

## **“Definitions of abuse and systemic failings**

The Terms of Reference of the Inquiry require it to consider whether “there were systemic failings by institutions or the state in their duties towards those children in their care”, children in this context being children in residential institutions (other than schools). This requires the Inquiry to address three questions. (a) What were the duties of the institutions and the state towards the children? (b) What constitutes “abuse”? (c) What amount to “systemic failings”?

The Inquiry is minded to apply the following broad definitions when considering the evidence it gathers. These are intended to be broad, general definitions because the Inquiry will not seek to exhaustively define in advance everything that might amount to “abuse” or “systemic failings”, and therefore when the Inquiry comes to consider specific circumstances it may be necessary to amplify these definitions in the context of those circumstances.

1. The duty of an institution was to provide an environment in which the children in their care would (a) receive proper physical care in the form of food, clothing, accommodation and medical attention; (b) be free from emotional, physical, or sexual abuse, or from neglect; and (c) develop through the provision of child care in accordance with standards acceptable at the time

2. The state had the same duty towards children as a voluntary or religious institution where the state directly provided residential institutional care, either by central government in the form of places of detention, hospitals or residential schools for children with special needs or by local government, and later by public bodies such as health and social service boards or health and social care trusts.

3. The state also had a separate duty to ensure that all institutions maintained proper standards of care of the children in the institutions because (a) it was obliged by law to regulate and inspect the institutions, or (b) it funded either all or part of the capital and/or running costs of the institutions.

4. “Abuse” was behaviour which either (a) involved improper sexual or physical behaviour by an adult or another child towards a child; or (b) in the case of emotional abuse, was improper behaviour by an adult or another child which undermined a child’s self-esteem and emotional well-being, such as bullying, belittling or humiliating a child; or (c) resulted in neglect of the child; or (d) took the form of adopting or accepting policies and practices, such as numbering children or ignoring or undermining sibling relationships, which ignored the interests of the children.

5. A “systemic failing” by an institution consisted of either (a) a failure to ensure that the institution provided proper care; or (b) a failure to ensure that the children would be free from abuse; or (c) a failure to take all proper steps to prevent, detect and disclose abuse, or (d) take appropriate steps to ensure the investigation and prosecution of criminal offences involving abuse.

6. A “systemic failing” by the state consisted of a failure to ensure either (a) that the institution provided proper care; or (b) that the children in that institution would be free from abuse; or (c) a failure to take all proper steps to prevent, detect and

disclose abuse in that institution, or (d) take appropriate steps to investigate and prosecute criminal offences involving abuse.

7. “Systemic failings” could also have taken place in one or more of the following ways:

- (a) where some or all of those who had contact with children in residential establishments, including volunteers and visitors, adopted abusive child care practices in common;
- (b) where staff in managerial positions within residential establishments initiated, encouraged or condoned abusive child care practices;
- (c) where people in positions of responsibility for the institutions running residential services initiated, encouraged or condoned abusive child care practices;
- (d) where those responsible for the inspection, oversight, policy-making or funding of the institutions providing residential services initiated, encouraged or condoned abusive practices, or failed to take appropriate steps to identify, prevent or remedy abuse.”