

**THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE 1922 TO 1995**  
**SUBMISSIONS FROM THE DIOCESE OF KILMORE**  
**& CARDINAL SEAN BRADY**

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1. In making submissions to the Inquiry in respect of module 6, Father Brendan Smyth, the Diocese of Kilmore and Cardinal Brady re-iterate their apologies as set out at paragraph five of his statement to the Inquiry dated 9<sup>th</sup> June 2015 by Fr Donal Kilduff, Chancellor and Diocesan Secretary to the Diocese of Kilmore in his statement to the Inquiry and in respect of Cardinal Brady his apology as set out in paragraph 16 of his statement of 11 June 2015 and paragraph 14 of his statement of 19 June 2015. Both the Cardinal and the Diocese apologise unreservedly to any child abused by Brendan Smyth for that abuse and for the hurt and harm caused. The actions of Brendan Smyth must be condemned unreservedly. The abuse of his position of power is a cause of profound pain and suffering to all his victims and a source of shame and deep sorrow to all in the Church he purported to represent.
  
2. The Diocese of Kilmore and Cardinal Brady have co-operated fully in the production of requested documentation, provision of information and in attending the Inquiry in order to assist the Inquiry
  
3. It is to be hoped that with the provision of the documentation available to the Diocese and the attendance and input of Cardinal Brady that the context as to how the information received by the Diocese on Father Brendan Smyth was received within the Diocese and ultimately dealt with might be more fully understood.
  
4. The Diocese has provided documents relating to three complaints made directly to the Diocese, in respect of allegations in 1955, one the late 1960s by [REDACTED] which was reported in 2010 and dealt with by recommending reporting to the civil authorities and a contemporaneous report of 1973
  
5. [REDACTED] made an allegation of abuse on 25 May 2012, which happened, in 1955. He asserts he told the then Fr Francis MacKiernan (later Bishop MacKiernan) about the

abuse in 1957. There is no documentary proof of this nor evidence that it was acted upon. The 2012 report was acted upon appropriately.

6. As regards the allegation referred to in 1973, **FBS 49** recalls that Bishop MacKiernan sent correspondence to the mother of the 14 year old girl alleged to have been abused, indicating Fr Smyth had been treated by a psychiatrist and that the mother could be assured that this would not happen again. Again the Diocese holds no documentation supporting this assertion or that it was actioned. If these allegations are true, the failure of the diocese to take action is indefensible.

7. The first record of Bishop McKiernan having information relates to the events, which took place at Easter 1975. **FBS 38** made a complaint of abuse to **FBS 48** who contacted Bishop Francis MacKiernan, the then bishop of Kilmore, who arranged to have the matter investigated.

8. Cardinal Brady surmised that if Armagh had received the report at first instance (as the allegation had been made in that diocese) from **FBS 48**, it would have conducted a formal reception of the denunciation of a crime, regarded as a first stage of the process; but thereafter the matter would have been referred to the Bishop of Kilmore to investigate the activities of Fr Smyth a Priest residing within the Diocese. There may have followed a referral of the matter to the Congregation for the Doctrine of the Faith in Rome.

9. Fr Brady (later Cardinal Brady) was asked by Bishop McKiernan to become involved in the investigation. At the time Fr Brady occasionally assisted the Bishop in administrative duties; he was a full time teacher and had no previous experience of such an investigation. Cardinal Brady's handwritten notes (made, it is believed in or around 2005) explain that he requested **FBS 50** to assist. These notes made some 30 years after the events are an effort to recall events but Cardinal Brady cannot recall exactly how **FBS 50** came to be involved. **FBS 50** was older than Fr Brady and like him was also a Canon lawyer.

10. The investigation took place in the Dominican Friary in Dundalk on Easter Saturday 29 March 1975. Present were FBS 50, FBS 48 and Fr Sean Brady. FBS 50 asked questions of FBS 38 and Fr Brady recorded the answers.

11. The process loosely followed the procedure, which would have been used at a Marriage Tribunal, for example there would not be anyone else present and evidence was on sworn oath. To transpose this type of investigation to one involving children and a paedophile with typical recidivist behaviour (albeit that Fr Brady was unaware of other offending behaviour by Fr Smyth) was not in the best interests of FBS 38, FBS 39 or sadly the other children named by the children interviewed.

12. In assessing the appropriateness of the investigation, by way of context one should be aware that precedent guidance for the interviewing children is relatively new. In 1975 police interviews were governed by the Judges Rules and the Home Office guidance to be used during the *Interrogation of Children and Young Persons* suggests:

*“As far as practicable, children (whether suspected of a crime or not) should only be interviewed in the presence of a parent or guardian or in their absence some person who is not a police officer and is of the same sex as the child”*

13. FBS 48 would have fulfilled that role albeit that FBS 38's father was present in the building and would have made a better support for FBS 38. It was some time later before the provisions of the **Police & Criminal Evidence Act 1984** which introduced the presence of an appropriate adult when police were interviewing minors came into force in Northern Ireland following enactment of the **Police & Criminal Evidence (NI) Order 1989**. Specific training of Social Workers and Police officers in interview techniques of minors alleging sexual abuse was formulated in the **Protocol for Joint Investigation**, which was first introduced in Northern Ireland in November 1991.

14. Nonetheless the appropriateness of the 1975 investigation falls far short of today's standards of child protection. Cardinal Brady has explained that while attempts were made to glean the effect of the abuse on the children's faith, the nature of some of the

questions themselves were entirely inappropriate. Cardinal Brady has accepted that in retrospect it would have been much more appropriate for **FBS 38** father to be present during the interview.

15. When considering the nature of the interviews of **FBS 38** and **FBS 39** it should be remembered that the investigation should be placed in the context of the time. For example thirteen years later before the Cleveland Inquiry would identify failings of Social Services in their investigations:

*“Children must be treated as a person and not an object of concern. Children should not be subject to confrontational “disclosure” interviews for evidential purposes. There should be a conscious effort to act at all times in the best interests of the child...Social Services should provide support for parents during investigations”.*

16. This particular Inquiry, thirteen years after the 1975 investigation highlighted failings regarding the lack of liaison of Social Services, Police and the medical profession, and the requirement of the medical profession in appreciating the legal implications of work on child sexual abuse.

17. The context of the oath administered to **FBS 38** as witnessed by Fr Brady should also be considered. As it is not in his own hand Cardinal Brady cannot explain the meaning of the term “authorized priests”. Certainly the oath **FBS 39** swore as set out in Fr Brady’s own hand has a different form of wording.

18. Cardinal Brady has spoken in evidence of the culture of secrecy in the Church at this time; although he draws a distinction between an oath not to discuss the investigation but not binding the children not to speak of the abuse, he has acknowledged that this may well not be a distinction **FBS 38** and subsequently **FBS 39** would have appreciated. The Cardinal in giving evidence empathized with **FBS 38** indication in his book that he was frightened by the interview process and felt he had been the wrongdoer; the Cardinal reiterated his intention was to gather information and provide it to the Bishop to stop Fr Smyth’s heinous acts.

19 The records of the investigation were compiled by Fr Brady and given to Bishop MacKiernan. Fr Brady then met with a second child, [FBS 39] from Kilmore diocese, whom [FBS 39] said had been abused also, in the presence of his parish priest, on 4 April 1975. The Cardinal has acknowledged that it was wrong not to tell [FBS 39] parents of the abuse he alleged.

20. The records of both interviews were presented to Bishop Mac Kiernan. Cardinal Brady confirmed that when he returned the documents he advised the Bishop that he believed both of the boys. It is a source of regret to the Cardinal that the civil authorities were not informed, the parents of the other children named by [FBS 39] and [FBS 39] were not contacted, and that no-one informed [FBS 39] or [FBS 39] or their families of the outcome of the investigation or provided any form of pastoral care to them or the other children.

21. Bishop MacKiernan met Fr Kevin Smith, the Abbot of Kilnacrott, on 12 April 1975 to make him aware of the findings of the investigations and to tell him that he was withdrawing Brendan Smyth's faculties. In his memo of this meeting dated 20 April, Bishop MacKiernan indicated: *"I have withdrawn his faculties to hear Confessions"* and by letter of 18 April 1975 to the Abbot, Bishop MacKiernan wrote: *"I hereby withdraw the faculties of the diocese from Rev. B. G. Smith"*

22. Bishop MacKiernan uses both the phrases 'faculties to hear confessions' and 'faculties of the diocese'. It is not clear why he did this. The faculties of the diocese would include permission to celebrate public Masses, preach and administer other sacraments, as well as the faculty to hear Confessions. However, 'faculties to hear Confessions' strictly speaking it would apply only to the Sacrament of Penance (Confessions). In any event the action taken by Bishop MacKiernan did not prevent Fr Smyth from abusing further and using his standing as a priest to enable him to do so.

23. It is submitted that such a determined effort to secure and corroborate evidence and the personal visit of Bishop McKiernan to Abbott Smith reflects a genuine effort to prevent the ongoing actions of Brendan Smyth.

24. In the memo of the meeting of 12 April, Bishop MacKiernan states that the Abbot indicated knowledge of previous 'lapses' and that Brendan Smyth had received psychiatric treatment under a Dr Moore of St Patrick's Hospital. The Abbot said that Dr Moore refused to discuss the case with him which, as has transpires in the documentation provided by St Patrick's hospital Dublin was untrue. Bishop McKiernan's "solution"(which was wholly inadequate) in recommending consulting he be sent to the Paraclete Fathers, in Gloucester displayed an ignorance of the recidivist nature of paedophiles and a mistaken belief that they could be "cured".

25. Fr Smyth was repeatedly placed in the care of psychiatrists during the period of 1968 to 1994 and as early as February 1974 Smyth received a firm diagnosis from Dr Moore of paedophilia. That said report also highlighted awareness of "recurring problems no matter where he has been stationed" and the existence of psychosexual difficulties for many years and concluded with a guarded prognosis. Unfortunately no evidence has been adduced to identify what, if any, steps were considered or taken by the medical professionals in minimising the risk of Fr Smyth or safeguarding children. In fact it appears that Fr Smyth may have been admitted as an inpatient by his psychiatrist to satisfy the Garda Siochana in Finglas in October 1973.

26. On 20 August 1984 Fr Smyth wrote to Bishop MacKiernan asking that his faculties be restored. Bishop MacKiernan appears to restore Fr Smyth's faculties for a period of six months on confirming with Abbot Smith there had been no further occurrences of Smyth's behaviours. In response to subsequent requests, faculties were extended for further six months periods and later for one-year periods, until the final withdrawal of faculties was made on 18 December 1993. The limited nature of the return of faculties is unusual and may suggest that Bishop McKiernan wished to monitor Fr Smyth in some way. It is also submitted that the renewal of the faculties until 1993 suggests that Bishop McKiernan may have been unaware of any further offending and the police investigations in Northern Ireland.

27. When we consider the steps taken in 1975 against the knowledge that we have now, it is clear that the necessary and appropriate steps were not taken to stop Brendan Smyth from reoffending and the removal of faculties was a wholly ineffectual way to do this.

28. Cardinal Brady recounted that he did not recall hearing of Fr Smyth during the remainder of his time in Cavan or during his subsequent period in Rome from 1980-1993. He has taken pains to outline his distinct roles in this module as in 1975 he was a priest of Kilmore as distinct from position from 2007 as Cardinal.

29. The Diocese and Fr Brady accept that the failure of Bishop MacKiernan to report the matter to the civil authorities or to ensure that the matter was reported by Abbot Smith to the civil authorities was contrary to the standards employed as a matter of course today and was a failing. The diocese should also have informed the civil authorities in the jurisdictions where the children named as taking part in excursions with Fr Smyth lived. These children were named in the reports as having also taken part in excursions with Brendan Smyth.

30. The Diocese of Kilmore now has a comprehensive safeguarding children policy and procedures in place and has set out full details of these in their statement to the Inquiry. The National Board for Safeguarding Children in the Catholic Church in 2010 highly commended the Diocese for its safeguarding practice. Cardinal Brady in his statement of 11 June highlights the evolution of the Church's safeguarding policies

31. The controversy and drama surrounding the public emergence of the Fr Brendan Smyth case in 1994 brought clerical child sexual abuse to public attention. It is probable that this was the first time that many members of the public became aware of the possibility of clerical child sexual abuse. It appears that this notion of "clericalism" as first espoused during this module by Fr Fitzgerald of the Norbertine Order may have resonated in the actions (or inactions) of the medical profession and the civil authorities, as exemplified by Superintendent Timoney's reluctance, in May 1991 to effect a prosecution against Smyth.

32. **The Huston Report 1992** made recommendations that the state completely overhaul its procedures, protocols and safeguarding strategies to counteract the predatory behaviour of paedophiles. It highlighted the "*paramountcy of child*

*protection considerations over the rights of individuals and access to offender information by child protection agencies”.*

33. In the **Lambeth Independent Child Protection Inquiry 1999** some twenty four years after the **FBS 38** interviews, criticisms were made of social services who had failed to follow up the potential significance of a victim’s disclosures in relation to protecting other children the abuser might come into contact with. This inquiry criticised the lack of multiagency approach and opined that it was:

*“Important to establish a clear link between individual responsibility and the organisational actions or inactions being criticised. Finding individual scapegoats may appear to provide a tempting simple solution to the problem of embarrassing public criticism, but scapegoating will avoid the wider, social, organisational and political challenges that arise from the complex context of the individual scapegoat’s actions”.*

34. Fr Fitzgerald in his evidence to the Inquiry on behalf of the Norbertines highlighted the notion of clericalism and the notion that a priest could do no wrong. Even in November 2010 the **Garda Inspectorate Responding to Child Sexual Abuse** noted the

*“Garda Investigation into various (clerical) complaints was sometimes comprehensive and at other times cursory”*

35. To contextualise once again – some thirty five years after the 1975 investigation, the recommendations of the Garda Inspectorate felt it necessary to recommend that as regards clerical abuse there was *“no place for deferential treatment in modern Irish Policing”*

36. Cardinal Brady spoke to concerns about how the removal of faculties is communicated between bishops or not communicated. He highlighted a culture within the church of secrecy and silence and the feeling that matters could be dealt with within the church structures themselves. The inadequacy of this approach and the ignorance of the nature of paedophilia amongst the church personnel at that time were acknowledged.



37. Cardinal Brady and Fr Kilduff set out how the church now obtains its guidance from the civil authorities and reports all incidents of child abuse immediately. The possession of the celebret as essentially a licence to practice as a priest, ensure credentials may be checked and withdraw faculties in a tangible way.

38. The procedures now in place ensure that the failings implicit in the inadequacy of the 1975 investigation and subsequent dealings with Fr. Smyth are wholly preventable today, and a change of approach that enshrines the paramountcy of children's welfare is intrinsic in Church safeguarding policies today.

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