

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 life¹⁰ and those who belong to personal prelatures. (A personal prelate is an institution having clergy and (possibly) lay members which carries out specific pastoral activities. Currently, the only personal prelate 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”*.¹¹

3.36 Other canons outline other roles and functions as follows:

¹⁰ 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.

¹¹ 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 Superiors¹² 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.

¹² 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

Website: www.cps.dublindiocese.ie