

**THE HISTORICAL INSTITUTIONAL ABUSE INQUIRY****MODULE 4****Submissions on Behalf of the Department of Justice****Overview**

1. Nazareth Lodge (“NL”) was certified as an Industrial School on 11 November 1902. It retained that status until 1951 when it was decertified.<sup>1</sup>
2. In his statement for the Inquiry dated 17 May 2013, Mr. Nick Perry (Permanent Secretary, Department of Justice) observed that responsibility for Industrial Schools passed to the Reformatory and Industrial Schools Branch within the Ministry of Home Affairs upon the establishment of that Ministry.<sup>2</sup>
3. The Department has also indicated that for the purposes of this Inquiry it takes responsibility for the Reformatory and Industrial Schools Branch of the Ministry of Home Affairs from 1922.<sup>3</sup>
4. The Department notes that the Inquiry received complaints from twelve witnesses who have provided evidence in the course of this Module in relation to their experiences of NL in the period before 1951. The Department was not alerted to the fact that such witnesses would be called and was not provided with papers relevant to them until after their evidence had been dealt with.
5. The Inquiry has invited the Department to analyse the materials now provided to it and to comment on the role of the Ministry of Home Affairs as a regulator of NL, and in particular, to address the comments made by the applicants who were resident in NL when it was an industrial school.<sup>4</sup>

**Limitations**

6. The Department’s ability to respond in a meaningful way to the issues posed for this Inquiry by what took place in NL in the period between 1922 and 1951 is necessarily limited.
7. The Department is a relatively new entity; it was established as recently as the 12 April 2010 when justice powers were formally devolved to the Northern Ireland Assembly. As Mr. Perry

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<sup>1</sup> SNB-11725

<sup>2</sup> Witness statement of Nick Perry at paragraph 6. The Ministry was established pursuant to the operation of the Ministries of Northern Ireland Act 1921. It should be noted that Mr. Perry’s statement contains an error within the timeline at Annex A where it is stated that Nazareth Lodge Industrial School closed in 1929. This should state 1951.

<sup>3</sup> Letter from Claire Archbold (Legal Advisor, Departmental Solicitor’s Office) to Patrick Butler (Solicitor, HIA) 8 January 2014

<sup>4</sup> Letter from Patrick Butler to Bronagh McCart (Legal Advisor, Departmental Solicitor’s Office) 20 March 2015

has outlined in his statement, *“there is limited institutional knowledge of events which took place during the Inquiry’s terms of reference.” This deficit in the Department’s knowledge is acute in the context of this Module.*

8. When dealing with allegations of the kind advanced by the twelve applicants, the first port of call would normally be witnesses who were present in time and place, or who had some responsibility, directly or indirectly, for the events which are said to have taken place. With the passage of time all witnesses of this kind are of course deceased. The same can be said for those who played a role in the management and regulation of Industrial Schools during that era.
9. The passage of time has been a little kinder to the preservation of documentary record. However, while it is the case that the joint efforts of the Inquiry and the Department (assisted by the Public Records Office NI) has produced much useful material, it is nevertheless appropriate to observe that the records are incomplete and those that are available do not touch directly upon the complaints that have been made to the Inquiry. This is due in no small part to the fact that the allegations which have been advanced by the twelve applicants were never the subject of contemporaneous complaint, let alone investigation, so that no record relating to the allegations was ever generated.
10. It might also be said that in any event expansive note making does not appear to have been an administrative norm in the period with which we are concerned, at least judged by today’s standards.
11. It is the case, therefore, that in many respects the Department’s submissions for this Module can only offer broad impressions of the evidence and the information which has been gathered.
12. It is with these caveats in mind that the following submissions are made.

## Relevance

13. The Department notes that none of the twelve applicants who have presented to the Inquiry with their accounts of life in NL in the period before it was decertified as an Industrial School, were ever resident there in an Industrial School capacity.
14. This is consistent with the fact that the vast majority of residents of NL in that period were placed there voluntarily. The records tend to show that whereas NL was authorised to care for some 200 children, it was usually the case that at any one time only about 5% of the residents were detained as Industrial School children within the meaning of section 58 of the 1908 Act.<sup>5</sup>

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<sup>5</sup> At the time of the 1928 annual inspection there were 14 boys out of a total population of 193 who were detained in NL as Industrial School cases: SNB-13657. In 1950, a year before NL was decertified, there were 3 Industrial School children in residence and 274 voluntary cases: SNB-13672.

15. Accordingly, it is understood that the Reformatory and Industrial Schools Branch of the Ministry of Home Affairs would not have had any particular legal responsibility for the care or welfare of the applicants at the material time. If a contrary view is taken by the Inquiry or any contributor to the Inquiry, the Department would wish to examine the position and respond.
16. Of course the Department recognises the relevance of the complaints in terms of its specific responsibilities. In particular the Department accepts that the experiences of those applicants may also have been the experience of other residents of NL, including some of those who were detained there pursuant to the Industrial School arrangements.
17. That it is possible to understand how Industrial School children may have experienced life at NL by inquiring into how other children were treated there, was acknowledged by an employee of the Ministry of Home Affairs as far back as 1927.
18. At that time a boy who had been placed in NL in a voluntary capacity came to the attention of the authorities. There was concern that he had been severely punished by a Sister because he had wet and soiled his bed.
19. An Inspector from the Reformatory and Industrial Schools Branch was dispatched to conduct an investigation. The nature of that investigation and the results which it produced are the subject of comment elsewhere in this submission. At this juncture the Inquiry is asked to note what the Inspector wrote about the broader significance of that case:

*“This case is mainly important as indicating the treatment to which our industrial children might be liable under similar circumstances.”*
20. This is an important point. It demonstrates that an Inspector was taking his responsibilities seriously. He was not prepared to ignore a concern raised by a child notwithstanding the fact that the Reformatory and Industrial Schools Branch owed no particular legal duty to that child. He appreciated that Industrial School children might be enduring similar treatment and he acted accordingly.
21. To put it more broadly, this was a recognition that since an agency of the State was responsible for certifying NL as an Industrial School, and because boys were placed there pursuant to that arrangement, the Ministry of Home Affairs had a duty to ensure that appropriate standards were upheld by those responsible for operating the premises on a day to day basis. The inspector understood that the treatment of voluntarily placed children might well be relevant to Industrial School children.
22. The Department accepts that this was and remains the correct approach.

## The Nature of the Complaints

23. The Department has noted with concern the large number of complaints which have been articulated by the twelve applicants.
24. Consideration of the statements of evidence (as supplemented by the oral testimony) of the applicants would suggest that the most common complaint relates to the use of corporal punishment. Almost all of the applicants have complained that they were beaten by members of the congregation using instruments such as straps.
25. HIA 24 reported that he would have received a “dig or a clout” for relatively minor infringements. He was punished severely when the congregation realised that he wasn’t baptised.<sup>6</sup>
26. HIA 408 has claimed that he was assaulted by a Sister for petty offences, such as failing to have his arms folded in bed,<sup>7</sup> and for making a mistake in class.<sup>8</sup> He was also struck for needing to go to the toilet during Mass.<sup>9</sup> HIA 204 was beaten if he got a bad school report, and for helping himself to some sweets.<sup>10</sup> HIA 427 stated that he was so roughly treated at school, that he became so anxious that he could not learn.<sup>11</sup>
27. HIA 89 has complained that he was beaten with straps as well as sticks and hurling sticks.<sup>12</sup> He has also alleged that one Sister struck him with a crutch, causing him to spill boiling water all over his body and hands,<sup>13</sup> and on another occasion she pushed him down the stairs and he fractured his arm<sup>14</sup> (although it has been noted that there is no medical evidence to demonstrate that such injuries were suffered<sup>15</sup>).
28. Applying the standards of the time, the Department recognises that correction by moderate use of corporal punishment was socially acceptable. Nevertheless, the complaints raised by the applicants suggest that it was applied crudely and too readily for minor misdemeanors in NL at that time.
29. Indeed in her statements to the Inquiry Sister Brenda McCall has admitted on behalf of the Congregation that there was unacceptable use of physical aggression towards children:

*“...one of the main elements which has to be accepted is that the sisters general policy of no physical punishment was not implemented. There are instances where children*

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<sup>6</sup> SNB-419 at paragraph 19

<sup>7</sup> SNB-219 at paragraph 6

<sup>8</sup> SNB-220 at paragraph 9

<sup>9</sup> SNB-222 at paragraph 16

<sup>10</sup> SNB-305 at paragraph 6

<sup>11</sup> SNB-563 at paragraph 6

<sup>12</sup> SNB-486 at paragraph 4

<sup>13</sup> SNB-488 at paragraph 18

<sup>14</sup> SNB-488 at paragraph 19

<sup>15</sup> Transcript for day 83, page 12

*were the subject of physical assault and this is not acceptable when the care of children is considered.”<sup>16</sup>*

30. It must be emphasised that with the exception of the case of the boy referred to above (who an Inspector suspected may have been punished for bed wetting) Inspectors from the Reformatory and Industrial Schools Branch appeared not to have had any suspicions that excessive physical correction was being used at NL Industrial School.
31. At the annual inspections of NL, which are discussed in greater detail below, the punishment book for the Industrial School was routinely inspected. Nothing unusual was found. The most commonly reported finding was of minor punishments for trivial acts of misbehaviour. If the Sisters at NL were using corporal punishment as it appears they were, Ministry officials ought to have been informed. Physical chastisement of any child ought to have been recorded and drawn to the attention of the Inspectors so that enquiries could be made and any necessary steps taken.
32. It has also been emphasised in evidence that physical punishment was applied to boys who experienced night time enuresis. The Inquiry has received several accounts of how older boys poured cold water over “bed wetters” in the bath, and after being removed from the bath, physical punishment was applied by a Sister. The account provided by HIA 99 is particularly graphic in this respect<sup>17</sup> but his account is not unusual.<sup>18</sup>
33. Sister Brenda McCall has indicated that the Congregation accepts that the application of measures to embarrass or humiliate a child who had wet the bed were not helpful, although she has speculated that this may have been done “*out of ignorance of the issues behind the problem and a belief that the child could just stop the bedwetting if he or she wished.*”<sup>19</sup>
34. However, it is the case that as early as 1927 an Inspector from the Reformatory and Industrial Schools Branch cautioned senior staff at NL against the use of punishment for bedwetting when he was directed by the Ministry to investigate the suspicion that a boy (referred to above) had been severely beaten by a Sister for having wet his bed.
35. In his internal Minute for the Ministry following his investigation, the Inspector, made the following point:

*“They seemed to think, however, that punishment is the right way to deal with enuresis and I pointed out to them with some care the acknowledged fact that punishment is not the proper way to deal with these cases, but on the contrary is liable to make them worse.”<sup>20</sup>*

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<sup>16</sup> SNB-1503 at paragraph 15

<sup>17</sup> SNB-275 at paragraph 4

<sup>18</sup> A markedly similar account was provided by HIA 204 at SNB-305 at paragraph 9

<sup>19</sup> SNB-1510 at paragraph 29

<sup>20</sup> SNB-13659

36. The full inspection report, a copy of which would have been directed to the management at NL made the Inspector's concerns absolutely plain:

*“As regards the general treatment of the children, the only point to which it is necessary to raise objection is the infliction of punishment in the case of children who suffer nocturnal enuresis.”<sup>21</sup>*

37. The Inspector went on to advise that punishment was “inadvisable” because it increases nervousness in the child. He added that in all cases of nocturnal enuresis a referral should be made to a medical officer.

38. It is a matter of the utmost regret that the warning and advice given to the authorities at NL in 1927 in terms which were clear and unambiguous, appears to have been entirely disregarded by at least some of the Sisters who had responsibility for the care of children. The management of NL, having had their attention drawn to the issue, ought to have instituted a programme of education and training for the staff at NL, and those who continued to punish children for bed-wetting ought to have been the subject of robust discipline.

39. In the absence of further complaints from children (in addition to the one which was made in 1927) it is difficult to know what else the Ministry could have done to change the practises at NL and to prevent these odious punishments from being meted out.

40. Another feature of the evidence in this Module has been the complaint that the “older boys” were either permitted to apply physical force to younger boys, or were left unsupervised so that they could act in this way.

41. HIA 204 spoke of how the older boys abused their positions when the nuns weren't there.<sup>22</sup> In his account HIA 408 spoke about being physically assaulted by older boys who used brushes as weapons. However, like HIA 204, HIA 408 explained that the physical abuse inflicted by the older boys took place at night when the nuns weren't around.<sup>23</sup>

42. A more disturbing feature of the evidence has been the claims that older boys engaged younger boys in acts of sexual abuse. HIA 24 has stated that bigger boys attempted to rape him but that he was able to resist them.<sup>24</sup> HIA 204 told the Inquiry that he was sexually abused by older boys in the toilets and in the dormitory, but that he did not believe that the nuns would have been aware of this.<sup>25</sup> HIA 307 reported that he had been sexually molested by older boys and in his oral evidence, he asserted that the nuns were negligent and that they must have seen what was going on, although he did not identify any particular nun who would have witnessed the sexual abuse.<sup>26</sup> Likewise, HIA 192 claimed that unnamed nuns must

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<sup>21</sup> SNB-13793 -13794

<sup>22</sup> Transcript for day 82, page 9

<sup>23</sup> Transcript for day 82, at page 36

<sup>24</sup> SNB-418 at paragraph 14

<sup>25</sup> Transcript for day 82, page 8

<sup>26</sup> Transcript for day 84, page 17

have been aware that younger boys were being sexually interfered with by older boys.<sup>27</sup> HIA 99 claimed that he was forced to perform a sexual act on an older boy in order to avoid being reported for wetting the bed, although he made it clear that he didn't believe that nuns were aware that sexual abuse was going on in the home.<sup>28</sup> HIA 89 has stated that he was sexually abused by two boys, and then physically abused and bullied by them. However, he didn't tell anyone because, he said, "*no one would have believed him and nothing would have been done...*"<sup>29</sup>

43. It is the case that Sister Brenda McCall, on behalf of the Congregation, has accepted that older boys did bully younger boys at NL.<sup>30</sup> However, it would appear that the allegations that older boys engaged in the sexual abuse of younger boys has come as a surprise to the Congregation. It is submitted, however, that with appropriate supervision and control at the time, there might well have been opportunities to eradicate such abuses.
44. However, the Inquiry will no doubt appreciate that sexual abuse is often conducted in a clandestine manner so that in the absence of a complaint from a victim or a witness those living closest to the abuse may not even appreciate that it is happening. Those applicants who suggested that Sisters "must have known" have not indicated who must have known or how exactly they must have known.
45. The victims of the abuse did not speak out against their abusers at the time for reasons which are perfectly understandable. HIA 204 told the Inquiry that he was able to report the physical abuse which he suffered to his mother when he saw her once a year but he was even unable to confront her with the sexual abuse he had suffered.<sup>31</sup>
46. HIA 408 stated that he was sexually abused on one occasion, and he was also assaulted by the same older boy.<sup>32</sup> He felt able to report to his brother how he was being beaten up, but he explained to the Inquiry in his oral evidence that he did not report the sexual abuse to his brother.<sup>33</sup>
47. It is plain that where the victims of sexual abuse refrained from reporting it to the Sisters who were caring for them or to their family members, and in the absence of any other mode of complaint, the Ministry of Home Affairs had no reason to suspect that a problem of this kind existed or that it was widespread.
48. The system of annual inspection which provided an opportunity for Ministry Inspectors to enter NL to assess how it was operating and to ensure that reasonable standards were being maintained, will be explored in some detail below. However, it is quite clear that this system of inspection was a relatively blunt instrument and not sufficiently refined to detect for signs of physical or sexual abuse.

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<sup>27</sup> Transcript for day 92, page 40

<sup>28</sup> Transcript for day 82, at page 71

<sup>29</sup> SNB-488, paragraph 16

<sup>30</sup> SNB-1504, paragraph 23

<sup>31</sup> Transcript day 82, page 14

<sup>32</sup> SNB-221, paragraph 12

<sup>33</sup> Transcript for day 82, at page 44

## The Regulation of Industrial Schools

49. Mr. Perry recalled in his witness statement, the Ministry of Home Affairs had a restricted sphere of influence in the context of the regulation of Industrial Schools in the pre-war period:

*“[9] The responsibilities of the Ministry of Home Affairs were limited when it came to the Reformatory and Industrial Schools. It had no direct control over the running of the Schools (including the hiring or dismissal of staff) and neither controlled nor directed policies in place within the schools, although it did have statutory power to set rules governing the overarching framework within which schools operated.”<sup>34</sup>*

50. Mr. Perry also explained that the annual inspections of Industrial Schools such as the one at NL performed by the Reformatory and Industrial Schools Branch, were of limited scope:

*“[10] The Reformatory and Industrial Schools Branch had some responsibility for inspecting Schools under Section 46 of the Children Act 1908, but inspections were limited to reporting on the health and conditions in which children were kept and ensuring that records were kept in order. The Principal Medical Officer attached to the Ministry carried out these annual inspections. An informal arrangement was made with the Ministry for Education for their Inspectors to examine educational provision within the schools, and Technical Inspectors (drawing and manual instruction) visited the schools....”<sup>35</sup>*

51. Despite the limitations of the annual inspection arrangement, it was the case that those annual interventions into the industrial schools provided an important mechanism to ensure that adequate standards were maintained and to encourage change where change was required. It will be argued below that the Inspectors pursued these inspections with vigour and together with Ministry staff they used the information obtained from the inspections to ensure that any gaps in provision were remedied so that the welfare of the children in places such as NL was safeguarded so far as it was within their knowledge and power to do so.

52. During the pre-1951 period with which we are concerned, it was recognised that there was a need to reform and improve the management of and conditions within the Industrial and Reformatory school sector, particularly following the report of the Lynn Committee on the Protection and Welfare of the Young and Treatment of Young Offenders.<sup>36</sup> However, attempts to introduce reform appear to have been stymied by the intervention of WWII.

53. Legislation incorporating many of the Lynn Committee recommendations was, however, introduced after the War in the form of the Children and Young Persons Act (NI) 1950. The introduction of the legislation coincided with the decertification of NL as an industrial school.

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<sup>34</sup> Witness Statement of Nick Perry at paragraphs 9

<sup>35</sup> Witness Statement of Nick Perry at paragraphs 10. It may have been inaccurate to suggest that the Principal Medical Officer carried out these annual inspections. Certainly, the majority of the annual inspection reports available to this Inquiry have been compiled by and signed off by Assistant Inspectors from the Ministry of Home Affairs Reformatory and Industrial Schools Branch.

<sup>36</sup> Command Paper 187, 1937



54. The legislation provided for a number of progressive regulatory features which were not in place in the pre-War era including the establishment of the Child Welfare Council which could make representations to the Ministry in relation to the welfare of children and young persons.
55. Schedule 4 of the Act also provided for the introduction of Training School Rules, which came into force in 1952, and which provided for the establishment of boards of management and detailed their responsibilities, including a requirement to meet on a monthly basis and pay “frequent” visits to the school (Rule 2).
56. The Rules were also prescriptive with regard to such things as the appointment of staff (Rule 15); the care of boys and girls (Rule 24); school routine (Rule 26); education (Rule 27); recreation, visits and letters (Rule 32); discipline and punishment (Rule 38); medical and dental provision (Rules 50 and 51). Provision was also made for inspections (Rule 55).
57. The Inquiry will immediately recognise, therefore, that the changes to the regulatory and governance arrangements which had gained traction as a consequence of the 1950 Act, provided the basis for significant improvement on what had gone before.
58. This Inquiry in its public pronouncements has properly recognised the need to judge participants by reference to the standards of the time in which they were working. However, it is legitimate to ask why the reports of widespread abuses and deprivations which have been reported to the Inquiry in respect of NL in relation to the period 1922-1951, did not come to the attention of the authorities such as the Ministry of Home Affairs at the time?
59. It is the Department’s impression that the answer to this question involves three overlapping factors. Firstly, those who were the victims of the abuse were very young and either felt unable to complain or didn’t have the means to complaint. Secondly, those who knew about the abuse including staff at NL and visitors to the premises (such as the mother of HIA 204) undoubtedly felt constrained for whatever reason, and unable to blow the whistle. Thirdly, in keeping with the time, the system of regulation and inspection were insufficiently developed or intensive to be able to recognise where problems might exist, detect them and eradicate them.
60. While progress continued to be made in this field, regulatory systems, even by the late sixties had not matured sufficiently to ensure that the needs of the individual child were adequately met in all cases. In his statement Mr. Robert Moore explained that the children's officers had as their main focus,
- “supporting the officers in charge of the homes and in helping to resolve difficulties in the running of the homes; there would have been concern for the overall welfare of the children in care, rather than for any specific child’s needs.”<sup>37</sup>*
61. Mr. Moore pointed out that it was only in the late eighties that steps were taken to implement a recommendation contained in the Sheridan Report that there should be a formal complaints procedure for children in care as well as for their parents.<sup>38</sup>

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<sup>37</sup> SNB-6906, paragraph 7

62. The inspection documents for the period 1922-1950 show that the annual inspections of NL which were carried out by an Assistant Inspector from the Reformatory and Industrial Schools Branch took place in the course of one day, and that they were unlikely to have occupied the entirety of the day. Findings were recorded on two or perhaps three pages, although a wide range of issues were explored. It will be remembered that during that period there was regularly 200 or more children in residence in NL.
63. By way of contrast, it is informative to document how the system of inspection developed and by the late eighties and early nineties, providing a better potential at least, for any abuse of children to be reported, investigated and dealt with.
64. In her statement to the Inquiry Ms. Marion Reynolds (Social Services Inspectorate) explained how an inspection of NL in 1993 (at a time when the home was inhabited by only 24 children) took 7 days (58 hours) to complete, excluding preparation and writing up time. The inspection which was undertaken included a detailed analysis of the records so that any concerns could be identified. Most importantly perhaps, the inspection embraced opportunities to speak to children directly. Questionnaires were used to elicit concerns from children who were residents as well as those who had been discharged in the previous year, but Ms. Reynolds also made use of the opportunity to speak to children:

*“My practice in the course of an inspection was to talk with a number of children, field social workers and residential staff members. The purpose of such discussions was to acquire information on the quality of care provided within a children’s home and to provide an opportunity for concerns to be raised.”<sup>39</sup>*

65. In her statement to the Inquiry Ms. Felicity Beagon (Social Services Inspectorate) also emphasised the thorough nature of the inspection process of more recent times. She inspected NL on five occasions between 1988 and 1992 and recalled how inspections would take place over three days and would involve spending time in the home, interviewing staff, attending meetings, examining files and mingling with children. While she did not formally interview children in care she emphasised that,

*“she always took the opportunity to speak with those who were around during the day and in the evenings with a view to seeking to engage the children’s interest, explaining the purpose of the inspection and offering them the opportunity to speak to me privately about any matter they wished...”<sup>40</sup>*

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<sup>38</sup> SNB-6907

<sup>39</sup> SNB-9038 - 9039

<sup>40</sup> SNB-9001 - 9002

## Section 46 Inspections

66. As well as the more serious allegations of physical violence, bullying and sexual abuse many of the applicants have also complained to the Inquiry about more mundane matters such as the standard of material provision available at NL.<sup>41</sup>
67. Some of the applicants recalled that the clothing and footwear available to them as children left something to be desired (eg. HIA 408).
68. Others (eg. HIA 89, HIA 99 and HIA 427) have made complaints about the poor quality of the food and of feeling hungry.<sup>42</sup> HIA 159 and HIA 192 alleged that they were forced to eat food which they did not like.
69. Many of the applicants have complained of their separation from or lack of contact with family. HIA 204 felt separated from his sister who was a resident of Nazareth House, seeing her only in the summer. HIA 307 complained that he was deprived of visits from his foster mother. HIA 159 claimed that his mother was turned away from a visit and that mail was withheld and presents not received. HIA 89 complained that his brothers were in NL, but that he didn't see them until he was aged about 12. He saw his sisters (who were in Nazareth House) only occasionally.
70. The Inquiry has also received a range of complaints which suggested that at times NL operated without respect for the emotional state or the dignity of the individual. HIA 33 complained that he was slapped when he explained that he was crying for the death of his foster mother. His complaint that he was sometimes referred to by number (rather than by name) was also the experience of HIA 408. HIA 427 reported that he was threatened with being sent to Muckamore. HIA 159 referred to the shame he felt when placed against a wall to have his underwear inspected. HIA 87 recalled with disappointment how he did not get the opportunity to go to the circus with other boys at Christmas.

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<sup>41</sup> It has been part of the narrative of this Module that the Sisters of Nazareth sought to feed and clothe the children in their care to the best of their ability so far as resources allowed. It should be noted that so far as children detained at NL in its Industrial School capacity were concerned, section 74 of the Children Act placed an obligation on the local authority for the area in which the child resided to provide for his reception and maintenance. The records show that the Ministry of Home Affairs was keen to ensure that Industrial Schools such as NL were in receipt of such funding, and wrote to the school to ask for confirmation of the rate of weekly contribution which was being paid. In 1941, for example, each of the local authorities in Northern Ireland paid 5/- for each child in NL whose detention had been ordered. See SNB-16030.

<sup>42</sup> It is submitted that the views on the quantity and quality of the food available is a distinctly subjective matter. Certainly, there is evidence before the Inquiry that the Ministry of Home Affairs was not disinterested in the diets of the children. The schools were directed to provide the Ministry with copies of their dietary scales on an annual basis: see for example the scale for 1941 at SNB-17604. On paper at least, the food available to the children was basic but adequate, and at the time of the annual inspections when the food could be seen being prepared or served, the Inspectors generally reported a very positive impression of the food available. In 1946, for example, the meals were described as being "very satisfactory, being reasonably varied and ample in quality" (at SNB-13697).

71. All of these complaints, in addition to the more sinister complaints of physical and sexual abuse, portray NL as the unhappiest of places to endure a childhood. Indeed worse than that, the experiences of the applicants suggest that they were exposed to an unrelentingly uncaring and repressive regime.
72. The purpose of this section of these submissions is not to gainsay or to challenge any of the accounts given by the applicants. The issue to be addressed is whether the Ministry's system of inspections (as provided for in section 46 of the Children Act) could have identified and addressed the conditions which have now been complained about.
73. The point has been made already that even the most developed and sophisticated of inspection regimes (and the section 46 inspection arrangements did not fall into that category in practice) would encounter difficulties in detecting physical and sexual abuse in the relatively hidden confines of NL, in the absence of complaints from victims or whistleblowers, of which there were none.
74. On the other hand even the rather limited inspection regime of that time ought to have been capable of identifying and trying to address other causes of unhappiness such as poor or insufficient food, inadequate clothing or deficient facilities. It should also have been capable of highlighting broad welfare issues and of detecting whether the atmosphere within the facility was consistent with a state of general contentedness or happiness amongst the children.
75. The Department believes that consideration of the available inspection reports demonstrates that applying the standards of the time, inspectors worked hard to understand how children experienced life in NL, and set about in a reasonably proactive fashion, trying to remedy any problems which they came across. It has to be said that the general impression which the evidence of the applicants has created of the overwhelming unhappiness of life in NL does not appear to have been the experience of the majority, judged by the commentaries contained across a range of annual inspection reports.
76. Thus, in 1933 the annual inspection report for NL Industrial School found the following:
- "The children looked cheerful and healthy and gave the impression of being well looked after and kindly treated."<sup>43</sup>*
77. In 1935 the Assistant Inspector (McCloy) reached a similar conclusion:
- "The children were happy and healthy looking, well clothed and of good deportment and conduct. I was present at the midday meal which was abundant, of good and nourishing quality, well served and enjoyed by the children."<sup>44</sup>*
78. A different inspector conducted the inspection in 1939 (E Armstrong). He was no less impressed by the atmosphere in NL:

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<sup>43</sup> SNB-13773

<sup>44</sup> SNB-13761

*“The children appeared healthy, suitably clothed and their general demeanour was good. There was an air of contentment which was pleasing.”<sup>45</sup>*

79. The annual inspection reports from the War years are no less positive. In 1941 Mr. Weir felt able to report:

*“The atmosphere of this school is very satisfactory. The cheerful and contented demeanour of the boys says much for the care and attention they are receiving.”<sup>46</sup>*

80. Mr. Weir’s general sense of the care provided at NL Industrial School remained largely unchanged after his 1944 inspection. He signed off his report with a flourish:

*“The boys continue to be well cared for and the school is doing excellent work.”<sup>47</sup>*

81. In 1946 it was said that, “Much care and labour is given to the welfare of the children in the school.”<sup>48</sup>

82. In 1947 the Inspector praised the atmosphere in NL and the relationships between children and staff:

*“The general atmosphere in the school was a very friendly one, an excellent understanding between the staff and the boys. Quite an amount of freedom was allowed. The punishment book contained a number of items but these dealt with minor misdemeanours and were dealt with by deprivation of privileges. There were no cases of absence from school without leave...”<sup>49</sup>*

83. These assessments were made as a result of inspections which coincided with or overlapped with the applicants residence at NL. There is certainly a disconnect between the impressions formed by a number of inspectors over a period of years and the unhappy experiences of the applicants.

84. It is accepted by the Department that these generalised comments of the inspectors which are broadly positive, cannot speak for the individual experiences of every boy who was resident in NL. It is undoubtedly the case that some boys would have experienced institutional life in that environment in a much harsher way, as the information provided by the applicants suggests. It is submitted that a system of inspection which could have extracted from the applicants the difficulties which they were faced with had not been developed at that time.

85. It is accepted also that the inspectors who were undoubtedly doing their best for the children would not have been privy to the miseries which the applicants may well have been experiencing. It can only be suggested that had the inspectors been made aware of their experiences the likelihood is that they would have provided a robust challenge function. It is

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<sup>45</sup> SNB-13741

<sup>46</sup> SNB-13734

<sup>47</sup> SNB-13709

<sup>48</sup> SNB-13698

<sup>49</sup> SNB-13692

submitted that the material available in the inspection reports supports this view: where they found problems in how NL was being run the inspectors were not hesitant about doing something about it.

86. By more contemporary standards it might be considered that these inspections were “light touch” in nature. Certainly, it was the case that children were observed at a distance rather than directly engaged, and assessments were made on the basis of what could be seen. However, it is submitted that these were inspections which aspired to do more than merely scratch the surface, and were successful in that objective, even if they did not reveal the abuses which the applicants complain was taking place during that period.
87. Consideration of the report from September 1944 demonstrates that no significant aspect of Industrial School life at NL was left unscrutinised: incidences of illness was discussed; children were observed in class; their state of alertness was assessed; physical appearance, and adequacy of clothing and footwear was commented upon; the fact that children were consuming milk made available through the statutory scheme was noted; that children were weighed was confirmed; the punishment book was scrutinised and “nothing of note” discovered; the degree of freedom given to the children was commented upon and found to be acceptable; the fact that children were required to carry out chores (including work in the kitchen, laundry and dormitory) was identified and found to be appropriate;<sup>50</sup> the laundry department and the ablutions area were inspected; medical provision was the subject of comment; the quality and quantity of the food was assessed and found to be satisfactory; statutory books were inspected and found to be in order.
88. This report, and the many other annual inspection reports available to the Inquiry for the period from 1922 to 1950, provides an illustration of the lengths to which the Inspectorate went in order to ensure that the welfare of the children in NL was protected. If there were issues which required attention the Inspectors wrote this into their reports, the Ministry drew the attention of the home/school manager to the issues and steps were taken to see that those issues were addressed.
89. The 1944 report contains two examples of such endeavour. Firstly, on a somewhat mundane level the Inspector noted a risk that children could fall through a banister on the stairs and therefore he advised the erection of a screen. Secondly, it was noted that the children had not received a complete medical examination, and it was directed that this should be done and repeated at regular intervals, with the results recorded in the clinical records.
90. A consideration of the report for the previous year (1943) demonstrates that the quality of medical provision was an ongoing issue for Inspectors.<sup>51</sup> At that time the main concern was the

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<sup>50</sup> It will be recalled that some of the applicants (eg. HIA-33, HIA 87 and HIA 89) have complained that they were made to carry out manual work by the Sisters. However, this did not attract the concern of the Inspectors, perhaps because it was accepted at that time that even young children should engage in chores in order to keep large institutions such as NL running smoothly and efficiently. In the 1946 inspection report the Inspector again observed that children were required to engage in domestic cleaning as well as work in the kitchen and laundry, and this also passed without adverse comment: see SNB-13697

<sup>51</sup> SNB-13722

need to ensure that clinical records were made and kept. The issue was drawn to the attention of the manager of NL and active steps were taken to ensure that the advice was complied with.<sup>52</sup> Issues of concern were identified, and gradual year on year improvements were made. By 1948 the inspector reported that the health of the boys was satisfactory and that regular visits (quarterly) were received from the medical officer and that dental treatment was provided by the Belfast Schools Dental Service.<sup>53</sup>

91. The available documents illustrate the many examples of situations where problems were identified by an Inspector at the annual inspection and the steps which were then taken by way of follow up to ensure that improvements were made.
92. In 1950 concerns were expressed about overcrowding, and about ablutionary and sanitary provision, and the failure to report an outbreak of ringworm was critically observed.<sup>54</sup> In 1949 concerns were raised about significant overcrowding and the need to improve certain physical aspects of the premises and to provide for better recreation facilities.<sup>55</sup> In 1947 concern was expressed that the medical officer was neglecting to complete entries of illnesses and treatments in the medical records, and unfavourable comments were made about the condition of ablution and sanitary facilities.<sup>56</sup> In 1946 the need to provide boys with stockings and the absence of convenient sanitary facilities proximate to the toddlers section was emphasised.<sup>57</sup> In all of these cases the Ministry sought to engage the manager of NL in a discussion in order to promote change and improvement, although on occasions change was not practicable eg. because of a shortage of materials during the War.
93. That the inspectors of the Reformatory and Industrial Schools Branch approached their work with an interventionary zeal is also demonstrated in how they inspected other institutions at that time.<sup>58</sup> It is submitted that this was not a group of disinterested observers who had settled on an easy life.

### **A Case of Suspected Cruelty**

94. As has been briefly highlighted elsewhere in this submission, the Ministry's Reformatory and Industrial Schools Branch was prepared to intervene in a case of suspected cruelty at NL notwithstanding the fact that the child concerned was not detained there in an Industrial School capacity.
95. This section of these submissions will now examine that case in some more detail, since it demonstrates that the preparedness of the Ministry to intervene in the affairs of NL was not

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<sup>52</sup> SNB-13718

<sup>53</sup> SNB-13689

<sup>54</sup> SNB-13672

<sup>55</sup> SNB-13683

<sup>56</sup> SNB-13692

<sup>57</sup> SNB-13697

<sup>58</sup> In a 1937 report an Inspector drew attention to the inadequacies of the kitchen and laundry facilities at Malone Training School: SNB-13641. The 1939 inspection report in respect of Shamrock Lodge Reformatory and Industrial School spoke of overcrowding in the dormitories (SNB-13627), and stated that "many matters of domestic interest throughout the institution require attention and improvement."

limited to the inadequacies of the building or its facilities, but extended to an incident where the health and welfare of an individual child was directly effected.

96. It might be added that the handling of this child's case provides some basis for considering that had the Ministry's inspectors ever been appraised of the abuse suffered by the applicants they would not have been found wanting in carrying out an investigation and taking steps to stamp it out.
97. It would appear that the boy's plight was drawn to the attention of the Ministry by an officer of the Royal Ulster Constabulary. The police were carrying out their own investigation into how the boy was treated but it is clear that the Ministry (at the highest level) decided that it should instigate its own investigation. The Inspector who conducted the investigation prefaced his record of his visit to NL with the words, "As directed by the Minister I made a complete inspection of Nazareth Lodge Industrial School on the 17th inst..."<sup>59</sup>
98. It can be seen that the inspector took the following steps as part of his investigation:
- a. He spoke to the Sister who had punished the child and established that she had struck him on the hands with a strap because he had wet and soiled the bed. This had occurred on the morning before he ran away from the school;
  - b. He sought to establish whether she had applied punishment to the child using a stick as alleged by him. However, she denied using a stick, although as well as admitting to strapping the boy, she admitted to dressing him in a girls petticoat as a punishment.
99. The inspector was relentless in his inquiries and took it upon himself to visit the child in hospital where he was being treated for various small sores. He sought an explanation for the sores: his knee had a sore because he had been scrubbing floors; his hip had a sore because he was made to lie on the wire mattress without a hair mattress over it (after it had been wet). The boy insisted that he had been hit on the legs on the day he ran away a second time, and he complained that other bed wetters were similarly treated.
100. The inspector commented that the boy "...certainly gave me the impression that he believed that he was telling the truth..."<sup>60</sup> However, the Inspector found it difficult to judge who was telling him the truth:

*"I find myself unable to judge between his statements and those of [the] Sister .... but undoubtedly hers would be accepted in court."*<sup>61</sup>

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<sup>59</sup> SNB-13659

<sup>60</sup> SNB-13660

<sup>61</sup> SNB-13660. It is notable that this conclusion about the prospects for a prosecution was also reached by the investigating police officer who concluded that he believed that the child had received the beatings which he complained of but added, "at the same time if a prosecution was instituted I have no doubt that the evidence of the Sisters and the Reverend Mother would be believed before the boy." (at SNB-13666)



101. While finding himself of the view that a prosecution for cruelty would be unlikely to succeed, the Inspector was emphatic that punishment for bedwetting had to stop, and he emphasised this in his conversation with the Sisters and formally expressed this position in the inspection report.<sup>62</sup>
102. In his Minute sheet the Inspector recorded that *“it is admitted that the children at the school are punished for bed wetting and this should be stopped, whatever the form of punishment.”*
103. This emphasis also found unambiguous support within the Ministry. There is a handwritten note, possibly written by the Assistant Secretary, which appears on the face of the Inspector’s minute. It records:

*“I agree that we should say that care should be exercised in regard to punishments for matters beyond the boys control.”<sup>63</sup>*

## Conclusions

101. The Ministry of Home Affairs had no direct responsibility for the welfare of any of the twelve applicants who have complained to the Inquiry about their experiences in NL during various periods before 1951.
102. Nevertheless, and without making any comment about any particular allegation or incident of abuse, the Department recognises that abuse was undoubtedly suffered by some of those who resided in NL at that time and that this abuse was deeply unpleasant and utterly regrettable, and that it is worthy of condemnation.
103. The Ministry of Home Affairs had a duty to ensure that the Industrial School facility at NL was fit for purpose and that children detained there were safe and properly treated.
104. It is now absolutely clear that children who resided there were not safe and were not properly treated in spite of the energetic efforts of Inspectors from the Reformatory and Industrial Schools Branch to promote an environment in which the welfare of children would be safeguarded and respected.
105. That the abuse of children which took place in that place at that time went undetected was probably due in significant part to three key factors:
- the understandable refusal or inability of victims to complain;
  - the failure of witnesses (whistleblowers) to come forward to report abuse;

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<sup>62</sup> SNB-13793 -13794

<sup>63</sup>SNB-13659

- the limitations of the regulatory or inspection regime which was not at that time geared up to seek out or detect hidden abuse, but rather, was capable only of responding to complaints if complaints were made.

**Martin Wolfe QC**

**Bar Library**

**15 May 2015**