that he was involved in the Summer Project in Clonskeagh and went swimming with children from there. He was categorical in stating that no untoward incidents had occurred and that he had been "on the dry" since 11th December (with the exception of Christmas Day - 2 drinks), and now saw things far more clearly. With regard to the original allegations in Ayrfield he conceded that "one" incident" may have occurred in the past but if it did he was drunk and could not remember it. He only pleaded 'guilty' in the Court case on legal advice and to avoid embarrassment for the Diocese.

I made it clear that my sole purpose in having a word with him was to offer advice - to be prudent in his pastoral and recreational activity. Given the fact that [the parent who was complaining] could or would hear of Fr. Carney's continued involvement with young boys, he could make life very difficult for him if he went public and even if the charges were without foundation. I suggested that for everyone's sake - not least his own - it would be wise for Fr. Carney to steer clear of this type of activity and preclude this possibility. He didn't quite see the point I was making and countered it by saying "nothing had happened". When I tried to repeat the point he concluded that he would not be allowed have involvement with the Primary School in Clonskeagh nor have Altar Boys for his Mass etc.

I pointed out that he owed it to himself not to allow even the suspicion of allegations be made in his regard, and that there was ample scope for his Priestly Ministry even if he avoided specific concentration on young children. He believes that he has a 'gift' - a way with them.

He is not pleased that he is living in the Marist house and would prefer his own flat etc. Again I suggested that that decision may have been with a view to helping him - by eliminating the possibility of allegations in his regard. The fact that he has not a permanent appointment also rankles with him.

All in all I think the meeting was helpful and reasonably satisfactory. Bill doesn't see the problem as others see it. He has his own perception and little or no grasp of how others might see his situation. While not drinking, it would seem he still goes in with the lads and they, not he, have a 'few

*jars'. "Imprudence" would best sum up the picture. He attributes all his earlier failings among which he listed, dipping into Church funds etc. as due to his drinking problem. Now that this has been identified, and he is being treated for it, he believes all the other problem areas have been eliminated.*

*Whether he will curtail his activity as a result of our meeting I do not know. He is clear that I was only offering advice which, given his circumstances and the recent letter, might be useful for him".*

28.76 In September 1984, Fr Carney said he had been asked to help at a children's holiday home. Monsignor Browne told him to check with the Archbishop. Bishop Joseph Carroll (who was in charge of the diocese as Archbishop Ryan had resigned on 1 September 1984) told him to cancel any arrangements with the holiday home and to keep to the terms of his appointment in Clonskeagh. Fr Carney's situation was discussed by the auxiliary bishops and it was decided that he should remain in his temporary appointment in Clonskeagh.

28.77 In October, the Archdiocese was informed that Fr Carney rarely stayed at the Marist house. Monsignor Browne wanted a review of his case. He reported that Fr Carney was saying mass in Malahide; Fr Carney told him that he was attending AA regularly and was secretary to the AA group in the Raheny/Baldoyle area. In November, Bishop Kavanagh met Fr Carney and told him that his behaviour was unsatisfactory; his present appointment was to continue for three months' probation and he was to report regularly to his medical adviser.

## **1985**

28.78 In January 1985, Fr Carney was interviewed by Monsignor Stenson and Bishops Carroll and Kavanagh. They were appointed by Archbishop Kevin McNamara to look into the various new allegations against Fr Carney. (Archbishop McNamara had become Archbishop on 20 January 1985.) Among other things, there were suggestions that he was frequently in the company of an 18 year old late at night and there was a mention of "*possible charges as a result of information made available to the Rape Crisis Centre. The precise details and the source of this information were not clear*". Fr

Carney refused to go to Stroud and mentioned the possibility of going to Australia or challenging the allegations made concerning him. He was given 24 hours to consider the Stroud proposal.

28.79      Soon after this, Archbishop McNamara asked Monsignor Stenson to investigate the possibility of withdrawing Fr Carney's faculties in order to put pressure on him to reconsider his position and to accept the offer of help in Stroud or elsewhere.

28.80      About two weeks later (not within the 24 hours specified), Fr Carney wrote to Bishop Carroll saying that all his problems were due to alcohol and that he needed a new diocesan appointment. This is one of many long self-serving letters full of religious sentiment which Fr Carney wrote. It shows that he was then living in Baldoyle, even though his orders were to stay with the Marists and away from the northside.

28.81      The bishops and Monsignor Stenson decided to get a full report from Dr Cooney. It seems that this report was provided orally to one of the bishops (probably Bishop Kavanagh) so its contents are not known but it would appear that residential treatment was recommended. There was further communication between Fr Carney and Monsignor Stenson in which it became obvious that Fr Carney was not recognising his problem and was prevaricating. Among other things, Fr Carney said that he was attending a counsellor and that the counsellor thought his problems were due to alcohol: *"she did not believe, no more than I do, that I have any problem in this sexual area"*. Monsignor Stenson saw Fr Carney in Clonliffe College. He was accompanied by a youth. Eventually, in late March, Fr Carney informed the diocese that he would not go to Stroud – nearly three months after he had been given 24 hours to make a decision. Two weeks later, Bishops Carroll and Kavanagh met Fr Carney and made it clear to him that there was no place for him in the diocese but it was still possible for him to go to Stroud. He refused to go to Stroud saying: *"I do not believe it is what God wants me to do"* and *"I would be afraid of drinking again. I know A.A. will improve me"*. Subsequently, he also refused to go to another therapeutic facility in the UK.

28.82      On 19 April 1985, Archbishop McNamara wrote to Fr Carney informing him that he was withdrawing his diocesan faculties. Fr Carney was now

effectively suspended but there did not seem to be anyone checking on what he was doing or where he was living. There is no evidence that other priests were informed of his changed status.

28.83 In July 1985, the parent who had earlier complained of not being informed of developments wrote to point out that he had suffered financial loss because he had had to move house. This letter was acknowledged but no further action was taken.

28.84 Fr Carney and his solicitor continued to write to the Archbishop looking for his re-instatement. In September, Archbishop McNamara offered Fr Carney the option of going to Belmont Park Hospital, Waterford under the care of Dr Lane O’Kelly. This was a psychiatric hospital which provided treatment for alcohol problems. (It closed in 1992). There is no evidence that it had any expertise in child sexual abuse. Fr Carney accepted this offer. Dr Lane O’Kelly was told (in September) that he should contact Dr Cooney to get the background but it is not clear that Dr Cooney knew the full background. There is no evidence that the people who did know the full background actually briefed Dr Lane O’Kelly at this stage. There is a record from the files in Archbishop’s House that he was briefed when he visited there in late November. Monsignor Stenson told the Commission that he provided full information about Fr Carney’s background to Dr Lane O’Kelly in November 1985. It is clear that the programme Dr Lane O’Kelly was implementing was for alcoholism even though Fr Carney himself claimed, and others seemed to believe, that he had not been drinking for two years. Monsignor Stenson accepts that alcoholism “*was the focus and, with hindsight, I would say that was a mistake*”.

28.85 Fr Carney was in the hospital for a very short time when he started scheming to be allowed out at weekends. It is clear that he was a less than enthusiastic participant in his treatment. In November, he discharged himself from the hospital and wrote a long letter to the Archbishop seeking clarification about his continuance in hospital and his prospects of operating as a priest again. The Archbishop made it clear that he was to return to the hospital and follow the doctor’s orders. Dr Lane O’Kelly came to Archbishop’s House to meet the Archbishop and Monsignor Stenson and to report on Fr Carney’s progress. He wanted Fr Carney to spend more time in hospital, with

the possibility of a return to ministry in the new year. This would be “*in a controlled situation*” and subject to “*careful monitoring*”.

- 28.86 In December Fr Carney was allowed to say mass but did not yet have all his faculties restored.

### **1986**

- 28.87 In January 1986, Fr Carney was released from hospital on a trial basis. Dr Lane O’Kelly suggested an appointment south of the Liffey in order to facilitate his visits to the Waterford hospital. His faculties were restored on condition that he continue to attend Dr Lane O’Kelly at monthly intervals and that he avoid those areas particularly on the north side of the city, for example, Ayrfield and Donoghmede parishes and Portmarnock Leisure Centre, where his presence “*might give rise to unfavourable comment on the Church*”. Fr Carney was appointed to the parish of Clogher Road. The parish priest, Fr James Kelly, issued a strong letter of protest. The letter refers to earlier experiences in this and a neighbouring parish and argues that he should have been consulted. It seems that Fr Kelly was aware of the nature of the problem but this is not explicit. Monsignor Stenson told the Commission that he discovered at a later stage that Fr Kelly had not been as well briefed as he (Monsignor Stenson) had thought at the time. Monsignor Stenson also told the Commission that he was “*horrified*” when he heard of the appointment; he himself had no involvement in appointments. This parish had already had a number of problem priests –

and there was another priest who had a different problem - and Fr Carney would be living alone.

- 28.88 During the year, Dr Lane O’Kelly reported to the Archdiocese that he was satisfied with Fr Carney’s progress and attendance at the hospital. The Archbishop continued to remind Fr Carney that the appointment was temporary and was conditional on good reports.

### **1987**

- 28.89 In February 1987, the parent who had reported financial problems wrote with information about proceedings for the recovery of possession of his house because he was in default with his payments. He was clearly very angry with the Church. His letter was acknowledged but nothing further was

done. Monsignor Stenson told the Commission that his reply was “*curt*” and he did not think much of it as a priest but he was concerned about the possible liability of the Church.

28.90 In November 1987, Monsignor Stenson noted in a memorandum that Bishop Desmond Williams told him that he (Bishop Williams) had been contacted by someone from the health board who was aware of Fr Carney’s record in relation to children and who was concerned that he was back in ministry. Monsignor Stenson said that Bishop Williams did not tell him who this person was. A number of social workers who were working for the health board at the time told the Commission that they were not aware that Fr Carney had pleaded guilty to indecent assault and, in fact, did not become so aware until this Commission was established and they were preparing to give evidence. The Commission accepts that the social workers were not aware of the guilty plea but it has no reason to doubt that Bishop Williams was contacted by someone in the health board. Clearly, someone in the health board who was in a position to approach Bishop Williams was aware and did not inform his/her colleagues. Monsignor Stenson met Fr Carney and advised him that, given his past record, it was vital that he should not leave himself open to accusations of any kind, least of all from people who might be hostile to him. Fr Carney accepted this reluctantly. At this meeting, Fr Carney admitted that he had not attended the hospital for about a year. Monsignor Stenson said: “*We thought that he had been attending Belmont Park on a regular basis but, in fact, he had not*”. There was no one specifically mandated to check on this.

28.91 In December 1987, a boy who had been in care in St Joseph’s told his foster parents that he had been abused by Fr Carney. The parents reported this to their local priest who reported to the Archdiocese and to a social worker. The social worker heard from a nun in the home that there were concerns about former residents who were staying with Fr Carney in Clogher Road. The boy was now aged 16 and he was adamant he did not want to report to the Gardaí.

## **1988**

28.92 The priest to whom the allegation by the former resident of St Joseph’s was reported and Monsignor Stenson established the following:

- Fr Carney lived on his own in Clogher Road.
- Children frequented the house and some children had stayed overnight; a former resident of a care home was currently living there and another former resident used to live there.
- Fr Carney took local children swimming and organised regular outings for children; he was working with the boy scouts.
- He had developed very familiar relationships with a small number of families that had problems and had no father figure, and had holidayed with these families.
- There was “*an awareness locally*” of his history.

28.93 The priest to whom the allegation was made expressed concerns that the local priests in Clogher Road had not been consulted when Fr Carney was sent there and that there was no support from the diocese for local priests. He pointed out that “*there seems to be nobody responsible*” and that the parish priest was under pressure.

28.94 Monsignor Stenson concluded:

*“With hindsight it would appear that:*

- i) *the appointment to Clogher Road was a mistake - there was a previous history of this problem there;*
- ii) *residential accommodation on his own is not in Bill's best interest;*
- iii) *the 'monitoring' has not been as tight as it might have been. Fr. Kelly was hearing nothing from Archbishop's House and we were hearing nothing from him. The other priests in the Parish were aware of some problem but they never discussed it together;*
- iv) *There was no 'ongoing' monitoring of medical reports - Bill in fact stopped seeing Dr. Lane when he considered he was no longer in need of him. We were unaware of this;*
- v) *In the light of the above it would be helpful if all Departments co-ordinated information in respect of such cases. This happened with the [redacted] file. But I gather from [the priest to whom the complaint of the boy from St Joseph's was reported] that Father Kelly had written of his concerns to Archbishop's House at some stage. Is this true? I have no record of it".*



- 28.95 It seems that nobody had told Fr Carney to stay away from children.
- 28.96 The health board offered counselling to the complainant from St Joseph's. There is no evidence that it followed up on any children who were in care at the time this abuse occurred or that it checked its own records to see if further information was available on other children. If it had, what were perceived at the time as concerns about crushes and inappropriate expectations would have been seen in a more sinister light. St Joseph's was closed at this stage.
- 28.97 The bishops decided to remove Fr Carney and provide residential care. Bishop Williams felt that Fr Carney's behaviour was inappropriate but did not yet merit a penalty, for example, suspension. They also decided that the priest to whom the allegations were made should be told that something was being done about his representations. Nobody reported back to the foster parents.
- 28.98 It is not clear that the allegation of sexual abuse of the boy from St Joseph's was ever put to Fr Carney. The other allegations about his activities in Clogher Road were put to him and he accepted that they were true but he was annoyed that what would be acceptable for other priests should be unacceptable from him. He "*reacted badly*" when told he was being removed. Subsequently his solicitor contacted Bishop Kavanagh requesting details of the complaints which had been made and asking for a meeting. Monsignor Stenson met the solicitor who told him that Fr Carney found the proposal to leave Clogher Road and obtain psychological assessment unacceptable.
- 28.99 In April 1988, about a month after he was consecrated as Archbishop of Dublin, Archbishop Desmond Connell met Fr Carney. The Archbishop told Fr Carney that he would be allowed to continue in Clogher Road, on a temporary basis, under certain conditions. These included seeing a Dublin based psychologist, being discreet in his behaviour and not having young people stay overnight. Monsignor Stenson raised the matters of monitoring and having some priest live with Fr Carney but these do not seem to have been addressed.

28.100 One of the parents from Ayrfield approached Fr Carney. He was very upset about the damage done to his son and spoke in terms of seeking compensation or writing to the papers. Fr Carney told Monsignor Stenson and his solicitor about this. Fr Carney was negotiating about his future directly with the bishops and indirectly through his solicitor. He wrote long pleading letters to the Archbishop.

28.101 In October 1988, Archbishop Connell met Fr Carney again. Fr Carney told the Archbishop that incidents were occurring in Clogher Road which were drawing attention to him and he wanted to discuss them. He said he took separated wives to Kerry. He felt that he could help some who had alcoholic problems. One of these women had children. Her husband had learned of Fr Carney's background and was anxious about the possible implications for the children. Fr Carney, on hearing of this, spoke to the woman in question and told her that he would not be able to continue the counselling arrangement that had existed between them. He also spoke of an incident that had occurred in the yard of the girls' school. The caretaker had said that he had observed an incident taking place between Fr Carney and a group of girls and had spoken to some people of this. Fr Carney said that a teacher in the school was also observing and would back him (Fr Carney) by saying that there was nothing wrong in what happened and the caretaker was wrong in his claims. Fr Carney took a group of the girls bowling on occasion. The Archbishop advised him against this in the future and Fr Carney agreed.

## **1989**

28.102 In February 1989, Fr Carney called to see the Archbishop and informed him that the father of one of the girls in a group with which he was involved told him that he did not want Fr Carney near his daughters. Fr Carney assured the Archbishop that he had "*done nothing*" to this man's daughter. The Archbishop recommended that he tell the parish priest about this and that he continue working with the group for the rest of the year but remove himself from it after that.

28.103 In August, the parish priest reported that Fr Carney had been taking boys swimming but not alone. The parish priest thought a change for Fr Carney would be a good idea.

28.104 In August, parents from Ayrfield contacted Bishop O'Mahony. They were concerned about their sons and about Fr Carney's access to children. The mother was looking for pastoral and spiritual help as her husband and sons had stopped practicing their religion. Bishop O'Mahony reported this to Archbishop Connell. Bishop O'Mahony told the Commission that Archbishop Connell was "*shocked and upset*". Bishop O'Mahony believes that this was the first time that Archbishop Connell "*became fully aware of the serious spiritual harm inflicted on children and young people through clerical sex abuse*". This, according to Bishop O'Mahony, prompted Archbishop Connell to review Fr Carney's position and impose more restrictive conditions on any future appointments. Bishop O'Mahony told the Commission that he rang the mother a few times after this. He did not meet the boys as they did not want to meet him.

28.105 Monsignor Stenson told the Church penal process that it was well known in Ayrfield parish that Fr Carney had problems and there were rumours about his behaviour. He had been seen in the local golf club and he had a young boy caddying for him. This was corroborated by two priests who said it was a constant feature of Fr Carney's pattern of behaviour at the golf club.

28.106 Archbishop Connell decided that Fr Carney should be moved and have more stringent conditions attached to his appointment. Monsignor Stenson and Bishop Kavanagh met Fr Carney and told him he was to be removed from Clogher Road, be moved to a shared ministry and was to continue to see the psychologist. Fr Carney regarded this as another proposal. He told them he was going on holidays with women and children.

28.107 The psychologist was asked for a report. He reported that he had seen Fr Carney on four occasions in the period March – May 1988. He said that Fr Carney showed no evidence of psychopathology. Again, it is not clear what the psychologist knew about Fr Carney because the report does not once mention child sexual abuse. It outlines various good and bad aspects of Fr Carney's personality and points out that he would deviate considerably from the Church's teaching on moral issues. He is "*still seeing a married woman and a single girl*". The report states that he did not engage in sexual intercourse with them but did feel free to indulge in a "*kiss and a cuddle*". It should be noted that Fr Carney had not actually attended this

psychologist since May 1988 and seems to have been assessed but not treated by him. It is clear that nobody in authority in the Archdiocese knew what Fr Carney's interaction with the psychologist was for almost a year and a half after he was referred.

28.108 In late August 1989, a young woman who had been a resident in The Grange complained to Monsignor Stenson that she had been abused by Fr Carney while in the care home and subsequently. She alleged that he was the father of her recently born child. She was aware that Fr Carney now had a young boy staying with him and she was concerned about his welfare. Monsignor Stenson told the Commission that this was the first time he had met an alleged victim of Fr Carney. He believed what she was telling him and he was horrified by what Fr Carney had done. Monsignor Stenson told the Commission that he virtually always believed the complainants even though he did not regard it as appropriate to his role to make them aware of that. His task was to record their stories. When confronted by Monsignor Stenson, Fr Carney accepted that he could be the father of the child. Fr Carney wrote to the Archbishop to apologise but said he had since made his peace with God.

28.109 Archbishop Connell told Fr Carney to leave Clogher Road by 30 September and go to live in a diocesan house in Cappaghmore (Clondalkin). Fr Carney, as usual, regarded this as negotiable. He looked for, and got, more time so that he could say goodbye to his old and ill parishioners on the First Friday. This extension was granted, with certain conditions. On 5 October, the Archbishop wrote to Fr Carney and told him to go to Cappaghmore. Although he was asked not to do so, Fr Carney made this public during a mass in Clogher Road shortly before he left, indicating that he was giving his blessing for the last time. This led to a number of letters from parishioners saying that it was most unfair that he should be going as he was a wonderful priest.

28.110 Fr Carney told the Archdiocese that the young woman had made a statement saying that matters had been resolved between herself and Fr Carney (this was clearly not so as subsequent events showed). Fr Carney then wrote to the Archbishop saying that the "*agreement is done*", there is no possibility of scandal so his position should be reconsidered.

28.111 The young woman told the social worker with whom she had been dealing while she was in the institutions that she had been abused as a child by Fr Carney. The social worker told the Commission that, while she had not suspected sexual abuse at the time, the revelation did not surprise her. The social worker accompanied the young woman to the Garda station to make a complaint. The social worker notified her superiors in accordance with the normal reporting mechanisms. She offered counselling and gave ongoing support to the young woman. The Grange had been closed at this stage.

28.112 In October 1989, Monsignor Stenson wrote to Fr Carney stating that, given his stated preference to stay in the priesthood, the Archbishop and Auxiliary Bishops were asking him to consider living out his priestly life in a monastic setting or, if this were not acceptable and given the impossibility of appointing him to pastoral ministry in the Archdiocese, to consider retraining for the lay state. While his faculties were not formally removed, Fr Carney had no diocesan appointment. He was getting a monthly allowance of £500. He engaged in lengthy exchanges with Monsignor Stenson about the support he would get if laicised, the availability of a canon lawyer and the fact that he prayed for Monsignor Stenson.

28.113 Meanwhile, the young woman was pursuing her claim for maintenance of the child and the case went to court. Fr Carney wanted the Archdiocese to pay for the blood test to establish if he was the father. The blood tests established that he was not, in fact, the father. The Gardaí sent their file to the DPP but did not recommend prosecution.

## **1990**

28.114 In February 1990, the Archbishop and Monsignor Stenson met Fr Carney and the Archbishop told him that he was not prepared to give him a diocesan appointment at that time or in the future. He asked him to consider applying for laicisation and asked for a response by 1 March; the only alternative open to him was for the Church to institute a penal process to dismiss him from the clerical state. Fr Carney looked for an extension and got one until Easter. There were numerous pleading letters but he was told that the process would start in May 1990.

28.115 Meanwhile, it was discovered that Fr Carney was still going to Clogher Road and he was instructed to cease this. The Archdiocese wanted him to move out of Cappaghmore; he was offered money to pay for alternative accommodation. He was very reluctant to move out. There was further correspondence between Fr Carney and Monsignor Stenson. Fr Carney started work as a taxi driver and was looking for money to buy a taxi plate. The Gardaí were investigating the allegations made by the young woman and Monsignor Stenson provided the Gardaí with an address for Fr Carney.

28.116 The tribunal to hear the penal process was set up in December 1990. Penal proceedings are described in Chapter 4.

### **1991**

28.117 Fr Carney continued to write long self-serving letters looking to be restored to ministry. He was still living in Cappaghmore. He eventually said he would voluntarily seek laicisation. The Archdiocese decided not to bargain and to await the outcome of the penal process.

28.118 The penal process continued during 1991. A number of complainants and parents of complainants gave evidence. One complainant mentioned, in the course of his evidence, that he was in a holiday caravan with Fr Carney and there was another priest there with a boy. (In later civil proceedings, he named this priest as Fr Francis McCarthy). He also mentioned other teenage boys who were in Fr Carney's house in Ayrfield. Evidence was also given by a nun from one of the institutions and by a social worker.

28.119 During the church penal process, the Director of Psychological Services for the Hospitaller Order of St John of God was asked to study the file of evidence that was being presented to the Church court. He did not see Fr Carney nor did he see the previous psychological and psychiatric reports. He stated that once a pattern of paedophile activity was established it did not depend on alcohol for its expression. He identified Fr Carney as having a serious personality disorder the features of which are frequently associated with paedophilia. He noted that he had consistently denied the extent of his problems and the seriousness of his actions. Given the above characteristics, he believed that Fr Carney must be diagnosed as having a psychopathic personality disorder and was homosexually paedophile. As

such, the prognosis for Fr Carney was very poor and it was the psychologist's view that he should not be given any status as a representative of the Church. He noted the arguments advanced in some quarters that paedophilia was a psychiatric disorder and included compulsive behaviour over which the sufferer had no control and could therefore plead insanity or diminished responsibility. His own view was that if society took such behaviour as Fr Carney's as meriting a judgment of insanity or diminished responsibility in circumstances where the perpetrator showed foresight and knowledge there would be no basis for moral or legal behaviour in society.

## 1992

28.120 Fr Carney himself did not participate in the church penal process but was represented by a canon lawyer. The penal process was completed and, on 9 March 1992, Fr Carney was dismissed from the clerical state. The judgment of the tribunal was unequivocal. Fr Carney was guilty of child sexual abuse and there was no basis for mitigating the penalty. The members of the tribunal were very clear about the damage caused by Fr Carney to the victims, his denial of wrongdoing, his total absence of remorse, the enduring and habitual nature of his offences and his failure to abide by the instructions of his superiors.

28.121 The judgment did not refer at all to the evidence given by one complainant about the presence of another priest in a caravan where this complainant was abused. This matter was not followed up by anyone in authority (see Chapter 41).

28.122 In June 1992, the judges of the tribunal wrote to Archbishop Connell with comments about the handling of the case. Their letter shows that they had a good understanding of the issues involved but they did not mention the risk posed by the other priest. They pointed out that "*Paedophilia is a very special kind of deviancy and requires special vigilance*". They then went on to make the following points:

*"In the Carney case we feel that a penal process should have been initiated earlier than was done in this case. The accused in that case accepted treatment for his alcoholism but refused to go to Stroud to get treatment specific to his complaint. Like Alcoholism there is no hope of cure for the paedophile unless he comes to terms with his*

*complaint. To this day the accused has refused (despite a civil court case and much other evidence) to admit that he suffers from this paraphilia. Treatment for concomitant alcoholism is not a substitute for a recognition of and specific treatment for paedophilia. Even with special treatment the prognosis for the paedophile is generally rather bleak. A refusal to undergo such special treatment should be taken as proof of contumacy.*

*When a priest like the accused is committed to a prudent parish priest for a period of trial it is important that the parish priest be made aware of the reason why the accused is committed to his care. This is more important in cases of paedophilia than, perhaps, any other. It seems that the parish priests to whom the accused was committed had no inkling of the precise reason as to why he was there. Paedophilia can wear a deceptive mask. Parishioners are easily fooled by the interest a priest shows in their children. Children are unable to tell their parents. There is abundant evidence of this in the present case. A Parish priest may easily suspect drink, or a liaison with a woman when a fellow priest is committed to his corrective care. He is less likely to suspect paedophilia. Again, it disguises itself as an interest in the altar boys or the youth of the parish. It is only when irreparable damage has been done that the parish priest realizes.*

*In the recent case it seems that monitoring of the accused was not helped by the fact that he had a house all to himself in Clogher Road, and again in Clondalkin. The evidence shows that he used these houses as he had used the house in Ayrfield. It is true that this was *praeter intentionem*<sup>95</sup>.*

28.123 Mr Carney's monthly allowance was stopped in April 1992. The Archdiocese was still trying to get him to leave the house in Cappaghmore. There were discussions between Mr Carney and Monsignor Stenson and then between Mr Carney and Monsignor Wilson about financial matters. It seemed as if a settlement was reached in November 1992.

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*Praeter intentionem* literally means beyond the intention; it is a philosophical term used to distinguish between an intended consequence and an unintended consequence.



### 1993 to date

28.124 There were further financial negotiations between the Archdiocese and Mr Carney. Mr Carney was, as described by Monsignor Wilson, constantly changing the goalposts. He eventually left the house in January 1994 – about four years after he was first asked to leave. He received a lump sum of £30,000 from the Archdiocese.

28.125 In July 1994, the two complainants in respect of whom Fr Carney had pleaded guilty sued the Archdiocese. The young woman also started proceedings. Her story began to appear in the newspapers and coverage continued throughout 1995.

28.126 Another complainant came forward in December 1994. Archbishop Connell and Monsignor Stenson met him in February 1995 and apologised to him. He was offered counselling. A number of other people made complaints in 1995. One complainant alleged that he was abused by both Fr Carney and Fr Francis McCarthy – see Chapter 41. He also complained to the Gardaí. The young man who had been in St Josephs's complained to the Gardaí and started civil proceedings. Monsignor Stenson made a statement to the Gardaí about his involvement with this case. Other complainants came forward in subsequent years. They were met by the chancellor and/or by the delegates. The procedures set out in the *Framework Document* were being followed.

28.127 In 1998, steps were taken to contact affected families in Ayrfield. The Archdiocesan records suggest that the parish priest visited one family and got a “cold reception”. This family told the Commission that they were not visited at that time. Archbishop Connell was particularly anxious to contact the family who had had to leave Ayrfield and had suffered financially as a result. Contact was eventually made after a series of errors about addresses. The delegate tried to keep in contact with a number of the complainants. Further complainants continued to come forward. It is likely that some made complaints to the Residential Institutions Redress Board.<sup>96</sup> There was no further prosecution mainly because the DPP took the view that the delay in

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The Residential Institutions Redress Board was established under the *Residential Institutions Redress Act 2002* to award redress to people who had been abused in children's homes. The proceedings of the board are entirely confidential.

making the complaints was too great. A family told the Commission that one complainant had committed suicide.

28.128 Archbishop Martin met a number of the complainants after he was appointed as Archbishop and they generally found him sympathetic. The Child Protection Service continues to be in contact with those who want that contact.

28.129 Mr Carney had been a taxi driver for a time after his laicisation. By a remarkable coincidence, one of the complainants actually got into his taxi inadvertently. Mr Carney seems to have left Ireland sometime in the mid 1990s. He was known to be living in Scotland but his current whereabouts are not known.

### **The Commission's assessment**

#### *Archdiocese*

28.130 The handling by the Archdiocese of the large number of allegations and suspicions in relation to Fr Carney is nothing short of catastrophic. The Archdiocese, in its handling of the case, was inept, self-serving and, for the best part of ten years, displayed no obvious concern for the welfare of children. This had appalling consequences for all the complainants and their families, not least for those people who were abused after the Church had knowledge of Fr Carney's extensive history of abuse as, with appropriate handling, their abuse could possibly have been prevented.

28.131 In evidence to the Commission, a number of senior churchmen acknowledged that this case was very badly handled. Monsignor Stenson said that Fr Carney should not have been ordained. He went on to say that when problems arose *"the nettle should have been grabbed much quicker and, if he didn't resign from the priesthood, he should have been thrown out much sooner"*. He said the case was handled very poorly and with a lack of decisiveness. The Commission agrees.

28.132 There is a consistent pattern of failure by the Church authorities to address the problem of Fr Carney. Several people who knew Fr Carney testified that he was crude, loutish and constantly used foul language. This,

of course, is not a crime but it is surprising that the issue was not addressed by his superiors while he was in the seminary or subsequently.

28.133 It is astonishing that Fr Carney's suggestion that he foster children was even considered in view of the Church's stated position in respect of priests having any family responsibilities, yet it seems he may have been encouraged by Bishop Kavanagh.

28.134 Fr Carney's ease of access to, and his degree of involvement with children in care was extraordinary. He was able to take children to his home for weekends whenever he wanted and this was encouraged by the authorities. While it may be understandable that the authorities in the homes did not even contemplate the possibility of sexual abuse, there is no evidence that anyone in authority asked basic questions relating to the care and safety of children such as who was going to look after the children while he was saying Sunday mass or if he had to leave the house at night to administer the last rites. There is evidence that children were left alone at night.

28.135 There is no evidence of any attempt at serious management of Fr Carney as the problems unfolded. There was no one in the Archdiocese who was in charge of monitoring him. No one person had full knowledge of the extent of the problem. It is clear that Monsignor Stenson was conscious of this lack of management but he did not have the power to do anything about it. He told the Commission that different files were kept in the different departments – a personnel file, a chancery file, a financial file - and the full picture was not available to anyone dealing with it. This was done in the interests of confidentiality. It became clear to him that *"somebody had to manage the case and have all the information, otherwise disastrous decisions were going to happen and have happened"*.

28.136 Even if the Church's main intention was to avoid scandal, the complete lack of competence in handling Fr Carney is remarkable. There is no doubt that Fr Carney was manipulative, not just in his abuse of children but also in his dealings with his superiors. His clear unambiguous refusal to follow orders does not seem to have been addressed by the archdiocesan authorities. He treated orders from his superiors as proposals for discussion rather than as orders and he was allowed to get away with this.

28.137 The archdiocesan authorities either did not understand the threat posed by Fr Carney to children generally or understood it but did not regard it as a significant consideration.

28.138 The Commission considers that the Church authorities did not exercise sufficient authority over Fr Carney. It accepts that the Church cannot restrict a priest's liberty in general but it can restrict his liberty to exercise ministry. No attempt seems to have been made to deal with other, less serious but unacceptable, aspects of Fr Carney's behaviour such as his foul language, loutish behaviour and too frequent appearances on the golf course.

28.139 It seems that the treatment for Fr Carney was focused largely on his alcohol problem. In fact, he was sent to an alcohol treatment facility in Ireland at a time when he said, and people seemed to believe, that he had not been drinking for a year.

28.140 The refusal of Fr Ó Saorai to report the parents' complaints to Archbishop's House is inexcusable. He knew of actual complaints of child sexual abuse from parents, he believed the parents, he had heard other rumours, he had received complaints of loutish behaviour by Fr Carney, yet he reported to Archbishop's House only because money went missing. However, it must be said that if he had reported when he should have, it is unlikely that there would have been a criminal prosecution of Fr Carney.

28.141 It was suggested to the Commission that Bishop Kavanagh had a "*soft spot*" for Fr Carney. He clearly did but the Commission does not think that this in any way excuses the lengths to which he went to protect him. It appears to the Commission that Bishop Kavanagh tried to prevent the prosecution of Fr Carney and, when the prosecution went ahead, tried to ensure that it was kept as quiet as possible. The Commission takes the view that there is evidence that Bishop Kavanagh, in the words of its terms of reference, did attempt to obstruct or interfere with the proper investigation of the complaints.

28.142 No attempt was made by the Archdiocese to provide help or counselling to the victims who were known and no attempt was made to establish if there were any other victims. (The Archdiocese must have known that there were likely to be other victims).

*Health authorities*

28.143 The question of how institutions cared for the children in their care has been examined in depth by the Commission to Inquire into Child Abuse (Ryan Commission). This Commission accepts that, in general, the authorities in the children's homes did not suspect that Fr Carney was abusing the children who were befriended by him. However, it is a matter of serious concern that they allowed children stay with him without ensuring that there were appropriate arrangements for their supervision.

28.144 The Commission also accepts that the health board social workers who dealt with the children in the institutions did not suspect sexual abuse. However, it is surprising that, in one case at least, a 14 year old girl's obsession with him was not viewed in a more sinister light than merely a crush or a fantasy.

28.145 There does not seem to have been any shared knowledge in the health board about perpetrators. For example, when the case of the young woman from the children's home was being dealt with in 1989, one section of the health board did not know that Fr Carney was known to another section as an abuser of the young man from another children's home, so no pattern of abuse in the institutions was recognised.

28.146 It is acknowledged that there was no statutory duty on health boards to promote the welfare of all children at that stage (see Chapter 6) but, nevertheless it is surprising to the Commission that no attempts were made to contact other residents in the children's homes in which these two complainants had lived.

*The Gardaí*

28.147 The Commission was impressed by the efficiency and speed with which Garda Finbarr Garland investigated the complaints from the young boys in Ayrfield in 1983 and the manner in which he and his immediate

superior officers pursued the prosecution of Fr Carney. However, the Commission considers that Chief Superintendent O'Connor had inappropriate dealings with Bishop Kavanagh.

28.148 It appears that Bishop Kavanagh tried to influence the conduct of the investigation and clearly did his best to ensure that there would be no publicity. His attempts to influence the process were unsuccessful because the lower ranking Gardaí had done their job properly. However, Chief Superintendent O'Connor cannot take any credit for this. Chief Superintendent O'Connor's description of how Bishop Kavanagh dropped into his office regularly for a chat does not seem plausible.

*Communication between authorities*

28.149 Neither the Church nor the Garda authorities made any effort to ensure that relevant people were made aware of the danger which Fr Carney posed to children. The health board social workers in the area where the offences occurred or in the areas to which Fr Carney was subsequently sent were not told.

**Introduction**

29.1 Fr Naughton was ordained in 1963 for St Patrick's Missionary Society, Kiltegan, Co. Wicklow (commonly known as the Kiltegan Fathers) and after his ordination he spent time in Africa and the West Indies. He left the West Indies following a disagreement with another teacher and the bishop and sought a position in the Archdiocese of Dublin.

29.2 He was first appointed to Aughrim Street parish in April 1976 and then to Valkeymount parish in 1980. While working there, he was incardinated (see Chapter 3) into the Archdiocese of Dublin in 1981.

29.3 The Commission is aware of complaints of child sexual abuse against Fr Naughton by more than 20 named people. There are suspicions in respect of many more. He has twice been convicted of child sexual abuse.

**Valkeymount**

29.4 In 1983, two parishioners from Valkeymount expressed concerns to Bishop Donal Murray about Fr Naughton's behaviour. They claimed he was "*too close to the altar boys*". Bishop Murray told the Commission that the two men wanted Fr Naughton removed from the parish. He said that the men refused to be specific with him and that they were not suggesting that there was anything wrong going on. The bishop told the Commission that he was uneasy and was afraid that it could involve inappropriate or even abusive activity with children. The parish priest at the time investigated the complaints and concluded that they were unfounded.

29.5 The type of investigation carried out is not chronicled in the files and would appear to have been totally inadequate even by the standards of the time. It can be compared unfavourably with the excellent investigations carried out in 1977 by Canon Ardlle McMahon into complaints

and in 1983 by Canon McMahon and Monsignor Stenson in the Fr Bill Carney case (see Chapter 28). Bishop Murray considers that this comparison is unfair as there was no specific complaint of child sexual abuse in Valkeymount.

29.6 Bishop Murray did interview Fr Naughton about the behaviour but he denied any wrongdoing. Bishop Murray said he told Archbishop Ryan of the allegations. The Commission accepts that he did tell Archbishop Ryan even though there is no contemporaneous record of this on the files. Monsignor Stenson was under the impression that Archbishop Ryan had been informed.

29.7 In a statement to Gardaí in 2003 another parishioner stated that she had been informed in 1983 by two children that they had been abused by Fr Naughton. She said she had told the parish priest of the abuse on two separate occasions and in response he had told her *“to pray for the victims”*. She stated that she and her husband approached another priest who took their complaints seriously. That priest’s recollection was that he reported the matter to an auxiliary bishop. He thought it was Bishop Murray but Bishop Murray denies that it was he. The parishioner stated that she also tried to talk to Bishop Murray when she was attending a confirmation service in 1984 but that *“he dismissed me and pretended he didn’t hear me, and walked away”*. There was no record of these complaints on the files of the Archdiocese until the mid 1990s. Bishop Murray told the Commission that he does recall a woman speaking to him after confirmation but said it was about Fr Naughton’s difficult attitude and that sexual assault was not mentioned. The Commission considers that Bishop Murray should have pursued the matter with the woman since he was already aware that there were some problems with Fr Naughton.

29.8 In April 1984, Bishop Murray also received a letter from another parishioner proposing an investigation into *“a less than satisfactory situation”* in the parish. Bishop Murray told the Commission that this letter referred to financial matters.

29.9 Within six weeks Fr Naughton was transferred to Donnycarney parish.

29.10 At least four complainants have come forward from Vallemount but it is suspected that many more children were abused. As recently as February 2006, the local parish priest, a different person to the parish priest who was there in 1983, sought information on counselling services for those who had been affected by Fr Naughton’s behaviour. He expressed the opinion that there might be a lot more people in the parish who may have been abused



but who had not come forward. He put the number at between ten and twelve. He was encouraged by the Archdiocese's Child Protection Service to try and persuade anyone who might have been affected to come forward.

29.11 In June 2009, just as this report was being finalised, Fr Naughton pleaded guilty to charges of sexual assault in relation to a complainant from Valkeymount.

29.12 In a statement regarding the Valkeymount situation, issued in 2002, Bishop Murray stated that he was very aware that if he had derived *"more information from the various interviews I conducted, it might have been possible to prevent some of the dreadful suffering of child abuse. I very much wish that I had been able to do so. It is a matter of the greatest regret to me that I did not manage at that time to get to the root of the problem"*. No attempt was made by Bishop Murray to revisit these concerns even after he became aware of Fr Naughton's abusive behaviour in Donnycarney and Ringsend (see below). Bishop Murray told the Commission that, when the Donnycarney complaint was raised at an Auxiliary Bishops' meeting with Archbishop McNamara in November 1985, he mentioned the concerns of the two men who had approached him in Valkeymount. At this stage the concerns about Valkeymount were known to two Archbishops and several auxiliary bishops and none of these men thought of revisiting the issue.

#### **Donnycarney, 1984-1986**

29.13 One of the more serious sexual assaults committed by Fr Naughton was against an 11 year old altar boy from Donnycarney Parish, Mervyn Rundle. The assaults took place on a number of occasions in 1984/85. The young boy told his mother about the assaults.

29.14 The Rundle family sought the help of a family friend and in November 1985 they (Mervyn, his father and the family friend) met the chancellor, Monsignor Stenson, at Archbishop's House. Archbishop McNamara had replaced Archbishop Ryan as Archbishop. At that stage the family, who were a religious family, were not anxious to report to the Gardaí as they felt the church would take steps to solve the problem. The father told Monsignor Stenson at that meeting that a number of other children might also have been abused by Fr Naughton. He named one other possible victim and said that

there might be five. Monsignor Stenson then interviewed Mervyn on his own. Mervyn Rundle told the Commission that Monsignor Stenson questioned him closely about his account and he found this an intimidating experience.

### **Meeting with Fr Naughton**

29.15 The very next day, Monsignor Stenson met Fr Naughton who categorically denied all the allegations against him. He stated that there may have been an incident of horseplay which may have been misinterpreted and that he had since apologised to the family for any misunderstanding. He did, however, tell Monsignor Stenson about the fact that he had been confronted by Bishop Murray in relation to an allegation. He said that the bishop had told him that it was nothing to worry about and that “*cranks<sup>97</sup> often make allegations*”. He agreed with Monsignor Stenson to seek a transfer and gave an undertaking that he would withdraw from his responsibilities for the altar boys.

29.16 Ten days later Fr Naughton did admit to abusing Mervyn Rundle on six different occasions but denied any other incidents of abuse. The reaction of the Archdiocese was that he should take a break from the scene for a few days at least. In a January 1986 memo, Monsignor Stenson indicated that Fr Naughton had withdrawn from his involvement with the altar boys and was happy to remain in Donnycarney “*now that some of the dust has settled*”.

### **Medical report**

29.17 Fr Naughton was referred to a consultant psychiatrist in relation to the abuse of Mervyn Rundle. The psychiatrist’s conclusions were that the abuse was a manifestation of Fr Naughton’s overwhelming loneliness and was merely a misguided attempt to establish a relationship. He contrasted it with other cases that they (meaning himself and the Church authorities) had had in the past where, unfortunately, there had been a long history of similar episodes. He said he was basing his analysis on the view that this was a once-off event and stated: “*I take it you have no evidence to the contrary*”.

29.18 He had not been informed that there might have been other children involved in Donnycarney, nor was he informed that there were suspicions about Fr Naughton while he was in Vallemount. The Archdiocese should

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Fr Naughton’s words

have provided a full account to the psychiatrist in order to ensure that he could issue a meaningful report. The Archbishop thanked him for his report but did not address the fact that he, the Archbishop, did know that this was not a once-off event.

29.19 In February 1986, Fr Naughton was still living in the parish and the Rundle parents and their friend were annoyed by the lack of action and threatened to take the matter to the Gardaí. Their friend wrote the following letter to Monsignor Stenson. It clearly sets out how the matter had been handled to date:

*“Following our meeting in your office on Fri 29<sup>th</sup> Nov. 1985 and the resulting lack of action it is now necessary to put details of the whole matter on paper for the record.*

*On Nov. 29<sup>th</sup> 1985 at 10:15am a very serious charge of child abuse was made against a priest in a Donnycarney parish. One case in particular was brought to your attention, that of young Mervyn Rundle, although there were others that were known of. Having given you a copy of the notes I myself had made after talking to the child, I arranged at your request to bring the child and his father to see you that afternoon at 2:15pm. In the meantime you said you would consult with the Archbishop who was in the house at the time.*

*That afternoon the child and his father came to your office. You questioned the child yourself and he confirmed what you had been told that morning by me. You assured us that immediate action would be taken.*

*On December 3<sup>rd</sup> 1985 Mr. Rundle telephoned you about the matter of going to the parish priest for confession. In the course of the conversation you told Mr. Rundle that Fr. Naughton wished to tell the parish priest himself about the matter of child abuse. You had said that the charges had not been denied. Mr. Rundle left the matter in your hands assured by you that positive action would be taken.*

*However, when the parish priest came to the Rundle home on Friday the 6<sup>th</sup> Dec he was shocked to hear, for the first time, that one of his*

*priests was involved in child abuse in the parish. He had not been informed by Fr. Naughton, he had not been informed by the Archbishop and he had not been informed by you yourself. This raises several very disturbing points of a very serious nature.*

1           *That a priest who had been charged with and had not denied child abuse was called to Archbishop's House and was allowed to leave at once to return to the same parish.*

2           *That both you and Dr. McNamara knew about the matter and yet a week later you did not see fit or think the matter of child abuse serious enough to see if the parish priest knew about it.*

3           *Knowing that child abuse is a very serious crime you allowed the priest to return to the same parish where the same children were.*

4           *That the Roman Catholic Church which claims to be the moral guardians of the people treat child abuse in such an off-hand manner calls into question the Church's ability to govern anything.*

*The way the whole matter has been handled by Archbishop's House has made the Rundle family feel very guilty and angry, as I do, by the manner in which they have been let down. The only reason that you were informed was to allow you to deal with the matter with as little fuss as possible. In this we were wrong not to have contacted the Gardai first. This mistake will now be rectified. The very least that was expected was that the priest would have been removed from the parish. Today, 11 weeks later the priest is still in the parish. This goes against all the medical information I have. In fact it seems nothing at all has been done.*

*I can see no defence for your lack of action and the matter must now be taken up at another level and because of the Church's lack of interest in the problem of its priests being involved in child abuse it will have to be brought out openly. There is now the additional fact that both Dr. McNamara and you knew about the child abuse and did what appears to be nothing. I would also have to question the matter of*

*other priests who “were” involved in child abuse and you claim were treated. The whole thing takes on very sinister tones.*

*Before any other action is taken by me, I would like to discuss the matter with you to make sure there is no misunderstanding.”*

Monsignor Stenson disagreed with the conclusions reached and, in reply to this letter, stated: *“That is simply not true as action was taken at parochial level and professional help and guidance obtained for the priest concerned. You will appreciate that I am not at liberty to divulge the precise details of this help”.*

29.20 At this stage Monsignor Stenson was aware of the existence of another allegation. A complaint had been made to a local priest by the parents of another altar boy.

29.21 Monsignor Stenson informed Archbishop McNamara of the complaints, both about inaction in relation to the Mervyn Rundle complaint and the new complaint. Monsignor Stenson met Mr and Mrs Rundle in February 1986 and explained what steps the Church had taken, including a psychiatric evaluation, in relation to Fr Naughton. He did not inform them about the suspicions that had been raised about Fr Naughton’s time in Valkeymount. Monsignor Stenson told the Commission that, for reasons of confidentiality, he did not consider that he was free to tell them about the other complaints.

29.22 Monsignor Stenson advised Fr Naughton to tell his psychiatrist about all the allegations against him. It is not known if this happened.

### **Stroud, 1986**

29.23 Eventually, in August 1986, Fr Naughton was relieved of his curacy and sent to Stroud for a course of therapy with the promise of a further placement in the Archdiocese on receipt of a favourable report from there.

29.24 In September 1986, the director of Stroud indicated to the Archbishop that he did not believe Fr Naughton was in touch with the gravity of the situation and expressed the view that it was difficult to believe that the problem was only surfacing now.

29.25 The director of Stroud noted, in October 1986, that he was more optimistic that things could work out for Fr Naughton. However, he warned that Fr Naughton would need further support when he returned to Dublin. He also advised that the parish priest in his new placement should be informed of the situation.

### **Ringsend, 1986**

29.26 Fr Naughton was appointed in December 1986 to the parish of Ringsend and despite his background, was given responsibility for some work in schools. He told Stroud in a follow-up meeting that this was not a problem for him given his background. Stroud expressed concern that he had ended his relationship with his counsellor. The Archdiocese arranged for him to see yet another counsellor but, in June 1988, the headmistress of the local girl's primary school expressed concerns about Fr Naughton engaging in horseplay and failing to desist when brought to his attention. She had heard about the complaints from Donnycarney and Co Wicklow.

29.27 By September 1988, complaints about Fr Naughton's inappropriate behaviour and the fact that children were often visiting his house were known to the Archdiocese.

29.28 A specific complaint was made by a young boy who had accompanied Fr Naughton to a funeral. The boy said he was inappropriately touched by him in the car on the way to the graveyard. He ran home and complained to his parents who reported it to the principal of the school. The principal reported it to the health board and the director of community care reported the matter to the Gardaí.

29.29 By early October 1988, Fr Naughton had been relieved of his duties in Ringsend. The Archdiocese thought a further period in Stroud would refocus him. However, he did not return to Stroud immediately but was placed under the care of yet another doctor in Dublin. This doctor stated that Fr Naughton should be given another chance with as many precautions as possible put in place. He suggested a position as a chaplain in a hospital. He expressed himself doubtful about the Stroud techniques and the possibility of a fundamental change or transformation in Fr Naughton's behaviour. Fr

Naughton did return to Stroud in December 1988 and remained there for five months.

29.30 It should be noted that the situation regarding Fr Naughton was quite well known in the parish of Ringsend. A local chaplain and teacher told the Commission that, on the day after Fr Naughton was removed from his duties in the parish of Ringsend, one of the girls in his class told him that the priest had been removed because "*he was messing with altar boys*". This suggests that the situation regarding Fr Naughton was being spoken about in the parish of Ringsend. This chaplain also told the Commission that this was the first he had heard of the reasons surrounding Fr Naughton's removal. Later that week he met the local public health nurse and told her that he knew nothing of the circumstances surrounding Fr Naughton's removal. The nurse was dealing with the complaints and she briefed him on the situation. He also told the Commission that, when Fr Naughton was appointed to Ringsend in December 1986, and despite the fact that he was to share a house with the incoming Fr Naughton, he was not informed by the Archdiocese of complaints about Fr Naughton.

29.31 Bishop Kavanagh spoke to the St Patrick's Missionary Society about Fr Naughton's position in January 1989. The Society told the bishop that it was not aware of any similar complaints about Fr Naughton before his appointment to the Archdiocese of Dublin. The Society was clear that the Archdiocese, not the Society, was now responsible for Fr Naughton.

29.32 Fr Naughton was not given any further appointments by the Archdiocese.

29.33 Further complaints emerged from Ringsend at a later stage.

#### **Health board response**

29.34 Following notification from the school principal, health board personnel including the acting director of community care, the social work services and the public health nurse immediately responded to the complaints. At this stage the 1987 guidelines on child abuse had been issued by the Department of Health (see Chapter 6) so the acting director of community care, on hearing of the allegation, informed the Gardaí at Ringsend of the complaint.

She also convened a case conference to which the social workers, the Gardaí and the public health nurse were invited. The Gardaí sent their apologies. It was decided at that conference that the public health nurse should approach the parents of all the altar boys and also the parents of those boys involved in Fr Naughton's garden project. This was a project in which Fr Naughton encouraged young boys to assist him growing vegetables.

29.35 The public health nurse told the Commission that it was decided that the parents should speak with their own children to see whether there had been any inappropriate behaviour by Fr Naughton and if so, that they should come back to her and seek advice on how they could handle it. She also told them that if a subsequent disclosure was made, they could come back at any time and seek either counselling or advice. She gave evidence that the school principal had a very good relationship with the boys and that she encouraged the families that, if they did not want to communicate with her, they should communicate with him or any other person in the health board they thought might be appropriate.

29.36 The acting director of community care followed up matters by contacting Stroud. She expressed her concern that Fr Naughton had received treatment in the past but had subsequently re-offended. She was assured by Stroud that provision had been made for Fr Naughton under strict supervision outside the Dublin area and that he would not be receiving a further diocesan appointment. She also contacted her health board counterpart on the north side of the city to ensure that her counterpart was aware that there had been incidents in Donnellycarney and subsequent incidents in Ringsend. In May 1989 she contacted Monsignor Stenson in order to get further information about Fr Naughton's current whereabouts.

### **Return to Kiltegan, 1989**

29.37 In May 1989, St Patrick's Missionary Society agreed, at the request of the Dublin Archdiocese, to give accommodation to Fr Naughton at their headquarters at Kiltegan where work was provided for him. An attempt was made to excommunicate him from the Archdiocese of Dublin but, as the St Patrick's Missionary Society was unable or unwilling to readmit him to the order, he remained and still remains a priest of the Dublin Archdiocese. The Archdiocese paid an allowance towards his upkeep in Kiltegan even though



the Society did not think this was necessary. He attended a support group and he carried out some limited ministry. There was extensive communication between the Archdiocese and the Society in relation to him in the period 1989 – 1992.

### **Aughrim Street complaints**

29.38 In the mid to late 1990s, a number of complaints of sexual assault were made to Gardaí by men who claimed they were abused by Fr Naughton while he was a curate in Aughrim Street between 1976 and 1980. The Gardaí followed up these complaints but the Director of Public Prosecutions (DPP) directed that no prosecution should take place due to the lapse of time.

### **Prosecution**

29.39 A number of complainants who were already known to the Archdiocese made complaints to the Gardaí in 1995 and 1996. Fr Naughton was prosecuted in relation to sexual assaults on three boys. In May 1998, he pleaded guilty to six counts of indecent assault on Mervyn Rundle, the other altar boy from Donnycarney and the boy from Ringsend. He was sentenced to three years imprisonment by the Dublin Circuit Court. This was reduced on appeal to two and a half years.

29.40 The only incidents of abuse which Fr Naughton had admitted to archdiocesan officials were those relating to Mervyn Rundle.

### **Follow-up by the Archdiocese**

29.41 In October 1995, Archbishop Connell met the Rundles and apologised to them. Counselling was offered to all the complainants. In the course of making inquiries about these complaints, the Archdiocese was told of a suspicion that Fr Naughton may have abused while he was in the West Indies.

29.42 After his conviction, a letter from the Archbishop expressing his sorrow and offering pastoral outreach was circulated to the parishes where Fr Naughton had served.

29.43 There was again extensive communication between the Archdiocese and St Patrick's Missionary Society about what was to happen when Fr

Naughton was released from prison. He was released in June 2000. He was accommodated in a number of religious residences and eventually, the Society agreed that it would look after him under strict conditions.

29.44 The Archdiocese and the Society discussed the monitoring arrangements and who would be liable for any further offending by Fr Naughton. He was receiving therapy but he was a reluctant participant.

29.45 A report from Granada in June 2000 stated that Fr Naughton was unlikely to re-offend and had not abused in many years. It was stated that he would not require stringent monitoring or restrictions. It was recommended that he be placed in a religious community setting.

29.46 He returned to Kiltegan in January 2001, initially on a six month trial basis. He was forbidden from engaging in ministry and was not allowed to have any unsupervised contact with children. An agreement was signed between the Archdiocese and the Society which stipulated that Fr Naughton was to remain the responsibility of the Archdiocese and the Archdiocese was responsible for his supervision. This agreement has been renewed every six months since then. Fr Naughton became a beneficiary of the Clerical Fund Society (see Chapter 8).

29.47 He is visited regularly by his priest advisor who is very kind to him.

29.48 The health board was informed of his living arrangements and was satisfied with the measures adopted by the Archdiocese.

29.49 In spite of some difficulties and his desire to take on ministry, the arrangements seem to be working out reasonably well. He continues to be monitored by the Granada Institute. The delegate visits regularly to check that he is keeping to the restrictions that have been imposed.

29.50 Civil claims have been settled with a number of complainants.

### **Other complaints**

29.51 During the currency of the Commission a number of other complaints have been received and are in the process of being investigated.

29.52 Following the *Prime Time* programme *Cardinal Secrets* in 2002, the Gardaí conducted an inquiry as to whether there was sufficient evidence to mount a case of misprision of felony against any Church official (see Chapter 5). They concluded there was not: *“with the exception of this apathetic attitude in relation to this [the Mervyn Rundle] incident there does not appear to be any other evidence of knowledge by the Church as to Tom Naughton’s catalogue of abuse”*.

### **The Commission’s assessment**

#### *The Archdiocese*

29.53 In the Commission’s view, Bishop Murray must take some responsibility for the very poor handling of complaints against this priest. The Commission believes it is to his credit that he recognised this when he issued his statement admitting his failure to follow up properly the complaints he had received from Valkeymount.

29.54 It is unacceptable that, when the Donnycarney complaints were being discussed by the bishops, he, they and Archbishop McNamara did not return to the Co Wicklow parish and carry out further investigations. This was despite the fact that Bishop Murray told the Commission that he informed the meeting about the two men’s complaints about Fr Naughton.

29.55 The archdiocesan authorities were wrong not to inform all priests in Ringsend that there had been a serious complaint about Fr Naughton while he worked in Donnycarney.

29.56 Overall, in their handling of the complaints against Fr Naughton, archdiocesan authorities, particularly Bishop Murray, the Valkeymount parish priest and Archbishops Ryan and McNamara let down those families who, because they were good Catholics, trusted the Church to do something about this man. Archbishop McNamara was slow to respond to the complaint from the Rundles despite the priest admitting sexual abuse. As a result, Fr Naughton was allowed to continue his abusive behaviour for several years thereby severely damaging more victims. It was only when they went to the Gardaí that they finally received satisfaction.

29.57 The Archdiocese was, at best, evasive in its referrals of Fr Naughton for medical treatment in Ireland. Nowhere was there a full revelation of its concerns or its knowledge. In particular, following the first report from the first psychiatrist who saw him, which was clearly based on wrong information, the Archbishop's response was merely to write a note thanking the psychiatrist for his most helpful report. Fr Naughton was then going to be retained in his ministry. It was not until the next complaint surfaced, which in fact happened the following month, that he was sent to Stroud to which a full report was provided.

29.58 The Archdiocese did, however belatedly, act correctly in the view of the Commission, in arranging for Fr Naughton to live with his former Society when the Ringsend complaints were made. Dismissing him then would have led to a situation where he could have continued his activities unsupervised. Returning him to live with his former Society meant that his activities could be strictly monitored and controlled. Indeed, his former Society is to be commended for accepting him.

29.59 Fr Naughton's case is symptomatic of the Dublin Archdiocese's attitude to child sexual abuse in the 1980s. Until the problem became so great it could not be hidden, the archdiocesan procedure was to do all in its power to protect the wrongdoer, while almost completely ignoring the effect of this abuse on the victims. Monsignor Stenson states that the aim was to rehabilitate the wrongdoer rather than to protect him. Regardless of the aim in respect of the wrongdoer, the welfare of the children was not addressed. As a result Fr Naughton was allowed to continue his abuse for several years after legitimate concerns were first raised. This would not have happened if the Archdiocese had fulfilled its duty to the children in the first instance.

29.60 There was good communication between the Archdiocese and St Patrick's Missionary Society throughout.

#### *The Garda response*

29.61 Once formal complaints were made to Gardaí they responded positively. The Commission considers that it was unfortunate that they failed to attend the meeting arranged by the acting director of community care following complaints about Fr Naughton's behaviour in Ringsend. Had they

attended they would have been alerted earlier to the fact that these south Dublin complaints were not the only ones against Fr Naughton.

29.62 The Commission acknowledges that the Rundles and the mother of one Ringsend complainant did not want the Gardaí involved initially, believing that the Church authorities would handle matters.

*Health board*

29.63 The health board staff – the acting director of community care, the social workers and the public health nurse – acted with commendable speed and courage in dealing with this case. It is one of the very few cases examined by the Commission where the health authorities were proactive in trying to prevent abuse. The Commission recognises that the health authorities are often constrained by resources and their legal remit in taking such action (see Chapter 6).

**Introduction**

30.1 Fr Cicero was born in 1939 and ordained in 1963 for the diocese of Ossory. He died in 2002. He was intellectually clever and was an expert in canon law. He was given many appointments in the Ossory diocese but none was successful as he was totally disorganised and chaotic in dealing with everyday matters. In the early 1970s he was appointed to the Dublin Regional Marriage Tribunal on a part time basis. This involved travelling to Dublin two days a week. He continued to work in Ossory on the other days.

30.2 In early summer 1981, two priests called to Fr Cicero's house to try and sort out what officials from the diocese of Ossory regarded as an administrative mess. As well as finding a very substantial amount of paperwork not dealt with, they discovered what Bishop Forristal, the bishop of Ossory, described in evidence to the Commission as "*lurid magazines*". In September 1981 Fr Cicero was called to a meeting with Bishop Forristal. Bishop Forristal has stated that he, the bishop, was not aware of the existence of lurid magazines at the time of this meeting. The meeting was concerned with an appointment in which Fr Cicero's lack of organisation would not be such a problem. His chaotic approach to practical matters eventually led to a conviction for having no tax and insurance on his car and he was banned from driving. In June 1985, following a request from the Moderator of the Regional Marriage Tribunal, it was decided that he would be transferred to Dublin to work in the tribunal. He remained incardinated in the diocese of Ossory.

**Dublin appointment**

30.3 As well as working in the tribunal, Fr Cicero was appointed as a chaplain in an inner city parish. It was here that the first allegations of child sexual abuse surfaced.

30.4 In late 1986, his parish priest was approached by the mother of a girl who had called to collect her daughter at Fr Cicero's house. Fr Cicero had taken to inviting young girls back to his house to play with or use his computer. He had a personal computer and was an expert programmer.

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<sup>98</sup>

This is a pseudonym.

(Personal computers were quite rare in the mid 1980s). When the mother called, the daughter was upstairs and the mother heard her say: “*will we come down as we are or will we put our clothes on?*”. The mother wrote a letter of complaint to the parish priest. The parish priest showed the letter to Fr Cicero. The parish priest’s recollection at a later date was that Fr Cicero went white when he read the letter. Fr Cicero put the letter in his pocket and the parish priest thought that was the end of the matter.

- 30.5 In March 1987, two women reported their concerns about Fr Cicero and his computer to the local curate. They explained that their two eight-year-old daughters had told them of playing games in his house. The games involved a computer program to command the removal of socks and tops, kissing each other and kissing the priest. It later transpired that a number of other young girls were involved as well. The matter was also reported by the parents to the parish priest. Both the parish priest and the curate reported the complaint to their local bishop, Bishop Williams, and the parish priest also reported the 1986 complaint. The curate wrote a detailed letter outlining the complaints. These incidents were not reported to the Gardaí or any other appropriate authorities.

### **Medical report**

- 30.6 Bishop Williams referred Fr Cicero to a psychiatrist, Professor Noel Walsh, who saw him on two occasions. Professor Walsh stated that there was some “*substance to the complaints which were made against him*”. Professor Walsh appeared to be under the impression that all that had happened was engaging in undressing games in Fr Cicero’s presence. His report stated that there was no physical contact. He concluded that Fr Cicero was involved in “*a form of compulsive voyeurism which had emerged as a problem for him in recent years*”. Professor Walsh stated that Fr Cicero had no major psychiatric problem and that he was quite distressed by the problem he did have. Professor Walsh recommended that he return to work with the marriage tribunal and be relocated in part-time pastoral work. He also recommended that Fr Cicero return for some further sessions but he did not do so.

- 30.7 As with a number of other cases that were referred to Professor Walsh, the whole story does not appear to have been given to him. The local

curate who had received the complaints had written a letter to Bishop Williams outlining in detail what he had been told and this account was supported by the parish priest. This letter does not appear to have been given to Professor Walsh. It is highly unlikely that Professor Walsh would state in his report that there had been no physical contact if the allegation of kissing Fr Cicero, as had been reported in the letter, had been known to him.

30.8 Fr Cicero was removed from the parish. The parents did not pursue the matter.

### **Supervision**

30.9 Monsignor Sheehy, who was the judicial vicar and Fr Cicero's superior in the marriage tribunal, stated that he was prepared to have the priest continue as a full-time member of the tribunal on the basis that:

- Fr Cicero knew that Monsignor Sheehy was aware of his difficulties;
- he would work solely in accordance with the policy and practice of the tribunal;
- any further aberration would inevitably mean his dismissal from the tribunal and accordingly his return to the diocese of Ossory;
- some appropriate accommodation together with some kind of convent chaplaincy be found for him which would be supervised.

It is interesting to note that there is no mention of any possible civil or criminal sanction being applied against Fr Cicero for any past or future breaches.

30.10 A good deal of manoeuvring took place with the knowledge of Bishop Forristal, Bishop Williams and Monsignor Sheehy as the following communication, in May 1987, from Bishop Williams to Monsignor Sheehy illustrates:

*"Bishop Carroll would be very grateful if you would quietly arrange for [Fr Cicero] to resume his duties in the Tribunal and to take up residence in [a convent] until the end of June. I would suggest that this could be arranged quietly through Bishop Forristal and that no formal appointment, or reappointment, to either Tribunal or chaplaincy, is necessary".*



30.11 In July 1987, Fr Cicero was appointed chaplain to a convent. It is surprising that, although the convent is a self-contained unit, no one appears to have considered its suitability in light of its proximity to a girls' school. The superior of the convent was made aware of his activities by Monsignor Sheehy and was instructed to maintain a watchful eye on him.

30.12 He remained in the convent until 1991 when the mother superior's term of office came to an end. He was then appointed as a parish chaplain with a self-contained residence. Monsignor Sheehy outlined the supervisory regime in a letter to Bishop Forristal. This involved a housekeeper attending Fr Cicero's apartment two days a week and regular visits by Monsignor Sheehy's secretary. There is a further letter early in 1992 indicating the regime was being maintained.

#### **1995**

30.13 The Dublin Archdiocese reviewed Fr Cicero's file in 1995 as part of its review of all cases involving child sexual abuse. Monsignor Stenson commented:

*"by Framework standards it would appear that child-care issues would have arisen in respect of the children in [the parish] and this was never addressed at the time. It is clear that there was no question of the matter being reported to the Gardaí even though it would probably fall under the definition of child sexual abuse in the Framework document".*

Some correspondence ensued between Monsignor Stenson and Bishop Forristal. In 1997, a number of options were given to Bishop Forristal. Bishop Forristal had asked his own delegate (in the diocese of Ossory) whether the matter should be referred to the Gardaí; whether an investigation should be conducted internally; and whether the matter would be referred to the advisory panel. However, it seems that Bishop Forristal and Monsignor Sheehy agreed to let matters continue as they were, on the basis that there had been no incidents for many years, but that Fr Cicero should be referred for assessment.

### **1997-1999**

30.14 Between 1997 and 1999 there was a series of letters from the Archdiocese to Bishop Forristal demanding that Fr Cicero be sent for assessment. Nothing was done until November 1999. Bishop Forristal told the Commission that he was “*very slow in progressing the various steps which ought to have been taken*”. While he did not regard it as an excuse, he told the Commission that both he and Fr Cicero had extremely serious health problems around this time. The Commission is satisfied that these health problems may have contributed to the delay and that there was no active conspiracy to prevent Fr Cicero having the assessment and treatment, but it still regards the delay as unacceptable.

30.15 Finally, after what could be described as a stern letter from Archbishop Connell to Bishop Forristal in November 1999, Fr Cicero was assessed at the Granada Institute.

30.16 Granada had knowledge of all the complaints. It also had Professor Walsh’s report of 1987. Fr Cicero told Granada that he had been involved in sexually touching young girls when he was a teenager and had been interested sexually in young girls ever since. He said that the incidents reported in 1987 were the only other times he had acted on these impulses. He admitted that he played the games described by the girls but he denied touching any of the victims. He described his activities as largely voyeuristic. He estimated that there were approximately 12 victims dating from his 40s. He believed that what he was doing did not harm the girls.

30.17 Granada concluded that:

- Fr Cicero urgently required a specialised therapy programme.
- He could continue his work in the marriage tribunal while engaging in therapy.
- He would likely require a life long programme of after care and support.

### **2000 - 2002**

30.18 In June 2000 one of his victims attempted to make contact with Fr Cicero. She did not attend the arranged appointment. Fr Cicero told the Archdiocese about this. Discussions took place between the Archdiocese

and the diocese of Ossory. During this time Fr Cicero was attending counselling sessions in Granada which he stated were beneficial. There was a review meeting at Granada involving Bishop Forristal, Fr Cicero and Granada staff. Granada now advised that Fr Cicero should cease ministry in the marriage tribunal and in his chaplaincy. It would appear that there was confusion in the Archdiocese because Archbishop Connell had been told that Granada was recommending that he could remain in the tribunal (which it did in November 1999) and Monsignor Dolan was aware that Granada was recommending that he be removed from the tribunal (which it did in August 2000). There was also some doubt about who was entitled to remove him from the marriage tribunal. The Dublin Regional Marriage Tribunal deals with a number of dioceses including Ossory. Bishop Forristal had nominated Fr Cicero to the tribunal but, theoretically at least, he was appointed by all the relevant bishops. The issue then arose as to whether the other bishops needed to be told of the circumstances.

30.19 One thing is clear however - the Archdiocese wanted to sever Fr Cicero's connection with Dublin. In November 2000, it was decided that he would withdraw from the marriage tribunal and return to Ossory. He was removed from his parish chaplaincy position but he did not return to Ossory.

30.20 In December 2000, Monsignor Sheehy described Fr Cicero's departure as "*a shattering blow*" to the marriage tribunal. He also had "*a distinct anxiety as to the canonical validity of the procedure*" but saw no point in pursuing that. In January 2001, Bishop Forristal met Fr Cicero and it appears that they and Monsignor Sheehy reached agreement that Fr Cicero would be allowed to remain in Dublin doing unofficial work for the marriage tribunal. Bishop Forristal told the Commission that this was a compromise which allowed Fr Cicero to carry out largely academic work which had no ministry with children. It appears that Monsignor Dolan was not aware of this agreement until about a year later.

30.21 The Commission considers that Monsignor Sheehy manipulated the situation in order to keep Fr Cicero as part of his team. As in other cases in which he had a less than helpful or constructive involvement, Monsignor Sheehy did not seem ever to consider the question of the protection of children. Bishop Forristal clearly felt that Monsignor Sheehy was always in

the background when he was talking to Fr Cicero: he said he always “*felt that when I was talking to him, whether it was in person or on the phone, that everything we discussed was discussed elsewhere and he was getting further advice*”. The Commission is in no doubt that both Monsignor Sheehy and Fr Cicero used their extensive knowledge of the canon law as a means of avoiding a forced return to Ossory.

30.22 A series of correspondence then ensued between the Archdiocese, its legal advisers and Ossory in order to ascertain Fr Cicero’s exact status. In the course of this correspondence, Fr Cicero, who had been suffering from ill health, died suddenly in August 2002. The first statement to the Gardaí by one of his victims was made in September 2002. The Archdiocese has made a civil settlement with one complainant.

30.23 In a statement to the Commission, Bishop Forristal very fairly accepted responsibility for the delays in dealing with Fr Cicero in the late 1990s. He said that, on reviewing the history of his dealings with Fr Cicero: “*I have been deeply disturbed by my own delays and failures in applying the principles of our Church Guidelines, particularly that of the paramountcy of the safety of children*”. He went on to say that Archbishop Connell and his chancellors were continually urging him to take action. “*Any delay was my doing and was in no way due to the Archbishop of Dublin or his staff.*”

#### **The Commission’s assessment**

30.24 The parish priest who did not immediately report the 1986 complaint is the same priest who discovered a person whom he described as a woman in her thirties in Fr Noel Reynolds’s bed– see Chapter 35. As is pointed out in that chapter, “*the woman*” was more than likely to have been a young teenager. He also failed to report that discovery to archdiocesan officials. The Commission considers that the young curate acted responsibly by writing an account of complaints to his bishop.

30.25 The Archdiocese acted correctly in removing Fr Cicero from the parish. However, notwithstanding that the mother superior in the convent was aware of his history, there were undoubtedly dangers attached to giving him an appointment to a convent which bordered a girls’ school.

30.26 It appears that, to a certain extent, everybody, including bishops, felt in awe of Fr Cicero's intellect. Most of the people with whom he dealt regarded him as intellectually superior to them and it appears that he concurred fully with this assessment. He undoubtedly had a powerful ally in Monsignor Sheehy. Monsignor Sheehy used the confusion which seemed to exist between the Archdiocese of Dublin and the diocese of Ossory to get the outcome he wanted. However, the Commission does recognise that Monsignor Sheehy put a monitoring system in place.

30.27 When the Dublin Archdiocese decided to review matters in 1995 and took the decision to return Fr Cicero to Ossory, they found themselves stymied. Bishop Forristal, as he himself admits, was mainly responsible for the delays in having the priest assessed. The bishop told the Commission that his exercise of responsibility over Fr Cicero was "*severely hampered by the vigour with which Monsignor Sheehy acted to preserve [Fr Cicero's] unofficial working function at the Tribunal and to defend his position generally*". The bishop said that, ultimately, he was persuaded by Monsignor Sheehy's view that Fr Cicero's "*mental and physical wellbeing were being assured through his continuance in that role*". The Commission finds it extraordinary that Bishop Forristal and the Archdiocese allowed Monsignor Sheehy to have such influence as they had the power to have their wishes in respect of Fr Cicero implemented.

30.28 The matter was not reported to the Gardaí until April 2002 and was never reported to the health board. This was in breach of the Church's own guidelines.

30.29 The files do not contain any account of how the Church dealt with the parents of the children who were abused. Bishop Forristal requested the Commission to note that, as bishop of Ossory, he was not in a position to respond directly to the parents who had not approached him. He did meet pastorally with one of the victims. The fact that Fr Cicero was moved from the parish appears to have satisfied the parents.

**Introduction**

31.1 Fr Clemens was born in the 1960s and ordained in the 1980s. He has served in a number of parishes in the Dublin Archdiocese but is currently voluntarily standing aside from ministry. He has had two allegations of inappropriate behaviour and sexual abuse made against him, the first arising within months of his ordination. The investigation into the second allegation is ongoing.

**First allegations**

31.2 In early December 1988, five sets of parents complained to the parish priest of the parish where Fr Clemens was serving. He had taken charge of the altar boys on his arrival in the parish a short time earlier. On one occasion during altar boy practice, some of the boys had been misbehaving and Fr Clemens allegedly made them lower their trousers as a form of punishment. There was no touching involved.

31.3 One of the altar boys immediately told his parents of the incident. He claimed that he had been kept in the vestry for approximately 40 minutes but had refused to remove his trousers. Fr Clemens allegedly released him only when he showed him the top of his underwear. This boy's parents immediately reported this to the parish priest who told them that there must be some mistake and made an appointment for them to return that evening. In the interim, these parents called to the parents of the other altar boys involved in the incident. One altar boy denied it had happened to him and it was not until a Garda investigation began in 2002 that he admitted he had been subjected to this treatment. In 2002, he alleged that this treatment had occurred at least 20 times over a two-year period; this, however, is unlikely to be accurate as the priest was in the parish for only a few months. This same former altar boy also alleged in 2002 that on one occasion he was asked by Fr Clemens to remove his underwear but he had refused. A third altar boy said at the time (December 1988) that he had been asked to remove his trousers. The parents of these three altar boys, and the parents of two others, went back to see the parish priest later that evening as arranged.

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This is a pseudonym.

31.4 In the interim, it appears that Fr Clemens had met his parish priest and denied the allegations. However, when the allegations were put to him again in the presence of one of the families, he admitted to asking their son to remove his trousers, saying it was punishment for misbehaviour. The boy's father threatened to go to the media and the Gardaí but was dissuaded by the parish priest who promised to deal with the issue and to inform the Archbishop.

31.5 Bishop Murray was immediately informed and in turn contacted Archbishop's House in December 1988. The allegations were discussed at a meeting of the auxiliary bishops where it was decided that Fr Clemens would be given alternative accommodation in a non-parochial setting. He was removed from the parish and went to live with another priest. It would appear that a considerable number of parishioners were aware of the incidents and the parents of the boys involved were adamant that Fr Clemens should have no post in the parish.

31.6 Fr Clemens attended a psychiatrist and admitted that the punishment was of an impulsive nature and possibly related to voyeuristic impulses. The psychiatrist concluded that the incident could best be regarded as "*an impulsive indiscretion which did not involve any harm to the boys in question and probably reflects a certain vulnerability in [Fr Clemens's] personality*". The doctor did not regard the incident as a serious problem and concluded it was very unlikely to recur. Continued outpatient care was arranged until September 1989. In December 1989 the psychiatrist recommended an appointment in a parochial setting as soon as possible.

31.7 Approximately one week after the first reported incident, the parish priest met some of the parents to update them on developments and offer their son some counselling but this was refused.

31.8 Fr Clemens was appointed curate in a parish at the other end of the diocese in January 1989. The parish priest of this parish was informed about the allegations but it was decided not to inform the other priests. Concerns were later raised in the new parish by teachers at the local primary school because they had heard rumours about the incident in the previous parish.

Bishop O'Mahony met the teachers. He told the Commission that he had informed the teachers of the results of the psychiatric assessment and that Fr Clemens was being monitored. He told them that *"within the limits of fallibility and having taken expert opinion there was no one at risk"*.

31.9 When the Archdiocese began to report cases to the Gardaí in 1996, Fr Clemens was referred to the Granada Institute for a second review. (He was not named in the first list given to the Gardaí in November 1995 – see Chapter 5.) He had two meetings with a psychologist who issued a favourable final review in February 1998. This stated that Fr Clemens showed no evidence of maladjustment and presented as emotionally stable with a sexual orientation to adult women. There was no indication of an erotic interest towards children and no evidence of posing any risk to children.

31.10 In 2001, Fr Clemens was appointed to another parish as part of the normal process of appointments.

31.11 In May 2002, the parish priest in his first parish received a solicitor's letter on behalf of the altar boy who had claimed he was kept in the vestry for 40 minutes. The former altar boy was now an adult and he threatened civil proceedings for false imprisonment. He also said he intended to contact the Gardaí.

31.12 This young man's parents made a formal complaint to Gardaí in May 2002. The Gardaí carried out a thorough investigation. They took statements from the altar boys involved in the complaint, their parents and others who had served as altar boys in 1988. They also took statements from Fr Clemens, the parish priest and Bishop Murray. There were some conflicting statements given, some saying there was also smacking involved, others saying they had heard rumours but had never witnessed anything. Fr Clemens told Gardaí that, at the time of the incident, one boy had his underwear showing and he told him to tuck his shirt in; he did ask to see another boy's underwear. He denied all other aspects of the allegation.

31.13 The Gardaí contacted the chancellor, Monsignor Dolan in August 2002 and told him that there were four allegations against this priest. They wanted a statement from Archbishop Connell as to why this priest was



transferred in 1988 and information on what treatment he had received. The Gardaí said they did not think there was much in the allegation but wanted further information before sending the file to the DPP. Monsignor Dolan provided them with a statement documenting events surrounding the allegations.

31.14 In November 2002, Monsignor Dolan contacted Granada seeking clarification as to whether Fr Clemens's behaviour could come under the definition of child sexual abuse as outlined in the *Framework Document*. Granada said it would not. An advisory panel meeting in October 2003 noted this firm view and agreed with Granada. The panel recommended that no action be taken until the Garda investigation had been concluded. The DPP decided not to prosecute.

### **Second allegation**

31.15 A new allegation was made in April 2005. It related to an incident which had allegedly occurred in 1988/89 when the complainant was about five years old and Fr Clemens was in the parish where the first complaints were made. The complainant alleged that this priest had fondled him. The Archdiocese followed the *Framework Document* procedures. The complainant was offered counselling. Fr Clemens has stepped aside from ministry and denies the allegation. The matter had not been resolved by early 2007.

### **The Commission's assessment**

31.16 The Archdiocese dealt quite well with the allegations relating to the altar boys. There is no doubt that Fr Clemens's behaviour was inappropriate but it was not clear that it involved child sexual abuse. The second allegation does involve child sexual abuse and it is being dealt with in accordance with the agreed procedures.

32.1 Fr John Boland is a member of the Capuchin Franciscan Order. His religious name is Fr Dominic Savio Boland. He was born in 1930 and ordained in 1966. He worked in the Archdiocese of Dublin as a teacher, school chaplain and hospital chaplain. He is now living in one of the order's houses in Ireland with restrictions on his activities and ministry.

32.2 Fr Boland is a convicted serial child sexual abuser. He has mainly abused males, but there are also allegations in relation to females. He was convicted of nine counts of indecent assault in 2001 against one victim and he received a 12-month suspended sentence. The Commission is aware of allegations or suspicions in respect of nine named children. Some of these children also reported that they were aware that Fr Boland had abused other children. He has admitted to abusing about 20 children.

### **First complaint**

32.3 The first allegation of child sexual abuse against Fr Boland for which the Commission has documentary evidence was made in December 1989 to the order. A novice in the order alleged that he had been abused when he was about 13 years old; this was four years before he joined the order. The abuse involved fondling. The head of the order decided to "*look after everything*". He arranged counselling for the victim and he sent Fr Boland to a psychiatrist. The psychiatrist reported in March 1991 that Fr Boland was remorseful and seemed motivated to ensure no repetition.

### **Second complaint**

32.4 Another complaint was made to the Gardaí in March 1994. The complainant alleged he had been abused by a priest in his own home in 1973 when he was about 11 years old. He did not know the priest's name but he knew the name of the order and he was able to describe a distinguishing physical characteristic of Fr Boland. The Gardaí then interviewed this complainant's parents. They said their son had told them about the assault at the time and the father had complained to a priest in Clonliffe College.

32.5 This complainant had told his parents in 1973 that he had been abused by a diocesan priest – Fr Ioannes\* (see Chapter 17). The complaint

in respect of Fr Ioannes was dealt with by Monsignor Richard Glennon (a former chancellor of the Archdiocese, then a vicar general and parish priest). There is no record of this original complaint in the files of the Archdiocese and Monsignor Glennon died in 1985. The complainant's parents told the Commission that Fr Boland had arrived at their house shortly after the complaint had been made to the Church authorities about Fr Ioannes. The parents thought he was visiting them as part of the process of dealing with that complaint. Fr Boland and the boy were left in a room together for a short time and the boy came out and complained about him.

32.6 In 1994, when the Gardaí were talking to Monsignor Stenson about Fr Ioannes\*, they told him that there was a complaint against a Fr Dominic who wore a brown robe and had a distinguishing physical characteristic. The Gardaí told Monsignor Stenson that they knew who he was and they were following it up. Monsignor Stenson made a note of this but it was filed in Fr Ioannes's files and its connection to Fr Boland was not made by the Archdiocese until 2004.

32.7 Fr Boland was interviewed by the Gardaí immediately following this complaint in 1994. He said he could not recall this complainant but did remember his house and having tea with the complainant's mother. He said that, on occasion, he would hug children but he could not recall doing anything else.

32.8 The Gardaí prepared a file for the DPP. It is clear from the Garda report to the DPP that the Gardaí believed the complainant. The DPP decided not to prosecute mainly because of the delay, but it was also considered that Fr Boland's explanation was quite credible.

32.9 The order decided that, in light of this allegation, the action taken in relation to the allegation by the first complainant was inadequate. In October 1994, Fr Boland was sent to the Granada Institute for assessment and treatment. At this stage Fr Boland was living in one of the order's houses outside of the Archdiocese of Dublin. He was allowed to say mass in public but he did not hold any public appointment.

### **Suspicion/concern**

32.10 Shortly after this, at Easter 1995, the matron of a hospital, to which Fr Boland was not the chaplain, expressed unease about the fact that he was visiting the children's ward. He was withdrawn from all hospital work.

32.11 Granada reported that Fr Boland asserted that his involvement with children in the hospital was purely pastoral and there was no sexual activity. He acknowledged that he had "*transgressed a boundary*" with the first complainant but nothing similar had happened since. Granada, having discussed the matter with Fr Boland and his superiors, concluded that Fr Boland had not been involved with children in any sexual way since the occasion ten years earlier. However, they pointed out that he had not realised the extent to which his ministry, especially with children, could be perceived as inappropriate and that he needed greater supervision. Fr Boland agreed to hand over his car keys to his superior and not to have any contact with children except with another adult present.

### **Third complaint**

32.12 A third complainant came forward in October 1995. He was interviewed by the order's delegate. He alleged that Fr Boland had sat him on his knee and kissed him in one of the order's houses. He was about eight or nine years old at the time. Fr Boland ran a club for young boys and this complainant had seen him behave similarly towards other boys in the club. This complainant also made a complaint to the Gardaí.

32.13 In an interview with the order's delegate, Fr Boland admitted to sexual activity with the first complainant but not with the two subsequent complainants. He admitted that he had abused other boys in the past but claimed that this behaviour had ceased eight or nine years previously.

32.14 The order's advisory group met and considered the case which was now recognised to be more serious than had previously been thought. It was decided to withdraw Fr Boland from ministry, to send him to another location and to send him for assessment and treatment to a therapeutic facility in the UK. The Granada report and the report of the delegate's interview with Fr Boland were provided to the personnel in the UK facility.

32.15 The members of the order who had lived in the same house as Fr Boland were told that he had been transferred from this house to a clinic in the UK following reports about him which were brought to the Provincial's attention. They were also told that the only address to be given for him was that of the head of the order in the UK.

32.16 The assessment from the UK therapeutic facility showed that Fr Boland acknowledged that he had a sexual interest in, and had been fantasising about sex with, young children since his mid-teens. It described a well developed belief system which supported and legitimised his sexual interest in children. It became apparent to the therapists that Fr Boland had convinced himself that boys of 11 or 12 years were aware of sexual matters and might enjoy being touched in a sexual way. He believed that they would not be harmed by what he was doing to them. Consequently, it became clear to the therapists that Fr Boland had very distorted beliefs that allowed him to sexually offend.

32.17 Fr Boland described how he used his role as a priest to target children. He would seek out opportunities to be among children and would engage their interest by offering them holy medals and pictures. He would draw upon their perception of the priest to gain their trust and be accepted by them. Once he had targeted a particular child, he would befriend the parents and begin to visit that child's house. He would then gradually gain access to the child by manipulating the family members and creating situations where he would be alone with the child. He would then introduce and normalise sexual touching as a regular component of their meetings. He believed that the first complainant "*both consented to and actively participated in the sexual contact*". He did acknowledge that he was responsible for the sexual nature of the relationship but failed to see the power differential between him and his victim.

32.18 He acknowledged that he had fantasised about children all of his adult life and had committed about 100 offences against 20 children. His first offence was when he was 16 years old when he abused an 11 year old. He claimed that he had himself been frequently abused at the age of eight.

32.19 The assessment concluded that Fr Boland had a high risk of re-offending.

32.20 The order delegate met the first complainant in December 1995. This complainant did not want any report to be made to the Gardaí and said he would regard such reporting as an invasion of his privacy.

32.21 A further report was received from the UK therapeutic facility in January 1996. This showed that Fr Boland had many manipulative techniques which he instinctively used to prevent analysis of his offending. He used methods such as:

- intellectualising his sexual abuse and deflecting responsibility onto victims;
- minimising the impact of the behaviour;
- engaging in distorted thinking about children and sexuality.

32.22 This meant that there were blocks to treating him.

32.23 Fr Boland was visited in this facility by a member of the order's advisory group. She reported that he minimised how he sexually abused children and he attempted to manipulate her into getting him some form of ministry. He used religion and spirituality to divert from his offending. She concluded that he was a dangerous offender and expressed huge doubts about his ability to engage in treatment. His thinking was much distorted and she was of the view that treatment was not helping him and he should be removed from the unit.

#### **Fourth complaint**

32.24 A new allegation then emerged. This was from a girl who alleged she had been abused during a school retreat and that other girls had also been abused. They had told some teachers and two priests but the general reaction was that nobody would believe them as Fr Boland had such a saintly reputation. One of the priests told the order. The girl and her mother were contacted by a member of the order's advisory group. The girl was angry with the priest who had reported to the order but agreed to put her story in writing. She refused the offer of counselling.

32.25 A member of the order visited Fr Boland in the therapeutic facility to put the new allegation to him. He denied any sexual involvement but said he had comforted some girls during the retreat. He later said that there were a few girls whom he hugged and kissed.

32.26 In August 1996, a further report from the UK therapeutic facility showed that Fr Boland was not making progress. He was highly manipulative and continued to exploit the image of the “*gentle, elderly, naïve priest*”. Since the new allegations had been made, he regarded himself as the victim.

32.27 The advisory group decided that the health board should be informed of the allegations in relation to the school retreat and of the places where Fr Boland had worked and given retreats. The delegate met a representative of the health board.

32.28 The advisory group member visited Fr Boland again in April 1997. She found that he was making some progress but was still very manipulative. She discussed a support group for him when he was released. She considered that he would need strict boundaries regarding visitors and callers and that he would benefit from a relapse prevention programme.

32.29 Fr Boland returned to one of the order’s houses in Ireland in May 1997. A contract of behaviour was agreed. This provided that Fr Boland:

- was free to wear his habit or clerical collar in the friary, but not in public;
- could celebrate mass privately;
- could use all areas of the house except the front door and front office;
- could make phone calls only to family, support group, counsellor, confessor or other members of the order with the permission of the superior in the house;
- could receive phone calls from family, support group, counsellor, confessor or other order members but was not permitted to answer the phone;
- could receive visits but only from family, support group, counsellor, confessor or other order members;
- could receive letters;

- could write letters to family, support group, counsellor, confessor or other order members with the permission of the superior in the house;
- could join the other order members in the Divine Office and could use the oratory but only when the doors were closed;
- could choose his own confessor outside the house;
- could not leave the house without a companion, except to visit the doctor or dentist, therapist or the head of the order and he was not permitted to drive a car.

32.30 All inquirers would be told that “*D.S. Boland is not well and is off work, and that he is unable to see you or speak to you*”.

32.31 Fr Boland attended the Granada Institute for therapy. The local bishop was informed of his current circumstances including the details of the contract.

### **Suspicion/concern**

32.32 In October 1997, a woman wrote to the Archdiocese about her experiences with Fr Boland when he was a hospital chaplain. She said he befriended her children when she and they were visiting her mother in the hospital. He subsequently began to show what she considered to be an abnormal interest in her ten-year-old son. This letter was sent to the order by Monsignor John Dolan. The Archdiocese was told that Fr Boland had been having treatment. Monsignor Dolan replied to the woman saying that the order would deal with the issues. The order replied to Monsignor Dolan telling him that the woman could contact their delegate. Monsignor Dolan wrote to the woman and gave her the details. It seems that she did not contact the order at this stage. The order did not contact her. The order explained to the Commission the thinking behind this failure to contact her:

*“It is now clear that, out of pastoral concern for both herself and her son, [...] should have been contacted by the Capuchins once they became aware of the allegation she made against one of their members. However, the thinking back then seems to have been as follows: since all correspondence relating to [...] allegation on behalf of her son had been conducted through the good offices of the Diocesan Chancellery, it was thought that [...] privacy might best be respected*



*and her freedom of initiative be preserved by her not being contacted directly but, instead, by her being supplied with the phone number of the Order's delegate should she wish to contact the Order".*

32.33 Fr Boland continued to attend Granada and in 1998/9 wanted to have some of the restrictions lifted. Granada would not recommend this and it was made very clear to Fr Boland by the head of the order that the restrictions would stay in place.

#### **Fifth complaint**

32.34 In July 1999, another allegation was reported to the order. This came via the head of another religious order who said that one of its priests had complained that he had been abused by Fr Boland when he about 11 years old – between 1977 and 1979. This complainant had been an altar boy and Fr Boland was helping out in his parish – he officiated at baptisms and benediction. The head of the order met this complainant. He then put the complaint to Fr Boland who remembered the complainant but denied any sexual activity – he said he may have given him a hug. The complainant met the delegate and gave a full account of his experiences with Fr Boland. He also said that his school friend had been treated the same way. The complainant reported the allegations to the Gardaí in September 1999. Fr Boland was interviewed by the Gardaí. He said he could not remember any sexual activity with the complainant. The delegate was interviewed by the Gardaí and he gave them audio tapes of his interview with Fr Boland in relation to this allegation.

32.35 The Gardaí recommended that Fr Boland be prosecuted for 18 offences of indecent assault against this complainant. Further evidence was collected from the complainant's parents. The complainant had told his father about the abuse many years earlier but did not want anything done about it at that time. The DPP directed that Fr Boland be prosecuted on nine counts of indecent assault. He was arrested and charged in July 2000. He asked the order to allow him (rather than anyone else) to tell his family about the charges. The order paid £100 bail.

32.36 In January 2001, the head of the order was told by the superior in Fr Boland's house that it had been made clear to Fr Boland that he had lost the

trust of the others in the house because of recurring breaches of his behavioural contract. The house superior suggested a number of changes to the contract. He said it needed to be renamed “*Rules*” so there could be no ambiguity and to prevent Fr Boland trying to wriggle out of the terms. He further suggested that it should be made clear that the purpose of the rules, above everything else, was the protection of children. He should stop going to Granada as the sessions there were preventing him from facing reality. Fr Boland regarded himself as a victim and did not accept responsibility for his actions or for the consequences of his actions on his victims and the religious order. The revised contract should simply prohibit contact with lay people except with the prior consent of the superior. Other members of the order wrote to the head in a similar vein.

32.37 In February 2001, Fr Boland wrote a letter of apology to the fifth complainant (in respect of whom he was being prosecuted). He also wrote to the head of the order admitting that he had not always been upright and honest in the past. He admitted that he had ulterior motives in his relationship with children. However, he promised to be a person of integrity and never again be dishonest in any way. He commented that he believed therapy had done him good.

32.38 Fr Boland was convicted on all nine counts of indecent assault in September 2001. The judge wanted to know if he was continuing to receive treatment. Evidence was given that the fifth complainant (who was working abroad) was making progress because of the letter of apology and the court case. The judge took account of this and the continuing treatment and imposed a 12 month suspended sentence. Fr Boland was also made subject to the *Sex Offenders Act 2001* for five years.

32.39 The order did not report this complaint or conviction to any bishop, including the Archbishop of Dublin in whose diocese the abuse had occurred, or the bishop in whose area he was then living.

32.40 The order contacted the health board about the case. Fr Boland continued to live in the same house and continued to attend Granada. A review meeting was held in Granada in July 2002. Fr Boland felt he was doing well in the house and was determined not to re-offend. However, the

other members of the order were concerned about his presence there. He was receiving numerous letters and visits. Granada considered that he was using these letters to perpetuate an image of the holy priest whose prayers had special powers and he should stop letter writing. The order head told Fr Boland that some of his relatives had been in touch recently and were angry that they had not been told of his offending.

32.41 In November 2002, the mother who had been concerned about Fr Boland's abnormal interest in her son contacted the Garda hotline. She said she had contacted the Archdiocese years earlier and got no response. Her son did not wish to make a complaint.

32.42 In February 2003, the delegate forwarded to the Gardaí particulars of allegations received by the order in relation to a number of its members including Fr Boland. The Gardaí asked the delegate to inform all the victims concerned that they had been identified to the Gardaí and the Gardaí would be in touch with them. The delegate contacted the first complainant and the third complainant and said he was still investigating the case of the girl. The complainants did not reply.

32.43 In 2004, as part of its review of all child abuse files, the Archdiocese contacted the order about Fr Boland and how the complaints had been dealt with. The Archdiocese was aware of only one complaint (the mother). The head of the order confirmed that the mother had not been in contact with them. He said that other complaints had been received by the order but none related to Fr Boland's appointments in the Archdiocese. He said Fr Boland had been removed from ministry. He also told the Archdiocese where Fr Boland was now living and that the local bishop had been fully informed. Astonishingly, he did not mention that Fr Boland had been convicted.

32.44 The Commission considers that the reply from the head of the order to the Archdiocese, while it may be technically correct, is not the full truth. The complaint in respect of which Fr Boland was convicted related to his involvement in doing supply work in the Archdiocese. It seems that Fr Boland organised various supply and school visiting roles himself, without the involvement of his order, but the order did know of the circumstances in which the fifth complainant was abused. The order has acknowledged to the

Commission that the Archbishop of Dublin should have been informed of the complaints in accordance with the requirements of the *Framework Document*. The local bishop was not fully informed – he had not been told of the conviction although he had been told of some of the complaints.

32.45 The Archdiocese forwarded all the correspondence from the mother to the order and recommended that the hospital authorities be informed. The hospital was not informed. The hospital was one which had been amalgamated into a new hospital.

32.46 In October 2005, the order told members of Fr Boland's family that it was aware of four named victims and one unnamed victim (it seems that the order did not know the name of the girl who complained in 1996). They were also told that Fr Boland acknowledged 100 offences against 20 children. The order said he was a considerable risk to boys between the ages of nine and 14 years, as he would use his role as a priest to seek out opportunity to be among children and would draw on their perception of a priest to make himself totally trusted. Furthermore, he deflected responsibility onto the victims and minimised the impact of his behaviour.

32.47 In November 2005, the delegate wrote to the Gardaí requesting a meeting to establish a procedure in relation to offenders who are members of religious orders. A meeting took place in March 2006. Later, the order wrote to the Gardaí about the first complainant's request for absolute confidentiality. The Gardaí decided not to approach him.

### **Sixth complainant**

32.48 Another complainant told the Commission that he had been abused by Fr Boland. He did not know his full name but did know him as Dominic Savio and described the distinguishing physical characteristic. His account of how Fr Boland befriended him and his family and his account of the abuse was similar to that provided by other victims. On one occasion in 1986, Fr Boland was fondling him in his home when his mother walked in. She immediately told Fr Boland to leave. She complained to a priest in the order house where Fr Boland lived at the time but she got no feedback. She did not inform the Gardaí. The order has no record of this complaint. This complainant was

aware of one other boy (whom he named) who he alleged had been abused by Fr Boland.

### **The Commission's assessment**

32.49 The order's handling of the first complaint in 1989 was relatively good for its time. The priest was sent to a psychiatrist and counselling was provided to the complainant. This is one of the few cases of which the Commission is aware that counselling was provided for a complainant before the mid 1990s. This complainant was, of course, part of the order as well.

32.50 After the second complaint was made, the order did its best to try to ensure that Fr Boland did not have access to children. It organised treatment for him and then supervised him well in spite of the difficulties he presented. It co-operated with the Gardaí when they became involved.

### *Communication between the order and the Archdiocesan authorities*

32.51 The communication between the order and the Archdiocese was very poor in this case – in fact, it was virtually non-existent on the part of the order. The order did not inform the Archdiocese of the complaints against Fr Boland or of the fact that he was convicted. The order has told the Commission that it accepts that this “*represents an unacceptable lapse and wishes to express its regret and concern that such a lapse was allowed to occur*”. Its current reporting policy, if maintained, means that such lapses should not occur in the future.

32.52 The Commission considers that the order's current arrangements for dealing with alleged child sexual abusers are robust and are being implemented.

### *Gardaí*

32.53 The Gardaí dealt appropriately with all complaints reported to them.

### *DPP*

32.54 The DPP decided not to prosecute in 1994 because of the delay factor. The approach of the DPP to the issue of delay is examined in Chapter 5.

**Introduction**

33.1 Fr Quinton is a member of a religious order. He was born in 1935 and ordained in 1960. He worked abroad for a number of years and then returned to Ireland. He was involved in formation, retreat and vocation work on behalf of his order for a number of years and spent some time studying abroad. He worked in the Archdiocese of Dublin from 1985 to 1992.

33.2 There are two allegations of child sexual abuse against Fr Quinton. These have not been proven or admitted but concerns remain about his suitability for public ministry. He has not been exercising public ministry since 1999. He lives in one of the order's houses and may engage in internal ministry only.

33.3 There is written evidence from 1978 that there had been some difficulties between Fr Quinton and his students when he was involved in formation work with the order. This does not show any evidence of difficulties relating to sexual abuse. However, it emerged in 1996 that there were concerns about inappropriate sexual behaviour with students.

**Appointment to Archdiocese**

33.4 In September 1984, Fr Quinton applied to Bishop Carroll (who was in charge of the Archdiocese of Dublin at the time) asking to be appointed to a specific parish in the Archdiocese for a year. He had already received permission from the head of his order. This application was treated in the normal way. It was referred to the Advisory Committee on Extra-Diocesan Priests. The committee agreed to consider him for a parish appointment. The head of his order told Bishop Kavanagh that he was a priest in good standing. The head of the order also said that Fr Quinton wanted to work in a parish *"in order to assume more personal responsibility for his life. In recent years he has experienced difficulties in living in community life. However, he has sought direction and counselling in these matters"*. Bishop Carroll accepted him for a temporary appointment in the Archdiocese of Dublin and, in February 1985, he was appointed temporary curate until summer 1985. In

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This is a pseudonym.

fact, he stayed there beyond that time and, in May 1986, he applied for a further extension of a year. This was approved in July 1986. In 1987, Bishop Carroll noted that he had heard high praise from the parish priest about Fr Quinton's work. In 1988, he applied for and was granted a three-year extension, that is, until 1991. He continued in his position when this period expired.

### **Complaint**

33.5 In 1991, a young man with an intellectual disability who was working in a sheltered workshop run by the St John of God Hospitaller Services told the workshop manager that he had been sexually abused by a priest while he was staying in a hostel for young people. Fr Quinton used to visit the hostel but was not formally appointed to it. The workshop manager told the manager of the hostel and she also reported to Dr Patrick Walsh who was the director of psychological services in the St John of God order and had responsibility for ensuring that child protection policies within the order were carried out. The young man, who was aged 20 at this time, told Dr Walsh that the abuse had started when he was about 15 or 16. He alleged that the abuse had started with seductive behaviour towards him in the hostel. This was followed by oral sex in the priest's home. He also alleged that Fr Quinton had given him money from time to time. The young man told a similar story to the manager of the hostel.

33.6 The hostel manager informed the parish priest of the allegation and the parish priest told Bishop Murray, who was the area bishop. He told Bishop Murray that a psychologist thought there was "*something in it*". Bishop Murray informed Monsignor Stenson. Bishop Murray spoke to Fr Quinton who denied the allegations. Fr Quinton said that the young man used to visit him in his house, they listened to music and watched videos and he did give him a "*few quid*" on occasions. The young man's brother had come to his house on a number of occasions and made allegations against him.

33.7 Bishop Murray then spoke to the hostel manager. The hostel manager told Bishop Murray that he was convinced that it was the young man's own story and he was not being put up to it by his brother. The hostel manager had "*grilled*" the young man twice and his story was consistent with

what he had told Dr Walsh. The manager had also spoken to Fr Quinton, who had denied the allegation and said that no such accusation had ever been made to him (even though he told Bishop Murray that the brother had made such an allegation).

33.8 Bishop Murray spoke to Dr Walsh, who advised that, even though the complainant was an adult, the health board should be informed because he had an intellectual disability. They agreed that Dr Walsh would meet Fr Quinton.

33.9 Bishop Murray met the head of the order. The head told him that Fr Quinton had a poor relationship with him and with the authorities of the order but that there had been no sex abuse issues. Bishop Murray told Fr Quinton to see Dr Walsh and he agreed. Bishop Murray also told him to stay out of the parish for a period. Dr Walsh met Fr Quinton. Dr Walsh did not consider he was meeting him in order to carry out an assessment but Bishop Murray seems to have considered that was the case. Dr Walsh saw his role as dealing with a child protection concern within the St John of God services. He told the Commission that Fr Quinton understood his role. The Archdiocese usually referred priests against whom child sexual abuse allegations had been made to Dr Walsh for assessment. The Commission accepts that Dr Walsh saw his role as dealing with a child protection concern within his employment but considers that he should have explained this clearly to Bishop Murray and should have not become involved in reporting to Bishop Murray or anyone else in the Archdiocese or the order about the alleged abuser. His subsequent reports and advice to Bishop Murray, while they may not constitute a formal psychological assessment, do include assessments of Fr Quinton.

33.10 Dr Walsh reported to Bishop Murray that he was quite certain that Fr Quinton was not a paedophile but that he had blurred the boundaries of appropriate behaviour.

33.11 In a report compiled in January 1992, Dr Walsh concluded that there was a ring of truth to the allegation. He said that Fr Quinton staunchly denied the allegation. He described the priest as a “*pugnacious*” person who had a history of being in dispute with his superiors in the order but “*inquiries there*



*indicate that they never had any suspicions of homosexuality or sexual deviations”.*

33.12 In March 1992, having been notified of the matter by Dr Walsh, the director of community care in the health board convened a case conference. This was attended by Dr Walsh and a number of social workers. The case conference concluded that it was impossible to “*confirm or refute the allegations*”. The health board considered that the hostel manager had acted responsibly and there was no contact between current residents of the hostel and Fr Quinton.

33.13 Dr Walsh reported to Bishop Murray about the case conference and his own dealings with Fr Quinton. He reported that Fr Quinton had denied the allegations. Dr Walsh understood from Fr Quinton that these were the first allegations of their kind against him and, as they were unsubstantiated, he could not ask him to receive treatment. He did not believe Fr Quinton was a risk but he should be warned that his relationship with the complainant was inappropriate. He also recommended that Fr Quinton have a change of duties. If he was to be allocated parish work, the parish priest should be made aware of the allegations and that he should be careful about any involvement with residential homes for children or young people.

#### **End of Archdiocese appointment**

33.14 In April 1992, Fr Quinton sought a further year’s extension to his appointment to the Archdiocese of Dublin (his existing appointment had already formally expired in July 1991). Monsignor Stenson advised Archbishop Connell to withhold his consent. He pointed out that, according to Canon 693 of the code of canon law: “*If the member is a cleric the indult<sup>101</sup> is not granted until he has found a bishop who will incardinate him in his diocese or at least receive him there on probation. If he is received on probation, he is by virtue of the law itself incardinated in the diocese after five years, unless the bishop has rejected him*”. Monsignor Stenson pointed out that Fr Quinton could argue that he was received on probation in the Archdiocese of Dublin in 1985 (seven years earlier) and was, therefore, automatically incardinated (see Chapter 3). However, he thought the more correct view was that Fr

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An indult of exlaustration is the canon law procedure used when a member of a religious order leaves the order to work in a parish.

Quinton remained a member of his order. Monsignor Stenson was concerned that the time for incardination would run from 1988 and it was, therefore, important that no automatic incardination be allowed. Fr Quinton was granted a retrospective extension of a year which meant that his appointment would end in mid 1992. The Archbishop made it very clear that Fr Quinton could continue in ministry in the Archdiocese until then but that he would not be willing to incardinate him permanently into the diocese. Fr Quinton was released from his diocesan duties as planned.

33.15 It would appear that the complaint was the main reason for the unwillingness to incardinate Fr Quinton. However, there were indications that he was a somewhat difficult personality and this may have been a factor. The order seems to have believed that the complaint was the main factor. The Archdiocese is not obliged under canon law to give reasons for its refusal.

#### **Attempts to rejoin the Archdiocese**

33.16 Immediately after he ceased working in the Archdiocese in mid 1992, Fr Quinton's superior wrote to Archbishop Connell saying that Fr Quinton wished to continue working in the Archdiocese. He proposed that Fr Quinton would continue to live within the order but would be available full time for archdiocesan duties. Bishop Murray was consulted and he recognised that there was a risk in such an arrangement. The Archdiocese was aware that there were unresolved issues in Fr Quinton's relationship with his order but did not know exactly what these were.

33.17 Fr Quinton was not allowed back to the Archdiocese but no formal decision to that effect was issued. He remained within his order but his request for a return remained in place.

33.18 In 1995, at the request of the order, Dr Walsh saw Fr Quinton and issued a report on the complaint made by the young man. He had offered the young man and his brother a number of appointments in order to establish what exactly was being alleged and they had not pursued the matter. He concluded that the matter should be brought to a close as the case had been effectively dropped because it was never substantiated and should consequently not have any bearing on Fr Quinton's future life or work. Bishops Murray and Walsh were informed of the report. Bishop Murray told

the Commission that he had no further dealings with the case as he was appointed Bishop of Limerick in March 1996. The St John of God order continued to support the young man in its sheltered workshop until his death in 2007.

### **Rumours and suspicions**

33.19 In March 1996, the head of the order reported that he had met Fr Quinton to discuss the allegations against him. He wanted to bring the allegations “*to a conclusion*”. He also spoke to Fr Quinton about the rumours of improper behaviour which allegedly took place while he was master of students in the early 1970s. This was the first time that a member of the order had raised these rumours with Fr Quinton. At a meeting with the Granada Institute these rumours/innuendos were discussed. The conclusion reached was that the rumours from the 1970s could not be substantiated and the two brothers involved in the 1991 complaint would not be credible witnesses. The head of the order then wrote to Archbishop Connell saying that he, Fr Quinton and Dr Walsh had met and “*all matters relating to the allegations made ... were thoroughly discussed*”. He enclosed a separate letter which included the information about the rumours from the time Fr Quinton was a master of students. This separate letter does not seem to have been received by the Archdiocese. It is not in the archdiocesan files and Monsignor Stenson did not refer at all to these rumours when he next dealt with the subject of Fr Quinton. The head of the order expressed the wish that “*this will bring the matter to a successful conclusion*”.

33.20 In August 1996, the order proposed that Fr Quinton be appointed to one of the parishes for which it had responsibility in the Archdiocese. It appears that the priest had been exercising ministry at an oratory in the Archdiocese.

33.21 Monsignor Stenson recommended to Archbishop Connell that he not accept the appointment of Fr Quinton to the parish run by the order and the Archbishop did not do so. Monsignor Stenson argued that just because the victim and his brother did not pursue the matter with Granada did not itself establish that no incidents had occurred. Although the allegations remained unsubstantiated they were never withdrawn and were never canonically investigated.

33.22 Monsignor Stenson suggested to the head of the order that a canonical investigation be held into the allegations. The head of the order told Monsignor Stenson that Fr Quinton was living in one of the order's houses and occasionally helped out in an oratory. Monsignor Stenson said this involved exercising ministry in the diocese and the Archbishop would not be happy with that. The head then mentioned the rumours/innuendos but said he could not provide details. Monsignor Stenson noted "*I thought it was an interesting revelation*". The head of the order told Dr Walsh of the intention to hold a canonical investigation.

33.23 In September 1996, Dr Walsh provided another report to the head of the order. This contained very detailed information about the 1991 complainant which he had obtained in the course of his investigation on behalf of the St John of God order and contained the same analysis as the previous reports. It did not mention the rumours/innuendos of which Dr Walsh was aware. This report was also provided to the Archdiocese. After examining the report, the head of the order and his canon lawyer agreed that a canonical investigation was unnecessary when a thorough investigation of the case had already been carried out in 1992 by the health board.

33.24 In April 1997, Archbishop Connell said that if Fr Quinton was to be allowed a diocesan appointment, the details of his case must be considered by the advisory panel. Fr Quinton agreed to this. The advisory panel recommended that Fr Quinton be comprehensively assessed by a psychologist other than Dr Walsh and that further inquiries be made of the parish priest. If the result of these actions was satisfactory, the panel considered that Fr Quinton could be appointed to one of his order's parishes in the diocese. They recommended that he should not be reappointed in isolation from his order as had happened in his earlier appointment.

33.25 Monsignor Stenson then effectively carried out his own investigation – he spoke to the parish priest and to the hostel manager. The hostel manager told him that he considered there was a ring of truth about the allegations. Monsignor Stenson was impressed by this man and considered that his "*opinion should not be discounted lightly*".

33.26 In July 1997, the Archbishop was concerned to discover that Fr Quinton was involved with a youth group; he discovered this from a magazine. The head of the order told Fr Quinton to cease this involvement and reported to Monsignor Stenson that he (the head of the order) had not been asked for Fr Quinton's services nor had Fr Quinton been given permission for this involvement.

### **Another complaint, 1998**

33.27 In August 1998, a former student for the priesthood reported to the order about events that had occurred in 1972/3 when Fr Quinton was in charge of the students. This particular student had reported to another member of the order that Fr Quinton was abusing a young boy. He claimed that he knew the abuse was occurring "*for a fact*" but nothing was done about it. Shortly after this he was asked to leave the order.

33.28 After some time, he revealed the name of the victim and that he had reported in 1973 to a number of members of the order. The order has told the Commission that concerns were expressed to two members of the order at the time. One has been dead for many years but the other recalls being approached by this man and concerns being expressed about Fr Quinton's relationship with students. Concern was expressed in relation to one student in particular but no specific allegation of abuse was made. Fr Quinton, as well as being in charge of students, was also in a position of authority within the order. The order member to whom the concerns were expressed did not report the matter further. This seems to the Commission to have been due, partly at least, to the position Fr Quinton had in the order. The order has told the Commission that it is no longer possible for the person in charge of students to be in such a position of authority.

33.29 In September 1998, a member of the order who had been a novice in the early 1970s noted that Fr Quinton had a reputation among novices of being sexually disinhibited in his contact with them and was prone to sexual "*acting out*". This was made known to Granada and is mentioned in the report which was issued in November 1998.

33.30 In November 1998, another Granada psychologist issued a report on Fr Quinton. As well as a personality analysis, this showed that Fr Quinton

had been alienated from the authority structures in the order for many years. Fr Quinton was sceptical about the assessment and his life as a priest in general. He denied the allegation of sexual assault and reported no erotic interest in males. The report noted that Fr Quinton had gravitated towards ministry with younger adults over the years and had enjoyed relating to young adults more than older groups. While Fr Quinton denied any sexual misconduct, it was possible that a person with his profile could break other boundaries including sexual boundaries.

33.31 The report concluded that Fr Quinton was not amenable to therapeutic intervention due to his bitterness and resentment but should the allegations be clarified, he might agree to attend a therapeutic programme.

33.32 The order decided to pursue the complaints made by novices in the 1970s. The allegations do not seem to have been put to Fr Quinton. In fact, he seems to have heard of them only when he got the Granada report just before he went abroad. The specific allegation of abuse does not seem to have been investigated further nor was it put to Fr Quinton.

33.33 Fr Quinton was helping out in a parish at weekends at this time.

#### **Withdrawal from ministry**

33.34 In January 1999, due to the inconclusive allegations against Fr Quinton, his involvement with the youth group, the Archbishop's discomfort with him ministering in the Archdiocese and the repeated concerns expressed over the years about his relationship with young adult men, the head of the order asked him to have an assessment carried out. Fr Quinton went to a therapeutic facility abroad for this assessment. A report was issued in February 1999.

33.35 This report shows that, for the first time, Fr Quinton admitted that he became aware of his homosexuality in his early 20s. He denied any activity with others. It was recommended that he participate in a residential programme in order to address psychosexual issues and that he remain out of ministry until such a programme was completed.

33.36 Fr Quinton was unwilling to take part in such a programme. The order withdrew him from ministry because of his failure to comply with this recommendation. The order reported all of this to the Archdiocese. The Archdiocese would not allow him to undertake any public ministry until his difficulties were addressed. Fr Quinton was referred to a psychotherapist by Dr Walsh. This therapist seems to have acted as an intermediary between him and the order. In November 1999, he reported that Fr Quinton had attended 16 sessions and that he had not seen anything that would indicate a danger of sexually abusing children during the course of his ministry. However, this therapist clearly heard only Fr Quinton's version of events and he was under the impression that the 1991 allegation against Fr Quinton was "*without substance*". He does not seem to have been aware of the concerns in relation to the 1970s.

33.37 Many meetings were held within the order with Fr Quinton to try to resolve the impasse. Fr Quinton argued that he was being considered guilty and invoked canon law. The order consulted its canon lawyer who took the view that removing the priest from public ministry could not be regarded as automatically damaging his lawful good name and reputation and referred to canon 682.2 which states that no religious has a right to a pastoral assignment and can be removed from office.

33.38 The order did try to find suitable work for him. The delegate for the order investigated the rumours/innuendos relating to the 1970s. The main complaints were not related to sexual abuse but there were allegations that Fr Quinton was over friendly with some students and there was excessive drinking in the seminary.

33.39 The specific complaint about sexual abuse of a young student does not seem to have been further investigated. This complaint was not made known to the Archdiocese.

33.40 The problem remained that an allegation had been made and not withdrawn. It was impossible to prove or disprove it. Nevertheless, it was clear that both the hostel manager and Dr Walsh considered that there was something in it. There were also concerns about Fr Quinton's relationship with young men. The report from the overseas therapeutic facility is clear that

Fr Quinton needed residential treatment to deal with psychosexual issues and that he should not be in ministry until this was completed. Fr Quinton refused to take such treatment. The impasse remains. His psychotherapist, whom he had been attending for six years, recommended in 2006 that he should be allowed public ministry.

### **The Commission's assessment**

33.41 The woman in charge of the sheltered workshop is to be commended for her prompt and caring response. The hostel manager also dealt well with the matter and ensured that Fr Quinton did not have further access to the hostel. The health board did not report to the Gardaí. The Commission considers that it should have done so even though the complainant was an adult at the time. He was an adult with an intellectual disability and so the health board acted appropriately in organising a case conference.

33.42 The Commission considers that the Archdiocese was correct in not allowing Fr Quinton back into ministry as serious concerns remain over his behaviour. It is also clear from his involvement in the therapeutic facility abroad that he was less than candid in his dealings with the Church authorities and Granada.

33.43 The order does not seem to have thoroughly addressed the complaint about specific sexual abuse in the 1970s. The order did have a problem in finding suitable activities for Fr Quinton who clearly was disenchanted with the order but chose to remain in it.

33.44 The Commission is concerned about the role of Dr Walsh in this case. The Commission recognises that Dr Walsh dealt appropriately with the complaint in his role within the St John of God order. However, he should have made it clear to Bishop Murray and to the order that this was how he saw his role. The Commission considers that he should have taken no further part in assessing Fr Quinton because of the potential conflict of interest between the interests of the young man and the interests of the alleged abuser. Dr Walsh does not accept that there was any conflict of interest.



33.45 Communication between the order and the Archdiocese was reasonable in this case. However, neither the Archdiocese nor the order seems to have adverted to the fact that Fr Quinton's original appointment to the Archdiocese had ended and was allowed to continue without specific sanction. In fact, the Archdiocese nearly allowed Fr Quinton to become incardinated by default.

**Introduction**

- 34.1 In August 1992, Monsignor Alex Stenson, the then Chancellor of the Archdiocese, received a call from a mother alleging that her daughter, who was now in her late twenties, had been abused by Fr Marius when she was 12 years old in the 1970s. Fr Marius was then based in a parish on the north side of Dublin. A preliminary investigation was ordered by Archbishop Connell and Monsignor Stenson was appointed the delegate for the purpose of the investigation.
- 34.2 The very next day Monsignor Stenson met the mother and daughter and recorded their complaints. The abuse was alleged to have taken place in the complainant's own home. She told Monsignor Stenson that when her mother would make tea she would be left alone with Fr Marius and he would put his hand down her top and feel her. She said that it was common for him to hold girls' faces in his hands and to kiss their faces and lips. She named another girl who she said was subjected to this.
- 34.3 She recounted an evening where Fr Marius called to her home on the pretext of taking her to a group meeting in the presbytery. When they got to the presbytery, no one else was there. She said that he shut the door and began to kiss her and removed her top and he then opened his trousers and masturbated on her. After that evening she tried to avoid him and also avoided any parish activities in which he was involved. Later she married and, like many abused people, her marriage broke down because she developed a repugnance to the sexual side of marriage. She was now anxious to ensure that this priest no longer had the opportunity to abuse.
- 34.4 Two days after meeting the complainant, Monsignor Stenson met the priest and put the allegations to him. He "*accepted the apparent truthfulness*" of the account but said he had no recollection of the girl. He wondered how it would affect his future as a priest and if he would be ruined. He then recalled the girl and he wrote to Archbishop Connell to deny the allegations.

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<sup>102</sup>

This is a pseudonym.

### **The priest's background**

34.5 Fr Marius was ordained in the 1950s. While a student in Clonliffe, he was charged with indecently assaulting a 15-year-old girl in a cinema. He was acquitted and the District Court Judge at the time made it clear that it was not to affect his future in the college.

34.6 His first appointment was as chaplain to a geriatric hospital. Allegations were made while he was there that he was too close to a trainee nun. Archbishop McQuaid had the matter discreetly investigated and it seems to have been decided that it was totally out of character for the priest. Documentation about this complaint was discovered in the Clonliffe College archive in 2004.

34.7 Fr Marius subsequently held appointments in a number of parishes. He was a parish priest when the complaint was made in 1992.

### **Assessments and Church investigation**

34.8 Following Monsignor Stenson's preliminary investigation, both the complainant and Fr Marius were sent for a psychological assessment and the consensus was that the complainant's account was more than likely to be true. In September 1992, Monsignor Stenson informed Archbishop Connell that the medical professional considered the matter *"to be very serious"* and *"would suggest we act immediately"* and *"that others are probably at risk"*. Sometime between 1992 and 1995, Archbishop Connell carried out a search of the secret archives to ascertain if there were any previous complaints about this priest. At that stage he would have discovered the records of the 1950s charge and acquittal. Monsignor Stenson was not aware of any archival material when he received the 1992 complaint. Further inquiries by Monsignor Stenson revealed that many women felt uncomfortable in Fr Marius's company. They stated that he was inclined to encroach on their personal space and was overly tactile. There were rumours emanating from his period as parish priest that he had fathered a child who was placed in foster care. Fr Marius denied this allegation. It was not followed up by the Archdiocese. A priest colleague noted what he referred to as a *'hint of a pattern'*. He stated *"I took no direct action on the matter, other than always watchful, ready to take evasive action"*.

34.9 A further medical report was obtained and the view of the second medical practitioner was that the priest was in denial. It was also noted that he expressed a worrying preference for working with children.

34.10 Around this time Fr Marius developed a heart complaint and had to be admitted to hospital.

34.11 Eventually Monsignor Stenson thought that the best option for Fr Marius would be to resign on health grounds. He would be given a number of weeks to tidy up parish matters and leave with “*dignity*”.

34.12 A medical report in December 1992 noted that Fr Marius was not a compulsive paedophile but there were concerns about his inappropriate behaviour towards women. His treating psychologist concluded that he was unlikely to abuse again in the future. The psychologist proposed that continued counselling and adequate supervision would be sufficient safeguards. The psychologist made it clear that he believed the complainant unreservedly.

34.13 The Archdiocese paid for counselling for the complainant and offered counselling to her mother.

### **Resignation**

34.14 Fr Marius accepted the proposal regarding his resignation. There were restrictions put in place on his activities. In March 1993, a house which he was to share with his brother was bought for him. Bishop Murray, who was the area bishop, told the Commission that he was aware of the background when Fr Marius moved into his area. Fr Marius was allowed to say mass once a week, to help with Sunday mass and hospital mass but he was not allowed any involvement in any sermons or activities where young people were concerned. These restrictions were to be put in the form of a behavioural contract.

34.15 By May 1993, the behavioural contract had not been put in place and Monsignor Stenson noted that he was not being properly monitored at this time. Eventually, towards the end of June 1993, a behavioural contract was drawn up and signed. Under the contract:

- He was to be in regular contact with a clinical expert, an unnamed church representative and the local parish priest in connection with his

personal situation and pastoral involvement with the nursing home in the area.

- He was to keep in regular contact with his spiritual director.
- He was to be willing to attend any qualified counsellor on the understanding that the information would not be shared with a third party
- He was restricted from taking part in any apostolate involving children.
- He was restricted from taking part in any pastoral work other than in the nursing home.
- He was restricted from physical contact with children beyond a handshake.
- Under no circumstances was he to allow himself to be alone with a child whether inside or outside his place of residence.
- He was not allowed to become familiar with the families and children of the residents he came into contact with through his work in the nursing home.
- The parish priest of the parish where he lived was to be made aware of the situation and he was to be allowed to discuss with him any areas of concern about the manner in which he conducted his relationships with children.
- Failure to comply with any of the conditions could result in termination of his employment as well as having to share accommodation with another priest.

34.16 Despite the fact that this contract was signed in June 1993, it was late 1994 before the parish priest in the area where Fr Marius lived was told of his situation by Bishop Murray. Bishop Murray told the Commission that the parish priest in the area where Fr Marius did some ministry in nursing homes had reservations about his ministering in those homes. These reservations were based on his manner which was *“hard to take”*. Bishop Murray said that he met Fr Marius on several occasions between 1993 and 1995 to *“ask him whether he was abiding by his contract, that he was having no contact with children in the locality and to enquire about his general wellbeing”*. Bishop Murray told the Commission that he was not responsible for the monitoring of Fr Marius.

34.17 In March 1995, concerns were expressed about the monitoring system as Fr Marius had not returned to the Granada Institute where he was receiving

treatment. In November 1995, he was told by Bishop Murray to cease all work in the diocese.

- 34.18 Bishop Murray had received reports from the nursing home where he was ministering stating that he was unsatisfactory to work with as he would invite young nurses back to his home and attempt to kiss them.

#### **Notification to the Gardaí**

- 34.19 The Gardaí were notified about the 1992 allegation in July 1995, but as the complainant did not wish to make a statement to the Gardai, the matter went no further.

#### **Monitoring system, 1997**

- 34.20 In December 1997 Monsignor Stenson spoke to a local priest about the monitoring system that was supposed to be in place. The priest recalled a vague conversation with Bishop Murray but said that nothing was mentioned about a monitoring system. It would appear that the only system that was in place at that stage was one where Bishop Murray inquired from Fr Marius if he was behaving himself.

#### **Further complaints**

- 34.21 In October 1998, another complaint was made to the Archdiocese about Fr Marius. This complaint was made to the parish priest of the area where the abuse had taken place. The complainant's doctor felt she was not physically or emotionally ready to make a formal complaint to the diocese at that time. The Archdiocese did not pursue the matter with the priest. It did make clear to the complainant that it would assist with counselling.

- 34.22 In July 1999 the Archdiocese received reports that Fr Marius was offering his services to the priests of an English parish.

- 34.23 In February 2002, a complaint was received from a women who claimed that she had been abused by Fr Marius. She alleged that the abuse occurred when she was aged between 12 and 17 years old. The complainant later revealed that she was the same person who had reported the abuse to the parish priest in 1998. In April 2002, she requested answers to the following questions through her solicitor:

- How long did he serve in the parish where he abused her?
- What other parishes did he serve in?
- How many allegations were made against him?
- When did the complaints come to the notice of the Archdiocese and how were they dealt with?
- When was he removed from ministry?
- Did he have any contact with schools or institutions?

She also sought compensation for the trauma which she had suffered. She claimed that Fr Marius raped her once and sexually assaulted and attempted to penetrate her on other occasions. This abuse occurred while she was assisting with parish activities.

34.24 In May 2002, the Archdiocese notified both the Gardaí and the health board about this new complaint.

34.25 As the second complainant had not received a reply to her letter of April 2002 to Cardinal Connell by August 2002, she instructed her solicitors to take a civil action. Cardinal Connell told the Commission that the delay in replying to her letter was due to a delay in his Solicitor's office. She also expressed her annoyance that the Church had notified the Gardaí without her permission. Her civil case was settled in 2005.

### **The advisory panel**

34.26 In June 1997, the advisory panel considered the case and recommended that Fr Marius be given an appointment as a chaplain to a community of nuns. In 2002 the panel recommended that he be made the subject of a canonical precept. This was done and, under the terms of the precept, he was:

- forbidden from celebrating mass publicly; he was allowed to celebrate mass privately but only with those who knew the reasons behind the precept;
- not permitted to celebrate the other sacraments with the exception of the sacrament of penance, in situations of danger of death;
- restricted from any kind of unsupervised contact with minors;
- not permitted to wear clerical garb;

- obliged to attend the Granada Institute for assessment;
- obliged to remain in regular contact with his priest advisor;
- told that any violation of the precept would result in suspension and reduction of income.

34.27 In November 2002, the advisory panel recommended that his faculties be formally withdrawn. The panel was unsure whether the terms of the canonical precept had been put in place.

### **The Gardaí**

34.28 As the Gardaí had not received a direct complaint, they felt they could not investigate the matter.

### **The health board**

34.29 In November 2003, a social worker from the health board requested an update on Fr Marius's situation.

34.30 She asked about monitoring and also whether the psychological assessment was a "*risk assessment*" and if so what the results were.

34.31 In September 2004 the Child Protection Service of the Archdiocese wrote to the social worker outlining the fact that Fr Marius lived with his brother, that he was visited by his support priest once a week and that the parish priest of the area where he was living had been informed of his past. The social worker expressed satisfaction with these arrangements.

### **The Commission's assessment**

34.32 The Commission is concerned at the delays that occurred in this case, in particular, the failure to respond speedily to a complainant's correspondence, (even if it was a delay in the solicitor's office); the delay in putting the behavioural contract in place; and the delay in notifying the parish priest about his residence within the parish.

34.33 There was a major problem about the monitoring of this priest. Despite the fact that he was the area bishop and was in touch with the priest on a regular basis between March 1993 and the time of his appointment as bishop of Limerick in February 1996, Bishop Murray failed to put a proper system in



place. Bishop Murray has said that it was not his responsibility to put a monitoring system in place. He told the Commission that his involvement was “*solely at the request and direction of Archbishop Connell.*” Bishop Murray also said that there was “*no developed thinking*” within the Archdiocese at this time regarding how a known or suspected offender should be supervised. Once again, this case illustrates the weaknesses in the management of the Archdiocese, the lack of communication between the authorities in the Archdiocese and the failure to properly address the whole question of monitoring. In the Commission’s view, there was nobody responsible for monitoring.

34.34 The Commission is aware that further complaints have been received in relation to Fr Marius. These complaints emerged during the currency of the Commission’s remit and are the subject of an ongoing Garda investigation.

**Introduction**

35.1 In June 1992, Fr Noel Reynolds was appointed parish priest of Glendalough, Co Wicklow. He was just under 60 years of age. This was his first appointment as a parish priest. It was while there in 1994 that, according to a statement given to Gardaí, concerns were expressed to a neighbouring curate about his behaviour with young children. Among those concerns were that he talked “*dirty*” to a group of children aged between 11 and 12, that he spoke to them in a sexual manner, that he was in the habit of bringing young children for walks, that he encouraged them to swim naked in the river, that he would bring them in his car and have them sitting on his lap while driving and that he exchanged sweets for kisses. Some of the children spoke to their school principal telling him that they did not feel safe with the priest. These matters were reported to the chancellor, Monsignor Stenson, in September 1995.

**Background**

35.2 Fr Reynolds had been a priest for just over 30 years at this stage. He was ordained in 1959. He had entered Clonliffe College in 1952 on the personal recommendation of Archbishop McQuaid after he was deemed unsuitable to train as a Holy Ghost Father. He had been educated by the Holy Ghosts.

35.3 He had attended boarding school from the age of eight. He was extremely lonely and it was noted in a psychological report by Dr Patrick Walsh of the Granada Institute in May 1997 that he (Fr Reynolds) recalled going through classes and falling for young attractive boys although he was totally unconscious of any sexual content to such attractions. Dr Walsh noted that he was warned from time to time against special relationships by the dean of studies.

35.4 His passage through Clonliffe was unremarkable but Dr Walsh noted in his psychological report that it was clear from the time of his ordination that Fr Reynolds had a special interest in ministry to children. It was also noted that he had children sit on his knee during confessions.

35.5 He spent periods as a chaplain to a number of girls' schools before being appointed in 1969 as a curate to Kilmore Road parish. He stayed in this parish until 1978.

35.6 During the course of his curacy at Kilmore Road he wrote a very unusual seven-page letter to Archbishop Ryan about the deep unrest that was permeating his life. He stated that *"a feeling of unrest has been continually with me for the past six months or so. I am upset by the quality of my life...Would it be possible to live with the poor? To live with a family..."*.

35.7 At this stage, Fr Reynolds had already begun abusing children. While the Commission accepts that to live among the poor may be a commendable desire for a priest, it is nevertheless surprised that this letter did not lead to some further assessment of the suitability of Fr Reynolds for parish work.

35.8 The mother of one of the complainants told the Commission that he was a constant presence in their home over a period of seven years while in Kilmore Parish. He would take meals with the family and watch television with them. He would ask permission to wish the girls goodnight and unknown to her was abusing them in their own bedroom.

35.9 Fr Reynolds's friendship with children was noted in the area as he constantly brought young children to his home as well as on outings to the sea. A priest of the diocese who was an altar boy around this time vividly remembers the fact that young girls were constantly around Fr Reynolds. While he himself did not witness any impropriety he felt that this kind of lifestyle made Fr Reynolds vulnerable to having a complaint made against him.

35.10 From 1978 until August 1983 he was in East Wall parish. While there, the parish priest went into Fr Reynolds's bedroom one evening to turn off the light and noted a female lying asleep in his bed. He considered she was around 30 years old. According to his statement to Gardaí in July 1997, he said he was shocked by the discovery but that he did not speak to Fr Reynolds or anybody else about the matter.

35.11 It is highly unlikely that the female in Fr Reynolds' bed was a 30-year-old woman given his admitted propensity for young children. Later, in his garda interviews, Fr Reynolds admitted to abusing a female teenager over a period of two days while he was in East Wall and the evidence strongly suggests that it was that teenager who was in Fr Reynolds's bed.

35.12 In 1983 he sought a transfer from Dublin to an island posting so that he could *"be more in tune with the people"*. He told the Archbishop that he wanted *"to give away everything (or as much as possible) and separate myself from life in Dublin where there are far too many distractions"*.

35.13 In July the Archbishop told him that he had written to the Archbishop of Tuam with a view to finding an island home for him: *"Meanwhile I am informing him of your identity which so far as been carefully concealed"*.

35.14 When he did identify Fr Reynolds as the priest seeking the transfer, Archbishop Ryan assured Archbishop Cunnane of Tuam *"that Father Noel Reynolds is a dedicated and devoted priest and will give good service to the Islanders"*. No assessment was done of him prior to assigning him to Tuam. In his interviews with the Gardaí, Fr Reynolds admitted to abusing on the island but did not identify the victims.

35.15 After leaving the island he spent some time in Bonnybrook parish and studying prior to being appointed as a curate in Saggart, Co Dublin. In 1992 he was appointed parish priest of Glendalough and in 1994, the concerns outlined above were raised.

### **The Church's investigation**

35.16 In October 1995, Archbishop Connell issued a decree initiating a preliminary investigation into complaints from Glendalough under canon 1717 of the code of canon law (see Chapter 4). Monsignor Stenson was appointed as delegate. It was not until late February 1996 that Monsignor Stenson met the school principal to receive details of the complaint. Because the allegations related to matters outside the school, the principal had recommended to the parents of the girls involved that they contact Archbishop's House or the health board's director of community care. They were unwilling to do that. Monsignor Stenson told the Commission that he

had made a number of attempts to contact the school principal before the actual meeting took place.

35.17 At that meeting the principal claimed that there was no physical or sexual abuse. He said that a parent had spoken directly to Fr Reynolds about the matter and that Fr Reynolds indicated that it would stop. An indication of how seriously the principal viewed the matter can be gleaned from his statement: *“There was gossip and innuendo - I never left him in a class on his own subsequently. I didn’t allow my daughter to be an altar girl. They were saying he was talking about ‘making love’ when the girls first spoke to me”*.

35.18 Another parent was unhappy about getting a parent to approach Fr Reynolds. He told Gardaí that in 1997 there were rumours that Fr Reynolds was interfering sexually with local children. He told Gardaí that he rang Archbishop’s House and said he wanted Fr Reynolds removed. Fr Reynolds was removed the following July. The Commission could find no evidence of this phone call in the Archdiocesan files.

#### **Interview with Fr Reynolds**

35.19 Despite the existence of a decree initiating a preliminary investigation in October 1995, Monsignor Stenson, in his capacity as delegate, did not meet Fr Reynolds until March 1996. The following note, created by Monsignor Stenson, and signed by him and by Fr Reynolds, records what happened at that meeting:

*“I informed Noel that I would let him hear the complaint and that he need not comment or say anything - that he had his rights. I read the file. Noel would agree that what I told him was a perfectly good description of what had taken place. He was approached by a parent [. . .] concerning his own daughter and he mentioned that his teenage daughter used to snub me when I visited the house. They asked what was wrong and she said that Fr Reynolds used to talk dirty.*

*Dirty talk?*

*I suppose jokes that you’d be embarrassed to tell in the company of their parents. Word games - a rhyme with sexy connotations.*

*And since [the parent] was with me I have stopped all this. For the past two years it's been like that. It was my own folly rather than maliciousness. I didn't want to frighten anyone or make them feel unsafe.*

*Something similar had occurred in other parishes but never became public.*

*If I'd been assessed before going into Clonliffe I would have been a repressed person and in need of affection. My mother died at 4. Longing for love.*

*In 1959 in Dundrum Tech I freaked giving children a class on sex instruction. I was always trying to disassociate the idea of dirt from sex. I never allowed them take the Holy Name but allowed them to talk sex.*

*Even in confession I overstressed the affection of God with children. People knew the children sat on my knee but it never gave rise to complaints.*

*A nun in East Wall made life difficult – wanted me in and out of the school in a half an hour - because of my talks on the facts of life with children.*

*I have spoken this over with some priest friends - but listening to [a priest counsellor] I believe loneliness as a child has been a huge factor. I would admit that my sexual orientation is towards children. Children would arouse me sexually.*

*Noel agreed that he had taken children for walks and outings on his lap in the car etc. On another occasion another group of children in fourth class wanted to get into the river for a swim. Noel went away – he had a towel in his car so they could dry their feet - if paddling. But he didn't want to be around so he didn't know if in fact they had or not.*

*As the youngest in the family I never took charge of situations - but I was afraid to say no. I have had nightmarish outings – rows on the beach - stopping the bus for sweets – I was lacking in discipline. My orientation to children has caused me much pain. I took on children who were disadvantaged and some very bold.*

*Noel would look back on his judgement in this area of children with a degree of suspicion. Folly he would call it.*

*I haven't noticed any 'cooling off' in the Parish by adults. I have a funny feeling that I never had an adolescence. At 63 my judgement in these areas of children has been foolish. I think I can control it. It was a habit. I think I can avoid bad behaviour anymore - imprudent - folly. I will go for any help that is required.*

*I am considering taking a sabbatical in Moone<sup>103</sup> with a possible view to entering there. . . I'm still journeying myself. But there is an element of letting me be 70 million miles away from all this...the school, allegations etc."*

35.20 Shortly after this meeting with Monsignor Stenson, Fr Reynolds met the Archbishop. He expressed a desire to go to Moone to be a Cistercian monk. This seemed acceptable to the Archbishop.

35.21 A meeting was held with the Abbot of Moone following which he wrote to Monsignor Stenson as follows:

*"I had a visit recently from Fr. Noel Reynolds. As you may be aware he has expressed a wish to enter our Community. In the course of our conversation he told me about some incidents involving children while he was administering as P.P. in Glendalough. He had discussed the incidents with the Archbishop who told him to ask me to contact you. He seemed rather reticent about the whole matter and I didn't like to press him because it is a very sensitive area. But it would seem that there was a complaint made to Archbishops House.*

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<sup>103</sup>

Moone, Co Kildare is the headquarters of the Cistercian Order.

*I would be glad therefore if you could let me know what you think I should know about these incidents.”*

35.22 In May 1996, a meeting took place between the Abbot and Monsignor Stenson. It was agreed that Fr Reynolds should be assessed by someone like Dr Patrick Walsh with a view to assisting the monks and Fr Reynolds to reach a decision. He did not join the Cistercians.

### **Advisory panel**

35.23 In March 1997, the case was referred to the advisory panel. Monsignor Stenson, as the delegate, produced a report for the panel. In April 1997, the panel concluded that it did not consider there was any firm evidence that any incidents of child sexual abuse took place although it seemed clear that some inappropriate behaviour did happen. The panel recommended that he undertake an assessment by Dr Patrick Walsh of the Granada Institute. At this stage, over two years had elapsed and he was still in the parish of Glendalough.

### **Dr Walsh’s assessment**

35.24 In May 1997, Dr Walsh issued a preliminary report. He noted that he could not give a definite conclusion until he had completed a more detailed assessment of Fr Reynolds’s personality and the history of the problem. He stated that Fr Reynolds was capable of maintaining a positive and appropriate ministry to adults. He was also capable of a positive and appropriate ministry to children but in a limited way. He recommended that Fr Reynolds should not be involved in non-structured or informal interactions with children in the parish or in school. He also recommended that Fr Reynolds should confine himself to the administration of the sacraments in the normal way but with the proviso that, when he heard confessions, he maintain the proper protocol and avoid physical contact and remain focused on the administration of the sacrament. He further stated that it would be inadvisable for Fr Reynolds to be involved in teaching and that he should not be involved in matters dealing with sexuality. Overall, Dr Walsh concluded that Fr Reynolds had shown *“considerable confusion in his relationships with children. He has confused his own needs as a child with their needs and consequently has failed to maintain appropriate adult-child boundaries. In addition he has used inappropriate language in his classes and interaction with children”*.



35.25 Dr Walsh recommended that a priest support person be put in place for him. This was not done until around July 1998.

### **National Rehabilitation Hospital**

35.26 Despite this assessment, Fr Reynolds was appointed by Archbishop Connell as chaplain to the National Rehabilitation Hospital, Rochestown Ave, Dun Laoghaire in July 1997. Granada was not informed of this appointment. Bishop O'Mahony told the Commission that he was the liaison bishop for hospital chaplains. He called to the hospital as a result of concerns raised by the director of nursing about Fr Reynolds's physical health. He told the Commission that it was during this visit that he became aware that Fr Reynolds might have a problem with child sexual abuse. He arranged an appointment for Fr Reynolds with Dr Walsh of Granada. Bishop O'Mahony explained to the Commission that, at that time, he was not aware that Fr Reynolds had already been assessed by Dr Walsh in 1997 nor was he aware of the contents of Monsignor Stenson's interview with Fr Reynolds in 1996.

35.27 The National Rehabilitation Hospital caters not only for adult patients in need of rehabilitation but it also has a children's ward and a school. The hospital authorities were not informed of Fr Reynolds's history and did not discover it until approached by a representative of the Prime Time programme *Cardinal Secrets* in 2002. The director of nursing, not surprisingly, expressed great concern both to the Archdiocese and in the media at the failure of Archbishop Connell to provide her or the hospital with full details of Fr Reynolds's background. The hospital management wrote a strong letter of complaint to Cardinal Connell. The Cardinal replied with an apology in the following terms: *"No explanation of mine could justify the fact that the National Rehabilitation Hospital was not informed of this background at the time of Fr Reynolds appointment as chaplain. I acknowledge that this was a serious error, although made without realisation of the risk involved"*.

35.28 It is difficult for the Commission to understand how, in 1997, Archbishop Connell, in view of the information he had of complaints, could not have been aware of the risk involved in such an appointment. Over the period of Fr Reynolds's time at the hospital, there were a total of 646 in-patients of whom 94 were aged 18 or younger. When it became aware of Fr

Reynolds's history, the hospital wrote to all 646 patients and established a help line. None of the calls or letters received reported issues of concern or required further action. The hospital also reported the matter to the health board and introduced improved safeguards for its young patients.

### **Further complaints**

35.29 In February 1998, the mother of one of Fr Reynolds's alleged victims spoke to the chancellor, Monsignor Dolan, indicating that her daughter had been sexually abused by a priest some 20 years previously. She did not give the name of the priest nor was she asked for it. She was told that, as her daughter was now an adult, she would have to make the complaint herself. She was also told that if the complaint passed the threshold of suspicion it would have to be reported to the Gardaí. The mother expressed herself very pessimistic about the ability of her daughter to go to Archbishop's House. The mother told Monsignor Dolan that she herself was receiving counselling and he was assured she had someone to talk to about her situation. Given that the matter was serious enough for the mother to receive counselling, the Commission finds it strange that the name of the priest was not sought. Had it been sought, Monsignor Dolan could have accessed Fr Reynolds's file and seen his admissions to Monsignor Stenson made almost two years earlier.

35.30 Bishop O'Mahony had a meeting with Dr Walsh and Fr Reynolds in May 1998. Dr Walsh wrote to Bishop O'Mahony stating that he was of the firm view that Fr Reynolds posed no threat to children. However, the recommendation of May 1997 should continue to be observed that "*Fr. Reynolds is also capable of positive and appropriate ministry to children but in a limited way*" and he repeated that he should not be involved in non-structured or informal interactions with children in the parish or in school.

35.31 At this stage Fr Reynolds was still acting as chaplain in the National Rehabilitation Hospital.

35.32 Six days after Dr Walsh wrote to Bishop O'Mahony, a social worker at a drug treatment centre contacted the chancellor, Monsignor Dolan, to tell him that a client had alleged that she had been abused by Fr Reynolds when she was nine years old. She said that she had informed Bishop Eamonn Walsh of

the matter the previous week and he had advised her to write to the Chancellor.

35.33 She said she was particularly concerned because Fr Reynolds was a chaplain at the National Rehabilitation Hospital stating: *"I regret to have to write this letter but I feel it is important that you are alerted as the person is in a Chaplaincy position"*.

35.34 It is recorded that Archbishop Connell was notified of the social worker's allegations in late May 1998. A handwritten note indicated that Dr Patrick Walsh was sent a copy of her letter in early July 1998.

35.35 In July 1998, Archbishop Connell released Fr Reynolds from his duties as chaplain to the National Rehabilitation Hospital and nominated him as a beneficiary of the Diocesan Clerical Fund (see Chapter 8). The hospital was not informed of the reasons for Fr Reynolds's removal and assumed it was due to his poor health. By this time, Fr Paddy Gleeson had been appointed assistant delegate and was now handling the matter on behalf of the Archdiocese.

35.36 This was notified to the social worker who had approached the Archdiocese with the complaint against Fr Reynolds. She was told that he would be living in monitored retirement pending the outcome of his case and that he would be receiving therapy from Dr Walsh.

35.37 At this stage Fr Reynolds was not living in monitored retirement. He was living unmonitored first with his sister and subsequently with his stepmother.

#### **Meeting with victim's mother**

35.38 In November 1998, the mother who had initially contacted the Archdiocese and who now claimed that not one, but two, of her daughters had been abused by Fr Reynolds had a meeting with Fr Reynolds and his support priest. At this meeting, Fr Reynolds acknowledged that he had abused her daughters. This was confirmed by his support priest.

35.39 Following this meeting Fr Reynolds was medically examined and it was noted that, in addition to his cardiac problems, he suffered from the initial stages of diabetes and Parkinson's disease and that he should not live alone. He had been living with his sister and later moved in with his stepmother. In January 1999 a place was found for him in a nursing home.

#### **Formal complaint**

35.40 The Archdiocese held the view that no formal complaint had been made. They therefore had not reported the matter to the Gardaí. In June 1999, the social worker contacted Fr Gleeson to inform him that the two sisters had made contact with the Gardaí with regard to making a complaint about Fr Reynolds. She told him both had been interviewed but had not made statements.

35.41 Later in June 1999, Fr. Gleeson contacted the Gardaí at the sexual assault unit at Harcourt Street and informed them that the Archdiocese had received complaints of sexual abuse by Fr Reynolds while he was attached to the parish of Kilmore West in the late 1970s.

35.42 It was clear from the statements made by the two sisters to the Gardaí that the allegations were extremely serious. It was the worst case of "*serious and systematic abuse*" that the drug centre social worker had encountered.

35.43 In August 1999, the priests in all the areas where Fr Reynolds worked were contacted and brought together for a meeting to explain the situation.

35.44 A report in a newspaper in August 1999 alleged that the Gardaí had launched a major investigation into rape claims by two sisters against an elderly priest. It also alleged that the priest had used a crucifix in what was described as a sick sex assault. The priest was not named.

35.45 Later in the same month, Fr Reynolds travelled to Rome to celebrate the 40th anniversary of his ordination.

#### **A further complaint**

35.46 In October 1999, the Gardaí received a complaint from another woman alleging that she had been sexually abused by Fr Reynolds while he

was a curate in Kilmore West in the 1970s. She alleged that, as she was preparing for her communion, he sat her on his knee and put his hands into her pants and put his finger into her vagina. It was alleged that this had happened on five separate occasions prior to her making her first communion.

#### **Admissions by Fr Reynolds**

35.47 Fr Reynolds was arrested in October 1999 for the offence of raping one of the two sisters referred to above between the years 1971 and 1979.

35.48 The Gardaí carried out a very thorough investigation into this case. Fr Reynolds was interviewed and he admitted widespread abuse. He claimed that he was pressurised into making a number of comprehensive statements but the Commission could find no evidence of this. During the course of his interviews with the Gardaí, Fr Reynolds admitted abusing one of the sisters when she was 11 and the other when she was six years old and putting his finger into their vaginas when they were in bed in their own home. He told the Gardaí that he was sexually attracted to young girls and that they were not the only two victims in Kilmore. He could remember about 20 girls in total; there were others in East Wall and on the island in the diocese of Tuam. He admitted inserting a crucifix into one girl's vagina and back passage. He said he had admitted to their mother that he had abused her daughters. He said he offered their mother £30,000 in compensation but that she did not accept it.

35.49 Not only did he admit the abuse of the two sisters and several others in many other parishes, but he also offered as evidence to the Gardaí, the crucifix with which he had said he had abused one of the complainants. The Gardaí did not confine their investigations to the area where the two women claimed they had been abused but they also conducted inquiries in several of the parishes where Fr Reynolds worked. A very comprehensive file was forwarded to the Director of Public Prosecutions (DPP). The DPP was prepared to initiate a prosecution against Fr Reynolds and gave instructions to that effect. Following representations from his solicitor about Fr Reynolds's deteriorating health, and specifically the medically verified onset of dementia, the DPP changed his mind.

35.50 The two sisters were bitterly disappointed with the outcome.

### **Other complaints**

35.51 The Gardaí became aware of another 12 complainants. While nine were prepared to make statements, the other three declined to do so. The incidents ranged from fondling of genitals to touching around the leg area, digital penetration, anal rape, attempted sexual intercourse, oral sex, actual sexual intercourse and inviting the children to fondle his penis.

35.52 In many cases the abuse continued for between two and seven years.

35.53 In total, nine females and six males claim they were abused by Fr Reynolds. They were aged between six years and 11 years at the time of the abuse. Of course, he has admitted to many more cases of abuse, at least 20 in Kilmore alone.

### **Health board**

35.54 A note on the health board file states that the matter was referred to them in February 2001. A second note in November 2002 states that *“we had decided to follow up on safety issues in relation to the above. I now understand the man is deceased, so current living arrangements need no further follow up”*.

35.55 Fr Reynolds died in April 2002.

### **The Commission’s assessment**

#### *Archdiocese*

35.56 This case was extremely badly handled by the Archdiocese. Numerous indications of serious abuse and of admissions by Fr Reynolds were ignored. The suspicions about Fr Reynolds surfaced during his time in Glendalough in 1994. Despite the fact that the parents had no desire to go to the Gardaí or to the health board, and wished the Church to deal with the matter, it was March 1996 before any interview with Fr Reynolds was conducted. He admitted to the complaints. He stated that something similar

happened in other parishes. No proper investigation was conducted into his activities in other parishes. Despite this admission he was allowed to remain on as parish priest in Glendalough until July 1997. The Commission accepts that Monsignor Stenson only became aware of the complaints in October 1995.

35.57 In the interview with Monsignor Stenson in March 1996, Fr Reynolds also admitted that his sexual orientation was towards children. A record of this interview is signed by Fr Reynolds. Again, despite this, he was given an appointment in the National Rehabilitation Hospital. This appointment gave him access to young children. Subsequently, Bishop O'Mahony became aware that Fr Reynolds may have a problem with child sexual abuse but he does not seem to have mentioned this to anyone else in the Archdiocese or, indeed, to the hospital. This, the Commission believes, represents a major breakdown in communications among those in overall charge of the Archdiocese.

35.58 When the mother of two of Fr Reynolds' complainants reported to the chancellor, in February 1998, that her daughter had been sexually abused by a priest 20 years previously she was told that, because her daughter was an adult she would have to make the complaint herself. The Commission recognises that she did not name the priest nor was she asked for his name. She explained that her daughter was unlikely to go to the Church authorities to complain.

35.59 When the social worker reported her fears that a priest whom she claimed may have sexually abused one of her clients some 20 years previously was currently working in a situation where he had access to children, this also was ignored. She did name Fr Reynolds.

35.60 It seems to the Commission that a somewhat extraordinary approach was adopted towards Fr Reynolds. The situation was that, in 1994, the Church authorities had received information about inappropriate behaviour by a priest in Glendalough. They themselves had set up a preliminary investigation and discovered that the priest in question had admitted a sexual orientation towards children and to inappropriate behaviour in other parishes. Yet, when an allegation was received from the social worker who specifically

named the priest as having allegedly abused the woman, the priest was allowed to remain in the hospital for a further seven weeks.

35.61 There is no evidence that Bishop O Mahony related the contents of his conversation with Fr Reynolds to the hospital management. When the management of the hospital discovered in 2002 that a child sexual abuser, unknown to them, had been assigned to them as chaplain, they took all appropriate steps to ensure that their patients were informed and facilitated should they have any complaints. Furthermore, it is commendable that they put improved structures and appointment procedures in place to protect children.

35.62 It seems to the Commission that, had the two women themselves not complained to the Gardaí, the Archdiocese would have been quite happy to ignore the fact that any abuse had taken place.

#### *The Gardaí*

35.63 The Gardaí carried out a very thorough investigation into this case as described above.

#### *Health board*

35.64 There was no significant involvement by the health board in this case because the matter was not referred to it until February 2001 by which time the priest was living in a retirement home and died shortly thereafter.



### Introduction

36.1 Fr Daryus was ordained in the 1950s and served in a number of parishes throughout the Archdiocese, finishing as a parish priest. He died in the 1990s.

36.2 In the early 1960s, another priest reported to the Archdiocese that Fr Daryus was involved with a young girl. It is not known what age she was and there is no documentary evidence about the matter. Fr Daryus was treated by a psychiatrist in the 1960s but there is no evidence that this was related to child sexual abuse.

36.3 There were complaints against Fr Daryus in relation to aggressive and arrogant behaviour in the early 1990s and the Archdiocese was considering removing him from his position when complaints of sexual abuse emerged.

### Complaints

36.4 In October 1994, two complaints of sexual abuse were made against Fr Daryus. One was from a woman who complained that she had been digitally raped by him in the late 1960s when she went to him for advice about becoming a nun. She was 18 years old at the time. Fr Daryus admitted that he had abused her but played down the extent of the abuse. This case does not involve child sexual abuse so the Commission did not undertake an examination of how it was handled. However, the Commission notes that the Archdiocese was kind and helpful to this woman and that she was extraordinarily charitable towards Fr Daryus.

36.5 The other complaint, which was also made in October 1994, was one of child sexual abuse. A young man complained that he had been abused by Fr Daryus in the mid 1960s while he was an altar boy. The abuse involved groping and fondling his private parts. The complainant believed that others were abused as well. The priest was known to the boys as “sexy [Daryus].”

36.6 Bishop O’Mahony met the former altar boy complainant in October 1994. In November 1994, he met Fr Daryus. Bishop O’Mahony was not

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<sup>104</sup>

This is a pseudonym.

then aware of the woman's complaint. Fr Daryus denied the young man's allegations and pointed out a discrepancy in dates. Bishop O'Mahony believed the priest's denial. Subsequently, the complainant corrected his assessment of the dates and said that the abuse occurred in the late 1960s. In December 1994, the complainant asked Bishop O'Mahony to do nothing further about the complaint.

36.7 Fr Daryus was persuaded to resign in December 1994. The usual letter of thanks for his service was issued.

36.8 In October 1995, the complainant contacted Bishop O'Mahony again and said that he stood over everything in his statement of 1994. Arrangements were made for counselling for the complainant. Bishop O'Mahony and Monsignor Dolan met Fr Daryus. The situation is rather confusing but it seems that Fr Daryus denied the allegation when he met Bishop O'Mahony and Monsignor Dolan on 23 October 1995. Subsequently it appears that Fr Daryus admitted the allegation to Bishop O'Mahony. This admission was not immediately known to Monsignor Dolan and this initially caused confusion when Monsignor Dolan was dealing with the complainant.

36.9 In any event, Monsignor Stenson reported the allegation to the Gardaí in November 1995.

36.10 The complainant made a statement to the Gardaí in March 1996. Fr Daryus was interviewed in the presence of his solicitor and he did not answer any questions about the allegations. In August 1996, the DPP decided not to prosecute because of the lapse of time since the alleged abuse had occurred – approximately 30 years.

36.11 The complainant issued civil proceedings against Fr Daryus and the Archdiocese in May 1996. Later in 1996, a settlement was reached with Fr Daryus and the case against the Archdiocese was discontinued. The Archdiocese paid the priest's legal costs. A short time later, Fr Daryus died.

36.12 The complainant contacted the Archdiocese again in 1998. He met Archbishop Connell in 2002. He was in touch with the Child Protection Service in 2005.

### **The Commission's assessment**

36.13 This priest was effectively removed from his position as soon as the allegations were made in October 1994. The fact of two unrelated complaints probably facilitated this move. Initially Bishop O'Mahony dealt well with the altar boy complainant but the Commission is concerned that Monsignor Dolan was not immediately informed of Fr Daryus's admission in October/November 1995.

**Introduction**

37.1 Fr Terentius is a member of a religious order. He was born in the 1930s and ordained in the 1960s. He was a curate in the Archdiocese of Dublin in the 1970s and 1980s. He served as a missionary for a number of years both before and after his time in the Archdiocese. He also worked publicly in Ireland on behalf of his order for a number of years before complaints were made.

37.2 The Commission is aware of three complaints of child sexual abuse in respect of his time in the Archdiocese of Dublin. Two of these complaints were made within one month of each other in late 1994 - this appears to be entirely coincidental but may be linked to the furore caused by the Brendan Smyth affair. One complaint was made directly to the order and the other was made initially to the Archdiocese. The third complaint was made in 1998 but the alleged victim did not personally make this complaint. In the course of dealing with these complaints, Fr Terentius admitted to “*a series of incidents*” involving a total of six boys, starting in 1960 and including incidents while on the missions. His therapist was of the view that there were probably “*loads*” of victims.

37.3 Fr Terentius has been living under strict supervision within the order since the complaints were made.

**First complaint, 1994**

37.4 The first complaint was made to the order<sup>106</sup> in November 1994 by the sister of the victim. She said the abuse occurred when her brother (who was now in his late 20s) was about 13 or 14 years old. Fr Terentius was well known to her family and was trusted by them. He had brought the young boy and another boy on a trip. Subsequently Fr Terentius asked the boy to help him in his house. The boy was reluctant to go but his parents insisted that he

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<sup>105</sup> This is a pseudonym.

<sup>106</sup> The complaints were dealt with by the head of the order in Ireland and/or the delegate appointed to deal with child abuse. The term “head of the order” or the “order” is used throughout to describe those in authority who were dealing with the complaints.

go. Fr Terentius gave him dinner and alcohol. The boy was sick and Fr Terentius brought him to his (the priest's) bed where he abused him.

37.5 At this stage the victim was not aware that a complaint was being made. His sister wanted to be sure that Fr Terentius did not have access to children but did not want anything else done.

37.6 The head of the order briefed the superior of the house where Fr Terentius was living and asked him to supervise. Fr Terentius was ill at the time so the matter was not put to him immediately. At this time, the order, like most other Church and State institutions, had no procedure in place, other than that specified in canon law, for dealing with such complaints but it immediately set about putting one in place. The order reported the complaint to Monsignor Alex Stenson, the chancellor of the Archdiocese of Dublin, who told the order that he made inquiries of the area bishop and there was nothing further to report.

37.7 In December 1994, the sister told the victim that she had made the complaint. He then wanted to meet the order and see what kind of help he could get. He did not want to press charges.

37.8 The superior and other senior members of the order met Fr Terentius and told him of the complaint. Fr Terentius admitted that one incident of child sexual abuse had occurred. The order was in the process of dealing with this complaint when the second complaint came to light.

### **Second Complaint**

37.9 The second complaint was made in December 1994 to the Archdiocese of Dublin by the victim and his mother. Monsignor Stenson met them and made a detailed note of the meeting. The complainant was an altar boy in the church to which Fr Terentius was attached when he was serving in the Archdiocese. The abuse took place when the boy was about 13-14 years old (around 1977). The abuse occurred in Fr Terentius's house and involved hugging, embracing and fondling of private parts. The boy escaped because the telephone rang. On the day following the abusive incident, he told his mother what had happened. She confronted Fr Terentius who responded "*I was drunk*". She did not accept this. Some days later she suggested to Fr

Terentius that he go and see a charismatic priest with whom she was familiar. She also spoke to this priest and asked that “*the specific matter be dealt with*”. He confirmed that they had discussed “*the matter*”. The mother suspected that there were other victims in the parish and she provided the name of a family. Both the complainant and his mother said they would be willing to confront Fr Terentius.

37.10 Monsignor Stenson advised the complainant and his mother to report the matter to the Gardaí. Monsignor Stenson contacted the head of the order. The complainant subsequently said that Monsignor Stenson was “*very apologetic*” on receiving his complaint and that he was very kind and respectful to his mother and to him.

37.11 The head of the order contacted the mother immediately and apologised. In a series of telephone calls, it was clear that the mother was very forgiving. She said that her son did not propose to take any further action. The order assured her that Fr Terentius had no contact with young boys; he was not exercising any ministry and they were organising a treatment programme for him. The order was not in direct contact with her son at this time.

### **Restrictions**

37.12 The superiors of the order had a meeting with Fr Terentius who now admitted to a series of incidents involving six boys in total, including the incidents involving the two complainants, and one involving an 18-year-old. Fr Terentius was reluctant to go on a treatment programme but was persuaded to do so. The order set out the following restrictions on him:

- He could not leave the premises without the consent of the head of the order;
- He could have no contact whatever with young boys, including altar boys;
- He could have no contact with people who reported the incidents;
- He could not exercise any pastoral ministry whatever, even evening weekly mass (the priest found this last stipulation very hard to accept).

37.13 Arrangements were made to send him to Stroud. Stroud asked for a letter setting out the concerns, examples of the problems and any other helpful information. In his referral letter, the head of the order outlined the problems as:

- Alcohol abuse: this had been discussed with him on a few occasions and he had not accepted that he needed to follow a recovery programme;
- Child sexual abuse: *“As a result of an investigation into a recent allegation of sexual abuse by [Fr Terentius] of a young boy (13 to 14 years), some twelve to fifteen years ago, we have become concerned about the existence of other inappropriate sexual contacts by him with other boys around the same time”.*

37.14 Fr Terentius was sent to Stroud in January 1995. After assessment, he first undertook the addictions programme and then the psychosexual treatment programme.

#### **Contact with complainants**

37.15 In January 1995, the first complainant wrote to the order saying he had no intention of making a formal complaint; he just wanted to ensure that there would be no recurrence. The order replied offering an apology and assuring him that Fr Terentius was not in a position to be involved in a similar betrayal of trust.

37.16 The second complainant's mother continued to be in touch with the order. The order arranged a meeting with this complainant which took place in July 1995. At the meeting, he said that he was pleased to have been contacted, he did not want anything from the order, he did not intend to go to court, he would like to meet Fr Terentius after he completed his programme, he wanted to keep in contact in the future, and he was grateful for the recognition – that was his main aim. The head of the order told him that he was entitled to go to the Gardaí and seek a legal solution. The complainant said he would not do that and was not interested in money. He sought recognition of the wrong done to him and an assurance that Fr Terentius would not be in a position to do it again.

37.17 In September 1995, it emerged that Fr Terentius had been drinking while in Stroud and had been doing so since March. He was transferred to

another treatment centre. The authorities in Stroud suggested that the order should suspend him from any active public ministry and withdraw all priestly faculties. They also suggested that he be asked to pay for some of his treatment himself as he was clearly fairly well off and was in the process of buying a car in the UK which he intended to bring back to Ireland.

37.18 Fr Terentius wrote to the order expressing great shame and remorse. The head of the order replied expressing his deep disappointment and sadness but also his support. He suspended Fr Terentius from public ministry and was awaiting a meeting of the governing body of the order before deciding on the removal of faculties. He asked Fr Terentius to pay half the costs of his current treatment. Fr Terentius was shocked at the suspension.

37.19 The order was in touch with the first complainant's sister. She reported further concerns from another sister. They discussed contacting the Gardaí; the order was willing to do so but the complainant did not want this.

37.20 Fr Terentius completed a primary treatment course in the second therapeutic facility. As a place in Stroud was not available until December 1995, a new place had to be found. He moved to a care home for drug and alcohol dependents in early November. In early December, he returned to Stroud. He wanted to drive himself there but this was not approved and the order arranged for him to be accompanied. He was asked by the order not to use his car while in Stroud. In fact, Stroud took his car keys. (Later, the order advised him to sell the car. He did this and gave the proceeds to the order as part payment for his treatment; he subsequently made another contribution to the cost.)

37.21 The personnel in Stroud were of the view that it was unlikely that they would recommend Fr Terentius for return to ministry; they considered he was manipulative and untrustworthy; the likelihood of a relapse was very high and the order was going to have a "*big problem handling the situation*" when he left Stroud. He left there and returned to live in one of the order's houses in Ireland in July 1996. On leaving, the assessment was that he had "*almost no internal inhibitors upon which to rely once he leaves residential treatment*". Because of this, it would "*be an absolute necessity that a great deal of external inhibitors be put in place*" in order to help him manage his sexual



addiction. He would need 24-hour monitoring and supervision and ought never travel alone or be in public ministry.

37.22 On his return, the order imposed the following conditions:

- He was not allowed to leave the house without the permission of the superior.
- He must be accompanied when leaving the house at all times.
- He could not celebrate public mass.
- He was not allowed be the principal celebrant in the oratory.
- The order would look for a suitable job which would not include contact with minors.

37.23 He also began individual and group therapy.

37.24 The order reported the allegations to the Gardaí in July 1996 in accordance with the procedures of the *Framework Document*. The names of the complainants were not given as they did not want this. The Gardaí were told that Fr Terentius was retired and not engaged in any ministry.

37.25 Fr Terentius was given office work within the order. In a follow up visit, Stroud was impressed with the supervision arrangements. Fr Terentius followed the Stroud continuing care programme until 1998 and was also seeing a therapist locally, initially once every two weeks and subsequently once a month. He was also attending AA meetings and was always accompanied when he left the house.

37.26 In April 1997, Archbishop Connell wrote to the order (he wrote to all relevant orders at the time) asking if the allegations against Fr Terentius had been addressed. He was not “*looking for specific detail, merely simple confirmation that the Diocese can close its files in their regard. My sole purpose in making this enquiry is to eliminate the risk that at some future date, for whatever reason, the concerns raised may appear to have been overlooked*”. The order replied reassuring the Archbishop that the alleged offences had been addressed, that Fr Terentius underwent appropriate treatment and was now engaged in work which precluded him from contact

with young children and there was ongoing supervision by a senior member of the order.

37.27 In November 1997, the wife of the second complainant telephoned the head of the order to say that her husband was upset that contact had not been maintained. She said the head of the order had promised to keep in touch and to arrange a meeting with Fr Terentius. The head did not think he had promised this and there is no evidence in the documents that he had. The head phoned the complainant and updated him on the current status of Fr Terentius. He explained that the order had been advised against a meeting between the complainant and the priest but that, if the complainant wanted it, it would be arranged. The head then met the complainant and his wife in December 1997. The complainant said that the order had not been in touch since the last meeting over two years earlier. He was angry and not sure what he wanted. He talked about a financial settlement and about going public. He said he wanted counselling and to meet Fr Terentius. The head pointed out that it is not recommended that victims meet their abusers. This complainant was not entirely convinced about this but agreed to wait until after counselling. The order was in touch with him several times during 1998.

### **Third complaint, 1998**

37.28 The order was also in touch with the first complainant's sister and, in May 1998, she alleged that her sister had also been abused by Fr Terentius.

37.29 The order offered to meet the sister who had allegedly been abused but she did not want to make a complaint. The allegation was not put to Fr Terentius as there was no specific complaint or allegation.

37.30 Meanwhile, Fr Terentius was continuing with the Stroud continuing care programme. He was expressing some unhappiness about his work environment, particularly his treatment by his immediate superior. These complaints were, in the Commission's view, relatively trivial and the order was very patient in dealing with them.

37.31 In June 1998, the order again met the second complainant. The complainant said he had become very angry and aggressive since starting counselling. He felt that the fact that the order was paying for the counselling

meant the Church was still in control. He intended to cease counselling. He talked about a financial settlement but did not want to go to court. He said he could use money for a holiday and for counselling over which he would have control.

37.32 There was another meeting in July 1998. The head of the order told the complainant that Fr Terentius had agreed to meet him and that he (the head) would be present at the meeting. The question of compensation was discussed. The head told the complainant and his wife that the order was not responsible for the priest's transgressions. The order wanted to keep the question of compensation separate from the pastoral response. The order did not want to get involved in paying money to any parties and refused to take any legal responsibility for the action of one of its priests.

37.33 In July 1998, the first complainant's mother rang to complain that the order had not kept an appointment with her. It would appear that such an appointment had not been made. She was looking for compensation for her son as he was on expensive medication. The head of the order met this complainant and his parents. His sister contacted the head of the order and told him that she had contacted the health board for the area in which Fr Terentius was living but was told that the abused person would have to be in contact. She said she had also reported to a young priest in her parish soon after the incident happened and nothing had been done.

37.34 In September 1998, the second complainant told the order that he was considering legal action if the order did not make some offer. The order continued contact and meetings with both complainants and their family members. Both complainants wanted an out of court settlement and were mainly looking for expenses.

37.35 In November 1998, the head of the order met Monsignor John Dolan, the chancellor of the Archdiocese of Dublin, to update him on developments in this case.

37.36 The first complainant wrote directly to Fr Terentius seeking his medical expenses. Fr Terentius replied offering him about one third of the amount claimed and said that this was all he could afford. The complainant accepted

this and also accepted the order's offer of a charitable donation to cover some of the medical expenses. This was arranged with a charity which specialises in helping victims of abuse; the order regarded arranging this as part of its pastoral response.

37.37 In December 1998, the second complainant met Fr Terentius. The meeting was mediated by the head of the order. Fr Terentius apologised to the complainant and the meeting was amicable. Subsequently, Fr Terentius sent him an unsolicited sum of money.

37.38 The order remained in touch with the complainants in 1999.

37.39 At this stage, Fr Terentius was still engaging in individual and group therapy. He now wanted some of the restrictions removed as he considered that the two complainants seemed to have settled matters with him. In July 1999, he complained to the order about not being allowed to go on holidays alone. In May 2000, his therapist recommended that he should not be allowed to travel alone. In October 2000, the therapist pointed out that Fr Terentius was working fine in therapy but there was no evidence of how he would be in another environment. She suggested gradual change "*maybe*", but no drastic change. She mentioned that Fr Terentius had written his life story, copies of which he was distributing to his friends, but it did not refer at all to the sexual abuse and she wondered if the sexual dimension of his life had been integrated. At her suggestion, the order contacted Stroud for advice on this issue. Stroud urged caution.

37.40 In November 2000, the order discovered that the priest had been drinking and he admitted he had not attended AA since 1998. He was still agitating to be allowed to holiday alone. He argued that a holiday was "*a fundamental human right*". The head of the order replied that the right of children to be protected from abuse was a superior right.

37.41 In June 2001, Fr Terentius's therapist said she could not achieve any more but said that the priest did need ongoing support. She considered that he "*is by no means free or cured of the underlying concerns*" but that he thought he was and his discontinuation of counselling indicated this. The therapist said he should go back to AA and she did not recommend

holidaying alone. He did go back to AA and remained angry at the continuing restrictions.

37.42 It is notable that Fr Terentius's perception of the views of his therapist was often markedly different from those views as recorded by the head of the order.

#### **Granada report, 2001**

37.43 In September 2001, Fr Terentius was sent to the Granada Institute for a reassessment. Stroud was no longer providing this service. The head of the order provided Granada with a summary of the priest's situation from notes which he had compiled over the years.

37.44 The report from Granada was issued in November 2001. Psychometric testing was carried out and the following documents were taken into account: the referral letter from the order, the summary of notes from therapists provided by the order and the priest's life story (which, as is noted above, did not make reference to sexual abuse).

37.45 The Commission considers the Granada report to be seriously deficient in many respects:

- The report states that two allegations of sexual abuse were made but that he had not admitted to any others – this is not true; he had admitted to several incidents involving six boys. Further, his therapist in the initial stages of his treatment had expressed the view that there were likely to have been "*loads of victims*". Granada pointed out to the Commission that the therapist's views were not substantiated. However, it is clear from the order's referral notes that he had admitted to abusing more than two boys.
- The report states that the two boys were aged 17 at the time – this is untrue, they were aged 13/14. Granada told the Commission that this information was reported by the priest and that the assessment was based "*on the assumption that the ages of the victims ranged between 13 years to over 16 years*".
- The report states that he had "*successfully completed a treatment programme for sex abusers in 1996*". The Commission finds it

surprising that this can be stated when the full report from Stroud was not seen by Granada and that Granada did not ask for the full report.

- The report states that he “*continues to have therapy on an individual basis*” – it is not clear if this is true. He seems to have been seeing a spiritual advisor but not a therapist at this stage.

37.46 The report concluded that Fr Terentius:

- was at low risk of sexually re-offending;
- needed to be supported in his present alcohol free state;
- should continue to avoid any unsupervised contact with any children;
- should continue with counselling to deal with his anger;
- should be allowed to go on holiday and travel abroad without restriction.

37.47 As a result of this assessment, Fr Terentius was allowed to travel abroad on three occasions with a company specialising in holidays for older people. All his travelling companions were aged 50 or over. He was forbidden to interact with minors while on holidays. The head of the order told the Commission that he felt bound by the findings of the Granada report which recommended that he be allowed to travel.

37.48 Fr Terentius continues to live within the order and is subject to the restrictions described above. The order maintains an “*open door*” policy towards the complainants – they can get in touch whenever they want.

### **The Commission’s assessment**

#### *Church authorities*

37.49 Responsibility for the wrong done in clerical child sexual abuse cases rests squarely with the offending priest. The authorities cannot undo the wrong but they can help to mitigate the harm by dealing properly with the complainants and the offender. In this case, the Commission considers that the order dealt well and quickly with the complaints. It dealt sympathetically with the complainants and did all it could to contribute to their healing process. It is clear that the complainants consider that their complaints were well handled.

37.50 The Commission considers that the order dealt well with Fr Terentius. He was immediately removed from ministry and placed in therapeutic care. A considerable amount of money was spent in attempting to rehabilitate him. After he returned to Ireland he was well supervised and monitored. His superiors displayed considerable patience in dealing with him.

37.51 The Commission is very concerned that the assessment carried out in the Granada Institute in 2001 did not take account of the full facts. The conclusions reached may be justified but, on its face, the assessment is, at best, questionable.

*Communication between Church authorities*

37.52 The Commission recognises that members of religious orders are subject to the rules of their order and complaints against them are dealt with by the order even if the priest in question was attached to the Archdiocese when the alleged abuse occurred. The Commission is concerned that this may mean the Archdiocese is not fully informed about abuse which occurred under its aegis. In this case, the Archdiocese was informed of the complaint. The Archdiocese informed the order of the complaint made to it and left it to the order to deal with it. There was no further communication until Archbishop Connell contacted all relevant orders in 1997. In this case, the absence of further communications between the order and the Archdiocese is not a major issue as the order was closely monitoring all Fr Terentius's activities. However, in general, the Commission is concerned that the Archdiocese does not require more frequent updates on the current status of religious order priests who abused children while under its aegis.

*Gardaí and health board*

37.53 The order did report to the Gardaí but, as the complainants in this case did not want to make a complaint to the Gardaí, there was no Garda investigation. Similarly, there was no contact with the health authorities.

**Introduction**

38.1 Fr John Kinsella was born in 1948. He was ordained in Dublin in 1973 for a diocese in the UK. From September 1973 to December 1973 he served as a temporary replacement for the parish priest in Enniskerry who was ill. The arrangement for this temporary replacement was made by the Dublin Archdiocese. All the complaints of child sexual against Fr Kinsella abuse which are known to the Commission arose during this period. He moved to work in his UK diocese in January 1974. He had various problems which resulted in his spending some time in Stroud and he was suspended from priestly duties for a period in 1993/1994. The Commission has no evidence that these problems were connected to child sexual abuse.

38.2 There are a number of complaints of child sexual abuse against Fr Kinsella. He has been convicted in respect of two boys and has served a term of imprisonment. His present whereabouts are unknown.

**Complaint, 1995**

38.3 The first complaint to the Archdiocese of Dublin concerning child sexual abuse by Fr Kinsella was made in March 1995. This followed revelations by the complainant in late 1994 and early 1995 in an RTE radio programme and a Channel 4 programme.

38.4 Monsignor Alex Stenson met the complainant in March 1995. Monsignor Stenson suggested that the complainant make a formal complaint to the Gardaí and that he take advice from his own solicitor. However, the complainant recalls that the manner in which those suggestions were made was aggressive and that he left the meeting feeling considerably annoyed.

38.5 Following that meeting the complainant did make a complaint to the Gardaí.

38.6 The complainant alleged that he and his brother had both been abused by Fr Kinsella while Fr Kinsella was attached to Enniskerry parish. Fr Kinsella had met the complainant's brother on a Dublin diocesan pilgrimage to Lourdes shortly after he was ordained. After his return, Fr Kinsella visited



the boy's home on the north side of Dublin and befriended his family. He offered to take the boy to Enniskerry. On the first such occasion in Enniskerry, the boy was required to sleep in the priest's bed and was then sexually assaulted by him. Two weeks later, he again called to the boy's home, collected him and brought him to Enniskerry, where he again sexually assaulted him, this time forcing him to have oral sex.

- 38.7 A short while later, Fr Kinsella took the two brothers to Enniskerry and on the first available opportunity, had the complainant sleep in his bed and sexually assaulted him. He also abused the complainant on another occasion in the presence of a third boy.

### **Church inquiries**

- 38.8 Monsignor Stenson commenced an immediate inquiry into the allegations made by the complainant. He attempted to obtain an address for Fr Kinsella. As a result of various efforts on Monsignor Stenson's part, a priest in the UK telephoned Monsignor Stenson and informed him that Fr Kinsella was staying with him and that he and the local parish priest were aware of certain "*goings on*" with regard to Fr Kinsella. Eventually Fr Kinsella contacted Monsignor Stenson by telephone in June 1995. Monsignor Stenson suggested that he come to Dublin and meet him and the diocesan solicitor. He also suggested that Fr Kinsella bring along his own solicitor. The specific complaints made by the complainant were not discussed during this conversation. Fr Kinsella did confirm that he had acted as a relief priest in Enniskerry and knew of the complainant.

- 38.9 It appears that Monsignor Stenson did not meet Fr Kinsella.

### **Garda investigation and conviction**

- 38.10 The Garda investigation was in progress. A number of other complainants made similar allegations to those made by the two brothers. A comprehensive investigation was carried out.
- 38.11 In February 1999, Fr Kinsella was convicted on two counts of sexual assault on each of the brothers. He was sentenced to a term of eight years in prison; five of these were suspended. He was released from prison in May 2001.

### **Civil claims**

38.12 The first complainant sought help from the Archdiocese to meet the cost of counselling fees. The Archdiocese offered a victim support representative to the complainant. Negotiations did not resolve the areas under discussion and legal proceedings were issued in October 1997. The proceedings were settled in February 1999. The complainant's brother also settled his civil claim with the Archdiocese in September 1999.

### **Disappearance**

38.13 Prior to Fr Kinsella's release from prison in May 2001, his brother wrote to Archbishop Connell regarding his plans for Fr Kinsella on his release. The Archbishop replied that he had raised the matter with his bishop in the UK diocese. The UK bishop signalled that he intended sending a representative to see Fr Kinsella before his discharge. The note contained the views of the bishop, namely that Fr Kinsella should voluntarily seek laicisation, in default of which the diocese would request that Rome deal with the matter. The bishop did not consider that he had an obligation to assist Fr Kinsella financially. The Archdiocese of Dublin, at this stage, had no authority over, and no responsibility for, Fr Kinsella.

38.14 Fr Kinsella seems to have disappeared after his release from prison. He did not contact his own bishop. He was not required to report to the Gardaí as the *Sex Offenders Act 2001* (see Appendix 2) was not yet in effect.

38.15 His UK diocese told the Commission in 2007 that they had no address for him.

### **The Commission's assessment**

38.16 This was a difficult case for the Archdiocese because it involved a priest over whom it had no jurisdiction at the time the complaints were made nor did it have any easy way to contact him. Monsignor Stenson did make considerable efforts to contact him and did succeed. The Gardaí carried out a thorough investigation which resulted in his conviction and imprisonment.

38.17 It is a cause of concern that his current whereabouts are unknown but this is the case for many sex offenders.

**Introduction**

39.1 Fr Laurentius is a member of a religious order. He was born in 1935 and ordained in 1966. He spent a number of years working in Africa. He then returned to Ireland where his main activity was as chaplain to a vocational school in Dublin from 1973 to 1983. He subsequently spent a number of years working in parishes in a first world country. Since 1994, he has been living in one of his order's houses in Ireland and, since 1996, he has not been allowed any public ministry.

39.2 Fr Laurentius is a promiscuous man who has had numerous sexual relationships with women in all of the countries and areas in which he ministered. He claims that his sexual relationships were all with adults. There are two complaints from named underage girls in Ireland.

**Complaints while working abroad**

39.3 While he was working abroad in the first world country, in 1990, complaints were made about his relationships with adult women. A nun reported to the local head of the order and the local bishop that a number of women were disturbed by his behaviour and a formal complaint was made by one of these women. Fr Laurentius had been counselling her in respect of her sexual abuse as a child and her marital difficulties. A sexual relationship developed between Fr Laurentius and this woman. She complained that he was exploiting her and she was concerned that he would abuse other vulnerable women.

39.4 The local head of the order<sup>108</sup> discussed the matter with Fr Laurentius and with the bishop. Fr Laurentius denied that there was any exploitation involved; he said the woman had initiated the sexual contact and he had succumbed out of human weakness. Later, he told the local bishop and the head of the order that the woman had withdrawn the allegation and apologised. The head of the order told the bishop that he hoped the incident was "*over and done with*". There is no evidence that either checked whether

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<sup>107</sup>

This is a pseudonym.

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The term "head of the order" is used to describe a person in authority in the order. Sometimes this is the actual head, sometimes his deputy and sometimes the delegate.

or not the woman had, in fact, withdrawn the allegation. The bishop agreed that Fr Laurentius should continue in his parish duties.

39.5 In January 1994 another woman contacted the order to complain that she had been indecently assaulted by Fr Laurentius. She had reported the assault to another priest in the parish who, although he thought she was fantasising, told her to contact the head of the order. Fr Laurentius made an apology in writing to this woman and accepted that he had assaulted her. The woman concerned accepted the apology but she was surprised and concerned that he would be returning to parish work. She was aware of concerns expressed by other women about him.

39.6 Fr Laurentius was sent for treatment to Jemez Springs, New Mexico in February 1994. In the letter of reference, the head of the order outlined Fr Laurentius's background; said that he "*finds celibacy in great conflict with his natural instincts and drives*"; summarised the two specific complaints that had been made and explained that the order had had other complaints about his words and behaviour.

39.7 While in Jemez Springs, Fr Laurentius revealed that he had been sexually abused as a child. He also revealed that he had a relationship with a woman in Dublin whom he still loved. He said he had been involved with more than 40 women some of whom were under the age of 18. In an initial report, the doctors and therapists considered that he had benefited from the treatment but he needed strong support structures and safeguards and recommended that he not take part in any pastoral counselling of women, especially women who were needy. He was not to engage in direct one-to-one ministry with women nor have unsupervised contact with women.

39.8 In a later psychological report, it was stated that Fr Laurentius showed a better understanding of his sexual patterns and was able to acknowledge that some women were hurt by his actions. He had also admitted that he had treated women as objects. However, he failed to appreciate how his position as a priest coloured every aspect of his behaviour. He was unable to appreciate the power difference as a result of his being a priest. He also continued to express serious errors in his thinking regarding the sexual contact he had had with several youths. The report concluded that he had

made significant gains while in treatment. However, he did require much more work to maintain, integrate and further his treatment gains. He genuinely cared for most of the 40 women with whom he had been involved but he assumed that, because he was not intentionally hurting these women, his behaviour was healthy for a secular man. He was regarded as remaining at considerable risk of more sexual contact with women and girls. This risk was increased by the fact that Fr Laurentius considered himself to be “*cured*” and a completely new man. As a result, it was highly recommended that he not have any one-to-one ministry with women. It was acknowledged that he would progress best in a community rather than working in isolation at a parish or mission and that he should have a long-term counsellor. The psychologist also stressed that, just because his focus was on adult women, it should not be forgotten that he had also had sexual contact with minors and that this was a major past and potential problem.

39.9 The assessments and reports from Jemez Springs were sent to the head of the order in Ireland. The head of the order in the country where the complaints had been made had asked for this to be done – he was concerned that such reports might be subpoenaed in his country. Fr Laurentius returned to one of the order’s houses in Ireland in September/October 1994. In accordance with the continuing care recommendations of Jemez Springs, he signed a supervision contract with the order. A named supervisor was appointed. This supervisor was informed of his background. The contract did not mention any restrictions on ministry or on movement. The order has told the Commission that, at this stage, he was forbidden to have any one to one ministry with women. He was allowed to say mass in public and this could have involved supply work outside the order’s house.

#### **First Irish complainant**

39.10 In May 1995, the first Irish complainant reported to the Gardaí that she had been abused by Fr Laurentius about 20 years earlier when she was aged 16 or 17. This complainant had been abused as a child in a residential institution and the abuse by Fr Laurentius occurred while she was living in a hostel run by the order that had run the residential institution. Fr Laurentius was a frequent visitor to this hostel and the complainant also visited him in the order’s house. In December 1995, the Gardaí visited Fr Laurentius to tell him about the allegation and they invited him to make a statement after

caution. He declined. He spoke to the Gardaí “*off the record*” about his difficult relationship with his father, his strong sexual urges and his difficulty with celibacy. He admitted having made mistakes and was anxious to speak openly. He later made a statement to the Gardaí in the company of his solicitor and he denied the allegations.

39.11 The order’s advisory panel was informed of the allegation. The delegate of the order expressed concern at this meeting that other girls had been visiting Fr Laurentius around the time the alleged abuse occurred. The head of the order suggested that Fr Laurentius should remain where he was and be monitored. It was considered that it would be unjust to remove him without interview because his history was with adult women. It seems that the advisory panel did not see the reports from Jemez Springs. It was decided that a preliminary investigation would not be started but instead any investigation would be left to the civil law. However, there would be an initial assessment. It was concluded that there was a “*semblance of truth*” in the allegation from what had been gleaned from the assessment so far. It was decided to put Fr Laurentius on administrative leave. The conditions included no pastoral ministry and no public mass. He was allowed to say mass privately and to wear clerical garb. The bishop in the area where he was living was informed.

39.12 Fr Laurentius told the head of the order that he remembered being visited by a young woman but there had been no sexual contact.

39.13 Shortly afterwards, in March 1996, this complainant informed the order’s solicitors that she intended to take civil proceedings against Fr Laurentius and the order. Such proceedings were never actually pursued. There was no direct contact between this complainant and the order and it does not appear that any offer of counselling was made.

39.14 The Gardaí, having investigated the complaint, did not recommend prosecution because of the lapse of time and insufficient evidence. The Director of Public Prosecutions (DPP) decided not to prosecute as there had been a considerable delay in making the complaint. The delay involved was approximately 20 years.

## **Second Irish complainant**

39.15 In March 1997, another complainant emerged. She complained that she had been sexually abused by Fr Laurentius when she was 17. The head of the order and subsequently the delegate met her. She had been introduced to Fr Laurentius by a friend who thought he could help her with various problems she had, including sexual abuse by a family member when she was between seven and ten years old. She said Fr Laurentius seemed very kind and interested. He told her she would have to forgive her abuser. He then told her she was frigid and he could help her overcome this. He engaged in sexual activity with her over a year to a year and a half – this included full sexual intercourse. She described to the Gardaí how he effectively had power over her and she would do whatever he wanted. The abuse stopped when she met the man who was to become her husband. This was when she was about 19. She had attended a therapist in 1994 and 1995 and had given a similar account of her experiences there – this was two years before she complained to the order or the Gardaí. She had written a letter to her then boyfriend in 1978 which indicated that she had been engaging in sexual activity with Fr Laurentius before she met him (the boyfriend).

39.16 Fr Laurentius denied to the order that any sexual transgression of any kind occurred with this complainant.

39.17 The order and the complainant reported the allegation to the Gardaí. Fr Laurentius told the Gardaí in September 1997 that he did have sexual intercourse with her but that it was consensual and occurred when she was aged about 26. He said: *“It was a really close good friendship, natural and happy and the sexual relationship developed at the end”*. He said they had been friendly for eight to nine years before this occurred.

39.18 The investigating Gardaí were convinced that the complainant had been sexually abused. They recognised that this would be difficult to prove. They recommended that Fr Laurentius be prosecuted under Section 3 of the *Criminal Law (Amendment) Act 1885*. This makes it an offence to procure a woman by false pretences or false representations to have unlawful sexual intercourse. Later, the DPP decided not to prosecute because the

complainant was over 17 when the abuse occurred and the evidence suggested that she consented to the sexual activity.

39.19 The order notified the local bishop of the complaint but did not notify the Archbishop of Dublin even though the alleged abuse occurred when Fr Laurentius was working in the Archdiocese.

39.20 The second foreign complainant (who claimed she had been indecently assaulted as an adult) then started legal proceedings in relation to the sexual assault which Fr Laurentius had admitted. There were discussions between the order in Ireland and the order in the other country on how to handle the claim. The head of the order in Ireland told the head in the other country that Fr Laurentius was not in ministry and would not be. He also told him that the report from Jemez Springs was “*absolutely confidential*” to the head of the order in Ireland and could not be discussed.

#### **List of women**

39.21 In October 1997, Fr Laurentius provided the head of the order with a list of the women who had been in his life. He had had a sexual relationship with eight women while in Africa, 26 women while in Ireland, three women while doing supply work abroad (in another first world country) and nine women in the first world country where complaints were made (including the two whose initial complaints had brought the problem to light). He gave the ages of all these women including the ages of those whose names he did not give. According to Fr Laurentius, they were mainly in their 20s or early 30s. He named a number of 15-16 and 17-year-olds with whom he had a “*friendship*”. He described the number of times he had sexual intercourse with each individual. He said “*full intercourse rarely took place and contraceptives were always used*”. The list included the second Irish complainant, gave her age as 26 and said there was sexual intercourse once. It also included the first Irish complainant, gave her age as 17 and described the relationship as “*friendship*”.

39.22 Fr Laurentius was sent to the Granada Institute for assessment. It is not clear what background information was given to Granada. It was not given a copy of the Jemez Springs report but was aware that he had been in Jemez Springs. The order explained to the Commission that this may have



been because the report stated that it may not be released to anyone without the written permission of the priest. Further, the delegate at the time considered that the assessment by Granada was an opportunity to get a second opinion and that sharing the Jemez Springs report might influence Granada's findings. A report from Granada in February 1998 stated that Fr Laurentius's sexual orientation was towards adult females and there was "*no evidence of any erotic interest in children which precludes a diagnosis of paedophilia*". Granada concluded that Fr Laurentius had a well-developed sense of social intelligence and elevated level of disinhibition. He had high needs for excitement and stimulation and would flout convention in pursuit of this. It was recommended that he continue individual psychotherapy. He would derive little benefit from a strictly imposed structural regime. However, he would benefit significantly if he could be empowered to negotiate a mutually acceptable framework of accountability with his superiors. It would also benefit him if he could be constructively employed so as to foster further positive engagement in the religious community.

39.23 The order then proposed a new contract for Fr Laurentius. This would involve, among other things, not celebrating mass in public or engaging in any form of ministry. It would also require him to get permission to leave his house and to tell the local superior where he was going. Fr Laurentius considered that this later proposal was an infringement of his rights and dignity. It was suited for someone who had been convicted of child sexual abuse. He considered that the Granada report had effectively cleared him of any suspicion of child sexual abuse.

39.24 The advisory panel recommended the formal removal of his priestly faculties and wanted him to sign the proposed contract. He was also to be informed that he was not to be alone with any woman.

39.25 The order delegate met Granada in August 1998. Granada was firmly of the view that the priest had been conducting adult relationships. Granada considered that he had acknowledged his wrongdoing but the order delegate was more sceptical – it was more a question of "*notches in his gun*". The concern of both the order and Granada at this stage seemed to be mainly the question of integration of Fr Laurentius in his community and reconciling conflicts in his life (between his vow of celibacy and his sexual activities).

Granada considered that the order was making itself into a type of guard for Fr Laurentius and this could not continue. Granada asked why the order did not tell him that he could not continue to be a member of the order.

39.26 Fr Laurentius himself thought there should be no restrictions as he was not a paedophile and he was not involved with any woman at this stage. The delegate and Fr Laurentius then met Granada. Granada said that restricting his ministry was not unreasonable given that, in all professions, engaging in sexual conduct with a client would mean the end of the professional career. All were agreed that he was not a child abuser.

39.27 The delegate met the second Irish complainant and her husband in December 1998. She mentioned the possibility of a civil case. The delegate concluded that there was probably some truth in what she was alleging.

39.28 In early 1999, the delegate met Granada to discuss the possibility of limited ministry – this would involve saying mass in public but not allowing confession or counselling, especially to women. The record of the meeting which was made by the order shows that Granada repeated that there was nothing to show that Fr Laurentius was a child or adolescent sexual abuser. They were in favour of his having limited ministry.

39.29 The advisory panel deferred consideration of the proposal that he be allowed to return to limited ministry in order to enable a full dossier to be prepared including all reports.

39.30 In May 1999, the order formally asked Granada to consider the question of Fr Laurentius's return to limited ministry. Granada acknowledged that their earlier report had concluded that Fr Laurentius was "*not erotically attracted to children, and consequently did not pose a threat of sexually abusing children*". However, it had become apparent that he had difficulty making himself accountable to the religious order and had a history of repeatedly breaking ministerial boundaries and utilising his priestly status to gain access to female company. Consequently, Granada felt that it could not endorse his return to ministry with the public.

39.31 The second Irish complainant started civil proceedings and a settlement of these proceedings has been reached.

39.32 Fr Laurentius continued to complain about what he described as the “*continuing and unjust denial of priestly ministry*” and about the assessment processes. The head of the order did not accept Fr Laurentius’s view and showed considerable patience in dealing with him. The head of the order, understandably, admitted to having difficulty in maintaining charity or even hope in dealing with this “*fool*”. The advisory panel was firmly of the view in 2001 that there was no question of his return to ministry because his violations were far too serious. It recommended that he be allowed concelebrate mass privately with other members of the order and hear the confessions of other members of the order. The advisory panel was of the view that there was “*absolutely no question of child sexual abuse*” where he was concerned. The head of the order made it very clear to him that he was unlikely to be granted priestly faculties ever again.

39.33 In 2003, the head of the order told Fr Laurentius that it had come to his attention that Fr Laurentius was counselling a woman. Fr Laurentius denied this. He was refused permission to officiate at a wedding. He was, however, allowed to travel abroad to attend a wedding in 2005.

#### **The Commission’s assessment**

39.34 It would have been entirely understandable if the order had asked Fr Laurentius to leave. The Commission considers that it is to its credit that it did not do so and that it tried very hard, after the first Irish complaint was made, to ensure that he was not a risk to girls and women.

39.35 The allegations made abroad are not within the remit of the Commission, both because they do not concern child abuse and because they are not related to the Archdiocese of Dublin. They are outlined here in order to show what the order in Ireland knew about Fr Laurentius when they were handling the complaints that are within remit. The first reported incident may well have involved consenting adults but the fact that he accepted that he had indecently assaulted the second woman who complained ought to have been a major cause for concern. Such an assault is treated by canon law in the same way as child sexual abuse (canon 1395.2).

39.36 The reports from Jemez Springs clearly show that he was considered a danger to women in general and specifically mentioned that he had been involved in child sexual abuse.

39.37 It was very clear that he was using his status as a priest and as a counsellor to meet women with whom he then had sexual relationships. This is clearly predatory exploitative behaviour and, at minimum, is unprofessional conduct. Doctors or therapists who engage in such conduct are liable to be disbarred.

39.38 The Commission has noted that Church authorities seem to be remarkably tolerant of breaches of their rules where sexual activity with adults is concerned.

39.39 The Commission finds it very difficult to understand how Granada can categorically state that Fr Laurentius was not involved in child sexual abuse when there is evidence that he admitted to such abuse while in Jemez Springs and when there are two complaints from 16/17 year olds in Ireland. The Commission acknowledges that consensual sexual involvement with a 17 year old is not a crime.

39.40 The Commission finds Fr Laurentius's list of his sexual conquests astonishing. The detail in respect of age and precise sexual activity is simply unbelievable. It is highly unlikely that a promiscuous man would remember such detail unless he actually kept a record. It is equally unlikely that he would know or remember the ages of all the women with whom he had been involved. In the Commission's view, this list is compiled with a view to establishing that he was not a child abuser. The Commission is even more astonished that Granada regarded this as his acknowledgement of his wrongdoing. The Commission considers that the common sense assessment of the order's delegate ("*notches in his gun*") is much more realistic.

39.41 The order did not tell the Archdiocese of Dublin about the complaints at the time even though they related to Fr Laurentius's time in the Archdiocese. The order did inform the local bishop where Fr Laurentius was living.

39.42      The Gardaí dealt appropriately with this case.

**Introduction**

40.1 Fr Klaudius was a member of a religious order. He was born in 1957 and ordained in 1985. He worked in the Archdiocese of Dublin in a number of different roles including hospital chaplain, prison chaplain, teacher, and in a parish. He spent a short time abroad doing supply work and had different positions in the management of the order. He was removed from ministry in 1995, was laicised and dispensed from the vows of his order in 2000 and died in 2005.

40.2 He admitted to abusing a number of children but the Commission is aware of only one formal complaint against him.

40.3 While Fr Klaudius was in the seminary, he had been assessed by a priest psychologist. This assessment concluded that he had issues relating to sexuality especially *“difficulty over gender”*. There is no written report of this assessment and the order took the view that there was *“no indication of [Fr Klaudius’s] problems existed during his formation”*. Shortly before the complaint was received, he had attended a treatment programme at a therapeutic clinic. His presence there had no ostensible connection with any issues of sexuality or child abuse. During his time there, he revealed that he had been sexually abused when he was five or six years old.

**Complaint, 1995**

40.4 The complaint to the order was made in July 1995. It related to events which had occurred in the Archdiocese of Dublin in 1991 but Fr Klaudius was, at this stage, working in a school outside of the Dublin Archdiocese.

40.5 In 1995, the complainant’s father told a member of the order that his son had been abused by Fr Klaudius four years previously when he was 17 years old. The member of the order reported to his superiors who arranged to meet both the young man and Fr Klaudius and to have a formal investigation. The young man described how his father had arranged for him to have therapy with Fr Klaudius because of some family difficulties. The

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<sup>109</sup>

This is a pseudonym.

abuse had occurred during these therapy sessions which were held in the order's house where Fr Klaudius lived. The abuse involved touching and masturbation. The boy told a friend about the abuse at the time and discovered that she already had suspicions about Fr Klaudius.

40.6 The young man told a local diocesan priest about the abuse at some stage. It is not clear when this was but the local priest thinks it was around 1995. This priest told the Commission that he advised the young man to contact the order. The young man did not want to report the matter to the Gardaí.

40.7 Fr Klaudius, in a sworn statement, admitted that something “*of a sexual nature*” had occurred between himself and the boy. He also admitted that similar incidents had occurred with another 17-year-old boy whom he did not name.

40.8 The issue of reporting this complaint to the Gardaí and the health board was discussed within the order and by its advisory panel. The complainant did not want it reported to the civil authorities. However, Fr Klaudius was working in a school at this time and had worked in a number of schools. The order was reluctant to report, even though the legal advice it received was that the complaint should be reported to the health board.

40.9 Fr Klaudius was immediately removed from the school where he was currently working and from public ministry and sent to a therapeutic centre in the UK. In this centre, he initially admitted to having abused a number of children. He gave the names of four others (apart from the complainant) and the approximate dates of the abuse. Two of these were his students while he was a teacher in the Archdiocese of Dublin. His method was to befriend vulnerable boys through normal contact at school, or in a pastoral setting, or he would create an image of himself as a healer to manipulate his victims with his “*special powers*”. He would use his counselling sessions for his sexual agenda which would arouse his victims and lead them to believe that they had provoked his advances. The therapist suspected that the true extent of his offending had not yet been disclosed and that he was a serious risk to boys between the ages of 12 and 17.

- 40.10 Later, he admitted to abusing a number of other students at the schools where he had taught and to targeting and grooming other unnamed boys. He provided a list which included five boys and one girl. The abuse was generally touching and masturbation but also included one act of buggery.
- 40.11 He claimed that he had himself been abused by nine different people during his childhood and adolescence.
- 40.12 In March 1996, the order's advisory panel agreed that the matter should be reported to the health board and the Gardaí. The *Framework Document* was in operation and it provided for such reporting. One member, who visited Fr Klaudius in the treatment centre, strongly supported reporting. The order was still reluctant to do this.
- 40.13 The local bishop in the area where Fr Klaudius had most recently been living was informed, but the Archbishop of Dublin was not, even though all the known abuse had occurred in Dublin.
- 40.14 Fr Klaudius left the treatment centre in October 1996. The centre considered that he had made progress but that he remained a risk to children. His behaviour could not be cured but could be controlled. He accepted that he used his position as a priest to create a position of trust and to abuse young boys.
- 40.15 He returned to Ireland to live in one of the order's houses in the Archdiocese of Dublin near a school in which he had admitted abuse. Neither the Archdiocese nor the school was informed of the complaint or of his presence in the Archdiocese. The order told the Commission that, in 1998, the school was told of his record by the then chaplain, who was a member of the same religious order.
- 40.16 Fr Klaudius entered into a behavioural contract with the order. This provided that:
- There was to be a weekly hour long debriefing meeting. There would be no confidentiality at the meeting, as all offences would be reported to the proper authority. This meeting was to be an examination of



everyday life, a review of day-to-day events past and planned, including holidays and time away from the house in which he lived. There would also be an evaluation of the meeting.

- There would be a support structure for him which included group therapy in the Granada Institute and regular returns to the UK treatment centre.
- He would have no ministry and he was not permitted to wear clerical garb outside the house where he lived.
- His only recreation was to be with other members of his order and included writing, music, art, golf and adult swimming.
- It was envisaged that he would partake in higher education in computer studies.

40.17 His support group included some family members. Soon after returning to Ireland, he admitted to the order that he had abused a family member.

40.18 The Eastern Health Board (EHB) was informed of the situation in March 1997. The immediate impetus for this was the recent admission about the family member (who did not live in the EHB area) and who was still a child. The order's contemporaneous records show that a health board social worker told the order that she intended to contact the school where the priest had admitted to abusing children. The order expected that there would be a "*dig for victims*" by the social worker.

40.19 In fact, the social worker did not contact the school. She told the Commission that it was indicated to the health board that contact had been made with the schools by the order. The HSE provided documentation in this case only after it had received a draft of this report. The health board for the area in which the family member lived was also informed. The abused child's mother was told and so was the local bishop in the area where the priest had been living.

40.20 Sometime in late 1997 or early 1998, Fr Klaudius began to groom a boy who delivered milk to the community. He then went back to the UK therapeutic facility which he had earlier attended for a further session of

residential therapy and remained there for about three months. On his return, he was referred to the Granada Institute for ongoing treatment and considered leaving the priesthood and the order. Granada expressed the view that an offender of Fr Klaudius's age had a better chance of living an offence-free life if he left the order, earned his own living and made his own way in life rather than remaining in the order. On the other hand, the head of the order considered he had a better chance of not offending if he remained within the order.

40.21 In April 1998, the advisory panel recommended that Fr Klaudius should not have leave of absence and should be confronted with the fact that he would be subject to strict supervision for the rest of his life.

40.22 In 1998, the complainant looked for financial support from the order. The order said it would pay for counselling and training but would not give him money. Some counselling was arranged.

### **Laicisation**

40.23 In July 1998, Fr Klaudius declared his intention to leave the order and seek laicisation. He asked for the continued support of the order to enable him to continue therapy and to have a support person. He also looked for financial support for accommodation and to enable him to train to become a consultant in career guidance. He sought £6,000 for accommodation and living expenses. Not surprisingly, the order considered his proposal to become involved in career guidance to be "*wholly inappropriate*".

40.24 Fr Klaudius was still attending Granada at this stage. He was attending there once a week for either individual or group therapy. The estimated cost of attending for one year was about £7,000. The order consulted Granada about whether it was safe to allow him to live outside the order's premises while awaiting laicisation. Granada considered that it was, but a member of the advisory panel was not so sure.

40.25 He received £6,000 from the order and moved out from the order's house in August 1998. He started a FÁS course.

- 40.26 The order provided a short character reference for Fr Klaudius when he left. The reference described him as “*intelligent, bright and sensitive. He is also industrious and hardworking*” and went on to “*recommend him for suitable employment*”. The reference was described by its author as “*very non-committal, but what else can I say*”.
- 40.27 In December 1998, a family member told the order that Fr Klaudius was angry with the order for sending him to the UK therapeutic centre. The order met some of his family members for the purposes of maintaining contact and monitoring how the family was getting on.
- 40.28 The Archdiocese of Dublin was informed of the application for laicisation as various actions had to be taken by it in order to proceed.
- 40.29 In March 1999, the order gave the priest just over £1,800 to buy a computer and related equipment. In August 1999, he sought and received further financial support, another £6,000, from the order. He was now receiving a social welfare payment.
- 40.30 In April 2000, a community worker became concerned about his access to young people taking part in a development programme. Granada recommended that Fr Klaudius inform the programme officials about his past. It is not known if he did or if anyone else did.
- 40.31 In November 2000, Fr Klaudius was granted a dispensation from clerical celibacy and was removed from the clerical state. The Archdiocese was informed of this. He wrote to the provincial of the order in June 2001 expressing his gratitude for the support both during and after his time in the order. He specifically acknowledged receipt of a cheque for £20,000 which helped him “*enormously to begin a new life*”. He also asked for forgiveness for the shame he had brought on the order.
- 40.32 The Gardaí were informed of the complainant’s allegation and of Fr Klaudius’s admission in relation to the family member but, as no abused person made a complaint to them, there was no investigation.
- 40.33 Fr Klaudius died in June 2005.

### **The Commission's assessment**

40.34 The Commission considers that the order was wrong to delay the initial reporting to the health board. Reporting did not occur until two years after the complaint was first made. This was despite the fact that Fr Klaudius was a teacher. In failing to report, the order acted against the clear advice of its own advisory panel and its legal advice. The order paid undue regard to the request/demand for confidentiality by the complainant and his father. While the delay in reporting was wrong, the Commission does not consider that the order attempted to obstruct, prevent or interfere with the proper investigation of the complaint.

40.35 There was totally inadequate communication between the order and the Archdiocese of Dublin about the complaint and the subsequent admissions. The order did not tell the Archdiocese about the complaint made or about Fr Klaudius's subsequent admissions of abuse. The Commission finds this extraordinary as the known abuse occurred mainly while he was operating under the aegis of the Archdiocese. The order did communicate with other dioceses where Fr Klaudius lived at various times but, extraordinarily, seems to have overlooked the Archdiocese of Dublin. This also meant that the Archdiocese could not inform the schools or the Department of Education.

40.36 The Commission is very concerned that the order had the clear impression that the health board would inform the relevant schools and this did not happen. The failure to inform the schools where this priest had taught and the Department of Education was a serious lapse by the health board.

**Introduction**

- 41.1 In December 1993, Fr Francis McCarthy sent a Christmas card to a young man whom he had abused when that man was 11 years old and when Fr McCarthy was attached to Dunlavin parish. He asked the young man to contact him to talk about old times. This was followed up by a letter from Fr McCarthy, explaining that he hoped to begin a new life on the missions in South America. He also made a number of follow up calls.
- 41.2 Contact was made between Fr McCarthy and the young man and a meeting took place at the priest's home. The young man revealed that he was now on the dole, that he was separated from his wife and that he did not have any prospects of work. He did intend trying to start a business. The young man asked for a loan of £10,000 to help get him started in his new business. Fr McCarthy replied that he could only raise £5,000 and that he would give it to him as a gift.
- 41.3 Over the next few months, the young man received a total of £12,000 from Fr McCarthy and reached an agreement that Fr McCarthy would pay an annual sum towards the upkeep of his children.
- 41.4 In the meantime, the young man had told his wife about the fact that he had been sexually abused by Fr McCarthy. She was adamant that he should report the matter to the appropriate authorities as she was worried that the priest might pose a threat to children on the missions.
- 41.5 The young man was not anxious to report the matter. He felt he had taken money from the priest on the basis that the matter was at an end.
- 41.6 In October 1995, following a visit to the Rape Crisis Centre, he did report the matter to the Gardaí and also to the health board. He said he had been advised by the Rape Crisis Centre that he had suffered more damage than he had at first thought.
- 41.7 On 1 November 1995, the Gardaí interviewed Fr McCarthy at his home and during the course of that interview he admitted sexually abusing the complainant in the 1970s.

### **Fr McCarthy's background**

41.8 Fr McCarthy was born in 1950. He was ordained in 1974. The assessment of him was that he would not be suitable for a teaching post. Following his ordination he was appointed a curate in Dunlavin parish. In 1979, he moved to Enniskerry parish as a curate, where he stayed until 1985. He was then transferred to London to serve as a chaplain to the Irish emigrant community in London. From 1986 to 1994, he was a curate in Ballyfermot parish and in 1994, he was appointed a curate in Howth.

### **Links with children's homes**

41.9 One of Fr McCarthy's classmates during the course of his studies in Clonliffe was Fr Bill Carney (see Chapter 28). As students they visited a number of children's homes. The Commission has evidence that Fr McCarthy visited St Joseph's, Tivoli Road, Dun Laoghaire and St Vincent's, Drogheda, Co Louth.

41.10 According to a statement received from the current superior on behalf of the Daughters of the Heart of Mary who ran St Joseph's, their visits began in 1973 when they were deacons. She said they approached the home and asked if they could help the children by engaging in activities with them. She said their offer was accepted as they came from Clonliffe College which was highly respected. She said they were in the final stage of preparation for the priesthood and they had skills from which the children would benefit, for example, sport, art and drama. They also helped with homework.

41.11 By the time they were ordained there were strong bonds between the two priests and the groups of children they visited. The children were allowed to visit Fr McCarthy's home and to go on holiday with him, sometimes accompanied by a member of the religious orders who ran the homes, and sometimes not. The Commission is aware of complaints from a number of former residents in those homes who alleged sexual abuse by Fr Bill Carney and Fr McCarthy during the course of those visits. Fr McCarthy was later convicted of abusing a child in one of those homes (see below). The Commission believes that, from their student days, both Fr McCarthy and Fr Carney used their positions as seminarians to target these institutions which they knew housed vulnerable children.

### **The handling of the Dunlavin victim's complaint**

41.12 It is doubtful if the abuse by Fr McCarthy would have become known prior to his getting a transfer to South America had he not made contact with one of those whom he had abused, which led to that person going to the Gardaí and to the health board as described above.

41.13

41.14 The young man who alleged he was abused by Fr McCarthy in Dunlavin told the Gardaí that, on the first occasion in 1974 that he could remember being abused, he was in the sitting room in Fr McCarthy's house. The priest asked him to sit on his knee; he was about ten years old at the time. He sat on his knee and he remembered the priest kissing him and putting his tongue into his mouth. He said he was brought up to his bedroom and he remembered the priest performing oral sex on him on this occasion. The sexual abuse lasted between ten and 20 minutes on each occasion and the incidents continued over the period 1974 to 1977 on Friday and Sunday evenings of each week. He told the Gardaí that Fr McCarthy had attempted to penetrate him anally but he did not ejaculate.

41.15 This complainant also alleged abuse by Fr Bill Carney. He said that Fr Carney used to visit Fr McCarthy in Dunlavin between 1974 and 1977 and that he and a friend from the area were invited to stay for a weekend at Fr Carney's house in Ballyfermot. Again the abuse took the form of an attempt by Fr Carney to penetrate him anally while he was sleeping in the bed with him.

41.16 He told Gardaí that Fr Carney and Fr McCarthy took a group of boys to Kerry for ten days and on one of those days Fr Carney fondled his penis with his hand but no other abuse took place. He said that no physical force was used by either priest on him to engage in these sexual acts.

41.17 He also recounted how he had obtained money from Fr McCarthy and how his wife wished him to report Fr McCarthy to “*head office*” but that he had told the priest that he would not do that. He gave the Gardaí a copy of two letters and a card that he had received from Fr McCarthy.

#### **Garda interview with Fr McCarthy**

41.18 In his interview with the Gardaí, Fr McCarthy admitted that he masturbated and kissed the complainant on a number of occasions. He denied any attempted buggery or oral sex and stated that it was his recollection that the incidents continued over a period of two years and not any longer. He said the abuse only occurred on Fridays.

41.19 He said that it was quite likely that he introduced the complainant to Fr Bill Carney. He accepted that he and Fr Carney took two groups of altar boys to Tralee for a week’s holiday, but he said he was unaware of anything happening to the boys during that period.

41.20 He acknowledged that he had given a cheque for £5,000 to the complainant. He said that initially it was to be a loan and then he told him he could keep it as a gift. He also admitted he had given further payments to him and said that he felt he was being blackmailed by him.

#### **Interview with Monsignor Stenson**

41.21 Within 24 hours of his interview with the Gardaí, Fr McCarthy contacted Monsignor Stenson. Monsignor Stenson saw him immediately, on 2 November 1995.

41.22 Fr McCarthy recounted his interview with the Gardaí in relation to the complainant and stated that what he had told the Gardaí was true. He said the abuse had occurred between 1975 and 1979.

41.23 He also told Monsignor Stenson that, in or around 1986, he had been involved with another boy who was aged 12 and that there was inappropriate



touching. He said that there was nudity involved but no buggery. He said that he had been involved in some horseplay with an 11-year-old boy in Ballyfermot in or around the same time. He also admitted touching an 11-year-old boy inappropriately in St Joseph's, Tivoli Road, around 1979/80.

- 41.24 He told Monsignor Stenson that in 1994 he had been visited by two children whose mother he had assisted because she was a single parent. He said that these two children were fearful of sleeping on their own and they joined him in his bed. He said he left to go to another room but they came to him again and he dozed off and when he woke up he found his hand between the legs of the young girl. She was aged 11 at the time.

#### **Leave of absence**

- 41.25 On the same day, 2 November 1995, Fr McCarthy applied to Archbishop Connell for a leave of absence, saying that Monsignor Stenson would explain why. On that day also, Archbishop Connell issued a decree initiating a preliminary investigation in respect of Fr McCarthy.

#### **Further investigations**

- 41.26 At this stage (early November 1995), the only complaint known to the Gardaí was that of the Dunlavin victim. Following the interview with Monsignor Stenson it was clear that Fr McCarthy had admitted to other sexual assaults. These were notified to the Gardaí by the Archdiocese and they were followed up by the Gardaí.

- 41.27 The mother of the boy and girl who had stayed over with Fr McCarthy the previous year was interviewed and she was of the view that nothing untoward had happened and that her daughter remembered nothing. Gardaí arranged for the two children to be interviewed and both said that they had not been sexually assaulted by Fr McCarthy.

- 41.28 Contact was made with another young man, in the USA, and he too said that he had no complaint against Fr McCarthy and that he had not been assaulted when he was 11 years old.

- 41.29 Contact was made with the former resident of St Joseph's and he did say that he had been assaulted by Fr McCarthy. He gave a detailed

statement to Gardaí. He told Gardaí that there were three priests who used to visit St. Joseph's and they seemed to know each other, but the one that was there the most was "*Fr Francis*". He told the Gardaí that Fr McCarthy used to come in and tell them stories at night but he often told the stories from beside his bed. While telling the story out loud he would feel the boy's penis and his testicles.

41.30 He said that he was brought away on weekends with a number of other boys. During some of those visits he slept with Fr McCarthy and they French-kissed.

41.31 He said he also had been brought to Kerry but he had resisted any attempt by the priest to sleep with him or to interfere with him.

41.32 He said that he had spoken to the person in charge at the home and told her about the assaults but not in detail. He said that after that Fr McCarthy was gone and they never saw him or were taken out by him again.

#### **Statement from St Joseph's**

41.33 The nun who was in charge of the group of children that included the complainant from St Joseph's was interviewed by the Gardaí but she asked to reserve her position. She then gave a prepared statement in which she denied that the complainant had reported any alleged abuse to her. In a statement to the Commission, the current superior of the congregation said that :

*"At some stage between 1975 and 1979 after a weekend visit to Fr. McCarthy's house a boy resident came back in a distressed state. The Sister in charge of this boy's group noticed this and spoke to the boy in question. He told her that while he was in bed he had been touched on the penis by Fr. Frank McCarthy and that he did not like it, hence the reason for his distress. The Sister discussed what had happened with the boy and ascertained that the boy had ended up sharing a bed with Fr. McCarthy. The Sister understood that the incident had occurred inadvertently during the night. She considered the matter to have arisen as a result of inadequate accommodation in Fr. McCarthy's house. However, she was concerned for the boy and spoke to Fr. McCarthy. She related the boy's distress to him. She*

*suggested that the boys would not go out for weekend visits thereafter but that Fr. McCarthy could visit them in the home in Tivoli Road.*

*At that stage, child abuse was not something within the awareness of the Sister in question and she did not appreciate the potential significance of what had been disclosed to her”.*

The nun said that she told no one at the time.

### **Meeting at Eastern Health Board offices**

41.34 In addition to notifying the Gardaí, the Archdiocese also notified the Eastern Health Board. A meeting was convened for 6 November 1995 under the auspices of the Eastern Health Board. Those present included health board officials from the different areas where Fr McCarthy had served, the parish priests from those areas, the Gardaí, Monsignor Stenson, his assistant chancellor, Fr Dolan, and the archdiocesan solicitor. Information in regard to suspected victims was shared at the meeting and telephone numbers exchanged. A plan was drawn up to support any suspected victims and arrangements were made to offer counselling if it was required. The parish priests attending indicated that they would be making a statement to parishioners the following day. The text of one of those statements is as follows:

*“Parish of St. Nicholas of Myra, Dunlavin*

*Statement – November 7<sup>th</sup> 1995*

*I am sorry to have to tell you today that a complaint alleging child sexual abuse has been made to the Garda Siochana by a person who is now an adult against Fr Frank McCarthy who worked in this parish from 1974 to 1979. The Gardaí are investigating this complaint. Fr McCarthy has sought leave of absence from the parish of Howth where he has been stationed for just over a year and the Archbishop granted this with immediate effect.*

*I am sure this is as much of a shock to you as it is to me. I knew absolutely nothing about it until yesterday and the Archbishop heard of it on Thursday last. He has asked me to tell you of his personal*

*concern and to assure you of his support. Along with Bishop Eamonn Walsh, the area Bishop, he will be keeping in close touch with us here. I will be available, and will try to respond to your concerns and questions.*

*This is a difficult time for our parish and we need one another's support. Let us pray for each other. Let us also pray for the person who made the complaint and for Fr McCarthy both of whom must be under great stress at this time.*

*I am leaving copies of this statement in the church and we are anxious that all parishioners be informed."*

- 41.35      These statements were widely covered in the media. The publication of this statement by the four parish priests provoked outrage from the former chancellor and then judicial vicar, Monsignor Gerard Sheehy, who expressed his feelings in a comprehensive letter to Archbishop Connell:

*"As a starting-point, I refer to the recent public naming of Father Frank McCarthy of Howth. I have never met this priest, and I know nothing whatever about him or any of his activities.*

*My very serious concern is this. He has now, at the Church's instigation, been named in the public media as a priest against whom an allegation of paedophile activity (a number of years back, it would appear) has been made. I can find no evidence of any formal charge having been laid against him, either in the ecclesiastical or in the civil forum. I have been told that this matter was first raised by the Gardaí; I do not know how far their investigations have gone. But I can find no evidence of any serious enquiry being made in the ecclesiastical forum – save only an obviously-leaked remark in the newspapers about some fairly-recent meeting at Archbishop's House involving the parish priests of those parishes in which he served before coming to Howth- itself, if it happened, an invasion of his good name as a priest, to the total disregard of the relevant canons of the Code. Yet, precisely and solely in the light of these facts, he has been publicly removed from ministering in the parish of Howth.*

*The inevitable result, particularly in the current climate, is that his good name as a priest has been invaded and seriously damaged, probably irreparably”.*

41.36 As in the Ivan Payne case (See Chapter 24) Monsignor Sheehy displayed little or no empathy or concern for the victims even where there was an admission by the priest that he had abused a number of children.

41.37 As Fr McCarthy had been a chaplain to a school at the time of the revelations, the Department of Education sought information from the Archdiocese about any other school appointments. These were investigated and no complaints emerged.

### **Conviction, 1997**

41.38 In March 1997, Fr McCarthy pleaded guilty to sexually assaulting the young boy from the orphanage and the young victim from Dunlavin. That victim asked that he not be sent to jail. He received a suspended sentence in July 1997.

### **Attendance at Granada Institute**

41.39 Fr McCarthy was referred to the Granada Institute in November 1995. He received over 100 hours of therapy. In a 1999 report, Granada expressed the view that he posed little risk of abusing children. While acknowledging that he was at a low risk of re-offending, Granada nevertheless recommended that he should not work with children or be appointed to positions which would bring him into contact with children. It was also pointed out by Granada to Monsignor Dolan that it *“is the practice that while men are in Core Treatment, they do not engage in ministry”*.

### **Post 1995**

41.40 Initially, Fr McCarthy indicated that he would apply for laicisation but, as time progressed and particularly when the court case concluded and resulted in a suspended rather than a custodial sentence, he sought permission to resume saying mass. He was allowed say it in a convent in Dublin.

41.41 Fr McCarthy featured on the Prime Time programme *Cardinal Secrets*. This led to some annoyance among the nuns in the convent where he had been given the facility to say mass. Many of them had no knowledge of his past and wanted him removed because their convent was associated with two schools. The Archdiocese had in fact informed the convent superior and had understood that his presence there was by agreement.

41.42 The Archdiocese did try to accommodate him with various administrative jobs but none proved very successful from an Archdiocesan point of view. In November 2004 Fr McCarthy petitioned the Pope to allow him to be laicised and this was granted in November 2005. Up until his laicisation he was supported from the Clerical Fund Society.

#### **The Commission's assessment**

41.43 This case provides a good example of a case which the Archdiocese, the health board, the Granada Institute, the Gardaí and the Department of Education handled the various complaints well. It must be acknowledged that the Dunlavin complainant went to the Gardaí rather than to the Church authorities in the first instance. The first complaint was made towards the end of 1995. This was the time when the Archdiocese had decided to refer all allegations to the Gardaí and the health board and the *Framework Document* procedures were being introduced.

**Introduction**

42.1 Fr Sergius ministered in the Archdiocese in the 1970s, 1980s and 1990s. He is now retired. There have been numerous complaints lodged with the Archdiocese about him. These include complaints of child sexual abuse, sexual violence and physical and emotional abuse of minors.

42.2 In 1993, the Archdiocese received a complaint that Fr Sergius had been violent towards an adult woman and threatened her with rape. This was investigated by the Archdiocese. It emerged that he and the woman had had a sexual relationship in the late 1980s. She alleged that he had become abusive and threatening towards her after the relationship ended. He told the Archdiocese that he was now committed to the priesthood and that he did not need help or treatment.

**Complaint, 1995**

42.3 The first complaint of sexually abusive behaviour towards a minor was made to the Gardaí in October 1995. A 17-year-old girl and a 15-year-old girl who were working in a restaurant alleged that Fr Sergius had sexually harassed them in the restaurant. They said he had touched their legs and abused them as they walked by.

42.4 Fr Sergius denied any wrongdoing. Witnesses were interviewed. No witness observed any communication, either physical or verbal “*which could be of assistance in sustaining a prosecution*”. However, another waitress said that she saw Fr Sergius attempt to put his hand on one of the girl’s hips but the advance was sidestepped. Another waitress told Gardaí that he had touched her on the legs but she had not reported the behaviour.

42.5 In December 1995, the Gardaí brought the allegations to the attention of the Archdiocese. The Gardaí told Monsignor Stenson that a file was going to the DPP. Monsignor Stenson was anxious not to interfere with the legal process and did not interview the witnesses. He did speak to Fr Sergius who

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This is a pseudonym.

denied the allegations and claimed that he had witnesses to prove his innocence.

- 42.6 In April 1996, the DPP decided not to prosecute because the allegations were in the nature of sexual harassment rather than assault and, while the touching was inappropriate, it was not criminal in nature.

### **General complaints**

- 42.7 In December 1996, a complaint was made to the Archdiocese about Fr Sergius's behaviour. It was alleged that, at a party in a parishioner's house, he had been drunk, used offensive language and made racist remarks to some foreign guests. He then began telephoning the parishioner's wife and pestering her. At a subsequent gathering, it was alleged that he was again drunk and that he became aggressive and insulting. It was alleged that he kissed a woman and pulled a young girl down on the couch to talk to him. The girl *"broke away from him in floods of tears"*.

- 42.8 This complaint was relayed to the Archdiocese by the parish priest. The parish priest confirmed that there were other complaints about Fr Sergius's general behaviour. Bishop Ó Ceallaigh met the parish priest and then met Fr Sergius. The bishop had not been informed of previous incidents known to the Archdiocese – he was not aware of the violent nature of the relationship with the woman nor was he aware that the waitresses who were sexually harassed were minors. The bishop advised Fr Sergius to get help with his alcohol problem and offered to put him in touch with relevant professionals. Bishop Ó Ceallaigh had no further involvement with the case after this meeting. A further complaint was made in May 1997 which was similar to the December 1996 complaint.

### **Sabbatical leave**

- 42.9 Fr Sergius applied for sabbatical leave in 1997 to go to a foreign diocese for two years. He was told that the Archdiocese would have to inform the foreign diocese about the complaints which had been made and the concerns which had been expressed. Archbishop Connell met Fr Sergius and told him that he would be welcome back in the Archdiocese after his two years abroad. Archbishop Connell wrote to the bishop of the foreign diocese



saying that Fr Sergius was “*a priest in good standing*” but added the following reservations:

- He could be aggressive in his use of language, especially if he has taken alcohol.
- He had had a three year involvement with a woman; this had been “*dealt with and is now regarded as a thing of the past*”.
- He had been accused of inappropriate behaviour towards a waitress in a restaurant. The “*public authority did not pursue the matter. Whatever may have happened would have been an isolated incident under the influence of alcohol*”.

The Archbishop expressed the view that Fr Sergius would act responsibly but undertook to take him back immediately if this was requested. The violent nature of his relationship with the woman and the more recent general complaints were not mentioned in the letter.

42.10 A standard contract was signed between the Archdiocese, the foreign diocese and Fr Sergius. The sabbatical leave was to run from September 1997 to September 1999. However, Fr Sergius returned home after just nine months. The Archdiocesan records do not show the reason for his early return. He was appointed to a parish in August 1998. It later became clear that the parish priest was not told of the problems which Fr Sergius had had in the past nor was his area bishop, Bishop Field.

### **Subsequent complaints**

42.11 In February 1999, the principal and teachers of a school in Fr Sergius’s new parish complained to the parish priest about his conduct at a meeting of the confirmation class. The parents alleged that Fr Sergius arrived late, smelled strongly of alcohol and was truculent in his demeanour. A meeting was held involving the board of management, the principal and class teacher and the parish priest. The parish priest expressed surprise that Fr Sergius had been appointed as chaplain to the school. This seems to the Commission to be an extraordinary statement. As the Archbishop is the patron of the school, the appointment of chaplain is delegated to the parish priest, so the parish priest must himself have asked Fr Sergius to deal with the confirmation class.

42.12 The parish priest expressed reluctance to speak to Fr Sergius because “*he has a short fuse*”. The board of management then asked to see the head of the Education Secretariat in the Archdiocese and Bishop Field was informed. Bishop Field told the Commission that he had not been aware of the various other complaints about Fr Sergius. He thought he was dealing with a priest whose problems were entirely related to alcohol. Bishop Field tried to get Fr Sergius to address the alcohol problem but Fr Sergius has always asserted that he does not have a problem with alcohol. Bishop Field told the Commission that he had no power to oblige Fr Sergius to get help or treatment for his alcohol problem, about which he was clearly in denial.

42.13 In November 1999, another complaint was made about drunken and inappropriate behaviour on the part of Fr Sergius. In September 2001, a woman complained that she was sexually harassed by him. He was drunk at the time.

#### **Physical abuse of altar boys**

42.14 In April 2002, the parents of three altar boys complained that the boys had been physically and verbally abused by Fr Sergius. The parents demanded that he be removed from any situation at parish level. The delegate, Fr Gleeson, met the parents immediately. He concluded that the priest was no longer to be considered safe around children. He considered the matter to be serious enough to merit Fr Sergius’s removal from ministry and to have his alcohol and behavioural problems professionally assessed. He noted that the problems with Fr Sergius were “*of long standing*”.

42.15 Fr Sergius was asked to step aside from ministry. He was told that the decision would be reviewed pending treatment for his alcohol problems. Archbishop Connell sent a letter confirming the decision and asking him to seek “*appropriate professional assistance*” as the Archbishop would not be prepared to reinstate him without a positive medical report. The parents were informed.

42.16 Bishop Field recommended and organised treatment for Fr Sergius with the Granada Institute in May 2002. However, in June 2002, Fr Sergius informed Bishop Field that he would no longer be attending the institute and would instead be following legal advice on the matter. This was followed by

a solicitor's letter to the Archdiocese in July 2002 requesting copies of all documents relating to allegations and investigations of the Archdiocese.

42.17 Fr Sergius had written to Archbishop Connell in late May 2002 reaffirming his innocence and expressing his intention to retire from the diocese with adequate financial compensation. However, he was not prepared to resign his priestly ministry. In July, Fr Sergius accused Archbishop Connell of imposing a severe, extreme and unjust suspension from ministry. Archbishop Connell immediately responded explaining that, once he had a report from Granada, he would be in a position to discuss the future. The report from Granada in July 2002 concluded that Fr Sergius's behaviour must be taken seriously as there were indicators that he was getting into serious difficulty. Furthermore, because he was not willing to attend for additional sessions with Granada, it was concluded that the problems and complaints were likely to continue. Fr Sergius would need to gain much deeper insight into his behaviour before he could return to ministry. Fr Sergius believed the findings of the report were invalid and that fault for the entire process was with the Archdiocese.

42.18 In September 2002, Archbishop Connell again reiterated that there would be no return to ministry unless there was a positive report from Granada. This time, Fr Sergius did return to Granada. A residential course to deal with his alcohol problem was recommended by Granada but Fr Sergius refused to attend. He said he intended to retire from the diocese. He was officially released from his duties in October 2002 and became a beneficiary of the Clerical Fund Society (see Chapter 8). The Archdiocese provided him with a house.

42.19 Fr Sergius remains very disaffected with the Archdiocese even though it has been generous to him. He still wants to engage in ministry in Dublin. It appears that he sometimes helps out in another diocese. Bishop Field was aware of this and explained that, as Fr Sergius was retired from the Dublin Archdiocese, he was in fact free to help wherever he wished; he was not under any ministerial restriction. The Commission does not know if this other diocese has been informed of his situation.

### **The Commission's assessment**

- 42.20 It may be the case that Fr Sergius's primary problem is one of excessive alcohol consumption. However, any priest who behaves in a sexually inappropriate way with minors, even if it happens only when he is drunk, should be treated in accordance with the guidelines on child sexual abuse. Fr Sergius should have been removed from ministry after the complaints from the young girls in the restaurant. He should not be allowed to minister until he deals with his alcohol problem. Retirement is not a substitute for removal from ministry.
- 42.21 His propensity to be sexually abusive was known to the Archdiocese so it should have been very concerned indeed about the complaints of the young girls. Bishop Ó Ceallaigh should have been informed of the full range of complaints against Fr Sergius when he was dealing with the December 1996 complaint.
- 42.22 His problems should have been made known to his parish priest and area bishop in 1998 and he should not have been allowed involvement with the confirmation class.
- 42.23 The Gardaí dealt appropriately with this case and there was no involvement by the health board.

**Introduction**

43.1 Fr Dante was born in 1946 in the UK and ordained in 1973. He held various appointments throughout the Dublin Archdiocese as chaplain and curate. He suffered from stress related problems and was not always active in his roles. He retired from the Archdiocese in March 2005 on the grounds of ill health. He returned to live in his family home in the UK.

43.2 Four complaints against Fr Dante are known to the Commission. Three of the allegations relate to a trip to France for altar boys in 1985 which was chaperoned by Fr Dante. The fourth is unrelated to the trip. Fr Dante has always strenuously denied the allegations made against him.

**First Allegation, 1995**

43.3 There are three complaints or expressions of concern in relation to a trip to France by altar boys from the parish in which Fr Dante was a curate in 1985. The first was made in December 1995 and was more of an expression of concern than a complaint or allegation. A boy who had been on this trip told the Archdiocese that, beforehand, he and another senior altar boy would spend time in Fr Dante's house organising the trip and Fr Dante would have them sit on his knee. The former altar boy was also concerned about some of the more unusual rules of the trip. One rule was that underwear could not be worn when the altar boys reached the continent, that all boys were to sleep naked and that the bathroom door was to be left open when showering so Fr Dante could "*check*" on the boys. Punishment was to be smacking on the bare bottom. The former altar boy stated that he was once punished in this way and "*something about it didn't feel quite right*".

43.4 Monsignor Dolan visited this former altar boy and spoke to him and to his father. It emerged that another parent had expressed concerns about Fr Dante's behaviour. The former altar boy also told Monsignor Dolan that the boys had to undress in front of Fr Dante at night and that a different boy had to sleep in the same bed as Fr Dante each night due to a shortage of beds. This was also allegedly used as a form of punishment.

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<sup>111</sup> This is a pseudonym.

43.5 In March 1997, Archbishop Connell asked Bishop Eamonn Walsh to speak to Fr Dante about this expression of concern. Fr Dante denied the allegations, saying that there may have been threats made about punishment but nothing of an untoward nature occurred. Bishop Walsh concluded that the alleged incidents could be viewed as in the nature of strict discipline or containing some sort of gratification. It was seen as inappropriate behaviour rather than child sexual abuse. Monsignor Dolan interviewed Fr Dante about the specific aspects of the altar boy's statement. Fr Dante first denied having the boys sit on his knee, making the boys sleep naked or punishing on the bare bottom. However, over the course of the meeting, his account changed somewhat. He said the boys did not wear underwear in order to prevent their clothes getting wet during the day. The confined space meant clothes were hung on the bathroom door, therefore the door was left open during showering to prevent the clothes getting wet. He claimed there was always another boy present when this occurred. He conceded that he was very focused on disciplining the boys. As it was often difficult to catch them, he admitted that he may have slapped them as they ran from the shower but he could not remember doing so.

43.6 Monsignor Dolan believed these to be reasonable explanations. He noted that a print-out of the rules of the trip did not correspond to the altar boy's description of the rules. However, he was concerned that Fr Dante had given an altered account of his approach to discipline as their meeting progressed and there were, at this stage, two independent allegations of sitting on the priest's knee (the second one is the second allegation described below). Monsignor Dolan concluded that the case did not pass the threshold of suspicion of child sexual abuse but he suggested, among other things, that an assessment would be appropriate.

43.7 Shortly after the meeting, it was confirmed to Monsignor Dolan that Fr Dante would be attending the Granada Institute. Fr Dante believed this would be better for him and the diocese as it would help him cope with his stress problems. He was treated in Granada for the following seven months. A psychological report issued in August 1998 stated that, while Fr Dante suffered from stress and was pre-disposed to depressive moods, there was *"no evidence to suggest that [Fr Dante] is erotically attracted to children"*.

The report concluded however that it would be prudent for him not to minister to children given the nature of the allegations. Fr Dante was allowed to return to ministry and was appointed curate in another parish from 1 September 1999. He did not take up the appointment due to “severe stress”. He was receiving medical attention for his health problems and was living in diocesan accommodation. He was appointed a parish chaplain and chaplain to a hospital in July 2000. It seems that he actually carried out relatively little pastoral work in the parish because of his health problems; he did most of his work in the hospital.

### **Second allegation**

- 43.8        Meanwhile, a second allegation was made which was unrelated to the trip to France. In 1996, a woman informed Monsignor Dolan that there had been an incident with her son and Fr Dante when her son was ten years old. She alleged that approximately five years previously Fr Dante had invited her son over to his house to learn about computers. On his second visit, Fr Dante allegedly invited the boy to sit on his knee. The boy refused and there was no further contact between the pair. The mother was adamant that the matter be kept in the strictest of confidence; she did not want her son to be questioned. The Archdiocese put this allegation to Fr Dante as part of its broader investigation. He expressed surprise that he had not been informed of the allegation sooner.

### **Third allegation**

- 43.9        In late 2002, a third allegation, which was the second one concerning the trip to France in 1985, emerged. At some stage in 2002, a mother had spoken to a curate in her parish about incidents with her son during the trip to France in 1985. These were similar to those already reported. In December 2002, the allegations were brought to the attention of the parish priest who immediately contacted Fr Paddy Gleeson, one of the delegates at the time. Fr Gleeson met the curate and it emerged that this mother had brought her allegations to the attention of another priest approximately four years previously, in 1998. However, at that time she had requested that the matter stay confidential and so the Archdiocese had not been made aware of her complaint. The other priest confirmed that she had brought the matter to his attention. The curate had offered her the Faoiseamh helpline number and she in turn gave this to her son.

43.10 Fr Gleeson met the mother in January 2003. She alleged that, even before the trip to France, concerns had been voiced among the parents about Fr Dante's behaviour around children. She made the same allegations regarding the rules of the trip as were made in the first allegation but also spoke of one specific incident when Fr Dante had allegedly been aroused while disciplining her son. She claimed that all the boys ceased being altar servers after the trip. Her son was interviewed the following day. He reiterated his mother's allegation and added some further information. He, like the second complainant, claimed that he would be invited to sit on Fr Dante's knee when using the computer. On these occasions, Fr Dante's hands would be "*all over the place*". He alleged that, even before the trip to France, Fr Dante would be around the boys at football training watching them undress and checking if they were wearing underwear by pulling down the front of their shorts. He said the boys were aware of Fr Dante's habits before going to France but they really wanted to go on the trip.

#### **Fourth allegation**

43.11 In January 2003, while the third allegation was being investigated, the parish priest spoke to the father of another altar boy. The father asked his son if he had seen anything on the trip to France. His son alleged that the boys had slept two to a bed and were made to sleep naked. He further alleged that Fr Dante had always slept with one of the boys. On a separate occasion when this boy was staying with Fr Dante, he had to undress in his presence. This was not investigated as a separate allegation by the Archdiocese as no formal complaint was made but it did strengthen the credibility of the other complainants.

#### **The garda investigation**

43.12 The Archdiocese informed the Gardai of the third allegation in January 2003. In a follow-up letter Fr Gleeson asked, at the request of Cardinal Connell, that the Gardai not contact Fr Dante until the diocese had informed him of the new complaint as the Cardinal was concerned about his unstable health. The Gardai were also told of the other allegations/expressions of concern in relation to the trip to France.



43.13 The Gardaí began their investigation as soon as Fr Dante had been informed of the new complaint. They notified the HSE of suspected child sexual abuse in early March 2003. They interviewed the third complainant in April 2003 but he refused to sign his statement saying that he did not want to pursue the matter; he merely wanted to bring it to the attention of the Gardaí. His mother was also interviewed. In addition to what she had told Fr Gleeson, she informed Gardaí that, before the trip, Fr Dante had called to the house with a list of rules saying that he would collect the boys' clothes at night to prevent them getting out and that he had the right to punish the boys and hold their pocket money. In May 2004, the Gardaí concluded that no criminal offence had been disclosed as the third complainant would not make a formal complaint. However, the Gardaí did express concern at the inappropriate behaviour and this was notified to the health board. The Child Protection Service of the Archdiocese was informed of the outcome of the garda investigation and the conclusion was that child protection concerns should remain.

#### **The Archdiocese's response**

43.14 Fr Dante's case was considered at a meeting in Archbishop's House in January 2003. The following day, Fr Dante was again interviewed. He now said that printed rules were given to all parents before the trip and that one boy had an accident on the trip and spent the night sleeping on the floor beside his bed as he needed to be monitored. He categorically denied the allegations of the third complainant and suggested that he and the boy had had a run-in which resulted in the boy being expelled from school.

43.15 Fr Dante was asked to step aside from ministry and he agreed to do this. He was also advised to seek legal advice. The case was referred to the advisory panel. The panel agreed that the correct procedures were being followed and it recommended that the hospital at which Fr Dante had been a chaplain should be informed. It was decided that the diocese should conduct its own investigation and, in this respect, the parish priest of his current parish should make discreet inquiries as to any further allegations. Those who had raised expressions of concern were to be informed that a formal complaint had been made. These recommendations were immediately acted upon. The health board and the hospital were informed.

43.16 Fr Dante began attending treatment sessions at the Granada Institute in March 2003. During his time in treatment, a health board child care manager sought clarification from the Archdiocese on what measures had been taken to ensure that Fr Dante was no longer a threat to children. Fr Gleeson replied, telling her that Fr Dante had been asked to step aside from ministry, had been referred to Granada for risk assessment, had been moved to alternative accommodation across the city and had been assigned a priest advisor. The matter came before the advisory panel again in August 2003 where it was noted that Fr Dante was continuing to deny the allegations but had been attending Granada, where he had suggested that he would be happy to retire from the priesthood.

43.17 A report from Granada was sent to the Archdiocese in February 2004. This showed that Fr Dante consistently denied any sexual abuse although he did accept the reasons for his ministerial restrictions regarding contact with minors. He also consistently denied any erotic interest in children. Fr Dante had told Granada that he had rigorously adhered to the restrictions imposed on him. Granada concluded that his isolation meant his health problems were entering a chronic pattern and recommended that he be allowed retire. It suggested that it would be desirable both socially and mentally for him to return to the UK to be near his family. In March 2004, Fr Dante requested retirement from the priesthood on the basis of his poor health. He asked that he be permitted to return to the UK to be near his niece who was a nurse and could monitor his health problems.

43.18 His request for retirement went before the advisory panel. It was recommended that the precept under which he was living be maintained (that is, no ministry) and the implications of providing proper supervision in the UK be considered. The Gardaí and the health board were to be asked for their views of such a move. In June 2004, the advisory panel went a step further and concluded that specific recommendations would be needed from the Child Protection Service as to the safest arrangements for his move. The health board told the Archdiocese that if Fr Dante were to move to the UK then all those with whom he would be living or would have contact would need to be informed of the allegations against him. However, Fr Dante himself would first need to be informed that this was happening.

43.19 Fr Dante was notified of the requirements of a move to the UK diocese at the end of May 2004. He resisted the notification requirements as stated by the health board and suggested he would seek legal advice on the issue. He met Philip Garland, Director of the Child Protection Service, in July 2004. Mr Garland explained that the notification requirements were essential. Fr Dante again denied all allegations made against him.

43.20 His formal request for retirement was sent to Archbishop Martin in September 2004 and was considered by the bishops. The advisory panel recommended that full retirement be supported by the Archdiocese. In early December it recommended that a formal precept be put in place which would be explicit about the need to avoid any unsupervised contact with minors and restrictions on providing any ministry for him. It also recommended that the Child Protection Service maintain contact with its UK counterpart. The Archbishop also requested that Fr Dante's niece be informed. Fr Dante did not want her informed and he said that he would inform his sister. The advisory panel recommended that his sister be fully briefed on his retirement. In this respect, the panel believed it would be prudent for the delegate to be present when Fr Dante informed his sister.

43.21 Fr Dante returned to the UK in February 2005. The Child Protection Co-ordinator for the diocese to which he was moving was informed that he would be moving to the diocese and of the child protection concerns that had been raised about him. A canonical precept was drawn up and approved by both the Dublin Archdiocese and the UK diocese to which he was moving. The precept laid down the following conditions:

- no public masses to be celebrated; he could do so in private but only those who were aware of his situation could attend;
- no permission to celebrate other Sacraments except the Sacrament of Penance in situations of danger of death;
- permission must be sought from the delegate of the Dublin Archdiocese to celebrate family occasions. The permission of the local bishop of the relevant jurisdiction should also be sought;
- no unsupervised contact formal or informal with minors;
- no clerical garb;
- must co-operate with the representatives of the relevant dioceses.

43.22 This was followed by a behavioural contract between Fr Dante and the parish in the UK in which he would be living. This specified that he:

- was not to wear clerical garb or involve himself in any liturgical activities in the parish community;
- was not to celebrate mass in public; he could celebrate in a private room and in the company of those aware of the reasons for his retirement;
- was to sit separately from children and families when attending mass in the parish;
- was to accept the advice of the parish clergy about what mass to attend;
- was to never be alone with children and must avoid any occasion where this may accidentally occur;
- was to make a conscious effort to avoid befriending those who would have regular visits from children;
- communicate any change of address or visit to another parish to the local clergy.

43.23 Shortly afterwards, the delegate in the UK diocese reported that Fr Dante was still in denial and had failed to inform his sister of the allegations. The advisory panel's concerns were vindicated. The UK delegate then briefed the sister due to his concern for her grandchildren who regularly visited. He also said that the information about Fr Dante would have to be shared with the parish deacon and the child protection representative but nobody else. The Dublin delegate responded by acknowledging the difficulty now faced by Fr Dante's family and agreeing that perhaps it should have been made a condition of his retirement that the Archdiocese be allowed to inform his family before the move to the UK. In April 2005, the UK diocese delegate told the Dublin delegate that Fr Dante's sister was shocked by the allegations; she was very angry at having been expected to look after him and she had confirmed that she would not take responsibility for being his monitor.

43.24 Fr Dante was nominated as a beneficiary of the Clerical Fund Society from 1 May 2005.

### **The Commission's assessment**

43.25 The complaints were dealt with by the Archdiocese appropriately and in accordance with the *Framework Document*. The Gardaí also dealt with them appropriately.

43.26 There was good communications between the Archdiocese, the Gardaí and the health board. There was also good communication between the Archdiocese and the UK diocese. The advisory panel was particularly effective in ensuring that this communication occurred and was clearly very aware of the need not to rely on Fr Dante himself to communicate with relevant people.

43.27 This case again raises the difficulty as to how the activities of priests accused of child sexual abuse are to be monitored. In this particular case, it appears that everything possible that could be done was done but the end result is that a priest about whom there are concerns is now living in an unsupervised regime.

**Introduction**

- 44.1 Fr Cassius was born in 1910, ordained in 1934 and died in 1975. A complaint was made to the Archdiocese in 1999 that Fr Cassius sexually abused a girl in the early 1960s. The alleged abuse involved multiple sexual abuses including oral sex and gang rape involving the priest.

**The Complaint**

- 44.2 The complainant alleged that the abuse took place in an industrial school in the early 1960s, when she was aged between seven and ten. Fr Cassius was serving at the time in the parish where the industrial school was located. It was alleged that Fr Cassius lived in a house annexed to the school chapel and that a nun from the institution delivered the complainant to him for the purposes of permitting the abuse. The complainant alleged that the nun was complicit in the abuse on these occasions and that the nun herself participated in the abuse and watched it taking place. She alleged that she was gang-raped by three or four men in that house and that Fr Cassius was one of the participants in the rape.

- 44.3 Both the Gardaí and the Archdiocese investigated the complaint.

**The Archdiocese Investigation**

- 44.4 Another nun who had been in that institution for one month in 1951 and returned there for a longer period after 1975 stated on inquiry from the Archdiocese that, during her time there, priests did not have free access to the institution and there was no significant contact between the Archdiocese and the institution. She did recall one priest (not the priest being investigated, but against whom this complainant made a similar allegation) having attended from time to time to examine children on religious knowledge.
- 44.5 Monsignor Dolan, the chancellor at the time that the complaint was made, had a search carried out in the diocesan archives for relevant material concerning the institution between the period 1940 and 1971. This search however did not reveal any letters of complaint from anyone nor was there

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This is a pseudonym.

any record of concern from any outside agency about the institution during this time.

- 44.6 Similarly, the Commission has not come across any material that would indicate that there was any complaint made about this priest to the Archdiocese during his life time.

#### **The Garda investigation**

- 44.7 This investigation began when a statement was provided to the Gardaí by the complainant in July 1999 through her solicitor.

- 44.8 Garda records refer to the statement as being incomplete, as the complainant's solicitor had terminated the interview because she felt that the complainant was close to having a mental breakdown. The complainant lived abroad and had left Ireland a few days later with a promise to return to complete her statement. As the Gardaí did not consider the statement completed, their investigation did not significantly progress beyond this time. The Gardaí did obtain a copy of the unedited version of a media program involving the complainant. They also tried to arrange for the return of the complainant for the purposes of the completion of her statement but were unsuccessful in so doing. The Commission understands that the complainant has now declined to make any statement and the matter is consequently no longer under investigation by the Gardaí.

#### **Civil Proceedings**

- 44.9 Civil proceedings were issued by the complainant in September 1999 against the Archdiocese. The Commission is not aware of any outcome to the civil proceedings.

#### **The Commission's assessment**

- 44.10 The Archdiocese and the Gardaí did what they could to investigate this complaint. The priest was dead for 24 years when it was made so it was not possible to have a conclusive investigation.

**Introduction**

45.1 Fr Girdalus was born in 1940 and ordained in 1970. He was a member of a religious order but was incardinated into the Dublin Archdiocese in the 1980s. The Commission is aware of two allegations of child sexual abuse against him; one of these was subsequently withdrawn.

**First Complaint, 2000**

45.2 An allegation of sexual abuse was made against Fr Girdalus in January 2000. It related to his time as a member of staff in a children's home outside the Dublin Archdiocese in the 1960s. The allegation was investigated by the Gardaí. Fr Girdalus emphatically denied the allegation. The Archdiocese made inquiries about his activities but no concerns emerged. The advisory panel recommended that he should not be asked to step aside from ministry nor should there be any change in his status. It recommended that the diocese await the outcome of the garda investigation before deciding how to proceed. However, in May 2000, the complainant withdrew his complaint against Fr Girdalus and explained that it was another staff member who had abused him.

**Second Complaint, 2005**

45.3 In April 2005, the head of the order of which Fr Girdalus had been a member received an anonymous letter alleging child sexual abuse by Fr Girdalus when he was a teacher at a Dublin secondary school and the writer was a pupil there in 1972/73. The alleged abuse involved touching the complainant and a number of other boys at a swimming pool. The head of the order communicated with the writer by email over a period. The writer lived abroad. The head of the order encouraged the complainant to go to the Gardaí and he explained that he would need to inform the Archdiocese of the allegation.

45.4 The order informed Philip Garland, Director of the Child Protection Service (CPS) in May 2005. It was agreed between the order and the Archdiocese that the Archdiocese would conduct an investigation and deal

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This is a pseudonym.



with the statutory authorities; the Archdiocese would provide victim support and all issues of litigation would be directed to the order.

45.5 The Child Protection Service contacted the still anonymous complainant by email. The support co-ordinator of the Child Protection Service then maintained frequent contact and offered support to the complainant throughout the following months. In June 2005, the complainant provided a signed statement. The Gardaí and the HSE were notified by the Child Protection Service.

45.6 The Gardaí expressed surprise that Fr Giralduis had not been removed from ministry and the HSE said that he presented a potentially high risk. The CPS recommended that he be asked to step aside from ministry.

#### **Interagency meeting**

45.7 The case was reviewed at an interagency meeting between the Archdiocese, the HSE and the Gardaí in early July 2005. The Gardaí confirmed that they had made contact with the complainant but had yet to launch a formal investigation as the complainant had not yet made a statement of complaint to them. The HSE confirmed that it would be satisfied if the Church followed through on its proposed actions, namely, that the priest be asked to step aside from ministry, leave his parish and go for assessment.

45.8 The Archbishop and the delegate then met Fr Giralduis. He denied the allegations and said he did not remember the complainant. He said he never touched a child sexually nor was he ever sexually aroused in a swimming pool. He admitted there would be horseplay at times but nothing inappropriate. He also admitted that he would have showered naked and that it would be possible that his swimming shorts might have come off when diving into the pool.

#### **Stepping aside from ministry**

45.9 Fr Giralduis was asked to step aside from ministry but was given permission to celebrate certain family events. He agreed to go to the Granada Institute for assessment. It was agreed that he would tell his parish team that he was taking a leave of absence. The Commission is somewhat

surprised that this subterfuge was being used in 2005. He also had a support priest. Fr Giraldu moved out of his parish to a house he owned.

45.10 In mid July 2005, the complainant was informed that Fr Giraldu had stepped aside from ministry. His response was that he did not intend to pursue criminal proceedings provided the priest got professional help. In August, the complainant expressed his disappointment that he had heard of Fr Giraldu's denial of the allegations through a third party. He did not identify the third party involved. He said that he would cease to co-operate with the CPS if they were not more forthcoming with developments in the case. He also advised that he had met an obstacle when trying to give a Garda statement: he was required to be present to give the interview or to use Interpol or the police in the country where he was living, none of which he wanted to do. He further advised that he was seeking legal advice in Dublin.

45.11 Fr Giraldu attended Granada from September to November 2005. A report from Granada in January 2006 concluded that there were no grounds for restricting his involvement with or access to children nor did he need ongoing professional support or counselling. It noted that there was no concrete (meaning corroborative) evidence that Fr Giraldu had sexually abused the complainant and that there was an absence of any apparent erotic attraction to children.

45.12 The advisory panel, having seen this report, expressed its concern at the protracted length of the investigation and urged the CPS to press the Gardaí to get a statement from the complainant. Fr Giraldu was also anxious about the length of time he had been out of ministry and claimed that people were beginning to ask questions. The panel further recommended that advice be sought from the HSE on risk management in the case.

45.13 A second meeting between the Archdiocese, the HSE and the Gardaí was held in February 2006. Granada was represented at this meeting. The Gardaí indicated that there was no investigation at present as they did not have an official complaint. Granada reconfirmed that the priest had always asserted his innocence and his risk level was low. There was no evidence of an erotic interest in children or any evidence to restrict his access to children. Granada recommended that he be allowed to return to ministry but also

suggested that he should be encouraged to retire. It is not clear why this recommendation was made. The HSE was uneasy about the situation in respect of the first complaint and with the fact that the order did not seem to have any concerns about the priest. It was concluded that the case should again go before the advisory panel for recommendation. It was also agreed that there would be a meeting with the order regarding its knowledge of the situation in the school during the priest's time there. The HSE would attend this meeting and would try to contact the first complainant. It is not clear why the HSE wanted to contact the first complainant as he had clearly withdrawn the complaint because he recognised that he had made a mistake of identification. The HSE did not, in fact, contact the first complainant.

45.14 The CPS updated the second complainant about the decisions which were made in the course of this meeting. The complainant confirmed that he was happy for the HSE to contact him. He also explained that it was purely the distance that was preventing him from making a statement to the Gardaí. The Archdiocese agreed to fund the cost of the complainant's journey to Ireland in order to make a statement to the Gardaí.

45.15 The CPS met the order in March 2006. The HSE was not at the meeting. The order informed the CPS that it had carried out a very detailed investigation regarding the school and swimming pool to which the allegations related but they were not aware of any concerns in relation to Fr Giraldu. The order representative confirmed that he would not have any concerns about Fr Giraldu in relation to child abuse issues. He also said that he knew the complainant and described him as a very trustworthy person.

45.16 The complainant came to Ireland in April 2006. He met the CPS, the order, the Gardaí and the HSE. He reiterated his assertion that Fr Giraldu had harmed others as he had heard boys tell stories of similar occurrences. He said that his reason for travelling to Ireland was the priest's denial of everything.

45.17 A further meeting between the Archdiocese, the HSE and the Gardaí was held in May 2006. The HSE said it had not followed up with the first complainant as there was no complaint. It also said it would be interested in trying to corroborate what the second complainant had said about the other

boys. The Gardaí were of the opinion that there had been only one minor incident which would be difficult to prove and corroborate. They would continue to investigate. It was decided that Fr Giralduš should remain on administrative leave while the CPS followed up with the order regarding their knowledge. The HSE undertook to check its files in relation to the school in question. A final interagency meeting was held in July 2006. It was agreed that the case was unsubstantiated and it was not possible to determine the risk.

45.18 The Gardaí completed their investigations and forwarded a file to the Director of Public Prosecutions (DPP). In December 2006, the DPP decided not to prosecute due to lack of medical or forensic evidence, delay, and the absence of witnesses to the alleged incident.

45.19 Fr Giralduš was restored to ministry in December 2006 and is currently in ministry.

#### **The Commission's assessment**

45.20 The withdrawal of an allegation does not always mean that no further investigation should take place. However, the first allegation in this case was withdrawn because the complainant realised he had mistaken the identity of his abuser. In these circumstances, the Commission considers it reasonable to cease further investigation.

45.21 All concerned with the second allegation dealt with this case in accordance with the procedures and there was very good communication between the Archdiocese and the order and between the church and state authorities. The fact that the allegation was initially anonymous meant that there was a slight delay before the priest was removed from ministry and all the relevant people were contacted. The CPS was trying to get further information so the slight delay was reasonable. The Archdiocese facilitated the complainant in making his complaint to the civil authorities and is to be commended for that.

45.22 This is one of the cases in which the HSE did not provide documents to the Commission until it had received the draft of this chapter. The HSE attended the interagency meetings and was kept fully informed by the CPS

but it is not clear to the Commission that the HSE had any real function at these meetings. It is understandable that the Archdiocese was relying, to some extent, on the HSE to provide a risk assessment but the HSE was not in a position to do that.

**Introduction**

46.1 Fr Aquila is a member of a religious order since the 1950s. As a brother in the order, he served in a school. He was ordained as a priest of the order in the 1960s. He served abroad for a number of years and was a chaplain in the Archdiocese of Dublin for some time. He is now retired from public ministry. He lives in another diocese where he has faculties to say mass but, at his own choice, does not have any appointment. He remains a member of the order but has no real involvement with it.

46.2 The Commission is aware of a total of three complaints alleging sexual abuse against Fr Aquila. All of the complaints related to his service in the school when he was not yet a priest.

**First Complaint**

46.3 The first complaint of abuse was made by a former student at the school to the Gardaí in February 2000 and involved an allegation of physical and sexual assault in the school in the 1960s. The allegation was that he had strapped a boy on his bare buttocks and subsequently applied ointment on the boy's buttocks on the premise of alleviation of the damage caused by the beating. During the course of the application of the ointment, he is alleged to have touched the boy's genitals. The priest admitted to strapping boys on bare buttocks while at the school and that he would have applied medication in such circumstances. He denied ever touching genitalia and regarded any discipline he meted out as in accordance with the "*norms of the times*". He denied any sexual attraction to, or fantasies about, children. A Garda file was sent to the DPP who directed no prosecution in September 2000.

**Church response**

46.4 The Dublin Archdiocese learned of the complaint from the Gardaí in February 2000. Fr Aquila was immediately requested by the superior of his order to step aside from his position as chaplain. Fr Aquila was referred to the Granada Institute for assessment and a report was issued in September 2000. This report judged him to be well adjusted, having a strong network of

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This is a pseudonym.

support, no deviant sexual fantasies and to be a conscientious and hard-working person. As the psychologist determined that there was no evidence that Fr Aquila presented a risk to children, it was recommended that he be allowed to return to his ministry. Archbishop Connell confirmed that he was permitted to return as chaplain in September 2000, having checked with the chancellor, Monsignor Dolan, that there were no other known concerns about him.

### **Two further complaints**

46.5 Between June and July 2001, the Archdiocese learned of two further complaints of alleged physical and sexual abuse from two other former students at the school. One of those complainants reported that “*to the best of his memory*”, he thought his abuser might have been Fr Aquila.

46.6 In August 2002, Archbishop Connell withdrew his nomination of Fr Aquila as a chaplain. Although Fr Aquila was initially going to contest this, he decided to retire in 2003.

46.7 In October 2004, the order’s advisory panel considered the three complaints against Fr Aquila. While the panel considered the claims believable, it did not make any decision as to whether they did or did not happen.

46.8 It was decided by the panel and the superior of the order that no bar would be put on Fr Aquila as a priest. Over the next few years, Fr Aquila became disillusioned with the Church and his order in particular. He moved to the diocese where he grew up. In July 2006, the advisory panel considered that he was disengaging from the order and that this was a cause for concern. He was living outside of, and had no contact with, his order. The panel members agreed that contact should be made with him and that their concerns be expressed. The advisory panel met again in October 2006 and discussed an impending report due to be received from Granada via Fr Aquila’s solicitors. There was some puzzlement as to why the report had not been received by the panel – the assessment had been carried out in November 2005. The panel was also unsure if it was the case that Fr Aquila, through his disengagement with the order, did not really want to return to active ministry.

46.9 The Granada assessment, which was carried out in November 2005, was made available to the order in November 2006. It reiterated that Fr Aquila was fit for ministry. The advisory panel recommended that he should be free to exercise public ministry.

46.10 The order applied to the bishop of the diocese where Fr Aquila was living to grant him faculties to say public mass. He did not want any appointment. The order provided the bishop with a full description of his background, of the complaints received and the assessments undertaken. Faculties were granted by the bishop.

#### **The Commission's assessment**

46.11 The order, the Archdiocese and the Gardaí all dealt with this case appropriately. Regrettably, the process of dealing with the complaints seems to have caused great disillusionment to Fr Aquila. His present limited ministry and non-involvement with his order is his choice as it is clear that the order did not sideline him. The Archdiocese was correct in removing him as a chaplain when the complaints were made.



**Introduction**

- 47.1 In August 2001, a priest in the Portmarnock area received a letter from a man who claimed that in 1972, when he was 14 years old, he was abused by Fr Blaise. The abuse allegedly occurred when this priest was a parish priest. The complainant was inquiring about Fr Blaise's whereabouts in 2001 but stated that he did not want to take the matter further for fear it would cause stress to his mother.
- 47.2 The man also complained to the Gardaí in August 2001. The Gardaí made inquiries about Fr Blaise and they established that he had been the parish priest in the relevant area in 1972. However, he had died in 1987. A criminal investigation would not be conducted because he was dead. Nevertheless, the Gardaí told the complainant how to contact the chancellor, Monsignor Dolan, at Archbishop's House.
- 47.3 The matter was referred to the clerical abuse inquiry at the National Bureau of Criminal Investigation (NBCI) in Harcourt Square— see Chapter 5. The complainant at this stage was serving a prison sentence in the UK. The NBCI wrote to the complainant and provided him with a telephone number and an email address. They also informed him that they were currently involved in an investigation of clerical child sex abuse, and had received correspondence in relation to his complaint from the Garda station where he had made the complaint.
- 47.4 In May 2002, legal proceedings were issued on behalf of the complainant against the Archdiocese. The solicitor who issued the proceedings on behalf of the complainant had considerable difficulty in advancing the case because the complainant was in prison. He was moved to different prisons on a number of occasions during the course of his imprisonment. Eventually, on the application of the Archdiocese, the case was dismissed for want of prosecution. The Gardaí were unable to pursue the matter because the alleged victim did not make a formal statement. The Gardaí informed the church authorities that, to their knowledge, there was no other complaint about Fr Blaise.

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This is a pseudonym.

### **The Commission's assessment**

47.5 Once the complainant had launched legal proceedings, the Archdiocese responded properly at all stages. It was clear that the solicitors for the complainant were having difficulties in getting instructions and eventually the case was dropped. No attempt was made to contact the complainant or to arrange to take a statement from him. The archdiocesan view was that it was his prerogative to make direct contact with the Archdiocese or to go through his solicitor; he chose the latter.

47.6 It must also be said that the internal investigation undertaken by the Archdiocese following the issuing of civil proceedings uncovered no suspicion of child sexual abuse on the part of Fr Blaise other than this allegation. All of his fellow priests who were interviewed said they found the allegation unbelievable.

47.7 There is another priest of the same name against whom serious allegations of child sexual abuse have been made in another diocese. This other priest is not of the Archdiocese of Dublin but did supply work in the Archdiocese. The possibility that the offender was in fact that other priest was not explored by any party.

47.8 Even though Fr Blaise had died, the Gardaí did what they could to assist the complainant.

**Introduction**

48.1 Fr Benito was born in the 1960s and ordained in the 1980s. He initially worked as a teacher. This ceased because his principal complained, among other things, that the priest was unable to maintain discipline in the classroom, that there was an over-reliance by him on videos and that some of the parents were unhappy with material used in his examination papers. The principal considered that he lacked maturity and was naïve. He was then appointed as a curate in a parish.

48.2 Two complainants, a brother and sister, have made complaints to the Gardaí of child sexual abuse against Fr Benito. The complainants have not made complaints to the Archdiocese. The existence of the complaints was initially brought to the attention of the Archdiocese by the priest himself. Fr Benito is currently in ministry in the Archdiocese.

**The complaints**

48.3 The two complaints were made to the Gardaí in September 2001. The young man complained that he had been sexually assaulted by Fr Benito when he was about 15 years old, in or around 1988. The young woman alleged that Fr Benito had sexually abused and raped her when she was a teenager.

48.4 It is clear from Fr Benito's own letters that he had got himself into a somewhat tangled relationship with this particular family. He had been friendly with the family from the mid 1980s when the boy was aged about 13 and his sister about 15. By 2001, this family, and particularly the sister, were involved in complex relationships and the priest was heavily involved in advising them. Very long letters were being written making allegations against various people. Some of these allegations related to current child sexual abuse, but these were not being made against Fr Benito.

48.5 In August 2001, Archbishop Connell received an anonymous letter complaining about Fr Benito. This letter was connected to the tangled

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This is a pseudonym.

relationship of the priest with the family but this was not known to Archbishop Connell at that stage. The complaint made did not concern child sexual abuse. The matter was referred to Bishop Raymond Field who was requested to ascertain the priest's views.

48.6 It appears, despite the absence of confirming documentation, that Bishop Field contacted Fr Benito promptly. At or about the same time the priest wrote a long letter to his psychiatrist detailing his associations with this family.

48.7 Fr Benito had been attending a psychiatrist for many years because he suffered from depression. The priest told the psychiatrist that, when the boy in question was aged about 15, in or around 1988, the boy used to visit the priest's house and stay overnight.

48.8 Fr Benito described how he decided one night in November 1988 to play a prank on the boy. After the boy had gone asleep, Fr Benito dressed in a blanket and a mask and frightened him. The boy became hysterical and Fr Benito tried to calm him down by hugging him. The boy suddenly kissed the priest. The priest saw that the boy was aroused so, in order to defuse the situation, the priest "*flicked at his erection in a mocking fashion*". The priest said that the incident "*completely freaked*" him out and he "*stepped back*" from the boy although they remained good friends.

48.9 In this letter to the psychiatrist, Fr Benito also described his relationship with the sister. He said she was now making false allegations against him because she believed that he (the priest) was making allegations against her brother. Fr Benito said that, in the late 1980s, the sister openly expressed how much she liked him and she wanted to have a physical relationship with him. He said he was flattered by her attention and he had an eight month affair with her in the late 1980s. He said he felt very guilty about this relationship in which he claimed he was manipulated by her.

48.10 It is clear from other documentation that Fr Benito was still in contact with the woman in the late 1990s. In March 2001, he wrote to her of his abhorrence when he learned that she had been sexually harassed and raped by another priest. In that letter, he gave her advice on how to handle the

matter with the Gardaí and the diocesan representative. At some stage, allegations started to be made that Fr Benito was responsible for circulating allegations against the brother and other people connected to the woman.

48.11 In October 2001, Fr Benito wrote to Bishop Field telling him that he had heard that false allegations were being made against him and that he was the subject of a Garda investigation.

48.12 During this period the priest also wrote detailed letters to the Gardaí about the background to his relationship with the family.

48.13 In November 2001, the sister made a second statement to the Gardaí in which she insisted that Fr Benito raped her when she was 15 years old.

48.14 In December 2001, Fr Benito was interviewed by the Gardaí and in January 2002, he made a formal statement. The statement accords with the description he had given to his psychiatrist. He said his sexual relationship with the woman took place when she was 19 years old.

48.15 In February 2002, the priest wrote to Bishop Field to say that the Gardaí had expressed a view that he had nothing to worry about, that they knew there was no truth in the woman's allegations but that procedures had to be followed and so the matter was being referred to the DPP.

48.16 In March 2002, the priest made a statement to the Gardaí in respect of the incident with the young man.

48.17 In April 2002 Bishop Field went to see the investigating garda superintendent. The superintendent confirmed that Fr Benito did have a sexual relationship with the girl when she was 17 years old (the priest had claimed it was when she was 19) but the allegation by the brother was the more serious one. This was the first time Bishop Field became aware that there might be a child sexual abuse issue and he reported the matter to the chancellor, Monsignor Dolan.

48.18 The superintendent sent the file to the DPP in April 2002. He expressed the view that, having examined all of the circumstances of the

case and in particular the veracity of the allegations and the motivation for them, he was concerned about basing a prosecution of Fr Benito on the allegations. There is no evidence that the Gardaí notified the health board of any child abuse concerns.

48.19 When Bishop Field reported the matter to Monsignor Dolan in April 2002, Fr Benito was immediately released from his parish duties by Archbishop Connell. The Archbishop met Bishop Field and Monsignor Dolan. A support system was put in place and the matter was reported to the health board.

48.20 The matter was referred to the advisory panel. The panel recommended that:

- Fr Benito be fully assessed by the appropriate professionals;
- a Canonical Precept be imposed on him;
- in the event that he was released from hospital, he should be strictly monitored to ensure that he had no opportunity for unsupervised contact with minors (there is nothing in the files to show that he was in hospital at this time).

48.21 The panel indicated its concern about the delay between the first notification of a child sexual abuse problem to the area bishop in October 2001 and its being brought to the Archbishop's attention in April 2002. It transpired that the panel had been wrongly informed. Bishop Field has told the Commission that he was not aware of the panel's criticism of him until he saw a draft of this report. Bishop Field pointed out that the panel had been wrongly informed that Fr Benito had admitted sexual abuse of two people under the age of 18 to him, the bishop. Bishop Field believed that the allegations, which were reported to him by Fr Benito in October 2001, and not by the alleged victims, related to adults. He discovered that the allegations related to minors only when he went to speak to the Gardaí in April 2002 and he then reported the matter to the Archbishop. The Commission finds it extraordinary that the panel's criticism was not communicated to him at the time. Yet again, this provides evidence of very poor communications within the Archdiocese.

48.22 In May 2002, Archbishop Connell issued a precept which directed that for two years, Fr Benito must:

- have no unsupervised involvement with minors;
- not make himself available for the celebration of public mass and the sacraments;
- avoid all direct contact with those who had made the allegations;
- not wear clerical garb;
- attend the Granada Institute for assessment;
- remain in contact with his priest adviser.

48.23 The priest in the parish where he was living was to be informed of this precept.

48.24 In October 2002 the DPP decided not to prosecute. The Granada Institute issued a report which concluded that Fr Benito was sexually attracted to adult women, that there was no evidence of a sexual or erotic interest in children and that he did not present a risk of sexual abuse to anyone. However, the report recommended that, to ensure his future emotional well-being and ability to maintain appropriate boundaries, he should continue to receive psychiatric support. The report further recommended that, in the event that he be returned to ministry, Fr Benito should be required to avoid any informal relationship and friendships with young people and that he be supervised by an experienced priest for at least two years.

48.25 After a further meeting, the advisory panel signed off on the case as Fr Benito did not appear to be within its terms of reference – the evidence did not support any incidence of child sexual abuse. The panel's views were subsequently sought on what type of ministry would be appropriate for him. In May 2003, the panel recommended that the precept be lifted to the extent of allowing him to wear religious garb and to celebrate mass. The panel recommended getting advice from his psychiatrist and adherence to the guidelines previously issued by the Granada Institute. The precept was lifted in June 2003.

48.26 In November 2003, the Child Protection Service of the Archdiocese advised that the recommendations of the Granada Institute be implemented without further delay and that Fr Benito:

- continue to have psychiatric support;
- be required to avoid any informal relationships and friendships with young people;
- have two years supervision by an experienced priest;
- have a priest support person appointed.

48.27 In December 2003, Cardinal Connell and Fr Benito signed an agreement putting these recommendations into effect. Support people and supervisors were named and regular meetings were agreed. Fr Benito was appointed to a parish.

48.28 In May 2004 it was brought to Archbishop Martin's attention that there was no indication on the file to show if the recommendations made by the Child Protection Service had been implemented. Archbishop Martin made inquiries and established that Fr Benito was seeing the psychiatrist but there was not full compliance with the agreement. The Director of the Child Protection Service, Philip Garland, concluded that there was a need to renegotiate the review mechanism. He also expressed the view that the proposed appointment of Fr Benito as chairman of the board of management of a school was unwise. In January 2005, the advisory panel advised that they would not recommend this appointment. Archbishop Martin asked Mr Garland to undertake the interim supervisory management of Fr Benito and in February 2005 the terms of this supervisory role were agreed. Mr Garland identified deficiencies in the behavioural contract and Archbishop Martin agreed with his recommendations that it would have to be much clearer, include a supervisory framework and time scales and be signed off by the Archbishop. The behavioural contract was agreed for the period March 2005 to March 2007.

48.29 In September 2005, Mr Garland recorded that when he met the other priests in the parish to which Fr Benito had been allocated, they told him that they were not aware that there were concerns or allegations in respect of Fr Benito. Again Bishop Field was not aware until he saw a draft of this report



that the priests told Mr Garland this in 2005. Bishop Field told the Commission that he had contacted the priests in the parish before this priest's appointment. There is documentary evidence that he did this. Bishop Field told the Commission that he explained this priest's history to the two priests concerned. The parish priest told the Commission that Bishop Field explained to him that Fr Benito had had "*an involvement with a lady, I presumed a fairly young lady*". The parish priest could not recall whether or not he was told that there had been a garda or Granada Institute involvement with the priest but he did know that Fr Benito was "*required to see certain people at certain times and there were meetings that he was required to attend and that these were to be accommodated within his appointment*". The parish priest did not say that he was specifically asked to monitor Fr Benito but he did say that, as a result of his initial conversation with Bishop Field his "*antennae were out at all times for any suggestions or any anxieties in relation to [Fr Benito's] relationships in the parish*". He considered that Fr Benito had a limited appointment in the parish and he could not appoint him to any of the schools in the parish without consulting Bishop Field. He did consult Bishop Field in this regard and the bishop advised against such an appointment. The parish priest said that, when he met Mr Garland in 2005, the information provided by Mr Garland "*expanded somewhat upon my existing awareness but did not fundamentally alter my understanding of the need for vigilance in regard to the manner in which [Fr Benito] was exercising his ministry*".

### **The Commission's assessment**

48.30 Archbishop Connell dealt properly with the matter once he was informed. Subsequent dealings were all appropriate but the Commission is concerned about the confusion which surrounds the level of information given to the other priests in the parish to which Fr Benito was assigned in December 2003. It is clear that Bishop Field did give the parish priest some information but it was certainly not complete or sufficiently specific. For example, the parish priest was not told that there were concerns about Fr Benito's relationship with a boy and he was not told the age of the girl involved. The parish priest was clear that he had to exercise vigilance and he did so. In the Commission's view, the parish priest should have been given a more detailed briefing, in particular in a case where there were concerns about both boys and girls. The Commission is also concerned about the

failure to inform Bishop Field about the advisory panel's perception that he had delayed in reporting a complaint of child sexual abuse. It also seems strange that he was not told about the 2005 meeting during which Mr Garland formed the view that the priests of the parish had not been given basic information when Fr Benito was appointed there. The Commission is very concerned that breakdowns in internal archdiocesan communication may still have been occurring in 2005.

48.31 The Commission notes that the Child Protection Service operated particularly well in this case in identifying and rectifying the implementation failures.

48.32 The Gardaí dealt appropriately with the case.

**Introduction**

- 49.1 There are complaints about inappropriate behaviour by Fr Magnus with vulnerable young adults while he was on the Dublin diocesan pilgrimage to Lourdes. The complaints arose in the 2000s. It was claimed that he engaged in a 15-minute hug with a young adult (age unknown). This was witnessed by a number of pilgrims. Other priests on the pilgrimage were shocked and upset at what they regarded as “*inappropriate behaviour*”. The priest who reported the matter to the Archdiocese said it “*had to be put into a wider context of homosexual innuendo among some on the pilgrimage*”.
- 49.2 There was also a complaint that Fr Magnus attempted to chat up another young man (age unknown) in a bar. That young man wrote a letter of complaint to the Archdiocese.
- 49.3 Cardinal Connell referred Fr Magnus to a psychologist. Fr Magnus readily admitted to the psychologist that there had been an error of judgment by him regarding boundaries with vulnerable young adults. Some of the young people on the trip had intellectual disabilities and emotional problems. Fr Magnus often offered his services as a psychotherapist to vulnerable young adults.
- 49.4 The psychologist was keen that there would be a further assessment to avoid Fr Magnus being a risk to other vulnerable people. In her final assessment, this psychologist recommended that “*he would be better placed in a developed/ more mature settled parish community - one that excludes the possibility of serving as chaplain to a secondary boy’s school*”.
- 49.5 During the course of the Commission’s work a young adult told the Commission that he had had a relationship with Fr Magnus which started in 1978 and continued until 2003. This person was 18 years old at the start of the relationship.

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This is a pseudonym.

### **The Commission's assessment**

49.6 There is no complaint of child sexual abuse against Fr Magnus known to the Commission. There are concerns about his behaviour with vulnerable young adults. The Archdiocese is clearly concerned about this behaviour. However, there is no evidence of criminal behaviour.

49.7 The Commission considers that those with whom Fr Magnus had contact through his work should have been notified in regard to his behaviour with vulnerable young adults.

**Introduction**

50.1 Fr Jacobus was a member of a religious order. He was born in 1916, ordained in 1944 and he died in 2006. He was attached to the Archdiocese of Dublin from 1970 to 1983. There is one complaint of child sexual abuse against him. His order arranged an independent investigation of this complaint and it was concluded that the complaint did not have substance.

**Complaint, 2002**

50.2 The complaint was made in April 2002 by a man who alleged he had been sexually abused two or three times a week in the sacristy of a parish church in which Fr Jacobus served. The abuse was stated to have occurred in the period 1972-1975 when he was an altar boy aged between nine and 12. He initially complained to a priest in another diocese who reported the complaint to his local bishop. That bishop notified the head of the order and the Archdiocese of Dublin. The documentation seen by the Commission suggests that this complainant was a troubled person who suffered from depression.

50.3 The delegate of the order travelled to meet the complainant. The complainant told him that he was an altar boy at early morning mass three or four times a week after which Fr Jacobus would make him remove his vestments and “*feel him*”. He further alleged that on one occasion Fr Jacobus attempted to bugger him but he resisted. The abuse allegedly continued for approximately three years from 1971 to 1974/5. The delegate noted that the complainant was very emotional and upset during the interview and took grave exception to a letter sent by the head of the order in which he used the word “*alleged*” to describe the abuse. He threatened to go to the media with the letter. The complainant said that he believed he deserved compensation and peace of mind.

50.4 The head of the order then interviewed Fr Jacobus. The priest denied the allegation, saying he was completely innocent and that he had always been very careful with the altar boys. He was told that it was possible he

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This is a pseudonym.

would have to be removed from ministry. Subsequently the delegate of the order met Fr Jacobus. Again Fr Jacobus denied the allegations and forcefully asserted that the whole thing was about money. He said that mass in the church in question was at a different time to that specified by the complainant and that he could not recall there ever being an altar boy at this mass. He asserted that removing him from ministry would effectively mean an end to his career as he was 86 years old. He accepted that Gardaí would have to be informed. Fr Jacobus did, in fact, withdraw from ministry shortly after this meeting.

50.5 Due to the conflicting versions of events that had been offered by the parties, the order decided to establish an investigation team under canon law. The complainant was informed of the priest's denial, of the establishment of an investigation team and that the Gardaí were being informed. The complainant agreed to co-operate with the investigation.

50.6 The Gardaí were informed and they interviewed the complainant in June 2002. However, the complainant did not wish to pursue the matter with them.

50.7 An investigation team was appointed by the order in August 2002. It consisted of a social worker and a barrister. The team started its investigation promptly.

50.8 In October 2002, the Archdiocese wrote to the head of the order. The Archdiocese had heard from a local priest about the allegations against Fr Jacobus. (The Archdiocese had in fact been informed earlier and had made it clear to the bishop reporting the allegation that the order was the appropriate body to investigate.) Fr Jacobus himself disclosed to his local priest and to the nuns in a convent where he had been ministering that there was a complaint against him. It appears from the correspondence between the Archdiocese and the order that the Archdiocese was not aware that Fr Jacobus had been ministering in the Archdiocese after his retirement. The head of the order explained to the Archdiocese that Fr Jacobus had taken on a number of part-time ministries in convents, nursing homes and parishes after his retirement but that he had withdrawn from all ministries when the

allegations were made. The head of the order also gave the Archdiocese an account of the allegation and the investigation.

50.9 In January 2003, before the investigation team had reported, the complainant confirmed to Fr Jacobus's solicitor that he would be withdrawing his allegation. He stated that he had "*other people to consider in the matter*". In March 2003, the head of the order told the Archdiocese that the complaint had been withdrawn. The Archdiocese, however, expressed concern that this was merely a qualified retraction and that the complainant could change his position at a later date.

50.10 In February 2003, the investigating team furnished its report on the allegation. It concluded that it could not find any substance to the complaint. The team had interviewed both parties to the allegation, the complainant's GP and counsellor, two priests, two altar boys and a sacristan. The team had also been furnished with the statement of another man who had been an altar boy in the early 1970s and a statement from the priest's nephew. The statement of the other former altar boy contradicted much of the complainant's account of the practices of the altar boys in the parish in question. The investigation team concluded that the complainant's description of events was vague and inaccurate and not consistent with that of an adult recalling childhood experiences. He had become defensive and challenging when asked for details and they noted that earlier accounts of the abuse had differed from what he had told the investigating team. Fr Jacobus had been consistent and firm in his denials of the allegations. He was forthcoming regarding details and "*nothing in his presentation took from his credibility*".

50.11 The order's advisory panel reviewed the report. The panel supported the findings of the team that the complaint was not sustainable. It concluded that Fr Jacobus was to be reinstated and his name restored with those who knew of the allegations. He was to be permitted to return to his previous ministry subject to diocesan authority.

50.12 The order asked the Archdiocese to allow Fr Jacobus to return to ministry. The Archdiocese's advisory panel concluded that the Archdiocese could rely on the report of the order's investigating team but recommended

that the provincial of the order be formally notified that the Archdiocese was so relying. Archbishop Connell approved his return to ministry in July 2003 and he returned to ministry that same month.

50.13 The complainant was informed of the findings of the investigation team by the order in March 2003. In August 2003, the delegate was told by Fr Jacobus that the complainant had been found dead at home.

#### **The Commission's assessment**

50.14 This tragic case was properly and quickly handled by all concerned. The order established an independent investigation team which carried out a thorough investigation and came to reasonable and sustainable conclusions. The communication between the order, the Archdiocese, Fr Jacobus and the bishop of the other diocese was all carried out appropriately. The Archdiocese was correct in drawing the order's attention to the qualified nature of the retraction of the complaint. The investigation proceeded notwithstanding this retraction – the Commission considers that this was the correct approach. The Gardaí could not do anything without the co-operation of the complainant.



**Introduction**

51.1 There are no allegations of child sexual abuse against Fr Guido but there were suspicions and concerns. Fr Guido was ordained in the 1990s and took up a parish appointment immediately. In 2002 and 2003, Bishop Martin Drennan heard reports that Fr Guido was indulging in inappropriate behaviour which gave rise to concern. He had been seen taking photographs of male teenagers (mostly rugby players). He was then offering these photographs to the players and had been seen in the dormitory of a boarding school late one night. He had been inviting young people to his house for meals and collecting teenagers from pubs late at night. He had also taken young people to Lourdes and joined them for drinking parties. He had refused to make changes to the drinking regime on the Lourdes pilgrimage. When he was invited to boys' schools for penance services he started exchanging telephone numbers with some of the boys and some of the school staff expressed concern.

**Psychological assessment**

51.2 Bishop Drennan recommended that he attend at the Granada Institute for treatment, but he adopted delaying tactics and the Granada Institute then declined to take him because of his resistance. In May 2003, he was sent for an initial assessment to a consultant psychologist. During that assessment he admitted that he was homosexual. He acknowledged that he might be in the process of developing a problem related to young men. The psychologist recommended a comprehensive risk assessment to establish the extent of his problematic behaviour. He recommended that Fr Guido not have any contact with children or young people until the assessment had been completed and that he go abroad for treatment.

51.3 Fr Guido was asked to step aside from his curacy pending the outcome of the report.

51.4 Fr Guido went to a therapeutic facility abroad for assessment. In its report the clinic stated that Fr Guido did not appear to be at high risk of violating sexual boundaries with young people. However, his risk of violating

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This is a pseudonym.

emotional boundaries, that is, of growing too close and showing poor judgment in his actions was significant and had been demonstrated in his behaviour already. Consequently, in their view, some action needed to be taken to address his self awareness sexually and emotionally and to alter his awareness of appropriate boundaries. The clinic confirmed that he had homosexual leanings. It was recommended that, although he did not necessarily need to be prevented from working with youths and young adults, it would be prudent to develop a different focus for his ministry. The report recommended a residential programme of treatment.

51.5 Following receipt of the report, it was agreed that Fr Guido would have a spiritual advisor and would continue to get professional help. It is not clear from the documentation furnished to the Commission whether he, in fact, embarked upon the course of residential treatment which had been recommended. It seems that he returned to Dublin and recommenced his role as curate. He also continued his involvement in the Dublin Diocesan pilgrimage.

#### **Further concerns**

51.6 In October 2003, he recommenced his inappropriate behaviour. On the Dublin Diocesan pilgrimage he spent an inordinate amount of time taking photographs of the boys and arranging to meet them at night. In his conversations with the boys he talked about his loneliness and he asked for email addresses. None of the boys made a complaint but they stated that his behaviour was “*fishy*”.

51.7 He was immediately suspended from all duties and was admitted to Stroud. At the time there were eight places on the residential course for child abusers and the majority of these places were taken by Irish priests.

51.8 In December 2003, the Gardaí were notified about the Church’s concerns. In March 2004, the Gardaí reported that they were satisfied from their inquiries that there was no evidence of criminal activity in this case.

51.9 The health board was also informed in December 2003. In January 2004, the health board reported that it would not be pursuing an investigation as there had not been any child abuse allegations made against Fr Guido.

51.10 Fr Guido spent nine months in Stroud. He admitted that he had a homosexual orientation which manifested itself in an attraction to fit young men. The Archdiocese was obviously concerned as to how this might affect his future in the priesthood. It was suggested that upon his return to Dublin he would have a part-time ministry which would involve no contact with young people. Stroud recommended that he have a limited parochial appointment as parish chaplain, continue with therapy and spiritual direction, pursue a course of study related to his ministry and have a priest advisor. It made a further series of recommendations all of which were put in place by the Archdiocese.

51.11 When he returned to Dublin, the Archdiocese considered that a course in pastoral leadership would be suitable for him at that time and decided that he could live in a presbytery in the city centre. He was sent on a master's course in pastoral leadership.

51.12 The Archdiocese attempted to place him in a parish but there was considerable difficulty in finding someone prepared to take him when the circumstances were explained. In January 2005 he was sent for a further assessment to the psychologist who had assessed him in May 2003. The psychologist said that, where somebody had expressed a sexual interest in children and had gone so far as to photograph young people, the Archdiocese should make a decision in principle as to whether such a person could be permitted to function in the ministry. The report, while obviously leaving the decision open to the Archdiocese, left no doubt as to its recommendation that Fr Guido should not continue in ministry. Stroud did not agree with this. They believed that he had responded well to the therapy and could be returned to full ministry.

51.13 Finally, the Archdiocese sought advice from a psychiatrist in Dublin. He stated that Fr Guido had undergone a very careful and detailed assessment and treatment process. While he had shown a high motivation in his participation in the treatment programme, even with ongoing treatment and support no professional could guarantee that he might not at some point engage in further inappropriate behaviour towards adolescent boys. The psychiatrist recommended that he should not be returned to ministry but rather that he be helped with ongoing support and therapy to resign and find a

new direction in his life. In June 2005, Archbishop Martin told Fr Guido that there was no limited ministry that he could give him that would meet the supervision requirements. There were therefore only two options open to him, namely, to apply for laicisation or to retire as a priest with no public ministry. He chose to be laicised. He has commenced another career. The Archdiocese spent a substantial amount of money on treatment and on helping him to establish a new career.

#### **The Commission's assessment**

51.14 The Archdiocese acted correctly in immediately addressing the concerns and suspicions in this case. It did everything possible to assist Fr Guido to address the issues of concern and, when it was clear that a limited ministry was not possible, it helped him to get started on another career.

**Introduction**

52.1 The case of Fr Rufus is illustrative of the difficulties that can arise when a complaint is received after the alleged abuser has died.

52.2 It is also illustrative of the fact that a victim or victims can suppress abuse for many many years and of how an event, in this case the public announcement by a complainant that he had settled his case against Fr Naughton (see Chapter 29), can reactivate past memories.

52.3 Fr Rufus was born in 1898 and died in 1974. The complaints against him refer to a period in the 1950s when he was a curate in Harold's Cross and also to a period when he was parish priest in High Street and Arran Quay in Dublin city centre. There are three complaints against him; all three complainants alleged that other people were also abused.

**First complaint, 2002**

52.4 The first complaint about Fr Rufus came from a woman who was born in 1944. She informed Gardai in 2002 that she and her four sisters had been sexually abused by the priest in the 1950s. Her abuse consisted of digital penetration. It continued for three years from age six to nine years. It occurred while he was based in Harold's Cross and took place in her own home.

52.5 The complainant asked the Gardai to check whether or not Fr Rufus was still alive. On being assured that he had died in 1974, she declined to give a statement to the Gardai. She said that her only motivation in reporting was to ensure that he could not abuse other children.

52.6 This complainant did not contact the Archdiocese at this stage.

**Second complaint, 2003**

52.7 The next complaint came in February 2003, again from a woman who was born in 1944. It also related to Fr Rufus's time in Harold's Cross. She

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This is a pseudonym.

contacted the Archdiocese and a full statement was taken from her by the delegate, Fr Cyril Mangan. This complainant stated that Fr Rufus was a family friend and a frequent visitor to her family home. The abuse began when she was seven years old and continued until she was 12 years old. On her first visit to his house she was accompanied by a group of girls. One of the girls said that they all had to huddle together at the door when they were leaving the house. In her statement to the Gardaí she explained that this was because the priest would always molest the last one out.

52.8 The complainant alleged that, in addition to putting his hand up her dress and down her pants, Fr Rufus had also anally raped her in the hallway of his house. She alleged that this happened on a number of occasions. She alleged that Fr Rufus would tell her that she was a special girl and that this was their secret. He warned her that her father would be in trouble if she told anybody. She tried to tell a priest in confession about it, but he refused to give her absolution. This priest was also dead at this stage. The abuse stopped when she went to secondary school.

52.9 She did at a later date attempt to confront Fr Rufus when he moved to the High Street parish but she was unable to do so. He was in High Street from 1961 to 1967.

52.10 Fr Mangan followed up the complaint and told the complainant that, in accordance with Church policies on child sexual abuse, he would inform the Gardaí. He did this and he provided the complainant with information on counselling. The complainant also made a statement to the Gardaí.

### **Third complaint, 2003**

52.11 In February 2003, the Garda National Bureau of Criminal Investigation received a telephone call on their hotline from a male alleging that he had been abused by Fr Rufus in the years 1963 - 1966 when the priest was attached to High Street parish. The complainant said he was aged between seven and ten at the time and indicated that he wished to make a formal statement.

52.12 Even though there was no prospect of a prosecution, the complainant was interviewed two weeks later by the Gardaí at his home. He informed the

Gardaí that he became an altar boy when he was about seven years old and that Fr Rufus was the parish priest of High Street at the time. He ceased to be an altar boy when he began secondary school.

52.13 He claimed he was frequently abused by Fr Rufus during his time as an altar boy and that the incidents of abuse occurred in a little room for the altar boys in the sacristy. He claimed the abuse consisted of touching his penis and fondling him. He did not wish to go into more detail, but he explained that the media hype around clerical sexual abuse was having an effect on him. He also claimed that not alone was he abused, but that three of his brothers were also abused. Neither this complainant nor his brothers reported the abuse at the time. He said he had contacted the health board about six months previously and was receiving counselling under its auspices.

52.14 In September 2003, this complainant made a formal complaint to the Archdiocese. His complaint was dealt with by Fr Aquinas Duffy. The complainant inquired whether or not priests who had suspicions in the 1960s would have reported them to the authorities. Fr Duffy explained to him that it would have been highly unlikely at that time that priests would have had any suspicions and it would have been rare for them to bring any suspicions that they might have had to the attention of the authorities. He explained to the complainant that the protection of children was of paramount importance in the procedures that were being followed in 2003.

52.15 Fr Duffy followed up the meeting with the complainant with an offer of help from the Faoiseamh helpline for him and any of his brothers who might require it. Fr Duffy also informed Fr Mangan about this complaint. This was the second formal complaint about Fr Rufus which had been received by the Archdiocese. Frs Duffy and Mangan decided that the complainant from Harold's Cross should be informed of the fact that there was a second complaint and this was done (it should be noted that the first complainant from Harold's Cross was not known to the Archdiocese at this stage).

#### **The garda response**

52.16 As Fr Rufus was dead there was no question of a prosecution. The Gardaí sought the permission of the first complainant who had alleged abuse

in Harold's Cross, but did not want to pursue the matter, to allow them to inform the Archdiocese about her complaint and this they did.

### **The archdiocesan response**

52.17 The Archdiocese was faced with a real dilemma in this case. On the one hand, it had received two allegations which were credible. On the other hand, the alleged perpetrator was dead for almost 30 years and could not be confronted with the allegations. The secret archives were searched and nothing was found. A comprehensive investigation was carried out among priests who had known Fr Rufus. Inquiries from those who knew Fr Rufus confirmed that he was the priest in Harold's Cross at the time of the allegations and also that he was the parish priest in High Street at the time of the young man's allegations. It was also confirmed by those who knew Fr Rufus that he had "*a great relationship*" with children and that, while he was in Harold's Cross, children were in and out of his house all the time.

52.18 He was regarded as a kind priest by those who knew him and, on being elevated to parish priest, was very caring of his curates. One priest did confirm that the priest who had heard the complaint about Fr Rufus in the confessional was quite likely to behave in the manner described.

52.19 There were a number of meetings between the second complainant and the Child Protection Service of the Archdiocese (CPS). In 2004, she alleged that a Garda had told her that there were other complainants. The Director of the CPS wrote to the Gardaí inquiring about this. The Gardaí, having established that the complainants had no objection to their names being given to the Archdiocese, told the CPS that there were two other complainants – the first Harold's Cross complainant and the High Street complainant. Until this the Archdiocese had not been aware of the first Harold's Cross complaint.

52.20 The Archdiocese made contact with the first complainant from Harold's Cross and encouraged her and her sisters to seek counselling if they so required.

52.21 The second Harold's Cross complainant and the High Street complainant issued civil proceedings against the Archdiocese. The



Archdiocese was puzzled as to how it could be civilly liable in relation to complaints that were surfacing many years after the death of the alleged perpetrator and where it had no notice of any suspicions about the priest in question during his life.

52.22 In the end, it was agreed that the claims would go to mediation. They were settled in 2005/2006 by the Archdiocese without any admission of liability.

#### **The Commission's assessment**

52.23 The Archdiocese dealt with these complaints properly. The procedures were all followed and there was good communication within the Archdiocese and between the Archdiocese and the Gardaí. These complaints were made around the time that the Child Protection Service was being set up. The follow-up with the complainants was good.

52.24 As the priest was dead, there was nothing further the Archdiocese or the Gardaí could do.

**Introduction**

53.1 Fr Ignatio is a member of a religious order. He was born in 1914 and ordained in 1941. He spent most of his working life in the Archdiocese of Dublin.

**Complaint, 2002**

53.2 There is one complaint against Fr Ignatio. He was almost 90 years old when the complaint was made.

53.3 In 2002, a young man went to a member of the order who was working in the Archdiocese of Dublin at the time to plan his wedding. The young man told this priest that his mother had been abused by a member of the same religious order 40 years earlier when she was about 13. His mother had recently complained to the local parish priest who had independently contacted the delegate for the order.

53.4 The priest to whom the young man spoke tried to establish the identity of the alleged abuser and concluded that it was a member of his order but he could not identify him. This priest met the woman and apologised to her. He and the delegate from the order then met her and her husband. She told them that the abuse had occurred when she was bringing some goods to the order's house. She had suffered psychiatric problems all her life and was very distressed at the meeting. She had only recently told her family what had happened. She did not know the alleged abuser's name but was able to give a limited physical description. The delegate had no doubt about her truthfulness. The order arranged counselling for her and her husband. It seems the delegate met the complainant and her husband again in their home. No significant further information emerged from that meeting.

53.5 The order's advisory panel met to consider the case in September 2002. The group considered the possibility that this was a case of 'False Recovered Memory Syndrome' – in effect, they wondered did the abuse as described ever happen or was the abuse caused by somebody else. It was

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This is a pseudonym.

agreed that the delegate would remain in contact with the complainant and would discuss the matter with her again after she had some counselling.

53.6 Some weeks later, the complainant wrote to the delegate saying she was very disappointed and hurt that he had not contacted her as he had promised to do this after a couple of sessions with the counsellor. She felt that the delegate did not believe her. It should be noted that it is clear to the Commission that, in all his dealings with this case, the delegate did believe that she was abused; he was having difficulty establishing who the abuser might be. At this stage the complainant had not named her alleged abuser.

53.7 The order reported the matter to the Gardaí in December 2002. The woman made a complaint to the Gardaí in January 2003. She alleged she was raped by the priest on the Thursday of Halloween week 1962 when she was delivering goods to the order's house and she tentatively identified the priest as Fr Ignatio. She gave a physical description of him. She gave a very detailed description of how she came to be delivering goods to the order's house. This description is clearly credible and fits with the activities which were carried out in that particular house. In April 2003, she made a further statement to the Gardaí in which she positively identified the priest as Fr Ignatio. She claimed it was he because she had recently attended his sister's funeral and recognised his voice. After the funeral, she saw him and recognised him. She also saw his picture in the order publication.

53.8 The order informed Fr Ignatio of the complaint. He strenuously denied ever having been involved in *"anything inappropriate with man, woman or child"*.

53.9 Fr Ignatio was interviewed by the Gardaí. He was accompanied by his solicitor. He had no recollection of the woman's name or her family. The Gardaí outlined the allegation to him. On his solicitor's advice, he declined to answer many of the questions. A short time later, he swore and signed a statement stating that the allegations against him were entirely false.

53.10 Having investigated this complaint, the order took the view that this was a case of mistaken identity. The order believed the complainant was abused but not by Fr Ignatio.

53.11 The priest to whom the son had originally spoken met the woman many times and provided considerable pastoral support to her. That priest officiated at the son's wedding.

53.12 The Gardaí, having investigated the complaint, forwarded the file to the DPP but the garda inspector did not recommend prosecution because of the identification problems, the lack of corroborative evidence, the age of the suspect and the psychological state of the complainant.

53.13 The DPP decided not to institute charges. As well as the issues identified by the Gardaí, the DPP considered that the delay posed insurmountable difficulties.

#### **The Commission's assessment**

53.14 There can be little doubt that this complainant was abused and it seems probable that she was abused by a member or employee of this religious order. However, it also seems probable that the priest named by her is not the abuser.

53.15 The order dealt well with the complainant. It investigated the complaint as far as possible and came to a reasonable conclusion.

53.16 The Gardaí dealt appropriately with the complaint.

**Introduction**

54.1 Fr Cornelius was born in 1913 and ordained in 1937. He held various appointments throughout the Dublin Archdiocese over the following 48 years and eventually became a parish priest. He retired in 1985 on the grounds of ill health. He died in 1994, eight years before the allegations known to the Commission were made against him. The Commission is aware of two allegations of child sexual abuse against him. It is alleged that the abuse occurred in the period 1962 – 1971.

**First allegation**

54.2 The first allegation was made to the Gardaí in October 2002 by a woman who alleged that she had been abused by Fr Cornelius on two occasions in 1963. In a detailed statement to the Gardaí, she said that when Fr Cornelius arrived in her parish, he became very friendly with her parents. He frequently called to the house and gave her favourable treatment at the time of her First Communion. He then invited her to his house for tea where on two occasions he sat her on his knee and allegedly sexually assaulted her. The assaults consisted of hugging tightly and kissing on the face and neck. He would also get her to kiss him on the neck.

54.3 This complainant also told the Gardaí that, in 1980, she spoke to a newly ordained priest about Fr Cornelius. She states that she was told by this young priest that Fr Cornelius had been ministering in a parish on the north side of Dublin but had been removed and sent for treatment following complaints by parents in the parish to the bishop. The Commission has no independent evidence of any such complaints against Fr Cornelius, nor is there any evidence that he was sent for treatment. He was ministering in a north side parish at the time. There is no record in the archdiocesan files of a complaint in 1980 nor is there evidence that he was removed from his parish.

54.4 When investigating this complaint in 2002/2003, the Gardaí requested a copy of Fr Cornelius's CV from the Archdiocese. This was provided. There is no evidence that the Archdiocese was aware of why this request was

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made. The Child Protection Service (CPS) of the Archdiocese contacted the Gardaí in July 2004 to find out if there were any allegations against Fr Cornelius. The CPS was told by the Gardaí that the woman had made a complaint but they had concluded that the allegations did not constitute anything criminal. The woman did not want her identity disclosed to any third party nor did she want to be contacted by the Archdiocese.

### **Second allegation**

54.5 The second allegation was made in November 2005 to the Archdiocese by the mother of a woman who had committed suicide in 2004. She alleged that her daughter had been sexually assaulted by Fr Cornelius on several occasions while she was a schoolgirl, around 1971. This allegedly occurred in the same parish as the first allegation. The extent of the alleged abuse is not known to the Commission except for one specific incident of alleged penetration.

54.6 The mother was visited by the Child Protection Service victim support co-ordinator. She was offered counselling but she declined the offer. She told the support co-ordinator of other suspicions about Fr Cornelius in the 1970s. The Archdiocese informed the Gardaí. The woman did not want the Gardaí to contact her. The Gardaí concluded that there would be no investigation as both parties to the allegation were dead. The Archdiocese offered the mother a meeting with Archbishop Martin but this was declined.

### **The Commission's assessment**

54.7 The Archdiocese and the Gardaí dealt with these allegations appropriately.

**Introduction**

55.1 Fr Ricardus was falsely accused of child sexual abuse. He was ordained in the 1960s and has worked in a number of parishes in the Archdiocese. He was a parish priest at the time the allegation was made and he still is.

55.2 The Commission is particularly grateful to Fr Ricardus for giving evidence to it about his experience. The entire experience was extremely difficult and harrowing for him. He graphically described the shock of being informed there was an allegation of child sexual abuse against him, the feeling of alienation and abandonment when he was asked to step aside from ministry, the long wait for the processes to be gone through. He was out of ministry for eight and a half months. He did a course during this time. He also described the helpfulness of his family and colleagues. The Commission commends his courage in agreeing to give evidence but, more importantly, in getting on with his life and putting this experience behind him in so far as is possible.

**The allegation, 2003**

55.3 The allegation against Fr Ricardus was made in January 2003. A man accused him of sexual assault, buggery and attempted oral rape, which he alleged took place in 1981 during the course of religion lessons in preparation for holy communion.

55.4 The complaint was initially made in a letter to another priest. The complainant alleged that he was abused when he was aged seven by an unnamed priest. This other priest prepared a letter to both the Archdiocese and the Gardaí. The complainant subsequently told him that he did not want to involve the Gardaí at that stage and the letter was consequently not sent to them. The complainant was asked to meet Monsignor Dolan at the Chancellery in order to make a formal complaint. The complainant asked the Archdiocese for payment for counselling fees that he had incurred. He was

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advised that his case would be referred to the advisory panel and that Fr Ricardus would be requested to step aside from ministry.

55.5 Cardinal Connell met Fr Ricardus who vehemently denied the allegations but agreed to stand down from ministry as requested. A priest advisor was appointed. This priest advisor was very supportive and, indeed, accompanied Fr Ricardus when he gave evidence to the Commission. Fr Ricardus was advised by the Archdiocese to employ his own solicitor; the Archdiocese did pay the costs involved. Monsignor Dolan notified the Gardaí of the complaint and informed the complainant of Fr Ricardus's denials and of his agreement to step aside from ministry.

55.6 The advisory panel met and considered that it was not advisable for Fr Ricardus to return to ministry at that time. The Granada Institute carried out an assessment of Fr Ricardus at the instigation of his solicitor. The contents of this assessment were favourable to Fr Ricardus and were passed on to the Archdiocese.

55.7 Monsignor Dolan investigated the facts alleged by the complainant. During this investigation, certain possible inconsistencies were identified by relevant witnesses. Notwithstanding the issues that were being raised during the investigation, Monsignor Dolan arranged for part of the complainant's continuing counselling fees to be paid through Faoiseamh in accordance with a recommendation of the advisory panel.

55.8 In April 2003, Monsignor Dolan contacted the Gardaí in order to find out if the complainant had made a formal complaint to them. In fact, the complainant first made a statement of complaint to the Gardaí in June 2003 and his parents made statements in July 2003 which corroborated certain peripheral surrounding facts relevant to the allegation made by their son but not, of course, the direct allegation of abuse. Later in the year, his father withdrew some of those earlier assertions. He admitted that his son had told him what to say as he had no personal recollection of those matters. His mother also later admitted that she had made some errors in her recollection of events.



55.9 When the advisory panel met in August 2003, its view was that Fr Ricardus should not return to ministry until such time as it was clear that criminal proceedings were not being brought. The investigation by Monsignor Dolan had not produced any further evidence which would support the allegations. The archdiocesan investigation was completed by early September 2003. This found that the allegation did not have substance and it permitted Fr Ricardus's eventual return to ministry. However, he could not actually return until the Garda investigation had been completed and a decision had been taken by the DPP not to prosecute.

55.10 The complainant's solicitors told the Archdiocese and Fr Ricardus that it was intended to take civil proceedings seeking compensation for the personal injuries, loss and damage that he alleged he suffered as a result of his alleged abuse. The complainant made a claim for damages in September 2003.

55.11 The Garda investigation resulted in a file being sent to the DPP. In December 2003, the DPP decided not to prosecute. The Gardaí immediately began an investigation of the complainant.

55.12 In September 2004, following the Garda investigation, the complainant was charged with knowingly making a false statement pursuant to Section 12 (a) of the *Criminal Law Act 1976*. The complainant was convicted and sentenced to four years imprisonment. After an appeal, his conviction was upheld and the term of imprisonment was reduced to three years. The identity of Fr Ricardus was withheld from publication throughout by order of the court.

### **The priest's perspective**

55.13 In February 2004, the Archdiocese wrote to Fr Ricardus asking him to meet Philip Garland, the Director of the Child Protection Service in order to see if the Archdiocese could learn from his case. In correspondence, Fr Ricardus expressed his dissatisfaction with the manner in which the archdiocesan authorities had dealt with allegations against him and regretted the absence of an apology for his treatment.

55.14 Fr Ricardus is of the view that a proper investigation of the complaint ought to have been carried out before he was asked to step down and he questioned whether the appropriate Church guidelines had been correctly implemented in his case. His view was that “*suspicion*”, which was the requirement for a request to step down under the guidelines, was a requirement that envisaged more than just a mere complaint.

55.15 Fr Ricardus told the Commission that he considered that, before a priest is requested to stand down, there should at least be a *prima facie* case against him and there should be an early preliminary hearing. He considered that there was an absence of due process applying to the treatment of the priest and that the investigation process was too slow. He considered that it was advisable that, when an allegation was made against a priest, he should be monitored in his own home, as much for the safety of the public as for the well being of the accused priest.

55.16 Fr Ricardus also told the Commission that, in spite of his reservations about the way priests are treated, he would report any allegations of which he became aware and would favour the application of the rules.

#### **The Commission’s assessment**

55.17 The management of the complaint by the Archdiocese in this case, although understandably viewed by Fr Ricardus as harsh, was in compliance with the Church guidelines in place at the time. While recognising and appreciating the enormous hurt, anger and stress suffered by Fr Ricardus, the Commission considers that the Archdiocese was obliged to ask him to step aside from active ministry as soon as it became aware of the complaint. A hasty preliminary investigation by the Archdiocese into the complaint made prior to asking the priest to stand aside may well have led to further injustice being suffered by the priest concerned. Although Fr Ricardus did suffer considerably from the consequences of the false accusations, the Commission considers that the Archdiocese did act appropriately.

55.18 The Archdiocese co-operated fully with the Gardaí in their investigation. The Gardaí managed their investigation in a professional, timely and efficient manner.

**Introduction**

56.1 This case involves a priest who had difficulty with the vow of celibacy which he took when he was ordained. He did parish work for a number of years and left this to work in the public service. He has ceased active ministry and was recently laicised.

**Complaints**

56.2 In 2003 a woman told the bishop of the area where Fr Augustus was then living that, in 1984, when she was 17 years old, she had had sex on two occasions with Fr Augustus. She said that she and her boyfriend were friendly with him and they stayed with him on a number of occasions. On two occasions she visited him alone and she spent the night with him. She said that, while the sex was consensual, she felt emotionally manipulated. She stated that her boyfriend had made a complaint to the Archdiocese at the time, in 1984, but that nothing was done about it.

56.3 The Gardaí were notified about this complaint and they interviewed the young woman but she was adamant that no criminal activity had taken place and did not wish to pursue the matter.

56.4 The bishop told the Archdiocese and Fr Augustus was interviewed by archdiocesan officials. He told them that he had great difficulty with celibacy in the earlier years of his priesthood and that he had had two brief relationships with women. He had spoken to his auxiliary bishop on a regular basis about his struggle and he was encouraged to pray through it. The auxiliary bishop arranged extensive psychosexual therapy for Fr Augustus.

56.5 Fr Augustus admitted having had sex with the woman in question. He also admitted that he had had a sexual relationship with another woman in 1987. He said that this woman was over 18 years old but that the matter had been reported to the Archdiocese at the time and a full statement taken from the woman.

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<sup>124</sup>

This is a pseudonym.

56.6 This matter was also reported in 2004 to the Gardaí. The woman in question refused to make a complaint to the Gardai and their file on the matter was closed.

56.7 The health board in the region where he was living was notified but did not consider that there was child sexual abuse involved.

#### **The Commission's assessment**

56.8 The Commission is satisfied that the complaint made in 2003 was dealt with appropriately by the Archdiocese, the other diocese, the health board and the Gardaí.

56.9 The Commission is concerned that the church files contained no reference to the complaint made in 1984 or to Fr Augustus's discussions on the issue with the auxiliary bishop. Both the complainant and Fr Augustus claim the matter was known to the Archdiocese.

**Introduction**

57.1 Fr Ezio was a member of a religious order. He was born in 1893, ordained in 1921 and died in 1977. He did not have a specific appointment in the Archdiocese of Dublin but he lived and worked in his order's houses in Dublin from 1958 until his death. He was granted a number of certificates by Archbishop McQuaid and Archbishop Ryan to hear confessions and to preach. These certificates were normally applied for by, and granted to, priests who were going to conduct retreats for religious within the Archdiocese.

**Complaint, 2003**

57.2 In December 2003, a woman told another priest of this order that she had been abused by Fr Ezio over the period 1959 to 1962. The woman's father was the caretaker of one of the order's premises in Dublin. The alleged abuse occurred in that premises and in the woman's home to which Fr Ezio was a frequent visitor.

57.3 The priest to whom the woman complained was a very old man at the time he heard this complaint. It seems that he did not report immediately to the head of the order or to the delegate. He did not seem to be aware of the procedures for dealing with sexual abuse complaints. He discussed the matter with his own solicitor. He asked the woman to put "*the minimum*" down on paper. She did this. His solicitor told the order about the complaint.

57.4 The delegate met the complainant in April 2004. She told him she had not yet gone to the Gardaí nor had she told her children about it. The delegate offered counselling. He reported the matter to the Gardaí and the complainant also reported to the Gardaí.

**The Commission's assessment**

57.5 Fr Ezio was dead for over 25 years when the complaint was made, so there was no possibility of investigating it in any meaningful way. The order and the Gardaí dealt appropriately with the complainant.

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<sup>125</sup>

This is a pseudonym.



**Introduction**

*“The Church failed us. They failed us as Catholics. They failed me as a human being. They took my soul.”*

58.1 That was how one of the complainants who gave evidence to the Commission described his viewpoint some 32 years after the event about which he had complained took place. His sentiment was echoed and re-echoed by other complainants who came forward to the Commission. Many of those who came forward were people whose sexual abuse as children, by clerics of the Dublin Archdiocese, had been confirmed, either by admissions of the priest concerned or by his conviction for the offences in the criminal courts. These witnesses were anxious that the Commission should understand and appreciate the potentially devastating long term effects of child sexual abuse, not merely on the child, but also on the wider family. A number of issues were raised.

**Difficulties in relationships**

58.2 A number of the complainants found great difficulty in establishing and maintaining close trusting and intimate relationships. Most of the male complainants stated that they had extreme difficulty in becoming intimate or expressing vulnerability with their partners. Some of the women had later entered into abusive relationships. One complainant, having received counselling for the effects of the abuse, stated that the happiest day of his life was the day he turned around when going out to work and for the first time picked up his two-year-old daughter and hugged her. Prior to receiving counselling he had been afraid to do so. Almost all of the complainants paid great tribute to their spouses or partners for their fortitude in dealing with their behaviour and trauma.

**Effect on religious belief**

58.3 A substantial number of the complainants and their families had ceased to be practising Catholics. Many of these people had played prominent roles, such as ministers of the Eucharist and altar boys, in their parishes. A number of them spoke of being ostracised both by the clergy and their fellow parishioners to whom they had complained. A number of them

were visited by individual priests shortly after they had complained but they felt that this was done in an attempt to defuse the situation. Their perception was that as soon as the danger of publicity passed the visits ceased.

### **Transference of guilt**

58.4 Some of the complainants were left with the feeling following the abuse that they were complicit in the abuse, such was their esteem for the priest. During much of the period under review, the status of priesthood seemed, in the minds of the complainants, to confer a special power. The use of this power to abuse children appears to be a classic illustration of the effect of the abuse of power on vulnerable people. Some complainants thought that since a priest would not voluntarily break his vows, the abuse must in some way have been their fault. For many of the complainants this belief persisted into adulthood and added to their mental trauma.

### **Stated effects of abuse**

58.5 Many complainants recounted a feeling of worthlessness. They were told by their abusers that they were no good and they believed them. They spoke of ambitions being thwarted.

58.6 Some complainants told the Commission of friends who had been abused and who had subsequently committed suicide. It was their belief that the abuse was a major contributory factor. A number of the complainants themselves spoke of having suicidal tendencies. As described by the complainants, one of the most crippling aspects of the abuse was the development of a mentality in which the complainants saw themselves as powerless and helpless. These feelings arose even in people who had outwardly made a success of their lives.

58.7 Many of the complainants recounted a history of drug/and or alcohol abuse. Other problems identified by the complainants included difficulty managing anger, sexual compulsiveness, self destructive behaviour, depression, isolation and poor self esteem.

### **Fear of not being believed**

58.8 A number of the complainants were concerned that they would not be believed if they reported the abuse. They thought themselves to be the only



complainant. In fact in the majority of cases known to the Commission in which a child complained of abuse to their parents, the parents did believe them. Many parents went to great lengths to try to have the priests removed or to remove the child from any possible contact with the priest which, in at least one case, involved moving house.

58.9 Many of the complainants had not disclosed their childhood abuse until they had reached maturity. In a number of cases it was when they became more mature and realised that their interpersonal relationships were not what they hoped that they revealed the abuse. Given that the number of complainants known to the Commission is considerably less than the number of people whose abuse has been admitted by the priests in the representative sample, it is essential that the support programmes currently in place for complainants continue into the foreseeable future to ensure a support system for those who may yet come forward.

#### **The effect on the families**

58.10 *"My parents are destroyed as parents. They live with the guilt of this every day."* The abuse reported in the 1970s and 1980s was in the main reported by parents. From the evidence given to the Commission, there is no doubt that the abuse also had an effect on families. This was compounded by what they perceived to be the dismissive attitude of the Archdiocese.

58.11 A mother, two of whose children had been subjected to horrific sexual abuse by a priest, and who continue to experience the effects two decades later, told the Commission: *"He destroyed a family and destroyed the children that came after the children of the family, because everybody was and still is, so badly affected by it"*.

58.12 A mother who attended the Commission with her daughter who had been abused on a number of occasions during Confession stated: *"There isn't a day goes by that I don't think about it. I know people say it's stupid, you should forget about. You should put it out of your mind. But you can't. I can't anyway. I think, you know it will live with me forever"*.

58.13 Some parents told the Commission that they still feel enormous, albeit entirely unwarranted, guilt that they had failed to notice the abuse and that

they had failed to note the warning signs from their sons or daughters when they asked not to go with a particular priest. Some parents became alienated from their children. A number of children became alienated from their parents. However most of the families who gave evidence before the Commission have been reconciled; others, unfortunately, remain alienated.

### **Betrayal**

58.14 One unifying strand in all of the complainants' evidence heard by the Commission was the sense of dismay and anger felt by them that their Church, in which they had placed the utmost faith and trust, had in their view, duped and manipulated them over the years and that it had done so in order to preserve its reputation and its assets. Unlike Church authorities, complainants did not perceive any distinction between their local church and the universal church. They were shocked by the growing realisation that their Church founded on a gospel of love, truth and justice could treat its own members, many of them defenceless children, so shabbily.

58.15 A common refrain amongst the complainants was that the nature of the apologies issued by the Archdiocese was general rather than specific. They stated that this type of apology was not sufficient to ease their personal pain. They felt that if they could meet someone in authority who would personally apologise to them for the hurt and trauma they had suffered this would greatly help them. Some acknowledged the fact that Archbishop Martin had met them personally and apologised to them.

58.16 Asked what he wished for from the investigation, Andrew Madden (see Chapter 24) stated that he wanted a full exposition of how the Dublin Archdiocese handled cases. He said: *"I think it's important to expose the spinning and the mistruths that have been there."* Another complainant responded when asked the same question: *"I'd like them to take responsibility for things they did. I want them to realise that these abuses, people carry them through their whole life and even their own families can be victims afterwards. It's a cycle that has to be broken and these people have to realise the damage they're causing".*

58.17 A young man who claimed that he had been abused by Fr Tom Naughton (see Chapter 29) in Vallemount told the Commission:

*"I want people to know that Tom Naughton abused people in Valkeymount because I think it might help some people ... because I think a lot of men now are probably thinking what I was thinking ten years ago, which is that it was my fault, I did something wrong ...".*

58.18 He was angry that even now, in his view, the Archdiocese was not making any real attempt to reach out to all those who had been abused. He said of the Archdiocesan officials: *"you deal with me when I'm a threat to you legally but when I'm not a threat to you, you ignore me"*. He wants them to set up a helpline independent of Church control that those complaining of abuse could contact because as he said: *"it's the silent ones, the quiet ones who can't bring themselves to admit to either their families or their wives or their children, what's happened to them. They're living this horrible, horrible life. It's full of lies. It's full of deceit and they're really struggling with it"*.

58.19 Marie Collins was particularly angered by the use by Church authorities of 'mental reservation' in dealing with complaints. Mental reservation is a concept developed and much discussed over the centuries, which permits a churchman knowingly to convey a misleading impression to another person without being guilty of lying. For example, John calls to the parish priest to make a complaint about the behaviour of one of his curates. The parish priest sees him coming but does not want to see him because he considers John to be a troublemaker. He sends another of his curates to answer the door. John asks the curate if the parish priest is in. The curate replies that he is not. This is clearly untrue but in the Church's view it is not a lie because, when the curate told John that the parish priest was not in, he mentally reserved to himself the words 'to you'.

58.20 Cardinal Connell explained the concept of mental reservation to the Commission in the following way:

*"Well, the general teaching about mental reservation is that you are not permitted to tell a lie. On the other hand, you may be put in a position where you have to answer, and there may be circumstances in which you can use an ambiguous expression realising that the person who you are talking to will accept an untrue version of whatever it may be - permitting that to happen, not willing that it happened, that would be lying. It really is a matter of trying to deal*

*with extraordinarily difficult matters that may arise in social relations where people may ask questions that you simply cannot answer. Everybody knows that this kind of thing is liable to happen. So, mental reservation is, in a sense, a way of answering without lying.”*

58.21 Both Marie Collins and Andrew Madden independently furnished the Commission with examples of how this concept was deployed by the Archdiocese in dealing with their complaints. In 2003, Mr Madden was invited to meet Cardinal Connell. In the course of an informal chat Cardinal Connell did apologise for the whole handling of the Fr Ivan Payne case. He was however at pains to point out to Mr Madden that he did not lie about the use of diocesan funds in meeting Fr Payne’s settlement with Mr Madden. He explained that when he was asked by journalists about the use of diocesan funds for the compensation of complainants of child sexual abuse, he had responded that diocesan funds **are** not used for such a purpose; that he had not said that diocesan funds **were** not used for such a purpose. By using the present tense, he had not excluded the possibility that diocesan funds had been used for such purpose in the past. According to Mr Madden, Cardinal Connell considered that there was an enormous difference between the two.

58.22 After the conviction of Fr Edmondus\* for the child sexual abuse of Mrs Collins and others in the criminal courts, in 1997, the Dublin Archdiocese issued a press statement claiming that they had co-operated with the Gardaí in relation to Mrs Collins’s complaint. Mrs Collins was upset by that statement as she had good reason to believe that the Archdiocese’s level of co-operation was, to say the least, questionable. Her support priest, Fr James Norman, subsequently told the Gardaí that he asked the Archdiocese about that statement and that the explanation he received was that “*we never said we cooperated ‘fully’*”, placing emphasis on the word ‘fully’.

### **Reporting to the Gardaí**

58.23 Initially many complainants and their families were reluctant to report clerical child sexual abuse to the Gardaí. This was mainly because they did not wish to cause scandal to the Church. It is notable that by the time they gave evidence to the Commission, most of the complainants were of the view that the Gardaí were the appropriate people to whom to report. Many considered that there should be an obligation on the authorities, including the

Church, to report all allegations and suspicions of child sexual abuse. In other words, they now support mandatory reporting.

### **Post 1995**

58.24 While outwardly the Dublin Archdiocese may have appeared to have been striving to come to terms with its responsibilities in relation to child sexual abuse by clerics, and to 'repair the scandal caused', by issuing apologies and by formulating guidelines for the future handling by the Church of complaints of child sexual abuse, the experience of individual complainants does not always bear this out according to their testimony. Complainants who came forward after 1995 were treated in much the same way as complainants had earlier been treated. Their complaints were received without comment. Until the latter end of the period under review they were generally told nothing of what the Archdiocese knew about the priest concerned.

58.25 Under the *Framework Document* (see Chapter 7), there were three important positions to be filled by the Archdiocese. First, there was to be an appropriately trained delegate who was to ensure the implementation of the protocol to be followed where a complaint of clerical child sexual abuse was received. Secondly, there was to be a support person who was to be available to the complainants and their families. Their role was to assist complainants and to facilitate them in gaining access to information and help, and to represent their concerns on an ongoing basis. Specifically, the support person was to:

- consider any wishes of the complainant in regard to a pastoral response by the Church to his or her family;
- be available to the complainant throughout any investigation which might ensue and thereafter as required;
- ensure that the complainant was kept informed of developments in regard to the complaint;
- represent the wishes and any therapeutic needs of the complainant to the delegate as required;
- arrange, if considered helpful, a meeting between the complainant and the bishop.

58.26 Thirdly, the diocese was to appoint an adviser who was to be appropriately trained and who was take care of all the pastoral, legal and therapeutic issues arising for the accused priest. In essence, the adviser was to have the same duties towards the priest complained of as the support person had for the complainant.

58.27 If followed, the guidelines might have provided an 'equality of arms' in relation to the Archdiocese's handling of complaints. It might have achieved a restoration of justice as required by Canon 1341. However the Archdiocese did not establish any proper support service for complainants until 2003 and then only after agitation from people like Mrs Collins.

58.28 A woman described to the Commission her experience of going to Archbishop's house alone to make a complaint in October 1998, two and a half years after the publication of the *Framework Document*. *"I didn't go in the front gate on Drumcondra Road. I went in a very, very dark gate and up a flight of stone steps into a very dark room and that's where he spoke to me. He listened to what I had to say. That's all. He just listened. He was passive"*.

58.29 After 1995 people began to issue civil proceedings for damages against the Archdiocese in increasing numbers. Seventy seven civil claims for damages have been made against the Dublin Archdiocese in respect of the priests in the representative sample. It is worth noting that the Archdiocese for many years relied fully, as of course it is entitled to do, on its legal rights in defending such claims during the period under review. The principle of 'restorative justice' which the Archdiocese purports to espouse, was not applied to any claim seen by the Commission during the period of its remit. The Commission has learned that many cases are now mediated and complainants have found this process less intimidating.

58.30 Some complainants explained to the Commission that they brought civil proceedings out of frustration with the way in which they were being dealt with and on the advice of professionals. In the words of the woman whose two children were brutally abused:

*“When people say were they compensated and was it adequate, we were just ordinary people. We weren’t money orientated... It was through professional people who advised them, friends who advised them to go the way of compensation, but all they really wanted was to see justice done and to see him in court. They never got that day you know. So they live with that”.*

58.31 Mrs Collins told the Commission that she no longer trusts her Church. After years spent trying to get her Church to deal openly and truthfully with the challenge posed to it by the scandal of child sexual abuse she has concluded that within the institutional Church there has been no change of heart, only a change of strategy. Is she right? Time will tell.





## Appendix 1

### Timeline of Events of Significance to the Work of the Commission

1940	John Charles McQuaid was appointed Archbishop of Dublin.
1950	The Mother and Child Scheme was introduced by the Minister for Health to provide mothers with free maternity treatment and their children with free medical care up to the age of 16.
1951	The Mother and Child Scheme was dropped by the government following opposition from the Catholic Church and the medical profession. Dr Noel Browne resigned as Minister for Health.
1962 – 1965	Second Vatican Council was held in Rome.
1968	<i>Humane Vitae</i> Encyclical was promulgated by Pope Paul VI reaffirming the traditional teaching of the Catholic Church on abortion, contraception and other issues pertaining to human life.
1972	Archbishop McQuaid retired as Archbishop of Dublin. He was succeeded by Dr Dermot Ryan.
1973	Ireland joined the EEC.  <i>The Civil Service (Employment of Married Women) Act 1973</i> ended the requirement that women retire from the Civil Service on marriage.
	<i>McGee – v – Attorney General</i> The Supreme Court decided that a law prohibiting the importation, sale or advertising of contraceptives violated constitutional protections for marital privacy.
1977	Department of Health issued a Memorandum on Non-accidental injury to children.

- 1978 Cardinal Karol Wojtyla was elected Pope John Paul II, following the death of Pope John Paul I.
- 1979 The *Health (Family Planning) Act 1979* provided that contraceptives may be dispensed by a pharmacist on presentation of a valid prescription for 'bone fide family planning or adequate medical reasons'.
- Pope John Paul II visited Ireland
- 1980 Guidelines on the Identification and Management of Non-Accidental Injury to Children were published by the Department of Health.
- 1983 The 'Pro-Life' amendment to the Constitution was passed. This provided that the right to life of the unborn with due regard to the equal right to life of the mother be enshrined in the Constitution.
- Revised 'Guidelines on Non-Accidental Injury to Children' were published by the Department of Health.
- 1984 Dr Kevin McNamara, the bishop of Kerry, was appointed Archbishop of Dublin, following the appointment of Archbishop Ryan to the Roman Curia in 1983.
- Fifteen-year old Ann Lovett died after giving birth in a grotto outside the town of Granard, Co Longford. Her infant son also died.
- The 'Kerry Babies' Tribunal was established to investigate how Joanne Hayes and her family confessed to the killing of a new born baby found stabbed to death on a beach at Cahirciveen, Co Kerry. The Tribunal concluded that Joanne Hayes was not the

mother of the baby and had no responsibility for the killing. It found that she was the mother of another new born baby whose body was found on the Hayes family farm.

1985

The *Health (Family Planning) (Amendment) Act 1985* liberalised the law on contraception by allowing condoms to be sold to people over 18 without a prescription.

Eileen Flynn was dismissed from her job as a secondary school teacher in a state-funded convent school when she gave birth to a baby as an unmarried mother, the father of the baby being a separated married man.

1986

The first divorce referendum was defeated.

1987

Guidelines on Procedures for the Identification, Investigation and Management of Child Abuse were published by the Department of Health

Archbishop McNamara died.

1988

Dr Desmond Connell was appointed Archbishop of Dublin.

1992

Bishop Eamonn Casey resigned as Bishop of Galway after revelations that he fathered a child 18 years previously.

In the X case, a pregnant, 14-year-old rape victim who was prevented from leaving Ireland to obtain an abortion in England appealed to the Supreme Court. The Court held that the Pro-Life Amendment gave a *right* to abortion in certain limited circumstances including when the mother's life is in danger.

A three-part referendum on abortion rights was held:

The proposal to amend Article 40 of the Constitution so that it would be unlawful to terminate the life of an unborn unless such termination was necessary to save the life, as distinct from the health, of the mother was rejected.

The proposal that the right to life of the unborn enshrined in Article 40 of the Constitution shall not limit the freedom to travel abroad for services was passed.

The proposal that the right to life of the unborn enshrined in Article 40 of the Constitution shall not limit the freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state was passed.

1993

Homosexuality was decriminalised. The *Criminal Law (Sexual Offences) Act 1993* repealed legislation prohibiting all homosexual acts between males and introduced 17 as the age of consent for homosexual activities.

1994

The Fianna Fail/Labour Coalition Government collapsed as a result of controversy over the failure to extradite Fr Brendan Smyth to Northern Ireland on charges of child sexual abuse.

1995

The second divorce referendum was passed.

The *Regulation of Information (Services Outside the State for Termination of Pregnancies) Act 1995* was passed.

1996

The *Framework Document* was published.

1998	The <i>Protections for Persons Reporting Child Abuse Act 1998</i> was passed, providing immunity from civil liability to persons who report child abuse “reasonably and in good faith” to the Health Board or the Gardaí.
1999	‘ <i>Children First</i> ’ National Guidelines for the protection and welfare of children were introduced by the Department of Health and Children.
2000	The Commission to Inquire into Child Abuse in residential institutions was established.
2001	Archbishop Connell was created Cardinal.  Archdiocesan seminary at Holy Cross College, Clonliffe, Dublin was closed.
2002	The fifth abortion referendum was defeated. It proposed to remove the threat of suicide as a grounds for legal abortion in Ireland and to introduce tough new penalties for those performing or assisting abortions.  The BBC broadcast the Panorama programme ‘Suing the Pope’ about the activities of Fr Sean Fortune in the diocese of Ferns.  Bishop Brendan Comiskey resigned as Bishop of Ferns.  RTE Prime Time special ‘Cardinal Secrets’ investigated cases of child sexual abuse by clerics in Ireland.  The Government announced an inquiry into the handling of child sexual abuse in the diocese of Ferns.
2004	Cardinal Connell retired as Archbishop of Dublin. Archbishop Martin was appointed as Archbishop.

2005	<p>Pope John Paul II died. Cardinal Joseph Ratzinger was elected Pope Benedict XVI.</p> <p><i>Our Children, Our Church</i> was published</p> <p>Report of the Ferns Inquiry was published.</p>
2006	<p>This Commission was established.</p> <p>The Supreme Court ruled that the section 1.1 of the <i>Criminal Law (Amendment) Act 1935</i> was unconstitutional as it created an absolute offence which did not allow a male accused of unlawful carnal knowledge of an underage girl any defence, once the fact of sexual intercourse an act not in itself unlawful, was proved.</p> <p>The <i>Criminal Law (Sexual Offences) Act 2006</i> was passed, providing for a defence of honest mistake as to age.</p>
2007	<p>A referendum on child protection was proposed. No date has yet been agreed for the referendum.</p> <p>The Government published the Bill to provide for Civil Partnerships for same-sex couples.</p>
2009	<p>Commission of Investigation into Child Abuse (Ryan Commission) published its report into the abuse of children in residential institutions and industrial schools.</p>

**Introduction**

A2.1 This chapter examines the legal framework within which allegations of child sexual abuse have been investigated, prosecuted and adjudicated upon in the criminal justice system in the period from 1975 to 2004 which is under review by the Commission. It sets out the applicable law on sexual abuse of children and the law on sexual offences in general where that impacts on the issues under review by the Commission.

**Sexual assault**

A2.2 The term 'sexual assault' is often used to describe the entire range of offences involving sexual aggression by one person on another. However, in law, sexual assault has a specific meaning. During the period under review by the Commission the name of this offence has changed. Until 1990 it was known as 'indecent assault'. There were different penalties for a sexual assault on a male and on a female. Section 2 of the *Criminal Law (Rape) (Amendment) Act 1990* (the 1990 Act) changed the name of the offence to sexual assault but it did not define the offence itself and, in fact, the offence has never been defined by statute. Therefore, the elements of the offence must be outlined from the relevant common law principles developed by the courts over the years. Essentially the offence consists of touching another person in a sexual way without that person's consent.

A2.3 The elements required to prove that a sexual assault occurred are as follows:

- (a) An assault must be proved to have been perpetrated by a person;
- (b) The assault and the circumstances accompanying the assault must be shown to be indecent by the contemporary standards of right-minded people;
- (c) The person who perpetrated the assault must be shown to have intended to commit an assault as referred to in (b) above.

**Age of consent**

A2.4 In general, where there is consent to sexual activity, there is no assault because the act is not committed against the person's wishes. However, under Irish law, a boy or a girl under the age of 15 is incapable at

law of consenting to sexual activity. Section 14 of the *Criminal Law Amendment Act 1935* provides:

*“It shall not be a defence to a charge of indecent assault upon a person under the age of fifteen years to prove that such person consented to the act alleged to constitute such indecent assault”.*

A2.5 This means that a person who perpetrates a sexual act upon a child under the age of 15 years would be unable to avail of a defence that the child was consenting to the activity involved.

A2.6 The law in relation to this issue was recently considered by the Supreme Court in July 2005 in the case of *C.C. and P.G. v. Ireland*.<sup>126</sup> Following that decision, it is a defence for a person charged with a sexual assault offence to show that the activity was consensual and that he or she had made a genuine mistake as to the person's age when the conduct alleged to be a sexual assault occurred. There is no requirement for the mistake as to age made by the person to be objectively reasonable although the circumstances surrounding the alleged activity can be taken into account by the judge or jury in deciding if the mistake asserted by the person was genuine or not.

### **Sentencing for sexual assault**

A2.7 Various laws prescribed the penalties for sexual assault in the time period under review by the Commission reflecting the changing attitudes of society to this type of offence. Differing penalties existed for an indecent assault perpetrated on a male and a female until the *Criminal Law (Rape) (Amendment) Act 1990* was enacted. Prior to that, Section 62 of the *Offences Against the Person Act 1861* provided a penalty of ten years penal servitude for an indecent assault on a male, whereas a maximum sentence of two years imprisonment could be imposed for an indecent assault on a female. That had remained the position until 1935 when Section 6 of the *Criminal Law Amendment Act 1935* increased the penalty for indecent assault on a female to five years where the offence was a second or subsequent offence perpetrated by the offender in question. Following that, Section 10 of

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<sup>126</sup>

(2006) IESC 33.



the *Criminal Law (Rape) Act 1981* raised the penalty for sexual assault on a female to ten years imprisonment.

A2.8 Section 2 of the *Criminal Law (Rape) (Amendment) Act 1990* unified the law in this area and imposed a maximum five year penalty for all sexual assaults. The situation with regard to sexual assaults on children has now been further amended by Section 37 of the *Sex Offenders Act 2001* which provides for more stringent penalties for the sexual assault of a minor. Section 37 of the *Sex Offenders Act 2001* provides for a penalty of 14 years imprisonment for sexual assaults perpetrated on children under 17 years of age. For all other sexual assaults the maximum penalty that could be imposed was increased to ten years imprisonment. These apply only to offences committed after the Act came into force.

A2.9 In the case of *S.M. v. Ireland*,<sup>127</sup> Laffoy J. found that the distinction between the sentencing structure for indecent assault offences on males and females as laid down by Section 62 of the *Offences Against the Person Act 1861* which applies to offences committed against males prior to 1990, was unconstitutional on the basis that it offended against the principle of equality before the law enshrined in Article 40.1 of the Constitution. Section 62 provided a penalty of up to ten years for an indecent assault on a male but only two years for a similar assault on a female. That decision means, in effect, that no statutory penalty now exists for the sexual assault of a male perpetrated before 1990 and common law principles apply to the sentencing in these cases. The practice being adopted by the courts following this decision appears to be to apply the two year maximum sentence for indecent assault on a female, to all such cases.

### **Aggravated sexual assault**

A2.10 The offence of aggravated sexual assault was created under Section 3 of the *Criminal Law (Rape) (Amendment) Act 1990*. It is a gender neutral offence and is differentiated from general sexual assault by the level or threat of violence involved in the assault or the grave nature of the injury, humiliation or degradation caused to the person assaulted. It carries a maximum penalty of life imprisonment. Section 3(1) defines the offence as follows:

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<sup>127</sup> Unreported, High Court 12 July 2007 (Laffoy J.).

*“In this Act ‘aggravated sexual assault’ means a sexual assault that involves serious violence or the threat of serious violence or is such as to cause injury, humiliation or degradation of a grave nature to the person assaulted”.*

### **Rape offences**

A2.11 There are two forms of rape known to Irish law since the enactment of the *Criminal Law (Rape) (Amendment) Act 1990*. There is rape as defined and created by the common law and now defined in Section 2 of the *Criminal Law (Rape) Act 1981*. In addition, there is also an offence of rape under Section 4 of the *Criminal Law (Rape) (Amendment) Act 1990*. Both offences carry a maximum sentence of life imprisonment and could be used in relation to the prosecution of child sexual abuse allegations in some instances.

### **Common law rape**

A2.12 Rape as defined by the common law has been ascribed a definition by Section 2 of the *Criminal Law (Rape) Act 1981* in the following terms:

*“(1) A man commits rape if—*

*(a) he has unlawful sexual intercourse with a woman who at the time of the intercourse does not consent to it, and*  
*(b) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she does or does not consent to it,*

*and references to rape in this Act and any other enactment shall be construed accordingly.*

*(2) It is hereby declared that if at a trial for a rape offence the jury has to consider whether a man believed that a woman was consenting to sexual intercourse, the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters, in considering whether he so believed.”*

A2.13 As shown by the definition, common law rape can only be committed by a man on a woman. For such an offence to be proved the following elements must be shown to exist:

- Sexual intercourse must have occurred, which means vaginal intercourse with the person must be proved. Intercourse is complete

once there is any penile penetration of the vagina. There is no need to prove ejaculation by the man concerned;

- An absence of consent from the female involved must be proved. The concept of 'consent' for this offence is not defined by statute although consent obtained by the use of force or fraud or by an abuse of authority does not constitute consent in law. In addition, Section 9 of the *Criminal Law (Rape) (Amendment) Act 1990* provides that a failure or omission to offer resistance to the doing of an act that is an offence if done without consent does not constitute consent to the act itself;
- The man must intend to have intercourse with the woman and at the time of the intercourse he either knows that she is not consenting or is reckless as to whether she is or is not consenting.

#### **Rape under Section 4 of the *Criminal Law (Rape) (Amendment) Act 1990***

A2.14 Rape under Section 4 of the *Criminal Law (Rape) (Amendment) Act 1990* was introduced in the wake of calls for reform on the law on rape offences in the 1980s. The offence encompasses two different acts and carries a maximum sentence of life imprisonment. The following sexual assaults may constitute 'Section 4 rape':

- penetration (however slight) of the anus or mouth by the penis;
- penetration (however slight) of the vagina by any object held or manipulated by another person.

A2.15 One of the acts which constitute rape under Section 4 of the 1990 Act can be perpetrated by a female. What is colloquially known as 'male rape' can be prosecuted under Section 4 of the *Criminal Law (Rape) (Amendment) Act 1990* as a rape offence.

#### **Offences perpetrated by males on other males**

##### *Buggery*

A2.16 Until the enactment of the *Criminal Law (Sexual Offences) Act 1993* (the 1993 Act) all sexual acts between males were deemed to be criminal in nature. This applied irrespective of the age of the people involved and whether they consented to the acts involved. The 1993 Act decriminalised consenting sexual activity between males over the age of 17. Section 3 provided that it is an offence to commit or attempt to commit an act of

buggery with any person under the age of 17 years, unless the defendant was married to or believed with reasonable cause that he or she was married to the person with whom buggery is committed.

A2.17 There was no statutory definition of the buggery offence in the 1993 Act and O'Malley's text on Sexual Offences<sup>128</sup> quoted from another textbook as to the definition of the offence itself (where buggery is called sodomy):

*"Everyone commits the [offence] called sodomy who*  
*(a) carnally knows any animal; or*  
*(b) being a male, carnally knows any man or any woman (per anum)."*

A2.18 The penalties for the offence of buggery are dependent on the age of the victim. Buggery of a person under the age of 15 could give rise to a maximum of life imprisonment while buggery of a person between 15 and 17 years of age could give rise to a maximum penalty of five years imprisonment for a first offence and ten years imprisonment for a second or subsequent offence. The attempted buggery of a person in either age band gives rise to graduated penalties depending on whether it is a first or subsequent offence. Consent provided no defence to a charge of buggery contrary to Section 3 of the 1993 Act.

A2.19 It should be noted that Section 3 of the *Criminal Law (Sexual Offences) Act 1993* has now been repealed and replaced by Section 2 and Section 3 of the *Criminal Law (Sexual Offences) Act 2006*. However, the discussion above is relevant as one of the acts which it is prohibited to perform with a person under the age of 17 years under the 2006 Act is that of buggery.

#### *Gross Indecency*

A2.20 Until 1993, Section 11 of the *Criminal Law Amendment Act 1885* prohibited acts which were described as "*outrages on decency*". Section 11 of the 1885 Act provided:

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O'Malley, T, *Sexual Offences: Law, Policy and Punishment* (Dublin: Roundhall/Sweet & Maxwell, 1996).

*“Any male person who, in public or in private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanour...”.*

A2.21 The offence created under the 1885 Act covered actions between males irrespective of age. Both men had to be consenting to the activity in question and both parties had to be acting in concert. This offence was repealed under the 1993 Act and replaced with the offence of gross indecency. Section 4 of the *Criminal Law (Sexual Offences) Act 1993* provided:

*“A male person who commits or attempts to commit an act of gross indecency with another male person under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 2 years”.*

A2.22 This offence was also age specific in that it applied to acts committed on or with a male under the age of 17. There was no statutory definition of gross indecency and general definitions have been adopted by the courts to deal with the matter. As with the definition of sexual assault, circumstances of gross indecency might be said to arise where there is a marked departure from the conduct expected by decent members of society but more specific examples of such conduct would depend on the situation concerned and whether it was done in public or in private. This offence has also been repealed and replaced by the offences created under Section 2 and Section 3 of the *Criminal Law (Sexual Offences) Act 2006*.

### **Unlawful carnal knowledge and replacement offences**

#### *Unlawful carnal knowledge*

A2.23 Prior to May 2006 sexual intercourse with girls under the age of 17 years was criminalised by Sections 1 and 2 of the *Criminal Law Amendment Act 1935*. That legislation provided for an offence of having sexual intercourse with a girl under the age of 15 years with a penalty of up to life imprisonment and for a separate offence of having sexual intercourse with a girl between the age of 15 and 17, for which the penalty was set at five years

for a first offence and ten years imprisonment for a second offence. Until the decision in *C.C. v Ireland*<sup>129</sup>, it was considered that neither consent on the part of the girl involved nor mistake on the part of the male as to her age would afford a defence to the offence. However, the Supreme Court held in the *C.C.* case that a criminal offence which creates absolute liability for an act which in itself was not criminal did not accord with the personal rights of the citizen guaranteed under the Constitution and that the lack of the availability of a defence for the male of mistake as to the girl's age in the circumstances of the particular case meant that the provisions of Section 1 of the 1935 Act were unconstitutional.

*Criminal Law (Sexual Offences) Act 2006*

A2.24 Arising from that, the *Criminal Law (Sexual Offences) Act 2006* was enacted. This created offences of defilement of a person under the ages of 15 and 17 years respectively. This criminalises “*sexual acts*” as defined under the legislation carried out with a child. Such sexual acts include sexual intercourse between people not married to each other, buggery, aggravated sexual assault and rape as defined by Section 4 of the *Criminal Law (Rape) (Amendment) Act 1990*. The section also provides for the defence of mistake as to age on the part of the male involved although it also stipulates that the absence or presence of reasonable grounds for such a belief is something that the tribunal of fact can have regard to in making a decision as to whether the belief in question was genuine.

A2.25 Section 2 of the 2006 Act provides:

*“(1) Any person who engages in a sexual act with a child who is under the age of 15 years shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.*

*(2)...*

*(3) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she honestly believed that, at the time of the alleged commission of the offence, the child*

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<sup>129</sup> [2006] 4 IR 1.

*against whom the offence is alleged to have been committed had attained the age of 15 years.*

*(4) Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant honestly believed that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 15 years, the court shall have regard to the presence or absence of reasonable grounds for the defendant's so believing and all other relevant circumstances.*

*(5) It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted."*

A2.26 Section 3 of the 2006 Act is in similar terms and relates to offences against people between 15 and 17 years old. It has a graduated system of penalties depending on whether the offence in question was the principal offence or an attempt of same and/or whether the perpetrator is convicted of a first offence or where the offence is a second or subsequent conviction of the person concerned.

### **Solicitation offences**

A2.27 Until 1993 the only statutory law on soliciting was contained in the *Vagrancy Act 1898*, which contained an offence of "*soliciting for immoral purposes*". This was replaced by the *Criminal Law (Sexual Offences) Act 1993* with a summary offence of soliciting or importuning another person for the purposes of committing a buggery, gross indecency or unlawful carnal knowledge. This offence acts to prevent the sexual exploitation of young people who are vulnerable.

A2.28 In its original form Section 6 of the 1993 Act provided as follows:  
*"A person who solicits or importunes another person for the purposes of the commission of an act which would constitute an offence under section 3, 4 or 5 of this Act or section 1 or 2 of the Criminal Law Amendment Act, 1935, shall be guilty of an offence*

*and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both.”*

A2.29 This definition of the offence was changed in Section 250 of the *Children Act 2001*<sup>130</sup> but that has been subsequently substituted by Section 2 of the *Criminal Law (Sexual Offences) (Amendment) Act 2007*. Offences under this section now give rise to a maximum penalty on conviction on indictment of five years imprisonment. In its amended form, Section 6 of the 1993 Act provides that the soliciting must relate to the defilement of a young person under the ages of 15 or 17 respectively as defined under the *Criminal Law (Sexual Offences) Act 2006* or a sexual assault offence. Section 6 of the 1993 Act now provides:

*“6.—(1) A person who solicits or importunes a child (whether or not for the purposes of prostitution) for the purposes of the commission of an act that would constitute an offence—*  
*(a) under section 2 or 3 of the Criminal Law (Sexual Offences) Act 2006, or*  
*(b) referred to in section 2 of the Act of 1990,*  
*shall be guilty of an offence.*  
*(2)...”*

A2.30 This means that the soliciting or importuning of any child (meaning a person under the age of 17) for sexual intercourse, buggery, aggravated sexual assault, rape under Section 4 of the 1990 Act or for a sexual assault offence is covered by the section.

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Section 250 of the *Children Act 2001* provided as follows:

“The Criminal Law (Sexual Offences) Act, 1993, is hereby amended by the substitution for section 6 of the following:

‘6. A person who solicits or importunes another person (whether or not for the purposes of prostitution) for the purposes of the commission of an act which would constitute an offence under section 3, 4 or 5 of this Act or section 1 or 2 of the Criminal Law Amendment Act, 1935, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both.’”



## **The Sex Offenders Act 2001 – notification requirements for sex offenders**

A2.31 The *Sex Offenders Act 2001* provides that those convicted of certain sexual crimes are required to notify certain information to the authorities - their name(s), address(es), their date of birth and travel arrangements outside of the State. These notification requirements also apply to people convicted of offences in other jurisdictions which contain similar legislation. Overall, the legislation seeks to ensure that some level of monitoring exists over the whereabouts and movements of sex offenders. The requirements of this Act are generally described in terms of being placed on a 'sex offenders' register'. There is no such register.

A2.32 Section 10(1) of the 2001 Act also requires that the notification requirement for a sex offender in the State as follows:

*“A person who is subject to the requirements of this Part shall, before the end of the period of 7 days beginning with the relevant date, or, if that date is prior to the commencement of this Part, that commencement, notify to the Garda Síochána—*

- (a) his or her name and, where he or she also uses one or more other names, each of those names, and*
- (b) his or her home address.”*

A2.33 Section 10(6) of the 2001 Act also outlines that the notification should include information about the person's date of birth, name and home address. These notification requirements also apply to a person who moves from the address that has been previously notified to the authorities. Requirements to notify the relevant Garda Station about travel arrangements are also imposed where the person intends to leave the State for more than seven days.

A2.34 The “*relevant date*” for complying with the notification requirement is defined by Section 6 of the 2001 Act and it refers to the date of conviction. The notification obligation is imposed on a sex offender from that date. The date of conviction may not itself be the date upon which the convicted sex offender would have to notify Gardaí of the relevant information. Section 10(7) of the 2001 Act stipulates that certain periods of time are to be

disregarded when calculating the seven day period for notification purposes. Section 10(7) provides:

*“For the purpose of determining any period for the purposes of subsection (1), (2), (3) or (4), there shall be disregarded any time when the person concerned is—*

*(a) remanded in custody,*

*(b) serving a sentence in prison, or*

*(c) temporarily released under section 2 or 3 of the Criminal Justice Act, 1960.”*

A2.35 This means the sex offender’s notification requirement would begin after release from prison where he/she is convicted and sentenced to a term of imprisonment on the same day. In those circumstances, where the sex offender receives a custodial sentence the notification requirement is imposed on him/her after his release from prison. After that, Section 12 of the 2001 Act imposes criminal liability for a failure to notify the relevant information to the Garda authorities within seven days of the sex offender’s release.

A2.36 The length of time that a person is subject to the notification requirements under the 2001 Act is set out in the Act. Where the person is sentenced to imprisonment for a term exceeding two years the notification period is indefinite. Where the term of imprisonment is between six months and two years the notification period is ten years. If the term of imprisonment imposed is less than six months then the notification requirement is imposed for seven years. Allowance is also made for a suspended sentence and a non-custodial sentence by imposing a notification period in both circumstances of five years.

A2.37 In addition, the 2001 Act introduced post-release supervision orders. This means that the sentencing judge can impose orders which require the offender to be under the supervision of the probation service after release from prison and can also specify other conditions to be complied with by the person. The failure to comply with such supervision orders is a criminal offence under the 2001 Act. In addition, certain Garda officers can apply for “sex offender orders” under the 2001 Act to prohibit a person to whom the 2001 Act applies from doing certain things. Such orders can be made where

the person was convicted of a sexual offence for the purposes of the 2001 Act and there are reasonable grounds for believing that an order under the section is necessary to protect the public from serious harm from him or her.

### **Child pornography and trafficking**

#### *Child Pornography*

A2.38 The principal legislation in the area of visual representations of child abuse is the *Child Trafficking and Pornography Act 1998* (the 1998 Act). Both the production, distribution and the possession of images and materials which constitute child pornography are prohibited under the 1998 Act. There is a wide definition of the materials that constitute prohibited materials under the 1998 Act. Section 2(1) of the 1998 Act defines “*child pornography*” as including any visual, audio or computer generated representations, including documents, that

*“(i) shows or, in the case of a document, relates to a person who is or is depicted as being a child and who is engaged in or is depicted as being engaged in explicit sexual activity*

*(ii)...or relates to a person who is or is depicted as being a child and who is or is depicted as witnessing any such activity by any person or person...or ...*

*(iii) whose dominant characteristic is the depiction, for a sexual purpose, of the genital or anal region of a child*

*(c) any visual or audio representation that advocates, encourages or counsels any sexual activity with children which is an offence under any enactment, or*

*any visual representation or description of, or information relating to, a child that indicates or implies that the child is available to be used for the purpose of sexual exploitation within the meaning of section 3.”*

A2.39 The definition also includes photographs or negatives of same and storage devices.

A2.40 As outlined above, the production, distribution, printing, publishing, importation, exportation, sale, showing, encouragement, facilitation and

possession of child pornography are prohibited by the 1998 Act. Simple possession of child pornography can give rise to a maximum sentence of five years imprisonment whereas any of the activities prohibited by Section 5 of the 1998 Act, which include the production, distribution, importation and exportation of such images can give rise to a maximum sentence of 14 years imprisonment. The wide-ranging nature of the definition of child pornography is designed to ensure that such images and materials are captured by the remit of the 1998 Act and the prohibitions contained therein.

### *Child Trafficking*

A2.41 The trafficking and taking of children for sexual exploitation was criminalised in the 1998 Act itself. However, that prohibition has been amended in more recent times by the *Criminal Law (Sexual Offences) (Amendment) Act 2007* and is now subject to further revision by the *Criminal Law (Human Trafficking) Act 2008*. Under Section 3 of the 1998 Act as originally enacted a person who organised or facilitated the entry or transit or exit through the State of a child for the purposes of sexual exploitation or the provision of accommodation for a child for such a purpose was guilty of an offence. The section also criminalised the taking, detention, or use of children for such purposes. Section 3 of the *Criminal Law (Human Trafficking) Act 2008* has substituted Section 3 of the 1998 Act and provides that a person involved in child trafficking for the purposes of sexual exploitation can be sentenced to life imprisonment. The concept of “sexual exploitation” is defined by the 1998 Act (as substituted by the 2008 Act) and involves the following:

“‘sexual exploitation’ means, in relation to a child—

- (a) *inviting, inducing or coercing the child to engage in prostitution or the production of child pornography,*
- (b) *the prostitution of the child or the use of the child for the production of child pornography,*
- (c) *the commission of an offence specified in the Schedule to the Sex Offenders Act 2001 against the child; causing another person to commit such an offence against the child; or inviting, inducing or coercing the child to commit such an offence against another person,*
- (d) *inviting, inducing or coercing the child to engage or participate in any sexual, indecent or obscene act, or*

- (e) *inviting, inducing or coercing the child to observe any sexual, indecent or obscene act, for the purpose of corrupting or depraving the child...*”

A2.42 Section 3(2A) and Section 3(2B) of the *Child Trafficking and Pornography Act 1998* (as inserted by the *Criminal Law (Sexual Offences) (Amendment) Act 2007*) provide for offences where a person intentionally meets or travels to meet a child for the purposes of doing anything that would constitute ‘sexual exploitation’, for which the definition outlined above applies. Section 3(2A) criminalises someone who meets or travels to meet a child within the State for sexual exploitation purposes whereas Section 3(2B) of the 1998 Act introduces a partial extraterritorial offence where a citizen (or person ordinarily resident in the State) meets or travels to meet a child outside of the State for such purposes. For both offences it is necessary to show that the person met or communicated with the child on two or more previous occasions and is doing so for the proscribed purpose. A person convicted of this offence is liable on conviction to a maximum sentence of up to 14 years imprisonment.

### **Sexual Offences (Jurisdiction) Act 1996**

A2.43 The enactment of the *Sexual Offences (Jurisdiction) Act 1996* (the 1996 Act) ensures that sexual offences committed by citizens of the State or by those ordinarily resident in the State against a child (meaning somebody under 17 years old) can be prosecuted in this jurisdiction if the activity in question would also constitute an offence under the law of the country in which the activity occurred. This allows the State to prosecute people for offences which might be known in colloquial terms as ‘sex tourism’ whereby people travel abroad to perpetrate offences against children and then journey back to the State.

A2.44 In addition, Section 3 of the 1996 Act creates the offence of knowingly transporting a person for the purposes of enabling the other person to commit an offence against a child in another jurisdiction while Section 4 of the 1996 Act prohibits the publication of information intended to or likely to promote, advocate or incite the commission of an offence by a person under Section 2 of the 1996 Act. Thus, this legislation acts to ensure that advertising of such ‘sex tourism’ is also prohibited in wide terms to ensure that it cannot be

accessed by those wishing to perpetrate offences against children abroad. It should also be noted that Section 7 of the *Criminal Law (Human Trafficking) Act 2008* provides for extra-territorial jurisdiction in relation to the prosecution of people for child trafficking offences concerned with the sexual exploitation of children, although those offences created by Section 3(2A) and Section 3(2B) of the *Child Trafficking and Pornography Act 1998* are excluded from this extraterritorial jurisdiction.

### **Reckless endangerment**

A2.45 In response to a recommendation in the *Ferns Report*, the offence of reckless endangerment was introduced by Section 176 of the *Criminal Justice Act 2006*. It applies to the activities or omissions of those in authority which causes or permits a child to be left in a situation of substantial risk of serious harm or sexual abuse and criminalises such actions or omissions. In addition, the section also stipulates that it is an offence to fail to take reasonable steps in that regard to ensure that children, as defined under the *Criminal Justice Act 2006*, under their care or authority are free from sexual abuse or serious harm.

A2.46 This offence is extensive in its terms in criminalising the behaviour of authority figures that cause, permit or otherwise fail to act in the face of a situation where they know that there is a “*substantial risk*” to a child of such harm or sexual abuse ensuing from a failure to act. The penalty for such an offence is a maximum term of ten years imprisonment.

A2.47 Section 176 of the *Criminal Justice Act 2006* provides:

“(1) In this section—

“*abuser*” means an individual believed by a person who has authority or control over that individual to have seriously harmed or sexually abused a child or more than one child;

“*child*” means a person under 18 years of age, except where the context otherwise requires;

“*serious harm*” means injury which creates a substantial risk of death or which causes permanent disfigurement or loss or impairment of the mobility of the body as a whole or of the function of any particular member or organ;

*“sexual abuse” means an offence under paragraphs 1 to 13 and 16(a) and (b) of the Schedule to the Sex Offenders Act 2001.*

*(2) A person, having authority or control over a child or abuser, who intentionally or recklessly endangers a child by—*

*(a) causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or sexual abuse, or*

*(b) failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation, is guilty of an offence...*

*(4) A person guilty of an offence under this section is liable on conviction on indictment, to a fine or to imprisonment for a term not exceeding 10 years or both.”*

*Ad Limina visit:* Each bishop of a diocese is obliged to visit, at stated times, the "thresholds of the Apostles", Saints Peter and Paul, and to present themselves before the Pope to give an account of the state of their dioceses. The last Ad Limina visit made by the Archbishop of Dublin was in 2006.

*Administrative leave:* A procedure whereby a priest accused of sexual abuse steps aside, without any admission of guilt, from his responsibilities, including any parish commitment, while an investigation takes place.

*Advisory panel:* A panel set up by bishops and heads of religious orders to advise them in dealing with allegations of clerical child sexual abuse. The functions of the panel were set out in the *Framework Document* (see Chapter 7). The advisory panel is sometimes called the advisory group but the functions are the same.

*Archbishop's House:* The headquarters of the Archdiocese of Dublin.

*Archdiocese:* In this report means the Archdiocese of Dublin.

*Canon law:* The body of law by which the Catholic Church is governed.

*Chancellery:* The office of the Archdiocese which assists in the discharge of the functions of the chancellor.

*Chancellor:* In canon law, the person who is to ensure that the acts of the curia are drawn up and dispatched and that they are kept safe in the archives of the curia. In the Archdiocese of Dublin as in many other dioceses, his principal duty is to attend to canon law matters on behalf of the Archdiocese.

*Child:* A person who has not yet reached his or her 18<sup>th</sup> birthday.

*Child abuse guidelines:* Guidelines issued at various dates by the Department of Health – see Chapter 6.

*Children First:* The current guidelines in relation to child sexual abuse issued in 1999 by the Department of Health and Children.



*Child Protection Service:* The office in the Archdiocese of Dublin which now deals with all complaints of child sexual abuse (see Chapter 3).

*Child sexual abuse:* child sexual abuse occurs when a child is used by another person for his or her gratification or sexual arousal or that of others.

*Church:* The Catholic Church

*Church Penal Process:* This is the canon law judicial process to investigate an allegation of an offence and to determine whether or not to impose or declare a penalty for that offence. There is also a non judicial process.

*Clergy:* Bishops, priests and deacons.

*Conference of Bishops/Episcopal Conference:* The gathering of all bishops in a defined area. The Irish Bishops' Conference is the single conference of bishops for the island of Ireland.

*Conference of Religious of Ireland (CORI):* An umbrella body for more than 130 religious congregations across the whole of Ireland. (This organization was previously known as the Conference of Major Religious Superiors.) The purpose of the Conference is to serve the leaders of these congregations and through them the members. It provides a forum where religious can work together on the mission they hold in common.

*Congregation for the Doctrine of the Faith (CDF):* is one of the offices which assists the Pope in governing the universal Church. It was originally founded in 1542 as the Congregation of the Sacred Inquisition. Its main function now is to promote and safeguard the doctrine on faith and morals throughout the Catholic world: everything which in any way touches such matters falls within its remit. It deals with cases of child sexual abuse against clerics.

*Curia:* The Roman curia consists of the departments and ministries that assist the Pope in the government of the universal Church. A diocesan curia is composed of those people who assist a bishop to govern his diocese.

*Delegate:* In canon law, the person appointed by a bishop or head of a religious order to conduct the preliminary investigation into an allegation of clerical child sexual abuse; in the *Framework Document*, the delegate is the person appointed to oversee and implement the procedures for handling allegations of clerical child sexual abuse.

*Discovery:* The legal term to describe the provision of documents by one party to another in legal proceedings.

*Faoiseamh:* an organisation which provides telephone counselling and a counselling and psychotherapy referral service for people who have been sexually, physically or emotionally abused by priests or religious. It is funded by the Conference of Religious of Ireland (CORI) and by a number of Catholic dioceses including the Archdiocese of Dublin.

*Fr Brendan Smyth:* He was a Norbertine priest who received widespread media coverage in 1994 when he pleaded guilty to 74 cases of child abuse in Ireland. He was sentenced to 12 years imprisonment and he died in prison. The perceived failure to extradite him to Northern Ireland to face similar charges created political controversy and led to the fall of the Fianna Fáil/Labour coalition government in late 1994.

*Ferns Report:* The report into the handling of complaints and allegations of clerical child sexual abuse in the diocese of Ferns was published in October 2005.

*Formation:* The education and spiritual development of those training for the priesthood or religious life.

*Framework Document:* Report and Recommendation of the Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious. Also known as the Green Book. It was issued in 1996 and replaced by *Our Children, Our Church* in 2005.

*Holy See:* The term refers to the seat of power of the pope as Pastor of the Universal Church together with other organs of government of the Roman Curia. The term Apostolic See is also used.

*Incardinated and excardinated:* Diocesan priests who are ordained for the service of a diocese are said to belong to that diocese. Priests from other dioceses may apply to become a priest in a diocese. After a period, the priest may apply to be 'incardinated' into the diocese in which he is working. If this is agreed between the two dioceses, he is 'excardinated' from his original diocese and 'incardinated' into the new diocese.

*Laicisation:* This is a term used to describe the situation where a priest successfully applies to be relieved of his priestly duties.

*Norms:* rules or procedures.

*Ordinary:* This is a term used in canon law to describe all of those who have ordinary executive power. This includes diocesan bishops, vicars general and major superiors of clerical religious institutes.

*Our Children, Our Church:* Child Protection Policies and Procedures for the Catholic Church in Ireland. It was issued in 2005 and is the follow up to the *Framework Document*.

*Papal Nuncio:* The Ambassador of the Holy See to Ireland – see Chapter 3.

*Paramountcy principle:* The principle that the welfare of the child is the paramount concern.

*Precept:* an order from a bishop to a priest – usually restricting him in carrying out some or all of his priestly functions.

*Risk assessment:* The process of determining whether a person presents a degree of risk to a child.

*Secret archives:* This is a safe or cabinet where documents which are of great sensitivity need to be kept in conditions of maximum security. Examples of such documents include documents relating to clerical child sexual abuse.

*Standards of Proof*

*Balance of Probabilities:* The standard applied in civil proceedings: is this evidence more likely than not to be true. This was the test applied by the Commission to the evidence it received.

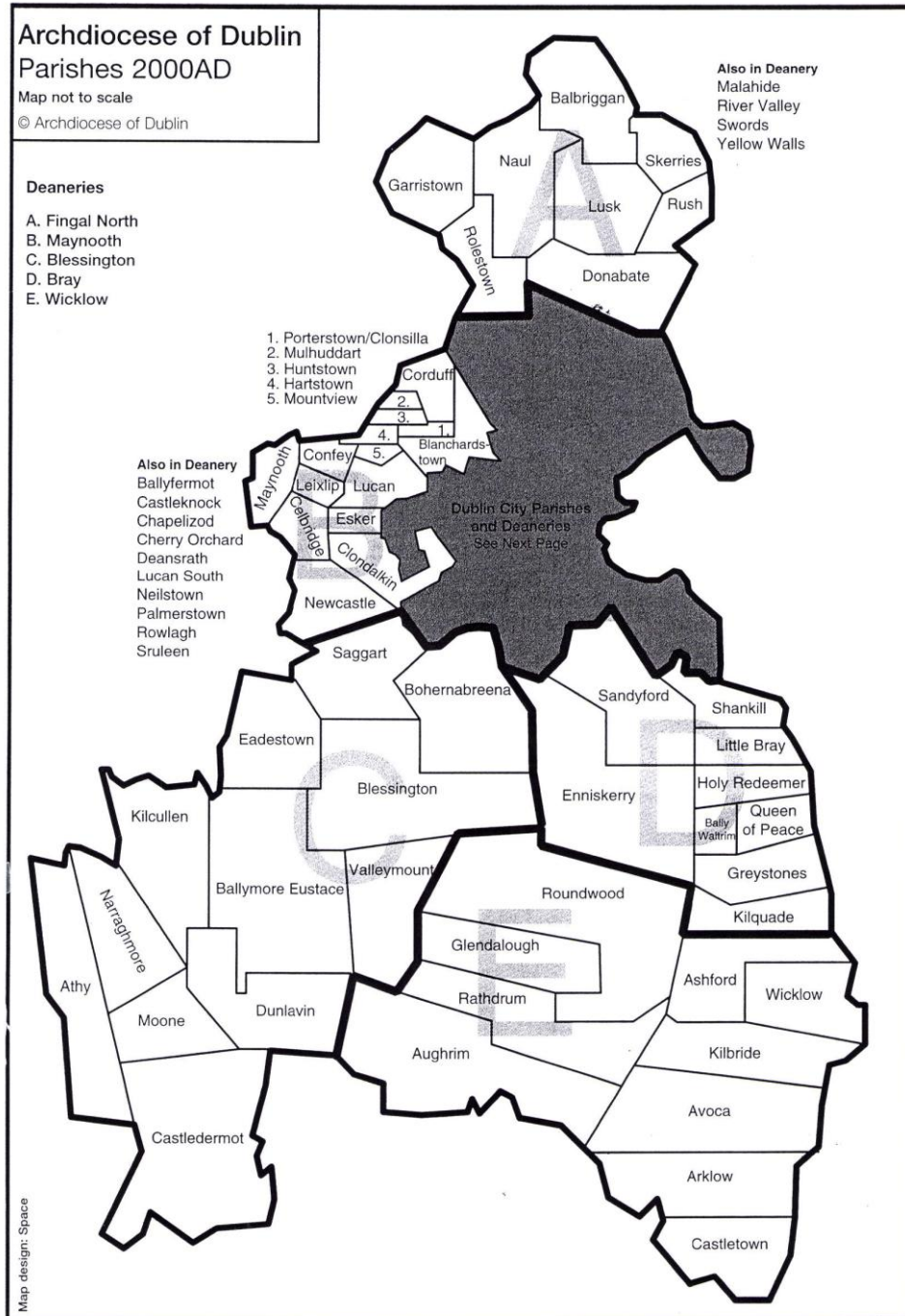
*Beyond a reasonable doubt:* The standard of proof applicable in criminal proceedings.

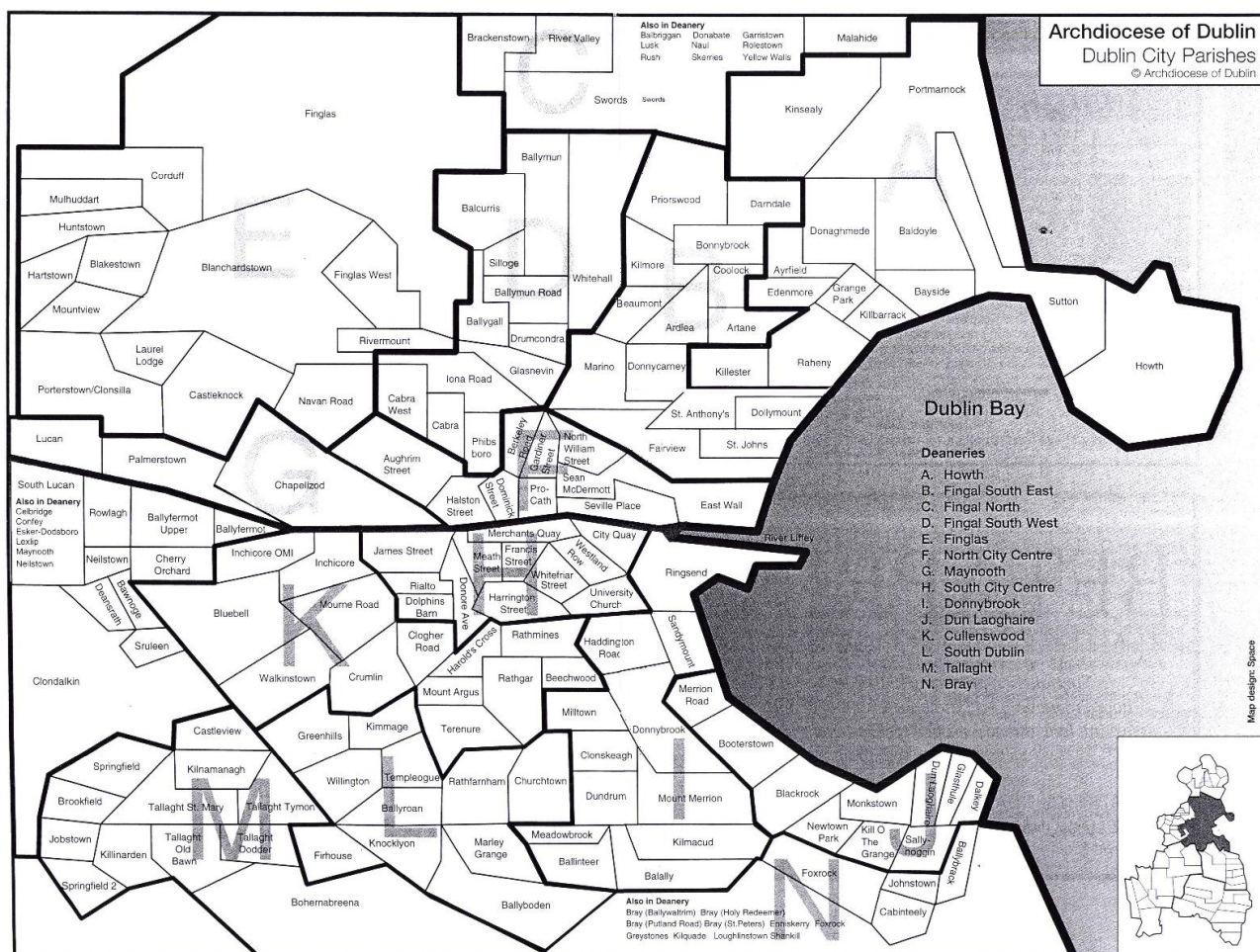
*Moral certainty:* The standard of proof required for judicial decisions in canon law.

*State Agencies:* The Gardaí, the Department of Education and Science and the Health Service Executive (HSE) (and former health boards).

*Supply work:* This is the term which is used where a priest asks another priest (not necessarily from the same diocese) to carry out his parish duties while he is away for whatever reason. In the Archdiocese of Dublin, supply work is frequently carried out by members of religious orders and societies. It may also be carried out, for example, by priests who are visiting from abroad.

*Suspension:* A penalty available under canon law which debars a priest from exercising his priestly ministry for a limited period.





## Appendix 5

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## **Appendix 7**

## **Commission Personnel 2006 - 2009**

### **Chairperson**

Judge Yvonne Murphy

### **Commissioners**

Ms Ita Mangan

Mr Hugh O'Neill

### **Legal Team**

Ms Maeve Doherty Solicitor

Ms Deirdre Murphy SC

Mr Donal McGuinness Barrister

### **Administration**

<i>Name</i>	<i>Date commenced</i>
Ms Nóra Ní Dhomhnaill (Commission Manager)	March 2006
Mr Oisín Russell-Conway	August 2007
Ms Bernie McAdam	June 2006
Ms Tara Brennan	April 2007
Ms Edel Murray	May 2007
Mr John Byrne	March 2006

### **Legal Researchers**

<i>Name</i>	<i>Date commenced</i>
Ms Karina O'Leary	October 2007
Ms Veronica Buckley	November 2007

This following lists people who worked for some period of time with the Commission:

### **Administration**

<i>Name</i>	<i>From</i>	<i>To</i>
Mr Anthony McGrath	March 2006	September 2007
Ms Noeleen Kelly	March 2006	October 2006
Ms Alice Baxter	May 2006	May 2007

**Legal Researchers**

<i>Name</i>	<i>From</i>	<i>To</i>
Ms Gemma Ní Chaoimh	May 2006	November 2007
Mr James Mulcahy	May 2006	October 2007
Ms Niamh Kelleher	October 2006	November 2007

*Additional Research*

Ms Agatha Clancy Barrister

Ms Elizabeth Donovan Barrister

Mr Tony McGillicuddy Barrister

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*Note: Names in **bold** indicate priests in the representative sample*

*An asterisk\* after a name denotes a pseudonym*

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