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HISTORICAL INSTITUTIONAL ABUSE INQUIRY  
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being heard before:

SIR ANTHONY HART (Chairman)

MR DAVID LANE

MS GERALDINE DOHERTY

held at

Banbridge Court House

Banbridge

on Monday, 29th September 2014

commencing at 10.00 am

(Day 51)

MR JOSEPH AIKEN appeared as Counsel to the Inquiry.

1 Monday, 29th September 2014

2 (10.00 am)

3 Opening Statement to Module 3 by CHAIRMAN

4 CHAIRMAN: Good morning, ladies and gentlemen. Welcome to  
5 the opening of the third module of the Inquiry into  
6 Historical Institutional Abuse in Northern Ireland,  
7 which will be concerned with the home at Rubane, near  
8 Kircubbin in County Down, run by the De La Salle  
9 Brothers.

10 In a few minutes I will invite Mr Joseph Aiken,  
11 Junior Counsel to the Inquiry, to outline the evidence  
12 that the Inquiry will consider during this module.  
13 Before he does so I want to take this opportunity to  
14 remind every one of the importance the Inquiry attaches  
15 to the evidence of witnesses who have told us of their  
16 experiences during the public sittings of the Inquiry  
17 and who will do so during this module and the remaining  
18 modules of the Inquiry.

19 As we have emphasised on many occasions, all of us  
20 in the Inquiry are acutely aware of the strain that  
21 giving evidence can involve for many of those who have  
22 to recall deeply upsetting experiences. We do  
23 everything that we can to minimise those stresses, as  
24 I hope has been apparent to everyone during the first  
25 two modules of this Public Inquiry and these public

1 sittings.

2 As part of that process we go over all the relevant  
3 material that we have with them when they make their  
4 written statements to our legal team, but our  
5 investigations continue every day and so new material is  
6 discovered by the Inquiry or is given to us by those  
7 organisations from which we have requested information  
8 and documents. Inevitably some of this material reaches  
9 us after the witness has made his or her statement.

10 Regrettably some material reaches us a few days,  
11 sometimes only hours, before the witness is scheduled to  
12 give evidence. Not only does this cause difficulty for  
13 our counsel and legal team in dealing with the material  
14 at short notice, but it can mean that the witness may be  
15 asked for the first time about important matters on the  
16 day when they come to Banbridge to give evidence.  
17 Sometimes this new information may be difficult for  
18 them.

19 It might seem to some that those stresses would be  
20 avoided if we did not ask applicants to the Inquiry to  
21 come to us to give their evidence publicly. However,  
22 I cannot over-emphasise the importance we place on  
23 hearing the oral evidence from as many as possible of  
24 those witnesses about their experiences in the  
25 institutions we are investigating. We want to explore

1           these matters in public as far as we can, and the public  
2           hearings serve two very important purposes.

3           First of all, the witnesses have the opportunity to  
4           have their voices heard in public and not just by the  
5           Inquiry in private. This is an opportunity that many  
6           witnesses who have already given evidence to the Inquiry  
7           have confirmed to the Inquiry, either in their public  
8           evidence or privately, that they greatly appreciate.

9           Secondly, the public hearings also enable us to  
10          explore these new matters with the witnesses, and  
11          because of their responses we achieve a deeper  
12          understanding of the human dimension of their  
13          experiences and an enhanced insight into the many and  
14          complex questions we have to examine.

15          Mr Aiken.

16          Opening Statement by COUNSEL TO THE INQUIRY

17   MR AIKEN: Morning, Chairman, Members of the Panel and  
18          ladies and gentlemen. This morning, as you have  
19          indicated, Chairman, marks the commencement of the  
20          Inquiry's third module of public hearings, and before  
21          I begin my opening remarks I'd like to invite the  
22          appearances from the legal representatives of the  
23          participants in this module, and I am also aware that  
24          there are legal representatives on behalf of some  
25          individuals against whom allegations are made who have

1 attended this morning, and they will give their  
2 appearances as well.

3 CHAIRMAN: Thank. Could we have the organisations first?  
4 Mr Rooney?

5 MR ROONEY: Mr Chairman, my name is Kevin Rooney. I appear  
6 on behalf of the De La Salle Order with my learned  
7 friend Mr Declan Quinn, counsel, and Mr Joseph Napier of  
8 Napier & Sons Solicitors.

9 CHAIRMAN: Thank you. Mr O'Reilly?

10 MR O'REILLY: Mr Chairman, Members of the Panel, my name is  
11 Francis O'Reilly. I am instructed on behalf of the  
12 Department of Health, Social Services and Public Safety.  
13 I am instructed by the Departmental Solicitors' Office  
14 and I'm attended today by one of its senior solicitors,  
15 Mrs Mary **McDevitt**

16 CHAIRMAN: Thank you.

17 MS SMYTH: Chairman and Members of the Panel, my name is  
18 Moira Smyth. I appear for the Health and Social Care  
19 Board. I am instructed by the Directorate of Legal  
20 Services and I am attended today by Miss Eileen  
21 **Finnegan** consultant solicitor.

22 CHAIRMAN: Thank you, Ms Smyth.

23 MR MCKENNA: Mr Chairman, Members of the Panel, my name is  
24 Eugene McKenna. I appear with my learned friend  
25 Mr Lockhart on behalf of the Diocese of Down & Connor,

1 and we are instructed by Jones & Company Solicitors, and  
2 Mr Canavan of that office attends me today.

3 MR HARVEY: Mr Chairman, Members of the Panel, my name is  
4 Arthur Harvey. I appear with Mr Kieran Harvey, and we  
5 are attended by Mr Seamus Collins of PJ McCrory &  
6 Company, and we appear on behalf of Brother 2, Brother  
7 3, Brother 10, Brother 25 and Brother 62.

8 CHAIRMAN: Thank you, Mr Harvey. Mr Fahy?

9 MR FAHY: Mr Chairman, Members of the Panel, my name is  
10 Desmond Fahy. I appear on behalf of Brother **BR 77**  
11 **█** and I'm instructed by Patrick Fahy & Company  
12 Solicitors, Omagh, and I'm attended today by Mr Adrian  
13 O'Kane, partner in that firm.

14 CHAIRMAN: Thank you. Now, Mr Aiken.

15 MR AIKEN: I am obliged, Chairman.

16 As we have already indicated, this module relates to  
17 Rubane House in Kircubbin in County Down, and between  
18 1950 and 1985 a voluntary children's home was operated  
19 there by the Roman Catholic Diocese of Down & Connor and  
20 run on its behalf by the De La Salle Religious Order.  
21 For the avoidance of any doubt I would like to make  
22 something abundantly clear at this point. The  
23 children's home was closed in 1985. The Diocese of Down  
24 & Connor sold the entire 250 acre property in 1995 and  
25 the present owners have no connection whatsoever with

1 the former children's home, with the De La Salle Order  
2 or with the Roman Catholic Diocese of Down & Connor.

3 Mr Chairman, this opening will last a number of days  
4 and it will endeavour to pull together and summarise  
5 hopefully in a coherent and manageable way vast swathes  
6 of documentary material that the Inquiry has received  
7 relating to Rubane. It will also endeavour to highlight  
8 the key issues for the Inquiry that emerge from the  
9 documentary evidence that has already been received and  
10 to set the scene for the oral evidence the Inquiry will  
11 hear over the next few months.

12 What I want to do at the outset is give you a brief  
13 overview or summary of what the investigations to date  
14 have uncovered and to map out the path that I intend to  
15 follow during this opening so that you can have some  
16 idea of what lies ahead.

17 Rubane was a voluntary children's home. It housed  
18 boys generally between the ages of 11 to 16, but at  
19 times younger boys were accepted. The premises were  
20 purchased, owned and overseen by the Roman Catholic  
21 Diocese of Down & Connor. The diocese governed the home  
22 through a Governing Board headed up by the incumbent  
23 Bishop of Down & Connor. The home was operated on  
24 behalf of the diocese by the Roman Catholic Religious  
25 Brothers of the De La Salle Order.

1           The home was subject to the requirements of the  
2           Children and Young Persons Act (Northern Ireland) 1950  
3           and its successor Act of 1968 and of the Children and  
4           Young Persons (Voluntary Homes) Regulations (Northern  
5           Ireland) 1952 and their successor regulations of 1975.

6           Under the 1950 Act the children's home was regulated  
7           by the Ministry of Home Affairs and laterally the  
8           Department of Health and Social Services and was  
9           inspected by those government departments. The home  
10          accepted children placed voluntarily with it primarily,  
11          but not exclusively, from Roman Catholic families in  
12          West and North Belfast. Those were children not  
13          formally in care under the 1950 or 1968 Act.

14          In addition, an arrangement quickly existed between  
15          Rubane and Nazareth Lodge in Belfast, another voluntary  
16          children's home run by the Sisters of Nazareth  
17          congregation of nuns, where each year generally between  
18          ten and twenty voluntary boys from Nazareth Lodge moved  
19          to Rubane at 11 years old, though occasionally some boys  
20          moved at a younger age. That arrangement continued into  
21          the 1970s. The home also accepted from the outset  
22          children from the welfare authorities in Northern  
23          Ireland and from other government departments with  
24          special responsibility for some children.

25          In a pattern similar to that of the first module,

1 when the Inquiry examined the two homes at Termonbacca  
2 and Nazareth House in Londonderry run by the Sisters of  
3 Nazareth Order, as the years went on, the numbers of  
4 voluntary children reduced and the numbers of welfare  
5 authority children increased, and we will come to see  
6 that by the early '70s all of the voluntary children in  
7 Rubane were formally taken into care by welfare  
8 authorities, with the consequence that from that point  
9 all the children residing in the home were maintained by  
10 the State as well as the home itself being regulated by  
11 the State.

12 In addition, the children residing in the home were  
13 educated in a school on the premises. The school was  
14 originally in rooms within the main children's home  
15 building, and then in a new school block built adjacent  
16 to the main building in the early 1950s. It was  
17 initially treated as what was known as an unreorganised  
18 voluntary primary school. This was a primary school  
19 that continued to teach children aged over 11 after the  
20 coming into force of the Education Act (Northern  
21 Ireland) 1947, which created intermediate schools for  
22 children over 11. The Rubane school subsequently became  
23 a voluntary intermediate school later in its life.

24 The school was inspected by representatives of the  
25 Ministry of Education. You will see that a significant

1 number of the children were what was described in those  
2 times as educationally subnormal. We will also come to  
3 see that the home also had a very successful farm, which  
4 generated income for the home.

5 The home had access to doctors, to a psychiatrist,  
6 government medical officers, a dentist and had for long  
7 periods a resident chaplain in the form of a diocesan  
8 priest who lived on the site. By 1959 it had an outdoor  
9 swimming pool, and you will hear evidence of lots of  
10 recreational activities, sports teams and events,  
11 holidays, cinema trips, high profile visitors to the  
12 home, as we will come to see in the coming days.

13 In many respects it could be said that Rubane had  
14 much greater facilities than many children living in  
15 deprived areas of Belfast might have experienced. On  
16 one view Rubane had much going for it in terms of  
17 facilities and activities. However, as the Inquiry will  
18 come to see and hear, all unfortunately was not well in  
19 Rubane.

20 The children's home itself, initially in the main  
21 building and later expanded out into a former steward's  
22 house nearby, was inspected by personnel from the  
23 Childcare Branch of the Ministry of Home Affairs and  
24 subsequently the Social Work Advisory Group or SWAG  
25 operating under the auspices of the DHSS, and we will

1 look at their findings in some detail later in the  
2 opening.

3 As we will come to see, the Ministry's concerns  
4 after noting a good start in the early 1950s, when  
5 numbers were small, were by the end of the 1950s  
6 concerns of overcrowding, inadequate numbers of staff  
7 and the use of the institutional and regimented approach  
8 to childcare as opposed to that envisaged to exist under  
9 family-sized arrangements.

10 With the admission of increasing number of boys in  
11 the mid to late '50s and early '60s came the need for  
12 more accommodation. A desire from, it appears, the  
13 Order to achieve the numbers necessary for  
14 an intermediate school to be approved on the site led to  
15 a tension between the approach desired by the State for  
16 children's homes, which was essentially small places of  
17 last resort for those children who could not be boarded  
18 out or what's commonly understood as fostered, with  
19 a future that the diocese and the Order saw for the  
20 home, which was of a different nature. That led  
21 a Ministry official to say of the plans for expansion  
22 being proposed in 1963 -- if we can just bring up,  
23 please, RUB10307. If we can just maximise the size of  
24 the page, please. If we can look at the first bullet  
25 point and the second sentence:

1           "Bearing in mind that many of these boys at Rubane  
2 will have had no experience since birth of a normal home  
3 life, it is sad to see a new development contemplated in  
4 1963 on these workhouse lines."

5           That official concluded in respect of those plans,  
6 if we scroll down to the bottom of the page, please, in  
7 bullet point 4 the net result in the view of this  
8 Ministry of Home Affairs official:

9           "... will be to produce an establishment more like  
10 an out-of-date training school than a modern children's  
11 home."

12           That same official, if we can move, please, through  
13 to RUB10129, wrote to the then head of the home a year  
14 later in 1964, and 1964 is likely to be a very important  
15 year in respect of this Inquiry's work for reasons that  
16 we will come to, and if we scroll down the page, please,  
17 and just stop there, please, we can see that it  
18 indicated in the penultimate paragraph beginning at  
19 point 2, but the last sentence just beginning:

20           "Recent events ...",

21           if you can highlight that for me:

22           "Recent events have given added point to our  
23 feeling" -- and we will explore in detail those recent  
24 events that this official is referring to -- "point to  
25 our feeling that where such a small staff has so much to

1 do for so many children the development of  
2 a satisfactory relationship of trust and confidence  
3 between individual children and members of staff is  
4 virtually impossible."

5 We will see as we look in detail at material during  
6 this opening that a major philosophical divide exists  
7 between the Ministry of Home Affairs and indeed the Home  
8 Office for the rest of the United Kingdom on the one  
9 hand and the Diocese of Down & Connor as the  
10 administering authority of the home and perhaps the  
11 wider Roman Catholic Church in terms of the approach to  
12 be adopted in respect of childcare. What effect the  
13 approach insisted upon by those running the voluntary  
14 home had on the matters the Inquiry will hear and  
15 determine over the coming months will be something the  
16 Panel may want to reflect on.

17 As we will in due course see, the approach of the  
18 administering authority and the Brothers to  
19 accommodation eventually changed and chalets were built  
20 on the site at Rubane in the late 1960s and they did  
21 more resemble family group home arrangements.

22 That did not, however, deal with the more sinister  
23 problem at work in Rubane, which, to put it frankly,  
24 were the fundamental flaws in the characteristics of  
25 some of the Brothers recruited to work in the home and

1 school that made them inherently unsuitable to be around  
2 children. The Inquiry will want to consider how the  
3 staff who worked with the children in Rubane were  
4 selected and recruited and what efforts were made to  
5 ensure that those individuals were suitable for the  
6 posts they were given.

7 The home was not staffed exclusively by Brothers of  
8 the De La Salle Order. In addition, civilian staff  
9 worked in the home, initially as cooks and domestics and  
10 eventually as teachers in the school. Following the  
11 partial introduction of the family group system to  
12 Rubane through chalets built at the end of the 1960s,  
13 more civilian staff and nuns were involved as  
14 houseparents, which brought a degree of feminine  
15 influence into Rubane. This was, as we will see,  
16 something welcomed by the Ministry of Home Affairs.

17 It does appear that there were some aftercare  
18 arrangements in place for boys leaving Rubane. When  
19 children left Rubane, generally around 16, they often  
20 were looked after by the Nazareth Lodge Welfare  
21 Committee and its welfare officers, who endeavoured to  
22 find accommodation and employment for the boys. It  
23 appears from material the Inquiry has been provided with  
24 that the State may have been paying that voluntary  
25 organisation, that is the Nazareth Lodge Welfare

1           Committee, for this type of engagement. Eventually  
2           a youth club on the Falls Road in Belfast,  
3           St.~Augustine's, became a base for ex-residents.  
4           Perhaps I should have called that St. Augustine's.

5           You, the Panel, are already cognisant of the dangers  
6           of hindsight. This home operated in the difficult times  
7           that followed World War II and the creation of the  
8           welfare state. We will shortly see that the home did  
9           not have mains water for a number of years. The home  
10          was also not immune from the troubles. A bomb was  
11          planted at the home in 1973 and a number of former boys  
12          from the home lost their lives, having been caught up in  
13          troubles-related events, mainly in Belfast. Indeed,  
14          a number of children ultimately ended up living in  
15          Rubane as a direct result of the troubles.

16          However, while hard and difficult times may account  
17          for some practices that would not be acceptable by  
18          today's standards, that can give no justification for  
19          the sexual and physical abuse of boys in this children's  
20          home, or for failing to deal properly with that abuse  
21          when it came to light, or for covering it up.

22          The Order has indicated that between 1951, when the  
23          first children arrived in Rubane, and 1985, when the  
24          home closed, 1050 children approximately had passed  
25          through the home with varying lengths of stay. I am not

1 going to bring it up, but the reference for that is at  
2 RUB5248 and paragraph 2.

3 During that same period the Order believes that  
4 a total of 55 De La Salle Brothers worked in the home.  
5 I am not going to bring up the reference, but that can  
6 be found at RUB927. Some of those Brothers worked in  
7 Rubane for very short periods of time, some for very  
8 considerable periods of time, and it is generally,  
9 through not exclusively, with those individuals who  
10 spent a long period in Rubane that we will become  
11 familiar over the coming days and weeks.

12 55 former residents of Rubane have come forward to  
13 the Inquiry to complain about serious sexual and  
14 physical abuse that they say they suffered primarily,  
15 but not solely, at the hands of the De La Salle  
16 Brothers. The sexual allegations range from the  
17 inappropriate watching of boys in showers for sexual  
18 gratification under the guise of supervision,  
19 inappropriate touching, fondling, masturbation to what  
20 would now be described as anal rape, but which at that  
21 time would have been known as the offence of buggery.  
22 The physical allegations range from the worst of what  
23 might in its day have been described as corporal  
24 punishment to serious physical assaults resulting in  
25 children requiring hospital treatment for injuries that

1           could never be justified as resulting from lawful  
2           corporal punishment.

3           In addition to the allegations made against Brothers  
4           of the De La Salle Order, many boys also make  
5           allegations against civilian staff who worked in the  
6           home, and indeed against individuals who lived nearby or  
7           visited the home. One set of such allegations relate to  
8           an individual who lived nearby to the home abusing boys  
9           in the considerable woodland that surrounded the main  
10          building on what was a 250 acre site. Approximately  
11          50 acres of that was woodland.

12          The home throughout its history clearly also from  
13          the material available had a serious problem with  
14          consensual sexual activity amongst the boys. The  
15          Inquiry may want to consider whether enough was done to  
16          deal with that issue. However, in addition, a number of  
17          boys also make serious allegations of sexual abuse by  
18          other, often older, boys, including of rape.

19          The oral evidence over the coming weeks will  
20          continue to be extremely harrowing and difficult to  
21          hear. However, individuals have come forward to the  
22          Inquiry with the desire, however difficult it may be for  
23          them, and wanting the opportunity to publicly explain  
24          what happened to them when they were supposed to have  
25          been in the care of the Diocese of Down & Connor and the

1 De La Salle Order.

2 A number of the individuals who have come forward to  
3 explain how they were abused in the home also face  
4 allegations themselves that they too became abusers.  
5 This no doubt creates difficulty for all concerned in  
6 this process, but the Inquiry will endeavour to deal  
7 with that matter in as sensitive a way as possible and  
8 so as to ensure that everyone is given an opportunity to  
9 recount their experiences and also to address the  
10 allegations that they face.

11 The Inquiry will also provide an opportunity to  
12 those individuals who face allegations of abuse to  
13 address them, while bearing in mind that the Inquiry is  
14 not and will not be holding trials or determining  
15 anyone's civil or criminal liability.

16 In addition, the Inquiry has received, has been  
17 considering and will continue to consider voluminous  
18 documents from a range of sources that reveal many other  
19 individuals than the 55 who have come forward to the  
20 Inquiry who will also say they were abused in similar  
21 ways to those that I have already outlined. From the  
22 Inquiry's analysis of the material it has received to  
23 date, including vast quantities of police material, it  
24 appears that a minimum of 150 further individuals in  
25 addition to the 55 you will hear oral evidence from have

1 made allegations of abuse in some form or another. Many  
2 of those allegations are also of serious sexual or  
3 physical abuse.

4 Equally there are statements from a number of boys  
5 who were spoken to by police who say they were not  
6 abused in Rubane. The crude mathematics of it suggest  
7 that at a minimum approximately 20% of the boys who  
8 passed through Rubane claim to have been abused in some  
9 way. Equally it does mean that possibly up to 80% of  
10 the boys who passed through Rubane were not abused or  
11 have not reported abuse. No mathematics can properly  
12 account, however, for each of their individual  
13 experiences and the repercussions for each of those  
14 individuals in later life.

15 In addition to actual abuse many individuals will  
16 describe to the Inquiry a very strict and isolated  
17 regime, which they feel did not prepare them for living  
18 in the outside world when they left Rubane. There are  
19 others whose experience was much more positive. Indeed,  
20 there are some who describe abuse to the Inquiry but at  
21 the same time identify positive aspects of their care  
22 for which they were thankful, and they identify Brothers  
23 and others for whom they have enormous respect. There  
24 are others who say they were not abused and have  
25 gratitude for the efforts of the Brothers and others to

1 care for them, and who point to the difficult home life  
2 that resulted in them being in the care home in the  
3 first place.

4 The Inquiry will also hear evidence from individuals  
5 involved in the care of those who lived in Rubane, who  
6 will say they were genuinely doing their best, and who  
7 are appalled about the abuse that they now recognise did  
8 occur. The De La Salle Order has already publicly  
9 acknowledged its acceptance that children in Rubane were  
10 sexually abused by a number of Brothers of the De La  
11 Salle Order. The Order has also cooperated with the  
12 Inquiry in positively responding to the Inquiry's  
13 request for the Order to give consideration to  
14 identifying in advance to the Inquiry those Brothers who  
15 the Order accepts did abuse children. Over the coming  
16 days we will see that the De La Salle Order has  
17 consequently admitted that identified Brothers sexually  
18 abused various individuals who resided in Rubane and who  
19 have come forward to the Inquiry, and also the abuse of  
20 other individuals who also resided in Rubane but who for  
21 whatever reason have not come forward to the Inquiry.

22 It is hoped that these admissions will bring some  
23 comfort to those victims to which the admissions relate.

24 Both from the oral evidence of the individuals who  
25 have come forward and the documentary material in

1        respect of those who have not the Inquiry will get some  
2        understanding of both the gravity and extent of the  
3        abuse that is said to have occurred in Rubane and of its  
4        consequence for those who have suffered. While the  
5        material discloses extremely serious levels of abuse,  
6        a significant amount of which is already accepted by the  
7        Order, the Inquiry is also aware that just because  
8        someone makes an allegation of historical institutional  
9        abuse, it does not mean that the allegation is true. As  
10       we will shortly see, the Order has already settled many  
11       civil claims in respect of allegations of abuse that it  
12       accepts occurred in Rubane, but it also can and will  
13       point by way of illustration to a High Court decision of  
14       the present Lord Chief Justice, Sir Declan Morgan, who  
15       was not satisfied on the civil standard of proof that  
16       allegations of sexual abuse made by an individual were  
17       true and whose claim was therefore dismissed.

18        Consequently the Inquiry will hear evidence of  
19        allegations of abuse during the coming weeks that the  
20        Order does not accept occurred. While this Inquiry, as  
21        I have already said, is not a trial of those allegations  
22        and the Inquiry will not be determining criminal or  
23        civil liability, nevertheless the Order points to those  
24        examples as evidence that systems failures may not have  
25        occurred in those respects or may not be as prevalent as

1 might otherwise be thought.

2 It is the case that there are a number of Brothers  
3 of the De La Salle Order who face very serious  
4 allegations of sexual and physical abuse that the Order  
5 is not in a position to accept. The Inquiry will have  
6 to consider the evidence surrounding those individuals  
7 over the coming weeks.

8 The Inquiry will also hear, perhaps primarily  
9 through the documentary material, from those whose  
10 responsibility it was to regulate and properly run  
11 Rubane and ensure it was being operated in the best  
12 interests of children. Given the amount of serious  
13 abuse already accepted by the Order and the volume of  
14 material made available to core participants, it is  
15 hoped that they will proactively reflect on what the  
16 content must mean for them in terms of whether they met  
17 the obligations that were on them. The sooner they are  
18 in a position to express clear views in respect of the  
19 systems they operated at Rubane, the better.

20 We will shortly see that the De La Salle Order was  
21 first on notice of allegations of sexual abuse in Rubane  
22 as early as 1958. However, material has been provided  
23 to the Inquiry showing that both the potential for  
24 Brothers to abuse boys and of peer sexual activity among  
25 boys were known to the Order and to the Diocese of Down

1 & Connor from as early as 1948.

2 The 1958 Rubane allegations, which we will in due  
3 course look at in detail, were against the person then  
4 in charge of the home, BR17. You will be able,  
5 Mr Chairman and Members of the Panel, to see who I am  
6 referring to on page 5 of the designation list. The  
7 implication of the fact BR17 was an abuser of boys is  
8 likely to be obvious to the Panel, given he was the  
9 person in charge of the home. At the time there were  
10 approximately 70 boys in the home and eight Brothers, of  
11 which this Brother was the person in overall charge.  
12 The Order now accepts that this Brother, BR17, did  
13 indeed sexually abuse children in his care before,  
14 during and after his time in Rubane, which spanned some  
15 nine years alone. The extensive and grave allegations  
16 that I will outline in respect of that Brother, BR17,  
17 who is now deceased, have never been exposed publicly  
18 before. He was never reported to police or interviewed  
19 by them. Consequently he was never charged or convicted  
20 of the abuse that he perpetrated over a period of time  
21 that is likely to extend beyond twenty years. The type  
22 of grooming behaviour, abuse of power and sexual abuse  
23 of boys that you will hear about are similar to those  
24 traits that the public will be familiar with from cases  
25 such as Father Brendan Smyth. The material we will look

1 at is the minimum abuse that is known of. It may well  
2 be there are other victims that the Inquiry is not and  
3 will not become aware of.

4 As an aside, at this point in total there were five  
5 Brothers who performed the role of persons in charge of  
6 the home up to 1980. All of those brothers face  
7 allegations of either sexual or physical abuse or both.  
8 The Order has said that it is not in a position to  
9 accept the allegations made against all of them.

10 In 1964, the point in time of the official from the  
11 Ministry's memo that we looked at earlier, another  
12 allegation of sexual abuse was made by a boy against  
13 a different Brother, this time BR14. You will again see  
14 who that is from page 5 of the designation list. BR14  
15 admitted the allegation and subsequently left the Order.  
16 This particular episode is likely to be of fundamental  
17 importance to the work of this Inquiry. The De La Salle  
18 Order met with and reported the sexual abuse to the  
19 Ministry of Home Affairs. This may well be the first  
20 accepted incident of sexual abuse by a member of staff  
21 of a children's home on a boy in care that was brought  
22 to the government's attention. There was also a police  
23 investigation that flowed from it. Had the Brother  
24 still been in the jurisdiction, no doubt it would have  
25 led to a prosecution and in all likelihood a conviction.

1           We will look at this incident in some detail later  
2           in the opening, because how it was dealt with raises  
3           many of the issues that may give rise to potential  
4           systems failures that the Inquiry will want to consider  
5           during this and other modules.

6           From material very recently provided to the Inquiry  
7           it appears that the extent of the offending by this  
8           Brother, who is still alive, was, in fact, greater than  
9           one incident with one boy, and consequently the Ministry  
10          of Home Affairs may not have been told the entire story.  
11          It is, of course, difficult to say what the Order's  
12          apparent failure to tell the whole story had on how the  
13          matter was handled by the Ministry (sic).

14          You will also hear how another Brother, BR15, was  
15          moved from the home in 1971 because of allegations of  
16          sexual abuse made against him by a boy in the home's  
17          care. You will see who BR15 is also from page 5 of the  
18          designation list. The Order has subsequently accepted  
19          this Brother committed sexual abuse against various boys  
20          in Rubane.

21          In 1980, at the time when stories relating to the  
22          sexual abuse of boys by staff in Kincora first came to  
23          public attention, Rubane was the subject of further  
24          allegations involving another Brother in charge of the  
25          home, this time BR1. You will see again who that is

1 from page 5 on the designation list. The police  
2 investigation that ensued arising from complaints made  
3 by boys to social workers involved the police speaking  
4 to residents and ex-residents who were in the home  
5 between 1977 and 1980. The police investigation  
6 resulted in three individuals being charged and brought  
7 before the courts. Two individuals were convicted: one  
8 De La Salle Brother, Brother Alphonsus Reid, for  
9 physical abuse on a number of children; the other  
10 a civilian caretaker, James McGuigan, for the sexual  
11 abuse of a number of children. The prosecution of the  
12 Brother in charge of the home, BR1, for charges of  
13 sexual abuse did not proceed because of his apparent  
14 serious ill health.

15 It will also become apparent that at that point in  
16 time, 1980, a number of those residents who were spoken  
17 to by police did disclose to police consensual sexual  
18 activity between themselves and a number also described  
19 significant non-consensual peer abuse going as far as  
20 rape. Prosecutions did not flow out of that material.  
21 Further allegations were made by boys in 1982 and 1984.  
22 They were investigated by police and did not lead to  
23 prosecutions.

24 Subsequently Rubane did feature in a limited way in  
25 what has commonly been referred to as the Kincora

1 Inquiry. It reported at the end of 1985. The proper  
2 name of the Inquiry, the Committee of Inquiry into  
3 Children's Homes and Hostels, chaired by His Honour  
4 Judge William Hughes, only looked at events in Rubane  
5 between 1977 and 1980, and featuring the three  
6 individuals that I mentioned in the context of the 1980  
7 prosecutions. It appears that for whatever reason the  
8 Hughes Inquiry was not told of the 1964 accepted sexual  
9 abuse in Rubane by either the De La Salle Order, the  
10 Diocese of Down & Connor and, perhaps most importantly,  
11 by the Department of Health and Social Services, all of  
12 whom appeared before that Inquiry and it appears had  
13 knowledge of the 1964 incident. What effect that  
14 disclosure may have had on the course of the Hughes  
15 Inquiry cannot now be known. It is a subject to which I  
16 will return later in the opening.

17 The police investigation into the sexual abuse  
18 perpetrated by the now notorious Father Brendan Smyth in  
19 the early to mid 1990s, another subject to which we will  
20 return, revealed that he had also abused children in  
21 both Rubane and in Nazareth Lodge in Belfast in the late  
22 1970s. He, as we will see, admitted much of that abuse  
23 and was convicted for it. You will hear from some of  
24 his victims in the weeks to come.

25 We also in due course intend to separately look at

1 the potential systems failures within the wider Roman  
2 Catholic Church in Ireland that allowed Father Brendan  
3 Smyth to be in a position to carry out the sexual abuse  
4 of children in these two children's homes.

5 In 1995 in the wake of the Father Brendan Smyth  
6 affair Rubane, long closed -- it closed in 1985 --  
7 became one major part of a substantial police  
8 investigation known as "Operation Overview". Operation  
9 Overview covered 29 cases, many of which related to  
10 allegations of sexual abuse by Roman Catholic clergy in  
11 Northern Ireland. However, case 29 involved  
12 an investigation into abuse in children's homes but  
13 primarily focused on Rubane. That investigation itself  
14 produced 41 files that were submitted by the then RUC to  
15 the Director of Public Prosecutions in Northern Ireland.  
16 Approximately 30 of those files related to Rubane. Many  
17 of those files, which the Inquiry will become familiar  
18 with over the next number of months, were extensive in  
19 nature and contained multiple complaints against the  
20 individuals that were the subject of the file.

21 On 4th November 1997, when submitting the final  
22 Operation Overview report to the Director of Public  
23 Prosecutions, Detective Chief Superintendent Eric  
24 Anderson, by that time a very experienced police officer  
25 and the head of the police department running Operation

1 Overview, sent a covering letter with the report to the  
2 DPP. Can we bring up, please, RUB68079? He explains in  
3 the second paragraph:

4 "One of the major tasks undertaken by the team was  
5 the reinvestigation into the boys' home located at  
6 Rubane, Kircubbin."

7 He indicates:

8 "This home was funded by the Northern Ireland  
9 government and administered by the De La Salle Order."

10 The first part of that may not encompass the entire  
11 story. He says this:

12 "The evidence suggests that the home was to say the  
13 least ill supervised. Sexual abuse by a considerable  
14 number of the De La Salle Brothers on the children and  
15 consequently between children was rampant. Most of the  
16 main offenders are now either dead or medically  
17 certified too ill to be prosecuted -- to be proceeded  
18 against.

19 The full horror of the abuse in this establishment  
20 is reflected in the 41 files already submitted through  
21 your office to the DPP and I consider the complaints  
22 made to show it to be on a par with, if not worse than,  
23 the abuse at the Kincora Children's Home."

24 He goes on to talk about other matters that were  
25 part of Operation Overview.

1           You can see from the contents of that letter how  
2           a senior police officer viewed what he was dealing with.  
3           That obviously is simply his view.

4           As he was pointing out, from those 41 files, some of  
5           which related to the Nazareth homes in Belfast that we  
6           will be looking at in the New Year, three individuals  
7           were returned for trial. All three related to Rubane  
8           and were De La Salle Brothers who worked in Rubane  
9           spanning many years. The first was the same Brother,  
10          BR1, whose prosecution for his activities between 1977  
11          and 1980 had been stayed some 15 years earlier on the  
12          grounds of ill health. The second, BR6 -- you can see  
13          who that is from page 5 of the designation list -- had  
14          been a Brother in charge of the home during the 1960s  
15          and early '70s, and a third, BR3, had worked in Rubane  
16          in the '60s and '70s, but had subsequently been the  
17          headmaster of a school. The prosecution against all  
18          three were the subject of successful abuse of process  
19          applications by each defendant before the Crown Court in  
20          1998. As a result no-one was convicted arising out of  
21          the work done in Operation Overview.

22          It will become apparent to the Panel over the coming  
23          months that many individuals who made limited  
24          allegations in 1980 made more serious allegations to  
25          police in 1995. The Inquiry will hear from some of

1 those individuals as to the reasons why that was so.

2 In 2010 the PSNI commenced another major  
3 investigation into child sexual abuse, known as  
4 "Operation Charwell". It is not limited to but includes  
5 child sexual abuse in institutional care. That  
6 operation is ongoing. It has involved the police  
7 looking again at many allegations that were previously  
8 investigated in 1980 or 1995 or both, but also at fresh  
9 allegations not made during those inquiries.

10 The De La Salle Order has also in recent years dealt  
11 with over 50 civil claims brought by former residents of  
12 Rubane. The Order has confirmed that to date 22 of  
13 those claims have been resolved, with the Order paying  
14 out almost £390,000 in compensation.

15 What I have had to say so far was designed to give  
16 you, Members of the Panel, a very short summary that  
17 will hopefully assist with demonstrating the sheer scale  
18 of what is involved in examining this particular  
19 children's home. The Panel is already aware of the  
20 immense scale of the task ahead in this module, but what  
21 I have had to say will hopefully inform the general  
22 public of the nature and seriousness of what the Inquiry  
23 is dealing with.

24 A quotation from LP Hartley about the past being  
25 a foreign country has been used by some when responding

1 to abuse Inquiry findings, meaning that what happened  
2 then wouldn't happen now. While it may be said that the  
3 systems failures you may find in respect of Rubane are  
4 unlikely to exist today, the past is not a foreign  
5 country for the victims with whom the Inquiry is  
6 dealing. It is their present. The Inquiry will  
7 continue to deal as sensitively as it possibly can with  
8 all those who will be giving evidence over the coming  
9 months, and I take this opportunity to publicly remind  
10 everyone of the various support services that are  
11 available to assist those who experience any difficulty  
12 during the process. Help is at hand.

13 Before I begin to engage in the detailed analysis of  
14 the material I am going say something to the Panel about  
15 the results of the evidence-gathering process, the  
16 make-up of the evidence bundle and how we intend to  
17 handle the material in the coming days, but perhaps,  
18 Mr Chairman, this might be an appropriate moment to take  
19 a short break before I do that.

20 CHAIRMAN: Yes. Very well. We will rise for a few minutes.

21 There are I think some administrative matters that some  
22 present wish to deal with and we will sit again as soon  
23 as possible.

24 (11.07 pm)

25 (Short break)

1 (11.18 pm)

2 CHAIRMAN: Yes, Mr Aiken.

3 MR AIKEN: I am obliged, Mr Chairman, Members of the Panel.

4 What I want to deal with now is to set out the shape  
5 of the material that the Inquiry has received and to  
6 provide some overview both to the Panel and to the  
7 public as to what it is we are dealing with. So, like  
8 any Public Inquiry, it simply will not be possible to  
9 display the vast majority of the relevant documentary  
10 material that the Inquiry has received and assessed.  
11 However, I want to give some indication with that caveat  
12 of the shape and run of the material so that there is  
13 perhaps a greater understanding of what's involved in  
14 the Inquiry's work.

15 The Inquiry has received from sources other than the  
16 police approximately 19,000 pages of material related to  
17 Rubane. From the police the Inquiry has received  
18 approximately a further 20,000 pages of material.  
19 Therefore the Inquiry has had to handle and assess  
20 almost 40,000 pages. You can anticipate that I am going  
21 to say that this is an extremely large volume of  
22 material relating to one children's home and it is  
23 an extremely large volume of material relating to just  
24 one module of this time-limited Inquiry.

25 By way of example, the Baha Mousa Inquiry set up in

1 2008 to enquire into the death of a detainee in Basra in  
2 Iraq confirmed in its 2011 report that it dealt with  
3 10600 pages of material in the entire Inquiry. You will  
4 find that at section 1.8 of the first volume of the  
5 report. That illustration might help to demonstrate the  
6 extent of what this Inquiry is dealing with in the  
7 timescales available. The approximately 40,000 pages of  
8 Rubane material has had to be assessed for relevance by  
9 the Inquiry legal team. That assessment has allowed  
10 an evidence bundle to be created for the Panel and for  
11 the core participants to consider, which itself amounts  
12 to over 19,000 pages. No doubt it will pass the 20,000  
13 barrier before the end of the module, because the  
14 Inquiry continues to receive relevant material and, as  
15 the Panel knows, as matters come into sharper focus,  
16 often further material is discovered.

17 I want to set out in public the form that the  
18 evidence bundle takes.

19 Section 1 contains the witness statements received  
20 by the Inquiry. There are 55 witness statements from  
21 the individuals who have come forward to the Inquiry.  
22 Those statements cover approximately 500 pages. In  
23 respect of each of those individuals the De La Salle  
24 Order were asked to and did provide a replying witness  
25 statement setting out their position. Those statements

1 cover almost 3,000 pages.

2 This approach from the Inquiry was designed to  
3 create a proactive approach within those engaging with  
4 the Inquiry with a view to ensuring that issues are  
5 identified at the earliest possible time. In many  
6 instances those statements helpfully acknowledged the  
7 abuse an individual suffered and it is hoped this fact  
8 will to some extent make giving evidence a little easier  
9 for those involved.

10 For the avoidance of any doubt I want to make it  
11 clear that just because the De La Salle Order has not or  
12 is not in a position to accept an individual's  
13 allegations does not cast any reflection on those  
14 allegations. It's a matter for the Inquiry to determine  
15 what occurred and the Inquiry will do so.

16 In addition, the De La Salle Order has provided at  
17 the Inquiry's request essentially seven core statements  
18 to insist -- to assist the Inquiry's work. They cover,  
19 firstly, the general background to the Order and to the  
20 home; secondly, the Order's awareness of sexual abuse in  
21 the home; thirdly, an admissions statement in respect of  
22 abuse that the De La Salle Order accepts occurred. Now  
23 those first three witness statements were provided by  
24 Brother Plus MC during last year. He had been assisting the  
25 Inquiry on behalf of the De La Salle Order. Brother Plus MC passed

1 away in May of this year. Subsequent statements  
2 therefore have been provided by his successor, Brother  
3 Francis Manning. The fourth statement addresses the  
4 issues of the administering authority for the purposes  
5 of the legislative scheme. The fifth statement -- and  
6 this one comes not from Brother Francis Manning but by  
7 BR2, and you will see from page 5 the designation as to  
8 who that is -- that's a detailed statement about the  
9 conduct of the home during a certain period. The sixth  
10 statement deals with matters of finance, and the seventh  
11 statement deals with the civil claims that the Order has  
12 handled.

13 Now these seven statements, including exhibits,  
14 cover approximately 1200 pages in number and set out the  
15 Order's position on significant matters that the Inquiry  
16 will look at. The Order has also provided statements  
17 from former staff and ex-residents to assist the  
18 Inquiry's work. The Inquiry has also received from the  
19 Order in a timely fashion large volumes of documentation  
20 relating to its operation of Rubane.

21 If we can bring up, please, RUB5250, where we can  
22 see perhaps a summary of the Order's position in  
23 paragraph 15. If you just scroll down, please. The  
24 statement says from Brother Francis Manning:

25 "The Order recognises the hurt and distress caused

1 by the abuse. The Order has determined to engage with  
2 the Inquiry as comprehensively as possible in order to  
3 maximise the prospects of establishing the truth about  
4 Rubane House so as to provide some comfort to the  
5 abused, place the Order's role into context within the  
6 provision of residential care and to be a support for  
7 those Brothers who worked tirelessly for the benefit of  
8 the under-privileged boys who were entrusted to their  
9 care. Dealing with victims of abuse and investigating  
10 historic allegations has not been an easy or simplistic  
11 task. We know, for some of the reasons highlighted  
12 above, that it can be difficult and complex" -- scroll  
13 down, please -- "and fraught with the prospects of  
14 error. I am satisfied that the Order has done its best  
15 to be as fair as possible to all involved."

16 That perhaps summarises the approach that the Order  
17 is taking to the Inquiry and its intended cooperation  
18 with it. That's a corpus of material that's available  
19 from the Order.

20 The Diocese of Down & Connor has recently provided  
21 the Inquiry with two witness statements from Father  
22 Timothy Bartlett. The diocese has informed the Inquiry  
23 that it has limited documentary material about the home  
24 and that is a matter that they have indicated they are  
25 examining further, but if we can bring up, please,

1 RUB5324, Father Bartlett in paragraph 33 of his first  
2 statement has summarised the position of the diocese:

3 "In conclusion, the diocese wishes to express its  
4 deep sorrow and regret that any child was abused while  
5 a resident in Rubane House. Established with the sole  
6 intention of improving the circumstances and  
7 opportunities of the children in its care, Rubane House,  
8 as with any institution founded on Christian principles,  
9 should have been exemplary in the love, dignity and  
10 protection it provided. Clearly, for too many, and  
11 despite the best efforts of many of the staff, this was  
12 far from the case. It is our hope that this Inquiry  
13 will go some way to helping those who experienced such  
14 abuse to have their voices heard and their painful  
15 experiences acknowledged and that they will be assisted  
16 in advancing towards healing."

17 The Health & Social Care Board are also providing  
18 individual witness statements to the Inquiry as well as  
19 a core witness statement dealing with particular aspects  
20 of social work practice that arise in the context of  
21 Rubane. The HSCB has already provided the Inquiry with  
22 a series of witness statements from social workers who  
23 visited in Rubane at various times and it continues to  
24 gather and provide the Inquiry with documentary  
25 material.

1           The Department of Health, Social Services and Public  
2           Safety has provided a core statement dealing with the  
3           events around the incident of accepted abuse reported to  
4           the Ministry of Home Affairs in 1964 that I have already  
5           referred to and which we will turn to in greater detail  
6           in due course.

7           The PSNI, although not a core participant, is  
8           preparing a witness statement about the police operation  
9           that is it engaged in around Rubane.

10          Those statements and the exhibits that they include  
11          encompass what I am calling the first section of the  
12          bundle. By reason of when material is received and how  
13          bundles have to be created it won't always neatly seat  
14          in the -- what might be physically seen as the first  
15          section of the bundle, but it is in principle in that  
16          part.

17          The second section of the bundle, with  
18          pages beginning normally at 10,000 onwards, and where  
19          we'll spend much of our time over the next few days,  
20          contains the documentary material showing the  
21          interaction between the Order, the diocese and the  
22          government in various guises during the lifetime of the  
23          home. It is from this material that many of the themes  
24          and potential systemic failures that the Inquiry will  
25          want to consider emerge relating to Rubane. It covers

1 approximately 2000 pages.

2 Section 3 at the 30,000 level contains social work  
3 material and other associated material relating to  
4 individuals.

5 Section 4 at the 40,000 level of the bundle is  
6 a section containing relevant material from the Hughes  
7 Inquiry. At present this section has around 500 pages,  
8 as the Hughes Inquiry report in full is in the HIA  
9 bundle, the location of Inquiry documents of more  
10 general application.

11 Section 5 of the bundle at the 50,000 level contains  
12 approximately 1500 pages of material from the civil  
13 claims the De La Salle Order has handled.

14 Section 6 at the 60,000 level contains over  
15 8000 pages of police material. It may well be this is  
16 a section that will have to have more material added as  
17 we go.

18 Section 70 -- sorry -- section 7 at the 70,000 level  
19 contains some 700 pages relating to Father Brendan  
20 Smyth, including his activities in Rubane.

21 You also have, Members of the Panel, a designation  
22 list, which is the natural outworking of the Inquiry's  
23 redaction, anonymity and restriction order protocol.  
24 This will assist the Panel to know who is being referred  
25 to in documents brought up on the screen and during

1 evidence, but can I take this opportunity to remind and  
2 to seek the assistance of those members of the public  
3 and press following the Inquiry's work? At times by  
4 necessity names will be used in the chamber and will  
5 appear in documents that come up on the screen. Counsel  
6 will often make clear that, despite that fact those  
7 names are -- that names are used, they shouldn't be  
8 repeated outside the Inquiry chamber in accordance with  
9 the Inquiry's redaction, anonymity and restriction order  
10 protocol and the Inquiry's three restriction orders, all  
11 of which can be viewed on the Inquiry's website.

12 Equally witnesses giving evidence, most of them will  
13 have anonymity, and that must be respected. The Inquiry  
14 is dealing with extremely sensitive matters and the  
15 continued sensitive cooperation the Inquiry has received  
16 to date will be equally necessary during this module.

17 Before I go on to begin the substantive look in  
18 detail at the De La Salle Order, given the scale of the  
19 operation that has taken place to get this module  
20 underway, I want to pay tribute to the Inquiry staff,  
21 who have worked tirelessly, generally unseen, and on  
22 many occasions late into the night, over the summer just  
23 past and at weekends to get us to this point on time.

24 It is probably the case that is there is perhaps  
25 an unavoidable lack of understanding by the general

1 public and perhaps to some extent among some of those  
2 engaging with the Inquiry as to just how much work has  
3 to go on behind the scenes in order for the Inquiry  
4 public hearings to take place. The Inquiry staff making  
5 this happen should be very proud of their efforts,  
6 because without them I wouldn't be in a position to  
7 stand before you today.

8 That concludes the overview remarks that I want to  
9 make at this stage about the shape of the material and  
10 how we have arrived here, and hopefully it will provide  
11 some context for the detailed work that we are now going  
12 to embark on.

13 The next stage of the opening is going to look at  
14 the history of the home and those who ran it. I want to  
15 begin that by looking briefly at the history of the De  
16 La Salle Order so that you can have some understanding  
17 of the background of those you will be hearing about who  
18 were charged with the care of children in Rubane.

19 The De La Salle Order began in France in 1680. I am  
20 not bringing it up, but you will find a reference to  
21 that at RUB011. It was a Roman Catholic institution  
22 founded by John Baptist De La Salle, who was concerned  
23 about the educational poverty of the children of the  
24 working classes in France. To respond to this unmet  
25 need he set up a community of teaching Brothers. The

1 proper title of the Order is, in fact, the Institute of  
2 the Brothers of Christian Schools -- you get that at  
3 RUB013 -- though the De La Salle Brothers or De La Salle  
4 Order is generally used, certainly in Ireland, to avoid  
5 confusion with the Congregation of Christian Brothers,  
6 which is a different Roman Catholic religious order  
7 entirely. So that in its full title is The Institute of  
8 The Brothers of Christian Schools.

9 The De La Salle Order dispersed from France  
10 throughout the world at the time of the French  
11 Revolution, which began in 1789. Communities were  
12 established in North America in 1837 and in the Far East  
13 in 1952. You find that at RUB170. The Order operated  
14 a series of Home Office schools in England since opening  
15 its first school in England in 1855. You find that at  
16 RUB012. As of 2013 almost 1 million students in 78  
17 countries were being taught by 1736 Brothers of the De  
18 La Salle Order together with almost 90,000 lay staff  
19 working with them. You will find that at RUB011 at  
20 point 1.1.

21 In 2013 there were approximately 5000 Brothers in  
22 the De La Salle Order. That's at RUB171. The Order  
23 opened a novitiate in Ireland in 1880 and established  
24 the De La Salle training college in Waterford in 1891.

25 Brother Plus McCann in his second statement to the Inquiry of

1 22nd October 2013 has confirmed that from that time in  
2 Ireland alone Brothers of the Order have been involved  
3 in 39 primary schools, 27 secondary schools, one  
4 training college, three residential homes, two in  
5 Northern Ireland, including the one we are now looking  
6 at, and three pastoral centres. You will find that at  
7 RUB171.

8 In 1917 the then Bishop of Down & Connor, Bishop  
9 MacRory, invited the De La Salle Order to take over the  
10 running of its industrial school, St. Patrick's, then of  
11 Milltown in West Belfast. The Order did so. You find  
12 that at RUB012. In 1950 St. Patrick's moved to new  
13 premises on the Glen Road. The Inquiry will look at that  
14 institution later in its programme, but a number of the  
15 De La Salle Brothers that the Inquiry will hear about in  
16 this module also worked at St. Patrick's. As we will  
17 see, its director, Brother Stephen Kelly, was heavily  
18 involved in the establishment and running of Rubane and  
19 in discussions with the Ministry of Home Affairs  
20 concerning it.

21 From 1947 the De La Salle Order established its  
22 Irish province. Up to that point England and Ireland  
23 had been part of the same province. The new Irish  
24 province from 1947 was responsible for those schools and  
25 institutions operated by the De La Salle Order on the

1 island of Ireland. You find that at RUB012. The De La  
2 Salle Order have had various communities -- that's the  
3 term they give for a group of Brothers living  
4 together -- in Northern Ireland at various times,  
5 including in Belfast, Downpatrick, Kircubbin, where we  
6 have Rubane, Keady and Portadown. We find that at  
7 RUB013. In each of those places they have operated  
8 schools such as St. Patrick's Primary School, De La  
9 Salle High School, both in Downpatrick, De La Salle High  
10 School in Belfast, Saint Malachy's High School in  
11 Portadown and Ballycastle Primary School. The Panel  
12 will be aware that many very successful individuals,  
13 including many members of the professions, have passed  
14 through schools run by the De La Salle Brothers in this  
15 jurisdiction and who it appears did not encounter the  
16 same type of problems that the Inquiry is going hear  
17 about in Rubane.

18 In 2013 there were approximately 78 Brothers in the  
19 Irish province of the De La Salle Order, which now  
20 covers both the island of Ireland and South Africa. You  
21 find that at RUB011.

22 The structure of the Order is important when the  
23 Inquiry comes to look at the material. The head of the  
24 De La Salle Order is known as the Superior General and  
25 he is based in Rome. You find that at RUB013. He is

1 assisted by a General Council that is comprised of  
2 delegates from each of the Order's provinces. You will  
3 find that at RUB171. Often those councillors are known  
4 as Assistant Generals or Assistant to the General  
5 Superior. Each province, of which the Irish province is  
6 one, has its own Provincial or Brother Visitor as its  
7 head. So where you see those words, either the Irish  
8 Provincial, or the Brother Provincial or the Brother  
9 Visitor, we tend to be talking in the material about the  
10 head of the province.

11 If we can bring up, please, RUB171, Brother Plus Mc, as I have  
12 said since deceased, described his role in paragraph 8.  
13 If you just scroll down please. Just stop there:

14 "The Provincial is delegated to run the province in  
15 accordance with the rules of the Order. He has  
16 responsibility for the recruitment of candidates for the  
17 Order and their subsequent spiritual and educational  
18 training, the opening or closing of schools, the  
19 allocation of staff and financial administration."

20 So the implications of that role in the Panel's work  
21 will be apparent.

22 Within each province then headed by a Provincial you  
23 had various communities of De La Salle Brothers. Rubane  
24 was one such community. St. Pat's in Belfast was  
25 another. Each community would be headed by a Brother

1 Superior or Brother Director. Those were two terms that  
2 were given to the person who was in charge of the  
3 particular community. You will find that at RUB013.

4 The Community Superior or Director was under  
5 an obligation -- can we just look at this, please, at  
6 RUB171 at paragraph 10?

7 "The local Superior was obliged by rule" -- and we  
8 will come to look at what that is -- "to notify the  
9 Provincial if there was cause of concern about the  
10 conduct of any of the Brothers."

11 You can see the examples are given from the range  
12 of:

13 "Smoking without permission, abuse of alcohol or  
14 over-familiarity with members of the opposite sex."

15 So the Order is accepting that there was  
16 an obligation to inform the Provincial that was upon the  
17 Brother Superior of a community if there was any cause  
18 for concern about the conduct of any of the Brothers.

19 During the time period that Rubane operated and it  
20 was staffed by the De La Salle Order it had its own  
21 Superior or Brother Director, but for our purposes that  
22 person was also the person in charge of the home. If we  
23 can look, please, at HIA288. Just maximise down to  
24 regulation 5, please. You can see that:

25 "The administering authority shall appoint a person

1 to be in charge of the home."

2 So in terms of the legal regulatory structure that  
3 the Inquiry is dealing with the person in charge of the  
4 home was the Brother Director or Brother Superior of the  
5 community of De La Salle Brothers, lived in Rubane. So  
6 over the next period of time as we are looking we have  
7 someone who is known in religious terms by one type of  
8 name but also from a legal perspective in terms of  
9 running a children's home was the person in charge of  
10 the home and on who then a series of obligations fell by  
11 deign of the legislation.

12 So to try to bring that together, above the Brother  
13 Director who is in charge of the community in Rubane,  
14 and they are the person in charge of the children's  
15 home, you have the Brother Provincial or Brother  
16 Visitor, who is in charge of the Irish Province, of  
17 which the Rubane community was part, and above that  
18 Irish Province and its Provincial was the Superior  
19 General and his General Council based in Rome, who were  
20 in overall charge of the affairs of the De La Salle  
21 Order. So that is one of the structures that's at work  
22 in the home that we're looking at.

23 I am going to shortly look at the roles that the  
24 Brother Provincial and Brother Director or person in  
25 charge of the home had specifically in terms of Rubane,

1 but before I do that I want to give the Panel  
2 an overview of the rules and obligations of the De La  
3 Salle Order and the obligations that were on the  
4 Brothers within the De La Salle Order so that the Panel  
5 can have an understanding of what was expected of those  
6 Brothers who at the same time were looking after  
7 children in a children's home regulated under the  
8 Children and Young Persons Act (Northern Ireland) 1950.

9 The De La Salle Order essentially had two books that  
10 summarised their obligations and dealt with how they  
11 were to operate. One was known as the Common Rules and  
12 Constitutions of the Brothers of the Christian Schools.  
13 So that's the Common Rules and Constitutions of the  
14 Brothers of the Christian Schools, and the other was the  
15 Rule of Government of the Brothers of the Christian  
16 Schools. The Order has provided the Inquiry with a copy  
17 of the 1947 editions of both books that would have been  
18 operative during the time this children's home was  
19 functioning.

20 Can you just bring up, please, RUB1511, which shows  
21 the cover page of the Common Rules and Constitutions?  
22 If we just scroll down, please, you can see that that's  
23 Rome 1947. If we look, please, at 1786, we can see the  
24 same for the Government. The Rule of Government. Again  
25 we can see it is from 1947. Now the Common Rules and

1           Constitutions book runs to 147 pages and the Rule of  
2           Government to 231 pages. So what I am about to say over  
3           the next few minutes is an overview that by necessity  
4           will be very brief.

5           I am going to look first at the Common Rules and  
6           Constitutions. I want to show you the index. If we can  
7           bring up, please, RUB1641. Just maximise that page.  
8           Shortly we will scroll on to 1642, but you can see from  
9           the Table of Contents the type of material that it  
10          contains. So you have the bull from the Pope that we  
11          will look at shortly and various modifications made to  
12          it. That is essentially the seal or certification under  
13          which the Order existed, and then the various rules that  
14          applied to the Order, and they are broken down into  
15          a series of chapters, which set out various specific  
16          matters under each of those headings. Some of those  
17          will be much more important than others for this  
18          Inquiry's work, but if we just scroll down, we can see  
19          that in the end we have as far as chapter 35. So there  
20          are 35 chapters that the Common Rules and Constitutions  
21          contain.

22          I want to first look at papal bull which sets out  
23          the main rules. 1512, please. This is essentially the  
24          charter letter for the Order handed down by Pope  
25          Benedict XIII in 1724. The bull set out essentially 18

1 principal rules that the Brotherhood were to observe.

2 I am going to briefly show you the most important of  
3 those.

4 If we can scroll down to 1515, please. The text is  
5 in a combination of language, one side being English and  
6 the other not. Just maximise that for me, please.

7 Scroll down. You can see -- just stop there -- the  
8 first step being instituted and the patronage is set  
9 out.

10 "Chief care to teach children, especially poor  
11 children, those things which pertain to a good and  
12 Christian life. Zeal for the education of youth in  
13 accordance with the standard of Christian law should be  
14 the special characteristics and, so to speak, the spirit  
15 of their institute."

16 So that's the core ethos of the brotherhood.

17 The second rule you will see, obedience, and under  
18 the authority:

19 "They obey the Superior General for the time being  
20 elected by themselves" -- that's the gentleman in Rome  
21 -- "and live in those dioceses into which they have been  
22 admitted by the consent of the bishop and under their  
23 authority."

24 That may be an important matter the Inquiry will  
25 return to. In Father Bartlett's statement -- I am not

1 going to bring it up, but I will give you the page  
2 reference, 5317 -- he does set out some material about  
3 canon law and generally orders of autonomy. You can see  
4 the context in which that's set within this code for  
5 this brotherhood.

6 If we scroll down, please, to 1516, the fifth rule  
7 was that they would teach children -- this is on the  
8 right-hand side of the page -- teach children  
9 gratuitously and they receive neither money nor presents  
10 when offered.

11 Scroll down to 9, please, at 1517. You can see  
12 that:

13 "The vows of the Brothers be those of chastity,  
14 poverty, obedience and stability in the said institute  
15 and of teaching the poor gratuitously; with the  
16 understanding, however, that the Roman Pontiff for the  
17 time being can absolve these same Brothers from their  
18 simple vows."

19 Chastity being one of the vows,  -- I will just  
20 give you the reference at RUB175 -- in his second  
21 statement self-evidently pointed out in the last  
22 sentence of paragraph 31 that if the Brothers had  
23 observed their specific vow on this subject, then the  
24 Inquiry wouldn't be dealing with instances of child sex  
25 abuse.

1 Rule 10, which may be importance in the context of  
2 some of the material the Inquiry looks at, sets out how  
3 one leaves the Order, that dispensation from vows can be  
4 neither asked nor granted except for grave reasons  
5 judged to be such by the General Chapter of the Brothers  
6 and approved by a majority of votes.

7 So when you are in the Order, ultimately to leave it  
8 you have to make application to the Superior General,  
9 who in conjunction with his General Chapter will decide  
10 whether you are permitted to leave, and then grave  
11 reasons are to be the background.

12 Rule 12 -- scroll down, please -- that:

13 "The Brother Director ..."

14 So in our case the person who is in charge of the  
15 Rubane community and the person in charge of the  
16 children's home:

17 "The Brother Director of a particular house should  
18 only govern them for three years unless for some good  
19 reason the Superior General prolonged the period. They  
20 could be the head for a maximum six years before being  
21 changed."

22 I am not going to move to it just now, but that  
23 would be at 15... -- I have an incorrect reference  
24 there. I will get you a correct reference. They could  
25 have a maximum of six years in charge. We will see as

1 we look at the material that the Ministry of Home  
2 Affairs comes to regard this rule, if we can  
3 characterise it in the context of a rule, as unhelpful,  
4 because you were seeing constant changing, as they saw  
5 it, of staff with the consequent break in continuity.  
6 We will see in the context of the early life of Rubane  
7 the rule being slightly modified while the person in  
8 charge is being replaced. He stays on then as  
9 a subdirector for a period of time, but that was not  
10 always the case.

11 Rule 17 at 1519 contains what the Brothers were to  
12 teach the children. Just scroll down, please. So the  
13 subjects that they were to teach, but:

14 "... also chiefly to imbue their minds with the  
15 precepts of Christianity and the gospel."

16 Now modifications were made to that bull, which sets  
17 out the 18 principal rules, in 1923 -- I am just going  
18 to give you the references -- 1525, and again in March  
19 of 1947 and that's at 1531.

20 Now of principal note is perhaps the change made to  
21 Rule X. Rule X you will recall is where you leave the  
22 Order, the means by which an Order -- a Brother can be  
23 removed. If we look at 1527, we see at X -- so this is  
24 modifying particular rules within the original papal  
25 bull:

1 "That for the dismissal of Brothers the respective  
2 prescriptions of the sacred canons be observed."

3 We don't have the sacred canons. It may be  
4 something we need to clarify, but it appears to be the  
5 general means by which people would be dealt with for  
6 grave reasons.

7 Now the decree of approbation, which was essentially  
8 an approval by Pope Pius XII in 1947 of the constitution  
9 of the De La Salle Order, which is set down in the  
10 Common Rules and Rule of Government, can be found at  
11 1534. Just bring it up briefly, please. This is  
12 essentially the certification in 1947 of the  
13 continuation of the Order and approval of the rules.  
14 Then we have, if we scroll through to 1538, please, the  
15 start of the 35 chapters of the Common Rules and  
16 Constitution of the Brothers of the Christian Schools.  
17 You can see coming up on the screen chapter I, "The end  
18 and the necessity of this institute". You will see:

19 "A society in which profession is made of keeping  
20 schools gratuitously."

21 It gives the various headlines.

22 If we can move through to chapter III, please, which  
23 dealt with -- at 1543 dealt with the spirit that was  
24 required in the community and in particular article 3:

25 "All shall sleep in the same dormitory or in common

1       dormitories, should there be need of several; in the  
2       latter case Brother Director shall be careful to appoint  
3       in each a Brother to see that exact and profound silence  
4       reign and that everything be done with modesty and in a  
5       becoming manner.

6             The Brothers may sleep in separate rooms opening as  
7       far as possible on a common corridor or vestibule.  
8       These rooms shall have doors with opening transoms. The  
9       Brothers shall occupy these rooms at night only and  
10      outside this time they may not remain in them. They  
11      shall not receive Brothers, students or outsiders in  
12      them."

13            So there was a specific prohibition in the rule that  
14      children were not to be in the bedroom of a Brother.

15            If we move through to 1550, chapter VI contains  
16      directions on the manner in which the Brothers were to  
17      behave and contained instructions and prohibitions on  
18      how the Brothers were to speak. If we just scroll back  
19      up to the start of 4, because it is articles 4 and 5  
20      that I am drawing attention to:

21            "The Brothers shall not speak at recreation of what  
22      has happened in any of the houses of the institute or of  
23      the affairs of the house in which they are or of the  
24      administration of the institute unless it be beneficial  
25      and edifying."

1 In article 5:

2 "They shall not speak of any of the Brothers or of  
3 those who have been in the society or of any other  
4 person unless it be to speak well of them."

5 I am not outlining on each occasion the potential  
6 implication or difficulty that these types of rules  
7 might create, but I am identifying them for the Panel to  
8 reflect on that these are, if they were followed, the  
9 framework of how these Brothers were to interact with  
10 the children in the children's home.

11 Brother Plus Mc in his second statement to the Inquiry of  
12 22nd October -- I am not going to bring it up -- but at  
13 RUB172 said that in his experience there was, in fact,  
14 little communication between provinces and this may have  
15 been because of these rules, that Brothers were  
16 essentially forbidden to speak of what went on in their  
17 own community and other communities.

18 If we look, please, at 1552, which is chapter VII,  
19 it sets out how the Brothers were to behave towards the  
20 pupils in their care. Just scroll down, please. What  
21 I want to do in particular is look at articles 11 to 15  
22 for present purposes. If we just scroll down, please,  
23 there are a series of rules about dealing with the  
24 children. Just stop there:

25 "They shall love all their pupils sincerely; they

1 shall not, however, be familiar with any, nor give them  
2 anything through particular friendship, but only as  
3 a reward or for encouragement."

4 Scroll down, please. Just stop there:

5 "They shall manifest equal affection for all the  
6 pupils, more even for the poor than for the rich,  
7 because they are entrusted by their institute much more  
8 with the former than with the latter.

9 The Brothers shall endeavour by their whole exterior  
10 and by their entire conduct to be to their pupils  
11 a continual example of modesty and of all the other  
12 virtues which they should teach them and urge them to  
13 practise.

14 They shall not allow any pupil to remain about them  
15 when at their place in class.

16 The Brothers shall not speak to their pupils  
17 privately, except very seldom and through necessity; and  
18 when obliged to speak to them, they shall do so in few  
19 words."

20 If we move on down, please, through to chapter VIII,  
21 1556, and I want to look in particular -- this is about  
22 the manner in which the Brothers were to behave when  
23 obliged to correct their pupils. Go down, please, to  
24 article 5, which is on 1557. You will see:

25 "The Brothers shall be careful never to touch or

1 strike any one of their scholars and never to repulse or  
2 treat them rudely: all such means of correction should  
3 never be used by the Brothers as being very unbecoming  
4 and opposed to charity and Christian meekness.

5 Corporal punishment is forbidden."

6 Now, as you will come to see, this was a rule that  
7 was not observed in Rubane, although it will rightly be  
8 said to the Panel that the legislative scheme of the  
9 country in which the Brothers were operating permitted  
10 corporal punishment, but certainly it was part of the  
11 Brothers' rules that corporal punishment was forbidden.

12 Chapter XII sets out how the Brothers were to be  
13 towards the Director of their community. That's at  
14 1564, and it sets out a series of rules about the  
15 respect and obedience that was to be shown. You will  
16 see in 3:

17 "The Brothers shall always endeavour to see God in  
18 the person of their Director, and they shall be mindful  
19 not to address themselves to him but as to one invested  
20 with God's authority; they shall put themselves in this  
21 disposition before presenting themselves to him."

22 You can see article 4: standing up, saluting,  
23 bowing, and perhaps the Panel can reflect on the  
24 potential difficulty that there would be for a set of  
25 Brothers obeying a rule where that person is the person

1 in charge of the home where that person might be the  
2 individual against whom allegations are made.

3 If we just scroll down a little further, please, we  
4 can see speak to him when he is standing with their  
5 heads uncovered. They have to speak to him with  
6 profound respect, in a low voice in terms which show the  
7 veneration they have for him, passing him to give  
8 a respectful bow.

9 "They shall have a humble and entire confidence in  
10 him; and perhaps they think they may freely tell him  
11 their troubles.

12 They shall at all times receive with much respect  
13 the advice given to them by the Brother Director.

14 They shall receive with the same sentiments of  
15 respect and submission all the orders and commands of  
16 the Brother Director, seeing in him only the authority  
17 of God ..."

18 Just keep scrolling, please. That's what is to  
19 happen whenever one is being rebuked by the Brother  
20 Director and the respect with which that rebuke is to be  
21 taken. So it is perhaps a flavour for the Panel as to  
22 that role and the respect for it that existed within the  
23 Order.

24 Chapter XVII, please, if we move to 1578, deals with  
25 the vows that were required of the Brothers. Scroll

1 down, please. It is said:

2 "The Brothers of the Christian Schools make simple  
3 and perpetual vows of poverty, chastity, obedience,  
4 stability in the institute and of teaching the poor  
5 gratuitously. No Brother may remain in the institute  
6 without vows."

7 Then a system for making your vows is outlined. If  
8 we can move, please, to 1587, which is chapter XX, which  
9 deals with the vow of chastity, and you will see that  
10 this is dealt with in a very direct manner:

11 "The Brothers should be convinced that no-one will  
12 be tolerated in the institute in whom anything exterior  
13 against chastity has appeared or appears.

14 Therefore their first and chief care in regard to  
15 their experience shall be to make chastity shine forth  
16 above all other virtues."

17 If we scroll down, we can see that various  
18 suggestions are made as to how this virtue might be  
19 observed. 3, article 3:

20 "... show great reserve and decency in all things.  
21 Temperance.

22 Not see or be seen in a immodest manner.

23 Not sleeping in the same bed."

24 Then at 7:

25 "They shall not touch their pupils through

1       playfulness or familiarity and never touch them on the  
2       face."

3             You will see then:

4             "When speaking to persons of the other sex, they  
5       shall always keep some steps from them, and never look  
6       at them steadily in the face, speak to them in a very  
7       reserved manner and far from the least liberty or  
8       familiarity."

9             Then a direction about engaging with the mothers of  
10       pupils in order not to repel them, but whatever the  
11       communication, it shouldn't prevent them from displaying  
12       the reserve that's being required. So it gives some  
13       idea of the on one view potential difficulty for members  
14       of the Order having a feminine influence taking place in  
15       the children's home. We will come to see that, in fact,  
16       one of the brothers and one of the nuns each left their  
17       orders and were subsequently married.

18            Chapter XXII deals with the requirement -- if we go  
19       through to 1590, the requirement for silence. If we  
20       look specifically at article 2(2) -- just keep  
21       scrolling:

22            "Very strict silence out of recreation time. Not  
23       speak to each other for any reason whatever without the  
24       permission of the Brother Director."

25            Just scroll down, please:

1           "When a Brother needs to speak out of recreation  
2           time, either to another Brother or to a secular person,  
3           he shall then speak only of what is necessary and he  
4           shall essentially observe the following articles."

5           I just want to look at subsection (2):

6           "He shall not speak of any of the Brothers or of  
7           those who have been in the society unless it be to speak  
8           well of them. Should any outside person speak to him of  
9           either or question him about them, he shall say that he  
10          may not answer such questions and that it is necessary  
11          to apply to the Brother Director."

12          So you begin to see the difficulty there might be  
13          for members of the Brothers talking beyond their own  
14          brotherhood and specifically beyond recreation time,  
15          which seems to be the only time that the rules envisaged  
16          communication between them.

17          We can see at article 5, if you just scroll down  
18          a little further, please -- keep going. That's  
19          sub-article 5). Just on to the next page for me:

20          "The Brothers shall carefully refrain from enquiring  
21          of any Brother about what has happened in any of the  
22          houses of the institute, not even concerning any of the  
23          Brothers.

24          When charity and necessity require the Brothers to  
25          seek such information, they shall avoid all enquiry that

1           may be disedifying or give occasion of criticism."

2           Chapter XXVII, 1607, and the Inquiry does not have  
3           any evidence of the practice that I am about to explain,  
4           but chapter XXVII sets out a mechanism -- just scroll  
5           down please to "Letters" -- for each Brother to annually  
6           write a letter to the Brother Superior of the institute.  
7           The Brother Director also had to write to give  
8           an account of his conduct, the regularity of the  
9           Brothers and the conditions of the school. Then if we  
10          just scroll down, you will see that each would then  
11          receive a reply from the Brother Superior. You see all  
12          the letters were to be collected. If you just scroll  
13          down, please. So this was a mechanism in the Order for  
14          perhaps communicating your difficulty or what had been  
15          going on within the community in which you resided with  
16          an obligation on the Brother Director to account for  
17          what occurred.

18          Now the Panel can obviously bear that in mind in the  
19          context of events that we will see in '58, '64 and so on  
20          and so forth, whether this system operated and, if so,  
21          whatever might have flowed from it in terms of  
22          communicating back on how the Order was behaving in that  
23          particular community isn't something that the Inquiry  
24          has received. It may well be they simply don't exist.

25          I want to finish the overview of the common rules by

1 looking at how unacceptable behaviour was to be dealt  
2 with. That's covered in chapter V and I want us just to  
3 go back briefly to that, please, at 1547, and article 4  
4 and following. Just scroll on down, please. So  
5 there's -- article 4 has an obligation to accuse  
6 themselves once a day at the start of their devotions.  
7 If we just scroll down, please, to article 7:

8 "The Brother Director shall not be publicly  
9 advertised of his defects" -- when this says "publicly",  
10 it is talking about in the gathering of the Brothers as  
11 opposed to beyond the community -- "the Brother Director  
12 shall not be publicly advertised of his defects unless  
13 the Brother Superior of the institute or the Brother  
14 Visitor be present at the time of the advice, during  
15 which an advertisement of the defects of the whole year  
16 shall take place."

17 So that is an airing amongst the Brothers of the  
18 difficulty which has arisen with the Brother Superior or  
19 the person in charge of the home for our purposes.

20 Article 9 then -- just scroll down, please, to the  
21 next page:

22 "Should it happen that any one or more Brothers know  
23 of a considerable fault capable of causing scandal, they  
24 shall not speak of it in this exercise, but they shall  
25 inform the Brother Director of it privately; they shall

1 not fail to do this under any pretext whatever. Every  
2 Brother shall look upon this practice as  
3 an indispensable duty."

4 Now, as we will see, if the scandal was relating to  
5 the Brother Director or the person in charge of the  
6 children's home, then the Brothers went above him  
7 essentially and informed the Brother Provincial or  
8 Brother Visitor, as he was known.

9 The Rule of Government of the Christian Schools  
10 begins at 1786 and I am going to briefly show you the  
11 table at 1787, please. It again sets out a series of  
12 instructions about the general governance of the Order  
13 and chapter V deals with the vows. If we can go to  
14 1790, please, and I want to refer you to article 16 and  
15 following, which begins at 1794. Go to 1794, please,  
16 which is part of this chapter about the vows. You will  
17 see:

18 "The Brothers shall make a serious study of the  
19 obligations of the vows so that they may be guarded  
20 against all error and illusion and take a serious view.

21 A subject who has left the institute and who asks  
22 permission to re-enter it after his vows expired cannot  
23 be re-admitted without the authorisation from the Holy  
24 See."

25 Scroll down, please:

1 "A Brother with perpetual vows who would be so  
2 unfortunate as to leave the institute with the intention  
3 of not returning is called an apostate from the  
4 institute and incurs by law ex-communication reserved to  
5 the ordinary of the diocese in which he resides."

6 Just scroll on down, please:

7 "He is called a fugitive who leaves the religious  
8 house without the permission of the superiors but with  
9 the intention of returning."

10 If we look at 22:

11 "Subjects shall not be kept in the institute who are  
12 devoid of the religious spirit, who are rebellious and  
13 sowers of discord or who give cause for some grave  
14 scandal.

15 The higher superiors shall apply to such religious  
16 the canonical admonitions in accordance with the  
17 exigencies of canon 656 and those that follow."

18 So the role of removing a Brother -- and we will see  
19 this in a number of respects -- from the institute  
20 ultimately fell to the Brother Superior General. You  
21 can see that from chapter IX, article 24.1. If we just  
22 go to 1801, please.

23 "In performing that function", article 24.1, "the  
24 Brother Superior shall ask the consent of his Council on  
25 the following questions."

1           If we can see (i):

2           "Dismissal of professed brothers."

3           So where a problem has arisen and a Brother has been  
4 reported to the Brother Superior with a view to him  
5 receiving dispensation from his vows, a discussion has  
6 to take place between the Superior General and his  
7 Assistant General, sort of the General Council.

8           Now the Panel will become familiar over the next  
9 number of months that the Brother Provincial made what  
10 was known as the annual visit to a community of Brothers  
11 and therefore an annual visit to this children's home,  
12 and generally those lasted for three days at a time.

13           Chapter XXVIII deals with that annual visit at 1803.  
14 I am going to cover this very briefly, but the Panel  
15 will obviously have an opportunity to look at this.  
16 "The manner of making the visits and rendering them  
17 profitable." If we just go down, please, to 1804,  
18 article 5 placed a duty:

19           "All the Brothers, even the Brother Director, are  
20 obliged to inform the Brother Visitor in private whether  
21 any rule is not observed and to mention what may be the  
22 cause. The neglect of this duty may lead to serious  
23 consequences.

24           For this purpose every Brother shall make a special  
25 examination on the rules and practices of the society,

1 to see whether they are punctually observed."

2 They are to avoid exaggeration of defects.

3 At articles 14 and 15, 1808, and this is to do with  
4 the interaction with outsiders, articles 14 and 15:

5 "He is to inspect the premises of the community and  
6 observe the following:

7 Its cleanliness.

8 The community: its cleanliness, its furniture, the  
9 sleeping quarters of the Brothers, parlours according to  
10 the rule.

11 The school: contiguous classes, glazed doors and  
12 partitions, their cleanliness, furniture for teacher and  
13 pupils, class materials and toilets.

14 He shall assure himself in particular", 15.1:

15 "That no pupil is kept in school after the dismissal  
16 of the classes.

17 That there are in the parlours glazed partitions  
18 without curtains.

19 That neither liquor nor tobacco is in use in the  
20 community."

21 In fact, I think you will hear during the evidence  
22 that cigarettes might have been on sale in the tuck  
23 shop. So that's certainly a rule that may not have been  
24 being observed in Rubane.

25 In chapter XXIV, RUB1810, please, you have the

1 obligations that were placed on the Brother Director,  
2 and for our purposes, as I have said -- I will keep  
3 saying until it becomes a common exchange -- the Brother  
4 Director is the person in charge of the home for the  
5 purposes of the Children and Young Persons Act. Various  
6 obligations are disclosed. I want to just move through,  
7 please, to 1819 and to article 30:

8 "The Brother Director shall be careful that the  
9 parlour doors have glazed panels without curtains in  
10 such a manner that the interior may be easily seen."

11 Perhaps the Panel can take it as read that this was  
12 not about being able to observe someone coming so as not  
13 to hit them with the door whenever you are opening it.

14 At RUB -- there was a similar requirement to that in  
15 the school buildings, as we have seen.

16 In article 41, RUB1822, please, we see the  
17 record-keeping that was required. Just down towards the  
18 bottom, please:

19 "He shall keep written up-to-date the registers  
20 which should be in the community."

21 We have the various documents that he was to ensure  
22 were kept.

23 At article 55 at 1826 it sets out what the Brother  
24 Director is to do regarding the communication of defects  
25 of Brothers in his community. Just scroll down, please.

1           "The Brother Director shall carefully avoid making  
2 known the defects of the Brothers without a real  
3 necessity and in this case he shall say only what is  
4 indispensable.

5           If the Brother Director requires information about  
6 any of his subjects in the community, it is to the  
7 regime or to the Brother Visitor that he is to apply,  
8 and not to the Directors who have had the Brother in  
9 question under their direction."

10          So one can imagine if someone is transferring from  
11 one community to another to start working in this  
12 children's home, this obligation was saying you don't  
13 ask the man who has been in charge of this person in the  
14 previous home, but you can ask the Brother Provincial,  
15 who in theory, if the rules are operating, will know  
16 about the person who is transferring.

17          At article 72 at 1829 there was an obligation placed  
18 on the Brother Director or person in charge of the home  
19 that at 72, please -- just keep scrolling down, please:

20          "The Brother Director shall not tolerate in any of  
21 the Brothers anything contrary to the regularity and  
22 good order of the community."

23          So a heavy obligation is placed on him. He was  
24 obliged -- I am not going to bring this up. Article 76,  
25 which you will find on 1830, sets out the obligation to

1       oversee the requirement for silence in the community.  
2       The Panel can reflect on that type of environment in  
3       terms of running a children's home, if that is, in fact,  
4       what occurred.

5             Article 97 placed on him -- that's at 1838 --  
6       an obligation to ensure there is no tobacco in the  
7       community. You will see at article 128, if we go to  
8       1846, please:

9             "The Brother Director shall regard the observance of  
10       the following prescriptions of rule as of great  
11       importance.

12            No Brother is to remain in class after the general  
13       dismissal of the school. All the Brothers shall return  
14       to the community as soon as class is over.

15            No pupil is to be retained alone in class under  
16       pretext of work or punishment."

17            So at its heart these rules and the shape of them  
18       are for a community of Brothers who are living alone and  
19       observing their rules and then going to a school that's  
20       run by them to teach, and setting out very clear rules  
21       about how they are to interact in the school with the  
22       pupils that they are dealing with and with the parents  
23       of the pupils.

24            In paragraph 33 of Brother Plus McCarthy's first statement -- that's  
25       at RUB175 -- he sets out some of the relevant extracts

1 as far as he saw it from the 1947 version of the Order's  
2 Common Rules and from the Rule of Government that he  
3 considered would be most relevant to the Inquiry's work.  
4 We looked at the actual document from which a number of  
5 these were taken. The Inquiry may ask what was the  
6 rationale behind some of the rules that were being  
7 spelled out in these two books, whether they were  
8 because of some unacceptable practices that had already  
9 occurred and were known of prior to 1947 when they were  
10 authored, or whether the authors were taking steps  
11 simply to guard against difficulties that they had  
12 anticipated might arise.

13 The Inquiry is aware from its work to date that  
14 article 4 of the -- if we just bring up HIA288,  
15 please -- that article 4 of the Children and Young  
16 Persons (Voluntary Home) Regulations -- just take us to  
17 4, please -- placed a mandatory duty on the  
18 administering authority of a voluntary home to ensure  
19 that it was being conducted in such a manner and on such  
20 principles as will further the well-being of children in  
21 the home. That was the central obligation on the  
22 provider of the home.

23 Similarly section 99(4). Can we just go to HIA232,  
24 please? Section 99 is the registration of voluntary  
25 homes, the obligation to be registered in order to carry

1 on the home. If we move through, please, to subsection  
2 (4), the power was given to the Ministry of Home Affairs  
3 that where the conduct of any voluntary home that was  
4 registered is not in accordance with the regulations or  
5 is otherwise unsatisfactory, the Ministry may, after  
6 giving due notice, remove the home from the register.

7 The Inquiry may want to reflect as we begin to hear  
8 the rest of the opening and the oral evidence that's to  
9 come, and on looking at the documentary material, on  
10 whether operating a children's home where staff were  
11 subject to many of the rules and obligations that are  
12 contained in the two books that we have looked at could  
13 ever be in the best interests of children both in terms  
14 of how the home itself was operated and the preparation  
15 of the children for life beyond the home.

16 The Inquiry has not yet seen any documents  
17 indicating that the Ministry of Home Affairs in deciding  
18 to register or keep registered Rubane House as  
19 a children's home considered the systems and obligations  
20 of living required of the De La Salle Brothers and  
21 whether that system was suitable for the staff operating  
22 a children's home, and whether the observance of those  
23 rules were going to be in the best interests of children  
24 in terms of their time in care and preparing them for  
25 life beyond care. The Panel may consider there's

1 an obvious contrast potentially to teaching in a school  
2 and being subject to those rules but carrying out your  
3 teaching duties and the very different role that you  
4 might have to perform as a member of staff in  
5 a children's home.

6 The Inquiry has also not seen any documents  
7 suggesting that this issue as to the suitability of  
8 asking a teaching Order of this kind to actually run  
9 a children's home as opposed to a school was ever  
10 considered by the Diocese of Down & Connor, who invited  
11 the De La Salle Brothers not only to teach in the school  
12 for Roman Catholic boys but to also run a children's  
13 home on its behalf.

14 The Inquiry is already aware of the 1952 Home Office  
15 Memorandum on the conduct of children's homes, which was  
16 the guidance that was issued. I am not going to bring  
17 it up, but it is at HIA470. It sets out the type of  
18 premises and environment that government envisaged for  
19 children's homes. The Panel will be able to reflect on  
20 whether that type of environment is consistent with the  
21 type of expectations that were on the Brothers in terms  
22 of how they were to live.

23 That's all I want to say at this point about the De  
24 La Salle Order in terms of the obligations that they  
25 were under in terms of their living and their structure

1       that they were to operate by, but I want to say  
2       something now about the history of Rubane House, its  
3       acquisition as a children's home, and the governance and  
4       administrative arrangements that existed in respect of  
5       what became in 1950 the De La Salle Boys' Voluntary  
6       Home. That seems to have been the proper name, official  
7       title that was given to the home: the De La Salle Boys'  
8       Voluntary Home.

9               So what we have done so far is look at the Order and  
10       its structure and the governance arrangements within it  
11       and now I want us to look at the De La Salle Boys'  
12       Voluntary Home itself into which this set of Brothers  
13       with their structure were invited.

14               Now we can see at RUB071 to 075 a copy -- the Order  
15       has kindly provided a copy of the agreement that was  
16       reached in October 1950 between the then Bishop of Down  
17       & Connor Daniel Mageean -- he had taken up that role in  
18       1929 -- and the agreement will be in the third part of  
19       the hard copy that the Panel have of the material that's  
20       coming up on the screen -- this agreement is between  
21       Bishop Mageean and the then head of the Order, Brother  
22       Emile.

23               If we just scroll down, please, this is a document  
24       that the Panel may return to again and again as the  
25       founding document, brought this home about, but you can

1 see just various individuals are identified who held a  
2 role, bishops and priests within the diocese, and the --  
3 referring to the trustees. You see about halfway down:

4 "... of the other part whereas the trustees hold the  
5 lands, elements and premises situated and known as  
6 Rubane House in the County of Down containing 250 acres  
7 or thereabouts in fee simple upon trust for such Roman  
8 Catholic religious educational or other charitable  
9 purposes in the Diocese of Down & Connor as the person  
10 who shall for the time being be the Roman Catholic  
11 Bishop of the said diocese shall by writing under his  
12 hand from time to time direct."

13 So at its core that's the -- where the buck stopped,  
14 to use a modern day parlance, that the land is owned by  
15 the trustees, who are to act at the direction of the  
16 incumbent Bishop of Down & Connor, who is to require  
17 that whatever goes on there at the time that it was  
18 owned was for such Roman Catholic religious, education  
19 or other charitable purposes in the diocese as the  
20 Bishop shall so direct.

21 Just scroll on down, please. Then there is  
22 recognition of the work being carried out by the De La  
23 Salle Order at St. Patrick's Training School on behalf  
24 of the diocese at Milltown, and then the trustees  
25 indicating they have arranged with the Superior General

1       that the said lands, premises are going to be placed  
2       under the care and superintendence of the Brothers of  
3       the Christian Schools upon the terms and conditions  
4       mentioned hereunder.

5             You can see in paragraph 1 the home was to be called  
6       and known as the De La Salle Boys' Voluntary Home and  
7       shall continue to be diocesan property. Scroll down  
8       please:

9             "The school premises shall be under a Committee of  
10       Management (hereinafter referred to as 'The Committee')  
11       to be appointed by the trustees and one of whom shall be  
12       the Provincial of the Irish Province or his nominee."

13            Now this term that's used for the committee turns  
14       into it appears the Governing Board of De La Salle  
15       Voluntary Boys' Home. The Provincial was a member of  
16       the Board along with essentially a set of diocesan  
17       priests including the bishop. You can see how matters  
18       of finance are covered in terms of paragraph 4 about  
19       grants. Then Brother Superintendent, which is the  
20       Brother Director or Brother Superior, the person in  
21       charge of the home, is responsible for payments such as  
22       the maintenance of boys and salaries and rents. Then  
23       you will see at paragraph 6:

24            "The committee agree to erect such additional  
25       buildings and make such repairs and transformations in

1 the present buildings as may be deemed necessary to put  
2 the school into efficient working order and comfortable  
3 for boys and staff."

4 When you see "school", it's the children's home,  
5 which was to include a school. Reference is made then  
6 to funds and bank drafts. You will see at paragraph 8:

7 "The Superior General", so that's the head of the De  
8 La Salle Order, "shall have liberty of appointing and  
9 changing any Brother, including the Brother  
10 Superintendent, when he deems it necessary and useful.  
11 The Brothers shall have full liberty to observe their  
12 rules, both these with regard to the interior of the  
13 community and those which relate to the conducting of  
14 the school."

15 So the form of this agreement perhaps reads more  
16 like the point I was drawing to the Panel's attention  
17 earlier, where you would have had a community of  
18 Brothers who lived and they taught then in the school  
19 that they were asked to teach in whereas this form of  
20 agreement is being used for what was in effect setting  
21 up a children's home and school, but the Superior  
22 General is in charge of what staff are going to be  
23 provided.

24 If we scroll down, please, paragraph 9, it is his  
25 obligation to keep staff efficient, providing Brothers

1 as he may deem necessary for the efficient working of  
2 the school. You have got reference to the salaries and  
3 he is given Brother Superintendent. So that is the  
4 Brother Superior, Brother Director, person in charge of  
5 the home, has been given the sanction of the Board to  
6 have the liberty of appointing and discharging other  
7 officials in connection with the school except the  
8 chaplain, who will be appointed and changed at the  
9 discretion of the Bishop.

10 Then reference is made to the worship of the  
11 brothers. If we just scroll down, please, the Board is  
12 to have at paragraph 12 premises for their meetings,  
13 although we will come to see a lot of the initial  
14 meetings were held, in fact, in St. Pat's rather than in  
15 Rubane itself.

16 Then there is the auditing provision at 13 and  
17 an obligation of running matters economically in 14.

18 If it becomes in paragraph 15 necessary for the  
19 Brothers to withdraw from the school, the present  
20 agreement shall be rescinded at six months' notice.  
21 Just scroll down, please. The Superior General is bound  
22 to hand back the property to the trustees in the same  
23 condition in which he received it, and all money paid  
24 over to the trustees.

25 So that's the framework of the 1950 agreement that

1 was reached between the Bishop of Down & Connor and the  
2 Superior General of the Order that saw the Order take up  
3 its role in the home. As I have said, the property  
4 itself appears to have been purchased and held by a set  
5 of diocesan trustees for the religious education of  
6 charitable purposes that the Bishop directed.

7 Now just to put some context on this, we are  
8 referring constantly to the Diocese of Down & Connor and  
9 its bishop. On 25th September the Inquiry received  
10 a witness statement from Father Bartlett. He is the  
11 Episcopal Vicar for Education and Director of Public  
12 Affairs for the diocese and he has been appointed to  
13 speak on behalf of the diocese before the Inquiry.

14 If we can just look at paragraph 5, please, of 5317  
15 of his first statement, he provides some understanding  
16 of the extent and activities of the Diocese of Down &  
17 Connor. He says:

18 "The size of the diocese is significant in this  
19 regard. It is the second largest diocese on the island.  
20 It has 88 parishes. It is involved in over 200 schools,  
21 a hospital, a university college, pastoral  
22 responsibility for a prison and a young offenders  
23 centre, two university chaplaincies, a large range of  
24 pastoral educational, caring and charitable  
25 organisations and activities, most making reports in

1           some fashion to a relatively small central  
2           administrative office of the diocese. In any given year  
3           the full range of these activities can involve quite  
4           literally hundreds of meetings across many different  
5           committees, the compilation of many different financial  
6           and other reports, as well as a large number of  
7           financial transactions, property dealings and legal  
8           communications. Maintaining records of all these  
9           entities and their related activities as well as their  
10          financial transactions and property disposals for any  
11          extended period of time beyond that lawfully required is  
12          simply impractical in the past with no obvious purpose,  
13          just as it continues to be a challenge for many  
14          charitable organisations of a similar size today."

15                So he is trying to give some idea of the scale of  
16          the Diocese of Down & Connor and their involvement with  
17          this home, which was part of that wider picture. There  
18          are important matters in the Father's statement that we  
19          will come back to and look at and the Inquiry will want  
20          to investigate further and talk to him about no doubt in  
21          due course, but I want to try just to summarise the  
22          position at this stage in terms of the ownership and  
23          oversight structure.

24                The Order has said -- I am not going to bring this  
25          up, but the reference is RUB013, paragraph 2 -- it was

1 the then Bishop of Down & Connor, Bishop Mageean, who  
2 decided to open a home for the care of orphans and  
3 destitute children in his diocese as the Industrial  
4 School of St. Pat's was not seen as the appropriate  
5 place for all the children the diocese wished to care  
6 for. Equally the Inquiry will hear it said that Brother  
7 Stephen Kelly, who was the Director at St. Pat's and  
8 working in that school, was heavily involved in the  
9 setting up. Later this afternoon we will look at some  
10 exchanges of correspondence that show how this came  
11 about.

12 Now I mentioned earlier in the opening about the  
13 fact the Hughes Inquiry looked at Rubane in a limited  
14 sense and before that Inquiry the then Father Peter  
15 McCann spoke on behalf of the Governing Board, and the  
16 transcript of his evidence is available to the Panel.  
17 I am not going to bring it up now, but just by way of  
18 reference he set out in 1985 the reasons behind the  
19 acquisition of Rubane and why it was set up. You will  
20 so find that at RUB40008. So that's 40008.

21 As we have seen, it was trustees acting on the  
22 authority of the Bishop that purchased what became known  
23 as Rubane House together with 250 acres of land on the  
24 shores of Strangford Lough. It was originally known as  
25 Echlinville House dating back to the 17th century and

1 was the stately family home of many generations of the  
2 Echlin family. The present extensive Georgian mansion  
3 dates from 1850 and was designed by Charles Lanyon. The  
4 purchase price paid by the diocese in 1950 was  
5 approximately -- and there are various documents that  
6 differ on this -- but either £30,000 to £32,500 or  
7 £35,000, and it remained in the diocesan ownership  
8 through the trustees throughout the period that the home  
9 operated as a children's home. There is a reference for  
10 32,500. The History of the Home log which was kept by  
11 the De La Salle Order at RUB11761 suggests it was 32,500  
12 and that seems to have been a contemporaneous record.

13 When the property was sold in 1995 for just short of  
14 half a million pounds, the seller was the Diocese of  
15 Down & Connor's trustees, who received the proceeds of  
16 sale and then moved those proceeds into a trust known as  
17 the Saint Malachy's Trust for Educational Purposes  
18 within the diocese. Again I just repeat that the  
19 present owners have no dealing with this module, nothing  
20 whatsoever to do with the Order, no connection with the  
21 De La Salle Order, the Diocese of Down & Connor or the  
22 former children's home.

23 The diocese set up the management structure for the  
24 children's home by forming a Board of Governors called  
25 the Governing Board of De La Salle Boys' Voluntary Home.

1 Just bring up, please, RUB5174 just for illustration  
2 purposes at this point, because we will be looking at it  
3 in detail later, but this is the minutes of the first  
4 meeting of the Governing Board that take place on 27th  
5 September 1950. You will see this meeting was held at  
6 Rubane House. Boys don't actually come to live in the  
7 house until January '51, but this is taking place in the  
8 house, and you will see that present is the Bishop, his  
9 Lordship the Most Reverend Dr Mageean. Then you have  
10 the Right Reverend Hendley, the Very Reverend Father  
11 Rhodes, the Very Reverend Father Walsh, and the Reverend  
12 Father Higgins, the Reverend Father Bradley, the  
13 Reverend Father Gogarty, the Very Reverend BP1,  
14 Provincial. So it is a series of diocesan priests  
15 together with one -- there are essentially three  
16 Brothers present. One is the BP1, who was the  
17 Provincial. His name is not to be used outside the  
18 chamber. We refer to him as "BP1". He was present, as  
19 was BR12. You can see who that is from the designation  
20 list. Again I will use his name, but it is not to be  
21 used outside. It is BR12. He was the first officer in  
22 charge or person in charge of the home, and the Brother  
23 Director or Brother Superior of the first Rubane  
24 community of Brothers. Then the third that's present is  
25 Reverend Brother Stephen Kelly, who is the Brother

1 Director from the community in St. Patrick's.

2 It is at this first meeting that the Order -- if we  
3 just scroll down a little, we can see the -- just scroll  
4 down a little further, please -- various discussions  
5 take place about the building. If we just scroll down  
6 to the bottom of the minute, please, so we have BP1, the  
7 Provincial, who remained the Provincial for a long  
8 period of time and will feature in a number of the  
9 matters we will look at in some detail. You can see he  
10 is agreeing to send the necessary staff of Brothers as  
11 soon as the essential alterations were complete. So he  
12 was being invited to send the Brothers to Rubane.  
13 That's in accordance with what Father McCann told the  
14 Hughes Inquiry at the reference I have given you and  
15 also what the De La Salle Order told the Inquiry, that  
16 the Governing Board is made up of the Bishop of Down &  
17 Connor and various clergy, and that the Bishop of Down &  
18 Connor was the Chairman of the Board of Governors. That  
19 appears to have remained the position right throughout  
20 the existence of the home. There were some occasions  
21 when the bishop was not present at the Board of  
22 Governors' meetings, but generally he presided as  
23 Chairman.

24 It is a matter that the Inquiry will have to come  
25 back to look at whenever I say something more about it

1 later, but for the purposes of the legislative scheme if  
2 we can look, please, at HIA288, this is a voluntary home  
3 and the definition of the administering authority, who  
4 is ultimately running the home, is set out in regulation  
5 3 of the Voluntary Home Regulations from 1952:

6 "The administering authority means the person or  
7 persons carrying on the voluntary home."

8 Now this was a position that as far as the Hughes  
9 Inquiry when they dealt with this matter seems to have  
10 been accepted by them and by everyone dealing with them  
11 that the diocese was the administering authority. If we  
12 just look at HIA916, paragraph 10.2 in chapter 10 of the  
13 Hughes Inquiry report, you can see that:

14 "The administering authority was the Board of  
15 Governors chaired by the Roman Catholic Bishop of Down &  
16 Connor."

17 It makes reference to a Management Committee set up  
18 in '78, which we will look at, but certainly the Hughes  
19 Inquiry seems to have taken the position the  
20 administering authority is the Diocesan Board of  
21 Governors. That's the position that was accepted by the  
22 De La Salle Order. If we look at RUB1179, you can see  
23 just at the top of the page -- there is a little bit of  
24 analysis that comes before it on the previous page, but  
25 you can see:

1           "The De La Salle Order adopts the conclusions of  
2           Judge Hughes in this regard",

3           as far as the administering authority is concerned.

4           This Inquiry can form its own view as necessary. We  
5           have looked at the definition of the administering  
6           authority as the person or persons carrying on the  
7           voluntary home. Now it does appear that the Governing  
8           Board was not a specific legal entity set up in an of  
9           itself, simply the administrative vehicle or title that  
10          the diocese gave to that aspect of its work. The  
11          Governing Board obviously no longer exists today with  
12          the school having closed in 1985 and the home closing in  
13          1985. The Diocese of Down & Connor obviously does,  
14          whose priests made up the Board of Governors, and the  
15          Inquiry may consider it appropriate that the Diocese of  
16          Down & Connor is the de facto administering authority.  
17          I don't think the diocese shy away from being identified  
18          in that way.

19          However, if we look at RUB5319, Father Bartlett  
20          raises the issue that -- just scroll down, please -- he  
21          recognises the view -- just scroll down, please, so we  
22          can see 18 and maybe we can get the start of 19 on the  
23          page. Just stop there. Reference is made to the  
24          concept of administering authority and various parallels  
25          are drawn with employer/employee, vicarious liability in

1 civil matters, and essentially the diocese accepts it  
2 was the legal and equitable owner of Rubane and that it  
3 exercised a significant degree of control over the  
4 capital assets and financial management of the home. On  
5 the other hand, the congregation were responsible for  
6 the day-to-day administration of Rubane. Later on in  
7 the statement, if we just scroll down, please, he refers  
8 to the concept potentially of practice and of  
9 potentially joint administering authorities, that both  
10 the diocese and the Order effectively were both  
11 administering authorities for the purposes of the  
12 regulations. In the end I think the diocese position as  
13 indicated to me, and I'm indicating it to the Panel,  
14 that ultimately it is one church, as it were, with the  
15 diocesan priests but also the Order, and the religious  
16 Order being one together under the Roman Catholic faith.

17 So the position with this issue is it is obviously  
18 important, because whoever was the administering  
19 authority had various important legal obligations that  
20 the Inquiry is aware of. Primarily among them was the  
21 duty to ensure the home was being run in the best  
22 interests of children. So the very fact there might be  
23 now some debate over the issue might cause the Inquiry  
24 to regard that as a potential systems failure that it  
25 will need to examine, but no doubt the Inquiry will also

1 want to hear from -- and I have made Mr O'Reilly aware  
2 of this -- hear from the Department as the present day  
3 representatives of the then Ministry of Home Affairs and  
4 latterly the Department of Health and Social Services as  
5 to who they regarded the administering authority as  
6 being, ultimately the people they were holding to  
7 account for complying with the statutory obligations,  
8 because an important question for the Inquiry as appears  
9 from the evidence in this module over the next number of  
10 months will be the effectiveness of the administering  
11 authority and whether how it operated and what it did or  
12 didn't do fulfilled the central obligation under  
13 regulation 4 in terms of the home being conducted in the  
14 best interests of children and then in a more specific  
15 sense the various specific duties that were placed on  
16 the administering authority in terms of how a children's  
17 home was to run and whether -- and I pose this question  
18 as I suggest perhaps we close for lunch, Chairman --  
19 whether the manner in which the home operated in terms  
20 of its governance and oversight arrangements, whether  
21 that amounts to a systemic failing or failings will be  
22 something the Inquiry will want to consider, because if  
23 the answer is yes, the Inquiry will then want to  
24 consider whether those systemic failings facilitated or  
25 failed to detect and deal with any abuse that the

1 Inquiry has already had accepted as having occurred or  
2 the Inquiry identifies as occurred. So it is  
3 an important issue that the Inquiry will reflect on as  
4 this module progresses.

5 Chairman, I wonder would that be an appropriate  
6 moment to take a break?

7 CHAIRMAN: I think it would. We will sit again at  
8 2 o'clock.

9 (1.03 pm)

10 (Lunch break)

11 (2.00 pm)

12 MR AIKEN: Chairman, Members of the Panel, before lunch we  
13 had looked at the structure that was set up in 1950  
14 whenever the home was being instigated and we had looked  
15 briefly at the Governing Board that was set up chaired  
16 by the Bishop of the diocese. I want to say a little  
17 more about the Governing Board and some of the other  
18 administrative structures that operated in the home.

19 The Board or the Governing Board of the De La Salle  
20 Boys' Voluntary Home met once per year and was presided  
21 over by the Bishop on most occasions. I have mentioned  
22 to you before lunch Father McCann, who spoke on behalf  
23 of the diocese before the Hughes Inquiry, and he  
24 informed the Inquiry that it met -- that is the Board  
25 met -- 31 times in 33 years. I will give you the

1 reference for that without bringing it up. That's  
2 40010. From the material that we have it seems to be it  
3 met 31 times in 35 years, but it met by and large on  
4 an annual basis. We have the Board minutes for all of  
5 those meetings that took place and we will look at some  
6 of them for various purposes as we go through the  
7 opening and no doubt we will return to them in the  
8 months that lie ahead. We have already looked by way of  
9 example at the very first set of minutes from  
10 September 1950 and the form that those minutes took are  
11 generally representative of how these minutes were  
12 maintained.

13 We can look, for instance, at the last or  
14 penultimate Board minutes of April 1985. We can see  
15 that at 5241. That's RUB5241. This is the meeting of  
16 the Board.

17 CHAIRMAN: Just one moment.

18 MR AIKEN: Maybe we have difficulty in the physical papers  
19 we will have to remedy.

20 CHAIRMAN: Yes.

21 MR AIKEN: This is the 1985 Board meeting of 3rd April,  
22 which in effect determined the closure of Rubane. You  
23 can see at that stage the Bishop has now become Bishop  
24 Cahal Daly. He had become the Bishop of Down & Connor  
25 in 1982. In fact, you can see the quotation from him.

1 He was -- just beneath the redactions he was  
2 congratulating Father McCann on his work -- admirable  
3 work in representing Rubane at the Hughes Inquiry into  
4 children's homes. He sympathised with the De La Salle  
5 community on their considerable ordeal in dealing with  
6 unwarranted slurs on the service being provided by the  
7 Brothers and their staff.

8 Now that minute is obviously from 1985, and at that  
9 stage only one Brother had been convicted and that was  
10 for the physical assault of boys in Rubane. So to what  
11 extent that's indicative of a prevailing attitude of the  
12 time, that's something the Panel can reflect on, but  
13 that's -- if one flows down the minute, we can see it's  
14 generally in a very similar form to that of the  
15 1950 minute. This is looking -- it refers to having the  
16 managers report and getting views of the district  
17 council. If we just scroll on down, please.

18 CHAIRMAN: By district council does that mean the governing  
19 body of De La Salle Order in Ireland, in the province?

20 MR AIKEN: I think this was -- if we just scroll up  
21 a little, please -- yes, it's acknowledging the  
22 difficulty that was being had in finding Brothers to  
23 work in a place like Rubane. If we just scroll down,  
24 please, and we will come back to this minute for other  
25 purposes, but for now I am simply illustrating the

1 general shape and flow of the decision-making body in  
2 effect of the -- ultimately of the home.

3 Father McCann, when he was speaking to the Hughes  
4 Inquiry, informed the Hughes Inquiry that the membership  
5 of the Board of Governors was determined by the Bishop.  
6 So the Bishop decided who would sit on this Governing  
7 Board. It always consisted of five or six diocesan  
8 priests from the Down & Connor diocese. I will give you  
9 the reference. That's at 40009. That's a view echoed  
10 by Brother Plus Mc on behalf of the De La Salle Order -- and again  
11 I will just give you the reference -- at RUB019,  
12 paragraph 10.1.

13 CHAIRMAN: Sorry. Repeat that again.

14 MR AIKEN: It is RUB019 and paragraph 10.1. Now this is  
15 a matter that the diocese can maybe look further into,  
16 but Father McCann did tell the Hughes Inquiry that the  
17 Board of Governors included the parish priest of  
18 Kircubbin. He said that at RUB40011 and part C when you  
19 are looking at the transcript. It was said by him, in  
20 fact -- if we bring that up just for ease. So it is  
21 40011, section C:

22 "Q. Can I stop you there and take you back in  
23 a general way over that? In what I call the Board of  
24 Governors' years can you assist the tribunal about the  
25 visitation to the home, if any?

1  
2           A. The Board of Governors would have met sometimes  
3 not even in the home itself, but one of the members of  
4 the Board of Governors was ex officio a member of the  
5 Board, the parish priest of Kircubbin. He would have  
6 been in weekly contact with everyone in the home. So  
7 that the Board of Governors discharged that duty by  
8 depending upon him and his curate in Kircubbin to keep  
9 them informed of anything that might be of interest to  
10 the members."

11           That's maybe more a reference to the regulation 5  
12 monthly visitor role, and we will come back to look at  
13 that in different context, but for present purposes --  
14 and whether the diocese today maintains that was  
15 adequate to meet the statutory duty is something they  
16 will have to reflect on, but the reference here is the  
17 suggestion that the priest of Kircubbin -- parish priest  
18 of Kircubbin sat on the Board. We can see from each of  
19 the Board minutes who was present. So perhaps they can  
20 in due course identify for us which of those individuals  
21 was the parish priest of Kircubbin, because it doesn't  
22 appear immediately that that is the position. There is  
23 certainly no suggestion -- this was a suggestion being  
24 put forward that, you know, anything -- it said:

25           "Q. Was he visiting the home often, can you say?

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A. I would think that there would hardly be a week passed that he would not be in it."

So that's indicating -- whether that boils down to simply attending to say mass or -- there certainly is no evidence, no records to suggest some form of investigation that he was doing, some signing required by regulation 5 in terms of signing that he had been to visit to check the home was being run in the best interests of children, and no report that can obviously be seen from the parish priest of Kircubbin to any of the various bodies that we are going to look at, of which the Governing Board was one. So it may be more of an assumption that was made arising from his interaction to do with saying mass or generally checking on the spiritual welfare of the children. That's something the diocese could perhaps reflect on.

It is also not clear from this discussion that's taking place at what point Father McCann is making reference to, because we know certainly that for a significant period of time there was a chaplain resident in Rubane. So this may be a reference to a much later period when Father McCann himself sat on the Management Committee, which was towards the late '70s.

1           Now one point that Father McCann did make, which  
2           I will draw to the Panel's attention at this stage, if  
3           we look at 40035 and again at C, he is asking about the  
4           general position between the Governors and the  
5           Management Committee. By '79 a Management Committee is  
6           set up to meet much more regularly than the annual  
7           meeting of the Board and we will look at that, but he is  
8           asked in passing whether any of the governors or members  
9           of the Management Committee have been trained or have  
10          qualifications in childcare, and to that he said:

11           "No. You know, qualifications in childcare is  
12          rather new, very, very new."

13           This is being said in 1985.

14           "Mind you, I have none and yet I have had a lot of  
15          dealings with this matter over the years and indeed  
16          I know, even if you would not mind my mentioning  
17          Lisnevin, Lisnevin has been open since 1973 and it is  
18          only in very recent times that has had on its staff  
19          qualified members of staff in the field of childcare and  
20          it has depended very largely in its early years upon  
21          teachers whose only qualifications were teaching so that  
22          it is rather unusual. If you were to look for members  
23          of a Management Committee or Boards of Governors who had  
24          any kind of qualifications in childcare, you would not  
25          get them."

1 He was also asked -- if we go to 40025, please, and  
2 we look at A and B, he was asked during the Hughes  
3 Inquiry whether the Board's infrequent meetings once  
4 a year at best, whether that was the most desirable  
5 situation, and I think he is being referred to occasions  
6 whenever maybe the annual meeting hadn't happened and  
7 there was a skip of a year:

8 "Q. Do you think perhaps on reflection that  
9 certainly before the Management Committee", which was  
10 1979, "was set up and perhaps even afterwards that is  
11 not the most desirable situation?",

12 ie the Board of Governors meeting once per year, to  
13 which he said:

14 "A. No, but bear in mind the fact that ex officio  
15 the parish priest of the parish in which Rubane is  
16 situated is a member of the Board and would be held  
17 accountable by the Chairman between meetings for any  
18 matters that might arise."

19 He then refers to:

20 "In my years as a member of the General Purposes  
21 Committee very often the officer in charge and maybe the  
22 Superior of the Brothers at that time would have gone  
23 directly to the Board of Governors when any financial  
24 problems came up or any matter requiring a decision to  
25 be made about building or sale of land or any difficulty

1 that may come up of any kind like that, any  
2 administering difficulty. They would immediately have  
3 access to the Chairman of the Board of Governors. It  
4 could not be said that they were neglecting. They were  
5 satisfied that they were keeping an overall view and  
6 responsibility for the home."

7 Now whether the type of mechanism that Father McCann  
8 is -- described to the Hughes Inquiry provided the  
9 oversight and supervision required to properly discharge  
10 the statutory duties on the administering authority will  
11 be something the Panel will have to consider as it hears  
12 the rest of this opening and the evidence to come, and  
13 no doubt the diocese will reflect as now engaged with  
14 this Inquiry whether the position that was being  
15 advocated at that time by Father McCann, given the  
16 additional knowledge, because the Hughes Inquiry was  
17 looking specifically at matters between '77 and '80,  
18 given the knowledge that they are now finding out as  
19 a result of this Inquiry's work, whether the position  
20 that the diocese had then is the position they will have  
21 now.

22 brother Plus MG essentially, if we can turn to RUB019, please,  
23 he essentially summed up the approach as far as the  
24 Order was concerned about the diocesan Board of  
25 Governors and their approach in his first statement to

1 the Inquiry of 20th May 2013. He says the home is under  
2 the control of the Board of Governors, who in turn  
3 delegate the day-to-day management of the home to the De  
4 La Salle Order.

5 If we could just look at 40009, please, and at ---

6 CHAIRMAN: Yes.

7 MR AIKEN: If we just scroll down to E, please, we can see  
8 what Father McCann indicated:

9 "The Board of Governors in inviting the De La Salle  
10 Order to run the institution and by appointing the  
11 General Purposes Committee" -- we will come to see that  
12 existed for a short time at the start of the '50s -- "to  
13 assist in doing so effectively and in a most  
14 satisfactory manner delegated the responsibility for the  
15 running of the home to people who were in a position to  
16 maintain proper control and supervision of it."

17 Now if we move forward to 40012, and again I ask the  
18 Panel to bear in mind that this is Father McCann  
19 referring to -- in context he is dealing with the '77 to  
20 '80 allegations. That is what the Hughes Inquiry is  
21 dealing with, and he says, if we just move down  
22 a little, please:

23 "In the opinion of the Board of Governors and of the  
24 Management Committee the interests of children in its  
25 home are of paramount and absolute importance and of

1 necessity accepted and recognised by those responsible  
2 for running the home to provide a suitable Christian  
3 environment for the residents. It excludes  
4 unequivocally and without any exceptions the possibility  
5 of employing people with deviant sexual tendencies in  
6 the home in any capacity whatsoever. To this end and  
7 recognising, as the governing authorities in the home  
8 over the years have done, that such institutions are  
9 inclined to be a target for people with such  
10 proclivities, it has constantly been a factor kept in  
11 mind by the employing authorities from time to time that  
12 the people employed by the home must come to it with  
13 positive recommendations as to their moral character and  
14 fitness. In practical terms, therefore, as a condition  
15 of employment references have always been sought in  
16 respect of all lay employees or on direct application to  
17 the referees nominated by the applicants for posts, at  
18 least one of whom has always been expected to be the  
19 applicant's parish priest ..."

20 So that's him giving an indication of the approach.  
21 Now again it is not possible to say -- he talks about  
22 over years -- but as to what point in time he is  
23 pointing to as saying this became the approach in terms  
24 of being aware of and the need to exclude those who  
25 might abuse children. Obviously that statement carries

1 a number of interesting implications that the Inquiry  
2 may want to explore further as the module progresses.

3 Now the Board of Governors itself then it appears  
4 received an annual report from the Brother Director or  
5 the person in charge of the home. We can see an example  
6 of that just by way of example if we look at 5208,  
7 please. This is the Board minutes of 1965. We will see  
8 again they are in a very similar form to those that we  
9 have seen before, and just at the bottom of the page we  
10 can see reference:

11 "The annual general report was presented, after  
12 which the financial statements -- statement was  
13 examined."

14 We do have some reports. We can look at the report  
15 from February 1951 as an example. If we go to 10861.  
16 So this is the first page of the February '51 report.  
17 If you just scroll down for me, please, you can see the  
18 form of this:

19 "My Lord Bishop, Right Reverend and Very Reverend  
20 Fathers,

21 I beg to submit for your consideration a report of  
22 the working of the school since our first meeting held  
23 at Rubane on September 27th."

24 He then sets out detail. This is a document we will  
25 come back to when we begin looking at the history of the

1 home, but for now it gives a general overview of the  
2 layout and form that these reports took.

3 If we just scroll down a little, please, so we  
4 can -- he records both in terms of work carried out on  
5 the premises, number of boys, discussions he's had with  
6 Brother Stephen -- if we just scroll down further -- and  
7 then how the farm has got on, and then there's reference  
8 to one of the chaplains that we can see in the very last  
9 paragraph. So the reports tend to be of that length and  
10 in that form for those that we have and we appear to  
11 have the reports between 1951 through to 1957 and we  
12 have a couple of reports in the mid '60s, and then there  
13 is a report from 1982, and it may be there are a couple  
14 of others. We don't have a complete set of the annual  
15 reports that were provided to the Governing Board.

16 Now the Panel will have seen reference to it in the  
17 sections of evidence of Father McCann that we have  
18 looked at already, and those sections of evidence  
19 disclosed the existence of what was known as the General  
20 Purposes Committee. So we began with the Governing  
21 Board, and then in 1951, if we just look at RUB5176,  
22 please, in October 1951 -- so this is the second meeting  
23 of the Governing Board. It met twice in 1950. So it  
24 met at the end of 1950. This is the second meeting then  
25 at February 21st, 1951. If we just scroll down to the

1 bottom of 5176 -- just stop there -- so again we can see  
2 the previous minutes are being read, and then if we move  
3 further down, please -- just stop there -- this is  
4 talking about the boys arriving and involvement of the  
5 Voluntary Workers Committee. Just scroll down to the  
6 bottom for me, please. Just go back up for me. Yes.  
7 I'm sorry. Just go down to the bottom of 5178, please.  
8 This is the October '51. Yes. You can see at the  
9 bottom:

10 "It was agreed at the third meeting ..."

11 So there is two meetings that take place in '51. It  
12 is the third meeting in total:

13 "It was agreed that a General Purposes Committee be  
14 appointed to advise on matters that may arise in the  
15 period between meetings of the Governing Board. The  
16 following were appointed ..."

17 If you just keep going, please. Just stop there:

18 "... to assist on the General Purposes Committee."

19 You can see that it was a series of diocesan  
20 priests, most of whom were already on the Governing  
21 Board.

22 If you just scroll up so the Panel can see the  
23 identities of those who were attending the Board  
24 meeting. Keep going up, please. Just stop there. So  
25 we don't have a full list of who is attending, but we

1 will see from later work that a number of the priests  
2 who are going to sit on the General Purposes Committee  
3 are also already on the Governing Board.

4 The committee seems to have met in January 1952. If  
5 we look at RUB111, so this is the first meeting of the  
6 General Purposes Committee. You can see that it is  
7 meeting at St. Patrick's. It is being chaired by Father  
8 Walsh, and he refers to it being set up. It was to --  
9 you can see:

10 "... recommended a General Purposes Committee be  
11 appointed to advise the Brother Director of the home on  
12 financial matters."

13 He sets out the people who had been appointed to it.  
14 The preliminary meeting was held at St. Patrick's. Just  
15 keep going, please. So you can see a discussion takes  
16 place about the farm and its means of training the boys  
17 in agricultural works. Scroll on down, please. They  
18 fix another meeting.

19 CHAIRMAN: There seem to be no representatives of the De La  
20 Salle Order on that committee.

21 MR AIKEN: If we just scroll up, it seems that the -- you  
22 will see Brother -- just stop there, please -- BR12.  
23 There's -- perhaps confusion is created by "Reverend" is  
24 put in front of each one of the Brothers, but BR12 was  
25 the person in charge of the home, BR12. So he is at

1       that meeting and it seems with him was the secretary of  
2       the home. So a lot of the minutes we will be reading  
3       over the next period of time seem to have been written  
4       by BR56. He seems to have been given the role as  
5       secretary to this committee. So in addition to a series  
6       of diocesan priests, the officer in charge -- the person  
7       in charge of the home, the Brother Director of the  
8       community, and his secretary, BR56, are attending this  
9       meeting.

10       That being said, when we get to the annual board  
11       meeting that next takes place on 11th January 1953, if  
12       we look at 5182, please -- just stop there for a moment,  
13       please -- we can see again the Chairman is the Most  
14       Reverend Dr Mageean. There are a series of priests who  
15       are referred to as attending. Then what I want to do is  
16       go to the bottom of the next page, please. Now we can  
17       see again:

18       "His Lordship intimated that he would appoint  
19       a General Purposes Committee, which would meet monthly  
20       to discuss any relevant matters."

21       So it seems that whatever has happened to the first  
22       committee it hadn't met and hadn't provided a report  
23       back to the Governing Board and effectively the Bishop  
24       was recreating it, and it seems he wrote a letter to  
25       bring that about. If we can look at RUB116, please, and

1 we don't have the actual letter, but you can see there  
2 is -- a letter was apparently written of 17th June 1953.

3 It says:

4 "The Most Reverend Mageean appointed a new General  
5 Purposes Committee. The members of the committee are  
6 ..."

7 Then again it sets out the various individuals. In  
8 fact, the second one may be Reverend Peter McCann,  
9 referred to as "the chaplain". I am not sure whether  
10 that is referring -- there is a number referred to as  
11 "chaplain". So it is not chaplain of Rubane that's  
12 being referred to. These are the individuals that are  
13 going to sit on the newly constituted General Purposes  
14 Committee. I am not sure we have the minutes that flow  
15 after this point, but we can see the home kept and we  
16 will look at for various purposes two types of log,  
17 a History of the Home log and an Events of Importance  
18 log. We have both of those. We can see from the Events  
19 of Importance log that this new version met in  
20 June 1953. If we could just look briefly at 10077,  
21 please. Just scroll down a little, please. Yes. Just  
22 stop there. A meeting of the Governing Board of Rubane  
23 under the Chairmanship of Bishop Mageean is setting it  
24 up we can see of 11th June. Just scroll down a little,  
25 please. There you can see 23rd June:

1           "Meeting of the new General Purposes Committee.  
2           Meeting was held at Rubane and the committee dealt  
3           chiefly with providing accommodation for boys from  
4           Nazareth Lodge."

5   CHAIRMAN: It is interesting to note that the entry  
6           sandwiched between those two refers to Miss **Forrest** (sic)  
7           calling and examining the records.

8   MR AIKEN: Yes. That's evidence of a government inspection  
9           that we will shortly come to. So this General Purposes  
10          Committee seems to have existed for a period of time,  
11          and I am not going to bring up the references, but we  
12          can see reference to it meeting in August '53. That's  
13          at 10078. So that's again in the Events of Importance  
14          log. It doesn't get a mention at the next board meeting  
15          that takes place in March of '54. That's at 5184. So  
16          whatever the General Purposes Committee was doing, it  
17          doesn't appear to have had any reporting back function  
18          to the Governing Board, because the structure of that  
19          meeting continued to be an annual report from the  
20          officer or person in charge of the home, the Brother  
21          Director reporting, and we will look at the chronology  
22          of those board minutes shortly.

23                 It appears that this General Purposes Committee met  
24                 three times in 1954, in April, May and August, and the  
25                 references for that are at 10082, 10083 and 10087.

1 Again there is no mention of its work, whatever it was  
2 doing, in the April 1955 board minutes. That's at  
3 RUB5186. Then it does appear to have met in January,  
4 March, April, May and September of '55. You can see --

5 CHAIRMAN: You can see in those entries what it was it  
6 concerned itself with, because I note here in 10077 it  
7 says:

8 "The committee dealt chiefly with providing  
9 accommodation for boys from Nazareth Lodge."

10 Are there remarks like that in other General Purpose  
11 Committee minutes?

12 MR AIKEN: If there are, they are very limited in nature.

13 If we look at 10090, which is the entry for 1955, again  
14 we will see "meeting of GPC", which is the General  
15 Purposes Committee. There are other interesting matters  
16 on these types of pages like you'll see the Nazareth  
17 Lodge Aftercare Committee visiting Rubane and we will  
18 come back to that. If we just scroll down, you should  
19 see another meeting. Keep going down, please, to April  
20 and May. So again you can see April 19th, meeting of  
21 the General Purposes Committee. We'll have another  
22 meeting in May. Just keep going down, please. Again  
23 it's just referring to the fact the meeting is taking  
24 place in September.

25 CHAIRMAN: There seem to be children being brought from

1 other parts of the province.

2 MR AIKEN: Yes.

3 CHAIRMAN: Presumably Catholic children who were the  
4 responsibility of County Fermanagh County Welfare  
5 Committee.

6 MR AIKEN: Yes.

7 CHAIRMAN: County Armagh County Welfare Committee.

8 MR AIKEN: Yes, and we will see various welfare committees  
9 visiting the home to presumably acquaint themselves with  
10 where they were sending the children.

11 Just to complete this so you have the references,  
12 there is no reference again to the work in the 1955  
13 board minutes. That's at 5187. That committee, the  
14 General Purposes Committee, does meet in February and  
15 October '57. I will just give you the references, 10099  
16 and 10100, and after that I can't find a reference of it  
17 meeting again.

18 In terms of giving any wider idea about what work it  
19 was doing there is a reference in the annual report of  
20 1954, if we look, please, at 10869. This is the annual  
21 1954 annual report to the Board of Governors by the  
22 person in charge of the home. So it would have been  
23 BR12 writing. If you just scroll down, please, we can  
24 hopefully see a reference -- we will come back to this  
25 for a number of reasons, but you should be able to see

1 a reference here to the General Purposes Committee.  
2 Just keep scrolling down for me, please. Yes. If you  
3 just stop there, you can see reference is being made to  
4 the school getting necessary equipment on a 65% grant.  
5 The education legislation set the grant percentage to  
6 voluntary schools at 65% at this particular point in  
7 time, and you can see:

8 "The estimates for this equipment have been approved  
9 by the General Purposes Committee, and it is now in the  
10 hands of the Ministry for their approval."

11 So that seems to suggest it certainly included these  
12 type of financial type matters that were originally  
13 referred to.

14 There is reference in the March '57 annual report.  
15 10878, please. We can see this is the March '57 report.  
16 If we scroll on to the next page, we will find I trust  
17 another reference to the General Purposes Committee.  
18 You will see in the second paragraph:

19 "Three were sent indirectly by the General Purposes  
20 Committee."

21 So there seems to have been some involvement  
22 possibly in voluntary children. Whether that's simply  
23 a reference to some of the -- you will be aware from  
24 module 1 a diocesan priest might have been approached to  
25 find a home for a child that couldn't live at home. So

1           it may be that title is being put on the General  
2           Purposes Committee being engaged in that in terms of  
3           a voluntary admission.

4           I have given you the reference to Brother Pius Mc. He talked  
5           about it at RUB019 at 10.2. I am not going to turn that  
6           back up now, but Father Bartlett does comment on this.  
7           If we can look at 5323, please, in paragraph 30 of his  
8           first statement he does make the point he is  
9           acknowledging there was not always proper adherence to  
10          the directions given within the statutory guidelines.  
11          He is talking about:

12                 "... demonstrated by the non-compliance with the  
13                 requirement for a monthly inspection."

14          He is there talking about regulation 5, and it is  
15          an issue we will have to come back to with the diocese  
16          and the Order. He then talks about:

17                 "The early creation of a monthly Management  
18                 Committee" -- so that's the General Purposes Committee  
19                 that we've looked at -- "meeting suggests there was an  
20                 understanding of this requirement, but the fact the  
21                 committee didn't continue for long reveals a failure to  
22                 properly follow through with an appropriate response."

23          He says:

24                 "This may have been a symptom of the joint  
25                 administering authority arrangement where the diocese

1 left the daily management of Rubane to the De La Salle,  
2 who may in turn have seen the diocese as the management  
3 agency."

4 Obviously the diocese will have an opportunity to  
5 look at the type of material we are looking at, but it  
6 seems that the preponderance of members of the General  
7 Purposes Committee were, in fact, diocesan priests and  
8 it seems their work was not really the same as the  
9 regulation 5 visitor that we will come back to explore  
10 in much more detail, but it is a recognition that what  
11 was intended to happen didn't continue for very long and  
12 that that was not ideal. So it may be that two concepts  
13 have been conflated a little here and that's something  
14 that can be ironed out.

15 The appointment of staff we have had looked at from  
16 the initial agreement that was formed in October 1950  
17 was a matter for either the Brother Provincial, so  
18 that's the Irish Provincial, or the Brother Director of  
19 the Rubane community. That remained the position until  
20 1979 and it was only when the Management Committee was  
21 set up, which we will look at shortly, in 1979 that they  
22 took over the appointment of the lay staff that were  
23 working in the home. So the appointment of brothers  
24 remained with the Provincial and the Brother Director,  
25 the head of the community at Rubane, but from 1979 then

1 the Management Committee, which was essentially very  
2 similar to the idea behind the General Purposes  
3 Committee -- it was a series of diocesan priests with  
4 some -- the Brother -- the person in charge, the Brother  
5 Director and another Brother generally meeting to talk  
6 about matters of importance to the home -- that  
7 committee in 1979 took on responsibility for dealing  
8 with the appointment of lay staff.

9 I don't want to spend a lot of time on this, but  
10 I want to just give you the references to it. The 1979  
11 Management Committee it seems was a result of the Black  
12 Report of 1978, and the Board of Governors told the  
13 Hughes Inquiry in 1985 that they set up that committee  
14 to give assistance to the person in charge. Now I will  
15 just give you the references. That's at 40353 and  
16 40030, and we can see and we will see from the Board of  
17 Governors' minutes the creation of this. There is no  
18 need to bring the page up unless I want it brought up.  
19 Thank you.

20 Brother Plus Mc discussed the Management Committee at  
21 paragraph 10.3 of his statement. That's at RUB019. If  
22 we can bring up, please, 5228, because this may assist  
23 the Panel when looking at this issue of well, who was  
24 responsible for what within the home? So this is the  
25 28th meeting of the Governing Board being held on

1 21st November 1978, and you can see that it's the then  
2 Bishop of Down & Connor Bishop Philbin is chairing the meeting  
3 and a series of diocesan priests are also there and one  
4 Brother, BR46. You will see who that is from page 6 of  
5 the designation list or page 7 of the designation list.  
6 We can then, if we just scroll down a little, please --  
7 just bear with me there a moment, please. Yes. It is  
8 on the next page. If you just scroll down for me to the  
9 next page, we can see a title "Proposed Management  
10 Committee". So:

11 "BR1" -- and you have heard me make reference to him  
12 already this morning -- he was the person in charge --  
13 "outlined discussions he had had with Father O'Connor of  
14 the Down & Connor Family Welfare."

15 Father O'Connor will feature in due course.

16 "It was felt by the Brothers that such a committee  
17 would be of great benefit in the more efficient running  
18 of the home. Some doubts were expressed as to the  
19 powers and functions of such a committee. It was agreed  
20 that it would act in a similar manner as the committee  
21 of St. Joseph's Children's Home and would be entirely  
22 advisory and act as a back-up to the manager in any  
23 difficulties that might arise."

24 So you can see here the Governing Board reserving to  
25 itself the Management Committee was not to take on the

1 decision-making functions of the Board or make decisions  
2 in place of the Board. They were to act in an advisory  
3 capacity to assist the officer in charge of the home.  
4 Then you have the identity of who is brought on to the  
5 committee, and I draw out for the Panel's consideration  
6 that how the Board of Governors saw the role of the  
7 Management Committee may be indicative of where the  
8 authority over the home ultimately rested. That will be  
9 a matter for the Panel to examine and determine.

10 We do have the minutes for the Management Committee  
11 which met first in February '79. It met five times in  
12 1979, six times in 1980 and it had met 28 times by March  
13 of 1985. So it appears to have been meeting about five  
14 times per year. So it wasn't meeting monthly  
15 necessarily, but it was said before the Hughes Inquiry  
16 that the Management Committee was very experienced, and  
17 the reference to that I am just going to give you is at  
18 40354 and 5. Father McCann described it as -- I am not  
19 going to bring up the page but at 40010 -- as being  
20 similar to the role played by the Management Committee  
21 of a normal school. At 40010 and 11 you can see how it  
22 is described and we will not look at that just now.

23 Father McCann himself described at 40031 to the  
24 Hughes Inquiry that -- essentially the Management  
25 Committee and his role on it. He provided the link

1 between the Board of Governors and the Management  
2 Committee, but that the Governing Board did not receive  
3 the minutes of the Management Committee meetings.

4 I have touched on their involvement with lay staff and  
5 you can see that at 40037. Again I am not going to  
6 bring that up. You can have it for the note.

7 What he did say, and maybe if we just do look at  
8 this, at 40037 and section D of his evidence, and you  
9 will have an opportunity to consider all that he had to  
10 say and the diocese will be able to reflect on it, but  
11 he explains that -- he is being asked:

12 "Q. In circumstances in which the head of the home  
13 is a Brother appointed by the Provincial, the Management  
14 Committee could perhaps have someone -- I am not  
15 suggesting for a moment this applies to the present  
16 incumbent from everything one has read about him -- but  
17 could it be that the Management Committee could be then  
18 dealing with someone who perhaps they wouldn't have  
19 appointed or might not have appointed? Do you see  
20 that's a possible weakness in the system?

21 **A. No, because, you see, the Board of Governors and**  
22 **the Management Committee would have no hesitation in**  
23 **accepting an officer in charge or his superior nominated**  
24 **by the Superior of the De La Salle Order, no hesitation**  
25 **at all, in the same way that the home would have no**

1       hesitation in accepting a local parish priest appointed  
2       by the Bishop to look after the Bishop. You just don't  
3       hesitate to take people who are appointed by very  
4       responsible bodies. It might be pointed out that the  
5       officer in charge and the Superior of the Brothers would  
6       be appointed by the Brother Superior in consultation  
7       with his own adviser. It is not a thing he would  
8       lightly do or lightly undertake."

9               So the degree of deference that is being shown is  
10       something that the Panel will want to reflect on as it  
11       hears the evidence of how individuals were identified as  
12       suitable for the roles they were given, and who had  
13       responsibility for ensuring that appropriate people were  
14       recruited and what oversight, if any, there was of that  
15       process.

16              The two of questions that might arise for the  
17       Inquiry to consider are what mechanisms were being  
18       employed to check that the person being installed to run  
19       this adolescent boys' home was suitable for that home,  
20       and that's in the context of what we now know --  
21       certainly admitted in one respect in terms of one of the  
22       persons who were placed in charge of the home -- and was  
23       the organisation with ultimate responsibility for the  
24       running of the home taking any steps or adequate steps  
25       to monitor the activity and operation of the person in

1 charge and those who were working with him?

2 I want to just say something briefly about the  
3 person in charge of the home, because I have dealt with  
4 it in the context of looking at the structure within the  
5 De La Salle Order, but it seems that the Governing Board  
6 and/or the Management Committee had no role whatsoever  
7 in the selection of and appointment of the person in  
8 charge.

9 Now there is some material through the -- there's  
10 a flavour through the material that the Board ultimately  
11 signed off or approved the person in charge or that was  
12 taken as read that that's what they were doing and, in  
13 fact, that point is made if we can just look at RUB015,  
14 please, and paragraph 4. You can see  is making the  
15 point:

16 "The Director of Rubane was nominated by the  
17 Provincial ..."

18 So that's nominated by the Irish Provincial Brother:

19 "... but appointed by the Board of Governors."

20 So ultimately being suggested that the Board had in  
21 the end responsibility for the appointment.

22 Father McCann was asked about the extent to which  
23 this person in charge was supervised. If we can look at  
24 40039, please, and the letter G -- just scroll down,  
25 please -- we'll see:

1           "Q. Although there are two separate structures for  
2 appointment and for advancement presumably?

3           A. This is true. Of course, remember now that the  
4 officer in charge was directly appointed by the Brother  
5 Superior, but then as far as the Brother who -- Brothers  
6 who are actually members of the staff, they would be  
7 nominated by the Brother Provincial and then such  
8 nominations would be accepted and ratified by the Board  
9 of Governors or by the Management Committee, as the case  
10 may be."

11           So that's agreeing with Brother Plus Mc that essentially the  
12 Board of Governors, while they didn't seem to have  
13 a role in assessing who when the names were put forward,  
14 they gave them formal approval. Then he is asked about:

15           "Q. I think you said earlier on when I was asking  
16 you about how closely you supervise the officer in  
17 charge that you have to have a certain amount of trust  
18 in people that you delegate things to."

19           He says:

20           "A very considerable amount of trust."

21           Then he is asked:

22           "I appreciate that, but what I really wonder is in  
23 view of the fact that the Management Committee have very  
24 little role in appointing him or in seeing whether he  
25 should stay in this position and so forth ..."

1           Then an example is given about references.

2           "A. No. The Management Committee or the Board of  
3           Governors would never at any time have prior  
4           consultation about the appointment of the officer in  
5           charge, but would have the fullest confidence in all  
6           this kind of vetting and preparation of the appointment  
7           of the officer in charge. That's again something  
8           I cannot understand. I can't understand how even  
9           allegations can be made against someone and that nothing  
10          of this nature or kind was ever hinted at or noticed or  
11          suspected. I can't understand it."

12          If we just scroll down, please.

13       CHAIRMAN: So if we pause at that point, that seems to be  
14          the diocese saying they take on trust who the De La  
15          Salle Order nominates and effectively sends to Rubane to  
16          run the home and they assume, because it is sent by  
17          a responsible body, that that body has vetted the  
18          individual and decided whether he is suitable, and the  
19          witness is going on presumably to indicate, therefore,  
20          that he cannot understand how someone comes to Rubane  
21          when there are allegations against him about which the  
22          Board of Governors are completely ignorant.

23       MR AIKEN: Yes. He seems to be hinting here, Chairman,  
24          that --

25       CHAIRMAN: I mean, that's the impression one gets from that.

1 MR AIKEN: Yes, that as he expects a responsible body with  
2 responsible procedures to recruit and put forward and  
3 then ratify proper people, he can't understand how  
4 anyone could get as far as being the head of the home  
5 without ever there being any whiff of allegations before  
6 they got to that point. The fact is, as it turns out,  
7 that's just not what occurred unfortunately, but that's  
8 him expressing his view on that subject.

9 In fact, we can see he is confirming the fullest  
10 confidence in who is being selected. He also confirms,  
11 if we look just slightly further down at C and D, that,  
12 you know:

13 "Q. Was it considered after the previous officer in  
14 charge was suspended and I think eventually removed for  
15 health reasons outside the jurisdiction? Was it  
16 considered that any change" --

17 This is talking about the 1980 officer in charge,  
18 BR1:

19 "Was it considered that any change in the  
20 appointment or vetting or examination of references and  
21 so forth might be introduced to prevent any possibility  
22 that something of that kind or those allegations might  
23 possibly arise again?",

24 to which Father McCann replied:

25 "Not to my knowledge. The same kind of vetting and

1       guarding against anything of this nature happening is in  
2       operation as was in operation, and maybe it might be  
3       said that, well, no system is absolutely foolproof or  
4       watertight. There can be exceptions, and we are talking  
5       here about allegations."

6               Starting to talk about the specific BR1. You can  
7       see he is asked slightly further down at E:

8               "Q. I take it from what you say that you take those  
9       allegations very seriously?

10              A. Yes, indeed, and I repeat again that we didn't  
11       at any time nor did the responsible authorities at any  
12       time think there was any need for them to tighten up or  
13       review their vetting procedures, because we are  
14       satisfied and have been satisfied that we always have  
15       had the same kind of strict vetting procedures that we  
16       have at the moment to guard against any kind of thing of  
17       this nature occurring."

18              Now unfortunately what this doesn't go into is what  
19       were those vetting procedures that were very strict that  
20       were said to successfully ensure that only appropriate  
21       people made it to this post of person in charge of the  
22       home? That's maybe something the diocese can reflect  
23       on. It may be simply that's a reference to a belief  
24       that, because the person was coming from the De La Salle  
25       Order and therefore someone signing up to the vows and

1       so on, rules that the Order required, and that they had  
2       gone through the receiving of their vows and that  
3       process, because it is definitely the case that not  
4       everybody who went to join the Order made it through  
5       that process, whether that's simply an indication that  
6       that was seen as the strict vetting procedures that  
7       identified someone suitable for the role.

8       MS DOHERTY: Is there any evidence about how De La Salle did  
9       look at who would be suitable to be an officer in charge  
10      or a Director?

11      MR AIKEN: Not -- not in that sense. It is maybe something  
12      the Order can reflect on further. There is -- obviously  
13      everyone coming into the Order was not necessarily going  
14      to be a teacher. They were potentially going to be in  
15      this -- these cases some instances of prefects and so on  
16      and so forth. Precisely how the person in charge was  
17      identified as someone to be the person in charge is  
18      maybe something the Order can look at further for us.

19      CHAIRMAN: Can you just scroll further down that page?

20      MR AIKEN: Yes. Just scroll down, please.

21      CHAIRMAN: And further on.

22      MR AIKEN: Scroll further, please. If we just scroll up for  
23      me, please, a moment.

24      CHAIRMAN: Yes.

25      MR AIKEN: Just stop there. So Father McCann was

1 essentially asked to indicate was he absolutely  
2 satisfied with the vetting and so on, and he indicates  
3 that it was never thought right or proper for them to go  
4 to the religious -- if we are at -- if we can go to  
5 40048, please, and look at section B, and he is asked:

6 "Q. Do you not find that very worrying,  
7 particularly in view of the fact you have no control  
8 over vetting the officer in charge?"

9 He said:

10 "No, I find it mysterious. I find it unbelievable.  
11 I find it impossible to understand."

12 That's him again referring to he can't understand  
13 how a person in charge of the home would face these  
14 allegations, why they -- how would they ever get to that  
15 point if their suitability had been obtained or  
16 determined long before they got this far, but he is then  
17 asked:

18 "Q. But you cannot suggest any way of curing it?"

19 **A. I am absolutely satisfied about the vetting that**  
20 **is in operation for a post of the responsibility of**  
21 **officer in charge. Therefore it was never in either my**  
22 **thinking or in the thinking of the Chairman of the**  
23 **Governors, and that is the Bishop. We neither of us**  
24 **would have thought that it would be right or proper for**  
25 **us to go to the religious Superior of the De La Salle**

1 Brothers and say, 'Look, there is something wrong with  
2 your vetting system'. We did not do that and would not  
3 and would not think it -- and would think it  
4 presumptuous of us even to talk like that."

5 He is then asked whether that meant there were, in  
6 fact, two procedures working in the home, one checking  
7 lay staff, but when it came to clerical staff, the  
8 Brothers, that was something they couldn't touch. He  
9 indicates he is perfectly satisfied with how the  
10 Brothers would be nominated or appointed. So it is said  
11 to him:

12 "Q. There is a system which you operate in relation  
13 to checking out, interviewing, obtaining references and  
14 asking questions of lay people who come to work there  
15 but as regards the clerical people who come to work  
16 there at the Brothers, that's something you feel you  
17 can't go into, you cannot touch?",

18 to which he says:

19 "That's perfectly true.

20 "Q. Are you satisfied with that arrangement?",

21 to which he says:

22 "Absolutely. I have looked at the formation ..."

23 Just scroll down, please:

24 "I have looked at the formation and the training of  
25 Brothers who would be nominated or appointed as the case

1 might be to Rubane and I am quite satisfied that the  
2 whole procedure that they have is adequate and from my  
3 personal relationships and friendships with very many of  
4 those men over the years I would have nothing but  
5 admiration for them."

6 We will come back to the next subject matter in due  
7 course. He is then asked about one of the brothers who  
8 was convicted in 1981. He does explain -- and I will  
9 just give you the reference at 40057 -- that he as  
10 Chairman of the Management Committee after it is set up  
11 in 1979 would have met maybe three or four times per  
12 month with the officer in charge. He talks at 40356 and  
13 357 about the dual role of the person in charge being  
14 both the person in charge of the home and the head of  
15 the community of Brothers, and that dual role, and, in  
16 fact, one of the Ministry's concerns we will come to see  
17 is the fact there was a third role. He was quite often  
18 a teacher in the school as well, and how effectively  
19 that was a 24/7 type job that would be very difficult  
20 for any human being to maintain on a constant basis, but  
21 it was said that the role of this person in charge was  
22 to ensure the efficacious running of the home on  
23 a day-to-day basis.

24 So the point that I would draw out of that is over  
25 the coming months as the Panel hears the evidence of

1 witnesses the Panel may wish to consider whether the  
2 processes that existed that are being described here and  
3 which you will hear about in further detail for the  
4 recruitment of staff to the home, including of the  
5 person in charge and their assessment as to suitability,  
6 was adequate and also whether enough was done by the  
7 regulatory authority to check that appropriate and  
8 suitable staff were being recruited to work in  
9 a children's home.

10 I will just finish, if I may, by briefly commenting  
11 on the role of the Brother Provincial, and the Inquiry  
12 will hear over the coming days as we look at various  
13 allegations that the Brother Provincial would travel up  
14 to Rubane to be involved in dealing with them and took  
15 responsibility for some of the investigations, and, as  
16 I indicated earlier, he made an annual visit that  
17 normally lasted about three days, and that involved  
18 working through with the Brothers their rule about how  
19 they were getting on in their life in terms of complying  
20 with the codes that they had to live by, but also  
21 he would have inspected the likes of the History of the  
22 Home log, and we will see him annotate that and sign off  
23 on it each year. I think at one point he complains  
24 perhaps the writing had got too detailed from BR56, who  
25 was writing too much, but we will look at that as we go

1 through the chronology, but what it does demonstrate is  
2 that the Brother Provincial did have a role in dealing  
3 with matters that arose for the home certainly in the  
4 '50s and '60s and perhaps less so by the time the  
5 Management Committee is involved, because to try and sum  
6 this up, there are instances that the Inquiry will see  
7 where the Bishop stepped in to suspend somebody.  
8 Equally there are occasions whenever in earlier times  
9 the Brother Provincial is having someone getting  
10 dispensation from their vows. So --

11 MS DOHERTY: The Bishop stepped in to suspend a De La Salle  
12 Brother?

13 MR AIKEN: Yes, to suspend the person in charge of the home  
14 in 1980.

15 CHAIRMAN: Presumably that can be done on one or other of  
16 two bases or possibly both. First of all, as Chairman  
17 of the Board of Governors, the ultimate responsibility  
18 would rest with the Bishop. Secondly, of course, as the  
19 Order was invited to come into his diocese, he would  
20 have the moral authority --

21 MR AIKEN: Yes.

22 CHAIRMAN: -- to say, "This isn't good enough", but he could  
23 back up his moral authority by exercising his actual  
24 authority even if it was a residuary authority that he  
25 didn't feel the need to use very often.

1 MR AIKEN: Yes. There may, in fact, be a third limb,  
2 because in the actual rules of this particular Order  
3 when you were invited in, the terms seem to also say you  
4 then were under the authority of the Bishop.

5 CHAIRMAN: That's what I mean by saying they were invited to  
6 be there. So they were under his authority.

7 MR AIKEN: Yes, yes. So there is a number of roles and  
8 individuals at play over the duration of Rubane's  
9 existence and the Panel will obviously look at how that  
10 played out and what, if anything, it signifies in terms  
11 of the systems that operated within Rubane.

12 There is a reference -- I am not going to bring it  
13 up now -- in the Hughes Inquiry it was suggested at  
14 40005 that the Brother Provincial was to evaluate the  
15 quality of care within the home and the suitability of  
16 staff. It is not immediately clear where that  
17 obligation is said to come from, but he certainly did  
18 have the responsibility to appoint the Brothers to their  
19 roles in Rubane. So whether that is a reference to  
20 that.

21 Before I move on, Mr Chairman, to the history of the  
22 home I wonder is it an appropriate point to give the  
23 stenographer a short break?

24 CHAIRMAN: Yes, I think so, otherwise we might overlook it.

25 Shall we say five minutes? Will that be sufficient?

1 MR AIKEN: Yes.

2 (3.15 pm)

3 (Short break)

4 (3.20 pm)

5 MR AIKEN: Chairman, Members of the Panel, hopefully what we  
6 have covered so far today will raise, if nothing more,  
7 some of the central issues about how the governance  
8 arrangements were structured for the home and what  
9 effect that might have on the way the home is run when  
10 you are considering the evidence of the various oral  
11 witnesses to come, but what I want to do now is to look  
12 at the material that has become available to the Inquiry  
13 that shows the development of the home and the issues  
14 that faced it, and by necessity I am not in a position  
15 to go into every single document. There may be core  
16 participants that will form the view that something  
17 important that they consider should have a bearing on  
18 the Panel's thinking hasn't been covered. Well, if that  
19 is the case, then they have the opportunity to make  
20 written submissions to the Panel where they can  
21 highlight those issues and they will, as necessary, have  
22 the opportunity to make oral submissions.

23 The material that we will look at which will assist  
24 in setting the scene for the oral evidence originates  
25 from a wide variety of sources, including primarily

1 correspondence between the Board, the Brothers and the  
2 various government departments that they interacted  
3 with, inspection reports and various minutes of  
4 meetings, whether that be Board minutes or others, but  
5 we are also able -- and we have highlighted them in  
6 passing -- to draw on books that were kept by the Order  
7 called the History of the Home and the History of Events  
8 of Importance log that they maintained, and much  
9 information can be gleaned from those sources that, when  
10 put together, you begin to get a flavour of how Rubane  
11 developed and the issues that arose and why those issues  
12 were not easily resolved. Hopefully this attempt to  
13 bring that material together will assist in  
14 an understanding of the context in which the various  
15 abuse allegations are made.

16 We begin in 1950. The witnesses from week 2 will  
17 generally come from that decade and into the early '60s,  
18 and it will become apparent as we go through this  
19 material some names will become familiar to the Panel.  
20 One is Brother Stephen Kelly, the Brother Director of  
21 the De La Salle community at St. Pat's and who was  
22 involved in setting up of Rubane and interaction with  
23 the Ministry of Home Affairs and the other name that you  
24 have seen already featuring in minutes is the then  
25 Bishop of Down & Connor, Bishop Daniel Mageean, who was

1 the Bishop between 1929 and 1962.

2 As far as the De La Salle community in Rubane is  
3 concerned, the main name that will feature in the first  
4 set of materials is BR12. His name shouldn't be  
5 identified beyond the chamber, but that's BR12, who was  
6 the first person in charge. He remained the Director  
7 until 1st September 1956. The second name you will then  
8 become familiar with is that of BR17, who was the  
9 principal of the school from 1953 and who became the  
10 Brother Director in September '56, replacing BR12. At  
11 that point BR12 becomes the subdirector. So BR17, who  
12 is BR17 -- and again his name shouldn't be used beyond  
13 the chamber -- he remained in his position as Brother  
14 Director or person in charge of the home from September  
15 '56 through to September '62. So those are the two  
16 brothers who each shared the first twelve years of  
17 Rubane's history.

18 The first document, if we can bring up, please,  
19 RUB10001, which is a Ministry of Home Affairs letter all  
20 being well from 13th February 1950, which is written  
21 to -- if we just scroll up to the previous page so that  
22 it can be seen. The letter addresses -- just go up to  
23 the top of it, please. Stop there. You can see it is  
24 from the Ministry of Home Affairs, 13th February 1950.  
25 He is talking about the larger question of accommodation

1 for Roman Catholic children who come within the care of  
2 the welfare authorities. If you just scroll down for  
3 me. Stop there, please. He is talking about the  
4 attempts made by welfare authorities to board out  
5 children and whether, if boarding out can't be achieved,  
6 then would the boys be given over to a voluntary home.  
7 It seems Brother Stephen was asking for them to be  
8 automatically moved over to the voluntary home, and it  
9 is then said:

10 "In principle the position under the new legislation  
11 is no different than that that was being -- that was in  
12 being under the old poor law. There may be a greater  
13 number of children coming into the care of the welfare  
14 authorities but the manner in which children will be  
15 dealt with will not vary to any great extent."

16 If you just scroll down please:

17 "If there is any variation, it will be in the fact  
18 that whereas children could be kept in workhouses for  
19 lengthy periods, we will definitely be against their  
20 retention in welfare homes for any considerable length  
21 of time."

22 So that's acknowledging the boarding out principle  
23 that was at the heart of the 1950 Act. Then:

24 "As you know, we are fully aware of the present  
25 difficulties about Nazareth Lodge, but there is nothing

1       which we can do straightaway. Candidly I think the  
2       question of the overcrowding of Nazareth Lodge could  
3       best be raised by your church in the first instance. We  
4       realise ..."

5             It talks about a building licence for a new home for  
6       babies being refused:

7             "But ... much better grounds now to help your people  
8       to get a licence from the Ministry of Finance",  
9             and offering to raise the issue.

10            So you can see right at the outset the issue that's  
11       on the radar of Brother Stephen Kelly and presumably  
12       therefore the Bishop of the Diocese about what's going  
13       to happen to Roman Catholic children within the Welfare  
14       Authority schemes that are being set up.

15            We then have at 10002 the -- in April 1950 we can  
16       see the Down County Education Committee writing to  
17       require the application -- if we just go down, please,  
18       to 10002, we can see the Down County Education Committee  
19       inviting the application for approval to be considered  
20       for the establishment of the new primary school at  
21       Rubane. Perhaps for the first time we are going to see  
22       at 10005 and 6 the form of application to have your home  
23       registered as a voluntary home. So this is Brother  
24       Stephen writing and attaching the application form. He  
25       is describing the new home that has been purchased and

1 the new venture that's going to be undertaken. If you  
2 just scroll down for me, please, to the next page. So  
3 he then indicates the various monies that have been  
4 spent. Then if we scroll down to the next page, please,  
5 at 1007 (sic), we can see -- just stop there please --  
6 you can see this is an application for registration of  
7 a voluntary home and the details are given for Rubane.  
8 You can see that it is for -- it is going to be  
9 a Catholic home. It is going include boys sent by the  
10 welfare authorities, and you can see:

11 "Total number (excluding staff) for whom  
12 accommodation is available at present: 70."

13 So numbers is going to be a major factor all the way  
14 through the material we look at and from the outset we  
15 can see Brother Stephen is saying, "We are going to have  
16 70 children here". We will shortly see that was not  
17 acceptable to the Ministry.

18 On 13th September -- 10009, please -- we can see the  
19 Down County Education Committee approving the new  
20 primary school that was going to be set up.

21 CHAIRMAN: 13th May I think.

22 MR AIKEN: 13th May. My apologies. Then an important  
23 document for the Inquiry may be the document of 10th  
24 June. It's a minute of a meeting. If we can go to  
25 10012. 10th June 1950 is the minute of a meeting

1           between Bishop Mageean, Brother [REDACTED] BP 1, who's  
2           the Irish Provincial, and Brother Stephen. So you can  
3           see this is happening in Belfast. Dr Mageean, then you  
4           have got the Irish Provincial, Brother [REDACTED] BP 1  
5           and then Brother Stephen. His Lordship had reviewed the  
6           steps that had been taken with reference to the purchase  
7           of Rubane House. It talks about various properties.  
8           There is money coming in from the sale of land at the  
9           Glen Road and the bishop spoke of his own various  
10          financial commitments and difficulties of finding the  
11          35,000 required for the purchase. He talked about  
12          a loan of 20,000 from the Orphan Society and another of  
13          10,000 from a different source. Both loans are at 3%,  
14          long-term loan. He indicates -- the minute indicates  
15          that the Bishop indicated he had not anticipated the  
16          purchase was to be completed and the full purchase money  
17          called for in such a short time.

18                 Can we just scroll a little further down, please?

19          You can see the Irish Provincial of the Order is very  
20          keen on the necessity of a definite agreement as to the  
21          term on which -- terms on which the Brothers might take  
22          over the care of the new school. The Bishop wasn't able  
23          to get into that at that point in time.

24                 "Brother Provincial stated that his Lordship's  
25          request that the Order should provide a staff of

1 Brothers for the school had been put to his Provincial  
2 Council and to the Superior General and his Council.  
3 Both had agreed provisionally and the final agreement to  
4 be given when the terms of agreement were drawn up ..."

5 That's no doubt the October '50 document we looked  
6 at this morning.

7 The Brother Provincial wanted to know where they  
8 stood with regard to the property and financial  
9 commitment. The Bishop replied the property was  
10 diocesan. The following further points were raised,  
11 about the name of the school; about the chaplain being  
12 required and the Bishop agreed that it was; that the  
13 Order should be represented on the Board of Governors,  
14 and that was agreed, subject to the Board agreeing, and  
15 the number of Brothers required were agreed at five.

16 If we just scroll down a little further, please. So  
17 that's a record of that minute that -- now it is at  
18 virtually the same date -- if we look at 10315, we have  
19 the memo that you will have looked at in the context of  
20 the first module, and that is the guidance that was  
21 being given, published at this point in time for  
22 applying for the grant for voluntary homes. So you can  
23 see that this home is being set up at the same time as  
24 the legislation is being explained, as it were. It is  
25 coming into being, these new structures, and guidance is

1 being given as to where funds are going to come from.  
2 I mentioned in the overview at the very start of this  
3 morning that there was a very successful farm as it  
4 turned out created at Rubane and again there were grants  
5 coming for the farm. We can see at 10013 -- you can see  
6 the application is being made to the Ministry of  
7 Agriculture for various grants for farming equipment.

8 Now if we can go, please, to 11286, we looked at  
9 the minute of 10th June meeting in 1950, and now we are  
10 going to see on 24th June Brother Stephen writing to the  
11 Irish Provincial Brother **BP 1**, referring back. He  
12 acknowledges receipt of a letter we don't have.

13 "I appreciate very much your anxiety about our  
14 proposed new school at Rubane. However, recent  
15 developments have helped to clarify the position  
16 generally and I feel the project will work out all right  
17 and to our satisfaction.

18 His Lordship called to see me on 17th and to my  
19 surprise he was a different person to the one we met in  
20 St. Mary's Hall. We discussed financial matters and it  
21 was a case of, 'How much do you want in order to carry  
22 out the necessary improvements and alterations?'  
23 I informed him that I was not disposed to take on any  
24 responsibility for the financial end until the agreement  
25 was satisfactorily completed. He then agreed to appoint

1 Reverend Walsh to deal with the bank account. Discussed  
2 ways and means of raising money ..."

3 A flag day was being approved. So it seems there  
4 was some issue arising out of that first meeting that  
5 the second meeting had assisted with. I am not going to  
6 pull it up, but at 10014 you will have a letter from  
7 Brother Stephen to a priest about organising the flag  
8 days as a means of raising money.

9 If we can look then, please, at 10015, which is  
10 a letter of the Ministry of Home Affairs of  
11 22nd August 1950. Just maximise that for me, if you  
12 can. You will see this is actually written to the  
13 Ministry of Education. So there's two government  
14 departments involved in regulating the two bits of  
15 Rubane, one a children's home and the other a school.

16 "I am to inform you that the Ministry approves of  
17 the establishment of this home."

18 So they are saying in the first place, "We approve a  
19 voluntary children's home being established".

20 "With regards to your other questions it is regarded  
21 the home is expected to come into operation at the end  
22 of September. The estimated number of boys to be  
23 accommodated immediately is 30 and when the home is  
24 fully operating 60.

25 All the boys will be of compulsory school age.

1           The Ministry desires to take this opportunity of  
2           giving its support to the proposed establishment of  
3           a voluntary primary school within the home. It is  
4           understood that the nearest public primary school is  
5           some two miles away and I am to point out that many of  
6           the boys who will be accommodated in the home will  
7           require a degree of supervision which it would be very  
8           difficult to give if they had to attend a school at such  
9           a distance from the home."

10          So the Ministry is -- the Ministry of Home Affairs  
11          is lending its support to the attempts to have Rubane  
12          granted the voluntary primary school. I will not turn  
13          it up, but at 10053 you have the Ministry of Education  
14          on 25th August approving the school in principle.

15          On 19th September 1950 two representatives from the  
16          Ministry of Home Affairs and the Ministry of Health  
17          visit Rubane, and we will shortly look at their report  
18          on that visit, but on 26th September at 10054 the  
19          Ministry of Education approve, pending the provision of  
20          permanent accommodation, the temporary school.

21          Now I had said on 19th September two representatives  
22          had visited from the government. So if we look at  
23          RUB076, please, we see happening at the same time the  
24          first meeting of the Board of Governors, and we have  
25          a discussion in the Board about the arrangements, the

1 financial aspects of setting up effectively of the home,  
2 where the loans are coming from, and on 1st October 1950  
3 -- and I am not going to turn this page up, but just so  
4 you have the reference at 11761 -- you have BR12 and  
5 BR23, not BR17, a different Brother [redacted], arriving  
6 to form the first community at Rubane.

7 You have then on 3rd October -- and we are not going  
8 to look at it again unless you want to for any  
9 particular reason -- but at RUB071 you have the October  
10 '50 agreement between the Board -- or between the Bishop  
11 and the Order. One thing that I will flag up now as we  
12 go through, what that agreement does not mention is the  
13 obligations under the Children & Young Persons Act of  
14 1950 or how they were to be complied with and by whom.  
15 So while various matters are discussed about  
16 arrangements and who is to appoint the staff and so on,  
17 there is no discussion about the piece of legislation  
18 under which the home is being set up, and who was to do  
19 what under it.

20 If we look then, please, at 11866, we can see the  
21 memo of Miss Forrest's first visit to Rubane that we  
22 mentioned occurred on 19th September. So here you have:

23 "Miss Forrest, Dr Simpson, Miss Lynas of the  
24 Ministry of Health with Brother Stephen and myself  
25 visited Rubane Home. The home provides very good

1 accommodation for the number of boys. Brother Stephen  
2 thinks of putting in for a start 40 in every respect  
3 except ... and that is sleeping space. I thought the  
4 beds were overcrowded with beds in rows head to foot.  
5 I think Brother Stephen considered these quite all right  
6 and was surprised that anyone should think otherwise.  
7 He pointed out that other rooms -- that the rooms are  
8 high and well ventilated, which is true, and went on to  
9 say that even if they did overcrowd a bit, it was surely  
10 a good thing to do that and ..."

11 MS DOHERTY: "... and relieve the overcrowding at Nazareth  
12 Lodge."

13 MR AIKEN: Yes. I am grateful. I think the page moved as  
14 I'm trying to read it. Don't move it on me for  
15 a moment. Thank you. Then it says:

16 "I have some sympathy with his point of view at the  
17 present time when the families that some of these boys  
18 are from may be living in a back street squashed 'eight  
19 in a bedroom'."

20 That seems to be in quotation marks.

21 "However, it seems well to direct his thoughts  
22 towards reducing the numbers as and when he can by  
23 utilising the outbuildings. These seem in good  
24 condition and suitable of conversion -- good order and  
25 suitable of conversion.

1           Brother Stephen hopes to build a school on the  
2           grounds later but meanwhile will use one or more of the  
3           large rooms on the ground floor. He is converting the  
4           basement into a dining room and kitchen and is well on  
5           with the work of installing shower basins" -- if we  
6           scroll on to the next page -- "and lavatories on the  
7           other side."

8           Just stop. Bring it down a little, please. Scroll  
9           up a little. Right. Thank you.

10           "The boys will generally ..."

11 CHAIRMAN: I think that's more likely "gradually".

12 MR AIKEN: "The boys will gradually clear the ground from  
13           outside the basement windows to provide more light."

14 CHAIRMAN: I think there's a sketch in the margin that shows  
15           what she means by that.

16 MR AIKEN: Yes.

17           "The plan is that later these should be -- there  
18           should be a model farm here on which the boys would work  
19           depending ..."

20 CHAIRMAN: "... according to their age and capacity."

21 MR AIKEN: I think the Panel Members are doing better than I  
22           am at reading this.

23 CHAIRMAN: "Brother Stephen would like to be sent to take  
24           charge of the place for some years but feels that he  
25           will -- fears that he will not. I am sorry -- I

1 am sorry about this as everything is going to depend on  
2 the calibre of the person in charge."

3 MR AIKEN: So that is Miss Forrest. Her report is of  
4 7th October, but it is of her visit that was made in the  
5 September.

6 You can see then we have got an annotation from  
7 Dr Simpson:

8 "Please see Miss Forrest's report, which I agree  
9 with. If we accept the English Home Office standards,  
10 and I feel we must, 50 square feet per bed for the first  
11 two beds and 45 square feet thereafter with 3 feet  
12 between beds, ceiling height at least 9 feet for new  
13 construction, there is no doubt the dormitories at  
14 Rubane will be overcrowded unless the numbers are  
15 reduced."

16 Then there's to Mr Simpson -- Dr Simpson:

17 "I agree. We should also draw attention to:

18 1. The need for permanent ventilation to  
19 dormitories.

20 2. That care must be taken to ensure that well  
21 water is used for drinking and not ...",

22 and we are missing the next part. So if you just  
23 scroll back up to the first page so that the annotations  
24 that are there could be seen. Up to the next page,  
25 please. So you can see who is viewing the minute and

1 various representatives from the Ministry of Home  
2 Affairs are noting what's being said.

3 So right at the outset the issue of overcrowding and  
4 perhaps disclosure that what Miss Forrest on behalf of  
5 the Ministry saw as an issue Brother Stephen on behalf  
6 of the Order and the diocese for setting up the home  
7 didn't necessarily agree, and you have a suggestion that  
8 what seems like overcrowding to Miss Forrest could be  
9 alleviated by the outbuildings that are adjacent to the  
10 main building becoming places for accommodation.

11 Now eight days later then on 15th October, if we  
12 look at 10017, we can see a letter from Brother **BP 1**  
13 to Brother Director. I am going to assume this is  
14 written to Stephen Kelly. This is on 15th October 1950,  
15 and he is saying:

16 "On October 5th I sent the Bishop my views on the  
17 running of Kircubbin, but so far I have not -- I have  
18 got no reply. Here are some of the points I mentioned.

19 Both Milltown and Rubane House to be run by one  
20 governing body.

21 Matters pertaining to both houses to be dealt with  
22 at the same meeting.

23 Separate minute books to be kept.

24 Brother Stephen act as -- act as the officer in  
25 charge", I think, "for Milltown and BR12 in a similar

1 capacity for Rubane.

2 Closest cooperation and mutual helpfulness between  
3 the two houses.

4 Brother Stephen to deal with local bodies and  
5 Education Office until Rubane house is well established.

6 Both houses to be independently responsible to the  
7 governing body."

8 He is giving those points over. So it is  
9 an indication of the development of the relationship as  
10 to how the home was to operate.

11 Now on 8th November then the Ministry of Home  
12 Affairs writes to -- I am missing a reference. If we go  
13 to 10017, please. Just go to 1... -- the next  
14 page down. Yes. So 10018. The Ministry of Home  
15 Affairs are writing to Brother Stephen about the  
16 registration of Rubane as a voluntary home. The  
17 application had gone in in May 1950, as we had seen,  
18 some six months before, and the home had been inspected  
19 in the September with the report that we looked at of  
20 7th October. Now four points are being raised.

21 The first is that the Ministry want to be satisfied  
22 about overcrowding:

23 "It is understood that you had intended initially to  
24 accommodate as many as 40 boys in the premises. I am to  
25 point out that by recognised standards there is at

1 present sufficient dormitory space for only 26. In view  
2 of this I am to request that you will be good enough to  
3 indicate what your plans are as to the number of boys to  
4 be accommodated now and at the end of three, six, nine  
5 and twelve months and as to the arrangements to be made  
6 for additional dormitory space.

7 I am to draw your attention to the need for  
8 permanent inlet ventilation to the dormitories."

9 There is reference to fire protection, drinking  
10 water and sewage:

11 "With regard to your enquiry as to financial  
12 assistance I am to enclose for your information  
13 a memorandum on the subject of grants to voluntary  
14 organisations."

15 That's the document we looked at earlier explaining  
16 how a voluntary home could apply and in what  
17 circumstances they would be given a grant.

18 There is a reply to this letter at 10019. It is not  
19 clear as to whether the reply is sent or not, but you  
20 can see the draft, that this is as to overcrowding.  
21 They are dealing with overcrowding at Nazareth Lodge.  
22 The area of the rooms. They are talking then about what  
23 has become known as we go through this as the steward's  
24 house, which is a building adjacent to the main house.

25 "Accommodation for about 15 boys. Ample

1 accommodation in coachyard if funds were available."

2 So he is saying, "We can make 15 places available in  
3 the steward's house, and if we had the money to do it,  
4 we could convert some more of the outbuildings to make  
5 more accommodation". Then he deals with some of the  
6 other matters that were raised in the letters. Under  
7 "Financial assistance" you will see he refers to  
8 section 118.

9 Now on 14th November then you have a meeting that  
10 takes place between the Ministry of Home Affairs and  
11 Brother Stephen. That's at 10020. You can see who is  
12 attending. There are four representatives from the  
13 Ministry of Home Affairs. Then there are Brother  
14 Stephen, Brother McCord and it appears **Mr Murphy**, who may  
15 well be the Aftercare Officer from Nazareth Lodge  
16 Welfare Committee, but it is said in terms of  
17 accommodation:

18 "It was agreed on the basis of present arrangements  
19 the number of boys to be accommodated should be up to  
20 a maximum of 30."

21 So that's the number that's being approved at the  
22 outset.

23 "Later on when further adaptations have been carried  
24 out consideration should be given to the question of  
25 raising the maximum. Brother Stephen said he had quite

1 a good chance of securing the steward's house on the  
2 estate and if he was successful in this, it would  
3 provide further useful accommodation."

4 They then talk about fire precautions, drinking  
5 water and sewage. Then under "Finance":

6 "Brother Stephen explained that Rubane would be run  
7 by the De La Salle Order, but nevertheless it would have  
8 to stand on its own feet as an independent unit like  
9 other institutions run by the Order. There were no  
10 general funds to which it could resort. The incomes of  
11 the Brothers and monies raised from charitable sources  
12 were the only funds, apart from state and local grants,  
13 which were available."

14 He then talks about having the school facilities  
15 available inside the home and the work being done with  
16 the Ministry of Education.

17 "On the question of grants to voluntary homes, it  
18 was stated on behalf of the Ministry that financial  
19 assistance under section 118 of the Children & Young  
20 Persons Act 1950 could only be made in respect of  
21 improvements to premises and the better provision of  
22 staff effected after the voluntary home was in operation  
23 and provided the Ministry was satisfied that the  
24 voluntary body responsible had already provided  
25 accommodation and staff up to recognised and normally

1       adequate standards. In the case of Rubane it was agreed  
2       that generally speaking the adaptations carried out in  
3       providing the home would not qualify for grant.  
4       Nevertheless the Ministry would examine proposals for  
5       the future with care and sympathy. It was also  
6       suggested that Brother Stephen should write to welfare  
7       authorities with a view to securing their support under  
8       section 118(2), which was other means by which some sort  
9       of capital grant could be obtained."

10       Just scroll down, please. This next letter of 28th  
11       November is from the Northern Ireland Council of Social  
12       Care and it is explaining to Brother Stephen, who has  
13       obviously been writing in that direction as well, why  
14       funding is not going to be available to effectively  
15       build a home, and essentially that's about how the  
16       registration was framed, that if you wanted to provide  
17       a voluntary home, you could provide it, but you couldn't  
18       receive the funds to build it, but after it was built,  
19       then section 118 would come to the assistance of those  
20       for improving the home that was already built. He is  
21       explaining that to Brother Stephen.

22       Now that takes us back to an issue that arose in  
23       module 1. The legislative scheme under the 1950 Act  
24       made capital funding available for voluntary homes by  
25       way of grants, but those grants were for improving, not

1 building new homes.

2 It may be we should stop there today, Mr Chairman --

3 CHAIRMAN: Yes.

4 MR AIKEN: -- and commence in the morning looking briefly at  
5 how that structure operated.

6 CHAIRMAN: I think that would be helpful.

7 Very well, ladies and gentlemen. 10 o'clock  
8 tomorrow morning.

9 (4.03 pm)

10 (Hearing adjourned until 10 o'clock tomorrow morning)

11 --ooOoo--

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15 Opening Statement to Module 3 by .....2  
CHAIRMAN

16 Opening Statement by COUNSEL TO THE .....4  
INQUIRY

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