

STATEMENT

by

**SIR ANTHONY HART,
CHAIRMAN, INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE IN
NORTHERN IRELAND**

27 FEBRUARY 2013

Everglades Hotel, Derry

Sir Anthony Hart

Good morning Ladies and Gentlemen, and welcome to the second public session of the Inquiry into Historical Institutional Abuse in Northern Ireland. With me today are a number of the panel members of the Inquiry. Geraldine Doherty is a panel member of the Statutory Inquiry part of the Inquiry with myself. David Lane, who is the other member of the Statutory Inquiry panel, is unable to be with us today. The other part of the Inquiry is the Acknowledgement Forum, and I shall explain the different roles of the two parts of the Inquiry in a few minutes. Norah Gibbons and Beverley Clarke are members of the Acknowledgement Forum panel. Tom Shaw and David Marshall are the other Acknowledgement Forum panel members, but they are unable to be present today. Also present are Andrew Browne, Secretary to the Inquiry, and Patrick Butler, the Solicitor to the Inquiry. Christine Smith QC and Joseph Aiken, who are the Senior and Junior Counsel to the Inquiry respectively, are also here. In the information pack which you will be given at the end of this session, you will find some brief biographical details of the people I have mentioned.

Because this is only the second public session of the Inquiry, and the first public session of the Inquiry in the North West since the Inquiry into Historical Institutional Abuse (Northern Ireland) Act 2013 came into force on 19 January 2013, I want to take the opportunity to explain to the public, and in particular to those who live in the North West and surrounding areas who are affected by the Inquiry's work, what it is we are already doing, and what we will do in the weeks and months ahead. As much of our work is still at an early stage, what I am going to say today is intended to give a general overview of the work of the Statutory Inquiry in particular. In due course we will provide more detail of the procedures we intend to adopt. This will be done in future public sessions of the Statutory Inquiry, and on the Inquiry website where we have already placed some information.

It is important that everyone understands that both the Statutory Inquiry and the Acknowledgement Forum have to operate within the Terms of Reference of the Inquiry. These require the Inquiry to

“...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. For the purposes of this Inquiry “institution” means any body, society or organisation with responsibility for the care, health or welfare of children in Northern Ireland, other than a school (but including a training school or borstal) which, during the relevant period, provided residential accommodation and took decisions about and made provision for the day to day care of children.”

This Inquiry is therefore unusual, and it is different from many inquiries, in some very important ways. First of all, it has to investigate matters that happened between 1922 and 1995, a period of 73 years. Secondly, when the Inquiry was set up last year there was no list of all of the institutions that we might have to examine, and so one of the first steps that we had to take was to draw up a list of such institutions. This was not an easy task because some no longer exist, some have changed their names, or are now run by different organisations. So far we have identified in the region of 170 possible locations that we might have to look at, and I refer to these as locations to avoid confusing them with organisations, because some organisations ran institutions at several different addresses or locations. However, what we have learnt so far suggests it is likely that we will have to examine a much smaller number than that. The third matter is that so far no one can tell us how many children there were altogether in these institutions over that period, but information we have already been given by some institutions would suggest that there were thousands. Some of those who were in institutions during that time may no longer be alive, or, for various reasons, may not want to come forward today. For these reasons we cannot predict in advance how many people might wish to come forward to describe their experiences.

The Statutory Inquiry is the public part of the Inquiry, whilst the Acknowledgement Forum is the private and confidential part of the Inquiry. Both parts of the Inquiry are here to listen to the experiences of people who may have been abused as children in the institutions within our Terms of Reference. Neither part of the Inquiry intends to adopt a narrow definition of the types of behaviour that might amount to abuse, and what I say today is not intended to be a final definition of what we consider to have

been abuse. We know from the professional experience of each of us, and from the reports of other inquiries into various forms of abuse in other parts of the United Kingdom and the Republic of Ireland in particular, that abuse of children can take many forms. Of course it includes sexual and physical abuse, but the Inquiry is not just concerned with sexual or physical abuse. We are also concerned with other types of behaviour that can amount to abuse. That could include emotional abuse, neglect and ill-treatment. Emotional abuse could include humiliating children in front of others, or treating them in a harsh or unfeeling way, for example by concealing from children the identity of brothers and sisters, or even that they had brothers and sisters. Neglect could involve providing inadequate food or clothing. Ill-treatment could include making young children do hard and inappropriate physical labour for hours at a time. These are not meant to be exhaustive definitions of the type of conduct that could amount to abuse. They are some examples of the types of behaviour that the Inquiry knows that it will have to consider because they have been described to the Acknowledgment Forum by some of those who have already spoken to it. It may well be that as both parts of the Inquiry hear from more people, other forms of behaviour, or a failure to take action in some circumstances, will have to be considered, and decisions made as to whether that constituted abuse.

The Statutory Inquiry will gather evidence from a number of sources. The most important source of information will be what individuals tell us they experienced as children, because both parts of the Inquiry are here to listen to the experiences of those who were abused as children in institutions. We understand that many people will not find it easy to speak to either part of the Inquiry about their experiences. Some may not want to relive those experiences because they feel that they have left

that part of their life behind for good. Some may never have discussed their experiences with their families or anyone else, and find the prospect of doing so now very difficult. Others may feel that in the past when they did try to tell anyone in authority about their experiences they were ignored, or not taken seriously, and believe that they will not be taken seriously if they come forward now. Some may want to come forward, but are apprehensive about the way in which they might be questioned if they are asked to give evidence at the public part of the Inquiry. There may be some people who want to wait until they see public hearings taking place before they make up their minds to contact us.

I want to reassure all those who have not yet contacted us that we will do everything that we reasonably can to make it as straightforward as possible for people to come and speak to us, and to minimize any stress they may experience when speaking to us. In a few minutes you will hear from one of the Acknowledgement Forum panel members what we already do to make it as easy as possible for people speaking to the Acknowledgment Forum. So far as the Statutory Inquiry is concerned, one of the concerns we know that some people have expressed is that they may be subject to aggressive or intrusive questioning if they are asked to give evidence at public hearings of the Statutory Inquiry. I want to assure everyone that will not be allowed. All questions will be asked by one of the Inquiry counsel, or by myself or by my two panel colleagues, and everyone will be treated equally fairly. We will use every means at our disposal to reduce the stress that giving evidence in public inevitably involves. Only in very rare circumstances do I foresee any witness being directly asked questions by anyone other than the Inquiry counsel. That will apply to people who are asked to describe their experiences, just as it will apply to anyone else

called by the Inquiry. All questions will have to be submitted to the Inquiry counsel, and they will decide whether the question should be asked, and if so, in what way.

Both the Statutory Inquiry and the Acknowledgment Forum want to hear from as many people as possible who are prepared to tell us about what happened in the institutions we have to investigate. Most of them will be individuals who can describe their own experiences to us, in other words give first-hand accounts of what happened to them, because that is the best form of evidence. But these are not the only people we want to hear from, because anyone who saw children being abused, or who saw signs that they were abused, could also provide valuable evidence. They might be children who were not abused themselves but saw other children being abused, or they might be members of staff or visitors who saw abuse, or signs of abuse such as suspicious injuries. It is important that the Inquiry hears from as many people as possible who can describe abuse that they suffered, or that they saw others suffer, and I urge them to contact us as soon as they can.

I should say that we have received a number of applications lodged by solicitors. It has been suggested to us that there may be some applicants who have approached solicitors who have not yet sent in applications for their clients. Whether that is the case we cannot say. People who want the Inquiry to investigate their experiences are entitled to approach us through their solicitor, but they do not have to. They can contact us directly, and that is what most people have done. If there are any solicitors who have not yet sent in application forms for their clients, whether the solicitors are in Northern Ireland, the Republic or elsewhere, it is important that they send in the forms as soon as possible.

One question that we have been asked is whether anyone who comes forward to the Inquiry, and to the Statutory Inquiry in particular, will be entitled to have their own lawyer to represent them at the Inquiry. The Inquiry will decide who will be called as witnesses. People who are asked to describe their experiences of abuse will be interviewed by the Inquiry legal team. The Inquiry will investigate these matters, and in those circumstances there is no need for each witness to have their own lawyer at the Inquiry. That would only involve considerable and unnecessary duplication of effort, as well as unjustifiable expense. If the Inquiry decides to call someone as a witness then that person will be taken through their evidence by the Inquiry legal team, who, as I have explained, will decide what questions they can be asked and how. If there is a possibility that a person might be subject to criticism in the Inquiry report then the Inquiry will consider granting them legal representation, and allowing them to participate in the Inquiry process. Of course anyone is free to approach their own solicitor for other purposes, but the Inquiry will not pay for that, nor will their lawyer play any part in the work of the Inquiry.

The Statutory Inquiry will also carry out its own research, and for some time we have had researchers going through records in the Public Record Office examining records relating to various institutions. This has already uncovered useful information which we will be pursuing, and we hope to appoint further researchers in the next few weeks.

Since the Act came into force last month we now have power to demand the production of documents, but in anticipation of that we wrote to several institutions in

November last year. These were institutions that had already been identified by people who had applied to us in response to advertisements we placed in the main daily newspapers in Northern Ireland, and in the Republic of Ireland asking anyone who had been abused in institutions in Northern Ireland to contact us. We have requested these institutions to produce documents relating to a wide range of material that we believe will help us. In particular we asked them to produce records of complaints. I am pleased to say that in response to our requests we have already received a considerable amount of material from some of these institutions. In the weeks and months ahead we expect to obtain more documents from institutions we intend to investigate, from government departments and from any other source that we have reason to believe can help the Inquiry.

By Friday 22nd February 181 individuals had contacted us, 36 of whom are from the North West, 20% of the total. Although some want to speak only to the Acknowledgement Forum, or only to speak to the Statutory Inquiry, 82% have said that they want to speak to both parts of the Inquiry. We believe that there may be many more people who could help our work, and it is extremely important that they contact us as soon as possible. This is because there is one thing about this Inquiry that is different from any other inquiry. The unique feature of this Inquiry is that the Act under which we operate requires the Inquiry's work to be completed by specific dates. The Inquiry must complete its work (that is any hearings and investigations) within two and a half years from the date the Act came into force. The report has to be delivered no later than three years from the date the Act came into force. This means that the hearings have to be completed by the middle of 2015, and the report completed by 18 January 2016. These time limits may seem generous to some, but

they do mean that at some stage of the process we will have to say that we cannot accept any further applications because there will simply not be enough time to properly investigate, to consider, and then report upon, any allegations that may be made after that date. It is the case that the Act allows an extension of time to be given in certain circumstances, but I very much hope that it will not be necessary for me to ask for any extension, not least because many of those who may have suffered abuse in institutions may be well on in years, or not in good health, or both. They are entitled to hope that we will complete our work as soon as we can. That is what we intend to do, but we will not rush our work, because above all we have to do our work properly and thoroughly, and that will inevitably take time.

We are determined to do as much as we reasonably can to make our existence known to those who may have been abused as children in the institutions within our Terms of Reference because we want as many people as possible who can help the work of the Inquiry to come forward, and to come forward now, not to wait. Even if people who learn about the Inquiry were not abused themselves, we want them to encourage family members or friends who might be able to help us to come forward and contact us. For that reason we are going to publicise our work in a number of ways. Starting on Monday past we mounted a poster campaign on bus stands at 80 sites across Northern Ireland, and you can see an example of that poster here today. Some of you may have seen some of the posters on sites around the city or in other parts of the North West. This poster campaign will run for four weeks. We have also prepared a flyer with the same picture that will be distributed to a wide range of locations and organisations throughout Northern Ireland. The poster and the flyer (which you will find in your information pack) have our contact details. We have also

identified a number of organisations in England and Scotland we intend to contact to ask them to publicise our work amongst their members.

I have also written to the leaders, or representatives, of the four main Christian denominations in Northern Ireland asking for their help and support in this publicity campaign. Whilst this request obviously has to go through the internal procedures of each church the response so far has been encouraging.

Whilst these steps are directed at individuals and organisations in Northern Ireland and in Great Britain, we know that there could be people living in the Republic or abroad who might want to contact us. For example, we know that children from institutions in Northern Ireland were sent to Australia in the years after the Second World War, and there may well be people in Australia, and in other countries such as Canada and the United States, who should know that this Inquiry is investigating abuse in residential institutions in Northern Ireland. We have had some contact with media organisations in Australia, and we intend to make our existence better known there and in other countries. There are limits to how many countries in which we can spread the word because our resources are not limitless, and so we will concentrate our efforts on the main countries in the English-speaking world to which people from Northern Ireland emigrated.

I have already referred to the Acknowledgement Forum, and at this stage I want to say something more about it and the part it plays in the Inquiry, compared to the role of the Statutory Inquiry. Although the Acknowledgement Forum (which I will call The Forum for short) is part of the overall Inquiry structure and process, it has a different

role to the Statutory Inquiry. The Forum carries out its work as a distinct part of the overall Inquiry, although it shares the same premises and administrative support with the Statutory Inquiry. The purpose of the Forum is to enable people to come and recount their experiences to it. They do so in private and in confidence. It is the task of the Statutory Inquiry to carry out the investigation of allegations of abuse, and so it has asked organisations to produce documents and records. It is the Statutory Inquiry that will conduct the public hearings that will examine the allegations made about abuse. It is the Statutory Inquiry that will prepare the report of the Inquiry at the end of the process, although the Forum has to provide a report on its work to the Statutory Inquiry, and the Statutory Inquiry has to have regard to that report when the final report is prepared. The Forum report will be published as part of that process, but we have not yet decided whether it will be published separately or as part of the Inquiry report.

At this point I am going to ask Norah Gibbons to say something more about the Forum, and to describe what coming to speak to the Forum involves. Norah is one of the Forum panel members.

Norah Gibbons

The Acknowledgement Forum commenced its work in October 2012. By Friday of last week the Forum has listened to the experiences of 91 people who were in institutional care under the terms of reference of the Historical Abuse Inquiry.

How does it all work?

The focus of the Forum is on the experiences of each individual who comes to speak to the Forum. To ensure each person has the best chance to recount their experiences in what can be a difficult and painful process for many, a number of careful steps and procedures have been put in place.

Following receipt of their application by the Inquiry each person is contacted by the Inquiry Witness Support Officers who arrange their individual appointment in a way that is suitable for that person. The Witness Support Officers will ensure that practical arrangements re travel and accommodation where required, are in place and are available to answer any queries the applicant has.

A letter is sent to each person setting out clearly the exact arrangements. Each person may bring a companion with them. The companion can be present for the meeting or can wait outside; it depends on the wishes of the applicant. The role of the companion is a supportive one. Of the 91 seen by last Friday, 28 applicants have chosen to have a companion present during their meeting, a further 17 asked their companion to remain in the waiting room, while 46 applicants attended for their meeting unaccompanied. The Witness Support Officer meets the applicant when they arrive for their appointment, they are offered a quiet room to relax in, a welcoming tea or coffee, and when ready are shown in to the room where they will meet the 2 Forum members who are there to listen to their account of their experiences. The room allocated for the work of the Forum is furnished in an informal and relaxed way with armchairs and a coffee table. The meeting with the Forum does not follow a strict format. It is designed to be guided by the applicant and is designed to allow the applicant to tell their story in the way that they want.

The Forum members welcome the applicant, outline the purpose of the meeting and then the applicant is invited to talk about their unique experiences. Again each person has a choice around how they tell their story: some prefer to answer some questions to help them get started, while others have prepared exactly what they wish to say and are happy to start themselves. People often want to know how long their meeting will last...the answer is as long as they need it to last. The time is allocated to them and is for them. Our experience to date here in Northern Ireland is that an hour and a half is the average time required. Some meetings last for a shorter period, some for much longer; all meetings to date have proceeded well and are very much guided by the applicant. The applicant can request a break at any time and that wish will be honoured. The Forum meetings are focussed on the individual and their experiences. This requires the Forum Panel members to understand and acknowledge any distress or upset that arises on the day as painful life experiences are recounted.

A written note of each hearing is taken by the Forum members during the hearing. If the applicant agrees, a digital record is also made. The Inquiry has very stringent rules and practices in place to ensure the safe and confidential storage of each record. The purpose of the individual record is to allow the Forum to complete its report for the Chairperson as required under the Act. The report of the Forum will not name any individuals who speak to the Forum, nor will it name any individuals or institutions they speak about. The Forum is essentially private and confidential.

When the applicant is happy that they have recounted their experiences as fully as they would like, the individual meeting ends. Again their Witness Support Officer comes and sits with them and ensures that they have time to relax before rejoining the hustle of everyday life. In the days following the individuals hearing, the Witness Support Officer will, with their permission, phone them to see how they are doing and to follow up on any queries they have.

Meetings of the Forum have been held in Belfast, here in Derry/Londonderry, and at other venues in the United Kingdom when circumstances of the applicants have required that. So far there have been four weeks when we have held meetings here in Derry, and we have seen 20 people at those meetings. Appointments to meet the Forum are not solely organised on a first come first served basis. As you know, the Inquiry covers relevant institutions from 1922 to 1995 so all Inquiry Members are alert to both age and health issues that arise for some applicants. Regrettably this means that we are unable to say exactly how long an applicant will have to wait for an appointment as priority is being afforded to those applicants whose age or state of health requires an early appointment. However we are very conscious of the commitment each applicant makes when they fill in the application form, and we work to see each person as soon as is possible.

Sir Anthony Hart

Can I just add that the feedback so far from those seen by the Forum has been extremely positive about the sympathetic and understanding way the Forum and the staff have organised the meetings, and the way they have been listened to.

For the great majority of individuals who have contacted the Inquiry the next stage for them will be to engage with the Statutory Inquiry because almost everybody who has done so wants to speak to both to the Forum and the Statutory Inquiry, or to the Statutory Inquiry alone. Only 13 people have said that they only want to speak to the Forum, and 19 have not yet said what they want to do; that means that so far 82% want to speak to the Statutory Inquiry.

I want to say something in general terms about how the Statutory Inquiry will function. The Act provides that the Chairperson decides the procedure to be adopted by the Inquiry, although the Act also makes provision for the Office of the First Minister and deputy First Minister to make rules relating to certain aspects of the Inquiry's work. In the near future I intend to publish various documents on the Inquiry website which will set out some of the procedures the Inquiry intends to adopt. These will be in the form of protocols which will set out, and give guidance on, various matters. There will be a Procedural Protocol, a Protocol dealing with applications for legal representation, and a Protocol explaining the approach the Statutory Inquiry will take about naming individuals. If necessary, other protocols will be drawn up and published. The purpose of these protocols is to give guidance to legal practitioners and others affected by the Statutory Inquiry in particular, principally those advising institutions or individuals who feel that they wish to be represented before the Inquiry. All that remains to complete the statutory and procedural framework within which the Inquiry, and particularly the Statutory Inquiry, will operate is for the Office of the First Minister and the deputy First Minister to make

certain rules. Draft rules have been with that office since early December for ministerial approval, and I hope that they will be published soon.

I have said that the Inquiry has already contacted a number of institutions identified to us by the 181 individuals who contacted us by last Friday.¹ At present we do not intend to disclose the identity of each institution. This is because we have not yet been able to speak to every one of the individuals about the institutions they have named on their application forms. Often a person names several institutions, and it has already become clear from what several people have told the Acknowledgement Forum that some individuals do not allege that they were abused in every institution they have attended. Until we have spoken to everyone who has contacted us so far, it will not be possible for the Statutory Inquiry to reach an informed decision whether every institution that has been named to us will in fact require to be investigated.

Because we want to avoid giving a misleading impression of which institutions will be specifically investigated, at present we are only going to reveal the number and general categories of institutions we intend to investigate. But I want to make one thing absolutely clear. If we receive allegations from someone who was in a specific institution as a child, allegations that suggest children were abused in that institution; or if our own researches reveal evidence that suggest that children might have been abused in an institution even if no one has come forward to make allegations about that institution, then we will investigate that institution. When we consider it appropriate to do so, we will identify the individual institutions that we will investigate.

¹ Friday 22 February 2013.

So far the individuals who have contacted us by last Friday have identified 35 locations that come within our Terms of Reference, and these fall into a number of different categories. I should make it clear that these figures relate to specific homes or locations, not to the number of organisations, and that there are more allegations in respect of some institutions and locations than others. Some institutions had premises in more than one location, and so the number of organisations is less than the number of locations.

- 15 locations run by local authorities. These are mostly children's homes that were run by what were then county council welfare committees. Since the re-organisation of local government in the early 1970s these have been the responsibility of various bodies from time to time, although 1 of the 15 is a workhouse that we believe went out of existence not long after the Second World War.
- 4 institutions directly provided and run by government, such as borstals and training schools.
- 3 institutions provided and run by voluntary organisations that were associated with a Protestant denomination, or were run by a voluntary secular organisation.
- 13 locations of voluntary institutions provided and run by Roman Catholic religious orders.

As far as possible the Statutory Inquiry intends to consider evidence relating to institutions, whether groups of institutions or individual locations, in turn, although as some children moved from one institution to another it may not always be possible to

consider each institution, or group of institutions, separately. There may have to be a degree of overlapping between hearings for this or other reasons. The Statutory Inquiry and the legal team will examine the evidence we are in the process of gathering from various sources, and the evidence to be presented to the Inquiry will then be given to the institution in question. The institution will then be given a suitable period of time to consider that material, and to respond to the material, before public hearings are held into any allegations relating to that institution. Because the Statutory Inquiry intends to deal with some institutions as a group, and other institutions separately, we will publish a timetable from time to time giving the dates when the public hearings into particular institutions will take place, and which witnesses will be called on which day. It is our intention at present to hold the public hearings at Banbridge Court House, which has the necessary facilities as it has been used for other public inquiries. The Statutory Inquiry has to gather and examine a great deal of material before it will be in a position to give the evidence it is going to examine at the public hearings to the first institution, or group of institutions, to consider. Banbridge Court House is presently being used for another public inquiry. In any event because of the volume of material our Inquiry has yet to gather and analyse, and because it is only fair that the first institution, or group of institutions, are given sufficient time to analyse and decide how to respond to that material, it is likely to be towards the end of this year before the first substantive public hearings take place.

However, just as soon as draft rules are published by the Office of the First Minister and the deputy First Minister (OFMDFM), and we are in a position to do so, if necessary the Statutory Inquiry will hold further public sessions to deal with

procedural and any other preliminary issues that require to be dealt with before we can proceed to full public hearings.

Once a person has spoken to the Forum, if they also want to speak to the Statutory Inquiry, and the great majority of those who have contacted us so far want to speak to the Statutory Inquiry as well, the Inquiry staff will contact them and a meeting will be arranged with a member of the Inquiry legal team. In broad terms what will happen is that after the member of the legal team has discussed their experiences with them, the person will be asked to sign a statement about their experiences. In due course a decision will be made whether the person will be asked to give evidence to the public hearings to be held by the Statutory Inquiry. The Inquiry may not necessarily ask everyone who has contacted it to give evidence to the Statutory Inquiry because it may not be necessary to do so. Whilst the Inquiry legal team will try to interview everyone who comes forward, it may not be possible, or necessary, to do so. If someone is asked to give evidence to the Statutory Inquiry that does not automatically mean that they would have to do so by coming to the public hearings, although that is what would normally happen. Their statement might be read out to the Inquiry, or simply placed on the Inquiry website at an appropriate time. If a person lives abroad, or is unable to travel because of age or poor health, then the Statutory Inquiry will try to see if it is possible for the person to give evidence by live television link.

Whilst the Inquiry intends to be as forthcoming as possible about its general approach, there will inevitably be some matters that it would be improper for us to discuss or disclose until the relevant stage of the public hearings, because to do so

might compromise the integrity and effectiveness of the Inquiry. There are questions we cannot answer at this stage because that would involve us making our minds up before we have considered all the evidence. We cannot say what our findings and recommendations will be because to do so would be to write our report before we have arrived at our findings and recommendations. That would be quite wrong. We will write to everyone who has sent in questions and respond to those questions as best we can if I have not dealt with them today.

That completes this public session of the Inquiry.