

THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE 1922 TO 1995

WRITTEN SUBMISSION ON BEHALF OF SND 43

A. Introduction

1. The witness SND 43 provided a witness statement to the Inquiry dated 28th February 2014 [SND-15873]. She gave evidence to the Inquiry on 10th April 2014. She is the subject of allegations made by two witnesses to the Inquiry: first, HIA 233, whose statement is dated 25th November 2013 [SND-5561] and who gave evidence on 4th March 2014; secondly, HIA 127, whose statement is dated 24th July 2013 [SND-5049] and who gave evidence on 5th March 2014. HIA 127 is a brother of HIA 233.

B. The allegations

2. The allegations relate to a period in or around the late 1980s when SND 43 was employed as a 'House Parent' in Unit 2 at Nazareth House. HIA 233 makes the specific allegation that SND 43 and others 'force fed' her; she also says that SND 43 used to tell her she was looking forward to meal times and would 'take care' of her. She alleges that SND 43 used to hit her on the back of the head as she walked along the corridor and 'bumped into' her deliberately. She alleges that SND 43 would 'buy silence' with gifts. She accuses SND 43 (and others) of calling another young girl in the home a 'spastic' and 'retard'. HIA 233 also says that SND 43 and another worker SND 38 would throw her two brothers HIA 127 and SND 283 into freezing baths and showers. She also says that she witnessed SND 44, who is the former husband of SND 43 and whom she (erroneously) describes as a staff member, hit her brother HIA 127 with the back of his hand.
3. HIA 127 makes one specific allegation against SND 43. He says that he had an argument with SND 43 one day and that he thinks he hit her. He says that SND 43 then threatened him with her husband SND 44, who came to Nazareth House the next day and slapped him around the head in his bedroom. HIA 127 also makes

allegations against ‘civilian staff’ but without specifically naming SND 43 as being responsible.

4. In her statement, SND 43 categorically denies the allegations made against her by HIA 233 and HIA 127, both the specific allegations and any general allegations made against staff that may by implication include SND 43. SND 43 says that she has worked with children for over 30 years, dedicating herself to a role that she regards as a vocation rather than a duty. She has an unblemished record working in that role. She maintains that she has acted properly and professionally at all times in her work with children. She is deeply hurt by the allegations and cannot understand why HIA 127 and HIA 233 are making ‘completely unfounded’ allegations against her. She draws attention to one occasion on which she met HIA 233 (with one of the latter’s children) after HIA 233 had left Nazareth House. They had an amicable conversation in which no mention was made of these allegations. She saw HIA 233 on another occasion and waved at her; HIA 233 acknowledged her wave in return.
5. In her oral evidence on 4th March 2014, HIA 233 did not elaborate on the allegations against SND 43: see Day 16, page 77, line 10 to page 78, line 13; page 90, line 16 to page 97, line 3. The contents of SND 43’s statement were put to her. On being told that SND 43’s husband was not a member of staff, she said that he was an adult in the home and she had assumed he was staff. She accepted that she had met SND 43 at one stage but said that she did not have one of her children with her. She went on to say that she never had a conversation with SND 43.
6. In his oral evidence on 5th March 2014, HIA 127 was asked about the alleged incident involving SND 43’s husband: see Day 17, page 51, line 17 to page 54, line 11. He confirmed the allegation and described SND 43’s denial as lies.
7. SND 43 gave oral evidence on 10th April 2014. She repeated her denial of the allegations before the Inquiry. She also assisted the Inquiry by answering questions about the working arrangements in Nazareth House at the relevant time and by explaining the contents of documentation that was brought to her attention.

C. The purpose of submissions

8. It is acknowledged that the Inquiry's terms of reference require an examination of whether there were 'systemic failings' by institutions or the state in their duties towards those children in their care between the years of 1922-1995. The correspondence of 14th April 2014 reminds representatives in preparing submissions that that the Inquiry is not determining civil or criminal liability, but is considering matters within the terms of reference that are relevant to systemic failings.
9. Notwithstanding the Inquiry's focus on systemic failings as opposed to the attribution of blame to individuals, it is important that individuals subject to criticism or allegation should have a proper opportunity to respond for several reasons. First, as a matter of procedural fairness, an individual placed in that position is entitled to address the complaint that is made against her.
10. Secondly, even though the individual is afforded the benefit of anonymity, criticism of the institution may potentially reflect on individuals at all levels who worked therein. This is particularly so where the number of staff employed in the institution at a given time is fairly low. It is important therefore that individuals on whom criticism of an institution may rebound adversely should have a voice in the process established to consider the broader picture.
11. Thirdly, a focused analysis of complaints at the level of the individual will assist the Inquiry in its examination of systemic matters. If, for example, the Inquiry had reservations about placing wholesale reliance on the evidence of those making complaints, the Inquiry may be more cautious in arriving at the conclusion that an institution suffered from systemic failings. In order to enable the Inquiry to arrive at informed conclusions about systems, it is necessary to consider carefully the basis of allegations about individual conduct.
12. Fourthly, while the Inquiry's focus is on failings at the institutional level, the Inquiry may wish to acknowledge the positive contribution of individuals who have worked in the relevant institutions and to whom systemic fault cannot be attributed. It is submitted that SND 43 falls within that category of witness.

D. Submissions on the evidence

13. For all of the above reasons, SND 43 welcomes the opportunity afforded by the Inquiry to address the allegations and criticisms that have been made of her by the two witnesses HIA 233 and HIA 127. In addition to her oral and written denial of the allegations, the following submissions are made on her behalf in respect of those matters.
14. SND 43 has had a long and successful career working with children. The present allegations are isolated and, it appears, unsupported by any other material before the Inquiry. SND 43 worked at Nazareth House from November 1982 to in or around 1999 when Nazareth House closed. She has continued to work with children since then. No other individual has made any complaint whatsoever about her conduct.
15. HIA 233 refers at paragraph 15 of her statement to having reported the allegation of ‘force feeding’ (as well as alleged abuse by others) to her social worker SND 475, with whom HIA 233 says she enjoyed a good relationship. This is not recorded in her social work records: Day 16, page 87, lines 2 to 16. She also says that SND 328 knew about this matter and that she told her primary school teacher SND 329 about it; it does not appear that those witnesses have supported her account. It is submitted that this lack of independent verification of any report of the allegation of ‘force feeding’ undermines its credibility.
16. HIA 233 and HIA 127 are brother and sister. It is submitted that there is some risk that the account given by each sibling has been contaminated, whether innocently or otherwise, through discussion with the other. The statement of HIA 127 was made on 24th July 2013. He gives an account at paragraph 26 of the alleged incident involving SND 43’s former husband. He does not refer to anyone being present. HIA 233 in her statement of 25th November 2013 at paragraph 15 refers to ‘seeing’ SND 43’s former husband hitting HIA 127 with the back of his hand. It is acknowledged that it is not the function of an Inquiry of this kind to probe every possible inconsistency in a witness’s evidence. It is submitted, however, that a cautionary approach needs to be adopted to placing reliance on accounts where the risk of contamination exists.

17. The Inquiry will also be aware that the allegations made against SND 43 relate to a point in time when the witnesses were very young: HIA 233 was in Nazareth House when she was between the ages of 7 and 12; HIA 127 was in Nazareth House when he was aged 10 to 14. The allegations date back to more than 23 years ago. SND 43 denies the allegations entirely. She has consistently maintained her denial and has sought to assist the Inquiry as best she can in recalling the working arrangements in Nazareth House at the relevant time. It is submitted that there is no sound evidential basis on which these historical allegations should be accepted over her unequivocal denial. It is submitted that the allegations made against SND 43 would satisfy neither the criminal nor the civil standard and should be accorded no weight by this Inquiry.

E. Conclusion

18. SND 43 has recorded in her statement that she is deeply hurt by the allegations made against her by HIA 233 and HIA 127. She has denied the allegations in clear and unequivocal terms. On the basis of the evidence and the above submissions, the Inquiry is respectfully invited to conclude that the allegations made by HIA 233 and HIA 127 against SND 43 are without foundation.

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18th April 2014