

THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE 1922 TO 1995

MODULE 5

**CLOSING WRITTEN SUBMISSIONS FOR
THE HEALTH AND SOCIAL CARE BOARD**

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CONTENTS

1	Introduction	3
2	Historical Underfunding of the North West	8
3	Resource Allocation in the Western Health and Social Services Board	14
4	“The Bunting Review”: Why the peer sexual activity in Harborton went undetected for so long	28
5	“The Bunting Review”: The extent to which the recommendations of the Bunting Report were met and within what timescales	41

Appendices

1	Minutes of WHSSB Administrative Services Committee, 26 February 1992
2	Minutes of the Western Health and Social Services Board, 28 November 1996
3	Correspondence from the Management Executive Financial Management Directorate, 23 January 1995

1. INTRODUCTION

- 1.1 The Inquiry is tasked to investigate historical institutional abuse and examine if there were systemic failings by institutions or the State in their duties towards those children in their care between the years of 1922-1995.
- 1.2 In Module 5, the Inquiry has heard evidence in respect to Fort James and Harberton House Children's Homes.
- 1.3 The Inquiry has asked the Health and Social Care Board (HSCB) to confine its written submissions to the following:
 - (i) Historical underfunding of the North West;
 - (ii) The extent to which child care and residential child care in particular was treated as a funding priority in the Western Health and Social Services Board;
 - (iii) Why the peer sexual activity in Harberton House went undetected for so long; and
 - (iv) The extent to which the recommendations of the Bunting report were met and within what timescales.
- 1.4 The HSCB addresses each of these issues in this written submission. However, the HSCB asks the Inquiry Panel to treat these submissions as necessarily interim in nature, as many of the issues require further analysis [that the time allowed permitted] and are likely to be the subject of further investigation later in the Inquiry's timetable of work.

BACKGROUND

- 1.5 **Fort James Children's Home** opened in 1973 and accommodated children from the Londonderry, Limavady and Strabane District (later Unit) until closure on 31 March 1995.

- 1.6 The home was originally built as a private residence in 1862 and was set in wooded grounds around 2 or 3 miles from the centre of the city. It was a 3-storey property that also benefitted from additional accommodation at the rear, originally stables which were converted in late 1984 to provide additional accommodation and flats for independence living and training.
- 1.7 Limited records are available in relation to the early years of operation. It is known that the majority of children accommodated between 1973 and 1978 were babies and young children up to the age of 5. Staff, at that time, were described as Nursery Nurses, with the senior staff member called Matron¹. It also appears there were one or two older teenagers in residence from an early stage.
- 1.8 The nursery closed in or around 1978, thus developing the focus towards a home for older children, with an attendant change to Houseparent to describe the staff.
- 1.9 From the opening of Harberton House in 1980, Fort James' remit became specifically for medium or long-term placement of 16 children aged between 5 and 17. Their aim would be to progress a plan for return of the child to his or her parent(s), prepare for a foster placement, or assist in preparation towards independent living in the community. To aid this latter aim, accommodation was renovated in late 1984 to provide self-contained flats on the site, which increased the total capacity to 21.
- 1.10 As the focus on fostering progressed, particularly for young children, the age of the population of children within the home increased. By 1994, towards the end of the home's operation, it's aims and objectives

¹ Transcript of Day 124, page 52, line 17 to page 53, line 10

were to provide care for children aged 13 and over. The demand for placements however resulted in continued admissions of younger children.

- 1.11 By 1994 the home had two units, each with specific functions:
 - The Adolescent Resource Team, which aimed to provide 12 residential places for young people aged 13 and over, and to offer a care service from reception to long-stay which would address the assessed needs of residents;
 - The Leaving and After Care Team, which had access to 3 flats providing 4 places for young people undergoing preparation for leaving care. It also provided a supportive / crisis intervention service for those that had left care.
- 1.12 Between January 1980 and 31 March 1995, Fort James offered care for 316 children.
- 1.13 **Harberton House** opened as a specialist Board resource for children on 8 September 1980. The first children were admitted on 19 September 1980. The home closed in 2004. Referrals for placement in the home could be made from the entire Western Board area.
- 1.14 It was designed as a specialist resource to provide an initial, short-stay, placement for children, by way of both planned and emergency admission, where the child's needs would be assessed to identify the appropriate longer term plan and placement for them. It was a purpose built facility to accommodate 25 children, and was developed on an "H" shaped layout.
- 1.15 Central to the work of Harberton House was the Core Evaluation Team, which met weekly to consider referrals to the home for planned admissions, and to review ongoing assessments of children already

placed. This was a new service within the Board area.

- 1.16 As the home commenced operation and experience was gathered it became clear that there was a need for flexibility in the duration of placement for children and thus the short-stay function was reviewed. As a result, in 1984, two units were developed with some modifications to the building so that smaller units on the same site were commenced:
- A reception and assessment unit had 12 places. Planned admissions for assessment remained available for the Western Board Area, while the reception facility was for the Londonderry, Limavady and Strabane Unit of Management.
 - A medium stay unit with places for 13 children from the Londonderry, Limavady and Strabane area, for those children that required residential care for up to 12 months.
- 1.17 Pressure on admissions to care, which commenced in early 1990 and recurred during the following years, increased the numbers of children admitted to Harberton House. Additional accommodation on site was developed through the use of "The Cottage", which provided additional places for discrete periods of time when needed.
- 1.18 In 1992, the capacity of the home was reduced to 20 places (10 in each unit). However as pressures continued on the numbers of children being admitted to care, and in transitional arrangements following the closure of Fort James, there were periods of greater occupancy on the Harberton House site.
- 1.19 On 1 December 1994 a separate unit, "Chèz Nous", was opened to cater for three adolescent children on the brink of moving to independent living or foster care. It offered a small group living experience which was intended to mirror as normal a life as possible when compared to that of children in the wider community.

- 1.20 From September 1980 until 7 April 2000 a total of 989 children had been cared for in the Home.

2. HISTORICAL UNDERFUNDING OF THE NORTH WEST

2.1 In Module 5, the Inquiry has heard and read evidence about funding and resource allocation in the Western Health and Social Services Board (WHSSB). The Health and Social Care Board understands that there will be further consideration of the issue of finance by the Inquiry. These submissions, therefore, address the state of the evidence at the close of Module 5 with an intention to return to this issue as the information available and evidence develops.

2.2 The WHSSB received a low level of resource from its inception in 1973 mainly due to its estimated population size, which would have been identified from census figures. A relevant difficulty in this respect may have been the political atmosphere in this region regarding the census collection.² In the years that followed, the WHSSB, like the other three Boards, received percentage increases but these did not alter the low funding base in the West.³

2.3 The broad position of the WHSSB is that while it received a percentage of the available resources for growth from 1973 to 1995, that percentage was never sufficiently weighted in its favour to achieve a narrowing of the gap between its actual allocation and the sum that would have reflected its demographic profile, its levels of deprivation and the levels of health and social care need it was being required to respond to.

2.4 In a witness statement filed in Module 1, Dominic Burke explained that the

² On 7 April 1981, Joanne Mathers, then aged 29, was shot dead on a doorstep in Anderson Crescent, Gobnascale, Derry as she collected census forms. Media reports have identified: "At the time, Sinn Féin urged people not to complete forms to demonstrate support for the 1981 hunger strike" (<http://www.belfasttelegraph.co.uk/sunday-life/news/martin-mcguinness-ordered-murder-of-census-worker-fresh-allegations-from-ira-supergrass-raymond-gilmour-29994313.html>, Article dated 10 February 2014) and "At the time, republican terrorists had been targeting census workers in a bid to disrupt the survey." (<http://www.belfasttelegraph.co.uk/news/northern-ireland/census-woman-reward-to-find-killer-28741321.html>, Article dated 13 April 2012)

³ SND 19145 Witness Statement of Dominic Burke dated 23 May 2014, paragraph 1.

baseline for social services in the new Boards when they were established in 1973 was based on the historical income of their predecessor County Council Welfare Committees. As the new Boards were not co-terminous with the County Council footprints, monies were allocated on a proportionate basis, mainly population.⁴

- 2.5 Dominic Burke explained the historical underfunding in the following way when he gave oral evidence to the Inquiry in Module 5 on Day 125:

“The budgets in those days were -- the county councils received their money from the rates paid to them from businesses and domestic houses in the area. In areas like Belfast or County Down, County Antrim to some extent, the amount of rates raised was clearly greater there than it was in the west of the province and in and around County Londonderry, the city of Derry and Tyrone and Fermanagh. So there was an underlying discrepancy, as it were, or deficit with regard to the funding in the West, and while it moved forward, that underlying deficit wasn't addressed for a long time. From time to time it was, but not consistently.”⁵

- 2.6 Dominic Burke's point about historical underfunding is supported in witness statements made by Mr. Thomas Frawley⁶, who was Chief Administrative Officer in the WHSSB between September 1981 and April 1985 and then Area General Manager for the WHSSB until December 1995 and HH 45 [REDACTED]⁷, who was employed by the WHSSB in a number of finance positions between 1977 and 2009.

- 2.7 In Module 5, the Department of Health's position about funding is that there was a standard methodology, known as the PARR formula, by which monies were allocated by the Department across the four Boards and that the PARR capitation formula was 'equitable'. However, none of the Departmental witness statements or witnesses addressed Dominic Burke's point about the

⁴ *Ibid.*

⁵ Transcript Day 125, page 32, lines 10 to 22

⁶ FJH 599

⁷ FJH 806

underlying discrepancy with regard to funding in the West.

- 2.8 Capitation refers to a sum of money which the four Health and Social Services Boards in Northern Ireland received for every man, woman and child who lived in their area. It included weightings for age, gender and deprivation levels.
- 2.9 Dominic Burke's witness statement dated 23 May 2014 in Module 1 states that *"the question of resource allocation and the need to reform the approach was hotly debated, and whilst various formulae had been used, it was not until the 1990s that it was recognized that a root and branch review was needed."*⁸
- 2.10 In the same statement, Dominic Burke goes onto explain that the Capitation Formula Review Group was established with representatives from the Department of Health and Social Services and the four Boards which *"set out to identify from a population base what factors influenced the need for services. The Group considered a range of issues, which impacted on service demand and sought to weight those factors which affected the cost of provide service e.g. social deprivation. The resultant reports showed the Western area was underfunded against the factors examined."*⁹
- 2.11 Dominic Burke was the WHSSB's representative on the Capitation Formula Review Group. However, none of the Departmental witness statements mention the Capitation Formula Review Group. Nor was the Capitation Formula Review Group discussed by any of the Departmental witnesses when they gave evidence.
- 2.12 In his evidence on Day 126, Dr McCoy, who was the Chief Social Work Inspector in the Department, intimated that the WHSSB was no different to the other three Boards and he did not appear to remember that the WHSSB

⁸ SND 19146 Witness Statement of Dominic Burke dated 23 May 2014, paragraph 2.

⁹ *Ibid.*

had been making quite a specific argument about underfunding for decades. This is demonstrated by the following extract of his evidence in Module 5:

"A. ...All Boards were always saying they didn't have enough money to run their services.

Q. And the other question I wanted to ask: were they shouting louder or more frequently than the other Boards?

*A. Not necessarily. I think it was an annual event. When it came to the allocation of resources, each of the Boards in turn would have said, "We need more"."*¹⁰

- 2.13 Significantly, however, there are contemporaneous records that reference underfunding of the West and it is submitted that these documents support the points being made by Dominic Burke about historical underfunding of the West and the Capitation Formula Review Group process and outcomes. For example:

- (a) Minutes of the WHSS Board held on 30 May 1991, which record the Chairman's opening remarks as including the following:

*"... He said despite the Board's progress achievements to date he still had one major continuing disappointment and that was the Board's underfunded situation. In spite of well-reasoned arguments put forward by the Board and which in fact had been accepted by the Department, the issue had not been addressed to his satisfaction. He emphasised that the resolution of this issue will be a major priority over the next 12 - 18 months"*¹¹

- (b) Minutes of the WHSSB Administrative Services Committee on 26 February 1992 state on page 2 that:

¹⁰ Transcript Day 126, page 121, line 22 to page 122, line 4

¹¹ FJH 19367

“...Mr Cuddy informed the Committee that the HPSS allocations for 1992/93 signalled the introduction of the first phase of the new capitation based resource allocation system announced in the Northern Ireland Working Paper “New Funding Arrangements for Health and Social Services Boards”. Under these arrangements Boards are being funded to reflect their resident populations through a capitation based system which includes weightings to reflect the size, age and social needs of their own population.”¹²

Page 3 of the same document reads as follows:

“Commenting on capitation funding targets Mr Cuddy indicated that in order for the Department to achieve capitation targets across the region by 1994/95, it will be necessary to skew approximately £6.3 M each year to the three smaller Boards. However, he said in 1992/93 only 4.3 M is available for allocation making possible only limited progress towards target figures.

- (c) The Minutes of a meeting of the WHSSB held on 28 November 1996 record the following remarks by the Chairman regarding an ongoing review of the capitation formula:

“He informed the meeting that the Western Board could demonstrate that for many years the formula used to allocate funding to the four Boards did not accurately reflect the needs of its population. Indeed, he said it had been estimated that over a period of ten years, the Board had “lost out” to the tune of £40 million. He continued that this imbalance had not been addressed until three years ago but there was now a very real concern that the review could once again disadvantage the people of the West.”¹³

The same Minutes also state under the sub-heading “A Fair Share”:

“Mr. Toland said he wanted to make it clear that factors such as deprivation, rurality and population scarcity in the West of the Province presented the Board with a huge challenge in providing appropriate access to services. He explained

¹² Appendix 1

¹³ Appendix 2

that the reality was that the Board had to commit significant resources to maintain an effective pattern of services which was accessible to and met the needs of those who live throughout the Western area. This he said was expensive in the Western area because of the need to take account of the fact that the population was dispersed over a very wide area and experienced very high levels of deprivation."

2.14 Dominic Burke's witness statement dated 23 May 2014 also says that *"demands for cash releasing were made by the Department which added to the pressures on limited budgets"*¹⁴. Whilst such demands were no doubt made in equal measure of all four Boards in Northern Ireland, their impact was felt keenly by the WHSSB due to its low funding base.

2.15 This is reflected in the Minutes of the WHSSB Administrative Services Committee on 26 February 1992 which state on page 4 that Mr Frawley explained: *"the Board's Units of Management were finding it extremely difficult year after year to meet their cash releasing target on 1.2%. He spoke of the difficulty of trying to sustain a commitment which was continually cutting into the infrastructure whilst at the same time they were being asked to meet additional requirements in terms of increasing volumes of work and improvements in service provision."*¹⁵

¹⁴ SND 19145 Witness Statement of Dominic Burke dated 23 May 2014, paragraph 1.

¹⁵ Appendix 1

3. RESOURCE ALLOCATION IN THE WESTERN HEALTH AND SOCIAL SERVICES BOARD

GENERAL

- 3.1 In his witness statement dated 4 June 2015, HH 45 sets out the financial regime applicable to the funding of health and social services in Northern Ireland, post re-organisation in 1973 to 1995¹⁶.
- 3.2 In simple terms, the Department of Health and Social Services (“the Department”) allocated its share of the ‘block grant’ to fund health and personal social services across Northern Ireland.
- 3.3 Each of the four Boards in Northern Ireland was allocated a share of the ‘block grant’ by the Department, which was determined by the Department using the PARR capitation formula.
- 3.4 Every five years the Department issued Strategic Plans, which identified policy aims and objectives and the Department expected the Boards to allocate funds to achieve the Department’s policy objectives. This was consistent with the guidelines for re-organization that were developed by Booz-Allen and Hamilton in a report dated February 1972 called ‘An integrated service: The re-organization of health and personal social services in Northern Ireland’, which stated:

“The Ministry of Health and Social Services should be responsible for overall objectives, policies and resource allocation...the area Boards for the planning and monitoring of services and the District Units for managing and delivering services.”¹⁷

¹⁶ FJH 806: Witness Statement of HH 45 dated 4 June 2015, paragraphs 1-2.

¹⁷ FJH 20614: Booz-Allen and Hamilton, ‘An integrated service: The re-organization of health and personal social services in Northern Ireland, Volume 1’, page 9 at FJH 20634

- 3.5 The Booz-Allen and Hamilton report identified the following among the main functions of the Department under the new structure after re-organization:
- To undertake strategic planning, including the preparation in consultation with the Area Boards, of a five to ten year capital works programme for publication and submission to Parliament.
 - To co-ordinate the work of Boards and supervise their activities.
 - To undertake certain central executive functions such as the execution of major building schemes and the collection and dissemination of statistical data.¹⁸
- 3.6 The Booz-Allen and Hamilton report also envisaged that the Area Boards *“will be responsible for administering, planning, monitoring and coordinating health and personal social services within their Areas.”*¹⁹
- 3.7 It is clear, therefore, that in regard to their share of the block grant, Boards had choices to make, as they each had to decide how to allocate its share of the block grant between different Programmes of Care. Programmes of Care were developed by the WHSSB in line with the organisational structure advocated by Booz-Allen and Hamilton²⁰ in 1972.
- 3.8 Each Board had a range of Programmes of Care which, in addition to Family and Child Care included Acute, Elderly, Physical Disability, Mental Health, Mental Handicap, Health Promotion, Maternal and Child Health and Adult Community²¹. In planning and delivering services to people in its area, Boards had a range of statutory duties to fulfill across the spectrum of the Programmes of Care, of which Family and Child Care was one.

¹⁸ *Ibid.* Pages 10-11 at FJH 20636-7

¹⁹ *Ibid.* Page 11 at FJH 20637

²⁰ *Ibid.* Exhibit IV at FJH 20670

²¹ Appendix 3: Flowchart document attached to a letter from the Department's Management Executive dated 23 January 1995.

STRUCTURES AND PROCEDURES

3.9 In the WHSSB, the following structures were in place which had a role to play in managing and monitoring the use of resources allocated to the WHSSB by the Department:

- The Resource Allocation Committee. This Committee made decisions about the allocation of resources within the WHSSB until February 1992, when as a result of restructuring of the WHSSB and its committees, issues related to the allocation of resources was dealt with by the Administrative Services Committee.²²
- The Administrative Services Committee. Following allocation of monies by the Department and an acceptance of that allocation by the Area Board, the Administrative Services Committee made decisions about resource allocation in the WHSSB from February 1992.²³ The Administrative Services Committee's main role was to ensure that sound financial control was maintained within the overall financial budget, following approval by the Area Board and allocation by the Department.²⁴
- The Community Care Committee which worked on establishing objectives, policies, goals and plans for the development and operation of social services in the WHSSB area and recommended budget estimates for the operation of social services programmes provided within the WHSSB area.²⁵
- The Area Executive Team, which consisted of the Chairman, the Director of Social Services, Chief Medical Officer, Chief Nursing Officer and Chief Administrative Officer²⁶. The Area Executive Team had a range of responsibilities including assessing need throughout the area of

²² Appendix 1: Minutes of the WHSSB Administrative Services Committee held on 26 February 1992.

²³ *Ibid.* Please note that it has not yet been possible to confirm how long the Administrative Services Committee had this function

²⁴ Booz-Allen and Hamilton, Page 35 at FJH 20665

²⁵ *Ibid.* Page 32 at FJH 20662

²⁶ *Ibid.* Page 40 at FJH 20671

the WHSSB, developing programme objectives and goals, allocating resources among the Districts of the WHSSB to provide a balanced delivery of services throughout the WHSSB in accordance with the policies and priorities laid down by the Area Board, recommending priorities for revenue and capital expenditure throughout the WHSSB and ensuring (through the Administrative Services Committee) that the WHSSB worked within budgets laid down by the Area Board²⁷.

3.10 In broad terms, the purpose of the aforementioned Committees was to ensure that capital and revenue resources were allocated in a manner which most effectively satisfied health and social services needs in the WHSSB and to monitor and evaluate performance to ensure that planned intentions were being realised in the delivery of services.²⁸

3.11 In practice, the aforementioned Committees in the WHSSB worked to build consensus internally about the use and allocation of the funds given to it by the Department and, once consensus was reached, the plans and proposals were put before the Area Board for approval. This was also in keeping with the structures envisaged by Booz-Allen and Hamilton, which specified that Area Boards should have responsibility for:

- Approving programme objectives, goals and area policies as developed by the Committees;
- Approving Programme Plans developed by the Board's committees.
- Receiving reports on the quality and cost-effectiveness of services from the Board's committees.
- Approving final accounts prior to their submission to the Department.
- Approving financial estimates received from the Board's committees prior to submission to the Department.

3.12 It is submitted that the information available about the structures in the

²⁷ *Ibid.* Pages 40 and 41 at FJH 20671-2

²⁸ *Ibid.* Page 30 at FJH 20660

WHSSB that were designed to manage and allocate resources contrasts significantly to the dearth of information about structures in the Department that were used to scrutinise, monitor and evaluate the activity and spending of Boards. In fact, Dr McCoy said that:

"...it was very difficult to ascertain how the Boards actually spent their money. We don't -- we wouldn't have had good information about when they received their block grant, how it was allocated between Health Services and Personal Social Services, and even within that within the various programmes of care within Social Services, whether it be childcare, mental health or whatever.

Q. Can I just ask did the Department ever ask, "How do you spend your money?"

*A. There were probably accountability reviews, but it was very high level in a sense, and I know that in some allocation letters to the Boards in relation to the additional money, which was given for the implementation of Hughes and child protection, that the Boards were instructed that if they used this for any other purpose, they had to seek the approval of the Department. Now that suggested to me that, in fact, monies which had been allocated for social services were being diverted to other services."*²⁹

3.13 In addition, Marian Reynolds said that she understood that each of the Boards provided financial returns known as FR 22s to the Department. However, Miss Reynolds explained that *"not all of the Trusts were reporting spend using the same headings. So the result was you weren't able to compare apples and apples."*³⁰

3.14 Marian Reynolds' evidence was supported by Dr Harrison who confirmed that she carried out a review of the FR 22 form in respect to family and childcare spending in or about 1993/1994. On Day 129, Dr Harrison explained that:

²⁹ Transcript for Day 126, page 136, lines 10 to 25 and page 137, lines 1 to 3

³⁰ Transcript for Day 128, page 69, lines 20 to 23

“[I]t was very difficult from the figures presented to disentangle, you know, fostering, residential care, daycare services, services for voluntary service grant, etc, etc. As a result of that we produced -- the Department produced revised guidance. I am not saying that the guidance was not clear before, but we attempted to make it clearer.” ³¹

- 3.15 When one considers the substantial resources involved, it seems quite remarkable that it took the Department in the region of twenty years to carry out a review and develop an effective financial returns system for family and child care spending. The corollary of this is that before 1993/4, there was inadequate scrutiny and monitoring of how Boards were spending their share of the block grant, handed down by the Department. This is all the more surprising as among the main functions of the Department set out in the Booz-Allen and Hamilton report was the co-ordination of the work of Boards, the supervision of their activities and the collection and dissemination of statistical data.³²
- 3.16 The Booz-Allen and Hamilton report recommended ‘*a new organization structure for planning, controlling and delivering care*’³³ in Northern Ireland and it appears that the structures in the WHSSB to manage, allocate and monitor the use of its resources were modeled on the guidelines contained in the Booz-Allen and Hamilton report.
- 3.17 The Booz –Allen and Hamilton report also set out the main functions of the Department under the new structures following reorganization. However, it did not address or provide any guidelines about the structural, managerial and administrative requirements of the Department post re-organization to scrutinize, supervise and evaluate the activity and spending of Boards.

³¹ Transcript Day 129, page 19, lines 7 to 22

³² Booz-Allen and Hamilton, page 9 to 10 at FJH 20634 and FJH 20635

³³ *Ibid.* Page 1 at FJH 20625

- 3.18 Dr McCoy referred to “*accountability reviews...at a very high level*”³⁴ in his evidence and it is submitted that this requires further investigation because, on the basis of the Departmental evidence to date, it appears that there may have been a serious lack of basic knowledge and qualitative analysis on the part of the Department regarding the way in which individual Boards used their share of the block grant.
- 3.19 It is in this context that Marian Reynolds told the Inquiry that she had heard that the WHSSB disproportionately funded its older people Programme of Care to the detriment of its family and child care Programme of Care. This claim is not accepted by the WHSSB and, in the HSCB’s submission, it is important to observe that Miss Reynolds was not able to identify who told her this. Nor did she say when this information was conveyed to her.
- 3.20 Nevertheless, it is clear, on the basis of its own evidence to date, that the Department would not have been able to tell whether or not the above statement had a basis in fact because the procedures in the Department for gathering, analyzing, reviewing and monitoring the expenditure of Department’s monies by Boards was deficient, at least until Dr Harrison’s review of the FR 22 in 1992/3 although Marian Reynolds also gave evidence about continued difficulties in this area post-implementation of the Children (Northern Ireland) Order 1995.³⁵
- 3.21 It is also important for the Inquiry team to note that from 1973 until 1995 the management arrangements for health and social services were changed repeatedly at the initiative of the Department. The following is an outline of those changes insofar as they applied to the Western Board, which may be worthy of further scrutiny in a future Module:
- 1973 Consensus management applied, based on the Booz-Allen and Hamilton Report

³⁴ Transcript Day 126, page 137, lines 19 to 20

³⁵ The Children Order (Northern Ireland) 1995 came into operation on 4 November 1996

1983	Districts were abolished and became Units of Management
1985	General Manager was appointed at Board level but not at Unit level, following the adoption of the Griffiths Report in England. This represented a move to a General Management model away from a consensus model of management, so that professionals, instead of being directly accountable to the Board became accountable to the General Manager.
1990	Unit General Managers were appointed
1993	The creation of Health and Social Services Trusts began, the process of which was completed during 1995/6 following the creation of 19 Trusts across 4 Board Areas
2009	The single Health and Social Care Board was created in place of the 4 Boards.

- 3.22 As a result of these changes governance arrangements were in a state of flux with lines of accountability and decision-making having to adjust to fit the new structure.

ALLOCATION OF FUNDS IN PRACTICE

- 3.23 Dominic Burke was the Director of Social Services in the WHSSB between 1991 and 2005. As such, he was a member of the Area Executive Team in the WHSSB whose responsibilities included the allocation of resources among the Districts (later Units of Management) of the WHSSB, recommending priorities for revenue and capital expenditure throughout the WHSSB and ensuring (through the Administrative Services Committee) that the WHSSB worked within budgets laid down by the Area Board. It is submitted that due to his position and knowledge of the system, Dominic Burke is a well-informed witness and that substantial weight should be placed upon his evidence and analysis.

- 3.24 On Day 125, the following exchange took place between Sir Anthony Hart and Dominic Burke:

"Q. So was it necessary for the Western Board, like every other Board, to in effect argue in considerable detail with the Department the need for particular areas of funding to be increased?"

*A: Yes. When the allocation was made to the Board, the position clearly would have been that there were existing services that had to be maintained. So you started off with a baseline that would be taking the lion's share of that money. The allocation over which the debate would have been would be about that very small piece that was extra. Therefore, it would often be organised by our General Manager and by our Board that we needed to look at the effectiveness of the large and existing services to ensure we were getting the best value for money there and ... in relation to childcare, perhaps we needed to reconfigure those services in order to enhance or improve them. With regard to the new monies that came, it was always a debate about how would you invest that and clearly in the West, Acute, Mental Health and Social Services and so on would have been arguing for a share of that budget. It would be against either known, emerging priorities or new services that those allocations would then be made in determining the plan the following year."*³⁶

- 3.25 It is submitted, therefore, that the degree of discretion held by Boards about the use of its resources should be seen in the context, as described by Dominic Burke. It is further submitted that if the Departmental evidence to date which suggests that Boards in Northern Ireland were not held to account by the Department for the way in which they used public money is correct, that must surely be a cause for concern and this warrants further exploration.

³⁶ Transcript for Day 125, page 42, lines 12 to 25 and page 43, lines 1 to 12

3.26 Turning now to address the question of allocation of monies between the Programmes of Care in the WHSSB, this too is an area which is likely to require further investigation and analysis. However, on Day 124, FJ 33 told the Inquiry that his perception was that *'[t]he acute service seems to get -- seemed to get the budget, and social care for a number of years had to struggle.'*³⁷ This was echoed by HH 5 when he gave evidence later the same day and he said he believed that acute services took priority³⁸.

3.27 It is submitted that the views expressed and held by FJ 33 and HH 5 are understandable because there is no doubt that acute services by their very nature demanded a sizeable portion of the WHSSB's total funds. However, the evidence of Dominic Burke presents a challenge to the views held "on the ground" by front line staff, when he said:

"I think Social Services in the round improved and progressed following the integration of Health and Social Services. In the days when it was determined that cuts would be made, the childcare budgets were protected. We didn't lose money, and when allocations were being made, we were able to get our share of those allocations..."

*[N]ow I appreciate if you're on the ground and you're working in a children's home or if you're in a team, you'll be pressing your team leader, your officer in charge to get more, and they in their turn will be attempting to squeeze. Often they were the people in the middle. The senior management were saying, "You can't get any more" and the staff were saying, "We need more", but it was protected, and I think that while it may never have been adequate, certainly steps were taken to try and ameliorate as far as possible the pressures on recognising our duty to care and the legislative framework within which we worked*³⁹."

3.28 The 'protected' status of the childcare budget in the years following

³⁷ Transcript for Day 124, page 40, lines 18 to 20

³⁸ *Ibid.* Page 109, lines 20 to 21

³⁹ Transcript for Day 125, page 42, lines 12 to 25 and page 43, lines 1 to 12

reorganisation was also mentioned by Marion Reynolds in her evidence on Day 128 when she explained that the Personal Social Services budget was 'ring-fenced' for three or five years with a view to ensuring that none of that money leached into health.⁴⁰ It is clear, however, that Dominic Burke recollects the childcare budgets being protected on a long-term basis.

3.29 On Day 125, Dominic Burke also said that he thought the WHSSB was very prudent in how it allocated its resources and in the manner in which they recognised their statutory responsibilities for children in the important context of being underfunded for the historical reasons set out in Chapter 2⁴¹. He also highlighted that in addition to the WHSSB's statutory responsibilities for children, the WHSSB had other statutory responsibilities for people with mental health problems as well the question of developing and delivering services for people in the WHSSB's area, and he concluded by saying that "*there were many pressures on an underfunded organisation to address.*"⁴²

3.30 It is known that in April 1995, Marian Reynolds sent a memo to C. F. Stewart in the Department saying that during a meeting with HH 39 (Unit General Manager), Mr Gabriel Carey (Unit Director of Social Care) and HH 40 (Programme Manager), she was informed that that the level of funding was such that '*at times decisions had had to be made relating to discharge of statutory duties and/or compliance with procedural guidance.*'⁴³ This was clearly a serious state of affairs and it seems that Senior Managers in the Foyle Community Unit of Management were really making a cry for help to the Department.

3.31 Given the strength of the plea to Marian Reynolds in April 1995, it is submitted that there should be a close examination by the Inquiry of the

⁴⁰ Transcript for Day 128, page 50, lines 12 to 20

⁴¹ *Ibid.* Page 36, lines 18 to 25

⁴² *Ibid.* Page 37, lines 1 to 8

⁴³ FJH 40372

adequacy of the Department's response. In so doing, it is important to note that Marian Reynold's memo is written shortly after the publication of a Case Management Review Team report in December 1994 into the care provided for HH 47 [REDACTED], who tragically died as a result of an accident involving a stolen car after he absconded from St Patrick's Training School.

- 3.32 The December 1994 Case Management Review Team report is comprehensive and among its many conclusions, concern was expressed that certain of the WHSSB's statutory responsibilities were not fully discharged in respect to HH 47 [REDACTED] during the period [REDACTED] and [REDACTED] and that the WHSSB's policy and procedures in relation to child protection were not fully implemented.⁴⁴ The review report also acknowledged that during the last few months of the WHSSB's care of HH 47 [REDACTED] a major investigation began into the organised sexual abuse of children in the [REDACTED] area and commended staff for coping with such a large scale investigation with limited resources.⁴⁵
- 3.33 It is submitted that HH 47 [REDACTED]'s death and the shortcomings identified in the Case Management Review Team report are likely to have impacted considerably on staff and Senior Managers working in the Foyle Community Unit of the WHSSB who were clearly cognisant of the WHSSB's statutory duty to children within its area whilst operating under considerable pressure and strain with inadequate resources. This is the context within which Marian Reynolds wrote to C. F. Stewart in the Department and suggested that there was '*a need to assess the adequacy of the funding to the Family and Child Care Programme of Care...*'⁴⁶
- 3.34 In her evidence on Day 128, Marian Reynolds acknowledged that although she was told by Foyle Community Unit in April 1995 that they could not

⁴⁴ Report on the Care provided for HH 47 [REDACTED], December 1994, Paragraph 4.10

⁴⁵ *Ibid.* Paragraph 4.96

⁴⁶ FJH 40372

discharge statutory functions and/or comply with Departmental circulars, she did not know “*to what degree they then looked at what other spend they had which weren't statutory functions, which were secondary, which could have been put on the long finger*”.⁴⁷

3.35 The HSCB recognises that this is an area that needs further examination. However, on the basis of the current evidence, it appears that C. F. Armstrong's response to Marian Reynolds' memo was simply to reassure her that the funding was '*equitable and that other Trusts and Boards were funded in a similar way*' which left Marian Reynolds to conclude that '*there was no basis for me to take action*'.⁴⁸ To date, there is no other evidence that any other step was taken by Department, such as an '*accountability review at a high level*'.⁴⁹ This is despite the findings of the Case Management Review, the Bunting Peer Abuse Review Report and the '*mantra*'⁵⁰ down the years about being underfunded in the West, all of which were known to the Department.

3.36 On Day 128, Sir Anthony Hart suggested in a question to a witness that if resources fall below what is required to discharge a statutory function, '*it must be topped up first and if that means another discretionary programme suffers, well, that's what has to happen.*' On Day 125, Dominic Burke told the Inquiry that '*when it was determined that cuts would be made, the childcare budgets were protected*'. It is submitted that this evidences that the Family and Child Care Programme of Care was a funding priority in the WHSSB, particularly as it had competing duties across different Programmes of Care. Dominic Burke's evidence, as set out in paragraph 3.24 above, also highlights the realities of the situation, which was that when the Board received its funding allocation, there were existing services that had to be maintained

⁴⁷ Transcript for Day 128, page 62, lines 19 to 25

⁴⁸ *Ibid.* Page 49, lines 10 to 17

⁴⁹ Accountability Reviews were referenced in Dr McCoy's evidence. Transcript for Day 126, pages 136 and 137

⁵⁰ "Mantra" was the term used by Dominic Burke in his evidence. Transcript for Day 128, page 36, lines 18 to 25

and this took the 'lion's share' of the money.

- 3.37 The HSCB understands, however, that there is to be further consideration by the Inquiry of issues related to finance and governance. These submissions, therefore, address the state of the evidence at the close of Module 5 with an intention to return to the subject of resource allocation as the information and evidence available evolves.

4. "THE BUNTING REVIEW"

Why the peer sexual activity in Harberton went undetected for so long

- 4.1. The Inquiry has heard and received evidence in relation to *"a series of incidents of peer abuse involving children resident in Harberton House between December 1989 and March 1990. This involved allegations of sexual activity between children ranging in age from 7 to 13"*⁵¹.
- 4.2. The information about these events first came to the attention of staff within the home on 13 March 1990 when one of the children involved made a comment during discussion with a Senior Houseparent that was recognized as necessitating further investigation.
- 4.3. As detailed in the record of 15 March 1990⁵², staff immediately took steps to speak to the other children to gather information about who was involved, when this was happening and what was occurring. From those discussions it was identified:
 - The incidents were occurring early in the morning and during the time when uniforms were changed after school;
 - The earliest incidents were identified as being prior to Christmas 1989, with a specific reference to an incident 2 days prior;
 - The incidents were described to have happened in the playroom, AC's bedroom, the visitor's room and outside at the rear of the unit;
- 4.4. The report of 15 March 1990 also provides short pen-pictures of the 8 children then identified to have been involved in the incidents, which showed that 5 of the children were known or suspected to have been sexually abused in the community, 1 was believed to have been involved in sexual relationships prior to her admission to care, concerns that another witnessed inappropriate sexual activity in the community and the final

⁵¹ As described by Ms Smith QC, Senior Counsel to the Inquiry, in her opening of Module 5, Transcript Day 122, Page 25, lines 11 to 16.

⁵² FJH 10063

child was not known to have had any sexual abuse but concerns were noted regarding the level of physical and emotional abuse that he had been exposed to.

- 4.5. If the earliest event recollected was correctly dated to 23 December 1989, these peer abuse activities continued for just over 11 weeks before detection.
- 4.6. Following detection an immediate (internal) investigation was undertaken with staff by Gabriel Carey, Principal Social Worker. He reported on this investigation to Mr Haverty, Assistant Director Social Services (Group) on 26 March 1990⁵³. His investigation concluded that the events had occurred:
 1. Early in the morning between 3.00am and 6.00am;
 2. After school – between 2.50pm and 4.15pm approximately;
 3. In the grounds of the Unit during the course of the day.
- 4.7. Gabriel Carey concluded that the most serious incidents appeared to have occurred in the early hours of the morning. Whilst not explicit in his report, it was the case that these events occurred when sleeping-in staff were utilised rather than waking-in staff.
- 4.8. In relation to the incidents occurring after school, Gabriel Carey noted the significant demands on staff in undertaking “*about four runs to ten different schools*”, all of which took a member of staff away from the Unit. He also reported that the corridors in which the children’s bedrooms were located were not segregated by sex, and whilst he had explored the potential for this: “*this would be difficult in view of the fact that at any one time there may be more boys than girls in the Unit or vice versa*”. Rather he proposed a practical solution that should be immediately explored: the use of volunteers to provide escorts to and from the school.

⁵³ FJH 15575

- 4.9. In relation to the incidents that occurred in the grounds, Gabriel Carey reported that *“look outs” were used to ensure that staff did not discover what was going on*”.
- 4.10. These initial reports, it is submitted, identified the following reasons for the non-detection of the peer abuse:
- The reduced availability of staff cover in the Unit at the relevant times, to include that incidents were occurring when the children knew staff to be asleep;
 - The ability of the children to plan and manipulate, which included making arrangements to act as “look out” so that if staff approached warnings could be given.
- 4.11. In his report of 26 March 1990, Mr Carey was mindful of understanding what had happened, the corrective action that was necessary and:
*“Obviously I have highlighted to staff the need to be vigilant and to learn from this experience and I will also expect that Mr Conway will reinforce this message.”*⁵⁴
- 4.12. Mr Carey continued to carefully review the situation and to liaise with the police, whose investigation into the activities, was continuing. On 25 June 1990 he provide a further report to Mr Haverty (now known as Assistant Unit General Manager) to outline additional information and understanding gained from engagement with the police.⁵⁵
- 4.13. The evidence gained from that continued to offer a similar picture as to the timing and location of incidents, save that the early morning incidents were now timed to between 5.00am and 7.00am.
- 4.14. At this time Mr Carey noted:

⁵⁴ FJH 15575 at 15577

⁵⁵ FJH 15568

"Clearly the allegations that have been made are very serious and I know from my conversations with staff in Harberton House that they had a devastating impact upon them."

and

*"Also within the unit we took other management action to try and improve the level of supervision by taking note of the times and places at which the incidents occurred. In addition to having a waking worker patrol the Unit for a while we also took action to ensure that children could not move about the Unit so readily at night though obviously one has to achieve a balance in doing this."*⁵⁶

- 4.15. The HSCB notes the context in which these incidents occurred. On Day 122, in opening Module 5, Ms Smith QC noted:

*"Consideration of the bundle shows that throughout the operation of these homes there were recurring issues of staff shortage, concern about occupancy levels and about the behaviour of and type of children being admitted to care."*⁵⁷

- 4.16. The memo from Mr Carey referenced at paragraph 1.14 above was also referenced, which explained:

"It is important to consider the incidents which occurred in context. Harberton House has a significant number of children who have been sexually abused and research evidence would seem to indicate that in the first instance children who have been initiated to sexual behaviour will carry on being involved in some sort of sexual activity; secondly, that those who have been abused often become abusers. As the proportion of sexually abused children in the unit increases, obviously this is going to have significant ramifications for the management and philosophy within the home.

Another point to be borne in mind is that the incidents arose at a time when the unit was going through a crisis, when there were children placed there over and above the stated occupancy level. At one stage there were 32 children in a unit meant to accommodate 25 and this entailed opening the staff bungalow and

⁵⁶ FJH 15568 at 15572

⁵⁷ Transcript Day 122, page 35, lines 5 to 9

*employing six additional staff members. These were unqualified and inexperienced staff, who required a lot of support from the regular staff. Moreover, because of the numbers, the focus was on meeting children's primary needs and the therapeutic work which normally is the feature of work in Harberton House took second place. The combination of these factors probably meant that the incidents occurring were not picked up as soon as they might have been had this crisis not been going on. Nevertheless, this has led to staff engaging in regular reviews of the situation in an attempt to ensure that such an occurrence does not arise again."*⁵⁸

- 4.17. As outlined above, this memo was dated 25 June 1990. The HSCB therefore respectfully suggests that the management of Harberton House and the WHSSB were attuned to the need to identify and understand the context of the occurrences. Indeed it appears that they did so accurately and quickly. The Board further engaged with the Department, in early course⁵⁹, and suggested Dr McCoy visit the Home in light of the events⁶⁰.
- 4.18. In this respect, the HSCB notes the written evidence of Dr McCoy, particularly paragraph 4.⁶¹ wherein he asserts that the Board had taken no action. The HSCB rejects this analysis and refers to the events outlined above, which in the HSCB's submission demonstrates clearly that action was taken immediately these difficulties came to light. This is further the recollection of staff at the time, for example HH22 who gave evidence on Day 127 and clearly recalled an "*internal investigation*"⁶² in advance of the review chaired by Mr Bunting.
- 4.19. The Review Team chaired by Mr Bunting reported in November 1990. They identified the same issues, however noted at paragraph 4.2(iii) of their

⁵⁸ Transcript Day 123, page 138, commencing line 15 at page 140, line 6 to page 141 to line 10 and FJH 15572-3

⁵⁹ FJH 15596 – The first contact recorded with the Department is on 22 March 1990 when Gabriel Carey contacted the Child Care Branch (Wesley Donnell)

⁶⁰ Dr McCoy visited on 26 June 1990 at the suggestion of the Acting Director of Social Services, FJH 10268

⁶¹ FJH 40886

⁶² Transcript of Day 127, page 63, lines 4 to 19

report the Review Team's conclusion that equal weight could not be attributed to each issue. The main problem, in their view, was the constant pressure with a highly disruptive and sexualized group of children.

- 4.20. The HSCB continues to believe that this combination of factors were a feature not only in the abuse occurring between residents, but also assists in the understanding of why it was undetected for a period approaching 3 months.
- 4.21. Mr Burke, in giving evidence on Day 125 also acknowledged these factors and agreed with "the perfect storm" analogy in the following exchange with Senior Counsel to the Inquiry:

"Q. One of the things that we were aware of from the evidence that we have seen and heard, not least from the documents, but also from and HH5, who spoke to us yesterday, was what I described as the perfect storm of conditions –

A. Yes.

Q. -- that arose late 1989/1990 that allowed, if you like, the episode in Harberton to take place –

A. Yes.

Q. -- in the sense that the system was essentially at breaking point. A lot of children were being taken into care, many more than had been previously. There was a need to place them somewhere. There was a lack of foster care places. The residential homes were stretched and indeed were over -- their numbers were exceeded.

A. Yes.

Q. The capacity was exceeded. They had staffing issues, which had been a feature throughout their existence, with regards to the terms of -- the numbers of staff in the homes, and as you have explained, the difficulties there were with getting qualified staff into homes, but all of that seemed to come together at the end of December 1989 in one go, as it were, to create this perfect storm, that suddenly Harberton House comes to the fore, but it is clear that the issue is not just what happened within the home, but what was happening in the whole field of childcare –

A. *Childcare.*

Q. -- *within the Board.*

A. *Yes.*

Q. *That's then why these other matters are being addressed, if I have summed that up appropriately.*

A. *I think so. I think in the report I think Mr Bunting's conclusions, as you describe it, the perfect storm, was that these things were all coming together and what perhaps been thought of as a blip suddenly became a much more serious and continuing demand for care in Harberton House."*⁶³

4.22. The HSCB notes that in giving evidence on Day 126 Dr McCoy suggested that the Department had a number of reservations in respect of the conclusions reached by the Review Team⁶⁴. The HSCB wishes to register that Dr McCoy's evidence was not available in time for comment by either Dominic Burke or HH5, each of whom may have wished to respond to same. Further, the reservations outlined in his oral evidence were neither contained in his written statement nor in any contemporaneous correspondence. Rather, as addressed in Chapter 5 regarding the implementation of the Review Team's recommendations, the Department commended the Western Board for taking the steps that they had in the implementation of same and noted some concern about those matters that remained outstanding. No specific directions about steps that were required to be taken were given to the WHSSB.

4.23. However in respect of Dr McCoy's evidence, and with reference to the written documentation the HSCB would wish to respond to the following matters:

- a. Dr McCoy referenced that residential social workers were not interviewed⁶⁵.

⁶³ Transcript Day 125, page 30, line 5 to page 31, line 18

⁶⁴ Transcript Day 126, page 140 commencing at line 5

⁶⁵ Transcript Day 126, page 140, lines 18 to 19

While paragraph 1.6 of the report⁶⁶ suggests that 9 Senior Staff were interviewed, with written statements taken from 11 primary staff, when presenting his report to the Community Care Committee on 7 December 1990 Mr Bunting is recorded as saying:

*"Mr Bunting explained that the Review Team had been particularly conscious of the need for thoroughness in undertaking the review. He said it had been hoped that it would have been possible to conduct the review from information on record within the Unit. However, this had not proved to be the case and therefore the team had interviewed all staff and had also obtained information from primary workers. Commenting on the methodology employed, Mr Bunting advised that the team visited Harberton House and had explained to staff that a review was being undertaken. Staff had been given the opportunity to bring a representative from their Trade Union with them during the interview stage. He emphasised that the team were impressed with the commitment of staff and the degree of care shown to children."*⁶⁷

- b. A concern was raised by Dr McCoy that an emphasis was placed upon the behaviour of children⁶⁸.

The HSCB notes the difficult and disturbing experiences that a number of the children involved in these incidents had been exposed to prior to their admission to care. This inevitably, it is submitted, would have an impact upon their behaviours and presentation. In identifying this dynamic as one of the factors leading to the perfect storm, it is in no way to place blame upon the children. It is to provide a context of the circumstances in which this situation arose.

- c. Dr McCoy made reference to an experienced staff group not picking up any clues as to what was going on for such a long period of time⁶⁹.

As regards the staff group, the HSCB notes that in fact one of the difficulties assessed by the WHSSB was that due to the increased number of children, temporary and inexperienced staff had been

⁶⁶ FJH 10309 at 10312

⁶⁷ FJH 19424 at 19426

⁶⁸ Transcript Day 126, page 141, lines 14 to 17

⁶⁹ Transcript Day 126, page 141, line 18 to page 142, line 2

employed which had diluted the experience of the staff group as a whole. Further, time was spent by the experienced staff supervising, supporting and assisting the temporary staff. This was not analysed by Dr McCoy. Further as regards the identification of “clues”, the HSCB commends staff, as did the predecessor WHSSB, for the fact it was a staff member that recognised a comment in discussion at tea-time as one that required careful assessment. Further, no clear clues as to the behaviour occurring have been identified in any of the reports save for an alarm clock going missing. In a busy children’s home it is submitted that it would be quite a leap to identify a missing alarm clock as being indicative of such serious behaviour amongst residents.

- 4.24. The HSCB supports and accepts the analysis of investigations undertaken during 1990 as to how the incidents at Harberton House came to arise. The HSCB further highlights that throughout these issues coming to light all staff were shocked and devastated that they had been unable to provide the safe and caring environment that they believed they had removed these children from the harm they were suffering in the community⁷⁰.
- 4.25. However, the HSCB recognises that despite the learning that was intended to be achieved following 1989/1990, it is with regret that there was a repetition of concerning events in later years.
- 4.26. On 5 May 1992 staff were alerted by a female teenage resident to a conversation that she had heard between three boys in the sitting room. Investigation suggested that there had been peer sexual abuse of two of the children, aged 7, by one other almost 9. The record suggests this had been happening “over the past few weeks”⁷¹.

⁷⁰ For example, FJH 484 at 489: Witness Statement of Dominic Burke dated 4th June 2014, paragraph 15

⁷¹ FJH 15481

4.27. Further the Case Management Review Report in respect of HH 47

HH 47⁷² outlines significant information:

- a. At paragraph 2.67 it is noted that information came to light on 25th April HH 47 (born HH 47) and another male resident had exposed themselves to each other at the weekend in the other male resident's bedroom. In the investigation of this more serious information regarding sexual activity with a 10 year old resident in another unit of the Home.⁷³ The incidents went undetected at the time.

The Review Team concluded⁷⁴:

"There were at least three sexual assaults on the ten year old female resident over a period of months. This raises a question about the level of supervision of the children by the Residential Social Workers... This was not detected by the staff at the time. In addition after the assaults came to light HH 47 was able to go to the Unit in which the girl was resident and intimidate her despite the plans which had been made to prevent this.

The Review Team is consequently of the opinion that there were periods when the level of supervision of the children was not adequate."

It is noted that these events were subject of reference to the Police⁷⁵.

- b. As outlined at paragraph 2.74⁷⁶, HH 47 was involved in another sexual incident on 20th June HH 47 along with another male resident.

The Review Team considered⁷⁷:

- The incident was brought to light by domestic staff and they were to be commended for that;
- There does not appear to have been any follow-up;

⁷² The report was lodged with the Inquiry on 19th June 2015

⁷³ Case Management Review Report on the Care Provided for HH 47, page 31

⁷⁴ *Ibid*, page 37

⁷⁵ Police papers in relation to same are at FJH 30449

⁷⁶ Case Management Review Report on the Care Provided for HH 47, page 41

⁷⁷ *Ibid*. page 45

- It should have been reported to the police and parents;
- “Also concerning is the fact that the activity... must have taken some time, yet it was not detected. This raises again the standard of the supervision of the Children at Harberton and the Review Team is of the opinion that, at the very least, the supervision was not adequate during the 20th June when this incident took place.”

4.28. At paragraph 5.19 the Case Management Review Team made specific recommendations in relation to Harberton House⁷⁸:

“Harberton House Children’s Home does not conform to current thinking in relation to the provision of residential care which advocates small specialist homes.

- (i) the Review team understands that it is not possible at present to replace Harberton House with two small specialist homes which would be the Team’s preferred solution. However in the meantime the size of each of the two units should be reduced to a maximum of eight places.*
- (ii) Individual programmes of care for children at Harberton House should be recorded in detail as should their implementation.*
- (iii) The standard of the supervision of the children should be improved and rotas examined to see if more contact time can be achieved with the children.*
- (iv) The way sanctions are used in relation to managing the children’s challenging behaviour should be examined with a view to assessing their most effective use.”*

4.29. In this context the HSCB recognises that there were issues in relation to supervision of children that allowed such issues to recur for some children within Harberton House during later years. In this respect it is noted that in 1994 the SSI Inspection recorded at paragraph 2.3:

“The layout of the building with its central corridor and bedroom wings at either end of it makes the supervision of children difficult, particularly as they can move

⁷⁸ Ibid. page 59

*freely around both residential units and the home's extensive grounds. Staff are conscious of the risks involved."*⁷⁹

It is recollected that this Home was purpose built in 1980, but within 15 years the layout was being questioned in relation to whether it remained fit for purpose.

- 4.30. In relation to the occupancy level of the home, the Inquiry has also received evidence that Harberton House remained at a high occupancy, particularly following the closure of Fort James on 31 March 1995.
- 4.31. In Chapter 5 the HSCB will address the implementation of the recommendations that were made by the Review Team led by Mr Bunting. In that Chapter further analysis will be offered as to the developing picture that has been set out above.
- 4.32. The Inquiry is also aware that during the 1980s, the Social Services Inspectorate in the Department instituted a programme of annual inspections of all Board and voluntary children's homes. By 1987, however, the Department considered, in the case of the statutory homes, the Board's own monitoring procedures were '*sufficiently well developed to render such frequent visits unnecessary and the Minister agreed to their replacement with a systems of inspections of each Board's overall residential services for children at 3 yearly intervals*'⁸⁰. This change of practice by the Department applied on a regional basis.
- 4.33. The HSCB notes that Departmental inspections were carried out in Harberton House in January 1986, February 1987, February 1991 and February 1994. It appears, therefore, that although the Department's own system envisaged triennial inspections, there was a gap of some four years

⁷⁹ FJH 16448 at 16461

⁸⁰ FJH 5291

between Mr O'Brien's inspection in 1987 and his inspection in 1991. It is not clear why there was a departure from the triennial system so early into its operation, particularly given the events that unfolded in Harberton in 1989/90 and their significance in terms of the management and running of the home.

- 4.34. The HSCB also notes that within the system of triennial inspections, the inspectors appear to have restricted their inspection of reports and records relating to the Homes to a consideration of reports and records for the 12 months preceding the inspection. In the HSCB's submission, this may well be significant, given that events described in paragraph 4.26 above occurred in May 1992 and would not then have been picked up by the Inspector when she carried out her inspection in February 1994.
- 4.35. The HSCB recalls that the Inquiry is examining these matters with reference to standards of the time. However, it is interesting to note that within today's legal framework supervision of children, to a degree that they are constantly observed and not free to leave or move about freely, is considered to amount to a deprivation of liberty and contrary to Article 5 of the European Convention on Human Rights.⁸¹ This demonstrates the challenges faced by social workers looking after children in residential care who strive to ensure that children are kept safe, without infringing the law.

⁸¹ M's (a minor) Application [2015] NIQB 8

5. "THE BUNTING REVIEW"

The extent to which the recommendations of the Bunting Report were met and within what timescales

- 5.1. The Inquiry is aware that following the incidents of peer abuse being detected at Harberton House, an external review was undertaken led by the Western Board following liaison with the Department. That report was available in November 1990 and was presented to the Area Executive Team on 22 November 1990⁸².
- 5.2. Thereafter the Review Report was presented to the Community Care Committee⁸³ of the Western Health and Social Services Board on 7 December 1990⁸⁴. On that date the report and findings were presented by Mr Bunting as Chair of the Review Group.
- 5.3. The report was provided to the Department of Health on the 10 December 1990⁸⁵.
- 5.4. Before addressing the implementation of recommendations therein, the HSCB submits that it is important to recognize immediate steps that were taken by the Board upon the detection of this behaviour. Most particularly: the use of waking-in staff to provide cover in the Unit at night and funding being released for 6 additional social workers, 2 of whom were to be assigned to the fostering unit.⁸⁶ It is also known that the Board undertook an internal investigation, which was recalled by HH 22 when she gave evidence to the Inquiry on Day 127⁸⁷.

⁸² FJH 16348

⁸³ This was the same entity as the Personal Social Services Committee. Transcript Day 125, page 15, lines 19 to 24.

⁸⁴ FJH 19424 at 19426

⁸⁵ FJH 10445

⁸⁶ FJH 10027 – Correspondence from Miss Lennox to the Department dated 8 May 1990

⁸⁷ See Transcript Day 127, page 63, lines 4 to 7

5.5. The Inquiry has also heard evidence around the pressures that built up in the Unit, it is likewise important to note that steps were being taken to address those concerns even in advance of the abuse being detected⁸⁸.

5.6. **Review Recommendations**

5.6.1. The Review Team made a total of 19 recommendations, however it must be noted that their first recommendation, 11.1, highlighted initiatives that were already underway on a regional basis.

5.6.2. By 17 January 1991, Gabriel Carey reported directly to Mr Haverty, Assistant Unit General Manager, in relation to each recommendation. He noted that he was currently examining the recommendations and devising an action plan in respect of those that fell within his control. He noted: “you will appreciate that there are some recommendations involving resources implications that I cannot action. There are other recommendations which are the subject of ongoing work even prior to the report from the Team being published.”⁸⁹

5.6.3. The Inquiry is respectfully referred to the detailed outline, which addresses each recommendation individually.

5.6.4. On the same date (17 January 1991) Gabriel Carey asked TL 4 to consider the points in this memo and to pursue those recommendations that fell directly within his remit⁹⁰.

5.6.5. On 1 February 1991, Dominic Burke up-dated the members of the Community Care Committee in relation to a series of meetings that had

⁸⁸ FJH 10081 – Memo of Mr Carey dated 16 November 1990 notes the employment of an additional staff member in November 1989, and a further staff member in February 1990.

⁸⁹ FJH 10170

⁹⁰ FJH 10169

taken place with management and staff⁹¹. The Committee also noted the investments that were becoming necessary, on foot of which Mr Frawley wrote to Mr Hunter at the Department on 13 February 1991 requesting consideration of “a separate allocation to address this very worrying problem”⁹². Dominic Burke also provided a detailed up-date to the Department on 27 February 1991, which likewise referenced resources, and made an application for additional resources of £130,000⁹³. The response to this correspondence from the Department appears to be dated 20 January 1992⁹⁴. No response from the Department addressing the specific requests for additional funding has been identified.

5.6.6. Also in early 1991, the Western Board had provided their proposals for resource allocation for the financial year 1991/1992 to the Department. The Department met to consider same on 28 March 1991⁹⁵. The financial allocations considered were particularly relevant to the Review Team’s recommendations, for example:

- £30,000 to provide greater support for existing foster parents and children in order to increase the pool of foster parents, thus enabling successful placement of more children;
- £99,000 to develop an area wide Child and Adolescent Psychiatry service⁹⁶;

The Department concluded that they did not require to take any direct action, rather they would continue to monitor the Board’s efforts. It is respectfully suggested that this demonstrates an acceptance that the efforts being undertaken at that time by the Western Board were appropriate.

⁹¹ Transcript, Day 125, page 19, lines 6 to 20 and Witness Statement of Mr Burke, paragraph 18 at FJH 490

⁹² FJH 10979

⁹³ FJH 726

⁹⁴ FJH 590 – the actual date is stated to be 20 January 1991, however given it is stated to be a response to correspondence of 27 February 1991, and the date received stamp indicates 21 January 1992, thus must be an error.

⁹⁵ FJH 10420

⁹⁶ An advert for a child and adolescent psychiatrist for the Western Board, which appears to be dated 17 January 1992, is available at FJH 10399

- 5.6.7. Also in March 1991, TL 4 had met with Mr Haverty (then known as Chief Social Work Adviser within the Unit of Management on 25 March 1991 to consider the training of residential staff. A report from TL 4 and HH 5 was requested, and provided by the former on 4 April 1991⁹⁷. It is clear that this issue was being considered with respect to, and in the context of, the Review Team's Report.
- 5.6.8. By 7 November 1991, just shy of 12 months post-publication of the Review Team Report, Gabriel Carey provided a further detailed report to Mr Haverty, again addressing individual recommendations⁹⁸. Reference is again respectfully made to the full detail of that document. Gabriel Carey concluded:
- "There may be one or two recommendations with which I have not dealt with since I do not believe they fall within my span of control. However, you will see that most of the recommendations have either been acted upon or we are currently working on them. Some of the recommendations have significant resource implications and could clearly only be implemented over a period of time."*
- 5.6.9. On 7 April 1992 Dominic Burke provided Dr McCoy, Chief Inspector, a detailed up-date report with reference to each recommendation⁹⁹. In particular, up-dated information is provided regarding the allocation of £263,800 to Family and Child Care programmes in the Board's purchasing plan for 1992/3 – 1994/5 with a full breakdown of the developments proposed. It will also be noted that this correspondence delineates between those actions that could be implemented, those that require resources, and those that were not considered to be a high priority need¹⁰⁰.
- 5.6.10. The Department's response, penned by Dr McCoy on 15 May 1992, noted:

⁹⁷ FJH 10149

⁹⁸ FJH 10022

⁹⁹ FJH 10373 -10379

¹⁰⁰ The only recommendation identified as not being regarded as a high priority need was "The mound in the ground of the home should be levelled."

“The Board is to be commended for the comprehensive range of measures introduced following this most thorough scrutiny of its services”.

The response identified just three areas of continuing concern for the Department: the continued recruitment of unqualified staff to Harberton House; the additional social work posts recommended by the Review had not been created in full (3 out of 8 social workers only at this point); the span of control of the Assistant Principal Social Worker had not yet been addressed.¹⁰¹

5.6.11. The HSCB suggests that the extent and detail of correspondence outlined above demonstrates a detailed, careful and thoughtful approach to ensure that the Review Team’s Report was considered and implemented to the fullest extent possible.

5.6.12. It is also to be recognised that the Review Team’s Report remained an important reference document over subsequent years. It remained under review right up to 1995, with HH 40, Programme Manager, writing to HH 39, Unit General Manager, in respect of same on 11 January 1995¹⁰².

5.6.13. It remained the position however, that even with 5 Senior Social Workers and 33 Social Workers, the Foyle Community Unit remained disadvantaged, even when compared to the 1990 staffing levels in North & West Belfast, which had been identified as an appropriate comparator by the Review Team. This was despite an increase in the total caseload within the Family and Child Care Programme. In this respect HH 40 noted:

“Given the increased workload since the report was prepared, I believe it is fair to say that the pressures on child care staff within this Unit of Management are considerably greater.”

¹⁰¹ FJH 10371

¹⁰² FJH 20097

5.6.14. In respect of recommendation 11.3 of the Review Team, which anticipated the appointment of an additional 4 Senior Social Workers (Team Leaders), and 8 Social Workers, it was clear that this had still not been achieved. HH 40 reported that only an additional 4 field social work staff had been appointed, and there had been no additional Senior Social Worker appointments. He noted that the Review Team proposed a ratio of 1 : 4 for Senior Social Worker to Social Worker and this was not being met in any of the Unit's offices. He offered a specific example of 1 Senior Social Worker to 8 Social Workers in the Riverview office.

5.6.15. HH 40 concluded:

"I feel that the picture that emerges (not only from this Review, but also from the report of the Case Management Review conducted in the HH 47's case), is that this Unit of Management is not adequately resourced to meet the demands placed upon it. I believe that we would need to be robust in our discussions with the Purchaser with a view to obtaining an additional input of resources so that we can maintain the high quality standard that we set for ourselves..."

5.7. Sharing of Information / Learning

5.7.1. While this was not a specific recommendation of the Review Team, it was a clear need identified by the Board and the Department. It was taken forward most notably through the organization of a symposium to consider the subject which was finally held on 4th February 1992. The genesis of this was described by Dominic Burke in this evidence thus:

"A debate took place within the Board as to how do you ensure that the lessons to be learned from this are disseminated and in that context then we began to look at how that might be taken forward. Initially it was thought that it would be representatives of the Eastern Board, who had gone through a fairly traumatic experience some years earlier, as well as ourselves, but in discussion it then became clear that this was a much bigger and emerging issue, and hence we were in a position to bring in a researcher, , and Tom White from the National

*Children's Home came and spoke. So it was important to get that -- the knowledge that was out there and bring it together so that it could be shared in Northern Ireland."*¹⁰³

- 5.7.2. In this respect the Inquiry has available the final advert for this symposium¹⁰⁴ and Mr Burke's correspondence of 16 December 1991 sharing same with the Department. This letter notes and confirms that the event has been publicized regionally through Area General Managers, Directors of Social Services, Unit General Managers and other relevant staff in the voluntary sector¹⁰⁵.
- 5.7.3. Further the papers delivered at the symposium, which was opened by the Chair of the Western Board and the Minister, are available¹⁰⁶. Mr Burke explained in his evidence that this was a "*serious attempt at raising awareness*" and an opportunity for staff to discuss this emerging issue.¹⁰⁷
- 5.7.4. The Inquiry will have noted that a period just in excess of 12 months passed before this symposium was held. The HSCB submits that the genesis for this symposium was much earlier¹⁰⁸, but the event was delayed to take account of a continuing Committee of Inquiry into "Children and Young People who Abuse Other Children", from which relevant information was not going to be available until late 1991. As noted in correspondence of 27 June 1991 from Mr Frawley, Area General Manager to Mr Hunter, Chief Executive, DHSS, the need for the event had not been forgotten and if the Department considered that an earlier event focusing on Northern Ireland was preferable the Board were willing to discuss that¹⁰⁹.

¹⁰³ Transcript Day 125, page 21, line 21 to page 22, line 9

¹⁰⁴ FJH 10401

¹⁰⁵ FJH 10400

¹⁰⁶ FJH 092

¹⁰⁷ Transcript Day 125, page 22, lines 13 to 24

¹⁰⁸ Mr Frawley made the proposition to the Community Care Committee on 23 April 1991, FJH 522

¹⁰⁹ FJH 16363

- 5.8. Chapter 4 considers in more detail the context within which the peer sexual abuse occurred at Harberton House and the issues that impacted upon the failure to detect same over a period approaching 3 months. Consideration is also given in that Chapter to the issues that arise from the Case Management Review into the HH 47 case at paragraphs 4.27 to 4.28.
- 5.9. It has already been highlighted above that in respect of recommendations, particularly directed at fieldwork staffing, those had still not been achieved some 4 years after the Review Team reported, despite demand having increased in the interim. While it is submitted that the information outlined above demonstrates good and determined efforts to pay heed to the recommendations of the Review Team, and to implement same in full, the HSCB considers that the events which followed at Harberton House, particularly in respect of HH 47, must cast doubt upon the efficacy of same.
- 5.10. There are, however, in the HSCB's view a number of factors to be considered. The events in Harberton House from 1989 to 1994 that have been detailed in Chapter 4 are snap shots of separate incidents in time which are part of a moving picture. The first focus is what was happening within the Home. However, that could also be seen as a reflection of what was going on in the wider community. As these difficulties moved into the Home, the challenges for staff and management increased.
- 5.11. The availability of resources in respect of the Bunting recommendations that were not fully implemented also merits consideration. In this respect Chapters 2 and 3 consider the funding position of, and within, the Western Board in the context of the available evidence to date.
- 5.12. It should also be highlighted that both the reports in relation to the peer abuse and the care given to HH 47 were provided to and

considered by the Department. Some of the recommendations made within the Bunting Peer Abuse report, for example the need to address significant gaps identified in staffing, were such that a large scale investment would have been required in circumstances in which the WHSSB's resources were already committed and stretched. Such investment was beyond the WHSSB's capacity to respond.

- 5.13. Significantly, the correspondence referred to at paragraph 5.6.5 detailed two requests from the Board to the Department in February 1991 for a separate allocation to implement the Bunting recommendations. Despite these requests no response was received from the Department for 11 months. Within that response, it appears that the Department was leaving it to the Board to find an impossible sum from within its existing resources. One question is the extent to which the Department addressed these issues, in the knowledge of significant concerns around staffing deficits, to allocate a one off payment so as to permit the full implementation of the Bunting recommendations.
- 5.14. Understanding what response, if any, the Department made, becomes all the more important, it is submitted, when their knowledge that further significant events of concern had occurred in 1994 as detailed in the **HH 47** **HH 47** Case Management Review Report. In addition the adequacy of the Department's response to conditions in the Foyle Community Unit of Management in April 1995 is addressed in Chapter 3 at paragraph 3.31.
- 5.15. In respect of the longer term implementation by the Western Board, the HSCB would wish to note that they identified, in their strategic planning, an intention to move towards smaller residential homes for children. These plans were fully implemented between April 1999 and February 2004, during which time a number of 4 and 8-bedded units were opened to replace the previous provision. Today, there are 50 residential beds in the

Western Trust, with an occupancy of 33. The focus remains to ensure the best care and outcome for children.

- 5.16. Further, the Bunting Review advocated developments within foster care, particularly with reference to the development of fee-earning foster care (recommendation 11.6). The HSCB confirms that this has remained a priority for the Western Trust, whose current foster care strategy is linked to the development of a differentiated model of foster care that marries 'professionalisation' of foster care alongside the traditional voluntary model of foster care.
- 5.17. In this respect the current profile of approved foster carers within the Western Trust includes: 167 kinship carers, 163 foster carers and 28 fee-paid (professional) foster carers. There are in addition further carers that have dual approval as foster carers and prospective adopters. Implementation of changes in services of this nature takes time when the recruitment and training of carers is considered. First there is a need to identify individuals and couples who wish to foster. Experience suggests that it is often very difficult to attract enough people into fostering and particularly fostering of children with complex needs, even where fees (payment) are offered. To try to assist with this process a Regional Fostering Service was set up in 2007. More latterly this became the Regional Fostering and Adoption Service to try and assist with the process of recruitment by using a range of creative and regional techniques including television advertisements. To date, it has been the experience of the HSCB that a small percentage of individuals who initially apply actually remain committed to the task, once they know about the challenges presented by the children involved as a result of the training and assessment being undertaken.
- 5.18. This up-to-date information is offered by the HSCB to demonstrate the rewards of continued work by the Western Trust in this respect.

**THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE 1922
TO 1995**

MODULE 5

**CLOSING WRITTEN SUBMISSIONS FOR
THE HEALTH AND SOCIAL CARE BOARD**

APPENDIX 1

Minutes of WHSSB Administrative Services Committee, 26 February 1992

Western Health and Social Services Board

Minutes of the sixth meeting of the Administrative Services Committee held in the Boardroom, Board Headquarters, Gransha Park, Londonderry, on Wednesday, 26th February 1992 at 10.00 am.

PRESENT:

Mr W S Donaghey - Chairman	
Mrs M Cooper	Mrs R Lavery
Mrs A F Mark	Mr R G Toland
Mr A Jackson	Mr P Kelly
Mr T J Frawley	Mr D Burke
Dr W W McConnell	Mr S Cuddy

IN ATTENDANCE:

HH 39, Mr N Dykes

1/92

Chairman's Remarks

The Chairman informed members that the main items of business for discussion at the meeting were (i) The Financial Framework 1992/93 and (ii) The Draft Purchasing Plans 1992/93 - 1994/95.

He reminded members that in the past the allocation of resources had been the responsibility of the Resource Allocation Committee but with the restructuring of the Board and its Committees it was felt appropriate that issues related to the allocation of resources should now be dealt with by the Administrative Services Committee. He said if this process was accepted, meetings of the Resource Allocation Committee scheduled for April and November each year could be deleted from the annual programme of meetings and the minutes of the November 1991 meeting of the Resource Allocation Committee would be presented to the April meeting of the Administrative Services Committee.

FOLLOWING THE CHAIRMAN'S COMMENTS MEMBERS AGREED THAT THE RESOURCE ALLOCATION COMMITTEE MEETINGS SCHEDULED FOR APRIL AND NOVEMBER EACH YEAR SHOULD BE DELETED FROM THE ANNUAL PROGRAMME OF MEETINGS AND THAT ANY BUSINESS PROCESSED BY THAT COMMITTEE SHOULD IN FUTURE BE DEALT WITH BY THE ADMINISTRATIVE SERVICES COMMITTEE.

IT WAS ALSO AGREED THAT THE AUDIT COMMITTEE SHOULD IN FUTURE REPORT TO THE ADMINISTRATIVE SERVICES COMMITTEE.

2/92

Previous Minutes

THE MINUTES OF THE PREVIOUS MEETING HELD ON 18TH DECEMBER 1991 WERE APPROVED AND SIGNED.

- MATTERS ARISING -

the record or the minute dealing with the introduction of a Citizens Charter for Northern Ireland. He advised that a Patient's Charter would be introduced in Northern Ireland on 4th March 1992.

- END OF MATTERS ARISING -

4/92

Board's Draft Purchasing Plans

(a) Resource Allocation Framework 1992/93

A document outlining the Board's financial framework for 1992/93 had been forwarded to members.

At the invitation of the Chairman, Mr Cuddy took members through the contents of the document.

Commenting on the N.I. resource background 1992/93 Mr Cuddy informed the Committee that the HPSS allocations for 1992/93 signalled the introduction of the first phase of the new capitation based resource allocation system announced in the Northern Ireland Working Paper "New Funding Arrangements for Health and Social Services Boards". Under these arrangements Boards are being funded to reflect their resident populations through a capitation based system which includes weightings to reflect the size, age and social needs of their own population. He said a key element of the new arrangements was that for 1992/93, Board's should receive sufficient resources to purchase at least the same level of services enjoyed by their resident populations as at 31st March 1992.

He advised that a total of £1,242 M will be provided to the N.I. H & P S S in 1992/93, and increase of 7% over allocations for the 1990/91 figure of £1,160 M approximately and he reported that the main allocation headings were as follows:-

	£M
Revenue Funds to Boards	891
Family Practitioner Services	251.5
Capital	40.8
Centrally Financed Services	36.6

Referring to the revenue allocation of £891 M he said the figure indicated an increase of £59.5 M (7.2%) after yielding up £10.7 M (1.3%) in efficiency savings. He then took members through a detailed analysis of the £891 M revenue allocation to the Boards indicating that the Western Board's share would be £135,934,000 representing the total purchasing power of the Board.

Commenting on capitation funding targets Mr Cuddy indicated that in order for the Department to achieve capitation targets accross the region by 1994/95, it will be necessary to skew approximately £6.3 M each year to the three smaller Boards. However he said in 1992/93 only £4.3 is available for allocation making possible only limited progress towards target figures.

Mr Cuddy commented that he would be concerned in light of this years limited progress about the scale of adjustment that would be necessary for the Department in a limited timescale to complete its projected programme for capitation.

Referring to capital allocations to the four Boards of £16.2 M for the 1992/93 year he pointed out that the allocation reflected a reduction of £2.2 M from the previous year's allocation. Members noted that the Western Board had been allocated approximately £2.1 M capital funds.

Mr Cuddy drew member's attention to a financial review of the 1991/92 year detailed in the document and stated that although the Committee had received financial reports on a regular basis at each meeting he had included a review of the 12 months for their information. He stated that the projected outturn on recurring revenue budgets (i.e. salaries and wages and goods and services) indicated a total underspending of £925,000, equivalent to 0.75% of the Board's revenue budget. He stressed that it was important to note that this was the outturn after funding inflation in full. He pointed out that the Board was then able to re-allocate the revenue underspendings to address a number of priority maintenance schemes and purchase additional medical and other equipment, subject to the constraints of the moratorium.

Commenting on the financial framework for the 1992/93 year, Mr Cuddy stated that although the Board, at the beginning of the 1991/92 year, had inflation provisions totalling £1.42 M the inflation outturn in the 1991/92 year plus the effect of an additional allocation of £1,603,000 had resulted in a total shortfall of £710,000. He indicated that current estimates of NHS inflation for 1992/93 were in the region of 6% Pay and 5% Prices, but in addition there were other issues to be taken into consideration eg regrading exercises, clinical nurse grading appeals and arrangements in respect of junior doctors hours. He said it was therefore proposed that the total inflation provision for 1992/93 should be fixed at £1.1 M.

Continuing, Mr Cuddy took members through proposals in respect of cost improvement programmes detailed in the document indicating a cash release of £1,215,000.

Mr Frawley, commenting on the issue explained that the Board's Units of Management were finding it extremely difficult year after year to meet their cash releasing target figures of 1.2%. He spoke of the difficulty of trying to sustain a commitment which was continually cutting into the infrastructure whilst at the same time they were being asked to meet additional requirements in terms of increasing volumes of work and improvements in service provision.

In response to a comment from Mr Toland, Mr Frawley elaborated on the background to the introduction of cost improvement programmes.

During discussion on the subject concern was expressed by members regarding the accumulative effect on the Board's services brought about by the cost improvement programme.

Continuing with his presentation Mr Cuddy informed the Committee of savings achieved as a result of the competitive tendering process. He also referred to unfunded revenue commitments including (i) N. Ireland residents treated in Great Britain (ii) Medical Negligence claims (iii) Information Technology (iv) Mental Health Services and Donaldson II (v) Redefinition of boundary between Omagh and Strabane (vi) Development of a project around the concept of a nursing care unit.

Commenting on the Revenue and Capital Allocations for 1992/93, Mr Cuddy took members through the make-up of the total funds available for development £2,676,000 and elaborated on the proposed distribution of that sum as detailed in the document. He pointed out that the total of £2,676,000 included £1,410,600 available for purchasing plans. He stressed that the scale of development funds available was only possible because of the Board's ability to continue to yield up considerable savings from cost improvement initiatives, including competitive tendering. However he explained that savings from these sources in future years will be much reduced with the significant savings from competitive tendering already realised from Catering, Domestic Services and Laundry.

Continuing, Mr Cuddy drew member's attention to the proposed application of the £135,934,000 revenue funds for 1992/93 and elaborated on the information as detailed in the document.

Mr Cuddy then took members through the section dealing with Capital Funds commenting on the make-up of the funds and the proposed application of the £4,008,000 available for distribution. During discussion on the proposals for capital funds application Mr Frawley commented on the proposed expenditure of £375,000 for the purchase of a Tunnel Washer.

Commenting on the section dealing with the Development of Community Based Services for Mentally Ill and Mentally Handicapped People, Mr Cuddy took members through the sources of funds for community development 1992/93 totalling £2,410,000 and elaborated on the schedule of information for the distribution of the funds set out in the document.

Referring to the final section of the document dealing with the development of financial systems Mr Cuddy stated that he was pleased to report that the Western Board was making good progress in relation to the development of the various initiatives for finance and financial management.

Mr Cuddy concluded his presentation by taking members through the recommendations in relation to the financial strategy for Revenue Resources and proposals for the application of Capital Funds 1992/93 as detailed in the document.

During the ensuing discussion the Committee agreed that it would be appropriate to defer a decision on the recommendations until the second presentation on the draft Area Purchasing Plan 1992/93 - 1994/95 had been completed.

Mr Toland thanked Mr Cuddy for his presentation on the Financial Framework for 1992/93.

(b) Draft Purchasing Plans 1992/93 - 1994/95

Members were advised that the Document was in draft form and was at present distributed for consultation, with comments being requested by the Board before the 6th March 1992. It was then intended that the final Document would be presented to the Board meeting on 26th March 1992.

Mr Frawley, introducing the Draft Purchasing Plans 1992/93 - 1994/95 drew member's attention to information in relation to the Regional Medical Services Consortium. He advised that within Northern Ireland certain specialist services are provided by one Centre, which has very special expertise, use expensive equipment and are frequently at the leading edge of technological development, requiring to service the whole N.I. catchment population if they are to remain clinically and economically viable. He said that to contract for these services a consortium comprising of representatives of the four Boards and the Management Executive had been set up. He explained that the consortium was not a new agency for purchasing services, but rather a vehicle through which Boards can work together to secure particular services for the communities they served.

In response to a question from Mr Jackson, Mr Frawley elaborated on the process involved, the criteria applied and factors influencing the inclusion of bids for funds by Units of Management in the various programmes of care.

Acute Hospital Services and Care in the Community

Dr McConnell took members through development proposals for 1992/93 in respect of Acute Hospital Services and Care in the Community and elaborated on the detail of the proposals as follows:-

Acute Hospital Services

1.	Altnagelvin Groups of Hospitals	£
	Coronary Heart Disease	- 50,800
	Waiting List Initiative	- 159,750
	R.M.I. Medical Support Services	- 39,050
	Accident and Emergency	- 120,000
2.	Omagh/Fermanagh Hospital and Community Services Unit	83,500

	Total -	£453,100

Care in the Community

1.	Altnagelvin Group of Hospitals	- 50,700
2.	Omagh/Fermanagh Hospital and Community Services Unit	- 10,500

	Total -	£61,200

During discussion on the provision of Community based physiotherapy services members noted that it would be useful to have some form of mechanism in place to measure the levels of provision of physiotherapy and related services within the community.

Child Care Services

Mr Burke drew member's attention to the key additions to existing services for 1992/93 in respect of Child Care Services and commented on the detailed information outlined in the document as follows:-

Omagh/Fermanagh Hospital and Community Services Unit	-	£ 151,000
Foyle Community Unit	-	112,800

Programme Total -		£263,800

Mr Burke explained that a number of the developments included in the above proposals and outlined in the document would result in a shift of service from institutional to home based care with resultant improvement and better long term outcomes.

Health Promotion

Dr McConnell informed the Committee that the Board's broad policy aims on health promotion during 1992/97 will be to (i) Help establish integrated public policies which contribute to health improvement (ii) Strengthen community participation and action (iii) Develop personal skills (iv) Encourage a re-orientation of health services towards health promotion and disease prevention. He explained that the overall aims of the programme were to - promote healthier lifestyles, encourage the uptake of preventative services and involve local communities in the planning and development of these services, Dr McConnell advised the Committee of the extent of G.P. involvement in the programme and then took members through a detailed list of objectives for 1992/93.

Mental Health Services

Referring to development of purchasing intentions for Mental Health Services 1992/93, Mr Frawley took members through the detailed information and elaborated on specific aspects of the proposals including:-

		£
Child and Adolescent Services	-	224,200
Quality Development Unit	-	43,650
Mental Health Promotion	-	20,680

Programme Total	-	£288,530

Services for Elderly People

Mr Burke commenting on services for elderly people drew member's attention to a schedule of purchasing proposals 1992/93 outlined in the document and commented on the following:-

		£
Altnagelvin Group of Hospitals	-	19,000
Omagh/Fermanagh Hospital and Community Services Unit	-	34,000
Foyle Community Unit	-	32,360

Programme Total	-	£85,360

**THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE 1922
TO 1995**

MODULE 5

**CLOSING WRITTEN SUBMISSIONS FOR
THE HEALTH AND SOCIAL CARE BOARD**

APPENDIX 2

Minutes of the Western Health and Social Services Board, 28 November 1996

WESTERN HEALTH AND SOCIAL SERVICES BOARD

Notes of the two hundred and eighth meeting of the Western Health and Social Services Board held on Thursday 28 November 1996 at 10.00 am in the Boardroom, Western Board Headquarters

PRESENT:

Mr R Toland	Mr P J Kelly
Mr J Bradley	Mrs A Mark
Mr D Burke	Ms K Meehan
Mr S Cuddy	Dr W McConnell
Mr T J Frawley	Mr L Shiels

IN ATTENDANCE:

Mrs H Doherty
Mr F Hughes

APOLOGIES: Mrs M Cooper

17/96 CHAIRMAN'S REMARKS

Commencing, Mr Toland welcomed members to the final Board meeting of 1996. The Chairman said that he was particularly pleased to welcome Leslie Shiels to his first meeting of the Board. Mr Shiels, he said, had joined the Board as a Non Executive Director and his arrival meant that the Board had now its full complement of Board members for the first time in several years.

Mr Toland advised that Mr Shiels came from Strabane and had wide experience in both the business and community sectors. The fact that Mr Shiels came from Strabane, he said, meant that the Non Executive Directors were drawn from right across the Western Area, from Limavady through to Fermanagh.

Mr Toland, commencing his Chairman's Remarks, referred to the significance of the time of year for public services. He said that the Chancellor had published his budget on Tuesday and over the next few weeks, members would learn in more detail of how his decisions would affect the allocation of the Northern Ireland block and in particular their impact on health and social services. Therefore he said it seemed an appropriate time for him to publicly plead the case for health and social services before the Secretary of State and his Ministers would make their crucial allocation decisions.

He continued that as the Board had warned throughout the year, the impact of this year's 3% cash releasing target had been very damaging. Month after month, he said, the Board had seen its progress on reducing waiting lists and in developing community services being eroded. He added that the public quite rightly had perceived these pressures as cuts in services. In addition he said

there was now real anxiety in the community regarding the future of the whole health and social care system.

The Chairman went on to say that Government seemed to believe that the public was more concerned with achieving cuts in taxes than in securing the future of public services. This he believed to be a misjudgement. He explained that over the past 12 months, he found that more and more people whom he had spoken to had indicated to him that they would be willing to pay additional tax if they could be assured that this would translate into high quality health and social care and education services. Therefore he said that he would once again ask the Secretary of State and the Minister for Health and Social Services to do everything they could to resist further cuts in our allocation. He stressed that a cash releasing target of 3% for 1997/98 would be highly damaging and could put important services and jobs at great risk. He accepted that the service must continue to pursue greater efficiency however he said if the Board must experience a further cut then he would appeal to the Minister to set an efficiency target which promoted productivity rather than cut the resources available to the service.

Capitation

Continuing Mr Toland alluded to references in previous Chairman's Remarks regarding the ongoing review of the capitation formula. He explained that capitation referred to the sum of money which the Board received for every man, woman and child who lived in the Board's area. It included weightings for age, gender and deprivation levels.

He informed the meeting that the Western Board could demonstrate that for many years the formula used to allocate funding to the four Boards did not accurately reflect the needs of its population. Indeed he said it had been estimated that over a period of ten years, the Board had "lost out" to the tune of £40 million. He continued that this imbalance had not been addressed until three years ago but there was now a very real concern that the current review could once again disadvantage the people of the West.

The Chairman reminded members that the Western and Southern Boards had managed to secure a deferment by the Minister of the implementation of the proposed formula which could have resulted in the Western Board losing over £8 million from its budget.

He advised that over the past year, the Board and particularly Dr McConnell and Mr Cuddy had been working intensively to ensure that any new formula was fair and transparent and he added that there had been real movement as a result of their efforts. However he said the Board remained at risk of having its allocation reduced.

The Chairman went on to say that he believed the Board's representatives had done an excellent job on behalf of the people who live in the Western area. The task he said now lay with the Board to decide the position it should take in relation to the current stage that the Capitation Review Group had reached. He believed it was important that this debate took place in public therefore he invited members to contribute to an open discussion on the issue when they would reach the capitation review item on the Administrative Services agenda during the meeting.

A Fair Share

Continuing his Remarks, the Chairman said that anyone watching local television or reading regional Northern Ireland newspaper headlines over the past couple of months could be forgiven for thinking that the only funding pressures in the health and social services were to be found within the boundaries of the Eastern area.

Mr Toland said that he wanted to make it clear that factors such as deprivation, rurality and population sparsity in the West of the Province presented the Board with a huge challenge in providing appropriate access to services. He explained that the reality was that the Board had to commit significant resources to maintain an effective pattern of services which was accessible to and met the needs of those who live throughout the Western area. This he said was expensive in the Western area because of the need to take account of the fact that the population was dispersed over a very wide area and experienced very high levels of deprivation.

Mr Toland went on to say that he found it both regrettable and unacceptable that the media had tended to focus on funding pressures in the East of the Province where the level of access to hospital services in particular was very much greater than that experienced by people who live in the West. He said that he fully appreciated that no part of the service could continue to absorb cash releasing targets year after year. However he stressed that the Western Board was suffering much more severely than those parts of the Province which enjoyed greater access to services. Continuing Mr Toland challenged editors and journalists to examine the wealth of research which he said demonstrated the unfairness of a system that continued to deprive our local community in the West of the services which were so clearly needed.

He said he was so convinced of the Board's case that he would be happy to co-operate with his fellow Board Chairmen in the establishment of an independent group which would examine issues of equity and accessibility across the Province. In any event, Mr Toland said that he hoped that the media would reflect the fact that there was a world outside of Belfast and would accept that there has tended to be an imbalance in the way in which funding issues in the Eastern area were being highlighted. He added that Board members would be well aware that there were many communities in the Eastern area which were

significantly better off than any part of the Western Board and those populations enjoyed greater access to services than their counterparts in the West.

Recent Correspondence with the Minister

Continuing his Remarks, Mr Toland went on to explain that although the four Boards disagreed from time to time about the level of funding which was allocated to each Board, they all shared a common commitment to secure the optimum allocation for the HPSS.

In this spirit, Mr Toland said that the four Board Chairmen had recently taken the unprecedented step of writing a "joint letter" to the Minister to ask him to protect services from further cuts. He said that the Minister had now responded to the letter and he tabled copies of the correspondence in order to bring members up to date on the ongoing correspondence.

The Board's Decision to Limit Referrals to South Tyrone Hospital

Mr Toland reported that Board officers had been having ongoing discussions with General Practitioners in both Omagh and Carrickmore about the decision taken at the Board's September meeting to defer any further referrals other than emergencies to the South Tyrone Hospital.

He said that it was accepted that the Board had reached this decision without the level of involvement and discussion which should have taken place with GPs around the detailed financial pressures which faced the Board. Therefore he said that he had been happy to support a meeting between the General Manager and GPs to discuss these difficult and complex issues.

Mr Toland continued that the meeting had taken place in Carrickmore on 13 November and as a result of the meeting, he said Mr Frawley would be asking the Board within the minutes of the Health Care meeting to revisit its decision.

Board Meeting with the Minister

Mr Toland referred to the Minister's visit to the Board at the end of October. He said that this had been the first time that the newly constituted Board had had an opportunity to raise issues of concern directly with Mr Moss and he felt that the overall discussion and the Minister's responses reflected a very healthy though challenging dynamic between the Department and the Board. The Chairman believed that the Minister now understood the Board's perspective on a number of key issues and he thanked Board members for their contribution to the very interesting discussion with the Minister.

**THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE 1922
TO 1995**

MODULE 5

**CLOSING WRITTEN SUBMISSIONS FOR
THE HEALTH AND SOCIAL CARE BOARD**

APPENDIX 3

Correspondence from the Management Executive Financial Management
Directorate, 23 January 1995



Management Executive
Financial Management Directorate



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23 January 1995

*Health and Social Services
 City of Belfast
 31 JAN 1995
 B. H. Stewart
 Any Views
 Duncraig
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 A. L. O. / as*

To: Members of the Capitation Formula Review Group

I enclose a copy of the following papers for your consideration:

- **Capitation Review-Structure of a new Formula; and**
- **Capitation Review-Implications for NI of the York Work.**

The latter paper has been updated by Alison McQueen to show the stability of the York formula for Northern Ireland using SMR weighted by 0.8.

R. Fisher

**R FISHER (Miss)
 Planning and Allocations Unit
 Room 1026
 Dundonald House**

CAPITATION REVIEW- STRUCTURE OF A NEW FORMULA

1. A subgroup of the Capitation review group met with Gwyn Bevan and Peter Smith so that they could help in the formulation of what needs to be done next in the development of a formula. The group felt, even though it had not been decided necessarily to go down the Programme of Care (PoC) line the discussion would have to be structured around the PoCs.
2. Before considering each PoC a number of basic principles were established. Any methodology within a PoC would have to adhere to these principles given below.
 - 2.1 The programme size (in terms of money) should be taken into account before any expensive formula development is embarked upon.
 - 2.2 The formula should use the population of relevance to the PoC.
 - 2.3 Any factors and/or weights used must have a basis in evidence. It should be established that the factor has an impact and what size that impact is.
 - 2.4 There should be no perverse incentives built in to the formula.
 - 2.5 The formula should use, as far as possible, frequently up-datable sources.
 - 2.6 The formula should be easily understood and be as uncomplicated as possible.
 - 2.7 The formula should be sensitive to THSN.
 - 2.8 The formula should focus on allocations to Boards. (GP fundholding is seen as a within-Board issue).
 - 2.9 In development of formulae consideration should be given to inescapable cost differentials for urban/rural areas.
 - 2.10 The PoC methodology allows an evolutionary approach ie it may not be possible to have the complete answer available for June 1995.
3. The attached is a diagrammatic representation of the suggested structure of a new formula. A number of boxes have been labelled and the paragraphs below give the subgroup's recommendation of what could/should be done in each one.
 - A. The NHS, York derived, cost curve should be used.
 - B. The NHS, York derived, needs formula should be used.
 - C. It is suggested that the elderly in age bands 65-74, 75-84 and 85+ should be weighted

- 1,2,4. The work being done by Sheffield to determine the appropriateness of this should be investigated.
- D. Sheffield are also looking at the issue of needs variables. This should also be investigated.
 - E. Provisionally the results of the PPRU Disability Survey should be used to produce prevalence rates by age.
 - F. The York Psychiatric cost curve should be examined.
 - G. Use the York needs formula.
 - H. Commission a study to develop an appropriate mechanism for weighting the Board population for prevalence and service costs by age group.
 - I. Commission study to develop appropriate mechanism for weighting Board population aged 0-17 for age and service cost.
 - J. Commission literature review to determine if an appropriate set of weightings can be developed to take account of measurable needs variables.
 - K. Investigate the relationship between Low Birth Weight and/or maternal age and service use to determine if appropriate weighting could be based on these measurable attributes.
 - L. This is to be the subject of a separate Product.
4. Except where it says 'commission' it is envisaged that the work could be done 'in house'.

