
HISTORICAL INSTITUTIONAL ABUSE INQUIRY

being heard before:

SIR ANTHONY HART (Chairman)

MR DAVID LANE

MS GERALDINE DOHERTY

held at

Banbridge Court House

Banbridge

on Tuesday, 19th May 2015

commencing at 10.00 am

(Day 121)

MS CHRISTINE SMITH, QC and MR JOSEPH AIKEN appeared as
Counsel to the Inquiry.

Tuesday, 19th May 2015

1

2 (10.00 am)

3 CHAIRMAN: Good morning, ladies and gentlemen. Can I yet
4 again remind you to ensure that anyone who has a mobile
5 phone has either switched it off or placed it on
6 "Silent"/"Vibrate", and I remind you again that no
7 photography or indeed recording is permitted anywhere
8 either within the Inquiry chamber or elsewhere on the
9 Inquiry premises.

10 Before we start this morning may I say on behalf of
11 myself and my colleagues we are very grateful to all of
12 those who have provided very detailed -- very detailed
13 indeed -- written submissions. Of course, as we have
14 said before on these occasions, we do not expect them to
15 be gone through in any degree of detail. What we would
16 find helpful is an overview or a general statement on
17 behalf of your respective clients, although you are, of
18 course, free to draw our attention to any specific part
19 of your written submissions that you feel would be
20 necessary in order to do that, because we will have the
21 opportunity of looking at them again in greater detail
22 in due course.

23 Ms Smith, I think you have something to say before
24 we start.

25 MS SMITH: Yes, Chairman. I don't propose to make any oral

1 submissions on behalf of the Inquiry at this stage.

2 I would just like to inform the Inquiry that, having
3 spoken to Mr McKenna, who represents the Diocese of Down
4 & Connor, that while he apologises for the fact that
5 they have not yet put in a written submission, that is
6 partially the fault of myself and the legal team of the
7 Inquiry. So that will be made in due course, and once
8 we receive that, we will, of course, share that with all
9 of the other core participants so they can make any
10 addition comments they wish to when that is received.

11 CHAIRMAN: Yes.

12 MS SMITH: Mr Wolfe then I think is the first person who is
13 going to address the Inquiry on behalf of the Department
14 of Justice.

15 Closing submissions on behalf of THE DEPARTMENT OF JUSTICE

16 CHAIRMAN: Yes, Mr Wolfe.

17 MR WOLFE: Yes. Good morning, Chairman. I should formally
18 make my appearance. I appear, as you know, on behalf of
19 the Department of Justice. I am a relatively infrequent
20 visitor to the Inquiry, although I suspect that's about
21 to change in September.

22 Sir, you have my written submissions on behalf of
23 the Department, which were delivered up on Friday
24 evening. I don't propose to add to them or supplement
25 them with oral submissions this morning.

1 As you know, the Department's role in this module of
2 the Inquiry is happily very limited. Nazareth Lodge was
3 certified as an industrial school for the purposes of
4 this Inquiry from 1922 until 1951.

5 The Inquiry has heard a number of complaints from,
6 if you like, non-industrial school residents of the
7 Lodge, who lived in those premises in the period up to
8 1951, and I have addressed in the submissions the
9 inspection role played by the former Ministry of Home
10 Affairs during that period, and I have highlighted the
11 limited regulatory scope of the Ministry during that
12 period of time.

13 I've emphasised the difficulties I suppose in
14 speaking specifically to the particular aspects of the
15 abuse faced by the residents because of the passage of
16 time and the difficulties with documentation, but
17 hopefully I set the issues out helpfully for the
18 Inquiry.

19 Clearly if there is any particular issue or query
20 which your Panel has, sir, I would be happy to address
21 it, but I am happy to let the written document speak for
22 itself.

23 CHAIRMAN: Yes. I see if we turn to page 17 of your
24 submissions with the Bates number 100211 at
25 paragraph 102 you say:

1 "Nevertheless, and without making any comment about
2 any particular allegation or incident of abuse, the
3 Department recognises that abuse was undoubtedly
4 suffered by some of those who resided in Nazareth Lodge
5 at that time ..."

6 That is the time you have referred to, an earlier
7 period of time in our remit, and it continues:

8 "... and that this abuse was deeply unpleasant and
9 utterly regrettable, and that it is worthy of
10 condemnation."

11 MR WOLFE: Absolutely, sir. Having reviewed the evidence in
12 the Department, albeit that it hasn't been here in
13 person during the majority of the days of hearing, but
14 recognising the consistency of the stories that have
15 been told to this Inquiry, that narrative persuades the
16 Department that abuse undoubtedly did occur, and as the
17 public body that takes responsibility for the affairs of
18 the Ministry of that time, we think it is incumbent upon
19 us as the Department to say what you have just quoted in
20 explicit terms. We have also taken into account what
21 the Congregation itself has accepted, and I came down
22 last week specifically to hear the evidence of Sister
23 Brenda, and she was, if I may say so, very candid and
24 generous in her admissions and acceptances on behalf of
25 the Congregation.

1 So, taking all of those points together, we felt as
2 a Department incumbent to say what you have just
3 referred to.

4 CHAIRMAN: Thank you very much. Yes.

5 MR LANE: I would just like to be absolutely clear whether
6 you are saying that the Ministry was responsible only
7 for the children who were sent there under industrial
8 school legislation or whether they were responsible for
9 the registration and inspection of the unit as a whole,
10 which happened to have those children in it.

11 MR WOLFE: As I understand the position, the inspections
12 were carried out because this was certified as
13 an industrial school. The inspections were conducted
14 pursuant to section 46 of the Children Act. The
15 responsibility of the Ministry at that time, therefore,
16 was specific to those who were sent there pursuant to
17 the industrial school provisions.

18 That said, sir, as you can see from the submissions,
19 those in the Ministry who were employed in
20 an Inspectorate type capacity did view their
21 responsibilities as, if you like, being somewhat broader
22 than that.

23 I set out in some detail the example of the
24 unfortunate child at that time who was located in the
25 Holy Land area of Belfast in 1927 and made allegations

1 that he had been aggressively punished for bedwetting,
2 and the attitude of the Inspector who was referred to
3 that case was, "We really need to look at this, because
4 if that's what's happening to a child who isn't there
5 pursuant to the industrial school legislation, if that's
6 what's happening to him, it could well be happening to
7 the industrial school children as well".

8 So that Inspector, instructed it seems to say on the
9 papers by the Minister himself, took it upon himself to
10 review the facility so that what was happening to that
11 non-industrial school child could be checked out and the
12 standards or any failure to come up to the standards
13 might be addressed so that all of the children housed in
14 Nazareth Lodge at that time might have their lives
15 improved.

16 So while there's a specific responsibility towards
17 the industrial school and that's what the Ministry is
18 primarily responsible for, they viewed their -- in
19 practice they viewed their responsibilities a little
20 broader, at least judged by that one example.

21 MR LANE: But there is no other indication there was another
22 body responsible for registering or inspecting the
23 non-industrial boys?

24 MR WOLFE: Not that I've come across.

25 MR LANE: Thank you.

1 CHAIRMAN: If you look at SNB-100197, the end of your
2 paragraph 21, page 3 of 18 of your submissions:

3 "The Inspector understood that the treatment of
4 voluntary placed children might well be relevant to
5 industrial school children."

6 That I take it is an encapsulation of the point you
7 are making?

8 MR WOLFE: Precisely so.

9 CHAIRMAN: That there simply appears not to have been any
10 other regime other than that, limited and all as that
11 was.

12 MR WOLFE: That seems to be the case. The inspection
13 reports that you have no doubt studied involve the
14 inspectors going once a year to those premises and the
15 children appear all to be living together. There wasn't
16 any separation of voluntary children from industrial
17 school children. Indeed, that non-separation or
18 non-segregation applied into the educational sphere as
19 well. They were all educated together.

20 So the inspections that took place by the -- they
21 tended to be assistant inspectors from the Reformatory
22 and Industrial School Branch of the Ministry -- the
23 inspections that took place looked at -- as you will
24 have seen from the reports, looked at a broad spectrum
25 of activities and issues, both the physical fabric of

1 the building, recreation, health. All of those types of
2 issues were examined without reference to whether the
3 service was or the facility was limited to the
4 industrial school child.

5 So in that sense the inspection had the potential to
6 benefit or advantage all of the children, but the reason
7 why the Inspector was there, as I understand it, is to
8 be derived from the fact that this was certified as
9 an industrial school.

10 CHAIRMAN: Thank you very much.

11 MR WOLFE: Thank you.

12 Closing submissions on behalf of
13 THE HEALTH & SOCIAL CARE BOARD

14 CHAIRMAN: Yes. Ms Smyth?

15 MS SMYTH: I am next, Chairman.

16 Members of the Panel, thank you very much for giving
17 me the opportunity of making some oral submissions today
18 on behalf of the Board, which I would ask you to
19 consider alongside the detailed written submissions that
20 were filed on Friday.

21 The Inquiry is, of course, tasked with investigating
22 historical institutional abuse and examining whether
23 there were systemic failings by institutions of the
24 State in their duties towards children in their care
25 between 1922 and 1995.

1 In this module specific consideration has been given
2 to Nazareth House in Belfast and Nazareth Lodge in
3 Belfast. The Board remains engaged and committed to
4 cooperating with the Inquiry and I would suggest that
5 this is demonstrated by the significant documentation
6 that the Board has brought forward to assist with the
7 running of this module.

8 So far as the Nazareth homes are concerned, the
9 picture emerging from the evidence in the Board's
10 submission is that they were populated largely by
11 privately-placed children right up to the late '60s and
12 the profile of the applicants in this module also
13 appears to reflect that general trend.

14 In examining whether there were systemic failings by
15 institutions of the State in their duties towards
16 children in their care the Board submits that the first
17 task is to identify the key duties and responsibilities
18 that fell on each of the core participants in this
19 module.

20 A key statutory duty that was placed on the Board's
21 predecessors was in the words of the statute:

22 "To further the best interests of children in its
23 care and afford them opportunity for the proper
24 development of their character and abilities."

25 As you know, this was enshrined in both the 1950 and

1 1968 Children & Young Persons Acts in Northern Ireland.
2 The core responsibility of Welfare Authorities, Health
3 Boards and Trusts was to promote the welfare of
4 individual children in their care.

5 In the Board's submission the evidence in this
6 module regarding many of the applicants who were in
7 public care illustrates that its predecessors discharged
8 their duty by assigning a social worker to each child in
9 care. The social worker was responsible for visiting
10 the child, monitoring the child's welfare and
11 development, promoting family relations with parents and
12 siblings and regularly reviewing the child's
13 circumstances as part of a wider professional group. In
14 the Board's submission the files submitted during this
15 module demonstrate clear examples of this duty being
16 met.

17 It also appears that the system of regular review
18 for children in the public care also provided
19 an effective opportunity to assess the achievability of
20 boarding out for individual children placed in the
21 Nazareth homes in Belfast, because little or none of the
22 applicants in this module who were placed in either of
23 the Nazareth homes in Belfast at a young age by any one
24 of the Board's predecessors remained there for the rest
25 of their childhood. That in my submission stands in

1 stark contrast to the sizeable proportion of applicants
2 who were privately placed in one or other of the
3 Nazareth homes in Belfast and remained there for their
4 entire childhood.

5 What about the duties on the other core
6 participants? Nazareth House, Belfast and Nazareth
7 Lodge, Belfast were voluntary homes. The administering
8 authority of the Nazareth homes in Belfast is said to be
9 the Sisters of Nazareth. From 1987 Nazareth Lodge,
10 Belfast had a Management Committee. However, the
11 Sisters of Nazareth and Mr Kinder, who was the Honorary
12 Secretary of the Management Committee, say that the
13 administering authority was always the Sisters of
14 Nazareth and that the Management Committee undertook
15 a supervisory and supportive role only.

16 As reflected in its inspection reports, it seems the
17 Department also considered the Sisters of Nazareth to be
18 the administering authority. However, the Inquiry is
19 also aware from an internal departmental memo in 1988
20 that Nazareth Lodge was seen in practice -- sorry -- the
21 Nazareth Lodge Management Committee was seen in practice
22 to have a supervisory role.

23 The 1952 and 1975 Voluntary Homes Regulations placed
24 on the administering authority and the person in charge
25 of the Nazareth homes a number of requirements which

1 directly concerned the running of the homes and
2 childcare practices and standards in the homes. One of
3 the requirements was to make arrangements for the home
4 to be visited at least once a month by a person who
5 would satisfy himself whether the home was being
6 conducted in the well-being of the children. However,
7 these visits and the voluntary visitor reports only
8 appear to have started in around 1983.

9 From 1950 the registering authority for the Nazareth
10 homes was the Ministry of Home Affairs and later the
11 Department. The Department was thus the regional
12 registering authority for all voluntary homes in
13 Northern Ireland, and in the Board's view it is
14 significant that this power of registration and the
15 associated power to deregister a voluntary home was
16 never delegated to any of the Board's predecessors
17 during the time frame that this Inquiry is
18 investigating.

19 Alongside its registration function the Ministry of
20 Home Affairs, and later the Department, had an express
21 statutory authority to inspect a voluntary home. In the
22 words of the statute this power permitted departmental
23 inspectors:

24 "... at all reasonable times to enter the homes and
25 make such examination of the state and management

1 thereof and the condition and treatment of the children
2 therein as he thinks requisite."

3 In the Board's submission this was a wide statutory
4 power, which was invested only in the Department and its
5 predecessor, the Ministry of Home Affairs. As was the
6 case with registration, the power to inspect voluntary
7 homes in Northern Ireland was never delegated by the
8 Department to any of the Board's predecessors during the
9 time frame that the Inquiry is investigating. Rather,
10 the Department and its predecessor was the regional
11 inspecting authority in Northern Ireland.

12 The 1952 and 1975 Voluntary Home Regulations
13 empowered the Ministry, and later the Department, to
14 give certain directions about the accommodation of
15 children, including a power to issue a direction
16 limiting the number of children who at any one time
17 could be accommodated in a voluntary home.

18 The 1950 and 1968 Acts also empowered the Department
19 to require Welfare Authorities to remove a child from
20 a home.

21 However, in the view of the Board the most
22 significant power was that of inspection. It was
23 a flexible power, and there is written evidence from
24 Dr McCoy that acknowledges this flexibility, because it
25 extended to carrying out unannounced inspections.

1 However, in practice it appears that unannounced
2 inspections were never really carried out. Rather, it
3 seems that the departmental inspectors didn't depart
4 from their inspection schedule, even when there were
5 very significant intervening events, like **NL 269**
6 conversation with Ms. Reynolds within weeks of her
7 physical inspection of Nazareth Lodge in January 1993.

8 A similar approach to the inspections was in the
9 Board's submission demonstrated by the Department in the
10 mid-1980s when HIA210 and others made complaints of
11 historic physical abuse in Nazareth Lodge, Belfast by
12 Sister 62. At that time Sister 62 and two other members
13 of staff who were named by the children concerned no
14 longer worked in the home. There was no evidence that
15 the children who were living there in the 1980s were at
16 continuing risk. Rather, the Eastern Board officials at
17 the time believed that HIA210's complaints gave rise to
18 general childcare practice issues. They also believed
19 that they didn't have the authority to enter the home,
20 examine records, interview members of the Congregation
21 or interview children who were not in the care of the
22 Eastern Board.

23 In the Board's submission this lack of authority
24 contrasts starkly with the express permission granted to
25 the Department as the regional registering and

1 inspecting authority to, in the words of the statute:

2 "... enter the home and make such examination of the
3 state and management thereof and the condition and
4 treatment of the children therein as it thought
5 requisite."

6 In the Board's submission the Department chose not
7 to exercise that power in connection with HIA210's
8 complaints, but instead directed the Board and the home
9 to implement a new circular regarding complaints by
10 children and their parents in residential care.

11 During this Inquiry the Department has said that in
12 response to 210 -- HIA210's complaints the Eastern Board
13 could have used its child protection procedures to
14 investigate childcare practices in the home in the
15 mid-1980s.

16 In the Board's submission this proposition is flawed
17 for a number of reasons.

18 First, the 1980s' complaints concerned historic
19 alleged abusive practices by members of staff who were
20 no longer working in the home. There was, therefore, no
21 current risk to the children in the home.

22 Secondly, and significantly, the child protection
23 procedures did not then, or indeed now, give social
24 workers a right to enter any home setting, and for these
25 purposes a voluntary home for children, and interview

1 staff, interview children who are not in their care or
2 inspect records relating to children who are not in
3 their care. That right was reserved by way of express
4 statutory power for the Department as the regional
5 registering and inspecting authority.

6 In addition, in the 1980s the Department officials
7 advocated the use of the 1985 complaint circular and no
8 reference was made to the child protection procedures at
9 the time. It seems from an examination of the
10 childcare -- child protection procedures that were
11 operative at the time that those were designed and drawn
12 up specifically with the aim of protecting children from
13 abuse in the family setting in the community. The Board
14 knows, however, that this is an area which will require
15 further analysis and debate in further modules.

16 Finally, Members of the Panel, when you are
17 reflecting on historical institutional abuse in the
18 Nazareth homes in Belfast and whether there were
19 systemic failings by institutions or the State in their
20 duties towards children in their care, the Board submits
21 that it is singularly important to examine the response
22 of each of the core participants when children and young
23 people or their carers spoke out about what they
24 experienced or witnessed.

25 As reflected in the written submissions of the

1 Board, there are many case examples in this module when
2 children, young people, their parent or residential
3 workers in Nazareth Lodge spoke out about abuse or
4 malpractice by care givers to each one of the core
5 participants. Each case example is fact-sensitive and
6 the Panel will no doubt strive to examine the various
7 responses of the core participants in keeping with
8 standards of the time. In the Board's submission this
9 is key to determining whether there were systemic
10 failings by any of the core participants in Module 4.

11 Finally, considering the complaint of HIA210 in
12 1985, the Board's view is that the process took too
13 long, and as Mr John Duffy said to the Inquiry in his
14 evidence on Day 117:

15 "Had the senior officials in the Unit of Management,
16 the Board, the Department, preferably the police, had
17 they got round the table at an early stage and looked at
18 the issues, evaluated them and formed a strategy for
19 taking it forward, that might have shortcircuited some
20 of the rather lengthy correspondence that took place."

21 Those, Members of the Panel, are my oral
22 submissions.

23 CHAIRMAN: Thank you very much. Yes. Mr O'Reilly?

24 MR O'REILLY: I have no additional submissions to make on
25 behalf of the Department, Mr Chairman.

1 CHAIRMAN: Thank you.

2 Closing submissions on behalf of THE SISTERS OF NAZARETH

3 CHAIRMAN: Mr Montague?

4 MR MONTAGUE: Chairman, Members of the Panel, I will

5 endeavour to give an overview and will do so by

6 reference to some documents. I think at the outset it

7 is appropriate that, notwithstanding this is the third

8 occasion on which I am making oral submissions to you,

9 that I restate the Congregation's position that it has

10 expressed since the outset of the Inquiry last January

11 and it can be said simply in two words: mea culpa.

12 The Department's submission, Chairman, page 4,

13 paragraph 5, refers to the evidence of witnesses who

14 claim to have suffered abuse while resident in either or

15 both of the homes, and the Department considers that the

16 Inquiry will be satisfied that abuse in all its forms

17 did occur in both homes and this view is reinforced by

18 the apology issued by Sister Brenda McCall.

19 I wish to make two points about that, Chairman. The

20 first is we accept that some children did suffer abuse

21 and abuse of a grievous nature. We do not accept that

22 abuse in all its forms as defined by the Inquiry was

23 suffered and we rely on our written submissions in each

24 of the modules, 1, 2 and 4.

25 For instance, we do not accept that there was

1 a policy of denigration by numbering children and
2 calling them by their number solely.

3 We do not accept that there was a systemic failure
4 in respect of the provision of adequate food.

5 Subject to notable exceptions, which we have
6 addressed in our written submissions, we do not accept
7 that clothing was inadequate. We know that there was
8 an instance in 1995 where, due to the absence of funding
9 or a lack of funding, winter clothes were not available
10 in December.

11 Overall those are forms of abuse that the Inquiry
12 has had to consider and complaints have been made in
13 respect of them which we do not accept, but those, of
14 course, in the scheme of things, although serious
15 matters that require consideration, pale into
16 insignificance when compared with the serious forms of
17 abuse that have been complained of and in respect of
18 which there has been acceptance on the part of the
19 Congregation.

20 The second point I wish to make is that there is
21 shared responsibility for that abuse and that shared
22 responsibility lies with the Department and with the
23 Boards, and it goes back as far as 1927 and the incident
24 that my learned friend Mr Wolfe has referred to, where
25 the Sisters were advised by a representative of the

1 Ministry of Home Affairs that enuresis should not be
2 dealt with by way of punishment, but we have no evidence
3 before the Inquiry that that was followed up.

4 Now Sister Brenda McCall did say in her evidence
5 that far be it for the Congregation to engage in finger
6 pointing, and I emphasise that that is not what the
7 Congregation wishes to do and does not shirk its
8 responsibility, but you, sir, have asked for
9 an overview, and we respectfully say that the shared
10 responsibility screams out when one looks at the history
11 of the management of these homes throughout the period
12 that the Inquiry is considering.

13 If we move forward 27 years from 1927 to the 1950s,
14 we have Miss Forrest, who does appear to have been
15 a remarkable woman, and may she rest in peace, because
16 she did her best to move things forward to assist the
17 Congregation in the huge challenges they faced.

18 I am not going to refer the Panel to the relevant
19 documents, but I do think they are worth repeating in
20 certain parts, and I am just referring to Ms Smith's
21 opening on Day 81. I am not asking you to look at it
22 now, but brief headlines.

23 First was the reasons why there was poor
24 coordination between the voluntary homes and Welfare
25 Authorities and that had been canvassed in Module 1 and

1 Ms Smith said to the Inquiry that:

2 "The primary reason would appear to have been the
3 general reluctance of the voluntary homes to risk their
4 independence and their voluntary and religious
5 character."

6 Now we say, Chairman, that that should not be
7 allowed to fudge the responsibility of the State
8 agencies. We have accepted that there clearly was that
9 aspect to it, particularly in the first half of the last
10 century, and we have addressed that in the first
11 section of our submissions in Module 1. It is something
12 that has been the source of research and papers, but
13 what Ms Smith went on to open to the Inquiry was as
14 follows:

15 "Children's inspectors discharged the powers of
16 inspection conferred by the Act and the Ministry of Home
17 Affairs."

18 Then she went on to outline what Kathleen Forrest
19 found when she inspected in April 1953. What she
20 reported was plain speaking. It was plain speaking
21 similar to the plain speaking of Mr Chambers in his
22 aide-memoire. In the case of Miss Forrest there was no
23 double speak, no double think. She called a spade
24 a spade.

25 She described Nazareth Lodge as:

1 "Poverty stricken, short of staff and play
2 equipment. Very institutional for older children.
3 Reverend Mother very anxious to improve and hopes to
4 have nursery school started for toddlers under Ministry
5 of Education."

6 So here we have two sides of the one coin. We have
7 the Ministry observing shocking conditions of
8 institutional care for children in the '50s and we have
9 the Reverend Mother knowledgeable of that and very
10 anxious to improve.

11 Nazareth House is described as:

12 "Very institutional, but material conditions better
13 than Nazareth Lodge. Short of play equipment. Short of
14 staff",

15 the recurring theme throughout. The children in
16 these four homes especially have nothing like a normal
17 upbringing. Now we know that, but now looking at it all
18 this time later still causes one to react.

19 "They must feel unloved, as it is just not possible
20 for the number of staff to show affection to such large
21 numbers of children."

22 She goes on to say:

23 "This is not meant entirely as criticism of the
24 staff, for their task is impossible."

25 Perhaps the most telling record in those sequence of

1 documents is where she states:

2 "What is needed here is really fundamental
3 reorganisation so that these little creatures can have
4 some individual love and care instead of being
5 dragooned. Reverend Mother recognises this and even
6 went so far as to say that children playing in the
7 gutters or the slums were better off if they had father
8 and mother to care for them, however poorly."

9 So the Congregation with its policy of not turning
10 any child away from their care and, as we know from
11 later years, not turning away homeless and destitute
12 people, which got themselves into trouble in a much
13 later period, so their mission results in them having to
14 cope with what was an impossible burden.

15 I wish to refer briefly to a document that is not
16 before the Panel and I will provide the reference and
17 provide the Panel with the paper. It is something
18 I have discovered late in the day. I am sure that the
19 Panel will be aware of the organisation that published
20 it. It is called EveryChild. I don't profess to
21 knowing a great deal about it other than that they
22 produced a paper or published a paper, a working paper,
23 in 2011 called "Scaling down: Reducing, reshaping and
24 improving residential care around the world".

25 What they reported in the paper mirrors the

1 experiences of the residential homes in this
2 jurisdiction and those that have been the subject of the
3 first four modules.

4 "The emphasis in the guidelines" -- those are
5 guidelines for alternative care of children -- "on
6 developing alternatives to large-scale residential
7 facilities is based on the substantial body of evidence
8 on the harmful effects of larger, dormitory-style
9 residential care. Children's ability to form
10 an attachment to a carer has been shown to have
11 a crucial impact on self-esteem, confidence and ability
12 to form relationships. The large number of children,
13 the use of shift systems and a lack of consistent carers
14 providing affection and individualised care for children
15 make it hard for children in such facilities to form
16 bonds, even if efforts are made to improve the quality
17 of care offered."

18 We know from the bitter experience of the evidence
19 of applicants in this Inquiry and of the Sisters that it
20 was simply not possible to provide the children with the
21 care that they required. Just as the Mother Superior
22 told Kathleen Forrest in the '50s her views, SR2 did
23 likewise in Module 1. She said that what they were
24 expected to do was unfair on the Sisters and unfair on
25 the children.

1 Then we fast forward to the 1980s and to the Hughes
2 Inquiry. I do wish to refer the Panel to some extracts
3 from the examination of SR220. If I could ask Siobhan
4 to put up 50736, please. I am conscious that the Panel
5 is already fully aware of the extracts and transcripts
6 from the Hughes Inquiry, but I do wish to highlight some
7 matters.

8 If we could scroll down to "Mr Kennedy", halfway
9 down, we will see:

10 "There was a criticism in the SWAG report about the
11 insufficiency of staffing with regard to certain
12 standards that have been recommended."

13 That's the 1983 SWAG report.

14 "A. That is right, yes. We have upgraded the
15 staff. We have five houseparents now and five assistant
16 houseparents. At the time we could not afford the
17 staff, but we have been given extra money by the
18 Department, by the Eastern Board I think. They have
19 upgraded the per capita."

20 If we move forward to 50740, please, this is
21 cross-examination by Mr Weir, who is for the Boards. If
22 we go to E, please, this is Mr Weir:

23 "Q. You would not -- when I say 'you', I mean the
24 Order -- have thought there was anything improper about
25 the Eastern Board knowing about the various matters

1 which the SWAG thought might require some looking at?

2 **A. No. That would be quite in order, because we**
3 **are situated in that area, the Eastern Board.**

4 Q. And because they are placing children in your
5 care?

6 **A. And they are paying us for them.**

7 Q. But apart from the paying, it would help them to
8 know -- I mean, I don't know and I still don't know what
9 was in the 1983 report ..."

10 So Mr Weir at that time in the middle of the Inquiry
11 hadn't got the SWAG report:

12 "... if, for example, there was an indication that
13 the home had a -- I was going to say deficiency, but
14 that sounds critical -- but that there was some area of
15 weakness, perhaps quite understandable due to a staffing
16 shortage or a building difficulty or something of that
17 sort, which made the home unsuitable for a particular
18 age group or something of that sort, and if that matter
19 were in the report, it would be helpful to the Board to
20 know about it.

21 **A. Yes, it would.**

22 Q. And you would have no difficulty (sic) whatever
23 to their knowing that that was a difficulty?

24 **A. No."**

25 **Then over the page. In fact, we continue down to**

1 42, 50742, please. This is in respect of the Management
2 Committee. It is at the top. Yes. Thank you, Siobhan.
3 A, please:

4 "Q. Because it just occurs to me that if they do
5 ..."

6 This is in respect of investigating the home:

7 "... one of the members of the visiting committee is
8 examining his own work. Does it seem to you quite
9 satisfactory to have on the visiting committee a person
10 who is, in fact, an officer of the home?

11 A. Well, we thought he was a very good person to
12 have.

13 Q. I mean, I don't know the gentleman and I am not
14 for one moment impugning his qualities.

15 A. ... know the children well ...",

16 and so on. So here we have this issue being the
17 focus of investigation in April 1984 -- 1985 -- sorry --
18 thirty years ago. We are sitting thirty years after
19 this dealing with the same issue in respect of the
20 Management Committee.

21 Then if we turn to 50744, please, and this is
22 an examination by Mr Kerr for the Department of Health
23 and Social Services. So the same battle that has really
24 been raging right up to now, we have the same battle --
25 the same battle was raging then between the Department

1 and the Boards about whose responsibility was what.

2 Interesting he starts off:

3 "My name is Kerr and I appear for the Department.

4 You will be glad to know I have just a few questions.

5 You were asked by my learned friend Mr Weir about, as

6 he, as he always does, so graphically put it, the

7 descent of the Social Work Advisory Group on the home in

8 October 1983. It may be that you are not in a position

9 to confirm this. It may be just (sic) that the question

10 would be better addressed to SR143, but let me just ask

11 you this: do you know whether there would be regular

12 visits by members of SWAG before October?"

13 He then goes on to ask her about:

14 "Miss Forrest and Miss Hill, for instance. Do you

15 know them?"

16 So here you have counsel for the Department seeking

17 to diminish what the Boards were saying at that time

18 about the absence of transparency on the part of the

19 Department in providing them with the inspection reports

20 and not doing -- not complying with their function

21 properly. We have revisited the exact same thirty years

22 later. One wonders and postulates: what lessons were,

23 in fact, learned from Hughes?

24 Finally to go to 50752 and here we have the style of

25 another counsel, Mr Tom Cahill, who was representing the

1 Congregation at that time. I certainly could not put it
2 any better than Mr Cahill does in respect of the
3 funding, which, of course, underpins everything and
4 every aspect of what this Inquiry is looking at.

5 If we go to E, please, just between E and F:

6 "Q. So far as staff were concerned in relation to
7 the amount of money that you had available would it be
8 really -- would it really be unfair to put it that you
9 were always chasing the devil by the tail to try and get
10 enough money to run the thing in any sort of adequate
11 way?

12 A. Yes, because when I came there, we were quite
13 a big sum of money in the red, but eventually the Board
14 were very considerate and they gave grants and helped us
15 out that first year to get rid of this debt that we had.

16 Q. The Sisters were not living off the fat of the
17 land at any stage themselves to the disadvantage of the
18 other staff, were they?

19 A. No. I mean, whatever was for the staff and
20 children, it was the same for the Sisters ..."

21 So that's all I wish to refer to in the Hughes
22 Inquiry transcript.

23 That was thirty years after Kathleen Forrest's
24 commentary in 1954. If we go forward to 1993, we have
25 the complaint of NL 269 We respectfully say it is

1 breathhtaking that that was not acted upon.

2 It is singularly poignant that SR18, who on her own
3 admission was responsible for a number of failings in
4 her care of the children, but had that been acted upon
5 at that time, particularly -- one example that stands
6 out is the person who was described as having the run of
7 the house. NHB137, the social worker, also observed
8 that. What it required was an investigation that would
9 result in advice being given to the Congregation and to
10 SR18 to explain to her that she simply could not do
11 this, even though she was doing it, Chairman, we
12 respectfully say out of the goodness of her heart,
13 because this person was a former resident and she was
14 trying to help him, because he was experiencing such
15 difficult times outside the home. In the same way out
16 of the goodness of her heart she was taking him to
17 Donegal along with NL166 and her 2-year-old, because she
18 was the sister of her brother who had committed suicide
19 in the home.

20 So here is SR18, a teacher, not a trained social
21 worker, thinks she is doing her best for these people
22 and doesn't realise the damage and potential damage to
23 the children in her care. We don't shirk our
24 responsibility for that, Chairman, the Congregation's
25 responsibility for that, but it is breathtaking that

1 that was just let go. We saw the outworkings of that
2 failure.

3 Of course, the reason why SR18 was head of the unit
4 was because of underfunding, difficulty in recruitment
5 of professionals, the dearth of professionals in
6 residential social work at that time. All of those
7 factors resulted in what the Inquiry has heard since
8 January of this year in respect of the Belfast homes.

9 Now, finally, Chairman, in respect of an overview we
10 have provided spreadsheets that we don't profess to show
11 the full picture. We recognise that there are many
12 former residents who will be deceased. There are many
13 who will not want to come forward to the Inquiry. There
14 may be others who have gone to the Acknowledgment Forum;
15 maybe others who have pursued civil claims.

16 We have done it to try and demonstrate, sir, that
17 there were a lot of very good Sisters caring for
18 children. As my learned friend Miss Smyth said in her
19 written submissions, there is a disconnect between the
20 complaints that former residents have made where there
21 are contemporaneous Social Services records, a
22 disconnect between those complaints that are made later
23 from what the records show at the material time
24 contemporaneously and also a disconnect between those
25 complaints and social workers' recollections of children

1 **in the home.**

2 **We respectfully urge the Inquiry not to condemn the**
3 **Congregation to the corner of shame. We accept -- the**
4 **Congregation accepts its failings. We do so confident**
5 **in the knowledge that the Panel with its expertise will**
6 **judge the Congregation by the standards of the day, the**
7 **gross underfunding that they suffered throughout the**
8 **relevant period and the well-intentioned and caring**
9 **Sisters who worked there as a whole.**

10 **Those are my submissions.**

11 CHAIRMAN: May I just ask you, Mr Montague, one thing about
12 the key issue of funding, not perhaps the fundamental
13 issue, but one of the fundamental issues that bear on
14 the many different aspects --

15 MR MONTAGUE: Yes.

16 CHAIRMAN: -- of what you have been saying? On one view it
17 may appear to some that the Congregation say that it did
18 its best with the material in terms of funding available
19 to it and that if there were shortcomings attributable
20 to a lack of funding, then the blame really rests purely
21 with those who had the ability to remedy that
22 shortcoming in practical terms, either the Board or
23 Board, as the case may be, and/or the Department, but is
24 it not fair to pose a question to you about that along
25 the following lines.

1 Were the Sisters not themselves to a degree
2 responsible for the existence of that state of affairs
3 and its continuance --

4 MR MONTAGUE: They were.

5 CHAIRMAN: -- because we have been referred to a number of
6 occasions over the years, particularly perhaps in the
7 1960s --

8 MR MONTAGUE: Yes.

9 CHAIRMAN: -- when we find the Sisters saying in the early
10 1960s their resources were sufficient.

11 MR MONTAGUE: Yes.

12 CHAIRMAN: Then we have Mr Moore's evidence towards the end
13 of that decade of how he tried to persuade one of the
14 Superiors to increase the per capita fee and the Sisters
15 didn't -- the Superior did not want to do that and
16 didn't do it in that case.

17 The reason for that or reasons may be numerous, but
18 at least some of the reasons might be that they didn't
19 want to lose the degree of independence which they had
20 in order to perhaps, as they saw it, protect their
21 ability to provide an upbringing within a Catholic
22 ethos, and a second reason, which may be closely
23 connected to the first to some degree at least perhaps,
24 more connected with Northern Ireland than elsewhere,
25 a degree of unwillingness to accept State aid from

1 a State which was seen as antipathetic to the Catholic
2 ethos, despite money that had been paid in capital
3 monies and so on. To put it in a very simple way: if
4 you don't ask, you don't get.

5 MR MONTAGUE: I respectfully agree and the Congregation does
6 too and recognises that. We accepted it in our first
7 submissions in module 1. I mean, the city of Derry was
8 literally separated from its hinterland. The political
9 backdrop to all of this was very much to the fore right
10 throughout the period, but there wasn't a consistent
11 refusal of funds. There were some homes screaming for
12 funds and there were others --

13 CHAIRMAN: Well, I think we will have the opportunity at the
14 end of the Inquiry perhaps to look again at the broader
15 picture, but I am looking specifically at the two
16 Belfast homes that we are looking at in this module --

17 MR MONTAGUE: Yes. That's accepted.

18 CHAIRMAN: -- as a manifestation --

19 MR MONTAGUE: That's accepted.

20 CHAIRMAN: -- perhaps of a wider problem, because each house
21 appears to have had a great degree of freedom as to what
22 they did and what they asked for.

23 MR MONTAGUE: Autonomy. Unquestionably. Interesting about
24 the 1960s offer of increasing the per capita and
25 offering training that was refused. That was

1 St. Joseph's Babies' Home, which was under the control
2 of the diocese, but, I mean, I accept the general
3 proposition, Chairman.

4 CHAIRMAN: Yes, because if one looks at it from that point
5 of view, whatever the particular proportion of
6 responsibility may be amongst the different core
7 participants, on that view I take it you are saying,
8 "Well, the Sisters may have been at fault, but so were
9 others" --

10 MR MONTAGUE: Unquestionably.

11 CHAIRMAN: -- "in relation to the provision of adequate
12 funding".

13 MR MONTAGUE: Unquestionably. Then when we look at the hard
14 figures from the '70s onwards, the contrast between the
15 funding of the State homes and the funding of the
16 voluntary homes, you know, that just speaks for itself,
17 with respect, Chairman.

18 CHAIRMAN: Well, I know the Trust and the Department say the
19 figures don't actually speak quite for themselves,
20 because you need to understand a context which puts them
21 in a different light.

22 MR MONTAGUE: Perspective, yes.

23 CHAIRMAN: However, that may appear to us at the end of the
24 exercise.

25 MR MONTAGUE: Thank you very much.

1 CHAIRMAN: Thank you.

2 Well, ladies and gentlemen, I must assure you that
3 we will look again at everything that has been so
4 comprehensively set out. It is very helpful to have
5 such degree of detail provided for us. I must also
6 reemphasise that although today is the conclusion of the
7 public hearings in relation to this module and therefore
8 in relation to the two homes that we have examined, our
9 investigations may well continue. There may be further
10 issues which we feel that we should examine with one or
11 more of the core participants in relation to these two
12 homes, or it may be that, as we do our investigations
13 elsewhere, we come across something that requires us to
14 go back and look again. In those instances, wherever
15 the prompting comes from, it may well be that the core
16 participants will receive further requests from us to
17 provide further assistance in the form of either
18 documentary material or explanations in relation to
19 questions which we wish to pursue, but subject to those
20 very important caveats, that concludes now our module in
21 relation to these two homes.

22 We will on Monday, 8th June commence the next
23 module, which, as we have already recently announced,
24 relates to the homes at Fort James and Harberton.

25 I should perhaps take this opportunity just to make it

1 clear to everyone that the fact that we have announced
2 some new homes and new issues which we will be looking
3 at does not mean of themselves that we may take longer
4 to do our work than anticipated, because we have allowed
5 for these in our planning.

6 So some of you we will see again on 8th June.
7 Others no doubt we may see again at a later stage, if
8 it's only for the purpose of making what really will be
9 final submissions, but that perhaps will be next year.

10 Thank you very much.

11 (11.12 pm)

12 (Hearing adjourned until 10.00 am
13 on Monday, 8th June 2015)

14 --ooOoo--

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I N D E X

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4 Closing submissions on behalf of THE3
DEPARTMENT OF JUSTICE

5 Closing submissions on behalf of THE9
HEALTH & SOCIAL CARE BOARD

6 Closing submissions on behalf of THE19
7 SISTERS OF NAZARETH

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