



THE FERNS REPORT

Presented to the Minister for Health and Children

October 2005

Chairman: Mr Justice Francis D. Murphy

**Members: Dr Helen Buckley
Dr Laraine Joyce**

Executive Summary

The Ferns Inquiry identified over 100 allegations of child sexual abuse made between 1962 and 2002 against 21 priests operating under the aegis of the Diocese of Ferns¹. Six of the priests had died before any allegations of abuse were made against them. Three more died subsequent to the allegations.

The nature of the response by the Church authorities in the Diocese of Ferns to allegations of child sexual abuse by priests operating under the aegis of that diocese has varied over the past forty years. These variations reflect in part the growing understanding by the medical professions and society generally of the nature and the consequences of child sexual abuse and in part the different personalities and management styles of successive Bishops.

Between 1960 and 1980 it would appear that Bishop Herlihy treated child sexual abuse by priests of his diocese exclusively as a moral problem. He penalised the priest in respect of whom the allegation was made by transferring him to a different post or a different diocese for a period of time but then returned him to his former position. By 1980, Bishop Herlihy recognised that there was a psychological or medical dimension to the issue of child sexual abuse.

His decision in 1980 to send priests in respect of whom allegations of abuse were made to a psychologist was appropriate and broadly in accordance with the understanding then evolving. What was wholly inappropriate and totally inexplicable was the decision of Bishop Herlihy to appoint to curacies priests against whom allegations had been made and in respect of whom a respected clerical psychologist had expressed his concerns in unambiguous terms as to their suitability to interact with young people.

Equally inappropriate was Bishop Herlihy's decision to ordain clearly unsuitable men into the priesthood when he knew or ought to have known that they had a propensity to abuse children.

It is the view of the Ferns Inquiry, as it was the view of Roderick Murphy SC (now Mr Justice Roderick Murphy) as expressed in his Report on Child Sexual Abuse in Swimming (1998), that where a credible allegation of child sexual abuse is made against an employee (or other person acting under authority) it is the responsibility of the employer or superior to require the employee to step aside promptly from any post or position in which he has access to children. Bishop Comiskey accepted that this principle was equally applicable to the exercise by a bishop of his authority under Canon Law in relation to priests of his diocese. Furthermore it was recognised that in the case of diocesan clergy "stepping aside" from a position in which there is unsupervised access to children necessarily entailed stepping aside from the active ministry entirely pending the investigation of the allegations.

The annexed Report sets out in detail the difficulties experienced by Bishop Comiskey in securing the removal of diocesan clergy under his aegis from particular posts held by them. In almost every case significant periods elapsed before the Bishop could persuade the priest in question to vacate his position and undergo the assessment and treatment suggested by the Bishop. In no case did the Bishop persuade or compel the priest concerned to stand aside from his priestly ministry. The Inquiry

¹ This figure does not include those priests included in the Appendix annexed hereto.

does not underestimate the difficulties encountered by the Bishop but does expressly criticise his failure to stand aside from the ministry those priests against whom allegations had been made and in respect of whom information was or should have been available to the Bishop.

Subsequent to the appointment of Bishop Walsh as Apostolic Administrator of the Diocese of Ferns in April 2002, more effective steps were taken to ensure the protection of children. In particular all outstanding allegations of child sexual abuse were reviewed by the Administrator in conjunction with a new Advisory Panel. In addition the Bishop appealed widely to members of the public to come forward to the Diocese, the Gardai and the Health Board with information in relation to any allegation or suspicion of child sexual abuse not previously made known or which had been disclosed and had not been satisfactorily investigated or dealt with. There was a very significant response to that appeal.

In April 2002, eleven priests against whom allegations of child sexual abuse had been made were living. Three have been excluded from the priesthood by direction of The Holy See and seven have stood aside from the active ministry at the request of Bishop Eamonn Walsh. The eighth priest is advanced in years and is in retirement. The Gardai Siochana and the Health Board are advised from time to time as to the whereabouts of the priests who have stood aside and the circumstances in which they live. The Gardai and the Health Board are satisfied that the arrangements made in respect of those priests provide an appropriate measure of child protection.

The Inquiry is satisfied that the current practice of the Diocese of Ferns operates to a very high level of child protection. The regret is that this satisfactory position was not achieved at an earlier stage. Hopefully the procedures created and operated in the Diocese of Ferns will provide a model not merely for other dioceses but for other organisations facing allegations of child sexual abuse by their members.

Formal complaints of child sexual abuse were made against eight priests to An Garda Siochana. The Garda Authorities' handling of one of those complaints was wholly inadequate. In the opinion of the Inquiry, the remaining formal complaints were generally investigated by the Gardai in an effective, professional and sensitive manner. In some cases the work of the Gardai was expressly commended to the Inquiry by the victims. The Director of Public Prosecutions directed the institution of criminal proceedings in only three of the six cases in which recommendations in that behalf were made by the Gardai. In two of the criminal proceedings, convictions were obtained. In the third case, the prosecution was withdrawn after the accused priest committed suicide.

Evidence was given to the Inquiry of some complaints that had been made to different members of the Gardai prior to 1988 which do not appear to have being recorded in any Garda file and which were not investigated or pursued in an appropriate manner. This unsatisfactory approach may have been due to the unwillingness of the complainant to pursue his or her complaint or reluctance on the part of members of An Garda Siochana to investigate allegations of wrongdoing by members of the Catholic clergy. The evidence available in respect of the period prior to 1988 is insufficient to enable the Inquiry to express any firm view on this issue.

The Inquiry is fully satisfied that subsequent to 1990 the members of An Garda Síochána were not deterred or inhibited in any way from carrying out a full and professional investigation of complaints made to them of child sexual abuse by members of the Roman Catholic Clergy.

The South Eastern Health Board was notified directly or indirectly of many of the allegations of child sexual abuse. The Board was in a position to provide and did in many cases provide, counselling or support for the alleged victims. All Health Boards have wide ranging statutory obligations to promote the welfare of children in their functional area but there are few, if any, express statutory powers enabling them to achieve those objectives where the welfare of the child is endangered by abuse perpetrated by persons outside the family circle. In the absence of requisite statutory powers there was no significant response available to the Board to the allegations of abuse made known to it. The Inquiry was concerned that the South Eastern Health Board and other authorities appeared to be unaware of the very limited nature of the statutory powers available to them to intervene for the protection of children in the circumstances under investigation by the Inquiry.

With the benefit of hindsight it is possible to see that the Church authorities, the medical profession and society generally failed to appreciate the horrendous damage which the sexual abuse of children can and does cause. The Inquiry was struck by the hurt still borne by mature and fair minded victims who gave evidence before it. The Oireachtas has fixed a maximum penalty of life imprisonment for the more serious offences involving child sexual abuse. The Inquiry is of the view that the severity of that penalty is fully justified.

No allegation was made and no evidence was placed before the Inquiry suggesting the operation or the organisation of a paedophile ring in the Diocese of Ferns or any clerical institution within that diocese.

The Inquiry wishes to express its admiration for the courage and integrity of all those witnesses who helped it in its work.

The Ferns Inquiry has sought to provide an honest and objective description of the events that led to its establishment. In Chapter 8 (g) of this Report, the Inquiry has suggested remedies to some of those problems that have not yet been addressed by Church or State authorities. These include a public education programme and regulatory and legislative changes that would provide protection to children abused by third parties.

The members of the Inquiry would express the hope that should the type of abuse chronicled in this Report ever occur again, there will be mechanisms and procedures in place which will enable victims promptly to report the abuse in the confidence that they would be believed and the certainty that appropriate action would be taken to terminate the wrongdoing.

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INTRODUCTION

In August 2002 Mr George Birmingham SC presented a preliminary report on child sexual abuse involving Roman Catholic priests in the Diocese of Ferns to the Minister for Health and Children. Mr Birmingham had been asked by the Minister to investigate the background to allegations of child sexual abuse in the Diocese with a view to recommending an appropriate form and Terms of Reference for an Inquiry to inquire into the issue.

As recommended by Mr Birmingham, the Minister for Health and Children established a non-statutory private inquiry to investigate allegations or complaints of child sexual abuse which were made against clergy operating under the aegis of the Diocese of Ferns.

The Ferns Inquiry was established as a three-person team under the chairmanship of Mr Justice Francis D Murphy, formerly of the Supreme Court. The two other members of the Inquiry are: Dr Helen Buckley, senior lecturer in the Department of Social Studies, Trinity College, Dublin; and Dr Laraine Joyce, deputy director of the Office for Health Management.

The Inquiry was formally established by the Minister for Health and Children on 28 March 2003.

Counsel to the Inquiry was Mr Sean Ryan SC and Mr Declan Doyle SC. Mr Ryan was nominated as a Judge of the High Court in September 2003 and was succeeded by Mr Finbarr Fox SC.

The Secretary to the Inquiry was Mrs Marian Shanley BCL Solicitor.

Solicitor to the Inquiry was Mr Joseph O'Malley BCL LL.M Solicitor, of Hayes Solicitors, Lavery House, Earlsfort Terrace, Dublin 2.

The Inquiry was assisted in its work by the following people:

Stephen O'Brien BA, Administrative Officer of the Department of Health and Children;

David Begley, Clerical Officer of the Department of Health and Children.

Gemma Normile B. Corp. Law, LL.B, LL.M, legal researcher;

Laura Dunne BCL, legal researcher;

Joe Jeffers BCL, LL.M (Cantab), legal researcher;

The Inquiry acknowledges with gratitude the assistance of Shirley Hastings and Susan Cummins who provided secretarial and administrative support.

TERMS OF REFERENCE

A To identify what complaints or allegations have been made against clergy operating under the aegis of the Diocese of Ferns in relation to alleged events that transpired prior to 10 April 2002, and to report on the nature of the response to the identified complaints or allegations on the part of the Church authorities and any public authorities to which complaints or allegations were reported.

B To consider whether the response was adequate or appropriate, judged in the context of the time when the complaint or allegation was made, and if the response to the complaint or allegation appears inadequate or inappropriate when judged by those standards, to identify if possible the reason or reasons for this, and report thereon.

C To consider the response of diocesan and other Church authorities and the State authorities to cases where they had knowledge or strong and clear suspicion of sexual abuse involving priests of the Diocese of Ferns, and to consider whether that response was adequate or appropriate judged in the context of the time when the knowledge was acquired or the suspicion formed.

D Insofar as responses are seen to be inadequate or inappropriate, and insofar as it may be possible to identify explanations for that inadequate or inappropriate response, to consider whether those factors remain applicable and to what extent they have been subsequently addressed.

E To examine and report on the levels of communication that prevailed between diocesan and State authorities, to consider whether more appropriate norms or improved communication between the diocesan authorities and the State authorities are now desirable or practical.

F To identify and report on any lessons which might usefully be learned from how complaints or allegations were handled in the past, which will result in improved child protection.

G To identify and report on any difficulties or shortcomings in current laws and regulations and to make recommendations as to legislative or regulatory change that would remedy these.

H In the event of the withholding or withdrawal of full cooperation from the Inquiry by Church authorities or any State authorities, or any suggestion that cooperation is being withheld, to report that fact immediately to the Minister for Health and Children. In the event of the Minister for Health and Children receiving such a report she will then grant the Inquiry statutory powers.

I At the conclusion of their inquiries, to deliver a full and final report to the Minister for Health and Children who will lay it before the houses of the Oireachtas and publish the report in full, subject to legal advice.

J In the event of the Inquiry not producing a final report within 12 months of the date of appointment by the Minister, the Inquiry will publish an interim report and indicate a date for the Inquiry's final report.

1.1 Work Programme

The Ferns Inquiry commenced its work in March 2003. Its work comprised four distinct phases.

The first phase was an analysis of Mr George Birmingham's report to establish the parameters of the Inquiry.

The second phase consisted of research and consultation in areas of relevance to the Inquiry, in particular:

- a) Child Sexual Abuse.
- b) Paedophilia/Ephebophilia.
- c) Management structures of the Church, Health Board and An Garda Síochána.

The third phase involved establishing the factual background to the events that had occurred in the Diocese of Ferns¹. To commence this phase the Inquiry had to make secure and then peruse the documentation made available to it by the Church Authorities, the South Eastern Health Board and An Garda Síochána.

Most Reverend Eamonn Walsh, Apostolic Administrator to the Diocese of Ferns agreed to make available to the Ferns Inquiry all files and documents relating to the subject matter of the Inquiry including privileged material. Much of this privileged material contained confidential legal advice and reports obtained by the Diocese over the past 20 to 30 years. By making this privileged material available to the Ferns Inquiry, the Diocese of Ferns has made it possible for the Inquiry to form a more comprehensive and accurate picture of the events that occurred in Ferns and the response of the Diocese thereto than would otherwise have been possible. This level of co-operation went beyond anything the Inquiry could have required or which a court of law could have compelled.

The Apostolic Administrator and his solicitor, Arthur O'Hagan Solicitors, confirmed to the Inquiry that all relevant documentation has been furnished to it.

Advertisements were placed in three national and four regional newspapers in the weeks commencing 11 August and 29 September, 2003, seeking the assistance of the public.

The Inquiry set in place oral hearings commencing Monday 15 September 2003. The Inquiry was concerned that persons who wished to communicate with it should be able to do so in a manner most appropriate to them. It invited interested parties to communicate with it in any of the following ways:

¹ The Diocese of Ferns is not a legal entity and this Inquiry uses the term to refer to the office of Bishop or equivalent authority for the time being of the diocese.

- a) by writing out a statement and sending it to the Inquiry either by post or email;
- b) by speaking to a member of the Inquiry legal team either in person or by telephone; or
- c) by attending for an oral hearing of the Inquiry.

Most witnesses chose to attend for an oral hearing; many submitted a written statement in advance. An account of the testimony of those reporting abuse is set out in Chapter 4 of this Report.

Speaking about sexual abuse is a traumatic and emotional experience; coming into a formal Inquiry to speak about sexual abuse suffered as a child is particularly so. The Inquiry sought to offer a sensitive and supportive forum to all who appeared before it. However, because it was in everybody's interest to observe correct procedures, witnesses were guided through their testimony by Senior Counsel engaged by the Inquiry to ensure that information relevant to its Terms of Reference was obtained. A stenographer recorded proceedings and transcripts of all evidence heard were made available to the members of the Inquiry.

The Inquiry wishes to acknowledge its debt to the courageous people who spoke about experiences of abuse. Without exception the witnesses who attended the hearings impressed the Inquiry with their dignity and clarity. Many offered an invaluable insight into the nature and extent of the problem and the lasting trauma it can cause. It would not have been possible to produce this Report without their cooperation and help.

The Ferns Inquiry wishes to acknowledge the courtesy and assistance offered by Mr Colm O'Gorman and Ms Deirdre Fitzpatrick of the *One in Four* organisation. They provided encouragement and support to many of the witnesses who attended for oral hearing.

The hearing of evidence of abuse from witnesses and complainants was substantially completed by February 2004. By that time the Inquiry had conducted oral hearings in respect of over 90 witnesses and had taken statements in respect of a further 57 witnesses who had spoken about abuse suffered by them or about which they had information.

The Inquiry then heard from members of the Church authorities and in particular the Diocese of Ferns, from the South Eastern Health Board² and from An Garda Síochána. These witnesses were selected by the Inquiry from documentation and statements that had been made available to it. It was through the attendance of these witnesses that the Inquiry was able to inform itself as to how the authorities responded to complaints or allegations of child sexual abuse; whether their handling of these allegations was appropriate and how the various agencies interacted with each other.

² The Health Services Executive in the Wexford area was known as The South Eastern Health Board (SEHB) during the period which is the subject matter of this Inquiry and that is the title that is used throughout this Report.

The Inquiry spoke with over 100 witnesses during this phase of its work and all of the testimony was duly recorded. The detail of this evidence will be discussed in Chapters 5, 6 and 7 of this Report.

Having spoken with the complainants and the witnesses from the three relevant authorities, the Inquiry asked Bishop Brendan Comiskey to attend to address the issues focused on by the Inquiry. Bishop Comiskey attended the Inquiry for a total of 8 days of oral hearing from 19 to 30 July 2004, and for a further 2 days in September 2004. This evidence is referred to as it arises in the course of this Report but is dealt with in greater detail in the chapter headed “Church Response” at Chapter 5 below.

The Inquiry wishes to acknowledge the high level of cooperation received from Bishop Comiskey throughout this process. Through his lawyers he responded with efficiency and courtesy to the requests made by the Inquiry.

The Inquiry informed itself from the documentation made available by the South Eastern Health Board as to those officers and employees of the Board who would be in a position to assist the Inquiry in identifying how allegations of child sexual abuse were handled by it. This is dealt with in Chapter 6 of this Report. The Ferns Inquiry would like to acknowledge the full cooperation it received from the South Eastern Health Board through their officer Ms Marie Kennedy, who made relevant documentation available to the Inquiry and attended personally on a number of occasions.

The South Eastern Health Board has confirmed to this Inquiry that it has made all relevant documentation available to it.

The Garda files in relation to any allegations of child sexual abuse in which Garda investigations had been completed were forwarded to the Inquiry. The details from these files and the Garda handling of the allegations are set out in Chapter 7 below. The Inquiry wishes to acknowledge the same high level of cooperation from the Garda authorities, particularly through Superintendent Kieran Kenny who attended the Inquiry on a number of occasions and liaised with it to clarify any matters that arose from the Garda files.

An Garda Síochána has confirmed to this Inquiry that it has made all relevant documentation available to it.

The Inquiry wishes to acknowledge the assistance of Mr James Hamilton the Director of Public Prosecutions (DPP), and his staff who met with members of the Inquiry team and discussed matters which arose from the Garda files regarding prosecution and the criminal trial.

The taking of evidence was substantially completed by February 2005 with the attendance of Bishop Eamonn Walsh, the Apostolic Administrator of the Diocese of Ferns.

In its fourth and final phase, the Inquiry prepared a draft Report. This draft Report, or extracts from it, was submitted where possible to any person mentioned therein or any person whose testimony was used in the final draft. As many interested parties as

possible were afforded an opportunity of responding to the draft document and amendments were made where appropriate. This was a lengthy process which occurred over an eight month period.

Because of the non-statutory nature of this Inquiry, all evidence received by it is unsworn. The Inquiry is satisfied that those who contacted it did so in good faith and out of a desire to be of assistance. However, the unsworn nature of the evidence available to the Inquiry must be emphasised.

The Inquiry has not used gender-neutral language in this Report as the alleged perpetrators of the abuse which was considered by the Inquiry were all male. Even when discussing general issues relating to child sexual abuse, the words “he” and “him” are used but the Inquiry does of course accept that child sexual abuse is committed by females as well as males.

The Inquiry interpreted the term “clergy operating under the Diocese of Ferns” as meaning diocesan priests who were ordained for the Diocese of Ferns. This precluded consideration of allegations against seminarians, priests belonging to religious orders and priests ordained for dioceses other than Ferns even when they were in ministry in the Diocese of Ferns.

Although the Terms of Reference did not specify child sexual abuse allegations, it was the clear understanding of all persons communicating with the Inquiry that this was the subject matter of the Inquiry and accordingly, allegations of physical abuse or abuse of adults were generally not considered by the Inquiry.

Within its Terms of Reference, the Inquiry identified over 100 complaints or allegations relating to child sexual abuse by 21 priests under the aegis of the Diocese of Ferns. Over forty of those complaints related to two priests only. Ten of the priests complained against are now deceased, three have been laicised and the remaining eight priests are no longer in active ministry³.

1.2 A Review of the Birmingham Report

The Birmingham Report had its origin in a documentary entitled *Suing the Pope* broadcast on 19 March 2002 by the BBC as part of its Correspondent series. The programme concerned allegations of clerical child abuse in the Roman Catholic Diocese of Ferns. Less than three weeks later, the Minister for Health and Children met with a group of contributors to that programme who called for a State sponsored Inquiry into the alleged abuse. At the Minister’s suggestion, it was agreed that there would be a preliminary investigation by a senior counsel who could identify the central issues for any Inquiry and make recommendations as to its form and structure. On 10 April 2002, the Minister appointed Mr George Birmingham SC to carry out this exercise.

Mr Birmingham’s Terms of Reference were:

- *To consult with the victims;*

³ These figures are subject to the Appendix annexed hereto.

- *To consult with the Catholic Church to ascertain the level of cooperation, if any, which might be forthcoming;*
- *To examine all relevant files within State agencies/authorities (e.g., Health Board files, Garda files, Commissioner's report), to assess whether the role of civil authorities required further inquiry;*
- *To have particular regard to the specific requirement of an inquiry into sex abuse (e.g., confidentiality);*
- *To consult with those involved in the Commission to Inquire into Child Abuse, chaired by Ms Justice Laffoy, to ascertain how that Commission or its experience, might be suitable or useful;*
- *To examine and address any legal issues surrounding such an Inquiry (constitutional issues regarding the Church etc);*
- *To examine whether an inquiry limited to the Diocese of Ferns is feasible, and whether and how the wider picture is to be examined;*
- *To recommend the form of inquiry appropriate and suggest terms of reference.*

George Birmingham met with a number of the persons who alleged child sexual abuse to ascertain their particular needs and to clarify their hopes for and expectations of an Inquiry. He identified the need of the victims for confidentiality and recommended that any Inquiry should minimise intrusion into their privacy.

Mr Birmingham was assured by Bishop Eamonn Walsh (who was appointed Apostolic Administrator of the Diocese of Ferns after Bishop Brendan Comiskey resigned in April 2002) and by Bishop Brendan Comiskey of cooperation in any Inquiry that might be set up. On his appointment, Bishop Walsh stated that he would *"fully co-operate with whatever instrument of Inquiry was deemed most appropriate"*.

George Birmingham operated on the basis that a child is a person under the age of 18 years. Abuse of persons over 18 was of significance to the Inquiry where the abuse had commenced during the victim's childhood or where it happened in the context of a perpetrator who had multiple victims known to the Inquiry, some of whom were under 18.

Mr Birmingham suggested that while it would be important for the Inquiry to place responses or lack of responses to allegations in the context of the time, there was also a real public interest in knowing how complaints of abuse would be handled today and whether changes have been effected since allegations first came to light. The Ferns Inquiry therefore brought within its remit allegations of abuse received by the Diocese of Ferns after April 2002 (the cut-off point identified in the Terms of Reference), where those allegations referred to a priest already identified to the Inquiry as an alleged child sex abuser, or where they referred to allegations of abuse that occurred prior to April 2002 even where they involved a priest previously not identified to the Inquiry. The Terms of Reference of the Inquiry were interpreted in this way to facilitate a proper understanding of the ways in which abuse allegations are handled by the Diocese of Ferns today. It must be noted that the diocesan authorities cooperated with the Inquiry in interpreting its Terms of Reference in this manner.

Mr Birmingham considered whether legal or constitutional issues constrained the Minister in determining what type of Inquiry ought to be established. He concluded that while undoubtedly an Inquiry would encroach on the Church's right to privacy and the right to privacy of individuals who played a role in various controversies, the importance of the issues to be enquired into would render the decision to establish a tribunal immune from challenge.

This raised the question as to whether the Roman Catholic Church could be regarded as no more than a private organisation, given the particular constitutional position which all religions enjoy under Article 44.1.5:

"Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, moveable and immoveable and maintain institutions for religious or charitable purposes."

Mr Birmingham was of the view that any challenge based on an argument that the Inquiry denied the Church the right to manage its own affairs would fail, because the purpose and effect of the Inquiry was not to interfere with the management of Church affairs, but to identify how those affairs are managed. Accordingly, in his judgement, the Minister was not constrained by any legal or constitutional issue from deciding what type of Inquiry was most appropriate. In conclusion, Mr Birmingham said,

"In my view the most effective form of Inquiry, and the one which is most flexible and most receptive to the various needs that must be addressed, is a non-statutory Inquiry, sitting in private, capable of designing its own procedures and tailoring those to the needs of those with whom it is dealing."

Mr Birmingham strongly recommended that the Inquiry should be limited in geographical area to the Ferns diocese and this has been an important and useful limitation.

The Inquiry would like to acknowledge the important contribution of Mr Birmingham to this process. His unpublished report was a valuable resource and his insightfulness in making the recommendations which he did and in drawing up the Terms of Reference were important factors in this Inquiry carrying out its work within a reasonable time frame.

Because of the non-statutory nature of the Inquiry, its Terms of Reference contained a condition that in the event of the withholding or withdrawal of full cooperation from the Inquiry by Church or State authorities, or any suggestion of such cooperation being withheld, such a fact should be reported immediately to the Minister for Health and Children who would then grant the Inquiry statutory powers.

The Ferns Inquiry is appreciative of the considerable assistance provided to it by the Diocese of Ferns and its solicitors. A number of documents which were of relevance to the Inquiry were not made available by the Diocese until shortly before the Inquiry completed its work. The Inquiry is satisfied following careful examination of the process by which diocesan discovery was made that this delayed delivery arose as a result of genuine errors of judgement.

The nature of that documentation and the material which it discloses has been summarised in the Appendix hereto. It would not be practicable to analyse or investigate this material in depth and incorporate any findings arising in the Report without unduly delaying the completion of the work of the Inquiry. In the circumstances, the Appendix hereto must be read as an addition to the principal Report. The Inquiry believes that whilst the material might call for alterations in the detail of the Report, it does not affect any matter of principle contained therein.

CHILD SEXUAL ABUSE AND ABUSERS

This chapter considers the nature and treatment of child sexual abuse. It has been informed by a review of literature on the subject which led to a two-day consultation with an Expert Group comprising therapists with specific experience of working with priests who have sexually abused children (hereinafter referred to as the Expert Group).⁴

What is Child Sexual Abuse?

While definitions of child sexual abuse vary according to context, probably the most useful definition and broadest for the purposes of this Report was that which was adopted by the Law Reform Commission in 1990⁵ and later developed in Children First, National Guidelines for the Protection and Welfare of Children (Department of Health and Children, 1999) which state that "*child sexual abuse occurs when a child is used by another person for his or her gratification or sexual arousal or that of others*". Examples of child sexual abuse include the following:

- (i) exposure of the sexual organs or any sexual act intentionally performed in the presence of the child;
- (ii) intentional touching or molesting of the body of a child whether by a person or object for the purpose of sexual arousal or gratification;
- (iii) masturbation in the presence of the child or the involvement of the child in an act of masturbation;
- (iv) sexual intercourse with the child whether oral, vaginal or anal;
- (v) sexual exploitation of a child which includes inciting, encouraging, propositioning, requiring or permitting a child to solicit for, or to engage in prostitution or other sexual acts. Sexual exploitation also occurs when a child is involved in the exhibition, modelling or posing for the purpose of sexual arousal, gratification or sexual act, including its recording (on film, video tape or other media) or the manipulation for those purposes of the image by computer or other means. It may also include showing sexually explicit material to children which is often a feature of the "grooming" process by perpetrators of abuse.

⁴ Mr. Donald Findlater, deputy director, the Lucy Faithful Foundation
Mr. Steven Lowe, senior therapist, the Lucy Faithful Foundation
Dr Patrick Randles, principal clinical psychologist, the Granada Institute, Shankill, Co Dublin
Mr. Joseph Sullivan formerly principal therapist for the Lucy Faithful Foundation
Dr Patrick Walsh, Director, the Granada Institute, St. John of Gods, Shankill, Co. Dublin
Mr. Ray Wyre, Ray Wyre Associates, a company that provides independent assessment of sexual crime and abuse.

⁵ This definition was originally proposed by the Western Australia Task Force on Child Sexual Abuse, 1987 and is adopted by the Law Reform Commission (1990) Report on Child Sexual Abuse, p. 8.

Although this definition has been adopted by many State and private organisations, it has not been formally enacted into law by the Legislature. For the purposes of Irish criminal law therefore, child sexual abuse is not statutorily defined but rather consists of many specific offences of which the principal ones are set out in Chapter 3.3 of this Report.

A central characteristic of any such abuse is the dominant position of an adult that allows him or her to coerce a child into engaging in sexual activity.

It is important that child sexual abuse is not reduced to a single theory or categorisation, but is seen for what it is, a complex phenomenon, the nature and impact of which depend on a number of circumstances. While formal definitions are useful in terms of classifying it and separating it from other forms of child maltreatment, caution needs to be exercised in the application of a technical description, as the dynamics and contextual factors surrounding abusive situations can make it difficult to explain in a rational fashion. It also has to be remembered that the impact of sexual abuse upon a child or young person will be determined by a number of factors concerning the child, the relationship that the abuser has with the child, the child's previous experiences, resilience and vulnerability, and the circumstances in which the abuse takes place and the response to any complaint made.

Historical Perspective on Child Sexual Abuse

In assessing whether a particular response to an allegation of child sexual abuse was adequate or appropriate, the Ferns Inquiry believed it important to establish the extent of awareness of this problem that was or should have been present in the authority dealing with it.

Public consciousness of the problem of child abuse (and in particular child sexual abuse) was a gradual development from the early 1960s. In the earlier half of the twentieth century, although child abuse and cruelty was known to exist, it was generally identified with neglect and poverty. In the United States, mandatory reporting of non-accidental injury to children became a requirement in a number of states between 1960 and 1965. Through this reporting, it became clear that child abuse within families was a major problem in the community and this, together with the development of a strong feminist movement, led to a greater awareness of this problem and the problem of sexual abuse of children among the population as a whole. Over the next decade, the extent of sexual abuse of children both within and outside of families was recognised as a world-wide problem.

In May 1975 an expert group was brought together by the Department of Health to establish the extent of the problem of non-accidental injuries to children.⁶ The group unanimously agreed that a significant problem of child abuse existed in Ireland at the time and that coordinated efforts should be made to remedy the situation. In March 1976, the expert group published a report on non-accidental injury to children and this led to the 1977 Memorandum on Non-Accidental Injury to Children issued by the Department of Health. This memorandum, and the report leading up to it, made no reference to the sexual abuse of children. Further guidelines published in 1983

⁶ See p 52 *et seq.*

mentioned sexual abuse of children in passing but it was not until 1987 that the Department of Health child abuse guidelines set out procedures for the identification, investigation and management of child sexual abuse. All of these guidelines dealt with child abuse perpetrated by a member of the family or the carer of the child and did not advert in any detail to the situation of the child being abused by third parties. These guidelines did not address the issue of allegations of child sexual abuse which were not reported until the victim had become an adult. This was the position in all but five of the episodes of abuse identified by this Inquiry. It was not until after the Framework Document⁷ that the position was clarified and an obligation was assumed by all dioceses to report all allegations of child sexual abuse against priests of the Diocese, irrespective of whether the complainant was an adult or a child at the time of making the complaint.

It is generally accepted that awareness of the nature of child sexual abuse in Ireland coincided with high profile cases such as the Kilkenny Incest Investigation in 1993 and The West of Ireland Farmer case in 1995. These cases demonstrated that child sexual abuse was a crime perpetrated by apparently upright and decent members of the community. Both these cases however, dealt with sexual abuse of children within families. It was not until after Fr Brendan Smyth's arrest in Belfast and the publicity that surrounded the seeking of an extradition warrant by the Northern Ireland authorities in 1994, that Irish society was fully exposed to the phenomenon of the systematic abuse of children by third parties who were in a position of trust and authority over those children. This "third-party" abuse represents only a small fraction of the abuse occurring in Irish society⁹ but is a major problem for any organisation entrusted with the care of children in which it becomes manifest.

In response to the growing public awareness of child sexual abuse within the Church, the Irish Catholic Bishops' Conference and CORI¹⁰ established an Advisory Committee in 1994 to set down guidelines for the proper handling of allegations that came to the attention of Church authorities here. The Framework Document was adopted by all dioceses in this country although implementation of these guidelines was left to the individual bishop in his diocese. In the Diocese of Ferns, the guidelines were adopted before their official publication, in December 1995.

The convening of the Advisory Committee and the terms of its Report were a clear acknowledgement of the seriousness of the problem of clerical child sexual abuse and the need for guidance on how the problem should be handled. The Report only came

⁷ The Report of the Advisory Committee of the Irish Catholic Bishops Conference. This Committee was established in May 1994 and published its report in 1996. This report, which set down guidelines for the handling of child sexual abuse allegations against clergy by Church authorities is referred to as "The Framework Document" throughout The Ferns Report. For further discussion see p40 below.

⁹ Sexual Abuse and Violence in Ireland: A National Study of Irish Experiences, Beliefs and Attitudes Concerning Sexual Violence. Hannah McGee, Rebecca Garavan, Mairead de Barra, Joanne Byrne, Ronan Conroy. The Royal College of Surgeons in Ireland. (The SAVI Report 2002). The Liffey Press 2002

¹⁰ Conference of Religious of Ireland

into effect after 1995 but it did, nevertheless, provide an objective standard by which to judge whether a particular response was deemed appropriate.

After a number of allegations were received by authorities regarding the behaviour of two swimming coaches in the Leinster region, an Inquiry was conducted by Mr Roderick Murphy SC (now a judge of the High Court) in 1998 into how these allegations were handled by the Swimming Authorities. The Roderick Murphy Inquiry is the only other Inquiry that dealt with the issue of child sexual abuse outside of the familial context.

The Ferns Inquiry, in the course of its oral hearings and research, encountered a widely held view among commentators, journalists and victims themselves, that the Catholic Church had an awareness of the problem of child sexual abuse by priests before it entered the public domain. The Inquiry sought to establish the development of this awareness both in the Catholic Church in Ireland and in the wider Church.

Early Church law ranked sexual sins as the most serious offences along with homicide and idolatry. The three most serious of these were fornication, adultery and sexual corruption of young boys.¹¹

The first Code of Canon law, published in 1917, contained specific canons condemning solicitation, false denunciation and the failure to denounce. This only became relevant to the issue of child sexual abuse by clergy when, in 1962 Pope John XXIII issued a special procedural law for the processing of solicitation cases. The document was sent to a number of Bishops throughout the world who were directed to keep it in secret archives and not to publish or comment upon it. This document related specifically to solicitation in the course of hearing Confession. It is of interest to the Inquiry as it also specifically dealt with how priests who abused children were to be handled and imposed a high degree of secrecy on all Church officials involved in such cases. The penalty for breach of this secrecy was automatic excommunication. Even witnesses and complainants could be excommunicated if they broke the oath of secrecy. The Inquiry has seen no evidence of the existence of this document in the files of the Diocese of Ferns that it has examined. It has been informed that the Diocese never received such a communication from Rome and was not aware of its existence until it was publicly discussed by commentators in 2001.

This is the first document from the Vatican of which the Inquiry is aware which directs bishops on the handling of child abuse allegations. The code of secrecy which was emphasised in the document has been perceived by the media and members of the general public as informing the Church authorities on how allegations of child sexual abuse should be dealt with. This 1962 document was referred to in a document issued by the Vatican in 2001 outlining new norms for handling certain grave offences. The document which was entitled, "*Sacramentorum Sanctitatis Tutela*"¹² (Protection of the Holiness of the Sacraments), was issued "*motu proprio*"¹³ by Pope John Paul II. The norms were not themselves published and the understanding appears to have been

¹¹ Brundage, Law, Sex and Christian Society in Medieval Europe, (Chicago, University of Chicago Press, 1987, Page 71).

¹² See below p41

¹³ *Motu proprio* is the commonplace format for a document from the Pope in a disciplinary matter. It translates as "on his own initiative".

that local bishops would receive them on a case by case basis. However, on 19 May 2001, the norms were discussed and explained in a letter to the world's bishops and heads of religious orders from the Congregation for the Doctrine of the Faith and signed by Cardinal Joseph Ratzinger, Prefect. It outlined how the Congregation was to continue to have "exclusive competence" regarding certain grave offences including sexual offences with a minor under the age of 18.

One commentator who worked closely with the Church during the early 1960s and 1970s was the American, A.W. Richard Sipe¹⁴. He pointed out that, up until the 1950s, sexual activity in a priest was seen as a moral/spiritual problem. Where that sexual activity involved behaviour which was perceived as deviant, that is, sexual interest in men or children, there developed recognition that such behaviour had a psychological dimension. This opened up the problem to lay psychiatric and psychological intervention and increased awareness, in the medical community at least, of the presence of this problem in the priesthood. This Inquiry has observed that Bishop Donal Herlihy (Bishop of Ferns 1964-1983), began to engage psychological experts to assess priests accused of child sexual abuse in the late 1970s.

Dr Sipe observes that from the early 1950s, Fr Bier, a Jesuit from Fordham University, advocated psychological testing of candidates for the priesthood to eliminate problem priests including those who were sexually active. Fr Bier's writings and advocacy of the use of screening tests reflected a growing awareness within the Catholic Church that deviant sexual behaviour by men professing celibacy was not merely a spiritual problem but also contained psychological components.

In his book entitled "The Sipe Report", Dr Sipe observed:

"In 1976 the Servants of the Paraclete opened what was perhaps the first programme in the world with a treatment regime designed to treat psychosexual disorders, including disorders involving the sexual abuse of minors. The ability of the Catholic community to design and implement such a programme is both a reflection of the need for such a programme and the degree of knowledge of the scope of the problem of sexual misconduct with children by Catholic priests and religious. The fact that preparations for the opening of this programme were years in the making, demonstrates widespread knowledge of existing sexual misconduct with minors by Catholic clergy by the late 1960s and early 1970s.

I conclude that the bishops of the United States, individually and collectively, were by the 1970s, well aware of certain psychological problems of priests, including sexual involvement with minors, and were also aware of alternative modes of addressing psychosexual problems, other than spiritual renewal and geographic transfers.

As early as the 1960s, Catholic bishops and religious superiors attempted to handle some of the more severe cases of sexual misconduct through the use of

¹⁴Dr AW Richard Sipe. A former Roman Catholic priest and current psychotherapist and psychiatrist, he is the author of "The Sipe Report" and has written extensively on this subject, including his 1995 book "Sex, Priests and Power".

psychiatry and psychology. This effort grew in size, scope and sophistication until by the late 1970s Catholic treatment centres were on the cutting edge of psychiatry and psychology in the use of sophisticated treatment techniques for the treatment of Catholic priests and religious who had acted out sexually with minors. It is reasonable to ask; what care was given to known child victims of priest sexual involvement? What steps were taken to protect Catholic children and their families from the known risk of future abuse?"

Even before the Servants of the Paracletes had developed its programme for the treatment of priests who had sexually abused children in 1976, they had in 1959, founded an assessment and treatment centre for priests with behavioural problems including child sexual abuse in Stroud in Gloucester, England which was used by the Diocese of Ferns from the mid 1980s in dealing with priests accused of child sexual abuse. The Diocese also used American assessment and treatment centres from that date.

By the end of 1984, the case of Fr Gilbert Gauthé of Lafayette, Louisiana, was receiving worldwide publicity. Fr Gauthé was charged on multiple counts for abusing children in his parish. Not only was this the first time that such a criminal case had this level of publicity, but it was also the first time that a civil suit was initiated against a diocese anywhere in the world for failing to protect children from the activities of a known clerical abuser.

In May 1985 a document was prepared by clergy and a civil lawyer involved in this case entitled, "The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner".¹⁵ This document, which became known as "The Manual" set out to inform the Church hierarchy in the United States of America about the growing problem of sexual abuse of children and adolescents by clerics. It represented the first in-depth analysis of this problem in the United States. It posed a number of legal and medical questions and suggested, among other things, that bishops should ensure that their insurance policies protect them from claims of child sexual abuse. The Report predicted that the Catholic Church could be found liable for millions of dollars in damages in cases arising out of the sexual abuse of children by clergy who were subsequently protected by their Bishop.¹⁶ The Diocese of Ferns has stated that it was not aware of the existence of this "Manual" until informed about it by this Inquiry.

What is clear, however, is that Irish bishops were alerted to a potential liability for child sexual abuse by clergy, from the cases that had emerged in the 1980s in the United States. According to a press statement issued by the Irish Catholic Communications Office on 4 February 2003, most dioceses obtained insurance policies between 1987 and 1990 against the eventuality of legal liability accruing to a diocese from acts of child sexual abuse by priests. The Inquiry is aware that Bishop Comiskey entered in to such an insurance policy in 1989¹⁷.

¹⁵ Fr. Thomas Doyle, Secretary Canonist to the Papal Nunciature in Washington, Fr. Michael Peterson, Director of the St. Luke's Institute in Hartford, Connecticut and Mr. Raymond Mouton, a civil lawyer.

¹⁶ Time to Listen; Confronting Child Sexual Abuse by Catholic Clergy in Ireland. Goode McGee and O'Boyle. The Liffey Press 2003 p 127 *et seq*.

¹⁷ See pp 46 *et seq*

"Time to Listen" was commissioned in late 2000 by The Irish Bishops' Committee on Child Abuse (now known as the Bishops' Committee on Child Protection) and published in 2003. It states:

"Child sexual abuse by clergy has occurred over an extended period. Therefore some awareness of the problem must have existed among clergy, most likely senior members of the Church, for some time. However the way in which inappropriate sexual behaviour was interpreted by senior Church personnel varied. Anecdotally, sexual contact with male children was sometimes understood as homosexual behaviour rather than child sexual abuse per se. The emphasis was on the moral implications for the offending cleric and a confessional approach was used."

This Study went on to say that most clergy it had spoken to, particularly "front-line" priests and religious, reported becoming aware of the problem of priests abusing children quite recently, just as the general public did, through media reports, in particular media reports from America. Church personnel interviewed in the study recalled first hearing of child sexual abuse by clergy in the late 1980s or early 1990s. This would accord with the testimony of priests from the Diocese of Ferns who spoke with this Inquiry.

Where an organisation is aware of a serious problem within its structure with criminal and child protection implications, it has a duty to alert and inform its personnel of this and to ensure that every step is taken to eliminate it as soon as possible. From the documentation furnished to this Inquiry by the Diocese of Ferns there is no evidence that the growing awareness of this problem was communicated to the Church Authorities in the Diocese. The knowledge which is now in the public domain and therefore in the possession of priests generally, did not come from Church authorities, but from the media and from victims speaking out about their experiences. Once this problem entered the public domain, a high-level education programme was embarked upon by the Diocese of Ferns and by 1996, priests were well informed of the damage that sexual abuse can do to children and were encouraged by the present administration within the Diocese to communicate any concerns they had around this issue.

The Inquiry recognises that most of the developing awareness of child sexual abuse by priests occurred in the United States and it is not possible to impute any particular knowledge of this on the part of priests or Church authorities in the Diocese of Ferns. When Bishop Comiskey became aware of a problem with child sexual abuse among his clergy, he did, nevertheless, have available to him a reasonably sophisticated treatment centre established by the Servants of the Paracletes in Stroud in England. This treatment centre offered assessment and residential care to priests who had a wide range of behavioural problems including alcoholism, depression and sexually inappropriate behaviour. By 1980, the practice of referring priests with sexual problems to reputable psychiatrists for analysis and treatment had been established in the Diocese of Ferns.

Individual priests who attended this Inquiry spoke of their lack of any awareness of the problem of sexual abuse of children in society in general or among their numbers. The Inquiry believes that this lack of awareness was, in most cases, genuine, but is

concerned that the Church Authorities either in this country or in Rome did not properly alert their priests to the danger of child sexual abuse at a time when they did or should have known of this danger which had been clearly identified by Church authorities elsewhere.

Common Perceptions about Child Sexual Abuse¹⁸

Perceptions about child sexual abuse are linked to the way the subject is understood and categorised and often reflect society's reluctance to believe that it is something committed by people seen as being "normal". The use of certain terminology in describing child sexual abuse can also be misleading. For example, describing it as an addictive or pathological illness can be disingenuous and give the impression that sexual attraction to children is beyond the control of the majority of people who commit it. The belief that sexual abuse is most frequently committed by the sinister and deviant stranger belies the information which we now have that the majority of children are abused by persons known to them¹⁹, many of whom present as benign and admirable people.

One of the most striking aspects of the profiles of the clerical abusers that emerged from the Ferns Inquiry and from the Expert Group was that, in certain respects, many of these men were successful, spiritual and even caring human beings. Some were known to be excellent teachers who elicited high academic standards from the young people they taught; most were considered pious and holy; some were outstanding managers and fund raisers while others were described as gentle and inoffensive. Many of these priests were readily accepted in their communities and befriended the families of their victims with ease. The verbal or pictorial portrayal of the perpetrator as a man of unmitigated evil is frequently inaccurate and often misleading, resulting in parents failing to appreciate that the child abuser may be someone with a kind and pleasant appearance, capable of warmth, affection and generosity and of intellectual and professional worth. This benign and unthreatening image can be applied to many men who abuse, not just clergy, and is a key factor in abuse being allowed to continue undetected for long periods of time.

People who abuse children sexually are often assumed to be suffering from a classified psychiatric condition known as 'paedophilia'. This condition is categorised by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, 4th Ed. (DSM-IV), as involving fantasies about sexual activity by an adult with a prepubescent child. There are, however, some variations within this categorisation. Some individuals prefer females, usually 8 to 10 years old. Those attracted to males usually prefer slightly older children. People attracted to post-pubescent children are known as ephebophiles, although this distinction is not generally made in Europe. Some perpetrators are attracted to both sexes. While some are sexually attracted only to children, others are sometimes also attracted to adults. One of the outstanding characteristics of paedophiles or ephebophiles is their capacity to rationalise and normalise their sexual fantasies and activities; another is their propensity to form associations which facilitate contact with like-minded people and

¹⁸ As already stated at p.6 of this Report, the Inquiry has not used gender neutral language in the discussion that follows.

¹⁹ SAVI Report, 2002.

promote paedophilic literature. The Inquiry has been informed that the distinction between paedophiles and ephebophiles is not useful, nor is the sexual orientation of the priests concerned particularly relevant. The main point for consideration must be the abusive behaviour and the fact that the perpetrators prioritised their desires over their doubts or inhibitions and over the safety and welfare of children.

Overall, the literature searches and consultations carried out by and on behalf of the Inquiry would lead it away from associating child sexual abuse solely with issues such as sexual orientation, celibacy, sexual dysfunction, relationship problems, traumatic childhood experiences, previous victimization, loneliness, isolation, problem drinking, immaturity or other social or psychological factors. Any of the above features could be associated with most of the incidents reported; however, focusing on single causes fails to acknowledge that many people, including priests, who experience these factors in their lives, do not abuse children.

The Process of Child Sexual Abuse

It is generally agreed that child sexual abuse rarely consists of a once-off incident or a chance occurrence, but is ordinarily the result of a lengthy and well-planned grooming process on the part of the offender. It can be argued that the process starts well before the incident of abuse and consists of a combination of factors and circumstances that the abuser creates. The abuser may contrive to place himself in situations where he will have frequent contact with children. Two examples are: joining a profession or becoming involved in an activity, e.g. youth work or sporting activities, that will bring him into contact with or place him in positions of responsibility over children; or, joining or befriending a family with children. The abuser will often target particularly vulnerable children with interests that he, the abuser, can satisfy which will draw the victim into a close relationship with him. This can lead to a form of emotional blackmail whereby the victims may be confused into thinking that they themselves are responsible for the abuse.

Finkelhor,²⁰ an acknowledged international expert in child sexual abuse, has proposed four pre-conditions that facilitate this gradual initiation. These are (i) motivation to abuse, (ii) overcoming internal inhibitions, (iii) overcoming external obstacles, and (iv) overcoming the child's resistance.

A slightly different conceptual framework called 'The Spiral of Sexual Abuse'²¹ has provided a useful clinical tool for working with sex offenders. According to this model, the behavior begins when a perpetrator develops, or becomes aware of, a sexual interest in children. It describes how perpetrators, when confronted, will deny, rationalise and minimise their actions, so that the normal moral inhibition that prevents people from acting on their arousal is overcome. Fantasising about sexual contact with children further reinforces their arousal and their cognitive-distortion through a type of behavioral conditioning.

²⁰ Finkelhor D (1984) Child Sexual Abuse: New Theory and Research

²¹ Sullivan J. (2002). The Spiral of Sexual Abuse: A conceptual Framework for Understanding and Illustrating the Evolution of Sexually Abusive Behaviour. NOTAnews, 41:17-21

The next step is realising the fantasy by preparing or 'grooming' a child by, for example, giving him sweets or special attention but also by intimidating him. This process can also include building up, for other people, an image or reputation of the child as an attention seeker or troublemaker, who is subsequently less likely to be believed should he allege abuse. The gains which perpetrators experience from abuse will vary from sexual excitement and satisfaction to enjoying a sense of power and control.

The term "cognitive distortion" is commonly used to describe the type of rationalisation which allows someone to go beyond barriers set by guilt or fear in this type of situation. Thus the spiral continues.

In many instances, the only people who know about the abuse are the child and the abuser, and this situation may continue for a prolonged period. Evidence shown to the Inquiry illustrated how cognitive distortions operated by priests are particularly strong, given the conflict that exists between their abusive behaviour and their spiritual aspirations. Rationalisations used by some of them are particularly extreme, for example, that God, in calling them to the vocation of priesthood, had done so in the knowledge that they suffered from certain human weaknesses. This device served as a pardon for their abusive behaviour. They tended to see the abuse on a scale which when weighed against all the good they did in their ministry, could be excused and forgiven.

Impact of Child Sexual Abuse

Child sexual abuse is, according to studies, linked with depression and post-traumatic stress disorder, emotional and behavioural problems, interpersonal relationship difficulties and suicidal behaviour in both childhood and adult life, which places children at further health and emotional risk.²² It is recognised that where child sexual abuse is perpetrated by a clergyman, its impact on the victim can have additional consequences such as a loss of faith and an alienation from religion. Many victims have spoken of the profound sense of loss this has caused. Research on clerical sexual abuse carried out in Ireland indicates that when victims reported their abuse and received an inadequate response from church authorities, they experienced re-traumatisation.²³

Many members of the diocesan clergy in Ferns have indicated to the Inquiry that they had no appreciation of the impact of child sexual abuse on the victims. This was also a view expressed by individual clergymen in "Time to Listen". It has been a very strong feature of recent educational initiatives undertaken by the Diocese of Ferns to emphasise the horrific impact such abuse has on victims.

The question is asked why children, who were being abused by priests in Ferns, did not confide in their parents or other trusted adults who would have been in a position to protect them and prevent such abuse from recurring. We know from research

²² Jones, D. P. H. & Ramchandani, P. (1999) *Child Sexual Abuse: Informing Practice from Research*. Abingdon: Radcliffe

²³ Time to Listen: Goode et al, (2003).

evidence²⁴ and from the evidence to this Inquiry that only a minority of children who are abused will tell a protective adult, and the unpalatable reality is that reported and treated cases are the exception rather than the norm. The reasons for this are numerous but include: intimidation generated by blackmail or threats, fear of being disbelieved and guilt or dread of official intervention both for themselves and for the abuser. This reluctance to speak about sexual abuse is not confined to the victims of clerical abuse but is a recognized factor in all sexual abuse situations. Studies show that people abused a long time ago are more likely never to have revealed that abuse to anybody (over 82% of men aged 70+ reducing to over 55% for men aged 18 – 29; women have a higher rate of disclosure through all age groups).²⁵

What are termed ‘corruption’ and ‘entrapment’ can inhibit a child from disclosing child sexual abuse.²⁶ Drawing children into secrets, colluding with them about what stories to tell and excuses to make, can force a child to assume some responsibility and culpability for the sexual relationship. The Inquiry was told how, in Ferns, some young boys were seduced with alcohol and pornographic material by priests, which they were then reluctant to report to their parents for fear of getting into trouble.

From speaking with victims of child sexual abuse, it appears to the Inquiry that children abused by priests, particularly during the decades prior to the increased awareness of child sexual abuse and the development of a child protection system within the Church, were notably less likely to disclose their abuse to their parents. The very powerful position of the priest in the community and the reverence with which families held him militated against the child speaking about what had happened. The dearth of guidelines and awareness programmes left these children without information or knowledge on how to get help.

The pattern of disclosure in the Diocese of Ferns shows that only a handful of cases were reported to the Diocese prior to 1990 after which the numbers increased considerably. The lack of any proper diocesan reporting system prior to 1995 and the growing public awareness of this problem must be seen as factors that led to an increase in this reporting.

Assessment and Treatment of Alleged Abusers

Professional assessment of a person’s sexual maturity, which is initially conducted over a two or three hour session by an experienced therapist, may identify unresolved sexual issues. Assessment will not identify whether a particular person has committed a particular offence but it will indicate whether further assessment or treatment is advisable. If a person admits to having a problem, assessment can help establish the extent of that problem. Difficulties arise when a person denies the activity complained of and denies the existence of a problem. A properly conducted preliminary assessment however, can significantly aid the diagnosis of sexual problems in such a person, indicating a need for more intensive assessment which may take up to a month to complete.

²⁴ SAVI Report, 2002

²⁵ SAVI Report 2002 p121 et seq

²⁶ Wyre in Itzen 2000.

Whilst the Inquiry has not conducted an in-depth analysis of Assessment and Treatment programmes, it is clear from the material made available to it that medical and psychological thinking has changed radically over the past twenty years. At one time it was believed that men who abused children were suffering from a medical disorder which was capable of being cured. From the mid-1990s onwards it was recognised that a sexual propensity for children was not something that could be cured but it was believed that it could be controlled through medication and therapy.

The overall goal of sexual abuse treatment programmes is to prevent re-offending. Important elements of treatment include establishing the pattern of behaviour that led to the abuse, the degree of acknowledgement by the perpetrator, the fantasies held and operated by him and the level of empathy for his victims displayed by him at the beginning of and during therapy. Treatment programmes also focus on the assertiveness and self-sufficiency of the abuser and can include social skills training. Work is done in one to one and group settings. A battery of psychometric tests administered at the beginning and end of the treatment seeks to establish whether there is any significant change during the process.

Treatment will typically involve a twelve-month period of intensive therapy followed by a number of years of counselling and support. No time limit is placed on the ongoing care that may be involved as it will vary from person to person.

Returning Alleged Abusers to Ministry

A propensity to abuse children is not necessarily established by a single act of abuse. This is particularly true where the abuse occurred many years previously during the youth of a perpetrator who subsequently followed a lifetime of normal behaviour. The Expert Group advised, that with his co-operation, any person with such a propensity could be treated with a reasonable prospect that after the treatment he would not repeat the abuse. Unfortunately, that measure of success could not be guaranteed. Moreover, even successful treatment did not eradicate the underlying propensity to abuse.

This pessimistic view represented a radical departure from opinions expressed by other experts up until the late 1990s when psychiatrists were prepared to recommend that priests be returned to ministry. Such recommendations were sometimes accompanied by the caveat that the priest be subject to certain restrictions on their contact with children and to monitoring, but this was not always the case.

The Expert Group could not give definitive statistics on the number of offenders who re-offend after treatment but the view was unanimous that a properly constituted treatment programme did offer the best chance of preventing further abuse. These treatment programmes have been and continue to be, widely availed of by the Diocese of Ferns for the past twenty years. They are costly both in terms of time and of money but represent the best prospect of preventing further abuse of children.

It does appear that the treatment programmes made available by the Diocese of Ferns to priests acting under its aegis are not available to the community generally because of the high cost involved. It is recognised by the Inquiry that sex abusers may be

returned to society after serving a prison sentence without receiving proper or continuing treatment.

The question has been raised as to whether Roman Catholic clergy display a greater propensity to sexually abuse children than the population as a whole. It would be impossible to give any estimate of the percentage of priests who may be abusing children, any more than it would be possible to assess the number of other professionals who may be child abusers. However, the high incidence of clerical sexual abuse of boys reported to this Inquiry and in other surveys of clerical child sexual abuse is striking.

The Expert Group was unanimous in its view that homosexuality is not a factor in increasing the risk to children. It would be seen as a factor in increasing the risk to adolescent boys but no more than a heterosexual priest would be a risk to adolescent girls. They advised that it was better to see child abuse for what it was and not focus on issues of sexual orientation or victim profile. In terms of treatment and recidivism, the sexual orientation of the child abuser makes no material difference. Mr Joseph Sullivan stated to the Inquiry: *"It's easy to make the link between someone abusing boys and being homosexual but would we call someone who sexually abuses 12 and 13 year old girls heterosexual? No we wouldn't; we'd call them a child abuser."*

The reported prevalence of child sexual abuse by religious in Ireland according to the research undertaken by SAVI²⁷ is 3.2% of all cases of child sexual abuse reported to them. It is higher for abused boys (5.8%) than abused girls (1.4%). In absolute numbers, four times as many boys as girls were reportedly abused by religious.

The number of priests that have come to the attention of this Inquiry operating under the aegis of the Diocese of Ferns and against whom allegations of child sexual abuse were made in accordance with the interpretation of the Terms of Reference of this Inquiry is 21²⁸. The Inquiry did not consider allegations received against members of religious orders or seminarians who did not proceed to ordination in the Diocese of Ferns or, against priests who, although in ministry in the Diocese of Ferns were ordained for another Diocese²⁹. A very high number of allegations of abuse referred to the period 1975 – 1985.

Mandatory Reporting

Mandatory reporting would place a legal requirement on professionals involved with the welfare of children, such as doctors or health workers, to inform Health Boards and the Gardai if they know or suspect that a child is being abused. The Law Reform Commission in 1990 argued that the obligation to report should arise when the mandated reporter *knows* or has *good reason to believe* that child abuse has occurred.

Mandatory reporting emerged as a major issue in Irish child care management in the 1990s. The Law Reform Commission Consultation Paper and the subsequent Law

²⁷ SAVI (2002)

²⁸ This figure does not include those priests outlined in the Appendix to this Report

²⁹ 248 priests were ordained in the Diocese of Ferns since 1932, the ordination date of the first priest against whom an allegation was made. There were 130 ordained priests in the diocese in 1932.

Reform Commission Report on Child Sexual Abuse 1990³⁰ favoured the enactment of legislation requiring doctors, psychiatrists, psychologists, health workers, probation officers, social workers and teachers to report to the Director of Community Care and Medical Officer of Health within the relevant Health Board, cases of suspected child sexual abuse. It must be recognised that this was a controversial recommendation and not a unanimous one on the part of the commissioners. The recommendations of the Law Reform Commission were not extended to any church or religious organisation. In any event, the recommendations of the Commission in this regard have not been given legal effect by the Oireachtas.

Following the publication of the Report of the Kilkenny Incest Investigation in 1993, the Department of Health issued a policy document in 1996 entitled "Putting Children First: A Discussion Document on Mandatory Reporting" which summarised the advantages and disadvantages of mandatory reporting and invited submissions on the subject from all interested parties. Following the consultation process, and in response to the majority view opposed to mandatory reporting, the government decided against introducing it. Instead, it proposed a revised template for the delivery of child protection services, including the appointment of an Ombudsman for Children, the appointment of child care managers, revision of the child protection guidelines, compulsory child protection polices in government funded children's services and the appointment of area child protection committees.

In 1998, the Irish government was challenged by the UN Committee on the Rights of the Child in relation to their commitment to mandatory reporting, and undertook to reconsider the matter. No further developments have occurred.

One of the concerns which arose from the recommendations for mandatory reporting was the vulnerability of reporting persons to accusations of defamation. In order to address this difficulty and make it easier for members of the public and professionals to refer their concerns to the appropriate agencies, the Oireachtas passed The Protections for Persons Reporting Child Abuse Act 1998. It gives protection from civil liability to persons who have reported child abuse unless it is *'proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.'* False reporting could result in fines up to £15,000 or a term of imprisonment up to 3 years.

The most significant feature in relation to reporting clerical child sexual abuse was the obligation voluntarily assumed by every bishop in the State who adopted the 1996 Framework Document, to report all known or suspected cases of child sexual abuse to An Garda Síochána and the Health Board. Under this document no guarantee of confidentiality can be given to a complainant. However, in the Diocese of Ferns, the diocesan delegate who is charged with the function of reporting, will respect where possible the confidentiality of a complainant and not disclose his or her identity when reporting to the State authorities where that complainant has expressed such a desire.

It is the view of the Inquiry that the maximum confidentiality should be extended to the victim consistent with achieving protection for other children at risk.

³⁰ Report on Child Sexual Abuse. LRC 32 – 1990.

The Health Boards and An Garda Síochána also have formal arrangements with regard to sharing information on child sexual abuse suspicions or complaints of which they are aware.³¹

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LEGAL AND MANAGERIAL STRUCTURES

The Ferns Inquiry examined the organisation of the Roman Catholic Church, the South Eastern Health Board and An Garda Síochána in terms of both their management structure and their legal framework. This was necessary in order to properly assess the adequacy and appropriateness of the organisational response to child sexual abuse allegations.

3.1 THE CATHOLIC CHURCH

The Church as an Organisation

The Inquiry has examined the organisation of the Catholic Church to ascertain the extent to which it is possible for the Catholic Church in general, and the Diocese of Ferns in particular, to respond to allegations, rumour or suspicion of child sexual abuse against members of the diocesan clergy.

Hierarchical Structure

The structures and organisation of the Catholic Church are governed by the Code of Canon law.

The Pope³² is the Supreme Legislator for the Catholic Church and all of its members; only he can create and change law on a universal (or worldwide) level. Many of these laws are found in legal codes or in papal decrees.³³

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Seminary Admission and Formation

The issue of how entrants to the priesthood are selected, screened and trained has been identified to this Inquiry as an area that has undergone considerable change in response *inter alia* to the crisis of child sexual abuse that has occurred in the Catholic Church in recent years.

A former dean of St Peter's seminary told the Inquiry that most clerical students were sent to St Peter's by the Bishop of Ferns, the Bishop of Down and Connor and a few by Bishops of other dioceses. Where referred by a Bishop, a candidate was not vetted before admission. Two priests described to the Inquiry that they entered the seminary in Maynooth in 1961 with absolutely no preliminary screening at all. Candidates were admitted on the basis that they had an interest in becoming a priest and their suitability was reviewed in the course of seminary training. In "Time to Listen", a lack of seminary training on the issue of sexual abuse of children by priests was particularly identified as a failing³⁷ and this has been confirmed by a number of clerical witnesses who came before this Inquiry.

Dr Conrad Baars, a psychiatrist with many years experience in treating priests, presented a research paper to the 1971 Synod of Bishops in Rome in which he identified emotional and psychosexual immaturity, which manifested itself in hetero- or homosexual activity, as a serious problem for ordained priests. This research was confirmed by subsequent studies and in 1976, Fr Eugene Kennedy, in a comprehensive study commissioned by the National Conference of Catholic Bishops, found that a significant number of American priests were emotionally or psychologically underdeveloped.

Fr Kennedy reported that the underdeveloped priests were generally "allowed" to maintain inappropriate or even destructive behaviour patterns or lifestyles due to a lack of adequate and effective guidance and supervision. Any mentoring of young priests centred on the performance of their priestly duties and did not focus on their total human development.

The Inquiry understands from senior staff members who were in St Peter's at the time, that at the time when Fr Sean Fortune entered the seminary (1973), no screening of those candidates recommended by their Bishops occurred. The Inquiry understands that Fr Sean Fortune was not himself sponsored by a Bishop when he entered St Peter's but was subsequently adopted by the Diocese of Ferns. His attendance at a Christian Brother Juniorate immediately prior to his attendance at St. Peter's allowed him to enter the seminary without assessment. The Inquiry has seen extensive questionnaires completed by serving members of the clergy who monitored Sean Fortune during summer placements whilst he was still a seminarian. Whilst serious personality defects were identified by some of these assessments, there was no identification of any sexual problems at that time. Nevertheless, the Inquiry is satisfied that Sean Fortune did engage in child sexual abuse during his years as a seminarian and in spite of clear warning signs from his own behaviour apart from any warnings that may have been communicated to the authorities in St Peter's, this did not prevent his ordination.

³⁷ "Time to Listen" p61

Similarly, grave doubts were expressed about Fr James Doyle's suitability for the Diocesan priesthood but his ordination was proceeded with in spite of this.

Norms for Priestly Training in Ireland were promulgated by the Episcopal Conference in 1973 and they stated:

32. As far as possible the suitability of a candidate for a seminary should be assessed before admission.....

A thorough medical examination should be made.....

A thorough psychological assessment should also be made, before acceptance if possible, otherwise shortly after, to ascertain whether he has the necessary qualities of personality for exercising the duties and sustaining the obligations of the life he has chosen as well as to help him with his own development.

34 Each student's position should, with his own cooperation, be kept under review so that a student unsuited to the priesthood may be enabled as soon as possible to recognise this fact, and may be helped to choose another state in life.

The Inquiry has spoken to former presidents, deans and senior staff members in St Peter's and examined files furnished to the Inquiry in respect of priests who attended the college who were accused of child sexual abuse. The Inquiry could not identify any reference to these norms or their implementation in St Peter's. Had they been properly implemented, it is difficult to understand how the ordinations of clearly unsuitable men were allowed to proceed.

The Inquiry has been informed that from the early 1980s more emphasis was placed on the personal development of seminarians in St. Peters, and in 1988 a stringent interview process was introduced prior to admission of all candidates. A course on personal formation given by qualified psychologists was also introduced from 1989.

Current Selection Procedures for Maynooth Seminary

All candidates for the diocesan priesthood in Ireland now attend seminary training in Maynooth College in Kildare or in the Irish College in Rome. The Inquiry is indebted to Monsignor Dermot Farrell, President, St Patrick's College Maynooth, who offered a full account of the present arrangements regarding seminary admission to Maynooth. Monsignor Farrell first pointed out that it was the primary responsibility and task of a Bishop to examine the suitability of candidates for the priesthood and to select them (Can. 241). The canonical requirements governing the admission of candidates to the seminary state that "*the Diocesan Bishop is to admit to the major seminary only those whose human, moral, spiritual and intellectual gifts as well as physical and psychological health and right intention, show that they are capable of dedicating themselves permanently to the sacred ministries*". The Inquiry notes that this canonical power is now exercised with the assistance of professional advice.

In practical terms the Inquiry is informed that it is considered necessary to consider the following areas when assessing the suitability of seminarians:

- *Life and family history;*
- *Age: a candidate must be at least eighteen years old;*
- *Faith History: there must be a reasonably clear understanding of the priesthood;*
- *Capacity for Friendship: candidate must relate to men and women in a healthy way;*
- *Academic Suitability: he should have passed five subjects in his Leaving Certificate;*
- *Sexual History;*
- *Medical History;*
- *Transfer between Seminaries.*

With regard to sexual history the following issues are addressed:

- *An applicant who has been in a prior relationship should have concluded that relationship and have allowed for a significant period of time before being accepted by a Diocese. In the case of a candidate who has had a sexual relationship (heterosexual), a substantial period of celibate living should precede entry into the seminary;*
- *In a recently expressed judgement of the Congregation for Divine Worship and Discipline of the Sacraments, the Cardinal Prefect stated "The ordination to the Diaconate or to the priesthood of homosexual persons or those with a homosexual tendency is absolutely inadvisable and imprudent and, from a pastoral point of view, very risky... A person who is homosexual or who has homosexual tendencies is not, therefore, suitable to receive the sacrament of sacred orders." (Congregations Bulletin, December 2002). According to Dr Farrell, the College in Maynooth accepts the force of this reasoning and advice;*
- *If it becomes known that a seminarian is engaging in physical genital activity with another person while he is in formation, he is asked to leave immediately. Certain other kinds of behaviour are also inconsistent with celibate chastity e.g. engaging in flirtatious or seductive behaviour and dating. It goes without saying that being in possession of, or accessing, pornographic material (whether print, video, electronic, digital etc.) is completely incompatible with being a seminarian. It is also unacceptable to participate in or to advocate the gay subculture by which is meant allowing a seminarian to define his personality, outlook or self-understanding by virtue of same-sex attraction;*
- *Insofar as it is possible to determine, the older applicant should have achieved a successful integration of his sexuality and the younger applicant should have the capacity for such integration. Where there are clear contrary indications, the applicant should not be accepted;*
- *A competent person should take a full history of the candidate. Particular attention should be paid to the presence of sexual abuse, sexual acting out or sexual orientation problems etc;*
- *The child protection policy as set down by the Episcopal Conference should be fully complied with.*

Dr Farrell informed the Inquiry that Maynooth College recommends strongly that the bishop should consider a psychological assessment as an integral part of the admission procedure; it is the understanding of the Inquiry that this is generally done.

St Peter's seminary introduced such a screening process in 1988. This psychological assessment – a combination of written tests and interview – should be carried out during the initial selection process by a trained psychologist who is chosen by the individual bishop or diocese and again during the formation of the student. In addition, Maynooth College has for many years employed a trained counsellor whose ministry includes assisting candidates with their personal and emotional development for priesthood. If, for a just reason, a psychologist or a psychiatrist is required to furnish a certificate of a candidate's state of psychological health (can. 1051:1), one is called in from outside the seminary.

According to Dr Farrell, the past four decades have seen considerable development in the Church's approach to assessing and screening candidates for entry to seminary. The Conciliar document *Optatam Totius*, dealing expressly with the priesthood, outlines a broad range of criteria, which should be taken into consideration before accepting candidates: "*Each candidate should be subjected to vigilant and careful inquiry, keeping in mind his age and development, concerning his right intention and freedom of choice, his spiritual, moral and intellectual fitness, adequate physical and mental health and possible hereditary traits. Account should also be taken of the candidate's capacity for undertaking the obligations of the priesthood and carrying out his pastoral duties*". (OC III 6, 1965)

Less than a decade later, the magisterial documents began to advert to the need to carry out admission and selection procedures in "*accordance with modern psychological diagnosis*" but "*without losing sight of the complexities of human influences on an individual*" (*Directorium* Congregation for Catholic Education (#38/1974). This reference to the admissibility of recourse to psychology is gradually strengthened until eventually it is described by the *Ratio Fundamentalis Institutionis Sacerdotalis* (1985) as a resource which "*as a general rule*" should be availed of whenever the case merits.

Five years later the Holy See advised that candidates accepted for seminary should already display a "*balanced affectivity – especially a sexual balance which presupposes an acceptance of the other*". It reaffirmed that psychological assessments could play a useful role here.

These insights were incorporated into the *Irish Bishops Document of Child sexual Abuse: Framework for a Church Response* (1996). It states that the "*screening of candidates should normally include a full psychological assessment by an experienced psychologist well versed in and supportive of the Church's expectations for the priesthood and religious life, especially in regard to celibacy*".

Thus, much has changed in the screening process and in the overall formation of seminarians in the aftermath of the Second Vatican Council. Today a much greater emphasis is placed on screening for men who are able to live a life of chaste celibacy. In order to ensure that candidates possess the psycho-sexual-socio maturity necessary for priests today, Maynooth College has been providing more resources for students, which is a vast contrast to the situation 40 years ago. Celibacy formation is integrated into the entire seminary programme through conferences, formal lectures and advice from formation personnel, spiritual direction and the fulltime availability of professional counselling.

What it is clear from the foregoing is that celibacy and the ability of young men to live chaste celibate lives was one of the major issues addressed by church authorities in dealing with the growing problem of child sexual abuse within the Church.

Celibacy is the state of being unmarried. Chastity is the avoidance of all sexual activity outside the married state.³⁸ For a Roman Catholic priest, a vow of celibacy must also include a vow of chastity.

It must be remembered that the vow of celibacy taken by a priest is a conscious spiritual decision reinforced by prayer and faith. It is a vow that is sincerely meant in the majority of cases. If a man wishes to live his life as a Latin rite Roman Catholic priest, a vow of celibacy is mandatory.

The Expert Group was unanimous in its view that the vow of celibacy contributed to the problem of child sexual abuse in the Church. There have been important changes brought about in seminary selection and training with regard to assessing the suitability of men to adhere to a celibate lifestyle and to provide ongoing support in this regard. The Inquiry believes that such changes represent a response on the part of Church authorities to the growing awareness of the problem of clerical child sexual abuse.

Dr Patrick Randles, a senior therapist with the Granada Institute, is experienced in the assessment of candidates. He commented that in the past the standard of evaluation by psychologists had been quite variable and that for some it was a very quick assessment which sought to establish whether a candidate suffered from specific psychopathology. More recently according to Dr Randles, religious orders and dioceses have become more demanding with regard to the comprehensiveness they expect from an assessment. There is no definitive test which would assess a person's suitability for priesthood; although it is possible to identify psychological factors which would indicate unsuitability.

Mr Joseph Sullivan, formerly of The Lucy Faithful Foundation in Nottingham, pointed out that in the course of his research, he conducted a study of 41 professionals who had all been referred to him because of child abuse. Of these, 92.5 per cent said that they were aware by the time they were 21 years of age, that they had a sexual interest in children. This would indicate that when these men made the final step into their profession or vocation, they were aware of their attraction to children and this attraction was a motivating factor in their choice of career. It would, of course, be of vital importance if this attraction could be identified prior to their achieving a qualification that gave them access to children. Regrettably, the current state of knowledge in this area does not make it possible to assess with any degree of certainty whether a man was likely to be a child abuser. What can be assessed however is the level of maturity and awareness that a person has in respect of his or her sexuality. A sexually immature man may be a potential risk to children.

³⁸ Walsh, H. A., "Mandatory Celibacy and Sexual Ethics in the Latin Rite of the Roman Catholic Church" *Electronic Journal of Human Sexuality*. Vol. 2, Feb 6, 1999.

Whilst the rigorous standards now in place in Maynooth would be of assistance in ensuring that only men who are emotionally, intellectually and sexually mature are admitted for ordination, the reality is that very few diocesan priests are ordained in Ireland in any year. Increasingly, parishes are welcoming priests ordained abroad to replace retiring clergy. Priests who are ordained in seminaries outside Ireland should be subjected to the same level of assessment as has been undertaken by seminaries such as Maynooth.

Canon law

The right of a religious denomination to regulate its own affairs is recognised by Article 44.2.5 of the 1937 Constitution of Ireland, which states: "*Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, moveable and immoveable, and maintain institutions for religious or charitable purposes*".

Until its amendment in 1973, Article 44.1.2 of the Constitution referred to the special position of the Catholic Church in Ireland. The removal of this provision by referendum means that the Catholic Church in Ireland now stands equally with all other religious denominations in the State and enjoys the same constitutional guarantee of freedom and no more.

Vatican Council II tackled the matter of Church/State relations in Chapter IV of Part II of the Pastoral Constitution on the Church in Today's World, *Gaudium et Spes*. Catholic teaching in this area emphasises the principle that the temporal and the religious are two distinct competences with respective powers and faculties. It is summarised in *Gaudium et Spes* as follows: "*The political community and the Church are autonomous and independent of each other in their own fields.*"

Canon law has a long history, having its roots in the Old and especially the New Testament. Various connections of norms can be found during the first three centuries of the Christian era (e.g., the didascalia). In the 6th century, the Emperor Justinian compiled collections of law, to be called the *Corpus Iuris Civilis*, which included some Canonical norms. After the Dark Ages this work inspired Canonists to collect and organise many earlier collections of Canonical norms and so to form material for the *Corpus Iuris Canonici* which was the standard for Canonists from the Middle Ages until Pope Benedict XV promulgated the first Code of Canon law in 1917 following the model of the Napoleonic Code. After the reform of the Second Vatican Council, Pope John Paul II promulgated the revised Code of Canon law for the Latin Church in 1983.

The Irish legal system recognises Canon law as a scientific legal system and body of law, both substantive and adjective. It is a body of rules emanating from a legislative authority for the ordering of the conduct, regulating the social and domestic relations and punishing the disobedience of those who recognise that authority, and which speaks and gives judgement through its own tribunals. Canon law regulates the relationship between a Bishop and a priest of his diocese. As both Bishop and priest, by their ordination agree to be bound by Canon law, the relationship between them might be seen, in practical terms, as consisting of a contract comprising the material provisions of Canon law. The strict legal position is otherwise. Both parties are seen

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The **College of Bishops** is also the subject of supreme power in the Church but only in union with the Roman Pontiff. The College of Bishops exercises its power over the universal Church in Ecumenical Council. Its decrees do not oblige unless approved by the Roman Pontiff.

A **Diocese** is a portion of the faithful, normally but not exclusively in a given territory, which is entrusted to the pastoral and spiritual care of the Bishop, with the co-operation of his priests. The **Bishop** acts as a vicar of Christ in his diocese and not as a vicar of the Pope; he does not act as a delegate of a higher authority and he can exercise his power personally and directly for the benefit of the people entrusted to his care. A Bishop can make "particular law" for his subjects as long as this law is in harmony with the universal law of the Church and/or divine law.

"The diocesan bishop governs the particular Church entrusted to him with legislative, executive and judicial power, in accordance with the law" (Can. 391.1). The Bishop exercises legislative power himself. He exercises executive power either personally or through vicars general or episcopal vicars, in accordance with the law. He exercises judicial power either personally or through a judicial vicar and judges, in accordance with law.³⁴ Bishops may consult with senior clerics in his diocese but ultimately all decisions rest with the Bishop who is not bound by any advice received.

There are 26 dioceses in Ireland and 33 bishops. These bishops meet as **The Irish Episcopal Conference** four times a year. Bishops are not bound in law or convention by decisions of the Episcopal Conference which cannot usurp the proper authority of the bishop to govern his diocese. The bishops are bound only when the Episcopal Conference issues a norm in those cases where the Code of Canon law expressly gives the Conference the authority to do so or when it has been authorised by the Holy See. Alternatively, the Episcopal Conference may request the Holy See to give "recognitio" to any new norms it may wish to be binding in all dioceses in Ireland. It is noteworthy that the Framework Document setting out guidelines for the handling of child sexual abuse in dioceses in Ireland, which was passed by the Bishops' Conference in 1996, has not been given a "recognitio" by the Holy See to date and has, therefore, no legal status under Canon law.

The Inquiry has been advised by Canon lawyers that a bishop in his diocese is autonomous and every Bishop is accountable directly only to the Holy See. A Bishop makes a yearly report to Rome and every five years visits Rome to make an "Ad Limina" or "Quinquennial" report. Specific questions, confidential issues or problems are discussed with the relevant Congregation in Rome, such as, for example the Congregation of Clergy or the Congregation for the Doctrine of the Faith. The quinquennial and annual statistical reports contain little information about the day to day running of a diocese and there is no overview of a Bishop's performance.

The supervisory role of an **Archbishop** (metropolitan) has been described by canon lawyers as "very very minor". Interventions by metropolitans, though rare, do occur occasionally. This is particularly the case where a concern arises involving the

Canon 333.3: There is neither appeal nor recourse against a judgement or decree of the Roman Pontiff.

³⁴ Canon 391.2

behaviour of a Bishop. The metropolitan with responsibility for the Diocese of Ferns is the Archbishop of Dublin.

The Bishop must appoint a **Vicar General** to assist him in the governance of the whole diocese and to deputise in his absence. His authority is the same as that of a bishop although it must be exercised in the name of the Bishop. **Vicars Forane** or **Deans** may also be appointed by the Bishop. Their function is to see that clerics in their district lead a life befitting their state and that spiritual assistance is available to them. According to the Inquiry's interpretation of Canon law one of the primary functions of the vicar forane is to ease the administrative burden of the Bishop; it is not the function of the vicar forane to make decisions on his behalf.

Canon law requires the establishment of a **Council of Priests** to assist the Bishop in the governance of the diocese by providing advice and information to him when requested to do so or when required by law.

The Bishop is the proper pastor of the diocese as a whole; **the parish priest** is the proper pastor of the parish, under the authority of the Bishop. Although Canon law describes the parish priest as answerable to the Bishop, he is not simply his delegate but enjoys ordinary authority within his parish.

The appointment of a parish priest is the function of the diocesan Bishop. In practice in Ireland, such an appointment is on the basis of seniority unless a priest has provided particular services to the Diocese in education or advisory matters in which case he would be considered for early appointment to a parish.

The diocesan Bishop may freely appoint an **assistant priest or curate** (Can. 547) after consulting with parish priests or the vicar forane where he deems it appropriate. The assistant priest or curate is required "*by common counsel and effort with the parish priest and under his authority, to labour in the pastoral ministry*"³⁵.

In 'Time to Listen' priests identified the hierarchical structure of the Church as an impediment to dealing effectively with the problem of clerical child sexual abuse. Priests are answerable to their Bishop who in turn is answerable only to the Pope. There is no prescribed middle management as would be found in most other organisations.

Priests have a duty of obedience to and respect for their Bishop. Part of the Oath of Freedom and Knowledge taken by every diocesan priest at his ordination states "*I bind myself to carry out with devotion, according to the laws of the Church, all that my superiors may command, or the service of the Church may ask*". However, in the day to day running of his parish, a priest is not subject to either direct control or monitoring by his Bishop and this has been a crucial factor in the ability of certain priests to apparently continue sexually abusive behaviour undetected for many years. The present Apostolic Administrator in Ferns, as discussed below, has attempted to address this issue.

³⁵ Canon 545.1

Overview of the Diocese of Ferns

The Diocese of Ferns was founded in 598 AD by St Maodhóg (Aidan). It now consists of 49 parishes covering most of Co Wexford and parts of Co Wicklow. It stretches in the north from Annacurra outside Aughrim to the south at Fethard-on-Sea. There were 133 Ferns diocesan priests in 2005. 92 of them hold appointments with the Diocese and 11 outside the Diocese. There are 18 retired priests, 8 priests out of ministry and 4 on sabbatical leave. The Diocese has a Catholic population of between 105,000 and 110,000. This increases to over 150,000 during the holiday period between May and September, mainly due to an influx of visitors to holiday homes, hotels and caravan parks.

The general structure of a Roman Catholic parish in Ireland means that a curate would report directly to his parish priest and the parish priest would report directly to his bishop. The Diocese of Ferns has a particular structure going back to famine times, which treats curacies as what are termed "half parishes". This arose from a decision of the Bishop at the time that each community where there was a church should have a priest resident in it. All of the 92 priests who are in active ministry in the Diocese of Ferns report directly to the bishop rather than through a parish priest. During the 1980s there were over 150 priests ministering in the Diocese at any one time.

Administration in the Diocese.

The administrative resources available to the Bishop of Ferns are extremely modest. During the episcopacy of Bishop Herlihy (October 1964-April 1983), the Bishop was assisted by one priest who acted as his liturgical master of ceremonies, his secretary and his driver. The Bishop dealt personally with the majority of correspondence and kept few copies or records of any description. Some changes were introduced by Bishop Comiskey on his appointment in April 1984. (An administrator, Monsignor Shiggins, was appointed between May 1983 and April 1984 pending the appointment of the new Bishop). He retained his secretary who was a layperson who had worked for him when he was auxiliary Bishop in Dublin in addition to Fr Tommy Brennan who as diocesan secretary carried out clerical duties as well as acting as liturgical master of ceremonies.

A small but revealing fact is that within a week of arriving in Wexford, Bishop Comiskey's secretary purchased a filing cabinet in order to establish a personal file on priests in the Diocese. Forms were created and circulated inviting all diocesan priests to provide more detailed information than that which had previously been available to the Bishop. Bishop Comiskey informed the Inquiry, and other witnesses confirmed, that the only documents which he received in relation to the priests of the diocese would have numbered less than twenty and would have fitted into a shoe box. Although the Inquiry believes the documentation was more numerous than that, it is clear that the records were inadequate and that this inadequacy was apparent to Bishop Comiskey whose many qualifications include a degree in management studies.

In practice, the day to day administration of the ministry within a parish traditionally has not called for or received the intervention of the bishop. Contact with the parish priest was limited and contact with a curate was even less frequent.

Bishop Comiskey, though not himself a priest of the diocese, was warmly received as a young, energetic and progressive Bishop and arranged meetings with all of his priests. Those who worked closest to Bishop Comiskey spoke highly of his ability and energy but did recognise that he developed – as he publicly recognised – a serious problem with alcohol abuse. This problem and the associated depression resulted in his absence from the diocese for significant periods of time and even when he was present, it unquestionably affected his capacity to deal with the many problems which were placed before him.

Management of the Diocese

The bishop is free to organise the day-to-day running of his diocese as he sees fit, provided he operates within Canon law. As a consequence, it was reported to the Inquiry that the way in which a Bishop managed his diocese was to a certain extent dependent on the personality of the individual Bishop. This is due to the absence of common formal management systems and procedures across dioceses. In addition, there is no central authority in Ireland to whom individual Bishops are accountable or to which they can turn for advice or support. Bishops are not obliged to follow the advice of the Episcopal Conference which has no supervisory role over them.

This is an important point given the Terms of Reference of this Inquiry: until the 1996 Framework Document, there was no uniform system in Ireland for dealing with allegations of child sexual abuse. Each Bishop had to formulate his own approach to this problem within the context of the Canon law. As will be outlined below, there was no clear guidance on the correct application of Canon law to priests who offended, particularly those priests against whom no criminal conviction had been secured and who were denying the allegations. The diocesan response must be seen in the context of such a managerial structure. Even since the publication of the Framework Document, the application of the Guidelines and in particular the threshold at which the Guidelines are activated is a matter for individual Bishops acting alone. This Inquiry recommends that where such a body exists in a diocese, Bishops should consult **the Inter-agency Review Committee**³⁶ when making these decisions in future.

It is not the role of this Inquiry to comment in any way on the adequacy or otherwise of the management structure in the Diocese. Rather, its function is to identify what those management structures are and indicate where they have an impact on the church response to allegations of child sexual abuse.

It is evident to the Inquiry that since his appointment, Bishop Eamonn Walsh has adopted an active managerial approach to identifying and dealing with allegations of clerical sexual abuse of children. The priority he accorded to child protection is striking, as is the effort he put into communicating with all parties involved. The Inquiry hopes that such an approach and practice is formally adopted as management practice for the future, but is concerned that another Bishop appointed to the Diocese of Ferns would be free to adopt an alternative course of action. The Inquiry welcomes the introduction of a more active middle-management role for the vicars forane in

³⁶ See p 42

supervising and monitoring the priests of the diocese, so that issues of child protection can be addressed efficiently and in a transparent way.

Priests undergo lengthy seminary training which should equip them to operate without a high degree of supervision in everyday matters. Under Canon law, such a supervisory role is not provided for but neither is it prohibited. However, it has been stated to the Inquiry that the practice of curates reporting directly to Bishops as occurs in the Diocese of Ferns has, in the past, left them feeling isolated, unsupported and unsupervised in a role for which many of them felt ill-prepared. Effectively, a Bishop only intervened when a complaint was made about a curate. Priests with free access to children and vulnerable adults operated under a structure with no supervisory provision. Priests have described to the Inquiry a culture which did not encourage reporting of complaints, rumour or suspicion against fellow priests to any diocesan authority.

In recognition of this, church authorities are developing norms of behaviour for priests in their interaction with children which will allow a measure of supervision by peers, the community and their bishop. In the context of this Inquiry, professional standards are particularly directed to ensuring that activities, relationships or conduct which might imperil the safety or welfare of children be avoided. In addition, it is necessary that colleagues and the community generally would know of these standards, recognise any departure from them and have a transparent procedure for making complaints where transgressions occur.

The Inquiry endorses the recommendation in 'Time to Listen' that Bishops should receive leadership and management training to enable them to fulfil their managerial role.

The Church has a responsibility to ensure that systems are in place to protect the congregation served by its priests and to ensure accountability of each priest to his bishop. The Inquiry is informed that the Apostolic Administrator or the Vicars of the Diocese of Ferns have established a number of methods for ensuring that priests are supported and accountable in the Diocese. These include:

- a. Priests ordained less than five years meet on an on-going basis with members of the Diocesan Vocations Committee. The primary role of these meetings is to be supportive of newly ordained priests and to monitor their responses to the challenges and opportunities that their new roles bring.
- b. The practice for some years now has been to appoint newly ordained priests to town parishes where they live with other priests and take on an established role with specified duties. Their work there is overseen by the parish priest or administrator with whom they work, and in all cases either live beside or with other priests.
- c.
- d. The diocesan offices provide to priests updates of procedures on a regular basis regarding aspects of their ministry, such as school management, celebration of sacraments, child protection policy and code of conduct, on-going education of those administering, missionary and development activities

of the church, property and financial matters. Adherence to approved procedures and norms is expected and the policies and codes guide the diocesan response where problems arise.

- e. The vicars forane are asked to individually meet with the priests of his area yearly and more regularly where appropriate, to enquire as to the priest's outlook and well being, his current appointments and so forth. The vicar briefs the apostolic administrator on any matter giving rise to concern.
- f. Regular meetings of the vicars with the apostolic administrator occur, at which matters relating to parishes and priests are discussed and addressed.
- g. Retreats and seminars are organised for priests. At these seminars, current issues are addressed and specialised topics are examined.

The Inquiry did not conduct an in-depth analysis on whether the way in which diocesan priests lived and worked was a contributory factor in the apparently high number of priests who abused children in the Diocese of Ferns over the past thirty years. The Expert Group and individual priests spoken to by the Inquiry did identify the relative loneliness and isolation of the diocesan priesthood as presenting particular challenges for young men. It would appear to the Inquiry that this difficulty is now being responded to by Church authorities in Ferns.

In the absence of regular meetings and performance reviews between priests and their bishop, the flow of information in the Diocese during the episcopacy of Bishop Brendan Comiskey was necessarily irregular and unsystematic. A Bishop is to a large extent dependent upon information provided by his priests or by parishioners and the Inquiry would identify the lack of a formal system of communication in the Diocese as a contributory factor to an inadequate response on the part of the diocesan authorities to child sexual abuse.

Bishop Comiskey complained that the priests of the Diocese were reluctant to inform him of information or suspicions which they had in relation to child sexual abuse by their colleagues. The Inquiry did hear evidence which supported this concern. The failure to communicate with the Bishop was a particular problem as Bishop Comiskey was new to the Diocese and did not have the benefit of a network of informal contacts who might have briefed him on issues of importance to his ministry.

However, where complaints were made by either victims or parishioners, they were not handled in a sensitive or supportive manner which led to further hurt and alienation for the complainant.

St Peter's College

All the priests who are the principal subject matter of this Inquiry were ordained for the Diocese of Ferns. The majority of them attended seminary training at St Peter's College, Wexford, with a few attending Maynooth College in Kildare.

St. Peter's boarding school closed in 1997 and the seminary closed in 1998. It is now a secondary day school for boys. The Inquiry would like to emphasise that the events

discussed in this Report are not a reflection on the standards pertaining in St Peter's College at present.

The situation in St. Peter's College was understandably raised as a matter of concern in the Birmingham Report. It is established that Fr Donal Collins who was a distinguished teacher in St. Peter's from 1964 and who was Vice President from 1983 until 1988 and Principal from 1988 to 1991, consistently abused boys over a twenty-year period.

This Inquiry has heard other serious allegations of child sexual abuse against priests who were associated with St Peter's either as seminary students or members of the teaching staff. Many of these priests allegedly went on to abuse in parishes in the diocese after leaving St Peter's.

Within a random 5-year period selected by the Inquiry, for example, 10 priests who were in St Peter's have come to the attention of this Inquiry as being the subject of child sexual abuse allegations.

St Peter's College campus, which included the seminary, the boarding school and the day secondary school, was headed by a President who was a senior cleric appointed by the Bishop of Ferns.

This Inquiry has heard very little evidence from either pupils or staff members of St Peter's relating to the period before the 1960s. Those who did speak recalled an era, which was not unusual in Ireland at that time, of rigid and austere discipline where minor indiscretions were met with severe punishment. St Peter's secondary school enjoyed an extremely good national reputation both academically and on the sports field.

Priests who spoke to this Inquiry about their time in St Peter's both as secondary school pupils and seminarians during the 1960s, 1970s and 1980s, stated that they had no knowledge or awareness of sexual activity during their time there. This was a view also expressed by some laymen who were past pupils of the school. However, some pupils and a lay staff member who were present during that time have expressed a different view and have described an environment with a relatively high level of sexual activity both with adults and children. A member of a religious order who spoke to the Inquiry also recalled a high level of sexual activity but did not recall child sexual abuse as being a problem at that time.

One of the questions asked of this Inquiry is whether there is any evidence of a paedophile ring in St Peter's. A paedophile ring may be said to exist where a number of adults share victims with each other. This Inquiry has found no such evidence. None of the complainants who presented evidence directly to this Inquiry or to An Garda Síochána, the Health Board or the Diocese has indicated that he or she was, at any time, introduced to or abused by another priest at the instigation of the priest against whom his or her complaint was made.

Seminary Admission and Formation

The issue of how entrants to the priesthood are selected, screened and trained has been identified to this Inquiry as an area that has undergone considerable change in response *inter alia* to the crisis of child sexual abuse that has occurred in the Catholic Church in recent years.

A former dean of St Peter's seminary told the Inquiry that most clerical students were sent to St Peter's by the Bishop of Ferns, the Bishop of Down and Connor and a few by Bishops of other dioceses. Where referred by a Bishop, a candidate was not vetted before admission. Two priests described to the Inquiry that they entered the seminary in Maynooth in 1961 with absolutely no preliminary screening at all. Candidates were admitted on the basis that they had an interest in becoming a priest and their suitability was reviewed in the course of seminary training. In "Time to Listen", a lack of seminary training on the issue of sexual abuse of children by priests was particularly identified as a failing³⁷ and this has been confirmed by a number of clerical witnesses who came before this Inquiry.

Dr Conrad Baars, a psychiatrist with many years experience in treating priests, presented a research paper to the 1971 Synod of Bishops in Rome in which he identified emotional and psychosexual immaturity, which manifested itself in hetero- or homosexual activity, as a serious problem for ordained priests. This research was confirmed by subsequent studies and in 1976, Fr Eugene Kennedy, in a comprehensive study commissioned by the National Conference of Catholic Bishops, found that a significant number of American priests were emotionally or psychologically underdeveloped.

Fr Kennedy reported that the underdeveloped priests were generally "allowed" to maintain inappropriate or even destructive behaviour patterns or lifestyles due to a lack of adequate and effective guidance and supervision. Any mentoring of young priests centred on the performance of their priestly duties and did not focus on their total human development.

The Inquiry understands from senior staff members who were in St Peter's at the time, that at the time when Fr Sean Fortune entered the seminary (1973), no screening of those candidates recommended by their Bishops occurred. The Inquiry understands that Fr Sean Fortune was not himself sponsored by a Bishop when he entered St Peter's but was subsequently adopted by the Diocese of Ferns. His attendance at a Christian Brother Juniorate immediately prior to his attendance at St. Peter's allowed him to enter the seminary without assessment. The Inquiry has seen extensive questionnaires completed by serving members of the clergy who monitored Sean Fortune during summer placements whilst he was still a seminarian. Whilst serious personality defects were identified by some of these assessments, there was no identification of any sexual problems at that time. Nevertheless, the Inquiry is satisfied that Sean Fortune did engage in child sexual abuse during his years as a seminarian and in spite of clear warning signs from his own behaviour apart from any warnings that may have been communicated to the authorities in St Peter's, this did not prevent his ordination.

³⁷ "Time to Listen" p61

Similarly, grave doubts were expressed about Fr James Doyle's suitability for the Diocesan priesthood but his ordination was proceeded with in spite of this.

Norms for Priestly Training in Ireland were promulgated by the Episcopal Conference in 1973 and they stated:

32. As far as possible the suitability of a candidate for a seminary should be assessed before admission.....

A thorough medical examination should be made.....

A thorough psychological assessment should also be made, before acceptance if possible, otherwise shortly after, to ascertain whether he has the necessary qualities of personality for exercising the duties and sustaining the obligations of the life he has chosen as well as to help him with his own development.

34 Each student's position should, with his own cooperation, be kept under review so that a student unsuited to the priesthood may be enabled as soon as possible to recognise this fact, and may be helped to choose another state in life.

The Inquiry has spoken to former presidents, deans and senior staff members in St Peter's and examined files furnished to the Inquiry in respect of priests who attended the college who were accused of child sexual abuse. The Inquiry could not identify any reference to these norms or their implementation in St Peter's. Had they been properly implemented, it is difficult to understand how the ordinations of clearly unsuitable men were allowed to proceed.

The Inquiry has been informed that from the early 1980s more emphasis was placed on the personal development of seminarians in St. Peters, and in 1988 a stringent interview process was introduced prior to admission of all candidates. A course on personal formation given by qualified psychologists was also introduced from 1989.

Current Selection Procedures for Maynooth Seminary

All candidates for the diocesan priesthood in Ireland now attend seminary training in Maynooth College in Kildare or in the Irish College in Rome. The Inquiry is indebted to Monsignor Dermot Farrell, President, St Patrick's College Maynooth, who offered a full account of the present arrangements regarding seminary admission to Maynooth. Monsignor Farrell first pointed out that it was the primary responsibility and task of a Bishop to examine the suitability of candidates for the priesthood and to select them (Can. 241). The canonical requirements governing the admission of candidates to the seminary state that "*the Diocesan Bishop is to admit to the major seminary only those whose human, moral, spiritual and intellectual gifts as well as physical and psychological health and right intention, show that they are capable of dedicating themselves permanently to the sacred ministries*". The Inquiry notes that this canonical power is now exercised with the assistance of professional advice.

In practical terms the Inquiry is informed that it is considered necessary to consider the following areas when assessing the suitability of seminarians:

- *Life and family history;*
- *Age: a candidate must be at least eighteen years old;*
- *Faith History: there must be a reasonably clear understanding of the priesthood;*
- *Capacity for Friendship: candidate must relate to men and women in a healthy way;*
- *Academic Suitability: he should have passed five subjects in his Leaving Certificate;*
- *Sexual History;*
- *Medical History;*
- *Transfer between Seminaries.*

With regard to sexual history the following issues are addressed:

- *An applicant who has been in a prior relationship should have concluded that relationship and have allowed for a significant period of time before being accepted by a Diocese. In the case of a candidate who has had a sexual relationship (heterosexual), a substantial period of celibate living should precede entry into the seminary;*
- *In a recently expressed judgement of the Congregation for Divine Worship and Discipline of the Sacraments, the Cardinal Prefect stated "The ordination to the Diaconate or to the priesthood of homosexual persons or those with a homosexual tendency is absolutely inadvisable and imprudent and, from a pastoral point of view, very risky... A person who is homosexual or who has homosexual tendencies is not, therefore, suitable to receive the sacrament of sacred orders." (Congregations Bulletin, December 2002). According to Dr Farrell, the College in Maynooth accepts the force of this reasoning and advice;*
- *If it becomes known that a seminarian is engaging in physical genital activity with another person while he is in formation, he is asked to leave immediately. Certain other kinds of behaviour are also inconsistent with celibate chastity e.g. engaging in flirtatious or seductive behaviour and dating. It goes without saying that being in possession of, or accessing, pornographic material (whether print, video, electronic, digital etc.) is completely incompatible with being a seminarian. It is also unacceptable to participate in or to advocate the gay subculture by which is meant allowing a seminarian to define his personality, outlook or self-understanding by virtue of same-sex attraction;*
- *Insofar as it is possible to determine, the older applicant should have achieved a successful integration of his sexuality and the younger applicant should have the capacity for such integration. Where there are clear contrary indications, the applicant should not be accepted;*
- *A competent person should take a full history of the candidate. Particular attention should be paid to the presence of sexual abuse, sexual acting out or sexual orientation problems etc;*
- *The child protection policy as set down by the Episcopal Conference should be fully complied with.*

Dr Farrell informed the Inquiry that Maynooth College recommends strongly that the bishop should consider a psychological assessment as an integral part of the admission procedure; it is the understanding of the Inquiry that this is generally done.

St Peter's seminary introduced such a screening process in 1988. This psychological assessment – a combination of written tests and interview – should be carried out during the initial selection process by a trained psychologist who is chosen by the individual bishop or diocese and again during the formation of the student. In addition, Maynooth College has for many years employed a trained counsellor whose ministry includes assisting candidates with their personal and emotional development for priesthood. If, for a just reason, a psychologist or a psychiatrist is required to furnish a certificate of a candidate's state of psychological health (can. 1051:1), one is called in from outside the seminary.

According to Dr Farrell, the past four decades have seen considerable development in the Church's approach to assessing and screening candidates for entry to seminary. The Conciliar document *Optatam Totius*, dealing expressly with the priesthood, outlines a broad range of criteria, which should be taken into consideration before accepting candidates: "*Each candidate should be subjected to vigilant and careful inquiry, keeping in mind his age and development, concerning his right intention and freedom of choice, his spiritual, moral and intellectual fitness, adequate physical and mental health and possible hereditary traits. Account should also be taken of the candidate's capacity for undertaking the obligations of the priesthood and carrying out his pastoral duties*". (OC III 6, 1965)

Less than a decade later, the magisterial documents began to advert to the need to carry out admission and selection procedures in "*accordance with modern psychological diagnosis*" but "*without losing sight of the complexities of human influences on an individual*" (*Directorium* Congregation for Catholic Education (#38/1974). This reference to the admissibility of recourse to psychology is gradually strengthened until eventually it is described by the *Ratio Fundamentalis Institutionis Sacerdotalis* (1985) as a resource which "*as a general rule*" should be availed of whenever the case merits.

Five years later the Holy See advised that candidates accepted for seminary should already display a "*balanced affectivity – especially a sexual balance which presupposes an acceptance of the other*". It reaffirmed that psychological assessments could play a useful role here.

These insights were incorporated into the *Irish Bishops Document of Child sexual Abuse: Framework for a Church Response* (1996). It states that the "*screening of candidates should normally include a full psychological assessment by an experienced psychologist well versed in and supportive of the Church's expectations for the priesthood and religious life, especially in regard to celibacy*".

Thus, much has changed in the screening process and in the overall formation of seminarians in the aftermath of the Second Vatican Council. Today a much greater emphasis is placed on screening for men who are able to live a life of chaste celibacy. In order to ensure that candidates possess the psycho-sexual-socio maturity necessary for priests today, Maynooth College has been providing more resources for students, which is a vast contrast to the situation 40 years ago. Celibacy formation is integrated into the entire seminary programme through conferences, formal lectures and advice from formation personnel, spiritual direction and the fulltime availability of professional counselling.

What it is clear from the foregoing is that celibacy and the ability of young men to live chaste celibate lives was one of the major issues addressed by church authorities in dealing with the growing problem of child sexual abuse within the Church.

Celibacy is the state of being unmarried. Chastity is the avoidance of all sexual activity outside the married state.³⁸ For a Roman Catholic priest, a vow of celibacy must also include a vow of chastity.

It must be remembered that the vow of celibacy taken by a priest is a conscious spiritual decision reinforced by prayer and faith. It is a vow that is sincerely meant in the majority of cases. If a man wishes to live his life as a Latin rite Roman Catholic priest, a vow of celibacy is mandatory.

The Expert Group was unanimous in its view that the vow of celibacy contributed to the problem of child sexual abuse in the Church. There have been important changes brought about in seminary selection and training with regard to assessing the suitability of men to adhere to a celibate lifestyle and to provide ongoing support in this regard. The Inquiry believes that such changes represent a response on the part of Church authorities to the growing awareness of the problem of clerical child sexual abuse.

Dr Patrick Randles, a senior therapist with the Granada Institute, is experienced in the assessment of candidates. He commented that in the past the standard of evaluation by psychologists had been quite variable and that for some it was a very quick assessment which sought to establish whether a candidate suffered from specific psychopathology. More recently according to Dr Randles, religious orders and dioceses have become more demanding with regard to the comprehensiveness they expect from an assessment. There is no definitive test which would assess a person's suitability for priesthood; although it is possible to identify psychological factors which would indicate unsuitability.

Mr Joseph Sullivan, formerly of The Lucy Faithful Foundation in Nottingham, pointed out that in the course of his research, he conducted a study of 41 professionals who had all been referred to him because of child abuse. Of these, 92.5 per cent said that they were aware by the time they were 21 years of age, that they had a sexual interest in children. This would indicate that when these men made the final step into their profession or vocation, they were aware of their attraction to children and this attraction was a motivating factor in their choice of career. It would, of course, be of vital importance if this attraction could be identified prior to their achieving a qualification that gave them access to children. Regrettably, the current state of knowledge in this area does not make it possible to assess with any degree of certainty whether a man was likely to be a child abuser. What can be assessed however is the level of maturity and awareness that a person has in respect of his or her sexuality. A sexually immature man may be a potential risk to children.

³⁸ Walsh, H. A., "Mandatory Celibacy and Sexual Ethics in the Latin Rite of the Roman Catholic Church" *Electronic Journal of Human Sexuality*. Vol. 2, Feb 6, 1999.

Whilst the rigorous standards now in place in Maynooth would be of assistance in ensuring that only men who are emotionally, intellectually and sexually mature are admitted for ordination, the reality is that very few diocesan priests are ordained in Ireland in any year. Increasingly, parishes are welcoming priests ordained abroad to replace retiring clergy. Priests who are ordained in seminaries outside Ireland should be subjected to the same level of assessment as has been undertaken by seminaries such as Maynooth.

Canon law

The right of a religious denomination to regulate its own affairs is recognised by Article 44.2.5 of the 1937 Constitution of Ireland, which states: "*Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, moveable and immoveable, and maintain institutions for religious or charitable purposes*".

Until its amendment in 1973, Article 44.1.2 of the Constitution referred to the special position of the Catholic Church in Ireland. The removal of this provision by referendum means that the Catholic Church in Ireland now stands equally with all other religious denominations in the State and enjoys the same constitutional guarantee of freedom and no more.

Vatican Council II tackled the matter of Church/State relations in Chapter IV of Part II of the Pastoral Constitution on the Church in Today's World, *Gaudium et Spes*. Catholic teaching in this area emphasises the principle that the temporal and the religious are two distinct competences with respective powers and faculties. It is summarised in *Gaudium et Spes* as follows: "*The political community and the Church are autonomous and independent of each other in their own fields.*"

Canon law has a long history, having its roots in the Old and especially the New Testament. Various connections of norms can be found during the first three centuries of the Christian era (e.g., the didascalia). In the 6th century, the Emperor Justinian compiled collections of law, to be called the *Corpus Iuris Civilis*, which included some Canonical norms. After the Dark Ages this work inspired Canonists to collect and organise many earlier collections of Canonical norms and so to form material for the *Corpus Iuris Canonici* which was the standard for Canonists from the Middle Ages until Pope Benedict XV promulgated the first Code of Canon law in 1917 following the model of the Napoleonic Code. After the reform of the Second Vatican Council, Pope John Paul II promulgated the revised Code of Canon law for the Latin Church in 1983.

The Irish legal system recognises Canon law as a scientific legal system and body of law, both substantive and adjective. It is a body of rules emanating from a legislative authority for the ordering of the conduct, regulating the social and domestic relations and punishing the disobedience of those who recognise that authority, and which speaks and gives judgement through its own tribunals. Canon law regulates the relationship between a Bishop and a priest of his diocese. As both Bishop and priest, by their ordination agree to be bound by Canon law, the relationship between them might be seen, in practical terms, as consisting of a contract comprising the material provisions of Canon law. The strict legal position is otherwise. Both parties are seen

as being bound by Canon law which, in Irish jurisprudence, is a foreign law and like any foreign law, its provisions must be established in the event of a dispute by witnesses expert in that system. Again like all other foreign laws, Canon law is without coercive power because the machinery of coercion is, in this State, kept in the exclusive control of the civil government and parliament for compelling obedience to such laws only as its parliament enacts.³⁹ No foreign law could exempt a person resident in this State from compliance with an obligation imposed by the Constitution or the laws enacted thereunder.

The Removal of a Priest under Canon Law

The purpose of Canon law is to guarantee and protect the communion of those who believe in the teachings and subscribe to the faith of the Catholic Church. What is material to this Inquiry is the fact that Canon law sets out the manner in which a priest is appointed by a Bishop and the circumstances in which a priest may be supervised in or removed from ministry or dismissed from the clerical state.

The most appropriate response to an allegation which gives rise to a reasonable suspicion of child sexual abuse against any employee or volunteer is the removal of that employee or volunteer from unsupervised access to children either immediately or within days of its receipt by the employer, until the allegation or suspicion has been fully and properly investigated. In the case of a diocesan priest, removal from access to children appears to entail suspension or standing aside from active ministry. In other professions or occupations, a less dramatic course may provide adequate protection. In his report⁴⁰, "Child Sexual Abuse in Swimming", Mr. Roderick Murphy SC recommended this course of action in the case of swimming coaches against whom allegations of child sexual abuse were made and used the phrase "stand down" to describe this procedure. The action is taken without any admission or imputation of guilt and is temporary in its nature. In a legal opinion provided to the Dublin Archdiocese in 1986, such a procedure was also recommended for a bishop dealing with allegations of child sexual abuse from a civil liability perspective where it had been shown after investigation that there was a basis for the complaint. The Inquiry sought to establish whether such a procedure was available under Canon law.

In the Code of Canon law, the procedures available to a bishop for dealing with an allegation of an offence are dealt with. Where a Bishop receives information, "*which has at least the semblance of truth*", that an offence has been committed he must set up a preliminary and purely administrative investigation about the facts and circumstances of the case (Can. 1717.1-3). If, after this preliminary investigation (which after 1996 is conducted according to the Framework Document⁴¹), the Bishop believes that the facts warrant a penal process, he must then determine whether this would be expedient having due regard to Canon law. "*Care must be taken that this investigation does not call into question anyone's good name*" (Can. 1717.2). This rule is described by one commentary on this canon as being of "*fundamental and vital importance*". Under Canon 1722, the bishop can, at any stage of either a judicial or extra-judicial process "*prohibit the accused from the exercise of the sacred ministry*

³⁹ O'Callaghan v O'Sullivan 1925 IR 90

⁴⁰ 1998

⁴¹ See below p39.

or some other ecclesiastical office or position.....or even prohibit public participation in the blessed Eucharist."

Although there are many commentaries on Canon law, they are only a form of legal opinion. Of more importance are the rulings and interpretations that come from the Roman authorities. In the end however, there is only one authentic interpreter of Canon law and that is the Pope. This presents a problem for lay people and clergy seeking to determine what the Canon law position is on any given subject.

The Inquiry posed the following question to a leading Canon lawyer:

"Has the Bishop power under Canon law to suspend temporarily a priest of his diocese from his priestly ministry in such a way as to remove him from contact with potential victims on the basis of an express allegation or reasonable suspicion that the priest in question has in the past, and may in the future, abuse children?"

The Inquiry was told that if the Bishop was satisfied that there was some credibility to the allegation, he had the power to remove the priest and could temporarily suspend that priest pending final determination of the matter.

When the bishop receives an allegation of sexual abuse of a minor by a priest, he must balance the rights of the accused with his responsibility for the care of all the faithful, particularly children and young people. The Bishop can begin by asking an accused priest to voluntarily refrain from the exercise of his ministry, including the public celebration of Mass and other sacraments, for the duration of the investigation of the allegation. The Inquiry has been informed that where there is a risk that an accused priest could re-offend, and he cannot be persuaded to stand aside, or if knowledge of the allegation renders a cleric's ministry ineffective, or if his continuing ministry would constitute a scandal to the faithful, the ministry of the priest should for the good of the Church, be immediately limited. The Bishop can proceed by taking the disciplinary action outlined in the Code (canons 192-192, 1740-1744, 552) and/or decree the removal of the faculties of the cleric (for example, to hear Confessions and celebrate marriages, to preach, etc) for the duration of the investigation.

Where necessary, the Bishop can issue a penal precept requiring him to stand aside from ministry on the pain of incurring a determined penalty (can. 1319, §2). An accused cleric under investigation is still entitled to be provided with a residence and his rightful income until a definitive determination is made.

The Inquiry is informed that it is within the power of a Bishop to suspend and remove a parish priest in certain circumstances, provided he follows certain procedures. Any such decision is appealable to the Congregation for the Doctrine of the Faith. Bishop Walsh has stated to this Inquiry that he believed that "a reasonable suspicion" of child sexual abuse was a sufficient ground for acting. During Bishop Walsh's administration in the Diocese of Ferns all priests requested to stand aside voluntarily did so. He said that if a priest had not agreed to go voluntarily he would have removed him.

Most of the priests who were the subject matter of complaints of child sexual abuse in the Diocese of Ferns were curates: the relevant provision relating to the removing of curates is Canon 552 which states:

"Without prejudice to Canon 682.2,⁴² an assistant priest may for just reason be removed by the diocesan Bishop or the diocesan Administrator.

The Commentary on the Code of Canon law states that assistant priests or curates always had a lesser security of tenure than parish priests. No formal procedure is required under Canon law for the removal and "just cause", rather than "grave cause", suffices. Nevertheless, the Commentary provides that a reason is required, and that that reason should be given in writing.

One Canon lawyer advising the Inquiry has said that from his consultation with Canon lawyers in Rome, it is his understanding that the bishop in exercising Canon 552 is exercising an administrative and not a penal power.

Bishop Eamonn Walsh has said that both the grounds for removing a parish priest ("a grave cause") and a curate ("a just cause"), would be met by a credible allegation or a reasonable suspicion of child sexual abuse. He has informed the Inquiry that the same standards apply to all priests of the Diocese.

In commenting upon the standard of reasonable suspicion, he said that a suspicion unsupported by other objective facts would not be a reasonable suspicion. Bishop Walsh stated that a formal complaint in itself would normally constitute a reasonable suspicion for the purpose of removing a priest temporarily under Canon law. The Canon lawyer consulted by the Inquiry supported this view.

An appeal from a decision under Canon 552 would lie to the Congregation for the Doctrine of the Faith. If successful, the curate could be reinstated following an appeal and the Inquiry is informed that there are precedents for such an event.

The Framework Document

Under Canon law, a bishop has full judicial power in his diocese. Ultimately, the Bishop must take responsibility for the future ministry of all priests in his care. As was clear to this Inquiry, Bishop Comiskey found this an onerous and difficult task particularly in the context of child sexual abuse.

In March 1994, the Irish Catholic Bishops Conference set up an Advisory Committee to consider and advise on an appropriate response by the Catholic Church in Ireland to an accusation, suspicion or knowledge that a priest or religious had sexually abused a child, to develop guidelines for church policy in that area and to suggest a set of procedures to be followed in those circumstances.

⁴² Canon 682.2 relates to the appointment of members of religious orders as curates in parishes. It provides that the curate may be removed on the direction of his superior or on the direction of his Bishop. Neither needs the consent of the other.

The Report of the Advisory Committee was published in 1996 and is commonly referred to as "The 1996 Guidelines" or "The Framework Document". The document provided a framework within which the Bishop could fulfil his Canon law obligations, but was not mandatory.

Bishop Comiskey told the Inquiry that prior to 1995, he found Canon law to be of no benefit in removing priests and was *"surprised and disappointed" with the advice he received*. After 1995, with the help of the Framework Document, this should have been a more straightforward procedure. In the one case (which arose in 1995) where he tried to implement Canon law procedure with the aid of the provisions of the Framework Document, he failed.

Chapter 1 of the 1996 document recognised the evils of child sexual abuse and the serious damage it causes. It also identified eight guidelines which should underline the response of church authorities to allegations of child sexual abuse. Those guidelines included the following:

- The safety and welfare of children should be the first and paramount consideration following an allegation of child sexual abuse.
- In all instances where it is known or suspected that a priest or religious has sexually abused a child, the matter should be reported to the civil authorities.
- There should be immediate consideration following a complaint, of all child protection issues that arise, including whether the accused priest or religious should continue in ministry during the investigation.

In the view of this Inquiry, the Framework Document's recommendation on the reporting of child sexual abuse is one of the most important and has had the most impact on the Church's handling of this problem in the past nine years. Chapter 2 of the document sets out this reporting policy.⁴³

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

2.2.3: The Advisory Committee recognises that this recommended reporting policy may cause difficulty in that some people who come to the Church with complaints of current or past child sexual abuse by a priest or religious seek undertakings of confidentiality. They are concerned to protect the privacy of that abuse of which even their immediate family members may not be aware. Their primary reason for coming forward may be to warn Church authorities of a priest or religious who is a risk to children.

2.2.5. Nevertheless, undertakings of absolute confidentiality should not be given: information should be expressly received within the terms of this reporting policy and on a need to know basis.

The assumption by the Diocese of Ferns of an obligation to inform the Garda Síochána and the Health Board of allegations of child sexual abuse against members of the diocesan clergy was a radical departure from the procedure historically adopted in the Diocese. Before 1990, the Bishop of Ferns did not report any allegations of abuse. Between 1990 and 1996 some were reported either directly or indirectly and others were not reported at all. The Inquiry is informed that this obligation to report relates to all allegations of child sexual abuse made to the Diocese of Ferns at any stage, including such allegations accumulated at the date of inception of the Framework Document.

Bishop Eamonn Walsh has informed the Inquiry that he is satisfied that every allegation of child sexual abuse made known to the Diocese of Ferns against a member of the clergy of the Diocese has been duly reported to the Civil Authorities. The Inquiry has identified numerous complaints made known to priests of the Diocese in the past which did not appear to have been forwarded to the Bishop or State authorities at the time. The Inquiry has also identified certain conflicts whereby witnesses attending the Inquiry claimed to have made a report to Bishop Comiskey which has been denied and does not appear on diocesan files seen by the Inquiry.

Chapters 2 to 7 (inclusive) of the Framework Document set out a detailed procedure which the advisory committee recommended to deal with allegations of child sexual abuse. This includes the appointment of a delegate and deputy delegate to oversee and implement the procedures for handling the allegations; it was specifically mandated that every complaint be recorded and carefully examined. The duty of promoting awareness and understanding of child sexual abuse among the priests of the Diocese was expressly conferred on the delegate. There was provision for the appointment of an advisor to a priest accused of a sexual abuse. The Framework Document envisaged the appointment or availability of a support person to assist and advise victims or persons by whom complaints were made. The Framework Document specifically provided that each Bishop should appoint an Advisory Panel which would include lay people, with relevant qualities and expertise, to offer their advice on a confidential basis to the Bishop.

The Holy See did not, and the Irish Catholic Bishops Conference could not, impose the Framework Document on individual bishops. The Diocese of Ferns adopted the Framework Document in December 1995, some months before the official publication of the Report of the advisory committee.

The first Diocesan Delegate in Ferns was Fr William Cosgrave, who held that office on a five-year fixed term from December 1995 to December 2000, when he was replaced by Fr Denis Brennan. Sr Helen O'Riordan was appointed to the role of diocesan support person in November 2002. The advisor to accused priests varies from case to case. Upon his appointment, Bishop Walsh established an interim ad hoc Advisory Panel to review all cases of child sexual abuse in the diocese involving priests who were still alive and who therefore required a response based on the need for child protection.

The Framework Document provided procedures to be followed before a bishop could compel a priest to stand aside from active ministry. However, in removing a priest the Bishop had to observe the Code of Canon law. As mentioned earlier in this Report, a parish priest may only be removed for a grave cause and a curate for a just cause.

When the Bishop is satisfied in accordance with the terms of Canon 1717 that there is at least the semblance of truth about a crime having been committed, he is then entitled under Canons 552 and 1740 to remove a priest from office pending a final determination of the matter.

Once the low threshold of “reasonable suspicion” has been reached, the matter must, according to The Framework Document be reported to An Garda Síochána. Where the victim has reported the allegation to An Garda Síochána the Church authority does not proceed with any further investigation that might impede or compromise the criminal process. This is not just a matter of giving undue publicity to an ongoing criminal investigation but also has regard to the danger of contaminating evidence necessary to that criminal trial.

The May 2001 Vatican document entitled “*Sacramentorum Sanctitatis Tutela*”⁴⁴, provided that all allegations of child sexual abuse which have reached that threshold of “semblance of truth” should be referred directly to the Congregation for the Doctrine of the Faith in Rome. The Congregation will either elect to deal with the matter itself or it will advise the Bishop on the appropriate action to take in Canon law. This policy has been adopted in order to ensure a coordinated and uniform response to allegations of child sexual abuse against clergy throughout the Roman Catholic world. The Inquiry is informed that the Congregation recognises that the State authorities are the primary agents in establishing guilt or innocence and will on occasion suspend the Canon law process pending a determination by the State either in a civil or a criminal action. The Congregation envisages a canonical process being established to make a determination for the purposes of deciding the accused priest’s future role in the priesthood irrespective of the outcome of any such state process.

Bishop Eamonn Walsh has informed the Inquiry that he refers all cases in which a reasonable suspicion of child sexual abuse exists to the Congregation.

Whilst the Statute of Limitations can be lifted in civil litigation cases involving allegations of child sexual abuse at Civil law, Canon law does impose a ten year prescription period from the victim’s eighteenth birthday⁴⁵. *Sacramentorum Sanctitatis Tutela* provided for a dispensation from that prescription at the discretion of the Holy See.

If it transpires that a bishop does not have the power under Canon law to remove an accused priest from active ministry within days of an allegation being made, Civil law should confer upon him that right. If the requisite power is conferred by Civil law and not exercised, consideration should be given to identifying another body – presumably the Health Board (or its successor) – that could be empowered to apply to the High

⁴⁴ See page 12

⁴⁵ This period was extended from five years in 1996.

Court to restrain any employee, including a priest, from having unsupervised contact with children where a concern exists about his ability to interact safely with children.

The Inquiry believes that this should be a principle of general application. Every person or organisation which employs or appoints an individual to a position which gives him or her unsupervised access to young people must have and exercise the power to suspend that individual from that employment if an allegation is made or reasonable suspicion arises that the individual has sexually abused any child.

The Inter-Agency Review Committee

As an addition to those procedures set out in the Framework Document, Bishop Eamonn Walsh has now instigated a regular meeting between the Bishop and/or the Diocesan Delegate and high level representatives of the Garda Síochána and the Health Services Executive, which this Inquiry terms “the Inter-Agency Review Committee”. The business of the Inter-Agency Review Committee is formal to the extent that agendas are circulated and minutes recorded. The primary purpose of the Committee is to enable the diocesan authorities to inform the State authorities on the position and status of members of the diocesan clergy against whom allegations of abuse had been made or suspicions of abuse existed. The position of every such priest is reviewed by the Committee.

As has already been stated, the Inquiry would identify this body as being the appropriate forum for identifying rumour or allegation of child sexual abuse which in the opinion of the Bishop fall short of the “reasonable suspicion” threshold required under the Framework Document. It would afford the Bishop the opportunity of discussing all rumour or innuendo coming to his attention to help establish whether a reasonable suspicion existed. This could be done on a strictly confidential basis without necessarily revealing at first instance the names of any of the people involved. The Bishop would thereby be relieved of the responsibility of deciding without expert guidance, whether the appropriate threshold had been reached which would give rise to a reasonable suspicion that a particular priest was guilty of child sexual abuse. The appropriate body to convene meetings of this committee and to record and collate information would be the Health Services Executive.

Application of Canon Law Procedures by Bishop Walsh and Bishop Comiskey

Bishop Eamonn Walsh was appointed Apostolic Administrator of the Diocese of Ferns on 4 April 2002. On Saturday 6 April 2002 he met with the four Vicars Forane. On Thursday 11 April all the priests of the Diocese were assembled and briefed by Bishop Walsh on how the clerical sexual abuse issue would be dealt with and the implications of the Government Inquiry into Child Sexual Abuse by Clerics in the Diocese of Ferns, which had just then been announced. The bishop held a press conference with the local press and the national media. He met with or offered to meet with the victims of child sexual abuse. Over the following eighteen months, he spoke at weekend Masses in most of the parishes of his diocese. In the course of his address and at informal gatherings afterwards he explained his objectives in the following terms:-

- That there would be no one in the ministry in the Diocese who had sexually abused children;
- That such priests would not be moved from parish to parish;
- That all complaints would be made known to the civil authorities;
- That victims would be invited to come forward to seek help, and
- That priests who had offended would be monitored and placed in therapeutic supervision.

In his address the bishop is recorded as saying:-

"The Church acted like a family within a family. Instead of reaching out to the wounded she gave her first and sometimes exclusive support to the offending priests. In that way the Church created a family within a family. In so doing the Church allowed other innocent children to suffer sexual abuse later on."

Bishop Walsh had the advantage over Bishop Comiskey in that the problem of child sexual abuse by clergy in Ferns had become fully apparent by the time Bishop Comiskey resigned. In addition, the Vatican document entitled "*Sacramentorum Sanctitatis Tutela*" which is discussed above undoubtedly lent greater authority to Bishop Eamonn Walsh when he requested a priest to step aside. Bishop Comiskey did not feel he had such support and has informed the Inquiry that he was very conscious that many Bishops had been overruled by Rome and priests reinstated. He believed that such an outcome would have deeply affected both his credibility and standing in the Diocese and his ability to deliver effective ministry.

In addition, there appeared to be a difference of style and personality between the two Bishops in coping with this very serious problem.

The most significant difference between the procedures adopted by the two Bishops, however, was the different interpretations placed by them upon the relevant provisions of Canon law and the 1996 Guidelines.

Bishop Comiskey told the Inquiry that he was familiar with Canon law in a general sense, but in proceeding against priests, was guided by reputable Canon lawyers. The Inquiry has identified three separate occasions when Bishop Comiskey sought Canon Law advice with a view to removing a priest from active ministry who had had allegations of child sexual abuse made against him. The Canon Law advice he received did not assist in achieving this.

It appears that Bishop Comiskey believed that the duty which he owed under Canon and Civil law to the priests of the Diocese prevented him from exercising such power as he might have under Canon law to remove temporarily from active ministry, a priest against whom an allegation of abuse had been made unless the evidence satisfied the Bishop that the allegation was probably true. Having regard to the emphasis placed by Canon law on the duty to protect the good name of alleged abusers, it is not surprising that Bishop Comiskey should have taken this view. Moreover, it must be recognised that his concern was shared by the chairman of the first Advisory Panel appointed for the Diocese of Ferns. It was expressed clearly in a letter to Bishop Walsh dated 12 October 2002 when referring to the panel's advice not to remove a particular priest from his parish:

"We are also conscious of the 'natural justice' issues involved where a suspension of a priest in a small tight community was tantamount to convicting him. Having fairly weighted all the pros and cons we unanimously decided to advise as we did and to await the DPP deliberations when the matter could be revisited if necessary It is most important that all our decisions, at all times are based on justice and fair play".

The response of the Church authorities as set out at Chapter 5 of this Report demonstrates how Bishop Comiskey, both before and after the adoption of the Framework Document, sought further and more specific information to support allegations or suspicions of child sexual abuse before attempting to exercise his canonical powers. Inquiries by Bishop Comiskey and later by the diocesan delegate, on his own initiative or at the behest of the Advisory Panel, necessarily involved delay. The result was that the priests remained in active ministry for months and even years after the complaints of child sexual abuse had been made against them.

In addition to the delay which such investigations could and did cause, there was the danger that such inquiries might jeopardise subsequent Garda investigations or criminal proceedings. In fact, the Inquiry has been informed by the DPP that no criminal proceedings have been so compromised in the Diocese of Ferns.

Bishop Walsh, and the Advisory Panels by whom he was advised from time to time, were equally conscious of the right of every priest to his reputation and the undoubted hurt and damage which would be caused by his removal from ministry. However, Bishop Walsh adopted and applied the principle emphatically enunciated in both the Framework Document and the National Guidelines for the Protection of the Welfare of Children, namely, that *"the welfare of children is of paramount importance"*. The application of this principle will frequently require persons to stand aside from positions or offices in which, or to the extent to which, they are given unsupervised contact with children because of an allegation of sexual abuse which has not been investigated, less still proved.

The appropriate process for dealing with allegations of child sexual abuse is for a complaint to be made to the Gardai and a proper investigation conducted by them. Where that investigation leads to a criminal prosecution and the ultimate conviction of the accused, the victim is vindicated, the abuser punished and a significant measure of protection provided for other young people. It is recognised that a relatively small number of victims choose to report to An Garda Síochána. It is appreciated that the DPP, in the exercise of his unreviewable discretion does not prosecute in every case. Most particularly it is clearly understood that an accusation of a criminal offence must be proved beyond reasonable doubt and that this is a standard of proof not readily achieved. The fact that a particular accused is not prosecuted or, if prosecuted not convicted, would not constitute sufficient justification for restoring the accused – whatever his vocation or occupation – to unsupervised contact with young people.

Victims can, and many have, instituted civil proceedings for assault to establish the truth of the complaints made by them and denied by the accused. Similarly, an accused person is entitled to institute civil proceedings or counter claim in existing proceedings to establish that the allegations made against him are malicious and untrue. It is in the public interest, and child protection requires, that both parties should have the opportunity of having that crucial issue decided by the civil courts

and expedited as soon as possible. The Inquiry appreciates that the cost of litigation could be an impediment for both the complainant and the accused. For that reason the Inquiry will recommend that the Civil Legal Aid Board be required to provide financial support for such litigation irrespective of the financial means of either party but subject to the Board being satisfied that the party seeking such support has a stateable case.

The issue as to the future of the priest in ministry may be determined by a Canonical Inquiry or internal Church procedures. The Inquiry is not aware of any canonical process for that purpose that has been instituted and completed. There is little specific information available as to the form these procedures would take. They do, however, represent an additional level of scrutiny of the conduct of priests which represents a measure of child protection which would not be available within other organisations.

Insurance

In 1986, the then Archbishop of Dublin, Archbishop Kevin McNamara, consulted Diocesan legal advisors regarding the potential of a legal liability arising for the Archbishop in the context of incidents of child sexual abuse.

Counsel considered the issue of returning priests to ministry where they had undergone remedial care and advised that a Bishop would have potential liability for negligence in respect of such a priest who re-offends after returning to ministry unless the Bishop had received categorical assurances from a psychiatrist or other persons who had been responsible for remedial care that the priest in question was cured. Counsel then advised on the legal response required by a Bishop who received an allegation against a priest in his diocese. He said that a Bishop would have a duty in law to withdraw such a priest from his duties in the event of an investigation showing that there was a basis for the complaint that was made.

At the suggestion of its legal advisors, the Dublin diocese approached Church & General plc, the diocesan insurance company, about the possibility of insurance cover being put in place. After consultation, a limited form of insurance cover was made available for the Dublin diocese from 1987.

During 1988 and 1989, Church & General informed all other Bishops in Ireland of the availability of a diocesan policy and they sought and obtained permission from the Archbishop of Dublin to circulate the opinion of Counsel among the Bishops. By 1990, most dioceses had taken out diocesan policies from Church & General. The premium ranged from IR£515 to IR£750 depending on the terms of indemnity. Bishop Comiskey purchased such a policy in August 1989 and Church & General do not appear to have undertaken any analysis or assessment of risk prior to inception of this cover. Furthermore, it did not seek disclosure from Bishop Comiskey of any matters of this nature which might have been known at the inception date as it regarded these claims as excluded from the policy cover.

A copy of the Diocese of Ferns policy from May 1989 to May 1990 was produced to the Inquiry. The policy was on a claims made basis and the limit of indemnity in that policy was IR£100,000 for any one claim and IR£200,000 in any one year.

The diocesan policy imposed an obligation upon the bishop where he either became aware that a priest was behaving in a such a way as would be likely to give rise to a claim under the policy or, after an investigation it was revealed that there were substantial grounds for believing that a priest was behaving in such a way that would give rise to a claim under the policy, to immediately arrange for the removal of the priest from his duties and arrange for the priest to receive the appropriate medical treatment and not to permit the priest to resume such duties without professional opinion that a resumption of priestly duties was appropriate and timely.

Discussions took place between Church & General and representatives of the Bishops which resulted in an agreement being reached on 31 March 1996 on terms which included the payment of a single sum of €4.3 million for division among the Dioceses. While the diocesan policies were terminated on 31 March 1996, the settlement agreement between Church & General and each Bishop was signed on 2 July 1996. Rather than apportion the settlement sum, the Bishops decided to place it in trust and established the Stewardship Trust. The Stewardship Trust had the power to provide financial assistance to bishops towards the cost of liabilities arising from abuse claims and to fund child protection and victim response initiatives undertaken at national level.

A second agreement between Church & General and all dioceses was made on 26 July 2000 which replaced the first agreement. It obliged Church & General to pay additional sums amounting to €6.3 million upon certain eventualities in the future.

From 1996 to 1999, the Diocese of Ferns had no insurance cover in respect of any liabilities arising in relation to incidents of child sexual abuse by priests. However, since 1999, the Diocese has had the benefit of an insurance policy which provides limited cover against any legal liability it may have for incidents of child sexual abuse which are proven to have occurred after 1996 and where the perpetrator had not been the subject of knowledge or suspicion prior to 1996.

In May 2005, Irish Bishops released information showing that since 1996, the Stewardship Trust contributed to compensation settlements for 143 people in relation to abuse by 36 priests amounting to €8.77million.

3.2 THE SOUTH EASTERN HEALTH BOARD⁴⁶

The Ferns Inquiry would like to acknowledge the comprehensive and informative submission prepared by the South Eastern Health Board for the purposes of this Inquiry. This document set out the statutory, legal and administrative framework of the Board and was a valuable resource to the Inquiry.

The South Eastern Health Board is a statutory body created by the Health Act, 1970 and therefore only has such powers as are conferred on it by statute. This Act vested statutory responsibility for administering health services in eight regional Health Boards (the Eastern Regional Health Authority was established by later legislation). Section 6 of that Act conferred on the Health Boards the functions previously carried out by the local authority in relation to the provision of health care in the community. While Health Boards began to take children into care following applications under the 1908 Act in the mid-1970s, it was not until emergency legislation – The Children Act 1989 – that this activity was (retrospectively) legally sanctioned by designating The Health Board as “a fit person” for the purposes of such applications⁴⁷.

The Children Act 1908 provided the main statutory provisions for protecting children at risk until its amendment by the Child Care Act 1991. The 1991 Act was not fully operational until 1996 and it was therefore the 1908 Act that was the relevant legislation at the time when most of the cases looked at by this Inquiry arose. The limited protection which this Edwardian legislation provided was to identify categories of children who, because they were orphaned, neglected or abused lived in circumstances of extreme misery and to empower courts of summary jurisdiction to remove the child from the neglectful or abusive parent and place him or her in an alternative situation. An application to the court for such an order could be made by ‘any person’. The categories of children identified in section 58 were those found begging, wandering, and destitute, under the care, or in the company of reputed criminals or prostitutes; and those in the care of parents or guardians unfit to have such care. The powers of the court under the 1908 Act also extended to cases where the parent or guardian satisfied the court that they were unable to control the child in question and also to cases where the child had failed to comply with the Elementary Education Act 1876.

It is possible to identify clearly the scheme of the 1908 Act from the power which it conferred on the courts. That power was to remove a child from parents who had neglected him or her and to entrust the child to the care of a state agency or a fit person approved by the Court. The powers conferred by the 1908 Act afforded no protection to children who had been abused otherwise than through neglect or abuse

⁴⁶ During the course of this Inquiry, the Health Services Executive was established and has taken on the functions of the former health boards. For the purpose of this report, the original title of South Eastern Health Board (SEHB) will be used.

⁴⁷ The State (D and D)-v- G and others 1990 IRLM 136. It was held that Health Boards were not “a fit person” within the meaning and for the purposes of the 1908 Act.

by parents or carers. The Child Care Act 1991, had a more pro-active orientation and conferred a general obligation on Health Boards in the following terms:

Section 3

- “(1) It shall be a function of every Health Board to promote the welfare of children in its area who are not receiving adequate care and protection.*
- (2) In the performance of this function, a Health Board shall –*
- (a) take such steps as it considers requisite to identify children who are not receiving adequate care and protection and coordinate information from all relevant sources relating to children in its area;*
 - (b) having regard to the rights and duties of parents, whether under the Constitution or otherwise –*
 - (i) regard the welfare of the children as the first and paramount consideration, and*
 - (ii) insofar as is practicable, give due consideration, having regard to its age and understanding, to the wishes of the child; and*
 - (c) have regard to the principle that it is generally in the best interests of a child to be brought up in his own family.*
- (3) A Health Board shall, in addition to any other function assigned to it under this Act or any other enactment, provide child care and family support services, and may provide and maintain premises and make such other provision as it considers necessary or desirable for such purposes, subject to any general directions given by the Minister under Section 69.”*

Health Boards, therefore, have a wide remit to inform themselves in relation to the needs of children in their area and an obligation to promote their welfare as well as responding to concerns about children. However, the actual powers conferred upon the Board to secure the protection of children are not significantly wider than those provided for in the Act of 1908, and would appear to be appropriate primarily in cases where the injury to the child is caused or permitted by the abuse or neglect of a parent or carer.

Just as in the Act of 1908, the Child Care Act 1991, expressly recognised that it was the right and duty of parents to care for their children and that it was the right of children to be cared for by their parents. Intervention by any State agency could only be permitted and required where it was established that parents had failed in this duty to the serious detriment of their child.

The Act of 1991 does not attempt to categorise children in need but in Section 16 describes them in general terms as follows:

“Where it appears to a Health Board with respect to a child who resides or is found in this area that he requires care or protection which he is unlikely to receive unless a Court makes a Care Order or a Supervision Order in respect of him, it shall be the

duty of the Health Board to make an application for a Care Order or a Supervision Order, as it thinks fit."

The requirement that the Health Board must satisfy the Court that the child in question is *'unlikely to receive'* the requisite care or protection means that the power of the court only arises where it is satisfied that the parent or guardian of the child is unable or unwilling to provide the appropriate degree of care. It is the right and duty of the Health Board to apply for a Care Order or a Supervision Order where such parental failure can be established. Where a child is abused physically or sexually without the connivance of his or her parents or any inability or unwillingness on their part to provide proper care and protection (which may be referred to as the extra-familial case) the 1991 Act confers no express statutory power on the Health Board to intervene directly.

Section 18 of the Act of 1991 provided for a Care Order and Supervision Order respectively. A Care Order commits the child to the care of the Health Board for as long as he remains a child or for such shorter period as the Court may determine.

A Supervision Order authorises the Health Board to visit a child on periodic occasions where it believes that the child could be at risk. The Act envisaged the establishment of Child Care Advisory Committees in each Health Board district to advise the Health Board on the performance of its functions under the Act.

The Domestic Violence Act 1996, empowered the Health Board acting on behalf of an applicant, to seek a safety order or a barring order by way of application to court to protect a spouse or cohabitee, or child or dependant of such spouse or cohabitee, from violence or the threat of violence.

The Children Act 1908, has been replaced by the Children Act 2001, which is primarily concerned with the law relating to juvenile offenders. As with the 1908 Act and the Act of 1991, this Act does not deal with the issue of protecting children from danger in the community. It reiterates the principle that the State should only intervene in the welfare of a child where the family fails to ensure it.

The High Court considered Section 3 of the Child Care Act 1991 in a case reported in 1997 entitled *MQ v Robert Gleeson and Others*.⁴⁸ A student of social studies and community care sought judicial review of a decision by the VEC to suspend him from his course following information passed on to them by the Health Board regarding his inappropriate conduct with children.

A material part of the judgement concerned the scope of the duty owed by the Eastern Health Board to children. Considering this question, Barr J. referred to s. 3(1) of the Act and the wide duty which that section imposed on the Health Board. He went on to say that:

"The Act (and other legislation providing for the welfare of children) is silent on the obligations of Health Boards in taking appropriate measures to protect unidentified children who may be put at risk in the future by a person who, to the knowledge of a

⁴⁸ [1997]IEHE 26

Board, intends to enter the realm of childcare work and who the Board has good reason to believe is unsuited for such work and represents a potential hazard for children who come under his / her care."

Barr J. held that the statutory function of the Board was not confined to acting in the interest of specified, identified or identifiable children who were at risk of abuse and required immediate care and protection, but extended also to children not yet identifiable but who might be at risk in the future for the reason of a potential specific hazard to them which a Board may reasonably suspect may come about in the future. In those circumstances Barr J. upheld the decision of the Health Board to inform the VEC of their concerns. He held that the Health Board had an obligation to disseminate the information about the alleged child abuse but expressly held that before doing so, the Health Board was bound to take steps to interview the student and give him a reasonable opportunity to make his defence to the allegations. Furthermore, Barr J. held that the VEC was bound under the principles of natural and constitutional justice to afford their student an opportunity of responding to the allegations made before suspending him from the course of studies.

In addition, Barr J. made further observations in relation to the powers and functions of Health Boards:

"a Health Board has a child protection function which differs fundamentally from the prosecutorial function of the police and the DPP. In the former, the emphasis is on the protection of vulnerable children. In the latter, the objective is the detention and conviction of child abusers. There are many circumstances which may indicate that a particular person is likely to be (or have been) a child abuser, but there is insufficient evidence to establish such abuse in accordance with the standards of proof required in a criminal or civil trial.However, there may be evidence sufficient to create, after reasonable investigation, a significant doubt in the minds of competent experienced Health Board or related professional personnel that there has been abuse by a particular person. If such doubt has been established then it follows that a Health Board cannot stand idly by but has an obligation to take appropriate action in circumstances where a person, who the Board reasonably suspects has indulged in child abuse, or is in the situation, or intending to take up a position, which may expose any other child to abuse by him / her".

It appears, therefore, that Health Boards have under the Act of 1991, an implied right and duty to communicate, subject to certain legal conditions being fulfilled, information in relation to a possible child abuser, if by failing to do so the safety of some children might be put at risk.

The implication of the imposition of such a duty on the Health Board without any express legislative powers is an issue which the Inquiry believes should be carefully considered by the Legislature. Guidelines, either statutory or regulatory would appear necessary in order to clearly delimit the Health Boards' obligations under Section 3 of the 1991 Act. This is particularly the case in view of the Attorney General's advice given to the Gardai in 1999 that they should inform the appropriate Health Board of all investigations of child sexual abuse irrespective of the source of the allegation giving rise to the investigation, be it anonymous, rumour, suspicion or otherwise.

Indeed, only in cases where the Gardai are satisfied that there is a real danger to children will they themselves notify an employer of an allegation.

In 1998, legislation was enacted to protect people who reported suspicions of child sexual abuse. The Protection for Persons Reporting Child Abuse Act 1998 provided immunity from civil liability to any person reporting child abuse reasonably and in good faith to designated officers of the Health Board or to any member of the Garda Síochána. It provided protection for employees who reported child abuse from all forms of discrimination, including dismissal.

The Act created a new offence of false reporting of child abuse where a person made a report to the appropriate authority "knowing that statement to be false". This was designed to protect innocent persons from malicious reports.

Prior to the enactment of the 1991 Act, a series of guidelines were issued in 1977, 1983 and 1987 by the Department of Health. These guidelines offer a useful history of the development of awareness of child sexual abuse in the community from the mid-1970s to the present day.

These guidelines provided helpful information to those operating in child protection but they had no legislative effect and accordingly could not impose legal obligations or exempt persons from obedience to laws duly enacted. Further guidelines entitled 'Children First' published in 1999 were careful to emphasise this and stated on page 18:

"These national Guidelines are directed at Health Board personnel, An Garda Síochána, other public agencies, voluntary and community organisations and private citizens. In the case of the Health Boards, the national Guidelines are being issued in the context of the Child Care Act 1991. In the case of other agencies and individuals, while the national Guidelines do not have a legislative background, the intention is the development of good practice in this important area of public policy".

The first Expert Group established by the Department of Health to examine the problem of non-accidental injury to children was convened in May 1975. The Memorandum on Non-Accidental Injury to Children (1977) was developed by a committee heavily weighted with medical personnel. An important recommendation of these 1977 guidelines was that case conferences should be seen as an essential part of a team effort to deal with this problem. It was recommended that apart from medical personnel, the case conference should also include social workers, teachers and where appropriate, the Gardai. The Health Board was perceived as having a role in establishing a coordinating authority at local level which would ensure that arrangements for dealing with non-accidental injury to children were satisfactory and were kept under review.

The 1977 guidelines were revised in 1980, and in 1987 Guidelines on Procedures for the Identification, Investigation and Management of Child Abuse were issued by the Department of Health. For the first time, the issue of sexual abuse of children was dealt with. The problem of sexual abuse as identified in 1987 tended to be seen as a problem within families and as requiring a particular response by child care

professionals. Abuse by non-family members or by strangers was essentially a matter for the Gardai and the families of the abused child.

Paragraph 3 of the 1987 Guidelines outlined the duty of any person who knew or suspected that a child was being harmed, or was at risk of harm, to convey his concern to the local health board. It stated that all reports of child abuse (including anonymous calls) should be investigated. In its section dealing with sexual abuse, the Guidelines stated:

"Sexual abuse of children, like other forms of abuse, has always existed. In recent years professional staff have realised that its prevalence is much greater than previously assumed. The number of cases being identified is increasing and this trend is likely to continue as professional staff becomes better able to recognise sexual abuse and as the public become more willing to report cases or to seek help".

It went on to say:

"Any complaint of sexual abuse made by a child must be taken seriously. The complaint should be followed up by the initiation of the necessary investigation and validation process. Professional staff should take particular care to ensure that the initial verbal complaint by the child to them is preserved in writing."

Importantly, the 1987 Guidelines recognised that all suspected cases of child sexual abuse should be reported to the Gardai. They also contained some important observations in confronting the issue of child sexual abuse and in particular, they stated:

".....the important element in extra familial abuse is to support the family and to ensure that parents are secure in their role as primary advocates for their child"

What was clear from the Guidelines was that the Department of Health recognised the role of the Health Board in protecting children where the family failed to do so and saw itself as essentially a support to a family that found itself confronted with child sexual abuse from outside. However, the family would have a right to decline such support and the Health Board would have no power to impose it.

The Inquiry is aware through the direct evidence of Bishop Brendan Comiskey that he knew of the 1987 guidelines and was informed by them in dealing with an allegation of child sexual abuse in 1990. He suggested that the parents of the victim, who had initially come to him with an allegation, should speak to a general practitioner who would then be obliged to report the allegation to the Health Board and through them to An Garda Síochána. This is in fact what occurred. Bishop Comiskey did not believe it was appropriate to use these Department of Health guidelines in dealing with allegations received about priests where those allegations were made by adults. The guidelines do not deal with the issue of whether the reporting recommendation should vary if the victim is an adult at the time of making the report, but in circumstances where the perpetrator is still in a position to abuse children, the rationale for such reporting remains. Reporting complaints by adults has now been adopted by the Framework Document as being an appropriate response to all

allegations of child sexual abuse especially those allegations with continuing child protection implications.

Further guidelines entitled 'Notification of Suspected Cases of Child Abuse between the Health Boards and An Garda Síochána Gardai' were published by the Department of Health in 1995⁴⁹, which purported to oblige the Health Board and An Garda Síochána to notify cases of suspected child abuse to each other and to establish a joint method of investigating cases. These guidelines were referred to as 'administratively mandatory' at the time and reflected a concern, identified in the Kilkenny Incest Investigation (1993), about lack of communication and inadequate exchange of information between the two organisations. These guidelines were subsumed into "Children First" (1999).

This Inquiry has looked in detail at the guidelines entitled "Children First, National Guidelines for the Protection and Welfare of Children" which were introduced by the Department of Health and Children in 1999. Like the 1987 guidelines, these guidelines were intended to assist people in identifying and reporting child abuse and in improving professional practice in both statutory and voluntary agencies and organisations that provide services for children and families. They sought to clarify the responsibilities of various professionals and individuals within organisations and to enhance communication and coordination of information between disciplines and organisations. These guidelines set out clearly the responsibility, albeit not a legal one, of any person who suspected that a child was being abused, or was at risk of abuse, to report his concerns to the Health Board. The guidelines point out that a suspicion not supported by any objective signs of abuse would not constitute a reasonable suspicion or reasonable grounds for concern. As with all previous guidelines, the main issue sought to be addressed was neglect or abuse by parents or carers.

Children First has outlined a system for collaboration and co-operation through liaison management teams comprised of a social work team leader and a district based inspector or sergeant from the Gardai. It is fully recognised by the Health Board that no investigation should be carried out by them which would jeopardise any criminal prosecution; their role being mainly one of assessment.

It is clear that the general focus of these guidelines was to assist officials of the Health Boards and other agencies and persons in dealing with the problem of injury (whether psychological or physical) to children caused by the abuse or neglect of their own parents or others in *loco parentis* to them. A constant theme within the guidelines is the need and difficulty in identifying children who had been abused. Reliance had to be placed upon the observations of experienced teachers; suspicions of family doctors and perhaps rumours circulating in the neighbourhood. The concerned persons were encouraged and required to communicate their suspicions or concerns to the Health Board who would collate the evidence or suspicions; meet and confer with the interested parties and, where appropriate, apply to the district court for a Care Order or other such order considered necessary.

⁴⁹ See p61 below

The Guidelines have little application to the case where a person (whether an adult or child) made a specific allegation that he or she was sexually abused as a child other than by, or with the connivance of, his or her parents or guardians. In such cases a Health Board may be in a position to offer counselling or support, or notify employers or potential employers in certain circumstances, but the agency primarily responsible for handling the allegation of that serious criminal offence is An Garda Síochána.

Public Inquiries into particular cases of child abuse illustrate very clearly the important distinction between the parental neglect or abuse situation and the case of extra familial abuse. The Kilkenny Incest Investigation (1993), The West of Ireland Farmer Case (1995) and the Kelly Fitzgerald Case (1996) were all concerned with allegations of parental neglect or abuse and raised questions as to the due discharge by the relevant Health Board of its statutory functions. The Madonna House Inquiry (1996) focused on the abuse or neglect of children in residential care by staff and management who were entrusted with their care and protection. The Inquiry into Matters Relating to Child Sexual Abuse in Swimming (1998) investigated the adequacy of arrangements then in place for the protection of children engaged in the sport of swimming. It was not suggested that the Eastern Health Board, in whose area the swimming facilities were situated, had any active role to discharge in relation to the protection of children from the wrongdoing of the coaches employed there.

The Health Board has no express statutory power to obtain or seek a court order prohibiting a person suspected of child abuse from having contact with the child otherwise than in the context of the family home. The Health Board does not currently have statutory powers to prevent a suspected abuser from acting in a capacity such as a teacher or sports coach or indeed a priest which would bring him or her into close contact with, and afford him or her ready access to, young people. Essentially it is a matter for parents and guardians to determine the school their children will attend or the sports facilities they should utilise. It would require very exceptional circumstances for a Health Board to satisfy the court that the decision of competent and caring parents to send their child to a particular school was so irresponsible and unreasonable that the child should be taken from the custody of those parents or guardians and placed in an institution or a foster home.

The duty of the Legislature to protect children in the community from potential harm was recognised and dealt with in The Employment Equality Act 1998 (No. 21 1998). In the judgment of Hamilton C.J. delivering the decision of the Supreme Court in *In Re Article 26 and the Employment Equality Bill* ([1997] 2 IR 321), the Supreme Court upheld the exemption from the requirement of that legislation contained in s.16(4) of the Bill which provided that none of the provisions of the Bill required "*an employer to recruit, promote or retain an individual if the employee had a past criminal conviction for unlawful sexual behaviour or anything that was considered on the basis of reliable information that he engages in or has a propensity to engage in unlawful sexual behaviour.*" The Court accepted that this exception was based on the need to protect children from abuse and the general terms in which the exceptions were expressed were appropriate to achieve this purpose.

The Inquiry has been advised that the legislation permitting an employer (or other person in authority) to dismiss an employee from employment on the basis of

comparable information as to the history or propensity of the employee would enjoy the same status of constitutionality.

The Inquiry suggests that consideration should be given to conferring express power on the Health Services Executive to apply to a court of competent jurisdiction for an order prohibiting a named person from engaging in an activity which would give him a ready access to children at all, or otherwise on such terms that the Court might direct. The Court would have to be satisfied by such evidence as the Health Services Executive might adduce that there was a reasonable suspicion that the person concerned represented a potential hazard for such children because of a propensity on his part to sexual abuse.

Administrative Structure of the South Eastern Health Board.

The South Eastern Health Board covers the counties of Kilkenny, Carlow, Wexford, Waterford and South Tipperary. The work of the Health Board is divided into three distinct areas: Community Care, General Hospital Services and Special Hospital Services.

When it was first established in 1970, the South Eastern Health Board was managed by a Chief Executive Officer to whom a Programme Manager for each of the three distinct areas, (hospitals, general and special and community care) reported. The Programme Manager for Community Care had four local managers reporting directly to him who, in turn, liaised with specialist departments covering all aspects of community care. Although the Health Board had responsibility for children in the community and was responsible for setting up vaccination programmes in schools and health examinations, there was no Health Board executive dedicated to child care or child protection. This did not occur until 1998 when the Health Board was restructured to provide for Child Care Managers reporting directly to the General Manager for Community Care. This restructuring also provided for social workers who also report to the General Manager.

Up to 1998, the most senior person in charge of Community Care was the Director of Community Care and Medical Officer of Health (DCC/MOH). This person, a medical doctor, managed the health care services in a community care area and assessed priorities for health care needs in the community. Under the Department of Health Guidelines which were published in 1987, the responsibility in relation to child abuse rested with the DCC/MOH within the community care programme. He/she was the person to whom all cases were notified and who was to ensure that all necessary information was gathered. He/she was also charged with the duty of arranging case conferences and communicating with other agencies.

The social worker was another key person in the structure of the Health Board. Before 1993, social workers were employed to provide a community based range of services to a variety of client groups including the elderly, the disabled, children and families. According to the South Eastern Health Board, the demands of family and child care meant that increasing effort needed to be concentrated on this area, and social workers with skills in dealing with children were recruited from the mid 1980s onwards. Other key personnel in child welfare at that period were public health nurses, public health doctors; child psychiatric staff was not employed until the latter

part of the 1990s. Practitioners not directly employed by the health board, such as General Practitioners, were also expected to cooperate with the child protection network by making reports and attending case conferences.

Each discipline was, according to the Guidelines, heavily dependent on the ready willingness, cooperation and participation of other professionals, within the community care structure, across the community and hospital interface, with general practitioners and with other professionals including Gardai, teachers and voluntary child services. The case conference was and still remains the crucial link between all personnel working in child protection. It occupies a central position in the decision making process in individual cases.

Garda/Health Board Liaison

The Report of the Kilkenny Incest Investigation, which investigated the way in which a particular incident of child sexual abuse was handled by the Health Board and the Garda Authorities, criticised the communication between the different agencies involved. The Health Board and An Garda Síochána have since 1995, established a much closer exchange of information. There are obvious problems and tensions in the respective objectives of each agency – the Health Board must prioritise child protection whilst the Gardai must prioritise a criminal conviction.

In 1998 an Assistant Garda Commissioner sought advice from the Attorney General on whether it was properly the role of the Gardai to inform employers or family members where a rumour or innuendo existed in respect of any individual. The Attorney General's advice was that such information should be passed on to the Health Board in all cases and that that body could pass on any information to third parties such as employers, as it deemed appropriate. The Attorney General's advice stated *"The principal avenue for disclosure of sensitive information to third parties for the protection of children should be through Health Boards rather than the Gardai"*. This advice was clearly given with reference to extra-familial abuse as well as family abuse.

This would appear to be a further example of the general duty inferred from Section 3 of the 1991 Act although as already stated; no legislative or regulatory guidelines have been established for such a duty.

The Inquiry has made some recommendations in respect of Health Board/Garda collaboration at Chapter Eight of this Report.

The Inquiry has been informed that irrespective of whether a complainant requested confidentiality vis-à-vis the Gardai, practice was such that all identifying information concerning cases of alleged child sexual abuse were supplied to the Gardai in the first instance. In situations where there were particular sensitivities for complainants around that, the Health Board and Gardai processed the situation over a period of time whereby the timing of identifying the alleged victim was negotiated. The Inquiry has also been informed by a Health Board that the Gardai would have communicated with them in all situations where they could not proceed with an investigation because a complainant would not make a formal complaint to them.

In relation to the policy adopted where the complainant was an adult and deemed capable of bringing the matter to An Garda Síochána, the Health Board officials spoken to by this Inquiry were not aware of any formal policy having been adopted by the Health Board regarding adult complaints.

The Inquiry has been informed by a former Director of Community Care in the South Eastern Health Board that since 1995 all cases of child sexual abuse that came to the attention of the South Eastern Health Board were reported to An Garda Síochána .

The Inter-Agency Review Committee

The Health Services Executive has been represented on the Inter-Agency Review Committee⁵⁰ by the child care manager, Mr Joe Smyth, and a principal social worker. The existence of a Committee composed of high level representatives of the Garda Síochána, the Health Services Executive and of the organisation concerned would facilitate the necessary three-way exchange of information particularly in relation to suspicions, rumours, or unsubstantiated allegations of sexual abuse which are difficult for any one agency or authority to investigate adequately. The collation of such information would be of particular importance to the Health Services Executive and assist it *'to promote the welfare of children in its area who are not receiving adequate care and protection'* as required by Section 3 of the 1991 Act. The Inquiry believes therefore that it should be the responsibility of the Health Services Executive to convene these meetings and to collate and maintain records arising therefrom..

⁵⁰ See p42 above

3.3 AN GARDA SÍOCHÁNA

In this section we set out the general structures of An Garda Síochána, the current procedures for investigating allegations of child sexual abuse, the role of the DPP and the underlying legislation. The files made available to this Inquiry by An Garda Síochána date from 1990 and are discussed at Chapter 7 of this report.

The Garda Commissioner is appointed by the Government and is ultimately responsible to the Minister for Justice, Equality and Law Reform. His management team comprises two Deputy Commissioners and eleven Assistant Commissioners.

Assistant Commissioner, Security, has overall responsibility for crime policy and administration, subversion and security issues within An Garda Síochána. This particular office has been routinely involved in the handling of cases which have been reviewed by the Inquiry.

In January 1996, the Garda Commissioner appointed six regional Assistant Commissioners. The office covering the area represented by the Diocese of Ferns is based in Kilkenny. It acts as a review layer in addition to managing performance and resources available to the Deputy Commissioner, Operations. The Inquiry has identified this office as having extensive involvement in the response of An Garda Síochána to cases involving child sexual abuse since its inception in 1996.

The South Eastern region is comprised of the Garda divisions of Waterford/Kilkenny, Wexford/Wicklow and Tipperary. The region is headed by a regional Assistant Commissioner who reports to the Deputy Commissioner Operations. This region caters for a population of approximately 450,000 with a Garda strength reported in 2002 at 971, serving 117 Garda stations, in sixteen Garda districts.

Each region is divided into divisions commanded by a Chief Superintendent and each division is then divided into districts commanded by a Superintendent assisted by a number of Inspectors. The districts are divided into sub-districts, each normally the responsibility of a Sergeant. Each sub-district usually has one station, the strength of which may vary on a nationwide basis. In some areas there are stations known as sub-stations usually occupied by one Garda.

It is noted from the Inquiry's review of files furnished to it by An Garda Síochána that during the course of an investigation a constant stream of correspondence is

maintained between the office of the Garda Commissioner and local level by way of Assistant Commissioners and Chief Superintendent/Superintendent.

A systemic change occurred within An Garda Síochána from November 1999 whereby a paper trail evidencing such correspondence has now been supported with a computerised system which records all incidents that An Garda Síochána deal with from the time of the initial contact made to it by a complainant or witness until a particular offender is dealt with by the court. This is known as the PULSE system. It is a system which is available online to all networked Garda stations throughout the country. All members are required to record information in relation to incidents which will then be accessible by another member involved in the investigation of that case. It is also safeguarded by restrictions on the access to certain levels of information which is also governed by seniority and area of specialisation.

In this regard, cases involving child sexual abuse would usually be accessible to an investigating Garda, his or her Superintendent and certain Assistant Commissioners. A further notable feature on this system is that it contains no deletion mechanism and it is capable of correlating information to an extensive data bank.

From the Garda Annual Report 2002 it appears that of 1,626 reported complaints of sexual assault in 2002, 534 cases involved criminal proceedings and of those cases which were completed at the date of that report, 157 cases (9.65%) resulted in convictions. 206 cases (12.67%) were still pending and the remaining 171 cases (10.52%) completed without a conviction.

Under the 1995 guidelines, 'Notification of Suspected Cases of Child Sexual Abuse between Health Boards and An Garda Síochána'⁵¹, where a Health Board suspects a child has been physically or sexually abused, An Garda Síochána must be formally notified. The process of establishing this suspicion involves consulting with professional experts, although the agreement provides that the Health Board need not be satisfied that such abuse is confirmed before reporting. The notification is made by a designated officer of the Health Board to the Superintendent of the district in which it is suspected the offence occurred. The reciprocal duty to report on the part of An Garda Síochána requires it to notify the Health Board where it suspects a child has been a victim of abuse. It is not necessary in this regard for the Gardai to have sufficient evidence to support a criminal prosecution. The Inquiry is advised by both organisations that the identity of the complainant and accused would be made known when a notification is made.

The Gardai participate in the work of the Inter-Agency Review Committee referred to at pages 42 and 58 above. An Garda Síochána is represented on this committee by a Superintendent appointed by the Chief Superintendent of Wexford Division. This Superintendent has described the working of this Review Committee "*as a step forward for all parties involved*".

The Garda structure is also served on a nationwide level by the Domestic Violence and Sexual Assault Investigation Unit (the National Unit) which is based in Dublin. The National Unit was established in 1997 but emanates from the 'Woman and Child

⁵¹ See page 58.

Unit' established in 1993. It consists of a Detective Superintendent, a Detective Inspector, three Detective Sergeants and up to eleven Detective Gardai. Many of these officers have been sponsored to complete a Postgraduate Diploma in Child Protection and Welfare at Trinity College Dublin which is funded by the Department of Health & Children. The National Unit works within the National Bureau of Criminal Investigation. In cases where a complainant does not wish local Gardai to become aware of his/ her complaint, the National Unit can in exceptional circumstances, carry out its own investigation whilst only notifying the local Superintendent as to progress on the investigation. The National Unit is in a position to refer cases directly to the Director of Public Prosecutions (DPP) via the Chief Prosecution Solicitor for decisions on prosecutions. However, in most cases investigations would be done in conjunction with local Gardai.

Some complainants indicated to the Inquiry that they were reluctant to report to local members of An Garda Síochána either because of personal friendships or connections or because they were fearful that confidential information would be disclosed. It is appreciated that in small communities, whilst friendship with particular members of An Garda Síochána may be seen as support to some, it has undoubtedly been an inhibiting factor for others. The Inquiry noted that complainants could and did choose where they would report the complaint and decided whether to make the complaint to a male or female Garda. If particular circumstances existed that made reporting in the Wexford District undesirable or excessively embarrassing, the complaint could be made to the National Unit. That was done in one case which came to the attention of the Inquiry.

In at least two cases, complaints were made to the Inquiry that information which they gave to Gardai in confidence was improperly divulged. The Inquiry discussed this issue generally with Superintendent Kieran Kenny. The position of the An Garda Síochána is clear. They have stated that they would not condone any breach of confidence and any complaint that confidence was breached would be fully investigated and the culprit punished appropriately. There are ample procedures both within and without the structure of An Garda Síochána for making such complaints and one or other of those procedures should be followed in the event of any complainant suspecting improper disclosure of confidential information. The Gardai did point out however, that anonymity could not be guaranteed fully to a complainant. His identity and the evidence tendered by him must ultimately and as a matter of due process be communicated to the accused.

In 1999, a victim's charter was published by the Department of Justice, Equality and Law Reform. This emphasised the importance of keeping the victim of a crime informed about the progress and outcome of the criminal investigation and trial.

An Garda Síochána works in close cooperation with victim groups who are available to provide assistance to victims in terms of medical care and advice in relation to the criminal process. In some cases, the victim will be brought to court beforehand and shown the witness box and the court procedures involved. The evidence which that person will provide at the trial is not discussed.

The Garda Process of Investigation

When a complaint is received, a statement is normally taken, typed and logged at the incident room where a working file containing the original statement in typed form together with copies thereof will be filed. If a person wishes to attend An Garda Síochána confidentially, that is to say without disclosing his name, that is respected although these persons would be encouraged, perhaps with the assistance of a victim support person, to make a formal statement at a later date.

A statement will be taken from the complainant as soon as is practicable and only then will an investigation team be assembled. In the case of serious complaints, this investigation would usually be lead by a Detective Superintendent with a team of detectives. The nature and extent of the complaint will determine the volume of work involved and this in turn, together with the resources of a particular district, will determine the size and composition of any investigation team. The Inquiry has observed cases which arose prior to 1995 where the entire investigation of child sexual abuse allegations was undertaken by one Garda. The Inquiry has been advised that this practice is no longer continued.

The PULSE system will record the general progress and status of the investigation. Incident Room records including a job book, record every piece of work carried out during the course of an investigation. Regular meetings are held in which the investigation and its progress are discussed. All evidence to the investigating team is analysed and corroborating evidence is sought where appropriate.

An Garda Síochána requires a complainant to make a formal statement of complaint before a criminal prosecution process can begin. However, anonymous complaints made directly to An Garda Síochána or through a third party of rumour, innuendo and suspicion in relation to any crime including child sexual abuse may be filed by An Garda Síochána for intelligence purposes, and an attempt can be made to corroborate and test the truth of such information. If the information is found to have substance, the investigating Garda may make enquiries to encourage the victim to come forward and make a formal complaint. Such information could also be used in linking it with other areas of investigation.

The Inquiry was told that An Garda Síochána does not seek out or canvas for complainants. They generally will not contact a complainant directly unless the complainant has expressed a willingness to co-operate in a Garda investigation. Where a complaint is notified to An Garda Síochána by a third party, such as a diocese or Health Board, it would request the notifying party to invite the complainant to meet with the investigating Gardai. The Inquiry was told that An Garda Síochána would not betray the confidence of that third party in contacting a complainant, although a decision to visit complainants would ultimately depend on the circumstances of each case. In all cases, An Garda Síochána is dependent upon the co-operation of the complainant and if it is seen not to respect confidentiality, then it is unlikely that it will obtain such co-operation.

On completion of the investigation, the Superintendent must decide whether or not to refer the matter to the DPP. His communication with the DPP is channelled through the State Solicitor. The decision to refer any complaint to the DPP for directions

rests with the local Superintendent who will consider the evidence available and the seriousness of the alleged crime. In all cases, as required by the victims' charter, the complainant should be notified of the decision to refer or not to refer the complaint to the Director of Public Prosecutions.

The role of regional Assistant Commissioners is also relevant in this regard. A Superintendent would normally refer complaints of significant importance to this office. Since this office is located on a regional basis it can access all information in relation to alleged crimes committed in its region. Nowadays an investigating Garda will initially log details of a complaint on the PULSE system which will be reviewed by a Supervisor, usually of Sergeant rank, who certifies that he or she is satisfied with the entry.

As already stated, An Garda Síochána was advised by the Attorney General in 1999 in relation to the issue of notification to other bodies or persons of complaints, anonymous complaints, rumour, innuendo or suspicion about child sexual abuse. The Attorney General advised that *"the principal avenue for disclosure of sensitive information to third parties for the protection of children should be through Health Boards rather than the Gardai"*. In all cases, even those involving unsubstantiated allegations, Garda practice as identified by this Inquiry in the Wexford area, is to notify the Health Board, in view of their specific function for the protection of children. In cases involving substantiated allegations where Gardai consider there to be a risk of harm to children, the employer may be notified that an investigation is being conducted but no warning about the employee should be given. It is only where Gardai believe there is a real danger of injury to children that they should inform the employer for the purpose of preventing further offences being committed. In cases where an employer is notified, the accused will usually be advised as to the proposed step to be taken and given an opportunity make a submission. The advice also provides that Gardai must be careful to only notify the proper authority within the employer organisation. The Attorney General has further advised Gardai that liability for non disclosure of certain information where injury results from a person being left in a position with close contact with children would not normally arise. The foregoing advice relating to employers applies equally to other bodies such as sporting associations and dioceses.

The issue of third party involvement also raises concern over the potential impact that interviews conducted by persons other than An Garda Síochána with the accused or accuser may have on the evidence presented at a subsequent criminal trial. Gardai have expressed a desire to be the first party to interview a complainant and the accused in order to elicit information which cannot be claimed to have been tainted. In this regard, An Garda Síochána would wish that the Health Services Executive, Diocese or employer who receives a complaint, allegation, rumour, innuendo or suspicion about child sexual abuse should notify An Garda Síochána before initiating their own investigation. The Inquiry appreciates these concerns but is satisfied that child protection requires an immediate, if limited, investigation by the Bishop (or employer) to ensure that the alleged wrongdoer stands aside pending all other appropriate inquiries. The Inquiry has been informed that collaboration between the Health Services Executive and An Garda Síochána is a matter that is under ongoing review.

Once a Garda investigation is completed and a file is sent to the DPP, then all further action in relation to the criminal investigation and prosecution is done at the direction of the DPP.

The office of the DPP decides on whether a prosecution should proceed in cases concerning child sexual abuse. It examines all files received from its Solicitors Division and local State Solicitors. The office provides ongoing instruction and legal advice to its solicitors division and local State Solicitors in every case. The decision on whether to prosecute is made on the file assembled by Gardai. The conduct of proceedings is entrusted to Counsel in such cases nominated by the office.

In most child sexual abuse cases, the file is reviewed by a second officer in the DPP's office. It is important to highlight that the DPP's decisions in child sexual abuse cases are generally not final; the matter may be reviewed if further evidence is obtained. The DPP does inform its solicitors division or local State Solicitor of the reasons for not proceeding. The reasons are then furnished to the investigating Gardai. However, such information is not made public.

The victim should be kept fully informed of the handling of a criminal prosecution by An Garda Síochána. In addition, the victim or a member of the victim's family or his or her lawyer is authorised by law to request the DPP to review a particular decision although section 6 of The Prosecution of Offences Act 1974 states that it shall "not be lawful" for any person not so authorised to contact the DPP in relation to such matters. This section does not prescribe any sanction for a breach of that provision.

To initiate a prosecution, the DPP requires a complainant and it will not generally subpoena a non-cooperative victim to give evidence in criminal proceedings. It should be observed that complainants are well protected by courts in securing their anonymity. However, a complainant's identity is necessarily made known to the accused in accordance with his or her constitutional rights.

The DPP believes that Gardai now tend to refer all child sexual abuse cases for the attention of the DPP. He also referred to the rights of a victim to ascertain the current status of his or her complaint with An Garda Síochána or the DPP directly.

In deciding whether or not to prosecute in a particular case, the DPP will consider the public interest which prescribes that serious offences should be prosecuted in so far as is practicable. The DPP also considers whether any aggravating or mitigating factors are relevant. The DPP's Guidelines for Prosecutions published in October 2001 list, among others, the following aggravating factors which would influence the decision to prosecute in a particular case.

- Where a conviction is likely to result in a significant penalty;
- If the accused was in a position of authority or trust and the offence is an abuse of that position;
- Where the accused was a ringleader or an organiser of the events;
- Where the offence was premeditated;
- Where there are grounds for believing that the offence is likely to be continued or repeated, for example where there is a history of reoccurring conduct.

The list of mitigating factors, on the other hand, does not appear applicable to cases involving allegations of child sexual abuse. Moreover, these are factors which can be taken into account by the sentencing court in the event of a conviction, rather than factors which should lead to a decision not to prosecute. The DPP will also have regard to the views of a victim and the impact of a failed prosecution on the victim. He informed the Inquiry of two significant developments in the treatment of child sexual abuse cases by the courts that have occurred in recent years, which further impact upon the decision to prosecute or the likelihood of obtaining a successful prosecution.

Firstly, there is an increasing demand for separate trials for child sexual abuse cases involving multiple victims. This may arise even where victims allege similar facts. Secondly, delay in bringing a complaint to the attention of An Garda Síochána does encourage an accused to seek an order of prohibition on the grounds that such delay has prejudiced the fair trial of the charge. The DPP provides in his Guidelines that a prosecutor should, in any case where there has been a long delay since the offence was committed, consider in the light of the case law whether that delay was such that the case should not proceed.

The DPP was concerned about the emerging jurisprudence in regard to the failure of victims to report promptly to Gardai allegations of child sexual abuse, the causes of this delay and the consequences which it may have for the accused in defending proceedings instituted against him. He expressed the view that the grounds currently accepted for justifying the delay were quite narrow.

The Inquiry sought the views of the DPP on authorities other than An Garda Síochána conducting limited investigations for an immediate child protection result parallel to a criminal investigation. These investigations could take the form of a minor scale church investigation into whether or not a reasonable suspicion existed against a priest to justify his immediate stepping aside in accordance with Canon law. The DPP confirmed that such limited investigations do not and have not in his experience, adversely affected a criminal prosecution. However, he advised that protracted parallel investigations and indeed attendances on victims by support persons may prove prejudicial to a criminal prosecution by giving rise to conflicting statements or claims of contaminated evidence. The DPP also stated that he had no difficulty with information on the status of a particular case being shared with the Health Boards and dioceses provided personal information and the reasons for any decision regarding prosecution taken by the DPP were not shared.

The Inquiry has reviewed the principal legislative provisions relating to child sexual abuse in this chapter. The DPP expressed himself satisfied with the powers available to proceed with prosecutions in child sexual abuse cases.

It is clear from the Inquiry's review of the handling of cases by An Garda Síochána at Chapter 7 of this Report that a prosecution was initiated by the DPP only where there were multiple alleged victims of an accused or in one case where there was one victim and the incident was witnessed by family members. The Inquiry therefore asked the DPP whether or not there is a reluctance on the part of his office to prosecute in cases where it merely has an account of child sexual abuse of one victim which is completely denied by the accused. The DPP confirmed that every case would be

carefully looked at by his office individually and his office would certainly be prepared to proceed in a case involving one complainant against an accused who denies the allegation in its entirety and in fact many cases which begin with a multiplicity of alleged victims are ultimately heard on an individual basis.

The Inquiry also raised with the DPP the question of whether or not there was ever a reluctance on the part of prosecutors to prosecute members of the clergy. The DPP stated clearly that neither he nor any of his staff were ever influenced in deciding to initiate criminal proceedings by the identity of the accused as a priest.

SEXUAL OFFENCES LEGISLATION

The response of An Garda Síochána depends largely on the nature of the crimes they are investigating. It is therefore necessary to examine the laws which create the crimes comprised in the general expression “child sexual abuse”. This expression is one widely used in this and other jurisdictions to describe a range of sexual misconduct. The relevant legislation and the material provisions of it are as follows:

1& 2) Offences against the Person Act 1861 & Criminal Law (Amendment) Act, 1885

The Offences against the Persons Act 1861 and the Criminal Law (Amendment) Act 1885 prescribed penal servitude for life for rape and buggery and a maximum sentence of ten years imprisonment for indecent assault. In all cases, it was necessary to prove some physical form of assault on the part of the accused, and in cases of rape and indecent assault the issue of consent was an important constituent of those offences.

The 1885 Act provided for an offence of gross indecency of a male which attracted a term of imprisonment of up to two years. This offence did not depend upon issues of age or consent and encompassed most forms of homosexual activity which were not dealt with under the 1861 Act.

3) Criminal Law Amendment Act 1935

Much of this Act has now been repealed, but of the provisions still in operation, ss. 1 and 2 still form the bedrock of the protection given by the law to girls under 17 years of age. Section 1 of the Act provides a penalty of up to life imprisonment on conviction for unlawfully and carnally knowing a girl under 15 years of age. Section 2 provides for maximum penalties of five years imprisonment in the case of a first conviction and ten years in the case of a second or any subsequent conviction for unlawfully and carnally knowing any girl under 17 years of age.

4) Criminal Law (Rape) (Amendment) Act 1990.

This legislation was enacted pursuant to the recommendations made by the Law Reform Commission in 1988. It replaced the offence of indecent assault on a male or a female with offences of aggravated sexual assault with a maximum penalty of life imprisonment, and sexual assault with a maximum penalty of 5 years imprisonment. Aggravated sexual assault is defined as sexual assault that involves serious violence or the threat of serious violence or is such as to cause injury, humiliation, or degradation of a grave nature to the person assaulted.

It also created a new offence of rape under section 4, defined as a sexual assault which includes penetration of the mouth or anus by the penis or the vagina by an object manipulated by another person. This carried a maximum penalty of life imprisonment.

5) Criminal Law (Sexual Offences) Act 1993

This Act made it a statutory offence to commit an act of buggery with persons of either sex under 17 years of age. The Act also created a new statutory offence of gross indecency by a male with a male under 17 years of age.

Section 3 of the Act imposed a maximum penalty of life imprisonment for buggery with persons under 15 years of age and also provided for a maximum penalty of 5 years imprisonment for a first conviction and ten years for a subsequent conviction in respect of buggery with a person of or over 15 years and under 17 years of age.

Furthermore, s.6 made it an offence to importune a child in relation to buggery, gross indecency or unlawful carnal knowledge. The penalty in relation to this offence is a term of imprisonment for a period not exceeding twelve months on summary conviction.

6) Sex Offenders Act 2001

This Act requires a person who has been convicted of the prescribed sex offences to furnish to An Garda Síochána their name and address and any changes which may be made to either his address or name from time to time. This legal requirement enables An Garda Síochána to maintain a record of the identity and whereabouts of persons who had been convicted of the prescribed sexual offences. The manner in which this record is kept and the categories of persons who may have access to it are not dealt with in the legislation. The Act imposes an obligation on sexual offenders to disclose to certain categories of employers their previous convictions in relation to such offences. Provisions are also made by the 2001 Act for the imposition by the court of a Supervision Order. In addition, the court is authorised, on the application of a member of the Garda Síochána of the rank of Chief Superintendent, to impose such restrictions on the activities of a person convicted of sexual offences as the court may consider necessary for the protection of the public. The threshold for granting such an order is that the court should be satisfied on the balance of probabilities that the person has acted on one or more occasions in such a manner as to give reasonable grounds for believing that an order is necessary to protect the public from serious harm. Furthermore, the order may remain operable for an indefinite period of time

and any breach of the order will attract a maximum penalty of five years imprisonment. One such application has been made by Gardai since the Act came into operation.

In addition to the important protections this Act provides, the legislation is significant administratively in that it confers or imposes on An Garda Síochána powers and obligations designed to protect the community against the perpetration of sexual offences rather than the detection or punishment of offences already committed.

The Inquiry has reviewed corresponding English legislation which was recently updated in the Sexual Offences Act 2003. In brief, this Act provides a modern and comprehensive list of child sex offences which are more specific in nature than prevailing Irish law. It also provides for a series of new orders which may be granted by a court in respect of convicted and in limited cases, suspected, child sex offenders. The Inquiry has identified, by way of example only, the following English offences which do not exist in Irish law:

- (i) Section 15 of the Sexual Offences Act 2003 relates to the offence of meeting with a child following sexual grooming whereby an adult, having met or communicated with a child on at least two earlier occasions, intentionally meets a child or travels with the intention of meeting a child in any part of the world and at the time of doing so, intends to do anything to or in respect of the child, during or after the meeting and in any part of the world which if done will involve the commission by the perpetrator of a relevant offence. A “relevant offence” is defined to include most sexual offences. This offence requires the child to be under 16 years and for the perpetrator to believe that the child is not 16 years or over.
- (ii) The Act also creates offences in relation to abuse of positions of trust whereby it is a separate offence for a person aged 18 years or over to involve a child under that age in sexual activity where he is in a specified position of trust in relation to that child. This list does not include priests or ministers of religion. Even though the age of consent in England is 16, this offence relates to victim or victims under the age of 18.

7) Law Reform Commission Recommendations

In its Report on Child Abuse made in 1990, the Law Reform Commission recommended the creation of an offence of child sexual abuse. Its proposed definition has already been set out at Chapter 2. Furthermore, Article 19(1) of The United Nations Convention on the Rights of the Child 1989, obliges the State to introduce such an offence. It could be committed by any person with a person less than 15 years of age or by a person in authority with a person under the age of 17. This would certainly remove the technical assault requirement and put the emphasis on acts that are abusive and exploitative.

ALLEGATIONS OF ABUSE

The Inquiry has identified approximately 100 allegations or complaints of child sexual abuse that were made between 1966 and 2005 against 21 priests⁵² operating under the aegis of the Diocese of Ferns. It is no part of the function of the Inquiry to form any view as to whether those complaints or allegations are, or any one of them is, well founded. The primary task of the Inquiry is to identify the response by the Church and public authorities to such complaints whether they are true or false.

The material contained in this Chapter is, therefore, a summary of the many allegations brought to the attention of the Inquiry. The Inquiry emphasises that the contents of this chapter consist of allegations or complaints substantially in the terms of the history provided directly or indirectly by the complainants. With the exception of the two priests who pleaded guilty to certain charges brought against them and to certain specific and limited admissions referred to in Chapter 5, all of those allegations and complaints are and were vehemently denied by all of the priests living at the time when the allegations were made against them. The priests who were dead at the time when the allegations were made did not have the opportunity to refute such allegations. Again, it must not be assumed that the Church or lay authorities accept that the allegations set out in this Chapter were made to them at all or were made in the terms recorded in this Chapter save to the extent that it is expressly so admitted elsewhere in the Report. The failure to repeat the phrase "it is alleged" throughout every paragraph of this Chapter must not be taken as indicating that the Inquiry has accepted that the allegations or complaints are, or any of them is, true.

It must also be noted that although the allegations of abuse outlined hereunder refer to a period which spans over thirty years, only a handful of these allegations were disclosed to the Diocese of Ferns or to the Civil authorities prior to 1990.

To preserve the anonymity of the complainants each of them has been ascribed and identified by a fictitious Christian name. So far as practicable, a comparable protection has been extended to priests against whom allegations or complaints have been made by ascribing a fictitious surname from a letter of the Greek alphabet to each of these priests.

Unfortunately, it is not possible to exercise this discretion effectively in relation to priests who hold or held unique or distinguished positions which were material to the allegations made against them or to priests who were convicted of an offence related to child sexual abuse or to priests who were or are prominent in the public domain as a result of media focus on allegations or complaints that surround them.

Criminal proceedings were instituted by the DPP against Fr Donal Collins in respect of 4 of the complaints made against him and against Fr James Doyle in respect of one complaint against him. Both of those proceedings resulted in convictions of the accused. Criminal proceedings were likewise instituted against Fr Sean Fortune in

⁵² The priests dealt with in the Appendix hereto are not included in this number.

respect of a total of 66 charges of sexual abuse. Those charges were struck out following the suicide of Fr Fortune.

Six other priests against whom allegations or complaints were made were deceased at the time of making the complaint and three priests have since died. In respect of complaints against four priests, the DPP, decided not to institute proceedings on evidence presented thus far. In a further two cases notified to Gardai, a file containing a statement of complaint was not passed to the DPP. In the remaining three cases known to Gardai, the complainant did not make a formal complaint to Gardai and no prosecution could therefore occur.

Criminal convictions have arisen in respect of the following complainants; Dylan, Darren, Conor, Rory and Adam. No criminal conviction occurred in respect of any other complaint referred to in this Chapter.

A number of allegations of abuse by priests in the Diocese have been the subject of civil proceedings which were settled either by the Diocese or the priest concerned.

Some priests against whom an allegation has been made have been the subject of either a private or public apology by Bishop Eamonn Walsh, Apostolic Administrator of the Diocese of Ferns since April 2002, and this has been identified by the Inquiry where this has occurred.

The Inquiry has retained, as far as is practicable, the vocabulary and terms in which the complaints were recorded.

4.1 FR DONAL COLLINS

4.1.1 SAM

Sam alleged the following:

Sam was a student in St Peter's during the mid to late 1960s. During his intermediate exam year, Fr Collins abused him for the first time in Fr Collins's room. Fr Collins invited Sam to his room on the pretext of photographing him. A second incident happened in the dormitory when Fr Collins masturbated Sam while Sam was in bed. Fr Collins abused Sam on a total of six occasions. Fr Collins has denied masturbating Sam as alleged.

Sam made a complaint to the Diocese by letter dated 15 April 2002 and met with Bishop Walsh later that year. The Diocese notified the South Eastern Health Board and the Chief Superintendent of Wexford. The DPP, however, directed that the criminal prosecution should not proceed. Sam subsequently wrote to Bishop Walsh seeking compensation.

4.1.2 UNIDENTIFIED COMPLAINANTS 1966

The Inquiry has heard from clerical witnesses who allege the following:

In 1966, Fr Patrick Curtis and Fr Tom Sherwood, both senior teachers at St Peter's College, contacted the bishop's secretary, in relation to complaints of child sex abuse against Fr Collins. The abuse occurred when Fr Collins visited "the attic" dormitory at night to perform examinations of an intimate nature involving the measurement of the length of boys' penises on the pretext of ascertaining whether or not they were growing normally. The Inquiry was told that approximately 20 boys were involved. Fr Collins has disputed the detail of this account of the alleged abuse.

The complaints were reported to Bishop Herlihy who transferred Fr Collins to pastoral ministry at Kentish Town in London where he remained until 1968. Fr Collins returned to St Peter's College in 1968. This is covered in further detail at Chapter Five.

4.1.3 NOEL AND VICTOR

Noel alleged the following:

In April 1989, Bishop Comiskey received a complaint of child sexual abuse against Fr Collins. This was the first complaint made directly to Bishop Comiskey in relation to this priest. The complainant did not identify himself but Bishop Comiskey wrote to Fr Collins seeking his response.

A further complaint was made to Bishop Comiskey in May 1989 by the parent of a former pupil of St Peter's College who said that Fr Collins had been abusing boys in the college. This complainant was the mother of the unidentified complainant above who was subsequently identified as Noel.

In 1991, Bishop Comiskey met with Noel who complained to the Bishop of sexual abuse perpetrated against him and another student named Victor by Fr Collins, when he, Noel, was approximately 16 years old, during the early 1970s at St Peter's College. According to Noel, the students at St Peter's dreaded the prospect of being called to Fr Collins's room. On one occasion, Fr Collins placed his hands on Noel's genitals continuously rubbing him. Noel also mentioned a widely known incident involving Victor who returned to the dormitory very late one evening in a drunken state, shouting that Fr Collins had attacked him. Victor had no memory of any sexual abuse taking place but was fearful that something might have happened as Fr Collins had given Victor alcohol. Fr Collins has particularly denied that sexual abuse ever occurred with Victor and had reassured him on that point many years later.

4.1.4 RORY

Rory alleged the following:

Rory attended St Peter's College as a boarder during the 1970s. He states that he was abused by Fr Collins who was his science teacher, from second year onwards. He complained that after class one day Fr Collins asked him if he was worried about anything and specifically asked if he was developing normally. This placed a doubt in Rory's mind as to the normality of his development, a doubt which Fr Collins exploited, eventually persuading Rory to allow him to examine him. Fr Collins masturbated the boy four to six times a year for four years.

Rory reported to Bishop Comiskey in 1991 that he had been sexually abused by Fr Collins while a student at St Peter's College. He was offered and received counselling expenses from the Diocese.

In December 1994, he made a formal complaint to An Garda Síochána. He subsequently instituted High Court proceedings against Fr Collins, the Trustees of St Peter's College and the bishop. This civil case settled with compensation being paid to Rory in January, 2000.

Rory met with Bishop Walsh in July 2003 and the bishop recommended that Rory make contact with Sister Helen O'Riordan, diocesan support person.

4.1.5 CONOR

Conor alleged the following:

Fr Collins first abused Conor during his fourth year at St. Peter's College in the early 1970s. He stated that he was invited by Fr Collins to his room to discuss the Young Scientist project. Fr Collins changed the subject to Conor's maturity, both mental and physical. He put his hand on Conor's private parts and started touching him. Two more incidents are alleged to have happened over the following year. After the third incident, Conor was not in that position with Fr Collins again and nothing further happened. Conor first made a complaint in relation to this abuse to An Garda Síochána in 1995.

4.1.6 DYLAN

Dylan alleged the following:

Dylan first made a statement to the Gardai in 1995 alleging abuse by Fr Collins during the 1970s whilst he was pupil of St Peter's College. Fr Collins regularly invited Dylan to his room for discussions. On one occasion the discussion turned towards Dylan's relationship with girls, adolescence and masturbation. Fr Collins put his hand on the zip of Dylan's trousers and said that boys of Dylan's age had doubts about whether they were developing properly or not, and if he could look at Dylan's penis he would be able to confirm that he was developing correctly.

After continuous objections from Dylan, Fr Collins stopped attempting to abuse him.

4.1.7 EDMUND

Edmund alleged the following:

Edmund made a statement to An Garda Síochána in 1995 in relation to abuse suffered when he attended St Peter's College as a day student during the 1970s where he had Fr Collins as his science and physics teacher. He was involved in a project for the Young Scientist of the Year exhibition. He was brought to Fr Collins's room to discuss the project. On a number of occasions Fr Collins forced Edmund to engage in mutual masturbation and oral sex. On one occasion Edmund alleges, Fr Collins attempted anal sex with him.

Civil proceedings were instituted by Edmund against Fr Collins, St Peter's College and the Bishop of Ferns in 1999. Edmund met with Bishop Walsh in 2002 and spoke of how the abuse had affected him. The Bishop apologised for the abuse, acknowledging that the apology was late in the day. Edmund's civil case was eventually settled with payment of compensation. Edmund was one of many complainants who said to this Inquiry that they found the civil process very difficult.

4.1.8 DEREK

Derek alleged the following:

Derek made a statement to An Garda Síochána in 1995 in relation to abuse suffered while he was a student at St Peter's College in the 1970s. On a number of occasions in his second and third year, Fr Collins asked him to drop his trousers so he could inspect his genitals and see how he was developing. He also remembers Fr Collins offering to show him his own genitals but Derek never encouraged him to do so. On one occasion while Derek was preparing a project in third year for the Young Scientist exhibition, Fr Collins put his hand down Derek's underpants and asked him if this turned him on. Fr Collins later told him that what happened between them was private, that nobody else would understand and therefore nobody should be told.

Derek wrote to a priest of the Diocese in 2002 in relation to this abuse and the abuse a friend had suffered at the hands of Fr Collins in St Peter's College. This letter was immediately passed on to Bishop Walsh. Although Derek was affected by the abuse he suffered, he has stated to the inquiry that he is now in a happy marriage with a good family life, career and fulfilling participation in the Catholic Church. Derek met with Bishop Walsh in 2002 and expressed some ideas on moving forward as a Church. He indicated that he did not feel the need for further counselling. Derek was one of the few abuse victims who still practiced his Catholic faith. For most victims who spoke with this Inquiry, the abuse had the affect of alienating them from the Catholic Church and from organised religion in general.

4.1.9 DARREN

Darren alleged the following:

Darren first made a statement to An Garda Síochána in 1996. Fr Collins admitted to having sexually abused Darren during the 1980s whilst he was a boarding school pupil at St Peter's College. Darren stated that while he was in second year at study one night, Fr Collins told him to collect copy books and bring them to his room at the college. In the room, Fr Collins sat down beside him on the couch and spoke about Darren's height and weight. He told Darren to take off his shirt and jumper and, using a measuring tape, measured his chest and waist and the inside of his legs. Fr Collins then unzipped his trousers and measured his penis with the measuring tape. Fr Collins fondled Darren's testicles and penis while talking to Darren about the size of his penis and what size it could be. The abuse continued on a regular basis throughout Darren's remaining period at St Peter's College. Fr Collins performed oral sex on him, gave him alcohol and showed him two pornographic films.

Darren wrote to the diocese in September 1995 but did not receive a written reply to his initial letter, so he wrote again. The diocesan secretary replied seeking the identity of the priest and the nature and circumstances of the abuse. This letter was not received by Darren, owing to a change of address.

The diocesan secretary telephoned the Director of Community Care of the SEHB to arrange a meeting. Monsignor Breen, vicar general, provided the Director of Community Care with a copy of the letter from Darren together with the response. The Director of Community Care undertook to pursue the matter with the Garda authorities.

The civil proceedings taken by Darren have now been settled.

4.1.10 RICHARD

Richard alleged the following:

Richard told the Inquiry that he was instructed to attend Fr Collins's room in relation to either the Legion of Mary or his swimming associations when he was first abused. He was touched and masturbated by Fr Collins on a number of occasions. Richard stated that Fr Collins usually offered him alcoholic drinks during such occurrences. Richard stated to the Inquiry that he was warned by a nurse of the college not to be alone with Fr Collins. Richard first reported the instances of abuse to An Garda Síochána in 1996.

4.1.11 UNIDENTIFIED COMPLAINANTS

Three unidentified complainants alleged the following:

The Inquiry has been made aware of three recent complaints made to Bishop Walsh in relation to instances of sexual abuse by Fr Collins while they were students at St Peter's College during the 1970s. The three complainants did not wish to make formal complaints or have the matter pursued with a Church or Garda investigation. One of these complaints has now been settled by the Diocese.

4.1.12 GEORGE

George alleged the following:

In early January 2004, the Diocese of Ferns received a letter from a firm of solicitors engaged by George which cited instances of sexual abuse by Fr Collins against George in the late 1980s and early 1990s when he was a student at St Peter's College. This is the only complaint identified by the Inquiry that concerns sexual abuse by Fr Collins after his appointment as Principal of the college. The letter also refers to instances of physical abuse by another priest at the college. George has instituted proceedings against the Diocese in respect of sexual abuse by Fr Collins.

4.2 FR JAMES DOYLE

4.2.1 MATTHEW

Matthew alleged the following:

The Inquiry has been told by a priest who served on the teaching staff of St Peter's Seminary from 1969, that some time in 1972-1973, whilst James Doyle was a student and still a junior member of the seminary, he returned to the College drunk and attempted to molest a student called Matthew. This staff member reported the matter to the Dean (now deceased), who was dismissive of the complaint. He then reported the matter to the President of the College now also deceased. On 5 February 1973, the President of the College wrote to James Doyle advising him that his ordination was being postponed. James Doyle was, however, approved for ordination one year later in 1974 by the newly appointed President of St Peter's College. One clerical witness to the Inquiry has stated that it was his belief that Bishop Donal Herlihy directly intervened to have James Doyle's ordination proceeded with although the Inquiry has seen no documentary evidence of such intervention. This ex-President of the college has told the Inquiry that he had no information about James Doyle at the time of his ordination that would have caused him to reconsider his decision to recommend it.

4.2.2 UNIDENTIFIABLE COMPLAINANTS

- (i) A priest of the Diocese informed the Inquiry that the sergeant of Gorey Garda station contacted him in December, 1979 and told him that Fr James Doyle had given a lift to a young soldier who was hitchhiking and propositioned him. The young man jumped out of the car and reported the incident to An Garda Síochána who pursued Fr Doyle to Wicklow, stopped him and questioned him. The sergeant (now deceased) told this diocesan priest the following day that he did not propose to pursue the matter any further or charge Fr Doyle but that he did want to reinforce the warning that the Gardai had given him the day before. He sought an assurance from the diocesan priest to whom he spoke that there would be no further incidents. Fr Doyle's agreement to receive medical treatment in Belfast satisfied the Gardai at the time.
- (ii) A second priest of the Diocese said to the Inquiry that he was told by a Garda Superintendent in or about 1980 that Fr Doyle had been on his way to Belfast when he picked up a hitchhiker near Gorey and attempted to abuse him sexually. The Superintendent told the Inquiry that he reported this matter as well as his knowledge of general rumour surrounding Fr Doyle to Bishop Herlihy at this time.
- (iii) Shortly after an incident involving Fr Doyle and a hitchhiker (1979/1980), the diocesan priest referred to at (ii) above, was approached by a local parishioner who told him that an altar boy had been sexually abused by Fr Doyle. This priest recalls seeing graffiti near the sacristan's home on the path to the church saying "James Doyle is bent". He questioned Fr Doyle and Fr Doyle's reply was that he was a little bit foolish but made no further comment. Although he interpreted this comment as an admission, the priest in question has stated to the Inquiry that he still does not know what Fr Doyle is alleged to have done. He reported both matters to Bishop Herlihy and recalled that Bishop Herlihy sent Fr Doyle to Dublin for treatment with a psychologist or psychiatrist.

4.2.3 ADAM

Adam alleged the following:

In the early 1990s, Fr Doyle sexually assaulted Adam who was 12 years of age at the time, during a visit to the boy's home. The incident arose when Fr Doyle went to the bathroom in the course of the evening. Adam's father heard his son scream "stop". He immediately went to the landing and saw Fr Doyle standing over Adam. The boy was crouched in the corner with his back to the wall and Fr Doyle had one hand on his crotch and the other on his buttocks. Adam explained to the Gardai how the priest pushed him into the corner and grabbed his private parts. The family contacted Fr Doyle's parish priest. Two months later the boy's father discussed the assault with Bishop Comiskey. The matter was reported to the Garda Síochána and Fr Doyle was charged and convicted of indecent assault.

Notwithstanding Bishop Comiskey's expeditious removal of Fr Doyle and his subsequent dealings with him following this complaint, as more particularly set out in Chapter Five of this Report, the Diocese did not meet or attempt to meet with this victim or his family in relation to this complaint. The consequences of this case were very serious for the family concerned.

4.2.4 BARRY

Barry alleged the following:

Barry complained of abuse by Fr James Doyle in 1981 when he was approximately 11 years of age. He told the Inquiry that he had found a watch at a local Wexford GAA pitch which he gave to Fr Doyle so that the owner could be found. While he was handing over the watch, Fr Doyle undid his own and Barry's clothing and whilst he did not remove any clothing, he did expose both Barry and himself. Fr Doyle touched Barry and told Barry to touch him. Fr Doyle promised Barry that if the owner of the watch was not found, he would see that the watch was given to Barry. Barry did not tell anybody in his family what had happened because he felt he would not be believed. He returned, with some misgivings, to collect the unclaimed watch and Fr Doyle tried again to impose himself on Barry although no actual physical assault took place. Barry only recently disclosed his abuse to a local doctor. He reported the abuse to An Garda Síochána in January 2003.

4.2.5. BARRY'S BROTHER

Barry also alleged the following in relation to his younger brother:

Barry believes that his younger brother, who did not contact the Inquiry, was also abused by Fr Doyle as an altar boy and that such abuse would have occurred for a longer period than Barry's abuse.

4.2.6 JEREMY

Jeremy alleged as follows:

Jeremy was a student in St Peter's boarding school whilst James Doyle was a senior pupil there and during his first few years as a seminarian. Jeremy was about four years James Doyle's junior. He recalled lying in his bed one evening when James Doyle came into his cubicle and started to fondle him. He was deeply disturbed by this but felt he could tell no-one. He said he had admired and respected James Doyle until then but this episode had destroyed that. He stated that James Doyle was not drunk at the time of the alleged incident.

4.3 FR ALPHA

4.3.1 EDWARD

Edward alleged the following:

Edward was an altar boy in a parish in Wexford in the mid 1970s when Fr Alpha was appointed curate there. He made a statement to Garda Tom Murphy in November 1995, outlining sexual abuse by Fr Alpha from the summer of 1974 when he was 15 years of age. He stated that Fr Alpha asked him to attend his house to help with parish work, especially when Fr Alpha was on duty. On the pretext of trying on swimming trunks, Fr Alpha encouraged Edward to take off all of his clothes. Eventually Fr Alpha lay on top of him and, as they both lay on the bed naked, masturbation took place. Edward stated that he felt sorry for Fr Alpha and let him lie on top of him on his bed for approximately 15 or 20 minutes. Edward visited Fr Alpha's room in his house at least three times a week. The abuse, as alleged above, happened over a four or five year period mostly in the evening time. After some time Edward began to realise that this was wrong. He stated that Fr Alpha brought him on holidays on three occasions and on each holiday he was sexually abused by him. In the spring of 1980 Fr Alpha's advances towards him ceased.

In 1995 Edward made a statement to the Gardai. Through the Gardai he also made contact with the Diocesan Delegate, Fr Cosgrave. On 31 October 1997, Bishop Comiskey wrote to Edward indicating a willingness to meet him and confirming that a church investigation was still ongoing. They met in November 1997.

Fr Alpha vehemently denied any improper behaviour between himself and Edward. He confirmed that they had been on holidays with his, Fr Alpha's, brothers, but was quite adamant that nothing untoward occurred. He also said that he first became acquainted with Edward in May 1977 when Edward was already aged 18 years. He affirmed that he never had any sexual relationship with Edward either as a boy or an adult.

In May 1997 and again in June 2003 following further allegations, a decision was taken by the DPP not to proceed with a criminal charge against Fr Alpha and he remained in ministry until he stepped aside in 2002 at the request of the Apostolic Administrator.

4.3.2 GAVIN

Gavin alleged the following:

Gavin stated to the Inquiry that he was first abused by Fr Alpha in the mid 1970s when he was between seven and eight years of age and acted as an altar server for him. Gavin alleged in detail the nature of this abuse for the first time in his fourth written statement to the Gardai in September 2002. Gavin claims that he was raped by Fr Alpha beside a pond in a field near his home. He claims he blocked out this memory for years and only recovered it after years of therapy. He stated that Fr Alpha continued to abuse him throughout his teenage years.

After he completed his leaving certificate, Gavin entered the seminary in St Peter's. While he was there, Gavin met with the Spiritual Director of the Seminary. Gavin told the Inquiry that he believed he had discussed the abuse with the Spiritual Director on many occasions. Gavin has stated that the Spiritual Director suggested to him that he, Gavin, should ring Fr Alpha and arrange to meet him at St Peter's College. Gavin advised the Inquiry that Fr Alpha did drive to St Peter's on that evening and spoke to Gavin but not to the Spiritual Director. Gavin alleged that Fr Alpha refused Gavin's request to stay away from him and his family.

The Spiritual Director of St Peter's at that time attended the Inquiry and explained that in his capacity as Spiritual Director, students or seminarians came to him from time to time to speak to him. The meeting might involve the Spiritual Director hearing the Confession of the seminarian but it was his belief and contention that all matters discussed by seminarians with him in his capacity as Spiritual Director came under the seal of Confession and that they were absolutely confidential and private. The Spiritual Director could and did give certain evidence in relation to other matters but would not and did not discuss in any way the information, if any, given to him by Gavin. The Inquiry accepted that discussions between seminarians and their Spiritual Director were covered by sacerdotal privilege but that Gavin was free under Civil law to give whatever evidence he thought fit in relation thereto.

Gavin left St Peter's College and married. The President of St Peter's College at that time has stated to the Inquiry that he was unaware of Gavin's alleged sexual abuse by Fr Alpha at the time of his leaving St Peter's. Gavin's marriage subsequently broke up. He claims that the cause of this break-up was related to his renewed sexual contact with Fr Alpha in the years between 1990 and 1996.

Gavin made an initial complaint to the Gardai in September 1996. He met with Bishop Comiskey in March 1997. Gavin told the Inquiry that he told Bishop Comiskey that he was abused by Fr Alpha but did not go into the details as he was not encouraged to do so by the demeanour of the Bishop and by the fact that Bishop Comiskey had revealed to him details of the identity of another complainant, which concerned him.

Gavin made a third statement to An Garda Síochána in May 1997, in relation to a counter-complaint made by Fr Alpha that Gavin had abused him. Gavin conceded that he did make an approach to Fr Alpha but claimed that this was because of his confused sexuality which resulted from the child abuse perpetrated by Fr Alpha. These complaints were referred to the DPP but not proceeded with by him.

4.3.3 ERIC

Eric alleged the following:

In June 1993, when Eric was 15, having become friendly with Fr Alpha he was in the sitting room of the parochial house with him discussing problems he was having at home. He alleges that he was upset and Fr Alpha became tearful and knelt down in front of him, putting his hand up and down his legs, brushing across the crotch area of Eric's trousers. These activities lasted for about half an hour during which time Eric felt confused and froze. As Eric left, Fr Alpha gave him a

hug and kissed him on the lips. Eric went home but did not disclose the abuse to anybody. Eric alleged that similar incidents occurred on a weekly basis thereafter, until some time in July 1993 when Fr Alpha told Eric that he, Eric, had problems sexually and that Fr Alpha wanted to help him. After initially resisting Fr Alpha, Eric submitted. In August 1993, it is alleged that Fr Alpha forced Eric to perform oral sex on him. Acts of a sexual nature are alleged to have continued on a regular basis in the parochial house until June 1994 when, Eric claims, Fr Alpha and another man raped him. On the following day, Eric went to the local forest with the intention of hanging himself.

In October 1995, Eric disclosed his sexual abuse by Fr Alpha to two doctors who were treating him in hospital and spoke to the Sister in charge of the ward in January or February 1996. In February 1996, the SEHB informed the Gardai. Eric then made a statement to the Gardai.

Eric met with Bishop Comiskey on 3 January 1997. In breach of what Eric believed to be an undertaking of confidentiality, a statement given by him to the diocese outlining the abuse he had suffered was passed on by a priest of the diocese to Fr Alpha and he then revealed it to Eric's parents. This caused a row that resulted in his parents not speaking to Eric for two years. The Bishop apologised for that breach. A series of correspondence and meetings ensued between Eric and Bishop Comiskey throughout the next two years.

In July 1997, a further and more detailed statement of abuse was provided by Eric whereupon Bishop Comiskey strongly advised him to report to the Gardai who would be able to investigate the allegations properly and in a way that the Diocese could not do.

Eric maintained regular correspondence with the Diocese until Bishop Comiskey's resignation after which Eric received no further communication.

The DPP decided not to prosecute in this case on the evidence presented to him.

Eric stated that he was embarrassed by an approach made to him by Bishop Eamonn Walsh outside a church at a Confirmation ceremony in 2003, during which the Bishop discussed the DPP's decision not to prosecute Fr Alpha. Bishop Walsh has stated to this Inquiry that when he met Eric by chance on this occasion, he was conscious that the decision not to prosecute would have been a disappointment to him. He felt that it would have been remiss of him not to acknowledge the situation. Bishop Walsh spoke to Eric in private and used the opportunity to invite Eric to meet with him to discuss the matter fully. This meeting took place a short time later.

Fr Alpha denies all of the allegations outlined above.

4.4 FR JAMES GRENNAN (Deceased)

In 1988, ten girls alleged that they had been sexually molested by Fr James Grennan whilst he heard their Confessions on the altar in the parish church of Monageer. These girls were aged around 12 or 13 at the time and they made the complaint to the principal of Monageer national school, Mr Pat Higgins. Mr Higgins contacted the South Eastern Health Board, who sent a social worker, to speak with the girls. The Health Board then arranged for Dr Geraldine Nolan, Director of the newly established Validation Unit in Waterford, to interview the girls. On 4 May 1988 she interviewed 7 of the 10 girls who made the allegations. The other 3 girls had been refused permission by their parents to attend Dr Nolan.

Dr Nolan provided a composite report on all 7 girls who were interviewed individually. The substance of each complaint was similar and it is therefore useful to recite certain aspects of Dr Nolan's report hereunder:

"Confession was a major time that the girls felt unhappy about. This was held on the altar with Fr Grennan sitting on a chair and the children kneeling on red cushions at his feet. The rest of the class remained in their seats and were told to keep their eyes closed because they were in a house of God and to show respect. They were told that if their eyes were closed their prayers would go straight to God. If they opened their eyes while the Confession was occurring Fr Grennan would chastise them. At Confession Fr Grennan would grasp the child's hands in his hands and pull them towards his private parts. The zip would be described as half down and there was never any allegation of his putting their hands inside of the unzipped area. He would pull the child close and rub his face and mouth around their jaw while asking them questions about their families etc. He was also described as putting his hands under their skirts and fondling their legs to mid-thigh level only.

Other occasions when the girls were likely to be alone with Fr Grennan were in the vestry especially if they were preparing for lessons etc. for readings. The main allegations there were of fondling through their clothes of the upper body. He was alleged to have touched inside their T shirts while ostensibly examining the pattern or wording etc. on the T- shirt. Some of the children also described either in his own house in his sitting room or at their house or a relative's house, sitting on his knee and being fondled but in the presence of other people it was made to look like tickling.

One girl also described a rather severe slap on her ear in the class when she said she would tell her parents about it. He offered his apologies and asked her not to tell. He said he would pray for her.

... Fr Grennan's actions in many cases have been going on for two or three years and in some cases over the past school year. They are not allegations that would be made up for any malicious intent and the girls described much the same activity in different ways."

The Inquiry has met with the following witnesses.

4.4.1 BRIDGET

Bridget alleged the following:

Bridget was one of the group of ten girls who alleged sexual abuse by Fr Grennan during Confession in Monageer church in April 1988. She told the Inquiry that sexual abuse had taken place on the altar in the church at Monageer during Confession, in the parochial house and in the vestry. She said that while preparing for Confirmation, the whole class was present in the church, but at certain times she had to collect magazines and other items from the priest which would result in her being on her own with him. She stated that while alone on these occasions Fr Grennan inappropriately touched her. She was one of the girls who, with her family, walked out of the Confirmation ceremony in Monageer.

4.4.2 EIMEAR

Eimear alleged the following:

Eimear was also one of the 10 girls who alleged sexual abuse by Fr Grennan during Confession at Monageer church in April 1988. She told the Inquiry that Fr Grennan had put "the fear of God" in the Confirmation class in relation to their knowledge of catechism. Fr Grennan constantly kept a watch on all the children while he was on the altar and hearing Confession from one of them. She said that Fr Grennan would pull her hands in close to him so that she touched his genital area. She said Fr Grennan's fly was half open during these encounters. He would then get close to her ear and her face and his face would touch her face and he would begin licking her jaw and licking her ear. She said this happened on numerous occasions. She informed the Inquiry that she was not contacted by the South Eastern Health Board after 1988 until a Health Board official called to her house requesting her consent to the handing over of her files to Mr George Birmingham in 2002. She confirmed that no counselling was offered at any time after 1988.

4.4.3 OLIVIA

Olivia alleged the following:

Olivia was also one of the 10 girls who alleged sexual abuse by Fr Grennan during Confession at Monageer church in April 1988. She told the Inquiry that her class felt very threatened by Fr Grennan and afraid of him. She was personally petrified of him and uneasy at his untidy appearance and in particular his dirty and scruffy dress and odour of alcohol and cigarettes. She stated that he would place her hands in his hands whilst she was up on the altar kneeling in front of him and he would put her hands onto his private parts and lick her jaw and stick his tongue into her ear whilst asking her about a particular commandment. This happened on a number of times and on a regular basis.

4.4.4 ITA'S PARENTS

Ita's parents alleged the following:

Ita was one of the group of 10 girls who alleged that they were sexually abused by Fr Grennan during Confession in Monageer church in April 1988. She made a statement to Garda Behan at the time of the initial investigation and attended Dr Geraldine Nolan for assessment. Both Ita and her parents had been assured by the Health Board that Fr Grennan would not be present at the Confirmation ceremony due to take place the following June. Other families whose children had complained about Fr Grennan had been given similar assurances. In fact, Fr Grennan was at the ceremony and appeared prominently at Bishop Comiskey's side from the start. Ita and her family walked out of the church in protest. The family felt upset at how the situation had been handled. Their suffering was exacerbated some years later when their child died tragically in an accident and Fr Grennan insisted on conducting the funeral service against the wishes of the family.

Ita instituted civil proceedings against Bishop Comiskey, the Minister for Justice, Ireland and the Attorney General which have now settled.

4.4.5 FERGUS

Fergus alleged the following:

Fergus was an altar boy who served with Fr Grennan for a period of up to eight months prior to his death. He took an overdose of medication before Fr Grennan's funeral in order to avoid having to attend it. As a result of this suicide attempt, he received counselling. On 30 May 1994, Fergus alleged to his mother, and subsequently to a counsellor, that he had been sexually abused by Fr Grennan soon after commencing his service as altar boy.

Both Fergus and his therapist wrote to Bishop Comiskey in relation to the allegations on 21 June 1994. This letter was passed to Bishop Comiskey via Fr Paul Andrews SJ, a well known psychologist. Fergus told the Inquiry that he believes that if Bishop Comiskey "*had done his job*" in relation to the 1988 complaints, the abuse which happened to him would not have occurred.

Fergus did not provide details of the nature or extent of the abuse to the Inquiry although he did attend for an oral hearing during which he discussed the response of the Diocese to his allegation.

4.4.6 DEBORAH

Deborah alleged the following:

Deborah spoke of her abuse by Fr Grennan to Mr George Birmingham and to her solicitor. She also met with Bishop Walsh in May 2002. Bishop Walsh gave her his phone number inviting her to contact him should the need arise. She spoke with Bishop Walsh on three subsequent occasions. The abuse is alleged to have started when she was five years of age in the mid 1970s. She alleged that the abuse

continued for a number of years and that when she was seven years of age Fr Grennan tried to penetrate her.

Deborah's mother contacted the Inquiry and stated that although Fr Grennan was a regular visitor to their home, and on occasion stayed overnight, nothing improper occurred between Fr Grennan and her daughter. She said that Fr Grennan would sometimes sleep in Deborah's bed; if she was already asleep she would not move her, but she was quite certain that if anything had happened, Deborah would have told her.

Deborah stated to George Birmingham that she wrote to Bishop Comiskey in 1993 detailing in her letter what Fr Grennan did to her but she received no reply. She said that in 1995 she wrote another letter asking why she did not receive a reply to her earlier letter. Bishop Comiskey denied ever receiving any correspondence from Deborah. Deborah's mother recalls her writing a letter to Bishop Comiskey but did not know its contents and does not know if it was posted. There is no evidence of these letters on the diocesan files made available to the Inquiry.

Deborah had a troubled and unstable adolescence which continued into her twenties. She blamed this on the abuse she suffered from Fr Grennan. Deborah committed suicide in 2002, aged 31.

4.4.7 SHEILA

Sheila alleged the following:

In June 2002, Sheila met with Bishop Walsh to report a complaint of sexual abuse perpetrated by Fr Grennan on her as a child. Sheila was one of the original group of ten girls who alleged abuse by Fr Grennan in Monageer in 1988. No details of this abuse were recorded and the Inquiry has not met with this complainant. The Inquiry notes that Sheila pursued counselling paid for by the Diocese and met regularly with the Diocesan victim support person.

4.4.8 ANNA

Anna alleged as follows:

In 1981, Anna was 11 years old and residing at her grandmother's house when Fr Grennan visited and sat her on his knee. He began to rub his hands against her skin and in particular against her back and her breasts underneath her clothing. Anna did not make a complaint to the Diocese or Health Board at any time and only made a complaint to Gardai in July 2002.

4.5 FR SEAN FORTUNE (Deceased)

4.5.1 STEPHEN

Stephen alleged the following:

Stephen was a boarder in St Peter's in the 1970s and alleged sexual abuse by Sean Fortune who was a seminarian there at the time. Stephen was 13 years old when the abuse started. Inappropriate touching and sexually explicit conversations led to oral sex and masturbation and eventually, after 3 or 4 months, to full and violent rape. The first such rape occurred in a shower cubicle in St Peter's and subsequently five or six incidents occurred in a bedroom in the College. Sean Fortune made Stephen swear on a bible not to tell anyone and warned him that if he did, he would be expelled from St Peter's which would cause great hurt to his parents.

Close to the end of the school year, Stephen told the principal of St Peter's of the abuse. The school Principal reacted angrily to what Stephen said and refused to believe him, telling him that Sean Fortune was going to be a good priest and that if he persisted in saying those things about him, he would be thrown out of the college. Stephen dreaded going back to the college the following year. However, no further abuse occurred and he had no further contact with Sean Fortune and only minimal contact with the Principal. Stephen told the Inquiry that he continued to be affected by what had happened to him in his early days in school. He has now started counselling and is hopeful that that will help. Stephen contacted the Diocese in March 2003 and is pursuing a civil claim against Bishop Eamonn Walsh and the Diocese of Ferns.

4.5.2 MAURICE

Maurice alleged the following:

Maurice was a pupil in St Peter's secondary school whilst Sean Fortune was a seminarian. During nocturnal visits to the dormitory, Sean Fortune would masturbate himself whilst fondling Maurice. This happened three or four times. Maurice got to know Sean Fortune through his involvement with the Boy Scouts. As a result of what happened with Sean Fortune, Maurice engineered his own expulsion from St. Peter's. The effect of expulsion from a highly regarded boarding school on Maurice's life was significant.

4.5.3 DAVID

David alleged the following:

Whilst he was a Seminarian, Sean Fortune frequented the secondary school in St. Peter's because of his association with the boy scouts group in the school. David was a 17 year old student in St Peter's College and he went on a camping trip in early 1979 with the St Peter's College unit. David was rousing the patrols one morning. He opened a flap of a tent and found Sean Fortune lying on top of a scout and feeling his private parts. The boy in question told David that Fortune had abused many other boys as well. Some of the scouts wanted to report the incident to the President of the College at the time, but David asked them not to and they didn't.

David also reported that, on a trip to the Isle of Man in 1979, a scout leader told him that Sean Fortune had made advances towards him and that he believed that he made advances towards another leader as well. David reported a number of other incidents involving sexual advances and inappropriate behaviour by Fortune in a full report to the national headquarters of the Catholic Boy Scouts of Ireland in December 1979. He told the Inquiry that he believed the scout leader at the time, Mr Joe Cuddy (deceased), gave the document to the rector of St Peter's, who in turn passed it on to Bishop Herlihy. The rector at the time does not recall receiving such a report. Two officials from the scouting movement confirmed to the Inquiry that they had made contact with Bishop Herlihy about Fr Fortune's behaviour in the boy scouts.

When posted to Belfast, Fr Fortune was prohibited from any contact with The Catholic Boy Scouts of Ireland although he did form his own scout group which was independent of the CBSI.

4.5.4 CARL

Carl alleged the following:

Carl had two sons who were involved in the boy scouts in St Peter's College. In 1978, one of his sons told him that during a camping trip, Sean Fortune had abused or attempted to abuse some of the boys. At the same time, a neighbour reported to Carl that she was removing her sons from St Peter's because of the activities of Sean Fortune. Carl had a meeting with the then president of St Peter's and another senior staff member at the seminary. According to Carl, the president of the college refused to listen to what he had to say but the senior staff member was shocked and said that something would have to be done and some sort of investigation would have to take place. However, a year later, Sean Fortune was ordained and no action appeared to have been taken.

Carl said that at the time of speaking to the authorities in St Peter's, there were a lot of rumours circulating that Sean Fortune was interfering with children and, according to Carl, the *"dogs in the street seemed to know that he was a homosexual"*. Approximately a year after Fr Fortune was ordained, Carl went to see Bishop Herlihy about another matter and was asked whether he had an opinion on Sean Fortune. Carl said that he told Bishop Herlihy that Sean Fortune had abused his son and that he would never allow him into his house again. Bishop Herlihy made it clear to Carl that he had heard other complaints about Sean Fortune from Belfast and Dundalk.

4.5.5 DECLAN

Declan alleged the following:

In his evidence before the Inquiry, Declan described an incident that he alleges occurred at a scout camp in Duncannon in 1978 before Sean Fortune's ordination. During that camp, Fortune masturbated a boy until he ejaculated in front of a number of other boys. Sean Fortune treated it all as a prank. Declan told the Inquiry that everybody was shocked and appalled.

Declan described being in his home while his parents were on holiday and being cared for by his aunt and uncle. Fr Fortune invited him out and although Declan pleaded not to be made go, his aunt did not wish to refuse a priest and insisted that Declan go. Fr Fortune told his aunt that if they were late they would stay overnight in Poulfur which they did.

Sean Fortune told Declan to sleep in a single bed in his Fr Fortune's bedroom. Fr Fortune quickly brought the conversation around to homosexuality and spent the night flattering and attempting to physically assault and rape Declan over a ten hour period. Declan resisted a constant barrage of a sexual nature from Sean Fortune and demanded to be brought home the next day. Declan told his parents about what had occurred.

Declan's father was extremely angry and spoke with Bishop Herlihy about the incident. Declan's father did not raise the problem of Fr Fortune with Bishop Comiskey until the end of the 1980s.

4.5.6 CHARLES

Charles alleged the following:

In his statement to the Gardai, Charles alleged that in the late 1970s he was an altar boy at the Holy Rosary Church, Ormeau Road, Belfast. He was also involved in the boy scouts. One night he was doing paperwork at a room in the priests' house while Fr Fortune was present. Fr Fortune asked him to play a game. He started to tap him on his private parts and told Charles to do the same back, which he did. After a short period of time both lay on the couch and Fr Fortune started to fondle Charles' private parts. When Charles tried to get away, they both fell on the floor and Fr Fortune held him down. When he eventually got away from Fr Fortune he threatened to tell the parish priest and left the house. Charles went on to allege that approximately one month later the boy scouts from Belfast were on camping trip to Gorey, Co Wexford. Whilst there, Charles witnessed Fr Fortune doing the same thing (i.e., tapping of the private parts) to two younger boys. He called the boys away from Fr Fortune as he knew what was going to happen to them. After this, Charles left the scouts. Charles did not speak to anyone about his experience with Fr Fortune until after Fr Fortune's arrest in 1995 when he made a statement to the Gardai.

4.5.7 STUDENTS FROM ST MARY'S COLLEGE, BELFAST

The Spiritual Director at St Malachy's College in Belfast, was approached by a student who was known to him from another school, St Mary's College. The

student was approaching on his own behalf and on behalf of a fellow student. Both of them had been importuned by Fr Fortune. The Spiritual Director was not clear as to the details of the allegation, though he believes it involved an attempt by Fr Fortune to get them into bed.

The Spiritual Director said he reported the allegation immediately to Dr Philbin, Bishop of Down and Connor. Dr Philbin said "*leave it to me*". He says that by the next day Fr Fortune was out of the Diocese. Even before this complaint, Dr Philbin was taking steps to remove Fr Fortune from the Diocese. There was anxiety that he was inveigling people into donating money to him and was not sufficiently sensitive to the political and social situation in which he was operating.

4.5.8 PETER

Peter alleged the following:

Peter was born and educated in Dundalk and met Sean Fortune through a group called Youth Encounter. Sean Fortune asked the group to seek their parents' permission to go on a Youth Encounter weekend to a neighbouring parish. Peter was about 13 or 14 at the time and his parents were happy to let him go. Originally, the arrangement had been that he would stay with a host family but when he arrived, he was told by Fr Fortune that he would be staying with him for the night. Peter was not concerned about this change of plan and even felt flattered that the priest, whom he admired and respected, would elect to have him stay with him.

Peter alleged to the Inquiry that the first night of the retreat was uneventful but on the second night, he awoke to find Sean Fortune naked and getting into bed beside him. Fr Fortune told him there was nothing to worry about and began having oral sex with him. Peter begged Fr Fortune to leave him alone but he refused to do so.

Peter alleged that over the next few days, Fr Fortune met him after school and told him that he was the one with a problem and that if he did not let Fortune help him, he would have to tell his parents. Peter said that that frightened him more than what Fr Fortune did. After Fr Fortune moved away from Dundalk in 1981 he returned at least once a month and for the next two years engaged in sexual activity including rape with Peter between ten and twelve times.

In the early 1990s when Peter was 25, Fr Fortune contacted him, apologising for everything that had happened and telling him that he would help him get a job. Peter visited Fr Fortune in Ballymurn and said that on one occasion he visited Bishop Brendan Comiskey with Fr Fortune in his residence in Wexford. During that visit to Ballymurn, Peter met with two men who, according to him were in a sexual relationship with Fortune. This meeting prompted him to disclose his abuse to Bishop Comiskey. The Bishop wrote back enclosing Stg£400 and assuring Peter that his concerns would be looked into. Bishop Comiskey has told the Inquiry that he has no memory of receiving any letter from Peter; he also denies sending Peter any money. Peter told the Inquiry that he received a further letter and payment of Stg£100 from Bishop Comiskey in 1997, but again Bishop Comiskey denies that such a letter or money was ever sent. No records of these transactions appear in the diocesan files furnished to the Inquiry.

4.5.9 SIMON

Simon alleged the following:

It is important to note that this is an allegation of sexual abuse and not of child sexual abuse as Simon was 21 years old at the time of the alleged offence. It was the first recorded complaint made to Bishop Brendan Comiskey about Sean Fortune. The young man in question visited Fethard-on-Sea in 1984 with a group of friends. Fr Fortune invited them to his house for a meal and invited the group to speak to him about any personal problems that they might have had. Simon was concerned that he might be homosexual and at Fr Fortune's suggestion, stayed behind after the group left to discuss his difficulties further. That night Fr Fortune asked Simon to join him in bed and intercourse took place. Simon described being terrified by what had occurred.

In December 1985, Simon met with Bishop Comiskey under a false name and told him what had happened. Bishop Comiskey has told the Inquiry that although he had had concerns about Fr Fortune before then, this account by Simon was the first definite complaint he had received, and even though Simon was not willing to make a formal recorded statement, it gave Bishop Comiskey the moral certitude to act against Fr Fortune. The result of Simon's complaint was that Fr Fortune was sent by Bishop Comiskey to a psychiatrist in Dublin who recommended residential treatment for Fr Fortune. Although Bishop Comiskey has said that Simon's complaint led directly to Fr Fortune's removal from Poulfur, this did not occur until October 1987, almost two years after meeting the complainant. Simon did not report the incident with Fr Fortune to the Gardai until 1995. No prosecution occurred because, by then, homosexual activity had been decriminalised and there was a perceived difficulty in establishing a lack of consent.

4.5.10 WILLIAM

William alleged the following:

William originally made his complaint of child sexual abuse to the Diocese by writing directly to Bishop Comiskey on 17 October 1987. This was done at the suggestion of Fr Sean Devereux who succeeded Fr Fortune as curate in Poulfur. William began his letter by saying that he was sexually abused by Fr Fortune for some years during his term of ministry in Poulfur. William explained how he had had a great deal of respect and trust for Fr Fortune before the abuse occurred and that he had been a very religious boy. He said that Fr Fortune's initial approaches involved him touching his genitals and asking William to touch him. He said that, although he was sickened by this, he was terrified to tell anyone because he did not think he would be believed. Sean Fortune arranged with his mother that William would spend a week with him in Dublin. On the first night he was abused so badly and was so disgusted that he was violently ill. He made Fr Fortune bring him home the next day and threatened to tell his parents and the Gardai about what had occurred. Although Fr Fortune continued to contact him, William avoided him from that time onwards. He told Bishop Comiskey in his letter that whilst he had recovered from the trauma himself, he worried about what Fr Fortune could do

with other young boys. Almost two years after William's initial complaint, he was asked to attend a meeting with a Canon lawyer, Fr Robert Noonan, in All Hallows. This meeting was part of a Canon law process that Bishop Comiskey had commenced in order to determine Fr Fortune's future in the Diocese. Fr Noonan spoke with William and reported that he found his story capable of being true. Some months later he met with Fr Fortune and reported that he found Fr Fortune's denial of the allegations brought by William also capable of being true.

When William's story was reported in the press, Bishop Comiskey specifically and vehemently denied two aspects of it. Firstly, he repudiated William's statement that a meeting had taken place between William and a Canon lawyer in Maynooth. In fact, the meeting had taken place in All Hallows. By his denial, the impression was given by the Bishop that no meeting had taken place at all. This had the effect of discrediting William and increasing the media spotlight on him. When asked by this Inquiry why he had not simply clarified the location of the meeting, Bishop Comiskey said that he did not consider it the media's business where such a meeting took place.

Secondly, Bishop Comiskey denied writing to William to apologise for the abuse perpetrated by Sean Fortune. William's mother informed the Inquiry that a letter was received by William in reply to his letter of 17 October 1988 and that it expressed regret for what had occurred with Fr Fortune. Bishop Comiskey has acknowledged that a letter of regret could have been sent to William although no letter of apology would have been sent. This is in keeping with Bishop Comiskey's position throughout his episcopacy that he could not apologise for the activities of priests who either were deceased at the time of the allegation or were denying it. However, by denying rather than clarifying the story, Bishop Comiskey caused additional suffering to the young man and his family. The media attention became so oppressive that William's mother informed the Inquiry that of everything that had happened to her and her family arising out of this matter, the media attention was the most difficult to cope with. She expressed a view to this Inquiry that Bishop Comiskey had a responsibility to William to ensure that by making the complaint to him and to the Gardai, he did not suffer adversely. The Inquiry shares this view and would emphasise the importance of all abuse allegations being treated sensitively and confidentially by all parties concerned. Proceedings issued by William against the Diocese were eventually settled.

4.5.11 IAN

Ian alleged the following:

At about 16 years of age, Ian attended a communications course organised by the Mater Hospital in conjunction with other hospital radio stations. Fr Fortune was conducting the course and he was presented as the Church's leading communications expert. Ian got a job in the same building as was being used by Fr Fortune to make a recording for broadcast and Ian was delighted to learn as much as he could from him. Ian said that one day while he was working on the sound desk, Fr Fortune bent over him to show him how to do something and pressed down on him. He then fumbled with his belt and Ian shouted "no, no", struggling for breath. He said that Fr Fortune took down his trousers, fondled his genitals and buggered him. He said this was brutal and painful and occurred despite struggles

to get away. Ian says that Fr Fortune left him *"in a mess on the floor, bleeding heavily"*. Fr Fortune proceeded to carry out sound mixing in the studio while Ian was sobbing. He says that Fr Fortune came back and told him it would be better for him not to tell anyone and Ian promised that he would not tell anyone about the abuse. Ian issued proceedings against the Bishop of Ferns in 2002 which were settled by the Diocese.

4.5.12 FRANK

Frank alleged the following:

Frank was abused by Fr Fortune from the early 1980s for a period of two years. Fr Fortune became friendly with Frank's family and was a regular visitor to their home. He invited Frank to spend a weekend in Poulfur with him. Fr Fortune sexually assaulted Frank during that weekend by intimate touching and mutual masturbation. Fr Fortune then threatened to tell Frank's parents what had occurred if he did not return to Poulfur for visits and this started a pattern of abuse which lasted for a period of two years. Frank was collected from his home and brought to Poulfur. During these weekends sexual assaults including touching genitals, oral sex and masturbation took place. During one of these visits, Fr Fortune buggered him. Fr Fortune did not ejaculate but masturbated himself. Fr Fortune tried to force Frank to have anal sex with him but Frank found that he was unable. Three years after the abuse had started, Frank asked Fr Fortune for financial help. Fr Fortune agreed on condition that Frank found a young boy to sleep with him. Frank ceased contact with Fr Fortune at that point.

In the mid 1990s after his sister attended a family wedding, Frank was made aware that Fr Fortune had been paying a lot of attention to the teenagers there. This alerted Frank to the possibility that what had happened to him might be happening to other boys.

He complained to Garda Patrick Mulcahy of Wexford Garda Station in February 1995 and in March 1995 Fr Sean Fortune was interviewed. Once that Garda investigation commenced, more witnesses came forward to tell stories of abuse by Sean Fortune.

Bishop Comiskey placed Fr Fortune on administrative leave in March 1995 but Frank said that the Bishop did not remove the authority that Fr Fortune had as a priest and as someone who effectively had dominion over children. Although Frank feels outraged at the way Bishop Comiskey handled his allegation against Sean Fortune, he does acknowledge that this was a problem inherited by Bishop Comiskey from his predecessor. Frank claims that the wider Church had serious questions to answer about how a priest like Fr Fortune could have been ordained and placed in a parish given the amount of information available about him. He said that although Bishop Comiskey made public expressions of care, compassion and support, they were never addressed directly to him.

Frank instituted civil proceedings against Bishop Comiskey as the only method available to him of securing a public apology for the abuse that occurred. The case was settled on the payment of substantial damages and the reading out of an apology in open court.

4.5.13 PATRICK

Patrick alleged the following:

Patrick was hitching home from Wexford hospital where he had received treatment for a facial injury when he was picked up by Fr Fortune in his car. Fr Fortune spoke to him about relationships and sexual preferences. Towards the end of the journey he asked Patrick about the scarring on his face. Patrick said Fr Fortune masturbated himself throughout the journey and then smeared his face with semen telling Patrick that it would heal his face. Patrick said that he felt physically and psychologically intimidated. Patrick told the Inquiry that Fr Fortune later sought him out at his work place. Patrick was raped and abused by Fr Fortune approximately three times a week for two to three years.

Once, Patrick saw his cousin Brendan (4.5.21) being called away by Fortune. Patrick tried to warn his own mother of the danger to Brendan. She dismissed the suggestion outright and physically attacked Patrick. Patrick said that Fr Fortune heard that he had tried to speak to his, Patrick's, mother and that night he was subjected to a particularly brutal rape. After that, Patrick said he did not dare to speak to anyone about his abuse especially not the Bishop.

Patrick told the Inquiry that *"half of the village was pro-Fortune and the other half anti-Fortune"*. Despite this division, he feels that Fr Fortune had total control of the village. He believes that everyone was aware of allegations against Fr Fortune.

Patrick has said that words could never describe the devastating impact this has had on his life for decades.

Patrick first made a complaint to the Diocese in 2002 and has now settled proceedings against the Diocese.

4.5.14 MARK

Mark alleged the following:

Mark first came into contact with Fr Fortune when he was a member of a youth club which was held in the basement of Fr Fortune's house in Poulfur in Co Wexford. He attended a retreat weekend in the early 1980s when he was twelve years old during which Fr Fortune sexually assaulted him. Mark was pre-pubertal and was not sexually aware at the time. He was frightened and bewildered by what had occurred. Fr Fortune told him not to tell anyone what had happened. On two further occasions Fr Fortune sexually assaulted Mark in his, Fr Fortune's house in Poulfur. Mark told Fr Fortune that what he was doing was wrong. Fr Fortune told him that because he was a priest and could not get married what he was doing was not wrong but that it must be kept a secret. Mark never disclosed this abuse to anybody because he thought he would not be believed. His parents were very religious and involved in the Church and he felt confused and guilty because he believed he had allowed the incidents to happen.

As a result of the abuse, his relationship with his parents deteriorated and he eventually left home and went abroad. During an argument on a visit home, he told his parents about the abuse. His parents took his allegations very seriously. Mark and his parents went to see a priest of the diocese in 1990 and told him that

Mark had been interfered with by Sean Fortune. The Inquiry has heard evidence from this priest who confirmed that this meeting with Mark's family took place and that he spoke with the diocesan secretary, the following day. Bishop Comiskey was apparently absent from the diocese at the time. This priest informed the Inquiry that he told the family that they should seek counselling for Mark if necessary and he identified a counselling source for Mark. He also advised them that they should consider going to the Gardai.

Bishop Comiskey said that he had never heard anything about Mark's complaint before 1995. In response to this, the priest in question went to a solicitor in 1995 and swore an affidavit confirming that he had relayed the complaint to diocesan offices. He told the Inquiry that he had never mentioned the allegations again and never asked the family about Mark. The diocesan secretary has attended this Inquiry and has confirmed that he is completely satisfied that he brought this complaint to the attention of the Bishop although he confirmed to the Inquiry that he could find no written record of a communication of this complaint to Bishop Comiskey.

4.5.15 THOMAS

Thomas alleged the following:

Thomas alleged that he was abused by Fr Fortune in the early 1980s when he was 16 years of age. He went to Poulfur to join the youth club where he met Fr Fortune. On one occasion, Fr Fortune suggested Thomas spend the night in Fr Fortune's house. Twice during the night, Thomas awoke to find Fr Fortune touching him and when he realised what was happening he tried to jump out of the bed. His sister confirmed to the Inquiry that she and her mother realised that something had happened with Fr Fortune but did not know exactly what. The family stopped attending mass in Poulfur and went to a neighbouring parish instead. Thomas made this allegation known for the first time to the Gardai in 1995.

4.5.16 RONAN

Ronan alleged the following:

In the early 1980s, Ronan was an altar boy at Poulfur church where Fr Fortune was a curate. He describes driving in a car with Fr Fortune and two elderly people who were sitting in the back of the car. Ronan was in the front passenger seat when Fr Fortune began to feel his private parts, so much so that it hurt Ronan. Ronan said that Fr Fortune was always offering inducements like a stereo, large sums of money, or a motor bike to sleep with him. Ronan first reported this abuse to the Gardai in 1995.

4.5.17 GRAHAM

Graham alleged the following:

Graham was holidaying in Wexford in the early 1980s when he was befriended by Fr Fortune who asked him to paint his house. He was offered food and lodgings at the house. Whilst there, he was sexually assaulted by Fr Fortune. He described how shock and fear froze him into immobility. Fr Fortune forced him to swear on the Bible not to tell anyone. He first reported this allegation to the Gardai in 1995.

4.5.18 GARY

Gary alleged the following:

Gary was born in the early 1970s and was employed by Fr Fortune in the grounds of Poulfur church in the late 1980s. Gary states that on one occasion, Fr Fortune brought him into the office and asked him if he would go to bed with him, and told him that he could have anything he wanted if he did so. Gary refused this proposition and also refused to kiss Fr Fortune. As he was leaving the office, Fr Fortune handed him a £10 note and told him to say nothing about what had happened. After this incident, Gary stopped working at the church and never returned to it. Gary first reported this incident to the Gardai in 1995.

4.5.19 ADRIAN

Adrian alleged the following:

Adrian was born in the early 1970s and was a member of the youth club at Poulfur run by Fr Fortune. When he was in his mid-teens, Fr Fortune offered him work on a FÁS scheme. Adrian called to the priests' house at Fr Fortune's request to discuss this. During the discussion, Fr Fortune offered Adrian £20 for a "*blow job*". Adrian refused and left as quickly as he could.

Adrian says that he told a curate in the diocese after Fr Fortune had been removed from Poulfur of the incident between himself and Fr Fortune. This priest has stated that although he asked "Adrian" whether he had been abused by Fr Fortune, Adrian did not state positively that he was so abused. Adrian reported this abuse to the Gardai in 1995.

4.5.20 LUKE

Luke alleged the following:

Luke was a member of the youth club which met in Fr Fortune's house in Poulfur. Fr Fortune called Luke into his office and questioned him on his sexuality and on his relationship with girls. The conversation then turned to sleeping with boys. Fr Fortune asked Luke "would you sleep with me if I asked you to", but before Luke could answer, the doorbell rang and Fr Fortune left the room. When he returned, Luke told him he wanted to leave immediately. Fr Fortune forced Luke to swear on the Bible that he would not mention their conversation to anyone. Luke first reported this allegation to the Gardai in 1995.

4.5.21 BRENDAN

Brendan's parents alleged the following:

Brendan's parents attended the Ferns Inquiry to speak about their son who committed suicide in the late 1980s. They said that they were convinced that Brendan was driven to suicide by Fr Sean Fortune with whom he had a lot of contact. Brendan's parents told the Inquiry that when Fr Fortune came to Poulfur, Brendan was about 14. He got involved in one of the FÁS schemes which Sean Fortune introduced to the area.

Brendan's mother told the Inquiry that Brendan accompanied Fr Fortune on different outings. He went to Loftus Hall and on a religious course to Maynooth for a week. Brendan's mother told the Inquiry that on one occasion when Brendan returned from a weekend away with Fr Fortune, he was unable to walk properly and there was a great deal of blood on his clothes. He told his mother that he had haemorrhoids but that he did not want to go to a doctor. Brendan's mother said that she asked Brendan if Fr Fortune had interfered with him and he said no, but she said he did give her a strange look as if to say, "*What do you know?*"

Brendan's parents confirmed to the Inquiry that they had heard that some of the boys in Poulfur were alleging that Fr Fortune was abusing them. However, they said they thought that it was a terrible thing for the boys to be saying about a priest and did not understand it. Brendan's parents contacted the diocese after Fr Fortune's suicide.

4.5.22 KEITH

It is alleged as follows:

Keith committed suicide in the mid 1980s. He was very friendly with Brendan (4.5.21) who also committed suicide. A number of people who came before the Inquiry mentioned Keith and his association with Fr Sean Fortune and made the connection between Keith's death and his abuse by Fortune. Patrick (4.5.13) confirmed that Keith was one of a group of boys who frequented the old castle in Fethard and that Fortune used to "hunt them down" and on occasion, rape particular boys that he would catch. Keith was regularly in the company of Fr Sean Fortune and went away on retreat weekends with him. Keith became more and more depressed and the family became convinced that there was some problem with Fr Sean Fortune.

The family wrote to Bishop Eamonn Walsh who said a Mass on the anniversary of Keith's death. The family also instructed solicitors to bring proceedings against the diocese but these were later discontinued. The family still maintains a close connection with the Church but believes that Keith's death was directly caused by the abuse perpetrated on him by Fr Sean Fortune

4.5.23 KIERAN

Kieran alleged the following:

Kieran said that in the mid-1980s when he was 15 or 16 years of age, he joined a FÁS scheme which was run by Fr Sean Fortune in Poulfur. He was working in the graveyard when he heard screaming from Fr Fortune's house. He went to the back door, opened it and saw Fr Fortune abusing a young teenager. Two other adults were there. He told the child afterwards that he should go to the Gardai and get help.

Kieran told the Inquiry that he spoke with another priest in a neighbouring parish about what he had seen. Kieran said that the priest asked him for a detailed account of the abuse and a demonstration of how the abuse occurred. He said the priest put his hand on Kieran's penis. Kieran said he hit his hand away. He said that the priest put his, Kieran's name into a book in the church and said that he would tell the Bishop what had happened. Many years later when he met the priest again, the priest told him that he had told the Bishop what had happened with Fr Fortune and also apologised for what he himself had done. The said priest is now deceased and there is no information in the diocesan file in connection with the matter.

4.5.24 DANIEL

Daniel alleged the following:

Daniel first encountered Fr Sean Fortune in the late eighties when he was 13 or 14 years of age. Daniel was in a cubicle of the public toilet beside his school when a tall, dark man whom he subsequently identified as being Fr Fortune, forced his way into the cubicle and buggered Daniel. Daniel returned to school but was clearly upset and broke down when asked what was wrong with him. Daniel told his teacher that he had been approached by a man in the toilet. He did not say that he had been raped. The teacher reported the matter to An Garda Síochána. A Garda interviewed him at home. Daniel said that he was unable to disclose what had happened because his father was present while he was being questioned. He merely said he was grabbed by a man – no mention was made of a priest as he did not know Fr Fortune at that time and would not have known his assailant was a priest. He never met the Garda again.

Daniel says that Fr Fortune hung around outside his school for a few weeks after that. Some time later, Daniel started working in a shop. On one occasion Fr Fortune stopped at the shop and casually told Daniel that he had had an AIDS test in recent weeks in St James's Hospital and that he, Daniel, had nothing to worry about.

On his 18th birthday, Daniel and his employer opened a business in a Wexford town. Less than a year later, Fr Fortune was still harassing Daniel and on one occasion after drinking alcohol, Daniel drove to the top of Vinegar Hill in Wexford and cut his wrists with a Stanley knife. A Garda found him and he was taken to hospital by ambulance.

Shortly after this, in the early 1990s, Daniel had to close his business leaving debts of £15,000. Fortune offered him a job and in desperation, Daniel accepted. Daniel went to Fortune's house three days a week and on each occasion sexual activity occurred. Daniel received £100 a week for the first three weeks only, although the period of abuse continued over a four year period.

Daniel claims that he saw Bishop Comiskey with other people at Fr Fortune's house in Ballymurn on a number of occasions. The Inquiry asked Daniel whether Fr Fortune talked about Bishop Comiskey. He said that he talked about him all the time and was initially very fond of him and "*thought he was God*".

On one occasion when Fortune was chasing him, Daniel telephoned the Bishop's house at two in the morning. He spoke with Fr Tommy Brennan and can remember being very frightened but said that the conversation was very short. He told Fr Brennan he was in Wexford and that Fr Fortune was chasing him. He was speaking to Fr Brennan from his mobile telephone and Sean Fortune was in his car driving up and down the streets. Fr Tommy Brennan told Daniel to call the Bishop the following day. Daniel felt that Fr Brennan had taken his complaint seriously enough and that he seemed quite calm. Fr Brennan has confirmed this account of Daniel's telephone call to the Inquiry,

The next day Fr Fortune pleaded with Daniel not to see Bishop Comiskey. He promised to leave Daniel alone so Daniel agreed.

In 1995 Daniel met Fr Fortune who was in a very agitated state. He had been charged with more than sixty counts of sexual abuse. Fr Fortune told Daniel that Daniel would have to appear in court as a character witness and that their relationship would be made public. It was a constant threat of Fr Sean Fortune's that if Daniel did not do what he said; he would tell his parents how much in love he was with Daniel. Fr Fortune claimed that the Bishop had advised him to go to Brussels although Bishop Comiskey has strongly denied to this Inquiry that he gave such advice. Under pressure from Fr Fortune, Daniel tried to escape on a ferry to France. Fr Fortune telephoned the captain of the vessel and had Daniel detained at Cherbourg. Daniel was returned home and Fr Fortune continued to harass him. According to Daniel, Fr Fortune gave him £7,500.

Three weeks before Fr Fortune committed suicide, Daniel wrote to Bishop Comiskey seeking a meeting. They met on ten occasions although only once before the death of the priest. He said that the first thing that Bishop Comiskey said to him was "*Fortune is an abomination*". Daniel said he felt really at ease because he felt that Bishop Comiskey hated Fortune as much as he did. As a result of his meetings with Bishop Comiskey, Daniel received counselling paid for out of diocesan funds.

In February 2002, the Diocese contacted Daniel. The diocesan spokesperson said that a newspaper had been informed that there had been a settlement with somebody who had been abused by Fr Fortune in the previous year. According to Daniel's testimony to the Inquiry, he was told by a spokesperson for the diocese that they had received a fax from a newspaper and that there was a possibility that his name would be revealed to the press. This caused him great worry and anxiety as he had not disclosed the alleged abuse to his parents. In fact no reference to him appeared in the papers and he subsequently revealed the abuse to his parents.

4.5.25 VINCENT

Vincent alleged the following:

Vincent was not a native of Wexford. When he was 17/18 years old, he decided to look for summer work in Rosslare. He arrived in Wexford by bus at about six o'clock one Friday evening in the late 1980s. He was looking for a hostel when he noticed a priest from whom he asked directions. The priest offered to help Vincent find work and invited him to stay in his house until after the weekend. This priest was Fr Sean Fortune and Vincent described how relieved and safe he felt under the protection of a priest. All of his experiences of priests until that time had been good.

Both attended a choir practice on that first evening and Vincent described that night that he spent in Fr Fortune's house as being "*absolutely fine*". At approximately 2 o'clock on Saturday morning, Fr Fortune came into the guest bedroom where Vincent was sleeping and, after undressing himself, removed Vincent's clothes. A series of sexual assaults took place that night mainly involving masturbation and oral sex. Vincent was frightened and stunned. He remembers Fr Fortune saying "*this is natural*". He said to Vincent that he must not tell anyone what had happened as nobody would believe him because Fr Fortune was a well respected priest. On Sunday night Fr Fortune raped Vincent which he described as extremely painful and shocking. On the Monday, Fr Fortune handed Vincent his bus fare home and instructed his housekeeper to drive Vincent to the bus station. Vincent returned home and told nobody about what had occurred. He said he was too ashamed to go to the Gardai. Vincent realised that what had happened him had happened to many other people when the television documentary "Suing the Pope" was aired. This gave him courage to speak about his experience which he did for the first time in 2003.

Vincent was not in a position to confirm where this abuse occurred. If Vincent was indeed seventeen years of age, it was probably in Poulfur but if, as he believes, the abuse occurred in Ballymurn, Vincent would have to have been older.

Vincent commenced proceedings against the Diocese of Ferns in July 2003. These proceedings were settled in July 2004.

4.5.26 COLIN

Colin alleged the following:

Colin described an incident of child sexual abuse involving Fr Sean Fortune which occurred when he was twelve in 1979 in Wexford. The incident occurred in a public toilet. Fr Fortune pushed him into the cubicle and bolted the door. He then raped Colin. When he was finished he adjusted his clothing, unlocked the door and left, saying that he would see Colin again, and that he was a good boy. Colin left the toilet and ran home. He removed his bloodied and stained underclothes. He never spoke of the incident to anybody.

Because Colin came from a difficult family background, he felt he could not disclose any of the abuse he had suffered to his parents or to anyone else.

Colin married in 1987. The priest who married him mentioned that they had a mutual acquaintance. Colin knew immediately that he was referring to Fr Fortune and also that this priest knew what had happened to him. Some years later, in 1992, Colin was standing at the side of the main street in Wexford with his baby son when Fr Fortune came up behind him and spoke to him. Colin said that he barely recognised him physically because he had gained so much weight but that he immediately recognised the voice. Fr Fortune said to him that he needed work done in his house in Ballymurn and that if Colin was not prepared to do it, he would tell Colin's wife and other people what he had done when he was 12.

Colin told the Inquiry that he was terrified that his wife would hear about what had happened and so he agreed to go to Ballymurn. He worked there for 10 months.

Colin said that on almost every occasion when he attended Fr Fortune in Ballymurn he was obliged to perform oral sex. He said that he was not raped again by Fr Fortune. He said Fr Fortune telephoned him up to three times a week demanding that he visit Fr Fortune at Ballymurn. He was working full time at this stage and Fr Fortune paid him very little for the work he did so he borrowed money to convince his wife that he was making extra money by working for Fr Fortune.

During this period, he met two priests of the diocese who, when they heard that Colin had been working with Fr Fortune, warned him against it although according to Colin it was acknowledged by them that Fr Fortune was more of a danger to young boys than to adults. This was the first indication Colin had that Fr Fortune might be involved with people apart from himself. Within a month, Colin stopped visiting Fr Fortune. One of the reasons he broke off contact was that Fr Fortune regularly asked him to leave his son with him when he ran errands. Colin never did this and had grave concerns about Fr Fortune asking it.

Colin told the Inquiry that when he was in Ballymurn he never saw Fr Fortune with anybody else. He said that Fr Fortune would often be in a very bad temper after a meeting and he would take it out on whoever was present. He said Fr Fortune slapped and punched him on these occasions.

Colin did not report this abuse to any of the State or Church authorities before attending the Inquiry. He said that had his family situation been different, he might have considered going to the Gardai, but in his circumstances he felt so alone and isolated that he had nobody to turn to. He said that when "Suing the Pope" television documentary was broadcast, he was very tempted to come forward but was unable to do so. He explained that it is only after two years of counselling that he is able to speak about what happened.

He said that the shame, guilt and isolation he felt as a result of his abuse deeply affected his life but that with counselling, he was managing to cope. He is happily married with children and was dealing with what had happened to him as well as he can.

4.6 MONSIGNOR MICHAEL LEDWITH

4.6.1 SEMINARIAN GROUP AND FR GERARD MCGINNITY

It is alleged as follows:

The Inquiry spoke with a group of six former seminarians, a former student, and Fr Gerard McGinnity, formerly Senior Dean in Maynooth College, in relation to complaints made against Monsignor Ledwith to various bishops in 1983 and 1984.

The group of former seminarians maintain that they voiced concerns over their seminary training, Monsignor Ledwith's allegedly extravagant lifestyle and his alleged sexual orientation and propensity. They shared anxieties over Monsignor Ledwith's preferential treatment of certain students and his relationship with such students which they believed was inappropriate. One seminarian in particular said that, although he was in no doubt that he expressed to the bishops he met his concern over Monsignor Ledwith's sexual behaviour, this concern was definitely more of an anxiety with regard to orientation and propensity rather than with specific sexual activity. Contrary to media reports, no specific allegations were made against Monsignor Ledwith but rather a concern was expressed in the general sense. The other five seminarians who attended the Ferns Inquiry confirmed this version of events.

None of the bishops, still living, to whom it is contended this group of seminarians spoke and who were contacted by the Inquiry, could recall any mention of sexual impropriety at their meetings with the members of the group or any of them.

After meeting with various bishops, including Bishop Comiskey, the group was dissatisfied with the response received and reported the matter to Fr Gerard McGinnity in his capacity as senior Dean. Fr McGinnity spoke to Cardinal Tomás O'Fiaich, Archbishop Dermot Ryan and Bishop Kevin McNamara (all of whom are now deceased). He also expressed his concerns in a confidential document returned by him to the Papal Nuncio. Bishop Casey became aware of the communication between Fr McGinnity and the three Bishops. At a subsequent meeting with Fr McGinnity, Bishop Casey called upon him to produce a victim of sexual abuse by Monsignor Ledwith. Fr McGinnity did not know of such a victim and therefore could not have produced one. His purpose had been to relate concerns as to the appropriateness of his relationship with some students. He never had any specific allegations to report. On the basis that a senior dean could not continue in the college after making such serious allegations against a Vice-President of the college, Fr McGinnity was required to remove himself from Maynooth on a year's sabbatical after which he was not re-admitted. Monsignor Ledwith was appointed President of Maynooth College ten months after Fr McGinnity's removal.

4.6.2 RAYMOND

Raymond alleged the following:

In 1994, Raymond alleged that he was abused by Monsignor Ledwith in the early 1980s when he was 13 years of age until after his 15th birthday. The exact age at when this abuse is alleged to have commenced is in dispute as Monsignor Ledwith states that he only became acquainted with this family after Raymond was 15 years old.

Raymond alleges that Monsignor Ledwith abused him in his, Raymond's home and in Monsignor Ledwith's house. The abuse amounted to touching and masturbation.

As a result of speaking to his parents about the abuse he went to meet Bishop Newman, Bishop of Limerick. Bishop Newman dismissed Raymond abruptly. The bishop's secretary, Fr Liam O'Sullivan, suggested that he should go to see Cardinal Daly. Cardinal Daly travelled to meet Raymond and then referred the matter to Bishop Comiskey who was Monsignor Ledwith's Bishop.

Bishop Comiskey informed the Inquiry that he met with Raymond and as a result he was more decisive in acting against Monsignor Ledwith. He set up a Canonical investigation and sought to have Monsignor Ledwith's priestly faculties removed. This is dealt with at Chapter Five of this Report.

The Diocese paid for intensive counselling for Raymond and his family. The Bishop was persuaded by Raymond's family to use his good offices to find employment for Raymond. Raymond and his family were angry and bitter over the events that had occurred and are continuing to receive counselling. Monsignor Ledwith reached a financial settlement with Raymond which did not involve the Diocese of Ferns, without any admission of liability. The settlement contained a "confidentiality clause" which precluded Raymond from discussing this matter and in particular precluded him from assisting in the canonical process initiated by the Trustees of Maynooth College which is discussed at Chapter Five of this Report.

Raymond did not discuss the alleged abuse with the Inquiry and when contacted by it through his lawyers, his lawyers informed the Inquiry that he was always concerned about any publicity with regard to this matter. He was genuinely fearful that if he got involved in making a detailed complaint to the Garda Authorities he might not be able to preserve his anonymity. He was concerned about the impact such publicity would have on his family.

Monsignor Ledwith was similarly prevented from discussing this matter with the Inquiry but has at all times attested to his innocence of all allegations made.

4.6.3 SHANE

Shane alleged the following:

Shane was a third year seminarian in Maynooth when he claims he was abused by Monsignor Ledwith in November 1994. He first spoke about this incident to his General Practitioner in October 1997 when he attended for treatment for depression. He had left seminary training in 1995 and had started work as a secondary school teacher. He continued to receive treatment for depression and in March 2000 whilst receiving hospital treatment, he arranged a meeting with his former Bishop to inform him that he intended making a formal complaint to the Gardai about the sexual abuse he had experienced. He did not reveal the name of the alleged perpetrator to his bishop.

The hospital authorities contacted the Diocese of Ferns and the Gardai in 2000. In his first statement to the Gardai in April 2000, Shane described in detail a very serious rape he claimed was perpetrated by Monsignor Ledwith. The Gardai commenced a thorough investigation of the allegation. Although witnesses spoken to by the Gardai all attested to a sudden change in Shane's personality in November 1994, none of them could confirm any question of sexual abuse being raised except for one infirmary nurse who said she was concerned about that at the time.

In June 2001 Shane completely withdrew all allegations against the Monsignor stating that no rape took place but that a consensual sexual encounter had occurred.

Monsignor Ledwith stated to the Gardai that he did not know Shane and had never had any relationship with him at any time, either consensual or otherwise. He further stated that he was not in the country on the dates which Shane stated as being the days on which the abuse is alleged to have occurred and was in a position to prove that.

This allegation was later than the allegation at 4.6.2 above and Monsignor Ledwith was no longer in active ministry in the diocese. Bishop Comiskey had already informed the bishop in the diocese where Monsignor Ledwith was residing about the previous allegation. Bishop Comiskey informed the Bishop of Seattle of this further allegation against Monsignor Ledwith but did not inform the Archbishop when the allegation had been completely withdrawn.

The Gardai considered the desirability of prosecuting Shane for having made a false allegation but recommended to the DPP, who accepted the advice, that no such prosecution be brought because the view was taken that Shane was mentally unstable.

Shane commenced High Court proceedings against Maynooth College and Monsignor Ledwith but his withdrawal of the criminal charge led to the discontinuance of this action.

Monsignor Ledwith has told the Inquiry that it was difficult to convey in words the difficulty and expense caused to him and his family by this allegation which was proved to be without foundation and was made by a person whom he stated he did not know and was alleged to have occurred when he was not in Ireland.

4.7 CANON MARTIN CLANCY (Deceased)

4.7.1 MAEVE

Maeve alleged the following:

Maeve complained of abuse by Canon Martin Clancy from approximately 1965 until 1968. She alleges that Canon Clancy came to her house in 1965. He asked Maeve's mother to let him speak with Maeve quietly upstairs in her bedroom. Maeve's mother agreed to him doing this and he molested Maeve in her room. This occurred three or four times per week and continued for a period of approximately three years. Maeve told the Inquiry that Canon Clancy inserted his finger into her vagina while questioning her about her development and about her boyfriends. On one occasion he asked her to his house where he had full intercourse with her..

Maeve went to England at the age of 15 to escape from Canon Clancy but returned a year later. Maeve thought her mother knew of the abuse which occurred in her bedroom but later discovered she had not had any idea of what was happening.. Two years before he died, in or about 1991, he arrived at Maeve's door and attempted to kiss her.

Maeve told the Inquiry that she informed a curate of the diocese of the abuse prior to Canon Clancy's death. She also told the Inquiry that she discussed being abused by Canon Clancy with another local curate prior to Canon Clancy's death. This curate confirmed his recollection of a lady living in the same housing estate as Maeve sharing with him difficulties which she experienced as a result of sexual abuse by priests. He believes this discussion took place in the early 1990s. This complaint was not made known to the diocesan authorities at that time, which only became aware of her complaint when Bishop Walsh met with her on 15 April 2003 at her request.

4.7.2 JUDY

Judy alleged the following:

Judy suffered abuse by Canon Clancy, while she was in 5th class in Ballindaggin national school during the early 1970s. She alleged that Canon Clancy had taken charge of sex education classes. When she arrived at Canon Clancy's house for a class as directed by the school principal, she waited in the hall. He took her hand and led her into a study at the back of the house. Still holding her hand he sat down and brought her close to him between his legs. He then proceeded to physically examine Judy by removing her underclothing and feeling her very intimately and very painfully. Judy was 12 years of age at the time. Judy returned

to school and never told anyone what had occurred. She knows that other children were sent in similar circumstances to visit Canon Clancy.

Following these classes some of the children (three of whom Judy knows of) told their parents what Canon Clancy was doing and there were confrontations with Canon Clancy regarding his behaviour. There is even a suggestion that one parishioner physically assaulted Canon Clancy over his treatment of a child.

Judy confided what had happened to a friend of hers who is a former priest, in strictest confidence in or around 1990 or 1991. She told the Inquiry *"I was a child when I went in to that room in that house but when I left I was not a child"*. She feels that the Department of Education was in breach of its obligations to her in not properly monitoring Canon Clancy's sex education classes.

Judy has recently instituted civil proceedings in respect of this abuse although she did not make a complaint until after Canon Clancy's death.

4.7.3 CIARA

Ciara alleged the following:

Ciara had an interest in music and regularly played in concerts. During one of those concerts, when she was aged 11, she was dragged into a dressing room by Canon Clancy and molested. This occurred in 1971 and abuse continued until after she became pregnant at 14 years of age. Canon Clancy was attached to Wexford at the time. At the age of 13 she was abused by Canon Clancy in his car. She was also abused at an event which took place in 1973 when Canon Clancy took Ciara and her sister Oonagh, to stay at his house. She told the Inquiry that Canon Clancy arranged for her sister Oonagh to be brought to a dance and Ciara was then abused by Canon Clancy. She stated that sexual intercourse began when she was 14 years of age and she became pregnant as a result.

In 1974 she went to England due to her pregnancy and left a note telling her parents that she was pregnant but not identifying the father. She was taken home by her mother six weeks later. She did not identify the father of her child to her parents or family at that stage. Her daughter Rachel was born in 1975 and Canon Clancy eventually acknowledged Rachel as his daughter when Ciara was aged 16 years. He gave her two cheques, each in the sum of £500 for Rachel's upkeep.

At 17 years of age she stated that Canon Clancy threatened to have Rachel taken from her if Ciara told anybody that he was the father.

Fr John Sinnott, who was executor of Canon Clancy's will wrote to Rachel on 18 August 1993 approximately three months after the death of Canon Clancy enclosing a cheque in the sum of £3,000 which he described as *"money which was invested by Canon Clancy (RIP) and which I was to send you on maturity. It was his wish that this money is to be used for your further musical education. I hope it will help you in your pursuits and I wish you success. Yours sincerely, John Sinnott PP."*

She reported the matter in 2003 to the diocesan authorities when she read Bishop Walsh's address to the Ballindaggin church.

4.7.4 CLARE

Clare alleged the following:

Clare suffered abuse by Canon Clancy from 12 years of age while attending Ballindaggin national school in the early 1980s. She told the Inquiry that she is aware of other girls who had been abused by Canon Clancy.

Canon Clancy suggested teaching her how to play music and arranged for music lessons at his house several times a week when she was 12 years old. When she told her friends, they laughed and told her that she was going to be “the next one”. At the time, she did not know what they meant by this. She was always brought into the same room and remembers a writing desk there where he used to sit while Clare stood beside him practising music. During these lessons he would put his arm around her and make her stand between his legs while he sat. He placed his hand underneath her shirt or blouse and fondled her breasts while she played music. He always made sure she was concentrating on the music while he was caressing her breasts. He then started to put his hand up underneath her skirt and inside her underwear while rubbing her vagina. On several occasions he asked if it hurt and she answered that it did. She subsequently wore trousers on visits to the house. However, he used to pull the zipper down and put his hands inside her trousers and pants and continue with the abuse. She felt she could not tell her parents about the abuse as they had tremendous faith in Canon Clancy.

Clare wrote to Bishop Comiskey by letter dated 25 April 1991 outlining the full nature and extent of the abuse she had suffered by Canon Clancy. Bishop Comiskey replied to this letter on 1 May and offered to meet her. She lived abroad at the time and did not meet with the Bishop. There was no further contact with Ciara by Bishop Comiskey.

The Inquiry is aware that Clare’s father, Patrick, wrote to Fr Clancy on 2 June 1991 requesting payment of a certain sum of money coupled with a threat to begin criminal proceedings. This letter was passed to An Garda Síochána by the Diocese which resulted in two Garda members visiting the family home. This is dealt with in detail at chapter 7.

Bishop Comiskey appointed Canon Clancy as curate at Killealy parish on 28 September 1991.

On 28 February 1996, Fr Cosgrave, the diocesan delegate wrote to Bishop Comiskey in relation to a meeting he had with Angela, mother of Clare, who appeared upset at the attitude of the priests and the bishop. She stated that her husband had suffered serious health problems as a result of this matter.

4.7.5 KATE

Kate alleged the following:

Kate told the Inquiry of being sexually abused by Canon Clancy at eight years of age while attending Ballindaggin national school. The abuse continued until her first year at secondary school. Canon Clancy often took Kate out of class to give her music lessons in school or in his house nearby. He also took her out of class to

play at masses and funerals. This was never questioned by any of her teachers or school superiors. The abuse started with touching and culminated in rape. Kate alleges that she was raped on a weekly basis until she was 12. The abuse stopped after Canon Clancy left Ballindaggin and was moved to Killealy in 1991. She refused to attend classes in Killealy when this was suggested by Canon Clancy.

When she heard that Canon Clancy had died, Kate, who was still attending school, told a teacher that she had been abused by him. She did not mention that she had been raped. Sister Madeleine Ryan who was the school Principal, notified Bishop Comiskey. She arranged for Kate to attend counselling. Kate attended one counselling session in Dublin but does not recall the detail of what was discussed. Sr Ryan told her parents about the alleged abuse and her parents also attended the same psychologist for one session on their own. Kate stated that the abuse was never spoken about afterwards and there was no follow up.

The Inquiry corresponded with Sr Madeleine Ryan. She confirmed that Kate had told her about the abuse and that she had contacted Kate's mother to inform her of the allegation and to suggest counselling. She stated that she told Bishop Comiskey what was alleged by Kate and asked him to pay for counselling expenses for her and her parents. Bishop Comiskey agreed to do this. Sr Ryan stated, "At that point, I handed over to the parents total responsibility for their child".

In an appraisal of this case in August 1995, Bishop Comiskey said, *"With regard to the therapy of the 16 year old girl who is attending the [named school], she received one payment and that was the last we ever heard of her. I am not greatly concerned because I have great faith and confidence in the Sister who was Principal of that particular school. I am sure if she needed anything further, that the Principal would have seen to that."* Bishop Comiskey told the Inquiry that he did not play any role in this case save agreeing to pay for therapy.

4.8 FR BETA

4.8.1 TREVOR

Trevor alleged the following:

Trevor was invited to Gorey for a weekend with Fr Beta who was a family friend. Trevor remembers dining with Chinese food and some cans of lager while Fr Beta sat on the floor next to him.

The remainder of the evening is unclear in Trevor's memory as he was unaccustomed to alcohol. He awoke to find himself lying in Fr Beta's bed with Fr Beta lying on his back undressed. He was conscious of the presence of semen on his body but did not know whose it was. He fell asleep while feeling in a state of shock.

He recalled Fr Beta driving him to the bus stop the following morning and as he got out of the car, Fr Beta said to him, *"remember, the both of us wanted it"*. This comment, as well as the abuse generally, had a very serious impact on Trevor's life.

subsequently and a devastating effect on his relationship with his wife and children.

Fr Beta recalls that Trevor visited him in his own car and therefore did not require a lift to the bus. He says they never discussed what had happened and that he never said *"remember we both wanted it"*. The Inquiry is not in a position to adjudicate on such matters of disputed fact.

Trevor sought a meeting with Fr Beta. Fr Beta agreed to this meeting in April 2002. Trevor was accompanied by a social worker and Fr Beta was accompanied by a support priest. Fr Beta admitted that the incident had occurred and apologised for it. Trevor was deeply concerned and traumatised by the manner in which the meeting was conducted and the enquiries which were made subsequently by Fr Beta's support priest who sought to establish whether Trevor was in fact under 18 at the time of the abuse. Trevor maintained that irrespective of his age, the actions of Fr Beta were abusive of a relationship based on trust and integrity.

Trevor sued the Diocese of Ferns and has expressed his dissatisfaction with the litigation process. Part of this dissatisfaction arose from the fact that Fr Beta had admitted the abuse and Trevor therefore believed the diocese should not have engaged in what was for Trevor, a damaging legal wrangle.

The Gardai were informed but no prosecution took place on direction from the DPP because the Garda investigations indicated a discrepancy in the records which showed that Trevor might have been 18 at the time of the incident.

4.8.2 BEN

It is alleged as follows:

Neasa complained to a priest of the Diocese that her son Ben was abused by Fr Beta when he was six years of age. Neasa explained that Fr Beta was babysitting while Neasa and her husband attended a marriage encounter weekend. While she did not specify what the abuse was, Neasa confirmed that Fr Beta did not rape Ben. The diocesan priest immediately reported the complaint to the Bishop Walsh. Fr Denis Brennan, the diocesan delegate wrote to Ben on 22 August 2002, advising that the bishop was anxious to investigate the matter and seeking a meeting with Ben. The complaint does not appear to have proceeded further.

4.9 FR GAMMA

4.9.1 JULIE

Julie alleged the following:

Julie complained of sexual abuse perpetrated by Fr Gamma when she was 9 years of age. Fr Gamma attended her home in the 1970s and on one occasion she

was sitting on a couch in her home when Fr Gamma approached her and sat beside her after telling her mother that he was going to pray over her. Julie had returned from hospital where she had had an operation on her lower abdomen. Fr Gamma put his right hand down inside her clothes and underwear and placed his hand directly onto her vagina. He fondled her and Julie could feel his fingers moving around the vaginal area. She said that she attempted to get up when Fr Gamma pushed the elbow of his arm into her stomach to restrain any movement. She recalls this lasting for approximately 5 minutes. She recalled another incident when she was between 11 and 13 years of age when Fr Gamma called to the house one afternoon whilst she was standing in her kitchen. Fr Gamma stood beside her and put his left arm around her shoulder and proceeded to put his hand under her clothing and fondle her left breast. She stated that Fr Gamma moved his hand and fingers around her left breast and felt her right breast as well. She felt embarrassed and uncomfortable and unable to stop Fr Gamma from touching her. She felt paralysed and frozen due to the fear she had of him. She remembered that her brother who was aged between 13 and 15 years at the time was present but Fr Gamma kept talking to him about general matters to distract him from what he was doing to Julie. She recalled this incident lasting for about 5 minutes. She believes she has blocked out many of her memories of childhood as a result of these instances of abuse. She also recalled an incident involving her younger sister. Fr Gamma attended her house and sat on a chair just inside the kitchen and called her younger sister over to him and started rubbing her legs while she was standing beside him. She recalled herself and her sister mentioning this incident to her mother but her mother dismissed it. At that stage she felt there was no point in discussing any other encounters she had with Fr Gamma with her mother as she would not be believed.

4.9.2 GRACE

Grace alleged the following:

During the early 1970s from 10 to 13 years of age, Grace alleges that she was regularly sexually abused by Fr Gamma. The abuse began when she commenced reading Mass as a fifth class primary student. This would involve her attending Friday afternoon practise sessions at church when she would be required to stand on the pulpit. She remembered being required to wear a dress as all school children wore dresses to school. The first occasion she recalled was when Fr Gamma stood behind her as she practised her reading on the pulpit and leaned over to her to turn the pages of the Bible from which she was reading and proceeded to run his hands up her thighs and up as far as her underwear. He then put his hand inside her underwear and ran it between both of her legs up her thighs. She recalled Fr Gamma fondling her with his hand was inside her underwear for 2 or 3 minutes. She continued reading all of this time. When she finished reading, Fr Gamma stopped. She recalled this occurring approximately 10 times on Friday afternoons. She also recalled Fr Gamma regularly offering to drive her to town after Mass on Sundays and her mother having no difficulty with this arrangement. She said that during such drives Fr Gamma would arrange for her to sit beside him in the front of the car and touch her legs during the drive. She recalled this occurring approximately four times. At 11 years of age, she recalled Fr Gamma attending her house when she was alone and whilst

she was standing in her kitchen, he dropped a small box of matches on the floor at his feet and ordered her to bend down and pick up the matches and come back slowly to him. As she bent down and picked up the matches and attempted to rise up again she was aware that Fr Gamma's penis was exposed. She said it was erect at the time and she does not remember anything else about the incident but believes that he wanted her to perform oral sex. She does not remember if she did so. She recalled a further incident when she was approximately 12 years of age and in first year at the local secondary school when Fr Gamma entered the church which she was attending with her sister and pulled down the top of her dungarees. She felt uncomfortable but nothing else untoward happened. She stated that the abuse stopped after this incident and no abuse occurred from 13 years of age onwards.

Grace has alleged that the abuse had a devastating impact upon her life subsequently and her difficulty in forming relationships. She was afraid at all stages to mention the abuse to any other person and only recently as a result of being hospitalised for a stress-related illness and watching a Prime Time programme on television she has become able to talk about the abuse to members of her family. Grace was also particularly upset that Fr Gamma had performed her wedding ceremony and acted with complete ignorance as to the abuse which he perpetrated against her many years beforehand.

Her brother approached a local priest, and informed him that Grace wished to make a complaint in relation to the abuse by a priest. It was clear from Grace's brother that her allegation referred to a time when she was still a minor and this priest subsequently met with Grace who alleged that she had been sexually abused as a minor by Fr Gamma during his time as curate in a half-parish in the Diocese. This priest informed Grace that he was obliged to pass the information on to An Garda Síochána and he encouraged her to do the same. He offered to arrange a meeting between Grace and Fr Denis Brennan, diocesan delegate for child sexual abuse. He also liaised with a local Garda whom he notified of the complaint and provided diocesan details in the form of Confirmation records of the complainant in order to assist his investigation.

Grace met with Fr Brennan, the diocesan delegate on 1 November 2002 and made a complaint of child sexual abuse against Fr Gamma which had continued for a period of approximately three years in the early 1970s. Grace also made statements of complaint to An Garda Síochána in November 2002 and July 2003.

4.9.3 RUTH

Ruth alleged the following:

A priest of the Diocese explained to Bishop Walsh on 21 May 2003 that a woman named Ruth had told him that Fr Gamma had prepared her marriage papers and on that occasion she vowed she would never be alone with him again. She mentioned that the tone of Fr Gamma's conversation and actions left her very uneasy and she had also heard of a lot of people who had bad experiences with him in the north of

the county. The impression this priest got was that these were young people. In particular, Ruth alleged in a subsequent meeting with Fr Dennis Brennan that when she was walking back to the parochial house from the sacristy, Fr Gamma put his hand around her waist and dug his fingers into her hip bones.

4.9.4 ORLA AND SUSAN

Orla and Susan alleged the following;

A priest of the Diocese contacted Fr John Carroll, the diocesan secretary in late December 2002 in relation to an incident at Wexford General Hospital. A report on the incident was made by a nurse in the intensive care ward to the diocesan delegate who said that Orla, who was a patient in the ward, appeared to suffer a seizure or a fit when approached by Fr Gamma. Orla's sister Susan, was present at the time and informed the nurse that Fr Gamma was not to be allowed near her sister again. Orla and her sister Susan alleged prior sexual impropriety on Fr Gamma's part against each of them. The diocesan delegate, Fr Denis Brennan wrote to Susan on 18 February 2003 seeking a meeting but no response to that letter appears on the diocesan files.

Orla complained to Gardai of child sexual abuse by Fr Gamma in the early 1980s at the vestry of a half-parish in the Diocese during Confirmation preparation exercises when she attended Fr Gamma for Confession. Fr Gamma would sit beside her and always pull her closer to him and proceed to start rubbing her up and down on her arm, shoulders, waist, her backside and her thighs and knees in a continuous motion. She said that Fr Gamma also ran his fingers under her underwear. Orla told her father about the abuse some time later. Fr Gamma called to her house thereafter and her father raised a complaint with Fr Gamma who described Orla as evil. Orla mentioned that three of her friends had also confided in her that they were abused in a similar way by Fr Gamma.

4.9.5 BERNADETTE

Bernadette alleged the following:

During the mid-1970s, when Bernadette was seven or eight years of age, Fr Gamma visited her family home 5 or 6 times a year. During one of those occasions when she was in the kitchen with her sister and mother Fr Gamma sat down on an armchair and put her on his knee and rubbed his hand up and down her thigh. Some time later, he visited again and he put his arm over her shoulders and started rubbing his hand on her shoulder and down her back. On another occasion, she was at home with her sister and mother, and her sister who is almost 2 years older than her was standing at the cooker in front of Fr Gamma who brought her back towards him and put both of his hands down her top and started rubbing his hands around her chest area. Her sister was 9 or 10 years of age at the time. Bernadette first complained about this alleged abuse to the Gardai in 2002.

4.9.6 GRÁINNE

Gráinne alleged the following:

Prior to her wedding ceremony in the mid-1970s, Fr Gamma directed that Gráinne and her husband attend the local church for a pre-marriage talk. When she attended the church, she met with Fr Gamma in the vestry and Fr Gamma asked to speak with her alone. She spoke for a few minutes with Fr Gamma and when this conversation finished and she got up to leave, Fr Gamma put his hand on the door handle effectively blocking her exit. He then put his right hand on her backside and he groped her and told her that she had very small panties on and they must barely have covered her. She told Fr Gamma that her fiancée was outside and he let her go. She left the vestry and Fr Gamma stayed inside. She told her fiancée and father immediately afterwards. She became very upset a few weeks later when Fr Gamma performed the ceremony on her wedding day. She was 19 years old at the time. Gráinne first complained of this abuse in 2002 to the Gardai.

4.9.7 CAROLINE

Caroline alleged the following:

Caroline married in the early 1970s at 16 years of age and at 18 years of age was pregnant with her second child. She was living with her parents at the time. Fr Gamma called to her house and offered to give her a “maternity blessing”. He ordered her to go to her room and he would then attend with her for the blessing. Whilst there, Caroline sat in a chair in her bedroom and Fr Gamma stood to one side of her. He then brought one hand onto her stomach and the other was placed on her head. She could hear him talking lowly and did not know if he was praying. He then brought one hand underneath her bra and she could feel his hand on her breast. He was feeling her breasts for a few seconds and then brought the same hand out from her breasts over her stomach and down to her genital area. He fondled with his fingers around her genital area for a few seconds. He then took away his hand and stopped praying and went to the kitchen to speak to her mother and left. She did not tell her family. She said that Fr Gamma called to her house regularly after that and when she was alone in the house she would not answer the door to him. She said that she only made a statement to An Garda Síochána in July 2003 when she had heard that another person had made a statement of complaint against Fr Gamma.

4.9.8 HILARY

Hilary alleged the following:

In the early 1970s whilst she was in fifth class, Fr Gamma offered Hilary a lift from the church gates to her house and, because of other passengers in the car, she was left with no choice but to take the front seat. During the drive to her house, Fr Gamma squeezed her knee and moved his hand up her leg under her skirt and he touched her underwear but at that stage Hilary pulled away. The next incident she

recalled occurred in the same year when her class was going to Church to do choir practise for Confirmation and she was getting a lift with Fr Gamma. Again, the back of the car was so full that she had no option but to get into the front of the car and when her safety belt became unstuck, Fr Gamma reached across her and caught hold of the safety belt and in the process squeezed her right breast and she then grabbed the belt and told him that she could take care of it. She did not tell her family or teacher about the abuse but confided in a friend at the time. She first spoke about these events to the Gardai in 2003.

4.9.9 DEIRDRE

Deirdre alleged the following:

Deirdre made a statement to An Garda Síochána in December 2002 alleging inappropriate touching on more than one occasion by Fr Gamma when she was a teenager and Fr Gamma was a curate. She did not want to pursue the matter at that stage owing to the fact that her elderly mother was still alive and for other personal reasons. No further detail is known by the Inquiry in respect of this complaint of abuse.

4.9.10 MARIE

Marie alleged the following:

Whilst preparing for her First Holy Communion at approximately 8 years of age in the early 1980s, Marie attended Fr Gamma for Confession. She recalled Fr Gamma appearing at first as very affectionate as he was touching her hair and face and whilst she was kneeling he also stroked the back of her legs. She said he would talk normally as if nothing was happening during this process and would bring his hand directly up her legs to her private parts. She was wearing a skirt and underwear. She remembers him putting his fingers inside her underwear and moving his fingers around her private parts. She said there was no penetration by Fr Gamma on the first occasion. She had presumed that this was the test for Holy Communion. She said there were numerous other times that Fr Gamma heard Confessions in her classroom and the abuse is alleged to have continued up to the time she made her First Holy Communion.

She remembered another time shortly after the incidents described whilst Fr Gamma was hearing her Confession and she was kneeling down beside him and he brought his hand onto her legs and began feeling her legs. She said the touching would always take place at the back of her legs and he brought his hand up to her private parts and put his fingers inside her. She remembered feeling sore, painful and uncomfortable. One incident of penetration took place during the hearing of these Confessions. Marie told her sister about the abuse a number of years later and in 2003 she told her mother about it. Marie later developed an addiction to alcohol, overspending and shoplifting as a result of which she was charged with a criminal offence. She has also attempted suicide on three different occasions. She feels depressed and suicidal on many occasions which she attributes to the abuse experienced by her as a child.. She feels her life is ruined and shattered and she is in heavy financial trouble as a result of her disabilities.

4.10 FR DELTA

4.10.1 BILL

Bill alleged the following:

The Inquiry is aware of a complaint of abuse by Fr Delta made by Bill whilst he, Bill was a pupil in St Peter's College which resulted in a settlement being reached by the alleged victim and Fr Delta. The Inquiry is not aware of any detail of the alleged abuse.

The settlement, but not the details of the complaint, was made known to the Diocese of Ferns. This notification led to Fr Delta's retirement in September, 2002 and his subsequent assessment and treatment. The Diocese notified An Garda Síochána on 11 October 2002, and the South Eastern Health Board on 4 December 2002.

4.10.2 TERRY

Terry alleged the following:

Terry made a complaint against this priest to Fr Denis Brennan, diocesan delegate, on 21 March, 2003. He complained of being sexually abused during the early 1960s while he was a 2nd year student at St Peter's College and Fr Delta was on the staff there. He said the abuse consisted of Fr Delta touching his genital area repeatedly. He did not mention the abuse to anybody until he received counselling in 1999 when he informed the Diocese.

Fr Delta was retired and receiving treatment at this stage. Fr Dennis Brennan notified An Garda Síochána and the South Eastern Health Board by letter dated 15 April 2003.

4.10.3 DES

Des alleged the following:

In the mid 1960s Des, who was over 18 years of age at the time, requested a "Letter of Freedom" from Fr Delta in respect of his forthcoming marriage. On one of several visits to Fr Delta's house, Fr Delta asked Des to unfasten his trousers in order for Fr Delta to check that "everything down there was in working order". Des unbuttoned his trousers and Fr Delta fondled his private parts for approximately ten minutes. Des felt that Fr Delta was attempting to arouse him. This alleged abuse

occurred shortly after Fr Delta had been transferred from a position in St Peter's college at his own request because of incidents of abuse that had occurred with boys there.

Des was deeply traumatised by the incident. He reported the incident to the Diocese on 5 December 2003 whereupon a support person was recommended.

4.10.4 UNIDENTIFIED STUDENTS

The Inquiry is aware of allegations of sexual abuse of secondary school pupils in St Peter's by Fr Delta in the mid-1960s. At Fr Delta's own request, the Bishop of Ferns, Bishop Donal Herlihy removed Fr Delta from his teaching position in the college and appointed him to a curacy in the Diocese. One complainant has indicated to the Inquiry that Bishop Herlihy was aware of allegations he made against Fr Delta at that time.

4.11 FR EPSILON (Deceased)

4.11.1 ANDREW

Andrew alleged the following:

Andrew reported to Bishop Walsh at a meeting on 29 May 2002, several instances of sexual abuse perpetrated against him by the late Fr Epsilon during the early 1960s while he was a student at St Peter's College. Fr Epsilon was a senior member of staff at the time. During his second year, Fr Epsilon asked him to attend his, Fr Epsilon's, room on the pretext of examining his injured leg. In the course of his visit he was stripped naked by Fr Epsilon who touched his groin area repeatedly. He also described another incident where a clerical student sent him and others up to Fr Epsilon's room for punishment. Fr Epsilon told four boys to remove their trousers and he beat them with a billiard cue. This happened on a number of occasions.

The same clerical student was also involved in another incident. He sent Andrew to Fr Epsilon's room for punishment. When he arrived at Fr Epsilon's room, Andrew was blindfolded, fondled and beaten. Fr Epsilon told him that he would act as a doctor. After Andrew left the College Fr Epsilon sent a letter to Andrew asking if he would like to visit the "College doctor". Andrew ignored this invitation and discarded the letter. Andrew believes that he told another priest about the abuse although that priest does not recall such a conversation.

4.11.2 SAM

Sam (see also 4.1.1) alleged the following:

Sam told the Inquiry that on one occasion when he was in study at St Peter's College in the mid-1960s, he was told by Fr Epsilon that there was a researcher at the college from America doing research on the development of boys and that he,

Sam, would be an ideal candidate in terms of age and height. Sam was asked to volunteer and told what room to report to. He went to a room in St Peter's to await the "researcher's" arrival where he was blindfolded, stripped and caned. His penis was measured and he thinks, but cannot be certain, that he was masturbated. Because he was blindfolded during this incident, Sam is not in a position to state categorically that he was abused by Fr Epsilon although he has said to this Inquiry that he is 99% certain that it was him. He said that for years he found it very difficult to believe that Fr Epsilon could have abused him in that way as he was a priest whom Sam held in very high esteem and had admired greatly. These complaints arose some years after the death of Fr Epsilon.

4.12 FR IOTA

4.12.1 PAMELA

Pamela alleged the following:

In the early 1970s when Pamela was 13/14 years of age, Pamela met Fr Iota who was then chaplain to her local youth club. Fr Iota was in his late 20s at that time and an abusive relationship developed between Pamela and Fr Iota over the next number of years which in its latter stages included oral sex and heavy petting but stopped short of penetrative sex. The abuse would take place primarily at St Peter's College. She described how Fr Iota would secretly bring her to his rooms at St Peter's taking care to avoid being detected by anybody during the process. She said that Fr Iota would often appear at her school at the end of the day and drive her directly from school to his rooms at St Peter's College. She stated that Fr Iota used to approach her and direct her to sit on his knee whilst he had an erection. She said that Fr Iota had said to her repeatedly that he wished to marry her. When she was approximately 15 years of age she disclosed this abusive relationship with Fr Iota to a local curate, Fr Kappa, as it was causing her great distress. She is unsure as to whether or not Fr Kappa reported her complaint to any other authority.

The abuse by Fr Iota continued. Approximately one year after she had complained to Fr Kappa, a meeting was arranged and attended by Fr Kappa, for the purpose of requesting Fr Iota to desist from further abuse. Fr Iota told Pamela at this meeting that he did not want to marry her and he would not leave the priesthood because of his relationship with her. For Pamela the purpose of the meeting had been to persuade Fr Iota to end the abuse which was causing her great distress.

Shortly after her meeting with Fr Iota and Fr Kappa, Pamela attempted to commit suicide by taking an overdose of antidepressant tablets. She attended St Patrick's Hospital in Dublin for medical treatment immediately after her suicide attempt and believes that the cost of such treatment may have been discharged by the Diocese of Ferns.

Pamela stated that she had disclosed what was happening with Fr Iota to her General Practitioner and was prescribed antidepressants following such notification which she subsequently used in her suicide attempt. This doctor has informed the Inquiry that he

spoke to Bishop Herlihy about the situation after the suicide attempt and advised him to do something about it.

Fr Iota was transferred out of the parish after Pamela's suicide attempt and diocesan records show that a letter from Bishop Herlihy to the Cardinal at Westminster cites the reason for Fr Iota's departure as follows;

"Father Iota had some involvement with a girl, which is now happily terminated. As a result, he is anxious and has been advised to spend some time away from this diocese. He is a gentle refined young man, but has always demanded understanding and sympathy."

Pamela has suffered greatly as a result of the abuse.

Pamela contacted the acting diocesan delegate in May 2005 and reported being abused by Fr Iota whilst she was a child. She sought details of any information contained on diocesan files in relation to her. She also indicated to the Delegate that she was abused by a second priest but did not provide any details in relation to that abuse. She has stated to the Inquiry that she felt pressurised into making a written statement detailing the abuse. The Diocese was in the position of having to report this allegation to the Inquiry in circumstances where its work was nearing completion and therefore a formal complaint was seen as important. She was reluctant to do provide a written complaint and consulted the One-in-Four organisation who requested that all future communication with Pamela would be conducted through their office.

4.13 FR KAPPA

4.13.1 PAMELA

Pamela alleged the following:

Pamela reported to Fr Kappa in the early 1970s, her abusive relationship with Fr Iota, and a close relationship developed between Fr Kappa and Pamela thereafter. When Pamela was aged approximately 17 years, she was abused by Fr Kappa who regularly supplied her with alcoholic drink. She said that the abuse commenced through kissing and hugging and later developed into full sexual intercourse which took place when she was 18 years of age. She recalled one incident when she was supplied with a lot of alcohol and brought back to a chalet opposite a local church and she awoke the following morning in Fr Kappa's bed. She said this was the first occasion in which she did not spend the night at home. Pamela became pregnant very shortly after sexual intercourse with Fr Kappa had commenced and she believes her child was fathered by Fr Kappa.

When she became pregnant it was arranged by Fr Kappa that she would be sent to a family in a different county where she would work at general cleaning and typing duties until she gave birth and her child would then be placed for adoption. Fr Kappa had also orchestrated an arrangement whereby she would write letters that would in turn be passed to an Irish priest in Rome and posted from there to her father and employer in Wexford. She said that this was aimed at creating an impression that she

was working as an *au pair* in Rome. However, she left this residence after a short while and travelled to London.

Pamela eventually returned home to give birth to her child. Fr Kappa refused to recognise Pamela's child as his own.

Pamela has suffered greatly as a result of such abuse and has attended a stress counsellor at the advice of a medical consultant in recent times.

Pamela contacted the acting diocesan delegate, in May 2005, and reported being abused by two priests but she did not name Fr Kappa or provide any details in relation to abuse by him.

4.14 FR LAMDA

4.14.1 JONATHON

Jonathon alleged the following:

In a letter dated 5 November 1996 sent to Bishop Comiskey, Jonathon who was then working abroad, stated to Bishop Comiskey; "I had been struggling for a long time with bouts of terrible depression – some of which you may know about, but all of which hardly anyone knows. In trying to reach to the roots of this, following counselling, I feel free to admit that I too am a victim of abuse as an altar boy – by a priest of the Diocese (now deceased!). He was a dear friend of my parents. An "adopted uncle". "Our Sponsor" during college days (when fees were obligatory!) so it was unthinkable that one could complain. All I knew was that I hated his behaviour but just buried the experiences."

Jonathon went on to state in this letter that his counsellor would write directly to Bishop Comiskey and this counsellor was free to share with the Bishop whatever he felt like sharing. Jonathon spoke with the Inquiry but did not wish to elaborate on this matter.

4.15 FR ZETA (deceased)

4.15.1 Anonymous Complaint.

It was alleged as follows:

In March 1996, the Diocese of Ferns received an anonymous letter accusing a priest in a named parish of committing sexual offences against school boys in the local Primary School in the years in the late 1980s. The letter did not identify the priest

other than to say that he was still in the named parish. Fr William Cosgrave, the diocesan delegate said that one of the priests serving in the named parish had served there for some time and had been chaplain and confessor to the pupils of the local Primary School for many years. He therefore believed that the anonymous letter referred to this Priest who is named by the Inquiry as Fr Zeta. Fr Zeta was still alive at the time of this complaint but no investigation of it took place. He has since died.

4.15.2 Primary School Complaint.

The Inquiry spoke with a former school teacher at a primary school in the diocese who taught at that school when Fr Zeta was chaplain and confessor there. He said that Fr Zeta had a practice of hearing the Confession of young boys in the staff room of the school and on one occasion when he attended the staff room he saw Fr Zeta with a young boy on his knee. Fr Zeta abruptly pushed the boy off when the school teacher entered the room. The matter was subsequently reported at a staff meeting but according to this teacher was dismissed by a member of the religious order who occupied a senior position in the school at that time. This member of a religious order has been the subject of allegations of child sexual abuse received by this Inquiry although such allegations could not be investigated as they did not come within the Terms of Reference. Notwithstanding this reaction, the teacher's reporting of the incident to the meeting appeared to have resulted in no more Confessions being heard by Fr Zeta in the staff room.

The teacher told the Inquiry that Fr Zeta would visit the school and catch young boys under the arms and ask them silly and often inappropriate questions. He was told by one young boy that Fr Zeta had asked him how often he masturbated.

4.16 FR SIGMA (Deceased)

4.16.1 BRED A

Breda alleged the following:

Breda complained of sexual abuse perpetrated on her by Fr Sigma in Monageer and Knock in the late 1970s for a four year period commencing when she was 8 years old. She recalled that Fr Sigma came into her house and he sat her up on his knee putting his hand up her skirt.

Breda telephoned Fr Tommy Brennan, diocesan secretary, in September 1996 and told him that she had been sexually abused by Fr Sigma when she was a young girl. She informed Fr Brennan that she was in counselling at that time and had a mental block surrounding the events of her life before the age of 12 or 13 years. Fr Brennan wrote to Bishop Comiskey in December 1997 with a memorandum of the telephone conversation with the then unidentified Breda.

Breda told the Inquiry that there were lots of rumours surrounding Fr Sigma throughout the parish, mainly concerning girls. She is aware of other women in counselling as a result of child sexual abuse by this priest. She was in counselling and needed financial help in order to continue it and a limited period of counselling was paid for by the Diocese.

Breda recalled an incident of abuse which occurred when she was staying in Fr Sigma's house with her family including her two sisters. Fr Sigma took her into his bed and raped her. She said that the following night she pretended to be asleep until she saw him approach one of her sisters at which point she let him know she was awake in order to prevent her sister from suffering the abuse she had suffered the previous night. She got into bed with him where further abuse occurred. Breda attempted suicide on a few occasions and suffered great difficulty with self-esteem as a result of the abuse.

Fr Brennan received a letter from Bishop Comiskey stating; *"At last I have my fears or suspicions confirmed. I always thought that there were some unsavoury undercurrents to the allegations of sexual abuse in Monageer. I am saddened but not surprised by this woman's revelations."*

Bishop Comiskey could not explain to the Inquiry why he wrote those words and does not recall any specific allegations about Fr Sigma. He said he must have heard something at the time which he cannot now recall.

Fr Brennan was contacted in December 1997 by a financial advisor to Breda who said she suffered serious financial problems largely due to her ongoing attendance at counselling sessions because of the abuse. Fr Brennan arranged for the discharge of outstanding counselling fees for approximately ten sessions on behalf of the diocese. After completion of her counselling sessions, Breda did not have further contact with the diocese although she is still in counselling today. Fr Sigma was deceased at the time this allegation was made.

4.17 FR UPSILON

4.17.1 DENIS

Denis alleged the following:

Denis alleged abuse by Fr Upsilon over an eight year period in the late 1970s and early 1980s to a social worker from the East Coast Area Health Board in 1998. The East Coast Area Health Board informed the South Eastern Health Board, which in turn informed the Gardaí. Denis subsequently made a statement to Gardai withdrawing the allegation of abuse. Gardai notified the South Eastern

Health Board that, in light of this withdrawal, they could not proceed with the matter. The SEHB contacted the East Coast Area Health Board who tried to trace Denis but to no avail. The Diocese was made aware of this complaint by this Inquiry in 2004. Fr Upsilon was asked by Bishop Eamonn Walsh to stand down from his ministry pending further investigation and he did this.

4.18 FR THETA (Deceased)

4.18.1 DON

Don alleged the following:

Fr Theta was a curate in the Diocese and knew Don's mother. Following an accident in which Don broke his leg, Fr Theta suggested that Don should attend Lourdes with him. Don was 14 years of age at this time. Fr Theta paid for the trip. On the way back they stayed in a Dublin hotel. Fr Theta booked a twin room for them and pushed the two beds together. When Don got into bed Fr Theta started to kiss him on the mouth but stopped when Don turned away from him. Don believes that Fr Theta was attempting to rape him and has stated that he has suffered from depression and has needed counselling as a result.

Don told the Inquiry that he informed the Diocese of this incident in 2003, after the death of Fr Theta. No action could therefore be taken other than to provide Don with support. The Diocese has done this and Sr. Helen O'Riordan meets with Don regularly. Don has expressed himself as satisfied with the support extended to him by the Diocese.

4.19 FR OMIKRON

4.19.1 JENNY

Jenny alleged the following:

In order to assess a medical condition, Jenny's doctors suggested that a photograph be taken at regular intervals and sent to him. This occurred during the 1950s. Because Fr Omikron was a family friend and had an interest in photography, Jenny's mother asked him to take the photographs and was present during the sessions.

Jenny was completely naked while the photos were taken. She stated that the experience was loaded with sexual pressure for her and although Fr Omikron

remained a close family friend he never talked to her from then on. She later identified the contrast in having such photos taken by a medical specialist who did not require her to be naked and who did not make her feel embarrassed.

She first told the diocesan delegate about this experience in 2000 and she alleged that the events had a marked effect on her life as she carried the belief that she was at fault. She said the guilt also affected her professional life. She attended counselling for substantial periods of her adult life.

Jenny believes that the handling of her complaint by Bishop Comiskey exacerbated any injury or damage which she suffered as a result of the abuse.

Jenny took issue with Bishop Comiskey not offering to discharge fully all treatment costs incurred by her up to the date of her complaint and also his reluctance to offer an apology on behalf of the Diocese. Bishop Comiskey explained that he could not offer an apology on behalf of a priest who was deceased and he paid IR£4,000.00 towards counselling costs when a sum of IR£4,400.00 was sought.

Bishop Walsh discharged the full cost of Jenny's counselling fees and apologised to her for the abuse she suffered. Jenny wrote to Fr Denis Brennan, diocesan delegate, in August 2002 and expressed herself satisfied with Bishop Walsh's response.

Fr Omikron was long since deceased when this allegation was first made to the Diocese.

4.20 FR TAU (Deceased)

4.20.1 KIERAN

Kieran alleged the following:

It was alleged by Kieran (4.5.22) that when he reported an allegation of sexual abuse against Fr Fortune to Fr Tau, Fr Tau himself abused Kieran by requiring him to demonstrate what Fr Fortune had done to him and by touching his penis. Kieran immediately rebuked such an advance. Kieran told the Inquiry that Fr Tau eventually apologised to Kieran for what had occurred and assured him that he had reported the matter to Bishop Comiskey. No record of this complaint exists on the diocesan files which the Inquiry has seen.

4.21 FR OMEGA

4.21.1 UNIDENTIFIED BOY AND VOCATIONAL SCHOOL COMPLAINT.

It is alleged as follows:

On 20 October 1994, a teacher informed the local Public Health Nurse of a 14 year old boy who was not attending school, was isolated and who had befriended a local curate. The Nurse made a child abuse notification. The Director of Community Care (DCC) for the South Eastern Health Board discussed the curate with the Principal of a local school and discovered that the priest had been transferred from the school in the late 1980s because he had shown what were considered to be inappropriate pictures to children in the course of sex education classes. The DCC reported this to the Gardai who interviewed the boy's mother. She was content with the relationship between her son and the priest and was satisfied that nothing untoward had occurred or was occurring between them. The diocese became aware of these matters in 2004 following notification by this Inquiry. Fr Omega was asked to stand aside from active ministry and to attend a psychologist for assessment to explore any boundary issues which he might have. He agreed to do so.

UNNAMED PRIESTS

AA and BB

Both AA and BB made complaints in relation to the conduct of priests identified by them. Both complainants felt deeply about matters which troubled them over a period of years and in relation to which they wrote extensively to the diocese. Their complaints were made known to the Gardai by the Bishop. The correspondence was considered by the Inquiry and it is satisfied that the diocese and the Gardai were justified in taking no further action in relation to either complaint. The Inquiry believes it would be unfair to the priest and hurtful to the complainants to analyse here the complaints made.

THE DIOCESAN RESPONSE

The following is an analysis on a priest-by-priest basis of the response by the Diocese of Ferns to allegations of child sexual abuse which have come to the attention of the Inquiry. The allegations and complaints have been outlined in Chapter Four of this Report. As already indicated, the Inquiry has sought to preserve the anonymity of priests against whom allegations have been made by ascribing pseudonyms taken from letters of the Greek alphabet to them where this would be appropriate and effective.

The first allegation of abuse against Fr Donal Collins in 1966 is the earliest example that this Inquiry has of a "church response" to an allegation of child sexual abuse.

FR DONAL COLLINS.

The allegations that were made in 1966 by pupils of St Peter's secondary school, related to Fr Collins's inspection and measurement of the penises of up to twenty boys in the school dormitory on the pretext of checking their development. Bishop Herlihy was informed of these allegations at that time. His response was to send Fr Collins to the Diocese of Westminster for a period of two years after which Fr Collins returned to a teaching position in St Peter's College. No records appear to exist in relation to the allegations or the diocesan response.

Fr Collins was re-appointed to a teaching post in St Peter's college in 1968 and subsequently in 1974, he was placed in charge of swimming lessons. Bishop Herlihy's secretary's understanding of this re-appointment was that the Bishop believed that having spoken to Fr Collins and having imposed the two year removal from the Diocese, the problem had been solved and it would be unfair and vindictive to pursue the matter further. Bishop Herlihy reply to his queries on the matter is reported as being: "*hadn't he done his penance*".

The Inquiry has been informed that no consideration would have been given as to whether Fr Collins required any medical treatment or intervention. The Inquiry understands that sexual abuse, whether with adults or children, was, at the time, seen by Bishop Herlihy as a moral failure: the psychiatric and criminal aspects of it were not identified. Furthermore, the impact which such abuse had on victims was not recognised by many professionals working in this area at that time and did not become a subject of serious study until some years later in the United States.

One of the great difficulties encountered by the Inquiry in looking at this important episode was the complete lack of any written records from that time. No document exists relating to the alleged abuse, the removal of Fr Collins from St Peter's, his

subsequent appointment to Westminster or his reinstatement to St Peter's. The Inquiry is not in a position to state categorically what may or may not have been communicated to the Diocese of Westminster but it can say that there is no written record of that diocese being informed that Fr Collins had been removed from St Peter's for interfering with boys there. Similarly, the Inquiry has seen no evidence that Bishop Herlihy referred these complaints to the Gardai, or that there was any attempt to offer assistance to the victims.

One former staff member from St Peter's during the 1950s and 1960s told the Inquiry that when Fr Collins was reinstated in St Peter's, Bishop Herlihy requested that he live in rooms in the priests' house rather than in rooms adjacent to the students' quarter. Apart from this obligation in relation to living quarters, no strictures appear to have been imposed on Fr Collins upon his return.

Fr Collins, whilst admitting to inappropriate behaviour, denies that sexual abuse occurred although he did not provide any particulars to the Inquiry on what he considered inappropriate behaviour. Fr Collins told the Inquiry that in May 1966, Fr Patrick Curtis, Dean of the seminary told him there were suspicions that he was acting improperly with some of the students who were attending St Peter's secondary school as boarders. Fr Curtis could not give him any details of what it was alleged he had done nor could he give him the name or names of the students involved. According to Fr Collins what was alleged was vague innuendo and rumour. Fr Collins told the Inquiry that he was told at that time that another clerical member of staff was also the subject of such an allegation in a more serious way than he was (See Fr Delta below). Priests who spoke with the Inquiry described Fr Collins as being very distressed when he was confronted with these allegations.

Fr Collins said he was anxious about these rumours and spoke at first with Dr Ranson who was President of the College at the time and subsequently with Bishop Donal Herlihy to whom he gave "*some detail of what might have been misconstrued*". He expected that a full investigation would take place but instead a month later he was offered a choice by Bishop Herlihy: either a curacy in the Diocese or an appointment to the Emigrant Mission in Britain. He chose the latter option and took up a two-year appointment as a curate in Kentish Town in London in the Diocese of Westminster. Fr Collins said that he was very happy in London as he always preferred parish work to teaching but at the end of two years, Bishop Herlihy insisted he return to St Peter's. Both Bishop Herlihy's secretary and Fr Collins himself have said that they did not believe that the personnel of the Diocese of Westminster knew why he had been sent there.

Fr Collins continued to teach in St Peter's until his retirement in 1991. He was a dedicated teacher who took an active interest in extra-curricular activities such as swimming and photography. When Bishop Comiskey was appointed to Ferns in 1984, Fr Collins was a senior staff member with an outstanding record as a science teacher.

There is no evidence that there was any complaint against Fr Collins made directly to any priest of the Diocese or any staff member in St Peter's between 1968 and 1989 when the first allegation was communicated to Bishop Comiskey. Clerical witnesses and to a lesser extent lay witnesses have indicated that they had no awareness of any improper behaviour on the part of Fr Collins. However, the Inquiry has received direct evidence from past pupils and a lay teacher who were in St Peter's during that time, to

the effect that Fr Collins's continuing inappropriate behaviour with young boys was well known in the school during that period and it is clear that sexual abuse was occurring during that time.

In 1985, Bishop Comiskey appointed Fr Collins as a member of the Administrative Council of St Peter's college and in 1988 the Bishop invited Fr Collins and another priest to apply for the position of Principal of the college. Bishop Comiskey told the Inquiry that he embarked on an intensive consultation process before appointing Fr Collins. He said he wrote to every teacher in St Peter's, none of whom mentioned any question of child abuse or inappropriate behaviour with boys. On the recommendation of an expert advisory panel, Bishop Comiskey appointed Fr Collins as Principal of St Peter's in 1988. One member of that panel has confirmed to this Inquiry that no suggestion of impropriety of any kind came to its attention in the course of the panel's deliberations and that its recommendation to appoint Fr Collins was unanimous. Bishop Comiskey took their advice and made the appointment.

It must be noted that Bishop Comiskey was appointed to the Diocese of Ferns some eighteen years after the incident leading to Fr Collins's removal from St Peter's and he has told the Inquiry that he had heard no allegation or complaint about Fr Collins before 1989.

Two priests of the diocese have told the Inquiry that they recall telling Bishop Comiskey, albeit informally, that they did not think it was a good idea to appoint Fr Collins as Principal of St Peter's in 1988. One priest said that he was influenced by vague stories and rumours surrounding Fr Collins's sudden departure in the mid-1960s to London, and also by the suggestion that teachers found him difficult to work with. He stated to the Inquiry that he had no idea at this time as to the details of the improper conduct although he did form the impression that it was of a sexual nature. In his conversation with the Bishop, he said it was his intention to alert the Bishop to the rumours and so prompt the Bishop to make some enquiries. He told the Inquiry that he also referred to this discussion on a second occasion, in passing, with the Bishop. Bishop Comiskey told the Inquiry that he has no recollection of any such conversation.

Another priest has told the Inquiry that he cautioned Bishop Comiskey against appointing Fr Collins as Principal because he had been removed in 1966 but he did not give the Bishop any details of that removal and the Bishop did not revert to him subsequently.

A third priest has told the Inquiry that although he was on the staff of St Peter's shortly after Fr Collins's return from London, he did not know that Fr Collins had been sent from the College because of his involvement with young boys until told by a fellow staff member in 1973.

This priest lived downstairs from Fr Collins in the priests' house from 1970 to 1971 and again from 1985 until 1988 and during that time was aware of the traffic on the stairs going to his, Fr Collins' rooms, even after lights out, but stated there was "*not the slightest suspicion of anything untoward*".

Bishop Comiskey's vicar general however, said in a statement to the Gardai in May 1995 that it was generally believed that Fr Collins had a problem with abusing young boys in 1966 and that Bishop Herlihy had sent him away because of it.

Between 1968 and 1988, when he was appointed Principal of St Peter's secondary school and it is alleged, beyond that date, Fr Collins abused a number of young boys who attended the school as boarders. This conduct was the subject of criminal charges in 1993 and Fr Collins served a custodial sentence. What is clear to the Inquiry is that a number of individuals in the Diocese and on the staff of St Peter's were aware of Fr Collins's departure from St Peter's in 1966, and the reasons for it.

Even allowing for the limited awareness of the problem of child sexual abuse in the 1960s, 1970s and 1980s, it seems to this Inquiry that some responsibility must lie with the Church Authorities in the Diocese for failing to monitor the behaviour of Fr Collins. The majority of former pupils who spoke with this Inquiry have indicated that they were aware of Fr Collins' inappropriate behaviour towards boys. Given what is now known about the level of awareness of this problem which existed in the Church during the 1970s and 1980s, it was a tragedy that this newly acquired knowledge was not available to the authorities in St Peter's which might have alerted them to what can now be identified as clear danger signals; for example, bringing boys into priests' rooms at night.

Similarly, had individual priests been properly informed on this subject as knowledge developed throughout the 1970s and 1980s, they could have alerted the Diocese to what was occurring in St Peter's. They would also have understood the importance of clearly informing Bishop Comiskey of the risk posed by Fr Collins to young boys.

In April 1989, within seven months of Fr Collins's appointment as Principal to St Peter's, Bishop Comiskey received the first allegation of sexual abuse against him (see Unidentified Complainant 4.1.2). He has told the Inquiry that he is not sure how he came to get this information but he believes it might have been through a staff member in the seminary. He wrote to Fr Collins in April 1989 to inform him of the allegation and in May 1989 he wrote again to say that a further allegation had been made. This was by the parent of a former pupil who said that Fr Collins had been abusing boys in the college. Bishop Comiskey said that he sought advice on the matter and requested a formal and sworn statement from Fr Collins to the effect that he was innocent of the charges made against him. Bishop Comiskey said that Fr Collins did not give such a statement to him but that when confronted with the allegations, denied them aggressively. Bishop Comiskey confirmed that he met with Fr Collins three or four times after these allegations had been made. He said his enquiries revealed unfocused allegations. He also said that he was at pains at that time to keep all enquiries confidential as he feared legal action on the part of Fr Collins.

One clerical witness told the Inquiry that during the summer of 1989, while he occupied a senior role at St Peter's College, he saw lurid graffiti in the school referring to Fr Donal Collins in an offensive and sexually explicit way. Fr Collins told the priest that "they have been saying this about me for years". This matter was not reported to Bishop Comiskey.

There followed a two-year period of apparent inaction with Fr Collins continuing as Principal of St Peter's. Bishop Comiskey has told the Inquiry that he spent that time trying to gather concrete information about Fr Collins but could find nothing definite.

In May 1991, Bishop Comiskey received an anonymous letter alleging sexual abuse by Fr Donal Collins. The complainant (see "Rory" 4.1.4), who wrote under a pseudonym, requested that Bishop Comiskey place a coded advertisement in a daily newspaper indicating a willingness to communicate with him. Bishop Comiskey placed the required advertisement but the complainant did not make any arrangement to meet with him. A number of telephone conversations then took place between Bishop Comiskey and Rory, who did not make himself known to the Bishop until 1993.

In 1991, Fr Collins vehemently denied the extent of the charge made against him but did not dispute that he engaged in indiscreet and inappropriate conduct with young boys. In July 1991, Fr Collins tendered his resignation as Principal of St Peter's on grounds of ill health and Bishop Comiskey confirmed to the Inquiry that Fr Collins was indeed very ill at that time. Bishop Comiskey had no doubt however, that the reason Fr Collins resigned was because of the increasing pressure from him over child sexual abuse. Bishop Comiskey confirmed to the Inquiry that Fr Collins's denials were still hostile and that it was his belief that he, Fr Collins, continued to receive the support of a large number of priests in the Diocese.

In August 1991, a young man came to Bishop Comiskey with an allegation of abuse against Fr Collins (see Noel and Victor 4.1.3). Bishop Comiskey told the Inquiry that the thinking at that time was that people who offended in this way could be rehabilitated, and provided they were given what later became known as "a Certificate of Fitness to Minister", they could be re-appointed to parish duties. The Inquiry has identified support among medical experts for that view at that time.

Fr Collins attended a university in Florida, ostensibly for a course of study, but according to Bishop Comiskey, the real purpose of his being there was to seek psychiatric or psychological counselling. Bishop Comiskey said that although at the time of Fr Collins's going to Florida in 1991, he would have envisaged him resuming his ministry in the Diocese of Ferns upon receipt of a Certificate of Fitness, by the time the certificate was given in March 1993, he no longer considered it appropriate to appoint Fr Collins to a parish.

Between 1991 and 1993, Fr Collins refused to attend a treatment programme as suggested by his Bishop. The Inquiry is not clear as to the nature of any counselling received by Fr Collins during that period or the extent to which his particular problems were addressed. Bishop Comiskey confirmed that he did not inform the Bishop in Florida about the allegations against Fr Collins but that he would do so today. He believes he may have mentioned the allegations to his parish priest, Fr Higgins. Bishop Comiskey was aware that Fr Collins ought not to be involved in any parish duties during his time in Florida. However, when Bishop Comiskey discovered that Fr Collins was connected with a parish in Florida, he failed properly to respond to such a discovery as he said he believed that Fr Collins was only ministering to sick persons during that period. He does not appear to have adverted to the danger posed by Fr Collins to children in the diocese in which he was then residing.

Bishop Comiskey said that he was anxious that Fr Collins receive appropriate treatment for his condition rather than just counselling. In March 1993 he arranged to have Fr Collins admitted to a treatment centre in Hartford, Connecticut, run by Fr James Gill SJ who was highly respected in the field of assessment and treatment of men accused of child sexual abuse.

Fr Collins was under the care of Dr Zeman whilst he was in Hartford. In March 1993, Dr Zeman wrote to Bishop Comiskey recommending that Fr Collins be appointed to a parish but receive on-going psychiatric counselling. Bishop Comiskey said he was astonished and disappointed when he received that letter as it placed him in a very difficult position with Fr Collins who, according to Bishop Comiskey was still being supported by some priests in the Diocese who were exerting pressure on the Bishop to appoint Fr Collins to a curacy in the Diocese.

Bishop Comiskey discovered in September 1993, that Fr Collins had withheld information from his team of counsellors in Hartford. He met with Donal Collins in March 1994, to discuss this. Fr Collins did not deny that he was careful about revelations made to counsellors at that time as he was unsure what affect that could have on future criminal or civil proceedings. He said that he expected anything inaccurate which he said would show up on the tests he underwent in Hartford because he went in for assessment, not treatment. Bishop Comiskey said in his memoranda at the time that he believed that Fr Collins was in denial as to the serious criminal nature of his behaviour. He recommended that Fr Collins attend Dr Patrick Walsh of The Granada Institute, an assessment and treatment centre run by the St John of Gods in Shankill, Dublin, which he did.

In September 1993, Fr Collins admitted the broad truth of many of the allegations made against him at that time and to abusing other boys in St Peter's over a twenty year period. Fr Collins expressly denied that any incident of sexual abuse occurred after his appointment as Principal in 1988⁵³.

Bishop Comiskey said that he never intended to appoint Fr Collins to a parish and called upon him to retire from active ministry. In September 1994, Fr Collins wrote to the Bishop saying that he would accept the Bishop's suggestion that he should retire. By this stage, Bishop Comiskey was in discussions with Rory (4.1.4), who was seeking compensation and expenses.

The Inquiry asked Bishop Comiskey if, in 1993, when he had received information that Fr Collins had admitted abusing boys in St Peter's, he had thought of reporting it to the Director of Community Care in the South Eastern Health Board. He said that was not something he considered, neither did he consider going to the Gardai. He said that he might have been influenced by the fact that Fr Collins was, in the Bishop's view, no longer in a position to abuse children, because he was out of ministry. In fact, although Fr Collins had no formal appointment in the Diocese, he had not been subjected to any precept or canonical order which might have prevented him from acting as a priest of the Diocese.

⁵³ See however George, 4.1.12

Bishop Comiskey paid for treatment for Rory. He told the Inquiry that around that time, he had the view that if anyone contacted the Bishop and wanted treatment, it should be given immediately notwithstanding any inference of guilt or innocence that could be drawn from such an act. It was around this time that a number of complainants made themselves known to the Diocese.

In October 1995, after Darren (4.1.9) had written to the Diocese alleging abuse by Fr Collins, Bishop Comiskey's diocesan secretary, Fr Tommy Brennan, wrote back to say that the Diocese would be reporting the allegation to the Health Board and the Gardai. Bishop Comiskey told the Inquiry that this was an example of how practice was changing as knowledge grew about the seriousness of this problem.

Bishop Comiskey made a statement to the Gardai in May, 1995, in connection with Rory's allegations. He concluded the statement to the Gardai by saying that Fr Collins continued to deny any wrongdoing. In stating this, he was incorrect. Bishop Comiskey knew from at least 1993 if not 1991 that Fr Collins had admitted to the abuse of boys at St Peter's. Bishop Comiskey told the Inquiry that he had no memory of making the statement to the Gardai. Fr Collins continued to deny the criminality of the charges against him to Gardai in accordance with the legal advice he received.

Monsignor Breen, who was Vicar General of the Diocese at the time, was interviewed at the same time as Bishop Comiskey. He told Gardai that it was generally believed Fr Collins had a problem with abusing young boys and that Bishop Herlihy had sent him to London for treatment for two years because of it.

In 1995, Fr Collins was charged with 21 counts of indecent assault, gross indecency and one charge of buggery against four former students at St Peter's College. He instituted civil proceedings by way of judicial review in May 1996, seeking a prohibition of the hearing of the charges against him. That application was refused in October, 1997. In March 1998, he pleaded guilty to four charges of gross indecency and one charge of indecent assault committed at St Peter's College between 1972 and 1984. The charge of buggery was withdrawn by the prosecution. He was sentenced to four years imprisonment with a review after one year on grounds of ill health. Fr Collins served one year at the Curragh prison. No part of the costs of the criminal or judicial review proceedings were paid by the Diocese.

In 1998 Bishop Comiskey made a statement to the people of the Diocese of Ferns in which he said the Diocese had no knowledge of Fr Collins's abuse prior to 1995. This statement was again incorrect. Bishop Comiskey has told the Inquiry that he had forgotten about Fr Collins' admissions at the time of making that statement.

When asked by the Inquiry why he was supportive of a priest who had betrayed his vocation and misled his Bishop, Bishop Comiskey explained that he had a duty in charity to forgive the sinner but not the sin. He told the Inquiry that whatever about the secular world in which we live, the Bishop was bound to treat all of his priests with great kindness. He said that a Bishop's kindness, concern and filial love for his priests were inherent as was the duty to forgive.

Upon Fr Donal Collins's release from prison in 1999, Bishop Comiskey encouraged him to set up the Ferns diocesan website, to edit the diocesan directory and to produce

a manual for the Diocese of Ferns. He was permitted to attend conferences and retreats and to say Mass in a local convent with the permission of the sisters. He was not permitted to attend conferences where lay people could be present although he did attend most of the deanery meetings. He continued to live at his home in Co. Wexford. Bishop Comiskey did accept that nowadays it would be imprudent to provide a convicted child sex abuser with a computer and internet access.

BISHOP EAMONN WALSH

On his appointment as Apostolic Administrator to the Diocese of Ferns on 1 April 2002, Bishop Walsh met with the victims of Fr Donal Collins and contacted Fr Collins' family to extend an offer of support and counselling to them. They did not avail of the offer.

In the summer of 2002, Bishop Walsh conducted a review of all cases of child sexual abuse in the Diocese. He obtained the assistance of the Advisory Panel to the Diocese of Dublin of which Mr David Kennedy was Chairman. This committee is generally described as the Ad Hoc Advisory Panel. The Panel considered Fr Collins's case to involve a particularly grave form of child sexual abuse and recommended that Fr Collins be laicised either voluntarily or involuntarily. This recommendation was accepted by Bishop Walsh. The Panel also recommended that a canonical precept be imposed upon Fr Collins, directing him not to act in any forum as a priest and withdrawing permission to say Mass under any circumstances. The Advisory Panel recommended that Fr Collins have no form of access to the diocesan website and that any computer equipment or files belonging to the Diocese be retrieved immediately.

Fr Collins wrote to Bishop Walsh and asked if the Panel could review his case and take certain factors into consideration, including his forty years of service to the Diocese as a priest, his record as a teacher in St Peter's, and his ten years of counselling.

The Advisory Panel rejected Fr Collins's appeal in September 2002, and he was once again asked to consider seeking voluntary laicisation as a true indication of his sincere acknowledgement and repentance of the past hurt and scandal his abuse had caused. Fr Collins replied that he could not abandon his priesthood which was an intrinsic part of his identity, but Bishop Walsh was quite clear that Fr Collins could not remain a priest. On 13 November 2002, he wrote to Fr Collins in the following terms: *"It is a scandal and an obstacle to the faith of the people that those who have abused children sexually should act in PERSONA CHRISTI."*

Bishop Walsh informed the Inquiry that Fr Collins's history is widely known in the neighbourhood where he lives. He said that he is regularly contacted by the delegate and meets with Sr Colette Stephenson, a diocesan support person for priests. The purpose of this meeting is to account for his activities during the past month and to outline any concerns that he may have.

Bishop Walsh described to the Inquiry that when Fr Collins had been recently seen speaking with a group of boys on the side of the road in Wexford, a local priest immediately informed Bishop Walsh who confronted Fr Collins. This is a high level

of monitoring and support for a person who has been convicted of abuse and released from prison which would be difficult for any other organisation to achieve.

Fr Collins has been discussed at the Review Committee meetings referred to in Chapter 3 and both the Gardai and Health Board have expressed themselves as satisfied that everything that can be reasonably done to safeguard the welfare of children regarding Fr Collins has been done.

On the application of Bishop Walsh, the Pope dismissed Fr Collins from the clerical state in December 2004, with the effect that he is no longer a priest.

Bishop Walsh acknowledged that the Bishop of Ferns has an obligation in charity to support a priest who has been dismissed from the clerical state and was in need. He informed the Inquiry that any assistance given to Fr Collins on a needs basis would be on terms that he complied with the provisions of the precept to which he had been subjected prior to his dismissal.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF FR COLLINS' CASE:

- **If, as would appear to be the case, Bishop Herlihy transferred Fr Collins to Westminster without informing the Bishop of that Diocese of the allegations that had been made against Fr Collins, such omission warrants very serious criticism. The subsequent decision of the late Bishop to restore Fr Collins to his former position as a teacher in a boys' boarding school would seem to have been extremely ill-advised as subsequent events were to prove in a comprehensive and tragic fashion.**
- **It is acknowledged by the Inquiry that the particular propensity of sex offenders to re-offend was not generally recognised in the 1960s and that this wrongdoing was widely viewed as a moral rather than a medical or social problem. Bishop Herlihy's response to remove Fr Collins from St Peter's cannot be categorised as inappropriate judged in the context of the time in which it was made, save in the context of failing to inform diocesan authorities referred to above.**
- **The Inquiry believes that notwithstanding the above, even in 1968 it would have been appropriate to have imposed some monitoring or supervision on Fr Collins on his return to St Peter's given the circumstances of his departure in 1966 and the high number of alleged victims involved. The failure of Bishop Herlihy or those in authority in St Peter's who knew of the 1966 allegations to do so, was inadequate and inappropriate even by the standards of the time.**
- **From evidence that came directly to the Inquiry, it would appear that at least six priests in the Diocese and associated with St. Peter's College knew of troubling rumours about the reason for Fr Collins's removal from St Peter's in 1966. The Inquiry views with grave concern the failure of priests to notify church authorities in the Diocese of the potential**

danger posed by this priest when his appointment as Principal to St Peter's was suggested. The nature of the problem of child abuse is such that intervention will often be required on the basis of no more than rumour or suspicion. Members of the diocesan clergy of Ferns do not appear to have been alerted to the potential danger unsupervised access to children can present. It is the belief of this Inquiry that they should have been so alerted by Church authorities.

- In the face of Fr Collins's denial of allegations of child sexual abuse by the then unidentified Rory, Bishop Comiskey has told this Inquiry that he spent two years trying to find some concrete evidence about Fr Collins. Priests who spoke to this Inquiry and who said that they indicated to Bishop Comiskey that a problem had existed in the past could have given him some help in this regard, but Bishop Comiskey never asked them what they had meant when they had cautioned against his appointment as Principal which might have obviated the need for the lengthy inquiry that ensued.
- Whilst Fr Collins was in Florida, and in receipt of some form of counselling although not the assessment and treatment sought by Bishop Comiskey, he was ministering to the sick and attached to a Roman Catholic parish. Bishop Comiskey has accepted that he did not inform the Bishop of the Diocese about the allegations against Fr Collins and may or may not have informed the parish priest. It is clear in speaking with Bishop Comiskey that he believed his responsibility for Fr Collins extended only to his activities in the Diocese of Ferns and he did not have any awareness that he had a responsibility to other children who might be abused by Fr Collins elsewhere. He did not purport to limit in any way Fr Collins' ministry as a priest which continued in the Diocese to which he was transferred. Upon being alerted to a potential liability for damages in the event of Fr Collins abusing children whilst in Florida, Bishop Comiskey informed the Church authorities there of the allegation which had been made against Fr Collins.
- The failure of Bishop Comiskey to procure promptly the temporary removal of Fr Collins from active ministry immediately on receipt of credible allegations of child sexual abuse in 1989 was most regrettable. However the actions and inactions of Bishop Comiskey must be seen in the nature of the allegations and the circumstances in which they were made. More particularly the fact that no records had been created, or if created, preserved in the Diocese recording the reasons for the temporary departure of Fr Collins from the Diocese in 1966 and the fact that the Bishop was not informed or briefed on those facts by the members of the clergy who were aware of them. Records are an essential part of any organisation's effective management and the creation and preservation of such records is of vital importance (as Mr Justice Roderick Murphy pointed out in his report on matters relating to Child Sexual Abuse in Swimming, 1999). This is particularly the case in organisations where management roles will change from time to time. This was also an issue which was identified by the Framework Document as requiring attention.

- **Notwithstanding a commitment under the Framework Document to inform the Health Board in any situation where child protection was an issue, Bishop Comiskey did not inform the Health Board of any of the allegations that arose in this case until 2001.**
- **It was unacceptable that Bishop Comiskey should have made erroneous statements to the Gardai and the media in view of the information available to him in relation to Fr Collins.**

FR JAMES DOYLE

The first allegation to come to the attention of the Inquiry, in connection with Fr James Doyle which was reported to the authorities in St. Peter's, arose in 1972 when a prefect in the secondary school of St Peter's College reported an incident of sexual abuse by James Doyle on one of the boys in the boarding school (see Matthew 4.2.1).

The incident was reported to a clerical member of the secondary school staff who passed it on to the Dean of St Peter's, Dr Thomas Sherwood, who is now deceased. The Dean told the Inquiry that he was not satisfied with Dr Sherwood's reaction which he considered questioning and dismissive, and so brought the matter to the attention of the President of St Peter's College. The President recommended that James Doyle leave St Peter's and join a religious order rather than the diocesan priesthood. James Doyle did not leave St Peter's but the President of the College informed him that he would not be called to the Diaconate that year and his suitability for the priesthood would have to be re-examined at the end of the year.

The President of St Peter's was replaced in 1973 and in May 1974, James Doyle was approved for orders of deacon and priest. The new President at the time confirmed to the Inquiry that he knew nothing about any incident concerning James Doyle apart from alcohol abuse. He also confirmed to the Inquiry that he could not remember what kind of document he signed recommending Doyle for orders, and stated that the Dean regularly handed him over the list of people and that he would simply sign his name to it. He said he was not aware of any interview between James Doyle and the former President relating to child sexual abuse nor was he aware that Doyle's ordination had been postponed for a year. He stated that whilst a file would have been kept in St Peter's on a potential candidate, he did not in fact refer to the file when recommending James Doyle for ordination.

The Inquiry has seen a series of memoranda and correspondence relating to this incident which would have been available to the authorities in St Peter's and the Diocese when making the decision to ordain this priest. These records clearly state that an incident of interfering with boys in the boarding school had occurred but it appears that these records were either ignored or not consulted when James Doyle's ordination was decided upon.

Fr Doyle served in a parish in Belfast from 1974 until 1979 and although the Inquiry has heard that there were rumours of him interfering with altar boys at that time, no specific allegation was made until 2001 when a young boy came forward to the Diocese of Down and Connor. The Inquiry does not have any details of this allegation which is being handled at present by the authorities in Northern Ireland.

Fr Doyle returned to Wexford and was appointed as curate to Clonard in 1979. Evidence was given to the Inquiry that just after his appointment, an incident arose in which it was alleged that he attempted to sexually assault a young male hitch-hiker in his car. The victim reported the incident to the Gardai and a Garda from Gorey went directly to a priest of the diocese, whom he knew, to speak to him about it. The Gardai had decided not to pursue this matter but thought that the priest they spoke to should reinforce their insistence that no further events of this kind should occur. It was understood by the priests who knew of this incident at the time that it related to a verbal propositioning of a young male hitch-hiker and not child sexual abuse. The diocesan priest approached by the Gardai who was not in a position of authority over Fr Doyle, spoke with Bishop Herlihy's secretary as well as another senior priest in the diocese and it was agreed that Fr Doyle should be encouraged to get medical assistance for his alcohol problem. He agreed to do so. The priest in question also advised the Garda to speak with Fr Doyle's parish priest and believes he mentioned the incident to Bishop Comiskey in 1990 during the prosecution of Fr Doyle.

The four priests who knew of the incident in 1979 did not report either the incident or their intervention to Bishop Herlihy.

According to Garda Patricia O'Gorman, who made a statement in 1990 in the course of a Garda investigation leading to the prosecution of Fr Doyle, complaints against Fr Doyle were investigated by the Gardai in or about 1980 when it was reported that Fr Doyle had committed acts of indecent assault on young altar boys. She stated it was decided that there was insufficient evidence to prefer any charges at the time. However, she confirmed that the matter was brought to the notice of the then Bishop, Donal Herlihy, and it was arranged that Fr Doyle would receive psychiatric attention. She said that Fr Doyle's behaviour was monitored for a couple of years by An Garda Síochána and no further incidents of wrongdoing came to their attention. A former Superintendent told the Inquiry that he also reported these incidents to Bishop Herlihy at this time.

Fr Doyle's parish priest in Clonard said that he had been notified of two incidents by a former Superintendent, one involving the hitch-hiker which he understood the Gardai were dealing with, and the other involving an altar boy. The parish priest reported the second incident to Bishop Herlihy, who appeared shocked. The Bishop arranged for Fr Doyle to attend Monsignor Professor Feichin O'Doherty for psychological examination.

When a new parish priest was appointed in 1985, he was not informed by either the Bishop or the outgoing parish priest about the incident concerning Fr Doyle.

Professor Feichin O'Doherty provided a report to Bishop Herlihy on 31 October 1982. In that report, Professor O'Doherty stated:

"Father [Doyle] has had a history of auto-eroticism and homo- and heterosexual behaviour. These problems were manifest during his seminary years, but passed unnoticed. As far as one can see, he did not face up to celibacy in any realistic sense... It would also seem desirable that he should have a change of role, away from working with young people".

This advice was not acted upon by Bishop Herlihy and neither was it taken up by Bishop Comiskey who, although not given any direct information about Fr Doyle by any of the priests in the parish who knew his history, did have Professor O'Doherty's report available to him when he became Bishop of Ferns in 1984.

The decision by Bishop Herlihy to send Fr Doyle for a psychological examination in relation to allegations of child sexual abuse marks recognition by the Bishop that this problem was not exclusively a moral issue which appears to have been his view and indeed the generally accepted view up until then.

No further incident is reported to the Diocese until April 1990 when Fr Doyle molested Adam (see 4.2.3). Bishop Comiskey told the Inquiry that upon hearing Adam's complaint, he was influenced by the Department of Health Guidelines which had been published in 1987. He said he was anxious that the incident should be reported but he was uncertain if he should go to the Gardai and report the matter himself. He therefore encouraged Adam's parents to inform their doctor and told them to ensure that the doctor inform the Health Board. Around that time he heard of the other reports concerning Fr Doyle referred to above.

Bishop Comiskey then instructed Fr Doyle to take leave of absence from the parish and this was put into effect one month after meeting Adam's parents.

Bishop Comiskey told the Inquiry that within months of arriving at Ferns, he was aware that Fr Doyle was being treated by Dr John Cooney, St Patrick's Hospital, Dublin, for alcohol dependency. He said that while there was a clear reluctance on the part of the priests of the diocese to tell him about sexual abuse incidents with Fr Doyle, they did not have the same reluctance in discussing alcoholism as it was regarded as a less shameful complaint. Bishop Comiskey stated to the Inquiry that he had no idea that Fr Doyle had any problem other than alcoholism. He said that he had received no file from St Peter's when he became Bishop and in fact all that was available to him was Professor Feichin O'Doherty's report which had been sent to Bishop Herlihy.

Having given assurances to the Gardai of Fr Doyle's cooperation with any criminal prosecution, Bishop Comiskey arranged for him to attend for treatment in Stroud, Birmingham. Whilst receiving treatment, Fr Doyle pleaded guilty in Wexford District Court to a charge of indecent assault on a minor and a three-month sentence was

imposed, which was suspended on condition that he remain away from the parish of Clonard for the period.

The Fr Doyle case received extensive coverage in the local papers and, contrary to the orders of the court and statutory prohibitions, the media made known the identity of the boy involved. The coverage by one local newspaper in particular provoked a considerable backlash against that paper in the Wexford area as it was felt that Fr Doyle had been badly treated by the publicity his case had attracted. As the media had already given enough information to disclose the identity of the complainant, this backlash was also directed towards him and his family.

The psychologist treating Fr Doyle at the Stroud Institute identified Fr Doyle's key problem as being one of alcoholism and maintained that the child abuse only occurred during an alcoholic blackout. He did not believe Fr Doyle's basic sexual orientation was towards children. Towards the end of Fr Doyle's time in Stroud, he appeared in court on a drunk-driving charge, was banned from driving for one year and fined £150. Notwithstanding this, he left Stroud in September 1991, and was offered occasional and unpaid work by a parish in Southwark. Bishop Comiskey required Fr Doyle to agree in writing to the following conditions: that he would abstain from alcoholic drink; that he would receive counselling for his alcoholism; that he would attend after-care support and that *"if he drank again, he undertook to leave the presbytery without waiting to be confronted and without attempting to negotiate"*.

Some 18 months after his discharge from Stroud, Fr Doyle informed Bishop Comiskey that he was working occasionally as chaplain to a mixed secondary school with over 600 pupils in addition to his parish work.

At this stage, a civil action was taken by Adam's parents in relation to the assault by Fr Doyle in April 1990. Fr Doyle discharged his own legal expenses and the settlement amount. During the preparation for the defence, Bishop Comiskey became aware of a number of other incidents involving Fr Doyle. Bishop Comiskey said he was satisfied with Fr Doyle's work as chaplain because the school management and church authorities had been informed about Fr Doyle and knew his full history.

In 1994, on his return from London, Fr Doyle commenced working in a half-way residential out-patient support house for adults. Bishop Comiskey told the Inquiry that he is not sure how Fr Doyle came to be working there but when he heard about this placement, he said he was pleased and thought it was a perfect half-way house and that Fr Doyle represented no danger to children there. However, the Archbishop of Dublin, Archbishop Desmond Connell, asked Bishop Comiskey to remove Fr Doyle from the centre because he had no supervision and was accountable to nobody while he was there. Bishop Comiskey maintained that Fr Doyle was functioning in a healthy way and that the centre was an appropriate place for him to be, given the requirement of supervision and monitoring. At Archbishop Connell's suggestion, Bishop Comiskey informed the Gardai in Wexford of Fr Doyle's address. The Archbishop of Dublin issued a decree withdrawing faculties from Fr Doyle and forbidding him from exercising any ministry in the Diocese which involved *"the care of souls"* including the public celebration of Mass. He was also prohibited from wearing clerical dress.

During his response to complaints surrounding this priest, Bishop Comiskey told the Inquiry that he had come under a degree of pressure from priests in the parish for bringing about the reporting of Fr Doyle's incident to the Gardai and the Health Board. In November 1990, Bishop Comiskey called a meeting with a number of senior churchmen in the Diocese and briefed them on the case. Bishop Comiskey told the meeting that the Child Abuse Guidelines which had been issued by the Department of Health in 1987 made it mandatory for all doctors to report abuse.

Bishop Comiskey advised the priests that the policy he proposed to adopt thereafter imposed the following requirements:

- *A Bishop must be notified of any accusation and the Bishop must thereafter investigate whether the charge is credible;*
- *A Bishop must meet with the priest in question and carry out any investigatory judgement that is necessary;*
- *A Bishop must offer what assistance he could to the victim; and*
- *A Bishop must relieve the accused priest temporarily of his duties in order to protect other children at risk.*

The Inquiry has seen no evidence that Bishop Comiskey subsequently referred to this policy in dealing with complaints of child sexual abuse.

Bishop Comiskey told the Inquiry that he developed this policy through reading an extensive amount of American documentation which he had on the subject. The policy as enunciated above clearly understood that the Diocese would take responsibility for the care of the victim as well as dealing with the accused priest.

Bishop Comiskey did not envisage reporting allegations to civil authorities himself at this stage. He told the Inquiry that, prior to 1990, the question of reporting child abuse complaints or allegations to the Garda authorities never arose. He recognised that this issue arose in some cases after 1990 following his review of the Department of Health Guidelines of 1987. In particular, Bishop Comiskey has said that he was guided by the Department of Health recommendations on reporting where the alleged victim was still a child at the time of making the complaint. Adam is the only such case that arose during Bishop Comiskey's episcopacy where a complaint was notified to An Garda Síochána, in this case by the complainant's local doctor. Bishop Comiskey did not report other allegations made by children where the priest was deceased at the time of the allegation. He did not report any adults who made allegations as he believed that that was the responsibility of the adult him or herself. It appears that the child protection aspect of such reporting was not appreciated by the Bishop at this time.

BISHOP EAMONN WALSH

The case of Fr James Doyle was considered by the ad-hoc Advisory Panel established by Bishop Walsh on his appointment to Ferns. On the advice of the Advisory Panel he issued a Precept to Fr Doyle restricting him in the following manner:

- *To refrain from all unsupervised access with minors,*

- *All persons involved in his placement at [the adult support centre] be fully aware of his history,*
- *His role must be purely a bookkeeping one,*
- *He is to cease saying Mass even in private in his place of residence or anywhere else lest he give the impression that he had some chaplaincy role when his role was bookkeeping, and*
- *That the local Garda station be advised of Fr Doyle's whereabouts as well as the local Bishop.*

Bishop Walsh has told the Inquiry that the Fr Doyle case has been discussed three times in the last year with the Health Board and the Gardai. Both of these agencies expressed themselves satisfied that his accommodation and occupation were compatible with child protection policies and believed that his present residence was as safe an environment as possible.

In April 2002, a further complaint was made by Barry (4.2.4). Barry met with the Delegate and the Apostolic Administrator in relation to his allegation of abuse by Fr Doyle. He also alleged that his younger brother was abused by this priest. He has been offered the services of the victim support person of the Diocese.

Bishop Walsh invited Fr Doyle to apply for laicisation but Fr Doyle declined. The Pope, on the application of Bishop Walsh, dismissed Fr Doyle from the clerical state in December 2004. Fr Doyle has informed the Inquiry that he has received no financial assistance from the Diocese of Ferns since August 1991 when he left Wexford for Stroud. He has been promised financial aid but to date this has not been forthcoming. He has received payment from the St Aidan fund which is a priests' fund and not a fund of the Diocese.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR DOYLE CASE:

- **If, as appears to be the case, the President of St Peter's was satisfied as to the truth of the allegations of child sexual abuse against James Doyle in 1972, the ordination of James Doyle with the unsupervised access to children which that necessarily entailed, was wholly inappropriate. No doubt in 1972 the understanding of child sexual abuse was less developed than today, but the then President of the college did recognise that the suitability of Mr Doyle would require re-examination.**
- **Such records as were available to St Peter's do not appear to have been accessed by the authorities there in making a decision to ordain James Doyle. In addition, these records were not passed on to the Diocese of Ferns upon Fr Doyle's ordination.**
- **By October 1982, Professor O' Doherty was in a position to say that the problems of Fr Doyle which had manifested in the seminary rendered him unfit for ordination and that it was desirable that he should have a role**

away from working with young people. Whilst the Inquiry would regard referring Fr Doyle to Monsignor Professor O'Doherty as adequate and appropriate in the context of the time, the failure of the Bishop and his successor to act on the recommendations contained therein was entirely unsatisfactory.

- The fact that three priests of the Diocese, apart from the authorities in St Peter's, were aware of Fr Doyle's activities but did not consider it necessary or appropriate to speak with Bishop Herlihy or his successor, indicates a system of secrecy which did not advance the achievement of child protection in the Diocese. The diocesan priests did speak with Gardai and ensured medical intervention for Fr Doyle, but ultimately, under Canon law, the responsibility for the disciplining all priests rests with the Bishop. One of these priests was in fact aware of the allegation made against this priest seven years earlier whilst he was a seminarian and so was aware of a dangerous pattern of behaviour.
- It is matter of some concern that the psychiatrists treating Fr Doyle in Stroud, the Bishop of Ferns and the Archbishop of Southwark would have countenanced allowing him work either in a parish or as a chaplain to a secondary school given their understanding that one relapse from sobriety could result in him abusing a child.
- Bishop Comiskey was unaware that Fr Doyle took up a position in a treatment centre in Dublin. The Inquiry was surprised that a priest who had been convicted on charges of criminal sexual abuse could have been permitted to move back to this country and take up a position in another diocese without his Bishop being notified.
- The Inquiry believes that Bishop Walsh's response as outlined in the Report was adequate and appropriate in the context of child protection.

FR ALPHA

Fr Alpha was a curate in the Diocese of Ferns in the 1970s and 1980s. The Inquiry has heard from one priest who expressed his personal concern and unease with Fr Alpha's behaviour during his early years as a curate in the Diocese. The priest described an experience with a potential sexual connotation with Fr Alpha which caused him some concern and made him very uneasy and somewhat fearful of the growing presence of boys in Fr Alpha's house. When allegations against Fr Alpha were made in 1995, this priest spoke to Bishop Comiskey about his own experience of Fr Alpha. Bishop

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Comiskey recalled the discussion but did not recall a complaint of sexual abuse being made.

Gavin (4.3.2), who met with the Inquiry, attended St Peter's seminary in the late 1980s. He spoke to the Spiritual Director of St Peter's about his alleged abuse by Fr Alpha and was advised to confront Fr Alpha and end the abusive relationship. Gavin attempted to do this. Subsequently, Gavin left the seminary and he told the Inquiry that he believes the reasons for him leaving, which included the difficulties caused by the sexual abuse, were discussed with Bishop Comiskey. Bishop Comiskey has no recollection of any allegations of child sexual abuse against Fr Alpha being raised in connection with Gavin, and the then Spiritual Director of St Peter's was unable to speak to this Inquiry in relation to the matter on the grounds that he believed it would be a breach of sacerdotal privilege, which the Inquiry respected.

In November 1995, the first formal complaint to the Gardai in relation to Fr Alpha was made by Edward (4.3.1). This was followed in January 1996, with a disclosure by Eric (4.3.3) to a doctor in Wexford general hospital that he had been abused by Fr Alpha. The hospital informed the Director of Community Care who in turn informed the Gardai. The third complaint made against Fr Alpha was from Gavin. It was not directly communicated to Bishop Comiskey until 1997.

In March 1996, the Diocesan Secretary, Fr Thomas Brennan, was informed that Fr Alpha had been interviewed by An Garda Síochána. This was the first case of child sexual abuse to be handled by the Diocese under the Framework Document.

The Diocesan Delegate met with Fr Alpha who said that he was completely innocent. In reporting on his meeting with Fr Alpha, the Delegate said to Bishop Comiskey that a decision on Fr Alpha's continuation as curate would have to await the report on his case from the Gardai. Also in March 1996, the Director of Community Care of the South Eastern Health Board wrote to Bishop Comiskey to inform him that it had recently received a notification concerning child sexual abuse involving Fr Alpha. This is understood to be a reference to Eric who spoke with the South Eastern Health Board around this time. The Diocese itself had as yet received no direct complaint.

Bishop Comiskey said that whilst his initial thought had been to look into the matter carefully, he decided quite soon to remove Fr Alpha from his position as curate. He hoped to achieve this by having him take voluntary leave of absence.

In July 1996, the Diocese had still no information about the identity of those alleging abuse by Fr Alpha, and wrote to the Health Board and the Gardai looking for some help in order to process its own investigation. Bishop Comiskey requested these bodies to encourage the complainants to meet with the Diocese for this purpose.

In September 1996, Fr Tommy Brennan, Diocesan Secretary, was informed that a further allegation of child sexual abuse against Fr Alpha would be made to the Gardai. This related to Gavin (4.3.2)

In October 1996, the Diocesan Delegate organised a meeting with Edward and recorded details of the complaint as made to him. That statement was forwarded to Fr

Alpha who met with the delegate in November 1996. Fr Alpha totally denied all allegations of child sexual abuse by Edward.

An Advisory Panel meeting recommended that the delegate contact other priests from Fr Alpha's parish at the time of the alleged abuse. One priest so contacted said that he had never heard any allegation at all against Fr Alpha and was shocked and surprised to hear what was alleged subsequently. Another priest contacted by the diocesan delegate did express his reservations at the large number of young boys around the priests' house during Fr Alpha's time there although he was not personally aware of any improper conduct on the part of Fr Alpha and had heard no rumour or suspicion surrounding him. The allegations and denial together with statements of priests who served with Fr Alpha were then sent to Bishop Comiskey in advance of the next Advisory Panel meeting of December 1996.

A further priest who spoke with the Inquiry confirmed that a number of boys used to frequent the priests' house with the permission of Fr Alpha but he emphasised that he saw this as an irritant and a possible cause of scandal rather than giving rise to any suggestion of sexual abuse. He was astonished at the allegations that subsequently arose.

It was not until January 1997 that Eric was in a position to meet with Bishop Comiskey and the diocesan delegate. At that meeting, Eric, who was accompanied by a social worker, disclosed to the Bishop details of his complaint. Eric also expressed concern over the children of a third party being in unsupervised contact with Fr Alpha. Bishop Comiskey wrote to Fr Alpha on 7 January 1997 requesting him to step aside from active ministry.

Fr Alpha's solicitors advised him at that stage that he could not defend himself against charges of either Eric or Edward without a full and thorough investigation of the allegations. His solicitor wrote to Bishop Comiskey in these terms and also pointed out that his client would have to be given an opportunity to confront his accusers.

The Advisory Panel met in February 1997 to discuss the matter. It concluded it would be necessary to conduct an investigation and to interview relevant parties. In the meantime, the Advisory Panel also recommended that Fr Alpha should be asked to undergo assessment at Stroud. Fr Alpha refused to undergo such assessment and sought a determination from the Bishop so that his good name would be restored.

Bishop Comiskey has told the Inquiry that he felt unable to proceed with any Canon law procedure to remove Fr Alpha temporarily from ministry because he could not establish the veracity of the complaints before him. He pointed out that each of the complaints had inherent flaws. By March 1997, he had received three complaints in addition to an expression of unease by a diocesan priest.

These enquiries continued until December 1997. At that stage, Bishop Comiskey believed he had no choice but to invoke the provisions of Canon law to secure the removal of Fr Alpha.

Bishop Comiskey met with a Canon lawyer in December 1997 who advised the Bishop that with regard to the problem of Fr Alpha's continued exercise in ministry as a curate, he should, in the first place, undertake a pastoral solution or, failing that, an

administrative solution which would involve invoking the relevant provisions of Canon law, namely Canon 552. Bishop Comiskey had already appointed a delegate under Canon 1717 to properly investigate the allegations.

Accordingly, Bishop Comiskey wrote to Fr Alpha on 12 December 1997 inviting him to take administrative leave. Fr Alpha refused to take such leave as he believed it would be tantamount to an admission of guilt. Fr Alpha indicated that he would consult a Canon lawyer. In March 1998, Bishop Comiskey was advised to formally invoke Canon 552 which states that “.....an assistant priest may for a just reason be removed by the diocesan Bishop or the diocesan Administrator”. According to the commentary on this Canon a “just cause” rather than a “grave cause” suffices and the reason must be given in writing.

In reply, Fr Alpha strongly denied the allegations made against him and said that he would be appealing the ruling by the Bishop to Rome and that as such an appeal had a suspensive effect on the decree of the Bishop, he would, in the meantime, remain in his parish. Fr Alpha was incorrect in his interpretation of the suspensive effect of an appeal to Rome on foot of the administrative decision taken to remove him. In a subsequent letter, Fr Alpha appealed directly to the Bishop to revoke his decree and set out the deficiencies, as he was advised, in the Canon law process as adopted by Bishop Comiskey and his Canon lawyer.

Bishop Comiskey brought Fr Alpha’s letter to his Canon lawyer and was advised to suspend his decree pending the outcome of this direct appeal which Bishop Comiskey did. Bishop Comiskey’s Canon lawyer told the Inquiry that he was advised by Fr Alpha’s Canon lawyer around that time that if the decree was withdrawn, Fr Alpha would probably step aside on health grounds. Being aware that Fr Alpha had not been in the best of health Bishop Comiskey’s Canon lawyer believed this approach made sense and if successful, would achieve the objective of removing Fr Alpha from ministry. In these circumstances, Bishop Comiskey was advised to withdraw his decree. Fr Alpha has informed the Inquiry that no such formal agreement to retire on health grounds was entered into by him with Bishop Comiskey or any other person.

Following such advice from his Canon lawyer and upon receipt of a third letter from Fr Alpha in which he (i) again vehemently denied the allegations against him, (ii) challenged the procedures which were being adopted by the Bishop and (iii) outlined the measures he had voluntarily put in place to safeguard himself against the possibility of further false allegations, Bishop Comiskey revoked the decree in April 1998.

Bishop Comiskey said he felt embarrassed at having to suspend the decree. His attempt at invoking Canon law went no further. His Canon lawyer told the Inquiry that in the event of Fr Alpha not stepping aside within a reasonable time frame, Bishop Comiskey could have re-imposed the decree of removal under Canon 552.

The diocesan delegate continued to investigate details surrounding the allegations. On 22 June 1998 the Advisory Panel stated that they were unable to recommend Fr Alpha’s removal and he should be left *in situ* for the time being. They also noted that the case against Fr Alpha had become weaker. One member of that Advisory Panel,

who was also the chairman, told the Inquiry that they decided to await the DPP's decision in the matter.

Bishop Comiskey set himself a high threshold in establishing "just cause" as did his Advisory Panel. This Advisory Panel, established under the Framework Document, only met four times during Bishop Comiskey's tenure as Bishop of Ferns and at each of these meetings the Fr Alpha case was discussed. Throughout the period of 1995 to 1998, the Diocese investigated the credibility of the complaints against Fr Alpha. Fr Alpha has expressed his grave disquiet at the policy of the church authority at that time which he perceived as giving disproportionate attention to inherently flawed complaints. Fr Alpha has told the Inquiry that during that period he suffered greatly and stated "*to be innocent and face such false accusations is devastating*".

BISHOP EAMONN WALSH

After his appointment in April 2002, as Apostolic Administrator of the Diocese of Ferns, Bishop Walsh referred the allegations against Fr Alpha to the Ad Hoc Advisory Panel for review. He invited Fr Alpha to step aside pending a review of his case which Fr Alpha agreed to in May 2002. The Ad Hoc Advisory Panel recommended that Fr Alpha remain out of ministry and subject to a Precept. Fr Alpha has told the Inquiry that he felt severely pressurised by Bishop Walsh and that his retirement was effected against a background of media frenzy.

In May 2002, the DPP decided not to prosecute Fr Alpha. Fr Alpha argued that this decision confirmed his innocence and that he should be fully vindicated and restored as a priest of good standing in the parish. Fr Alpha and his family who had always protested his innocence, maintained that the decision of the DPP was equivalent to a declaration of innocence. Bishop Walsh did not share this view.

In June 2003, Fr Alpha's Canon lawyer wrote to Bishop Walsh and said that given the problems with the accusations made against Fr Alpha, the rejection of the case by the DPP, the complete absence of a credible accuser despite all the publicity and encouragement for people to come forward, the Diocese had now to seriously consider the justice due to Fr Alpha. The Canon lawyer said that the case against Fr Alpha had never been proved and that the allegations were full of holes. He said it would be an injustice not to restore this man "to being in a position of good standing".

On 19 June 2002, Bishop Walsh issued a Precept against Fr Alpha prohibiting him from participating in the act of ministry and in particular from having any contact with young people pending the completion of all inquiries into the allegations against him. In particular, Bishop Walsh has indicated that Fr Alpha could not be restored to any ministry within the Church until he had undergone a programme of assessment. Fr Alpha has persistently refused to attend for such assessment. Failure to co-operate with a programme of assessment will inevitably delay any prospect of returning to ministry a priest accused of child sexual abuse.

Fr Alpha has expressed to this Inquiry his deep sense of injustice at the way he has been treated by the Diocese. In particular, he felt deceived and unfairly stripped of

priestly ministry in a context in which he completely denied all allegations and no criminal prosecution was recommended.

Bishop Walsh described to the Inquiry a meeting which he had with Fr Alpha and his family in their home. The family expressed their anger and outrage at the way he had been treated. Fr Alpha's housekeeper also expressed her anger at the Church's treatment of the priest.

The three complainants issued civil proceedings against Fr Alpha and the Diocese. In these proceedings, Fr Alpha has counterclaimed for defamation. The proceedings are still pending.

A file on Fr Alpha has been sent to the Congregation for the Doctrine of the Faith which has now issued a direction to the Diocese on the Canonical procedures which must be followed in order to bring closure to the case.

THE FERNS INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR ALPHA CASE:

- **The appropriate agency to investigate a criminal charge of child sexual abuse is An Garda Síochána. Other organisations and employers however, do have functions and duties in respect of persons accused of such abuse. In particular, they must satisfy themselves that there are sufficient grounds for requiring the employee/priest to step aside pending a determination of the allegation. The performance of those duties may involve the agency or employer informing him or her self in relation to the material facts. No inquiry or investigation should be conducted which might compromise any proceedings to be initiated as a result of the Garda inquiries. In this case, the Gardai have informed the Inquiry that their investigations were not compromised by any investigations carried out by the Diocese.**
- **It is the understanding of the Inquiry that a credible allegation is one which is capable of being believed but it is not necessary to establish that it is true or even probably true. The Inquiry believes that Bishop Comiskey was mistaken in this and other cases in seeking corroborative or additional evidence to satisfy him as to the truth of the allegation**
- **The prompt removal of a priest against whom a credible allegation is made is essential for the protection of children. As the investigation of allegations against Fr Alpha illustrate, a detailed investigation by the church authorities necessarily involves delay which could place children at risk. It is only necessary that a reasonable suspicion be established in order for this removal to be put into affect.**
- **It is the view of the Inquiry that in this case where a credible allegation of child sexual abuse was made against Fr Alpha it was correct that he be asked and if necessary, required to step aside from the performance of**

any or all of his duties and functions which would bring him into unsupervised contact with children pending the completion of all appropriate inquiries.

- The Inquiry is fully conscious of the pain caused to any priest who, in the position of Fr Alpha, is required to step aside as a result of an unproven allegation of a repugnant offence, but the paramountcy given to the protection of children requires that some priests and other persons in employment may be required to endure this apparent injustice in the interests of the common good.
- The Inquiry is concerned at the delay which has occurred in the determination of the allegations against Fr Alpha through a Canon law penal process which would adjudicate on the guilt or innocence of the priest and impose penalties. It does however appreciate that this has been caused to an extent by the piecemeal nature of the reporting of allegations which occurred over a four year period by the complainants.
- The Inquiry would encourage the parties to the civil proceedings in child sexual abuse cases to bring them on for hearing at the earliest date so that the courts of law may finally determine the truth or otherwise of the very serious allegations.

FR JAMES GRENNAN (Deceased)

In 1988, ten girls alleged that they were sexually molested by Fr James Grennan whilst he heard their Confession on the altar in the parish church of Monageer. Fr Grennan was parish priest of Monageer and Chairman of the Board of Management of the national school. These girls were aged 12 or 13 years at the time. They made the complaint to the Principal of Monageer National School, Mr Pat Higgins. Mr Higgins contacted the South Eastern Health Board, who sent a social worker to speak with the girls.

The Health Board then arranged for Dr Geraldine Nolan, who was Director of the newly established Validation Unit in Waterford, to interview the girls. On 4 May 1988, she interviewed 7 of the 10 girls who made the allegations. The other 3 girls had been refused permission to attend Dr Nolan by their parents. She spoke with the Director of Community Care in the South Eastern Health Board, Dr Patrick Judge after conducting these interviews and before writing her report. Dr Judge then called on Monsignor Breen who, as Vicar General, was representing Bishop Comiskey in his absence from the Diocese. Dr Judge demanded that Fr Grennan be removed from the

parish immediately. Although most of the activity complained of occurred during Confession, allegations were also made concerning visits by Fr Grennan to some of the girls' homes and inappropriate behaviour in his own home and in the sacristy.

Confusion arose at the very early stages of this case. During the interview between Dr Patrick Judge and Monsignor Richard Breen, the impression was either given or taken up that Fr Grennan had exposed himself on the altar to the girls. It was not suggested by any of the children that Fr Grennan had exposed himself to them. In fact, Dr Geraldine Nolan did not refer to any exposure on the part of Fr Grennan but rather said that he held the children's hands and pressed them to his groin, unexposed, and that he touched their legs and other parts of their body, including their faces. The Ferns Inquiry has spoken to some of the girls who made the original allegations against Fr Grennan and their description of what occurred did not involve an allegation of exposure.

Dr Judge told Mr Higgins on 5 May 1988, that he should never again leave the children alone with Fr Grennan. The following day, Monsignor Breen spoke to Fr Grennan who was shocked at what was alleged and went to speak with Dr Judge who was adamant that what the girls had said was true.

Mr John Jackman, a Knight of Columbanus and a lay person of some influence in the Diocese, was approached by a Garda who was also a Knight who suggested that Mr Jackman should try and contact Bishop Comiskey in an effort to move Fr Grennan out of the parish until after the impending Confirmation ceremony which would defuse the situation and let the Gardai do their job. Due to Bishop Comiskey's absence from the Diocese, Mr Jackman telephoned Monsignor Breen and was told that he, Monsignor Breen, could do nothing to calm the situation.

In addition, on instruction from his Superintendent, a local Garda contacted Fr Grennan and suggested he should absent himself temporarily from the parish. Fr Grennan sought legal advice at this point and although he did in fact leave for a fortnight's holiday, he returned before the Confirmation ceremony on 20 June 1988. Bishop Comiskey returned to the Diocese on 28 May. He read Monsignor Breen's memorandum of the accusations of the girls and the interview with Dr Judge, and immediately spoke with Fr Grennan about the events in Monageer. Fr Grennan vehemently denied that he had exposed himself on the altar which he apparently still believed was what was being alleged although Monsignor Breen's memorandum did not refer to exposure.

On the basis of the meetings with Monsignor Breen and Fr Grennan and after consultation with the four Deans of the Diocese, Bishop Comiskey concluded that what was alleged to have occurred on the altar in Monageer could not have occurred. In doing so he appears to have adopted a threshold of probability rather than credibility with regard to the complaints. The allegations made by the seven girls might well have been regarded by the Bishop as improbable, even highly improbable but they were not incredible. By dismissing the complaints as incredible and therefore, by implication, mischievous, a situation was created which caused deep division in the parish and grave hurt to the children and their families. The sad history of this matter followed from this flawed decision.

Bishop Comiskey told the Inquiry that whilst Fr Grennan agreed to leave the parish for a short while immediately after the allegations were made, Fr Grennan considered it important that he should return for the Confirmation and Bishop Comiskey agreed with this. He told the Inquiry that Fr Grennan failing to appear for the Confirmation would be seen as an admission of guilt. When Fr Grennan appeared on the altar with Bishop Comiskey at his side, two families walked out of the ceremony. The families interpreted the presence of Fr Grennan on the altar with Bishop Comiskey as a total rejection of the complaints made by the children. Bishop Comiskey may not have intended his presence to be interpreted in that way but he had, in fact, at that time, rejected the complaints without meeting anyone concerned other than the priest in question.

Bishop Comiskey confirmed that he did not speak with the Health Board or the Principal of the school; neither did he speak with Dr Judge. Bishop Comiskey expressed surprise to the Inquiry that none of the girls who had made the allegations came to see him but he did not feel it was appropriate for him to visit them.

Bishop Comiskey was aware before 20 June when the Confirmation ceremony took place, that the Health Board had investigated the allegations of the girls and had found them to be credible. Bishop Comiskey did not see the actual report prepared by Dr Geraldine Nolan until August 1988.

Bishop Comiskey described the Confirmation day in Monageer as a very joyful, happy, sunny summer day and was unaware of anybody walking out of the ceremony. This is at odds with the evidence the Inquiry has heard from Mr Patrick Higgins, the girls themselves and others who described families as being very upset with children crying after the ceremony.

Bishop Comiskey called a meeting of the Council of Priests to discuss newspaper articles that had been written in the aftermath of the walkout. As a result of the meeting with the Council of Priests, a letter was sent to Fr Grennan assuring him of the full support of the Council in the face of unfounded allegations and unnecessary and unfair publicity. They pledged their support to Fr Grennan in his pastoral service to the people of Monageer. The Inquiry was informed by the chairman of the Council of Priests that the Council was not aware at that time of the Health Board investigations which found the allegations credible.

Bishop Comiskey saw the Health Board report in August 1988, but said he had already formed an assessment of the allegations made by the girls as reported to Monsignor Breen, having spoken with him and a number of priests in the Diocese. That assessment led him to the belief that the allegations were not credible. When Dr Nolan's report was presented to him, he was already convinced of Fr Grennan's innocence and it was in that light that he considered the report.

In 1989, Fr Grennan attended Dr Peter Fahy, a psychiatrist in the Blackrock Clinic for psychiatric assessment. Bishop Comiskey emphasised to the Inquiry that this was not for assessment or treatment of any condition regarding child sexual abuse but rather for treatment for strain arising from the complaints. Dr Fahy wrote back to Bishop Comiskey, *"I cannot see how he could have done what he is accused of doing in full view of a congregation"*. Bishop Comiskey confirmed to the Inquiry that he was in

complete agreement with the content of Dr Fahy's letter at the time and did not attach the slightest degree of credence to the accusations.

After media attention surrounding the Confirmation ceremony had died down, Fr Grennan continued as parish priest in Monageer. In his evidence to the Inquiry, Mr Patrick Higgins, the Principal of Monageer National School, said that he feared for his job after he had initiated the inquiry by the Health Board. He said that he felt greatly relieved once Dr Geraldine Nolan had validated the complaints of the girls. Undoubtedly, Mr Higgins was in an invidious position in effectively having to report the behaviour of his employer. He said he felt threatened with dismissal but his trade union intervened and the matter did not arise.

Fr Grennan continued in his role as manager of the school and although in the immediate aftermath of the Monageer incident he was an infrequent visitor, over the subsequent months he resumed the practice of calling regularly and even requiring that children be sent up to the presbytery on errands. Mr Higgins said that he never allowed the children to go to the presbytery or to accompany Fr Grennan anywhere without written permission.

The Inquiry also notes from documentation submitted by the Department of Education and Science that Patrick Higgins made a complaint to a Department Inspector, in early May 1988, in relation to the complaints and allegations made known to him by the school girls in April 1988. The Inspector noted that he considered these to be of the utmost seriousness and subsequently disclosed the visit to his senior officer, the Divisional Inspector. The Department felt it could not investigate the case because it had not received any formal complaint directly. This decision was reinforced by the fact that the Principal had acted according to the Department of Health guidelines.

The Department of Education confirmed to the Inquiry that this represents the only notification of child sexual abuse against a priest of the Diocese of Ferns to the Department.

The Monageer incident was raised again in November 1995 by Councillor Gary O'Halloran, a member of the Board of the South Eastern Health Board, who sought a full investigation into the handling of the affair by the State authorities. This investigation is dealt with in Chapter 6 of this Report. The matter was also the subject of a Garda investigation at that time: this is dealt with at Chapter 7.

The investigations by the Health Board and the Gardai attracted a great deal of media coverage, partly because it coincided with the cases of Donal Collins and Sean Fortune. One of the allegations against Bishop Comiskey was that he was involved in a cover-up "of immense proportions". It is alleged that he allowed some of his senior clergy to criticise journalists who reported on the walkout from the Confirmation ceremony, without informing them of the South Eastern Health Board report. Fr Walter Forde, who was the Diocesan Press Officer, said that he had been told by Bishop Comiskey that the allegations against Fr Grennan were utterly without foundation and he confirmed to this Inquiry that he had not been given a copy of the South Eastern Health Board report at that time.

Bishop Comiskey was accused in the media of interfering with the Garda investigation and with meeting Health Board officials with a view to getting their agreement that the matter should be dealt with by the Diocese. Bishop Comiskey told the Inquiry that such a meeting never took place and that there was never any agreement allowing the Diocese to handle the matter. This is confirmed by the Health Board witnesses spoken to by the Inquiry.

An anonymous and undated letter addressed to Bishop Comiskey which was date stamped by the Diocese as having been received on the 26 February 1996 and which purported to come from one of the girls who had initially made an allegation against Fr Grennan but who had subsequently not attended for interview with Dr Geraldine Nolan, was included in the diocesan file submitted to this Inquiry. This letter claimed that the allegations against Fr Grennan had been initiated by one girl in the class who was annoyed with Fr Grennan over another issue. This was not a view supported by the complainants who attended this Inquiry.

The Inquiry took the view that, whether or not the decision to speak to Mr Higgins about the abuse was the result of an effort by the girls to "get their own back" on Fr Grennan, once the church authorities were alerted to it, some action should have been taken, at the very least to determine whether the allegations were credible. The validation by Dr Nolan should have been sufficient to establish a credible case upon which the diocese could have acted.

In June 1994, a psychiatrist attached to the South Eastern Health Board, wrote to Bishop Comiskey informing him that a patient, Fergus (4.4.5.) had made an allegation of sexual abuse against Fr Grennan. Bishop Comiskey wrote to Fergus saying that he was taking his allegation very seriously and asking Fergus to bear with him while he dealt with the matter. He also offered to meet with Fergus if he felt this was helpful. This offer was not taken up.

In February 1995, Fergus's psychiatrist reported to Bishop Comiskey that Fergus had settled back to school and was putting the "*fear, hurt and anger behind him*".

BISHOP EAMONN WALSH

In May 2002, Bishop Eamonn Walsh met with Deborah (4.4.6) who alleged that she was sexually abused by Fr Grennan from the age of 5 until she was 10. Deborah told Bishop Walsh that, in 1993, she wrote a letter to Bishop Comiskey outlining the detail of what had occurred. In 1995, she said she wrote again to Bishop Comiskey asking why she had never received a reply to a previous letter. Bishop Walsh instructed that the diocesan files be searched thoroughly for any evidence of these letters from Deborah. There is no record on file of these letters having been received by Bishop Comiskey or the Diocese and Bishop Comiskey had confirmed that he does not recall receiving them.

Deborah consulted a firm of solicitors who agreed to act on her behalf against the Diocese. In August 2002, Deborah committed suicide. Bishop Walsh met with Deborah's parents after her suicide and they appear to be of the view that although Fr Grennan was a regular visitor in their home and stayed overnight in Deborah's

bedroom with Deborah present, it was extremely unlikely that he would have abused their daughter.

In June 2002, Bishop Eamonn Walsh visited Monageer and Boolavogue to celebrate the Vigil and Sunday Masses. Prior to this, Bishop Walsh met six of the girls who had made a complaint against Fr Grennan in 1988. Some of the girls expressed reservations with the way Bishop Walsh conducted these meetings. They believed his approach was intrusive and two of the girls criticised him for holding the meetings in Fr Grennan's former sitting room in the parochial house where some of the abuse had occurred. According to Bishop Walsh, the purpose of the meetings which he had was to explain the nature of his visit to the parish the following week-end. He was concerned that it would be upsetting for the victims to have 1988 brought up again and he wished to hear their concerns in person. He offered counselling to the victims and described his role as a listening one. He said that he did not ask questions about what had happened and he did not accept that his approach was intrusive. Bishop Walsh said he was not aware that abuse was alleged to have occurred in the parochial house although this fact was stated in the report from Dr Nolan which was in the possession of the Diocese.

Bishop Walsh acknowledged publicly the suffering in the parish and the division caused by the Monageer situation. He said that:

... [young children and their families]: "spoke up when it would have been far easier to keep quiet and let things carry on. They did the right thing and not without considerable cost to themselves. You will never know how many other people will have been helped by your witness. I wish to publicly acknowledge your hurt, which was compounded by the way the case was handled.

There are people in this parish who suffered greatly because they stood by their priest and with a good conscience. Some continue to feel this hurt.....

The Diocese contributed to the pain of this parish instead of easing it. For this I apologise and I apologise to anyone who was ever abused by Fr Grennan. I realise that it is too late in the day for apologies. I will continue to cooperate fully with all who are committed to bringing healing and closure for those who have been hurt in any way."

It was very painful for Fr Grennan's family to hear this statement and they were angry that the Diocese had apologised to anyone who had been abused by Fr Grennan.

In a civil suit that arose out of this case, a settlement was reached which included a statement by the Diocese which publicly acknowledged the hurt experienced by the victim. According to Bishop Walsh, this was also a matter of great upset to the family of Fr Grennan.

THE INQUIRY'S VIEW ON THE DIOCESAN HANDLING OF THE FR GRENNAN CASE:

- **The Inquiry believes Bishop Comiskey was incorrect in dismissing the allegations of the girls in Monageer. The allegations may in his view have been improbable, but they were not incredible. Such allegations were capable of being true and they should have been treated by the Bishop accordingly.**
- **Fr Grennan was accused of inappropriate, offensive and criminal behaviour. However, it was not only the alleged activity of Fr Grennan which caused suffering to the girls in Monageer but the effect that the handling of the complaints subsequently had on their lives.**
- **Bishop Comiskey's unquestioning support of Fr Grennan was given without any understanding of the consequence for the children who made the complaints. Children making complaints deserve special protection from the Church and from society. This added duty of care was not met by the Diocese in this case.**
- **The Inquiry is of the view that the way in which the Diocese and Bishop Comiskey handled the allegations brought by the girls in 1988 led to a great deal of unnecessary suffering for the girls, their families and the people of Monageer. The handling of these allegations by the Health Board and the Gardai are dealt with at chapters 6 and 7 of this report. The error by the Church Authority was greatly exacerbated by the failure of the Gardai to carry out any adequate contemporaneous investigation.**
- **Whilst the Inquiry accepts that the Diocese owed a duty to its priest when an allegation is made, the duty owed to the ten young girls is paramount. They made a statement to the Principal without knowing or expecting that it would end up in the public domain. To the credit of most of the girls' families, the parents supported and believed their daughters; however, family divisions occurred between generations and the Inquiry has heard how grandparents were divided against parents and grandchildren over the issue.**
- **Bishop Eamonn Walsh's apology to the parishioners of Monageer was unequivocal and may have gone some way towards healing the hurt in that parish.**
- **Parish priests are appointed as managers of national schools as a matter of course. In this role, they have made a valuable contribution to Irish education under the patronage of their Bishop. However, the Inquiry has become aware of a number of priests who have abused this position and used it to give them greater access to children for the purposes of abusing them sexually. The Inquiry believes that no person should be appointed or retained to a position of authority over children without proper investigations being made as to their suitability for such an appointment.**

- Fr Grennan continued in his role as Chairman of the Board of Management of the national school in Monageer after this controversy occurred without any investigation by the Department of Education or the Diocese as to his suitability for such a role.

FR SEAN FORTUNE (Deceased)

Sean Fortune was born in Gorey, County Wexford, in 1953 and was educated in the Christian Brothers School in Gorey. In July 1968, when he was 14 years old, Sean Fortune attended the Christian Brothers Juniorate in Carraiglea Park in Dun Laoghaire with a view to completing his secondary education and joining the Christian Brothers Order.

Sean Fortune attended Blackrock College for one term in September 1971, with the intention of becoming a member of the Holy Ghost order instead of a Christian Brother. The College has confirmed to the Inquiry that he was not asked to leave because of any impropriety, but rather because he was regarded as temperamentally unsuited for missionary work.

Sean Fortune did not proceed to the novitiate of the Christian Brothers. In 1973, he applied to St Peter's seminary in his native Wexford to pursue a vocation for the diocesan priesthood. He was admitted into St Peter's seminary without being assessed because of the five years he had spent in the Juniorate of the Christian Brothers.

The first allegation against Sean Fortune of which the Inquiry has become aware was made by Stephen (4.5.1). Stephen complained to a senior staff member in St Peter's in 1976 about the sexual abuse perpetrated on him by Sean Fortune. Although the response of the staff member was one of anger against Stephen, Fortune's approaches to him ceased thereafter and his relationship with the senior staff member, which had been quite a close one, ended. It is inferred that the staff member spoke to or reprimanded Sean Fortune. This senior staff member is now deceased and the Inquiry does not know whether he spoke to anybody else in St Peter's about Stephen's allegations.

An allegation of sexual abuse against Sean Fortune was made in connection with the Catholic Boys Scouts of Ireland in early 1979. A full report was prepared by the assistant scout leader at the time which was finalised in December 1979. The Inquiry is satisfied that this full report was passed on to Bishop Herlihy by a scout leader in St. Peter's in 1979 or early 1980. It has not been possible to establish whether this complaint was made informally to the Bishop prior to Sean Fortune's ordination in

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May of that year. A note attached to this Report indicates that by November 1979 it was brought to the attention of senior staff members in St Peter's as well as the Bishop of Ferns.

The Inquiry has been informed that a further complaint by Carl (4.5.4) was also communicated to the President of St. Peter's college and another senior staff member of the seminary in 1978. Both of these men have stated categorically that as far as they are concerned, such a meeting did not take place. The Inquiry can find no response by St. Peter's to Carl's complaint which was made prior to Sean Fortune's ordination and it has been confirmed to the Inquiry that no record exists in the archives of St Peter's.

There is no written record of any of these complaints being received by either the Diocese or St Peter's college. In addition, most of the individuals in the Diocese and St Peter's who were involved at the time, are now deceased. However, the Inquiry did speak with one senior staff member who was in St Peter's at the time. His evidence to the Inquiry was that he has no recollection of hearing anything relating to sexual activity about Sean Fortune prior to his ordination. He said he was aware of personality problems with Sean Fortune but felt that his energy and capacity to work outweighed whatever adverse personality traits he had.

After his ordination in May 1979, Fr Fortune was sent to the Holy Rosary parish in Belfast. The Inquiry has heard from fellow priests, who were with Sean Fortune at the time, that he was regarded as unmanageable and did not fit in the Diocese. It was on this basis that the Vicar General of the Diocese of Down and Connor arranged for Fr Fortune to be recalled to his diocese in Ferns. Shortly after the decision was made to remove Fr Fortune, Fr Martin Kelly who was Spiritual Director at St Malachy's College in Belfast, was approached by a student who said both he and a friend had been propositioned sexually by Fr Fortune. Fr Kelly reported the allegation of abuse to his Bishop Dr Philbin, and within hours of hearing it Bishop Philbin removed Fr Fortune from the Diocese.

A further allegation against Fr Fortune arising out of this time in Belfast was made in 1995 (see Charles 4.5.6).

Fr Fortune's continued involvement with the Boy Scouts caused problems while he was in Belfast. According to a curate who lived with Sean Fortune at that time and who was contacted by the Inquiry, Bishop Philbin directed that Sean Fortune was to have no involvement with the Boys Scouts but did not indicate a reason for this. Although he discontinued his association with the CBSI in Belfast, Fr Fortune formed a separate body of the Boy Scouts in Belfast. Fr Fortune's fellow curate in the Holy Rosary Parish in Belfast said that there was a constant stream of young boys coming in and out of the house even after he was removed from the scouts.

It is a matter of regret that there is no documentary evidence relating either to Fr Fortune's appointment to the Diocese of Down and Connor or to his removal from that Diocese. It is improbable that Dr Philbin would not have communicated to the Bishop of Ferns, Dr Herlihy the reason for Sean Fortune's precipitous removal from the Diocese.

In May 1980, while Fr Fortune was still a curate in Belfast, he applied for a post-graduate Catechetical course in Mount Oliver, Dundalk. This course began in September 1980. The Administrator of St Patrick's parish in Dundalk confirmed to the Inquiry that he had received a visit from a priest from the Diocese of Down and Connor who advised him to put a stop to plans which Fr Fortune had for bringing boys from the Christian Brothers School to his house in Ravensdale, Dundalk. The Administrator did this and when confronted by Sean Fortune, he said to him that he had received information that he, Sean Fortune, had been abusing boys. At this, Sean Fortune stood up and walked out of the room. The Administrator said that he did not understand the enormity of what had been happening to the boys at the hands of Sean Fortune. He said he did not report any of this to Bishop Herlihy which is something he is now concerned about; but at the time, he did not know Bishop Herlihy well and did not think it was the right thing to do.

The Inquiry has heard one allegation of abuse arising from Fr Fortune's time in Dundalk involving Peter (4.5.8).

In the absence of appropriate records, it is not possible to establish the extent to which the allegations of child sexual abuse made against Sean Fortune in 1979/1980 were brought to the attention of Bishop Herlihy. What is clear is that the Bishop sent Fr Fortune to be interviewed by Monsignor Professor Feichin O'Doherty who was Professor of Logic and Psychology at University College Dublin, in March 1981. In his first report to Bishop Herlihy Prof O'Doherty said *"his [Fr Fortune's] personal history during his seminary years, and more recently during his Mount Oliver studies, gives rise to grave concern."* He went on to say that although Fr Fortune dismissed his behaviour in the boys scouts as *"just messing"*, it was, in Professor O'Doherty's view, *"homosexual behaviour, and might even be classified as indecent assault in Civil Law"*.

Professor O'Doherty concluded that Fr Fortune was homosexual and it is significant that this conclusion was reached in spite of the protestations by Fr Fortune that he had no such sexual orientation. The reports by Professor O'Doherty included the following comments:

"Perhaps the most important thing I can say about him from the psychological point of view is his apparent lack of real feelings about the reality of his position..... I told him that he needs to bring about a radical and fundamental change in his personality. If this is possible at all it will take a very long time".

Professor O'Doherty said he was more convinced than ever of the homosexual orientation of Fr Fortune's personality after his second meeting with him, and added *"I told him of the dangers a vulnerable personality such as his would be exposed to in certain professions, the priesthood and teaching among them"*. In February 1982, Professor O'Doherty, whilst acknowledging that Fr Fortune had a considerable distance to go to become a fully mature person, said that he had no doubt that he would succeed in coming to terms with himself. However, by September 1982, Professor O'Doherty stated *"his [Fr Fortune's] personal history leaves a great deal to be desired. He gives an account of behaviour problems both before and during his seminary days which nobody seems to have noticed. I did not get the impression that*

he takes his most recent episode and present position seriously enough, nor do I think that we have heard the full story yet".

These extracts must have served as a warning to Bishop Herlihy and his successor (to whom the same reports were available) of the personality of Fr Fortune and the dangers which existed in giving him unsupervised access to young people. There is no report from Professor O'Doherty after the September 1982 meeting nor is there any suggestion that Fr Fortune received treatment for his condition or even a reprimand for the conduct which led him to be sent to Professor O'Doherty.

Fr Fortune was appointed as a curate to the parish of Poulfur at Fethard-on-Sea in May 1982. Even making allowances for the then limited appreciation of the nature of child sexual abuse and the propensity of abusers to re-offend, this appointment seems to the Inquiry to have been an extraordinarily ill-advised decision.

The Inquiry is aware through Mr John Jackman, who was actively involved in the parish and the Diocese, that Bishop Herlihy expressed the view to him that Poulfur was a closely-knit community and that *"if Sean Fortune tried to do anything it would be stopped immediately by the community"*. Bishop Herlihy is also recorded by Carl (4.5.4) as expressing the belief that Canon Mernagh, as the parish priest, would have been in a position to control Fr Fortune. Whilst it is accepted that Canon Mernagh was a very distinguished and respected parish priest, the reality was that Poulfur was, as already explained in Chapter 3 above, a half parish and accordingly, Canon Mernagh could not and did not exercise any significant supervision or control over Fr Fortune. The community, or part of it, attempted to curtail some of the activities of Fr Fortune and attempted to draw the attention of Bishop Herlihy and the Papal Nuncio to some of the aspects of his conduct to which they took exception.

Almost immediately upon his arrival to Poulfur, Fr Fortune established youth clubs in the basement of his house, and built and operated a "reconciliation room" in his house for boys who were in trouble at home. His behaviour gave rise to correspondence from parishioners to the Bishop and to the Papal Nuncio. There was an indirect reference to incidents of a sexual nature and given the information the Bishop had, this should have created a well-founded suspicion in the mind of the Bishop that children in the parish were at risk. The Papal Nuncio acknowledged the letter sent by the parishioners and stated that the Holy See had been apprised of their concerns. There is no evidence of any further involvement by the Papal Nuncio in this matter. A number of parishioners took the unusual step of swearing affidavits outlining the improper conduct of Fr Fortune in the parish and forwarding them to Bishop Herlihy. The conduct complained of was of a bullying and offensive nature but did not involve allegations of sexual abuse.

Bishop Herlihy died whilst still in office in 1983 and was succeeded by a Diocesan Administrator, Monsignor Shiggins who served for one year until a new Bishop was appointed. The Monsignor is now deceased.

In April 1984, Bishop Brendan Comiskey was appointed as Bishop to the Diocese of Ferns. He had been Auxiliary Bishop of Dublin before that. His appointment was met with universal approval by the people of the Diocese.

Shortly after his appointment, a letter was sent to Bishop Comiskey by a couple living in the parish, outlining a long list of complaints against Fr Fortune which included allegations of violations of confidentiality, defamation, authoritarian actions, adverse influence on youth and family relationships, and a lack of financial accountability. They also claimed that he had unsupervised parties on the beach at which alcohol, drugs and contraceptives were in use. The letter referred to weekend retreats in Loftus Hall for over 15s which involved over 60 youths and it stated that participants were instructed not to disclose the nature and content of these retreats, even to their parents. It was believed that intimate sexual matters were on the agenda.

The many and varied complaints made by parishioners in Poulfur might have been confusing but the reference to sexual impropriety among those complaints should not have failed to alert Bishop Comiskey to dangers created by Fr Fortune's activities, as he had read the four reports from Professor O'Doherty. Bishop Comiskey told the Inquiry that although he found some of the allegations of the parishioners difficult to believe, they were a precipitating factor in sending Sean Fortune to see a psychiatrist, Dr John Cooney, Associate Medical Director of St. Patrick's Hospital, Dublin, in February 1985. Bishop Comiskey told the Inquiry that he had sent Fr Fortune for psychiatric assessment because of his manic behaviour which, he believed, Fr Fortune needed to learn to control. He said that he did not have any concerns about Fr Fortune's sexuality. It appears that with this statement he intended to convey that he did not suspect Fr Fortune of child sexual abuse because the Bishop did go on to say that he had grave concerns about his homosexuality.

Dr Cooney reported to Bishop Comiskey that Fr Fortune had an unstable personality and was subject to hyper -manic mood swings. Dr Cooney said he discussed in detail with Fr Fortune the question of his sexuality and that Fr Fortune was adamant that this did not give rise to any problems.

The diocesan file contained correspondence throughout 1985 and 1986 relating to Fr Fortune's activities in the parish. Most of these activities involved controversy and contention at some level. This Inquiry is not required to examine Fr Fortune's general activities whilst a curate in Poulfur, but it appears that Fr Fortune was accused of bullying behaviour, financial irregularities and saying Masses and giving blessings for unorthodox purposes.

In 1986, Bishop Comiskey was first presented with an allegation that Fr Fortune was abusing young men. Bishop Comiskey met with Simon (4.5.9) and although an accusation against Fr Fortune was undoubtedly made to Bishop Comiskey, Simon made it clear that he did not wish to pursue the matter any further. Bishop Comiskey explained to the Inquiry that without a complainant who was prepared to be identified he could not proceed against Fr Fortune in Canon law.

Bishop Comiskey told the Inquiry that there was no question of removing a priest who had been accused of child sexual abuse in those days. It was thought that such priests could be treated successfully. He told the Inquiry that it took quite some time before he realised that paedophilia might be "incurable". In 1986 when he received "*the concrete proof*" from Simon, his goal was to get Fr Fortune out of the parish to receive treatment and then get guarantees from his medical advisors before returning him to parish duties.

Bishop Comiskey said that although he became more concerned about Fr Fortune throughout 1986 and 1987, he did not feel that he could institute canonical proceedings against him because of warnings from the Vatican that Bishops had to proceed very carefully and make sure that they had hard evidence before removing a priest. Bishop Comiskey said that he knew Fr Fortune was litigious and that he would undoubtedly appeal to Rome if he was removed without a concrete allegation being made against him.

Fr Fortune attended Dr John Cooney in 1987 and 1988. Dr Cooney recommended a lengthy period of in-patient treatment under close supervision to be instituted as a matter of urgency. He was also referred to a psychologist in St. Patrick's Hospital in Dublin, who confirmed Dr Cooney's concerns. It is difficult to understand how Bishop Comiskey failed to read the signals at this stage and address himself to the problem of protecting children.

Bishop Comiskey said that by summer of 1987, he was seriously concerned about rumours and allegations surrounding Sean Fortune. In October 1987, he persuaded Sean Fortune to leave his curacy in Poulfur and to go London on the pretext of attending a media course but in fact to receive assessment and treatment for sexual problems. Fr Fortune received neither. Many priests who attended the Inquiry confirmed that it was their understanding that Sean Fortune had gone to London on a sabbatical year solely to pursue a course in media studies and it was revealed to no-one that he was in fact going for treatment and assessment. Indeed, one of the priests whom Bishop Comiskey asked to visit Sean Fortune when he was in London, told the Inquiry that he believed that Fr Fortune was receiving help for his bullying and extreme behaviour but not because of any allegation of child sex abuse.

Fr Fortune was succeeded in the parish of Poulfur by Fr Sean Devereux and within weeks of his coming into the parish, Fr Devereux received a complaint of child sexual abuse against Sean Fortune. This complaint was made by William (4.5.10). Fr Devereux was only 24 years old when he came to the parish and he told the Inquiry that he was extremely shocked and distressed over what William had told him. He said that he told William to tell the Gardai and he also spoke to Bishop Comiskey immediately after receiving the complaint. Shortly after this, William made a full written statement which Fr Devereux also passed on to Bishop Comiskey.

When Bishop Comiskey received William's complaint, he had already moved Fr Fortune out of the Diocese of Ferns to London. He was not removed from active monistry and continued to perform priestly duties in London albeit not in any parochial capacity. Bishop Comiskey's response to the complaint appears to have been to direct Fr Fortune to cease any pastoral ministry and to concentrate on his treatment and academic courses. Fr Fortune continued to teach in London and appeared to perform very satisfactorily in that role. A number of the institutions where he had been working wrote of him to Bishop Comiskey in glowing terms. Bishop Comiskey did not appear to know about these appointments and there does not appear to have been any warning extended to the management of these colleges relating to Fr Fortune's alleged propensities.

Fr Fortune did receive some counselling but did not attend the prescribed assessment or treatment courses in England. He refused to attend Heronbrook Assessment Centre for a full two-day assessment and he also refused to attend the centre run by the Order of the Paracletes in Stroud which would have offered a treatment programme to him. His counsellor in Heronbrook strongly recommended to Bishop Comiskey that Fr Fortune should attend a residential treatment course as a matter of some urgency and described him as a "pathological liar". No such treatment was ever received.

Fr Fortune returned to Bray, Co. Wicklow in early 1988 without Bishop Comiskey's permission. On 12 April 1988, Bishop Comiskey wrote to Fr Fortune whilst he was still in London:-

"I presume that it is understood by you that you are to make no move from your present position until you have fully discussed the matter with me and I have reached a decision on it".

On 20 April 1988, Sean Fortune wrote to Bishop Comiskey's secretary informing her that as and from 27 April, his new address would be at Fairyhill in Bray, Co. Wicklow.

Bishop Comiskey made an appointment with a Dr F.P. O'Donoghue, a consultant psychiatrist in St Patrick's hospital who, having seen Fr Fortune on three occasions, said that he presented an exclusively almost exaggerated heterosexual response which could indicate an underlying homosexual problem. He suggested that Fr Fortune be put on sexual suppressants and be allowed to return to parish work with the proviso that he would have no responsibility for any youth organisation and would be subject to continuing supervision.

In June 1988, Fr Fortune, having become dissatisfied with the psychiatric and psychological help that he was receiving, attended a psychotherapist, Dr Ingo Fischer. Dr Fischer was not instructed or recommended by Bishop Comiskey but was chosen by Fr Fortune himself. Bishop Comiskey said that Dr Fischer was the only person who ever helped Sean Fortune and that as far as he knew; Sean Fortune never abused any child after he had attended Dr Fischer.

Dr Fischer informed Bishop Comiskey that, in his assessment, Sean Fortune did not suffer from any hypo-manic mood swings, his sexual orientation was heterosexual, his personality was stable, and that he would be fit for parish work subject to continuing treatment from him, Dr Fischer. He said that several of the concerns expressed about Fr Fortune were not supported by the evidence he had gathered but other aspects of Fr Fortune's personality would need to be attended to, including his obsessive need to be accepted and approved by people and his tendency to be impulsive and ostentatious.

In July 1988, Bishop Comiskey met with Sean Fortune and recorded the meeting in a minute with which the Inquiry has been provided. It is worth quoting sections of that minute in full:

1. *As a result of very serious charges made against Fr Fortune, and denied by him, I asked him to undergo assessment at the House of Affirmation in Birmingham. This he has refused to do.*

2. *He came back with the understanding that he would undergo something similar under John Cooney, St Patrick's Hospital Dublin. This has not happened for whatever reason.*
3. *The present position is that I have received a report by telephone from Dr O'Donoghue. He mentions three possibilities in that report, a), Fr Fortune is entirely homosexual, b), he may be using "the mental mechanism of reaction formation", and c), he may be telling lies. Dr O'Donoghue recommends that Fr Fortune should be allowed to return to parish duties provided he is kept under strict supervision.*
4. *I am not willing to accept this recommendation as I am not satisfied that Fr Fortune is able to accept any restrictions. Nor am I in any position to provide a context in which any of our priests have to be kept "under a microscope".*
5. *But, most important of all, twelve months after Fr Fortune had been advised of the charges against him, and after extensive meetings with at least three professionals, there is considerable evidence that he continues to deny the charges.*
6. *There is the added complication that Fr Fortune's name has come to the attention of the Gardai.*
7. *The most serious charges against Fr Fortune are in the area of sexual misconduct and misappropriation of funds.*
8. *Either there is substance to the charges or there is not. Fr Fortune maintains there is not. Medical intervention has not proved particularly helpful.*
 - i. *I have decided therefore to ask three priests to examine the allegations and the facts as established and make recommendations to me as Bishop.*
 - ii. *These priests will be sworn to secrecy and will take evidence under oath from those people who have made charges against Fr Fortune, they will also be entitled to any other written documentation relevant to these charges.*
9. *Fr Fortune will remain on paid leave of absence pending the outcome of this investigation;*
10. *If Fr Fortune does not wish this investigation to take place, he may admit that he has serious difficulties and go to Stroud for treatment."*

The Inquiry believes that the above memorandum from Bishop Comiskey reflects an accurate summary of the situation as it existed in the summer of 1988.

Paragraph 8.i above refers to the setting up of a three-man inquiry to examine the allegations, establish the facts and make recommendations to Bishop Comiskey. Bishop Comiskey told the Inquiry that although he did write to three priests whom he wished to sit on this inquiry, it never led to anything. Bishop Comiskey said that by engaging the services of a firm of solicitors, Fr Fortune effectively brought this Canon law inquiry to a halt and the Bishop had been advised by a Canon lawyer that the process should be discontinued.

William, whose complaint gave rise to this inquiry, was brought up to All Hallows College to be interviewed by Rev Dr Robert Noonan D.C.L. who was a Canon lawyer there. In his report of his interview with William, Dr Noonan said that he found him to be a believable witness and had no reason to disbelieve him. Subsequently, Fr

Fortune attended for an interview with Fr Noonan. At the end of the interview, Fr Noonan came to the conclusion that Sean Fortune was also a believable witness and that he had no reason to disbelieve his account of what occurred.

Fr Noonan explained that his role in this Canon law process was simply to establish whether either witness could be described as believable. He said that he had no difficulty in making such a finding in respect of both Fortune and William. However, he emphasised that his was not a role of judgement and it was not for him to decide on the veracity of the allegations. Fr Noonan also stated to the Inquiry that he was given no information about Fr Fortune's history in the Diocese up to that point and based his finding solely on the oral evidence presented to him.

This request to attend All Hallows was the first response that William had to his complaint which he made a full year earlier.

Bishop Comiskey told the Inquiry that he had hoped that Fr Noonan would give him some advice after speaking with the two parties but this did not happen. Fr Noonan has pointed out that such advice was not sought from him in spite of an offer from him to assist further if required..

Dr Ingo Fischer advised Bishop Comiskey that no further progress could be made with Fr Fortune unless he was restored to some ministry within the Diocese. A curate from the Diocese, who had known Fr Fortune's family all his life, was asked to keep an eye on him by Bishop Comiskey. This curate has stated that he met with Fr Fortune weekly throughout his treatment with Dr Cooney, the psychologist working with Dr Cooney and Dr Fischer and was aware that Fr Fortune was being treated for sexual abuse of a minor. It was this curate who accompanied Fr Fortune to an important meeting with Dr Ingo Fischer in July 1988, at which definite proposals were made in respect of Sean Fortune. At that meeting Dr Fischer agreed that Fr Fortune should be subjected to an independent assessment and that Bishop Comiskey should be asked to accept the outcome of that assessment, which he did.

A curate of the Diocese is recorded in the diocesan files as having heard very serious rumours of parties held by Fr Fortune in Bray. He had no recollection of this statement or of the circumstances to which it refers, when speaking with this Inquiry.

In September 1988, Dr Fischer arranged for Fr Fortune to attend Dr JRW Christie-Brown, a consultant psychiatrist in the Bethlem Royal Hospital and the Maudsley Hospital, London. Dr Christie-Brown said that he would need to see Sean Fortune on more than one occasion and suggested that Sean Fortune should remain in London for a two-week period.

Fr Fortune attended Dr Christie-Brown in December 1988: a full report was forwarded to Bishop Comiskey at that time. The Inquiry received a copy of that report and has discussed it with Bishop Comiskey. In presenting detail from his background, Fr Fortune was less than honest with Dr Christie-Brown. He described his childhood as very happy although later, when preparing for his criminal trial, he spoke of experiences of sexual abuse by a religious during his childhood. He described his school days as academically successful and gave an account of his academic achievement, which was a considerable exaggeration from the official record that this Inquiry has consulted. Fr Fortune told Dr Christie-Brown that he coped well with his time in the seminary and his posting to Belfast, and he described his post-graduate

year in Dundalk as challenging. The Inquiry is, of course, aware that Fr Fortune had allegations of child sexual abuse made against him in St Peter's and during his time in Belfast as well as Dundalk. Bishop Comiskey was aware of the difficulties encountered by Fr Fortune in his time as a seminarian and during his ministry in Belfast from the Professor Feichin O'Doherty Report.

Fr Fortune told Dr Christie-Brown that when he came to Poulfur, the parish was already divided because of a boycott which had taken place in 1957 involving a prominent Catholic parishioner who had married a non-Catholic woman. The boycott left serious divisions in the parish of Poulfur which, according to Sean Fortune, were still there, when he became curate. Fr Fortune agreed with Dr Christie-Brown that he might have been insensitive and even imprudent in his dealings with people in Poulfur but he felt that the main reasons for complaint against him were due to envy and intolerance.

When speaking about his sexual history, Fr Fortune told Dr Christie-Brown that from the age of about 11 he was aware of sexual feelings and that before taking his vows he had a number of sexual relationships with women. He said he never had any homosexual interests or indulged in any homosexual activities. Dr Christie-Brown said that he could find no evidence of any current mental or psychiatric illness in Fr Fortune's behaviour. Specifically, he said he could find no evidence of hypo-mania as diagnosed by Dr Cooney and the psychologist. Dr Christie-Brown put Fr Fortune's problems down to his personality. He said that he had a clear superior intellectual ability and had exceptional energy and enterprise, having achieved in a period of a few years what many failed to do in a lifetime. Dr Christie-Brown said that he could well believe that Fr Fortune's energy and achievement might be irritating or even elicit envy.

In conclusion, Dr Christie-Brown said that he could not say whether Fr Fortune was suitable for a position as curate and that that was a decision best left to his Bishop and fellow clergy. He did say that Fr Fortune recognised that his energy and impulsiveness could cause difficulties and that he was happy to receive counselling in respect of these from Dr Fischer.

In relation to this assessment, Dr Christie-Brown drew the Bishop's attention to missing information and has confirmed to this Inquiry that, as appears from the documentation, he was not briefed on the very serious allegations that had come to the attention of the Diocese. He also pointed out to the Bishop that he was not provided with any of the other medical reports obtained by the Diocese before he was consulted.

Bishop Comiskey has stated that he did not speak with Dr Christie-Brown and the curate appointed to act as liaison has stated that he was not aware at the time of the full extent of the allegations. Dr Christie-Brown has confirmed to this Inquiry that he was never told that any allegations of child sexual abuse had been made against Sean Fortune when he came to consult with him and was only informed of one single unfounded allegation of a sexual advance to a young man of seventeen which was communicated to him by Fr Fortune himself. The inquiry believes the failure to convey Fr. Fortune's full history to Dr. Christie-Brown to be extremely negligent.

Dr Christie-Brown concluded his Report by saying, *"If there is any further evidence available bearing on his condition or on my conclusions, I would be happy to consider that evidence, seeing him again if necessary."* Bishop Comiskey did not revert to the doctor after this opinion had been received by him.

In November 1989, it had been agreed between Bishop Comiskey and Dr Fischer that Sean Fortune would be brought back to the Diocese of Ferns and given a residence there, pending the results of the London assessment. It was agreed that Bishop Comiskey would help Fr Fortune to bring his finances under control. It was further agreed that Dr Fischer would draw up a job description and a "life plan" with specific criteria to measure whether or not progress was being made by Fr Fortune.

In March 1989, Bishop Comiskey decided to appoint Fr Fortune to a half-parish in the Diocese. After some initial difficulties the Bishop found a curacy for Fr Fortune in Ballymurn which was the half parish of Crossabeg, of which Fr Michael McCarthy was the parish priest.

Counsel for the Inquiry questioned Bishop Comiskey in detail about the wisdom of this appointment. The Bishop was invited to comment about the opinion of Dr Christie-Brown that Fr Fortune's sexual orientation was heterosexual and not homosexual. Bishop Comiskey admitted that he was surprised at that description although he did not advert to the very limited information that had been made available to Dr Christie-Brown in particular the failure to furnish the reports of Prof Feichin O'Doherty and Dr Cooney. With regard to the failure of Dr Christie-Brown to find any evidence of psychiatric illness or indeed homosexuality in Sean Fortune, Bishop Comiskey again told the Inquiry that he was surprised but not amazed. Counsel reminded the Bishop that he had previously stated that he had become concerned about possible sexual misconduct by Fr Fortune as a result of complaints made to him by parishioners in Poulfur taken in conjunction with the reports provided by Rev Professor O'Doherty and the history of abuse recorded in them. The concerns were strengthened by the advice received from Dr Cooney. The Bishop himself had concluded that Fr Fortune required the facilities which he had arranged for him at Stroud in England. Fr Fortune declined to undergo such assessment and treatment.

In his memorandum of July 1988, the Bishop clearly recorded his decision not to appoint Fr Fortune to a parish on the basis that supervision would be required. Why then was this done? Bishop Comiskey explained that he placed great faith in Dr Fischer who was highly regarded in clerical circles. He said that he was relieved that, for the first time, somebody was taking active responsibility for Fr Fortune. He felt that the arrangement was very positive and beneficial to all parties. Dr Fisher had explained in a memorandum sent by fax on 1 March 1989 that he could not continue to work with Fr Fortune and continue his rehabilitation unless Fr Fortune was in some kind of pastoral ministry. Bishop Comiskey stated in correspondence that his concern was that Fr Fortune's very priesthood was at stake and whether he liked it or not, Fr Fortune was *"one of our own"*. He stated to the Inquiry that *"whatever a priest does wrong, he doesn't excommunicate himself from the care of the Church."*

In appointing Fr Fortune to Ballymurn, Bishop Comiskey did stipulate certain conditions in his letter dated 1 September 1989. It was explained that the appointment was for one year but if that year was successful, it would be easier for Fr Fortune to

secure a permanent placement in a parish. The Bishop explained the position in the following terms:-

"That raises the very obvious question – what constitutes 'a successful year'? I suggest the following guide...

-that you win and maintain the esteem, respect and affection of the community of Ballymurn. Checking back on the files of that particular curacy, I note that we have not received a single complaint about any priest serving there for the last ten years".

In those and other terms, the Bishop was expressing his concern in relation to the style or practice of Fr Fortune which had created division and hostility in Poulfur. What is more significant is that the letter contained no reference to any potential danger of child sexual abuse. The Bishop explained to the Inquiry that he spoke at considerable length to Fr Fortune on this topic. Fr Fortune consistently and vehemently denied that there was any truth in any of the allegations made against him. Bishop Comiskey said that at his request, Fr Fortune took an oath expressly denying that there was any truth in the allegations made by William (4.5.10) and Simon (4.5.9).

Bishop Comiskey claimed that he had put in place certain provisions to monitor the conduct of Fr Fortune in Ballymurn. He understood that the parish priest, Fr Michael McCarthy, would be helpful in this regard. In fact, Fr McCarthy informed the Inquiry that he knew nothing about the allegations of abuse made against Fr Fortune when he took him on as curate. It was his understanding that Fr Fortune had received treatment for behavioural problems such as bullying, and was rehabilitated. Fr McCarthy said that Fr Fortune's first year in Ballymurn was a happy one. As he saw it, it was in the second year that problems began to arise, but not in the context of sexual misbehaviour. Bishop Comiskey also said that he asked Fr Donald McDonald "to keep an eye on Fr Fortune".⁵⁴ Fr McDonald, who was also on the teaching staff of Bridgetown VEC, agreed that this request was made but stated that he was given no indication of what to watch out for and he was unaware of the fact that Fr Fortune had been accused of child sexual abuse.

Dr Fischer clearly predicated his recommendation to return Fr Fortune to ministry on further treatment being undertaken by Fr Fortune with him. The Inquiry found no evidence of any such treatment continuing after Fr Fortune's appointment to Ballymurn. The Inquiry is of the view that Fr Fortune should not have been appointed to the curacy of Ballymurn, even under careful supervision. The inquiry also finds it astonishing that Fr. McCarthy was not made aware by Bishop Comiskey of the specific concerns about Fr. Fortune.

As curate of Ballymurn, Fr Fortune was appointed chairman of the Board of Management of the Ballymurn National School. In addition, Fr Fortune gave classes in religious instruction in Bridgetown VEC. Within eighteen months of his appointment to Ballymurn, serious problems arose concerning the conduct of Fr Fortune there. These difficulties arose in relation to the management of Ballymurn national school. Fr Fortune engaged in a controversy in relation to the appointment of an assistant teacher resulting in a number of parents withdrawing their children from

⁵⁴ Fr Donald McDonald died some months after speaking with this Inquiry.

the school. Fr Walter Forde met with a deputation of parents to try to resolve this boycott and it was resolved after some weeks by the Department of Education. The issue divided the parish and there was a significant drop in church collections in Ballymurn.

There was undoubtedly evidence that the personality of Fr Fortune was once again proving to be a divisive factor. It must have been clear to the Bishop that although Dr Christie-Brown had found no evidence of mental disorder, his opinion was qualified, he had not been given full information and had drawn attention to personality difficulties. These difficulties were now becoming manifest.

What was more significant was the fact that also in 1991, a number of parents complained in the first instance to Mr Tony Power, the Principal of Bridgetown VEC, and subsequently to Bishop Comiskey about the content of classes given by Fr Fortune there. Bishop Comiskey met the parents but insisted on Fr Fortune being present at the meeting. The complaints made by the parents were that Fr Fortune encouraged the children to tell lewd jokes, that he used sexually inappropriate language and that he asked prurient questions while hearing Confessions.

Bishop Comiskey discussed the matter with Mr Power and with Fr Fortune and agreed that if Mr Power believed it appropriate, Fr Fortune should resign from his position in the vocational school, which he did.

A curate of the Diocese told the Inquiry that he was surprised at the appointment of Fr Fortune to Ballymurn and shocked at the appointment to the school and that he made it his business to check on Fr Fortune. He did this by asking students about the content of Fr Fortune's classes. He said he had been concerned about the position of Fr Fortune in the schools. This curate did not communicate his surprise at Fr Fortune's appointment to the diocesan authorities and although he did make enquiries about Sean Fortune, he was not aware of any rumours concerning him during his time in Ballymurn.

Bishop Comiskey confronted Fr Fortune with details of the complaints made by parishioners and also about the complaints made by Mr Tony Power and some parents in the VEC regarding the sexual content of his lectures. Once again, Fr Fortune denied emphatically the accusations made against him and stated that he would institute legal proceedings against those who made such false accusations. Bishop Comiskey advised Fr Fortune that he had an obligation to do so if he believed that the allegations were incorrect. He further informed Fr Fortune that the accusations were serious enough to have him removed from pastoral contact with young people and that he, Fr Fortune, should prove his innocence as soon as possible. Fr Fortune did not institute any legal proceedings to challenge the accuracy of the complaints made against him by students and parents in Bridgetown VEC.

Although Fr Fortune was required to resign his position in the VEC in 1991, he remained as curate in Ballymurn and as Chairman of the Board of Management of Ballymurn national school. He occupied this position until December 1995 at the nomination of Bishop Comiskey. He continued to give classes in that school until he was arrested by the Gardai in March 1995.

The allegations made concerning the VEC, which were supported by the Principal, might not have been so alarming in themselves, but in the context of the history of Fr Fortune, the allegations made against him, his unwillingness to undertake the treatment specified by the Bishop and the very special circumstances in which he was reappointed to a curacy, they represented a most alarming development.

When asked by the Inquiry why he failed to remove Fr Fortune from Ballymurn at that stage, Bishop Comiskey stated that he was helpless in the face of Fr Fortune's refusal to co-operate and that Canon law offered no assistance to him in dealing with a priest like Fr Fortune.

Bishop Comiskey did point out that, subsequent to his appointment in Ballymurn, no allegation of child sexual abuse was levelled at Fr Fortune. The Bishop made this reference as a vindication of his acceptance of Dr Fischer's Report. Although the Inquiry has received no allegations of child sexual abuse after Bishop Comiskey's intervention in 1987, the Inquiry does not accept the logic of that argument. Moreover, a very regrettable fact is that allegations were made against Fr Fortune which related to his rape and abuse of young male adults after his appointment to Ballymurn, some of whom had been the victims of abuse by Fr Fortune as children.

In February 1995, Frank (4.5.12) made a complaint to Detective Garda Patrick Mulcahy of Wexford Garda Station, alleging sexual abuse by Fr Fortune which had occurred over a two year period during the early 1980s. This led to a Garda investigation and in March 1995, Fr Fortune was brought to the Garda station for questioning. He was released without charge while a file was prepared for the DPP.

In March 1995, Fr Sean Fortune was put on administrative leave by Bishop Comiskey. There is no evidence that any Precept was issued against Fr Fortune by the Bishop and the Inquiry has heard evidence that Fr Fortune continued to say Mass and conduct religious ceremonies after that date.

During this period Bishop Comiskey became engaged with the media and its reporting of the allegations against Fr Fortune. He said that the media had managed to convince people that he had mishandled child sexual abuse cases in the first instance, and that as a result of his mishandling them, had covered them up.

Bishop Comiskey said to this Inquiry that he did not mishandle any sex abuse case. He said that he did his best with the resources that he had at the time, and that one of his experiences in reading the files for the purposes of this Inquiry had been, on a personal level, to be pleasantly surprised at how well he did looking back over 20 years.

In two particular respects, Bishop Comiskey took issue with the media reporting of Fr Fortune's case. In one report it was alleged that he had arranged for William (4.5.10) to attend Maynooth for questioning. Bishop Comiskey denied this vehemently. He explained that an inquiry carried out in Maynooth would have been an Episcopal inquiry and he wanted to clarify that this did not occur. He was asked why he did not explain that the meeting had taken place in All Hallows instead of Maynooth. Bishop Comiskey replied that it was none of the media's business where the meeting had taken place.

A second controversy arose in relation to a letter of apology which, it was claimed, he had sent to William. Bishop Comiskey was adamant that no letter of apology had ever been sent by him but subsequently he accepted that he could have written a letter of regret.

Fine distinctions of that nature gave rise to misunderstandings and led to intrusive media attention on complainants.

A question arose regarding the level of co-operation extended by the Diocese to the Gardai following Fr Fortune's arrest and this is dealt with in Chapter Seven in this Report.

Bishop Comiskey's only significant engagement with the Gardai did not arise until he became involved in a series of communications with the Garda Head Quarters over leaks from the Wexford Garda Station in connection with the Sean Fortune case. These complaints were pursued by Bishop Comiskey to the level of the Garda Commissioner and the Minister for Justice. The Gardai in Wexford investigated the allegations and concluded that no leaking of information occurred from the Wexford Station. They also pointed out to Bishop Comiskey that the media reports could have come from sources other than the Gardai.

Fr Fortune was heard to remark that if he went down he would "*bring Bishop Comiskey down with him*". What has been read into that statement by a number of commentators was that Fr Fortune had some "hold" over Bishop Comiskey which made it impossible for Bishop Comiskey to deal with him properly. Bishop Comiskey said the rumour that Fr Fortune had some hold over him stemmed from the media perception that he had mishandled and then covered up allegations of child sexual abuse. Bishop Comiskey denied that he had mishandled allegations of child sexual abuse and also vigorously denied that he had covered up any allegations of such abuse or that Fr Fortune had any hold on him whatsoever.

The Inquiry asked a number of other witnesses how they interpreted the statement by Fr Fortune that he would bring Bishop Comiskey down with him. One witness, who was involved in reporting the issue of child sexual abuse in Ferns, attended the Inquiry and said that he felt that Bishop Comiskey's acknowledged alcohol problem could have led him to be indiscreet in the presence of Fr Fortune and that such indiscretion may have been something that Fr Fortune could have used against him. He said he believed that had there been anything more sinister in the statement by Fr Sean Fortune, it would have come to his attention.

Bishop Comiskey's alcohol dependency is something that was raised by a number of witnesses to the Inquiry, both lay and clerical. His former Diocesan Secretary, Fr Thomas Brennan, who had worked with him from 1985 until 2000, described the impact of Bishop Comiskey's drinking on the day-to-day life of the Bishop's house. He said that when he was appointed Diocesan Secretary in 1985 at the age of 24, he was not aware that Bishop Comiskey had a difficulty with alcohol. However, as time went by, he began to recognise a pattern whereby the Bishop would enter a phase of tremendous creativity, energy and productivity for a few months and then without warning, collapse into a state of deep depression and withdrawal from work and

people. These episodes of depression and withdrawal were accompanied by heavy drinking.

In 1994 and 1995, Fr Brennan began to notice a deterioration in the Bishop's condition. The bouts of depression became longer and his ability to pull himself out of them was seriously diminished. Eventually, Bishop Comiskey left for America in September 1995 to undergo treatment for alcohol dependency. This was at a time when sex abuse scandals were impacting severely on the Diocese. The media coverage that followed his leaving took the clergy of the Diocese by surprise and they were completely ill equipped to deal with it. Fr Brennan said that Bishop Comiskey was committed to his recovery programme and to the 12 Steps programme of Alcoholics Anonymous.

The fact that Bishop Comiskey took holidays in Bangkok, Thailand, was something that was raised by the media at the time of his resignation and was subsequently raised by witnesses before this Inquiry. Allegations were made that Bishop Comiskey used holidays in Thailand to indulge in improper behaviour and given that this was a prevalent rumour, the Inquiry asked Bishop Comiskey if he wanted to address it. Bishop Comiskey said that the rumours about his holidays in Thailand were false and evil. No witnesses have come forward to this Inquiry with evidence of any impropriety on the part of Bishop Comiskey whilst in Thailand.

The Inquiry has reviewed a copy of the Garda file on Fr Fortune's suicide in March 1999. The Inquiry has also spoken with an employee of Fr Fortune, who found his body on the morning of Saturday 13 March 1999. When she arrived at Fr Fortune's house, she found the shutters were locked. She rang Fr Fortune's caretaker to help her open them. They found the house in darkness and when they went upstairs, found Fr Fortune fully clothed, wearing his glasses and lying on his bed with a set of rosary beads in his hands. In the bin beside his bed was an empty whiskey bottle and papers. The Gardai, the doctor, priests and Fr Fortune's own family were immediately telephoned.

Sergeants Kelly and Cleere answered the call to New Ross Garda station to say that Fr Fortune had been found dead in his house. They said that they examined the room and found a note in the form of a poem left on the dressing table beside his bed entitled, "A Message from Heaven to my Family".

In August 1999, a Coroner's Court found that Fr Fortune came to his death *"as a result of central cardio respiratory failure secondary to multiple drug over-dosage and alcohol"*.

Fr Gerald O'Leary attended the Inquiry and spoke about a letter that had been left by Fr Fortune when he committed suicide on 13 March 1999. The existence of this letter was not known to the Gardai and was not referred to in any of the Garda files. However, the Inquiry had been given details of the letter by an employee of Fr Fortune. She described how, when she went into Fr Fortune's bedroom before the Gardai arrived, there was a note entitled "A Message from Heaven", a brown envelope addressed to Fr Fortune's brother and a third letter addressed to her which she put in her pocket.. Later that evening, she read this third letter and the following day brought it to Fr Gerald O'Leary who was her local curate.

On the outside of the folded A4 sheet of paper was the following: "[name of employee] give this to all the newspapers". The account of the letter as agreed by Fr O'Leary and Fr Fortune's employee stated:

"Fr Fortune began his letter by stating that he was a priest of Jesus Christ for 20 years. He went on to state that he was driven to this action as he had no other option. He claimed that he was innocent of all the allegations made against him and that those making the allegations were a pack of liars. He then went on to speak about his funeral arrangements. He asked an employee to lay him out in his favourite white vestments. He wanted to be brought to Ballymurn Church where he was to repose overnight. After his funeral mass he expressed a wish to be buried with his parents in Gorey. He also stated that he wanted Fr Laurence O'Connor P.P. Ballycullane, and Fr Hugh O'Byrne P.P. Blackwater, to celebrate his funeral. He specifically stated that Fr Aidan Jones P.P., Bunclody, and Bishop Brendan Comiskey were not to be present at his funeral. He claimed that Bishop Comiskey was 'responsible for all this as he had raped and buggered me'...

He asked an employee to say goodbye to his brothers and sisters, and he said 'after my death I know that I will be reunited with my father and mother in heaven'..... Finally whatever property he had was to be divided among his family."

The contents of this letter is a direct contradiction of the terms of Fr Fortune's Last Will and Testament which was signed by him in January 1998 and which specifically requested that whoever was the Bishop of Ferns at the time of his death should say his funeral Mass and that he should be buried in Ballymurn.

Fr O'Leary told the Inquiry that he realised that this was "a very explosive document". He believed that it was a deliberate attempt to destroy Bishop Comiskey and he asked Fr Fortune's employee to give it to him. Bishop Comiskey was just back from treatment for alcohol addiction at this time. Fr O'Leary said that he did not tell Bishop Comiskey about the letter and kept it in the safe in the presbytery in Ballymitty for approximately two years. He said that he believed that five priests in the Diocese had either seen the letter or knew about it. Fr Donal Collins had been told about the letter and he informed Bishop Comiskey.

Fr O'Leary told the Inquiry "I would like to say at this point that at no time did I believe the allegations against Bishop Comiskey. I knew from my experience of Fr Fortune that he was an accomplished liar".

Fr O'Leary subsequently met Bishop Comiskey at a funeral and Bishop Comiskey said to him, "I heard you got the letter". Fr O'Leary confirmed that he had got a letter but they did not discuss it any further as both were going in different directions. It was not until June 2000 when Bishop Comiskey was in Fr O'Leary's parish and they were having tea that the issue of the letter came up again. Surprisingly, Bishop Comiskey had not contacted Fr O'Leary previously about the contents of the letter. Fr O'Leary told the Inquiry that Bishop Comiskey's response was to say that Sean Fortune was obviously an evil person. Fr O'Leary was concerned when he was recuperating after being seriously ill that this letter would be found in his papers and so, not believing its contents, he burned it.

In April 2003, the Inquiry was furnished with the copy of that letter quoted above, reconstructed by Fr O'Leary at Bishop Walsh's request.

Bishop Comiskey said that he was astounded when he first heard about this letter from Fr O'Leary. He described its content as "*absolutely grotesque*". He said he never stayed with Fortune other than one overnight visit in 1985 and that he never attended a party in Fr Fortune's house. He said he was at dinner once in the context of his pastoral visitation in Poulfur and that he visited Ballymurn no more than nine times. He said he never drank on any of these visits as he did not trust Fortune.

Bishop Comiskey was dismissive of Fr Fortune's note as being a fabrication of lies. He said "*I have often dwelt on how anybody, within an hour or two of going to, a priest going to their Creator could write such stuff or how could anybody do that..... but in any case I had no relationship and the suggestion is grotesque*".

Bishop Comiskey said it was important to note that in the same letter in which Fr Fortune makes his allegation against him, Fr Fortune denied ever abusing any boys. Bishop Comiskey said he was breathless when he heard about the suicide note and the subsequent allegations and felt that they had certainly damaged his reputation. He said he would have welcomed an opportunity to actually cross-examine people who made allegations against him at a public inquiry because from his perspective, it was unsatisfactory that he was being questioned about unsworn evidence.

The Inquiry would agree that the allegations contained in Fr Fortune's suicide note must be seen in the light of that note's denial of any sexual abuse of children by Fr Fortune. The Inquiry has received no evidence to support the very serious allegations contained in that letter and does not believe them to be true. The letter is reproduced by the Inquiry in full in order to avoid any speculation as to its content and in order to illustrate the context in which these allegations were made against Bishop Comiskey.

Most of the allegations which arose against Fr Fortune refer to a period before Bishop Comiskey was appointed to Ferns and the Inquiry is satisfied that Bishop Comiskey and Fr Fortune had not met prior to 1984 when Bishop Comiskey was appointed.

BISHOP EAMONN WALSH

When Bishop Walsh was appointed Apostolic Administrator to the Diocese of Ferns, he met with Frank who was the first of Fortune's victims to report his abuse to the Gardai. At that time Frank was engaged in a civil suit against the Diocese, and Bishop Walsh, in a letter to his lawyer, said "*In a case where there is no dispute regarding the facts, it's in everyone's interest that this is settled in a way which will bring as holistic a healing as is possible. If the way in which we administer redress is not in harmony with the pastoral statements that are made, then this can only do further damage. I know this is more easily said than done, but it's the direction which I would hope to proceed in this and in similar cases*".

In spite of this approach by Bishop Walsh, Frank wrote to the Bishop to say that he felt the approach of the Diocese lacked sincerity and compassion and he asked Bishop Walsh to adopt a less vindictive and adversarial approach. The Bishop's legal instructions were expressed quite clearly in a letter dated 24 October 2002, which

predated the settlement with Frank by two months in which the Bishop said *"The acknowledgement of wrongdoing, apology and expression of being earnest in attempting to repair the harm done insofar as is possible ought not be lost in the process. The integration of pastoral concern into the settlement procedure is essential, I believe, to a lasting healing."*

Originally when speaking with the Inquiry, Frank was adamant that an alternative structure to the litigation process would not in fact meet the needs of victims who required not just compensation, but real justice and an acknowledgement in civil law that they had been harmed and that those responsible acknowledged their role and apologised appropriately. However, mediation which is now being engaged in by the Diocese with child sex abuse victims or their representatives has proved a useful alternative.

In the case of Frank, a statement was made in open court in which Bishop Walsh acknowledged and sincerely regretted the distress, trauma and hurt caused to Frank by the acts of sexual abuse perpetrated on him by the late Fr Fortune. Bishop Walsh further acknowledged the failure of the then diocesan authorities to recognise the threat posed by the late Fr Sean Fortune to Frank. He apologised unreservedly to Frank for these failures and for the harm which he suffered in consequence.

Proceedings instituted by Vincent, Ian, Peter, Mark, Phillip and Stephen have been settled; none of these complainants wished to have a statement read out in open court.

THE INQUIRY'S VIEW OF THE DIOCESAN HANDLING OF THE FR FORTUNE CASE:

- Whilst at least one set of important documents, namely, the reports provided by Professor Feichin O'Doherty to Bishop Herlihy were preserved by the Diocese of Ferns, it is clear that others were not. It is the view of this Inquiry that complaints or allegations of child sexual abuse should be properly recorded, duly preserved, and available to those who were responsible for the control of the person against whom such allegations are made. It is regrettable that in the case of Fr Fortune many relevant documents were not generated or, alternatively, not preserved.
- The Inquiry has been informed that the operation of St Peter's seminary was guided by "Norms for Priestly Training in Ireland" which had been published by the Irish Episcopal Conference in 1973. It is the view of this Inquiry that if these norms had been properly applied, Sean Fortune would not have been ordained for the Diocese of Ferns
- If Bishop Herlihy was informed, as he should have been, of the allegations made against Sean Fortune of the abuse of boy scouts under his charge and of students at St Peter's College, it was inexcusable that he ordained and admitted him to a vocation that required and provided unsupervised access to young people.

- Bishop Herlihy had an obligation to inform other Church authorities in Belfast and Dundalk that there had been concerns expressed at Fr Fortune's activities. This obligation was clearly not met.
- The decision of Bishop Herlihy to refer Fr Fortune to Professor O'Doherty for assessment was an appropriate response at the time to an allegation of child sexual abuse. This is the first instance that has come to the attention of this Inquiry where Bishop Herlihy engaged psychological expertise in dealing with this problem.
- It is the Inquiry's view that an appropriate and adequate response to an allegation of child sexual abuse is the removal of the accused priest from active ministry. Bishop Herlihy's failure to do this in the case of Sean Fortune was therefore neither appropriate nor adequate but must be seen as understandable given the prevailing knowledge of this problem at that time. Once he became aware of the psychological dimension of this problem, his failure to remove a priest accused of child sexual abuse could no longer be regarded as understandable.
- The decision by Bishop Herlihy to appoint Fr Fortune to the curacy at Poulfour was, in the light of Professor O'Doherty's reports, neither appropriate nor adequate. The assumption that the parish priest could "keep an eye" on the new curate was unrealistic, particularly in the context of the system of half parishes which operated in the Diocese.
- That a curate with Fr Fortune's history could open youth clubs and build reconciliation rooms for young people in the basement of his house represented a serious lack of supervision and a failure to have regard for the dangers posed by a man with his history.
- Both Bishop Herlihy and Bishop Comiskey observed that parishioners in Poulfour could themselves act against Fr Fortune in the face of abusive behaviour. However, individual parishioners would not have access to the confidential medical files of which both Bishops were aware. Nor would individual parishioners have had any information about Fr Fortune's activities during his years in the seminary or his years in Belfast and Dundalk. Only Church authorities could have intervened at this stage to prevent Fr Fortune's activities.
- Bishop Comiskey became concerned about Fr Fortune's relationships with young men in late 1985. Bishop Comiskey did persuade Fr Fortune to attend a psychiatrist in Dublin in 1986. However, Bishop Comiskey did not succeed in persuading Fr Fortune to leave the parish and travel to England until October 1987. It is Bishop Comiskey's belief that the two years it took to bring this about was not unreasonable in the light of the complainant's reluctance to make a formal statement. It is the Inquiry's view that allowing Fr Fortune to continue his activities in Poulfour unmonitored and uncontrolled for this period was wholly inappropriate.

- The belief in some medical and psychiatric circles in the 1980s was that perpetrators of child sexual abuse could be treated and cured with the proper psychiatric intervention. Therefore, Bishop Comiskey's decision to send Fr Fortune for assessment and treatment was a reasonable response in the context of the time although the time taken to bring this about showed a lack of an understanding of the danger Fr Fortune posed to children whilst in Poulfur.
- Fr Fortune's appointment to Ballymurn was ill-advised and dangerous. Bishop Comiskey has stated that he relied upon the report of the distinguished English psychiatrist when reinstating Fr Fortune to ministry. The report was manifestly based on inadequate information as to the history of Fr Fortune and the allegations previously made against him. Furthermore, the report recommended that certain precautions be taken which were ignored by the Bishop.
- Bishop Comiskey failed to put in place any proper monitoring or supervision of Sean Fortune in Ballymurn. Such monitoring and supervision as he sought to be put in place for the protection of children was wholly inadequate given Fr Fortune's history at that time.
- It is difficult to comprehend Bishop Comiskey's failure to remove Fr Fortune from the parish of Ballymurn after having received complaints in 1991 about the sexual content of Fr Fortune's classes in Bridgetown VEC. If the Bishop was correct in believing that he could not remove a curate whose current conduct confirmed existing suspicions, children might be exposed indefinitely to grievous dangers.
- Bishop Comiskey's failure to remove Fr Fortune from his position as Chairman of the Board of Managers of Ballymurn National School was inappropriate in the light of his removal from Bridgetown VEC.
- The Inquiry is concerned at the level of cooperation extended to the State authorities by the Diocese after Fr Fortune's arrest. This is dealt with more fully in Chapter Seven of this Report.
- The Inquiry believes that Bishop Comiskey was correct to seek medical and Canon law advice in his dealing with Fr Fortune and it accepts that the Bishop did not feel assisted by such advice which made his task more difficult. Nevertheless, the ultimate decision-making power rests with the Bishop and he must take responsibility for those decisions. In the view of the Inquiry the evidence available to Bishop Comiskey was compelling and dictated the immediate removal of Fr Fortune from ministry.
- The Inquiry appreciates that Bishop Comiskey, in his personal statement announcing his resignation, appeared to recognise his failure to respond appropriately to the allegations of abuse made against Fr Fortune.

MONSIGNOR MICHAEL LEDWITH

The Inquiry has received information about concerns expressed in relation to Monsignor Michael Ledwith in 1983/84 by a group of seminarians in St Patrick's College Maynooth. The Inquiry has also received information about allegations of sexual abuse made against Monsignor Ledwith in 1994 and 2000 (4.6.1, 4.6.2 and 4.6.3).

St Patrick's College Maynooth is a body corporate in civil and Canon law. It was founded in 1795 as a seminary for the education of Catholic priests. It is also a pontifical university and was from 1910 until 1997 a recognised college of the National University of Ireland. The University Act 1997 established the college as an autonomous institution under civil law entitled, "The National University of Ireland, Maynooth."

During the period relevant to this Inquiry, Maynooth was governed by the Statutes of St Patrick's College which were adopted in October 1962. The College was led by a President and two Vice Presidents. In 1980, Monsignor Michael Ledwith was appointed as Vice President. He had been on the staff of Maynooth from 1971.

The details of the concerns that were expressed against Monsignor Michael Ledwith in 1983/84 were discussed with a group of six former seminarians who attended the Inquiry, three of whom are now ordained priests.

These seminarians had come to Maynooth as mature students. Within a number of years they each had concerns about the running of Maynooth and the training they were receiving for their priesthood. Their concerns had different aspects: they felt that inadequate emphasis was placed on spiritual values; they were shocked by what they saw or believed to be the lavish and worldly lifestyle of Monsignor Ledwith and they were concerned about the information or rumours that might have suggested that the Monsignor had a homosexual orientation.

The seminarians felt that they had a responsibility to share their concerns about Maynooth with those in authority. They sought the advice of Bishop Brendan Comiskey, then Auxiliary Bishop of Dublin. He suggested that they approach seven "*key Bishops*" in order that their concerns would be adequately heard. It is believed that the following Bishops were contacted by one or more seminarians from the group: Cardinal Tomás O Fiaich RIP, Bishop Cahal B. Daly (as he then was), Bishop Edward Daly, Bishop J Lennon RIP, Bishop J Cassidy, Bishop C O'Reilly, Bishop Eamonn Casey and Bishop J Aherne RIP.

One seminarian in particular said that, although he was in no doubt that he expressed to the Bishops he met his concern over Monsignor Ledwith's sexual behaviour, this concern was definitely more of an anxiety with regard to orientation and propensity rather than with specific sexual activity. Contrary to media reports, no specific allegations were made against Monsignor Ledwith but rather a concern was expressed in the general sense. The other five seminarians who attended the Ferns Inquiry confirmed this version of events.

Cardinal Cahal Daly said that there were grave worries about Maynooth in 1982 and that Monsignor Michael Ledwith formed part of those worries. However these concerns were about Monsignor Ledwith's allegedly extravagant lifestyle and his lack of prayer life. He decided to initiate a thorough investigation at this time and asked Bishop Kevin McNamara to conduct this. Bishop McNamara made inquiries about Monsignor Ledwith's allegedly extravagant lifestyle and his spiritual life. Bishop McNamara said that he was satisfied that there was no basis for concern. He said Monsignor Ledwith's lifestyle was not extravagant and he conducted his spiritual life in private which gave rise to the impression that it was not adequate. Cardinal Daly said that there was no investigation into Monsignor Ledwith's sexuality at that time because there was no suggestion of sexual impropriety or sexual harassment in connection with him.

The Conference of Bishops, at its meeting in November 1983, appointed a group of Bishops to institute a thorough investigation of the whole seminary situation in Maynooth and to make appropriate recommendations. This investigation had already begun four months before the approach to selected Bishops by seminarians in March 1984.

Cardinal Daly said in his statement to the Inquiry that it was entirely untrue that any seminarian had mentioned homosexuality in relation to Monsignor Ledwith to him. The Cardinal said that it was not credible that he would have ignored allegations of homosexuality when he was already investigating the situation in Maynooth. He said that it was possible that the seminarians had a misplaced memory of what occurred. He said that Monsignor Ledwith would never have been appointed President of Maynooth in March 1985 if he had been aware of allegations of homosexuality against him. Bishop Casey has also stated to the Inquiry that no allegation relating to Monsignor Ledwith's sexuality came to his attention at that time. The recollection of the seminarians of the concerns expressed by them was at variance with that of the Bishops. The Bishops fully accepted that concerns about a worldly lifestyle and expensive hobbies were mentioned but they disputed the recollection of the seminarians that any concern in relation to sexual propensity was mentioned.

The Inquiry is presented with two opposing views of what occurred in 1983 when the group of seminarians originally spoke with individual Bishops. The six seminarians who spoke to the Inquiry were quite clear that they raised the issue of homosexuality with the Bishops they spoke to. The Bishops in their statements to Mr George Birmingham, which they have commended to the Ferns Inquiry, were quite clear that no issue of sexual impropriety was raised in 1983. The Ferns Inquiry cannot resolve this issue.

The seminarians described to the Inquiry how the reaction of the Bishops they spoke to left them feeling uneasy. They felt vulnerable and fearful for their own position in the seminary and therefore they confided in the senior dean at the time, Fr Gerard McGinnity.

Fr McGinnity attended the Ferns Inquiry for an oral hearing. He said that he was approached in April 1984 by the group of seminarians who told him they were worried that Monsignor Ledwith was making improper approaches to junior students and that these students were being selected on a certain observable basis of

appearance. However, no specific allegations were made by these students either in respect of themselves or anybody else. He said that Monsignor Ledwith would not have had any academic reason to communicate with these students and that, in the ethos of Maynooth at the time; it would have been unheard of for a member of staff to cultivate such particular friendships. The Trustees of St Patrick's College Maynooth have pointed out to the Inquiry that as Vice President, Monsignor Ledwith would have had a duty to know all seminarians as it would have been his responsibility to take part in making a judgment on the suitability of students for the priesthood. Monsignor Ledwith has also stated that although he had particular friendships with two or three students at that time no question of any improper relationship arose.

Fr McGinnity told the Inquiry that he took what these students said very seriously and although it would be virtually unheard of to report another member of staff, he felt, in conscience, that the welfare of the students demanded it. The three Bishops to whom Fr McGinnity spoke were Cardinal Tomás O Fiaich, Archbishop of Armagh, Archbishop Dermot Ryan of Dublin and Bishop Kevin McNamara of Kerry, all of whom are now deceased.

Fr McGinnity said that apart from speaking with the three Bishops, he had received a confidential communication from the Apostolic Nuncio, Archbishop Alibrandi, about the suitability of Monsignor Ledwith to be appointed as a Bishop, which is a normal procedure in the process leading to the appointment of all Bishops. He said that he completed this form conscientiously and availed of the opportunity to express the concerns that had been communicated to him about Monsignor Ledwith's sexual propensities and tendencies and also about his attitude toward prayer and devotion. Although this was "*sub pontificio secreto*", meaning "beneath the pontifical secret", and as such, highly confidential, the details of what Fr McGinnity had written in connection with Monsignor Ledwith were made known to other Bishops.

Cardinal Daly has stated emphatically that in 1983/1984 he had no knowledge of any "alleged propensities and tendencies" of Monsignor Ledwith. He further stated that colleagues who were in active ministry at the time to whom he spoke have no recollection of any such references and that if they had had such information it would have been properly investigated at the time.

Bishop Eamonn Casey has stated that Bishop Comiskey arranged to meet him to tell him that Fr McGinnity had spoken to Cardinal Tomás O Fiaich and Archbishop McNamara suggesting that there was some sexual impropriety in Monsignor Ledwith's relationship with certain students. Bishop Casey was so concerned when he heard this that he immediately drove to Armagh to visit Cardinal Tomás O Fiaich and from there to Kerry to meet Archbishop McNamara on the same day. Bishop Comiskey could not recall who had told him that allegations had been made by Fr McGinnity, although he was fairly certain that he had heard about it from another Bishop rather than from Monsignor Ledwith himself.

It is difficult to reconcile the accounts given by Bishop Casey and Bishop Comiskey with the almost complete lack of knowledge of these events on the part of the other Bishops involved. It was also extremely difficult to reconcile Bishop Comiskey's position at the time with his subsequent support for Monsignor Ledwith as President of Maynooth College in 1985.

Bishop Comiskey said in November 2002 that he was prepared to swear that he did not know of any sexual impropriety on the part of Monsignor Ledwith reported to him by seminarians, before reading about it in newspaper reports in 1993. He told the Inquiry that when making that statement he had forgotten entirely about the allegations which he had raised with Bishop Casey. These allegations, as far as he was concerned, did not emanate from seminarians and therefore were not in his consciousness at the time of making his statement.

Fr Gerard McGinnity told the Inquiry that a meeting of a group described as the "Board of Visitors" to Maynooth College took place in May 1984, some weeks after Bishop Casey's visit to Armagh and Kerry. The "Visitors" were a group of Bishops who dealt with problems that might arise in the day to day running of the College. One member of this Board was Bishop Eamonn Casey who attended the May meeting.

Fr McGinnity's evidence to the Inquiry was: *"He asked to see me and.... he very directly, trenchantly, confronted me and he said, 'You have reported to the Nuncio a member of staff. You have gone to Bishops about this member of staff and you have made serious allegations about him in the sexual domain.' The word 'sexual' was used, and there was no doubt in his mind and there was no doubt in mine that the matter under discussion was the sexual dimension to what had been reported. I said to the Bishop, 'I have not reported Monsignor Ledwith to the Nuncio. Rather I received from the Nuncio a confidential consultation about which you now clearly know".*

Fr McGinnity told the Inquiry that Bishop Eamonn Casey said to him, *"These are very serious allegations about a man and about his reputation."* Fr McGinnity replied, *"Yes they are Bishop, but I can't do anything about that. It's my duty to relay them to you who is responsible."*

Bishop Casey then asked Fr McGinnity, *"Well, can you bring me here and now, a student who had been the victim of sexual approach by this member of staff?"*

Fr McGinnity told Bishop Casey that he could not there and then bring such a student to him. He said, *"There had not been an accusation of assault or approach of that kind. What I have conveyed and what the students are exercised about is the practise of this man in cultivating same sex friendships with people who have a certain appearance, and trying to bring them off on their own. I have not received any such accusations directly."* Fr McGinnity told the Inquiry that in the circumstances, it struck him that the Bishop's demand was impossible and unreasonable. Bishop Casey does not recall the clarification outlined in the above paragraph and does not recall the Papal Nuncio being mentioned and cannot recall using the word "sexual" but he does agree that his conversation with Fr McGinnity was less than two minutes.

Immediately following this meeting, Bishop Casey reported to the Board of Visitors and it was agreed that a person who made such a serious allegation against the Vice-President, without being able to produce evidence of any inappropriate relationship could not continue as Senior Dean. Fr McGinnity's Archbishop, who was a member of the Board of Visitors, agreed to withdraw him from the College and he suggested to Fr McGinnity that he should take a year's sabbatical from the college. Fr

McGinnity agreed to this and he spent the year in Rome and the US. Apart from Bishop Casey, no member of the then Board of Visitors of Maynooth is now alive.

Fr McGinnity told the Inquiry that whilst he was on his sabbatical year, his Bishop asked him whether he had any thoughts for the future. Fr McGinnity said he had presumed he would be returning to Maynooth but Archbishop O Fiaich told him that that would not be possible and that he had been asked to request Fr McGinnity to offer his resignation from Maynooth.

Fr McGinnity told the Inquiry that he was stunned at being told this and it was both humiliating and punitive for him to be so suddenly removed from Maynooth and so obviously demoted from his position in a situation which stripped him of his reputation.

The only investigation carried out in relation to the concerns originally communicated by the seminarians and undoubtedly expressed by Fr McGinnity, consisted of the interview between Bishop Casey and Fr McGinnity described above. In the view of the Inquiry, that truncated interview did not, by any standards, constitute an adequate inquiry into what were serious concerns.

Not only was the inquiry inadequate but it seems clear that Bishop Casey or his informants misunderstood the nature of the concerns. Clearly Bishop Casey conducted the interview in the belief that an allegation of sexual misconduct by Monsignor Ledwith had been made by a particular student. This was never the case.

Fr McGinnity was convinced that his removal from Maynooth and the subsequent refusal of his request for a return to his position after his sabbatical year was because he had communicated the seminarians' complaint to the church authorities. The Inquiry believes it is entirely understandable that Fr McGinnity should feel so victimised in the circumstances.

Monsignor Michael Ledwith attended the Ferns Inquiry and said that Bishop Comiskey had approached him about allegations of undue favouritism and even possible homosexuality which had been made against him by Fr McGinnity. Monsignor Ledwith said he spoke to Fr McGinnity about the allegations but he denied having made a specific allegation as was alleged. He also said he spoke with Cardinal O'Fiaich, who was Fr McGinnity's Bishop, but nothing further was done. Monsignor Ledwith was quite clear that in his view the dismissal of Fr McGinnity from Maynooth was because of a grave disquiet about his whole policy in regard to discipline. He said that Fr McGinnity's attempt to undermine him was not a cause for dismissal or certainly not the only or main reason for it. Fr McGinnity has stated that any such disquiet only arose after his reporting of the seminarians' complaints.

The Inquiry has been informed by individual Bishops that had the seminarians made a complaint of improper sexual propensities or orientation on the part of Monsignor Ledwith, it would have been taken seriously and thoroughly investigated. However, a definite if non-specific allegation was made by Fr Gerard McGinnity in 1984 and the "investigation" which took place was inadequate. Fr McGinnity left Maynooth in May 1984 and ten months later, Monsignor Ledwith was appointed as President of St Patrick's College Maynooth. Bishop Comiskey made a forceful speech of support

when nominating him for this position. Bishop Comiskey said that he would never have done this if he had had any grounds for concern over Monsignor Ledwith's sexuality.

Bishop Comiskey told the Inquiry that he was 100% behind Monsignor Ledwith's candidacy for Presidency of Maynooth because he believed that the information available to him was also available to three senior Bishops and that they would have looked into the matter. He said that nobody raised any questions over Monsignor Ledwith's promotion to President. Bishop Comiskey also told the Inquiry that the allegations by Fr McGinnity as communicated by him to Bishop Casey had simply gone out of his head when he recommended Monsignor Ledwith for promotion.

Monsignor Ledwith served as President of Maynooth from 1985 until his retirement in 1995. From 1980 until 1997, he served three full terms on the International Theological Commission, a group of 30 theologians from around the world charged with advising the Holy See on theological matters. He was also Secretary of three Synods of World Bishops in Rome and was appointed a member of the Congregation for Catholic Education.

In 1994, an allegation was made that Monsignor Ledwith had sexually abused a thirteen year old boy in 1981 (Raymond 4.6.2). The abuse allegedly continued until after Raymond's 15th birthday. Monsignor Ledwith disputes the abuse and denies particularly that he met Raymond before Raymond's 15th birthday.

Raymond first made his allegation to Bishop Newman in 1994. Bishop Newman dealt so abruptly with the matter that his secretary advised Raymond to report the allegation to Cardinal Daly, which he did. Cardinal Daly travelled to meet Raymond and then referred the matter to Bishop Comiskey, as Monsignor Ledwith was a priest under the aegis of the Diocese of Ferns.

Bishop Comiskey informed the Health Board in December 1994 of the allegation and he informed the Gardai some weeks later. He did not then or subsequently disclose the name of the complainant which had been given to him in confidence. This method of maintaining confidentiality was adopted by all three authorities. Bishop Comiskey did furnish to the Gardai the name of the solicitor acting on behalf of Raymond and through him they were then able to communicate with Raymond.

Fr Walter Forde investigated the allegations on Bishop Comiskey's behalf and reported that he found them capable of being true. This investigation was done without informing Monsignor Ledwith or without interviewing him.

Raymond consulted lawyers with a view to instituting a civil action for damages against Monsignor Ledwith but the matter was settled by the Monsignor after taking legal advice with a payment of a sum of money and no admission of liability.

As a result of Fr Forde's recommendation, Bishop Comiskey requested Monsignor Ledwith to attend for an assessment at a treatment centre run by Fr Stephen Rosetti in Maryland in the United States. At first Monsignor Ledwith had been willing to attend for assessment but became more concerned when he found himself being treated in an unjust manner by the Diocese. Monsignor Ledwith told the Inquiry that when he

telephoned the treatment centre and discovered that the assessment would involve a residency of one week, during which electrical and chemical tests would be conducted as well as the administration of drugs, he was concerned about these procedures but agreed to attend upon certain safeguards being put in place as indicated by his legal advisors. In fact, this was never done.

Bishop Comiskey was not in a position to meet the requirements of Monsignor Ledwith, which were a precondition to attending for assessment, and within a few weeks of communicating this decision relating to his attendance for assessment, Monsignor Ledwith was handed a letter dated 16 December 1994, which stated that the Bishop had set up an inquiry under Canon 1717. Monsignor Richard Breen was appointed to conduct the inquiry into the allegations. In spite of continued and sustained attempts by Monsignor Ledwith to speak with Bishop Comiskey or Monsignor Breen after receipt of this letter and numerous letters to the Diocese, Monsignor Ledwith did not receive details of the allegations, the subject matter of the Inquiry until 5 February 1995.

Monsignor Ledwith was adamant that he had at all times co-operated with Bishop Comiskey's attempts to bring this matter to a conclusion notwithstanding his grave reservations about the fairness of the procedure adopted by the Bishop.

In January 1995, Bishop Comiskey wrote to the Archbishop of Seattle to inform him that an allegation had been made against Monsignor Michael Ledwith who was at that time on sabbatical from St Patrick's College Maynooth and was resident in his Diocese.

Bishop Comiskey consulted a Canon lawyer and sought advice on what Canon law procedure was available in circumstances where the accused priest was no longer in active ministry in the Diocese. The Canon lawyer felt that Monsignor Ledwith fell into a category of persons envisaged by Canon 1395, s. 2, namely a cleric "*liable to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants*". Bishop Comiskey however, discovered that he was unable to pursue this remedy as the procedure was barred by lapse of time and the proceedings issued against Monsignor Ledwith had to be withdrawn. Bishop Comiskey did not pursue any further Canon law options available to him.

In the meantime, the Trustees of St Patrick's College, Maynooth instituted their own procedure for reviewing Monsignor Ledwith's position in the college. The lawyers for Monsignor Ledwith indicated that they could not permit their client to appear before any tribunal of inquiry which had no basis in law and that such an inquiry was not authorised by the statutes of Maynooth College. The lawyers for the Trustees defended their right to hold an inquiry and informed Monsignor Ledwith's solicitors that a resolution for his dismissal from the college would be brought before a meeting to be held in the college. In response, Monsignor Ledwith prepared a lengthy document outlining his position with regard to all of the allegations made against him, which he totally denied. He challenged the right of the Trustees to dismiss him from his position in Maynooth College in the manner suggested.

The terms of the settlement between Monsignor Ledwith and Raymond included an obligation of absolute confidentiality, which proved an impediment in pursuing the

Maynooth Investigation. The issue of waiver of this confidentiality clause by Monsignor Ledwith was raised by lawyers for the Trustees but he did not agree to do this because he was unhappy with the procedures being adopted by the sub-committee of Trustees who were conducting the Inquiry. Correspondence indicates that Raymond was willing to waive this clause in the agreement although he was determined to otherwise respect the confidentiality of what had occurred in order to avoid stress and embarrassment to his family.

This hearing was conducted at the Archbishop's house in Drumcondra and Monsignor Ledwith attended with two senior counsel and two solicitors. One of the more serious reservations expressed by both him and his legal team was the fact that Cardinal Daly, who had investigated the complaint initially and had reported the matter to the Congregation for Catholic Education in Rome, acted as chairman to the body of Trustees who were investigating the matter objectively. He said that although the procedure adopted by the subcommittee in Drumcondra was deeply flawed both from a civil law and a Canon law perspective, in the end, he felt he had no choice but to retire from his position on the staff of the college.

Bishop Comiskey said that Monsignor Ledwith, as with many other priests accused of child abuse, attacked the process rather than facing up to the charges. He expressed the view that this could have gone on indefinitely and indeed, the legal debate in relation to the Maynooth inquiry took place over an 18-month period. Monsignor Ledwith had in fact already indicated his desire to retire from the Presidency of Maynooth some months before the allegation was made by Raymond, and he did retire from the Presidency and retired from his Professorship in September 1996. Monsignor Ledwith does not agree with Bishop Comiskey's assessment of his co-operation with a process which he believed to be deeply flawed.

The Inquiry asked Bishop Comiskey whether the events of 1994 and '95 caused him to reflect on his assessment of Monsignor Ledwith back in 1983 and '84. Bishop Comiskey said that he did not believe Fr McGinnity back in 1984 and he still did not believe him but that obviously he had to consider that there might have been something more to what the seminarians were alleging in 1983. Bishop Comiskey was quite adamant that he did not feel the allegations that emerged in 1994 reflected in any way on the handling of the allegations made in 1983/ 1984.

In July 2000, a further allegation was made against Monsignor Ledwith (Shane 4.6.3). This allegation arose when the complainant, who was suffering from depression, was admitted to St Patrick's Hospital for help with a severe drinking problem. In the course of his treatment he told his doctor that he had been sexually abused by Monsignor Ledwith whilst he was a seminarian in Maynooth in November 1994 and that this had caused the deterioration in both his mental and physical health. A report was forwarded to the Gardai who then investigated the allegation.

The Gardai informed the President of Maynooth College, Monsignor Dermot Farrell, who in turn informed Bishop Comiskey. At this stage, Monsignor Ledwith was already out of the jurisdiction and a full Garda investigation was under way. In fact, this criminal investigation did not proceed because the complainant admitted that the allegations were false. Bishop Comiskey had already written to the Archbishop of

Seattle, where Monsignor Ledwith was resident, to inform him of the allegations but did not later inform the Archbishop when the allegations were shown to be false.

Although Monsignor Ledwith's position as a professor and President of Maynooth College was resolved by his retirement in 1996, his position as a priest of the Diocese of Ferns was not resolved until September 2005.

The Inquiry would like to acknowledge Monsignor Ledwith's co-operation with this Inquiry and the personal efforts made by him to attend for an oral hearing. An issue with which he was particularly concerned was his contention that the way in which the provisions of the Canon law were being interpreted and the Maynooth Inquiry did not afford him natural justice in a number of respects. In addition, Monsignor Ledwith did not feel free to comment on the allegations raised by Raymond because of the confidentiality clause entered into by him. Monsignor Ledwith has at all times asserted his innocence of all allegations made against him.

BISHOP EAMONN WALSH

When Bishop Walsh became Apostolic Administrator for the Diocese of Ferns, he reviewed Monsignor Ledwith's file and presented it to the Ad-hoc Advisory Panel and later to the Ferns Advisory Panel. Both agreed that Monsignor Ledwith should be subject to a Precept and be invited to seek voluntary laicisation. Through the Precept a number of obligations were imposed upon Monsignor Ledwith, including: no unsupervised involvement with minors; no celebration of mass and the sacraments in public; avoidance of all direct contact with anyone who made allegations against him and their families; no wearing of clerical dress and, the revocation of the faculties of the Diocese of Ferns.

Attempts to contact Monsignor Ledwith to invite him to seek voluntary laicisation were not successful. Bishop Walsh communicated with the Papal Nuncio for advice on how to deal with this matter. In a letter dated 4 February 2003, the Papal Nuncio advised Bishop Walsh to "*avail of wise Canonical advice regarding the procedures at your disposal. Such Canonists are readily available in Ireland, as ecclesiastical tribunals are established and functioning here*".

The Apostolic Administrator has forwarded Monsignor Ledwith's case to the Congregation for the Doctrine of the Faith in Rome recommending that Monsignor Ledwith be dismissed from the clerical state and this has now been granted.

THE INQUIRY VIEW OF THE DIOCESAN HANDLING OF THE MONSIGNOR LEDWITH CASE:

- A number of contentious issues have arisen in relation to the conduct of Monsignor Ledwith when he was Vice President of Maynooth College. Amongst the issues with which this Inquiry is concerned is the apparent victimisation of Fr McGinnity as a result of concerns which he

undoubtedly expressed to three members of the hierarchy in relation to the Monsignor. A group of seminarians had, prior to Fr McGinnity's disclosure, expressed certain concerns they had had of an allegedly extravagant life style and expensive hobbies on the part of Monsignor Ledwith: this is common case. Whether the complaint by the group extended as they allege, to the expression of concerns about sexual orientation is a matter in dispute with the Bishops concerned. It is not practicable for this Inquiry to attempt resolution of that dispute.

- By any standard the concerns as communicated by the seminarians and expressed by Fr McGinnity were inadequately investigated. They also appear to have been wholly misunderstood. He made no specific allegations of particular abuse and accordingly the demand to produce a victim was unrealistic. As Fr McGinnity was invited to take a sabbatical on the same date that Bishop Casey reported the results of his "investigation" to his fellow Bishops on the Board of Visitors of Maynooth, the Inquiry views as entirely understandable Fr McGinnity feeling that he was victimised as a result of the concerns of the seminarians which he expressed. Punitive actions of that nature could only deter bone fide complaints to church authorities which should be valued as providing information for the control of those having access to young people.
- The Inquiry is satisfied that Cardinal Daly, Bishop Comiskey and Bishop Walsh acted promptly and effectively in extending support to Raymond and his family. The failure of Bishop Comiskey to report the complaint to the Gardai prior to January 1996 was of little practical significance. The duty of confidentiality imposed upon him precluded him in his view from disclosing the name of the complainant to the Gardai and without that information the Gardai could not conduct any meaningful investigation. Bishop Comiskey properly advised the Gardai of the name and address of the solicitor acting on behalf of the complainant to enable them to apply to that source for assistance in identifying him.

CANON MARTIN CLANCY (Deceased)

When the Ferns Inquiry commenced its work, the only allegation against Canon Clancy on the diocesan file was that of Clare (4.7.4). Clare wrote to Bishop Comiskey in April 1991 describing in detail the abuse she alleged was perpetrated on her by Canon Clancy.

Bishop Comiskey told the Inquiry that he was very shocked to receive that letter. He said that he had absolutely no information about Canon Clancy on his files when he

came into the Diocese and had very little contact with him as a priest of the Diocese up until that date. Bishop Comiskey told the Inquiry that the first thing he wanted to do when he got the letter was to meet Clare and establish whether she was a credible witness. He said that he offered to meet her either in Wexford or wherever she was resident at the time.

Bishop Comiskey said that he sent Clare's letter to Canon Clancy and asked him to meet with him to discuss it. The Canon prepared a full memorandum in reply to the letter, of which the following is an excerpt:

"At the time, she was a good looking, red headed youngster, provocative etc., and I clearly remember the last occasion she visited my house when I momentarily touched her on the upper thigh and immediately realised I was very wrong and immediately cancelled all further visits without giving any explanation. To suggest that I fondled her breasts, rubbed her vagina or interfered with her clothing is absolutely without foundation. The bad example I did give on this occasion troubled me greatly and I have referred the matter on many occasions to many confessors and retreat masters who have told me to forget about the incident. The recent clerical conference on child sexual abuse revived the issue for me but I have coped well until this present letter arrived."

"I must be honest with myself, my Bishop and my conscience and admit my failure on this one occasion. I find the last page of the letter very upsetting, as I think this girl is psychiatrically upset or is seeking to get experience in the legal/sexual field at the expense of me and my vocation as a priest. She may be satisfied knowing that I have already told you, my Bishop, confidentially, that I intend to retire as parish priest of Ballindaggin at an early date, but not for the reasons and allegations made in her letter."

"Having read over this letter, I hope it will help you to assess the real merit of the allegations, and I am deeply grieved that I am the cause of such concern to you. I would be very glad to have an early interview before your visit to Lourdes."

At the meeting between Canon Clancy and Bishop Comiskey, Canon Clancy conveyed his intention to retire as parish priest of Ballindaggin and also swore to Bishop Comiskey that he had never interfered with any boys at any time. Bishop Comiskey told the Inquiry that he was convinced of Canon Clancy's genuineness.

Bishop Comiskey said that whilst he thought the word "provocative" could mean many things, he was very concerned about the admission that Canon Clancy had touched Clare. He said that it was the beginning of a case against Canon Clancy but that he would then have wanted to meet with Clare. Bishop Comiskey said that Canon Clancy was very emotional at the meeting. Clare did not contact Bishop Comiskey after writing the letter at which he expressed some astonishment. He said he felt his offer to go anywhere to meet her was adequate at least and that he was quite "at sea" as to why she didn't reply.

Bishop Comiskey agreed that for someone to have come forward in 1991 to accuse a senior priest such as Canon Clancy of child sexual abuse in a rural environment would have been very daunting indeed. He said that his ability to respond to such a

complaint was severely hampered by his complete lack of support or backup. Bishop Comiskey said that now there is a Delegate and a sub Delegate as well as a full time resource person dealing with these problems in the Diocese. In 1991 Bishop Comiskey dealt with them by himself and he said that he was overwhelmed

On 2 June 1991, Clare's father wrote to Canon Clancy saying that he had been shocked and horrified to hear that his daughter had been sexually abused by the Canon on several occasions. He threatened to expose Canon Clancy to the Sunday World unless he paid £20,000 to him. He also said that his daughter would be taking criminal proceedings. The Inquiry knows that the Gardai approached Clare's father and warned him against threatening Canon Clancy and suggested that Clare should make a formal complaint of sexual abuse. The Garda response to the allegation is dealt with in Chapter Seven of this Report.

Some weeks after Bishop Comiskey received the letter of complaint from Clare, Canon Clancy was removed as parish priest in Ballindaggin and took up a curacy in Killealy, the neighbouring parish. Fr Sinnott, who had been curate in Killealy, was transferred to Ballindaggin as parish priest. This was a move of no more than three miles.

Bishop Comiskey said that although it looked suspicious that Canon Clancy had been moved within weeks of the allegation being received, he would have been moved anyway and that he had suspended judgment on Canon Clancy until he had looked into the matter further. Bishop Comiskey confirmed to the Inquiry that there were no restrictions whatsoever placed on Canon Clancy or any form of monitoring of him when he was moved from Ballindaggin to Killealy. Bishop Comiskey said that he was not going to judge Canon Clancy at that stage, nor did he intend to make any decisions about monitoring until he had met the complainant and found her credible. He said that he would have dealt with the matter differently today, but that in 1991 the idea of "child protection" was not in circulation. He said that knowledge of paedophilia and child abuse by priests was very limited. Nevertheless, Bishop Comiskey had been dealing with allegations of child sexual abuse for seven years prior to this allegation and had, in 1989 developed a clear child protection statement as outlined at p138 above.

Fr Sinnott said that in June 1992, he was approached by Clare's mother, Mary, who said that she did not want Canon Clancy at the Confirmation ceremony for her son because Clare had been abused by Canon Clancy. Fr Sinnott said that he spoke to Bishop Comiskey about it at the time. However, Bishop Comiskey told the Inquiry that he had no recollection of Fr Sinnott approaching him about that subject or any recollection that Canon Clancy had attended a barrister in Dublin in 1992, which Fr Sinnott said he also reported to him.

Despite the information available to him and the admission made by Canon Clancy, Bishop Comiskey explained to the Inquiry that he could take no step against Canon Clancy until he had spoken to Clare. No such meeting ever took place and no action was taken against Canon Clancy prior to his death in May 1993.

In February 1996, Fr William Cosgrave, the diocesan delegate, wrote to Bishop Comiskey confirming a meeting he had with Clare's mother during which she had

appeared to be upset with the attitude of the priests and the Bishops in not taking her daughter's abuse seriously. Bishop Comiskey did not respond to this letter from Fr Cosgrave and did not contact the complainant or her family. In October 1996, Fr Cosgrave reported that the family were satisfied to let the matter rest after meetings with him.

Shortly after Canon Clancy's death in 1993, Kate (4.7.5), who was in her first year of a local secondary school, told her teacher that she had been abused by Canon Clancy. The Principal of the school, informed Bishop Comiskey. She recommended that Kate receive counselling and asked whether the Diocese would pay for it. Bishop Comiskey told the Inquiry that the agreement to pay for counselling did not mean that the Diocese accepted the complaint as valid. Bishop Comiskey never met with Kate or sought an update following her attendance at counselling.

The other allegations of abuse which were made against Canon Clancy were not communicated to Bishop Comiskey and do not appear to have come to the attention of the diocesan authority until after Bishop Comiskey's retirement in April 2002.

Maeve (4.7.1) described being sexually abused by Canon Clancy from the age of 12 to 15. She told the Inquiry that she spoke to two priests of the Diocese about the abuse. One of these priests did confirm that he had such a conversation with a woman who had been sexually abused by a priest in the early 1990s and he did not report the matter to the diocesan authorities. Bishop Walsh only became aware of the complaint in April 2003.

A similar story was told by Judy (4.7.2) who reported abuse to a priest who was a former school friend of hers and who has now left the priesthood. She made her complaint to him circa 1990. She said she got the impression from this former priest that other priests knew about Canon Clancy's activities but no report was forwarded to the diocesan office.

Ciara (4.7.3) told the Inquiry of being raped by Canon Clancy from the age of 12. She said that she gave birth to Canon Clancy's daughter when she was 15 years of age but did not disclose the identity of the father to anybody. She said that Canon Clancy eventually acknowledged his daughter but threatened to have her taken away from her if she ever told anybody that the child was his. Fr Sinnott, who succeeded Canon Clancy in Ballindaggin and who was executor of his will, advised her that Canon Clancy had left a £3,000 donation for her daughter to continue her musical education and this money was duly forwarded to her by Fr Sinnott after Canon Clancy's death.

One priest told the Inquiry that he knew of rumours surrounding Canon Clancy although he did not speak to diocesan authorities about them.

Bishop Comiskey confirmed to the Inquiry that he had absolutely no idea of these other allegations against Canon Clancy until he was informed about them by the Inquiry. It was in that context that he made the point, a point that is made repeatedly by this Inquiry, that individual priests who received allegations of abuse did not report them to the diocesan authorities.

BISHOP EAMONN WALSH

Bishop Walsh visited the parishes of Ballindaggin, Kiltealy and Caim on 13 April 2003. He spoke at all Masses on the question of abuse, encouraging people who may have suffered sexual abuse of any kind to come forward to the statutory authorities and in the case of diocesan clergy, to come forward to the Diocese with their complaint in addition to informing the civil authorities.

At Ballindaggin in particular, Bishop Walsh told the Inquiry that he stated; *"In addition to asking people to come forward who were abused by priests in the past I also stated that if anybody was ever abused by the late former parish priest, the late Canon Clancy, that I would ask them to come forward and that I would be more than willing to meet with them personally or to put them in touch with the relevant people who handle complaints. I also stated that if anyone has made a complaint regarding Fr Clancy in the past and was not happy with the way in which it was dealt with, to please come forward personally to me as I would like to meet with them."*

These visits resulted in three of the complainants cited above coming forward and meeting with diocesan officials. These complainants also met with the Inquiry. Bishop Walsh ensured that the diocesan victim support person, Sr Helen O'Riordan, met with these complainants. Bishop Walsh also met with the family of the late Canon Clancy.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE CANON CLANCY CASE:

- The Inquiry was shocked at the duration and extent of the abuse allegedly perpetrated by this priest which in some instances appeared to involve the rape of very young girls. He appeared to use his position as Manager of the local national school to access freely children as young as nine years of age.
- The fact that the abuse by Canon Clancy allegedly continued for a period of almost thirty years from at least 1965 to 1992 emphasises the need for proper management, monitoring and supervision of any persons having unsupervised contact with and authority over children.
- This case illustrates that priests must be made aware of their responsibility to report properly to church authorities all allegations, suspicions or rumours of child sexual abuse which come to their attention. They are further required to ensure that a proper response is forthcoming from the Diocese which reflects the priority which must be given to child protection as required from the Framework Document.
- Canon Clancy appeared to confine his activities to girls between the age of 9 and 15. The abuse as alleged occurred over a 30 year period and one of the disturbing elements of the stories as the complaints emerged was that at various points in time during that period, members of the Gardai, the teaching profession, the medical profession and the Church were aware of

rumours and suspicions concerning Canon Clancy but no action was ever taken against him.

- **The Inquiry believes that Bishop Comiskey was seriously mistaken in believing that he could take no action against Canon Clancy on the basis of the information available to him without first meeting the complainant. He had a credible complaint and an admission of inappropriate behaviour from Canon Clancy which should have allowed him to require the priest to stand aside immediately.**
- **The Inquiry is concerned that Bishop Comiskey's response to the allegation of Clare does not take account of the requirement for child protection in the Diocese.**
- **Although counselling was provided by the Diocese in response to the allegation by Kate, no attempt was made by or on behalf of Bishop Comiskey to ensure that Kate was adequately supported thereafter or to meet with Kate or her parents. Kate was a child at the time of making her complaint although Canon Clancy was deceased at the time.**
- **The Inquiry was pleased to note the appeal for people to come forward made by Bishop Walsh to the community in Ballindaggin and more particularly, the courageous response of the complainants who came forward in response to that appeal.**

FR BETA

In March 2002, Trevor (4.8.1), through his therapist, alleged that he had been abused at 16 years of age by Fr Beta whilst attending a "Choice" weekend retreat. The allegation was made to Fr John Carroll, Diocesan Secretary who immediately informed the diocesan delegate, Fr Denis Brennan and Bishop Comiskey. Fr Brennan notified the state authorities and met with Trevor. Trevor said that he wanted Fr Beta to apologise for what he had done to him and exonerate Trevor from any blame in the incident. This Fr Beta was willing to do.

BISHOP EAMONN WALSH

Trevor attended a meeting at the on 14 April 2002 in the company of his therapist. Fr Beta was accompanied by a supporting priest. Fr Beta fully and comprehensively

apologised for the incident and accepted full responsibility for it. A further meeting took place on 22 April with Trevor and his therapist at which Bishop Eamonn Walsh apologised on behalf of the Church.

Trevor's therapist was telephoned by Fr Beta's support priest after the meeting to ascertain Trevor's age when the assault took place. Trevor, and indeed his therapist, felt that this call was intrusive and upsetting. Trevor believed that Fr Beta was reneging on the admission which he had made previously. Records of attendees at "Choice" weekends indicated that Trevor was at one such weekend in 1986 as was Fr Beta. There is no record of an attendance in 1984 when Trevor would have been 16. However, Trevor has indicated to this Inquiry that it is his firm belief that he was 16 at the time of the incident.

Trevor instituted civil proceedings against Fr Beta and the Diocese in May 2002. At the request of Trevor, meetings were held between lawyers on behalf of the parties, and as a result of those negotiations, proceedings were settled in December 2002 whereby Fr Beta agreed to discharge over one half of the settlement amount and the balance was borne by the Diocese. Trevor expressed great concern as to the manner in which the proceedings had been contested by the defendants. He expressed the view that a less adversarial approach would have been appropriate particularly as Fr Beta had admitted the assault on which Trevor's claim was premised.

Trevor met with Bishop Walsh in September 2002 who explained the canonical procedures that would be followed, and said that he would be meeting with Fr Beta the following day. An advisory panel would hear the case without knowing the identity of anybody concerned and would then make a recommendation to Bishop Walsh. Bishop Walsh told Trevor that Fr Beta would be asked to step aside from his ministry and to go for assessment and treatment and this is what in fact occurred.

On 5 September 2002, Bishop Walsh issued a precept obliging Fr Beta to the following:

- (i) To have no unsupervised involvement with minors or young adults and no direct ministry to minors, including all informal contact with them; for example, being along with them in their homes or in other settings.*
- (ii) Not to make himself available for the celebration of Mass in public or the celebration of the sacraments. He is permitted to celebrate Mass in private within the family home.*
- (iii) To avoid all direct contact with anyone who has made allegations against him and their immediate families.*
- (iv) Not to wear clerical garb.*
- (v) To meet with the diocesan delegate or the designated supervisor or monitor and his priest advisor from the Diocese at their discretion.*
- (vi) Not to enjoy the faculties of a priest of the Diocese of Ferns.*

As is the norm, it was noted that any intentional or culpable violation of this precept would result in the automatic suspension of Fr Beta and any violation of the restriction relating to minors would result in a penal process, which had as its ultimate penalty, dismissal from the clerical state. Fr Beta signed the precept and was paid a stipend per month, conditional upon his observance of the conditions of it.

Bishop Walsh has met with Trevor on several occasions and has also arranged for Trevor to meet with a diocesan victim support person.

Fr Beta's parish was visited by the parish priest who explained to the parishioners that Fr Beta was stepping aside following a complaint. Bishop Walsh then addressed the issue in the parish during the following week and met with parishioners in the local hall afterwards.

In July 2002, Neasa (4.8.2) informed a priest of the Diocese that Fr Beta had abused her son Ben, when he was 6 years of age. Fr Dennis Brennan, the diocesan delegate was advised of this allegation by this priest. The Health Board and the Gardai were informed of this allegation by the Diocese.

In June 2003, Fr Beta agreed, at the request of Bishop Walsh, to attend for intensive therapeutic treatment and support at Southdown in Canada. He completed his course there in July 2004.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF FR BETA CASE:

- Although Fr Beta was not ministering in the Diocese from June 2002, there was a delay of some five months between the notification of this allegation and the issuing of the precept against Fr Beta requiring him to stand aside from active ministry.
- The Inquiry has noted in this case Trevor's desire to hold a meeting with the alleged offender at an early stage in his therapy. He believed, as other victims believed, that it would help him to recover from the trauma. The Expert Group who attended the Inquiry advised against encouraging such an approach. It advised that a meeting between an abuser and a victim should be postponed to a later stage in a victim's recovery.
- Trevor, who stated that he engaged reluctantly in litigation, felt that the litigation process was unfair, unnecessary and a cause of additional trauma to him. The Inquiry feels that the solicitors and barristers who act on behalf of complainants of child sexual abuse should explain and reassure them as to the usual practice of defendants in the conduct of such proceedings so as to avoid as far as possible a feeling of further hurt and victimisation. Litigation of its nature involves each party presenting its optimum position. Outcomes whether settlement or otherwise will rarely represent any party's optimum position.
- The Inquiry believes that the actions taken in this case were appropriate and effective.

FR GAMMA

In May 2002, Julie (4.9.1) informed the Diocese that she had been abused by Fr Gamma in the early 1970s when she was a young girl. In response to the allegation Fr Dennis Brennan, the Diocesan Delegate communicated with Fr Gamma who denied any improper conduct and sought more information as to the time and circumstances of the alleged wrongdoing. Fr Brennan notified Bishop Eamonn Walsh on 16 May 2002 and further notified Joc Smyth, senior social worker of the South Eastern Health Board and Chief Superintendent Murphy of Wexford Garda station.

On 3 July 2002 Bishop Walsh met with Fr Gamma in the presence of the diocesan delegate. Fr Gamma expressed his upset over what he had been through to date. It was explained to him that An Garda Síochána had been notified of complaints made and he agreed to go for assessment.

On the recommendation of the Advisory Panel, Bishop Walsh issued a precept on 8 September 2002 requesting Fr Gamma to step aside from his duties in the parish, pending the outcome of the investigations being conducted by the Diocese and the Gardai. He was to present himself for a full professional assessment in order to assist the diocesan investigation. Fr Gamma met with Mr Joseph Sullivan, principal therapist of the Lucy Faithful Foundation at Wolvercote in September 2002.

Bishop Walsh requested Fr Gamma not to make himself available for the public celebration of Mass and the sacraments or engage in any form of healing ministry. He was further required to have no unsupervised contact with young people. The Bishop said that this would be reviewed following the completion of the investigation, and in the meantime Fr Gamma was entitled to celebrate Mass in private. He also requested that Fr Gamma attend on a regular basis with Sr Colette Stevenson, who was the supervisor/monitor of the Diocese.

The Vicar Forane of the area visited Fr Gamma's parish and explained that Fr Gamma was stepping aside pending a full investigation of the complaints made against him. It was explained that stepping aside did not imply guilt. Bishop Walsh, as Apostolic Administrator, also visited the parish and met with parishioners which he described as helpful and important. Fr Gamma subsequently telephoned Bishop Walsh to request that the complainant be interviewed and give evidence under oath.

Fr Gamma was again assessed on 23 September 2002. These assessments were preliminary in nature and Fr Gamma has refused to attend any further assessments.

Bishop Walsh advised Fr Gamma on 3 October 2002 that the formal diocesan investigation in relation to the complaint made against him would take place on 16 October 2002 at Holy Cross College, Clonliffe. Bishop Walsh again urged Fr Gamma to contact Sr Colette Stevenson. He mentioned that it had come to his attention that Fr Gamma might still be living in the parochial house and requested that he move to Wexford to live in one of the town presbyteries.

Towards the end of October 2002, Bishop Walsh was informed that Fr Gamma had been attending a local swimming pool in the afternoons when children were present. The Bishop directed he should not be there prior to 7 o'clock after which hour

children were not allowed attend the pool. Notwithstanding this direction from Bishop Walsh, Fr Gamma was seen at the swimming pool at 5.30 in the afternoon in early January 2003 and this was again raised with Fr Gamma.

In November 2002, the diocesan delegate, Fr Denis Brennan met with Grace (4.9.2) who had approached a local priest in relation to allegations of child sexual abuse by Fr Gamma for a period of 3 years from 10 years of age which occurred in the early 1970s. Fr Brennan notified Gardai although he did not reveal the identity of the complainant at her request.

Another local priest reported complaints made by Orla and Susan (4.9.4) regarding sexual impropriety on Fr Gamma's part in the early 1980s, to Fr John Carroll in December 2002. The complainants were contacted by the Diocese but did not respond and instead pursued their complaint with An Garda Síochána.

On 30 April 2003, Bishop Eamonn Walsh wrote to Fr Gamma formally requesting him to resign as a parish priest of the Diocese. He reminded him that in September 2002, Fr Gamma had agreed to step aside as parish priest and to the appointment of an administrator pending the investigation of complaints made against him. The Bishop stated that since that time, additional complaints had been received which had considerably delayed the final determination of the investigations. He explained that the pastoral and spiritual needs of the parishioners required the regular service of a parish priest and advised Fr Gamma that retiring as parish priest would not affect his present standing and would ensure that he could receive an income from the St Aidan's retirement fund. Fr Gamma agreed to retire at this request.

Fr Gamma is currently subject to the above mentioned precept and is monitored and supervised by Sr Colette Stevenson. He is supported and maintained by the diocesan retirement fund. A file is currently being prepared for the Congregation for the Doctrine of the Faith in Rome on the steps to be taken regarding the complaints and their decision is awaited.

Bishop Walsh did engage a barrister and social worker to investigate the allegations made against Fr Gamma with a view to preparing a report which would facilitate proceeding to the canonical process. Because of a lack of cooperation from complainants, this investigation did not in fact assist the Bishop. Bishop Walsh is of the view that a model mechanism in relation to an investigation would be that at an appropriate time, and with the consent of the complainants, evidence which has been gathered by the Garda or Health Board investigation could be made available and admitted in a Church investigation.

A decision has been made by the DPP not to initiate criminal proceedings in respect of these complaints to date.

Bishop Eamonn Walsh has informed the Inquiry that a file has been sent to the Congregation for the Doctrine of the Faith in Rome and their decision is awaited.

THE INQUIRY VIEW OF THE DIOCESAN HANDLING OF THE FR GAMMA CASE:

- The Inquiry is aware of 11 complaints against Fr Gamma all of which are alleged to have occurred over a period of twenty years during the 1970s and 1980s. The Diocese has been notified of five of these complaints. Some of these complaints indicate an increased vigilance on the part of parishioners and priests to the dangers of child sexual abuse and their willingness to voice their suspicions at an early stage. It is a measure of how conscious society has become to this issue that priests and parishioners loyal to the Church no longer feel it is their duty to hide or cover up for a priest whose behaviour crosses acceptable boundaries, but rather the loyal parishioner is now aware that that priest must be removed lest any avoidable harm is caused.
- Bishop Walsh accepted that the delay of some four months between the complaint being notified to the Diocese and the priest being required to step aside was inappropriate although he did say that Fr Gamma did not function in the parish from July 2002.
- This case highlights that where a priest is required to step aside following an allegation of child sexual abuse, it appears that he will not be reinstated without a full psychological assessment taking place. Failure to attend for such an assessment precludes the possibility of that priest being restored to ministry. The Inquiry believes that where there is a reasonable doubt as to the sexual propensity of any person whose position brings them into unsupervised contact with children such persons should not be returned to such positions until their ability to interact safely with children has been established by medical and/or psychological assessment.
- The Inquiry is pleased to note in this case, the willingness of individual priests in the Diocese to report suspicion and rumour of child sexual abuse to the diocesan authorities and their willingness to ensure that an appropriate response is forthcoming.
- The handling of this complaint is ongoing, and is guided by the Framework Document and in accordance with Canon law.

FR DELTA

The Inquiry has only recently become aware of the identity of this priest as a second priest who left St Peter's in 1966 as a result of inappropriate behaviour with boys in the boarding school. Fr Delta described to the Inquiry how he had been struggling for some time with spiritual problems arising out of his behaviour with boys and in January 1966, having reconciled himself through Confession, he realised that the important thing was to remove himself from the school.

In February 1966, Fr Delta approached Bishop Herlihy and asked to be removed from his teaching position. He said Bishop Herlihy did not ask the reason for this request but agreed to appoint him to a half-parish in the Diocese which was done.

From the point of view of this Inquiry, the important issue was whether Bishop Herlihy knew the reason for Fr Delta's request for a transfer. Fr Delta has told the Inquiry that Fr Patrick Curtis, who was a member of the seminary staff at the time and is now deceased, approached him in April or May 1966 to inform him that there were rumours circulating about his inappropriate involvement with some boys in the boarding school. Fr Delta told the Inquiry that he had already requested a transfer when Fr Curtis approached him. The Inquiry does not know whether Fr Curtis informed Bishop Herlihy of these rumours although it has heard from one complainant that Bishop Herlihy was aware of at least one allegation against this priest by 1968.

The three complainants who have made allegations in respect of this priest have only recently come forward. In June 2002, it was brought to the attention of Bishop Walsh that Fr Delta had made a private settlement with Bill (4.10.1) who claimed to have been sexually abused by him whilst a student at St Peter's College. It appears that Fr Delta made several payments to Bill in the mid 1990s but it was a private arrangement between the two men and no complaint was made to the Diocese. The complainant was approached by the Delegate in June 2002 and invited to make a formal complaint. He declined and was annoyed that he should have been approached by the Diocese stating that his financial affairs were of no concern to them. The Delegate then approached Fr Delta who readily admitted the settlement.

Fr Delta offered his retirement to Bishop Walsh by letter dated 29 August 2002. This was accepted by Bishop Walsh on 18 September 2002 with immediate effect. On that date, Bishop Walsh wrote to Fr Delta removing him from priestly ministry forthwith and obliging him to comply with a precept, which forbade him from any contact with minors. Bishop Walsh also mentioned in this letter that he had spoken with the principal therapist of the Lucy Faithful Foundation and arranged for Fr Delta to attend for assessment and treatment. He further assigned a support person for Fr Delta and obliged him to meet regularly with Sr Colette Stevenson.

In speaking with Fr Delta's parishioners upon Fr Delta's retirement, Bishop Walsh stated *"Vague and unclear information was received which raised concerns of child sexual abuse by your former parish priest. He has taken early retirement from his parish and he no longer ministers as a priest"*. Bishop Walsh urged anybody who may have had a concern or been aware of a concern in this regard to come forward

with reassurances that help would be available. He also urged anybody who may have been abused to report the matter to the statutory authorities.

Fr Delta was given appropriate accommodation and all the residents there were informed of his circumstances. Fr Delta has now returned from a programme in Stroud, under the direction of the former Wolvercote team, having successfully completed the treatment which commenced in September 2002. Bishop Walsh is currently implementing the final report and recommendations from Stroud. His case is also being processed by the Congregation for the Doctrine of the Faith in Rome.

Fr Delta had already been removed from ministry when the Diocese heard of a further two complaints against him. One of those complaints (Terry, 4.10.2) related to abuse at St Peter's College. As with other post-1996 complaints made known to the Diocese, An Garda Síochána was notified.

Another complaint related to alleged sexual assault by Fr Delta in the late 1960s when Des (4.10.3) attended at Fr Delta's house to make arrangements for his wedding. He was a very young and inexperienced man and was deeply upset when Fr Delta allegedly made sexual advances towards him. This complaint was not communicated to any authority until after Des had spoken with this Inquiry.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR DELTA CASE:

- From the evidence of at least one complainant, Bishop Herlihy was aware that Fr Delta had abused boys in the boarding school in St Peter's in the mid 1960s. Therefore, it was not an appropriate or adequate response to appoint him to a half-parish where he would receive no supervision or monitoring.
- The Church's response in this case which arose in 2002, which was to stand the priest aside pending a determination of his suitability for ministry, was clearly made far easier because the alleged offending priest voluntarily retired from ministry and accepted the various conditions being imposed upon him by way of precept. He further accepted his required attendance for assessment and treatment. The Inquiry is encouraged by the co-operation provided by Fr Delta.
- Fr Delta appears to have understood the danger he presented to young people when he asked for his removal from St Peter's in 1966. Had help been available to him at that time, further abuse of children might have been avoided. It is important in the interests of child protection that such help should be available to men who are facing up to their propensities.

FR EPSILON (Deceased)

Allegations were made to the Inquiry of abuse concerning Fr Epsilon. It appears to the Inquiry, that only the complaint of Andrew (4.11.1) which involved an allegation of sexual abuse in St Peter's College in the early 1960s, was made known to the Diocese and that was communicated in 2002. The Inquiry notes the efforts made on the part of the Diocese to trace the identity of the clerical student who it is alleged arranged for Andrew to attend with Fr Epsilon. The Inquiry is also aware that the Diocese has investigated the matter with a priest who, it is alleged, was made aware of the complaint some time ago. This priest was unable to recall the complaint when asked by the Diocese. The Diocese was requested by this complainant to remove a particular reference to this priest in the College that was disturbing to the complainant and this was done. The Health Board was informed of this complaint.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR EPSILON CASE:

- Where a complaint is received by the Diocese after a priest is deceased, which the Diocese believes to be credible as was the situation in this case, the Diocese can offer support and counselling to the complainant and can also ensure that any other victims who may have attempted to contact the Diocese in previous years without receiving an appropriate response are sensitively and confidentially contacted. However, in such cases no question of child protection arises.
- Where an allegation of child sexual abuse is made against a priest who is living, prompt action is necessary for the protection of children. The Inquiry appreciates that different priorities must apply depending upon whether the accused abuser is living or deceased.

FR IOTA

Pamela (4.12.1) made a complaint of child sexual abuse against this priest to Fr John Carroll, acting diocesan delegate, in May 2005. She subsequently attended with One-in-Four who advised her to make contact with this Inquiry. By letter dated July 14 2005, One-in-Four requested that all further communication should be through their office. At the end of July 2005, the Inquiry received records relating to this priest and more particularly relating to Pamela's original complaint. The Diocese identified from

these records that a complaint against this priest had been known by the Diocese since the early 1970s as evidenced by correspondence from Bishop Herlihy at that time.

At the time that the alleged abuse by Fr Iota was occurring, Pamela reported it to Fr Kappa, then a local curate. She also reported the abuse to her General Practitioner at that time. After the abusive relationship ended, Pamela attempted suicide. The Inquiry has been informed that Pamela's General Practitioner reported Pamela's complaint to the Bishop after her attempted suicide and in response to that report Fr Iota was removed to the Diocese of Westminster.

Bishop Herlihy wrote to Cardinal Heenan of the Diocese of Westminster, as follows;

"My dear Lord Cardinal,

I am asking you for a favour, namely, to take a young priest into Westminster for a year or two.

He is the Reverend Iota ordained in 19XX ...

Father Iota had some involvement with a girl, which is now happily terminated. As a result, he is anxious and has been advised to spend some time away from this diocese. He is a gentle refined young man, but has always demanded understanding and sympathy..."

Fr Iota was assigned to a parish in England for a number of years.

The only other record of Bishop Herlihy's handling of this matter is a letter wherein the Bishop states to the Irish Emigrant Chaplaincy Scheme:

"In the case of Father Iota I would like you to know that his transfer here to Westminster for two years arose in very special circumstances."

The Inquiry understands that Fr Iota subsequently returned to serve as a curate and national school chaplain, manager and teacher in the Diocese of Ferns throughout the 1980s. Fr Iota worked for a number of years abroad until being recalled by Bishop Walsh as a result of Pamela's complaint. Following this complaint, he was removed from active ministry and subjected to a standard form precept issued by Bishop Walsh.

Bishop Walsh has also notified the Bishop in the Diocese where Fr Iota had served for the past twenty years as to the reasons for his recall. He has also advised the Bishop where Fr Iota has now taken up residence.

Fr Iota has agreed to attend for assessment and the canonical case against Fr Iota is in process. Bishop Walsh has also undertaken to ascertain whether or not any concerns arose in relation to this priest during his time abroad.

The complainant has said that she felt pressurised into making a written statement of her allegation when she was not ready to do so. Such a statement was required by the Diocese in order to deal with the child protection implications of what had been

reported against this priest and also in order to make a full disclosure to the Inquiry which had almost completed its work when this allegation was communicated.

Fr Iota has admitted a sexual relationship with Pamela when she was 17 years of age although he admits a friendship with her from 13 years.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR IOTA CASE:

- The Inquiry was concerned that the details of this case were not communicated to the Inquiry until its work had reached an advanced stage notwithstanding a letter on the diocesan files that should have alerted the diocese to the existence of a potential child protection issue.
- The letter from Bishop Herlihy informing the Bishop of Westminster as to the nature of the problem leading to Fr Iota's departure from the Diocese of Ferns is the only written record the Inquiry has seen of such a communication during Bishop Herlihy's episcopacy. This letter makes no reference to the traumatic circumstances surrounding his transfer from the Diocese.
- In the context of today, transferring a priest against whom a suspicion of child sexual abuse arose to another diocese, would not be appropriate. However, at the time when these events occurred, the mid-1970s, such an action was not unusual. The Report has already discussed the developing awareness of the problem of child sexual abuse in the Catholic Church and society generally; and the letter informing the Archbishop of Westminster of the reason for Fr Iota's transfer can be regarded as an appropriate response. The Inquiry is not aware of any precautionary measures which may have been taken by the Diocese of Westminster on foot of the information contained in Bishop Herlihy's letter but clearly some degree of supervision and monitoring would have been appropriate.
- Fr Iota's recall to parish duties in the Diocese of Ferns by Bishop Herlihy after a period of "penance" in Westminster without any apparent supervision or control indicates a failure on the part of Bishop Herlihy to properly appreciate the danger this man may have posed to children in the Diocese. Notwithstanding the moral dimension in which this problem was viewed at the time, Bishop Herlihy's responsibility for the children of the Diocese ought to have prompted him to ensure that this priest had minimum contact with children. Instead he was appointed to teaching and chaplaincy roles in national schools within the Diocese.

FR KAPPA

The Inquiry has received a complaint by Pamela (4.13.1) in relation to this priest. The Inquiry understands that this complaint has only recently been made known to the Diocese and that at the time of the alleged events no member of the Church Authority in Ferns was aware of Fr Kappa's involvement with Pamela. Fr Kappa is now a retired priest.

FR LAMDA (Deceased)

The Inquiry became aware of a letter from Jonathon to Bishop Comiskey dated 5 November 1996 (4.14.1) in which Jonathon made a complaint of child sexual abuse by a deceased priest whom he did not identify. The Inquiry received a copy of this letter in the context of another complaint. Jonathon told the Inquiry that he had merely wished to share information that had been troubling him with Bishop Comiskey in making this complaint and the Bishop had responded adequately to him. The Bishop replied to him in writing acknowledging his abuse as a young boy *"I'm very, very sorry to learn of your desperate pain and suffering as a young boy. Nothing could be more cruel or destructive, we have all learnt to our eternal regret as a Church"*.

Jonathon nominated his counsellor to liaise with the Bishop. The Bishop asked this advisor to explore any counselling requirements that Jonathon may have although this was not availed of.

He confirmed to the Inquiry that the accused priest was deceased at the time of making the complaint and therefore, no child protection issues arose.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR LAMDA CASE:

- The Inquiry was concerned that the letter written by Jonathon to Bishop Comiskey in which he clearly stated that he was abused by a priest of the Diocese as an altar boy was not produced to the Inquiry until the Inquiry had almost completed its work.
- Bishop Comiskey has stated that he had not adverted to this allegation until reminded of it by the Inquiry subsequent to his attendance for oral

hearing. Fr Lamda had been deceased for some time prior to the complaint being made by Jonathon and eight years before Bishop Comiskey's attendance at this Inquiry. The Inquiry is satisfied that these factors explain Bishop Comiskey's omission and do not reflect on his cooperation with the Inquiry.

- The Inquiry believes that as the accused priest was deceased at the time that the allegation was communicated to the Diocese the appropriate response by the Diocese was to support the victim and offer counselling, which was done.
- The Inquiry notes the empathy expressed by Bishop Comiskey to the complainant in this case. It illustrates that by 1996 Bishop Comiskey had an awareness of the impact of this problem.

FR ZETA (Deceased)

In March 1996, the Diocese received an anonymous letter alleging that "*a priest in (a parish in the Diocese) committed sexual offences against school boys at (the local school) during the 1980s.*" The letter did not identify the priest but the diocesan delegate at the time stated that he believed that a person reading the anonymous letter, would see it as pointing to Fr Zeta. Fr Zeta had been a priest in the parish mentioned since the early 1980s and had been Confessor to the school in question for many years. He was still ministering in the Diocese at the time of the complaint.

The Diocesan Delegate confirmed to this Inquiry that he had never heard of any previous accusation or rumour against Fr Zeta and no further communication was received from this complainant. No investigation was carried out by the Diocese on foot of this anonymous complaint.

A complaint (4.15.2) of sexual abuse was made by a staff member relating to the hearing of Confessions by Fr Zeta in the staff room to the Chairman of the Board of Management of the school in question in the early 1980s. This complaint was not communicated to the Diocese although the particular alleged activity complained of ceased.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR ZETA CASE:

- The Inquiry is concerned about the fact that no diocesan investigation was carried out into the first complaint above and that the complaint was not reported to An Garda Síochána in accordance with the obligations

assumed by the Diocese under the Framework Document. In the course of evidence given to the Inquiry, it was alleged that Fr Zeta's conduct was, on occasions, inappropriate. Proper investigations should have established the credibility of these allegations and the extent of any alleged abuse particularly in the context of the child protection issues raised by the fact that Fr Zeta was still alive at the time of making this complaint.

- The Inquiry regrets that no record was kept of this allegation by the Chairman of the Board of Management of the school, even in circumstances where he believed there was no substance to the complaint. Where such allegation, rumour or innuendo relates to a member of the diocesan clergy, it should be communicated to the Diocesan Delegate in the Diocese.

FR SIGMA (Deceased)

This priest has been identified to the Inquiry as a result of a complaint by Breda (4.16.1) which related to an incident of child sexual abuse that occurred in the 1960s. In September 1996, Fr Tommy Brennan, the Diocesan Secretary, wrote to Bishop Comiskey to say that he had been contacted by a complainant who said that she had been abused many years before by Fr Sigma. Bishop Comiskey told the Inquiry that when he became Bishop, Fr Sigma had been a very elderly retired priest in the parish.

This complaint, coming as it did in September, 1996, was dealt with in accordance with the Framework Document. Bishop Comiskey told the Inquiry that he recalled meeting Breda and that a lot of her problems were financial, due to the cost of counselling which she needed because of the sexual abuse she alleged had been committed by Fr Sigma. Bishop Comiskey said he was satisfied that Breda was telling the truth and directed that her counselling fees be paid. He said that the decision to make such a payment would be made in principle by the Bishop. The Delegate would then ask the Finance Committee to write the cheque, which would come out of ordinary diocesan funds.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR SIGMA CASE:

The Inquiry is satisfied that Bishop Comiskey dealt promptly and fairly with Breda. The Inquiry notes the use of diocesan funds to pay for counselling for victims.

FR UPSILON

In 1998, a complaint was made to a Health Board by Denis (4.17.1), of abuse which happened over a period of three years in the late 1970s and early 1980s. An Garda Síochána and the South Eastern Health Board were notified of this complaint. However, the Diocese was not so notified and did not become aware of this complaint until 2004 when informed by this Inquiry.

Bishop Walsh arranged to meet with a Health Board official and was advised that the Health Board had received a complaint against Fr Upsilon in 1998, but that no details of the complaint were provided to the Diocese at that time, as the allegation was withdrawn within five weeks of it being made. The Health Board made contact with Denis after meeting Bishop Walsh but he did not wish to meet with the Bishop.

Bishop Walsh, as Apostolic Administrator of the Diocese, met with Fr Upsilon, who subsequently met with the Delegate. Fr Upsilon agreed to stand aside from his position as parish priest pending the outcome of any investigation and to undergo assessment. The Vicar Forane for the area visited the parish and explained the situation to the parishioners by stating:

“When the Diocese becomes aware of a complaint of child sexual abuse against a priest, the priest is asked to agree to step aside from his priestly ministry pending the outcome of the complaints procedure. Stepping aside does not necessarily imply guilt or innocence.”

Bishop Walsh told the Inquiry that the Advisory Panel had been presented with the facts of this case on 26 October 2004 and they noted that Fr Upsilon had stood aside from his ministry and was undergoing assessment.

Fr John Carroll, Diocesan Secretary, subsequently received a telephone call from Denis who stated categorically that he had withdrawn his complaint against Fr Upsilon.

The Diocese was therefore presented with a retracted complaint. Bishop Walsh has stated to the Inquiry however, that the outcome of this priest's current assessment and treatment programme would be critical to his future. Moreover, he pointed out, at this stage he would be obliged to send a report to the Congregation for the Doctrine of the Faith.

THE INQUIRY VIEW OF THE DIOCESAN HANDLING OF THE FR UPSILON CASE.

- **The Inquiry regards it as appropriate that allegations of child sexual abuse which are subsequently retracted should still be investigated with a view to assessing a priest's suitability to minister. Social pressures may cause complainants to withdraw allegations and in the interests of child protection such withdrawals should not be regarded as decisive.**

FR THETA (Deceased)

On 5 July 2003, Don (4.18.1) informed the Diocese that he had been sexually abused by Fr Theta in Dublin in 1973. At the date of the complaint, Fr Theta was deceased. The Diocese has provided support for Don who meets regularly with Sr Helen O’Riordan, the diocesan victim support person.

THE INQUIRY VIEW OF THE DIOCESAN HANDLING OF THE FR THETA CASE:

- **The Inquiry regards the response of the Diocese in this case where the accused is deceased at the time of making the complaint as entirely appropriate.**

FR OMIKRON (Deceased)

Fr Omikron was a priest of the Diocese of Ferns who died in 1968. The only complaint against this priest first came to the attention of the Diocese when a lady called Jenny (4.19.1) wrote to Bishop Comiskey on 6 March 2000 and said that many years earlier she had been allegedly abused by Fr Omikron. The 1996 Framework Document was in place when this allegation was received by the Diocese and so Bishop Comiskey immediately forwarded the complaint to Fr William Cosgrave, diocesan delegate, and wrote to Jenny offering to contribute towards her counselling costs and to meet her. He also expressed regret for her suffering. The complainant regarded the Bishop’s response as inadequate. Bishop Comiskey said he was disappointed with the complainant’s reaction because he had accepted her allegation without the possibility of validating it. He said that he would have paid the full costs of Jenny’s counselling but she had only looked for help in paying them and he felt he had provided that. Bishop Comiskey also said that he had a difficulty when asked to apologise for the acts or omissions of other people. He said he could express regret but he could not apologise for something that was allegedly done by somebody else.

BISHOP EAMONN WALSH

Bishop Walsh adopted a different approach to this complaint. He received a letter from Jenny on 13 August 2002 regarding outstanding monies which she believed were owed to her by the Diocese. He replied on 15 September enclosing remittance

for the outstanding sum and apologising in his capacity as Apostolic Administrator of the Diocese of Ferns for the abuse she had suffered.

THE INQUIRY VIEW OF THE DIOCESAN HANDLING OF THE FR OMIKRON CASE:

- The Inquiry recognises the generosity of Bishop Comiskey in agreeing to provide the greater part of the cost of counselling for a person alleging abuse by a priest who had died many years earlier.
- The Inquiry can appreciate that the comprehensive apology given by Bishop Walsh may have assisted in bringing closure to a painful episode for Jenny. However, the offering of such apologies must be weighed against the perceived injustice to the memory of the deceased priest.

FR TAU(Deceased)

The Inquiry received information about this priest in the context of an allegation against Fr Sean Fortune in 2005 (see Kieran 4.20.1). The priest was deceased at the time of making the complaint. The Inquiry communicated the complaint to the Diocese and is not aware of any response.

FR OMEGA

Bishop Walsh was notified about allegations against Fr Omega by this Inquiry in 2004. Bishop Walsh met with him and he confirmed to the Bishop that he had conducted sex education classes in a manner which was deemed inappropriate by the school authorities. As a result, he had left his teaching position to take up parish duties. Bishop Comiskey had arranged for him to attend a psychiatrist, although there is no record on file of this having occurred.

Fr Omega spoke about a young boy who used to visit his house which made him uneasy as it coincided with the time when Fr Brendan Smyth and Fr Sean Fortune were in the public domain. He had been attempting to teach this young boy English. He said he used to ensure that his daily housekeeper was around when the young boy visited and he said nothing untoward happened. At the time however, he realised it was something that he was not fully comfortable with. The boy himself and his mother are quite adamant that no inappropriate behaviour took place and therefore no allegation of child sexual abuse arises.

The only issue therefore, concerned Fr Omega's conduct of the sex education classes. The Advisory Panel was briefed on the case and recommended that Fr Omega attend for assessment.

Accordingly, Fr Omega has ceased all involvement in the parish pending the recommendations of the assessment and the views of the Advisory Panel. He has had a preliminary assessment with Mr Joseph Sullivan and attended Stroud for a one-month assessment. In relation to advising the Congregation for the Doctrine of the Faith, Bishop Walsh stated that he would have to receive canonical advice to ascertain if there is an issue in this case which should be referred to this body.

THE INQUIRY VIEW ON THE DIOCESAN HANDLING OF THE FR OMEGA CASE:

- **Once an allegation is made known to the Diocese, the restrictions placed on the priest would not appear to be lifted until the Bishop is satisfied that the priest does not present any danger to children. Bishop Walsh has made it clear that neither he nor the Advisory Panel would be so satisfied without a favourable medical report, following assessment, from a medical practitioner or psychologist designated by the Bishop. The Inquiry endorses this prioritising of child protection which is operated currently in the Diocese.**
- **In the absence of information relating to the psychiatric assessment which may have been undertaken and acted upon by Bishop Comiskey, the Inquiry is unable to comment on the appropriateness of Bishop Comiskey's response in permitting this priest remain in active ministry. Bishop Comiskey does not recall receiving any psychiatric report at that time. However it must be noted that there have been no allegations against this priest since he resumed parish duties.**

SOUTH EASTERN HEALTH BOARD HANDLING OF ALLEGATIONS OF CHILD SEXUAL ABUSE.

FR JAMES GRENNAN (Deceased)

Monageer 1988

The Monageer case, which arose in 1988, is the first recorded case of child sexual abuse involving a priest that came to the attention of the South Eastern Health Board. The details of the allegations made and the Church response to such allegations are outlined in Chapters 4 and 5 of this Report. It is necessary to repeat some of the relevant facts here.

On 26 April 1988, a group of 10 girls approached Mr Higgins, Principal of Monageer National School complaining that Fr Grennan, the Chaplain and Chairman of the Board of Managers of the school, had touched them under their skirts and inside their clothing. They also complained about Fr Grennan's harsh approach to teaching religion and his preparation for Confirmation. Mr Higgins contacted Childline who advised him to refer the matter to the South Eastern Health Board and gave him the name and contact number of the relevant official, Mr. Joe Smyth.

The following day, Mr Higgins telephoned Mr. Joe Smyth, who asked a social worker, to visit the school. By 12 o'clock on 27 April 1988, Mr Higgins had made available a room in which the social worker met with the girls concerned. This was followed up with another meeting some days later. The social worker interviewed the girls collectively over a two-day period. She told Mr Higgins that she was concerned that there was substance in the allegations. She described to the Inquiry how she called to each individual family and asked the parents to bring the children to the Community Child Centre at Waterford Regional Hospital for the purposes of assessment. The children were interviewed by the Validation Unit Medical Officer, Dr Geraldine Nolan on 4 May 1988.

Dr Nolan, a qualified paediatrician, took up a position with the South Eastern Health Board in 1986. She had studied the problem of child sexual abuse and the means of validating allegations over a period of some seven weeks in both Canada and the UK. She explained to the Inquiry that the purpose of a validation unit was to establish whether an allegation of child sexual abuse was credible. In fact, the facility in the South Eastern Health Board was only in the course of being set up and was not fully commissioned until December 1988. The task undertaken by Dr Nolan was the first of its kind in the Health Board area.

Originally ten girls made complaints but the parents of three of the girls did not give consent for their children to be interviewed by Dr Nolan.

Dr Nolan described to the Inquiry how she spent an entire day interviewing each of the girls individually in order to assess whether their allegations could be validated. Dr Nolan was quite clear that she did not see her role in any way as determining guilt or innocence but as simply establishing that the allegations made by the girls, were on the face of them, credible. She said that the stories were consistent and varied only in minor detail. Dr Nolan's report of 5 May 1988 consisted of a brief summary of the allegations of the children, a conclusion that the allegations were not made for any malicious motive, a finding that Fr Grennan had been abusing the girls particularly over the past year, sexually, emotionally and physically, and a recommendation that the children be protected from further abuse. No individual reports were made in respect of each child although Dr Nolan interviewed each child individually and had individual case notes on each child.

In the course of the validation procedure, evidence of a criminal nature emerged which involved a person other than Fr Grennan but which had implications for child protection. Dr Geraldine Nolan did not include this information in her report but did refer to it in the letter accompanying that report. This information does not appear to have been passed on the Gardai although one of the witnesses to the Inquiry described how she was visited by a detective some months later for a statement on this matter. It is not clear how the information got to the Gardai or whether it was communicated by the Health Board and no record of such a visit appears on Garda files.

Dr Patrick Judge, Director of Community Care of the South Eastern Health Board, spoke with Dr Nolan about the content of her report on the evening of 4 May and called to see Monsignor Breen, Vicar General of the Diocese, who was acting in Bishop Comiskey's absence. Dr Judge informed Monsignor Breen that Fr Grennan was alleged to have sexually abused the girls in Monageer and that he should be immediately removed from the parish. As has already been described at Chapter 5, a misunderstanding arose as to whether Dr Judge alleged a sexual assault involving exposure by Fr Grennan on the altar during Confession or whether what was involved was inappropriate touching.

Monsignor Breen spoke with Fr Grennan who vehemently denied all the allegations. Fr Grennan called to Dr Judge but after an acrimonious meeting, he left.

On 5 May, Dr Judge instructed Mr Higgins that he was never again to release children alone into Fr Grennan's company. When Mr Higgins protested that Fr Grennan was "his boss" Dr Judge said; *"well you can't, how will it look if we have a file that thick on him and he reoffends"*. This placed Mr Higgins in a difficult position because Fr Grennan, as Chairman of the Board of Management of the National School, was effectively Mr Higgins's employer. Nevertheless, Mr Higgins improvised and created a permission slip which he asked parents of children to sign before he would release them to attend the church or the parish house.

The Inquiry has heard from Bishop Comiskey that he considered Dr Judge to be anti-clerical and to have a personal agenda in his pursuit of Fr Grennan. It is clear that Dr Judge took a personal and active interest in this case at the beginning but there is no evidence that he was involved in any way after the Confirmation ceremony had taken place.

Dr Judge reported the allegations to the Gardai on 5 May. The Gardai took statements from the girls involved and also from the social worker. Informal approaches were made by a member of the Garda Síochána to Fr Grennan, suggesting that he should absent himself from the altar for the Confirmation ceremony. Tension was high in Monageer with the community becoming more and more divided over the issue. Fr Grennan went on a short holiday to Spain in order to diffuse some of the tension in the parish but refused to absent himself from the Confirmation ceremony.

The Inquiry understands that some of the parents were led to believe by Dr Judge that Fr Grennan would not be on the altar for the Confirmation. They were then informed that whilst he would be on the altar, he would be playing a minor role in the ceremony.

Bishop Comiskey had returned to the Diocese some weeks before the Confirmation ceremony, which took place on 21 June, 1988. He informed the Inquiry that he did not believe the allegations of the girls and felt that Fr Grennan should not absent himself from the Confirmation ceremony as to do so would be to imply guilt. He did not speak with any of the Health Board officials nor with any of the girls. He knew of the existence of the Validation report by Dr Geraldine Nolan and knew that it had been given to the Gardai on 5 May but he did not see it until 29 August 1988.

When Fr Grennan entered the church and walked up through the centre aisle accompanied by Bishop Brendan Comiskey and the curate from the neighbouring parish, two parents stood up, signalled to their children and left the ceremony before the entrance hymn was over.

The walk-out was reported in some local papers the following Sunday. After the walk-out at the Confirmation and the subsequent publicity, the Monageer incident appears to have died down.

In her report of 5 May 1988, Dr Geraldine Nolan recommended that the girls receive further counselling and support. The Inquiry asked the South Eastern Health Board whether any such counselling or support had been made available to the girls at the time. The social worker who had originally interviewed the girls explained to the Inquiry that the Health Board simply did not have facilities to offer counselling or support. She said that there were only four social workers serving the whole of Wexford at the time. This meant that each social worker was serving 25,000 people. The resources were not available to offer the children any realistic support after the Monageer incident occurred.

Mr Higgins, the Principal of the school, described to the Inquiry how, immediately after the incident occurred, Fr Grennan did not attend the National School as regularly as he had previously done. However, within a few months, his previous pattern resumed and the incident faded into the background. Mr Higgins contacted his union, INTO, and was assured of their support in the event of any action being taken by Fr Grennan against him. He also reported the matter to an Inspector of the Department of Education. The Department took the view that as no formal complaint was made to it and a Garda investigation had occurred it could take no further action in the matter.

Monageer 1995

In November 1995, Councillor Garry O'Halloran requested that the Chief Executive Officer of the South Eastern Health Board prepare a Report for the Board on all aspects of the child sexual abuse allegations that arose in Monageer in 1988. Mr John Cooney, Chief Executive Officer, reported that the Medical Officer who interviewed the children concerned at the Validation Unit in Waterford concluded that the allegations were not malicious, that the abuse had taken place and that the children needed protection from further abuse.

Mr. Cooney further reported that two health board staff members brought the matter to the attention of the Gardai and also advised the diocesan authority of the allegations made by the school children. The alleged abuser was advised of the allegations but denied them. The report by Mr Cooney went on to say that the abuse of the girls ceased following the Board's investigation. He said that the children were from good homes and received ongoing support from their families during that time. He said that the social worker also provided support and concluded by saying that if anybody wished to have assistance from the Board at this stage by way of counselling they should make themselves known and assistance would be given.

The report concluded *"we are satisfied that the Board's local staff dealt quickly and competently with the case and not only did they comply with the then recently introduced Department of Health Guidelines on child abuse, but they went beyond them. Our staff is to be complemented on their professional competence on dealing with this sensitive matter, especially in the light of the limited resources available to them in 1988, and the newness of the guidelines and the general levels of awareness of this problem at the time"*.

This report did not advert to the lack of any power on the part of the Health Board to intervene in a case of child sexual abuse arising outside of the family.

Extensive newspaper coverage followed the Health Board investigation and Bishop Comiskey was severely criticised for not responding appropriately to the allegations of sexual abuse. In particular, Bishop Comiskey was accused of allowing his priests to confront the media about the allegations without informing them that the Health Board had investigated the claims in 1988 and found them to be credible.

Fr Grennan died on 9 May 1994, aged 61. The following day a 13 year old local boy (Fergus 4.4.5) took an overdose of medication and was admitted into hospital. On 30 May, the boy disclosed to his mother that Fr Grennan had molested him. On 6 June he spoke about this abuse to a clinical psychologist, who was dealing with his case in the South Eastern Health Board. This psychologist approached Father Paul Andrews S.J. and asked him to contact Bishop Comiskey on her behalf and enclosed a letter from her and from Fergus. As has already been outlined, Bishop Comiskey wrote to Fergus assuring him that his allegations were being taken very seriously and offering to meet him. Fergus' psychologist wrote to Bishop Comiskey in December 1994 to say that Fergus had been greatly relieved by his letter but that he did not think a meeting would be necessary at that point.

THE INQUIRY VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR GRENNAN CASE:

- As has already been pointed out in Chapter 3 of this Report, Health Boards have express statutory powers in dealing with child sexual abuse perpetrated by, or through the negligence of, a parent or guardian. It has no express statutory power of intervention where the abuse is perpetrated by a third party.
- The Inquiry appreciates the speed and urgency of the Health Board in dealing with this matter but believes this response must be seen in the context of the legislative powers available to the Board.
- The Health Board involvement in the Monageer case raised an expectation on the part of the complainants and Mr Higgins that it would be able to resolve the matter. In fact, the Director of Community Care was not authorised to notify the Diocese. He did not have authority to ask for Fr Grennan's removal from the Confirmation ceremony or from the parish, nor did he have any authority to require Mr Higgins not to release children to Fr Grennan in the future.
- Where a number of complainants of any criminal offence are interviewed, such interviews should always be carried out individually and privately in order to avoid contaminating evidence for future court proceedings. In this case, all girls were initially interviewed together in a classroom which might have jeopardised subsequent prosecution.
- The Inquiry is satisfied that no follow-up services were offered to the children involved in the Monageer case. The Inquiry is aware of the very limited personnel and financial resources available to the Health Board in 1988 but feels that where an intervention has occurred by the Health Board with serious consequences for the children, priority ought to have been given to minimising the consequences of that intervention.
- The Inquiry appreciates that the assessment unit of the Community Child Centre of the South Eastern Health Board was in its early stages of development and that in those circumstances, it provided an effective response for the children at the time. Nevertheless, the Report which attempted to combine all the allegations into a single document was, by today's standards, inadequate. There was however an urgency about the issue given the proximity of the Confirmation ceremony, and the speed with which Dr Nolan dealt with it should be commended.
- Had there been a proper formal communication in the form of a liaison between the South Eastern Health Board and Gardai and proper

monitoring of the situation in Monageer, the Inquiry believes that an effective investigation of this incident would have been more likely and the outcome more satisfactory for all concerned.

- The Inquiry has not examined the files or records of the Department of Education in this matter but believes that the Department should have been proactive in ensuring that children were protected once a complaint had been communicated to it.
- When senior personnel of the South Eastern Health Board investigated the Board's handling of the Monageer incident in 1995 and 1996, there was no reference to the lack of any statutory power to intervene in such cases.

FR JAMES DOYLE.

ADAM (4.2.3)

This case had its origins in an assault on Adam (4.2.3) by Fr James Doyle on 26 April 1990. On 26 June Adam's father spoke to Bishop Comiskey who suggested that he should speak to his General Practitioner so that his GP might refer the matter to the Health Board. As had already been stated, Bishop Comiskey was aware of the 1987 Department of Health Guidelines and knew that they imposed a duty on GPs to report allegations of child sexual abuse to the Health Board. On 27 July 1990, the then senior social worker in Wexford, Mr Joe Smyth, contacted Gardai regarding the assault. He also referred Adam's case to the regional child abuse unit, which, from that point on, played the key role in the day to day management of the case. Two members of that unit, a social worker and a psychologist, interviewed Adam and his parents on 31 July, and interviewed his parents again on 14 August 1990. It is clear from case notes on these visits that the unit was aware of the strain the case was having on the family and on Adam's father in particular.

A case conference was called by the South Eastern Health Board in August 1990; one month after the South Eastern Board was first informed of the allegations. It was attended by personnel from the South Eastern Health Board, the family GP, a representative of the regional child abuse unit and Garda Patricia Whelan. The case conference made a number of decisions including:-

- *That Mr Joe Smyth of the South Eastern Health Board would liaise with Adam's father's GP in order to offer support to him.*
- *That social work support would be offered to the family.*
- *That the community care centre in Waterford would see the family again if so required and offer support during the process as deemed necessary.*
- *That Dr Judge would contact the Garda Superintendent to clarify any intervention in relation to Fr Doyle.*

This case conference was a positive step in that it gave the various organisations and relevant individuals an opportunity to hear and discuss the history of the case. However, no mechanism was set up to convey the results of the implementations of the decisions made at that meeting and neither the victim or his family were consulted or informed of the calling of the conference or what had been decided.

Although concern was expressed at the case conference for Adam's father, there was no discussion on how to help his family after the court case had ended. Neither was there any discussion on the possible implications of Fr Doyle's activities in the area over the previous ten years. Adam had identified another boy to the interviewing social workers whom he believed was also abused by Fr Doyle who, he alleged, touched his private parts some years previously.

The assessment unit in the Community Child Centre in Waterford continued to be in regular contact with the family until the court case. After the trial, the file recorded the case as closed. There was one more contact that year in November and another in January 1991, the last contact seems to have been in July 1991.

An unforeseen consequence of the court case was the identification of Adam by a local newspaper. There was hostility in the area against the newspaper which reported this court case which it was felt had unfairly publicised the allegations against Fr Doyle with consequent damage to the Church. This hostility was extended to Adam and his family. This had very serious consequences for them.

In a letter dated 10 December 1990, Adam's father said that the family were grateful for the help and support given by the regional child abuse unit since the previous July.

THE INQUIRY VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR DOYLE CASE:

- **The Inquiry believes that the South Eastern Health Board acted appropriately in reporting the Doyle case. It immediately referred the allegation to the Gardai and then offered a supporting role to the family in assisting them through the court case.**
- **The Inquiry believes that the case conference called by the South Eastern Health Board and attended by the local GP and the Gardai was an important precedent and afforded the agencies a useful opportunity of exchanging information but believes that communication with the family**

on matters dealt with at this case conference should have been maintained as far as possible.

- The Inquiry believes that the support extended to Adam and his family by the SEHB should have continued after the court case particularly in light of the damaging publicity that ensued.

FR ALPHA

In early 1996, Eric (4.3.3), who was 16 years old, told a doctor in Wexford general hospital who was treating him for a medical condition that Fr Alpha had sexually abused him. The doctor wrote to Dr Antoinette Rogers, Director of Community Care for the South Eastern Health Board informing her of this and she informed An Garda Síochána.

Subsequent contact between the South Eastern Health Board and the Gardai concentrated on whether Eric would make a Garda statement. At that time, the Gardai had received an allegation from Edward (4.3.1) which had been made in November 1995, although the South Eastern Health Board were not informed about this allegation. In March 1996, the Gardai interviewed Fr Alpha about both Edward's and Eric's allegations.

In September 1996, Gavin made a statement to the Gardai in which he also made allegations against Fr Alpha.

On 12 March 1996, Dr Rogers informed Bishop Comiskey that child abuse allegations had been made against a curate of a named parish in the Diocese. No information was given about Eric's identity and Dr Rogers informed Bishop Comiskey that the Gardai and the Social Services were looking into the case.

In August 1996, Fr William Cosgrave, the diocesan delegate asked the South Eastern Health Board and the Gardai for help in arranging a meeting with Eric, whose identity was still unknown to him. Ms Geraldine Quigley a social worker with the SEHB acted as a liaison. This meeting took place in January 1997. The main outcome from the South Eastern Health Board perspective was that Eric expressed concern that Fr Alpha might have abused the children of a third party. Dr Rogers stated that it was her duty to make sure as far as possible that such children were not put at risk and when she heard that this fear had been expressed, she asked Bishop Comiskey to act as liaison between the South Eastern Health Board and the third party concerned. Ms. Quigley met the third party in February 1997, and was informed that this person had

no concerns whatsoever for the safety of their children in the presence of Fr Alpha and that they were perfectly safe and happy in his company. The social worker was of the opinion that there was no need for further action. This third party has expressed annoyance to this Inquiry that the family has been implicated in the allegations against Fr Alpha which they believe to be false. However, once the question had been raised, the Health Board could not ignore the potential risk to children and had to investigate the matter.

THE INQUIRY VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR ALPHA CASE:

- When the Health Board received the allegation from Eric, it immediately informed the Gardai and shortly after the Diocese. However, Eric was not prepared to have his name disclosed to either and the Health Board respected that confidentiality. In this case, the Health Board encouraged Eric to make a statement to the Gardai and meet with the Diocese which he eventually did.
- The Gardai did not inform the South Eastern Health Board about these allegations, despite the protocol agreed in 1995 between the Gardai and the Health Board, which required cooperation and an exchange of information between the two agencies. Where such an exchange of information might result in the compromising of the criminal investigating, it would be appropriate for the Gardai to withhold relevant information from the Health Board. Such a withholding of information should never result in an increased risk to children in the community. The Inquiry understands that there is increasing awareness on the part of the Gardai of the need for child protection implications in any investigation to be taken into account.
- A question arises as to whether the Health Board acted appropriately in informing the Diocese of the allegations of child abuse against Fr Alpha, without informing Fr Alpha of its intention to do so. This is yet another example of the difficulties faced by the Health Boards in fulfilling a duty imposed by statute without any clear legislative guidelines to assist it.
- The Inquiry believes that it is in the interests of encouraging reporting of child sexual abuse that persons who report abuse to Health Boards ought not have their name passed on to other agencies without their consent. Whilst obviously, complete confidentiality cannot be guaranteed, the Health Board should encourage victims themselves to report the allegations of abuse to the Gardai. Where a report is made without the consent of the complainant, that complainant is not obliged to cooperate with the Gardai and indeed may be discouraged from so doing by a perceived breach of faith on the part of the Health Board. The allegation should however be reported to the Gardai with the name of the alleged perpetrator where that perpetrator may be in a position to abuse other children.

- The Diocese has expressed itself frustrated at its inability to proceed canonically against this priest in the absence of an identified complainant at the time when the complaint was initially made to the Health Board. Bishop Walsh has expressed the view that he would like to be able to get more information from the Garda and Health Board Authorities for the purposes of canonical procedures. The Inquiry believes that the Inter-Agency Review Committee established by Bishop Eamonn Walsh would have been a particularly useful device in this case where information could have been exchanged on a confidential basis and each party would have been given an indication of what was happening in the matter. Under the Child Care Act 1991, the Health Board is given quite a wide remit for the protection of children in the community. Dr Rogers believed that she had an obligation to follow up on concerns expressed by Eric for the safety of the children of a third party. The Inquiry believes that the obligations imposed by Section 3 of the 1991 Act are a matter for the Oireachtas and in the absence of any clear legislative guidelines as to how the obligations imposed by Section 3 are to be achieved, the Inquiry was unable to express a view on the matter.

MONSIGNOR MICHAEL LEDWITH

Raymond (4.6.2) met with Bishop Comiskey on April 1994, and informed him that he had been sexually abused by Monsignor Ledwith during the early 1980s in his family home and also at Monsignor Ledwith's house. Raymond stated that he was aged 13 to 15 years at the time of the alleged abuse although the records from the three bodies examined by this Inquiry do not concur on the dates when this alleged abuse is said to have commenced and concluded.

Bishop Comiskey arranged for Raymond to be interviewed by two diocesan priests and they informed him that they were satisfied that Raymond's allegation was capable of being true. Bishop Comiskey met Raymond and he confirmed to this Inquiry that he was impressed by the young man and that he too found his complaint to be credible.

On 23 December 1994, Bishop Comiskey informed Dr Antoinette Rogers who was Acting Director of Community Care in the South Eastern Health Board, that this allegation had been made. He did not give Dr Rogers the name of the complainant because he had guaranteed confidentiality to him but he did inform her of the identity of Monsignor Ledwith.

In January 1995, Dr Rogers wrote to Chief Superintendent Murphy in Wexford to notify him of the allegations. She also communicated with the Mid Western Health

Board because the complainant was residing in that Health Board's region. Neither the Health Board nor the Gardai were aware of the identity of the complainant as he, and his family, were quite adamant that they would not speak with Gardai and would not co-operate if approached. The family were fearful of the publicity that would undoubtedly attach to the prosecution of a man in the position of Monsignor Ledwith. The Mid-Western Health Board requested identifying information from Bishop Comiskey who provided it by giving the name of Raymond's solicitor.

Coincidentally, the solicitor acting for the family of the complainant asked Mr Gerard Crowley, Child Care Development Officer with the Mid Western Health Board, to meet with a family that he was acting for. The family spoke of child sexual abuse by Monsignor Ledwith. Mr Crowley realised that this was the same allegation that had been communicated by the South Eastern Health Board some months earlier. Subsequently, Bishop Comiskey referred the Mid-Western Health Board to this same solicitor.

The Mid Western Health Board offered counselling and support to the family but the family and the complainant, who was by this stage a young adult, were adamant that they would not cooperate with any Garda investigation and would deny the allegations if approached by the Gardai. Mr Gerard Crowley communicated all information other than the identity of the young man to An Garda Síochána and was requested to make a statement to the Gardai confirming that the young man or his family would not make a complaint to them. According to Mr Crowley, the Gardai discovered the name of the complainant through other means and therefore the necessity of informing the Gardai of his identity did not arise.

In November 1995, the Mid Western Health Board informed the Eastern Health Board in whose region Maynooth College is situated, that this allegation had been made against Monsignor Ledwith. At a meeting of the three relevant Health Boards in February 1996, a decision was made that the hierarchy should be contacted to establish Monsignor Ledwith's whereabouts and that the Department of Education should be informed of the allegation. Accordingly, in April 1996, a letter was written to the Secretary of the Department of Education informing the Department that an allegation of sexual abuse had been made against Monsignor Michael Ledwith, former President of Maynooth College. The letter stated *"...The Eastern Health Board is concerned that no-one in respect of whom such allegations have been made, and are still under investigation or consideration, should be in direct contact with children or young or vulnerable persons."*

"In the circumstances there is no direct action that the Eastern Health Board can take. It is nonetheless of the view, that the Department of Education and the Board of Management or Board of Governors of Maynooth College should be advised so that no young persons are exposed to potential risk. It is to obviate this danger that the Eastern Health Board's concerns are being made known to you."

In November 1995, the Mid Western Health Board informed the Eastern Health Board in whose region Maynooth College is situated, that this allegation had been made against Monsignor Ledwith.

As recommended by the Department of Education, the Eastern Health Board wrote to Monsignor Matthew O'Donnell and Dr William J. Smyth in Maynooth who were in charge of the pontifical and the national universities respectively and expressed the concern of the Eastern Health Board that Monsignor Ledwith should not be in direct contact with children or young or vulnerable persons. Monsignor Ledwith was not contacted prior to this letter being sent.

The Inquiry is aware that Monsignor Ledwith was on sabbatical in the United States during this period and that the Bishop of Seattle and the authorities in Seattle had been informed by Bishop Comiskey of the allegations against him.

The Trustees of Maynooth College commenced proceedings against Monsignor Ledwith under the "Statutes of Maynooth" and these culminated in Monsignor Ledwith agreeing to retire from his teaching position in Maynooth.

Raymond and his family did not make a complaint to the Gardai but received private counselling paid for by the Diocese of Ferns. Raymond reached a financial settlement with Monsignor Ledwith in respect of civil proceedings commenced by him. A confidentiality clause was a condition of this settlement.

The Mid Western Health Board was concerned with regard to other members of Raymond's family but no complaint was made in respect of them and therefore the Health Board was not in a position to offer any assistance to them.

THE INQUIRY VIEW ON THE HEALTH BOARD HANDLING OF THE MONSIGNOR LEDWITH CASE:

- **Bishop Comiskey did not reveal the identity of the complainant to the SEHB but did inform them of Health Board area in which he resided. Accordingly, Dr Rogers (acting DCC) informed that Board of the allegation. The Inquiry believes that confidentiality should be maintained as far as possible in dealing with complainants although it would recognise that the paramountcy of child protection may not always allow that to happen.**
- **An issue arises as to whether the Health Board was correct in informing the authorities in Maynooth without first communicating with Monsignor Ledwith whose address in the United States was readily available. This fell short of compliance with the judgement of Barr J.⁵⁵ and illustrates once again the difficulty of attempting to exercise powers which are inferred from general provisions and not expressly granted.**

⁵⁵ MQ .v. Robert Gleeson & Ors. [1997] IEHE 26

FR OMEGA

On 20 October 1994, a teacher reported concerns to the local public health nurse about a 14 year old boy who was not attending school, was unsupervised, isolated and who had been befriended by the local curate, Fr Omega. The public health nurse made a child abuse notification regarding the boy. The Director of Community Care (DCC) for the South Eastern Health Board discussed the matter with the Principal of a school where the priest had previously worked and from where he had apparently left "*under a cloud*". The Principal told the DCC that Fr Omega had shown inappropriate diagrams to children in the course of sex education classes and that the Principal had spoken to Bishop Comiskey at the time (mid 1980s). Bishop Comiskey transferred Fr Omega out of the school and it is believed, referred him to a psychiatrist.

In November 1994, the Health Board informed the Gardai about the concern that had been expressed to them but stressed that they had no evidence against Fr Omega. The Gardai arranged for the mother of the boy to be interviewed by a member of An Garda Síochána. The mother made no complaint and seemed perfectly satisfied about the relationship between her son and the curate. The Gardai decided that they would monitor the situation for the time being.

Bishop Comiskey also spoke with Mr Joe Smyth, the senior social worker with the Health Board, in December 1994, in relation to this case. At that time, Bishop Comiskey undertook to speak to Fr Omega, and when asked whether he had done this, Bishop Comiskey confirmed that he had.

In October 1995, this case came up for routine review by the South Eastern Health Board and a letter was written to the Gardai asking whether there was any further action that should be taken. The Gardai informed the Health Board that no complaint was forthcoming and that the mother of the boy in question was absolutely satisfied that nothing untoward had occurred or was occurring between her son and the priest. The matter rested there.

THE INQUIRY'S VIEW ON THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR OMEGA CASE :

- **The Fr Omega case which occurred in 1994, illustrates a willingness on the part of the South Eastern Health Board to consider seriously, allegations or concerns expressed by third parties. The Health Board referred the matter to the Gardai and facilitated them in interviewing the mother and child in question. The Health Board did not themselves attempt any formal investigation other than to elicit some background information from a former employer.**
- **The Inquiry believes that the Health Board acted correctly in this matter.**

FR UPSILON

An allegation by Denis (4.17.1) came to the attention of a Dublin social worker in July 1998. This allegation was immediately communicated to the South Eastern Health Board, since Fr Upsilon resided within its area. Denis alleged that he had been abused by Fr Upsilon approximately twenty years previously. He was a young man in his late twenties at the time of making the complaint. The South Eastern Health Board notified Gardai in Wexford of the complaint citing the names of both the accused and accuser. It did not notify the Church Authorities at any time. Five weeks later, the South Eastern Health Board was informed by An Garda Síochána that Denis had withdrawn the complaint and did not want any investigation into the matter.

As far as the Health Board was concerned, the allegations made by Denis were completely withdrawn and in its view no further action could be taken.

THE INQUIRY'S VIEW OF THE SOUTH EASTERN HEALTH BOARD HANDLING OF THE FR UPSILON CASE:

- **The allegation made by Denis was handled appropriately by the Health Board in notifying Gardai and providing counselling to the complainant. However, the withdrawal of an allegation by a complainant, particularly in circumstances where the complaint as originally made was not stated to be false, does not necessarily preclude further action being taken by the employer of the alleged abuser where that employee's job brings him into unsupervised contact with children.**

BISHOP BRENDAN COMISKEY

In August 1990 in the course of an investigation of another matter, the South Eastern Health Board became aware of an allegation of inappropriate behaviour which was made against Bishop Comiskey by the parents of a girl who was over 16 at the time of the alleged incident. The South Eastern Health Board did not report the incident to the Gardai or to Church Authorities as the complainant was over 16 at the time and she was adamant that the matter should not be mentioned to any Authority. The complainant likewise, did not pursue the complaint with the Gardai or the Church Authorities. The Inquiry was concerned that either such behaviour itself or the existence of an allegation of such behaviour against a Bishop would influence his

ability to deal effectively with a problem of sexual abuse when it was brought to his attention in relation to other priests.

Bishop Comiskey has no recollection of any such incident occurring and denies the allegation.

He also stated that he was not influenced in his handling of allegations of child sexual abuse by the existence of this complaint as he had no knowledge that this complaint had been made to anyone until after his resignation in 2002.

The Inquiry contacted the mother of the young woman involved who said that Bishop Eamonn Walsh became aware of this allegation early in 2004. He called to see her daughter and urged her to make a statement to Fr Dennis Brennan, Diocesan Delegate, which she did. Fr Brennan also interviewed Bishop Comiskey and all persons who were present when the incident was alleged to have occurred.

Bishop Walsh reported the matter to the Metropolitan for the Diocese of Ferns, Archbishop Desmond Connell. Consequently, a report on the matter was presented to the Holy See as prepared by Monsignor Dolan, Chancellor of the Archdiocese of Dublin, at the request of Archbishop Desmond Connell on the advice of the Papal Nuncio. Bishop Comiskey was not interviewed during the preparation of this report. The report concluded that a delict had not been committed as regards the behaviour alleged but the fact that under the influence of alcohol Bishop Comiskey was alleged to have acted in such a manner was something that needed to be addressed to ensure that no repetition of such behaviour could take place.

The Inquiry has been informed by Bishop Comiskey that although he agreed to step aside from active ministry when this allegation was first made known to the Church authorities, he is now returned to ministry by the Congregation of Bishops. Bishop Comiskey has agreed to refrain from high-profile acts of Episcopal ministry.

GARDA SÍOCHÁNA HANDLING OF ALLEGATIONS OF ABUSE

In this Chapter, we look at the specific Garda response in all cases of child sexual abuse identified by the Inquiry as relevant to its Terms of Reference.

By letter dated 7 November 2003, Chief Superintendent David Roche wrote to the Inquiry confirming that the Garda Commissioner had appointed Superintendent Kieran Kenny, Crime Policy and Administration, Garda Headquarters, to act as Liaison Officer with the Inquiry and the Inquiry is most appreciative of the assistance provided to it by him throughout the course of its operation.

The Inquiry has identified ten priests operating under the aegis of the Diocese of Ferns about whom members of An Garda Síochána received complaints or allegations or had knowledge or clear suspicion of child sexual abuse whilst those priests were alive. Investigations were carried out by Gardai in respect of seven priests living at the date when the complaint was made. In one case, the Gardai recommended no prosecution should be instituted. In the remaining six cases, a prosecution was recommended. In only 3 cases did the DPP institute criminal proceedings. In two cases, convictions were secured and in the third case, proceedings were discontinued after the accused committed suicide.

FR JAMES DOYLE

Two complaints of child sexual abuse concerning this priest were made known to An Garda Síochána in 1980/1981. A further complaint made known to An Garda Síochána in 1990 resulted in Fr Doyle's conviction within a period of four months from the date of notification.

A Superintendent (now retired) confirmed that a complaint concerning Fr Doyle initially came to his attention from one of his detectives at Wexford Garda Station to the effect that the detective had received confidential information that Fr Doyle had interfered with children and altar servers in the area. He was not aware of the names of any alleged victims. The Superintendent told the detective that it would be necessary to have information from an injured party or other facts to secure a warrant for Fr Doyle's arrest. He understands that the detective pursued inquiries and involved other Gardai who were residing in the Clonard area, particularly those who had school-going children or children who acted as altar servers.

The Superintendent later learned of an incident involving Fr Doyle through a conversation with a colleague at Gorey station. The incident concerned a youth whom he believed to be approximately 17 or 18 years of age. The youth was hitchhiking to Dublin when he either entered Fr Doyle's car or refused to do so whereupon some form of inappropriate advance was made to him. The Superintendent was contacted by his colleague at Gorey and asked if he knew Fr Doyle. The Superintendent told his colleague whatever information he had about Fr Doyle and in particular that he knew of rumours surrounding Fr Doyle in relation to altar servers.

The Superintendent made it clear to this Inquiry that nobody would make a formal complaint and that the rumours emanated from people who would not provide details such as the names of alleged victims. He had instructed his investigating officers that they would need to obtain a formal statement from a victim in order to arrest Fr Doyle but no statements were forthcoming.

At this time, the Superintendent was contacted by Bishop Herlihy in relation to an unrelated matter and in the course of discussions with the Bishop, he mentioned the rumours surrounding Fr Doyle. The Superintendent stated that the Bishop gave him the impression that he was aware of these problems. The Superintendent also discussed the matter with the then parish priest of Clonard. He believes that the parish priest advised him that Fr Doyle had been sent or was being sent for treatment. These discussions took place in or about 1980/81.

In October 1982, Fr Doyle was sent to Professor Feichin O Doherty for psychological assessment.

The Superintendent was in contact with Bishop Herlihy over different matters on various occasions. He had no other dealing with Bishop Herlihy in relation to child sex abuse allegations and he never met with Bishop Comiskey. He left Wexford in 1983. He maintained a record of all incidents in his official journal and believes that the detective whom he instructed to investigate had done likewise. His notes were retained by him for a period of ten years following his retirement in 1987 but have now been destroyed.

The Inquiry spoke with a priest of the Diocese who confirmed he was approached by a Sergeant (now deceased and then based at Gorey station) in or about 1979 or 1980 in relation to a similarly described incident involving a complaint by a youth (described as being a member of the army) of sexual abuse or attempted sexual abuse by Fr Doyle when hitch hiking from Gorey to Dublin. This priest has told the Inquiry that he believed that the matter was being dealt with by An Garda Síochána at the time.

An incident involving abuse against Adam (4.2.3) occurred in 1990.

Garda Patricia O'Gorman was contacted on 27 July 1990 by Mr Joe Smyth, senior social worker in the Wexford area of the SEHB. A complaint of Indecent Assault had been made in respect of Fr James Doyle concerning Adam. Details were taken from Mr Smyth, Adam and his father by Garda O'Gorman, two days later. Fr Doyle was interviewed on the same day but did not make a statement and said he did not remember the incident although he did not deny the allegations when put to him.

Garda O’Gorman then interviewed the victim’s family and took statements from them.

In her report to the Sergeant in Charge at Wexford station, Garda O’Gorman stated that rumour and innuendo had surrounded this priest for the previous ten years. She commented that Bishop Herlihy had been made aware of the matter and it was arranged for Fr Doyle to receive psychiatric attention at that time. Garda O’Gorman recommended charges for a common assault on Adam.

The file was promptly sent to the State Solicitor who referred the matter to the DPP. The DPP directed that Fr Doyle should be prosecuted for indecent assault contrary to Section 62 of the Offences against the Person Act 1881 and for common assault. The Chief Superintendent and Garda Commissioner were duly informed.

Fr Doyle pleaded guilty to both charges at the trial of this matter in 1990 and was convicted of indecent assault and common assault and received a three month suspended sentence. The suspension arose from an undertaking given by Fr Doyle to the court that he would stay outside of the jurisdiction. Fr Doyle had been sent to Stroud in England, which was a treatment centre for priests by Bishop Comiskey some months before the trial date. The Garda Commissioner and the Department of Justice were informed of the outcome of the trial.

Shortly after the trial, the Superintendent contacted the Chief State Solicitor in relation to two newspaper reports on the outcome of the court proceedings which included photographs of Fr Doyle. The Superintendent sought instructions on whether the reports could be in contempt of court. The DPP directed that no action should be taken in relation to the matter.

The Inquiry is aware that two complaints were made to An Garda Síochána by Barry and his brother (4.2.4) in 2003. A file is currently being prepared for the Director of Public Prosecutions in respect of these complaints.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR DOYLE CASE:

- **The Inquiry is concerned that no record of any nature appears on Garda files in relation to Fr Doyle prior to 1990, in circumstances where at least three members of An Garda Síochána were aware of complaints of child sexual abuse made against him by young men and boys. The Inquiry was informed that a Superintendent and Detective Garda had kept proper notes in their official journals but these notes do not appear to have been maintained or readily accessible by Gardai in Wexford. The Inquiry was also advised that the information noted by the Superintendent was passed on as required by investigating Gardai to other Gardai living in the Clonard area. The Inquiry was told by the Superintendent that a record of such information was not kept at the Garda station in order to safeguard the constitutional rights of the suspected person. In the overriding interests of child protection, the Inquiry believes it is essential to maintain a record of all complaints, allegations and clear suspicion surrounding child sexual abuse and that these records should be available**

under proper conditions to members of the Gardai who are conducting investigations.

- **The Superintendent who spoke with the Inquiry believes that the practice of the Gardai in the 1980s would have involved monitoring of suspected offenders. Unfortunately, no Garda records evidencing such a response appear on files furnished to the Inquiry.**
- **In the view of the Inquiry, the handling by Gardai of the complaint by Adam was entirely appropriate.**

FR DONAL COLLINS

21 November 1994 – 22 November 1996

There is evidence that Church authorities in Ferns had known since 1966 of the sexual abuse of students at St Peter's College by Fr Collins. However, the first record of a complaint made or information provided to An Garda Síochána about this priest's sexual abuse of children was Rory's complaint (4.1.4), to the Superintendent at Wexford Station by letter dated 21 November 1994.

Detective Garda Pat Geoghegan took a statement from Rory on 11 December 1994 in relation to this complaint which was passed up the line to the Garda Commissioner in January 1995. Statements were also taken from Monsignor Breen and Bishop Comiskey. Monsignor Breen told Gardai that he found this complaint credible. In his statement, Bishop Comiskey said that he had no knowledge of Fr Collins's alleged abuse prior to Rory's complaint in 1994. In fact, Fr Collins had admitted to engaging in inappropriate conduct with young boys including Rory, in 1991 and again in 1993. Bishop Comiskey has told this Inquiry that he has no memory of making this statement to Gardai. Fr Collins refused to make a statement to Gardai.

On 19 April 1995, Edmund (4.1.7) made a statement to Garda Geoghegan in relation to sexual abuse by Fr Collins whilst at St. Peter's. Again, no statement was made by Fr Collins in relation to this complaint and Fr Collins refused to sign any notes taken by the investigating Gardai.

Sergeant Willie Walsh recommended to Superintendent Smyth that one charge be brought of indecent assault for each school quarter from 1975-1979 in relation to

Rory. With regard to Edmund, Sergeant Walsh recommended one charge of indecent assault for each school quarter from 1976-1979 together with a charge of indecent assault at a guesthouse in January 1978 and a charge of attempted buggery at St. Peter's between January and June 1979. The Assistant Commissioner was duly notified.

On 21 October 1995, Dylan (4.1.6) made a statement to Garda Pat Mulcahy in respect of Fr Collins.

On the 7 November 1995, the South Eastern Health Board sent Superintendent Kehoe of Wexford Station details of a complaint made by Darren (4.1.9) which had been received from the Diocesan Secretary on 25 September 1995. In his complaint, the abuser was not named but it appears that Fr Collins was identified. Fr Collins again denied the allegations and made no statement.

Detective Sergeant Walsh was instructed by Superintendent Keogh on 17 November to comply with all aspects of the DPP's directions, and attend to the matter "*as a first priority*". Detective Walsh reported to the Superintendent at Wexford on that date in relation to the three additional complainants, Dylan, Conor and Darren. He recommended prosecutions in respect of each complaint.

22 November 1995 – 23 April 1996

A warrant was issued to arrest Fr Collins on 22 November 1995 (one year after the initial letter of complaint by Rory to An Garda Síochána).

Fr Collins was charged and remanded on bail by Wexford District Court in December 1995. A Book of Evidence was prepared and the matter was adjourned to March 1996.

On 1 March 1996, the DPP wrote to the State Solicitor with directions on charges in respect of Conor and Darren and recommended that these be brought before the court on 6 March, when the case was adjourned to 3 April for submissions.

Richard (4.1.10) made a statement to a Garda at Enniscorthy Garda Station on 4 April in respect of sexual abuse by Fr Collins. This complaint was considered by the Gardai to be similar in nature to the complaint of Derek (4.1.8) which had been considered by the DPP in February and was not proceeded with on the DPP's directions, and not forwarded to the State Solicitor.

The criminal trial of Fr Collins was adjourned to November 1996.

Judicial Review Process 20 May 1996 – 31 October 1997

The Judicial Review proceedings came before the High Court on 14 occasions. The application was heard on 16 October 1997 and judgment was delivered on 31 October 1997, by Mr Justice Hugh Geoghegan who refused Fr Collins's application.

The reason for the delay in hearing the Judicial Review proceedings was the necessity on the part of the DPP of obtaining expert evidence to justify the apparent delay of the victims in reporting the abuse.

31 October 1997 – 25 March 1998

The criminal proceedings came before Wexford Circuit Court on 25 March 1998, when Fr Collins pleaded guilty to four charges of Indecent Assault and one charge of Gross Indecency. Evidence was heard from a psychologist who had been treating Fr Collins for four years, indicating that there was little chance of Fr Collins re-offending as he had accepted the reality of his behaviour. Fr Collins was sentenced to four years imprisonment on each charge, to run concurrently. The Judge, in passing sentence, said that she had been influenced by the effect of Fr Collins's actions on the lives of his victims. However, she indicated that she would review the position in one year due to Fr Collins's ill-health. Fr Collins was released from prison one year later.

23 July 1998 – 8 January 2003

A further complaint was notified to the Chief Superintendent of Wexford on 23 July 2002, in respect of Sam (4.1.1) by Fr Denis Brennan, the diocesan delegate. A statement was obtained from Sam by Garda Pat Mulcahy on 19 August 2002 and Fr Collins was interviewed in respect of this complaint but made no comment. The Gardai recommended seven counts of indecent assault in relation to Sam but the DPP directed that proceedings should not be taken because of difficulties which might arise in relation to judicial review proceedings.

The DPP believed that if Fr Collins had been prosecuted in relation to Sam at the same time as the previous offences brought before the court in 1998, it was unlikely that his sentence upon conviction would have been any greater than the sentence received. To wait until after the sentence was completed could be seen as prejudicing the suspect.

A further complaint was made known to An Garda Síochána in respect of this priest on 14 April 2003. However, a statement has not yet been made by this complainant.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR COLLINS CASE:

The Inquiry is satisfied that the investigation by An Garda Síochána was conducted in an appropriate and efficient manner and that the delay caused by the Judicial Review proceedings is not attributable to them.

FR SEAN FORTUNE

9 February 1995 – 1 November 1995

On 27 February 1995, Frank (4.5.12) made a formal complaint to Garda Patrick Mulcahy of Wexford station of child sexual abuse against Fr Fortune. This initiated a Garda investigation. Garda Mulcahy contacted former employees of Fr Fortune and other persons who could verify seeing Frank at Fr Fortune's house.

Garda Mulcahy informed his Superintendent of the complaint and a team was established to investigate the allegation consisting of Superintendent N. Smyth with Sergeant Quigley, Sergeant Walsh and Garda Mulcahy. As the investigations concerned the Garda district of New Ross, the Chief Superintendent of that district was informed of them.

These officers together with the Chief Superintendent of New Ross were the only persons privy to all of the information being compiled. Garda Mulcahy confirmed that there were weekly meetings with all four officers present as the case developed. Garda Mulcahy told the Inquiry that during the course of his investigation, he was told by the housekeeper's daughter that many boys were seen coming and going every weekend from Fr Fortune's house. He stated that once the investigation started "*it just mushroomed*" and he described it as "*a blister ready to burst*". He confirmed that he did not "*cold-call*" any person but merely reacted to complainants coming forward to him.

Garda Mulcahy commented upon Bishop Comiskey's co-operation with the investigation. He made contact with Bishop Comiskey on three occasions and on each occasion Bishop Comiskey declined to make a statement. He stated that Bishop Comiskey told him "*I spoke to your superiors the night before and I am making no statement.*" Bishop Comiskey has confirmed to the Inquiry that he was in contact with a senior Garda officer at that time. No statement was made by Bishop Comiskey in the course of this investigation. Bishop Comiskey has said that he was not asked for a statement and therefore did not give one. The Gardai have said that attempts to contact Bishop Comiskey with a view to taking a statement from him were unsuccessful.

In February 1996 upon his return to the Diocese almost a year into the Garda investigation, Bishop Comiskey offered the Gardai full access to all diocesan files on this priest although this had not been requested by the Gardai. By this time Fr Fortune had been arraigned on 66 charges before Wexford District Court and a Book of Evidence had been served on him. The Gardai did not require an examination of the diocesan files to be conducted at that time.

Three cases had been reported to Bishop Comiskey prior to Frank's complaint in 1995 namely, Simon (4.5.9) in 1985, William (4.5.10) in 1988 and Mark (4.5.14) in 1990. None of these complaints were communicated to An Garda Síochána until Frank had made his complaint in 1995.

During the course of his investigation, Garda Mulcahy received phone calls on an almost daily basis from Fr Fortune in relation to general progress being made with regard to these complaints. At all times, Fr Fortune denied the allegations describing them as "*a conspiracy of lies*".

Ten additional Garda statements were procured from victims of abuse by Fr Fortune. The statements that had been made related to a period of abuse between 1979 and 1987. Fr Fortune was arrested by Garda Mulcahy at 9.05 a.m. on 31 March 1995 and released at 5.40 p.m. on the same day.

Garda Mulcahy compiled a report following his investigation of all complaints which was sent to Superintendent James Kehoe of Wexford Division on 27 June 1995. Superintendent Kehoe sent Garda Mulcahy's report to Mr J. McEvoy, State Solicitor, on that date, seeking a direction from the DPP. The Commissioner was informed of this report on 24 July.

On the then Assistant Commissioner, Noel Conroy's recommendation, the complaint by Charles (4.5.6) was referred to the RUC as the abuse was alleged to have occurred in Belfast. A similar decision was made by the DPP in relation to Luke (4.5.20).

The State Solicitor wrote to the DPP enclosing Garda Mulcahy's report on 1 August 1995 (5 weeks after his receipt of the report). The DPP directed prosecution in relation to eight complainants and directed that further information be obtained. These directions were received by the Superintendent at Wexford Division on 27 October 1995.

1 November 1995 – 11 November 1996

An arrest warrant was eventually issued in respect of twenty two charges on 1 November 1995, as directed by the DPP. Owing to Fr Fortune's unexplained absence, the warrant could not be executed until 15 November 1995, when Sean Fortune surrendered himself at Wexford Garda Station.

Fr Fortune appeared before Wexford District Court on 15 November 1995 arraigned on 22 sexual abuse charges. Detective Garda Mulcahy gave evidence on oath of arrest, charge and caution and told the court that he had arrested Fr Fortune that morning on foot of the warrant. Garda Mulcahy told the court that his application was for an adjournment to 6 December. Fr Fortune was remanded on bail and his passport was handed into Court. On 6 December, Fr Fortune appeared again at Wexford District Court when he was remanded on continuing bail to the same court on 18 January 1996.

On 18 January 1996, forty four additional charges were served against Fr Fortune, and on 22 January, a complete Book of Evidence was served on him.

The case was adjourned on several occasions until 23 September 1996, when the case was sent forward for trial to Wexford Circuit Court. During this period, the Assistant Commissioner and Commissioner were notified of all developments.

Judicial Review Process - 11 November 1996 – 17 December 1997

On 11 November 1996, Fr Fortune was granted leave by Mr Justice Geoghegan to apply for Judicial Review for the prohibition of his criminal trial. The criminal proceedings were adjourned accordingly pending the outcome of this Judicial Review.

As part of the Judicial Review process, reports were prepared by Mr. Alex Carroll, Senior Clinical Psychologist, in relation to eight of the complainants, with a view to providing his expert opinion as to the reasons why these complainants failed to make a complaint at the time when the incidents of abuse were taking place. These complainants were assessed from 27 December 1996 until 14 February 1997. An affidavit was prepared by Mr. Carroll and filed and served on behalf of the DPP in March 1997.

The Judicial Review hearing was initially listed before the High Court for 14 April, 1997, and was thereafter adjourned until 13 May in order to allow the DPP deliver further affidavits. In all, the DPP delivered twelve affidavits including seven by individual complainants, four by investigating Gardai, and one by the expert psychologist. The Judicial Review hearing occurred on 2 and 3 December 1997, at which time judgement was reserved.

On 17 December 1997, Mr. Justice Geoghegan in the High Court delivered a judgment refusing all reliefs claimed on behalf of Fr Fortune other than in respect of William's complaint (4.5 10) where an order of prohibition was granted.

17 December 1997 – 12 January 1999

A Notice of Appeal to the Supreme Court was filed and served on 28 January 1998, by solicitors on behalf of Sean Fortune. The DPP cross-appealed against that part of the High Court Order of 17 December 1997, which restrained him from proceeding with regard to the complaint of William. The appeal was withdrawn by Fr Fortune in November 1998. The cross appeal in respect of William was heard on 12 January 1999, and the Supreme Court allowed this prosecution proceed. The Chief Justice indicated that the Supreme Court would give its reasons at a later stage but directed that the criminal proceedings should continue in the meantime. The Supreme Court gave its reasons on 30 June 1999.

12 January 1999 – 23 March 1999

A special sitting of Wexford Circuit Court was arranged for 2 March 1999 where, after hearing submissions from both sides, Judge Joseph Matthews decided that the issue of Fr Fortune's mental health and his fitness to stand trial should be decided by a jury. Fr Fortune was remanded in custody.

On 5 March 1999, Fr Fortune formally applied for and obtained bail at the High Court.

Fr Fortune took his own life on 13 March 1999, and on 23 March 1999, the criminal case against Fr Fortune was struck out at Wexford Circuit Court.

Sergeant Brendan Kelly compiled a report on Fr Fortune's suicide (including reports obtained from the coroner and toxicology labs) for the Superintendent in New Ross on 6 August 1999. A copy of the report was passed to the Assistant Commissioner and Department of Justice, Equality and Law Reform. The Garda investigation into Fr Fortune's suicide has already been dealt with at Chapter 5 of this Report.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR FORTUNE CASE:

- The Inquiry believes this case was handled in a professional and effective manner at all stages. This was repeatedly acknowledged to the Inquiry by various complainants and other witnesses. Garda Mulcahy was particularly praised for his part in the investigation.
- The Inquiry believes that the successful handling of the Fr Fortune case was facilitated by a number of complainants who were prepared to make clear statements to the investigating Garda and to co-operate fully with the criminal prosecution.
- Again, the Inquiry recognises that an application for Prohibition by way of Judicial Review proceedings by an accused may cause significant and often unavoidable delay.
- The Inquiry is concerned at the level of cooperation extended to the Gardai at the initial stages of their investigation by Bishop Comiskey. Bishop Comiskey did not make a statement to the investigating Garda although he has stated that he was in communication with senior Gardai at the time. He did not volunteer diocesan files relating to Fr Fortune to Gardai which would have facilitated the investigation until a year after the investigation had commenced by which time they were not required by the Gardai. The Inquiry is aware that Bishop Comiskey was out of the country from September 1995 until February 1996.

FR JAMES GRENNAN

This case represents the first recorded allegation of child sexual abuse by a member of the diocesan clergy dealt with by An Garda Síochána. The case was comprehensively reviewed by An Garda Síochána in 1996. It must be viewed in the context of the time, in which the original complaints arose in May 1988.

(i) 1988

Garda Donal Behan was living in Monageer in 1988 when former Superintendent Vincent Smith gave him a copy of the report of Dr Geraldine Nolan dated 5 May 1988. He told the Inquiry that Superintendent Smith instructed him to speak with the girls identified in the report. Garda Behan interviewed the seven girls in the presence of their parents and took statements from them. He was assisted by Garda James Sheridan and Sergeant Jim Reynolds.

Sergeant Reynolds recalled Superintendent Smith instructing him to deliver immediately to Superintendent Smith, the statements which had been taken. Sergeant Reynolds told him that the statements were not yet typed or copied and that he had no covering report prepared. However, he was instructed to hand over the files notwithstanding this and accordingly he handed the statements to Garda Behan and directed him to take the statements to Superintendent Smith and could not, as a result, retain any copies. He had no further input into the case after this point.

Garda Behan has stated that he believes that the matter should have been fully investigated and the statements sent to the law officers for a direction as he thought that the matters complained of were of a criminal nature.

Garda Behan told the Inquiry that Superintendent Smith later informed him that he had discussed the matter with Chief Superintendent Doyle. Garda Behan stated; *"I concluded at the time that it was just quashed and that was it"*. Garda Behan confirmed that he never met with any member of the South Eastern Health Board or the Diocese.

Superintendent Smith recalled a man from the South Eastern Health Board, believed to be Dr Patrick Judge who was Director of Community Care at the time, calling to his office in relation to complaints about Fr Grennan in May 1988. He recalled visiting the parents of some of the children who made complaints. He stated that some of these people were anxious not to have any investigations carried out for fear that it would upset the children. He then recalled former Chief Superintendent Doyle enquiring about the investigation and requesting to see the statements. On foot of this request he contacted the Garda station in Ferns and requested the statements from the alleged injured parties to be brought to his office. He confirmed receipt of them,

reading them and being satisfied that there was evidence that the children had been molested by Fr Grennan.

Superintendent Smith then travelled to Wexford Garda station and gave the statements to Chief Superintendent James Doyle. He stated that Chief Superintendent Doyle read the statements and handed them back to him without comment on them. Superintendent Smith retained the statements but was not satisfied that there was sufficient corroboration to justify further action. He stated that he has no idea what became of the statements but is adamant that he did not dispose of them. He retired from An Garda Síochána in August 1989. He stated that nobody influenced him in relation to this case.

Superintendent Smith stated that he was reluctant to prosecute Fr Grennan and thought it would only damage the complainants further. He accepted that he should have sent the file to the DPP with a recommendation not to prosecute rather than take that decision himself. He had no doubt that the complainant girls were interfered with and he knew that the matter was serious but thought that a prosecution was not the answer. He confirmed that he did not inform Garda Behan and Sergeant Reynolds of his decision not to prosecute. He assumed when Chief Superintendent Doyle did not ask him how matters were progressing that he would not take any action.

Chief Superintendent Doyle recalled being informed by Superintendent Smith in May 1988, of the allegations of sexual abuse of school children in Monageer by Fr Grennan. He confirmed attending with Bishop Comiskey at the Bishop's house to tell him of the allegations and that some of the parents had threatened to take their children off the altar if Fr Grennan appeared at the Confirmation ceremony. He stated that he had no doubt whatsoever when leaving Bishop Comiskey that the Bishop was aware and understood the nature of the allegations. He also confirmed that Bishop Comiskey did not attempt to exert any pressure or influence on him. He stated that he never saw a file, the statements of the children or a Health Board report on the matter which is in conflict with Superintendent's Smith recollection of bringing the files to him to Wexford Garda Station. Chief Superintendent Doyle said his visit to Bishop Comiskey was his sole involvement in the case.

Garda Tony Fagan told the Inquiry that he was requested by Chief Superintendent Doyle to ask Fr Grennan to absent himself from the parish during the impending Confirmation ceremony. He reported to Chief Superintendent Doyle that Fr Grennan appeared prepared to visit an uncle or other family member in Wexford. He then recalled being contacted by a solicitor in Wexford Town questioning his authority to order a priest to leave his parish.

(ii) 1996

On 6 February 1996, Mr Garry O'Halloran of the South Eastern Health Board sent a letter to the Garda Commissioner and the Minister for Justice in relation to the Monageer incident. The Garda Commissioner appointed Detective Superintendent Dermot Dwyer to carry out an investigation on 12 February 1996, assisted by Detective Sergeant Kelleher.

During the course of the investigation by Superintendent Dwyer, the investigating officers became aware of a fourteen year old boy (Fergus 4.4.5) who had been receiving treatment allegedly as a consequence of sexual abuse by Fr Grennan who had died on 10 May 1994. The boy's mother made a statement to the Gardai. However, this allegation was not within the brief of the investigating officers.

A report was compiled by Superintendent Dwyer on 10 June 1996, which detailed the Garda and Health Board investigations into the allegations. The report concluded that the original investigation was poorly directed and displayed a marked reluctance to intervene with the clergy. The matter was not investigated fully as the senior investigating officers apparently believed that there was not sufficient corroboration to justify taking the matter further. In addition, no directions were sought from the DPP. According to the report, the defective investigation was mainly the fault of the Superintendent, although it was noted that the Chief Superintendent did not follow up the matter. The initiation of criminal proceedings against the officers concerned for subverting the course of justice was considered but the report recommended that no charges be brought. It also concluded that there was no evidence of any collusion between Church and State organisations to stifle, obstruct, or abandon the investigation.

Superintendent Dwyer wrote to the Assistant Commissioner on 5 June 1997, reporting that the investigation had concluded. The file was not forwarded to the DPP as there was no evidence to suggest that the offence of subverting the course of justice had taken place. In fact, the investigation report had recommended that this matter be referred to the DPP.

The Superintendent recalled meeting with Bishop Comiskey during the course of his investigation. He was surprised that Bishop Comiskey did not make enquiries in relation to the Garda process – a process which the Bishop clearly relied upon. He suggested that Bishop Comiskey could have insisted upon the Garda process being officially completed and sought reports on progress. However, he also believes that Chief Superintendent Doyle, who was on friendly terms with Bishop Comiskey, would have spoken to him about the matter in any event. He was surprised that none of the parents of the complainants made any enquiries about the progress of the investigation. He said that he could not fault the Garda investigation at local level.

He understands that all cases of this nature would now invariably be sent to the State Solicitor for forwarding to the DPP for a direction.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR GRENNAN CASE:

- **The Inquiry believes that the response of An Garda Síochána to the complaints made in 1988 was wholly unsatisfactory and it endorses the findings by Superintendent Dwyer in this regard and it regrets that the report was not forwarded to the DPP as recommended by the investigating officers.**

- The Inquiry considers it important to ensure that all complaints and allegations relating to child sexual abuse are fully investigated in an expeditious and professional manner and a report sent to the DPP in all such cases at the earliest possible opportunity.
- The Inquiry is satisfied that current procedures render it extremely improbable that a file on a serious Garda investigation would not be referred to the DPP for his directions and advice. Moreover, facilities are available to any complainant who believes that his complaint has not been adequately or effectively investigated to report the matter to another station or level of An Garda Síochána, the State solicitor or indeed, the DPP.
- The Inquiry is of the view that where a complaint of sexual abuse is made by females, particularly in the case of sexual abuse of a minor, then at least one member of the investigation team should be female. The complainants in this case have stated to the Inquiry that they were very upset at having to make statements to a young male Garda who was also a neighbour. This was not a criticism of the Garda in question who handled the matter with sensitivity and discretion but was a criticism of Garda practice at the time.

FR ALPHA

(i) 1995 – 2002

On 27 November 1995, Edward (4.3.1) made a formal statement of complaint to Garda Tom Murphy at Enniscorthy Garda Station alleging sexual abuse perpetrated by Fr Alpha over a period of approximately five years from 1974. Edward had made a previous informal complaint and it was recommended that he should think about the allegation before making a formal complaint. Edward was then advised by Garda Murphy to seek counselling and did so.

On 17 February 1996, Eric (4.3.3) made a complaint to a Sergeant at Enniscorthy Garda Station alleging sexual abuse by Fr Alpha in 1992 or 1993. Eric told the Inquiry that he felt pressurised into making a statement and as a consequence the full extent of the abuse suffered by him was not revealed. The Sergeant recalled Eric as being anxious to make a statement and stated that the Gardai had been in contact with the South Eastern Health Board prior to his attendance at the Garda station. On 23 April 1996, Eric requested the withdrawal of his initial statement.

This Sergeant and another member of the Gardai interviewed Fr Alpha on 1 March 1996. In the statement taken, Fr Alpha is recorded as admitting to a sexual relationship with Edward from 1978 – 1981/2. Edward was 19 years old in 1978. This is a matter of considerable contention between Fr Alpha and the two Garda members. Fr Alpha denies he ever made such an admission but the two Garda members are clear that their statement is accurate. The Inquiry cannot resolve this issue. The Sergeant met with Fr Alpha again on 11 March 1996. Fr Alpha informed the Inquiry that at this meeting, he came under considerable pressure to repeat his alleged admission made during the course of the previous interview. Fr Alpha described the conduct and manner of both interviews as threatening and aggressive. The Gardai do not agree with Fr Alpha's account in this regard.

The Garda Sergeant prepared an initial report for Superintendent Moynihan on 15 May 1996. Charges of Gross Indecency by Fr Alpha against Edward between 1 January 1974, and 1 December 1979 were recommended. No recommendations were submitted in respect of Eric as he had withdrawn his complaint at that time.

On 10 May 1996, the Superintendent sent the report to the State Solicitor for forwarding to the DPP. The DPP agreed with the recommendations of the Superintendent. Between July and September 1996, the DPP sought further information in relation to Edward's statement.

On 17 September 1996, a statement was made by Gavin (4.3.2) alleging sexual abuse perpetrated by Fr Alpha. In that statement, Gavin mentioned that he complained of sexual abuse by Fr Alpha to the Spiritual Director of St Peter's College during his time as a student there in the late 1980s. The Spiritual Director was not interviewed at any stage of the investigation. Gavin was annoyed that this aspect of his statement was not properly investigated by An Garda Síochána. The Inquiry also notes that no direction from the DPP, who had been furnished with Gavin's statements, touched upon this issue.

A report was submitted to the State Solicitor, who in turn submitted it to the DPP on 20 September 1996. On 25 September, the DPP requested an additional statement from Gavin accounting for the delay in making the complaint.

In his initial statement, Gavin made reference to photographic images of him semi-naked being retained at Fr Alpha's house. He expressed to the Inquiry his dissatisfaction that no search had been carried out on the premises for such material. However, An Garda Síochána did not possess search powers in relation to such material until the enactment of the Criminal Justice (Miscellaneous Provisions Act) 1997.

A second statement was obtained from Gavin on 15 October 1996. Fr Alpha was interviewed on 14 November 1996 and all statements were sent to the State Solicitor by the Sergeant on 28 November 1996.

On 19 November 1996, Superintendent Moynihan received notification of a complaint by Fr Alpha in the form of a letter written by his solicitor. The complaint related to allegations of sexual assault by Gavin. The Superintendent forwarded Fr Alpha's letter to the State Solicitor on 21 January 1997.

Fr Alpha was interviewed by another Garda Sergeant from Blackwater Station in March 1997. In that interview, Fr Alpha reiterated his counter-complaint of sexual abuse against Gavin. A statement was made by an employee of Fr Alpha in support of Fr Alpha's counter complaint.

Gavin told the Inquiry that when attending with the Garda Sergeant on 17 September 1996 (his initial attendance), he expressly stated prior to making his statement that he had returned to Fr Alpha as an adult when sexual relations resumed. He explained to the Inquiry that he was told by the Sergeant that it would not be necessary to go into detail in relation to this aspect of the complaint. This is vehemently denied by the Sergeant in question. The statements in relation to Fr Alpha's counter claim were sent to the DPP by the State Solicitor on 10 April 1997.

On 24 March 1997, Eric re-entered his original complaint with two amendments. He confirmed that he had withdrawn his original complaint owing to family pressures that had arisen as a result of a note of a meeting between him and Bishop Comiskey being transmitted to his father through a diocesan official. The updated statement was forwarded to the DPP on 29 April.

The DPP responded on 13 May, stating that there should be (i) no prosecution relating to Edward because of a difficulty in proving a lack of consent, and (ii) no prosecution relating to Eric due to inconsistencies in the statements made.

The DPP was undecided at that time in relation to the allegations by Gavin.

On 13 May, Gavin made a statement addressing the points of Fr Alpha's allegation and stating that his behaviour on that occasion was attributable to Fr Alpha's long-standing abuse of him throughout his youth. On 4 June, the Sergeant, who had taken the original statement from Gavin, wrote to the Superintendent Moynihan stating that it would be unsafe to proceed with a prosecution in this case. The DPP advised by letter dated 23 June, that there should not be a prosecution of either Fr Alpha or Gavin in this case.

On 15 September 1997, Eric made another statement. This was added to his file which was sent to the DPP on 1 October. On 31 October, the DPP requested detailed reports in respect of Eric's psychiatric and psychological condition with reference to medical and Health Board reports.

In September 1998, Eric wrote to the Gardai instructing them to discontinue their investigation. He stated that he believed that the first statement he had made was more accurate and this statement had already been considered by the DPP with directions not to prosecute.

On 3 March 1999, the DPP confirmed that a prosecution in respect of Eric's complaint would be unsafe, even before he considered Eric's letter of withdrawal of September 1998. Fr Alpha has informed the Inquiry that he was not made aware of this decision at this time and that as far as he was concerned the investigations were continuing. He has stated the the stress and anxiety of this seriously impacted on his health at that time.

By that time, all complaints made to An Garda Síochána against this priest had been decided upon by the DPP. The Garda files do not evidence further formal Garda contact with any alleged victim of Fr Alpha until April 2002.

(ii) 2002 – 2003 - GAVIN

On 16 September 2002, Gavin made a complaint to the Gardai of buggery allegedly perpetrated against him by Fr Alpha when he was aged 8 or 9 years. This complaint was made to Garda Thomas Murphy of Enniscorthy station and gave rise to Fr Alpha's arrest on 21 November 2002 at 9.50 am. Fr Alpha was released at 3.43 pm on that day.

In December 2002, a report was compiled for the DPP with a recommendation that there was a lack of independent evidence to sustain a prosecution. In April 2003, the DPP directed no prosecution in respect of this case.

(iii) 2002-2003 - ERIC

In April 2002, Eric made a written complaint to Gardai at a Co Wexford Station repeating his complaint in respect of sexual assault and adding a new complaint of Buggery.

Arising from this complaint, Fr Alpha was arrested in August 2002, and brought to Enniscorthy station at 10.49 am and released at 4.18 pm on that day. In January 2003, a Garda report recommended a prosecution for sexual assault and buggery in respect of Eric. The Superintendent of Enniscorthy Garda station sent the report to the State Solicitor on 23 January 2003, agreeing with this recommendation and pointing out that whilst Eric's evidence showed inconsistency it was corroborated by other witnesses.

In April 2003, the DPP directed no prosecution in respect of this case.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR ALPHA CASE:

- The Inquiry is satisfied that the different issues raised by the complainants in this matter were investigated by Gardai in an effective and professional manner over a lengthy period with commendable sensitivity.
- The Inquiry believes that this case illustrates the difficulty encountered by Gardai in investigating cases involving child sexual abuse. These are offences for which corroborative evidence can be difficult to obtain. Furthermore, the impact of child sexual abuse on complainants is recognised by psychologists as often impairing their ability to make clear and concise statements in relation to their experiences.

- The Garda investigation coincided with the first diocesan investigation under The Framework Document and illustrates the potential conflict to which such duplication may give rise. The Inquiry is informed that the disclosure of Eric's statement to his father in the course of this diocesan investigation led to his being forced to withdraw his original statement to the Gardai. The Inquiry has been informed by the Garda Authorities that the investigation carried out by the Diocese did not adversely affect Garda investigations in any other way.
- The initial complaint against this priest was made to Gardai in November 1995 and detailed inquiries continued until March 1999 when the DPP decided against any prosecution against Fr Alpha. In September 2002 further allegations were made and investigations continued until April 2003. In circumstances where allegations are made at such intervals the continuing uncertainty for the priest against whom these allegations are made is inevitable but regrettable. Fr Alpha has informed the Inquiry that he was not aware of the DPP decision not to prosecute which was taken in 1999 and therefore for him, the Garda investigation appeared to continue uninterrupted for a period of eight years. The Inquiry would regard it as most unusual that an accused person would not be informed of decisions taken by the DPP and would recommend that such information should be communicated as soon as possible.

CANON MARTIN CLANCY

By letter dated 2 June, 1991 Clare's father wrote to Canon Clancy alleging that he had abused his daughter and threatening to report the matter to An Garda Síochána unless a payment of IR£20,000.00 was made. Clare (4.7.4) had made a written complaint to Bishop Comiskey in relation to such abuse on 1 May 1991. That letter was not provided to Gardai. The letter from Clare's father was forwarded to the diocesan solicitors and thereafter sent to An Garda Síochána. Two members of the Gardai called to Clare's home in early 1992 with instructions to investigate the matter.

A Garda Superintendent (now retired) informed the Inquiry that he advised Clare's father, in a Garda patrol vehicle outside the family home, that it would be more prudent to make a formal complaint rather than to seek a payment from the priest. The second Garda who was present at this meeting, a retired Sergeant, confirmed the Superintendent's account. The Superintendent heard nothing further in relation to the complaint against Canon Clancy but the Sergeant informed the Inquiry of rumours surrounding Canon Clancy in respect of which no actual complaints were made.

This Sergeant recalled being told by an anonymous lady of abuse by Canon Clancy at Killealy from 1978-1981 about which she refused to make a formal complaint. He also told the Inquiry that he received a letter from the office of the Garda Commissioner in or about 1981 enquiring if he had any further information of complaints made against Canon Clancy. He replied advising that he had heard rumours but no official complaint had been made and he would not investigate on the basis of such rumours without a written direction from the office of the Commissioner. No such direction was issued. Such correspondence has not been sighted by the Inquiry.

In May 1993, Canon Clancy died.

In February 1996, Clare's mother wrote to Fr Cosgrave, diocesan delegate, referring to abuse alleged by her daughter. In that letter she adverted to Gardai calling to her home in 1991/1992 in respect of the original complaint. Fr Cosgrave notified Superintendent Moynihan of this allegation pursuant to The Framework Document. The matter was investigated by Superintendent Kehoe at the direction of Superintendent Moynihan. The Superintendent met with Clare's mother who was upset about the matter. She explained to the Superintendent that Gardai had called to their home uninvited and spoke with Clare's father telling him not to talk about the alleged abuse and not to go to the press. Clare's father had died in the meantime and the Inquiry was unable to pursue the apparent conflict of accounts further. No Garda record was made in relation to the 1991 meeting.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE CANON CLANCY CASE:

- **The Inquiry was shocked at the extent of sexual abuse allegedly perpetrated by this priest in the Diocese of Ferns over a period of some thirty years. The Inquiry is satisfied that rumour, suspicion and innuendo had come to the attention of members of the Gardai as well as members of the teaching profession, the medical profession, the Church and the general public and were never acted upon.**
- **The Inquiry is concerned that no record was kept of the allegation of abuse on behalf of Clare. The Garda files do not include the letter from the diocesan solicitors in 1993 informing Gardai of the alleged abuse.**
- **The Inquiry appreciates the difficulties which would be involved in conducting an investigation of allegations of child sexual abuse without the co-operation of the victim but the Inquiry is strongly of the view that in this case, where, in addition to the written complaint by Clare's father, Gardai were aware of rumours surrounding the priest concerned, that some effort should have been made to probe the matter and create a record for further information.**

MONSIGNOR MICHAEL LEDWITH

(i) RAYMOND

On 5 January 1995, Dr A. Rogers, acting Director of Community Care, wrote to Chief Superintendent Murphy in Wexford with notification of information received from Bishop Comiskey in relation to allegations of sexual abuse against Monsignor Michael Ledwith. Dr Rogers had met with Bishop Comiskey on 23 December 1994 and was informed of the allegations made by Raymond (4.6.2) - Bishop Comiskey would not identify him further. Raymond alleged that he had been abused by Monsignor Michael Ledwith in the mid 1980s when he was aged approximately 14 years.

The Chief Superintendent met with Dr Rogers and Dr Liddy and in January 1995, gave the file to Superintendent Smith in Wexford for investigation.

In February, Bishop Comiskey wrote to the relevant Health Board and Superintendent Smith stating that the complainant had refused to allow the Bishop to disclose his identity. However, Bishop Comiskey did provide the name of Raymond's solicitor.

In May 1995, Superintendent Smith, then in Naas, prepared a report for the Chief Superintendent in Wexford. The report stated that the Superintendent had contacted the complainant's solicitors who were not prepared to release the identity of the complainant. The Assistant Commissioner was notified on the following day.

In July 1995, the Chief Superintendent of a different area was advised by Inspector Kerin that Monsignor Ledwith had a holiday home and Gardai had conducted a limited surveillance on that premises with a view to ensuring that young persons were not frequenting it. Such surveillance did not produce any evidence of wrongdoing on the part of Monsignor Ledwith. It was pointed out by Gardai that surveillance is a resource not available for every investigation and it is usually carried out on the basis of specific information.

Between July 1995 and February 1996, several attempts were made by Gardai to encourage the alleged victim to meet with them and report the matter. Further inquiries were also made at various locations where Monsignor Ledwith, lived, worked and holidayed.

On 2 February 1996, Superintendent James Kehoe wrote to the Chief Superintendent with a report on the matter. This stated that the family of the complainant would still not cooperate with the Gardai. Further updates were sent in June and August 1996, from the investigating officers confirming that there had been no change in the case.

(ii) SHANE

On 19 April 2000, Detective Garda Malachy Dunne met with Shane (4.6.3) as a result of contact from a firm of solicitors. A detailed statement of complaint was taken in relation to allegations of sexual abuse by Monsignor Ledwith at St. Patrick's College Maynooth on two occasions in November 1994. These allegations were categorically denied by Monsignor Ledwith.

As a result of the allegations made, twelve people were interviewed and provided Garda statements. The interviews uncovered a number of inconsistencies in the original statement made by Shane.

On 31 May 2001, Garda Dunne met again with Shane. During the meeting, Shane indicated that the incident described in his first complaint was inaccurate. He then claimed that what had been alleged as abuse was consensual. On 20 June 2001, the allegations of criminal wrongdoing were retracted. Following Shane's retraction of the allegations made, Garda Dunne informed all relevant persons. Monsignor Ledwith vehemently denied that any relationship with Shane occurred.

In May 2002, a file was prepared for the DPP recommending that because of Shane's psychological state of mind, a prosecution for making a false statement should not be pursued. In November 2002, the DPP directed no prosecution in respect of either Monsignor Ledwith or Shane.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE MONSIGNOR LEDWITH CASE:

The Inquiry is satisfied that An Garda Síochána carried out as full and effective an investigation of the allegations made on behalf of Raymond as could have been undertaken without his co-operation.

The complaint by Raymond illustrates the dilemma faced by many complainants of sexual abuse who, whilst wishing to see the perpetrator punished, are fearful of being identified as a victim of such abuse. Even if he was granted confidentiality by the courts, details of the evidence could identify him and he was understandably concerned about the effect that would have on his family. The Inquiry believes that this is one of the main impediments to victims making a complaint to the Gardai. The Inquiry believes that this fear, whilst understandable, is not properly informed. The Courts can and do effectively protect the identity of victims in sexual abuse cases.

The comprehensive investigation of the allegations made by Shane are noteworthy as an illustration that such investigations may provide an effective protection for those who believe themselves wrongly accused of a criminal offence.

FR DELTA

On 11 October 2002, Fr Denis Brennan, diocesan delegate, notified Inspector Thomas Dixon of the Domestic Violence and Sexual Assault Investigation Unit, Harcourt Street, Dublin 2 that information came to the attention of the Diocese relating to a complaint by Bill (4.10.1) of child sexual abuse. The alleged victim was not identified in this notification. Fr Brennan noted in that letter that he made contact with the alleged victim to see if he was prepared to confirm or deny the allegation. He would do neither and said he wished to hear no more about the matter. Chief Superintendent Camon of the National Bureau of Criminal Investigation confirmed that where Gardai had no complaint, it could not undertake an investigation, and if the alleged victim did not wish to report the matter to the Gardai there was nothing the Gardai could do. He stated in a letter to Superintendent Saunderson on 4 January 2003, *"I do not feel that we should approach [Fr Delta] or cast any aspersions on him without a statement of complaint."* Superintendent Gallagher of the Child Abuse Special Investigations Unit at Harcourt Street raised the question with the Superintendent at New Ross Garda Station at 2 October 2003, of whether or not a child care issue arose in the matter, in light of Fr Delta's current residence. This query was repeated on 22 April 2004, and a reply to same does not seem to have been made.

On 15 April 2003, Fr Denis Brennan wrote to the Chief Superintendent at Wexford station in relation to a complaint against this priest by Terry (4.10.2.). That letter of notification appears not to have been received and as a result of there being no acknowledgement, Fr Denis Brennan, the diocesan delegate wrote again to Chief Superintendent Murphy on 15 November 2004 (over one and a half years later). The Chief Superintendent forwarded that letter to the District Officer at Wexford and a local Sergeant was nominated as investigating officer. The Sergeant met with Terry on three occasions and spoke with him on two other occasions by telephone. He stated that Terry had received legal advice and did not wish to pursue the matter any further. Accordingly, no further Garda action could be taken and Fr Brennan was so advised.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR DELTA CASE:

- **This case aptly highlights the necessity of a willing complainant in order to pursue properly a Garda investigation. The Inquiry is satisfied that Gardai made sufficient efforts to procure the co-operation of the complainant and could not proceed any further in the absence of the complainant.**
- **The Inquiry is concerned at the failure of the Gardai to acknowledge the notification of this allegation by the Diocese.**

FR UPSILON

In July 1998, a complaint made by Denis (4.17.1) was notified by the South Eastern Health Board to Enniscorthy Garda Station. Denis had made a complaint of sexual abuse against Fr Upsilon to a social worker in Dublin one week earlier. That complaint was immediately communicated to the South Eastern Health Board, the area in which Fr Upsilon resided. The alleged abuse took place in the late 1970s and early 1980s. The Diocese of Ferns was notified of this complaint by this Inquiry.

The Gardai at Enniscorthy notified the Superintendent at Wexford of the complaint and recommended that the file be forwarded to the local Garda station where the complainant resided so that a statement of complaint could be taken from the alleged victim. A few weeks later, Denis was informed by Gardai that his complaint had been made known to them. He attended his local Garda station approximately one month after making the complaint to the social worker, and made a statement that he had withdrawn his complaint against Fr Upsilon and did not want an investigation in the matter to continue. The Superintendent at Wexford was then furnished with the original Garda file on the matter and all Gardai involved in the investigation were informed that the matter could not be pursued because of the objection of the complainant.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR UPSILON CASE:

- It is accepted that Gardai cannot act or be expected to act where a complaint has been withdrawn.
- The Inquiry is satisfied that adequate measures were taken by Gardai from the time they received notification of the complaint until the time it was withdrawn.

FR GAMMA

Ten females made statements of complaint to An Garda Síochána alleging indecent assault by Fr Gamma. Three of these complainants were made known to An Garda Síochána by the Diocese of Ferns. On 28 May 2002, the Diocese notified Gardai of Julie's complaint (4.9.1). Julie made a statement of complaint to a female Garda in

July 2002 and a further statement in October 2002, in relation to sexual abuse alleged during the 1970s. In her initial statement, Julie alleged sexual abuse which occurred in 1974 but on An Garda Síochána checking records, it was confirmed that the abuse could only have occurred in 1976 as alleged. A file was sent to the DPP in June 2003. In July 2003, at the request of the DPP, Julie made a further statement explaining that the delay in her making a statement of complaint arose from the issue of child sex abuse becoming heightened in terms of public awareness as a result of recent media coverage.

In October 2002, a local curate met with Grace (4.9.2). She alleged sexual abuse against Fr Gamma but did not wish to meet with Gardai about her complaint. The curate spoke with a local Garda at Tinahely Garda Station in October 2002 in relation to this complaint. He then alerted Fr Brennan, diocesan delegate, to the matter. He said that he had several discussions with the local Garda in relation to parish records and dates. In November, 2002, the diocesan delegate made a notification to the Gardai of child sexual abuse against this priest by Grace. Grace made a statement to the Gardai describing the abuse which she suffered from 10 to 13 years of age during the early 1970s. Grace made a further statement to Gardai in July 2003, explaining that she only became encouraged to make a complaint as a result of a recent Prime Time television programme.

A complaint was made by Orla (4.9.4) to Gardai directly in November 2002. Orla complained of four incidents of child sexual abuse during the 1980s when she attended Fr Gamma during confession. She explained that the delay in making her statement arose from a belief she held that she would not be believed.

Bernadette (4.9.5) made a statement of complaint of child sexual abuse directly to An Garda Síochána in July 2002 in relation to events which occurred when she was 7 or 8 years of age. Gráinne (4.9.6) made statements to An Garda Síochána in November, 2002, and in July, 2003, in relation to abuse which occurred when she was approximately 10 years of age. She also stated that the reason for her not making a complaint sooner was that she did not think she would be believed. Caroline (4.9.7) made a statement of complaint to An Garda Síochána in November 2002. She was 18 years of age when the alleged abuse occurred. Hilary (4.9.8) made a statement directly to An Garda Síochána in January 2003, in relation to sexual abuse against Fr Gamma which occurred when she was approximately 11 years of age. This related to two incidents of sexual abuse whilst she was a car passenger with Fr Gamma. Deirdre (4.9.9) made a statement of complaint to An Garda Síochána in December 2002, in relation to sexual abuse by Fr Gamma when she was a teenager. She stated that she did not want the matter pursued for personal reasons and did not provide any further details in respect of the alleged abuse. Marie (4.9.10) made a statement of complaint directly to An Garda Síochána in April 2004, in relation to sexual abuse by Fr Gamma whilst she was attending Confession with Fr Gamma as preparation for her First Holy Communion.

Fr Gamma was interviewed in relation to all complaints made to An Garda Síochána and all statements were notified promptly to the DPP. On 14 June 2004, the DPP directed that all complaints made known to it at that stage would not merit prosecution on the basis that the DPP believed that a court would be unlikely to hold a view that the reason given by complainants that they would not be believed was a

reasonable explanation for the delay given the ages of the complainants and the fact that this type of matter has been in the public arena for ten years at least. On 4 May 2005, the DPP directed in relation to Marie's complaint, that the delay was not satisfactorily explained and the inconsistencies in her account would be exploited by the defence in any prosecution.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR GAMMA CASE:

- **The Inquiry believes that these investigations were carried out effectively and reported promptly to the DPP.**

FR BETA

On 7 April 2002, a complaint by Trevor (4.8.1) was made known to An Garda Síochána by the diocesan delegate. Trevor made a statement to Gardai in May 2002, and a file was sent to the DPP in October. The DPP decided not to institute criminal proceedings on foot of the complaint as there was insufficient evidence that Trevor was under 18 years old at the time of the incident. In addition, Trevor's inability to recall the detail of the abuse suffered would have made a successful prosecution less likely. The Garda file in relation to this complaint is now closed.

On 24 December 2003, An Garda Síochána received another complaint through a third party (Ben 4.8.2). The Garda file in respect of this complaint is now closed on the basis that it has been unable to contact the alleged victim.

THE INQUIRY VIEW ON THE GARDA HANDLING OF THE FR BETA CASE:

- **The Inquiry is satisfied that these complaints were investigated appropriately.**

CONCLUSIONS AND RECOMMENDATIONS

This chapter of the Report sets out an overview of the findings of the Ferns Inquiry in accordance with its Terms of Reference.

“A. To identify what complaints or allegations have been made against clergy operating under the aegis of the Diocese of Ferns in relation to alleged events that transpired prior to 10 April 2002, and to report on the nature of the response to the identified complaints or allegations on the part of the Church authorities and any public authorities to which complaints or allegations were reported”

(i) Complaints or Allegations Notified to the Inquiry.

The Inquiry has identified approximately 100 complaints against priests operating under the aegis of the Diocese of Ferns. These allegations were made in respect of 21 priests.⁵⁶ Ten of these priests are now deceased and in respect of six of them, the allegations were not notified to the Diocese, or to any authority, until after their death. Of the other four deceased priests, two died subsequent to a complaint being made. A third did not have charges brought against him and the fourth priest, Fr Sean Fortune, committed suicide days before his criminal trial was due to commence in Wexford Circuit Court.

Of the eleven priests who are alive and against whom allegations have been made, three have been excluded from the priesthood by the direction of The Holy See and seven of the remaining eight have stood aside temporarily from active ministry at the request of Bishop Eamonn Walsh, Apostolic Administrator of the Diocese of Ferns pending investigations of the allegations against them. The eighth priest is advanced in years and is in retirement.

An Garda Síochána investigated complaints of child sexual abuse by eight priests of the Diocese and proceedings were instituted by the DPP in three of those cases.

Chapter Four of this report is a summary of all the allegations which have come to the attention of this Inquiry. The complainants have been given pseudonyms to protect their identity. Where practicable, the identity of the alleged perpetrators has similarly been protected.

The persons against whom the allegations were made were not given an opportunity to confront or cross-examine the complainants in the course of this

⁵⁶ This figure does not include those priests included in the Appendix annexed hereto.

Inquiry. The Terms of Reference of the Inquiry require it to identify the allegations of child sexual abuse as reported and to consider the response to those allegations by the appropriate authorities. Such response could not be predicated on proving the truth or otherwise of such allegations. The Inquiry does not express, and was not required to express any view as to the truth or otherwise of any allegation.

(ii) The Nature of the Responses of the Church Authorities

The nature of the Church response evolved over a forty year period and may be summarised as follows:

1. The response of Bishop Donal Herlihy (Bishop of Ferns 1964 – 1983) to an allegation of child sex abuse by a member of the diocesan clergy which was brought to his attention in 1966 was to remove the priest immediately from his post and send him to the Diocese of Westminster. Two years later the Bishop returned the priest to his position as a teacher in St Peter's College in the Diocese of Ferns. The priest was not treated or assessed. The alleged victims do not appear to have been contacted by or on behalf of the Bishop. It appears that the Diocese of Westminster was not alerted to the reasons for the priest's transfer. No written record of the complaint was created by the Diocese, or if created, preserved. Virtually no restriction was placed on the priest after his return to St Peter's. The fact that no records were kept of these matters meant that no impediment to the appointment of this priest as principal of St. Peters in 1988 was apparent.
2. In 1973, Bishop Herlihy became aware of a complaint against another priest of the Diocese who had allegedly sexually abused a young girl. His response was to send the priest in question to the Diocese of Westminster although on this occasion the Church Authorities there were informed, to a limited extent, of the circumstances that led to his removal. This priest received no assessment or treatment and was subsequently appointed to curacy positions in the Diocese and to chaplaincy and managerial roles in local schools before being transferred abroad. The Bishop did not meet with the victim although financial assistance may have been offered.
3. When allegations of sexual misconduct were made against two priests in the Diocese of Ferns in the early 1980s, Bishop Herlihy's response was to send the alleged perpetrators for assessment to the Reverend Professor Feichin O' Doherty, who was then the Professor of Logic and Psychology at University College Dublin. Notwithstanding the extremely unfavourable reports provided by the Professor, both priests were appointed to curacies in the Diocese of Ferns and continued in those positions without any effective monitoring or control.
4. During his episcopacy from April 1984 to April 2002, Bishop Comiskey received allegations in respect of ten priests who were living at the time of the allegations. In addition, he received allegations against four further priests who were deceased.

5. Bishop Comiskey agreed that the proper response to an allegation of child sexual abuse against a priest was to remove him from active ministry pending the determination of the allegation. Notwithstanding this belief, no priest was stood aside from active ministry during the episcopacy of Bishop Comiskey and no precept was issued preventing any priest from saying Mass and partaking in religious ceremonies. Priests were moved out of the diocese in some cases but no child protection measures were put in place to ensure that children in the diocese to which the accused priest was sent were not placed in danger.
6. Where an allegation of child sexual abuse was made against a priest of the diocese and denied by him, as happened in the majority of cases, the Bishop attempted to institute or conduct some form of enquiry to satisfy himself of the guilt or innocence of the accused. For the greater part, these enquiries and investigations were protracted and inconclusive and in all cases failed to meet the standard of proof required by the Bishop.
7. Complaints were made to Bishop Comiskey alleging child sexual abuse by priests who had died before the complaint was made. Where the complainant in those cases sought financial assistance from the Bishop to pay for counselling to redress the problems caused by the alleged abuse, such assistance was provided.
8. Bishop Eamonn Walsh became Apostolic Administrator of the Diocese of Ferns in May 2002. His response to allegations of child sexual abuse was to require the priest against whom the allegation was made to step aside from ministry pending a determination of the matter. He takes this action where he is of the opinion that a "reasonable suspicion" exists against a priest and after consulting the Advisory Panel. Bishop Walsh reviewed all of the allegations of child sexual abuse against priests which had been made prior to his, Bishop Walsh's, appointment and requested six priests to stand aside; each of them did so without any proof or admission of guilt.
9. Bishop Walsh invited two priests who had been convicted of child abuse to apply for laicisation but they declined. Therefore, Bishop Walsh applied for and obtained an order from The Holy See excluding them from the priesthood. A third priest against whom an allegation was made but who was not convicted of child sexual abuse has likewise been excluded from the priesthood by direction of the Pope.

(iii) The Nature of the Response of the South Eastern Health Board

The responses by the South Eastern Health Board to allegations of abuse are identified by the Inquiry in Chapter Six of this Report. Those responses were not consistent in all cases but included the following:

1. In relation to the allegations of child sexual abuse made by ten school children against the then parish priest of Monageer, the Health Board arranged that

seven of the children should be interviewed and assessed at the Community Child Centre in Waterford. The Health Board informed the Gardai and the Church Authorities about the allegations.

2. The Health Board did not provide counselling or support to the girls or their families after these allegations were made known in 1988. Counselling was offered through a public statement in 1995, some seven years after the alleged incident.
3. When the Eastern Health Board was informed of allegations of child sexual abuse (then and now unproven) by a former President of Maynooth College, the Health Board, as directed by the Department of Education, wrote to the then Presidents of the Pontifical and Lay Universities at Maynooth informing them of those allegations.
4. When notified of an allegation of child sexual abuse against a priest of the Diocese by a victim who was still a child, the South Eastern Health Board offered a degree of support to the family and the child throughout the criminal trial. This support was not continued after the trial.
5. The South Eastern Health Board conducted a risk assessment when furnished with evidence of a possible danger to particular children posed by one priest who was at that time the subject of a Garda investigation. It also informed the Diocese of Ferns about the allegation without first informing the priest in question of its intention to do so.

(iv) The Nature of the Response by An Garda Síochána

Responses to complaints or allegations on the part of the Gardai are set out in Chapter Seven of the Report:

1. The Inquiry is aware that some complaints of child sexual abuse were made to individual members of the Gardai on an informal basis between the 1970s and the 1980s. There is no record of such complaints on the Garda files or elsewhere.
2. The first incident of child sexual abuse recorded by the Gardai arose when a number of school children made a complaint against the parish priest of Monageer. A member of the Gardai was directed to take a written statement from each of the girls concerned. Another member spoke with the accused priest. It does not appear that any further investigation took place. Such statements or files as were prepared were not forwarded to the Director of Public Prosecutions. Subsequently those files and documents disappeared.
3. Between 1990 and 1995, complaints were made to the Gardai in Wexford by victims alleging offences of child sexual abuse perpetrated by three individual priests. The complaints were carefully investigated and successful

prosecutions ensued in two cases. A third was pre-empted by the suicide of the accused.

4. Between 1990 and September 2005, the Gardai have investigated a further four cases of child sexual abuse against priests of the Diocese of Ferns recommending prosecution in all but one of these cases. The DPP has not instituted criminal proceedings in any of these cases.

“B. To consider whether the response was adequate or appropriate, judged in the context of the time when the complaint or allegation was made, and if the response to the complaint or allegation appears inadequate or inappropriate when judged by those standards, to identify if possible, the reason or reasons for this, and report thereon.”

The Adequacy of Responses of the Church Authorities

A. Bishop Donal Herlihy (Bishop of Ferns 1964 – 1983)

1. Before 1980, Bishop Donal Herlihy had evidence that two priests of the Diocese had abused children sexually a further two priests came to his attention in the late 1970s. In the case of the first two priests, his response was to remove the priest concerned from the Diocese without taking any steps to protect other children from the dangers which the priest presented. In the context of the time, the danger that a person who had abused children once could do so again was clearly understood, even if the compulsion to do so was not as apparent as it is today. Bishop Herlihy’s failure to take even basic precautions to protect children from men known to have abused in the past must be seen as inadequate and inappropriate.
2. Clearly Bishop Herlihy regarded priests who abused children as guilty of moral misconduct. He does not appear to have recognised that the wrongdoing was a serious criminal offence. Neither he nor the medical and health care community appreciated the grave damage which child sexual abuse can cause to its victims.
3. Bishop Herlihy’s decision to restore the two offending priests to their former positions after a two-year period of “penance” in the Diocese of Westminster was ill-advised and to do so without any supervision or monitoring was neither adequate nor appropriate.
4. The Inquiry is satisfied that the Diocese of Ferns knew or ought to have known that allegations of child sexual abuse were made against two seminarians in St Peter’s in the mid 1970s. Notwithstanding this information, these men were ordained for the Diocese.
5. The decision of Bishop Herlihy in 1980 to refer these two men who went on to abuse again after ordination to Professor Feichin O’Doherty for assessment was entirely appropriate and reflected the developing understanding of the nature of child sexual abuse. The failure of Bishop Herlihy to act on the reports received from the Professor and the appointment of those two priests to

curacies is inexplicable. It represented a wholly inappropriate and inadequate response to the allegations of child sexual abuse.

6. The Inquiry believes that the Bishop felt bound to appoint any priest ordained for his Diocese to a curacy notwithstanding his manifest unsuitability for the position.

B. Bishop Brendan Comiskey (Bishop of Ferns 1984 – 2002)

1. Where Bishop Comiskey had a suspicion about the propensities of a particular priest either arising from the Bishop's own unease or from specific information reported to him, he requested the priest to attend a psychiatrist or psychologist for assessment and, if necessary, to undergo the treatment then considered appropriate. It was intended that the priest would be re-appointed to an appropriate position in the Diocese if a certificate was obtained from the medical consultant certifying his fitness for the position. That programme would have been an appropriate and adequate response to any suspicion of sexual abuse. However, even when such medical intervention had been availed of, Bishop Comiskey was unable or unwilling to implement the medical advice which he received. In addition, the Inquiry has seen some evidence that Bishop Comiskey did not fully inform these medical experts of the full history of priests against whom previous allegations had been made.
2. By the late 1980s, Bishop Comiskey accepted that the appropriate response to an allegation of child sexual abuse was to have the accused priest to step aside from active ministry pending a determination of the allegation made against him. Bishop Comiskey consistently failed to achieve this objective. In the majority of cases the failure to achieve the desired result was due to the conviction of the Bishop that it would be unjust, if it were possible, to remove even temporarily a priest on the basis of an allegation which was not corroborated or substantiated by what he considered to be convincing evidence. In the nature of the alleged criminal activity, evidence of that nature was unlikely to be obtained. Indeed Bishop Comiskey recognised that he did not have the resources or the expertise to carry out investigations into what were serious criminal offences. The particular and inconclusive investigations conducted by Bishop Comiskey were an inappropriate and inadequate response to serious allegations. The bishop was rightly conscious of the need to protect the good name and reputation of his clergy but he failed to recognise the paramount need to protect children as a matter of urgency, from potential abusers.

C. Bishop Eamonn Walsh (Apostolic Administrator of Ferns, 2002 – present)

1. Bishop Eamonn Walsh has told the Inquiry that he would be prepared to require a priest to step aside from active ministry where he had a "reasonable suspicion" that the offence of child sexual abuse had been committed. He said that a rumour or suspicion emanating from a single source might not in itself be sufficient grounds for acting against a priest, but that he would note it and if he received any further information of untoward behaviour on the part of that priest, he would act immediately.
2. In practice Bishop Walsh has not invoked his powers under Canon law to stand aside from active ministry any priest of the Diocese. Seven out of the eight priests whom Bishop Walsh asked to stand aside agreed to do so. One further priest so requested has been the subject of a dismissal from Rome following an application by Bishop Walsh. This approach and the response to it may reflect a more efficient management of the Diocese in combination with a clearer understanding on the part of members of the clergy of the need to respond promptly and effectively to allegations of child sexual abuse. Notwithstanding the hardship and embarrassment which this must cause to innocent members of the clergy, the responses made by the Diocese since the appointment of the Apostolic Administrator have been adequate and appropriate.

The Adequacy of Responses of the South Eastern Health Board

1. The legislative framework within which all Health Boards operated is described in full in Chapter 3 of this Report. The powers conferred on the Health Board are designed to protect a child from an abusive family situation. Where children are abused by third parties, the persons with responsibility for dealing with the matter are the parents or guardians of the child. In the absence of express statutory power to intervene in the manner in which they did in the Monageer case in 1988, the South Eastern Health Board would appear to have acted ultra vires. Although their intervention was well intended and undertaken with commendable expedition it could not be classified as appropriate.
2. The only power of the Health Board to inform interested parties that allegations of child sexual abuse have been made against a particular person, is one inferred from the wide ranging objective of child protection imposed on Health Boards by the Child Care Act 1991. There is difficulty therefore in determining whether, and in what circumstances, such notification should be given.
3. The Inquiry would question whether the circumstances in which notice was given to the authorities in Maynooth in relation to Monsignor Ledwith, or to the diocesan authorities in relation to Fr Alpha, conformed to the conditions prescribed in the judgement of Mr Justice Barr in MQ -v- Gleeson.⁵⁷

⁵⁷ 1997 1 IEHC 26

4. The provision by the Health Board of counselling and other support to alleged child victims and their families was appropriate where this occurred. Failure to provide such services, as happened in the Monageer case, must be regarded as both inadequate and inappropriate.

The Adequacy of Responses of An Garda Síochána

1. Before 1990 there appears to have been reluctance on the part of individual Gardai to investigate properly some cases of child sexual abuse that came to their attention. This is dealt with in Chapter Seven of this Report. Such reluctance was neither appropriate nor adequate.
2. The institution of criminal proceedings against three priests from 1990 is confirmation of the evidence given by Gardai of all ranks to the Inquiry that they are not now deterred or hampered in the performance of their duties by the status of the accused or the respect accorded to the Catholic Church in Ireland generally, or in the Diocese of Ferns in particular. These prosecutions were conducted in an efficient manner and were an appropriate and adequate response.
3. An Garda Síochána has informed the Inquiry that they are not in a position generally to conduct an investigation on the basis of rumour or suspicion. They did monitor Fr Doyle for some time after the 1980 allegations were made and in relation to another allegation, the Gardai mounted surveillance on the alleged perpetrator's home even though no complaint was made by the victim to the Gardai. Generally however, the Gardai would not make such a response on the basis of an allegation or rumour unsubstantiated by a formal complaint.
4. The Inquiry concurs with the findings of the internal Garda investigation into the Monageer affair which criticised the handling of the complaints by the Gardai in 1988 and which found the Garda response to be neither appropriate nor adequate.

“C To consider the response of Diocesan and other Church authorities and the State authorities to cases where they had knowledge or strong and clear suspicion of sexual abuse involving priests of the Diocese of Ferns, and to consider whether that response was adequate or appropriate judged in the context of the time when the knowledge was acquired or the suspicion formed.”

1. Unless an allegation of child sexual abuse was admitted in full by the perpetrator or was successfully prosecuted by the Gardai, the church or civil authorities could not be said to have had “knowledge” of sexual abuse involving priests. No unqualified admissions of sexual abuse were made to the church or state authorities during the period investigated by this Inquiry.
2. Two priests were found guilty in court of child sexual abuse and the response of the church authorities was to obtain medical intervention for these priests and to remove them from active ministry. In the past year, Bishop Eamonn

Walsh has applied for and obtained an order dismissing these convicted priests from the priesthood.

3. In all other cases therefore, the Church and State response must be seen as a response to a strong or clear allegation or suspicion of child sexual abuse and, as already indicated at "B" above, the response to such information developed over the period of time considered by this Inquiry.

"D. Insofar as responses are seen to be inadequate or inappropriate, and insofar as it may be possible to identify explanations for that inadequate or inappropriate response, to consider whether those factors remain applicable and to what extent they have been subsequently addressed."

Church Authorities

1. The inappropriateness and inadequacy of responses by Bishop Donal Herlihy are, in the opinion of the Inquiry, explained by the failure of the Bishop to appreciate the very serious psychological damage which could be and was caused by the sexual abuse of children by adults, particularly adults in positions of authority and respect. An additional factor was the failure to anticipate the likelihood that an adult having once abused a child was likely to repeat the offence. It is the view of the Inquiry that Bishop Herlihy focussed on the moral aspects of the allegations made to him to the exclusion of criminal and social aspects of the conduct alleged.
2. The Inquiry believes that in failing to follow the compelling advice given by Rev Prof Feichin O'Doherty and others, both Bishop Herlihy and Bishop Comiskey placed the interests of individual priests ahead of those of the community in which they served.
3. The Inquiry identified a serious difficulty for both these Bishops in dealing with a priest such as Sean Fortune who refused to comply with the direction of his Bishop. Using Canon law to force a priest to step aside from active ministry was difficult in circumstances where that law was unclear and untried. Experience has solved some of these problems although the success achieved by Bishop Walsh in removing priests against whom allegations or suspicions arose was in all cases due to the voluntary actions of those priests and not because of any successful application of Canon law.
4. Bishop Comiskey correctly identified the objectives to be achieved in responding to allegations of child sexual abuse against priests operating under the aegis of the Diocese of Ferns. A variety of explanations were offered to the Inquiry for this failure to achieve these. Some complainants who gave evidence to the Inquiry suspected that the actions or inactions of Bishop Comiskey admitted of a sinister explanation. However, on the evidence available to it, the Inquiry believes that Bishop Comiskey failed to remove from active ministry priests against whom allegations of abuse were made, primarily because of his belief that he could not and should not take an action which would necessarily damage the reputation of one of his priests without

convincing evidence of their guilt. He did not prioritise child protection in his response.

5. There is, in the view of the Inquiry, no adequate explanation for the failure of Bishop Comiskey to deal rigorously and effectively with Fr Fortune having regard to the information which was available to the Bishop from the outset in the reports from Professor O'Doherty and from information that was made known to the Bishop subsequently.
6. The Inquiry has identified some priests against whom complaints, allegations or suspicion of child sexual abuse existed who were transferred to other parishes and dioceses without proper notification of the potential dangers surrounding them. Failure to protect children from priests who were suspected of child sexual abuse wherever that priest served, was a failure to prioritise children over individual priests and the Church in general.
7. Factors which militated against an adequate or appropriate response by Church authorities to allegations of child sexual abuse included the following:
 - a. The failure to properly monitor and assess men during seminary admission and training and the admission of some clearly unsuitable men to the priesthood with the respect and esteem that such a position afforded them, had extremely serious repercussions for the children subsequently exposed to these priests.
 - b. Once ordained, there was a failure of the management system within which priests operated. Bishops in the Diocese of Ferns failed to deal expeditiously or decisively once a problem of child sexual abuse was identified and failed to acknowledge and address the serious and systematic nature of the problem.
 - c. The failure of successive Bishops to create and preserve proper records of allegations in relation to child sexual abuse, militated against a Bishop being able to access important information about priests in the Diocese and militated against proper management.
 - d. The absence of proper records together with the acknowledged reluctance of priests in the Diocese to report inappropriate behaviour to the Bishop meant that Bishops were often presented with an allegation on one hand and a denial on the other and no other information that might have helped him come to a decision.
 - e. The failure to operate a transparent complaints procedure whereby members of the public and individual priests could have confidence that any concerns expressed about child protection would be dealt with sensitively and confidentially.
 - f. The majority of priests who attended the Ferns Inquiry stated that they had no awareness or understanding of child sexual abuse until they read about it in the media in the early 1990s. This would appear to

point to a failure of church authorities in Rome to educate bishops and priests about the growing awareness of child sexual abuse within the Roman Catholic priesthood which had developed throughout the 1970s and 1980s. Such a failure left individual priests unable to deal with this situation when they confronted it and has left many good priests feeling guilty and inadequate. The Inquiry believes that such priests need understanding and support from their community and from their Church in helping them come to terms with what was occurring in their Diocese.

- g. The failure in some cases of the church authorities or those acting on their behalf, to listen sensitively and sympathetically to allegations of misconduct by their colleagues, prevented complainants from disclosing the full horror of the abuse they had suffered and prevented the urgency of the problem in Ferns from being recognised.
 - h. A culture of secrecy and a fear of causing scandal informed at least some of the responses that have been identified by this Inquiry. By failing to properly identify the problem of child abuse even to colleagues and professionals, Bishops placed the interests of the Church ahead of children whose protection and safety should at all times have been a priority.
8. Bishop Walsh has taken steps to overcome most, if not all, of the factors militating against an appropriate response to allegations or suspicions of abuse. He extended and improved the diocesan filing system, which had been updated under the direction of Bishop Comiskey. He promulgated Norms of Conduct to govern the relationship between priests of the Diocese and children. He encouraged the clergy and faithful to notify the church authorities in the event of any departure from those norms or of any case of child sexual abuse whether current or historical. He informed the priests of the Diocese as to the seriousness of the problem and the actions that would have to be taken.
 9. Most significantly Bishop Walsh satisfied himself that he had power under Canon law immediately to remove from active ministry any priest acting under the aegis of the Diocese in respect of whom he had a "reasonable suspicion" that the priest was guilty of child sexual abuse. It has so far been unnecessary for the Bishop to invoke the canonical power aforesaid as the priests whom he requested to step aside agreed to do so.
 10. Bishop Walsh asserts that there is now no priest under the aegis of the Diocese of Ferns in active ministry against whom an allegation of child sexual abuse has been made or a reasonable suspicion exists.
 11. The Inquiry is satisfied that the procedures adopted and applied by Bishop Walsh in response to allegations of child sexual abuse are appropriate and adequate and afford protection to children in the Diocese. The Inquiry believes that this response should be incorporated into the organisation and

management of the Diocese in order to ensure that it continues into future episcopacies.

12. A concern of the Inquiry is to ensure that the rights of innocent priests are safeguarded to as much an extent as possible given the priority that must be afforded to child protection. If that objective was not achieved the procedures would be unjust to the priests and in the long term unsustainable as a protection to children.

The South Eastern Health Board

1. The adequacy of any response by the South Eastern Health Board to allegations of child sexual abuse coming to its attention must be considered in the light of the legislative framework within which it operates. As already pointed out in this Chapter and in Chapter 3 of this Report, the Health Board has no power of intervention except in cases where sexual abuse is occurring in the family situation. As far as the Inquiry is aware the South Eastern Health Board has not attempted to repeat the intervention which it made in the Monageer case and which in the view of the Inquiry was, although well-intentioned, *ultra vires*.
2. The conduct of the South Eastern Health Board in conveying information to interested parties in its possession concerning allegations made against a particular person is regulated in accordance with advice obtained by the Health Board from the office of the Attorney General. It is the view of the Inquiry that the powers and duties of the Health Services Executive in this connection should be regulated by the express terms of primary or secondary legislation and not by inferences drawn from general obligations imposed on those bodies.

An Garda Síochána

1. The Inquiry noted that inadequate records appear to have been kept of complaints or allegations perhaps made informally of child sexual abuse prior to the early 1990s. That defect has been remedied in the manner set out in the body of the report.
2. There were grounds for suspecting that prior to 1990, some members of An Garda Síochána may have been reluctant to pursue investigations involving members of the clergy of the Diocese. However, the internal Garda inquiry conducted in 1996 into the Monageer case concluded that there was no evidence of any intervention by members of the clergy or the hierarchy with the investigation at that time.
3. As already pointed out, the investigations and subsequent criminal proceedings between 1990 and 1995 established and confirmed the independence and integrity of the Garda Síochána in dealing with complaints of child sexual abuse. There are cases during that period where Gardai had

information about possible child sexual abuse by clergy but in the absence of a formal complaint did not take any action.

“E. To examine and report on the levels of communication that prevailed between Diocesan and State authorities, to consider whether more appropriate norms or improved communication between the Diocesan authorities and the State authorities are now desirable or practical.”

1. Bishop Comiskey has told the Inquiry that prior 1990 he would never have considered reporting an allegation of child sexual abuse against a priest to the civil authorities. It is improbable that his predecessors did so either. In 1990, Bishop Comiskey having seen the 1987 Department of Health Guidelines, brought about the reporting of an allegation of sexual assault by a priest of the Diocese to the authorities. The complainant was still a child at the time of making the allegation. The communication of this complaint eventually led to the successful prosecution of the perpetrator.
2. The Inquiry noted that Bishop Comiskey did not report other allegations of child sexual abuse which came to his attention between 1990 and 1995. The Bishop made the distinction between allegations made by children and allegations which were made by adults. He said it was his belief that as adults were in a position to report allegations to the civil authorities themselves it was not a matter for him to do so. In all other cases where the allegation was made by a victim who was still a child, the alleged perpetrator had died before the complaint had been communicated to the Diocese and therefore no child protection issue arose.
3. From December 1995 onwards, Bishop Comiskey adopted the policy laid down in the Framework Document that all new allegations of child sexual abuse would be reported to the Gardai. Bishop Comiskey said that he would do this whether the victim wished him to do so or not. He believed it was not an appropriate response of the Diocese to afford confidentiality to victims of child sexual abuse and generally he did not do so.
4. Bishop Comiskey did not report incidents or allegations of child sexual abuse to the civil authorities which had come to his attention before the implementation in December 1995 of The Framework Document.
5. Bishop Eamonn Walsh has continued the practice established in 1995 pursuant to the Framework Document and he informs the Gardai and the Health Services Executive of all allegations of child sexual abuse against priests of the Diocese which come to his attention. Bishop Walsh has informed the Inquiry that all historical as well as current allegations have been so reported.
6. In 1995 a protocol was agreed between the Health Board and the Gardai entitled, “Notification of Suspected Cases of Child Abuse Between the Health Board and An Garda Síochána.” Under this protocol, the Gardai and Health Services Executive share information relating to any incident of suspected child abuse that comes to their attention. The Inquiry is aware that Gardai

must consider the impact of any notification on an on-going investigation but understands that in the Wexford area at least, the Gardai are now increasingly aware of the child protection dimension to investigations of child sexual abuse and will communicate any concerns in this regard with the Health Services Executive. The Inquiry believes that arrangements for joint investigation of suspected child abuse cases should be more firmly established between An Garda Síochána and the Health Services Executive in order to ensure efficiency in outcome and sensitivity to victims.

7. The Health Services Executive has informed the Inquiry that where a complainant has requested that their complaint or allegation should not be passed on to the Diocese, they did not do so. Health Boards have always extended a high degree of confidentiality to their clients and are reluctant to undermine that confidence. Nevertheless, there has been a growing recognition in the Diocese of Ferns that proper child protection demands that the Diocese be informed of any priest who appears to present a risk to children.
8. A particular difficulty for all of the authorities is the manner in which rumours or suspicions of sexual abuse should be dealt with. It has not been the practice of the Diocese of Ferns to communicate to either the Gardai or the SEHB suspicions or rumours of child sexual abuse concerning a member of the clergy unless the Bishop is satisfied that the suspicion is a reasonable one. The Inquiry believes that it would be more helpful if the Diocese, the Gardai and the Health Services Executive exchanged information in relation to all suspicions or rumours coming to their attention so that their different sources could confirm if there was any substance to the suspicion or rumour. Periodic meetings between designated representatives of the Diocese, the Gardai and the Health Services Executive (which this Report has described as “the Inter Agency Review Group”) at which the Diocese informs the other authorities of the status and circumstances of priests who have stood aside from active ministry, already take place in the Diocese at the instigation of Bishop Eamonn Walsh. This group provides a helpful means of maintaining an appropriate level of communication between the three authorities. The Inquiry believes that this agency would be an appropriate forum for discussing rumour or innuendo in order to establish whether a reasonable suspicion could be established against any priest.

“F. To identify and report on any lessons which might usefully be learnt from how complaints or allegations were handled in the past, which will result in improved child protection.”

1. The Inquiry wishes to record its revulsion at the extent, severity and duration of the child sexual abuse allegedly perpetrated on children by priests acting under the aegis of the Diocese of Ferns.
2. The Inquiry heard evidence from complainants of the severe damage which they suffered as a result of alleged abuse. The victims complained, and medical experts confirmed, that the impact of such abuse can have far-

reaching consequences not only for the victim but also for their relatives and friends and that this damage can continue over a period of many years and into subsequent generations.

3. It is universally recognised that child sexual abuse is morally reprehensible but it is important that the public, and in particular those exercising authority, should appreciate that in addition to the grave psychological damage which such abuse may cause, the criminal offences involved are of the utmost gravity. They attract a maximum penalty under the criminal law of life imprisonment.
4. The Inquiry recognises that the perpetration of the offence of child sexual abuse – and more particularly its ultimate disclosure – is a cause of hurt and embarrassment to the wider community including the family, friends and colleagues of the abuser as well as those who supported and respected the institution – in this case the Catholic Church – which the abuser purported to represent.
5. The Church Authority must have proper management systems and processes to ensure that their priests are performing effectively and safely and are supported in their development and work within the community. The Inquiry is satisfied that steps are being taken in the Diocese of Ferns to address such shortcomings as may have existed in the past in this area and would hope that such steps would be continued into the future as normal diocesan practice.
6. The Inquiry believes that the appointment as Chairman of the Board of Management of national schools which is at the discretion of the Bishop and which is usually, the local curate or parish priest, should be made with utmost care and diligence. As will be obvious from the allegations set out in this Report, some priests appear to have abused their position as Managers of national schools in order to access children. The powerlessness of children in such a situation was particularly acute and the Inquiry would urge all concerned to ensure that such situations as are described in this Report are prevented as far as possible. .
7. All organisations including the Catholic Church, whose operations bring their employees into unsupervised contact with children must ensure that proper systems are in place to protect children from abuse from such employees. The Gardai will generally only act if the victim makes a formal complaint and therefore, the onus is on employers to ensure that they do not have among their employees any person who may have a propensity to abuse children. This will not be achieved by waiting for victims to come forward but must be part of an on-going system of management, monitoring and control which can prevent abuse from occurring in the first place.
8. There is some evidence that persons with a propensity to sexually abuse children will be attracted to careers which will give them easy access to children, particularly vulnerable children. Organisations engaged in working with children at any level must be alert to that possibility and have systems in

place which will allow them deal with any problems immediately and decisively once they arise.

9. Organisations and employers who work with children should be aware that setting out clear norms of behaviour regulating the way in which interaction with children should occur, is in the interests of both employees and children.
10. The community can cooperate in tackling this heinous crime by reporting any relevant information to An Garda Síochána and to those exercising authority or control over the alleged or suspected abuser, that is to say, the Bishop of the Diocese in relation to any member of the clergy acting under his aegis.
11. The Inquiry has identified the failure of authorities and individuals to keep adequate records of relevant information furnished to them as a significant factor in the failure to deal effectively with the problem of abuse which has existed in the Diocese of Ferns. Information must be maintained and transmitted to those who have authority to take action in relation to it.
12. Ideally, the most effective response to child sexual abuse from a general child protection perspective is a formal complaint to An Garda Síochána by the victim so that they may investigate the allegation and initiate criminal proceedings leading to the conviction of the abuser. The Inquiry appreciates the formidable obstacles to the adoption of this course by any victim. The successful prosecutions undertaken and the publicity given to them have overcome many such obstacles. There will, however, always remain an understandable reluctance on the part of the victims of any crime, but in particular victims of sexual offences, to come forward and submit themselves to the embarrassment and anxiety which such proceedings must entail.
Every effort should be made to encourage victims of child sexual abuse to come forward and invoke the legal process which is the procedure designed by society to punish the particular wrongdoer and deter others from engaging in the same crime. It is noteworthy that only two of the cases that have come to the attention of this Inquiry have resulted in a criminal conviction.
13. One of the principal lessons to be learnt from an exploration of the complaints and allegations made in relation to the Diocese of Ferns and the responses to them is the understanding that child sexual abuse may be perpetrated by persons in any occupation, profession or vocation. Child sexual abuse is not confined to those who are obviously depraved or dissolute. The crime may be committed by people of apparent charm, intelligence and high repute. Frequently it is the respect in which the abuser is held which affords the opportunity of perpetrating the crime and protects him from subsequent detection.
14. The Inquiry accepts that there is difficulty in proving or being satisfied that a wrong-doing, which is secretive of its nature, was committed. It is salutary to recall that a priest could abuse boys in a boarding school environment over a twenty year period without arousing any suspicion in the minds of his colleagues and friends. It is the view of the Inquiry that this problem has been addressed to some extent by introducing and promulgating a code of conduct

regulating the circumstances in which the relationship between priests and young people should be conducted. As already pointed out, such a code can offer a measure of protection to both the child and the adult.

15. The Inquiry is convinced that the Diocese of Ferns and every organisation exercising control over persons having unsupervised access to children must educate their priests and members to understand their personal responsibility to ensure the protection of children. In particular it should be emphasised that vigilant child protection involves reporting any concerns or suspicions which they have in relation to abuse or any information concerning departures from the code governing their conduct. The authorities must never criticise or penalise any of their members who, in good faith, seek to act for the protection of children. The Inquiry believes that the unhappy chapter of events in the Diocese of Ferns provided a painful step in the education of the community to their responsibility for the protection of children; a responsibility which outweighs considerations of fraternity or loyalty to any organisation whether lay or religious.
16. Crucially, parents and guardians must listen to children when they express reservations about being in the company of a particular adult and must encourage children to speak of activities in which they are encouraged to join and with which they feel uncomfortable.
17. Children must be taught that they are never responsible for sexual encounters with adults and must never be made to feel guilty or complicit in that activity.

“G. To identify and report on any difficulties or shortcomings in current laws and regulations and make recommendations as to legislative or regulatory change that would remedy these.”

The Inquiry would make the following legal, regulatory and general recommendations:

1. That the Department of Health and Children should launch and repeat from time to time a nationwide publicity campaign in relation to child sexual abuse. Such campaigns would assist parents in performing their constitutional rights and duties to safeguard their children. The content and style of such a campaign would be determined by the officers of the Health Services Executive or their successors and the experts available to them but the Inquiry believes that attention should be focussed on the following matters:
 - (i) That children must never regard themselves as responsible for acts of sexual abuse perpetrated on them by adults.
 - (ii) That abuse is perpetrated by persons in every walk of life including respected men and women in distinguished professions and vocations
 - (iii) That abuse may cause serious and lasting psychological damage.

- (iv) That child sexual abuse of any kind is a serious criminal offence which should be reported to the Gardai.
 - (v) Children should be informed of and assured of support and care by State authorities when they make a complaint.
2. The Inquiry recommends that every effort should be made by legislation and publicity to preserve and strengthen the more open environment of reporting which is one of the few redeeming features of the appalling scandals of sexual abuse that has besmirched the Diocese of Ferns. Criminal wrongdoing will not cease but the extent of the misery created by unchecked child abuse of children by adults in a position of power or privilege will be greatly reduced by the creation of an open and informed environment that will encourage a willingness to report promptly inappropriate sexual behaviour towards children. The Inquiry would like to state its admiration for the courage of victims of clerical abuse in the Diocese of Ferns in coming forward, the nobility of parents who understood and believed their children who did complain and the efficiency and professionalism of a significant number of men and women involved in the relevant civil and religious organisations to whom reports were made.
3. The Diocese of Ferns and every other organisation which employs, qualifies or appoints persons to positions where they have a significant measure of unsupervised access to children should prepare, publish and revise from time to time a code of conduct dealing with the manner in which priests, or other employees or appointees, would interact with young people. The purpose of such a code is to ensure that the environment in which the priest (or other employee or appointee) meets a child is one in which the child is safe from abuse. The priest (or other employee or appointee) will also be afforded protection from unfounded allegations of such abuse. The code would also set an observable standard of conduct so that parents and priests (or other employees or appointees) would recognise any departure from the code. Nobody, least of all priests of the Diocese, or co-employees or appointees, should tolerate breaches of the code by any other person. Such a breach should be brought to the attention of the Bishop or relevant employer. The Inquiry is satisfied that Bishop Eamonn Walsh as Apostolic Administrator of the Diocese of Ferns implemented shortly after his appointment to that position, a code of conduct. The effectiveness of such a code obviously depends upon the ability and willingness of all persons in a community, including fellow priests being attentive to other person's interaction with children and reporting any transgressions on the part of any other person with regard to that code. It is crucial that this code be publicised by the Diocese in order to ensure its effectiveness.
4. Every person to whom a complaint of child sexual abuse is made should immediately create a written record of the complaint. In the case of An Garda Síochána and officials of the Health Services Executive the creation of such

records is dealt with by regulation or established practise. In the case of a priest of the Diocese he should inform the intended complainant that the Bishop's delegate is a more appropriate person to whom the complaint might be made but this should not be a reason for discouraging the complainant if he prefers to speak directly with the priest selected by him. It should be made clear to the complainant that receipt of his complaint will be in any event acknowledged by the Bishop's delegate within 14 days of the making of it. Procedures for such an acknowledgement should be put in place. While it is essential for each organisation to have formal channels for reporting complaints, no complainant should be deterred from making a complaint and having same communicated to the relevant authority by a complainant's reluctance to adhere to an organisation's formal reporting procedures.

5. The Inquiry has not examined in detail the arguments in favour of and against a mandatory system of reporting as this has effectively been adopted voluntarily by the Catholic Church in the Framework Document 1996. The Inquiry would favour a continuance of the system adopted by the Diocese of Ferns in that regard pursuant to the Framework Document. Although the Document speaks of full disclosure with no guarantee of confidentiality, the practice as seen from the diocesan files has been to protect the identity of the complainant as far as possible. The non-disclosure of the identity of the victim or complainant does reduce the value of the information to the Gardai but not significantly. If the complainant is unwilling to go to the Gardai or continue to cooperate during the course of criminal proceedings, then information as to his identity is of little value to them. The preservation of anonymity in relation to the victim may be a valuable factor in persuading the victim to provide information to the person selected by him. The Inquiry has been told by An Garda Síochána that as a general rule, it would not approach a victim who has reported a complaint of child sexual abuse to a party other than the Gardai unless it was satisfied that the victim consented to such an approach being made by them. Nevertheless, the Inquiry appreciates that no meaningful investigation can be carried out by An Garda Síochána without the identity of the complainant being made known to them.
6. The Inquiry has observed the key role of the Bishop in the Diocese as the manager and leader of the priests within that diocese. It is the view of the Inquiry that Bishops should be supported by management training in order to fulfil that role.
7. The Inquiry has noted the reluctance of victims, whether children or adults, to report abuse to statutory authorities. Bearing these matters in mind, it therefore recommends that efforts be made to reduce this reluctance by enhancing public confidence in the reporting and investigative system. As is the case in many other jurisdictions, investigating Garda officers must be trained in how to interview children appropriately and be able to provide a child friendly and secure environment for this to take place in order to reduce trauma. Specialist child protection units in Northern Ireland are highly regarded and considered essential by police and social services, and could provide a useful model for implementation in the Republic.

8. The procedure of holding regular high level meetings between the Diocese, An Garda Síochána and the Health Services Executive which evolved in the Diocese of Ferns is seen by the Inquiry as having considerable merits. It is a procedure which should and could be adopted in any case in which continuing problems or a series of problems arises in relation to child sexual abuse. The immediate purpose of the procedure – referred to in the report as “The Inter Agency Review Committee” – was for the Diocese to advise the other agencies as to the circumstances and whereabouts of a priest who had been required to step aside from active ministry pending investigations of allegations or suspicions of child sexual abuse. It seems to the Inquiry that the functions of the Inter Agency Review Committee could be extended in the circumstances which exist in the Diocese of Ferns to enable An Garda Síochána to advise the other authorities of the status of any criminal investigation being undertaken by them into child sexual abuse and the Health Services Executive to express an opinion as to the suitability of the procedures taken by the Diocese to ensure the safety of children from priests in respect of whom allegations have been made or suspicions have arisen.
9. The Inquiry would also urge that the authorities should raise at meetings of the Inter Agency Review Committee, suspicions, rumour or innuendo which are known to them in relation to misconduct of any member of the clergy. The Inquiry would be anxious to eradicate the problem which so often arose in the past, namely, that after a disclosure of abuse, people in the community claimed to have known for a long time of rumours of wrongdoing or abuse by particular priests. If there are rumours it should be possible between the three authorities to establish whether there is any basis for them.
10. In relation to allegations, the Inquiry would suggest that it is in the interest of all of the authorities and of the people whom they serve that every allegation of child sexual abuse should be brought to the attention of the Inter Agency Review Committee. Even complaints which are demonstrably untrue or written by people known to be not credible or unbalanced should be noted by the Inter Agency Review Committee so as to ensure that each of these authorities have a full appreciation of all of the allegations made. In that way, each authority would know the totality of the problem and the manner in which it is being dealt with.
11. The Inquiry would recommend that the convening of meetings of the Inter Agency Review Group and the recording and maintaining of its records should be the responsibility of the Health Services Executive.
12. The Inquiry appreciates that the emphasis placed on the recording of complaints and the minutes of highly sensitive meetings does involve dangers of disclosure. The Inquiry would strongly recommend that all documents in relation to allegations, rumour, suspicion or innuendo of child sexual abuse created or maintained by the Diocese, An Garda Síochána or the Health Services Executive should attract by law, the same right of disclosure on an Order for Discovery as that conferred on State documents under the title “Executive Privilege”. It is the understanding of the Inquiry, that in that event,

no document would be produced for inspection pursuant to an Order for Discovery unless the Court was satisfied, having considered the relevant documents, that the need of the applicant for inspection to enable him to exercise his right of access to the courts outweighs the need to preserve the confidentiality of the documents.

13. The Minister for Health and Children should review the desirability of introducing legislation empowering the High Court on the application of the Health Services Executive, or other suitable body, to bar or otherwise restrain any person from having unsupervised access to children where reasonable grounds exist for the belief that the person has abused or has a propensity to abuse children. If the problem in removing or suspending individual priests was as intractable as Bishop Comiskey believed, the Inquiry would feel that a legislative solution might well be necessary, and in accordance with the advice received by the Inquiry, would not conflict with any provision of the Constitution.
14. The Inquiry believes that consideration should be given by the Legislature to the introduction of a new criminal offence which would apply to situations where any person "wantonly or recklessly engages in conduct that creates a substantial risk of bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act." [General Laws of Massachusetts Part IV Title 1 Chapter 265]. The Inquiry believes that the implications of such a law on teachers, childcare workers and professionals whose work brings them into contact with children would have to be fully explored and the parameters of any such legislation would have to be clearly outlined.
15. It is clear that Bishop Walsh and his advisors have interpreted Canon law and the procedures identified in the Framework Document of 1996 as requiring him to place the needs of child protection above the rights of individual priests to the protection of their good name. The Inquiry believes that Bishop Walsh is correct in this approach.
16. The Inquiry recognises that every effort must be made to avoid unnecessary damage to the reputation of the priest and to afford him an opportunity to establish his innocence at the earliest practical date. It is in the public interest that an issue between a complainant and the priest as to whether abuse was perpetrated should be resolved in the only forum capable of adjudicating thereon, namely the Courts of Law established under the Constitution. Because of the need to safeguard children, a priest may be required to step aside from active ministry with all of the embarrassment that that entails before his guilt is investigated, less still established. The Inquiry is of the opinion that a priest who disputes an allegation of child sexual abuse made against him should be entitled to legal aid under the Civil Legal Aid Act 1995 to contest the issue irrespective of his financial resources. Similarly, the public interest would be served by establishing the truth, if such is the case, of the allegation made by the complainant. Accordingly, the complainant should also

have civil legal aid irrespective of his means in order to establish his claim against the alleged abuser.

17. The Inquiry has identified at Chapter Six of the report the shortcomings in relation to the ability of the Health Services Executive to intervene properly in relation to child sexual abuse perpetrated by a non family member without the connivance of a child's parents. The Inquiry recommends that an in-depth study be conducted on the full remit of the Health Services Executive's powers in relation to this issue and that express statutory recognition is given to those powers.
18. The Inquiry would recommend that all Gardai should notify their superior officers in writing, in relation to a decision taken by them not to investigate or proceed with a referral for prosecution to the Director of Public Prosecutions any offence concerning a complaint or allegation of child sexual abuse.
19. The Inquiry is satisfied that there are adequate procedures in place to enable any citizen to complain where he believes that his or her complaint has not been dealt with in an appropriate and satisfactory manner. These procedures exist within and outside of the Garda structure and the Inquiry would recommend that these procedures be made more widely known.
20. The Inquiry would recommend that a local Superintendent should consult with the Domestic Violence and Sexual Assault Investigation Unit in Dublin to seek their advice where issues arise in relation to the desirability of maintaining surveillance on an alleged or suspected perpetrator of an offence of child sexual abuse, whether or not a formal complaint has been made.

“H. In the event of the withholding or withdrawal of full cooperation from the Inquiry by Church authorities or any State authorities, or any suggestion that cooperation is being withheld, to report that fact immediately to the Minister for Health and Children. In the event of the Minister for Health and Children receiving such a report he will then grant the Inquiry statutory powers.”

The Inquiry is satisfied that, it received cooperation from all the agencies involved with the issue of child sexual abuse in the Diocese of Ferns.

“I. At the conclusion of their inquiries, to deliver a full and final report to the Minister for Health and Children who will lay it before the Houses of the Oireachtas and publish the report in full subject to legal advice.”

The Ferns Inquiry has concluded its investigations and the Report of the Inquiry is attached hereto.

APPENDIX

On 5 August 2005, a complainant informed the Inquiry that she had been abused sexually by two priests of the Diocese of Ferns. In one case, if not both, it was alleged that the abuse occurred when the victim was a child. It appears that the same complainant had on 11 May 2005 spoken to the acting Diocesan Delegate in the Diocese of Ferns of her complaints and identified one of those priests but had not made a written complaint.

Upon receiving notice of this complaint, the Diocese reviewed the personnel file relating to the priest identified by her. This review resulted in the production of two letters which clearly related to the present complainant without identifying her by name. The same file revealed a third letter in which it was alleged that a young man had been abused by a priest as a child. This documentation was forwarded to the Inquiry by the Diocese.

In those circumstances, it was felt by both the Inquiry and the Diocese that an investigation should be undertaken as to the manner in which the discovery had been made in the first place.

An examination of discovery issues was carried out at a plenary hearing of the Inquiry on 2 of September 2005, at which the Diocese and the Inquiry was represented by Solicitor and Counsel. In July 2005, Bishop Walsh had instructed Arthur O'Hagan Solicitors, who are solicitors to the Diocese, to carry out an inspection of all of the files of the Diocese to establish as conclusively as possible what further documents (if any) existed that might be material to the work of the Inquiry. Mr Edward Gleeson, partner in Arthur O' Hagan Solicitors informed the Inquiry that he appointed a member of his staff to review the 234 personnel files in the possession of the Diocese relating to priests living and dead who had operated in the Diocese of Ferns.

A total of eight further files were identified as possibly being of relevance to the Inquiry. The Inquiry was satisfied that three of these eight files had no relevance to its Terms of Reference whatsoever.

The Inquiry has accepted the unequivocal assurance of the Apostolic Administrator and Arthur O'Hagan Solicitors based on the investigation and audit carried out that all relevant documentation has been furnished to the Inquiry. The Inquiry has also accepted that the omission of the documents identified in the course of this further investigation was due to a regrettable error on the part of the Diocese and did not constitute the withholding of cooperation on its part.

The Inquiry is satisfied that the cases cited below do not impact on the work done by the Inquiry or on the conclusions or recommendations reached by it.

A full examination of the files and documents relating to the cases which came to light subsequent to 31 August 2005 and the incorporation in the Report of the findings of the Inquiry in relation thereto would involve an unacceptable delay. On the other

hand, the Inquiry is conscious that the omission of any reference to the facts disclosed by this additional material would invite concerns and suspicions which would be contrary to the public interest. In the circumstances, the Inquiry has set out hereunder a précis of the material revealed by this documentation but not investigated by the Inquiry.

1. Fr V:

The first indication of any difficulty with this priest was expressed by a parishioner who complained in a letter in 1993 to Bishop Eamonn Walsh that Fr V had seriously breached confidences when asked to counsel a matrimonial matter. The letter described this priest as having an involvement with the local school and youth organisations and as being *"in a position of trust and he abuses this trust on more than one level"*.

The author of the letter, who signed her name, stated that she no longer wanted this priest to be an influence on her children. A copy of this letter was sent to Bishop Comiskey who acknowledged it by thanking the correspondent for her courage in writing to him and who said that the contents of it had come as a shock to him. No further response appears to have been made to that letter.

In January 1995, a person met with the vicar general, Monsignor Breen, and alleged that he had heard indirectly that Fr V had been drinking heavily during a party and had made sexual advances towards a ten year old boy.

The vicar general informed Bishop Comiskey of the complaint. The bishop wrote to the father of the boy asking to meet with him and his wife to ascertain more clearly what was alleged to have occurred. Bishop Comiskey met with the family in January 1995 but no allegation or accusation against Fr V was made by either the parents or the child in question. Indeed, they were angered that a complaint had been made to the bishop.

Bishop Comiskey approached Fr V who denied that the alleged incident ever occurred. Bishop Comiskey took no further action in relation to the matter. Fr V on his own initiative attended a psychologist expert in this area to obtain reassurance and confirmation that he had no problems of a sexual nature.

When the personnel file relating to Fr V was reviewed by Bishop Walsh in July 2002, he interviewed Fr V and it was established, that on assessment, no evidence had been found that Fr V possessed any propensity or orientation towards minors which would have caused concern and that Fr V could continue to work well as a priest.

2. Fr W:

It appears that in about September 1994, Bishop Comiskey received an anonymous complaint which suggested that there may have been a sexual relationship between Fr

W and an underage girl. The files indicate some measure of dispute between Fr W and his parishioners but do not disclose any specific complaint of child sexual abuse.

The only issue in this file that might have been relevant to the work of the Inquiry was the suggestion that there had been a complaint that Fr W had been in a sexual relationship with an underage girl. Bishop Comiskey has told the Inquiry that although he invited the anonymous caller to come forward to either the Gardai or himself, they did not do so. Fr W vehemently denied the allegation.

3. Fr X:

In 1995, a complainant whom the Inquiry names as “Veronica” and who was then twenty three years of age, sought and obtained a meeting with Bishop Comiskey. Veronica complained of inappropriate sexual conduct by Fr X. The Bishop’s record of this meeting would suggest that some relationship had commenced when Veronica was sixteen years of age although the note clearly records “before 18 nothing criminal”. A further note on the file dated May 1995 records that an improper relationship between the priest and the complainant went back “as far as when she was fourteen years of age”.

It appears that another priest of the diocese conducted some investigation or acted as an intermediary of some description at that time.

A file note records the fact that the legal implications of Veronica being underage at the time of the inappropriate conduct had been explained to, and understood by Veronica.

The matter was reviewed by Bishop Walsh in May 2002 when the diocese was informed personally by Veronica, who subsequently confirmed by letter of June 2002 that the relationship between her and Fr C took place when she was over the age of eighteen years. In her letter and communications with the Diocese she insisted that the matter should not be re-opened as it would cause embarrassment to her and to her family.

On 24 June 2002, Bishop Walsh met with Fr X and informed him of the outcome of the meeting with Veronica, but did request that Fr X to meet with Dr James O’ Donoghue of the Kedron Counselling and Therapy Centre to obtain an assessment and reassurance in relation to his emotional needs. The Therapy Centre forwarded a detailed report to Bishop Walsh recommending –among other things- that the priest continue in ministry.

4. Fr Y:

In a letter dated March 1991 from Fr Z to Bishop Comiskey, the priest explained that a female named by the Inquiry as “Gwen” had, in the previous summer, “become very attached to [Fr Y]” and became very upset when he left the diocese. Gwen was in fifth year in school at the time and therefore aged about 16. Bishop Comiskey said that he spoke with Fr Y about a teenage girl who was “hanging around the rectory” but that he had not heard any rumour or accusation of child sexual abuse. Bishop Comiskey

has told the Inquiry that he ordered Fr Y to discontinue this arrangement with Gwen. Some time after that, Fr Y left priestly ministry.

5.Fr Z:

In a letter dated 3 February 1991, Bishop Comiskey informed Fr Z that allegations had been made to him concerning his ministry especially in relation to priestly celibacy. The Bishop met with Fr Z in February 1991 after he had been informed that a female named by the Inquiry as “Geraldine” had stayed with Fr Z in his presbytery in a parish of the Diocese. Geraldine was aged 17 at the time. Fr Z readily admitted this and explained that his purpose in providing accommodation for Geraldine was to assist her at a time of crisis in her life. Fr Z vigorously justified his actions and the scandal which it might cause as being necessary for her welfare in spite of the risk of it being misconstrued. Bishop Comiskey accepted that Fr Z had not violated any law of the Church or of the land in “reaching out” to Geraldine. He queried the prudence of the action taken by the priest. It does not appear that any allegation of abuse by Fr Z of Geraldine was made by anyone at any time.

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