HISTORICAL INSTITUTIONAL ABUSE INQUIRY

1922-1995

MODULE 3 RUBANE HOUSE, KIRCUBBIN

WRITTEN CLOSING SUBMISSION

OF

THE DE LA SALLE ORDER

15th December 2014

Napier & Sons, Solicitors

Over the last 3 months the Inquiry has heard from a large number of witnesses and considered significant volumes of material. We are conscious that we are trying to condense complex and difficult issues into a concise and manageable format.

The Order wishes to adopt submissions already contained within the individual response statements and the core statements provided to the Inquiry and for completeness and the ease of reference sets out below the various core statement and RUB numbers;

1.	BR 32	20th May 2013	RUB-011
2.	[redacted]	22nd October 2013	RUB-169
3.	[redacted]	22nd October 2013	RUB-317
4.	BR 2 [redacted]	28th March 2014	RUB-1032
5.	BR 45 [redacted]	12th June 2014	RUB-1176
6.	[redacted]	27th August 2014	RUB-5000
7.	[redacted]	27th August 2014	RUB-5248
8.	BR 7 [redacted]	5th September 2014	RUB-5265
9.	BR 45 [redacted]	5th December 2014	RUB-5968
10.	[redacted]	11th December 2014	RUB-5987

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Chapter 1 Introduction

1.1 BR 39 's vision for Rubane House, Kircubbbin, Co Down, was a laudable one. Children, who had been abandoned, neglected and left destitute by circumstances not of their making, would be given sanctuary, nurture, education and training within the tranquil surroundings of 250 acres of County Down countryside.

1.2 Tragically, despite this vision, Rubane House joins a large and continually growing list of facilities throughout the United Kingdom and Ireland that failed some children in its care. History will reflect badly on the provision of residential care for children regardless of whether it was provided by the State, Religious or Voluntary Organisations. One should be slow to isolate and criticise one particular Home or Institution above another. The cause of failure, as other UK Inquiries and Committees have established, is multifactorial.

1.3 Christine Smith QC, in her opening to the Inquiry, commented that at the 'core of the [Inquiry's] work is a very human story, a story of how society treated the most vulnerable of its citizens, its children'.[1] Society continues to struggle, even to the present day, with providing effective care regimes for children and young people who are being raised, for whatever reason, outside their own family homes.[2] This modern dilemma is the continuation of a trend which has flowed for centuries and which culminated in the workhouses of the 19th century and the statutory and voluntary homes of the 20th century. Despite the extensive knowledge gained over the last 40 to 50 years involving the development of good practice policies, specialist training for carers and tighter regulation processes, the provision of care for children in an institutional setting remains imperfect, throughout the world. Only posterity will be able to judge whether perfection, in the uniquely challenging world of child protection, is an unachievable goal.

1.4 When John Baptist De La Salle was developing and shaping his mission in France in the late 17th Century he did so with a determination to educate the poor and the impoverished French peasantry. His initial goal, the formation of city schools and the provision of educators and teachers was not guaranteed success. De La Salle's vision for his 'Institute' was an aspiration which eventually grew and spread globally,

[1] Day 1 14:22-23
[2] Marshall Report 2014, Rochdale & Manchester 2014

successfully educating the poor and vulnerable in many countries. As each De La Salle Community formed and expanded from the 17th to the 20th Century, it invariably had to adapt itself to the local circumstances which pertained in any particular region. The De La Salle Order was a 'teaching Order' established to provide educators of children. However, it would be unfair to apply such a restrictive interpretation to each Institute and mission. De La Salle Communities needed Brothers with many talents. In addition to teachers, the Brothers were required to be administrators, clerks, accountants, pastoral workers, farmers and craftsmen. In fulfilment of its mission, the De La Salle Order accepted the invitation to staff Milltown Boys Home (St Patrick's Training School) in 1917. Over the years, the Order evolved and adapted its role to provide residential child care. This evolution was a continuance of the 'vision' of the Order's founder and illustrative of the Order's determination to adapt to meet the pressing needs of society. Provision of residential childcare in the early 20th century was new territory for many organisations. It was not unusual in an Irish setting for the provision of such care to be entrusted to a religious congregation. We know today that religious congregations, like ecumenical organisations and state institutions, failed children in their care. That in itself does not demonstrate that, in 1950, the De La Salle Order was unsuited to staff and run the De La Salle Boys Home in Rubane.

1.5 The Order's experience of residential childcare at Milltown and the Bishop of Down & Connor's knowledge of the Order were no doubt key factors in both the Order and the Diocese considering that the De La Salle Order was well suited to the role entrusted to them at Rubane. [redacted] was the motivation behind the Order's assignment to Rubane. He was a man with significant experience in the residential child care field having worked at Milltown since [redacted] He was a leading authority on child welfare and served for many years on the Child Welfare Council. During the Opening to this Module, Junior Counsel to the Inquiry, Joe Aiken BL asked the panel to reflect upon whether the De La Salle Order, as an Order of 'teaching Brothers,' was the right appointment for the role envisaged at Rubane. In particular he asked the Panel to reflect on the Order's 'Rule' of Government and the directions contained therein with respect to interaction with children. The Rule referred to, namely the 1947 edition, was largely a reprint of the 1897 version. A strict interpretation of the Rule and how it was adhered to by individual Brothers would be unfair. The Rule was designed for work in day schools. The Order adapted and evolved with each and every circumstance and accordingly the Brothers were required to be more pragmatic in the residential setting. It should also be noted that many of the traits recognised today as vital to effective substitute care, e.g. love and emotional warmth, were not the focus of residential child care in the middle of the 20th century when the focus was on basic life essentials, shelter, food and clothing.

1.6 The opening of Rubane House coincided with the implementation of the Children and Young Persons Act (NI) 1950. It was established at a time when, as this Inquiry has heard, there were obvious tensions between the Catholic Church and the Welfare State.[3] BR 39 was an advocate for the separation of the Industrial boys and Reformatory boys, both of whom were housed at Milltown. The references to overcrowding at Nazareth Lodge in Belfast in the early 1950s indicated that there were a growing number of Catholic children being raised in care. Poverty, family break up, large families, and post war attitude changes to morality issues all appear to have impacted on the increase of children in care. Section 93(2) of the Children and Young Persons Act 1950 recognised the right for children of particular religious beliefs to be brought up in Homes in keeping with their beliefs. At RUB-10862, in the very first Annual Report of Rubane House, one sees reference to securing the transfer of Roman Catholic children from Welfare Homes to Rubane[4]. The maintenance of this division between 'voluntary boys' and 'welfare boys' created a two-tier system within the provision of residential care in Northern Ireland, which was not resolved until 1972. During the 22 years of this period in Rubane House, for reasons outside the control of the De La Salle Order, the Brothers cared for boys on a 'voluntary' basis resulting in funding deficits and consequential financial problems for the Home. While it is accepted that 'voluntary' care and the segregation of Catholic children was at the behest of the Catholic Church, the efforts in maintaining religious freedom in respect of the provision of care and education, placed an enormous financial burden on the Order. In its mission to provide charitable education to the poor, the Order was engulfed by the enormous difficulties associated with the provision of residential child care. When numbers remained relatively limited in the early 1950s the Order was able to cope, largely thanks to proceeds from its successful farm and public generosity. However, as the numbers increased the financial strain became acute. In 1971, BR 2 made a plea to Belfast Welfare in which he asked them to take all remaining voluntary boys into care [See RUB 5075 – RUB 5088]. In March 1974, [redacted] arranged a meeting with the Bishop of Down and Connor to secure more financial funding[5]. That meeting did not take place but it illustrates that almost 25 years after it opened and more than two thirds into its lifespan, the financial burden was immense and taking its toll.[6] The Inquiry was shown contrary indicators on this point not least RUB 5224 which showed that income exceeded expenditure in 1976. However, we submit that such factual realities were only possible because of practical steps taken by the Order[7]. Critically, the constraints on finances dictated the ability to appoint and attract new and qualified staff. The Order recognises that the plethora of

[3] The Inquiry explored aspects of this issue in Module 1 and we do not intend to re-hearse them herein.
[4] "Where possible a child in the care of a welfare authority shall not be placed in a voluntary home unless the person in charge thereof is of the same religious persuasion as the child or gives an undertaking that the child will be brought up in that religious persuasion and, in any event, no child in the care of a welfare authority shall be placed in a voluntary home which does not afford facilities for him to receive instruction in the religious persuasion to which he belongs"
[5] The Meeting never took place as [redacted] was killed in a RTC.
[6] See RUB 5000 – The Order's statement on Rubane Finances
[7] E.g. 1971 when BR 2 drew no salary at all [redacted]

facilities at Rubane would not have been possible without government assistance. However the provision of capital expenditure for these facilities cannot mask the acute funding issues faced by the Order in providing care for the children at Rubane.

1.7 While the 'vision' of Rubane as a sanctuary for destitute children was commendable, the rate at which the numbers grew suggests that the original visionaries did not foresee the metamorphosis of the project. Within 10 years the number of residents in the Home had grown from 16 boys to an average of approximately 80 boys. Neither the Bishop nor the Order could have foreseen how the project would develop. Modern institutions, when envisaging such a scheme, would consider the concept of 'future proofing' capital expenditure, including examining demographics, consultation with vested interests, provision of related projects, emerging trends and so on. This was not done. Also, while the Order sought to adapt to the provision of residential child care, the pace of its development continued to create new challenges. BR 39 's initial 'boarding out' arrangement for Industrial Boys from Milltown quickly developed into a resource used by Welfare Authorities across Northern Ireland and even Scotland. The facility was clearly oversubscribed, to the extent that some boys were turned away. What is clear is that the said Religious and Welfare Authorities took advantage of the generosity of the Brothers, thereby creating additional stressors within the Home as regards overcrowding, the inadequacy of staffing and increased financial responsibilities.

1.8 During the existence of Rubane, the Brothers encountered many problematic issues regarding the diverse behavioural, emotional and intellectual difficulties presenting in many children within their care. It is significant that large numbers of the residents were classified as Educationally Sub-Normal (ESN) during the 1950s. It is likely that many of these children were not 'Special Needs'(now called learning disabled) as such, but rather children whose primary education was, for various reasons, inadequate. In the early 1960s the Home began to see the assessment and maintenance of a number of children by the Special Care Management Committee. These boys invariably stayed in Rubane longer and then entered some sort of sheltered employment opportunity (e.g. Alexian Brothers). It is likely that these boys would be classified today as special needs. Other children, with behavioural difficulties were also admitted. Many boys from St Aloysius' School in Belfast (a school for disturbed children) were admitted to Rubane. It is of note that the Diocese of Down and Connor rescinded a project to build a residential school for ESN children, namely St Augustines, Belfast in 1963. Many boys, envisaged as pupils of that school, were admitted to Rubane instead[8]. The strain and the potential damaging impact on the Brothers in their attempt to teach and care for children requiring specialist assistance

[8] HIA 379 is a good example.

was ignored by the interested parties. BR 2 's arrival in [redacted] with [redacted] teaching ability was one response but he, like others, quickly became entangled in a multitude of tasks at Rubane. Staff ratios at Rubane, as set out by Ministry guidelines, were criticised during inspections but the additional specialist resources required to manage such large volumes of troubled and vulnerable children appears to have been ignored. There is no evidence to suggest that the Order, the Administering Authority, the Ministry of Home Affairs or the Ministry of Education at any time considered the potential impact that such behaviourally disturbed and intellectually disabled children would have on the Brothers' ability to educate them and the remaining children while maintaining order within the Home. The effect of the influx of children and young people with such diverse challenging behaviours requiring care for a variety of reasons must be highlighted and considered.

1.9 A Social Services Inspectorate Report for Wales in 1991 described residential care for children as:

'a marginal unspecific activity taking those whose needs the rest of the system fails to meet'.[9]

1.10 It is submitted that the De La Salle Brothers were prepared to look after the needs of the vulnerable children in an era when society undervalued the children and undervalued the carer. The same report proposed that a clear distinction should be made between homes for children displaying challenging behaviour and homes for those whose need for residential care was based on circumstance rather than behaviour.[10] In respect of Rubane, the De La Salle Order was expected to teach and care for both types of children. No distinction was made. The impact on the children and the Brothers was ignored. The burden on the generosity of the Order was overwhelming. In her Opening Christine Smith QC quite rightly alluded to the words of Nelson Mandela quoting 'There can be no keener revelation of a society's soul than the way in which it treats its children'.[11] Further in respect of children, Nelson Mandela said 'safety and security don't just happen, they are the result of collective consensus and public investment'.

1.11 Tragically, the historical legacy remains to be corrected, in that abuse within residential settings continues. It is not confined to history and this may well assist in demonstrating how difficult it has been to eradicate it from society. Many different

[9] Social Services Inspectorate, Wales and Social Information Systems 1991:11
[10] Page 19, Institutional Abuse – Perspectives Across the Life Course, Stanley, Manthorpe and Penhale.
[11] Day 1 15:7-9

approaches and developments have been tried over the years and this is aptly demonstrated even within the relatively short life span of Rubane. It is evident that the Order adopted practices that many would consider innovative. The fact that abuse occurred and continues to occur today, demonstrates that 'abuse' is not easily eradicated and that the causes of abuse are complex. Rubane House commenced with De La Salle Brothers providing all of the teaching, pastoral care and extra-curricular activities. Lay teachers were introduced. A feminine influence was introduced by the Nuns in the late 1960s. The adoption of the family unit (the Chalets) system saw the arrival of married couples. However, posterity has revealed and this Inquiry has heard that this system brought its own problems and its own abusers. Indeed, the design of the Chalet Units with civilian house-parents quarters annexed thereto created a reason for visitors to be present within the boundary of the Home itself. The Order post the 1966 Sheridan Report engaged in a process whereby care staff obtained specific qualifications. Interaction with the 'outside' world was encouraged, for example with boys going out to 'weekend' families. However, that also resulted in the potential for abuse. Increased lay staff and the dilution of the religious influence again brought a threat.[12] Social worker engagement increased significantly but this Inquiry has heard of allegations of abuse by some social workers and also allegations that social workers failed to act upon reports of abuse.[13] It is accepted that we are looking at an era long before the vetting processes with which we are now familiar and long before the extent of child sexual abuse was known. However, the fact that residents in Rubane were abused within their own homes, abused within the homes of foster families, abused by Brothers, abused by their peers, abused by local landowners, abused by lay ancillary staff, abused by lay teachers, tends to suggest that the 'scourge' of abuse was endemic within society.

1.12 At the core of the problem, both within society and within residential Homes, was the historical lack of insight and understanding of the nature of sexual offending. Ms Christine Smith QC alluded to this issue when she stated,

"Prior to the late 1970s and early 1980s the sexual abuse of children was not a topic for discussion and many people were unaware of its existence. This may be explained by the secretive nature of the abuse and the stigma and shame that attached to the victims of sexual assault generally into the late 1980s.

Further, until the abuse of children was accepted as occurring within the community generally, the chances of a complaint of abuse in residential care being believed or taken seriously would have been much lower than today.[14]

[12] DL 509 [redacted]

[13] HIA 252, HIA 225, HIA 26, see also RUB 1048 & 1049 were social workers had knowledge of physical assaults by staff.

[14] Day 2 19: 1-10

1.13 The secret nature of the abuse and the shame attached to it, rightly or wrongly, appears to have perpetuated the silence within organisations and institutions across a broad spectrum of society resulting in reluctance or unwillingness to admit or report complaints or suspicions. Richard Rollinson in a report prepared for the Commission to Inquire into Child Abuse (the Ryan Report) in dealing with that very point raised a very significant issue which has been largely, if not entirely, overlooked by other commentators.[15] In her book Redressing Institutional Abuse of Children Kathleen Daly quoted significantly from the Rollinson Report and an earlier work by David Berridge;

'Depicting the British context, Rollinson (2006), says that 'it is somewhat perplexing that....people had such difficulties in seeing, naming, and acting upon harmful practices and regimes'. He describes a circular distributed by the Home Office to heads of residential care units in 1952, which outlined 'in precise detail...what should be done when "indecent practices" were committed on boys either by other boys or by staff':

It reads very much like best advice today when it instructs that if there is knowledge or suspicion of serious indecent acts, which if proven, would constitute a crime, then the police are to be called in to investigate.

'This 1952 circular appears to be the earliest evidence of a government's interest to address sexual acts against children in care, which would be considered a crime. Rollinson (2006) says that the circular 'seems to have sunk without a trace', until it was "discovered" over 40 years later by David Berridge during his...research into abuse in residential care'. Rollinson suggests that officials 'could well have been struggling at the extremities of their capabilities to regard such acts...as anything other then unthinkable and unspeakable'. He says that no other document in England and Wales from 1950 to 1989 dealt with such acts directly and as 'something other than an isolated incident carried out by a very rare, sick individual'. If government officials had difficulties comprehending the problem and were silenced by 'discomfort, embarrassment, shame and guilt', then we might expect that children or staff in residential facilities would feel the same'.[16]

1.14 It is correct to point out that the Circular referred to was a 'Circular for all Correspondents and Heads of Approved Schools' and there were no Approved Schools in Northern Ireland. However, the source of the Circular was the Home Office and it is of note that the 1952 Home Office Memorandum on the Conduct of Children's Homes which was circulated to residential care facilities in Northern Ireland [RUB 416] and which has been the subject of focus by this Inquiry does not contain the direction on how indecent practices should be dealt. The fact that such a direction existed at all within Home Office circles suggests that there was a

[15] Rollinson, R, Residential Childcare in England 1948-75: A History and Report at page 24

[16] Daly, K, Redressing Institutional Abuse of Children, 2014

knowledge base which was not properly communicated and was then lost. It is of further interest that Rollinson uses the same term 'unthinkable' that Dr Harrison used before this Inquiry in maintaining why no further action was taken by the MoHA on the 1964 report.

1.15 The De La Salle Order has engaged with this Inquiry in a full, frank and transparent manner, determined to assist in providing a holistic account. The Order's critics will look to the [redacted] and [redacted] events as missed opportunities to publicise and prevent abuse. That may be so, but the Order is not unique in that regard. Not only did other statutory agencies know about the abuse, at some level in [redacted] one must ask the question what other organisations, perhaps even outside the Terms of Reference, were aware of the risk and propensity of abuse. One can only speculate that if the potential for abuse of children in many different forums had been highlighted and publicised, then society's attempts to deal with abuse would have been advanced by decades. Post Brendan Smyth, Irish society is now prepared to acknowledge the risk of abuse and offending within all organisations, including religious, sporting, youth and adult. Abusers do not discriminate. Modern practices and procedures are now implemented to minimise risk. The ignorance about sex abuse, the secretive nature of the abuse and the 'stigma and shame' that attached to victim and organisation must now be assigned to the past.

1.16 The De La Salle Brothers pursued a vocation to nurture and educate society's isolated, neglected and abandoned children. This was their mission and vocation. Some Brothers violated their vocation and their Christian duty in respect of these vulnerable children. However, one should not lose sight of the fact that many of Brothers at Rubane enriched the lives of large numbers of boys that society was prepared to disregard. This Inquiry has heard from many boys who had been subjected to physical and emotional abuse from an early age, expressed many positive memories of Rubane and the Brothers. The fact that some of the former residents include the Brothers who cared for them in their formative years within their circle of friends is testament to that care. The Inquiry has a requirement to be fair to the victims but it has an equally important role in being fair to the innocent Brothers and acknowledging their role and valuable contribution to the difficult undertaking, which was residential child care provision from 1950 – 1985.

Chapter 2 Statutory Requirements

2.1 Within De La Salle Statement No. 4 dated 12th June 2014[1], BR 45 set out the position of Rubane House in respect of the statutory framework. The said statement should be read in conjunction with this submission. We do not intend to repeat the details provided therein save for a brief summary.

2.2 The Diocese of Down and Connor was the 'Administering Authority' for the purpose of the Children and Young Persons Act 1950. Regulation 3 (1) of the 1952 Regulations defined the administering authority as *the person or persons carrying of the voluntary home.* While it is accepted that the draftsman extends the definition to include the plural possibility the Order remains of the view that the Diocese was the Administering Authority for the following reasons;

(i) The Bishop 'asked the De La Salle Brothers to operate the Home on behalf of the Diocese' – letter of 10th July 1950 RUB - 2011

(ii) The Bishop was the Chairman of the Governing Board and the said Board was dominated by Diocesan clergy.

(iii) The structure was to mirror that of Milltown (St Patricks) were the Governing Board was also controlled by the Diocese RUB – 1209.

(iv) It was the Governing Board who made the decisions on strategic issues including discussions with Ministry of Home Affairs Representatives.

(v) The Governing Board established a General Purposes Committee GPC to 'advise' the Board between annual AGMs. The GPC was comprised of 5 Diocesan Priests.

(vi) Official Returns seeking the name of the person 'carrying on the home' were endorsed 'The Governing Board'.

(vii) In the late 1970s when the Management Committee formed it was recognised by Diocese and Order that it was a Diocesan Committee.

(viii) Bishop Philbin intervened unilaterally to suspend BR 1 in April 1980

(ix) The Hughes Inquiry concluded that the Diocese was the Administering Authority and that conclusion was not challenged.

It is accepted that the De La Salle Order was the only organisation in position to perform many of the day to day operations required by the Statutory Regulations.

2.3 The Inquiry has directed its focus to the role of the 'monthly visitor' as required by the Section 4 of the Voluntary Home Regulations. The Order submits that the Diocese recognised this role and, by forming the General Purposes Committee (GPC) '*to meet*

[1] RUB 1176

monthly'[2], it created the structure by which the role would be fulfilled. This meeting took place after the 1952 Regulations took effect. An earlier General Purposes Committee established by the 31st October 1951 AGM did not stipulate a '*monthly'* requirement. It is interesting to recall Fr McCann's evidence to the Hughes Inquiry;

> *'I was one of five Priests requested by Dr Mageean to sit on a General Purposes Committee which was to report to him on its efforts to assist staff of the Home in their difficulties and in the general administration of the Home'*[3]
>
> *'The Board of Governors in inviting the De La Salle Order to run the institution and by appointing the General Purposes Committee to assist in doing so effectively and in a most satisfactory manner delegated responsibility for the running of the Home to people who were in a position to maintain proper control and supervision of it.'*[4]

Fr McCann's statement to the Hughes Inquiry suggested this Committee met for a period of 10 years. The History of the House only records monthly visits to Rubane in June 1953, July 1953, August 1953 and May 1954.

2.4 The Ministry of Home Affairs in their report of 19th May 1955 [RUB 10191] were clearly aware that the monthly visitation was not taking place. It may be of note that they refer to the absence of a 'visiting committee' plural as opposed to 'visitor'. No evidence, as far as we are aware, was produced before the Inquiry to establish that positive intervention was undertaken in this regard. Indeed, to the contrary BR 2 gave evidence that the absence of a 'monthly visitor' was never raised with him by either the Governing Board or the Ministry of Home Affairs/Department of Health and Social Services. The fact that it was not until the late 1970s that a 'monthly visitor' did attend the Home and make what appears to be informal inspections of the Home (including discussions with the boys) tends to suggest that the Ministry of Home Affairs and their successors, together with the Diocese acquiesced in the failure to ensure monthly visits and inspections. Dr Hilary Harrison commented that it '*was surprising'* that the Ministry of Home Affairs allowed the absence of the visitor to continue. DL 334 conceded that even as late as 1981 the DHSS 'overlooked' the absence. The oversight is perhaps more surprising given [redacted] DL 518's positive reflections on how the role operated in the statutory sector.

2.5 The Regulation sets out that the visitor 'shall satisfy himself whether the home is conducted in the interest of the well-being of the children'. The purpose of the role suggests that there would be an element of scrutiny and would could imply that an element of transparency and independence was required. An internal visitor from the Order was not, in our view, what the draftsman intended. In all likelihood, the Order

[2] RUB 1238
[3] RUB 1200
[4] RUB 1201

viewed the requirement (if they had recognised it at all) as something to be fulfilled by the Diocese. That said it was clearly open to the Order to raise the absence of a visitor with the Diocese and the failing in this regard is genuinely a collective one.

2.6 In our view it is impossible to be certain whether a 'monthly visitor' would have been able to identify the abuse specifically. The general trend of the evidence, right up until the late 1970s, is that many boys retained a fear of reporting. However, Dr Harrison provided an interesting dimension to the role;

> *'monthly monitoring and inspections of themselves will not prevent the abuse of children, they nevertheless serve to assist the safeguarding of children by hopefully minimising opportunities for abuse to occur, or by alerting those who might be tempted to perpetrate abuse to the effect that there are checks and balances in the system that they do not have the opportunity, for example, to conduct their activities in secret, that there are people coming in to monitor and inspect the way the home operates'*[5].

As a potential 'check or balance', the absence of a monthly visitor removed an opportunity to identify abuse. The absence may have also created an atmosphere or culture of isolation within which abusers or potential abusers felt safe.

2.7 BR 2 testified that he felt the 'monthly visitor' would have been a tremendous asset to him. BR 2 was grappling with complex issues in an evolving field and the flavour of his evidence was that he would have valued a 'visitor' as a confidante and advisor. One gained an impression, for whatever the reason, that the Order and the Officers in Charge were in practical terms isolated from Administering Authority and Statutory Agencies save for periodical visits and inspections. The dilemmas which dogged BR 2 's tenure, like sexual activity among the boys, financial constraints, physicality of staff and the behaviour of disturbed children could all of have been issues with which a visitor may have assisted.

2.8 Rubane House was at all times subject to periodical inspection by the Ministry of Home Affairs. Some of the inspections were carried out without prior notice. By and large the inspections, while at times critical of the facilities and amenities, were largely complimentary as regards the atmosphere and apparent wellbeing of the boys. For example, statutory inspections recorded the following:-

- 19th May 1955 *'There is a very happy atmosphere in this home and the relationship between staff and boys is excellent....All were happy responsive*

[5] Day 75 127:12-22

children and without exception looked healthy and well nourished.....Many older boys return for week-ends...cheerful atmosphere.'

- *28th March 1956 'There is a very happy atmosphere in this Home.....wide variety of activities in spacious grounds...'*
- *3rd October 1957 ' They all appeared happy and in good health.'*
- *RUB 10156 'natural and cheerful and enjoying life.'*
- *RUB 10186 'there is little doubt that they are happy in their surroundings..'*
- *27th August 1974 'Boys seen about the place appeared cheerful and relaxed' – RUB 10239.*
- *4th December 1975 'On both visits the boys looked well-cared for, cheerful and lively'. – RUB 10243.*
- *August 1976 'Boys seen were enjoying themselves on playing fields and elsewhere'.*

These inspections were conducted by Ministry officials with experience of other Homes and the impression one gains is that they looked rather favourably on what they saw and experienced in Rubane. It is noted that Dr Harrison called into question the focus of these inspections, the seemingly superficial nature of them and commented upon the implicit trust given to faith based organisations.

2.9 The History of the House Book maintained by the Order in some detail up until the late 1950s documents the variety and the number of visitors who attended at Rubane. Many of these people, including doctors, dentists and nurses, were professionals were in positions of responsibility and undoubtedly would have raised concerns if any prevailed notwithstanding that they were not specifically performing a role for the MoHA. Also, the same applies to social workers attached to Welfare Boys prior to 1972 and social workers in general post 1972.

2.10 It is difficult to draw any firm conclusions from the inspections. The fact that they record that the general atmosphere was good reflects the positive experiences of many residents in Rubane. However, the fact that some residents were being sexually abused between 1956 and 1970 demonstrates that the inspections and systems were arguably inadequate. It is noted that Dr Harrison accepted on behalf of the Department of Health that the 1950/1960 inspections were 'inadequate'[6] Nevertheless, the lack of awareness of the potential for sexual abuse and the fundamental difficulties associated with reporting by the victim were not recognised by the relevant statutory authorities and the Order. The failure of BR 19 to notify the De La Salle Community and the Governing Board and the failure of Miss Forrest at the MoHA and Harry Mason, Belfast Welfare Children's Officer, to notify their staff arguably delayed the formation of an informative knowledge base.

[6] In a similar manner to the Conclusion of the Hughes Inquiry to the 1970s Inspection.

2.11 Leaving aside the absence of the monthly visitation, the records demonstrate that the De La Salle Order did comply with the statutory requirements. The Home was open to a wide range of government officials, from Child Welfare Officers like Miss Forrest through to the doctors and dentists and nurses. There was criticism, particularly in the late 1950s/into the early 1960s about overcrowding and staffing inadequacies but no formal notice was ever served in respect of a statutory failing. It will be for the Inquiry to determine, having considered the evidence from all the Modules whether the Statutory Agencies complied with their obligations and/or whether those obligations were sufficiently stringent.

Chapter 3 Ancillary Issues

Farm Work, Chores, Food and Clothing

A. Farm

3.1 Rubane House operated for 35 years. Initially the farm performed a dual role. It was a vital source of income for the Home but it was also used as a 'training' facility for the instructions of boys in farm work.

3.2 One applicant gave the impression that his sole role at Rubane was to work the farm. HIA 97 had 'no recollection of school' and simply 'recounted working 250 acres by hand'. With respect his memory is defective in this regard and he has perhaps absorbed too many other media or internet accounts. The fact he went on to recount how other residents had told him that they worked on outside farms but '*we couldn't have....we had so much to do on our own farm'* illustrates his imperfect hindsight as his evidence was firmly at odds with the other applicants.

3.3 HIA 252 testified that there were 3-4 farmhands. There would have been occasions when boys were required to provide assistance (Potatoes, Hay etc) but the farm was by no means reliant on residents' labour.

3.4 A contemporary of HIA 97, HIA 183, testified that he had 'no physical labour'.

3.5 By 1970 the necessity of the farm was not as prevalent but it remained a feature in Rubane with boys, particularly older boys, by this stage 'volunteering' to undertake the work.

3.6 In addition to the Rubane farm the Inquiry heard applicants testify about visiting outside farms to undertake 'potato picking'. While some reflected on this work as some sort of forced labour the general flavour of the evidence was that the boys enjoyed it. Neither applicants or surviving Brothers could recall exactly what the boys were paid but it was generally accepted that the boys received recompense, either directly or via treat/cinemas and the Brothers received some income to assist with running the Home. A number of residents reflected positively on meeting the families on the outside farms and receiving food treats at lunch time.

3.7 HIA 159 recorded on a statement that although potato picking was 'hard work' it was 'great fun'.[1] HIA 64 'enjoyed farm work'. HIA 110 'enjoyed potato picking'. HIA 191 expressed his disappointment at not being able to go potato picking as it was 'good money'.

3.8 There is no doubt that among a group of boys you will encounter a range of opinions and attitudes to such work in much the same way as you would today. HIA 45 was critical of the work he had to perform on the farm. It is perhaps noteworthy that he had already complained of having to do farm work at [redacted] and went on to say that the 'discipline demands plus the normal chores associated with farm life were distasteful to him'.[3]

3.9 There is no doubt that in the early years of Rubane there was a greater prevalence and importance associated with the working farm. Boys, like boys anywhere, would have been expected to help and contribute. This formed part of some boys' formal training, while for others it was simply good disciplining and education. The general tone of the evidence was that the boys were not overworked, were rewarded for their efforts and that there were as many boys who enjoyed it as disliked it.

3.10 In later years fewer boys worked on the farm and there was a voluntary aspect to it. HIA 41 on questioning from Mr Lane recounted that the farm work with [redacted] was his only positive reflection.

B. General Chores

3.11 Paragraph 32 of the 1952 Memorandum provided guidance on *'help in the home'*; boys and girls should be expected to take a moderate share in the daily running of the home but not at the expense of sleep, meals, education or reasonable recreation. Older children, in assisting members of staff, should progress from light routine tasks, such as dusting, bed making and washing up to skilled work such as cooking, bottling, ironing and making things for the home.

3.12 HIA 385 perhaps reveals another misconception when he expressed his opinion that 'I wasn't put there to be a cleaner, but to be educated'. A child's life in most normal family surroundings would have involved a basic grounding in daily chores, whether it be making ones bed, hovering/cleaning the floor, doing the dishes. HIA 385, while resentful of being asked to undertake chores, simply demonstrates a stark lack of perception into the reality of life outside Rubane. One should not lose sight of the fact that many of the former residents have little or no insight into life in a 'normal' home in the 1960s/70s.

[1] Day 56 147:11
[2] Day 55 14:14-18
[3] Day 55 16:1-3

3.13 HIA 244 in his statement to the Inquiry was disparaging about being sent up [redacted] yet before the Inquiry conceded that he 'asked [the Brothers] to let him do it because I wanted to do it'. It is illustrative that HIA 244 went on to use such skills in later life and continues to work as [redacted] today.

3.14 Other applicants recounted their involvement in miscellaneous chores and jobs but there was no body of evidence to suggest that the residents were overworked or manipulated. To the contrary, the consistent theme is that the chores/work were in keeping with the social mores of the day and that the boys enjoyed the work both in terms of freedom and monetary reward. HIA 56 worked in the kitchen, gardens, and cleaned the car and minbus and enjoyed the work.

3.15 It is noteworthy that HIA 25 was critical of the Home because when he left he was 'unable to boil and egg of potatoes'. He recounted how he had everything 'served up to me' and was unprepared for life after Rubane. By his account he was failed because he wasn't asked to do enough of the chores. The balance, when weighing up different boys personalities was evidently hard to find. The evidence as a whole did not suggest that the residents were overworked or exploited or that their 'sleep, meals, education or reasonable recreation' was interfered with.

3.16 HIA 362 had 'no complaint' about the chores in the early [redacted]

C. Food

3.17 Section 11(2)(a) of the Children's and Young Persons Act (NI) provided *'a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him..'*

3.18 The availability of food and clothing varied across the time span of Rubane.

3.19 The Order is satisfied that it always did its best to adequately cloth and feed the boys. There is no doubt that their ability to do so would have been dependent on contemporaneous resources.

3.20 The Order submits that applicants reflections on food and clothing have, in addition to being shaped by personal preferences, been influenced by misconceptions (perhaps generated from accounts arising from other residential settings/Inquiries).

3.21 HIA 45, one of the [redacted] of boys at Rubane recounted that the food and clothing he received was better than what he had outside the home.[5]

[4] Day 68 – cleaning the washroom, games room, brushing up or setting the tables – from statement.

3.22 HIA 390 described the food as 'plain' but accepted that there was porridge, bread, butter and eggs for breakfast. He denied that he got a lunch at school – yet the Ministry of Education provided school dinners.

3.23 A number of applicants suggested that the Brothers ate better than the boys. The Order rejects this suggestion. HIA 390 was pressed on the point and conceded that he had not seen what the Brothers ate. He simply retorted 'I can't see the Christian Brothers eating literally what we ate, you know'. In other words, reflecting on events he does not believe that the Brothers would have eaten the same food rather than being able to give any credible evidence on that point.

3.24 HIA 399 recounted being able to grow vegatables which you could eat.

3.25 HIA 244 mentioned having 'hard boiled eggs' for breakfast. While one applicant rejected the suggestion that the boys kept chickens by alleging that there was 'not enough food for the boys, never mind the chickens' it became evident that the boys did indeed keep hens which were a source of eggs.

3.26 The Ministry of Home Affairs inspectors were required to examine the diet book and food provision. No issue appears to have ever arisen in respect thereof.

3.27 There were sporadic complaints of recollection of hunger but no body of evidence to suggest that hunger or malnutrition was a recurrent theme. HIA 97 alleged that he was suffering from malnutrition on discharge but one would have expected the regular medical inspections to have identified any failings in this regard. These reflections of 'hunger' are likely to be a memory of many active teenagers of craving more toast before bed or are simply the adoption of accounts from other sources.

3.28 HIA 362 had 'no complaint' about the food in the early [redacted] In his statement he recounted 'the food wasn't too bad'.

D. Clothing

3.29 The type and nature of the clothing is perhaps best illustrated by the photo journal.

3.30 HIA 41 complained about his clothing. DL 155 recounted that in [redacted]e formed the view that the clothing 'looked old and not particularly modern'.

3.31 The Order is content that it did its best to adequately cloth the boys in accordance with the standards of the day, bearing in mind the relevant financial constraints. It is noted that a 1962 MoHA inspection did describe the clothes as 'threadbare' but adopts the

[5] Day 55 21:8-13

evidence of Dr Harrison that this issue did not feature in subsequent reports and was evidently resolved.

3.32 Social Workers were frequent visitors throughout the 1970s/80s and save for DL 155's reflection no other social worker ever appears to have raised the availability or style of clothing as a significant issue.[6] HIA 170 recounted being able to go to Newtownards and being able to buy his own clothes.

[6] HIA 50's reflections are explained by the contemporaneous records.

Chapter 5 Managing vulnerable and disturbed children

5.1 In a review of Children's homes in Wales in 1991, residential care for children was described as 'a marginal unspecific activity taking those needs the rest of the system fails to meet'1 The Report advocated that a distinction should be made between homes in which children displaying challenging behaviour should be placed and homes for children whose personal circumstances rendered them in need of state. This distinction is justified by the recognised challenges of managing the complex needs of children with disturbed behaviour and or learning disabilities.

5.2 Such admission criteria were not in place in Rubane. Indeed in his opening statement to the Inquiry, Joe Aiken BL stated that large numbers of children with learning disabilities, over a third of the total occupancy, were resident in the Home.

5.3 Rubane has been described during the course of the evidence to the Inquiry as a 'dumping ground' for children who were destitute, abandoned, orphaned, difficult or uncontrollable. Any child in need was accepted into Rubane, irrespective of their background, criminal proclivities and intellectual abilities. While the ethical underpinning of this model of care provision was a well intended solution to the unmet need of destitute children, the resulting emotional and practical burden on the Brothers who tried to teach and care for all these children cannot be underestimated.

5.4 At the beginning of the 1950s, in respect of the provision of care and the welfare of children, there existed a new sense of determination to 'replicate the family.' Boarding out and family group homes were seen as the two potential cornerstones of substitute care. The Ministry of Home Affairs favoured the policy of 'boarding out' and 'fostering.' The Catholic Church resisted the policy, unless the child could be fostered with Catholic parents who exhibited the requisite religious values, beliefs and morals. RUB 10069 detailed a 'lack of suitable Roman Catholic foster parents.' The alternative for the Catholic Church was a residential care home for children from the 'voluntary sector.' As described above in Chapter 1, this paved the way for Rubane House.

5.5 Rubane House grew in ten years from initially housing ten children to an average of eighty. There were many reasons for this, some of which are described in more detail elsewhere. However, it is abundantly clear that, despite its desire to obtain foster parents for the welfare of the children, the Ministry of Home Affairs sent increasing numbers of

children with diverse needs to Rubane irrespective of their suitability. For example, at RUB 10146 it is noted that 'Welfare' were still trying to have children admitted to Rubane despite the fact that it was overcrowded. Dr Harrison accepted that there were very little residential child care beds in Northern Ireland outside the Catholic Voluntary sector. The conclusion must be there was a failure by both the 'voluntary' and 'welfare' sectors to find foster parents within the Catholic community. One explanation invariably focuses on the behavioural characteristics the child. For example, RUB 11771 refers to a boy who was 'boarded out' and then returned to Rubane because the foster family found him 'stubborn.' It is also instructive to note that at RUB 10146 a boy unable, because of admission levels, to get into Rubane was 'admitted to Muckamore Hospital for 12 months instead.' That must be indicative of the nature of the special needs of some of the children that the Order was obliged to care for.

5.6 The Inquiry heard from some applicants who readily accepted they were difficult and rebellious;

(i) HIA 191 whose social welfare files record that he was returned by [redacted] from summer holidays because she found him difficult to control. He further admitted being involved in fights and continued to reflect that he was unjustly punished [redacted] (an event which the Order still disputes).

(ii) HIA 379 was, by his own admission, difficult to control. He had come from [redacted]

It was readily apparent from his own testimony that he would not have conformed to discipline.

(iii) HIA 34, HIA 94, HIA 218 and HIA 219 give further examples of difficult children who the Brothers were expected to teach and care for.

5.7 The Diocese of Down and Connor shelved a plan for a residential school for learning disabled children in Belfast in 1963. BR 2 [redacted], who was earmarked to teach in that school, was sent to Rubane instead. One can only speculate how many children who would ordinarily have attended such an establishment because of their special needs, ended up in Rubane. It is of note that as early as 1961 Miss Forrest at the MoHA [RUB 10296/7] raised the possibility of Rubane being a combined *'home and residential special school'*.

5.8 The Inquiry also heard about a number of boys who were under the care of the Special Care Management Committee and who invariably had learning difficulties as classified by modern standards.[1] These boys would never be able to look after themselves independently. They were accommodated in Rubane sometimes up until the age of 18 and thereafter within sheltered settings.

5.9 It is widely recognised in society today that children may present with emotional, behavioural or cognitive difficulties arising from many causes including, for example, ADHD, learning difficulties, pervasive developmental disorders, emotional neglect, attachment disorders and a history of physical and sexual abuse. Such children are agreed to require additional special assistance and resources.

5.10 It must be stressed that the Order had virtually no control over the boys who were admitted to Rubane. It stands to reason that the higher the percentage of difficult and behaviourally challenged children the higher the drain on human resources, both physically and emotionally. It is impossible to forensically analyse the detrimental impact on the carers of children. HIA 379 and HIA 94 are prime examples.

5.11 Rubane was criticised for poor staffing levels as compared with the standard staffing ratios of that time. That Brothers themselves were acutely aware of the difficulty and Br BR 2 acknowledged that when the Castle Priory report was being disseminated he was immediately conscious of the staffing deficiencies in Rubane. Any shortfall was compounded by the fact that no consideration was given to the type and nature of the residents and the specialist intervention and staffing ratios that they required. That shortfall, and the pressures and stresses that flowed as a result were exacerbated and facilitated by both the Statutory Agencies and the Diocese. Indeed, one document may explain why the discrepancy as against recommended staffing levels was allowed to exist for so long, it having suggested that staffing ratios did not have to be met precisely because *'religious orders don't keep normal working hours'*[2] or in other words it was expected that Religious Brothers would do more than the work of the nominal person. While this may have been accurate in terms of hours worked it demonstrates a lack of insight into the need for relaxation and free time among the staff and what is necessary for staff to work effectively.

[1] RUB 10204
[2] [To be located]

5.12 It is accepted that people under strain and pressure often react in ways they would not normally do so. That is not to condone physical punishment outside 'six of the best' but the context within which the Brothers and lay staff were working must be appreciated. The MoHA was aware that a '*small staff had so much to do for so many*'. [3]

5.13 DL 81, a former houseparent in the Home, recounted a number of incidents which have been documented. These included being attacked with a poker, being attacked with a kettle [redacted] being attacked with a chair and having had a knife pulled on him.[4] At RUB 63280 it was recorded contemporaneously that a fellow member of staff actually 'feared' for DL 81's safety. That same member of staff had confided in DL 81, that Rubane was a 'dumping ground for difficult children', namely children for whom there was nowhere else in the system to place them.[5] DL 81 gave evidence that there were significant levels of glue sniffing and that bullying and extortion by older boys on younger boys was common place. DL 81 accepted that the De La Salle Brothers were disciplinarians and that boys were sent there by Welfare to have the benefit of the regime.[6]

5.14 The wide spectrum of intellectual abilities amongst the children undoubtedly had an impact on those brighter children. The Inquiry has heard from some applicants who felt that their academic achievement had been constrained, despite the fact that streaming of educational abilities was a facet of Rubane. However, it is clear that general teaching resources were overstretched and that the necessary expertise for managing children with learning disabilities and challenging behaviour was lacking.

5.15 Many residents, throughout the inquiry have described Rubane as a 'dumping ground.' While this description may be disparaging there is considerable justification for the label as one considers the lack of consideration given to the range and nature of children sent to Rubane.

5.16 The reality of Rubane was one of vast over occupancy and insufficient resources managing a mix of learning disabled and educationally normal children, a range of vulnerable childhood histories including abandonment, poverty, abuse and neglect with the associated challenging behaviour. This context may go some way to explaining the

[3] RUB 11309

[4] RUB 68191 & RUB 68242
[5] Day 72 16: 16-19
[6] Day 72 57: 21-24

emphasis on discipline and the widespread use of corporal punishment and while it can never justify sexual, physical or emotional abuse of children, it does as HIA 259 stated, describe a context which allows for things to go wrong.

5.17 The organic consistency of the residential cohort was not within the control of the De La Salle Order. The vision of Rubane was a home for orphans and destitute. The founding visionary, BR 39 did facilitate the inclusion of 'welfare' boys in Rubane and there was always a 'mixing' of voluntary and welfare boys. However, the earlier 'Welfare' cases where more generally children in care because of circumstance, like the voluntary orphans, and much less like the later 'welfare' cases who were outside the control of their parents and on the verges of criminality. The Order generally accepted all boys that they were asked to admit and had little, if any control, over the direction the home took in this regard. Statutory agencies, including where relevant the Department of Education, whether through inspections or social workers could not have failed to have been alert to the particular difficulties the lack of an appropriate admissions policy created.

Chapter 6 The Caring Environment

6.1 There is a general perception that residential homes were austere and emotionally cold places, devoid of love and affection. Undoubtedly, there is some truth in this assessment and it is noted that as DL 155 simply put it 'Children's Homes were not great places...some more austere than others'. Residential care homes were and remain a poor substitute for a loving family home. However, the Order submits that, as the following examples illustrate, it would be unfair to categorise all the Brothers as uncaring, unsympathetic and emotionally detached individuals. Also, care in families must not be idealised and romanticised. It is important to realise that many of the residents in Rubane came from broken, chaotic and abusive family environments. Others were orphaned and 'institutionalised' at a very young age and had never experienced an enduring secure attachment relationship. Such emotional neglect can mean that children will continue to experience difficulties in forming and maintaining healthy relationships throughout life, even with their own children.[1] Thus to develop warm and caring relationships with each and every child in Rubane would have been an impossible task with many children requiring basic consistency of management and clear rules in order to feel secure.

6.2 There has been substantial evidence presented of the positive relationships that were formed and the care and thoughtfulness demonstrated to the young people in Rubane. The Inquiry heard many consistent accounts from some of the Applicants about BR 13 who is depicted as a 'fatherly' figure, who cared for the boys and would walk the boys to Cloughey beach and then provide refreshment at what they came to know endearingly as 'biscuit corner'.

6.3 Most residents were also complimentary about BR 6, BR 3 and BR 2. The residents recognised that the Brothers were obliged to adopt a disciplinarian role within the home and many, including HIA 132, HIA 21, HIA 36 and DL 40 continued to visit and socialise with these Brothers after Rubane. The statement from HIA 23 [RUB 66001] reveals that he has a picture of BR 6 on his wall. By circumstance or otherwise many applicants demonstrate that they established emotional attachments with the Brothers which clearly blossomed from the caring and sympathetic attitude of the Brothers in Rubane.

[1] Howe, D. (2011) Attachment across the lifecourse: a brief introduction. Basingstoke: Palgrave Macmillan

6.4 By way of another example, HIA 56 recounted how BR 2 left him to his aftercare digs but sensed that BR 2 was reluctant to leave him. BR 2 recounts that he always found it difficult to 'leave' the boys in the knowledge of the difficulties they would face post Rubane. This fact, perceived by the boys, again demonstrates the emotional attachment and concern exhibited by BR 2.

6.5 HIA 41 has reflected positively on his relationship with his dog which he was allowed to keep at Rubane and bring home with him when he left.

6.6 It was also evident from Applicant testimony that the policy of fostering boys out at holiday times has engendered long lasting relationships with 'foster families'. HIA 110 spoke highly of the family from with whom he was put in touch by BR 22 in the late Others HIA 36, HIA 104 and HIA 225 also testified of longstanding and valued relationships with foster families which were established with the assistance of the Order many years ago. The fostering of care to the boys to loving and caring families is testament to the fact that the Brothers recognised and were alert to the emotional needs of the residents.

6.7 Family visits to Rubane were welcomed and accommodated. The Inquiry heard how the Brothers, even in the early years, made a room available for the boys to meet family. The Inquiry heard how BR 6 provided transport for the of the children to and from the bus stop in Kircubbin. The Brothers were alert to the emotional importance of the residents' extended families and recorded contacts, whether by letter or visits, in progress report. HIA 222 at RUB 30333 detailed how he had 'time alone with his mother' and was able to show her around his Chalet.

6.8 The fact that the Brothers assisted and encouraged both the meetings of siblings at Nazareth Lodge and the Past Pupil Re-unions is further evidence of the emotional support they provided to those in their care. The photograph of 30th June 1974 illustrated at RUB 90014/15 demonstrates that former residents, even those in care during the abusive period associated with BR 17, have continued to maintain friendships and contact with each other and staff at these meetings.

6.9 Some applicants, most notably HIA 21, recounted how they continue to maintain contact with some of the Brothers until the present day. That fact demonstrates an emotional bond which was illustrated by HIA 21 when he expressed his gratitude and fondness for the

Brothers. HIA 21 returned regularly to Rubane after he left. He testified that overall his experience was 'very very good'. HIA 21 saw Rubane as home.

6.10 The evidence of BR 10, and his attempts to 'integrate the boys into the community'[2] is in our view significant. BR 10 recounted how he established relationships with other sporting teams and in one particular example how he arranged for the Rubane soccer team to travel to Scotland with a Protestant High School from Ballyclare. It was also evident that BR 10 arranged for Rubane boys to attend Irish Dancing classes in Ballycran and for girls from Portaferry to attend at the Home for Scor practice. The Scor group proceeded to enter competitions and to perform at concerts and Church services. The intention of this activity, in addition to fostering relationships with the wider community, would have been to instil a sense of confidence and self-worth among the boys.

6.11 It is accepted that as the numbers reduced in the early 1980s it may well have reduced the stressors on the Home and the staff. The evidence suggests that corporal punishment was diminishing and that the relationships between boys and staff were closer;

(i) HIA 170 spoke fondly of how BR 10 took him to Magherafelt to buy binoculars in an effort to encourage his interest in birds. Records suggest that BR 10 worked with HIA 170 in attempting to save a distressed and oiled bird.

(ii) HIA 170 also spoke of BR 10 being a 'real friend' and how he had helped get HIA 170 a motorbike.[3]

6.12 HIA 381 and HIA 382 are perhaps good examples of type of care provided to later residents. Their personal files provide a detailed account of their residency in Rubane. The two brothers were exposed to a difficult family situation and it speaks volumes of their attachment to Rubane that they preferred to stay there rather than go home to their father.[4] HIA 382 recounted how he 'felt respected by the Brothers'.[5] Social work records relating to HIA 382 comment on the 'interest of staff in social and educational development' and a further internal report talks about HIA 382 being 'like a member of staff'.[6] HIA 381 summed it up with the words… 'I loved it there'.

[2] Comment of DL 81
[3] Although it soured after the incident on the bus
[4] RUB 32569
[5] Day 69
[6] RUB 32570 & RUB 32562

6.13 The words of HIA 225 are also relevant;

> 'I wouldn't want anybody to feel that some of those adults who cared for us didn't try and promote a sense of well being'.[7]

6.14 Despite the attempts by many brothers to do their best for the children, institutionalisation can never provide the care of a truly loving family. Significant life events are often considered as particularly inadequate in hindsight. The reported recollections of Christmas is a case in point. The Inquiry bundle at 90004 contains photographs of Christmas celebrations in the 1976. Some applicants like HIA 390 recounted positive memories of receiving and keeping presents provided to them by civilian visitors (See RUB 10094). However, there are further isolated reflections that Christmas was ignored. HIA 45 recounted that he 'never had a decent Christmas' in Rubane. However, the records confirm that he was in fact at home for both Christmas periods. Similarly, HIA 170 described being left alone at Christmas, although he accepted that on one occasion the Social Services had arranged for his family to meet in a house to celebrate Christmas, while on another occasion he went to [redacted] [Houseparent] home. While it is probable HIA 170 was alone at [redacted] this was because he had turned 16 in [redacted] and his ongoing stay at Rubane was to facilitate his integration into post care life. As he was now free to do as he pleased staff had stopped maintaining notes on him. His reflection on his Christmas experience would therefore appear to demonstrate a misunderstanding of his legal position rather than abandonment by the Brothers.

6.15 Many applicants reflected that their birthdays were not recognised. However many children in the populace at large would not have had birthdays recognised in the respective eras. By the 1970s, the Order did recognise birthdays evidenced by HIA 222 gift of £2.00 within days of arriving on the occasion of his birthday. The recognition of birthdays today is of societal significance. It did not have the same significance in the 1950s/60s and one must be careful not to interpret historical contexts through today's mores.

[7] Day 63 82:15-17

6.16 It is recognised that some applicants, like HIA 183 talk of a 'lack of love'. He was in Rubane from [redacted]. There is no doubt he was there during a difficult period. Despite this, HIA 183 did speak fondly about BR 66 and BR 63, suggesting that individual brothers tried their best to engage with the boys despite the difficult environment. HIA 385 gave an account of being called a 'spaceman' by BR 15. While this was highly inappropriate, it represents an isolated criticism of a single Brother. Other accounts of name-calling was attributed to DL 6, although it seems that none of the Applicants to the Inquiry were unduly concerned about this.

6.17 The Inquiry has heard the evidence of some residents who deplored the lack of emotional care provided by the Brothers. Societal issues have changed so significantly over the relevant eras that fair comparisons of emotional care giving are difficult. The 1950/60s father was not the attentive, sensitive and involved father of today. He was much more likely to play the role of disciplinarian. In addition, it would be naive to expect a residential institution to be reflective of normal family life, particularly given the absence of the feminine influence.

6.18 However, it is deeply regrettable, given what is now known about BR 17 and BR 15, that both Brothers overlapped in the home from [redacted] It is accepted that this era would have been a difficult time for residents despite the presence of BR 13 and other Brothers of integrity.

6.19 Fortunately, the arrival of Brothers like BR 2 marked a softening of the previous strict regime and the establishment of a more caring and sympathetic relationship with the boys. The fact that ex-residents continue to maintain such relationships with Brothers to this day provides substance to this submission. The positive reflection of HIA 225 in acknowledging BR 2 's role in facilitating HIA 225 with work experience to start his career [redacted] stands out as an example of the empathy and care for the boys demonstrated by many of the Brothers.

Chapter 7 Freedom

7.1 From the outset the Ministry of Home Affairs reports spoke of the boys enjoying the 'freedom of their surroundings'. Whatever may be said about Rubane, Fr Bartlett's reflection of 'placing children into a Monastic environment' is very far removed from reality. Fr Bartlett's view would not be shared for example by HIA 21, HIA 132, HIA 381 or HIA 382. His assessment is in stark contrast to HIA 36, who spent [redacted] years in Rubane and described the facilities as being 'like a hotel'.

7.2 There can be little doubt that the green fields, copses of trees and wide open farmland offered, depending on viewpoint, a welcome relief from inner city Belfast or Derry. However, the 'freedom' created problems in itself. There were rules and there were boundaries much in the same way that a day school or family home would have rules and boundaries. An expansive 250 acres brought benefits but it evidently created an environment which facilitated truancy, absconding and as the Inquiry heard sexual activity among the boys.

7.3 The Inquiry heard, particularly from the [redacted] cohort about a 'white line' and how crossing the line attracted punishment. There were two white lines – one across a vehicular exit from the yard and another across a pedestrian exit from the yard. The purpose of the line was to confine the boys to the yard during school hours – in much the same way as a normal school. It was not a draconian measure and was a reasonable and proportionate policy to maximise school attendance and minimise misbehaviour. HIA 36 [redacted] mentioned that he heard talk of the line when he arrived but that it was 'no longer enforced'. Indeed, as one passed through the residents chronologically the line became less of an issue until it was not mentioned at all.

7.4 Of course, the whole issue over the 'white line' simply served to reinforce the dilemma between stringent rules and boys freedom. In later years – from mid 60s inward the residents began to recount interference with each other in the woods. There was implied criticism of the Brothers failure to supervise. With respect the Order was between a rock and a hard plate. The Inquiry has heard that there was anything from 50 – 100 boys being supervised by 5-12 Brothers in a vast area. The Home was not a prison and balancing freedom and control brought its own problems. It is, we feel disingenuous to lay the blame for the most pertinent of those problems, peer abuse solely with the Order itself. Certainly, one should be careful to criticism them for

being draconian with issues like the 'white line' if on the other hand they are to be criticised for allowing boys to visit the 'woods'.

7.5 The element of freedom is aptly illustrated by;

- Repeated accounts of BR 13 (& others) taking the boys for walks to Kircubbin and Cloughey beach;
- HIA 247 recounting that he was allowed to cycle into Kircubbin to buy stamps;
- HIA 399 being able to go to the shop to post a letter to his father;
- HIA 110 specifically commenting that the potato picking got him 'away from the Brothers';
- HIA 247 getting to visit families in Belfast after sporting matches;
- HIA 16 recounting how it was 'fantastic' to get to the woods in Glenariffe to stay up late and cook;
- HIA 41 keeping his dog and HIA 225 keeping his pets:

7.6 A number of the applicants accepted that giving the boys an element of inherent freedom created problems for the Brothers in terms of supervision. HIA 247 referred to the fact that 'you couldn't have Brothers there all the time whenever these things might occur'. HIA 64 was as equally perceptive when he said 'The Brother can't be somewhere all the time'.

7.7 The records through the late 1970s and into the 1980s aptly demonstrate further expansion of the opportunities provided to the boys. The Inquiry HIA 104 joined other residents on a trip to Rome. HIA 25's records reveal he was allowed to entertain his girlfriend in the Home. Many applicants mentioned the trips to the disco in Portaferry. HIA 170 reflected fondly on his time in the Independent Living Unit and how during that fortnight he was trusted to maintain a house/budget with another boy and went into the pub together in Kircubbin.

7.8 HIA 256 recounted being taken on trips to Newtownards to buy clothes.

7.9 HIA 21 described how if the boys 'asked permission' then they would be permitted to take walks along Rubane Road. Tragically we know that some residents took advantage of this trust and freedom but the fact that they did so only serves to illustrate the dilemma that the Brothers found themselves in – between being too regimental and allowing the residents an important independence and responsibility.

7.10 DL 445 reflected upon how 'if you showed responsibility you got freedom'. Like others from earlier eras, he described being able to cycle into Portaferry and walking over to Glastry. He also reflected fondly on the Brothers facilitating him with the ability to access the school out of normal hours so that he could practice his music.

7.11 As against the generality of accounts it is of note to reflect on paragraph 27 of the 1952 Home Office Memorandum[1] which inter alia states the following;

(i) Fresh air, sunshine and activity are essential to the health and the full physical and mental development of children.
(ii) Where the garden is large enough, part of it should be set aside for the free use of the children.
(iii) The keeping of pets gives children the experience of caring for living things and develops a sense of responsibility.
(iv) Bicycles, besides being popular, provide training for the older children in independence and road sense.
(v) Outings and treats should be arranged.
(vi) As opportunity offers, children should be helped in the observation of growing an dliving things and in the life of the countryside.

It is of note that this paragraph has been annotated in Rubane's copy of the memorandum as evidently the Brothers clearly tried to adhere to it.

7.12 BR 10 described how four boys were allowed to walk to McKenna Hall in Ballycran for Irish Dancing practice. On questioning from Mr Lane BR 10 described how that illustrated the 'trust that [the boys] were given'.

7.13 RUB bundle commencing at 90000 demonstrates the variety of activities that the boys partook in from 1976 onwards.

7.14 It is difficult to analyse specifically each of the eras. In our view it is fair to conclude that the freedom granted to the boys would have expanded over the lifespan of the Home. The reasons for this are inevitably mutli-factorial and derive from changes in the demographics of the boys, changes in child care policy, changes in the vehicular provision within the home and changes in the number of staff within the home. Upon the arrival of the 1970s there is, in our view, a considerable relaxation within the

[1] RUB 398

Home and the Inquiry heard about the deliberate attempts to arrange sports events inside and outside the home and establish residents links with the local community. HIA 25 recounted having his girlfriend up to visit during his independent living week and this perhaps demonstrates how far things had advanced from the 1950s.

7.15 As against the backdrop of the task which they had been asked to fulfil, and at times manage very difficult children, the Order does not consider that the boys' freedom was unreasonably hindered. There is no doubt that there were rules, stringent rules, which had to be adhered too but these were designed to maintain discipline and facilitate good management of the Home. DL 503 recounted that on his visits he formed a view of 'clear procedures and clear boundaries'. Arguably, particularly in respect of some boys, this is exactly what was required. Individual residents will have their own reflections and views on certain matters but it is important to look at the matter in context as against the overriding role of the Home and society at that time.

Chapter 8 Corporal Punishment and Physical Abuse

A large number of applicants intertwined their recollections of physical chastisement and physical abuse.

8.1 Corporal Punishment

8.11 Corporal Punishment (CP) was permitted by regulation within the Home and formed part of the discipline regime within the School. It is important to remember that CP applied to both the 'Home' and the 'School' under different regulations. Former residents did not draw any distinction between 'Home' and 'School' and it is accepted that the practical distinctions may have become blurred, as perceived by both residents and Brothers.

8.12 Two important distinctions between the respective regulations are;

(i) CP in the School could be administered in front of other pupils.
(ii) There was no requirement to record CP in the School.

8.13 The Inquiry has heard reflections from a number of residents which recounted incidents which quite clearly went above and beyond 'six of the best' or in other words exceeded that permitted by the Regulations. Some of these accounts, if correct, quite clearly describe physical abuse. Others may be describing an attempt at CP albeit reflecting '12' strokes as opposed to '6'. It is for the Inquiry to determine the instances when CP becomes physical abuse.

8.14 There was a general theme pertaining that corporal punishment was prevalent throughout the existence of Rubane. It is accepted, as expressed by the Applicants themselves, that CP was a feature of schooling right up to the mid-1980s. While the Order's Rule stipulated non-adherence to corporal punishment as a principle it would certainly not have been uncommon to find it as a facet of school life throughout the UK & Ireland. Indeed, smacking would have been widespread in most familial homes at that time as well. The administration of the cane/strap was viewed by society as an appropriate way to correct bad behaviour.

8.15 The majority of the applicants, when recounting CP, gave the impression that it was generally conducted in accordance with regulation.

HIA 59 stated 'it was three strokes of the cane or six strokes of the cane. That's the way it worked'[1].

HIA 244 agreed that it was '3 slaps on each hand'[2]

[1] Day 55 91:15-16

HIA 16 when reflecting that BR 4 was tough said 'he used to give you six of the best on the hands'. This is an interesting reflection because his perception of BR 4 toughness was still within the Regulations.

8.16 There is no doubt that in the school setting boys witnessed other boys being punished. However, on questioning from Ms Doherty about witnessing Brothers chastise boys in front of other boys HIA 64 responded by stating, *'you hear it once or twice, yes. You seen it, you know, but not a big lot'*[3]. HIA 64 was in Rubane for [redacted] years and this statement does not give the impression of an overly harsh regime.

8.17 The public aspect of the punishment was raised on other occasions. HIA 225 and HIA 21 referred to boys being 'assembled by the railings' and HIA 36 mentioned boys being 'assembled in the school'. It is difficult to draw definitive conclusions as to the specifics of these events. HIA 225, HIA 21 and HIA 36 were contemporaries. They all recounted this type of public event on only one occasion throughout their [redacted] years. It appears that the event was fixed in memory because of its rarity as opposed to regularity. It may well be that all three applicants are recounting the same event. Other residents spoke of boys being assembled in the school. However, it is difficult to know whether the boys were assembled specifically to observe the punishment or whether the punishment occurred ancillary to a standard assembly. The Inquiry has heard that some punishments were administered at Sunday assembly.

8.18 A more disturbing account was provided by HIA 252 reflecting on BR 17 when he described being struck 'fifteen of twenty times' on his posterior with trousers down for stealing cigarettes. He went on to describe it as a 'public flogging'.[4]

8.19 DL 81, a lay houseparent, was asked by the Chairman about the strict disciplinary regime within the home and how CP formed part of that regime. The view expressed by DL 81 was that CP was 'a last resort'.

8.20 It is accepted that in the earlier years, particularly those coinciding with BR 17's term as [redacted] the regime would have been more physical. It should be noted, in contrast to some reflections on BR 17, some of the Brothers did not enjoy administering Corporal Punishment. For example, BR 2 recorded in his diary that he 'felt awful' after administering CP.

8.2 Shaving Hair

8.21 A small number of applicants alleged that they had their hair shaved as a punishment leading to public humiliation. The shaving of hair as a punishment is often associated with institutional homes. It forms a relatively small part of the allegations made

[2] Day 59 33:7-11
[3] Day 59 72:18
[4] Day 55 158:19-25

against the Order but we consider that it is appropriate to specifically address this net issue. The Order does not accept that this practice was adopted in Rubane House.

8.22 HIA 45 opened the testimony with an account of having his hair shaved as a punishment. The Order does not accept his account. All the photographs of HIA 45 show him (and his contemporaries) as having relatively long hair which would have taken some time to grow[5]. It is also noteworthy that HIA 45 was at home in [redacted] and [redacted] and again at [redacted] and [redacted] when it is expected that Welfare would have intervened if this had been an issue. His brother HIA 59 made a similar complaint.

8.23 HIA 97 repeated the hair shaving allegation though denied it happened to him. HIA 97 conceded that, since leaving Rubane, he has met and shared experiences with HIA 45.

8.24 HIA 244 was the only other applicant to suggest his head was shaved as a punishment and he said that he was the 'only' boy to have his hair shaved during his residency.

8.25 The Order's position is that heads were shaved only in an attempt to combat nits.

HIA 159 reflected; 'another time we all had to get our heads shaved because of the nits. We all looked like skinheads. Thank God it was summer time'.[6]

HIA 261 also mentioned the 'nit nurse'.

HIA 159, in a written account, recorded that 'we all had to get our heads shaved because of nits.'

8.26 We submit that there is no convincing evidence to substantiate the allegations of head shaving as a punishment.

8.3 The Evidence – A Review

In this Chapter we review the evidence of the resident applicants/witnesses in respect of physical abuse and corporal punishment.

8.31 HIA 45 [redacted] described and incident when he lost 10 shillings given to him to obtain a film and he absconded on the Home's bicycle. He described receiving 'quite a few slaps' and while he did not specify the precise number of slaps, one did not get the flavour form his account that it exceeded the number permitted by regulation.

8.32 HIA 59 [redacted] described how after he stampeded cattle he was 'battered, had his hair shaved and was locked in a cupboard'.

[5] RUB 2138 - 2141
[6] Day 56 148:9

8.33 HIA 24 [redacted] described how you would get a 'clout'. In his statement he indicated that BR 17 was his teacher and 'if you did something wrong he would bring you outside and hit you with thick straps or big belts'. He did not explain what 'something wrong' would entail.

8.34 HIA 89 [redacted] was not called to give oral evidence. In his statement he recounted 'that you got the odd belt or slap…if you did something wrong.'

8.35 HIA 252 [redacted] alleged abuse by;

(i) BR 17
(ii) BR 15
(iii) [redacted]

BR 17 'hit him across side of face' and 'beat him with strap or stick' for smoking. On one occasion when accused of theft all the boys and other Brothers were gathered in the classroom when he was 'flogged' as an 'example'.

BR 15 hit the boys with a strap in the showers.

BR 14 kicked HIA 252.

8.36 HIA 97 [redacted] alleged abuse by;

(i) [redacted]
(ii) BR 15 & BR 17 for wetting the bed
(iii) [redacted]

He alleged that BR 12 drove the tractor at him.

HIA 97 recounted that BR 15 struck him on the head with a bunch of keys. No other applicant has alleged that manner of assault though it is a modus operandi reported in historical abuse accounts from other homes.

HIA 97 stated that it was 'traditional to sow coins into belts for greater effect'. He was not asked to expand on that comment.

HIA 97 showed a scar allegedly caused by BR 17.

Injuries caused by hurls appear to have been inflicted during games/training and the flavour of the evidence was that the head injury described in his statement occurred when balls were being struck off a wall (in pre helmet days).

HIA 97 expanded on his statement by recounting that boys had their hair shaved off. He denied this happened to him but went on to say that it did happen and that the Brothers did the same at Milltown. HIA 97 had no personal experience of Milltown and is likely to have developed this theme from his discussions with HIA 45.

Despite his accounts HIA 97 suggested that he tried to join the De La Salle Order along with a fellow former Rubane resident.

8.36 HIA 183 [redacted] alleged that BR 17 [redacted] beat him in class for answering a question wrong. He also recounted how BR 15 [redacted] carried out a collective punishment on the boys and struck a boy on the face with a cane.

8.37 HIA 390 [redacted] alleged BR 15 [redacted] would 'whip' the boys in the steward's house. Notwithstanding the concessions regarding BR 15 it is of note to compare the evidence of HIA 390 and HIA 159 who overlapped in Rubane and whose evidence was given on the same afternoon. It is difficult to reconcile that the two witnesses were in the same house at the same time.

HIA 390 made no reference to 'coins' in the strap.

8.38 HIA 159 [redacted] was deceased. In his statement he recounted how BR 17 [redacted] banged his head off the blackboard and how BR 17 [redacted] would flog absconders.

8.39 HIA 279 [redacted] recounted that BR 53 [redacted] and BR 17 [redacted] were abusive, brutal and vindictive.

8.40 HIA 247 [redacted] described how BR 17 [redacted] 'beat him' but he conceded that it was 6 strokes of the strap, which was the number permitted by regulation. He did not give examples but he did testify that BR 17 [redacted] was like Jekyll & Hyde, 'smiling and joking one minute' and throwing dusters the next minute.

HIA 247 accepted that bullying was not a 'major problem' and reflected that it was not possible for the Brothers to supervise everywhere all the time.

In terms of the 'boxing matches' the flavour of HIA 247's evidence was that if the Brothers caught boys fighting a boxing match may have been arranged to resolve the dispute.

8.41 HIA 388 [redacted] did not give evidence in person. A medical report was submitted to the Inquiry to explain his non-attendance. His statement was summarised.

In HIA's 2012 PSNI statement at RUB 66546, HIA 388 alleged physical assaults by BR 6 [redacted], BR 15 [redacted] and [redacted]. In 1995 at RUB 61387, HIA told the RUC that he 'was never physically or sexually abused by any of the staff....or Brothers' in Rubane. The Inquiry has been unable to ascertain any rational explanation for this total contradiction. The 1995 denial is perhaps more stark given that he was prepared in 1995 to report a suspicion of sexual abuse involving BR 15 [redacted].

HIA 388's Inquiry statement made reference to the use of an 'electrical flex' in the context of being physically assaulted by BR 15 [redacted]. An evolving picture in respect of BR 15 [redacted] has emerged during the evidence, but the consensus among the applicants is that BR 15 [redacted] used a strap or cane. It is noted that allegations involving 'electrical flex' arose in Module 1 and where reported in the Ryan Report.

HIA 388, contrary to all other applicants who recounted family visits, stated that he and his mother were 'put' in a shed for the meeting – as opposed to being hosted in the House itself.

The Order does not accept the veracity of HIA 388's account.

8.42 HIA 427 [redacted] is deceased. His statement to the Inquiry was summarised. He alleged physical assaults by BR 17 [redacted], BR 15 [redacted] and [redacted].

8.43 HIA 399 [redacted] recounted that an absconder was beaten in public, the boys having been assembled to watch this. The impression one gained was that this was an isolated event within a two year residency. HIA 399 described how [redacted] had a quick temper and would throw things at the boys but he also accepted that he learnt much from him. HIA 399 also stated that the boys did wind [redacted] up on account of his [redacted] factors which are important in understanding the Order's position on [redacted]

8.44 HIA 261 [redacted] recalled BR 15 [redacted] as 'vicious and bad tempered'. He also recounted that [redacted] assaulted him when he should not have been in the main House. Like HIA 399 the impression one gained about the public beating of absconders was that it was a singular event in his two years residency. They may both have witnessed the same event. HIA 261's recollection of boxing matches was that they were arranged to settle disputes among boys caught fighting.

8.45 HIA 385 [redacted] described how BR 15 [redacted] nearly 'drowned' him which allegedly teaching him to swim. He also described boys getting caned.

8.46 HIA 160 [redacted] made no allegation of being physically mistreated.

8.47 HIA 244 [redacted] described how he was physically assaulted by Brs BR 15 [redacted], BR 6 [redacted] and BR 2 [redacted] after he absconded to attend [redacted] HIA 244 testified that he was in Rubane since [redacted] and that he was definitely there when his mother died [redacted] The Order disputed this account. It was only after HIA 244 completed his evidence that [redacted] records became available to corroborate the Order's position and established that HIA 244 remained in [redacted] until [redacted] HIA 244 could not have been punished for the reason alleged.

It is accepted that HIA 244 was punished in Rubane because the Punishment Book details an entry for the [redacted] wherein he was punished with two other boys for 'persistent absconding.' HIA 244 maintained before the Inquiry that he was not punished along with two other boys and that he had only absconded once. He rejected the proposition that the contemporaneous record referred to him.

HIA 244 alleged that he had his hair shaved for the same offence and maintained that he was the only boy who was punished in this manner.

HIA 244 further alleged that a [redacted] had physically assaulted his brother [redacted] The Order denies that [redacted] and [redacted] were in the home together.

It is submitted that the records establish that HIA 244's accounts are inaccurate and he should not be considered credible. This point is further demonstrated by his denial of visits to Glenariffe, his denial of visits by the doctor/dentist/nit nurse, his suggestion that cinema visits were restricted to a solitary occasion and a his denial of ever seeing visitors to the home, all issues which have been established to be contrary to HIA 244's testimony. HIA 244 testified that a severely disabled boy with a deformed arm and deformed leg was in Rubane during his residency. This is not established by any record and BR 2 [redacted] denies it categorically.

8.48 HIA 64 [redacted] described how he was 'brutally beaten' for absconding but he was unable to name any of the Brothers involved. In his Inquiry statement he appears to maintain that the Brothers only resorted to standard corporal punishment recounting '*that the Brothers did not really become involved unless you were being punished for something.*'

Ms Doherty asked about the 'white line' and while HIA 64 confirmed that a boy was not permitted to cross it he did not recount any physical reprimand for having done so.

8.49 HIA 262 [redacted] did not give oral evidence. His Inquiry statement was summarised. He recounted how on his second day he absconded and was then held down by two Brothers, including BR 2 and beaten. BR 2 was not in the home at this time. HIA 262 did not give oral evidence and could not be probed on this point. The fact that he has made a material error in identification of those involved, must raise concern regarding the totality of his evidence. He recounted further allegations mostly against BR 15, but also including BR 44

8.50 HIA 26 [redacted] did not give oral evidence. His Inquiry statement and additional police material was summarised. For reasons outlined in the chapter on Sexual Abuse there are considerable issues of credibility in respect of this Applicant. In his statement he did recount corporal punishment and also repeated the allegation of a strap with 'coins sewn into it'. The Inquiry was unable to ascertain whether such corporal punishment was in excess of statutory regulations. The 'coin strap' is a myth.

8.51 DL 445 [redacted] recounted that Rubane was a tough disciplinary regime but that he welcomed the discipline explaining that *'if no discipline [younger boys] were at the older boy's mercy'*. He described BR 15 as 'firm' and BR 44 as 'severe' and explained that it was BR 44 who was most enthusiastic about enforcing the 'white line'.

8.52 HIA 379 [redacted] described physical abuse consisting of a caning until he 'passed out'. In his inquiry statement HIA 379 identified the perpetrator as BR 15. Before the Inquiry he retracted that evidence and maintained that his 'abuser' was BR 3. Both BR 3 and BR 15 were referred to elsewhere in his Inquiry statement. The Order maintains that one cannot accept at this late stage that he had mistakenly identified BR 15

HIA 379 testified that his father arrived within 30 minutes of this assault. If HIA 379 had been beaten as badly as he alleged, one doubts that his father, whatever the explanation from BR 15 (sic), would have simply accepted it.

It is readily apparent that HIA 379 was a difficult child. He admitted getting into many fights and being defiant. BR 6, BR 3 and BR 15 may very well have been involved in administering corporal punishment. HIA 379 was only in the home for [redacted] months and it appears that due to his behaviour, there is a strong

possibility that he was caned on many occasions. In this context, his perception of an overly physical regime is understandable.

HIA 379 recounted boys being punished in front of others at Sunday Assembly.

There is no thread of evidence to suggest that HIA 379 is correct when he says that 'boys would be flogged if they forgot their rosary beads'. The only other applicant to make this point is HIA 152 who incidentally was there in [redacted] with HIA 379. HIA 19 [HIA 152's brother] testified that you were 'warned' that you would be beaten for losing your rosary beads but that it was only a 'threat' that was not carried out. This may explain the basis for HIA 379's complaint, namely that the warning has over time been confused with action.

8.53 HIA 152 [redacted] acknowledged that he was caned but only on the hands and had no complaint that it was excessive or unmerited.

8.54 HIA 19 [redacted] described how DL 6 [redacted] would throw instruments at the boys and hit HIA 19. He also recounted being caned. At RUB 64877 he recounted being 'punched' by BR 15 [redacted] for 'stepping out of line'. He also stated that [redacted] would hit you with a 'stick' if he caught you sneaking off down to the Post Office. In that police statement he mistakenly refers to BR 15 [redacted] as [redacted] The [redacted] was [redacted] and he did not arrive in Rubane until [redacted] He appears to recount being punished for wrongdoing without suggesting it was overtly abusive.

HIA 19 recounted how he much time for BR 6 [redacted] and accepted that he had positive memories about his post discharge return visits to Rubane and his subsequent visits to see BR 2 [redacted]

8.55 HIA 191 [redacted] described a physically harsh regime. It is submitted that the totality of his evidence is tainted due to his erroneous reference to sexual abuse by [redacted] BR 1 [redacted] and in particular his allegation that BR 1 [redacted] was in Rubane for the entire duration of his residency. It is submitted that the most useful aspect of this HIA 191's testimony is the demonstration of just how difficult a character he must have been. It is not difficult to imagine how residents like HIA 191 would have created substantial problems for the Brothers in respect of discipline and control. HIA 191 described how he was badly beaten by BR 2 [redacted]. BR 2 [redacted] denies this allegation.

[redacted]

8.56 HIA 511 [redacted] gave evidence by video-link. His statement described a physical assault which followed an episode with BR 15 [redacted]. He described this as the first of many assaults and he placed BR 4 [redacted] and BR 22 [redacted] at that assault. BR 22 [redacted] did not arrive in Rubane until [redacted] two years after HIA 511 and BR 4 [redacted] did not arrive in Rubane until [redacted] some 4 years after HIA 511. Evidently this could not have happened until, if at all, almost the end of HIA 511's residency

HIA 511 described in his statement being assaulted by BR 4 [redacted] alongside DL 526 [redacted] DL 526 [redacted]. DL 526 [redacted] was discharged in [redacted] 10 months before [redacted] BR 4 [redacted] arrived.

At RUB 61284 HIA 511 told the RUC that a number of Brothers including [redacted] BR 30 [redacted] beat his brother DL 198 [redacted] with an iron rod. HIA 511 told the inquiry this was a sewer rod. No other Applicant or complainant has ever mentioned such an implement. Neither BR 30 [redacted] nor BR 4 [redacted] (HIA 511 accepts he confuses the names at times) were in Rubane with DL 198 [redacted]. When DL 198 [redacted] spoke to the police in 1995 he made no reference to this 'event'.

HIA 511's evidence was riddled with inconsistencies and it is submitted should be given very little evidential weight.

8.57 HIA 147 [redacted] described how he got 6 strokes on the hands from BR 6 [redacted] but he commented positively about BR 6 [redacted] and how he was 'very fair'. He had similar reflections of BR 2 [redacted]. He testified that BR 4 [redacted] beat him at school to the extent that he was marked and came out 'in lumps'. HIA 147 at RUB 65079 suggested that BR 4 [redacted] took a dislike to HIA 147 because HIA 147 had 'escaped' from Rubane. The Order's position on HIA 147's 'escape' and the fact that the Register has not been amended in accordance with HIA 147's allegations was not put to him. Reference is made to the Order's response to HIA's statement.

8.58 HIA 110 [redacted] described how BR 6 [redacted] would 'hit you with a stick if you did something wrong' but that only happened a 'few times'. HIA 110 was complimentary about BR 6 [redacted], BR 13 [redacted], BR 2 [redacted] and BR 3 [redacted]. One did not get the impression that HIA 110 received anything other than corporal punishment permitted by regulation. HIA 110 denied excessive physicality by the Brothers and did not report witnessing any physical punishments on the other boys.

8.59 HIA 16 [redacted] did not give oral evidence. His statement was summarised and read out. He described BR 4 [redacted] as a tough man who would 'beat you for many reasons

and for arguing with the other boys'. As HIA 16 did not give evidence it is impossible to establish the 'reasons' for this punishment. However, HIA 16 went on to say that BR 4 gave 'six of the best on the hands' and there is therefore no evidence that the punishment was anything other than permitted by regulation.

HIA 16 also recounted an incident with BR 29 which he placed in the context of having stolen altar wine and got drunk. The contemporaneous records suggest that BR 29 was not in Rubane at that time. BR 2 's diary suggests that BR 4 may have dealt with the incident but neither HIA 21 or support HIA 16s account that he was physically mistreated although it is accepted that for breaking into the sacristy, stealing alter wine and getting drunk, he would have been subjected to corporal punishment.

8.60 HIA 225 was a very impressive witness and described a number of 'physical' incidents, namely;

(i) Being forced by to take a tablet [laxative]
(ii) Being strapped 'several times' by BR 4 for 'copying' and then being struck by BR 4 when being unable to continue writing.
(iii) Being caned by BR 2 for fighting.
(iv) Witnessing the punishment of absconders.

In relation to (i) HIA 225 testified that he had reported the matter to BR 2 and reflected that BR 2 had dealt with the matter quickly and effectively.

In respect of (ii) HIA 225 made a contemporaneous complaint to his social worker. The social worker adopted a 'wait and see' approach to observe whether there was any repetition. HIA 225 accepted that this was the only time that BR 4 punished him beyond permitted strapping.

HIA 225 accepted that BR 2 may not actually have witnessed the event which led to (iii). He was obviously upset that he had been punished in a similar manner to his 'attackers,' but he accepted that he did not feel able to tell BR 2 the truth and it appears that the punishment was administered for 'fighting'. He did not allege that the number of strokes was outside regulation.

HIA 225 testified that (iv) occurred shortly after he arrived in Rubane – i.e He accepted that this was an isolated event. It is submitted this event was engrained in his memory because of the rarity of the event rather than the regularity of such punishments. HIA 225 was in Rubane for nearly years and recounted only 1 such event. It is of note that HIA 36 who gave evidence on Day 63 as well recounted a similar single event as having taken place during his years residency which incidentally corresponded almost exactly with HIA 225. He named the boys as the ' brothers'. The eldest of those boys had left by It is possible that the same event was being described. If so, there were inconsistencies between the

accounts – HIA 225 naming BR 2 as the 'caner' and HIA 36 naming [redacted] BR 6.

Positive memories of BR 2 and BR 6 were recounted.

HIA 225 accepted that DL 6 was provoked by the boys.

8.61 HIA 36 [redacted] did not describe any physical abuse per se. He accepted that he got 'six of the best' because 'if you broke the rules, you got punished for it'. He had positive memories of BR 2, BR 6 and BR 3 whom he described as 'very fair'.

On questioning from Ms Doherty, HIA 36 admitted that he had heard some of the older boys recount how in earlier years 'crossing the white line' in the yard would have been a punishable offence but testified that no such rule was enforced while he was resident. He went on to explain that it 'was a more relaxed regime when I was there.'

HIA 36 described witnessing the [redacted] brothers being caned for absconding. The older [redacted] brother left in [redacted] so this event must have taken place before that date. Notably, he recounted that BR 6 (whom he considered a fair man) administered the punishment. This may or may not have been the same event witnessed by HIA 225 and HIA 21 but it was the only public caning that HIA 36 recounted during his [redacted] years in Rubane. BR 2 remains adamant that he never witnessed a boy being stripped before being beaten in such a manner and retains doubts whether any other Brother would have seen the need to strip a boy before administering a punishment.

8.62 HIA 56 [redacted] recounted that BR 3 assaulted him for what the applicant suggests was the mistaken belief that HIA 56 was sexually interfering with a new admission. HIA 56 agreed that this was a singular event during his [redacted] years in Rubane. HIA 56 stated that BR 3 was the only Brother to physically assault him. He did not recount witnessing any physical abuse.

HIA 56 contradicted HIA 16's account of being assaulted by BR 29 and testified that BR 29 simply 'restrained' HIA 16.

It is of note that HIA 56 commented on the lack of 'family atmosphere' in his Chalet. It is for this reason that the Order maintains that DL134/DL135 were dismissed. It was the lack of 'family atmosphere' that led to their dismissal. The Order was unaware of any complaints of sexual assaults by DL134/DL135.

8.63 HIA 21 [redacted] described being struck on the face by BR 3 on his first night in the Home but accepted that it was an isolated incident and described how he later developed a close relationship with BR 3 which continues to the current day.

HIA 21 accepted that there was a very firm discipline code and boys were caned for stealing, mitching school or absconding. He recalled an incident when the boys were assembled at the railings to watch an absconder being slapped on the backside and accepted that this was 'an example' to the other boys. This certainly appears to be the event being described by HIA 225 and possibly the same event being described by HIA 36. The impression given by HIA 21 was that this type of punishment was a rarity and he went on to say *'other than that I didn't see any excessive force'*.

In this context HIA 21 recounted an incident involving a number of boys including HIA 16 when they stole altar wine and got drunk before receiving '6 slaps with the strap' from BR 4. HIA 21 stated that he received 6 on each hand, outwith regulations, but on questioning from Ms Doherty, HIA 21 did not appear embittered and recounted that he asked BR 4 to 'go easy on him'. The impression was that HIA 21 felt he was suitably chastised.

8.64 HIA 222 [redacted] described being 'slapped' on his arrival at Rubane as his mother left. He further described;

(i) assault by two unidentified Brothers when he failed to respond to the bell for benediction,
(ii) assault by BR 62 with strap after being caught smoking in the chalet,
(iii) assault by SR 57 when the gas in the chalet had been left on maliciously,
(iv) assault by a civilian teacher with a book.

HIA 222 recounted that the 'strap' could not be folded and that it was no different from the strap he got at school [outside the home]. – Day 63 11:1-7.

At Day 63 13:1-10, HIA 222 explained his failure to report the incidents alleging that he had been warned by other boys not to say anything to 'welfare' for fear of the complaint getting back to the Order. There is no body of evidence to suggest that reports to Welfare resulted in punitive action being taken. Indeed the evidence of HIA 225 shows a rather more pragmatic approach.

HIA 222 recounted a further incident when BR 62 reputedly strapped the boys in a dorm within his Chalet after a practical joke. He placed the [redacted] boys in this Chalet. None of the [redacted] boys corroborated this event which is surprising given the number and variety of the complaints that they have made.

8.65 HIA 94 [redacted] alleged that a Brother whom he was unable to name, but who has been identified by the Order as BR 22, 'constantly beat him'. No context was given to the 'beatings'. HIA 94 was a very difficult child who gave the Brothers many problems during his [redacted] month residency in Rubane. He was evidently out of control. He told the PSNI at RUB-66232 that he was 'not marked' by the beatings. It is submitted that the 'beatings' he suffered was punishment for bad behaviour were permitted by statutory regulation.

8.66 HIA 34 [redacted] described how BR 18 slapped him in the yard. He gave little contextual information, but when asked by Mr Lane whether it was perhaps justified he simply retorted 'they were evil'.

8.67 HIA 104 [redacted] described one incident in five years of physical assault when a civilian teacher, DL 1, is alleged to have hit his head against the blackboard after HIA 104 gave some 'back chat'.

8.66 HIA 259 [redacted] described being assaulted by BR 10 leaving him concussed. HIA 259 did not report this matter to the RUC in 1980. He explained his failure to report the BR 1 event was because his foster parents had warned against his involvement in 'such business,' presumably meaning any homosexual activity. However, it is submitted that a failure to report a physical assault by a Brother is not justified by this explanation. HIA 259 had many home and social work visits during his residency. While one may accept some reticence to discuss sexual matters, it does seem unusual that he would not have reported such a serious physical offence. HIA 259 was not asked to date the assault within his residency. HIA 259 put the assault in the context of a [redacted] and girls at Rubane. HIA 259 testified that BR 10 sent him to bed after preventing him going into the woods with a girl. Some words were later exchanged and BR 10 then assaulted him by 'getting up on the bed to kick him' and that other boys restrained BR 10. HIA 259 had reported this matter to the police in 1995 but in that statement, no reference was made to the bonfire, the girls, the kicking or the other boys. Indeed the 1995 statement put the exchange in the context of HIA 259 missing a 'roll call.' In his evidence to the Inquiry, HIA 259 testified that there was no evening roll call and he could not account for the reference to it in his statement. HIA 259, on both versions of the event describes having a bust lip and the presence of blood. Beyond this, his descriptions of the other injuries are clearly inconsistent. In any event, if this Applicant was displaying a bust lip and or bruising, the question must be asked as to why [redacted] DL 115, of whom HIA 259 had positive reflections, did raise the matter or voice her objections and distain as regards such behaviour.

HIA 259 also recounted an incident when BR 18 assaulted a boy called [redacted] in an unprovoked attack in the canteen. It would appear that this was HIA 18. HIA 259 said the [redacted] ended up in hospital. HIA 18 alleged he was refused hospital treatment. If this was the last day of term and the expectation of summer holidays one would have expected his family and social services to have become aware of the injury/event. The Inquiry sought a statement from DL 11 on this point and while he confirmed that HIA 18 had a 'small cut to his lip' caused by [redacted] BR 18 he disputed the seriousness of the event relayed by HIA 259 and evidently denied that there was any need for HIA 18 to go to hospital. HIA 259 has, for whatever reason, exaggerated the seriousness of the incident.

HIA 259 considered the corporal punishment excessive and specifically recounted that BR 77 was 'quick tempered'. He also alleged that BR 6 slapped him on the face but there was no suggestion that this happened more than once.

HIA 259 accepted that the boys did wind DL 6 up.

The failure to report none of the physical assaults by staff in 1980 is notable, even if one gives HIA 259 the benefit of the doubt in respect of the his complaints of sexual abuse.

8.67 HIA 18 [redacted] described physical abuse by;

(i) DL 6 – a further repetition of 'throwing' instruments but recounted that [DL 6] 'missed most of the time'.

(ii) DL 1 – punch to stomach after HIA 18 had lifted a chair to a female teacher, although HIA 18 conceded this was a singular event in his [redacted] years at the home.

(iii) DL 149 – repetitive abuse – punching and kicking – at football matches and for losing matches or for disobeying him. Alleged broken nose, and broken jaw.

(iv) BR 77 – beaten for cursing.

(v) BR 18 – punched in canteen and left with broken nose and swollen jaw. This assault, although not the alleged injury, was corroborated by HIA 259. The inconsistency regarding hospital attendance is noted. If a boy required hospital treatment he would have received it and the evidence suggests that DL 11 would not have been intimidated by BR 18 on that point.

HIA 18 recounted directly that BR 3 was aware of the physicality of DL 149 and by inference that BR 10 and BR 6 were also aware.

The Order does not accept HIA 18's theory that Brothers would not have intervened with other Brothers. The fact that BR 2 spoke to a number of Brothers about their levels of physicality in the 1970s, including BR 18, has been disclosed to the Inquiry.

HIA 18 accepted that Brs BR 6, BR 2 and BR 3, while inflicting corporal punishment from time to time, did not engage in physical assault/punishment which went beyond '6 of the best'.

HIA 18 recounted positive memories with DL 11 & DL 12, SR 32 and DL 454 DL 454. He described telling DL 454 that the Brothers were 'beating' him but that DL 454 's retort was 'stay out of their way.....behave yourself' and 'keep your head down' which suggests that DL 454 formed the view that the responses of the Brothers was a result of behavioural problems. The Inquiry did not hear whether DL 454 knew specifically about the more serious incidents that HIA 18 recounted.

In his RUC statement dated 19th May 1980 [RUB-60260], HIA 18 failed to make any reference to these assaults. It is notable that HIA 18 was not in Rubane at that time the statement was made and accordingly would have been in a position to give a frank account and to have spoken freely about his residency in Rubane.. The evidence of DL 155, who was present during many of the interviews which the RUC conducted in Rubane, was that the police engaged with the boys 'wanting to help them and wanting the boys to help the police.' It is submitted that this fact is important when assessing the failure of HIA 18 and others to disclose any assault in 1980.

The failure to disclose the assault by BR 18 in 1980 may well be explained by DL 11 at RUB 5943 when he recounts the events in less dramatic terms. DL 11 states that HIA 18 had a 'small cut to the lip'. It is our view that with the passage of time the accuracy of HIA 18's account has become distorted. The fact an assault took place at all is not condoned.

8.68 HIA 31 described a generally physical regime but his account lacked detail and coherency. It should carry very little evidential weight. HIA 31 recounted positively that BR 2 was 'good'.

8.69 HIA 25 described how he was physically assaulted by;

(i) BR 18
(ii) DL 6 – though he denied the boys 'wound him up'.
(iii) DL 1 – punched in the stomach
(iv) DL 149
(v) BR 10

(vi) Fellow residents

HIA 25 conceded that he progressed to be a Chalet bully. He accepted that the boys would have been difficult to manage and that he was openly defiant at times.

Positive reflections on BR 2 and BR 3 were recounted.

8.70 HIA 519 described how he was beaten with a strap by his housemaster every time he was late back into the Chalet after being sexually abused by one of the Brothers. HIA 519's evidence in respect of the sexual abuse, allegedly perpetrated by Brothers and two Probation officers, contained significant inconsistencies and we do not consider his evidence credible.

8.71 HIA 149 described being punched by BR 18 in the dining hall. He also alleged being 'caned' although his primary complaint focused on the sexual offending which he recounted accompanied the caning.

8.72 HIA 218 and 219 primarily described a litany of sexual abuse. They also made allegations of a physical nature against BR 77 which depending on their various accounts at different times, had a sexual aspect. The totality of their evidence is, we respectfully submit, uncorroborated by any other applicant and indeed is in direct contrast to the accounts of HIA 104 and DL 40 for example. It is possible that these men were the subject of corporal punishment. The records establish that they were absconders and difficult children to manage. However, their accounts are generally so fantastic that they lack any credibility.

8.73 HIA 260 did not attend to give evidence. He is believed to be an associate of HIA 41. HIA 260 recounts in his Inquiry statement witnessing DL 81 assaulting HIA 41. Interestingly, while HIA 41 recounted this event to the Inquiry he failed to identify HIA 260 as a corroborating witness but rather identified two other boys who failed to corroborate his account. He also made a complaint against DL 149 DL 149. Again the similarity with HIA 41 is noted.

8.74 HIA 41 described physical abuse by;

(i) BR 23

(ii) DL 81

(iii) BR 2
(iv) DL 149
(v) BR 77
(vi) BR 6
(vii) DL 6

HIA 41 alleged that BR 23 was often drunk and continually left the boys in charge of the Chalet. That is not accepted. DL 81 gave evidence that you could 'smell drink' from BR 23 but in answering a specific question from Ms Doherty he denied that there was anything untoward about BR 23 's behaviour and commented that he was '*always very respectful*'.

While HIA 260 did not give evidence to the Inquiry his statement 'corroborating' HIA 41's account of being struck by DL 81 at paragraph 7 of his statement was opened. HIA 41 accepted that he knows HIA 260. Interestingly HIA 41 gave the names of boys whom he said could corroborate this allegation to the police in 1995 and HIA 260 was not one of them. With the greatest of respect we submit that HIA 260 is recounting what HIA 41 told him and this simply demonstrates the contamination of evidence between residents.

In contesting DL 81's belief that HIA 41 was difficult to handle, HIA 41 denied his involvement in fighting stating that he 'didn't have that ability'. However, HIA 41 had previously conceded punching DL 48 . DL 81 testified that HIA 41 was a 'difficult guy' prone to 'sly behaviour' who 'taunted everyone'. The recollections of DL 149 and BR2 about HIA 41 mirrored those of DL 81.

HIA 41 in addressing queries raised by by other Inquiry applicants about the 'white line, proceeded to give his version of the white line and then stated that BR 2 had given him a 'doing over' for crossing it. At no other stage, despite eight police statements did he refer to this 'assault'.

HIA 41 alleged that DL 149 punched him on the head after HIA 41 threw a book at DL 149 . He described him as 'wicked, demonic evil.' HIA 41 placed HIA 104 as a witness to this event. It is noted that HIA 104 failed to mention that incident and in fact, despite the class allegedly witnessing the event, no boy has ever corroborated this account.

HIA 41 was very complimentary about BR 3 referring to his 'jokey' nature and that he would not 'dish out punishment.' HIA went further by accepting that the allegations he heard about BR 3 were a 'slur' on BR 3 .

HIA 41 was also complimentary about BR 10 and denied that he was violent. His comment that 'unless the boys stood up to him' suggests that the boys did antagonise and provoke reactions from the Brothers.

HIA 104 accompanied HIA 41 on the trip which HIA 41 described as the 'Bataan Death March'. HIA 104 had no complaint. The photographs illustrate a

trip which, we submit, many teenage boys would have relished the experience. To equate his experience in the [redacted] over 5 days with the suffering of Japanese prisoners of war shows considerable lack of human empathy and appreciation of genuine hardship. HIA 41 maintained the trip took place over 14 days despite the fact that the contemporaneous material establishes that it was only 5 days duration.

No other applicant to this Inquiry has had the same considerable number of opportunities to provide a consistent history. Despite this, the accounts given by HIA have varied significantly. We highlighted some points in the Chapter on sexual abuse which go to the heart of his credibility but it is worthwhile to also stress the following. HIA 41, when being asked about visits by his mother was shown a quarterly review sheet with social work visits. He testified that his mother only visited once. We would refer the Inquiry to RUB 30547 and RUB 3160 when numerous visits by his mother are documented . Furthermore at RUB 3158 it is recorded that HIA 41 was 'unwilling to have any contact with his family'. We are aware that HIA 41 continues to maintain that his social welfare records contain inaccuracies. We submit that this simply serves to reinforce that HIA 41 wishes to rewrite his own history. The fact that DL 503 also fails to recognise the majority of HIA 41's current complaints reinforces this conclusion. Indeed, it was notable that HIA 41 would not accept that he was inaccurate about any aspect of his account, despite powerful evidence to the contrary.

8.75 DL 40 [redacted] accepted that he had made a complaint about BR 77 on 1980. Upon reflection he could not recall the specific incident but he was definite that BR 77 had a problem with his temperament.

DL 40 recounted that BR 2 was 'strict and needed to be'. He expanded on this subject by explaining that the boys coming into Rubane from the Courts were difficult. He recounted that the 'Brothers had to come down firm' and that they 'had their work cut out for them'. Brothers BR 6 and BR 3 were described as firm but fair.

DL 6 was recalled to be a [redacted] and DL 40 explained that 'if you wanted to learn he would teach you'. However, he also recognised that many of the boys played a 'game' with DL 6 which resulted in him throwing things at the boys or chasing them round the room. DL 40 also accepted that DL 6 's temperament was 'ill-suited to [Rubane] environment.

DL 40 noted that BR 18 staffed the canteen on a rare occasion, creating a 'fear factor'.

DL 40 recounted that DL 149 'took a great interest in the boys' and if a boy wanted to learn he was willing to help. He accepted that it was a 'difficult educational environment' and that DL 149 was 'firm' but 'fair'.

Indeed DL 40 repeated reflections of others when he spoke about the mix of welfare and orphan boys but with a different perspective. While HIA 21 or DL 445 portrayed the mix as a catalyst for sexual abuse, the thrust of DL 40's evidence was that the mix was primarily detrimental to educational achievement because the disruptive boys held the others back.

DL 40 was unique among all the witnesses heard during Module 3 in that he compared his experience of schooling at [redacted] with Rubane and his view that it was 'fair to benchmark Rubane against other schools'. In response to Inquiry Counsel suggesting that the only parallel to [redacted] was the nature of corporal punishment, DL 40 responded in the negative stating that '*Both happened.... at* [redacted] *I seen guys getting fists and beat up by teachers.*[7]

While not condoning such assaults it is important that the Inquiry considers the complaints of physical assaults in light of the societal values and practice during this era.

8.76 HIA 362 [redacted] described how BR 18 would hit him with his knuckles on the back of the head. He also described being 'kicked and punched' by DL 509 for cursing on a single occasion.

HIA 362 recounted being caned by BR 6 and BR 1 but he confirmed that it was deserved and within regulation , namely'3 on each hand'.

HIA 362 confirmed, like HIA 170, that he did not witness other boys being punished.

8.77 HIA 170 [redacted] described a number of incidents of physical abuse, namely;

(i) The DL 81 / DL 413 incident at RUB 68246 which was followed by an assault by DL 81 on HIA 170. HIA 170 described how the remaining boys in the Chalet intervened and struck DL 81 with a kettle and a poker. The Incident was investigated in accordance with best practice at that time. It is clear that there was considerable background to the DL 413 incident which is highlighted in DL 514 's statement at RUB 68217. HIA 170 admitted fighting with others, including HIA 25, and accepted that the boys were not easy to look after.

(ii) BR 10 : HIA 170 had genuinely fond memories of BR 10 and described him as a '*really good friend*' before an episode on the bus when he alleged BR 10 punched him. HIA 170 accepted that BR 10 was '*very popular*'. HIA 170 reflected positively on BR 10 's trip to HIA 170's aunt's house in [redacted] so that BR 10 could get him a [redacted]

[7] Day 70 97:17-19

While HIA 170 maintained that the relationship changed after the 'punch,' it is likely that this visit to the Aunt's house came relatively late into his stay at Rubane, given that [redacted] would only have been intended for use by HIA 170 to facilitate his employment post 16. [HIA 170 stayed until he was [redacted] years old]

(iii) BR 6 [redacted]: HIA 170 recounted that BR 6 slapped him on the face for 'something he didn't do.' Attracting blame was a repetitive feature of HIA 170s evidence and something which clearly embittered him. Mr Lane questioned HIA 170 on this point and he agreed that he drew a line between fair discipline and being blamed in the wrong. Other than that singular incident, HIA 170 was full of praise for BR 6 whom he described as a 'lovely man' who was 'approachable' and with whom 'everyone got on well with'.

(iv) DL 149 [redacted]: HIA 170 described being afraid of DL 149 and recounted that he *'didn't take any messing about in class'* but he denied being aware of DL 149 [redacted] ever raising his hand to a boy.[8] The impression one was left with was that of a firm disciplinarian who did not tolerate misbehaviour, characteristics undoubtedly required for effective control of the boys at Rubane.

(v) DL 6 [redacted]: HIA 170, like many others, described how DL 6 [redacted] would throw bits of wood at the boys and chase them out of his class. However, HIA 170 testified that he got on well with DL 6 [redacted] and described him as a 'brillant man'. HIA 170 also accepted Counsel's proposition that the boys did wind DL 6 [redacted] up. On questioning from Ms Doherty HIA 170 indicated that the Brothers were aware of DL 6 [redacted]'s behaviour.

(vi) DL 1 [redacted]: HIA 170 recounted how DL 1 [redacted] 'hit' him once during his residency. Interestingly, HIA 170 gave a very vivid illustration of how [redacted] DL 1 [redacted] struck him and he denied ever seeing DL 1 [redacted] lift his fist above his elbow/shoulder in conventional punching style. He expanded by confirming he never saw DL 1 [redacted] slap a boy or strike him on the head and on questioning from the Chairman agreed that it was always to the lower part of the body.

(vii) BR 77 [redacted]: HIA 170 recounted an incident between BR 77 [redacted] and a fellow resident and recalled it distinctly because the boy's nose was bleeding which he described as not being a '*normal*' event[9]. HIA 170 did not complain of assault himself but spoke of his 'shock' at the sight of blood. This account and reflection contrasts sharply with HIA 41's 'pools of blood'.

(viii) BR 18 [redacted]: Punch to back of head with extended knuckles.

(ix) DL 509 [redacted] would 'thump' the boys if messing about at swimming.

[8] Day 68 28:10-18
[9] Day 68 32: 13-18

HIA 170 accepted that BR 2 would discipline the boys *'if he had to'* but confirmed that he had a good relationship with him and had no complaint to make.

HIA 170 also recounted a generally positive experience with BR 33 who was not known as 'Brother' but as '[redacted]'.

It is noted that HIA 170 rejected the suggestion that boys were brought together to observe punishment.

8.78 HIA 50 [redacted] in our view lacks basic credibility and overall his evidence should be given very little evidential weight. However, the repetition of the allegation that [redacted] DL 6 would hit him or throw things at him is noted.

It is noted that HIA 50 was being physically assaulted by his own mother in the family home. HIA 50 commented that Social Services 'took him away from his family'. He seems to have conveniently forgotten that he wanted to be taken out of his family home and on occasion asked to be returned to Rubane. The impression given by his Social Service/Rubane file is that he considered it a 'sanctuary' as compared to his family home. His case reinforces the general point that, contrary to the recollection of many complainants, their own family units were not safe places for children.

8.79 HIA 256 [redacted] described being caned on 'the hands' for messing about in class.

8.80 HIA 381 [redacted] gave evidence in Module 1 and was not called to give evidence in Module 3. He *'loved it'* at Rubane and did not *'suffer any physical abuse'*.

8.81 HIA 382 [redacted] gave evidence in Module 1 and was not called to give evidence in Module 3. He recounted that he was not 'belittled or run down' at Rubane and 'felt respected by the Brothers'. The records suggest that HIA 382 was very happy in Rubane although he was punched by a lay teacher after HIA 382 had 'kicked in every door on his car'. Inquiry Counsel noted that in [redacted] years of residency it appeared to be an 'isolated incident'. HIA 382 also recounted boys being brought into a store room and slapped, which is an interesting reflection as it suggests an effort may have been being made not to punish the boys in front of each other.

8.82 HIA 436 in a statement to the Inquiry recounted that;

(i) There was a lot of physical abuse going on,

(ii) That boy got backhanders to assault other boys,
(iii) Staff allowed older boys to punish other residents;

There is no evidence that HIA 436 was ever in Rubane and his contribution to this Module is perhaps to simply highlight that there are individuals who will recount 'experiences' which can only be false.

Conclusion

8.83 Attitudes to physical chastisement both within normal family settings or standard schools changed dramatically over the operational life-span of Rubane House. Corporal Punishment was permitted by Statute in 1950 but was effectively prohibited by 1985.

8.84 The Inquiry has heard varying accounts of both the severity and regularity of punishment of the boys. If there is a general theme it is that by the mid-1960s the physical aspect of Rubane had 'calmed somewhat' and thereafter isolated events of punishment were generally within the regulatory framework.

8.85 The Order accepts that the regime under BR 17 was certainly harsh at times. While a number of applicants, like HIA 24 and HIA 247, did not recount anything which was openly in excess of normal corporal punishment, the Order was impressed by the account of HIA 252 and the excessive caning he received for 'theft'. The Order was equally impressed by HIA 252's account of BR 15 'strapping boys in the shower' and HIA 183's account of the collective punishment perpetrated by BR 15. HIA 390, with some emotion, recounted the indiscriminate 'whipping' by BR 15 in the steward's house. While it is difficult to reconcile this type of behaviour with the account of HIA 159, the Order accepts that there were occasions when the boundary between corporal punishment and physical abuse was definitely crossed.

8.86 The applicants' reflections on 'boxing' were largely new to the Order on the commencement of this Inquiry. While the Order accepts that some boys may have perceived it as a 'punishment,' the general theme of the witnesses was that it was a sporting activity, albeit seemingly used at times by the Brothers to settle disputes between boys who were fighting. That may seem a very alien concept by todays' standards but perhaps not uncommon in the 1950/1960s even in 'normal' family

situations. BR 2 's evidence established that 'boxing' was only a facet of life in the Home for a very short time in the early 1960s.

8.87 The Order believes that the regime softened considerably on the arrival of BR 6 as [redacted] The evidence of HIA 244, HIA 379 and HIA 191 is, in our view, unreliable. In particular, in respect if HIA 379, it is not accepted that a boy was beaten until he 'passed out'. HIA 244's recollection of being flogged for absconding to attend [redacted] cannot be accurate given the time frames and the contemporaneous record within the punishment book.

8.88 A large number of the [redacted]s residents recounted nothing other than punishment consistent with the regulations – HIA 152, HIA 147, HIA 110, HIA 16 and HIA 36.

8.89 While other residents reported striking incidents, (HIA 225 - BR 4 and HIA 56/21- BR 3), they accepted that they were isolated events during their respective [redacted] years of residency. It may be of relevant that HIA 225's social worker was aware of his complaint but decided that if it was a 'one-off' and that no further action need be taken.

8.90 At RUB 1048 and RUB 1049[10] BR 2 detailed incidents of physical assaults by staff which he had contemporaneously recorded. Two of these entries, including one which involved a boy 'being marked' came to the attention of the respective social workers. DL 518 denied being alerted to any physical assaults. There is no suggestion that his memory is defective in this regard but one is left with some doubt as to whether social workers, on becoming aware of incidents of physical assault, were 'reporting' these matters to their line managers.

8.91 The Order now accepts that boys were at times subject to punishment in front of their peers. While the Voluntary Homes Regulations prohibited punishment in front of other children there was no equivalent regulation pertaining to punishment in the school. While the Order can understand the emotiveness of the 'public flogging' as referred to by Inquiry Counsel and some applicants, it should be considered in the context of the day. Unfortunately, due to the passage of time the prevalent factors leading to the punishment will not be known. It is noted that three contemporaries HIA 225, HIA 21 and HIA 36 all recounted a solitary punishment after the boys were

[10] In respect of P Kelly and Mrs Coyle – SW and E Gracey – who was 'marked by SR 57' and whose Social Worker and GP both knew of the incident.

specifically assembled. While there are some variances between their accounts at least two, if not all three, appear to be describing the same event. If that is right, the punishment, 'over the railings' was a singular event in a four year period and is recalled in their evidence, not because of any regularity, but rather by due to the rarity of the event.

8.92 Certain boys, as difficult children, may well have attracted regular punishment giving rise to a perception that they were beaten constantly. HIA 379 and HIA 94 are clear examples.

8.93 In our view that accounts of HIA 511, HIA 519, HIA 218 and HIA 219 should not be considered.

8.94 The Order, prior to the commencement of Module 3, accepted that BR 2 had to chastise BR 18 on occasions in respective of his physicality with the boys. The Inquiry heard from HIA 31, HIA 259, HIA 18, HIA 25, HIA 149 and HIA 362 about BR 18. It is now accepted that BR 18 did operate a disciplinary regime which was inappropriate and at times reliant on striking the boys. Without trying to condone that regime, it is important to note that BR 18 was in charge of the House Unit from and in so doing was often required to deal with the most difficult and troublesome boys. It is also important to note, in respect of HIA 18 at least, that if DL 11 's account is accepted, HIA 18 has exaggerated the seriousness of the assault he suffered.

8.95 BR 2, as recorded within his diaries, was frank and honest both in respect of corporal punishment and physical aggressiveness by his staff. Physical confrontation with the boys did result in chastisement and reprimand from BR 2. The Inquiry may well be critical of BR 2 's failure to report these incidents to the various Social Workers. It is noted that DL 518 albeit without specific details of the incidents, testified that he would have expected to have been told of physical assaults. BR 2 noted and recalled a relatively small number of events, often with little detail as to the seriousness or consequences. DL 518 accepted that at times up to 45 Social Workers were going in and out of Rubane regularly and he never became aware of any complaints. We know from HIA 225 and BR 2 's dairies (RUB 1048 & 1049 refer) that Social Workers did field complaints. Furthermore, RUB 60200 establishes that either DL 516 (or a colleague) knew about an assault by BR 18 in yet did not appear to report it to their superiors until after the 1980 investigation surfaced. If the complaints did not reach DL 518 it may well have been because the Social Workers did not consider them to

be of a serious nature. DL 155 considered it noteworthy that boys in general may have felt more at ease discussing physical assaults. With that in mind, if there was a continuity of serious assaults during the 1970s resulting in injury, one may reflect that the Social Workers would have identified same. The fact that they do not appear to have identified any such pattern can, in our view, be taken as evidence of the contrary position, namely that assaults occasioning injury were, leaving aside BR77, a relative rarity.

8.96 BR 10 [redacted] generally attracted positive praise. HIA 259 and HIA 170 accused him of physically assaulting them and HIA 25 accused him of inaction following an assault by DL 149 [redacted]. BR 10 [redacted] remains at a loss to explain the allegations as he had good relationships with all three residents while in the Home. HIA 259 gave inconsistent accounts of the events surrounding his assault. There were a small number of other complaints in the police material. BR 10 [redacted] was in Rubane for [redacted] years. He was extremely active on the sporting and recreational side of things and the Order considers him to have been a very positive influence on life in Rubane. The Order does not believe that BR 10 [redacted] was physically abusive.

8.97 DL 149 [redacted] faced HIA allegations of physical assault from HIA's 18, 25, 31 and 41. He denied all of the allegations. DL 149 [redacted] did accept that there had been an altercation with a DL 121 [redacted] but denied any punch was thrown. DL 149 [redacted] was not the subject of any complaint in 1980. DL 149 [redacted] in denying assaulting HIA 41, like DL 81 [redacted], recalled HIA 41 as 'sly…cute, rather than clever.' It should be emphasised that HIA 41 is documented as being an influence on HIA 25 and these current allegations could have a single solitary source. While DL 149 [redacted] denied using corporal punishment he accepted that other staff used a cane or strap. However, he also reflected that the discipline policy focused strongly on the reward and debit system in respect of privileges and that this method was the 'main way of dealing with discipline'.

8.98 BR 77 [redacted] was convicted of 3 counts of physical assault in 1981. BR 77 accepted before the Inquiry that on occasions he had 'overstepped the mark'. The Inquiry has heard how he was 'quick tempered'. While acknowledging that BR 77 [redacted] performed much good work with the boys, particularly on the outdoor pursuits side, the Order notes and accepts the assessment of DL 40 that he was perhaps 'not suited to the role'. The Order accepts that BR 77 was relatively young and inexperienced when he was appointed to his teaching post in Rubane in [redacted] and acknowledges that teaching full time in the school and facilitating extra-curricular activities would have been particularly stressful, particularly given the presence of children who were difficult to manage.

8.99 DL 6 attracted significant criticism from the Applicants. While many were prepared to concede that he was a skilled craftsman, it is evident that his temperament and patience was not suited to the type of pupil resident in Rubane. It is significant that those witnesses who demonstrated an apptitude for work, for example DL 40 and DL 445, had praise for him. Clearly, he had a problem in respect of classroom control. While it appears that he was the butt of a deliberate policy among the boys to wind him up it was not acceptable for him to respond in the way in which he did, by throwing instruments or bits of wood at the boys. It is noted that at least one applicant described this interaction between the boys and DL 6 as 'a game'. Notwithstanding, the largely universal criticism of DL 6 it is noted at RUB 10941 that in [redacted] the boys themselves had suggested that DL 6 could take an evening class as part of after supper activities. That suggests that the boys were perhaps not in 'fear' of DL 6 as many of them reflect today.

8.100 DL 509 denied assaulting the boys or administering corporal punishment. HIA 41 alleged that DL 509 had broken DL 125 's leg. It was noted within the RUC assessment of DL 125 's 1995 complaint that the medical records failed to corroborate that account. DL 509 conceded during police interview to having witnessed BR 77 use a 'rope' to beat boys on one occasion but otherwise denied witnessing any physical assault.

8.101 DL 81 testified that he never set out to deliberately assault the boys. He recounted manhandling/assaulting some of the residents secondary to discipline issues arising within his Chalet Unit. DL 81 had gained a Child Care qualification during his time at Rubane and referred to the 'holding technique' taught as part of that course in justifying some of his actions. Overall, he painted a picture of having some very difficult children to manage. While openly accepting the restraining/holding/grabbing assaults DL 81 denied striking, punching or kicking at boys.

8.102 Post 1980, the regime appears to have mirrored society and physical chastisement became rarer. Applicants accepted that they were punished in school for being cheeky or not following instructions, but that would have been no different to any other school. Interestingly, HIA 170 and HIA 362 both confirmed that they never witnessed a boy being punished in front of other boys. By this era the removal of privileges or deduction of pocket money was the more common form of reprimand. The Chairman asked DL 81 about this issue, in light of the DL 81's comment about the Brothers being strict disciplinarians. While accepting corporal punishment was used, he expanded by recounting that it was only applied as a 'last resort'.

8.103 A recurrent theme with the witnesses, HIA 21, DL 40, DL 445 and HIA 36 was that if a boy was well behaved and 'towed the line' he would not be punished unnecessarily. Behaviour was clearly a significant issue in Rubane and the proportion of children who were in the home because they were 'out of the control of their parents' or 'truanting from school' should be considered when reflecting on the totality of the evidence. Evidently there were a number of children with behavioural problems. Physical chastisement was seen, at one time, as the principal methodology adopted by society to correct and control such behaviour.

8.104 Inquiry Counsel quite correctly sought to draw a distinction between the boundaries of 'corporal punishment with regulation' and a level of violence above that permitted by regulation. It was suggested to DL 40, [redacted] that while the boundaries were breached in Rubane they would not have been breached in his secondary school. DL 40 disagreed and commented that the two schools were on a par and that he saw 'fists and teachers hitting pupils' at the mainstream school as well.

8.105 The different eras saw fluctuating standards of physical discipline. The era from 1956 – 1962 does appear to have been oppressive but outside that narrow band we would submit that the regime was not overtly harsh when one takes into consideration the number of boys, the behavioural problems displayed by some children, the intensity of the work ('24/7 365') and the standards pertaining to physical chastisement in society generally at that time. BR 2 [redacted] is a man of obvious integrity and humanity and he accepted that he suffered momentary losses of self-control. Staff were working in a very stressful environment. While incidents of physical aggression cannot be condoned the Inquiry should reflect upon them in the wider context, taking into consideration the lack of specialised training available to and undertaken by staff.

8.106 It is noted that DL 518 [redacted] recounted that there was no physical chastisement in Statutory Homes in the early 1970s. The Inquiry will no doubt reflect on that as it hears further evidence. Interestingly, he pointed to the blurring of school and home regulations as a possible source explanation for the existence of a corporal punishment regime at Rubane. DL 334 confirmed that Rubane was unique in Northern Ireland, being the only Residential home with a school attached to it. This fact alone may help to explain the perception of an overly physical 'home' life because the boundaries between school and home were blurred.

Chapter 9 Sexual Abuse

In this Chapter we review the evidence of each of the former residents and witnesses. For ease of reference and understanding we have divided the life cycle of Rubane into various eras with sub-headings and conclusions at A-E.

In order to consider the evidence in context we have restructured the witnesses in chronological order, by date of admission.

9.1 [redacted]

9.10 HIA 45 [redacted] gave evidence that he had witnessed a man perform sexual acts in a hayshed and also revealed, for the first time, that he had been sexually assaulted by a foster parent before he arrived in Rubane. As against the De La Salle Brothers he alleged;

(i) that BR 23 [redacted] interfered with him in the showers and at night by 'putting his hand under the blankets;
(ii) that BR 56 [redacted] also interfered with him;
(iii) that he saw BR 12 [redacted] in the piggery committing what he thought was a sexual act:

HIA 45's account in respect of (iii) above changed significantly from his statement. There was no longer any mention of a pig and he admitted he could not actually see what was going on due to the height of the wall.

The Order has always believed that HIA 45's accounts were contaminated by the reflections of [redacted] HIA 59 who resided in the Home with BR 17 [redacted]. The Order does not accept that BR 23 [redacted] was an abuser. HIA 45 admitted that when he first discussed Rubane with HIA 59 he thought they were talking about the same [redacted]

HIA 45 failed to mention BR 56 [redacted] during his civil claim. HIA 45 wrongly identified him as a teacher, when in fact he was [redacted] He could not pronounce his name before the Inquiry. In a 2012 PSNI interview he specifically excluded [redacted] BR 56 [redacted] as an 'abuser'. He justified that exclusion before the Inquiry with the rather weak explanation that he failed to identify this 'abuser' because he 'could not pronounce his name'. HIA 45 was provided with a photo of BR 56 [redacted], annotated with 'BR 56 [redacted]', after his civil claim concluded.

HIA 45 was incorrect when he stated that [redacted] DL 376 had been in St Patrick's with him. HIA 45 had forgotten that he had spent time with foster parents. HIA 45 stated he had no memory of leaving Rubane yet the records [RUB 30067/72 & RUB 30025/30133] establish that he had visits home in [redacted] and again

at [redacted] HIA 45 recounted he only saw the welfare officer once although in his statement to the Inquiry stated that he had seen her several times.

HIA 45 recounted that boys 'disappeared' during the night. HIA 45 did not make this allegation in his statement. HIA 59 did. They are the only applicants to the Inquiry to do so. HIA 45 first made this allegation to the PSNI on 31st July 2012 [RUB 66448] just two months after an article was published by [redacted] [RUB 2179] suggesting that boys were 'disappearing' from the Home in the middle of the night in [redacted]

HIA 45 conceded that HIA 97 was not in the Home with him as alleged in his statement. HIA 45 admitted HIA 97 contacted him through the internet and he conceded that he had discussed life in Rubane with HIA 97.

HIA 45's accounts of abuse in the shower and interference under bed sheets at night were features of later allegations of abuse at Rubane and have featured in the media.

HIA 45 vehemently denied that he had returned to Rubane to visit despite the existence of a contemporaneous note identifying him by name and town and indicating that he stayed 'four nights' on [redacted] [RUB 10084]. His denial of this account must only serve to undermine the entirety of his evidence.

HIA 45 demonstrated a defective memory on a number of counts. He conceded that he had discussed Rubane recollections with at least two other residents. His accounts over the years and further as regards his Inquiry statement and Inquiry evidence have varied considerably.

9.12 HIA 24 [redacted] had been sexually abused in Nazerath Lodge.

HIA 24 gave an accurate description of BR 17 [redacted] and while he described him as 'wicked' he did not allege abuse. He was able to distinguish between the two [redacted] who were there in his time.

HIA 24 alleged that BR 55, an old Brother [redacted] would put 'his hand up your shorts and fondle you.

The Order has not received any other allegation about BR 55 but notes the contents of RUB 66631.

HIA 24 denied seeing the Brothers at night. He also denied being aware of any sexual activity among the boys.

9.13 HIA 89 [redacted] was not called to give oral evidence. In his statement he denied being aware of any abuse involving the other boys and had no complaint of a sexual nature.

9.14 HIA 252 [redacted] alleged abuse by;

(i) BR 17 [redacted]

BR 17 [redacted] abused him in different rooms, on four occasions, at least two of which were at night between [redacted] and [redacted]

HIA 252 recalled 3 Brothers taking boys out of the rooms at night. He denied that Brothers were involved in the toileting of boys at night.

He recounted that he reported the abuse to his social worker [redacted] but that Mr [redacted] did not believe him and accused him of 'fabricating' the account.

It was of note that upon questioning by Ms Doherty HIA 252 conceded that BR 13 [redacted] and BR 63 [redacted], whom he liked, may not have known about the sexual abuse.

9.15 HIA 279 [redacted] alleged that he was fondled by BR 10 [redacted] as he fitted him out for clothes but accepted that he 'was not sure' as to the identity of the Brother and appeared to accept that it may have been BR 15 [redacted] (who would have fulfilled this role at the time).

He gave evidence that he had been abused by other boys at Nazareth Lodge wherein he described sexual abuse among the boys as 'rampant' and on questioning from Ms Doherty opined that it was 'common knowledge' that it was going on. HIA 279 denied abuse/bullying from other boys in Rubane.

9.16 HIA 427 [redacted] was deceased. His statement to the Inquiry was summarised. He alleged that BR 15 [redacted] tried to kiss him. There was a potential suggestion that [redacted] BR 13 in 'putting his hand on' HIA 247's leg was abusing him but the totality of the evidence is against BR 13 [redacted] being an abuser.

9.17 HIA 97 [redacted] testified that his brother had been abused but he did not confirm whether he was alleging sexual abuse or not. HIA 97 did not see the abuse and his brother did not identify any Brother.

HIA 97 reflected that he felt BR 13 [redacted] was a good man but he had 'doubts' when he heard Brendan Smyth carried a bag of sweets because BR 13 [redacted] used to give the boys sweets as well. This reflection establishes how otherwise positive memories can be tinted with contamination from other sources.

In a similar vein HIA 97 concluded that the boys must have been numbered because he could not 'recall any of their names'.

HIA 97 conceded attending meetings were other former residents discussed abuse by BR 17 and on film nights. He made reference to HIA 43.

HIA 97 could not recall being in school at Rubane and reflected that his lack of memory in this regard suggested he had been working full time on the farm.

HIA 97 alleged an assault by BR 25 (though identified by the Order as BR 14) but he was not clear whether it was a physical or sexual assault.

9.18 HIA 183 recounted how BR 17 had asked him and three other boys to strip. HIA 183 hypothesised that when BR 17 was asking questions about family background that he was trying to identify potential 'victims'. The identity of BR 17' victims known to this Inquiry demonstrates that having parents and social workers did not equate to safety.

HIA 183 also recalled an incident of sexual abuse by BR 17 in the mini-bus.

HIA 183 described how BR 15 went round a room feeling under the sheets.

HIA 183 was one of the boys who appeared to have been interviewed by BR 19 BR 19 in He told the Inquiry that he told the Provincial that he was happy because he was afraid if he said anything else he may have to leave the home and he had nowhere else to go.

Of particular note was HIA 183's account of being abused at the 'foster' home of DL 278 DL 278. BR 17 arranged for HIA 183 to go to this home to accompany but there is no evidence in respect of this visit or indeed any other before the Inquiry to establish that BR 17 was aware that the 'foster' father was a sex abuser.

On questioning from the Chairman HIA 183 commented that 'if [he] had had relatives reporting would have been more straightforward.' The non-reporting of abuse was a repetitive theme before the Inquiry. While on the one hand HIA 183's account could be interpreted as a suggestion that he would have needed a bond of trust to encourage reporting, it could also simply be a reflection on his explanation for being less than frank with BR 19 – i.e that the existence of relatives would have given him a potential alternative to life in Rubane.

9.19 HIA 159 was deceased. In his statement he alleged that he was sexually assaulted by BR 17 in the car.

In a hand written memo he described how he lived in the steward's house with [redacted] BR 15 and it was 'more fun and less restrictive'. The Inquiry may find this important when considering BR 15. It establishes that despite the Order's concessions in respect of him some of the boys under his direct care did not have negative experiences. DL 445 had a positive reflection as well.

9.20 HIA 59 [redacted] gave evidence that he was sexually abused by;

(i) BR 61 in the shower
(ii) BR 17
(iii) BR 12 in a cattle crush

HIA 59 recounted that the incident with BR 61 happened on the first day of his second stay. Evidence was given that HIA 59 had gone out to DL 380, a foster parent on [redacted] It is not known when he returned. BR 61 left Rubane on [redacted] There has never been any other allegation against [redacted] BR 61.

HIA 59, in describing the [redacted] that he was in Rubane with described [redacted] BR 23, of whom [redacted] HIA 45 had a photograph. HIA 59 was not shown a photo of BR 17. He described how [redacted] fondled boys in their beds, in much the same way that HIA 45 described BR 23's activities. The brothers admitted discussing their life in Rubane. BR 17 was a distinctive individual. It seems strange that HIA 59 couldn't describe him accurately.

No other applicant or civil complainant has ever made reference to the cattle crush. HIA 59 did not recount it when he met the Order in 2010. He did not report it to the examining psychiatrist when one would particularly expect such account, if it was accurate, to feature highly on his reflections. HIA 59 could not confirm whether this happened before or after he went out to DL 380.

HIA 59 also alleged that boys 'disappeared' during the night. Only HIA 59 and HIA 45 have done so.

HIA 59 acknowledged that he had spoken to his brother and attended SAVIA meetings.

9.21 HIA 390 [redacted] was not sexually abused and he stated that there was no talk of sexual behaviour among the boys.

9.22 HIA 247 [redacted] alleged that he was abused by [redacted] while watching TV. He also recounted being interfered with at night while resident in the Steward's House but was unable to identify a perpetrator.

Of interest is that HIA 247 testified that he had no problem with either [redacted] or [redacted]. In fact he was complimentary about [redacted] vis-à-vis his involvement in sport and stated that he had never heard anything about him and that [redacted] had never done anything to him.

He described [redacted] as a Jekyll and Hyde type character.

HIA 247 recounted that the boys did not discuss the 'interference' among themselves and that he never described what happened to him. He rejected the proposition that he could have talked to the Priest and said he was in 'fear' of talking to him.

9.23 HIA 399 [redacted] described how he was sexually abused by [redacted] in a number of locations, including his grandmother's house. HIA 399 testified that although another boy confided in him he felt unable to talk about the abuse to anyone. HIA 399 described family visits to Rubane by his mother and how [redacted] assisted his father financially and bought presents for HIA 399 and HIA 261.

It is notable that when HIA 399 discovered that [redacted] had left Rubane, he returned to visit thereby giving the impression that he had no issue with the remaining Brothers.

9.24 HIA 261's [redacted] account provided details of an additional dimension to [redacted]' abuse which involved visits to HIA 261's family home. The account is similar to a modus operandi described by [redacted] in 2004 wherein [redacted] abused him in his own home in [redacted] in the early [redacted] The impression gained is that [redacted] was a calculating and convincing individual, having been able to gain the trust of family members. This may be important when considering whether other Brothers should have been aware of his offending. It is noted that HIA 261's grandmother permitted [redacted] to sleep in the same room as HIA 261.

HIA 261 stated that he was not aware of any signs of sexual abuse by [redacted].

9.25 HIA 388 [redacted] did not give evidence in person – the Inquiry having received a medical report. His evidence was summarised.

In his 2012 PSNI statement at RUB 66546 HIA 388 alleged sexual assaults by [redacted]. HIA 388 told the RUC that he 'was never physically or sexually abused by any of the staff....or Brothers' in Rubane. The Inquiry has been unable to ascertain any rational explanation for this obvious contradiction. The denial of abuse in 1995 is

perhaps more stark given that he was prepared at that time to report a suspicion of sexual abuse involving BR 15 .

The Order does not accept the veracity of HIA 388's account.

9.26 HIA 385 did not describe any sexual abuse having been perpetrated on him but he did describe being aware that boys sitting on Brothers' knees in the TV room 'wasn't right'. He also recalled that the boys were watched in the showers. He described the night walkers with a 'torch' and while denying knowledge of overt sexual activity conceded that the boys did talk about it. His view was the BR 15 and one other Brother were abusing during his residency.

HIA 385 described sexual abuse in foster care which took place after he had left Rubane.

9.1 - Summary

9.27 BR 17 left the home in No other applicants make any further reference to him and it is perhaps an opportune moment to reflect on the evidence over the first years of the home.

9.28 By way of brief recap: - The Order accepts that BR 17 , BR 15 and BR 14 sexually abused boys in their care. Where allegations have been made against them among the foregoing applicants, those allegations have been accepted, albeit with some reservation in respect of HIA 59.

9.29 Allegations have also been made against BR 55 & BR 61 . They are singular allegations and the Order is unable to comment.

9.30 The Order does not accept the evidence of HIA 45 and HIA 388. The Order has significant reservations about the evidence of HIA 59. For the sake of clarity the Order does not accept that either of the following perpetrated sexual abuse;

a) BR 23
b) BR 12
c) BR 56
d) BR 6

It is readily apparent that HIA 45's evidence is so heavily tainted, both in respect to BR 23 and BR 56 , that it must be discounted.

Only HIA 45 & HIA 59 have implicated BR 12 in sexual abuse. This man served in Rubane for [redacted] years with hundreds of boys, many of whom testified to this Inquiry. Despite this, only these two applicants, [redacted], have accused him of such heinous crimes. It is respectively submitted, as the evidence has demonstrated against other Brothers, if BR 12 was committing such offences there would be a much larger body of evidence.

9.31 BR 17 arrived in Rubane in [redacted] Neither HIA 24, HIA 89 or [redacted] [RUB 5949] make any complaint, either against him directly or by way of contemporary knowledge. The earliest allegation, is that of HIA 252 which dates from [redacted]

It is of note that HIA 261 reveals a calculating and manipulative aspect to BR 17 BR 17. The Order became aware of a similar account in 2004 and together they demonstrate that BR 17 was able to gain the trust of victims' parents and family. This strongly suggests a convincing and manipulative streak which may assist the Inquiry on its reflections as to whether other Brothers should have noted his propensity.

9.32 BR 15 arrived in Rubane in [redacted] He was present during the [redacted] investigation and it is noteworthy that some of the boys appear to have confided in him at that time. The earliest complaint against him appears to be that of HIA 279 in [redacted] It is of passing interest to note, as it will be repeated in later years [HIA 110 & DL 445], that some boys did not notice or hear of rumours in respect of him, notably HIA 261 and HIA 390. HIA 159 was positive about BR 15. This supports the view that the abuse perpetrated by him was probably isolated or at the very least conducted secretly and the Inquiry will have to consider the variety of reflections of the applicants when considering the lack of contemporaneous knowledge gained by other Brothers. HIA 36's evidence is also helpful in determining this issue wherein he recounted that he didn't believe that the other Brothers knew.

9.33 BR 14 is the subject of the [redacted] investigation which accounts for him, abusing 'a couple of boys a year for a few years' and suggests that he was not sexually abusing children unto [redacted] The evidence before the Inquiry supports that concession as there are no complainants of sexual abuse against BR 14 among the [redacted] applicants.

9.34 We consider it is important to highlight a number of issues;

- There is no evidence to suggest that BR 17 knew that HIA 183 or DL 278 DL 278 where at risk of abuse from DL 278 's foster father. The Inquiry has heard that boys were at risk from foster families – HIA 59 and HIA 385. This is perhaps simply evidence of the risk of abuse in society in general.
- There is no evidence to suggest that BR 17, BR 15 or BR 14 knew that one or other of them was also abusing boys. In particular no applicant to the Inquiry places more than one of them at the scene of any such abuse at any one time. On the

contrary, there is evidence of late night abuse when presumably other Brothers were sleeping, abuse in vehicles and of abuse under cover of darkness or the mask of friendly behaviour within the cinema. Without placing too strict an interpretation on BR 14 's 'admission,' he may not have commenced abusing boys until after BR 17 BR 17 ' had left Rubane.

- BR 14 's reaction to the [redacted] investigation complaints does not read like a man who is at risk of similar allegations, with him seemingly being a proponent of the boys reporting the matter further.

9.35 Surviving Brothers have often reflected on why boys, if they were being abused, would not report abuse. It was interesting at this early stage [and we will see further reference to it later] that;

- HIA 183 in answer to a question from the Chairman accepted that if he had relations it would have made reporting more straightforward.
- HIA 247 said he would have a 'fear' of talking to the Priest.
- HIA 399 couldn't talk to anyone.

9.36 Even in the 1970s the HSCB witnesses' general tenor was that they would have expected boys to have reported abuse to their social worker. HIA 183's reflection points perhaps to the lack of any bond of trust with any other adults, that one may expect with a family member. Yet HIA 399 had a family member and still felt unable to report. There is clearly a variety of reasons why the residents maintained a general silence and this may be an issue upon which the Inquiry will wish to reflect when considering what the Order, Social Workers or Inspectors should have noted.

9.37 The Order concedes that between [redacted] BR 17 and BR 15 BR 15 were interfering and sexually abusing boys at Rubane.

The Order does not accept that any Brothers present between [redacted] and [redacted] abused boys at Rubane.

9.2 [redacted]

9.38 HIA 160 [redacted] did not give oral testimony. A medical report was provided. His accounts were summarised.

In his statement to the Inquiry HIA 160 alleges that he was sexually abused by BR 15 BR 15 and BR 6 . The Order does not accept the allegation against BR 6 . HIA 160 at RUB 66393 told the police in 1997 that during class BR 6 'tried to put his hand up [HIA 160s] trousers. At RUB 66395 he told the PSNI in July 2011 that BR 6 'tried to feel me on my privates over my clothing'. In his statement to the Inquiry HIA 160 stated that BR 6 'put his hands down my shorts and touched my private parts'. While it is accepted that there is a broad similarity in complaint the inconsistencies are material. The Inquiry has not been given an opportunity to

properly explore this allegation. The Order notes it is alleged to have happened in full view of the class. That type of allegation was not repeated before the Inquiry and the Order doubts the veracity of HIA 160s account as far as they concern BR 6. To the contrary, many of the applicants had positive reflections on BR 6.

9.39 HIA 244 was not sexually abused but recounted suspicions about BR 15 BR 15.

9.40 HIA 64 described how he struck a 'nightcrawler', whom he identified as BR 15 BR 15, as he tried to lift the sheets of his bed. He also confirmed that sexual activity among the boys was an 'issue' in the Home but not for him personally.

9.2 - Summary

9.41 The Order accepts on the strength of the testimony in general and on what it has come to learn about BR 15 and BR 14 that, between and both of these individuals were sexually abusing boys in their care.

9.42 Only during the course of this Inquiry has the current leadership of the Order learnt about the endorsement on BR 14's dispensation that he had abused a 'few boys a year for a couple of years'. That suggests there was more than one victim but it also suggests a relatively limited number. The fact that the Order has received no civil claim naming BR 14 and there were no sexual allegations against him arising through this Inquiry (bar an interpretation of HIA 97s account) tends to support that view. BR 14's offending was at a level lower than either BR 17 of BR 15 and was also confined to a narrower timeframe.

9.43 The Order maintains that HIA 160's account in respect of BR 6 is inaccurate. There is no consistency to his complaint and in the absence of hearing from HIA 160 and when the positive reflections on BR 6 from the residents are considered, it is submitted that this account is simply insufficient to establish abuse.

9.3

9.44 HIA 262 did not give oral evidence. His statement was summarised. He alleged that he was abused on his first night in the main house at Rubane but he did not name the perpetrator. BR 14 was located in the main house at this time.

Serious allegations were made against BR 13, contrary to the positive recollections which other applicants have reported. Given that the matter could not be explored

with HIA 262 it is submitted that his evidence in respect of BR 13 should be discounted.

An allegation against the Chaplain was also made but could not be examined.

9.45 HIA 26 did not give oral evidence. His Inquiry statement and additional police material was summarised. HIA 26 has spoken about his experiences in Rubane on a significant number of occasions and there are considerable inconsistencies within his accounts. In 1995 he made allegations against Brs BR 1, BR 6, BR 15 and BR 13. In 1996 he made an allegation against BR 3. By the time he brought a Civil Claim he had added BR 44. In May at RUB 50255 he maintained that 7 or 8 Brothers had abused him but that only 'one of them was alive' [this is of note as today two of his alleged perpetrators are alive]. HIA 26 gave evidence in the HIA 148 trial yet failed to categorically confirm that BR 2, the subject of that trial, was involved. In his May 2012 at his ABE interview at 65247-65631 HIA 26 added BR 2 BR 2 and BR 17 to the list of perpetrators. This is significant because he had not named either Brother before despite multiple opportunities to do so. HIA 26 is one of only 3 individuals who allege BR 1 was in Rubane prior to HIA 26 also alleges abuse by a Br and others at Glenariffe and in totality alleges abuse by 11 Brothers. HIA 26 alleges abuse by three Brothers acting together. He also alleges use of sedatives in an abuse context. HIA 26 at RUB 65239 alleges that he told his social worker contemporaneously.

The Inquiry was unable to probe HIA 26's evidence and the aforesaid inconsistencies. The Order's position on HIA 26 is that he may have been abused by BR 15. The Order does not accept the remainder of the allegations. The Order submits that the inconsistency between the various accounts and the failure of the applicant to attend the Inquiry means that the accounts lack credibility. If his accounts are compared to his contemporaries the breadth of the inconsistencies are further highlighted.

9.46 DL 445 described how other boys attempted to engage with him in sexual activity. DL 445 denied being exposed to this type of sexual behaviour in Nazareth Lodge. He considered the mix of 'orphans' and boys from welfare and court system as being the biggest problem. DL 445 recalled an underlying innuendo about sex and gossip about various boys. DL 445 testified that BR 3 had asked him to report any interference from the boys and that BR 44 had also asked him to report any activity among the boys. It was DL 445's view that some of the residents were 'sexually astute' and other 'disturbed boys' e.g HIA 147 engaged in sexual acts within the dormitory.

While DL 445 recounted interference from a tradesman he denied being abused by any Brother and did not recount awareness of abuse by any Brother. It is of note that he described that there was a culture of rumour and insinuation about certain Brothers and their 'house boys'.

It is also of note that DL 445 was not aware of BR 15's offending and had a relatively positive reflection on him. In isolation this may seem strange but it corroborates HIA 159's view. If some of the residents were not identifying BR 15 as an offender it may help explain why the other Brothers were not identifying him either.

9.47 HIA 379 described being anally raped by BR 3 twice in within the school complex. The abuse is alleged to have been as a 'punishment' which stands out as unusual against the general flow of the evidence. The location, within the school, and with open access and windows also stood out as implausible.

No other applicant to the Inquiry gave oral evidence that BR 3 had perpetrated sexual abuse and the bulk of the applicants who knew him were generally complimentary about him. That strikes the Order as significant, notwithstanding the police material from Operation Overview.

HIA 379's explanation for maintaining a complaint of 'physicality only' to the media and to his solicitors in October 2000 [RUB 5451/52] was unconvincing. He testified that he felt guilty/dirty and he didn't want people laughing or calling him queer. This sort of terminology/justification is often associated with delayed reporting of abuse but in HIA 379's case in seems particularly unusual given the specialist psychiatric help he was getting for other aspects of his life and the failure to disclose the 'sexual abuse' to them until 2004. The Order submits that the accounts of October 2000 are on balance much more likely to accurate.

There is no doubt that HIA 379 presented as a very troubled and distressed individual but the breakdown in his relationship with his father and brother, that was evident from a very early age, appeared to be at the heart of his difficulties.

9.48 HIA 152 described being abused by a BR 65 in BR 65 ' room. On the first occasion HIA 152 indicated that he had been asked by BR 15 BR 15 to attend BR 65 ' room. On other occasions other residents relayed BR 65 ' requests for HIA 152 to go to his room. The visits of HIA 152 to BR 65 ' room were corroborated by DL 455 but he denied being in any way suspicious of what had occurred. HIA 152 presented as a reasonable witness. There are no other allegations against BR 65 , either from Rubane or indeed anywhere else he worked. He is deceased. It is difficult to come to a firm conclusion. While the Order notes the involvement of BR 15 and the inference one may be

tempted to draw, there is no convincing evidence to suggest that BR 15 and [redacted] BR 65 were acting together.

HIA 152 described being abused by other boys, namely DL 437 [redacted]. He recounted that he had reported this abuse to BR 3 [redacted] but felt that BR 3 [redacted] had done nothing about it. On questioning from Ms Doherty HIA 152 denied that they were given any moral/sexual instruction from the Brothers.

There were no sexual allegations against any of the other Brothers.

9.49 HIA 191 [redacted] is quite clearly a troubled individual. He described how he was abused at Rubane by BR 1 [redacted]. The Order maintains that BR 1 [redacted] was not in Rubane with HIA 191. HIA 262 alleges that BR 1 [redacted] visited periodically during this time frame. HIA 191 was 'definitely' sure that BR 1 [redacted] was there from [redacted] to I left' his residency. HIA 191 accepted that he believed that BR 1 [redacted] had been convicted of sexual offences and that he had read media reports about him.

HIA 191 recounted that BR 2 [redacted] had 'asked him for oral sex'. The totality of the evidence in respect of BR 2 [redacted] is positive. BR 2 [redacted] was in the home for [redacted] years and taught and cared from hundreds of boys. In context, the complaints are isolated and in our submission the allegations of HIA 262 and HIA 191 in respect of BR 2 [redacted] are so heavily outweighed by the positive reflections about BR 2 [redacted] as to be devoid of any credibility.

HIA 191 accepted that his allegation about SR 32 [redacted] arose from a misidentification.

He further alleged sexual abuse by older boys in Glenariffe but the flavour one got from HIA 191 was that he was a difficult and aggressive child and not one who would be easily bullied or supressed against his will. HIA 191 had gone home on occasions [RUB 30152] but was readmitted because his 'aunt found him difficult to control'.

The value of HIA 191's evidence must be limited if not in fact worthless. The fact he maintains that BR 1 [redacted] was there throughout the entirety of his stay convincingly demonstrates that his allegations are not capable of belief. Furthermore he was unable to accept that the incident with [redacted] was an accident rather than his 'escape' attempt. If he had been in hospital [redacted] one would have expected a contemporaneous record in the social service records.

9.50 HIA 511 [redacted] gave evidence by videolink. He alleged in his own statement at RUB 906;

(i) sexual assault by BR 15 [redacted] in the film room;
(ii) anal rape by BR 6 [redacted] in the car and the woods;

(iii) anal rape by the 'hunter';
(iv) sexual abuse by fellow residents;
(v) That BR 4 [who he described initially as [redacted] had sexually abused other boys.

At RUB 907, HIA 511 described a physical assault involving BR 4 which he states was 'the first of many assaults' he endured. BR 4 did not arrive in Rubane until [redacted] over 4 years after HIA 511 arrived in Rubane. One must question his recollection and credibility in this regard.

In 1995 HIA 511 told the RUC RUB-62181 about the abuse by 'The Hunter' and a sexual assault (singular) by BR 15. When asked by Inquiry Counsel to explain why he did not tell the RUC about the extent of the 'abuse' he now complains of, HIA 511 testified that he had difficulties interacting with the RUC and that 'as a man he could not tell them about anal rape.' HIA 511 did give the police a rather detailed statement and did tell them about the oral sex he performed on 'the Hunter'. Against that context the inconsistency between his 1995 RUC statement and Inquiry statement is stark. The inconsistency between the account he gave Mr Napier in 2010 and what he now alleges is also relevant.

HIA 511 did accept that he had been asked to take part in a conspiracy against innocent Brothers by a fellow ex-resident. At RUB 910 he stated that he had heard that BR 22 had been at the centre of an RUC investigation and had been 'moved across the border'. This is totally incorrect and demonstrates that he is confusing various media/factual accounts that he has heard.

HIA 511 accepted that sexual activity was an issue among the boys themselves.

He denied that HIA 56 was in Rubane with him although the Inquiry will note that statement is factually incorrect. He further denied introducing any boy to 'the Hunter' for sexual purposes.

9.51 HIA 19 [redacted] described how DL 134 'groped' him under the auspices of sex education instruction in DL 134 's bedroom. This must have been after the Chalet unit opened in 1968/69.

HIA 19 accepted that it was only a 'rumour' that he heard about DL 95 and BR 27. The Order's position is that BR 27 and DL 95 were not in Rubane together and it is noted that DL 95 at RUB 1926 states he did not know BR 27.

HIA 19 also heard rumours about HIA 147 and stated that he tried to abuse him on one occasion. HIA 19 believed (ie 90% sure) that he had reported this to BR 6. HIA 147 denied the incident occurred although he did accept that he was sexually involved with other boys within the home.

9.52 HIA 110 [redacted] reported no sexual abuse and stated that he had never heard of any. His account is interesting because, set against what is accepted by the Order in relation to peer abuse and BR 15 [redacted], HIA 110 demonstrates that perhaps not all the boys were aware either of BR 15 [redacted]'s activities or indeed what was going on among certain boys. Inquiry Counsel probed this point but HIA 110 maintained that he had heard nothing about boys in the toilets, had no experience of 'nightcrawlers' and that watching films was nothing but an 'enjoyable experience'. This is important because it demonstrates that if individuals like HIA 110 were not picking up such rumours or identifying such activities, then it was not necessarily inevitable that the Brothers would have been aware of the said sexual activities.

HIA 110 recounted going to the woods and huts and campfires. In this context he placed BR 6 [redacted] in the woods. The Chairman asked HIA 110 about this and whether he thought the presence of BR 6 [redacted] was 'odd' and whether BR 6 [redacted] permitted the boys' presence there. With the greatest of respect to HIA 110 it is submitted that he has confused this experience with the type of experience recounted by HIA 16 and that in fact the occasions of going to the woods and campfires and cooking was confined to the summer visits to Glenariffe.

9.53 HIA 147 [redacted] described being abused by BR 15 [redacted] and BR 27 [redacted] BR 27 [redacted]. HIA 147 is a [redacted] The Inquiry heard how he alleges that he had previously been abused in Nazareth Lodge and that he blames [redacted] [redacted] on the abuse he suffered mainly at Nazareth Lodge – Day 65 9:17.

HIA 147 did not provide a statement to the Inquiry in the normal fashion and adopted his previous police statements together with some pre-prepared reflections. On the 12th December 1994 HIA 147 told the RUC that BR 27 [redacted] had placed him on his knee and tickled his privates. At that time he denied that BR 27 [redacted] had taken HIA 147's clothes off or that BR 27 [redacted] had exposed his own privates. HIA 147 told the Inquiry that this happened in the TV room in the outbuildings.

In a statement to the RUC dated 6th October 1995 HIA 147 alleged that BR 15 [redacted] BR 15 [redacted] fondled him in the TV room in the main house.

HIA 147 denied that he was confusing BR 15 [redacted] and BR 27 [redacted].

In the October 1995 statement at RUB 61793 and in his prepared statements HIA 147 recounted that DL 140 [redacted] 'became aware of what BR 27 [redacted] was doing' and implied that BR 27 [redacted] was 'removed' from Rubane after this date. Inquiry Counsel did not put to HIA 147 the said discrepancies or that BR 27 [redacted] had actually left Rubane before DL 140 [redacted] DL 140 [redacted] arrived. On questioning from the Chairman HIA 147 appeared to suggest that the either [redacted] or [redacted] (or both) had told him that DL 140 [redacted] had told them that he [DL 140 [redacted]] had told DL 260 [redacted]. It was difficult to follow HIA

147's account but the tenor of the evidence was that he had heard this account some years later.

HIA 147 accepted DL 244 's RUB 1487 account of his relationship with BR 3 and confirmed that his contemporaneous suspicions arose out of speculation among the boys.

BR 15 and BR 6 attracted positive reflections from HIA 147, BR 15 having been described as a 'very fair man' and BR 6 as 'very fair to everybody in general'.

HIA 147 denied the allegations made against him by HIA 19 and HIA 21. HIA 147 denied any knowledge of a derelict house. He admitted taking part in consensual sexual activity in the Home in what he had previously described to the RUC as 'normal crack'. While accepting now consensual activity with DL 124 , it is noted that he denied in 1996 an allegation by DL 124 that HIA 147 had raped him.

HIA 147 denied being confronted by the Brothers about sexual activity or about being given sex education.

HIA 147 appeared to testify that the Brothers knew what was going on but it is submitted that he was ambiguous about his responses on his point and at Day 63 49: 9-25 stated 'It is a big area, not got eyes in back of head, can't keep boys in a confined place, sporadic, all over the place...the Brothers can't keep an eye on everything'. He described consensual activity – in the TT rooms, in the toilet block, in the woods and on the farm. On questioning from Mr Lane, HIA 147 accepted that the boys were 'free to wonder' and the 'boundaries' of earlier years had become more relaxed.

BR 27 voluntarily left the Order in and there is no evidence to suggest any allegation of impropriety against him.[1]

9.54 HIA 16 did not give oral evidence. His statement was summarised. It is perhaps of interest to note that he recounted BR 15 as responsible for his dormitory but makes no allegations of sexual abuse against him or indeed any of the other Brothers [although he did make allegations in 1995]. Indeed at paragraph 40 RUB 422 he stated 'I do not recall the Brothers ever abusing anyone sexually. I never saw any sexual abuse by Brothers and I did not hear any of the boys discuss the matter'. His account in this respect matches that of HIA 110 and the same points can be made in respect of the failure of the Brothers to recognise abuse if, as it appears, some of the boys themselves had no knowledge of actual abuse. Accounts like these tend to suggest that the abuse was not openly discussed by the boys. There could be a

[1] RUB 5973 & Exhibits

number of reasons for this 'silence or secrecy' but one of them must be that the number of boys subjected to abuse was relatively small.

HIA 16 accepted in his statement to the Inquiry that he was involved in sexual relations with other boys. He recounted that it was 'just touching' and tended to downplay the extent of the activity. Since HIA 16 did not give oral evidence it was not possible to put to him BR 2 's diary entries of

At RUB 421 paragraph 36 HIA recounts going to the woods in Glenariffe with the Brothers, to cook with their pots and pans. It is submitted that this is the type or event being recalled by HIA 110 rather than an event at Rubane where the woods were 'out of bounds'.

9.55 HIA 132 described sexual abuse perpetrated by DL 134, a houseparent, when travelling alone in a car. HIA 132 confirmed this groping incident was the only occurrence of sexual abuse during his residency. HIA 132 did not report the abuse because he had been threatened by DL 134 and was afraid that he would not be believed. HIA 132 had positive reflections on Brs BR 13, BR 6, BR 2 and BR 3.

HIA 132 also recounted that boys would often expose themselves but that he 'told them where to go' and was never interfered with.

9.56 HIA 128 did not give oral evidence. His statement was not summarised. It is evidently clear from the police material relevant to this individual that his evidence has been heavily contaminated by third party influence. We do not consider that any weight should be given to this evidence.

9.57 HIA 225 was a very impressive witness. He described indecent assault by BR 15 BR 15 during the earlier years of his residency in Rubane, which took the form of inappropriate touching 'over clothing'. He was in Chalet with DL 134 from until DL 134 & DL 135 left in but made no allegation of a sexual nature against DL 134.

He also described sexual abuse by fellow residents including attempts of anal rape which took place in Chalet while he was in a single room. The Inquiry heard how HIA 225 had reported a physical assault by Mr to BR 2 and a physical assault by BR 4 to a social worker. HIA 225 conceded that he had not reported the incidents with BR 15 and reflected that it was only in his later years after Rubane that he felt able to report matters to authority. He further explained that he felt able to report assaults by adults but was unable to report the sexual abuse by

peers because of a 'code' among the boys and because of 'fear' of such reports having repercussions for him – Day 63 - 53 & 62. HIA 225 did however threaten to report HIA 21 to BR 2 because he was not in 'fear' of HIA 21.

HIA 225 further described being sexually abused in aftercare. He accepted that he could have reported this to a social worker but queried 'what happens then?' That suggests that he felt that nothing would be done or if something did result, the consequences could have been detrimental. It also reinforces the lack of a complaints procedure and the lack of awareness among the boys that they could confide in their Social Worker.

At Day 63 78:16 HIA 225 described that there was a lack of sexual education. He described how he came to avoid boys who engaged in it. HIA 225 recounted that Brothers did become aware of abuse among the boys and he received stories from other boys about what Brothers had asked them about such activity. HIA 225 accepted that the De La Salle Brothers may not have been aware of the extent of the peer abuse Day 63 58:19-21. HIA 225 recounted that the abuse did not take place 'outside or in groups.'

Other than the abuse by BR 15, HIA 225 did not implicate any other Brothers within the context of sexual abuse. On the contrary he had positive reflections of BR 6 and also BR 2 whom he evidently felt able to confide in and who later facilitated his introduction This experience ultimately set HIA 225 on his career path, a contribution which HIA 225 described as 'extremely helpful'.

9.58 HIA 36 described being abused by BR 15 in The abuse stopped once he moved to the Chalet. This contextual information is important. HIA 36 described how he and another boy were taken into BR 15 's room at night, which is the first account the Inquiry has heard of two boys being abused by BR 15 BR 15 at the same time. On questioning from Ms Doherty HIA 36 denied that BR 15 BR 15 asked the boys to touch each other.

HIA 36 was the source of the complaint which BR 6 referred to in his 1996 interview at RUB 6134 and was therefore the source of the complaint which resulted in the removal of BR 15 from Rubane. HIA 36 first reported the matter to his mother. BR 6 'caned' him for telling lies. It is noted that BR 6 recounted at his interview at RUB 6134 that HIA 36's mother had told him that 'you couldn't believe HIA 36'. It is therefore not clear whether DL 475 's reference to the mother casting doubt on HIA 36's honesty was related to this event solely. HIA 36 indicated that he feels the Brothers eventually believed 'he was telling the truth and that is why BR 15 left'.

HIA 36 accepted that the other Brothers may not have known what BR 15 was up to. At Day 63 134:12-20 he stated that he didn't believe that the other Brothers knew the abuse was taking place and justified that belief by recounting the abuse happened at night and behind closed doors.

HIA 36 had positive recollections of BR 2, BR 6 and BR 3 and while he accepted the boys would have spoken among themselves about BR 15 he did not suggest that the boys spoke in a similar fashion to the other Brothers.

He explained that he felt unable to tell DL 475, the attached Down County Welfare Social Worker, about the abuse as she was a woman and he couldn't discuss something like that with a woman.

At Day 63 144:1 HIA accepted that he did not hear allegations about DL 134 & DL 135 until years later and 'he did not believe them'. HIA 225 made no sexual allegation about DL 134 either.

HIA 36 accepted that there was experimentation among the boys but he also testified that some older boys took advantage of younger boys. The impression one gained was that this was a bigger problem in HIA 36's residency than abuse by BR 15 whose activities appear to have been curtailed by the introduction of the Chalets.

Like HIA 225, HIA 36 was abused while in 'aftercare' digs. He did not report this abuse because he was afraid of losing his lodgings.

9.59 HIA 56 described sexual abuse by;

(i) DL 134
(ii) BR 15
(iii) The Hunter
(iv) Other boys

He had been previously abused in Nazareth Lodge.

An aggravating factor of the alleged abuse by DL 134 was the participation of fellow resident DL 136 in the abuse.

HIA 56 contextualised the abuse by BR 15 as having occurred after he returned from the Chalet unit to the main house. In its response statement the Order suggested this must have been after the In fact, BR 2 has a diary entry for which establishes that HIA 56 was still in the Chalet at that time [RUB - 6278]. BR 15 was under investigation by BR 6 and Br from and left Rubane at the end of . HIA 56 would have remained on friendly terms with HIA 21, HIA 32, HIA 36 after leaving Rubane. The Order is of the view that HIA 56 has adopted the accounts of HIA 36 in respect of BR 15 and this view is reinforced by his reference to

DL 271 . Despite the concessions made by the Order generally in respect of BR 15 BR 15 , the Order does not believe that HIA 56 was abused as alleged.

HIA 56 recounted that some boys were involved in 'mutual' sexual activities and the impression gained was that these incidents were consensual.

Two additional elements were of note;

a. HIA 56 accepted that he may have been mistaken about his 1995 (and Inquiry Statement) report of abuse by DL 134 on DL 455 . He told the Inquiry that he assumed that DL 134 had abused DL 455 because he saw them in a room alone and because 'DL 134 had a reputation'.
b. At paragraph 40 of his Inquiry statement, HIA 56 recounted how BR 2 woke him late one night and that he 'guessed his intentions were sexual'. Inquiry Counsel probed this account. HIA 56 agreed that he 'liked BR 2 ' and still respected him. HIA 56 explained the comment by implying that because he was aware that abuse was going on and that BR 2 had woken him at night that he 'guessed' it was something sexual.

These two statements demonstrate how applicants can make very serious allegations on false assumptions and how their otherwise positive experiences of certain individuals can be swayed by too much analysis or misinterpretation of innocent situations.

HIA 56 testified that DL 140 had invited residents to report incidents of peer abuse or abuse by Brothers to him. HIA 56 agreed that he found DL 140 'approachable,' but he denied making any report to him and when pressed by the Chairman, HIA 56 stated this was out of 'fear that it would get back to the Brothers'. HIA 56 could not recall other boys commenting on the 'invitation' or of being aware of other boys speaking the

HIA 56 agreed that there were rumours about the Brothers and lay staff interfering with boys.

9.60 HIA 21 was a very impressive witness. He described how DL 134 had tried to sexually abuse him in the houseparents' quarters under the pretence of providing some sexual guidance, watched the boys in the showers and attempted to remove his bed clothes one night. HIA 21 recounted that 'he lived in fear of him doing something'. It was of note that despite his contemporaneous concern HIA 21 did not believe that he discussed the matter with the other boys and it was only later that he learned that other boys had been abused too.

HIA 21 recounted how he had told BR 13 that 'he was unhappy with DL 134 & DL 135 and that DL 134 & DL 135 would 'ruin us all' but he accepted that he did not report explicitly the sexual content of his complaint. This is of note, because HIA 21 was clearly fond

of BR 13, someone that he described as 'genuine and gentle'. HIA 21 was very vocal in his support of BR 3 and BR 2 as well, yet clearly felt unable to confide in them either. BR 3 ultimately sanctioned HIA 21's transfer to the Main House. In responding to a question as to whether BR 3 may have known [what DL 134 was up to] HIA 21 simply commented that's a 'bit unfair' and accepted the 'possibility that the [Brothers] may not have known'.

'Peer experimentation' was normal behaviour for boys 'who knew no different'. HIA 21 pointed to the mix of Nazareth Lodge and streetwise 'welfare' as creating problems in this regard. HIA 21 thought it 'hard to suggest that the Brothers were aware of it.'[2]

HIA 21 recounted how he was raped by HIA 147 and another boy in the derelict house outside the grounds. Their ability to leave the grounds arose because Brothers permitted boys who had 'asked permission' to walk on Rubane Road. When asked why he did not report this abuse, HIA 21 explained that sex was a taboo subject to raise and harder to express and he had, at that time 'neither the conviction nor courage.'

According to HIA 21 there was speculation and hearsay among the boys that HIA 36 had been abused by BR 15. HIA 21 speculated that the removal of BR 15 established that the Brothers were aware of the rumours. As HIA 36 made a direct complaint via his mother it is difficult to establish that he Brothers were alert to rumours about BR 15.

HIA 21 had positive reflections on BR 3, BR 6, BR 12 and BR 2 BR 2 whom he held in the 'highest esteem'.

9.3 [redacted] - Summary

9.61 br 15 left Rubane at the beginning of [redacted] It is accepted that he continued to offend at least up until [redacted] The movement of boys to the Chalet units would appear to have curtailed, if not prevented his offending. There is only one account of abuse post the implementation of the Chalet Units, from HIA 56, and that account seems rather unusual given that it could only have occurred at a time when BR 6 BR 6 and Br [redacted]'s investigation was concluding and BR 15 's removal imminent.

9.62 However, while the Chalets may have alleviated the problem caused by BR 15 they brought with them difficulties of their own. The introduction of married couples as house-parents had been heralded as an advancement in residential child care provision with family life experience. However, the evidence firmly establishes that one of the first married lay staff who had been earmarked to fulfil this role, namely

[2] Day 70 17: 8-13

DL 134 , perpetrated sexual abuse of his own. His appointment was in an era before vetting. A 'married Catholic couple' appears to have been the core criteria. There was no rush of applicants and no competitive appointment process. DL 134 & DL 135 DL 134 & DL 135 were due to their poor relationships with the children.

9.63 Between BR 15 sexually abused children in Rubane. Between DL 134 sexually abused children in Rubane.

9.64 The Order does not accept the wider allegations made by HIA 262, HIA 191 and HIA 511. For the reasons highlighted herein and in the Order's response statement to each said applicant, the Order submits that their evidence should be largely, if not totally discounted. While it is accepted that HIA 262 and HIA 511 may have been abused by BR 15 the remainder of their evidence against the Brothers is not accepted.

9.65 It is of interest, as alluded to in **9.1** above, that many residents like HIA 191, DL 445, HIA 110 denied abuse and knowledge of abuse by BR 15 . This fact illustrates the sporadic and secretive nature of his offending and the difficulties this may have caused in detecting and preventing it. HIA 36 was asked specifically about BR 15 's offending and believes that the other Brothers did not know and pointed to his recollection that it happened at 'night and behind closed doors'.

9.66 The cohort of Nazareth Lodge boys enables a consistent 'snap-shot' of Rubane life. Six of those boys were applicants to the Inquiry; HIA 21, HIA 36, HIA 132, HIA 225, HIA 16 and HIA 56. Together they provided nearly 24 years collective experience of Rubane. The consistent theme was sexual abuse by BR 15 , DL 134 and fellow residents. None of them made any sexual allegations against any other De La Salle Brother and that must be powerful corroborative rebuttal evidence.

9.67 This era appears to have seen the issue of peer abuse becoming an active problem although it was referenced in the investigation and again in during a meeting between the Trustees and Ministry's officials. The Order accepts that they did become aware of sexual activity among the boys but maintains that the Brothers were not aware of its full extent. It is noted that HIA 152 alleges a report to BR 3 and HIA 19 alleges a report to BR 6 . They reflect that neither Brother did anything about it. We consider that one cannot, at this remove, second guess what they did or didn't do particularly when we do not know exactly what they were told. HIA 147, when reflecting on activity among the boys accepted that the Brothers would not have known what was going on because of the size of the complex and HIA 225 also accepted that the Brothers would not have known the extent of the abuse.

9.68 It was of note that while HIA 21 wanted out of Chalet and away from DL 134 he does not appear to have told BR 3 the totality of the reasons for his request. He accepted that the Brothers may not have known the full extent of DL 134 & DL 135,

behaviour. This demonstrates that even a resident seeking assistance from a Brother that he trusted felt unable to divulge the entirety of his experiences.

9.4 [redacted]

9.69 HIA 94 [redacted] retracted a previous waiver of anonymity feeling that his previous decision was 'not of his own making'.

He made no allegation of sexual abuse. The Order's position is that HIA 94 interfered with other boys in the Home and indeed it was an attempt to prevent such abuse that resulted in his removal from the Chalet to the main house. HIA 94 was not asked whether or not he had been confronted by the Brothers about such behaviour and what if any direction/guidance or instruction they gave him.

9.70 HIA 222 [redacted] confirmed that he was not sexually abused himself. He described one incident when he witnessed bullying of a sexual nature but was unable to recall any of those involved.

9.71 HIA 104 [redacted] described how BR 1 [redacted] tried to put his hand down the front of his trousers. HIA 104 accepted that he had read media reports about Rubane. It is clear from his statement at RUB 580 and his comment 'from what I hear now' that he has reflected on his interaction with BR 1 [redacted] within the historical context. It is submitted that it would seem strange for boys to be rationalising their encounters with BR 1 [redacted] in the manner that HIA 104 reflects at paragraph 14 of his statement. This explanation of boys attributing fault and HIA 104's closing remarks that he understands now that it was 'not his fault' has the hallmarks of media accounts of victims growing to understand that they were not to blame.

HIA 104 accepted that it was a singular event and that at no other time in his five years of residency was he subjected to sexual abuse. He did not recount any abuse among the boys themselves.

In [redacted] as an ex-resident, HIA 104 was spoken to by the RUC and failed to report the abuse by BR 1 [redacted]. It is evident from other statements at that time that the police were openly inviting boys to reveal whether they had been touched or interfered with by the Brothers. HIA 104's justification for failing to report the abuse was not convincing.

HIA 104 described positive memories of Brs BR 2 [redacted], BR 6 [redacted] and BR 3 [redacted]. He also confirmed that he accompanied BR 13 [redacted] and BR 16 [redacted] on a trip to Rome in [redacted]

9.72 HIA 34 [redacted] described being buggered by BR 18 [redacted] and BR 2 [redacted] BR 2 [redacted] and further described being sexually assaulted by BR 2 [redacted]. He recounted that BR 18 [redacted] and BR 2 [redacted] acted together in perpetrating the abuse. HIA 34 in a statement to the Inquiry maintains that he told his friend DL 162 [redacted] about the abuse and that DL 162 [redacted] had conceded that the same thing had happened to him. DL 162 [redacted] was contacted by the PSNI and made a statement at 65974. He failed to corroborate HIA 34's account. In 1995 HIA 34 provided a statement to the RUC [RUB 68451] and denied having been abused. HIA 34 gave evidence at the HIA 148 [redacted] trail and the Lord Chief Justice did not accept his evidence. HIA 34 had no recollection of visits from social workers and only vague recollection of visits from parents and social workers. RUB 6891-92 sets out in considerable detail HIA 34's residency in Rubane. The Order does not consider that HIA 34 has provided any credible evidence to this Inquiry in respect of sexual abuse.

9.73 HIA 259 [redacted] described the arrival of BR 1 [redacted] to Rubane in [redacted] although he was factually incorrect regarding the context of BR 1 [redacted]'s arrival. HIA 259 recounted that there were 'rumours' among the boys. HIA 259 reflected on his belief that BR 1 [redacted] was moved from St Patrick's for sexual impropriety as being 'more likely true' because the source of that rumour, namely boys in St Patrick's, were 'tight knit' like Rubane. At RUB 784 paragraph 35 HIA 259 reflects that '[he] thought he was the only one' but that it had come out that BR 1 [redacted] had abused other boys. This suggests an element of post event re-assessment of his experience with BR 1 [redacted] after media reporting and establishes that he was unaware, despite the contemporaneous rumours, of any boy actually reporting abuse by BR 1 [redacted] among the boys. It was a common theme of the camaraderie among the boys abused by BR 17 [redacted] and BR 15 [redacted] that the boys spoke to each other about it.

HIA 259 described a specific event when he was summonsed to BR 1 [redacted]'s office and was abused as an alternative to going to St Patrick's Training School. This contextualising information is unusual and not corroborated by other allegations.

In [redacted] HIA 259, as an ex-resident, was spoken to by the police. He failed to report the sexual abuse to the RUC. HIA 259 did recount an event when a boy was attempting to rape another boy but did not make any mention of his own abuse nor did he mention that there were 'rumours' about BR 1 [redacted] or that he had seen BR 1 [redacted] touch boys in unusual manner or look at boys in the showers. HIA 259 justified his failure to report the matter to the RUC by recounting that his foster parents had warned him that they would throw him out if he was involved in the abuse. If that were the case, one may have expected him to say nothing to the police. Having recounted some 'abuse' it is notable that he makes no comment or any allegation about BR 1 [redacted] whatsoever. He could have done so without implicating himself, if that was his fear.

HIA 259 described being the victim of sexual abuse including rape by a fellow resident. He also described how BR 10 had been 'alerted' to the event surrounding the attempt rape by one boy on another. In his statement in [redacted] HIA 259 said that he 'couldn't really see what was going on'. In his 1995 statement he said that 'both had their trousers down' and before the Inquiry he recounted 'they were just starting' without being any more explicit as to how obvious it would have been to BR 10 BR 10 that something sexual rather than physical was taking place. DL 40's evidence was not suggestive of the sexual aspect of this event being evidently clear.

It is of interest that HIA 259 recounted that his social worker did take him out privately in the car but that HIA 259 'would not have felt able to speak to a social worker'.

9.74 HIA 18 [redacted] confirmed that he had not been the subject of any sexual interference. He also recounted that he was unaware of any sexual activity between the boys or between the Brothers and the boys.

HIA 18's reflections on sexual abuse were in stark contrast to those of HIA 218, HIA 219, HIA 25 and HIA 31 with whom he overlapped.

HIA 18, despite casting himself as a protective figure for [redacted] did not suggest that [redacted] contemporaneously reported to him any of the sexual abuse which they now allege. If these allegations were true, it would be reasonable to suppose that [redacted] would have told HIA18.

HIA 18 reflected positively on Brs BR 6, BR 2 and BR 3.

On a net point in relation to DL 417, HIA 18 testified that he could not recall him visiting Rubane and could not recall how it came about that he visited his house.

9.75 HIA 31 [redacted] described a general litany of sexual abuse. He alleged that boys were being sexually abused by Brothers and then perpetrating that abuse on younger boys. He made specific allegations against DL 149. HIA 31 recounted that he had told the RUC contemporaneously and that they had failed to intervene. HIA 31's evidence lacked any coherency and should carry no evidential weight. While wholeheartedly critical of the Home he recounted that BR 2 was 'good' and despite opening his account describing Rubane as a 'hell of a nightmare' he agreed that he ultimately volunteered to return in [redacted]

9.76 HIA 25 [redacted] described how he was sexually abused by a civilian, DL 417, at a house in the University area of Belfast when he was about [redacted] He gave a convincing account of this event. HIA 25 recalled that he believed he first met DL 417

DL 417 at Rubane where DL 417 had 'taught' the The Order does not accept that DL 417 had any role at Rubane. He appears to have been a trainee teacher at and through a module of Youth & Community Work visited Rubane in Desk diary entries record his attendance on four further occasions, namely with visiting groups of boys on and again on the and It is accepted that the records suggest he built up some sort of relationship with the . Neither HIA 25 or HIA 18 could offer any evidence as to how they came to be at DL 417 's house. The Order does not accept that the 's were provided with 'Home' leave to stay with DL 417 but accept that HIA 25 may have met up with him while on Home leave to his grandmother's or sibling's house. The Order deals with this matter specifically in a supplementary statement from Br Francis dated 26th November 2014.[4]Accepting student teachings on work experience placements was arguably a reasonable and responsible position for the Order to adopt, and we fail to see how the Order could be criticised for facilitating same.

HIA 25 alleged that he told DL 12 about the abuse by DL 417 but believes that she did nothing about it. It was suggested to HIA 25 that he could not have known that DL 417 was a convicted sex offender when making his Inquiry statement. However, in the statement HIA 25 makes reference to DL 417 's move to and it is therefore likely that the PSNI told him more about DL 417 circa the May 2013 ABE. It is accepted that that does not detract from the strength of his evidence about abuse by DL 417 .

DL 12 at RUB 5941 confirms that she has no recollection of HIA 25 reporting abuse to her. Given the manner in which DL 11 approached BR 18 in respect of HIA 18 and the protective position adopted by DL 11 & DL 12 it would seem incredible if DL 12 had not acted on such information.

HIA 25 also alleged that he had been sexually abused by BR 77 . His account was unconvincing. The account given during his ABE interview was that *he 'couldn't remember any sexual abuse that would've took place there but as I said to you* HIA 41 HIA 41 *has indicated that I was abused a lot'* – RUB 67002. At RUB 66912 he had previously indicated that he 'only remembered sexual abuse once'. HIA 25 goes on at RUB 66933 to say that he believes that some Brothers have been convicted of sexual offences. The Order submits that HIA 25's memory is defective in his recollection of the event with BR 77 and he has been influenced by the accounts of others. A large number of boys reported BR 77 for physical assaults in 1980 but there were no accompanying allegations of a sexual nature which one may have genuinely

[3] DL 149 was a teacher at at this time as well. He mention a tutor a who ran the Youth & Community programme. It would appear that the Desk Diary entry for seeking Mr DL 417 attendance at Rubane of 5th November 1976 is the same

[4] RUB 4810

expected to see if boys were prepared to make such relatively serious physical allegations against him.

HIA 25 alleged that BR 10 was sexually abusing boys and that he had his own 'group' of boys who he implied were being abused by BR 10. There is no body of evidence to suggest that BR 10 was sexually interfering with boys. This 'group' is likely to have been the [redacted] which BR 10 has openly referred too. HIA 25's belief is defective and serves to illustrate an inaccurate historical reflection, probably formed from media speculation, rumours, innuendo and accounts from others..

It is of interest to note that HIA 25 had a positive reflection of SR 32 but that he was now in some doubt because he had heard that there were 'allegations' against her. This demonstrates the effect that rumour and innuendo can have on someone's personal perception of individuals. HIA 97 offers another example of this in respect of BR 13.

It is submitted that HIA 25's overall credibility is further diminished by the introduction of the '2p strap' into his evidence and his allegation, contrary to others, that he actually saw the coins.

It is evident from some of the submissions in the response statement that HIA 25's memory is defective in respect of his relationship with [redacted] HIA 31 and in particular how HIA 31 had broken HIA 25's arm at [redacted]

HIA 25 denied any incidents with BR 1. Positive reflections on BR 2 and [redacted] were recounted.

9.77 HIA 519 [redacted] alleged that he was sexually abused by BR 3 'almost every day' and a number of other Brothers. In 1996 [RUB 66723] HIA 519 told the RUC that he had been abused by a number of Brothers 'at the weekends' but could not name them. He did name BR 3 but went on to state that he couldn't remember if he assaulted him or not. There were aspects of HIA 519's evidence which were unusual;

(i) He maintained that he was in Rubane twice. When challenged with the record he retorted that he may have been in under an assumed name on the first occasion [redacted]

(ii) That the strap was 'solid with a flexible end with prongs'.

HIA 519 also recounted being sexually abused by both his Probation Officers. In 1996 he told police that he was abused by one of his Probation Officers. He told the Inquiry that this abuse commenced after he reported the abuse at Rubane.

One was left with an impression that HIA 519 was genuinely delusional about various aspects relating to his past and his evidence should carry no evidential weight.

9.78 HIA 260 [redacted] did not attend to give evidence. In his statement to the Inquiry he recounted an invitation by another by to 'experiment sexually'. HIA 260 also described how BR 1 would;

(i) Have his arm around other boys in the yard.
(ii) Open your shirt and slip his hand down onto your chest.

He stated that he was sexually assaulted eight times but no detail was provided. HIA 260 is known to live in the [redacted] area and believed to be an associate of HIA 41. We consider his evidence to be unreliable and contaminated. This is aptly illustrated by the reference to DL 81 hitting HIA 41 as at paragraph 6 despite the fact that HIA 41 did not name HIA 260 as a corroborating witness in 1995. This is an account which, in our submission, has been adopted from subsequent conversations with HIA 41.

9.79 HIA 149 [redacted] gave evidence by videolink. He alleged sexual abuse by;

(i) DL 509
(ii) BR 23
(iii) BR 6
(iv) BR 3
(v) BR 77
(vi) BR 1

HIA 149 alleged sexual abuse by Fr Smyth at Nazareth Lodge. Fr Smyth did plead guilty to abusing HIA 149's brother but he is believed to have denied abusing HIA 149.

HIA 149 is named at RUB 60226, 60269 & 60286 as a resident who others believed was involved in sexual activity with other boys. HIA 170 recounted how he recalled HIA 149 being caught with another boy.

At RUB 60115 HIA 149 gave an account to the RUC on the 21st May 1995 in which he reported the abuse by DL 509 on his [redacted] DL 56 and rumours he had heard about BR 1. In light of same it seems very unusual that he would not have involved himself in the complaint as regards DL 509 or BR 1. It is noted that HSCB witness DL 519, who first reported the accounts of HIA 149 to the police in 1995, reflected that HIA 149 denied to her, on questioning, that DL 509 had interfered with HIA 149. DL 509 denied before the Inquiry that he had abused HIA 149.

Furthermore, if he was prepared to report the DL 509 abuse at all one may have expected him to report all of the abuse perpetrated upon him.

HIA 149 recounted how the Brothers forced him and his brother DL 56 into the van to go with DL 509.

HIA 149's various accounts contained significant inconsistencies. For instance, he failed to name BR 77 in his Inquiry Statement at all. In his Inquiry Statement he does not make a specific allegation of rape against BR 3 but he recounted such an allegation in his police interview at RUB 64433.

The Order accepts that HIA 149 was often in the company of a convicted sex offender. Notwithstanding this concession, HIA 149's allegations against the Brothers in particular lacked substance and corroboration. For instance, he is the only applicant who alleges that BR 1, BR 6 and BR 3 were caning him and fondling him at the same time.

HIA 149 and HIA 45 are the only two people who have, whether through this Inquiry, the 1980 police investigation, Operation Overview or by Civil Claims made sexual allegations against BR 23 The Order does not accept them.

9.80 HIA 41 described being abused BR 1 (medical examination and masturbation) and BR 77 (rape).

He also alleged that BR 25 perpetrated a sexual act but conceded that he hadn't actually seen it and was making an assumption as to the Brother's behaviour.

HIA 41 alleges abuse by Fr Brendan Smyth and it is noted that Fr Smyth admitted abusing HIA 41.

HIA 41 accepted that he had sat through many sessions of the Inquiry. HIA 41 recounted interaction with Stormont officials in respect of the HIAI. He has a relatively high profile in the media.

HIA 25 in his ABE at RUB 67002 recounted to the police that he had no recollection of being sexually abused but had been told by HIA 41 that he [HIA 25] had been abused. At RUB 5895 is a letter which HIA 41 received from HIA 170 in 2010. These entries illustrate the level of involvement and interaction that HIA 41 has had with other residents and is prepared to suggest events to them.

Indeed it is further noted that HIA 41 provided to the Inquiry a letter that HIA 170 had written to him on the 24th January 2010 [RUB 5895]. This further demonstrates that HIA 41 has been in contact with other former residents and applicants to this Inquiry and there is a very real potential for contamination of these accounts.

It is of note that HIA 41 was not prepared to concede the relatively neutral point regarding the provision of varied clothing even when it was aptly demonstrated by contemporaneous photographs. We would also emphasise that DL 503 did not accept the veracity of HIA 41's criticism of him and Social Services in general.

HIA 41 continued to maintain that the [redacted] Donegal trip was 14 days long even though the contemporaneous records proved otherwise.

No other applicant to this Inquiry has availed of as many opportunities to document his account of his experiences in Rubane. It is particularly relevant that;

(i) In two police statements in [redacted] despite recounting BR 1 putting his arm around him and BR 77 striking him, HIA 41 did not make any allegation of sexual assault/rape. DL 155 who was present during many of these interviews told the Inquiry that he did not form the view that there was any more to the sexual allegations against BR 1 than the account given by the boys to the RUC.

(ii) In two 1995 police statement HIA 41 makes no allegation of sexual abuse by BR 1 or BR 77 perpetrated against him.

(iii) HIA 41 did not include the De La Salle Order, BR 1 or BR 77 in Civil proceedings that he commenced in 1997.

HIA 41 alleged that BR 2 stripped searched him and a number of others residents. It is assumed that HIA 41 implies a sexual purpose. While Inquiry Counsel did point out the discrepancies with HIA 41's version of events, a number of other points stood out. HIA 41 told the Inquiry at this point in his testimony that he didn't smoke. He later contradicted this by testifying he was going for a smoke when he witnessed 'abuse' of a fellow resident.[4] The photo at [RUB - 90121] illustrates HIA 41 with a cigarette. HIA 41 in denying BR 2 's version of events implied that he would not have been out on the corridor because of his fear that BR 23 would be violent if he found him. This was in stark contrast to his earlier evidence of BR 23 BR 23 being absent so regularly that the boys were able to pilfer from BR 23 room, the kitchen and the pantry. There was a clear inconsistency in rationale. HIA 41 also suggested that BR 2 would have had no involvement with this 'autonomous' chalet unit.

The Order does not accept that HIA 41 is credible. It is accepted that he was abused by Fr Smyth at Nazareth Lodge and that abuse may have continued at Rubane. It is accepted that he may have been subject to a medical examination and that BR 1 may have put his arm around him on occasions but the more serious allegations of sexual assault by De La Salle Brothers is denied.

9.81 DL 40 [redacted] was an impressive witness.

He was abused by Fr Brendan Smyth in Rubane. DL 40 reported this abuse to BR 1 BR 1 . While DL 40 attributes BR 1 as responsible for stopping the abuse it was evident from the material that during a RUC Interview, BR 1 denied that he had received the complaint from DL 40. There is no material to suggest that BR 1

[4] Day 67 45:21

BR 1 passed on any complaint to the Provincial, the Bishop of Down & Connor, the Norbetine Community, DL 40s social worker or the police. BR 1 is believed to have left Ireland [redacted] in [redacted] It is impossible for the Order to comment further other than to say;

(i) The Order believes that DL 40 did make the complaint to BR 1;
(ii) That complaint should have been notified to the Social Worker, the Bishop and the RUC;
(iii) There was media speculation describing BR 1 as a 'pal' of Fr Smyth during the summer of 1995:
(iv) There could be a number of reasons for BR 1 's denial of knowledge of DL 40's complaint or of Smyth himself, two of which are (a) a genuine lapse of memory and (b) an inherent fear of becoming associated with Smyth (who had by this stage been convicted).

DL 40 was a resident of Rubane when he made a statement to the RUC on [redacted] Unlike other applicants who testified about their fear and reluctance to engage with the RUC, DL 40 did report that BR 1 'rubbed [DL 40s] chest inside his shirt' and 'patted him on the bum'. DL 40 had no recollection of this event but he did recount that BR 1 was a 'friendly type of person' who would 'hug the boys'. DL 40 accepted that one 'wouldn't do it today' and while at the time he did not see it as an issue he did accept that it made him feel uncomfortable. DL 40 also recounted that there were 'rumours' emanating from the boys resident in the main house about BR 1 supervising showers. While DL 40 was not specifically asked, the impression he gave was that save the inappropriate touching in the yard and the rumours about the showers, DL 40 was not subjected to or was made aware that BR 1 committed any other types of abuse.

DL 40 was a participant in the incident recounted previously by HIA 259. In response to the suggestion that BR 10 had received notification from the boys that DL 59 was sexually abusing the younger boy, DL 40 stated 'I just don't know the detail that I would have gone into'. HIA 259 gave slightly varying accounts. It is difficult to determine how obvious it would have been to BR 10 from what was said or heard as to the underlying reason for the altercation.

DL 40 was quite clear that it was 'common knowledge among the boys' that DL 59 was involved in homosexual activity. The Order accepted in its admission statement of 21st October 2013 that DL 59 was a name associated with sexual activity among the boys. When DL 59 approached DL 40 no form of coercion appears to have been used.

DL 40 had positive memories of Brothers BR 2, [redacted], BR 6.

9.82 HIA 218 and 219 [redacted] described a litany of sexual abuse and sexual behaviour which is simply unbelievable given the context of the rest of the evidence. Both [redacted] made references to the abuse by Christian Brothers in Ireland and across the world as if such a broad statement in some way gave their accounts credibility. It is this simplistic 'broad brush' approach adopted so regularly by the media which contaminates many evidential accounts. HIA 218 testified that he had been on chat shows dealing with abuse and confirmed that his 2010 attendance with the police was sparked by the Inquiry [Ryan report] in Ireland. HIA 219 was vehement in his demands for the Inquiry to listen to his description of Rubane which he said would be repeated by hundreds and how those accounts would match his description. Troubled men, as they were, the Inquiry did not hear corroborative evidence from other applicants. The accounts about 12/14 people being involved in orgies and boys holding down boys for Brothers to rape have simply not been recounted by any other applicant or indeed any resident. The evidence of these two witnesses should be discounted in its entirety as having absolutely no evidential value. HIA 104, HIA 18, DL 40 where all contemporaries and the Inquiry will note they gave very different accounts.

9.83 HIA 170 [redacted] was an impressive and credible witness. It is significant that he described positive reflection, like treating the sea bird, BR 10 going to his Aunt's for tea and his experience in the independent living unit. HIA 170 accepted that staff had been aware of and conscious of his [redacted] after he was shown documentation by Inquiry Counsel. This too illustrates how truth can be become distorted with time.

HIA 170 described how BR 1 would '*stand close to you and touch your bum as you walked past*'. In [redacted] HIA 170 told the RUC that BR 1 touched boys in the yard. At RUB 66267 HIA 170 told the PSNI in April 2011 that 'there was nothing sexual about it that I could tell'. It was suggested to HIA 170 that although he did not see it as a sexual advance at that time as a child, he might see it differently now. With respect, as late as 2011 when he spoke to the PSNI as a [redacted] year old man, HIA 170 did not see what BR 1 was doing as a sexual advance. It is particularly relevant that HIA 170 clarified his views by testifying that he was aware of the allegations about BR 1 and with hindsight now looks on the activity in the yard differently. Once again, this aptly demonstrates how a residents' neutral reflection on an individual has been clouded by what he has read in the press or on the internet.

On questioning from the Chairman HIA 170 confirmed that other Brothers would not have been aware of BR 1 touching boys in the yard as BR 1 would have been on 'yard duty' alone.

It should be noted that HIA 170 was only in the Home with BR 1 from [redacted] until [redacted]

9.84 HIA 362 [redacted] described how BR 1 [redacted] conducted a medical examination on him. In his Inquiry statement he did describe how BR 1 [redacted] explained to him that this was designed to detect infectious diseases [rash].

He further recounted that BR 1 [redacted] would try and grab him 'tickle him and pretend to play' and this occurred 'out round the grounds'.

HIA 362 witnessed fellow residents messing about in what he took to be a 'sexual' manner.

HIA 362 recounted being suspicious of BR 77 [redacted] as he watched him in the shower.

He had praise for [redacted] whom he considered *'would have looked after you'*.

On a question from the Chairman HIA 362, like HIA 170, confirmed that other Brothers were not about when BR 1 [redacted] was touching the boys.

9.4 [redacted] - Summary

9.85 The Order does not believe that any De La Salle Brother was involved in sexual abuse between [redacted] and [redacted]

9.86 The Order notes that it employed DL 509 [redacted] from [redacted] and that he has since been convicted for sexual offences. The account of HIA 149 is also noted but the Order is unable to form a view as to the extent of DL 509's alleged offending in Rubane. DL 509 was employed only after references were obtained from a Parish Priest and a Sisters of Nazareth Nun.

9.87 The Order does not accept HIA 31's allegation of sexual abuse by DL 149.

9.88 BR 1 [redacted]'s tenure at Rubane gained notoriety in [redacted] and this was susbsequently fuelled in the mid 1990s by Operation Overview and the media's reaction to those events. There is extensive material from both [redacted] and 1995. Before this Inquiry there were essentially four complaints levelled against BR 1 [redacted], namely;

- That he conducted a medical examination (HIA 362)
- That he would put his arm around boys and touch them 'under shirt' (HIA 260, DL 40) 'grab and pretend to play' (HIA 362) and 'hand down trousers' (HIA 104).
- Anal rape (HIA 259 and HIA 41)
- Non-reporting –(DL 40).

The allegations against BR 1 are summarised in the Order's statement of 5th December 2014 [RUB - 5968] and the Inquiry is respectfully asked to refer to it again. The Order accepts that BR 1 did conduct medical examinations and did put his arm around boys in the Home and touched them inappropriately. The Order notes DL 40's recollection that he did not consider it was an issue and clearly didn't believe there was a sexual motivation to it. It also notes HIA 170, at least until relatively recently, shared a similar view. However, the Order accepts that the said behaviour was inappropriate, constituted an assault, made the boys feel uncomfortable and was abusive.

The Order does not accept the totality of HIA 41's evidence and is firmly of the view that he lacked credibility in general. He offered no explanation for how it was that he spoke to the police on a significant number of occasions and brought Civil Proceedings against other defendants before making any allegations against BR 1 BR 1. We are of the view that HIA 41's recollection has been heavily influenced by media reporting.

HIA 259 appeared in general a more credible witness. It is difficult to reconcile his account against the general body of complaints against BR 1 which largely confined his offending (whether one looks at the [redacted] or 1995 material) to the 'inappropriate touching.' It is important to stress that HIA 259's August 1995 interview post-dated the newspaper reporting that BR 1 had been charged with 'buggery'. We would also seek to emphasise that HIA 259's evidence contained discrepancies in respect of his accounts about physical abuse by BR 10 and BR 77 BR 77 (the 12 times tables analogy) and he is not in our view as reliable as may have initially appeared.

9.89 The account of DL 155 is important in respect of the [redacted] investigations and conclusions therefrom. He formed a view that the RUC approached the matter appropriately 'wanting to help the boys and the boys to help them'. Contemporaneously, DL 155 was more impressed by the physical allegations than the sexual allegations which he felt may have had a more 'natural explanation'. When asked about this he recounted that boys would have said that if 'they were upset or distressed BR 1 would have comforted them by putting his arm around them'. Crucially, while accepting that adolescent boys would find it harder to discuss sexual issues he confirmed that he did not form the view that there were issues relating to sexual complaints which the boys were not disclosing.

9.90 BR 77 was convicted of a physical assault. HIA 41 and HIA 25 allege that he raped them. We would refer again to HIA 25's ABE interview and his statement that he did not believe that he had been abused until he had been told by HIA 41. We do not consider these two accounts provide evidence of corroboration but rather evidence of contamination. HIA 41's evidence is unreliable. Further allegations of sexual abuse by BR 77 were made by HIA 218 and HIA 219. They have given inconsistent and contradictory accounts and we do not consider their evidence should be given any

weight. We are of the view that HIA 149's evidence lacks credibility. The Order does not believe that BR 77 was engaged in sexual abuse.

9.91 For the reasons given above and in the Order's response statements, we reject the evidence of HIA 31, HIA 519, HIA 149 and HIA 218 and HIA 219 as have any credible value or probative weight.

9.92 The Inquiry will be aware that BR 31 was a defendant to the criminal proceedings in 1998 on foot of complaints by two He was in Rubane from Neither HIA 104, HIA 18, HIA 25, who were resident in Rubane name him and indeed do not report sexual abuse by anyone in The allegations were in isolation. The Order does not accept that BR 31 abused children.

9.5

9.93 HIA 381 was not asked to attend this Module and his statement was summarised. He had a positive recollection of BR 2. Importantly he recounted that he had not witnessed any sexual abuse.

Overall, he was a resident, who from the records, appears to have had a relatively happy time in Rubane, to the extent that he and HIA 382 preferred to stay there at weekends rather than returning home to their familes. He recounted that *'he loved it [at Rubane]'*.

Inquiry Counsel commented that it was a 'positive experience which was matched by those looking after him'.

The contrast with HIA 50 is startling.

9.94 HIA 382 was not asked to attend this Module and his statement was summarised. He recounted the difference between Termobacca and Rubane as follows;

(i) You were not belittled or run down [at Rubane].
(ii) I felt respected by the Brothers.

He recounted at paragraph 18 that he *'did not suffer any sexual abuse in Rubane and was not aware that any sexual abuse was taking place.'*

He was a resident who from the records appears to have enjoyed his period in Rubane. As stated above, he and HIA 381 preferred to stay there at weekends rather than actually going home to their families. At RUB 32562 a report commented *'that he has matured so much he is nearly like a member of staff'*.

The contrast with HIA 50 is startling.

9.95 HIA 210 [redacted] was not called to give evidence and his statement was not 'read in'. He confirmed at paragraph 20 that he never heard anything about sexual abuse.

9.96 HIA 256 [redacted] described being abused by BR 6 and a further Brother whom he could not identify. HIA 256 had made a statement to the police in 1995. There are aspects to his accounts which are notable;

(i) That he was unable to name any Brother in 1996.
(ii) That he now names BR 6.
(iii) That he was given credit in the tuck shop as a reward/payment for the abuse.
(iv) That he allegedly told Dr Harbinson that he had been abused.

Significantly, Dr Harbinson's contemporaneous note is that HIA 256 told her that *'he was happy at Rubane and got on well with the Brothers'*.

HIA 256's memory of relatively neutral points such as home visits was poor. He accepts in his Inquiry statement that he was [redacted]

We do not consider his evidence is reliable.

However, his reference to the TV footage of BR 1 and BR 2 leaving Newtownards Court and how this influenced his 'disclosure' to his wife and subsequent identification is an important factor when considering wider issues.

9.97 HIA 50 [redacted] described anal rape by BR 33 and implied that sexual abuse of the boys was rampant. While we take the view that HIA 50 has no credibility and his oral evidence should be given no evidential weight, his participation in this Inquiry is important for at least two reasons, namely;

(i) It has allowed the Inquiry to explore the [redacted] complaint of sexual abuse by DL 472 and how by that time a complaints/investigation process was operational involving Police, Order and Social Services.[5]
(ii) It reveals the Order dealing with complainants in a sympathetic and caring manner without exposing itself to false and self-serving individuals.

It was not entirely clear just what HIA 50 was suggesting but at the very least he seemed to imply that the RUC, the Social Services, the Order and lately the PSNI have/are all conspired to cover-up not only his complaint but sex abuse in general. HIA 50, even in the face of Inquiry Counsel's indications to the contrary, maintained

[5] Day 68: The Inquiry had previously seen parts of the [redacted] physical abuse complaint.

his assertion that the Order had been told to 'destroy all records'. With the greatest of respect, this type of scare mongering and conspiracy theories is harming the genuine victims of abuse. At RUB 770 paragraph 25, HIA 50 with an element of what appears to be 'pride' recounts how he told a SAVIA meeting 'a few years back' that the Order had destroyed all of its records at that there was 'no point' looking for records as everything had been burnt. The Inquiry has heard from others who have expressed interest in obtaining their records. HIA 50's 'advice' to them may very well have simply created more unnecessary hurt and distrust of the Religious.

We simply take the view that this individual is a calculated and manipulative liar.

9.5 [redacted] - Summary

9.98 There were earlier periods in time when sexual abusers were present in Rubane. Post [redacted] the Order does not accept that any sexual abuse was perpetrated by an adult.

9.99 HIA 256's evidence has always been inconsistent.

9.100 We submit that HIA 50 epitomises the harm that can be caused to genuine victims by false claimants. This individual, despite extensive material to the contrary, continues to maintain not only rape but a conspiracy and cover-up by Police, Order and Social Services. His evidence should be discounted entirely.

9.101 The Inquiry will be aware of the detailed nature of reporting and inspection post 1980. The DL 413 [redacted] incident and the DL 472 [redacted] /HIA 50 incident aptly demonstrate that the boys, whatever can be said about earlier years, were willing to report events.

9.102 HIA 381, HIA 382 and HIA 210's accounts aptly demonstrate the atmosphere in the home during this era.

9.103 HIA 436 was not called by the Inquiry to give evidence. The Order's view that HIA 436 was never in Rubane was corroborated by HSCB records. It is in our view, deeply worrying and yet enlightening, that an applicant to this Inquiry is prepared to make an untruthful statement that *'there was a lot of physical and sexual abuse going on in Rubane'* when he was never in the Home. This applicant illustrates that the notoriety associated with Rubane can, in some instances, shroud the truth of the reality.

In Conclusion

(i) De La Salle Brothers

9.104 The Order accepts that BR 17 , BR 15 and BR 14 sexually abused boys in Rubane.

9.105 The Order accepts that BR 1 touched children inappropriately and indecently but it does not believe that he was guilty of the more serious abuse allegations made against him.

9.106 The Order is not in a position to come to a conclusion about BR 61 , BR 27 BR 27, BR 55 or BR 65 .

9.106 The Order does not accept that BR 2 , BR 10 , BR 6 , BR 3 BR 3 , BR 23 , BR 12 , BR 77 abused children sexually.

(ii) Lay Staff

9.107 The Order accepts that DL 134 abused boys in his care within Chalet

9.108 The Order accepts that DL 509 , who was later convicted of indecent assault and gross indecency against two young boys, had access to children in Rubane from and that at least one event particular to Rubane formed part of the indictment of which he was convicted.

9.109 The singular allegation of sexually assault against DL 149 has no basis whatsoever.

(iii) Fellow Residents

9.110 It is accepted that to varying degrees at different periods in time there was a significant level of sexual activity among the boys. There is no doubt that some of this was 'consensual' sexual exploration. However, it is also accepted that there were significant levels of coercion by physical force and threats resulting in the rape of some residents.

(iv) Others

9.111 It is accepted that DL 230 , sexually abused boys resident in Rubane.

9.112 The Inquiry has also heard accounts of abuse in foster family settings from HIA 45, HIA 183 and HIA 385.

9.113 HIA 225 and HIA 36 described being abused in 'aftercare'.

9.114 A number of applicants – HIA 24, HIA 279 and HIA 147 being a sample – describe being abused at Nazareth Lodge before arrival at Rubane.

The Order received a number of contemporaneous complaints and these will be reviewed in a separate Chapter.

9.115 As against the backdrop of the acknowledged abuse the Inquiry will want to examine whether any of the Brothers were alert to the behaviour of the abusive Brothers and the seriousness and extent of the peer abuse.

9.116 Surviving Brothers and records do detail that there was a contemporaneous awareness of sexual activity among the boys. The Brothers maintain that they were not aware of any coercion or indeed the extent and severity of the abuse. HIA 152 and HIA 19 testified that they reported to BR 3 and BR 6 respectively but it is difficult to analyse their response without full details of what they were told and their ability to reflect on that evidence. The general theme of the applicant evidence was that the boys didn't report the sexual activity/abuse by peers. BR 2 did seek the assistance of psychiatrists for boys whom he identified as having 'sex problems'. This was a reasonable response by the standards of that day.

9.117 It is evident that many boys arriving from Nazareth Lodge had already experienced sexual abuse by an adult (HIA 36 & HIA 147) or at the hands of other boys before they arrived in Rubane. The Order had no contemporaneous knowledge of that fact and consequently no knowledge of the risk they posed to themselves and others. The Brothers openly concede that they had no knowledge or training on such risks. Sex Education was not taught in the school. The Brothers relied on the Chaplain for instruction on such matters but by the sexually conservative nature of the era it is accepted that any such instruction was likely to have been very basic indeed. DL 517, who presented as being an acutely conscientious Social Worker recounted that even in the late 1970s the boys 'knew little of the practicalities of sex'. The Inquiry heard how upwards of 45 social workers were visiting Rubane throughout the 1970s. In hindsight it does seem rather strange that this lack of knowledge was not identified and addressed earlier. DL 518 accepted that even in the 1980s the only method to combat the abuse was 'education'. He mentioned the development of a psychiatry service, just like BR 2 had employed 10-15 years earlier, to try and 'gain an insight and change behaviour'. He also volunteered that in the 1980s there was a 'demand' for the service he was developing.

9.118 Former residents denied that the Brothers would have been aware of the extent of the peer abuse and reflected on the size of the complex, the relatively small number of staff and that the activity did not take place out in the open. The Brothers had to strike a balance between giving the boys freedom and supervision. The 1981 SWAG report criticised the Brothers for a supervision regime which was too strict. Some, critical of the freedom the boys had, to engage in activity in the woods and outhouses, may say that it was not strict enough. The Inquiry should reflect on the wider knowledge of peer abuse within other homes falling under the terms of reference. Evidently the Brothers failed to properly identify the scale of the problem but in fairness to them, the tone of the evidence was that for one reason or another it was kept, or at least the extent of it was kept, relatively secret as amongst the boys themselves. It should be emphasised that when the RUC and Social Workers became aware of the scale of the problem in 1980 they did not report it to the Management Committee of the Home or

the Brothers. Indeed, DL 518 at RUB 5589 appears to have been more concerned about legal consequences than actual emotional or psychiatric consequences. To be fair to DL 518 he gave evidence that he was unaware that the 1980 police investigation had uncovered a 'rape' allegation. It is not clear which of the social workers were present when that allegation was made but it is evident in our view that it was not passed to DL 518 by either the RUC or the Social Workers and furthermore was not passed to the Management Committee or the De La Salle Community itself. The failure to 'flag' up this issue may be important when considering how the seriousness of such activity was viewed by the Social Workers. It should also be emphasised that the matter had been raised with the MoHA at the Meeting in February 1963[6] which was establishing the vision for the Chalets and included a debate among the Trustees and MoHA on the risks of sexual activity among the boys caused by the privacy afforded by the Chalet system. While it is evident that the Chalet system was not the sole precipitant for this type of abuse the document is helpful in demonstrating that MoHA, Diocese and Order were collectively aware of the problem from at least 1963.

9.119 A number of applicants to the Inquiry were asked whether they believed that Brothers knew that other Brothers were sexually interfering with boys. HIA 36, abused by BR 15, did not think that the other Brothers knew and pointed to the abuse happening at night behind closed doors. It is accepted, particularly in the light of the [redacted] investigation, that it appears unusual that Brothers did not have a suspicion of BR 17 and did not maintain closer supervision of his activities. It is very difficult at this remove to analyse what they may or may not have known or suspected. We know from DL 440 's account and that of HIA 399 and HIA 261 that BR 17 was a convincing individual who evidently managed to create opportunities to abuse even within his victims own homes. BR 17 was described by HIA 247 as a 'Jekyll and Hyde' character who could split his persona. It is accepted that the Brothers and boys lived in close proximity but society, to its detriment, knows that paedophiles can be cunning and deceptive and notwithstanding the [redacted] investigation we find it difficult to believe that Brothers would ignore BR 17's abuse if they had known about it – [redacted] It is possible that the determination of the [redacted] investigation in BR 17's favour created a false impression of boys' complaints among the Brothers. It is with continued sadness and regret that the Order reflects on that investigation.

Applicant Analysis

9.120 Rubane House has been the subject of extensive Police Investigations from 1980 to the present day. Operation Overview had a timeframe from 1964-1995. Large numbers of former residents were spoken to by the Police. At the opening of this

[6] RUB 10124

Module it was stated that approximately 200 former residents had made allegations of abuse. This panel has heard that the RUC deemed some of those complaints to have been fabricated. We take the view that Inquiry Counsel has ably demonstrated that other complaints and allegations lack any credibility. It is unfair and unrepresentative to become focused on the numbers aspect alone because;

1. We know that there are victims of abuse at Rubane who, for a variety of reasons, have never reported their experiences.

2. Some of the allegations lack even the most basic credibility.

However, when viewing Rubane and this evidence of this module in context we would make the following points.

Out of the 58 applicants/witness;[7]

A. 19 of the applicants gave accounts which illustrated considerable credibility issues.[8]

B. 24 of the applicants' accounts of sexual abuse (including 2 references to Fr Smyth) were accepted.

C. 3 applicants provided singular accounts against individual Brothers where there is little by way of corroborative evidence and no ability to test the cogency of the evidence.

D. 15 applicants confirmed that they were not sexually abused by adults.

[7] Including DL 40, DL 445, HIA 210 & HIA 89

[8] 45, 388, 262*, 26*, 379, 191, 511*, 128, 34, 259, 31, 519, 149, 41*, 218, 219, 256, 50 and 436.

Chapter 10 Allegations of Abuse and Reporting

10.1 The following submissions are based upon the evidence and must be read in conjunction with the detailed Statements from BR 32 and, in particular, Statement 1 (general background) dated 20 May 2013; Statement 2 (awareness) dated 22 October 2013; and Statement 3 (admission statement) dated 22 October 2013.

10.2 It must be emphasised that prior to the Hughes' Inquiry, there was a dearth of documentation that specifically referred to child protection policies or procedures. No guidelines existed as to the recording of complaints, the investigation of those complaints and the reporting of allegations in respect of both sexual and physical abuse.

10.3 The rule of Government of the De La Salle Brothers obliged each individual Brother to notify his Provincial if he became aware of untoward activity. Furthermore, Rule Page 25(9) provided as follows –

> "*viii Should it happen that any one or more Brothers know of a considerable fault capable of causing scandal, ... they shall inform the Brother Director of it privately; they shall not fail to do this under any pretext whatsoever. Ever Brother shall look upon this practice as an indispensible duty.*"

10.4 Following an in-depth search within the archives of the De La Salle Order, it was discovered that there were three separate investigations carried out by the Provincial following allegations of sexual misconduct. The allegations relate to the following –

(a) Sexual allegations against BR 17 in [redacted]

(b) Sexual allegations against BR 14 in [redacted]

(c) Sexual allegations against BR 15 in [redacted]

We will deal with each allegation seriatim. Thereafter, we will consider other reports of both sexual and physical abuse.

[redacted]nvestigation:

10.5 In [redacted] it appears that seven boys made allegations of sexual misconduct against BR 17 . The reports were made to a Chaplain who encouraged the boys to report them to the Brothers. The boys approached BR 13 and BR 63 BR 63 and referred to two other boys, who although had no made complaints, were

also abused.

10.6 Under the Rules of the De La Salle Order any misconduct had to be reported to the Director. [redacted] the Brothers correctly reported to the Provincial, namely [BR 19] [redacted], who instigated an investigation.

10.7 [BR 19] [redacted] attended at Rubane on [redacted] Thirty nine boys were interviewed. Two of the residents who had reported sexual misconduct, namely, [DL 439] [redacted] and [DL 481] [redacted] had left Rubane and were not interviewed at this time. With the exception of one boy, namely, [DL 480] [redacted], the boys claimed that they had not been abused. However, [DL 480] [redacted] maintained that he was indecently assaulted by [BR 17] [redacted] in his car on a journey back from Belfast. In his summary of the investigation, [BR 19] [redacted] highlighted that [DL 480] [redacted]'s allegation *"cannot easily be ignored"*.

10.8 The precise nature of each and every allegation is not recorded. It seems that the allegations referred to inappropriate touching and fondling at various locations, including in the school and in [BR 17] [redacted]'s car and his office. It is noted that [BR 19] [redacted] was aware that [BR 17] [redacted] had been *"tipped off"* as to the complaints. [BR 17] [redacted] thought that [BR 19] [redacted] was attending Rubane to enquire about his medical examination of boys, taking boys in his car and giving individual instruction on issues of morality in his office.

10.9 [BR 19] [redacted] must not have considered that he had sufficient evidence to remove [BR 17] [redacted]. On the basis of the admissions made by [BR 17] [redacted], [BR 19] [redacted] [BR 19] [redacted] issued directions to [BR 17] [redacted] forbidding him to allow any boy into his room, to conduct any medical examination, or to be alone with any boy in his car. He was also to ensure that glass panels were put in the office and parlour doors.

10.10 On [redacted] [BR 19] [redacted] received a letter from Canon Rice of Portadown. It appears that [DL 439] [redacted], who evidently had left Rubane prior to [BR 19] [redacted]' September Investigation, made a report to his father that [redacted] [BR 17] [redacted] had abused him. The boy's father reported the matter to his solicitor who notified the Canon. [BR 19] [redacted] attended Rubane again on [redacted] [redacted] [DL 439] [redacted] was interviewed in the presence of the Curate (and possibly [DL 439] [redacted]'s two Uncles). According to a letter from [BR 19] [redacted] to the Assistant General, [BR 79] [redacted], in Rome dated [redacted] [DL 439] [redacted] was interviewed for six hours and witnesses were called. Finally, [DL 439] [DL 439] [redacted] admitted the allegations were false, but only after he was told that he would be kept overnight. Significantly, [BR 19] [redacted] stated in the letter that, *"This is not very satisfactory and one is left in some doubt."*

10.11 The Order has accepted that [BR 19] failure to report the matter to the Police was a mistake. [BR 19] is now deceased. One can only surmise as to his reasons for failing to notify the Police and indeed the Ministry of Home Affairs and the Board of Governors. The allegations had been withdrawn but only after lengthy questioning and a threat of detention overnight. In respect of the minor complainant, this was not acceptable. Nevertheless, despite the withdrawal of the allegations, it is clear from his letter to Rome dated [redacted] that [BR 19] [BR 19] still entertained some "doubt" (presumably) as to the innocence of [BR 17] [BR 17]. The letter also refers to what transpires to a misguided hope that the matter would end there. The letter from Rome in response dated [redacted] refers to "the difficulty in proving that [BR 17] was completely innocent." The point has been made with some justification that if the matter had been reported to the Police, they were more qualified to carry out an independent review.

10.11 One can only speculate as to [BR 19] reasons for not reporting these allegations in [redacted] to the Police, the Ministry of Home affairs and the Board of Governors. It is easy to speculate now that if such reports had been made then [BR 17] would not have had the opportunity to commit further gross acts of abuse. Against this, it must be emphasised that for many in society at that time, such acts of indecency would have been regarded as unthinkable and unspeakable and the product of fabrication by the complainant.

10.12 It is also likely that, in keeping with the knowledge of society at that time, [BR 19] [BR 19] would have been unaware, or would have had little understanding of the nature and characteristics of the sexual predator or paedophile. This general assumption must be made, if even [BR 19] did have actual or acquired knowledge of the report of abuse at St Patrick's, Milltown between [redacted]

The [redacted] Investigation

10.13 [BR 14] was a [redacted] from [redacted] to [redacted] In [redacted] [DL 13] [DL 13], a resident in Rubane House, went home for the summer vacation and made a complaint to his older brother and thereafter his Social Worker that he had been sexually abused by [BR 14]. Down County Welfare notified the Order of the allegation. Belfast Welfare and the Ministry of Home Affairs were also notified.

10.14 [BR 6] was [redacted] at the time. He correctly reported the allegation to the Provincial, [BR 19], who commenced an investigation. [BR 14] admitted his guilt and the Provincial took immediate action to have [BR 14] removed from the Order. There is a clear and stark contrast

between [BR 19]' letter to Rome of [redacted] seeking [BR 14]'s dispensation from his vows and his [redacted] Report to the Ministry of Home Affairs. [BR 19] advised the Vicar General that [BR 14] was a *'positive danger to the others'* and that he had '*during the last three years interfered with boys, a couple each year'*. Inexplicably, in the Report to the Ministry of Home Affairs dated seven days later, [BR 19] stated that [BR 14] while *'frankly admitting his guilt'* in respect of [DL 13] '*emphatically denied having interfered with any other boy in the Home'*.

10.15 [BR 6] had conveyed a letter to the Provincial dated [redacted] indicating that Belfast Welfare had sought a '*guarantee that the incident was an isolated one and that no other boy had been interfered with.'* Evidently, [BR 19]' failed to disclose the full extent of his knowledge of [BR 14]'s offending in his Report of the [redacted] The evidence suggests that his failure arose from a dishonest and misguided attempt to fulfil the '*guarantee'* being sought by Belfast Welfare.

10.16 In the said Report, [BR 19] stated as follows –

"The De La Salle Order regards an incident of this kind as extremely grave and immediate measures were taken to ensure that [BR 14] *would never again be allowed to have any conduct with boys in any school."*

10.17 It appears from the said Report that [BR 19] attended at Rubane on [redacted] and interviewed each member of staff. The nature of the interviews are confusing. Some Brothers, namely, Brothers [BR 6] and [BR 12], were aware of the allegations made against [BR 14]. Other Brothers were apparently ignorant of the alleged incident and allegations. In any event, without specifying the nature of the allegation, the name of the complainant and the name of the Brother against whom the allegation had been made, the Brothers were simply asked to provide any information about any misconduct between a Brother and a boy. [BR 19] did not interview any of the boys. Somewhat naively he stated that, as a general rule, the boys would inform the Brothers if they knew of any misconduct in the home. [BR 19] also stated as follows –

"Due to the fact that the boys seemed to be unaware of any untoward incident in the home, I thought it 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 the Brothers and the boys and result in arousing their curiosity."

10.18 It is noted that there was third demand made by Belfast Welfare as contained in [BR 6] [BR 6]'s letter of the [redacted] namely, *'an inquiry with regard to some boys who were sleeping in the same dormitory as [*[DL 13]*' and who according to the*

[Chief Officer] know that BR 14 *was interfering with a boy or boys.'* It is not clear where the Chief Officer got this information. In any event, BR 19 in his report advised the Ministry of Home Affairs that he had not conducted a wider investigation among the boys. It is assumed, that this aspect of his Report and indeed the Report itself would have been forwarded by the Ministry of Home Affairs to Belfast Welfare. Nothing further appears to have been done in respect of this particular inquiry by the Ministry and Belfast Welfare.

10.19 As submitted below, however genuine was his concern for the boys, a more thorough investigation ought to have been carried out. At the very least, BR 19 was naïve to think that boys would report incidents of abuse in the home to the Brothers.

10.20 Documentation made available to the Inquiry reveals that the matter was reported to the Police and that a statement was taken from DL 13 on at Bangor Police Station. Social Worker, attended with DL 13 DL 13 and was present during the interview (see RUB 1007).

10.21 On D/Sgt. Jeffrey went to Rubane to interview BR 14 . He was told that on BR 14 had left his teaching post. D/Sgt. Jeffrey believed that the Order had knowledge of the matter before it was reported. Documents at RUB 1013 provide that further discreet enquiries revealed that BR 14 BR 14 was on holiday on before the complaint was made. The suggestion that BR 14 was removed to avoid a Police Investigation was corrected.

10.22 It is also clear from the documents made available now to the Inquiry that the Ministry of Home Affairs also had knowledge of the incident. Reference is made to documents at RUB 1014 – 1017. Firstly, attention is drawn to a handwritten note from Miss Forrest, Ministry of Home Affairs, dated These notes were written prior to BR 19 ' attendance at Rubane on Significantly, Miss Forrest was aware that the allegation had been initially reported to Welfare and that DL 13 had been interviewed by Police. Miss Forrest had also spoken to D/Insp. Platt, Newtownards, on nd Sgt. Hodgett, Greyabbey on Apparently, boys named by DL 13 to have knowledge *"of this sort of behaviour"* and who had left Rubane, were interviewed by Police and denied any such knowledge.

10.23 Miss Forrest was made aware that the Provincial was coming to Rubane and she stated that she would like to see him in the Ministry. It is very relevant that the concerns of the Ministry of Home Affairs were - *"(a) to know whether this boy had, in fact, been the subject of these offences by* BR 14 *; (b) whether there is any reason to fear that others have [been abused]; and (c) whether there is any reason to fear that any such practices are widespread."* It is also significant that Miss Forrest

did not make any attempt to carry out an inspection since the other Brothers are *"in a matter of guessing something and knowing nothing."* It is difficult to know how she came to this conclusion.

10.24 When the report from BR 19 dated [redacted] was received by the Ministry, it is clear that some of the concerns expressed by Miss Forrest had not been dealt with. The boys had not been interviewed to ascertain whether they, or others, had been subjected to abuse by BR 14. The boys had not been questioned as to whether they had been abused by others. Also, the Brothers had not been interviewed, not only as regard the specific allegations, but also as to whether they had any knowledge of other similar conduct.

10.25 It is difficult to know why the Order, the Ministry of Home Affairs or the Police did not conduct further enquiries even in respect of one alleged incident. It is possible, as stated by Miss Forrest, that *"enquiries among the boys could (a) put ideas into their heads, and (b) sow general mistrust of Brothers and other adults."* Miss Forrest also recorded at RUB – 1018 that *"as police saw it, it was possible that the events had happened to the boy elsewhere with another person but he had accused* BR 14 *as a let out"*. These comments are tantamount to suggesting that boys may not always tell the truth. It is also interesting to note that the boys whom DL 13 *'said [would] know of this sort of behaviour'* denied such knowledge when asked by the Police. As DL 13 had been truthful in his account, presumably he had also truthfully identified corroborative witnesses. However, they refused to disclose anything. This is yet another example of the reluctance of children to report abuse, a recurring theme in the evidence to the Tribunal.

10.26 It is acknowledged on behalf of the Order that, at the very least, the full extent of what BR 19 knew should have been notified to the Ministry of Home Affairs and the Board of Governors . The [redacted] allegations were reported to the Welfare, the Police, the Order and the Ministry. The statutory authorities, the Police and the Order were aware that serious allegations had been made by a child in residential care. The child had been telling the truth. Although there had been no corroboration from other boys, BR 14 admitted the abuse. It has been suggested that if the Ministry had been told that other boys had been abused, then a different attitude would have been adopted. It is submitted that, even where one allegation of abuse was made, a detailed and comprehensive investigation should have been carried out. When Dr Harrison was asked about this issue she reflected that the Ministry would have been reassured by the reports of Police and the Order and that is was *'probably unthinkable at that time for them to even conjecture that it might be a problem in others homes'*. Without detracting from the Order's failures, it is reasonable to conclude that once the *'unthinkable'* had occurred it was no longer unthinkable and steps should have been taken to investigate. As stated by Counsel to the Tribunal, a real opportunity had been lost. Dr Harrison suggests that the Ministry would not have

known or considered *'that it might be a problem in other homes'*. If the evidence or knowledge known to the Home Office at Paragraph 1.13 in Chapter 1 of this submission had been communicated to the Ministry of Home Affairs or the Order the significance of the [redacted] event may have been further emphasised.

10.27 It is arguable that the statutory institutions, the Police and the Order missed and opportunity to use the [redacted] incident as a template for the introduction of protocols and guidelines in respect of the reporting and investigation of abuse. This type missed opportunity was replicated in other countries as well. At the very least, it is submitted that, the [redacted] incident should have prompted the following –

(a) an acknowledgement that sexual abuse does take place and that there should be a focus on protecting the child;

(b) a system for the recording of complaints;

(c) a system for reporting allegations of abuse, to include identifying and notifying all the relevant statutory authorities and Police;

(d) guidelines for a thorough investigation of allegations of abuse;

(e) a system for recording the details of the allegations and the investigation so that in subsequent years others would have the means to access the relevant documents and reports identifying not only the nature of the allegations of abuse, but also the alleged perpetrators.

10.28 In respect of BR 14 [redacted], there is no evidence that he abused again. Despite the admissions made by BR 14 [redacted], no Applicant to this Inquiry has named him as a sexual abuser. HIA 97's account was ambiguous as to whether it was physical as opposed to sexual assault.

The [redacted] Investigation

10.29 BR 15 [redacted] had been a [redacted] in Rubane from [redacted] until [redacted] He was present in and knew about the [redacted] investigation. He was also present when BR 14 [redacted] was removed following the [redacted] investigation.

10.30 In [redacted] BR 6 [redacted] was [redacted] at Rubane. When interviewed by the RUC in 1995, BR 6 [redacted] disclosed that he had received a complaint of a sexual nature about BR 15 [redacted]. BR 6 [redacted] did not disclose the name of the complainant or the precise nature of the abuse. However, he confirmed that [redacted]

[redacted] the matter had been reported to the Provincial and [redacted] was removed from Rubane as a precaution. There is no evidence that he abused again.

10.31 No contemporaneous records exist as regards the report of the sexual allegations and the consequent investigation in [redacted] The Order are now aware that the complainant was [redacted] (see Statement 2 from [redacted] dated 27 October 2013 and Order's Response to the witness statement from [redacted] (HIA 36)). It is not known who reported the allegation. There is a suggestion that [redacted] confided in his mother. There is also reference to [redacted] speaking to [redacted]'s mother, In any event, it appears the complaint was taken seriously.

10.32 The Provincial at this time was Brother [redacted]. According to the Statement from [redacted], Brother [redacted] was in Rubane between [redacted] [redacted] travelled to meet [redacted] on [redacted] [redacted] met Brother [redacted] in [redacted] on [redacted] No records exist as to the meetings. [redacted] was transferred to [redacted] on [redacted]

10.33 [redacted], at paragraph 52·4 of Statement 2 dated 22 October 2013, stated that the Provincial was faced with a strenuous denial by [redacted]. Nevertheless, [redacted] was removed. When interviewed by Police in 1995/96 [redacted] denied all allegations of abuse. Prior to [redacted] the Order believes that no allegations of a sexual nature had been made against [redacted]. It was only after 1998 the Order was able to see a pattern in civil claims when [redacted] was named as a perpetrator. As previously acknowledged, the Order accepts that [redacted] did abuse children at various times during his period at Rubane.

10.34 Returning to the [redacted] investigation, the Order accepts that the complaint should have been reported to the Police and the Ministry of Home Affairs. It is unclear why the Police were not notified. One could speculate that since [redacted] had been removed, the problem had been eliminated. If this was the reason, then it displays again the Order's lack of knowledge and understanding of sexual abuse and the potential proclivities of the abuser. The same criticism applies to [redacted]'s failure to report to the Police, the Department, the Board of Governors and indeed the Provincial the allegation made by [redacted] that he had been abused by Fr. Brendan Smyth. Once again, an opportunity was lost to oust the abuser. An opportunity was missed to highlight the fact that sexual abuse was occurring within institutional care, that the systems for reporting abuse to all the relevant statutory authorities and Police were effectively non existent and that the system for investigating allegations of abuse were inadequate.

10.35 The Order also acknowledges that the method or system of record keeping by the Order is open to criticism. All documentation into the [redacted] and [redacted] investigations was found in BR 19 's private papers. It is possible that Brother [redacted]'s investigation into the [redacted] complaint was also kept in his private papers which had subsequently been destroyed. The Order accepts that it was a failing to ensure that comprehensive records were kept by the Order in respect of all complaints of abuse, to include the names of the complainants, the alleged abusers and all documentation relating to the investigations. Detailed records should have been maintained in respect of the allegations involving Brother BR 69 [redacted] and Brothers [redacted] and [redacted] Whether this acknowledged failure to keep detailed records and to allow access to the records would have prevented further abuse of children will be a matter for the Inquiry to decide.

10.36 It is not known whether any paperwork relating to the [redacted] St Patrick's complaint was ever sent to BR 19 but it is believed that he knew, at the very least, the broad generality of the allegations. Evidently he had detailed knowledge of the [redacted] and [redacted] complaints. He also had knowledge of Brother BR 69 and the allegations made in [redacted] in [redacted] and beyond. In hindsight, the Order acknowledges that a system should have been implemented so that a detailed record of these events should have been maintained thereby avoiding the possibility that knowledge of these events would become lost to the Order on the death, incapacity or retirement of a Provincial. It is possible that such a system would have accelerated the Order's implementation of guidelines and strategies for safeguarding children in its care.

Physical Assaults in [redacted]

10.36 BR 2 in his statement at RUB 1032 drew the Inquiry's attention to a number of incidents of physical assaults by staff on boys during the early to mid [redacted]

10.37 At RUB 1047-49, he described how he took steps to reprimand two lay staff, namely [redacted] and DL 279. In respect of an assault perpetrated by DL 279 DL 279, BR 2 accepted that he *'should have reported [DL 279] at that time.'* BR 2 explained that he did not report the incident because of a misplaced sense of sympathy for Mrs [redacted]

10.38 BR 2 also gave evidence that he spoke to both [redacted] and BR 18 about being overly physical with the boys. The 'incident' book which evidently recorded some of these events has been lost and it is consequentially difficult to explore the nature of his discussions in context. BR 2 confirmed to the Inquiry that he treated them as an 'internal affair'.

10.39 BR 2 was however aware that Social Workers had knowledge of certain events and the manner in which those Social Workers reacted to such events would have had a bearing on his own responses. For instance at RUB 1048 BR 2 recorded;

(i) – Re DL 67, that his Social Worker was '*up in arms'*.

(ii) – How had been 'marked by SR 57'

In relation to the incident BR 2 's diary further records;

(iii) – Phone from Margaret Thompson [Social Worker] Downpatrick – 'bruised' refused to come back.

(iv) – Margaret Thompson phones …going to Beechlawn – doctor saw him..been beaten'.

BR 4 spoke to SR 57 about the incident and BR 2 recorded in his diary for that SR 57 'is inadequate'.

The Incident

10.40 BR 2 alerted the Inquiry to this incident at RUB 1050 of his statement of March 2014. BR 2 testified that he became aware of the incident from an RUC officer who had sought to explain to BR 2 why the Police and Army had conducted a search of the Home. It must be emphasised that BR 2 only received this information sometime after the raid had taken place. It has been suggested that BR 2 's failure to report the matter to the Ministry of Home Affairs is reflective of his overall capability as the Officer in charge of a children's home. Dr Harrison, on behalf of the Department, raised concerns that her Department's predecessor had not received details of the fact We consider it unfair to level any criticism at BR 2 BR 2 in respect of this event for the following reasons;

(i) BR 2 was told that this information was of a confidential and sensitive nature. It was not for BR 2 to involve himself in operational security matters , particularly in the political climate at that time;

(ii) He was entitled to assume that if the Police had concerns that they would have raised them with the Ministry. Indeed, it is possible that the Police and Army may have notified the Ministry of their intention to search the premises.

10.41 If the affair highlights any systems failure, it has to be directed at the existence of semi-autonomous units within the Children's Home.

The house-parents who looked after the Chalets lived on site in annexes attached to the Chalets. They treated these as their family homes and in some cases raised their own families in them eg . This is exactly how the inception of

the Chalet system was envisaged. House-parents were entitled to their privacy and family life and would have both entertained and received visitors to what was in effect 'their house'. The concept of non-approved visitors having access to a children's home today would be inconceivable. In our view the [redacted] affair simply serves to highlight that the risks and threats posed by visitors which would be 'red flags' to modern society were not considered by any of the agencies when the Chalet system was debated in the 1960s.

[redacted]

10.41 DL 40 recounted that he told BR 1 [redacted] about Fr Brendan Smyth's offending. It is not clear what exactly DL 40 told BR 1 [redacted] or in what terms he put it but DL 40 reflected, whether correctly or not, that BR 1 [redacted] had stopped Fr Smyth attending Rubane.

10.42 BR 1 [redacted] denied at interview, either knowing Fr Smyth or of having received a report of inappropriate behaviour by Fr Smyth. One explanation may be, as alluded to by the RUC officers during interview, that BR 1 [redacted] may have been concerned about being implicated with Fr Smyth, suggestions of which were active within the media at that time.

10.43 Fr Brendan Smyth travelled to the USA in 1979. It is not known whether he had been challenged by BR 1 [redacted], directly or indirectly. There is no evidence of any report to the Management Committee, Provincial or the RUC and no evidence that the Diocese of Down and Connor had been alerted. We are not aware of any evidence of his activity at Rubane becoming a contemporaneous issue for the Norbetine Order. It is possible that Fr Smyth's visits to Rubane simply stopped because he left for the USA.

10.44 BR 1 [redacted] was alerted to the non-accidental injury sustained by DL 48 [redacted]. It is evident that he did not report same, as he should have done, to the Management Committee. It may well be that the rapid nature by which the assault came to the attention of Pauline Richardson and then Fr McCann short circuited the intention to raise it with the Management Committee. However, it reflects badly that the report did not come from the Officer in Charge at first instance, particularly when the hospitalisation demonstrated the seriousness of the event.

10.45 On the material which the Order has been able to consider, it is impossible to know whether BR 1 [redacted] approached Fr Smyth about DL 40's complaint. It is accepted that one way or another he failed to deal with the complaint in an appropriate manner because he either failed to extract from DL 40 what exactly had occurred or if he was

aware of the exact nature of DL 40's concerns, he failed to notify either the appropriate internal and external religious authorities and/or the Civil Authorities.

[redacted]

10.46 BR 2 [redacted] was [redacted] when a series of complaints were made in the early part of [redacted], arising from;

(i) HIA 153 [redacted] (aka [redacted]) – about historical sexual peer abuse
(ii) DL 476 [redacted] – sexual offences
(iii) DL 413 [redacted] & others – about DL 81 [redacted]'s physicality

10.47 BR 2 [redacted] sought the assistance of Pauline Richardson, and cooperated with DHSS and RUC investigations.

10.48 These complaints were handled in a comprehensive and inclusive manner and demonstrate a developing inter-agency approach to complaint handling.

[redacted]

10.49 DL 472 [redacted] made an allegation against BR 33 [redacted]. HIA 50 was involved in this allegation. The Social Services and RUC were alerted and a comprehensive investigation which resulted in all the boys in the Home being interviewed.

10.50 The lessons of 1980 were aptly demonstrated again, in a fully inclusive multi agency approach.

Chapter 11 Conclusion

11.1 Children were abused, both sexually and physically, at Rubane House. To the eternal shame and ignominy of the De La Salle Order, this is the stark reality. That some Brothers abused children in their care was in total contradiction of their vocation as De La Salle Brothers and of their mission as established by their Founder, namely to look after the welfare and the educational needs of deprived, vulnerable and abandoned children.

11.2 This Inquiry is charged with identifying the systemic failures that fell at the feet of the core participants who were unable to recognise and missed the fact the sexual and physical abuse had occurred and that the abuser remained evasive operating behind veils of silence and secrecy.

11.3 The Inquiry's task is a difficult one. It is respectfully submitted that the Order and the statutory and religious bodies and institutions should not be judged by today's standards or indeed the standards prevailing in the mid 1980s or 1990s when the knowledge of the potential for sexual abuse and the proclivities of the abuser , both within the family home and residential care, became more widely recognised.

Sexual Abuse

11.4 The Order has publicly acknowledged before this Inquiry that Brothers within their Institute abused children, contrary to their vows, basic Christian teaching and fundamental moral and human values. The Order has identified BR 17 BR 17, BR 14 and BR 15 as abusers. The Order has also accepted that BR 1 was guilty of abuse, but not to the same extent as the others mentioned above and the perception of the Public. The Order also accepts that some civilian staff abused children in their care. Furthermore, the Order acknowledges that young and vulnerable children in their care were abused by other children.

11.5 Both the UK and Ireland have been witness to many Inquiries and investigations into Residential Homes and Residential Care settings which have concluded that sexual abuse was a prevalent and recurring feature. It is widely accepted that physical and sexual abuse was a common feature in many Homes similar to Rubane House. It is likely that this Inquiry will uncover similar abuse in other Homes to be considered under the different Modules. Rubane House will not be an isolated example.

Tragically, it is now becoming apparent that all of these Homes, Institutions and Religious organisations were suffering the same problems at the same times. To the modern system of 'best practice' policies and knowledge sharing it is virtually inconceivable that these separate organisations could have been operating with similar problems unbeknown to the other. However, for the many reasons that will be explored by this Inquiry, it is suggested that this will be one inevitable conclusion.

11.6 One of the major problems which the Inquiry will struggle to entangle is the question as to why the abuse by some Brothers continued for so long without detection. This problem, which was not confined to Institutional homes or Residential Care Homes, was highlighted by Ms Christine Smith QC, Senior Counsel to the Inquiry, when she said in her opening:-

"Prior to the late 1970s and early 1980s the sexual abuse of children was not a topic for discussion and many people were unaware of its existence. This may be explained by the secretive nature of the abuse and the stigma that attached to the victims of sexual assault generally."

The secretive nature of the abuse was instrumental in prolonging the abuse and preventing detection. For example, BR 2 [redacted], who presented to the Inquiry as a man of integrity and honesty and who would never have tolerated such abusive behaviour, was shocked when he learned that BR 15 [redacted] was an abuser. For some years, BR 2 [redacted] had worked alongside BR 15 [redacted] and was never aware or suspected any impropriety. Like so many others in similar positions, BR 2 [redacted] remains deeply disturbed that an abuser was able to violate and harm children without his notice or knowledge.

11.7 One common theme among the [redacted] Applicants to the Inquiry was their fear and reluctance to report abuse. While there are notable exceptions to this general position, such as HIA 252 (who told a social worker), DL 439 [redacted] (who told a Chaplain and Brothers BR 13 and BR 63 in [redacted] and DL 13 [redacted] (who told his brother in [redacted] many Applicants testified that they simply did not report the abuse and would never have been comfortable speaking about the abuse with figures in authority. HIA 183 is an example, in that he refused to disclose the fact that he was abused to BR 19 [redacted] in [redacted] because he was afraid of being thrown out of the home. At first glance, it seems surprising that boys would not report abuse to family (if they had one), to a chaplain, to a social worker (if they had one), to a weekend family, to a visiting Doctor/Dentist or to lay staff. However, the impression one gains is that there was an engrained isolation and vulnerability with the residents and a lack of real trust of adults. Indeed, the dilemma is heightened, by the fact that the abuse by an adult is likely to have simply deepened the mistrust of all adults and facilitated the abuser in supressing reports or complaints about his behaviour. The point was raised about

'respect for the cloth' and notice is drawn to HIA 261 and HIA 262 whom, even after they left Rubane and with abuse continuing within their own family home, nevertheless failed to report it. There is inevitably genuine support to this argument, given the status afforded to the Church at that time, but that in itself would not explain non-reporting in the wider community, in secular Homes or in family settings. The enigma surrounding non-reporting goes beyond Rubane and was a universal problem in that era. In other words, it was not the specifics of Rubane which created this fundamental problem.

11.8 Associated with the unwillingness to 'report' is the unwillingness to 'believe'. If HIA 252 is correct, his social worker was the first person to receive a report of impropriety about the Brothers at Rubane. HIA 252 told the Inquiry that his 'report' was dismissed out of hand as a fabrication. Evidently DL 439 's two uncles, who were present in [redacted] when he was interviewed by BR 19 [redacted], must have doubted their nephew's account. It is noted that Br 6 and HIA 36 both recounted, independently, that HIA 36's mother 'didn't believe him'. Society was very different then and was far removed from the state of alert which accompanies modern life today. The De La Salle Order did not create that society but simply operated within it.

11.9 Sex Education did not become a facet of the curriculum in Catholic Schools until the mid-1980s. There was a general theme among many of the Applicants that they lacked the most basic knowledge. This deficit may well have been exacerbated by the boys' isolation in a largely homo-social environment and by the absence of parental figures. That said, many parents, particularly in the Catholic community would have struggled with sex education in a normal family unit given the stigma attached to sex by the Church itself. However, it is unlikely that Rubane was any different from similar homes at that time. It is of note that the 1952 memo is silent on the issue of sex education. As far as can be determined no direction was given on the matter by Ministry of Home Affairs or Welfare Authorities. It is possible that ignorance and confusion among the boys as regards sexual matters further perpetuated their unwillingness to 'report' abuse.

11.10 There can be little doubt that the lack of sexual awareness and sex education created a problem with sexual activities among the boys which plagued the Home over a long period of time. It may have been difficult to draw the distinction between sexual experimentation and peer exploitation in the various references, but it is quite clear from specific entries in 1958, 1962, 1963, 1964 and the accounts of various Applicants thereafter that sexual activity among the boys was a significant and continuing problem. The Ministry of Home Affairs Child Welfare Officers were certainly alert to the issue in 1963 and 1964 yet appeared largely uninterested. It will

no doubt be for the Inquiry, having heard all the modules, to determine whether this apparent lack of concern arose because of an acceptance of the normality of such behaviour in that type of environment or out of an ignorance as to the harm and damage that it could cause. The Order concedes that they were alert to the 'problem' but deny they were aware of the magnitude of the problem. It would be incredulous to accept that BR 2 knew that older boys were raping younger boys and was doing nothing about it. The general taboo about sexual matters in society, perhaps within the Catholic institutions in particular, may have fuelled this problem. BR 2 BR 2 accepts that he didn't really know how to deal with the problem but his referral to Psychiatrists of some boys, caught or suspected to be engaging in this type of behaviour, illustrates that there were genuine attempts to address this thorny problem. The fact that boys, with previous sexual exposure, were sent to Rubane by the Welfare Authorities also illustrates a lack of awareness and risk appreciation on their part. DL 517 indicated that in the mid 1970s there were children in care who had been abused in familial settings. While maintaining that in terms of 'sexual' abuse Social Workers were focused on 'incest' the Inquiry may still consider the admission of children with sexual experiences into Children's Homes as a relevant aspect. If it turns out to be the case, that the Welfare Authorities were aware of the risk of children exploiting other children, then the question must be asked why such children were not highlighted with a 'red flag' as a real risk together with specific directions and guidance.

11.11 It is quite clear that when it comes to the issue of sexual abuse that Rubane House was operating in a vacuum. Society and Catholic society in particular, was very conservative in respect of sexual issues. Sexual education of young people was not encouraged. Society, in general, was not alert to the risk of sexual abuse by adults. In this regard, we disagree with the Diocese's assessment at RUB 5910 where it is stated;

'The ever present danger of children being physically or sexually abused by adults or peers in such a setting was manifestly and consistently understood from the very foundation of the Home'.

The Diocese points to the fact that there were Civil and Canonical Laws against such behaviour. With respect, while a law of prohibition illustrates a level of knowledge, it does no more than establish the possibility of such an offence. Both in Module 1 of this Inquiry and in many other Inquiries throughout the British Isles it has generally been accepted that the knowledge, and perhaps more importantly, the understanding of the risks of adult and peer abuse did not arise until the 1980s and 1990s respectively. If the Diocesan position is correct it imparts not only knowledge but understanding of abuse and that makes it even more difficult to explain the absence of any warning, teaching or instruction on sexual issues.

Linking that knowledge to the 'setting' of residential homes seems even more surprising. The Diocese appears to give authority to its position by repeating Fr Peter McCann's evidence to the Hughes Inquiry at RUB 1203, namely that *'such institutions are inclined to be a target for people with such proclivities'*. While we do not know the specific examples to which Fr McCann was referring he was obviously making this comment post Kincora. In our submission it is not appropriate to take this comment in isolation, namely that 'knowledge' of the risks of adult and peer abuse was clearly understood in 1950. If however, the Diocese is correct, it is accepted that it only serves to stress the consequences of the deficiencies in inspection, staff ratio, staff training and the overcrowding and the influx in ESN/disturbed children and brings into focus the lack of proactive or reactive intervention from the Diocesan authorities.

11.12 It is generally accepted that religious and civil authorities in the 1960/70s dealt with known incidents of abuse using the pathological approach. In other words they isolated the abuser and viewed the abuse as arising from the pathology of the individual. The reflection on 'systems' and how they assisted in facilitating the abuse came much later and we can find no evidence to suggest that there was any awareness that residential homes per se were attractive to paedophiles.

Physical Abuse

11.13 In the 35 years from 1950 to 1985 there were dramatic changes in attitudes to physical chastisement of children. The 1952 Regulations gave statutory approval for corporal punishment and these were renewed by the 1975 Regulations. It was not until the mid-1980s that corporal punishment in day schools began to be phased out. Also, it must be noted that corporal punishment was practiced in many family environments, where unacceptable behaviour was corrected by the use of a physical deterrent.

11.14 The Order accepts that between [redacted] and [redacted] there are accounts in the evidence to the Inquiry of physical punishment which was excessive and could not be justified. It is perhaps significant that this coincides with the tenure of BR 17 [redacted] as [redacted]

11.15 Outside this relatively short time span the Order does not consider that the regime for discipline was excessive per se. However, there were exceptions. Individuals, notably BR 18 [redacted], were more prone to resort to physicality as a way of enforcing discipline

and good behaviour. At times there is no doubt, even as against the standards of the day, this approach was over aggressive. For example, BR 77 was convicted of physical assaults in 1981. He accepted before the Inquiry that he had overstepped the line on occasions.

11.16 It would be most unfair to accept that, in respect of physicality, the behaviour of BR 17 BR 17 , BR 15 , BR 18 and BR 77 was generally reflective of the overall regime. It is submitted that, the general flavour of the evidence of the Applicants, certainly from 1964 onwards, was that physical chastisement was largely confined to the proper and legitimate use of corporal punishment in a fashion similar to that used in day schools. However, it is accepted that there were isolated incidents of the application of an excessive number of strokes or of public chastisement. While one can readily accept the revulsion of the 'public flogging' as it was referred to in the evidence, these events in our submission were exceptional and were engraved in the memory of former residents by virtue of their rarity rather than regularity. HIA 21, HIA 36 and HIA 225 were contemporaries in the home between [redacted] and [redacted] and they all appear to recount the same singular event of this nature.

11.17 The distinction between the use of the Corporal Punishment Regulations within the Home as distinct to the School will no doubt have been blurred somewhat by the close interaction between Home and School and also the dual teacher-care worker role provided by some of the Brothers. Public displays of Corporal Punishment were allowed in schools.

11.18 By the 1970s, and certainly by the late 1970s/early 1980s, corporal punishment was used less often. It was, as DL 81 put it, a 'last resort'. The general tone of many of the Applicants was that the corporal punishment they received was deserved and in response to disruptive or inappropriate behaviour.

11.19 It is also important to emphasise that, when examining the issue of physical abuse and the excessive use of corporal punishment, it must be seen in the context of the disruptive behaviour of some difficult and disruptive children. While it would not be permissible to condone physical punishment beyond ambit of the Regulations, the Inquiry has heard evidence that some children were sent to Rubane specifically because of its recognised disciplinary regime and to exercise 'control' over these children.

False Allegations

11.20 It is unpopular in many circles for Religious organisations to maintain that some of the allegations of sexual abuse are false. It is understandable why this may be so, given that it is widely accepted that clerical abuse occurred.

11.21 It is evidently clear that some Applicants to this Inquiry by virtue of failing memory, contaminated and adopted accounts and biased reflections have made accusations about some Brothers unfairly. The suggestion by HIA 97 that BR 13 may have been an abuser because he gave the boys sweets illustrates this point. Others, in the Order's view have at times simply become confused as to the identity of the Brothers. The account of one resident was read into evidence wherein he recounted that there were two Br [redacted] HIA 25 told the police that he couldn't recall being abused but that HIA 41 had told HIA 25 that he had been.

11.22 However, while some of the false allegations arise from genuine errors of identity, others are blatant and deliberate attempts to tarnish the reputation of the Brothers, staff and Order alike in a quest for compensation;

(i) For instance, DL 324 [redacted], who was an early Applicant to this Inquiry before his withdrawal is one such example. HIA 50 is another. Indeed, HIA 50 even in the face of volumes of contemporaneous material to the contrary continues to make allegations against Brothers, staff, Social Workers, RUC and PSNI, not only that he was abused but that everyone was involved in some sort of cover-up.

(ii) HIA 26 and HIA 191 represent before the Inquiry a body of complainants who have adopted the notoriety of BR 1 [redacted] to further their own allegations despite the fact that BR 1 [redacted] was not in Rubane with them.

11.23 The general notoriety post the 1995 investigation and the various media reports and speculation which flowed from it have created an atmosphere of 'acceptance' among the populace at large that sexual abuse was rife in Rubane. In our view, that has facilitated the 'bolt-on' reflections of some applicants. HIA 41 was abused by Brendan Smyth at Rubane but we remain unconvinced about his allegations against BR 1 [redacted] and BR 77 [redacted]. Similarly HIA 259, abused by other boys, adopts allegations of a sexual nature against BR 1 [redacted] and BR 77 [redacted]. HIA 31, singularly makes an allegation against DL 149 [redacted] which in our view would not have materialised other than for the speculation in the media and among victims groups that sexual abuse by staff was rife in Rubane.

11.24 Attaining closure on the legacy of Rubane has required the Order to reflect pro-actively on the history and accounts of Rubane. It believes that it has developed a holistic view as to what occurred in Rubane and it has identified those Brothers who abused. The Order has recognised the suffering of many victims of abuse. However, it also recognises the suffering of those falsely accused of abuse and the detrimental impact that the allegations of DL 324 and others have had on BR 2 BR 2 . BR 2 and others like him, are victims too.

Peer abuse

11.25 Peer abuse, in various guises, appears to have been a particular problem at Rubane from the early 1960s, up to and beyond 1980. Evidently, it would appear that peer abuse was a problem generally in this type of setting. For example, within the 1948 papers, BR 60 made reference to the difficulties he experienced with peer abuse at Milltown. It will be for the Inquiry to determine just how widespread and uniform the problem was in institutional life.

11.26 It was noted that a number of Applicants, who had been former residents of Nazareth Lodge, referred to exposure to peer sexual abuse at Nazareth Lodge even before they arrived in Rubane. HIA 279 described it as rampant at Nazareth Lodge by the mid

11.27 The matter was raised at the Feb 1963 meeting with the Ministry of Home Affairs child welfare officers but it does not appear to have generated any significant concerns. Also, in light of what was known about the activity of the boys in Rubane and to a certain extent Nazareth Lodge it is appropriate to reflect on the 1952 Home Office memo about the desire for family units of mixed sexes from ages 3 – 15. If one was looking for evidence of a lack of appreciation regarding sexual activity among children in care in 1950 this document serves as an illustration.

11.28 Furthermore, it should not be overlooked that when the RUC interviewed 124 boys in 1980 they did so in the presence of Social Workers. In addition to uncovering allegations about BR 1 and BR 77 , the RUC received allegations of serious sexual assault/activity among the boys themselves. Surviving Brothers deny being approached by either the RUC or the Social Services in the aftermath of that Inquiry to alert them to extent of the problem. The failure of the RUC and Social Services to highlight the nature and extent of the problem arguably reflects an attitude at the time that peer abuse was not given priority status.

Managing Vulnerable and Disturbed Children

11.29 It is evident, both from the documentation and the accounts heard by the Inquiry, that the mixing of children from across the behavioural spectrum caused problems for both staff and residents of Rubane. This aspect is described in more detail in Chapter 5 of this submission. There was an ethical underpinning to this model of care which was a well-intended solution to the unmet need of destitute children but the resultant emotional and practical burden placed on the Brothers in trying to teach and care for all these children cannot be underestimated.

Life in and after Care

11.30 It is evident that many of the Rubane residents struggled in life. We have seen that illustrated by some Applicants to this Inquiry. That fact that they have done so is not unique to Rubane. It is well recognised that children brought up in care have struggled in later life. The causes are no doubt multi-factorial. On the other hand, the Inquiry has also heard from residents such as HIA 225 and DL 40 who have been successful in their careers. It is difficult to replicate and compensate for the absence of caring parents and a loving family home.

11.31 The facilities at Rubane House compared favourably to other Homes. For example, HIA 36 describing it as being 'like a hotel'. The Order is satisfied that the food and clothing was generally adequate for the times and that the children were not asked to undertake farm work or chores beyond that which would have been deemed 'normal' in society generally and what was actually good for the children in terms of work ethic and education.

11.32 The provision of education was a consistent theme with the applicants. The recollections of surviving Brothers are that they did do their best for the children, albeit in a difficult learning environment. DL 149 spoke of 'variables' in a child's life and how that impacted on their education. There can be little doubt that the lack of a basic schooling and the absence of natural parents to encourage and promote homework created a situation where the majority of pupils were below the standard academic achievements akin to their age. Mix in the difficult and disruptive children, in a higher proportion to society generally, and one can readily appreciate how hard it must have been for boys who wanted to learn to succeed. The 'dumping ground' as reference by DL 81 did not create the appropriate environment for learning. However, it should be emphasised that at all times the school was under the auspices of the Ministry and then the Department of Education and the quality and the constraints on education in the Rubane setting would have been well known to the appropriate agencies. The fact that some boys, with particular academic ability, were sent to the

mainstream secondary school in Portaferry, as referenced by BR 2 on Day 76 illustrates that the Brothers were maximising potential as best they could.

11.33 Many applicants felt unprepared for life after they left Rubane. HIA 183, HIA 132 and HIA 21 are appropriate examples. However, the De La Salle Order had virtually no control over this process. It is obvious that the Brothers were concerned for their former pupils and this is evidenced by the reflections by BR 2 in his diaries after he left them to their post Rubane 'digs' and also in records in the Governing Board Meetings minutes relating to attempts to secure hostel accommodation for them. It was for the Diocesan and governmental agencies to adequately manage this process. The Order, in liaison with DL 367 , NL 40 and a cohort of prospective employers, did their best to maximise prospects. The fact that many residents were discharged at a time of civil disturbance and political turmoil quite clearly did not help matters.

11.34 It is of note that HIA 132 felt unable to put down on his job application forms that he had been educated in a Home. This evidence in itself illustrates the prevailing attitude among society as a whole as to children raised in care.

Reporting and the Investigation of Abuse

11.35 The thorny issues as regards the complaints of sexual and physical abuse have been considered in detail in Chapter 10 of this submission.

11.36 It has been accepted by the Order and by BR 45 in his evidence to the Inquiry that the incidents of sexual abuse and serious physical abuse should have been reported to the Ministry or the Department, the Board of Governors and the Police. Mr Joe Aiken, BL., Junior Counsel to the Inquiry, maintains that these failures reflect *"a culture of secrecy"*. He states that the Order's attention focused principally on the Brother under suspicion to the detriment of the welfare of the child or children who reported the abuse. By reference to the [redacted] and [redacted] nvestigations, it was suggested that the attitude of the Order was that if the Brother was removed, the problem was solved. Mr Aiken further speculated that, if the incidents involving BR 17 BR 17 and Father Brendan Smyth had been reported to the relevant authorities, it is possible that both sex abusers would have been stopped.

11.37 As has been said on many occasions, with the gift of hindsight it is easy to highlight failings and mistakes. However, it is respectfully submitted that the following should

be carefully considered by the Inquiry, both in defence but also in mitigation to the criticism levelled at the Order.

11.38 The first observation has been made many times, namely, that the *"scourge"* of sexual abuse in society and the characteristics of abusers was not known and fully appreciated at this time. Of course it was recognised that there was the potential for some individuals to sexually assault a child. Indeed, this potential was recognised by the De La Salle Order in its Rules of Government, which refer, *inter alia*, to a prohibition on Brothers receiving students into their rooms and also to the fact that glass partitions should be placed in the doors to classrooms. (See Statement 2 from BR 32 dated 22 October 2013 at paragraph 33). However, the general characteristics and proclivities of the abuser were not fully appreciated by the Order and many other Government officials during this era. The following quotation from Rollinson demonstrates the point:-

"Berridge challenges himself....as to 'how we missed the physical and sexual abuse that was occurring..' He honestly declares that abuse 'simply did not resonate with my experiences and observations in residential care' as they hadn't with many others either. He concludes that those who abused were very evasive and able to work behinds veils of silence and secrecy. However, he remains impressively uncomfortable about having missed any signs (Berridge, 2005). Most time it would have been risky for someone to have adduced from a range of often "small" incidents that there was a systematic abuse of children in institutions." [1]

11.39 Secondly, and associated with the first observation above, the De La Salle Order was committed to a Vow of Chastity. As stated by BR 45 in his evidence, if all Brothers observed their Vow of Chastity there would have been no case of sexual abuse. Again, to assume that this Vow would guard against the paedophile and protect the child is naïve. Nevertheless, the Vow of Chastity and, indeed, other vows were and remain fundamental to the Order. In an era when the depravity of the abuser and the potential for abuse was not fully appreciated, it is respectfully submitted that the Order cannot be severely criticised for its reliance on the Vow of Chastity.

11.40 Thirdly, no guidelines, protocols, or any documentation was made available to the Order to assist identifying the potential for sexual abuse, assessing the risks and adopting safeguards. The 1952 Home Office Memorandum on the Conduct of Children's Homes in Northern Ireland makes no reference to the problem. Indeed, the

[1] Rollinson, R. (2006). *Residential Childcare in England 1948 – 1975: A History and Report (Bath: Bath Consultancy) at p. 24*

SWAG review in 1981 failed to tackle the issue and is devoid of any recommendation or advice despite information that it had in its possession.

11.41 Fourthly, as observed in the introduction to this Submission, the question must be asked as to why the Order should be criticised for failing to adopt an attitude that was not recognised by others at the time, including official organisations. R. Rollinson in his Review of Residential Care in England 1948 – 1975[2], described a 1952 Home Office Circular issued to heads of residential care units which "*drew their attention in precise detail to what should be done when "indecent practices" were committed on boys either by other boys or by staff. At times it reads very much like best practice advice today when it instructs that if there is knowledge or suspicion of serious indecent acts which if proven would constitute a crime, then the Police were to be called to investigate and nothing else was to be done that might possibly compromise their activity and any prosecution.*" [3]

11.42 According to Kathleen Daly[4], the said 1952 Home Office Circular appears to have been the earliest evidence of the government's attempt to address sexual acts against children in care. In trying to understand why this document *"sunk without trace"*, Rollinson suggested that officials –

"... could well have been struggling as to the extremities of their capacities to regard such acts, or even their possibility, as anything other than unthinkable and unspeakable. To my knowledge no other document across this entire period (from 1950 to 1989) addresses such matters so directly and in a way that suggest that "abuse" might sometimes be something other than an isolated incident carried out by a very rare, sick individual."[5]

11.43 Fifthly, whatever failings and mistakes have been acknowledged by the Order, the words expressed by K. Daly[6] in her recent Treatise *"Institutional Abuse of Children"* deserve emphasis:-

"If government officials had difficulties comprehending the problem and were silenced by 'discomfort, embarrassment, shame and guilt', then we might expect that children or staff in residential facilities would feel the same."

[2] Rollinson, op cit
[3] Rollinson, op cit at p. 23 -24
[4] Kathleen Daly, Redressing Institutional Abuse of Children (2014) at p. 87
[5] Rollinson, op cit, p. 24
[6] Kathleen Daly, op cit, p. 87

11.44 The Panel may wish to reflect upon this last quotation. It is respectfully submitted that it goes to the heart of the review of institutional abuse in Northern Ireland from 1922 to 1985.

Kevin Rooney QC

Joseph Napier, Napier & Sons

On behalf of the De La Salle Order.

15th December 2014

Appendix 1

1. BR 6 biography

Inquiry Counsel outlined allegations against BR 6 as follows;

A.1 19 applicants to this Inquiry

(i) 6 sexual
(ii) 11 physical
(iii) 3 non-reporting

A.2 Of the 6 applicants alleging sexual abuse 4 failed to attend the Inquiry. The other two, namely HIA 149 and HIA 256, are not in our view credible witnesses.

A.3 The majority of the complaints of physical abuse can be attributed to corporal punishment. There are accounts of 'flogging' which the Order does not accept. It is possible that BR 6 administered punishment in a public fashion, perhaps in his role as [redacted] in the [redacted] which would give rise to the perception. There is a singular account, by HIA 170, of a slap to the face.

A.4 It is difficult to comment on the non-reporting without the ability to examine each 'complaint' in detail. It is noted that BR 6 denied receiving complaints of serious sexual assault by boys on other boys. He was however aware of sex issues among the boys. It is noted that 1 of the complainants in A.1 (iii) sub-section, namely HIA 147 remained complimentary recounting that 'BR 6 was very fair to everybody in general'.

A.5 At least 8 residents who gave evidence to the Inquiry, namely HIA 132, HIA 225, HIA 36, HIA 104, HIA 18, HIA 21, DL 445 and DL 40 were very complimentary. There are a number of very impressive witnesses contained within this cohort.

A.6 There was an additional 12 individuals who made allegations to the police in the 1990s but who did not take part in the Inquiry. These take various forms but it is apparent that some have misidentified BR 6 and that at least 4 of the allegations can be explained by corporal punishment alone. The most serious allegation, that of DL 213 RUB 61875, is not accepted and was noted by the RUC to be 'fabricated'.

A.7 There are an additional 3 civil claims from individuals who have not either been included above. One of these claimants is the subject of HIA 511's conspiracy letter.

A.8 There are therefore some 34 allegations, of varying severity, against BR 6 BR 6 BR 6 was present in Rubane for the best part of 23 years. The Admission Registers indicate that he would have been in contact with approximately 750 - 760 residents during the course of his Rubane career. His position as [redacted] and teacher would have placed him in a disciplinarian role.

A.9 On balance, we consider that the evidence brought before this Inquiry, establishes that BR 6 was not abusive and that the reputation of a man who was left devastated and depressed following the allegations that surfaced in the 1990s has been restored.

A.10 We are of the view that BR 6 was 'strict but fair' and that he did his best to improve the lives of those who were charged to his care. More than that, we believe that he did improve the lives of those boys charged to his care.

2. BR 1 biography

A.11 We would refer to BR 45 's statement of 5th December 2014 at RUB 5968.

A.9 On balance, we consider that the evidence brought before this Inquiry, establishes that [redacted] was not abusive and that the reputation of a man who was left devastated and depressed following the allegations that surfaced in the 1990s has been restored.

A.10 We are of the view that [redacted] was 'strict but fair' and that he did his best to improve the lives of those who were charged to his care. More than that, we believe that he did improve the lives of those boys charged to his care.

2. [redacted] biography

A.11 We would refer to [redacted]'s statement of 5th December 2014 at RUB 5968.