

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, Crumlin⁷⁷ 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.

⁷⁷ 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 nine⁷⁸ 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 Board⁷⁹. 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.⁸⁰ 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

⁷⁸ Including Andrew Madden; technically, this compensation was paid by Fr Payne himself but it was largely financed by the Archdiocese – see below.

⁷⁹ 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.

⁸⁰ 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 Officialis⁸¹. 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

⁸¹ 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"⁸². 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."⁸³ 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."⁸⁴ 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.

⁸² Catholic Online: *Catholic Encyclopedia*: <http://www.catholic.org/encyclopedia>

⁸³ *Op cit*

⁸⁴ 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 Cardinal⁸⁵ 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

⁸⁵ 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.