

THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE ('HIA')

SUBMISSIONS ON BEHALF OF SND 48

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Background

1. In short summary, evidence has been given relating to SND 48 by one witness – HIA 121. SND 48 has provided a witness statement addressing that evidence and also matters of relevance to the HIA more generally.
2. The following submissions are made on behalf of SND 48. It is expressly acknowledged that the purpose of the HIA is not to determine civil or criminal liability against SND 48 or any other individual and these submissions are drafted in that context.

Submissions

3. The events relevant to SND occurred a very long time ago – over 50 years. It is inevitable that such a gap between alleged events and the giving of evidence will negatively impact upon the general reliability of all witnesses.
4. It is acknowledged that Courts and Tribunals commonly have to, and do, deal with evidence of substantial antiquity. Experience indicates that care must be taken when assessing such evidence.

5. There is a lack of relevant documentation. It is acknowledged that evidence exists indicating that documents were destroyed. SND 48 position was not responsible for that destruction and the lack of documents may hinder his ability, after all these years, to give a detailed and supported response to HIA 121's account.
6. In particular reference to SND 48, he has not disputed that the regime at the home was very bad. He has accepted that abuse, both physical and sexual, was perpetrated. These problems, he says, were widespread at the institution. It is submitted that particular care should be taken, in those circumstances, when evaluating allegations of specific conduct by specific persons.
7. Moreover, in the evidence of HIA 121 there are indications that his evidence may not be reliable:
 - a) He has named particular persons (including SND 48) as being main perpetrators of illegal conduct.
 - b) It is to be noted that no other witness (to the knowledge of his legal advisers) has given any similar evidence identifying SND 48 as a perpetrator. Had the conduct occurred as described by HIA 121, it may be thought that other supporting evidence would have been identified.
 - c) Of particular concern is that HIA 121's account of SND 48's conduct is not consistent with the relevant dates of SND 48's move from Termonbacca. In paragraph 5 of HIA 121's statement he describes monitors (i.e. those perpetrating the abuse) as being "in their twenties" and that most boys left the home at 16. SND 48 was one of those moved away when aged about 16. Please see document "Family Care Society" list of information provided with SND 48's statement that shows he was moved to Muckamore Abbey on 2nd June 1959. SND 48's statement explains that he has 2 possible dates of birth.
 - d) One of the features of HIA 121's evidence was that his abusers (in this instance SND 48) had physical control and power over him and the other boys. Indeed, that description is central to his allegations of

abuse. That account is less likely to be accurate (or accurate in attributing that conduct to SND 48) if SND 48 was not present in the home beyond aged about 16.

- e) It is respectfully submitted that this inconsistency with dates and ages substantially undermines the reliability of the allegations made against SND 48.
8. It is respectfully submitted that SND 48's statement discloses a tragic history of admission to Termonbacca as a baby and his years at that establishment thereafter. He was himself subject to both physical and sexual conduct. It would appear that his years in such establishments have had lifelong consequences. He should be equated to any other witness in these proceedings and not viewed within a separate class of 'perpetrator'.
9. It is not intended to make any oral submissions in addition to what is set out above. No disrespect is intended thereby.

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