

## Chapter 11:

### Module 3 – De La Salle Boys’ Home, Rubane House

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## Introduction

- 1 The Inquiry devoted Module 3 to the examination of evidence relating to Rubane House (Rubane), a home run by The Institute of the Brothers of Christian Schools, a Roman Catholic male religious order, on behalf of the Roman Catholic Diocese of Down and Connor. The Institute of the Brothers of Christian Schools has always been best known throughout Ireland as the De La Salle Order and it will be referred to as the Order in this chapter of the report.
- 2 The Inquiry devoted 30 sitting days spread over eight sitting weeks to this module, commencing on 29 September 2014 and finishing on 17 December 2014. Fifty-seven former residents of Rubane applied to give evidence to the Statutory Inquiry and we heard oral evidence from 47 of them. The witness statements of six applicants were read to the Panel during Module 3: four were read because they were unable to attend for medical reasons;<sup>1</sup> and, sadly, two because the applicants died before they could give oral evidence<sup>2</sup>.
- 3 The statements of two witnesses were also read because they had previously given evidence in person in Module 1, which dealt with the Sisters of Nazareth homes in Derry/Londonderry, and had only brief comments to make about their time in Rubane.<sup>3</sup>
- 4 We also heard evidence in Module 3 from two former residents of Rubane put forward as witnesses by the Order.<sup>4</sup> A statement from another witness<sup>5</sup> put forward by the Order was taken into account but we did not consider it necessary to ask him to give his evidence in person.
- 5 The statement of one witness<sup>6</sup> was discounted because he failed to attend to give evidence and provided no reason for his lack of attendance.
- 6 The evidence of four witnesses was heard in Module 4,<sup>7</sup> which dealt with the Sisters of Nazareth homes in Belfast, as these applicants had only brief comments to make about their time in Rubane. Three gave their evidence in person and the statement of the fourth was read because he was unable to attend for medical reasons.

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1 HIA 16, HIA 160, HIA 262 and HIA 388.

2 HIA 159 and HIA 427.

3 HIA 381 and HIA 382.

4 DL 40 and DL 455.

5 DL 244.

6 HIA 260.

7 HIA 89, HIA 368, HIA 210 and NL 122/DL 208.

- 7 Therefore, in total, the Inquiry had the benefit of receiving evidence from 60 former residents of Rubane. Twelve of these former residents were admitted to Rubane in the 1950s, 26 in the 1960s, seventeen in the 1970s and five in the 1980s.
- 8 The Order provided written responses to each witness statement and we took these responses into account. We also received written statements from nine current and former brothers of the Order<sup>8</sup> who lived and worked in Rubane and received oral evidence from five of these brothers.<sup>9</sup> BR 2 gave evidence on two occasions; on the first he responded to allegations made against him and on the second, as a former brother director of Rubane, he provided more general information about how the home operated and was managed.
- 9 Brother Pius McCarthy, the Provincial Secretary to the Order in Ireland from 1974 to 1976 and from 1995 until his death in May 2014 provided witness statements and helpful background material to the Inquiry. The current Irish Provincial, Brother Francis Manning, also provided written statements and gave evidence in person on behalf of the Order.
- 10 Four former members of lay staff who worked at Rubane<sup>10</sup> gave evidence in person to the Inquiry. The Inquiry was only able to locate one former member of lay staff DL 11 towards the end of the module. We accepted there were good reasons why he could not attend in person at short notice and took his written statement into account.
- 11 The Inquiry also considered statements from the Department of Health, Social Services and Public Safety (DHSSPS) as the successor department to the Ministry of Home Affairs (MoHA) and the Department of Health and Social Services (DHSS), each of which had statutory responsibility for the registration and regulation of Rubane as a children’s home. We heard oral evidence from Dr Hilary Harrison on behalf of the DHSSPS and from a former employee of the Social Work Advisory Group<sup>11</sup> who was involved in the regulation of Rubane.
- 12 The Health & Social Care Board (HSCB), as the successor to the various local or statutory authorities which had responsibilities for the care of children placed in Rubane, provided written evidence including statements

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8 BR 2, BR 3, BR 7, BR 10, BR 25, BR 29, BR 33, BR 62 and BR 77.

9 BR 2, BR 7, BR 10, BR 29 and BR 77.

10 DL 1, DL 81, DL 509 and DL 149.

11 DL 521.

from fifteen current and former social workers who had experience of Rubane and from Valerie Watt, the current Chief Executive of the HSCB. We considered these statements and asked for, and received, oral evidence from five of these individuals.<sup>12</sup>

- 13 Father Timothy Bartlett, Episcopal Vicar for Education and Director of Public Affairs for the Diocese of Down and Connor, provided statements and gave evidence in person on behalf of the Diocese.
- 14 We also considered documentation relating to police investigations and civil claims against the Order that identified 158 former residents of Rubane who did not apply to the Inquiry but who alleged similar types of physical and sexual abuse as that alleged by witnesses to the Inquiry. Counsel to the Inquiry brought relevant information from these investigations and civil proceedings to the attention of the Panel during the public hearings. Rubane was considered by the Committee of Inquiry into Children's Homes and Hostels chaired by His Honour Judge William Hughes (The Hughes Inquiry) and we considered the findings of that Inquiry in relation to Rubane.
- 15 We also considered written and oral closing submissions from the De La Salle Order, the DHSSPS, the HSCB and eight individuals<sup>13</sup> against whom allegations of abuse were made. In total, we considered almost 40,000 pages of documentation in this module, 20,000 pages of which was provided by the police.
- 16 We are grateful to all the individuals and organisations that provided evidence and we appreciate the full co-operation we received from the Order, which provided detailed statements and copies of relevant documentation in a timely manner. We are particularly grateful to BR 2 for providing personal diaries that he kept from 1968 to 1976<sup>14</sup> while working in Rubane, which helped to confirm the dates of particular events and provided a contemporaneous record of his life in Rubane and some of the challenges he faced working there.
- 17 Fifty of the 60 former residents of Rubane who gave evidence said that they suffered physical abuse by brothers and lay staff and observed other boys being subject to such abuse. Fifty one said they were sexually abused by staff and/or their peers in Rubane and that they were aware of other

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12 DL 503, DL 515, Mr Bunting, DL 516 and DL 517.

13 BR 2, BR 3, BR 10, BR 25, BR 62, BR 77, HIA 21 and HIA 147.

14 RUB 6000-7117.

boys being subject to such abuse. We also heard evidence from former residents about emotional abuse, neglect and unacceptable practices that they say they experienced in Rubane. We have given careful consideration to the written and oral submissions from former residents, however in accordance with our general approach and our Terms of Reference, we do not propose to refer to each and every detailed allegation that was made, whether against an individual or the institution.

- 18 The Order has pointed out what it considers to be factual inaccuracies and inconsistencies in aspects of the evidence provided by some witnesses. It has also pointed out that some witnesses have increased the number and/or seriousness of their allegations from the time they were first interviewed about them by the police to what they alleged in subsequent police interviews, evidence for civil claims and evidence provided to this Inquiry. Individuals accused of abuse have queried the detail of allegations and the reliability, credibility and motivation of witnesses and have pointed out that memory can be affected by the lapse of time and the emotional content of memories.
- 19 We understand it is difficult for some people to recognise and try to come to terms with the abuse they suffered as children and that many find it hard to speak about it to others, particularly where the abuse was of a sexual nature. A number of witnesses in this module told us that it was only when they decided to come forward to give evidence to this Inquiry that they spoke for the first time to their partners and families about their experiences in Rubane.
- 20 The Inquiry noted inconsistencies in evidence and contrasting recollections and perceptions of the same events. The dates given by some witnesses for their stays in Rubane differed from those in the register. While there may have been occasions when inaccurate entries were made in the register, we are inclined to believe that contemporaneous written records are generally more likely to be correct. We also noted that some witnesses, including former residents, brothers and lay staff, were not able to remember some events or the full details of some situations because of the time that had elapsed since they occurred.
- 21 However, it is important to emphasise that the purpose of our consideration is to determine whether, and if so to what extent, there were systemic failings in the care provided in Rubane; therefore, it is not necessary for us to make specific findings in respect of every allegation.

- 22 Before considering the evidence from former residents, we will first set out background information about the establishment and development of Rubane as a children's home, the statutory and regulatory frameworks within which it operated, the governance and management arrangements that pertained and the daily routine that boys experienced in the home.

## **The De La Salle Order**

- 23 The Order was founded in France in 1680. The founder, John Baptist de La Salle established the community of teaching brothers to provide education for the children of the working classes in France. At first the Order was confined to France, but at the time of the French Revolution the brothers were dispersed and established Provinces throughout the world. The Order opened a novitiate in Ireland in 1880 and in 1891 it established a college in Waterford for the training of brothers and lay teachers. Prior to 1947 there was only one Province covering England, the Republic of Ireland and Northern Ireland. In 1947 the Irish Province became independent and responsible for schools and institutions in Ireland, north and south, including, in due course, Rubane House.
- 24 The head of the Order is known as the Superior General. The Superior General is based in Rome and is assisted by a group of councillors who together make up the General Council. Each Province has an appointed Provincial Superior (Provincial) who is delegated to run the Province in accordance with the Rules of the Order and each separate community or house has a Brother Superior or Brother Director. Since, in the main, Brother Director was the title used in Rubane for the brother who was the Head of the Community and the Officer in Charge of the Home, that is the title we will use in this report. During the thirty five years that Rubane operated as a children's home eight brothers were appointed as Brother Director and BR 2 held this role for three periods. Each Brother Director of Rubane was responsible to the brother who was Provincial of the Irish Province at the time of his tenure.
- 25 From October 1950 to September 1973 the Brother Director of Rubane was also the principal of the school in Rubane. On 1 September 1973, BR 4 was appointed principal of the school to enable BR 2 to concentrate on the management of the home and the leadership of the community of brothers. The pattern of appointing separate heads of education and care was adopted widely about this time throughout the United Kingdom in special residential schools and schools for young offenders. This

arrangement of a separate brother, and eventually a lay person, being in charge of the school continued until the closure of Rubane.

- 26 All the brothers who worked in Rubane were governed by rules and regulations set out in two books, namely:
- Rules and Constitutions of the Brothers of the Christian Schools
  - Book of Government of the Brothers of the Christian Schools.<sup>15</sup>
- 27 These rules set out clear and detailed instructions about how brothers should behave towards each other, the boys in their care and the general public. They also set out directions to brothers about self monitoring and correction, disclosure of failings to the community and management of any lack of adherence by themselves or other brothers to the rules. A specific obligation was placed on brothers to report a breach of rules or misconduct by another brother to the Brother Director or, where the Brother Director was the source of concern, to the Provincial.
- 28 Detailed arrangements were specified for each brother to report and provide feedback to the Provincial about their conduct and life and progress within the community through the submission of individual private letters on an annual basis and through individual interviews during visits of the Provincial or his assistant.
- 29 The Order informed the Inquiry that the Provincial of the Irish Province, or on some occasions his assistant, visited Rubane at least once a year for a three-day period. It explained that in addition to reviewing the conduct of the brothers and their life as a community the Provincial or his assistant would review the needs of the home in respect of staff and funding, talk with religious and lay staff and interact with the boys.<sup>16</sup>
- 30 A 'History of the House' was maintained by the brothers in Rubane and between 1952 and 1970 a record of important events, as required by the Children and Young Persons (Voluntary Homes) Regulations (Northern Ireland) 1952,<sup>17</sup> was also maintained. The Order has confirmed that both of these documents would have been available for inspection by the Provincial.

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15 RUB 1786 to 1856.

16 RUB 021.

17 HIA 288.



## The establishment of Rubane House

- 31 St Patrick's Training School (St Patrick's) in Belfast was one of the institutions operated by the Order in Northern Ireland and we consider it in Chapter 12 of this report. It was run by the Order on behalf of the Roman Catholic diocese of Down and Connor and the Brother Director of that school in 1950 was BR 39. A special meeting of the Governing Board of St Patrick's was held on 31 March 1950 chaired by the Most Reverend Dr Mageean, the then Bishop of the Diocese of Down and Connor. The meeting was convened to discuss the Children and Young Persons Act (Northern Ireland) 1950<sup>18</sup> which was due to come into force on 1 April 1950, and in particular the provision within it for Welfare Authorities to establish and maintain homes for children who were subjects of care orders on a separate basis from those children who were regarded as junior offenders. The Governing Board of St Patrick's decided at this meeting that specific provision ought to be made for children of the Roman Catholic faith who were subjects of care orders.<sup>19</sup>
- 32 This decision was influenced by the concerns of BR 39 that some children were being placed inappropriately in St. Patrick's because of the lack of suitable alternative residential accommodation for Catholic boys, and because Nazareth Lodge, a residential home for Catholic boys situated in Belfast and run by the Sisters of Nazareth, was overcrowded.<sup>20</sup> The Inquiry's consideration of Nazareth Lodge is set out in Chapter 9 of this report.
- 33 In April 1950, Bishop Mageean formally asked the Order to send five brothers to run a voluntary home and orphanage in his diocese. On 25 May 1950, the diocese purchased a large Victorian mansion, Rubane House, farm buildings, a coach house and 250 acres of surrounding land for £32,500. The property was situated near the shores of Strangford Lough, near Kircubbin, County Down, approximately 22 miles from Belfast. Although the Order repaid the cost of the purchase with interest, the legal ownership of the House and land remained at all times with the diocese.<sup>21</sup> The diocese and the Order entered into a formal agreement about the operation and management of Rubane House on 3 October 1950.<sup>22</sup>

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18 HIA 164-286.

19 RUB 40008 and RUB 10014.

20 RUB 10001.

21 RUB 072, RUB 10010, RUB 10005, RUB 10013, and RUB 5000.

22 RUB 072.

- 34 Under the terms of the agreement the diocese remained responsible for the premises, property and buildings while the running of the house and its finances, together with the 250 acre farm, were the responsibility of the Brother Director. The Order was responsible for appointing the Brother Director and the brothers required to assist him. Provision was made for a chaplain to be appointed by the bishop. Apart from the chaplain, the Brother Director had power to appoint and discharge other officials 'with the sanction of the committee'.<sup>23</sup> The agreement required the Brother Director to keep audited accounts, and to submit a financial statement and general report to the committee of management each year. He was subject to a further restriction that the bank account of the home had to be operated by him and one other committee member.
- 35 Somewhat confusingly, the terminology used in annual reports and other documents thereafter does not precisely mirror the terminology of the agreement. There are references to the 'Governing Board' and not the 'Committee of Management', and later the term 'Board of Governors' was used. Since in the main the term 'Governing Board' was used that is the term we use in this report.
- 36 On 6 May 1950, BR 39 submitted an application to the MoHA for Rubane to be registered as a voluntary home for up to 70 children. In an accompanying letter BR 39 asked for financial support from the MoHA to make alterations and improvements to the buildings in Rubane to make them suitable for accommodating children.<sup>24</sup>
- 37 On 22 August 1950, the MoHA wrote to the Ministry of Education to confirm it was approving Rubane House as a children's home initially for 30 children, with the expectation that it would accommodate 60 children once it was fully operational. The MoHA also confirmed that it supported the proposed establishment of a voluntary primary school within the home.<sup>25</sup> The MoHA's decision to approve Rubane with the intention that in time it would accommodate 60 children is surprising, given the policy agenda that was being developed at that time for residential care of children in Northern Ireland. As referred to above, the Children and Young Persons Act (Northern Ireland) had come into force in 1950 and Voluntary Homes Regulations to support it were being developed and were

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23 RUB 074.

24 RUB 10005 and 10007.

25 RUB 10015.

published in 1952.<sup>26</sup> In September of 1952 Home Office guidance on residential child care was circulated to all voluntary agencies providing such care in Northern Ireland.<sup>27</sup> The policy direction in this guidance, and in the legislation, and its associated regulations was towards giving priority to foster care and placing children in smaller children's homes where residential care was considered necessary. The Home Office guidance clearly disapproved of large homes and even contained an appendix with advice on breaking large homes up into smaller 'family' units.<sup>28</sup>

38 BR 39 had planned to initially accommodate 40 boys in Rubane. However, a note of a meeting that officials from the MoHA had with him in November 1950 records he was told that:

“...on the basis of present arrangements, the number of boys to be accommodated should be up to a maximum of 30. Later on when further adaptations had been carried out consideration could be given to the question of raising the maximum.”<sup>29</sup>

39 The first meeting of the governing board of Rubane House was held on 27 September 1950.<sup>30</sup> It was presided over by Dr.Mageean and attended by two Parish Priests and three priests from the Diocese appointed to the governing board by the Bishop. BR 19 the Irish Provincial at that time, BR 12 who was the first Brother Director of the Rubane community and BR 39 also attended the first meeting.

40 The membership of the governing board changed over the years but the chair was always the current Bishop of Down and Connor and the membership always consisted of De La Salle brothers and members of the clergy of the Diocese appointed by the bishop. When the bishop did not attend a meeting one of the senior clergy members chaired the meeting on his behalf.

41 The governing board met on 31 occasions from 1950 to 1985. The format for the meetings was that an annual general report and a financial statement for the preceding year from the Brother Director of Rubane were presented followed by a discussion of matters arising from these reports, identification of agreed action and approval of any related financial outlay.

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26 HIA 287-291.

27 HIA 470-485.

28 SND 15708.

29 RUB 10020.

30 RUB 076/7.

- 42 It is clear from the minutes of the meetings that in line with the formal agreement between the diocese and the Order the focus was on practical matters to do with the establishment and development of the home, such as how the accommodation should be extended, funding applications, the management of the farm and the income achieved from it.
- 43 The copies of the annual general reports from Brother Directors that we have seen provide information about the occupancy levels in the home, but contain only brief and mostly positive comments about the direct care and condition of the boys. For example, the Annual General Report presented in February 1953 states:
- “...there is an excellent spirit among the boys who are very healthy and apparently very happy and content at Rubane. As the day’s routine is well balanced as regards schooling, work and play this happy spirit is only to be expected.”<sup>31</sup>
- 44 There are references in the annual general reports to visits from the MoHA and welfare authorities<sup>32</sup> but again these are brief and positive in tone and record officials expressing satisfaction with the health of the boys and appreciation of the work of the home. Although the Provincial or his assistant inspected the community, including the home, on an annual basis there are no references to the governing board receiving any feedback from these visits.
- 45 Therefore, it would appear that initially, in accordance with the agreement between the Diocese and the Order, the governing board was content to exercise its governance in relation to financial and practical matters and to leave the management and quality assurance of the care of the boys to the Order. However, as time goes on, it also considered and intervened in matters that had a direct bearing on the care of the children, such as the level of education that should be offered on site and the style of accommodation that should be provided.
- 46 At its meeting on 30 October 1951,<sup>33</sup> the governing board decided to establish a general purposes committee that would meet monthly to discuss any relevant matters that arose between the annual meetings of the governing board. The minutes of the governing board suggest it did not receive a formal report from the general purposes committee and

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31 RUB 10868.

32 RUB 10868.

33 RUB 5178.

from the Inquiry's sight of a small number of minutes of meetings of that committee it appears to have focussed on immediate practical matters, such as agreeing repairs to the greenhouses and deciding on the type of livestock to be kept. However, the annual report to the governing board on 13 March 1957 records that three boys resident in Rubane "were sent directly by the General Purposes Committee".<sup>34</sup> The Order was asked if it could explain this entry and it confirmed that it does not believe the general purposes committee had a role in the admission or approval of admission of boys to Rubane. However, it explained that members of the general purposes committee had roles within parishes or organisations, such as the St Vincent de Paul, which may have assisted with admission arrangements and that such involvement may account for the use of this wording in the annual report.

- 47 The Order informed the Inquiry that the general purposes committee met frequently over a ten-year period but that over the passage of time it became increasingly difficult for it to "render regular and useful assistance and eventually it lapsed as an effective body".<sup>35</sup> We could only find minutes for preliminary meetings in January and February 1952, a meeting in April 1953 which was not quorate and a record of formal letters of appointment to the committee being issued to members of the committee on 11 June 1953.<sup>36</sup> However, there are references in the History of the Home/Important Events Book to meetings of the committee in March, April, May and September of 1955. This suggests that the general purposes committee played only a limited role in the oversight of Rubane for the first few years, and even that limited role appears to have ceased completely by the late 1950s.
- 48 The first brothers arrived to live and work in Rubane on 1 October 1950, BR 12 was Brother Director and supervisor of the farm and BR 23 was Prefect, the title the Order used for brothers who were responsible for the care of children rather than teaching them.<sup>37</sup> An opening ceremony for the Home was held on 15 December 1950<sup>38</sup> and on 8 January 1951 the MoHA formally issued a certificate registering Rubane House as a voluntary home.<sup>39</sup> This meant that the home could admit boys and could apply for government funding to improve its facilities, as under Section

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34 RUB 10879.

35 RUB 019.

36 RUB 111-116.

37 RUB 11761.

38 RUB 11762.

39 RUB 10023.

118 (1) of the Children Act 1950 grants to voluntary homes could only be awarded for the improvement of existing homes, not the establishment of new homes.<sup>40</sup>

## Expansion of Rubane House

- 49 The first group of 16 boys arrived on 17 January 1951.<sup>41</sup> Four were supported by welfare authorities, one by the Ministry of Pensions and one was a voluntary admission. The other ten boys were boarded out from St Patrick's and six of them had previously been resident in Nazareth Lodge.<sup>42</sup> The welfare authorities were, therefore, only responsible for the financial support of a third of the first group of boys placed in Rubane.
- 50 Because most of the boys had previously been voluntary admissions to Nazareth Lodge, the Order had to look to Catholic organisations to assist in financing their care. The Order depended heavily on contributions from the Diocese of Down and Connor Orphan Society Fund and the St Vincent de Paul Society (SVP); for example, during the years Rubane was in operation, the SVP contributed approximately £54,000 towards the maintenance of boys on voluntary placements. It also depended on the fundraising of the De La Salle Voluntary Workers Committee, formed by BR 39, which over time contributed approximately £49,000 to the maintenance of boys in Rubane.<sup>43</sup> The farm on the site was also a source of income and the Order informed us that up until 1972 approximately £55,000 of proceeds from the farm went towards the home.<sup>44</sup>
- 51 By October 1951 there were 34 boys in the home, three over the maximum limit set by the MoHA in November 1950. Twenty had been admitted from St Patrick's, three were voluntary admissions and eleven children were placed there by welfare authorities.<sup>45</sup> By December 1952 the number of boys had increased to 40, ranging in age from eight to fifteen years.<sup>46</sup> In 1953 the annual transfer of boys from Nazareth Lodge commenced with 26 boys being transferred<sup>47</sup> and by December 1953 there were 46 boys in residence.

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40 RUB 10315.

41 RUB 11763.

42 RUB 10862.

43 RUB 017.

44 RUB 017.

45 RUB 10865.

46 RUB 10026.

47 RUB 11791.

- 52 Therefore, after almost three years in operation the home had admitted over 50 per cent more boys than the maximum limit originally set by the MoHA. The Inquiry has seen no correspondence or notes of meetings between the MoHA and the Order to indicate this increase in admissions was sanctioned by the Ministry. This willingness of the governing board and the Order to accept more boys than the home was approved to accommodate or had the facilities to deal with established a pattern of overcrowding that continued for the next seventeen years.
- 53 Part of the pressure to admit boys was due to the pressing need to reduce over-crowding in Nazareth Lodge. Ms Forrest of the MoHA reported in a note of her visit to Nazareth Lodge in November 1955 that children from that home were being sent to Australia because Rubane “can’t absorb all their output”.<sup>48</sup> It also seems reasonable to assume that the Order would have been reluctant to turn down requests from welfare authorities to accommodate Catholic boys who were the subjects of care orders if the alternative was that they would have to be accommodated in statutory homes.
- 54 A factor which significantly affected the number of boys admitted to Rubane emerged in January 1954 when the Ministry of Education wrote to the Order to ask whether boys from Rubane would be attending the new secondary school in Portaferry.<sup>49</sup> This school had been built because of recent legislation that required children of eleven years to move from primary schools to receive intermediate level education at secondary schools.
- 55 Brothers met with the Assistant Secretary of the Ministry of Education in February 1954 to discuss this requirement and its implications for Rubane.<sup>50</sup> In March 1954 the Down County Education Department wrote to the Order to clarify that since the school at Portaferry had no provision for educationally sub-normal (ESN) children, children in Rubane who had been assessed as ESN should continue to be taught there.<sup>51</sup> The Order brought this matter to the attention of the governing board at its meeting on 30 March 1954 and the governing board decided it would be better for all the boys in Rubane to continue to be educated on site and that BR 12 should seek to have the school at Rubane approved for the provision of intermediate level education.<sup>52</sup>

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48 AUS 5160.

49 RUB 10080.

50 RUB 11797/9.

51 RUB 11324.

52 RUB 5184.

- 56 Although the provision of education is not a matter for this Inquiry, the decision to seek approval for the provision of Intermediate level education at Rubane is significant because the Ministry of Education stipulated that Rubane would only be considered for the provision of that level of education if it had a roll of 120 pupils. This meant that Rubane would have to be able to accommodate that number of boys, a number far in excess of that contemplated by the MoHA when it registered the home. These decisions to extend the schooling on the premises and admit a larger number of boys also meant that Rubane was being developed as a hybrid type of establishment: part children’s home, part ESN boarding school and part training school.
- 57 While the number of boys admitted to Rubane was steadily increasing, the Order was engaged in negotiations with the MoHA about how the property might be renovated and extended to provide additional and more appropriate accommodation. The MoHA gave its support to an initial proposal from the Order to renovate the steward’s house on the farm to accommodate a further 24 boys.<sup>53</sup> However, the governing board at its meeting on 3 February 1953 turned down this proposal because it considered that accommodation for a further 50 boys, not just 24 boys, was needed to address the overcrowding in Nazareth Lodge.<sup>54</sup>
- 58 On 6 June 1953 BR 12 met with representatives from the MoHA to discuss renovating the outbuildings at Rubane to create new accommodation that would enable up to forty boys to be transferred from Nazareth Lodge. The MoHA’s note of this discussion<sup>55</sup> records general agreement that there was no satisfactory alternative to Rubane for the Nazareth Lodge boys and that it was not appropriate for them to be brought up exclusively under feminine influence, as they would be if they remained in Nazareth Lodge. The MoHA accepted that, in order to address the overcrowding in Nazareth Lodge, Rubane would have to be approved to accommodate a total of 80 boys. Although the rationale for this decision is understandable it was completely incompatible with the MoHA’s recently stated and circulated policy in favour of smaller children’s homes. We consider that the failure of the MoHA to insist from the outset that Rubane be developed on the smaller children’s home model was a significant factor in bringing about the understaffing and unsatisfactory accommodation that contributed to the systemic failings we identify later in this chapter.

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53 RUB 5180-5181.

54 RUB 5180-5181.

55 RUB 10067.



- 59 It is recorded that the MoHA representatives at the meeting indicated they were hopeful that some grants would become available for making improvements to voluntary homes, if the homes could show their inability to defray the costs themselves, and that they advised BR 12 to submit plans for the necessary renovations. On 11 June 1953 the governing board discussed options for providing additional accommodation.<sup>56</sup> On 6 July 1953 the MoHA wrote to BR 12 confirming its approval in principle to Rubane accommodating 80 boys, and saying it would consider a grant application towards the costs of the renovations once plans were submitted.<sup>57</sup>
- 60 BR 12 submitted plans for renovations in September 1953<sup>58</sup> and officials from MOHA visited Rubane on 25 March 1954 to discuss the building of a new wing.<sup>59</sup> However, the governing board decided at its meeting of 30 March 1954 to put the plans on hold in order to explore whether the accommodation should be developed along the lines of a cottage system, which would allow the boys to live in smaller groups.<sup>60</sup> This decision by the governing board was in line with the guidance given by the Home Office about breaking larger homes into smaller units.
- 61 At its next meeting on 25 April 1955<sup>61</sup> the Governing Board asked BR 12 to inquire into the cost of renovations to provide cottage style accommodation for the boys. At its next meeting in March 1956 the board of management was informed that there were 49 boys in residence and it agreed that a new house could be built for the chaplain in order that the accommodation he was using could be used to accommodate a further sixteen boys.<sup>62</sup>
- 62 BR 17 was appointed as the Brother Director in September 1956.<sup>63</sup> In his annual report to the governing board at its meeting in March 1957 he confirmed that the number of boys in residence had increased to 63 and that renovations had been completed to provide new accommodation for the chaplain and additional accommodation for “an extra dozen or so children”.<sup>64</sup>

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56 RUB 079.

57 RUB 10355.

58 RUB 10189 annotation at the top of the page.

59 RUB 10081.

60 RUB 5184/5.

61 RUB 5186-87.

62 RUB 10875.

63 RUB 10097.

64 RUB 10879.

- 63 Although the governing board put the plans for more extensive renovations on hold while the appropriateness of a cottage style system was explored, the Order appeared to take the MoHA's approval in principle that Rubane could accommodate 80 boys, once necessary renovations had been completed, as implicit permission to continue to increase the number of admissions. MoHA officials did not initially object to this increase; Dr Simpson and Ms Wright of MoHA inspected Rubane on 3 October 1957 and recorded that the steward's house was being used to accommodate 27 beds and that with the 44 beds available in the main house this meant Rubane now had a total of 71 beds.<sup>65</sup>
- 64 On 18 October 1957 BR 39 and BR 13 met with the MoHA officials to discuss possible grants for renovations in Rubane. MoHA officials record in their note of that meeting that without any grant from public funds the number of places available at Rubane had been increased from 30 to 71 places.<sup>66</sup> There is no suggestion of the MoHA approving this increase in admissions and no comment on whether the available accommodation was adequate for the increased number of boys.
- 65 The MoHA's willingness to give implicit approval to increased occupancy levels at Rubane appears to stem from the fact that the renovations undertaken to provide further accommodation had been paid for without the assistance of public funding. This reasoning, and the feelings behind it, were evident in a memo presumably from a senior civil servant (the signature on the memo is illegible) that was sent to the then Minister of Home Affairs, Walter Topping, to report on the meeting officials had with the Order on 18 October 1957. The author expressed frustration about the Catholic Church's unwillingness to give welfare homes a fair trial and aired his suspicion that the orders wanted to keep their numbers up so that funding for schooling provided alongside homes was maintained. He concluded the memo with the view:

“I think the remedy lies with the Roman Church. If it is the determined policy of that Church to foster Voluntary Homes to the exclusion of the Welfare Authorities then they must be prepared to do so at their own expense.”<sup>67</sup>

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65 RUB 10201-10202.

66 RUB 10069.

67 RUB 10203.

- 66 It was only once officials found 78 boys in residence, when they inspected Rubane in October 1959,<sup>68</sup> that the MoHA intervened about occupancy levels. A terse letter was sent to BR 17 on 12 November 1959 stating that the numbers must be reduced to a limit of 71, the limit the MoHA had implicitly accepted during its inspection of the home in October 1975, and that he should ensure in future that that limit was not exceeded except for periods of a few days in cases of exceptional emergency.<sup>69</sup> Despite this letter, at the next inspection in April 1960 officials found that the number of boys had increased by one to 79.<sup>70</sup>
- 67 In December 1960, six and a half years after the governing board first discussed introducing a cottage system it agreed that plans should be progressed to introduce such accommodation together with a central dining room and kitchen.<sup>71</sup> This decision was followed by a prolonged series of discussions between the MoHA, the Order and the governing board about what renovations should be undertaken and what element of them might attract public funding in view of the Government’s policy that funding would be granted towards the costs of building new accommodation to replace old buildings but would not be granted to increase occupancy levels. In a MoHA note about these discussions officials recorded:
- “...in recent years both we and the Ministry of Education have made many concessions as the need for improvements at Rubane became more urgent and the willingness and ability of managers to proceed with these improvements on their own more uncertain.”<sup>72</sup>
- 68 While these negotiations were ongoing, the number of boys in Rubane continued to increase. In a letter of 7 February 1961 to the Provincial (which is unsigned but we assume is from BR 17) it is reported that 82 boys were residing in accommodation for 70 boys and six urgent cases were seeking admission. BR 17 described the accommodation as “bursting at the seams” and there being “intolerable congestion.”<sup>73</sup>
- 69 By 1 September 1961 there were 86 boys living in Rubane.<sup>74</sup> In a memo to her seniors, Ms Forrest of the MoHA stated that improvements were needed to the facilities in Rubane to make them suitable to accommodate

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68 RUB 10213.  
69 RUB 10216.  
70 RUB 10412/3.  
71 RUB 10149, RUB 5198-9.  
72 RUB 11943.  
73 RUB 10116/7.  
74 RUB 10292.

the existing supposed limit of 71 boys:

“The present accommodation is unsuitable and inadequate for 71 in respect of cooking and dining, inadequate in respect of sleeping and sanitation and non-existent in respect of recreation.”<sup>75</sup>

70 She explained in an appendix to her memo that in order to accommodate the 86 boys resident in Rubane:

“...boys are sleeping in rooms previously used as drying and recreation rooms...the accommodation equates to holiday camp accommodation but is not suitable for permanent occupation.”<sup>76</sup>

71 As a result of Ms Forrest’s concerns, a further formal letter was sent to BR 17 on 6 September 1961 from Mr McGrath of the MoHA which stated he was directed by the Minister of Home Affairs to say no more admissions must be accepted to Rubane and no vacancies must be filled until the numbers were reduced to 71 boys. A hand-written note on the copy letter indicates that Mr McGrath spoke to BR 17 “to soften the blow” and let him know that Ms Forrest and Ms Wright would visit.<sup>77</sup>

72 In August 1962, there were significant changes in the governance of Rubane following the death of Dr Mageean. The new Bishop of Down and Connor, Dr Philbin, took over as chair of the governing board and BR 6 replaced BR 17 as the Brother Director.<sup>78</sup>

73 Just before he left Rubane, BR 17 wrote to the MoHA on 27 August 1962 to confirm that the governing board wished to build three chalets to house ten boys each, thereby bringing the available beds up to 100, and that the long-term plan was to eventually house all 100 boys in ten chalets.<sup>79</sup>

74 The need for the accommodation plans to be agreed and progressed was further highlighted when Ms Forrest and Ms Hill inspected Rubane on 14 November 1962 and found acute overcrowding in the dormitories. Five rooms contained 52 beds in the main house, and four rooms contained 31 beds in the steward’s house: 83 beds in total, 81 of which were occupied.<sup>80</sup>

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75 RUB 10291.

76 RUB 10292.

77 RUB 10295.

78 RUB 11821.

79 RUB 10155.

80 RUB 11869.

- 75 Overcrowding was not the only problem. Just as the accommodation had not been extended adequately to deal with the increased number of boys, neither had the staffing levels. Ms Forrest also recorded in her report of the inspection visit that there were seven brothers caring for 81 children, three of whom worked full-time as teachers and one who worked full-time on the farm plus a part-time matron. She contrasted these staffing levels with the Child Welfare Council's recommended staff child ratio of at least one member of staff to every six children aged over five years.<sup>81</sup> Implementation of that ratio in Rubane would have required the appointment of fourteen care staff, in addition to teachers and ancillary staff.
- 76 Following this inspection BR 39 and BR 6 were invited to a meeting in the MoHA where the need for improvements in the accommodation and in the staffing levels at Rubane was emphasised to them. The MoHA's note of this meeting records that the brothers expressed grave doubts about their ability to increase the staff ratio because the cost of renovations would stretch their resources.<sup>82</sup>
- 77 In February 1963, the MoHA responded to the proposals submitted by BR 17 to confirm it would be prepared to contribute to the cost of building three new chalets and to approve an occupancy level of 80 boys. It also indicated that the Department of Education would now be prepared to approve Rubane for the provision of intermediate level education if it achieved a roll of 80 boys.<sup>83</sup>
- 78 On 20 February 1963 the governing board met under the chairmanship of Bishop Philbin, and a number of grave doubts were aired concerning this proposal, including the excessive outlay, the supervision that could be provided in chalets and whether it would be possible to recruit housemothers. The governing board decided to set up a subcommittee to consider these matters in detail and to report back to it.<sup>84</sup>
- 79 Representatives from the governing board met with MoHA officials on 26 February 1963 to discuss their concerns, including their view that small bedrooms would provide opportunities for "undesirable practice" between boys. They also made clear that the Order would not support brothers being replaced by care staff and working only as teachers; and, the

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81 RUB Ibid.

82 RUB 10122.

83 RUB 10123.

84 RUB 5205.

diocese would not accept any lessening of the influence of the brothers. They asked the MoHA to consider contributing to the cost of building new large dormitory blocks rather than chalets.<sup>85</sup> The MoHA's note of this meeting recorded officials' surprise, and thinly veiled exasperation, at this proposal. It is recorded that officials pointed out to the representatives of the governing board that for the last eight years the discussions about extension to the accommodation at Rubane had always been on the basis of a chalet approach. Mr Parkes of the MoHA is recorded as saying that it would be unlikely the Ministry would fund developments it considered wrong, and that if the welfare authorities also considered the development of dormitory blocks was the wrong approach they might cease to use Rubane. He is recorded as going on to say that:

“...it is doubtful if the Ministry would be justified in continuing to include in the Register of Voluntary Homes one which is staffed so inadequately at present.”<sup>86</sup>

80 We assume this statement was an attempt to put pressure on the governing board to change its position about the planned accommodation. However, it is an important acknowledgement by the MoHA that it had the power to remove Rubane's registration and thereby its approval to operate as a children's home.

81 By September 1963 the governing board's plan had changed to building two cottages, each housing 20 boys in two dormitories.<sup>87</sup> Mr Parkes of the MoHA likened this proposal to a workhouse or an out-of-date training school.<sup>88</sup> In October 1963 he wrote to BR 6 and informed him that the plans could not be approved as they would not provide homely living arrangements for the boys. He also pointed out that the plans for staff accommodation did not suggest that the greatly-increased proportion of staff to children that the MoHA hoped for was included in the plans.<sup>89</sup>

BR 39 responded to this letter setting out the governing board's rationale for the proposal and although it is recorded in the “History of the Home” for 1963 that a number of meetings were held with MoHA officials to secure a grant for the proposed buildings no agreement was reached.<sup>90</sup>

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85 RUB 10124-6, RUB 10141-6.

86 RUB 10125.

87 RUB 10306.

88 RUB 10307.

89 RUB 10127, RUB 11881.

90 RUB 11822.

- 82 On 14 November 1964 BR 6 wrote to the MoHA asking for the occupancy level in Rubane to be increased to 80 boys so that approval to offer intermediate level education could be achieved. Mr Parkes responded that the increase would be sanctioned, but only if agreement could be reached about plans for additional accommodation and assurances received that staffing levels would be improved.<sup>91</sup>
- 83 The description that BR 2 gave to the Inquiry about the conditions in Rubane when he arrived there in 1964 provides a good picture of how dire the environment was for the boys and the brothers while these prolonged discussions were going on:

“Outwardly Rubane House itself gave an impression of stately grandeur but in reality it was rather primitive. Pre 1968 most of the boys were accommodated in the main House. The sleeping facilities consisted of four bedrooms upstairs containing ten beds in each. The five Brothers had a small single room each and one toilet and bathroom was shared by both boys and Brothers. On the ground floor there was another large bedroom used with one toilet for use of the boys and one Brother whose bedroom was close to the boys’ room. There was no central heating in the house and heat was provided by a few electric heaters hung on the bedroom walls. The remainder of the boys slept in three rooms in the former farm manager’s house at the bottom of the farmyard and were supervised by two Brothers whose bedrooms were located there. The kitchen and boys’ dining room was located in the basement of the house as well as a common shower room. The conditions were sub-standard and Dickensian is the only word I can describe them. During meal times, the condensation was so bad that the walls were streaming with water. The laundry and clothing rooms were in an outhouse across the yard from the main house and on Friday/Saturday nights after showers, the boys had to run across the yard in their swim trunks and towels to get fresh clothing for the week. It seemed harsh at the time.”<sup>92</sup>

BR 2 also commented:

“The Home had as far as I am aware been inspected and approved by the Ministry of Home Affairs and they would have been aware of the extent and limitations of our facilities.”<sup>93</sup>

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91 RUB 11309, RUB 10167.

92 RUB 1036.

93 RUB 1036.

- 84 Finally during 1965 plans for cottage/chalet style accommodation were prepared and submitted to the MoHA followed by a formal funding application. In May 1967 the MoHA agreed to offer a grant of £50,000 towards the costs, subject to the amount being no more than 50% of the cost of the project and to a 40-year undertaking to repay the grant if the home were to close.<sup>94</sup> On 20 August 1968 the boys moved into the first chalets.<sup>95</sup> The second group of chalets was completed in March 1969 and in July 1970 78 boys were accommodated at Rubane.<sup>96</sup> This meant the home was operating within the approved occupancy limit of 80 boys.
- 85 The opening of the chalets heralded the introduction of lay care staff in Rubane. Although ancillary domestic staff had been employed from 1963, the care of the boys was exclusively provided by brothers until the chalets were opened. In 1968, two married couples, DL 134 and DL 135 and DL 303 and DL 115 and two nuns SR 32 and SR 57 were employed as house parents and SR 33 and DL 1 were employed as part-time care staff.<sup>97</sup> Despite this increase in staffing, BR 2, BR 3 and BR 11 had to continue to carry teaching and care duties; only BR 15 as a prefect was exclusively involved in the provision of care.
- 86 We consider that the persistent overcrowding, breaching of the approved occupancy numbers, inadequate accommodation and facilities and understaffing which were allowed to continue in Rubane for seventeen years adversely affected the care and condition of the boys and the ability of the brothers to provide good quality care. Also, as we will consider later in this chapter, these conditions significantly contributed to the creation of an environment and culture that allowed the physical and sexual abuse of boys to occur and go unchecked.
- 87 **We consider that the MoHA, the Diocese as represented by the Governing Board and the Order contributed to a systemic failing to ensure the institution provided proper care by allowing discussions about the type of redevelopment needed and how it should be funded to continue for a decade while over-crowding increased and the facilities and staffing levels in Rubane became more inadequate and unsatisfactory.**

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94 RUB 10444-10445.

95 RUB 10114.

96 RUB 10621.

97 RUB 11828.



- 88 **We also consider it a systemic failure in the governance arrangements for Rubane that while these prolonged discussions were ongoing the Governing Board only met annually and left the detailed negotiations to the Order.** While it expected the Order to conduct the negotiations with the MoHA it exercised its ultimate say and intervened late in the process to query an approach to the development of the home which had been planned and discussed for almost eight years. We do not accept that a change in personnel justified such a radical attempt to revert to an outdated and discredited view of child care accommodation.
- 89 We agreed with Father Bartlett’s comments about the Diocese’s role in these matters when he gave evidence to the Inquiry:  
“...having looked at that debate between the State and the church about the change of the type of care, it does strike me that the church was claiming a competence that it didn’t necessarily have. I don’t know on what basis the church could have claimed to be an expert on residential care of children other than from its experience of running boarding schools, for example, but that was not the particular environment that we were dealing with here.”<sup>98</sup>
- 90 **We also consider that these prolonged discussions highlight a systemic failure by the Diocese, the Order and the MoHA as the registering body to clarify the nature and aims of Rubane, the governance and management arrangements and the conditions needed to provide appropriate care.** In its submission to the Inquiry, the DHSSPS accepted that the MoHA did not engage sufficiently with the governing board.<sup>99</sup>
- 91 Improvements were made to the home from Rubane’s own resources during this time, such as the renovation of outhouses in 1962 to provide a laundry and drying room and the decoration of bedrooms.<sup>100</sup> The brothers also built an outdoor swimming pool in 1959 with the help of the boys. However, these improvements were piecemeal in nature. We also noted that while the boys and the brothers were continuing to live in inadequate and overcrowded conditions resources were used to build two new bungalows, which were completed in May 1960 and occupied

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98 Day 78, Page 17 Lines 2-14.

99 RUB 5964.

100 RUB 11822.

by a gardener and the woodwork teacher,<sup>101</sup> and that in the summer of 1961 the chapel was extended to provide a new sanctuary, choir wing and sacristy.<sup>102</sup>

- 92 Although the MoHA wrote to BR 17 on two occasions and met with BR 39 and BR 6 about the need to reduce the numbers it appears to have taken no effective follow-up action when the required reductions were not achieved. While we recognise that it would not have been easy to find accommodation for the large number of Catholic boys in Rubane at short notice we consider officials should and could have made more vigorous and assertive interventions to try and achieve improvements in staffing levels and accommodation than they did. For example, they could have summoned the chairman of the governing board and the Brother Director to Stormont to insist on a reduction in numbers and/or could have instructed the welfare authorities that no further admissions should be arranged until the numbers in Rubane reduced. In the ultimate analysis, the MoHA could have considered whether to withdraw the home's registration.
- 93 **We consider that the MoHA's willingness to allow the numbers in Rubane to more than double from 30 to 71 within six years without requiring the necessary improvements to the facilities or increases in staffing levels to be a systemic failing to ensure the institution provided proper care.** We accept that the MoHA was adhering to its policies for the administration of grants and understand why it was questioning the motivation for increasing the occupancy levels at Rubane. However, part of its acceptance of the increased occupancy levels appears to have been because they were achieved without State funding. We consider this attitude amounts to a dereliction of its responsibility to ensure that there were proper facilities for the boys in Rubane, as well as ensuring that conditions in the home were of a similar standard to those provided for children in homes in the statutory sector.
- 94 The number of placements funded by welfare authorities increased during this period, but we found no evidence of welfare authorities querying the facilities in Rubane or deciding not to send boys there because of the overcrowding. **We consider the welfare authorities' apparent willingness to place boys in facilities which were clearly inadequate and poorly staffed to be a systemic failing to ensure proper care.**

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101 RUB 11819.

102 RUB 11820.

## Inspection of Rubane

95 Another implication of the prolonged wait for improvements to the physical environment and staffing levels in Rubane is that these issues preoccupied MoHA officials when they inspected the home. It is clear from records and documents which the Inquiry has seen that officials from the MoHA maintained regular contact with Rubane House through formal inspections, formal and informal meetings and correspondence. It is also clear that the MoHA's officials' preoccupation with the physical environment in Rubane were grounded in concern for the boys. For example, it is recorded in the inspection report of 1962:

“It was not an unusually cold day, but the damp chill of the basement wash-room was penetrating. Early morning ablutions in these conditions must be an endurance test.”<sup>103</sup>

and the inspection report of 1965 recorded that the “premises militate against a warm and homely life for the boys”.<sup>104</sup>

96 However, the focus on these practical matters meant that comments about the direct care and condition of the boys were limited and tended to be superficial.

97 In 1955 Ms Wright of MoHA and Dr Simpson of the Ministry of Health reported that all the children in Rubane were happy and responsive and without exception looked healthy and well nourished. They commented on the happy atmosphere in the home and that the relationship between staff and boys was excellent.<sup>105</sup> In the report of her 1956 inspection, Ms Wright reported a happy atmosphere in the home and that the boys she observed at play all appeared healthy and well cared for and enjoyed a good variety of indoor and outdoor activity.<sup>106</sup>

98 In 1957 Ms Wright reported she saw the boys in their classrooms and they all appeared healthy and well cared for and were looking forward to their annual holiday.<sup>107</sup> In 1958 Ms Wright and Dr Simpson recorded that they saw boys playing basket ball at the side of the house and they looked in good health and continued to enjoy a good variety of outdoor play activity.<sup>108</sup>

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103 RUB 11869.

104 RUB 11870.

105 RUB 10191/4.

106 RUB 10195.

107 RUB 10201.

108 RUB 10204/5.

- 99 In 1959 Ms Wright and Dr Simpson commented on the educational level of some of the boys and how much the boys had enjoyed the new swimming pool during the previous summer period.<sup>109</sup>
- 100 There are two references in inspection reports we have seen to the use of corporal punishment. In May 1955 Ms Forrest reported that corporal punishment was only occasionally inflicted and none had so far been recorded in that year. In April 1956 Ms Wright reported that several cases of corporal punishment had been recorded, mainly for absconding.
- 101 There are some examples of more critical comments about the care and condition of the boys. For example, in 1962 Ms Forrest and Ms Hill reported that although all the boys were in good health and relaxing after school:
- “...many looked pinched and cold; their clothing in many instances was in very bad order, threadbare and torn, and affording little protection against the weather.”<sup>110</sup>
- 102 In the reports of all these inspections, alongside the brief observations about the boys there is much more detail about overcrowding, staffing levels and planned renovations. As we will consider later in this chapter, witnesses who were resident in Rubane during the time of these inspections gave consistent accounts to us of a harsh regime of chastisement and physical and sexual abuse by certain brothers. It may be that if the inspectors had been less preoccupied with the need for physical improvements and had spent more time considering the care the boys were receiving and talking directly to them this abuse could have been uncovered. We recognise that boys may have been too unsure of inspectors who were not regular visitors to confide in them and may have been scared of possible repercussions from the brothers. It may also be the case that the implicit trust placed in faith-based care would have prevented inspectors questioning the work and conduct of the brothers. However, it is our view that the preoccupation with practical matters meant that opportunities for closer inspection of the quality of care provided in Rubane were lost.

## Adherence to regulations

- 103 The Children and Young Persons (Northern Ireland) Act 1950 and the Regulations issued to support its implementation, the Children and Young

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109 RUB 10213/4.

110 RUB 11869.

Persons (Voluntary Homes) Regulations (Northern Ireland) 1952<sup>111</sup> set requirements to be met by the “administering authority” of homes, which was defined in Regulation 3 (1) as “the person or persons carrying on the voluntary home”. Regulation 4 (2) was one of the most important of these regulations in relation to the care and welfare of children in voluntary homes. It required:

“The administering authority shall make arrangements for the home to be visited at least once in every month by a person who shall satisfy himself whether the home is conducted in the interests of the well-being of the children, and shall report to the administering authority upon his visit and shall enter in the record book referred to in the Schedule hereto his name and the date of his visit.”<sup>112</sup>

- 104 This requirement was intended to provide an external presence to monitor and observe the care being provided for children. It was important and not a formality, because as Dr Harrison pointed out in her evidence:

“...the purpose of those visits was particularly within the regulations to report on the welfare of children. Now you could not do that without seeing children and being aware of their general or physical appearance even if they -- even if they are not engaging with you in conversation, but, you know, you would certainly be aware of the physical appearance of the children.”<sup>113</sup>

- 105 Despite the importance of this regulation and its statutory basis the first attempt at introducing a monthly visitor in Rubane was made in 1978, 26 years after the regulation came into force.
- 106 We concluded that the primary reason for this lack of adherence was that while the regulations envisaged one administering authority for each home the operational and governance arrangements in Rubane meant that responsibilities were shared between the Diocese and the Order. As previously explained the Diocese asked the Order to run the home on its behalf and the subsequent agreement that it entered into with the Order in 1950 specified that whilst the Diocese remained responsible for the premises, property and buildings, the Order would provide the staff and appoint the Brother Director who would be responsible for the day to day running of the home.

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111 HIA 288.

112 HIA 288.

113 Day 77, pages 164 – 165.

- 107 From the beginning, the Order took the lead in communications and negotiations with the MoHA; it was BR 39 who made the application to the Ministry in May 1950 that the home be registered under the 1950 Act. In the accompanying form it was “The De La Salle Brothers, Milltown” who were described as the “organisation or society in charge”, and BR 39 was named as “the person in charge of the home”.<sup>114</sup> Almost invariably, it was the Brother Director who dealt directly with the MoHA over the many matters relating to the running of the home, particularly regarding the number of boys in the home and financial support in the form of grants. The Order accepts this and acknowledged in its evidence to the Inquiry that
- “...it had day to day control of operations on the ground and was therefore the only organisation who could actually comply with many of the [1952] regulations on a practical level”.<sup>115</sup>
- 108 The regulations placed responsibility on the administering authority to appoint “a person to be in charge of the home” (Regulation 5 (1)) and placed responsibility on the officer in charge to ensure the home was conducted from day to day in such a way as to “further the wellbeing of the children in the home”. The Order accepted in its evidence to the Inquiry that “The Director was effectively the ‘officer in charge’”.<sup>116</sup> Therefore in its appointment of the Brother Director it was fulfilling an important aspect of the role of the administering authority. The order asserted in its evidence to the Inquiry that appointments to the position of Brother Director were subject to the approval of the bishop. However, no evidence to that effect has been produced, and the need for such approval would have been incompatible with the 1950 Agreement.
- 109 The importance of the position of officer in charge was underlined by Regulation 15, which required the administering authority to notify the Ministry when the person in charge of the home ceased to be in charge of that home and a new appointment was made. Again it was the Order that met this responsibility of the administering authority and informed the MoHA of changes of Brother Director.<sup>117</sup>
- 110 Although it met these aspects of the responsibilities of the role of the administering authority the Order’s position is that it ran the home at the request of, and for the purposes of, the Diocese, and it operated under a

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114 RUB 10007.

115 RUB 1179.

116 RUB 015.

117 RUB 11187 and RUB 11188.

degree of supervision of the Diocese through the governing board and in time the management committee. Therefore, the Order asserts since the bishop had overall responsibility for the home he was the “administering authority” and so it was the Diocese that was “carrying on” the home.<sup>118</sup>

- 111 We agree that, despite the Order fulfilling aspects of the role of the administering authority, the ultimate control over the home remained with the Diocese throughout. The Diocese retained overall responsibility for the governance of the home and the governing board did not reserve its authority to matters to do with the premises, property and buildings as per the agreement. For example, at its fifth meeting it took the decision in principle to admit boys from welfare authorities and to charge a £3 a week maintenance fee for such placements.<sup>119</sup> It had the decisive voice in many areas of the running of the home. A notable example of this was the intervention of the Diocese in February 1963<sup>120</sup> at a very late stage in protracted discussions between the MoHA and the Order in an attempt to prevent the creation of chalet-style accommodation for the boys. Another example was the suspension of the Brother Director, BR 1, by the bishop in 1980 and the ultimate exercise of its authority was the governing board’s decision in 1985 that Rubane should cease to operate as a children’s home.<sup>121</sup>
- 112 In its evidence to the Inquiry, the Diocese acknowledged its responsibilities in this regard and accepted that it was the administering authority throughout Rubane’s existence. However, Fr Bartlett also referred to the Diocese and the Order being “joint administering authorities” wherein neither the Diocese nor the De La Salle congregation were in a position of sole control.<sup>122</sup> We consider that this is a more accurate description of the actual arrangements.
- 113 We could find no evidence of the governing board or the Order considering what implications the regulations had for the dual structure in place in Rubane where responsibility and control were jointly exercised by the Diocese and the Order. The first meeting of the governing board after the publication of the regulations took place on 3 February 1953 and there is no reference in the minutes of that meeting to the regulations and therefore no

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118 RUB 1178/9.

119 RUB 5182-5183.

120 RUB 5205.

121 RUB 5241/3.

122 RUB 5915.

attempt to clarify who was the authorising authority or how the associated responsibilities, including the appointment of the monthly visitor, would be met. **We consider that the Diocese and the Order had shared responsibility to pay proper regard to and meet statutory regulations, clarify who was the administering authority for Rubane, and appoint a monthly visitor, and that they both failed to meet that responsibility.**

- 114 This situation could have been rectified if the MoHA, through its inspections of the home, had sought clarity in relation to who was acting as the administering authority and enforced the statutory requirement for appointment of a monthly visitor. However, we have seen no reference to the administering authority in inspection reports of Rubane and only one reference related to monthly visiting. The report of the inspection of Rubane House undertaken by Ms Wright and Dr Simpson in 1955 was presented in a pro forma style with set headings that specified what matters should be reported on.<sup>123</sup> This contrasts with the other reports of the inspections carried out by MoHA officials in Rubane that we have seen which are in the form of internal memos, some of them handwritten. As part of the pro forma used in 1955, inspectors were asked to report on the work of visiting committees.
- 115 Under this section of the pro forma Ms Wright and Dr Simpson recorded that there was a board of management but no visiting committee.<sup>124</sup> There is no further comment on whether the board of management was undertaking the role of a visiting committee, or whether the lack of such a committee and thereby the failure to appoint a monthly visitor was discussed with the brothers or the governing board. Ms Wright inspected Rubane the following year and there is no indication in her report, which reverted to a free-style format, that she raised the lack of a monthly visitor in that inspection. In later years when SWAG undertook inspections of voluntary children's homes they used a more standardised approach to inspections and reporting on findings. However, although monthly visiting was retained as a requirement when the regulations were revised in 1975, we found no evidence of SWAG inspectors monitoring adherence to it. **We consider this lack of enforcement of statutory regulations to be a systemic failing by the MoHA and its successor bodies to properly promote and enforce government policy and to ensure that Rubane provided proper care.**

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123 RUB 10191/4.

124 RUB 10193.



- 116 In its closing submission to the module the DHSSPS accepted this failing:  
“It has been acknowledged above that the administering authority whatever its identity, did not comply with Regulation 4 of the 1952 Regulations. Equally, it is recognised that there was a duty upon the Department to ensure that there was such compliance and that the Department failed to discharge that duty. Even as late as 1981 when the Social Work Advisory Group undertook an in-depth investigation at Rubane, the failure of the administering authority to carry out its obligations under the 1952 Regulations was not recognised or noted.”<sup>125</sup>
- 117 We agree with Dr Hilary Harrison’s acknowledgement in her statement on behalf of the DHSSPS that officials’ failure to ensure that statutory requirements were being met and to engage with the governing board were shortcomings that are likely to have “contributed to a system that failed a significant number of children”.<sup>126</sup>
- 118 The failure to appoint a monthly visitor removed a crucial part of the mechanism that was designed to provide regular external monitoring of the standard of child care being provided in the home. **We consider that the failure for many years by the MoHA, the Diocese and the Order to make sure that monthly visiting as required by the Regulations was taking place amounts to a systemic failing by each of them to ensure that the home provided proper care.**
- 119 It was not until 1978 and the establishment of a management committee that some attempts were made to establish monthly visiting.

## Management committee

- 120 With the demise of the general purposes committee in approximately 1961 there was a period of approximately seventeen years when the Diocese’s contribution to the formal governance of Rubane was limited to its chairing and membership of the governing board. However, this changed significantly when the governing board decided at its meeting in November 1978 to approve the establishment of a management committee.<sup>127</sup>

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125 RUB 9312/3.

126 RUB 5964.

127 RUB 5229.

- 121 The minutes of that meeting recorded that the management committee was to be entirely advisory and “to act as a back up to the Brother Director in any difficulties that might arise.” However, in its statement to us the Order indicated that the management committee’s role was both executive and advisory and that its primary function was “to supervise the management of the Home and to advise the Officer in Charge in all matters pertaining thereto.”<sup>128</sup> We are of the view that whatever the original intention, the minutes of the management committee record a level of involvement in the running of the home that went well beyond the provision of advice and that the committee took on an executive and supervisory role.
- 122 The first meeting of the management committee was held on 5 February 1979;<sup>129</sup> it was chaired by Very Reverend McCann and the other members were Very Reverend Kevin Donnelly PP, Very Reverend Hugh Starkey PP, Rev John O’Connor, Mrs Mary Nihill, a lay magistrate of long years standing in the juvenile courts of summary jurisdiction in Northern Ireland. At the first meeting Mrs Nihill was appointed vice chairman of the committee and BR 6 was appointed as secretary.
- 123 The Order told the Inquiry that the management committee was responsible to the governing board and that it met a minimum of six times a year. However, we found no evidence of a formal reporting line between the governing board and the management committee; there was no record of the management committee submitting its minutes or a report of its work to the annual meetings of the governing board.
- 124 Also, from the Inquiry’s review of the minutes of the committee it appears that it only met six times in 1980. It met five times in 1979, 1982 and 1983, four times in 1981 and 1984 and three times in 1985. The final and 32nd meeting of the committee was held on 29 April 1985.
- 125 In contrast to the governing board and the general purposes committee the management committee did concern itself with the quality of the care being provided to the boys. At its first meeting, Father O’Connor was asked to outline the most important functions of children’s homes and he emphasised the need for a child-centred approach and for the quality of care to be analysed and constantly kept under review. He also spoke of the importance of the Catholic voluntary sector being able to offer a service as good if not better than that provided in state institutions.<sup>130</sup>

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128 RUB 019.

129 RUB 5232.

130 RUB 11033.

- 126 It is clear from the minutes of the meetings of the management committee that its focus on ensuring the quality of care was on supporting and monitoring the performance of lay care staff. The committee was responsible for setting the terms and conditions of service for these staff, assisting in their appointment and deciding whether they had successfully completed their probationary periods. It intervened directly in matters to do with discipline of lay staff and their grievances, however the appointment of brothers and the allocation and management of their work continued to be a matter for the Order. This appears to stem from the dual structure for governance of Rubane created by the agreement between the Diocese and the Order. We are of the view that this was an unsatisfactory arrangement and that the whole of the management of the home should have been in the purview of the management committee, even if the Order allocated the brothers to work in Rubane.
- 127 It was at its third meeting on 29 May 1979<sup>131</sup> that the committee agreed that between meetings members should make informal visits to the home, speak to staff and inspect various parts of the building. At its next meeting, on 11 September 1979,<sup>132</sup> the vice chairman reported back on her visit to inspect the kitchens and the committee agreed that it would be impressed on staff that they should feel free to approach members of the committee at any time and that any points they wished to raise would be given the greatest sympathy and understanding. We noted that there is no reference at this time to the boys being told that they should feel free to approach the management committee members.
- 128 The management committee only received three further reports of visits. Mrs Nihill reported in November 1979<sup>133</sup> on her visit to inspect the sleeping accommodation and wash areas and in November 1980<sup>134</sup> about her second visit to the kitchens. Father McCann, Father Donnelly and Mrs Nihill reported to the committee at its meeting on 5 April 1982 on what they described as an inspection they had undertaken of the chalets.<sup>135</sup> Mrs Nihill's reports of her visits indicate that she focused on the adequacy of the facilities while the report of the inspection of the chalets records that the three committee members met with staff in the chalets and discussed their work with them. There is no mention in any of these reports of

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131 RUB 11036.

132 RUB 11038.

133 RUB 11043.

134 RUB 11053.

135 RUB 11073.

committee members meeting with or observing the boys. However, during the inspection of the chalets DL 11 raised the issue of his time with his family in his private quarters being disturbed by the level of noise coming from the boys' quarters and the committee subsequently decided that residential staff should be asked to seek outside accommodation in the best interests of the children of the home.

- 129 A two-year gap followed before any more formal visits were arranged. However, we accept the evidence from the Order that management committee members and in particular the chairman of the committee visited Rubane regularly between committee meetings, although this was primarily to meet with staff. In May 1984 the management committee made a second attempt to introduce regular visits to the home. The minutes of its meeting on 8 May 1984 record that “in the spirit of the Monitoring of Residential Care Service in the Home”, a member should be appointed to make regular visitation in a formal and voluntary capacity. This time the committee agreed that the boys as well as the staff should be made aware of the visits and told they would have free access to the visitor and could “make known their wants or air any matter of grievance.”<sup>136</sup>
- 130 The commencement of these visits was delayed because the vice chairman, Mrs Nihill, who was selected to carry out the visits, subsequently resigned from the management committee and it took some time until her replacement, Mrs Keating, joined the committee. Mrs Keating visited the chalets on 26 and 28 February 1985 and reported to the Committee at its meeting in March 1985, that she met with ten boys and told them that:
- “...they should feel free to approach her on anything that might be preying on their minds, any complaints, request or suggestions they would like to make.”<sup>137</sup>

The Committee agreed that in order to facilitate the boys' access to Mrs Keating she would visit on the first Tuesday of every month. It is also recorded at that meeting that the parish priest and curate had agreed to pass on to the committee any complaint which the boys might convey to them.

- 131 These arrangements were being put in place 33 years after the regulation requiring monthly visits was introduced. Mr Bunting, who was an assistant director in the Eastern Health and Social Services Board (EHSSB) in the

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136 RUB 11092.

137 RUB 11101.

1980s, spoke in his evidence to the Inquiry about the value of monthly visiting and how it provided safeguards for the children resident in statutory homes run by the EHSSB.<sup>138</sup> Given that some of the children in Rubane had no families, and a number of witnesses referred to the difficulties their family members faced in visiting Rubane because of its isolated location, it would have been particularly valuable if regular monthly monitoring visits to Rubane focussing on the wellbeing of the children had taken place.

- 132 We cannot say what difference monthly visits would have made in Rubane or whether the boys would have been willing to engage with a visitor and would have been better protected through doing so. However, there is no doubt that a regulatory measure introduced to promote the wellbeing of children and increase their protection was not implemented in Rubane as it should have been.

### Falling intakes to Rubane House

- 133 Although the management committee focused on the provision of care in Rubane it also had to concentrate from its first meeting on the falling intakes to Rubane and the implications this had for the continued viability of the home.
- 134 In July 1971 BR 2 had been promoted to the role of Brother Director in Rubane.<sup>139</sup> While previous Brother Directors oversaw steady increases in the number of boys admitted to Rubane, BR 2 had to deal with declining numbers while trying to reduce the debts incurred through the building of the new chalets.
- 135 Over the years, the number of boys placed in Rubane by welfare authorities had steadily increased and in his new role BR 2 decided to ask relevant welfare authorities to take on the support of the remaining twenty boys who had been placed in Rubane on a voluntary basis. He explained in a letter to a colleague in October 1973 that he took this step because of the burden of repaying the debt incurred through the renovation work and building of the chalets and the increased costs of maintaining the property. He explained that the welfare authorities' agreement to support the children meant that "the financial worries have eased considerably".<sup>140</sup>

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138 Day 77, pp. 131-134.

139 RUB 11834.

140 RUB 10591.

- 136 We noted that Mr Bunting in a memo of 29 December 1971 to the city welfare officer about this matter advised that financial responsibility should be taken on for the boys, but with two important provisos: firstly, that the boys' files would be provided so that contact could be made with any families they might have and the possibility of rehabilitation explored; and, secondly, that it was made clear to the Order that future placements would have to be agreed in advance and that it would not be acceptable for the Order to accept voluntary placements and then expect the welfare authorities to fund them.<sup>141</sup> We consider it good practice that the welfare authorities were keen to prevent unnecessary admissions of children into care and wanted to be able to consider the circumstances of children and their families and whether other interventions might be possible.
- 137 The contribution of weekly maintenance fees from welfare authorities was very significant for the home's budget. Therefore, when reducing occupancy meant higher per capita costs it was necessary to ask for sharp increases in weekly fees. This meant that following modest increases from 1951 to 1971, the weekly fees were increased considerably in the next four and a half years, rising from £6 to £35.
- 138 By April 1973 there were only 60 boys in residence, although later that year the figures increased again and peaked at 80. However, by April 1974 the numbers had decreased to 69<sup>142</sup> and by September 1974 they had further decreased to 60 boys.<sup>143</sup>
- 139 The responsibility for the registration and regulation of voluntary homes for children transferred to the DHSS in January 1974 and it asked homes to review and confirm their occupancy limits. In recognition of the falling admissions, BR 2 responded and advised that the accommodation limit for Rubane should be reduced from 80 to 70.<sup>144</sup>
- 140 By December 1975 the regular annual transfer of approximately twelve boys from Nazareth Lodge to Rubane had stopped because Nazareth Lodge had developed the service it offered to enable family groups to stay together and children to have a stable placement in one home for as long as they needed residential care. This change had a significant impact on the numbers admitted to Rubane and by December 1976 the numbers had fallen to 46 and, as a result, one of the chalets was closed.

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141 RUB 5670.

142 RUB 10635-10636.

143 RUB 10239.

144 RUB 10169.

- 141 The ending of the transfer of boys from Nazareth Lodge to Rubane also affected the length of time boys were staying in Rubane. Boys admitted from Nazareth Lodge were aged around eleven years and stayed typically four or five years, whereas from around 1975 onwards older boys admitted from the community typically stayed one or two years.
- 142 In addition to the impact of the changes in Nazareth Lodge there were a number of other policies that contributed to the reduction in admissions to Rubane. These included: an increased preference for fostering and smaller more family orientated homes; a greater emphasis on accommodating and caring for siblings together; and, residential care being increasingly used for brief placements to enable specific difficulties in a child's life to be addressed and to provide brief respite while foster care or return home was planned. NL 191, a social worker who gave evidence in Module 4, was involved in placing and supporting children in Rubane at this time. She confirmed that Rubane was seen as a holding place for short stays, often when an urgent admission was required under a Place of Safety Order and that the aim was to get boys in and out as soon as possible.<sup>145</sup>
- 143 There was also a marked increase in the number of places available in statutory residential children's homes in Northern Ireland; between 1973 and 1981 these increased from 121 to 527.<sup>146</sup> Welfare authorities began to fill places in statutory homes first to ensure full usage of local provision but also to enable children to be cared for as close to their own homes as possible. The management committee in Rubane commented on these developments at its meeting of 6 October 1980 and recorded its view that voluntary homes were under threat due in part to social workers disregarding the wishes of parents in deciding upon placements:
- “Religion seems to be of minor importance. What appears to be important is the filling of the Statutory Homes.”<sup>147</sup>
- 144 Despite this view we saw evidence of the EHSSB supporting the work in Rubane. For example, on 16 June 1980 Mr Bunting wrote to Fr McCann and told him that the EHSSB was raising the salaries of residential child care workers and was prepared to increase the weekly maintenance fees paid to Rubane in order to enable it to offer a similar increase in salary to its staff.<sup>148</sup>

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145 Day 105 25 March 2015 Page 23.

146 RUB 11151.

147 RUB 11051.

148 RUB 5734.

- 145 The use of Rubane continued to decrease and by 1980 two of the chalets were closed and there was growing anxiety about the viability of the home. By September 1981 the numbers had reduced to 29 and in 1982 the numbers ranged from 28 to 32.<sup>149</sup>

## Regulatory activity in later years

- 146 In contrast to the regular contact that the MoHA had maintained with Rubane there was much less regulatory activity in the 1970s. The Social Work Advisory Group (SWAG) inspected Rubane in September 1973, August 1974, October/December 1975 and July 1976 and in addition in February 1975 Mr Robert Mills, then Assistant Secretary with child care responsibilities in the DHSS, visited Rubane. However, there was no official inspection of Rubane by SWAG or the Department between 1976 and March 1981. This lack of inspection meant that children in Rubane at that time did not receive the benefit of regulatory measures intended to protect the welfare of children and quality assure the care they received in voluntary children's homes.
- 147 The Hughes Inquiry found that the absence of formal inspection between 1976 and March 1981 was unsatisfactory and that the inspections carried out in the 1970s as a means of gaining a genuine insight into the standards of care in Rubane were inadequate. The Department did not challenge these findings by the Hughes Inquiry. We agree with the Hughes Inquiry findings and **we consider that this lack of inspection activity between 1976 and 1981 and the inadequate nature of the inspections in the 1970s amount to a systemic failing by the Department to ensure the institution was providing proper care.**
- 148 Correspondence in January 1981 from Mr Wilde, the Chief Social Work Adviser in the DHSS, to Mr Gilliland, Director of EHSSB,<sup>150</sup> shows that the management committee of Rubane were proactive in seeking to engage with the DHSS as the regulatory body for the home. Mr Wilde states in this letter that officials from the DHSS would soon be meeting with representatives from the management committee of Rubane at their request:
- “...when issues about the aims, objectives and no doubt child care practices in the Home will arise.”

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149 RUB 11109.

150 RUB 5758.



149 Before turning to consider the inspection activity that emerges from that meeting, it is worth commenting on the background to the letter referred to above as it illustrates tensions in the relationship between the DHSS and the Health and Social Services Boards about the regulation of voluntary homes. As we have noted in earlier chapters, there were tensions between the MoHA and welfare authorities because the welfare authorities resented having to contribute to the cost of grants to voluntary homes when they were not given the opportunity to influence the admissions policies of these Homes or how they were run, and were given no access to the outcomes of the MoHA's monitoring of the quality of care provided in the homes.

150 In 1981 the tension was no longer about funding but about who was responsible for quality assuring voluntary children's homes and dealing with complaints that emerged about child care practices within such homes. The background to Mr Wilde's letter to Mr Gilliland was that Mr Gilliland had written to Mr Wilde in November 1980 highlighting concerns that a social worker in his Board had raised with her senior managers about general aspects of the care practices in Rubane, including the quality of the clothing provided to the children and the rigid approach to the daily routine. Mr Wilde responded in December 1980 by querying the basis for the social worker's concerns, whether she had discussed them with the Brother Director of Rubane, BR 2, or his deputy and what policies and procedures the Board had for investigating complaints from children in their care.

151 The letter of January 1981 referred to above is a follow-on from this letter and in it Mr Wilde stated that he wanted to make clear that:

“...the Department's registration and inspectorial functions do not in any way diminish the responsibility of Boards to actively pursue the needs of individual children in their care who are accommodated in voluntary homes with appropriate senior staff, or if need be, with the Management Committee of the Home concerned”.<sup>151</sup>

Although, Mr Wilde ended his letter with the request that the DHSS be informed if it did not prove possible for the Board to resolve problems with Rubane we consider that this approach by the DHSS could be seen as a shirking of its responsibilities for regulating the quality of voluntary homes. We consider that investigation of general matters which affected children

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151 RUB 5758.

placed in the home by more than one welfare authority, and which would have entailed questioning of senior staff and reference to the governing body of the home, to be of a different order to a social worker seeking to address specific issues about a particular child.

- 152 In our view, the Eastern Board was appropriately raising concerns about general practices in Rubane that might affect all the boys resident there, not just those boys for whom it was responsible and the DHSS was attempting to place what amounted to an inspection role on the Board – a role which it did not have the powers to perform. It was the DHSS that had the responsibility to assure itself of the quality of overall care provided to children in Rubane and in other voluntary children’s homes in Northern Ireland and it was the only body with the statutory authority and powers to meet that responsibility. **We consider the DHSS failed to properly respond to the concerns raised by the Eastern Board in 1981 about the general care being provided to all boys in Rubane and that this amounts to a systemic failure by the DHSS to ensure that the home was providing proper care.**
- 153 The engagement of Rubane Management Committee with the DHSS resulted in an inspection of Rubane carried out by the Child Care Advisory Board of the DHSS in March 1981. The introduction to the report of that inspection states that recent departmental policy provided for a more detailed inspection of children’s facilities and that Rubane’s management committee had also been asking for an evaluation of the home’s performance and of its current functions to facilitate planning for possible changes.
- 154 The inspection was carried out over a five-day period and involved four inspectors. Three of the inspectors spent an evening with boys in one of the chalets and talked and shared a meal with them.
- 155 A 31-page report of the inspection<sup>152</sup> was produced and shared with the staff and the management committee of Rubane. Although attention continued to be paid in the inspection report to physical amenities, occupancy levels, staffing and finance issues, there was more comment on the quality of the direct care provided to the boys and suggestions about how it could be improved. For example, it was reported that the inspectors found some staff to be advocates of routine management of the boys, with an emphasis on discipline and sanctions, and that they

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152 RUB 10245-10278.

seemed to concentrate more on activities and to be less responsive to the individual needs of the children. The regimented approach to leisure time, with an emphasis on compulsory and organised activities for boys and use of frequent line up and confinement in the yard at certain times, was also commented on. Inspectors recommended that staff should be encouraged to consider the aims and objectives of their work and how to provide for the needs of individual boys constructively instead of thinking in the negative terms of applying sanctions.

- 156 Inspectors also commented on the ratio of staff to boys and the range and load of duties staff and, in particular, brothers were expected to carry and how this could have an impact on the care of the boys:

”Fatigue brought about by long hours of duty can cause staff to become less sensitive to the needs and demands of those in their care. In turn this can lead to less effective work and allegations of unprofessional behaviour.”<sup>153</sup>

- 157 The report concluded by suggesting that the management committee would need to consider its future policy and a possible change in the function of Rubane.<sup>154</sup> This is the first example we have seen of the DHSS beginning to engage with Rubane about the implications of the changing policy context for residential care of children and the reducing place for large homes.

- 158 We noted that inspectors did not pick up on the lack of monthly visiting and although they identified that Rubane had not submitted a required return about the use of corporal punishment to the Department in 1980 the submission of such returns was not included in the recommendations set out at the end of the inspection report. We consider these oversights to be a further example of a systemic failure by the Department to enforce statutory regulations. We also noted that very significant challenges facing Rubane, which we will consider later in this chapter, including the suspension of staff following allegations of abuse, are given the briefest mention in the report and there is no indication that inspectors had confidential discussions about the implications of them with the management committee or the governing board.

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153 RUB 10260.

154 RUB 10277.

159 The report was considered by the management committee on 28 September 1981<sup>155</sup> and the minutes of that meeting record that the committee read passages of the report with almost incredulity, if not dismay, and expressed:

“...amazement at the paucity of praise given to many positive qualities which the Home undoubtedly possesses”.

and noted:

“Why is a home which down through the years had given the Community efficient and faithful service, and which had earned high commendation from officials of the Home Affairs and Education, should suddenly be considered almost obsolete, was difficult to comprehend.”<sup>156</sup>

160 The reactions of the management committee of Rubane and the staff to the inspection report were also recorded in the History of the Home for 1981.

“They published their report later in the year, and their conclusions in general were far from acceptable to either the staff of the Home or to the Management Committee. Their recommendations were quite acceptable and positive and were easily enough implemented, but various statements in the body of the report were regarded as less than fair or just towards the work being done in the Home, at present, and over the past 30 years.”<sup>157</sup>

161 The management committee asked BR 2 to draft a response to the report and this led to a meeting between the committee and officials from the DHSS on 19 November 1981. It is recorded in the “History of the Home” that:

“The Advisory Board Team tried to point out that they did not in any way try to cast suspicions on the quality of care being provided for the children. They were only trying to pinpoint certain areas, where perhaps some change, or a different attitude could be taken in the interests of all concerned.”<sup>158</sup>

162 The minutes of the management committee record that the tone of the meeting with officials had been conciliatory but also note that officials had pointed out that its policy was for children to be reared, as far as possible,

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155 RUB 11061.

156 RUB 11063.

157 RUB 11854.

158 RUB 11854/5.

within their own community boundaries and that there was an oversupply of residential care provision.<sup>159</sup>

## **Embargo by the Eastern Health and Social Services Board**

- 163 In the context of falling numbers, and a policy direction which militated against the use of Rubane, the home's position was particularly precarious because its reputation had been damaged from 1980 onwards by allegations of physical and sexual abuse against staff and reports from lay staff about poor child care practice and management in the home, which came to the attention of the welfare authorities, the DHSS and the police. We will consider these matters in detail later in this chapter.
- 164 In February 1982, concerns about care practices in Rubane led the EHSSB, which at that time was the biggest single user of the home, to place an embargo on boys from its area being placed in Rubane. In the minutes of the management committee meeting held on 12 October 1982<sup>160</sup> there is a reference to committee members meeting with representatives from the EHSSB and officials from DHSS to discuss the Board's embargo and that members came away from the meeting with a certain amount of pessimism. There is also reference to a further meeting on 5 May 1982 between the committee and the representatives of the four Area Boards and it is recorded that members felt "a veiled hostility was in evidence though some of the Boards were supportive of the Home".<sup>161</sup> Although the embargo was lifted in August 1982, confidence in Rubane had clearly been damaged by it.
- 165 In October 1984 Father John Connor, a member of the management committee and director of the Down and Connor Family Welfare Society provided a very damning report about Rubane,<sup>162</sup> which we assume, given its content, was for Bishop Philbin. He began his report by setting out the changing policy context for care of children, the move away from residential care and the reduction in the use of voluntary homes and increased use of statutory provision. He then made the point that to continue to "exist meaningfully" in the midst of such change a voluntary home would need to be prepared to adapt and that in his view Rubane had neither the capacity

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159 RUB 11066.

160 RUB 11074.

161 RUB 11074.

162 RUB 11153.

nor the will to change. He stated that the quality of child care in Rubane was not good enough and that efforts by the management committee and by him and his staff to encourage and support the brothers to improve child care in Rubane had been met with resistance and proved fruitless. He concluded that in the present child care climate it would merely be a matter of time before the home would have to close and that “the Diocese would be best served by cutting its losses and closing the home”.<sup>163</sup>

- 166 It appears this advice was accepted, because a meeting of the board of governors was convened on 30 March 1985 and it decided that Rubane was no longer viable and should close.<sup>164</sup>
- 167 We note that this meeting of the governing board was the first time it had met since 1982. As referred to previously, the governing body met on 31 occasions from 1950 to 1985. It met on an annual basis from 1950 to 1967; there was an unexplained four-year gap in meetings between 1968 and 1972; and then annual meetings resumed again until 1982, when another unexplained gap in meetings occurred between 1982 and 1985.
- 168 Although the management committee was established by, and answerable to, the governing board there is no evidence of formal reporting or contact between the committee and the board during the time that the board failed to meet. It may be that Fr McCann, the chair of the management committee, kept Bishop Philbin informed about matters in Rubane. However, **we consider the lack of formal meetings, and therefore the lack of formal governance of Rubane, in the periods outlined above when Rubane was experiencing significant difficulties and challenges amounted to a systemic failing by the Diocese to ensure the institution provided proper care.**

## Daily life for boys in Rubane

- 169 Before we consider the evidence the Inquiry received about physical abuse, sexual abuse, emotional abuse, neglect and unacceptable practices in Rubane, we will first look at what the daily routine was like for boys in Rubane and positive aspect of the facilities available to the boys and the care they received.

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163 RUB 11156

164 RUB 5242.

- 170 As indicated previously, Rubane House was a large Victorian mansion, close to Kircubbin and approximately 22 miles from Belfast. It had 250 acres of land, was surrounded by woodland and was situated in the middle of the Ards Peninsula. It was in sharp contrast to the city centre environment that many of the boys had come from and its location meant that most boys were a significant distance from their own homes. This made it difficult for family members to visit, particularly when they had to use public transport which necessitated a long walk in both directions from the bus stop to the home.
- 171 The home was open for a period of about thirty-five years, and just as the physical environment improved with the opening of the chalets in 1968/69 the range of facilities available improved significantly during the life of the home. At the start, the community was confined to the main house and the farm, restricting the range of activities possible, but over time farm buildings and coach houses were used for leisure activities such as table tennis, billiards and showing of films. There were also garden areas and surrounding woodland available to the boys, a general play area with swings and a pet area with animals.<sup>165</sup> In due course, grass and all-weather playing fields, basketball and tennis courts, a play hall, sports hall and a swimming pool were added, which enabled the boys to engage in a wider range of sporting activities.
- 172 In the early years there were short recreation periods in the yard after lunch and tea, supervised access to television and some occasional screening of films. Boys were allowed to walk to Kircubbin and to a local beach, but they were supervised by a brother on such walks. A number recalled these walks warmly, for example HIA 110 who said:
- “[BR 13] used to take us out for a walk and then we would sit on a wall and he would give us biscuits. We always called this wall biscuit corner.”<sup>166</sup>
- 173 A number of witnesses recognised that they had access to a wider range of activities than they would have had if they had remained at home, for example HIA 36, who was resident in Rubane from August 1968 until May 1972, commented:
- “It wasn’t all bad, there were a lot of good times. I don’t know anyone who had a swimming pool in their house and two tennis courts and

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165 RUB 15.

166 RUB 589.

a football pitch and a snooker table. We used to go swimming to Newtownards every Saturday and to pictures nearly every other week. As the years went on it got easier and you got to more places.”<sup>167</sup>

- 174 BR 2 described how sporting and other extra-curricular activities were used to develop the boys:

“From sports, to fishing, hill walking, historical trips, camping, athletics, gardening, pets, disco and music we did try and facilitate opportunities to mix with different sections of the community and gain a sense of self-worth, discipline and responsibility through their extra - curricular activities.”<sup>168</sup>

Witnesses confirmed this approach and spoke of taking part in inter-school and inter-community sporting competitions and in bands, choirs and Irish dancing with children from the locality.

- 175 The daily routine also changed over the years. In the earlier years the approach adopted by the brothers appears to have been more controlling and institutional; witnesses who were in Rubane in the 1950s and early 1960s described a regime structured around religious observance, schooling and completion of daily chores with more extensive cleaning at the weekend. School was the main focus of the day. In his book “Irish De La Salle Brothers in Christian Education” John Towey described how the education provided in Rubane was utilitarian and cultural in content rather than academic: woodwork, art and design, technical drawing, geography, history and maths.<sup>169</sup>
- 176 We noted that although school was the focus of week days, a number of witnesses complained about the poor standard of education they received in Rubane and how this has affected them throughout their lives. Evaluation of the quality of education provided in Rubane is not within the remit of this Inquiry but the support provided to the boys to engage and progress with learning is relevant. Some witnesses suggested that the brothers did not feel the boys were worth investing time in and that there was no support for homework or any encouragement to take exams.<sup>170</sup>

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167 RUB 480.

168 RUB 1056.

169 RUB 60.

170 RUB 420,602,641.



177 HIA 256 described being sent to work in the gardens:

“Instead of going to school I was sent to work as a gardener with a caretaker....I had learning difficulties, and it seemed I was better out doing this kind of work rather than going to school.”<sup>171</sup>

Witnesses also told of being taken out of school to help on the farm<sup>172</sup> and DL 11 confirmed in his statement to the Inquiry that he put a stop to boys from his chalet being used in this way.<sup>173</sup>

178 The Order pointed out that many of the boys admitted to Rubane had poor school attendance records and a history of low achievement at primary education level and that the disruptive behaviour of some boys adversely affected the learning experience of other boys. They also indicated that the absence of the natural separation between school and home life may well have been difficult for the boys to see or understand, with consequential impacts on their educational enjoyment and success. While the Order accepted that physical conditions within the home created a poor environment for individual home learning they pointed to the evidence of DL 40 that BR 6 provided additional voluntary classes in the evening and that of HIA 225 and DL 445 who appreciated how their musical talents were encouraged. We noted that there were improvements over time with the appointment of more lay teachers in the 1970s and that in later years some boys were encouraged to attend school in Portaferry and obtain O-Level qualifications.

179 The routine became more relaxed over the years and BR 2 described a daily routine after the chalets opened in 1968/69 which, while still regimented and built around the school day, allowed two hours between 4pm and 6pm and one hour between 7pm and 8pm for extracurricular activities and did not include time for chores apart from the boys tidying their beds and clothes. He also indicated that there was a more relaxed approach at weekends and school holidays.<sup>174</sup> It was also clear from the accounts of witnesses that over time boys were given greater freedom: for example, they described being allowed to walk to Kircubbin unsupervised, to attend local discos and there were references to older boys being able to meet with girlfriends. One of the older boys, HIA 381, who was placed in Rubane in 1982 aged fifteen and stayed there for two years told the Inquiry:

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171 RUB 671.

172 RUB 808.

173 RUB 5943.

174 RUB 1052.

“I have no complaints about my time in Rubane House. I loved it there. I had a room of my own in chalet one and I was given pocket money and a clothing allowance every month.”<sup>175</sup>

- 180 Witnesses described individual interests being encouraged, for example in growing vegetables and flowers, music,<sup>176</sup> bird watching<sup>177</sup> and keeping pets.<sup>178</sup> A number of witnesses spoke warmly of holidays they had in Glenariff, which was near the sea at the foot of the Antrim glens and the more relaxed regime they were allowed to enjoy there.
- 181 Many witnesses talked about the value of friendships they forged at Rubane, how they looked out for each other and how the companionship and support of other boys sustained them. It was clear from the accounts of some witnesses that friendships forged in Rubane remain strong today. It was also the case that some witnesses maintained contact over the years with De La Salle brothers and lay staff who worked in Rubane when they were resident there. They told us they were grateful for the care and attention they received from these staff and for the facilities, particularly the sporting facilities that were available to them in the home.
- 182 We will now consider the evidence the Inquiry received about physical abuse, sexual abuse, emotional abuse, neglect and unacceptable practices in Rubane.

## Physical abuse

- 183 Fifty of the 60 former residents who gave evidence to the Inquiry about Rubane alleged they suffered physical abuse by brothers and lay staff and observed other boys being subject to such abuse.
- 184 These witnesses clearly distinguished between the administration of corporal punishment in a controlled manner, which they accepted as a reasonable response to misbehaviour, physical punishment which was excessive and aggressive, and violent behaviour which was at times random and unprompted. Witnesses who were resident in Rubane across the four decades of its operation described staff losing control and severely beating boys, excessive caning and strapping which was not limited to hands and behinds, and some staff using their fists and feet to hit boys. They described a culture of physical force being used to assert and maintain

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175 RUB 722.

176 DL 445.

177 HIA 170.

178 HIA 41.

authority and control and an atmosphere where the risk of physical violence was constantly present and often realised.

- 185 Corporal punishment was permissible within the Children and Young Persons (Voluntary Homes) Regulations 1952 and as updated in 1975, with the important proviso that:

“11(1) The person in charge of a home shall ensure that generally order is maintained by his personal influence and understanding and that of his staff, and resort to corporal punishment shall be avoided as far as possible”

The Regulations set down that minor acts of misbehaviour should be dealt with through forfeiture of rewards or privileges or

“a light tap of the hand may occasionally be applied to the hand of a child with the object of indicating urgent disapproval rather than that of inflicting pain.”<sup>179</sup>

The Regulations also set clear guidelines for how corporal punishment should be administered if it were considered necessary, including the type of punishment that should be administered, the extent of it given the age and state of health of the child and who should administer it.

- 186 Chapter VIII of the Order’s rules also addressed the use of corporal punishment:

“The Brothers shall be careful never to touch or strike any of their scholars and never to repulse or treat them rudely; all such means of correction should never be used by the Brothers, as being very unbecoming and opposed to charity and Christian meekness.”<sup>180</sup>

The rules also specified that if Brothers had to punish boys they should be extremely careful to do so with great moderation and self possession and should:

“never undertake to punish in hastiness, or when they feel excited.”<sup>181</sup>

- 187 It is clear from the evidence we heard that the restrictions set out in the Voluntary Homes Regulations were not consistently adhered to. The Order accepted in its evidence to the Inquiry that its own Rules about the administration of punishment were not always observed and that on occasions the boundary between corporal punishment and physical

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179 HIA 290.

180 RUB 1557.

181 RUB 1556/7.

abuse was definitely crossed.<sup>182</sup> The Order suggested this may have been because there was a blurring by the brothers, many of whom worked in the school in Rubane as well as the home, of the distinctions between how corporal punishment could be administered in school, i.e. with use of a strap, in front of other pupils, and with no requirement to record it and how it should have been applied in the home.<sup>183</sup> If this blurring occurred, it would indicate a failing in the management of staff and in the guidance and oversight provided to them to ensure they understood and met statutory regulations. We consider that the Order's response and explanation appear to ignore or excuse each brother's individual responsibility to meet the Order's rules about the chastisement of children.

- 188 Witnesses who were admitted to Rubane in the 1950s described a harsh regime of strict discipline, excessive physical punishment for misdemeanours and random unprompted physical violence from brothers. There was consistent evidence, which we accept, that boys were put over desks and beaten on the bare backside with canes and with straps, were hit in front of other boys and were caned until they bled.
- 189 BR 12, who was the first Br Director of Rubane, was remembered for his use of excessive force: HIA 97 describes BR 12 as a vicious man who would lash out and kick and thump for no reason and HIA 261 recalled BR 12 hitting him on the head and bouncing him off a wall.<sup>184</sup>
- 190 BR 12 ceased being Brother Director in September 1956 but he continued to work in Rubane until his death in December 1972. Therefore his approach to discipline spanned sixteen years so that, for example, while HIA 19 who was in Rubane from 1966 to 1970 recalled being caned by BR 6 and BR 3 for minor misdemeanours he remembered BR 12 hitting him with a stick on his backside.<sup>185</sup>
- 191 BR 17 took over as Brother Director in September 1956 and he featured significantly in the accounts we heard of physical chastisement. To some extent this may be explained because he was the officer in charge and in accordance with the Voluntary Homes Regulations would have been responsible for the administration of corporal punishment. However, it is clear from the evidence we heard that he did not administer corporal punishment in the controlled and proportionate manner required by the regulations.

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182 RUB 9149.

183 RUB 9127.

184 RUB 700.

185 RUB 442.

- 192 HIA 252 who was admitted to Rubane on 26 November 1954, aged 9 years, because of non-school attendance described BR 17 beating him for crying because he was homesick<sup>186</sup> and beating him with a stick until he bled for running away.<sup>187</sup> HIA 390 described the head brother, who would have been BR 17 for the majority of HIA 390's time at Rubane, regularly strapping boys across the body, head and face.
- 193 HIA 183 described BR 17 beating him black and blue with his fists: "he flung me over the table; he fisted me" because when BR 17 asked him what he was learning he said he was learning a hymn; he explained the beating only ended when another boy told him to say he was learning Latin.<sup>188</sup>
- 194 It was clear from the evidence we received that during BR 17's time as Brother Director boys were gathered together to observe punishments and that on occasion boys were beaten on their bare bottoms and bodies in front of other boys. HIA 261 described two boys who had absconded being dressed in swimming trunks and beaten with a stick by BR 17 so forcefully that they "leapt in the air with pain".<sup>189</sup>
- 195 It was also clear that absconding was a particular trigger for severe chastisement, and that boys were gathered to watch such punishment as a means of deterring them from absconding. In part, the severe response to absconding appears to have been because the brothers felt it was important to maintain confidence in the Order's ability to deal with boys who had been sent to Rubane because they were seen to be in need of firm discipline. It may also have been that the brothers were concerned about how the local community in Kircubbin would perceive and respond to persistent absconding, particularly when boys who absconded engaged in petty crime in the local area. Whatever the motivation, it is clear that in the earlier periods any boy who was returned to Rubane after absconding could expect a harsh response and little if any discussion about why they were running away. BR 2 explained that part of his motivation to stop absconding was the risk of harm boys put themselves in, especially during the Troubles, and he described having to collect boys from potentially dangerous situations. He also told us he talked to boys on the way back to Rubane and asked them why they absconded.

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186 RUB 662.

187 RUB 664.

188 RUB 617.

189 RUB 701.

- 196 HIA 385 recalled a young boy who was caught smoking being stripped to his underpants, bent over a chair and whipped<sup>190</sup> and HIA 252 described being flogged on the bare backside in front of other boys because he was suspected of having stolen cigarettes.<sup>191</sup> In contrast to the measured approach the Voluntary Homes Regulations and the Order's rules set down for the administration of chastisement, HIA 399 described observing BR 17 hitting boys so hard that sweat poured from him and that "he looked like he was enjoying it too much."<sup>192</sup>
- 197 In addition to the evidence about excessive physical punishment, witnesses told the Inquiry about the unpredictable nature of the physical regime in Rubane and how brothers would administer random slaps. HIA 244 described it as follows:
- "Rubane was just a hell hole; it was a complete nightmare. We were constantly ducking and diving from the Brothers; you never knew when you'd get hit by them."<sup>193</sup>
- HIA 247 spoke in particular of how unpredictable BR 17 could be, "smiling and joking one minute and then going into a rage".<sup>194</sup>
- 198 Witnesses also said that when they received injuries as a result of beatings from brothers or staff they did not receive external medical treatment and often did not receive any assistance from staff:
- "...if we got a bad beating no one would patch us up"<sup>195</sup> HIA 390.
- 199 Although the regulations stipulated that only the officer in charge or his duly appointed deputy should administer corporal punishment, it was clear from the accounts of witnesses that this was not adhered to. BR 15 who arrived in Rubane in 1956 and BR 14 who arrived in 1957 were particularly remembered for using excessive and at times random physical force against boys.
- 200 HIA 385 remembered BR 15 as a cruel man who ruled by fear.<sup>196</sup> HIA 183 described BR 15 hitting a boy across the face with a bamboo cane and continuing to hit him across the legs and back with the cane although

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190 RUB 733.

191 RUB 665.

192 RUB 868.

193 RUB 652.

194 Day 57 8 October 2014, pp. 38 and 39.

195 RUB 743.

196 RUB 732.

blood was pouring from the boy's face.<sup>197</sup> HIA 252 and HIA 244 described BR 15 hitting boys in the shower with a strap and a bamboo cane.<sup>198</sup>

201 HIA 390 told the Inquiry that BR 15 would return to Rubane from trips to Belfast in a drunken state and would come to the dormitory and randomly physically abuse boys.<sup>199</sup> The Inquiry particularly noted that HIA 36 said the brothers were fair and that when he got "six of the best" it was for breaking rules but he described BR 15 as bad tempered and recalled him hitting boys with a stick.<sup>200</sup>

202 BR 15 was described as having a vicious temper<sup>201</sup> HIA 183, HIA 252 described BR 14 hitting him around his face with a strap and kicking him in the side with the toe of his shoe "like someone would kick a football."<sup>202</sup>

203 BR 6 was the Brother Director in Rubane from August 1962 to July 1971. He is remembered warmly by his fellow brothers and some residents talked of his kindness - "a smashing fellow".<sup>203</sup> However, it is clear from the evidence we heard that under his leadership harsh physical discipline continued to be a feature of life in Rubane. HIA 110 described BR 6 hitting him with a stick, HIA 16 described him hitting boys for not doing their cleaning chores properly and HIA 225 recalled him hitting a boy across the face with a cane because he had pointed out that BR 6 had spelt a word wrongly. HIA 259 commented about BR 6:

"...although he could be nice to you at times you did not want to get on the wrong side of him as he had a very bad temper and would really tear into you".<sup>204</sup>

204 The public nature of some punishment also continued, HIA 34 described BR 6 slapping boys in the yard. HIA 36 described boys being assembled to watch two brothers DL 368 and DL 536 being stripped and beaten for running away. HIA 26 who was in Rubane from 1964 to 1970 referred to excessive use of the cane:

"The cane would leave lumps and welts on your legs and on occasion they would beat you until your bare legs would bleed."<sup>205</sup>

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197 RUB 619.

198 RUB 665.

199 RUB 740.

200 RUB 478.

201 RUB 619.

202 RUB 665.

203 DL 244 - RUB 1486-1489.

204 RUB 679.

205 RUB 456.

- 205 BR 2, who worked with BR 6 accepted that he caned boys in front of other boys but insisted that such caning would have been on the boys' hands not their behinds.
- 206 A number of witnesses described how some brothers asserted their authority when boys arrived in Rubane and warned them about what they could expect if they did not behave. HIA 21 gave an example of this behaviour: he described how on his first night in Rubane BR 3 hit him across the face for no reason and with no warning and told him "You are not in Nazareth Lodge now".<sup>206</sup> HIA 21 told us that was the only time BR 3 "struck-out" at him.
- 207 HIA 225 was the only witness who was in Rubane at this time who told us he reported how he was chastised to his social worker; he told her that he had been badly caned by BR 4. He said he was not sure if his social worker did anything about it but that BR 4 did not hit him again. The HSCB provided relevant social work papers which confirmed that HIA 225 told his social worker that he had been "strapped and then hit across his left ear by BR 4, such as to knock him off his chair"<sup>207</sup> and that she advised him to ignore the incident unless BR 4 continued to punish him unjustly whereupon he should discuss the situation with BR 6. The social worker recorded that this plan seemed to satisfy HIA 225.
- 208 The HSCB accepted in its written submission to the Inquiry that BR 4's behaviour as described by HIA 225 amounted to serious physical abuse and that there is no evidence that she reported the incident to her line manager. They suggested that this could be because the possibility of institutional abuse did not register with her. We accept this may be the case and while we would expect a social worker to refer such a matter to his/her manager we accept that she did not record both HIA 225's complaint and her follow up action to ensure that HIA 225 was not subject to further abuse.
- 209 We also note that BR 2 recorded in his diary how BR 4 dealt with boys who had stolen altar wine and spirits and got drunk as "BR 4 goes to town on them"<sup>208</sup> and we conclude from this that BR 4's behaviour with HIA 225 was not a one-off incident. Although the social worker could not have been aware of that, it was a significant failing that she did not refer

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206 RUB 879.

207 RUB 9245.

208 RUB 2630.



the matter to her manager, as such a referral might have resulted in an investigation into BR 4's behaviour or, at the very least, questions about the incident that might have made him control his behaviour better.

- 210 A number of witnesses recalled brothers enforcing a white boundary line in the play ground (e.g. HIA 152) denoting the area within which they were expected to remain during recreation time. The Order explained that this line was used for a period in Rubane and was a means of enabling supervision of the boys and preventing them from wandering in the outer fields and woods where there was a risk they would engage in sexual activity and bullying behaviour. We accept that a boundary line may have been necessary since the grounds surrounding Rubane were extensive and that the use of a boundary line would enable one brother to supervise a large number of children at recreation time. However, we accept from the evidence of witnesses (e.g. HIA 244) that some brothers and in particular BR 28 were overzealous in their enforcement of the boundary.
- 211 Some witnesses who were in Rubane in the mid-1960s onwards recalled other forms of punishment, such as pocket money being withheld,<sup>209</sup> and remembered only seeing other boys being punished if they happened to be in the vicinity as opposed to being convened to watch punishments. The introduction of chalets improved the physical environment for the boys and heralded the introduction of more lay and female staff. However, from the evidence we received we accept that physical punishment continued to be the primary means some brothers and lay staff used for asserting their authority and maintaining their control over the boys.
- 212 To illustrate this, we refer to some of the behaviour of staff that BR 2 had to deal with during two of his periods as Brother Director in Rubane, July 1971 to September 1973 and June 1980 to December 1982, and that BR 1 had to deal with during his period as Brother Director from September 1973 to September 1977.
- 213 BR 2 confirmed in his evidence to the Inquiry that as the Brother Director he received complaints from boys about staff being physically abusive. The extracts from his diaries, which he helpfully provided to the Inquiry, illustrated well the type of behaviour the boys were complaining about.
- 214 Before his appointment as Brother Director, while he was working as a teacher and a part-time member of care staff in Rubane, BR 2 was already

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209 HIA 64 and HIA 97 (Day 56, p.13).

concerned about the behaviour of a house parent, DL 421. He recorded in his diary on 7 December 1970:

“Screams from upstairs – went upstairs [DL 421] and [HIA 56] in the toilets [HIA 56] covering [DL 421] over him ‘this can’t go on’ ...talked to [DL 421].”<sup>210</sup>

- 215 On 20 Dec 1970 BR 2 recorded in his diary that some boys had complained to the Chaplain, DL 140, about DL 421’s behaviour and that DL 140 intended confronting DL 421 but BR 6 intervened and he and DL 140 talked to DL421 together.
- 216 Following his appointment as Brother Director, BR 2 recorded continued concerns about the behaviour of DL 421. For example, he recorded on 30 January 1973 a boy coming to see him because he was afraid of going to his chalet because he had lost his pullover and would get “the black belt” from DL 421. On another occasion he recorded five boys complaining about DL 421, three of whom were subsequently moved from his chalet because of his aggressive behaviour towards them. He eventually asked DL 421 and his wife to resign on the basis that they had reached retirement age. BR 2 confirmed in his oral evidence that he did not tell the management committee or the governing board about asking DL 421 and his wife to resign or the reasons for their departure.
- 217 Subsequent to DL 421’s resignation the home was searched by security forces and BR 2 was told on a confidential basis that this search was linked to a member of lay staff hiding an escaped IRA prisoner in the home. BR 2 concluded that given DL 421’s republican views he was the most likely member of staff to have hidden the escaped prisoner. BR 2 told us that he did not inform the MoHA about the building being searched by the security forces. Dr Harrison on behalf of the Department was critical of this lack of openness but the Order pointed out that BR 2 would have understood that security matters should be kept confidential and would have reasonably expected the police or the security forces to have informed civil servants about the search of Rubane. It is unclear what, if any, information about the search was provided by the security forces to the Department or the HSCB. **We consider it a systemic failing that the Order did not inform the Department or the Health and Social Services Boards about the search of Rubane and the reasons for it and therefore did not work with them to identify and manage any continuing risk to the welfare and safety of the boys in Rubane at that time.**

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210 RUB 6268.

218 In 1972 BR 2 had to deal with two brothers whose aggressive behaviour towards boys caused him concern. He recorded their behaviour in his diary, for example:

- “5 February 1972 – BR 29 hits J McNeilly in the dining hall”<sup>211</sup>
- “17 April 1972 – BR 29 clobbers a few boys at the line-up.”<sup>212</sup>
- “22 April 1972 – BR 29 at war with little DL 243 (came crying to me, BR 29 beats him again for reporting to me - stupid man”.<sup>213</sup>
- “9 June 1972 – BR 29 & BR 20 beat up DL 65 in boys changing room.”<sup>214</sup>

219 BR 2 told us that he discussed his concerns about BR 29 with the Provincial and as a result BR 29 was asked to leave Rubane and was not permitted to take his final vows.<sup>215</sup> BR 2 said he was also instrumental in preventing BR 20, who was involved in “beating up [DL 65]”, and another brother DL 525 from taking their final vows; he reported to the Provincial that they had poor relationships with the boys and that he did not feel they were able to manage the role properly.<sup>216</sup> The Order pointed out that although BR 2 correctly brought these entries to the attention of the Panel the number of entries in his diary about the misconduct of brothers is relatively few.

220 BR 29 gave evidence to the Inquiry and explained that he entered the Order at age fourteen and although he expected to become a teacher the path that was directed for him was a career in social care. He arrived in Rubane in September 1971 when he was aged nineteen years and stayed less than a year, leaving in July 1972 when his vows were not renewed. BR 29 told us that his understanding at the time was that he was leaving the Order because he did not have the vocation to continue in the religious life or the prayer life to sustain such a vocation. He also informed us as part of the Warning Letter process that BR 20 took his final vows and was still a brother in 1977. We took from this that while BR 2 may have played a part in delaying BR 20 from taking his final vows in 1972 BR 20 was subsequently allowed to take them.

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211 RUB 6370.

212 RUB 6411.

213 RUB 6413.

214 RUB 6441.

215 RUB 1049.

216 RUB 1050.

- 221 BR 29 told us that as a nineteen-year-old man with no experience, and no training or preparation for the work, he was thrown in at the deep end and expected to deal with boys, some of whom were only a few years younger than him, and whose behaviour could be very challenging. He said he had a vague memory of a boy suddenly attacking BR 20 and him in a changing room and of them having to restrain him but could not recall the other incidents involving his interactions with boys recorded by BR 2. He told us that he received no job description, no supervision and limited guidance about doing his job. While not excusing BR 29's behaviour towards boys we accept that he was ill-equipped for his work with the boys and unsupported in carrying it out. We consider that he was not alone in this regard and we will return to the matter of support and supervision of staff later in this chapter.
- 222 BR 2 issued a verbal warning on two occasions to another member of staff, DL 279. The first warning was for physically assaulting a boy while on duty under the influence of alcohol on 25 March 1975. The second warning related to an incident on 29 January 1976 when DL 279 was again on duty under the influence of alcohol and assaulted another boy and left him with a swollen jaw. BR 2 recorded in his diary that on 21 January 1976 he had a brief chat with DL 279's wife, DL 89, about her husband's aggressiveness and drinking habits but he confirmed in his oral evidence to the Inquiry that he did not refer his concerns about DL 279's behaviour to the provincial or the management committee. It was not until 30 November 1976 that DL 279 was asked to resign and it appears from BR 2's diary that the reason he was asked for his resignation was because he was having an extra-marital relationship with a woman from the locality and was rumoured to be father of her recently born child.
- 223 In his diary entry of 11 November 1976<sup>217</sup> BR 2 recorded concern about acting in relation to this matter without firm information "Nothing definite - only rumours" and adds at the end of that entry "[DL 279] reported under influence" but gives no indication of his thoughts about that report or any action he took in relation to it. In his oral evidence BR 2 indicated that it was a combination of concerns about DL 279 that prompted him to ask for his resignation, but we noted that his diary entry about his discussion with DL 279 focused on the extra-marital relationship. This left us with the impression that BR 2 was prepared to act more quickly in response to moral failings and perhaps to avoid scandal in the neighbourhood than

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217 RUB 7108.

he was to deal with a member of staff who on at least two occasions had assaulted boys while working under the influence of alcohol. BR 2 accepted in his oral evidence to the Inquiry that he should have taken action earlier about DL 279's behaviour but explained that a misplaced sense of sympathy for DL 89 and her children stopped him from doing so.

224 In contrast to BR 2's handling of DL 421 he did seek the advice about handling the situation with DL 279 from Fr McCann, chair of the management committee, and Ms Forrest of the MoHA, who BR 2 recorded as advising a sympathetic approach.<sup>218</sup>

225 BR 2 also had to speak on two occasions to BR 18 in June 1973 and April 1974 about his physical behaviour towards the boys. A number of witnesses to the Inquiry described being hit by BR 18.<sup>219</sup> HIA 31 described BR 18 "knuckling" him so severely on the head that his face went into his food; he contrasted BR 18 hitting him "for nothing" with BR 3 hitting him for doing something wrong.

226 HIA 18 described being severely beaten by BR 18 in the canteen and his account is supported by HIA 259 and DL 85.<sup>220</sup> HIA 259 recounted that DL 11 who was HIA 18's house-parent remonstrated with BR 18 about this incident. In his statement to the Inquiry DL 11 confirmed he did challenge BR 18 about the incident:

"I said that if he ever hit one of my boys again he would have me to answer to."

He also recalled reporting the matter to BR 1 or BR 2 and saying:

"that if anything like this happened again I would inform the authorities and if HIA 18 wanted to take the matter further I would back him one hundred percent."

He said he subsequently checked with HIA 18 but he did not want to take the matter further.<sup>221</sup>

227 In addition to evidence from witnesses who were resident in Rubane about BR 18 we noted that a former member of lay staff DL 81 told the police that BR 18 was notorious for punching boys<sup>222</sup> and said in his evidence to the Inquiry that BR 18 would even have given him a thump. DL 149,

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218 RUB 7113.

219 HIA 34, HIA170, HIA362 and HIA 149.

220 RUB 60414.

221 RUB 5944.

222 RUB 67797.

who was a teacher of physical education in Rubane, told the Inquiry he remembered that BR 18 had a reputation as:

“a rough kind of a guy that you didn’t mess with sort of thing. That’s what the boys would say. You’d jump out of his road sort of thing, you know.”<sup>223</sup>

228 When responding in his oral evidence to questions about BR 18’s physical punishment of boys BR 2 recalled:

“...when boys came to me and says [sic], I was hit by BR 18, I would have taken it for granted that he gave them a clout, or a wallop, or a slap or something of that nature, and it was dealt with internally.”<sup>224</sup>

229 BR 2 went on to suggest that BR 18’s behaviour and his response to it needed to be understood in the context of the time:

“...but at the time, the times we were in, 60’s and 70’s, many teachers not so much care workers I guess – but for teachers it would be common practice almost that they would come along and give a warm ear to someone or slapped them – gave them a punch or whatever”.<sup>225</sup>

230 It appears that when BR 2 arranged for BR 18 to leave Rubane in 1981 it was not in response to concerns about BR 18’s physical aggression towards the boys but was because BR 18 had developed a dependency on alcohol.<sup>226</sup>

231 It is clear that in the 1970s Rubane was increasingly seen by the Health and Social Services Boards as a place to send boys who were in need of firm discipline. BR 2 said in his written statement that by 1974:

“...the Welfare Authorities valued the closer supervision provided at Rubane as being vital to the upbringing of these boys who were ‘out of control’ in other institutional settings.”<sup>227</sup>

232 We also heard about boys being sent to Rubane from Termonbacca and Nazareth Lodge because the nuns could not control their behaviour and it would appear from the evidence we heard that the brothers took a particularly physical approach to asserting their authority with these boys. For example HIA 94 was transferred from Termonbacca in 1972 because the nuns could not handle his behaviour. He described physical abuse by brothers, including being caned on his bare behind, and the Order has confirmed that records

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223 Day 73, 26 November 2014, p. 66.

224 Day 74, 27 November 2014, p. 43.

225 Day 74, 27 November 2014, p. 45.

226 RUB 5763-5764.

227 RUB 1043.

show he was punished for his behaviour and for absconding. HIA 25 and his twin brother HIA 31 were admitted to Rubane in 1974 although they were only aged 7 years because the nuns in Nazareth Lodge could not deal with their behaviour. HIA 25 described how he and his brother HIA 31 ran away soon after arriving in Rubane and when they were brought back they were beaten by a brother. He stated:

“Now we were only 7 years of age and this was a grown man with a big stick hitting us as hard as he could to try to teach us a lesson not to run away. It wasn’t a lesson not to run away. It was a lesson of fear, you know”<sup>228</sup>

As previously stated, the statutory regulations regarding corporal punishment forbade children under eight being punished in this way.

- 233 In his written statement to the Inquiry BR 2 accepted “there will have been times when punishment was not carried out strictly in accordance with the regulations”<sup>229</sup> and that he himself had “momentary loss of self control’. He referred the Inquiry to his diary entry for the 10 January 1973 where he recorded, “hit [DL 315] across the face for being giddy.”<sup>230</sup> This record in BR 2’s diary of his spontaneous informal chastisement of a boy is unusual; other entries about physical punishment record his administration of corporal punishment.
- 234 HIA 222 and his brother DL 385 were admitted to Rubane because following the death of their father they got beyond their mother’s control and began to miss school and get into trouble. HIA 222 told us that on his first day in Rubane the head brother, who at that time would have been BR 2, slapped him because he and his brother were “kicking off” as they did not want to be in the home. It was also recorded in the Ledger five days later, on 8 October 1974, that when HIA 222 and DL 385’s mother and a social worker were leaving Rubane at the end of a visit the boys had to be restrained because they wanted to leave with them. It was specifically recorded “A few clouts to [DL 385].”<sup>231</sup> BR2 also recorded the incident in his diary and commented “[DL 385] very stubborn – took a lot out of me.”
- 235 This attitude to the physical chastisement of boys contrasts with the oral evidence given to the Inquiry by Mr Bunting, who in reference to BR 2’s

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228 Day 66, p. 105, Lines 18-22.

229 Para 130 RUB 1084..

230 RUB 1084.

231 RUB 3299.

evidence about brothers' overly physical treatment of boys stated that if the type of incidents which caused BR 2 concern had happened in statutory homes they would have been formally investigated and any behaviour amounting to physical assault would have been referred to the police.<sup>232</sup> While accepting that corporal punishment was still commonplace in schools in the 1970s, in relation to its use in statutory children's homes at that time Mr Bunting stated:

“it was not our practice in statutory homes for any form of physical chastisement.”<sup>233</sup>

- 236 We appreciated BR 2's frankness about these matters and noted that he regularly recorded in his diary when he chastised boys, how many slaps he gave and for what reason. He explained in his oral evidence that he would have punished boys together if they had offended together, but would have punished boys alone if they offended alone, and that if he saw boys fighting he would intervene to stop the fight and would have slapped both boys. HIA 191 provided an example of this approach when he described BR 2 giving him “six on each hand” for fighting with another boy.
- 237 We also noted that BR 2 recorded giving other non-physical punishments such as not allowing a boy to go to the swimming pool<sup>234</sup> and giving a boy 50 lines for being down the field after supper.<sup>235</sup>

## **BR 77**

- 238 We will now consider the case of BR 77 who is the only brother who worked in Rubane to be convicted for physical abuse of the boys in his care. At the time of the behaviour that led to BR 77's convictions BR 1 was the Brother Director of Rubane, having been appointed to that post in October 1977.
- 239 BR 77 arrived in Rubane in September 1976, to take up his first teaching post. He explained to us that he lived in St Patrick's while completing his training as a teacher and from what he observed of the work there he felt he would not be suited to working in Rubane. He told us he tried to convince Provincial, Br Columba Gallagher, of this but was unsuccessful and was sent to work in Rubane.

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232 Day 76, 9 December 2014, Page 142.

233 Day 76, 9 December 2014, Page 145.

234 RUB 6370.

235 RUB 6284.



- 240 He told us that he got no advice about how to deal with the behaviour of the boys beyond being advised to read their files and that the only guidance he got was about the level of academic attainment the boys should be expected to achieve.
- 241 The first incident that led to his conviction occurred in November 1979 when DL 48 was hit on the eye by BR 77 for “messing around” on the football pitch. The cut required stitching. When DL 48 was interviewed by the police in 1980 about this incident he told them that he did not tell his social worker about it because he was scared of BR 77 but that he did tell BR 1 but thought that he did nothing about it.
- 242 BR 1 told the police on 1 October 1980 that he told the management Committee about this incident,<sup>236</sup> but this is at odds with the account that Fr McCann, who was the chair of the management committee, gave to the police<sup>237</sup> and to the Hughes Inquiry.<sup>238</sup>
- 243 Fr McCann said the matter came to his attention because Pauline Richardson, a social worker with the Catholic Welfare Office who was liaising with staff in Rubane in order to help develop their care practices, heard about the incident from boys in Rubane and reported it to her Director, Fr John O Connor, who in turn reported it to Fr McCann. In a statement to police<sup>239</sup> Fr McCann recounted going to meet with BR 1 to discuss the matter and telling him to give BR 77 a warning about his behaviour.
- 244 It does not appear that Fr McCann asked for confirmation that the warning had been given and in his evidence to the Inquiry, BR 77 stated that he had no memory of receiving such a warning. Neither BR 1 nor Fr McCann referred the matter to the police or to DL 48’s social worker and Fr McCann accepted in his evidence to the Hughes Inquiry that his reaction was not sufficient.
- 245 The second incident occurred around March 1980,<sup>240</sup> when DL 52 was attacked by BR 77 during a basket ball game in the sports hall. In his statement to police DL 52 explained that he had told his friend DL 60 he would hit him if he dropped the ball and that when DL 60 did drop the ball he gave him a playful tap on the head. DL 52 described to the police how

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236 RUB 60139.

237 RUB 60049.

238 RUB 40016.

239 RUB 60049.

240 RUB 60106.

BR 77 responded to this:

“BR 77 came over to me and punched me on the jaw. I tried to cover myself up and he kept on punching me with both fists until I fell and hit my head on the wall. When I was on the ground he kept on hitting me and cut my upper lip. He also kicked me once when I was on the ground. After he saw that I was bleeding from the lip he tried to make up to me by saying it was an accident. He attended to the cut on my lip himself and I did not have any medical treatment.”

- 246 DL 52 reported what happened to BR 1 and BR 3, who was the principal of the school. In his evidence to the Inquiry, BR 77 said he told BR 3 himself about the incident, explained that he intervened to stop DL 52 hitting DL 60 but knew that he had overstepped the mark. He also told the Inquiry that three weeks after the incident he apologised to the boys in DL 52's class who had observed the beating. In his statement to the police<sup>241</sup> DL 60 stated that he knew DL 52 was only carrying on and confirmed that BR 77 apologised to the class for his behaviour.
- 247 When answering questions at the Inquiry hearing about this incident BR 77 stated that his conversation with BR 3 did not include discussion of how he might contain and manage himself better in future to avoid the reoccurrence of such behaviour. Despite Fr McCann's intervention in relation to the first incident and the warning he said BR 77 was to receive, BR 1 did not alert Fr McCann to the second incident and did not report it to DL 52's social worker or the police. Therefore, although BR 77 seriously assaulted two boys within a five month period he was not disciplined or removed from his post.
- 248 In February 1980 DL 517, a social worker employed by the Eastern Health and Social Services Board, and DL 522 of the Down and Connor Catholic Family Welfare Society started a Leavers Group in Rubane to help boys to prepare for leaving care. At a meeting of this group on 6 March 1980, the boys made clear that they did not want BR 77 to join them on a planned weekend away because he was generally vicious and aggressive, had split a boy's lip, hit boys with mountaineering rope on previous camping trips, and, that if he did not like the way boys behaved on the weekend away he would “get them” when they returned to Rubane.

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241 RUB 60196.

- 249 On 10 March 1980 DL 517 visited a boy in Rubane DL 33, who she was the social worker for, and he told her BR 77 had hit him in the laundry for smoking. He asked her not to tell BR 1 about him being hit as it would make things worse. DL 33's father who has accompanied DL 517 on the visit suggested that his son might be exaggerating the severity of the beating.
- 250 At the next meeting of the leavers group on 13 March 1980 the boys expressed the same concerns about BR 77 and as a result DL 522 met with BR 1 and shared the concerns expressed by the boys and asked that BR 77 should not be chosen to accompany the group on the weekend away. BR 1 gave DL 522 a non-committal response to this request. There is no evidence to suggest that at this point either DL 517 or DL 522 escalated their concerns about BR 77's behaviour to their managers.
- 251 However, on 27 March 1980, DL 517 and DL 522 decided to discuss the boys' concerns further with BR 1 and DL 517 also raised DL 33's report to her of being hit by BR 77 in the laundry. BR 1 assured the social workers that he knew about the incident of the boy being given a split lip by BR 77 and had dealt with it and that as far as he knew there had been no more incidents since then.<sup>242</sup> On 14 April 1980 DL 517 met with DL 33 who told her he had been hit again by BR 77. DL 517 reported this to BR 6 in BR 1's absence and she subsequently submitted a report to her senior managers about the allegations the boys in the group and DL 33 had made about BR 77.<sup>243</sup> DL 524, District Social Services Officer, referred the report to Mr Gilliland, Director of Social Services, with a memo dated 18 April 1980<sup>244</sup> advising that the matters should be raised with the police, the DHSS and the management committee of Rubane.
- 252 The police had already been alerted to allegations of sexual misconduct by BR 1, which we will consider later in this chapter. The combination of concerns led the police to decide to interview boys who were in Rubane between 1977 and 1980, a total of 129 boys of whom 124 were traced and interviewed. During these interviews eighteen boys made allegations of physical assault against BR 77 and ten of them described him beating them around the head and face and striking them on the mouth and eye with a closed fist.

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242 P. 56, Day 77.

243 RUB 1691-1694.

244 RUB 1690.

- 253 Fr McCann was informed by police about these allegations and on the same day asked BR 77 to absent himself from Rubane and not be in communication with it in any way. We noted that despite knowing about the incident with DL 52 Fr McCann explained to the Hughes Inquiry that out of delicacy he asked BR 77 to absent himself from Rubane rather than telling him he was suspended. Despite the serious allegations made against BR 77 the Order moved him to teach in a local school.<sup>245</sup>
- 254 In the report of the 1981 inspection of the home by the Social Work Advisory Group there is a passing reference to BR 1, and a lay member of staff DL 509 being under suspension from duty at the time of the inspection but there is no reference to BR 77's suspension or the circumstances surrounding it. This suggests that this information may not have been shared with the inspection team.
- 255 The Police decided to prefer charges in relation to four of the allegations against BR 77 where there was evidence of corroboration. Three assaults of occasioning actual bodily harm against DL 48 in October 1979, DL 52 in March 1980 and DL 53 in early 1980 were proceeded with. BR 77 appeared at Ards Court on 11 May 1981, pleaded guilty and was given a conditional discharge on each of the counts.
- 256 Five witnesses to the Inquiry described physical abuse by BR 77. HIA 170 recalled BR 77 "busting the nose" of a boy called Shields. HIA 259 described him as terrifying and intimidating and said he beat boys excessively and got a buzz from it. HIA 218 described BR 77 hitting him and his twin brother with a climbing rope, and HIA 18 described BR 77 beating him with a golf club and said BR 6 observed that beating and did not intervene.
- 257 HIA 41 said BR 77 beat him in a store room in Rubane and that he lifted boys by the hair, tried to make them cry and left DL 53 in a pool of blood. A witness put forward to the Inquiry by the Order, DL 40, said in a police interview that BR 77 hit him with his fists for not paying attention in class and that another boy, DL 46, told him about a beating he got from BR 77.
- 258 In his evidence to the Inquiry BR 77 accepted that he behaved wrongly on the occasions for which he was convicted and that he did use a rubber tube and a safety line rope used for climbing to hit boys, but he denied the other allegations against him.

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245 RUB 40021.

## Conditions after the return of BR 2 as Brother Director

- 259 As a result of allegations of a sexual nature against BR 1, Bishop Philbin suspended him and the Order sent BR 2 back to Rubane to take up the post of Brother Director again. At BR 2's insistence he was given the support of a deputy BR 7. BR 7 told the Inquiry that his general impression of Rubane when he arrived was that there was an overemphasis on sanctions and punishment, and that he suggested a more positive approach of rewarding good behaviour. He also introduced reviews of boys, log books, personal records for each boy and an independent living scheme. This period marked a time when the boys were given more freedom, for example to walk into Kircubbin or go to discos, and we heard evidence from witnesses about such privileges being removed as punishments.
- 260 BR 7 said there was a marked shift towards reducing the use of corporal punishment and reactive informal punishments such as clipping of boys' ears. He also described how arrangements were put in place that only BR 2 and he would administer corporal punishment and that it was not to be administered in the heat of the moment. While we did not accept every allegation about physical abuse by brothers in these later years we concluded from the accounts of witnesses that the restrictions described by BR 7 were not always adhered to and that brothers continued to use their superior physical force to exercise authority over the boys, as did lay staff.

### DL 81

- 261 To illustrate this we will consider the conduct of a lay member of staff, DL 81 who was the member of staff whose reports to external agencies about poor child care and management practices in Rubane led to the EHSSB placing an embargo on placements in Rubane.
- 262 DL 81 was 20 years old when he commenced work in Rubane and he worked there until he was 25 years of age. He completed a course leading to the Certificate in Residential Care of Children and Young People at Rupert Stanley College and while he was on the course he worked as a house parent in the evenings in Chalet 3 and he and his wife lived in that Chalet. When he completed his training, he and his wife were moved to Chalet 2 where he worked with DL 514, a psychology graduate, under the management of DL 11 and his wife DL 12.

- 263 A series of incidents took place where DL 81 got into physical confrontations with boys. In Feb 1981<sup>246</sup> a boy (DL 212) threatened DL 81 with a poker and told staff he did so because DL 81 had hit him. On 10 Dec 1981 another boy, DL 413, complained that DL 81 grabbed him by the throat and left marks on him. BR 2 received advice from Pauline Richardson, social worker with the Catholic Family Welfare Office, about how to investigate and report this second incident. During the investigation DL 81 admitted slapping DL 413 across the face and attempting to restrain him, using a technique developed in America which he had heard about but which he had not been trained to use. BR 2 issued a verbal warning to DL 81<sup>247</sup> for “rough handling”, arranged for Father O’ Connor a member of the management committee to be informed about the incident,<sup>248</sup> and the Newry and Mourne Social Work Department, which was responsible for DL 413.<sup>249</sup>
- 264 On 25 Jan 1982 a boy, DL 520, pulled a knife on DL 81 who slapped him across the face. This incident was reported to BR 2’s deputy BR 7<sup>250</sup> and the next day, 26 January 1982, DL 81 had a confrontation with another boy, DL 415, and BR 2 was involved in managing the aftermath of that incident.
- 265 It is clear from documentation we have seen that there were tensions in the working relationships DL 81 and DL 514 had with the house parents in Chalet 2, DL 11 and DL 12, and that there were differing views about how the chalet should be run. The contemporaneous written accounts that DL 81 and DL 514 provided to BR 2 about the incidents outlined above show two immature members of staff trying to deal with challenging behaviour from boys in a manner that escalated rather than diffused situations, and DL 81 in particular trying unsuccessfully to use physical force to assert his authority over boys.
- 266 Two witnesses to the Inquiry, HIA 41 and DL 73, described DL 81 beating them and a witness put forward by the Order DL 40 remembered DL 81 as having a temper.<sup>251</sup> BR 2 accepted to the Inquiry that maybe DL 81 was too aggressive with the boys.

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246 RUB 63281.

247 RUB 68222.

248 RUB 68193.

249 RUB 68226.

250 RUB 68242.

251 RUB 1484.

- 267 DL 81 gave evidence to the Inquiry and denied the allegations made against him. He said he was known as a softie, but that he did get caught up in incidents when he tried to intervene to stop younger boys being bullied by older boys. Subsequently, as part of the Warning Letter process, DL 81 told us that he had slapped HIA 41 but explained that was in response to a crude and unkind remark that HIA 41 made to him and his wife at a time when they were particularly vulnerable. We considered this was an example of the provocative type of behaviour that staff in Rubane would have had to deal with and that it highlighted how important it was for them to be properly supported in their work and the adverse impact when that support was not available.
- 268 On 27 January 1982 DL 81 met with Fr O'Connor, a member of the management committee, to share his concerns about recent incidents in Rubane and how they had been managed. Father O'Connor wrote to BR 2 and the DHSS to inform them about this meeting and said that he had told DL 81 a review of the running of the home was imminent and that he could take his concerns to the chair of the management committee, Fr McCann.
- 269 On 4 February 1982 DL 81, accompanied by his colleague DL 514, brought his concerns to Mr Morris, the principal social worker in the EHSSB,<sup>252</sup> and as a result the EHSSB decided on 6 February 1982 to place an embargo on any more admissions to Rubane until the concerns raised by DL 81 and DL 514 could be investigated further.<sup>253</sup> The EHSSB referred the matter to the DHSS and two inspectors from SWAG went to Rubane to meet with DL 81 and DL 514, BR 2 and other relevant staff.<sup>254</sup>
- 270 One of the claims made by DL 81 was that BR 18 had a drink problem and was frequently on duty in an intoxicated state. The inspectors raised this with BR 2 who confirmed BR 18's dependence on alcohol but was emphatic he was never allowed to go on duty while under the influence of alcohol and that once the problem became apparent he was moved to another De La Salle community. The inspectors accepted this explanation. We are not convinced that boys would not have come in to contact with BR 18 when he was under the influence of alcohol, given the proximity of the living conditions. This is the third allegation that members of staff who were known for their quick temper and physical abuse of boys were also

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252 RUB 11960.

253 RUB 5761.

254 RUB 5762/3.

working under the influence of alcohol (BR 15, DL 279 and BR 18). We consider the Order's tolerance of this behaviour was a failure to properly protect the boys, particularly since we are aware that some boys were received into care because of the problems created by one or both of their parents' dependence on alcohol.

271 The inspectors also accepted reassurances from BR 2 that practices in Chalet 2 that DL 81 had complained about, such as the manner in which boys were required to wash their feet each evening, had been stopped.

272 The management committee was informed about the embargo and how it had come about and decided that DL 81 had brought the home into disrepute and should be offered the opportunity to resign.<sup>255</sup> When DL 81 refused to resign he was dismissed on 8 March 1982 by Fr McCann as chair of the management committee and DL 514 had her probation period extended.<sup>256</sup> We considered this an interesting example of how whistle blowing was dealt with; it appears the management committee decided to get rid of the source of the complaints rather than considering whether there was any substance to them. What is more significant in relation to the remit of this Inquiry is that DL 81 was dismissed for bringing the home into disrepute rather than for his unsafe child care practice and physical aggression towards the boys.

273 In light of the SWAG inspectors' acceptance of BR 2's assurances, Mr PJ Armstrong, Deputy Chief Social Work Adviser, wrote to Mr Gilliland, Director of Social Services Eastern Board, on 6 April 1982:

"I am sure that you will agree that, while there can be room for improvement in the standards of child care in this Home, as in many others both statutory and voluntary, the practices complained of did not represent a serious threat to either the safety or welfare of the boys. ...In my opinion there is now no reason for your Board to maintain an embargo on the admission of boys to Rubane. Social workers who have responsibility for children whom they consider would benefit from the type of treatment and regime that is offered by the Home should recommence referrals."<sup>257</sup>

274 However, as we will consider later in this chapter, further concerns about Rubane were brought to the attention of senior managers in the EHSSB and the embargo remained in place until 5 August 1982.

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255 RUB 11070.

256 Ibid

257 RUB 11956.



### Excessive physical force by other lay staff

275 Numerous allegations were made to us that lay teaching staff resorted to hitting boys to enforce discipline in the classroom, during games and on occasion when performing other duties, such as acting as a house parent. These allegations range from throwing wooden items at boys in class to slapping and punching boys.

276 For example, a number of witnesses gave consistent evidence that the woodwork, teacher DL 6 was quick to lose his temper, prone to throwing whatever was near to hand, including tools such as chisels and mallets at boys (HIA 19) and hitting them with lumps of wood (HIA 132). A number of witnesses indicated that if a boy was willing to learn DL 6 was a good teacher and was very skilled at woodwork but even they referred to his quick temper. HIA 64 said about DL 6:

“He was a brilliant teacher but he was very aggressive. If you got something wrong in class, he would call you a fat head and hit you. Then he’d throw the leg of a chair at you and you would have to make a run for it.”<sup>258</sup>

It is clear the brothers knew about DL 6’s behaviour. For example, HIA 44 told the Inquiry he was moved from DL 6’s class because he reported to BR 2 that DL 6 had hit him with a hammer. In its written closing submission to the Inquiry the Order noted the accounts of DL 6’s behaviour but pointed out that the boys would wind him up.<sup>259</sup> HIA 170 confirmed this in his evidence to the Inquiry: ‘He (DL 6) was definitely a target for being wound up’.<sup>260</sup> The Order acknowledged that it was not acceptable for DL 6 to respond in the way in which he did. We agree and we consider that the Order’s willingness to allow him to behave in this way for a number of years was also not acceptable.

277 DL 149 was another member of lay staff about whom the Inquiry received allegations of physical abuse. Rubane was DL 149’s first teaching post; he taught Physical Education and Religious Education and lived on-site during the week.

278 DL 149 denied the allegations that witnesses made to the Inquiry about him hitting them excessively. (HIA 18, HIA 25, HIA 31 and HIA 41). He admitted that he did get into a physical fight with a boy, DL 121 who tried

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258 RUB 546.

259 RUB 9153.

260 Day 68, p.31 ,Lines 16 – 20.

to defy him by leaving his classroom when he had told him not to. When questioned at the Inquiry hearing DL 149 said BR 3 talked to him and the boy about the incident but he was not admonished and he was given no advice about how to manage such situations in the future. We consider this another example of a young and inexperienced member of staff being expected to deal with challenging behaviour from teenagers with limited guidance and support.

- 279 DL 149 stated that at times during after-school sporting activities he had to intervene between boys to calm down situations such as claims about unfair tackles but denied ever being physically aggressive with boys during games or punishing them for their failure to win games. HIA 31 described how he experienced being taught to play Gaelic by DL 149:

“..If you didn’t get the ball or do what he told you he would kick you in the backside or hit you on the back of the head with his fist or he would put his knee in your back. He used to sweep your feet from under you to make you fall. He did it to all the boys.”<sup>261</sup>

- 280 Although it is clear that witnesses valued the sporting activities in Rubane we consider that some of the behaviour displayed during such activities contributed to reinforcing the overly physical and macho culture in the home. We also accept from the evidence we heard that on occasion some brothers and lay staff who were taking part in matches got involved in the heat of games and in some cases competed with boys to the extent that they were overly physical and used their superior physical power to score points or assert their control.

- 281 The final example of a lay member of staff about whom we received allegations of physical abuse is DL 1. DL 1 commenced work in Rubane in 1968/9 as a teacher of geography, maths and RE, and went on to be appointed as vice principal and then principal of the school. DL 1 confirmed to the Inquiry that he used corporal punishment in the school, such as slapping boys, but stated that he would also use other punishments such as making boys stand in the corridor. In his statement to the Inquiry he stated “I never punched a pupil in my life”.<sup>262</sup> However, five witnesses HIA 104, HIA 18, HIA 41, HIA 170 and HIA 222 gave consistent accounts of DL 1 punching them in the stomach and the lower body.

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261 RUB 915.

262 RUB 5529.

282 While we do not accept each and every allegation about physical abuse by lay staff we are satisfied from the consistent evidence we have heard that some members of lay staff resorted to excessive force to maintain discipline. We are satisfied that the brothers were aware of and tolerated this behaviour and in doing so put the boys at risk of harm.

### **Bullying by other boys**

283 It is clear from the evidence of a number of witnesses that a considerable amount of physical fighting and bullying went on between the boys. This is not surprising, given the age and stage of the boys, the experiences some of them had before they were admitted to Rubane and the overly physical approach to discipline displayed by some brothers and lay staff. On one occasion the fighting between boys led to one boy HIA 31, being stabbed in the back by another boy and having to receive hospital treatment.

284 A witness put forward by the Order, DL 244, stated:

“Bullying was an issue: as a young boy you got bullied, as an older boy you bullied. We just came through the system.”<sup>263</sup>

285 HIA 259 described a hierarchy amongst the boys and that the lower down the ranks the more vulnerable a boy was:

“The more you were down the ranks the more you got bullied. This was the pecking order in the home and there was a code between the boys, you never told on anyone or grassed them up you would have got the life kicked out of you.”<sup>264</sup>

NL 122 described in his oral evidence how on his first day in Rubane he got into fights because boys were trying to bully him and other boys that had transferred with him from Nazareth Lodge to Rubane. HIA 64’s brothers followed him to Rubane and he said he did his best to look after them: “I carry more scars for them than I do for myself”.<sup>265</sup>

286 Some witnesses indicated that the brothers knew about bullying between boys and turned a blind eye to it. HIA 25, who described a system of chalet bullies and admitted he was one of them, suggested that the brothers would tell the bullies to sort things out, for example if the younger boys were fighting.

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263 RUB 1488.

264 RUB 681.

265 RUB 548.

287 We accept that fighting and bullying behaviour are not uncommon in male residential establishments and accept the accounts from brothers and lay staff about how they intervened to stop fights between boys. However, it is clear, as outlined above, that physical aggression was used by staff as a means of establishing and maintaining control and we consider this approach would have reinforced such behaviour by the boys.

## Conclusions about physical abuse

288 The Order accepted in its evidence to the Inquiry that there was evidence of excessive physical punishment in Rubane between 1958 and 1962, the time BR 17 was the Brother Director.<sup>266</sup> It also accepted that BR 18 could be overly physical with the boys,<sup>267</sup> BR 77 may not have been suited to the role required of him,<sup>268</sup> and that there were isolated incidents of the application of an excessive number of strokes or of public chastisement, but that these were exceptional.<sup>269</sup>

289 We recognise that during much of Rubane's operation, the use of informal corporal punishment was typical of many day schools and families; it was an accepted part of the culture, and in this respect it could be said that the staff of Rubane were reflecting accepted ways of dealing with misbehaviour. However, we are satisfied that there was widespread resort to excessive physical punishment by some brothers and lay staff. We are convinced by the evidence we have heard that individual brothers, and in later years lay staff, lost control and physically abused boys and that in some cases this violent behaviour amounted to serious physical assault. We accept that, particularly in the early years, the risk of violence from some brothers was ever present and that in many instances the violence was random and unpredictable. **We consider that such behaviour was a consistent feature of life in Rubane up until at least the early 1980s and that it amounts to a systemic failure by the Order to keep children free from abuse.** We found the accounts of Brother Directors using excessive violence against boys particularly concerning, since as the officer in charge their behaviour would have set the tone for the home and for other staff and boys. Also, boys treated in a violent manner by Brother Directors would have had no-one more senior to turn to for assistance.

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266 RUB 9149.

267 RUB 9151.

268 RUB 9152.

269 RUB 1952.

- 290 Given the evidence we have heard, we are satisfied that the Order consistently failed to observe the statutory regulations and the Order's rules for the administration of corporal punishment and that unacceptable levels of physical chastisement were administered throughout every decade of Rubane's operation. We are satisfied that the administration of corporal punishment was not limited to the Brother Director and his deputy and that boys were punished in front of other boys. **We consider the way corporal punishment was administered and the excessive nature of some chastisement amount to systemic failings by the Order to keep children free from abuse and to ensure the institution provided proper care.**
- 291 We acknowledge that BR 2 attempted to manage the behaviour of his staff to reduce inappropriate chastisement of boys, for example intervening to ensure BR 2 did not take his vows<sup>270</sup> but **we consider the tolerance that the Order showed to inappropriate physical behaviour by brothers and staff, which in some cases included serious physical assaults amounted to a systemic failing to keep children free from abuse.**
- 292 **We consider the Order's failure to report the serious assaults by BR 77 to the police is a reflection of a collusive approach which put the protection of brothers and the reputation of the Order before the protection of vulnerable children. We consider this amounts to a systemic failing by the Order to take all proper steps to prevent, detect and disclose abuse. We also consider Fr McCann's response to the first assault by BR 77 was inadequate and as the diocese's appointment as chair of the management committee we consider this to be a systemic failing by the diocese to take all proper steps to prevent, detect and disclose abuse.**
- 293 Brothers talked about the lack of preparation and training they had for the work they were required to undertake in Rubane and the excessive hours they had to work teaching, particularly in the early years in the school, organising after school sporting activities and supervising the children in the home. **We consider that the excessive hours brothers had to work, particularly in the early years, and the lack of guidance and effective supervision they received amounts to a systemic failing by the Order to ensure the institution provided proper care.**

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270 RUB 1049.

- 294 We recognise that qualifying training for residential care workers was only beginning to be introduced in the 1970s in Northern Ireland and that it was common before that time for untrained staff to work in children's homes. **However, we consider the lack of support and guidance given to lay staff in Rubane, particularly to those who were clearly having difficulties in meeting the challenges of working with adolescent boys, amounts to a systemic failing by the Order to ensure the institution provided proper care.**
- 295 We consider that the overcrowding and poor staffing levels which persisted up until the late 1960s and were condoned by the Order, the diocese, and the MoHA were significant contributory factors in staff using excessive physical force to establish authority and maintain discipline over large groups of boys, many of whom displayed challenging behaviour. As stated previously we consider the willingness of the Order, the Diocese, and the MoHA to allow these inadequate conditions to develop and continue for a number of years amounts to a systemic failure to ensure the home provided proper care.
- 296 Fr McCann said in a statement to police about the assaults by BR 77 that the management committee's position was that corporal punishment should not be used and that anyone bad-tempered or quick-tempered was unsuitable for work with children. We could find no evidence of the management committee agreeing this position or communicating it to staff. Two chaplains, DL 140 and DL 366, were aware of boys being subject to violence in Rubane and both made attempts to intervene in relation to it. We found no evidence that either of these priests shared their concerns with their bishop in his capacity as chair of the Governing Board. We consider that, if they had reported their concerns, the Governing Board might have intervened and required brothers and staff in Rubane to adhere to statutory regulations for the administration of corporal punishment.
- 297 As previously mentioned, in the report of her inspection of Rubane in May 1955, Ms Forrest recorded that corporal punishment was only occasionally inflicted and none had so far been recorded in that year. Given the evidence we have heard, we have concluded that records were not being maintained as they should have been and that Ms Forrest was given false information about the administration of corporal punishment. BR 2 accepted in his written statement to the Inquiry that there may have been occasions when the official returns about the administration

of corporal punishment “may have been incomplete or inaccurate”.<sup>271</sup>

**We consider these failings to engage properly with processes set down in regulations to ensure the protection of children amount to a systemic failing by the Order to ensure that children were free from abuse.**

## Sexual abuse

298 Fifty-one of the 60 witnesses we heard from alleged they were sexually abused in Rubane by staff and/or by their peers and they also stated that they were aware of other boys being subject to such abuse. The allegations cover the four decades in which Rubane House operated as a children’s home and involve abuse ranging from fondling over clothes to anal rape. The alleged perpetrators of the abuse are De La Salle brothers, lay staff, a chaplain, other boys and people from outside the home including a neighbouring farmer, foster parents, visiting priests and a music teacher.

299 We have carefully considered each allegation and related response statements from the Order. It is not the Inquiry’s role to make a finding in relation to each allegation and our analysis of the evidence has focused on determining whether and to what extent systemic sexual abuse occurred in Rubane. The Order has suggested that some allegations are exaggerated, lack credibility because they contain factual inaccuracies or are not corroborated. As we have previously indicated we accept that the memories of all involved may be affected by the passage of time and that the emotional content of traumatic events may affect memories and we have taken that into account in our consideration of evidence.

300 The Order received complaints of alleged sexual abuse by brothers in 1958, 1964, 1970 and 1980 and we will consider each in turn and how the Order responded to them.

### BR 17

301 The first investigation of alleged sexual abuse in Rubane occurred in 1958 and was prompted by five boys telling the then chaplain that the Brother Director, BR 17 had sexually interfered with them. The chaplain advised the boys to report this to the brothers; the boys told BR 63 who in turn reported it to BR 13. As the allegations were against the director of the community BR 13 referred the matter to the Provincial BR 19. BR 19

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271 RUB 1084.

went to Rubane on 11 September 1958 to investigate the allegations and as part of his investigations he interviewed the 39 boys in residence and the brothers.<sup>272</sup>

- 302 In the notes of his investigation BR 19 recorded that BR 17 admitted applying ointment for scabies on naked boys in his room and telling the boys he could do this because he was acting in the place of their parents. He also admitted to being alone with boys in a car and giving boys individual instruction on morality in his office.
- 303 BR 19 noted that of the nine boys that “had made mention of having being wronged by [BR 17]” two had left Rubane and therefore could provide no evidence and six had retracted their allegations during the course of the investigation. There is a suggestion that these six boys may have been put up to making the allegations by DL 439, one of the two boys who had already left Rubane.<sup>273</sup>
- 304 In relation to the last of the nine boys, a boy called DL 480, who was not involved in making the original allegations, BR 19 recorded that he was adamant that BR 17 had sexually interfered with him in a car and said he was prepared to repeat his allegation in front of BR 17 and a priest. BR 19 recorded in his notes “This cannot easily be ignored!” and in response to BR 17’s denials of wrongdoings he recorded, “One is left with a slight doubt”.<sup>274</sup>
- 305 BR 19 made a brief note of his interviews with the other brothers and recorded that BR 15 said he could not credit that BR 17 was guilty and that the boys “enjoyed telling yarns” to BR 13<sup>275</sup> and that BR 14 said the “more I think it over the more I doubt it”.<sup>276</sup>
- 306 BR 19 wrote to BR 17 to inform him of the outcome of his investigation and he stated in relation to the boy who persisted in his allegation:
- “Don’t for one moment think I am accepting his word against yours, but you will readily agree that it is very unfortunate but the charge still stands.”<sup>277</sup>
- 307 He went on to state that it was imprudent of BR 17 to strip boys for the purpose of applying treatment directed by the doctor and wrong of him

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272 RUB 199-200.

273 RUB 201-202.

274 RUB 201.

275 RUB 5488.

276 RUB 5488.

277 RUB 5495.



to take boys to his room for the purposes of applying that treatment. He added that it was very unfortunate that BR 17 told boys he was entitled to touch them because he was taking the place of their parents and commented that “they have been otherwise instructed by the Priest”,<sup>278</sup> which suggests that the chaplain’s conversation with the boys who made the first allegations was a detailed one and went beyond merely advising them to refer their concerns to the brothers.

- 308 BR 19 instructed that in future no brother should travel alone in a car with an individual boy on any occasion; a glass panel should be inserted in the office door in the school and under no circumstances should any boy be allowed to enter a brother’s bedroom. These instructions for future behaviour were already set down in the Order’s rules and we noted that BR 19 gave no written admonishment to BR 17 for his lack of adherence to the Order’s rules. It is clear from evidence from witnesses who were in Rubane after this time that some brothers continued to ignore the rules about brothers being alone in a car or in their bedroom with boys.
- 309 BR 19 finished his letter with “I advise that no reference be made at any time or to anybody regarding this enquiry. It is best forgotten.”<sup>279</sup> It appears this advice was accepted as there is no mention made of the investigation or even that BR 19 visited Rubane in the Events of Importance Log for 1958<sup>280</sup> or History of the Home.<sup>281</sup> This meant that if MoHA officials had considered these documents during inspections they would not have been alerted to the investigation. There was also no reference to the investigation or the Provincial’s visit in the minutes of the next meeting of the governing board held on 4 February 1959.
- 310 The matter did not rest there, because on 14 November 1958, BR 19 received a letter from Canon Rice of Portadown stating that DL 439, the former resident of Rubane referred to above, had told his father that BR 17 had sexually abused him. DL 439 informed his solicitor of the allegation, who in turn told Canon Rice, who was also his client, about it. BR 19 travelled to Dundalk on 18 November 1958 to discuss the matter with Cannon Rice and then went to Rubane on 20 and 21 November 1958 to investigate the allegation. He interviewed DL 439 in the presence of his two uncles and a curate and also interviewed the other boys involved in

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278 RUB 5485.

279 RUB 5485.

280 RUB 10101-10103.

281 RUB 11817/8.

making the original complaint, some of whom he collected from Belfast because they had by then left Rubane. He recorded the outcome of his interview of DL 439 in a letter dated 22 November 1958 to the Br Assistant:

“After six hours he finally confessed that the charge against [BR 17] was false. I know that we really used ‘third degree’ in getting the confession from him and only when I told him that I would keep him overnight did he finally confess. This is not too satisfactory and one is left in some doubt.”<sup>282</sup>

311 He also added:

“Unfortunately according to English law a case of this nature is supposed to be investigated by the police. I don’t know if English law obtains in the Six Counties. Probably it does. We can only keep praying.”<sup>283</sup>

312 Subjecting a boy who has made allegations of sexual abuse to six hours of questioning and threatening to keep him overnight in the premises in which the alleged perpetrator of the abuse was the Brother Director was totally unacceptable. It is clear from BR 19’s remarks that he was well aware that what he was doing was unacceptable, but that he felt justified in treating the child as he did and believed he could do so with impunity.

313 There is no record that BR 19 referred the matter to the police, the MoHA or the governing board, and despite recording twice in writing that he was left in some doubt about BR 17’s conduct he allowed him to remain as Brother Director of Rubane. There is also no evidence that BR 19 gave BR 17 any further formal warning about his behaviour as a result of the allegations by DL 439 or that he increased his monitoring of BR 17’s behaviour and directorship.

314 The Inquiry received evidence from seventeen witnesses who were resident in Rubane at the same time as BR 17 and seven of those told the Inquiry that they had been sexually abused by him. This abuse ranged from putting a boy on his knee and fondling his genitals while watching television in a darkened room,<sup>284</sup> and interfering in a similar manner with a boy while transporting him in a car,<sup>285</sup> to attempted anal and oral rape.

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282 RUB 5494.

283 RUB 5494.

284 HIA 247, RUB 820.

285 HIA 159, RUB 791.

HIA 252 recounted four occasions when he was taken from his bed at night by BR 17 and sexually abused in BR 17's bedroom. He described being made to masturbate BR 17 and how on one occasion when BR 17's attempts at anal penetration were unsuccessful he made HIA 252 lie face down on the bed and he rubbed his penis up and down HIA 252's back until he achieved ejaculation.<sup>286</sup> HIA 252 told the Inquiry:

“...I was living in fear of being taken out of the room for years; the fear was a form of mental abuse too.”<sup>287</sup>

- 315 In his oral evidence to the Inquiry HIA 252 referred to seeing a boy called DL 439, who was the subject of the 1958 investigation, going into BR 17's room and BR 17 sitting with his arm around DL 439 in the television room. HIA 252 described the latter as “something you would have maybe seen with a fella and a girl in the cinema.”<sup>288</sup>
- 316 HIA 183 told the Inquiry about BR 17 bringing him and three boys into his office, making them strip naked and face the wall and then face him. He also recounted BR 17 taking him to his bedroom on around six occasions, telling him to take his pants down and then on the pretence of examining him, fondling HIA 183's penis until he aroused him.
- 317 HIA 183 was the only witness who remembered being talked to by a “Head Brother” in 1958, which was the time that BR 19 talked to the boys in Rubane as part of his investigations into the allegations against BR 17. HIA 183 explained that he did not tell this brother about being abused and instead said he was happy at Rubane because he feared that if he told the truth he would be made to leave Rubane and he had nowhere else to live.
- 318 HIA 247 recounted being fondled and interfered with by BR 17 while watching television and being fondled in his bed in the dark of night but not being able to see which adult was doing this to him. He also stated he was aware of other boys being interfered with in a similar way in their beds. In response to the Order's suggestion that the activity in the bedroom may have been brothers checking on bed wetters HIA 247 responded “I didn't wet the bed, and what they were doing inside the bed wasn't checking the sheets were wet.”<sup>289</sup>

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286 HIA 252, RUB 663.

287 RUB 633.

288 Day 55, 6 October 2014, p.177.

289 Day 57, 8 October 2014, p.45.

- 319 The Inquiry found the evidence of HIA 399 and that of his brother HIA 261 about the sexual abuse they suffered from BR 17 particularly revealing. The brothers were admitted to Rubane in March 1960, almost sixteen months following BR 19's decision to take no further action in relation to the second complaint of sexual abuse against BR 17.
- 320 HIA 399 gave a very clear and detailed account about being sexually abused on a regular basis, once or twice a week, by BR 17 in BR 17's bedroom, his office, a car and workman's hut. HIA 399 explained that he had no previous sexual experience, so did not know what was happening and that, although he cried during the abuse,<sup>290</sup> that did not deter BR 17. He explained how on one occasion BR 17 brought him and his brother to visit their grandmother in Dublin for an overnight stay and BR 17 manoeuvred the situation so that he shared a bed with HIA 399 and sexually abused him.<sup>291</sup> He also told the Inquiry that BR 17 arranged for HIA 399 and HIA 261 to stay with his own family in Dundalk; HIA 399 now thinks this may have been an attempt to establish a fostering situation.<sup>292</sup> When the arrangement fell through, the brothers were returned to Rubane and were told by BR 17 to say they had been staying with their father but it had not worked out.
- 321 HIA 399 explained that BR 17 would give him gifts and tell him to pretend that they came from his father and on occasions gave his father money, including £40, to pay off debts.<sup>293</sup>
- 322 HIA 399 indicated that he thought some of the brothers might have been aware he was being sexually abused by BR 17 and this is supported by the account of his brother, HIA 261. He told the Inquiry that on one occasion a brother pointed out sarcastically that a parcel for HIA 399, which was supposed to have been sent to him from Canada by an uncle, was not stamped.<sup>294</sup>
- 323 When BR 17 turned his attentions to HIA 261 and began fondling him, HIA 261 told DL 140 in confession that he was being sexually interfered with by a brother. DL 140 advised him to tell the head brother and HIA 261 said he told him that the head brother knew. He explained when giving oral evidence that he thought the priest would understand from this that it

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290 RUB 865.

291 RUB 866.

292 RUB 866.

293 RUB 866.

294 RUB 702.

was the head brother who was abusing him. There is no evidence of what action, if any, was taken by DL 140 about this allegation.

- 324 Father Bartlett explained on behalf of the Diocese of Down and Connor that because DL 140 was absolutely bound by the law of the Church to observe the seal of the confessional he could not tell anyone what HIA 261 told him. HIA 261 did not indicate that he received any further guidance or support from the priest and there is no evidence to suggest that DL 140 alerted the bishop in even a general manner about the possible sexual abuse of boys in Rubane.
- 325 HIA 399 and HIA 261 left Rubane to return to their family in July 1962 and BR 17 left Rubane in August 1962, but he continued to maintain contact with the family and to provide them with financial support. HIA 261 described how on such a visit to the family home BR 17 stayed overnight and slept with him in a single bed and proceeded to touch HIA 261's genitals and attempted to have oral sex with him.
- 326 HIA 261 summed up the impact of the abuse on him:  
"It wasn't just the physical aspect of the abuse that affected me; it messed with your mind. I remember thinking I hope when I grow up it isn't compulsory the way mass and prayers were compulsory. I was thinking I hope this isn't something all adults do because it doesn't seem right at all."<sup>295</sup>
- 327 We are satisfied that BR 17 sexually abused boys in Rubane over a number of years. We consider BR 19's handling of the investigation in 1958 was gravely deficient, in particular his failure, despite his doubts about BR 17's behaviour and honesty, to report the matter to the police, to the governing body, or to the MoHA as he should have done.
- 328 BR 17 remained in post for almost four more years until he was moved on 1 August 1962 to work in a primary school in Downpatrick. We are aware from documentation provided by the Order that BR 17 sexually abused children while working in Downpatrick. Had BR 19 reported the 1958 allegations to the civil authorities as he should have done, then it may well be the case that BR 17 would have been brought to justice at that time, and so have been unable to abuse more children in Rubane and in Downpatrick. **We consider BR 19's decision, as Provincial, not to report the allegations as he should have done was a systemic failure by the Order to take all proper steps to prevent, detect and disclose abuse.**

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295 RUB 704.

329 Although the Order provided the Inquiry with handwritten notes that BR 19 made during his investigation of BR 17 and related correspondence, it is clear from the evidence we heard from the Order that Provincials did not as a matter of course leave confidential files to make their successors aware of previous investigations into the conduct of brothers. Br Francis Manning addressed this issue in his oral evidence to the Inquiry:

“I find it difficult to rationalise why on leaving office a Provincial would not brief his successor on abuse issues so as to build a knowledge base within the Order. There is no doubt that the Order, like many organisations, must have felt a great sense of embarrassment about the complaints, and this led to a certain element of secrecy, which was unhelpful in educating the Order to the risks of such offending.”<sup>296</sup>

330 We agree that this element of secrecy was unhelpful to the Order and unsatisfactory in relation to ensuring the protection of children.

#### **BR 14**

331 The second recorded incident of alleged sexual abuse being investigated in Rubane relates to BR 14. A number of witnesses to the Inquiry alleged BR 14 physically abused them but none alleged he sexually abused them. However, HIA 252 described him sitting with boys in his knee and fondling them in the television room and removing boys from their beds at night.<sup>297</sup>

332 HIA 262 recounted being sexually abused by a brother on his first night in the main house in Rubane when he was aged 11 years. He said the brother who abused him told him he was protecting him from older boys and then proceeded to sexually abuse him, including making him administer oral sex. Commenting about this allegation the Order point out that BR 14 was located in the main house at this time.<sup>298</sup> HIA 97 made allegations about a BR 25, including that he pulled his testicles in the shower, but accepted that he was confused about the name of the brother and the Order has suggested, given the details provided by HIA 97, many of which concern behaviour on the hurley pitch that it may be BR 14 he is talking about. HIA 160 told the inquiry that BR 14 was known “as a dirty old man”.<sup>299</sup>

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296 Day 78, p.90.

297 RUB 663-664.

298 RUB 9164.

299 RUB 861.

- 333 Although the Inquiry received no direct allegations about sexual abuse by BR 14 it did examine and will now consider how allegations of sexual abuse against BR 14 were dealt with by the Order, because of the significance of how the Order dealt with these allegations and communicated about them with relevant parties.
- 334 In 1964, DL 13, then aged 13 years, was placed in Rubane by County Down Welfare Authority for non-school attendance. He told his brother on a visit home that he did not want to return to Rubane because he was being sexually abused by BR 14. His family reported this to County Down Welfare Authority who referred the matter to the police and to the MoHA. DL 13 made a statement to the police on 19 August 1964 in which he alleged he had been sexually abused by BR 14 on three occasions.
- 335 County Down Welfare Authority informed BR 6, the then director of Rubane, about the allegations, and he in turn informed the Provincial BR 19. BR 19 asked BR 6 to meet with BR 14, who was on holiday in the South of Ireland, to discuss the allegations. BR 6 did so and when BR 14 refused to return to Northern Ireland to face the allegations BR 6 told him to go to the Irish headquarters of the Order at Castletown in County Laois to discuss the matter with BR 19. This meeting took place and Br Pius in his statement to the Inquiry on behalf of the Order stated that BR 14 admitted to one incident of ‘immoral conduct’ with one boy when he had drink taken, and consequently BR 19 advised him to seek a dispensation from his vows which he agreed to do. BR 14 remained in Castletown until his dispensation was granted, which meant that the police in Northern Ireland were unable to prefer charges against him as he was outside their jurisdiction. The dispensation was granted and BR 14 left the Order on 9 October 1964.
- 336 Miss Forrest of the MoHA had at least two meetings with the police and with the Newtownards District Welfare Officer to discuss the matter prior to meeting with BR 6 in Rubane on 7 September 1964 to discuss it. According to the Royal Ulster Constabulary (RUC) minute dated 9 September 1964, Miss Forrest was at that stage:
- “endeavouring to assist the Ministry to decide whether or not the school at Rubane should continue to be recognised as an approved voluntary school with particular emphasis on ascertaining whether this was an isolated incident or whether more boys might have been involved.”<sup>300</sup>

- 337 Ms Forrest made a note of these discussions and recorded that the police had interviewed boys named by DL 13 who had left Rubane but who he presumably suggested were aware of BR 14's behaviour and that "they denied all knowledge of such a thing".<sup>301</sup>
- 338 BR 19 went to Rubane on 18 September 1964 to investigate the allegations and in a subsequent written report to the MoHA, dated 19 September 1964,<sup>302</sup> he explained that he told the brothers that a serious charge had been made against a brother and that any information they could give would be appreciated; it appears from his report that no information was provided. He also reported that since the boys were unaware of any untoward incident he decided it would be more discreet to refrain from carrying out an individual investigation:
- "which would serve no useful purpose but which would unquestionably undermine the good relationship between Brothers and boys and result in rousing their curiosity."<sup>303</sup>
- 339 BR 19 informed MoHA officials that BR 14 admitted to a single incident with one boy only and assured them that in response to that admission the Order took immediate measures to ensure that BR 14 would never again be allowed to have any contact with boys in any school. He also stated that he could personally certify that the remaining staff in Rubane were thoroughly reliable and in every respect suitable to carry out their duties.<sup>304</sup>
- 340 BR 19 and BR 6 met with Mr Parkes and Ms Forrest in Stormont on 21 September 1964 to discuss the matter and, on the basis of the information provided, the MoHA concluded that no further action was necessary. With reference to this meeting, BR 19 recorded in a file note that it had been agreed that his report about his investigation would be kept confidential and that no further action would be taken.<sup>305</sup> Mr Parkes of MoHA wrote on 30 September 1964 to an RUC Chief Inspector asking for a full report of the police actions and findings in the case so that the Minister could be kept as fully informed as possible, given that the case could lead to repercussions, and assured him that this report would be treated as strictly confidential.<sup>306</sup> There is a note to show that the Minister had sight of these papers on 25 November 1964.<sup>307</sup>

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301 RUB 1018.  
302 RUB 1020-1022.  
303 RUB 1021.  
304 RUB 1020-1022.  
305 RUB 1030.  
306 RUB 1023.  
307 RUB 1027.



- 341 Following the meeting with BR 6 on 21 September 1964, Miss Forrest contacted Down Welfare Authority and informed them that the Provincial had informed the Ministry in writing that the incident involving DL 13 was an isolated one and that he would ensure that BR 14 would not be put in a position in the future where similar occurrences could take place. On the basis of this information the official recorded that he told Miss Forrest that in the circumstances no further action appeared necessary.<sup>308</sup>
- 342 In his report to the MoHA about his investigation of this case and subsequent action BR 19 did not mention his previous investigation into allegations of sexual misconduct against BR 17 and there is nothing to suggest that he raised this in his discussions with officials. We agree with Dr Hilary Harrison’s conclusions on behalf of the DHSSPS, in her statement to the Inquiry of 19 September 2014, that if the Provincial had shared that information:
- “...the Ministry and the police might have questioned the conclusions about the isolated nature of the 1964 incident.”<sup>309</sup>
- 343 Dr Harrison accepted that the MoHA was aware of previous allegations about sexual abuse at St Patrick’s in 1948 but, since it was judged at the time by an ecclesiastical commission established to investigate them that they were unfounded, it was unlikely that the officials dealing with the case of BR 14 would have been aware of the 1948 case.
- 344 Dr Harrison concluded:
- “The Department believes that the actions of the Ministry were consistent with both the information they were given and the knowledge about child sexual abuse that existed at the time.”<sup>310</sup>
- 345 We agree with this conclusion and accept that it was reasonable on the basis of the information provided by the Provincial to the Department that it decided the matter had been properly handled by the Order. Dr Harrison also pointed out that this incident prompted the MoHA to be firmer with BR 6 about the need for adequate staffing in Rubane. On 18 November 1964, with reference to proposed new accommodation developments at Rubane, Mr Parker wrote to BR 6 and stressed the need for the home to be properly staffed and made the point:

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308 RUB 9321

309 RUB 1895.

310 RUB 1894.

“Recent events have given added point to our feeling that where such a small staff have so much to do for so many children the development of a satisfactory relationship of trust and confidence between individual children and members of staff is virtually impossible.”<sup>311</sup>

346 During the gathering of material for this module the Inquiry asked for a copy of BR 14’s letter seeking dispensation from his vows and any related documentation. The Order made arrangements to get copies of these documents and submitted them to the Inquiry and it became clear from this documentation that BR 14 had admitted to more than a one-off incident. In his letter seeking dispensation he admitted to “grave immoral actions with a number of boys”.<sup>312</sup> BR 19 countersigned BR 14’s letter and described him as “a positive danger to young people”. In a separate letter to Brother Vicar General in Rome about the matter BR 19 stated “during the past three years he has interfered with boys, a couple each year.”<sup>313</sup> BR 19’s letter is dated 12 September 1964, five days before he submitted his report to MoHA officials assuring them that BR 14 had only admitted to a one-off incident with one boy.

347 We are satisfied that BR 19 deliberately mislead the MoHA by withholding information he had about the extent of BR 14’s sexual abuse of children and by saying this incident at Rubane was a one-off. He should have revealed the full extent of BR 14’s offending to the MoHA and had he done so, it could well have prompted a thorough investigation into Rubane and a reappraisal of the home’s suitability to continue as a children’s home. **We consider that the deliberate suppression by BR 19 of the extent of BR 14’s sexual abuse of other young boys was a systemic failure on the part of the Order to take all proper steps to prevent, detect and disclose abuse.**

348 Dr Hilary Harrison provided a supplementary statement to the Inquiry on 3 December 2014 on the basis of this new evidence and concluded:

“The Department believes that as consequence of vital information having been withheld in relation to 1964 investigation, an opportunity which had the potential to lead to earlier recognition of the vulnerability of children in institutional care was lost.”<sup>314</sup>

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311 RUB 10129.

312 RUB 7159.

313 RUB 7160.

314 RUB 5963.

- 349 It appears that Down Welfare Authority informed Belfast Welfare Authority about the matter, as its Chief Welfare Officer visited Rubane in early September seeking assurances in relation to it. BR 6 wrote to BR 19 about this visit and commented:
- “As far as I can gather the Welfare is pretty sympathetic towards the case and are looking for a guarantee that the home is a salutary place for boys to be sent to.”<sup>315</sup>
- 350 Although it is positive that the Chief Welfare Officer sought this reassurance it appears that he accepted it to such an extent that he did not share information about the matter with his social work colleagues. Mr Bunting in his evidence explained that he had only heard about the case of BR 14 as part of the information he received in relation to this Inquiry. We consider this lack of communication to be a serious omission and note that the HSCB acknowledged this in its closing written submission to this module.
- 351 The HSCB also pointed out in its closing written submission that because the full details of the case were not shared with the welfare authorities the possibility of institutional sexual abuse of children was not recognised by social workers in Northern Ireland before 1980.

## **BR 15**

- 352 The third allegation of sexual abuse in Rubane that is investigated by the Order is a complaint made by HIA 36 that he was sexually abused by BR 15. The details of how this complaint was made are unclear; BR 6 who was the Brother Director at the time of the complaint indicated in a police interview that he thought the complaint might have come from a social worker. However, in his evidence to the Inquiry HIA 36 said he thought he told his mother and that she contacted BR 6 and possibly DL 140 the chaplain. The Order has no records of any investigation of the complaint but informed the Inquiry that the then Provincial, Br Maurice Kirk, visited Rubane between 13 and 15 November 1970 and three days later on 18 November 1970 BR 6 visited HIA 36’s mother. On 26 January 1971 BR 6 met Br Maurice in Downpatrick and although there are no records of the content of that meeting, BR 15 was subsequently moved to Finglas on 31 January 1971. The Order told the inquiry that the Provincial was faced with a strenuous denial of any wrongdoing by BR 15 and that HIA 36’s mother had indicated that her son’s word was not reliable. Br Maurice

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315 RUB 1029.

nonetheless decided to move BR 15 from Rubane as a precautionary measure. **There is no record of this alleged abuse being reported to the police, the MoHA or the Board of Governors and we consider this to be a systemic failing by the Order to take necessary action to enable the investigation and prosecution of criminal offences involving sexual abuse.**

353 The Inquiry heard from 34 witnesses who were resident in Rubane during the time BR 15 worked there and ten of these witnesses,<sup>316</sup> including HIA 36, alleged they were sexually abused by BR 15.

354 The alleged abuse ranged from being kissed,<sup>317</sup> fondled and masturbated,<sup>318</sup> being made to engage in simulated sex<sup>319</sup> to anal rape.<sup>320</sup> HIA 36 described how in his first night in Rubane, when he was 11 years old, BR 15 brought him to his bedroom, made him undress and forced him to masturbate him. HIA 36 recalled:

“I felt dirty and disgusted and wanted to get out of the room. I started to cry and he told me if I didn’t stop he would give me something to cry about.”<sup>321</sup>

355 HIA 36 also described being abused by BR 15 alongside another boy DL 271, known as “half pint” because he was small in stature. HIA 56 told the Inquiry that on one occasion he went to BR 15’s bedroom and interrupted him having sexual activity with DL 271.<sup>322</sup>

356 The Order has accepted that HIA 36 was abused by BR 15 and they have also accepted he sexually abused HIA 147 and have paid HIA 147 compensation for that abuse.

357 HIA 36 was one of the few witnesses who reported the abuse he was experiencing, and although this eventually led to BR 15 being removed from Rubane he told the Inquiry about the inappropriate responses he received when he initially reported the abuse. He recalled the chaplain, DL 140, telling him that BR 15 was unwell and would be moved and DL 115, a house parent advising him to put the abuse behind him and forget it. HIA 36 also described how, when he told his mother about

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316 HIA 427, HIA 160, HIA 64, HIA 183, HIA 225, HIA 26, HIA 511, HIA 147, HIA 56 and HIA 36.

317 HIA 427.

318 HIA 160, HIA 225, HIA 64 and HIA 138.

319 HIA 56.

320 HIA 26.

321 RUB 477.

322 RUB 528.

the abuse, she initially refused to believe him but he explained that he understood her reaction because she would have thought the brothers were beyond reproach.

- 358 In addition to these ten witnesses, HIA 279 recalled a brother fondling him in his bed at night and in the brother's office. He was unsure of the name of the brother but remembered that he was in charge of the clothing store, which was BR 15's responsibility towards the end of HIA 279's time in Rubane. Given that HIA 279's account of the abuse is similar to that described by another witness<sup>323</sup> we are of the view that HIA 279 was abused by BR 15. Since HIA 279 left Rubane on 24 December 1956 this would mean BR 15 commenced sexually abusing boys soon after his arrival in Rubane on 17 November 1956.
- 359 Five other witnesses<sup>324</sup> gave evidence about observing BR 15 sexually interfering with boys under their clothing while watching television or films in a darkened room and three of them<sup>325</sup> referred to BR 15 interfering with boys at night in the dormitories.
- 360 We are satisfied that between 1953 when BR 17 arrived in Rubane and 1971 when BR 15 left, 18 years in total, at any one time there was at least one brother sexually abusing boys. We are also satisfied that for a five-year period from 1957 to 1962 when these three brothers were working together in Rubane, as part of a small community of brothers, they were all sexually abusing boys. In its submissions to the Inquiry the Order has accepted that BR 17, BR 14 and BR 15 were sexually abusing boys in Rubane between 1956 and 1962.<sup>326</sup>
- 361 One of the most concerning aspects of the behaviour of these brothers is that at the same time as they were sexually abusing boys they were also very physically aggressive in the home, including towards boys they were sexually abusing. Exploitation of the power differential between adults and children is a common feature of sexual abuse of children, but this was particularly the case in relation to these three brothers who reinforced that differential with frequent displays of physical violence towards boys.
- 362 For example, HIA 183, who was sexually abused by BR 17, described receiving a severe beating from him for saying he was learning a hymn

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323 HIA 183.

324 HIA 252, HIA 59, HIA 390, HIA 244 and HIA 385.

325 HIA 252, HIA 385 and HIA 244.

326 RUB 9163.

rather than Latin and observing BR 15, who also sexually abused him, hitting a boy with a bamboo cane until blood poured from the boy's face.<sup>327</sup>

363 HIA 247 told the Inquiry that he told no one that BR 17 was abusing him because he was frightened of crossing him. HIA 56 said he told no one about being abused by BR 15 because although he had not been hit by him he had seen how he hit other boys. HIA 399, who was sexually abused by BR 17, described him beating boys until the sweat poured from him.

364 Some boys who managed to tell another adult about the abuse they were experiencing received an aggressive or hostile response. For example, HIA 36 said he was caned by BR 6 when he told him he was being abused by BR 15. HIA 252 recalled that when he told DL 411 of the Welfare Authority about being sexually abused by BR 17, DL 411 shouted at him and said he was lying and that the brothers were religious men who wouldn't do such things. HIA 252 explained that as a result of DL 411's reaction: "I did not tell anyone else what had happened to me because I thought that they would not believe me and that it would be a waste of time."<sup>328</sup>

365 Witnesses also described grooming behaviour by the brothers and the confusion that created for them. HIA 399 told the Inquiry of his confused feelings about BR 17's behaviour:

"I obviously had mixed feelings towards BR 17 as I knew he was buying gifts to keep me sweet but I hated what he was doing to me and did not feel I could talk to anyone about it."<sup>329</sup>

HIA 261 described his feelings when BR 17 bought him a second-hand bike after sexually abusing him; "I remember feeling guilty as if I was playing the game".<sup>330</sup>

366 Another witness who described feeling guilty about abuse he suffered was HIA 152. HIA 152 described to the Inquiry how he was groomed and sexually abused by BR 65 who worked in Rubane for a short time alongside BR 15 and he explained how he was left feeling the abuse was his fault:

"I always felt it was my fault because I never tried to stop it, or put up a fight but I suppose I was too young to know what to do."<sup>331</sup>

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327 RUB 617.  
328 RUB 664.  
329 RUB 867.  
330 RUB 704.  
331 RUB 603.

367 A number of witnesses described occasions when they were subjected to sexual assaults by a brother when other brothers were present and also took part in the abuse. We have carefully considered all the evidence relating to these allegations. Given that the evidence we have heard during this Inquiry, as well as the experience of cases heard in criminal courts, suggests that sexual assault is almost invariably perpetrated when the abuser and the victim are alone together, such allegations have to be regarded with considerable circumspection. We have given very careful consideration and we are not persuaded to the requisite standard of proof that brothers sexually assaulted boys in front of other brothers in Rubane.

**Did other brothers know that brothers were sexually abusing boys?**

368 However, there is the question of how much brothers who were sexually abusing boys knew about the sexual abuse being perpetrated by their fellow brothers. Br Pius in his evidence to the Inquiry explained that the communities of brothers were generally small, of three to ten brothers, and that there was strict timetable which meant “it was almost impossible for a Brother to do anything without the Community knowing about it.”<sup>332</sup>

369 We do not know whether the three brothers who were sexually abusing boys in Rubane at the same time were aware of each other’s behaviour, discussed it or co-ordinated it. However, given the small number of brothers in the community in Rubane, the close living and working conditions and the talk that went on between the boys about the abuse we consider it probable that the three brothers were aware of each other’s activities and took some comfort that their sexual misconduct was unlikely to be challenged by like-minded brothers. We consider that BR 14 and BR 15 could have taken particular comfort from their knowledge that the Br Director, BR 17, was sexually abusing boys and therefore would be likely to overlook their behaviour if it was reported to him.

370 Although the most serious sexual abuse was carried out in secrecy, and usually in the brother’s room, it is significant that brothers were prepared to engage in covert sexual activity such as manual stimulation of boys when other boys were present in the television room and at night in the dormitories. This was an era when room lights were commonly turned off when the television was on, so they had the advantage of carrying out their abuse in darkness, as would have been the case when they interfered with boys at night in the dormitories.

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332 RUB 177.

371 However covert or discreet this behaviour was, it was being conducted in public places in front of a number of boys and it is clear from witnesses that the boys knew what was going on. The brothers therefore ran a significant risk of their behaviour being discovered. That they were prepared to run that risk suggests that they felt confident their behaviour would not be challenged or reported and that this confidence allowed them to abuse boys on a regular basis. HIA 279 commented in relation to being interfered with by a brother, who we take to be BR 15, at night in the dormitory and in his office:

“He never threatened or warned me not to tell anyone about these incidents. He acted as if it was normal behaviour.”<sup>333</sup>

372 We also consider it reasonable to assume that BR 15 and BR 14 would have taken some comfort from the way the allegations about BR 17 were dealt with and that he was allowed to remain in post. We noted that in BR 19’s notes of his investigation into the allegations about BR 17 he recorded that the brothers had initially “seemed to assume the Dtor. [Director] was guilty”<sup>334</sup> which suggests that they may have been aware of BR 17’s behaviour with the boys. He also recorded that BR 15 gave BR 17 a hint that there were some serious charges against him, which might indicate some form of collusion between the brothers. As previously referred to during the first investigation into BR 17’s behaviour, both BR 15 and BR 14 told the Provincial they could not believe the allegations against him. The Provincial recorded and gave weight to these assurances, so we have the situation of two brothers who were sexually abusing boys supporting a senior brother who was accused of doing so.

373 The other suggestion of collusion is that it was BR 15 who sent HIA 152 to BR 65’s room and BR 65 went on to groom and sexually abuse HIA 152.

374 The low level of staffing, particularly in the early days before the introduction of the chalet system, may also have contributed to creating an environment that enabled sexual abuse to go unobserved by other staff, since it meant brothers were often working alone with the boys in the evening. In his evidence to the Inquiry BR 2 said that he would not have been in the television room with another brother because he would be getting on with other work such as preparing lessons in his room while the boys were being supervised.

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333 RUB 899.

334 RUB 5491.



- 375 The low staffing level also meant that brothers would often work alone, supervising boys showering and in the dormitories, and even when lay staff were employed the brother attached to each chalet remained responsible for supervising night care.<sup>335</sup> BR 2 accepted in his evidence to the Inquiry that the problem some boys had with enuresis gave BR 15 a reason for being in the dormitories at night without raising suspicion among other staff.<sup>336</sup>
- 376 The inadequate accommodation in Rubane also meant that the brothers lived in close proximity to the boys' dormitories, which would have enabled ready access to the boys and made it easier for brothers to take boys to their bedrooms. This close proximity may also have meant that brothers who had a propensity towards sexually abusing boys were in the situation where the temptation to do so was high.

## BR 1

- 377 The next time that allegations of sexual abuse were formally investigated in Rubane is in 1980. On 3 April 1980 a social worker, DL 524, employed by the EHSSB had a discussion with former residents of Rubane in the light of reports that were emerging about sexual abuse in Kincora. Kincora was a children's home in Belfast which we consider in Chapters 23 to 27 of this report. The former residents made references to inappropriate sexual behaviour by the then Director of Rubane, BR 1. DL 524 referred this matter to her seniors, who then informed Bishop Philbin as the chairman of the board of governors of Rubane and the police. Bishop Philbin suspended BR 1 on 12 April 1980 and subsequently the then Provincial, Br Columba Gallagher, arranged for BR 1 to move to a secretarial post in Dublin. The Order stated in its evidence to the Inquiry that Br Gallagher interviewed BR 1 at length on a number of occasions about the allegations but he strenuously denied them.<sup>337</sup> BR 1's explanation for the allegations was that in the absence of trained medical staff he undertook "medical examinations" of new entrants to identify any problem with nits, or body lice and to notice any birth marks, tattoos or scars by which they could be readily identified.<sup>338</sup>
- 378 As mentioned previously, as a result of the allegations against BR 1 the police interviewed 124 boys who were resident in Rubane between 1977

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335 RUB 133.

336 RUB 1078.

337 RUB 189.

338 RUB 189.

and 1980. Twenty-nine boys made allegations of a sexual nature about BR 1 and the police brought charges against him. However, BR 1 developed a malignant tumour of the spine and the Public Prosecution Service decided not to pursue proceedings against him. BR 1 underwent major surgery and had a remission for a number of years before dying from a malignant tumour of the brain in October 2000. The Order has settled a number of civil claims made against BR 1.

- 379 The Inquiry heard evidence from eleven witnesses who were resident in Rubane at the same time as BR 1, seven of these told the Inquiry about inappropriate sexual behaviour by BR 1. HIA 362 told us that BR 1 gave him a “medical examination” when he was admitted to Rubane during which BR 1 told him to undress so that he could check for rashes and that once he was undressed BR 1 groped and fondled his genitals. HIA 362 said that on subsequent occasions BR 1 used the pretence of tickling him and playing with him in order to touch him on the backside.<sup>339</sup> DL 40 was interviewed by the police in 1980 and told them that BR 1 rubbed his chest inside his shirt and patted him on the bottom but always over his trousers.<sup>340</sup> HIA 104 described BR 1 trying to put his hand down the front and back of his trousers<sup>341</sup> and HIA 170 described BR 1 standing close to him and touching his behind.<sup>342</sup>
- 380 HIA 259 told the Inquiry that BR 1 tried to intimidate him into giving him oral sex<sup>343</sup> and HIA 41 told the Inquiry that BR 1 masturbated and raped him in the showers and that he saw him sexually abusing boys at the back of the school.<sup>344</sup> HIA 149 described BR 1 caning him for running away and fondling his genitals as he caned him.
- 381 The Order pointed out that the allegations made about BR 1 in the 1980 police investigation were about the “medical examinations” he undertook and inappropriate touching. They said that no allegations of masturbation, oral sex or anal rape were made about BR 1 until such allegations were made about him to the police when they were investigating the conduct of Father Brendan Smyth. These allegations resulted in BR 1 being arraigned on a variety of charges including aiding and abetting buggery, which was inaccurately reported in newspapers as buggery. Ultimately the police did

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339 RUB 708.

340 RUB 60084.

341 RUB 580.

342 RUB 607.

343 RUB 683.

344 RUB 504.

not progress the charges in the Bill of Indictment against BR 1; a related civil action against the Order was discontinued. The Order has suggested that the misleading reports in the media that BR 1 had been charged with buggery led to some people, including witnesses to this Inquiry, coming forward with new allegations of more serious sexual abuse by BR 1 than they had previously made.<sup>345</sup>

382 A feature of the allegations against BR 1 was that he observed and touched boys when they were showering. A number of witnesses told the Inquiry about brothers observing boys in the shower and appearing to get sexual gratification from doing so (HIA 390 and HIA 388). The Order has stated that brothers had to supervise boys in the showers to prevent horseplay that could lead to accidents and while we accept that such supervision may have been necessary we consider that the discomfort witnesses remembered and described was genuine and justified.

383 We are satisfied from the evidence we have received that BR 1 used the pretence of medical examinations to sexually abuse boys and that more generally he inappropriately fondled boys. We consider it particularly significant that he acted in this way while he was the Brother Director, given the authority that role gave him and that it meant there was no brother senior to him in Rubane to whom the boys could have expressed their concerns about his behaviour. The Order has accepted in its closing submission to this module that BR 1 conducted medical examinations and put his arms around boys and touched them inappropriately and that this behaviour was “inappropriate, constituted an assault, made the boys feel uncomfortable and was abusive”.<sup>346</sup>

### **Fr Brendan Smyth**

384 Two witnesses in Module 3 told the Inquiry that Fr Brendan Smyth sexually abused them in Rubane (HIA 41 and DL 40.) We are dealing with allegations against Fr Smyth in Chapter 10 of this report. However, we note here that DL 40 told the Inquiry that he told BR 1 that Fr Smyth was abusing him and although he did not know what action, if any, BR 1 took, from that point on Father Smyth stopped contacting and visiting him. We have seen no evidence to suggest that BR 1 reported this abuse to the police, the Diocese or Fr Smyth’s Order.

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345 RUB 5969/5970.

346 RUB 9188

385 Two social workers from the EHSSB sat in on the police interviews with the residents and former residents from Rubane and provided a report about them to their senior manager, DL 524. In the report they recommended:

“Following the investigation we both consider that all the social work staff involved with Kircubbin be made aware of the police action as soon as is practicably possible to minimise potential problems in a very delicate situation.”<sup>347</sup>

It would appear from the evidence of DL 503 that this did not happen. DL 524 told us that he acted on the basis of his understanding that since the matter was subject to a criminal investigation with potential prosecutions to follow, he was under a duty to maintain confidentiality so as not to risk prejudicing the police investigation. He explained that he shared information about the police investigations with senior colleagues in EHSSB and that although his direct involvement was limited to the time of the initial police investigation he would have no doubt that social work staff would have been made aware of the situation once it was possible and appropriate to do so. While we accepted DL 524’s explanation about his concern not to prejudice the police investigation we considered it would have been preferable to have entrusted social workers responsible for boys in Rubane and for placing boys in the home with the information on the basis of strictest confidentiality. The HSCB accepted in its closing submission to this module that social workers were not informed at the time and that that was a potential failing. **We agree and consider this failure to communicate such significant information about matters relevant to the protection and safety of children amounts to a systemic failing.**

#### **Allegations of sexual abuse by lay staff**

386 During the police investigation of BR 1 allegations emerged about a member of lay staff, DL 509, who was subsequently sentenced for three offences of indecent assault and three offences of gross indecency against two boys for which he was given a twelve-month prison sentence suspended for three years. Although the criminal proceedings related to DL 509’s conduct when the two boys were in Nazareth Lodge, one of the boys, DL 56 and his older brother HIA 149, were resident in Rubane while DL 509 worked there and he was allowed to take them out on weekend trips. DL 56 is now dead but his brother HIA 149 told the Inquiry that DL

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347 RUB 1666.

509 sexually abused his brother and him during one of these trips. In his evidence to the Inquiry DL 509 denied this allegation but we found HIA 149's account convincing.

- 387 The Inquiry heard allegations of sexual abuse against other lay members of staff and HIA 25 told us about being sexually abused when he was staying overnight in the home a man DL 417. DL 417 had taught music for a short time in Rubane and had befriended HIA 25. We will consider the case of one member of lay staff as an example of the allegations we have heard. Four witnesses HIA 19, HIA 132, HIA 56, and HIA 21 told the Inquiry they were abused by DL 134. HIA 19 described DL 134 groping him as he discussed the facts of life with him;<sup>348</sup> HIA 132 described being abused by DL 134 when he was alone in the car with him one evening;<sup>349</sup> HIA 56 described being sexually abused by DL 134, including being made to sexually engage with an older boy in the shower, who was also coerced into this activity by DL 134,<sup>350</sup> and HIA 21 recounted DL 134 making unsuccessful attempts to sexually abuse him, and then humiliating and abusing him by making him shower in front of him.<sup>351</sup>
- 388 HIA 21 explained that one of DL 134's attempts to abuse him was stopped by BR 13, who lived in the chalet with DL 134 and his wife DL 135, coming into DL 134's room to find out why HIA 21 had been in there for so long.<sup>352</sup> HIA 21 said he told BR 13 and BR 3 that something had to be done about DL 134 and DL 135<sup>353</sup> but did not tell them that he was being sexually abused by DL 134.
- 389 The Order dismissed DL 134 and his wife DL 135 and told the Inquiry that this was because of their poor relationships with the boys and other staff and that the MoHA and Bishop Philbin had become involved because DL 134 and DL 135 tried to challenge their dismissal. In 1995 former residents of Rubane were interviewed as part of Operation Overview, the investigation into physical and sexual abuse in residential homes for children in Northern Ireland. Allegations of sexual abuse by DL 134 emerged during these police investigations. The Order told the Inquiry that was the first time it was aware of any allegations about DL 134 sexually abusing boys.

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348 RUB 440.

349 RUB 782-783.

350 RUB 527.

351 RUB 881-882.

352 RUB 880-881.

353 RUB 882.

- 390 To illustrate a changing approach to the handling of allegations of sexual abuse we will look at the case of BR 33. In August 1983 and August 1984 allegations of a sexual nature were made against BR 33, who was at that time a lay care assistant but had up until 1 August 1982 been a member of the Order. In August 1983 a resident, DL 469, and his mother made an allegation that BR 33 had put his arms around DL 469. DL 469 shortly afterwards withdrew the allegation but his social worker DL 470 undertook an investigation of it on 12 September 1983 and the Order told the Inquiry that it was recorded that DL 470 was satisfied that the allegation had been fabricated.
- 391 On 2 August 1984 another resident made an allegation that BR 33 fondled him as he was putting him to bed. BR 33 denied the allegations but the matter was referred to the police and Bishop Philbin as the chair of the governing board issued written instructions that BR 33 was to be suspended pending the outcome of the police investigations. During his suspension BR 33 submitted a letter of resignation, saying he wished to return to the South of Ireland and that he had permission from the police to do so. Br Martin, the then Brother Director, checked that was the case before accepting his resignation. The management committee was informed about the investigation into BR 33 and his decision to resign and Fr McCann and Br Martin met with DHSS officials in February 1985 to update them on the decision of the police to recommend no proceedings to the Director of Public Prosecutions.<sup>354</sup>
- 392 From the evidence we have heard we are satisfied that members of lay staff were engaged in sexual abuse of boys in Rubane. We are also satisfied that, as the case of BR 33 shows, by the 1980s the allegations of sexual abuse against lay staff were being reported to the appropriate authorities.
- 393 In addition to the allegations about sexual abuse detailed above we have heard allegations that other brothers and members of lay staff sexually abused boys in Rubane. These allegations range from touching boys outside their clothes to anal rape and include allegations that brothers acted together, combined violence with sexual abuse and used sexual abuse as a means of asserting their authority. All the relevant brothers and lay staff have denied these allegations and they and the Order have pointed out what they say are weaknesses and inconsistencies in the evidence of many of the witnesses making the allegations.

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354 RUB 11101-11102.

- 394 We have not accepted all the allegations or all the denials we have heard. It is not the purpose of this Inquiry to make findings in relation to every allegation put to it or to set out the detail of every claim and counter claim. We have to determine whether there was sexual abuse of boys in Rubane and, if so, was it systemic? We are satisfied from the evidence we have heard that boys were sexually abused in Rubane by some brothers and some lay staff throughout the four decades the home was in operation and that this abuse was particularly prevalent up until the early 1970s. **We consider the extent and frequency of the abuse was such that it was systemic and that the understaffing and lack of oversight of the brothers' interactions with children, particularly in the evenings and at night time, enabled the conditions that allowed the abuse to occur and continue unchecked.** We found the Order failed to deal appropriately and adequately with boys who reported sexual abuse.
- 395 We are of the view that if the Provincial, BR 19, had involved the police in investigating the allegations about BR 17 or had even informed the governing board and/or the MoHA about the investigation there would have been the potential for not only BR 17's behaviour to be dealt with but also for the sexual abuse by BR 15 and BR 14 to be exposed. An independent and full investigation of BR 17's behaviour might have given boys more confidence to speak out about abuse, whereas the way in which the Order handled its investigation was likely to have done the opposite and reinforced for the boys that there was nothing to be gained in challenging the brothers.
- 396 The case of BR 14 is particularly significant because the Brother Provincial deliberately misled relevant bodies about the extent of BR 14's sexual misconduct in Rubane.
- 397 **We consider the Order's failings to properly investigate allegations of sexual abuse and to properly report them to relevant authorities and its failure to take proper steps to protect children from further sexual abuse amount to a systemic failure to take appropriate steps to ensure the investigation and prosecution of criminal offences involving abuse.**
- 398 The Order suggested that its responses to allegations of sexual abuse in 1958 and 1964 need to be understood in the context that at that time there was a lack of knowledge about the risk of adults abusing children in residential care. We accept that the sexual abuse of children

in institutional care was not well known or discussed in Northern Ireland until the 1980s when concerns emerged about Kincora. However, it is clear from the way the Order's rules were drafted that it was aware of the need to guard against intimacy between brothers and boys. For example, in relation to the conduct expected of brothers the rules state:

“They shall not touch their pupils through playfulness or familiarity, and they shall never touch them on the face.” Rule Page 103 (7)<sup>355</sup>

“They shall not receive Brothers, students or outsiders in their rooms.” Rule Page 13 (3\*)<sup>356</sup>

- 399 The Order also went as far as to set down strict guidelines for the physical layout of buildings in order to ensure that behaviour could be observed at all times, for example how windows should be placed in doors to ensure clear sight of what was going on in rooms:

“The Brother Director shall be careful that the parlour doors have glazed panels without curtains, in such a manner that the interior may be easily seen.”<sup>357</sup>

We consider it reasonable to assume that it was the collective experience of the Order about the risk of sexual misbehaviour that first led to the creation and setting of these very specific rules.

- 400 Also, we are aware from information provided by the Order that during the six-year period that BR 19 dealt with three allegations of sexual abuse at Rubane he also dealt with similar allegations about brothers working as teachers in Southern Ireland. Therefore, we do not accept, as the Order has suggested, that he would have found it inconceivable that such abuse could occur; we are of the view that he knew only too well that it could and that in the case of Rubane he was determined to conceal the abuse from the civil and diocesan authorities.
- 401 We consider the failure by brothers in Rubane to adhere to the Order's rules, in particular the rules which BR 19 attempted to reinforce about not having boys in their rooms and not travelling in cars alone with boys, helped to create a climate where sexual abuse occurred on a significant scale and went unchecked. **We consider the failure by the brothers to observe their own rules was a systemic failure and that it was particularly significant because it betrayed the implicit trust that**

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355 RUB 175.

356 Ibid.

357 RUB 1819.



**other bodies such as the MoHA, the welfare authorities and the Diocese placed in the Order as a faith-based organisation suitable to be entrusted to run a residential home for children entrusted to their care.**

402 **We consider the Order’s failure to properly implement and monitor adherence to its rules, which were designed to keep boys free from sexual abuse, was a systemic failure to ensure that children were kept free from abuse.**

403 In his statement to the Inquiry, Br Pius McCarthy stated in relation to sexual abuse by brothers in Rubane:

“There is no evidence that, at that time, the Brothers or society in general understood the harm and damage that child abuse caused and there was little understanding of the nature of a sexual predator or paedophile and how he could be effectively prevented from engaging in such behaviour.”<sup>358</sup>

He pointed out that the dilemma of sex abuse and how to deal with it effectively was not understood by society, the Church, or the Religious Congregations.

“It was regarded as a moral fault which could be corrected by guidance and repentance. The offender was confronted and the error of his ways pointed out to him. If he was contrite, he was advised to go to confession and make a new start in a new community.”<sup>359</sup>

404 **We accept that until the late 1970s or early 1980s less was known and understood in Northern Ireland about the sexual abuse of children, but we consider the approach of moving brothers who had confessed to sexual abuse to other communities and not involving the police protected the position of the brother and the reputation of the Order rather than seeking to prevent further harm to children, and we consider it to be a systemic failure by the Order to ensure that children were free from abuse.**

405 We acknowledge Bishop Philbin intervened to suspend BR 1 and BR 33 but we consider that up until then there was a systemic failing in the way the Diocese responded to allegations of sexual abuse in Rubane and that its lack of action allowed the abuse to continue. The chaplains

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358 RUB 173.

359 RUB 173.

in Rubane were appointed by the Diocese and were answerable to the bishop. We understand the seal of confession and that a chaplain could not tell the detail of what was said in confession to a third party. **However, we consider that the chaplains should have found a means of alerting the bishop in a more general way to concerns about sexual abuse in Rubane and that as far as we are aware this failure to do so contributed to the continuance of that abuse in Rubane. We consider this to be a systemic failure by the Diocese to ensure that children were kept free from abuse and a systemic failure to ensure the institution provided proper care.**

- 406 The Belfast Welfare Authority recognised the need for social workers to maintain contact with children in care and introduced a policy of monthly visits and a three monthly review form which listed the dates on which social workers visited children. Referring to this policy in his evidence to the Hughes Inquiry Mr Bunting explained that it was implemented by the Belfast Welfare Authority and then the EHSSB despite the lack of statutory compulsion for such visiting. However, he acknowledged that it was not fully implemented because of shortages of social workers and the need for some clarification between the roles of field workers and residential social workers.<sup>360</sup>
- 407 In its evidence to the Inquiry the HSCB accepted that from the evidence available insufficient emphasis was placed on regular and frequent visits by social workers to children in Rubane in the 1950s and 1960s and/or there was insufficient recording of such visits. It recognised that this lack of visiting amounted to a weakness in this aspect of social work practice at that time<sup>361</sup> but pointed out that it improved in the 1970s.<sup>362</sup> The Order confirmed that social workers visited boys during the 1970s<sup>363</sup> and that although the frequency of visits varied in that period the involvement of social workers, particularly in care reviews, improved dramatically post 1980.<sup>364</sup>
- 408 We accept that the arrangements established by the Belfast Welfare Authority for social workers to visit children in care were ahead of their time and were not required by statute and we recognise the severe pressures

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360 RUB 9253/4.

361 RUB 9256.

362 RUB 9254-9256.

363 RUB 028.

364 RUB026.

social work departments were operating under during the height of the Troubles. However, we are of the view that more regular visits by social workers to boys they placed in Rubane in the 1950s and 1960s might have enabled boys suffering sexual abuse to disclose it.

- 409 That said, we consider that the EHSSB acted appropriately in reporting their concerns about Rubane to the police and to the DHSS, continuing its embargo on admissions and providing social workers to support boys while they were being interviewed by the police.
- 410 It became clear during the Inquiry that the case of sexual abuse by BR 14 in 1964 was not referred to the Hughes Inquiry. In October 2014, the HSCB told us that the Board did not bring this matter to the attention of the Hughes Inquiry despite Down Welfare Authority and Belfast Welfare Authority's involvement in it because records retention protocols meant that relevant records were not retained. Subsequently the HSCB informed us in September 2015 that a relevant file relating to DL 13 had been located amongst files relating to adoptions. The location of the file did not alter the fact that at the time of the Hughes Inquiry this case was not brought to the attention of senior EHSSB managers who had asked Districts to provide them with all relevant cases for the Inquiry. In seeking to address this oversight the Chief Executive of the HSCB explained that during the twenty years between the investigation of the abuse of DL 13 in Rubane and the Hughes Inquiry, the major reorganisation of local government in 1973 resulted in significant staff changes and changes in office and filing arrangements that led to a lack of corporate memory in relation to this case. We consider that there would have been more likelihood of this case being referred to the Hughes Inquiry had DL 13's records been properly filed and that this lapse in records management was poor practice. However, we accept how corporate memory about an investigation into abuse of a boy no longer in care, which could not be concluded because of the lack of co-operation of the alleged abuser, was lost in the aftermath of major organisational change.
- 411 The Department explained that it did not refer this matter to the Hughes Inquiry as the relevant file had been sent to the Northern Ireland Office because there was a criminal element to the case and the staff in the Department who engaged with the Hughes Inquiry were not aware of the file. Given that the Department had an ongoing responsibility for the regulation of Rubane we consider it should have retained some record of the alleged abuse and the assurances received from the De La Salle Order

in relation to it. **We consider the Department’s failure to maintain intelligence about an investigation into sexual abuse in a children’s home in a manner that allowed its existence to be known to relevant staff to be a systemic failure to take all proper steps to prevent, detect and disclose abuse as it meant the Hughes Inquiry was not made aware of the full extent of sexual abuse in Rubane.**

### Peer sexual abuse

- 412 Peer sexual activity among adolescent boys in a predominately male residential setting is not uncommon and a number of witnesses, for example, HIA 21, HIA 56, HIA 16 and HIA 225 referred to consensual sexual exploration that was part of growing up. However, the Inquiry heard evidence of non-consensual sexual activity among boys, including occasions of attempted rape, rape and group rape.
- 413 HIA 225 acknowledged sexual activity between boys and how “it was hard to work out what was right and what was wrong” but he differentiated that behaviour from the attempted rape of him by two older boys, whom he described as being in an open sexual relationship with each other. He described how, days after the attempted rape, the two boys involved were beating him up and BR 2 came across this and caned all three boys for fighting. He explained that he did not tell BR 2 about the abuse or report it to any other member of staff because he was frightened, since one of the boys who had abused him, DL 95, was the best fighter in the school.<sup>365</sup>
- 414 HIA 21 accepted in his evidence that he was involved in sexual exploration with other boys<sup>366</sup> but told the Inquiry he was raped by HIA 147 and another boy in a derelict building outside the grounds of Rubane.<sup>367</sup> A number of witnesses made allegations about HIA 147, (for example, HIA 19)<sup>368</sup> and we noted that while HIA 147 was being sexually predatory towards other boys he was being sexually abused by BR 15.
- 415 HIA 64 described having to fight off bigger boys who tried to sexually abuse him<sup>369</sup> and HIA 152 described having to regularly perform oral sex on older boys because if he refused they would beat him.<sup>370</sup> HIA 222 also referred to his fear of older boys and although he was not sexually abused himself

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365 RUB 642.

366 RUB 881.

367 RUB 883.

368 RUB 441.

369 RUB 547.

370 RUB 603.

he described coming across a group of older boys raping a younger boy in the woods and walking by and not intervening for fear that the same thing would happen to him.<sup>371</sup> In contrast, HIA 225 told the Inquiry how he repelled the sexual advances of HIA 21 and was able to do so because he was not frightened of him.<sup>372</sup>

416 It was clear from the evidence we heard that brothers were aware of the sexual activity amongst the boys. HIA 21, who described being sexually abused by HIA 147, said he was 90% certain that he had told BR 6 about the abuse. HIA 152 recalled brothers on occasion telling him to let them know if certain other boys touched him. He said he told BR 3 about being sexually abused by older boys but he did nothing about it.<sup>373</sup>

417 In contrast, HIA 56 described BR 3 giving him a severe beating because he suspected HIA 56 was sexually interfering with a new boy. He recalled BR 3 saying: “he’s only in the place and you’re at him”.<sup>374</sup>

418 HIA 259 told the Inquiry he was sexually abused by an older boy, DL 58, who also physically abused him and took his pocket money. He said the brothers and staff knew about boys sexually abusing other boys but closed their ears to it:

“If you reported it you would have got a clip on the ear or a more severe punishment. There was a culture of silence in the home in relation to sexual abuse.”<sup>375</sup>

419 HIA 259 also said that BR 10 caught him and other boys beating up a boy to stop him sexually abusing a younger boy and when they explained why they had hit the boy BR 10 responded, “This is a boy’s home what do you expect?” and proceeded to punish them for fighting but did not punish the boy they had hit.<sup>376</sup> When questioned about this at the Inquiry BR 10 said he had no memory of the incident but that if he had made such a comment he would have been referring to expecting fighting amongst boys.<sup>377</sup>

420 The police investigation in Rubane following the allegations about BR 1 identified non-consensual sexual activity amongst the boys. The police considered that there was sufficient evidence to convict the boys involved

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371 RUB 631.

372 RUB 603.

373 RUB 603.

374 RUB 529.

375 RUB 681-682.

376 RUB 684-685.

377 pp.102/3, Day 72, 25 November 2014.

but decided not to because they were of similar ages. The Order told the Inquiry that the brothers were not informed by the police or social services about these police findings about sexual activity between boys. However, Bob Bunting told the Inquiry that the report prepared by the two EHSSB social workers who sat in on the interviews was shared with the management committee of Rubane and he thought it was also shared with Bishop Philbin.<sup>378</sup>

- 421 BR 2 confirmed that the brothers were aware of the risk of peer sexual activity and that they moved some boys from the chalets to the main house to keep a closer eye on them, limited access to the woods and sent some boys to see psychiatrists.<sup>379</sup> However, the Order accepted that with the benefit of hindsight consensual sexual activity and peer abuse among the boys was a greater problem than they appreciated contemporaneously.<sup>380</sup>
- 422 Although sexual exploration can be expected and is a normal part of growing up we are convinced from the evidence we heard that some of the sexual activity between boys in Rubane extended to sexual abuse on the grounds that it was not consensual, involved physical force or was inflicted by one or more older boys on a younger boy. We noted that some boys who were identified as being responsible for such behaviour gave convincing accounts of how they were sexually abused as young children prior to arriving in Rubane. While we are not suggesting that there is necessarily a correlation between being sexually abused and then going on to become sexually abusive, it does appear that some boys in Rubane modelled their behaviour on the way they were treated and became abusive once they grew into positions of power over younger boys. It also appears that there was a bullying, and at times violent, aspect to the peer sexual abuse in Rubane and we consider this reflects the more general culture in Rubane of bullying and the use of superior physical power to gain and maintain domination.
- 423 We consider that the brothers did identify and attempt to stop peer sexual abuse, particularly in the 1970s, and we do not therefore consider their inability to eradicate it to be a systemic failing.

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378 Day 76, p.132.

379 RUB 1080-1082.

380 RUB 323.

## Emotional abuse

- 424 There was clearly very significant emotional abuse associated with the physical and sexual abuse that boys suffered in Rubane. Witnesses talked of the fear and trepidation they experienced not knowing when they would next be subject to abuse, the confusion that grooming behaviour caused them and the mental impact of sexual and physical abuse. They told us that the brothers' inconsistent behaviour and changeable moods meant they felt they had to be constantly on their guard.
- 425 We consider the fear and intimidation created by the combination of sexual and physical abuse by some brothers, some of whom were abusing boys at the same time, was so corrosive to the childhoods of the boys who suffered this abuse and to the boys who lived in the shadow of it that it constituted emotional abuse.
- 426 Witnesses told us about how the abuse they suffered in Rubane affected them throughout their lives and caused them difficulties in establishing and maintaining personal relationships and in parenting. Some witnesses told us about the struggles they have had with alcohol and drug dependency and mental illness, and many referred to men who had been boys with them in Rubane who had died early deaths, some at their own hands, or who were too unwell or vulnerable to engage with the Inquiry. The impact of this emotional abuse has remained with witnesses throughout their lives. This was well illustrated by the testimony of HIA 56:

“I have gone through life feeling sad and empty. I feel drained. I feel I have no worth, no value. I am lonely. I feel excluded and isolated. I wonder why I am different. I question ‘is there something wrong with me?’ I am clamped to the past. I have no qualifications, no employment prospects. I feel completely and utterly contaminated by abuse. I am sexually disorientated. I have prostituted my body and my mind - I feel destroyed and worthless. I avoid people where possible. I always try to please and pretend there is nothing wrong. I can't take the risk of letting people get too close. I feel afraid to trust. I am aware of the loneliness and isolation this creates. It is despairing but I feel safer. I have no motivation to make progress in anything. I have never loved or been loved. Simmering beneath the surface I feel dangerously full of unexpressed rage and anger with a dreadful sense of hopelessness.”<sup>381</sup>

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381 RUB 532.

- 427 Only a few witnesses spoke of emotional abuse that was separate from that associated with sexual or physical abuse. HIA 385 and HIA 388 described the fear and distress they suffered when BR 15 threw them into the swimming pool even though they could not swim<sup>382</sup> and HIA 261 described observing BR 15 treating a boy aged around 8, and small for his age, in the same way.<sup>383</sup> HIA 244 described BR 15 making older boys throw new boys repeatedly into the swimming pool whether they could swim or not.<sup>384</sup>
- 428 HIA 19 and HIA 50 said DL 6 called them names and humiliated them.<sup>385</sup> HIA 382 who was generally very positive about his time at Rubane recalled a member of staff telling boys they were a “waste of space” and “useless”.<sup>386</sup>
- 429 **We consider the fear and distress caused to some boys in Rubane as a result of the physical and/or sexual abuse they suffered or witnessed others suffering amounts to a systemic failure by the Order to keep the boys free from harm.**

## Neglect

### Medical treatment

- 430 Six witnesses complained about inadequate medical treatment in Rubane and some of them said they never saw a doctor or dentist while they were in the home,<sup>387</sup> HIA 31 said there was a delay in him being taken to the hospital after he was stabbed in the back by another boy.<sup>388</sup>
- 431 More witnesses remembered receiving medical treatment from a local doctor, being brought to see a visiting dentist and receiving hospital treatment for illnesses and injuries.

### Food

- 432 Some witnesses<sup>389</sup> said the food in Rubane was basic but all right and HIA 45 said it was better than he would have got outside, but other witnesses complained about poor quality and insufficient food.<sup>390</sup>

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382 RUB 734, RUB 842.

383 RUB 701.

384 RUB 653.

385 RUB 442, RUB 767.

386 RUB 728.

387 HIA 252, HIA 97, HIA 390, HAI 388, HIA 385 and HIA 259.

388 Day 66, p.87.

389 HIA 36, HIA 25 and HIA 359.

390 HIA 385, 244, 97, 183, 247, and 262.



HIA 385 stated, “It was the same food every day, and we were never given enough. We were always hungry”<sup>391</sup> and HIA 16 remembered having to compete with other boys for food, ‘...all the boys would grab the bread because they were so hungry and you had to be quick or you didn’t get any.”<sup>392</sup> HIA 262 recalled “We were always hungry. If we weren’t fit enough or fast enough when we were brought in for breakfast or our evening meal, it was gone. If I didn’t dive for food then I went hungry.”<sup>393</sup> A few witnesses expressed the view that the brothers, who ate separately from the boys, got better food;<sup>394</sup> the Order denied that was the case.

433 In the main, witnesses appeared to find the food adequate and we accept that particularly in the early years the Order had to feed hungry adolescent boys with limited resources. We consider that on the whole the boys were adequately fed and were not neglected in this respect.

434 **However, as stated previously, we consider the cramped, overcrowded sleeping and bathing facilities in Rubane before the chalets were built in 1968/1969 constitute neglect and, as we have stated previously, the length of time the Diocese, the Order and the MoHA allowed them to continue amounts to a systemic failing on all their parts to provide proper care.**

## Unacceptable practices

### Mixture of boys in Rubane

435 A number of witnesses talked about the implications of Rubane accommodating a mixture of boys from Nazareth Lodge, many of whom were in care from infancy and used to a disciplined institutional life, and boys who had been admitted directly from the community mainly because of failure to attend school and/or involvement in petty crime. The behaviour of these boys in the community was such that they were deemed to be beyond the control of their parents and in some cases beyond the control of the other children’s homes. DL 455 commented on this mix:

“On reflection, this was the biggest problem:- streetwise sexualised boys being placed into care with vulnerable sheltered children.”<sup>395</sup>

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391 RUB 733.

392 RUB 419.

393 RUB 830.

394 HIA 261 and HIA 262.

395 RUB 1492.

HIA 97 commented:

“I assumed we were all orphans or children from single parent families like myself but they would send lads that were due for release from the borstal in Milltown down to Kircubbin and they mixed them all in with us. It was horrific really.”<sup>396</sup>

436 BR 2 commented on the mix of boys in his statement:

“...ironically, the very issue that had driven Br Stephen Kelly in the conception of Rubane the prevention of ‘mixing’ the ‘orphans and criminals’ slowly developed in Rubane.”<sup>397</sup>

437 We think it is important to recognise in this regard that some of the boys who transferred from Nazareth Lodge to Rubane had experienced physical and sexual abuse in that home and they demonstrated the effects of that abuse in their behaviour. They may have been more used to and acquiescent to the routine and discipline of institutional life but many were troubled children. Equally, some boys coming directly from the community were dealing with the trauma of being received into care for the first time and were vulnerable and distressed about leaving their families and their homes.

438 BR 2 described Rubane becoming a “catch all institution”.<sup>398</sup> While not wishing to underestimate the expectations that would have been on the Order to admit boys, particularly in emergency situations, and the financial and other pressures to increase and maintain numbers in Rubane, this seems to suggest a somewhat passive approach to admissions. We consider that the Order, under the governance of the governing board, had a responsibility to manage admissions and to manage the mix of children that it accepted into its care.

### **Lack of background information about boys admitted to Rubane**

439 BR 2 pointed out that often only the “bare bones” of information would transfer with a child coming to Rubane and that:

“Lack of information ensured that empathy with a new entrant could not be optimised and also meant that the needs and problems of individual boys were not properly assessed or identified at admission. Important aspects of a boy’s background were not necessarily passed on.”<sup>399</sup>

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396 RUB 568.

397 RUB 1041.

398 RUB 1066.

399 RUB 1055.

He explained that this was a particular issue for boys admitted from Nazareth Lodge and that the information received about them was sparse in the extreme:

“...without names of parent/siblings, where they came from, their medical history, their educational attainments or special needs.”<sup>400</sup>

We consider the Sisters of Nazareth’s failure to pass relevant information about a child’s time in Nazareth Lodge, even if little was known about their lives before coming into care, and the Order’s willingness to accept children with this paucity of background information was unacceptable. **We consider these practices showed a lack of care and consideration for each child’s individuality, development and well being and that they amount to a systemic failure by the Sisters of Nazareth and the Order to ensure the provision of proper care.**

## Boxing

440 Some witnesses recalled boxing matches being used by the brothers as a controlled way of allowing boys to settle disputes while others, such as HIA 244 and HIA 24, told us brothers made them fight older boys and did not intervene when they were being badly hurt in unequal matches.<sup>401</sup> For example, HIA 97 described BR 15 making him fight with older boys:

“he would make us box the bigger boys and let them knock the hell out of us. I was younger and smaller than most of the boys and I think it amused him to see me getting hit by the bigger boys.”<sup>402</sup>

441 Although we recognise that boxing as a sport can teach boys self discipline and how to control aggression, we accept that some children were made to engage in boxing matches against older boys and that some were hurt in these matches. We also consider that the use of boxing matches to settle disputes reinforced the general culture in Rubane of dominance being achieved through superior physical force rather than offering the boys other ways and methods for resolving their differences.

## Soccer

442 HIA 97 and HIA 390 described being hit for playing soccer as it was an English game. The Order conceded that boys would not have been allowed

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400 RUB 1040

401 RUB 650 and RUB 452.

402 RUB 572.

to play soccer in the 1950s and early 1960s but that from then on soccer would have been allowed.

## Potato-picking

443 Some witnesses talked positively of potato picking; HIA 64 said

“We used to go potato-picking on the farm at Rubane and for outside farmers. It was tough work but I enjoyed it. I don’t know if the farmers paid the Brothers but our payment was a trip to Belfast to the pictures once a year as a treat.”<sup>403</sup>

Other witnesses remember being paid either daily or weekly for doing this work, DL 244 commented:

“I remember going potato-picking on local farms in October. I got 2/6 each night. I really enjoyed it, we got out to local farms, got stew for lunch and had a good time.”<sup>404</sup>

444 In contrast, HIA 244 described being “dragged out of school”<sup>405</sup> to go potato-picking for local farmers and he suggested that while the brothers got paid £1 per boy for a week’s work the boys only received a shilling a week from that money.<sup>406</sup> However, he also remembered the brothers asking the boys how the money from the potato-picking should be spent. He recalled the boys suggested a roof should be added to the swimming pool but that instead new musical instruments were purchased for the band.<sup>407</sup> This suggests the work was lucrative and that the brothers used the earnings for the benefit of the boys.

445 Eight witnesses complained about having to work in neighbouring farms and said that the work went beyond potato-picking to hard physical labour. HIA 26 told us:

“We were hired out to farmers. I worked on these farms from I entered the home at nine years old until I left Rubane house. I thought it was child labour. We had to pile up large bales of hay in the fields throughout the summer. We would work the entire day.”<sup>408</sup>

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403 RUB 548.

404 RUB 1486.

405 RUB 652.

406 Ibid.

407 RUB 653.

408 RUB 457.

HIA 244 recounted having to continue to pick potatoes in very cold conditions until his hands were, “cold, red raw cut and bleeding”.<sup>409</sup> HIA 385 said he got no treatment when he put a pitch fork through his foot when he was picking potatoes because his hands were so cold<sup>410</sup> and HIA 252 recounted not being properly clothed for the work and not being allowed a shower to clean up after doing it.<sup>411</sup>

- 446 These witnesses were all admitted to Rubane in the 1950s and 1960s which suggests this heavier labour may only have applied in these years. As we have already pointed out when considering similar complaints made about the Sisters of Nazareth home at Termonbacca, before the advent of potato-picking machines it was very common in farming families at that time for children to help with potato-picking. **We consider expecting the boys to help with potato-picking on the farm in Rubane was reasonable but that hiring them out to pick potatoes and undertake other types of labour in neighbouring farms and requiring them to do this work in adverse weather and with inadequate clothing was inappropriate and amounts to a systemic failing to provide proper care.**

## Clothing

- 447 As previously referred to in 1962, MoHA inspectors, Ms Forrest and Ms Hill, reported that although all the boys in Rubane appeared in good health:

“...many looked pinched and cold; their clothing in many instances was in very bad order, threadbare and torn, and affording little protection against the weather.”<sup>412</sup>

- 448 We noted that as late as the mid-1970s and early 1980s social workers were expressing concerns about the appearance of boys in Rubane and their ill-fitting clothes. In her evidence to the Inquiry, DL 517 described a boy being admitted to Rubane in 1980 and being given a pair of trousers from a general store:

“...which were so wide he needed a belt to hold them up and they were too short for him, although he was relatively small in stature. I was told he would have to wear them and that he may eventually get trousers which fitted him if they came into the store.”<sup>413</sup>

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409 RUB 652.

410 RUB 734.

411 RUB 666.

412 RUB 11869.

413 RUB 1687.

Referring to the same period, another social worker, DL 516, told the Inquiry that the boys in Rubane “presented like ‘orphans’ and clothing did not take consideration of their personality or size”. The Order did not accept that boys presented as orphans. It accepted that because of resource difficulties there may have been isolated occurrences during this period of boys being dressed inappropriately but pointed to the photographs it supplied to the Inquiry which showed boys from the mid 1970s onwards in a variety of attire in accordance with the style of the era. However, the bulk buying of clothing and distribution of it from a central store did not cease in Rubane until 1981. In the report of the SWAG inspection carried out in March 1981, inspectors noted that from the start of 1981 boys were allowed to purchase their own clothing in shops of their choosing and pay for it with cash. This indicates that the adequacy and suitability of clothing for some children in Rubane continued to be an issue as late as 1980. **We consider it a systemic failing that the Order did not ensure initially that all boys in Rubane were adequately clothed and in later years up to 1981 failed to ensure that all boys were appropriately clothed.**

## Visits to families

- 449 Where boys had families to whom they could return, arrangements were at times made for them to return home for weekends, or for longer holidays in the summer. For example, HIA 19 stayed with his grandparents for nine weeks one summer.<sup>414</sup> Where boys had no family with whom they could stay, arrangements were sometimes made with families to take them for occasional weekends or for longer periods in the summer.
- 450 In the main, these opportunities were valued and enjoyed and we heard from witnesses who have maintained contact with families that they were sent to. However, some witnesses complained of having to undertake excessive chores when on placements with families. (e.g. HIA 259)<sup>415</sup> It is not clear how these families were recruited and although BR 2 refers in correspondence in 1973 to the welfare authorities making “a routine visit” to families willing to have boys to stay over the Christmas period<sup>416</sup> it is not clear to what extent vetting of families was carried out in the early days.

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414 RUB 441.

415 RUB 685.

416 RUB 1097.

## Chores

451 Witnesses described having to do daily chores, such as cleaning toilets, sweeping, scrubbing and polishing floors and more extensive cleaning of, for example, the stairwells at the weekend. Although some witnesses complained about having to do chores, we did not get the impression that they were excessive.

## Shaving of Heads

452 The Order explained that head shaving was used as a means of controlling the spread of head lice and in the main witnesses referred to it in that way. However, four witnesses referred to having their heads shaved as a punishment.<sup>417</sup>

## Treatment of enuresis

453 As the boys in Rubane were older we heard fewer complaints about how enuresis was dealt with than was the case in homes for younger children. However, HIA 97 said he was hit for wetting the bed<sup>418</sup> and HIA 219 said he was made to take cold showers as punishment for wetting the bed.<sup>419</sup> HIA 50 told us that BR 33 threatened to tell the other boys that HIA 50 wet the bed,<sup>420</sup> HIA 385 described boys lying in wet bed clothes for fear of being punished for wetting their beds<sup>421</sup> and HIA 262 described boys being humiliated for bed wetting.<sup>422</sup>

454 HIA 262 and HIA 16 remembered a “wet house” for boys who wet the bed;<sup>423</sup> such segregation of boys who wet their beds from other boys was against the guidance provided about dealing with enuresis in the memorandum by the Home Office on the Conduct of Children’s Homes, which was issued in 1952.<sup>424</sup> However there was evidence that the Order attempted to assist boys who suffered from enuresis: BR 2 explained that medical advice was sought and alarm blankets were used to wake the boys.<sup>425</sup> Witnesses told us of a system where boys were paid an allowance

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417 HIA 45, 59, 97 and 244.

418 RUB 570.

419 RUB 809.

420 RUB 766.

421 RUB 732-733.

422 RUB 829.

423 RUB 829 and RUB 419.

424 SND15700.

425 RUB 1056.

to set an alarm clock and wake a number of times during the night to get boys who were in danger of wetting their bed up to go to the toilet.

- 455 While not discounting the negative experiences of some witnesses it would seem in general that bed-wetting was dealt with in a tolerant manner.

## Preparation for leaving care

- 456 A number of witnesses told the Inquiry about the lack of preparation they received for life after care and how unprepared they were for life outside.<sup>426</sup>

- 457 HIA 262 stated:

“There was no preparation for going out into the world. ...One minute I was in Rubane and the next minute I was in Belfast. They would put us into lodgings and boarding houses, and get us a job. The jobs were always menial because we had no education. We had no experience of handling money or even communicating with people.”<sup>427</sup>

- 458 HIA 279 recounted that on the day he was leaving:

“Someone came into the room at that time and I recall them saying, ‘Your two brothers have been picked to go to Australia so you might as well go too’. ... That was the only discussion anyone in the home ever had with me regarding going to Australia. No-one ever asked me if I wanted to go, and the day I left Rubane was the first day I realised that I was going to Australia.”<sup>428</sup>

- 459 Witnesses talked about the suddenness of their departure. HIA 132 said he was given an hour to pack<sup>429</sup>:

“I was given no preparation for life after care. We were never taught the value of money or how to manage our money. We were never taught social skills or how to look after ourselves. We were just left on our own to get on with it.”<sup>430</sup>

- 460 HIA 183 told the Inquiry:

“I remember leaving Rubane and walking down the road to get the bus to go to my first job. I had a suitcase with two of everything, two pairs of pants, two pairs of socks and one suit. It was the loneliest day of my

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426 HIA 110 (RUB 591) and HIA 16 (RUB 422).

427 RUB 835.

428 RUB 900.

429 RUB 783.

430 RUB 784.



life. I had no-one. I had no education and I was worried about how I was going to cope with the outside world.”<sup>431</sup>

461 HIA 25 commented:

“When I left the care system I was completely unprepared for life. Apart from two weeks in a flat on your own in the grounds of Rubane, there was no preparation. One day they said, ‘You’re out’ and the next I was gone.”<sup>432</sup>

462 In later years the Order did try in a limited way to prepare boys for leaving care by giving them the experience of being self-sufficient for a two-week period in one of the chalets. Also, in 1980 the Order agreed that social worker DL 517, and a colleague could work with a group of boys in Rubane to help them prepare for leaving care.

463 The Order, the governing board and the management committee recognised that lack of aftercare was a problem and became particularly concerned when a number of ex-residents got caught up in the civil unrest and some were murdered. HIA 56 referred to the additional challenges the Troubles caused for boys leaving Rubane:

“They put us in the Falls Road and we didn’t even know what Protestants were. They should have prepared us for going out into the world. We were put into the middle of a war and we didn’t even know what was going on.”<sup>433</sup>

He also recalled sensing that BR 2 was reluctant to leave him and another boy at the lodgings: “he stayed for ages and he gave us two pounds each.”<sup>434</sup>

464 The Order explained it engaged with the Nazareth Lodge welfare committee, which was established to support former residents of Nazareth Lodge to obtain accommodation and employment when they left care, and that it linked with a welfare officer, Mr Murphy, and in time his successor, Mr Digney, who had been employed by the committee to undertake this work. In the 1970s a half-way house and youth club, St Augustine’s, was set up principally to support former residents of Nazareth Lodge and Rubane. These facilities were seen as particularly essential for boys leaving Rubane who had previously been in Nazareth Lodge because, as BR 2 explained in

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431 RUB 619

432 RUB 856

433 RUB 530

434 Ibid.

his statement, they had few relationships outside Rubane and lacked the social network supports that families could provide.

- 465 **We consider the lack of preparation for leaving care, suddenness of departure from the home and absence of aftercare for boys in the initial years in Rubane amount to a systemic failing by the Diocese and the Order to ensure the home provided proper care.** However, we equally recognise that when the Order and the Diocese became increasingly concerned about the lack of aftercare and the risks that created for boys particularly during the Troubles, it made considerable efforts to provide this aspect of continuing care.

## Apologies

- 466 Before setting out our conclusions about Rubane we consider it appropriate to first acknowledge and record the apologies the Order and the Diocese made to former residents of Rubane at part of this Inquiry. At the opening of the Inquiry, the Order made the following apology:

“First and foremost, the Brothers would wish to say publicly at the outset of this Inquiry that they accept and deeply regret that boys in their care were abused. They wish to offer their sincere and unreserved apology to all those whom they failed to protect. The De La Salle Order has previously acknowledged that innocent victims within its care were abused by some of its members. That some Brothers abused boys in their care was in total contradiction of their vocations as De La Salle Brothers and of their mission as established by their founder, namely to look after the welfare and educational needs of deprived, vulnerable and abandoned children. The Brothers recognise the immense pain and suffering and damage caused to those victims who have been abused. The Brothers recognise the sense of betrayal that the victims have experienced and the violation of trust caused by certain Brothers within the order. They recognise that there have been failures to protect the victims. The De La Salle Order deeply regrets the acts of some of its members which have irreparably damaged the reputation of the Order and undermined the selfless care provided by so many of the Brothers in pursuance of their vocation.”

- 467 The Diocese also expressed its deep sorrow and regret that any child was abused while a resident in Rubane in the statement made on its behalf by Fr Timothy Bartlett:

“In conclusion, the Diocese wishes to express its deep sorrow and regret that any child was abused while a resident in Rubane House.

Established with the sole intention of improving the circumstances and opportunities of the children in its care, Rubane House, as with any institution founded on Christian principles, should have been exemplary in the love, dignity and protection it provided. Clearly, for too many, and despite the best efforts of many of the staff, this was far from the case. It is our hope that this Inquiry will go some way to helping those who experienced such abuse to have their voices heard and their painful experiences acknowledged and they will be assisted in advancing towards healing.”<sup>435</sup>

Father Bartlett also stated when he gave oral evidence to the Inquiry about Rubane:

“...I find it quite shocking even at a distance and even having some sense of the culture of the time, both within society and within the church, that the safety of children was not the first priority in everything. In fact it didn't seem to appear anywhere in the priorities of either the Management Board or the Governing Board or the general practice of how the home was run.”<sup>436</sup>

## Conclusions

468 In the different sections of this chapter we have set out our conclusions about systemic failings to ensure:

- Rubane provided proper care;
- Children in Rubane would be free from abuse;
- All proper steps were taken to prevent, detect and disclose abuse in Rubane; and,
- Appropriate steps were taken to ensure the investigation and prosecution of criminal offences involving abuse in Rubane.

469 We conclude by setting out below the individual and in some instances shared responsibility that the Northern Ireland Government as represented by the MoHA and its successor Departments, the Diocese, the Order and the Welfare Authorities and their successor bodies must carry for these systemic failings.

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435 RUB 5324.

436 Day 78, 11 December 2014, pp.9-10.

We are satisfied that:

**The Ministry of Home Affairs:**

- (a) failed to insist from the outset that Rubane be developed on the smaller children’s home model in line with government policy;**
- (b) contributed to a systemic failure to ensure Rubane provided proper care by allowing discussions about the type of redevelopment needed and how it should be funded to continue for a decade while over-crowding increased and the facilities and staffing levels became more inadequate and unsatisfactory;**
- (c) failed as the registering body to clarify with the Diocese and the Order the nature and aims of Rubane, the governance and management arrangements and the conditions needed to provide appropriate care;**
- (d) failed to ensure Rubane provided proper care by allowing the number of boys accommodated to more than double from 30 to 71 within six years without requiring the necessary improvements to the facilities or increases in staffing levels;**
- (e) failed to seek confirmation of who was the administering authority for Rubane and failed to check that monthly visiting was happening and thereby allowed crucial aspects of the statutory framework designed to promote and protect the welfare of children in voluntary homes to be ignored by the Diocese and the Order.**

**The Northern Ireland Government, as represented by the DHSS:**

- (a) failed to inspect the standard of care being provided in Rubane between 1976 and 1981;**
- (b) failed to ensure that the inspections of Rubane that were carried out in the 1970s gained a genuine insight into the quality of care being provided;**
- (c) failed to properly respond to the concerns raised by the EHSSB in 1981 about the general care provided to all boys in Rubane and thereby failed to acknowledge and exercise its statutory authority and powers as the registration and inspection body for Rubane; and,**

- (d) failed to maintain information about an investigation into sexual abuse in a children's home in a manner that allowed its existence to be known to relevant staff and thereby shared with the Hughes Inquiry.

**The Diocese:**

- (a) contributed to a systemic failure to ensure Rubane provided proper care by allowing discussions about the type of redevelopment needed and how it should be funded to continue for a decade while over-crowding increased and the facilities and staffing levels became more inadequate and unsatisfactory;
- (b) failed to clarify with the Order and the MoHA as the registering body the nature and aims of Rubane, the governance and management arrangements and the conditions needed to provide appropriate care;
- (c) failed to meet statutory regulations for voluntary children's home, in particular, failed to confirm the administering authority for Rubane and to appoint a monthly visitor;
- (d) failed to take responsibility for negotiations with the MoHA about the development of the home and by only holding annual meetings of the governing board during the Order's negotiations with the MoHA caused delay and late interventions in planning;
- (e) failed to hold meetings of the governing board between 1968 and 1972 and between 1982 and 1985 and thereby to assure itself of the quality of care being provided in Rubane;
- (f) failed, through the chaplains appointed to Rubane, to find a means that respected the seal of confession but enabled information provided by boys about the physical and sexual abuse they were suffering to be shared with the relevant bishop and acted upon; and
- (g) failed through Father McCann's response to the first assault by BR 77 to take all proper steps to prevent, detect and disclose abuse.

**The De La Salle Order:**

- (a) contributed to a systemic failure to ensure Rubane provided proper care by allowing discussions about the type of redevelopment needed and how it should be funded to

- continue for a decade while over-crowding increased and the facilities and staffing levels became more inadequate and unsatisfactory;
- (b) failed to clarify with the Diocese and the MoHA as the registering body the nature and aims of Rubane, the governance and management arrangements and the conditions needed to provide appropriate care;
  - (c) failed to meet statutory regulations for voluntary children's home, in particular, failed to confirm the administering authority for Rubane and to appoint a monthly visitor;
  - (d) failed to prevent excessive physical punishment by some brothers and lay staff;
  - (e) failed to prevent random violence by some brothers and lay staff which in some cases amounted to serious physical assault;
  - (f) failed to ensure that corporal punishment was administered in line with statutory regulations and the Order's own rules;
  - (g) failed to accurately record and report the use of corporal punishment as required by statutory regulations;
  - (h) failed to deal adequately with incidents of physical violence by brothers and lay staff towards boys which were brought to the attention of Brother Directors;
  - (i) failed to take necessary action to enable the investigation and prosecution of criminal offences involving physical abuse;
  - (j) failed to inform the Department or the Health and Social Services Boards about the search of Rubane and the reasons for it and therefore did not work with them to identify and manage any continuing risk to the welfare and safety of the boys in Rubane at that time;
  - (k) failed to report serious assaults by BR 77 to the police in order to protect the brother and the reputation of the Order rather than protect vulnerable children;
  - (l) failed to curtail BR 77's contact with children while he was subject to police investigations about physical assaults of boys in Rubane and instead moved him to work in a school;
  - (m) failed to provide guidance and effective supervision to brothers and to ensure particularly in the earlier years that they had a

reasonable workload that avoided excessive contact time with the boys;

- (n) failed to provide guidance and effective supervision to lay staff in Rubane, particularly to those who were clearly having difficulties in meeting the challenges of working with adolescent boys;
- (o) failed to address understaffing, thereby allowing a lack of oversight of the brothers' interactions with boys, particularly in the evenings and at night time, that enabled sexual abuse to occur and continue unchecked;
- (p) failed to properly investigate allegations of sexual abuse;
- (q) failed to take necessary action to enable the investigation and prosecution of criminal offences involving sexual abuse;
- (r) failed to report its investigation of the allegations of sexual abuse against BR 17 to the governing board, the MoHA or the police;
- (s) failed to be truthful about the extent of BR 14's sexual abuse of boys and deliberately misled the MoHA about it;
- (t) failed to report its investigation of the allegations of sexual abuse by HIA 36 against BR 15 to the governing board, the MoHA or the police;
- (u) failed to implement and monitor adherence to its rules about how brothers should manage their interactions with boys and thereby betrayed the implicit trust that other bodies such as the MoHA, the welfare authorities and the Diocese placed in the Order as a faith-based organisation suitable to be entrusted to run a residential home for children;
- (v) failed to curtail the activities of BR 17 or increase monitoring of him despite suspicions that he sexually abused boys in Rubane and then moved him to a school where he would have continued trusted access to children which he ultimately abused;
- (w) failed to report brothers who admitted sexual abuse of children to the police and thereby protected the position of such brothers and the reputation of the Order rather than seeking to prevent further harm to children;

- (x) failed to keep boys free from the pain, fear and distress caused by the physical and/or sexual abuse they suffered or witnessed others suffering in Rubane;
- (y) failed to limit the boys' help with potato-picking to the farm in Rubane and instead required them to pick potatoes and undertake other types of labour in neighbouring farms in adverse weather and with inappropriate clothing;
- (z) failed to ensure initially that all boys in Rubane were adequately clothed and in later years up to 1981 failed to ensure that all boys were appropriately clothed; and
- (aa) failed to require the Sisters of Nazareth to provide relevant information about at least a child's time in Nazareth Lodge when they were being transferred to Rubane and thereby demonstrated a lack of care and consideration for each child's individuality, development and well being.

**The Welfare Authorities:**

- (a) failed in the period prior to the opening of chalets in 1968 to address the fact that the home they were placing boys in had inadequate facilities and was poorly staffed;
- (b) the EHSSB failed to alert social workers to the police investigations in 1980 into physical and sexual abuse in Rubane.





