

Chapter 25:

Module 15 – Kincora Boys’ Home

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Introduction

- 1 Module 15 of the Inquiry’s public hearings was devoted to an examination of Bawnmore Boys’ Home and Kincora Boys’ Home. As nineteen of the twenty sitting days from Tuesday 31 May 2016¹ until Friday 8 July 2016² were devoted to our investigations into Kincora, we deal with Bawnmore in a separate chapter of our Report. Because of the complexity and gravity of the allegations relating to Kincora, we depart from our practice elsewhere in this Report of dealing with a particular institution in a single chapter, and we devote several chapters to examining the history of Kincora and the allegations relating to it.
- 2 In the second chapter we examine the experiences of the residents in the home throughout Kincora’s existence. In the third chapter we examine the investigations by the Belfast Welfare Authority and by the Eastern Health and Social Services Board (EHSSB), which took over responsibility for Kincora in 1973, into allegations of sexual abuse of residents in Kincora which came to their attention. Because some of these allegations came to the attention of the Royal Ulster Constabulary (RUC) we also examine in that chapter the way in which the RUC dealt with the allegations that came to its attention. As the response of the Belfast Welfare Authority, and later the EHSSB and the RUC were inter-connected in various ways it is convenient to consider all of these matters in a single chapter. In this chapter we set out the background to the matters we consider in greater detail in chapters two and three.
- 3 In the fourth chapter we consider whether the security services in the form of the RUC Special Branch, the Secret Intelligence Service (sometimes referred to as MI6), the Security Service (also referred to as MI5), and British Army Intelligence knew of sexual abuse of residents in Kincora, and whether any of these agencies exploited, connived in, or ignored the sexual abuse of residents of Kincora. In that chapter we also consider the response of various Government departments over the years to the allegations relating to Kincora. This will involve an examination of not just the security services described above, but the Northern Ireland Office, the Ministry of Defence and the Cabinet Office as well. In the fifth chapter we draw together our conclusions regarding all aspects of the events relating to Kincora that we have examined.

1 Day 204.

2 Day 223.

Background

- 4 In May 1958 the Belfast Welfare Authority, or more precisely Belfast Corporation Welfare Committee, as the statutory authority for the provision of social services in general, and for the provision of childcare in particular in Belfast, opened a hostel for working boys who had left school on completion of their secondary education. At that time the school leaving age was fourteen. Although commonly referred to as Kincora Boys’ Home in later years, this was a hostel for working boys and when we refer to Kincora throughout these chapters it must be understood that we are referring to a hostel for working boys.
- 5 The hostel occupied a substantial Victorian dwelling house located at 236 Upper Newtownards Road in east Belfast. Then, as now, the Upper Newtownards Road is one of the main thoroughfares in east Belfast and the building was located on the corner of the junction of the Upper Newtownards Road and North Road. The hostel, which was closed in October 1980, was intended to be for working boys between the ages of fifteen and eighteen who were in care. There were occasions when boys up to 21 might be accommodated,³ and it is known that on occasions younger boys were admitted.⁴ The building consisted of two floors and an attic when it opened, and it originally accommodated eleven residents, but this number was reduced to nine when the attic was no longer used. Between May 1958 when it opened and October 1980 when it closed, 370 boys resided in Kincora. Altogether there were 580 admissions to the hostel,⁵ but as many were readmitted on a number of occasions the number of those who lived there was 309.⁶ As we shall see, in later years a one-storey extension was added to the rear of the building which provided an office and a separate bedroom for the use of the warden of the hostel, Joseph Mains. We should point out that the building is no longer in public ownership, and has been privately owned for a considerable number of years.
- 6 Kincora continued to be run by the Belfast Welfare Authority until the welfare authority was absorbed into the newly created EHSSB in 1973 when local government in Northern Ireland was reorganised. From 1973 it was run by the EHSSB. Throughout its existence from 1958 until 1980

3 KIN 1085.

4 KIN 1086.

5 KIN 1086.

6 Day 204, p.39.

the warden and officer in charge was Joseph Mains. For a considerable period Mains was the only member of staff responsible for the care of the boys in the home, although he had the assistance of a cook and a cleaner to deal with domestic matters. From September 1964 until February 1966 Raymond Semple was employed as an assistant warden. Semple left in 1966, but returned in June 1969 and continued to work in Kincora as the assistant warden until he was suspended in March 1980. The number of staff was further increased to three with the appointment of William McGrath as house father in June 1971. McGrath worked in that capacity in Kincora until he was also suspended in March 1980. Mains and Semple were suspended at the same time.

Allegations in the *Irish Independent*

- 7 On 24 January 1980, the *Irish Independent* newspaper published an article⁷ making a number of grave allegations of sexual abuse of boys in Kincora, and these matters were taken up by Gerry Fitt MP in the House of Commons. Mains, Semple and McGrath were all suspended by the EHSSB pending the outcome of a major investigation that was immediately started by the RUC.
- 8 There were several allegations in the *Irish Independent*.
 - (1) Boys at the home had been recruited for homosexual prostitution.
 - (2) A police report had been sent to the Director of Public Prosecutions (DPP) but no action was taken.
 - (3) Reports on certain cases were destroyed under orders from a senior member of the “Social Services Department”.
 - (4) A member of staff at the home who was alleged to be involved with a small loyalist para-military group was suspected of encouraging children to engage in homosexual acts for money, and still held a senior position at the home.
 - (5) The police report named a number of important Northern Ireland businessmen as being involved in the abuse of children in the home.
 - (6) One of the children involved was alleged to have committed suicide, and a second to have attempted suicide.
 - (7) The matter first came to light in 1977.

7 KIN 11529.

- (8) One boy who knew of the child prostitution was not provided with support by social workers when he faced a criminal charge, because it was thought advisable to have him locked up where he could not talk.
- (9) Police files on the allegations currently existed in RUC stations at Strandtown and Donegall Pass.
- (10) Some offences were alleged to have involved boys as young as twelve.

The first police investigation

9 A major police investigation was immediately set in train led by Detective Chief Inspector Caskey. During its existence this investigation expanded to include other children’s homes, including Bawnmore Boys’ Home (which is dealt with in Chapter 22 of our Report), and Williamson House, both in north Belfast. We shall refer to this investigation as Caskey Phase One, which resulted in a 121-page report from DCI Caskey, together with over 200 witness statements deemed relevant to the criminal investigation, as well as over a further 100 witness statements not directly relevant to the criminal investigation. The entire file, including DCI Caskey’s 121-page covering report, amounted to 1,709 pages.⁸

The prosecutions

10 During the police investigations Mains and Semple admitted various homosexual offences, some of which were committed with individuals who were no longer resident in Kincora when those offences occurred. McGrath denied all the allegations put to him. The DPP directed that a total of 33 charges be brought against them, and Mains, Semple and McGrath were sent for trial on 1 September 1981. Each of them pleaded not guilty to the individual charges against them on 27 November 1981, and their trial started on 10 December 1981 before Lord Lowry, Lord Chief Justice of Northern Ireland. Mains and Semple then changed their pleas to guilty on various charges. Semple admitted each of the four charges against him.⁹ Mains admitted six of the eleven charges against him, and the prosecution accepted those pleas and entered a *nolle prosequi* on the five remaining

8 KIN 10001-1170

9 KIN 101001

charges, thereby effectively withdrawing them.¹⁰ McGrath maintained his pleas of not guilty to all of the charges against him, and the first witnesses were called on the afternoon of 10 December.¹¹ On the next day McGrath changed his pleas to guilty on fifteen of the eighteen charges against him, and the prosecution entered a *nolle prosequi* against him on the three remaining charges.

- 11 The decision of the prosecution not to proceed with a number of the charges against Mains and McGrath reflected their assessment of the difficulty of establishing those particular charges to the criminal standard of proof beyond reasonable doubt, and the decision to effectively withdraw the charges by entering a *nolle prosequi* was a normal and perfectly proper course for them to adopt.
- 12 On 16 December 1981 Lord Lowry sentenced the accused as follows.
 - (1) Mains received six years imprisonment on two charges of buggery, two years imprisonment on one charge of indecent assault and three charges of gross indecency. All the sentences were concurrent, making a total of six years imprisonment in his case.¹²
 - (2) Semple received five years imprisonment on each of two charges of buggery, and two years imprisonment on each of two charges of gross indecency. All the sentences were concurrent, making a total of five years imprisonment in his case.¹³
 - (3) McGrath received four years imprisonment on each of two charges of buggery, and two years imprisonment on each effecting charges of either gross indecency or indecent assault. All the sentences were concurrent, making a total of four years imprisonment in his case.¹⁴

We refer to the sentencing of these accused in greater detail in the next chapter.

10 KIN 101002.

11 KIN 101016.

12 KIN 21258.

13 KIN 21259.

14 KIN 21260-KIN21261.

Bone, Elder and Witchell

- 13 Mains, Semple and McGrath were not the only men convicted of the homosexual abuse of children in their care as a result of the Caskey Phase One investigation. Peter Bone pleaded guilty to sixteen charges of the 22 charges against him, and was sentenced on 16 December 1981 to a total of two years imprisonment on eight charges of gross indecency and eight charges of indecent assault. All the sentences were concurrent.¹⁵ Some of the offences were committed whilst he was assisting in a voluntary capacity at Bawnmore Boys’ Home.¹⁶
- 14 Robert Dewar Elder also pleaded guilty on 16 December 1981 to one charge of indecent assault and one of gross indecency, and was sentenced to a total of one year’s imprisonment, suspended for two years on each count. These offences also involved a boy at Bawnmore.¹⁷
- 15 On 16 December 1981 Eric Witchell pleaded guilty to six charges of indecent assault and gross indecency. The prosecution entered a *nolle prosequi* on a charge of buggery.¹⁸ These charges related to offences committed by Witchell against three boys who were residents at Williamson House,¹⁹ a children’s home also run by the EHSSB. He was sentenced to 18 months imprisonment on each count, the sentences to run concurrently.²⁰ Bone, Elder and Witchell were sentenced by Lord Lowry on the same day as he sentenced Mains, Semple and McGrath. That six males were sentenced on the same day for sexual offences committed by them at three homes run by the Belfast Welfare Authority and its successor the EHSSB is a sign of the extent of the investigation carried out by DCI Caskey and his officers in the Caskey Phase One investigation. That investigation was not confined purely to Kincora, or indeed Bawnmore or Williamson House, because it expanded to include allegations relating to several other institutions, including the De La Salle School at Rubane. We consider the Rubane allegations elsewhere in this report.

15 BWN 20665.

16 BWN 20665.

17 BWN 20026.

18 KIN 40221.

19 KIN 40220.

20 KIN 40221.

Further investigations

16 When passing sentence on Mains, Semple and McGrath, Lord Lowry expressed his surprise that their crimes had gone undetected for so many years. On 17 December 1981 the EHSSB decided to set up a committee to enquire into the home.²¹ In the following weeks there were further allegations about what had happened in Kincora, notably in three articles by the journalists Ed Moloney and Andrew Pollak published in the Irish Times on 12, 13 and 14 January 1982.

17 We will consider these allegations in the next chapter, but for present purposes it is sufficient to note that in the article of 12 January 1982 it was alleged that;

“The northern authorities blocked an RUC investigation into an alleged homosexual prostitution ring in 1976 which involved British officials in the Northern Ireland Office, police men, legal figures and business men and boys in care at the Kincora Boys Home and other homes run by the Eastern Health Board...”.

The article also alleged that the ring was believed to have been in existence for at least three years, and it was suspected that the ring involved at least seven men, two of whom were British civil servants on secondment to the Northern Ireland Office.²²

18 On 13 January the article dealt in some detail with allegations that between 1975 and 1977 concerns about homosexual offences involving boys in care in Kincora were passed on to their superiors in the EHSSB by at least four social workers, but they were told not to pursue their enquiries in case they prejudiced an ongoing police investigation at the time. This article also referred at some length to the experiences of two former residents at Kincora, one of whom it was said jumped from the Liverpool boat into the Irish Sea whilst being sent back to Belfast from Liverpool and was drowned. Misgivings about the case of the other, who it is clear was Richard Kerr, combined with what was alleged to be “apparent inaction on the part of the authorities concerning other allegations finally persuaded a number of social workers to publicise the Kincora affair”.²³

21 KIN 21311.

22 KIN 21312.

23 KIN 21316.

- 19 In the third and final article on 14 January 1982 the allegation was made that the Belfast Welfare Authority was alerted about homosexual offences in the Kincora Boys Home in 1971 but failed to take any action. The article described the experiences of an ex-resident who wished to remain anonymous and who lived in Kincora between 1968 and 1971. The ex-resident, who gave evidence in due course to the Hughes Inquiry when he was known as R 8, sent two letters dealing with his experiences to the Belfast Social Services but never received a reply.²⁴
- 20 These allegations, and other similar allegations that appeared in other newspapers, such as an article in the *Irish Independent* on 13 January 1982 by Peter McKenna, whose article of 24 January 1980 in the *Irish Independent* sparked the Caskey Phase One investigation, and calls by a number of Northern Ireland MPs for an investigation into these matters, no doubt contributed to the announcement on 15 January 1982 by the then Secretary of State for Northern Ireland, the Rt Hon James Prior MP that he had set up a Committee of Inquiry into Children’s Homes and Young Persons Hostels. The Chairman of the Committee was Stephen McGonagle, previously the Northern Ireland Parliamentary Commissioner for Administration and Commissioner for Complaints, or the Ombudsman as the holder of the combined posts was more usually described.²⁵ There were four other members, two of whom were leading figures in the social work field from England, and the other two were individuals of some standing in Northern Ireland. One of these was Dr George Humphreys, the Chairman of the Northern Health and Social Services Board. He resigned shortly afterwards because he had a relative connected with the social services in the Eastern Board, which was to be the main focus of the Inquiry.²⁶ Dr Humphreys was replaced by a distinguished former headmaster, Dr Stanley Worrall.²⁷
- 21 It is unnecessary to set out the Terms of Reference of the McGonagle Committee because it proved to be very short-lived. It came to an end on 12 February 1982 after only two witnesses had been called, Mr Fitt MP and Detective Superintendent Caskey, who by now had been promoted from Detective Chief Inspector.²⁸ Three members of the committee said that they felt unable to continue until all police enquiries had been completed.

24 KIN 40983.

25 KIN 21270.

26 KIN 21273.

27 KIN 21272.

28 KIN 20004.

- 22 The reference to police enquiries was to a decision by Sir John Hermon, the Chief Constable of the RUC, on 10 February 1982 to set up a further investigation. This was also led by Detective Superintendent Caskey under the direction of Assistant Chief Constable (ACC) John Whiteside.²⁹ On 18 February 1985 Sir John Hermon announced that in order to allay public concern into what he described as “much rumour and unsubstantiated information”, he had appointed the same team of RUC detectives (i.e. Detective Superintendent Caskey and his officers) to establish if there was any substance to the rumours and unsubstantiated information.³⁰
- 23 Other allegations had been made on the BBC television *Scene Around Six* programme by the journalist Christopher Moore on 11 February 1982,³¹ based on an allegation by another ex-resident of Kincora, Hugh Quinn. On the next day, Friday 12 February, Hugh Quinn also appeared on a BBC *Spotlight* programme on Kincora. The programme referred to:
- “...Rumours about prostitution rackets, security forces interest in one of the accused and allegations and counter allegations about who knew what, and when and how.”³²

The programme also raised specific issues as to why complaints in 1967 and 1971 did not result in police prosecutions, and why later complaints were not followed through.³³

Sir George Terry’s investigation

- 24 Sir John Hermon also announced that because of inferences which had been made about the way in which the police had conducted their enquiries, “In order to put the matter beyond any doubt and to alleviate public concerns”, he had requested the appointment of an outside chief constable to investigate these allegations. He stated that the outside chief constable:

“Will have full access to all the papers past and present and in addition will have general oversight of the continuing investigations. In due course he will forward a report to me and his conclusions will be made public”.³⁴

29 KIN 20005.

30 KIN 21277.

31 KIN 20920.

32 KIN 20926.

33 KIN 20927.

34 KIN 21277.

Sir George Terry, the Chief Constable of Sussex Constabulary, agreed to take on this task. He was assisted by two officers from his force, Superintendent Harrison and Superintendent Flenley.³⁵

- 25 The appointment of Sir George Terry and his officers from the Sussex Constabulary meant that two parallel investigations took place. As we shall see, the Sussex officers reviewed the entirety of the Caskey Phase One investigation, and re-interviewed many of those interviewed by the RUC in the Caskey Phase One investigation. They explicitly raised with the Kincora ex-residents whether they had been aware of homosexual activity involving people from outside the home. Superintendents Harrison and Flenley produced extremely detailed and comprehensive reports, and although their reports were part of, and relied upon by Sir George Terry in his report, they have not hitherto been published. Sir George Terry described his published report as “a summary together with relevant background, of the enquiries”, carried out by himself. As he emphasised, his report should be read in conjunction with the separate report prepared by Superintendents Harrison and Flenley.³⁶
- 26 Sir George Terry’s report was delivered on 27 May 1983 and later published. To distinguish it from the longer report by Superintendents Harrison and Flenley, we shall refer to their investigations and reports as being the Sussex Police Report to distinguish them from the distinct report by their Chief Constable, which we refer to as the Terry Report.

Caskey Phase Two investigation

- 27 On 26 August 1982 Detective Superintendent Caskey submitted his 211-page report on his Phase Two investigation which was part of a file which, including witness statements and other documents, amounted to 1,702 pages. During that investigation his enquiries extended to British Military Intelligence, and included allegations in respect of John Colin Wallace, a former member of the Army Information Service stationed at British Army Headquarters Northern Ireland (HQNI) at Thiepval Barracks in Lisburn, Co Antrim. In view of the sensitive nature of those enquiries, and the attachment to the report of documents which were classified, ‘secret’ or ‘confidential’, it was agreed between the Director of Public Prosecutions in Northern Ireland (the DPP) and the ACC Crime of the

35 KIN 40001.

36 KIN 40001.

RUC that this file would be submitted to the DPP under “Secret Cover”. We refer to this separate and secret file as Caskey Phase Three. That file was submitted by Detective Superintendent Caskey on 16 March 1983 and consisted of a 58-page covering report, 106 pages of witness statements as well as exhibits and other documents amounting to 407 pages in all.³⁷ The DPP later issued a direction that there be no prosecutions on the Caskey Phase Two file. On 16 May 1983 the DPP issued a further direction that the initiation of criminal proceedings against any persons was not warranted on the information and evidence contained in the Caskey Phase Three file, and the file was therefore marked “No prosecution”.³⁸

The Hughes Inquiry

28 Following the termination of the work of the McGonagle Committee of Inquiry, on 18 February 1982, the Secretary of State for Northern Ireland announced in the House of Commons that he did not propose to reconstitute that Inquiry. He recognised the need:

“To investigate the failure to identify earlier malpractices in some [homes and hostels for children and young persons] and to examine and assess present policies, procedures and practices for their administration”.

He continued:

“In these circumstances, after the current police investigations and any consequent criminal proceedings are complete, I intend to appoint a committee, with a High Court Judge as Chairman, sitting in public. The Terms of Reference of such an Inquiry and the powers it might need cannot be determined until the results of the present investigations are known. But I am anxious that there should be no lasting cause for public disquiet that the truth has not been wholly discovered.”³⁹

29 In exchanges which followed his statement, the Secretary of State responded to questions by Mr Gerry Fitt MP as to whether the proposed inquiry would have power to take out of prison those who had been convicted because of allegations at Kincora. This was presumably a

37 KIN 30001–30407.

38 KIN 100020.

39 KIN 21274.

reference to Mains, Semple and McGrath. Mr Fitt also asked whether the Inquiry:

“Would enable Mr Colin Wallace, a former British Army security spokesman, who gave an interview to journalists in 1975 and made them aware of all the aspects of Kincora, to be brought before the Inquiry or the courts?”

30 The Secretary of State replied to these points by saying:

“The hon gentlemen asked about the powers of the Tribunals of Inquiry (Evidence) Act [1921]. He asked whether, if we decided on that type of Inquiry, the Inquiry would have power to call for people who had been imprisoned for one offence or another. Such an Inquiry has complete powers to call for evidence from whomsoever it desires. Therefore, the answer to his question is ‘Yes’.”⁴⁰

31 In the event, the Secretary of State did not appoint a Committee of Inquiry under a High Court judge, nor was the Inquiry set up under the 1921 Act. With the publication of the Terry Report and the earlier decisions of the DPP to direct no prosecution in relation to the matters considered in the Caskey Phase Two and Phase Three reports, on 18 January 1984 a Committee of Inquiry was set up with his Honour William Hughes, a recently retired circuit judge in England, as Chairman. As well as Judge Hughes (to use the title by which he was commonly referred to thereafter), the other members were Mr W J Patterson and Mr H Whalley. The Committee (which we shall refer to as the Hughes Inquiry) was appointed on 21 March 1984 by the Department of Health and Social Services for Northern Ireland (the DHSS) by virtue of the powers conferred on it by Article 54 and Schedule 8 of the Health and Personal Social Services (Northern Ireland) Order 1972.⁴¹ In a later chapter we shall examine the reasons why this course was adopted instead of the original promise that a tribunal of Inquiry under the 1921 Act chaired by a High Court judge would be appointed once the police enquiries and any subsequent prosecutions had been concluded.

32 The Hughes Inquiry conducted 60 days of public hearings, during which a number of ex-residents of Kincora, and a substantial number of other witnesses from Belfast Welfare Authority, the EHSSB, the DHSS and the RUC gave evidence. We shall consider parts of the evidence given

40 KIN 21275.

41 KIN 75380.

during the oral hearings, and of the 340-page report that relate to Kincora in greater detail in later chapters. It is sufficient to note at this stage that the findings and recommendations of the Hughes Inquiry helped to contribute to major changes in childcare practice in Northern Ireland, particularly in the fields of recruitment, training and the terms and conditions of staff.

33 The investigations carried out by the Hughes Inquiry were not confined simply to the Kincora Boys’ Home, because they investigated eight other children’s homes or hostels.

- Valetta Park Hostel, Newtownards, Co. Down.
- Bawnmore Hostel, (which we examine elsewhere in this report).
- Williamson House Children’s Home.
- The Palmerston Reception Assessment Centre.
- The Nazareth Lodge Children’s Home in Belfast.
- The De La Salle Boys Home at Rubane House, Kircubbin, Co Down.
- Barnardo’s Sharonmore Project.
- Manor House outside Lisburn, Co Antrim.

In our Inquiry we have examined all of these homes, and refer to them elsewhere in our Report, with the exception of Valetta Park Hostel, Palmerston Reception and Assessment Centre and Williamson House.

34 In relation to Kincora, the Hughes Inquiry expressly considered whether there had been a “cover-up” in respect of two periods. It defined a “cover up” at 3.174 as:

“The failure of persons in positions of responsibility to take action appropriate to their office and/or the destruction or suppression of information or records, in pursuance of an improper motive.”⁴²

35 The first period concerned complaints by residents and ex-residents up to 1971. The Hughes Inquiry pointed out that:

“No person ever came forward with evidence of a deliberate or concerted ‘cover-up’ of the Kincora scandal by the Belfast Welfare Authority, but publicity frequently suggested that one may have been organised.”⁴³

42 KIN 75251.

43 KIN 75251.

At 3.175 the Inquiry expressly rejected the suggestion that either Mr Mason, the senior official in the Belfast Welfare Authority at the time, or Mr Moore, his deputy, had been engaged in a cover-up of allegations against Mains, which were investigated in 1967. At 3.176 the Inquiry took the view that Mr Mason’s recommendation to the Town Clerk that the 1971 complaints against Mains should be referred to the police clearly absolved him from any “cover-up” allegation, and concluded that they could not find that there was a “cover-up”.⁴⁴

36 At 3.177 they said:

“We received no complaints that the Belfast Welfare Committee became aware of complaints or suspicions concerning the Kincora staff, except through Mr Moore’s comment to the late Councillor [Joss] Cardwell. There is no evidence that Councillor Cardwell took steps to prevent or suppress the matter. Nor is there any evidence that the Ministry of Home Affairs became aware of allegations or rumours relating to homosexual misconduct at Kincora”.⁴⁵

The reference to the Ministry of Home Affairs was because that ministry was the department responsible for the regulation and inspection of children’s homes in Northern Ireland during the first period.

37 In their conclusions regarding Kincora, the Hughes Inquiry dealt with allegations that there had been a ‘cover-up’ in years subsequent to 1971 at paragraphs 4.226 to 4.230. They concluded that there were only two aspects of the way various officers of the EHSSB dealt with allegations, or suspicions, about Kincora that, “required serious consideration in the context of a possible “cover-up””. They rejected that either of those aspects could be so considered and stated at 4.228, “...the evidence against a concerted “cover-up” is overwhelming”.⁴⁶

38 In the published Summary of his Report Sir George Terry expressed a number of conclusions that are relevant to Kincora.

- There was absolutely no evidence that residents of any children’s home were involved in anything resembling homosexual rings of the type alleged.⁴⁷

44 KIN 75251.

45 KIN 75251.

46 KIN 75300.

47 KIN 40019.

- While there was a lack of awareness over intelligence, and some information which was not as thoroughly recognised, there was no “cover-up” or concealment of evidence, or disciplinary breaches by the RUC personnel.⁴⁸
- No complaint was received by the RUC from any victim at Kincora, or other boys’ homes, until the Caskey Phase One investigation was launched in 1980.
- In the absence of such complaints there were limits to the action which could be taken by the police on the basis of unsubstantiated rumours or allegations.
- That said, there were several occasions which should have attracted greater interest and a more positive approach.
- These occasions were due to inadequacy or inefficiency, and were lapses in professionalism.
- Despite these lapses, he did not consider that an earlier investigation would reasonably have been prompted on the basis of information available to those officers.⁴⁹
- Despite his attempts to persuade reporters to provide him with evidence or the identity of witnesses who could substantiate their allegations of a “homosexual ring”, no reporter provided any fresh or real evidence, and he considered that, despite the evidence the reporters claimed was available, they had no such evidence.⁵⁰ He concluded that there was no justification in the allegations that there was an involvement in any homosexual practices [in or relating to Kincora] by British officials in the Northern Ireland Office, or any action by them to suppress police enquiries in that connection.

39 He made the following observation about the allegation that some in military circles were aware of homosexual activity in Kincora.

“The media have also given a degree of prominence to the fact that some Military circles were aware of homosexual mis-practice in the Kincora Boy’s hostel. The military sources had been very frank with me and perfectly open during the ongoing enquiry by our own team under Detective Superintendent Caskey. Let me say quite clearly

48 KIN 40020.

49 KIN 40020.

50 KIN 40021.

that once more I sought evidence from all sources including the military with negative result”.⁵¹

We shall consider these particular comments further in the chapter dealing with the security services.

- 40 We have already mentioned the remarks of Mr Fitt MP in the House of Commons on 18 February 1982, when he referred to Mr Colin Wallace having allegedly given an interview to journalists in 1975 during which, in Mr Fitt’s words [Mr Wallace] “made them aware of all the aspects of Kincora”. In a later part of this Report, we shall examine the allegations made by Mr Wallace over the years. At this stage it is sufficient to say that it was not until 1984 that a document emanated from him which he claims was drawn up by him in November 1974. This document is of great significance in the sequence of events relating to Kincora, as was recognised by the RUC at the time. They passed the document to the Hughes Inquiry. As we shall see in due course, the Hughes Inquiry was unable to persuade Mr Wallace to answer a number of pertinent questions relating to this document, nor were the police, despite considerable efforts by both to persuade Mr Wallace to cooperate with them. Because of doubts about the authenticity of the November 1974 document, Detective Superintendent Caskey carried out a further investigation relating to that document. His file containing his report, and the associated statements and exhibits, was submitted to the ACC Crime on 28 August 1985. We shall call that Caskey Phase Four.
- 41 In the succeeding chapters of this Report, when we consider the relevant material relating to the role of social services and other departments and agencies in the events concerning Kincora, we shall examine in greater detail material from: the four Caskey files; the Sussex Police investigations; the transcripts of evidence given to the Hughes Inquiry; those parts of the Hughes Inquiry Report which directly concern Kincora; as well as material from other sources.
- 42 For the purposes of this introductory chapter it is enough to say that despite the emphatic conclusions expressed by Sir George Terry and by the Hughes Inquiry - that each of them had found no evidence to support the allegations of a cover-up of the abuse of residents at Kincora, or of a homosexual vice ring involving residents at Kincora and prominent public figures, civil servants at the Northern Ireland Office and others -

51 KIN 40023–40024.

allegations to that effect persisted. Allegations have also persisted that the RUC and the security services were aware of the abuse of boys in Kincora, and either failed to prevent that abuse or exploited it in various ways.

- 43 These allegations have been made by many individuals over many years in various ways in newspaper articles and in television programmes. They have also been made, examined or referred to in a number of books, notably in *Who Framed Colin Wallace* by Paul Foot, first published in 1989; in *The Dirty War* by Martin Dillon published in 1990; and in *The Kincora Scandal political cover up and intrigue in Northern Ireland* by Chris Moore, first published in 1996.
- 44 Colin Wallace was dismissed from his position as a civilian employee of the Army Information Services of the Ministry of Defence in 1975 in circumstances which we shall examine in due course. In 1980 he was prosecuted for the murder of Jonathan Lewis, with whose wife he had been having what was described by the Court of Appeal in 1996 as an “amorous but not adulterous affair”. On 20 March 1981 he was acquitted of the murder of Jonathan Lewis, but convicted of his manslaughter and sentenced to ten years in prison. Colin Wallace’s first appeal against his conviction was dismissed in February 1982; he served his sentence and was released in 1986. His conviction was later referred to the Court of Appeal by the Home Secretary, and on 9 October 1996 the Court of Appeal Criminal Division allowed the appeal and quashed his conviction for manslaughter.
- 45 In 1989 certain materials discovered by the Ministry of Defence (MOD) led it to look again at the circumstances of Colin Wallace’s dismissal in 1975. David Calcutt QC was appointed to review the material relating to the dismissal. He concluded that Colin Wallace’s dismissal had not been justified and recommended that he be paid £30,000 compensation. The MoD accepted the recommendation. As will be apparent in a later chapter, the circumstances surrounding Colin Wallace’s dismissal from his post in 1975, and what he alleged then and subsequently, are inextricably bound up with any examination of what he says did or did not happen in Kincora, and what the security services, including Army Intelligence, did or did not know about the sexual abuse of boys in Kincora. The relevance of Colin Wallace’s conviction, and ultimate acquittal, on the charge of manslaughter of Jonathan Lewis to this Inquiry, is that when he was in prison between 1980 and 1986 he engaged in a voluminous

correspondence with a great many public figures, including the Prime Minister, in an attempt to establish his innocence on the charge that resulted in his conviction. During that time, in his correspondence, Colin Wallace made numerous allegations about Kincora as part of his argument that he was dismissed from his civilian employment in 1975 because of what he said he knew about Kincora, and his belief that his knowledge was instrumental in his being wrongly prosecuted and convicted of the manslaughter of Jonathan Lewis. He also made a number of allegations about what he maintained was malpractice on the part of the security services in relation to various activities in Northern Ireland.

- 46 For many years the British Government rejected all allegations of any involvement of the security services in the abuse of boys at Kincora, relying upon the findings of the Hughes Inquiry and of Sir George Terry, as well as the absence of any charges being brought as the result of the extremely detailed investigations carried out by the police in the form of the Caskey Phase Two, Phase Three and Phase Four investigations, and the investigations by the Sussex Police.
- 47 Following the commencement of this Inquiry, a number of applicants to our Inquiry said that they were abused whilst they were resident in Kincora, and on 4 September 2013 when we announced the first thirteen institutions that we intended to investigate, Kincora was included. The constitutional division of responsibilities between the Government at Westminster and the Northern Ireland Executive gives the Northern Ireland Executive responsibility for, and the Northern Ireland Assembly the legislative competence to deal with, only those functions that had been devolved to Northern Ireland. This meant that our investigation into Kincora would necessarily be restricted to considering those organisations such as the Belfast Welfare Authority, the EHSSB, and the police, which were at some time in the past the responsibility of the Northern Ireland Government of the time.
- 48 Our statutory powers are contained in the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013, (the 2013 Act), which is an Act of the Northern Ireland Assembly passed to enable our Inquiry to investigate institutional abuse in Northern Ireland in those homes within our Terms of Reference between 1922 and 1995, as set out in a statement to the Assembly made by the First Minister and deputy First Minister acting jointly on 18 October 2012. Section 9(2) and 9(3) of

the 2013 Act embodied that restriction by limiting our powers to require individuals to give evidence and to produce documents or any other thing to the Inquiry. The announcement in 2014 by the then Home Secretary, the Rt Hon Theresa May, that she intended to set up an independent Inquiry into child abuse in England and Wales resulted in calls within Northern Ireland that matters relating to Kincora should be examined by that Inquiry. In response to questions posed by the then First Minister, the Rt Hon Peter Robinson MLA on 17 July 2014 the Chairman replied to the effect that whilst the Inquiry was already committed to investigating whether there were systemic failings in relation to Kincora, unless Westminster departments such as the MoD and the Home Office,

“Voluntarily agreed to co-operate they cannot be compelled to produce documents, nor can we compel anyone from those departments, serving or past to assist the HIA Inquiry in the way we can when dealing with institutions or official bodies in Northern Ireland”.

- 49 However, the situation changed when, in the Autumn of 2014, the Northern Ireland Office approached the Inquiry to ascertain what our view would be were Her Majesty’s Government to enhance the work of the Inquiry to enable all the allegations relating to Kincora to be properly investigated by this Inquiry, a matter that was being considered by the Home Secretary and the Secretary of State for Northern Ireland. As the result of a meeting between the Chairman, the Inquiry Secretary and Inquiry Solicitor with the Permanent Under Secretary of the Northern Ireland Office and his officials on 16 October 2014 the Chairman set out four requirements that would have to be met by Her Majesty’s Government before the Chairman could accept the suggested enhancement of the role of this Inquiry.
- (a) Details of all files relating to Kincora held by all UK Government Departments and agencies would be provided to this Inquiry.
 - (b) A senior civil servant will confirm to the Inquiry at a suitable time that all relevant files have been produced or accounted for.
 - (c) That the additional cost that the Inquiry would incur in investigating the non-devolved UK Government Departments and agencies that the Inquiry may have to investigate would be covered in principle by HM Government.
 - (d) That a suitable form of immunity would be provided by the Attorney General for England and Wales for witnesses who co-operate with the Inquiry and in particular that undertaking would relate to any allegation of an offence arising under the Official Secrets Acts.

50 On 21 October 2014 the Home Secretary and the Secretary of State for Northern Ireland announced to the House of Commons that they felt that as this Inquiry was already in being and intended to investigate Kincora, and that as the protection of children was a devolved matter, it was felt that this Inquiry was the better forum to investigate all aspects of what happened at Kincora. The Secretary of State then gave a number of assurances which met the Chairman’s four requirements. In particular she said:

“There will be the fullest possible degree of co-operation by all of HM Government and its agencies to determine the facts”;

and

“All government departments and agencies who receive a request for information or documents from the Inquiry will co-operate to the best of their ability in determining what material they hold that might be relevant to it on matters for which they have responsibility in accordance with the Terms of Reference of the Inquiry”.

51 The Inquiry welcomed these assurances, saying that:

“As we have already announced, and as the Secretary of State has said, the HIA Inquiry is investigating Kincora, and so her announcement does not extend the Terms of Reference of our Inquiry. On the contrary, it now provides our Inquiry with the means to investigate the activities of non-devolved Government Departments and agencies.

We are satisfied that the assurances of full co-operation by all Government Departments and agencies, and the satisfactory resolution by HM Government of the other issues the Inquiry has raised with it, will provide our HIA Inquiry with the ability and financial resources to carry out an effective and thorough investigation into all the Kincora allegations.

However, should it become apparent during our work that it is necessary to have powers under the Inquiries Act 2005 then we will ask OFMDFM and HM Government to confer such powers on our Inquiry”.

52 Following the assurances given by the Secretary of State for Northern Ireland to the House of Commons, the Inquiry immediately put in train the steps we considered necessary to expand the scope of our investigations to enable it to investigate the actions of the non-devolved departments

and agencies relating to Kincora, particularly the MoD regarding Army Intelligence, the Security Service (MI5), the Secret Intelligence Service (MI6), the Northern Ireland Office and the Cabinet Office. As part of the process, we requested the Police Service of Northern Ireland to make available to us a large quantity of material relating to the various investigations carried out by the Royal Ulster Constabulary, including relevant files held by RUC Special Branch.

The Hoy judicial review

- 53 The decision by the Secretary of State to request the Inquiry to expand its investigation into Kincora was challenged in an application to the High Court for judicial review brought by Gary Hoy, a former resident of Kincora and applicant to the Inquiry. The judicial review was initiated in 2015 and brought against the Secretary of State for Northern Ireland and the Inquiry. In addition to affidavits sworn by Gary Hoy himself, supporting affidavits were filed by a number of individuals, including Richard Kerr to whom we refer in the next chapter. The judicial review application was based on a number of grounds which can be seen from the judgment of Mr Justice Treacy, and that of the Lord Chief Justice when delivering the judgment of the Court of Appeal.
- 54 From the Inquiry’s perspective, the key issues were firstly whether the Inquiry’s investigation into any involvement in the sexual abuse of residents at Kincora on the part of state agencies had to comply with the provisions of Article 3 of the European Convention on Human Rights. Secondly, if the Inquiry had to comply with Article 3, whether its powers and procedures were capable of complying with Article 3. The Inquiry’s position was that irrespective of whether or not Article 3 applied, if the Inquiry felt that it was not receiving full assistance from British Government Departments and Agencies, it would not hesitate to say so and, if necessary, request the First Minister and deputy First Minister and the Secretary of State for Northern Ireland to confer on the Inquiry such powers under the Inquiries Act 2005 as might be necessary. The Inquiry also submitted that in any event the application was premature, and that the time to consider whether Article 3 applied, and if so whether it had been complied with, was after the Inquiry had conducted its investigations and delivered its Report.

- 55 On 8 April 2016 Mr Justice Treacy dismissed the application, describing it as “premature and misconceived”. On 27 May 2016 the Court of Appeal dismissed the appeal, stating that the Inquiry was entitled to proceed along the path mapped out by it, and on 31 May 2016 the Inquiry started its public hearings into Kincora.

The Inquiry’s investigation into Kincora

- 56 Following the assurances given by the Secretary of State to the Inquiry in October 2014 the Inquiry expanded its investigation into Kincora to include the non-devolved departments and agencies, and we shall explain our work in that area in greater detail in the appropriate chapter. At this stage we need only briefly outline the steps taken. The Inquiry asked for details of all files relevant to Kincora held by all the non-devolved departments of Government, as well as those held by the Secret Intelligence Service and by the Security Service, to be notified to the Inquiry. Once details of those files were given to the Inquiry the work of examining the files got underway as soon as other Inquiry commitments permitted. The examination of the files which seemed likely to contain the most important and relevant documents was given priority by the Inquiry, and started in April 2015. This work continued despite the judicial review so that the Inquiry would be in a position to start its public hearings at the conclusions of the judicial review proceedings if the courts upheld the Inquiry’s position. Had the Inquiry not taken the precaution of proceeding with its investigative work during the judicial review, even at the risk of an unfavourable outcome for the Inquiry, it would have been impossible for us to have completed our public hearings by 18 July 2016 as we were required to do within the revised timetable given to us by the Northern Ireland Executive and Assembly when we were given an extra year to complete our work.
- 57 At the beginning of the hearings held by the Inquiry into Kincora on 31 May 2016 the Chairman explained that the Inquiry intended to investigate the following issues.
- (a) The nature and extent of sexual abuse perpetrated on residents of Kincora; abuse that resulted in the arrest, conviction and sentence of Mains, Semple and McGrath.
 - (b) Who perpetrated that abuse.

- (c) Whether the abuse of boys resident in Kincora occurred in Kincora itself or elsewhere in Northern Ireland.
- (d) When such abuse occurred.

58 He explained that the Inquiry intended to investigate “whether there were systemic failures to prevent such abuse on the part of those responsible for the management of Kincora or on the part of other state entities”. He explained that the following entities would be investigated.

- (a) Belfast County Borough Welfare Committee and Department and its successor the Eastern Health and Social Services Board.
- (b) The Royal Ulster Constabulary.
- (c) The Secret Intelligence Service.
- (d) The Security Service.
- (e) The Ministry of Defence.
- (f) The Northern Ireland Office.

59 He then explained that in relation to each of these entities the Inquiry intended to investigate the following matters.

- (a) Whether members of the organisation or body concerned knew of the abuse.
- (b) What they knew.
- (c) When they knew.
- (d) What did they do with any knowledge they had.
- (e) What should they have done with any knowledge they had.

He explained that the Inquiry intended to consider:

“The full ambit of previous investigations carried out into Kincora arising from, or connected with, these matters, as well as the responses of these organisations or bodies to those investigations. This will include the Hughes Inquiry, several investigations by the RUC, and the investigation carried out by the Sussex Constabulary under the direction of Sir George Terry. It will also involve the examination of the steps taken in later years by the RUC, the Secret Intelligence Service, the Security Service, the Ministry of Defence, the Northern Ireland Office and the Cabinet Office to address the allegations made in the media and elsewhere about what the various state agencies did, or did not know, about the sexual abuse of children in Kincora, and what those agencies did, or should have done with any such knowledge.”

- 60 Having pointed out that the Inquiry did not need to resort to powers of compulsion “when there is voluntary and full co-operation, by those from whom information and documents are sought”, the Chairman confirmed that the Inquiry had been provided with full and voluntary co-operation by all HM Government departments and agencies. He also confirmed that we were satisfied that we had been able to inspect all relevant material held by the PSNI, as the successor to the RUC, which the Inquiry considered relevant to its work.
- 61 We want to repeat what was stated by Junior Counsel to the Inquiry on several occasions during the nineteen sitting days devoted to an examination of events relating to Kincora, namely that we have been able to examine in unredacted form all documents which we have had produced to us. Although there is a very substantial quantity of hitherto secret material (including the four voluminous Caskey files to which we have already referred) held by the SIS, by the Security Services, by the RUC Special Branch, by the NIO and by the Cabinet Office, these documents, or extracts from them, are part of an even greater quantity of material held by these various agencies and departments which the Inquiry has examined as part of its work. We have been given complete access to all the files we wished to see, and the Inquiry has studied all of the material contained in those files, and not just the material which it has publicly referred to. We did not consider that every page of every file, or every part of every page, needed to be produced or examined in public. Some of the material was not relevant to the issues we set ourselves to examine. Other parts that were relevant, such as the identity of serving or retired officers of the security services, or agents of any of these agencies, or others who were engaged in intelligence work, could not be published in case the safety of those individuals or the interests of national security were endangered. Whilst we took into account the views of the security services, and of Government departments, when deciding what should be published or what should be redacted (that is, blacked out in the text) we have been able to publish everything that we believed was necessary to be published.
- 62 From the beginning of our work on Kincora we have proceeded on the basis that as much as can be properly put before the public must be, and has been made, publicly available, thereby enabling everyone who wishes to know what happened in Kincora to see the documents which we had publicly examined. In the interest of maximum disclosure,

wherever reasonably possible, we did this in completely open sessions, so that our total commitment to carrying out a comprehensive and thorough investigation can be scrutinised. In doing so, and having decided for ourselves the extent and manner to which we should carry out our investigations, we have been conscious throughout that, in the words of the Lord Chief Justice in the judgment of the Court of Appeal in the Hoy case:

“There is a suggestion in this case that children in Kincora were abused and prostituted in order to satisfy the interest of national security. If that is true it must be exposed. ...If the suggestion is not true the rumour and suspicion surrounding this should be allayed”.