

Inquiry into Historical Institutional Abuse in Northern Ireland

Chairman's Opening Remarks

Banbridge Courthouse

Monday 13 January 2014

Good afternoon Ladies and Gentleman. For the benefit of those who have not been at any of our previous public sessions perhaps I should introduce myself and my colleagues once more.

My name is Sir Anthony Hart, and I retired as a high court judge in Northern Ireland in January 2012. On 31 May 2012 I was appointed by the First Minister and the Deputy First Minister to lead this Inquiry. David Lane and Geraldine Doherty who are my colleagues in this part of the Inquiry are with me today, and both have considerable experience in the field of social work and child care.

David Lane commenced his career with eight years in residential child care, working mainly in the assessment of young offenders, and he ended his career with eight years as Director of Social Services in the city of Wakefield. Since then he has been an independent consultant and expert witness in cases in which former children in care have sought damages for negligence. He has played a major role in a number of professional organisations.

Geraldine Doherty qualified as a social worker in Belfast and her first job was in residential child care in London. She has worked in England and Scotland in social work, social care practice, education and training. In 1996 she was appointed as the Head of the Central Council for Education and Training in Social Work in Scotland. In 2000 she was seconded from that post to the Scottish Executive to advise on the establishment of national arrangements for the inspection and regulation of care services and the registration and regulation of social workers and social care workers. In 2002 she was appointed as the first Registrar of the Scottish Social Services Council.

Today is the fourth public session of the Inquiry into historical abuse in residential institutions in Northern Ireland, and it is also the first public hearing of the Inquiry. We have already put a considerable amount of information about our processes on our website over the past 15 months or so, and in the previous public sessions that were held in February and September of last year when we explained what we were doing and how we intended to go about our work. What we said then can be found on our website. Today we start the next stage in the work of the Inquiry, and that will take the form of public hearings.

Before we start to hear evidence from witnesses we want to take this occasion to describe the nature of the material the Inquiry intends to consider, and how we go

about this. Some of this we have said before, but we realise that many members of the public, particularly those who may be going to give evidence to the Inquiry in the coming months, may find it helpful to know what we are going to do and why, and what are the matters that the Inquiry will consider.

Later this afternoon Christine Smith QC, who is the senior counsel to the Inquiry, will start to outline in greater detail the reason behind the Inquiry and what we have done to date, and then she will proceed to describe the context and historical background to the various issues that the Inquiry will have to consider during the public hearings. However, before she does so, there are a number of matters that I want to say.

You will hear the Terms of Reference set out in full later today. To put it in simple terms, they require us to investigate whether there was institutional abuse in residential institutions which had responsibility for the care, health and welfare of children under 18 between 1922 and 1995, and to decide if there were systemic failings by those institutions or the state in their duties towards those children. Abuse that may have been suffered by children in other institutions, such as schools, is specifically excluded from our Inquiry by the Terms of Reference.

As will become clear as Christine Smith QC outlines the matters that will come before the Inquiry, during the public hearings the Inquiry will hear from people who say they were abused as children in residential institutions, as well as from other people whose evidence is relevant to the Inquiry's work. Although the closing date for applications has now passed, a total of 434 individuals made formal applications to us, and I want to express my thanks to everyone who has done so. Not only will their evidence be vital to the Inquiry, but it is our hope that every applicant who gives evidence to the public hearings, or only speaks to the private and confidential part of the Inquiry, will have the satisfaction of knowing that their experiences are at last being listened to and investigated. I say "at last being listened to" because one of the things that we have heard again and again is that when complaints about abuse were made to people in authority, all too often their response was to ignore, or not to believe, what they were being told.

Vital as the evidence to be given by those who say they were abused is to the work of the Inquiry, the Inquiry is also about how those institutions were run, and what those institutions, the state, and society as a whole did, or did not do, to see that those children were not abused. The Inquiry provides a unique opportunity for everyone involved in any way with the care of children in institutions to reflect on what may have happened to those children, and to consider whether there are lessons that can be learned that may prevent the mistakes of the past being repeated in the future. We realise that this may be a challenging process for everyone involved, but it is our hope that everybody, whether from government or from the institutions, who is requested to assist the Inquiry will co-operate with the Inquiry in a frank, open and wholehearted way so that this unique opportunity will not be wasted.

Not everyone who has applied to us wants to take part in this part of the Inquiry process. Of the 434 who made formal applications to the Inquiry, 46 only wanted to speak to the private and confidential part of the process called the Acknowledgement Forum, and 362 have so far said they wish to speak to the public part of the Inquiry.

Because a small number of applicants have still to confirm whether they wish to speak to the public inquiry part, or to the confidential part, or to both, these figures may change slightly, but when we have final figures we will publish them on our website.

We hope to offer everyone who applied to the public inquiry part of the process the opportunity to give evidence in person, but that may not be possible in every case for a variety of reasons. Sadly, a small number have died since they were seen; some may not be well enough to do so; some may not be able to do so for other reasons, and so some witnesses may give their evidence in the form of statements that are read out without them being present.

The other part of the Inquiry process is the private and confidential Acknowledgement Forum. So far 380 applicants have said they wish to speak to the Acknowledgement Forum, and as of last Friday it has seen 263 of them. In the coming months the Acknowledgment Forum will continue to see anyone who has not yet been seen, including anyone whose application might be too late to be considered in the Inquiry's public hearings. However, in due course I will announce the final date after which the Acknowledgment Forum will not be able to see anyone.

While the great majority of those who have contacted us live in Northern Ireland, or in the rest of the United Kingdom, or in the Republic of Ireland, we have received some applications from other countries. We have made special arrangements to contact those who live outside Northern Ireland, and members of the Acknowledgement Forum have travelled throughout Great Britain and the Republic to see applicants who were not able to travel to Northern Ireland.

We have also received applications from 61 people who now live in Australia. It may surprise many of you that we received so many applications from Australia. The reason for this is that in the years after the Second World War a significant number of children who had been in institutions in Northern Ireland were sent to Australia. They were known as child migrants. We are investigating how they were treated in institutions before they left Northern Ireland, and why and how they were sent to Australia. Last autumn we sent a team to Australia which spent some weeks interviewing applicants there. It was not possible to see every applicant in Australia during that visit, and I want to take this opportunity to reassure those applicants in Australia we have not yet seen that later this year we will be sending another team out to Australia to see the remaining applicants.

Since the Inquiry came into existence its legal team has been engaged in interviewing applicants and preparing witness statements. They and other colleagues have been gathering and examining many thousands of documents from many different sources. All of this is something that by its nature takes a great deal of time and effort. The process is continuing, and it will continue for a considerable time. Even as the public hearings continue into one institution, work will continue to prepare evidence relating to that institution and to other institutions that we will come to later.

I also want to take this opportunity to emphasise a number of things about our processes. First of all, this is an Inquiry, not a trial. The Act of the Northern Ireland

Assembly under which we work expressly prevents us from making any finding of civil or criminal liability. That means that our findings will not have the legal effect of convicting any individual of a crime, nor will it have the legal effect of ordering any individual or institution to pay compensation.

It has been clear to us from a very early stage that many of the allegations that have been made to us could amount to criminal offences, and in those cases we have reported the matter to the police as we are obliged to do by law. It is for the police to carry out a criminal investigation, and then for the Public Prosecution Service to decide whether there should be a prosecution. If there is going to be a prosecution, then the Inquiry is faced with a dilemma because while we wish to investigate as much as we can in public, to do so in public might prejudice a fair trial in some cases. From the beginning the Inquiry has taken the view that if there are grounds for a criminal prosecution in a particular case it is in the public interest that there should be a prosecution. Therefore, in any situation where we believe that a prosecution is imminent in order to avoid prejudicing a fair trial the Inquiry will consider holding a closed session where we will examine in private the allegations relating to an individual against whom a prosecution is imminent. This will enable us to continue to investigate the allegations in a way that would avoid prejudicing a fair trial for that individual. If we do not investigate such allegations in a closed session then we could be prevented from investigating them at all, or at least investigating them in the thorough way that we intend to do in our public sessions. For that reason I have made a Restriction Order dealing with closed sessions.

There is another matter that I should mention at this stage. In general the Inquiry has decided not to disclose the identities of many of those who cannot defend themselves against allegations, perhaps because they are dead, or are unfit to give evidence, or cannot be traced. Others may be people whose names appear in documents that will be produced in evidence but they have nothing to do with the matters we are investigating. It would be unfair to a great many of those people that their names should be given in public, or be revealed in any documents that are produced to the Inquiry. For those reasons all individuals will normally be referred to by a designation, and their names will be blacked out in documents that will be produced in the public sessions. Christine Smith will explain in more detail what that means in due course.

But there is another very important aspect to this that I want to explain now to avoid any misunderstanding, or any confusion, about what is intended. In the public hearings of the Inquiry witnesses will often have to describe matters that they find deeply upsetting; indeed in some cases they have never spoken to their closest family about these matters. Because they may find it even more difficult to describe these matters in public if their names become generally known, our view is that we should make it possible for any applicant, or any other witnesses to whom this applies, to give evidence in a way that avoids as much stress for them as possible. Everyone will therefore be given a designation by which they will be referred, and the effect of the Restriction Order is that their name and/or identity cannot be disclosed by anyone unless they give their consent.

I want to say as emphatically as I can that the Inquiry does not want to prevent any witness speaking to the media or any member of the public about their own

experiences if that witness wants to do so. That is something each witness must decide for themselves. If a witness does want their name and identity to be published, then he or she can give their consent to that to any member of the public or the media. All we ask is that to avoid arguments later about whether someone agreed or not they should give their agreement in writing. If they do not want their name to be given publicly, then I expect that everyone will respect the wishes of the individual concerned and obey both the letter and spirit of the Restriction Order. However, I should emphasise that a witness who does want their own name to be disclosed cannot disclose the name or identity of another person covered by a designation without the written consent of that person.

As you will hear, the Inquiry is investigating several institutions, and it may be as our work continues we will decide to investigate others. All our investigations will be carried out as vigorously and thoroughly as possible, and without fear or favour. As I have said on several occasions, this Inquiry is unique in Northern Ireland because we have to deliver our report by 18 January 2016 unless we are given more time. I hope the Inquiry will not have to ask for more time, but if it is necessary I will do so.

I will now ask Christine Smith QC to give more details of the scope and work of the Inquiry.