

**THE INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE 1922 TO 1995**

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**Witness Statement of Father Donal Kilduff**

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I Father Donal Kilduff will say as follows –

1. I am the Chancellor and Diocesan Secretary to the Diocese of Kilmore. I have been asked by Bishop Leo O'Reilly to prepare this statement to assist the Historical Institutional Abuse Inquiry in their work. Bishop O'Reilly has held his position since 16 October 1998. This statement will deal with the issues surrounding Brendan Smyth and his activities as far as I can assist. I have had full access to all of the records in the Diocese relating to the knowledge of the Diocese surrounding this man and I have also had the opportunity of speaking to others within the Diocese to assist me.
2. In order to assist the Inquiry with some background, I would like to give some details about the diocese. The Diocese of Kilmore is situated mainly in the County of Cavan but also includes the northern parts of Co Leitrim as well as portions of Counties Meath, Sligo and Fermanagh. The Diocese consists of 35 parishes, one of which, Derrylin, is situated fully in Northern Ireland and the other, Kinawley, partly so. The Diocese itself is predominantly in Southern Ireland and its headquarters are in the Republic of Ireland at Bishop's House, Cullies, Cavan
3. By way of background information also, the Norbertine Order, of whom Brendan Smyth was a member, have an Abbey based in Kilnacrott which is close to Ballyjamesduff, Co Cavan, and is within the boundaries of the Diocese of Kilmore. It is situated about 24 Km south of Cavan where the Cathedral of Kilmore diocese is located. The Order itself is significantly reduced and the Abbey has recently been sold. The remaining members are old and infirm and will be accommodated nursing homes and in a small house near Ballyjamesduff. I was informed that the Order ceased to exercise public ministry in the Abbey on Easter Sunday, 5 April 2015.
4. The Norbertine Order are what is known as 'an exempt religious order', which means that it is to a large extent autonomous of the diocese in its governance and its activities. The Norbertine monastery of Kilnacrott, near Ballyjamesduff in the diocese of Kilmore, was an

Abbey and was presided over by an Abbot up until the resignation of Abbot Kevin Smith in 1994 in the wake of the arrest and trial of Brendan Smyth. Since then it had been administered by a Prior until the sudden death of the Prior, Fr Gerard Cusack, on 17 March 2013. It is currently under the charge of a 'Prelate Administrator', Fr William Fitzgerald. In the past there were some tensions between the Order and the Diocese. The Order had been given permission by Bishop Finegan to establish a house in the diocese provided that it would be self-sufficient.

An Abbot in Church law is an 'ordinary', which means that he exercises authority in his own right within the Abbey over members of his congregation in the same capacity as a bishop does in his diocese over his priests. He is responsible for the members of the Order and their activities. The members of the Order are accountable to their Abbot, and the Abbot reports to the Abbot General in Rome. The Bishop of the diocese in which the Abbey is situated does not have jurisdiction in Canon Law over members of the Order, except in so far as they exercise ministry in the diocese at the invitation of the bishop. His role in their regard is to give them 'faculties' for ministry, which is similar to a licence to practice. They are usually issued for an indefinite period. If priests have faculties to minister in one diocese in Ireland this is normally accepted by the authorities in other dioceses in the country. If the Bishop withdraws faculties from a member, that member may still be permitted by the Abbot to celebrate Mass in the Abbey.

5. Before dealing with the specific areas which the Inquiry is looking at I would wish, on behalf of the Diocese, to express the deep sorrow felt by the Bishop of Kilmore, Bishop Leo O'Reilly, and the Diocese, that any child was abused by any member of the Clergy. We apologise unreservedly to any child abused by Brendan Smyth for that abuse and for the hurt and harm caused. The actions of Brendan Smyth must be condemned unreservedly. The abuse of his position of power is a cause of profound pain and suffering to all his victims and a source of shame and deep sorrow to all in the Church he purported to represent.
6. I can confirm that I have conducted a review of what is known in the Diocese about Father Brendan Smyth and what can be learned from the Diocesan records. I believe that the Inquiry has received a bundle of material about Brendan Smyth in response to a request from Mr Patrick Butler, solicitor to the Inquiry in August 2013.

7. On conducting a detailed review of the records I have found further material relating to three complaints made to the diocese directly (i.e. they did not come to us via a solicitor acting on behalf of a complainant).
- a. One of these, that of **FBS 43** made in February 2010, contained concerns and suspicions and was not an allegation of abuse as such. Later, on 19 March 2010, **FBS 43** made allegations of abuse in vague terms against Brendan Smyth in a meeting with Bishop O'Reilly. He indicated he thought these things happened 'in the late sixties or early seventies'. He was invited to make a full statement to the Designated Liaison Person of the diocese but did not do so. He was also encouraged to report the matter to the Garda Síochána.
  - b. The second was a report by a priest, **FBS 49** who told me that he had received a complaint from a woman around 1973 that her 14 year old daughter had been abused by Brendan Smyth. **FBS 49** said he informed Bishop MacKiernan about the alleged abuse.
  - c. The third is an allegation by a man called **FBS 44** now in his seventies and living in **██████████** that he was abused by Brendan Smyth when he was an altar server in Kilnacrott around 1955. I understand this allegation may be the subject of legal proceedings against either the Norbertines or the diocese of Kilmore, or both. **FBS 44** **██████████** indicated that he told his then teacher at that time Father Mackiernan (later the bishop), there are no documents to support this.

These records are submitted with this statement. With the addition of these documents, I hope that all the information in the possession of the diocese by way of documentary records (that is not the subject of legal proceedings or other constraints) has been provided. I understand that if any further material does come into my possession I should pass this to the Inquiry. I make the following statement based on these records and on what I have learned from my investigations..

8. In relation to the crimes of sexual abuse perpetrated by Brendan Smyth, the first record in the diocesan files of awareness of them by the bishop of the diocese is in regard to events during March-April 1975. A young boy in **██████████** **FBS 38** made a complaint of abuse to a **██████████** priest, **FBS 48** who was associated with a local youth club. **FBS 48** seems to have intended first to contact the Abbot of Kilnacrott, Fr Kevin Smith, who was Brendan Smyth's superior, to report the matter to him. For some reason he contacted Bishop Francis

MacKiernan, the then bishop of Kilmore, instead. Bishop MacKiernan arranged to have the matter investigated.

9. There are no records in the diocesan files to show the actual steps taken to set up the investigation which followed. The investigation took place in the [REDACTED] Friary in [REDACTED] on 29 March 1975, the night before Easter Sunday. I understand it took place a matter of days after the complaint was received. [REDACTED] **FBS 50** a canon lawyer, who was a priest of the Archdiocese of Armagh, led the investigation, which is not surprising since [REDACTED] is in the Archdiocese of Armagh. However, there is no record of his appointment to the investigation or even how he came to be contacted. There is no record in the files either as to how Father John Brady became involved. Father Brady was a school teacher in St Patrick's College, Cavan but would also have assisted on an ad hoc basis as an informal secretary to Bishop McKiernan and would have assisted him as and when needed. He has confirmed that he was asked to be involved in the investigation and he attended at the meeting with [REDACTED] **FBS 38**
10. [REDACTED] **FBS 38** came to the Priory with his father on the 29<sup>th</sup> March 1975, although his father was not present during the actual interview process. [REDACTED] **FBS 38** was accompanied during the interview by [REDACTED] **FBS 48** who attended as his support person during the interview. Questions were asked of him by [REDACTED] **FBS 50** and the questions and answers were recorded by Father John Brady.
11. The records of the investigation (which have been given by the diocese of Kilmore to the HIA) were compiled by Fr Brady and given to Bishop MacKiernan. The boy who made the complaint said in his evidence that he was aware that Brendan Smyth abused another boy [REDACTED] **FBS 39** This boy was from [REDACTED] in the diocese of Kilmore. Fr Brady met with this second boy, in the presence of the parish priest, on 4 April 1975. There are no records of who arranged this second meeting. Father Brady then presented a record of the evidence given by both boys to Bishop MacKiernan.
12. The Diocesan file shows that the evidence record of the two interviews were given by Father Brady to Bishop McKiernan. Father Brady has confirmed that when he returned the documents he advised the Bishop that he believed both of the boys. There is no note or record of any meeting between Fr Brady and Bishop McKiernan so we cannot accurately relate the content of any conversation and we rely on the memory of the then Fr Brady.

Father Brady does not recall **FBS 50** having retained any of the documents and it is therefore likely that the full records are now with the Diocese of Kilmore and are in the possession of the Inquiry.

13. There are records which show that Bishop MacKiernan met Fr Kevin Smith, the Abbot of Kilnacrott, on 12 April 1975 around 2 weeks from the complaint being received to make him aware of the findings of the inquiries and to tell him that he was withdrawing Brendan Smyth's faculties. In his memo of this meeting dated 20 April, Bishop MacKiernan says: "I have withdrawn his faculties to hear Confessions". In a letter of 18 April 1975 to the Abbot, Bishop MacKiernan says: "I hereby withdraw the faculties of the diocese from Rev. B. G. Smith [sic]". He asked the Abbot to communicate this decision to Brendan Smyth. Bishop MacKiernan uses the phrases 'faculties to hear confessions' and 'faculties of the diocese' interchangeably. The faculties of the diocese would include permission to celebrate public Masses, preach and administer other sacraments, as well as the faculty to hear Confessions. However, 'faculties to hear Confessions' appears to have been understood in this wider sense generally, but, strictly speaking it would apply only to the Sacrament of Penance (Confessions).

In a memo of the meeting of 12 April, which is dated 20 April 1975, Bishop MacKiernan states that the Abbot indicated knowledge of previous 'lapses' and that Brendan Smyth had received psychiatric treatment under a **[REDACTED]** of St Patrick's Hospital. The Abbot said that **[REDACTED]** refused to discuss the case with him. Bishop MacKiernan recommended consulting the St John of God Brothers who in turn recommended he be sent to the Paraclete Fathers, in Gloucester under a **[REDACTED]**. The diocese cannot help further on what treatment or referrals did take place as they have no records of any of these. I understand that both these institutions specialised in the treatment of addictions generally as well as of other psychiatric disorders.

14. There is some evidence that Bishop MacKiernan may have been aware of Brendan Smyth's activities earlier than 1975, but there is no contemporaneous record of it in the archives of the diocese. A priest of the diocese **FBS 49** (see 7 b above) says that he reported a complaint made to him by a woman (he cannot recall her name) in **[REDACTED]** area, that her daughter was abused by Brendan Smyth when she was about 14. **FBS 49** **[REDACTED]** said that the bishop reported it to the Abbot of Kilnacrott who had told the bishop that he would send him to a psychiatrist. According to **FBS 49** Bishop

MacKiernan sent a letter to him, for the lady, telling her that the Abbot of Kilnacrott had told him that Fr Smyth had been treated by a psychiatrist and that she could be assured that this would not happen again. He said he passed the letter on to the lady. We can find no record of that letter in our records and the priest did not keep a copy. As he cannot recall this lady's name we cannot trace this matter any further at present.

15. Another complainant, **FBS 44** (cf 7 c above) who first made an allegation to the diocese on 25 May 2012, has stated that he was abused by Brendan Smyth when he was 11 or 12 around 1955. He says that when he was a student of [REDACTED] a couple of years later, he told a priest on the staff of the college, Fr Francis MacKiernan (who was later Bishop MacKiernan) about the abuse. That would have been 1957.
16. After the 1975 investigations of Brendan Smyth and the actions taken by Bishop MacKiernan there is no further record relating to Brendan Smyth in our archive until 1984. The Abbot had assured the Bishop that the appropriate steps were being taken. The lack of any further reports in the files of the diocese suggests that the diocese believed that the appropriate steps had been taken.
17. On 20 August 1984 Brendan Smyth wrote to Bishop MacKiernan asking that his faculties be restored and saying that his Superior (the Abbot) had proposed this. There is no record of communications between the Abbot and Bishop MacKiernan in the archives, but Bishop MacKiernan later confirmed that he had consulted with the Abbot and that he was satisfied that there did not appear to have been any further occurrences similar to those previously complained of and, in the circumstances, Bishop MacKiernan restored his faculties for a period of six months. In response to subsequent requests, faculties were extended for further six months periods and later for one year periods, until the final withdrawal of faculties was made on 18 December 1993. The limited nature of the return of faculties suggests that Bishop MacKiernan wanted to monitor Brendan Smyth to ensure he did not come up in any further complaints but that he believed that the treatment discussed had taken place and that it had worked.
18. When we consider the steps taken in 1975 against the knowledge that we have now, it is clear that the necessary and appropriate steps were not taken to stop Brendan Smyth from reoffending.

19. The Diocese would accept that the failure of Bishop MacKiernan to report the matter to the civil authorities or to ensure that the matter was reported by Abbot Smith to the civil authorities was a failing on his part. In the light of what is now known about Brendan Smyth and about the compulsive nature of paedophilia, it is clear that the diocese should also have informed the civil authorities in the jurisdictions where those children lived. These children were named in the reports as having also taken part in excursions with Brendan Smyth. There is nothing in the files which throws any further light on the question of why the names of the other children were included in the reports of the investigations.
  
20. The diocese of Kilmore now has a comprehensive safeguarding children policy and procedures in place. The diocese has signed a Memorandum of Understanding with the National Board for Safeguarding Children in the Catholic Church in Ireland, committing it to adopting and following the "Standards and Guidance" protocols of 2009 and updated regularly since then to take account of new legislation and new developments in safeguarding policy and practice. The diocese of Kilmore employs a full-time Co-ordinator of Safeguarding who reports to the Kilmore Diocesan Safeguarding Committee. She is assisted in her role of training and monitoring by a trained volunteer.

Each parish has at least one Safeguarding Representative, who oversees safeguarding policy and practice in the various parish activities. These representatives receive regular training and they in turn train the leaders of youth activities in the parishes. There are strict recruitment procedures in place for all those involved in any way with ministry to children. There is close liaison between the safeguarding representatives and the parish pastoral council. There is an annual audit of the implementation of policy and procedures in parishes.

In regard to responding to allegations of abuse, the Co-ordinator of Safeguarding in the diocese acts as the Designated Liaison person who receives reports and allegations of abuse and responds to them. She is assisted by a priest who is Assistant Designated Person. The diocese has for many years joined with the neighbouring dioceses of Ardagh and Clonmacnois and Clogher to establish a joint Advisory Panel. This Panel provides advice and guidance in relation to all complaints received and it is made up of people with expertise in childcare, civil and canon law, and other relevant disciplines.

The diocese also consults the National Office for Safeguarding Children for advice as the need arises. It subscribes to the services of the National Case Management Reference Group

(an agency of the National Board) and consults its expertise in particularly difficult cases. There are also periodic meetings between the diocesan safeguarding personnel and the statutory agencies to seek advice and exchange information. In regard to how any allegation is now handled the diocese seeks the advice of the civil authorities and is guided in any action they take by those authorities.

The diocese arranged for a voluntary audit of its files by an independent consultant in 2006 in order to see how it could improve its practice. Since then it has been audited in the first batch of reviews conducted by the National Board for Safeguarding Children in 2010 and was highly commended for its current practice.

21. Again, on behalf of the Diocese, Bishop O'Reilly would wish to repeat its unequivocal apology to any of those who suffered as a result of the abuse carried out by Brendan Smyth. This abuse of his position of trust has affected many, not just the children whom he abused but also their families and all those who placed their trust in him. The Diocese apologises to the children abused and to those who feel the pain of having been deceived by Brendan Smyth.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed 

Dated 9<sup>th</sup> June 2015