

Chapter 26 Bishop John Magee

Introduction

26.1 On 30 December 2008, while the fallout from the recent publication of the Elliott report (see Chapter 6) was still reverberating throughout the Diocese of Cloyne and indeed beyond, the diocesan delegate, Fr Bermingham, received a telephone call from Joseph.¹¹⁷ Prompted by the contents of the Elliott report, Joseph had reviewed his own interactions with Bishop John Magee during a period when he had been contemplating entering the priesthood. He was concerned that the behaviour of the bishop towards him, which had not perturbed him at the time, was, on reflection, disquieting.

Meeting with Fr Bermingham

26.2 After a number of telephone calls, Fr Bermingham arranged to meet Joseph on 2 January 2009. This was an awkward assignment for Fr Bermingham as the report concerned his bishop, to whom he owed respect and obedience. Fr Bermingham told the Commission that he was apprehensive about having to deal with the matter as none of the procedures in either the *Framework Document* (1996) or *Our Children, Our Church* (2005) set out how a delegate is to deal with a complaint against his bishop or a superior despite the fact that experience in other countries suggests that complaints against bishops are not unheard of.

26.3 At the meeting, which was also attended by Joseph's father, Joseph gave a history of continuous involvement with the Church throughout his youth, first as an altar boy, then as a reader and latterly as an aspirant priest. In all of these capacities he had encountered Bishop Magee. He had attended annual vocations' meetings organised by the bishop in the period under review when he was aged between 15 and 17. Following assessment, Joseph was accepted as a candidate for the priesthood for the Diocese of Cloyne. He was approximately 17½ years old at that time but could not take up his place in the seminary until he was aged 18. By this stage, Bishop Magee and Joseph had each other's mobile telephone numbers. If either

¹¹⁷ This is a pseudonym.

wished to speak to the other, texting was usually used to arrange the appointments.

26.4 Later, because of changed family circumstances, Joseph decided not to take up his place in the seminary. Just before the start of the seminary year he met Bishop Magee to notify him of his decision. The meeting took place in the reception room at the bishop's residence. It was the first time that Joseph had spent time alone with Bishop Magee. According to Joseph, that meeting marked a change in the bishop's behaviour towards him, both in word and deed. Joseph reported to Fr Bermingham and has told the Commission that, in the course of this particular meeting, the bishop embraced him tightly and at the same time inquired of him as to whether that "*felt good*". Joseph reported that this embrace was protracted; it lasted for approximately one minute. He stated that the bishop also kissed him on the forehead. Joseph had a number of further meetings alone with the bishop, some when he was under 18 and some when he was over 18. In the course of those meetings there were similar prolonged tight embraces and kisses on the forehead. There is some ambiguity about the precise age Joseph was when some of the alleged behaviour occurred. According to Joseph, the bishop declared that he loved him and told him that he had dreamt about him – this may have happened before he was 18 or soon thereafter.

26.5 It is important to note that Joseph's contemporaneous reaction to the bishop's behaviour was that his words and actions were "*paternal*". Neither the words nor the gestures had made him feel uneasy at the time. As already stated, it was the publicity surrounding the publication of the Elliott report that had caused Joseph to review his interactions with the bishop. Following that publication, Joseph had read in the newspapers general details about the kind of inappropriate behaviour that a boy had experienced at the hands of an unnamed priest before he was abused by that priest. Joseph told the Commission that he began "*to interpret what had happened between us from a fresh perspective and I began to think that maybe it wasn't as innocent as I originally thought or assumed it was*".

26.6 Joseph was anxious to know how Fr Bermingham viewed the behaviour and the words which he had described. Fr Bermingham's response was that, given the actual details revealed and Joseph's age at the

time, the behaviour described did not constitute an allegation of child sexual abuse. He did express the view to Joseph that the behaviour described was inappropriate to the occasion and to the relationship. He assured Joseph and his father that Church procedures in relation to these matters would be followed and that he would keep them advised as to developments.

Involvement of Mr Elliott

26.7 Following the meeting on 2 January 2009, Fr Bermingham telephoned Mr Ian Elliott of the Catholic Church's National Board for Safeguarding Children, who was temporarily acting as the advisory panel for the Diocese of Cloyne, to notify him of the concerns raised by Joseph and to seek his advice in the matter. Mr Elliott agreed with Fr Bermingham's assessment that what had occurred was not child abuse and was accordingly not reportable either to the HSE or the Gardaí under the guidelines set out in *Our Children, Our Church*. He also agreed with Fr Bermingham's assessment that what had occurred amounted to a boundary infringement and constituted inappropriate behaviour as outlined in paragraph 8.9 of *Our Children, Our Church*:

"Inappropriate Behaviour and Misconduct

There may be instances where, in the judgement of the Director of Child Protection, the complaint does not constitute 'reasonable grounds for concern' that child abuse has occurred, but rather indicates inappropriate behaviour, misconduct, or a breach of standards on the part of the person in question. In such instances, it may be necessary for the bishop, religious superior or chairperson of the Church organisation to take further action and/or implement disciplinary procedures. Such action might include obtaining a professional assessment of fitness to carry out duties; advice and counselling; a requirement to undertake special training or seek specialised assistance."

26.8 Mr Elliott and Fr Bermingham agreed that the guidelines required that Joseph be informed that the matter would not be reported to the civil authorities and further that he be informed of the reason for this decision. They also agreed that procedures required that the person complained about, Bishop Magee, and his superior be informed of the fact and detail of the complaint. This placed Fr Bermingham in the awkward and unenviable

position of having to confront his own bishop with an allegation of inappropriate behaviour.

26.9 On the following morning Fr Bermingham sent an e-mail to Mr Elliott containing the text which he proposed to read to Bishop Magee and sought his approval for that course.

Fr Bermingham meets Bishop Magee

26.10 On 3 January, Fr Bermingham met Bishop Magee. According to Fr Bermingham, he told the bishop that he had a very difficult task to perform and that he was going to read a text to the bishop. He told the Commission that he first of all cautioned Bishop Magee that he did not need to make any response to what was going to be read out.

26.11 Fr Bermingham told the Commission that, following the reading of the statement which contained details of Joseph's concerns and of Fr Bermingham's meeting with him, Bishop Magee stated words to the effect that he would never harm that young man. Fr Bermingham noted that the bishop was shocked at the interpretation placed on his actions.

Involvement of Archbishop Clifford

26.12 Following his brief meeting with the bishop, Fr Bermingham telephoned Archbishop Dermot Clifford, Bishop of Cashel and Emly, who was the metropolitan archbishop¹¹⁸ for the Diocese of Cloyne.

26.13 Later that same day, Archbishop Clifford met Fr Bermingham. Fr Bermingham gave Archbishop Clifford a copy of the written account which he had read out to Bishop Magee. He also told him that he had been in touch with and taken advice from Mr Elliott. Archbishop Clifford inquired about Bishop Magee's reaction and was told that Bishop Magee had admitted to the gestures but had not said whether or not he had uttered the words as written down.

¹¹⁸ See Chapter 3 for an explanation of the status of the metropolitan archbishop. As is explained there, under canon law, the metropolitan has virtually no authority over a suffragan bishop. However, *Our Children, Our Church* provides that the metropolitan has a role in relation to concerns or allegations of child sexual abuse against a suffragan bishop.

26.14 On Monday 5 January 2009, Fr Bermingham wrote to Joseph informing him that he had reported the matter to Archbishop Clifford, that he had sought the advice of Mr Elliott, and that, on the basis of the information supplied, the interaction between him and Bishop Magee did not constitute child sexual abuse. Joseph was invited to contact Archbishop Clifford if he wished to follow up his concerns further and he was also told of his option to bring his concerns to the civil authorities. The letter concluded:

“I should add that Bishop Magee, on being informed of your concerns, wishes to assure you that any words or actions of his were never intended to hurt, embarrass or injure you in any way and he continues to wish you well in your studies and in your future career.”

26.15 In the same week Archbishop Clifford contacted Mr Elliott seeking advice about the discharge of his obligations under paragraph 8.9 of *Our Children, Our Church*. He also asked Mr Elliott to recommend an expert on boundary issues to whom he could ask Bishop Magee to go for instruction. Also that same week, the Government decided to refer the issue of the handling of complaints of child sexual abuse in the Cloyne diocese to this Commission.

Informing Papal Nuncio and Cardinal Brady

26.16 On 7 January, Archbishop Clifford telephoned Cardinal Sean Brady, Archbishop of Armagh, to tell him of the complaint. He also told Cardinal Brady that Mr Elliott considered the behaviour to be inappropriate but that it was not reportable to the civil authorities. He then sent a copy of Fr Bermingham’s report about the complaint, the actions he had taken and the views of Mr Elliott, by fax, to Cardinal Brady. At the end of that week, on 11 January 2009, Archbishop Clifford went to see the Papal Nuncio, Archbishop Leanza. Archbishop Clifford told the Commission that he gave the Papal Nuncio a copy of the young man’s complaint as recorded by Fr Bermingham. The Nuncio advised him that he would forward the details of the complaint to the prefect of the Congregation for Bishops in Rome, Cardinal Re.

26.17 On 13 January 2009, Cardinal Brady gave an interview to RTÉ Radio in which, among other things, the problems in the Diocese of Cloyne were discussed. Cardinal Brady accepted that public trust had been damaged by the revelations in the Elliott report and he went on to describe the steps

needed to rebuild that trust. When asked specifically about the position of Bishop Magee, he said that he was heartened that the bishop had accepted responsibility for what had happened, had apologised and had committed himself to changing the structures and eliminating the deficiencies in the diocese. He said that he accepted the word of the National Board for Safeguarding Children that great strides had been made in Cloyne. He said that, in his view, Bishop Magee should not resign but should stay in order to ensure that the safeguarding of children was a total priority in the Diocese of Cloyne. Cardinal Brady was, as already described, aware of the complaint of inappropriate behaviour against Bishop Magee. He told the Commission that he had noted and accepted the statement in Fr Bermingham's report that Mr Elliott had judged that the conduct in question was not sexual abuse and was not reportable to the civil authorities.

26.18 On 15 January, Mr Elliott wrote to Archbishop Clifford recommending a specialist in "*boundary issues*" who might be willing to advise Bishop Magee on appropriate behaviour in pastoral ministry.

Archbishop Clifford meets Bishop Magee

26.19 Around this time, Archbishop Clifford spoke to Bishop Magee about the complaint. Fr Bermingham had already told Archbishop Clifford that Bishop Magee had earlier admitted the gestures. Archbishop Clifford told the Commission that he asked Bishop Magee whether he had said the words attributed to him by Joseph and, if so, what he meant by them. Archbishop Clifford also told the Commission that, in that interview, Bishop Magee denied that he had kissed Joseph on the forehead but stated that he had made the sign of the cross on his forehead. He admitted that he had stated to Joseph that he dreamt of him and explained this by saying that he dreamt of him as a lovely priest. According to Archbishop Clifford, Bishop Magee acknowledged that he had told Joseph that he loved him but, at this meeting, he did not explain or elaborate on why he said it. Archbishop Clifford explained to the Commission that he "*felt it would not be wise to say any more because I wasn't in an investigative role*". Later, in April 2009, Bishop Magee explained to Archbishop Clifford that his intention, in saying that he loved Joseph, was to comfort the young man who was upset by family problems.

Joseph contacts Mr Elliott

26.20 On 21 January 2009, Joseph forwarded details of his concerns directly to Mr Elliott. This e-mail contained more detail of the interaction between Joseph and Bishop Magee than had been noted in the report of Fr Bermingham. The purpose of the e-mail was to ask Mr Elliott's view as to whether the behaviour of the bishop amounted to sexual abuse and whether the Gardaí should be notified.

26.21 Having forwarded the e-mail to Archbishop Clifford, Mr Elliott responded to Joseph's e-mail on 23 January. He offered counselling to the young man and then addressed his questions stating:

"With the regard to the incidents that you describe, the critical issue is how they made you feel then and afterwards. If I am right in my assessment, you were a young adult when they happened and you did not communicate your discomfort to the Bishop when you were in the situation. You viewed what happened as you described it, as a breach of proper boundaries and social relationships. This breach would not be abusive in itself and therefore would not be a matter that you would need to report to the Gardaí. The assessment that I have offered to you is based on the information contained in your e-mail."

Contact with boundary counsellor

26.22 On 22 January 2009, Archbishop Clifford contacted the boundary counsellor who had been recommended by Mr Elliott. Archbishop Clifford raised concerns about Bishop Magee's behaviour and requested that the boundary expert meet him. According to Archbishop Clifford, the expert was willing to meet Bishop Magee as a pastoral supervisor rather than as a therapist. He saw his role as being to inform Bishop Magee about what constituted appropriate boundaries in dealing with matters relating to touch in personal relationships. According to a note of the conversation between Archbishop Clifford and the expert, Archbishop Clifford expressed concerns that Bishop Magee might at some future date infringe these boundaries again because he appeared to be in a vulnerable state. The expert was sent the e-mail from Joseph to which reference is made above. Bishop Magee was asked to make contact with the boundary counsellor.

Joseph goes to solicitor and Gardaí

26.23 Meanwhile, not being fully satisfied with the response of Mr Elliott and being concerned that Mr Elliott was acting on behalf of the Catholic Church, Joseph brought his account, together with Mr Elliott's response and the letter of 5 January from Fr Bermingham, to a solicitor for the purpose of seeking advice as to whether Mr Elliott was right in his assessment of what had happened. According to Joseph's evidence to the Commission, the solicitor advised him that the bishop's behaviour was "*weird*" and that if he wanted to pursue it further he should either speak to a garda that he knew, off the record, or he should bring it to the attention of a barrister. Joseph's father arranged for him to meet a detective garda. Joseph met the detective garda on a number of occasions throughout the month of February and early March 2009. The detective garda, according to Joseph's account to the Commission, sought the opinion of other Gardaí experienced in the area of child sexual abuse and all came to the same conclusion, that is, that the behaviour of Bishop Magee was unprofessional and inappropriate but that it was not sexually abusive.

26.24 Joseph said that, during the course of his meetings with the Gardaí, inquiries were made of him about the steps being taken by the Church in relation to his complaint. Having being assured by the Gardaí that there was no criminal offence involved, he reverted to the Church authorities to inquire what had been done on foot of his complaint. He had heard nothing from the Church authorities since the e-mail from Mr Elliott on 23 January 2009. Unknown to him, Church authorities had taken certain steps in relation to his complaint.

Bishops' meeting, January 2009

26.25 At the end of January 2009, there was an extraordinary general meeting of the Irish Bishops' Conference in Maynooth. It was called for the purpose of discussing child protection issues. There were more than 20 bishops present including Bishop Magee, Archbishop Clifford and Cardinal Brady who chaired the meeting. The minutes of the meeting do not record this but, during the course of the day, an informal meeting took place at which there was a general discussion as to whether or not Bishop Magee should resign in the context of the revelations contained in the Elliott report and in light of the referral of the Cloyne diocese to this Commission of Investigation.

Archbishop Clifford and Cardinal Brady each gave accounts of this part of the meeting to the Commission. As already described, each was aware of the complaint of inappropriate behaviour against Bishop Magee. The Episcopal Secretary has confirmed that Joseph's complaint was not discussed at either the formal or the informal meeting.

26.26 Archbishop Clifford told the Commission that Bishop Magee outlined the fall-out from the Elliott report and described the stress under which he had been living since its publication. He told the other bishops that he had received a death threat on Christmas Eve. Archbishop Clifford said that there were strong opinions on both sides. The stronger arguments in favour of resignation were made by Archbishop Martin and three or four others. Archbishop Clifford's own view at the time was that, as the HSE and Mr Elliott had expressed the view that they were satisfied that complaints were being handled correctly in the Diocese of Cloyne, there was no need for Bishop Magee to resign. He also told the Commission that he had subsequently changed his initial view that Bishop Magee should not resign and had come to agree with Archbishop Martin.

26.27 Cardinal Brady told the Commission that Bishop Magee raised the Elliott report at the meeting, commented on it from his perspective and then offered to absent himself from the meeting to allow the issues to be discussed. He said that the bishops who were present were "*not at all of one view on what Bishop Magee should do next*". Cardinal Brady said that his position at that stage was that there was an interim position between resignation and maintenance of the *status quo*. Cardinal Brady said he was not, at that point, in favour of the continuance of the *status quo* – this was because of the Elliott report and not because of Joseph's complaint of inappropriate behaviour by Bishop Magee. He told the Commission that he was concerned that child safeguarding practice in Cloyne be prioritised and implemented and considered that Bishop Magee should be available to fully assist this Commission. After the Bishops' Conference had concluded, Cardinal Brady convened a meeting with Bishop Magee and two other bishops, Bishop John McAreavey of Dromore and Bishop Colm O'Reilly of Ardagh and Clonmacnois. They discussed the position and asked Bishop Magee to consider various options including standing aside as bishop to allow an administrator to take over. Bishop Magee agreed to think about this.

26.28 The Papal Nuncio who, as described above, was aware of the complaint was at the meeting and had a private session with Bishop Magee while the other bishops were having their informal meeting. The Commission does not know what was said at that meeting but it appears, from a later letter from Bishop Magee to the Papal Nuncio, that the Papal Nuncio also suggested to Bishop Magee that he should step down as Bishop of Cloyne for the duration of this Commission's work. Four days later, on 4 February 2009, Bishop Magee requested the Pope to appoint an apostolic administrator to the Diocese of Cloyne. In his letter, Bishop Magee suggested four possible candidates; two of these were priests and two were bishops; none of those suggested was ultimately appointed.

Changes to Cloyne practices

26.29 There was considerable activity relating to the issue of child sexual abuse and child protection in the Diocese of Cloyne in late January/early February 2009. This is documented in more detail in other chapters of this report. On 27 January, Bishop Magee stood down the Cloyne members of the inter-diocesan case management committee. On 31 January, the diocese retained specialists in child protection, Mentor (see Chapter 4) to review four cases relating to priests of the diocese about whom there had been allegations of child sexual abuse. On 8 February, Bishop Magee submitted files on three priests to the Congregation for the Doctrine of the Faith in Rome. On 18 February, he asked Monsignor Denis O'Callaghan and Monsignor James O'Donnell to step down as vicars general of the Diocese of Cloyne which they readily agreed to do. On 19 February, Bishop Magee attended a meeting of several agencies whose purpose was to review all matters touching on child protection in the diocese. In attendance were representatives from the diocese, the National Board for Safeguarding Children, the HSE, the Gardaí and the child protection specialists. On the same day, Bishop Magee wrote to the boundary expert seeking an appointment for a consultation. Due to the illness of the expert, that consultation did not take place until 3 April 2009.

Archbishop Clifford takes charge of Cloyne

26.30 On 28 February, Archbishop Clifford received a telephone call from the Papal Nuncio inviting him to accept the position of Apostolic Administrator

of the Cloyne diocese. Archbishop Clifford agreed to the request. Having allowed Bishop Magee a week to forewarn his priests about the imminent appointment, Archbishop Clifford was named as apostolic administrator on 7 March 2009. The official reason given was the need for Bishop Magee to devote himself to preparing for and co-operating fully with this Commission's investigation.

26.31 Soon after his appointment, Archbishop Clifford met the five Vicars Forane (see Chapter 3) in Cloyne. He told the Commission that he informed them of the complaint against Bishop Magee and that, in response, "*they all stayed stony silent*"; none made any comment in relation to the matter. Archbishop Clifford also notified the pastoral co-ordinator of the fact of the complaint. He stated that he informed the pastoral co-ordinator because he was the person in daily contact with the bishop.

26.32 Within days of his appointment as apostolic administrator, Archbishop Clifford received a letter from Joseph who had heard nothing from the Church authorities since 23 January. Joseph's letter of 10 March 2009 repeated the substance of the behaviour about which he had made complaint and concluded with a request for "*An account of all the efforts you made to investigate this serious issue*". Archbishop Clifford responded on 16 March setting out the various steps that he had taken:

- he had taken the advice of Mr Elliott when he had first learned of the complaint;
- he was aware that Joseph had been offered the support of a member of Mr Elliott's staff should he consider that helpful;
- as metropolitan of the ecclesiastical province of Cashel, he had met Bishop Magee and informed him of the complaint; and finally
- following his appointment as apostolic administrator of the Diocese of Cloyne, he had requested Fr Bermingham, the diocesan delegate, to report his concerns to the civil authorities.

Joseph has pointed out that he was not informed of one very significant fact – that the matter had been referred to Rome.

26.33 Fr Bermingham reported Joseph's concerns to the HSE and the local garda superintendent on 14 March 2009. The notification to the civil

authorities was done following further consultation with Mr Elliott. Having concluded in January that the complaint made by Joseph did not amount to a disclosure of sexual abuse and was therefore not reportable, Archbishop Clifford and Mr Elliott decided that the better course was actually to report. Archbishop Clifford told the Commission that he accepted that, on one view of the behaviour, it could be considered as grooming: *“One interpretation could be that it was grooming, another could be that he felt very sorry for him”*. He accepted that it was inappropriate behaviour.

26.34 At this stage, Archbishop Clifford had notified the details of Joseph’s complaint to the Papal Nuncio who, he was told, reported it to the Congregation for Bishops; to the vicars forane in the Diocese of Cloyne; to Cardinal Brady; to the HSE; and to the Gardaí. He told the Commission that his purpose in doing so was to ensure that the substance of the complaint would be on file should any further complaints or concerns arise in relation to Bishop Magee.

Archbishop Clifford meets Joseph

26.35 Archbishop Clifford met Joseph on 21 March 2009. Fr Bermingham was also in attendance. Joseph’s perception of the meeting was that both Archbishop Clifford and Fr Bermingham *“put a lot of energy into defending the Bishop’s actions. They said that the embrace was an Italianate gesture, that the Bishop served for many years in Rome and these are habits that he picked up in Rome”*. Joseph was not impressed with this explanation and pointed out that Bishop Magee had been living in Cobh for 22 years and was therefore familiar with how people in Ireland behaved. According to him, he also pointed out to Fr Bermingham and Archbishop Clifford that he had seen the manner in which Italian men embraced and that what he had experienced was different. His recollection is that he pointed out to them that *“Bishop Magee held me close to him. It wasn’t a hug. It was a full embrace. ... I think it was peculiar and it really can’t be explained away as something as innocent ... as something he picked up in the Vatican”*. Archbishop Clifford denies that either he or Fr Bermingham put a lot of energy into defending the bishop’s actions. He informed Joseph of Bishop Magee’s response. He considered the bishop’s actions to be inappropriate and always dealt with them as such.

26.36 Archbishop Clifford's recollection of the meeting is that Joseph was "a very nice young man, you would take to him. He is pleasant". Archbishop Clifford was particularly impressed that Joseph never added anything to his written account of what transpired between himself and Bishop Magee: "I mean he could have put this over a boundary, he didn't. And even though he did say he spoke to the Guards, he didn't give a statement and he wanted this solved within the Church".

26.37 All parties are agreed that, during the course of the meeting, there was a discussion on how the matter might be resolved within the Church. Joseph sought some sort of acknowledgement from Bishop Magee as to the fact of the behaviour complained of and its inappropriateness. Archbishop Clifford did not consider that to be feasible as it might constitute an admission and by that time in any event he thought that Bishop Magee had retained a solicitor. A meeting with Bishop Magee was offered but declined by Joseph. Joseph was informed of the notification of the complaint to the civil and Church authorities but was not given any details as to what was to happen with Bishop Magee. He was told however the effect of the appointment of an apostolic administrator. An account of the meeting was prepared by Fr Bermingham. It was submitted to Joseph for his agreement as to the veracity of the contents. After two further drafts, the account was signed by Fr Bermingham and Joseph.

The HSE

26.38 Fr Bermingham wrote to the childcare manager for North Cork, on 14 March, notifying him of Joseph's complaint. Following this, a meeting was held on 20 March 2009 between Fr Bermingham, the principal social worker and the childcare manager. This was the day before the Archbishop's meeting with Joseph. The HSE note records:

"Bishop Magee has not disputed the actions described to Bill Birmingham on the 03/01/09. Delegate liaised further with Ian Elliott who suggested that Bishop Magee should be seen by a counsellor in [...]. He has agreed. Purpose – to be advised about boundaries. He made no reply to the version of events where certain statements were attributed to him. Bill has been to AGS¹¹⁹ to discuss – [named garda],

¹¹⁹

An Garda Síochána.

[Joseph] *has already gone to the AGS but would not make a signed statement and therefore AGS would not proceed.*

Bishop told Delegate that the Pope often greeted in this fashion and that the Italians were a very demonstrative culture.

[Joseph] *has been in touch with Ian Elliott. Ian offered to meet him but as yet he has not taken this up.*

Bishop has always had a keen interest in promoting vocations, holding of parties with candidates around Christmas time. [Joseph] attended these which was quite unusual. He had access to Bishop Magee sometimes texting him on way home arranging to visit Diocesan Centre.”

26.39 On 23 March 2009, the principal social worker wrote to Joseph inviting him to meet *“in order to establish if any further safeguarding action is required to be undertaken by the HSE in relations (sic) to the concerns you raised and to discuss whether you wish to attend for counselling or psychological support as a result of your experiences”.*

26.40 The childcare manager prepared a memo for an assistant national director, entitled *“Significant events report”* setting out what was then known by the HSE and that it was intended to meet Joseph.

26.41 The meeting took place on 6 April 2009. According to Joseph, the principal social worker’s general opinion of the incident complained of was very much the same as that of Mr Elliott and of the Gardaí to whom he had spoken, namely, that Bishop Magee acted inappropriately but was not sexually abusive and that no safeguarding action was required. Joseph stated that he was pleased with the overall handling of the meeting. He pointed out that he was pretty keen to avoid anything that would bring attention on himself and he was therefore happy that the HSE view was that there would be no need to go further with this. Joseph remarked that, during the course of the meeting, the principal social worker told him that he worked with many children around the Cork area and that, if he had behaved in such a way towards them, he would be suspended. Joseph considered this to be

an acknowledgement of the inappropriateness of what he had experienced and the propriety of his complaint about it. Approximately three weeks later, at a meeting between the HSE and the diocese on 1 May 2009, attended by Archbishop Clifford, Fr Bermingham, the childcare manager and the principal social worker, Joseph's complaint was on the agenda. The HSE note of the meeting states:

"The HSE has enquired into the matters raised by [Joseph] and has concluded in respect of Bishop Magee there is no complaint of child sexual abuse or of acting in a sexually inappropriate manner. However he clearly breached both personal and professional boundaries in his conduct towards [Joseph]. HSE will not be interviewing Bishop Magee as he has

- 1 Admitted his actions*
- 2 Acceptance that they were inappropriate*
- 3 Co-operation with Church officials*
- 4 Remedy is in place through attendance at [boundary expert]."*

26.42 At the same meeting, the principal social worker advised that there would be no further action from the HSE on foot of the information received in meeting directly with Joseph.

Boundary counselling

26.43 When Archbishop Clifford received details of Joseph's complaint he had a number of options under paragraph 8.9 of *Our Children, Our Church* (quoted above). These options included obtaining a professional assessment of fitness to carry out duties, advice on counselling, a requirement to undertake special training or seek specialised assistance. As described above, having discussed the matter with Mr Elliott and having taken his advice, Archbishop Clifford contacted the boundary counsellor personally to ask him to advise Bishop Magee in relation to appropriate pastoral boundaries. Because of an intervening illness, the boundary counsellor did not meet Bishop Magee until early April 2009. Following the meeting, Archbishop Clifford telephoned him for a report. Archbishop Clifford noted what he said in his diary:

"Bishop Magee had not contested the substance of [Joseph's] complaint but he stated that his intention was purely to comfort a

young man who was distraught at [the family problems] and his consequent decision to abandon his plans to enter the seminary and to study for the priesthood. [...] He advised Bishop Magee to be extremely careful to avoid the kind of behaviour which had led to the present difficulties for him and for the young man. He said that he had told Bishop Magee that he should be careful that his words and actions might be construed as satisfying his own personal needs, as much as to console the distraught young man, the bishop accepted the advice.”

26.44 In a brief written report provided at the request of Archbishop Clifford for the benefit of this Commission, the counsellor said:

“... initially I clarified to Bishop Magee how I saw my role as a pastoral supervisor. In line with that role I had instructed Bishop Magee as to what constituted good practise in the area of touch in the context of pastoral relationship. I said that I would also supply him with reading material on this topic. Bishop Magee communicated to me his willingness to abide by these guidelines in all future pastoral contact. He seemed to be under a great amount of stress and I recommend that he should avail of counselling. I expressed a willingness to meet with him again if he thought it would be helpful.”

26.45 Nothing further is proposed by the local Church authorities in relation to this matter. As a bishop, Bishop Magee is answerable to the authorities in Rome who have been notified. Bishop Magee resigned as Bishop of Cloyne in March 2010. The civil authorities have been notified and the details of the complaint are on Church files should anything further emerge. The senior priests in the diocese and the pastoral co-ordinator have also been notified of the fact and substance of the complaint.

The Gardaí

26.46 Joseph’s complaint was formally notified to the Gardaí by the diocese on 14 March 2009. Of course the local Gardaí were already aware of the matter as Joseph had been in contact with them from late January and they had already advised him that the complaint did not amount to a criminal offence.

26.47 On 11 May, Joseph made the following statement to the Gardai:
“I have met with Detective Garda [...] of [...] Garda Station more than once and informed him of my concerns regarding inappropriate actions and words directed towards me by Bishop John Magee. Subsequent to our meetings I requested that an internal investigation be held by the Church authorities. Due to this, I do not want the Gardai to get involved or to investigate this matter.”

26.48 The garda file was forwarded to the DPP who directed that there be no prosecution as no criminal offence was disclosed.

Commission’s assessment

26.49 The Commission considers that this case was dealt with appropriately. In general, the case raises issues about soft information, who is to receive it, where it is to be filed, when is it to be accessed, and who has access to it. The Commission understands that this issue is to be addressed in the proposed Bill dealing with vetting.

26.50 The Commission recognises the difficulties this case presented for Fr Bermingham and considers that he dealt with it very well. However, as Fr Bermingham himself pointed out to the Commission, it illustrates the need to have a clear mechanism for dealing with complaints against bishops and the desirability of having a person independent of the diocese as the designated person/child protection officer.